Administration Building
Council Chambers
308 Fountain Circle
October 20, 2015
6:00 p.m.

BOARD OF ZONING ADJUSTMENT

Members Present:

Mr. Martin Sisson – Chairman
Mr. Bert Peake – Vice Chairman
Mr. Fred Coffey
Mr. Harry Garber
Mr. Johnny Ozier – Supernumerary
Ms. Kimberly Ford – Supernumerary

Others Present:

Mr. Jim McGuffey, City of Huntsville Planning Services
Mr. Travis Cummings, City of Huntsville Zoning Administration
Ms. Debra S. Hindman, City of Huntsville Zoning Administration
Captain Jeffrey Rice, Huntsville Police Department
Dan Sanders, City of Huntsville Traffic Engineering 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 then called the extension items on the agenda.

Case No. 8594 **13010 South Village Square;** A special exception to allow a clubhouse; Mike Friday of Diltina Development Corporation, appellant. Mr. Cummings stated the location of the property and said the request is for a special exception to allow a recreational facility in a Residence 1 Zoning District. Mr. Cummings stated that according to Article 92.5.3 of the Zoning Ordinance, a special exception is required for semi-public, non-profit, and recreational facilities in any residential district (except miniature golf courses).

Mr. Mike Friday appeared before the Board. Mr. Friday stated that at the last meeting, there were several concerns spoken by surrounding property owners in regards to the proposed clubhouse. Mr. Friday stated that the case was continued for 30 days to address those concerns and provide additional information in regards to what was obtained in the past 30 days.

Mr. Friday stated that the tasks asked by Board members were to look at alternate locations for the proposed clubhouse and to hopefully find common ground with the members of the Green Mountain Civic League. Mr. Friday stated that he was invited to attend the Green Mountain Fire Hall Meeting. Mr. Friday stated that at that meeting, he was asked if he would consider making the clubhouse open memberships all residents of Green Mountain as opposed to the clubhouse being exclusive to just the residents of the subdivision. Mr. Friday stated that he agreed to allow open memberships. Mr. Friday stated that he spoke with the property owners directly to the west of the location, Mr. and Mrs. Henderson, and they have since reached a common ground about the proposed clubhouse. Mr. Friday submitted a letter to the Board stating the Henderson's support.

Mr. Friday stated that others concerns with the location of the proposed clubhouse were noise, lighting, property values for Green Mountain residents, and traffic and intersection safety. Mr. Friday stated that with the Board's permission, he would like for Mr. Mark Prill, President of the Green Mountain Civic League, to address any further issues not previously mentioned.

Mr. Mark Prill appeared before the Board. Mr. Prill stated that he represents the Green Mountain community at large. Mr. Prill stated that the Green Mountain Civic League originally presented Mr. Friday with a list of questions and concerns regarding the proposed location of the clubhouse. Mr. Prill stated that based on Mr. Friday's responses, both parties were unable to reach an amicable solution. Mr. Prill stated that because a solution was not met, he is present to speak on behalf of those in opposition to the special exception request. Mr. Prill stated that the residents of Green Mountain who are in opposition to the request have expressed their concern with altering the rural, residential nature of the community and not over-develop the mountain. Mr. Prill stated that although the southwest corner of the intersection is zoned Neighborhood Business C1, it has been negotiated that the property will not be used for any commercial uses; rather, the property, a greenspace passive park, will be developed in keeping with the residential nature of the community. Mr. Prill stated that the area dedicated to the greenspace passive park was purchased by both the City and the Green Mountain Civic League. Mr. Prill stated that the park would also accommodate a new fire station. Mr. Prill stated that there is no desire for the proposed clubhouse as it conflicts with the nature of the community. Mr. Prill stated that although Mr. Friday's plans are nicely landscaped, the clubhouse, the parking, and lighting alter the character of the community. Mr. Prill stated that he received feedback by Mr. Friday that Mr. Friday has been working extensively with the City to construct the proposed clubhouse. Mr. Prill stated that he believes the outcome of the proposed clubhouse has been predetermined with Mr. Friday working with City officials. Mr. Coffey asked if Mr. Prill means that the approval of the special exception request has been predetermined by Board members. Mr. Prill stated that he does not this that the outcome of the special exception request has been predetermined by Board members; however, he believes that Mr. Friday has support from the City in regards to

developing the proposed clubhouse. Mr. Prill stated that the many concerns of the community are safety, increased traffic, speed control, and septic and storm water runoff.

Mr. Prill stated that in 2013, a traffic study was done by the City of Huntsville Traffic Engineering Department and it was determined that the 85th percentile speeds along that stretch of 600 to 700 over a 2 day period showed cars traveling over 50 miles per hour. Mr. Prill stated that the speed limit is 30 miles per hour. Mr. Prill stated that means that 15 percent of cars traveling along that road are exceeding 50 miles per hour. Chairman Sisson asked Dan Sanders, Director of the City of Huntsville Traffic Engineering Department, if he was familiar with Mr. Prill's testimony in regards to the traffic study. Mr. Sanders stated that he is familiar with the data; however, he is not certain that he agrees with the 50 mile per hour average.

Mr. Prill stated that Mr. Friday has yet to explain why the clubhouse should be at the proposed location. Mr. Prill stated that allowing the clubhouse would set a precedent for future requests of this nature. Mr. Prill stated that the best conclusion would be to locate the clubhouse inside the subdivision. Mr. Prill further stated that because of the testimony provided by him and supported by the Green Mountain community, he requests that the special exception request be denied.

Chairman Sisson asked if Mr. Friday would like to address Mr. Prill's issues that were previously mentioned. Mr. Friday stated that he has asked that Mr. Shane Template come forward to address the first concern. Mr. Template appeared before the Board. Mr. Template stated he is the Chief Operating Officer for Woodland Homes. Mr. Template stated he is a resident of Green Mountain and understands the passion of the community. Mr. Template stated that he is present to address the concerns of the impact to the community in regards to noise, lodge use, and lighting. Mr. Template stated that one of the concerns was children safety in accessing the clubhouse and noise and debris in the parking lot from those using the clubhouse. Mr. Template stated that he has sat on many boards for many subdivisions where clubhouses were constructed. Mr. Template stated that these concerns are not consistent with concerns mentioned in the past in regards to a neighborhood clubhouse. Mr. Template stated that he reached out to Betty Hughes, one of the largest property management owners in north Alabama. Ms. Hughes provided a report to address these inconsistencies. Mr. Hughes' report stated that like the proposed passive park, common sense will be applied to the proposed clubhouse. Mr. Template stated that as with the passive park, common sense will apply to the clubhouse. Mr. Template stated that if excessive noise is an issue with the clubhouse, common sense will apply as the Police Department will be contacted. Mr. Template stated that security will also not be an issue as there will be swipe cards to enter the facility and security cameras on the premises. Mr. Template stated that lighting will also not be a concern as Mr. Friday is installing lighting that will not allow spill over to abutting residences. Chairman Sisson asked if the City has reviewed the lighting plan. Mr. McGuffey stated that he has reviewed the original lighting plan and it was compliant with current regulations. Mr. Template stated that there will be a public park across the street that will allow access to all citizens. Mr. Template proposed a question to Mr. Prill asking if there will be ample parking for future Civic League meetings. Mr. Prill's response stated as follows, "I, Mark Prill, have suggested the possibility of an alternative Green Mountain

Community Center to be designed and built as part of the projected Fire Station for community meetings and special events." Mr. Template stated that based on Mr. Prill's stated as provided in writing, there is little difference in terms of the operation of the clubhouse.

