

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

Board of Adjustment

AGENDA

6/1/2022

I. Business Meeting

1. Review and approval of June meeting's agenda
2. Review and approval of the minutes of the April meeting
3. Planning Report
4. Chair's Report
5. Introductions

II. Public Hearing

1. Presentation of Petitions for Public Hearing

A. A petition has been filed by Scott Alexander, Owner, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 10, Table 10.6 "Sign Message Area (Max)(sq. ft)" for wall signs in a B-3 District, "maximum 15% of the single wall", and instead allow a wall sign of one hundred ten feet (110) square feet for a variance of sixty one (61) square feet for a certain property located at 1610 Hardy Street (Parcel No. 2-029M-09-518.00, PPIN 16815, Forrest County, Ward 4).

B. A petition has been filed by Bryant Hensleigh, representative, and Maxem Health Urgent Care, representative, and Charlotte C. Rawls, owner, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 6, Table 6.1 "Minimum Front Setback" for B-3, "30 feet", and instead allow a setback of five (5) feet for a variance of twenty-five (25) feet along U.S. Highway 49 and to request a variance from section 7.10.11.1 "Perimeter Landscaping: A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage" and instead allow five (5) feet of green strip for a variance of ten (5) feet for a proposed building to be located at 6096 U.S. Highway 49 (Parcel No. 2-028O-08-243.00, PPIN 16559, Forrest Co., Ward 4)

III. Other Business

IV. Adjournment



URBAN DEVELOPMENT

PLANNING DIVISION

MEMORANDUM

TO: Hattiesburg Planning Commission
FROM: Planning Staff
DATE: May 9th, 2022
SUBJECT: May 16, 2022 – Hattiesburg Planning Commission – Special Called Meeting

The Hattiesburg Planning Commission will meet in regular session at 1:00 pm. Wednesday, June 1st, 2022 in the dining room of the Jackie Dole Sherrill Community Center. The Planning Commission public hearing agenda contains three (3) items: two (2) zoning changes, and one (1) conditional uses.

The Board of Adjustment will The Hattiesburg Planning Commission will meet in regular session at 3:30 pm. Wednesday June 1st, 2022 in the dining room of the Jackie Dole Sherrill Community Center. The Board of Adjustment public hearing agenda contains two (2) variance requests.

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

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 Kennedy, Council Clerk
Ginger M. Lowrey, AICP, Planning Div. Manager
Wiley Quinn, Code Enforcement Manager
Nathan Satcher, Planner
Russell Archer, Historic Planner
Lamar Rutland, Director of Engineering
Andy Parker, City Arborist
Kevin Bates, Building Official

**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG BOARD OF ADJUSTMENT**

April 6, 2022

The Hattiesburg Board of Adjustment did meet in regular session on April 6th, 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)
Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members Absent: Bruce Betts, Vice-Chair
James Hughes
Lucy Parkman
James Trussell

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

Shawn Harris, Chair, declared the meeting of the Hattiesburg Board of Adjustment open and in session at 3:40 PM.

AGENDA REVIEW

There came the matter of the April 2022 Agenda. A motion was made by Bernard Green to approve the agenda and seconded by Dick Conville.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)
Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

MINUTES REVIEW

There came the matter of the February 2nd, 2022 minutes. A motion was made to approve the minutes by Bernard Green with a change to page 6, noting that Shawn Harris declared the public hearing closed, and not the meeting following the presentation of item A. The motion was seconded by Stacey Ready and a roll call vote was conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)

Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

REPORTS

PLANNING REPORT

Ginger Lowrey, Planning Division Manager, provided the Planning Report. The variances for 2505 Arcadia St (Side setback and accessory structure setback variance), 243 Jervis Mims Road (Accessory structure size variance), 310 Venetian Way (Fence height variance, partial approval), and JM Tatum Industrial Drive (Front setback and zoning buffer variances) were approved by City Council (Board of Adjustment Decision Upheld) on February 22, 2022. Mrs. Lowrey also noted that Steve Mitchell, the Building Official, would be retiring and is grateful for his role.

Mrs. Lowrey asked for an update on the nomination subcommittee. The Board of Adjustment asked that the nomination subcommittee leave it on the agenda for the next meeting since Lucy Parkman, a member of the subcommittee was not present.

CHAIR'S REPORT

No report was given.

INTRODUCTIONS

Board members introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

There came the matter of Item A, to consider a variance from section 10, Table 10.6 “Sign Message Area (Max)(sq. ft)” for wall signs in residential districts, “50 square feet”, and instead allow a wall sign of 108 square feet for a variance of 68 square feet for the property located at 1503 Country Club Road (Parcel No. 2-038E-16-106.00, PPIN 17576, Forrest County, Ward 5).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Juli Martinez	708 S 18 th Ave	Hattiesburg, MS
<u>Proponents:</u>	None		
<u>Opponents:</u>	None		

Juli Martinez, representative, presented the application an overview of why they are seeking a sign variance. She noted the difficulty in achieving visibility with their elevated location off of HWY 49, which is why they would prefer a larger wall sign and not a monument sign. They had originally applied for an internally illuminated sign, not realizing they were in a residential zone that did not allow for internally illuminated signage. She claimed the sign would not be visible to any residential structures and would face HWY 49. She noted she would love to see the property rezoned, as the property previously had duplex structures on it, but only wanted to move forward with a sign variance at this time. Shawn Harris then declared the public hearing portion of the meeting closed.

