

HATTIESBURG
BOARD OF ADJUSTMENT
PUBLIC HEARING AGENDA

June 7th, 2023



DEPARTMENT OF URBAN DEVELOPMENT
PLANNING DIVISION

Board of Adjustment Agenda

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

June 7th, 2023

I. Business Meeting

1. Review and approval of June meeting's agenda
2. Review and approval of the minutes of the May 3rd, 2023 Board of Adjustment Meeting
3. Planning Report
4. Chair's Report
5. Introductions

II. Public Hearing

- A. Jennifer West, representative, and Floyd Hubbell, request a variance from the front yard fence height requirement (7.9.8.6) of 4 feet above grade to allow for 6 feet above grade for a fence located at 618/620 Campbell Loop (Parcel No.: 2-025P-36-007.00, 2-025P-36-007.03, 2-025P-36-007.01; PPIN 27613, 45319, 42065 Forrest County, Ward 1).
- B. Scott Pipkins, the contractor, requests a variance from the minimum side setback requirement (Table 6.1) of 10 feet for an R-1A zoned property to allow for a 5 feet side setback for a proposed residential structure located at 500 Walnut Street. (Parcel No.: 2-029O-10-223.00; PPIN: 19157, Forrest County, Ward 4.)

III. Other Business

IV. Adjournment

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

May 3th, 2023

Board Members Roll Call:

Members Present:

1. Shawn Harris, Chair
2. Bernard Green, Vice Chair
3. James Trussell
4. Jessica Cathey
5. Stacey Ready
6. Dick Conville
7. Brandon Williams (Online)

Members Absent

1. Bruce Betts
2. Lucy Parkman
3. Brandon Williams
4. James Hughes

Staff Members Present:

1. Nathan Satcher, Planner II
2. Wiley Quinn, Director of Urban Development
3. Cory Long, AICP, Planning Manager
4. Andréa Garcia, Planner I

Shawn Harris, Chair, declared the Hattiesburg Board of Adjustment meeting open and in session at 3:37 PM.

AGENDA REVIEW

The April 2023 Agenda was reviewed.

Motion:

Chair Harris

Second:

Ms. Ready

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Bernard Green, Vice Chair	X		

James Trussell	X		
Jessica Cathey	X		
Stacey Ready	X		
Dick Conville	X		
Brandon Williams (Online)	X		

MINUTES REVIEW

There came the matter of the April 5th, 2023 minutes. A motion was made to approve the minutes by Chair Harris. The motion was seconded by Vice Chair Green and all present voted in favor of the motion.

Motion:

Chair Harris

Second:

Vice Chair Green

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Bernard Green, Vice Chair	X		
James Trussell	X		
Jessica Cathey	X		
Stacey Ready	X		
Dick Conville	X		
Brandon Williams (Online)	X		

PLANNING REPORT:

Planning Report: The planning department provided a report of the last items to come before the Board and their status. A request for a free-standing sign located on Main St was reviewed and approved by the City Council. Also, the May 9th commissioner training was brought to this portion of the meeting.

CHAIR'S REPORT:

Chair Harris did not have a report for this meeting.

INTRODUCTIONS

Board members introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

Item A: 5530 Old Hwy 42 - Request Front Setback Variance.

A petition has been filed by Marc Broome, Engineer and Amos Peters, Owner, to request a

variance 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 5530 Old Hwy 42 (PPINs 18033, 18025, 18036 and 15061).

Comments:

The planning staff introduced the case. Mr. Trussell had questions regarding the requirements of the front setback in this zoning. Mr. Satcher replied that the reason for 40 feet required front setback for industrial areas is unknown and may be due to the idea that the industrial zones would be developed in industrial parks. Marc Broome, representative of Amos Peters (owner) presented the application. He stated that the variance was requested since there was a large ditch located in front of the building, which is the reason why the 40 feet maximum front setback requirement cannot be met. He argued that the setback needs to be increased since the existing ditch will create problems for everyone trying to access the building. Vice Chair Green then asked if there were any proposed sidewalks. Mr. Satcher replied that sidewalks were not required for industrial zones.

Presented by:

1. Marc Broome

Proponents:

1. None

Opponents:

1. None

Motion:

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

Second:

Vice Chair Green

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Bernard Green, Vice Chair	X		
James Trussell	X		
Jessica Cathey	X		
Stacey Ready	X		
Dick Conville	X		
Brandon Williams (Online)	X		

BUSINESS MEETING

No items were presented in the business meeting.

