

Board of Adjustment Agenda

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

February 1st, 2023

I. Business Meeting

1. Review and approval of February meeting's agenda
2. Review and approval of the minutes of the January meeting
3. Building Report
4. Planning Report
5. Chair's Report
6. Introductions

II. Public Hearing

- A. A petition has been filed by Jorge Figueroa, 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 twenty (20) feet for a variance of ten (10) feet for the property located at 104 Lurty Ave (Parcel No. 2-029L-09-199.00, PPIN 14218, Forrest Co., Ward 4). Other Business

III. Adjournment

MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG BOARD OF ADJUSTMENT

January 4th, 2023

The Hattiesburg Board of Adjustment did meet in regular session on January 4th, at 3:49 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
Bernard Green
Jessica Cathey (Via GotoMeeting)
Shawn Harris, Chair
Lucy Parkman
Stacey Ready

Board Members Absent: Dick Conville
James Hughes
James Trussell
Brandon Williams

Also Present: Nathan Satcher, Planner II
Russell Archer, Historic Planner
Jim Gladden, Esq.
Wiley Quinn, Director of Urban Development

Shawn Harris, Chair, declared the meeting of the Hattiesburg Board of Adjustment open and in session at 3:50 PM.

AGENDA REVIEW

There came the matter of the January 2023 Agenda. A motion was made by Lucy Parkman to approve the agenda and was seconded by Stacey Ready. All members present voted in favor of the motion.

Motion to Approve January 2023 Agenda

Board Members voting aye: Bruce Betts
Bernard Green
Jessica Cathey (Via GotoMeeting)
Shawn Harris, Chair
Lucy Parkman

Stacey Ready

Board Members voting nay: None

MINUTES REVIEW

There came the matter of the December 7th, 2022 minutes. A motion was made to approve the minutes by Stacey Ready with a correction to remove Carlos Wilson as a Board Member on the first page, as he was included in error. The motion was seconded by Lucy Parkman and all present voted in favor of the motion.

Motion to Approve Minutes with corrections

Board Members voting aye: Bruce Betts
Bernard Green
Jessica Cathey (Via GotoMeeting)
Shawn Harris, Chair
Lucy Parkman
Stacey Ready

Board Members voting nay: None

REPORTS

PLANNING REPORT

Nathan Satcher, Planner II, provided the Planning Report. Satcher noted that City Council upheld the recommendation by the Board of Adjustment for both cases in December, which included multiple variances for a billboard and freestanding sign to be located at 5032 Hardy Street, and a variance for maximum outdoor equipment storage area at 5566 Old Highway 42. City Council included the conditions recommended by the Board of Adjustment for the freestanding sign variance to be a monument sign.

CHAIR'S REPORT

Shawn Harris did not have a report for this meeting.

INTRODUCTIONS

Board members introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

There came the matter of Item A, to consider a petition has been filed by Andy Stetelman, owner, and Robert St. John, 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 300 feet to a lot containing a legal, conforming residential use” and instead allow for a distance of 80 feet for a variance of 220 feet and to request a variance from 7.12.16.1 for a facility requiring ten (10) spaces and instead allow for five (5) total stacking spaces for a variance of five (5) stacking spaces for the property located at 3207 Hardy Street (Parcel No. 2-028M-07-065.00; PPIN 23004, Forrest Co., Ward 1).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Robert St. John	116 Heatherwood Drive	Hattiesburg, MS
	Andy Stetelman	no address was provided	
<u>Proponents:</u>	Martha Foose	“ “	
	Bill Rogers	“ “	
	Otis Griff	“ “	
	Greg Prine	107 6 th Ave	Hattiesburg, MS
	Jill St. John	116 Heatherwood Drive	Hattiesburg, MS
<u>Opponents:</u>	None		

Robert St. John, owner of New South Restaurant Group, presented the application. He started by sharing that he was the owner of multiple restaurants in the midtown area and employs over 300 employees, and was the founder of the Midtown Merchants Association. St. John also shared that multiple restaurants of his in midtown were redeveloped, unsightly properties. The property at 3207 Hardy Street would be developed as a French Bakery and run by Martha Foose, an award-winning chef. St. John particularly chose this property as it had an existing drive-through, which he claimed was a crucial component of the business model for this restaurant. He noted that the bakery would not be a coffee shop type of setup, but more of a retail type of bakery, where the drive-through would be for pick-up orders only for things such as casseroles. He then stated that Hattiesburg needs this and he is for it.

