

**BOARD OF ZONING ADJUSTMENT  
REGULAR MEETING MINUTES  
JANUARY 4, 2012  
DOTHAN, ALABAMA**

The Board of Zoning Adjustment met in a Regular Meeting on Wednesday, January 4, 2012, at 9:00 a.m., in the City Commission Chambers, Dothan, Alabama.

**MEMBERS PRESENT:**

Chairman Gina Grant  
Vice-Chairman Morris Stringer  
Fred Barkett  
Kevin Dorsey  
Chad Lisenby  
Ted Long  
Susan Morrison

**OTHERS PRESENT:**

Todd McDonald, AICP, Planning & Development Director  
Dawn Wrinn, Staff Planner  
Craig Scurlock, Building Official  
Commissioner Critt Snellgrove  
Ken Williams, Supernumerary Member  
Jansen Tidmore, DDRA Executive Director  
Wendy Shiver, Administrative Assistant, Secretary for the Board

Chairman Grant called the meeting to order at 9:00 a.m.

**1. Approval of Agenda**

**2. Approval of December 7, 2011 Meeting Minutes**

*Vice-Chairman Stringer made a motion to approve the December 7, 2011 meeting minutes. Mr. Long seconded and the motion to approve passed unanimously.*

**3. Administration of Oath to Applicants**

Ms. Dawn Wrinn, a Notary Public, administered the oath of testimony to the applicants and/or the applicants' representatives and also any member of the gallery planning to address the Board.

**Old Business**

**4. V-11-0605: Request approval of a 2-ft. side yard variance for an open carport to be placed in a common area, 517 South Pontiac Avenue, Townhouse 1, R-4 District, Applicants: Rachel Burchfield, Belinda Bracewell and Joseph & Julie Bailey.**

Ms. Rachel Burchfield of 517 South Pontiac Avenue, Townhouse 1 presented this request. Ms. Burchfield stated that she would like to build a carport on the side of her home. She stated the case was continued so that she could obtain the additional applicant's signatures as requested. Vice-Chairman Stringer acknowledged that the applicant has complied with all requests. *Mr. Barkett made a motion to approve the request. Vice-Chairman Stringer seconded and the motion to approve passed unanimously.*

As per Section 114-99, this variance approval shall expire if a building permit has not been obtained within six (6) months from the date of the decision. Bring this letter with you as proof of Board approval.

**New Business**

**5. SE-11-0790: Request approval of a special exception for a home office for a concrete finisher business, 1009 Post Oak Drive, R-2 District, Willie Frank Bolden.**

Mr. Willie Frank Bolden of 1009 Post Oak Drive presented this request. Mr. Bolden stated that he has read, understands, and can abide by the stipulations. Vice-Chairman Stringer asked the applicant where his truck will be parked. Mr. Bolden stated that his truck will be parked behind his house. *Mr. Long made a motion to approve the request with the seventeen stipulations set forth by Planning Staff. Mr. Barkett seconded and the motion to approve passed unanimously.*

1. The special exception is valid only for the applicant, this home occupation and this location;
2. The special exception is void if a Privilege License, issued by the City of Dothan, is not obtained within ninety days of approval and subsequently if the license is allowed to lapse;
3. The applicant shall obtain a 5lb. ABC type fire extinguisher (Area covered by fire extinguisher will have 2A3A-30BC designation per National Fire Code-10.);
4. Only residents of the home are authorized to engage in business activity at the home;
5. No more than 25 percent of the home shall be used for the business;
6. All work-related activities must be conducted inside the home;
7. No accessory building shall be used in conjunction with the business;
8. The applicant is allowed to have one business-related vehicle parked on the property, but it shall be no larger than a pickup truck or passenger van;
9. No employees or employee vehicles are allowed at the home;
10. No business-related vehicle may be parked in the street;
11. No business-related equipment or materials shall be visible from the road or from adjoining properties and shall be stored inside either the single vehicle or inside the home;
12. There shall be no noise, odors or vibrations associated with the business;
13. If business-related materials or equipment are delivered to the home, there shall be no more than two deliveries per week, and the delivery vehicle shall have no more than a single axle with six wheels;
14. There shall be no customers at the home;
15. There shall be no signs or advertisements at the home, including on the mailbox;
16. Applicant is responsible for observing any private covenants which may impact the proposed home occupation; and
17. Violation of any of the aforementioned conditions could result in revocation of the approval.