Adjournment:

The meeting was adjourned at 4:35 PM

Motion:

Chair Harris

Second:

Vice Chair Green

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Bernard Green, Vice Chair	X		
James Trussell	X		
Jessica Cathey	X		
Stacey Ready	X		
Dick Conville	X		
Brandon Williams (Online)	X		

Shawn Harris, Chair

Cory Long, AICP, Planning Division Manager

June 2023 - BOA Item: A
Jennifer West, Representative, Floyd Hubbell, Owner
Request for: **Fence Height Variance**

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: B-3 Community Business District and B-5 Regional Business District

Present Use: Storage units

Future Land Use: Neighborhood Center Mixed-Use District

Surrounding Zoning: North: B-5 Regional Business District and R-3 Multi-Family Residential District
South: R-3 Multi-Family Residential District
East: R-3 Multi-Family Residential District
West: R-1C Single-Family Residential District and R-1A Residential District

Letters or Concerns stated: The Planning Division Office has not received any letters or other written communications relative to this case as of May 23, 2023

History / Background: The property representative met with staff in Pre-Application to discuss site changes which included modifications to the entrance/exit gates and propose to add a 6ft tall fence as part of the overall site changes under new ownership. The applicant is proposing to enclose the space with a chain link fence with green or black vinyl coating and the entrance will have a gated entry. The applicant is proposing the 6ft fence height to secure the property, where they do not feel the maximum allowed is adequate for their operations. Fencing is limited to 4 feet in height in a front setback so that streetscape frontages are not occupied by fencing and instead have engaging commercial facades accessible from a street frontage.

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

June 2023 - BOA Item: A
Jennifer West, Representative, Floyd Hubbell, Owner
Request for: **Fence Height Variance**

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:

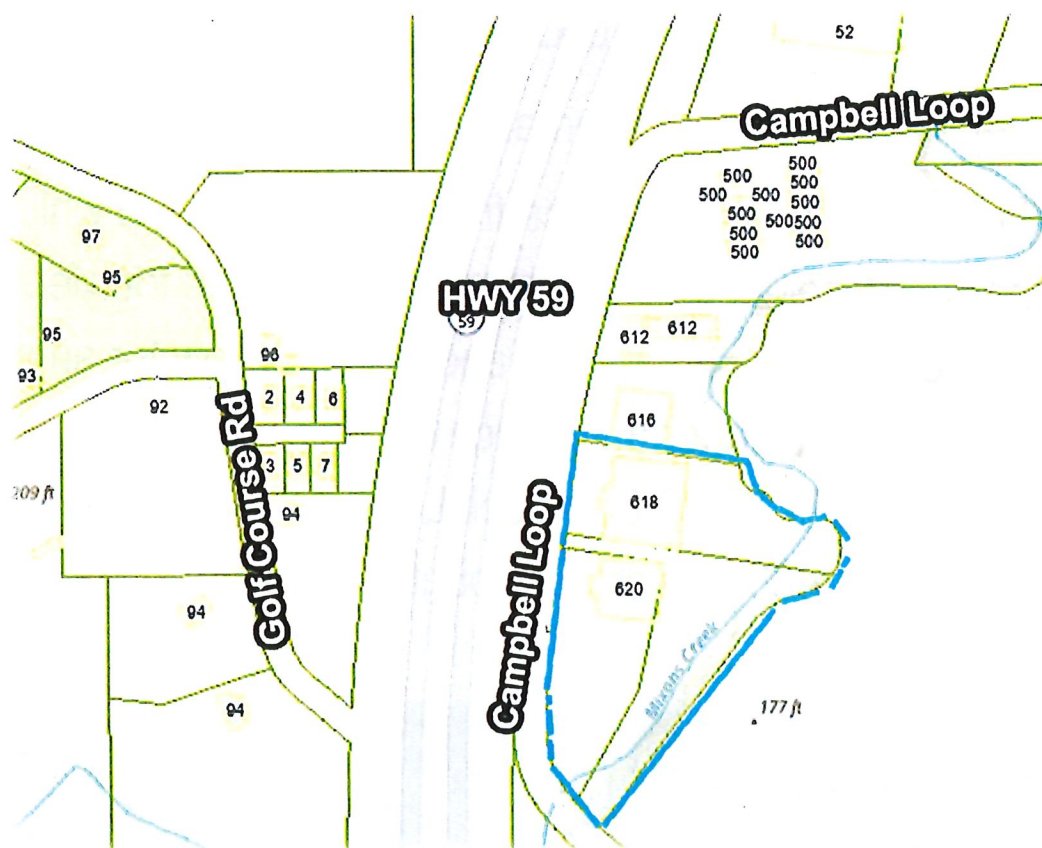
618 & 620 Campbell Loop

Jennifer West, Representative, Floyd Hubbell, Owner

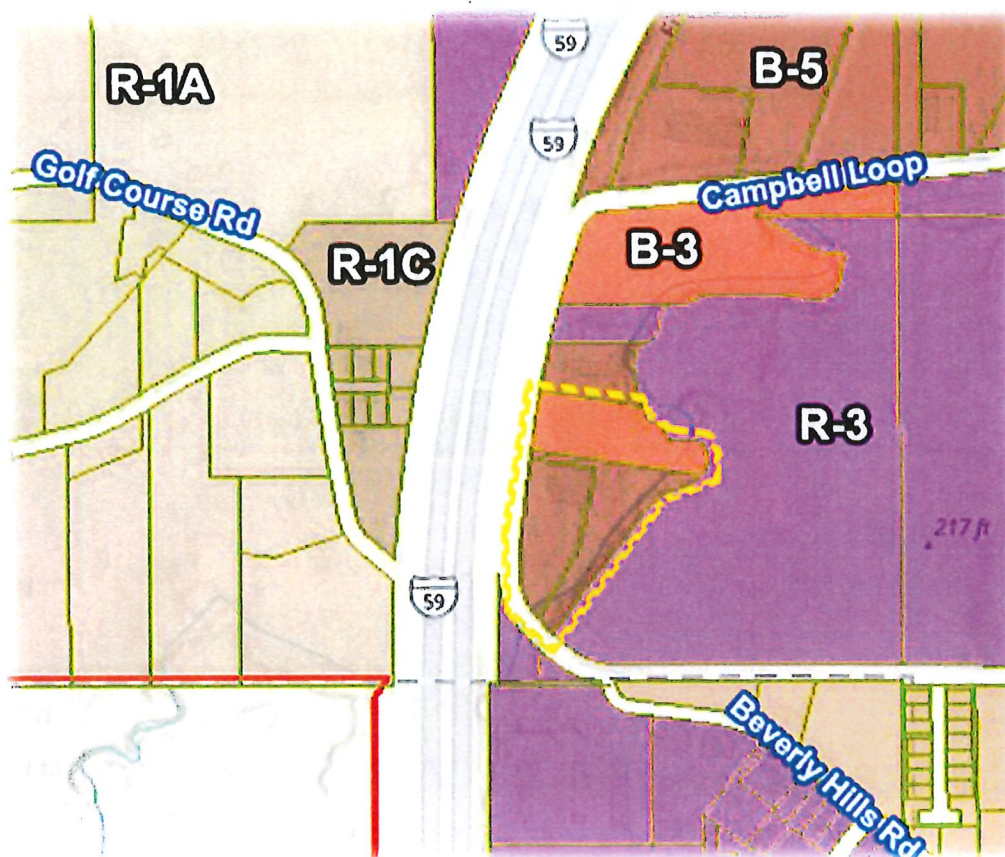
The petitioners request a variance from Section 7.9.8.6 which states, "The maximum height of fences and walls shall be four feet above grade when located in a front yard" and instead allow for an six (6) foot fence in the front yard for a variance of two (2) feet for a proposed fence located at 618 & 620 Campbell Loop (PPIN 27613, 42065, and 45319, Forrest County, Ward 1).



