Administration Building Council Chambers

308 Fountain Circle

December 17, 2019

6:00 p.m.

**BOARD OF ZONING ADJUSTMENT**

Members Present:

Mr. Martin Sisson – Chairman

Mr. Bert Peake – Vice Chairman

Mr. Fred Coffey

Mr. Johnny Ozier – Supernumerary

Dr. David Branham

Ms. Kimberly Ford

Ms. Wendy Lee - Supernumerary

Others Present:

Mr. Thomas Nunez, City of Huntsville Planning Services

Mr. Travis Cummings, City of Huntsville Zoning Administration

Mrs. Courtney Edwards, City of Huntsville Zoning Administration, Recording Secretary

Mr. Robert Baudendistel, City of Huntsville Zoning Administration

Sergeant Grady Thigpen, 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 then called the extension items

**Case No. 9153 3613 Seventh Avenue SW;** The location of an accessory structure, a use variance to allow metal siding on an accessory structure, and a use variance to allow an accessory structure on a lot without a primary structure: William A. Byrd, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a use variance to allow an accessory structure on a lot without a primary structure, this request will also require a use variance to allow metal siding on an accessory structure.

William A. Byrd appeared before the Board and stated he would like to build an accessory structure, and he has met with Zoning staff to find changes that he can make to the request. Mr. Cummings stated he has a different orientation to the proposed accessory structure. Mr. Cummings also stated the appellant does not want to move the structure back but would if that was what the Board approved. Chairman Sisson asked what the appellant was using the structure for. Mr. Byrd stated he would use the structure to store vintage cars and a trailer. Chairman Sisson asked if he could combine the lots. Mr. Cummings stated there is a well in between lots. Dr. Branham asked for clarification on why the appellant could not combine the lots. Mr. Cummings stated he did not have to go through combining the lots if he built over the property line, the lots would be considered merged. Chairman Sisson asked if the existing structure could be removed. Mr. Nunez stated they could make the removal a stipulation. Mr. Coffey asked why the appellant did not want to re-orient the proposed structure. Mr. Byrd stated the well makes re-orientation difficult and wants to keep the existing accessory structure. Mr. Cummings stated the proposed accessory structure is 1500 square feet, which is the same size as the existing primary structure. Mr. Cummings also stated the proposed structure should be moved closer the rear of the property, so the proposed accessory structure does not look like a primary structure. Chairman Sisson asked what the appellant uses the existing accessory structure for and why he does not want it removed. Mr. Byrd stated he stores antiques in the structure and wants to keep a 10 foot distance separation so he can still mow in between structures. Ms. Lee asked if the appellant sent out letters to the neighbors and if the appellant heard any opposition to his request. Mr. Byrd stated he sent out letters and received no opposition. Chairman Sisson asked for clarification of which street is the road frontage for this lot. Mr. Byrd stated 12th Avenue. Mr. Coffey stated a front yard accessory structure would set a precedent. Mr. Byrd stated he could build the structure without metal. Chairman Sisson stated he does not think the current issue they are talking about has anything to do with the siding. Chairman Sisson also stated the accessory structure looks like a home. Mr. Byrd stated he wanted all the structures to match. Vice Chairman Peake asked if the lots were combined would this request be before the Board. Mr. Cummings stated yes. Mr. Cummings asked if the appellant would be willing to move it 5 feet. Mr. Byrd stated no. Chairman Sisson stated all the homes are lined up and the character of this street has to be taken into consideration. Dr. Branham stated he has three issues with this request; the first issue is the metal siding, the second issue is the accessory structure looking as if it’s in a front yard, and the third issue is the accessory structure on a separate lot of the primary structure. Mr. Coffey asked if there is history for accessory structures in a front yard. Mr. Cummings stated no. Mr. Coffey ask if this request would use a front yard average. Mr. Cummings stated accessory structures do not use a front yard average due to the fact an accessory structure is not permitted in a front yard. Mr. Cummings stated there is some history of approved accessory structures in a secondary front yard. Dr. Branham stated the Board needs to protect itself from setting a precedent. Ms. Ford asked if there is a stipulation, they could set that would cover the Board. Mr. Cummings stated yes if the Board were to state the lots must be combined and no metal siding. Mr. Cummings also stated the Board could base the approval on the uniqueness of the property. Chairman Sisson asked if there was a motion.

A motion was made by Ms. Ford and seconded by Dr. Branham to approve the location of an accessory structure due to the non-conforming location of the primary structure and the age of the property with the stipulations: no metal siding is permitted, and the lots are sold/conveyed together. The motion passed with a 4 to 1 vote. Ms. Lee was a no vote.

