



City of Bay Minette

Board of Adjustment

301 D'Olive Street · Bay Minette, Alabama 36507
Phone (251) 580-1650 · COBM_Planning@cityofbayminetteal.gov

AGENDA

July 27, 2023

Regular Meeting

8:00 a.m.

City Hall Conference Room
301 D'Olive Street, Bay Minette

- 1.) **Call to Order**
- 2.) **Invocation and Pledge**
- 3.) **Announcements & Registration to Address the Commission**
- 4.) **Approval of Minutes for May 5, 2023, Regular Meeting**
- 5.) **Disclosure of Prior Communications and/or Conflicts of Interest**
- 6.) **Old Business**
- 7.) **New Business**
 - a.) **Election of Officers**
 - b.) **Board of Adjustment By-Law Revision Discussion**
 - c.) **Updates & Upcoming Cases**
- 8.) **Reports & Comments**
 - a.) **Mayor/Council**
 - b.) **Attorney**
 - c.) **Board Member Commission**
 - d.) **Planning Staff**
- 9.) **Adjournment**

Bay Minette Board of Adjustment Special Called Meeting Minutes

Minutes May 5, 2023

Special Called Meeting No. 1

The Bay Minette Board of Adjustment met in a Special Called Meeting on Friday, May 5, 2023. The meeting was called to order at 8:06 a.m., by Chairman, Dr. Abby Hamilton, in the Council Chambers located in Bay Minette City Hall, in Bay Minette, Alabama; this being the proper place, date and hour as advertised to hold such meeting.

IN ATTENDANCE At 8:01 a.m. the following members were present:

Dr. Abby Hamilton, Chairman
Shane Hadley, Vice Chairman
Ray Clark, Board Member
Willie Walker, BCSO
Liana Barnett, Board Member

Board Member(s) absent:
John W. Biggs, Supernumerary
Thomas Brown, Supernumerary

Board Member(s) late: None

Other persons in regular attendance:

Lauren Collinsworth, Attorney
Clair Dorough, City Planner
Jessica Peed, Planning Coordinator
Tammy Smith, City Administrator

GUESTS Mike Phillips (*SE-23001 Applicant*)

INVOCATION Board Member Barnett gave the invocation, followed by Vice Chairman Hadley leading the pledge.

ITEM 3. Announcements & Registration to Address the Board

ITEM 4. Approval of Minutes for the April 28, 2022 Special Called Meeting. Board Member Clark makes a motion to approve the April minutes as written. The motion was seconded by Board Member Walker and it was unanimously carried.

ITEM 5. Disclosure of Prior Communications and/or Conflicts of Interest

Vice Chairman Hadley stated he has a work-related conflict and would be abstaining from voting. Mrs. Dorough stated he would be able to stay present during the meeting.

ITEM 6. Old Business - None

ITEM 7. New Business

a.) SE-23001, TPQ, LLC Property Special Exception – Public Hearing

Disclosure of Prior Communications and/or Conflicts of Interest: Vice Chairman Hadley as stated above
Request: Special Exception Request to allow for a duplex in the R-3, Higher Density Single Family Residential District

Location: The subject property is located at the Southwest corner of Clay St and Moran St intersection

Mrs. Dorough introduces the request, reviewing the staff report including the property information, surrounding properties, proposed frontage, zoning designation and the Table of Permitted Uses requirements for a duplex request in the current property zoning, staff analysis with Comprehensive Plan Strategies, Planning staff recommendation for location access, no anticipated impacts for surrounding area, process of construction if use is approved, and Planning Commission's advisory recommendation for approval with the condition of review and approval from the City Transportation Engineer prior to Building Permit issuance.

Chairman Hamilton opened the Public Hearing at 8:11am.

Mike Phillips requested to allow access off of Clay St with sidewalk installation to the front of the duplex, and access off of Moran St, as far south to the property line as possible.

Board Member Clark inquires on if there will be a site plan review, if the special exception request is approved to which Mrs. Dorough states the request today is only for the use of the property only.