Mr. Friday stated that another concern was the effect on property values if the clubhouse was built. Mr. Friday stated that he did extensive research about how the overall value impact on Green Mountain and he will have Tyler Pane to explain the overall values of Green Mountain. Mr. Friday stated that he will also have Scott Maddox who is a commercial appraiser provide information regarding the impact of having the clubhouse constructed in regards to neighboring property values. Mr. Pane appeared before the Board. Mr. Pane stated that from January 1, 2010, to December 31, 2013, the average sales price of homes on the top of Green Mountain was $367, 825.75. Mr. Pane stated that from 2014 to present, the average sales price of homes rose to $437,224.50. Mr. Pane stated that this does not include any new development; rather, this average is based on the existing homes. Mr. Pane stated that the average of unsold homes from 2014 decreased by 11 percent. Mr. Pane stated that when you include the subdivision of Inspiration in these figures, from 2014 to present, the overall value of homes in the area will increase by an additional 6 percent and the overall value of price per square footage will increase by 22 percent. Mr. Pane further stated that given the presented figures, everyone as a whole will profit from the construction of the subdivision. Mr. Maddox appeared before the Board. Mr. Maddox stated that he is a real estate appraiser who specializes in commercial properties. Mr. Maddox stated he was asked to determine whether or not the construction of the clubhouse would diminish property values of property owners on Green Mountain. Mr. Maddox stated that there is no evidence to support the claim that property values would diminish based on the construction of the clubhouse. Mr. Maddox stated that the clubhouse would actually be an asset to the community as Mr. Friday intends to open the clubhouse to all parties wishing to join the clubhouse as opposed to just members of the subdivision. Mr. Maddox stated that because the clubhouse will be open to the public and serve residents of the different phases of the subdivision, it would not be conducive to locate the clubhouse within the subdivision. Mr. Maddox stated that he also believes the location of the clubhouse is desirable as it is near the proposed City park. Mr. Maddox stated that this parcel was originally zoned a Neighborhood Business C1 District which would allow for a convenience store, grocery store, variety store, a dry cleaning business, and other business uses. Mr. Maddox stated that the property was rezoned to residential to prohibit this from happening. Mr. Maddox stated that a clubhouse is much more conducive to the area than having had a business located at that location. Mr. Maddox stated that surrounding property owners should be supported of the proposed clubhouse as it will not diminish property values of surrounding residences and will not be menacing to the community. Mr. Maddox further stated that the property has been vacant for years; if the Green Mountain residents wished to maintain it as greenspace, they had ample opportunity to purchase the property themselves. Mr. Friday requested that the Board hear testimony from Mickey Plott. Mr. Plott appeared before the Board. Mr. Plott stated that he is a residential real estate appraiser. Mr. Plott stated that he agrees the proposed clubhouse would not diminish property values in the area. Mr. Plott stated that he has reviewed the drawings for the clubhouse and the plans show an appealing clubhouse that will benefit the community.

Mr. Friday stated that was asked by Board members to consider alternative locations for the proposed clubhouse. Mr. Friday stated that if the Board wishes, he has his engineer available to discuss why the proposed location is most desirable. Chairman Sisson stated that Board members have agreed that this information has been previously mentioned and is not required to be repeated.

Mr. Friday stated that at this point, he asks that Dan Sanders, the Director of Traffic Engineering Department, to speak in regards to traffic in the area. Mr. Sanders stated that he would first like to understand concerns of traffic safety before providing information regarding traffic safety. Mr. Sanders asked if Mr. Friday is requesting information regarding sight distance, capacity, or something further. Mr. Friday stated that the consensus of the Green Mountain Civic League was that this area was heavily congested and cannot handle additional traffic at this location. Mr. Friday stated that he would also like Mr. Sanders to speak on the speed limit of this area. Mr. Friday stated that another concern was traffic safety at this intersection. Mr. Sanders stated that from a capacity standpoint, which means a roads ability to handle traffic, the current traffic load is 15% or less than what the roadway is carrying right now. The proposed subdivision if all phases are built out, will essentially double the traffic. Mr. Sanders stated that even with the development, the carrying capacity will only reach approximately 25 percent. Mr. Sanders stated that the road may seem like it will be heavily congested, but the actually carrying capacity of two lane roadways is quite a bit more than what exists in this area. Mr. Sanders stated that in regards to speeds, a traffic study was conducted in 2015 where data was collected at various points along the roadway. Mr. Sanders stated that the study showed that the average 85th percentile speed means that 85% of drivers are traveling at or below the speed limit. Mr. Sanders stated that 15% of drivers are exceeding the speed limit. Mr. Sanders stated that the drivers' average speed ranges from 38 miles per hour to 44 miles per hour. Mr. Sanders stated that the speed limit is 30 miles per hour. Mr. Sanders stated that the proposed clubhouse includes an all-way stop at the intersection of South Village Square and South Shawdee. Mr. Sanders stated that having the all-way stop will require drivers to stop which will have the effect of reducing speed. Mr. Sanders stated that in regards to a sight distance standpoint, the required stopping sight distance at 40 miles per hour is 305 feet and at 45 miles per hour is 360 feet and this includes driving on wet pavement. Mr. Sanders stated that he has been out to the site and there is ample sight distance there. Mr. Sanders stated that because of the incline of the road when traveling north or south on South Shawdee, sight distance should not be an issue. Chairman Sisson stated that a concern previously stated was the amount of fog along the roadway and how it may limit visibility. Chairman Sisson asked if Mr. Sanders could address what measures could possibly be done if visibility is a factor in this case. Mr. Sanders stated that fog is common on the mountainous areas of Huntsville. Mr. Sanders stated that pavement markings, stop signs that have higher reflective covering, advanced "stop ahead" signs, and reflective pavement markings can be used to alert drivers on the approach to the intersection. Chairman Sisson asked if an all-way stop was the most appropriate form of traffic calming at this intersection or would Mr. Sanders recommend another form of traffic calming such as a traffic signal or traffic circle. Mr. Sanders stated that from a traffic standpoint, an all-way stop sign is the safest form of traffic calming at this intersection. Mr. Sanders stated a traffic signal can lose power whereas an all-way stop is always operational.

Mr. Friday stated that he would like to conclude with actions he made to address the concerns and hopefully appease the Green Mountain Civic League: Mr. Friday stated that the lighting plan submitted to the City shows that lighting will not be a disturbance to the community. Mr. Friday stated that he worked diligently to ensure that the intersection of South Village Square and South Shawdee will be safe to motorists and pedestrians. Mr. Friday stated that he will also allow Green Mountain residents to sit on the Lodge on Green Mountain Board. Mr. Friday explained that this Board will control and manage the clubhouse. Mr. Friday stated that he had the property rezoned to residential to ensure commercial uses would not be permitted in the area. Mr. Friday stated that he has donated land to the Green Mountain Fire Department. Mr. Friday further stated that clubhouse membership will now be available to all residents of Green Mountain as opposed to just those purchasing homes within his development.

Chairman Sisson asked how membership fees will be determined for those who live in the subdivision and those who do not. Mr. Friday stated that once the Board is established, the Board will produce a budget and membership fees will then be determined. Mr. Friday stated that fees will not be determined by him alone. Mr. Friday stated that he does know that the fees will be competitive to the market. Chairman Sisson asked if residents of the subdivision will have to pay membership fees to the clubhouse. Mr. Friday stated the residents of Inspiration will not have to pay membership fees. Mr. Friday stated that the clubhouse will allow for 500 members. Mr. Friday stated that the fully developed subdivision will house 300 residents. Mr. Friday stated that the remaining 200 memberships will be available to residents not living in the subdivision. Mr. Friday further stated that is why the membership fees must be competitive; it will make the clubhouse and its memberships more desirable to the community.

