

1 City of Pass Christian  
2 Municipal Complex Auditorium  
3 105 Hiern Avenue

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5 **Zoning Board of Adjustments**  
6 **Meeting Minutes**  
7 **Tuesday, July 11, 2017, 6pm**  
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9 **CALL TO ORDER**

10 Chairman Eugene Russell called the meeting to order at 6:00 PM. In attendance were Commissioners  
11 Willie Cox, Lisa Smith and Bruce Anthony. Commission Craig Steenkamp was not in attendance.  
12

13 **ADOPTION OF MINUTES**

14 The first order of business was to table the adoption of the minutes from the monthly Zoning Board of  
15 Adjustments meetings held on May 17, 2017, and the adoption of the minutes from the monthly Zoning  
16 Board of Adjustments meetings held on June 13, 2017. A *Motion* by Commissioner Smith, seconded by  
17 Commissioner Cox, was made to table the May 17, 2017 minutes and to adopt the June 13, 2017  
18 minutes. The motion passed, and Commissioner Anthony abstained, as he did not attend the previous  
19 meetings.  
20

21 **NEW BUSINESS**

22 • *Open Public Hearing*

23 A *Motion* by Commissioner Cox, seconded by Commissioner Anthony, was made to open the public  
24 hearing. The motion passed unanimously.  
25

- 26 • Application #PD-21-2017, Betty Sparkman as agent of 554 Second Street LLC, 554 & 552 E 2<sup>nd</sup> Street,  
27 Parcels #0413D-03-028.000 & 0413D-03-028.001, Request to reconfigure the lots, with a Variance  
28 request for the proposed eastern lot to have a 135-foot Lot Width at the street, which exceeds the  
29 96-foot Lot Width Maximum in the T4L Limited Mixed-Use Zone.  
30

31 Chairman Russell introduced the project, stating that when he reviewed Harrison County's online tax  
32 map, he saw an existing line that divides the parcel along with two separate tax parcel numbers. Russell  
33 requested that the City Attorney, Malcolm Jones, conduct additional research to decipher this finding.  
34 Russell stated that Jones is here today to provide us with the history and legality of the property.  
35

36 Jones stated that the information he is presenting was only obtained today. I acquired the title  
37 examination notes from Julien Bryne who was the attorney that closed the transaction for Mr. Shows  
38 who sold the property to Sparkman's LLC. According to the title notes, Mr. Shows acquired the property  
39 by an executor's deed from his mother's estate in October 2014. And in that deed the property is  
40 described as two separate parcels, the western parcel is described as 60 by 300 feet, and the eastern  
41 parcel is described as 140 by 300 feet. When Mr. Shows conveyed the property in May 2017 to 554  
42 Second Street LLC, it contained descriptions of two separate parcels, as previously described in size. I  
43 continued my research further back to determine why there were two separately described parcels, and  
44 learned that James & Mary Shows acquired the smaller western lot by deed in June 1950, and they  
45 acquired the larger eastern lot that includes the home and shed in 1976 when the deed was filed. The  
46 Epperson's owned the eastern lot with the large house, and there was also a house on the smaller  
47 notched out lot, as indicated on the online tax map, that is along the western property line. The smaller  
48 notched out lot (40 by 46 feet) had a separate tax parcel number and included a cottage that remained  
49 until Hurricane Katrina destroyed it. I obtained two aerial photos, one from July 2005 that shows the  
50 cottage on the notched out parcel, and a second from December 2006 that indicates that the cottage  
51 had been removed post Hurricane Katrina. Jones handed the aerials to the Commissioners for review,

52 and he also showed them the online tax map that has a faint red line dividing the parcel into two pieces  
53 in accordance with the dimensions from the deed. To be thorough, I also reviewed the City's tax maps  
54 from the mid-1980's, which shows the two lots as described in the deed, a 60-foot wide and a 140-foot  
55 wide lot. There are two separate tax parcel numbers; one tax parcel number includes both the 60 and  
56 140-foot wide lots. And, then there is a second tax parcel number for the small notched out parcel  
57 where the cottage was previously located. I spoke with Mr. Shows, the previous owner, and he  
58 confirmed that there was a separate cottage on the notched out parcel. Mr. Shows explained that his  
59 parents originally purchased and lived in the cottage in 1950, and then they purchased moved into the  
60 larger house in 1976. Apparently the Show's maintained the lots as two separate parcels during their  
61 entire possession, including when it was conveyed by the estate, and then when it was sold to  
62 Sparkman's LLC. When Simon reviewed the application she assumed it was one piece of property, when  
63 in fact it's been separately maintained and identified as two separate parcels in the deed records. I  
64 cannot tell you the date when the two parcels were combined on the tax rolls, but for purposes of the  
65 Zoning Ordinance and how it is administered, Simon has confirmed that she considers this to be two  
66 separate parcels. Sparkman's application is requesting to create one lot with a 65-foot lot width and a  
67 second lot that with the remaining 135-foot lot width. Based on this new information, it is important to  
68 ask Sparkman if she wants to continue with the application for a Variance, or if she would like to have it  
69 acknowledged that these are two separately described properties and leave the dimensions as they are  
70 currently described in the deed.

