

## **METROPOLITAN BOARD OF ZONING APPEALS**

**The 7/16/20 meeting will be held telephonically at 1:00 p.m.  
pursuant to Governor Lee's Executive Order No. 16.**

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**MS. ASHONTI DAVIS  
MS. CHRISTINA KARPYNEC  
MR. TOM LAWLESS  
MR. LOGAN NEWTON  
MR. ROSS PEPPER, Vice-Chair  
MR. DAVID TAYLOR, Chairman**

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### **Public Input to the Board**

Comments on any case can be emailed to the Board of Zoning Appeals at [bza@nashville.gov](mailto:bza@nashville.gov). Comments received by 12:00 noon on Wednesday, July 15, 2020, will be included in the board's packet for their review. Any comments received after that time will be read into the record at the meeting. We urge you to make comments electronically. However, a remote station will be set up at the **Development Services Center Conference Room, 800 2<sup>nd</sup> Ave S**) for anyone who is unable to submit their comments electronically and wishes to make comments via telephone. Social distance recommendations will be implemented at the remote station.

### **Consent Agenda**

The BZA utilizes a consent agenda for its meetings. One board member reviews the record for each case prior to the hearing and identifies those cases which meet the criteria for the requested action by the appellant. If the reviewing board member determines that testimony in the case would not alter the material facts in any substantial way, the case is recommended to the board for approval. The following items are proposed for the consent agenda on the 7/16/20 docket. If anyone opposes one of these cases, they should email [bza@nashville.gov](mailto:bza@nashville.gov) and state their opposition for the board's review.

**2020-143 (4144 PARTNER WAY)** – Requesting a variance from side setback requirements within the R8 District to construct a single-family residence.

**2020-147 (1226 B MCGAVOCK PIKE)** Requesting a variance from sidewalk requirements within the R8 District. Appellant has agreed to planning recommendations.

**2020-151 (1525 NATCHEZ TRACE)** Requesting a special exception in the ORI District.

**2020-158 (1018 STOCKELL ST.)** Requesting a variance from front setback requirements within the SP District to construct a front porch.

**Previously Heard Case Requiring Board Action**

**Case 2020-109 (218 MOCKINGBIRD RD.)** Item A appeal, previously heard on 7/2/20 failed to receive four affirmative votes.

**CASE 2020-073 (Council District - 4)**

**WADE HYATT**, appellant and **BRENTWOOD MEDICAL TRADING, LLC**, owner of the property located at **5429 EDMONDSON PIKE**, requesting variances from parking and landscape buffer requirements in the OL District, to use an existing space for a medical office. Referred to the Board under Section 17.20.030 and 17.24.230. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Medical Office

Map Parcel 16109015500

**Results-**

**CASE 2020-123 (Council District - 24)**

**CATALYST DESIGN GROUP**, appellant and **URBAN VIEW WEST, LLC**, owner of the property located at **3308 & 3312 CHARLOTTE AVE**, requesting a special exception from height and setback requirements in the CS District, to construct a multi-family development. Referred to the Board under Section 17.12.030.B. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Multi-Family

Map Parcel 09209035900

**Results- Indefinite Deferral**

Map Parcel 09209035700

**CASE 2020-141 (Council District - 34)**

**DEWEY ENGINEERING**, appellant and **PMT PROPERTIES, LLC**, owner of the property located at **5611 FRANKLIN PIKE**, requesting variances from front and rear setback requirements and a special exception for the commercial/retail use requirement of the Adaptive Reuse Development standards in the CL District, to construct 6 residential units. Referred to the Board under Section 17.16.030 F.6, 17.12.030 B. and 17.12. 020 C. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Multi-Family

Map Parcel 16000001300

**Results-**

**CASE 2020-143 (Council District - 26)**

**OSMAN, MUKTAR & ABDULAH, LOULA**, appellant and **OSMAN, MUKTAR & ABDULAH, LOULA**, owner of the property located at **4144 PARTNER WAY**, requesting a variance from side setback requirements in the R10 District, to construct an addition to a single-family residence. Referred to the Board under Section 17.12.020. A. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Single Family Residence

Map Parcel 134090B02300CO

**Results-**

**CASE 2020-147 (Council District - 7)**

**URBAN DWELL HOMES, GP**, appellant and owner of the property located at **1226 B MCGAVOCK PIKE**, requesting a variance from sidewalk requirements in the R8 District, to construct a single-family residence without building sidewalks but instead contribute to the sidewalk fund. Referred to the Board under Section 17.20.120. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Single Family

Map Parcel 072070K00200CO

**Results-**

**CASE 2020 150 (Council District - 15)**

**NIKKI HATCHER**, appellant and **JONES, ARTHUR JR.**, owner of the property located at **140 MCGAVOCK PIKE**, requesting a special exception in the RS10 District, to permit the use of a day care. Referred to the Board under Section 17.16.170. C. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 C.

Use-Daycare

Map Parcel 08416002100

**Results-**

**CASE 2020-151 (Council District - 18)**

**VANDERBILT UNIVERSITY**, appellant and owner of the property located at **2600 CHILDRENS WAY & 1525 NATCHEZ TRACE**, requesting a special exception in the ORI District, to allow for the use of lights on the intramural fields until 12 midnight on a maximum of ten days a year. Referred to the Board under Section 17.16.040. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 D.

Use-Special Exception

Map Parcel 10407013400

**Results-**

Map Parcel 10407053500

**CASE 2020-152 (Council District - 18)**

**ADAMS, ANGELA U.**, appellant and owner of the property located at **3212 ACKLEN AVE**, requesting a variance from sidewalk requirements in the RS7.5 District, to construct a single-family residence without building sidewalks or paying into the sidewalk fund. Referred to the Board under Section 17.20.120. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Single-Family

Map Parcel 10406022700

**Results-**



**CASE 2020-153 (Council District - 11)**

**BAKER DONELSON**, appellant and **PEEK, MICHAEL W**, owner of the property located at **1808 RIVERSIDE RD**, requesting a variance from minimum lot size requirements in the R15 District, to construct two single-family residences. Referred to the Board under Section 17.12.020.A. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Two-Family

Map Parcel 05307005800

**Results-**

**CASE 2020-154 (Council District - 24)**

**BAKER DONELSON**, appellant and **CIARA PROPERTIES**, owner of the property located at **234 ORLANDO AVE**, requesting a variance from street setback requirements in the R6 District, to construct a single-family residence. Referred to the Board under Section 17.12.030. C. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Single-Family

Map Parcel 09114020300

**Results-**

**CASE 2020-155 (Council District - 17)**

**JAY FULMER**, appellant and **SAUNDERS PROPERTIES, LLC**, owner of the property located at **1117 3RD AVE S**, requesting a variance from parking requirements in the MUL-A District, to construct a retail space. Referred to the Board under Section 17.2.030. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Retail

Map Parcel 10503003700

**Results-**

**CASE 2020-156 (Council District - 17)**

**JONI ELDER**, appellant and **NORMAN, DUINA Z.& STRATTON, PIA D.**, owner of the property located at **1802 8TH AVE S**, requesting a special exception and variances from distance and sidewalk requirements in the CS District, to operate a kennel. Referred to the Board under Section 17.16.150, 17.16.175.A1 and 17.20.120. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 C/D.

Use-Kennel

Map Parcel 10510010200

**Results-**

**CASE 2020-158 (Council District - 5)**

**MATTHEW ROBB**, appellant and **GOTHAM CONTRACTING, LLC**, owner of the property located at **1018 STOCKELL ST**, requesting a variance from front setback requirements in the RS5 District, to construct a porch. Referred to the Board under Section 17.12.030.C3. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Single Family

Map Parcel 08203017400

**Results-**

**SHORT TERM RENTAL CASES TO BE HEARD**

**CASE 2020-157 (Council District - 17)**

**AMBER STORMBERG**, appellant and **CCAM HOUSING, LLC**, owner of the property located at **505B WEDGEWOOD AVE**, requesting an Item A appeal, challenging the zoning administrator's denial of a short-term rental permit. Appellant operated after the issued short-term rental permit expired in the CS District. Referred to the Board under Section 17.16.070.U. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 A.

Use-Short Term Rental

Map Parcel 105114E00200CO

**Results-**

Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



Appellant : Wade Hyatt Date: 2/4/2020  
Property Owner: Brentwood Medical Trading, LLC  
Representative: Chip Howorth Case #: 2020- 073  
Map & Parcel: 16109015500

Council District 04

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

**Purpose:**

To allow a reduction in the number of required parking spaces as established in section 17.20.030 and to allow a reduction in the required landscape buffer as established in section 17.24.230.

Activity Type: Medical Office

Location: 5429 Edmondson Pike

This property is in the OL Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

To allow the ability to use the general office classification when calculation in establishing

Reason: minimum parking spaces, and to allow the use of the 5' "A" standard landscape buffer

Section(s): 17.20.030 & 17.24.230

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_\_\_ Of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Wade Hyatt  
Appellant Name (Please Print)

5505 Edmondson Pike, Ste. 101  
Address

Nashville, TN, 37211  
City, State, Zip Code

615-496-3433  
Phone Number

cwhyatt@me.com  
Email

S+H Group, LLC (Chip Howorth)  
Representative Name (Please Print)

2606 Eugenia Ave, Suite D  
Address

Nashville, TN 37211  
City, State, Zip Code

615-647-8775  
Phone Number

chip@shgroupllc.com  
Email

Appeal Fee: \$200

## APPLICATIONS FOR VARIANCE REQUESTS

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members so that they will have a better idea of the nature of your request. Zoning staff will notify the district councilmember of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 600 feet of the property at issue in this case. The envelopes must include the return address for the BZA and the case number. Fold and insert the notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the Board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for a hearing until complete.

Any correspondence to the Board must be submitted to our office by noon, the Monday prior to the public hearing to be included in the record. You must provide eight (8) copies of your information to staff.

We hope that this information will be of help to you in understanding the variance procedure and if our office can be of further assistance, please do not hesitate to contact us.

**METROPOLITAN BOARD OF ZONING APPEALS (615) 862-6530**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

Wade Hyatt  
APPELLANT

2/4/2020

DATE

### STANDARDS FOR A VARIANCE

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of this Zoning Code based upon findings of fact related to the standards in Section 17.40.370. This Section is included as follows:

Physical characteristics of the property - The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owner of such property.

Unique characteristics - The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.

Hardship not self-imposed - The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after the effective date of this Zoning Code.

Financial gain not only basis - Financial gain is not the sole basis for granting the variance.

No injury to neighboring property - The granting of the variance will not be injurious to other property or improvements in the area, impair an adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.

No harm to public welfare - The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.

Integrity of Master Development Plan - The granting of the variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.

The Board shall not grant variances to the land use provisions of Section 2.3, the density of Floor Area Ratio (FAR) standards of Tables 3-B and 3-C, nor the required size of residential lots approved by the Planning Commission under the authority of Section 3.7 (Lot Averaging), Section 3.8 (Cluster Lot Option) or Section 9.E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.

In simple terms, for the Board to grant you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness; irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of the neighborhood and the way it is developed. One or more of these conditions MUST affect your inability to build or occupy the property to prove your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you can not build in accordance with zoning without requesting a variance and why you feel you have a legitimate hardship.

The Board can not grant a variance based solely on an inconvenience to the applicant nor solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?

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See attached letter.

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2606 Eugenia Ave, Suite D · Nashville, TN 37211 · 615.647.8775 · www.shgroupllc.com

February 4, 2020

Board of Zoning Appeals  
800 2nd Ave S  
Nashville, TN 37210

Re: 5429 Edmondson Pike  
Nashville, TN 37211  
Parcel 16109015500  
CACN T2020004386

To Whom It May Concern:

On behalf of our client, S+H Group (S+H) is submitting the referenced property located at 5429 Edmondson Pike, Nashville, TN 37211 (the "property") for a Variance Request from Section 17.20.030 and 17.24.230 of the Metropolitan Code pertaining to minimum parking requirements and landscape buffer requirements, respectively. Due to the property's primary use and location in relation to the floodway, we are requesting that the number of minimum parking spaces be either determined by the calculation used for general office building requirements as dictated by Section 17.20.030 of the Code or reduced by reduced by approximately 20% or four (4) total spaces. In addition to the parking variance we are requesting that the landscape buffer requirement be reduced to an "A" standard buffer of 5-foot width with a 6-foot masonry wall. Please consider this letter and the enclosed documents as our Variance Application. Please find our unique circumstances (hardships) described below and the following documents enclosed:

1. Eight (8) copies of the Site Plan
2. Eight (8) copies of the FEMA FIRM Map
3. Exhibit - Urban Zoning District Map
4. Board of Zoning Appeals Checklist
5. Application for Variance Request
6. Check in the amount of \$200.00 to Board of Zoning

**Unique Circumstance (Hardship)**

The unique circumstance (hardship) that affects the property is the location of the adjacent floodway and associated zone 1 and zone 2 water quality buffers. Accordingly, this constricts the available building and parking areas on site. With the request of reduction in parking and landscape buffer the site is more developable for the proposed use while considering protection and mitigation of the stream water quality buffers.

**Variance Request - Reduction in Parking Requirement/Parking Spaces**

Per Section 17.20.030 and Table 17.20.030 of the Code, the minimum required parking spaces for a medical office development outside the UZO district is 1 space per 200 square feet (SF) of office or 24 total spaces. For general office the requirement is 1 space per 300 SF of office. This would reduce the required amount of parking required for the proposed construction to 15 spaces. Currently 20 spaces are provided on the attached site plan.



2606 Eugenia Ave, Suite D · Nashville, TN 37211 · 615.647.8775 · [www.shgroupllc.com](http://www.shgroupllc.com)

**Variance Request - Reduction in Landscape Buffer Requirement**

Per Section 17.24.230 of the Code, the minimum required landscape buffer for OL zoning adjoining R10 zoning is a “C” standard buffer. If a “C” standard buffer was implemented, access to the property via Edmondson Pike would further reduce the amount of parking spaces provided and making the request of general office parking achievable. Additionally, the majority of the buffer width would be located in an existing sanitary sewer easement, which per 17.24.210.D is not permitted in utility or drainage easements unless approved by the affected utility or Metro Water Services. By allowing for a 5-foot “A” standard buffer with a 6’ masonry wall, additional parking spaces are provided above the minimum request of the general office classification, but still unable to meet the amount of spaces required per medical office classification.

If you have any questions or concerns, please call or email me at 615-647-8775 ext. 101 and [chip@shgroupllc.com](mailto:chip@shgroupllc.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Chip Howorth', written over a horizontal line.

Chip Howorth  
Principal





**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3752021

**APPLICATION FOR BUILDING COMMERCIAL - NEW / CACN - T2020004386  
THIS IS NOT A PERMIT**

PARCEL: 16109015500

APPLICATION DATE: 01/21/2020

**SITE ADDRESS:**

5429 EDMONDSON PIKE NASHVILLE, TN 37211  
LOT 2 CARDEN SUBDIVISION

PARCEL OWNER: BRENTWOOD MEDICAL TRADING, LLC

**APPLICANT:****PURPOSE:**

construct 4500 sq.ft. medical office for NASHVILLE EYE GROUP Sidewalks ARE required for this project because this parcel fronts on a street in the Major and Collector Street Plan.

