



**CITY OF OPELIKA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA**

300 Martin Luther King Blvd.

November 8, 2022

TIME: 9:00 AM

A. APPROVAL OF MINUTES

B. VARIANCE

1. John R. Coe, 211 N 30th Street, Request to exceed the 50% maximum size allowed for accessory structures in the VR-1 zoning district (Village Residential - 1)

“In compliance with the Americans with Disabilities Act, the City of Opelika will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the ADA Coordinator 72 hours prior to the meeting at (334)705-5130.”



ZONING BOARD OF ADJUSTMENT MINUTES

300 Martin Luther King Blvd.

August 9, 2022

TIME: 9:00 AM

A. APPROVAL OF MINUTES

The City of Opelika Zoning Board of Adjustments held the regular meeting August 9, 2022 in the Meeting Chambers located at the Opelika Municipal Court, 300 MLK Boulevard. Certified letters were mailed out to all adjacent property owners for related issues for meeting dates.

MEMBERS PRESENT: Mr. Chris Anthony, Chairman Wilbert Payne, Mrs. Angela George, Mr. Jay Walters, Mrs. Tipi Miller, and Mrs. Raven Harvis.

MEMBERS ABSENT: Mr. Chris Nunn.

STAFF PRESENT: Mr. Matt Mosley, Planning Director
Mr. Marty Ogren, Planning Assistant Director
Mrs. Rachel Dennis, Planner
Mrs. Claire Barber, Planning and Zoning Technician

CALL TO ORDER: Chairman Payne called the meeting to order at 9:02 a.m.

ROLL CALL: Anthony, Chairman Payne, George, Walters, Miller, and Harvis.

Approval of Zoning Board of Adjustment Minutes July 12, 2022

RESULT: Passed
MOVER: Raven Harvis
SECONDER: Tipi Miller
AYES: Miller, Walters, Harvis, Payne, Anthony
NAYS: None
ABSTAIN: None

B. VARIANCE

4. RaceTrac Petroleum, Inc., 1107 Columbus Parkway, Requesting a 40 foot height variance from the maximum 20-foot sign height requirement for a freestanding sign.
(Tabled at the July 12th meeting)

Motion to move item number four to the beginning of the meeting.

RESULT: Passed
MOVER: Jay Walters
SECONDER: Raven Harvis
AYES: Miller, Walters, Harvis, Payne, Anthony
NAYS: None

Mr. Mosley reported at the May 2021 meeting, the Planning Commission granted RaceTrac Petroleum conditional use approval for a convenience store, gas station and truck stop (15 truck parking spaces). The 6.2-acre RaceTrac property is located on Columbus Parkway about 900 feet east of Exit 62 on I-85. The applicant is requesting a 40-foot variance to allow for a 60-foot-tall sign to be placed on the site. The applicant notes that the variance is needed to attract customers and allow them to change lanes safely. They also note that they submitted an application in November 2022, but the application was “terminated because a permit was not issued within 30 days.”

On November 9th, 2022, the ZBA heard a request for a 100 ft tall interstate sign for the site. This variance request was denied by the ZBA. Planning staff had let RaceTrac know that the zoning ordinance would likely be changing on November 18th, 2022, and if they wanted a 60 foot tall sign as was allowed at that time they would need to submit an application prior to that date. On November 11, 2022, a sign contractor for RaceTrac submitted an application to the City of Opelika for approval. (Applicable sign drawings attached) This application included a full sign package for the site including two freestanding signs, one 60 feet in height, and wall signage. The submission did not include required information regarding lighting and included signage for the canopy that was too large under the ordinance in place at that time, but that is now allowable. Under section 9.10(10)(a)(iii) of the City’s former Sign Regulations: “In the event that no decision is rendered within thirty (30) calendar days following submission, not counting the day of receipt the application shall be deemed denied and the denial shall be a final decision of the City if the applicant chooses not to seek reconsideration at that time.” As approval of the application was not granted within the 30-day time period, the request was denied by operation of this provision. As the ordinance changed prior to the end of the 30-day period, any signage would have needed to meet the new regulations.

At the previous ZBA meeting, there are much taller signs on Columbus Parkway. Many of the signs in this area are between 30-40 feet. The McDonald’s sign and Economy Inn sign are taller at 95 feet and 60 feet, respectively. These signs are non-conforming. This means that the signage can remain so long as it is not modified, removed, or destroyed. The signs can be maintained. Signs can also have changes to the copy provided they do not change the sign’s height, size, location, or structure. If the nonconforming signs are destroyed or new signage is necessary, that signage would be held to the same ordinance and standards of this site.

Staff also has some concerns that the 60-foot-tall sign will accomplish the applicant’s stated goal of increased visibility. At the November 9th ZBA meeting, when they were seeking a 100-foot-tall sign, the applicant’s representatives argued that the then allowed 60-foot-tall interstate sign would not provide the needed visibility for Interstate traffic. The applicant’s representative further stated at that meeting that the 20-foot-tall sign would be sufficient for visibility on Columbus Parkway.

