



Agenda
City of Olive Branch
Board of Zoning Adjustment Meeting
6:00 PM
August 14, 2025

Call to Order:

Roll Call:

The Appeal Process

Approval of Minutes:

1. Minutes of July 10, 2025

Old Business:

New Business:

1. Application for a Zoning Variance, submitted by David and Ashlyn Lemley, property owners. The request is to permit an eight-foot privacy fence which is proposed to be two feet over the permitted six feet, in the rear yard. The 0.22+/- acre subject property is zoned R-3, Planned Residential District. It is Lot 104 of Alexander Crossing Subdivision, Phase 3, 1st Rev, located at the southwest corner of Crape Myrtle Dr. and Maple Grove Rd, and known as 7279 Maple Grove Rd. (File #VR25-0007).

Other Business

Adjournment

**MINUTES FOR THE CITY OF OLIVE BRANCH BOARD OF ZONING ADJUSTMENT
REGULAR MEETING JULY 10, 2025**

The Olive Branch Board of Adjustment meeting was held on Thursday, July 10, 2025, in the Municipal Court Room located at 6900 Highland Street, at 6:00 p.m.

CALL TO ORDER

The meeting was called to order by Mr. Roman, Chairman of Board of Zoning Adjustment, at 6:00 p.m.

Mr. Roman announced and welcomed the new member, McKeever Heun.

ROLL CALL

Ted Roman, William Gray, Jackie Butler, McKeever Heun, Aretha Wiseman, Darrel Berkley and Carl Williams were present, and a quorum was established. Jason Gambone, Director, Venard Asongayi, Assistant Director, Jeremiah McCroskey, Associate Planner, Kevin Norman, Senior Planner, and Heather James, Planning Technician were present from the Planning and Development Department.

THE APPEAL PROCESS

Mr. Roman announced the Appeal Process.

APPROVAL OF THE MINUTES OF THE JUNE 12, 2025 MEETING

Mr. Roman asked if anyone had any questions, comments or motions regarding the minutes of the June 12, 2025 meeting. **Carl Williams made a motion to approve the minutes. William Gray made the second and the motion was approved as follows:**

**William Gray – Yes McKeever Heun - Yes Aretha Wiseman – Yes
Ted Roman – Yes Jackie Butler – Yes Darrel Berkley – Yes Carl Williams – Yes**

OLD BUSINESS

1. Application for a public hearing to consider revocation of a Conditional Use Permit granted by the Board of (Zoning) Adjustment on October 10, 2019 (File # CU19-0013) to allow a towing service in the C-2, Highway Commercial District. The 2.94+/- acre property is located on the north side of Caroma Street and west of HWY 305, known as 8900 Caroma Street. The revocation request is submitted by the Department of Planning & Development staff (the administrative official) based on non-compliance with condition(s) of the Conditional Use Permit approval. (File # CU25-0004). (Tabled to this date at meeting of June 12, 2025).

- **APPLICATION SUMMARY**

On October 10, 2019, a Conditional Use Permit was granted by the Board of (Zoning) Adjustment to allow a towing service and motor vehicle repair on the 2.94+/- acre property located on the north side of Caroma Street and west of HWY 305, known as 8900 Caroma Street, Olive Branch, MS, for a period of twenty years (20 years), subject to various conditions. The property is zoned C-2, Highway Commercial District. Condition No. 6 stipulated that “A salvage yard is not permissible; outdoor storage of items including, but not necessarily limited to inoperable (other than those being repaired) and unlicensed vehicles, tires, vehicle parts, or scrap metal is strictly

prohibited.” As the administrative official, the Planning Staff requests the consideration of revocation of the subject Conditional Use Permit (CUP) based on violation of this Condition # 6.

- **STAFF PRESENTATION**

Associate Planner, Jeremiah McCroskey, presented the staff report, which is included herein by reference (File #CU25-0004). He said a series of 6-month checkups by staff could be added to any motion if the board wishes.

- **BOARD OF ZONING ADJUSTMENT INQUIRY AND STAFF RESPONSE**

Mr. Gray asked if there was just 1 parking spot for ADA requirements. Mr. McCroskey said the current size requires 1, but that they can add more as the business grows. Mr. Williams asked if the fence is over 4 feet. Mr. Asongayi said that yes, the perimeter is 6 feet and in the middle is 4 feet. Mr. Williams said the main eyesore is the fence facing the street that leaves the cars visible.

