

## MINUTES OF MEETING

### HOOVER BOARD OF ZONING ADJUSTMENT

**Date:** August 1, 2019  
**Time:** 7:00 P.M.  
**Place:** Hoover Municipal Center  
**Present:** Mr. Jim Brush  
Mr. Lawren Pratt  
Mr. Dan Mikos  
Mr. Curtis Jackson  
Mr. LeCompte  
Mr. Kyle Puchta

Absent: Mr. T.J Dolan

**Also Present:** Mr. Mac Martin – City Planner  
Ms. Vanessa Bradstreet – Zoning Assistant

#### 1. CALL TO ORDER

The meeting was called to order by Mr. Mikos. The secretary had the roll call and a quorum was present. Mr. Mikos announced the members voting would be Mr. Brush, Mr. Pratt, Mr. LeCompte, Mr. Puchta, and himself.

2. Mr. Mikos asked if anyone had any additions or corrections to the minutes from the July 11, 2019, BZA meeting. There being none, Mr. Mikos asked for the minutes to be approved by acclamation.

3. BZA-0819-14 – Brian Thornton, VP of RaceTrac Petroleum, Inc. c/o Mr. Martin Evans, Esq, is requesting (1) to allow two free standing signs at a combined 179.86 square feet in lieu of one at 96 square feet and (2) to allow 21.18 square feet of EMS sign face in lieu of 16 square feet. The property is located at 2137 Valleydale Road and is zoned C-2 (Community Business District). **DENIED**

Mr. Martin Evans, Evans & Evans Lawyers, 2001 Park Place North, Ste 540, Birmingham, AL 35203, was present to represent RaceTrac Petroleum. Mr. Evans explained they were developing a new gas station on Valleydale Road and they were here seeking a sign ordinance variance from the BZA. Mr. Evans showed on a rendering where the gas station was located which was across the street from the Lowe's and next door to a BP facility. Mr. Evans showed a rendering depicting the steep elevation and discussed all the engineering that had gone into developing this site. Mr. Evans showed a digital rendition of their site plan and explained where the building would be. Mr. Evans explained the building would be 5,411 square feet. Mr. Evans also showed the location of the signage. Mr. Evans explained they were here tonight to discuss free standing signage only – the pole signs that were designated on the renderings as N-1 and N-2.

Mr. Evans then showed a rendering of the signs they had submitted for permitting and had asked for two of these signs to be allowed on their site. Mr. Evans stated the ordinance currently only allowed one sign for a gas station and a total of 96 square feet and no taller than 20 feet. Mr. Evans stated their sign would comply with the height requirements but they were asking for two

signs, rather than one. Mr. Evans stated that they were asking for the less than 96 square feet on each sign, but with the aggregate amount they would need a variance for the excess of what the ordinance allowed.

Mr. Evans then discussed the specific actual variances they were requesting. He explained the second variance was actually picked up during the permitting process and it was about an electronic messaging sign in excess of what was currently allowed. Mr. Evans stated he felt this was something they could work out but was just a question they box out around each individual digit or whether they boxed out around the total price. Mr. Evans explained the ordinance allows for a total of 16 square feet but the permitting office figured their request was a little bit more than this.

Mr. Evans then discussed the discrepancies with the sign ordinance and named several businesses who could have more signage than a gas station. Mr. Evans stated this particular property had a lot of special features and named a couple of specific hardships that related to this specific property. Mr. Evans introduced a representative, engineer for RaceTrac, Mr. Sammy Abdulhaviz, who had done the math and done the distances and the length on some of the right-of-ways, distances for the signs, etc. Mr. Evans explained Mr. Abdulhaviz could better explain the need for these two signs better than him.

Mr. Sammy Abdulhaviz, 200 Galleria Parkway, Atlanta, GA, then addressed the Board with the specifics of their requests. Mr. Abdulhaviz compared their signage to their neighbors. He explained their site itself would have two major entrances at two lighted intersections. He added this stretches about 587 feet from one side to the other on the frontage.

Mr. Abdulhaviz then showed the distance from these two signs just to the intersections. Mr. Abdulhaviz stated there were 220 feet on the left and 240 feet on the right. He explained what he was trying to point out was what they had submitted for their variances for the 75 square foot signs, those maximum reading heights distances were actually about 280 feet so when you looked at the location of the signs, you were able to actually read the digits of the signs from the locations that they were showing. Mr. Abdulhaviz stated there was no other location they could put a single sign that the digits could be read.

Mr. Abdulhaviz stated their neighbor at his entry point only had one entry point and had roughly only 200 feet of frontage, so they were almost three times the amount of frontage that the neighbor had and that was why they were seeking the variance for two price signs.

Mr. Evans stated that he and the engineer had attended the BZA work session and stated he knew the board was concerned about the fact that historically the city had allowed businesses to split their square footage but may not increase their total square footage. Mr. Evans explained he thought there had been some changes to the ordinance recently relating to the wall signs allowing people to split wall signs up, but unfortunately the free standing signs did not make it into that revision but there seemed to be a precedent and obviously an interest in allowing people to move their total square footage around to split it up and still not exceed those amounts. Mr. Evans stated after the meeting, they had gone back to the drawing board to see if there was a way that they could stay within that total square footage and split up their area. Mr. Evans explained they had come up with an alternative design to stay within that square footage so rather than two signs at 75 feet there would be one sign at 35 square feet total sign area and another sign at 60 square

feet of total sign area, therefore, Mr. Evans believed this would be a good alternative of splitting the square footage in the same type of character and idea of splitting the wall signs but still allow them to keep within the maximum square footage. Mr. Evans stated he thought the thing for them to do was to present these two signs as presented before the board at this meeting.

Mr. Mikos asked what the sight distance was on the 96 square foot sign. Mr. Mikos stated it would probably be in excess of 200 plus feet. Mr. Evans added that the sight distance that Mr. Mikos was referring to would be the size of the font on the gas pricing which was capped at 16 square feet. Mr. Mac Martin, City Planner, stated that was correct and added that for permitted free standing signs, less than 100 square feet of the portion of the free standing sign faced area that may be an electronic message sign that could have up to 16 square feet. Mr. Martin stated this was found in Section 8.2 of the zoning ordinance. Mr. Evans added, as it relates to electronic messaging, the ordinance also said if you got 16 square feet per sign, so it wasn't in total square footage, so they were not asking for a variance to increase the total square footage as they would comply on each sign with the variance over the ordinance as written for their total electronic messaging for each sign.

Mr. Mikos stated they had made people take down pole signs when they wanted to change them because the ordinance allowed people to do that because they didn't really care for pole signs in Hoover. He added they had never let people split pole signs. Mr. Mikos stated the thing they looked at here was precedence. Mr. Mikos stated if they let them split pole signs, then the next person would be coming in asking to split their pole signs, too. Mr. Evans added that he didn't see how they could have the same type topography on this property and some of the special characteristic of this case. Mr. Abdulhaviz asked the board if they would consider keeping the one sign a pole sign and the making the other sign a monument sign.

Mr. Mac Martin, City Planner, stated he would like to point out one thing for the board which was that Mr. Evans was correct in that in this case what was permitted was one detached sign and on that one detached sign the EMS (electronic message board sign) of not more than 16 square feet, Mr. Evans was correct in pointing out that the rule in Section 8.2 was for each on premise free standing sign to be permitted one electronic message sign so in essence, if two signs were approved by the BZA, it did open the door for two electronic message center signs at this site. Mr. Martin stated this would be doubling the amount of electronic message center signs that would normally be permitted.

Mr. Evans added that by referring to electronic messaging signs they were only talking about the price signs, not scrolling messages or anything such as that. Mr. Brush asked a question on which sign, N-1 or N-2, would be the smaller sign. Mr. Abdulhaviz answered that N-2 would be the smaller sign. Discussion was held regarding the sight advantages/disadvantages of either one of these signs.

Mr. Pratt asked where they anticipated the majority of their traffic coming from as far as which directions. Mr. Abdulhaviz answered both of their entrances were major intersections with lighted entrances but felt it would be easier to come from the right coming from the highway but until they built the store, it was hard to say.

Mr. Pratt asked if they had done a traffic study to determine this information. Mr. Abdulhavit answered they had done a traffic study for a portion to adjust the signal timing as part of the civil plan design.

Mr. Evans emphasized that subject was gone over during the Conditional Use case a few years ago, but they were here tonight only for the signage variance requests. Mr. Pratt stated the reason for his question was if the larger of the two signs was the N-1 location and that was closest to the interstate, in his mind he could visualize one sign which did not exceed the square footage in the ordinance instead of two signs when the majority of the traffic was coming from the I-65 corridor.

Mr. Mikos asked if anyone else on the Board or audience had any further questions or comments. There were none. Mr. Mikos asked for a motion. Mr. Brush made a motion to approve BZA-0819-14. Mr. Puchta seconded the motion. On voice vote, Mr. Pratt voted “naye”; Mr. LeCompte voted “naye”; Mr. Brush voted “naye”; Mr. Puchta voted “naye” and Mr. Mikos voted “naye”. The motion was denied.

**4. BZA-0819-15** – Beth Ann Rumberger is requesting a variance to allow the front of a newly built house to be set approximately 18 feet behind the established front building line of an existing accessory structure located at 525 Shades Crest Road. Mr. and Mrs. Daniel T. Rumberger are the property owners and the property is zoned E-2 (Single Family Estate District). **APPROVED**

Mr. & Mrs. Daniel T. Rumberger, 525 Shades Crest Road, were present to represent this case. They stated they were the property owners and wished to request a variance due to the logistics of the two car garage. Mr. Rumberger stated they had torn the original house down and were building a new, smaller house. He explained the logistics of the two car garage. He explained the way the house was, the carport opened into where they were backing out and they would be too close to another building. Mr. Rumberger stated they also had an appurtenance building, a guest house, that they had renovated and were currently residing in until they completed the new house. Mr. Rumberger stated they were requesting the variance just to make their logistics a little easier in the new house.

Mr. Rumberger explained they also had two letters from adjoining neighbors to share with the Board stating they had no objections to their requests.

Mr. Mikos asked if the house they were currently residing in was a prior structure. Mr. Rumberger answered it was. Mr. Pratt asked which two neighbors the letters were from. Mr. Rumberger answered one neighbor was across the street and the other was on the left, and there was one neighbor at this meeting in the audience who was his right side neighbor.

Mr. Rumberger stated the existing house was in front of the appurtenance structure by around 10 feet but it still put the garage emptying out into the other garage.

Mr. Pratt asked about the revised plan submitted and asked if the only difference was that the home had been moved back away from Shades Crest. Mr. Rumberger answered that was correct. Mr. Rumberger added that it was a more accurate rendering showing it was 162 feet which was

the 18 foot difference. Mr. Rumbarger added that none of their other setbacks were a variance issue.

Mr. Mac Martin, City Planner, added he could confirm those facts. Mr. Martin stated there were no other setback issues.

Mr. Brush asked for clarification on how many structures were on the property. Mr. Rumbarger answered before they had torn the original house down there were 4 (four) structures on the property, now with the new house being built, there would be 3 (three). Mr. Brush asked about the placement of the structures and when the original structure was built. Mr. Rumbarger answered the original structure was built in the 1940's, was a block home, to include the entire exterior walls. Mr. Rumbarger added that the block and mortar had gotten to the point when they did a structural analysis of the house, they were told the block was dangerous. Mr. Rumbarger stated the gas line was dangerous as well so it became apparent to them to tear it down. Mr. Brush also asked when the guest house was built. Mr. Rumbarger stated to his knowledge it was built at the same time as the original structure was built, but built differently with different materials. Mr. Rumbarger stated it had been renovated from a carriage garage to a small house. Mr. Rumbarger added they had renovated it into a more modern small house. Mr. Brush asked about the other structures on the property which Mr. Rumbarger explained were other small storage garages for which they had renovated as well and put underground power to improve the lot. Mr. Rumbarger added their goal was to make everything there a little nicer and better.

Mr. Mikos asked if anyone else had any other questions or comments regarding this case. Mr. Paul Bustrow, 533 Shades Crest Road, just north of the subject property, was there to speak positively about this case. Mr. Bustrow stated they had lived at this property since 1978 and had a lot of knowledge of the old house and how it was constructed. Mr. Bustrow spoke favorably about the request.

With no other discussion, Mr. Mikos asked for a motion. Mr. Brush made a motion to approve BZA-0819-15. Mr. Puchta seconded the motion. On voice vote, Mr. Pratt, Mr. LeCompte, Mr. Brush, Mr. Puchta and Mr. Mikos voted "aye". Mr. Mikos announced this variance request had been approved.