St. John noted that the movement in town is heading out west and there are so many strikes against people doing business in midtown and downtown. He argued that it should be easier for

development in midtown and near the avenues to get people back in those areas. He claimed that customers coming from out west would turn on Ross Boulevard and make the block instead of crossing Hardy Street directly into North 33rd Avenue. He again reiterated that it would be a French bakery and customers would pick up their pastries in the morning on their way to work.

Andy Stetelman, owner of the property, also spoke on behalf of the application. He noted that he lived in the area near the proposed bakery many years ago and a pickup window was commonplace at the time, and he believed it did not create issues for operations or nearby residents. He also noted that he had multiple marijuana dispensaries that were trying to occupy the space, but felt that St. John's concept was a better fit for the area.

Shawn Harris, noted that there was a lot of discussion by staff to establish outdoor seating as opposed to a drive-through. He stated that many of the trash issues in this area are driven by the commuter convenience mindset and the Board of Adjustment had seen many drive-through requests in this area, one of which they denied. As a member of the Downtown Hattiesburg Association, he shared that their goal is to promote walkability and placemaking, in creating spaces that set Hattiesburg apart. He noted that Robert St. John did not have a single drive-through in Hattiesburg and posed the question to the applicant about what in their business model says they have to have cars in that space. He drew attention to Mulvi's coffee shop nearby, where he frequently gets his coffee from, did not have a drive-through. He asked at what point do we stop placating to drivers in cars in already heavily congested areas and ask people to walk to restaurants as a way to build the community.

St. John noted that in order to attract people from out west, they need every advantage they could get to draw business. He claimed the drive-through would be a substantial part of this business. He noted that he is in support of walkability but could not solely make a business decision off of support for walkability.

Martha Foose, who would run the bakery as the head chef, spoke in favor of the request. She noted there would not be an order board or speaker box, and the drive-through would be for quick pick-ups only. She shared that she was excited to be in Hattiesburg and hopeful for a huge king-cake season. Jill St. John, also spoke in favor of the request. She spoke to the intent of Robert St. John and his support for Hattiesburg and how in his work is trying to make Hattiesburg a better place. Bill Rogers spoke in favor of the request and noted that this bakery is really not a restaurant, but a retail establishment and should be viewed as such instead of a restaurant. He noted St. John

is trying to stay established in Midtown and not out west. Otis Griffin spoke in favor of the request, noting that he was not familiar with the item and attended the meeting to learn more. After hearing the arguments by the applicant, he stated he was in support of the application.

Greg Prine, also spoke in favor of the request. He stated that he couldn't too much on the drive-through design, as he enjoys spending time as a pedestrian in Hattiesburg, but noted that the closer the bakery is to the college apartments, the better.

Shawn Harris then closed the public hearing portion of the meeting. Lucy Parkman brought up the concerns of the drive-through they denied directly across the street and the precedent they have set in the past. Shawn Harris noted that each property is unique and should be considered contextually for their location and operations and that these are truly separate requests than ones they have previously seen. Bernard then made a motion to approve both variances on the basis of approval items 4 and 6. Bruce Betts seconded the motion and roll call votes were then conducted.

Motion to Approve Based on Approval Item A-1: Drive-Through Variance Buffer

4 Reasonable Use

6 Conformance with the purpose of the code

Board Members voting aye: Bruce Betts

Bernard Green

Jessica Cathey (Via GotoMeeting)

Shawn Harris, Chair

Lucy Parkman

Stacey Ready

Board Members voting nay: Shawn Harris, Chair

Record of Vote: 5-1

Motion to Approve Based on Approval Item A-2: Required Stacking Variance

4 Reasonable Use

6 Conformance with the purpose of the code

Board Members voting aye: Bruce Betts

Bernard Green

Jessica Cathey (Via GotoMeeting)

Shawn Harris, Chair

Lucy Parkman

Stacey Ready

Board Members voting nay: Shawn Harris, Chair

Record of Vote: 5-1

BUSINESS MEETING

There being no further business, Stacey Ready made a motion to adjourn the meeting. The motion was seconded by Bernard Green and all members were in favor. The meeting was adjourned at 4:40 PM

Shawn Harris, Chair

Nathan Satcher, Planner II



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Jorge Figueroa, Owner

Address of Property: 104 Lurty Ave
Tax Parcel: 2-039B-17-136.00
PPIN: 24511
Ward: 4

Request: Front Setback Variance

Purpose of Request: To request a variance from section 6, Table 6.1 "Minimum Front Setback" for B-3, "30 feet", and instead allow a setback of twenty (20) feet for a variance of ten (10) feet for the property located at 104 Lurty Ave.

