

Administration Building
Council Chambers
308 Fountain Circle
September 15, 2015
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
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
Mrs. Carrie McDaniel, Recording Secretary
Lieutenant Jeffrey Rice, 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Sisson announced that the use variance request to allow a concrete company at **6180 Stringfield Road** has been withdrawn.

Chairman Sisson stated that **Case No. 8589** will be called at the end of the meeting.

Chairman Sisson then called the extension items on the agenda.

Case No. 8586 **200 Surrey Road**, The location of a structure; J. Blake Mullins for Hastings Park, LLC, appellant. Mr. Cummings stated the location of the property and said the

request will require a 4 foot 6 inch front yard setback variance and a 7 foot 7 inch rear yard setback variance.

Mr. J. Blake Mullins appeared before the Board. Mr. Mullins stated that the subject lot has a physical hardship in size in relation to the depth of the lot. Mr. Mullins stated that a majority of the lots located in Haven Manor are much less in depth than other Residence 1B lots. Mr. Mullins stated that the previous home and several neighboring homes encroach into the front and rear yard setbacks. Mr. Mullins stated that he would like to place the front line of the home consistent with the location of the previous dwelling and similar neighboring properties; therefore, he is requesting 4 foot 6 inch front yard setback variance and a 7 foot 7 inch rear yard setback variance. Chairman Sisson asked if the front yard setback of the existing dwelling is compliant. Mr. Mullins stated that the front yard setback of the existing dwelling is not compliant. Dr. Branham asked if the rear yard setback is consistent with the existing homes on the street. Mr. Mullins stated that the rear yard setback is consistent with the existing homes on the street. Chairman Sisson asked if the City has any issues with this request. Mr. McGuffey stated that City has no issues; the depth of this lot can be considered as a hardship.

A motion was made by Vice Chairman Peake and seconded by Dr. Branham to allow a 4 foot 6 inch front yard setback variance and a 7 foot 7 inch rear yard setback variance at 200 Surrey Road due to the size of the lot and the existing character of the neighborhood. **Approved unanimously.**

Chairman Sisson then called the regular agenda items.

Case No. 8590 **2842 Jordan Lane**; PVA lighting and landscaping; Barry Langford, appellant. Mr. Cummings stated that location of the property and said the request will require a variance to allow a modular building to remain on the property which will require an additional delay to upgrading the requirement of PVA landscaping and lighting. Mr. Cummings stated that according to Article 71.2 of the Zoning Ordinance, existing PVA's must be brought into compliance when the structure on the property is constructed or enlarged.

Mr. Barry Langford appeared before the Board. Mr. Langford stated that American Alloy Fabrication, Inc. is requesting an extension of their previously granted variance for PVA lighting and landscaping. Mr. Langford stated that on August 20, 2013, the Board approved a variance to allow a delay in upgrading PVA landscaping and lighting with the stipulation that the appellant has 24 months to upgrade the PVA lighting and landscaping or the modular building must be removed from the property; however, the variance was not exercised. Chairman Sisson inquired about the time frame for the extension. Mr. Langford stated that he is requesting an additional 24 months in order to meet the lighting and landscaping requirements. Mr. McGuffey stated that the proposed new construction triggered the lighting and landscaping requirements. Chairman Sisson asked if the City has any concerns. Mr. McGuffey stated that the City has no issues with the extension of the time stipulation. Vice Chairman Peake stated that he is in favor of considering the extension of the variance; however, if the building cannot be constructed in a 24 month period, lighting and landscaping will need to be installed.

A motion was made by Vice Chairman Peake and seconded by Mr. Garber to approve a variance to allow a delay in upgrading PVA landscaping and lighting at 2842 Jordan Lane with the stipulation that the appellant has 24 months to upgrade the PVA lighting and landscaping; otherwise, the modular building must be removed from the property. The motion passed as Chairman Sisson, Vice Chairman Peake, Mr. Coffey, Mr. Garber, and Ms. Ford voted in favor of the motion; Dr. Branham did not vote in favor of the motion.

Case No. 8591 **1201 Kingsbury Avenue**; The location of a structure and perimeter landscaping; Most Reverend Robert J. Baker, Bishop of Birmingham in Alabama, appellant. Mr. Cummings stated the location of the property and said the request will require a 10 foot rear yard setback variance and a 5 foot perimeter landscaping variance. Mr. Cummings stated that in a Residence 1C Zoning District, a 25 foot rear yard setback is required. Mr. Cummings also stated that according to Article 71.4.2 of the Zoning Ordinance, a 5 foot perimeter landscaping is required.

Bishop Baker appeared before the Board. Bishop Baker stated that he is requesting a variance for the addition of an entrance to the front of the church. Bishop Baker stated that the proposed structure will be a room that is approximately 15 feet deep and will be used as a vestibule area. Bishop Baker stated that currently he main entrance doors open directly into the church sanctuary; therefore, the addition of this room will allow parishioners to enter an enclosed area and prepare themselves before entering the church. Bishop Baker stated that the rear yard setback requirement for a Residence 1C Zoning District is 25 feet; however, the building is currently 30 feet away from the rear property line, abutting an alley. Bishop Baker stated that the proposed addition of a 15 foot room would encroach 10 feet into the rear setback by 10 feet yielding a 15 foot setback. Bishop Baker stated that the church is located on a very small area of land; therefore, any other modification to the building would result in the removal of parking spaces. Bishop Baker stated that the church currently has minimal parking spaces; therefore, the removal of current spaces would result in the church not having adequate parking for the congregation. Chairman Sisson asked if notification letters were sent to surrounding property owners. Bishop Baker stated that approximately 35 letters were mailed and no negative feedback was received. Mr. McGuffey stated that the City had received no negative complaints. Mr. McGuffey stated that the lighting will be met; however, due to the parking area, perimeter landscaping cannot be met; however, 2 landscaped islands will be installed. Chairman Sisson inquired about surrounding residential properties. Bishop Baker stated that the only residential neighboring property is owned by the church. Chairman Sisson asked if the City has any issues with this request. Mr. McGuffey stated that the City has no issues.