**6. V-11-0808: Request approval of a 10-foot front & 10-foot side yard-street variance for Brothers Fashions, 584 North Oates Street, B-1 District, Joseph R Donofro.**

Mr. Joe Donofro, representative of client, presented this request. Mr. Donofro explained the reason for this request is to accommodate the size of the building needed for the business. He distributed to the board members a subsequent drawing which reflects the elimination of the driveway off Oates Street and showing that the entrance will be on Powell Street only. He stated that this layout forces the building toward Oates Street, and he gave examples of similar properties in the vicinity that he believes set some precedent on Oates Street. He stated if this intersection is used as the gateway to the core area that it will be good to bring the buildings right up to and as close to the sidewalk as possible as it will start to define the core area. Ms. Wrinn stated that the drawing shows two parking spaces within the ten foot setback requirement, and if the board chooses to approve this request, those parking spaces will need to be included in that approval. Mr. Donofro stated that those two spaces can be eliminated if needed. Regarding appropriate sight distance at this corner of the intersection, Mr. McDonald stated that he has spoken to the Traffic Division and was advised that fifteen feet should be adequate to maintain a sight distance standard. He stated that this will be evaluated further though when the site plan is submitted for review, and if for any reason the sight distance is found to be compromised by the building, the site plan will not be approved. Vice-Chairman Stringer asked if the Planning Commission will have the ability to eliminate the two parking spaces

in question at the time of their site plan review. Mr. McDonald replied yes and advised Mr. Donofro that this will probably be asked of him. ***Vice-Chairman Stringer made a motion to approve the variance. Mr. Long seconded and the motion to approve passed unanimously.***

1. As per Section 114-99, this variance approval shall expire if a building permit, business license, etc. has not been obtained by the applicant within six (6) months from the date of the decision;
2. The two parking spaces shown near the West Powell Street are relocated 10 ft. from right-of-way or are removed;
3. Approval is subject to review by the Historic Preservation Commission and Planning Commission.

**7. SE-11-0814: Request approval of a special exception for a home occupation for internet sales of firearms, 201 Denise Street, R-3 District, Brendan Scott.**

Mr. Brendan Scott of 201 Denise Street presented this request. Mr. Scott stated that he will have no customers coming to his home and explained the process of firearm internet sales. He stated that when a firearm is purchased on the internet, the firearm must be shipped to a Federal Firearms License (FFL) holder. He stated the buyer will then complete the paperwork process at that location before obtaining the firearm. He added that any local sales will take place at gun shows. Mr. Barkett inquired into the volume of firearms that will be kept at the residence. Mr. Scott replied that he estimates a quantity of no more than ten firearms and the inventory will be kept in a gun safe. Mr. Barkett asked the applicant if he plans to also sell ammunition. Mr. Scott replied possibly in the future but for now it will be firearms only. Chairman Grant stated that if this request is approved the applicant will have stipulations that he will need to abide by. Mr. Scott assured the board that any firearm sales will be conducted either on the internet or at local gun shows and that no customers will come to his home. After further discussion, Chairman Grant called for a motion and requested that the motion include the statement that the applicant will need to abide by the same stipulations of any home occupation. Ms. Wrinn read the list of standard stipulations to the applicant. Mr. Scott stated that he can abide by each of them. ***Mr. Dorsey made a motion to approve the request with the seventeen stipulations set forth by Planning Staff. Vice-Chairman Stringer seconded and the motion to approve passed with 6 yeas and 1 nay with Mr. Barkett in opposition.***

