



**Zoning Board of Adjustment and Appeals  
Minutes of the March 7, 2019 Annual Organizational and Regular Meeting**

The meeting convened in the Madison Municipal Complex, City Council Chambers, 100 Hughes Road, Madison, Alabama 35758, and called to order at 5:30 p.m. by Board Vice-Chair Christopher Lindsey.

**In Attendance:**

Betty Fletcher, Chair	Absent
Christopher Lindsey, Vice-Chair	Present
Mary Hudson	Present
John Horch	Present
Ted Whitney	Present
Supernumeraries	
Wesley Alford	Absent
Michael Keenan	Present

**City Staff Present**

Mary Beth Broeren, Director of Development Services; Megan Zingarelli, City Attorney, and Sherri Williams, Assistant Planner and Board Secretary

**Registered Public Attendees**

Art McKinney; Andrey Chobey; Craig Lybarger; Chase Marona; Jessica Marona; Jason Phillips

Mr. Lindsey read aloud, *this Board is composed of five persons, with two supernumeraries, and is empowered by the Alabama State Legislature, but appointed by the City Council and is 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.*

**Approval of Minutes**

The first order of business was the approval of the minutes for the December 6, 2018 Regular Meeting. Mr. Lindsey asked Board members for requested

changes and/or corrections, if any. There being none, Mr. Lindsey called for a motion.

**Motion:** Ted Whitney moved to approve the minutes of the December 6, 2018 Regular Meeting, as written. John Horch seconded the motion and the vote was as follows:

Mary Hudson	Aye
Chris Lindsey	Aye
John Horch	Aye
Ted Whitney	Aye
Michael Keenan	Aye

**Motion Carried.**

#### **Election of 2019 Officers**

**Chair:** Christopher Lindsey nominated Betty Fletcher as 2019 Chair and Mary Hudson seconded the nomination. There being no other nominations or objections, Betty Fletcher was elected by acclamation.

**Vice-Chair:** Ted Whitney nominated Christopher Lindsey as 2019 Vice-Chair and Mary Hudson seconded the nomination. There being no other nominations or objections, Christopher Lindsey was elected by acclamation.

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

- a. *Case VAR-2019-001, 8883 Madison Blvd. - Jason Phillips, J.M. Phillips Engineering, LLC, as agent for owner. A request for Variances to Section 4-8-2 Landscape Requirements in the B3 District, to reduce the area of interior landscaping from 720 square feet to 548 square feet, and Section 4-8-3 Landscape Buffer Requirements in the B3 District, to reduce the buffer along the south property line from 20-feet to 5-feet.*

**Request:** Applicant's agent, Jason Phillips presented the request and stated that property was developed many years ago and, at the time was a smaller lot with one access from Madison Blvd. The current owner purchased the property in order to improve and upgrade the building for a new Asian restaurant, similar to the one that previously occupied the building for many years. In order to meet the on-site parking requirement, he purchased the adjoining lot to the south. A certified plat combined the two lots to create one larger lot that also provides additional access from Lime Quarry Road. Since it now has access from Lime

Quarry Road, there is a right-of-way, where the codes requires a 20-foot landscape buffer. The area within the parking lot requires a certain amount of landscaping. If the landscape buffer along Lime Quarry were reduced from 20-feet to 5-feet and the area of required landscaping within the parking lot were reduced, there would be enough room for the required number of parking spaces. He further stated that the same number of trees and shrubs will be provided, just not inside the parking lot.

Assistant Planner Sherri Williams explained that two different landscape areas are required for commercial lots; interior landscaping, within the parking lot and perimeter, around the boundary of the property. The trees and shrubs that will not fit inside the parking lot will be planted in the other landscape beds around the property. The number of trees and shrubs for the site will not be reduced, just relocated.

**Board Comments:** Mr. Lindsey stated that Staff had covered the request well in its Staff Report and asked if the Board had additional questions or comments. Board members stated they were happy to know the site was being redeveloped and looked forward to the new restaurant.

**Public Comments:** No members of the public commented.

**Staff Comments:** Mr. Lindsey asked if Planning Staff had received phone calls or emails regarding the request. Sherri Williams stated that she had not received phone calls or emails regarding the request.