Since the previous ZBA meeting, the applicant has begun construction on this site. The applicant submitted a revised application that did not include the 60-foot-tall signage, but did include other lower free-standing signage, wall signage, and canopy signage. The canopy signage that was too large under the previous sign regulations is now compliant due to the adoption of the new ordinance on November 18, 2022, which increased that standard. This signage was approved by the Planning Department.

Recommendation

Staff understands the applicant’s request for greater visibility considering the surrounding

signage and their use. However, as redevelopment occurs, or the existing signs deteriorate; new signs will be required to meet the same ordinance.

Staff recommends denial of the variance request. There are no hardships unique to the applicant's property that is not shared by adjacent or nearby properties.

Chairman Payne opened the public hearing.

Bert Boykin, representative, stated as Mr. Mosley stated, we were here before you on November 9th, 2021 requesting a variance to build a 100 foot sign. That was denied and we left that meeting and filed our application for a 60 foot sign which was allowed at the time. That was on November 11th, 2021. The new ordinance which eliminated the 60 foot sign and dropped it down to 20 feet became effective on November 18th, 2021 I believe. Our issue with the situation and the hardship that we have endured is that we submitted our application and did not receive any feedback or comments from the City within the 30 day period. This 30 day period is a clause in the ordinance that states that if an application is submitted and over a period of 30 days a permit is not issued, then there is an automatic denial of that application. There are a couple of issues with that. First of all, the complexity of modern sign ordinances, including the one that the City of Opelika has and there are reasons why ordinances have moved in that direction, but when you have a requirement for a permit to be issued within 30 days, that's not practical given all the things that are involved in getting sign approval. Those ordinances not only regulate height but brightness, copy area, and many other aspects. Usually what happens is, when a sign package is submitted, a vast majority of them are going to have comments or changes requested by the City when they interpret the ordinance compared to that application. So, the City doesn't immediately get that to you and in any circumstance, that takes some time. It comes back to us and then we have to interpret what the City is asking us to do, get our drawings together, resubmit, and then hopefully by the second go around I think that would be the most common point in which the permit is issued, but there are some packages where you have to go for another submittal. To say that all that can be done easily or at all within 30 days in most situations, I don't think that is the most common case. Usually you are going to have a back and forth that develops longer than the 30 day period, but in our situation we could not even address any comments that the City had because we didn't have those comments.

We are simply asking for a variance to get the sign that we submitted for under the ordinance that was in effect at the time that we submitted. Usually when this 30 days kicks in, the consequences aren't as harsh as we have endured because the ordinance changed within that 30 day period. You are not going to set a precedent here. There aren't going to be people showing up saying, "well RaceTrac got a variance on their sign height. They're going up to 60 feet." We could easily discuss with anyone and explain how that would only apply to us. When you are looking at the ordinance, the Board is always thinking about certain conditions that have to be present in order to justify a variance, such as is there a hardship? I think that we certainly have that. Is it unique? Yes, I think it's definitely unique to us. This is not going to be a common thing that occurs. Are there any negative consequences to the public as a result of granting our request? I would say the answer to that is no. On Columbus Parkway there are many signs that are 60 feet or 100 feet, way higher than what we are going to build. I know that those were built under different versions of the sign ordinance but those signs have a life that could last for decades potentially. It's not like putting our 60 foot sign out there is going to be inconsistent with the area. To the contrary, if we are at 20 feet, that is going to put our site at a competitive disadvantage and also make it so that drivers can't see our sign. We are attracting both residents and the traveling public to this site. RaceTrac is a brand that is known throughout the southeast. They're building multiple locations in Alabama already. I passed one on my ride here in

Chelsea I believe. Folks look for our site and the reason for that is they know what to expect. They have been to other RaceTracs and they are going to identify that they want to stop there because it is a consistent place to get gas, use the restroom, and buy quality convenient items. So, they need a sign they can identify quickly and enable them to make a safe lane change over to the site and turn in with no issues. A 60 foot sign is obviously much more visible at a greater distance than a 20 foot sign. I think that sums up our argument and I will be here for any questions.

Samantha Jones, authorized representative for RaceTrac, stated thank you for having us back today and for your continued consideration on this matter. I don't think that there is much more to say other than to emphasize that we are just seeking what was allowed by code at the time and we appreciate your consideration on this matter.

Mr. Walters stated we heard some of this last month and one of the things that stood out to me and that we discussed was the idea of hardship and whether or not the ordinance allowed under our powers as the Zoning Board of Adjustments is hardship exclusive to a hardship that is a result of narrowness, shallowness, size, shape of the property, topographic conditions, and that sort of thing. That's what we often look at, but in the case of this sign, the question that came up was could a hardship be considered when the application process itself may be a hardship. In my opinion, it could be. Reading from the ordinance, we are authorized to appeal, "in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, the enforcement or the provisions of this chapter would result in unwarranted hardship and injustice..." I keep thinking that there is a special condition to Mr. Boykin's point where we might have an issue of hardship due to the timing of this application and the change of the ordinance in relation to that. Based on that, I would make a motion for discussion that we approve the variance based on the hardship of the timing where RaceTrac submitted the application within the deadline and didn't hear back from the City, though there is nothing in there that says that they have to, but because of the strict enforcement of that the timing ran out and the ordinance changed at the same time. I feel like there is a hardship there and I would make a motion to approve the variance based on that hardship.

