



## **Board of Zoning Adjustment**

### **BOARD OF ZONING ADJUSTMENT**

**September 30<sup>th</sup>, 2025**

**Pre-meeting – 3:30 p.m. (7<sup>th</sup> Floor)**

**Meeting – 4:00 p.m. (Council Chambers)**

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## **MINUTES AUGUST 2025**

**MEMBERS PRESENT:** Chair Delayne Dean, Mr. Chester Ayers, Mr. Mark McCurry, Mr. Tom Polk, and Mrs. Flor Gonzalez

**SUPERNUMERARIES:**

**OTHERS PRESENT:** Mrs. Ruth Priest, Assistant City Attorney  
Mr. Tommie Williams Planner  
Mr. Josiah Harris Planning Technician  
Mr. John Waggoner Inspector Manager & Recorder  
Mr. Jonathon Dry Building Inspector

Chair Delayne Dean called the meeting to order at 4:04 p.m. in the Council Chambers on the first floor at City Hall.

Chair asked that role be called. Present as noted above.

Chair asked if the July 2025 minutes required any corrections. There were no corrections made. Mr. Tom Polk motioned to approve the minutes. Mr. Mark McCurry made a second. On a voice vote, all Yes, the motion carried. The minutes from the July 2025 meeting were approved.

### **CASE NO. 1**

Application and appeal of Donald Gardner to conform as closely as possible in the opinion of the Board from Section 25-14 (a) for:

1. a 2600 square feet lot size variance from Section 25-10.10 (2) (a)
2. and a 10 feet lot width variance form Section 25-10.10 (2) (f)

to construct a new single-family dwelling. Property is located at 729 Church Street NW in an R-3, Residential Single Family District.

Donald Gardner presented this case to the Board. Mr. Gardner stated his name and address as 729 Church Street NW. Mr. Gardner stated he is asking for a lot size variance to construct a new home for his daughter. Chair asked for questions from the Board. Chair asked if all the accessory structures have been removed. Mr. Gardner stated Yes.

Chair asked for any other questions from the Board. Chair asked when the lot was created. John Waggoner stated before 1958 but an exact date would require research. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. Tommie Williams stated the home features two stories; can you provide the square footage of the house? Chair closed call for public testimony. Chair asked the Board for its ruling. Tom Polk made a motion to approve as submitted. Mark McCurry made a second. Chair called for role. Delayne Dean, Yes. Tom Polk, Yes. Flor Gonzalez, Yes. Mark McCurry, No. Chester Ayers, No. The motion was denied.

Mr. Gardner asked if there was an appeal process. Ruth Priest stated an appeal could be filed with Circuit Court.

## **CASE NO. 2**

Application and appeal of Holy Temple Church of God for a 30 feet rear yard setback variance from Section 25-10.10 (2) (d) and 3 feet side yard variance from Section 25-10.10 (2) (e) to construct an accessible addition for seniors. Property is located at 728 Alma Street NW in an R-3, Residential Single Family District.

Richard Humphrey presented this case to the Board. Mr. Humphrey stated his name and address as 310 8<sup>th</sup> Avenue NE. Mr. Humphrey stated the church is seeking a variance to construct an addition for seniors. Mr. Humphrey stated the lot contains a large easement restricting the options for the placement of the addition.

Chair asked for comments from the Board. Tom Polk asked why the addition could not be moved into compliance. Mr. Humphrey stated the sewer was not installed within the boundaries of the easement. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. None. Chair closed call for public testimony. Chair asked the Board for its ruling. Chester Ayers made a motion to approve as submitted. Tom Polk made a second. Chair called for role. All Yes, the motion was approved.

## **CASE NO. 3**

Application and appeal of CEOTA for:

1. a 7.5 feet rear yard setback variance from Section 25-12.2
2. a North Easterly 23.5 feet side yard setback variance from Section 25-12.2
3. and a South Westerly 3 feet side yard setback variance from Section 25-12.2

to construct an addition to a historic structure. Property is located at 818 Sycamore Street NW in an I-D, Institutional District.

Frances Tate presented this case to the Board. Mrs. Tate stated her name and address as 818 Sycamore Street NW. Mrs. Tate stated they are asking for a variance to construct an addition to a historic building. Mrs. Tate stated the addition is necessary because the building code requires them to have three bathrooms.