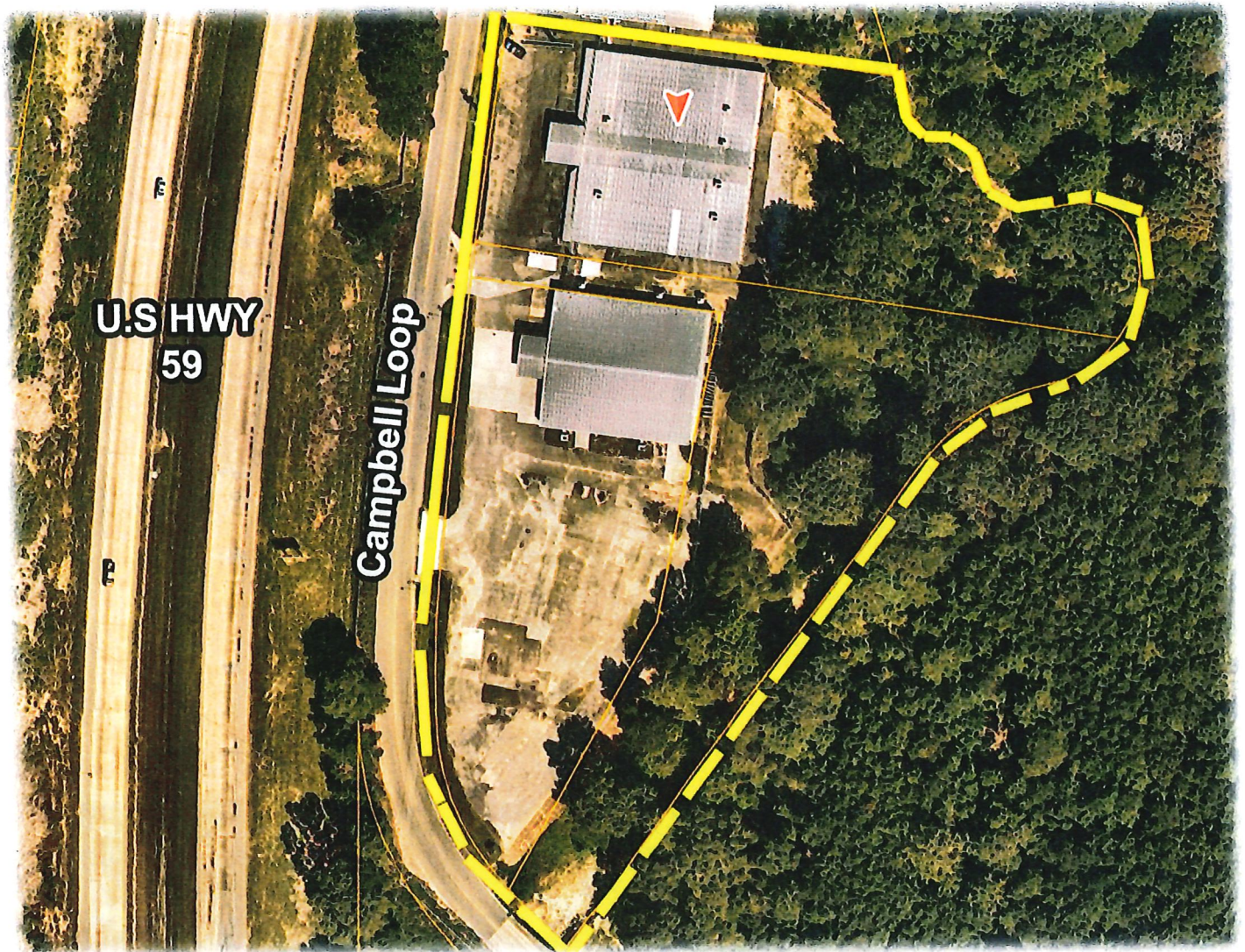
Vicinity Map—Ward 1



Zoning—B-3 and B-5



Site Aerial



Surrounding Area

Northern Direction: B-5 Regional Business District,
R-3 Multi-Family Residential District



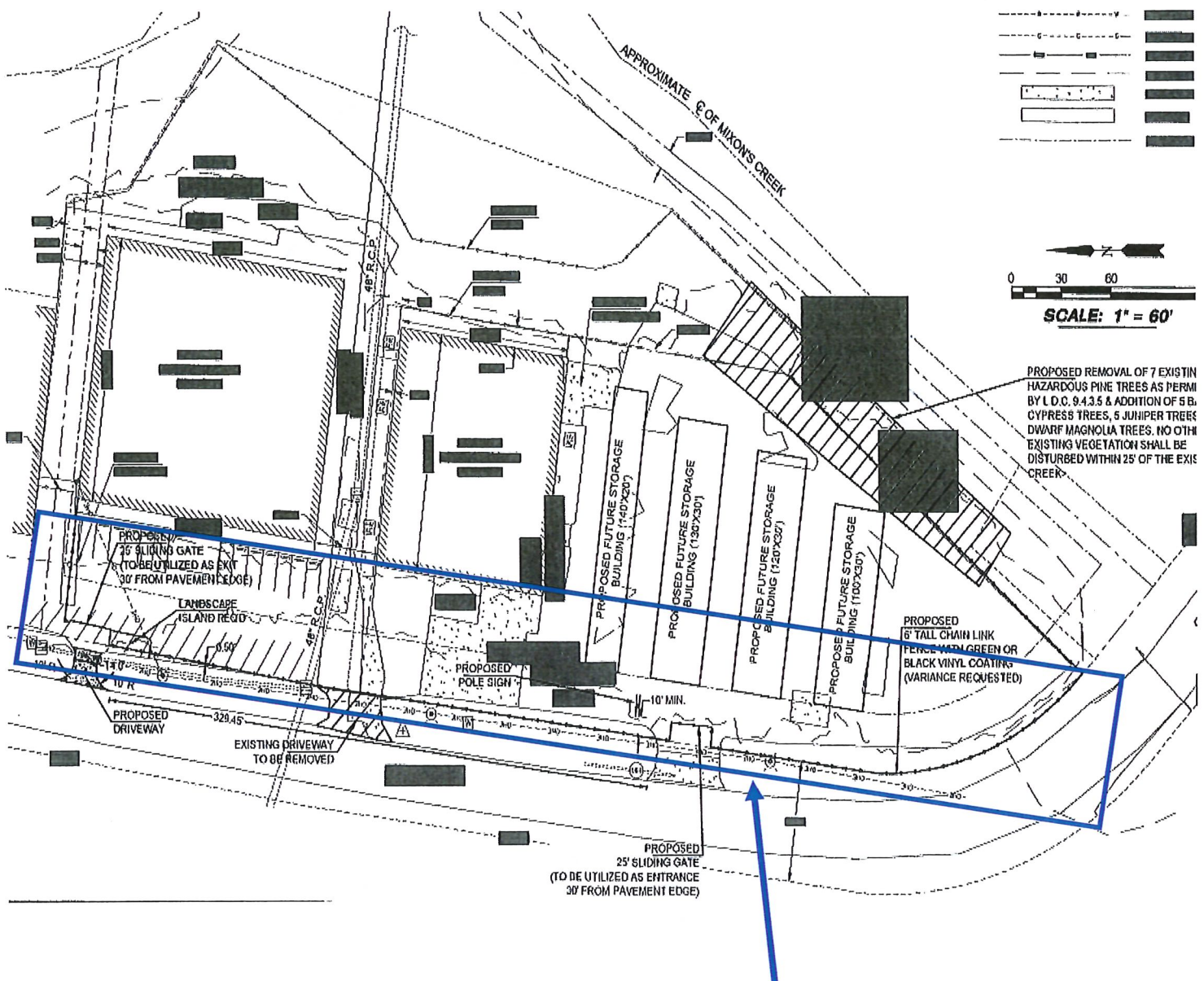
Southern Direction: R-3 Multi-Family Residential District