71  
72 Chairman Russell then asked Sparkman if she would like to continue with the Variance Application, or if  
73 she would like to move forward with the dimensions as described in the deed for the existing two  
74 parcels?

75  
76 Sparkman answered that she would like to withdraw her Variance Application, and acknowledge the  
77 dimensions in the deed for the existing two parcels, stating that she no longer needs to request a  
78 Variance.

79  
80 Chairman Russell asked Jones to confirm that Sparkman no longer requires a Variance?

81  
82 Jones responded that he believes that to be correct, and requested for Simon to comment on the  
83 situation.

84  
85 Simon stated that the Planning Department and the Buildings Codes Office use the parcel numbers in  
86 terms of the filing system, which clarifies what parcel number is referencing which piece of land. The  
87 Tax Assessors Office gave these two parcels one number for their convenience in relation to sending out  
88 the tax bill. But the property owners have never made an application for a lot combination, and the City  
89 has never approved a lot combination (Application for Re-Subdivision), therefore this property is still  
90 two pieces of land as described in the deed and one of the parcels needs to have its parcel number  
91 reinstated or a new one assigned to it.

92  
93 Sparkman stated, for clarity, with this new information will I be able sell 552 E 2<sup>nd</sup> Street (the smaller  
94 western lot as described in the deed)?

95  
96 Jones responded yes, it is a separate parcel that can be sold. More then likely the Tax Office is going to  
97 take the parcel number and address that is assigned to the separate notched out piece and assign it to  
98 the entire western parcel. But you will have to contact the Tax Office to see how they will proceed. This  
99 is really an unusual situation that I have never encountered before, and on top of that, it is unusual for

100 an application to be withdrawn at the meeting, so it would only be fair to allow those in attendance to  
101 speak at this time.

102  
103 George Healy, the attorney representing the Feldmans at 550 E 2<sup>nd</sup> Street, the adjacent property to the  
104 West and he stated that the new information presented this evening has created an unusual situation  
105 for him. Jones is very professional and always shares the pertinent information, but in this case he  
106 didn't have time to, so I have not had a chance to review the new documents, and I have been preparing  
107 for a completely different argument for today's meeting. It appears to me that one of the fundamental  
108 doctrines of property law is that the public records controls the property. If this property is on the  
109 public records in the Chancery Courts Office as one parcel of property, regardless of what it was in 1950  
110 or 2014, it is one piece of property. I may have to file a mandamus in court, but I don't know of any  
111 authority that says that a property that was at one time two parcels, and is now under the formal court  
112 tax records is one parcel, can just automatically revert back to two parcels. This is apparently what the  
113 applicant would like to happen today and what the City Attorney is in support of. Of course, I am  
114 speaking to the Zoning Board without having the opportunity to research all these issues. I don't doubt  
115 the research that Jones has done, but I do think under basic property law the public records dictate the  
116 nature and extent of a piece of property, not public records from 50 years ago, but current public  
117 records. It may be that the current owners will have to reform the property, and as another deviation  
118 here one of the properties was requested in the application to be 65-feet and is now going to be 60-  
119 feet. And another issue is that while the frontage areas have been grandfathered in, I don't know that  
120 when the conveyance was made (for the SmartCode in 2010) if representation was made to the owners  
121 or if hearings were held for the neighborhood. That is all I have based on the new information that  
122 Jones presented, and my client might want to make a statement at this time.

123  
124 Richard Feldman, the neighbor to the west at 550 E 2<sup>nd</sup> Street, stated that the new information is a  
125 surprise having planned for a whole different type of hearing. What I have heard is that we are going to  
126 need a little time to study this before anything else happens and see where it leads. I ask that in the  
127 nature of fairness, nothing be done until we have had the opportunity to research the new information  
128 presented this evening. I am not here to prolong or make this an ordeal for anyone, but if there is a  
129 response to be made, I would like the opportunity to research and address the matter.

130  
131 Mr. Feldman requested that the minutes reflect that the subject property is a non-contiguous lot under  
132 the Historic Preservation Commission Ordinance and that both parcels will continue to be under the  
133 jurisdiction of the Historic Preservation Commission after the ruling of the Zoning Board. Jones  
134 confirmed this understanding.