1. The special exception is valid only for the applicant, this home occupation and this location;
2. The special exception is void if a Privilege License, issued by the City of Dothan, is not obtained within ninety days of approval and subsequently if the license is allowed to lapse;
3. The applicant shall obtain a 5lb. ABC type fire extinguisher (Area covered by fire extinguisher will have 2A3A-30BC designation per National Fire Code-10.);
4. Only residents of the home are authorized to engage in business activity at the home;
5. No more than 25 percent of the home shall be used for the business;
6. All work-related activities must be conducted inside the home;
7. No accessory building shall be used in conjunction with the business;
8. The applicant is allowed to have one business-related vehicle parked on the property, but it shall be no larger than a pickup truck or passenger van;
9. No employees or employee vehicles are allowed at the home;
10. No business-related vehicle may be parked in the street;
11. No business-related equipment or materials shall be visible from the road or from adjoining properties and shall be stored inside either the single vehicle or inside the home;
12. There shall be no noise, odors or vibrations associated with the business;
13. If business-related materials or equipment are delivered to the home, there shall be no more than two deliveries per week, and the delivery vehicle shall have no more than a single axle with six wheels;
14. There shall be no customers at the home;
15. There shall be no signs or advertisements at the home, including on the mailbox;
16. Applicant is responsible for observing any private covenants which may impact the

proposed home occupation; and

17. Violation of any of the aforementioned conditions could result in revocation of the approval.

**8. SE-11-0815: Request approval of a special exception for a home occupation for a tree cutting business, 602 Burbank Street, R-1 District, Robert Clark.**

Mr. Robert Clark of 602 Burbank Street presented this request. Chairman Grant asked the applicant if he is licensed and bonded. Mr. Clark stated that he has plans to complete this procedure after the board's approval. He stated he has read and can comply with each of the stipulations. Mr. Clark stated that he has an F150 truck and will store this vehicle behind his residence under a storage shed. Chairman Grant asked the applicant how he will dispose of trees once cut. He stated that if it is a small job he will remove with truck and trailer and dispose at a local landfill, and if it is a large job he will rent a container. He stated he understands that the cuttings cannot be placed by the street. Mr. Barkett asked if the applicant will be using large equipment such as a bucket truck, stump grinder or Bobcat. Mr. Clark stated that at this time he will not be using a bucket truck or Bobcat. He stated at the customer's request he will use a stump grinder and will rent the equipment as needed. Chairman Grant advised the applicant that if his business grows and he does need to use larger equipment that he will not be allowed to keep that equipment at his home.

***Mr. Barkett made a motion to approve the request with the seventeen stipulations set forth by Planning Staff. Mr. Long seconded and the motion to approve passed unanimously.***

1. The special exception is valid only for the applicant, this home occupation and this location;
2. The special exception is void if a Privilege License, issued by the City of Dothan, is not obtained within ninety days of approval and subsequently if the license is allowed to lapse;
3. The applicant shall obtain a 5lb. ABC type fire extinguisher (Area covered by fire extinguisher will have 2A3A-30BC designation per National Fire Code-10.);
4. Only residents of the home are authorized to engage in business activity at the home;
5. No more than 25 percent of the home shall be used for the business;
6. All work-related activities must be conducted inside the home;
7. No accessory building shall be used in conjunction with the business;
8. The applicant is allowed to have one business-related vehicle parked on the property, but it shall be no larger than a pickup truck or passenger van;
9. No employees or employee vehicles are allowed at the home;
10. No business-related vehicle may be parked in the street;
11. No business-related equipment or materials shall be visible from the road or from adjoining properties and shall be stored inside either the single vehicle or inside the home;
12. There shall be no noise, odors or vibrations associated with the business;
13. If business-related materials or equipment are delivered to the home, there shall be no more than two deliveries per week, and the delivery vehicle shall have no more than a single axle with six wheels;
14. There shall be no customers at the home;
15. There shall be no signs or advertisements at the home, including on the mailbox;
16. Applicant is responsible for observing any private covenants which may impact the proposed home occupation; and
17. Violation of any of the aforementioned conditions could result in revocation of the approval.

