

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

Board of Adjustment

AGENDA

9/8/2021

I. Business Meeting

1. Review and approval of the September Special Called meeting agenda
2. Introductions

II. Public Hearing

1. Presentation of Petitions for Public Hearing

- A. A petition has been filed by Sidney and Richie Malone, Owners, as required in the Land Development, Ord. No. 3209, to request a variance from Section 6 Table 6.1 “Minimum Front Setback” for B-5, “30 feet”, and instead allow a setback of three (3) feet for a variance of twenty-seven (27) feet along Pritchard Street for 5216 Old Hwy 42 (Parcel 2-028A-05-001.00, PPIN 26029; Parcel 2-029D-04-016.01, PPIN 38984, Parcel 2-029D-04-016.00, PPIN 25933; and a newly created, unzoned parcel described below, pending transfer from City of Hattiesburg, Ward 2).

III. Other Business

IV. Adjournment



Department of Urban Development

MEMORANDUM

TO: Board of Adjustment
FROM: Planning Staff
DATE: August 30, 2021
SUBJECT: September 8, 2021 – Board of Adjustment Special Called meeting

The Board of Adjustment will meet in a **Special Called session at 3:30 pm. Wednesday September 8, 2021** in the dining room of the Jackie Dole Sherrill Community Center. This is at the request of Administration.

Due to the ongoing public health concerns of COVID-19, social distancing requirements will be observed. The public and members may attend virtually via GoToMeeting:

<https://www.gotomeet.me/COHPlanningDivision/publichearing>

You can also dial in toll-free using your phone:

United States: +1 (571) 317-3122; Access Code: 630-312-989

The attached Board of Adjustment Special Called agenda contains one (1) item: one (1) setback variance.

If unable to attend, or if you know that you will need to recuse yourself from any item, please contact our office prior to the meeting date so we can ensure a quorum.

If you have any questions or need further information, please do not hesitate to call me at (601)545-4599.

Enclosure

cc: Toby Barker, Mayor
Ann Jones, Chief Administrative Officer
Randy Pope, City Attorney
Jim Gladden, Attorney
Ronda Cole, Council Clerk
Andrew Ellard, Director of Urban Development
Wiley Quinn, Code Enforcement Manager
Caroline Miles, Planner
Russell Archer, Historic Planner
Lamar Rutland, Director of Engineering
Andy Parker, City Arborist
Nathan Satcher, Planning Office Manager

