

STAFF REPORT
ZONING BOARD OF ADJUSTMENT
CITY OF BIRMINGHAM
Meeting Date: January 11, 2024
Time: 3:00PM
Pre-Meeting: 2:30PM

ZBA2023-00028..... Ensley Neighborhood

Request: Special Exception to allow a communal living facility

Filed by: Janice Smith of Dominion Property Services Inc., the owner.

Location: 1701 Avenue V, Birmingham, AL 35218 situated in the SW ¼ of Section 32, Township 17-S, Range 3-West, Council District 9.

Applicant's Proposal

The applicant plans to open a Communal Living Facility for homeless veterans (women and children). In the heart of Birmingham, a staggering number of homeless veteran women and children are struggling to find stability in their lives. I was told that housing for the male population is more plentiful. However, the need is dire for women and children, with a lack of resources and support exacerbating their already precarious situations. According to recent data, there are over 500 homeless veteran women and children in the Birmingham area, with the number steadily increasing. These individuals, who have sacrificed for their country, are now left without a place to call home. Many of these women and children are living on the streets, in shelters, or temporary housing, with little hope for a brighter future. The lack of affordable housing, mental health services, and job opportunities only adds to their struggle. The plight of homeless veteran women and children in the Birmingham area cannot be ignored. It is a call to action for our community, our leaders, and our society as a whole to come together and provide the support and resources these individuals need to rebuild their lives.

Property and Abutting Land Uses.

The subject property is currently zoned *CR-5, Contingency Multiple-Family District*. Properties to the North, South, and West are also zoned *R-5, Multiple-Family District*. Properties to the East are zoned *R-3, Single-Family District*. This property is located within a *Special Flood Hazard Area*. (See Floodplain Comments).

Zoning Ordinance

Title 1, Chapter 4, Article III, Section 3.C

Communal Living Facility: Facilities in which four or more unrelated persons reside, including Assisted Living Facility, Boardinghouse, Nursing Home, Rehabilitation Facility, Sheltered Care Home, Transitional Home. Communal Living Facilities do not include child foster care facilities or facilities located in multi-family districts that are used for housing the mentally handicapped or mentally ill, where there are no more than 10 such people plus 2 unrelated persons to either the occupants of the facility or to each other. (Code of Alabama 11-52-75.1 and Board Case No. 84-95).

A communal living facility is permitted by Special Exception in this zoning district, subject to the following conditions:

1. A statement from the State Department of Health or the State Department of Mental Health and/or the Jefferson County Department of Health that the proposed facility meets all requirements for the appropriate license, if applicable.
2. A statement from the City Housing Code Enforcement Division that the proposed facility meets all provisions of the City of Birmingham Property Maintenance Code.
3. A certification from the owner and operator that approval under this section shall not be transferable without prior approval by the Board of the City.

4. Any communal living facility shall not be closer than 1,000 feet from another communal living facility. This spacing requirement does not include multi-family dwellings used for on or off campus student housing within 1 mile of the main campus.
5. Communal Living Facilities are not meant to include child foster care facilities nor facilities housing the mentally handicapped or mentally ill, where there are no more than 10 such people plus 2 unrelated persons to either the occupants of the facility or to each other. (Code of Alabama 11- 52-75.1 and Zoning Board of Adjustment Case No. 84-95)

Parking Requirement: 1 parking space per 2 sleeping rooms.

Neighborhood Association

The *Ensley Neighborhood Association* met at its regularly scheduled meeting on October 19, 2023, and voted to support the request (21-yes and 0-no).

Recommended Conditions:

If approved by the Board, below are the recommended conditions:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.