You are NOT eligible to contribute to the Pedestrian Benefit Zone in-lieu of construction because the parcel is on a street in the Major and Collector Street Plan.ROUP

POC CHIP HOWORTH 615-419-4150

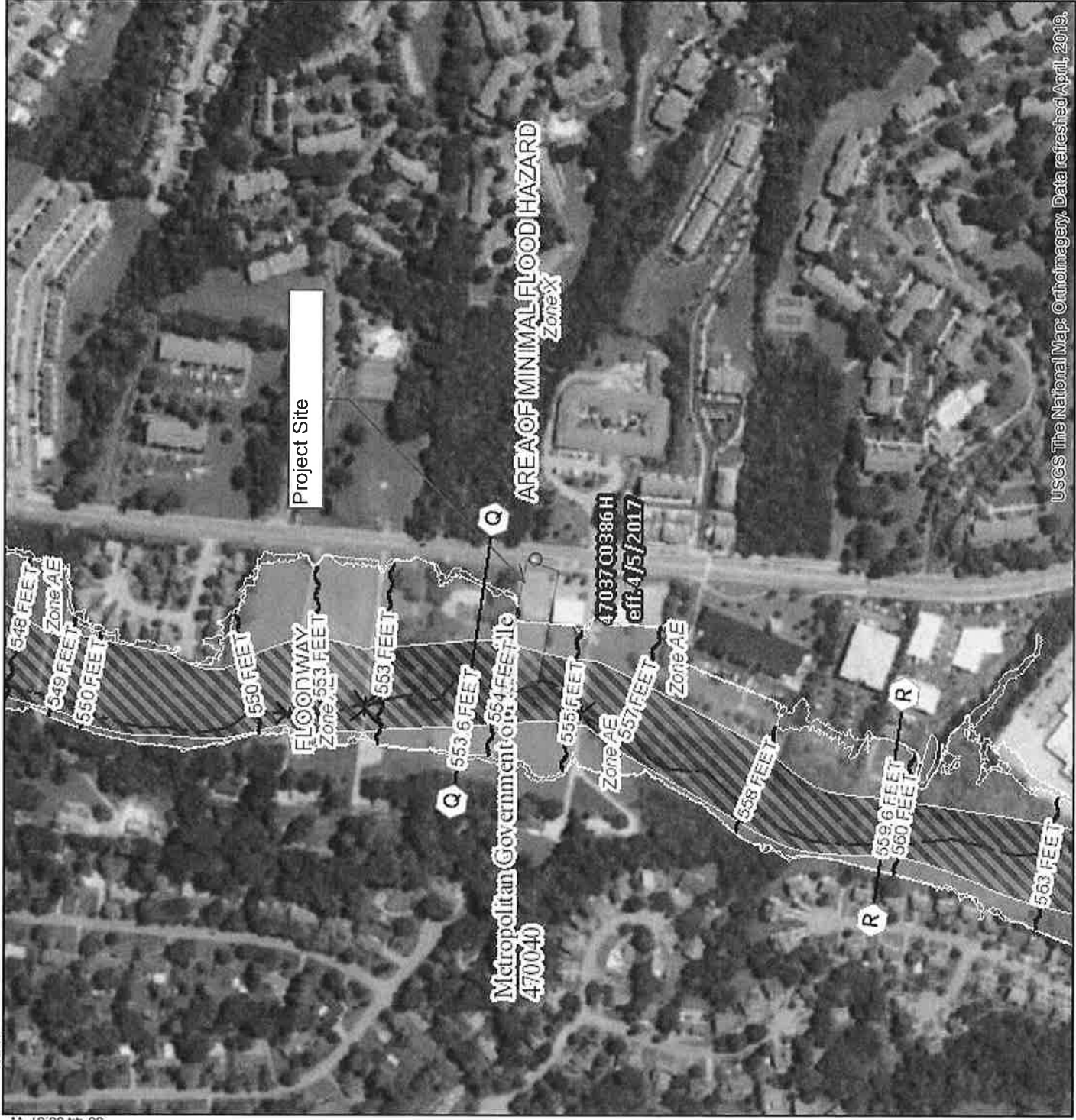
*Before a building permit can be issued for this project, the following approvals are required.  
The Applicant is responsible for providing any plans or other information to the individual agencies*

[A] Site Plan Review	REJECTED	615-880-2649 Ronya.Sykes@nashville.gov
[A] Site Plan Review		
[A] Zoning Review	APPROVED	615-880-2649 Ronya.Sykes@nashville.gov
[C] Flood Plain Review On Bldg App		615-862-7225 mws.stormdr@nashville.gov
CA - Zoning Sidewalk Requirement Review	SWREQUIRED	615-880-2649 Ronya.Sykes@nashville.gov
PW - Public Works Sidewalk Capital Project Coordinatic		615-862-6558 Jonathan.Honeycutt@nashville.gov
[B] Fire Life Safety Review On Bldg App		615-862-5230
[B] Fire Sprinkler Requirement		615-862-5230
[B] Fire Alarm Requirement		862-5230
[B] Building Plans Received		615-862-6614 teresa.patterson@nashville.gov
[B] Building Plans Review		615-862-6581 Teresa.Patterson@nashville.gov
[B] Plans Picked Up By Customer		615-880-2649 Ronya.Sykes@nashville.gov
[D] Grading Plan Review For Bldg App		615-862-7225 mws.stormdr@nashville.gov
[E] Cross Connect Review For Bldg App		615-862-7225 mws.ds@nashville.gov
Grease Control Review On Bldg App		615-862-4590 ECO@nashville.gov
[E] Sewer Availability Review For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Sewer Variance Approval For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Water Availability Review For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Water Variance Approval For Bldg		615-862-7225 mws.ds@nashville.gov
[F] Address Review On Bldg App	APPROVED	615-862-8781 Bonnie.Crumby@nashville.gov
[F] Ramps & Curb Cuts Review For Bldg A		615-862-8782 PWPermitsl@nashville.gov
[F] Solid Waste Review On Bldg App		615-862-8782
[G] Bond & License Review On Bldg App		
Landscaping & Tree Review		615-862-6488 stephan.kivett@nashville.gov

# National Flood Hazard Layer FIRMette



36°3'1.62"N



USGS The National Map: Orthoimagery, Data refreshed April, 2019.



86°44'19.22"W

## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

### SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE)  
Zone A, V, A99
- With BFE or Depth Zone AE, AO, AH, VE, AR
- Regulatory Floodway

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes. Zone X
- Area with Flood Risk due to Levee Zone D

### OTHER AREAS OF FLOOD HAZARD

- NO SCREEN
- Area of Minimal Flood Hazard Zone X
- Effective LOMRs
- Area of Undetermined Flood Hazard Zone

### OTHER AREAS

### GENERAL STRUCTURES

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

- 20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
- 17.5 Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

### OTHER FEATURES

- Digital Data Available
- No Digital Data Available
- Unmapped

### MAP PANELS



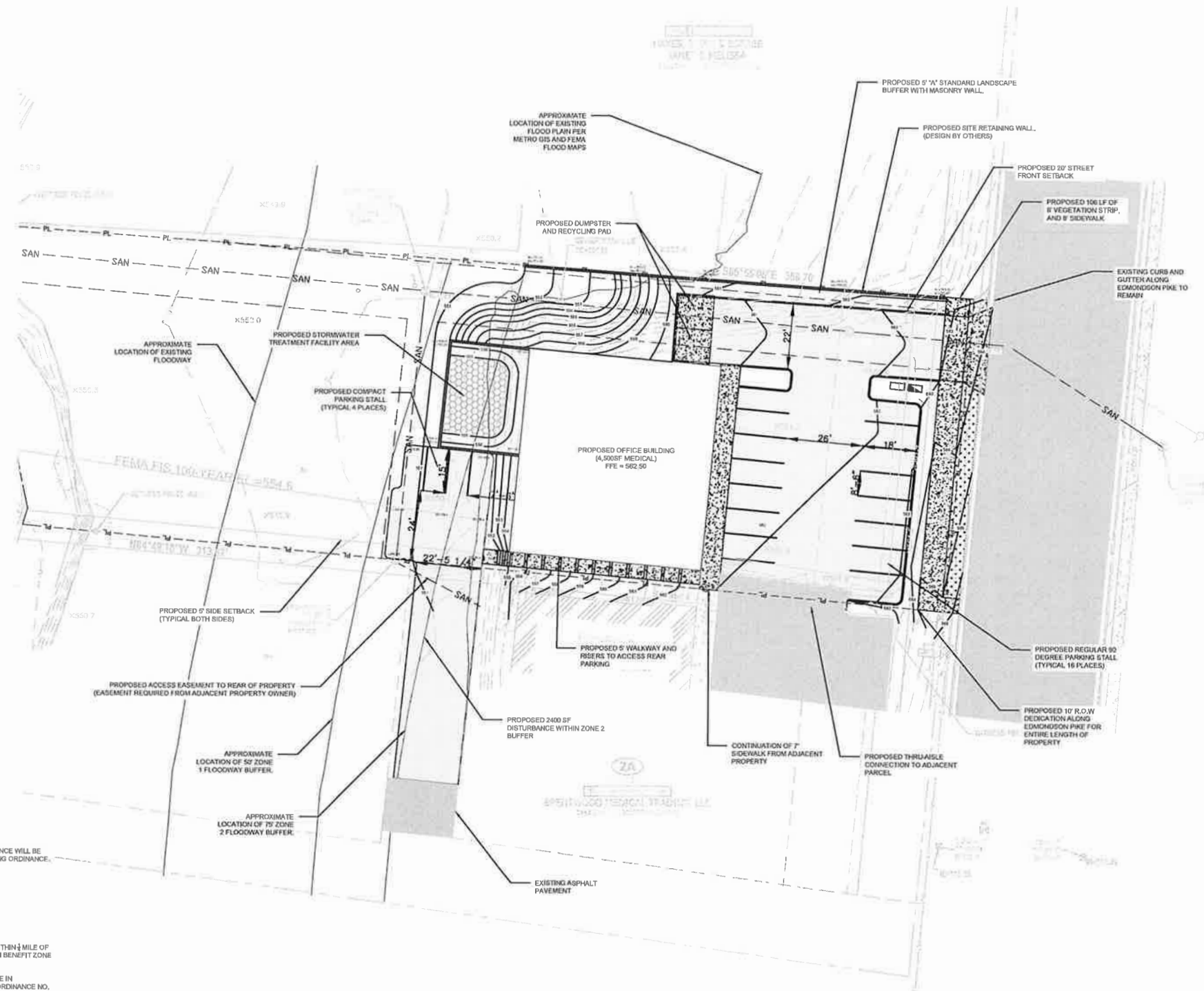
The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.



This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 1/28/2020 at 10:48:00 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



- GENERAL NOTES:**
1. SURVEY INFORMATION PROVIDED BY CLINT ELLIOT SURVEY, DATED 11/27/2019.
  2. LANDSCAPE BUFFER SHOWN AS 5' X 1' STANDARD ALONG NORTH PROPERTY BOUNDARY. VARIANCE WILL BE REQUIRED TO VOID THE 20' X 2' STANDARD BUFFER REQUIRED BY THE METRO NASHVILLE ZONING ORDINANCE.
  3. PARKING
    - 3.1. REQUIRED = 1 SPACE PER 200 SF MEDICAL OFFICE = 4,900 / 200 = 23.5 SPOTS REQUIRED MEDICAL OFFICE
    - 16 REGULAR (18x7.5) SPOTS PROVIDED
    - 4 COMPACT (15x7.5) SPOTS PROVIDED
    - 20 TOTAL SPOTS PROVIDED (PARKING VARIANCE REQUIRED)
  4. SIDEWALKS ARE REQUIRED FOR THIS PROJECT BECAUSE THE FRONTAGE OF THE PARCEL IS WITHIN 1/4 MILE OF A NASHVILLE NEXT CENTER. THE OWNER IS NOT ELIGIBLE TO CONTRIBUTE TO THE PEDESTRIAN BENEFIT ZONE IN-LU-FUND.
  5. ANY EXCAVATION, FILL, OR DISTURBANCE OF THE EXISTING GROUND ELEVATION MUST BE DONE IN ACCORDANCE WITH THE CURRENT STORMWATER MANAGEMENT MANUAL AS AUTHORIZED BY ORDINANCE NO. 78-840 AND ANY APPLICABLE METRO CODE PROVISIONS AND BE APPROVED BY THE METROPOLITAN DEPARTMENT OF WATER SERVICES.
  6. THIS PRELIMINARY STORMWATER MANAGEMENT PLAN IS FOR ILLUSTRATION PURPOSES TO INDICATE THE BASIC PREMISE OF THE DEVELOPMENT. THE DETAILS OF THE PLAN SHALL BE GOVERNED BY THE APPROPRIATE REGULATIONS AT THE TIME OF FINAL APPLICATION.



**TENNESSEE811**  
KNOW WHAT'S BELOW  
CALL BEFORE YOU DIG

DATE	DESCRIPTION OF REVISION

WADE HYATT  
5505 EDMONDSON PIKE, STE. 101  
NASHVILLE, TN 37211

NASHVILLE EYE GROUP  
5429 EDMONDSON PIKE

PRELIMINARY SITE UTILITY PLAN

**S+H** ENGINEERING DESIGN CONSULTING  
208 RUGGIERA AVENUE  
NASHVILLE, TN 37203  
TEL: 615.843.1900

DATE: FEBRUARY 5, 2020  
SCALE: 1" = 20'  
DRAWN BY: J. JACOBY  
REVIEWED BY: F. SMITH

Sheet Name: **FIG. 1**

**From:** [Kivett, Stephan \(Codes\)](#)  
**To:** [Lifsey, Debbie \(Codes\)](#); [Lamb, Emily \(Codes\)](#)  
**Subject:** RE: buffer-BZA 3-19  
**Date:** Friday, March 6, 2020 11:54:25 AM

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I would be against the granting of the buffer variance, UNLESS the neighbor to the north has absolutely no problem

They would still need to install a side perimeter strip (tree @ 50ft intervals in a 5 ft wide strip), if the buffer were to magically go away.

Stephan Kivett

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**From:** Lifsey, Debbie (Codes) <Debbie.Lifsey@nashville.gov>  
**Sent:** Friday, March 06, 2020 10:16 AM  
**To:** Kivett, Stephan (Codes) <Stephan.Kivett@nashville.gov>  
**Subject:** landscape buffer case to be heard on 3-19

**CASE 2020-073 (Council District - 4)**

WADE HYATT, appellant and BRENTWOOD MEDINCAL TRADING, LLC, owner of the property located at 5429 EDMONDSON PIKE, requesting variances from parking and landscape buffer requirements in the OL District, to use existing space for a medical office. Referred to the Board under Section 17.20.030 and 17.24.230. The appellant alleged the Board would have jurisdiction under Section 17.40.180 B.



Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Dewey Engineering Date: 5/5/2020  
Property Owner: PMT Properties, LLC Case #: 2020-141  
Representative: Michael Dewey Map & Parcel: Map 160, Parcel 130  
Council District: 34

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To create a consistent blockface interms of massing and setbacks along Franklin Pike  
Activity Type: Residential  
Location: 5611 Franklin Pike

This property is in the CL Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Irregular TDOT ROW along Franklin Pike as welll as width and depth of subject lot.  
Section: 17.16.030.F.6, 17.12.030B, 17.12.020C

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Dewey Engineering Representative: \_\_\_\_\_  
Phone Number: 615-401-9956 Phone Number: \_\_\_\_\_  
Address: 2925 Berry Hill Dr Address: \_\_\_\_\_  
Nashville, TN 37204 \_\_\_\_\_  
Email address: mdewey@dewey-engineering.com Email address: \_\_\_\_\_

Zoning Examiner : Clint Harper

Appeal Fee: \$200.00



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3814165

**ZONING BOARD APPEAL / CAAZ - 20200028723  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 16000001300**APPLICATION DATE:** 05/07/2020**SITE ADDRESS:**

5611 FRANKLIN PIKE BRENTWOOD, TN 37027  
PT LOT 1 ROSER HGTS

**PARCEL OWNER:** PMT PROPERTIES, LLC**CONTRACTOR:****APPLICANT:****PURPOSE:**

To construct 6 residential units, variances from front and rear setback requirements and a special exception for the commercial/retail use requirement of the Adaptive Reuse Development standards

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

---

***There are currently no required inspections***

Inspection requirements may change due to changes during construction.

