Administration Building

 Council Chambers

308 Fountain Circle

May 19, 2020

6:00 p.m.

**BOARD OF ZONING ADJUSTMENT**

Members Present:

Mr. Martin Sisson – Chairman

Mr. Bert Peake – Vice Chairman

Mr. Fred Coffey

Ms. Kimberly Ford

Mr. Johnny Ozier – Supernumerary

Dr. David Branham

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

Officer Johnny Hollingsworth, 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. 9209-1 810 McCullough Avenue NE;** The location of a structure and rear lot coverage, Rachel C. Dinges, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 15% rear lot coverage variance, this request will also require a 3 foot side yard setback variance, and this request will also require an 8 foot distance separation variance.

Chairman Sisson stated this request has been withdrawn.

**Case No. 9216-1**  **912 Clinton Avenue SE**; The location of a structure, total lot coverage variance, and rear lot coverage variance; Eric Oliver Vanderslice, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 4 foot 7 inch west side yard setback variance, this request will also require a 5 foot 8 inch east side yard setback variance, this request will also require a 7% total lot coverage variance, and this request will also require a 6% rear lot coverage variance.

Vice Chairman Peake and Mr. Coffey recused. Eric Oliver Vanderslice appeared before the Board and stated they would like to expand their kitchen with an addition and would like to have a detached garage in their rear yard. Mr. Cummings stated the new elevation drawings show the detached accessory structure is shorter than the primary structure. Chairman Sisson asked if the Board has any questions. Dr. Branham asked for clarification on the lot coverage requests. Mr. Cummings stated the stairs on the outside of the detached accessory structure and the fact the proposed exterior stair way are over 3 feet in height, triggered the lot coverage issues. Mr. Cummings also stated proposed structure has the stairs external to the proposed structure.

A motion was made by Mr. Ozier and seconded by Ms. Lee to approve a 4 foot 7 inch west side yard setback variance and a 5 foot 8 inch east side yard setback variance due to the fact the addition is not increasing the existing non-conforming setback, a 7% total lot coverage variance, and a 6% rear lot coverage variance for a detached accessory structure due to the fact that an exterior staircase is counted as a structure. **Approved unanimously**.

**Case No. 9218-1 2509 Governors Drive SW;** The location of a structure and rear lot coverage, Jerry Cargile of Schoel Engineering Company, Inc. for Richard G. Hughes of Oceans 3, LLC, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a front yard setback variance, this request will also require a location of off-street parking variance, and this request will also require a PVA Landscape variance.

Chairman Sisson stated this request has been withdrawn.

**Case No. 9219-1 523, 525, and 527 Fountain Row SW**; Additional stories and height variance, Trevor Kearce for Joe Ritch of Fountain Row Place, LLC, appellant**.** Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a variance for the overall height and the number of stories with a mixed used development in a General Business C3 Zoning District.

Chairman Sisson stated this request has been withdrawn.

Chairman Sisson then called the regular agenda items.

**Case No. 9220 926 Weatherly Road SE;** A use variance to allow professional offices in a Residence 1A Zoning District; Greg Gillman of the Rock Family Worship Center of Huntsville, Inc, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a use variance to allow professional offices in a Residence 1A Zoning District.

Chairman Sisson and Mr. Coffey recused.

Mr. Cummings stated this request was previously heard by the Board, for the request to change the church use to an office use. Mr. Cummings also stated this property has been for sale for over a year with no serious offers. Mr. Cummings stated the adjacent church was here for the previous request to state they were interested in purchasing the property and Zoning Administration contacted the church for this request. Mr. Cummings also stated the adjacent church is no longer interested in purchasing this property. Paul Pate of Lanier Ford for Greg Gillman of the Rock Family Worship Center of Huntsville, Inc., appeared before the Board and stated the previous request was denied due to lack of a motion. Mr. Pate also stated the appellant is requesting a professional office use for this property, which has been a church use previously. Vice Chairman Peake asked where the closest residential home was located. Mr. Pate pointed to a single family dwelling located across the street. Mr. Pate also stated Weatherly Road is a Major Collector. Vice Chairman Peake asked what the uses of the structures that are adjacent to the subject property. Mr. Pate stated to the west is a church and to the east is a school. Mr. Pate stated the appellant is requesting a use variance due to the fact they have been unable to sell the property as a church use. Mr. Pate also stated the proposed professional office use would not increase traffic or parking. Vice Chairman Peake asked if they have any responses from the notification letter. Mr. Pate stated no. Vice Chairman Peake asked what type of businesses would be allowed in a professional office use. Mr. Cummings stated the Board can put a stipulation on type of business. Vice Chairman Peake asked if a stipulation could be each proposed use must be approved by Zoning Administration. Mr. Cummings stated yes. Mr. Pate stated the appellant would be ok with the stipulations. Vice Chairman Peake asked if the building will be expanded. Mr. Pate stated no. Dr. Branham asked for where professional office use. Mr. Cummings stated professional office uses are permitted in residential zoning districts as home based businesses. Dr. Branham asked if the use is approved, would the parking be sufficient. Mr. Cummings stated they would meet the parking requirements.

A motion was made by Vice Chairman Peake and seconded by Ms. Lee to approve a use variance to allow professional offices with the stipulation that any proposed use must have approval by Zoning Administration. **Approved unanimously**.

**Case No. 9221 325 Slaughter Road NW;** The size of signage, a special exception to allow an electronic display sign, and a static hold variance for an electronic display sign in a Residence 1A Zoning District; Terry Davis of Madison Academy, Inc. for the Educational Building Authority of the City of Huntsville-Madison Academy, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require an 89.50 square foot size variance for an accessory ground sign in a Residential 1A Zoning District, this request will also require a special exception to allow an electronic display sign in a Residential 1A Zoning District, and this request will also require a variance to allow a 15 minute static hold time in a Residential 1A Zoning District.

Terry Davis of Madison Academy, Inc. appeared before the Board and stated they would like to place a 2nd entrance sign for their school on the north property entrance on Old Madison Pike. Mr. Davis also stated the type of sign will also provide more lighting to be able to see this entrance. Chairman Sisson asked what is located across from the proposed sign. Mr. Davis stated a church and apartments. Chairman Sisson asked if this proposed sign will be double faced. Mr. Cummings stated yes. Chairman Sisson asked for clarification on the static hold request. Mr. Cummings stated they are proposing a 15 minute static hold. Dr. Branham asked if this request seems to be very similar to Oakwood College’s request that was approved by the Board. Mr. Cummings stated yes, this request is similar to Oakwood College’s request and the signs are about the same size as well. Mr. Cummings stated the City is working to amend the Sign Ordinance to reflect these types of requests. Mr. Cummings also stated this property has a large Right-of-Way which causes a lack of visibility for the school sign on Old Madison Pike.

A motion was made by Dr. Branham and seconded by Vice Chairman Peake to approve a 89.50 square foot size variance for an accessory ground sign in a Residential 1A Zoning District due to the fact the actual signage area is 52.5 square feet without the column measurements and subject to Traffic Engineering approval, a special exception to allow an electronic display sign in a Residence 1A Zoning District, and a 15 minute static hold time variance of the required 60 minute hold in a Residence 1A Zoning District due to the fact that the Zoning Ordinance is being amended. **Approved unanimously**.

**Case No. 9222 4810 Bradford Drive NW**; A special exception to allow a hotel in a Research Park 2 Zoning District; Alex Samples of Samples Properties for Matthew Shamus of Bradford Crossing, LLC, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a special exception to allow a hotel in a Research Park 2 Zoning District.

