

**MINUTES FOR THE CITY OF OLIVE BRANCH BOARD OF ZONING ADJUSTMENT
REGULAR MEETING ON MAY 11, 2023**

The City of Olive Branch Board of Adjustment meeting was held on Thursday, May 11, 2023, in the Olive Branch Municipal Court Room, located at 6900 Highland Street, at 6:00 p.m.

CALL TO ORDER

The meeting was called to order by Ted Roman, Chairman at 6:00pm.

Mr. Roman introduced the new Board member, Darrel Berkley.

ROLL CALL

The roll was called with Angela Cook, William Gray, Ted Roman, Aretha Wiseman, Carl Williams and Darrel Berkley present, and a quorum was established. Jessica Cowan was absent. Jason Gambone, Director, Venard Asongayi, Assistant Director, Brad Thomas, Associate Planner, Jeremiah McCroskey, Associate Planner, and Heather James, Planning Technician were present from the Planning and Development Department

THE APPEAL PROCESS

Mr. Roman announced the Appeal Process.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF APRIL 13, 2023

Mr. Roman asked if anyone had any questions, comments or motions regarding the minutes of the April 13, 2023 meeting and there were none. **Mr. Williams made a motion to approve the minutes as submitted and was seconded by Mrs. Cook with approval as follows:**

**Jessica Cowan – Absent William Gray – Yes Aretha Wiseman – Yes
Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes**

OLD BUSINESS

NEW BUSINESS

1. Application for a Conditional Use Permit, submitted by Scott Williams, property owner. The request is to allow a Motor Vehicle Repair shop in an existing building. The 0.50 +/- acre subject property is zoned M-1, Light Industrial District, and is located on the south side of Yahweh Drive, west of Hwy 178, known as 9106 Yahweh Dr. (File #CU23-0007).

Mr. Roman announced New Business Item Number 1 and asked for the staff report. Mr. Thomas shared the following: **BACKGROUND:** Scott Williams, the applicant and property owner, is requesting approval of a 10-year Condition use Permit (CUP) to allow a motor vehicle repair shop at the 0.50 acres of land on the southeastern side of Yahweh Drive known as 9106 Yahweh Dr. The property is zoned M-1, Light Industrial, and is designated "Industrial Distribution" according to the Future Land Use Map. The property is Lot 17 of the Chickasaw Industrial Park subdivision and is currently the location of the Airsystems Sale Inc. and B&W Electric Company. The surrounding parcels are consistent in FLUM designation with the subject property. The majority of the surrounding parcels are zoned M-1, with the exception of three lots to the northwest and northeast that are zoned C-2, Highway Commercial. No residential areas are located within the vicinity of the subject property.

Article V, Sec. 12 (B) (6) of the Zoning Ordinance permits "motor vehicle repair services" in the M-1 zoning district as conditional uses that require approval by the Board of Zoning Adjustment.

RECOMMENDED MOTION: Based on the stated criteria, staff recommends the Board approve the Conditional Use Permit for the mechanic auto service shop at 9106 Yahweh Drive within Olive Branch, MS for ten (10) years subject to the following conditions:

1. A professionally-rendered site plan shall be provided and administratively reviewed and approved by Staff.
2. All site improvements shall be the responsibility of the developer, and not the City of Olive Branch.
3. Any areas on the property used for the parking, storage, or where vehicles shall be driven on must be paved.
4. All vehicles being repaired or stored on the property shall be concealed from view, either in the existing building or in the fenced-in side yard and/or rear yard.
5. Any dilapidated or see-through fencing must be replaced by an opaque, 6' in height wooden or composite fence.
6. Any signage shall meet the requirements of the Sign Ordinance of the City of Olive Branch. Off-premise advertising is not permitted. Ground mounted signs shall be monument style with a maximum height of 12'.
7. Applicant shall provide evidence, and planning staff shall verify that there shall be sufficient number of parking spaces that meet the minimum requirements stipulated in the Zoning Ordinance before a certificate of occupancy may be issued.
8. Before occupying the building, any existing utilities shall be verified by the Building Official and Fire Marshall and shall comply with the Building and Fire Codes of the City of Olive Branch. Such compliance must be maintained at all times.
9. The parking of cars to be repaired in the front yard is prohibited.

