

**MINUTES OF THE MADISON COUNTY PLANNING AND  
ZONING COMMISSION HELD AND CONDUCTED ON  
THURSDAY, THE 10<sup>th</sup> DAY OF JANUARY, 2008 AT 9:00 A.M.  
AT THE MADISON COUNTY COURTHOUSE**

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BE IT REMEMBERED that a meeting of the Madison County Planning and Zoning Commission was duly called, held and conducted on Thursday, the 10<sup>th</sup> day of January, 2008, at 9 a.m. in the Madison County Courthouse.

Present:       Chairman Bennie Lockett  
                  Brad Sellers, Zoning Administrator  
                  Sidney Spiro  
                  William Amadio  
                  Rev. Henry Brown  
                  Lisa Walters

Absent:       None

There first came on for consideration the Minutes of the December 20, 2007 meeting. Upon motion by Commissioner Brown, seconded by Commissioner Spiro, with all voting "aye", the motion to approve the Minutes passed.

There next came on for consideration the Petition of New Beginning House of Prayer for special exception for church in A-1 District located in the Woodlands Subdivision. Zoning Administrator Sellers commented that the Woodlands Subdivision covenants furnished by the developer restrict the use of the property to residential only. Zoning Administrator Sellers further commented that no action should be taken, as the Commission should not consider any petition which would violate covenants. Upon motion by Commissioner Walters to remove the matter from the agenda, seconded by Commissioner Spiro, with all voting "aye", the motion to remove the matter from the January agenda passed.

There next came on for consideration the Petition of Chestnut Developers, LLC for a petition for variance to the minimum front set back and a variance to the maximum height of structures in the C-2 Commercial District located at the corner of Highway 22 and Highway 463. Horace Ledford appeared for the petitioner. According to Mr. Ledford, the development proposed is the Livingston Township. A site plan was previously furnished. The goal of the Livingston Township is to recreate the original downtown feel of the original Madison County seat. The petition for variance to the minimum front set back is for a proposed chapel which would be constructed on the property. The variance would bring the chapel up to the proposed street, which is over the original street at the location. The petition for variance to the maximum height is for a proposed courthouse building which would require a height of 48 feet. Mr. Ledford presented the Commission with a rendering of the courthouse building and the chapel building as would be viewed from Highway 22 and Highway 463. Mr. Ledford also announced to the Commission that the proposal had

passed the Mansdale Livingston Preservation Society. The chapel which is proposed would be used primarily for weddings. The courthouse which is proposed would have offices on the second floor, with the bottom floor used for mixed use purposes. The variance to the minimum front set back for the chapel would enable the chapel to be brought up even with the street, so that it would not be approximately 35 feet off of the street. Commissioner Walters inquired as to the square footage of the proposed buildings.

Mr. Ledford stated that the courthouse would be approximately 9,750 square feet, with a chapel that would seat 150 persons. Mr. Ledford concluded and summarized that the petitioner is simply asking for a variance to height of the courthouse and a set back to the public road for the chapel. Upon Motion of Commissioner Walters to approve the variance to the minimum front set back for the chapel, seconded by Commissioner Spiro, with all voting "aye," the Motion passed. Upon Motion of Commissioner Walters to approve the variance to the height of the proposed courthouse building, seconded by Commissioner Amadio, with all voting "aye," the Motion passed.

There next came on for consideration the Petition of Randolph Graves for a variance to side set back in the A-1 District, located at Lot 11 in the Weeks End Subdivision. Zoning Administrator Sellers commented that the Petitioner had constructed an addition to his residence that encroaches approximately 2.5 feet into the required 25 foot side set back. Zoning Administrator Sellers further stated that the encroachment may be as much as 5 feet. Zoning Administrator Sellers also explained that the side set back at this location in the A-1 District was changed from 10 feet to 25 feet when the zoning ordinance was amended in 2005. Randolph Graves spoke on behalf of his Petition. According to Mr. Graves, the reason for the variance petition is an error in laying out the construction of the addition. According to Mr. Graves, he purchased the land when the side set backs were at 10 feet. Mr. Graves stated that he was, even with the addition still more than 20 feet from the property line, which is more than nearly half of the property owners in the subdivision. Mr. Graves stated that denial of the petition for variance would deprive him of the enjoyment and use of his property. Mr. Graves further stated that the value of his property had been increased due to the addition. Mr. Graves confirmed that most of the homeowners, including the Homeowners Association were pleased with the addition. Mr. Graves explained that the subdivision was originally zoned for 500 square foot fish cabins, and that the homeowners want to look at variances to the lots on a case by case basis rather than rezoning the entire subdivision. Commissioner Walters inquired of Mr. Graves as to how many lots are in the subdivision. Mr. Graves responded that there were 16 lots. Mr. Graves stated that he is simply asking the Commission for consideration based on a new zoning ordinance without changing the character of the neighborhood by changing the subdivision from an A-1 District to R-1A District. Mr. Graves presented the Commission with photographs of the addition which are incorporated herein as Composite Exhibit "A".