A motion was made by Mr. Coffey and seconded by Mr. Garber to approve a 10 foot rear yard setback variance and a 5 foot perimeter landscaping variance at 1201 Kingsbury Avenue.
Approved unanimously.

Case No. 8592 **4906 Blue Spring Road**; A use variance to allow a funeral home; Dennis Green, appellant. Mr. Cummings stated the location of the property and said the request will

require a use variance to allow a funeral home in a Residence 1B Zoning District.

Mr. Dennis Green, Mr. Jimmy Agnew, and Pastor Ross appeared before the Board. Mr. Agnew stated that Mr. Green has a pending real estate contract with Pastor Ross to purchase the property at 4906 Blue Spring Road. Mr. Agnew stated that a church previously operated at the subject location; however, the church has since relocated. Mr. Agnew stated that Mr. Green is proposing to operate a funeral home and a church at this location. Chairman Sisson asked if this would be a new church and mortuary. Mr. Green stated that the proposed church and mortuary will be new. Mr. Green stated that the property is approximately 4 acres and that the mortuary will be located on the back side of the property. Mr. Cummings stated that a funeral home is not a permitted use in residential areas; however, a church would be a permitted use. Ms. Hindman stated that funeral homes are permitted in Highway Business C4 Zoning Districts, Light Industry Districts, and Heavy Industry Zoning Districts. Chairman Sisson stated that the Board is concerned about the impact that a funeral home would have on the neighborhood. Chairman Sisson asked if notification letters were mailed to surrounding property owners. Mr. Green stated that he mailed approximately 95 notification letters to surrounding property owners and received no negative feedback; however, he did receive a vast amount of responses in favor of the request. Chairman Sisson asked if the City has received any feedback. Mr. McGuffey stated that the City has received no negative feedback. Mr. Coffey asked if the sale of the property will transpire if the variance request is denied. Mr. Green stated that the sale of the property will not transpire if the variance request is denied. Mr. Coffey stated that he has concerns of setting a precedent. Chairman Sisson asked if Mr. Green has looked at additional locations for the funeral home. Mr. Green stated that he has looked at other locations; however, none have been suitable for a funeral home. Chairman Sisson stated that allowing a business in a residential zoning district would set a precedent.

Chairman Sisson asked for a motion to approve a use variance to allow a funeral home in a Residence 1B Zoning District at 4906 Blue Spring Road. None was given; therefore, the request was **denied**.

Case No. 8593 **13880 AL 20 Highway NW**; The location, size, and height of a sign; Thomas J. Willings for Nextran Corporation, appellant. Mr. Cummings stated the location of the property and said the request will require a variance to allow a 52 square foot size variance for a detached ground sign and a variance to allow a 25 foot height variance for a detached ground sign. Mr. Cummings stated that according to Article 72.4.5(3) Zoning District, a detached ground identification sign not to exceed one hundred (100) square feet per street frontage with a maximum height of ten (10) feet.

Mr. Joe King appeared before the Board. Mr. King stated that Nextran is proposing to install a freestanding pylon sign at the subject property. Mr. King stated that the proposed sign will be 35 feet tall, 151 square feet in size, and 16 feet from the right-of-way. Mr. King stated that the proposed freestanding sign is of comparable size and format to neighboring competitors; however, the neighboring properties are located in a different zoning district which allows for additional signage. Dr. Branham asked if visibility is the purpose of the height variance request.

Mr. King stated that visibility is the purpose of the height variance request due to the fact that given the distance from the subject property to Interstate 565, a sign at this location would be difficult to read at 10 feet tall. Chairman Sisson inquired about variance history for this property. Mr. McGuffey stated that on March 20, 2012, the Board approved a 9 foot front yard setback variance for a pylon sign and a 35.75 square foot variance for two additional signs attached to the building, with no monument sign at this location. Mr. McGuffey stated that on March 20, 2012, the appellant requested a 20 foot height variance for a pylon sign; however, the request was denied. Chairman Sisson inquired about current signage. Mr. King stated that there is currently no signage on the property. Chairman Sisson asked if the previous variances were exercised. Mr. King stated that the previous variances were not exercised due to the fact that the square footage request was denied. Chairman Sisson asked if the previously granted variances will need to be heard again. Mr. McGuffey stated that the variances will need to be heard and voted on again due to the fact that the previous variances expired. Mr. McGuffey stated that the City has looked into rezoning this property to allow the requested signage; however, staff determined that a variance would be more appropriate than rezoning the property. Vice Chairman Peake asked if the sign regulations for this Zoning District were in place before Interstate 565 was constructed. Mr. McGuffey stated that the sign regulations for Commercial Industrial Park Zoning District are the original sign regulations. Chairman Sisson stated that since the City does not have any concerns with this request, he believes that the Board should consider allowing the Highway Business C4 sign regulations for this property. Vice Chairman Peake asked if the City has any issues with this request. Ms. Hindman asked that the Board specify stipulations instead of approving a blanket Highway Business C4 sign regulation.