- **PUBLIC HEARING**

- **Proponents:**

- Nick Kreunen, 5779 Getwell Rd, Southaven, MS – they would like to request additional time. He said 1 year would give no buffer or cushion and it would take a full year to make all the improvements with no room to raise additional capital. He wants to ask for 2 ½ years, but will agree to checkups as suggested and will maintain cleanliness.
- Luis Hernandez, 8900 Caroma Street, Olive Branch, MS – he could answer any questions

- **Opponents:**

- None

- **BOARD OF ZONING ADJUSTMENT DISCUSSION**

Mr. Berkley said he went by yesterday and there appears to be a BBQ company trailer. Mr. Hernandez said it was axle work being done and the customer is picking it up today. Mr. Roman asked to make sure they were asking for 2 ½ years and Mr. Kreunen confirmed. Mr. Williams asked if the project could be done in phases. Mr. Kreunen advised once they start, they have to build. Mrs. Butler said the other things, paving, landscaping, etc. could be done in phases. Mr. Kreunen said once they start construction, the cars will all be removed and they won't be able to use any of their space for work. Mr. Hernandez advised they moved all cars off their property. Ms. Wiseman asked about the 2 ½ year timeframe and asked what could be done in the first year, just raise the funding for the expansion? Mr. Kreunen advised that was their plan, and to keep the area clean and free from violation. they want to start construction in the next 12-18 months and have complete within 2 ½ years. Mr. Gray asked if they could provide a step by step plan from now to completion. Mr. Kreunen advised they could provide a schedule for the full 2 ½ years. Mrs. Butler said if they could get financing sorted earlier, that they could finish earlier. Mr. Gambone said they could, in order to keep from tabling again, add to condition # 8: the applicant has 1 year to have site plan approved, or have staff review and approve the site plan within a year and to obtain a building permit. He said that would give them a year to get their plan approvals, permit received and financing approved, then they would have 18 months to complete the project. Mr. Asongayi offered another way to look at any approvals: All approvals should be received by July 9, 2026, building permit should be received by December of 2026 and then they would allow 1 year from that date for construction. He said we would have to build in time as the bank won't give any money until plans are approved. He said the only reason we are here is a violation, but that the violation is now gone. 6 month checkups by staff will prevent violations. A suggested timeline is as follows:

Civil site plan approval by July 9, 2026
Financing and building permit received by December 31, 2026
Construction finished by December 31, 2027

Mr. Heun said the main complaint seems to be seeing the cars through the fence and the landscape screening. Mr. Hernandez said they can cover the fence with some material as a screen. Mr. Asongayi said the code prohibits that type of fencing. No violation currently exists, and staff would prefer for the applicant to put all their resources on their final product. He said that staff would report back every 6 months with updates. Ms. Wiseman asked if it was from now, or July 2026. He advised it would be starting now and said they can add to the conditions that 6 month checkups start from today's date. Mr. Williams said the fencing code doesn't allow any covering for chain link fence. IF the landscaping at the beginning had been properly maintained, they would have a good screen now. He said the cloth to cover fence isn't allowed because it blows off and looks worse. Mr. Gambone suggested they spend the money on better plants to fill in gaps, that would be better than fixing the fence. Mrs. Butler said they could add an irrigation system so they don't die off again. Mr. Williams said that 2 ½ years is long, but he understands financing is challenging today. Ms. Wiseman said that 6 month checkups will help.

- **MOTION**

Mr. Williams made a motion, upon finding that the violation has been cured substantially, and that the proposed expansion meets the criteria for a conditional use permit, to approve the proposed expansion subject to the following:

1. All parking and loading stalls/areas must be maintained off-street and be striped to such dimensions as required in the Zoning Ordinance.
2. Add an ADA access aisle and ADA parking space.
3. Any signage shall comply with the requirements of the Sign Ordinance.
4. All cars on the property, including cars to be repaired and already repaired vehicles awaiting pickup, shall be parked within striped parking stalls.
5. There shall be no outdoor storage of materials, including but not limited to junk metal, vehicle parts, and other such materials associated with the conduct of the business.
6. All cars to be repaired and already repaired vehicles awaiting pickup shall be parked at the rear of the property and enclosed in an opaque 6ft. high fence, as depicted on the site plan and shall not be visible from Caroma Street or Olive Branch City Park.
7. Future expansion of the business shall require reconsideration of the Conditional Use Permit, irrespective of the 20-year validity of current approval.
8. Final Set of civil site, landscape plans, elevations and a lighting plan shall be submitted for administrative review and approval received by July 9, 2026.
9. Any dumpster on the site must be in a brick enclosure and shall meet other stipulations of the Design Review Ordinance of the City of Olive Branch.
10. The applicant shall complete the expansion by December 31, 2027. An updated status is required every 6 months by staff to BZA. The Planning Director or designee may extend this time for an additional six (6) months if the site is substantially expanded as depicted on the site plan by this date.

Ms. Wiseman made the second and the motion was approved as follows:

**William Gray – Yes McKeever Heun - Yes Aretha Wiseman – Yes
Ted Roman – Yes Jackie Butler – Yes Darrel Berkley – Yes Carl Williams – Yes**

NEW BUSINESS

1. Application for a Zoning Variance, submitted by Jacob Pierce, property owner. The request is to permit an eight-foot privacy fence, which is constructed two feet over the permitted six feet, in the rear yard. The 0.35+/- acre subject property is zoned R-2, Single Family Residential District. It is Lot 64 of Fox Run Subdivision, Sec D, located on the west side of Fox Meadows Dr., approximately 430 feet north of Fox Run Dr, and known as 7405 Fox Meadows Dr. (File #VR25-0006).

- **APPLICATION SUMMARY**

The applicant and property owner, Jacob Pierce, requests approval to allow a 2' fence height variance to permit an 8'tall portion (rear lot line) of an existing wooden fence located on his property at 7405 Fox Meadow Drive. The fence stands 6' in height along Fox Meadow and transitions to 8' along the side and rear lot line. The applicant claims that due to the elevation of their property and the grade change of the neighboring single-family residence to the west, that a hardship is present, and thus requests a height variance for the fence.

Article VII, Sec.2 (B)(1)(c)(ii)(B) stipulates that "Fences, walls, and hedges erected in the side and rear yard setback areas of a lot shall not exceed six (6) feet in height." To permit the continuation of the 8' high fence in the rear yard, therefore, a height variance is required.

- **STAFF PRESENTATION**

Associate Planner, Jeremiah McCroskey, presented the staff report, which is included herein by reference (File #VR25-0006).

- **BOARD OF ZONING ADJUSTMENT INQUIRY AND STAFF RESPONSE**

None

- **PUBLIC HEARING**

- **Proponents:**

- Jacob Pierce, 7405 Fox Meadows Dr, Olive Branch, MS – He had nothing to add to the report.

- **Opponents:**

- None

- **BOARD OF ZONING ADJUSTMENT DISCUSSION**

Mr. Williams asked if it tapers down from 8 to 6 on the sides? Mr. Pierce advised that was correct and that this includes a transition from 8 feet to 6 feet up along the sides. Mr. Heun asked how long this was good for. Mr. Asongayi advised that this variance will run with the land.

- **MOTION**

Mr. Gray made a motion, based on finding that a hardship does exist resulting from the sloping topography of the subject property, that the special circumstances are not a result of the applicant, that the variance will permit a fair enjoyment of property and not constitute a privilege to the applicant, and that all

of the criteria have been met, to approve the 2' height variance to allow the continuation of an existing 8' high fence at the rear yard setback of the property at 7405 Fox Meadows Dr.

Ms. Wiseman made the second and the motion was approved as follows:

William Gray – Yes McKeever Heun - Yes Aretha Wiseman – Yes
Ted Roman – Yes Jackie Butler – Yes Darrel Berkley – Yes Carl Williams – Yes

OTHER BUSINESS

ADJOURNMENT

Mr. Gray made a motion to adjourn the meeting at 6:52pm. Mrs. Butler made the second and the motion was approved as follows:

William Gray – Yes McKeever Heun - Yes Aretha Wiseman – Yes
Ted Roman – Yes Jackie Butler – Yes Darrel Berkley – Yes Carl Williams – Yes

REPORT TO THE BOARD OF (ZONING) ADJUSTMENT

CAPTION/SUBJECT: Application for a Zoning Variance, submitted by David and Ashlyn Lemley, property owners. The request is to permit an eight-foot privacy fence which is proposed to be two feet over the permitted six feet, in the rear yard. The 0.22+/- acre subject property is zoned R-3, Planned Residential District. It is Lot 104 of Alexander Crossing Subdivision, Phase 3, 1st Rev, located at the southwest corner of Cape Myrtle Dr. and Maple Grove Rd, and known as 7279 Maple Grove Rd.

