

MINUTES OF MEETING

HOOVER BOARD OF ZONING ADJUSTMENT

Date: April 4, 2019
Time: 7:30 P.M.
Place: Hoover Municipal Center
Present: Mr. Curtis Jackson
Mr. David LeCompte
Mr. Jim Brush
Mr. Dan Mikos
Mr. Lawren Pratt
Mr. TJ Dolan
Mr. Kyle Puchta

Also Present: Mr. Mac Martin – City Planner
Ms. Vanessa Bradstreet – Zoning Assistant

1. CALL TO ORDER

The meeting was called to order by Mr. Mikos. The secretary had the roll call and a quorum was present. Mr. Mikos announced the voting members for this meeting would be Mr. Pratt, Mr. LeCompte, Mr. Brush, Mr. Puchta, and himself.

2. Mr. Mikos asked if anyone had any additions or corrections to the minutes from the April 4, 2019, BZA meeting. There being none, Mr. Mikos asked for the minutes to be approved by acclamation.
3. **BZA-0419-04-** Mr. Larry Vann, CEO, Heritage Preschool, is requesting a 50 ft. buffer in lieu of a 75 ft buffer on Silver Spur Lane for a proposed new daycare to be located at 2700 Ross Bridge Parkway. Heritage Ross Bridge Development, LLC, is the property owner and the property is zoned PC (Planned Commercial). **DENIED**

Mr. Larry Vann, 1310 Alford Avenue, Hoover, AL 35226, was present to represent this case. Mr. Vann explained they were requesting consideration to allow them to have play space in the buffer zone that was required out at Ross Bridge, which he knew the city's requirement was 50 feet and an agreement was made some years ago in Ross Bridge for a 75 foot buffer zone. Mr. Vann stated they had every intention of following the regulations and had been working with the City of Hoover to meet these requirements in their planning.

Mr. Vann stated the buffer zone was off of Silver Spur Lane on the back side of the property. Mr. Vann stated they did not have an entrance or exit access point off Silver Spur Lane for pedestrians or vehicles. Mr. Vann stated they never considered this because they wanted to try to maintain as much privacy as possible for the residents along Silver Spur. Mr. Vann explained a 75 foot buffer from the right-of-way line off Silver Spur would carry the buffer up to the edge of the back of their building. Mr. Vann stated their idea was to utilize its' somewhere 30 to 34 feet (estimate) of the buffer zone as landscaped area. Their plan was emerald zoysia and other plant materials included on the landscape plan that they should have in their packets.

Mr. Vann explained the way he understood the definition of a landscaped area combined with buffer zone is an area left undisturbed or re-landscaped. Mr. Vann stated in his understanding, there must be a densely planted area that would be a reduction in noise and visibility in site for the residents to any businesses that developed in this area. Mr. Vann indicated they would fully comply or negotiate or do whatever they needed to do to insure they had that screened in place.

Mr. Vann pointed out on his landscape plan there was an area heavily planted as part of this buffer off Silver Spur Lane. Mr. Vann stated they wanted to be good neighbors and are a faith based organization. Mr. Vann pointed out they already have 61 (sixty-one) Ross Bridge families signed up for care at this facility and they didn't anticipate opening until August 2020.

Mr. Mac Martin, City Planner, addressed the Board members to provide some commentary based on the information he had. Mr. Martin stated that by looking at the standards for a buffer, it appeared that if there was an undisturbed portion of it, such as 50% and the remainder planted, but it did appear the standards in the zoning ordinance required that the entire width and length of the buffer be planted. Mr. Martin explained another thing to consider when making their decision was staff did review the plans and the Fire Marshal did have a positive comment about having some clear area to the rear of the building, so not having a densely vegetative buffer coming all the way up to the building, and having a clear space to allow for a free flow of movement should there be an emergency or should the children need to be navigated around the rear of the building, the Fire Marshal, from a safety standpoint saw that as a positive. Mr. Martin also pointed out on the plans, a portion of the site near Melton Road that was designated for a retention/detention area had been reviewed by staff and they agreed that was the most probable and sensible location. Mr. Martin stated this would creep into the 75 foot buffer as defined in the PUD zoning and zoning ordinance.

Mr. Martin stated he knew there were circumstances outside this Planned Unit Development where they have had an issue of buffers come up before and looking for ways to try to navigate the issue of the width and at least in other circumstances, the ordinance did provide for a method to reduce the required width if there was a wall or fence in place, such as one that was visually impervious and at least 6 feet in height, chain link not qualifying.

Mr. Mikos asked Mr. Pratt to read the portion of the minutes from a 2002 meeting regarding the issue of the buffer. Mr. Pratt responded by saying there was a statement in the June 3, 2002, Hoover City Council meeting notes stating there was a provision that those areas that abutted the PR-1, PR-2, or PC Districts would have a minimum 75 foot buffer either undisturbed or re-landscaped. Mr. Mikos then addressed Mr. Martin to say the majority of the buffer right now was undisturbed (until they cut much of it) and most of that area he thought was where the retention/detention pond would be, and asked if the balance of the buffer would qualify if they left the remaining buffer (all the trees) that went down the rest of the property line if they planted grass on the other portion of the flowers. Mr. Mikos asked if that would or would not suffice.