Mr. Coffey asked Mr. Friday to clarify as to how the Lodge on Green Mountain Board members will be determined. Mr. Friday stated that the exact number of Board members has not yet been determined. Mr. Friday stated that this will be a limited liability corporation (LLC) with him serving as the declarant for the Board. Mr. Friday stated that he would be an “A” class member. Mr. Friday stated that the “B” class members will be Homeowners Association members. Mr. Friday stated that the “C” class members will be residents of the community. Chairman Sisson inquired about the difference between “B” class members and “C” class members. Mr. Friday stated that the only distinction is the “B” class members pay Homeowners Association fees whereas the “C” class members are residents of the community and pay membership fees. Mr. Friday stated that residents not living in the subdivision who purchase membership fees may sell or gift their membership to another person if they so choose. Mr. Friday stated that residents of the community may also include the membership in the sale of their home which will greatly increase the attractiveness of the sale and raise the property value. Mr. Coffey asked if Mr. Friday will have any governing rights to the LLC. Mr. Friday stated that the Board will veto; however, Mr. Friday will have a vote as a Board member. Mr. Coffey asked if Mr. Friday has the right to veto a vote as declarant for the Board. Mr. Friday stated that he is unable to say at this time as the documents of the operation of the Board have not been fully drafted. Mr. Friday stated that if the Board would like to stipulate that the Board members have equal rights to vote on cases, he is willing to comply.

Chairman Sisson stated that because of the number of people who would like to speak on behalf of the case, he asked that comments be restricted to 2 minutes. Chairman Sisson also asked that if a previous speaker stated something that others are in agreement to, the following speaker stated that he or she expressed that they state they agree with such previous speaker rather than stating the same argument.

Mr. Thomas Daulman of 13005 South Shawdee Road appeared before the Board. Mr. Daulman stated that he lives approximately 40 yards on the north side of South Shawdee. Mr. Daulman stated that on numerous occasions, he sees drivers run the stop sign on the north side of South Shawdee and the mountain is often foggy. Mr. Daulman stated that residents have requested rumble strips be placed at that stop sign due to the numerous drivers who do not adhere to the stop sign. Chairman Sisson inquired if this is a different stop sign from the intersection in question. Mr. Daulman confirmed that this is a two-way stop at North Shawdee and South Shawdee. Chairman Sisson asked if Mr. Daulman presumes that drivers will not stop at the proposed all-way stop at South Shawdee and South Village Square. Mr. Daulman confirmed that is correct. Mr. Daulman also stated that he believes there was a request for school buses to come up on Green Mountain; however, the request was denied because the area is too dangerous. Chairman Sisson asked that the speaker only speak on behalf of the property requesting the special exception.

Mr. Dane Weinberger of 5005 Riverview Drive appeared before the Board. Mr. Weinberger stated Mr. Friday's request pertains only to money. Mr. Weinberger stated that this will be the busiest intersection. Mr. Weinberger inquired as to what is the responsibility of the Board in hearing Mr. Friday's request. Mr. Weinberger asked if the Board interest is to the individual owner of the company or is the Board interested in protecting the interest of community at large.

Mr. Jim Gleason of 13220 South Shawdee appeared before the Board. Mr. Gleason stated that according to Article 12.265 of the Code of Ordinances of City of Huntsville, "No person shall operate, cause to be operated or generate any source of sound in such a manner as to create a sound level which exceeds the following limits when measured at or within the property line of the receiving land use: residential, public space open space, agricultural, institutional property. Mr. Gleason stated that the time is restricted from 7:00 a.m. to 10:00 p.m. to a sound level limit of 55. Mr. Gleason stated that from 10:00 p.m. to 7:00 a.m., the sound level limit is restricted to 50. Mr. Gleason stated that the intent of these sound restrictions were for tennis courts. Mr. Gleason stated that Mr. Friday is proposing to have tennis courts and basketball courts. Mr. Gleason stated that a study was conducted proving that the proposed tennis courts and basketball courts will exceed the noise ordinance for both daytime and nighttime. Mr. Gleason stated that his study shows that you would have to be 330 feet away to meet the noise ordinance requirements. Mr. Gleason further stated that the tennis and basketball courts will be well within the 330 feet from the previously mentioned locations. Chairman Sisson asked Captain Rice the protocol for addressing complaints where the noise ordinance has been violated. Captain Rice stated that officers will address the complaint by visiting the property and making them aware of their non-compliance. Captain Rice also mentioned that the Department of Natural Resources will visit the property and determine the actual sound levels coming from the location so the

appropriate action can be made. Chairman Sisson asked if Captain Rice recalls any complaints of the noise ordinance being violated by those using tennis courts. Captain Rice stated that to his knowledge, the Police Department has not received any complaints. Mr. Gleason stated noise complaints are not reported because clubhouses are located at the entrance of the subdivision and not surrounded by residents; therefore, complaints are not made because noise is not a disturbance. Mr. Gleason stated that an example of this is Hampton Cove Subdivision. Mr. Gleason stated that this will not be the case if the clubhouse is located at the proposed intersection.

Mr. David McCarty of 5011 Riverview Drive appeared before the Board. Mr. McCarty stated that he is in agreement to Mr. Gleason's testimony, but would like to address an additional concern. Mr. McCarty stated that the intent of the passive park property was to prevent commercial development in the area. Mr. McCarty stated that while he is happy that Mr. Friday's property was rezoned from commercial, he residents known that the intent was to build a clubhouse, neighborhood response would have been different. Mr. McCarty stated that the biggest position of surrounding Green Mountain property owners is that the residents of the subdivision will not be affected by the noise of the clubhouse; the noise will only affect those surrounding the clubhouse. Mr. McCarty further stated that he is not opposed to constructing the clubhouse, but he would like for it to be built inside Mr. Friday's subdivision.

Ms. Beverly Humphrey of 14096 Monte Vedra Road appeared before the Board. Ms. Humphrey stated that she has copies to present to the Board of the Homeowners Association documents that were signed by Mr. Friday. Within those documents, Mr. Friday writes that the clubhouse would be located inside Inspiration subdivision. Ms. Humphrey read and presented the Homeowners Association documents. Mr. Humphrey also stated that Article 92.5.3 of the Zoning Ordinance states, "The Board of Adjustment may permit, as a special exception, the following uses in the specified district: semipublic, nonprofit, recreational facilities in any residence district (except miniature golf courses)". Chairman Sisson asked for clarification in regards to the words described in Article 92.5.3 (1). Mr. McGuffey stated that he spoke with the Legal Department and it was determined that the proposed use does is classified as a special exception request under Article 92.5.3 (1). Ms. Humphrey stated that the clubhouse will not be a nonprofit use and should not be considered as a special exception request.

Ms. Terry Sims of 13620 South Shawdee appeared before the Board. Ms. Sims stated she would like to address fresh water. Ms. Sims stated that Green Mountain is not on City water, but septic. Ms. Sims stated that although Mr. Friday has stated that he has no intention of draining the swimming pool, if the pool is drained, it's possible that it could be drained into the City water system. Ms. Sims stated that the Code of Environmental Management Water Division states, "No person shall introduce pollutants other than domestic waste water into a privately owned treatment where it is operated by another person without first having obtained a valid statement of discharge." Ms. Sims asked that the Board not approve the request because citizens of Green Mountain do not want to have to concern themselves over whether or not they have clean water. Chairman Sisson asked how water cleanliness can be ensured when dealing with septic tanks. Mr. McGuffey stated the Madison County Water Department manages the septic systems on

Green Mountain and they would manage Mr. Friday's property and the disposal of water should that happen. Chairman Sisson asked Mr. Friday if he has had discussions with the Madison County Water Department on how the swimming pool would affect the septic system. Mr. Friday stated that he does have a septic tank permit, but has had no discussion in regards to the pool. Mr. Friday stated that if the swimming pool were ever drained, the water would drain to the east through Phase 4 of the subdivision and off the mountain. Mr. Friday stated that drainage of the swimming pool will not be an issue for surrounding property owners.