A motion was made by Vice Chairman Peake and seconded by Dr. Branham to approve a 9 foot front yard setback variance, a 25 foot height variance, and a 50 square foot size variance at 13880 AL 20 Highway NW with the stipulation that the total square footage not exceed 150 square feet. **Approved unanimously.**

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 will require 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 residence district (except miniature golf courses).

Mr. Mike Friday appeared before the Board. Mr. Friday stated that he is requesting a special exception to allow the proposed construction of the Lodge Clubhouse on Green Mountain. Mr. Friday stated that he has acquired the land on Green Mountain in 3 different phases. Mr. Friday stated that as the acquisitions were acquired, the opportunity to construct a large clubhouse for all of the communities arose. Mr. Friday stated that the proposed clubhouse will be situated on a 2 acre lot across from the Inspiration subdivisions that will include a swimming pool, fitness center, and tennis courts. Chairman Sisson asked if Phases 1, 2, and 3 are built out. Mr. Friday stated that Phases 1, 2, and 3 are built out with approximately 108 houses in all three phases. Mr. Coffey inquired as to how the site for the clubhouse was acquired. Mr. Friday stated that the

third land acquisition was a 170 acre tract of land that included the 2 acre site for the proposed clubhouse. Mr. Coffey inquired as to why the proposed clubhouse is not located in the subdivision. Mr. Friday stated that the proposed clubhouse will serve several communities. Mr. Friday stated that if the clubhouse were located inside the subdivision, the neighboring properties may not be desirable. Mr. Coffey asked if the clubhouse would be desirable for adjacent properties located outside the subdivision. Mr. Friday stated that there is one dwelling directly behind the site for the proposed clubhouse. Mr. Coffey stated that he does not recall seeing a clubhouse located outside a subdivision.

Mr. Jonathan Jones stated that he has a dwelling being constructed in Inspiration and he is in favor of this request. Mr. Jones stated that the proposed clubhouse will be an asset for his family.

Ms. Julie McNeill of 13096 South Village Square stated that she is not in favor of this request. Ms. McNeill stated that she moved to Green Mountain for the tranquil living and that the proposed clubhouse will interfere with the tranquility of the neighborhood. Ms. McNeill stated that she believes that it would be more appropriate for the clubhouse to be located inside Mr. Friday's developments. Mr. McNeill stated that although a proposed round-about will be installed, South Shawdee is an extremely busy road and children do not need to be crossing a busy street to access the clubhouse. Ms. McNeill stated that the proposed clubhouse will lower the property value of her property.

Mr. Mark Prill of 5228 Riverview Drive appeared before the Board. Mr. Prill stated that he is the President of the Green Mountain Civic League and is present on behalf of surrounding residents. Mr. Prill stated that he and other residents were given late notification regarding this request; therefore, he sent out an email notification to residents of the community to notify them of the request. Mr. Prill stated that in a 24 hour period, he has received a 3 to 1 ratio of opposition for this request. Mr. Prill stated that over the past year, the community has diligently worked with the City of Huntsville to purchase the southwest corner of South Shawdee and South Village Square, which is opposite of where the proposed clubhouse will be constructed. Mr. Prill stated that the intent of the purchased parcel was to be a passive park with greenspace, and no lighting, to allow patrons to use the park as well as secure a footprint for long term utilization as a plot for a manned fire house to service the larger and extending communities. Mr. Prill stated that the current volunteer fire department is not sufficient for the verging population. Mr. Prill stated that the City purchased the parcel of land that the proposed park will be located on. Mr. Prill stated that some of the opposition is not necessarily for the proposed development itself but for the location of the proposed development. Mr. Prill stated that currently the North/South Shawdee corridor is a very high speed traffic pipeline that travels from Owens Cross Roads across the mountain. Mr. Prill stated that traffic surveys have been conducted in order to find a solution for traffic calming; therefore, installing 4 stop signs will be a significant help for traffic calming. Mr. Prill stated that now there are concerns that the pedestrian and vehicular traffic will increase for an already busy intersection. Mr. Prill stated that there are concerns expressed by the community members at large regarding the traffic, lighting, potential litter, septic, and water issues. Mr. Prill stated that there are numerous

concerns and that the community had very little time to aggregate the community response, both pro and con, in order to provide an equitable assessment overall. Mr. Prill stated that the community had an understanding that the proposed clubhouse will be a fee based membership for the Inspiration community; however, it will impact the larger community that will transit that area to get to the south part of the mountain on a daily basis as well as the servicing members of the Inspiration and the Preserve communities. Mr. Prill stated that there will be 4 major intersections within about a quarter mile of the subject property; therefore, this will become a high density traffic area. Mr. Prill stated that within the last couple of months there has been a collision at this intersection due to the fact that at this intersection there is a slight slope and curve that hinders the visibility of vehicles. Mr. Prill stated that he has been in contact with the Huntsville Police Department and the Planning Commission regarding the design of the passive park to accommodate the footprint of the proposed firehouse as well as the park. Mr. Prill stated that the community has not had adequate time to illicit the aggregate community response from Inspiration as well as the other communities in order to come before the Board to articulate the concerns of the community and to be able to identify whether or not there is larger support from the community. Mr. Prill stated that there are 6 out of approximately 30 community members who are in favor of this request. Dr. Branham asked if the opposition from the community would be different if the clubhouse were located in one of the phases. Mr. Prill stated that one of the frequently asked questions from the community is why the clubhouse is not located inside one of the phases. Mr. Prill stated that the clubhouse being located in one of the phases would definitely be an accommodation to the community; however, there are Legacy community members who have been located here for over 50 years that have no interest in seeing any type of development on Green Mountain.

