Administration Building

 Council Chambers

305 Fountain Circle

February 18, 2025

6:00 p.m.

**BOARD OF ZONING ADJUSTMENT**

Members Present:

Mr. Bert Peake – Vice Chairman

Mr. Eddie Davis Jr.

Dr. David Branham

Mr. Johnny Ozier - Supernumerary

Ms. Wendy Lee – Supernumerary

Others Present:

Mr. Thomas Nunez, City of Huntsville Planning Department

Mr. Travis Cummings, City of Huntsville Zoning Administration

Mrs. Courtney Edwards, City of Huntsville Zoning Administration

Mr. Robert Baudendistel, City of Huntsville Zoning Administration

Sgt. Christopher Davis, Huntsville Police Department

Officer Hudson Slater, Huntsville Police Department

The regular meeting of the Board of Zoning Adjustment was called to order by Vice-Chariman Peake at the time and place noted above.

Vice Chairman Peake 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 will have to wait six months before reapplying for a variance unless there was a significant change in the appellant’s request.

Vice-Chairman Peake then called the first case.

**Case No. 9855** **703 Holmes Avenue NE;** The location of a structure; Marc Goldmon, AIA with Matheny Goldman Architecture + Interiors for Shawn and Lindsey Sparks, appellant. Mrs. Edwards stated this request will require a 6 foot 4 inch side yard setback variance for a rear covered

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porch addition. In a Residence 1-B Zoning District, the minimum side yard setback is 10 feet for a 2 story structure.

Marc Goldmon of Matheny Goldman Architecture + Interiors for Shawn and Lindsey Sparks appeared before the Board and stated we are requesting a side yard setback variance for a space screened in back porch. Mr. Goldmon also stated the existing house has a non-conforming side yard setback. Vice-Chairman Peake asked for clarification on what is non-conforming on this home and what is being requested. Mr. Baudendistel stated based on the site plan presented, the proposed porch addition is increasing an existing non-conforming side yard setback by 4 inches. Vice-Chairman Peak asked if total lot coverage was being met. Mr. Baudendistel stated yes, the total lot coverage is met. Dr. Branham asked if the proposed addition could be built with the same proposed square footage and not increase the non-conforming side yard. Mr. Goldmon stated no, due to the shape of the roof line they would lose square footage. Mr. Davis asked if there have been similar requests in this area. Mr. Baudendistel stated the Old Towne Historic District’s houses are unique and often do have additions on existing non-conforming structures throughout this district. Vice-Chairman Peake asked if there has been any response from the neighbors. Mr. Goldmon stated he did not receive any calls. Mr. Baudendistel stated there was one neighbor who visited Zoning Administration with concerns. Mr. Baudendistel also stated after Zoning Administration explained to the neighbor the request the neighbor stated he no longer has any concerns for this request.

A motion was made by Mr. Ozier and seconded by Ms. Lee to approve a 6 foot 4 inch side yard setback variance for a rear-covered porch addition as presented. **Approved unanimously**.

**Case No. 9856 2031 Blue Spring Road NW;** A use variance to expand an existing communications repeater station in a Neighborhood Business C-1 Zoning District; Kevin Krueger of P. Marshal & Associates LLC, for Samuel Tincher of Level 3 Communications LLC appellant. Mrs. Edwards stated this request will require a use variance to expand an existing communications repeater station in a Neighborhood Business C-1 Zoning District. In a Neighborhood Business C-1 Zoning District, repeater stations are not permitted.

Mrs. Edwards stated this property been before the Board previously. Mrs. Edwards also stated we met the appellant on site to discuss the location of the structures and generator near the residential structures on the rear of the property. Mrs. Edwards also stated when visiting the site Zoning Administration also verified the completion of the stipulations given by the Board for landscaping and privacy fencing were installed from the previous request.