Dr. Conville noted that this is a similar scenario where they granted Academy Sports on Highway 98 a sign variance and made a motion to approve, meeting the approval criteria of items I and VI (Hardship and Conformance with the Purposes of this Code). The motion was seconded by Stacey Ready and a roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)
 Dick Conville
 Bernard Green
 Shawn Harris, Chair
 Stacey Ready
 Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

PUBLIC HEARING – BOARD OF ADJUSTMENT

There came the matter of Item B, to consider a variance from section 7.10.11.1 “Perimeter Landscaping: A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage” and instead allow for a variance of 0 feet of green strip for a variance of 10 feet for the property located at 120 Mayfair Road (Parcel No. 051Q-12-019.000, PPIN 19765 and Parcel No. 051Q-12-020.000, PPIN 17403, Lamar Co., Ward 3).5).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Kevin Lewis	5211 Old Highway 11	Hattiesburg, MS
	Chris Sawyer	14 Plaza	Hattiesburg, MS

Proponents: None

Opponents: None

Kevin Lewis, the architect for the project, presented the application. He noted that the site will be used as an operations center and will need as much parking as possible for the proposed function. He noted that the project is contingent upon this variance request, as it allows the project to meet its parking needs. Mr. Lewis also provided updated architectural elevations for the site for the board to review. He noted that although they are requesting a 10 ft variance on their side, an approximately 10 ft green strip in the right-of-way would still be provided and they intended to plant appropriate vegetation along the right-of-way along Millbranch Road. He noted he was unaware of the existing utilities along that right-of-way and the species would be selected after determining what is below the green strip in the right-of-way. Kevin Lewis also noted that they have an approved site plan with the City that is contingent on the variance approval.

Chris Sawyer, president of Grand Bank, also spoke on the project and the function of the proposed operations center. He noted there are no plans for retail access at this site and will be strictly for employees only. Shawn Harris then declared the public hearing portion of the meeting closed. Shawn posed a question to staff regarding the landscaping requirements, where Ginger clarified that as a B-5, only 10% of the property needs to be pervious or landscaped. Bernard Green then made a motion to approve on the basis of items I and IV (Hardship and Reasonable Use). Stacey Ready seconded the motion. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)

Dick Conville
 Bernard Green
 Shawn Harris, Chair
 Stacey Ready
 Brandon Williams (Via Gotomeeting)

Board Members voting nay: None**PUBLIC HEARING – BOARD OF ADJUSTMENT**

There came the matter of Items C-H, to consider multiple variances from the Midtown Form-Based Code for the development of a new office building.

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Reed Nelson	255 Sycamore Lane	Madison, MS

Proponents: None

Opponents: None

Reed Nelson, a representative of Jones Companies, presented the applications. He noted it had been a pleasure working with city staff and the mayor's office on this project. He noted that the staff presentation explained what they are asking for better than he could, so he then opened the floor for any questions from the Board of Adjustment. Stacey Ready asked for clarification on the Jones Companies and Reed Nelson provided an overview of the history of the company. Bernard Green asked on the projected start date of construction, where Mr. Nelson hoped they could begin breaking ground this summer or early fall. Ginger Lowrey asked that Mr. Nelson speak on the architectural design firm that they have been working with to create their site plan and space. Mr. Nelson noted they chose the landscape firm Reed Hilderbrand, which is based out of Cambridge Massachusetts, and spoke highly of their work. Shawn Harris asked for clarification on the extent of the southern parking lot, and staff clarified the boundaries of the development.

Shawn Harris then declared the public hearing portion of the meeting closed. Motions to approve each item were then made individually, but all motions were made on the basis of approval for items I, IV, and VI (Hardship, Reasonable Use, and Conformance with the purpose of the Code).

Item C: To consider a variance from Article 3, Section 3.5.2 (F) which states a Build-to Zone on a primary street shall meet 70% minimum overall lot width and instead allow 49.7% lot width for a variance of 20.3% lot width for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

A motion was made by Bernard Green to approve item C based on approval for items I, IV, and VI (Hardship, Reasonable Use, and Conformance with the purpose of the Code). The motion was seconded by Brandon Williams. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)

Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

Item D: To consider a variance from Article 3, Section 3.5.2(F) which states a Build-to Zone on a primary street shall meet 70% minimum overall lot width and instead allow 40% lot width on S. 31st Avenue for a variance of 30% lot width for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

A motion was made by Dick Cornville to approve item D based on approval for items I, IV, and VI (Hardship, Reasonable Use, and Conformance with the purpose of the Code). The motion was seconded by Brandon Williams. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)

Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

Item E: To consider a variance from Article 3, Section 3.5.2(H) which states a Build-to Zone on a side street shall meet 35% minimum overall lot width and instead allow 0% lot width on S. 30th Avenue and Lorrain Street for a variance from the requirement for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

A motion was made by Bernard Green to approve item E based on approval for items I, IV, and VI (Hardship, Reasonable Use, and Conformance with the purpose of the Code). The motion was seconded by Brandon Williams. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)

Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

Item F: To consider a variance from Article 5, Section 5.1.B. which requires the proposed development to provide 325 parking spaces and instead allow 226 parking spaces for a variance of 99 or 31% reduction for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

A motion was made by Bernard Green to approve item F based on approval for items I, IV, and VI (Hardship, Reasonable Use, and Conformance with the purpose of the Code). The motion was seconded by Brandon Williams. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)

Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

Item G: To consider a variance from Article 3, Section 3.5.3 (A) which states the Building height maximum is 60' and instead allow 65' (average) for a variance of 5' for the average building height maximum for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

A motion was made by Brandon Williams to approve item G based on approval for items I, IV, and VI (Hardship, Reasonable Use, and Conformance with the purpose of the Code). The motion was seconded by Stacey Ready. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)

Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

Item F: To consider a variance from Article 3, Section 3.5 4. Transparency (A) which states the minimum Ground story transparency is 40% and instead allow a transparency of 30% on S. 31st Avenue for a variance of 10% on S. 30th Avenue for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

A motion was made by Dick Cornville to approve item H based on approval for items I,

IV, and VI (Hardship, Reasonable Use, and Conformance with the purpose of the Code). The motion was seconded by Brandon Williams. A roll call vote was then conducted.

Board Members voting aye: Victoria Bolls (Via Gotomeeting)
Dick Conville
Bernard Green
Shawn Harris, Chair
Stacey Ready
Brandon Williams (Via Gotomeeting)

Board Members voting nay: None

BUSINESS MEETING

There being no further business, Bernard Green made a motion to adjourn the meeting. The motion was seconded by Dick Conville and all members were in favor. The meeting was adjourned at 4:51 PM

Shawn Harris, Chair

Ginger Lowrey, Planning Division Manager

4.5.9 B-2 Neighborhood Business District: The purpose of the B-2 District is to provide for retail and personal service uses in locations convenient to residential neighborhoods consistent with comprehensive planning policies. This district is consistent with the Neighborhood Business District in the Comprehensive Plan.

