

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

Board of Adjustment

AGENDA

2/2/2022

I. Business Meeting

1. Review and approval of February meeting's agenda
2. Review and approval of the minutes of the December 2021 meeting
3. Review and approval of the minutes of the January meeting
4. Planning Report
 - A. Nominations
5. Chair's Report
6. Introductions

II. Public Hearing

1. Presentation of Petitions for Public Hearing

A. A petition has been filed by Robert G Smith and Gary W Adams, Owners, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 6, Table 6.1 of the Land Development Code, Ord. No. 3209 "Minimum Side Setback" for R-1A, "10 feet", and instead allow a setback of zero (0) feet for a variance of ten (10) feet, and from Section 5.4.2.6.iii, Accessory Buildings "Accessory residential structures shall be ... five (5) feet from the side property lot." for a variance of five (5) feet for a proposed accessory building at 2505 Arcadia Street (Parcel 2-039B-17-136.00, PPIN 24511, Ward 4).

B. A petition has been filed by Terry G. Edwards, Owner as required in the Land Development Code, Ord. No. 3209, to request a variance from Section 5.4.2.5, of the Land Development Code, Ord. No. 3209, "Structures accessory to residential uses shall have a combined floor area of no more than 33% of the total floor area of the principal structure." and instead allow for a total of 65% of the total floor area of the detached accessory structures to the principal structure for a variance of an additional 662 sq ft of detached accessory structures for a proposed structure at 243 Jervis Mims Road (Parcel No. 2-051B-05-001.06, PPIN 35886, Ward 5).

C. A petition has been filed by by Donna Davis, Owner, as required in the Land Development Code, Ord. No. 3209, to request a variance from Section 7.9.8.6 which states, "The maximum height of fences and walls shall be four feet above grade when located in a front yard. Otherwise the maximum height of a fence is eight feet" and instead allow for a ten (10) foot fence in the rear and side yard for a variance of two (2) feet and an eight (8) foot fence in the front yard for a variance

of four (4) feet for a proposed fence located at 310 Venetian Way (Parcel No. 2-028J-08-053.00, PPIN 22740, Ward 4).

- D. A petition has been filed by Robbie Nguyen, Applicant, and Shea McNease, Engineer, as required in the Land Development Code, Ord. No. 3209, to request a variance from Section 6, Table 6.1 “Min/Max Front Setback” for I-1, “40 feet”, and instead allow a setback of fifty (50) feet along Sullivan Drive and four hundred six (406) feet along J M Tatum Industrial Drive for a variance of three hundred sixty-four (364) feet along Sullivan Drive and for a variance from Table 7.11-2 Zoning Buffer Req. of 60’ and instead allow a buffer of thirty (30) feet for a thirty (30) feet variance for a proposed development on J M Tatum Industrial Drive and Sullivan Drive (Parcel No. 2-042M-35-003.01, PPIN 36249; Parcel No. 2-042M-35-003.00, PPIN 17235; Parcel No. 2-042M-35-005.00, PPIN 27756, Forrest Co. Ward 5).

III. Other Business

IV. Adjournment

**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG BOARD OF ADJUSTMENT
December 1, 2021**

The Hattiesburg Board of Adjustment did meet in regular session on December 1, 2021, at 3:30 PM at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Shawn Harris, Chair, presided over the meeting. A quorum was indicated and the attendance was as follows:

Board Members Present: Victoria Bolls (via GoToMeeting)
Bruce Betts, Vice-Chair
Dick Conville
Shawn Harris, Chair
Lucy Parkman
Stacy Ready (via GoToMeeting)
James Trussell (via GoToMeeting)
Brandon Williams (via GoToMeeting)

Board Members Absent: Bernard Green
James Hughes
Victoria Bolls
Bruce Betts, Vice-Chair

Also Present: Andrew Ellard, Director
Ginger Lowrey, Planning Division Manager
Jim Gladden, Esq.

Shawn Harris, Chair, declared the meeting of the Hattiesburg Board of Adjustment open and in session at 3:51 PM.

AGENDA REVIEW

There came the matter of the December 2021 Agenda. A motion was made to approve the December 2021 Agenda by Dick Conville and seconded by Lucy Parkman.

Board Members voting aye: Victoria Bolls (via GoToMeeting)
Bruce Betts, Vice-Chair
Dick Conville
Shawn Harris, Chair
Lucy Parkman

Stacy Ready (via GoToMeeting)
Brandon Williams (via GoToMeeting)

Board Members voting nay: None

MINUTES REVIEW

There came the matter of the October 6, 2021. Shawn Harris requested a motion to approve the minutes. A motion was made to approve the minutes by Brandon Williams and seconded Stacey Ready.

Board Members voting aye: Victoria Bolls (via GoToMeeting)
Bruce Betts, Vice-Chair
Dick Conville
Shawn Harris, Chair
Lucy Parkman
Stacy Ready (via GoToMeeting)
Brandon Williams (via GoToMeeting)

Board Members voting nay: None

Board Members Absent from Voting: James Trussell (via GoToMeeting)

REPORTS

PLANNING REPORT

Ginger Lowrey, Planning Division Manager, provided the Planning Report. On October 19, 2021 City Council approved the front setback variance request of 110 feet along US HWY 98 (to be located at 6365 US HWY 98 (BOA recommendations upheld).

CHAIR'S REPORT

Shawn Harris thanked the staff for their work while being extremely understaffed.

INTRODUCTIONS

Board members introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

Shawn Harris declared the Public Hearing for the Board of Adjustment open at 3:53 PM

There came the matter of Item A (Maximum Front Setback Variance), Greg Hodges, Representative, John C. Anglin, Engineer, and Merchants & Marine Bank, Owner, as required in the Land Development Code, Ord. No. 3209, to request a variance from Section 6, Table 6.1

“Maximum Front Setback” for B-5, “30 feet”, and instead allow a setback of ten feet (10) feet for a variance of twenty feet (20) feet along Coca-Cola Ave for a proposed building to be located at 4607 Hardy (Parcel 051Q-12-001.000, PPIN 21451, Lamar Co., Ward 3).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	John Anglin	6652 US HWY 98	Hattiesburg, MS
	Rion Snowden	127 Buschman St	Hattiesburg, MS

Proponents:

Opponents: None

John Anglin, representative, presented the application. Mr. Anglin pointed out the peculiar shape of the lot along with having two front setbacks as a corner lot adds challenges to making use of the property without variances. He also noted that the existing building on site that is to be demolished is closer to the Coca-Cola Ave frontage than what the variance they are requesting the new building will be. Rion Snowden, the architect for the project, clarified the design layout for the proposed building.

Shawn Harris declared the Public Hearing closed and the Business Meeting open on Item A. Commissioner Conville noted the lack of hardship for this property, stating the only hardship is created by the designer of the site and that this does not meet the criteria for a variance. Shawn Harris made a motion to approve the petition on the following bases: special privilege: A variance shall not confer any special privilege that is denied to other lands or structures in the same zoning district and conformance with the purposes of the code: the granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code. Lucy Parkman seconded the motion. A roll call vote was conducted.

Board Members voting aye: Victoria Bolls (GoToMeeting)

Dick Conville
 Bruce Betts, Vice-Chair
 Shawn Harris, Chair
 Lucy Parkman
 James Trussell (via GoToMeeting)
 Brandon Williams (via GoToMeeting)

Board Members voting nay: None

There came the matter of Item B (Minimum Front Sign Setback), Justin Woodward,

Representative, Roddy Rumbley, Owner, as required in the Land Development Code, Ord. No. 3209, to request a variance from Section 10, Table 10.6 “Minimum Front Sign Setback” for B-5, “10 feet”, and instead allow a setback of zero feet (0) feet for a variance of ten feet (10) feet along US HWY 98 W for a proposed sign to be located at 6439 US HWY 98 W (Parcel 052N-09-032.001, PPIN 35094, Lamar Co., Ward 3).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Justin Woodward	6439 US HWY 98	Hattiesburg, MS
	Roddy Rumbley	6439 US HWY 98	Hattiesburg, MS
<u>Proponents:</u>	None		
<u>Opponents:</u>	None		

Justin Woodward, representative, presented the application. He clarified the location of the sign, noting the site plan presented did not reflect the most up-to-date plan. Justin Woodward argued there were challenges with the existing topography that made placement challenging for visibility. Roddy Rumbley, owner, reiterated the challenges with placing the sign elsewhere on site, noting he would not be able to achieve the visibility he was seeking with other placements.

Chair Shawn Harris declared the Public Hearing closed and the Business Meeting open. Commissioner Conville stated this is a genuine justification for a variance, noting the challenging topography for the site. Commissioner Ready made a motion to approve the variance on the basis that the sign meets all six approval criteria: hardship, special privilege, literal interpretation, reasonable use, the minimum required, and conformance with the purpose of the Land Development. Commissioner Conville seconded the motion. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (GoToMeeting)
 Dick Conville
 Bruce Betts, Vice-Chair
 Shawn Harris, Chair
 Lucy Parkman
 James Trussell (via GoToMeeting)
 Brandon Williams (via GoToMeeting)

Board Members voting nay: None

There came the matter of Item C (Variance – Drive through), Forrest Dungan, Engineer,

and Lynn Crosby Gammil, Owner, and SDP MS Hattiesburg 1, LLC, Applicant, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 5.4.36.4, which states: no part of the active use area of a drive-through restaurant, including the drive-through, menu, and window, may be located closer than three hundred (300) feet to a lot containing a legal, conforming residential use, and instead allow for a distance of one hundred and twenty-two point seven (122.7) feet of the active area of a drive-through for a restaurant to a lot containing a legal, conforming residential use for a proposed development for undeveloped lots in the 3100 block of Hardy St (Parcel No. 2-028N-07-095.00, 2-028N-07-094.00, 2-028N-07-096.01; PPINs 26490, 26488, 44474).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Forrest Dungan Joe Pegram	6052 US HWY 98 (GotoMeeting)	Hattiesburg, MS
<u>Proponents:</u>	None		
<u>Opponents:</u>	Lee Cave	108 Hampton Circle	Hattiesburg, MS

Forrest Dungan, Engineer, presented the application. Forrest pointed out that it is a national brand that is interested in this site. He provided clarification on the measurements and how they were calculated for the shortest distance to a residential lot. He also argued that the drive-through windows should be considered a “pick-up” window and would not serve as a traditional drive-through. Several board members raised concerns over the addition of another drive-through in the area, noting increased traffic concerns with this type of development. Lucy Parkman, Board Member, inquired about letters of support for this proposed development. Ginger Lowrey stated that staff had received two letters of support, one from the Gammil Family and one that was illegible and one property owner, Mr. Cave, called with concerns about the development. Joe Pegram, a representative of SDP MS, stated he believed the illegible letter of support was from Dr. Bullock based on conversations he had with him, but had no way of confirming that. He also noted that he only reached out to properties owners that directly touched the property.

Shawn Harris pointed out that the property is directly adjacent to the formal Midtown area, a pedestrian friendly area, and questioned the applicants whether or not they attempted to create a more pedestrian friendly development as opposed to sprawl development. Joe disagreed

that this is sprawl development and noted that this site is inclined for additional restaurant space, where it benefits from the proximity to the university and nearby commercial developments.

Lee Cave, opponent and nearby property owner, noted his concerns with the development, as he was not sure how it would affect his property value with his back yard directly abutting the development.

Chair Shawn Harris declared the Public Hearing closed and the Business Meeting open. Lucy Parkman made a motion to table the item until the petitioners have contacted more residents in the areas directly adjacent to and within a reasonable distance from the proposed development. Shawn Harris seconded the motion. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (GoToMeeting)

Dick Conville
Bruce Betts, Vice-Chair
Shawn Harris, Chair
Lucy Parkman
James Trussell (via GoToMeeting)
Brandon Williams (via GoToMeeting)

Board Members voting nay: None

The item was then tabled with the request that the applicants contact more residents

BUSINESS MEETING

There being no further business, Dick Conville made a motion to adjourn the meeting. The motion was seconded by Bruce Betts. The meeting was adjourned at 5:31 PM.

Shawn Harris, Chair

Ginger Lowrey, Planning Division Manager

**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG BOARD OF ADJUSTMENT
January 5th, 2022**

The Hattiesburg Board of Adjustment did meet in regular session on January 5th, at 3:30 PM at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Shawn Harris, Chair, presided over the meeting. A quorum was indicated and the attendance was as follows:

Board Members Present: Bruce Betts, Vice-Chair
Dick Conville
Shawn Harris, Chair (Via GotoMeeting)
Lucy Parkman
Stacey Ready (Via Gotomeeting)
Brandon Williams

Board Members Absent: Victoria Bolls
Bernard Green
James Hughes
James Trussell

Also Present: Ginger Lowrey, Planning Division Manager
Jim Gladden, Esq.
Nathan Satcher, Planning
Chris Seese, Planning Office Manager

Shawn Harris, Chair, declared the meeting of the Hattiesburg Board of Adjustment open and in session at 3:30 PM.

AGENDA REVIEW

There came the matter of the January 2021 Agenda. Staff noted a change to the agenda and asked to add the Tabled Item from the previous month (Item A – old business), the petition by Forrest Dungan and Lynn Crosby Gammil, and SDP MS Hattiesburg, 1, LLC for a variance from LDC section 5.4.36.4. Staff withdrew Item A due to an error in advertising. It will be readvertised and placed on the February agenda. A motion was made to approve the December 2021 Agenda by and seconded by Dick Conville

Board Members voting aye: Bruce Betts, Vice-Chair
Dick Conville
Shawn Harris, Chair (Via GotoMeeting)

Lucy Parkman
Stacey Ready (Via Gotomeeting)
Brandon Williams

Board Members voting nay: None

MINUTES REVIEW

There came the matter of the December 1, 2021 minutes. Staff were unable to prepare the minutes to due staff shortage and the December minutes will be included in the February meeting.

Board Members voting aye: Bruce Betts, Vice-Chair
Dick Conville
Shawn Harris, Chair (Via GotoMeeting)
Lucy Parkman
Stacey Ready (Via Gotomeeting)
Brandon Williams

Board Members voting nay: None

REPORTS

PLANNING REPORT

Ginger Lowrey, Planning Division Manager, provided the Planning Report. On December 20, 2021 City Council approved the setback variance 4607 Hardy St (BOA recommendations upheld).

CHAIR'S REPORT

No report given.

INTRODUCTIONS

Board members introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

Bruce Betts, Vice Chair, declared the Public Hearing for the Board of Adjustment open at 4:00 PM.

There came the matter of Item 1A, to remove from the table and consider a petition filed by Forrest Dungan, Engineer, and Lynn Crosby Gammil, Owner, and SDP MS Hattiesburg 1,LLC, Applicant, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 5.4.36.4, which states: no part of the active use area of a drive through restaurant, including the drive through, menu, and window, may be located closer than three hundred (300) feet to a lot containing a legal, conforming residential use, and instead allow for a

distance of one hundred and twenty two point seven (122.7) feet of the active area of a drive through for a restaurant to a lot containing a legal, conforming residential use for a proposed development for undeveloped lots in the 3100 block of Hardy St (Parcel No. 2-028N-07-095.00, 2-028N-07-094.00, 2-028N-07-096.01; PPINs 26490, 26488, 44474). Stacey Ready made a motion to remove from the table and Shawn Harris seconded the motion.