Chairman Sisson inquired about erosion control with the new development. Mr. Friday stated that he will have his engineer, Jerry Cargile of 4 Site, Inc., address this matter. Mr. Cargile appeared before the Board. Mr. Cargile stated he site plans have to be approved by the Engineering Department for water run-off and the installation of such methods made to prevent erosion will be inspected by Engineering Department. Because of this, Mr. Cargile stated that erosion will not be an issue. Mr. Cargile stated that currently, water run-off flowing from the empty parcel of land drains to neighboring properties. Mr. Cargile stated that majority of water run-off will actually be relocated to the street which will significantly reduce water run-off to neighboring properties. Mr. Cargile stated that storm drainage will be installed to pipe out the water run-off directed to the street.

Ms. Karen Schuster of 42 Bluff View Drive appeared before the Board. Ms. Schuster stated that she is a member of the Green Mountain Civic League. Ms. Schuster stated that she is in support of the location of the clubhouse. If denied, Ms. Schuster stated that the area will miss out on the opportunity to bring the community together. Ms. Schuster stated that a petition of those in favor of the clubhouse was sent to surrounding property owners and the petition received 179 signatures. Mr. Schuster further stated that the clubhouse will blend in beautifully and will be an asset to the community.

Ms. Jackie Reed appeared before the Board. Ms. Reed stated that she defends all residents of the City of Huntsville. Ms. Reed stated that if noise does become an issue, it will not properly be enforced. Ms. Reed stated that it is evident that of the people present at Board meeting are against the request than for the request. Because of this, Ms. Reed asked that the Board consider denying the request to benefit the community at large.

Mr. John Datillo of 13219 South Village Square appeared before the Board. Mr. Datillo stated that he is an advocate for continuing the beautification of Green Mountain. Mr. Datillo stated that he is in support of the proposed clubhouse as it will accomplish what was previously stated: it will bring the community together. Mr. Datillo stated that he has always found City officials to be very responsible in enforcing any nuisance brought to the attention of the proper authorities. Mr. Datillo stated that he is confident that if there is an issue, it will be properly handled by the City.

Mr. Steve Clark of 14056 Monte Vedra Road appeared before the Board. Mr. Clark stated that he would like to commend Mr. Friday for utilizing this property. The clubhouse is something to be proud of as its development will be attractive and an asset to the community.

Chairman Sisson asked for a show of hands of those in agreement with the special exception request. Chairman Sisson then asked for a show of hands of those opposed to the special exception request. A citizen of the audience stated that the voting was unjust as several members voting in favor of the request do not live on Green Mountain; rather, they are representatives of Woodland Homes or friends of Mr. Friday's. Chairman Sisson called the meeting to order and asked that the audience not speak without being called for testimony. Chairman Sisson then asked for a show of hands for those in support who lived on Green Mountain.

Seeing there are no further comments from the community, Chairman Sisson stated that Board members will discuss the case. Vice Chairman Peake asked Mr. McGuffey to distinguish for those present the difference between a special exception request and a use variance request. Mr. McGuffey stated that a special exception is different from a use variance as a special exception does not have to prove a physical hardship on the property. Mr. McGuffey stated that the Zoning Ordinance states that, "To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance; or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance." Mr. McGuffey stated that in regards to previous cases heard for clubhouses, the Board has inquired about the size of the clubhouse, the size of the pool, if swim meets will occur at the location, if parking is sufficient, and if lighting is compliant with current zoning regulations.

Chairman Sisson asked if there were other questions or comments from Board members. Mr. Garber stated that he was raised in Lily Flagg Subdivision. The pool that served this subdivision was not located within the subdivision itself. Mr. Garber stated that this was never an issue. Mr. Garber further stated that the appellant's request will not set a precedent as situations like this have been done before. Mr. Garber agrees that safety is a factor as this location does experience fog. Mr. Garber stated that the Traffic Engineering Department has explained the traffic conditions and sight visibility to his liking. Mr. Garber further stated that lighting of the parking lot was an original concern of his; however, Mr. Friday has provided a lighting plan that complies with the zoning regulations and he is now satisfied that the lighting will not be a nuisance to surrounding property owners. Mr. Ozier asked if rumble strips could be installed as a safety measure when the area is foggy. Mr. Sanders stated that the problem with rumble strips is they are very loud. Mr. Sanders stated that this could pose as an issue to residents in the area especially at night. Chairman Sisson asked if this request is approved, can the City ensure that the most appropriate traffic safety measures will occur at this intersection. Mr. Sanders stated confirmed that when the Traffic Engineering Department reviews the site plan, they will work with Mr. Friday's engineer in regards to the best safety measures for that intersection. Mr. Sanders stated that this could include "stop ahead" signs or markings that might be appropriate for fog conditions. Mr. Coffey inquired about swim meets taking place at the clubhouse. Mr. Friday stated that there will be no swim meets at the clubhouse. Mr. Coffey inquired about hours of operation. Mr. Friday stated that they are based upon his research of what other clubhouse

amenity packages offer. Mr. Friday is proposing to operate from 7:00 a.m. to 10:00 p.m. Mr. Friday stated that the fitness center would be open 24 hours a day by swipe card access only.

Mr. Friday stated that he wanted to address something important that was not asked by the Green Mountain Civic League. Mr. Friday stated that all members will have to swipe an access card to get into the parking lot. Mr. Friday stated that this will not apply to emergency vehicles as the vehicle sirens emit a certain tone that would override the card access.

A motion was made by Mr. Garber and seconded by Vice Chairman Peake to approve a special exception to allow a clubhouse in a Residence 1 Zoning District at 13010 South Village Square as presented. **Approved unanimously**.

Case No. 8600 **2613 Muirwoods Drive**; The location of a structure; Barry Phillips of Hideaways, LLC, appellant. Mr. Cummings stated the location of the property and said the request is for a 12 foot rear yard setback variance. Mr. Cummings stated that in a Residence 1A Zoning District, a 40 foot rear yard setback is required.

Mr. Barry Phillips appeared before the Board. Mr. Phillips stated that this case was continued due to the fact the Board requested additional information in regards to the right-of-way. Mr. Phillips stated that he confirmed that there is a 50 foot right-of-way which requires that the house be set back further on the lot. Mr. Phillips stated that because the house must be placed further back on the lot, he is unable to meet the rear yard setback. Chairman Sisson asked if the appellant has notified surrounding property owners and if negative or positive feedback was received. Mr. Phillips stated that he met with some surrounding property owners who had questions about the placement of the home. Chairman Sisson asked if the City has heard any feedback from surrounding property owners. Mr. McGuffey stated that two citizens spoke on behalf of this case at last month's meeting. Mr. McGuffey stated that one property owner simply requested additional information, but the other had concerns about the placement of the home. Mr. Phillips stated that he has since spoken with the mentioned property owners and they are no longer concerned with the construction of the home.

A motion was made by Mr. Coffey and seconded by Vice Chairman Peake to approve a 12 foot rear yard setback variance at 2613 Muirwoods Drive. **Approved unanimously**.

Chairman Sisson then called the regular agenda items.

Case No. 8602 **6890-A Governors West NW**; The size of signage; Lisa Sawchyn of Dick's Sporting Goods, Inc., appellant. Mr. Cummings stated that location of the property and said the request is for an additional 64 square feet of attached accessory signage. Mr. Cummings stated that according to Article 72.4.11 of the Zoning Ordinance, a maximum of 150 square feet of attached accessory signage is permitted in a Research Park Commercial Zoning District.

Mr. Tom Gianni appeared before the Board. Mr. Gianni is the signage manufacturer for Dick's Sporting Goods. Mr. Gianni stated that Dick's Sporting Goods is opening a 55,000 square foot

retail space at Bridge Street Town Centre. Mr. Gianni stated that the standard logo for Dick's Sporting Goods measures 465 square feet. However, after reading the City's sign regulations, Mr. Gianni stated he was aware that the standard used would far exceed the square footage that is permitted. Mr. Gianni stated that he has condensed the lettering of the Dick's logo and has reduced the spacing between the lettering of Dick's Sporting Goods. Mr. Gianni stated that the square footage of the attached signage has been reduced to 214 square feet. Mr. Gianni stated that he believes that 214 square feet is the smallest square footage that would still display proper advertisement. Mr. Gianni stated that the upper deck of the parking garage blocks visibility to the front entrance of the store. Mr. Gianni stated that there is a history of variances granted at this location for additional square footage for attached signage for stores similar in size. Chairman Sisson asked if Mr. Gianni's testimony is accurate. Mr. McGuffey stated that Babies R' Us and Belk's have received variances for additional square footage for attached signage that exceeds Mr. Gianni's request. Mr. Coffey noted that there is a second sign to be located on the building. Mr. Coffey inquired about the location of the second sign and its square footage. Mr. Gianni stated that the second sign will be located on the Madison Pike elevation and will be compliant in square footage at 112 square feet.