Mr. Wiggins inquired if there would be a traffic increase, pending approval and includes Moran St to Hall Ave is used as a "drag strip" causing enough noise. He states he is a combat veteran and does not want more traffic or noise in the area. He also inquires on drainage to which Mrs. Dorough states the drainage is not necessarily being reviewed as it is only the special exception use being reviewed and voted upon at the meeting. Board Member Walker states the building itself would not be the issue, but rather the incoming tenants that could potentially cause noise issues.

With no further comments, Chairman Hamilton closed the Public Hearing at 8:19am. With no questions or comments from the Board, Board Member Clark makes a motion to approve the special exception request with the staff recommendation of the following conditions:

- 1) Access on Moran St be located as far south as feasible from the Moran/Brady intersection.
- 2) Access be restricted to one access point per road frontage.
- 3) Access be reviewed by the City's Transportation Engineer prior to the issuance of a Land Use/Building Permit.

Board Member Walker seconds and it is unanimously approved with the exception of Vice Chairman Hadley abstaining.

b.) Updates & Upcoming Cases

Mrs. Dorough updates the Board on the following items:

- Case load increase comparison from 2022 to 2023
- Upcoming Ordinance Amendments, RA-23001 and RA-23002. She states if they both pass at the Public Hearing that is scheduled for May 11th Planning Commission meeting, it will go to City Council for approval and adoption and new Zoning Ordinance version will be issued.
- Site Plan approval for a seafood market on US Hwy 31, beside Shrimp Basket.
- 7 Brew Coffee House construction update
- Two annexations that have passed and are now awaiting signatures. She gives the locations of the annexation properties, and their incoming zoning designations along with the procedure for annexations.
- Annual meeting is scheduled for July 27, 2023 for votes on positions, along with any other pertinent discussion(s).

ITEM 8. Reports and Announcements

a.) Mayor/Council Report – Mrs. Smith states the construction for the Justice Center is on schedule and is anticipated to be finished at the end of October. She includes updates on the downtown sidewalk project parking spaces for repaving and widening, soccer complex project, the High School’s new multi-purpose room for band and indoor gym functions, the City’s departmental growth, and Novelis’s storefronts opening soon.

b.) Attorney - None

c.) Chairman - None

d.) Planning Staff - None

ITEM 9. With no further business, Chairman Hamilton adjourned the meeting at 8:35 am.

DONE THIS THE 5th DAY OF MAY 2023

Dr. Abby Hamilton, Chairman

ATTEST:

Jessica Peed, Planning Coordinator

Motion Summary:

- 1.) **Minutes:** Approval of Minutes for the April 28, 2022 Special Called Meeting. Board Member Clark makes a motion to approve the April minutes as written. The motion was seconded by Board Member Walker and it was unanimously carried.
- 2.) **SE-23001, TPQ, LLC Property Special Exception:** With no further comments, Chairman Hamilton closed the Public Hearing at 8:19am. With no questions or comments from the Board, Board Member Clark makes a motion to approve the special exception request with the staff recommendation of the following conditions:
 - 4) Access on Moran St be located as far south as feasible from the Moran/Brady intersection.
 - 5) Access be restricted to one access point per road frontage.
 - 6) Access be reviewed by the City’s Transportation Engineer prior to the issuance of a Land Use/Building Permit.

Board Member Walker seconds and it is unanimously approved with the exception of Vice Chairman Hadley abstaining.

City of Bay Minette

Board of Adjustment



RULES FOR THE TRANSACTION OF BUSINESS

Draft – Version 1

July 27, 2023

Article I – Powers, Duties and Composition

The powers, duties, and composition of the City of Bay Minette Board of Adjustment, hereinafter referred to as the Board, shall be as set forth in *Title 11, Chapter 52*, of the *Code of Alabama (1975)* as amended; and those powers and duties delegated to the Board by the City Council of the City of Bay Minette.

