

AGENDA
Northport Board of Zoning Adjustment
Thursday, September 15, 2022
6:00 p.m.

- I. CALL TO ORDER – Chairman**
- II. ROLL CALL – Secretary**
- III. APPROVAL OF MINUTES – July 21, 2022**
- IV. APPROVAL OF AGENDA**
- V. VERIFICATION OF PROPER NOTIFICATION – Secretary**
- VI. VERIFICATION OF NO CONFLICT OF INTEREST**
- VII. NOTICE OF RIGHT TO APPEAL – Information on back of agenda**
- VIII. OLD BUSINESS**
- IX. NEW BUSINESS**
 - a. V-22-14 – Jason and Wendy Simmons are requesting a variance from the requirements on privacy fence height of 4 feet in a front yard in Section 613 at their residence located at 11735 Ashley Avenue.**
- X. DISCUSSION**
- XI. CITIZEN COMMUNICATIONS**
- XII. ADJOURNMENT**

NOTICE OF RIGHT TO APPEAL

In accordance with section 11-52-81 of the *Code of Alabama*, any party aggrieved by a decision of this Board tonight may within 15 days from tonight appeal to the Tuscaloosa County Circuit Court by filing with this board a written notice of appeal specifying the decision from which the appeal is taken. This right to appeal is available to the person or entity petitioning this Board tonight and all other parties that may be aggrieved by a decision of this Board.

**OFFICIAL MINUTES
NORTHPORT BOARD OF ZONING ADJUSTMENT
THURSDAY, July 21, 2022**

The Northport Zoning Board of Adjustment was called to order at 6:00 p.m. on Thursday, July 21, 2022, in the Council Chambers of the Northport City Hall by Chairman Jon Garner.

Upon roll call the following members were found to be present: Mr. Aubrey Dale, Mr. Jon Garner, Ms. Tena Phifer, Mr. Kevin Shobe, Mr. Tyler Walker and Mr. Brian Chandler. Absent and failing to vote was Mr. Chad Haynie. Also present were staff members Mrs. Julie Ramm, Mrs. Holly Phillips, Mr. Chris Cunningham, Mr. Ron Davis, Mr. Shaun Patten, and Mrs. Morgan Williams.

Approval of Minutes

Motion by Mr. Kevin Shobe to approve the minutes for June 16, 2022. **Seconded by Mr. Aubrey Dale.** Roll call vote was as follows: Mr. Shobe – Yes; Mr. Dale - Yes; Mr. Garner - Yes; Ms. Phifer - Yes; Mr. Walker – Yes; and Mr. Chandler - Yes; **Motion carried.**

Approval of Agenda

Motion by Mr. Kevin Shobe to approve the agenda for July 21, 2022. **Seconded by Ms. Tena Phifer.** Roll call vote was as follows: Mr. Shobe - Yes; Ms. Phifer – Yes; Mr. Dale - Yes; Mr. Garner - Yes; Mr. Walker – Yes; and Mr. Chandler - Yes. **Motion carried.**

Approval of Proper Notification- Mrs. Ramm informed the Board that proper notification was given.

Verification of No Conflict of Interest - None

Notice of Right to Appeal – No conflict of Interest.

Old Business - None

New Business

V-22-12 Christopher Ross – Christopher Ross is requesting a variance from accessory structure regulations regarding setbacks and architectural compatibility in Section 607 for the property located at 5705 Dove Creek Avenue.

The petitioner was not present.

Mr. Garner opened the floor for public comments.

Mr. Wesley Snider, representing his grandparent's estate, 1706 Grand Lake Street, stated that when walking out in their driveway you can not even see the road. They conducted a survey and the tree located to the right of this property is located on their property. Mr. Snyder stated that the property value of the surrounding houses will decrease due to the circumstances. He also stated that the pallets used to

cover the lower part of structure is crazy and all mixed match in sizes and colors. Mr. Snyder stated that he works for the City of Tuscaloosa Planning and Zoning Code Enforcement.

Mrs. Elaine Kizzire, representing Mr. James Howell at 5609 Dove Creek Avenue, stated that she grew up in this house. She distributed a printed tax parcel map for the commission. She has been a real estate agent for 33 years. She contests to the fact that these types of structures, that Mr. Ross has in his yard, is reflecting the property value. Mrs. Kizzire asked that if this is approved is this the type of presented that we would like to have for Northwood Lake?

