

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF SEPTEMBER 1, 2016 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Chairman stated the number of members present constitutes a quorum and the regular meeting of the Board of Zoning Adjustment was called to order at 6:00 p.m. and he asked for roll call.

Members Present:

Billy Mayhand
Philip Durant
Frank Lamb
Willie Robison, Chairman
William Scully
Herb Cole

Staff Present:

Pat Johnson, Recording Secretary
Brennan Walters, Planner
Jennifer Holyfield, BZA Attorney

Staff Absent:

Adrienne D. Jones, Director of Community Development

Chairman called for the **Approval of Minutes** of the February 4, 2016 meeting. There were no corrections, additions or deletions.

The Minutes were approved unanimously.

Chairman called the next item on the agenda, **Appeal #2016-03 Little Bethel Baptist Church**, request for a Variance to the Daphne Land Use and Development Ordinance. The variance, if granted, would change the northern setback and buffer to two-feet, in lieu of the required ten-feet, as described in Article 14-17 and 14-13 in the Olde Towne Overlay District of the Land Use Development Ordinance, for redevelopment of the site. The property is 1902 Main Street, which is zoned B-2, General Business. Ms. Pat will give us Ms. Jones report in her absence.

Ms. Johnson displayed a Power Point Presentation of 1902 Main Street outlining the perimeter of the church, graveyard, businesses and park adjacent to the church. She read "Little Bethel is asking to encroach into the northern setback and buffer eight feet to add unto their existing church leaving a two-foot setback and buffer. All adjacent properties to the south, west and east including the church are zoned B-2, General Business, but the park, north of the church is zoned R-2, Medium Density Single Family Residential. The Board of Zoning Adjustment has power to grant a variance upon individual case appeal of an unnecessary hardship, so the spirit of the Ordinance shall be observed, public safety and welfare secured, and justice served. Ms. Johnson continued reading if (a) There are extraordinary and

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exceptional conditions pertaining to the subject property because of its size, shape or topography? No, the site is a 2 acre parcel, rectangular in shape and relatively flat. The church sits on the front side (along Main Street), with the cemetery in the rear. (b) The application of this standard to the subject property would create an unnecessary hardship? The proposed size of the building expansion itself is self-imposed hardship. There is room for expansion on the site without creating an encroachment into the northern setback. A smaller expansion may not be desirous by the church; however, a smaller expansion would meet the requirements of the Ordinance. The area between the park and the church is currently wooded as with a natural buffer. (c) Such conditions are peculiar to the subject property? There are not any extraordinary conditions related to the size, shape or topography noted. (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this Ordinance; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this Ordinance? Lastly, Ms. Jones answers that is debatable. On one hand the R-2 property to the north is a city park, not a residence, nor will it ever be a residential use of the City's property (not in the foreseeable future). The church's expansion into the side yard setback and the required buffer may appear harmless; however, an affirmative motion would establish a precedent. Thus, staff does not recommend approval of the request". This is the end of the presentation.

Chairman opened the floor for public participation.

Reverend Parker stated I am Reverend Donald Parker, Pastor of the church for over thirty years. Our membership is a little larger than the sanctuary that we have at this time and we have future plans of expanding and growing. There is so much that we want to do there. We decided that a three hundred seat capacity enclosure would help the church. We are petitioning the Board so we can grow in that area. Historically the church has been in the community for more than one hundred and fifty years. Why the park is residential I do not know, but with everything else being commercial seems to me that it should be also.

The Chairman stated Ms. Pat can you expound on the zoning of the park since I asked about the zoning also?

Ms. Johnson stated Ms. Jones explained to me, after you posed that question to me, that a park can be in any zone with Planning Commission approval and that this particular park has been zoned this way since it was designated a park.

The Chairman stated sir, does that answer your question?

Reverend Parker stated yes. Our Architect is also here tonight

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perhaps he can help by speaking in our favor.

Mr. Gatlin stated my name is Otis Gatlin, I am with OTK Architecture. The graveyard to the south makes an expansion impossible. Along the fence there are some really old and unmarked graves back toward the north side, so there is nothing there that we can get to without relocating a lot of historical graves. The other thing is that they have more property to the north. Right now they seat about eighty people in the auditorium and they really could use about double that, but to get that much space they need more than what the setbacks will allow. We know that the park has been considered for a tennis facility by the city so that is why we are questioning the zoning. Now whether it gets funding to be done or not, we do not know, but if so, they will be surrounded by it. We know that housing will never be built there, but it is our understanding that some type of recreational buildings will be built in the future. If so they will have to buffer off the residential side, but on our side it will not.

The Chairman asked can anything at all be built on the south side to offset having to go the extended length on the north side.

Mr. Gatlin stated no, sir. There is just not enough room to put the entire expansion in there, and get access into the cemetery and parking.

The Board discussed what was going to happen to the Oak trees, the difference in the number of occupancy inside the setback and outside the setback within the requested eight feet, the smaller part of the building on the rear remaining, the main entrance into the sanctuary, the spacing and direction of the pews, and the number each will seat, and the past variance approval for another site.

