Administration Building

Council Chambers

308 Fountain Circle

October 20, 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

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 were as noted in the given handouts which advise 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.

Sisson explained the procedures of the Board of Zoning Adjustment to those present, advising stated that the following cases are all continued for 30 days: The height of a building, an additional story, and an off-street parking variance at 1550 Perimeter Parkway NW, The height of a building, an additional story, and an off-street parking variance at 1551 Perimeter Parkway NW, and Case 9242-1 The location of a structure, total lot coverage and rear yard lot coverage variance at 1122 Clinton Avenue SE. Also, the following cases have been withdrawn: A use variance to allow a mobile food vending unit in a Neighborhood Business C2 Zoning District at 2212 Governors Drive SW aka 2300 Governors Drive SW, and Case 9239-1 Additional signage and the size of signage at 7252 Governors West NW.

Vice-Chairman Peake then called the extension items.

**Case No. 9277** **2903 Triana Boulevard SW;** Gumesindo Gil Rivas-Castro and Elia Saenz Rivas, appellant. Chairman Sisson stated this case has been withdrawn.

**Case No. 9266 5542 Research Park Boulevard NW;** A use variance to allow an existing mini storage facility to expand in a Neighborhood Business C1 and Residence 2B Zoning District, PVA landscaping, PVA lighting, and the location of off-street parking; Jeff Mullins for Louis Breland of Safe Mini Storage at Plummer Road, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9278 4314 Hunt Drive NW**; The location of a structure. Chairman Sisson stated that the appellant requested an extension of 30 days. Mr. Cummings confirmed. A motion was made by Chairman Sisson and seconded by Mr. Fred Coffee that the request be continued for 30 days. **Approved unanimously.**

**Case No. 9279 603 Dement Street NE**; The location of off-street parking and a reduction in the number of parking spaces; Jerry Cargile of Schoel Engineering for Angela Mokhtari, appellant. Mr. Baudendistel stated the location of the property. Mr. Jerry Cargile presented some preliminary information. Chairman Sisson asked Mr. Cargile to give a refresher on the original request. Mr. Cargile explained that the original request was for both the location of parking and a reduction in the number of required parking spaces. Mr. Cargile state that the newest updated plans no longer required a variance for a reduction of parking spaces. Mr. Cargile presented the new set of plans showing the proposed depth of the required parking spaces where ten (10) feet of depth in each space was projected out into the city owned right-of-way. Mr. Cargile mentioned the hardship of these streets having wide rights-of-way. Mr. Cargile added that by keeping one half (1/2) of each required parking space on the given lot, each property owner could still claim the necessary ownership thereby keeping anyone else from having any legal claim for outside use. Mr. Cargile summarized this new request was therefore simply to allow one half of each parking space to be located on the city owned right-of-way. Chairman Sisson confirmed that the new request was in fact for the proposed front yard location with the parking but no reduction in the number of required spaces was needed. Mr. Cargile confirmed. Mr. Cummings stated that part of the request was to allow for a portion of the parking spaces to land over into the right-of-way. Chairman Sisson stated that this was not something the board could grant adding that the city was in support of the request. Mr. Cummings stated the proposed layout offered the best compromised solution. Chairman Sisson asked for any board comments. Mr. Fred Coffee made a motion to approve as presented. Dr. David Branham stated he appreciated the appellant now having the required number of parking spaces. Dr. David Branham asked if half of each space being in the right-of-way, could two (2) full parking spaces be considered as reserved for each household? Mr. Cargile stated that in their opinion, the answer was yes due to the fact that half of each space was located within the given lots. Johnny Hollingsworth with Huntsville Police stated that by allowing the residents to park half-way on/off the property, anyone who parked out in front totally on the city owned right-of-way could not have their vehicle moved. Mr. Hollingsworth added that the residents had no claim to the right-of-way regardless of the orientation with such parking whether it be parallel or perpendicular. Chairman Sisson restated these issues were not something for the board to address adding that they were only considering the request to park within the required front yard and that this seemed a reasonable solution in lieu of the given hardship. Mr. Cargile stated that if approved, some of these potential issues with the parking could still be addressed. Mr. Cargile also mentioned that any proposed driveway was also located within a given right of way. Mr. Cargile added that if this street were to have a more traditional right-of-way, then all of the requested space for the required parking would be entirely contained within each property. Chairman Sisson stated that in theory, a resident could park within the right-of-way. Thomas Nunez restated Mr. Cargile’s position with the given hardship in that these particular city streets do feature significantly larger rights-of-way. Mr. Nunez added that Dement Street, for example, had a right-of-way measuring sixty (60) feet across as were many other streets included in this East Huntsville Addition resulting in much additional space out ahead of a typical residence. Dr. David Branham expressed concerns over the future sale of these lots in that the given parking out over the right-of-way is in effect being sold while only half of the given space(s) is actually being sold legally. Chairman Sisson restated that the only thing the board can consider with this is the fact that the given parking is located in the front yard adding that he is not opposed to the request and that the board cannot look at hypothetical situations downstream. Chairman Sisson also stated that the board was not granting the authority for anyone to park on the right-of-way but only saying the parking is permitted in the front. Dr. David Branham stated that even so, the board is only offering them one half (1/2) of a given parking space in the front. Chairman Sisson concluded that while the given parking would be in line with what was typical with the given area, the right-of-way on the other hand was more atypical. Chairman Sisson added that the proposed parking was no different than that which is found with other nearby single family residences whereas vehicles are often parked out in the right-of-way including many curbside. Chairman Sisson seconded the earlier motion which was **approved.**