Applicant Summary: See Attached

Applicable Regulations:

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			
B-3	No minimum/ 100	-	1.00	30	-	0 or 10	0	40 feet or 3 stories	80%	30

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: B-3 Community Business District

Present Use: Single-Family Residential

Future Land Use: Neighborhood Business Corridor

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

**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, 2023. The applicant has not submitted any letters of support as of the writing of this report.

History / Background: The applicant was stopped by Code Enforcement for constructing an addition without a permit in October, 2022. The applicant then applied for building permits and plans showing the extent of the renovations and expansions. During building permit review, the building official became aware that the front addition did not meet the front setback requirements and directed the applicant to the Planning Division. The applicant has already began construction on the roofed addition in the front of the home, and is seeking a variance to keep the structure in lieu of removing it. The roofed expansion in the front is to be enclosed for additional square footage of the residence.

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.

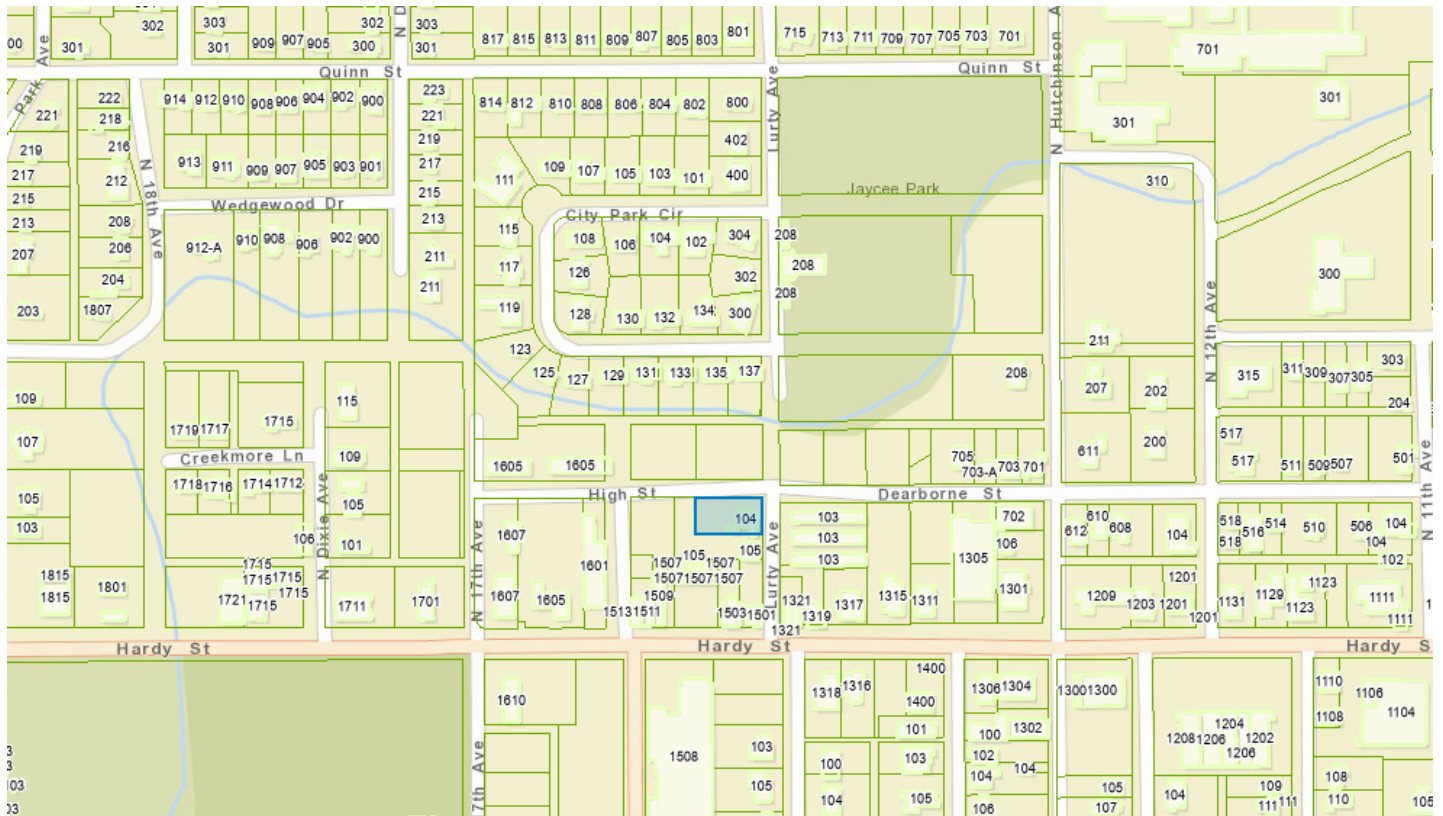
SUBJECT PARCEL: 104 Lurty Ave

Jorge Figueroa, Owner

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 twenty (20) feet for a variance of ten (10) feet for the property located at 104 Lurty Ave.



