

CITY OF VESTAVIA HILLS
BOARD OF ZONING ADJUSTMENT

AGENDA

NOVEMBER 19, 2020

6:00 P.M.

Roll Call.

Approval of Minutes: October 15, 2020.

- (1) **BZA-1120-33** ME Gilmore Properties LLC is requesting a **Rear Setback Variance** for the property located at **4209 Dolly Ridge Road**. The purpose of this request is to reduce the rear setback to 10' in lieu of the approved 30', to be able to accommodate enough parking per B-3 requirements. The property is owned by ME Gilmore Properties LLC and is zoned Vestavia Hills B-3.

Time of Adjournment.

CITY OF VESTAVIA HILLS
BOARD OF ZONING ADJUSTMENT
MINUTES

October 15, 2020

The Board of Zoning Adjustment of the City of Vestavia Hills met in regular session on this date at 6:00 PM. The roll was called with the following:

MEMBERS PRESENT: Rick Rice, Chairman
Jim Griffo
George Ponder
Robert Gower
Donald Holley Alt
Tony Renta, Alt

MEMBERS ABSENT: Loring Jones, III

OTHER OFFICIALS PRESENT: Jack Wakefield, Planner/GIS

APPROVAL OF MINUTES

The minutes of September 17, 2020 were presented for approval.

MOTION Motion to dispense with the reading of the minutes of September 17, 2020 was made by Mr. Gower and 2nd was by Mr. Holley. Motion as carried on a voice vote as follows:

Mr. Griffo - yes	Mr. Renta – yes
Mr. Ponder – yes	Mr. Rice – yes
Mr. Holley – yes	Mr. Gower – yes

Motion carried.

REAR AND SIDE SETBACK VARIANCE

BZA-1020-29 Scott and Lori Planson are requesting a **Rear and Side Setback Variance** for the property located at **3908 Asbury Road**. The purpose of this request is to reduce the rear setback to 10’ in lieu of the approved 15’ & to reduce the side setback to 4’ in lieu of the

required 10', to build a storage shed. The property is owned by Scott and Lori Planson and is zoned Vestavia Hills R-4.

Mr. Wakefield described the area where the property is located and read the review which included the purpose of the request, comprehensive plan and staff review.

Scott Planson was present for the case and stated the septic tank and field lines caused a hardship. He also clarified, to Mr. Gower, an aspect of his field lines as it relates to where they would be replaced on the lot.

Mr. Wakefield stated that neighbors have expressed unease about the location of the structure and that the record should be set that it will go only on the right side of the lot.

Mr. Rice opened the floor for a public hearing. There being no one present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

MOTION Motion to approve a 5' rear setback variance to reduce the setback to 10' in lieu of the required 15' & a 6' side setback variance to reduce the setback to 4' in lieu of the required 10' for the property located at 3908 Asbury Road, was made by Mr. Ponder and 2nd was by Mr. Gower. Motion was carried on a roll call vote as follows:

Mr. Griffo - yes	Mr. Renta – yes
Mr. Ponder – yes	Mr. Rice – yes
Mr. Holley – yes	Mr. Gower – yes

Motion carried.

REAR SETBACK VARIANCE

BZA-1020-30 Daniel and Kathy Tynes are requesting a **Rear Setback Variance** for the property located at **2319 Tanglewood Drive**. The purpose of this request is to reduce the rear setback to 10' in lieu of the required 15', to build a pool house. The property is owned by Daniel and Kathy Tynes and is zoned Vestavia Hills R-1.

Mr. Wakefield stated this is a carry-over from last month. He described the area where the property is located and read the review which included the purpose of the request, comprehensive plan and staff review.

Daniel Tynes was present for the request and stated that the power lines on the property caused a hardship.

Mr. Ponder didn't see that as a hardship, but said that he sees the hardship as an odd-shaped lot. Other Board members agreed.

Mr. Tynes stated that his hardship was an odd-shaped lot.