4.5.10 B-3 Community Business District: The purpose of the B-3 District is to provide for retail, personal service, and offices in locations with convenient access to the community consistent with comprehensive planning policies. This district is consistent with the Community Business District in the Comprehensive Plan.

SECTION 6

Dimensional Standards and Measurements

Table 6.1 Dimensional Standards

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			
A-1	130,680 / 100	1 per lot	-	25	-	15	25	35 feet or 3 stories	35%	-
A-2	43,560 / 100	1 per lot	-	25	-	15	25	35 feet or 3 stories	50%	-
R-1A	10,000/ 50	1 per lot	-	30	-	10	25	35 feet or 3 stories	50%	-
R-1B	7,500/ 50	1 per lot	-	25	-	10	25	35 feet or 3 stories	50%	-
R-1C	5,000/ 50	1 per lot	-	20	-	10	25	35 feet or 3 stories	50%	-
R-2	4,000/ 40	2 per lot	-	20	-	10	20	35 feet or 3 stories	50%	-
R-3	7,500/ 40	17 per acre	-	20	-	5	20	35 feet or 3 stories	50%	-

Present Zoning: The parcel is currently split-zoned, with an R-3 zoning on a northern portion of the property and B-2 zoning on a southern portion.

Present Use: Vacant building, previously occupied by Century First Federal Credit Union (formerly Southern Mississippi Federal Credit Union)

Future Land Use: Community Business Corridor

Surrounding Zoning and Land Use:
 North: R-3 Multi-Family Residential
 South: B-3 Community Business
 East: B-3 Community Business
 West: B-3 Community Business

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of May 18, 2022.

History / Background:

The petitioner met with administration to discuss rezoning the property to B-3 to better align with the surrounding Hardy Street Corridor. The petitioner noted that the market demand for the area is better served as a B-3.

A change to B-3 is consistent with the majority of properties fronting Hardy Street between Downtown and Hwy 59. The most recent zoning change consistent with this request was 3703 Hardy Street, approximately 1,700 feet to the west.

Option: Basis for approval (Zoning Change):

- I. There was a mistake in the original zoning
- II. The character of the neighborhood has changed substantially so that rezoning is clearly justified **and** there is a public need for the rezoning
- III. Annexation

SUBJECT PARCEL:

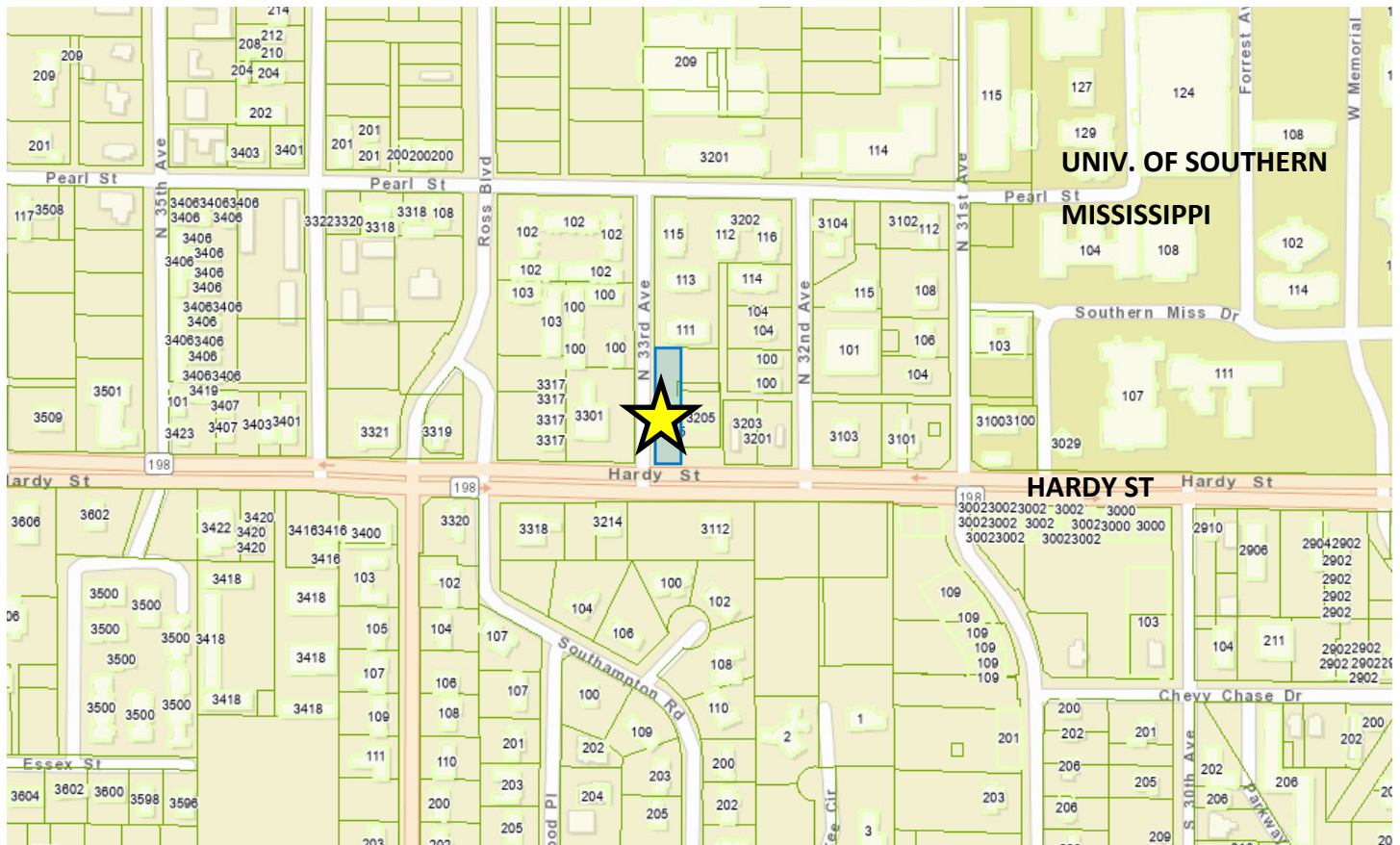
3207 Hardy St

Andy Stetelman, Owner

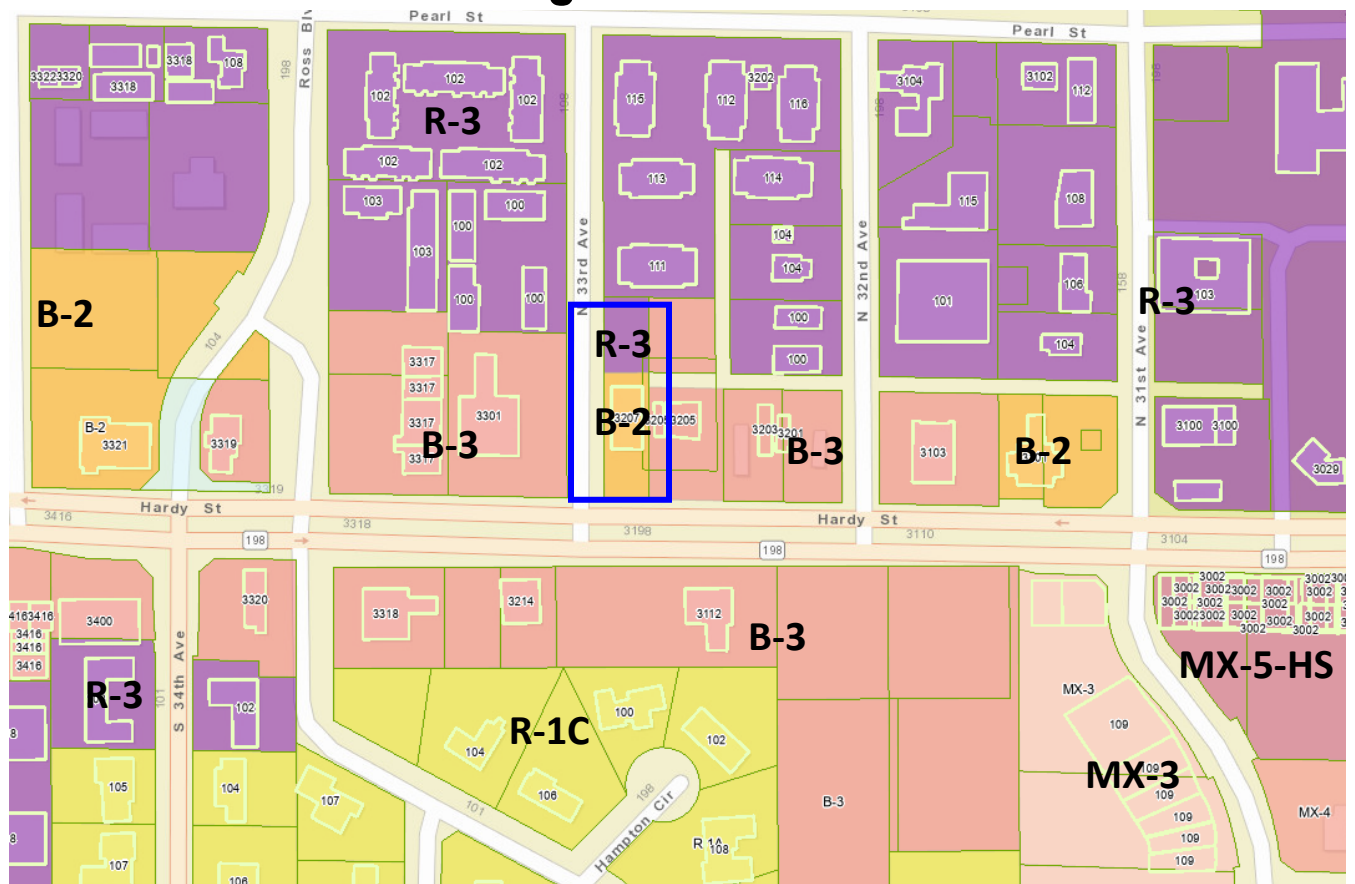
The petitioners request to consider an application to change the zoning classification for a property located at 3207 Hardy St (Parcel 2-028K-07-034.00, PPIN 23004, Forrest County, Ward 3) from Section 5.4.9 Neighborhood Business District B-2 and Section 4.5.7 Multi-Family Residential District R-3 to Section 5.4.10 Community Business District B-3



Vicinity Map—Ward 3



Zoning—R-3 and B-2



Site Aerial



SURROUNDING AREA

North: R-3 Multi Family Residential



**South: B-3 Community Business
Financial Institution**



**West: B-3 Community Business
Financial Institution**

**East: B-3 Community Business
Restaurants**





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.

With the city, 2nd bus stop and trees planted along Hardy St in front of Hardy St Baptist Activities Center blocks the front of the Activities Center and a small sign will not be visible. A larger sign is needed to see through the bus stop and trees.

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

There is no special privilege being given with this sign or signage at surrounding buildings.

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.

See number 1

Variance Information

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

For years no one knew what was in the building at 1610
Haley St. This sign allows people passing by to see what
the building is and possibly attract someone looking to get
connected to a college ministry

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

Building can not be identified in any other way

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.

This sign is not an eyesore. It is done with the
purpose of bringing beautification to the area at the same
time identifying the building.

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.



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Bryant Hensleigh, Engineer, and Maxem Health Urgent Care, Applicant

Address of Property:	Tax Parcel	PPIN:	Ward:
6096 US Highway 49	2-028O-08-243.00	16559	4

Requests: Front setback variance and Perimeter Landscaping Variance

Purpose of Request: The petitioners request a variance from section 6, Table 6.1 "Minimum Front Setback" for B-3, "30 feet", and instead allow a setback of five (5) feet for a variance of twenty-five (25) feet along U.S. Highway 49 and to request a variance from section 7.10.11.1 "Perimeter Landscaping: A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage" and instead allow five (5) feet of green strip for a variance of ten (5) feet for a proposed building to be located at 6096 U.S. Highway 49 (Parcel No. 2-028O-08-243.00, PPIN 16559, Forrest Co., Ward 4)

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4

Zoning Districts

4.5.10 B-3 Community Business District

The purpose of the B-3 District is to provide for retail, personal service, and offices in locations with convenient access to the community consistent with comprehensive planning policies. This district is consistent with the Community Business District in the Comprehensive Plan.

