

Minutes
Orange Beach Board of Adjustment
June 19, 2024 – 4:00 PM
Council Chamber – Orange Beach Municipal Complex
4099 Orange Beach Boulevard

A. CALL TO ORDER

Chairman Mike Contorno called the meeting to order at 4:02 PM.

B. ROLL CALL

Members Present: Ryan Beebe, Linda Bradley, Mike Contorno, David Dichiarra, Greg Kennedy, McGee Scarbrough

Staff Present: Sean Brumley, GIS Specialist; Sherri Descalzo, Planning Coordinator; Jamie Logan, City Attorney; Chris Pappas, City Engineer; Griffin Powell, City Planner; Adam Roberson, Community Development Director/Building Official

C. APPROVAL OF MINUTES

Approval of minutes from the Regular Meeting on January 17, 2024.

Motion was made by Ryan Beebe and seconded by David Dichiarra. Ryan Beebe, yes; Linda Bradley, yes; Greg Kennedy, abstain; David Dichiarra, yes; McGee Scarbrough, yes; Chairman Contorno, yes.
Approved (5-0).

D. VARIANCE

1. Case No. 0601-V-24, 5501 Mobile Avenue

Robert and Regina Allan request approval of a variance to Section 4.03, Table 4.0301, Minimum Setbacks, to encroach 14 feet into the required 20-foot rear setback for an enclosed screen porch. The property is located at 5501 Mobile Avenue in the Single-Family Residential (RS-2) zoning district.

Mr. and Mrs. Allan presented the variance request to the Board. Mr. Allan stated the screen porch was built to cover the concrete slab the homebuilder had poured in the rear yard. He was unaware that a building permit was needed. He stated his wife has a health condition and exposure to sunlight and heat makes her health condition worse. He indicated they had a letter from her neurologist stating such. He asserted the screen porch could not be seen from the road and felt it improved the property. The concrete slab in the rear yard directed stormwater runoff onto the neighboring property, and the screen porch with its roof gutters now directs the stormwater runoff to the road instead. He indicated various neighbors had similar screen porches on the rear sides of their houses encroaching into the setbacks. He reiterated that his wife has difficulties spending time outside due to her health condition and asked to be able to keep the screen porch.

Mrs. Allan agreed with her husband's remarks. She indicated the screen porch could not be seen from the road and asked that they be able to keep it so she could spend time outside with her family.

BOA Member Beebe asked the applicants if they had built the house or if it was already constructed. Mr. Allan stated it was a new house when they purchased it. He also added that none of the neighbors have complained about the screen porch.

BOA Member Kennedy asked the applicant if he obtained a building permit. Mr. Allan stated he did not. BOA Member Kennedy stated that Orange Beach was in a high wind zone and every structure needed to be engineered to meet the wind loading requirements. The determining of such is part of the permitting process. Mr. Allan stated the company hired to construct the screen porch has built several in the area, and he is sure they are familiar with the requirements.

Chairman Contorno stated the company should have known about getting a building permit.

BOA Member Kennedy stressed the importance of having setbacks on small lots. Mr. Allan asked about the other setback violations in the neighborhood. BOA Member Kennedy stated that many building in Bear Point have been there a long time and violate the current setback requirements, but those buildings are grandfathered. Any new structure constructed over the setbacks is a violation.

BOA Member Kennedy stated the zoning ordinance allows a 20-percent encroachment into the setback with an open porch. In this case, an encroachment of 4 feet is allowed in the 20-foot rear setback.

Mrs. Allan asked if removing the screens off the porch would make it an open porch. BOA Member Kennedy responded he did not think it would because they already had gone beyond the allowable encroachment. Vice Chairman Bradley stated she thinks the 4 feet is on the picture to the left (on the PowerPoint screen) showing the rear porch columns, which were there after the house was constructed.

BOA Member Kennedy asked if the concrete slab in the rear yard was already poured when the house was purchased. Mr. Allan confirmed it was, and the screen porch was built on top of the concrete slab.

BOA Member Kennedy asked if a permit was obtained for the concrete slab. Mr. Allan stated it was poured when the house was built. Adam Roberson, Community Development Director, added that the concrete slab is allowed to encroach into the setbacks, and the setbacks apply to the structure.