SUBJECT PARCEL:
5216 Hwy 42

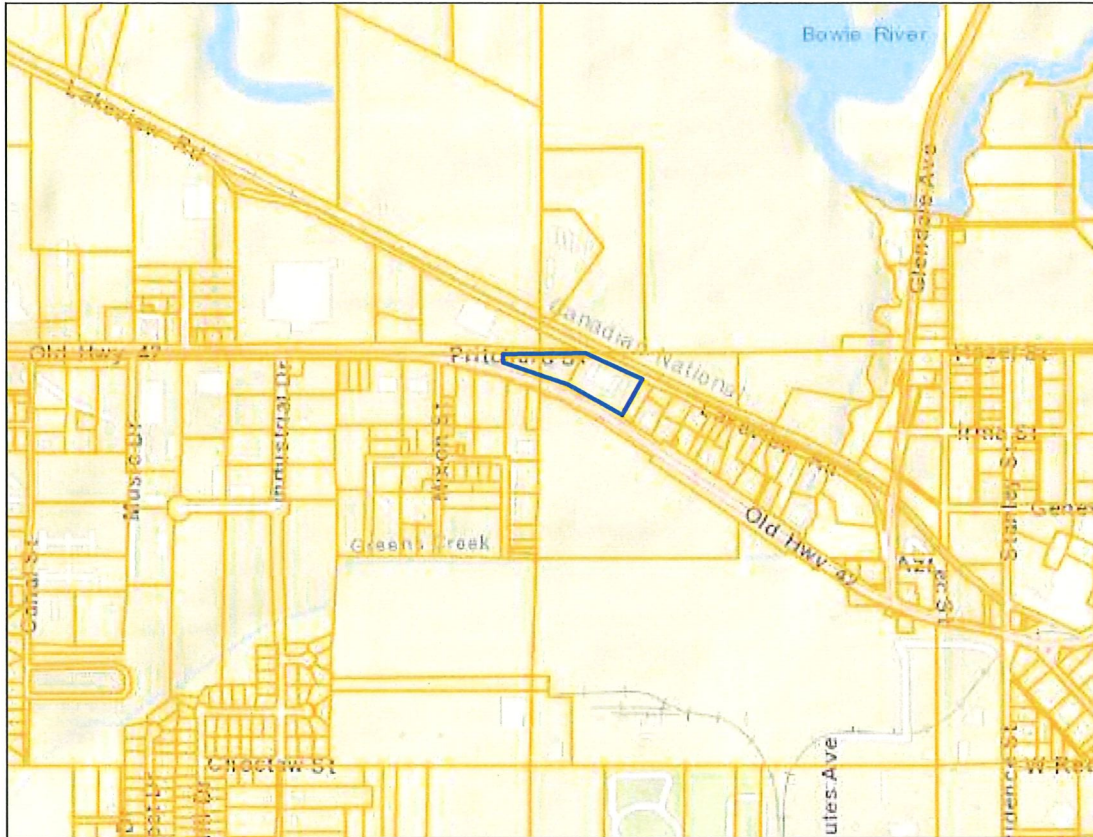
Sidney and Richie Malone, Owners

The petitioners request:

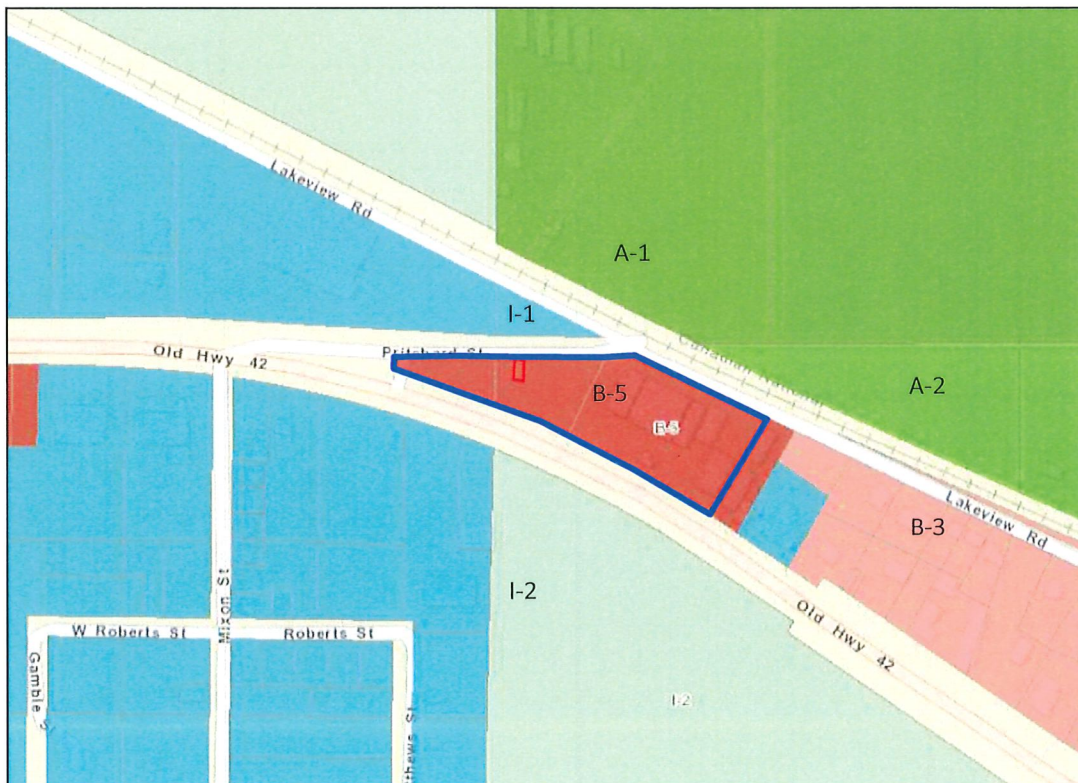
To vary from Section 6 Table 6.1 “Minimum Front Setback” for B-5, “30 feet”, and instead allow a setback of three (3) feet for a variance of twenty-seven (27) feet along Pritchard Street for 5216 Old Hwy 42 (Parcel 2-028A-05-001.00, PPIN 26029; Parcel 2-029D-04-016.01, PPIN 38984, Parcel 2-029D-04-016.00, PPIN 25933; and a newly created, unzoned parcel described below, pending transfer from City of Hattiesburg, Ward 2).



