



ZONING BOARD OF ADJUSTMENT MEETING

January 5, 2021

Meeting called to order by Chairman Joe O'Brien at 7:33 A.M.

Members present were: Joe O'Brien, Mike Harris, Mike Kelly and Joe Schifano, and Battalion Chief Steve Holler. Building Official Angie Brown and GIS Director Josh Osborne was also present.

The following requests was presented:

- I. Applicant, Jordan F Vaugh MD of Vaugh Realty LLC
Location: 3170 Pelham Pkwy
 - a) 27ft Variance for sign feature element
 - b) Variance to expand footprint of the building, #4 on site plan
 - II. Applicant, HES Investments LLC
Location: 2000 Oak Mountain State Park Rd
 - a) Height variance of 74'
 - b) Distance variance between existing similar signs of 1,000'
 - III. Applicant, Jeremy Swenson
Location: 316 Kings Crest Ln Lot 42
 - a) 10' Front Variance
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- I. **Applicant, Jordan F Vaugh MD of Vaugh Realty LLC**
Location: 3170 Pelham Pkwy
 - a) 27ft Variance for sign feature element**
 - b) Variance to expand footprint of the building, #4 on site plan**

Todd Thompson with MTTR Engineers, Inc represented Dr. Vaugh and presented the request for 3170 Pelham Pkwy stating Vaugh Realty has bought the property and is planning on taking off the top floor and expand the building. Mr. Thompson went on to say that currently the building is in non-compliance with the setbacks and over the years ALDOT has acquired the right of ways which has put the building in non-compliance. Since we are expanding the building and removing the second floor we are asking for a variance to officially put on record that the

building has a variance and the expansion will be allowed. In addition to that, Mr. Thompson spoke, there is a sign feature on the front of the building which does not meet the current sign setback regulations, so we are asking for a variance for that as well. Mr. Thompson stated Dr. Vaugh is moving his current practice which is across the street to this new location. Joe O'Brien asked where the expansion of the first floor would be. Mr. Thompson answered, right now the front of the building has two inside corners, and Dr. Vaugh is wanting the square off the front of the building. Mike Kelly asked for clarification, is the second floor on the Hwy 31 side being removed. Mr. Thompson answered, there is actually three floors which includes the basement area, and therefore it would be the third floor that would come off. Joe O'Brien asked how much higher the sign element would be from the Realty South sign that's currently up. Mr. Thompson answered, he did not know the current height of the Realty South sign, he believes from the drawing it is 25' 6" to the top. Joe O'Brien asked to clarify, with the expansion it is just to square off and is not going out further than the existing building. Mr. Thompson stated, that is correct. Mike Kelly asked if the sign will be visible North and South. Mr. Thompson answered yes, it is a two sided sign going North and South for visibility. Building Official, Angie Brown, informed the board members that the city requests, since the sign feature is actually further encroaching into the front setback, we are going to spend over 2 million dollars on the renovations next door at City Hall, the city would like to request them to do an alternate more in scheme with the rest of the buildings in the area because the sign feature they have presented is red and 25' tall and 5' out from the building. Todd Thompson stated so the City is asking for them to move the sign closer to the building. Mrs. Brown answered the sign feature on the building is what you all are asking for a variance on, correct. Todd Thompson answered, yes that's correct. Mrs. Brown stated that sign is actually attached to the building, it's not a standalone sign so it sticks out another few feet therefore it is encroaching more into the setback since it is attached to the building stand point we would assume that's all together. We would like to see something that's a little less and that would fit more into the scheme of Hwy 31. Mrs. Brown asked if the stand alone sign is staying. Todd Thompson answered, he believes Dr. Vaugh is planning on keeping that sign as well. Todd Thompson asked when the city would want to see the architectural color of the sign, is that typically during plan review. Mrs. Brown stated in the corridor overlay district overview under signage states the sign should match the building, so since the sign is proposing to be red the sign wouldn't match the building, but yes the colors of the building and signage are looked at during plan review. Todd Thompson stated Dr. Vaugh wants the sign to be there and if it comes down to not being able to have a giant red fin on the front of the building he can't imagine that being a deal breaker and maybe have the top of the sign red, but they will address that during plan review. Todd Thompson stated there is another Urgent Care on Hwy 280 that has the same look with the red sign so I believe Dr. Vaugh is trying to keep that same red look there to be consistent. Joe O'Brien asked Mr. Thompson if he feels like he can come up with some different options. Todd Thompson answered, oh sure. Todd Thompson asked is the sign an issue or just the color. Mrs. Brown stated with the Cities stand points, it's both. The color just because of the regulations of the overlay district and the building itself is already encroaching the setbacks and this is an added feature that's also encroaching the setbacks. I believe from the city standpoint that's our biggest concern. Mike Harris stated where you have existing sidewalk, would that sign stick out further into the parking lot than that existing sidewalk and curb. Todd Thompson answered, no it would not. The sidewalk is actually a part from the building and is actually offset from the face of the building it doesn't run flush with the face of the building. There's landscape between the sidewalk and building and the ADA parking is going to be on the

pawn shop side so we will come in and rip up part of the sidewalk and put a ramp in. Joe Schifano stated there were some preliminary documents that were sent through some emails show the existing survey, what is the existing setback versus the setbacks you are proposing? Todd Thompson answered, 35' I believe. I mean how close is the building today on the closest point because I know your illustrating on your diagram that you have 28' 11" and 26' 75" on the other end, stated Joe Schifano. I'm curious how close the building is today. Mr. Thompson answered it is going to be $2306 + 4.5$ which would be 27 and some change, 27.5 feet roughly to the current face of the building. Mr. Schifano asked so generally the setbacks will stay the same. Mr. Thompson stated, yes because they are using the existing foundation wall.