Vice Chairman Peake noted that there have been several variance requests in the past where manufacturers stated that they are required to use the square footage of the standard company logo. Vice Chairman Peake stated that he commends Mr. Gianni from straying from that argument and working to reduce the square footage of the attached signage. Mr. Gianni stated that he was appreciative of Vice Chairman Peake's comments and stated that his request will satisfy the needs of displaying Dick's Sporting Goods logo.

A motion was made by Mr. Ozier and seconded by Vice Chairman Peake to approve a variance additional 64 square feet of attached accessory signage at 6890-A Governors West NW. **Approved unanimously**.

Case No. 8603 **201 Bob Wallace Avenue**; A temporary use variance to allow Christmas tree sales; Jeff Cole of Young Life, a Texas Non-Profit Corporation, appellant. Mr. Cummings stated the location of the property and said the request is for a temporary use variance to allow Christmas tree sales in a Residence 1C Zoning District.

Mr. Cole appeared before the Board. Mr. Cole stated that this request has been heard for many years. Mr. Cole stated that the request is similar as those previously heard over the years. Chairman Sisson asked if the City has received any complaints in regards to the operation of the Christmas tree sales and its location. Mr. McGuffey stated that there have been no issues.

A motion was made Mr. Coffey and seconded by Chairman Sisson to approve a temporary use variance to allow Christmas tree sales in a Residence 1C Zoning District at 201 Bob Wallace Avenue. **Approved unanimously**.

Case No. 8604 **1702 Waller Road**; The location of a structure; Mark Stuart, appellant. Mr. Cummings stated the location of the property and said the request is for a 4 foot 4 inch east

side yard variance, a 3 foot 2 inch west side yard variance, and a 1 foot 6 inch rear yard setback variance. Mr. Cummings stated that in a Residence 1A Zoning District, a 40 foot rear yard setback is required and a 10 foot side yard setback is required for structures that are 1 to 1 ½ stories in height.

Mr. Mark Stuart and Mr. Mark Goldman appeared before the Board. Mr. Goldman stated that the request pertains to a small addition to the home. Mr. Goldman stated that there is currently a single car carport which will be expanded to allow for two cars. Chairman Sisson asked if the request is consistent with other variance requests for the Blossomwood area. Ms. Hindman stated that this is consistent with approved variances for this area. Chairman Sisson asked if letters were mailed to surrounding property owners and if any feedback was received. Mr. Stuart stated that the letters were mailed and he has not received any feedback from property owners.

A motion was made by Mr. Coffey and seconded by Mr. Garber to approve a 4 foot 4 inch east side yard variance, a 3 foot 2 inch west side yard variance, and a 1 foot 6 inch rear yard setback variance at 1702 Waller Road. **Approved unanimously**.

Case No. 8605 **1810 Gaslight Way**; A variance to retain lot of record status in a Slope Development District; Elizabeth Nuwayhid, appellant. Mr. Cummings stated the location of the property and said the request is for a variance to retain a lot of record status within the Slope Development District and waive impervious cover, disturbed area, and buildable area.

Mr. Ramsey Nuwayhid appeared before the Board. Mr. Nuwayhid stated that his property is located in a Slope Development District. Mr. Nuwayhid stated that he and his wife would like to purchase the adjacent lot and retain lot of record status in doing so. Mr. Nuwayhid stated that the pool will be used for therapy purposes as his wife recently had a heart attack.

Mr. McGuffey stated that the appellant's property is located at the end of Gaslight Way and he would like to purchase the abutting property to build a swimming pool. Mr. McGuffey stated that although Mr. Nuwayhid's property is currently a lot of record, the combination of the two lots will require that the new lot to conform to current Slope Development regulations. Mr. McGuffey stated that the property is unable to meet the requirements for buildable area, impervious coverage, and disturbed area. Mr. McGuffey stated that similar to other cases previously heard by the Board, Mr. Nuwayhid wishes to retain a lot of record status so as not to have to meet the Slope Development regulations. Chairman Sisson asked if the appellant did not combine the lots, would a swimming pool fit on Mr. Nuwayhid's existing lot. Mr. McGuffey stated that a swimming pool would not fit on the existing lot. Mr. Coffey asked if the appellant will comply with the required setbacks for the proposed pool if the lots are combined. Mr. McGuffey stated that Mr. Nuwayhid will comply with the required setbacks. Mr. Ozier asked if there is a history of variances similar in nature that has been granted. Mr. McGuffey stated that there is a history of variances granted. Mr. McGuffey stated that the Board have historically approved such variances as it does not negatively affect the spirit of the Slope Development regulations.

A motion was made by Chairman Sisson and seconded by Mr. Coffey to approve a variance to retain a lot of record status within the Slope Development District at 1810 Gaslight Way and waive impervious cover, disturbed area, and buildable area. **Approved unanimously**.

Case No. 8606 **1806 Ballard Drive**; The location of a structure; Shannon Sobul Austin, as Trustee of the Shannon Sobul Austin Management Trust Dated September 21, 2011, appellant. Mr. Cummings stated the location of the property and said the request is for a 6 inch front yard setback variance and a 3 foot 3 inch side yard setback variance. Mr. Cummings stated that in Residence 1A Zoning District, a 35 foot front yard; however, for homes built prior to the adoption of this ordinance amendment (2007), newly constructed front porches may encroach on the front yard setback by a maximum of 5 feet. Mr. Cummings further stated that for the purposes of Residence 1A District regulations and restrictions, a "front porch" shall mean a roofed one-story open structure projecting from and structurally connected to the front of the residence, shall not be enclosed by glass, wood, siding, screening or other material. Mr. Cummings further stated that in a Residence 1A Zoning District, a 10 foot side yard setback is required for structures that are 1 to 1 ½ stories in height.

Mr. Larry Bricker appeared before the Board. Mr. Bricker stated that the property owner would like to have an addition constructed to the rear of the home and an extension of the front porch. Mr. Bricker stated that the side yard setback variance was granted over a year ago; however, the appellant never exercised the variance. Mr. Bricker stated that the existing front porch encroaches into the front yard setback. Mr. Bricker stated that the extension of the front porch is only to make it wider, not further encroach into the setback. Mr. Bricker stated that there are numerous houses in the neighborhood that also encroach into the front yard setback. Mr. McGuffey confirmed that the front yard setback is consistent with the adjacent homes. Vice Chairman Peake noted that this is a pie-shaped lot that would restrict the placement of any additions made to the home.

A motion was made by Vice Chairman Peake and seconded by Mr. Coffey to approve 6 inch front yard setback variance and a 3 foot 3 inch south side yard setback variance at 1806 Ballard Drive due to the shape of the lot and based on the previously granted variance. **Approved unanimously**.