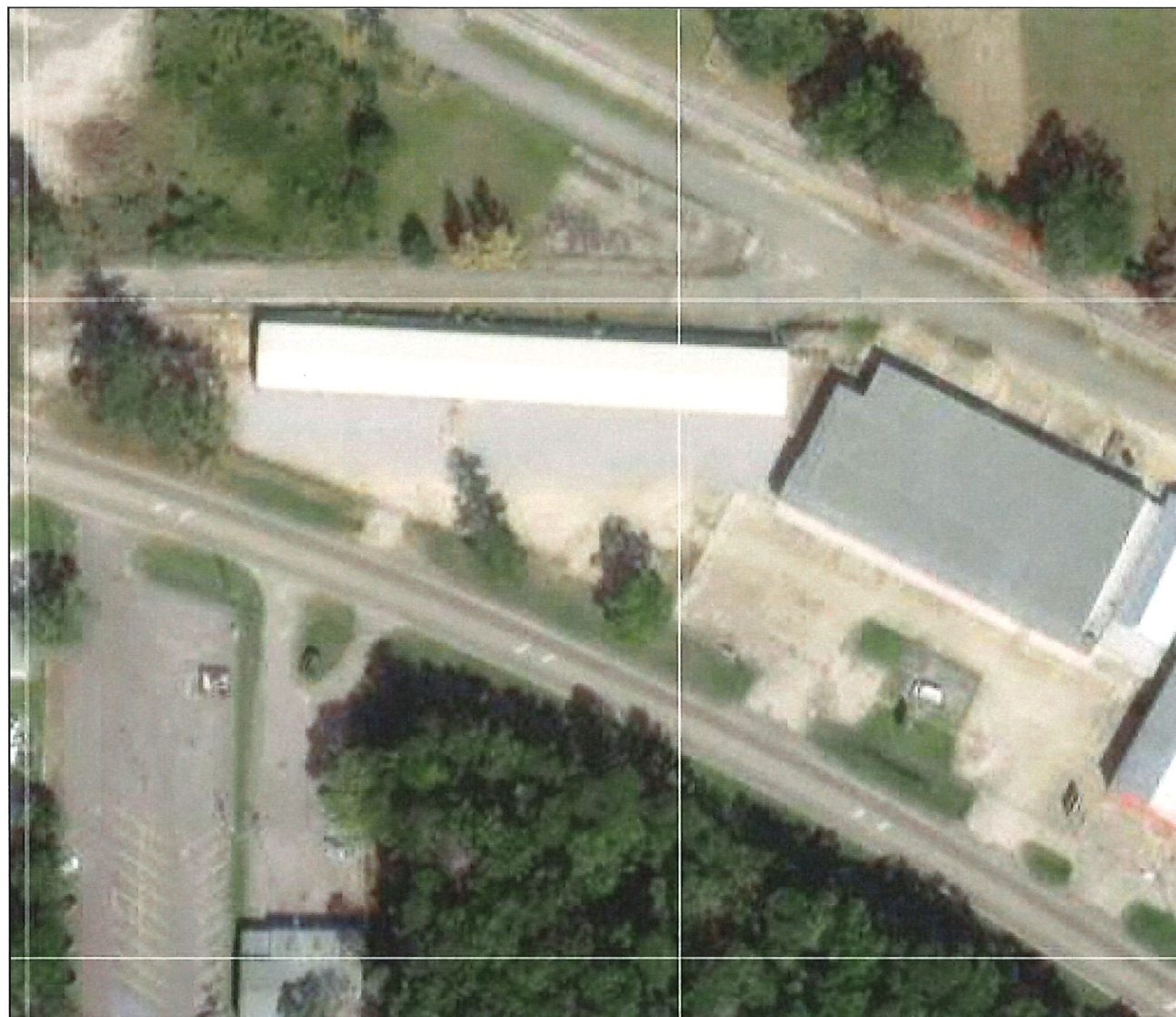
Vicinity Map—Ward 2



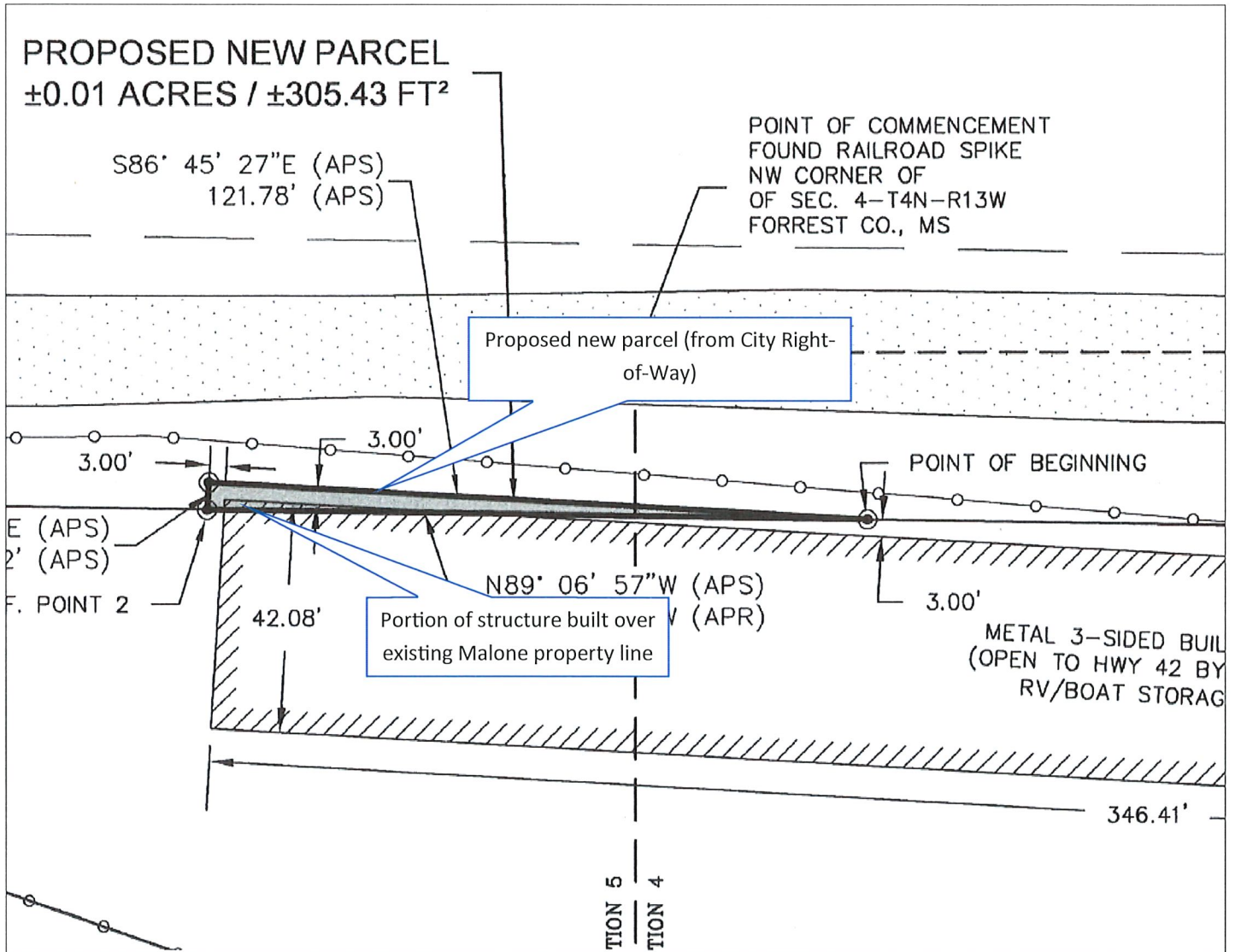
Zoning—B-5



Site Aerial



Enhanced View– Newly Created Parcel



SURROUNDING AREA

Northern Direction: I-1 (Light Industrial) District/ Undeveloped



Southern Direction: I-1 (Light Industrial) District/ Telecommunications