Alex Samples of Samples Properties appeared before the Board and stated this proposed hotel would be a part of a mixed use development and requires a special exception. Mr. Cummings stated the Research Park 2 Zoning District allows hotels with a special exception. Chairman Sisson stated this request is looking at the impact to the surrounding properties. Mr. Samples stated this development would benefit the area due to the added lighting for this area and would increase the traffic for other area businesses. Dr. Branham asked if this mixed use development was a part of the Master Plan. Mr. Nunez stated the Master Plan was adopted in 2016 to improve activities in this area. Mr. Samples asked if the Board could grant them the ability to pull permits for up to 2 years due to Covid causing delays in construction.

A motion was made by Chairman Sisson and seconded by Mr. Ozier to approve a special exception to allow a hotel in a Research Park 2 Zoning District with the stipulation the appellant has 2 years to obtain permits. **Approved unanimously**.

**Case No. 9223 1726 Truman Drive NE**; The location of a structure, Scott McCaghren appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 7 foot front yard variance for a front porch addition.

Scott McCaghren appeared before the Board and stated he would like to replace an existing 4’x4’ concrete front porch with a covered wood porch. Chairman Sisson asked how this request is affected by the front yard average. Mr. Cummings stated the front yard average is not used for this request because this is not a new construction home. Chairman Sisson asked for clarification on this Zoning District front porch rule and how it applies to this request. Mr. Cummings stated the Planning Department add in a Residence 1A Zoning District verbiage to allow for a 5 foot encroachment on the front yard setback for an open front porch due to the fact the Board was receiving several front yard setback requests for porches. Mr. Cummings stated this home is an existing non-conforming structure that sits within the front yard setback of 25 feet with the added 5 feet for the open porch. Mr. Cummings also stated the are requesting to have an 18 foot front yard setback and so the appellant would need a total of 7 foot front yard setback variance. Chairman Sisson asked if the Board approves a 5 foot front yard setback would that meet the intent of the Ordinance. Mr. Cummings stated yes and the proposed front porch is not enclosed. Chairman Sisson asked if the adjacent homes were sitting at the 25 foot minimum front yard setback. Mr. Cummings stated yes, and some of the homes were closer making them legal non-conforming. Chairman Sisson asked if all these homes are non-conforming. Mr. Cummings stated yes, and when looking at this area we measured 20 homes on the same side of the street are all closer to the street than the required front yard setback. Dr. Branham stated he agrees 5 feet is more in line with what the intention of the Ordinance is versus allowing the full 7 foot variance.

A motion was made by Chairman Sisson and seconded by Dr. Branham voted to approve a 5 foot open porch variance, as a result of having several non-conforming homes in this area and due to the fact, the proposed open porch meets the intent of the Zoning Ordinance. **Approved unanimously**.

**Case No. 9224 1270 Rountree Place SW**; A use variance to allow additional plumbing fixtures in a detached accessory building; Jerry Miller of Huntsville Custom Homes, LLC for Phillip M. Colvert and Linda Dawn Bynum Colvert, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings this request will require a variance to allow additional plumbing fixtures in a detached accessory building.

