



Zoning and Adjustments Board
1018 Porter Avenue
Ocean Springs, MS 39564

Tuesday, August 8, 2023 @ 5:00 PM

1. Call Meeting to Order

2. Approval of Minutes

- a. Approval of Minutes July 11, 2023

3. Old Business

4. New Business

- a. Beth & Les McMackin- 506 Martin Ave / PID# 60137586.000 – Requesting a setback variance from 10 ft to 8 ft on the north side of the proposed new residential structure.
- b. Jesse Moskowitz – 409 E Beach Rd / PID# 60132310.000 – Requesting a variance for an existing fence.

5. Audience Request

6. Adjourn

The Minutes of the City of Ocean Springs
Zoning and Adjustments Board
Tuesday, July 11, 2023

1. Call Meeting to Order

A meeting of the City of Ocean Springs Zoning and Adjustments Board was called to order by Chairman Nick Gant at 5:00 PM on Tuesday, July 11, 2023. Members present were John O'Hara, Michael Smith, Shannon Pfeiffer, and Don Atwell. Also present were Wade Morgan, City Planner, and Dawn Underwood, Planning & Grants Coordinator.

2. Approval of Minutes

a. June 13, 2023

A motion was made by S. Pfeiffer, seconded by J. O'Hara to recommend approval of the minutes from June 13, 2023. The motion *carried* with All voting aye and none voting nay.

3. Old Business

- a. William Cameron Troutman – 1160 Iola Rd/ PID# 60224010.035 – Requesting a 5' variance from the waterbody setback and a 5' variance from the northern property (abutting residential property) line for the proposed 15' x 48' building.

W. Morgan presented the proposal. The request is for two variances on the property related to the waterbody buffer requirement and the residential property landscape buffer requirement.

Cameron Troutman spoke about the request and said he was working with a land attorney and will be working with a wetland bank for his credits.

M. Smith asked if it would be a good idea to withdraw his application until he gets his wetland issues resolved.

Cameron Troutman agreed with his suggestion.

W. Morgan stated we will start the process over once he is ready.

4. New Business

5. Audience Request

None.

6. Adjourn

A motion was made by J. O'Hara seconded by D. Atwell to adjourn the meeting. The motion was unanimously carried.

DRAFT

DRAFT

CITY OF OCEAN SPRINGS
COMMUNITY DEVELOPMENT AND PLANNING
POST OFFICE BOX 1800
OCEAN SPRINGS, MS 39566-1800
228-875-4415

ZONING ADJUSTMENT BOARD REPORT

PUBLIC MEETING DATE: August 8, 2023

APPLICANT(S): Beth and Les McMackin

CURRENT OWNER? ✓ Yes No

LOCATION: 506 Martin Ave./ PID# 60137586.000

REQUESTED ACTION: Variance to the minimum side yard building setback distance.

DATE OF APPLICATION: June 26, 2023

ADJACENT ZONING AND LAND USE:

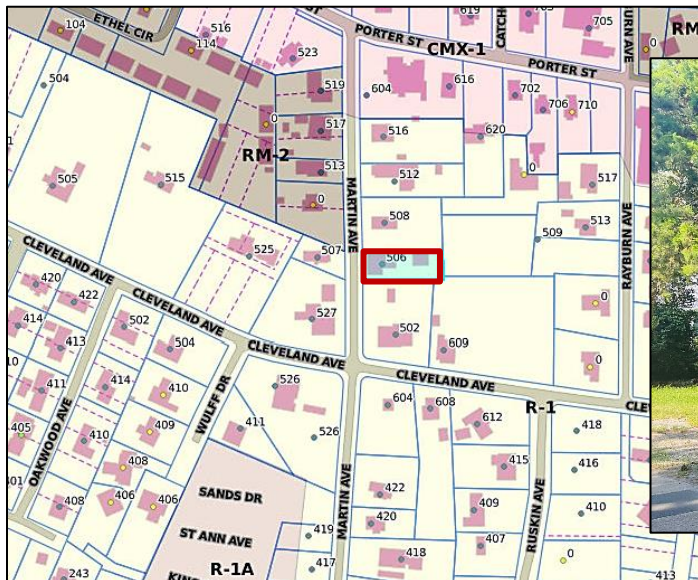
Subject Property: R-1, Single Family Residential Use district/a single family dwelling.

