

HATTIESBURG
BOARD OF ADJUSTMENT
PUBLIC HEARING AGENDA

May 3rd, 2023



DEPARTMENT OF URBAN DEVELOPMENT
PLANNING DIVISION



URBAN DEVELOPMENT PLANNING DIVISION

MEMORANDUM

TO: Hattiesburg Planning Commission and Board of Adjustment
FROM: Planning Staff
DATE: April 24th, 2023
SUBJECT: May 3rd, 2023 - Hattiesburg Planning Commission and Board of Adjustment

The Hattiesburg Planning Commission will meet in regular session at 1:00 PM, Wednesday, May 3rd, 2023 in the dining room of the Jackie Dole Sherrill Community Center. The Planning commission agenda contains four items: an alley abandonment, a conditional use, major subdivision, and rezoning requests.

The Board of Adjustment will meet in regular session at 3:30 PM, Wednesday, Wednesday, May 3rd, 2023 in the dining room of the Jackie Dole Sherrill Community Center. The Board of Adjustment public hearing agenda contains one item: a front setback variance request.

The public and members may attend remotely 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 you have any questions regarding the agenda or need information related to the virtual meeting option, please do not hesitate to call the Planning Division at (601)-545-4599 or email at planning@hattiesburgms.com.

Additionally, the Planning Commission, Board of Adjustment, and Hattiesburg Conservation Commission Agendas and Agenda Packets are now being published online at <http://www.hattiesburgms.com/council/>. Or Scan the QR below using your smartphone:



Board of Adjustment Agenda

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

May 3rd, 2023

I. Business Meeting

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

II. Public Hearing

- A. A petition has been filed by Marc Broome, representative of A & M Wrecker Service, LLC, owner as required in the Land Development Code, Ord. No. 3209, to request a variance from section 6, Table 6.1 "Minimum/Maximum Front Setback" for I-1, "40 feet", and instead allow a setback of 97.8 feet for a variance of 57.8 feet for an unimproved parcel on 5530 Old Hwy 42 (Parcel Nos. 2-029B-03-346.00, 2-029B-03-347.00, 2-029B-03-348.00, 2-029B-03-349.00; PPIN 18033, 18035, 18036, 15061 Forrest Co., Ward 2).

III. Other Business

IV. Adjournment

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

April 5th, 2023

Board Members Roll Call:

Members Present:

1. Shawn Harris, Chair
2. Bruce Betts
3. Bernard Green
4. James Trussell
5. Lucy Parkman
6. Brandon Williams (Via Telephone)

Members Absent

1. Jessica Cathey
2. Dick Conville
3. James Hughes
4. Stacey Ready
5. Vacant Position

Staff Present:

1. Wiley Quinn, Director of Urban Development
2. Jim Gladden, Esq.
3. Cory Long, Planning Manager
4. Russell Archer, Historic Preservation Planner

Shawn Harris, Chair, declared the Hattiesburg Board of Adjustment meeting open and in session at 3:49 PM.

AGENDA REVIEW

The April 2023 Agenda was reviewed.

Motion:

Green made the motion to amend and approve the agenda by moving the public hearing portion to the next item due to delays in obtaining a quorum

Second:

Parkman

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Bruce Betts	X		
Bernard Green	X		
James Trussell	X		
Lucy Parkman	X		
Brandon Williams (Via Telephone)	X		

MINUTES REVIEW

The February 1st, 2023 minutes needed a correction along the lines of a vote taken. The item will be correct and brought back for signatures.

Motion:

Trussell made the motion to amend the minutes with corrections and approve

Second:

Green

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Bruce Betts	X		
Bernard Green	X		
James Trussell	X		
Lucy Parkman	X		
Brandon Williams (Via Telephone)	X		

BUSINESS MEETING

1. Planning Report: The planning department provided a report of the last items to come before the Board and their status. Issues of upcoming topics such as subdivisions, code changes, and By-Laws for the committee were discussed.
2. Chair's Report: The chairman discussed the importance of their positions and timeliness of attendance.