Mr. Martin answered that based on what he had seen, the rest of the trees appeared to be within the right of way of Silver Spur Lane although he had not actually measured. Mr. Martin added that the Landscape Architect had taken pictures of it as well. Mr. Martin that any buffer area that was required to the 75 feet or if there was some relief granted would have to be replanted with trees. Mr. Mikos asked if this was the whole length of the property. Mr. Mikos asked if they had taken out more trees since he had been out there. Discussion followed.

Mr. Pratt added he felt the front 1/3rd coming from Melton to the south, the remaining trees were within the 25 foot right of way and further south looked like it got a little wider, and then before making the turn on to Silver Spur Lane, it didn't appear to him that any of that had been disturbed.

Mr. Martin stated the limits of the clearing that had been indicated to the Building Inspections Department before going out and actually clearing appeared to be in line with that portion of the property that is being developed. Mr. Martin also pointed out that this property continued on down to the ravine further south and was a sizable tract of property.

Mr. Mikos asked again what portion of the property was cleared. Mr. Martin answered it did not appear to go all the way to the south end of the property down to the ravine. Mr. Martin stated it appeared to him to be along the rear of the portion of the property that is proposed for this development.

Mr. Mikos asked what was the definition of what needed to be left in the right-of-way and was not understanding why, if they had a 75 foot setback and 1/3 was grass, why that was a problem. Mr. Martin answered that based on the section they had touched on and Ms. Sharon Nelson (Landscape Architect) had quoted, it stated that planted buffers shall provide a visually pervious barrier, uniformly dense at all heights from the ground, and a minimum of 4 feet above grade throughout the entire length and width of the planting. Mr. Martin stated it also made reference to the planting as taking up the length and width of the buffer zone.

Mr. Mikos stated this was a little different than most of the cases that the BZA normally heard since he had been on the board. Mr. Mikos then stated he would like to hear from the neighbors to see how they felt about this case.

Ms. Teresa Browning, 2169 Silver Spur Lane, came to the podium and stated to Mr. Vann that she was glad he was putting a daycare there and would like for him to know that they were not contesting what he was putting there, and hoped he would be a blessing to the community, but the problem for the residents was that that was a business and they were residents. Ms. Browning stated they worked really hard in 2002 to maintain a buffer around those areas. Ms. Browning stated they would like to maintain the 75 foot buffer and by that, when she said buffer, she didn't mean grass. Ms. Browning stated she meant the impervious buffer where you could not see. Ms. Browning stated she knew they probably would see the building and probably would see the playground, but nothing extra.

Mr. Mikos asked if any of the board member had any questions for Ms. Browning. There were none.

Mr. Scott Cook came to the podium and stated he was at the meeting speaking for Ms. Henry, who lives at 2151 Silver Spur Lane. Mr. Cook emphasized again that back in 2002, everybody understood there would be a 75' undisturbed buffer. Mr. Cook stated that Mr. Vann bought this property knowing there was a 75' buffer and there was no hardship there.

Mr. Cook stated that for himself, he liked the landscape plan presented by Mr. Vann, although the plantings should be in the buffer, not the right-of-way. Mr. Cook also stated he felt a privacy

fence would be a good thing to consider as well. Mr. Cook added that fire safety was a priority to consider so maybe the neighbors could get together and be somewhat flexible. Mr. Cook then discussed the retention/detention pond as it was a must and would be required to slow down the water.

Mr. Cook asked when landscaping requirements would be met for the apartments in Ross Bridge and for the micro cell tower in the woods and added nothing had been planted there.

Mr. Martin added that Mr. Cook could call him later and discuss this topic.

Mr. Mikos asked if anyone else in the audience would care to speak. Mr. David Havron, 2073 Silver Spur Lane, stated he was the house directly behind this project. Mr. Havron stated he was not so much concerned about the depth of this project but the height. Mr. Havron stated he was concerned about what Mr. Vann was planning to put in this area because he really didn't want to look at the back of the building everyday. Mr. Havron stated he hoped that whatever went there, it blocked the view of the rear of the building.

Mr. Mikos stated what they were proposing were 5 to 6 ft lobby pines and behind that, magnolias, and behind that willow oaks. Mr. Havron asked if there was anything to show the density of those trees. He was then shown the landscape plan.

Mr. Mikos asked Mr. Martin, City Planner, how big a fence line was built on the lot line. Mr. Martin answered if fence was incorporated into the buffer (one that was impervious), it would have to be at least 6 feet tall.