This concluded the staff report. Mr. Roman asked if there were any questions for staff. Mr. Roman asked to clarify that the fence needed to be up in the back and the back area paved before they can allow them to begin work. Mr. Thomas advised that was correct. Mr. Gray asked if they were only going to work in one bay, could they just pave the one spot or all of it. Mr. Thomas advised all of it would need to be paved in the back. Mr. Roman asked if there was anyone to represent the application and recognized Scott Williams, 7401 College Rd, Olive Branch, MS 38654. He wanted to know why the back had to be paved. He says no one else in the area has the back of their property paved. He says he has a wooden fence that is already there. Ms. Wiseman stated that he needed to reach out to Code Enforcement if any of his neighbors are not in compliance. He advised that wasn't his concern. He stated he also has a chain-link fence along the sides and there is a gas line in the back yard. Mr. Asongayi advised that some uses are permitted, and some are not. The conditional use permits are up to the Board of Zoning Adjustments to hear. He advised some locations may be grandfathered in. He advised that if the sides are chain link and permits the view of cars in the back, it must be screened. Mr. Williams stated the front is wood and the sides are chain-link and that you can't see the back from the street. Mr. Williams stated that would be okay, but they definitely cannot park on the grass, so the back must be paved. Mr. Asongayi advised other locations are being paved in the area. Mr. Roman asked if there was anyone else to speak for the application and recognized Billy Ross, 9106 Yahweh Dr, Olive Branch, MS 38654. He advised he's just trying to give back to the community by offering his service. He said not everyone is not grandfathered in. He stated Darby's doesn't have a fence. He said rules should apply across the board, not selectively. Mr. Roman stated the issue is not putting them there, but that the area is not paved. The Board doesn't have the information on who may or may not be grandfathered in; that's an issue for code enforcement. The requirement was approved in the late 90's and any business type in existence at that time would be grandfathered in. Other items can be stored on gravel, but not cars. Mr. Gambone advised the largest issue in the city is parking on grass- in both residential and commercial areas. There are always violations for that. Mr. Roman stated that was an issue for Code Enforcement. The Board cannot approve something that goes against the Zoning Code. Mr. Asongayi stated that if he is aware of code violations, to please let Code Enforcement know. It can take months to get through the process and into the court system. He stated there are only a few officers and they cannot be everywhere all the time. If he's aware of violations, he is welcome to let the officers know. Mr. Williams stated that this is a perfectly good business to have in that area, but the paving must

be done. Mr. Roman asked if there was anyone to speak against the application and there none. Mr. Roman asked if there was any discussion among the Board members. **Mr. Williams made a motion, based on the stated criteria, to approve the Conditional Use Permit for the mechanic auto service shop at 9106 Yahweh Drive within Olive Branch, MS for ten (10) years subject to the following conditions:**

1. **A professionally-rendered site plan shall be provided and administratively reviewed and approved by Staff.**
2. **All site improvements shall be the responsibility of the developer, and not the City of Olive Branch.**
3. **Any areas on the property used for the parking, storage, or where vehicles shall be driven on must be paved.**
4. **All vehicles being repaired or stored on the property shall be concealed from view, either in the existing building or in the fenced-in side yard and/or rear yard.**
5. **Any signage shall meet the requirements of the Sign Ordinance of the City of Olive Branch. Off-premise advertising is not permitted. Ground mounted signs shall be monument style with a maximum height of 12'.**
6. **Applicant shall provide evidence, and planning staff shall verify that there shall be sufficient number of parking spaces that meet the minimum requirements stipulated in the Zoning Ordinance before a certificate of occupancy may be issued.**
7. **Before occupying the building, any existing utilities shall be verified by the Building Official and Fire Marshall and shall comply with the Building and Fire Codes of the City of Olive Branch. Such compliance must be maintained at all times.**
8. **The parking of cars to be repaired in the front yard is prohibited.**

Mrs. Cook made the second and the motion was approved as follows:

**Jessica Cowan – Absent William Gray – Yes Aretha Wiseman – Yes
Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes**

2. Application for a Zoning Variance submitted by Jeff Carter, Carter Engineering Consultants, Inc, on behalf of Jason Shifflett, Dirt to Dough LLC, property owner. The request is to allow a 26ft encroachment into 50ft front yard setback. The 2.66+/- acre subject property is zoned C-2, Highway Commercial District and is located on the east side of Hacks Cross Rd, between Old Goodman Rd and Hwy 302. (File # VR23-0003).