**5. BZA-0819-13-** TVT 1, LLC, DBA Tower Ventures c/o Lou Katzerman, is requesting to replace and exchange an existing 90 ft cell tower to be replaced with a new 110 foot (Plus Lightning Rod) cell tower at 3458 Chapel Lane. The property owner is the City of Hoover and the property is zoned R-1 (Single Family Residential District). **APPROVED**

Mr. Lou Katzerman, Tower Ventures, 495 Tennessee Street, Memphis, TN, was present to represent this request. Mr. Katzerman thanked the board for shifting the agenda around to accommodate him driving in from Memphis, TN. Mr. Katzerman explained they were seeking to do a "swap and drop". Mr. Katzerman stated there was an existing 90 foot tower on the property at 3458 Chapel Lane that had been there since approximately the year 2000, a 90 foot tower, which they sought to basically add a new tower that would add 20 feet to the tower height. Mr. Katzerman stated the tower was set back deep in the park away from any residential structure. Mr. Katzerman stated for good measure they sought to design the tower in the unlikely event of any failure in a 55 foot radius, which would keep it from striking anything of value in

the park. Mr. Katzerman stated they sought the extra height because at this point, they had 2 (two) carriers interested in the site. Mr. Katzerman stated Verizon would be the anchor tenant or the first tenant on the tower with T-Mobile who was also interested and they would come later on.

Mr. Katzerman stated this site had been on and off for about 10 years. He stated Tower Ventures bought the site from AT&T in 2007. Mr. Katzerman added that he and Ben Powell from the City of Hoover had worked out a deal in 2011 about the time that T-Mobile was going to merge with AT&T, which the government later denied, so that project was put on hold. In approximately 2016, Verizon approached Tower Ventures about reviving this site which it did, the city signed a lease about a month ago, and they had the two tenants previously mentioned lined up that wanted to improve coverage in the City of Hoover.

Mr. Katzerman stated if anyone had been out in this area, they knew that the coverage was poor. Mr. Katzerman stated this tower would greatly improve coverage for this neighborhood and would make it safer for things like 911 calls, and would make it so people could use the phones in their homes for whatever purpose they saw fit. Mr. Katzerman asked respectfully for his special exception request be granted.

Mr. Puchta asked if there was room on the tower for other providers in addition to Verizon and T-Mobile. Mr. Katzerman stated it would be built to support 4 (four) providers.

Mr. Mac Martin, City Planner, pointed out to the board members some exhibits on the submitted packets coverage area and notes on the first page (existing coverage) and there was actually a sizable area in the eastern part of the Preserve neighborhood right now that appears to handle only outdoor reception, in vehicle and in building was rather poor in this vicinity. Mr. Martin stated looking at the next exhibit (page 19) in which they would see the new service ability in the vicinity with the new tower and the in vehicle reception was greatly enhanced in the Preserve as well as in building on the eastern area of the Preserve and other neighborhoods in the vicinity.

Mr. Jackson asked if any additional lighting would be required. Mr. Katzerman answered no.

Mr. Pratt asked the secretary, if this case being a special exception, was mailed to the next door neighbors if there had been any questions or comments from any of the notified individuals. Ms. Bradstreet answered she had heard nothing from any of the neighbors.

Mr. Mikos asked about the exhibits and the page numbers. Mr. Katzerman answered he would find that information in Section 10. Mr. Katzerman pointed out the letter from Verizon in Section 11.

Mr. Mikos asked if anyone else on the board had any questions. There were none. Mr. Mikos asked if anyone in the audience who would like to speak to this request. There were none. Mr. Mikos asked for a motion. Mr. Brush made a motion to approve BZA-0819-13. Mr. Pratt seconded the motion. On voice vote, Mr. Pratt, Mr. LeCompte, Mr. Brush, Mr. Puchta, and Mr. Mikos voted "aye". The motion was approved.

Mr. Katzerman thanked the board and a special thanks to Mr. Ben Powell who had been working with him for the last 10 (ten) years to make this happen.

With no further business, the meeting was adjourned.

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Vanessa Bradstreet, Secretary, Board of Zoning Adjustment