Mr. Krueger of P. Marshall & Associates LLC appeared before the Board and stated they were seeking a variance to expand the communication shelters. Mr. Krueger also stated the previous project that came before the Board last year is recently completed and the proposed expansion will meet the landscaping and fencing material. Mr. Krueger stated after meeting with Zoning Administration on site, they have moved the proposed generator away from the residential homes

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to limit noise from the residents. Mr. Krueger also stated the prefabricated shelters will be similar to what is already on the site. Mr. Krueger stated they are proposing to match the 8 foot wooden privacy fence on the north and west property lines as well as matching the additional landscaping. Vice-Chairman Peake asked what is the square footage of the proposed shelter? Mr. Krueger stated it would be a similar footprint as the existing shelter, and the concrete slabs will include an additional 24 x 36 foot concrete for a future shelter. Mrs. Edwards stated the east shelter is the proposed expansion and everything to the south is existing on the site. Mr. Krueger stated the existing height of the shelters is about 12 feet in height and the new addition will match the height. Mr. Cummings stated the generator, and other equipment has been relocated to 180 feet from the residential property line to the rear. Dr. Branham asked if the appellant will need additional variances in the future, due to the fact this property was before the Board last year for a similar request. Mr. Kreuger stated they will have to come back for a future expansion of the equipment shelters. Mrs. Edwards stated the existing cell tower is a monopole that came before the Board to be constructed, and this property has been through the variance process for each additional structure. Mr. Ozier asked if there is any intention to raise the height of the cell tower. Mr. Krueger replied no, this proposed expansion does not impact the existing cell tower in any way. Mrs. Edwards stated the proposed shelter, and generator will not exceed past the existing cell tower encroachment towards the residential homes.

Jerry Crutcher of 2507 Callahan Drive NW appeared before the Board and stated once he understood the request and the expansion of the shelter is not affecting the existing cell tower, he has no concerns for this request.

A motion was made by Dr. Branham and seconded by Mr. Davis to approve a use variance to expand an existing communications repeater station in a Neighborhood Business C-1 Zoning District for this use only and for this appellant only. **Approved unanimously.**

**Case No. 9857 1513 Big Cove Road SE;** The location of a structure and a height variance. Martell Holt of Holt Media Group, LLC, appellant.

A motion was made by Vice-Chairman Peake and seconded by Ms. Lee for a request to continue for 30 days. **Approved unanimously**

**Case No. 9858 2106 Seminole Drive SW;** Andrew Hanks of Sojourn Spaces, LLC, appellant. Location of parking in a Residence Office 2 Zoning District. Mrs. Edwards stated this request will require a variance to allow parking for a professional office use within a required front yard in a Residence Office 2 Zoning District. In a Residence Office 2 Zoning District, all required parking for Non-Residential uses shall be located off-street and at the rear of the property.

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Mr. Baudendistel stated Zoning Administration received a complaint about gravel parking was built in the front yard of this property. Mr. Baudendistel also stated Zoning Administration visited the site to meet with the owners to discuss the violations on the property and work on solutions to remedy the violations. Mr. Baudendistel also stated this property is in a Residence Office 2 Zoning District and can permit professional office use, however this zoning district’s intent is to maintain a residential look while allowing office spaces. Mr. Baudendistel stated this property is immediately north of the new mixed-use development at Lowe Mill. Mr. Baudendistel presented pictures of the gravel parking in the front yard as well as the gravel encroaching into the City Right-of-Way. Mr. Baudendistel stated that a Notice of Violation was issued back in December 2024 for the gravel parking in the front yard in Residence Office 2 Zoning which is not permitted. Mr. Baudendistel also stated this property requires 5 parking spaces. No front yard parking being permitted. Mr. Baudendistel stated the rear yard is roughly 60 foot wide by 30 foot deep and would potentially have room for 2 parking spaces. Mrs. Edwards stated this property has a recently constructed single-family home which is allowed to change the use to professional offices and the front yard parking is prohibited to maintain the residential look of this district.

Andrew and Courtney Hanks of Sojourn Spaces, LLC appeared before the Board and stated they are opening a professional office for counseling services. Mrs. Hanks also stated she is a licensed mental health therapist and is requesting a variance to allow 4 to 6 spaces for parking in the front yard of her property. Mrs. Hanks stated they received permission from another City of Huntsville Department to allow front yard gravel parking, however they did not get this permission in writing. Mr. Hanks stated the back of the property is too crowded and not safe for 2 parking spaces to be accessed. Mr. Cummings stated there is an existing unimproved alley which does not allow access at this time. Vice-Chairman Peake asked the appellant who they spoke with in reference to permitting front yard gravel parking. Mrs. Hanks stated she would rather not say at this time, however they do not have anything in writing from the City of Huntsville. Mr. Cummings stated the appellant did not speak with anyone from Zoning Administration in reference to allowing front yard gravel parking. Mr. Cummings stated Zoning Administration visited this site several times to help remedy the front yard gravel parking and relocating the parking to the rear or finding alternative options that would satisfy the Residential Office 2 Zoning District requirements. Mr. Cummings also stated there is a large 25 foot Right-of-Way and once the gravel is removed and required landscaping is included it becomes even tighter for parking the front yard. Vice-Chairman Peake asked if parking on the street was permitted for this appellant. Mr. Cummings stated if this property were to function as a single- family home instead of professional offices then parking in the Right-of-Way is permitted. Mr. Cummings stated since the appellant is running a business at this location, parking in the Right-of-Way is not permitted. Mr. Ozier asked how many counselors would be working at this location. Mr. Hanks stated they have 6 spaces in the office available for counseling. Mr. Ozier asked if this would include administrative spaces. Mr. Hanks said they are only leasing 6 spaces.

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Mr. Ozier stated if there are 6 counselors and potentially 6 patients then it sounds like this business would need 12 parking spaces and there could be 12 individuals on site at one time. Mrs. Hanks stated yes, it is possible but would be a rare occurrence as the counselors are all part time. Mrs. Hanks stated the development center across the street offered the previous business a parking agreement for the staff parking across and down the street and so the clients would park on site. Mr. Ozier stated this sounds like the site would be overloaded. Mrs. Hanks stated her business model for operation would be by appointment only and this would hopefully avoid overcrowding the site. Mr. Ozier asked for clarification on the dimensions of the yard. Mr. Baudendistel stated the dimensions of the yard is 30 foot by 60 foot. Ms. Lee asked for clarification if all front yard parking is prohibited or just gravel parking. Mr. Cummings stated all front yard parking is prohibited, and as well as using the Right-of-Way for parking. Ms. Lee asked if the appellant could parallel park in the Right-of-Way between the mailbox to the road. Mr. Cummings stated no, due to this zoning district prohibiting front yard parking and the appellant operating a business which does not allow Right-of-Way parking. Vice-Chairman Peake asked if the driveway could be used for parking. Mr. Cummings stated there is a provision in ordinance that allows for a 20-foot driveway. Vice-Chairman Peake stated I do not recall a history for this type of request. Mr. Cummings stated due to the revitalization in this area, we have not had any variances for front yard parking. Mr. Ozier asked if this request includes parking in the rear of the property. Mr. Hanks stated if we add 2 parking spaces in the rear, we are requesting 4 additional parking spaces in the front yard. Vice-Chairman Peake stated the only options are parking in the backyard, utilizing the driveway and making arrangements for offsite parking. Vice Chairman Peake stated front yard parking does not appear to be a viable option. Mr. Cummings stated we require the minimum of 1 parking space per 500 square feet. Dr. Branham stated it sounds like if the rear parking is not going to allow for the number of counselors, then the appellant should consider downsizing the number of counselors to meet the parking requirement. Mr. and Mrs. Hanks stated they plan to coordinate the 6 counselors are not working on the same day.

Scott Rooker of 2108 Seminole Drive appeared before the Board and stated he bought his property in June of 2022. Mr. Rooker also stated he called Zoning Administration to inform them a gravel parking lot was being poured in the front yard of this property. Mr. Rooker stated he believes this gravel parking lot negatively affects his property value and was told by his real estate agent this gravel parking lot will negatively affect his property and surrounding residential properties. Mr. Rooker stated the gravel parking lot drains water that runs off onto his property. Mr. Rooker also stated the previous owner was a professional office called Black Rock Strategy and they did not require a parking lot. Black Rock Strategy had 9 employees and made other arrangements for parking.

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Schehrazade Brenneman of 2107 Boardman Street appeared before the Board and stated she bought her property in 2018 and has seen many changes come to this area. Ms. Brenneman also stated she has security concerns about cars potentially parking overnight on the property. Ms. Brenneman stated the previous owner was more considerate and since the start of this project the Hanks have not maintained their property which has allowed rodents to increase in the back of the properties. Ms. Brenneman stated there is a significant issue with drainage in the rear. Ms. Brenneman also stated she also has concern for the increase in traffic to and from the property.

Stephen Buckley of 2105 Boardman Street stated he is excited about the revitalization of the area; however he has concerns about the property values being negatively affected by the gravel parking lot.

Katie Calvert of 312 Meadowbrook Drive appeared before the Board and stated she wants to give a representation of the appellant’s character and operation of their business. Ms. Calvert stated the Hanks are her friends and understand the backyard is not currently maintained properly, however the appellant has worked hard on their property. Ms. Calvert stated she thinks the Hanks will be great neighbors and wants to see a resolution.

Peyton McCulley of 2110 Seminole and 2100 Seminole Drive appeared before the Board and stated he has put money into this area by purchasing the condemned 2110 Seminole Drive and revitalizing the property. Mr. McCulley also stated he could help the appellant with contacting engineers about relocating the parking to the rear. Mr. McCulley stated he does not want to see the parking lot stay in the front yard.

Melissa Robinson of 410 Knotty Walls Road appeared before the Board and stated the Hanks have worked hard to start their business. Ms. Robinson stated the 2020 census average income was $80,000 and the resources in this area are limited. Ms. Robinson also stated this counseling office which helps trauma and family counselors are a benefit to the community.

Garrett Coin of 2814 6th Avenue appeared before the Board and stated the mixed-use development across the street which will have a major benefit for the neighborhood will be adversely affected by the gravel parking in the front.

Vice-Chairman Peake stated the Board does not make the ordinances and the Board is not responsible in providing a solution to an appellant’s violations. Vice Chairman Peake also stated this property has rear parking and parking on the driveway, however the appellant’s character and intent are not in question for this request. Mrs. Hanks stated the previous owner, Black Rock Strategies, violated parking in front as well, including parking on the grass. Ms. Hanks also stated she wants to beautify the space with beautiful landscaping and hopes with their improvements they may receive the Beautification Award. Mrs. Hanks stated the gravel was a temporary parking solution and wants to work in conjunction with everyone. Vice-Chairman

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Peake asked the Board if they had any additional questions. Dr. Branham asked what would happen with the gravel lot in the front yard if the request was denied. Mr. Cummings stated Zoning Administration would re-issue an active notice of violation and give the appellant 30 days to remove the gravel based on the Board’s decision. Vice-Chairman Peake asked if a continuation would be a viable option in this circumstance. Mr. Cummings stated if there was a significant change, we could possibly look at this request, but right now we have an entire gravel parking lot and when the gravel was installed the entire lot was made into PVA. Mr. Ozier stated the appellant needs to look into a written parking agreement with adjacent parking which could possibly be a significant change.

No motion was made therefore the location of parking in a Residential Office 2 Zoning District was **denied.**

**Case No. 9859 825 Madison Street SE;** A use variance to allow a convenience store in a Medical Zoning District, the location of an addition to an existing structure and a PVA lighting and PVA landscaping variance at 825 Madison Street SE, Keith Dillard for Mansour Azizkhani of NPN, LLC, appellant.

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

**Case No. 9860 8151 Memorial Parkway AKA PPINs 136207 and 81309;** A use variance to allow vehicle sales on a lot without an office, Cyrus Hughshenas of PARS Group LLC, appellant. Mrs. Edwards stated this request will require a use variance to allow used car sales on a lot without an office. In a Highway Business C-4 Zoning District, automobile sales must include an approved on-site office building.

Cyrus Hughshenas appeared before the Board and stated he was the property owner of 8100 Memorial Parkway SW which is directly across the Parkway from this requested property but had to sell this property when he was diagnosed with cancer. Mr. Hughshenas also stated he was looking for a more affordable property and found this space which was the old “park and sell” car lot. Mr. Hughshenas stated he is requesting to park cars to sell and while his lease has 60 spaces, he will only be using 20 parking spaces to display his cars. Mr. Hughshenas also stated he would be willing to install additional landscaping and is asking for a variance to have an office off-site and has leased office space on Lily Flagg Road. Mr. Hughshenas stated the “park and sell” car lot property is not able to have an office building and due to 95% of his car sales are online and he believes car sales are a seasonal business with sales only 4 to 5 months out of the year. Mr. Hughshenas stated this property is 750 feet long but is only using a small area. Vice-Chairman Peake asked for clarification on if the car sales is a variance request. Cyrus responded no. Vice-Chairman Peake asked the City if vehicle sales would be permitted on this lot if there was an office building. Mr. Baudendistel stated yes, Highway Business C-4 permits automotive sales with an office on site. Mr. Baudendistel also stated this strip of land is difficult to utilize

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due to the Railroad R-O-W, large three phase power line easement, and the property abutting a major arterial. Dr. Branham asked if the property which was also a former “park and sell’’ car lot north, further down the parkway near Jones Valley Drive up to Airport Road, is a similar stretch of land. Mr. Baudendistel stated the property Dr. Branham is speaking about was previously before the Board for the location of a structure and had an agreement with the Railroad Authority to add a building so the current request is different due to the office being off site. Ms. Lee asked what the City’s thoughts are about the use of ‘park and sell’ car lots continuing along the Parkway. Mr. Cummings stated the City has been protective of the sites for the last several years and would have concerns. The car lot would expand to the entire site and there are concerns with the look of this site which includes the U&D Easement, 50-foot set back off Memorial Parkway, the shape of the lot, and the landscaping and lighting would have to be brought up to meet current Zoning regulations.