Chair asked for comments from the Board. Tom Polk asked why the building could not be moved to accommodate the setbacks. Mrs. Tate stated that additions to historic building require a 1 foot offsets to differentiate between the old and new. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. Tommie Williams stated Engineering and Planning has been working with the applicant. Chair closed call for public testimony. Chair asked the Board for its ruling. Tom Polk made a motion to approve as submitted. Chester Ayers made a second. Chair called for role. All Yes, the motion was approved.

#### **CASE NO. 4**

Application and appeal of Hannah McCollum for a use permitted on appeal from Section 25-93 (b) to operate a Day Care of not more than 6 children during the day (not after 7:00pm.). Property is located at 1409 8<sup>th</sup> Avenue SE in an R-3, Residential Single Family District.

Hannah McCollum presented this case to the Board. Mrs. McCollum stated her name and address as 1409 8<sup>th</sup> Avenue SE. Mrs. McCollum stated she is requesting a variance to run a day care out of her home. Ms. McCollum stated that two of the children would be her own. The Board reminded Ms. McCollum of the time limits and quantity limits, to which she stated she understood.

Chair asked for comments from the Board. None. Chair stated if approved, all state and local requirements must be met. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. None. Chair closed call for public testimony. Chair asked the Board for its ruling. Chester Ayers made a motion to approve as submitted. Mark McCurry made a second. Chair called for role. All Yes, the motion was approved.

#### **CASE NO. 5**

Application and appeal of Willowgate Homes LLC for a 3 feet building height variance from Section 25-10.8 (2) (g) to construct a new single-family residence. Property is located at 4522 Ivy Dale Road SE in an AG-1, Agricultural District.

John Harbin presented this case to the Board. Mr. Harbin stated his name and address as 28 Ginsberg Road. Mr. Harbin stated he is requesting a height variance to build a new single-family residence.

Chair asked for comments from the Board. Tom Polk asked if there was a hardship. Mr. Harbin stated he needed the extra height to have clearances for mechanical units. Flor Gonzalez asked if the design of the home could be altered to comply. Mr. Harbin stated the roof could be cut off but it would not look right. Mr. Harbin said the roof design had been altered to make this particular area lower than original design. Chair asked if this was a custom design. Mr. Harbin stated, Yes. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. Tommie Williams asked if the three additional feet be uniform with the rest of the subdivision. Mr. Harbin stated, Yes. Chair closed call for public testimony. Chair asked the Board for its ruling. Tom Polk made a motion to approve as submitted. Chester Ayers made a second. Chair called for role. Chester Ayers, Yes. Mark McCurry, Yes, Delayne Dean, Yes. Tom Polk, No. Flor Gonzalez, Yes. The motion was approved.

Chair asked for any other new business. None.

Meeting adjourned at 4:29 p.m.

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Delayne Dean, Chair

## **AGENDA**

### **CASE NO. 1**

Application and appeal of Brett Whittlow for a variance from Section 25-2 to construct an accessory structure in the side yard. Property is located at 109 4<sup>th</sup> Avenue NW in an R-4, Residential Multi-Family District.

### **CASE NO. 2**

Application and appeal of Laron Hardy for a use permitted on appeal from Section 25-11 to operate a restaurant business. Property is located at 802 6<sup>th</sup> Avenue SE in a B-1, Local Shopping District.

### **CASE NO. 3**

Application and appeal of Lennar Homes for a 5 feet front yard setback variance from Section 25-10.10 (2) (c) to construct a new single family residence. Property is located at 220 Clear Creek Drive SW in an R-3, Single Family District.

#1



402 Lee St NE 1<sup>st</sup> Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: Brett Whitlow  
MAILING ADDR: 109 4<sup>th</sup> Ave NW  
CITY, STATE, ZIP: Decatur, AL, 35601  
PHONE: (303) 505-5547

PROPERTY OWNER: Brett Whitlow  
OWNER ADDR: 109 4<sup>th</sup> Ave NW  
CITY, STATE, ZIP: Decatur AL 35601 PHONE: (303) 505-5547

ADDRESS FOR APPEAL: 109 4<sup>th</sup> Ave NW

NATURE OF APPEAL:

- ☐ HOME OCCUPATION ☐ SETBACK VARIANCE ☐ SIGN VARIANCE  
☐ USE PERMITTED ON APPEAL ☐ APPEAL OF ADMINISTRATIVE DECISION  
☒ OTHER ☐ SURVEY FOR VARIANCES ATTACHED ☐ DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

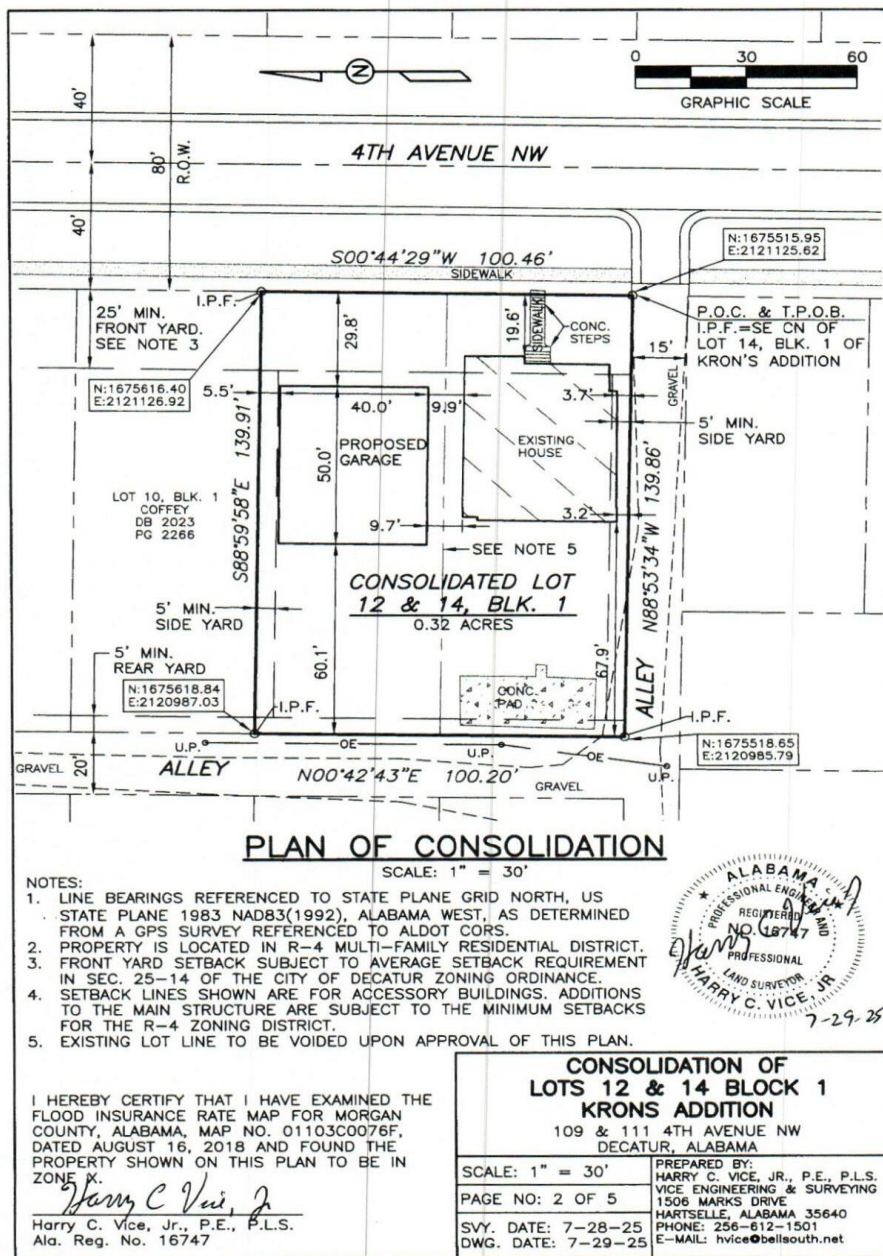
Requesting Detached Requesting for a variance to construct  
a detached garage on the side yard.  
In the backyard there is a very large walnut tree and  
power line poles that prevent the structure from being placed in  
the back. I also desire the structure to be a functional garage  
with direct access to 4<sup>th</sup> Ave NW.

