

**Zoning Board of Adjustment and Appeals  
Minutes of the July 11, 2019 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 Chair Betty Fletcher.

**In Attendance:**

Betty Fletcher, Chair	Present
Christopher Lindsey, Vice-Chair	Present
Mary Hudson	Present
John Horch	Absent
Ted Whitney	Present
	<b>Supernumeraries</b>
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**

Mary Kosis

*Mrs. Fletcher 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 June 6, 2019 Regular Meeting. Mrs. Fletcher asked Board members for requested changes and/or corrections, if any. There being none, Mrs. Fletcher called for a motion.

**Motion:** Mary Hudson moved to approve the minutes of the June 6, 2019 Regular Meeting, as written. Mike Keenan seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Mary Hudson	Aye
Chris Lindsey	Aye
John Horch	Absent
Ted Whitney	Aye
Michael Keenan	Aye

**Motion Carried.**

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

- a. *Case VAR-2019-004, 180 Rainbow Glen Circle, Shana and Marion Pullum, a request for a Variance to City of Madison Zoning Ordinance Section 5-9, Accessory Uses and Structures in Residential and Agriculture Districts, to permit an accessory structure with a roof impervious to weather to be located in a side yard. This request is in accordance with Section 10-5 of the City of Madison Zoning Ordinance.*

Due to the absence of the applicant, Mrs. Fletcher suggested the Board continue the case until the August 1, 2019 meeting. There being no objection Mrs. Fletcher called for a motion.

**Motion:** Ted Whitney moved to continue case VAR-2019-004, 180 Rainbow Glen Circle, until the August 1, 2019 meeting, due to the absence of the applicant. Mike Keenan seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Mary Hudson	Aye
Chris Lindsey	Aye
John Horch	Absent
Ted Whitney	Aye
Michael Keenan	Aye

**Motion Carried.**

- b. *Case VAR-2019-005, 7779 Hwy 72 W, Dustin Key, Harrison & Gammons, P.C., a request for a Variance to City of Madison Zoning Ordinance Section 7-11-6 Freestanding Signs, Subsection i. Electronic Message Centers, to permit an electronic message center in a permanent monument sign on a lot with a size of less than two-acres. This request is*

*in accordance with Section 10-5 of the City of Madison Zoning Ordinance.*

**Request:** Dustin Key presented the request. He stated that the property was subdivided in 2002, creating two one-acre lots, the subject property and the adjacent lot to the east; however the two lots function as one large lot. Located on the subject property are two commercial multi-tenant buildings, one of which is located at the rear of the property and, due to the irregular shape of the lot, does not have visibility from Hwy 72. In 2007 when the existing sign was installed, the code allowed for a pole sign with an electronic message board. He stated that the owner will bring the sign into conformity with the current requirements for a monument base, as well as the width, height and sign face area, however, he wishes to keep the electronic message board and believes the current sign regulations pose a hardship for the property owner and the tenants that advertise their businesses on the electronic sign.

**Public Comments:** Mary Kosis, owner of the Posh Mommy maternity store, located two lots to the east of the subject property, asked the dimensions of the proposed sign, and stated she was concerned it would block the visibility of the sign on her property. Mr. Key stated that the proposed sign is 12-feet wide and 12-ft and 10-inches tall and would not block her sign.

**Board Comments:** Board members discussed the existing sign and reviewed images of the proposed sign. Mr. Lindsey asked Mr. Key if the owner of the subject property also owned the adjacent lot to the east, to which Mr. Key responded he did not.

Mrs. Fletcher asked board members if they wished to enter into Executive Session to discuss details of the matter further with the city attorney, to which they stated they would.

City attorney Megan Zingarelli stated, that she wished the following declaration be reflected in the minutes: *As an attorney licensed to practice law in Alabama and as City Attorney for the City of Madison, Alabama, it is my opinion that Alabama Code § 36-25A-7(a)(3) allowing the Zoning Board of Adjustment to enter into Executive Session applies to certain discussions that must be held between the ZBA and its legal representation regarding the legal ramifications of and legal options for pending litigation. This declaration shall not be deemed to constitute any waiver of the attorney-client privilege.*

**Motion:** Chris Lindsey moved for the board members to enter into Executive Session to discuss the matter further with legal counsel. Mary Hudson seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Mary Hudson	Aye
Chris Lindsey	Aye
John Horch	Absent
Ted Whitney	Aye
Michael Keenan	Aye

**Motion Carried.**

Megan Zingarelli stated that with majority consent, the Zoning Board of Adjustment and Appeals would enter into Executive Session and would reconvene at approximately 6:15 p.m.

Following Executive Session, the Zoning Board of Adjustment and Appeals reconvened at 6:20p.m.

Mrs. Fletcher 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. Mrs. Fletcher then then called for a motion.

**Motion:** Chris Lindsey moved to approve case VAR-2019-005, 7779 Hwy 72 W, a request for a Variance to *City of Madison Zoning Ordinance Section 7-11-6 Freestanding Signs, Subsection i. Electronic Message Centers*, to permit an electronic message center in a permanent monument sign on a lot with a size of less than two-acres. Mike Kennan seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Mary Hudson	Aye
Chris Lindsey	Aye
John Horch	Absent
Ted Whitney	Aye
Michael Keenan	Aye

**Motion Carried.**

**Old Business**

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

**Other Business**

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

**Adjournment**

With no further business before the Board, Mrs. Fletcher adjourned the meeting at 6:22P.M.

**Approved:**



Betty Fletcher Chair

**Attest:**



Sherri Williams, Recording Secretary