Jerry Miller of Huntsville Custom Homes, LLC appeared before the Board and stated his client wants to build a pool house and a mother-in-law suite in this accessory structure on their large 5 acres of land. Mr. Miller also stated the structure will include 2 car garages due to the fact he HOA requires the residence to place all vehicles and equipment inside. Mr. Miller stated the variance request is for additional plumbing fixtures and the proposed structure has 6 plumbing fixtures in total. Chairman Sisson asked how many plumbing fixtures are allowed in a detached accessory structure. Mr. Miller stated 3 plumbing fixtures are allowed in a pool house. Mr. Miller stated the appellant wants their Mother to live in this structure and this causes the need for the additional plumbing fixtures. Chairman Sisson asked if there is a kitchen. Mr. Miller stated yes. Mr. Coffey asked for clarification if a mother-in-law suite is permitted in a detached accessory structure. Mr. Cummings stated no. Mr. Cummings stated we had discussed this with the appellant and informed them the Board has seen similar requests on large tracts of land, however the detached accessory structures cannot be habitable space. Mr. Cummings also stated the homeowner may not have informed the builder of this. Mr. Cummings stated in a pool house the Ordinance does not state a number of plumbing fixtures, just additional plumbing fixtures are allowed. Chairman Sisson stated this request is really asking for 2 dwellings on one lot. Mr. Cummings stated the way Mr. Miller presented it, that would be corrected however we spoke to the homeowner and the owner stated they would only use it as a pool house. Dr. Branham asked how the Board could prevent the homeowner from making it habitable after the builder has stated the intentions of the use for this structure. Mr. Cummings stated the Board has approved similar requests with a stipulation to not allow for a habitable space. Mr. Cummings also stated if the Board placed this stipulation on this variance and there were complaints then the City could address it. Mr. Miller stated he had not spoken to the homeowner today and was not made aware of this. Mr. Coffey asked for clarification on the number of requested plumbing fixtures. Mr. Cummings stated 9 plumbing fixtures. Mr. Cummings stated in the past the Board has approved additional plumbing fixtures for a pool house on large tracts of land like this property. Chairman Sisson asked if stoves were permitted in accessory structures. Mr. Cummings stated when the Board has seen similar requests in the past, the Board has put stipulations to restrict the use of 220 plugs. Chairman Sisson stated the Board has no problem with pool houses especially on large tracts of land, however since the homeowner is not present to state on record they will not be using this structure as a second dwelling then the Board will need to pare down the number of plumbing fixtures to help prevent this property from becoming a second dwelling. Chairman Sisson also stated if they approve this request it should be with only one additional plumbing fixture for the typical pool house having 3 plumbing fixtures by right and no 220 plugs for a kitchen facility.

A motion was made by Chairman Sisson and seconded by Vice Chairman Peake voted to approve a use variance to allow 1 additional plumbing fixture with the stipulations there is no kitchen facility and no 220 plugs. **Approved unanimously.**

**Case No. 9225**  **101 Calhoun Street NE**; The location of a structure, Sean M. Kelly and Belle Kelly, appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 2 foot front yard setback variance, this request will also require a 12 foot secondary front yard setback variance, this request will also require a 1 foot rear yard setback variance, and this request will also require a 1 foot north side yard setback variance.

Chairman Sisson recused.

Sean M. Kelly appeared before the Board and stated they are wanting to rebuild their home after a fire. Mr. Kelly also stated they would like to be closer to the front property line to allow for more of a back yard. Vice Chairman Peake asked how this request lines up with the front yard average of the adjacent homes. Mr. Baudendistel stated the front yard average is 19 feet. Vice Chairman Peake asked for clarification on the side yard requests. Mr. Cummings stated they are proposing to be closer to the property line by 3 feet for a porch. Vice Chairman Peake asked for clarification on the secondary front setback request. Mr. Baudendistel stated the secondary front is on Clinton Avenue and they are requesting to be 12 feet closer than what is allowed. Vice Chairman Peake asked for clarification on the rear yard setback request. Mr. Kelly stated they would like a larger rear yard so by shifting the home towards the 2 front yards it makes the rear yard setback variance of 1 foot. Vice Chairman Peake asked if there is any lot coverage requests. Mr. Cummings stated no. Vice Chairman Peake stated the request seems reasonable for this area. Dr. Branham stated the secondary front seems like a large request. Mr. Kelly stated they are requesting mirror the original foot print and the secondary front yard setback was only shift slightly from the original structure. Dr. Branham asked if the secondary front is in line with the other homes on Clinton Avenue. Mr. Cummings stated yes. Mr. Baudendistel pointed out on GTViewer how the proposed secondary front is in line with the existing homes adjacent to this property. Vice Chairman Peake stated he drives by these homes daily and they seem like they are 8 feet from the property line. Mr. Cummings stated yes, the homes are all around 8 feet from the property line on Clinton Avenue. Mr. Cummings stated this request is smaller than other requests the Board has seen due to the fact this request has no lot coverage issues. Vice Chairman Peake asked if there was a motion.

