

Administration Building
Council Chambers
308 Fountain Circle
April 19, 2016
6:00 p.m.

BOARD OF ZONING ADJUSTMENT

Members Present:

Mr. Martin Sisson – Chairman
Mr. Bert Peake – Vice Chairman
Mr. Fred Coffey
Dr. David Branham
Mr. Harry Garber
Mr. Johnny Ozier – Supernumerary

Others Present:

Mr. Jim McGuffey, City of Huntsville Planning Services
Mr. Travis Cummings, City of Huntsville Zoning Administration
Mr. Allan Priest, City of Huntsville Zoning Administration
Mrs. Jon Johnson, City of Huntsville Zoning Administration, Recording Secretary
Sergeant Jonathan Ware, Huntsville Police Department

The regular meeting of the Board of Zoning Adjustment was called to order by Chairman Sisson at the time and place noted above.

Chairman Sisson explained the procedures of the Board of Zoning Adjustment to those present, advising that any decision made by the Board may be appealed to Circuit Court within 15 days from this date and that any variance or special exception requires four affirmative votes as set by State law. Any variance or special exception granted must be exercised within six months by obtaining the proper permit. Also, if the Board denies a request, the appellant would have to wait six months before reapplying for a variance unless there was a significant change in the appellant's request.

Chairman Sisson stated Case No. 8650, the location of a structure at 2103 Ridgeway Street has been withdrawn.

Chairman Sisson then called the extensions on the agenda.

Case No. 8037-4 **6610 Old Madison Pike, Suite 109**; Brian Ham of West End Holdings, LLC, appellant. Mr. Cummings stated the location of the property and said the request will require a special exception for expanded hours for on-premises retail sale, service, dispensing, or consumption of alcoholic beverages in a Neighborhood Business C1 Zoning District between midnight and 2:00 a.m. and a special exception for entertainment located in Neighborhood

Business C1 Zoning District.

Mr. McGuffey stated that this is a renewal and continuance of two special exceptions that the appellant has been approved for in previous years. Brian Ham appeared before the Board. Mr. Ham stated that this is his eighth renewal request to allow alcoholic beverage sales between the hours of midnight and 2:00 a.m. Chairman Sisson asked if there had been any changes. Mr. Ham stated that no changes have been made. Sergeant Ware stated that the Police Department has received no complaints. Chairman Sisson asked if the Board has to continue to review these and Mr. McGuffey stated by ordinance the Board has to review annually.

A motion was made by Vice Chairman Peake and seconded by Mr. Ozier to approve a special exception to allow expanded hours for on-premises retail service, dispensing, or consumption of alcoholic beverages and a special exception for entertainment located in Neighborhood Business C1 Zoning District for this appellant and for one year only. **Approved unanimously.**

Case No. 8647 **1101 Clinton Avenue**; Total lot coverage; Barbara Roper, appellant. Mr. Cummings stated the location of the property and said the request will require a 5% total lot coverage variance. Mr. Cummings stated that in a Residence 1C Zoning District, the maximum allowed buildable area is 40% of the total lot area. Mr. Coffey recused from this variance request.

Mr. McGuffey stated the property is located at the corner of Clinton Avenue and England St. Mr. McGuffey also stated that Mr. & Mrs. Roper appeared before the Board the previous month about an 11% total lot coverage and they have reduced the request now to 5% total lot coverage. Mrs. Barbara Roper appeared before the Board, with her husband. Mr. Roper explained they were just trying to get room for an 18'x 22' garage and they have reduced the square footage overall by length and width. Chairman Sisson asked if the City had any issues with new request and Mr. McGuffey stated this request was more in line with lot coverage that the City has seen in terms of request for this district. Chairman Sisson asked if the Board had any other questions or comments. Mr. Roper stated this property is an old store, and front of property goes all the way to the City. Mr. Roper also stated they had to go before the Historic Committee and they are not allowed to make any changes. Vice-Chairman Peake asked if they planned to use this as a personal residence and Mr. Roper stated yes they are.

A motion was made by Vice-Chairman Peake and seconded by Dr. Branham to approve a 5% total lot coverage variance as presented. **Approved unanimously.**

Case No. 8652 **2303 and 2305 Jordan Lane**; An administrative interpretation of an artistic mural and/or size of signage; Sunday Bougher of SGA Design Group for MAP Bob Wallace, LLC, appellant. Mr. Cummings stated the location of the property and said the request will require an administrative interpretation from Board members in regards to an artistic mural.