Opposition to the petition was presented by Arthur Hood. Mr. Hood owns Lot #12 of the Weeks End Subdivision, which is adjacent to the Petitioner's Lot #11. Mr. Hood stated that the property is not developed at this time, but would be built upon as a retirement home. Mr. Hood presented the Commission with a plat of the lots which is incorporated herein as Exhibit "B". Mr. Hood stated that the homeowners of the Weeks End Subdivision

and the President of the Homeowners Association desire that the neighborhood develop into estate lots. Commissioner Amadio noted that the Commission was presented with a letter from the Weeks End Homeowners Association, signed by Barry Biggers, asking the Commission for approval of the variance. Commissioner Amadio further inquired of Mr. Hood, as to why the housing density would be increased simply by a variance of 2.5 feet. Mr. Hood stated that he is concerned regarding a higher density of housing in the subdivision. Commissioner Amadio confirmed that the Commission would not be addressing that issue at this time. Commissioner Amadio stated that the only issue in the Petition was a request for a 2.5 foot variance.

Mr. Hood presented the Commission with zoning ordinance materials and requested clarification of the definition of a non-conformity within the zoning ordinance. Said materials are incorporated herein as Exhibit "C". Commissioner Amadio inquired of Zoning Administrator Sellers as to whether homeowners approval is required to approve variances. Zoning Administrator Sellers confirmed that there must be acknowledgment, by whether that a homeowners association supports a petition for variance. Zoning Administrator Sellers further confirmed that the matter before the Commission is not a non-conformity, as defined in the zoning ordinance, but rather an encroachment on a set back.

Commissioner Walters inquired of Zoning Administrator Sellers as to whether there was a notification procedure for ordinance changes, to which Zoning Administrator Sellers replied that there was none. Zoning Administrator Sellers confirmed that Mr. Graves and his contractors made an error on the line for the addition before the foundation for the addition was poured, and that he had recognized the encroachment after being informed of the error. Zoning Administrator Sellers stated that the only 2 options available to Mr. Graves were to either tear down the addition, or apply for a variance. Mr. Hood presented the Commission with photographs which he had taken on and around the subject during the construction within the last week. Said photographs are incorporated herein as Composite Exhibit "D". Mr. Hood requested that the Commission secure an Attorney General's opinion. Upon questioning, Commissioner Spiro clarified to Mr. Hood that the Commission did not have actual authority to approve the variance, but rather simply had the authority to make a recommendation on petition to the Board of Supervisors. Upon completion of Mr. Hood's opposition, Commissioner Luckett presented Mr. Graves with time for a response.

Mr. Graves confirmed that it was his desire for the area to remain estate lots, as demonstrated by the Homeowners' Association's approval letter. Mr. Graves further presented the Commission with an updated appraisal of the property, which is incorporated herein as Exhibit "E", which indicates the increase in value from the addition. Commissioner Walters commented that if the Commission did not have authority to consider petitions for variances, they would not hear requests for approval. Commissioner Walters further commented that, in her opinion, a 2.5 foot variance would not damage any surrounding lots. Upon Motion of Commissioner Walters to approve the Petition for variance, seconded by Commissioner Spiro, with all voting "aye," the Motion passed.

There next came on for consideration the Petition to approve the site plan of Middleton Homes and Construction for a day care center located on Distribution Drive. Todd Middleton appeared for the petitioner, and stated that the center would have 110 children, with half of the positions filled at this time. Mr. Middleton further stated that the project had been approved by the Mississippi Health Department. Zoning Administrator Sellers presented the Commission with a full site plan, which included a landscape plan. Commissioner Walters inquired as to the square footage of the building. Mr. Middleton explained that the building would be approximately 6,000 heated and cooled square feet. The owners of the day care center, Stephanie Mahafrey and Jennifer Nelson, were in attendance at the meeting. Upon Motion of Commissioner Amadio to approve the site plan, seconded by Commissioner Spiro, with all voting "aye," the Motion passed.

There next came on for consideration the preliminary plat of Windance Subdivision Phase III, located on Highway 463. Corey Winders, engineer of the project, appeared on behalf of the petitioner. Mr. Winders confirmed that the plat had been approved by the City of Madison, with the addition of moving an access road 30 feet which would create a 30 foot buffer on the east side of the subdivision to ensure that drainage would not interfere with the adjacent Annandale Subdivision. The movement of the road would also enable the lots to be even with each other. Mr. Winders confirmed that the drainage for each home which would be proposed would be done on a case by case basis to make sure that the drainage was not stopped by any construction. Commissioner Walters inquired as to which entity would be in charge of upkeep of the drainage swell. Zoning Administrator Sellers confirmed that the upkeep would be on the County or City. Zoning Administrator Sellers also confirmed that the only requirement of the County Engineer is access to the drainage swell in case work needed to be done on it. Commissioner Spiro inquired as to routine mowing of the grassy areas and the sewage system. Mr. Winders confirmed that the Homeowners' Association would be responsible for the mowing, as is already the practice in Phases I and II of the Windance Subdivision. Upon Motion of Commissioner Walters to approve the preliminary plat, seconded by Commissioner Spiro, with all voting "aye," the Motion passed.

There next came on for consideration the approval of the attorney's fees. Upon Motion by Commissioner Amadio, seconded by Commissioner Spiro, with all voting "aye", the Motion to approve the attorney's fees passed.

There next came on for consideration the setting of the February meeting. Zoning Administrator Sellers suggested February 14, 2008, which is the second Thursday of the month. The Commissioners agreed.

There next came on for consideration at the instance of Zoning Administrator Sellers a proposed site plan for the Jerusalem Temple AME Church. Zoning Administrator Sellers confirmed that the Petitioner did not meet the deadline for submission to the Commission. Chairman Luckett suggested that the matter be tabled due to the untimely submission. Upon Motion by Commissioner Brown, seconded by Commissioner Spiro, with all voting "aye", the matter was tabled.

With there being no further business, the meeting adjourned at 10:15 a.m.

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Date

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(Chairman)