SECTION 6 Dimensions

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			
A-1	130,680 / 100	1 per lot	-	25	-	15	25	35 feet or 3 stories	35%	-
A-2	43,560 / 100	1 per lot	-	25	-	15	25	35 feet or 3 stories	50%	-
R-1A	10,000/ 50	1 per lot	-	30	-	10	25	35 feet or 3 stories	50%	-
R-1B	7,500/ 50	1 per lot	-	25	-	10	25	35 feet or 3 stories	50%	-
R-1C	5,000/ 50	1 per lot	-	20	-	10	25	35 feet or 3 stories	50%	-
R-2	4,000/ 40	2 per lot	-	20	-	10	20	35 feet or 3 stories	50%	-
R-3	7,500/ 40	17 per acre	-	20	-	5	20	35 feet or 3 stories	50%	-
B-1	0/100	-	.75	20	25	0 or 15	0	35 feet or 3 stories	80%	20
B-2	4,000/ 100	-	0.75	0	10	0 or 10	0	35 feet or 3 stories	80%	20
B-3	No minimum/ 100	-	1.00	30	-	0 or 10	0	40 feet or 3 stories	80%	30
B-4	No minimum/ none	-	No limit	0	10	0	0	135 feet or 10 stories	100%	40
B-5	No minimum/ 100	-	1.50	30	150	0 or 10	0	72 feet or 6 stories	90%	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.

SECTION 7 Design Standards: Table 7.1

7.10.2 Perimeter Landscaping

7.10.11.1 - A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage.

Table 7.1 Design Standards																
STANDARD		DISTRICT														
■ = Required ✖ = Not required		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	PMU
7.10.11 7.10.2 Perimeter Landscaping.																
7.10.11.1	A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal <u>frontage</u> .	✖	✖	✖	✖	✖	✖	✖	■	■	■	✖	■	■	■	■
7.10.11.2	Landscaping shall comply with the Plant Standards, Installation and Maintenance in this section.	■	■	■	■	■	■	■	■	■	■	✖	■	■	■	■

Present Zoning: B-3, Community Business District; The property is also located within the Park Haven Historic District

Present Use: Undeveloped / Vacant

Future Land Use: Community Business Corridor

Surrounding Zoning and Land Use:

North:	B-3 Community Business District – Auto Repair/Maintenance
South:	B-3 Community Business District – Professional Office
East:	B-3 Community Business District – Single-Family Residential
West:	MX-4 Mixed Use 4 Store – Medical / Financial

Letters or Concerns stated:	The Planning Division Office has not received any letters or other written communications relative to this case, as of May 20, 2022. The applicant has not provided letters of support from neighboring properties as of May 20, 2022
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History / Background: The applicant met with staff in Pre-Application to discuss the development of a medical clinic for Maxem Health at the proposed location. A former car-wash facility was recently demolished at this location, leaving a blank slate for infill development. After meeting with the applicant, staff suggested reducing the front setback to bring the building closer to the street to match the existing pattern of development along this frontage road and to better accommodate the parking lot. Future plans at the Camp Street intersection just north of this site include improved pedestrian connectivity, where having a reduced setback will create a more engaging street.

The reduction of the front setback also allows for more developable

Item: B

Bryant Hensleigh, Engineer, and Maxem Health Urgent Care, Applicant
Request for **Setback and Perimeter Landscaping Variance**

area on site, allowing for parking to be located on the side of the building, instead of in front of the building. Locating parking to the side allows for the building façade to be showcased, instead of a parking lot, which is a more desirable streetscape on a prominent corridor in the City of Hattiesburg.

The reduced building setback resulted in a portion of the building façade encroaching on the required 10ft deep landscape strip along the right-of-way. However, it may be within a 10% measurable area eligible for an administratively issued “waiver” per LDC 12.5.4. At this time staff is requesting the Board of Adjustment to vote on the variance unless the applicant can document the request is within 10% of the required amount of landscaping (LDC 12.5.4.3.). While reduced for the one section of frontage for the entrance façade, the applicant is meeting or exceeding the landscape requirement along the remaining street frontage. Sidewalks will also be constructed and an additional 8 ft of landscaping in the right-of-way will be in place between the sidewalk and the street.

The property is located within the Parkhaven Historic District, which requires architectural review for exterior site elements as well as site design prior to construction. The Hattiesburg Historic Conservation Commission approved the architectural plan and site plan on May 11th, 2020. Architectural plans are included in this report. The applicant is currently working through site plan review with staff pending variance approval.

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.

SUBJECT PARCEL:

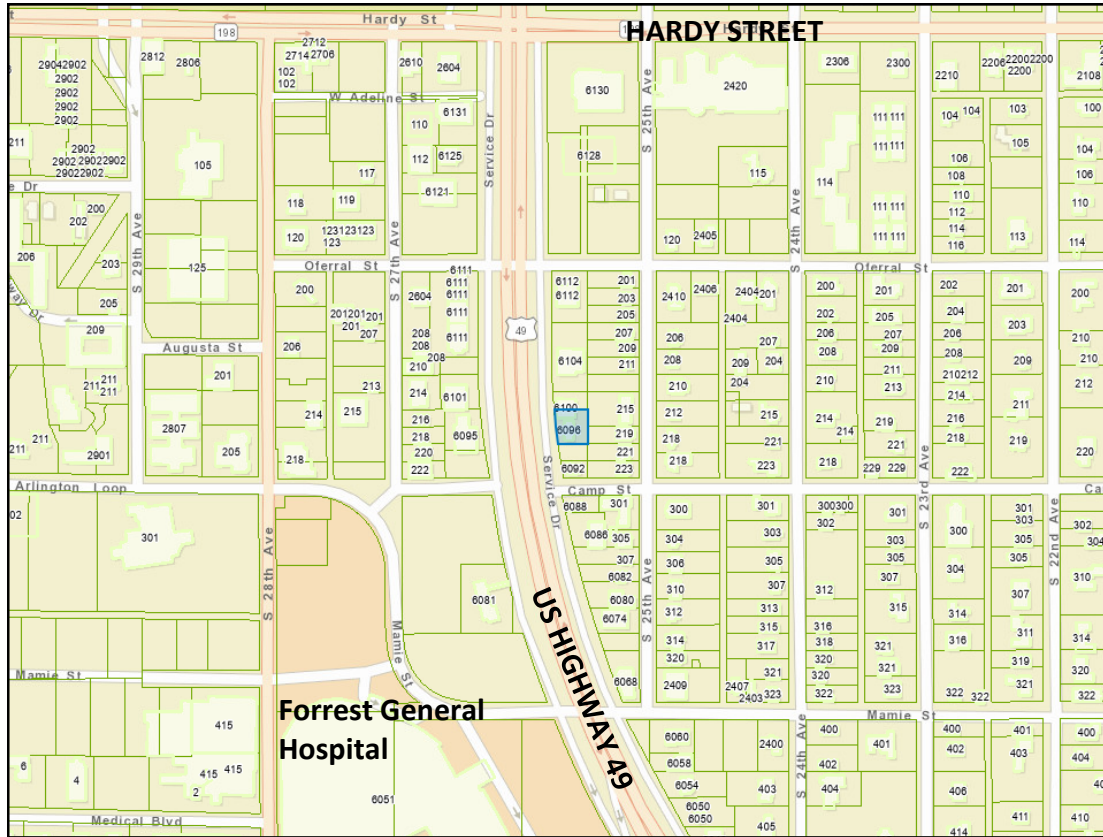
6096 Hardy Street—Maxem Health Clinic (New Build)