Sunday Bougher and Mike Harper of MAP Development appeared before the Board. Mr. Harper stated that they are requesting an administrative interpretation of an artistic mural, and according

to Article 72.1 of the Zoning Ordinance, an artistic mural is defined as a picture painted directly onto an exterior wall of a building which is intended to enhance the aesthetic elements of the building and which is not designed or intended to convey information to the public, such as information concerning a product or a business in the form of text, numerals, symbols or logos. Mr. Harper stated that what they are proposing meets the requirements for a mural other than it is not painted onto the wall. Mr. Harper stated it is a modern type application; it is a graphic and has several advantages over painting on the wall. Mr. Harper stated the advantages are longer life, higher resolution, UV resistant and there are no logos, no letters or numerals on the mural and is requesting it be viewed as a mural. Mr. Harper stated they have several pictures of how this painting has been applied. Mr. Harper also stated this has been done in Rogers, AK and Huntsville, AL has been marketed to do this.

Chairman Sisson asked Mr. McGuffey if he agreed with what was stated, if this was painted would it be compliant in size, character, and imagery. Mr. McGuffey stated yes and in 2007 mural was put in the definition of the sign code. The definition says it has to be painted on the structure and that is why they are asking for an interpretation.

Dr. Branham asked Mr. Harper how this painting was attached, by glue or adhesive. Mr. Harper stated they have used different applications, attachments, tension on a frame or flushed to the wall. Mr. Coffey asked the question if he took a billboard, put a picture on it and fixed it to the wall, would that be any different in what was being asked. Mr. McGuffey said not entirely, that they are willing to sacrifice, texting, characters, and other imagery one may see on the sign or mural, to restrict it to a specific look. Mr. Garber asked the question can a mural have letters, and Mr. McGuffey said no, they are drawings, for example the mural in Five Points and Garden Cove. Chairman Sisson stated our ordinance specifically restricts no letters, and it is more of a super-graphic on the building.

Vice-Chairman Peake asked Mr. Harper if what he was proposing was actually what they wanted to put up there and Mr. Harper stated yes. Vice-Chairman Peake asked Mr. Harper to explain what their plans are on changing the decal out. Mr. Harper stated he is not aware of any plans to change it out and the design life is 5-7 years. Vice-Chairman Peake stated he feels like the decal affixed to the wall, would be a sign. Mr. Coffey asked if the items depicted were for sale in the building. Mr. Harper stated the items are for sale in the store. Mr. Coffey asked why they couldn't put geometric shapes instead of what may be sold in stores, to remove that as a concern. Mr. Harper said he believed the intent is to grab the attention of the shopper. Mr. Coffey also asked the City if the Board interpret this as a mural, if one could wrap an entire building in a mural, without limitation. Mr. McGuffey stated yes they could wrap an entire building. Dr. Branham asked Mr. McGuffey if people that are painting murals now, are they painting on the building or a frame. Mr. McGuffey stated they are painting on the building. Dr. Branham also asked if they want to do both. Mr. McGuffey stated they want to have a vinyl material produced offsite and mounted to a frame, just like they do billboards. Sunday Bougher said a frame method is still considered a mural but it is called a muralage that has been going on since the 19th Century. Sunday Bougher also stated the mural is applied directly on wall or painted on a canvas and faceted to the wall by definition.

Chairman Sisson and Mr. Coffey had a concern about having symbols of what you sale in store. Mr. McGuffey stated that is the reason Garden Cove had to revise their mural because things they had in the store was on the side of building. Mr. McGuffey also stated the issue still is the building application and content. Vice Chairman Peake asked if the content of a mural was under review. Mr. McGuffey stated yes the Sign Ordinance is under review by a Supreme Court Case, so we have to review the Sign Ordinance as a whole, and the interpretation and definition of a mural is under review also.

Vice-Chairman Peake asked Mr. McGuffey about the application process or if someone created this into additional signage, if the language or terminology in the ordinance would prevent any other presentation that the Board may get, from becoming traditional signage. Mr. McGuffey stated it is a hard question to answer, but we could look at it as, what percentage of the building is covered by this material as a whole, and if you are going to allow this to a scale or percentage of the size of the building, what is the percentage overall.