INTRODUCTIONS

Were skipped because the agenda item was taken out of order as originally presented.

PUBLIC HEARING – BOARD OF ADJUSTMENT

Item A:

A petition has been filed by Trace 4th Street, LLC.owner, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 10.6 Signs – monument sign “Minimum

150' frontage on any premises for a freestanding sign" and instead allow for a minimum of "79 feet" frontage for a variance of 71 feet for a proposed on-premise monument sign. property located at 1015 Main St (Parcel No.: 2-029G-03-529.00; PPIN 18827, Forrest County, Ward 2)

Comments:

The planning staff introduced the case. Comments were made by the planning staff that the variance is over the allowance of a sign based on road frontage and that the sign's location and design are not the case's subject matter unless the board wishes to require conditions. Site visibility came up and it was discussed the sign may have to be adjusted on-site for visibility purposes if approved and the applicant agreed. Sign design was approved by the historic preservation commission and the applicant would have to hold to the design presented unless a modification was approved.

Presented by:

1. Chad Edmonson

Proponents:

1. None

Opponents:

1. None

Motion:

Green made the motion to approve based on hardship and reasonable use.

Second:

Parkman

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Bruce Betts	X		
Bernard Green	X		
James Trussell	X		
Lucy Parkman	X		
Brandon Williams (Via Telephone)	X		

BUSINESS MEETING

No items were presented in the business meeting.

Adjournment:

The meeting was adjourned at 4:18 PM

Motion:

Trussell

Second:

Betts

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Bruce Betts	X		
Bernard Green	X		
James Trussell	X		
Lucy Parkman	X		
Brandon Williams (Via Telephone)	X		

Shawn Harris, Chair

Cory Long, AICP, Planning Division Manager

BOA Item: A
 Marc Broome, Engineer and Amos Peters, Owner
 Request for: **Front Setback Variance**



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Marc Broome, Engineer and Amos Peters, Owner

Address of Property:	Tax Parcel	PPIN:	Ward:
5530 Old Hwy 42	2-029B-03-346.00	18033	2
	2-029B-03-347.00	18035	2
	2-029B-03-348.00	18036	2
	2-029B-03-349.00	15061	2

Request: **Front Setback Variance**

Purpose of Request: To consider a variance from section from Section 6, Table 6.1 "Maximum Front Setback" for I-1, "40 feet", and instead allow for a setback of 97.8 feet for a proposed building that will be located at at 5530 Old Hwy 42 (Parcels 2-029B-03-346.00, 347.00, 348.00, 349.000, PPINs 18033, 18035, 18036 and 15061, Ward 2).

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	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

SECTION 6

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: I-1 Light Industrial District

Present Use: Undeveloped, Vacant

Future Land Use: Community Business Corridor

**Surrounding Zoning:
and Land Use:**

North: B-2 Neighborhood Business District (Undeveloped)
South: B-2 Neighborhood Business District / R-1C Single-Family Residential District (Automotive Filling Station)
East: B-3 Community Business District (Vacant/Undeveloped)
West: B-2 Neighborhood Business District (Undeveloped)

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of April 24, 2023.

History / Background:

The property owner originally met with staff in 2022 for development of the property. The proposed use of a tow yard required a rezone to allow for the property to be used as proposed. City Council voted to approve rezoning of the property from B-3 to R-1C (Community Business and Single-Family Residential) to I-1 (Light Industrial) on August 16th, 2022.

Since having the property approved, the applicant has met with staff in Site Plan review to discuss the development of the property. Staff discussed multiple options to develop the site to meet the 40 foot required setback of the Industrial Zoning. The applicant indicated issues with developing to the front setback of the property as there is a large ditch along the frontage of the property and is requesting relief from the code to accommodate their site plan proposal. The property is also within flood zone AE, and is required to adhere to the Hattiesburg Flood Damage Prevention Ordinance.