Mr. Rice opened the floor for a public hearing. There being no one present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

MOTION Motion to approve a 5' rear setback variance to reduce the setback to 10' in lieu of the required 15', for the property located at 2319 Tanglewood Drive, was made by Mr. Holley and 2nd was by Mr. Ponder. Motion was carried on a roll call vote as follows:

Mr. Griffo - yes	Mr. Renta – yes
Mr. Ponder – yes	Mr. Rice – yes
Mr. Holley – yes	Mr. Gower – yes

Motion carried.

SIDE SETBACK VARIANCE

BZA-1020-31 Derek Waltchack is requesting a **Side Setback Variance** for the property located at **2445 Chestnut Road**. The purpose of this request is to reduce the side setback to 5' in lieu of the required 15', to build a playhouse. The property is owned by Derek Waltchack and is zoned Vestavia Hills R-2.

Mr. Wakefield described the area where the property is located and read the review which included the purpose of the request, comprehensive plan and staff review.

Derek Waltchack was present for the case and stated that his corner lot caused a hardship. He also said that he has spoken to his neighbors, and based on their concerns, wanted to amend his request. He is now requesting an 8.5' variance instead of a 10'. He also stated he intends to plant a buffer between his new structure and his neighbors

Mr. Rice opened the floor for a public hearing.

Mr. Johnson, 2441 Chestnut Road, said he was in favor of the request.

There being no one else in the public that wanted to speak, Mr. Rice closed the public hearing and opened the floor for a motion.

MOTION Motion to approve an 8.5' side setback variance to reduce the setback to 6.5' in lieu of the required 15' for the property located at 2445 Chestnut Road and conditioned upon the approval the planting of a small buffer between the applicant and neighbor, was made by Mr. Ponder and 2nd was by Mr. Gower. Motion was carried on a roll call vote as follows:

Mr. Griffo - yes Mr. Renta – yes
Mr. Ponder – yes Mr. Rice – yes
Mr. Holley – yes Mr. Gower – yes
Motion carried.

FRONT & SIDE SETBACK VARIANCE

BZA-1020-32 James and Amanda Woods are requesting a **Front Setback Variance** for the property located at **432 Sunset Drive**. The purpose of this request is to reduce the front setback to 24’ in lieu of the required 50’, to build an attached garage. The property is owned by James and Amanda Woods and is zoned Vestavia Hills R-2.

Mr. Wakefield described the area where the property is located and read the review which included the purpose of the request, comprehensive plan and staff review.

Salena Lambert was present for the request and stated the corner lot caused the hardship.

Mr. Holly stated that the side of the addition may encroach into the side setback. He requested that we amend the request to take that into account.

Mr. Rice opened the floor for a public hearing. There being no one else in the public that wanted to speak, Mr. Rice closed the public hearing and opened the floor for a motion.

MOTION Motion to approve a 26’ front setback variance to reduce the setback to 24’ in lieu of the required 50’ & a 4’ side setback variance to reduce the setback to 11’ in lieu of the required 15’, for the property located at 432 Sunset Drive, was made by Mr. Ponder and 2nd was by Mr. Gower. Motion was carried on a roll call vote as follows:

Mr. Griffo - yes Mr. Renta – yes
Mr. Ponder – yes Mr. Rice – yes
Mr. Holley – yes Mr. Gower – yes
Motion carried.

At 6:37 PM, Mr. Rice made a motion to adjourn. The meeting adjourned at 6:37 PM.

