

BOARD OF ADJUSTMENT MEETING

October 15, 2020

Per the directive of Chairman Jerold Blaxton, this meeting was conducted pursuant to Section 3 of Governor Kay Ivey's March 18, 2020 Proclamation concerning the operation of the Open Meetings Law during the state of emergency related to COVID-19. All deliberations conducted, and actions taken, during the meeting were limited to matters within the Board of Zoning Adjustment's statutory authority that are (a) necessary to respond to COVID-19, or (b) necessary to perform essential minimum functions of the Board of Zoning Adjustment. As such, members of the Board of Zoning Adjustment participated in this meeting by means of electronic communications. Additionally, the meeting was not open to physical presence by members of the general public, but was livestreamed so that the public (including any applicant or other person interested in any agenda item) could listen, observe, and participate in the meeting without being physically present. Persons interested in doing so were able to utilize the ZOOM meeting invitation and/or meeting phone number found on the Board of Zoning Adjustment page of the City of Athens website, and contact mcochran@athensal.us with any additional questions for how to do so. No less than twelve (12) hours after the meeting, the City posted a summary of the meeting on its website.

I. Call to Order. The Board of Adjustment of the City of Athens, Alabama, met in Regular session via ZOOM video conference that was open to the public on October 15, 2020 at 5:35 p.m., after a short work session.

II. Roll Call. Members present: Vice-Chairman Greg Greene. Regular members: Jim Ernest, Al Wassum and Greg Skipworth. Alternate member Larry Burlingame was also present. Absent: Chairman Jerald Blaxton. Mr. Green ran the meeting in Mr. Blaxton's absence.

Micah Cochran, GIS Coordinator, and James Rich, Director of Public Works, were present. Micah Cochran took minutes.

III. Discussion: Mr. Greene explained that any motion requires four affirmative votes.

IV. Minutes - Resolution Mr. Skipworth offered the following resolution and moved its adoption:

“BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF ATHENS, ALABAMA, that the minutes for the September 17, 2020 meeting to be approved.”

Mr. Wassum seconded the motion, and the members voted unanimously for its adoption.

Old Business: None

New Business:

- V. **Public Hearing.** Request of Winter Homes Investment Properties LLC. for 22431 Fyne Drive, the Meres Sub. Phase 2 Lot 14, for a variance to reduce the rear setback by 5 feet, reducing the 40-foot rear setback specified in the Master Plan to 35 feet, zoned C-PUD Conventional Planned Use Development District.

Mr. Rich advised... Builder was working off of 2015 platted lot, which had 35' rear setback. The 2018 Master Plan had a 40' rear setback.

Jimmy Schrimshire, Winter Homes of 22341 Fyne Drive, Was unaware of 2018 master plan, were using 2015 master plan. Once they were made aware they began the variance process. Back left corner encroaches 3.7 feet. Since discovery of the master plan, they have made adjustment. It was an honest mistake.

Skipworth, is this is the only one in that category? Mr. Schrimsher: yes.

There being no other comments, the public hearing was closed.

- VI. **Resolution.** Mr. Skipworth offered the following resolution and moved its adoption:

“BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF ATHENS, ALABAMA, to approve the request of Winter Homes Investment Properties LLC. for 22431 Fyne Drive, the Meres Sub. Phase 2 Lot 14, for a variance to reduce the rear setback by 5 feet, reducing the 40-foot rear setback specified in the Master Plan to 35 feet, zoned C-PUD Conventional Planned Use Development District.”

Mr. Burlingame seconded the motion and the motion passed unanimously.

- VII. **Public Hearing.** Request of Park Supply for 17616 US Highway 72 for a variance to reduce the minimum number of off-street parking requirements by 70 spaces from the required 110 parking spaces, thus providing 40 off-street parking spaces, zoned in a B-2 General Business District.

Mr. Rich advises... This is a plumbing supply business. If a building is vacant more than 6 months, it has to be brought up to current regulations. No attempt was made to add parking to the east side of the area. Inline Lighting is a similar use.

Mr. Skipworth: When Inline lighting came in did they add additional spaces? Rich: They had to bring their parking lot into compliance. Skipworth: Did they incur additional costs? Mr. Rich: Yes

REQUIRED COVID-19 MEETING SUMMARY
THESE ARE NOT APPROVED MEETING MINUTES
THESE ARE NOT INTENDED TO REPLACE OFFICIAL MEETING MINUTES

Mr. Ernest spoke about back out parking on Stanley Street. Mr. Rich does not think this is good for traffic safety. Mr. Ernest mentioned parallel parking near Stanley Street. Mr. Rich said they would entertain a site plan showing that.

Larry Burlingame: Collins Supply

Joe Higginbotham: 40 parking space were provided based on the aerial photography.

Built to older requirements.

Mr. Wassum: I'm pro business. If less than 40 spaces was adequate for Collins Supply. The 110.

Mr. Skipworth thinks 100 spaces is excessive, but willing to approve if they added more spaces.

Joe Higginbotham, Morrell Engineering, 711 Hobbs St E, there was a 1998 site plan with 53 parking space. There are 3 hardships: existing site with an existing building. 2. 8-9 parking spaces along Stanley Street that can't be used. 3. Along the US Hwy 72 ROW the first 20 feet cannot be used because of requirements in the new Zoning Ordinance. The developers will have to spend money to update the site. There is a 10' utility easement along the east property line. Must have approval to add perimeter landscaping around the parking lot. The east side may be needed for delivery trucks to turn around.

Mr. Green asked: The back of the building is that asphalt/concrete, could they put employee parking at the rear. Mr. Higginbotham: That is existing gravel, I will defer to the owners of Park Supply. Would like material storage area.