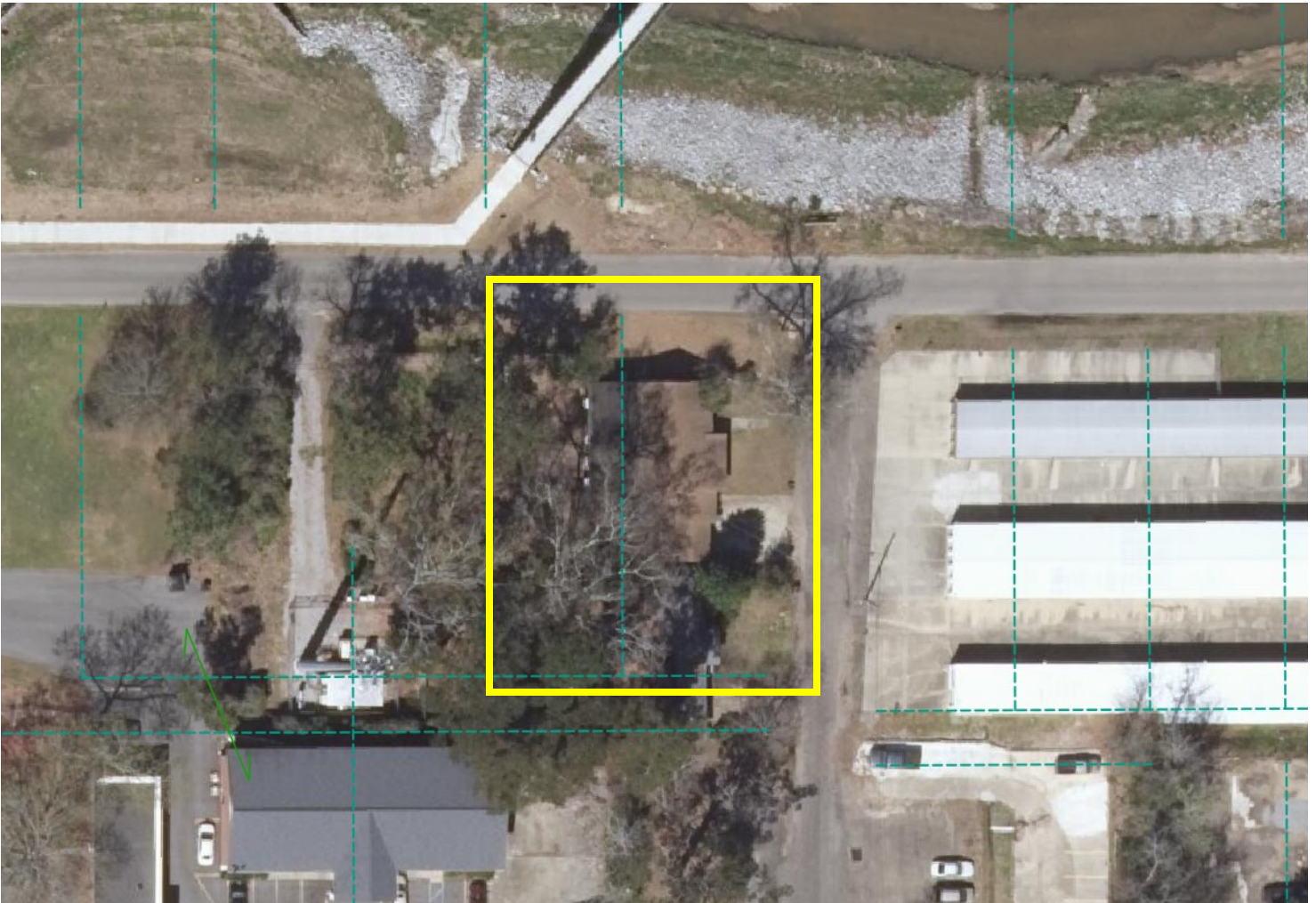
Vicinity Map—Ward 4



Zoning—B-3



Site Aerial



SURROUNDING AREA

Northern Direction: R-3

Gordon's Creek /

Future Site of Cameron Field



Southern Direction: B-3
Single-Family Residential
(legal non-conforming)