Bryant Hensleigh, Engineer, and Maxem Health Urgent Care, Applicant

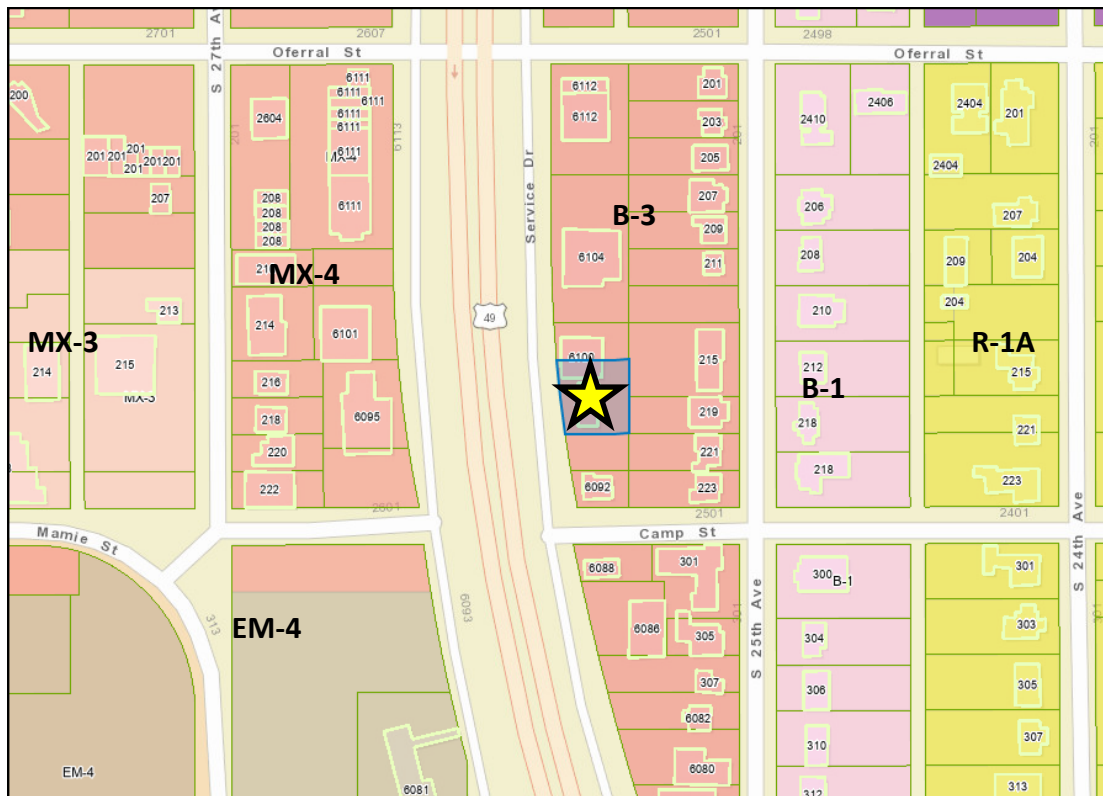
The petitioners request a variance from section 6, Table 6.1 “Minimum Front Setback” for B-3, “30 feet”, and instead allow a setback of five (5) feet for a variance of twenty-five (25) feet along U.S. Highway 49 and to request a variance from section 7.10.11.1 “Perimeter Landscaping: A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage” and instead allow five (5) feet of green strip for a variance of ten (5) feet for a proposed building to be located at 6096 U.S. Highway 49 (Parcel