**9. SE-11-0816: Request approval of a special exception for a home occupation for a massage therapy practice, 819 Woodland Drive, R-1 District, Joyce Godwin.**

Ms. Joyce Godwin of 819 Woodland Drive presented this request. She stated a mother-in-law suite exists at the end of the home and at no time will anyone enter her personal residence. She stated that there will only be one customer at a time on the property. Chairman Grant acknowledged that the applicant presented a previous request to the board in July 2011 and there were several neighbors who expressed opposition. Chairman

Grant asked the applicant if she had since spoken to her neighbors. Ms. Godwin stated that she had explained the situation to her neighbors and received no verbal objections. The applicant stated that her regular hours of operation will be Monday, Tuesday, Thursday and Friday starting at 10:00 a.m. and her last appointment will be at 5:30 p.m. She stated that there are exceptions when a client may need to be seen on other days or times if they are having an issue. Chairman Grant informed Ms. Godwin that if her request is approved she will have the same stipulations to abide by as read by Ms. Wrinn earlier with the revision that she will be allowed to have one customer at a time by appointment only. Ms. Wrinn asked if the stipulations will include the hours of occupation. Chairman Grant stated that she would like to add the times of 10:00 a.m. to 5:30 p.m. in the motion. **Mr. Long made a motion to approve the request with the eighteen stipulations as discussed. Vice-Chairman Stringer seconded and the motion to approve passed with 6 yeas and 1 nay with Mr. Barkett in opposition.**

1. The special exception is valid only for the applicant, this home occupation and this location;
2. The special exception is void if a Privilege License, issued by the City of Dothan, is not obtained within ninety days of approval and subsequently if the license is allowed to lapse;
3. The applicant shall obtain a 5lb. ABC type fire extinguisher (Area covered by fire extinguisher will have 2A3A-30BC designation per National Fire Code-10.);
4. Only residents of the home are authorized to engage in business activity at the home;
5. No more than 25 percent of the home shall be used for the business;
6. All work-related activities must be conducted inside the home;
7. No accessory building shall be used in conjunction with the business;
8. The applicant is allowed to have one business-related vehicle parked on the property, but it shall be no larger than a pickup truck or passenger van;
9. No employees or employee vehicles are allowed at the home;
10. No business-related vehicle may be parked in the street;
11. No business-related equipment or materials shall be visible from the road or from adjoining properties and shall be stored inside either the single vehicle or inside the home;
12. There shall be no noise, odors or vibrations associated with the business;
13. If business-related materials or equipment are delivered to the home, there shall be no more than two deliveries per week, and the delivery vehicle shall have no more than a single axle with six wheels;
14. There shall be only one customer at the home at any time by appointment only;
15. Business hours shall only be from 10: a.m. until 5:30 p.m.;
16. There shall be no signs or advertisements at the home, including on the mailbox;
17. Applicant is responsible for observing any private covenants which may impact the proposed home occupation; and
18. Violation of any of the aforementioned conditions could result in revocation of the approval.