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

  
\_\_\_\_\_  
APPELLANT

  
\_\_\_\_\_  
DATE



**James L. Murphy III**

jmurphy@bradley.com  
615.252.2303 direct  
615.252.6303 fax



jm

May 27, 2020

**VIA EMAIL**

Emily Lamb  
Secretary  
Metropolitan Board of Zoning Appeals  
800 Second Avenue South  
Nashville, Tennessee 37210

RE: Case No. 2020-141-Variances for PMT Properties, LLC, 5611 Franklin Pike,  
Nashville, Tennessee (Tax Map 160, Parcel 13).

Dear Emily:

I represent PMT Properties, LLC (“PMT”), the owner of the property located at 5611 Franklin Pike, Nashville, Tennessee (the “Property”). The property is located in the CL zoning district and PMT proposes to construct a 6-unit multifamily residential development (the “Project”) on the Property. Dewey Engineering has applied for variances needed for the Project from the front and rear yard setbacks and for a special exception to permit a deviation from the requirement for Adaptive Residential Developments that commercial or retail uses occupy 75% of the street frontage. I am submitting this letter to the Board of Zoning Appeals (“BZA”) to provide additional information regarding the history of the Property that supports the request for the variance and special exception.

The Property is located on the western margin of Franklin Pike and adjoins the north boundary of the parcels utilized for the Shell station at the intersection of Franklin Pike and Old Hickory Boulevard (Map 160, Parcels 102 and 279). The properties to the north and west of the Property are within the City of Oak Hill. The Property is 50 feet in width and 144 feet deep on the north boundary and 129 feet deep on the south boundary. An aerial map showing the Property highlighted in red and the surrounding properties is attached hereto as Exhibit A.

As shown on the site plan submitted by Dewey Engineering and attached hereto as Exhibit B, the western edge of the right of way of Franklin Pike is approximately 15 feet to the west of the edge of the right of way of Franklin Pike for Parcel 160, Map 102. As shown on the photographs attached hereto as Exhibit C, Exhibit D, Exhibit E and Exhibit F, the edge of the pavement of Franklin Pike is 25 feet from the eastern boundary of the Property. This condition was discovered by a representative of AAMP, LLC prior to the time AAMP, LLC acquired the Property and certain adjoining properties to the north and west in 1997. During the due diligence investigation of the Property, AAMP, LLC learned that a portion right-of-way adjacent to the Property was formerly located within the right-of-way of the Nashville & Decatur Railroad Company. In 1929 the Nashville & Decatur Railroad Company conveyed this right-of-way to the Department of Highways and Public Works of the State of Tennessee. A drawing referencing the area conveyed to the Department of Highways and Public Works is attached hereto as Exhibit G.



Emily Lamb  
May 27, 2020  
Page 2

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AAMP, LLC then discovered that the Tennessee Department of Transportation considered the portion of the right-of-way adjacent to the Property to be surplus right-of-way. See the letter from John H. Burke, Reginal Engineer to Mr. R.D. Minnigan, State Right-of-Way Engineer, dated August 23, 1976, and attached hereto as Exhibit H. A representative of AAMP, LLC then contacted Lon F. West, Metro's Zoning Administrator, who advised that in light of the fact that the portion of the right-of-way adjacent to the Property was surplus right of way, he would support a zero setback on the properties from Map 160, Parcel 109 to Map 160, Parcel 102, which includes the Property. A copy of the letter from Mr. West is attached hereto as Exhibit I. The recommendation of a zero setback for the Property was confirmed in a letter from C. Rick Shepherd, Zoning Examiner Chief, which is attached hereto as Exhibit J.

As noted in the letter submitted by Dewey Engineering with the application for the variances, the Property is unusually narrow and shallow when compared to other CL zoned properties. The 15 foot front setback and the 20 foot rear setback would not provide sufficient area to develop the Project. As noted in the letter submitted by Dewey Engineering utilizing a zero foot setback for the Property would align the building with the 15 foot setback on Map 160, Parcel 102 and with the building with a zero setback on Map 160, Parcel 109. Due to the screening to the north and west of the Property which is shown on Exhibit B, the rear of the building will be screened from the residential properties to the north and west. In addition, the proposed multifamily residential development will have comparable design and setbacks to the residential development at the corner of Old Hickory Boulevard and Town Center Boulevard in Brentwood as shown in the photographs attached hereto as Exhibit K, Exhibit L and Exhibit M. The proposed multifamily residential development will also be more compatible to the residential uses located in the City of Oak Hill to the north and west than would be the case for other commercial uses permitted in the CL zoning district.

Section 17.16.030 F 11 of the Zoning Code permits alternative design standards when a proposed residential development cannot comply with the standards of Section 17.16.030 F. The alternative design must be approved by the BZA in accordance with Sections 17.16.140 and 17.16.150 of the Zoning Code. Section 17.16.030 F 11 provides that in granting such approval of a special exception application, the BZA shall determine that the applicant has demonstrated that the relief being requested will not be injurious to surrounding properties, nor violates the adopted general plan. The BZA cannot act on any application without first considering a recommendation from the planning department.

As noted in the letter submitted by Dewey Engineering with the application for the special exception, the narrowness of the Property prevents the Project from complying with Section 17.16.030 F 6 of the Zoning Code, which requires that an Adaptive Residential Developments must have commercial or retail uses occupying 75% of the street frontage. Due to the constrained site, the access drive into the parking garage will make it impossible to provide and commercial or retail uses on the street frontage. As discussed above the proposed multifamily residential development will have comparable design and setbacks to the residential development in Brentwood and will be more compatible to the residential uses located in the City of Oak Hill to the north and west than would be the case for other commercial uses

Emily Lamb  
May 27, 2020  
Page 3

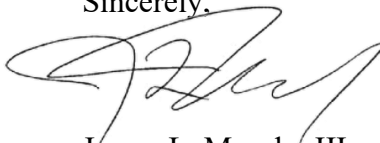
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permitted in the CL zoning district. The proposed multifamily residential development will be screened from the residential properties to the north and west by the screening on the adjoining property as shown on the site plan. Therefore the proposed multifamily residential development will not be injurious to surrounding properties.

As for compliance with the General Plan, the Property is in an area designated as T3-Neighborhood Center on the Community Plan. See the map showing the T3-NC designation attached hereto as Exhibit N. A mixture of residential and commercial uses are contemplated in T3-NC areas and low-rise and mid-rise townhomes and low-rise and mid-rise flats are contemplated as building types. Shallow setbacks are recommended in T3-NC areas. Therefore the proposed multifamily residential development is consistent with the General Plan.

For these reasons, and the reasons stated in the letter submitted by Dewey Engineering, the front and rear yard setbacks and the special exception to permit a deviation from the requirement for Adaptive Residential Developments that commercial or retail uses occupy 75% of the street frontage should be granted by the BZA

Sincerely,



James L. Murphy III

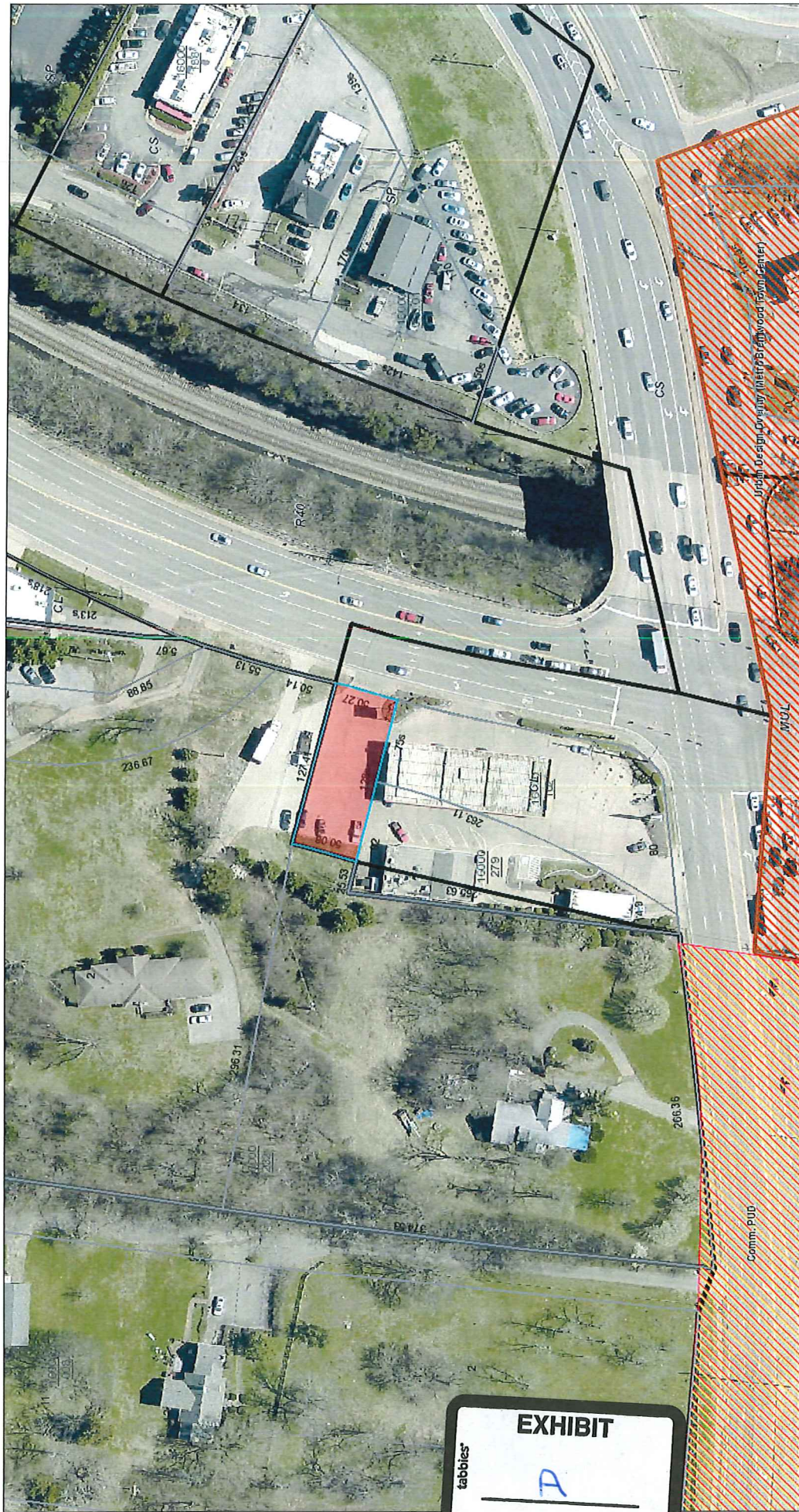
JLM

Enclosures

cc: Michael Dewey (via email, w/ enclosures)



# Nashville / Davidson County Parcel Viewer



tabbles<sup>®</sup>

**EXHIBIT**

A

- May 27, 2020
- polyonLayer
- Override 1
- Ownership Parcels
- Planned Unit Development
- Urban Design Overlay District
- Zoning

1:1,128

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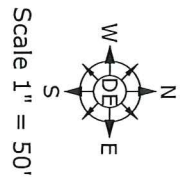
0 0.02 0.04 0.06 km

Metro GIS, Pictometry International





**EXHIBIT**  
B



1

Exhibit



**5611 Franklin Pike**  
Tax Map 160, Parcel 130  
Nashville, Davidson County, Tennessee

Date: May 5, 2020





SITE REQUESTING  
-0- SETBACK  
5611 FRANKLIN  
PIKE

EXHIBIT  
C





5611 FRANKLIN RD  
FROM R.O.W TO  
SURVEYED PROPERTY LINE  
STAKE  
2.5ft - SEE NEXT  
SLIDE

EXHIBIT  
D



561 FRANKLIN PIKE

25 FT



tabbles®

**EXHIBIT**

E

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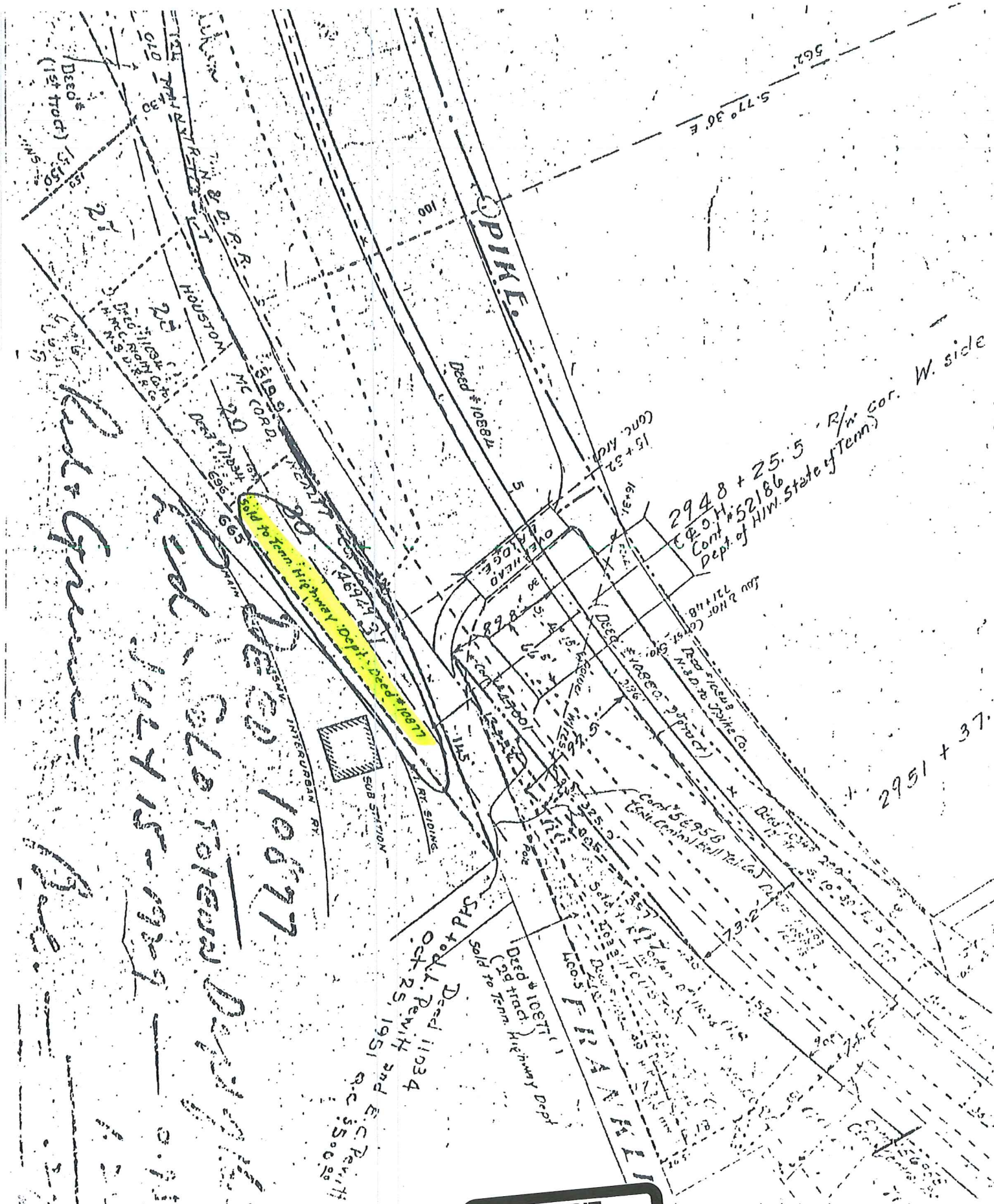
5611 FRANKLIN  
FRONT  
CORNER

PROP. COR.