Jack Wakefield,
Planner/GIS

CITY OF VESTAVIA HILLS
SYNOPSIS AND STAFF RECOMMENDATION CONCERNING
APPLICATION BEFORE THE BOARD OF ZONING ADJUSTMENT

Date: November 19, 2020

- **CASE: BZA-1120-33**
- **REQUESTED ACTION:** 20' rear setback variance to reduce the setback to 10' in lieu of the required 30'.
- **ADDRESS/LOCATION:** 4209 Dolly Ridge Road
- **APPLICANT/OWNER:** ME Gilmore Properties LLC
- **REPRESENTING AGENT:** N/A
- **GENERAL DISCUSSION:** Applicant is seeking a rear setback variance to accommodate enough parking per the B-3 zoning requirements. The applicant contends the steep terrain in the front of the property causes a hardship. The topography of the front limits the buildable area and would create unsafe parking conditions. The applicant wants to push the building towards the back, to allow for the required parking spaces for this medical office. The applicant's property is zoned Vestavia Hills B-3.
- **STAFF REVIEW AND RECOMMENDATION:**
 1. **City Planner Review:** No problems noted.
 2. **City Engineer Review:** No problems noted.
 3. **City Fire Marshal Review:** No problems noted.
 4. **Building Safety Review:** No problems noted.

CITY OF VESTAVIA HILLS BOARD OF ZONING ADJUSTMENT APPLICATION

The owner of the property understands that the Board of Zoning Adjustment only has jurisdiction to grant variances from the Vestavia Hills Zoning Code in cases of undue hardship only. Variances cannot be considered or granted on any kind of private covenants as covenants are restrictions between property owners.

EXAMPLE: If you are asking for a variance from a building setback line and the building setback line is recorded on the plat and matches the Zoning Code, then the Board of Zoning Adjustment would only hear the case based on the Zoning Code requirements, not what is on the recorded plat. The recorded plat is a covenant between property owners of the subdivision. You must have signatures of every property owner on the recorded plat map to change the covenant portion of the setback. The letter of signatures approving the amendment of the covenants must be filed with the Office of the Probate Court. Again, the BZA can only grant a variance based on the Zoning Code and that is the only portion of the building setback changes that the BZA can vote upon. Once a waiver is filed with the Office of the Probate, please include a copy of the recorded amendment with the application to the Office of the City Clerk.

Please note: Only completed applications will be accepted by this office. The applicant is responsible for the Application Fee as well as all postage fees incurred by this request.

I. APPLICANT INFORMATION:**Owner of Property (This Section Must Be Completed)**Name: ME GILMORE PROPERTIES LLCAddress: 3536 EAST STREET VESTAVIA AL 35243Phone #: (251) 402-4858 Other #: _____E-Mail: CPWILSON87@gmail.com

Billing/Responsible PartyName: ME GILMORE PROPERTIES LLCAddress: 3536 EAST STREET VESTAVIA AL 35243Phone #: (251) 402-4858 Other #: _____E-Mail: CPWILSON87@gmail.com

Representing Attorney/Other Agent

Name: _____

Address: _____

Phone #: _____ Other #: _____

E-Mail: _____

**This section must be completed in order for a representative to represent the owner.*

II. DESCRIPTION OF SUBJECT PROPERTY:

LOCATION: 4209 DOLLY RIDGE ROAD JUSTICE AZ 85243
Street Address

Subdivision name, Lot #, Block #, etc.

III. REASONS FOR REQUEST (PLEASE FILL IN APPLICABLE STATEMENTS):

1. A request to vary:
_____' variance to reduce the lot width to _____' in lieu of the required _____'.
_____' square foot variance to reduce the lot area to _____ square feet in lieu of the required _____ square feet.
20' front/side/rear (circle one) setback variance to reduce the setback to 10' in lieu of the required 30'.
_____' front/side/rear (circle one) setback variance to reduce the setback to _____' in lieu of the required _____'.
_____' front/side/rear (circle one) setback variance to reduce the setback to _____' in lieu of the required _____'.
2. A decision of the Zoning Official which the applicant believes to be contrary to the meaning of the Zoning Ordinance.
3. An application to establish a use which must be approved by the Board of Zoning Adjustment (See Section _____).
4. A request for extension of non-conforming use (See Section _____).
5. Variance for location of a fence.
6. Sign Code Variance (See Section _____).
7. Other - Explain (See Section _____).

_____ **BZA1120-33//2800222010002.000** _____
_____ **4209 Dolly Ridge Rd.** _____
Rear Setback for new clinic
ME Gilmore Properties

IV. ZONING

Vestavia Hills Zoning for the subject property is B-3.