- a) Mr. Schifano made the motion to approve a 23.06 foot setback to the sign element on the front of the building. All opposed, the variance was denied.
- b) Joe Schifano made the motion to approve the building variance to allow a 26.7, 5ft front setback to the building. Mike Kelly seconded the motion and all approved. Variance was granted.

II. Applicant, HES Investments LLC

Location: 2000 Oak Mountain State Park Rd

a) Height variance of 74'

b) Distance variance between existing similar signs of 1,000'

Jordy Henson, owner of HES Investments LLC and Genrev Properties presented by stating this all ties into right across the street here, they own about 40 acres of property that they have been working diligently to bring a mixed use project to Pelham called The Canopy. John Benner, Mr. Henson's development partner, also attended the meeting. Mr. Henson explained, The Canopy is an entertainment district with retail, food, some office space, and at some point some hospitality and some apartments in a mixed use process. They bought the property and went through the process to reposition the property in managing the site, walls and things of that nature and now we are getting ready since February of 2020 when the world changed on us. We had some really good dialog, we have retail, restaurant tenants that like The Canopy concept and that are ready to come into a partnership. Mr. Henson went on to explain they are doing something to pull people off of the main, such as I-65, and people will need to travel Hwy 31 to get to The Canopy. The tenants they are talking to obviously are very key on visibility off I-65, which we didn't have. Mr. Henson stated he has now put the cabin on the corner under contract anticipating on closing on that at the end of this month, to give us 41 acres and the strategy buying the cabin centers around to do some marketing and have the proposed signage. We have worked with Lamar Advertising, who has been very professional and the sign will be electronic nature but will also have facade type features to identify The Canopy and it will identify Oak Mountain. The goal is to view this as the front door of Oak Mountain State Park and it is absolutely needed for what we need to do and we believe it will be a good asset for the community as well. Mike Harris asked if the sign will only be for The Canopy or is it going to be an advertisement, marketing billboard for anybody that wants to get on it. Mr. Henson answered, it will be for anybody that wants to get on it, largely correlated to the Amphitheater Road uses is the anticipation. The reason they did that was, this is a pretty expensive sign to put up there and so economically it makes sense to have this sign for various uses but mainly be focused for The Canopy and Amphitheater Road,

entertainment district. Joe O'Brien asked if the sign will be a two sided sign or only face I-65. Mr. Henson stated it will be two sided, perpendicular to I-65. Joe Schifano stated one of the submitted documents shows that there is a significant amount of clearing on the I-65 right of way, do you all have on location what it's going to take to make that sign visible. Mr. Henson expressed they do and it is more or less up to Lamar on the distances that need to be cleared and the curve in the road limits your ability to view this sign as your heading North. Talking with the state it's not much to clear on that right of way, there's not many trees there just grub. Behind the property, we are going to survey the triangle shape that Lamar presented to us on the document submitted so we will know exactly how much is needed to clear out. Mr. Henson believes about 90% of it is going to be county right of ways, so they will be working with the state on the I-65 portion to clear and the county on the other portion. Mr. Schifano asked GIS Director, Josh Osborne if the Greenway Project would be separate from the widening project of State Park Road. Yes, that's correct stated Mr. Osborne. Mr. Schifano stated he believes with the nature of that project and what the city is looking for long term is to keep it looking as natural as possible, it is a greenway, and it sounds like the clearing and all would be in conflict with what the City is trying to make that greenway. John Benner spoke that they have been working with the city all along with these plans to inform them of what we are planning on doing and I don't think what we are going to do is going to impact the greenway project in any way. John Benner stated they are going to continue to cooperate with the city on this project, greenway and bike trails. Mr. Henson expressed that their desire is to make this natural oriented and save trees. The entire project is about attracting the outdoor, hiking, nature, friendly environment. Mr. Benner stated they have every motivation to please those folks at the State Park as well with this development coming. Joe Schifano asked working with Lamar, they are the owners of the sign already in place by the old Waffle House over there, have you all had any discussions of putting your concept in place on that existing billboard without having to do all of this work. Mr. Henson stated they have not really engaged in that conversation, they would like something that associates with The Canopy, there at The Canopy and that is known as The Canopy at Pelham or Amphitheater Road sign and Lamar did not bring that up and he was not aware of the sign already there next to the old Waffle House. Mike Kelley asked if the log cabin will stay put. Mr. Henson said as of right now they are anticipating for the log cabin to stay there and they are talking to a uses relative to the log cabin but do not have an immediate plan, it could be where we office for a period of time. Mike Kelley asked how high the sign would be. Mr. Benner wasn't sure and that Lamar comes out and does a HAGL study by getting a crane to get you what you need to be able to see the sign. You almost have to get to the office ramp to see the sign at the request variance height, much of that curve impacts going north. Mike Kelly asked if the city has any input on this request. Mr. Osborne state the main reason they are here for the request is we have a 2,000' distance rule for off-premise advertisement signs and currently the proposed sign to the sign they were talking about earlier next to the of Waffle House is too close. Mr. Schifano added actually the proposed location is less than 2,000' from the next sign but the next sign isn't in the city limits of Pelham. Mr. Osborne added per ordinance our max is 65' and they are asking 75' on height. Mike Harris added as far as where the log cabin is, the footprint of the proposed sign would be in comparison to the cabin to the side of it or behind it. Mr. Benner answered no, if you are on State Park Road and you turn up the driveway to go to the cabin, so the cabin will be in front of you, the sign will be off to the left closer down to the interstate and will be consistent to how the other signs are lined up on that road. Mr. Schifano stated with all of the challenges they are trying to overcome it sounds like if they could enter into an agreement with Lamar on that

