

**OFFICIAL MINUTES
NORTHPORT BOARD OF ZONING ADJUSTMENT
THURSDAY, JUNE 15, 2023**

The Northport Zoning Board of Adjustment was called to order at 6:00 p.m. on Thursday, June 15, 2023, in the Council Chambers of the Northport City Hall by Chair Jon Garner.

Upon roll call the following members were found to be present: Mr. Aubrey Dale, Mr. Jon Garner, Mrs. Tena Phifer, Mr. Kevin Shobe, and Mr. Brian Chandler. Absent and failing to vote was Mr. Chad Haynie and Mr. Tyler Walker. Also present were staff members Mrs. Julie Ramm, Mr. Shaun Patten, Ms. Meredith Mullins, Mrs. Morgan Williams, Mr. Chris Cunningham, and Mrs. Holly Phillips.

Approval of Minutes

Motion by Mr. Shobe. to approve the minutes for May 18, 2023. **Seconded by Mr. Chandler.** Roll call vote was as follows: Mr. Shobe – Yes; Mr. Chandler – Yes; Mr. Dale – Yes; Mr. Garner – Yes; and Mrs. Phifer – Yes **Motion Carried.**

Approval of Agenda

Mr. Garner stated we would hear New Business item AA-23-1 first then would proceed with Old Business V-23-7 before continuing the remaining New Business.

Motion by Mr. Garner. to approve the agenda for June 15, 2023. **Seconded by Mr. Chandler.** Roll call vote was as follows: Mr. Garner – Yes; Mr. Chandler – Yes; Mr. Dale – Yes; Ms. Phifer – Yes; and Mr. Shobe – Yes. **Motion Carried.**

Approval of Proper Notification- Mrs. Ramm informed the Board that proper notification was given.

Verification of No Conflict of Interest - None

Notice of Right to Appeal – No conflict of Interest.

New Business

a. **AA-23-1** - Lamar Advertising appeals the decision of the Zoning Officer regarding the property located at 3108 Lurleen B. Wallace Blvd.

Darrell Young, 3850 Greensboro Avenue, represented Lamar Advertising, stated he was coming before the board for the administrative appeal regarding the zoning ordinance not specifying the changing of billboard. He stated that they are requesting to change out how the advertising is displayed. Mr. young stated he brought video of a change out vinyl process for the commission to review.

Mr. Garner turned the case over to staff.

Mr. Cunningham stated that they did not get into the specific language on the pictorial content versus is this an erection or installation of a sign. The staff provided that this is erecting or installing a sign which

falls within the ordinance on erecting a sign. He stated that the erecting of a sign is considered to be a structural change of the billboard sign.

Mr. Young presented a video to the board and staff of the process of changing out the face of a billboard. This video was sent in as well.

Mr. Dale asked if you they would have to remove the frame to convert the sign. Mr. Young stated not every time. He stated that Lamar is moving away from paneled signs.

Mr. Shobe asked if the panels were metal. Mr. Young stated he believes their' s are wood panels.

Mr. Garner asked if once the vinyl that is existing on the billboard, then the panels would need to be removed. Mr. Young stated that yes, once we take the vinyl off the face of the billboard, we would need to remove the existing panels on the billboard before facing it with digital. Mr. Garner referenced the V-23-7 case and asked would the panels need to be removed to convert. Mr. Young stated yes, he believes this billboard still has sections that will need to be removed.

Mr. Chandler asked what the weight was of the panels. Mr. Young was not sure of the weight. Mr. Chandler, referenced V-23-7 case, asked if the structure was older. He also asked if the structure had been inspected an engineer. Mr. Young stated they have had this billboard inspected by their own engineers.

Mr. Shobe asked if power was already run to this billboard. Mr. Young stated yes.

Mr. Garner stated that they are here to determine if they would uphold the staff's interpretation of the ordinance and what qualified as a structural change.