**Case No. 9281 138 Dormont Drive NE;** A special exception to allow a group child care home; Elizabeth Sledge, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a special exception to allow a group child care home. Mr. Baudendistel added that the child care at this location was active for ten (10) years. Chairman Sisson asked the appellant, Elizabeth Sledge, to tell the board a little about what she was proposing. Elizabeth Sledge stated that she was looking to increase her daycare business to allow for up to twelve (12) children. Chairman Sisson asked how long the appellant had been in business. Mrs. Sledge stated she had been in business for twenty-five (25) years, ten of which were at this particular location. Chairman Sisson reminded the board that they were looking to approve this as a special exception and therefore were looking at the impact with the immediate neighborhood. Dr. David Branham asked if any of the neighbors objected. Mrs. Sledge said was not aware of any who did. Mr. Cummings added that Zoning Administration had not received any objections or concerns either. Chairman Sisson inquired about the number of letters sent out. Mrs. Sledge stated she sent right at 70 total. Vice Chairman Peake asked Mrs. Sledge is she had been in contact with the State or other governing agency regarding her proposed group child care home, its floor plan, size, parking, and such would accommodate the proposed increase in children. Mrs. Sledge stated that she need to get Zoning Approval through the board first. Chairman Sisson asked about the parking requirements. Mrs. Sledge stated that the customers could park within the given driveway as needed. Chairman Sisson asked about the number of employees. Mrs. Sledge stated it would be one (1). Vice Chairman Peake asked about backyard fencing for protection. Mrs. Sledge stated that it was in place. Mr. Cummings stated that the City had no objections or concerns. Vice Chairman Peake inquired about the access to and from the location of the daycare. Mr. Baudendistel stated that the property was located back within the subdivision where the streets circled around therefore not requiring any turnarounds in other driveways. Dr. David Branham made a motion to approve the request which was seconded and voted **Approved unanimously.**

**Case No. 9247 700 Pratt Avenue NW**; A use variance to expand a non-conforming use and distance separation variance to allow an existing package store within 500 feet of a Residential 2B Zoning District; Daniel L. Cooper for Elfriede Rucker of Rucker Enterprises, appellant. Mr. Cummings stated this request was already before the board back in February of 2020 and that the time window of six (6) months had passed. Vice Chairman Peake asked if this was for the same given ABC Store. Mr. Cummings confirmed. Chairman Sisson asked if this was the exact same request. Mr. Cummings confirmed that it was and that the plan submitted to the board was approved previously for the required PVA landscaping only adding that the board had denied the same previous request for required upgrades with the PVA lighting and that these be brought up into the current photometric requirements. Vice Chairman Peake restated that the only reason the case was again being brought before the board was due to the six (6) month time overrun. Mr. Cummings Confirmed. Looking over the previously approved documents, Vice Chairman Peake asked if the board rendered a unanimous decision before. Chair Sisson confirmed that it was. Dr. David Branham then added that since the board denied the PVA lighting request before that the same was being denied here. Chairman Sisson confirmed stating that he would proposed taking the same action as the board did back in February 2020. Vice Chairman Peake added that if nothing had changed with the request, he saw no issue with re-approving it. Chairman Sisson asked Mr. Cooper how much time the ABC board might need for this request. Mr. Cooper stated that the reason they property management agency had taken any action thus far was because Alabama Governor Kay Ivey did not allow the ABC Board to meet for over three (3) months due to covid. Mr. Cooper also stated that once the ABC Board did meet, they approved the project whereas the governor held it for another full month making the total delay now four (4) months long. Chairman Sisson asked Mr. Cooper if the ABC board needed more than another six (6) months. Chairman Sisson added that normally, a variance would remain liquid for up to six (6) months driven by the approval of a building permit application. Due to the recent pandemic however, Zoning Administration may offer a six (6) month extension of the granted variance request. Chairman Sisson opened the floor to any further discussion. Vice Chairman Peake made a motion to approve the request as previously approved with no changes. The motion was seconded by Dr. David Branham and **Approved unanimously**.