The Board shall have the authority to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the application and enforcement of the *City of Bay Minette Zoning Ordinance* or of any ordinance adopted pursuant to the *Zoning Ordinance*.

The Board shall have the authority to hear and decide special exceptions to the terms of the *Zoning Ordinance* in harmony with its general purposes and interests and in accordance with general or specific rules therein contained by the City of Bay Minette; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under the *Zoning Ordinance*, or to deny special exceptions when not in harmony with the purpose and intent of the *Zoning Ordinance*.

The Board shall have the authority to authorize upon request in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, in harmony with the general purpose and intent of the *Zoning Ordinance*, where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

In exercising said powers, the Board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and, to that end shall have all the powers of the officer from whom the appeal is taken.

The Board shall exercise all other authority as set forth *Title 11, Chapter 52*, of the *Code of Alabama (1975)* as amended, and the *City of Bay Minette Zoning Ordinance*.

Article II – Members

The Board shall consist of five (5) regular members and two (2) supernumerary members appointed by the Mayor. Supernumerary members shall serve at the call of the Chairman only in the absence of regular members and while so serving shall have and exercise the power and authority of regular members. All members shall be full-time residents and qualified electors of the City of Bay Minette.

Article III – Terms of Office

The Board members shall be appointed by the Mayor for overlapping terms of three (3) years and shall be eligible for re-appointment.

Article IV – Vacancies

Any vacancy among the Board membership caused by death, resignation or removal for cause shall be filled for the unexpired term by appointment by the Mayor. Board Members shall be removed for cause by the Mayor upon written charges and after a public hearing thereon.

Article V – Compensation

All members of the Board serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.

Article VI – Officers

Section 6.1 Offices and Terms

6.1.1 The Board shall elect a Chairman and Vice-Chairman from among the appointed members.

6.1.2 The terms of office of these elected officers shall be one (1) year, with eligibility for reelection.

Section 6.2 Elections

6.2.1 Officer elections shall be held during the regularly scheduled July meeting of each year, and the new officers shall assume their duties at the next meeting after their election. If elections are unable to be held at the regularly scheduled July meeting, then they shall be held at the next available meeting.

6.2.2 The officers shall be elected in the following order: the Chairman and then the Vice-Chairman. The current Chairman will request nominations for the office and a voice vote shall be conducted until a nominee receives a majority vote.

Section 6.3 Duties

6.3.1 **Chairman** – The Chairman shall set the agenda and preside at all meetings and hearings of the Board; shall decide all points of order or procedure; sign documents of the Board; perform any duties required by law, ordinance, these rules or the Board; and see that all actions of the Board are properly taken. The Chairman, or in their absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. The official minutes of the Board shall be signed by the Chairman and attested by the Secretary.

6.3.2 **Vice-Chairman** – The Vice-Chairman shall preside in the absence, disability or disqualification of the Chairman, exercise and perform all the powers and duties and be subject to all responsibilities of the Chairman. In the event the Chairman resigns, vacates or is no longer able to continue the office for any reason before their term is completed, then the Vice-Chairman shall fill the unexpired term of the office of Chairman. In that event, the Board shall elect a new Vice-Chairman at the next regular meeting to fill the remainder of the unexpired term.

6.3.3 **Acting Chairman** – In the event that neither the Chairman nor the Vice-Chairman is present, is unable to act or preside at any meeting of the Board and a quorum is present, an Acting Chairman shall be chosen from among the members present for that meeting. The Acting Chairman shall serve only at that meeting and shall be elected by a majority of the quorum present.

6.3.4 **Secretary** – The Board shall keep a record of its resolutions, transactions, findings, and determinations, which shall be considered public record. The Secretary of the Board shall be the City Planner, or a staff member of the Planning & Development Services Department as designated by the City Planner. The Secretary shall prepare the agenda; keep the minutes of all meetings; provide and arrange notice of meetings as required by law or these by-laws; manage official correspondence of the Board; maintain a public record for each meeting of the agenda, proceedings, findings, voting records and other documentation in accordance with record retention requirements; and other duties as are normally carried out by a Secretary.