Chairman Sisson asked Mr. McGuffey if the Board interpreted as a mural, what will it mean with other items that come to your desk, does it change the ruling or will the Board have to see those. Mr. McGuffey stated each request will be on a case by case basis. Mr. McGuffey stated the Board hasn't seen that many and he has only seen a few in eight years, not a common request. Chairman Sisson asked if the Board had any more questions. Chairman Sisson asked the appellant if they had any comments, no comments was made. Ms. Jackie Reed stated it looks like a mural and if you do for one, you have to do for others. Chairman Sisson asked if the City had any other comments, no comments were made.

A motion was made by Dr. Branham and seconded by Chairman Sisson to approve the use of the graphic design as a mural. **Approved unanimously.**

Chairman Sisson then called the regular agenda items.

Case No. 8657 **1413 Monte Sano Boulevard**; The location of a structure; Gregory Wright, appellant. Mr. Cummings stated the location of the property and said the request will require a 4 foot north side yard setback variance, a 2 foot south side yard setback variance, and a 5 foot rear yard setback variance. In a Residence 1 Zoning District, a 15 foot side yard setback and a 45 foot rear yard setback are required.

Mr. McGuffey stated this case was presented 2 years ago and before that, but went to the court system and came back before the Board, and was approved for a variance for all the setbacks listed. Mr. McGuffey further stated Mr. Wright did not pull a building permit in time from the meeting in 2014, and recently pulled permit and variance has to be exercised within 6 months. Dr. Branham asked Mr. Wright if anything had changed and Mr. Wright stated no. Mr. McGuffey stated the size, character, setbacks, and design of house were exactly what Board approved before. Mr. Coffey asked Mr. Wright if he was ready now and Mr. Wright said yes. Chairman Sisson asked the Board if they had any other questions, no comments were made.

A motion was made by Mr. Coffey and seconded by Dr. Branham to approve a 4 foot north side yard setback variance, a 2 foot south side yard setback variance, and a 5 foot rear yard setback variance at 1413 Monte Sano Boulevard with the stipulation that the structure is to be similar in massing, eave height, roof height, and roof pitch as depicted on the presented plans. **Approved unanimously.**

Case No. 8658 **901 Kennamer Drive;** A special exception to allow a special event retailer; Marie Bostick of The Huntsville Land Trust of North Alabama, appellant. Mr. Cummings stated the location of the property and said the request will require a special exception to allow a special event retailer in a Residence 1A Zoning District.

Ms. Bostick appeared before the Board. Ms. Bostick stated this is their annual request. They have for 4 events, 3 concerts and a moon dance. Ms. Bostick stated the events will operate on June 10, 2016, July 23, 2016, August 20, 2016 and September 17, 2016 with the hours of operation being 6:00 p.m. to 11:00 p.m. for all events. The people are shuttled in from Huntsville Hospital. Chairman Sisson asked if there were any changes from previous years, Ms. Bostick stated no changes. Sergeant Ware stated the Police Department has not received any complaints. Mr. McGuffey stated he has received no complaints. Chairman Sisson asked the Board for any other comments, no comments were made.

A motion was made by Mr. Garber and seconded by Dr. Branham to approve a special exception to allow a special event retailer at 901 Kennamer Drive in a Residence 1A Zoning District to operate on June 10, 2016, July 23, 2016, August 20, 2016, and September 17, 2016, with the hours of operation being 6:00 p.m. to 11:00 p.m. for all events. **Approved unanimously.**

Case No. 8659 **6580 University Drive;** Additional square footage for signage; Randy Appel of AGI Architectural Graphics, Inc. Mr. Cummings stated the location of the property and said the request will require a variance to allow additional 165 square feet for an accessory ground sign. According to Article 72.4.4 (2) of the Zoning Ordinance, the maximum square footage permitted for an accessory ground sign is 150 square feet.