Applicant Name (print) Brett Whitlow  
Signature [Signature]  
Representative Name (print) \_\_\_\_\_  
Signature \_\_\_\_\_  
Date \_\_\_\_\_

If applicant is using a representative for the request both signatures are required

Office Use Received By: [Signature]  
Zone R-4  
Hearing Date 9/30/25  
Approved/Disapproved \_\_\_\_\_

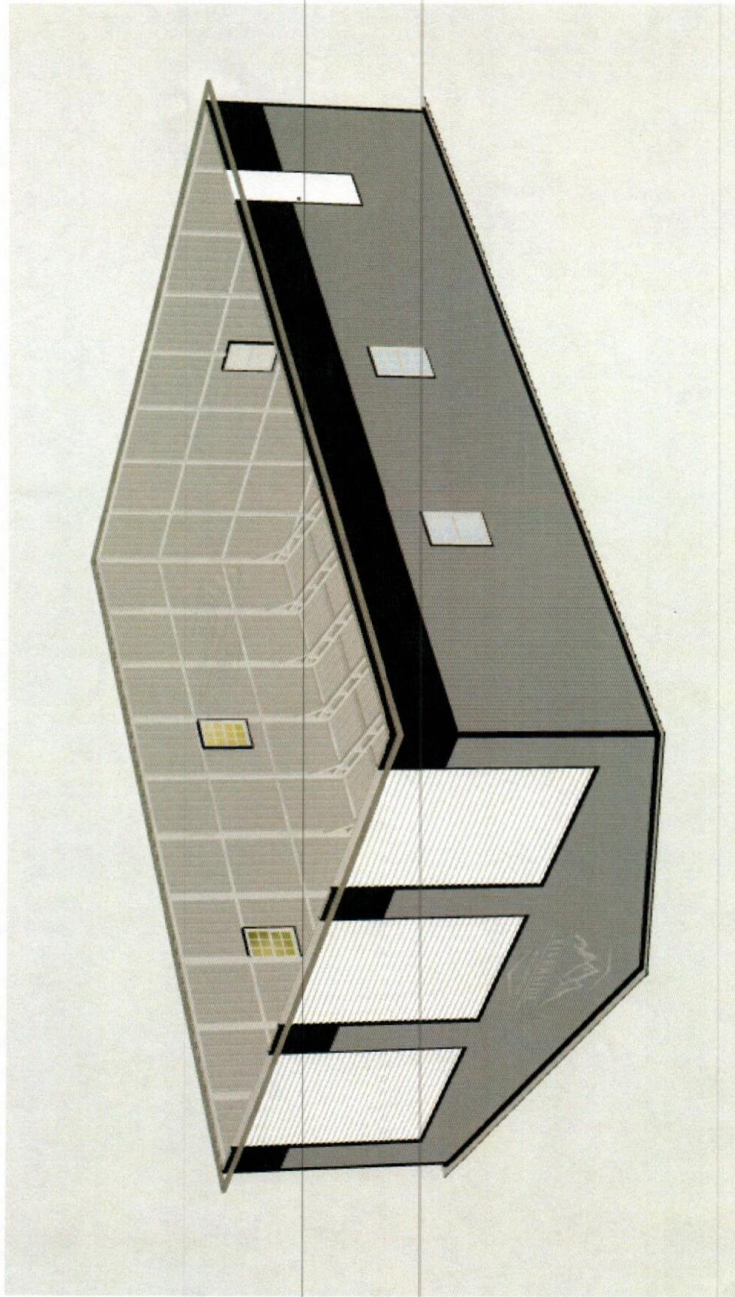
CASE NO. 1 109 4TH AVENUE NW







**Elevation 1**



**Elevation 2**





#2

402 Lee St NE 1<sup>st</sup> Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: <u>Laron L. Hardy</u>
MAILING ADDR: <u>1408 5th Av SE Suite 3</u>
CITY, STATE, ZIP: <u>Decatur, AL. 35601</u>
PHONE: <u>256.227.6600</u>

PROPERTY OWNER: <u>Laron L. Hardy</u>
OWNER ADDR: <u>1408 5th Av SE Suite 3</u>
CITY, STATE, ZIP: <u>Decatur, AL. 35601</u>
PHONE: <u>256.227.6600</u>

ADDRESS FOR APPEAL: <u>802 6th Avenue SE</u>
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NATURE OF APPEAL:

- ☐ HOME OCCUPATION      ☐ SETBACK VARIANCE      ☐ SIGN VARIANCE  
☒ USE PERMITTED ON APPEAL      ☐ APPEAL OF ADMINISTRATIVE DECISION  
☐ OTHER      ☐ SURVEY FOR VARIANCES ATTACHED      ☐ DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

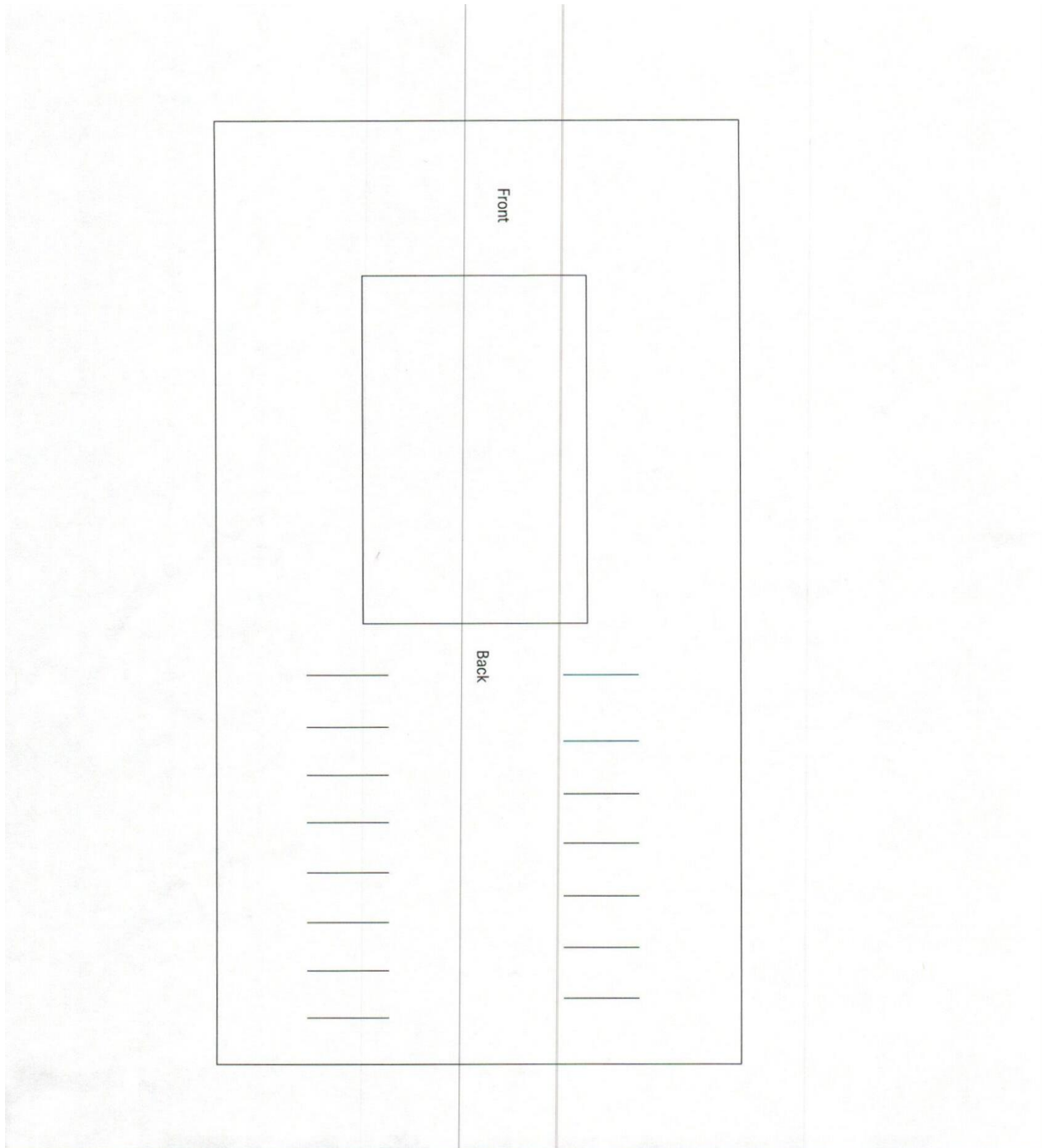
For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

I would like to ask BOZA for a variance in the type of business allowed in my building at 802 6th Av. SE Decatur, Alabama 35601. This building is ideal for a small cafe and would only serve to enhance the surrounding neighborhood and area. There is a similar type business across the street. Parking is not an issue. There is plenty of parking on the property and I own the building next door at 804 6th Av. and it could be used for any overflow parking if it were ever needed. The traffic and use as a cafe would not be that dissimilar from businesses in this building in the past.

