

**Zoning Board of Adjustment and Appeals  
Minutes of the March 3, 2022 Regular Meeting**

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

**In Attendance:**

Betty Fletcher, Chair	Present
Brenda Buschmann, Vice Chair	Present
Mary Hudson	Present
Lisa Laurendine	Present
Larry Miles	Present
David Kessler, Supernumerary 1	Absent

**City Staff Present**

Johnny Blizzard, Senior Planner and Megan Zingarelli, City Attorney

**Registered Public Attendees**

Patrick Gorman, Luke Mathis, Jonathan Jones, Albert E. Rivera

**Approval of Minutes**

Mrs. Fletcher asked Board members for requested changes and/or corrections, if any, to the January 25, 2022 minutes. There being no changes, Mrs. Fletcher asked for a motion.

**Motion:** Mary Hudson moved to approve the January 25, 2022 minutes. Brenda Buschmann seconded the motion, and the vote was as follows:

Betty Fletcher, Chair	Aye
Mary Hudson	Aye
Brenda Buschmann	Aye
Lisa Laurendine	Aye
Larry Miles	Aye
<b>Motion Carried</b>	

**Petitions and Formal Requests for Action**

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.*

Case SE-2022-001, Rhonda Dickerson Daycare, 104 Corrine Drive, is requesting a Special Exception for a Major Home Occupation as authorized in Section 4-1-2 (5) of the Zoning Ordinance to operate a Group Day Care in a residential dwelling for more than six children, but no more than 12 children as listed as a Major Home Occupation in Section 4-1-2 (K) (8) of the Zoning Ordinance. This request is in accordance with Section 10-4 of the City of Madison Zoning Ordinance.

The applicant was not present.

Mrs. Fletcher asked if correspondence was submitted, and Mr. Blizzard replied that there was none.

**Motion:**

Mrs. Hudson made a motion to approve Special Exception 2022-001 to allow a Major Home Occupation as authorized in Section 4-1-2 (5) of the Zoning Ordinance to operate a Group Day Care for more than six children, but no more than 12 children as listed as a Major Home Occupation in Section 14-1-2 (K) (8) of the Zoning Ordinance with the following conditions.

1. Demonstrate compliance with Building and Fire Codes and Madison Utilities requirements prior to the increase in operations; and
2. Provide documentation from the Department of Human Resources approving the change in operation prior to or in conjunction with final inspection of the required building improvements

Mrs. Buschmann seconded the motion.

Betty Fletcher, Chair	Aye
Mary Hudson	Aye
Brenda Buschmann	Aye
Lisa Laurendine	Aye
Larry Miles	Aye
<b>Motion Carried</b>	

Case VAR-2022-001, Patrick Gorman, 174 & 180 Roema Drive, is requesting a Variance to Section 4-6A-5.23 to allow outdoor boarding facilities to include animal runs and play yards within 200 feet of a residential use or zone; and a Variance to Section 4-8-3 to reduce the landscape buffer from 20 feet to 4.32 feet adjacent to the Roema Drive right-of-way. This request is in accordance with Section 10-4 of the City of Madison Zoning Ordinance.

Luke Mathis with Morell Engineering represented the applicant and passed out a survey of the property. He told the Board, the applicant was seeking two separate variances. The first was to allow approximately 16 feet of the 20-foot landscape buffer to be in the Roema Drive right-of-way. Mr. Mathis informed the Board there was not enough room between the buildings and right-of-way to install the buffer. He further explained the applicant would be removing the parking spaces adjacent to the right-of-way to install the buffer. He advised the Board the second variance was to allow the continuance of the dog play areas in the rear yard of 180 Roema Drive. The current regulations require 200 feet between the dog play areas and any residential district or use. The dog play areas

are approximately 50 feet from the residential dwellings to the south and 90 feet to the nearest one to the east.

Mrs. Fletcher asked how the fence surrounding the dog play areas was not compliant. Mr. Mathis stated they plan to use landscaping or any other required methods for buffering and screening. Mr., Blizzard explained to Mrs. Fletcher the dog play area must be buffered by a continuous hedge, shrub, earthen wall or retaining wall at least five feet in height. Mrs. Buschmann asked if the requirement was for sound proofing and Mr. Blizzard said that it was. Mrs. Hudson asked if the extra sound proofing material should be a condition of approval. Mr. Blizzard stated that it could be part of the motion to require sound proofing material be installed on the inside of the fence around the outdoor facility.

Mrs. Buschmann asked how long the facility has been in operation. Dr. Gorman stated 43 years. Mrs. Buschmann asked if there had been any complaints registered with the City. Mr. Blizzard responded that no complaints were on file with the Police Department or Code Enforcement.

Jonathan Jones, 106 Shoreline Drive told the Board that he didn't have any issues with the current request but was concerned about the potential for this being a precedent leading to the elimination of such sound proofing buffers. He asked that the current situation be monitored.