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ZBA2023-00045..... Roebuck Neighborhood

Request: Variances for the following: 1) Proposed building does not extend across at least 75% of the lot frontage; 2) Parking in the front yard; 3) Front yard setback of 79.5ft instead of the 15ft maximum; 4) Exceeding the maximum parking requirement by providing 43 spaces instead of 7; 5) No stacking bays provided for bays 5-8

Filed by: Bohler Engineering, on behalf of the owner, Roebuck Marketplace Associates, LLC

Location: 9100 Parkway East, Birmingham, AL 35206 situated in the NW ¼ of Section 01, Township 17-S, Range 2-West, Council District 1

Applicant's Proposal

The applicant is proposing to construct a Mavis Tires & Brakes. The building will be approximately 6,979SF and will have 8 service bays for customers.

Property and Abutting Land Uses

The subject property is currently zoned **MU-H (Mixed-Use High)** and is located on the corner of the Roebuck Shopping Center. Adjacent Properties in all directions are also zoned **MU-H**.

Zoning Ordinance

Title 1, Chapter 3, Article I, Section 3 (Street setbacks and building orientation in mixed use districts)

B. For the purposes of this section, lots that are 60 feet wide or greater shall have the front facade of the building extend across at least 75 percent of the lot frontage or be at least 45 feet in width, whichever is greater. Lots that are less than 60 feet wide shall have the building extend across the full width of the lot unless a driveway is required to access required parking, except that one- or two-family dwellings may have side yards a minimum of three feet in width. If a driveway is needed for service to accessory parking, an opening of up to 26 feet wide shall be permitted. **Parking shall be permitted only at the sides and rears of buildings, and at the fronts of the buildings to the extent shown in Figure 1.03.101.** The primary entrance to a building shall be located at the front setback line, and shall be located as close to street crosswalks as practical.

MU-H Front Setback (in feet) = **15 Max**

Title 1, Chapter 5, Article I, Section 4 (Required off-street parking spaces)

Maximum parking. **The number of parking spaces required is equal to the maximum allowed.**

MU-H Mixed Use High. Parking spaces in the B-3 and MU-H Mixed Use High district shall be **provided in an amount equal to one half of the required parking.** Where parking is provided in the B-3 and MU-H Mixed Use High District all remaining requirements of this Article shall apply.

Express vehicle maintenance, quick-lube, and similar vehicle services = 1 per 500 SF of GFA plus 2 stacking spaces per bay (Service bay spaces shall not be counted as parking spaces) $6,979/500 = 14$ spaces (one-half) = **7 spaces plus 2 stacking spaces per bay**

Neighborhood Association

The *Roebuck Neighborhood Association* met at its regularly scheduled meeting on **October 9, 2023**, and voted to the request.

Recommended Conditions:

If approved by the Board, below are the recommended conditions:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.

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ZBA2023-00057..... Huffman Neighborhood

Request: Variance for dumpster location

Filed by: Jack's Family Restaurant on behalf of the owner, Huffman Baptist Church

Location: 9701 Parkway East, Birmingham, AL 35215 situated in the NW ¼ of Section 31, Township 16-S, Range 1-West, Council District 1.

Applicant's Proposal

The proposed use of the site is a Jack's quick serve restaurant with drive-thru. Jack's Family Restaurants, LP is a regional restaurant brand that originated in the Birmingham area in 1960 and now operates 238 restaurants in Alabama, Georgia, Mississippi and Tennessee. The proposed building will be approximately 3,604 square feet with 68 seats. It will employ 45-50 team members and 4-6 managers. Hours of operation will be from 5:00 am - 10:00 pm Sunday – Thursday and from 5:00 am – 11:00 pm Friday and Saturday.

Property and Abutting Land Uses.

The subject property sits on approximately 1.87 acres of land, currently zoned QC-2 (Qualified General Commercial District). Abutting the subject property to the North and West are parcels zoned CC-2 (Contingency General Commercial District). Properties to the South and East of the site are zoned D-2 (Single-Family District). This property is in the Parkway East Commercial Revitalization District.