Mr. Thomas Henderson of 13028 South Village Square Road stated he submitted a letter of opposition from his wife, Lynn Henderson. Mr. Henderson stated that he has concerns regarding traffic, lighting, and noise from the proposed clubhouse. Mr. Henderson stated that the lot has been zoned commercial for approximately 40 years until recently when it was rezoned to residential. Mr. Henderson stated that the proposed clubhouse will be a commercial use on a residentially zoned lot. Chairman Sisson asked if a clubhouse would require a business license. Mr. McGuffey stated that a clubhouse would not require a business license. Mr. Coffey asked who can utilize the facility if it is a fee based membership. Mr. Friday stated that there are approximately 300 residents and he will also have an additional 200 memberships for future growth. Mr. Friday stated that the purpose of the clubhouse being centrally located is so that the residents of the phases of the subdivisions will be able to access the clubhouse with ease. Mr. Friday stated that the proposed clubhouse will not be a fee based membership clubhouse; it will be for Inspiration and The Preserve community members only. Mr. Friday stated that the clubhouse is owned by the homeowners association and that fees for the membership will be included in homeowner association fees.

Mr. and Mrs. Frank and Mira Zimmerman of 600 South Green Mountain Road stated that they are concerned with swim meets being held at this location due to the noise. Mr. Zimmerman stated that the passive park parcel was purchased with the intention of having a flat piece of land on Green Mountain as a landing site for medical helicopters. Mr. Zimmerman stated that with

the proposed clubhouse, medical helicopters may not be permitted to land at the park site. Mr. Zimmerman stated that the park site is the only parcel on Green Mountain where a helicopter would be able to land.

Ms. Ann Suessmann of 14300 South Shawdee Road that she has concerns about visibility. Ms. Suessmann stated that at there are no street lights, no visible street sign, and at times there is very dense fog at this location.

Ms. Beverly Humphrey of 14096 Monte Vedra Road stated that according to Article 92.5.3 of the Zoning Ordinance, the Board of Zoning Adjustment may permit, as a special exception, the following uses in a specified district: semi-public, non-profit, recreational facilities in any residence district. Ms. Humphrey asked the Board to define a semi-public use in this case and how it applies to this case. Ms. Hindman stated that semi-public is not applicable in this case due to the fact that the proposed clubhouse is considered a recreational facility. Chairman Sisson stated that according to Article 92.5.3(1) of the Zoning Ordinance, there are several different uses that can be met; however, they do not all have to be met. Ms. Humphreys stated that the community supported Mr. Friday when he chose to rezone the subject property from commercial to residential; however, the proposed use is different than what the community was notified. Ms. Humphrey stated that the mountain is a residential district; therefore, the proposed clubhouse does not fit the character of the community. Chairman Sisson stated that the clubhouse is not considered a business use. Ms. Humphrey stated that she also has concerns regarding traffic.

Ms. Terry Sims of 13260 South Shawdee Road stated that she is in opposition of this request and that she would like for an environmental impact study to be performed.

Mr. John Datillo of 13219 South Village Square Road stated that he does have concerns regarding traffic; however, if the proposed clubhouse were constructed and operated in an appropriate way, it could be a compliment to the community. Mr. Datillo stated that with some guidance, the clubhouse could be constructed and surrounding properties will not be destroyed or disturbed. Mr. Datillo stated that traffic issues are a concern that needs to be addressed whether or not the clubhouse is constructed at this location or not.

Ms. Nancy Corbeille of 14113 Monte Vedra Road stated that she has never heard of a large development located outside of a development.

Ms. Sue Zupko of 54 Bluff View Drive stated that she has concerns about the noise and lights. Ms. Zupko stated that the community was originally informed that the clubhouse was to be located inside Mr. Friday's developments.

Mr. Ronald Suessman of 14300 South Shawdee Road stated that he is not sure that the road is appropriate for the proposed development.

Mr. Coffey asked if a special exception would be required if the proposed clubhouse were located inside the development. Mr. McGuffey stated that a special exception would be

required. Chairman Sisson inquired about the proposed lighting. Mr. Friday stated that the property will be lighted based on current zoning regulations. Chairman Sisson asked if the parking lot would be required to be lighted. Mr. McGuffey stated that the parking lot will be required to be lighted. Chairman Sisson inquired about the hours of operation. Mr. Friday stated that the fitness center will be accessible at all times with a key card; however, the swimming pool will have stated hours of operation. Mr. Friday stated that this proposed clubhouse will not operate any differently than any other clubhouse located inside a residential subdivision. Chairman Sisson asked if the key card will be required to enter the site or the building. Mr. Friday stated that a key card will be required to enter both the site and the building. Chairman Sisson asked if a traffic study has been performed. Mr. McGuffey stated that during the development of the subdivisions, the intersection was studied by the City of Huntsville Engineering Department. Mr. McGuffey stated that Mr. Friday will be required to install a turn lane, the intersection will be redesigned from a width stand point, and the radiuses of each turn at the intersection will be recalculated. Chairman Sisson asked if an outside traffic study was conducted. Mr. McGuffey stated that he is unsure if an outside traffic study was conducted. Dr. Branham asked if the clubhouse was considered across the street from the subdivision when the traffic study was conducted. Mr. McGuffey stated that the clubhouse was considered at the time the traffic study was performed.