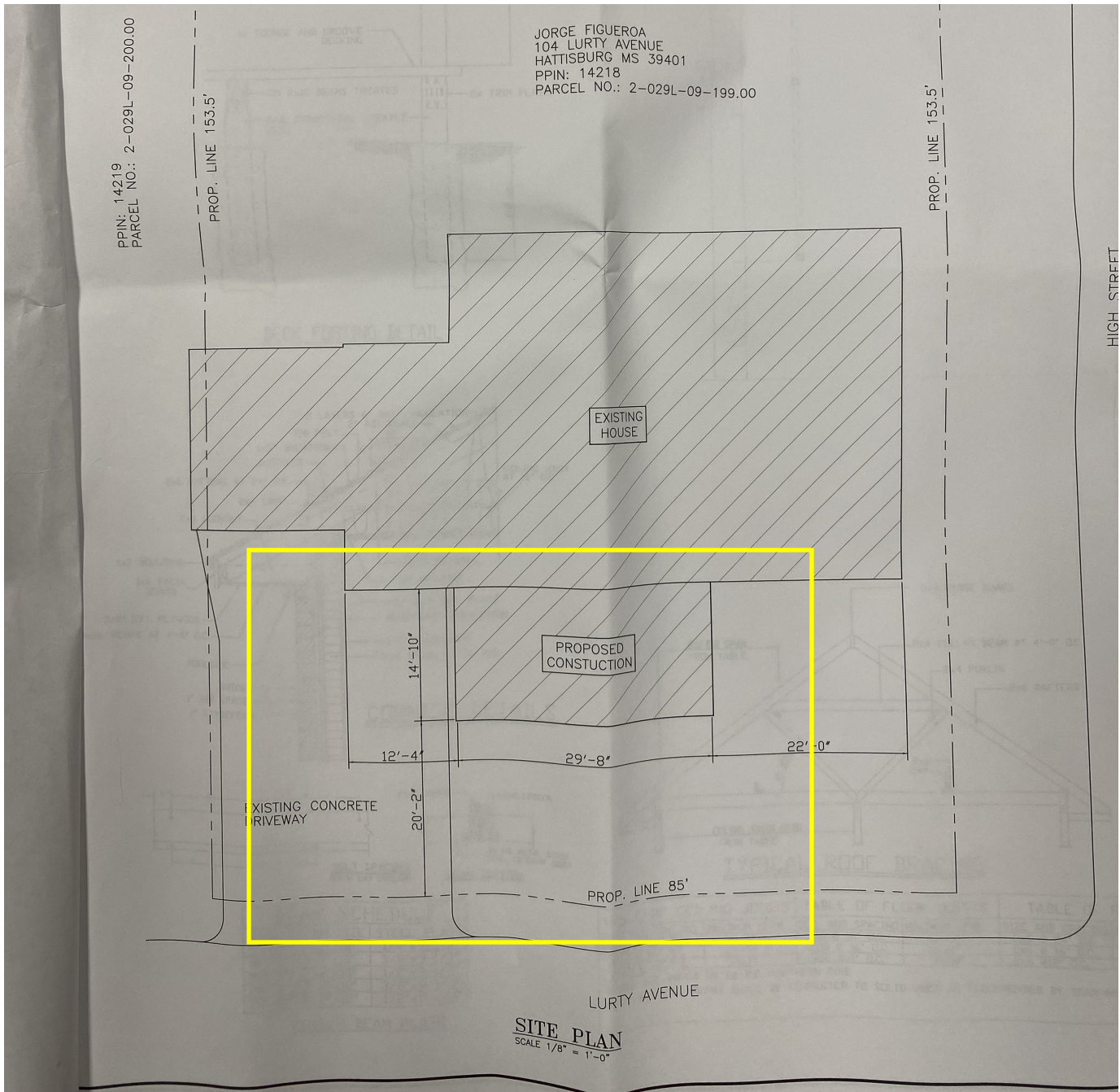


Eastern Direction: B-3
Self-Storage Facility

Western Direction: B-3

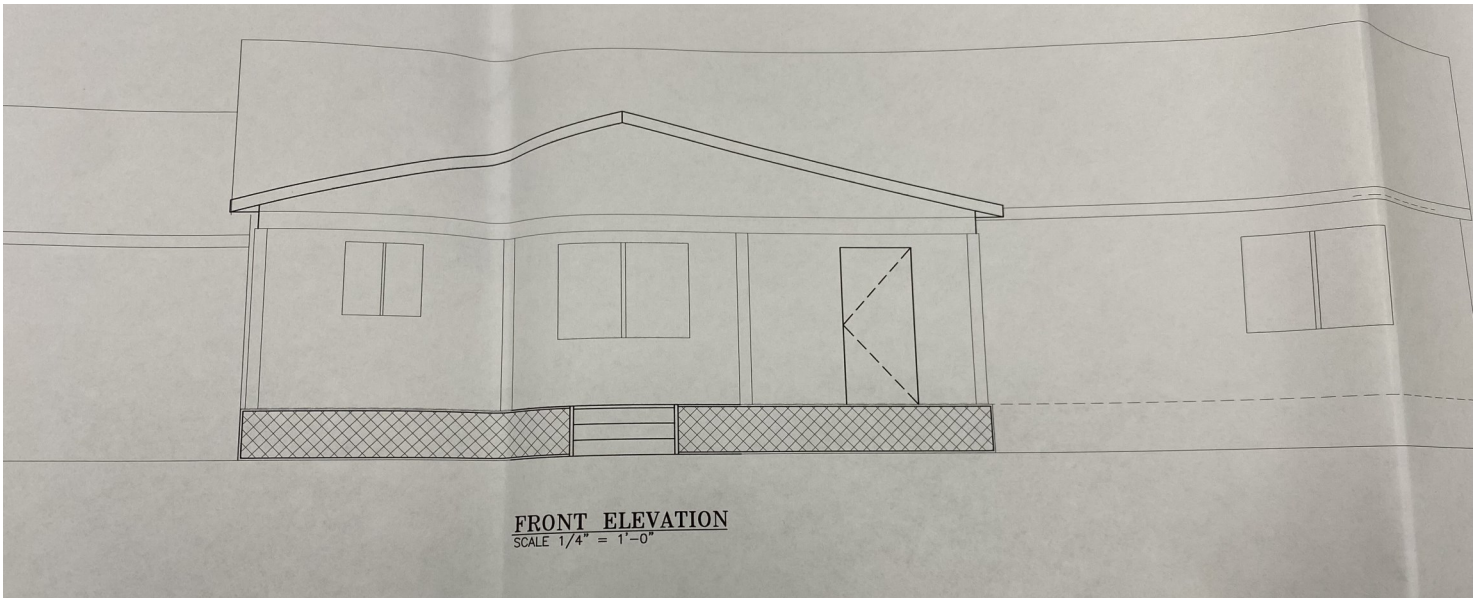
Vacant commercial lot





Site Drawing showing front addition and setbacks

Front Elevation of Proposed Addition



Variance Information

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

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

Approval Criteria.

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

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

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

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

Variance Information

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

Property can not be used because it includes the main entrance, it is also a risk for my childrens if it is not done and approved.

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

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.

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.