Mr. Mikos asked Mr. Vann if he would entertain building a 6 foot tall fence along the lot line. Mr. Vann answered they would be willing to petition the Ross Bridge Association as they put the requirement of an aluminum vinyl coated fence, that was in their requirements, at every location they own. Mr. Vann explained they preferred a shadow box privacy fence for many reasons; safety, stranger danger, etc. Mr. Vann added if they could build a 6 or 8 foot fence, they would be more than happy to do so. Mr. Vann stated that would reduce noise as well. Mr. Vann added that over time, he felt the trees would grow to be taller than the fence. Mr. Vann stated they would be willing to plant whatever amount of trees in a 50 foot buffer for the density affect. Mr. Vann stated they still would have to go back to the Ross Bridge Architectural Committee to ask about that type of fence could be approved.

Mr. Martin stated to the Chairman, Mr. Mikos, concerning the height, he didn't see any restriction on an 8 foot tall privacy fence in a commercial zone.

Mr. Dan Browning, 2169 Silver Spur Lane, came to the podium to address why the projects seemed to be planned later than sooner. Mr. Browning stated the Fire Marshal's opinion was a good one as far as public safety was concerned, but he felt it should not be taken away from the buffer that was already in place. Mr. Browning stated that the rest of the property that they did not know what was going to be there, he felt it to be critical to maintain the 75 ft buffer for the future and state a precedent.

Mr. Mikos asked if anybody else would like to speak regarding this case. Mr. Curtis Jackson asked if the entirety of Silver Spur Lane, the 75 foot buffer, was for the entire property or just for the footprint of this project. Mr. Vann answered it was just for this project.

Mr. Vann added they had not decided what to do with the remaining 6.93 acres. They were presently consulting with their tax attorneys regarding this issue. Mr. Vann stated they were very concerned about who their neighbors were due to the nature of their business.

Mr. Pratt stated he had a couple of questions. Mr. Pratt asked Mr. Vann about his willingness to put up a fence of some type to help with the screening. Mr. Pratt asked with the amount of property between the property line and the open area, had they thought or considered the possibility of an earth berm, actually berm the earth. Mr. Vann answered the site plan actually included water flow and they would have to look at the water flow and how that might impede that vs. the vegetation. Mr. Vann emphasized again, they were willing to consider anything as a compromise in good faith with their neighbors in this area.

Mr. Vann spoke again that if they chose to sell the remaining property, could they write into the contract that it must be a 75 foot buffer for that section of the property. Mr. Mikos answered that buffer was already there. Mr. Mikos stated the BZA was in existence to deal with hardships, i.e. topographical issues, etc.

Mr. Vann then asked if they agreed to an 8 foot shadow-box fence, one that you could not see through, help with noise reduction and install new trees planted densely, if that would be a good alternative plan.

Mr. Pratt asked about his site plan regarding room for reconfiguration and asked if he had any thought to increasing the length of the building so it would take up less width on the property. Mr. Vann answered at this point, they had finalized financing on the building, finalized the plans with the architects, so everything was set on that, so they would not be interested in changing the footprint of the building.

Mr. Pratt then asked about the required buffer off of Ross Bridge Parkway. He asked what width was required there vs. what is shown on the site plan, or could the entire footprint as developed shift to the left and create a larger buffer along Silver Spur Lane.

Mr. Martin explained what they were showing was about as close as they could get to the right-of-way. Mr. Martin stated they required at least a 15 ft landscape strip between the vehicle use area which included parking spaces and the right-of-way. Mr. Martin stated it appeared based on the drawings submitted they were right at that point.

Mr. Mikos asked if anyone else on the board or audience had a comment or question.

Mr. Scott Cook came back to the podium to address the tree issues.

Mr. Mikos asked for a motion. Mr. Brush made a motion to approve BZA-0419-04 and was asking about other entities that would have to approve what Mr. Vann had suggested and to open up discussion for Mr. Vann's landscape plan with the residents. Mr. Brush added that he felt they should include Mr. Vann's commitment to the 8 ft shadow box fence. Mr. Brush asked

about the landscape plan presented tonight and if it would be the final and if it actually was required now. Mr. Martin responded the landscape plan submitted with the permit package for the site civil would be the final design submitted for the Landscape Architect's review. Mr. Brush asked if that had been submitted. Mr. Martin answered it had but contingent on what happened at this meeting. Mr. Brush then asked about options about having that plan amended or amending it in the future. A discussion amongst the board members was then held. Mr. Pratt asked to please add an amendment to this. Mr. Pratt stated he understood there was a motion to approve with the contingency that an 8 foot minimum shadow box fence be placed and he added to the motion that this motion would be for the footprint of the project that was submitted only and did not extend further south. Mr. Mikos asked for a second. Mr. Puchta seconded the motion. A roll call vote was then held. Mr. Pratt, Mr. Puchta, and Mr. Mikos voted "aye". Mr. LeCompte and Mr. Brush voted "naye". The motion was denied.

Mr. Mikos explained to Mr. Vann that he needed four votes to approve his request, therefore his request was denied. Mr. Mikos then added this had been one of the harder cases he had heard. Mr. Vann stated to the BZA that he did appreciate their time as well as the concerned residents who had come to the meeting.

With no further business, the meeting was adjourned.

Vanessa Bradstreet, Secretary, Board of Zoning Adjustment