

**Minutes**  
**Orange Beach Board of Adjustment**  
**October 16, 2024 – 4:00 PM**  
**Council Chamber – Orange Beach Municipal Complex**  
**4099 Orange Beach Boulevard**

**A. CALL TO ORDER**

Vice Chairman Linda Bradley called the meeting to order at 4:00 PM.

**B. ROLL CALL**

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

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

**C. APPROVAL OF MINUTES**

Approval of minutes from the Regular Meeting on September 18, 2024.

Motion was made by Greg Kennedy and seconded by Ryan Beebe. Ryan Beebe, yes; Linda Bradley, yes; Greg Kennedy, yes; David Dichiarra, yes; McGee Scarbrough, yes.

**Approved (5-0)**

**D. VARIANCE**

**1. Case No. 1001-V-24, 3896 Orange Beach Boulevard**

Robert Kirk, on behalf of Jennifer Black, requests approval of a variance to Section 5.1901, c., Piers, Decks, and Pier/Boathouses – Regulations, to encroach 5.42 feet into the 10-foot side setback on the north side to rebuild a boathouse in the same footprint. The new boathouse will be 55 inches or 4.58 feet from the side lot line to the north. The property is located at 3896 Orange Beach Boulevard in the Single-Family Residential (RS-1) zoning district.

Robert Kirk, applicant, presented the variance request to the Board. He stated this lot and the neighboring lot to the north were split historically on a seawall. The intent is to construct a boathouse in the location of the previous one, but they later found out a variance was needed due to setback encroachments on the north side. He indicated that Terry Rider, the neighbor to the north, had signed a riparian setback agreement supporting the boathouse being rebuilt in its previous location.

Mr. Kirk stated that the seawall is built on the property line, and the supporting structure is on the neighbor's property. The plan is to build the new boathouse where the previous one was located. He stated the new boathouse will be set about 2 feet farther into this lot so that both lot owners would not have to remove the existing marine structures and fill with sand.

Jennifer Black, property owner, stated that she had purchased this lot earlier this year. She talked about her family's history in the area. After purchasing this lot, she found out she

needed to repair the seawall. She stated it was preferable to have the new boathouse in its previous location instead of having it protruding into the water due to her lot's location on the canal. According to her, having the new boathouse protruding into the canal would block the view of others and would interfere with boat traffic. She stated that she and her family presently live in Birmingham but plan to move to Orange Beach in 8 years.

Mr. Kirk gave a history of the seawall on both lots. To secure the new seawall, he indicated the boathouse pilings were placed in front of the old seawall. He stated that Mr. Rider did not have a problem with the new boathouse going back in its previous location. He added the new boathouse would be 2 feet farther into this lot. He indicated they had submitted a permit for the boathouse, but it was denied.

Chairman Bradley stated that a permit was issued for the bulkhead, but on April 3 the permit to repair the existing boathouse was denied because it was a nonconforming structure due to it being located on a vacant lot, encroaching into the north side setback, and having the cost of improvements exceeding 50 percent of the assessed value of the boathouse.

BOA Member Kennedy asked about the stop work order that was issued. Mr. Kirk stated the pilings were set for the new boathouse, and it was not conveyed that house plans were supposed to be submitted for a building permit.

BOA Member Kennedy talked about the problems of doing work without permits and asking for forgiveness later.

Chairman Bradley stated for the record that Mr. Rider no longer owned the neighboring lot to the north.

Chairman Bradley added that a building permit was submitted for a new house on July 19 but was withdrawn on August 25. Ms. Black said she had asked Ryan Hess to assist in submitting the building permit but later asked him to withdraw the request. Since the withdrawal, she has asked Salt Construction for assistance.

BOA Member Scarbrough asked Ms. Black about the time frame for the new house. She replied that she is building the house now, and plans were being drafted with the hopes of starting the foundation in March 2025.

Chairman Bradley added that the zoning ordinance prohibits the docking of a boat on a lot where there is no permanent structure.

Ms. Black stated the previous owner had demolished the house but left the boathouse. She asked why the boathouse was allowed to remain. Adam Roberson, Community Development Director, said the house had sustained storm damage and needed to have been demolished.

Mr. Kirk stated he has pilings set for the seawall and new boathouse and would like to build the new boathouse in the previous location and footprint. He said adjustments would have to be made without the variance.

BOA Member Dichiarra stated the encroachments were a major issue. Mr. Kirk asked even though the seawall was permitted to be built back on the same property line and was not changed. Chairman Bradley responded that the seawall and boathouse were two separate things.

Mr. Kirk stated the seawall repair was needed to make the neighbor's property whole again and to allow him to build a dock. He asked if they could have a 5-foot encroachment for the new boathouse.

Chairman Bradley stated that 5 feet is the requested variance, and the required setback is 10 feet.

