BOARD OF ZONING ADJUSTMENT
REGULAR MEETING MINUTES
FEBRUARY 5, 2020
DOTHAN, ALABAMA

The Board of Zoning Adjustment (BZA) met in a Regular Meeting on Wednesday, February 5, 2020, at 9:00 a.m., in the City Commission Chambers, 126 North St. Andrews Street, Room 203, of the Roy L. Driggers Municipal Building (Civic Center).

Chair Grant called the meeting to order at 9:00 a.m.

1. Invocation: Donnie Wells

2. Pledge of Allegiance: Donnie Wells led everyone in the Pledge

3. Members Present: Chair, Gina Grant, Vice-Chair Chad Lisenby, Donnie Wells, Angela McNeal, Vanita Sansom McLain (SUP) sitting, and Morris Stringer (SUP) sitting.
   Members Absent: Tillman Black, Michael Smith, and James Williams

   Others Present:
   Todd McDonald, AICP, Planning & Development Director; Anthony Vallone, Planner II; Kevan Kelly, Assistant Attorney; Fire Captain Crow; Stacey Livingston, Business Services Manager; and, Theresa Eddy, Secretary.

4. Approval of the Agenda
   Chair Grant asked Mr. Vallone if there were any changes to the agenda, to which Mr. Vallone responded that there were none. Vice-Chair Wells motioned to approve the agenda, Ms. McLain seconded, and the motion carried.

5. Approval of January 8, 2020, Meeting Minutes
   Chair Grant asked for a motion on the meeting minutes as written. Ms. McNeal motioned to approve, Mr. Wells seconded, and the motion carried.

6. Disclosure of ex parte contact – None.

7. Oath – Mr. Vallone read the oath and the audience swore in affirmation.

Old Business

None

New Business

8. E-19-0490: Special Exception request for Non-Qualified Home Occupation for a Firearms Dealer – Property Located at 811 Highland St. - R-1 District – Luke Isacson. Mr. Luke Isacson, 811 Highland St., addressed the board and explained that he would like to sell firearms from his home as a side business. Chair Grant asked Mr. Isacson if he had read and could abide by the twenty stipulations; Mr. Isacson affirmed. Chair Grant asked Mr. Isacson how he was going to be selling the firearms. Mr. Isacson stated that he would be selling on social media and making appointments for the customers to meet him at the residence. Mr. Wells asked if Mr. Isacson was going to use his accessory building, and Mr. Isacson stated that he was not. Mr. Wells asked if Mr. Isacson understood that he could not sell ammunition at his home, that his home could not look like a business, and reminded him that signage was not allowed at the home. Mr. Isacson affirmed. Mr. Wells asked if Mr. Isacson was doing online sales only. Mr. Isacson stated that he would sell online but final paperwork and the Bureau of Alcohol, Tobacco, Firearms (ATF) Form 4473, needed to be
filled out in person. Mr. Wells and Chair Grant asked if Mr. Isacson understood that only three consumers per month were allowed at the home. Mr. Isacson affirmed. Ms. McLean asked Mr. Isacson if he was in the process of being approved by the ATF. Mr. Isacson stated that he was waiting for approval from the BZA. Mr. Wells asked Mr. Isacson how he was going to secure the firearms. Mr. Isacson stated that he had a fireproof safe that was break-in resistant. Chair Grant asked if anyone was present regarding this case and Mr. Ronnie Lee, 710 Massey Drive, addressed the board. Mr. Lee understood that people needed to make a living but his major concern was regarding the safety of his dog and grandchildren that played in his backyard. Ms. McLean asked if his concern was the firearms or the clientele, to which Mr. Lee stated that it was both. Ms. McLean asked Mr. Lee if he understood that no ammunition would be sold at this location. Mr. Lee affirmed but stated that people could bring ammunition with them. Mr. Isacson stated that he has been working at Rural King selling firearms since the store had been open and understands Mr. Lee’s concerns. Mr. Isacson stated that he was married and had a son that would have no access to his firearms and that they would be secured. Mr. Isacson also stated that he was well aware of the legal process of this type of sale. Ms. McLean asked Mr. Isacson to explain what the procedure was regarding the sale as far as the Federal Government was concerned, to which Mr. Isacson explained that the consumer fills out Form 4473, which the ATF keeps on file, and they go through a background check each time, on the premises. Chair Grant asked what happens if the consumer was turned down, to which Mr. Isacson stated that he had the legal right to say no to the consumer and was very familiar with the process. Chair Grant asked if anyone else had questions, to which Mr. Delmer Paul, 903 Cloverdale Drive, addressed the board. Mr. Paul explained that he had been a resident at this location for over 33 years and objects to this business and was concerned with the extra traffic in his residential area. Chair Grant explained to Mr. Paul the stipulations and explained that Mr. Isacson could only have three consumers a month per the stipulations and if his neighbors saw that he was having more foot traffic, the neighbors could report him. Ms. McNeal explained that there are home-based businesses throughout Dothan but with the stipulations by the city, the neighborhood should not even know a business was in their residential neighborhood. Chair Grant asked if the Planning staff had any questions, with no response. Chair Grant asked if the board had any questions, to which Mr. Lisenby and Mr. Wells asked Mr. Isacson if he was going to have any inventory, to which Mr. Isacson stated the ATF and Federal Law required him to have an inventory and stated that he would have less than six firearms on-premises. Mr. Isacson stated that he would be using the software program “Fastbound” that other gun companies use since he was very familiar with it. Ms. McNeal asked if Mr. Isacson was going to look into a security system, to which Mr. Isacson stated that he was looking at some that connect directly to your Wi-Fi and will connect to the Police Department. Mr. Stringer spoke about deliveries to his house and Ms. McLean asked Mr. Isacson how he was going to receive packages, to which Mr. Isacson would by law, only receive packages with a signature receipt. Chair Grant asked Mr. Isacson if he had any questions for the board. Mr. Isacson wanted to know if he was required to have a business license, to which Chair Grant affirmed. Chair Grant asked if anyone had further questions with no reply. Chair Grant then asked for a motion. Ms. McLean made a motion to approve with adding a stipulation for a home security system. The motion received no second. Request denied due to lack of a second on a motion to approve.