Zoning Ordinance

Title 1, Chapter 1, Article II, Section 21

Section 21: Solid waste container. New and expanded structures shall provide an area for a solid waste container that is not located in the public right-of-way. The container must be located on the same lot as the principal building and no closer than 25 feet to dwellings off-site. Except for uses having small containers serviced by the City of Birmingham's Public Works Department, solid waste containers must be: 1) in rear or side yards or within the principal building; 2) exterior sites must be below grade OR have a solid opaque screening walls or gate on all sides made of concrete, masonry material and/or wood matching the principal building at a height taller than the container; 3) when a proposed use includes a food service establishment enclosure must be compliant with county health department regulations.

Neighborhood Association

The ***Huffman Neighborhood Association*** met at its regularly scheduled meeting on June 26, 2023, and voted to support the request (33-yes and 0-no).

Recommended Conditions:

If approved by the Board, below are the recommended conditions:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.

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ZBA2023-00058..... Glen Iris Neighborhood

Request: Special Exception to resume a legal non-conforming use (Laundromat)

Filed by: David Bourque, applicant, with permission from the owner, Dhanani Alma Mirza

Location: 1604 11th Place South Birmingham, AL 35205 and situated in the NW ¼ of Section 12, Township 18-S, Range 3-W, Council District 3

Applicant's Proposal

The applicant is proposing to reopen the laundromat previously known as Glen Iris Laundry. The new name of the laundromat is Suds & Duds, LLC.

Property and Abutting Land Uses

The subject property is zoned R-3 (Single Family District). All abutting properties are R-3.

Zoning Ordinance

From Title 1, Chapter 1 (General Provisions and Definitions), Article III (Definitions)

Personal Care Services

Services such as spas, tanning salons, beauty and barber care, and dry cleaning and laundry services not to include a laundry plant.

From Title 1, Chapter 9 (Administration and Procedures), Article V (Special Exceptions), Section 4 A. – Resumption of legal non-conforming use

In the event that a structure or premises occupied by a legal nonconforming use becomes abandoned, discontinued or remains vacant, for a continuous period of two or more years, the Board may grant a special exception to reestablish the legal nonconforming use provided that documentation is submitted to the Staff of the Planning, Engineering, and Permits Department that the previous use was a legal nonconforming use; and there was no intent to abandon the legal non-conforming use since the use was discontinued or stopped, thereby losing its legal non-conforming status. Documentation must also be provided confirming that the use if the subject property has not converted or conformed to its current zoning classification requirements. Said documentation may be in the form of a letter, or similar instrument, from the owner or applicant which is substantiated and/or supplemented by information provided by the City of Birmingham. The applicant must also provide, in writing, documentation stating reasons why the legal non-conforming use will not tend to impair the health, safety, convenience or comfort of the public, including that portion of the public occupying the property immediately contiguous to the parcel of land which the resumption of the legal non-conforming status concerns. (Ord.08-82)

Neighborhood Association

The *Glen Iris Neighborhood Association* met at its regularly scheduled meeting on **Nov. 6, 2023**, and voted to **support** the request (25 yes votes and 0 no votes).

Recommended Conditions

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.

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ZBA2023-00059..... Five Points South Neighborhood

Request: Variance for a 6ft tall fence in a front yard along 18th Ave South

Filed by: Vikram Agarwal, applicant and owner

Location: 1306 18th Avenue South, Birmingham, AL 35205 situated in the NW ¼ of Section 12, Township 18-S, Range 3-West, Council District 3

Applicant's Proposal

The applicant is requesting a variance for 6-foot-tall stucco and wooden fence in his front yard along 18th Avenue South (it has already been installed).

Property and Abutting Land Uses

The subject property is currently zoned ***CR-5, Contingency Multiple-Family District***. Adjacent Properties in all directions are also zoned ***CR-5, Contingency Multiple-Family District***.

Zoning Ordinance

Walls and Fences (Title 1, Chapter 4, Article V, Section 5)

Upon any "D", "E-1", or "R" zoned property, a wall or fence may be erected or placed in accordance with the following:

1. Complete Front Yard – **No wall or fence within a front yard area shall exceed a height of four feet and the overall height of fence, supports and other features shall not exceed a height of five feet in total**, except as required for wireless communication installations as listed in Section 1 of this Article. If a retaining wall is constructed in a front yard for the purpose of leveling the yard or to control stormwater, for every four feet of retaining wall it shall be setback two feet.