BOA Member Kennedy stated that the bulkhead did not change the property line. He added the zoning ordinance allows for at-grade level improvements, such as driveways, to go to the lot line, but elevated structures had to comply with the setbacks. He indicated the boathouse being torn down was the perfect opportunity to bring the property into compliance. He concluded that side yard setbacks were sacred.

Chairman Bradley asked if there were any additional comments. There were none.

Chairman Bradley closed the public hearing.

Chairman Bradley asked for a motion and vote.

Motion was made by Ryan Beebe and seconded by Greg Kennedy. Vice-Chairman Ryan Beebe, no; McGee Scarbrough, no; Greg Kennedy, no; David Dichiara, no; Chairman Linda Bradley, no.

**Not Approved (5-0)**

**2. Case No. 1002-V-24, 24826 Canal Road**

Tyler Hendon, on behalf of Liquid Life Operations Center LLC, requests approval of a variance to Section 8.0101, m., Minimum Off-Street Parking Spaces Required, to reduce the required parking for a proposed automotive service center from 40 spaces to 20 spaces. The property is located at 24826 Canal Road in the General Business (GB) zoning district.

Tyler Hendon, applicant, presented the request to the Board. He explained that the request is a parking variance for a proposed Express Oil Change (Express Oil). He stated the site plan shows two buildings, with the front building being for drive-thru oil changes and the back building being a service building for minor repair work. He added the site will have a self-contained storage tank for oil that will be pumped and taken from the site.

Mr. Hendon stated the zoning regulations require 5 parking spaces per service bay. He stated Express Oil is on the lighter side of the automotive use and does not generate much parking. According to him, service work is 25 percent of their business, while oil changes account for the remaining 75 percent. He stated the site design allows for some stacking in front of the building, but he did not see traffic being backed up because of how quickly the business can move vehicles. With 8 service bays, he stated the business is required to have 40 parking spaces. He thought they could count the service bays as parking, so the parking reduction could be for 12 parking spaces instead of 20 parking spaces.

Mr. Hendon added that minor repair work takes about 2 hours, and the business only sees between 45 and 47 vehicles a day. He stated this does not generate a huge parking demand. The business will have between 7 and 8 employees at peak time. He stated the 20 proposed parking spaces were too much, but he respected the ordinance. He concluded that only half of

the parking spaces would be used and did not think the site could accommodate additional parking spaces.

BOA Member Dichiara asked if the proposed building size and lot area are similar to other Express Oil sites. Mr. Hendon stated three-quarter of an acre is a typical lot size, and they try to avoid going over an acre due to stormwater and other requirements. From a parking standpoint, he stated this is above average.

BOA Member Dichiara asked how many employees are on a typical shift. Mr. Hendon stated 7 employees are on a peak shift, and the business will be open Mondays through Fridays from 8:00 to 6:00, on Saturdays from 8:00 to 5:00, and closed on Sundays.

BOA Member Kennedy stated the employee parking would negate any additional parking gained from counting the bays as parking. BOA Member Dichiara stated the employee parking was likely figured into the zoning requirements.

BOA Member Dichiara asked if there were any shared parking agreements. Mr. Hendon stated that they did not have an agreement with any neighbors. He indicated the property to the south would eventually be developed, and they could have an agreement with them.

Nicholas Ostrye, project engineer, indicated there was a private easement with O'Reilly Auto Parts (O'Reilly) to the east, but there is no shared parking agreement.

Chairman Bradley asked if there was sufficient room to que before pulling into the oil change bays. Mr. Hendon stated there is room for one level of stacking without impeding traffic. Mr. Ostrye added that an historical traffic count for the business was submitted with the application. He explained there would be 6 spots at peak hours with 3 bays and 3 stacks. He added another spot is possible in front of the building.

Mr. Hendon stated there was almost 40 feet between the bay doors and parking, and at least 20 feet would be available for access. BOA Member Kennedy asked if the parking spaces on the north side had a stall depth of 19 feet. Mr. Henson replied yes.

Chairman Bradley asked for clarification about the room provided in the driveway if there are vehicles queuing at the oil change building. Mr. Hendon stated they had 40 feet between the building and parking spaces, and at least 20 feet would be provided for the driveway.

BOA Member Beebe felt there will be a lot of traffic at this location based on what he has seen at the Express Oil in Foley.

BOA Member Kennedy asked if a vehicle parked in the north side parking spaces would be able to back out and leave if there are vehicles stacked at the oil change building. He asked the distance between the building and the end of the parking spaces. Mr. Hendon stated about 40 feet. Mr. Ostrye stated about 45 feet if the sidewalk is included.

BOA Member Dichiara stated the vehicles could potentially be in the lane of traffic based on the position of the O'Reilly building to the east. He mentioned the possibility of moving the proposed building to the south. Mr. Ostrye said they had enough room to move the building if queuing was a concern.