- EXHIBITS:**
1. Applicant's request letter, site plan
 2. Site Pictures

BACKGROUND: David and Ashlyn Lemley, property owners, request a 2' fence height variance to permit an 8'tall fence at 7279 Maple Grove Rd. The property owners intend to add a 2ft fence topper to an existing 6ft high fence at the rear of the lot. The variance is requested on a topography basis.



Fig 1: Site Aerial View

ANALYSIS:

A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Ordinance would result in an unnecessary and undue hardship. The Board of (Zoning) Adjustment (BZA) may grant a request for a variance upon a finding that there are special conditions of the land exceptionally applicable to the property, the hardship is not created by the applicant, and the variance will permit a fair enjoyment of property and not constitute a privilege to the

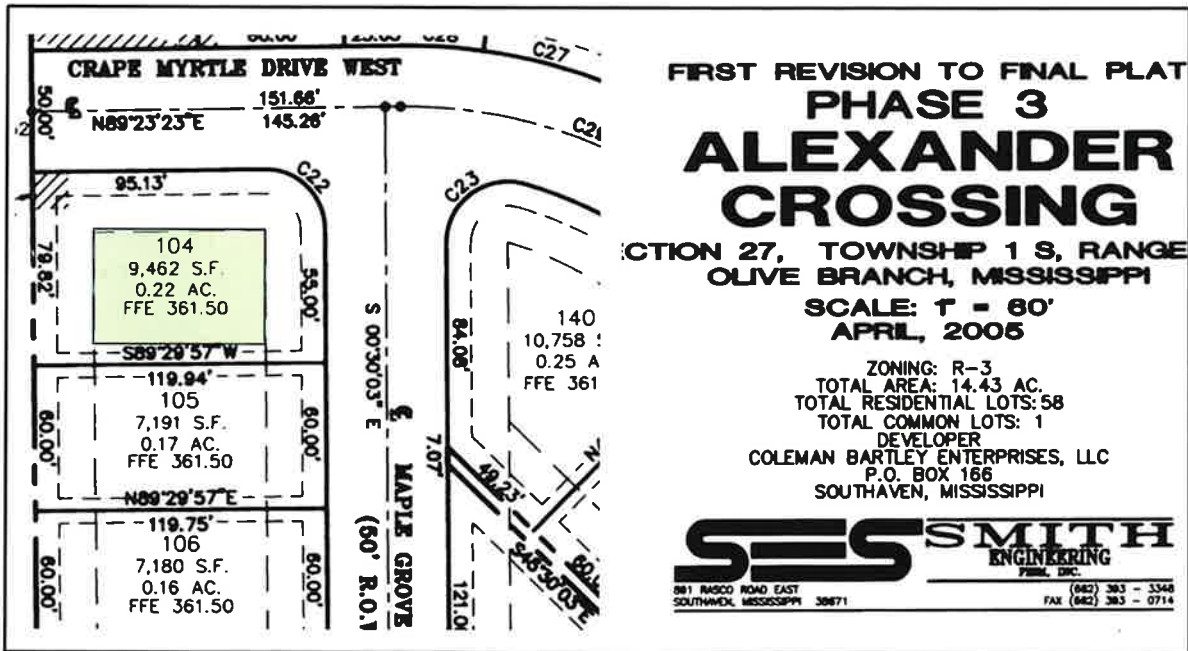
applicant. The Zoning Ordinance also stipulates that the potential for economic loss or gain on the part of the applicant cannot be considered a sufficient basis for the approval of any variance. The Code requires the BZA to make positive findings on each of the following criteria for approval:

1. *The variance requested arises from special conditions or circumstances which are unique due to the particular shape, size, location, or topography of a lot or parcel, or a structure thereon, and which are not ordinarily or generally found in the same zoning district.*

Staff Finding: The special condition regarding the subject property is the topography of the rear yard. The applicant claims that their lot grade is located at least 2' lower than that of the rear abutting property known as 7334 Raven Ln. (Lot 110). If the subject property's fence was constructed at 6', the grade change between the two properties would cause the rear yard of the subject property to have greater visibility and subject the owner to less screen and less privacy. Thus, a 2' height variance for the 6' fence is needed for reasonable privacy from the applicant's property.