North, East and South: R-1 Residential district; single family dwellings.

West: across Martin Ave., R-1 Residential district; single family dwellings.

CURRENT CONDITIONS:

- Property Size: 11,539 sq. ft.



DESCRIPTION OF REQUEST: The applicant requests a 20% variance from the minimum side yard setback distance on the north side of the property. The requested variance will allow the dwelling to extend 2 feet into the setback from the north property line, which will result in a setback distance of 8 feet instead of 10 feet.

FINDINGS:

- The property is in the Old Ocean Springs Historic District. A Certificate of Appropriateness (COA) for a new dwelling on the property was approved by the Historic Preservation Commission (HPC) on 6/15/23 and by the Board of Aldermen on 6/20/23.
- One of the criteria for new home construction in historic districts is that carports and garages should be located at the rear of the structure. That placement necessitates a driveway running between the house and the property line. The parcel is 63 feet wide. The applicant requests the setback variance on the north property line to allow a wider driveway on the south side.
- The ZAB may recommend variances that meet the following criteria: 1) exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or 2) exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the area, or 3) the strict application of these regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.

POTENTIAL MOTION:

To recommend **approval/denial** of a variance of 20% from the minimum side yard setback distance to allow an 8-foot side yard setback along the north property line at 506 Martin Ave. as shown on the site plan.



City of Ocean Springs Planning Department

1018 Porter Avenue / PO Box 1800 Ocean Springs, MS 39564

(228) 875-4415

VARIANCE REQUEST APPLICATION

Submittal Requirements:

- Application
- Fee of \$50.00 must be paid at the time application is submitted.
 - \$1.00 additional fee (per Ordinance 2022-17 following the requirements of Section 25-60-5 MS Code Annotated)
- Site Plan (or Survey) showing requested variance, with dimensions.

Date: 06/26/2023

Name of Applicant: Beth & Les McMackin

Address: 3603 Perryman Road, Ocean Springs, MS 39564

Phone No. 228.365.2190 Email Address: mcmackin.les@gmail.com

Parcel Identification Number: 60137586.000

Property Owner (if different from Applicant): N/A

Property Location for the Variance: 506 Martin Avenue, Ocean Springs, MS 39564

Type of Variance(s) Requested (setback, height, zoning extension, parking, etc.)

Setback - from 10 feet to 8 feet on the north side of the proposed new residential structure. This would be a total of 62ft along the north side of the structure, for a total of 124 sq.ft.

The purpose of this variance is to consider an application to allow:

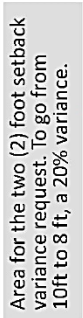
The driveway on the south side of the structure to be wider to allow for easier access to the garage area located at the rear of the property.

Provide justification of the variance request. Justification must include exceptional narrowness, shallowness, shape of a specific piece of property, exceptional topographical conditions, or other extraordinary situation or condition for a specific piece of property.

In order to keep with the character of the historic district, the garage needs to not be visible from the street, which requires the driveway to run the length of the house. And due to the narrowness of the lot, the additional space would allow for a wider driveway on the southern side of the house.

Applicant Signature: _____

Date: 06/26/2023



CITY OF OCEAN SPRINGS
COMMUNITY DEVELOPMENT AND PLANNING
POST OFFICE BOX 1800
OCEAN SPRINGS, MS 39566-1800
228-875-4415

ZONING ADJUSTMENT BOARD REPORT

PUBLIC MEETING DATE: August 8, 2023

APPLICANT(S): Jesse Moskowitz

CURRENT OWNER? ✓ Yes No

LOCATION: 409 East Beach Drive/ PID# 60132310.000

REQUESTED ACTION: Variance to 1) the maximum height of a fence within the front yard area and 2) the requirement for the finished side of a fence to face outward.

DATE OF APPLICATION: June 8, 2023

ADJACENT ZONING AND LAND USE:

Subject Property: R-1, Single Family Residential District – a single family dwelling and guest cottage.