Vicinity Map—Ward 4

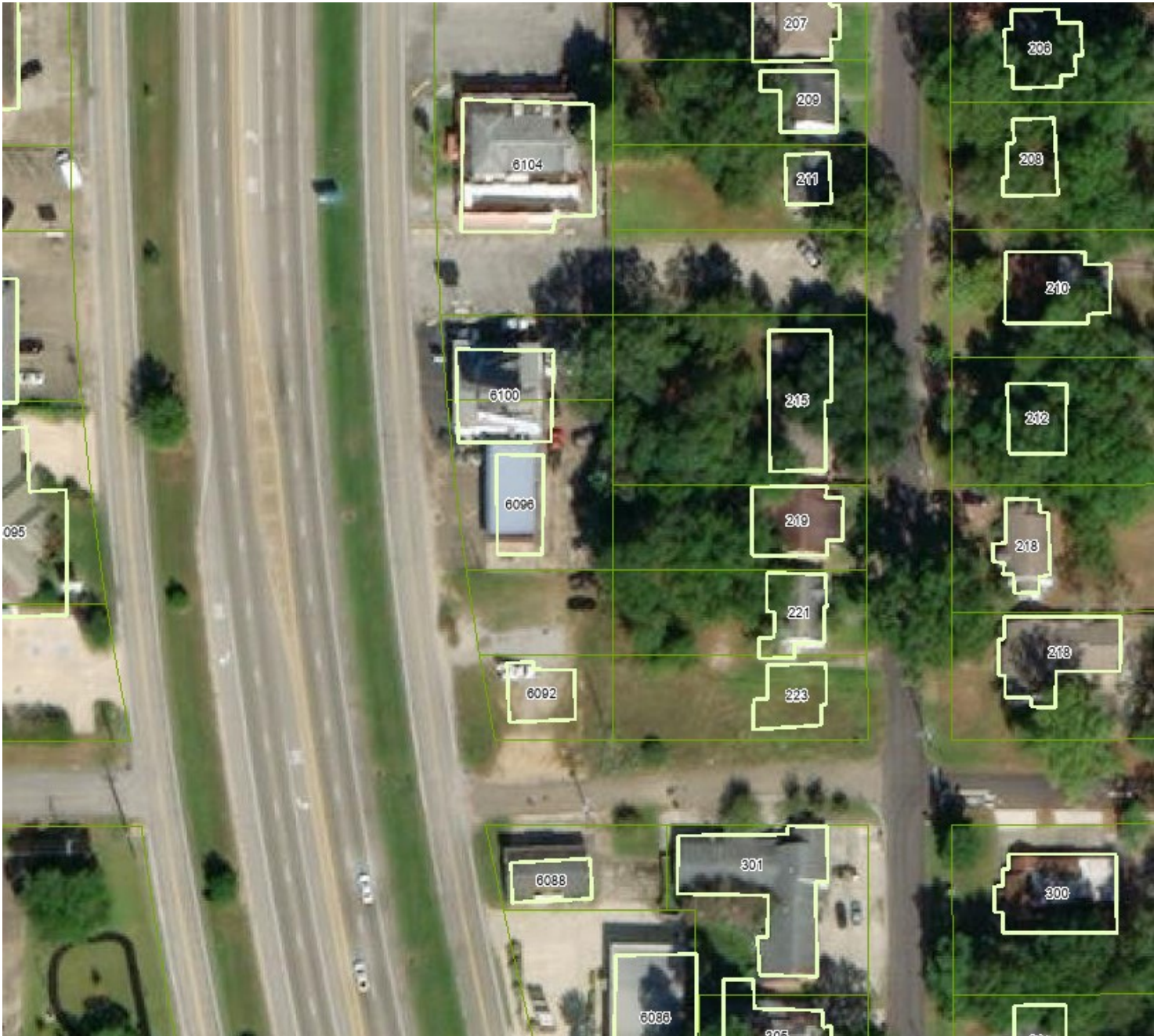


Zoning—B-3



Site Aerial

(Building Shown on site has since been demolished)



SURROUNDING AREA

Northern Direction: B-3 Community Business, Automotive Maintenance and Repair



Southern Direction: B-3 Community Business
Professional Office

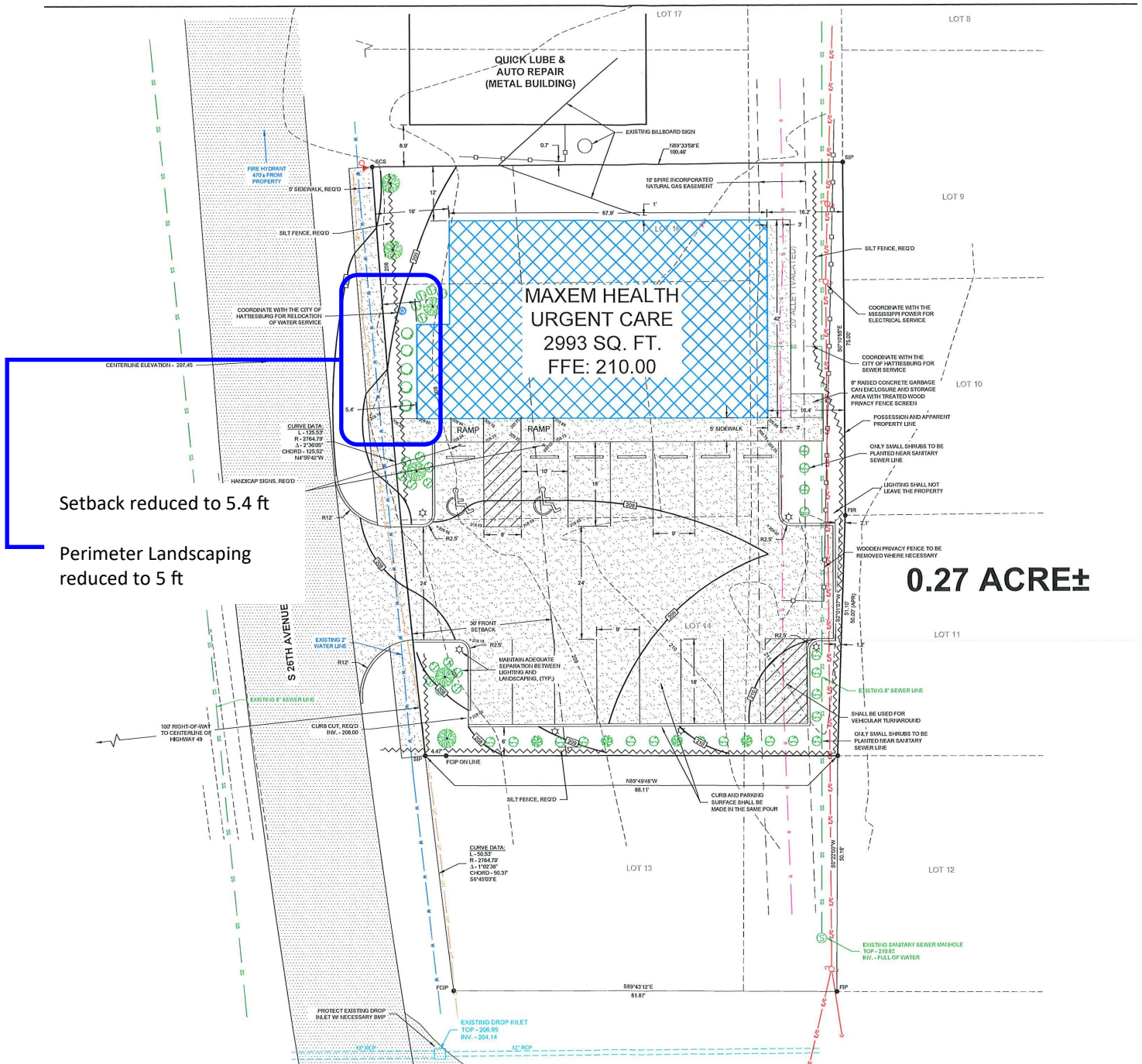


Eastern Direction: MX-4 Mixed Use (4 Story) - Midtown Special District
Financial and Medical Uses

Western Direction: B-3 Community Business
Single-Family Residential



Site Plan with locations of variances high lighted.