Board Members voting aye: Bruce Betts, Vice-Chair
Shawn Harris, Chair (Via GotoMeeting)
Lucy Parkman
Stacey Ready (Via Gotomeeting)
Brandon Williams

Board Members voting nay: None

Board Members Recusing: Dick Conville

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Forrest Dungan	1574 Hwy 98	Hattiesburg, MS
<u>Proponents:</u>	Joe Pegram	Via GotoMeeting	
<u>Opponents:</u>	None		

Forrest Dungan, representative, clarified that multiple letters were mailed out to nearby residents in an effort to obtain feedback on the project and none were returned. Joe Pegram, clarified on whom two of the letters were from.

Bruce Betts declared the meeting closed and open to voting on item A. Lucy Parkman made a motion to deny the request for the variance on the basis that the request does not meet any of the basis of approval. The motion was seconded by Shawn Harris.

Board Members voting aye(Denial): Bruce Betts, Vice-Chair
Shawn Harris, Chair (Via GotoMeeting)
Lucy Parkman
Brandon Williams
Board Members voting nay: Stacey Ready (Via Gotomeeting)
Board Members Recusing: Dick Conville

BUSINESS MEETING

There being no further business, Brandon Williams made a motion to adjourn the meeting. The motion was seconded by Lucy Parkman. The meeting was adjourned at 4:25 PM.

Shawn Harris, Chair

Ginger Lowrey, Planning Division Manager



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Robert G Smith and Gary W Adams, Owners

Address of Property: 2505 Arcadia St **Tax Parcel:** 2-039B-17-136.00 **PPIN:** 24511 **Ward:** 4

Request: **Side Setback Variance**

Purpose of Request: To consider a variance from section 6, Table 6.1 of the Land Development Code, Ord. No. 3209 "Minimum Side Setback" for R-1A, "10 feet", and instead allow a setback of zero (0) feet for a variance of ten (10) feet, and from Section 5.4.2.6.iii, Accessory Buildings "Accessory residential structures shall be ... five (5) feet from the side property lot." for a variance of five (5) feet for a proposed accessory building at 2505 Arcadia Street (Parcel 2-039B-17-136.00, PPIN 24511, Ward 4).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 5

5.4.2 Accessory Uses, Buildings

5.4.2.1 In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.

5.4.2.2 All accessory uses and accessory structures shall conform to the applicable requirements of this ordinance, including all dimensional requirements and use, design, and landscaping standards applicable to the primary use/ structure. The provisions of this section establish additional requirements and restrictions for particular accessory uses and structures.

5.4.2.3 Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot

are permitted in all districts.

5.4.2.4 All accessory uses and structures shall require the issuance of a certificate of zoning compliance.

5.4.2.5 Structures accessory to residential uses (except for agricultural buildings located in agricultural districts) shall have a combined floor area (aggregate of all detached accessory structures) of no more than 33% of the total floor area of the principal structure.

5.4.2.6 No accessory structure shall be located in a required front yard nor shall any accessory structure on a residential lot located in any zoning district be placed between the street and the rear building line of the principal structure except that:

- i. In the A1 District, accessory structures located more than 100 feet from the primary street may be placed in the front yard; and
- ii. Detached garages shall be permitted in side yards.
- iii. Accessory residential structures shall be five (5) feet from the rear property line and five (5) feet from the side property lot. No accessory structure on a corner lot shall project beyond the front yard line of the lots in the rear

SECTION 6

Table 6.1 – Dimensional Standards and Measurements

Table 6.1 Dimensional Standards										
District	Minimum Lot Size in SF/ Width at Setback	Max. Dwelling Units	Max. Floor Area Ratio	Min. Front	Setbacks in feet			Max. Height*	Max. Impervious Surface Lot Coverage	Buffer in Feet
					Max. Front	Min. Side	Min. Rear			
R-1A	10,000/ 50	1 per lot	-	30	-	10	25	35 feet or 3 stories	50%	-

6.7.2 Measuring Structure Distance. When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate property line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography of the land. Measurements are also taken along the shortest distance between two points. See Diagram 6.2.

Present Zoning:

R-1A (Single Family Residential) District

Present Use: Residence

Future Land Use: Neighborhood Conservation District 2

**Surrounding Zoning:
and Land Use:** North: R-1A (Single Family Residential) District/ Residential
South: R-1A (Single Family Residential) District/ Residential
East: R-1A (Single Family Residential) District/ Residential
West: R-1A (Single Family Residential) District/ Residential

**Letters or
Concerns stated:** The Planning Division Office has not received any letters or other written communications relative to this case as of January 24, 2022. The Applicant submitted letters of support from neighbors.

History / Background: The petitioner met with Staff to discuss the addition of a detached garage in the side yard. The plans submitted show the detached garage encroaching on the required setback(s) on the side and is considered an accessory structure. Detached garages are permitted as accessory structures in side yards (LDC 5.4.2.6.ii) with design stipulations. The proposed detached garage meets size requirements (for accessory structures (Sec 5.4.2.5 Structures accessory to residential uses shall have a combined floor area of no more than 33% of the total floor area of the principal structure).

This request was originally on the January agenda. Staff removed it due to an error in the legal notice.

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.

DATE: November 22, 2021

TO: Board of Adjustment

FROM: Robert G. Smith and Gary W. Adam

We are seeking this variance to have reasonable use of the driveway that is situated at the property line on the West side of our property. In April 2021, we enclosed our carport-storage room to increase the living space in our home. As a result, we lost our only covered parking space and storage room. The structures we are wanting to build will not be attached to the our home and will be abut the property line between our property (2505 Arcadia Street) and our neighbor's property (2507 Arcadia Street). These structures are fifteen feet from the eastern wall of our neighbor's home. The project does not encroach on our neighbor's property but does afford to us a covered parking area and storage room.

Dear Neighbor,

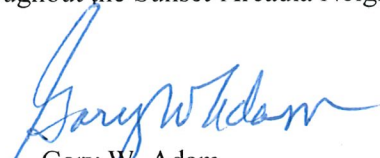
We are in the process of submitting a Public Hearing Application with the City of Hattiesburg's Planning Office. In January 2021, we enclosed our carport and adjacent storage room as our home's new Family Room. It is a large space covering nearly six hundred square feet. Because we have no covered parking or exterior storage space, we are petitioning the city for approval to construct these two spaces at the end of our current driveway. There is zero encroachment of or on any adjacent property nor will any adjacent property be used in any way during this project. Because this project comes within ten feet of our property line, we are required to notify adjoining property owners of our petition to the City of Hattiesburg Planning Division.

Please find an attached drawing of our proposed project. As per the requirements for this process, we are informing you of our petition for a variance. At the bottom of the page, please check 1) Approve my neighbor's plan or 2) Disapprove my neighbor's plan then sign and date below.

We have provided a stamped envelope if you need time to and/or wish to mail it yourself. If not, we are happy to take your signed form and include it with the packet that must be returned on or before Monday, November 22, 2021. We sincerely appreciate your assistance with this matter and, as always, we look forward to continued improvements throughout the Sunset-Arcadia Neighborhood.

With kindest regards,


Robert G. Smith
Home Owner


Gary W. Adam
Home Owner

Check one of the boxes below and Sign and Date

☒

Acknowledge and approve variance for 2505 Arcadia Street

☐ Acknowledge but disapprove variance for 2505 Arcadia Street


Joey Oubre
Signature of Property Owner

11/27/2021
Date

2507 Arcadia Street
Hattiesburg, Mississippi 39402

Your Name

Dear Neighbor,

We are in the process of submitting a Public Hearing Application with the City of Hattiesburg's Planning Office. In January 2021, we enclosed our carport and adjacent storage room as our home's new Family Room. It is a large space covering nearly six hundred square feet. Because we have no covered parking or exterior storage space, we are petitioning the city for approval to construct these two spaces at the end of our current driveway. There is zero encroachment of or on any adjacent property nor will any adjacent property be used in any way during this project. Because this project comes within ten feet of our property line, we are required to notify adjoining property owners of our petition to the City of Hattiesburg Planning Division.

Please find an attached drawing of our proposed project. As per the requirements for this process, we are informing you of our petition for a variance. At the bottom of the page, please check 1) Approve my neighbor's plan or 2) Disapprove my neighbor's plan then sign and date below.

We have provided a stamped envelope if you need time to and/or wish to mail it yourself. If not, we are happy to take your signed form and include it with the packet that must be returned on or before Monday, November 22, 2021. We sincerely appreciate your assistance with this matter and, as always, we look forward to continued improvements throughout the Sunset-Arcadia Neighborhood.

With kindest regards,



Robert G. Smith
Home Owner

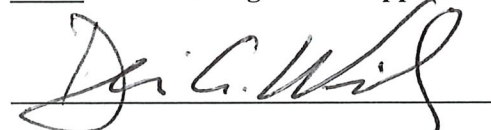


Gary W. Adam
Home Owner

Check one of the boxes below and Sign and Date

☒ Acknowledge and approve variance for 2505 Arcadia Street

☐ Acknowledge but disapprove variance for 2505 Arcadia Street



Signature of Property Owner

11/13/21

Date

2500 Sierra Circle
Hattiesburg, Mississippi 39402

Your Name

Dear Neighbor,

We are in the process of submitting a Public Hearing Application with the City of Hattiesburg's Planning Office. In January 2021, we enclosed our carport and adjacent storage room as our home's new Family Room. It is a large space covering nearly six hundred square feet. Because we have no covered parking or exterior storage space, we are petitioning the city for approval to construct these two spaces at the end of our current driveway. There is zero encroachment of or on any adjacent property nor will any adjacent property be used in any way during this project. Because this project comes within ten feet of our property line, we are required to notify adjoining property owners of our petition to the City of Hattiesburg Planning Division.

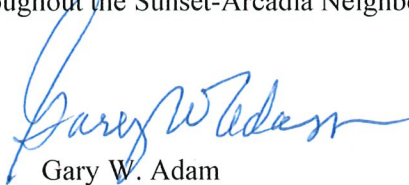
Please find an attached drawing of our proposed project. As per the requirements for this process, we are informing you of our petition for a variance. At the bottom of the page, please check 1) Approve my neighbor's plan or 2) Disapprove my neighbor's plan then sign and date below.

We have provided a stamped envelope if you need time to and/or wish to mail it yourself. If not, we are happy to take your signed form and include it with the packet that must be returned on or before Monday, November 22, 2021. We sincerely appreciate your assistance with this matter and, as always, we look forward to continued improvements throughout the Sunset-Arcadia Neighborhood.

With kindest regards,



Robert G. Smith
Home Owner

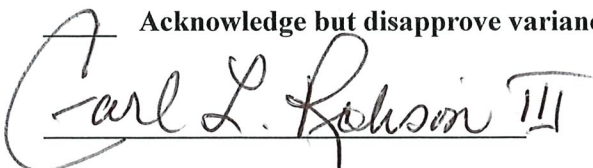


Gary W. Adam
Home Owner

Check one of the boxes below and Sign and Date

☒ Acknowledge and approve variance for 2505 Arcadia Street

☐ Acknowledge but disapprove variance for 2505 Arcadia Street



Signature of Property Owner

11-11-2021

Date

2503 Arcadia Street
Hattiesburg, Mississippi 39402

Your Name

Dear Neighbor,

We are in the process of submitting a Public Hearing Application with the City of Hattiesburg's Planning Office. In January 2021, we enclosed our carport and adjacent storage room as our home's new Family Room. It is a large space covering nearly six hundred square feet. Because we have no covered parking or exterior storage space, we are petitioning the city for approval to construct these two spaces at the end of our current driveway. There is zero encroachment of or on any adjacent property nor will any adjacent property be used in any way during this project. Because this project comes within ten feet of our property line, we are required to notify adjoining property owners of our petition to the City of Hattiesburg Planning Division.

Please find an attached drawing of our proposed project. As per the requirements for this process, we are informing you of our petition for a variance. At the bottom of the page, please check 1) Approve my neighbor's plan or 2) Disapprove my neighbor's plan then sign and date below.

We have provided a stamped envelope if you need time to and/or wish to mail it yourself. If not, we are happy to take your signed form and include it with the packet that must be returned on or before Monday, November 22, 2021. We sincerely appreciate your assistance with this matter and, as always, we look forward to continued improvements throughout the Sunset-Arcadia Neighborhood.

With kindest regards,


Robert G. Smith
Home Owner


Gary W. Adam
Home Owner

Check one of the boxes below and Sign and Date

20

Acknowledge and approve variance for 2505 Arcadia Street

Acknowledge but disapprove variance for 2505 Arcadia Street



Signature of Property Owner

Date

11 Nov 2021

2506 Sierra Circle
Hattiesburg, Mississippi 39402

Your Name

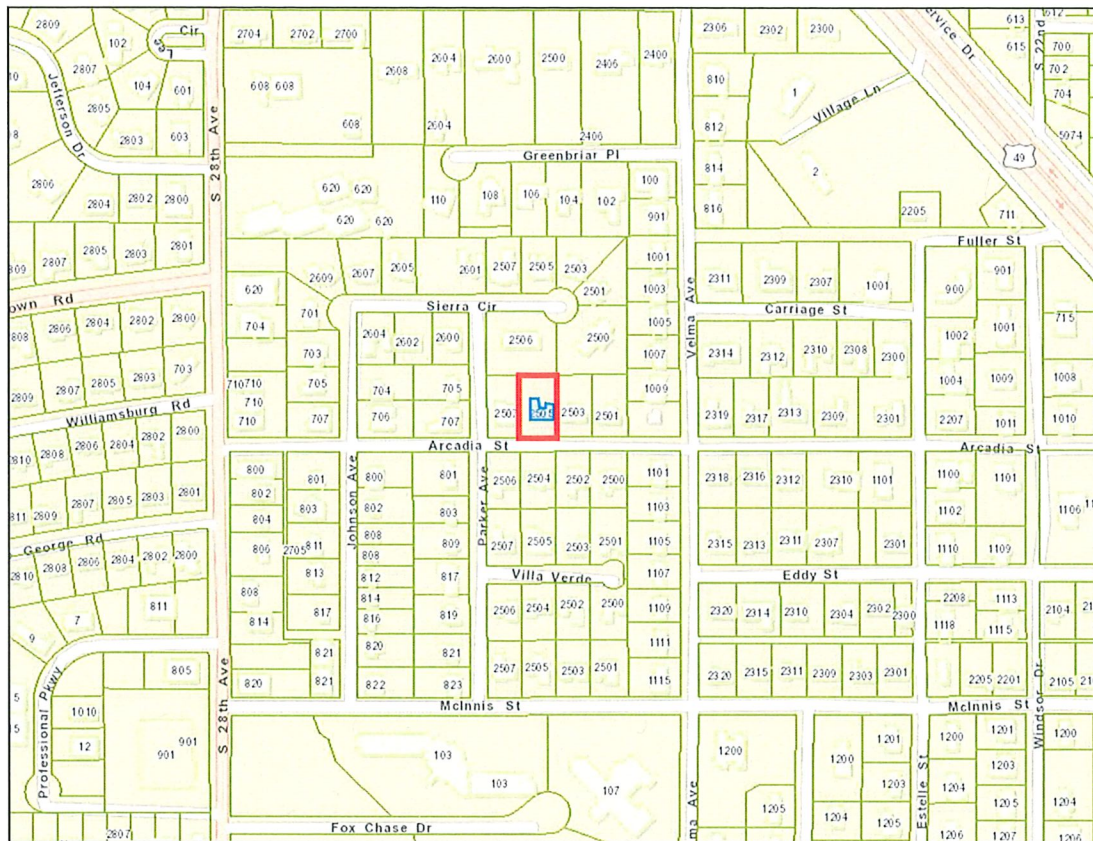
SUBJECT PARCEL: 2505 Arcadia St

Robert G Smith and Gary W Adams, Owners.