**Case No. 9283 200 Oakwood Avenue NE Suites A & B**; A special exception to allow an alcohol beverage manufacturer; Roland Carter of Robyn’s Garden, Inc., appellant. Mr. Baudendistel stated the location of the property. Mr. Carter stated he was planning to open a small winery with tastings at the given location. Chairman Sisson inquired about the given Zoning Ordinance. Mr. Cummings stated that this request was due to having an alcoholic beverage manufacturing facility adding that all such manufacturers are required to obtain a special exception through the Board of Zoning Adjustment. Mr. Carter stated that the given unit/suites were once operated as a bar and that he was planning to operate a microbrewery. Chairman Sisson asked if the City had any issues. Mr. Cummings stated that the City did not. Vice Chairman Peake requested more information about the location which Mr. Baudendistel provided. Mr. Cummings added that the board had recently heard a request for the nearby Subway Restaurant opposite Meridian Street there off of Oakwood Avenue. Vice Chairman Peake asked for the name of the bar that was previously located here at the given suites. Mr. Carter stated the name as Parvins Lounge. Vice Chairman Peake asked what suite/unit the proposed micro-brewery was being located. Mr. Carter stated it was the corner unit adjacent to a nearby Dairy Queen restaurant. Chairman Sisson stated that the board was considering any impact to the nearby residential neighborhood including lighting, parking, etc. Mr. Cummings confirmed. Dr. David Branham asked if there was a legal limit as to how much alcoholic beverage could be produced on-site. Mr. Carter stated that the limit was 220 gallons per week. Chairman Sisson opened the floor to further discussion or questions from the board. Mr. Fred Coffee mentioned this request being for a manufacturer while asking if there was a retail aspect with the business. Mr. Carter stated that the retail sale of wine was included with the alcoholic beverage license stating that tastings were also included. Vice Chairman Peake asked about the size of the proposed business. Mr. Carter stated it was measured to be 2,400 square feet. Mr. Cummings stated that the tastings were permitted as part of the special exception. Vice Chairman Peake asked if Huntsville Police had any concerns. Officer Johnny Hollingsworth stated the only concern with Huntsville Police was the addition of any outdoor patio seating and its impact on any nearby residential subdivisions. Mr. Cummings stated that patio seating is permitted at this location and does not require a special exception. Chairman Sisson added that the noise ordinance could still be enforced if needed. Vice Chairman Peake asked if the board needed to consider a time limit with this request. Mr. Cummings stated that this was not typically the case, but that the board had final discretion. Dr. David Branham made a motion to approve the request. This motion was seconded by Vice Chairman Peak and **Approved unanimously**.

**Case No. 9284 9039 Redstone Square Road SW**; A special exception to allow a swimming pool and cabana; Daniel Hopkins for Jeffrey M. Benton of Jeff Benton Development, Inc., appellant**.** Mr. Baudendistel stated the location of the property. Mr. Daniel Hopkins with Jeff Benton Development gave details with the proposed pool, cabana, and its location at Lot Number 1 with the given subdivision and in a common area. Chairman Sisson asked to see the given site plan. Mr. Hopkins discussed the proposed parking be sufficient for the given neighborhood, the proposed cabana and pool layout, and such. Chairman Sisson inquired about the proposed lighting. Mr. Hopkins stated that the plans did call for some LED lighting with a photometric plan that would meet the given requirements. Mr. Hopkins also mentioned that the proposed swimming pool would also include some underwater lights and other lights tripped on/off with motion sensors. Fred Coffee asked how many lots were included throughout the given development. Mr. Hopkins stated there were 187 total over the course of two (2) to three (3) phases with Phase 1 having 99 total. Mr. Fred Coffee asked if the use of the proposed pool and cabana was limited to just residents of the given subdivision. Mr. Hopkins confirmed this as true while being governed by the Home Owners Association (HOA). Referencing the proposed site plan, Dr. David Branham asked about the location of the proposed swimming pool and cabana. Mr. Hopkins then outlined its location noting a natural buffer that was included along a nearby creek. With the proposed pool location being so near other adjacent homes, Chairman Sisson asked Mr. Hopkins if there was any concern with outside use of the pool. Mr. Hopkins stated there were no such concerns due in part to having the nearby creek as a natural buffer. Mr. Hopkins added the fact that the proposed pool and cabana were only accessible with the one subdivision entrance, and its 46 foot right of way behind a nearby Publix. Chairman Sisson expressed concerns regarding overflow parking which could lead to vehicles being placed out within the given drive aisle to and from the subdivision while being the one and only main entrance. Mr. Cummings stated that with this type of request for such special exceptions, the plans typically include parking which can then trigger additional PVA lighting and landscaping. Mr. Cummings added that this proposed site included 24 parking spaces total which is more than typically found. Chairman Sisson restated that the proposed plans did include the require PVA lighting which meant everything was in compliance. Mr. Cummings confirmed. Mr. Hopkins added that the given subdivision also included additional sidewalks so that many nearby residents could walk over to the proposed site. Mr. Hopkins also stated that their team had not received any complaints with the parking found in similar developments with approved swimming pools and such at other locations. Chairman Sisson opened the floor to any further discussion from the board of the city. A motion was made by Mr. Fred Coffee, seconded, and **Approved unanimously**.

**Case No. 9285 423 Eustis Avenue NE**; The location of a structure; Hall B. Bryant, III and Margaret M. Bryant, appellant. Chairman Sisson recused. Vice Chairman Peake acknowledged. Mr. Baudendistel stated the location of the property. Mr. Bryant stated that the request was for a seven (7) foot setback variance on the east side of the property. This proposed addition was to expand the living area of their single family residence. Mr. Bryant stated that they had previously been approved for a similar variance request back in 2017. Mr. Bryant also mentioned that the current plans have been scaled back such that only a side yard setback variance would be needed now and not include a variance for the rear yard. Vice Chairman Peake asked if the current request was due to lack of action on the previous request. Mr. Bryant confirmed this to be true restating that the current request has been scaled back. Vice Chairman Peake asked if Zoning Administration had any record of the previous request. Mr. Baudendistel stated that while Zoning Administration did not have any record of this particular property on hand, they did note having a history of similar requests being approved nearby. Vice Chairman Peake asked to see some more detail with the proposed site plan. Mr. Baudendistel showed the proposed setback and the required setback. Vice Chairman Peake asked if the current request was for the same exact distance previously approved. Mr. Bryant stated the new request was scaled back with a lesser footprint toward the rear of the property and a smaller variance request with the side yard. Vice Chairman Peake asked Zoning Administration if this was similar to other approved requests. Mr. Baudendistel confirmed it be. Dr. David Branham asked if the total lot coverage (%) was met. Mr. Cummings confirmed it was adding that Zoning Administration did not see the previous request. Vice Chairman Peake asked if the City had any issues with this request. Mr. Cummings said the City did not. Vice Chairman Peake opened the floor to any further discussion from the board. Mr. Fred Coffee made a motion. The motion was seconded by Dr. David Branham and **Approved unanimously**.