Chairman Payne closed the public hearing.

Motion to approve the 40 foot height variance from the maximum 20-foot sign height requirement for a freestanding sign

RESULT:	Passed
MOVER:	Jay Walters
SECONDER:	Raven Harvis
DISCUSSION:	Mrs. Miller stated I just want to verify with Mr. Mosley that the timeline of events is correct. Mr. Mosley stated yes. The Board met on November 9th and denied the 100 foot sign. On November 11th they submitted an application for a 60 foot sign. The ordinance changed on November 18th and then the 30 days ran out December 12th or 13th, which would have denied their application by rule. There were some things outstanding beyond that. I do think we should have responded sooner to that to give them the opportunity to either change those or to resubmit, but the timeline is essentially correct.
AYES:	Miller, Walters, Harvis, Payne, Anthony
NAYS:	None

ABSTAIN: None

1. Jeremy Clark, Compass Construction, 710 Avenue E, Requesting a 10-foot front yard setback variance from the 25-foot front yard setback requirements in a C-2 zoning district.

Mr. Mosley reported the applicant is requesting a 10-foot front yard variance to allow a residence to be up to 15 feet from the front property line. The subject property is located on the corner of Avenue E and S. 8th Street. The property previously had a home on the corner that faced S. 8th Street.

The subject property is located in the Geneva Street (Southside) Historic District. While there are not lots on the immediately adjoining lots, most lots in this area do not meet the setbacks for C-2. The homes across the street range from 0-10 feet off of the property line. The previous home at this location was approximately 15 feet from S. 8th Street and 8 feet from Avenue E. While the lot is large enough to meet a deeper setback, if the house was reduced in size, the deeper setback would be out of character for the historic district.

Recommendation

Staff believes that this request would allow the development to be more in character to the existing neighborhood. Staff recommends approval of the proposed variance based on the site plan presented. If granted by the ZBA, the use would still require Historic Preservation Commission approval for the structures.

Chairman Payne opened the public hearing.

Matt Hall, representative, stated I am working in a design/build capacity with Jeremy Clark with Compass Construction. I think Mr. Mosley explained it well. We are at the corner of South 8th Street and Avenue E. Through our design process as architects, we look at the historic character of the neighborhood and we noticed that most of the buildings have a much closer relationship to the street. As Mr. Mosley said, we would like to maintain that character. The next slide just locates the two masses of the buildings and the slide after that is our walking down the street analysis of what type of setbacks we have from the right-of-way. We think 15 feet is much more in character with the kind of scale and dimension that is existing. I think we will be talking about that again for the building that's on the corner of South 8th Street and Avenue E. On the last slide you can see that right now the setback requirement is 25 feet and we are looking at bringing it to 15 feet. That's not 15 feet from the road edge, that's 15 feet from the right-of-way, so you would actually end up having significantly greater distance from the street.

Mr. Mosley stated it looks like according to their drawing here it would be about 27 feet to the edge of the pavement.

Matt Hall stated correct.

Mr. Mosley stated it is 15 feet to the edge of the property and then it's another 12 feet from the edge of the property to the back of the curb or the edge of the street, which is fairly common in the Historic District. Twelve feet is about what we see between the street itself and the property line. That typically includes some trees and sidewalks and things like that.

Chairman Payne closed the public hearing.

Motion to approve the 10-foot front yard setback variance from the 25-foot front yard setback requirement

RESULT:	Passed
MOVER:	Raven Harvis
SECONDER:	Tipi Miller
AYES:	Miller, Walters, Harvis, Payne, Anthony
NAYS:	None
ABSTAIN:	None

2. Jeremy Clark, Compass Construction, 512 South 8th Street, Requesting a 15-foot front yard setback variance from the 30-foot front yard setback requirement in a C-2 zoning district.

Mr. Mosley reported the applicant is requesting a 15-foot front yard variance to allow a residence to be up to 15 feet from the front property line. The subject property is located on the corner of Avenue E and S. 8th Street. The property previously had a home on the corner that faced S. 8th Street.

The subject property is located in the Geneva Street (Southside) Historic District. While there are not lots on the immediately adjoining lots, most lots in this area do not meet the setbacks for C-2. The homes across the street range from 0-10 feet off of the property line. The previous home at this location was approximately 15 feet from S. 8th Street and 8 feet from Avenue E. While the lot is large enough to meet a deeper setback, if the house was reduced in size, the deeper setback would be out of character for the historic district.

Recommendation

Staff believes that this request would allow the development to be more in character to the existing neighborhood. Staff recommends approval of the proposed variance based on the site plan presented. If granted by the ZBA, the use would still require Historic Preservation Commission approval for the structures.

Chairman Payne opened the public hearing.

Matt Hall, representative, stated Mr. Mosley was very thorough and it is basically the same argument that we were making with the residential.

Chairman Payne closed the public hearing.

