

**MADISON ZONING BOARD OF ADJUSTMENT AND APPEALS**  
**MINUTES OF THE APRIL 3, 2014 REGULAR MEETING**

The City of Madison Zoning Board of Adjustment and Appeals held its annual organizational and regularly scheduled monthly meeting on April 3, 2014 at 5:30 P.M. in the City Council Chambers of the Madison Municipal Complex located at 100 Hughes Road, Madison, Alabama. Board Chair Betty Fletcher called the meeting to order at 5:30 P.M. and attendance was as follows:

<b>Betty Fletcher, Chairperson</b>	<b>Present</b>
<b>Mary Hudson</b>	<b>Present</b>
<b>John Horch</b>	<b>Present</b>
<b>Christopher Lindsey</b>	<b>Present</b>
<b>Ted Whitney</b>	<b>Absent</b>
<b>Supernumeraries</b>	
<b>Wesley Alford</b>	<b>Present</b>
<b>Larry Mason</b>	<b>Present</b>

**City Staff Present:** Amy Bell, Director of Planning and Economic Development; Kelly Butler, City Attorney; Sherri Williams, Assistant Planner and Board Secretary

**Public Attendees (as registered):** Patrick Miller; Walt Anderson

Mrs. Fletcher read aloud, this Board is composed of five persons, with two supernumeraries, is empowered by the Alabama State Legislature, but appointed by the City Council and charged with hearing petitions for relief from a literal and strict application of the Zoning Code. Cases are heard in the order in which they are filed. Motions are made in the positive and each case requires a positive vote of at least four members. (A simple majority will not approve an action). The burden of proof for Variances and Special Exceptions rests with the petitioner. Any party aggrieved by any decision of this Board may within fifteen days, file a written notice of appeal to the Circuit Court.

**II. Approval of Minutes**

The first order of business was the approval of minutes from the February 6, 2014 Annual Organizational and Regular meeting. Mrs. Fletcher asked Board members for requested changes and/or corrections, if any. Board members did not request changes or corrections and Mrs. Fletcher entertained a motion.

**Motion:** Mrs. Hudson moved to approve the minutes of the February 6, 2014 Annual Organizational and Regular meeting, as written. Dr. Horch seconded the motion and the vote was as follows:

<b>Betty Fletcher</b>	<b>Aye</b>
<b>Mary Hudson</b>	<b>Aye</b>
<b>John Horch</b>	<b>Aye</b>
<b>Christopher Lindsey</b>	<b>Aye</b>
<b>Wesley Alford</b>	<b>Aye</b>

**Motion Carried.**

### **III. Petitions and Formal Requests for Action**

- a. Case #1098 – The City of Madison; A request for a variance to Section 4-3-3-2 to reduce the side yard setback from ten (10) feet to seven (7) feet. The property is currently zoned Medium Density Residential (R-2). This request is in accordance with Section 10-9 of the City of Madison Zoning Ordinance.

**Request:** Amy Bell presented the request and stated, the house at 140 Shiloh Creek Drive was built too close to the side property line rendering it non-conforming. The current property owner discovered the discrepancy. The city made the request for the variance in order to bring the property into conformity with the Zoning Ordinance.

**Public Comments:** Members of the public had neither questions nor comments.

**Board Comments:** Board members had neither questions nor comments.

**Staff Comments:** Board Secretary Sherri Williams stated that she received one (1) phone call from an adjoining property owner who asked questions concerning the details of the request but she did not receive correspondence prior to the meeting.

**Motion:** Mr. Lindsey moved to approve case number 1098, a request for a variance to Section 4-3-3-2 to reduce the side yard setback from ten (10) feet to seven (7) feet. The property is currently zoned Medium Density Residential (R-

2). This request is in accordance with Section 10-9 of the City of Madison Zoning Ordinance. Mrs. Hudson seconded the motion and the vote was as follows:

<b>Betty Fletcher</b>	<b>Aye</b>
<b>Mary Hudson</b>	<b>Aye</b>
<b>John Horch</b>	<b>Aye</b>
<b>Christopher Lindsey</b>	<b>Aye</b>
<b>Wesley Alford</b>	<b>Aye</b>