Mr. Garber asked if there will be any additional street lights installed at this location. Mr. McGuffey stated that Huntsville Utilities and the Engineering Department will make the determination as to if additional street lighting is required. Chairman Sisson asked if swim meets will be held at this location. Mr. Friday stated that there will be no swim meets at this location. Chairman Sisson asked if the homeowners association specifies that no swim meets be held at this location. Mr. Friday stated that the homeowner's association paperwork can be changed to state that no swim meets will be held at this location. Chairman Sisson asked if an environmental impact study was conducted. Mr. Friday stated that an environmental impact study has not been conducted. Chairman Sisson asked if Board members have any additional questions. Mr. Garber asked if the tennis courts will be lighted. Mr. Friday stated that the tennis courts will be lighted; however, they will be on a 1 hour duration timer. Mr. Garber inquired as to what time the tennis courts will cease operation. Mr. Friday stated that the tennis courts will be open no later than 9:00 p.m. or 10:00 p.m. Mr. Friday stated that Leland Cypress trees will be installed in order to screen neighboring residential properties.

Chairman Sisson asked if the City has any additional comments or concerns. Mr. McGuffey stated that there are the concerns that the surrounding property owners have brought up and the concerns that Mr. Friday has addressed. Mr. McGuffey asked that the Board consider the impact, location, swim meets, and hours of operation in order to make a decision. Mr. Coffey asked if residences could be constructed on this lot. Mr. Friday stated that he has a restriction that no residential dwellings be constructed on this property; only a fire station can be constructed on the 5 acre site. Mr. Coffey stated that he has an issue with the proposed clubhouse not being located inside the community. Mr. Coffey stated that if the Board chooses to approve this request, a precedent will be set for stand-alone clubhouses to be permitted in the City of Huntsville. Vice Chairman Peake asked how many lots would be lost if the clubhouse

was constructed inside the subdivision. Mr. Friday stated that approximately 5 lots would be lost if the clubhouse was constructed inside the subdivision. Dr. Branham stated that based on feedback from community members, the community would be more accepting of the proposed clubhouse if it were embedded inside the subdivision. Mr. Friday stated that it is more logical to have the clubhouse located on the subject lot due to the fact that the clubhouse will service multiple subdivisions. Dr. Branham stated that a stand-alone clubhouse would have more validity to him if Mr. Friday owned all of the land in and surrounding the communities; however, Mr. Friday does not own all of the land; therefore, surrounding property owners are feeling as if they are being imposed upon. Chairman Sisson stated that although Mr. Friday has some traffic calming solutions, there can be circumstances around this intersection that can be challenging. Mr. Garber inquired about the difference between this request and other clubhouses in the City of Huntsville. Mr. Garber stated that he is concerned about traffic, hours, and privacy; however, this request is does not differ from any other clubhouse request. Dr. Branham stated that there is no difference in this request than any other clubhouse request except for the fact that this clubhouse may be located on the wrong side of the street. Ms. Ford stated that the Board needs to keep in mind that the proposed clubhouse will not only be available for the Inspiration community but for the Preserve community as well. Ms. Ford stated that if the clubhouse were located inside the Inspiration community, the Preserve community members may not utilize the facility like they would if were located on the subject lot. Mr. Friday stated that if the clubhouse were located inside the subdivision, more traffic would be directed through the subdivision. Chairman Sisson stated that the clubhouse being located inside the subdivision would be no different than other open membership clubhouses located inside subdivisions. Mr. Suessmann stated that he would like more information in writing before the Board makes a decision.

Chairman Sisson asked if the City has any additional comments or concerns. Mr. McGuffey stated that there have been some valid concerns addressed and there is always an opportunity for the City to look into and address the concerns that were discussed. Mr. Coffey asked if all neighborhood pools were required to receive a special exception. Mr. McGuffey stated that all neighborhood pools require a special exception; however, some pools may predate the Zoning Ordinance. Mr. Coffey asked if it would be beneficial to continue the case for 30 days. Chairman Sisson stated that he was contemplating continuing the case for 30 days in order to get some questions answered. Dr. Branham stated that he believes that the clubhouse should be located within the subdivision. Dr. Branham stated that if the clubhouse were located within the subdivision, then the people who would benefit from the clubhouse would be present to state any concerns that may directly affect them. Chairman Sisson stated that Mr. Friday should consider alternative solutions for placing the clubhouse within the subdivision. Vice Chairman Peake stated that he has concerns with how the community will be affected by the proposed clubhouse and he thinks that the community and the developer need to discuss the details in order to gain some clarification. Mr. Garber stated that he would agree with embedding the clubhouse within the subdivision if that were the only community it would serve; however, this will be serving multiple communities.