Eastern and Western Direction: R-1C Single-Family Residential District and R-3 Multi-Family Residential District



Preliminary Site Plan



Requested fence height 6 ft. Maximum of 4ft;
Fence will be constructed of chain link and black or green vinyl coated, per 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.

Latch-iT Self Storage purchased 618 and 620 Campbell Loop in Q3 2022 and is in the process of a major multi million dollar upgrade. During our renovation process, we have experienced numerous issues with theft. Our business model is to provide a clean, safe and secure storage facility. A 4 foot fence will not provide the level of security, nor will it deter the theft we have experienced over the last few months.

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 are numerous commercial properties around the city with 5 and 6 feet fence height. Some of the fences have been built since the 2017 codes came into compliance, approval of our 6 foot fence would not offer any special privilege from other businesses.

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.

There are numerous commercial properties around the city with 5 and 6 feet fence height. Some of the fences have been built since the 2017 codes came into compliance.

Variance Information

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

It would be very difficult to operate our current business model of offering safe and secure facilities for our tenants to store their items with a 4 foot fence. Intruders can easily climb over a 4 foot fence, offering no deterrence.

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.

April 18, 2023

Freddie Enslin
Enslin & Son Packing Co.
2501 Glendale Ave.
Hattiesburg, MS 39401

To Whom It May Concern:

I have met with Steve Rosser a representative of Latch It Self Storage located at 618 & 620 Campbell Loop on todays date. He has explained their desire to construct a 6' black vinyl coated fence on their property for safety and security purposes. We as owners of the adjoining property, PPIN # 27614 do not have any objections, concerns, or reservations to the construction of the fence.

Sincerely,

Freddie Enslin (FOR THE ENSLIN FAMILY MEMBERS)

Freddie Enslin

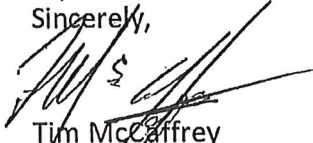
April 20, 2023

Tim McCaffrey & Chris Cavaliere
T & C Restaurant Supply
616 Campbell Loop
Hattiesburg, MS 39401

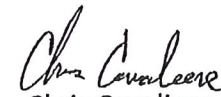
To Whom It May Concern:

I have met with Jennifer West & Steve Rosser representatives of Latch It Self Storage located at 618 & 620 Campbell Loop on today's date. They have explained their desire to construct a 6' black vinyl coated fence on their property for safety and security purposes. We as owners of the adjoining property, PPIN # 44593 do not have any objections, concerns, or reservations to the construction of the fence.

Sincerely,



Tim McCaffrey
601-287-7988



Chris Cavaliere
601-606-5454



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Scott Pipkins, Representative

Address of Property: 500 Walnut St **Tax Parcel:** 2-0290-10-223.00 **PPIN:** 19157 **Ward:** 4

Request: Side Setback Variance

Purpose of Request: To consider a variance from section from Section 6, Table 6.1 "Minimum Side setback" for R-1A, "10 feet", and instead allow for a setback of five feet (5 ft) for a variance of five (5 ft) for a proposed accessory building at 500 Walnut St (Parcel 2-0290-10-223.00, PPIN 19157, Ward 4).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 6 DIMENSIONAL STANDARDS

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

June 2023 BOA Item: B
Scott Pipkins, Representative
Request for: **Side Setback Variance**

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 1

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

**Letters or
Concerns stated:** The Planning Division Office has not received any letters or other written communications relative to this case as of May 23, 2023. The Applicant submitted letters of support from neighbors.

History / Background: The petitioner met with staff for an addition to a single-family residential structure that would add additional living space to the existing home on 500 Walnut Street. The Hattiesburg Historic Conservation Commission reviewed the project on February 8th, 2023, and granted conditional approval of the design, pending a variance approval for the side setback.

Setback distances are utilized by communities principally to achieve a variety of goals, such as planned streetscapes, utility placements, planned growth, and even flood and fire catastrophes. Board members should consider the purpose of a side setback in a residential neighborhood, and whether the spacing requirement set forth by the code is appropriate to uphold. The rationale for setbacks changes and evolve as cities and technologies evolve and change. They are a planning tool that should be used to achieve a desi

Basis for Approval (12.4.1.1):

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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.