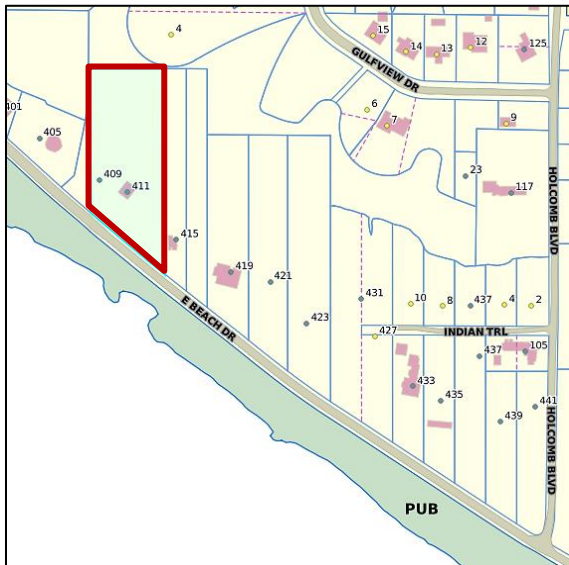
North: R-1 District – Weeks Bayou and single-family dwellings.

West & East: R-1 District – single family dwellings.

South: across East Beach Drive, PUB Public District, East Beach Park.

CURRENT CONDITIONS:

Property Size: 22,550 sq. ft.



DESCRIPTION OF REQUEST: To allow a newly constructed fence to remain in its present condition. The fence exceeds the maximum permitted height by 6 inches and the finished side faces the applicant/owner's property (inward).

- See the attached letter from the applicant explaining the variance.

FINDINGS:

- UDC section 3.7.17.I limits fences within the required front yards (25 feet from front property line) to 4 feet in height. Fences within the side and rear yards beyond the front yard setback can be up to 8 feet in height. The section of fence in the front yard is 4.5 feet in height, which is a 12.5% variance from the maximum.
- UDC section 6.2.3.J.8 requires the finished side of a fence to face outward.
- The ZAB may recommend variances that meet the following criteria: 1) exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or 2) exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the area, or 3) the strict application of these regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.

POTENTIAL MOTIONS:

1. To recommend **approval/denial** of a variance of 12.5% from the maximum height of a fence within the required front yard area at 409 East Beach Drive.
2. To recommend **approval/denial** of a variance to allow the finished side of a fence to not face outward at 409 East Beach Drive.



City of Ocean Springs Planning Department
1018 Porter Avenue / PO Box 1800 Ocean Springs, MS 39564
(228) 875-4415

VARIANCE REQUEST APPLICATION

Submittal Requirements:

- Application
- Fee of \$50.00 must be paid at the time application is submitted.
 - \$1.00 additional fee (per Ordinance 2022-17 following the requirements of Section 25-60-5 MS Code Annotated)
- Site Plan (or Survey) showing requested variance, with dimensions.

Date: 6/8/2023

Name of Applicant: JESSE KOSKOWITZ

Address: 409 E BEACH DR, OCEAN SPRINGS, MS 39564

Phone No. 715-348-5111 Email Address: JESSEANDANET@YAHOO.COM

Parcel Identification Number: 60132310.000

Property Owner (if different from Applicant): _____

Property Location for the Variance: 409 E BEACH DR, OCEAN SPRINGS, MS 39564

Type of Variance(s) Requested (setback, height, zoning extension, parking, etc.)

The purpose of this variance is to consider an application to allow:

PLEASE SEE ATTACHMENT

Provide justification of the variance request. Justification must include exceptional narrowness, shallowness, shape of a specific piece of property, exceptional topographical conditions, or other extraordinary situation or condition for a specific piece of property.

Applicant Signature: _____

Date: 6/8/2023

Request For Variance of City Code

June 8, 2023

The following request is not an admission of guilt to alleged noncompliance of city code.

To the honorable committee of Ocean Springs Planning Department:

With respect, I request a variance regarding my property's fence on 409 E. Beach Drive in respect to alleged violation 3.7.17 and 6.2.3 of city building code. The motivation for building the fence was due to a number of incidences that made me fear for my family's safety and security. It was upon recommendation by an officer in Ocean Springs Police department that I consider building a fence.

