

**MADISON ADJUSTMENTS AND APPEALS BOARD
MINUTES OF THE SEPTEMBER 7, 2010
REGULAR SCHEDULED MEETING**

The City of Madison Adjustments and Appeals Board held their regularly scheduled meeting on September 7, 2010 at 5:30 p.m. in the City Council Chambers located in Madison Municipal Complex, 100 Hughes Road, Madison, Alabama. Chairperson Betty Fletcher called the meeting to order at 5:45 pm. Attendance was as follows:

Betty Fletcher, Chairperson	Present
Troy Wesson	Absent
Patrick Nelson	Absent
Fredrick Davey	Present
John Horch	Present
Supernumeraries	
Ted Whitney	Absent
Tim Malueg	Present

Staff Present: Amy Furfori, Director of Community Development and Planning; Johnny Blizzard, Chief Planner; Kelly Butler, City Attorney; Sherri Blair, Zoning Administrator and Recording Secretary

Public Attendees (as registered): Sharon Gilbreath; James Wade Chatam; Wilma Waddle; Josh Waddle; Ken Scroggin; Gloria Goldman; Alberto Fernandez; Edward A. Friar; Jerry Gipson; Toni Gipson; Charles D. Furr; Roy L. Washington; Brenda H. Strickland; William H. Strickland; Joe De Lehman; Christine Ferrazzani; John Ferrazzani; David Benefield and one illegible signature.

Mrs. Fletcher stated: 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.

Approval of Minutes

The first order of business was the approval of minutes from the August 5, 2010 meeting. Mrs. Fletcher asked board members for requested changes and/or corrections, if any. Board members requested no changes and/or corrections and Mrs. Fletcher entertained a motion.

Motion: Dr. Horch moved to approve the minutes of the August 5, 2010 regular meeting, as written. Mr. Davey seconded the motion and the motion was unanimously approved.

Motion Carried.

Petitions and Formal Requests for Action

Mrs. Fletcher stated that with only four members present, a unanimous vote will be required for the approval of any application before the Board. Applicants were given the opportunity to request a continuance and no continuances were requested by applicants.

1. **Case #1053, 210 Arnett Street** - A request for a variance to Section 4-3-3(2) to reduce the side yard setback from ten (10) feet to three (3) feet and a variance to Section 4-3-3(6) to increase the lot coverage percentage from 27.5% to 31%.

Mrs. Fletcher stated that she attends the same church as applicant, Wilma Waddle, but does not have an interest in the outcome of Mrs. Waddle's request. She therefore would not recuse herself from hearing this request. She asked members of the public to voice concerns or objections, if any, to her hearing and voting on case #1053. Mr. Roy Washington, adjoining property owner, stated he objected and requested the case be tabled

until a time when Mrs. Fletcher could recuse herself. The case was then tabled until the next regularly scheduled meeting.

2. **Case #1055, 5636 Wall-Triana Highway** - A request for a variance to section 5-9 to increase the square footage percentage of an accessory building to the main structure from 225 square feet to 3800 square feet.

Request: Mr. Scroggin presented his request stating he would like to build a detached building of approximately 3800 sq. ft. The 900 sq. ft. house that currently exists on the site would remain. He has no plan to build a house on the lot at this time. He operates a tree removal service and will store equipment in the detached building. If the variance is granted, he will occupy the house.

Chief Planner Johnny Blizzard presented Staff's recommendation stating: The subject property contains 5 acres and has a width of 169 ft. and a depth of 1,309 ft. The property is located in an (R-1A) Low Density Residential District. An approximately 980 sq. ft. single family home, as well as a 500 sq. ft. accessory structure is located on the property.

The applicant is interested in purchasing the property for use as a residence. He operates a tree cutting business and would like to construct a 3,800 sq. ft. accessory in which to house equipment related to his business. The square footage requested includes the existing accessory building.

In formulating a recommendation, Staff has two competing factors. One is that the new accessory building will be 3,100 sq. ft. minus the 500 sq. ft. added for the existing accessory building, and secondly is the fact the lot is 5 acres in area. Planning Staff would only feel comfortable recommending the request if the accessory building is located closer to the lot to the south (the rear of the lot) and further away from Lot 4 in Kensington Estates (the north side of the lot). Staff would also recommend that there be no outside storage of equipment or material.