Chairman Bradley asked about the kind of work that would occur in the back building and how long the vehicles would be there. Mr. Hendon stated most of the jobs would be minor brake and AC work, and there would not be heavy mechanical work. He stated the vehicles would be there a couple of hours at the most, and they try not to keep vehicles overnight.

Chairman Bradley asked if there would be lifts in the building. Mr. Hendon replied yes.

BOA Member Kennedy stated that the 50-percent reduction in parking was a big request. He mentioned the possibility of gaining additional parking on the rear side of the lot around the dumpster. Mr. Ostrye stated there was a utility easement in that area. He added that he would need to review the landscape ordinance before putting parking in this area. He also stated the zoning ordinance applies to more traditional full-service centers, and the zoning ordinance does not contain a provision for this business model where it is express service. He agreed the 50-percent reduction was a shock.

BOA Member Kennedy asked what would happen if they built this project and sold to another business with a different model. Mr. Hendon stated he understood the concerns, but it was low risk since no Express Oil stores have closed. Mr. Ostrye added that they have worked with lower parking requirements.

Jamie Logan, City Attorney, stated the parking requirements apply to service stations and car washes, and it is not just mechanical repair shops. She stated it is across the board.

BOA Member Kennedy asked if it were possible to approve the variance on the condition it only applies to Express Oil and the parking modification runs with the land. If another project built on the property, then it would have to comply with the parking requirements. Mr. Hendon stated that boards have conditioned variance approvals to a specific site plan in other jurisdictions.

Randy Hall, property owner, asked for clarification if the variance is for a reduction of 20 or 12 parking spaces.

BOA Member Beebe replied that the application states 20 parking spaces.

Mr. Hendon stated he thought the bays could be counted as parking spaces and stated he thought it was mentioned at a pre-development meeting.

Griffin Powell, City Planner, and Ms. Logan stated the bays could not be counted as parking spaces.

Chairman Bradley stated the request is to reduce the parking to 20 parking spaces, but the true count is between 12 and 13 parking spaces with the employees. Mr. Henson responded that the 12 and 13 parking spaces are traditionally more than they see.

BOA Member Kennedy asked if the 5 parking spaces per bay considered employees. Mr. Powell replied that the ordinance states 5 parking spaces per bay and does not differentiate for employees and other uses.

Mr. Hendon stated that the front drive is 30 feet because of the cross access easement and is above the ordinance requirement. He stated the building could be move back (south) to allow

for more space. He also indicated that they could look at adding more parking to the rear area, but it may require a variance to the landscape requirements.

Mr. Hall asked about not connecting the driveway with O'Reilly to the east. Mr. Ostrye stated the reason for the connection is because of the cross access easement. Mr. Hall stated he thought the easement became irrelevant once O'Reilly was able to have its own driveway onto Canal Road.

Mr. Hendon stated he thought the easement was in place. BOA Member Dichiara stated the ALTA survey shows the easement being granted to O'Reilly.

Mr. Hendon stated they would like to get the request approved in its current form. He added they were also open to it being tabled to allow time to amend the plan.

Chairman Bradley stated the Board could not vote on it if they wanted to make changes. She stated if the Board denies the request, then it is done. Mr. Powell added that the applicant would have to make a new application.

Mr. Hendon asked could they make a new application next month if the request is denied and if there were any restrictions on the number of applications. Mr. Powell responded that they could make a new application next month, and there were no restrictions.

Mr. Hendon stated they could look at some of the recommendations and amend the plan.

BOA Member Beebe stated they should look at trying to get close to the required parking. Mr. Henson stated one way to get close to the required parking is to reduce the number of bays, but he was unsure if the business would go along with it.

BOA Member Kennedy stated the 50-percent reduction in parking is too much and something less may be doable.

Chairman Bradley asked Mr. Hendon if he wished the Board to vote or wait. He replied vote.

Chairman Bradley asked if there were any additional comments. With there being none, she closed the public hearing.

Chairman Bradley asked for a motion and vote.

Motion was made by Greg Kennedy and seconded by David Dichiara. Vice-Chairman Ryan Beebe, no; McGee Scarbrough, no; Greg Kennedy, no; David Dichiara, no; Chairman Linda Bradley, no.

**Not Approved (5-0)**

**E. APPEALS**

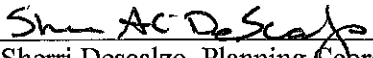
**F. NEW BUSINESS**

**G. OLD BUSINESS**

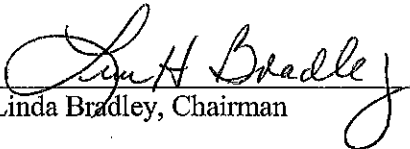
**H. ADJOURN**

The meeting was adjourned at 5:00 PM.

Respectfully submitted,

  
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Sherri Descalzo, Planning Coordinator

Approved,

  
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Linda Bradley, Chairman