

Minutes
Orange Beach Board of Adjustment
Wednesday, April 18, 2018 • 4:00 P.M.
Council Chambers • Orange Beach Municipal Complex

A. Call to Order Chairman Mike Contorno called the meeting to order at 4:00 P.M.

B. Roll Call

Present: Bob Barnett, Board Member
Tem Blalock, Board Vice-Chairman
Mike Contorno, Board Chairman
Cecil Young, Board Member
Pete Peterson, Board Member - Supernumerary
Linda Bradley, Board Member – Supernumerary

Wanda Cochran, City Attorney
John Lawler, City Attorney
Griffin Powell, Planner II – Community Development
Lannie Smith, Building Official – Community Development
Mindy Smith, Office Manager – Community Development
Paulette Taylor, Planner I – Community Development

Absent: Tim Blackwell, Board Member
Kit Alexander, Director – Community Development

C. APPROVAL OF MINUTES

1. Approval of minutes from the Regular Meeting on March 21, 2018.
Motion made (Barnett/Young) to approve the minutes as written. Vote revealed: Barnett, yes; Blalock, yes; Contorno, yes; Young, yes; Peterson, yes; Bradley, yes.
Approved (6-0).

D. VARIANCES

1. **Case No. 0201-V-18, 26361 Cotton Bayou Drive**
Jimmy Boyd, on behalf of Dan N. Denton, requests a variance to Section 4.02, Requirements for Lot Area, Lot Width, and Other Factors, to reduce the minimum lot width requirement from 75 feet to 50 feet for the purpose of subdividing the lot located at 26361 COTTON BAYOU DRIVE in the RS-1 (Single-Family Residential) zoning district.
Deferred from the Regular Meeting on 3/21/18.

Griffin Powell confirmed that this application had been withdrawn by the applicant.

2. **Case No. 0401-V-18, 3600 Bayou Road**
Phillip Pouncey Builders Inc., on behalf of Greg Allen, requests variances to Section 5.0301, Fences and Hedges Front Yards, to increase the height of a proposed fence wall from four feet to six feet in the front yard and to Section 5.0302, Fences and Hedges Side Yards, to increase the height of a proposed fence wall from six feet to eight feet in the side and rear yards. The property is located at 3600 BAYOU ROAD in the GB (General Business) zoning district.

Phillip Pouncey, the applicant who will also be the contractor, was present to address the Board. The variance request is for two feet in height of the wall around the

perimeter of the property. The current south wall/front yard requirement is four feet in height. Mr. Pouncey advised that the purpose of raising the height of the wall is for security reasons. Greg Allen, the property owner, has five grandchildren and two children who will be visiting this property most weekends. The road is very narrow, there is a lot of foot traffic, and there is a marina to the west of this property. Mr. Allen also has a condo at Porto del Sol, which is next door to this property. He expressed the need to provide a fence between his yard and marina customers walking by. Greg Allen wants to make the property secure for his grandchildren.

Phillip Pouncey explained that the walls on the side of the property will not exceed the six foot requirement where the southeast and southwest corners meet. However, due to property sloping towards the water, the elevation of the wall will increase to the eight foot in height.

Chairman Mike Contorno asked staff how the Building Department normally handles this situation when the elevation in the ground changes. Lannie Smith advised this is a zoning requirement, it is not found in the building codes. Generally, the height is based on the grade to the top of the fence.

Phillip Pouncey advised the Planning Commission that the proposed land use is a single family residence. Pete Peterson asked what the speed limit is in front of the residence. Phillip Pouncey stated that he believes it is 10 or 15 miles per hour. Bob Barnett asked Phillip Pouncey if he thought the children would be able to climb over a four foot fence in the front. Phillip Pouncey advised they were not concerned with the children getting out of the yard; they were more concerned with other people hopping over the fence and into the yard. Cecil Young asked if there would be a gate. Phillip Pouncey said there would be a gate and there would be adequate space for someone to pull off the road so as to not obstruct traffic.

Bob Barnett advised that the Condominium Association on the south side is objecting to the height of the fence because they are currently able to see through the existing fence. Phillip Pouncey advised that this property was previously approved for a condominium. The homeowner that he represents recently purchased the property a few months ago. Their project will not cause as much obstruction as a condominium would. Other than the fence, there will be no obstruction on the east side due to the presence of a proposed tennis court. He said that the house is only going to take up 25% of the property.

Chairman Mike Contorno advised he would like to know how many condos could have been built on this property or how tall the building could be. Tem Blalock advised that since the property is in the Beach Overlay District the structure would have been limited to 50 feet in height, which would be denser and cause more blockage. Chairman Mike Contorno said that the traffic would have been overwhelming. Phillip Pouncey stated that Porto del Sol has three rows of boat docks. This property, which is the same width as Porto del Sol, will only have one boat dock.

Bob Barnett asked if there would be a fence around the tennis court and how high would it be. Phillip Pouncey advised that there will be a six foot fence around the tennis court. It will be chain link or something that will not obstruct views.

Chairman Mike Contorno opened the public hearing for comments. No one in the audience spoke in favor or against.

Cecil Young asked if there was a setback for the fence because the plans show a five-foot setback. Griffin Powell advised there are no setback requirements for fences.

Pete Peterson asked if the residents from Porto del Sol would be able to view into the yard from their balconies. Phillip Pouncey advised that all of Porto del Sol is elevated and the upper floors would be able to view the yard. Pete Peterson asked if the entire fence would be chain link. Phillip Pouncey advised the fence will be a stucco wall.

Chuck Smith asked what the current zoning is of the property. Griffin Powell advised it is currently zoned General Business.

Motion made (Barnett/Blalock) to approve the variance request as submitted.
Vote revealed: Barnett, yes; Blalock, yes; Contorno, yes; Young, yes; Peterson, yes.
Approved (5-0).

E. APPEALS

F. NEW BUSINESS

G. OTHER BUSINESS

H. EXECUTIVE SESSION

Motion made (Blalock/Young) to enter executive session to discuss pending litigation. The City Attorney, Wanda Cochran, advised the Board that a declaration was required by the Alabama Open Meetings Act for an executive session. Therefore, she is a qualified attorney who is licensed to practice law in the State of Alabama and she declared that it is appropriate for the board to go into executive session for this reason. Vote revealed: Barnett, yes; Blalock, yes; Contorno, yes; Young, yes; Peterson, yes; Bradley, yes.
Approved (6-0). Chairman Mike Contorno advised the audience that the executive session would last approximately thirty minutes.

Time In: 4:17 P.M.

Time Out: 5:08 P.M.

I. **ADJOURN** Chairman Mike Contorno adjourned the meeting at 5:09 P.M.

Respectfully submitted,



Mindy Smith
Community Development Office Manager

Approved,



Mike Contorno
Board of Adjustment Chairman