Mr. Gatlin stated we were trying to stay behind the trees that are up on the road. Some of those them in the back, I think there is maybe a Cedar tree and the rest are Sweetgum. They all were listed by the surveyor as Oak trees, but if you go and look at them they are not. Also, as a rough guess probably three rows of pews would be the difference, sixty to eighty people out of two hundred. The small addition on the rear will remain and what you cannot see is if you build right up to the church there is a roof line and windows to deal with. You will have to enter through the main sanctuary on the front and they were trying to maintain the integrity of the historical portion of the church to be used as a fellowship hall. The pews have been spaced at the minimum code requirement to save as much space as possible, with each seating about twenty people, sixteen rows total. I was not involved in the earlier request.

Reverend Parker stated we did receive approval to build on

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another site several years ago, but after we learned of all the restrictions, we would not have been able to build a church any larger than thirty feet wide putting us in the same predicament as now. Plus people want us to stay downtown so that the building does not become dilapidated. So we are probably going to sell the other property because it is not going to help us.

The Board discussed the zoning of the park, and Ms. Jones statement concerning the topography of the property, which was that it was not anything out of the ordinary, however, Mr. Scully seem to think that the graves could in fact be a variance worthy aspect of the topography. He felt that the graves were a condition of the land that should be taken into consideration, not just the ups and downs on the property, and also whether the use was reasonable upon the property. Mr. Scully felt that the park was not a true definition of what is considered to be a park, but rather an athletic field with a special designation for such in the Land Use Development Ordinance in Article 35, Permitted Uses, authorized in C-2 zoning. His point was that the park was a nonconforming use and should be classed as C-2 being able to build up to the property line. In conclusion the consensus was that this is a park in an R-2 zoning and it had been for many, many years. The Architect was asked if he had drawn up any designs on staying within the ten feet and whether any renovation had been done on the original church at all.

Mr. Gatlin stated no other designs were done because you cannot do anything without having to change the facade of the arched windows on the north side of the main structure, which messes with the integrity of historical building.

Reverend Parker stated we have not touched the old sanctuary because of its historical significance, but we did add onto the back of the building. We have thought about doing many things, even widening the whole church, but we think it would discredit Daphne if we did something like that with it being over a hundred years old. The ex-slaves are buried in the back and it would be a disservice to even touch it. We were trying to build and make it look similar to what we have. Making it look beautiful and continue to be a historical site for this area.

The Chairman asked would anyone else like to speak in favor or opposition of the variance. Being none, Chair closed the floor for public participation and entertained a motion.

A Motion was made by Mr. Mayhand and Seconded by Mr. Lamb to approve Appeal #2016-03, Little Bethel Baptist Church, for a

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variance to change the northern setback and buffer to two-feet, in lieu of the required ten-feet, as described in Article 14-17 and 14-13, in the Olde Towne Overlay District of the Land Use Development Ordinance, for redevelopment of the site. The property is 1902 Main Street, which is zoned B-2, General Business.

Upon roll call vote, the motion failed.

Mr. Warner	Aye
Mr. Lamb	Nay
Mr. Durant	Aye
Mr. Mayhand	Nay
Mr. Robison	Nay

The Chairman stated the request for the variance is denied. You have fifteen days from today to inform the office of Community Development in writing of your decision to appeal with the Baldwin County Circuit Court. You can also stop by after nine o'clock in the morning and pick up the necessary paperwork. Thank you. Next on our agenda tonight is executive session.

Ms. Holyfield stated since the Board is seeking the advice of Council it is best to retire into executive session for about fifteen minutes at the most.

A Motion was made by Mr. Lamb and Seconded by Mr. Mayhand to go into executive session.

In Executive Session from 6:35 p.m. to 6:50 p.m.

The Chairman stated next on the agenda is the election of officers. The Chair opened the floor for the nominations for Chairman.

Mr. Durant nominated Mr. Robison for Chairman. The nominations were closed with no other nominations, Mr. Willie Robison is Chairman.

The Chair opened the floor for the nominations for Vice Chairman. Mr. Lamb nominated Mr. Mayhand for Vice Chairman. The nominations were closed with no other nominations, Mr. Billy Mayhand is Vice Chairman.

The Chairman stated Ms. Pat Johnson is our recording Secretary, and welcomed Mr. Herb Cole to the Board.

There being no other business the Chairman called for a Motion to Adjourn.

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There being no other business the Chairman called for a **Motion to Adjourn.**

A **Motion** was made by **Mr. Durant** and **Seconded** by **Mr. Mayhand** to adjourn. There was no discussion on the motion.

The Motion carried unanimously.

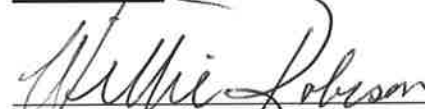
The meeting was adjourned at 6:58 p.m.

Respectfully submitted by:



Pat Johnson, Recording Secretary

APPROVED: December 1, 2016



Willie Robison, Chairman