EXHIBIT  
F

tabbies





Red Green - Blue

Deed # 10677

Deed # 10587

Deed # 10860

Deed # 10870

Deed # 10877

Deed # 10934

Deed # 10935

Deed # 10936

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Deed # 10998

Deed # 10999

Deed # 11000

EXHIBIT

tabbles

6





— TENNESSEE DEPARTMENT OF TRANSPORTATION —

— NASHVILLE 37219 —

RAY BLANTON  
GOVERNOR

August 23, 1976

EDDIE SHAW  
COMMISSIONER

W. A. GOODWIN  
DEPUTY COMMISSIONER

Mr. R. D. Minnigan  
State Right-of-Way Engineer  
242 Doctors Building  
Nashville, Tennessee 37219

ATTENTION: MR. BOB AGEE

RE: EXCESS LAND SALES  
STATE ROUTE 6  
DAVIDSON COUNTY

Dear Mr. Agge:

Please find enclosed herewith a request received from Mr. Hubert A. Sumner asking that a parcel of land belonging to the Department and being part of the above referenced highway, be declared excess.

I have had this request reviewed in the Region and it is our determination that there is no contemplated future need for this property and as such I do concur in this request and ask that the matter be referred to the standing committee of the Department for such purposes.

As a matter of reference, in our review of the request it was found that the Department's deed to the property is unrecorded; however, we do understand that a copy of this deed may be obtained through the office of Mr. Bill Lamb, Director, Public Works Administration, Metropolitan Government of Nashville and Davidson County. We also found that Mr. Sumner does hold a quitclaim deed which purports to convey this property. This deed is recorded in Book 5008, page 258, Register's Office for Davidson County, Tennessee.

Yours very truly,

John H. Burke  
Regional Engineer

ppm  
Enclosure  
cc: S. N. Wilson



BUREAU OF HIGHWAYS \* BUREAU OF PLANNING \* BUREAU OF BUSINESS MANAGEMENT \* BUREAU OF AERONAUTICS

\* BUREAU OF AREA MASS TRANSIT \* BUREAU OF INDUSTRIAL MARINE & WATERCRAFT TRANSPORTATION

BILL PURCELL, MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

BUILDING  
ELECTRICAL  
GAS/MECHANICAL  
HOUSING  
PLUMBING  
ZONING

February 21, 1997

DEPARTMENT OF CODES ADMINISTRATION  
METRO HOWARD BUILDING  
700 2ND AVENUE, SOUTH  
NASHVILLE, TENNESSEE 37210  
(615) 862-6500  
FAX NUMBER (615) 862-6514

Mr. Mark Marshal  
Marshall Developments  
P.O. Box 2142  
Brentwood, TN 37024

RE: Franklin Pike, Brentwood TN 37027  
Parcel 160: Map 102 & 109

Dear Mr. Marshal:

From all the records in the Department of Codes Administration and Metro Planning Commission, it appears that the referenced parcels are in Davidson County outside the corporate limits of the City of Oak Hill.

TDOT has explained to us and Metro Mapping that TDOT sold extra surplus Parcel 160 Map 109 to Herb Summers and the remaining of the majority of right-of-way between Parcel 160 Map 102 and Parcel 160 Map 109 is considered surplus right-of-way but not deemed extra surplus right-of-way which TDOT received by deed from the abandonment of the railroad in approximately 1929.

Therefore, it is my opinion that the subject properties are within the jurisdiction of Metro Government (not the City of Oak Hill) and is currently zoned ("CL") which is the successor zoning to ("Commercial A"). As it relates to the final approval of the zero front set back in front of Parcel 160 - Map 102 50 foot strip and the surplus right-of-way land between said two parcels I would support a zero front setback due to the depth of right-of-way (that the majority of right-of-way is deemed surplus right-of-way) which would have to receive final approval by the Board of Zoning Appeals.

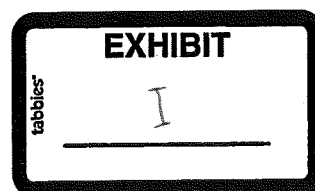
Should you need further information, please feel free to contact me @ 862-6608

Very truly yours,



Lon F. West Zoning  
Metropolitan Zoning Administrator

LFW:ljb





PHILIP BRIDGES, MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

BUILDING  
ELECTRICAL  
MECHANICAL  
PLUMBING  
ZONING

DEPARTMENT OF CODES ADMINISTRATION  
METRO HOWARD BUILDING  
790 3RD AVENUE, SOUTH  
NASHVILLE, TENNESSEE 37210  
(615) 893-4560  
FAX NUMBER (615) 893-8914

August 24, 1999

Mr. Mark Marshall  
Marshall Developments  
P.O. Box 2142  
Brentwood, TN 37024

RE: Franklin Pike, Brentwood TN 37027  
Map: 160 Parcel: 102

Dear Mr. Marshall:

This is to confirm our conversation regarding the referenced parcel. As confirmed in our conversations with Mr. Freddie Stroupe in the Metro Mapping Division, the property beginning with the northwest corner of Franklin Pike and Old Hickory Boulevard is all one parcel. This includes the Sheli site and the remaining approximately 50 foot strip you propose to develop to the north.

As we have previously discussed with Lon F. West, we support and also would recommend that the said parcel should have a zero front setback due to the fact that both Metro Mapping and the State of Tennessee show that most of the area in the R.O.W. in front of the 50 foot strip is surplus right-of-way and is deemed out of the normal R.O.W. that will never be needed for Highway Purposes. Please note that while we recommend a zero front set back it would have to be heard by the Board of Zoning Appeals prior to being approved by Codes.

The 50 foot strip portion of the said parcel that you propose to develop is all within the jurisdiction of Metropolitan Nashville, Davidson County, Tennessee with the City of Oak Hill having jurisdiction north of the site. This is indicated on a subdivision plat recorded in Book 8250 Page 785 approved by the City of Oak Hill.

The subject parcel is zoned "CL" and upon submittal of plans and application to the BZA, to our office, demonstrating compliance with applicable codes we will issue a building permit.

Sincerely,

C. Rick Shepherd  
Zoning Examination Chief  
jh



Aug 24 1999

METRO CODES





5720  
FRANKLIN RD  
SITTING ON  
- O - STONE

AVAILABLE  
DAVID C. STREMIC  
615.474.6001  
PDM REALTY ADVISORS, LLC  
615.370.8384

JCT  
254  
HARRISBORO

tabbies  
EXHIBIT  
K





5720 FRANKLIN  
PKW - RESIDENTIAL  
BUILDING SETTING M/F  
OFF RIGHT-OF-WAY

EXHIBIT  
L

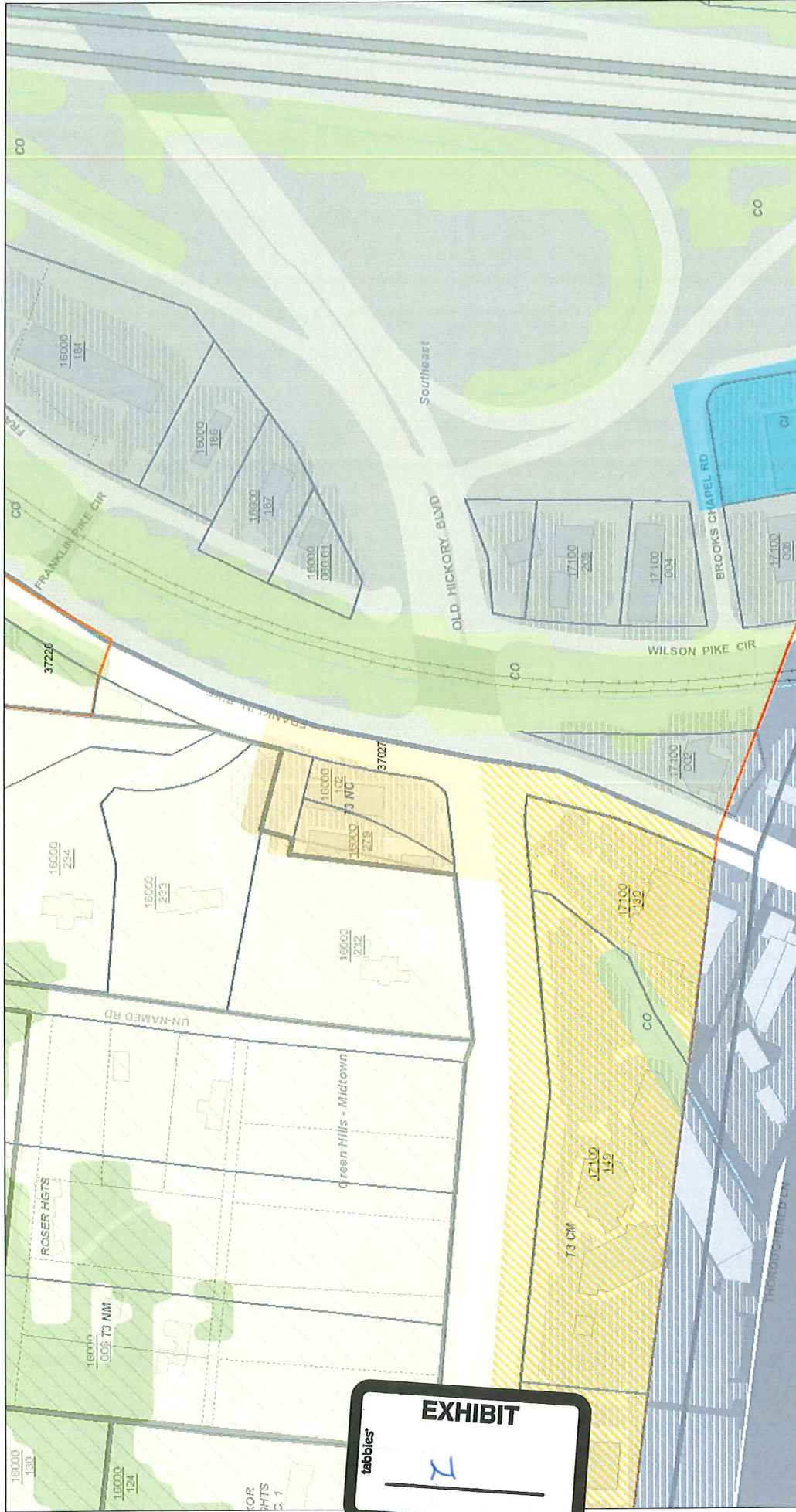




tabbies®  
EXHIBIT  
M



# Nashville / Davidson County Parcel Viewer



May 27, 2020

Ownership Parcels

Zip Codes

<all other values>

ARTS CENTER REDEVELOPMENT DISTRICT

BORDEAUX REDEVELOPMENT DISTRICT

CAPITOL HILL REDEVELOPMENT DISTRICT

CAPITOL MALL REDEVELOPMENT DISTRICT

CAYCE REDEVELOPMENT DISTRICT

CENTRAL STATE REDEVELOPMENT DISTRICT

EAST BANK REDEVELOPMENT DISTRICT

FIVE POINTS REDEVELOPMENT DISTRICT

JEFFERSON STREET REDEVELOPMENT DISTRICT

PHILLIPS-JACKSON STREET REDEVELOPMENT DISTRICT

RUTLEDGE HILL REDEVELOPMENT DISTRICT

SKYLINE REDEVELOPMENT PLAN

Community Planning Areas

1:2,257

0 0.0275 0.055 0.11 mi

0 0.0425 0.085 0.17 km

Nashville Planning Department  
Metro GIS

Made by: Metro GIS



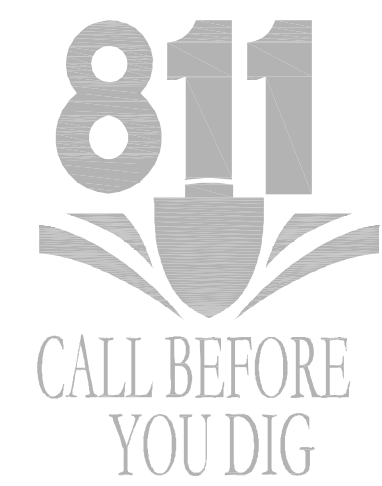




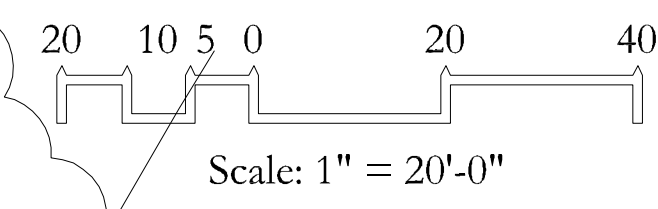








**NORTH**  
 Date: 06-24-2020  
 Revisions: 00-00-2020



**MATERIALS SCHEDULE - 5595 PROPERTY**

KEY	AMOUNT	SCIENTIFIC NAME/ COMMON NAME	HEIGHT	SPREAD	TRUNK	NOTES
<b>TREES</b>						
CC	3	<i>Cercis canadensis</i> 'Merlot' / Merlot Redbud	6' Min.	2'-3'	2"	Matched
<b>SHRUBS</b>						
IC	14	<i>Ilex crenata</i> 'Helleri' / Heller's Compact Holly	18" Min.	15"-18"	F.T.B.	
TO	7	<i>Thuja occidentalis</i> 'Smaragd' / Emerald Green Arborvitae	48" Min.	15"-18"	F.T.B.	
<b>TURF</b>						
SOD		Rebel II Fine Bladed Sod	Install at disturbed areas.			
<b>MISCELLANEOUS</b>						
Mulch Bed		Hardwood Bark Mulch	Minimum 3" depth throughout.			
<b>NOTES</b>						
FTB = Full To Bottom						

**MATERIALS SCHEDULE - 5611 PROPERTY**

KEY	AMOUNT	SCIENTIFIC NAME/ COMMON NAME	HEIGHT	SPREAD	TRUNK	NOTES
<b>TREES</b>						
AR	3	<i>Acer rubrum</i> 'Karpick' / Karpick Red Maple	12'-14'	4'-5'	2"	Matched 3' Clear
<b>SHRUBS</b>						
IC	7	<i>Ilex crenata</i> 'Helleri' / Heller's Compact Holly	18" Min.	15"-18"	F.T.B.	
SJ	5	<i>Spiraea japonica</i> 'Walbumba' / Magic Carpet Spirea	15" Min.	15"-18"	F.T.B.	
<b>GRASSES</b>						
PA	4	<i>Pennisetum alopecuroides</i> 'Hameln' / Dwarf Fountain Grass	Install where shown.			
<b>TURF</b>						
SOD		Rebel II Fine Bladed Sod	Install where shown.			
<b>MISCELLANEOUS</b>						
Mulch Bed		Hardwood Bark Mulch	Minimum 3" depth throughout.			
HB	2	Hose Bib, Water Spigot, Hydrant	Install within 100' of any new landscaping on subject property.			
<b>NOTES</b>						
FTB = Full To Bottom						
THE LANDSCAPE CONTRACTOR SHALL NOT MAKE SUBSTITUTIONS						
* OFFSITE, NO TDU OR LANDSCAPE CREDIT						

**REQUIREMENTS**

PARCEL ID #	16000001300
PROPERTY ZONE:	CL-SP
GROSS PARKING AREA:	0 SF
INTERIOR PLANTING AREA REQUIRED:	NA
AREA OF LOT:	0.15 ACRES
BUILDING COVERAGE:	- 0.12 ACRES
AREA OF REQUIRED COMPLIANCE:	0.03 ACRES
	x 22.0
REQUIRED TREE DENSITY UNITS:	0.66
PROPOSED NEW TREES:	
2" CAL @ 0.25 3' x 0.25 =	0.75
CREDIT FOR NEW TREES:	0.75
TOTAL TDU PROVIDED:	0.75
IRRIGATION REQUIREMENTS SATISFIED VIA HOSE BIBS	

**NOTES**

THE LANDSCAPE CONTRACTOR SHALL COORDINATE ALL CONSTRUCTION WITH THE APPROPRIATE UTILITY COMPANY AND SHALL BE RESPONSIBLE FOR ANY DAMAGE.

THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE FINE GRADING OF ALL PLANTING AREAS.

ALL PLANTING AREAS SHALL BE FERTILIZED WITH 12#/1000 S.F. OF 10-10-10 FERTILIZER.

ALL PLANTING BEDS SHALL HAVE A MINIMUM OF 3" DEPTH OF SHREDDED BARK MULCH. FINELY GROUND, NO NUGGETS, 1/2" DIAMETER MAX. PIECES. REFUSE & STONE FREE.

ALL DISTURBED AREAS SHALL BE PLANTED WITH TURF AS INDICATED ON THE MATERIALS SCHEDULE.

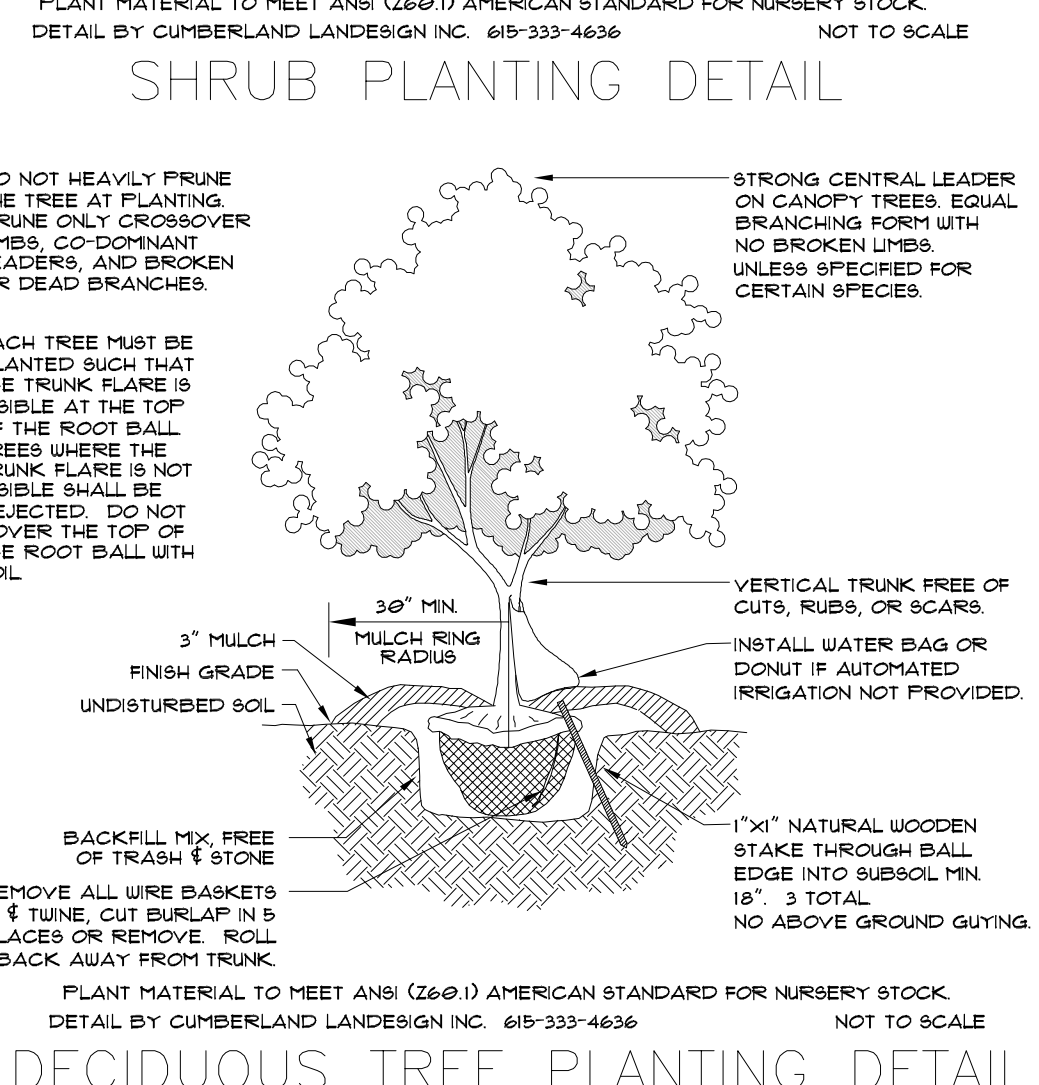
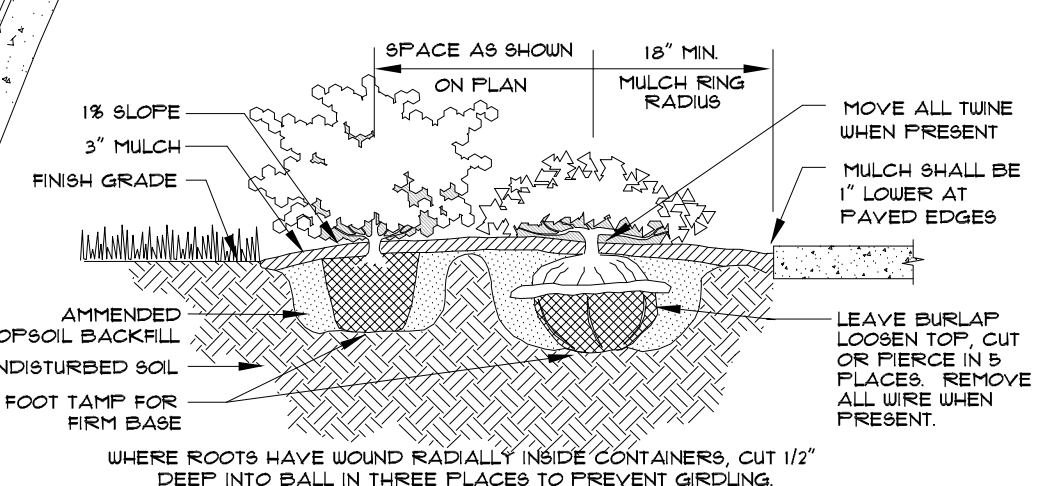
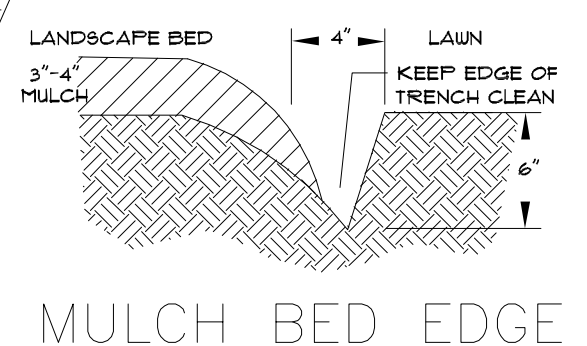
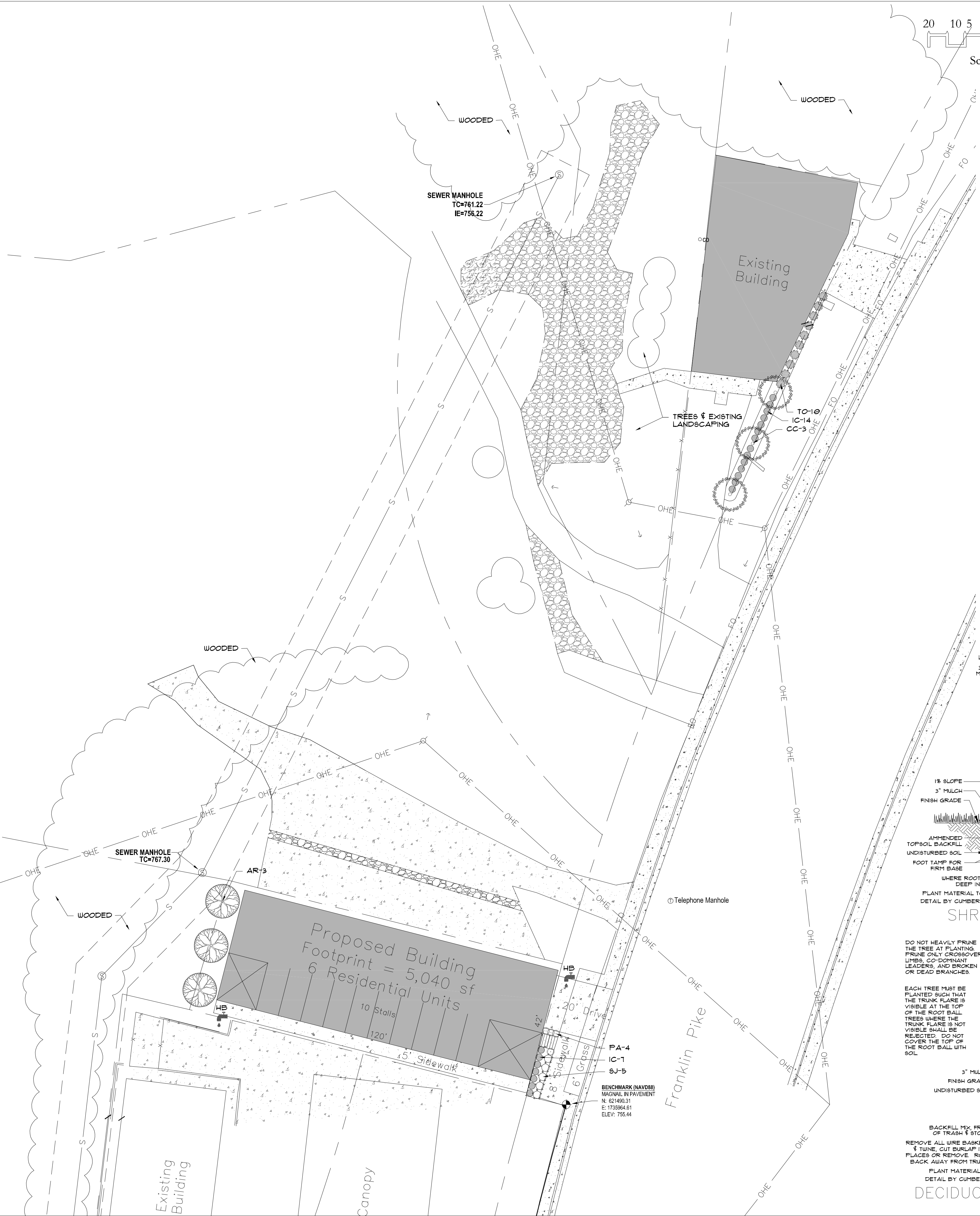
PLANT SIZES SHOWN ARE MINIMUMS REQUIRED BY THE LOCAL MUNICIPALITY AND MATERIALS SHOWN HAVE BEEN SELECTED SPECIFICALLY FOR THIS PROJECT.

ALL WIRE BASKETS SHALL BE COMPLETELY REMOVED. REMOVE ALL TWINE FROM BURLAP MATERIALS.

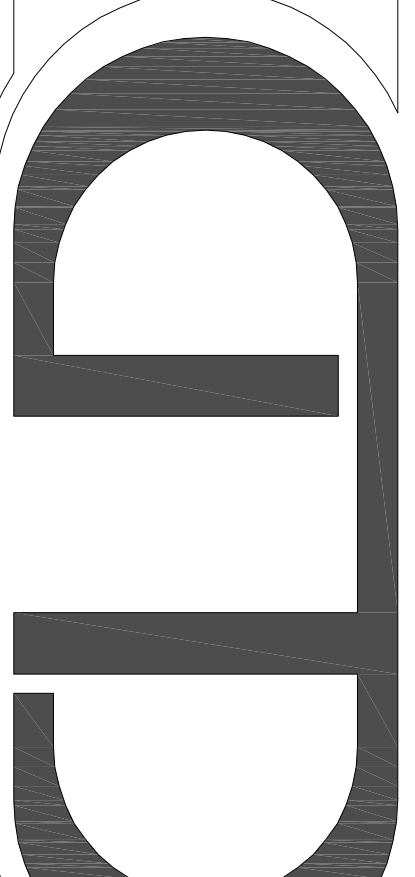
STAKE TREES IN PLACE PER DETAIL - WIRE OR ROPE GUYING IS NOT ALLOWED.

NO CANOPY TREE SHALL BE LOCATED WITHIN 15' OF AN OVERHEAD UTILITY, POWER LINE, OR LIGHT POLE.

NO CANOPY TREE SHALL BE LOCATED WITHIN A GAS, WATER, SEWER, UNDERGROUND ELECTRIC, CABLE, FIBER, OR PUBLIC UTILITY EASEMENT WITHOUT SIGNING OF A RELEASE WAIVER AND APPROVAL BY THE EASEMENT HOLDER.



Landscape Concept Plan for:  
**5611 Franklin Pike**  
 Nashville, TN 37220







Members of the Metropolitan Board of Zoning Appeals  
800 Second Avenue South  
Nashville, Tennessee 37210

Re: Case No. 2020-141-Variances for PMT Properties, LLC, 5611 Franklin Pike, Nashville, Tennessee

Dear Board Members:

I am submitting this letter to address questions on the marketability of the residential development at 5611 Franklin Pike that were raised at a recent community meeting. I have been involved with PMT Properties, LLC in the design and planning of this development for some time. I have helped in selections of the quality finishes most coveted by the target buyer group of this project and have assisted with both interior layouts and exterior finishes.. My 15 years of experience has been instrumental in my team selling nearly 550 properties last year and nearly \$1 billion in sales in my career. I take a strategic approach to each project I market and sell.

This particular project boasts the coveted Brentwood address, close proximity to the interstate and great accessibility to the commercial district of Brentwood as well as Nashville. I do recognize the proximity to the Shell Station is a negative to overcome, but I am no stranger to selling property where you have something to overcome. I sold multiple properties on Alice Street in Nashville that were next to the Marathon holding station. Any time the wind picked up you would smell very strong gas fumes at those properties. This was a big issue to overcome but it did not prevent the homes from being sold for top dollar when marketed with upgraded finishes. Those properties had a \$500k price point and buyers were simply willing to overlook the one negative for the many positive features.

The development team and I recognized possible negatives of the nearby gas station. From the beginning of our planning sessions great care and detail was taken to make sure the architect designed a wall that had added character with its brickwork but also a screen to take the focus away from the adjacent property. The private courtyard allows a luxury feeling by incorporating

ivy and other green plant materials. As far as ingress and egress is concerned, this particular is accessible for traffic coming from either North or South on Franklin Road. I truly believe this is not only the best use for the property but will certainly provide a lot less traffic for the Old Hickory Boulevard and Franklin Road intersection than if the property was developed as a drive-thru coffee operation or similar commercial use.

I look forward to showing prospective buyers that this property offers luxury brownstone living with great accessibility. We plan to market these properties once they finish the build out of the model units. It is important for buyers to see the finished product. I anticipate a 4-6 month selling cycle once I have a model unit available.

I am available for any questions you have on this project.

Best,



Erin Krueger- MBA, ABR, ASP, CRS, Affiliate Broker, REALTOR®=  
The Erin Krueger Team at Compass - Team Lead  
1033 Demonbreun St, Suite #300  
Nashville TN 37203  
m: 615.509.7166 / o: 615-475-5616  
[www.erinkrueger.com](http://www.erinkrueger.com)  
License #309197

**From:** [Gregory, Christopher \(Public Works\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#)  
**Cc:** [Ammarell, Beverly \(Public Works\)](#)  
**Subject:** RE: Appeal 2020-141  
**Date:** Friday, June 26, 2020 11:48:50 AM

---

Response is copied below.