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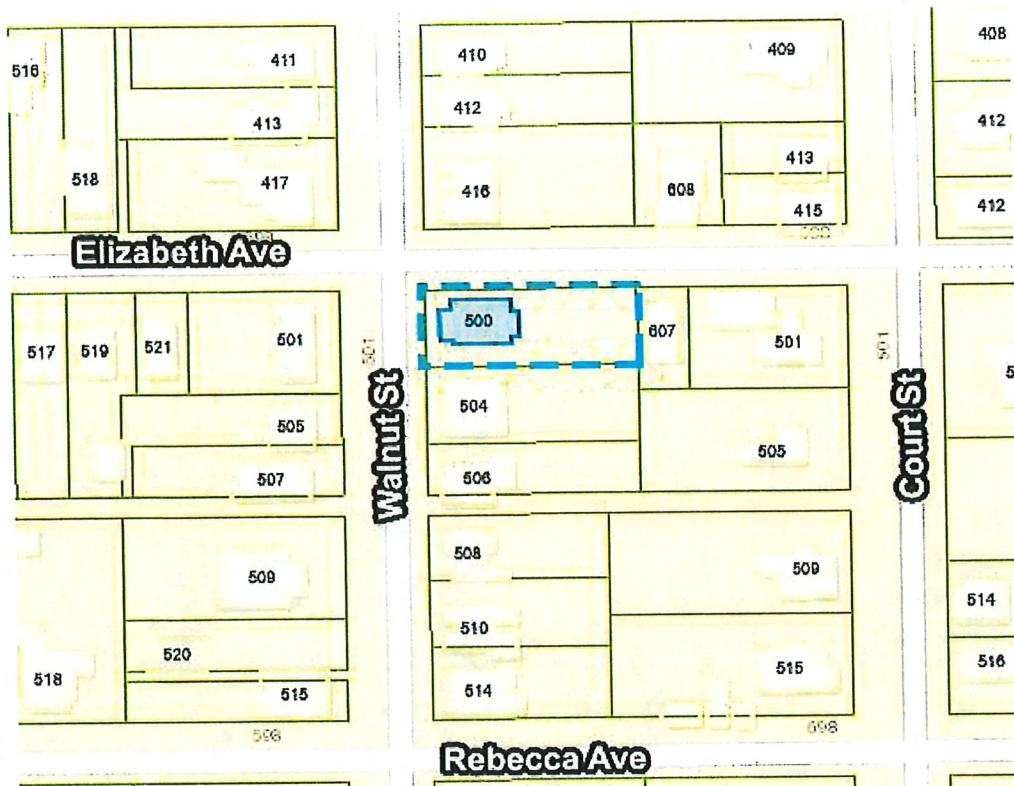
500 Walnut Street

Scott Pipkins, Representative

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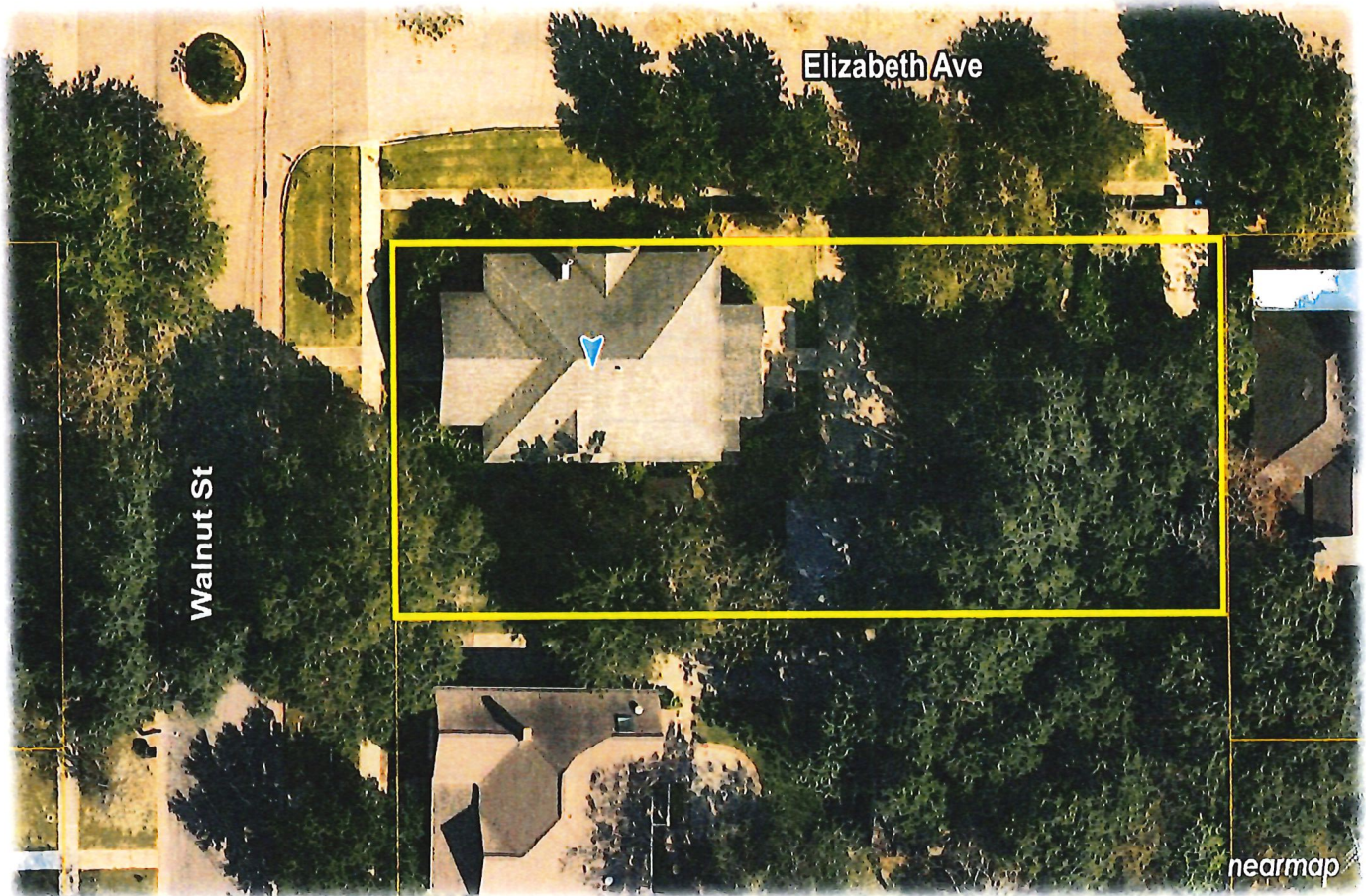
Vicinity Map—Ward 1