**Case No. 9286 4670 Bellewood Drive SE**; A use variance to allow on premise beer and wine sales; Kimberly Suzanne Horton of Dominion Senior Living at Fleming Farms LLC appellant. Mr. Baudendistel stated the location of the property. Mr. Cummings stated this was a proposed senior living facility where the request is to sell beer and wine there at a fully operational restaurant. Chairman Sisson suggested the board had not had a request similar to this in the past. Mr. Cummings confirmed this. Mr. Fred Coffee asked the appellant to provide some inside detail for the proposed restaurant that is included with the assisted living. Ms. Horton described the proposed facilities which include apartments for retired seniors. Ms. Horton added that only certain assisted living units would have access to the restaurant and serving of alcohol. Mr. Fred Coffee asked if the restaurant was open to the public. Ms. Horton stated that only residents living within the care of the facility and their invited guests could access the restaurant. Dr. David Branham asked if the serving of beer and wine were similar to that found with a package store. Ms. Horton stated it was not. Mr. Fred Coffee asked if this type of request had ever come before the board. Mr. Cummings stated it had not. Mr. Cummings added that while restaurants were not permitted in a Residence 2-B Zoning District, this particular case was different in that the proposed restaurant was being looked to as an accessory use with the given senior/assisted living. Dr. David Branham suggested that this restaurant could be viewed like a private club. Mr. Cummings confirmed this adding that as such, the sale of food was greater than fifty (50%) percent of the total sales. Mr. Cummings referred to the alcohol permit application as it stated that the sale of food was estimated to be 95% of the total sales with the remaining 5% being beer and wine sales. Chairman Sisson stated that the board needed to take note of the fact that the proposed restaurant with the requested variance for beer and wine sales was to be reviewed as an accessory with the permitted use being assisted living. Mr. Cummings confirmed this being correct. Chairman Sisson further stated that the proposed restaurant was to operate interior to the assisted living facility only while not be open to the public. Mr. Cummings confirmed this adding that the proposed sale of beer and wine was also not considered as a lounge. Chairman Sisson asked if the City had any issues with the request. Mr. Cummings stated it did not. Chairman Sisson opened the floor to any further questions of concerns from the board. Vice Chairman Peake was curious that if approved, how unique of a scenario this was. Mr. Cummings restated that this case was different because not many assisted living facilities feature a full service restaurant unlike the ones with a traditional buffet-style cafeteria. Chairman Sisson asked the appellant for some clarification on how the meals were served. Ms. Horton stated that the meals were included with the assisted living plans while any beer or wine being served had to be purchased separately on top of the regular rate. Mr. Cummings asked how the residents would be served. Ms. Horton stated they were seated by a host and allowed to place their orders, more like a restaurant than a cafeteria. Chairman Sisson asked if the board had fully classified the given request being a unique and separate situation. Mr. Cummings confirmed this to be correct stating that the proposed restaurant does include a full service menu. Mr. Cummings also restated that the appellant did include on their alcoholic beverage sales license application the percentage of food sales being 95% while alcohol made up the remaining 5% and that the board could include any necessary stipulations with the request that the food sales must remain greater than 50% of the total sales. Chairman Sisson opened the floor to any further questions or discussions. Chairman Sisson made a motion that the board approve the proposed use as an accessory to the permitted use provided the percentage of alcohol sales within the full service restaurant must remain less than fifty (50%) percent of the total sales. Mr. Fred Coffee asked if the sale of beer and wine was regulated by the state alcohol beverage control board. Ms. Horton stated they had applied for the given beverage license with the state. Mr. Coffee seconded the motion which was **Approved unanimously**.