Neighborhood Association

The ***Five Points South Neighborhood Association*** met on **November 21, 2023**, and voted to ***support*** the request (14-yes and 4-no votes).

Recommended Conditions

If approved by the Board, below are the recommended conditions:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.

Staff Report
Zoning Board of Adjustment
City of Birmingham
Meeting Date: January 11, 2024
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ZBA2023-00063..... Kingston Neighborhood

Request: Variance to install a 6ft chain link fence with barbed wire in a front yard

Filed by: Robert McElroy, applicant, with permission from the owner, Coca Cola

Location: 4000 Richard Arrington Blvd. N and situated in the NW ¼ Section 20, Township 17-S, Range 2W, Council District 4

Applicant's Proposal

The applicant is proposing to install a 6ft chain link fence with barbed wire on the top as a security measure during the construction period of the project.

Property and Abutting Land Uses

The subject property is zoned M-2 (Heavy Industrial). Properties to the north, and south are zoned M-1 (Light Industrial) and properties to the east and west are zoned residential.

Zoning Ordinance

From Title 1, Chapter 4 (Land Use Development Standards)

Subsection 7. Construction, Materials, and Maintenance

- D. All fences shall be made of the following material and be allowed in the yards:
3. Chain link permitted in side and rear only.
 4. Barbed and razor wire permitted in rear only, in commercial, manufacturing and industrial districts.

Neighborhood Association

The **Kingston Neighborhood Association** sent an email on 12/29/2023 that states: "The applicant who is applying for a variance to install a 6ft chain link fence with barbed wire on top at 4000 Richard Arrington Blvd North 35212 is not required to attend the Kingston Neighborhood Association meeting. We are on board for progress."

Recommended Conditions

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.

Staff Report
Zoning Board of Adjustment
City of Birmingham
Meeting Date: January 11, 2024
Time: 3:00 p.m.
Pre-Meeting: 2:30 p.m.

ZBA2023-00065..... Five Points South Neighborhood

Request: Application for a Variance to allow the sizes of Lot 17A to be 5,200 S.F., Lot 17B to be 3,970 S.F. and Lot 17C to be 3,550 S.F. in a R3 zoning district instead of the required 6,000 S.F. and a Variance to allow the rear setback on Lot 17B to be 27' instead of the required 25' in a R3 zoning district and a Variance to allow the widths of Lot 17B to be 41.85' and Lot 17C to be 43.19' instead of the required 50' in a R3 zoning district.

Filed by: Kellie Drozdowicz, Owner

Location: 1513 12th Street South and situated in the SW 1/4 of Section 01, Township 18-S, Range 3-West, 35205 (Council District 3).

Applicant's Proposal

The applicant is proposing to resurvey two lots (17A & 17B) into three separate lots (17A, 17B, and 17C) that will not meet the R-3, Single Family District lot size or rear setback requirements.

Property and Abutting Land Uses

The subject property is currently zoned R-3 (Single Family District). Parcels to the North, East and South are also zoned R-3 (Single Family District) and the parcel to the West is zoned C-R6 (Contingency Multiple Family District).

Zoning Ordinance

From Title 2, Chapter 1 (Zoning Districts) Section 4. R-3 Single-Family District

Subsection 3. Area and dimensional regulations

Maximum Height of Structure: 35 Feet

Minimum Front Yard Setback: 25 Feet

Minimum Rear Yard Setback: 25 Feet

Minimum Side Setbacks (in feet): 5/14

Minimum Lot Area per Family: 6,000 Square Feet

Minimum Lot Width: 50 Feet

Neighborhood Association

The President, Wil Jones, of the ***Five Points South Neighborhood Association*** sent an email on January 03, 2024, that stated, “it should be fine for the applicant to proceed without appearing before the neighborhood.”

Recommended Conditions

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure compliance with the Board’s decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.