Article VII – Conduct of Members

Board members are appointed by the City Council under the authority of Alabama law and as such, are considered public officials. All members of the Board shall abide by the provisions of *Title 36, Chapter 25, of the Code of Alabama (1975)*, the Code of Ethics for Public Officials. Members of the Board shall have authority only when acting as a body legally assembled. In the performance of Board business, members are held to the highest standards of ethics and responsibility and expected to conduct themselves in a

manner that meets or exceeds those standards. Members are expected to familiarize themselves with those regulations and the following minimum standards to avoid any potential conflict, misconduct, or impropriety.

Section 7.1 Conflicts of Interest

- 7.1.1 A “Conflict of Interest” is defined by the *Code of Alabama (1975)* as: “A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs.”
- 7.1.2 A “Family Member Of The Public Official” is defined by the *Code of Alabama (1975)* as: “The spouse, a dependent, an adult child and his or her spouse, a parent, a spouse's parents, a sibling and his or her spouse, of the public official.”
- 7.1.3 A “Business With Which The Person Is Associated” is defined by the *Code of Alabama (1975)* as: “Any business of which the person or a member of his or her family is an officer, owner, partner, Board of director member, employee, or holder of more than five percent (5%) of the fair market value of the business.”
- 7.1.4 No member of the Board shall represent any applicant before the Board and any member with any direct or indirect interest in any business brought before the Board shall immediately recuse themselves prior to deliberation or voting on any such matter. Any member with any relationship to any party having interest in any matter brought before the Board, whether directly or indirectly, shall immediately recuse themselves prior to deliberation or voting so as to prevent any appearance of impropriety.
- 7.1.5 Any Board member that may have a conflict of interest, a direct personal interest, pecuniary interest, or other conflict, on any item brought before the Board shall:
- 1.) Voluntarily declare the presence of a potential or actual conflict for the record,
 - 2.) Shall refrain from deliberation and recuse themselves from discussion on the item; and,
 - 3.) Abstain from voting on said item.
- 7.1.6 In the event a member must recuse themselves, they are prohibited from participating in discussions, deliberations or debates, making recommendations, giving advice, considering findings, or in any other way assuming responsibility for or participating in any aspect of the decision-making relating to the matter where there is a potential conflict of interest. Once a member has recused themselves, they shall remove themselves from the meeting room and will be notified to return once deliberations or voting has ended.

Section 7.2 Outside Communications

Ex Parte Communications, those communications made outside the realm of the public meetings, are prohibited. This includes oral or written communications made without proper notice to all parties and not on the public record, from an interested person outside of the Board to a member of the Board involved in the decision-making process.

- 7.2.1 Board members are advised to not discuss pending cases with members of the public outside of the public meeting, and if attempted ex parte contact persists, the member should disclose such contact at the Board meeting.
- 7.2.2 Members may gather relevant information regarding an agenda item, including making site visits, if such information will aid in making an informed, objective decision.
- 7.2.3 Any written material received by members shall be given to the Secretary for incorporation into the files.

Section 7.3 Personal Gain

No member shall directly or indirectly, use their official position as a Board member to obtain any special privilege, exemption or other personal gain for themselves, a family member, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Members may not, directly or indirectly, give or receive compensation, gifts, rewards or gratuities to or from any source for any matter connected with or related to their service as a Board member. This does not prevent members from obtaining reimbursement for actual expenses related to the performance of Board duties that are deemed reasonable and necessary.

Section 7.4 Attendance

- 7.4.1 No member shall be absent more than three (3) consecutive or a maximum of five (5) regularly scheduled Board meetings per fiscal year.
- 7.4.2 The Board shall recommend to the Mayor the dismissal of a member. Subsequently the Mayor, at their discretion, shall coordinate the replacement of that member, and the appointment of a new member.