Mr. Randy Appel and Mr. Dennis Davis of The Lexus Dealership appeared before the Board. Mr. Appel explained this is an appeal regarding a sign for the Lexus of Huntsville Dealership. The permit application was filed for a replacement pylon sign. The pictures presented was what the two signs on either side of entrance look like now, the second set of pictures is of the one sign being removed, so going from 2 signs to 1 sign, and the third set of pictures is the difference between existing sign and proposed sign. Mr. Appel stated the current sign out there is 35 feet in height and the new sign would be 35 feet in height. Also, the existing sign now has a sign graphic at the top, which is 100 square feet, 10' x 10' and the proposed sign would have a graphic on it of 44 square feet. Mr. Appel stated that they are proposing of going from 2 signs to 1 sign, from 100 square feet to 44 square feet. Mr. Johnnie Dodson, The Sign Inspector, denied

the application because the entire structure exceeded the 150 square feet permitted. The new sign is basically the same as the existing sign, but the new sign has a cladding wrapped around the entire sign. Mr. Appel stated Lexus International decided to do a new design for all of its franchises. Mr. Coffey asked Mr. Appel to describe how the proposed sign will be lit at night. The proposed sign will be internally lit with just the "Lexus" sign lighted. Chairman Sisson asked the City for any recommendations; Mr. McGuffey stated he couldn't recall any other sign identical to this sign. Vice-Chairman Peake asked the question what were the stipulations for a monument sign. Mr. McGuffey stated they have to be further off the road, and meet the structure setbacks. Mr. Coffey asked the question if this was approved would this be the largest monument sign in the City, Mr. McGuffey stated no it would not be. Chairman Sisson asked if Lexus will be willing to forgo the pole sign in the future. Mr. Davis said he didn't think there would be any reason of putting another sign up in the future.

A motion was made by Chairman Sisson and seconded by Mr. Coffey to approve a variance to allow an additional 165 square feet for an accessory sign in consideration for removing one of the two existing pole signs as presented at 6580 University Drive, with the stipulation the advertising image not exceed 20% of the sign and no additional signage allowed on the property.

Approved unanimously.

Case No. 8660 **2012 Pulaski Pike;** A use variance to allow auto detailing, William Jones, appellant. Mr. Cummings stated the location of the property and said the request will require a use variance to allow auto detailing in a Neighborhood Business C1 Zoning District.

Mr. William Jones appeared before the Board. Mr. McGuffey stated Mr. Jones appeared before the Board the previous month for two different variances for this location. Mr. Jones has appeared before the Board this month, to seek a variance for auto detailing. Mr. Jones stated no water will enter the city streets, because it is collected in a drain on site. Vice-Chairman asked where the work will be done, and Mr. Jones stated inside the bay.

Mr. Tom Husky appeared before the Board. Mr. Husky stated he sold the property to Mr. Jones 8 years ago. Mr. Husky stated Mr. Jones has been a great neighbor at this location. Mr. Coffey asked how many cars Mr. Jones will be able to accommodate at one time. Mr. Jones stated they will only do a car one at a time. Mr. Jones also stated they will have about three to four employees. Vice Chairman Peake asked the question where the waiting cars will be staged. Mr. Jones said the cars will be staged behind the building in the fenced in area. Mr. Coffey stated the building appears to be much larger for what's acquired to do the auto detailing, and what will the balance of the building be used for. Mr. Jones stated there is a kitchen on the rear side of property and he has someone interested in cooking if they can get a permit from the Health Department. Mr. Coffey asked the question for onsite consumption and Mr. Jones stated no, to be taken offsite. Mr. McGuffey stated this would be allowed in a Neighborhood Business C1 Zoning District. Chairman Sisson asked the question had the Board ever done this before, anywhere else in the City. Mr. McGuffey stated we have done this before with the case on Bailey Cove, which was an existing oil change place and is currently using it as a car wash.

Mr. Coffey asked if Mr. Jones sent out any letters. Mr. Jones stated he mailed out 72 letters and only received one opposition from Mr. Scott Huber. Mr. Jones explained to Mr. Huber what he will be doing there and he is ok with it and explained Mr. Jones is a good neighbor.

A motion was made by Dr. Branham and seconded by Mr. Coffey to approve a use variance to allow auto detailing at 2012 Pulaski Pike in a Neighborhood Business C1 Zoning District to operate on Monday - Saturday with hours of operation 7:00 a.m. to 7:00 p.m. for this appellant only and for one year only. **Approved unanimously.**

Case No. 8661 **14015 Maebeth Drive;** The location of a structure; Michael Warren Blocker, appellant. Mr. Cummings stated the location of the property and said the request will require a 6 foot rear yard setback variance. Mr. Cummings stated that in a Residence 1A Zoning district, a 40 foot rear yard setback is required.