BOA Member Kennedy asked if the concrete slab met the drainage requirements. Mr. Roberson stated it did since the concrete slab was poured when the house was built. Mr. Allan stated the roof gutters on the screen porch help send the stormwater runoff into the side swales and to the road.

BOA Member Dichiara asked if a sunshade structure may be an alternative to the screen porch. Mr. Allen indicated the roof of the screen porch is insulated and better protects his wife from the heat when compared to a sunshade structure.

Chairman Contorno stated the size of screen porch is the problem. Mr. Allan stated the screen porch covers the concrete slab that is already there and is about a foot from the rear lot line.

Chairman Contorno asked if there were any responses from the neighbors. Sherri Descalzo, Planning Coordinator, indicated one letter had been submitted.

Vice Chairman Bradley stated the hardship requirements for a variance are very specific, and she was having difficulty making this request fit into those requirements.

BOA Member Scarbrough asked if the screen porch could be modified and made smaller. Chairman Contorno agreed with the possibility of making it smaller. Mr. Allan stated 4 to 5 feet could be removed, but he would like to keep the ceiling fans.

Chairman Contorno stated that modifying the screen porch would require a building permit, and the screen porch would need to be engineered.

Mrs. Allan asked if they could get an engineering letter on the existing screen porch. Chairman Contorno asked how close the existing screen porch was to being approved. Mr. Roberson stated structures similar to the screen porch come with an engineering stamp, and the applicants could go back to the company who built the screen porch and obtain it to comply with the building code. He added this could be required with whatever screen porch size the Board agreed upon for the variance.

Vice Chairman Bradley had concerns about the concrete slab in the rear yard and its impact on stormwater drainage. She asked if the concrete slab would have been approved. Mr. Roberson stated that the concrete slab was approved at the time of final inspection for the house.

BOA Member Kennedy expressed concerns about the concrete slab meeting the stormwater drainage requirements.

Chairman Contorno asked Mr. Allan if they were the first ones to reside at the house. Mr. Allen stated they are the first occupants and purchased the house when it was being built. Chairman Contorno stated the concrete slab covering the rear yard was unusual, and BOA Member Kennedy stated it was hard to believe it was approved since stormwater runoff must drain to the road. Mr. Allan added the concrete slab was poured when they put a contract on the house.

Vice Chairman Bradley stated it appears there were two pours based on the pictures of the concrete slab. Mr. Allan confirmed there were two pours. The first pour was for the rear side of the house, and the second pour was for to the sides of the first pour. He reiterated the concrete slab came with the house and is similar to other houses the homebuilder has constructed in the area.

Chairman Contorno asked if the concrete slab was there when the homebuilder obtain the certificate of occupancy for the house. Mr. Allan confirmed it was.

BOA Member Dichiara stated that the situation surrounding the variance request was difficult, but he did not feel it complied with the requirements for a hardship.

BOA Member Beebe agreed and asked what is the least the applicant could do.

BOA Member Kennedy stated the zoning ordinance allows the applicant to encroach 4 feet into the rear yard with an open porch, but it appears the applicant already has that.

Mr. Allan stated they could modify the screen porch by reducing it 4 to 5 feet (would still be 10 feet beyond the 4-foot allowable encroachment). BOA Member Kennedy did not agree and said

the company who built the screen porch should have known about the setbacks and obtaining a building permit.

Chairman Contorno asked the audience if any persons wanted to speak in favor of the variance. There were no responses. He asked the audience if any persons wanted to speak in opposition of the variance. There were no responses. The public hearing was closed.

Chairman Contorno asked for a motion and vote.

Motion was made by Greg Kennedy and seconded by Linda Bradley. Ryan Beebe, no; Linda Bradley, no; Greg Kennedy, no; David Dichiaro, no; Chairman Contorno, no.

Not Approved (5-0).

Mr. Allan asked how long they had to remove the screen porch. Chairman Contorno stated 45 days.

2. Case No. 0602-V-24, 4697 Walker Avenue

Auburn University, on behalf of the City of Orange Beach, requests approval of a variance to Section 8.0102, Location of Parking Spaces, to have more than 25 percent of the required parking for a proposed research and meeting facility to be located off premise. The property is located at 4697 Walker Avenue in the Marine Resort (MR) zoning district.

Roger Mainor of Architecture Works presented the variance request to the Board. He stated this project is a partnership between the City of Orange Beach and Auburn University (Auburn) for a research facility. The research facility will be for Auburn's College of Engineering. He indicated the north-to-south part of the facility will contain laboratories, while the south part will be a two-story space. The second level of the two-story space will contain meeting space covering 1,200 square feet and accommodating about 100 people.