Zoning—R-1A



Site Aerial



Surrounding Area

Northern Direction: R-1B Single-Family Residential District



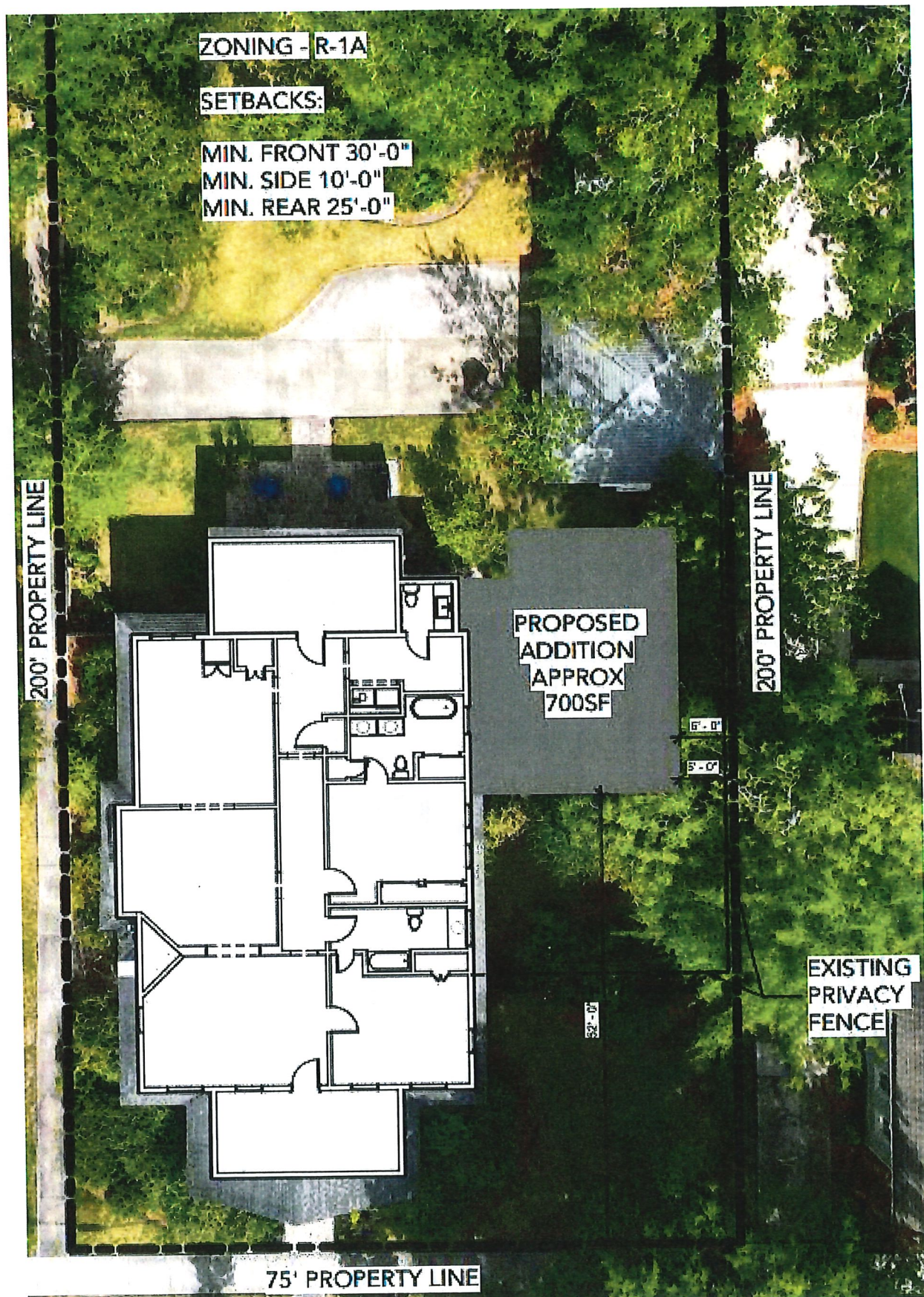
Southern Direction: R-1A Residential District