Mr. Young stated that as of May 1, 2021, set precedence for the approval of this petition. Mr. Cunningham stated that the 2021 Jack Kubiszyn case was a variance request not an appeal. Mrs. Ramm stated that Mr. Kubiszyn had to conform to the variance. Mr. Patten stated this case was within 100 feet from a residential area.

Motion by Mr. Garner I make a motion to uphold the City's interpretation for the administrative appeal for the sign ordinance pertaining to conversion of billboards. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Garner – Yes, Mr. Shobe – Yes; Mr. Dale – Yes; Mr. Chandler – Yes; and Ms. Phifer - Yes; **Motion Carried.**

Old Business -

- a. A. **V-23-7** – Lamar Advertising requests a variance from the billboard requirements in Section 804.01.c to install a new digital billboard without conforming to the current sign ordinance requirements for the property located at the intersection of U.S. Highway 82 and U.S. Highway 69 at 3107 Lurleen B. Wallace Blvd.

Darrell Young, 3850 Greensboro Avenue, represented Lamar Advertising, stated they are petitioning the ordinance of the conversion of a billboard that they are not being able to convert. He stated that the existing billboard structure is within 570 feet of another billboard.

Mrs. Ramm stated this case was tabled at the May 18, 2023, meeting. The petitioner request of converting the billboard would not meeting the zoning ordinance. She stated the billboard sign shall not

be less than 10 feet from any property line, the billboard is actually 8 feet from the property line. Mrs. Ramm stated the billboard shall be 600 feet from a residence and this billboard is within 295 feet. She also stated the billboard should be 2000 linear feet to another billboard and this is within 570 feet.

Mr. Young stated that they are not asking to build a new billboard but strictly how they are advertising.

Mr. Shobe asked what the hardship was for this case. Mr. Young stated the only hardship is that they are requesting to convert this billboard and they are not being able to do so.

Motion by Mr. Garner I make a motion to grant Lamar Advertising a variance from the billboard requirements for 1) required minimum distance to a residence, 2) required minimum distance between billboards, and 3) required minimum distance to a property line to erect a new digital billboard on the existing sign pole at 3107 Lurleen Wallace Boulevard. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Garner – No, Mr. Shobe – No; Mr. Dale – No; Mr. Chandler – No; and Ms. Phifer - No; **Motion Failed.**

New Business

- a. **V-23-11** - James Outdoor, LLC is requesting a variance from the billboard standards found in Section 804.01.C for the property located at 13512 Highway 43 N.

Adam Webb, 1900 The Exchange Southeast, Ste. 480 Atlanta, GA, represented John James with James Outdoor, LLC. He stated that the petitioner is attempting to place a billboard at 13512 Highway 43 N. He stated the reason for this variance is that the petitioner was told that this location at the time of agreement with the landowners, the Hendrix's, the property was not within the City's limits. Mr. Webb stated that the petitioner then was told from city staff that the GIS map was not up to date when the information was given and that this is indeed in the city limits and the billboard would not be allowed.

John James, 13758 Highland Pointe Drive, stated that he had an opportunity to create income for his family. He stated he decided to advertise local business with a billboard. Mr. James stated he entered into a 30-year lease agreement with the Hendrix's family, the owners the property at 13512 Highway 43 N. He stated he then went through the process and was approved for the state permit and showed the approval notice to the commission. Mr. James then states that he proceeded with making financial agreements and plans after received the information that this was not within the City limits via being verified by the state. Mr. James stated that if he would have known that this location was in the city limits, he would not have pursued a billboard in this location. He stated he knew it would not have been lawful in the city limits for this location. He stated he took out a loan and purchased the materials for the billboard process to start before applying for a Northport building permit and was denied. Mr. James stated he is now stuck with a lease and a loan payment, with no source of income coming in from the billboard business.