Keith Griffin, 17577 Oakdale Road, owner of building. They might have 7-8 employees to park in the rear graveled area. The 40 spaces would be for the potential customers.

Rusty Dimwitty, Eustacy Ave, owners of Park Supply, we are in the pipe and fitting business. We have a number of palette racks. Their current facility has 66 parking space, only 18 parking spaces are for customers. Their Customers are in and out and typically make appointments. A loading dock will be added to southeast corner. Fencing is needed to keep people out of the yard. We think there is plenty of parking.

Mr. Ernest, commented, I appreciate ya'll coming to Athens. Mr. Griffin the building will look great next to the City of Athens welcome sign.

Mr. Dimwitty: we are building showroom on west portion, and an east portion will be of the contractors.

REQUIRED COVID-19 MEETING SUMMARY
THESE ARE NOT APPROVED MEETING MINUTES
THESE ARE NOT INTENDED TO REPLACE OFFICIAL MEETING MINUTES

In their Huntsville warehouse 80,000 sq feet space in Huntsville with 66 parking spaces.

There being no other comments, the public hearing was closed.

VIII. Resolution. Mr. Ernest offered the following resolution and moved its adoption:

“BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF ATHENS, ALABAMA, to approve the request of Park Supply for 17616 US Highway 72 for a variance to reduce the minimum number of off-street parking requirements by 70 spaces from the required 110 parking spaces, thus providing 40 off-street parking spaces, zoned in a B-2 General Business District.

Mr. Skipworth seconded the motion and the motion passed unanimously.

IX. Public Hearing. Request of 7th Day Adventist Church at 1207 Pryor Street East for variance to replace a changeable message sign that was removed by the City for the widening of Pryor Street, the property is zoned in an HN Historic Neighborhood District.

Mr. Cochran advised: City acquired right-of-way for the expansion of Pryor Street and to put a sidewalk along the street. The sign was removed during that acquisition. This sign is classified as a changing message sign. Zoning Ordinance treats changing message signs and electronic changing message (LED) signs exactly the same. The HN District is mostly residential in nature. Staff recommend the request.

Pastor Matthew Sandvik, speaking for the request, appreciate you taking the time, putting up exact same sign, but with more compact brick work.

There being no other comments, the public hearing was closed.

X. Resolution. Mr. Skipworth offered the following resolution and moved its adoption:

“BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF ATHENS, ALABAMA, to approve the request of 7th Day Adventist Church at 1207 Pryor Street East for variance to replace a changeable message sign that was removed by the City for the widening of Pryor Street, the property is zoned in an HN Historic Neighborhood District.”

Mr. Wassum seconded the motion and the motion passed unanimously.

XI. Public Hearing. Rehearing of the request of Chris Mitchell for a variance to place a 32 square foot detached sign for N2VINL, a home occupation, at 18559 Jefferson St. in an R-1-1 Low Density Single Family Residential District.

REQUIRED COVID-19 MEETING SUMMARY
THESE ARE NOT APPROVED MEETING MINUTES
THESE ARE NOT INTENDED TO REPLACE OFFICIAL MEETING MINUTES

Mr. Cochran advised: This case was heard on September 17, 2020 meeting. Applicant tried but was unable to get on the meeting. The case failed for lack of a motion. Applicant was given option to appeal to circuit court. (Ordinance gives the applicant 15 days to file.) Applicant was given option for a rehearing.

- If a rehearing were approved, it would give applicant the ability to submit a new application for a later meeting.
 - “Allowing a new application does not obligate the BZA to grant the request” (Zoning Ord. 2.3.3.B).
- All decision by the BZA are final. A rehearing must meet one or more of the following conditions:
 - “1) New evidence or information pertinent to the request has been discovered which was not available to the applicant at the time of the original hearing.
 - 2) The decision resulted from an error in procedures required by this Ordinance or State law and made by the BZA, the Zoning Official, or any other City Officials.
 - 3) The decision resulted from an error in substantive law under the provisions of this Ordinance or the Code of Alabama, 1975, as amended.”
- “Any applicant wishing a rehearing shall appear before the BZA to present one or more of the qualifying conditions listed above.”
- Strictly reading the conditions for Rehearing (Zoning Ord. para. 2.3.3.B), I don’t think there is a case for rehearing.
- We are meeting in an entirely different way than we were this time last year. Is there leniency for technical difficulties?
- Is there anything that the applicant could say that would make you approve a sign application for a home occupation?

Mr. Skipworth asked, if there was a case in the City of a residential home having a business sign. Mr. Cochran stated that he did not know of one.

Denitra Mitchell, 18559 Jefferson Street, my husband and I attempted to use the Zoom and called multiple times. Today we are able to get on at 4:45 and have stayed on to make sure.

Mr. Green asked if there were questions that the members had about these three items.

There being no other comments, the public hearing was closed.

XII. Resolution. Mr. Burlingam offered the following resolution and moved its adoption:

“BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF ATHENS, ALABAMA, to approve the REHEARING of the request of Chris Mitchell

REQUIRED COVID-19 MEETING SUMMARY
THESE ARE NOT APPROVED MEETING MINUTES
THESE ARE NOT INTENDED TO REPLACE OFFICIAL MEETING MINUTES

for a variance to place a 32 square foot detached sign for N2VINL, a home occupation, at 18559 Jefferson St. in an R-1-1 Low Density Single Family Residential District.”

Mr. Ernest seconded the motion due to COVID, and the motion passed with a split vote YESes: Mr. Burlingame, Mr. Wassum, Mr. Ernest, and Mr. Green. NOes: Mr. Skipworth.

XIII. Order. There being no further business, the meeting was adjourned.

Chairman

ATTEST: _____
Secretary