Motion to approve the 15-foot front yard setback variance from the 30-foot front yard setback requirement

RESULT:	Passed
MOVER:	Jay Walters
SECONDER:	Raven Harvis
AYES:	Miller, Walters, Harvis, Payne, Anthony
NAYS:	None
ABSTAIN:	None

3. Jeremy Clark, Compass Construction, 512 South 8th Street, Requesting a 6 parking space variance from the 15 parking space requirement for a two story mixed use commercial & residential structure in a C-2 zoning district.

Mr. Mosley reported the applicant is requesting a variance of six (6) parking spaces to allow a mixed use development to only have nine (9) parking spaces. The applicant is proposing to build a two story building with two residences over a commercial use on the bottom. Each residence by ordinance requires 2 parking spaces (4 total) and the commercial space would require 11 spaces.

The subject property is located in the Geneva Street (Southside) Historic District. Most of the commercial uses through this area do not have as many parking spaces as are proposed here. Additionally, many homes in this area use on street parking to supplement on-site parking. The applicant has stated that it is likely that these units will be designed as live-work units where the resident will work in the commercial space below reducing the needed parking. Additionally, in the historic district, most parking is gravel and unmarked.

Recommendation

Staff believes that this request would allow the development to be more in character to the existing neighborhood. Staff recommends approval of the variance. If granted by the ZBA, the use would still require Historic Preservation Commission approval for the structures.

Chairman Payne opened the public hearing.

Matt Hall, representative, stated the size of the building is highly determined by the scale of the buildings around it so one could imagine a much larger building here, but even if we made a smaller building, you would still be overwhelmed by the parking requirement. It is very difficult to get that number of spaces on this site. One of the things that we talked about with Mr. Mosley was trying not to turn the property into a parking lot. I think Mr. Mosley made the case very well that with the live/work unit, the availability of on street parking, and the spaces that we can provide, we feel pretty comfortable that it's going to be adequate and still work with the scale of the neighborhood. Lastly, we also want to try to pull the parking to the interior of the lot so that you aren't seeing a parking lot from South 8th Street. You might see it a little bit more from Avenue E, but if we're fronting on South 8th Street, I think it maintains the predominantly residential character of that without putting any parking on it. If we have to meet the demands of the parking requirement as stated in the code, we start to have to put parking spaces on South 8th Street or raise the building up and start to place the parking underneath, which we think would be significantly out of character with South 8th Street. Thank you for your time.

Mrs. George asked Mr. Mosley you said that the parking lot would be a type of gravel? Has there been another gravel parking lot on South 8th Street or behind South 8th Street across from the Post Office?

Mr. Mosley stated yes, there are some crush and run gravel lots through there. Recently Mr. Hilyer has acquired quite a few lots between Avenue D and Avenue C, which is the next block up. We are working with him right now to put in that parking there and one thing we are working with him that he had not done is to install the required landscaping so that it's less visible from 7th Street.

Mrs. George asked if they did gravel, you're saying they don't have to do designated spots?

Mr. Mosley stated right. Sometimes people will put in curbstops to designate where the parking should be, but we typically don't require them to put in any rope or paint down to designate full-sized parking spaces, other than they are pretty much required to put in a sign for an accessible handicap space.

Mrs. George stated so it's pretty much just the measurements would fit that many spaces.

Mr. Mosley stated it's the measurements. What we find in most cases, now a lot of people here have larger SUVs or trucks, but in most cases you can usually fit more cars than parking spaces. While this shows 7 spaces on that side, my guess is you would likely be able to fit 8 or 9 depending on the size of the car.

Mrs. George asked is there a sidewalk on Avenue E?

Mr. Mosley stated yes ma'am.

Mrs. George asked are there any plans in the future to do designated side parking there?

Mr. Mosley stated we have looked at that when it becomes an issue and if this were approved and it became an issue and there needed to be more formalized parking through here, we would probably reach out to the applicant and come up with a plan based on that.

Mrs. George stated I know that's been done on a few other sites.

Mr. Mosley stated it has been. We try on streets that are fairly lightly traveled like Avenue E, especially side streets, to not necessarily put in that parking and let people park in the street. It keeps traffic moving slowly because it limits how fast you can go and gives you obstacles that you have to go around. So, typically we try not to do that until it becomes absolutely necessary. The plan that the Board approved by Stern Park, in that case, because the park was there and because there were more units there, we felt there may need to be more formal parking there. We talked to the applicant early at that time about putting in offset street parking, whereas in this case with it being two units you are less likely to see a dramatic need for parking.

Mrs. George stated downstairs is office space and upstairs is residential. Is it one or two bedrooms?

Mr. Mosley stated that's a good question because one bedroom typically has fewer tenants than a three bedroom would. I'm not sure if that has been determined yet or what type of unit will be on the second floor.

Matt Hall stated we are very much in the early stages, but in our discussions with the client and your department we would be thinking a maximum of two bedrooms. So you are kind of looking at a single family unit, not something that two or three students would be renting out. From looking at the square footage, it might actually reduce to one bedroom, but I can't imagine it would be any more than two.