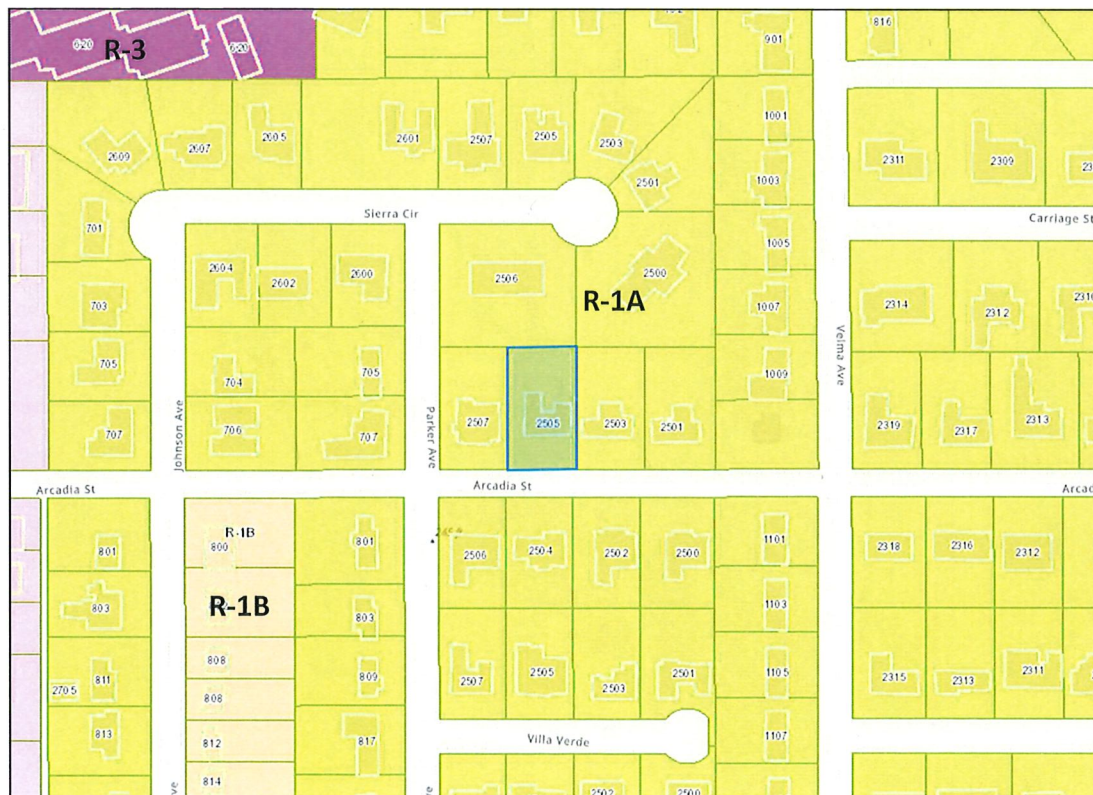
The petitioners request a variance from section 6, Table 6.1 of the Land Development Code, "Minimum Side Setback" for R-1A, "10 feet", and instead allow a setback of zero (0) feet for a variance of ten (10) feet, and from Section 5.4.2.6.iii, Accessory Buildings "Accessory residential structures shall be ... five (5) feet from the side property lot." for a variance of five (5) feet for a proposed accessory building at 2505 Arcadia Street (Parcel 2-039B-17-136.00, PPIN 24511, Ward 4).



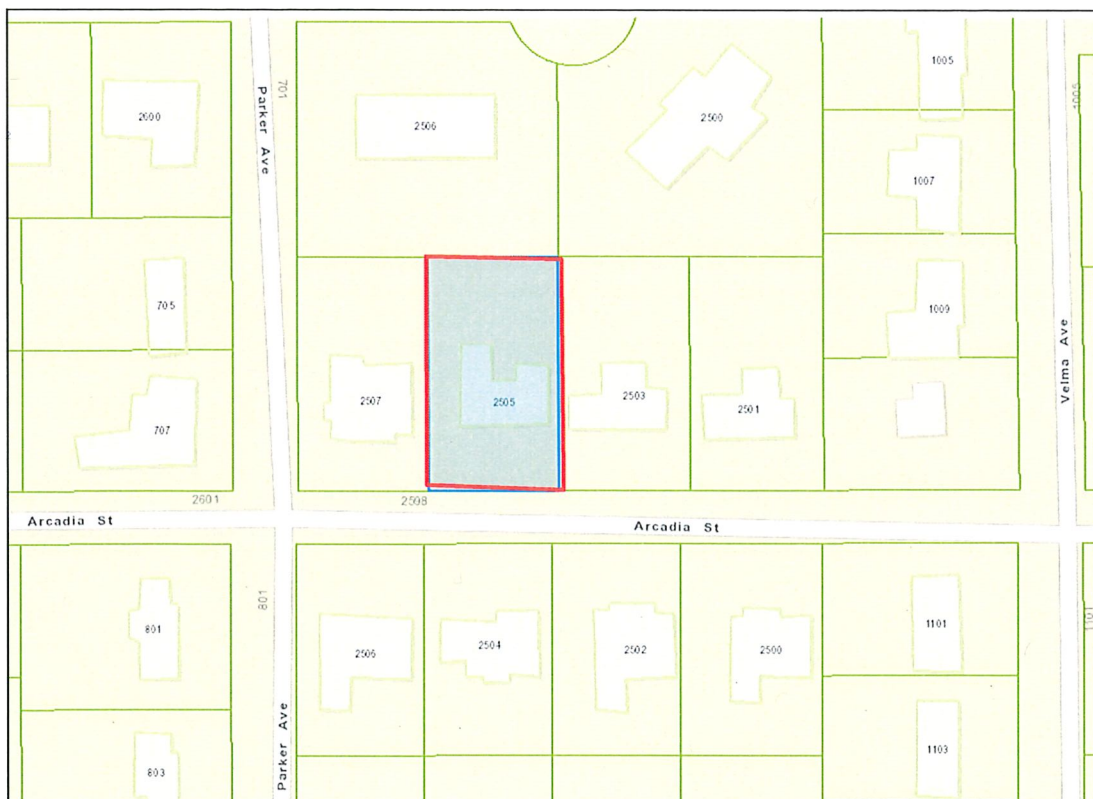
Vicinity Map—Ward 4



Zoning—R-1A



Area Building Footprints and Parcel Lines



Site Aerial



SURROUNDING AREA

**Northern Direction: R-1A (Single Family Residential) District/
Residential**



**Southern Direction: R-1A (Single Family Residential) District/
Residential**



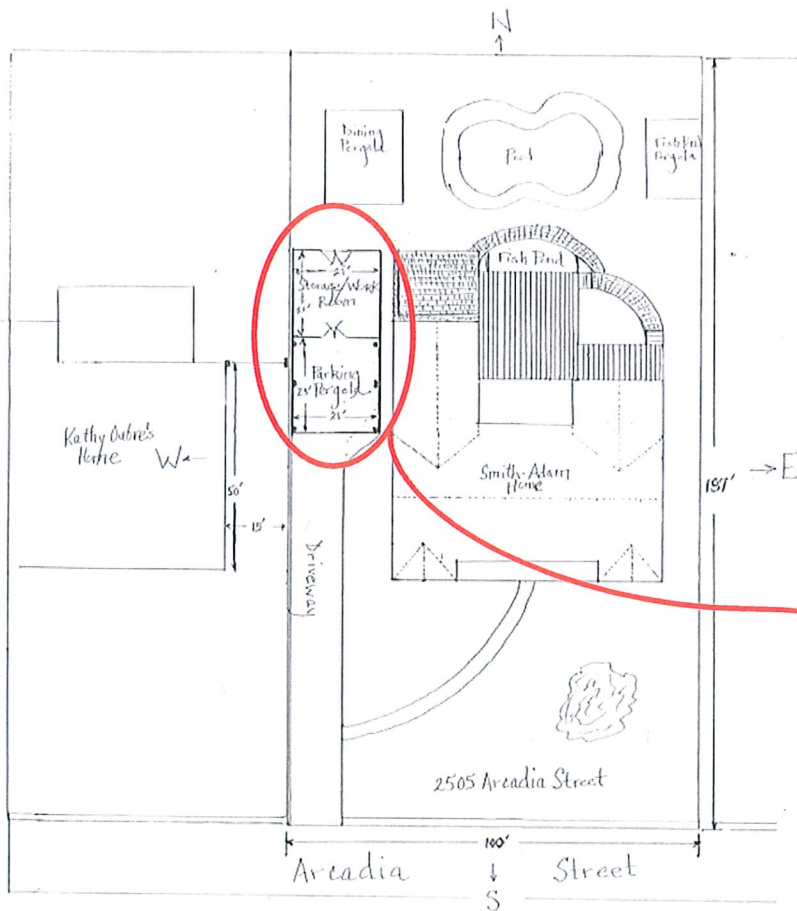
**Eastern Direction: R-1A (Single Family Residential) District/
Residential**



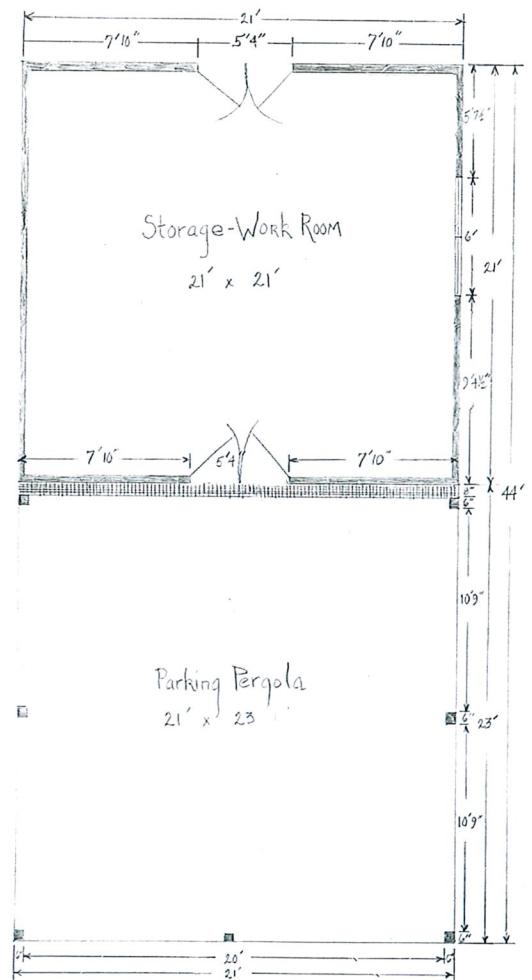
**Western Direction: R-1A (Single Family Residential) District/
Residential**

Approximate Location of Proposed Detached Garage



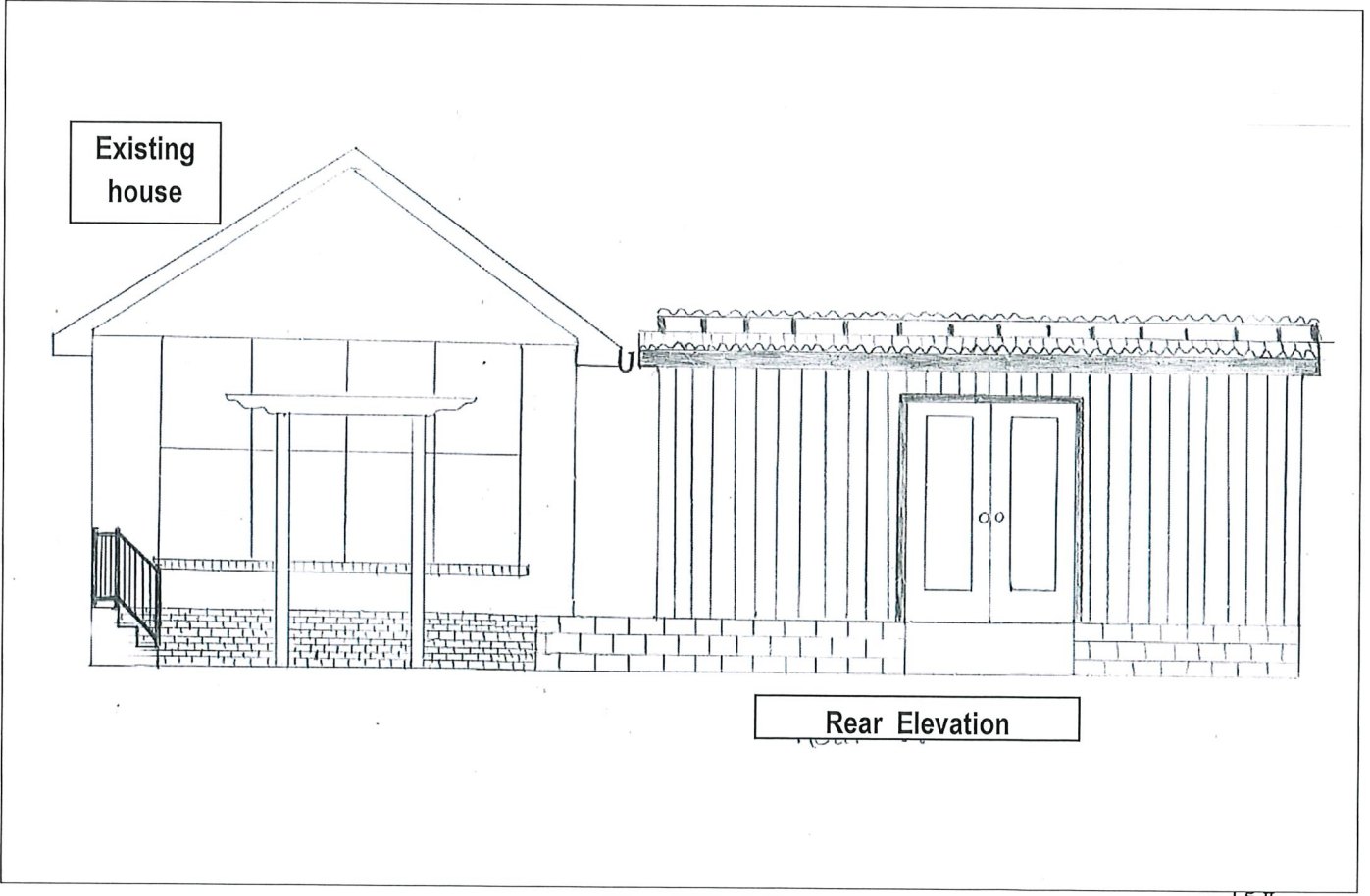
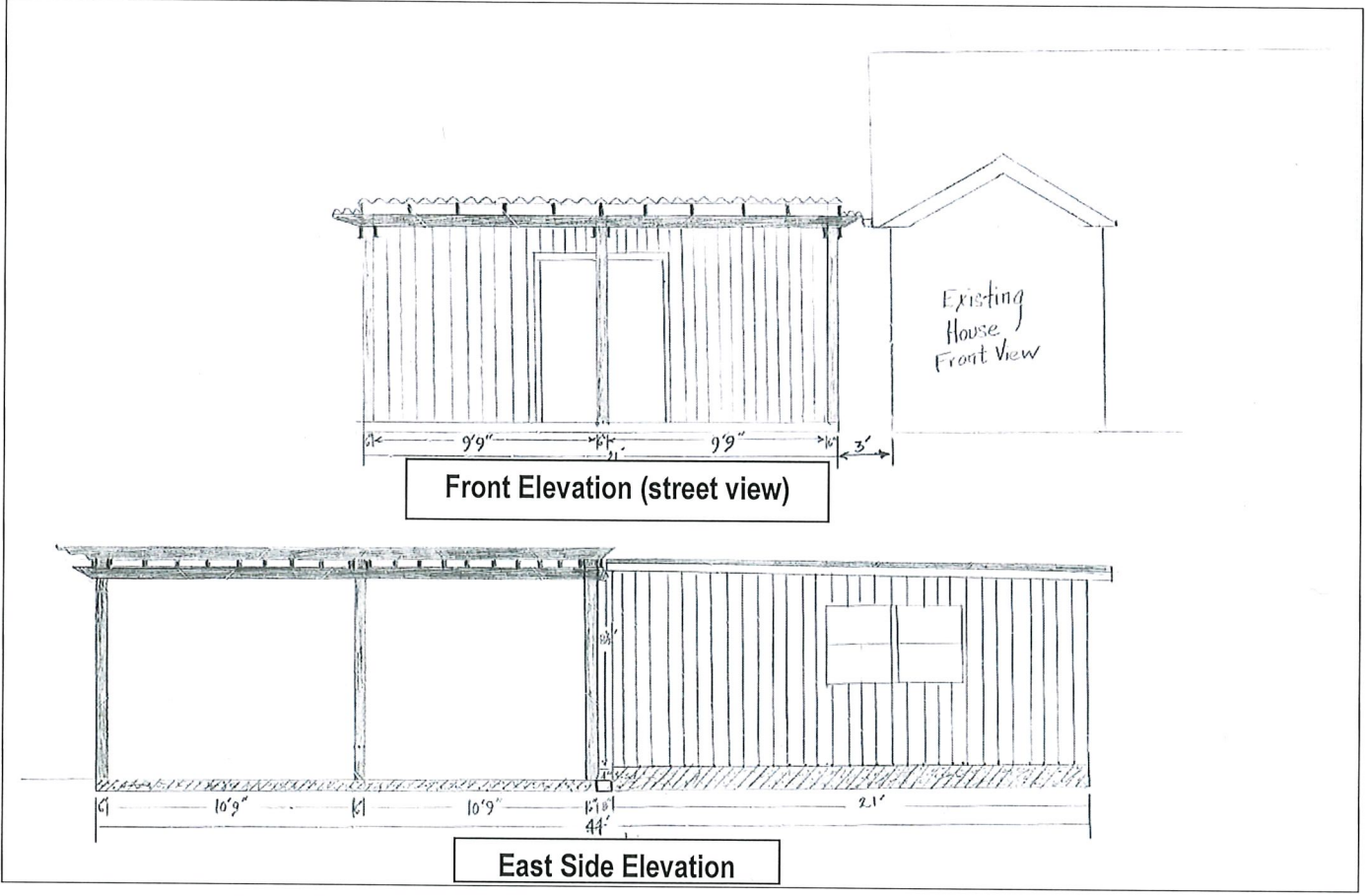