Mr. Shobe stated to the petitioner that a hardship for a variance cannot be based off financial reason. He stated that the city has a claim process and encouraged that the petitioner file a claim on the funds lost. Mrs. Ramm stated this is correct and is processed through our legal department. Mr. Webb stated that they agree with money not being a hardship but the hardship being the lack of time it has taken away from the petitioner's family due to the city not updating their zoning and mapping for 8 years. He stated that the variance definition worded the ZBA should only be granted a variance on extreme hardships, acts of God and economic conditions should not be considered for a hardship. He stated that economic conditions are different then economic hardships. He stated they disagree with their interpretation of this definition.

Mrs. Phifer asked who the employee was they spoke with to confirm the location. Mr. James stated the ALDOT received the confirmation, he is not sure who they spoke with from the city.

Mr. Garner stated that the variance on the table was the minimum required distance from a residence is not met. Mrs. Ramm stated that was correct. Mr. Garner stated that requirement of the distance of a property line. Mrs. Ramm stated the location of the billboard looks to be on the property line. Mr. Garner requested zoning district for a billboard. Mrs. Ramm stated the permitted zones for billboards are C-6, M1 and M2 and this property is zoned for C-3.

Mr. Garner stated in his opinion to table this case.

Mr. Shobe relayed the claim process to the petitioner.

Mr. James stated that they did sign a lease agreement and that the property owners have held them to this agreement. He stated they are not present tonight, but they are also missing out on this business. Mr. James stated the claim process will be taken into consideration.

Mr. Webb stated that they are just trying to conduct business and does agree in taking the time for the commission to review the case further. He stated they do not want to pursue suing the city over this matter, that is the last thing that they want to do based off the hardship definition.

Mr. Webb stated for the record that the confirmation that the city gave was false statement of the property located out of the city limits since they have not updated their mapping in 8 years. Mr. James stated that he received his confirmation from ALDOT, which they received from the city. He stated they are not present tonight.

Mr. Webb stated that the board is supposed to look at the one issue of being if this is an extreme hardship, based off Section 808 of the ordinance. He requested that the board only look at that one issue.

Mr. Garner asked for the window the information was given. Mr. James states the OA2 permit was issued December 15, 2022. Mr. Garner asked the staff who the confirmation would come from. Mrs. Ramm stated that she believes that ALDOT, Mrs. Darby, talked to Shaun Patten.

Mr. Garner open the floor for public comments.

With no public comments to be heard, Mr. Garner closed the floor.

Motion by Mr. Garner. I make a motion to table case V-23-11 until the July 20, 2023, meeting.

Seconded by Mr. Shobe. Roll call vote was as follows: Mr. Garner – Yes; Mr. Shobe – No; Mr. Dale – Yes; Mr. Phifer – Yes; and Mr. Chandler - Yes **Motion Carried.**

- b. **V-23-12** – Billy Hall requests a variance from the accessory structure standards found in Section 607.03.B for the property located at 1111 18th Avenue.

Celestine Suttles, 1601 12th Street, represented Billy Hall, stated that that her residence is considered lots 1 and 2 and this is adjacent to lots 3 and 4, which is where Billy Hall resides. She showed printed

pictures to the commission on the case and location. Mrs. Suttles stated that Billy Hall purchased from her when she was the representative for Lots 1 and 2, which is owned by James Arthur Greene. She stated Mr. Green gave her a lease agreement in order to lease the property out. Mrs. Suttles stated what Mr. Hall is trying to do is convert the two lots into one. She stated the variance Mr. Hall is requesting is to place a building on one of the lots in order to keep the grounds up for the residences in this area. She stated that his son is DeAndrea Hall, who has given him permission to do so. Mrs. Suttles stated Mr. Hall is requesting that the structure remain on the lot in order to further develop the properties. Mrs. Suttles stated that in the Northport Gazette in 2017, the City of Northport and Woodrow Washington, were wanting to develop this property. She stated that you have a copy of where they are not doing any harm to the neighboring residence or business.