**Case No. 9165 5001 Adventist Boulevard NW**; the size, height, location of signage and a static hold for an electronic display sign, Ben Collins of KPS Group for Sabrina Cotton of Oakwood College, Inc.**,** appellant.Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 8 square foot variance for an accessory ground sign in a Research Park Zoning District. This request will also require a 3 foot height variance for an accessory ground sign. This request will also require a 15 foot setback variance for the location of a monument sign. This request will require a variance to allow a 15 minute static hold time variance of the required 60 minute hold in a Research Park Zoning District.

Ben Collins of KPS Group for Sabrina Cotton of Oakwood College, Inc. appeared before the Board and presented the revisions for the new sign plan and stated they had Trav-Ad redesign the sign. Roy Cox of Trav-Ad appeared before the Board and stated he met with Zoning staff to get a better understanding of an appropriate request. Mr. Cox also stated the new request is now less than previous request in size, height, and static hold time. Mr. Cummings stated the proposed sign sits down 5 feet below street level. Mr. Cox stated it would be to costly to build up the sign to street level. Mr. Cummings stated Trav-Ad redesigned the sign so they would not have to build it up to street level. Mr. Cox stated the base will bring the sign up to street level. Mr. Cox stated they are now only requesting a 10 foot setback variance. Chairman Sisson asked does the City have any issue with this request. Mr. Cummings stated the City does not have any issues with the revision. Dr. Branham asked if this request must be present to the Research Park Design Review Committee. Mr. Nunez stated no. Dr. Branham asked for clarification of the static hold request. Mr. Cox stated the appellant would like to be like the other colleges in the area and have a 1 minute static hold time. Mr. Nunez stated the amendments to the Sign Ordinance are for 1 minute static hold on Major Arterials and everything else will be 15 minute static hold. Mr. Cummings stated this sign is not on a Major Arterial and all the other colleges’ signs are on Major Arterials. Mr. Nunez stated Oakwood College is a private college, where as University of Alabama Huntsville and Alabama A&M University are public colleges. Vice Chairman Peake asked with the changes to the ordinance what static hold would be permitted at this location. Mr. Cummings stated 15 minute static hold. Chairman Sisson asked if the Board has anymore questions or if there is a motion.

A motion was made by Mr. Coffey and seconded by Ms. Ford to approve a 3 foot height variance for an accessory ground from the finished grade street view due to the fact the location of the sign is below the finished grade street level view, a 15 foot setback variance for the location of an accessory ground sign, and a 15 minute static hold time variance of the required 60 minutes hold in a Research Park Zoning District due to the fact that the Zoning Ordinance is being amended. **Approved unanimously**.

Chairman Sisson then called the regular agenda items.

**Case No. 9170 308 Research Station Blvd SW;** The location of an accessory structure; Odri Nette Hastings, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 5 foot distance separation variance in a Residence 2-B Zoning District.

Odri Nette Hastings appeared before the Board and stated they are requesting a 10’ x 12’ storage shed to be 5 feet away from fence. Mr. Cummings stated there is a 15 foot U&D easement on the rear of this property. Mr. Baudendistel stated the primary structure is sitting on the required 30 foot rear yard setback. Chairman Sisson asked if the City has any issues with this request. Mr. Cummings stated no. Chairman Sisson asked if there was a motion.

A motion was made by Dr. Branham and seconded by Ms. Ford to approve a 5 foot distance separation variance between a primary structure and an accessory structure due to the fact there is a large utility and drainage easement on the rear of the property.**Approved unanimously**.

**Case No. 9171 1210 Greenleaf Drive SE;** The location of a structure; Juanita F. Batt a/k/a Juanita Batt-Moss, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 10 foot 6 inch rear yard setback variance in a Residence 1-A Zoning District.

Juanita F. Batt appeared before the Board and stated they would like to build a 20’x20’ sunroom addition onto the rear of their home. Mr. Cummings stated Zoning Administration had even tried to use the triangle formula to make the addition work, however due to the shape of the rear property line the addition would not fit without a variance. Chairman Sisson asked if letters were mailed to the neighbors and if there was any opposition. Ms. Batt stated she mailed 75 letters and heard no opposition. Chairman Sisson asked if the City has any issues. Mr. Cummings stated no.

A motion was made by Mr. Coffey and seconded by Dr. Branham to approve a 10 foot 6 inch rear yard setback variance. **Approve unanimously.**

**Case No. 9172 3521 Bermuda Road SW;** The location of a structure; Stephen C. Morgan, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 3 foot side yard setback variance and will also require a 19 foot rear yard setback variance in a Residence 1-B Zoning District.