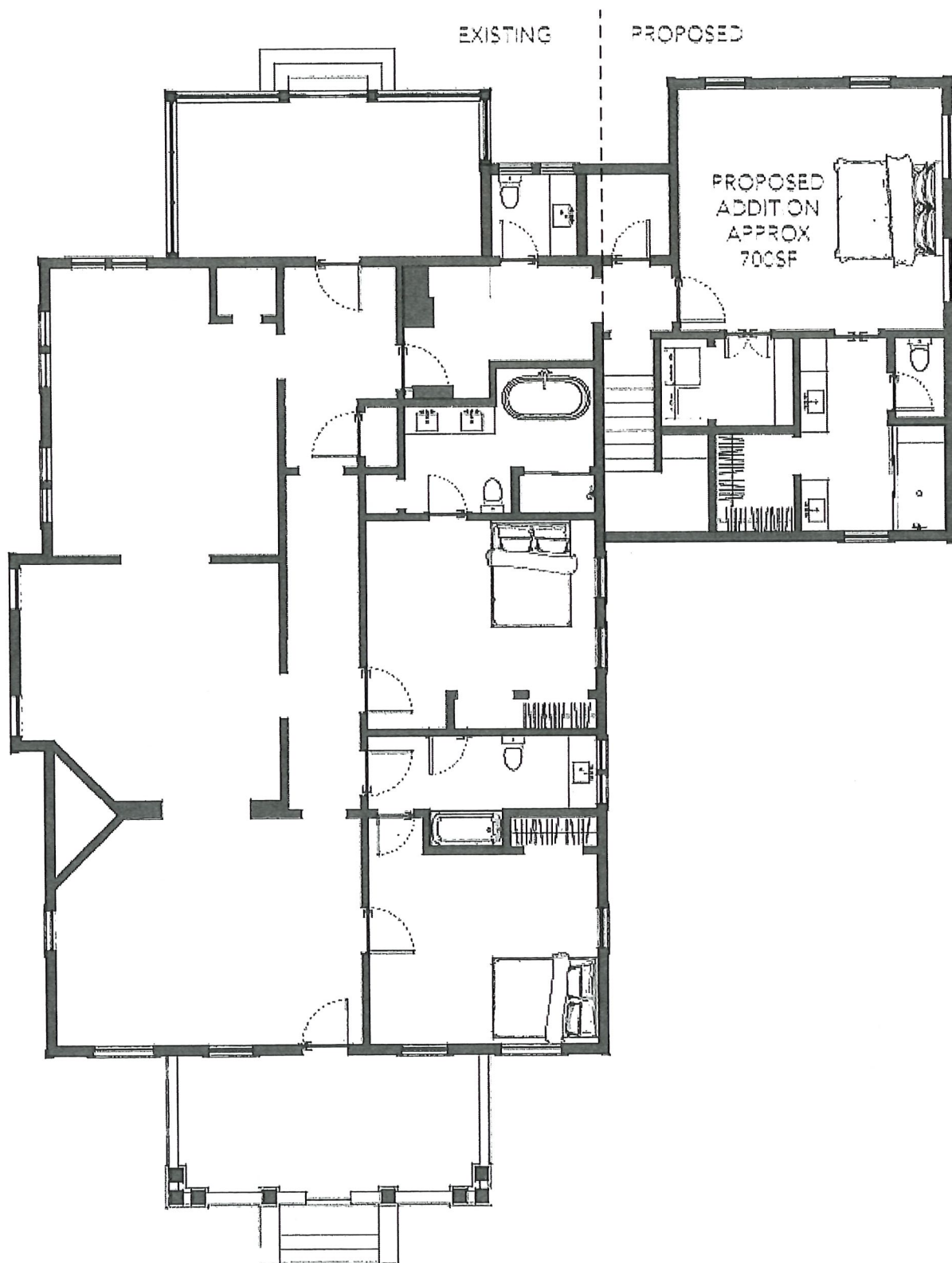
Eastern and Western Direction: R-1A Residential District



Preliminary Site Plan



Preliminary Site Plan



Variance Information

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Owners are seeking a 5' variance for addition to house in order for more room so additional family member will have space within house.

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

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

Variance Information

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

The variance will allow for proper layout of Bedroom addition.

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

We are seeking minimum variance to south side set back, Neighbour has been contacted and gave approval.

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.