Eastern Direction: B-5 (Regional Business) District/ Self-Storage



Western Direction: I-1 (Light Industrial) District/ Warehousing and Distribution

Structure Photos

EASTERN PORTION LOOKING
FROM HWY 42 SETBACK SIDE



LOOKING TO WEST FROM HWY 42
SETBACK SIDE



PRITCHARD STREET SETBACK
LOOKING TOWARD LAKEVIEW RD

PRITCHARD STREET SETBACK
LOOKING TOWARD HWY 42





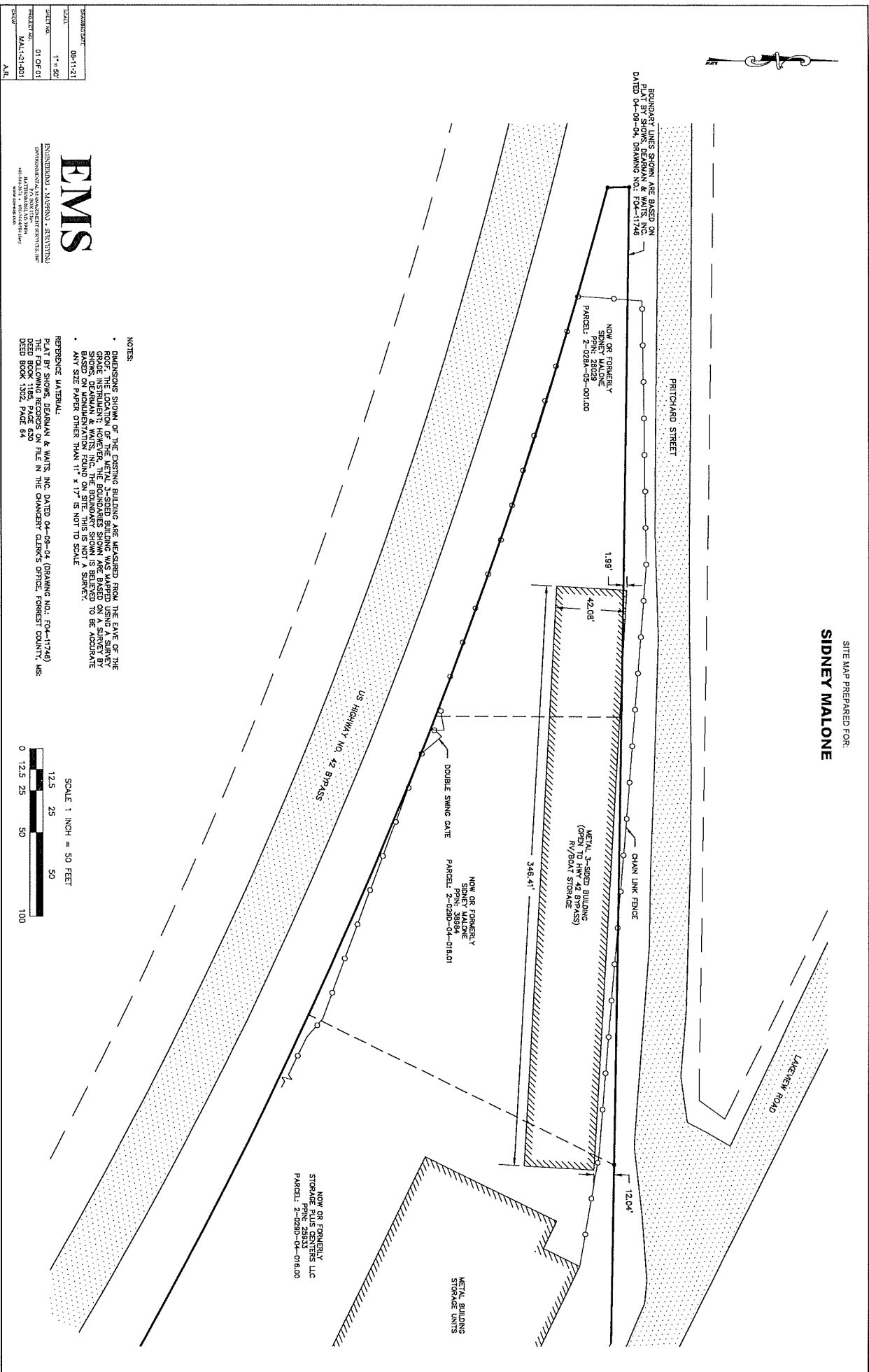
ALLEN M. RUSSELL
LICENSED PROFESSIONAL
SURVEYOR
8-17-21
PS-25134
STATE OF MISSISSIPPI

SURVEY PREPARED FOR:

SIDNEY MALONE

A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 4, AND A
PART OF THE NE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 5,
TOWNSHIP 4 NORTH, RANGE 13 WEST,
FORREST COUNTY, MISSISSIPPI.