Stephen C. Morgan appeared before the Board and stated he is requesting an addition to his garage to store his motorcycles and welding equipment. Mr. Cummings stated there has been a variance approved for this address in 1978. Chairman Sisson asked what the existing rear yard setback is. Mr. Baudendistel stated 17 feet with the triangle formula. Chairman Sisson aske if letters were mailed. Mr. Morgan stated he mailed 100 letters and heard no opposition. Mr. Coffey asked if the lot is different from the original platted lot. Mr. Baudendistel stated the original plat shows a beveled rear yard. Mr. Coffey stated this lot has an unusual shape. Chairman Sisson asked if the City has any issues. Mr. Cummings stated no. Dr. Branham asked if there were any rear lot coverage issues. Mr. Baudendistel stated the rear lot coverage is compliant.

A motion was made by Vice Chairman Peake and seconded by Mr. Coffey to approve a 3 foot west yard setback variance and an 18 foot rear yard setback variance due to the shape of the lot. **Approve unanimously**.

**Case No. 9173 903 Memorial Parkway**; A use variance to allow a package store, T.J. Lee of 903 Parkway, LLC, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a use variance to allow package sales in a Highway Business C4 Zoning District.

A motion was made by Chairman Sisson and seconded by Vice Chairman Peake to continue the request for an accessory ground sign on Sparkman Drive for 30 Days. **Approved unanimously.**

**Case No. 9174 320 Voyager’s Way NW**; A special exception to allow a multi- family dwelling; Michael Samples of Eagle’s West, LLC, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings this request will require a special exception to allow multi-family dwellings in a Research Park Commercial Zoning District.

Mr. Nunez stated within the Research Park Commercial Zoning District had previously allowed multi-family dwellings. Mr. Nunez also stated this area was recently rezoned to Research Park Commercial and the City is in support of this request. Chairman Sisson asked if this request meets the standards due to the fact this is a special exception and not a variance. Mr. Cummings stated yes. Dr. Branham asked if this request is subject to the Research Park Design Committee. Mr. Nunez stated yes. Chairman Sisson asked for the appellant to describe what this development will look like and function as. Michael Samples of Eagle’s West, LLC appeared before the Board and stated this will be a mixed-use development on 9 acres of land. Mr. Samples also stated they plan to have 290 multi-family dwelling units and retail space. Mr. Nunez stated the plat restrictions have been lifted. Mr. Nunez also stated they will be meeting all lighting and landscaping requirements. Dr. Branham asked if they would be meeting the height requirement. Mr. Nunez stated yes. Mr. Samples stated the development would be 4 stories in height. Mr. Samples stated they would meet the Ordinance and the Design Review restrictions. Chairman Sisson asked if there was a motion.

A motion was made by Mr. Coffey and seconded by Chairman Sisson to approve a special exception to allow multi-family dwellings in a Research Park Commercial Zoning District. **Approved unanimously.**

**Case No. 9175**  **100 Old River Road SE**; A special exception to allow a special retailer, John S. Wisda of WIZWORKS, L.L.C., appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a special exception to allow a special retailer.

Mr. Coffey recused himself from this case.

John S. Wisda of WIZWORKS, L.L.C., appeared before the Board and stated he is a doctor and now a land developer. Mr. Wisda also stated he purchased property across the river and the land has been annexed into the City. Mr. Wisda stated this property has the only building in Morgan County that has been annexed in the City limits. Mr. Wisda stated he would like to sere liquor for weddings being held at this property. Mr. Wisda also stated he owns most of the property surrounding this lot and has no neighbors. Mr. Wisda stated this is the start of a future large complex for this area. Chairman Sisson asked for clarification if this request needed a hardship. Mr. Cummings stated no this was a special exception, and the Board only has to look at the impact on the area. Chairman Sisson asked if the Board has any questions or a motion.

A motion was made by Dr. Branham and seconded by Chairman Sisson to approve a special exception to allow a special retailer as an accessory use to a banquet hall or cultural venue. **Approved unanimously.**

**Case No. 9176 930 Weatherly Road SE**; A special Exception to allow an electronic display sign in a Residence 1-A, Michael McKeon of Experience Signs of the South for Steve Hagewood of Weatherly Heights Church of Christ, appellant**.** Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a special exception to allow an electronic display sign in a Residential 1A Zoning District.

Mike McKeon of Experience Signs of the South for Steve Hagewood of Weatherly Heights Church of Christ appeared before the Board and stated the church would has an existing monument sign and the sign will lose its grandfather status once upgraded. Chairman Sisson asked if the sign would be in the same footprint. Mr. McKeon stated yes, however the sign would be changed to an electronic display sign. Mr. Coffey asked the about the closest house. Mr. Cummings pointed out the closest house and stated the sign will no face the house. Chairman Sisson asked if there is history for this type of request. Mr. Cummings stated yes. Vice Chairman Peake asked if this request would meet the new ordinance. Mr. Cummings stated yes. Chairman Sisson asked if this request includes a static hold. Mr. McKeon stated no.