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

BOA Item: A
Marc Broome, Engineer and Amos Peters, Owner
Request for: **Front Setback Variance**

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.

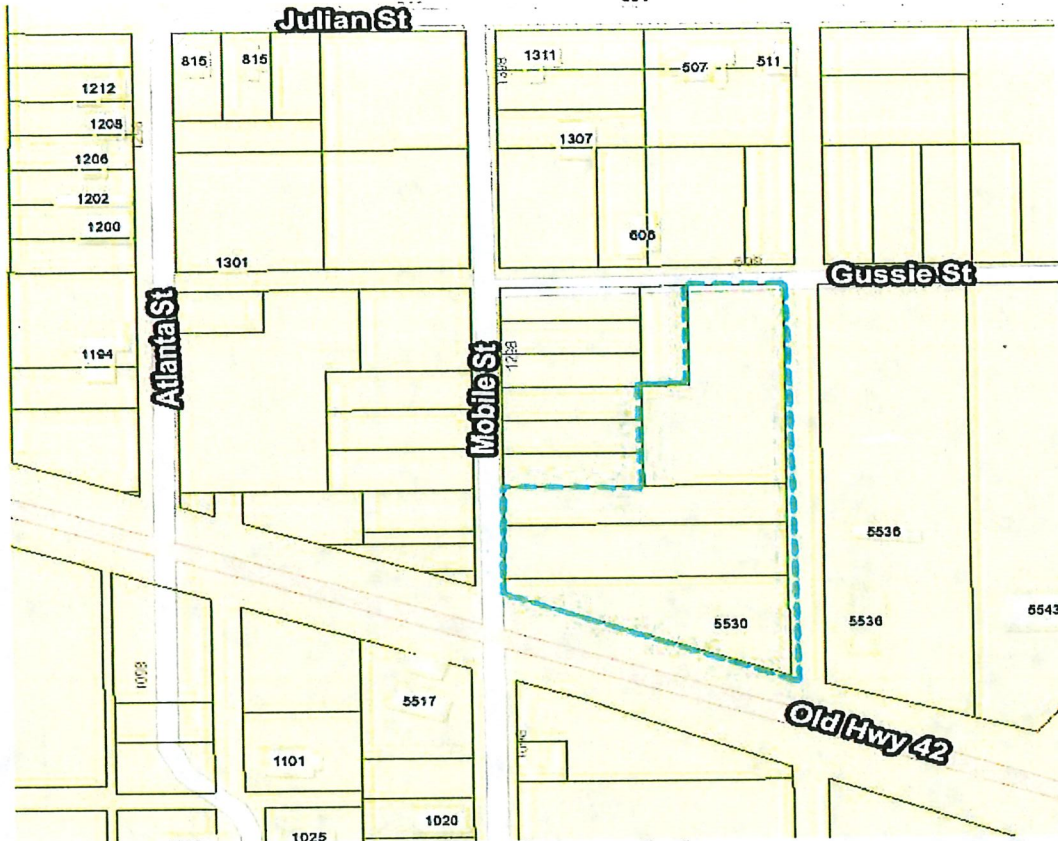
SUBJECT PARCEL: 5530 Old Hwy 42