V. HARDSHIP

Describe those things which you feel justify the action requested. An Undue Hardship is required in order to seek a variance. List, when necessary, the specific sections of the City Code(s) which have a bearing on your request. (Use additional space on separate page if necessary).

SEE SEPARATE SHEET (ATTACHED)

VI. PROJECT:

Describe the scope of the project and/or the reason for requesting this variance.

THE PROJECT WILL CONSIST OF THE CONSTRUCTION OF A PHYSICAL THERAPY CLINIC AND WELLNESS CENTER AS WELL AS THE ASSOCIATED PARKING FACILITIES. A REAR SETBACK VARIANCE IS REQUIRED TO PROVIDE ADEQUATE BUILDING AREA AND SAFE, ACCESSIBLE PARKING.

VII. OWNER AFFIDAVIT:

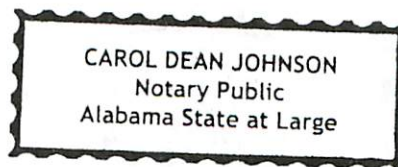
I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing. I, also, understand that I am asking for a variance based on the Zoning Code only and not on any or all covenants that are on the subject property. **Note, this application must be signed by the owner of the property before a notary. The original application shall be submitted, no copies shall be accepted**

[Signature] 10/20/2020
Owner Signature/Date

Representing Agent (if any)/date

Given under my hand and seal
this 20 day of October, 2020.

[Signature]
Notary Public
My commission expires 12
day of 18, 2020.



Hardship

Proposed improvements include demolition of the existing structure and construction of a new physical therapy clinic. The current rear setback (Zoning Ordinance Section 6.5) is 30 feet. We are requesting a 10 foot rear setback. The existing topography poses a challenge by reducing the available buildable area. By reducing the rear setback, the building and related parking can be shifted back allowing room for the necessary grades to provide safe accessible access for patients of the clinic. The existing building is 17.8 feet from the rear property line (see attached survey) demonstrating the preexisting need to place the building toward the rear of the lot. Also, the lot narrows as it approaches the Dolly Ridge Road. If the 30 foot rear setback is held, the parking must be moved forward reducing the available width for the parking area. Furthermore, by locating the building toward the rear property line, more space is available for landscape plantings within the property frontage.