A motion was made by Vice Chairman Peake and seconded by Mr. Garber to continue a special exception to allow a clubhouse at 13010 South Village Square for 30 days. The motion passed

as Chairman Sisson, Vice Chairman Peake, Mr. Coffey, Mr. Garber, Ms. Ford voted in favor of the motion; Dr. Branham did not vote in favor of the motion.

Case No. 8595 **901 Kennamer Drive**; A special exception for a special event retailer; Lauren Battle of Huntsville Young Professionals, Inc., for The Land Trust of Huntsville of North Alabama, appellant. Mr. Cummings stated the location of the property and said the request will require a special exception is required to allow a special event retailer in a Residence 1A Zoning District. Mr. Cummings stated that according to Article 92.5.3(31) of the Zoning Ordinance, a special event retailer is required to get a special exception in all residential districts.

Ms. Lauren Battle appeared before the Board. Ms. Battle stated that Huntsville Young Professionals is requesting a special exception to host The Haunt at Three Caves event at this location. Chairman Sisson asked if this is the same event the Board has approved in past years. Ms. Battle stated that this is the same event the Board has approved in the past. Ms. Battle stated that the event will be held on Friday, October 23, 2015, from 7:00 p.m. to 11:00 p.m. with beer and wine sales only. Mr. McGuffey inquired about the ticket count. Ms. Battle stated that they will have a 600 ticket count. Mr. McGuffey asked if patrons will be bussed to the Three Caves location. Ms. Battle stated that patrons will be bussed to the location. Mr. McGuffey stated that the City has no issues with this request.

A motion was made by Dr. Branham and seconded by Vice Chairman Peake to approve a special exception to allow a special event retailer in a Residence 1A Zoning District at 901 Kennamer Drive. **Approved unanimously.**

Case No. 8596 **2620 Clinton Avenue**; A special exception to allow a special retailer as an accessory use to banquet halls in a Light Industry Zoning District; Randall Schrimsher, appellant. Vice Chairman Peake stated that he will recuse from this case. Mr. Cummings stated the location of the property and said the request will require a special exception to allow a special retailer as an accessory use the sale alcoholic beverages. Mr. Cummings stated that according to Article 75.4.2(1)(2)(3) of the Zoning Ordinance, a special exception is required to allow the Banquet Halls, Cultural venues, and special retailers the sale of alcoholic beverages.

Mr. Randy Schrimsher appeared before the Board. Mr. Schrimsher stated that he is requesting a special exception to allow Stone Event Rental, LLC to operate and sell alcoholic beverages as a special retail establishment. Chairman Sisson asked if this type of special exception request is required by ordinance to be approved on an annual basis. Mr. McGuffey stated that this type of special exception request is required by ordinance to be renewed on an annual basis. Mr. McGuffey stated that the special exception is required to be renewed annually so that the City may address any issues that may arise. Chairman Sisson asked how many events are anticipated at this location each month. Mr. Schrimsher stated that approximately 15 to 20 events will take place each month starting in November 2015. Chairman Sisson inquired about the closest residence. Mr. Schrimsher stated that that the closest residence is more than 500 feet from the location. Chairman Sisson asked if the City has any issues with this request. Mr. McGuffey stated that the City has no issues with this request. Mr. Coffey inquired about parking. Mr.

Schrimsher stated that parking will be compliant.

A motion was made by Chairman Sisson and seconded by Mr. Coffey to approve a special exception to allow a special retailer as an accessory use to a banquet hall at 2620 Clinton Avenue for one year only and for this appellant only.

Case No. 8597 **1803 Fairmont Drive;** The location of a structure; John Datillo of Cardinal Custom Enterprises, LLC for Brandon and Heather Phillips, appellant. Mr. Cummings stated the location of the property and said the request will require a 20 foot rear yard setback variance. Mr. Cummings stated that in Residence R1A Zoning District, a 40 foot rear yard setback is required.

Mr. John Datillo appeared before the Board. Mr. Datillo stated that the property owners are requesting a 20 foot rear yard setback variance to accommodate the house plan they wish to build on the lot. Mr. Datillo stated that the recorded plat for Covemont subdivision has a 50 foot minimum build line in the front yard; therefore, when the proposed dwelling is placed at the minimum build line, the Residence 1A zoning restrictions on the rear yard do not allow enough space for the proposed dwelling. Mr. Datillo stated that if the Board chooses to grant a 20 foot rear yard setback, the property owners will be able to construct a dwelling that will complement the neighborhood aesthetic and allow them to maintain the desired floor plan. Dr. Branham asked why the proposed construction will encroach into the rear yard setback by 20 feet. Mr. Datillo stated that the design of the proposed dwelling has the garage not opening to the street for aesthetic purposes.

Mr. and Mrs. Billy Belcher of 1716 Governors Drive appeared before the Board. Mr. Belcher stated that they live directly behind the subject property. Ms. Belcher asked if the privacy fence would remain. Mr. Datillo stated that the fence will remain. Chairman Sisson inquired about the height of the privacy fence. Mr. Datillo stated that the fence is approximately 6 feet in height. Chairman Sisson asked if the Belcher's have any concerns with this variance request. Ms. Belcher stated that the only concern they had was in regards to the privacy fence. Chairman Sisson asked if there will be any windows on the rear of the second story of the garage. Mr. Datillo stated that there is a double window on the rear of the second story. Mr. Datillo stated that if the second story window is an issue for the Belcher's, he can request that that the window be removed.