SITE MAP PREPARED FOR:
SIDNEY MALONE





**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Sidney and Richie Malone, Owners

Address of Property:	Tax Parcel	PPIN:	Ward:
5216 Hwy 42	2-028A-05-001.00	26029	2
	2-029D-04-016.01	38984	
	2-029D-04-016.00	25933	
	Unzoned parcel		

Requests: Front setback variance

Purpose of Request: To vary from Section 6 Table 6.1 "Minimum Front Setback" for B-5, "30 feet", and instead allow a setback of three (3) feet for a variance of twenty-seven (27) feet along Pritchard Street for 5216 Old Hwy 42 (Parcel 2-028A-05-001.00, PPIN 26029; Parcel 2-029D-04-016.01, PPIN 38984, Parcel 2-029D-04-016.00, PPIN 25933; and a newly created, unzoned parcel described below, pending transfer from City of Hattiesburg, Ward 2).

Applicant Summary: See Attached

Applicable Regulations:

Table 6.1 Dimensional Standards										
District	Minimum Lot Size in SF/ Width at Setback	Max. Dwelling Units	Max. Floor Area Ratio	Setbacks in feet				Max. Height*	Max. Impervious Surface Lot Coverage	Buffer in Feet
				Min. Front	Max. Front	Min. Side	Min. Rear			
B-5	No minimum/ 100	-	1.50	30	150	0 or 10	0	72 feet or 6 stories	90%	50

6.3 Yard and Setback Modifications, Generally.

6.3.1.2 Where a lot fronts on two nonintersecting streets or two intersecting streets forming an angle of 60 degrees or less, front yards shall be provided on both streets.

Present Zoning:	These parcels are zoned B-5 (Regional Business) District.
Present Use:	Self-storage
Future Land Use:	Regional Business
Surrounding Zoning and Land Use:	North: I-1 (Light Industrial) District/ Undeveloped South: I-1 (Light Industrial) District/ Telecommunications East: B-5 (Regional Business) District/ Self-Storage West: I-1 (Light Industrial) District/ Warehousing and Distribution
Most Nearly Bounded By (streets):	The parcels are most nearly bounded to the north by Pritchard Street, to the south by Highway 42, and to the east by Lakeview Road. They are accessible by Highway 42.
Letters or Concerns stated:	The Planning Division Office has not received any letters or other written communications relative to this case, as of August 27, 2021. The applicant provided letters of support from neighboring properties.
History / Background:	In January 2020, the applicant met with staff in Pre-Application to discuss the expansion of their existing self-storage business onto the subject property. The applicant was informed that staff could not approve the proposed expansion for an RV storage facility due to zoning limitations. Staff informed the applicant that the property would need to be rezoned to B-5 for the proposed use to be approved. The applicant was provided notes from this Pre-Application meeting, which included the next step directions for both the rezoning process and site plan review. The applicant applied for a rezone of the two western parcels from I-1 and B-3 to B-5 in March 2020. The zoning change was approved by City Council on March 17, 2020. On March 18, 2020, the applicant applied for a building permit for the RV storage structure. The applicant was referred to the Planning Division, where staff informed the applicant that site plan review was required for the project. Administration issued the building permit for the structure, and the applicant was informed that site plan review and approval would still be required.

The applicant emailed staff a site plan of the expansion in mid-July 2020. Staff internally reviewed the site plan and provided both the original Pre-Application notes along with some additional notes and requested that the applicant submit for formal site plan review. Staff did not receive further communication and so reached back out to the applicant requesting they submit for formal site plan review in late October 2020.

In June 2021, staff met a potential purchaser of the property. Staff informed the purchaser of the ongoing LDC compliance issues on the site. In July 2021, staff met with a different potential purchaser of the property and discussed the same compliance issues. The applicant reached out to staff in July 2021 to discuss site compliance.

The applicant is now seeking a front setback variance on the Pritchard Street frontage. Though this is the rear side of the completed building, it is still reviewed as a front setback. Per LDC 6.3.1.2, a front setback is required on both Hwy 42 and Pritchard Street.

The finished building was constructed over the applicant's property line and so a portion of the western end of the building is built within the City's right-of-way. See the "Newly Created Parcel" Image Sheet and the applicant provided site plan for reference. Pending City Council approval, Administration is agreeable to sell the portion of the right-of-way containing the building to the applicant. As of September 1, 2021, the proposed sale of right-of-way is not yet complete and still requires City Council approval.

In addition to meeting the front setback requirement along Pritchard Street, the site will have to come into compliance with LDC design standards, conditions for use for self-storage facilities (LDC 5.4.40) and the relevant adopted ICC codes.