**2020-141 5611 Franklin Pike Reduce building setback**

Variance: 17.16.030 F.6, 17.12.030 B, 17.12.020 C

Response: Public Works takes no exception on condition that adequate parking is provided on site per code.

This does not imply approval of the submitted site plan as access and design issues will be addressed and coordinated during the permitting process.

**Christopher E. Gregory, E.I.T.**  
***Metropolitan Government of Nashville***

*Department of Public Works*

*Engineering Division*

720 South Fifth Street

Nashville, TN 37206

Ph: (615) 880-1678

---

**From:** Shepherd, Jessica (Codes) <[Jessica.Shepherd@nashville.gov](mailto:Jessica.Shepherd@nashville.gov)>  
**Sent:** Friday, June 26, 2020 10:27 AM  
**To:** Ammarell, Beverly (Public Works) <[Beverly.Ammarell@nashville.gov](mailto:Beverly.Ammarell@nashville.gov)>  
**Cc:** Gregory, Christopher (Public Works) <[Christopher.Gregory@nashville.gov](mailto:Christopher.Gregory@nashville.gov)>  
**Subject:** RE: Appeal 2020-141

Hello,

I am just following up on this.

Thank you,

Jessica

---

**From:** Ammarell, Beverly (Public Works) <[Beverly.Ammarell@nashville.gov](mailto:Beverly.Ammarell@nashville.gov)>  
**Sent:** Tuesday, June 23, 2020 10:27 AM  
**To:** Shepherd, Jessica (Codes) <[Jessica.Shepherd@nashville.gov](mailto:Jessica.Shepherd@nashville.gov)>  
**Cc:** Gregory, Christopher (Public Works) <[Christopher.Gregory@nashville.gov](mailto:Christopher.Gregory@nashville.gov)>  
**Subject:** Re: Appeal 2020-141

Chris , have you prepared a traffic response ?

---

**From:** Shepherd, Jessica (Codes) <[Jessica.Shepherd@nashville.gov](mailto:Jessica.Shepherd@nashville.gov)>

**Sent:** Wednesday, June 3, 2020 2:06 PM

**To:** Ammarell, Beverly (Public Works) <[Beverly.Ammarell@nashville.gov](mailto:Beverly.Ammarell@nashville.gov)>; Ammarell, Beverly (Public Works) <[Beverly.Ammarell@nashville.gov](mailto:Beverly.Ammarell@nashville.gov)>

**Subject:** Appeal 2020-141

Appeal 2020-141 on agenda for 6/18/2020



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
Planning Department  
Metro Office Building  
800 Second Avenue South  
Nashville, Tennessee 37201  
615.862.7150  
615.862.7209

---

# Memo

**To:** Metropolitan Nashville Board of Zoning Appeals  
**From:** Metropolitan Nashville Planning Department  
**CC:** Emily Lamb  
**Date:** June 30, 2020  
**BZA Hearing Date:** July 2, 2020  
**Re:** Planning Department Recommendation for Special Exception Cases

---

Pursuant to Section 17.16.030.F.11 of the Metro Zoning Code, the Metropolitan Planning Department is providing recommendations on the following Special Exception case:

## **Case 2020-141 (5611 Franklin Pike) – Special exception**

**Request:** A special exception to permit a deviation from the requirement for Adaptive Residential Developments with ground floor parking facilities to have commercial or retail uses occupy 75% of the parking facility frontage along a street.

**Zoning: Commercial Limited (CL)** is intended for retail, consumer service, financial, restaurant, and office uses.

**Policy: T3 Suburban Neighborhood Center (T3 NC)** is intended to enhance and create suburban neighborhood centers that serve suburban neighborhoods generally within a 5 minute drive. They are pedestrian friendly areas, generally located at intersections of suburban streets that contain commercial, mixed use, residential, and institutional land uses. T3 NC areas are served with well-connected street networks, sidewalks, and mass transit leading to surrounding neighborhoods and open space. Infrastructure and transportation networks may be enhanced to improve pedestrian, bicycle and vehicular connectivity.

**Existing Context:** The 0.15 acre site is located on the west side of Franklin Pike, north west of the intersection of Franklin Pike and Old Hickory Boulevard.

The subject site is currently vacant. The properties at the intersection of Franklin Pike and Old Hickory Boulevard are primarily commercial. The properties to the south and east are primarily commercial land uses within commercial policy. The properties to the north and west of the site are primarily residential within residential policy.

**Planning Department Analysis:**

The applicant is requesting one special exception:

- A special exception to allow for a reduction to the commercial and retail uses required on the ground floor of parking facilities abutting a public street.

The proposed site is eligible for Adaptive Residential Development, as it is located in the urban services district and has the majority of the building frontage on an arterial as shown in the Major Street Plan. Under the Adaptive Residential Development requirements, if parking is provided in a new deck or structure, the ground floor of the parking facility abutting a public street shall contain commercial or retail uses for seventy-five percent of the street frontage. Other requirements for Adaptive Residential Developments include orienting the building to the street. The proposed elevations show a pedestrian entrance onto the street as well as a vehicular entrance.

The intent of the T3 NC policy is to create suburban neighborhood centers compatible with the general character of suburban neighborhood development. These centers are intended to provide a variety of services to surrounding suburban neighborhoods. The property is on the border of the T3 NC policy and Suburban Neighborhood Maintenance (T3 NM) policy areas. The T3 NM policy area is a residential policy. For properties on the boundary of policy areas, proposed development should serve as a transition between properties. The requested special exception would allow a fully residential development. By providing an exclusively residential development, in a multi-family product type, a transition between the existing commercial development to the south and existing residential development to the north is created.

**Planning Recommendation:** Approve the requested special exception.

**Resolution: R-20-06-01-90****A resolution in reference to a multi-family residential zoning request in Metro Nashville/Davidson County**

**Whereas**, the City of Oak Hill has maintained its single family residential zoning land use since its inception.

**Whereas**, the City of Oak Hill has adopted significant ordinances to protect all parcels of land within the corporate limits from future commercial and/or multi-family land use considerations.

**Whereas**, the Board of Commissioners of the City of Oak Hill have concerns about the possibility of new multi-family land use options being made available at 5611 Franklin Pike.

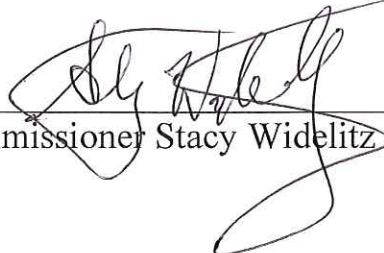
**Whereas**, The Board of Commissioners of the City of Oak Hill have safety concerns with the traffic patterns at this location (5611 Franklin Pike) due to the high volume of traffic accessing the intersection of Old Hickory and Franklin Pike.

**NOW, THEREFORE BE IT RESOLVED** that the City of Oak Hill Board of Commissioners strongly support maintaining the existing zoning classifications for the property located at 5611 Franklin Pike and request that the Metropolitan Board of Zoning Appeals deny any and all variance requests now before the board to include: a request to construct 6 residential units, variances from front and rear setback requirements and a special exception for the commercial/retail use requirement of the adaptive reuse development standards.

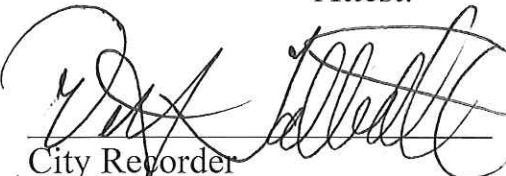
**NOW, BE IT FURTHER RESOLVED** that this resolution shall be provided to the Metropolitan Board of Zoning Appeals.

  
\_\_\_\_\_  
Mayor Heidi Campbell

  
\_\_\_\_\_  
Vice Mayor Dale Grimes

  
\_\_\_\_\_  
Commissioner Stacy Widelitz

Attest:

  
\_\_\_\_\_  
City Recorder

  
\_\_\_\_\_  
City Attorney

**From:** [Robert C Cobb](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Case #2020-141  
**Date:** Tuesday, June 9, 2020 1:32:18 PM

---

Members of the Board:

I am writing in opposition to the variance request referenced above. The location of the proposed structure will adversely effect visibility at a congested intersection and limit access to adjoining businesses and residences.

Cal Cobb  
5520 Hillview Dr.  
Brentwood, TN 37027

**From:** [Mr. Jonah Rabinowitz](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Variance Case#2020-141  
**Date:** Tuesday, June 9, 2020 11:52:28 AM

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Dear members of the Nashville Board of Zoning Appeals,

I would like to urge you to decline the request for variances for case# 2020-141, at the property of 5611 Franklin Pike, 37027.

The corner of OHB and Franklin Pike has multiple issues of parking, and entrance and egress. Traffic becomes backed up through the intersection if even a single car is attempting to make the left turn into the gas station adjacent to this property (going north on Franklin Pike). Adding 6 residential units, will only create more issues in an already untenable situation. There is not sufficient space for parking for the building next to this lot, and I question the motives for squeezing a multi residential onto this slice of land.

Please, before making any decisions, examine this matter closely by visiting the site.

Thank you for your time and consideration,  
Carole Rabinowitz

**From:** [Rob Freundlich](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** opposition to variance request 2020-141  
**Date:** Monday, June 8, 2020 6:41:19 PM

---

As a resident of Oak Hill and the neighborhood involved in variance request 2020-141, I would like to express my opposition to the proposed multifamily dwelling at the corner of Franklin Pike and Old Hickory. Part of the charm of living in Oak Hill has been its somewhat unique ability to resist excessive development and high density housing, unlike much of the rest of Nashville. I am concerned that permitting the construction of high density housing would lead to a slippery slope of development.

I would be happy to speak more at any time with you or any members of your staff about my opposition. Thank you very much for your time.

Sincerely,  
Rob Freundlich

**From:** [Zach Baldwin](#)  
**To:** [Henderson, Angie \(Council Member\)](#); [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Opposition to Case 2020-141: 5611 Franklin Pike  
**Date:** Sunday, June 14, 2020 9:32:28 AM

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All:

As a resident of Oak Hill, nominated Oak Hill BZA member soon to take responsibilities, and candidate for commissioner of Oak Hill, I am writing to express my opposition to the planned development on 5611 Franklin Pike.

While understanding the development is in Nashville and not Oak Hill, it still borders the city of Oak Hill that has strict ordinances against commercial development. The proposed development does not fit into the context of the surrounding areas. I hope that you will respectfully decline the request for variances for this location.

Gratefully,

Zach



**Zach Baldwin | Senior Project Manager**

[zachb@americanconstructors.us](mailto:zachb@americanconstructors.us)

O: 615.329.0123 | M: 615.405.0047

2900 Vanderbilt Place

Nashville, TN 37212





## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Muktar Osman Date: 5-12-2020  
OSMAN, MUKTAR & ABDULAHI,  
 Property Owner: LOULA Case #: 2020- 143  
 Representative: Osman Baker Map & Parcel: 134090B02300CO  
 Council District: 26

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: Construct a carport addition  
 Activity Type: Addition single family residence  
 Location: 4144 PARTNER WAY NASHVILLE 37211

This property is in the R10 Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Encroachment into side setback and adjoining lot.  
 Section: Table 17.12.020A

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Muktar Osman Representative: Osman Baker  
 Phone Number: 6153379543 Phone Number: 6155221416  
 Address: 4144 Partner Way Address: 4148 Partner Way  
Nashville, TN 37211 Nashville, TN 37211  
 Email address: Muktar@bellsouth.net Email address: obaker40@gmail.com

Appeal Fee: \$100.00



## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by Thursday, prior to the public hearing to be included in the record. You must provide (1) copy of your information to staff.**

**I am aware that I am responsible for posting and removing the sign(s) after the public hearing.**

MUKTAR-BAKER-OSMAN  
APPELLANT

05/05/2020  
DATE

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property**- The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics**- *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

*Hardship not self-imposed- The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases-Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property- The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare**- *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan**- *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*

In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a **HARDSHIP** as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

I put up the carport to keep the rain water from getting in the basement to mitigate that.

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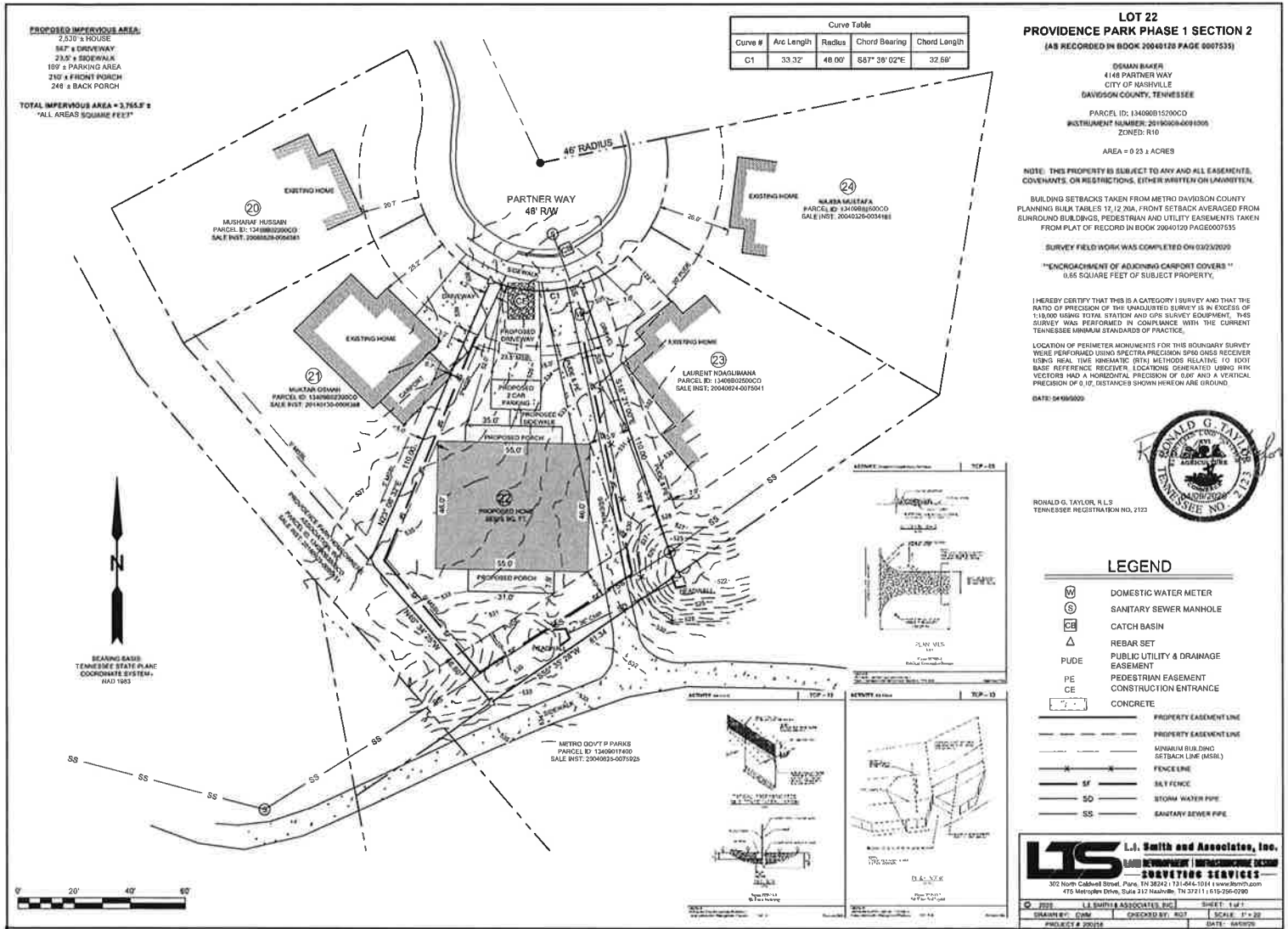
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Curve Table				
Curve #	Arc Length	Radius	Chord Bearing	Chord Length
C1	33.32'	46.00'	S87° 39' 02"E	32.68'

**LOT 22**  
**PROVIDENCE PARK PHASE 1 SECTION 2**  
 (AS RECORDED IN BOOK 20040120 PAGE 0007535)

DEAN BAKER  
 4148 PARTNER WAY  
 CITY OF NASHVILLE  
 DAVIDSON COUNTY, TENNESSEE  
 PARCEL ID: 13408001520000  
 INSTRUMENT NUMBER: 20190608-04091005  
 ZONED: R10  
 AREA = 0.23 ± ACRES

NOTE: THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, COVENANTS, OR RESTRICTIONS, EITHER WRITTEN OR UNWRITTEN.  
 BUILDING SETBACKS TAKEN FROM METRO DAVIDSON COUNTY PLANNING BULK TABLES 17, 12.20A, FRONT SETBACK AVERAGED FROM SURROUNDING BUILDINGS, PEDESTRIAN AND UTILITY EASEMENTS TAKEN FROM PLAT OF RECORD IN BOOK 20040120 PAGE0007535  
 SURVEY FIELD WORK WAS COMPLETED ON 03/23/2020  
 "ENCROACHMENT OF ADJOINING CARPORT COVERS" 0.65 SQUARE FEET OF SUBJECT PROPERTY.