2. *The special conditions or circumstances do not result from the actions of the applicant.*

Staff Finding: The as-built location of the building is not an act of the applicant.



3. *That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zone or district under the terms of the Ordinance.*

Staff Finding: A literal interpretation and enforcement of the applicable Zoning Ordinance stipulation would require the applicant to lower the height of the fence to 6'. Due to the topography

of the rear yard, a 6' high fence would not offer adequate privacy in the rear yard of the subject property and the rear yard of (Lot 110) because there is a significant grade change at the rear of the property. A 6' fence would deprive the applicant of privacy that is commonly enjoyed by others within the neighborhood.

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

Staff Finding: Granting the variance as requested would not confer on the applicant special privileges denied to other lands, structures, or buildings in the same district given similar circumstances. The purpose of the variance request is to foster the security of the property, which is accorded to other property owners in the vicinity of the property as earlier shown.

RECOMMENDED MOTION: Based on finding that a hardship does exist resulting from the sloping topography of the subject property, that the special circumstances are not a result of the applicant, that the variance will permit a fair enjoyment of property and not constitute a privilege to the applicant, and that all of the criteria have been met, approve the 2' height variance to allow the continuation of an existing 8' high fence at the rear yard lot line of the property at 7279 Maple Grove Rd.

- (1) A fence permit shall be obtained before erection of the fence. It shall be the responsibility of the property owner to ensure that the set back and easement distances as prescribed on the plat are met.

PREPARED BY: Jessica L McAuley DATE: 08/07/25
 CHECKED FOR SUBMISSION TO THE BOARD BY: _____ DATE: _____
 MOTION BY: _____ SECOND BY: _____

VOTE	BERKLEY	BUTLER	HUEN	GRAY	ROMAN	WILLIAMS	WISEMAN
YES	_____	_____	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____	_____	_____

David and Ashlyn Lemley

7279 Maple Grove Road

Olive Branch, MS 38654

aboals1@comcast.net

901-517-2403

Date: 7/11/2025

To:

Olive Branch Board of Adjustment

Olive Branch, MS

Subject: Request for Code Variance – Fence Height Adjustment

Dear Members of the Board,

We are writing to formally request a variance to allow for the modification of a new fence along the west side of our property. Specifically, we are seeking approval for an 8-foot-tall fence that tapers down to a 6-foot height on the north and south sides of both our property and that of our neighbors to the west. Our neighbors have agreed to this change, which will involve adding a 2-foot extension, similar to the one in Image 4, to the existing 6-foot fence between our properties as designated by the green portion of the sight plan. (See Image 1)

We respectfully submit the following considerations in support of our variance request:

- **Topographical Impact:** The need for this variance stems from the topography. The property directly to the west of our home was built at a significantly higher elevation than ours. (See Images 2 & 3)
- **External Circumstances:** This situation is not the result of any actions on our part, but rather the outcome of a newly constructed subdivision behind our home, where lots and homes were developed at elevated grades.
- **Privacy and Security:** Granting the variance for an 8-foot fence would help restore and preserve the privacy, security, and enjoyment of our outdoor space—conditions that have been compromised by the elevation difference.
- **Equity and Neighborhood Harmony:** Approval of this request does not confer any special privileges upon us. Instead, it restores a reasonable level of privacy for both our household and our neighbors to the west, whose property is similarly impacted.