Mr. Garner asked what they are proposing to do with this property. Mrs. Suttles stated that she is needing to put in a driveway to access her home. She stated currently she has to access her property through the Hasson Parking lot. She stated that she needs to have legal access. She stated that her and Mr. Hall are living on lots 1-4.

Mr. Hall stated that all the lots are combined together. Mrs. Ramm stated that the tax maps show that there are 4 separate lots shown. Mr. Hall stated the structure is located on lot 4.

Mr. Garner asked the staff that with the structure being located on lot 4 there would need to be a primary structure. Mrs. Ramm stated yes, in order to have an accessory structure there has to be a primary residence.

Mrs. Suttles stated she needs to know how this can be done. She stated they need access to lots 3 and 4.

Mr. Garner asked where she would need to go to do so. Mr. Shobe stated that the petitioner is asking who they would need to contact to get access to the lots 3 and 4 to be able to put a dwelling on for the structure and how to be able to keep the accessory structure.

Mr. Garner stated he understood that they live on all 4 lots, but the lots are treated separately and to enforce the ordinance you will need to combine the lots. He stated there is a process of combining the 4 lots but it is not handled through the Zoning Board. Mr. Garner stated that according to the ordinance the accessory structure is nonconforming and that your request is to receive approval to have an accessory structure for tonight's consideration. Mrs. Ramm stated that the city would have to walk her through this process and to call city hall.

Mr. Garner opened the floor for public comments.

With no public comments to be heard, Mr. Garner closed the floor.

Motion by Mr. Garner I make a motion to grant Billy Hall a variance to allow an accessory structure on a lot without a primary structure for the property located at 1111 18th Avenue. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Garner – No; Mr. Shobe – Yes; Mr. Dale – Yes; Mrs. Phifer – Yes; and Mr. Chandler – No. **Motion Failed.**

- c. V-23-13 – Bryon Bennett requests a variance from the paved parking requirements found in Section 610 for the business located at 4412 Highway 69 North.

Byron Bennett, 4412 Highway 69 North, stated that the questioning on the gravel parking lot was improved back in February 2022 and we are now coming back to apologize for the violation of the ordinance. He stated the main reason they decided to use gravel was due to an environmental problem that they have with this property. He stated the property is located on a little bit of a hill which caused run off to run into the highway and into the back of the structure. Mr. Bennett stated they tried to use a material to help with absorbing the runoff. He stated that since placing the gravel on the property they have not had any issues with run off. He stated that they decided to also put the gravel in due to the runoff into the channel that runs on the back side of the property. Mr. Bennet stated they were afraid of raising the water table and causing flooding.

Mr. Garner asked how many cars can reasonably fit into the parking area. Mr. Bennett stated depending on a car size we can fit 5 to 7. He stated we only use this parking as overflow.

Mr. Garner Asked the petitioner what their concerns were. Mr. Bennett stated that prior to the gravel it was grass located there. This caused the water to hold and run off.

Mr. Garner asked engineering for their comments. Mrs. Phillips stated that grass does create potential run off. She stated businesses must put in some type of detention for this issue. Mrs. Phillips stated it can be a detention that is made up of permeable paviers, standard detention pond, underground storage that they do to keep the runoff under control.

Mr. Shobe asked if this was a financial issue to not pave the parking. Mr. Bennett stated that it was not. Mr. Shobe stated then installing a detention is not an issue.

Mr. Chandler asked Mrs. Phillips what the petitioner did to alter the ground, did it improve the issue. Mrs. Phillips stated that what she believes the petitioner is describing to be the issue that he was having a runoff issue causing it not to be stable. She stated yes, the area is more stabilized but there are other ways to accomplish that.

Mr. Bennett stated that there is a drain in the front of the property.