**Case No. 9287 152 Short Pike SW**; A variance for pavement material, a reduction in PVA lighting & PVA landscaping, and a use variance to allow a parking lot; Collin Orcutt of Schoel Engineering for Simon Hammond of Fairburn Industries, Inc., appellant. Mr. Baudendistel stated the location of the property. Chairman Sisson asked for some more detail on the proposed location. Mr. Baudendistel provided an aerial view. Mr. Orcutt explained to the board that the property owner was seeking to have a transportation and logistics business operate there at the given property over a gravel parking area. Mr. Orcutt added that this was the first phase of the business plan where over the road trucks could park trailers as needed. Mr. Orcutt explained that the property was mostly surrounded by wooded areas and that the request was to vary the PVA requirements along the sides but meet them along the frontage facing toward Short Pike as well as across the rear. Mr. Cummings explained that in a Commercial Industrial Park (CIP) Zoning District, a traditional parking area just for large 18 wheeled trucks is not a permitted use. Mr. Cummings stated that if the property were to include a warehouse or other interior storage, then the truck parking would not then be an issue. Mr. Cummings also stated that in a CIP Zoning District, gravel parking areas are not permitted, and therefore; must be paved. Mr. Cummings did note that the appellant was also requesting a reduction in the required PVA lighting with the given lot where the large trucks were being parked. Vice Chairman Peake asked Mr. Orcutt if these requests were all part of a cost-saving effort where things would be brought up to code at some later date. Mr. Orcutt stated that the owners were seeking to upgrade with Phase 2 at a later date. Dr. David Branham asked why the use of gravel was of any concern. Mr. Cummings restated that the use of gravel alone was not permitted and that all PVA parking surfaces must be paved. Chairman Sisson stated that he was noting the existing buffer of trees and wooded areas adjacent to the given property. Chairman Sisson asked about the landscape buffer requirements with the given CIP Zoning District. Mr. Cummings explained the proposed parking is supposed to be screened adding that there are detailed height requirements in the ordinance along with the use of berms or the type of plant material. Mr. Fred Coffee asked if the board had ever granted a variance for this type of request before. Mr. Cummings explained that the board had reviewed a similar request with some property used by Kohler at a location just to the north back in 2018 adding that with the case, but the company was to include some buildings. Mr. Coffee suggested that if the current site at Short Pike were to include a building, then there would not be an issue. Mr. Cummings confirmed this stating that the current request was to allow a stand-alone parking area that could also be considered as storage. Chairman Sisson added that even with a building, the current site would still need to request a variance for the given PVA parking material being gravel and a variance for the PVA landscape buffer. Mr. Cummings confirmed this. Mr. Orcutt stated that the owners were needing for the site to be secure with some lighting. Chairman Sisson inquired as to what the board had previously approved with the Kohler property. Mr. Cummings stated that the board did approve a variance for off-site parking at that location but with 24 hour security not open to the public. Chairman Sisson asked if the request for the Kohler property included gravel parking. Mr. Cummings stated this was not included with the request despite how it appeared. Chairman Sisson opened the floor to any further thoughts or discussion. Dr. David Branham stated his concern with granting the use of gravel in the required PVA parking in that if approved, could set a bad precedent for more wide-spread requests for similar gravel lots. Chairman Sisson added that from his point of view, the addition of some more buffer around the proposed parking could help reduce the impact. Chairman Sisson asked Mr. Orcutt to provide some more detail on the proposed buffer and lighting. Mr. Orcutt stated the existing natural buffer with the adjacent wooded area. Chairman Sisson mentioned this as a major plus in light of the fact there was no abutting residential. Mr. Orcutt stated the owner did want some lighting for security, but at a reduced level. Dr. David Branham stated that without a proposed light plan, the board did not know what to vary. Chairman Sisson stated that more specifics would be helpful including times of truck arrival, lighting, etc.

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

**Case No. 9288 4015 Triana Boulevard SW**; The location, type, and height of a sign; James Strong of Fountain of Life Ministries, appellant. Mr. Baudendistel stated the location of the property and stated this request will require a variance to allow a 4 foot variance for the ground clearance of the proposed sign where 8 foot of height is required. Mr. Strong provided details for the proposed sign where the given requests would help improve visibility as the proposed church was pushed way back deep within the given lot. Chairman Sisson restated that a pole sign was not permitted with the given Zoning District. Mr. Cummings confirmed adding that only attached signage was permitted. Mr. Strong mentioned other churches nearby having similar signs posted along Triana Boulevard. Mr. Cummings stated that the electronic display of the proposed sign was permitted by right adding that the given site for the church has a notable drop in ground level heading back from the street. Mr. Cummings added that the proposed sign was being treated as a pole sign and that while an 8 foot clearance is required, the proposed height will keep the sign more visible. Vice Chairman Peake asked how far the proposed sign was from the given street. Mr. Cummings stated that the proposed sign would be placed 15 feet back from the right-of-way and that this location is permitted. Vice Chairman Peake asked if the location was back off the given drop. Mr. Baudendistel stated this to be true and that the proposed location does not conflict with the overhead power. A correction was made with the earlier statement that a pole sign was not permitted, when in fact it was. Mr. Cummings restated that the variance was only for a 4 foot height clearance. Chairman Sisson stated that the 8 foot height clearance was primarily for vehicular visibility. Mr. Cummings confirmed this to be correct. Vice Chairman Peake mentioned his travel through the area noting the drop in topography across the lot from the road. Vice Chairman Peake asked if in light of the given hardship, the City was in favor of the proposed sign request with the least possible impact. Mr. Cummings confirmed this as correct. Mr. Branham made a motion to approve the sign as presented due to the topographic hardship with the front of the property. Vice Chairman Peake seconded the motion which was **Approved unanimously**.