Section 7.5 Member Responsibilities

- 7.5.1 Board members shall avoid all improper conduct and the appearance of impropriety before, during and after public meetings, including:
- 1.) Showing bias for or against a petitioner, individual or group.
 - 2.) Conflicts of interest, whether actual or perceived, that would lead the public or an applicant to believe that an objective decision could not be made.
 - 3.) Criticizing the vote or comments of any member of the Board or City Council.
- 7.5.2 Members are expected to familiarize themselves and have a working knowledge of the current *Comprehensive Plan, Zoning Ordinance* and *Subdivision Regulations* of the City of Bay Minette.
- 7.5.3 Members are expected to apply the guidelines, adhere to the ordinances, and review every matter presented to the Board in an impartial, conscientious, and judicious manner.
- 7.5.4 Members are expected to exercise reasonable judgement, make good faith decisions, take actions that are within the law, and make decisions in the best interest of the public.
- 7.5.5 Members are expected to attend and participate in all meetings. The City will provide the resources necessary for the Board to fulfill their responsibilities, ensure members are informed about and involved in developmental issues and give serious consideration to the advice and recommendations of the Board.
- 7.5.6 Members are expected to familiarize themselves with the agenda, application or other provided meeting materials and are encouraged to make site visits to the properties on upcoming agendas.
- 7.5.7 Members are encouraged to obtain training and attend educational sessions related to planning, zoning/land use, environmental topics, or other similar subjects related to the performance of their Board duties. Members are strongly advised to obtain and maintain Certified Alabama Planning & Zoning Official (CAPZO) status. Staff will provide notice of any such opportunities and the City will provide for the reimbursement of training expenses with prior approval.

Article VIII – Meetings

Section 8.1 Regular Meetings

The Board shall hold regular meetings at the call of the Chairman. The regular meeting in July of each year shall be the annual meeting at which elections of officers shall take place, which will be scheduled to be held on the first Thursday of the month at 8:00 a.m. in the Bay Minette City Hall Council Chambers.

Section 8.2 Special Meetings

Additional meetings, worksessions or other special meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine by a majority vote upon giving of a forty-eight (48) hour notice to each member. If meetings need to be rescheduled for holidays or other events, the new date and time shall be duly posted.

Section 8.3 Protocol

All meetings of the Board shall be open to the Public and follow the protocol of *Robert's Rules of Order*. The Board may convene executive sessions in accordance with applicable laws.

Section 8.4 Notice

Notice of meetings and public hearings shall be performed as specified in the *Code of Alabama (1975)* as amended, *Alabama Open Meetings Act* and/or as required by other State law and these by-laws. The Secretary may provide supplemental notification procedures such as electronic notification, to ensure that interested parties are aware of pending cases, but the failure of any such supplemental notification procedures shall not invalidate any lawful action or decision of the Board.

Section 8.5 Decorum

Board members and speakers shall observe the commonly accepted rules of courtesy, decorum, dignity, and good taste. All comments, questions, or remarks shall be address to the Chairman or the Board as a body and not to members of the audience or the applicant. Interested parties or their representatives may address the Board by written communications, a copy of which shall be provided to the Secretary either before or during the meeting.

Section 8.6 Procedures to Address the Board

Public participation is welcomed and encouraged. Consideration will be given to the public to express their views on issues relevant to the business of the Board. To balance the public's right to be heard with the need to maintain the order of the meeting, the following procedures will be followed and enforced:

- 8.6.1** All meetings of the Board shall be open to the public.
- 8.6.2** All individuals wishing to address the Board must sign in on the provided form. To maintain fairness and efficiency, speakers will be called in the order of the sign-in sheet.
- 8.6.3** Additional accommodation may be provided as needed upon notification of staff.
- 8.6.4** Verbal comments and interruptions from the floor will not be allowed.
- 8.6.5** Each speaker will be limited to five (5) minutes. For groups of individuals that wish to address the Board on the same topic, they will be limited to three (3) minutes per speaker. In cases where there are multiple speakers on the same topic, speakers are encouraged not to repeat the same information presented by previous speakers. The Chairman reserves the right to require an individual wishing to speak on behalf of another person, group or entity to provide written authorization from the person, group or entity being represented.
- 8.6.6** Speakers may be interrupted by any member of the Board for clarification or additional information, and those interruptions will not count against the speaker's time.
- 8.6.7** At the discretion of the Chairman, a speaker may address the Board a second time, but only after all others have been given the opportunity to speak.
- 8.6.8** All comments must be directed to the Chairman or the Board as a body.
- 8.6.9** Under no circumstances will personal attacks on Elected Officials, Appointed Officials, employees, or other individuals be allowed or tolerated.

Article X – Quorum

A quorum for the official transaction of business by the Board shall consist of four (4) members. A concurring vote of four (4) members of the Board shall be necessary to take official action on matters presented to the Board, pursuant to *Section 11-52-80*, the *Code of Alabama (1975)*. Each member of the Board shall have one (1) vote. Voting shall be by voice vote.

Article XI – Conduct of Meetings

The current edition of *Robert's Rules of Order* shall normally govern the conduct of business of the Board. The order of business at regular Board meetings should generally follow the order stated below, but may be altered at the discretion of the Chairman:

- 1.) Call to order
- 2.) Invocation/Pledge of Allegiance
- 3.) Announcement & Registration to Address the Board
- 4.) Approval of Minutes from Previous Meeting
- 5.) Disclosure of Prior Communications and/or Conflicts of Interest
- 6.) Old Business
- 7.) New Business
- 8.) Reports and Comments–Mayor/Council/Administration, Attorney, Board Members, Staff, Citizen Comments.
- 9.) Adjournment

To be placed on a Board agenda, applicants must submit complete applications, together with all required supporting documentation and payment of required fees, as set forth in the *City of Bay Minette Zoning Ordinance*.

All applicants, or their designated representative, shall attend the meeting(s) where their application is placed on the Board Agenda. In the absence of such an applicant or designated representative, the application request shall not be heard.

During the consideration of variance requests, special exception applications, or any other matter requiring a public hearing, the following procedure for the presentation of items should normally be observed; however, it may be rearranged at the discretion of the Chairman for the expeditious conduct of business.

- 1.) The Chairman will conduct the meeting and call for the agenda items.
- 2.) A member of the Planning & Development Services Department Staff will present a staff report with a recommendation and answer any questions from the Board.
- 3.) The Chairman calls for the applicant, owner, or designated representative and offers the opportunity to address the Board, provide information in support of the request, and answer any questions from the Board.
- 4.) If a public hearing is needed, the Chairman will open the public hearing and state the time for the record. Once the Chairman opens the public hearing, statements, input regarding the request or questions addressed to the Board will be accepted from the public with the approval of the Chairman and in accordance with the established Procedures for Addressing the Board.
- 5.) Once all members of the public have been afforded the opportunity to speak, the Chairman shall close the public hearing and state the time for the record.
- 6.) The Board members may discuss details and issues raised; may ask questions of the applicant, city staff, public or other parties.
- 7.) Upon conclusion of the public hearing and deliberation, the Chairman will call for a motion to be read, a second and may ask if further discussion is needed.
- 8.) The vote will be called, and the Chairman will announce the result. If the vote is close or results from the simultaneous voice vote is unclear, the Chairman may call for a roll call voice vote and then announce results.

Article XI – Amendment

Amendment to these By-Laws shall require the affirmative vote of four (4) members of the Board. The Board shall review these rules annually at the same meeting as officer elections. These By-Laws may be amended at any regular or special meeting of the Board provided that five (5) days advance notice of any proposed change shall be given to all members.

Article XII – Adoption

These By-Laws were reviewed, approved and officially adopted by the City of Bay Minette Board of Adjustment. All previous By-Laws of the Board are hereby repealed.

DONE, this the _____ day of _____ 2023

Dr. Abby Hamilton, Chairman

ATTEST:

Clair Dorough, City Planner