Administration Building

Council Chambers

308 Fountain Circle

March 17, 2020

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

Others Present:

Mr. Travis Cummings, City of Huntsville Zoning Administration

Mrs. Jon Johnson, City of Huntsville Zoning Administration

Mr. Robert Baudendistel, City of Huntsville Zoning Administration

Mr. Thomas Nunez, City of Huntsville Planning Department

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. 9191-1** **3705 Fairview Street SW;** The location of a structure**,** Rogelio Gomez, appellant. Mr. Baudendistel stated the location of a structure. Mr. Cummings stated his request will require a 10 foot rear yard setback variance.

A motion was made Chairman Sisson and seconded by Mr. Coffey to continue this request for 30 days. **Approved unanimously**

**Case No. 9192 2302 Bell Avenue NW;** The location of a structure; Wayne Anthony Watson, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a variance to allow an accessory structure in a front yard.

Mr. Wayne Anthony Watson appeared before the Board and stated he built an accessory structure in 2015 in his front yard. Mr. Watson also stated he received a notice from the City stating the structure could not be located in the front yard. Mr. Cummings stated this being a newer home it received a complaint. Mr. Cummings also stated there is a 10 foot Utility and Drainage Easement. Chairman Sisson asked if the carport was in line with the primary structure and if the carport would be in violation. Mr. Cummings stated no because it would still be in the 10 foot U&D easement. Mr. Cummings also stated if the carport was in the side yard it would have to meet the side yard setback. Chairman Sisson asked if the structure could be attached. Mr. Cummings stated if it were attached the structure could only be a 16’x20’ in size. Mr. Ozier asked if it were moved would it violate total lot coverage or rear lot coverage. Mr. Cummings stated no. Chairman Sisson asked if the Board has any questions or a motion.

No motion was made therefore the location of a structure request was **denied.**

Vice-Chairman Peake then called the regular agenda items.

**Case No. 9204 9906 Memorial Parkway NE;** A use variance to allow a group home in a Residence 1 Zoning District, Reginald L. McKenzie for Dianne Kirnes of Harris Home for Children Inc., appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a use variance to allow a group home in a Residence 1 Zoning District.

Mr. Reginald McKenzie appeared before the Board and stated they are wanting to open a foster care facility. Mr. McKenzie also stated they would like to have 13 to 21 kids in their care. Mr. McKenzie described the three programs the Harris Home for Children provides, which includes a Crisis program, Basic Program, and a Moderate Program for behavior problems. Mr. McKenzie also stated this location would be therapeutic for the kids because it has 7 acres with 2 barns. Mr. McKenzie stated the Harris Home for Children has been in operation for 65 years with no incidents. Mr. McKenzie also stated this location would keep the kids in Lee High School. Vice Chairman Peake asked if this new location would replace the Church Street location. Mr. McKenzie stated no. Mr. Cummings stated this location is in a Residential Zoning District and this type of facilities can be reviewed on a case by case basis. Vice Chairman Peake asked for a description of the Church Street facility. Mr. McKenzie stated the Church Street location has 24 kids in the Basic Program. Mr. McKenzie stated these kids in the Basic Program have the least amount of concerns. Dr. Branham asked how the funding cut effects your request. Mr. McKenzie stated the Basic Program can not mingle with the other programs and they had bid on the Moderate Program. Chairman Sisson asked who owned the property. Mr. McKenzie stated the Harris Home for Children. Chairman Sisson asked what is the grant term length. Mr. McKenzie stated for 3 years. Chairman Sisson asked the appellant if he was ok with approving the term only for 3 years. Mr. McKenzie stated yes. Sergeant Thigpen stated the Police department would have no issues with a 3 year term. Chairman Sisson asked if there was anyone present in opposition of this request.

Lady Shivers Tucker of 9912 Memorial Parkway appeared before the Board and stated she has several concerns if this use variance was approved. Mrs. Tucker stated she wants this location to remain residential and for the home to not end up trashed. Mrs. Tucker stated she is concerned with how many kids would be living on the property and if the owners would be able to maintain the property.