Case No. 8607 **9020 Bailey Cove Road**; The location, size, and height of signage; Sunday Bougher of SGA Design Group for Map Bailey Cove LLC of Birmingham in Alabama, appellant. Mr. Cummings stated the location of the property and said the request is for an additional 166 square feet for a monument sign (facing Weatherly Road), a 7.2 foot height variance for a monument sign (facing Weatherly Road), a 15 foot setback variance from the street curb and a 15 foot setback variance from the curb of an entrance driveway for a monument sign (facing Weatherly Road), an additional 38.66 feet for a ground sign (facing Bailey Cove Road), and an additional 304.3 square feet of attached signage to the building and fuel canopy center. Mr. Cummings stated that according to Article 72.4.2 (5) of the Zoning Ordinance, a maximum of 35 square feet is permitted for a monument sign. Mr. Cummings stated that according to Article 72.4.2 (5) of the Zoning Ordinance, a maximum height of 5 feet is required

for a monument sign. Mr. Cummings stated that according to Article 72.4.2 (5) of the Zoning Ordinance, monument sign must be located either 15 feet from the back of the curb or from the edge of the pavement if there is no curb, and 15 feet from the curb of any entrance drive or accessway. Further, Mr. Cummings stated that according to Article 72.4.2 (3) of the Zoning Ordinance, 100 square feet of attached accessory signage is permitted per street frontage.

Ms. Sunday Bougher appeared before the Board. Ms. Bougher stated that this is a newly constructed Wal-Mart Neighborhood Market to include a gas station. Ms. Bougher stated that the building will be 45,000 square feet in size. Ms. Bougher stated that the predicament in regards to signage is the property is located in a Neighborhood Business C1 Zoning District which allows 200 square feet of signage for both the market and gas station. Ms. Bougher presented a drawing showing the logo for the market should they be restricted to the sign regulations. Ms. Bougher stated that visibility would definitely be an issue if required to uphold the existing sign restrictions.

Chairman Sisson asked that the request be addressed for each sign individually. Chairman Sisson asked for Ms. Bougher to begin with the request for the monument sign. Ms. Bougher stated that the monument sign that is to face Weatherly Road will exceed the allowable square footage, the maximum height, and will not comply with the required setbacks. Ms. Bougher stated that although a setback variance was requested, if the Board granted the variance to exceed the maximum height of the monument sign, she would be able to meet the required setback as visibility would not be an issue.

Vice Chairman Peake stated that he needs further clarification with the appellant's request. Vice Chairman Peake stated that the drawings submitted shows that the monument sign will be a total of 7.2 feet in height; however, the information provided by the City states that the request is for a 7.2 foot height variance. Vice Chairman Peake stated that the 7.2 feet height variance would be in addition to the maximum height of 5 feet, making the total height of the monument sign 12.2 feet. Ms. Bougher stated that she did not understand that language either. Ms. Bougher stated that she has worked with the sign enforcement officer for the City and it was always presented as the total height of the monument sign being 7.2 feet. Vice Chairman Peake stated that it should be noted that the appellant is asking for a 2.2 foot height variance.

Chairman Sisson inquired about the allowable square footage for a monument sign. Mr. Cummings stated that the maximum square footage allowed for a monument sign is 35 square feet. Mr. Cummings stated that the appellant is requesting an additional 166 square feet for the monument sign. Chairman Sisson referred to the drawing presented by Ms. Bougher and calculated that the monument sign, to include the base, is only 85 square feet. Vice Chairman Peake stated that he does not believe that the calculations provided by the City are correct. Chairman Sisson asked if this is the only proposed monument sign. Ms. Bougher stated that this is the only proposed monument sign; she is requesting a pylon sign facing Bailey Cove Road. Chairman Sisson stated the calculations for the monument sign do not match the documentation provided by the sign enforcement officer. Ms. Bougher stated that when she met with Scott Phares, the sign enforcement officer, he calculated the monument sign to be 201 square feet.

Chairman Sisson calculated the square footage again and said the proposed monument sign measures 85 square feet. Chairman Sisson stated that this will reduce the variance request from 166 square feet to an additional 50 square feet for the monument sign facing Weatherly Road. Vice Chairman Peake asked if the presented drawing is reflective to what the appellant wishes to build. Ms. Bougher confirmed that the presented drawings with the stated calculations are what the company wishes to build.

Chairman Sisson inquired of previously granted variances of this nature in this area and/or this district. Mr. McGuffey stated that the Board has historically been precautious of variance requests of exceeding square footage and height and exceeding the number of signs in a Neighborhood Business C1 Zoning District. Mr. McGuffey stated that a C1 district is the most restrictive of commercial districts as they typically abut residential districts. Mr. McGuffey stated that although the market is large in square footage, the requests far exceed the regulations of the Zoning Ordinance for a Neighborhood Business C1 Zoning District.

Ms. Bougher stated that the market is setback further from the street than most businesses and there are other businesses that block the view of the property. Vice Chairman Peake stated that drivers will be able to identify this property without any issues. Ms. Bougher stated that the request is based on what is proportionally fair to the scale of the building. Ms. Bougher stated that she has traveled the area and most retail spaces in the area are 1/2 to 1/3 the size of the Wal-Mart Neighborhood Market.

Chairman Sisson stated that he would like to discuss the attached accessory signage. Chairman Sisson asked if the request is an accumulative calculation for the building signage and the fueling center. Ms. Bougher confirmed that is correct. Chairman Sisson inquired about the requested square footage for building signage. Ms. Bougher stated that all of the attached accessory signs for the building measure 241 square feet. Chairman Sisson inquired as to the maximum allowed square footage permitted for attached accessory signage. Ms. Bougher stated that the site allows for 100 square feet per street frontage. Mr. McGuffey stated that 100 square feet would be permitted facing Bailey Cove Road and 100 square feet would be permitted facing Weatherly Road. Chairman Sisson stated that he agrees with Vice Chairman Peake; that the market will be visible to drivers. Chairman Sisson stated that the request for additional attached accessory signage is excessive and suggested that Ms. Bougher consider reducing the square footage to something more reasonable. Chairman Sisson asked if the signage on the fuel center is necessary. Ms. Bougher stated that the signage is digital readers that display the price of gasoline. Ms. Bougher stated that according to her conversation with Mr. Phares, the signs facing the store would not be calculated in with the total square footage as that signage is not street facing.

Chairman Sisson stated that he has reservations regarding the requested square footage for the attached signage for the fuel center. Chairman Sisson stated that the market will have the Wal-Mart display and the fueling center will be on the same lot so customers will know the fueling center is also a part of Wal-Mart. Chairman Sisson stated that he is not opposed to the display of gasoline prices, but the additional proposed signs on the canopy are unnecessary. Ms. Bougher

stated that the canopy sign facing Bailey Cove is very important as it faces the main street.

Ms. Hindman stated that another variance request for the monument sign that was not previously mentioned is the sign will encroach into the setback. Ms. Hindman stated that the sign will be located practically on the street curb. Chairman Sisson asked if the setback variance is considered, should the Board make it subject to Traffic Engineering Department approval. Mr. McGuffey recommended that if a motion is made for the setback variance that it be subject to approval from the Traffic Engineering Department. Chairman Sisson stated that he believes the appellant should adhere to the setback regardless of the height of the sign.

Chairman Sisson inquired about the pylon sign. Ms. Bougher stated that she is allowed a 35 square foot pylon sign. Chairman Sisson inquired about the square footage being requested for the pylon sign. Ms. Bougher stated she is requesting a 68 square foot sign. Chairman Sisson asked if other variances have been granted to exceed the square footage of a pylon sign in this zoning district. Mr. McGuffey stated that no previous variances were found during his investigation. Vice Chairman Peake asked if another monument sign can go at this location as opposed to the pylon sign. Ms. Bougher stated that she would prefer a pylon sign, but would be ok with a monument sign if it could be 70 square feet. Chairman Sisson inquired about the pylon sign for Publix Shopping Center which is located approximately a mile from the proposed Wal-Mart. Mr. Cummings stated that the pylon sign measures 32 square feet.

Vice Chairman Peake stated that he is not convinced that customers will not be able to locate the store. Vice Chairman Peake stated that the signage can be compliant without hindering drivers from seeing it from Bailey Cove Road or Weatherly Road. Vice Chairman Peake stated that he would prefer to see two compliant monument signs and allow for some additional square footage for the building. Ms. Bougher stated that if she cannot have a larger monument sign, she is unable to install the digital readers for the gasoline prices on the monument sign and she would be required to display the gasoline prices on the fuel canopy.

