



CITY OF PELHAM ZONING BOARD OF ADJUSTMENTS

**Pelham City Hall
November 3, 2017 – 7:30 a.m.**

MINUTES

Proper notice of the special called City of Pelham Zoning Board of Adjustments was given in advance of such public meeting and the notice remained posted throughout the scheduled meeting.

Members of the Zoning Board of Adjustments met November 3, 2017 at 7:30 a.m. The special called meeting was held in the Council Chambers in Pelham City Hall and was open to the public.

Call to Order

The meeting was called to order by Chairman Joe O'Brien 7:30 a.m.

Record of Attendance

The following board members were present:

Joe O'Brien
Mike Harris
Danny Hayes
Joe Schifano, III
Michael Kelley
Billy Crandall
Bob Miller

Media Present: None

Others Present: Mayor Gary Waters, City Attorney Bill Justice, Jonathan Beling, attorney for FSI Green Park South Property LLC, and members of the public.

Old Business – None

New Business

Chairman O'Brien stated the purpose of the special called meeting was to address several items requested by FSI Green Park South Property LLC, the property owner Green Park South Mobile Home Park.

Pelham resident Ken Hood, 2295 Chandalar Drive, stated having experienced problems with the trailer park for many years. He further stated he does not want to see the trailer park expanded. He requested a fence be installed between his property and the trailer park.

Jonathan Beling, attorney for FSI Green Park South Property LLC, stated he represented the property owner in today's proceedings. He stated in August 2016 the property, including South Gate Mobile Home Park, was purchased for \$19.9 million. He said through upgrades and improvements to the property, ad valorem taxes have increased by \$100,000. Mr. Beling said the property owner plans to continue making improvements. He said they are not permitted to bring in new mobile homes per city ordinance which has caused significant problems for his client. Mr. Beling said the property owner wants to upgrade the mobile home park with new homes. He said if the owners are not allowed to replace old mobile homes with new ones as tenants leave there is no incentive on their part to improve the property. He further stated the property owner has made \$400,000 in improvements over the past year to the park, which has 415 places for lease. These improvements include, but not limited, to new address posts, concrete, fencing and asphalt repairs. He stated again as tenants leave revenue drops and there is no incentive on the part of the property owner to make improvements to the mobile home park. Mr. Beling described this as "destruction by attrition". He further stated Green Park South is over 50 years old and has always been in a non-conforming use. He said the owner's variance request is to be able to bring in new mobile home for tenants to rent. Mr. Beling further stated the city's interpretation of the ordinance is both arbitrary and capricious. He said it is not the intention of the property owner to enlarge the park, but simply to bring in new, high quality tenants and new homes. Answering a question from a member of the Board, Mr. Beling said there are currently five vacancies in Green Park South.

Board Member Billy Crandall asked Mr. Beling if the owner was aware of the restrictions prior to the purchase of Green Park South by his client. Mr. Beling said they were made aware of Mayor Water's 2013 letter in 2017, sometime after the purchase. He further stated Mayor Water's letter was not provided by the previous owner during their period of due diligence.

Board Member Mike Harris questioned Mr. Beling on the vacant lots. Mr. Beling said there are currently five vacant lots and all have been vacant since the time of purchase.

Chairman O'Brien spoke of a personal matter where his brother had purchased property with a mobile home. He said after the purchase was finalized the mobile home was moved off the property. The city would not allow another mobile home back on the property.

Board Member Mike Kelly asked Mr. Beling who was the owner of the property. Mr. Beling responded FSI Green Park South Property LLC is the actual owner of the property. He further stated he was not a part of the property purchase closing. Mr. Kelley asked if the previous owner had discussed any zoning issues with the city. Mr. Beling said he could not speak to that question. Building Official Bob Miller stated in 2014 he was asked by Mayor Waters to inspect all mobile homes in the city. Following the

inspections Mr. Miller said he prepared a detailed reported outlining the deficiencies with each mobile home. Further, Mr. Miller said he spoke to the owners of Green Park South and informed them the property was non-conforming and no mobile homes could be moved onto the property. Mr. Miller said this was disclosed to the property owner at that time, which was prior to the purchase by FSI Green Park South Property LLC.