Cedric Parlor of 12003 Rockcliff Drive appeared before the Board and stated he is a part of the Neighborhood Watch. Mr. Parlor is concerned with his Mother-in-law’s safety and thinks with this many kids moving in will cause trouble in the neighborhood.

Carol Dobbs of 9633 Meridian Street appeared before the Board and stated if this home is approved her property value will go down. Ms. Dobbs is also concerned with the safety issues that might come out of this home.

Phil Champion of 9900 Memorial Parkway appeared before the Board. Mr. Champion stated he bought his property recently and was concerned with what was being proposed. Mr. Champion stated now that he has clarification on what the appellant is proposing he is ok with what the appellant is wanting to do.

Mr. Cummings stated he contacted the business Across the Pond. Mr. Cummings also stated they can’t be discriminant of this use. Dr. Branham asked if there is a location for these homes that would be granted by right. Vice Chairman Peake stated a commercial zoning district. Chairman Sisson stated he thinks this request should be continued for 30 days so the appellant can talk with the neighborhood. Chairman Sisson asked if the appellant only proposed to have no more than 9 kids would he be before the Board. Mr. Cummings stated no. Chairman Sisson asked what the appellants license is for. Mr. McKenzie stated for the Basic Program. Mr. McKenzie also stated he thinks this location is isolated enough and have great results with their program.

A motion was made by Vice-Chairman Peake and seconded by Mr. Coffey to continue this request for 30 days. **Approved unanimously**.

**Case No. 9205 701 Cleermont Drive SE**; The location of a structure, Barry Moorer, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 10 foot rear yard setback variance.

Mr. Moorer appeared before the Board and stated he is requesting two additions. Mr. Moorer also stated the addition on the left side of the property is for a carport and the addition on the right side of the property is an office. Chairman Sisson asked if letters were sent out. Mr. Moorer stated yes, and he has not received any response. Chairman Sisson asked about the history. Mr. Cummings stated this request is in line with the history of approved variances.

A motion was made by Dr. Branham and seconded by Mr. Coffey to approve a 10 foot rear yard setback variance for additions on the rear of the home. **Approved unanimously**.

**Case No. 9206 722 Hobbs Road SE**; A distance separation variance for the location of an accessory structure; Faith Ohanesian, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 7 foot 6 inch distance separation variance for the location of a gazebo from the single family attached dwelling and this request will also require an 18 foot 6 inch distance separation for the location of a gazebo from an accessory structure.

Ms. Ohanesian appeared before the Board and stated she was given permission from the HOA to build her gazebo. Mr. Cummings stated this property is a part of the single family attached dwellings and required a 20 foot distance separation. Mr. Cummings also stated a complaint was received and the City gave the appellant a notice. Chairman Sisson asked if there was anyone present who would like to speak on this request.

Ms. Traci Carnell of 724 Hobbs Road appeared before the Board and stated she does not believe the HOA gave permission for this to be built. Ms. Carnell stated for permission to be granted there would have been architectural plans submitted. Ms. Carnell also stated the gazebo was built in July and she emailed Councilwoman Dr. Jennie Robinson with the complaint. Ms. Carnell stated the gazebo is taller than the privacy fence between the properties.

Dr. Branham asked if the gazebo needed a building permit. Mr. Coffey asked if the gazebo was built on site. Ms. Ohanesian stated the structure was built in Pennsylvania and set up on site. Mr. Cummings stated the HOA approved the structure and the Vice-President was contacted twice. Chairman Sisson asked if the Board has any more questions or if there was a motion.

No motion was made therefore the location of a structure request was **denied.**

**Case No. 9207 901 Kennamer Drive SE;** A special exception to allow a special event in a Residence 1A Zoning District, Marie Bostick of The Huntsville Land Trust of North Alabama, Inc**.**, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a special exception to allow live entertainment in a Residence 1A Zoning District.

Mr. Cummings stated this request has been before the Board for the past several years. Chairman Sisson asked for clarification on the dates of the events. Ms. Bostick stated the dates are as follows; June 13, 2020, July 11, 2020, August 8, 2020, and September 19, 2020. Ms. Bostick also stated they would be busing people in from the Huntsville Hospital parking lot.