Dr. Branham inquired as to why the proposed house could not be constructed in compliance on such a large lot. Mr. Datillo stated the property owners were concerned with the front and rear minimum build lines and that the view from the street not be disturbed. Chairman Sisson asked why the proposed structure is not being constructed closer to the minimum build line. Mr. Datillo stated that the proposed structure could be constructed closer to the minimum build line. Vice Chairman Peake asked how far the proposed structure is from the minimum build line. Mr. Cummings stated that a 12 foot front yard setback variance would be required. Chairman Sisson asked if the City has any issues with this request. Mr. McGuffey stated that the City has no issues. Mr. McGuffey stated that the front yard setback in the subdivision is greater than what

the Zoning Ordinance requires. Dr. David Branham stated that he believes that the proposed dwelling should be moved up to the 50 foot minimum build line. Mr. Datillo stated that the property is elevated at the street; therefore, if the proposed house were constructed at the 50 foot minimum build line, the house would be very overwhelming as seen from the street.

A motion was made by Chairman Sisson and seconded by Dr. Branham to approve a 20 foot rear yard setback variance at 1803 Fairmont Drive with the stipulation that the privacy fence be maintained, the north window of the bonus area be omitted, and that no other buildings be constructed in the rear yard. **Approved unanimously.**

Case No. 8598 **2190 Winchester Road**; Perimeter landscaping; Wesley Crunkleton of Winchester Road Partners, LLC, appellant. Chairman Sisson stated that he will recuse from this case. Mr. Cummings stated the location of the property and said the request will require a 15 foot front yard setback variance. Mr. Cummings stated that according to Article 24.3.1 of the Zoning Ordinance, the first twenty (20) feet of the required front yard.

Mr. Wesley Crunkleton and Ms. Jennifer Trice appeared before the Board. Ms. Trice stated that Winchester Road Partners, LLC, is requesting a 15 foot front yard setback variance. Ms. Trice stated that the property owner purchased the property, designed the site, and obtained tenant agreements with minimum parking requirements based on the seller's boundary. Ms. Trice stated that during the commercial site plan approval process, Madison County stated that they had obtained approximately 20 feet of additional right-of-way for the expansion of Winchester Road at this location. Ms. Trice stated that due to no fault of Winchester Road Partners, LLC, the additional right-of-way acquisition was not discovered during closing. Ms. Trice stated that without a front yard setback variance, there is not sufficient parking for the restaurant tenant; however, with a variance and the extensive Winchester Road right-of-way, there will be approximately 45 feet of greenspace between the commercial center's parking lot and proposed widened Winchester Road. Ms. Trice stated that this request will create a uniform appearance with the neighboring CVS parking lot. Vice Chairman Peake asked if the subject property will need to be landscaped or if it is primarily greenspace. Mr. McGuffey stated that the property is required to have a 20 foot landscape buffer. Mr. McGuffey stated that the landscaping is made up of tree and shrub counts; however, most businesses do not like shrubs in front of the development due to the obstruction of signage. Ms. Trice stated that there would not be any trees or shrubs in the front of the development even if the right-of-way had not been expanded. Ms. Trice stated that she notified Madison County Engineering of the variance request and in return, received a letter stating that the variance request would have no effect on the road widening. Vice Chairman Peake asked if the City has any issues with this request. Mr. McGuffey stated that the City has no issues. Mr. McGuffey stated that the timing of the road widening project is what has affected this buffer.

A motion was made by Dr. Branham and seconded by Mr. Garber to approve a 15 foot landscape buffer variance at 2190 Winchester Road due to the expansion of the right-of-way. **Approved unanimously.**

Case No. 8599 **2263 Norwood Drive;** A use variance to allow a child care center and the size and number of signs; Ruzena Patton, appellant. Mr. Cummings stated the location of the property and said the request will require a use variance to allow a child care center in a Residence 1B Zoning District and a variance to allow a second sign and to allow 10 square foot for each sign, for an additional 18 square foot of signage. Mr. Cummings stated that according to Article 72.4.1 of the Zoning Ordinance, one side of the sign does not exceed two (2) square feet; and no more than one sign shall be erected.

Ms. Ruzena Patton and Mr. Leslie Patton appeared before the Board. Ms. Patton stated that she is proposing to operate a child care center at this location due to the fact that a child care center would be a benefit to the community. Ms. Patton stated that the child care center will have a minimum of 15 children but no more than 25 children at one time. Ms. Patton stated that she sent out notification letters to surrounding property owners and received only positive feedback. Chairman Sisson asked if the City received any feedback from surrounding property owners. Ms. Hindman stated that the City received no negative feedback. Dr. Branham inquired about the signage request. Ms. Patton stated that the subject property is a corner lot; therefore, she would like a sign facing Norwood Drive and a sign facing Medaris Road. Chairman Sisson asked what size sign is permitted. Mr. Cummings stated that one sign not exceeding 2 square feet is permitted. Ms. Hindman stated that child care centers are not permitted in Residential Zoning Districts. Dr. Branham inquired about signs in residential zoning districts. Ms. Hindman stated that signs are permitted for group child care homes or accessory uses in Residential Zoning Districts; however, signs are restricted to 2 square feet, they cannot be illuminated, and must be attached to the home. Chairman Sisson asked if Ms. Patton owns the property and resides there. Ms. Patton stated that she owns the property; however, she does not reside there. Chairman Sisson asked if Ms. Patton owning the property but not residing there is what triggered the use variance request. Ms. Hindman stated that the request was triggered due to the fact that Ms. Patton is requesting to have more than 13 children and the property is not her primary residence.

