Administration Building

Council Chambers

308 Fountain Circle

January 19, 2021

6:00 p.m.

**BOARD OF ZONING ADJUSTMENT**

Members Present:

Mr. Martin Sisson - Chairman

Mr. Fred Coffey

Ms. Kimberly Ford

Mr. Johnny Ozier - Supernumerary

Ms. Wendy Lee – Supernumerary

Dr. David Branham

Others Present:

Mr. Thomas Nunez, City of Huntsville Planning Department

Mr. Travis Cummings, City of Huntsville Zoning Administration

Mrs. Jon Johnson, 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 If required, proper permits must be obtained during that time.Due to the Covid-19 pandemic, upon written request the Zoning Administration Office may grant a six-month extension of the 6-month period. 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Chairman Sisson stated that 201 Bob Wallace Avenue had been withdrawn and Mr. Cummings could elaborate why it was withdrawn. Mr. Cummings stated this request was for a use variance to allow a financial office, leasing office, and dental office. Mr. Cummings further stated this

was the Young Life building where they sold Christmas trees. Zoning Administration accepted the application and sent out letters. However, during our research we found a Circuit Court ruling in 1998 where a doctor office and professional office was approved for this location with some conditions. After speaking to the appellant, the appellant plans to meet those conditions and therefore the request is withdrawn.

Chairman Sisson stated that the following cases are all withdrawn: The location of a structure at 6 Nutcracker Lane SW, The location of a structure at 2605 Poincianna Street SW, and the location of off-street parking and shared access at 1749 Pulaski Pike NW.

Chairman Sisson then called the extension items.

**Case No. 9312** **2915 Seventh Avenue SW;** The location of a structure;Jacob Gattis of Guild Builders, LLC for Chris Hanback of H2S, LLC, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a variance to build on a non-conforming lot. In a Residence 1-C Zoning District, the minimum lot size = 5,500 square feet.

Chairman Sisson and Mr. Coffey recused from this case. Dr. Branham asked Mr. Gattis to explain what he wanted to do. Mr. Gattis stated the owners purchased this lot and would like to build on it. Mr. Gattis stated they knew this lot was a substandard lot, and the plan that was submitted, they would only need a rear yard setback variance due to the size of the lot. Mr. Gattis also stated after talking with Mr. Baudendistel and Mr. Cummings and learning that there is a rule in the Zoning Ordinance that a substandard lot could not be less than 4000 square feet, our plan is less than the 4000 square feet and we are requesting a variance to build on this substandard lot. Dr. Branham stated so you are about 600 square feet less than the minimum. Mr. Gattis stated that is correct. Dr. Branham explained to Mr. Gattis with 2 members recusing he will need to have a unanimous decision with the remaining 4 Board members or he could continue for 30 days. Mr. Gattis asked what were the reservations with this request. Ms. Lee asked if this would be setting precedence and if there was any history with this type of request. Mr. Cummings stated no. Dr. Branham reiterated the Board has not done this before.

Mr. Gattis stated they would like to continue for 30 days to come up with a better solution.

A motion was made by Dr. Branham and seconded by Ms. Ford to continue this request for 30 days.

**Case 9313** **2605 Poinciana Street SW**, The location of a structure; Kevin L. McCormick and Melissa Barton, appellant.

This case was withdrawn.

**Case 9317**  **1749 Pulaski Pike NW**, The location of off-street parking and shared access; Vickie A. Gesellshap of Himmel Properties, LLC, appellant.

This case was withdrawn.

**Case No. 9319** **312 Sunset Avenue SW**, The location of a structure; Lee Kinzer May, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a 5 foot front yard setback variance for a proposed open front porch. In a Residence 1-B, a 25 foot front yard setback is required for an open front porch addition.