Ms. Bougher asked that if the square footage of the pylon sign were reduced to 35 square feet, would she be able to install a pylon sign rather than having two monument signs. Mr. McGuffey stated that a 35 square foot pylon sign is complies with the sign regulations and would be permitted without variance approval. Ms. Bougher stated that she would like to propose both options to the owner and allow them to make that decision. Mr. McGuffey reminded Ms. Bougher of the setback requirements for monument signs.

Chairman Sisson asked if any of the signage on the building can be eliminated. Chairman Sisson stated that the point of his inquiry is to eliminate unnecessary signage on the building to allow for a larger Wal-Mart sign on the building. Mr. Garber stated that it appears Ms. Bougher needs to re-evaluate her request and work further with Mr. Phares. Chairman Sisson agreed that further evaluation is needed; however, Ms. Bougher is not a local resident and has traveled from Oklahoma to present this variance case. Chairman Sisson inquired about the timeline being requested by Wal-Mart to install this signage. Ms. Bougher stated that she is on a 90 day timeline to have the signage installed.

Chairman Sisson asked if Ms. Bougher would consider re-evaluating her request while other Board cases are heard.

Chairman Sisson stated that this case will be recalled at the end of the meeting to allow the appellant to further investigate her case and possibly reduce the number of variance requests.

Case No. 8608 **109 Kent Road**; The location of a structure; Thomas A. Barnett, appellant. Mr. Cummings stated the location of the property and said the request is for a 5 foot front yard setback variance and a 15 foot rear yard setback variance. Mr. Cummings stated that in a Residence 1B Zoning District, a 30 foot front yard and a 35 foot rear yard is required.

Mr. Larry Bricker and Mr. Thomas Barnett appeared before the Board. Mr. Bricker stated that due to the depth of the lot, constructing a home is very restrictive. Chairman Sisson asked if the depth of the lot is smaller and if the proposed structure is similar to those in the area. Ms. Hindman stated that the proposed structure is consistent with other homes in the area. Ms. Hindman further stated that an investigation was done and there have been other approved variance requests similar to this case due to the depth of the lot. Chairman Sisson asked if total lot coverage is compliant. Mr. Bricker stated that the structure complies with the total lot coverage.

A motion was made by Vice Chairman Peake and seconded by Mr. Garber to approve a 5 foot front yard setback variance and a 15 foot rear yard setback variance at 109 Kent Road as presented and due to the shape of the lot. **Approved unanimously**.

Case No. 8609 **6485 University Drive**; A variance to allow an additional sign; Michael Beuoy of Therapy South-Huntsville, LLC, appellant. Mr. Cummings stated the location of the property and said the request is for a variance to allow one additional attached accessory sign. Mr. Cummings stated that according to Article 72.4.5 (2) of the Zoning Ordinance, one attached accessory sign is permitted per street frontage.

Mr. Michael Beuoy appeared before the Board. Mr. Beuoy stated that he is requesting an additional attached sign. Chairman Sisson inquired about the restriction of only being permitted one attached sign at this location. Mr. McGuffey stated that this property is located in a Commercial Industrial Park Zoning District which only permits one sign on the building. Mr. McGuffey stated that other properties along this stretch of University Drive are zoned Highway Business C4. Mr. McGuffey stated that Highway Business C4 zoning allows for multiple signs per elevation. Mr. McGuffey stated that this building wishes to lease the second unit; however, the proposed lessee would not be permitted a sign for their business without variance approval. Chairman Sisson asked if the City has considered rezoning this area. Mr. McGuffey stated that the City is in fact looking into rezoning this area. Chairman Sisson asked if the signage would be compliant if the property was zoned Highway Business C4. Mr. McGuffey stated confirmed that the signage would be compliant. Vice Chairman Peake stated he is not opposed to this request given that the property may be rezoned.

A motion was made by Vice Chairman Peake and seconded by Mr. Coffey to approve a variance to allow one additional attached accessory sign at 6485 University Drive based on the possibility of rezoning this area to Highway Business C4 which would allow for additional signage. **Approved unanimously**.

Case No. 8610 **4410 Lake Willow Boulevard**; A special exception to allow a clubhouse; David Stanton for James O. Wright of Wright Homes, LLC, appellant. Mr. Cummings stated the location of the property and said the request is for a special exception to allow a recreational facility in a residential zoning district. Mr. Cummings stated that according to Article 92.5.3 of the Zoning Ordinance, a special exception is required for a semi-public, non-profit, and recreational facilities in any residential district except miniature golf courses.

Mr. David Stanton appeared before the Board. Mr. Stanton stated that the subdivision wishes to build a pool and cabana. Mr. Stanton stated this subdivision contains 105 lots and the clubhouse will be located in the middle of the subdivision. Chairman Sisson asked if there will be swim meets. Mr. Stanton stated that no swim meets will occur at the clubhouse. Chairman Sisson asked if the lighting is compliant. Mr. Stanton stated that the lighting will be compliant.

Chairman Sisson inquired about parking. Mr. McGuffey stated that the required parking based on the size of the structure is 2 parking spaces. Mr. McGuffey stated that he has spoken with Traffic Engineering and there are concerns with the proposed back-out parking on Lake Willow as shown on the presented plans. Mr. McGuffey stated that it has been recommended that the number of parking spaces be reduced to 3 spaces. Chairman Sisson asked if the parking lot would allow for parallel parking. Mr. McGuffey stated that parallel parking would not work based on the width of the parking area. Mr. Stanton stated he is fine with the reduction of parking spaces as the clubhouse will be mainly accessed by pedestrian traffic.

A motion was made by Vice Chairman Peake and seconded by Mr. Garber to approve a special exception to allow a clubhouse in a residential zoning district at 4410 Lake Willow Boulevard with the stipulation that the property will be restricted to 3 parking spaces. **Approved unanimously**.

Case No. 8611 **7902 Martha Drive**; The location of a structure; James O. Puckett, III, appellant. Mr. Cummings stated the location of the property and said the request is for a 13 foot 4 inch rear yard setback variance. Mr. Cummings stated that in a Residence 1 Zoning District, a 45 foot rear yard is required.

Mr. James Puckett appeared before the Board. Mr. Puckett stated that he would like to construct a detached garage to the rear of his home. Mr. Puckett stated that the rear of the lot slopes downward so it will be less visible from the street. Mr. Puckett further stated that only a portion of the garage will encroach into the rear yard setback.

A motion was made by Mr. Garber and seconded by Vice Chairman Peake to approve a 13 foot 4

inch rear yard setback variance at 7902 Martha Drive. **Approved unanimously**.

Case No. 8612 **2305 and 2303 Jordan Lane**; A variance to allow an Off-Premises Beer/Table Wine Retailer operating as a specialty store and a special exception to allow an Off-Premises Beer/Table Wine Retailer operating as a specialty store; Mark A. Peeples of Alabama Streams LLC, appellant. Chairman Sisson stated that he will recuse from the variance case.

Mr. Cummings stated the location of the property and said the request is for a variance to allow an Off-Premise Beer/Table Wine Retailer operating as a specialty store within 500 feet of a school and a special exception to allow an Off-Premises Beer/Table Wine Retailer operating as a special store within 500 feet of a church. Mr. Cummings stated that according to Article 75.3.1 of the Zoning Ordinance, Off-Premises Beer/Table Wine Retailers operating as a specialty store are permitted provided that such retailers are not located within 500 feet of any protected use, unless a special exception has been granted in the case of churches in accordance with Section 92.5.3 of the Zoning Ordinance. Chairman Sisson stated he must recuse from the case.