Mr. McGuffey stated Mr. Blocker has an existing house, and existing garage and Mr. Blocker is planning to tie the addition to the house. Mr. Blocker appeared before the Board. Mr. Blocker stated they have lived in this house since 1980. Mr. Blocker is planning to expand the house to accommodate 6 adults and 5 grandchildren, seated comfortably. Mr. Blocker said his plans are to take out a wall, combine 2 rooms together, push area back about 15 feet and remodel the kitchen also. Also, he plans to put a separation in the garage and keep half garage for storage of tools and other half, improving floors, walls, and lighting and it will be a hobby shop.

Mr. McGuffey stated the garage (accessory structure) is already in rear yard and it does not encroach on neighbors. Mr. Blocker stated he will connect the addition with a doorway and roof to the garage. Chairman Sisson asked if the City had any issues, Mr. McGuffey stated no. Chairman Sisson asked the Board for any more comments, no comments were made.

A motion was made by Dr. Branham and seconded by Mr. Garber to approve a 6 foot rear yard setback at 14015 Maebeth Drive. **Approved unanimously.**

Case No. 8662 **601 Humes Avenue;** The location of a structure; Frank J. Nola, Jr. for Danielle Damson of DDD Studios, LLC, appellant. Mr. Cummings stated the location of the property and said the request will require an 8 foot front yard setback variance and a 24 foot secondary front yard setback variance. Mr. Cummings stated in a Neighborhood Business C1 Zoning District, a 30 foot front yard setback is required.

Mr. McGuffey stated it is an existing structure and they are planning to make some additions to the structure but with it being a corner lot, they are running into some setback issues. Mr. Nola appeared before the Board. Mr. Nola stated the structure presented was built in 1903 as a church. The current owner is planning to use it as an Art Studio and Art Construction space. Also, the structure as it stands is a large room with a make shift office and restrooms on the back side. Mr. Nola further stated they are planning to create two standard restrooms on the front, an entrance hall and that is why they requested this setback variance. The setback on Humes is about 12 to 15 feet and it is still under the 30 foot setback variance. Mr. McGuffey stated the lot

predates ordinance and half of structure is in violation per the ordinance. Mr. McGuffey stated all of this area was zoned in 1963.

Chairman Sisson asked the City for any comments, no comments were made. Chairman Sisson asked the Board for any more questions, none were given.

A motion was made by Mr. Coffey and seconded by Dr. Branham to approve an 8 foot front yard setback variance and a 24 foot secondary front yard setback variance at 601 Humes Avenue. **Approved unanimously.**

Case No. 8663 **513 Eustis Avenue;** The location of a structure; Frank J. Nola, Jr., for Henry Donald Beck, III as Personal Representative of the Estate of Katherine Ann Beck Garnett, appellant. Mr. Cummings stated the location of the property and said the request will require an 8 foot rear yard setback and a 10 foot east side yard setback variance. Mr. Cummings stated that in a Residence 1A Zoning District, a 40 foot rear yard setback is required and a 12 foot side yard setback is required for structures that are 2 to 2 ½ stories in height.

Mr. McGuffey stated they are planning to build an addition onto the existing house. Mr. Nola appeared before the Board, representing the owner and the property purchasers, Dr. John & Karen Greco. The proposal is to extend and create a master bedroom and bathroom edition in the rear of the house. The house is 186 years old and doesn't have a downstairs bedroom and Mr. & Mrs. Greco would like one if they were to purchase the house. Mr. Nola stated there is an existing 2 foot side yard setback that they are proposing to extend further back on the property. Mr. Nola also stated the setback overlaps that back setback line by 8 feet, so it will be a 32 foot yard setback remaining. Mr. Nola stated they did stagger a 5 ft. offset from property to comply with neighbor's concerns about the tree. Chairman Sisson asked the questions about any future additions to property. Dr. Greco & Mrs. Greco stated there will be no further additions to the house. Chairman Sisson asked if there were any issues from City, Mr. McGuffey gave no comments on City's behalf but did ask Mr. Nola if they had gone before the Historic Board. Mr. Nola stated they did go before the Historic Board and was approved as presented. Chairman Sisson asked for any other comments from Board, no comments were made.