A motion was made by Ms. Lee and seconded by Mr. Coffey to approve a 2 foot front yard setback variance, a 12 foot secondary front yard setback variance, a 1 foot rear yard setback variance, and a 1 foot north side yard setback variance due to the fact the proposed home was to be constructed in a similar location to the original that was destroyed by fire. **Approved unanimously.**

**Case No. 9226 4206 Oakwood Ave NW**; A use variance to allow alcohol sales, Marsau Scott of Blaque, LLC, appellant**.** Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a use variance to allow a Class I lounge liquor retailer without package sales in a Neighborhood C2 Zoning District.

Marsau Scott of Blaque, LLC, appeared before the Board and stated he purchased the shopping center to revitalize it and one of the units he would like to turn it into a Cigar Lounge with alcohol sales. Mr. Scott stated he will have a kitchen in the future, however, is requesting the Board to grant a variance for the alcohol sales until he can build a kitchen. Dr. Branham asked if this was a restaurant. Mr. Cummings stated for a Restaurant Retail Liquor licenses the sales would have to be 50% or more of the sales for the establishment. Mr. Scott stated he would be building a restaurant on the end unit next to the cigar lounge. Chairman Sisson asked if this unit would always have liquor sales. Mr. Scott stated yes. Mr. Coffey asked for clarification on the temporary variance for alcohol sales. Mr. Cummings stated there is no history. Mr. Cummings stated the appellant appears to have started the kitchen build based off as a recent site visit. Chairman Sisson asked for clarification of the Zoning for this property. Mr. Cummings stated this property is zoned Neighborhood Business C2 and Lounges are not permitted until General Business C3 Zoning District. Ms. Lee asked if there is history in Neighborhood Business C2 for Lounges being approved. Mr. Cummings stated no, however this use is different from previous requests. Mr. Nunez stated the Neighborhood Business C2 Zoning District was establish in 1963 and is not a commonly used Zoning District. Officer Hollingsworth stated the Police Department cannot support the approval of this request due to the close proximity to the Residential neighborhood and the fact there is no history for such a request. Officer Hollingsworth also stated this would set a precedent for other establishments to be allowed in C2 Zoning District. Ms. Ford asked when the last time the Zoning Ordinance for alcohol was updated for this zoning district. Officer Hollingsworth stated he believes it was updated 10 years ago. Officer Hollingsworth also stated the renovation of this strip center looks great; however, it is unfortunately to close to the residential homes. Ms. Ford stated the Board has control over setting a precedent for allowing other varied types of alcohol establishments to be permitted if this request were to pass. Chairman Sisson then called any statements from citizens present.

Councilman Devin Keith of 3640 Marymont Drive appeared before the Board and stated he believes if the Board were to approve this variance request this will help with the improvement occurring in this area. Councilman Keith also stated this development mimics the same revitalization occurring in the Lowe Mill mixed use development and the developments occurring at and around Stovehouse. Councilman Keith stated by this Board approving this use is helping to support the revitalization in an area that has not seen any improvements any generations. Councilman Keith also stated this request may feel like a precedent setting case; however, the Board can set other regulatory guidelines without stunting growth in an area that desperately needs it. Chairman Sisson asked if Councilman Keith has talked to the residential neighbors, as well as the adjacent commercial neighbors. Councilmen Keith stated yes, and the community has nothing negative to say about the sale of alcohol at this establishment. Mr. Cummings stated there have been letters of support from the community. Chairman Sisson asked about the letters. Mr. Scott stated the letters of support from the community have stated they are excited and proud of the revitalization of this site.