9. SE-20-0018: Special Exception request for a Daycare – Property Located at 311 W. Burdeshaw Street – B-3 District - Ursula Eutsey. Ms. Ursula Eutsey, 311 W. Burdeshaw Street, addressed the board and stated that the property was zoned commercial and that a daycare business had previously existed there. Ms. Eutsey continued stating that this daycare can hold up to 40 children with 10 children staying overnight and the State-regulated hours are 5:30 p.m. to Midnight but most of the children leave by 7:00 p.m. and arrive at 6:30 a.m. Ms. Eutsey stated that there would not be a lot of traffic past 5:00 pm. The double driveway can accommodate three cars at a time, and permission was granted to park next door. Chair Grant stated that most daycare facilities have a circular drive for
safety. She was also concerned about fencing, to which Ms. Eutsey stated that there was an enclosed fence in the rear of the building. Chair Grant asked Ms. Eutsey if she read and could abide by the 14 stipulations, to which Ms. Eutsey affirmed. Chair Grant asked if Ms. Eutsey had any questions, to which she questioned, "I. Because the proposed commercial use is adjacent to residential property, review by the Planning Commission as a Major Development Plan is also required." Mr. Vallone stated that from a land development perspective, there might be issues with this site, particularly, the driveway, which was on the sidewalk in the right-of-way and that ADA compliant parking with a ramp would be necessary. Chair Grant shared her concern for the safety of the children since there was not a designated area to drop off the children or parent parking facilities. Mr. Wells asked Ms. Eutsey if she had talked with the Fire Department and the Health Department, to which Ms. Eutsey explained she had spoken with both and there were no violations. Ms. Eutsey stated that she had received a 98 score from the Health Department and Mr. Wells asked if she was already doing business there, to which Ms. Eutsey stated that she was and it's been a business location since 2008. Ms. Eutsey stated that they also purchased a grease trap for the kitchen. Mr. Wells asked how a handicapped child would enter the building and Ms. Eutsey stated that they have only had one handicapped child and that child was carried into the building. Ms. Eutsey stated that the back porch had a working wheelchair ramp. Chair Grant stated that regulation would require the front porch to have railings, to which Ms. Eutsey stated that her insurance company told her that she would need railings on the porch. Chair Grant expressed to Ms. Eutsey that she would like Ms. Eutsey to work with the Planning staff regarding Item J; the parking, and ADA Compliance. Mr. Wells asked Ms. Eutsey if she had permission to use the adjacent lot, to which Mr. Vallone stated that it would not be acceptable for Mr. Eutsey's allowed parking since it was not part of the property and under different ownership. Ms. McNeal asked how many children were there now, to which Ms. Eutsey stated 20-30 at a time. Ms. McNeal expressed her concern about the safety of many children. Chair Grant asked if anyone had further comments or questions, with no response. **Chair Grant then asked for a motion, twice, and the request was denied due to lack of a motion.**