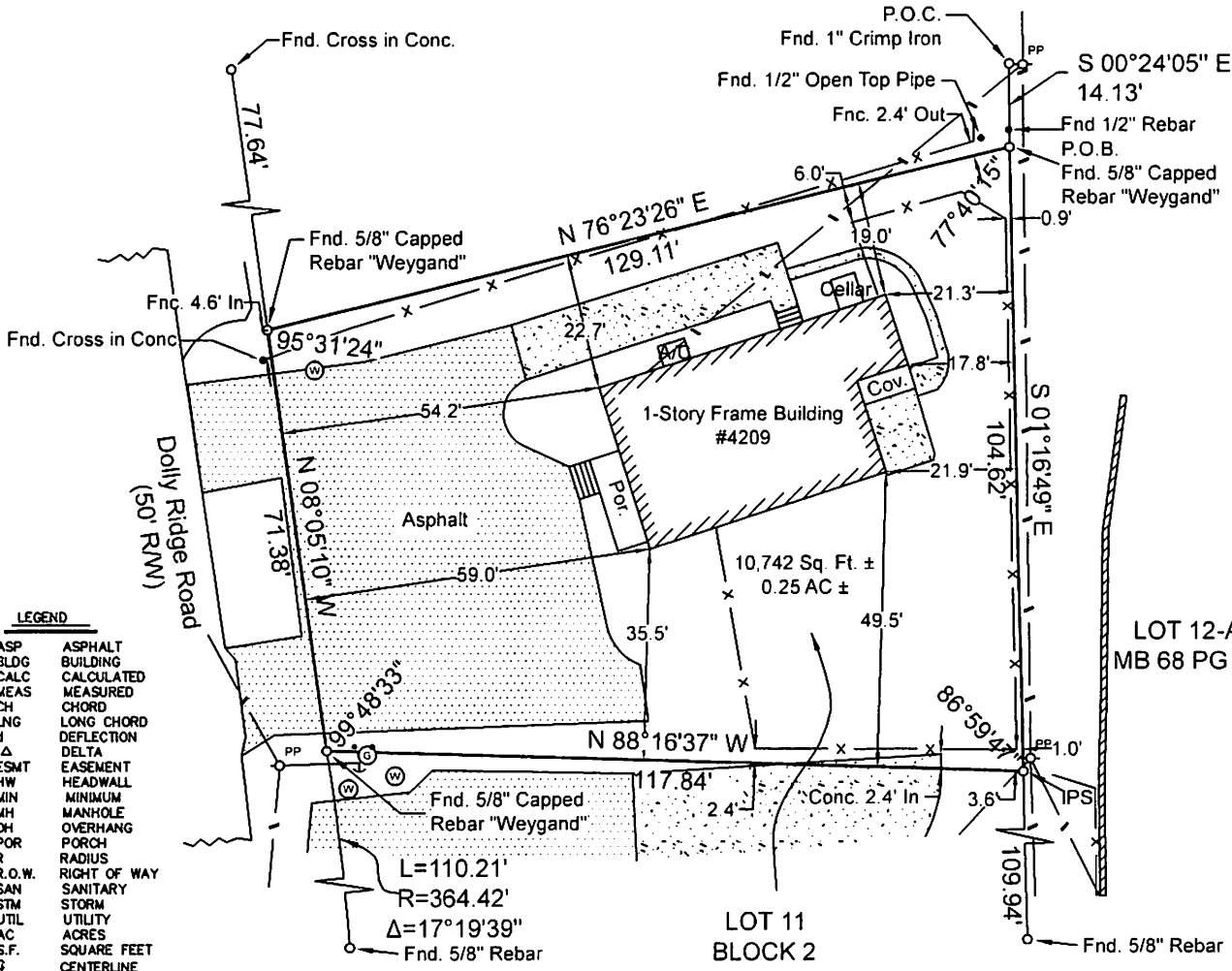
BZA1120-33//2800222010002.000
4209 Dolly Ridge Rd.
Rear Setback for new clinic
ME Gilmore Properties



PROJECT SITE

VICINITY MAP
NTS

AL. SPC. WEST. GRID NORTH. NAD 83 (2011)



- LEGEND**
- ASP ASPHALT
 - BLDG BUILDING
 - CALC CALCULATED
 - MEAS MEASURED
 - CH CHORD
 - LNG LONG CHORD
 - d DEFLECTION
 - Δ DELTA
 - ESMT EASEMENT
 - HW HEADWALL
 - MIN MINIMUM
 - MH MANHOLE
 - OH OVERHANG
 - POR PORCH
 - R RADIUS
 - R.O.W. RIGHT OF WAY
 - SAN SANITARY
 - STM STORM
 - UTIL UTILITY
 - AC ACRES
 - S.F. SQUARE FEET
 - CL CENTERLINE
 - A/C AIR CONDITIONER
 - POLE
 - ANCHOR
 - x- FENCE
 - OVERHEAD POWER
 - PVMT PAVEMENT
 - W/ WITH
 - TAN TANGENT
 - RES RESIDENCE
 - oLGT LIGHT
 - COV COVERED
 - DECK DECK
 - CONCRETE CONCRETE
 - WALL WALL
 - COLUMN

BY: *Steven J. Clinkscales*
 Steven J. Clinkscales, PLS AL 37248
 P.O. Box 326
 Chelsea, AL 35043
 (205)671-1033

Date: FEBRUARY 6, 2020



LEGAL DESCRIPTION (AS-SURVEYED)