Mr. Garner asked Mrs. Phillips which permeable surface materials that would qualify as an alternative. Mrs. Phillips stated yes, there are a lot of ways to accomplish the stabilization and run off at the same time. She stated that even if this is approved as a conditional pavement that is asphalt and concrete you can still go and do a detention pond that would stabilize the area and control the runoff. She stated you could also use permeable paviers that consider stabilizing that area. Mr. Garner asked who would help him with this. Mrs. Phillips stated he would need an engineer to do a site plan and submit to the city. Mr. Bennett asked if that would be someone that they would need to hire. Mrs. Phillips stated yes.

Mr. Bennett asked the board what was considered permanent. Mrs. Phillips stated concrete, asphalt or permeable paviers. Mr. Garner stated this would qualify as a hard surface. Mr. Bennett asked since the gravel has been there for over 14 months if this could be considered permanent. Mr. Garner stated that gravel does not qualify as a permanent surface.

Mr. Bennett asked if this would be a vote to approve what the business has already done to the parking. Mr. Garner stated that if the vote is approved then it will approve the gravel to stay as the parking but if it's denied then you would have to remove the gravel and replace with a permanent surface.

Mr. Garner opened the floor for public comments.

With no public comments to be heard, Mr. Garner closed the floor.

Motion by Mr. Dale I make a motion to grant Byron Bennett a variance to allow a gravel parking lot for the property located at 4412 Highway 69 North. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Dale – Yes; Mr. Shobe – No; Mr. Garner – No; Mrs. Phifer – No; and Mr. Chandler - Yes. **Motion Failed.**

- d. **V-23-14** – Mavis Southeast, LLC requests a variance from the landscape requirements found in Article V, Section 508.01 for the proposed business located west of Highway 69 N and north of Mitt Lary Road.

Bryan Winter, stated they are petitioning to receive a variance for setting the landscape around the front area. He stated that they are trying to mimic the next door building on the landscaping. He stated they are going to have 4 garage bays and putting the landscaping in front of the building would cause issues with the mobility of in and out of the business.

Mr. Garner asked staff on the adjacent buildings how did they bypass the landscaping requirements. Mrs. Ramm stated that she was not the director at that time and is unaware how this was approved. Mr. Garner asked if there was a sidewalk at the adjacent location. Mrs. Ramm stated it was a sidewalk with a change over to asphalt, but this does not mean that the landscaping requirement still could have been met.

Mr. Winter stated that they have added an extra layer of landscaping in front of the business' parking. He stated that they are moving the landscaping from the front of the building to the parking lot area and then again at the street area.

Mr. Garner asked the petitioner if they were requesting this to be removed from the front of the building due to the lack of movement for vehicles. Mr. Winter stated yes, they are moving the landscaping that is required for the front of the building to be moved down to the parking lot area.

Mr. Garner asked if a perimeter landscaping was exceeding what is expected. Mrs. Ramm stated they are not far enough along to state that there is enough landscaping being presented that meets the requirements.

Mrs. Ramm stated that the same variance was granted for Dutch Oil regarding the Sprint Mart in September 15, 2016 minutes.

Mr. Garner stated he does like the trade off in the landscaping requirements for adding the landscaping on both sides of the access road.

Mr. Garner opened the floor for public comments.

With no public comments to be heard, Mr. Garner closed the floor.

Motion by Mr. Chandler I make a motion to grant Mavis Southeast, LLC a variance to remove required foundation planting for the proposed auto service station to be located next door to 1116 Mitt Lary Road with conditions that the landscape meets the requirements of the ordinance and is constructed as

presented in records. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Chandler – Yes; Mr. Shobe – Yes; Mr. Dale – Yes; Mr. Garner – Yes; and Mrs. Phifer – Yes. **Motion Carried.**

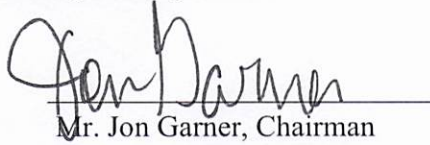
X. DISCUSSION

XI. ADJOURNMENT

All members voted yes by a voice vote and the meeting was adjourned.



Julie Ramm, Secretary



Mr. Jon Garner, Chairman