A motion was made by Dr. Branham and seconded by Mr. Coffey to approve a special exception to allow special event retailer in a Residence 1A Zoning District to operate on June 13, 2020, July 11, 2020, August 8, 2020, and September 19, 2020, with the hours of operation being 6:00 p.m. to 11:00 p.m. got all events. **Approved unanimously**

**Case No. 9208 210 West Park Loop NW**; A use variance to allow a hotel in a Commercial Industrial Park Zoning District; Peter Lowe of West Park, LLC, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a use variance to allow a hotel in a Commercial Industrial Park Zoning District.

Peter Lowe of West Park LLC appeared before the Board and stated he is proposing a hotel on this property. Mr. Lowe also stated there are other hotels already existing in this area. Mr. Nunez stated hotels and motels were removed from the Commercial Industrial Park Zoning District due to the development of the Toyota Mazda Plant. Chairman Sisson asked if the City has any opposition. Mr. Cummings stated no.

A motion was made by Dr. Branham and seconded by Vice Chairman Peake to approve a use variance to allow a hotel in in Commercial Industrial Park Zoning District due to the fact this block of West Park Loop has several existing hotels currently operating. **Approved unanimously**

**Case No. 9209 810 McCullough Avenue NE**; The location of a structure and rear lot coverage variance; Rachel C. Dinges, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 3 foot side yard setback variance, this request will also require an 8 foot distance separation variance, and this request will also require a 15 percent rear lot coverage variance.

Ms. Rachel C. Dinges appeared before the Board and stated she would like to have a small detached shed in her back yard. Ms. Dinges also stated the shed would be no larger than 12’x10’. Chairman Sisson asked for clarification on all requests. Mr. Cummings restated the requests. Mr. Cummings also stated the existing garage contributes to the rear lot coverage and it can not be added onto. Chairman Sisson asked what was stored in the existing garage. Ms. Dinges stated a lawnmower and other equipment, but since the garage was built in 1927 she can’t improve it. Mr. Coffey asked if the garage could be demolished. Ms. Dinges stated she has not received permission to demolish the existing garage. Vice Chairman Peake stated this request is out of character for what the Board has approved in the past. Vice Chairman Peake also stated if the appellant would revise the plan, attach the proposed shed and reduce the request, the Board would be more inclined to approve the request. Ms. Dinges stated they have been working with the Historic Board and they have not been able to get the existing shed removed. Mr. Dinges also stated they would like to put the proposed shed on an existing concrete slab. Mr. Dinges stated they have support from a neighbor. Chairman Sisson stated it sounds like there is a problem with the appellant and the Historic Board, and that problem needs to be resolved first. Dr. Branham asked about the condition of the existing garage. Mr. Dinges stated the existing garage is beyond repair. Vice Chairman Peake stated he encourages the appellant to save the building or push the for the tear down of the building so then the property would not be in violation of the ordinance. Mr. Coffey stated he would not like to repeat a mistake that was made with a house on Pratt Avenue. Chairman Sisson suggested the appellant continue for 60 days and look at other options.

A motion was made by Chairman Sisson and seconded by Mr. Coffey to continue this request for 60 days. **Approved unanimously**

**Case No. 9210**  **604 Jordan Lane NW**; A special exception to allow an electronic display sign in a Residence 1A Zoning District; Errol Davis of New Beginnings Christian Church-Huntsville Inc., 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 Residence 1A Zoning District.

Mr. Errol Davis of New Beginnings Christian Church-Huntsville Inc. appeared before the Board and stated they would like to take down an existing sign and replace it with a digital sign. Dr. Branham as if the appellant is just refacing the sign why do they have to come before the Board. Vice Chairman Peake stated with the addition of the electronic display it changes the character of the sign. Vice Chairman Peake stated since this is a special exception the Board is only looking at the impact to the neighborhood. Vice Chairman Peake asked who would be affected. Mr. Cummings stated the homes across the street; however, those neighbors did not send in any opposition. Chairman Sisson asked if the City has any concerns. Mr. Cummings stated no concerns.