A motion was made by Dr. Branham and seconded by Mr. Coffey to approve a special exception to allow an electronic display sign in a Residence 1A Zoning District, a 19 square foot variance for an accessory ground sign, and a 15 foot setback variance for an accessory ground sign due to the fact the proposed sign is in the same location as the existing sign. **Approved unanimously**.

**Case No. 9177 1501 Mountainbrook Drive SE,** the location of a structure, Rhonda Dailey Thompson, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 1 foot 5 inch front yard setback variance. This request will also require a 4 foot rear yard setback variance in a Residence 1-A Zoning District.

Mr. Cummings stated this property is subject to a front yard average. Chairman Sisson asked if the existing structure has been torn down. Rhonda Dailey Thompson appeared before the Board and stated yes. Dr. Branham asked why a structure can’t be built in compliance. Ms. Thompson stated due to the larder side yard creates a visual safety hazard. Chairman Sisson asked where the front door would be located. Ms. Thompson pointed to its location on the site plan. Mr. Cummings stated the primary is on Mountainbrook and the secondary will be on Colice. Chairman Sisson asked for clarification of the front yard average for this property. Mr. Cummings stated the front yard average for this property is 30 feet +/- 5 feet. Mr. Cummings also stated the maximum the front yard setback could be is 35 feet. Ms. Lee stated if the house was shifted to be aligned with the other homes at 30 feet front yard then the request would only require a 5 foot rear yard setback variance. Dr. Branham stated the lot is a blank slate so the structure should be built in compliance.

A motion was made by Vice Chairman Peake and seconded by Ms. Ford to approve a 5 foot rear yard setback variance. The motion passed 4 to 1. Dr. Branham was a no vote.

**Case No. 9178 2825 Hastings Road SW**; The location of a structure; Shawn D. Anderson, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 10 foot 2 inch front yard setback variance.

Mr. Cummings stated the request includes 2 lots adjacent to this request. Shawn D. Anderson appeared before the Board and stated he is demolishing one house. Chairman Sisson asked to see clarification of the properties being discussed. Mr. Anderson pointed to the subject lots. Chairman Sisson Vice Chairman Peake asked if the appellant is going to live in the house. Mr. Anderson stated no, he is the builder. Chairman Sisson asked what the front yard average for this property is. Mr. Cummings stated the front yard average for this property is 16 feet +/- five feet. Mr. Cummings also stated the maximum front yard setback is 21 feet and this request is for 31 feet front yard. Chairman Sisson stated this request is a front yard average further away from Hastings Road and only due to the front yard average. Ms. Lee asked where the driveway would be located. Mr. Anderson stated the driveway would be on Drake Avenue. Vice Chairman Peake asked if pushing the house back, does this make all other setbacks in compliance. Mr. Cummings stated yes. Dr. Branham asked if this front yard average is varied, does this make it a hardship for others. Mr. Cummings stated no. Chairman Sisson asked if there is a motion.

A motion was made by Vice Chairman Peake and seconded Dr. Branham by to a 10 foot front yard setback variance due to the shape of the lot. **Approved unanimously**

**Case No. 9179**  **210 Drake Avenue**; The location of a structure, Shawn D. Anderson, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require an 8 foot rear yard setback variance. This request will also require a 1 foot west side setback variance.

Mr. Coffey asked if this property tapers at two corners. Mr. Cummings stated yes. Vice Chairman Peake asked if the property was square, they would not need a variance. Mr. Cummings stated correct. Chairman Sisson asked if the appellant would be ok to flip the floor plan and relieve the need for as much of a variance. Chairman Sisson also stated by flipping the floor plan the Board could grant a 1 foot front yard setback variance and a 4 foot rear yard setback variance. Mr. Anderson stated yes, he would be ok with that. Ms. Lee asked how the driveway is designed. Mr. Anderson stated the driveway would be on Drake Avenue and would have a T-Turn instead of backing out on to Drake Avenue. Chairman Sisson asked what the width of the lot is. Mr. Cummings stated 44 feet wide. Mr. Cummings stated the appellant has submitted multiple plans in attempt to be as close to compliance as possible. Mr. Cummings stated with the floor plan flipped the rear yard is now in compliance when using a triangle formula. Chairman Sisson stated the only variance that is now need is a 1 foot side yard setback variance.

A motion was made by Vice Chairman Peake and seconded by Chairman Sisson to approve a 1 foot west side yard setback variance. The motion passed 4 to 1. Dr. Branham was a no vote.

A motion was made by Vice Chairman Peake and seconded by Dr. Branham to approve the August 20, 2019 meeting minutes. **Approved unanimously.**

There being no further business, the meeting adjourned at 7:53 p.m.