Due to the meeting space, Mr. Mainor stated the zoning ordinance requires a high parking load for this facility. He indicated the meeting space will not be utilized on a daily basis but only for events and larger meetings. On a daily basis, he estimated between 15 and 20 researchers will be at the facility.

Mr. Mainor reported the zoning ordinance requires 48 parking spaces for the facility. He stated the lot on which the facility will be located contains many existing trees of significant caliper and character. The facility will obtain LEED certification, which is a green sustainability certification and is mandated by Auburn for this project. According to Mr. Mainor, tree preservation will be beneficial in helping the project obtain this certification. The project has no desire in clearcutting the property for 48 parking spaces to be located onsite.

Mr. Mainor stated there is an existing gravel lot on the adjoining lot to the south. There have been discussions with the City about sharing this lot for parking to help offset the parking requirements. He indicated the project is seeking relief from the zoning provision limiting off-premise parking to 25 percent of the required parking by having 56 percent of the parking located on the adjoining lot to the south. He stated 19 parking spaces would be located onsite and would be adequate for the daily facility users.

Chairman Contorno asked if the meeting space could be rented to others not affiliated with a project at the facility.

Jamie Logan, City Attorney, stated the meeting space will be a joint use with the City, and the City will be constructing the off-premise parking area. She stated the variance is being driven by the City's request and Auburn's desire to save the trees on the site. She further added the City will own both lots and will lease the north lot to Auburn for the research facility.

Ms. Logan stated that research facility will be built with funds from a federal grant program that requires a conservation easement on the property. She added the City wishes not to have additional property encumbered by this requirement. The City had subdivided this property into two lots and dedicated the north lot to Auburn with the City maintaining the south lot for the Coastal Resources Department. She stated other options included clearcutting the trees on the north lot or leasing more property to Auburn and having more property encumbered under the federal grant program.

Ms. Logan confirmed with Phillip West, Coastal Resources Director, that the parking on the south lot has no use to the City and will only be used for the research facility. Mr. West agreed.

Chairman Contorno stated it would be nice to be able to save the beautiful trees on the property.

BOA Member Kennedy asked if the parking was off-premise because of ownership. Ms. Logan stated it was and noted that the off-premise parking is contiguous to this property.

Vice Chairman Bradley asked if the City owns both lots. Ms. Logan confirmed the City ownership and stated that the City is leasing the north lot to Auburn that will be subject to conservation and grant funding restrictions.

BOA Member Kennedy stated that off-premise parking usually means parking several blocks away and walking. The proposed off-premise parking is contiguous.

Chairman Contorno asked the audience if any persons wanted to speak in favor of the variance. There were no responses. He asked the audience if any persons wanted to speak in opposition of the variance. There were no responses. The public hearing was closed.

Chairman Contorno asked for a motion and vote.

Motion was made by Ryan Beebe and seconded by David Dichiaro. Ryan Beebe, yes; Linda Bradley, yes; Greg Kennedy, yes; David Dichiaro, yes; Chairman Contorno, yes.

Approved (5-0).

3. Case No. 0603-V-24, 4404 Canal Square Lane

Gillian McGee, on behalf of Randy Hall, requests approval of a variance to Section 10.0305, B., 1, Architectural Standards and Restrictions, to eliminate the required entrance door on the west side facing Canal Square Lane for the proposed Liquid Life Operations Facility. The property is located at 4404 Canal Square Lane in the General Business (GB) zoning district.

Randy Hall, property owner, presented the variance request to the Board. He indicated the building had obtained site plan approval from the Planning Commission and was required to have a door on the west side facing Canal Square Lane. He stated this variance request is to eliminate this door since it is to a conference room. He also added the building will not have a retail use and will not have customers. The site plan shows the parking area will be located on the south side of the building, and he stated all traffic will be through the doors on the building's south side. He

concluded by asking that the west side door not being required since all traffic will be coming through the south side doors.

BOA Member Dichiara stated the intent of having a door facing the street is for a customer entrance and felt the west side door did not make sense in this case because it was not connected to the parking area on the south side.