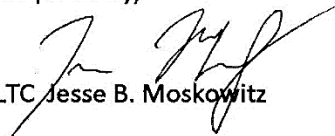
Upon original application for the fence the plans were rejected due to it starting to close to the road. I was informed that if I redrew the plans and had a setback of nine feet from the road at height of four feet and then a height of eight feet at twenty five feet from the road I would be granted a permit. I was granted a permit and hired a reputable, licensed and professional contractor who has been building fences in Ocean Springs for over thirty years on that information and belief that the contractor builds fences with knowledge of and in compliance with the Code. It was our intention to comply with all city code and I even had them start the fence with a twelve foot setback start so we would have a three foot buffer. The fence is completely on my property which I had professionally surveyed prior to the project. It does not present a public safety issue or nuisance in any way.

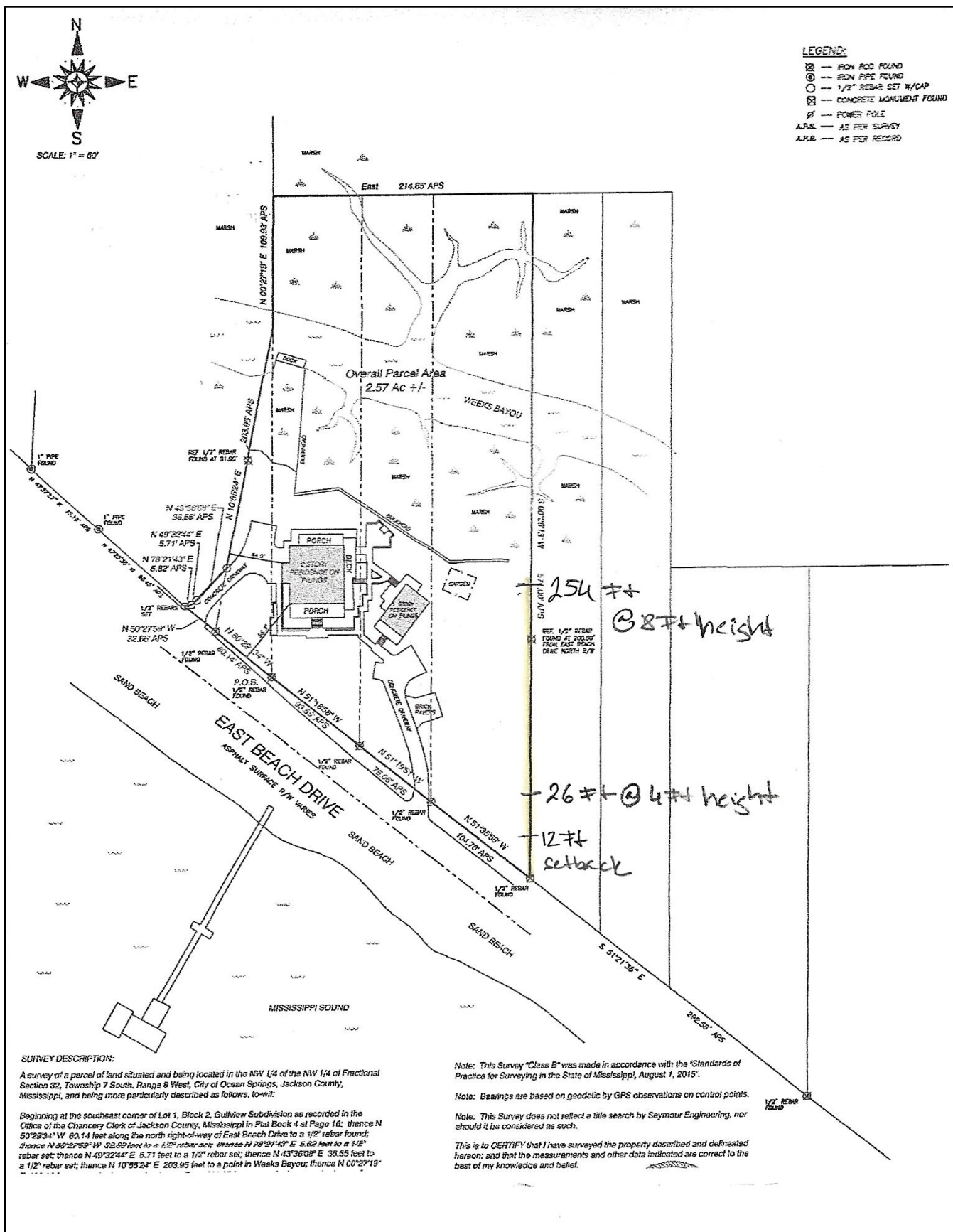
I take pride in my home and property and used the best materials available to make it a safe structure as well as esthetically pleasing. I spent fourteen thousand dollars building this fence.