**10. SE-11-0817: Request approval of a special exception for a mental health facility for Southeast Intervention Group, 1152 West Main Street, B-3 District, Larry Kirkland, Jr., M.D.**

Mr. David Johnston, Attorney-at-Law, representing Dr. Larry Kirkland and the Southeast Intervention Group, presented this request. Mr. Johnston explained that this organization is a nonprofit that provides long term treatment for substance abuse and dependency. He stated they utilize the twelve step program and are Christian based. He stated that they have a contract to purchase the property located at 1152 West Main Street from Ed Marblestone. Mr. McDonald stated that Dr. Kirkland provided the Fire Marshal's inspection report which satisfies condition number one. The board expressed appreciation to the organization for their work in the community. **Mr. Lisenby made a motion to approve the request with the nine stipulations set forth by Planning Staff. Mr. Barkett seconded and the motion to approve passed unanimously.**

1. The special exception is contingent upon approval of the facility by the Dothan City Fire Marshal;
2. The applicant obtains a City of Dothan Privilege License before the facility begins operation;
3. The applicant provides an executed lease or purchase agreement for the property prior to beginning operation;
4. The Special Exception is good only for the applicant and this location;
5. The Special Exception is subject to all necessary local and state regulations and policies;
6. The Special Exception is valid only as long as the applicant has a valid State license or permit;
7. The special exception is invalidated if the applicant's State license or permit is revoked or the applicant violates any State or local regulations or policies;
8. Any proposed signs comply with Section 114-207 of the Zoning Ordinance and sign permits are obtained from the Building Permits and Inspections Office before the signs are placed on the property; and,
9. The applicant signs an affidavit acknowledging the preceding conditions and the Affidavit is displayed with all other licenses and permits.

**11. SE-11-0820: Request approval of a special exception to park a 28 x 30 manufactured home for lifetime use, 1981 Starling Road, A-C District, Edward Holland.**

Mr. Steve Etheredge, Attorney-at-Law, presented this request. Mr. Etheredge stated that he has looked at the staff report for this case and disagrees with the representation that this was originally presented to the Building and Permitting office as a modular home. He distributed to the board documents that he stated indicate that this was originally presented as a request for a building permit for a manufactured home. He stated that after obtaining the permits, Mr. Holland has spent thousands of dollars putting in a septic system, running water, purchasing the home, and moving the home. Mr. Scurlock stated that the applicant was informed on October 14, 2011 that the home could not be a manufactured home. At that time, the applicant stated it would be a modular home and proceeded to apply for a residential building permit. Mr. Scurlock stated that on October 17, 2011 an application was filled out for a manufactured home setup, and on October 20, 2011 a manufactured home setup permit was sold. He stated that it was issued in error. Chairman Grant asked if the applicant owns the property. Mr. Etheredge stated that Mr. Holland's father owns the property and will deed a piece to the applicant. Chairman Grant acknowledged that the board has received various letters, phone calls and e-mails in opposition to this request. She stated that the residents of this neighborhood have remained consistent in their opposition to manufactured homes being placed in the area. Mr. Etheredge pointed out that the staff report states there are no other mobile homes on that road and in fact, there is one which is located next door to the address of this request. Mr. McDonald stated that the history of that manufactured home is not known, and added that it could have been on the property when it was annexed. Chairman Grant replied that someone in opposition of this request acknowledged the other mobile home and stated that it had been grandfathered. Mr. McDonald stated there is no record on file one way or the other. After further discussion, Mr. McDonald reiterated to the board that the application that Mr. Holland signed was for a residential structure, not for a manufactured home, and that staff would not have signed off on this application had they been under the impression it was going to be a manufactured home as the City code requires BZA approval. He advised the board to consider this request as they would have had it come before them initially and determine if it is appropriate for the neighborhood. Mr. Barkett stated that in the past the board has typically not approved manufactured homes requests when they have received similar neighborhood opposition. ***Chairman Grant called for a motion twice and there being no motion, the request was denied due to lack of motion.***

**12. SE-11-0823: Request approval of special exception for a home occupation for a mobile car wash business, 1020 Leona Street, Johnny McGlon.**

Mr. Johnny McGlon of 1020 Leona Street presented this request. Chairman Grant confirmed with the applicant that no vehicles will be washed at the residence. Mr. McGlon replied that he understands and can abide by all stipulations. ***Mr. Dorsey made a motion***

***to approve the request with the eighteen stipulations set forth by Planning Staff. Mr. Long seconded and the motion to approve passed unanimously.***

