



# **ZONING BOARD OF ADJUSTMENT MINUTES**

300 Martin Luther King Blvd.

**March 11, 2025**

**TIME: 9:00 AM**

## **1. VARIANCE**

The City of Opelika Zoning Board of Adjustment held its regular monthly meeting March 11, 2025 in the Meeting Chambers, located at the Opelika Municipal Court. Certified letters have been mailed to all adjacent property owners for related issues.

**MEMBERS PRESENT:** Chairman Wilbert Payne, Mrs. Raven Harvis, Mrs. Tipi Miller, Mr. Brandon Hilyer, Mr. Chris Anthony, Mrs. Micah Melnick, and Mrs. Angela George.

**MEMBERS ABSENT:** none

**STAFF PRESENT:** Mr. Matt Mosley, Planning Director  
Mr. Marty Ogren, Planning Assistant Director  
Mrs. Rachel Dennis, Planner

**CALL TO ORDER:** Chairman Payne called the meeting to order at 9:04 a.m.

**ROLL CALL:** Payne, Harvis, Miller, Hilyer, Anthony, George and Melnick.

## **Approval of Zoning Board of Adjustment Minutes August 13, 2024**

|                  |                                                                                               |
|------------------|-----------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | <b>Passed</b>                                                                                 |
| <b>MOVER:</b>    | Position 4 Raven Harvis                                                                       |
| <b>SECONDER:</b> | Position 1 Tipi Miller                                                                        |
| <b>AYES:</b>     | Position 1 Miller, Position 2 Hilyer, Position 4 Harvis, Position 6 Payne, Position 7 Anthony |
| <b>NAYS:</b>     | None                                                                                          |
| <b>ABSTAIN:</b>  | None                                                                                          |

1. Mac Jones, authorized representative for Freedom Builders Inc., property owner, 825 Asheton Drive, R-3 zoning district, Requesting a 6.7 foot variance from the minimum 30-foot front yard setback requirement to construct a single family home.

Mr. Mosley stated that the first variance was for a front setback at 825 Asheton Drive. He noted that this development was just completed, but this lot included large easements that

limited development on the lot. He explained that the applicant was requesting a variance to be allowed to build a similar size home as others in the subdivision. Mr. Mosley stated that variance has been reduced slightly after review. He also explained that this variance would not encroach on any existing homes. He stated that since the variance would move the home slightly closer to the street, it would not encroach on any adjoining properties. Mr. Mosley stated that after review, staff was recommending a 3.7 foot variance from the required 30 foot front setback to allow a home to be 26.3 feet from the right-of-way.

Chair Payne opened the public hearing.

Doug Lee, representing Freedom Builders, stated he was happy to answer any questions.

Chair Payne closed the public hearing.

**Motion to approve the 3.7-foot front yard variance from the minimum 30-foot front yard setback requirement.**

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|------------------|-----------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | <b>Passed</b>                                                                                 |
| <b>MOVER:</b>    | Position 4 Raven Harvis                                                                       |
| <b>SECONDER:</b> | Position 2 Brandon Hilyer                                                                     |
| <b>AYES:</b>     | Position 1 Miller, Position 2 Hilyer, Position 4 Harvis, Position 6 Payne, Position 7 Anthony |
| <b>NAYS:</b>     | None                                                                                          |
| <b>ABSTAIN:</b>  | None                                                                                          |

2. Michael Maher, authorized representative for Hayley Investments LLC, property owner, R-2 zoning district, Requesting a setback variance for lots in the Arrowhead at Forest Hills Subdivision to a minimum of 15 feet front yard, 10 feet side yard, 30 feet rear yard and 15 feet side yard on street.

Mr. Mosley stated that the applicant is requesting multiple setback variances on the buildable lots within this subdivision. The subdivision contains 51 lots. Thirteen of these lots are non-buildable due to the presence of floodplain. The subdivision is located in the R-2 zone and was approved in July 2023 and recorded in August 2023. The setbacks for the R-2 zone are:

Front: 35 feet  
Side: 15 feet  
Rear: 30 feet  
Side Street: 25 feet

The plat was recorded with a note (Note 6). This note states that the setbacks are:

Front: 15 feet  
Side: 10 feet  
Rear: 30 feet  
Side Street: 15 feet

Mr. Mosley stated that the discrepancy between the zoning requirement and the plat creates confusion for the people that have purchased the lots expecting the less restrictive setbacks. While the setbacks were noted as being incorrect during the initial review at preliminary plat, the note was on the plat reviewed by Planning Commission and ultimately signed by City officials.

Mr. Mosley explained that staff reviewed the proposed setbacks to determine how this might

affect adjoining property owners. There are two homes currently either constructed or under construction. All lots were sold with the setbacks on the lot listed. The homes that are under construction all meet the R-2 standards with one being 125 feet off the front property and one being approximately 55 feet from the front property line. Because the rear setbacks are the same as R-2, there is only one location where a lot within this subdivision would be adjacent to a lot outside the subdivision with a non-compliant setback from an R-2 standpoint. In most cases open space lots and streams are also between these lots and adjacent residential sites. Lot 38 has the potential to have a home closer to a residential lot than allowed in the R-2 zone on the east side. However, Lot 38 is almost two acres in size and the adjacent lot is vacant.

While this variance is not ideal from a zoning standpoint, staff recognizes that this is likely to provide the simplest option to align the setbacks with those recorded on the plat. Mr. Mosley stated that to prevent later confusion, staff is joining with the applicant to reduce the setbacks to match those on the plat. The only way to achieve this is through a variance on Lots 1-38.

Chairman Payne opened the public hearing.

Brad McGill, Yellowfin Construction, stated he was here to represent the development.

Mrs. Miller asked the setback of the current two houses.

Mr. Mosley stated that the existing homes were compliant with the more restrictive zoning requirements.

Mrs. Melnick asked if there was a particular style to the development.

Mr. McGill stated that there were a few different builders with different styles.

Mrs. Melnick stated that it may be less obvious with different styles.

Mr. Jim Hope, 1804 Arrowhead Avenue, stated he was an adjoining property owner. He stated that the development has changed a few different times. He felt the lot across the street from him was unbuildable.

Mr. Mosley explained the variance requests to Mr. Hope.

Mrs. George asked if any other neighbors had contacted the Planning Department.

Mr. Mosley responded that they had not.

Chairman Payne closed the public hearing.

**Motion to approve the variances as presented.**

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|------------------|-----------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | <b>Passed</b>                                                                                 |
| <b>MOVER:</b>    | Position 2 Brandon Hilyer                                                                     |
| <b>SECONDER:</b> | Position 4 Raven Harvis                                                                       |
| <b>AYES:</b>     | Position 1 Miller, Position 2 Hilyer, Position 4 Harvis, Position 6 Payne, Position 7 Anthony |
| <b>NAYS:</b>     | None                                                                                          |
| <b>ABSTAIN:</b>  | None                                                                                          |

2. ADJOURN

**Motion to adjourn at 9:35 a.m.**

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|------------------|--------------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | Passed                                                                                           |
| <b>MOVER:</b>    | Position 4 Raven Harvis                                                                          |
| <b>SECONDER:</b> | Position 1 Tipi Miller                                                                           |
| <b>AYES:</b>     | Position 1 Miller, Position 2 Hilyer, Position 4 Harvis, Position 6 Payne,<br>Position 7 Anthony |
| <b>NAYS:</b>     | None                                                                                             |
| <b>ABSTAIN:</b>  | None                                                                                             |

\_\_\_\_\_ Wilbert Payne, Chairman

\_\_\_\_\_ Matt Mosley, Secretary