Ms. Lee Kinzer May appeared before the Board. Ms. May explained she wants a small front covered front porch. Mr. Baudendistel stated this property is zoned Residence 1B, and a 25 foot front yard setback is required for an open front porch addition. Chairman Sisson asked if a 30 foot front yard setback is regularly required. Mr. Cummings stated yes. Mr. Cummings explained most of the homes are from 25- 26 feet from the property line. Mr. Cummings also explained her stoop has a foyer on her property and is already protruding out. Ms. May explained the stoop area was her steps to the porch which is now her living room area. Dr. Branham stated so it is currently at 25 feet and she would like to go to 20 feet. Mr. Cummings stated yes, the stoop portion is at the 20 feet. Mr. Cummings further explained the adjacent homes are newer structures and a lot of their porches are at 26- 29 feet. Chairman Sisson asked Ms. May exactly what was trying to do. Ms. May explained she wanted to cover the existing the sidewalk and would have decking. Mr. Cummings stated a pergola was mentioned, but she really wanted a covering to get in/out of the weather with a deck. Chairman Sisson stated a deck is allowed as long as it is not over 3 feet or covered. Again, Ms. May stated she just wants a covered area in the front. Dr. Branham stated the other houses are consistent at the 25 feet and there is no need for this house to protrude out 5 feet. Mr. Coffey asked where was the face of the house. Mr. Cummings stated at 30 feet. Mr. Coffey asked if there was a history of front yard variances in this area. Mr. Cummings stated no. Dr. Branham stated she could tear down the foyer and build a covered porch. Mr. Baudendistel stated yes. Chairman Sisson asked Ms. May when was the foyer enclosed. Ms. May stated she was not sure but maybe in the early 1970s. Chairman Sisson suggested to Ms Kinzer to talk with her builder and they may be able to make some adjustments so they will be in compliant with the open porch rule.

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

**Case 9321** **6275 University Drive NW**, PVA landscaping, Alex Coleman of Johnson & Associates for Brent Hendrix of BVA WESTSIDE SPE, LLC, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a variance for PVA perimeter landscaping on the north and south property line due to the fact the appellant is proposing to subdivide an existing PVA area.

Mr. Alex Coleman appeared before the Board. Mr. Cummings stated the Board saw this request last month and the Board asked the appellant to verify their proposed property lines in front of the Target Shopping Center Development. Mr. Cummings further stated they are proposing to make shared parking a standalone lot. Mr. Coleman stated they have a more detailed sketch of the property lines which shows the request for the landscape buffers that they are asking for. Dr. Branham asked what stores are there now. Mr. Coleman stated a Vitamin Shop and Skechers Shoe Store. Mr. Coleman handed out a detailed plan of the site. Mr. Coleman stated from the plan they are requesting a variance for the landscape buffer which was highlighted in yellow which was inside the subject tract to be subdivided in. On the outside for Lot 1A, they will meet the requirements for the 5 foot landscape buffer. Mr. Coleman also stated on the south property line of the tract that will be subdivided which was highlighted in orange on the plan submitted, they are requesting a 5 foot landscape buffer on the north and south property lines. Mr. Coleman further stated there is landscaping on the east and west property lines, but there will not be landscaping on the inside of the lot that will be subdivided. Chairman Sisson stated that nothing will really be changing, and you are just putting in property lines for a transaction. Mr. Coleman stated that is correct. Mr. Cummings also stated Zoning Administration has a copy of the ingress/egress easement for the property. Chairman Sisson asked the Board for any comments. No comments were given.

A motion was made by Dr. Branham and seconded by Mr. Ozier to approve a PVA perimeter landscaping variance on the north, south, east, and west property lines subject to Subdivision approval. **Approved unanimously**

Chairman Sisson then called the regular agenda items.

**Case No. 9325 313 Clinton Avenue SW**; The size of signage and a variance to allow a monument sign in a General Business C3 Zoning District; Timothy D. Joy for Brent Stockburger of Vision Huntsville, LLC appellant. Mr. Baudendistel stated the location of the property and stated this request will require a 324.38 square foot size variance for attached accessory signage. This request will also require a use variance to allow two monument signs in a General Business C3 Zoning District. In a General Business C3 Zoning District, the maximum total area for attached signage shall not exceed 100 square feet.