Chairman Sisson asked how long Ms. Patton has owned the property. Ms. Patton stated that she has owned the property for approximately two years. Ms. Patton stated that she has tried to rent and sell the property; however, all potential renters or buyers had concerns with the ditch in the rear of the property. Vice Chairman Peake asked if Ms. Patton has ever owned or operated a child care center. Ms. Patton stated that she has not operated a child care center; however, she has homeschooled her children and taught at a church school. Vice Chairman Peake asked if Ms. Patton would be the operator of this facility. Ms. Patton stated that she would be the owner and director of this facility.

Vice Chairman Peake inquired about the differences in a child care center and a group child care home. Mr. McGuffey stated that commonly in a home that is owned and operated by the property owner, 6 children are permitted without Board approval, 7 to 12 children requires a special exception, and more than 12 children is required to be in a commercial zoning district. Vice Chairman Peake asked how Ms. Patton arrived on the decision of 15 to 25 children. Ms.

Patton stated that according to DHR, there is a minimum of 15 children required for one toilet. Chairman Sisson stated that he has concerns about this request being that Ms. Patton has not operated a child care business in the past. Chairman Sisson asked if Ms. Patton has considered starting with 6 children in her home. Ms. Patton stated that in September 2013, she requested a special exception to allow a group child care home at her residence; however, the Board denied the request. Mr. Patton stated that before the Board meeting in 2013, the surrounding property owners had no issues with the request; however, there was a surrounding property owner that changed the minds of surrounding property owners; therefore, opposition was expressed to the City and to the Board. Chairman Sisson asked if the Board has a history for this type of request. Ms. Hindman stated that on September 19, 2000, the Board granted a use variance for a child care center at 3224 Teton Drive with the stipulation that there be no signs on the property. Vice Chairman Peake stated that he has no opposition of the child care request; however, he is concerned with the number of children.

Chairman Sisson asked for a motion to approve a use variance to allow a child care center and the size and number of signs at 2263 Norwood Drive. None was given; therefore, the request was **denied**.

Case No. 8600 **2613 Muirwoods Drive**; The location of a structure; Barry Phillips of Hideaways, LLC, appellant.

Because no one appeared to present this case, Chairman Sisson stated that the case will need to be continued for 30 days.

A motion was made by Chairman Sisson and seconded by Vice Chairman Peake to continue the request for the location of a structure at 2613 Muirwoods Drive for 30 days. **Approved unanimously.**

Case No. 8601 **118 Railway Lane**; The location of a structure; Mary Clark, appellant. Mr. Cummings stated the location of the property and said the request will require a 6 foot 2 inch rear yard setback variance. Mr. Cummings stated that in Residence 2B Zoning District, a 25 foot rear yard is required.

Mr. John Allen appeared before the Board. Mr. Allen stated that on December 21, 2010, the Board granted a 6 foot 4 inch rear yard setback variance at the subject location; however, the variance was not exercised in 6 months and has since expired. Chairman Sisson asked if the City has a floor plan of what was previously granted. Ms. Hindman stated that the City does not have the previous floor plan; however, this request is a lesser request than what was previously granted. Chairman Sisson asked if the City has any issues with this request. Mr. McGuffey stated that the City has no issues.

A motion was made by Chairman Sisson and seconded by Dr. Branham to approve a 6 foot 2 inch rear yard setback variance at 118 Railway Lane. **Approved unanimously.**

Case No. 8589 **714 Bob Wallace Avenue, Unit B**; The height of a tower, perimeter landscaping, and a special exception to allow a tower in a Residential District; Brett Buggeln for Florida Tower Partners, LLC, appellant. Chairman Sisson stated that he will recuse from this case. Mr. Cummings stated the location of the property and said the request will require a special exception to allow the replacement of an existing guy wire supported tower to a new monopole tower, a variance for the height of a tower, and a variance for perimeter landscaping. Mr. Cummings stated that according to Article 92.5.3(9)(a) of the Zoning Ordinance, towers must be monopoles and must be designed to implode under stress; antennas used must be of the least visually obtrusive design available at the time of application. Mr. Cummings stated that according to Article 92.5.3(9)(e) of the Zoning Ordinance, towers shall not exceed one hundred (100) feet. Mr. Cummings also stated that According to Article 73.20.11, 10 feet of perimeter landscaping is required.

Please refer to the attached meeting minutes provided by Ileen S. Shoemaker, Registered Professional Reporter, with Shoemaker and Associates, The Court Reporters.

A motion was made by Vice Chairman Peake and seconded by Mr. Garber to approve a special exception to allow a tower to be located in a residential zoning district, a 56 foot height variance, and a variance for perimeter landscaping at 714 Bob Wallace Avenue, Unit B, with the stipulation that a 10 foot fence be installed and that 3 strands of barbwire be applied to the top of the fence if permitted by Community Development and the Board of Education regulations. **Approved unanimously.**

Chairman Sisson asked for a motion to approve the August 18, 2015, Board of Zoning Adjustment meeting minutes. A motion was made by Chairman Sisson and seconded by Vice Chairman Peake to approve the August 18, 2015, meeting minutes. **Approved unanimously.**

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