Mrs. Kay Holden, located at 3010 Natchez Landing Court, is the President of the HOA for Northwood Lake Subdivision. She stated that she has reached out to Mr. Ross multiple times to help him understand that this is not allowed, and it is also not allowed within the code for the City of Northport. Mrs. Holden stated that this does not add value to their neighborhood. She has helped measure off the setbacks with Mr. Ross and he has stated multiple times he did not know that this was not allowed. She did state that he is also behind on his yearly dues.

Ms. Jamie Dykes, 4015 Frontier Street, stated that she has received several complaints about it. She is here to say that she does not want this to be approved and does not want this to become a precedent to do this before being going through the process and being approved to have this type of structure.

Mr. Garner wants a representative from the city to provide a description of what is being violated at this time.

Shaun Patten stated that the building appears to be encroaching about 15 feet into a platted setback, which is 35 feet with the building 20ft from the right of way. The building is not architecturally compatible with the home itself.

Mr. Garner stated that for purposes of voting on this case number that Ms. Phifer will not be voting on case number V-22-12.

Motion by Mr. Brian Chandler to move to grant requested variance from accessory structure regulations regarding setbacks and architectural compatibility in Section 607 for the property located at 5705 Dove Creek Avenue. **Seconded by Mr. Kevin Shobe.** Roll call vote was as follows: Mr. Chandler - No; Mr. Shobe - No; Mr. Dale - No; Mr. Garner – No; and Mr. Walker - No; **Motion failed.**

V-22-13 – BNW Properties, LLC is requesting a variance from paved parking lot requirements in Section 610 for the business located at 6951 5th Steet.

Mr. Brock Phifer, located at 309 Rice Valley Road, had his engineer, Josh Bonner with Sentell Engineering, speak upon his behalf

Mr. Josh Bonner stated that he would like to be able to use a portion of the parking for a lay down area and storage on gravel versus having it paved. The reasons for this he stated were storm water and that when phase 3 is completed you will not be able to see this area from the road.

Mr. Garner asked if the items will be cleaned at this location, how many dumpsters will be stored here at one time and if the dumpsters would be a leasing agreement.

Mr. Phifer stated that the dumpsters will not be cleaned at this location and that they do not come back dirty. He also stated that they never wash the insides out. Mr. Phifer stated that this would be a leasing agreement and that once the dumpsters are picked up for return that all contents will be taken to landfill and the dumpsters will be empty before arriving back to the property.

Mr. Shobe asked if this is due to a hardship.

Mr. Bonner stated this is economical decision and it is a financially cheaper than having it paved.

Mr. Garner opened the floor for public comments.

Mr. Max Snyder, representing the Tuscaloosa County Industrial Development Authority, 2204 University Blvd, stated that they are an adjoining property owner and have a partnership with the Alabama Department of Mental Health that also borders this property to the west. They have been curious on the use of the proposed property and the gravel parking. They believe that this site is a major economic development in the Tuscaloosa County and that The City of Northport is a major funding part of theirs. Mr. Snyder stated again he is not speaking upon the behalf of the Alabama Department of Mental Health, but he can tell you that this site is actively marketed with them and that has significant interest and that it would be detrimental to be standing on this site and having a gravel parking lot for dumpster storage.

Mr. Garner closed the floor.

Mr. Garner requested a member of the Engineering Department speak on the behalf of the gravel parking.

Mrs. Holly Phillips stated that their worry is with the water quality and they would require the runoff to be done through a septic system and not through the storm drains.

Mr. Garner stated that for purposes of voting on this case number that Mr. Dale will not be voting on case number V-22-13.

Motion by Mr. Jon Garner to grant requested variance from paved parking lot requirements in Section 610 for the business located at 6951 5th Street. **Seconded by Kevin Shobe.** Roll call vote was as follows: Mr. Garner-No; Mr. Shobe – No; Ms. Phifer – No; Mr. Walker – No; and Mr. Chandler – No; **Motion failed.**

X. DISCUSSION

XI. ADJOURNMENT

All members voted yes by a voice vote and the meeting was adjourned.

Mr. Jon Garner, Chairman

Julie Ramm, Secretary

NORTHPORT ZONING BOARD OF ADJUSTMENT
STAFF REPORT
August 11, 2022

AGENDA ITEM

Case Number: V-22-14

Request: A variance from fence requirements

Location: 11735 Ashley Avenue

Applicant: Jason & Wendy Simmons

SUBJECT PARCEL

Zoning: RS-3 Residential Single Family

Zoning of Adjacent Property: Residential Single Family

Proposed Action: Allow a solid wood privacy fence taller than 4 feet in a front yard

STAFF COMMENTS

Jason and Wendy Simmons are seeking a variance from the fence standards. Those standards are in section 613 and are included below :

Section 613. Fences and walls.

In non-residential zones, no wall or fence shall exceed a height of ten (10) feet. In residential zones, no wall or fence shall exceed eight (8) feet. No fence or wall may project into the unobstructed space required at a street intersection, as determined by the City Engineer. In a front yard, walls and fences shall be architecturally compatible with the style, materials, and colors of the principal building. Solid wood fences are permitted in rear and side yards only. No part of a fence in a required front yard shall be within ten (10) feet of the curb line, nor shall it be on the public right-of-way. In residential zones, no fence in a required front yard shall exceed four feet in height. For the purposes of the section, the front yard shall be defined as the yard on the side of the front entrance of the residence.

STAFF RECOMMENDATIONS:

The standards for variances as outlined in section 1109.3 of the Northport Municipal Code are as follows:

1108.03. Standards for Variances. *The Board of Zoning Adjustment shall grant no variance in the strict application of the provision of this Ordinance unless it finds that the following requirements and standards are satisfied. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised. It is the intent of this Ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty to its development and prevents its owner from using the property as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.*

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate in writing that the appeal for the variance conforms to

all of the requirements and standards listed below:

A. *The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

B. *The granting of the variance will not permit the establishment of any use, which is not permitted in the district.*

C. *There must be proof of unique circumstances: there must exist special circumstances or conditions fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the district, and which circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.*

D. *There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances granted under similar circumstances shall not be considered.*

E. *That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Zoning Adjustment is the minimum variance that will accomplish this purpose.*

F. *That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.*

G. *That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.*

The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

Jason & Wendy Simmons are seeking a variance from the fence requirements found in section 613. They have already installed a 6 foot tall privacy fence along their side lot line, extending to within 10 feet of the curb. The City Engineer has evaluated the fence for sight-distance concerns, and will require that the fence be removed back to the 2nd post closest to the curb. The applicant is requesting that the remaining portion of his fence be allowed to stay intact, which would require a variance from the Zoning Board for the following:

- A solid wood fence in a front yard.
- A fence taller than 4 feet in a front yard.

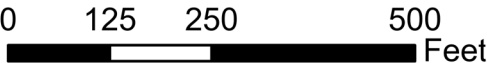
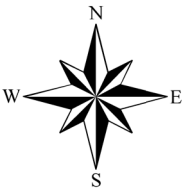
The petitioner has listed as his hardship the desire to protect his neighbor's property from kids playing in his front yard. Staff does not oppose the granting of this variance.

MOTION: I make a motion to grant Jason & Wendy Simmons a variance to allow a solid wood privacy fence 6 feet tall along their northern property line, subject to the requirements of the City Engineer.

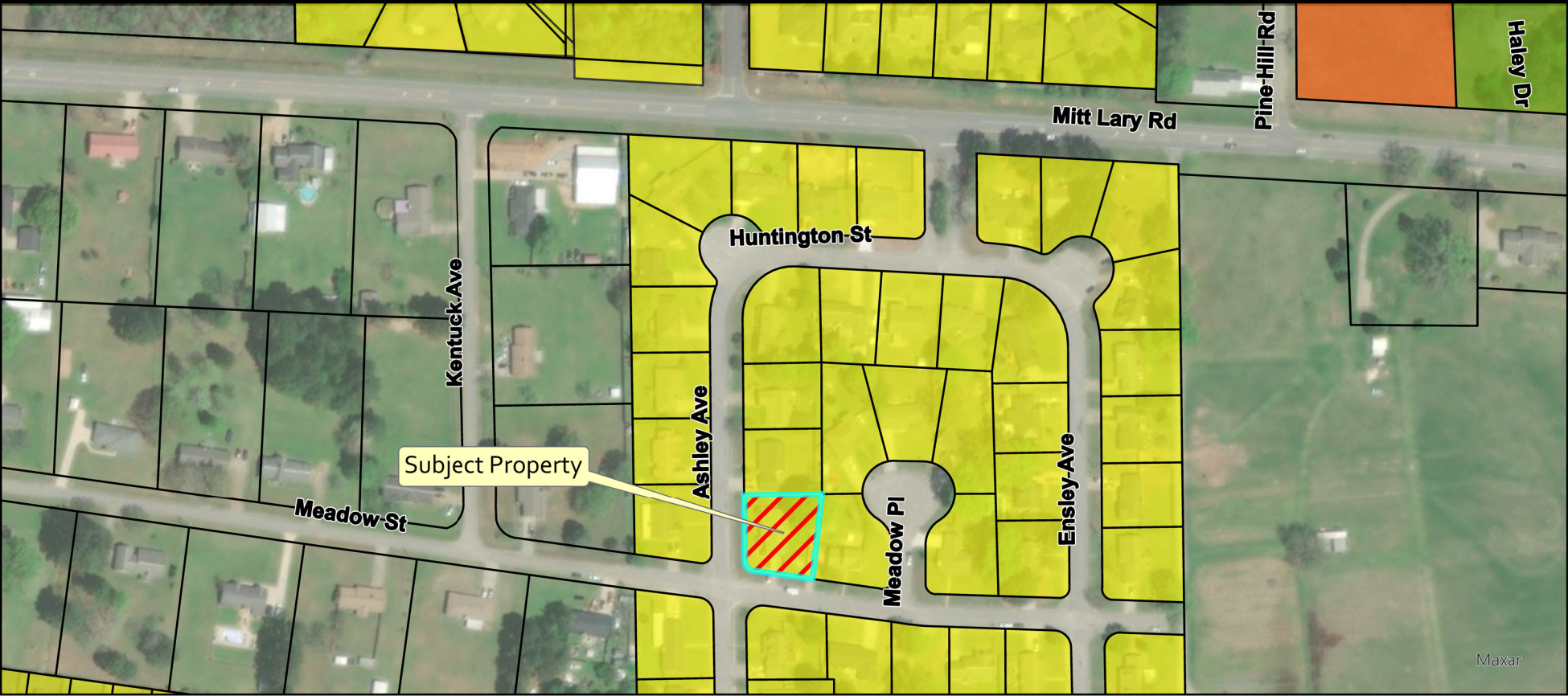
City of Northport Zoning Board of Adjustment

Zoning

-  Agriculture
-  Neighborhood Commercial
-  Residential Single-Family - 3
-  Residential Single-Family - 4
-  Subject Property



While the City of Northport, Alabama makes every effort to maintain and distribute accurate information, No Warranties and/or Representations of Any Kind are made regarding information, data or services provided. In no event, shall the City of Northport, Alabama be liable in any way to the users of this data. Users of this data shall hold the City of Northport, Alabama harmless in all matters and accounts arising from the use and/or accuracy of this data.





City of Northport

Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to planning@cityofnorthport.org.

PROCESS

1. You have requested a variance, special exception or interpretation of the Zoning Ordinance. The Zoning Board of Adjustment has the full authority to rule on cases such as this after a public hearing.
2. The Zoning Board of Adjustment meets in City Hall, located at 3500 McFarland Boulevard, in the Council Chamber at 6:00 p.m. on the third Thursday of each month.
3. You or your agent must be present at the meeting to explain your request and answer questions.
4. No later than the closing of business hours four weeks prior to the meeting, the following must be submitted to the Planning and Inspections Department:
 - An Administrative Appeal Application completely filled out and signed (page 2 and 3 of this packet);
 - The names and mailing addresses of all adjoining property owners as obtained from the Tax Assessor on the first floor of the County Courthouse. Adjoining owners include owners on all sides of the property in question and also the property across streets, creeks, power line right-of-ways, etc.;
 - A filing fee of \$75.00, plus certified mailing fees per adjoining property owner and advertising fees;
 - A small drawing (8x11) of the lot in question with dimensions; existing and proposed new construction with dimensions; distance to the property lines of all structures; any other concerns which may be applicable to your case, such as existing and proposed parking spaces, heights of structures, access roads, etc. The drawing are not required to be professionally prepared, but must be legible and accurate.
5. A decision of the Zoning Board of Adjustment is final. The Circuit Court will hear any appeals to the decision of the Zoning Board of Adjustments. Appeals to the Circuit Court must be applied for within 15 days after a final decision of the Zoning Board of Adjustment has been made.



City of Northport Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

Date of Application: 7/21/2022

SUBMITTAL CHECKLIST

- | | |
|--|---|
| ☐ Completed Application | ☐ Designation of Agent Form (if applicant is not property owner) |
| ☐ \$75 Appeal Fee (additional fees may apply) | ☐ Names and Addresses of all Adjoining Properties |
| ☐ Site Plan/Sketch (showing property lines, existing and proposed structures, and dimensions) | |

PROPERTY INFORMATION

Property Address: 11735 Ashley Ave Northport AL 35475
Property Subdivision and Lot Number: Huntington Meadows, Parcel #2005211001003010
Property Zoning District: Residential
Existing Buildings on Property: House w/Garage and Small Shed in Back Yard
Proposed Construction on Property: Fence over 4ft Tall at Side Yard

PETITIONER INFORMATION

Petitioner Name: Jason & Wendi Simmons
Petitioner Phone: (205) 826-5277 Petitioner Email: wendi.t.simmons@gmail.com
Petitioner Address (if different than property information above): Same

Petitioner is Owner of Property (if yes, skip owner information): ☐ Yes ☒ No

OWNER INFORMATION

Owner Name and/or Company: Wendi (Thigpen) Simmons
Owner Mailing Address: 11735 Ashley Ave Northport AL 35475
Owner Phone: (205) 826-5277 Owner Email: wendi.t.simmons@gmail.com

☒ BY CHECKING THIS BOX, I HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

The information contained in this document is true and correct and may be relied upon by the City of Northport. By typing my name and by checking this box, this acknowledges that I am bound by this document just as if I had signed the document rather than typed my name to this document.

Applicant Signature: Wendi Simmons Date: 7/21/2022



City of Northport Variance Application Packet

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planning@cityofnorthport.org.

REQUEST INFORMATION

Describe the nature of the request:

We are requesting a variance from City of Northport Ordinance 613 that states fencing in front yards must not exceed a height of 4ft.

Describe the special conditions pertaining to your property (or to your case) which sets your case apart from others in the same zoning district:

Our neighbors directly beside us at 11755 Ashley Avenue park numerous cars in the side yard that adjoins with our side yard. They have expressed concern over the neighborhood children playing in our front yard and possibly causing damage to their property. We believe the side yard fence at the current height of 6ft is necessary to maintain the property line between our side yards and also ensure no damage to property on either side. Please see attached photos of the vehicles parked in the side yard at 11755 Ashley Avenue.

Describe how your appeal (if granted) would impact neighboring properties or how it would or would not be contrary to the public interest:

Granting a variance for the fence to be over the maximum height of 4ft would have no impact on the neighboring properties or public interest. City Personnel has visited our property, inspected the fence, and advised that the fence does need to be moved back from the pole at the sidewalk; however, the current height of 6ft is of no concern.

Any additional information you would like to add to help process your request, including evidence of petitioner's interest in the property if petitioner is not the property owner:

We have lived at 11735 Ashley Avenue for over 15 years with no issues and would like to maintain our good standing in the community. Our intention with the fence was not to go against any rules or regulations of the city; it was only to protect the interests of our property and family. We are more than willing to make adjustments in the length of the fence; however, shortening the fence to 4ft would cause unnecessary financial hardship. To bring the fence height to code correctly and in an aesthetically pleasing way, the contractor has quoted a budgetary estimate of nearly the same cost as the original fence addition. Please consider allowing the height of the fence to remain at 6ft.

Google Maps 11735 Ashley Ave



Map data ©2022 , Map data ©2022 20 ft



11735 Ashley Ave

Building

- 

Directions
- 

Save
- 

Nearby
- 

Send to phone
- 

Share

 11735 Ashley Ave, Northport, AL 35475

Google Maps 11735 Ashley Ave



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11735 Ashley Ave

Building



Directions



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