**Motion:** Ted Whitney moved to approve case number VAR-2019-001, a request for a Variance to Section 4-8-2 Landscape Requirements in the B3 District, to reduce the area of interior landscaping from 720 square feet to 548 square feet, and Section 4-8-3 Landscape Buffer Requirements in the B3 District, to reduce the buffer along the south property line from 20-feet to 5-feet. John Horch seconded the motion and the vote was as follows:

Mary Hudson	Aye
Chris Lindsey	Aye
John Horch	Aye
Ted Whitney	Aye
Michael Keenan	Aye

**Motion Carried.**

*b. Case VAR-2019-002, 162 Nale Drive – Andrey Chobey, Chobey's Builders, Inc. as agent for owner. A request for a Variance to City of Madison Zoning Ordinance Section 5-9. Accessory Uses and Structures in Residential and Agriculture Districts, to allow an accessory structure (detached garage) to be located in the side yard, and to increase the proportionality of the accessory structure to that of the principal structure from twenty-five percent to thirty-seven percent. The property is located in the R1A Low Density Residential Zoning District.*

**Request:** Applicant's agent, Andrey Chobey presented the request and stated that property has many trees and difficult terrain in the back yard. The property owner wants a workshop and that it will be appealing from the street. He stated that he was told that the garage size was fine. He further stated that the lot is very large and that it would not look funny sitting to the side of the house. The back is too difficult and if they remove rocks from the lot it will destroy the driveway. Mr. Chobey stated there would need to be a retaining wall in the back yard to divert drainage and that the architect, Jim Norton, said it should go to the side of the house.

Board members stated that trees and rocks are not a hardship, not like a wetland or something that makes a portion of the lot unusable. There is plenty of room to put it where it is supposed to go. Putting it to the side of the house will greatly reduce the area between the existing house on the adjacent lot and the detached garage. The overall size and height of the detached garage will make it appear like another house is between the two existing houses. Other properties in the area have rocks and trees and the property owners were able to build detached garages in the rear yard. A preference is not a hardship and neither is a reduction in the cost of construction.

**Board Comments:** Mr. Lindsey stated that Staff had covered the request well in its Staff Report and asked if the Board had additional questions or comments.

**Public Comments:** No members of the public commented.

**Staff Comments:** Mr. Lindsey asked if Planning Staff had received phone calls or emails regarding the request. Sherri Williams stated that she had not received phone calls or emails regarding the request.

**Motion:** Ted Whitney moved to approve case number VAR-2019-002, 162 Nale Drive, a request for a Variance to City of Madison Zoning Ordinance Section 5-9.

Accessory Uses and Structures in Residential and Agriculture Districts, to allow an accessory structure (detached garage) to be located in the side yard, and to increase the proportionality of the accessory structure to that of the principal structure from twenty-five percent to thirty-seven percent. Mary Hudson seconded the motion and the vote was as follows:

Mary Hudson	Nay
Chris Lindsey	Nay
John Horch	Nay
Ted Whitney	Nay
Michael Keenan	Nay

**Motion Failed.**

- c. Case SE-2019-001, 147 Westchester Road Warehouse-A - Chase Marona, A request for a Special Exception to operate an Indoor Commercial Recreational facility, for softball and baseball batting and pitching training, entirely within the warehouse located at 147 Westchester Road. City of Madison Zoning Ordinance, Section 4-9-2 Special Exceptions in the M-1 District, lists Outdoor Commercial Recreation as a use requiring a Special Exception permit.*

**Request:** Applicant Chase Marona presented the request and stated that he wishes to have an indoor baseball training facility within the 10,000 square foot warehouse. He stated that there will be three trainers working with the athletes and that each session lasts approximately two-house. Training will take place Monday through Friday from 10:00a.m. - 9:00p.m., and on Saturday and Sunday, 8:00a.m. - 2:00p.m. Training groups will be age designated: 9-13 years, 14-18 years and over 18 years, such as college and professional athletes.

Ted Whitney asked if this was a new building and if he had already signed a lease on the property. Mr. Marona stated that he had been told by the property owner that it was an approved use and he didn't find out until later, after he had made a significant investment, that it was not an approved location.

**Public Comments:** No members of the public commented.

**Board Comments:** Mr. Lindsey stated that Staff had covered the request well in its Staff Report and asked if the Board had additional questions or comments.

**Staff Comments:** Mr. Lindsey asked if Planning Staff had received phone calls or emails regarding the request. Sherri Williams stated that she had received an email in support, which had provided to Board members.