Mrs. Fletcher asked if the dogs stay out overnight. Dr. Gorman responded that the hours dogs were allowed out was from 9 a.m. to 4 p.m. He told the Board the dog runs were used to rehab dogs. He said the routine was to rotate dogs between rehab and rest in the facility. He noted there were also indoor runs.

Mrs. Buschmann made a motion to approve the Variance to Section 4-6A-5 (22) to allow outdoor facilities to include animal runs and play yards within 200 feet of a residential use or zone with the following condition:

1. Sound proofing material be installed on the inside of the fence around the facility.

Mrs. Hudson seconded the motion.

Betty Fletcher, Chair	Aye
Mary Hudson	Aye
Brenda Buschmann	Aye
Lisa Laurendine	Aye
Larry Miles	Nay
<b>Motion Carried</b>	

Mrs. Buschmann made a motion to approve the Variance to Section 5-8-3 to reduce the landscape buffer from 20 feet to 4.32 feet adjacent to the Roema Drive right-of-way with the following condition:

1. A formal agreement with the City of Madison be established that gives the responsibility of planting and maintenance of the buffer to the property owner at 174 and 180 Roema Drive. The agreement must also acknowledge that the City may remove the landscaping and buffer if necessary to carry out the purposes of the easement. It will be the responsibility of the

property owner to reestablish the buffer if removed in the right-of-way or if required on the lot.

Mrs. Hudson seconded the motion.

Betty Fletcher, Chair	Aye
Mary Hudson	Aye
Brenda Buschmann	Aye
Lisa Laurendine	Aye
Larry Miles	Aye
<b>Motion Carried</b>	

Case VAR-2022-002, Dr. Albert E. Rivera, 104 J.E. Briscoe Way, is requesting a Variance to Section 7-11-5.e.1 to allow 540 square feet of total wall signage in lieu of a maximum of 200 square feet of wall signage; and a Variance to Section 7-11-5.e.2 to allow the primary wall sign to be located on a façade not facing a public street.

Dr. Albert Rivera addressed the Board. He informed them he was constructing a new building with the largest elevation facing Interstate-565. The new building will be at the end of a cul-de-sac off Madison Boulevard, and he was concerned that some patients may not be able to find the practice. He explained that a significant number of patients were both elderly and from out of town. The larger sign would help alert those patients of his location from the interstate. Dr. Rivera noted that a freestanding pylon sign with a similar allowable square footage was permitted, but he felt the attached sign was more aesthetically pleasing.

Mrs. Hudson asked for clarification if this was for an addition to his current location or a new building somewhere else. Dr. Rivera responded that it was a new building approximately a half-mile west of the present location.

Mrs. Buschmann asked if the sign would be illuminated. Mr. Rivera answered that it had not been determined. He stated the type of sign would be either channel letters or a cabinet. Mrs. Buschmann informed the Board, that adopted sign control regulations would ensue if lighted was used, the sign would meet those standards.

Mr. Miles asked for an explanation of the area of the proposed sign given that the request is for a 540 square foot sign but staff recommendation is 460 square feet. Mr. Blizzard stated the applicant requested 540 square feet, but staff felt that 460 square feet was more harmonious with the regulations. It represents the 300 square feet that would have been allowed for an interstate pylon sign, the 100 square feet allowed for the primary sign on the rear, and 60 feet would be the area allowed for the second sign on the front of the building.

Mr. Miles asked what the second variance was requesting. Mr. Blizzard explained it was allowing the applicant to have the larger sign on the rear elevation instead of the primary elevation and the secondary sign on the front of the building.

Mrs. Hudson made a motion to approve the Variance to Section 7-11-5.e.1 to allow for the total area of wall signs to exceed 200 square feet, with the following conditions:

- The total area of all wall signs not exceed 460 square feet; and
- The total area of the wall sign attached to the rear elevation not exceed 400 square feet; and
- No freestanding monument or Interstate signs be permitted on the property. Small directional driveway signs, pursuant to Section 7-11-7 of the Zoning Ordinance would be allowed.

Mrs. Hudson continued the motion to approve the Variance to Section 7-11-5.e.2 to allow the primary sign to be attached to the rear elevation instead of the front elevation with the following condition:

- The wall sign attached to the front elevation may not be greater than 50 percent of the wall sign attached to the rear elevation

Mrs. Buschmann seconded the motion

Betty Fletcher, Chair	Aye
Mary Hudson	Aye
Brenda Buschmann	Aye
Lisa Laurendine	Aye
Larry Miles	Aye
<b>Motion Carried</b>	

**New Business**

Mrs. Fletcher asked Board members and Staff if there were items of business to discuss. There were none.

**Adjournment**

With no further business before the Board, Mrs. Fletcher adjourned the meeting at 6:45 P.M.

**Approved:**



**Betty Fletcher, Chair**

**Attest:**



**Johnny Blizzard, Recording Secretary**