**Site Drawing with
proposed
detached garage**



Floor Plan

Elevations of proposed detached garage





**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Terry G. Edwards, Owner

Address of Property:	Tax Parcel	PPIN:	Ward:
243 Jarvis Mims Road	2-051B-05-001.06	35886	5

Request: **Side Setback Variance**

Purpose of Request: To consider a variance from Section 5.4.2.5, of the Land Development Code, Ord. No. 3209, "Structures accessory to residential uses shall have a combined floor area of no more than 33% of the total floor area of the principal structure." and instead allow for a total of 65% of the total floor area of the detached accessory structures to the principal structure for a variance of an additional 662 sq ft of detached accessory structures for a proposed structure at 243 Jarvis Mims Road (Parcel No. 2-051B-05-001.06, PPIN 35886, Ward 5)

Applicant Summary: See Attached

Applicable Regulations:

SECTION 5

5.4.2 Accessory Uses, Buildings

5.4.2.1 In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.

5.4.2.2 All accessory uses and accessory structures shall conform to the applicable requirements of this ordinance, including all dimensional requirements and use, design, and landscaping standards applicable to the primary use/ structure. The provisions of this section establish additional requirements and restrictions for particular accessory uses and structures.

5.4.2.3 Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot are permitted in all districts.

5.4.2.4 All accessory uses and structures shall require the issuance of a certificate of zoning compliance.

5.4.2.5 Structures accessory to residential uses (except for agricultural buildings located in agricultural districts) shall have a combined floor area (aggregate of all detached accessory structures) of no more than 33% of the total floor area of the principal structure.

5.4.2.6 No accessory structure shall be located in a required front yard nor shall any accessory structure on a residential lot located in any zoning district be placed between the street and the rear building line of the principal structure except that:

- i. In the A1 District, accessory structures located more than 100 feet from the primary street may be placed in the front yard; and
- ii. Detached garages shall be permitted in side yards.
- iii. Accessory residential structures shall be five (5) feet from the rear property line and five (5) feet from the side property lot. No accessory structure on a corner lot shall project beyond the front yard line of the lots in the rear

Present Zoning:	R-1A (Single Family Residential) District
Present Use:	Residence
Future Land Use:	Neighborhood Conservation District 2
Surrounding Zoning: and Land Use:	North: R-1A (Single Family Residential) District/ Residential South: R-1A (Single Family Residential) District/ Residential East: R-1A (Single Family Residential) District/ Residential West: R-1A (Single Family Residential) District/ Residential
Letters or Concerns stated:	The Planning Division Office has not received any letters or other written communications relative to this case as of January 24, 2022. The Applicant submitted letters of support from neighbors.
History / Background:	The petitioner met with the building division on the required permits for the proposed shop. Building Staff then advised the petitioner that a variance would be needed and directed them to the Planning Division. Planning Staff met with the petitioner to discuss the addition of a detached shop in the side/rear yard. The plans showed an accessory structure with floor dimensions of 32 ft x 40 ft, with a total square footage of 1,280 ft. The proposed shop exceeds the maximum 33% allowed accessory size

structure for a residential lot by a total of 662 ft², for a variance of 65% of the total floor area of the principal structure. This calculation considers the removal of an existing storage shed. The proposed site plan shows the accessory structure meeting all other required setbacks

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 Approval Criteria

1. Hardship

Since “hardship” is defined entirely by the unique conditions of the property and not the applicant.

The request for a variance is in regards to the size of an accessory building, not the location of the building on the property. My understanding is the regulation does not take into account the size or conditions of the property when regulating the size of an accessory building, only the comparative size of the primary structure on the property. That being the case, the only hardship created by the uniqueness of this property is the size of the primary structure (my home) and the location of this property within the city limits of Hattiesburg.

2. Special Privilege

It is not my attempt to seek “special privilege”. I only ask that I be allowed the same privileges as others in my neighborhood who have previously built similar or even more “commercial looking” buildings.

To dictate the size of an accessory building based on the size of the primary structure (my home) instead of the size of the property seems to give special privilege to the one with a large home and prevents one with a smaller home from enjoying the same accessory building benefits as their neighbors with the larger homes.

3. Literal Interpretation

Literal Interpretation and the “spirit of the law”

As I understand it, the literal interpretation of this regulation is to preserve the aesthetics of the neighborhood by keeping accessory buildings proportionate to the primary structure.

However, I feel the true "spirit of the regulation" is to preserve the aesthetics of the neighborhood. While the literal interpretation focuses only on the structures and does not take into consideration the overall property size, I think the "spirit of the law" is met by the size of the lots in our neighborhood, much more than the literal interpretation of the size of the accessory building.

My property is 1.63 acres, which equals 71,002.8 square feet. Total square feet of the current and proposed building would be 3,480 square feet, equaling only 4.8% of the entire property. The requested variance would leave 95.2% of my property open.

The proposed accessory building would be approximately 250 feet from Jervis Mims ROW (the closest and only visible road), partially obstructed by trees and would not be obvious to the casual passerby.

I feel these conditions more than adequately meet the "spirit of the regulation". This is why I am requesting a variance to the literal interpretation of the regulation.

While I can appreciate the "spirit of the regulation", as I understand the literal interpretation of the regulation, I am limited to 23 feet in accessory building length but could build up to 35 feet high. My current plans compliment my property and neighborhood much more than a 3-story building. So, it seems in this case the literal interpretation of the regulation would go against the "spirit of the regulation".

I have planned and saved for this building for a number of years. This is my "retirement hobby, storage, workout building". The size is not meant to demean the property, the house, or the neighborhood. Even before I knew this regulation existed it was my intent when designing the building that it not look commercial, but rather residential.

- I chose to go with 10 feet sidewalls instead of the standard 12 or 14 feet with a metal building.

- I chose to go with a 4/12-pitch roof instead of the cheaper and more common 1/12-pitch roof, again because I wanted to avoid the overall commercial look.
- I have chosen the color of the metal siding, roof, gutters and trim to match the color of my house.
- I have placed doors and windows in locations to add character to the overall “look” of the building.

No one is more concerned with how this building looks more than me since it will be located in my yard.

4. Reasonable Use

Reality is, without the opportunity to build this accessory building I will be unable to reasonably use my property as needed for storage, hobby, and exercise needs, forcing me to relocate outside Hattiesburg city limits.

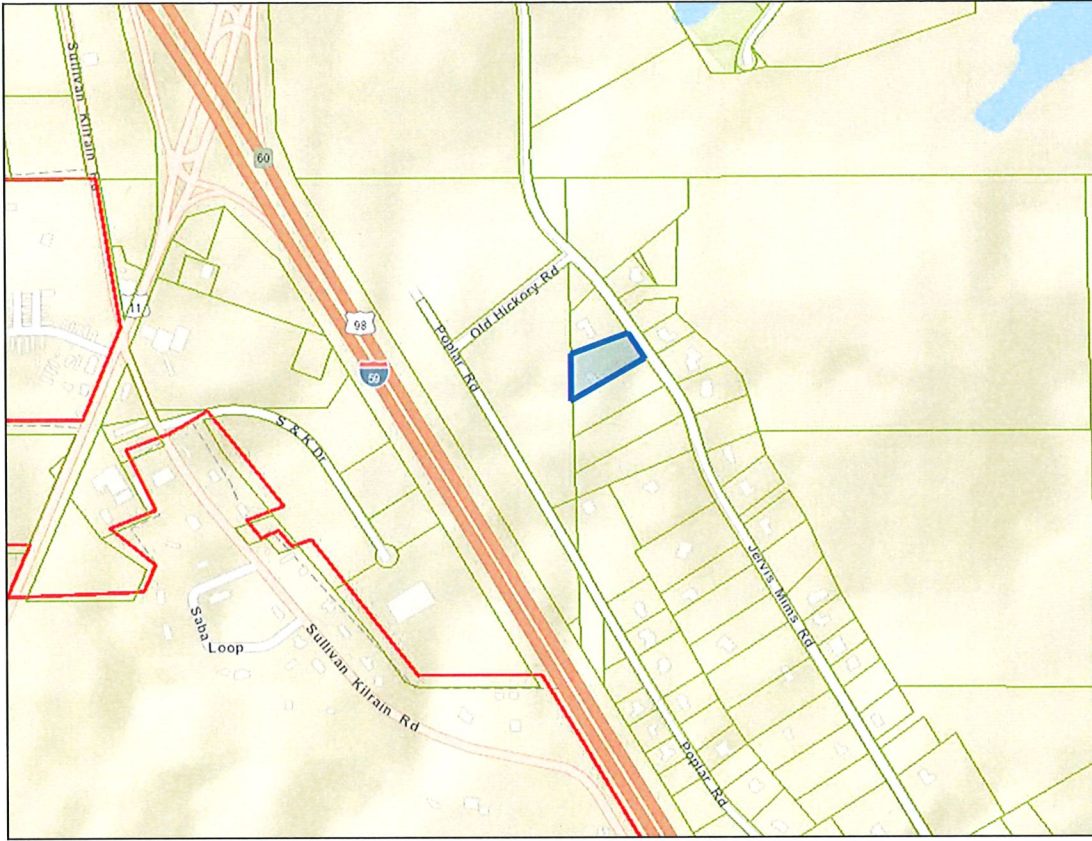
SUBJECT PARCEL: 243 Jervis Mims Road

Terry G. Edwards, Owner

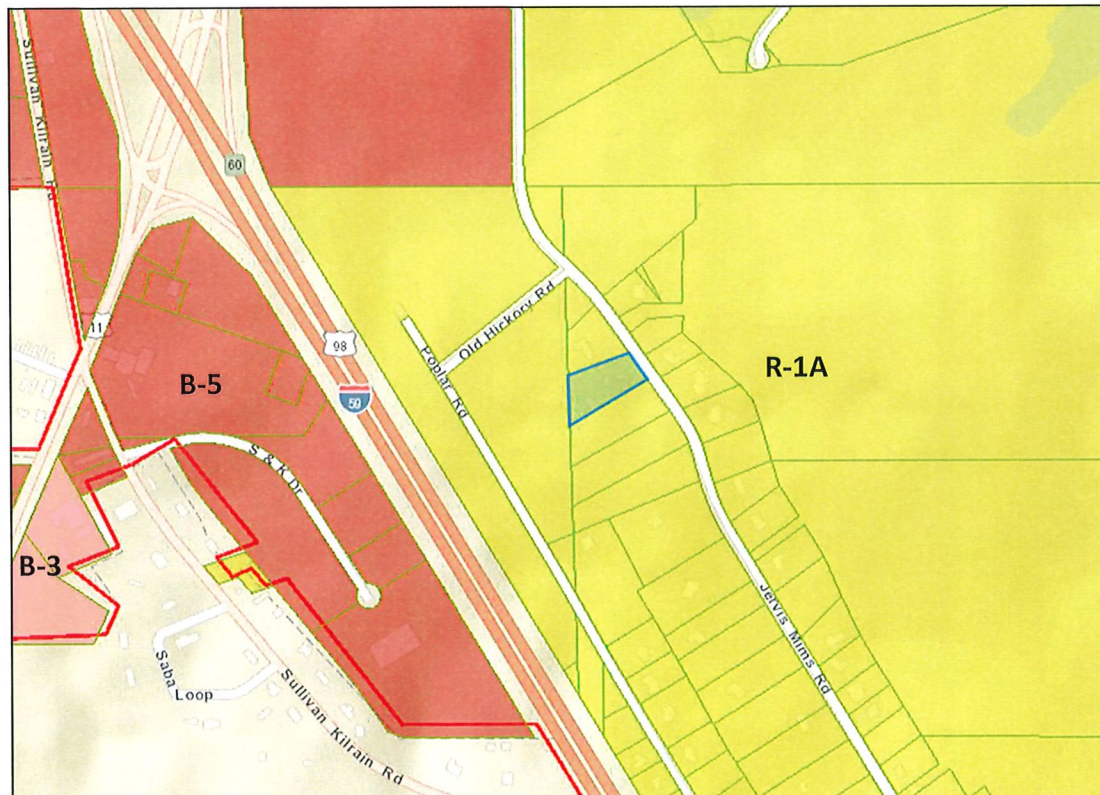
The petitioners request a variance from Section 5.4.2.5, of the Land Development Code, Ord. No. 3209, "Structures accessory to residential uses shall have a combined floor area of no more than 33% of the total floor area of the principal structure." and instead allow for a total of 65% of the total floor area of the detached accessory structures to the principal structure for a variance of an additional 662 sq ft of detached accessory structures for a proposed structure at 243 Jervis Mims Road (Parcel No. 2-051B-05-001.06, PPIN 35886, Ward 5).