Applicant Name (print) <u>Laron L. Hardy</u>	If applicant is using a	Office Use Received By: _____
Signature <u>[Signature]</u>	representative for the	Zone <u>B-1</u>
Representative Name (print) _____	request both signatures	Hearing Date <u>9/30/25</u>
Signature _____	are required	Approved Disapproved _____
Date <u>09.08.25</u>		

CASE NO. 2 802 6<sup>TH</sup> AVENUE SE



## Parking Layout



*Doctor of Chiropractic*

*Member:*

*American Chiropractic  
Association*

*Alabama State  
Chiropractic Association*

*Tennessee Valley  
Chiropractic Society*

**HARDY CHIROPRACTIC**  
*Laron L. Hardy, D.C.*

To Whom It May Concern:

I respectfully ask that you consider a variance so that my prospective tenants can occupy the building at 802 6<sup>th</sup> Av. SE. They would like to operate a small café on the premises. The interior space is approximately 1041 sq. ft., which for a café would technically require 14 parking spaces. The lot on the back of the property is large enough for one handicap and 12 regular parking spaces. I truly believe that this will be adequate for the proposed business of a small vegetarian café. The back room along with other small areas will be employees only, which would leave about 800 sq. ft of space used by customers.

I also own the property next door at 804 6<sup>th</sup> Av. SE that does have an adjoining parking lot which will be available for overflow parking if it is ever needed. There are rarely more than one or two cars in that lot at any given time. In 37 years of owning this building, however, we have never had an issue with parking.

I have attached a schematic of the parking area showing the 13 available parking spaces. Thank you for your consideration.

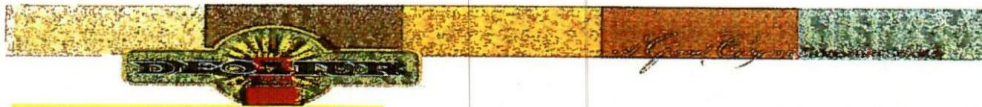
Sincerely,

  
Laron L. Hardy

1408 5<sup>th</sup> Avenue SE, Southeast · Suite Three · Decatur, Alabama 35601-4250 · 256.355.1049 · Fax 866.525.0439 · drhardy@drhardy.net · www.drhardy.net

**Letter**





402 Lee St NE 1<sup>st</sup> Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: <u>Lennar Homes of Alabama, Inc.</u>
MAILING ADDR: <u>1300 Enterprise Way</u>
CITY, STATE, ZIP: <u>Huntsville, AL 35806</u>
PHONE: <u>256-273-5263</u>

PROPERTY OWNER: <u>Lennar Homes of Alabama, Inc.</u>
OWNER ADDR: <u>1300 Enterprise Way</u>
CITY, STATE, ZIP: <u>Huntsville, AL 35806</u>
PHONE: <u>256-273-5263</u>

ADDRESS FOR APPEAL: 220 Clear Creek Dr SW

NATURE OF APPEAL:

- ☐ HOME OCCUPATION    ☒ SETBACK VARIANCE    ☐ SIGN VARIANCE  
☐ USE PERMITTED ON APPEAL    ☐ APPEAL OF ADMINISTRATIVE DECISION  
☐ OTHER    ☐ SURVEY FOR VARIANCES ATTACHED    ☐ DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

The applicant requests a five-foot variance from the required 30-foot front yard setback to accommodate a single-family home on a lot uniquely constrained by conditions. Following the acquisition of purchase, FEMA-mandated excavation on the adjacent northern property removed prior fill and created a slope along the shared property line that now encroaches into the planned house pad, significantly reducing the constructible area within current setbacks. The five-foot relief is the minimum necessary to reasonably site the home while maintaining constructible building pad for the planned footprint. Granting the variance will not harm neighboring properties, alter neighborhood character, or undermine the intent of the zoning ordinance.