10. V-20-0020: Variance Request for an increase in fence height from 4ft to 5ft (1 ft) – Property located at 430/460/486 W Main St. and 207 N Alice St. - District B-1 District – Eagle Investments represented by Dothan Awnings Co. Mr. Pat Thomas, the contractor, addressed the board and explained that Eagle Investments originally requested a 6-foot high fence to surround their campus. The reason for the fence would be to eliminate vehicles cutting through the parking area out onto N. Bell Street and N. Alice Street. He explained that for safety reasons, access to W. Main Street would be eliminated. Mr. Thomas submitted a drawing to the board showing the entrances and stated that the fence will have a 20-foot motorized gate on each of the entrances with no gates on W. Main Street. The goal was to enclose the entire campus. The other concern was the safety of the employees as they access their vehicles. Transients and pedestrians frequently cut through the property. He also mentioned instances of vandalism to the property. Eagle Investments requested a quote on a 6-foot fence and a 5-foot ornamental fence that would meet their needs, complement their building design, and add to the appeal of the property. Mr. Thomas continued, stating that a 5-foot fence constructed for Houston County existed only two blocks east at the corner of Oates and Main Street as well as a 5-foot chain-link fence at the Houston County School Board in the old Sears Building. He pointed out that both entities knew that they needed 5-foot fences for security purposes, and in the ordinance, government agencies “are allowed to do that.” He also brought up the 6-foot ornamental fence around the employee parking lot of 5 Star Credit Union. Mr. Thomas stated that he contracted Eagle Investments for the 5-foot fence, ordered the material, which was 954-feet of fence and two gates; all are sitting in his warehouse. They were manufactured specifically for this project. He then applied for the permit and found out about the 48-inch height ordinance. So he has a 5-foot fence and a 4-foot ordinance and realized that he
should have “known the law” since he signed it in 1997. Mr. Thomas stated that he would still be asking for the same variance because they need a 5-foot fence for security.

Mr. McDonald indicated that access to W. Main Street on N. Bell Street was problematic being so close to the intersection. Mr. Wells asked for confirmation that Eagle Investments owned the entire block and that the Beauty Salon was no longer there, to which Mr. Thomas affirmed that Eagle Investments owned the whole campus. Ms. McLain asked if this would help minimize traffic jams by blocking the entrance on Main Street, to which Mr. McDonald affirmed. Chair Grant asked where the gates would be located, to which Mr. Thomas pointed to one on N. Bell Street, close to W. Main Street and one on N. Alice Street. Chair Grant wanted verification that gates would not be located on W. Main Street, to which Mr. Thomas affirmed. Mr. Stringer asked about the corners of the gate. Mr. Thomas stated that the one on N. Bell would have a 45-degree angle for the line of sight and the corner of N. Alice Street would “follow the grass cutout.” Chair Grant stated that the gate entrance on N. Bell Street seemed close to W. Main Street and asked if the entrance gate could be moved further up N. Bell Street, away from W. Main Street. Mr. Thomas stated that they were going to widen the opening to 20-feet and it would have a 30-foot motorized gate on rails. Mr. Vallone was concerned with the exiting vehicles onto N. Bell Street with the traffic coming in off W. Main Street and suggested that the Traffic Engineers look at the drawing. Mr. McDonald stated that there was concern that the gate was sitting on the right of way, staff will have to deal with this as part of the permitting process. Mr. Thomas stated that Eagle Investments has always allowed First Baptist Church members to use their parking and that will continue. The custodian of the church will have a fob that will open the gate. The gates will be open during business hours and be closed nights and weekends to eliminate unwelcome pedestrian and vehicle traffic. Ms. McNeal stated, as a member of First Baptist Church, she could say that they were not aware of the fence but shared with them and that their concern was parking on Wednesday nights and Sundays for church services. Ms. McLain told them she would get back with them after the meeting. Ms. McNeal stated that the church had no problem with the fence height and understood why it was needed. Ms. McNeal can attest to the traffic cutting through the parking lot as she has witnessed it many times. Mr. Thomas stated that he understood the hardship requirement and that this fence was to secure this campus, it will be an investment to the downtown area, and that he would work with the Planning Staff and Traffic Engineering. Chair Grant asked if anyone had further questions or comments, with no response. **Mr. Wells motioned to approve the 12-inch variance with the stipulation that everything would be approved through Traffic Engineering, Ms. McLain seconded, and the motion carried.**