A motion was made by Mr. Garber and seconded by Vice-Chairman Peake to approve an 8 foot rear yard setback and a 10 foot east side yard setback variance at 513 Eustis Avenue. **Approved unanimously.**

Case No. 8664 **1717 East Stonehurst Drive;** A variance to exceed the maximum impervious coverage; John D. Barnes, appellant. Mr. Cummings stated the location of the property and said the request will require a variance to exceed the maximum impervious coverage by 1190 square feet. Mr. Cummings stated the maximum allowed impervious coverage for this lot is 4110 square feet.

Mr. Billy Smith and Dr. John Barnes appeared before the Board. Mr. McGuffey stated they are

proposing to create a subdivision at the end of an existing street that's in the slope development district. Currently the house shown encompasses all three lots. So, what they are trying to do is subdivide the three lots and the current house will be one lot and then two other vacant lots. They will also create a feature at the end of street, a turn around, that meets City standards. The issue we have is that the existing structure can't meet the impervious coverage requirement for the slope development ordinance. So, they are here to ask a way around the slope development ordinance impervious coverage percentage for the building that currently exists. Chairman Sisson asked Dr. Barnes was it any plans to expand the structure; Dr. Barnes stated no it is not. Mr. McGuffey stated that due to the length of driveway, and that is why they exceed the impervious coverage. The other two lots will have to meet all of the regulations. Chairman Sisson asked if the lots were buildable, and Mr. Smith explained the lot in the lower slope has more flexibility, they have a 25,000 square feet required lot size; the other two lots have a 40 minimum. Mr. McGuffey explained the lots in two and three; the structure setbacks are different from the setbacks in lot 1.

Mr. McGuffey further explained the setback for lot one was 35 ft. front yard setback, and on lots two and three the front yard setback was 15 ft. and the side yard was 8 ft. instead of 12 ft. Chairman Sisson asked the question if someone could build on the other two lots will they have to get a variance, Mr. McGuffey stated he would not support a variance. Mr. Smith was in agreement with Mr. McGuffey pertaining to the variance. Chairman Sisson asked the question of impervious coverage. Mr. McGuffey stated the purpose of impervious coverage is to manage storm water and any runoff. Chairman Sisson asked how the impervious coverage will remediate storm water. Mr. Smith stated there is a storm system already in place and the inlet there will not catch the water but when they install a curve and gutter, it will catch the water and put it in the right system. Mr. McGuffey stated the City Engineering has already signed off on it also.

Dr. Peter Drewer appeared before the Board. He explained his house is on the south side and explained how water and rocks came down and entered his basement. Mr. Smith explained to Mr. Drewer that by building a curve, that will stop the water from flowing into his property. Chairman Sisson asked when the lots are developed, will Engineering have to look at lot plan. Mr. McGuffey stated yes, and they will have to hire a Geo-technical Engineer and a Private Engineer. Chairman Sisson asked if the City had any comments, Mr. McGuffey stated no. Chairman Sisson asked the Board for any comments, no comments were made.

A motion was made by Vice-Chairman Peake and seconded by Dr. Branham to approve a variance to exceed the maximum impervious coverage by 1190 square feet at 1717 East Stonehurst Drive. **Approved unanimously.**

Case No. 8665 **607 Andrew Jackson Way**; A special exception to allow patio seating, William H. Johnston, appellant. Mr. Cummings stated the location of the property and said the request will require patio seating for on-premises alcoholic beverage retailers in Neighborhood Business C1 Zoning District. Mr. Coffey recused from this special exception request.

Mr. McGuffey explained the new owner came before Board the previous month to allow entertainment inside until 11:00 p.m. and is before the Board now for a special exception to allow patio seating for on-premises alcoholic beverage retailers in a Neighborhood C1 Zoning District.

Mr. Johnston appeared before the Board. Mr. Johnston stated this seating area will be at the north corner of property. Mr. Johnston stated he will be adding extra handicap spaces also. Mr. Johnston intends on pouring concrete to level parking spaces. Mr. Johnston stated there will be a 6 ft fence poured into cement, with limited vision inside, alternating wood panels, and will put a gate in because it has to have access. Vice-Chairman Peake asked how many people he will be able to accommodate out there. Mr. Johnston stated it depends, will be dictated by the bathrooms but more of 50-60 people. Mr. McGuffey stated Mr. Johnston still has a noise ordinance to abide by. Mr. McGuffey further stated the operation has to cease at 12:00 a.m. and if he plans to increase hours, Mr. Johnston will have to come back before the Board.