Part of Lot 11, Block 2, according to NEW Merkle Heights, as recorded in Map Book 19, Page 92, in the Probate Office of Jefferson County, Alabama, being more particularly described as follows:

Commence at an existing 1" crimp iron being the locally accepted NW corner and also being the most northerly corner of Lot 12-A, A Resurvey of Lots 12, 13, and Part of Lot 32, Block 2, New Merkle Heights, as recorded in the Office of the Judge of Probate, Jefferson County, Alabama, in Map Book 68 Page 93, and run thence S 00°24'05" E along the west line of said Lot 12-A for a distance of 14.13 feet to an existing 5/8" Weygang capped rebar being the Point of Beginning of herein described parcel of land; thence run S 01°16'49" E for a distance of 104.62 feet to a 5/8" capped rebar set (Clinkscales CA-1084-LS); thence run N 88°16'37" W for a distance of 117.84 feet to an existing 5/8" Weygang capped rebar and being on the East right-of-way line of Dolly Ridge Road; thence run N 08°05'10" W along the East right-of-way line of Dolly Ridge Road for a distance of 71.38 feet to an existing 5/8" Weygang capped rebar; thence, leaving said right-of-way line, run N 76°23'26" E to the Point of Beginning. Containing 0.25 acres, more or less, in Jefferson County, Alabama.

STATE OF ALABAMA) "BOUNDARY SURVEY"
 COUNTY OF JEFFERSON)

I, Steven J. Clinkscales, a Registered Land Surveyor, hereby state that all parts of this survey and drawing have been completed in accordance with



SITE DATA TABLE

ZONING	B-3 COMMERCIAL BUSINESS DISTRICT
SETBACKS	
FRONT	30 FEET
REAR	30 FEET
PARKING REQUIRED	1 SPACE PER 100 SQUARE FEET OF GROSS FLOOR AREA
PARKING PROVIDED	8 SPACES



PROJECT SHEET 1 OF 1

EDG
 ENGINEERING DESIGN GROUP, LLC
 CIVIL ENGINEERING • LAND SURVEYING
 1001 428 3700

120 BISHOP CIRCLE, SUITE 300
 PELHAM, AL 35124
 TEL - (205) 403-9158
 FAX - (205) 403-9175

PROJECT: GILMORE PHYSICAL THERAPY
 VESTAVIA HILLS, ALABAMA
 TITLE: CONCEPTUAL SITE PLAN

DRAWN BY: EAF
 CHECKED BY: WHL
 PROJECT NO.: GILM0001
 CAD FILE: PLOT LAYOUT.DGN
 DATE: OCTOBER 19, 2020

REVISIONS

NO.	DESCRIPTION

BZA1120-33/2880222010002.000
 4209 1/2th Ridge Rd.
 Rear Setback for new clinic
 ME Gilmore Properties

PRELIMINARY
 NOT FOR CONSTRUCTION

BZA

CITY OF VESTAVIA HILL
Department Review of Application
(To be completed by City Staff)

BZA1120-33//2800222010002.000
4209 Dolly Ridge Rd.
Rear Setback for new clinic
ME Gilmore Properties

The following application and case file has been reviewed and submitted as follows:

Location: 4209 Dolly Ridge Rd Case No.: BZA1120-33
ME Gilmore Properties, LLC

Engineering: Date: 10/27 Initials: JBK
Comments: no problems
 Recommended Not Recommended No Recommendation

Planning/DRB: Date: _____ Initials: _____
Comments: _____
 Recommended Not Recommended No Recommendation

GIS/Mapping: Date: _____ Initials: _____
Comments: _____
 Recommended Not Recommended No Recommendation

Fire Department: Date: 10/27 Initials: RF
Comments: N/P
 Recommended Not Recommended No Recommendation

Building Department: Date: 10/27 Initials: KB
Comments: _____
 Recommended Not Recommended No Recommendation

City Clerk: Date: 10/27/2020 Initials: AC
Comments: AJP
 Recommended Not Recommended No Recommendation