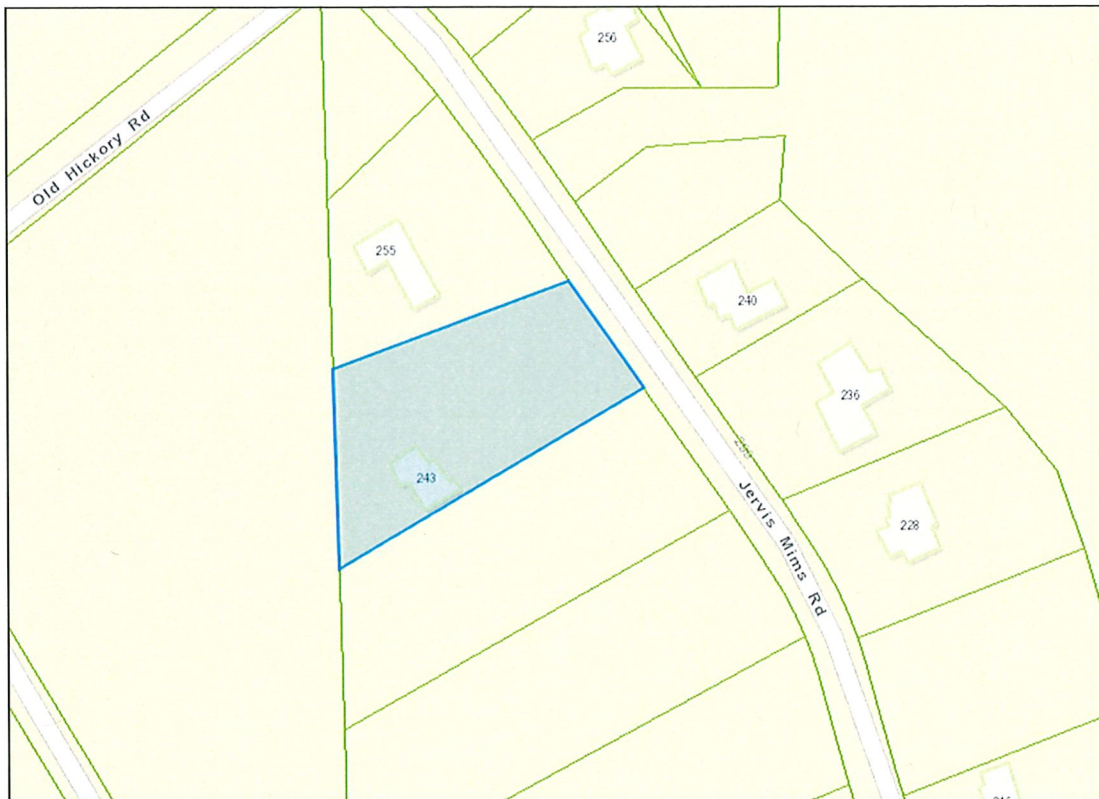
Vicinity Map—Ward 5



Zoning—R-1A



Area Building Footprints and Parcel Lines



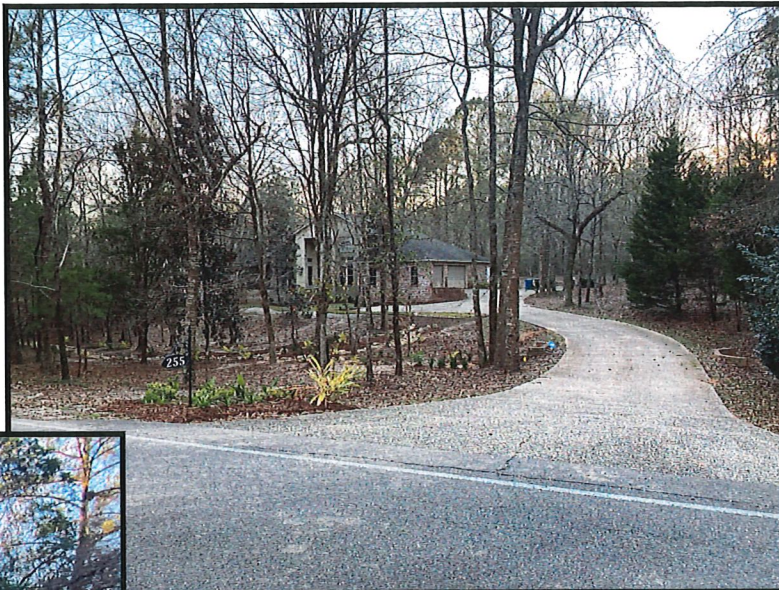
Site Aerial

(yellow box not representative of property boundaries)

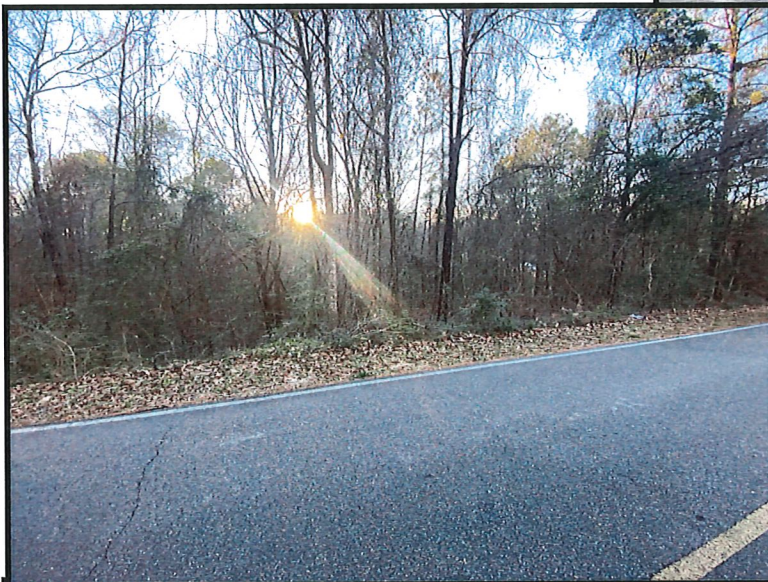


SURROUNDING AREA

**Northern Direction: R-1A (Single Family Residential) District/
Residential**



**Southern Direction: R-1A (Single Family Residential) District/
Residential**



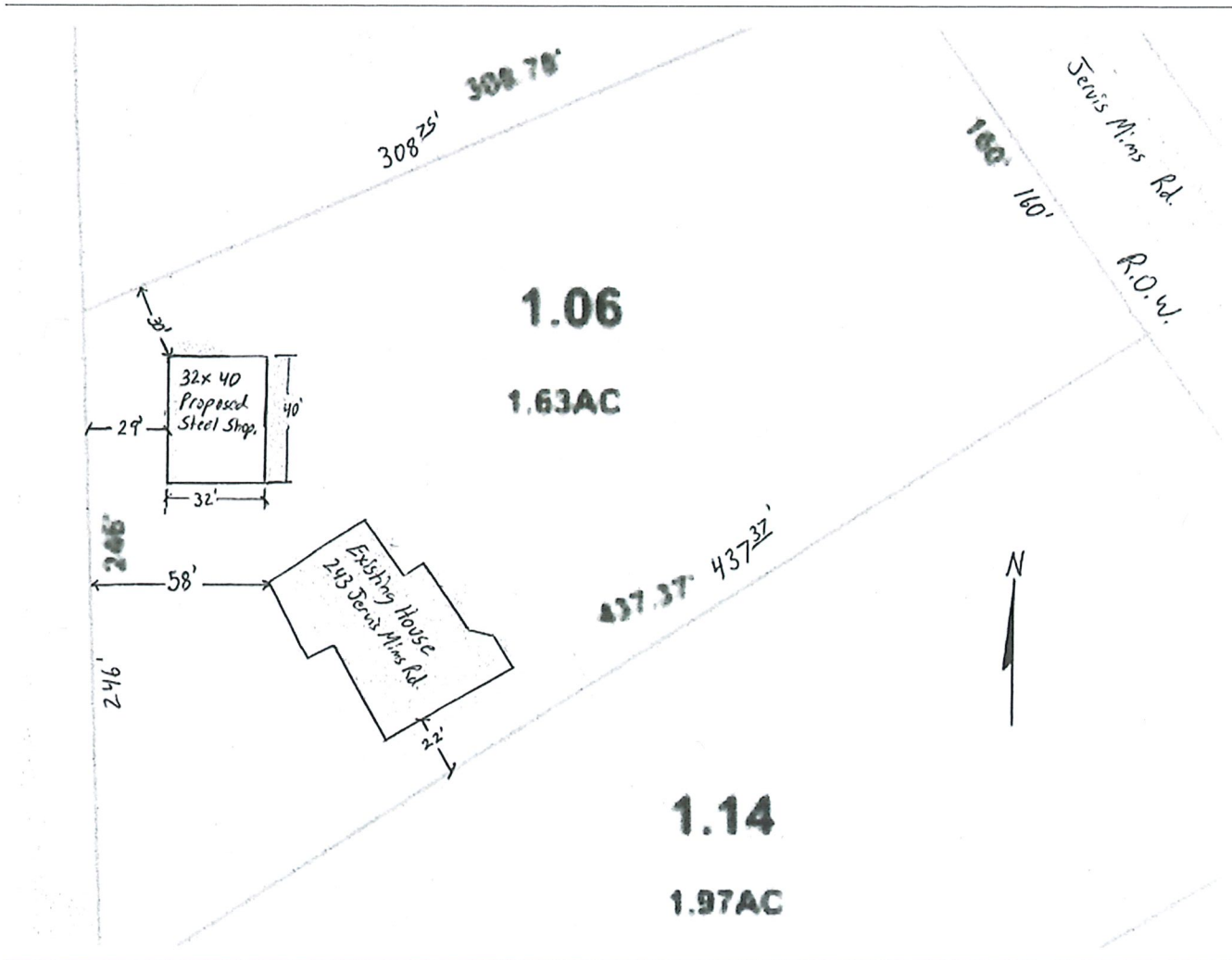
**Eastern Direction: R-1A(Single Family Residential) District/
Residential**



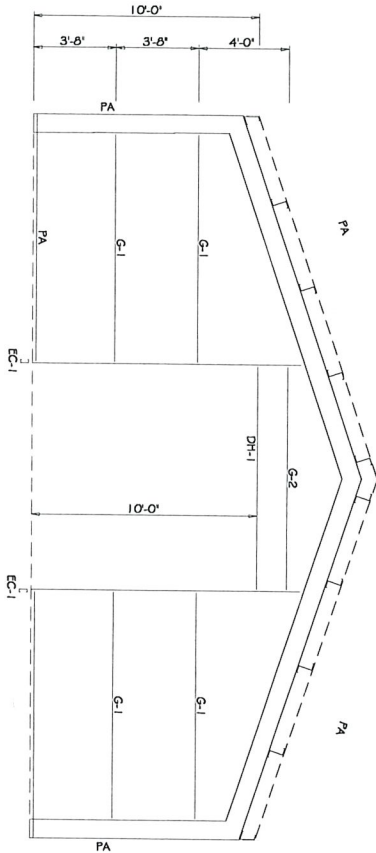
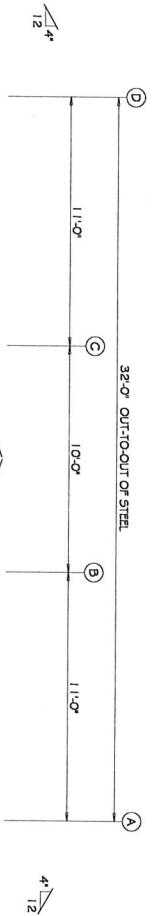
**Western Direction: R-1A (Single Family Residential) District/
Residential**



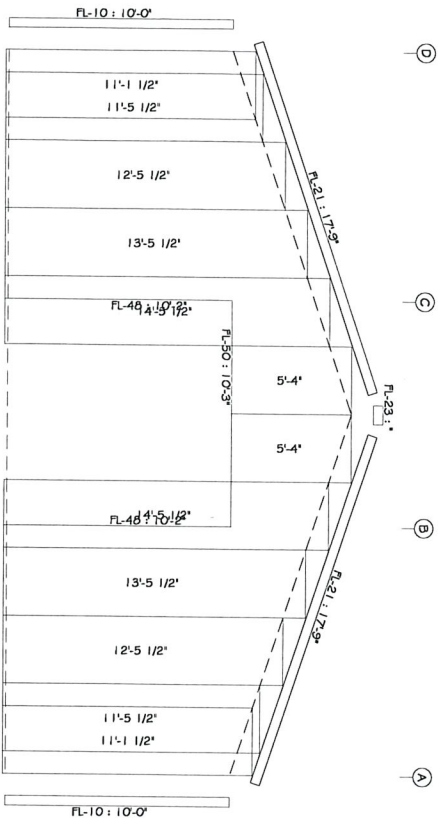
Location of Proposed Accessory Structure/Shop



MEMBER TABLE	
FRAME LINE	LENGTH
PA	11'-9 3/16"
EC-1	635C16M 10'-0 3/16"
DH-1	625C16M 10'-0 3/16"
G-1	6225C16 9'-8 5/16"
G-2	6225C16 5'-11 1/2"



ENDWALL FRAMING: FRAME LINE 1



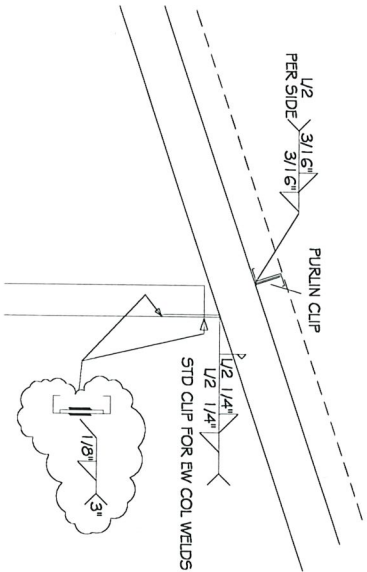
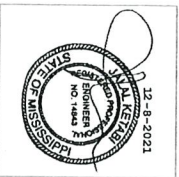
ENDWALL SHEETING & TRIM: FRAME LINE 1

PANELS: 26 GA. PBR - Standard Color

ISSUE	DESCRIPTION	DATE	MARK
0	CONSTRUCTION	12/2/21	

MBS
Metal Building Solutions

DESCRIPTION:	ENDWALL FRAMING
CUSTOMER:	Jamie Morris
PROJECT:	
Location:	MBS
Address:	6793 W. Hwy 24
Phone:	
Fax:	
Email:	
Website:	



Letter of Intent
For an accessory building variance request at
243 Jervis Mims Road, Hattiesburg, MS 39401

This Letter of Intent is in regards to a request for a variance being requested by homeowners Terry G & Elizabeth D Edwards of 243 Jervis Mims Road, Hattiesburg, MS 39401. I understand that according to Land Development code 5.4.2.5 for Hattiesburg, MS, a residential use accessory building cannot exceed 33 percent of the total floor space of the principle structure of residence.

The request for variance is to allow Terry G and Elizabeth D Edwards to erect an accessory building (32 x 40) that is greater than 33 percent of their home floor space on their property located at 243 Jervis Mims Road.

✓

_____ As an adjoining property owner, I agree to this variance

_____ As an adjoining property owner I disagree with this variance for these reasons:

PB Benoit 12-17-2021
Pamela Benoit

Letter of Intent
For an accessory building variance request at
243 Jervis Mims Road, Hattiesburg, MS 39401

This Letter of Intent is in regards to a request for a variance being requested by homeowners Terry G & Elizabeth D Edwards of 243 Jervis Mims Road, Hattiesburg, MS 39401. I understand that according to Land Development code 5.4.2.5 for Hattiesburg, MS, a residential use accessory building cannot exceed 33 percent of the total floor space of the principle structure of residence.