Mr. Roman announced New Business Item Number 2 and asked for the staff report. Mr. McCroskey shared the following: **BACKGROUND:** The applicant request a 24' building encroachment into 50' front yard setback on Old Goodman Rd. (a 24' setback variance) for the construction of a restaurant on a 0.98+/- acre site to be platted in future. The subject property is an undeveloped, parcel of land bounded by Old Goodman Rd. and Hwy 302. It is located across Old Goodman Rd. from the Walgreens Pharmacy and Fairmont Inn, within a C-2 zoned area of hotels, offices, shopping centers and restaurants. On 11/15/2022 the Olive Branch City Board of Alderman was presented the application for a Final Plat for The Shops at Goodman Crossing Subdivision, submitted by Rusty Norville, Civil Engineering Solutions, LLC on behalf of Jason Shifflett, Dirt to Dough, property owner. The request was to divide 3.978+/- acres into 2 lots. Based on the road frontages and the irregular shape of the lots, it was reasonable to assume that the future development of these proposed lots would likely require zoning variances at the time of site plan approval. The property owner intends in the future to further subdivide Lot 2 in additional lots of 0.98+/- acres and 1.67+/- acres. **RECOMMENDED MOTION:** Based on finding that a hardship exists and the criteria have been met, approve the variance to allow a principle building encroachment of 24' into the 50' front yard setback, thus establishing a 24' front setback along Old Goodman. Subject to the following.

1. The developer must plat the site and create a lot of record before obtaining a building permit.
2. The developer submits civil, photometric, landscaping, and building plans to City Staff for administrative review and approval.
3. Free standing advertisement signs shall be monument style and no more than 12' in height.

This concluded the staff report. Mr. Roman asked if there were any questions for staff and there were none. Mr. Roman asked if there was anyone to represent the application and recognized Charlie Oaks, 4986 Minden Rd, Memphis, TN 38117. He had nothing further to add to the report. Mr. Roman asked if there were any questions for this applicant and there were none. Mr. Roman asked if there was anyone else to speak for the application and there were none. Mr. Roman asked if there was anyone to speak against the application and there none. Mr. Roman asked if there was any discussion among the Board members. **Mr. Berkley made a motion, based on finding that a hardship exists and the criteria have been met, to approve the variance to allow a principle building encroachment of 24' into the 50' front yard setback, thus establishing a 24' front setback along Old Goodman. Subject to the following.**

1. **The developer must plat the site and create a lot of record before obtaining a building permit.**
2. **The developer submits civil, photometric, landscaping, and building plans to City Staff for administrative review and approval.**
3. **Free standing advertisement signs shall be monument style and no more than 12' in height.**

Mr. Williams made the second and the motion was approved as follows:

**Jessica Cowan – Absent William Gray – Yes Aretha Wiseman – Yes
 Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes**

OTHER BUSINESS

1. Mr. Asongayi wanted to share a response from AT&T regarding the Conditional Use Permit for 2 small cell towers from the April meeting. They stated there is a clearance requirement to install the poles. They must be a minimum of 10 feet from a power pole and at least 10 feet from the lines above. Placing them along the same side of the street as power poles was not an option because these clearance requirements were not met.

ADJOURNMENT

Mr. Roman stated there being no further business, could he entertain a motion to adjourn. Mr. Gray made a motion to adjourn, seconded by Mrs. Cook and the motion to adjourn the meeting at 6:58 p.m. was approved as follows:

**Jessica Cowan – Absent William Gray – Yes Aretha Wiseman – Yes
 Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes**