

**MINUTES FOR THE CITY OF OLIVE BRANCH BOARD OF ZONING ADJUSTMENT  
REGULAR MEETING ON JUNE 8, 2023**

The City of Olive Branch Board of Adjustment meeting was held on Thursday, June 8, 2023, in the Olive Branch Municipal Court Room, located at 6900 Highland Street, at 6:00 p.m.

**CALL TO ORDER**

The meeting was called to order by Angela Cook, Vice-Chairman at 6:00pm.

**ROLL CALL**

The roll was called with Angela Cook, William Gray, Aretha Wiseman, Carl Williams and Darrel Berkley present, and a quorum was established. Jessica Cowan and Ted Roman were absent. Jason Gambone, Director, Venard Asongayi, Assistant Director, Brad Thomas, Associate Planner, Jeremiah McCroskey, Associate Planner, and Heather James, Planning Technician were present from the Planning and Development Department

**THE APPEAL PROCESS**

Mrs. Cook announced the Appeal Process.

**APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF MAY 11, 2023**

Mrs. Cook asked if anyone had any questions, comments or motions regarding the minutes of the May 11, 2023 meeting and there were none. **Mr. Williams made a motion to approve the minutes as submitted and was seconded by Mr. Gray with approval as follows:**

**Jessica Cowan – Absent      William Gray – Yes      Aretha Wiseman – Yes  
Ted Roman – Absent      Angela Cook – Yes      Darrel Berkley – Yes      Carl Williams – Yes**

**OLD BUSINESS**

**NEW BUSINESS**

1. Application for a Zoning Variance submitted by Marcus Fell, property owner, requesting to allow the construction of a 1600 sq. ft. detached accessory building to exceed 50% of the floor area of the principal structure. The 1.10 +/- acre subject property is zoned A-R, Agricultural-Residential District and is located on the east side of Alexander Rd, just south of April Springs Dr, known as 4800 Alexander Rd. (File # VR23-0004).

Mrs. Cook announced New Business Item Number 1 and asked for the staff report. Mr. McCroskey advised he wanted to make a correction. The year listed in Condition #3 should be 2023. He shared the following: **BACKGROUND:** Applicant Marcus and Alicia Fell purchased the 1.10+/- acre subject property in 2021. It is improved with a 2600 sq. ft. single family home that was constructed in 1991. The Fell’s immediate concern is to construct a 1600 sq. ft. storage building, which is needed for personal vehicle storage, recreational vehicle storage, inherited antique agriculture equipment and equipment needed to maintain their yard. This is a request for a variance from the zoning code provision stating that, “Accessory buildings not exceeding twenty (20) feet in height may be located in a rear yard but **may not exceed (50) percent of the floor area of the principal structure** nor occupy more than (30) percent of a rear yard...” With the current configuration placing the 1600 sq. ft. storage building in the rear yard, it is 65% the size of the principal structure (2600 sq. ft.). **RECOMMENDED MOTION:** Approve the variance to allow a 1600 sq. ft. accessory storage building on Lot 1, Gatewood Gardens Subdivision, which is 65% of the 2600 sq. ft. principal structure, finding that a hardship exists and all the criteria have been met, subject to the following conditions:

1. Applicant to obtain building permit for the 1600 sq. ft. storage building, maintaining setbacks, compliance with the 20 ft. maximum building height limitation, and other applicable codes
2. Within a 6 week period - until July 21, 2023 – applicant is to remove the temporary storage PODS.
3. The proposed structure is for personal storage and not a residence or commercial business.

This concluded the staff report. Mrs. Cook asked if there were any questions for staff and there were none. Mrs. Cook asked if there was anyone to represent the application and recognized Marcus Fell, 4800 Alexander Rd. He had nothing further to add to the report. Mrs. Cook asked if there were any questions for this applicant and there were none. Mrs. Cook asked if there was anyone else to speak for the application and there were none. Mrs. Cook asked if there was anyone to speak against the application and there none. Mrs. Cook asked if there was any discussion among the Board members. **Mr. Berkley made a motion to approve the variance to allow a 1600 sq. ft. accessory storage building on Lot 1, Gatewood Gardens Subdivision, which is 65% of the 2600 sq. ft. principal structure, finding that a hardship exists and all the criteria have been met, subject to the following conditions:**

1. **Applicant to obtain building permit for the 1600 sq. ft. storage building, maintaining setbacks, compliance with the 20 ft. maximum building height limitation, and other applicable codes**
2. **Within a 6 week period - until July 21, 2023 – applicant is to remove the temporary storage PODS.**
3. **The proposed structure is for personal storage and not a residence or commercial business.**