Mr. Coffey recused from this case. Mr. John Turk with the sign company appeared before the Board for Mr. Timothy Joy. Mr. Turk stated with the hotel being located on a corner lot with multiple street frontages, the signage is placed at the top of the building for incoming traffic flow and the signage at the ground level is for street traffic, and to draw clientele into the hotel. Mr. Turk stated because of the hotel's location, signage is needed on all sides of the building. Mr. Turk further explained they are requesting to allow 2 additional attached signs from the 2 that are allowed, therefore requesting a total of 4 signs, to increase the square footage from the allowed 200 square feet to 525.64 square feet, therefore an increase of 325.64 square feet, and to allow two monument signs on the side and rear of building to direct people to the entrance and to identify the building as Hampton Inn Suites. Chairman Sisson asked if they had elevations for each sign. Mr. Cummings stated yes. Chairman Sisson asked if this request had been compared to the proposed sign ordinance for the General Business C3 Zoning District. Mr. Cummings stated as far as the sign ordinance, Zoning Administration is still working on language for multi-buildings and large buildings in a General Business C3 Zoning District. Mr. Cummings further explained we are definitely wanting to have attached signs and monument signs for those buildings. Mr. Cummings also stated this is the path the Board has seen in the history of our variance request where they wanted signs elevated to get attention from the street and want monument signs at the ground level to get attention from the pedestrian traffic. Chairman Sisson stated therefore we are unknown to the sizes until the sign ordinance has been fully amended. Mr. Cummings stated that is correct.

Chairman Sisson asked Mr. Turk to talk about each elevation and to explain what is the variance request. Mr. Turk stated Sign A is at the top of the building in the curved section, which is 144.29 square feet, and Sign B is 56.29 square feet. Chairman Sisson asked what is allowed. Mr. Cummings stated 100 square feet per street frontage, therefore 200 square feet. Mr. Turk stated these two signs alone are 1/2 square foot greater than the 200 square feet and meet within the code. Mr. Turk also stated we are requesting to allow 2 additional signs, Sign C which is 218 square feet that faces west, and Sign D is 106 square feet which faces the parking garage. Mr. Turk further stated the code currently is for 1 sign per side of the building of road frontage with a maximum of 200 square feet, therefore we are asking for 4 signs and to increase that by 325.64 square feet to achieve this request. Chairman Sisson asked the Board for any questions. Mr. Ozier asked if Sign A and Sign B was in the curvature at the top of the building. Chairman Sisson stated yes. Mr. Cummings asked if everyone was familiar with the orientation of the building. Mr. Cummings stated the hotel is a 7 story building that will be visible from Memorial Parkway. Chairman Sisson asked what was the elevation of Sign E and Sign C. Mr. Turk stated Sign E is a ground level monument sign directing back to the main entrance. Chairman Sisson asked if they were directional signs. Mr. Turk stated that is correct. Chairman Sisson also asked if they are larger than what our ordinance considers as directional signs. Mr. Cummings stated yes, the Zoning Ordinance allows for 2 square feet, and these signs are 20 square feet. Mr. Cummings also stated we are working to amend the calculations, and amending to allow attached and monument. Mr. Cummings stated there is an access way/drive aisle that was already existing, but it is functioning like a public right-of-way. Chairman Sisson asked again what was the square footage for Sign A and Sign C. Mr. Turk stated Sign A is 144.29 and Sign C is 218 square feet. Chairman Sisson asked what really was the need for Sign c. Mr. Turk stated Sign C is designed to fill the space of building for esthetics. Dr. Branham asked what was the purpose for Sign D. Mr. Turk stated it is identifying the building from another direction.

A motion was made by Chairman Sisson and seconded by Dr. Branham to approve a 218 square foot size variance for attached accessory signage due to the fact a private drive functioning as a right-of-way was taken into consideration and with the stipulation the proposed 217.72 square foot attached accessory sign facing the private drive is reduced to match the 106.41 square foot attached accessory sign on Monroe Street. Also approved was a variance to allow 2 monument signs as presented in a General Business C3 Zoning District due to the fact the proposed monument signs are functioning as directional signage into the development and the City is in the process of amending the Zoning Ordinance. **Approved unanimously**.