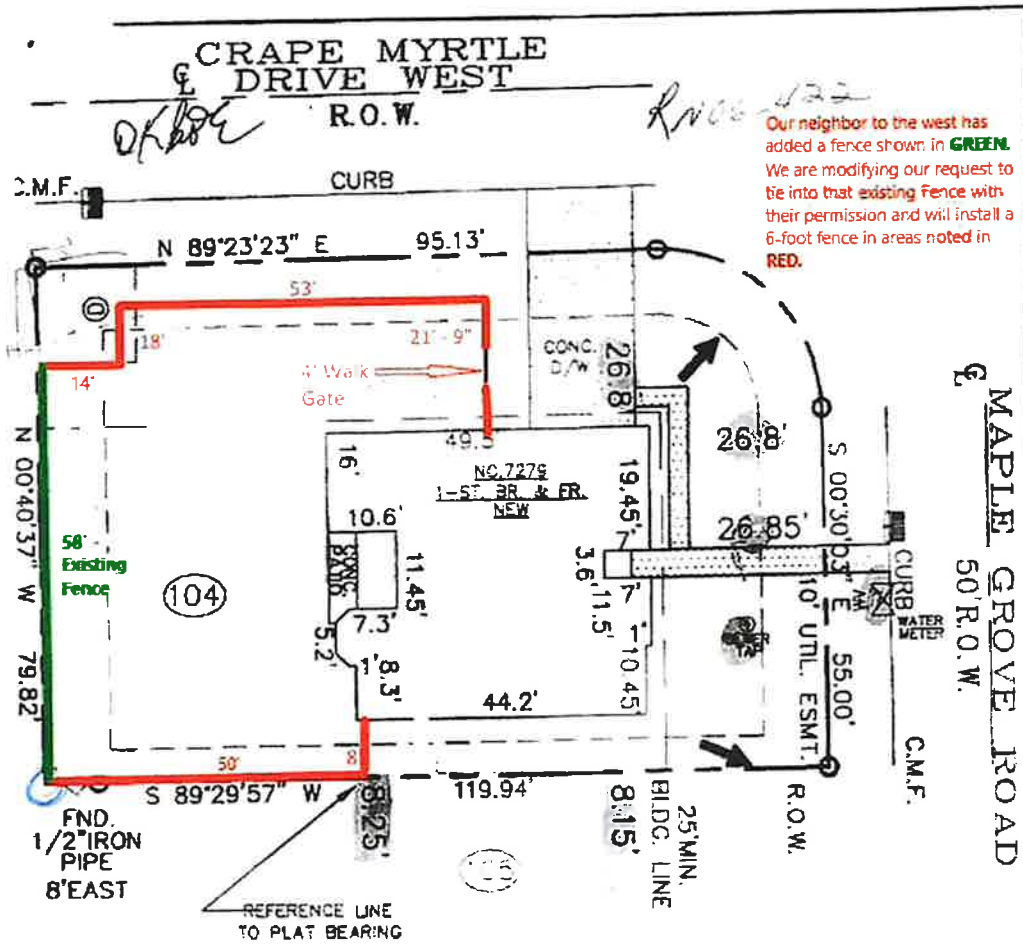
For your review, we have included a site plan and photographs to illustrate the topography and the proposed fence modifications. We look forward to discussing this matter further and answering any questions at the upcoming Board meeting.

Thank you for your time and consideration.

Sincerely,

David and Ashlyn Lemley

Sight Plan (Image 1)





May 19, 2025

DAVID and ASHLYN LEMLEY
7279 MAPLE GROVE RD
OLIVE BRANCH, MS 38654

RE: 7279 MAPLE GROVE RD
OLIVE BRANCH, MS 38654
dwjlemley@gmail.com

Dear Homeowner,

I am pleased to inform you that ***Alexander Crossing Homeowners Association #567 Architectural Committee has approved your request 016611 regarding your Fence according to the submitted plans which we have on file in this office.*** Any changes or deviations from your original plans must be submitted for subsequent review under the same policy outlined in the governing documents/architectural guidelines before installing the change.

Next, you will need to contact any applicable City/County Building or Planning Departments to see appropriate final permits for your project. Please keep this letter on file, as you may be required to show this proof of approval for final permits. Please call our office if you have any questions.

