

**The City of Fairhope Board of Adjustments and Appeals met on Monday, April 20, 2009 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.**

**Members Present: Chairman Bob Mannich; Cathy Slagle; Stan Grubin; Anil Vira; Jonathan Smith, Director of Planning & Building; Chris Gill, Attorney; and Emily Irby, Secretary. Absent: Suzanne Winston, Louis Agee**

The meeting was called to order at 5:00 PM by Chairman Mannich.

Members were asked to review the October 20, 2008 minutes for consideration and make a motion to approve. Stan Grubin made a motion to approve the minutes as written. Cathy Slagle seconded the motion. Motion carried unanimously.

Jonathan Smith introduced Chris Gill as the attorney for the Fairhope Planning Commission. He stated that Mr. Gill has been involved with the updates to the Board of Adjustment's By-Laws which are the topic of tonight's meeting.

Chairman Mannich asked what the differences were between the current by-laws and the ones proposed. Mr. Smith responded that they have included more concrete rules and guidelines for the Board and have added a Code of Ethics section. Chairman Mannich said that recently he has felt the impression not to give variances. He feels that the Board does not set precedents. Mr. Smith responded that the Alabama State Code sets the guidelines for granting a variance. Mr. Gill added that the by-laws are not restricting the Board's powers that are set forward in the Alabama State Law which, in turn is set by the legislature. Mr. Gill gave an example that if two houses were across the street from one another and were asking for the exact same request, then the situations would likely result in the same decision; however, if two houses are across town from one another that even though they were both asking for the same request the situations could be completely different, which could result in different decisions. Chairman Mannich he remembers hearing that the Board of Adjustments does not set precedents and he feels that they try to make their decisions with common sense.

Anil Vira asked if hardships were based on topographical issues or on individual basis. Mr. Gill responded that he does not have particular examples, but he will go back and look up cases to provide more information.

Chairman Mannich asked about the small lots in the Fruit and Nut section of town that need room to add on. Mr. Gill said that those cases would depend on the situation, whether the applicant had owned the lot for years and needed to expand or if the lot had been recently purchased and now the applicant wants a bigger house.

Mr. Vira asked how the Board could set a precedent if all of the cases and situations are different. Mr. Gill responded that if cases have basically the same circumstances on property that is very close in proximity then the Board should be consistent with their

decisions. If the Board is consistent, it will be harder for someone to sue or challenge their decisions.

Mr. Grubin asked where the Code of Conduct came from. Mr. Gill answered that Planning Commissioner Gary Moore used the *Municipal Planning In Alabama* as a guide for the Code of Conduct and Code of Ethics sections. Mr. Smith stated that the City is planning to have an ethics training class soon as a refresher course for all of the boards and committees.

Mr. Vira asked if all of the Board members must live inside City limits. Mr. Smith answered yes. Mr. Vira asked if this was true of the Planning Commission members as well. Mr. Smith responded no, the Planning Commissioners must live in the Planning Jurisdiction, but currently all of the Commissioners do live inside City limits.

Mrs. Slagle questioned if the Board is covered by the City's insurance and if that should be in the by-laws. Mr. Gill stated that he was not certain, but the City Clerk Lisa Hanks would know. Mr. Smith said that he thought the Board was covered by the City's insurance.

Cathy Slagle moved to accept the By-laws as written. Stan Grubin seconded the motion. Motion carried unanimously.

Chairman Mannich stated that a refresher class for Board members is a good idea. Mr. Vira asked when the Continuing Education Classes are available. Mrs. Slagle responded that the classes are held all over the state and she will forward Mr. Vira the next e-mail reminder that she gets.

Mr. Gill announced if anyone ever has questions about ethics, they can call himself or Tut Wynne for guidance. He also informed the Board of a hotline that is offered by the Alabama Ethics Commission.

Chairman Mannich stated if he every had a conflict of interest then he would excuse himself from that case. Mr. Gill recommended that the involved party should leave the room.

New/Old Business – Mr. Smith updated the Board on a recent court case. He stated the court had upheld the Board's decision. Chairman Mannich asked if a case could go to a jury trial. Mr. Gill answered that the plaintiff is entitled to a jury trial if so requested. Mrs. Slagle stated that jurors would not be privy to the information that the Board uses to rule on cases. Mr. Gill explained that it is an unfortunate incident that can occur.

Chairman Mannich asked if the Board needed to elect or appoint Ms. Irby as the Secretary. Mr. Smith answered that the Secretary does have to be voted on. Mr. Vira nominated Emily Irby as Secretary. Mrs. Slagle seconded the motion. Motion carried unanimously.

A motion to adjourn was made by Mr. Grubin. Mrs. Slagle seconded the motion. Motion carried unanimously. The meeting was adjourned at 6:35 pm.

**Minutes were reviewed and approved by the Board of Adjustments on Monday, June 15, 2009.**