**Mr. Williams made the second and the motion was approved as follows:**

**Jessica Cowan – Absent      William Gray – Yes      Aretha Wiseman – Yes  
Ted Roman – Absent      Angela Cook – Yes      Darrel Berkley – Yes      Carl Williams – Yes**

2. Application for a Conditional use Permit submitted by Anthony Parish, AnSCO & Associates, LLC on behalf of AT&T Kentucky. The request is to allow a small cell facility, 35' in height to be installed in the public right-of-way. The proposed location is at the southeast corner of Hacks Cross Rd and HWY 302. (File #CU23-0008).

Mrs. Cook announced New Business Item Number 2 and asked for the staff report. Mr. Thomas shared the following: **BACKGROUND:** On April 16, 2019, the Board of Aldermen adopted an ordinance regulating “small cell” facilities, which are being utilized across the country in more urbanized areas to expand capacity and coverage for mobile data networks. In some cases, small cell antenna can be attached to existing support structures, such as a streetlight or on the rooftop of a commercial building. But for a new support structure to be built, the City’s regulations require issuance of a Conditional Use Permit (CUP) by the Board of (Zoning) Adjustment (BZA). This application requests a new small cell facility at the southeastern corner of the Hacks Cross Rd. and HWY 302 intersection. **RECOMMENDED MOTION:** Based on the findings that the request meets the four (4) criteria of the City’s adopted regulations for small cell technology facilities and its design guidelines, and that the six (6) standard criteria have also been adequately addressed, **approve** the CUP to allow a small cell pole to be installed in the public right-of-way at the southeastern corner of the Hacks Cross Rd. and HWY 302 intersection, subject to the following conditions:

1. The City Engineer or MDOT shall issue right-of-way permits to allow the small cell tower to be placed in the public right-of-way along Hacks Cross Rd.
2. Provide additional written evidence in accordance with the City’s small cell ordinance requirements demonstrating that no reasonable collocation opportunity exists.

This concluded the staff report. Mrs. Cook asked if there were any questions for staff and there were none. Mrs. Cook asked if there was anyone to represent the application and recognized Jay Elson, 1308 Red Stone Dr, Lexington, KY 40509. He advised they have their own guidelines to meet regarding co-locating on existing towers. Mrs. Cook asked if there were any questions for this applicant. Mr. Williams asked when checking for other possibilities, how large of an area do they search. They advised it depends on the area, but that the engineers take everything into consideration and make sure that the location closes the loop on dropped calls in an area. Mrs. Cook asked if there was anyone else to speak for the application and there were none. Mrs. Cook asked if there was anyone to speak against the application and there none. Mrs. Cook asked if there was any discussion among the Board members. **Mr. Williams made a motion, based on the findings that the request meets the four (4) criteria of the City's adopted regulations for small cell technology facilities and its design guidelines, and that the six (6) standard criteria have also been adequately addressed, to approve the CUP to allow a small cell pole to be installed in the public right-of-way at the southeastern corner of the Hacks Cross Rd. and HWY 302 intersection, subject to the following conditions:**

1. The City Engineer or MDOT shall issue right-of-way permits to allow the small cell tower to be placed in the public right-of-way along Hacks Cross Rd.
2. Provide additional written evidence in accordance with the City's small cell ordinance requirements demonstrating that no reasonable collocation opportunity exists.

**Mr. Gray made the second and the motion was approved as follows:**

**Jessica Cowan – Absent      William Gray – Yes      Aretha Wiseman – Yes  
Ted Roman – Absent      Angela Cook – Yes      Darrel Berkley – Yes      Carl Williams – Yes**

#### **OTHER BUSINESS**

1. Mr. Asongayi wanted to provide a comment to the Board regarding the Conditional Use Permit approved for the Fox Creek gas station. He noted that part of the approval included a rear drive. MDOT has asked for a traffic study because they feel that too many entrances may not be feasible for now. However, it will be constructed at some point in the future.

#### **ADJOURNMENT**

**Mrs. Cook stated there being no further business, could she entertain a motion to adjourn. Mr. Gray made a motion to adjourn, seconded by Mr. Berkley and the motion to adjourn the meeting at 6:27 p.m. was approved as follows:**

**Jessica Cowan – Absent      William Gray – Yes      Aretha Wiseman – Yes  
Ted Roman – Absent      Angela Cook – Yes      Darrel Berkley – Yes      Carl Williams – Yes**