I HEREBY CERTIFY THAT THIS IS A CATEGORY 1 SURVEY AND THAT THE DATE OF PRECISION OF THE UNADJUSTED SURVEY IS IN EXCESS OF 1:10,000 USING TOTAL STATION AND GPS SURVEY EQUIPMENT. THIS SURVEY WAS PERFORMED IN COMPLIANCE WITH THE CURRENT TENNESSEE MINIMUM STANDARDS OF PRACTICE.  
 LOCATION OF PERIMETER MONUMENTS FOR THIS BOUNDARY SURVEY WERE PERFORMED USING SPECTRA PRECISION SP10 GNSS RECEIVER USING REAL TIME KINEMATIC (RTK) METHODS RELATIVE TO 2000 BASE REFERENCE RECEIVER LOCATIONS GENERATED USING ITRK VECTORS HAD A HORIZONTAL PRECISION OF 0.00" AND A VERTICAL PRECISION OF 0.10". DISTANCES SHOWN HEREON ARE GROUND.

DATE: 04/09/2020



RONALD G. TAYLOR, R.L.S.  
 TENNESSEE REGISTRATION NO. 723

**LEGEND**

- DOMESTIC WATER METER
- SANITARY SEWER MANHOLE
- CATCH BASIN
- REBAR SET
- PUBLIC UTILITY & DRAINAGE EASEMENT
- PEDESTRIAN EASEMENT
- CONSTRUCTION ENTRANCE
- CONCRETE
- PROPERTY EASEMENT LINE
- MINIMUM BUILDING SETBACK LINE (MSBL)
- FENCE LINE
- SALT FENCE
- STORM WATER PIPE
- SANITARY SEWER PIPE

**L.S. L. Smith and Associates, Inc.**  
 LAND DEVELOPMENT | SURVEYING | DESIGN  
**SURVEYING SERVICES**  
 302 North Cobble Hill Street, P.O. Box 138242 | Nashville, TN 37242 | 615-256-0700  
 www.lsmithassoc.com

DATE: 04/09/2020  
 CHECKED BY: RGT  
 SCALE: 1" = 20'  
 SHEET: 1 of 2  
 PROJECT # 20018

**From:** [Michael, Jon \(Codes\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#); [Lifsey, Debbie \(Codes\)](#)  
**Subject:** FW: 4144 Partner way - BZA 2020-143  
**Date:** Monday, July 13, 2020 2:31:05 PM

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For the case file on BZA Case 143. CM Support.

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**From:** Johnston, Courtney (Council Member) <Courtney.Johnston@nashville.gov>  
**Sent:** Monday, July 13, 2020 2:05 PM  
**To:** Osman M <obaker40@gmail.com>; Michael, Jon (Codes) <Jon.Michael@nashville.gov>; Lamb, Emily (Codes) <Emily.Lamb@nashville.gov>  
**Subject:** Re: 4144 Partner way - BZA 2020-143

Mr. Michael and Mrs. Lamb,

With regard to the aforementioned BZA case number, I want to send my letter of support for this variance/appeal. I've spoken to the owner and I see no reason not to vote in favor of this. Should you need me to speak in favor, please let me know as I'm happy to dial in, if needed. Otherwise let this email service as my letter of support.

Thank you for all you do!

Courtney

Courtney Johnston

Metro Nashville Councilmember, District 26

Office 615-953-9395

[www.District26Nashville.com](http://www.District26Nashville.com) | [www.fb.com/courtneyforcouncil26](http://www.fb.com/courtneyforcouncil26)

Vice-Chair Public Safety, Beer and Regulated Beverages | Convention, Tourism & Public Entertainment Facilities | Codes, Fair and Farmer's Market | Traffic, Parking and Transportation

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**From:** Osman M <[obaker40@gmail.com](mailto:obaker40@gmail.com)>  
**Sent:** Monday, July 13, 2020 12:58:10 PM  
**To:** Johnston, Courtney (Council Member) <[Courtney.Johnston@nashville.gov](mailto:Courtney.Johnston@nashville.gov)>  
**Subject:** 4144 Partner way - BZA 2020-143

**Attention:** This email originated from a source external to Metro Government. Please exercise caution when opening any attachments or links from external sources.

Hi Courtney,

I wanted to inform you of a BZA meeting this Thursday at 1:00pm for my parents house. It is a request for variance from side setback requirements. I apologize for sending this email a bit late but wanted to inform you and potentially discuss it with you should you be interested. Attached is the letter for the meeting. Please let me know should you have any questions or concerns.

Thanks,

Osman

615-522-1416







## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Urban Dwell homes Date: 5-16-2020  
 Property Owner: Urban Dwell Homes Case #: 2020-147  
 Representative: Brandon McDonald Map & Parcel: 072070K00200Co  
 Council District: 7

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To construct a single- family residence  
 Activity Type: Single family  
 Location: 1226 b McGavock Pike

This property is in the R8\_\_\_ Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Sidewalk variance  
 Section: 17.20.120

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Urban Dwell Homes Representative: Brandon McDonald  
 Phone Number: 615-594-6838 Phone Number: \_\_\_\_\_  
 Address: 1226 McGavock Pike Address: \_\_\_\_\_  
37216  
 Email address: brandonm@urbandwellhomes.com Email address: \_\_\_\_\_

Appeal Fee: \_\_\_\_\_



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



**APPLICATION FOR BUILDING RESIDENTIAL - NEW / CARN - T2020009611  
THIS IS NOT A PERMIT**

**PARCEL:** 072070K00200CO

**APPLICATION DATE:** 02/12/2020

**SITE ADDRESS:**

1226 B MCGAVOCK PIKE NASHVILLE, TN 37216  
UNIT B HOMES AT 1226 MCGAVOCK PIKE

**PARCEL OWNER:** URBAN DWELL HOMES, GP

**APPLICANT:** MCDONALD, ROBERT BRANDON  
GENERAL CONTRACTOR

NASHVILLE, TN 37216 615-594-6838

**PURPOSE:**

to construct 1501SF single family residence with 120SF porches. 5' min. side setback, 20' min. rear setback, rear unit of hpr. unit 1 of 2. lot coverage is 952SF of max 9467SF lot coverage. not to be over any easements. Max height 3 stories or 27'11".

\*\*\*PURSUANT TO ORDINANCE NO 2008-1263 of the Metropolitan Code of Laws, I, holder of this permit, hereby certify that all construction and demolition waste generated by any and all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction or demolition waste shall be stored on the property in violation of any provisions of the Metropolitan Code\* For every 30 feet of street frontage, or fraction thereof, one 2 inch caliper tree as listed in the Urban Forestry approved tree list shall be planted on the subject property.\* For every 50 feet of site frontage, a double-sided sign 24" x 36" in size must be posted in English and Spanish that contains the information required by Ordinance No. 2017-835. No more than three signs are required.\*\*\*

*Before a building permit can be issued for this project, the following approvals are required.  
The Applicant is responsible for providing any plans or other information to the individual agencies*

[A] Site Plan Review	APPROVED	clint.harper@nashville.gov
[A] Zoning Review	APPROVED	clint.harper@nashville.gov
CA - Zoning Sidewalk Requirement Review	SWREQUIRED	clint.harper@nashville.gov
PW - Public Works Sidewalk Capital Project Coordinatic		615-862-6558 Jonathan.Honeycutt@nashville.gov
[B] Fire Life Safety Review On Bldg App		615-862-5230
[E] Sewer Availability Review For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Sewer Variance Approval For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Water Availability Review For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Water Variance Approval For Bldg		615-862-7225 mws.ds@nashville.gov
[G] Bond & License Review On Bldg App	APPROVED	clint.harper@nashville.gov
[F] Address Review On Bldg App		615-862-8781 bonnie.crumby@nashville.gov
[D] Grading Plan Review For Bldg App		615-862-7225 mws.stormdr@nashville.gov
[F] Ramps & Curb Cuts Review For Bldg A		615-862-8782 PWPermits@nashville.gov



### WAIVER STATEMENT OF HARDSHIP

WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD SUPPORT THE REQUEST FOR A WAIVER OF THE SIDEWALK REQUIREMENT UNDER ORDINANCE BL2019-1659?

1226 McGavock Pike 072070K00200C0

T 2020009611

Theres a large Stral NES Pole that would need to be moved. We request to pay the in lieu of fee instead.

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## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

---

**APPELLANT**

---

**DATE**

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property-** The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics-** *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

**Hardship not self-imposed-** *The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

**Financial gain not only bases-** *Financial gain is not the sole basis for granting the variance.*

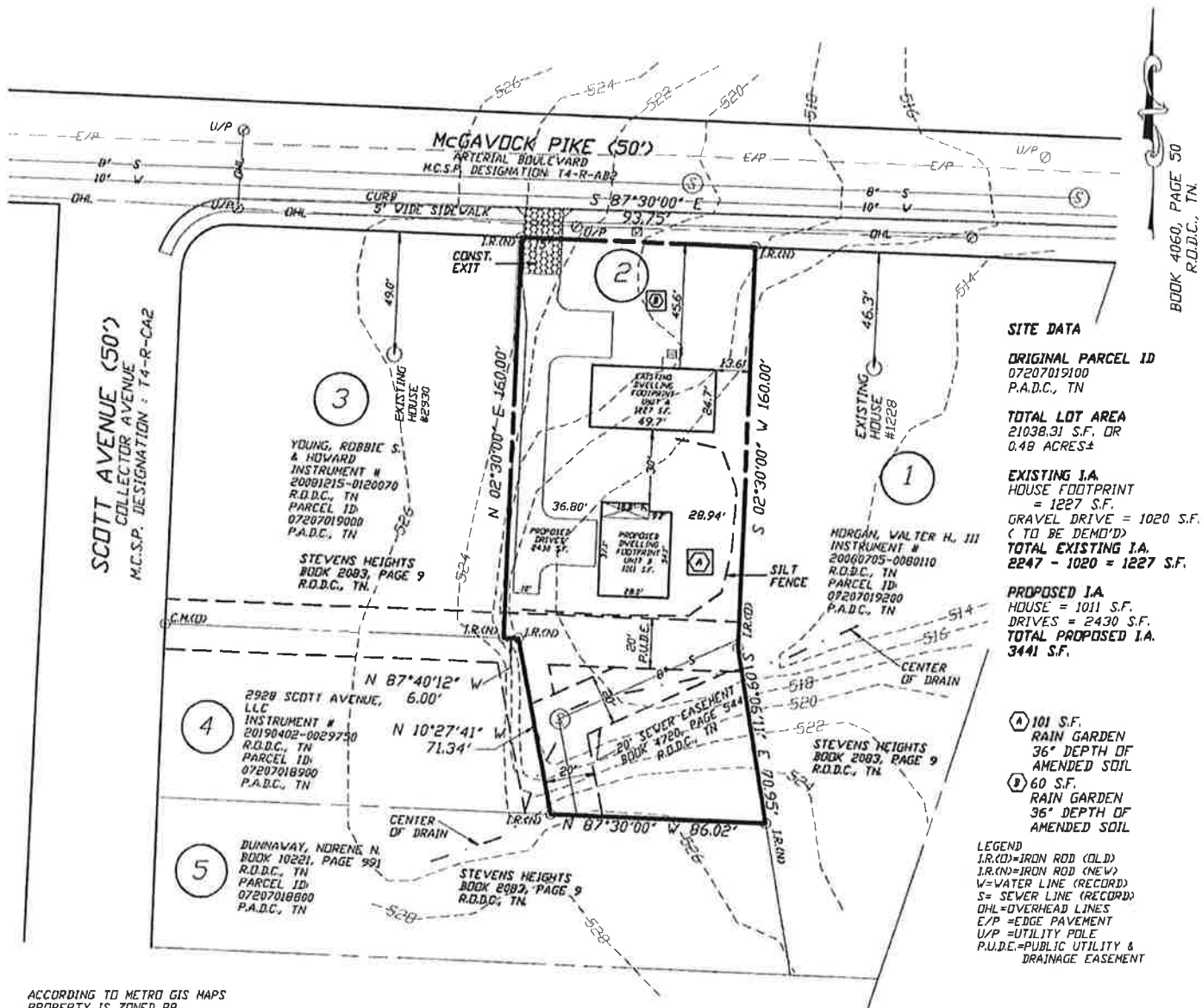
**No injury to neighboring property-** *The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare-** *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan-** *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*





**SITE DATA**

**ORIGINAL PARCEL ID**  
07207019100  
P.A.D.C., TN

**TOTAL LOT AREA**  
21038.31 S.F. OR  
0.48 ACRES±

**EXISTING I.A.**  
HOUSE FOOTPRINT  
= 1227 S.F.  
GRAVEL DRIVE = 1020 S.F.  
( TO BE DEMO'D'D )  
**TOTAL EXISTING I.A.**  
2247 - 1020 = 1227 S.F.

**PROPOSED I.A.**  
HOUSE = 1011 S.F.  
DRIVES = 2430 S.F.  
**TOTAL PROPOSED I.A.**  
3441 S.F.

(A) 101 S.F.  
RAIN GARDEN  
36" DEPTH OF  
AMENDED SOIL

(B) 60 S.F.  
RAIN GARDEN  
36" DEPTH OF  
AMENDED SOIL

**LEGEND**  
I.R.(OLD)=IRON ROD (OLD)  
I.R.(NEW)=IRON ROD (NEW)  
W= WATER LINE (RECORD)  
S= SEWER LINE (RECORD)  
OHL=OVERHEAD LINES  
E/P =EDGE PAVEMENT  
U/P =UTILITY POLE  
P.U.D.E.=PUBLIC UTILITY &  
DRAINAGE EASEMENT

ACCORDING TO METRO GIS MAPS  
PROPERTY IS ZONED RB  
SETBACKS FOR RB ZONING TAKEN FROM  
DISTRICT BULK TABLES TITLE 17 "ZONING"  
CHAPTER 17.12

FRONT = STREET AVERAGE OR  
MIN. SETBACK FOR COLLECTOR = 40'  
SIDES = 5'  
REAR = 20'  
VERIFY SETBACKS WITH CODES BEFORE  
DESIGN OR CONSTRUCTION DECISIONS  
ARE MADE.