Mr. John Hogue appeared before the Board. Mr. Hogue stated that a Wal-Mart Neighborhood Market is being constructed at this location. Mr. Hogue stated that because it is within 500 feet of a school and a church, he must request a variance and a special exception. Mr. Hogue stated that the proximity to the school requires a variance and the proximity to the church requires a special exception. Mr. Hogue stated that Westlawn Middle School is being sold and will no longer operate. Mr. Hogue further stated that he notified the church via certified mail and received no negative feedback.

A motion was made by Mr. Ozier and seconded by Mr. Garber to approve a variance to allow an Off-Premise Beer/Table Wine Retailer operating as a specialty store within 500 feet of a school and a special exception to allow an Off-Premises Beer/Table Wine Retailer operating as a special store within 500 feet of a church at 2305 and 2303 Jordan Lane. **Approved unanimously**.

Case No. 8613 **2106 Colice Road**; The location of a structure; Freddy Steele, appellant. Mr. Cummings stated the location of the property and said the request is for a variance to allow the location of an accessory structure in the front yard and a distance separation variance of 4 feet between an accessory structure and a primary structure. Mr. Cummings stated that according to Article 73.8.1 of the Zoning Ordinance, no accessory structure shall be erected in any front yard and shall be at least 10 feet from any other structure on the lot.

Mr. Steele stated that he would like to construct a detached garage in the front yard of his property. Mr. Steele stated that the location of the structure is due to the fact that his rear yard slopes significantly and cannot be located in the rear yard. Mr. Steele stated that the property is heavily landscaped and will provide some screening for the garage. Chairman Sisson asked if the garage would be compliant if attached to the home. Mr. McGuffey stated that Mr. Steele wanted to attach the garage, but unfortunately, the grade of the lot will not permit him to do so. Chairman Sisson asked if surrounding property owners were notified of the request. Mr. Steele stated he mailed approximately 60 letters and received no negative feedback.

A motion was made by Mr. Garber and seconded by Vice Chairman Peake to approve a variance for the location of an accessory structure in the front yard and a distance separation variance of 4 feet between an accessory structure and a primary structure at 2106 Colice Road based on the topography of the lot. **Approved unanimously**.

Case No. 8614 **1213 Chatterson Circle**; The location of a structure; L. Wayne Terry, appellant. Mr. Cummings stated the location of the property and said the request is for a 7 foot rear yard setback variance. Mr. Cummings stated that in Residence 1A Zoning District, a 40 rear yard is required.

Mr. Wayne Terry appeared before the Board. Mr. Terry stated that he would like to cover an existing deck on the rear of his home. Mr. Terry stated that his property abuts a golf course. Mr. Terry stated that the covering will not only provide protection from stray golf balls, but also from inclement weather. Chairman Sisson asked if similar variance requests have been granted for properties abutting a golf course. Ms. Hindman stated that there is a history of variances granted for these similar circumstances.

A motion was made by Mr. Garber and seconded by Mr. Coffey to approve a 7 foot rear yard setback variance at 1213 Chatterson Circle. **Approved unanimously**.

Case No. 8615 **325 The Bridge Street, Suite 113**; A variance to allow additional signage; Trey Ayers for Altitude IV, LLC, appellant. Mr. Cummings stated the location of the property and said the request is for a variance to allow one additional sign on one elevation. Mr. Cummings stated that according to Article 72.4.11 (4) (c) of the Zoning Ordinance, one attached sign is allowed per elevation.

Ms. Tina Brady appeared before the Board. Ms. Brady stated that the signage is for Mountain High Outfitters. Ms. Brady stated that the building is designed for signage to go on each side of the door. Ms. Brady stated that there is goose-neck lighting above the double doors. Ms. Brady stated that because of this, it is not possible to locate the signage above the doors. Chairman Sisson asked if this is a newly constructed portion of Bridge Street. Mr. McGuffey confirmed that this portion is newly constructed. Chairman Sisson asked if only one tenant will occupy this space. Ms. Brady confirmed that only Mountain High Outfitters will occupy the space. Ms. Brady stated that the square footage of both signs complies with the maximum square footage allowed. Vice Chairman Peake stated he is not opposed to the variance due to the placement of the lighting and the square footage of the signage being compliant.

A motion was made by Vice Chairman Peake and seconded by Mr. Garber to approve a variance for one additional sign on one elevation at 325 The Bridge Street, Suite 113. **Approved unanimously**.

Case No. 8616 **115 Clinton Avenue East**; The projection and size of attached signage; Derrick Young of U.G. White Hardware, LLC, appellant. Mr. Cummings stated the location of

the property and said the request is for a variance an additional 49 square feet of attached accessory signage and to project an additional 68 inches from the face of the building. Mr. Cummings stated that according to Article 72.4.3 (1) of the Zoning Ordinance, double-faced signs shall not project more than 16 inches from the face of the building and shall not exceed one square foot per linear foot of building frontage.

Mr. Derrick Young of U.G. White Hardware, LLC, appeared before the Board. Mr. Young stated that this is a new store opening in downtown Huntsville in the old Mason Building. Mr. Young stated that the structural part of the old Mason Building is a ledge that projects 18 inches off the building. Mr. Young stated that to have a projection sign, they must extend beyond the existing 18 inches. Mr. Young stated that another reason for the variance request is that the front of the store faces the Clinton Avenue parking garage. Mr. Young stated that to have proper exposure, a projection sign is needed for exposure to drivers traveling along Clinton Avenue. Mr. McGuffey stated that the Board has seen numerous requests in recent years for projection signs in downtown Huntsville. Mr. McGuffey stated that businesses are returning to the historical form of signage to add character to the downtown area. Vice Chairman Peake stated he does not believe the Board has heard a request for such a substantial projection. Mr. McGuffey stated that the sign projects more due to the fact that the appellant was asked to maintain the existing ledge on the face of the building.

Mr. Young stated that the sign was designed to have an old-fashioned character as the building was constructed in 1927. Mr. Young stated that the sign is tasteful and keeping in character with downtown Huntsville. Chairman Sisson asked if the City had any issues with this request. Mr. McGuffey stated that the City is not opposed to the request. Mr. McGuffey stated that there are numerous buildings in downtown Huntsville that have canopies that project out as much as the requested sign. Mr. McGuffey stated that Russell Erskine also has canopies and a projection sign on their building. Mr. McGuffey further stated that the projection sign will not be out of character with the surrounding businesses.

A motion was made by Mr. Ozier and seconded by Chairman Sisson to approve a variance for an additional 49 square feet of attached accessory signage and to project an additional 68 inches from the face of the building at 115 Clinton Avenue East subject to the approval of air rights. **Approved unanimously.**

Chairman Sisson then recalled Case No. 8607.

Ms. Sunday Bougher appeared before the Board. Ms. Bougher stated that after reviewing the proposed signage and seeing what could be reduced, she was able to reduce to the total square footage of attached accessory signage to 256 square feet. Chairman Sisson stated that Ms. Bougher is permitted a total of 200 square feet of attached accessory signage; therefore, an additional 56 square feet of attached accessory signage is needed. Ms. Bougher stated that is correct. Ms. Bougher stated that the monument signs will be compliant with the sign regulations. Ms. Bougher stated that if the owner chooses to have a pylon sign facing Bailey Cove Road, it too will be compliant. Chairman Sisson asked if an additional 56 square feet of attached

accessory signage is keeping in character with what has previously been varied in a Neighborhood Business C1 Zoning District. Mr. McGuffey confirmed that the request is keeping in character with this district.

A motion was made by Chairman Sisson and seconded by Vice Chairman Peake to approve an additional 56 square feet of attached accessory signage for the market and fueling center at 9020 Bailey Cove Road. **Approved unanimously**.

Chairman Sisson asked for a motion to approve the September 15, 2015, Board of Zoning Adjustment meeting minutes. A motion was made by Chairman Sisson and seconded by Mr. Coffey to approve the September 15, 2015, meeting minutes. **Approved unanimously**.

There being no further business, the meeting adjourned at 10:00 p.m.