11. SE-20-0038: Special Exception request for a Non-Qualified Home Occupation for a lawn care/mobile detailing business- Property located at 402 Emmons Dr. – R-4 District- Rickey Perry. Mr. Rickey Perry, 402 Emmons Drive, addressed the board and stated that his business would be part-time with no employees. Chair Grant asked what type of vehicle Mr. Perry had and where he would be parking it, to which Mr. Perry stated that he had a two-car awning behind his house where he would park his 2006 Nissan Titan. Chair Grant asked if Mr. Perry read and could abide by the twenty stipulations, to which Mr. Perry affirmed. Chair Grant asked if anyone was present regarding this case, with no response. Chair Grant asked if the board members or Planning staff had any questions, with no response. Chair Grant asked Mr. Perry had questions, to which he did not. Chair Grant then asked for a motion. **Mr. Stringer made a motion to approve with the conditions, Ms. McNeal seconded, and the motion carried.**

1. The special exception is valid only for the applicant, this home occupation and this location;
2. The special exception is void if a Privilege License, issued by the City of Dothan, is not obtained within ninety days of approval and subsequently if the license is allowed to lapse;
3. The applicant shall obtain a 5lb. ABC type fire extinguisher (area covered by fire extinguisher will have 2A30ABC designation per National Fire Code-10);
4. No more than 25 percent of the home shall be used for the business;
5. There shall be no noise, odors or vibrations associated with the business;
6. No employees or employee vehicles are allowed at the home;
7. Only residents of the home are authorized to engage in business activity at the home;
8. There shall be no customers at the home;
9. All work-related activities must be conducted inside the home;
10. No accessory building shall be used in conjunction with the business;
11. The applicant is allowed to have one business-related vehicle parked on the property, but it shall be no larger than a pickup truck or passenger van;
12. No business-related vehicle may be parked in the street;
13. Equipment and/or any trailer used to transport the equipment are shielded from the view of the street and adjacent properties;
14. No business-related equipment or materials shall be visible from the road or from adjoining properties and shall be stored inside either the single-vehicle or inside the home;
15. Used and/or leftover materials shall not be taken to the property.
16. If business-related materials or equipment are delivered to the home, there shall be no more than two deliveries per week, and the delivery vehicle shall have no more than a single axle with six wheels;
17. There shall be no signs or advertisements at the home, including on the mailbox;
18. Applicant is responsible for observing any private covenants, which may impact the proposed home occupation;
19. Any other restriction as may be considered appropriate by the administrative official or the board of zoning adjustment as stipulated at the Public Hearing; and,
20. Violation of any of the aforementioned conditions could result in revocation of the approval.

12. Discussion


Mr. Stringer motioned to adjourn, Vice-Chair Lisenby seconded, and the motion carried. The meeting adjourned at 10:07 a.m. The next meeting is on March 4, 2020.

Gina Grant, Chair

Theresa Eddy, Secretary