Mr. Mosley stated in today's terms, two bedrooms would typically produce maybe one and a half to two people per unit. It just depends on how many vehicles they have. It may be one or two per unit. This is one of those cases where you may not even have a full vehicle per unit. I don't think we're there yet. I think there will be at least one car per unit, but a lot of times what we see with people moving into a space like this is that they may share one vehicle and then use bicycles or other things to get around. It's definitely fewer vehicles than you would see in a

more suburban location like The Crossings or something like that where pretty much everyone has to have a vehicle to go anywhere.

Mr. Walters stated two spaces per residential seems reasonable, especially if it's a two-bedroom unit.

Mr. Mosley stated it's definitely not overkill.

Mr. Walters stated I feel like one might not be enough, so that seems right. My concern is, on the commercial side you are talking about 11 spaces with a total of 2,600 square feet and there's really no overflow parking. If you have three or four people in each one of those office spaces, because even though the idea would be that the person above it would have that space, it's not a requirement and I don't know that we would want to make that assumption. We want that space to be viable for people who want to rent it and bring businesses into it. I would worry that it would make it less appealing if we approved a variance and they didn't have adequate parking there to get the full benefit of the office space. Is there any chance of going back and looking at adding a cutout in the street for a few more parallel spaces along the street? Avenue E is not a very wide street.

Mr. Mosley stated it's not. Have you measured it, Mr. Hall?

Matt Hall stated I would have to dig a little deeper in my files, but from my constant visits to the site, the ability to parallel park on one side of Avenue E is completely reasonable. There is a lot of parallel parking on South 8th Street. I think you bring up a very logical point that it doesn't necessarily have to be a live/work situation and if we had three or four people in each office, we would most definitely have people parking in the street. But in a city, having parking in the street seems consistent, especially in Opelika. We agree that it tends to slow down traffic, it tends to protect pedestrians by having cars between the sidewalk and the street, so we fully understand that we will perhaps be dependent on street parking.

Mr. Walters stated you have 9 spots but one of them is ADA, so if nobody is eligible for that, then you really only have 8 spots. Half of those are taken up by the residents and those need to stay open for those residents. That only leaves four parking spaces for 2,600 square feet of commercial businesses.

Matt Hall stated correct.

Mr. Walters asked with the street being that narrow, is there an opportunity, and I guess it would just have to be included in the project maybe working with the City in conjunction with the owners, of widening the street with a cutout along that Lot that widens the street some so that people who might be parking on the street can have a little bit of room to get out of their car when parallel parking along there? I just want to make the units viable and appealing to businesses and at the same time, that's pretty tight.

Mr. Mosley stated it's about 20 feet wide.

Mr. Walters asked what's in that right-of-way to the left? Is there an opportunity to pave that street and widen it some to get some parking spaces that are off to the side a little more so you're not blocking a complete lane of traffic?

Mr. Mosley stated we would probably need to speak to the City Engineer to see his thoughts on that. It's not something we have looked at yet, but we can reach out to him and see.

Mrs. Miller left the meeting at 9:50 a.m.

Matt Hall stated I think that's a really good point. I think our concern would be, when does that start to encroach on the sidewalk? I think even with the reduced setback we have some space in front of those two properties on Avenue E to accommodate that infrastructure change. This is all anecdotal and generalizations about urban conditions, but I think if one is moving into an urban condition they understand that it is a very different parking consideration than a suburb. If you are in a live work unit in an urban condition you may only have street parking. I think that's very common in Opelika. If I go to Zazu for dinner there may be 50 people in there but you have to find parking in the street. We understand that this is a predominantly a residential neighborhood on South 8th Street, so obviously that is a concern if you had 10 or 12 people parking in front of people's houses, but we do think that's more in character with that part of Opelika than it would be to have a larger parking lot, although Mr. Walters I think your comment about adding more structured parking on Avenue E would be a reasonable compromise. We would just be concerned about the nature of that street once we introduce formalized parking and how much that would encroach on the sidewalk.

Mr. Walters stated I guess I would recommend taking a look at that and what that would look like. I don't know how many spots you could get on the street, but even if you have two or three it makes it a little more palatable knowing that it's there. When you look at parking downtown and in urban areas you may have to walk and this is downtown certainly, but I don't know that anywhere near this are some other parking spots where you could go to. Using your example of Zazu's, I could go down toward Niffer's or the parking spots in front of the Irish Bread Pub and find some other spots that I could walk to. I don't know where any other parking in this area might be available for someone to do that. Does that make sense?

Matt Hall stated certainly.