The request for variance is to allow Terry G and Elizabeth D Edwards to erect an accessory building (32 x 40) that is greater than 33 percent of their home floor space on their property located at 243 Jervis Mims Road.

☒ As an adjoining property owner, I agree to this variance

☐ As an adjoining property owner I disagree with this variance for these reasons:


Dr. John McCann

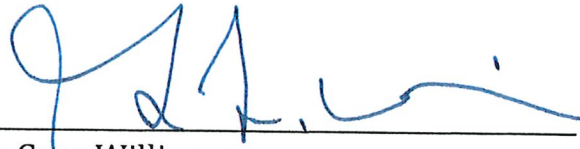
Letter of Intent
For an accessory building variance request at
243 Jervis Mims Road, Hattiesburg, Ms 39401

This letter of intent is in regards for a variance being requested by homeowners Terry G & Elizabeth D Edwards of 243 Jervis Mims Road, Hattiesburg, Ms 39401. I understand that according to Land Development Code 5.4.2.5 for Hattiesburg, Ms a residential use accessory building cannot exceed 33% of the total floor space of the principle structure.

The request for variance is to allow Terry and Elizabeth Edwards to erect an accessory building (32X40) greater than 33 percent of their home floor space, on their property located at 243 Jervis Mims Road, Hattiesburg, Ms. 39401.

 As an adjoining property owner, I agree to this variance.

_____ As an adjoining property owner, I disagree to this variance for these reasons:

 Date: 20 Dec 21
Mr. Greg Williams



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Donna Davis, Owner

Address of Property:	Tax Parcel	PPIN:	Ward:
310 Venetian Way	2-028J-08-053.00	22740	4

Request: **Fence Height Variance**

Purpose of Request: To consider a variance from Section 7.9.8.6, "The maximum height of fences and walls shall be four feet above grade when located in a front yard. Otherwise the maximum height of a fence is eight feet" and instead allow for a ten (10) foot fence in the rear and side yard for a variance of two (2) feet and an eight (8) foot fence in the front yard for a variance of four (4) feet for a proposed fence located at 310 Venetian Way (Parcel No. 2-028J-08-053.00, PPIN 22740, Ward 4).

Applicant Summary: See Attached
Applicable Regulations:

SECTION 7 7.9.8 Fences
7.9.8.1 Fences and walls within a development shall be of compatible design and materials
7.9.8.2 Fences and walls shall be constructed such that the "finished" part of the fence or wall is located toward and facing the exterior of the property.
7.9.8.6 The maximum height of fences and walls shall be four feet above grade when located in a front yard. Otherwise the maximum height of a fence is eight feet.

Present Zoning: R-1A (Single Family Residential) District

Present Use: Residence

Future Land Use: Neighborhood Conservation District 1

**Surrounding Zoning:
and Land Use:**

North: R-1A (Single Family Residential) District/ Residential
South: R-1A (Single Family Residential) District/ Residential
East: R-1A (Single Family Residential) District/ Residential
West: R-1A (Single Family Residential) District/ Residential

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of January 24, 2022. The Applicant has not submitted any letters of support as of January 24, 2022.

History / Background:

The petitioner met with Planning Staff to discuss establishing a privacy fence of 10 ft tall in the rear setback and 8 ft tall in the front setback to block the view of a neighboring property's cameras. She provided photos of the neighboring property's cameras and how they appeared to be oriented toward her property; one aimed at the front drive-way and one at the rear yard. She expressed concerns over her children's safety, believing them to be monitored by her neighbors. The petitioner noted that she has contacted the police, asking that they contact the neighboring property owner and that they reposition the cameras, but none of the cameras have been repositioned. The petitioner stated that the finished fencing would be constructed of standard vertical wood fencing panels. There is currently a temporary fence installed on site and seen in this report's photos. The Board of Adjustment should consider the impact this will have on the built environment of the neighborhood and the streetscape.

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.

See Attached

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.

I am filing for consideration under hardship because.....

After discovering that my male neighbors had security cameras directed solely at my residence and my residence only, I contacted the local authorities and they contacted the owners and instructed them to reposition the security cameras as it was and is an invasion of my privacy. A considerable amount of time passed and the instructions to reposition the cameras from law enforcement was ignored. I am a single and disabled veteran with minor female children and grandchildren in my home. My daughter arrives home from the bus some days prior to me and I am very uncomfortable knowing that my home is under surveillance from my male neighbors. I feel extremely uncomfortable in my own home, especially knowing that someone knows our every movement and daily schedule. I can't understand why he/they refused to reposition the cameras; therefore, necessary measures on my behalf were taken to protect me, my daughters and the privacy of my home by putting up a privacy fence tall enough to block the view of the surveillance cameras that are positioned directly at the front and back of my residence. There are no other cameras on the neighbors residence pointing in any direction nor are there cameras on the other side of their residence so this leads me to feel they are not there for any security reasons because if this was so they would be positioned in all directions of their home capturing movement and surveillance of the residence and not the movements of my residence. This fence gives me a little sense of privacy and security; as I own my home and moving is not an option.

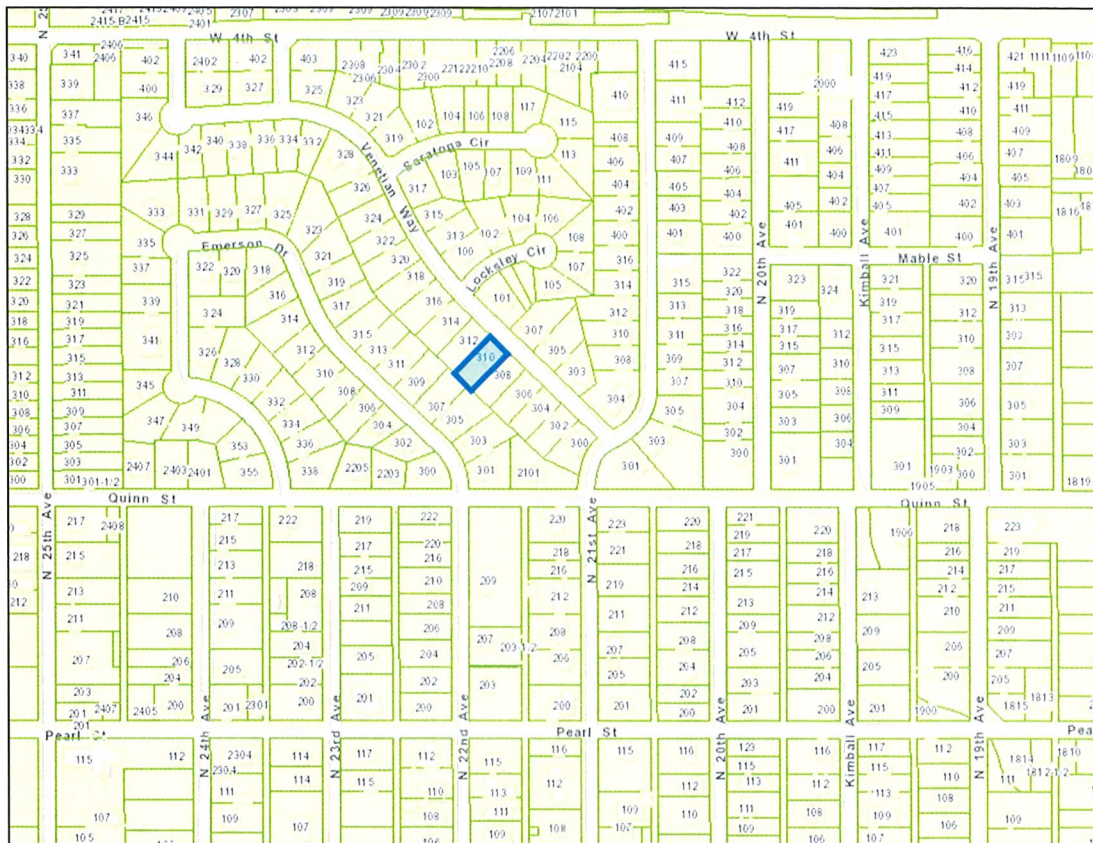
SUBJECT PARCEL: 310 Venetian Way

Donna Davis, Owner.

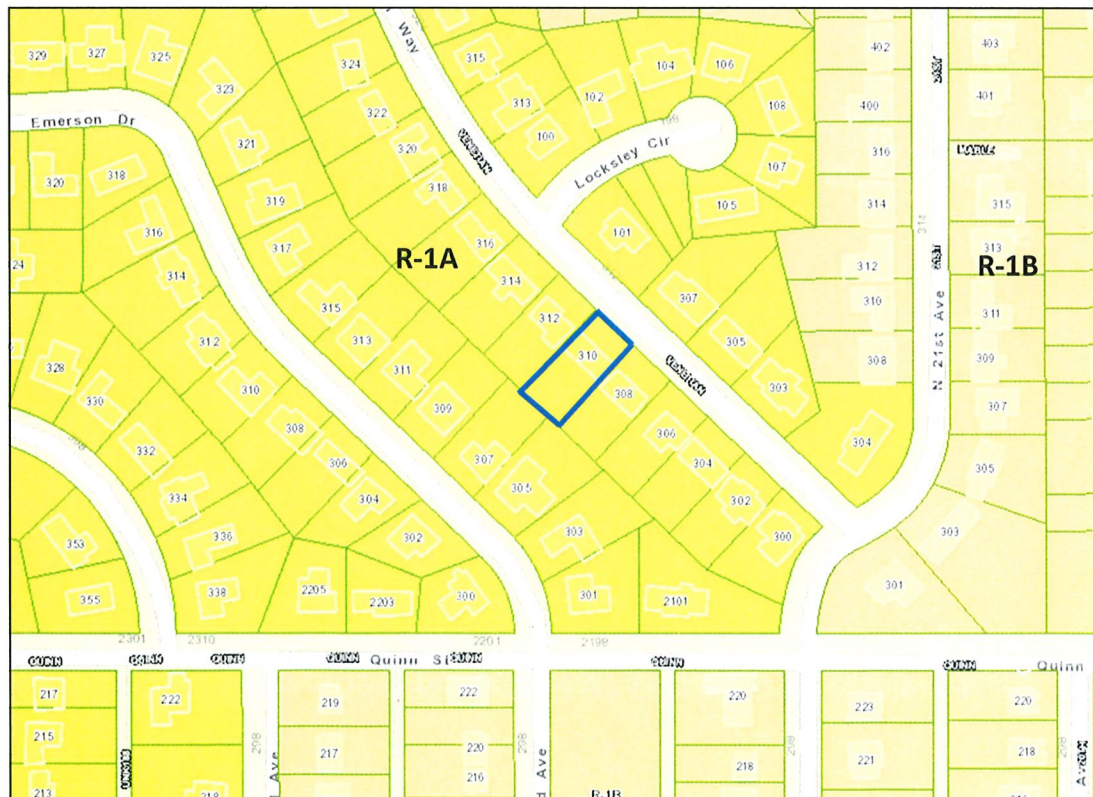
The petitioners request a variance from Section 7.9.8.6 which states, "The maximum height of fences and walls shall be four feet above grade when located in a front yard. Otherwise the maximum height of a fence is eight feet" and instead allow for a ten (10) foot fence in the rear and side yard for a variance of two (2) feet and an eight (8) foot fence in the front yard for a variance of four (4) feet for a proposed fence located at 310 Venetian Way (Parcel No. 2-028J-08-053.00, PPIN 22740, Ward 4).