Marc Broome, Engineer and Amos Peters, Owner

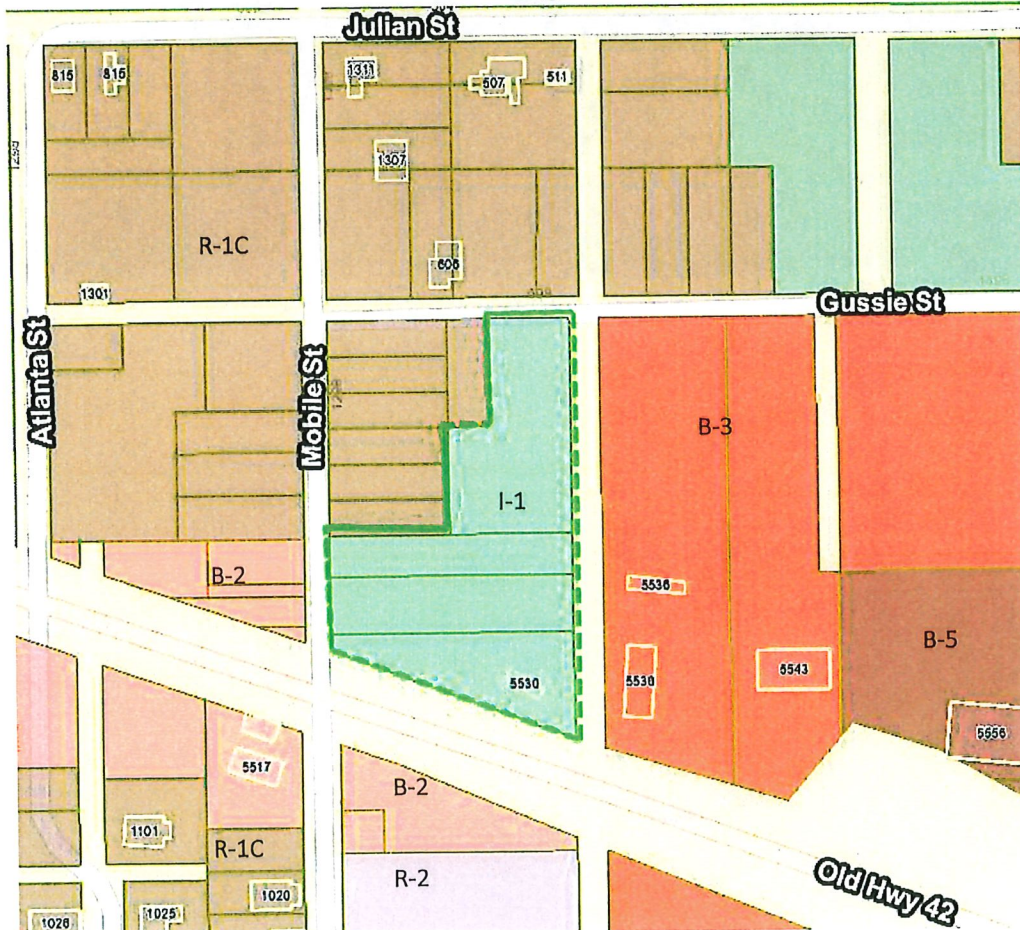
The petitioners request a variance from section 6, Table 6.1 “Minimum Front Setback” for I-1, “40 feet”, and instead allow a setback of 97.8 feet for the property located at 5530 Old Hwy 42 (PPINs: 18033, 18035, 18036 and 15061).