1. The special exception is valid only for the applicant, this home occupation and this location;
2. The special exception is void if a Privilege License, issued by the City of Dothan, is not obtained within ninety days of approval and subsequently if the license is allowed to lapse;
3. The applicant shall obtain a 5lb. ABC type fire extinguisher (Area covered by fire extinguisher will have 2A3A-30BC designation per National Fire Code-10.);
4. Only residents of the home are authorized to engage in business activity at the home;
5. No more than 25 percent of the home shall be used for the business;
6. All work-related activities must be conducted inside the home;
7. No accessory building shall be used in conjunction with the business;
8. The applicant is allowed to have one business-related vehicle parked on the property, but it shall be no larger than a pickup truck or passenger van;
9. No employees or employee vehicles are allowed at the home;
10. No business-related vehicle may be parked in the street;
11. No business-related equipment or materials shall be visible from the road or from adjoining properties and shall be stored inside either the single vehicle or inside the home;
12. There shall be no noise, odors or vibrations associated with the business;
13. If business-related materials or equipment are delivered to the home, there shall be no more than two deliveries per week, and the delivery vehicle shall have no more than a single axle with six wheels;
14. There shall be no customers at the home;
15. All vehicles must be washed and detailed at the customer's location;
16. There shall be no signs or advertisements at the home, including on the mailbox;
17. Applicant is responsible for observing any private covenants which may impact the proposed home occupation; and
18. Violation of any of the aforementioned conditions could result in revocation of the approval.

**13. Proposed Amendment to Section IX, General Rules, of the Board of Zoning Adjustment Bylaws.**

Ms. Wrinn explained this provision gives the board the ability to suspend any of the bylaws, such as waiving the six month waiting period. Chairman Grant added that in some situations, such as a health issue of the applicant, this could be helpful. ***Vice-Chairman Stringer made a motion to approve the amendment. Mr. Barkett seconded and the motion to approve passed unanimously.***

Mr. McDonald distributed to the board members an article for their reading regarding a Mississippi case which addresses hardship determination.

Chairman Grant requested increased police presence in the neighborhood of Starling Road due to serious threats being made to those people who expressed opposition. She also asked about the removal of the mobile home now that the request has been denied. Mr. McDonald stated that he will communicate these concerns to the police chief. He stated in regard to the denial this becomes an enforcement issue and a letter will be sent giving them thirty days to remove the structure. He stated they have fifteen days to appeal to circuit clerk.

Chairman Grant stated that Mr. Whitaker has still not skirted his manufactured home. She requested staff to send him a letter on the board's behalf stating that he has still not abided by one of his stipulations which requires him to skirt the home. Mr. McDonald stated that Ms. Wrinn will do a visual observation to make a determination and then send a reminder letter giving him thirty days to comply.

Vice-Chairman Stringer stated Mike's Repair Shop on Hodgesville Road appears to be adding more vehicles across the road. Ms. Wrinn stated that there is a fence along that property. Mr. McDonald stated that the property is not approved for this use. Vice-Chairman Stringer stated that the property is partly being used as a junkyard.

Vice-Chairman Stringer stated that the property on the Ross Clark Circle that used to be a two to three story church has a sign on it that possibly indicates it being a church again. Mr. McDonald stated that the property has recently been rezoned. Vice-Chairman Stringer stated that he just wanted to mention it in case a request needs to be brought before the board for approval. Mr. McDonald stated that it does require a special exception in the B-3 District.

Chairman Grant thanked Commission Snellgrove and Jansen Tidmore for being in attendance.

**14. Adjourn**

***Vice-Chairman Stringer made a motion to adjourn. Mr. Barkett seconded and the meeting was adjourned at 10:34 a.m.***

  
\_\_\_\_\_  
Gina Grant, Chairman

  
\_\_\_\_\_  
Wendy Shiver, Secretary