**Case No. 9289 100 Rockhaven Drive NW**; The location of a swimming pool; Christopher S. Arnold and Susan L. Arnold, appellant. Mr. Baudendistel stated the location of the property. Mrs. Arnold provided details on the shape of the lot, the rear utility and drainage easement, and the existing setback with the rear of the home stating that the only available space for the proposed swimming pool was located within the required side yard. Chairman Sisson asked if the pond located out behind the property was an active pond. Mrs. Arnold confirmed it to be adding it was considered part of a common area to the neighborhood. Mrs. Arnold stated that the proposed pool and its located had been approved through the HOA and that they had received positive feedback from one adjoining neighbor. Mrs. Arnold referred to the given site plan showing where the proposed pool location was included within the largest and most open space of the given yard. Mr. Cummings stated the Zoning Administration looked closely at the given property being in a cul-de-sac and how once the given proposed pool was moved beside the home, it was considered as being in a required side yard. Mr. Baudendistel added that the rear of the existing home was close to the minimum required rear yard per the given zoning district. Chairman Sisson opened the board to any further discussion. Mr. Fred Coffee asked if there were similar cases at nearby homes with swimming pools being located within required side yards. Mr. Cummings stated that Zoning Administration had not seen any in this subdivision. Vice Chairman Peake asked if there was an existing fence between the appellants’ property and their neighbor. Mr. Arnold stated there was not yet a fence, but that they would be required to install one. Chairman Sisson recalled the board approving similar request before. Vice Chairman Peake mentioned that the Zoning Ordinance does include stipulations that allow for pools in these situations. Vice Chairman Peake made a motion to approve. Motion was seconded by Dr. David Branham and **Approved unanimously**.

**Case No. 9290 700 Monroe Street SE**; A use variance to allow a monument sign in a General Business C3 Zoning District and the height of a sign; Karl O. Hall of Trav-Ad Signs, Inc. for Johnny Hunkapiller of Von Braun Center, appellant. Mr. Baudendistel stated the location of the property being at the Von Braun Center (VBC) including the fact that the proposed signage was facing the Clinton Avenue street frontage. Mr. Hall with Trav-Ad Signs provided an overview of the proposed sign. He added that the purpose of the sign is needed to help advertise more than just the VBC itself, but other accessory uses such as restaurants. Vice Chairman Peake asked about the location of the sign being adjacent to the main entry with the ticket window. Mr. Hall confirmed this to be correct. Mr. Hall showed where the board an existing concrete island and where the sign was to be located. Mr. Hall stated that the proposed height was needed for visibility. Chairman Sisson asked for some more information regarding signage in the given C3 Zoning District. Mr. Cummings stated within a C3 district, a multi-tenant building was permitted to have either attached signage or a ground sign. Mr. Cummins restated that this request was to allow an additional sign as a ground sign adding that given the size of the overall VBC complex, that this request was unique. Chairman Sisson asked about the distance from the proposed sign to the back of curb. Mr. Hall stated that the proposed distance was between 20 and 25 feet. Chairman Sisson asked if the given request had been reviewd by Traffic Engineering. Mr. Cummings stated it had not. Chairman Sisson stated than any given motion include a stipulation that the proposed sign be subject to Traffic Engineering Approval. Chairman Sisson explained that the purpose of a having a size limit with a sign column was to allow for correct site distance with oncoming traffic, in is instance along Clinton Avenue. Mr. Hall stated that the proposed sign column would not be too wide. Chairman Sisson stated that if a driver was to pull up and stop beside the proposed sign, their visibility could be blocked. Mr. Hall mentioned having drove in and out at the proposed sign location whereas the first car to be stopped to go out onto Clinton Avenue was not hindered by the sign and its proposed location. Chairman Sisson asked if the City had any issues. Mr. Cummings stated that it did not adding that the additional columns could go up to 24 inches in width. Mr. Fred Coffee asked if the proposed sign was being used exclusively for the given parking and interior restaurants. Mr. Hall confirmed that in his communication with the VBC management, they were looking to enhance the available parking for the given restaurants. Mr. Fred Coffee asked about if an event were taking place in the North Hall at the VBC, would the given parking still be used exclusively for the given restaurants. Mr. Hall stated that the question would have to go before the VBC and its management. Dr. David Branham asked if the proposed sign would be the only non-attached signage found with the given road frontage facing Clinton Avenue. Mr. Hall referred to the location of some other directional signs. Dr. Branham re-asked the question as Mr. Hall confirmed it to be correct. Dr. Branham then asked if this would be the only sign being requested with the give 800 feet of frontage. Mr. Hall stated the question would have to go before the VBC management and staff. Mr. Coffee stated that in light of the given growth, much of the surrounding parking has been lost with hotels and other VBC related expansion. Vice Chairman Peake added that the board was not trying to speak over the VBC managing its parking. Chairman Sisson suggested that when a motion is made, that it be subject to traffic. Dr. David Branham made a motion that the board approve the given sign as presented and subject to Traffic Engineering approval. Vice Chairman Peake seconded the motion which was **Approved unanimously.**

**Case No. 9291 2528 Garden Park Drive**; A special exception to allow a group child care home, Bridgett Camille Teague, appellant. Mr. Baudendistel provided information on the location of the given property stating that the requested special exception was to allow a group child care to operate where an already existing child care center had been operated since 2011. Ms. Camille stated she currently operated a daycare with just six (6) children. Chairman Sisson inquired about the given property asking how the customers would drive up to drop off children. Ms. Camille stated three of the customers’ children are from nearby neighbors. Chairman Sisson discussed the inflow and outflow with the future growth of traffic at the facility. Chairman Sisson asked if the City had any concerns. Mr. Cummings stated it did not adding there were no phone calls or other issues brought to their attention. Chairman Sisson asked what the times of operation would be. Ms. Camille stated this would be from 6:30 to 9:30. Vice Chairman Peake mentioned that the approval by the Board was required prior to having any State approval. Ms. Camille confirmed. Vice Chairman Peake suggested having time limit. Mr. Cummings stated that many requests were for one (1) year. Vice Chairman Peake was in favor making a motion to approve the special exception for one (1) year only and for this appellant only. Motion to approve was seconded by Dr. David Branham and **Approved unanimously.**

**Case No. 9292 2033 Rothmore Drive SW**; The location of a structure, Deborah Robinson, appellant. Chairman Sisson made a motion this request be continued for 30 days. Motion was seconded by Mr. Fred Coffee and **Approved unanimously**.