Applicant Name (print) Aaron Lumsdon

Signature [Signature]

Representative Name (print) Nathan Tomberlin

Signature [Signature]

D. D. 9-10-2025

If applicant is using a  
representative for the  
request both signatures  
are required

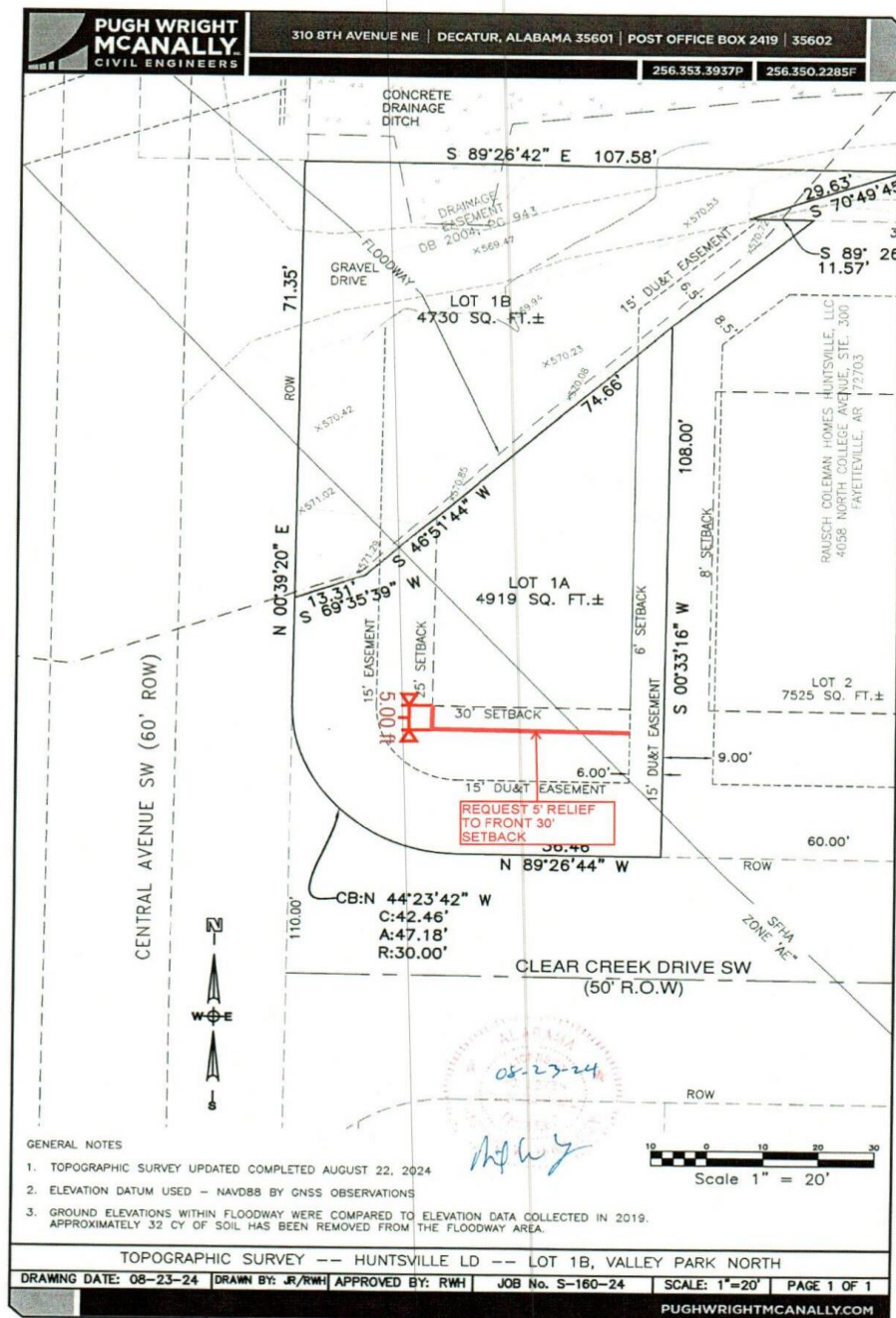
Office Use Received By: \_\_\_\_\_

Zone R-3

Hearing Date 9/30/25

Approved [Signature]

CASE NO. 3 220 CLEAR CREEK DRIVE SW



Survey