Mr. Mosley stated the only close by parking is the parking area that's on private property between the two daycares. I'm not sure how open they would be to allowing someone to share in that parking or use that parking. I think you're right, we could probably talk to the Engineer to see if there could be a little bit more of a bump out down here. I don't think we're going to have enough room to put a full side parking space in, but that may not mean that we can't put in a couple of feet to still clear the lanes a little bit more if that would be something that you would like to see and give a little bit more formalized side parking there. The other thing that we do see down here is that if there are residents using those spaces, a lot of times we get different users at different times. Residents may not be there during the day when the businesses are open. Most of our businesses through that area are Monday through Friday, 8 to 5 office uses. We may have one or two down through there that keep some longer hours, so in some regards it does become a self-regulating thing. The other thing that we have run into a lot of times is that it becomes an issue for the landlord of these properties. I'm not sure if they are intending to condo these or sell them in any way, but if there are two commercial units and two residential units above, they may not look to rent one of the units to a high turnover business like a hair salon or something like that that would bring in lots of traffic and customers because the other tenant would then be potentially limited to the amount of parking that they can utilize. We see this a lot more in some of our warehouse uses and we warn people a lot of times if it starts to become an issue. If you have a landscaping crew that is going to utilize one bay and you know that they've got 20 workers who are going to park their cars there even though they aren't utilizing it a lot, that's going to really limit what the next bay over can do, because there simply isn't enough parking and to some degree it works itself out so that people know they either have to limit the amount of daytime traffic they utilize or the number of employees they

carry or the types of businesses that go in there. I do understand your concern.

Mr. Walters stated I would say that we make a motion to table this to the next meeting to give Mr. Hall and the applicant time to go back and talk some more to you and the Engineer with some alternatives to add some plans there. I certainly don't want to take away from downtown. I think it would be prudent to look at that and make sure there is adequate parking. If I was a resident I would want to make sure that I had a spot. If I came home from lunch or work, I would want to make sure my spot was designated as opposed to leaving and coming back and not having a spot.

Mr. Mosley stated I do understand your concern. I'm not sure what their timeline is. Mr. Clark, do you have any thoughts on that?

Jeremy Clark, Compass Construction, stated timeline wise I think that we would have time to try to accommodate that. I would like to reiterate what Mr. Mosley is saying. I think it becomes self-regulating to some degree, in that if I am a business owner looking to move into this space, I would be aware of the limited parking and that would become a less desirable property for me if it was a hair salon. It kind of starts to work itself out and I was imagining we would have dedicated residential spots with signage so that those are reserved for residents.

Chairman Payne closed the public hearing.

Motion to table the item to the September 13, 2022 Zoning Board of Adjustment meeting

RESULT:	Passed
MOVER:	Jay Walters
SECONDER:	Raven Harvis
AYES:	Walters, Harvis, Payne, Anthony, George
NAYS:	None
ABSTAIN:	None

C. ADJOURN

Motion to adjourn at 9:58 a.m.

RESULT:	Passed
MOVER:	Raven Harvis
SECONDER:	Jay Walters
AYES:	Walters, Harvis, Payne, Anthony, George
NAYS:	None
ABSTAIN:	None

Wilbert Payne, Chairman

Matt Mosley, Secretary

CITY OF OPELIKA - BZA
STAFF REPORT
November 8, 2022

Applicant: John Coe

Property: 211 30th Street (Pepperell Village)

Existing Zone: VR-1 (Village Residential-1)

Request: Variance to exceed the maximum size allowed for an accessory building

Proposal

Section 7.7 E. Village Residential District of the Zoning Ordinance states the total square footage of all accessory structures (maximum 3 structures allowed) shall be limited to fifty percent (50%) of the heated square footage of the principal dwelling. The applicant's property is in the Village Residential (VR) zoning district. The applicant is requesting a 6.85% variance as explained in this report to construct a 10'x 16' open cover for a grill. The purpose of limiting accessory buildings is to preserve open space in the rear yard between adjacent residential property owners to maintain a residential neighborhood character and the rear yards not overrun with accessory structures

In 2007 the Village Residential (VR) section was added to the Zoning Ordinance. The VR regulations state that accessory structures are limited to 50% of the total square footage (sf) of the principal dwelling. In Section 8.11 of the Zoning Ordinance "*Accessory Structures for Residential Dwelling Units*" it states that accessory structure is limited to 40% of the principal dwelling. For all residential dwellings, except for those dwellings in the VR zone, 40% is used to figure maximum accessory structure limits. In the VR zone 50% is used to determine limits for accessory structures.

In 2012, the applicant was granted a variance for a 30x20 accessory structure for this same property in the VR zoning district. 40% of the principal dwelling was erroneously used to calculate the limits for the maximum square footage of accessory structure based on the square footage of the applicant's principal dwelling instead of the 50% limits as provided in the VR section of the Zoning Ordinance; also, 1,200 sf was used for the square footage of the applicant's dwelling instead of 1,127 sf. At the 2012 ZBA meeting, staff reported that 480 sf was the maximum allowed limit for accessory structure ($40\% \times 1,200 \text{ sf} = 480 \text{ sf}$). The Zoning Board granted a 10% variance from 40% to 50% allowing the applicant an additional 120 square feet so the 30 x 20 (600 sf) structure could be built.

For today's meeting, a maximum of 50% of the principal dwelling was used to figure the maximum square foot limits for accessory structure as required in the VR zone. The applicant's home is 1,127 square feet ¹ so a maximum of 563.5 sf ($1,127 \times 50\% = 563.5 \text{ sf}$) of accessory structure is allowed.