**Motion Carried.**

- b. Case #1099 – N. Andrew Rotenstreich of Baker Donnellson, Bearman, Caldwell & Berkowitz, PC as Agent for AT&T; A request for a Special Exception as permitted under Section 5-13A-6(a) to permit a cell phone tower; A request for a Variance to Section 5-13A-2(5)(c)2, to reduce the setback from two hundred ten (210) feet to eighty-four (84) feet at the south property line and one-hundred thirty (130) feet at the west property line; A request for a Variance to section 5-13A-2(5)(c)3, to reduce the distance from a residential district from one thousand (1,000) feet to two hundred thirty (230) feet. The property is currently located in the Community Commercial (B-2) Zoning District. These requests are in accordance with Sections 10-8 and 10-9 of the City of Madison Zoning Ordinance.

**Request:** Andy Rotenstreich presented the request on behalf of AT&T stating this was the first request in many years for a new tower. He further stated the property owners are Walt and Larry Anderson. Exhibit 1, showing existing and proposed AT&T coverage areas, was distributed. The proposed tower will provide space for other cell companies to co-locate thereby preventing other companies the need to erect towers. The tower will not require lighting since it will stand less than 200 feet high. A secured fence with anti-climbing devices will surround the area, which will also house a generator to provide power in the event of a natural disaster. The only utilities required are power and phone lines, neither sewer nor water is required. Mr. Rotenstreich stated that city staff has requested a letter certifying the pole will bend at stress points instead of falling outside the compound, which we are prepared to provide.

**Public Comments:** Members of the public had neither questions nor comments.

**Board Comments:** Mrs. Fletcher asked Staff for an explanation of “safety factor of 2” which Director Bell stated means the structure will be two (2) times stronger than required by code and the request is based on research.

**Staff Comments:** Board Secretary Sherri Williams stated that she had received neither phone calls nor correspondence from adjoining property owners or members of the public prior to the meeting.

**Motion:** Mr. Lindsey moved to approve case number 1098, a request for a Special Exception as permitted under Section 5-13A-6(a) to permit a cell phone tower and a request for a Variance to Section 5-13A-2(5)(c)2 of the City of Madison Zoning Ordinance, to reduce the setback from two hundred ten (210) feet to eighty-four (84) feet at the south property line and one-hundred thirty (130) feet at the west property line; a Variance to Section 5-13A-2(5)(c)3, of the City of Madison Zoning Ordinance, to reduce the distance from a residential district from one thousand (1,000) feet to two hundred thirty (230) feet and, in addition, a letter certifying the proposed tower foundation and attachments are designed whereby a safety factor of 2, i.e. twice what would normally be required and the breakpoint should be designed to create the breakpoint within the parameters of the towers to the property lines in issue. The letter must clearly denote the difference between the normal foundation design and that of a safety factor of two. The property is currently located in the Community Commercial (B-2) Zoning District. These requests are in accordance with Sections 10-8 and 10-9 of the City of Madison Zoning Ordinance. Dr. Horch seconded the motion and the vote was as follows:

<b>Betty Fletcher</b>	<b>Aye</b>
<b>Mary Hudson</b>	<b>Aye</b>
<b>John Horch</b>	<b>Aye</b>
<b>Christopher Lindsey</b>	<b>Aye</b>
<b>Wesley Alford</b>	<b>Aye</b>

**Motion Carried.**

Following the motion and vote, Mr. Mason asked Staff if updating the antiquated ordinance was a consideration. Director Bell stated updates would be proposed soon. Kelly Butler stated that a proposal presented in 2010 met opposition.

**IV. Old Business**

Mrs. Fletcher asked Board members and Staff if there were any items of old business to discuss. There being none, Mrs. Fletcher closed the floor to old business.

**V. Other Business**

Mrs. Fletcher asked Board members and Staff if there were any items of other business to discuss. There being none, Mrs. Fletcher closed the floor to other business.

**VI. Adjournment**

With no further business before the board, Mrs. Fletcher adjourned the meeting at 6:03 P.M.

**Approved:**

  
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Betty Fletcher, Chairperson

**Attest:**

  
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Sherri Williams, Recording Secretary