existing sign it sounds like you would have all of them accomplished. Really you are advertising to the interstate people and they don't care if that sign is directly on the road they are going to turn on or if it's a few feet away, as long as it's capturing their attention you're fulfilling your goal. Mr. Henson expressed he would respectfully disagree that the sign they put there for a different purpose and plan. This property they are trying to acquire to tie to a major development, without it there will be some problems with our retail and they haven't had any under that mentality they could go lease space on some other signs. These retailers want a sign at The Canopy that brings them down Amphitheater Road. This is a key part for us to accomplish the ultimate development, to have those retail components. Joe O'Brien agreed with Mr. Benner saying it's a tough sell, the sign has to be there to get people in there because it's not a convenient place to go, there's not a lot of drive by. Joe O'Brien asked if the 14 feet in height on the drawing includes just the electronic portion of the sign or does that include the signage above and below the electronic part. Mr. Benner expressed that was a great question, he believes they would go by what instruction the city provided on that, if we had to lower it 2ft to get some Canopy identifier up there. Our intent is not to go above that, we want to work with everybody, Mr. Benner said. Joe Schifano spoke that if you have 14ft of billboard and 2ft on either side, so 18ft-20ft in that range, therefore the bottom of that sign would be roughly 54ft from the found elevation and they are asking for a 74ft height. Mr. Benner stated Josh said typically its 64ft in height is the code but you just can't see it until you're passed the curve on I-65. Joe O'Brien stated he believes we can wrap the motion into one since they go together.

Mr. Schifano made the motion to approve the sign variance to allow it to be less than 2,000' roughly at the location submitted on their drawings and that location to be determined with their final site plan and a height limitation of 74'. Mike Harris seconded the motion and all approved with the exception of Joe Schifano voting no. Variance was approved.

III. Applicant, Jeremy Swenson
Location: 316 Kings Crest Ln Lot 42
a) 10' Front Variance

Property and builder of the home, Jeremy Swenson presented his request by stating he had a survey company come out and set the box where the house needed to go. Mr. Swenson went on to say, they excavated it and dug the footings and then they sent him the actual survey and he noticed they were way off. There is no room to push the house back because he is on a cliff. Jeremy went on to say he tried to rotate it to make it fit on their 25' setback, which is not correct, it will be about 45 degrees. The true measurement is 4' because it's a 15' right of way and 25' setback. The only thing currently sticking out is the front porch. Mike Kelley asked if the footers were already poured. Mr. Swenson answered, he has not poured yet only dug them out. Joe O'Brien expressed that Mr. Swenson said he didn't really need the 10' variance but needs 4', how confident are you on that. Mr. Swenson stated he pulled the tape measure from the street and a straight measure is a 36 and 4' gives him 40 and is asking for more just in case of any hiccup. Joe Schifano stated he is in a similar business as Mr. Swenson's surveyor and he wouldn't always trust pulling a tape from all road ways, 98% of the time they are in the center where they are supposed to be, that 2% of the time where you are trusting where it is supposed to be you are going to be spending money pulling up foundation. Joe O'Brien stated his opinion that they should go by what the surveyor is saying because they aren't going to be able to tell the

difference from the road if they give Mr. Swenson 6' or 12' from the road. Mr. Schifano expressed that was right because there is no guarantee that the contractor that built that road didn't run into some type of problem running into a rock or something and had to move the road over, that road was tough to build up there.

Mike Harris made the motion to approve a 12' variance in order for the home to work on that lot. Mike Kelly seconded the motion and all approved. Variance was granted.

With no other business to come before the board Joe O'Brien asked for a motion to adjourn. Mike Harris made the motion to adjourn. Joe Schifano seconded the motion.

The meeting was adjourned at 8:50 AM.

 2.4.21
READ AND APPROVED / Angie Brown, Building Official

Respectfully submitted,
Kelsey Cunningham
Secretary