**Motion:** Ted Whitney moved to approve case number SE-2019-001, 147 Westchester Road Warehouse-A, a request for a Special Exception to operate an Indoor Commercial Recreational facility for softball and baseball batting and pitching training, to be conducted entirely within Warehouse-A, located at 147 Westchester Road, with the following contingencies:

1. The Special Exception will apply only to the proposed use, at the subject location, for a period of five (5) years, or until the applicant no longer operates at the subject location, whichever comes first.
2. The Special Exception is not transferable to any other business, owner, agent or entity.
3. That the subject property is compliant with all applicable building and fire codes and that any deficiencies discovered during the initial or periodic inspection processes will be remedied within sixty (60) days of the date of the inspections.
4. That periodic inspections of the property will be initiated and performed by the City to ensure this Special Exception is compatible with the area and uses on adjacent properties. The property owner's failure to mitigate the burdens posed by this Special Exception, on streets, utilities or surrounding properties, within sixty (60) days of notification by the City, will result in the temporary suspension of this Special Exception, pending additional review by the Zoning Board of Adjustment, and , if justified, recension of the Special Exception approval criteria.

Mary Hudson seconded the motion and the vote was as follows:

Mary Hudson	Aye
Chris Lindsey	Aye
John Horch	Aye
Ted Whitney	Aye
Michael Keenan	Aye

**Motion Carried.**

- d. *Case SE-2019-002, 485 Production Avenue, Suite 15 – Craig Lybarger, Bulls Baseball/Softball, A request for a Special Exception to operate an Indoor Commercial Recreational facility, for softball and baseball batting and pitching training, entirely within Suite 15 of the warehouse located at 485 Production Avenue. City of Madison Zoning Ordinance, Section 4-9-2 Special Exceptions in the M-1 District, lists Outdoor Commercial Recreation as a use requiring a Special Exception permit.*

**Request:** Applicant Craig Lybarger presented the request and stated that he wishes to have an indoor baseball and softball training facility for male and female athletes ranging in age 7 – 17 years. The training facility will operate Monday through Friday 5:30p.m. – 8:30p.m., and on Saturday and Sunday, 11:00a.m. - 6:00p.m. Parking is available in front and behind the warehouse. The other businesses in the same warehouse do not operate at night or on the weekends. The floorplan will allow two teams to practice at one time, with a maximum capacity of forty people. Two separate rooms are designated as parent waiting areas that will accommodate up to twenty parents.

**Board Comments:** Mr. Lindsey stated that Staff had covered the request well in its Staff Report and asked if the Board had additional questions or comments.

**Public Comments:** No members of the public commented.

**Staff Comments:** Mr. Lindsey asked if Planning Staff had received phone calls or emails regarding the request. Sherri Williams stated that she had received an email in support of both Special Exception requests, which she had provided to Board members.

**Motion:** Ted Whitney moved to approve case number SE-2019-002, 485 Production Avenue, Suite 15, a request for a Special Exception to operate an Indoor Commercial Recreational facility, for softball and baseball batting and pitching training, entirely within Suite 15 of the warehouse located at 485 Production Avenue with the following contingencies:

1. The Special Exception will apply only to the proposed use, at the subject location, for a period of five (5) years, or until the applicant no longer operates at the subject location, whichever comes first.
2. The Special Exception is not transferable to any other business, owner, agent or entity.

3. That the subject property is compliant with all applicable building and fire codes and that any deficiencies discovered during the initial or periodic inspection processes will be remedied within sixty (60) days of the date of the inspections.
4. That periodic inspections of the property will be initiated and performed by the City to ensure this Special Exception is compatible with the area and uses on adjacent properties. The property owner's failure to mitigate the burdens posed by this Special Exception, on streets, utilities or surrounding properties, within sixty (60) days of notification by the City, will result in the temporary suspension of this Special Exception, pending additional review by the Zoning Board of Adjustment, and , if justified, rescension of the Special Exception approval criteria.

Mary Hudson seconded the motion and the vote was as follows:

Mary Hudson	Aye
Chris Lindsey	Aye
John Horch	Aye
Ted Whitney	Aye
Michael Keenan	Aye

**Motion Carried.**

#### **Old Business**

Mr. Lindsey asked Board members and Staff if there were items of *old business* to discuss. There being none, Mr. Lindsey closed the floor to *old business*.

#### **Other Business**

Mr. Lindsey asked Board members and Staff if there were items of *other business* to discuss. Sherri Williams reminded Board members about CAPZO recertification training scheduled for the end of April in the Police Department training room and that additional information would be forthcoming. Mr. Lindsey then closed the floor to *other business*.

**Adjournment**

With no further business before the Board, Mr. Lindsey adjourned the meeting at 6:30P.M.

**Approved:**

  
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Christopher Lindsey, Vice-Chair

**Attest:**

  
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Sherri Williams, Recording Secretary