Thank you,

Amanda Wilson

Portfolio Manager
awilson@keithcollinsco.com

3400 PLAYERS CLUB PARKWAY SUITE 100 :: MEMPHIS :: TN 38125
PHONE (901) 753-4170 :: FAX (901) 753-6215

Image 2



Image 3



Image 4





Prepared By:

Home Surety Title & Escrow, LLC
5583 Murray Rd., Suite 120
Memphis, TN 38119
(901) 737-2100
HSTE# 241407

Return To:

Guardian Title, LLC
6080 Getwell Road, Suite 300
Southaven, MS 38672
662-262-1800

Grantor's Address:

Pacific Premier Trust, Custodian, FBO Max
Gunther IRA
1801 California St Suite 800
Denver, CO 80202
Work No.: 858-200-5177
Home No.: N/A

Grantee's Address:

David Lemley Jr. and Ashlyn Lemley
7279 Maple Grove Rd.
Olive Branch, MS 38654
Work No.: N/A
Home No.: 901-870-0650

INDEXING INSTRUCTIONS: Lot 104, Phase 3, First Revision, Alexander Crossing Subdivision, located in Section 27, Township 1 South, Range 6 West, DeSoto County, Mississippi as shown on plat of record in Plat Book 91, Page 41-42 in the Chancery Clerk's Office of DeSoto County, Mississippi, to which plat reference is hereby made for a more particular description of said property.

Property known as: 7279 Maple Grove Rd., Olive Branch, MS 38654
Tax Parcel ID Number: 1 06 8 27 09 0 00104.00

WARRANTY DEED

Pacific Premier Trust, Custodian, FBO Max Gunther IRA - Grantor(s)

David Lemley Jr. and Ashlyn Lemley - Grantee(s)

FOR AND IN CONSIDERATION of the sum of Ten and 00/100 Dollars (\$10.00), cash in hand paid, and other good and valuable considerations, Pacific Premier Trust, Custodian, FBO Max Gunther IRA, , do hereby sell, convey and warrant unto David Lemley Jr. and Ashlyn Lemley, as tenants by the entirety with full rights of survivorship and not as tenants in common, the land lying and being situated in DeSoto County, Mississippi and more particularly and certainly described as follows, to-wit:

Lot 104, Phase 3, First Revision, Alexander Crossing Subdivision, located in Section 27, Township 1 South, Range 6 West, DeSoto County, Mississippi as shown on plat of record in Plat Book 91, Page 41-42 in the Chancery Clerk's Office of DeSoto County, Mississippi, to which plat reference is hereby made for a more particular description of said property.

Being the same property conveyed to Pacific Premier Trust, Custodian, FBO Max Gunther IRA herein by Warranty Deed filed for record July 15, 2021 at Book 964, Page 593 as shown in the Chancery Clerk's Office of DeSoto County, Mississippi.

The grantor warrants, covenants and certifies that the subject property is not their homestead as defined by statute.

The warranty in this deed is subject to rights of way and easements for public roads and public utilities, subdivision and zoning regulations in effect in DeSoto County, Mississippi, and further subject to all applicable building restrictions and the restrictive covenants of record.

This conveyance is made subject to:

2024 DeSoto County consolidated taxes, liens, not yet due and payable.

Subdivision Restrictions, Building Lines and Easements of record recorded at Plat Book 91, Page 41-42 and Plat Book 501, Page 613 as shown in the Chancery Clerk's of DeSoto County, Mississippi.

Easements recorded at Book 100, Page 395 and Book 37, Page 374 as shown in the Chancery Clerk's Office of DeSoto County, Mississippi.

Restrictive Covenants and Restrictions recorded at Book 409, Page 455 and Book 466, Page 131 as shown in the Chancery Clerk's Office of DeSoto County, Mississippi.

This document was prepared from information furnished by the parties herein for which the preparer assumes no responsibility.

IT IS AGREED and understood that the taxes for the current year have been prorated as of this date on an estimated basis, and when said taxes are actually determined, if the proration as of this date is incorrect, then the parties hereto agree to pay on the basis of an actual proration.

WITNESS our signature this 29 day of March, 2024.

Seller(s):

Pacific Premier Trust, Custodian, FBO Max Gunther IRA

[Handwritten Signature]

By: Max Gunther
Its: Authorized Signer

State of _____

County of _____

Personally appeared before me, the Undersigned, a Notary Public in and for said County and State, duly commissioned and qualified, Max Gunther, the within named Authorized Signer of the Pacific Premier Trust, Custodian, FBO Max Gunther IRA, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence and who acknowledged that they executed the foregoing instrument for the purpose therein contained.

Witness my hand and seal this 29 day of March 2024.



Notary Public: Laurens William Youmans IV; Notary Public
My Commission Expires: _____