BOA Member Dichiara asked about the sidewalk on the building's west side and the door on the building's north side. Griffin Powell, City Planner, stated this sidewalk will connect to the north side door, which is a fire exit. Mr. Hall said the north door is for code requirements.

Vice Chairman Bradley asked if the sidewalk was required. Mr. Powell stated the sidewalk was not required and was there to connect to the north side door. He added that landscaping will be provided between the sidewalk and the building.

BOA Member Kennedy stated he had no issues with removing the west side door so long as the E-911 address for the building is displayed towards the street. BOA Member Dichiara agreed.

Vice Chairman Bradley asked if the windows proposed for the west side would look similar to a door. Mr. Hall stated it would.

Vice Chairman Bradley asked if eliminating the west side door would negatively impact life safety. Adam Roberson, Community Development Director, stated it would not.

Chairman Contorno asked the audience if any persons wanted to speak in favor of the variance. Levi Wiegand of DAG Architects spoke and offered his support for the variance.

Chairman Contorno asked the audience if any persons wanted to speak in opposition of the variance. There were no responses. The public hearing was closed.

Chairman Contorno asked for a motion and vote.

Motion was made by Greg Kennedy and seconded by Ryan Beebe. Ryan Beebe, yes; Linda Bradley, yes; Greg Kennedy, yes; David Dichiara, yes; Chairman Contorno, yes.

Approved (5-0).

4. Case No. 0604-V-24, 26035 Perdido Beach Boulevard

Cotton Bayou Holdings LLC requests approval of a variance to Section 10.0305, B., 1, Architectural Standards and Restrictions, to eliminate the required entrance door on the south side facing Perdido Beach Boulevard for the proposed Sunliner Diner restaurant. The property is located at 26035 Perdido Beach Boulevard in the General Business (GB) zoning district.

Levi Wiegand of DAG Architects presented the variance request to the Board. He stated the proposed building will be a Sunliner Diner, and the zoning ordinance requires a door on the south side facing the beach highway. He stated this requires customers to enter the building in a high traffic zone away from where the parking will be located (on the west side of the building). He indicated the primary concern was safety.

From an elevation standpoint, Mr. Wiegand stated the architectural elements on the south side of the building will attract customers, and the project will take the sidewalk and construct a plaza with a 50s-style model car to provide pedestrian engagement. From there, the sidewalk will lead

to a covered sidewalk on the west side of the building to the main door. He concluded requesting the removal of the door on the south side and to allow the main door to be on the west side facing the parking area.

Mr. Wiegand added that the property drops 10-feet towards the north side where wetlands are located. The front of the property is high, and stormwater detention and parking defaults to the west side that will keep most traffic from the Russell Drive side.

BOA Member Kennedy asked about the direction of the main door on the west side. Mr. Wiegand stated the door will face the north and added that the door area and street frontage for this building will be similar to the Sunliner Diner in Gulf Shores.

Chairman Contorno asked if staff had any issues with the request. Adam Roberson, Community Development Director, stated staff had no issues so long as two egresses are provided. Mr. Wiegand stated the building will have three doors.

Vice Chairman Bradley stated customer queuing should be as far away from Perdido Beach Boulevard as possible. She asked whether or not the driveway will be right-in, right-out or open. Chris Lieb, project engineer, responded the driveway will be full access, and plans have been submitted to ALDOT for review.

BOA Member Kennedy stated he had no issues as long as the E-911 address is properly displayed. Mr. Roberson indicated this would be handled during permit review.

Chairman Contorno said the building looked clean without the doors on the street side.

Chairman Contorno asked the audience if any persons wanted to speak in favor of the variance. There were no responses. He asked the audience if any persons wanted to speak in opposition of the variance. There were no responses. The public hearing was closed.

Motion was made by Ryan Beebe and seconded by David Dichiara. Ryan Beebe, yes; Linda Bradley, yes; Greg Kennedy, yes; David Dichiara, yes; Chairman Contorno, yes.
Approved (5-0).

E. APPEALS

F. NEW BUSINESS

G. OLD BUSINESS

H. ADJOURN

Chairman Contorno announced this was his last meeting as a member of the Board. He stated he had been a member for a long time and recalled the first meetings at the Community Center. In every case, he said everybody came together and looked out for what was important for the city and hopes that can continue.

The meeting was adjourned at 4:55 PM.

Respectfully submitted,



Sherri Descalzo, Planning Coordinator

Approved,



Linda Bradley, Vice Chairman