I have had multiple discussions with Mr. Rick Hutcherson in the hope for guidance to resolve this matter. He opined that the setback of the fence was within code, and recommended I speak with Mr. Wade. When I called Mr. Wade he told me it was in Mr. Hutcherson's hands and would leave the matter up to him. In a subsequent discussion with Mr. Hutcherson the subject of applying for a variance was brought up. Mr. Hutcherson encouraged me to apply for a variance with the hope for a pragmatic solution to this issue. I would present myself before the committee for any further questioning or clarification, but currently I have received orders from the U.S. Army to activate me. My wife Anett will be available if needed.

In conclusion, it has always been my intention to comply with the laws of this City. I have served this Country honorably with deployments to Iraq, Afghanistan, Syria and Kuwait and my respect for its laws are second to none. I simply request that I be dealt with fairly and that serious consideration be given to my reasonable variance request.

Respectfully,


LTC Jesse B. Moskowitz



WILLIAMS LAW FIRM, PA

2409 14th Street
Gulfport, Mississippi 39501

Main: (228) 206-7900
Facsimile: (228) 206-7911

J. William Williams

Direct: (228) 284-5977

Email: bwilliams@wms-law.com

April 24, 2023

City of Ocean Springs
Attn: Robert Wilkinson, City Attorney
rwilkinson@wwbslaw.com
734 Delmas Avenue (39567)
Pascagoula, Mississippi 39568

Re: Nonconforming Fence – Jesse Moscowitz

Mr. Wilkinson.

I am writing on behalf of my client, Erich Nichols, being the homeowner of 415 East Beach, regarding a non-conforming fence constructed by his neighbor, Jesse Moscowitz. Mr. Moscowitz recently installed a solid, privacy fence which runs along the property line between my client's property and Mr. Moscowitz. The fence is eight (8) feet in height for the entire length of the property, aside from an approximately five (5) to seven (7) foot portion ending at the street that is four and one-half (4.5) feet in height. The length of the fence is unknown, but it is estimated to be more than two hundred (200) feet without any undulation or setback.

The fence violates several sections of the Municipal Code for the City of Ocean Springs, Mississippi (the "**Code**"). Particularly, Section 3.17.17 of the Code provides that at a maximum height of four (4) feet in the front yard and eight (8) feet on the side and rear yards. The Code defines the side yard as extending from the front line of the principal building to the rear line of the principal building; and the rear yard as being the distance between the rear lot line and the rear line of the principal building. Along that line, a fence of eight (8) feet is allowed. The front yard extends from the front line of the main building to the front street line of the lot, wherein a maximum of four (4) feet is permitted. I am attaching as an exhibit the subject properties outlining the front, rear and back yard lines, and allowable maximum height.

In addition to the fence egregiously violating the height limitations, the fence also violates the requirement for the finished side to face the neighbor. Mr. Moscowitz has installed the unfinished side facing my client's property, causing a visual eyesore and direct violation of the Code.

Furthermore, Section 4.8 of the Code provides that:

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Solid walls and fences shall not create a stockade appearance. This can be accomplished by undulating the fence plan. Fences over eighty (80) feet long shall have no more than 50% of their length on a continuous line. The remaining length shall be setback a minimum of six (6) feet.

As mentioned above, Mr. Moskowitz's fence far exceeds eighty (80) feet in length with no undulation or setback; again, in violation of the Code.

My client's home is currently for sale, and the non-conforming fence has been a deterrent for many potential buyers, resulting in a loss of time and money. I respectfully request that the City of Ocean Springs take action to ensure that Mr. Moskowitz's fence is brought into compliance with the Code before any further damages are incurred by my client.

Thank you for your attention to this matter.

Sincerely,



J. William Williams

JWW/bw