Chairman Sisson asked what the City’s feedback on this request is. Mr. Cummings stated the Legal Department said temporary alcohol sales would not be supported. Chairman Sisson asked if a use variance can be granted for a certain time frame, would there be a way to regulate this variance. Mr. Cummings stated a business license can be revoked at any time. Chairman Sisson asked if a 3 year time frame would be sufficient. Mr. Scott stated he would do everything in his power to comply with all laws and regulations so they can maintain the variance. Vice Chairman Peake asked if the request is for a Lounge or a Restaurant. Mr. Scott stated he originally wanted this to be a Lounge. Dr. Branham stated if this is approved how would they keep the appellant from not keeping this unit a Lounge and never building the kitchen facility. Mr. Cummings stated the Board has the authority to put stipulations in place to prevent this from staying a Lounge. Ms. Lee asked if this request is similar to what is being done at SIP. Mr. Scott stated yes. Mr. Scott also stated he has installed a lot of the kitchen facilities and appliances have been paid for. Chairman Sisson stated if the appellant changes the licenses to a Restaurant he would not have to appear before the Board. Chairman Sisson also stated if the appellant were to continue for 30 days then they would have the opportunity to evaluate if they can operate as a Restaurant instead of needing a variance for alcohol sales. Mr. Scott stated he would like to ask for a continuation of 30 days.

A motion was made by Chairman Sisson and seconded by Vice Chairman Peake to continue for 30 days. **Approved unanimously.**

**Case No. 9227 200 Davis Circle SW**; The size of signage and a use variance to allow monument signs in a General Business C3 Zoning District, Sandi Singletary of Trav-Ad Signs Inc. for Justin Dorning of Redstone Federal Credit Union, appellant**.** Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 47.96 square foot size variance for attached accessory signage.

A motion was made by Chairman Sisson and seconded by Vice Chairman Peake to continue for 30 days. **Approved unanimously.**

**Case No. 9228 426 Randolph Avenue NE**; The location of a structure, Michelle Hunter appellant**.** Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 3 foot east side yard setback variance, this request will also require a 2 foot east side yard setback variance for the location of an accessory structure, this request will also require a 2 foot west side yard setback variance for the location of an accessory structure, and this request will also require a 2 foot rear yard setback variance for the location of an accessory structure.

Frank Nolen for Michelle Hunter appeared before the Board and stated this home burned in October 2019 and the appellant wants to rebuild in the same foot print with the addition of a porte cochere. Mr. Nolen also stated they are requesting a detached accessory structure. Dr. Branham asked why they can’t rebuild in compliance. Mr. Nolen stated the lots are small and this request is consistent with the existing homes in the adjacent lots. Mr. Baudendistel stated this request is in line with requests the Board has approved in the past. Mr. Hunter stated he has been in contact with the adjacent neighbors and they are in support. Mr. Hunter also stated with this request he would no longer have to share a driveway with his neighbor.

A motion was made by Ms. Lee and seconded by Mr. Coffey to approve a 3 foot east side yard setback variance for a porte cochere, a 2 foot east side yard setback variance and a 2 foot south side setback variance for the location of an open carport, and a 2 foot west side yard setback variance for the location of an accessory structures. The motion passed 4 to 1. Dr. Branham was a no vote.

**Case No. 9229 11836 East Gateway Drive SE aka 205 Hobbs Road SE**; A use variance to allow additional plumbing fixtures in a non-conforming structure, Peggy Kleiber, appellant**.** Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a use variance to allow additional plumbing fixtures in a non-conforming structure.