135  
136 Jones stated that he would share all the new documents with Feldman and Healy.

137  
138 Chairman Russell requested advice from Jones on how the Board can vote on the application.

139  
140 Jones responded that the Board has a couple of options. The applicant has moved to withdraw the  
141 application for a Variance request, as she is accepting that these are two separately described parcels in  
142 the Chancery Court Deed Records that are under one tax parcel number. The applicant is further  
143 requesting that this information be acknowledged and that she does not need to seek a Variance.

144  
145 Sparkman agreed with Jones's description of her current request to withdraw the Variance and have the  
146 existence of the two separate parcels acknowledged by the Board.

147

148 Jones continued that the Board could make the determination that these are two separate parcels and  
149 there is no need for a Variance. The Board can also continue the application to the next meeting, and  
150 give the objectors an opportunity to present an argument based on the new information.

151  
152 Chairman Russell asked if the Mayor and Board of Aldermen would subsequently review the  
153 application?

154 Jones answered that if the application is simply withdrawn, then Mayor and Board will not have  
155 anything to review. But, if you make a Motion to acknowledge that the Chancery Court Deed Records  
156 indicate that these are two separately described parcels under one tax parcel number, the objectors will  
157 have the opportunity to Appeal the Zoning Board's Motion to the Mayor and Aldermen. And the  
158 objectors will have the opportunity to research the matter further and present new arguments to the  
159 Mayor and Aldermen.

160  
161 Chairman Russell stated that making the Motion sounds like the best option. He then asked if anyone  
162 else in attendance wanted to speak, no one responded.

163  
164 The Zoning Board considered the package presented by the City Planner, which included letters of  
165 support and opposition to the application.

166  
167 A *Motion* by Commissioner Cox, seconded by Commissioner Smith, was made to acknowledge that the  
168 applicant has withdrawn the Variance Application and to confirm that the Chancery Court Deed Records  
169 describe two separate parcels, a western parcel with a 60-foot lot width and an eastern parcel with a  
170 140-foot lot width, therefore no Variance is needed to separately market the parcels. The motion passed  
171 unanimously.

172  
173 Commissioner Smith then asked for clarification on the lot width requirements.

174  
175 Simon answered that the T4L Zone encourages smaller lots and increased density. Therefore in  
176 accordance with the SmartCode, it wasn't the smaller 65-foot lot from the original application that  
177 needed the Variance. It was actually the larger 135-foot lot that exceeded the 96-foot Lot Width  
178 Maximum, which required the Variance. But that is a whole other conversation that we no longer need  
179 to review this evening.

- 180
- 181 • Application #PD-23-2017, Tom Duffy as agent of Martha T & David R Cordell, 549 E Scenic Drive,  
182 Parcel #0413D-03-014.000, Variance request for a proposed carport/Outbuilding to have a 2-foot  
183 side setback from the roof line to the west side property line, in the T3E Estate Zone that has a 10-  
184 foot minimum side setback for Outbuildings.

185  
186 Chairman Russell introduced the project.

187  
188 The City Planner, Danit Simon, briefed the ZBA on the project: The applicant proposes adding an open  
189 carport to the existing garage, which has a two-foot west side setback. In order to best utilize the  
190 property, the applicant is requesting to match the existing garage's two-foot side setback for the  
191 proposed carport. Please reference the site plan in your packets. Due to the location of the existing  
192 house, driveway, garage and pool, the most functional location for the proposed carport is attached to  
193 the existing garage with the same two-foot side setback. The open carport addition is 20 by 16 feet and  
194 has corner posts without walls, which will have a minimal impact on the neighboring lot. The parcel is in  
195 the Historic District and the plans were approved at the June 2017 Historic Meeting. No objections were

196 received for this project, and two letters of support are included in your packets. This concludes my  
197 report, and a representative of the applicant is here to answer any questions you may have.

198

199 Chairman Russell asked the Commissioners if they had any questions, they each responded no.

200

201 A *Motion* by Commissioner Smith, seconded by Commissioner Cox, was made to approve the Variance  
202 for the carport to encroach eight-feet into the west side setback, in the T3E Estate Zone. The motion  
203 passed unanimously.

204

205

206 • *Close Public Hearing*

207 A *Motion* by Commissioner Anthony, seconded by Commissioner Cox, was made to close the public  
208 hearing. The motion passed unanimously

209

210 **OLD BUSINESS**

211

212 **OTHER BUSINESS/PUBLIC COMMENT**

213

214 **ADJOURN**

215 A *Motion* by Commissioner Smith, seconded by Commissioner Cox, was made to adjourn the meeting at  
216 6:30 P.M. The motion passed unanimously.