

The City of Fairhope Board of Adjustments and Appeals met on Monday, May 16, 2011 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.

Members Present: Anil Vira, Vice-Chair; Troy Strunk; Sam Andrews; Debra Green; Clyde Panneton; Jonathan Smith, Director of Planning and Building; and Emily Boyett, Secretary.

Absent: Chairperson Cathy Slagle

The meeting was called to order at 5:00 PM by Vice-chair Vira.

The minutes of the December 20, 2010 meeting were considered. Debra Green moved to accept the minutes as written and was 2nd by Sam Andrews. Motion carried unanimously.

ZBA 11.01 Request of Twin Oaks, LLC for a second building sign to be placed on the south side of the building for Firehouse Subs at 113 S. Greeno Road, Suite E.

Jonathan Smith, Director of Planning and Building, came forward and gave the Staff Interpretation.

STAFF INTERPRETATION: The subject property is zoned B-2 General Business District. Firehouse Subs is located in part of the unit that was previously occupied by Movie Gallery. Firehouse Subs is located at 113 S. Greeno Road and correspondingly has a single street frontage along South Greeno Road. The tenant has already been issued a sign permit for a wall sign on the west wall, facing South Greeno Road. Per the City of Fairhope Zoning Ordinance, Firehouse Subs will also be allowed to place a sign panel in the existing monument (free standing) sign at the property complex.

The applicant is requesting a variance to Article IV, Section G4 b (1) of the City of Fairhope Zoning Ordinance which states “one building sign shall be allowed for each street frontage of each premise.” The applicant is requesting an additional wall sign on the south side of the building, facing a private property easement owned by Sena, Inc. (Key West Inn). The previous Movie Gallery sign was removed a few months ago; therefore, this request would not be considered a re-facing or re-lettering of an existing sign.

Facts to be considered in this case:

1. The tenant occupies only one unit in the existing building and has a single road frontage on South Greeno Road.
2. The applicant would like to place a wall sign on the south side of the subject building, in addition to the already permitted sign on the west elevation of the

building. This is not allowed per the Sign provisions in the City of Fairhope Zoning Ordinance.

3. Where businesses only have one street frontage, only one wall sign is allowed.
4. The granting of the variance will confer on the applicant special privileges that are denied by this Ordinance to other lands, buildings or structures in the zoning district.

STAFF RECOMMENDATION: Staff recommends the Board of Adjustment deny the variance request due to the application not meeting the mandatory criteria established in the Zoning Ordinance for the issuance of a variance.

Mr. Smith added 20% of window coverage is also allowed for signage. Mr. Andrews asked what has changed from when Movie Gallery was in the building that they were allowed to have the second sign and now Firehouse Subs is not. Mr. Smith responded the Movie Gallery sign on the south side of the building was a non-conforming sign and as per Article VII of the Zoning Ordinance once a non-conforming sign is removed it must be replaced with a conforming sign. The Ordinance also states that where a change in use, occupancy, or ownership occurs which necessitates the altering of a sign in any manner, the altered or changed sign shall conform to all ordinances. Mr. Panneton asked if a non-conforming sign could be placed there and Mr. Smith stated no sign is allowed on that location of the building. Mr. Andrews said it looks that the electrical is still there, but has just been covered with a metal shield. He said the surrounding area seems to be inconsistent with signage; Pizza Hut has a 25' tall sign and asked why it was different for each establishment and said it could negatively affect the property values. Mr. Smith stated the Ordinance applies to all properties the same; however, the replacement of signage is done on an individual basis by the business owner or tenant, which means a sign may remain non-conforming until they decide to change what is existing. Mr. Smith said the sign ordinance was recently amended which reduced the maximum height for signs to 8'. Mr. Panneton stated the sign on the front of the building can be seen from Greeno Road but trees along the right-of-way do affect the visibility of the signs and as the trees grow it will defeat the purpose of having a sign on the front because it won't be seen. Mr. Smith said lots of business in town would argue that their signs can't be seen. Mr. Andrews asked if the sign on the front could be moved to the side and Mr. Smith responded that the Ordinance does not allow the transfer of signage from one frontage to another. The property owner, Paul Moore, came forward and addressed the Board saying he has been in Fairhope for 29 years and has owned a business at 355 S. Greeno Road for 20 years and his building at Deli Depot can not be seen because of the trees. He said they even obstruct his line of sight coming off of Nichols Avenue. Mr. Moore said food businesses are failing and signage visibility is an important part of their success and their success is success for the City. Jean Lankford, applicant's representative, came forward and addressed the Board saying she manages several properties in Fairhope and this site was picked by the national franchise because of the 3 sides available for signage. She asked the Board to consider giving the applicant something; she suggested a smaller and unlit sign that would be restricted to only this tenant. Mr. Vira opened the public hearing,

having no one present to speak he closed the public hearing. Mrs. Green asked if the special condition clauses were included in the 2009 amendments to the sign ordinance. Mr. Smith responded that none of the language regarding non-conformance was amended in 2009. Mr. Panneton asked if the purpose of this provision is to keep the size and number of signs down and Mr. Smith answered yes. Mr. Andrews asked if there are special rules or provisions for Greeno Road and Mr. Smith said no, signage is based on the linear frontage of each building regardless of where it is located. Mr. Andrews said the large buffer on Greeno Road does limit the advertisement for business located there. Mr. Smith said they could ask the City Council to trim the trees on Greeno Road. Mr. Vira asked if an economic hardship could be considered and Mr. Smith responded it could not. Mr. Strunk asked if the staff recommendation is based on what the ordinance allows and if this variance were approved would other business ask for the same and Mr. Smith responded yes. Mr. Andrews asked if a small, unlit sign would work for that side and Mr. Smith said the ordinance do not have any provision to allow a sign in that location; however, it does allow for artistic features such as a mural on that wall. Mr. Panneton said the ordinance says “street frontage” and there is a road along the south side of the building. Mr. Smith stated it is not a road but a driveway. Debra Green moved to accept the staff recommendation to deny the variance request due to the application not meeting the mandatory criteria established in the Zoning Ordinance for the issuance of a variance. Clyde Panneton 2nd the motion and the motion carried unanimously.

Having no further business, Troy Strunk made a motion to adjourn. Sam Andrews 2nd the motion and the motion carried unanimously. The meeting was adjourned at 5:30 pm.