Barbara Atkinson of 8134 Old Field Road SW appeared before the Board and stated she has strong opposition for the ‘park and sell’ car and the potential noise brought on by the business.

Mr. Cummings stated Zoning Administration received a few other phone calls of concerns from neighbors in this community abutting this site and we explained the location of the vehicles were along Memorial Parkway.

Mr. Ozier asked if this request was approved, would landscaping be required along the entire parcel of land. Mr. Cummings stated if the Board approves a variance to allow the sale of vehicles the Board would want to put stipulations in place for additional landscaping. Mr. Cummings also stated the intention is not to re-energize an old grandfather use which lost the grandfather status over the years. Mr. Baudendistel stated the property is not contiguous with the proposed office location. Vice-Chairman Peake stated the appellant has a few options which include the Board going ahead and voting, another option would be to request to continue for 30 days, or a final option would be to withdraw the request. Mr. Hughshenas stated he would like the Board to vote. Vice-Chairman Peake said we will vote and would ask for a motion.

No motion was made therefore the request was **denied**.

**Case No. 9861** **28719 Old Hwy 20 NW vacant lot, AKA Parcel ID 1706230000031000, AKA vacant property east of 28567 Old Highway 20 and Segers Road**; The location of PVA, an interior, PVA landscaping variance, and a variance to allow ingress/egress on the future street frontage lot. Gerald Clark of Schoel Engineering for Justin Allred of Jar Properties, LLC, appellant. Mrs. Edwards stated this request will require a 30-foot rear yard setback variance for the location of PVA over a 20-acre site abutting a railroad right-of-way. This request will also require a 6-inch west side yard setback variance for the location of PVA. This request will also require a variance to allow an ingress/egress drive isle over a future developed lot fronting Old Highway 20. In a Commercial Industrial Park Zoning District, the minimum required depth of a

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rear yard is 35 feet without a berm. In a Commercial Industrial Park Zoning District, the minimum required width of each side yard is 10 feet with no abutting residential district.

Gerald Clark of Schoel Engineering for Justin Allred of Jar Properties, LLC appeared before the Board and stated this property has 3 easements going through the property which makes it difficult to plant the landscaping material around the perimeter of the property and with needing more spaces for 18 wheelers to maneuver their trucks with bigger islands this is the need for the variance request before the Board for this property. Mr. Clark also stated the number of plant material is being met however the material will be placed elsewhere onsite. Mr. Baudendistel stated there are overhead power lines and the Railroad R.O.W. is 100 foot wide, so there is no development planned in the abutting property to the north, which is the largest setback request of 30 feet. Mr. Baudendistel also stated in a Commercial Industrial Park, has a minimum 35 foot rear yard setback is required. Mr. Baudendistel presented the west side yard setback request of 9 foot 6 inches, where 10 feet is required. Mr. Clark stated the plan in the future is to split the lot through a re-subdivision and would become a private drive and will have an access agreement. Mr. Cummings stated this is like the shared driveway access that the Board has seen recently several developments, and the Board puts conditions on it the ingress/egress agreement. Mr. Ozier asked to see the landscape site plan. Mr. Clark stated the amount of plant material will be met, however the material will be placed elsewhere on the site. Mr. Cummings stated the appellant is also providing landscaping along the front drive aisle.

A motion was made by Dr. Branham and seconded by Ms. Lee to approve a 30 foot rear yard setback variance for the location of PVA due to the fact the rear of the property abuts a railroad right-of-way, a 6 inch west side yard setback variance for the location of PVA, a variance to allow an ingress/egress drive isle over a future lot fronting Old Highway 20, and a variance for the location of interior landscaping; all as presented. **Approved Unanimously.**

No further business, therefore, the meeting was adjourned at 7:55 p.m.