Peggy Kleiber appeared before the Board and stated she purchased this property and began renovations in July 2019. Ms. Kleiber also stated she purchased this property because it has these two structures on it, and she was going to move her elderly mother down to live with her. Ms. Kleiber stated she wanted to add a handicap accessible shower in the detached structure for her mother and she was told after the renovations were started and paid for this was not allowed. Chairman Sisson asked if the two structures were connected. Ms. Kleiber stated no. Mrs. Edwards stated the structure in question for the additional plumbing fixture is a construction trailer, which was moved onto the property in 2005. Mrs. Edwards also stated this structure and property was used by a commercial business for office space. Mrs. Edwards stated this structure has utilities running to the structure but the structure itself had not been plumbed. Mrs. Edwards stated the appellant had an addition to the primary structure that was approved, and the contractor was trying to use this permit to construct the plumbing into the secondary structure. Mrs. Edwards also stated any addition or work done in the second structure required another permit which is why this is before the Board. Chairman Sisson asked for clarification if these 2 existing structures were being renovated to then be used as two single family dwellings on one lot. Mrs. Edwards stated yes. Chairman Sisson asked if in Residence 2B Zoning District or this area allows for any flexibility for this request. Mr. Cummings stated this property abuts properties with multifamily dwellings and a legal non-conforming trailer park. Mr. Cummings also stated this request was advertised differently from an accessory structure due to the fact this structure is a construction trailer and looks like a second dwelling. Mr. Cummings stated this request came to Zoning Administration after the contractor received approval for the primary structures addition and when he was over at the Inspections Department, he added these plumbing fixtures to the permit. Mr. Cummings also stated while in the process of construction the Inspection Department informed the contractor he would need a separate sewer line for this work done on the construction trailer and then it was discovered this was not permittable under the work being done in the primary structure and a stop work order was issued. Mr. Cummings also stated the work being done in the construction trailer should have been flagged before they had issued a permit due to the fact this would have required a separate permit. Mr. Cummings stated this situation is now before the Board as a non-conforming structure due to the fact this is not a traditional accessory structure. Chairman Sisson stated Residence 2B Zoning District allows for an office building. Mr. Cummings agreed and stated the construction trailer was allowed on the property for the use of an office. Chairman Sisson asked for clarification of the use of the primary structure at the time the construction trailer was moved onto the property. Mrs. Edwards stated both structures were used as office space. Mr. Coffey asked the appellant if she plans to connect the two structures. Ms. Kleiber stated no, she can’t afford to connect the structures. Mr. Coffey asked if the plumbing fixtures have already been added to the construction trailer. Ms. Kleiber stated the plumbing lines are already in the structure and the shower is partially installed. Chairman Sisson asked if the shower is functional today. Ms. Kleiber stated no, the work was stopped once this was flagged and if this request is denied she will have to pull all the plumbing out of the structure. Mr. Cummings stated this situation is very similar to the incident at the Triplex on Triana, where the owner got a permit from the Inspections Department and started work, then was notified the use was not permitted. Chairman Sisson asked if the shower is the issue at this property. Mr. Cummings stated the structure being non-conforming is how Zoning Administration made the determination the structure could remain habitable. Mr. Coffey asked if considering the structure non-conforming and keeping it as habitable meets the intent of the Residence 2B Zoning District. Mr. Cummings stated yes, due to the fact Residence 2B Zoning District allows for duplexes, multifamily dwellings, and office buildings.

A motion was made by Chairman Sisson and seconded by Mr. Coffey to approve a use variance to allow additional plumbing fixtures in a non-conforming structure due to the fact the non-conforming structure meets the intent of the Residence 2B Zoning Regulations. **Approved unanimously.**

**Case No. 9230 401 Legend Oak Way SW**; The location of a sign, Chad Pulliam of Smart Living, LLC, appellant**.** Mr. Baudendistel stated the location of the property. Mr. Cummings stated this request will require a 7 foot setback variance for a subdivision entrance sign.

Mr. Coffey recused.

Mr. Cummings stated the proposed subdivision entrance sign would be setback 13 feet from the front property line. Mr. Cummings also stated the City is working to amend the Sign Ordinance to reflect a 10 front yard setback for a subdivision entrance sign. Chairman Sisson asked if this request would be permitted under the new Sign Ordinance. Mr. Cummings stated yes. Chairman Sisson asked if the Board has any questions or if there is a motion.

A motion was made by Vice Chairman Peake and seconded by Dr. Branham to approve a 7 foot setback variance for a subdivision entrance sign based on the understanding that the City is in process of amending the Zoning ordinance. **Approved unanimously.**

There being no further business, the meeting adjourned at 9:14 p.m.