A motion was made by Mr. Coffey and seconded by Mr. Ozier to approve a special exception to allow an electronic display sign in a Residential 1A Zoning District with the stipulation the electronic display sign is with the framework of the existing sign. **Approved unanimously.**

**Case No. 9211 1108 Randolph Avenue NE**; The location of a structure and a total lot coverage variance, Thomas Steva, appellant**.** Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 2 foot rear yard setback variance and this request will also require a 1 percent total lot coverage variance.

Mr. Thomas Steva appeared before the Board and stated he wants to add a 1 car garage onto his property. Chairman Sisson asked how the garage would be accessed. Mr. Steva stated from the alley. Dr. Branham asked if the proposed garage was going to be attached to the primary structure. Mr. Steva stated yes.

A motion was made by Vice Chairman Peake and seconded by Chairman Sisson to approve a 2 foot rear yard setback variance and 1 % total lot coverage variance for the location of a garage. **Approved unanimously.**

**Case No. 9212 2030 Cecil Ashburn Drive SE – Suite 109**; A special exception to allow live entertainment, patio seating, and expanded hours from midnight to 2:00 a.m., Edwards Bordelon of East Side Jalapeno Company, Inc., appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a special exception to allow live entertainment, patio seating, and expanded hours, and a special exception to allow alcoholic beverage sales between the hours of midnight and 2:00 a.m. for a Restaurant Liquor Retailer.

Mr. Cummings stated this proposed restaurant will be located in the old Moe’s location. Mr. Cummings stated this request is a special exception and does not require a hardship. Mr. Cummings stated the City did receive letters of concerns from citizens in reference to the noise caused by the patio area. Mr. Edward Bordelon appeared before the Board and stated he and his partner would like to open a sports bar and grill. Mr. Cummings stated there is an existing patio area and this area is about 90 feet from the closest residential area. Dr. Branham asked if the patio area is on the side. Mr. Cummings stated yes, the existing patio is between this property and the adjacent ice cream shop. Dr. Branham asked where would the live entertainment be located. Mr. Bordelon stated the live entertainment would be inside. Chairman Sisson asked if the business was open. Mr. Bordelon stated no, they have just received the building permits for the renovations. Mr. Cummings stated the appellant’s liquor licenses for entertainment is on hold until the outcome of the Board’s decision. Vice Chairman Peake asked if the previous tenant had any problems with the patio seating. Sergeant Thigpen stated no. Vice Chairman Peake asked if the appellant heard any concerns from the residents. Mr. Bordelon stated he heard concerns about the sound projecting into their backyard. Mr. Ozier asked if the sound ordinance would apply to the patio seating. Mr. Cummings stated yes. Mr. Cummings stated none of the individuals have come tonight due to the fact it was explained to them the entertainment would be inside and not on the patio area. Mr. Baudendistel stated the door to exit onto the patio is over 200 feet away from the closest residential property. Mr. Coffey asked if there was any intention of installing garage doors on the side of the building where the patio seating is located. Mr. Bordelon stated no. Chairman Sisson asked if any speakers would be located on the patio. Mr. Bordelon stated yes. Chairman Sisson stated speakers were allowed on the patio but only until 10 p.m. Chairman Sisson stated if there is going to be a motion to approve, he would like to see stipulations in place like for 1 year only and no entertainment on the patio.

A motion was made by Dr. Branham and seconded by Vice Chairman Peake to approve a special exception to allow patio seating and expanded hours of operation for on-premise alcohol sales between 12:00 a.m. until 2:00 a.m. for on-premises retail, sales, service, dispensing, or consumption of alcoholic beverages for a Restaurant Liquor Retailer in a Neighborhood Business C1 Zoning District for this appellant only and for 1 year only. A motion was made by Dr. Branham and seconded by Vice Chairman Peake to approve a special exception to allow live entertainment with the stipulation, the entertainment shall not be audible outside of the interior of the licensed premises. No entertainment shall be audible in the areas of any private sidewalk or patio seating area. **Approved unanimously.**

There being no further business, the meeting adjourned at 8:03 p.m.