Basis for Approval (12.4.1.1):

I. Hardship.

- The hardship is unique to the property and is not or will not be caused by the actions or inactions of the applicant.
- There are exceptional conditions creating an undue hardship applicable only to the property involved or the intended use which do not apply generally to the other land areas or uses within the same zoning district.

II. Special Privilege. A variance shall not confer any special privilege that is denied to other lands or structures in the same zoning district.

III. Literal Interpretation. The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would cause unnecessary and undue hardship on the applicant.

IV. Reasonable Use. The applicant cannot make reasonable use of the property without

the requested variance.

V. Minimum Required. The granting of a variance is the minimum variance that will make possible the reasonable use of the land or structure.

VI. Conformance with the Purposes of this Code. The granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code.

Variance Information

The Board of Adjustment has the responsibility to hear and make recommendation on requests for variances to the requirements of this Code (per Section 11.4.). Section 12.4.1 Variances are departures from the standards of the Land Development Code, except land use, which will not be contrary to the public interest and where, owing to conditions peculiar to the property and not as a result of the action of the applicant, a literal enforcement of this Code would result in unnecessary and undue hardship.

The following conditions must be met before a variance can be recommended. Not all criteria must be met. However, a strong application will meet multiple criteria.

Approval Criteria.

A variance is not a right, but a privilege that property owners meeting the following criteria may request. These criteria are to be used to consider all variance requests. It shall be the burden of the applicant to prove that the request meets these criteria. Use this worksheet or format your own to demonstrate the following criteria.

1. **Hardship.** (a) The hardship is unique to the property and is not or will not be caused by the actions or inactions of the applicant. (b) There are exceptional conditions creating an undue hardship applicable only to the property involved or the intended use which do not apply generally to the other land areas or uses within the same zoning district.

2. **Special Privilege.** A variance shall not confer any special privilege that is denied to other lands or structures in the same zoning district.

3. **Literal Interpretation.** The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would cause unnecessary and undue hardship on the applicant.

Variance Information

4. **Reasonable Use.** The applicant cannot make reasonable use of the property without the requested variance.

THE ACTUAL PLACEMENT OF THE SHED ON THE PROPERTY DIFFERS SLIGHTLY FROM THE PLAN. THE DIFFERENCE WAS UNINTENTIONAL AND MAY HAVE BEEN CAUSED BY CONTRACTOR MISCALCULATION. THE BUILDING IS NOW WITHIN THE 10' SETBACK REQUIRED FROM PROPERTY LINE. A VARIANCE IS BEING REQUESTED TO AVOID VIOLATION OF CODE.

5. **Minimum Required.** The granting of a variance is the minimum variance that will make possible the reasonable use of the land or structure.

THE ONLY VARIANCE BEING REQUESTED IS THE MINIMUM REQUIRED TO AVOID VIOLATION OF CODE FOR SETBACK REQUIREMENT.

6. **Conformance with the Purpose of this Code.** The granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code.

SINCE THE AMOUNT OF VARIANCE REQUESTED IS SO SMALL, WE DO NOT BELIEVE THAT ANY CONFLICT IS CAUSED WITH THE PURPOSES OF THE LAND DEVELOPMENT CODE.

12.4.1.2 Conditions of Approval. In recommending the granting of a variance, the Board of Adjustment may require appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Code. The recommendation of the Board of Adjustment shall be presented to the City Council for final action.

Date: 08-23-2021

To: City of Hattiesburg, Planning Division

From: Imperial Dade Co.
5192 Old Highway 42
Hattiesburg, MS 39401

I approve of the variance that Storage Plus Centers is applying for regarding the setback on the RV storage building.

Company Representative: Brenda Bernhard

Printed Name: BRENDA BERNHARD

Date: August 18, 2021

To: City of Hattiesburg, Planning Division

From: Dismas Charities
5209 Old Highway 42
Hattiesburg, MS 39401

I approve of the variance that Storage Plus Centers is applying for regarding the setback on the RV storage building.

Company Representative: Raymond J. Weis President/CEO
Dismas Charities Inc
Printed Name: Raymond J. Weis

Date: 8/17/21

To: City of Hattiesburg, Planning Division

From: ComSouth, Inc.
5211 Old Highway 42
Hattiesburg, MS 39401

I approve of the variance that Storage Plus Centers is applying for regarding the setback on the RV storage building.

Company Representative: Redd Marsh

Printed Name: Redd Marsh