

**MADISON ZONING BOARD OF ADJUSTMENT AND APPEALS
MINUTES OF THE DECEMBER 1, 2016 REGULAR MEETING**

The City of Madison Zoning Board of Adjustment and Appeals held its regularly scheduled monthly meeting on December 1, 2016, 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. Attendance was as follows:

Betty Fletcher, Chairperson	Present
Christopher Lindsey, Vice-Chair	Present
Mary Hudson	Absent
John Horch	Present
Ted Whitney	Present
Supernumeraries	
Wesley Alford	Absent
Larry Mason	Absent

City Staff Present: Mary Beth Broeren, Director of Planning & Economic Development; Megan Zingarelli, Assistant City Attorney, and Sherri Williams, Assistant Planner and Board Secretary

Public Attendees (as registered): Linda Ison; Robert Ison; Cory Brown

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.

In the absence of a five (5) member majority, Mrs. Fletcher informed the applicants that a unanimous affirmative vote of the four (4) members present would be required in order for the request to be granted. She asked if applicants wished to proceed, or would prefer to wait until a five (5) member majority were present. Mr. and Mrs. Ison stated they understood and wished to proceed.

II. Approval of Minutes

The first order of business was the approval of the minutes for the September 1, 2016 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: Mr. Lindsey moved to approve the minutes of the September 1, 2016 Regular Meeting, as written. Mr. Whitney seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Mary Hudson	Absent
Christopher Lindsey	Aye
John Horch	Aye
Ted Whitney	Aye

Motion Carried.

III. Petitions and Formal Requests for Action

- a. **Case #1117, 10100 Long Meadow Road;** Robert Dean Ison and Lynda Jo Ison, a request for a Variance to *City of Madison Zoning Ordinance Section 5-9*, to increase the proportionality of a detached accessory structure to that of the principal structure, from twenty-five (25) percent to fifty-eight (58) percent. The property is zoned R2 Medium Density Residential Zoning District. This request is in accordance with Section 10-5 of the City of Madison Zoning Ordinance.

Request: Applicants presented their case, stating they applied for a permit to construct a detached garage, which was denied because it was too large. Mr. Ison said they were confused why and spoke with a supervisor who broke down the reasons for them. Applicants provided for the record a list signatures from neighbors who support the variance. Applicants stated that there are other garages in the neighborhood that received variances. Staff stated that other variances cannot be a consideration when reviewing this request. Each request must stand on its own.

Mrs. Fletcher asked Sherri Williams to leave the meeting and go downstairs to the Planning Department office to see if she could locate the details of previously

approved variances. Mrs. Fletcher stated that the meeting would go into recess while Sherri Williams located and copied the information.

Sherri Williams returned and stated that two (2) variances were previously granted in the subdivision. The first was in 2003, a request for an increase from 25% to 75%, which was approved at 50%; however, the property owner violated the order and constructed a building 97% of the size of the house. In 2004 a request for an increase from 25% to 42% was approved; again the property owner violated the order and built a detached garage 58% the size of the house.

Board Comments: Mrs. Fletcher stated that a hardship was not established and asked applicants if the percentage could be lower. Applicants stated that they had not considered a smaller one, and that they intend to put a storm shelter under the garage.

Dr. Horch stated that item d, is clear. Dr. Horch then read aloud review criterion *d. There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created nor can it be established on this basis by one who purchases with or without knowledge of the restrictions. It must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances or non-conformities granted under similar circumstances shall not be considered.*

Staff explained zoning regulations are to protect adjacent properties, Staff's review did not reveal an unnecessary hardship in this case. Applicant stated that there is no HOA, and that the subdivision still feels like the country. The lots are large but the houses are not as big as the ones being built in new subdivisions. Mrs. Fletcher asked if the existing carport will be removed, to which the applicants answered yes. Mrs. Fletcher asked applicants if they could live with 50% and Mr. and Mrs. Ison said that they could. Mary Beth Broeren ask that the motion include the Board's findings. Mrs. Fletcher stated that the Board has not been as strict as it should have been and that it should do a better job in the future. Since this area is more rural, does not have a traditional neighborhood feel like newer subdivisions, and there are other large detached buildings nearby, this garage will not look unusual.

Public Comments: No member of the public appeared to comment. Planning Staff stated they received neither emails nor phone calls objecting to the request.

Staff Comments: Staff recommended denial of the requested variance, due to lack of hardship.

Motion: Mr. Lindsey moved to approve case number 1117, 10100 Long Meadow Road a request for a Variance to City of Madison Zoning Ordinance Section 5-9, to increase the proportionality of a detached accessory structure to that of the principal structure, from twenty-five (25) percent to fifty (50) percent, instead of 58% as requested, contingent on the removal of the existing carport and based on the fact the subdivision is rural, does not have a traditional neighborhood feel or HOA, there are other large detached garages on nearby lots that were built with or without variances, and that a large garage on this lot will not look unusual in this setting. The property is zoned R2 Medium Density Residential Zoning District. This request is in accordance with Section 10-5 of the City of Madison Zoning Ordinance. Dr. Horch seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Mary Hudson	Absent
Christopher Lindsey	Aye
John Horch	Aye
Ted Whitney	Aye

Motion Carried.

- b. *Case #1118, 7964 Madison Blvd.; Wesley Partners LLC, a request for a Variance to City of Madison Zoning Ordinance Section 4-6A-6 Dimensional Requirements for B1, B2, B3, and MC, to reduce the width of the landscape buffer adjoining a right-of-way from twenty (20) feet to zero (0) feet. The property is zoned B3 General Business Zoning District. This request is in accordance with Section 10-5 of the City of Madison Zoning Ordinance.*

Sherry Williams stated that the applicant requested that the case be continued, and provided copies of the email to Board members.

Board Comments: Mrs. Fletcher asked if any members of the public would like to comment on the request, since public notices were mailed. No members of the public came forward and Mrs. Fletcher called for a motion to continue case number 1118.

Motion: Mr. Lindsey moved the continue at the request of the applicant, case number 1118, 7964 Madison Blvd., a request for a Variance to City of Madison Zoning Ordinance Section 4-6A-6 Dimensional Requirements for B1, B2, B3, and MC, to reduce the width of the landscape buffer adjoining a right-of-way from twenty (20) feet to zero (0) feet. The property is zoned B3 General Business Zoning District. This request is in accordance with Section 10-5 of the City of

Madison Zoning Ordinance. Mr. Whitney seconded the motion and the vote was as follows:

Betty Fletcher	Aye
Mary Hudson	Absent
Christopher Lindsey	Aye
John Horch	Aye
Ted Whitney	Aye

Motion Carried.

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*.

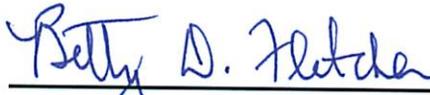
V. Other Business

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

Mrs. Fletcher wished everyone present a Merry Christmas and happy holiday. With no further business before the Board, Mrs. Fletcher adjourned the meeting at 6:45P.M.

Approved:



Betty Fletcher, Chair

Attest:



Sherri Williams, Recording Secretary