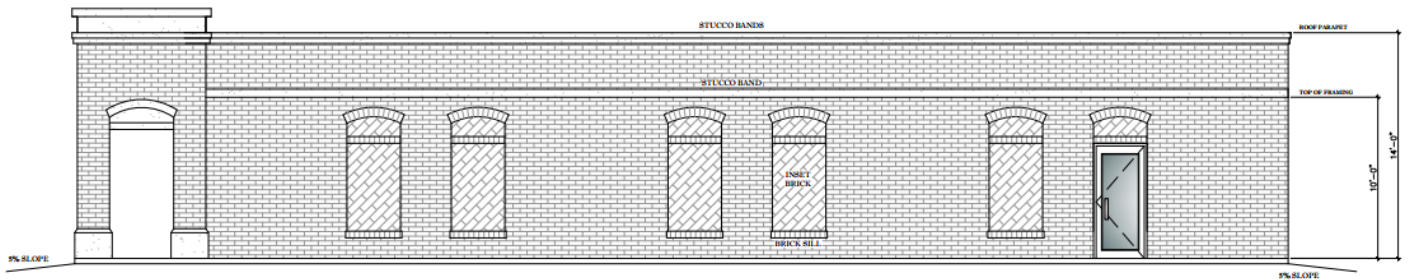
Building Elevations

Approved by Hattiesburg Historic Conservation Commission



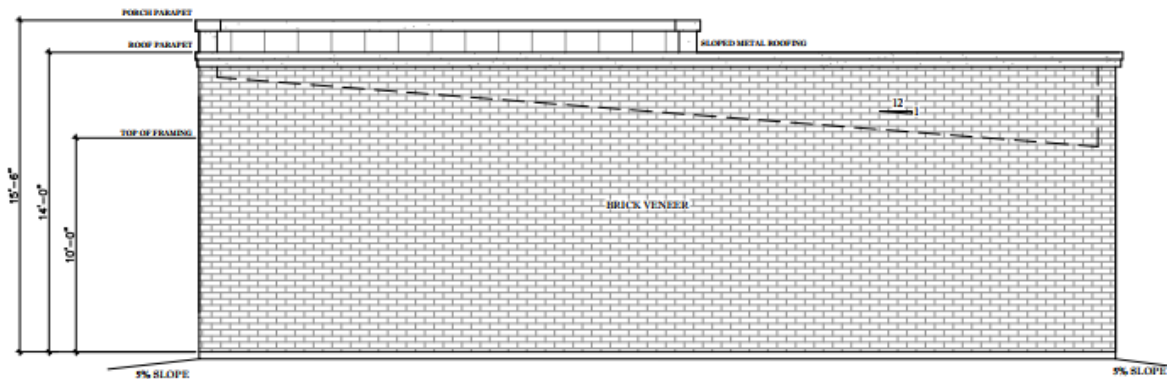
FRONT ELEVATION

SCALE: 1/4" = 1'-0"



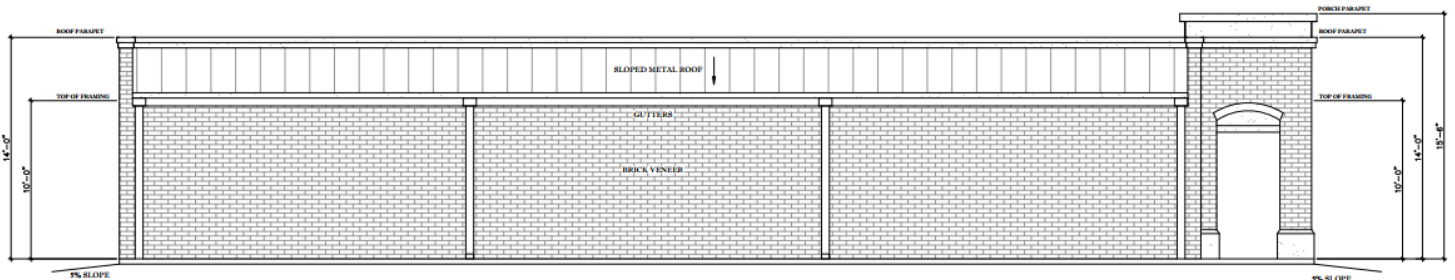
RIGHT ELEVATION

SCALE: 1/4" = 1'-0"



REAR ELEVATION

SCALE: 1/4" = 1'-0"



LEFT ELEVATION

SCALE: 1/4" = 1'-0"

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.

With the existing pattern of development in the area and the property being located within a historical district. To maintain the same pattern of development, the applicant will need a 0' setback instead of the current setback of 30'.

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

All existing structures along the service road are within the 30' setback including the most recent construction of Planet Fitness. The applicant's property currently had very little green space and was not appealing to the eye. The adjacent property owner to the north currently does not have a 10' green space.

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.

All existing structures along the service road are within the 30' setback including the most recent construction of Planet Fitness. The applicant's property currently had very little green space and was not appealing to the eye. The adjacent property owner to the north currently does not have a 10' green space.

Variance Information

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

Allowing the proposed building to be within the 30' setback would allow the applicant to keep the same pattern of development that is located in the area and the City is wanting the applicant to maintain the same pattern .

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 0' setback would allow the building to have the same pattern of development that is located in the area. This variance is being required by the city to meet the local development pattern, therefore it is considered minimum required.

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.

The Code allows for the proposed type of development.

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.