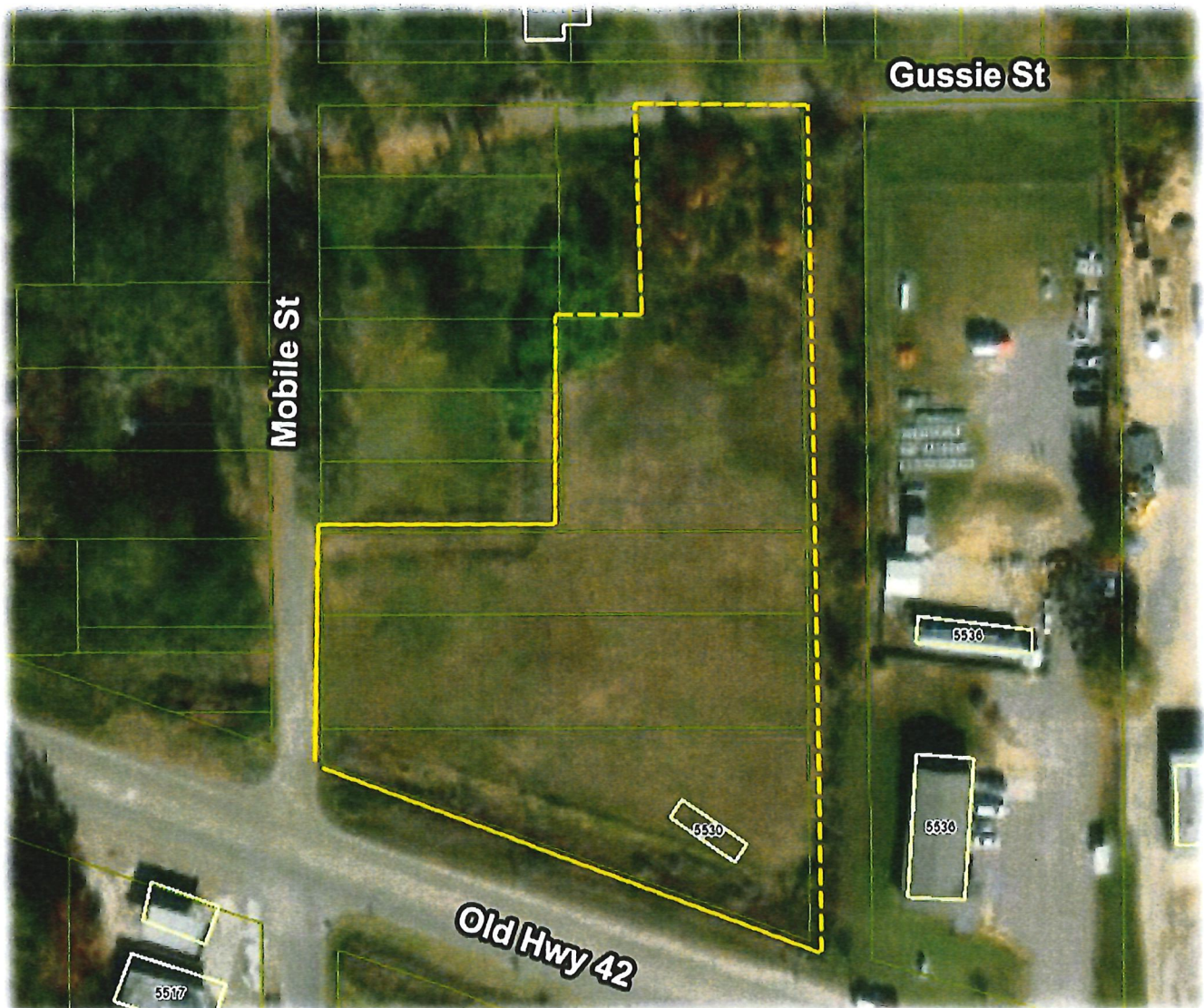
Vicinity Map—Ward 2



Zoning—I-1



Site Aerial



Surrounding Area

Northern

**Direction: B-2 Neighborhood
Business District
(Undeveloped)**



**Southern Direction: B-2
Neighborhood Business District
(Gas station)
and R-1C Single-Family
Residential District**

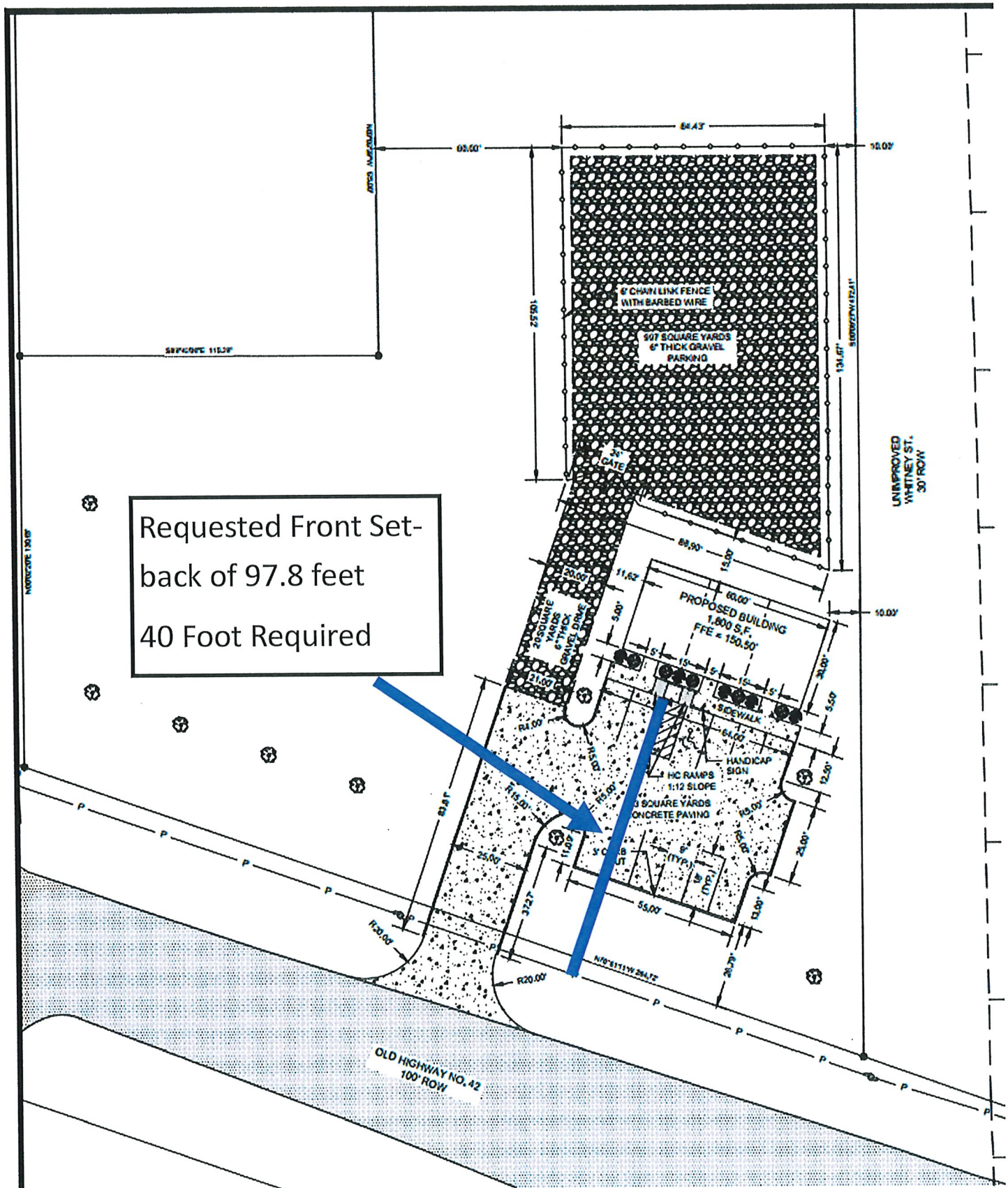


Eastern Direction: B-3 Community Business District

**Western Direction: B-2 Neighborhood Business District
(Undeveloped)**



Preliminary Site Plan



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.

This site has a large ditch along the roadway frontage. The required 40' setback would put the building right on the edge of the ditch. All access to the building would have to be on the rear, which would not be desirable.

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.

We are requesting to have a front setback more than what the code allows. According to the code, the building must be set back 40' (minimum & maximum), which gives no margin to the owner. This causes an undue hardship to the owner of this property due to the large ditch in the front of the property.

Variance Information

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

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.

The intent of the code was to keep buildings in the zone a minimum of 40' from the roadway. By allowing this variance, the building will be farther from the roadway and should not conflict with the intent of the 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.