Board Member Joe Schifano said, in his opinion, the Board of Adjustment was not the proper board to hear the variance request. Mr. Beling disagreed and asked the Board to rule on their request for a variance on the subject property.

Mayor Waters stated his 2013 letter was sent to the property owners and was not his interpretation of the ordinance. He said he simply restated the language of the ordinance in his letter. Mayor Waters further stated he was very open about the city's position of non-conforming properties. He referenced the 2002 Comprehensive Plan where the citizens of Pelham had input into what they wanted their city to look like. Mayor Waters said, according to the Comprehensive Plan, aging mobile homes were a problem in the City of Pelham. He said the citizens of Pelham decided they were not going to continue sustaining non-conforming properties. Mayor Waters read from the ordinance the language which addressed non-conforming properties. Mr. Schifano said the ordinance speaks to all non-conforming properties, not just mobile homes.

City Attorney Bill Justice stated Mayor Water's letter was a correct statement of the city's position. Mr. Justice referenced the City of Foley vs. McLeod court case where the Alabama Supreme Court upheld the City of Foley's ordinance with regard to non-conforming use. The court further ruled despite Foley's silence on Green Acres Mobile Home Park's past practice of replacing mobile homes the city is not prevented from making its position clear going forward. Mr. Justice said Mayor Water's letter of 2013 made it clear of Pelham's position. He further stated there might be a case for granting a variance, but there must be specific conditions to approve such request. Mr. Justice restated the Mayor's interpretation on the city's ordinance is correct under Alabama law.

Mayor Waters said no one should be surprised when administrations change. He further stated the city's building official was sent to every single mobile home park in the City of Pelham to identify problems and issues.

Mr. Beling said his client wants to identify potential problems within their mobile home communities and address those issues. It was noted state law allows property owners to continue to use their property even though it is of a non-conforming use, but not to expand the non-conforming use. He said his client wants to be a good neighbor. He asked the board to rule on the interpretation in the mayor's letter and whether you agree this board can grant the variance request.

Mayor Waters asked if any of the property owners live in Pelham. Mr. Beling said the property is owned by a limited liability company with no local ownership. He further stated the company does employ local individuals.

Resident Spencer Atkins asked if there is any type of mobile home or manufactured home the Board would approve. Chairman O'Brien said the Board would have to look at each situation on a case by case basis.

Mr. Crandall stated "I don't see how you can interpret the ordinance in any other way. Once the lot is vacated you cannot put another mobile home on the property."

Mr. Beling thanked the Board and their time and consideration of the requests before them.

Mr. Schifano asked Mr. Justice if Item 3, the Board's hearing of the case, had been addressed. Mr. Justice agreed it had. Mr. Justice suggested the Board address the interpretation issue first, then the variance request.

Mr. Schifano moved the Board of Adjustments agrees with Mayor Water's interpretation of the zoning ordinance. Said motion was seconded by Mr. Crandall. There being no further discussion, the motion passed unanimously by voice vote of those members present and the chairman declared the same passed.

Mr. Schifano moved to deny the variance request by FSI Green Park South Property LLC. Said motion was seconded by Mr. Hayes. There being no further discussion, the motion passed unanimously by voice vote of those members present and the chairman declared the same passed.

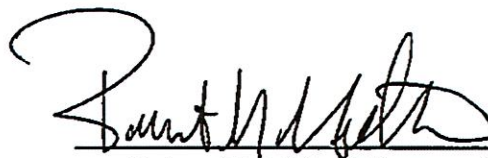
Adjournment

With no other business before the board, a motion to adjourn the special called meeting was made by Chairman O'Brien and seconded by Mr. Kelley. The motion passed unanimously by voice vote of those members present, and the meeting was adjourned at 8:20 p.m.

Respectfully submitted this 3rd day of November 2017,



Tom Seale, City Clerk / Treasurer
Acting Board Secretary



Robert M. Miller, Director of
Revenue and Building Services