In 2012, the Zoning Board approved a 10% variance from 40% to 50% of the principal structure to increase the maximum size limit for accessory structures. The 10% increase allowed an additional 120 sf of accessory structure so the 30x20 accessory structure could be constructed. The same 10% variance or 120 sf increases the 50% maximum limit allowed by 10.65% to 60.65% ($1,127 \times 60.65\% = 683.5 \text{ sf}$). The 10.65% variance increased the maximum square footage limit from 563.5 sf to a maximum 683.5 sf ($563.5 + 120 \text{ sf variance} = 683.5 \text{ sf}$) of accessory structures.

The applicant's request today is for a 160 sf accessory structure. In 2012, an 83.5 sf variance excess occurred ($683.5 - 600 = 83.5 \text{ sf}$) when the 40% limit was mistakenly applied instead of the 50% limit. The 83.5 variance excess still applies for today's 160 sf variance request. Therefore, a variance request for the remaining 76.5 sf variance ($160 - 83.5 = 76.5 \text{ sf}$) is requested today. The 76.5 sf equals a 6.85% variance request. The 60.65% maximum limit requirement approved (683.5 sf) in 2012 plus the 6.85% variance request today allows the applicant to construct a 10x16 open cover.

The applicant is requesting a 6.85% increase to the 60.65% maximum limit granted in 2012. If the 6.85% variance is approved, the maximum limit for accessory structures would be 67.5% ($60.65\% + 6.85\% = 67.5\%$) of the applicant's 1,127 sf home. The 6.85% variance request plus the ($1,127 \times 67.5\% = 760.7 \text{ sf}$).

Recommendation

The applicant's property is significantly larger than most properties along 30th Street. The property is 25,944 square feet with 200 feet of frontage along N 30th Street. The applicant's rear yard area alone is about 11,300 square feet. In comparison, other lots fronting along North 30th Street near the applicant's lot range from 15,000 sf to 19,400 sf.; lot widths range 80 feet to 130 feet. Staff believes there is adequate rear yard open space area between the applicant's lot and adjacent property owners for the 10x16 open cover. The 10x16 is located near a 6' high fence and about 10 feet from the applicant's home (see aerial photo next page). An opaque fence 6 feet in height encloses the rear yard on the front, side, and rear. The 10 x 16's maximum height is 12 feet at the ridge. The fence visually screens a portion of the structure from the adjacent

¹ The 1,127 square feet is from the Lee County Property Tax records. PIN #14266. 1015 square feet + 112 sf addition = 1,127 sf

