

The Board of Adjustments met Monday, October 16, 2023, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle, Vice-Chair; Frank Lamia; David Martin; Bryan Flowers; Hunter Simmons, Planning and Zoning Director; Mike Jeffries, Development Services Manager; and Cindy Beaudreau, Planning Clerk.

Chairman Vira called the meeting to order at 5:07 PM.

Approval of Minutes

David Martin made a motion to approve the minutes from the September 18, 2023, meeting.

Frank Lamia seconded the motion and the motion carried with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, David Martin and Bryan Flowers.
Nay: None.

Old/New Business

Election of Officers

David Martin made a motion to keep the officers the same.

Frank Lamia seconded the motion and the motion carried with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, David Martin and Bryan Flowers.
Nay: None.

Approval of 2024 Meeting Schedule

Cathy Slagle made a motion to approve the 2024 Board of Adjustments meeting schedule.

Frank Lamia seconded the motion and the motion carried with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, David Martin and Bryan Flowers.
Nay: None.

Hunter Simmons, Planning and Zoning Director, explained about clinic uses. The Zoning Ordinance does not have a distinction between medical uses. For instance, a spa or massage parlor would not require approval, but a medical component does, which would be defined as a clinic. Mr. Simmons asked the Board if they wanted to continue to see these types of cases. It was agreed to have this discussion following the cases.

BOA 23.10 Public hearing to consider the request of the Applicants, Chris and Misty Dyas, on behalf of the Owner, Fountain of Youth LLC, for a Special Exception – Use on Appeal – Med Spa in property zoned B-2 – General Business District. The property is approximately 25.50 acres and is located on the northwest corner of Greeno Road and Old Battles Road. **PPIN#: 17515**

Mike Jeffries, Development Services Manager, presented the request of Chris and Misty Dyas for a special exception to operate a Med Spa in property zoned B-2. Mr. Jeffries shared the zoning and aerial maps of the location and the site plan. The Zoning Ordinance defines a Professional Office as “a building occupied by a profession and offering professional services to clients, customers, or patrons which may involve occasional on-site contact with clients, customers, or patrons.” The Zoning Ordinance defines a Clinic as “a place used for the care, diagnosis and treatment of ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but who are not provided with board.”

Recommendation:

Staff recommends approval of Case BOA 23.10.

Cathy Slagle asked if there would be any surgeries performed on site. Dr. Chris Dyas, 17745 Pierce Road, replied that there would be no surgeries on site. The office is a medical weight loss clinic along with light aesthetics, like light laser, Botox and fillers. Mr. Simmons added that in the state of Alabama, nurse practitioners are not allowed to perform those services. Dr. Dyas agreed, stating that he is a general surgeon and will perform those services.

Chairman Vira opened the public hearing at 5:16pm. Having no one present to speak, the public hearing was closed at 5:16pm.

Motion:

David Martin made a motion to approve BOA 23.10.

Cathy Slagle seconded the motion and the motion carried unanimously with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, David Martin and Bryan Flowers.

Nay: None.

BOA 23.11 Public hearing to consider the request of the Applicant, Alexander Minney, on behalf of the Owner, FST and Monument, for a Special Exception - Use on Appeal – Medical Office in property zoned B-2 – General Business District. The property is approximately 0.46 acres and is located at 20489 State Highway 181. **PPIN#: 109765**

Mike Jeffries, Development Services Manager, presented the request of Alexander Minney for a special exception to operate a Medical Office in property zoned B-2. Mr. Jeffries shared the zoning and aerial maps. The office will be housed within a pharmacy. Mr. Jeffries explained that this is a doctor/patient office. There is no additional staff and no waiting room. Mr. Jeffries shared the differences between a Professional Office and Clinic. Mr. Jeffries explained that additional review took place for this project to ensure that there were only two occupants per building, stating that a third occupant would trigger a separate review by the Planning Department which would need to go to the Planning Commission. The signs may require an additional review.

Recommendation:

Staff recommends approval of Case BOA 23.11.

Frank Lamia asked if the office was separate from the pharmacy. Mr. Jeffries explained that it shares the building with the pharmacy but is a separate business which will be using the same entrance as the pharmacy. Cathy Slagle explained that when you enter the pharmacy building, this office will be on the left. Ms. Slagle asked about the barbershop. Mr. Jeffries explained that the image was taken off a google image The barbershop is a prior business that is no longer located in the building. Mr. Simmons explained that the sign shows four businesses, but some of those listed are on separate pieces of property. Mr. Jeffries explained that the signs will need to come into compliance with the current sign ordinance.