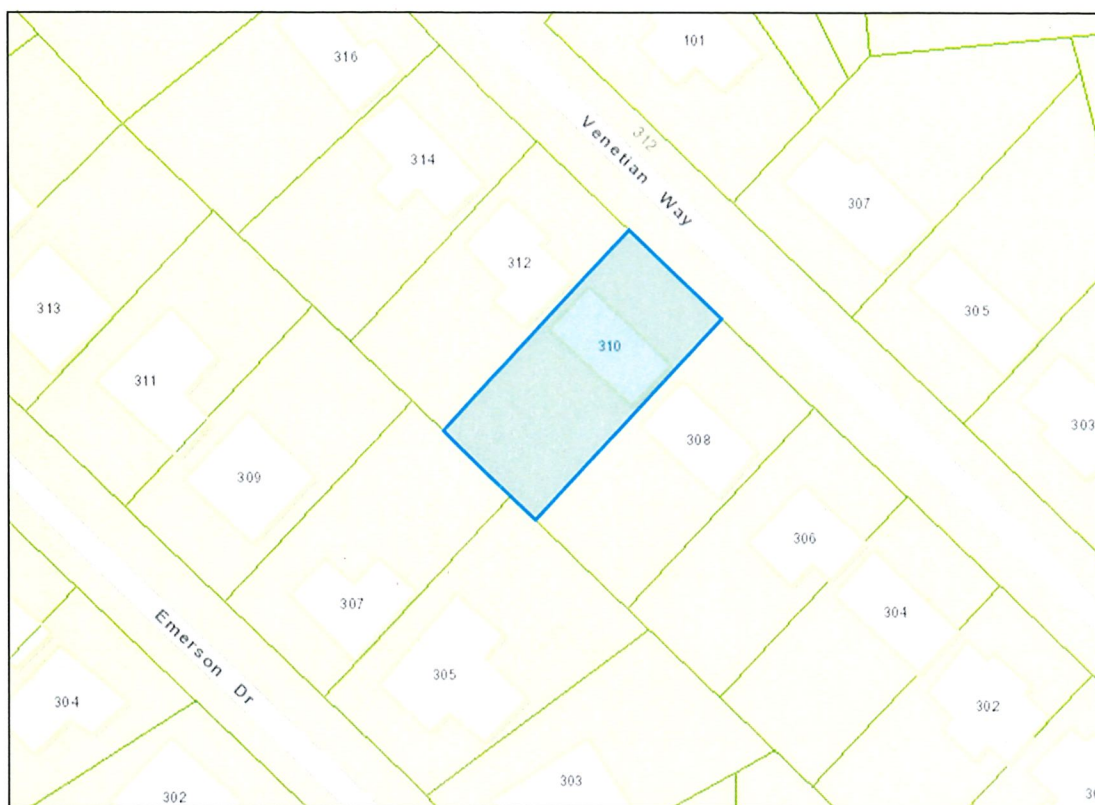
Vicinity Map—Ward 4



Zoning—R-1A



Area Building Footprints and Parcel Lines



Site Aerial



SURROUNDING AREA

**Northern Direction: R-1A (Single Family Residential) District/
Residential**



**Southern Direction: R-1A (Single Family Residential) District/
Residential**



**Eastern Direction: R-1A (Single Family Residential) District/
Residential**



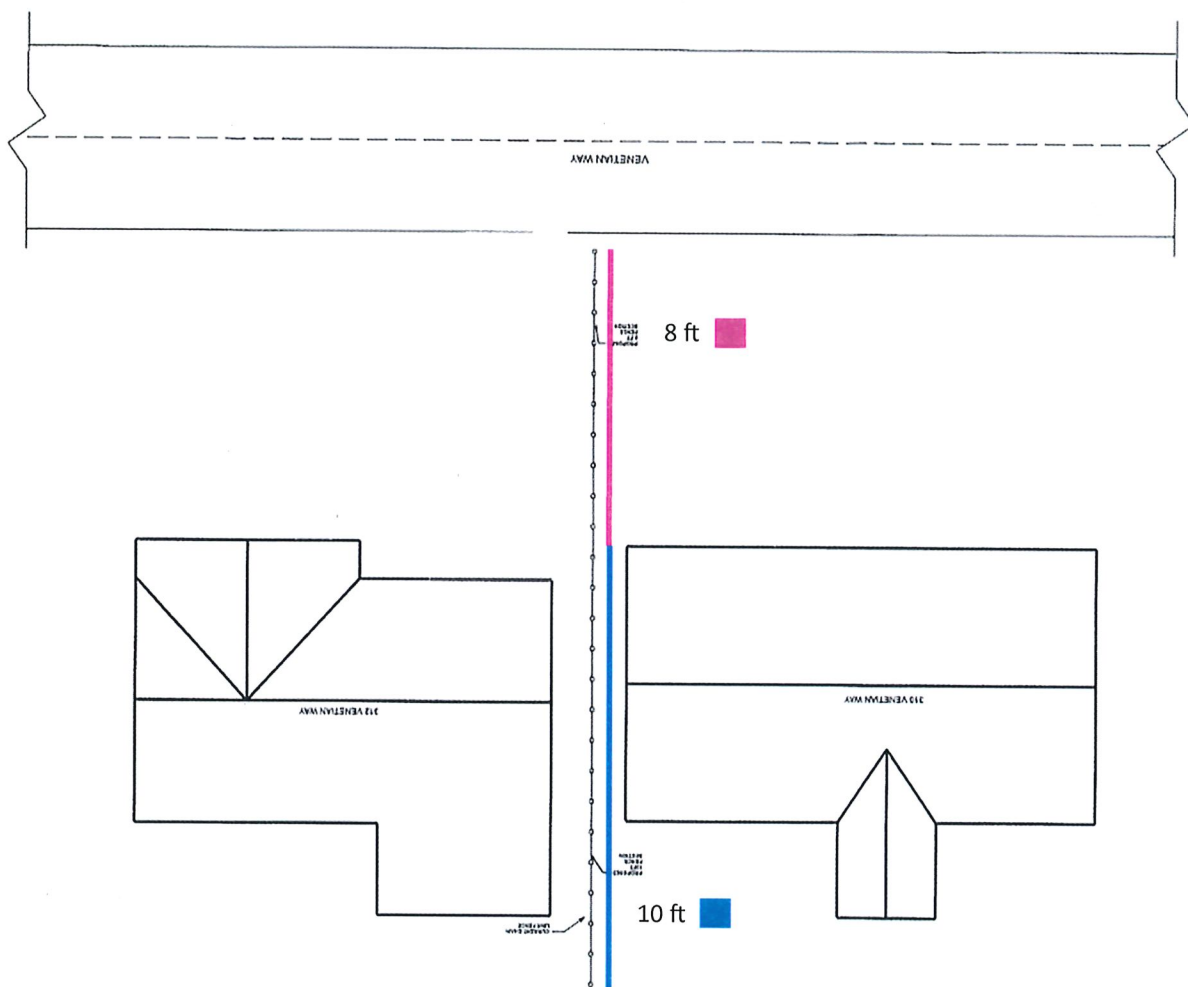
**Western Direction: R-1A (Single Family Residential) District/
Residential**

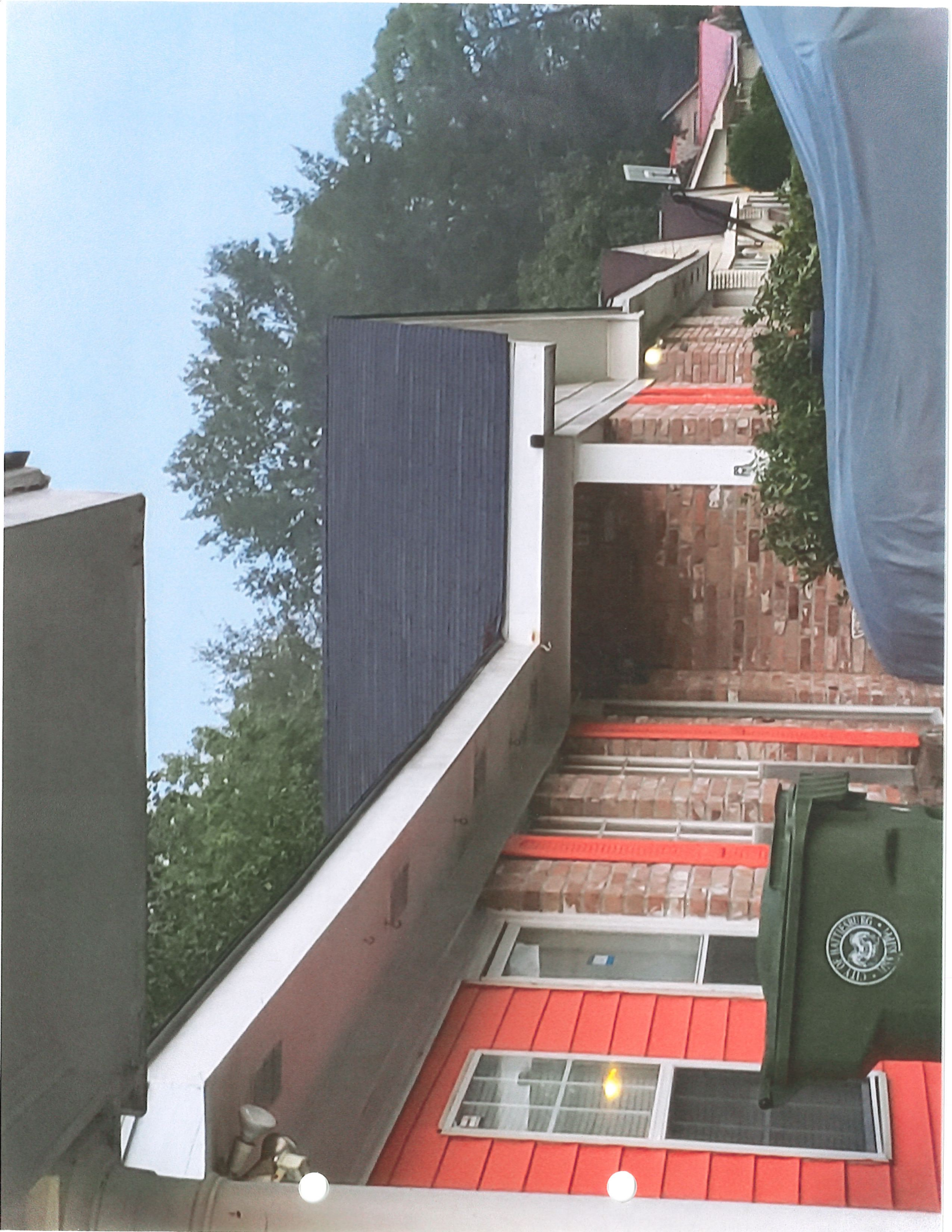
Location of Proposed Fencing in Front Yard



Site Drawing

(Additional notes added by staff in color)







**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Robbie Nguyen, Applicant, and Shea McNease, Engineer

Address of Property:	Tax Parcel	PPIN:	Ward:
Approx. 635 Sullivan Drive	2-042M-35-003.01	36249	5
(Undeveloped Lot in	2-042M-35-003.00	17235	5
industrial park)	2-042M-35-005.00	27756	5

Requests: Front setback variances

Purpose of Request: The petitioners request a variance from Section 6, Table 6.1 "Min/Max Front Setback" for I-1, "40 feet", and instead allow a setback of fifty (50) feet along Sullivan Drive for a variance of ten (10) feet; allow a setback of four hundred six (406) feet along J M Tatum Industrial Drive for a variance of three hundred sixty-four (364) feet; and for a variance from Table 7.11-2 Zoning Buffer Req. of 60' and instead allow a buffer of thirty (30) feet for a variance of thirty (30) feet for a proposed development on J M Tatum Industrial Drive and Sullivan Drive (Parcel No. 2-042M-35-003.01, PPIN 36249; Parcel No. 2-042M-35-003.00, PPIN 17235; Parcel No. 2-042M-35-005.00, PPIN 27756, Forrest Co. Ward 5).

Applicant Summary: See Attached

Applicable Regulations: Section 6, Table 6.1 – "Min/Max Front Setback"

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			
I-1	No minimum/ 100	-	0.75	40	40	0 or 10	0	75 feet	60%	60
I-2	No minimum/ 100	-	0.75	40	40	0 or 10	0	75 feet	60%	60

6.7.2 Measuring Structure Distance. When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate property line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography of the land. Measurements are also taken along the shortest distance between two points. See Diagram 6.2.

Section 7, Table 7.11-2 Zoning Buffer Requirements

Table 7.11-2 Zoning Buffer Requirements														
Zones	A-1	A-2	R-1A	R-1B	R-1C	R-2	R-3	B-1/B-2	B-3	B-4	B-5	I-1	I-2	Buffer Yard Specifications
B-5	50'	50'	50'	50'	50'	50'	50'	-	-	-	-	-	-	Type 50 shall consist of a landscaped area a minimum of 50 feet in width, landscaped as an opaque barrier with 1 large canopy tree (ultimate height 50± feet) and one small ornamental deciduous tree for every 60 lineal feet of buffer yard and 1 medium evergreen tree planted on a triangular staggered spacing for every 10 lineal feet of buffer yard.
I-1	60'	60'	60'	60'	60'	60'	60'	60'	60'	60'	-	-	-	Type 60 shall consist of a landscaped area a minimum of 60 feet in width, landscaped as an opaque barrier and 1 large canopy tree (ultimate height 50± feet) and 1 small ornamental deciduous tree for every 50 lineal feet of buffer yard and one medium evergreen tree planted on a triangular staggered spacing for every 10 lineal feet of buffer yard.
I-2	60'	60'	60'	60'	60'	60'	60'	60'	60'	60'	-	-	-	

Present Zoning: These parcels are zoned I-1 Light Industrial District.

Present Use: Undeveloped / Vacant

Future Land Use: Regional Business Corridor & Industrial/Corporate Office District

**Surrounding Zoning
and Land Use:**

North: I-1 Light Industrial District
South: I-1 Light Industrial District / A-1 Agricultural District
East: I-1 Light Industrial District
West: I-1 Light Industrial District / A-1 Agricultural District

**Most Nearly
Bounded By (streets):**

The parcels are most nearly bounded to the north by J.M. Tatum Industrial Drive, to the east by Sullivan Drive, to the west by South Hills Drive, and to the south by South Hills Drive. The parcels are accessible by J.M. Tatum Industrial Drive and Sullivan Drive.

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case, as of January 24, 2022. The applicant has not provided letters of support from neighboring properties as of January 24, 2022

History / Background:

The applicant met with staff in Pre-Application to discuss the development of a new warehouse/distribution facility on the vacant lot. The proposed building would be approximately 98,816 ft².

The applicant has proposed siting the building 50 feet (as measured to the nearest point from the property line) from Sullivan drive and 406 feet from J.M. Tatum Industrial Drive. Staff is unable to approve this setback as it exceeds the 40' min/max setback allowed in I-1.

The applicant is also requesting a zoning buffer variance of 30 ft along the western portion of the proposed development. The minimum required vegetated zoning buffer between residential and Light Industrial (I-1) zoning is 60 ft. Vegetated zoning buffers are designed to prevent a conflict between land uses, preventing any damaging effects of one kind of land use on another. The effect of a landscape buffer is mainly physical, providing space, obstructing undesirable views, and reducing the impact of industrial land use on surrounding residential land uses. It also serves as an acoustic barrier, attempting to reduce any noise emanating from the two conflicting land uses.

The site plan submitted by the applicant shows a proposed parking area that encroaches 30 ft into the minimum zoning buffer area. The applicant meets the required zoning buffer to the south of the proposed 30 ft buffer. This parking area will serve as a staging/storage area for semi-trucks. The applicants were informed by staff that the Board of Adjustment can request certain conditions with variance requests, i.e., additional, more substantial, or specific landscape requirements for a residential buffer.

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 (1 page)

Note: No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

1. List reasons why you feel that the property could not be reasonably used without the requested variance:
The water tower fall-radius and existing wetlands present hardships to the site. In efforts to maximize clearance from the water tower, while minimizing disturbance to the wetlands we are seeking a variance to the building setback from Sullivan Drive.

2. All of the following conditions must be met before a variance can be recommended.

Explain and justify your proposal's compliance with each condition:

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

The subject property has an irregular shape due to the alignment of Sullivan Drive on its east boundary and the placement of a city-owned elevated water storage tank on its north boundary. The property also contains wetlands which need to be avoided.

- b. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

The setback of 40-feet would deprive the applicant of utilizing the site efficiently and would cause more disturbance to existing wetlands and would place the building within the water tower fall radius.

The current 40-foot setback would create an uncommon building shape due the intersection of Sullivan Drive and J.M. Tatum Industrial Drive.

The requested variance is the minimum required to maximize clearance from the water tower fall radius and minimize wetland disturbance.

- c. That the special conditions and circumstances do not result from the actions of the applicant.

The alignment of Sullivan Drive is preexisting, the existing water tower was constructed by the City of Hattiesburg, and the wetlands are naturally occurring. None of these conditions were created by the applicant.

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

The purposes and intent expressed or implied in the Land Development Code is to locate structures efficiently and systematically. The requested variance will allow the building to use the land efficiently while minimizing disturbance to wetlands.

Variance Information (1 page)

Note: No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

1. List reasons why you feel that the property could not be reasonably used without the requested variance:
The water tower fall-radius and existing wetlands present hardships to the site. In efforts to maximize clearance from the water tower, while minimizing disturbance to the wetlands we are seeking a variance to the building setback from J.M. Tatum Industrial Drive.

2. All of the following conditions must be met before a variance can be recommended.

Explain and justify your proposal's compliance with each condition:

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

The subject property has an irregular shape due to the alignment of Sullivan Drive on its east boundary and the placement of a city-owned elevated water storage tank on its north boundary. The property also contains wetlands which need to be avoided.

- b. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

The setback of 40-feet would deprive the applicant of utilizing the site efficiently and would cause more disturbance to existing wetlands and would place the building within the water tower fall radius.

The current 40-foot setback would create an uncommon building shape due the intersection of Sullivan Drive and J.M. Tatum Industrial Drive.

The requested variance is the minimum required to maximize clearance from the water tower fall radius and minimize wetland disturbance.

- c. That the special conditions and circumstances do not result from the actions of the applicant.

The alignment of Sullivan Drive is preexisting, the existing water tower was constructed by the City of Hattiesburg, and the wetlands are naturally occurring. None of these conditions were created by the applicant.

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

The purposes and intent expressed or implied in the Land Development Code is to locate structures efficiently and systematically. The requested variance will allow the building to use the land efficiently while minimizing disturbance to wetlands.

Variance Information (1 page)

Note: No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

1. List reasons why you feel that the property could not be reasonably used without the requested variance: The water tower fall-radius and existing wetlands present hardships to the site in where the building can be placed. The parking requirements for the proposed building requires the trailer spaces along the agricultural buffer.

2. All of the following conditions must be met before a variance can be recommended.

Explain and justify your proposal's compliance with each condition:

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

The water tower fall-radius and existing wetlands present hardships to the site in where the building can be placed. In efforts to meet the parking requirement needed for the use of the building and minimize disturbance to the wetlands we are seeking a variance to encroach into the 60-foot agricultural buffer.

The parking requirements for the proposed building requires the trailer spaces along the agricultural buffer. The placement of the trailer parking was restricted due to the existing wetlands that minimize the useable area on-site. This caused the trailer parking to encroach further west into the agricultural buffer. The future land use of the neighboring parcel is intended to be industrial/corporate office space.