Public Comment: The following members of the public spoke regarding the request: Allen Fryer, 119 Radisson Lane, stated he is aware of the businesses operated by property owner to the south and would prefer to maintain the residential feel of the area. A storage building is not a residential use.

Alberto Fernandez, 117 Radisson Lane, stated that there was no information provided prior to the meeting concerning the dimensions of the building. He has lived at his current location for 15 years and would prefer a residential use.

Gloria Goldman, 123 Radisson Lane, voiced concerns about a business being built behind residential. The building is too large for a residential area and there will be noise from the equipment.

William Strickland, 121 Radisson Lane, stated he was concerned about losing privacy, noise from the equipment and safety. He does not want it in his back yard.

John Ferrazzani, 111 Radisson Lane, said that clearing and digging is already going on and that storing equipment there will be noisy.

Charles Furr, 5626 Wall Triana Highway, stated he lives on the property immediately to the south and would like more information about the size, location and aesthetics of the proposed building. He asked what steps would be taken to prevent it from becoming a business later on. He does not object to the building but requests that it be placed closer to the rear of the property.

Mr. Scroggin stated that the equipment will be pulled behind a pick-up truck and would not be running on site. Therefore, there will be no noise from the equipment. He said that some clearing has taken place in an attempt to find a good location for the building. He plans to leave a buffer between the property and adjoining subdivisions.

Johnny Blizzard stated that businesses are allowed to operate in residential districts and explained the Home Occupation process and requirements. He also explained what constitutes a storage facility.

Joe De Lehman, realtor for property owners, stated that he believes an oversized garage on 5 acres of land is a good use of land.

Board Comment: Board members discussed, size, location, façade of building as well as possibility of a business being run from the home. Board requested the following contingencies be placed on the variance approval:

1. Applicant will provide proof of primary residence;
2. No equipment or material related to the tree service will be stored outside the accessory building;
3. The layout/placement of the accessory building must be approved by the Director of Community Development and Planning prior to the issuance of the building permit.

Motion: Dr. Horch moved to approve case#1055, a request for a variance to section 5-9 to increase the square footage percentage of an accessory building to the main structure from 225 square feet to 3800 square feet with the following conditions:

1. Applicant will provide proof of primary residence;
2. No equipment or material related to the tree service will be stored outside the accessory building;
3. The layout/placement of the accessory building must be approved by the Director of Community Development and Planning prior to the issuance of the building permit.

Mr. Davey seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Fredrick Davey	Aye
John Horch	Aye
Tim Malueg	Aye

Motion Carried.

3. Case #1058, 118 Green Fern Street - A request for a variance to section 4-3-3(2) to reduce the side yard setback from ten (10) feet to five (5) feet.

Request: Chief Planner Johnny Blizzard presented the request and stated: staff has concerns about the unknown location of the accessory building, whether the existing accessory building will remain or be removed and the intended use of the accessory building. Attempts to obtain this information from the applicant have been unsuccessful. Staff cannot make a recommendation without the above listed information. Staff recommends that the Board table the request until the next regularly scheduled meeting to allow the applicant more time to provide the requested information. If all of these issues are resolved, Staff will recommend the reduction of the side yard setback from 10 ft. to 5 ft. and requests the Board suggest the Madison Planning Commission and City Council change the Zoning Ordinance so that accessory buildings only are required to meet the side yard utility and drainage easement.

Mr. Chatam stated that the proposed building will be 24' X 24' and that he will provide the necessary information if the case is tabled.

Public Comment: No comment

Board Comment: No comment

Motion: Dr. Horch moved to table case #1058, 118 Green Fern Street - A request for a variance to section 4-3-3(2) to reduce the side yard setback from ten (10) feet to five (5) feet until the next regularly scheduled meeting, to allow applicant more time to provide information requested by Staff. Mr. Davey seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Fredrick Davey	Aye
John Horch	Aye
Tim Malueg	Aye

Motion Carried.

With no further business before the Board, the meeting was adjourned at 7:11 p.m.

Approved:



Betty Fletcher, Chairperson
Zoning Board of Adjustments and Appeals

Attest:



Sherri W. Blair, Recording Secretary