**Case No. 9293 1314 Sierra Boulevard SE**; The location of a structure, Rashida Abbas and Anthony Ewing, appellant. Mr. Baudendistel presented the location of the given property. Mr. Kenneth Chandler who was a hired contractor with the job. Mr. Chandler mentioned some history with the demolition of a former detached garage further outlining the given proposed construction. Mr. Cummings mentioned the given 6 foot 8 inch rear yard setback variance with two of the proposed additions being enclosed and the other being open. Chairman Sisson asked about what the Board had previously approved back in April. Mr. Chandler stated just the proposed garage had been approved with just the footings being complete thus far. Vice Chairman Peake asked what the variance was for previously. Mr. Chandler confirmed this request as being due to the required side yard. Vice Chairman Peake restated that this request was only for a rear yard setback. Mr. Chandler confirmed. Mr. Cummings added the given rear yard was facing toward the Blossomwood Elementary School. Mr. Cummings stated this garage is meant to replace a previous garage that was considered non-conforming. Chairman Sisson asked about the given lot coverage being ok. Mr. Cummings stated it was. Chairman Sisson asked if the newly proposed garage was to be located farther away from the rear property line than the previous. Mr. Chandler confirmed this as correct. Vice Chairman Peake asked if the given clients would be opposed to any stipulation that open additions not be enclosed. Mr. Chandler stated they would not. Vice Chairman Peake made a motion that the plans be approved as presented with the stipulation that two of the open additions not be enclosed. Mr. Coffee seconded the motion that was **Approved unanimously**.

**Case No. 9294 2716 Deford Mill Road SE**; The location of a structure, Christopher Kowalski, appellant. Mr. Baudendistel presented the location of the given property. Mrs. Kowalski presented the plans to enclose an existing deck to make the space more usable. Mr. Cummings mentioned this request would require a 4 foot 8 inch rear yard setback variance with a 40 foot rear setback required in the given R1A Zoning District. Chairman Sisson asked how many letters were sent out. Mrs. Kowalski stated the number as 53 total. Chairman Sisson asked if the appellant heard anything. Mrs. Kowalski mentioned she received a text message from one neighbor who could not be present, but had no issues. Chairman Sisson opened the floor to further discussion from the board asking if the City had any issues. A motion was made by Dr. David Branham, seconded by Vice Chairman Peake, and **Approved unanimously**.

**Case No. 9295 2121 Whitesburg Drive SE**; An Administrative Review for type of signage in a Neighborhood Business C1 Zoning District, Neil Bell for New South Media Group, LLC and Outdoor Marketing & Development, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9296 4113 Bob Wallace Avenue SW**; An Administrative Review for type of signage in a Neighborhood Business C1 Zoning District, Neil Bell for New South Media Group, LLC and Outdoor Marketing & Development, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9297 8220 Stephanie Drive SW**; An Administrative Review for type of signage in a Neighborhood Business C1 Zoning District, Neil Bell for New South Media Group, LLC and Outdoor Marketing & Development, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9298 8402 Whitesburg Drive SW**; An Administrative Review for type of signage in a Neighborhood Business C1 Zoning District, Neil Bell for New South Media Group, LLC and Outdoor Marketing & Development, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9299 4016 University Drive NW**; An Administrative Review for type of signage in a Light Industry Zoning District, Neil Bell for New South Media Group, LLC and Outdoor Marketing & Development, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9300 4811 University Drive NW**; An Administrative Review for type of signage in a Highway Business C4 Zoning District, Neil Bell for New South Media Group, LLC and Outdoor Marketing & Development, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9301 7904 Memorial Parkway SE**; An Administrative Review for type of signage in a Light Industry & Development, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9302 7531 Bailey Cove Road SE**; An Administrative Review for type of signage in a Neighborhood Business C1 Zoning District, Neil Bell for New South Media Group, LLC and Outdoor Marketing & Development, LLC, appellant. Chairman Sisson made a motion to continue this request for 30 days. Motion was seconded by Vice Chairman Peake and **Approved unanimously.**