- b. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

Enforcement of the required buffer space would not allow for the construction of the required truck parking. This is due to the distance between the wetland boundary and the agriculturally zoned property. Without the proper amount of truck parking, the property cannot be used for its intended industrial purposes.

- c. That the special conditions and circumstances do not result from the actions of the applicant.

The existing water tower was constructed by the City of Hattiesburg, and the wetlands are naturally occurring. Neither of these conditions were created by the applicant.

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

The purposes and intent expressed or implied in the Land Development Code is to assure neighboring parcels have visible protection from neighboring use. The requested variance will consider the purposes and intent expressed to provide sufficient screening via landscaping.

SUBJECT PARCEL:
J M Tatum Ind. Drive/ Sullivan Dr. (Corner Lot)

Robbie Nguyen, Applicant, and Shea McNease, Engineer

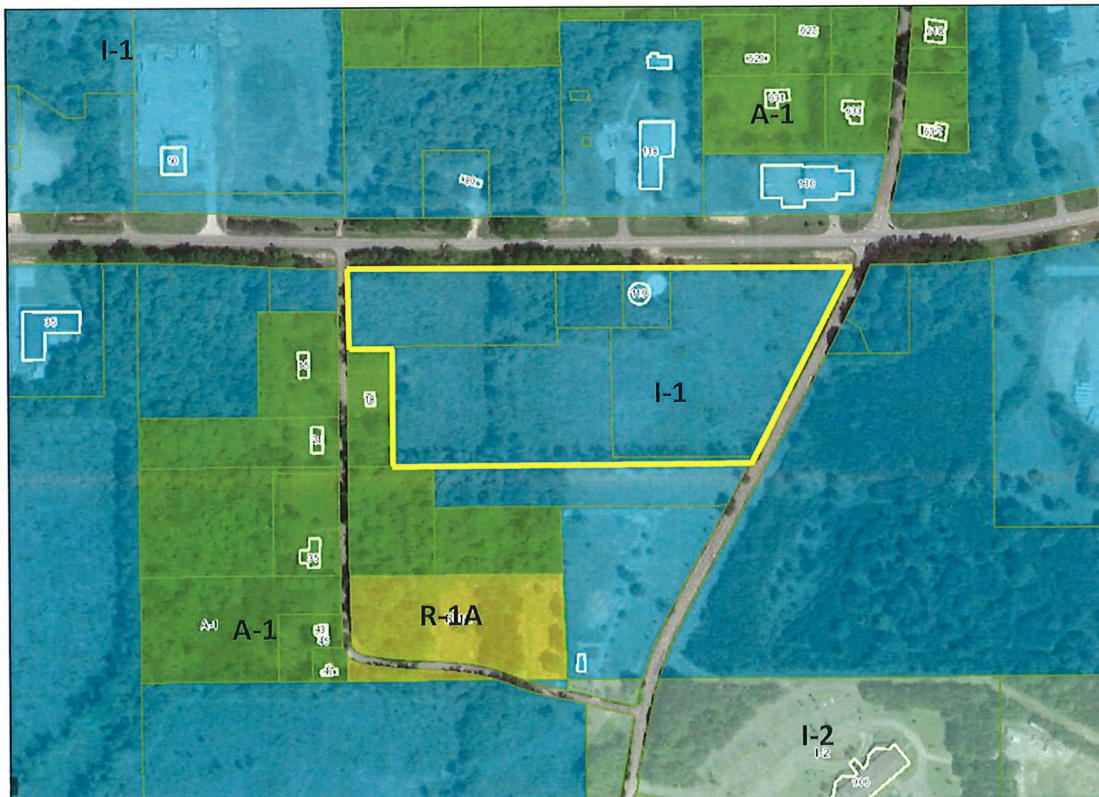
The petitioners request a variance from Section 6, Table 6.1 “Min/Max Front Setback” for I-1, “40 feet”, and instead allow a setback of fifty (50) feet along Sullivan Drive for a variance of ten (10) feet; allow a setback of four hundred six (406) feet along J M Tatum Industrial Drive for a variance of three hundred sixty-four (364) feet; and for a variance from Table 7.11-2 Zoning Buffer Req. of 60’ and instead allow a buffer of thirty (30) feet for a variance of thirty (30) feet for a proposed development on J M Tatum Industrial Drive and Sullivan Drive (Parcel No. 2-042M-35-003.01, PPIN 36249; Parcel No. 2-042M-35-003.00, PPIN 17235; Parcel No. 2-042M-35-005.00, PPIN 27756, Forrest Co. Ward 5).



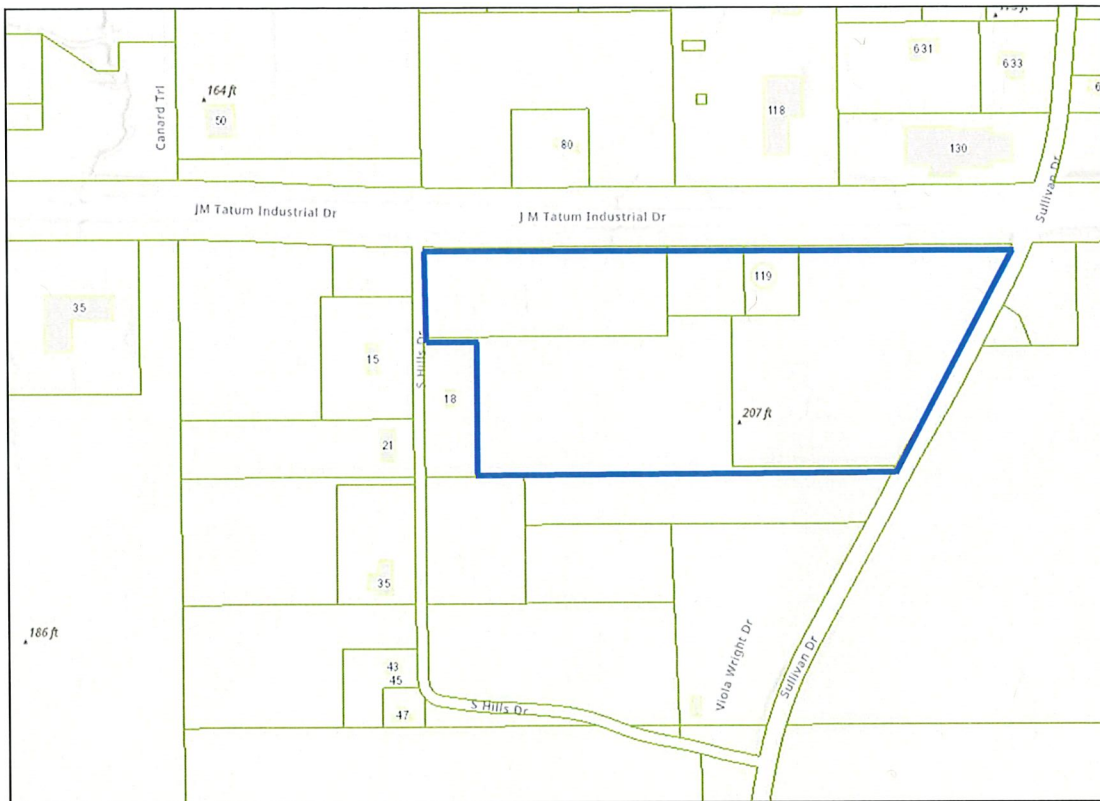
Site Drawing



Zoning—I-1



Parcel Lines



Site Aerial



SURROUNDING AREA

Northern Direction: I-1 (Light Industrial)



Southern Direction: I-1 (Light Industrial) - South Hill Cemetery



Eastern Direction: I-1 (Light Industrial)- Vacant/Undeveloped



Western Direction: A-1 (General Agricultural)



Alternative view of Subject Property

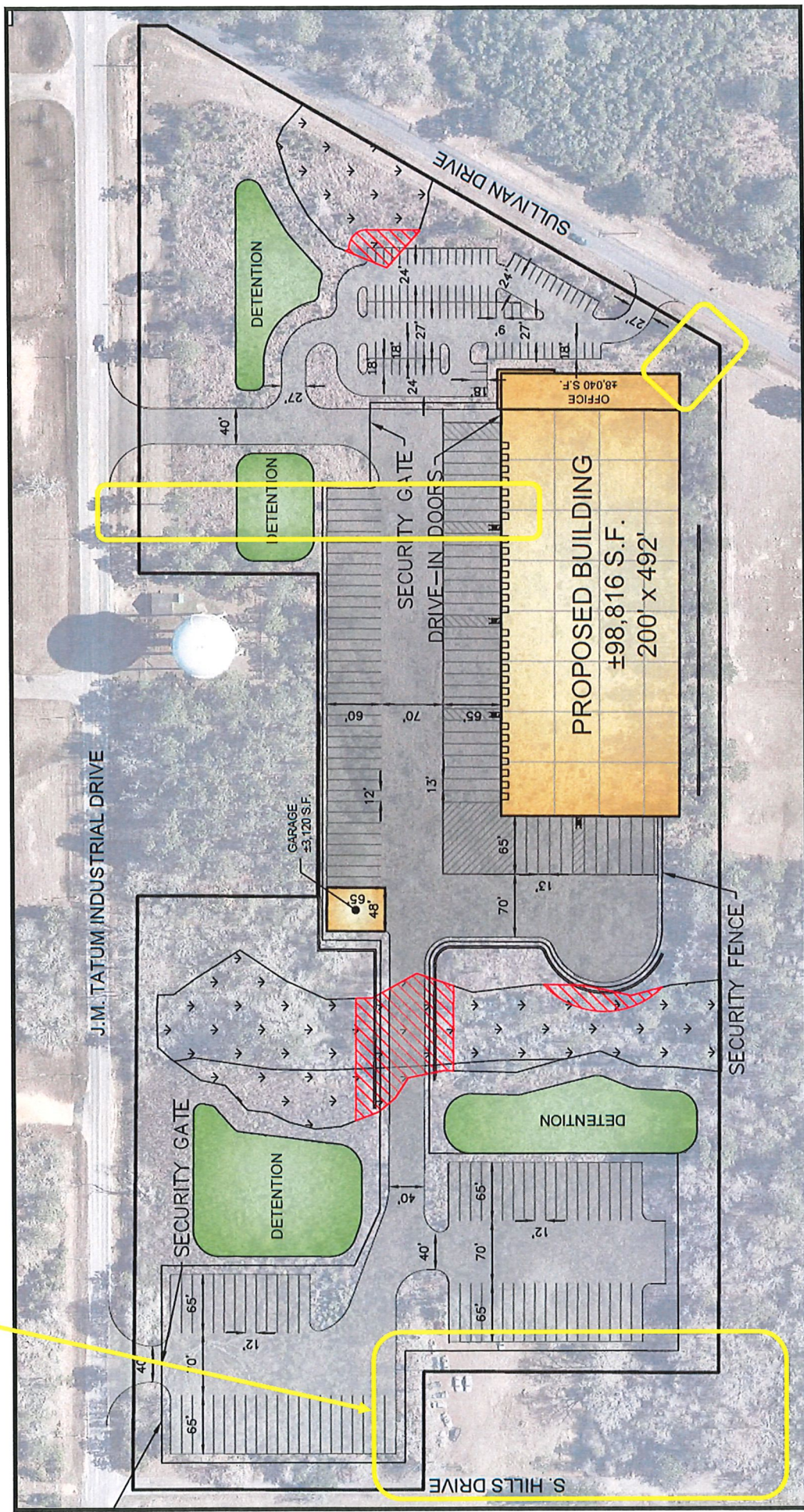
View of site from Sullivan Drive looking to the northwest



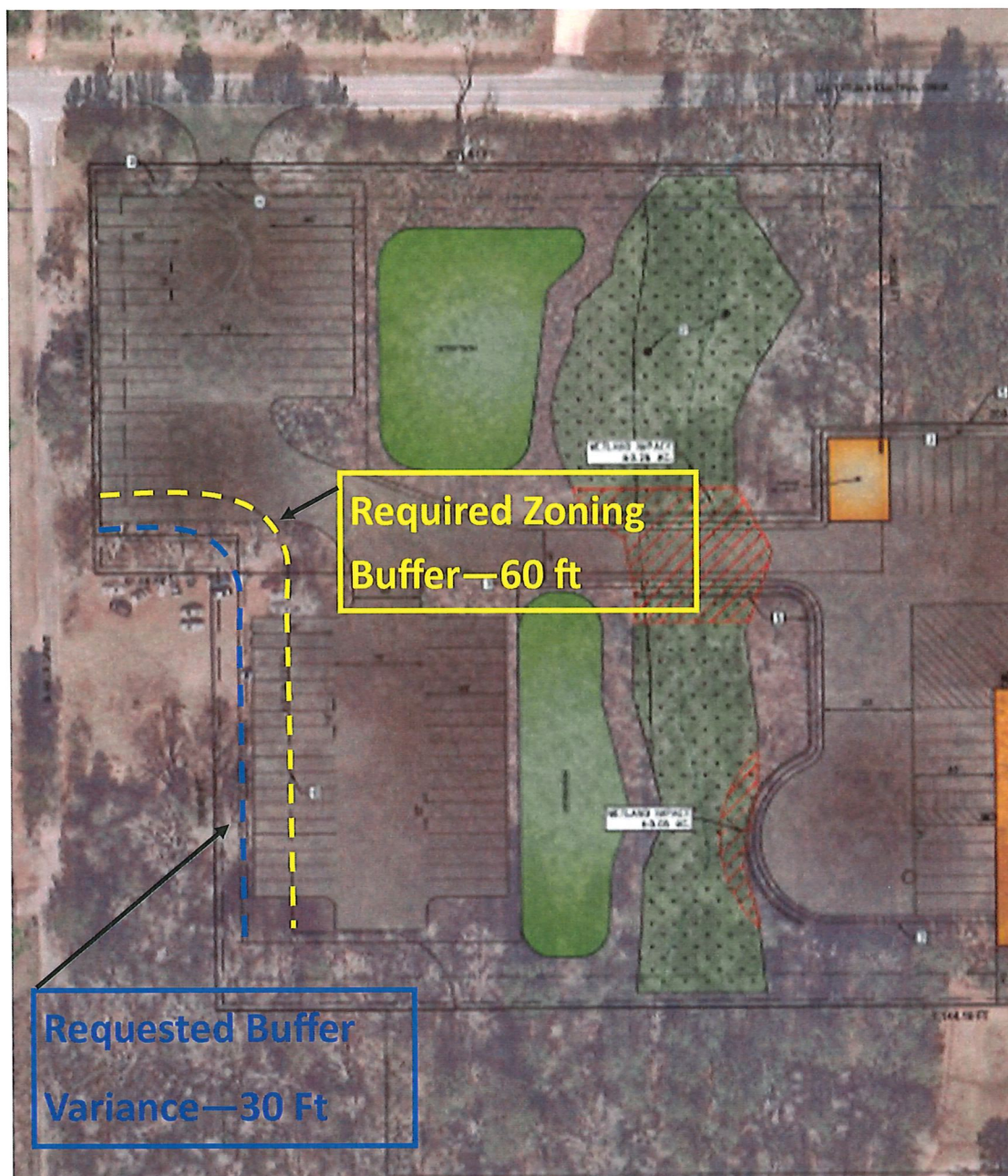
Site Plan with locations of variances high lighted.

Zoning Buffer Variance
(See next page).

Front Setback Variances



Zoning Buffer Variance (Focused View)



Front Setback Variance (Focused View)