David Martin asked what kind of services would be performed in that office. Dr. Alexander Minney, 11750 County Road 32, replied that his office is direct doctor/patient. There is no staff. When you call the office, he is the one who will answer. Dr. Minney explained that he considers his office as concierge medicine without the concierge cost. Dr. Minney shared the building layout stating that after hours, when the pharmacy is closed, the pharmacy is enclosed so it is separate. Ms. Slagle asked if he would take insurance. Dr. Minney he takes all insurance but does not bill insurance. His practice is a membership-based practice with fees lower than a phone bill. Ms. Slagle asked if he takes Medicare patients. Dr. Minney stated yes, he does not bill Medicare, he has opted out of Medicare, but as a board-certified physician, he can still order all the services. If a patient chose to use Dr. Minney, everything is up front, there will be no surprise bills. Ms. Slagle asked if the patient would apply to the insurance for payment. Dr. Minney stated they would not need to. A patient would keep whatever insurance plan best fit their family plan. Bryan Flowers asked if this is in lieu of insurance. Dr. Minney stated no, the patient would keep their insurance. Dr. Minney continued that while working in doctor offices, he often saw patients who stated that they had been trying to talk to him for weeks or that they had spoken to his nurse and still had not received their medication. Those stories hurt when he heard them. He hopes that with the service he will provide now, the patient can call or text him directly and their issues will be resolved right away. He hopes that this will provide better patient interaction and care. David Martin asked if a patient would pay a fee and that would cover all the office visits and insurance would cover the blood work, etc. Dr. Minney agreed, but also stated that some places will give cash prices which may be cheaper than a patient would pay as a co-pay. Dr. Minney continued that with this type of plan, he is able to spend as much time with a patient as necessary, he can get to know the whole family and is able to make house calls if a patient is too sick to get out of bed along with telemedicine.

Chairman Vira opened the public hearing at 5:28pm. Having no one present to speak, the public hearing was closed at 5:28 pm.

Motion:

Frank Lamia made a motion to approve BOA 23.11.

David Martin seconded the motion and the motion carried unanimously with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, David Martin and Bryan Flowers.

Nay: None.

Chairman Vira asked if there were any items for the next meeting. Mr. Simmons stated that there is one case for next month.

David Martin brought the discussion back to whether the Board would like to continue to hear these types of cases. Mr. Simmons stated that an amendment to the Zoning Ordinance would need to go to the Planning Commission and City Council. Mr. Simmons stated that other municipalities do separate out medical uses, for instance, the primary care physician that has an office but does not see 90 patients a day and generate traffic with intense use. That could fall under the Professional Office definition which could be a “by right” use. A clinic that has several doctors in one building would not fall within that definition. Mr. Simmons stated that everything medical, unless it is in the medical overlay district, should be brought to the Board of Adjustments. Anil Vira stated that bringing these items to the Board of Adjustments can protect the residents from unwanted uses like medical marijuana. Mr. Simmons replied that although the state of Alabama is allowing medical cannabis, the City Council has elected not to adopt that use in the city limits of Fairhope. Mr. Simmons stated that the City is seeing less and less of the types of cases that are on the agenda this evening, so those types may be able to be separated, but it is hard to do something based on scale.

Mr. Vira asked if a use were approved for one person and they sell it, would that need to come back before the Board? Mr. Simmons stated that if it is very similar and the change happens within 180 days, he would not make them come back. If the new use was a different model where a one-person office changes to a multiple person office, then he would bring it back. If the change takes longer than 180 days, then it would need to come back to the Board for approval. Mr. Vira asked what the delay is for someone when coming to the Board. Mr. Simmons stated that it is usually a month from application to the meeting. A conversation with the applicant may begin two months prior to a meeting along with whether the conversation began a day after the deadline or right before the deadline for submittal. Mr. Martin stated that he feels that if it is an office building that falls in line, it would not need to come to the Board rather than having to wait a month or so to get through the process. Mr. Simmons stated that the City of Fairhope created a very large medical overlay district which could be used for that. The intent was to create a concentration of medical uses in one area. The approvals are expedited when an office chooses to locate in that area. An applicant that chooses to locate out of that area will require reviews. Mr. Simmons stated that the medical overlay district lies from Morphy to Greeno and Greeno to Ingleside. Mr. Vira asked if an applicant must wait two months, does that impeded them. Mr. Simmons stated that every applicant is different, but if staff has been in the loop the entire time, it is not much of a problem. If the applicant was not made aware of the process until they apply for a building permit, then it could be a surprise at the time that it takes. Mr. Simmons just asked the Board to have this on the radar as these cases come before them. Mr. Vira asked if this could be part of the Comprehensive Plan. Mr. Simmons stated that the goal is to have the Comprehensive Plan completed by February. The second phase is to amend the ordinance to comply with the Comprehensive Plan. Bryan Flowers stated that better education may be the best plan. Mr. Simmons stated that is a challenge when new individuals are constantly joining the industry. Mr. Simmons stated that the Planning staff has been making itself more accessible and works to supply an answer within 48 hours.

Adjournment

Cathy Slagle made a motion to adjourn.

The motion carried unanimously with the following vote:

Aye: Chairman Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Ryan Baker.

Nay: None.

Adjourned at 5:44 p.m.


Anil Vira, Chairman


Cindy Beaudreau, Secretary