**Case No. 9326 4215 Huntington Road SE**; The location of a structure; Jeffrey Still & Lease Still, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a 46 foot front yard setback variance.

Ms. Allie Tucker of Maynard, Cooper & Gale appeared before the Board for Mr. & Mrs. Still. Ms. Tucker explained they are requesting a 40 foot front yard setback variance in a Residence 1A Zoning District. Ms. Tucker also stated this lot is an undeveloped lot and only one house was taken into consideration for the average. Ms. Tucker further stated the 1 house that was taken into consideration for the average was at 90 feet. Ms. Tucker stated according to the Zoning Ordinance, the setback for their property will have to be 90 feet. Ms. Tucker also stated a 90 foot setback for this property will create a physical hardship due to the steep incline going from the front of the lot to the rear of the lot. Another hardship is that the Stills have a daughter in a wheelchair and it will be impossible to push her up a 90 foot incline every day.

Chairman Sisson asked if the front yard was not taken what is the front yard setback. Mr. Cummings stated 35 feet. Mr. Cummings also stated the request may sound large, but the request is 40 feet from the front property line. Dr. Branham stated he understood them taking the average of the one home but what did the rest of the neighborhood look like. Mr. Cummings stated it is a range on this street from 46 feet to 91 feet on the same side of street. On the other side of the street they range from 37 feet to 57 feet and we are unable to take any of those measurements into consideration because of the same side rule. Mr. Baudendistel showed a street view of the neighborhood to show the topography. Ms. Tucker also stated that Mr. & Mrs. Still spoke to the most affected neighbor and they are in support of the variance.

Chairman Sisson asked the Board for any questions. No comments were given. Chairman Sisson asked the City for questions or concerns. No comments were given.

A motion was made by Dr. Branham and seconded by Mr. Coffey to approve a 40 foot front yard variance to allow the proposed home to be setback at 50 feet due to the topography, the fact one adjacent house pushed farther back was taken into consideration for the front yard average, and the fact a recently demolished house adjacent to this property was more in line with the proposed setback. **Approved unanimously**

**Case No. 9327 201 Bob Wallace Avenue**; A use variance to allow a financial office, leasing office, and dental office; Stephen M. Cutter of Cutter Enterprises, LLC, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a use variance to allow a financial office, leasing office, and dental office in an R1C Zoning District.

This case was withdrawn.

**Case No. 9328 6 Nutcracker Lane SW**; The location of a structure; Steven J. Stelk and Marilyn J. Stelk, appellant.

This case was withdrawn.

**Case 9329 608 Cleermont Drive SE;** Thelocation of a structure; Austin S. Britt, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a 5 foot side yard setback variance.

Mr. Cummings stated this request will require a 5 foot side yard setback variance and in a Residence 1A Zoning District a 12 foot side yard setback is required. Mr. Austin Britt appeared before the Board. Mr. Britt explained they want to demolish the exisitng deck and add a covered addition. Mr. Britt stated he received letters of support from both neighbors on each side.

 Mr. Cummings explained the existing story deck is already within the 12 foot side yard side setback and the addition would be staying in line with the setback and would not be worsening the side yard setback. Chairman Sisson asked if this was consistent with side yard setbacks with this neighborhood. Mr. Cummings stated yes. Chairman Sisson asked how many letters did he send out. Mr. Britt stated he mailed out 50 letters. Chairman Sisson asked did he receive letters from the most affected neighbor. Mr. Britt stated yes.

A motion was made by Mr. Coffey and seconded by Mr. Ozier to approve a 5 foot east side yard setback variance. **Approved unanimously**

**Case 9330** **1203 Bluefield Circle SE**, The location of a structure; Bruce Whitfield Perry for Anne Stewart Whitfield, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a 19 ft 9 in rear yard setback variance. This request will also require a 4 ft 4 inch side and a 1 ft 7 inch side yard setback variance. In a Residence 1A Zoning District, a 40-foot rear yard setback is required. Also, in a Residence 1A Zoning District, a 10-foot side yard setback is required.