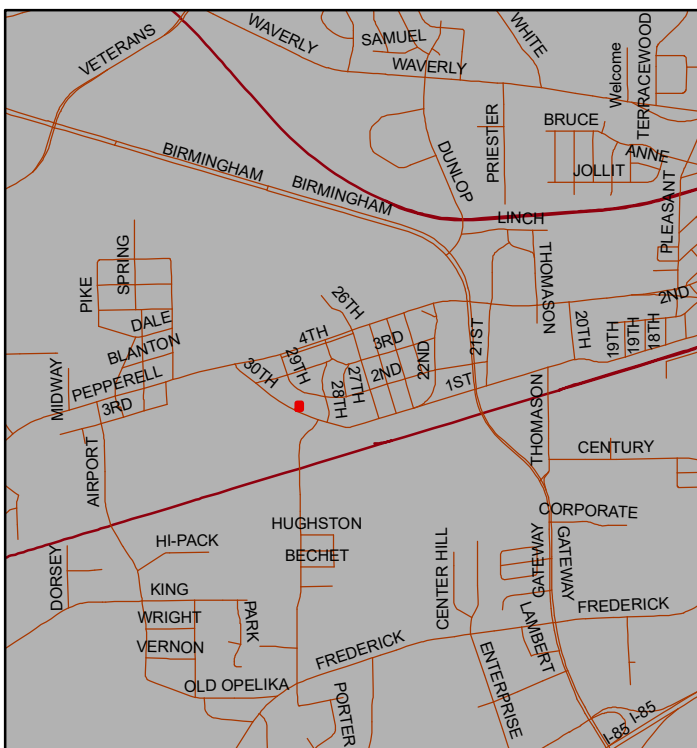
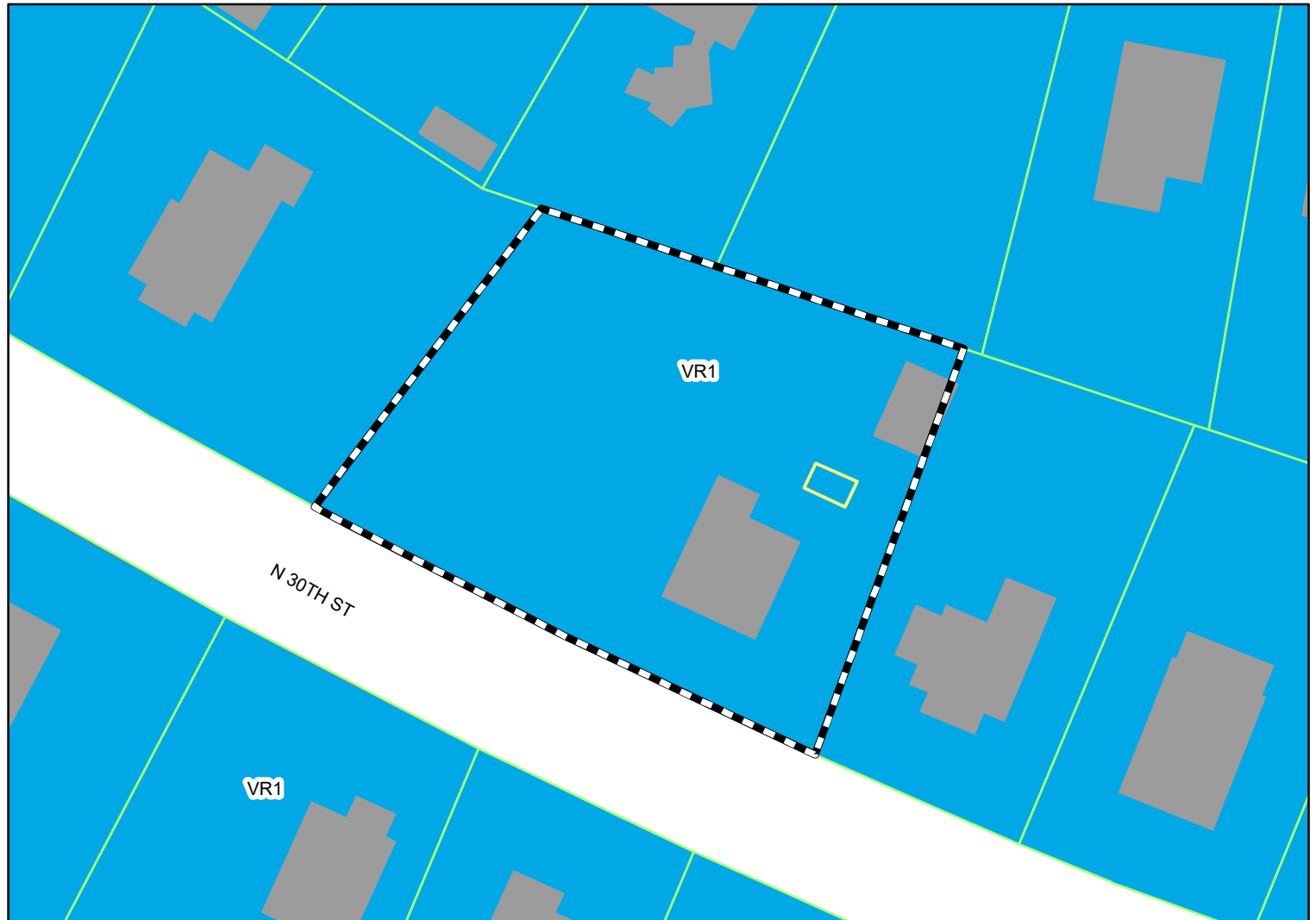
properties. Planning staff recommends a 6.85% variance increase to the 60.65% maximum limit of accessory structures approved in 2012. If the 6.85% variance is approved then all accessory structures are limited to 67.5% of the square footage of the applicant's home or 760 square feet - $1,127 \text{ sf} \times 67.5\% \times 1,127 = 760 \text{ sf}$. The existing 30x20 and proposed 10x16 equal 760 sf.



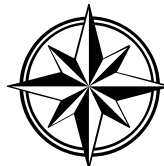
JOHN COE VARIANCE REQUEST

311 N 30TH STREET

ACCESSORY STRUCTURE VARIANCE



The applicant is requesting a variance to exceed the 50% maximum allowed for accessory structures in the VR-1 zoning district. The 50% max allowed is based on the square footage (sf) of the home. The home is 1,127 sf x 50% = 563.5 sf maximum allowed. Applicant is requesting 760 sf of accessory structure. A 20x30 exists and a 10x16 is proposed (yellow rectangle). A 17.4% variance increase above the 50% maximum is requested.



Subject Property

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**APPLICATION FOR
VARIANCE (Section 4.2A)**
PLANNING DEPARTMENT
700 FOX TRAIL
OPELIKA, AL 36801

3143



DATE: 10/18/2022	Zoning Board of Adjustment Meeting Date: 11/8/2022
Case Number:	Meeting Deadline: 10/20/2022

PART I. OWNER / APPLICANT INFORMATION

John Richard Coe 211 N 30th St 334-275-0243
Owner Name Address Phone

Agent Name (if applicable) Address Phone

PART II. PARCEL INFORMATION

Street Address: 211 N 30th St Opelika AL 36801

Current Zoning: _____

Current Land Use: Homestead

Type of Variance Sought: _____ Sign _____ Parking _____ Setback _____ Other

PART III. Provide a Brief Description and Reason for the Variance (attach a zoning map or site plan) Building a tin roof cover over a concrete pad covering my BBQ grill area.

Setback	Required	Proposed	Amount of Variance
Front			160 sq feet
Side			
Side			
Rear			

PART IV.

1) Are there extraordinary and/or exceptional conditions to the particular property, which make a variance necessary? I own a double lot, it's 3/4 of an acre. I'm just requesting to be able to put a roof over the current concrete slab to cover my BBQ grill area.