Mr. John Richard appeared before the Board, concerned with the hours of operation. Mr. Johnston is intending to operate until 11:00 p.m., potentially 12:00 a.m. Mr. Jay Spencer appeared before the Board concerned with why you have to come back each time for the different various request. Mr. McGuffey explained Mr. Johnston can keep coming back separately or opt to do this all at one time. Also, Mr. Spencer is concerned with people parking at station and Mr. Johnston has no plans of parking there. Chairman Sisson asked the Board for any other comments, no comments were made.

A motion was made by Mr. Vice-Chairman Peake and seconded by Mr. Garber to approve a special exception to allow patio seating in a Neighborhood C1 Zoning District at 607 Andrew Jackson Way with the following stipulations: approval shall be for this appellant only and for one year only, and the hours of operation have to cease at 12:00 a.m. and if the hours of operation were to change, the special exception request must be reheard by the Board.
Approved unanimously.

Case No. 8666 **500 Humes Avenue;** The location of a structure, Diana Moore, appellant. Mr. Cummings stated the location of the property and said the request will require an 11 foot 2 inch secondary front yard setback variance. Mr. Cummings stated according to Article 73.7.7 of the Zoning Ordinance, secondary front yards on corner lots may be 10 feet less than the primary front yard required provided it is not less than 20 feet.

Ms. Diana Moore and Mr. Doug Moore appeared before the Board. Mr. Moore explained they are trying to have 2 houses next to each other, so they can take care of their 90 year old mother. Mr. Moore is planning to move house from 500 Humes Ave. and put it on 502 Humes Ave., and bring house from up the street and put it on 500 Humes Ave. Mr. Moore further stated as of now the house is 6 ft. off of property line and when he brings other house in, it will be 9 ft. off property line and that is why they are asking for variance. The house that is being moved is compliant and the new house is not compliant because of setbacks. Mr. McGuffey further stated

the new rules will not allow for any structure to be built due to setbacks, and will require a variance, because of the new zoning based on old lots.

Mr. Brett Whisenant appeared before the Board. Mr. Whisenant explained the house Mr. Moore is moving has been condemned since 2011 and nothing has been done until now. Mr. McGuffey explained Mr. Moore will have to get inspection done on both houses and will have to meet all City Codes. Mr. Moore explained when they purchased the home; they couldn't do anything to property until the title was cleared. Chairman Sisson asked what the timeline will be in getting things done. Mr. Moore explained they are planning to move by first of month, fix as soon as possible or as soon as they are given the clearance if the variance is approved. Vice-Chairman Peake asked what will be a reasonable time frame to get houses up to Code. Mr. Moore stated hopefully a year. Chairman Sisson asked who will be doing the repairs, Mr. Moore stated he and his sister will do repairs and Kennedy will be moving houses. Mr. Moore stated they have done repairs before on house in Historical District before.

Mr. Court Heller appeared before the Board. Mr. Heller asked if you can relocate a property, why not put a property that fits property. Mr. Heller stated he has done this process before, and he had to get architect and contractor. Mr. Heller stated their needs to be some type of enforcement when the owner doesn't end up living there after a year or so. Chairman Sisson asked Mr. Moore if his intent was to sale houses in 5 years and Mr. Moore stated no. Mr. Moore stated they own about 6 houses in area.

Ms. Lisa Bass appeared before the Board. Ms. Bass explained she has redone her home also and her concern is bringing home in that doesn't meet character. Also, her concern is about a fence on the property and what is Mr. Moore's plan with the fence. Chairman Sisson explained Ms. Bass needs to hire a surveyor.

Chairman Sisson asked for any comments from the Board. Dr. Branham asked the question if there were any restrictions for any type of house you can bring in neighborhood. Chairman Sisson stated he was not aware of any rules concerning that matter. Chairman Sisson asked Mr. McGuffey if there is any enforcement concerning the conditions of house. Mr. McGuffey stated since Mr. Moore is the legal owner of homes, the City of Huntsville Community Development could check to make sure they are in the proper condition. Chairman Sisson asked Mr. Moore if the construction on both houses will be happening simultaneously, Mr. Moore stated yes. Chairman Sisson asked if the City has any other comments, Mr. McGuffey stated no. Chairman Sisson asked the Board for any other comments, no comments were made.