**Case No. 9303 5100 Premier Drive NW**; The location of a structure, the height of a structure, the location of off street parking, PVA landscaping, and a use variance to allow a hotel in a Research Park Zoning District and Residence 1A Zoning District, David Hall of Schoel Engineering for John Blue of Bradford, LLC, appellant, appellant. Chairman Sisson outlined the procedures for concerned residents to voice their concerns while having a single speaker represent the group as a whole. Jerry Cargile PE/PLS with Schoel Engineering presented an outline of the proposed plans and the unique geometry with the given site. Chairman Sisson requested a larger view of the proposed property. Mr. Cargile referred to an existing daycare near the property along with some flood overlay districts. Chairman Sisson inquired about the given Zoning being split. Mr. Cummings confirmed the district as being split between Residential 1-A and Research Park. Chairman Sisson asked about why the given property was split Zoned. Mr. Fred Coffee asked about some larger size lots located back within the given residential zoning district and subdivision. Mr. Cargile confirmed these as being located on the given streets back deep within the subdivision. Referring to the given site plan, Mr. Cargile gave details on the proposed layout and the proposed yard setbacks. Mr. Cargile mentioned a requested setback for parking, heights, and rear setbacks abutting residential. Chairman Sisson mentioned having two separate hotels within the proposed development. Mr. Cargile confirmed. 45-50 foot roof heights were also mentioned with the proposed buildings. Dr. David Branham asked how many feet were being requested with this variance. Mr. Cargile mentioned roughly seventeen (17) feet). Mr. Cargile outlined the requested setbacks and proposed landscape buffer. Chairman Sisson requested a line item detail outlining the requested items. One setback was for 60 feet where 100 feet is required. Another request was for the location as off-street parking. Mr. Cummings added that with a berm, a 30 foot landscape buffer is required where the site abuts residential. Another request was for a front setback variance. Chairman Sisson asked if they had considered relocating the proposed hotels over the given lot. Mr. Cargile stated they had. Vice Chairman Peake asked about the unlimited height. Mr. Cummings stated the height requirement here was unique in that it abutted residential. Dr. David Branham asked if a single hotel were to be proposed entirely within the Research Park Zoning District as to whether or not the height restriction would still apply. Mr. Cummings stated it would still apply due to abutting residential. Mr. Fred Coffee asked if hotels were permitted by right in a Research Park Zoning District. Mr. Cummings stated they were not. Chairman Sisson mentioned that neither Zoning District therefore would permit a hotel. Mr. Cummings confirmed. Chairman Sisson noted that while other nearby zoning district could permit a hotel, he asked for the City’s input as to why this property was being treated different. Mr. Thomas Nunez stated that the given property was being considered for rezoning, but due to the close proximity to nearby residential. Mr. Nunez added that the given zoning boundaries were once drawn in by hand. Mr. Nunez also added that the given property is abutting a major arterial. Mr. Cargile stated that it was best to request a use variance rather than rezoning. Mr. Nunez confirmed this as correct. Chairman Sisson opened to floor to public comment. Mr. Cargile requested the opportunity to show the proposed landscape plan with a privacy fence and buffer. Lisa Bradford shared come concerns about lighting, traffic, noise, etc. Chairman Sisson mentioned the given notification system was based off a given month. Bob Mansfield shared concerns regarding his property which abuts the proposed hotel tracts. Chairman Sisson asked if the given lots all include single family residences. Mr. Fred Coffee asked about the larger lots. These in fact only include one single family with numerous accessory buildings. Chairman Sisson referred to a given property line noting that the given lots were fairly deep and did not in fact include anything besides a number of given sheds and barns. The given lots were measured to be over 80 feet deep. Mr. Cummings stated that given the depth of these lots, the notification letters may not have been required to go out with all concerned residents. Mr. Fred Coffee asked if the City had ever approved a hotel within a Research Park Zoning District. Mr. Cummings stated there was once a similar request. Greg Revera shared concerns regarding a nearby pre-school which is operated adjacent to the proposed site. Mr. Revera shared concerns about the notification process, there being not one, but two (2) hotels, access issues through Premier Drive which is not a very wide road, the traffic volume, safety for daycare parents and children, noise, no buffers between the two properties, and others. Cindy Allen, president of the given preschool shared concerns regarding traffic, access, safety, liability, hotel tenants looking out over children on the given outdoor playground, visibility with the given preschool signage, security with the property, future business impacts, concerns for parents, and increased noise. William Allen, co-owner with the given preschool, shared concerns over the accessibility, impacts with their business, less revenue, accuracy with the given plans and the given access ways, more appropriate plans for the property. Bob Souly shared concerns regarding safety with his grandchildren who enjoy the wooded outdoors. Elizabeth voiced concerns regarding the use of hotels nearby, future walking paths to Mid City. Kristen Cooper shared opinions about noise levels and light overflow from parking areas. Lawaa Beard shared concerns regarding parking, neighborhood impacts, impacts to future walking trails, and safety to children. Travis voiced concerns about safety and security, restaurants with alcohol, and property value impacts.

Chairman Sisson requested board input regarding the use variance. Mr. Cargile stated that they were prepared to request a 30 day extension. Chairman Sisson suggested that the appellants re-consider the continuation. Mr. Fred Coffee asked if the case were in fact continued for 30 days, would the board not simply be adding to what is already heard. Chairman Sisson confirmed. Chairman Sisson acknowledged the community’s concerns. Chairman Sisson asked about the notification process and if it were required once again or not. Mr. Cummings confirmed it was not. Mr. Nunez mentioned that while rezoning was still an option, and that concerned citizens could voice their input with the process. Dr. David Branham stated that 30 day extensions are often granted to allow for further public involvement.

A motion was made by Chairman Sisson and seconded by Mr. Coffey to continue this request for 30 days noting the concerns are on record. **Approved unanimously.**