Mr. Coffey recused from this case. Ms. Whitfield stated she needs a variance to place the home on the lot due to the odd pie-shaped lot. Chairman Sisson asked if a site plan was provided to see what variances are being requested. Mr. Cummings stated a front yard average was taken and therefore no variance on the front yard. Mr. Baudendistel stated a 19 ft 9in rear yard setback variance is being requested and a 4ft 4 inch side and a 1 ft 7 inch side yard setback variance is being requested. Chairman Sisson asked Mr. Perry if they had considered flipping the home. Mr. Perry stated it is flipped to accommodate the best fit on the lot to the northeast. Mr. Cummings stated flipping the home does not help much. Mr. Perry stated the plan was flipped, and just to make sure the rear porch is not looking at the house to the west, it is more conducive to have it facing the larger yard area. Chairman Sisson asked if the house was a 1 story or 2 story home. Ms. Edwards stated it is a 1 story and has to meet the 10 foot side yard setback requirements. Mr. Perry stated a variance was granted 7 years ago for this property. Mr. Cummings stated before they subdivided the property, the Board granted a 20 foot rear yard setback variance, but there was no variance for the side yards. Mr. Cummings stated the primary structure meets the side yard setback, but it is the porch that is in the setback. Chairman Sisson asked Ms. Whitfield if they planned to enclose the porch. Mr. Perry stated no. Chairman Sisson asked the Board for any questions. Mr. Lee stated the property has a 20 foot utility and drainage easement on the rear. Mr. Perry stated they have an easement on all sides, and it brings the buildable area of the lot down to a small size to build a house. Dr. Branham asked what was the size of this lot. Ms. Edwards stated 13,000 square feet (+), 0.35 acres. Mr. Branham stated therefore it is not a substandard lot. Dr. Branham further stated this lot is of a unique shape but if you have a relative large lot at least try to build a home that will fit the lot.

Mr. J. R. Brooks appeared before the Board. Mr. Brooks stated he does not understand how this is a single story, and why there is no longer a front yard variance. Mr. Brooks stated if the rear yard setback is granted it will give the property a chance to look down on the neighbor in the rear. Mr. Brooks stated in 2014, the lot looked different then it was subdivided and now the lot is much smaller. Mr. Perry stated the back the house has a vaulted ceiling and the windows would face Bluefield Circle to the front. Mr. Brooks asked if the variance was granted, if it would be limited to the plan submitted. Chairman Sisson stated the Board could limit it to the plan submitted.

Ms. Lu Downey appeared before the Board. Ms. Downey stated she has lived in this neighborhood for 56 years and want to make sure once the footprint is down then nothing can be changed.

Mr. Trent McLemore appeared before the Board. Mr. McLemore stated he is all for someone building a home but does not want someone encroaching that much.

Chairman Sisson asked Ms. Whitfield if they owned lot 3. Mr. Perry stated they own all the 4 lots on Bluefield Circle. Ms. Whitfield further stated she wants to live at this property. Ms. Lee asked what was the measurement of the home on lot 3 to the rear property line. Mr. Cummings stated the home is 25 feet from the rear property line and was unable to find a variance for this lot. Mr. Cummings stated the property to the north of lot 3, the home is on a triangular lot, that home is 20 feet coming straight off but due to the fact it is triangular shaped lot, Zoning Administration could use the triangle formula for that lot.

Chairman Sisson asked the Board for any questions or concerns. Dr. Branham stated he has philosophical objection. Dr. Branham further stated when you have a 13,000(+) square feet lot, and it is empty why can you not build a house meeting the Zoning Ordinance. Chairman Sisson asked for clarification that the Board has granted a 20 foot rear yard variance but it was never enforced due to never pulling a permit. Mr. Cummings stated yes in 2011. Chairman Sisson asked Ms. Whitfield if they had considered narrowing the plan. Mr. Perry stated he would like to consult an architect.

A motion was made by Chairman Sisson and seconded by Dr. Branham to continue this request for 30 days.

There being no further business, the meeting adjourned at 8:20 p.m.