A motion was made by Dr. Branham and seconded by Mr. Garber to approve an 11 foot 2 inch secondary front yard setback variance at 500 Humes Avenue. **Approved unanimously.**

Case No. 8667 **508 Eustis Avenue;** The location of a structure on a lot that does not abut on and have legal access to at least one street for the minimum frontage distance required, Y. Albert Moore, III, for Elizabeth Warren Livingston, appellant. Mr. Cummings stated the location of the property and said the request will require a variance to allow an ingress/egress for

street access to the property. Mr. Cummings stated according to Article 73.12, of the Zoning Ordinance, any structure that is erected on a lot must have legal access to at least one street for the minimum frontage distance required. Vice-Chairman Peake recused from this variance request.

Mr. McGuffey explained the property does not have public right of way frontage and they are trying to sell structure. The property abuts property on Echols and the structure has run into issues and that is why they are requesting a variance to allow transfer of ownership, since it doesn't have street frontage. Mr. Bert Moore appeared before the Board with Ms. Livingston that inherited the property from her mother. Mr. Moore explained the time they acquired they were given a private deeded right of way, which predates Zoning Ordinance. Mr. Moore explained it has been maintained as a separate residence since 1955. Mr. Moore stated Ms. Livingston seeks to sell it as a private residence. Mr. Coffey asked the question who is responsible for maintaining the private drive. Mr. Moore stated that the maintenance will be the responsibility of the two private landowners. Chairman Sisson asked the question if the private easement becomes conveyed with the property and are they tied together inseparably. Mr. Moore stated yes the easement is conveyed with property and, the two properties have been traveling together since 1954.

Chairman Sisson asked the City if they had any issues, Mr. McGuffey stated no issues due to the dates Mr. Moore discussed and just trying to help property owner on transaction of the property. Mr. Coffey asked if the private drive width is adequate for City Services. Mr. McGuffey stated the trash is taken to the street and the other City Services does have access to the driveway.

A motion was made by Mr. Coffey and seconded by Dr. Branham to approve a variance at 508 Eustis Avenue to allow an ingress/egress easement for street access to the property due to the fact that there is a private deeded right of way ingress/egress easement contained in the appellant's deed. **Approved unanimously.**

Case No. 8668 **3702 Oakdale Court;** A special exception to allow a group child care home, Deneishia Jackson for Stephen R. Davis and Cheryl L. Davis, appellant. Mr. Cummings stated the location of the property and said the request will require a special exception to allow a group child care home in a Residence 1A Zoning District.

Ms. Jackson appeared before the Board for approval for a group child care home. Ms. Jackson stated this is her family home. Ms. Jackson states the Department of Human Resources standard is to get approval from the City Zoning Department first. Chairman Sisson asked if you are allowed 8-12 children. Ms. Jackson stated according to Department of Human Resources standards, you are allowed 7-12 children, accompanied by another adult on the premise. Chairman Sisson asked about the traffic, and hours of operation. Ms. Jackson stated the children will be dropped off by the double car garage area. The hours of operation are Monday – Friday, 7:00 a.m. - 6:00 p.m.

Vice-Chairman Peake asked if Ms. Jackson has she run a child care before. Ms. Jackson stated

she has worked with children before in other day cares, the oldest in her family and basically has been around children all her life. Also, Vice Chairman Peake asked how many letters were sent out. Ms. Jackson stated she mailed out 54 letters and received no opposition from neighbors. Mr. McGuffey also stated the City didn't receive any phone calls concerning this request. Mr. Coffey asked if this was her home, and Ms. Jackson stated this is her dad's home but she lives in the home. Mr. McGuffey explained Ms. Jackson can have a 2 ft. sign if she chooses.

A motion was made by Vice-Chairman Peake and seconded by Dr. Branham to approve a special exception to allow a group child care home in a Residence 1A Zoning District with the following stipulations: approval for this appellant only and for one year only. **Approved unanimously.**

There being no further business, the meeting adjourned at 8:35 p.m.