BY GRAPHIC SCALING FROM THE LATEST  
F.E.M.A. / FLOOD INSURANCE RATE MAP  
THIS PROPERTY IS NOT LOCATED IN A  
F.E.M.A. / F.I.R.M SPECIAL FLOOD HAZARD AREA  
MAP 470040 PANEL 0253 H  
EFFECTIVE DATE = 4-5-17

THIS SURVEY WAS PREPARED FROM THE  
LATEST RECORDED DEED DESCRIPTION.  
THIS SURVEY IS SUBJECT TO THE FINDINGS  
OF A CURRENT TITLE EXAMINATION.  
NO TITLE REPORT WAS FURNISHED PRIOR TO  
THE SURVEY.

UTILITIES SHOWN WERE TAKEN FROM PUBLIC  
AS-BUILT RECORDS & FIELD LOCATION. THERE MAY  
BE UTILITIES OR EASEMENTS PRESENT THAT ARE  
NOT SHOWN ON THIS SURVEY.  
CONTACT THE TENNESSEE ONE CALL SYSTEM  
PRIOR TO ANY CONSTRUCTION OR DIGGING.

PREPARED BY:  
CAMPBELL, McRAE  
& ASSOCIATES,  
SURVEYING, INC.  
2918 BERRY HILL DRIVE  
NASHVILLE, TN, 37204  
PH. 615-298-2424  
FAX 615-297-2828  
EMAIL cmc@att.net



I HEREBY CERTIFY THAT THIS IS  
A CATEGORY 1 SURVEY WITH THE  
RATIO OF PRECISION OF THE  
UNADJUSTED SURVEY BEING 1:18,000.  
THIS SURVEY WAS DONE IN  
COMPLIANCE WITH THE CURRENT  
STANDARDS OF PRACTICE ADOPTED  
BY THE TENNESSEE STATE BOARD OF  
EXAMINERS FOR LAND SURVEYORS.

JOHN ALAN HOOD  
TN R.L.S.#1838

**SITE PLAN, LOT 2,  
RE-SUB. OF LOT 2 AND LOT 4,  
STEVENS HEIGHTS SUBDIVISION  
BOOK 4060, PAGE 50 R.O.D.C., TN.  
PROPERTY LOCATED IN THE 7TH  
COUNCIL DISTRICT OF NASHVILLE,  
DAVIDSON COUNTY TENNESSEE  
ON THE SOUTHERLY MARGIN OF  
MCGAVOCK PIKE, EAST  
OF SCOTT AVENUE  
PROPERTY ADDRESS:  
1226 MCGAVOCK PIKE,  
NASHVILLE, TN., 37216  
DEED REFERENCE:  
INSTRUMENT# 20190816-0082228  
R.O.D.C., TN.  
ORIGINAL PARCEL ID:  
07207019100 P.A.D.C., TN.  
DATE : 7-10-19  
SCALE : 1"=60'  
PREPARED FOR:  
DANNY ESQUIBEL**



BOOK 4060, PAGE 50  
R.O.D.C., TN.

## Metropolitan Codes Administration CASE SUMMARY

CAZW - 20200010848

**DONE**

Pursuant # 2006-1263 Metro Code of Laws, I (holder OF permit) hereby certify that all construction & demolition waste generated by any & all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction & demolition waste shall be stored on the property in violation of any provision of Metro Code...

### ADDRESSES

**PROPERTY**

072070K00200CO  
1226B MCGAVOCK PIKE  
NASHVILLE, TN 37216

### PEOPLE

**Property Owner**

URBAN DWELL HOMES, GP  
203 POINT E DR  
NASHVILLE, TN 37216

**Permit/License Applicant**

MCDONALD, ROBERT BRANDON GENERAL  
CONTRACTOR

### DATA GROUP

**Permit Information****Project Scope**

to construct 1501SF single family residence with 120SF porches. 5' min. side setback, 20' min. rear setback, rear unit of hpr. unit 1 of 2. lot coverage is 952SF of max 9467SF lot coverage. not to be over any easements. Max height 3 stories or 27'11".  
\*\*\*PURSUANT TO ORDINANCE NO 2008-1263 of the Metropolitan Code of Laws, I, holder of this permit, hereby certify that all construction and demolition waste generated by any and all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction or demolition waste shall be stored on the property in violation of any provisions of the Metropolitan Code\* For every 30 feet of street frontage, or fraction thereof, one 2 inch caliper tree as listed in the Urban Forestry approved tree list shall be planted on the subject property.\* For every 50 feet of site frontage, a double-sided sign 24" x 36" in size must be posted in English and Spanish that contains the information required by Or

**Sidewalk Waiver Request****Metro Planning  
Recommendation**

Disapprove: construct to the Major and Collector Street Plan standard; work with Planning and MPW, if necessary, to avoid existing utility pole.

**Waiver Circumstance**

a. Hardship

### WORKFLOW

Task:	Inspector:	Result:	Due/Scheduled:	Completed
Type of Waiver Requested	CWHARPER	INLIEU	02/20/20	02/19/20
Metro Planning Recommendation	MSEWELL	INREVIEW	02/25/20	03/13/20
Zoning Administrator Decision	JMICHAEL	APPROVCOND	04/13/20	04/22/20
<b>Comment:</b> Disapprove as requested: construct to the Major and Collector Street Plan standard; work with Planning and MPW, if necessary, to avoid existing utility pole.				

## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2020-147 (1226 B McGavock Pike)

Metro Standard:	8' grass strip, 6' sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not upgrade sidewalk; contribute in-lieu of construction (not eligible)
Zoning:	R8
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	T4-R-AB2
Transit:	#4 – Shelby; Approximately 0.33 miles from High Capacity Transit along Gallatin Pike
Bikeway:	None existing; none planned

### Planning Staff Recommendation: *Approve with conditions.*

**Analysis:** The applicant proposes constructing a two-family dwelling and requests a variance from upgrading sidewalks to the Arterial-Boulevard standard due to the presence of an existing sidewalk along the frontage of the site. Planning evaluated the following factors for the variance request:

- (1) There is currently a 5' sidewalk without a grass strip at this location which is consistent with adjacent properties to the east and west along the block face.
- (2) Given the scope of the applicant's request and existing sidewalk along the property which provides a clear path of travel without utility obstructions, a contribution in-lieu of upgrading the sidewalks at this location is an acceptable alternative to ensure sidewalks in the larger area can be connected to meet future walking needs of the neighboring *Nashville Next* First Tier Center.

Given the factors above, staff recommends **approval with conditions:**

1. The applicant shall contribute in-lieu of construction for the property frontage.
2. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.



**From:** [Brandon Mcdonald](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** 1226 B Mcgavock pike  
**Date:** Thursday, July 2, 2020 2:50:15 PM

---

I am the representative for Urban Dwell Homes. We request to pay the sidewalk fee since there is a relatively new metal NES pole installed in the path of the proposed new sidewalk as well as to not interrupt the continuity of sidewalks that already exist down the entire street that are already constructed.

URBAN DWELL HOMES, GP, appellant and owner of the property located at 1226 B MCGAVOCK PIKE, requesting a variance from sidewalk requirements in the R8 Page 5 District, to construct a single-family residence without building sidewalks but instead contribute to the sidewalk fund. Referred to the Board under Section 17.20.120. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B. Use-Single Family Map Parcel 072070K00200CO

--

Brandon McDonald  
Urban Dwell Homes  
615-594-6838

**From:** [Benedict, Emily \(Council Member\)](#)  
**To:** [S B](#)  
**Cc:** [Board of Zoning Appeals \(Codes\)](#); [Lamb, Emily \(Codes\)](#)  
**Subject:** Re: Upcoming Zoning Appeal on McGavock Pike RE: Sidewalks  
**Date:** Wednesday, June 17, 2020 11:21:41 AM

---

Stephanie,

Thank you for your thorough email. By cc on this message, the Board of Zoning Appeals has this on record and will include it in their consideration of the case.

Emily Benedict  
District 7 Councilwoman  
[emily.benedict@nashville.gov](mailto:emily.benedict@nashville.gov)

---

**From:** S B <[sbnds00@gmail.com](mailto:sbnds00@gmail.com)>  
**Sent:** Wednesday, June 17, 2020 10:08:13 AM  
**To:** Benedict, Emily (Council Member) <[Emily.Benedict@nashville.gov](mailto:Emily.Benedict@nashville.gov)>  
**Subject:** Upcoming Zoning Appeal on McGavock Pike RE: Sidewalks

**Attention:** This email originated from a source external to Metro Government. Please exercise caution when opening any attachments or links from external sources.

Hi Emily!

I am Stephanie Bounds, your constituent on Huffine Street in East Nash. I was able to meet you during the campaign through Lawson Patten and then was able to sit with you at Dose for one of your first coffee hours.

I received a note in the mail last week that the organization Urban Dwell Homes has filed a zoning appeal (Appeal # 2020-147) to construct a single-family residence without building sidewalks but instead contribute to the sidewalk fund.

The location of this construction would be 1216B McGavock Pike. That address is located between Scott Ave and Huffine Street off of McGavock Pike near the railroad tracks.

The appeal will be heard 7.2.20 by the Board of Zoning Appeals beginning at 1pm.

I am against the approval of this request and will try to make the meeting. But as my district representative and the head of the Sidewalk commission I was hoping you could help with this action.

The sidewalk in question is the only continuous sidewalk from Gallatin to Cooper Lane, which takes it right through Riverside Village. Riverside Village has several restaurants, a pharmacy and a convenience store. This sidewalk is a vital artery for walkers in navigating the neighborhood. It should also be noted that there is no bike line on McGavock Pike either. So the sidewalk is the only safe area for pedestrians.

Thank you for considering my concern. I hope we are able to positively affect this appeal and keep our sidewalks!

Sincerely,  
Stephanie Bounds  
845-238-1183



**From:** [Benedict, Emily \(Council Member\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#); ["David Taylor"](#); ["Christina Karpynec"](#); [THOMAS LAWLESS](#); ["ashontidavis@gmail.com"](#); [Poole, Quan \(Legal\)](#); [Logan Newton](#); [Ross Pepper](#)  
**Cc:** [Michael, Jon \(Codes\)](#); [Butler, Lisa \(Codes\)](#)  
**Subject:** Re: BZA 7-2 Packet  
**Date:** Friday, June 26, 2020 12:06:12 PM

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Members of the BZA,

I hope you are all well and safe from Covid. Having more time, lately, to reflect and appreciate those around us, I want to share my thanks for the work you do for Nashvillians.

On to business, I do not support the appellants' cases 2020-147 and 2020-131.

In 2020-131, it is my understanding that the HOA between the owners of the homes on this parcel explicitly disallows any type of short term rental. I have sent more details advance of the last meeting, so hopefully you still have that.

In 2020-147, the sidewalk variance request is due to a metal utility pole near the driveway. I do not believe this pole is a hardship. McGavock Pike, 37216, currently has sidewalks that do not meet the MCSP standard because they are too narrow and right against the street, therefore dangerous. The owner is encouraged to create an alternate and acceptable design that will help Nashvillians more safely walk on this street. Additionally, the Planning Department is working with CM VanReece and me to extend the UZO up and around Gallatin Pike, which would include this portion of McGavock Pike.

As always, should you have any additional questions, please let me know.

Emily Benedict  
District 7 Councilwoman  
[emily.benedict@nashville.gov](mailto:emily.benedict@nashville.gov)  
she/her/hers/councilwoman

Check out [hub.nashville.gov](http://hub.nashville.gov) for assistance!

---

**From:** Shepherd, Jessica (Codes) <[Jessica.Shepherd@nashville.gov](mailto:Jessica.Shepherd@nashville.gov)>  
**Sent:** Friday, June 26, 2020 11:26 AM  
**To:** 'David Taylor' <[dftaylor98@gmail.com](mailto:dftaylor98@gmail.com)>; 'Christina Karpynec' <[ckarpynec@moodynolan.com](mailto:ckarpynec@moodynolan.com)>; THOMAS LAWLESS <[tomlawless@comcast.net](mailto:tomlawless@comcast.net)>; 'ashontidavis@gmail.com' <[ashontidavis@gmail.com](mailto:ashontidavis@gmail.com)>; Poole, Quan (Legal) <[Quan.Poole@nashville.gov](mailto:Quan.Poole@nashville.gov)>; Logan Newton <[lnewton@hmka.com](mailto:lnewton@hmka.com)>; Ross Pepper <[rpepper@pepperlawplc.com](mailto:rpepper@pepperlawplc.com)>  
**Cc:** Council Members <[CouncilMembers@nashville.gov](mailto:CouncilMembers@nashville.gov)>; Michael, Jon (Codes) <[Jon.Michael@nashville.gov](mailto:Jon.Michael@nashville.gov)>; Butler, Lisa (Codes) <[Lisa.Butler@nashville.gov](mailto:Lisa.Butler@nashville.gov)>

**Subject:** BZA 7-2 Packet

Hello All,

Below is the board packet for the 7-2-2020 docket. We are still waiting on the recommendations from Planning and Public Works for case 2020-141. Al

Have a great weekend.

Jessica Shepherd

<https://www.nashville.gov/document/ID/e8ab244a-59fe-4630-8e27-f8995862d1bf/Board-Packet-July-2-2020>



## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Nikki Hatcher Date: 05/21/2020  
 Property Owner: Arthur Jones, Jr. Case #: 2020- 150  
 Representative: Nikki Hatcher Map & Parcel: 084 16 0 021.00  
 Council District: 15

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: Daycare  
 Activity Type: Daycare services for children and families  
 Location: 140 McGavock Pike

This property is in the RS10 Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Previously used as daycare for many years under CL zoning; Zoning has since changed to RS10  
 Section: \_\_\_\_\_

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection A of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is hereby requested in the above requirement as applied to this property.

Appellant Name: Nikki Hatcher Representative: Nikki Hatcher  
 Phone Number: 615-763-5580 Phone Number: 615-763-5580  
 Address: 336 Pineway Drive Address: same  
Nashville, TN 37217  
 Email address: Nikkiahatcher573@gmail.com Email address: same

Appeal Fee: \$200

## APPLICATION FOR SPECIAL EXCEPTION REQUESTS

After your appeal is filed, zoning staff will visit the site to take photographs for the Board Members so they will have a better idea of the nature of your request. Zoning staff will notify the district councilmember of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in this case. The envelopes must include the return address for the BZA and case number. Fold and insert the notices into the envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding sign placement.) Finally, BZA Rules require that you conduct a community meeting regarding the special exception request before the BZA hearing date.

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the Board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for a hearing until complete.

Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing. I am aware that I am required to conduct a community meeting.

Nikki Hatcher  
APPELLANT

05/21/2020  
DATE



## SPECIAL EXCEPTION REQUEST

BZA Rules of Procedure, Item 9(2) (e) requirements to conduct neighborhood meetings regarding the case that will later appear before the BZA. The BZA Rules specifies, "In the Interest of having informed stake holder in special exception cases. It is required that the appellant make contact with the district council person and neighbors within 1000 feet of the subject property from a mailing list provided by the board staff. Information by the applicant shall include a contact person and include a reasonable representation of the proposal and hold a meeting at a geographically convenient place, date, and time. We encourage you to have the meeting prior to the deadline for additional information to presented to the board. Applicant shall document to the Board that this requirement has been met. Failure to comply may result in deferral of your case."

Zoning staff will provide you a mailing list of property owners in proximity to the location designated for a special exception permit. The BZA Rule then requires you to contact those persons on the mailing list, provide them with the date, time and place of meeting, and discuss your BZA request accordingly. If there is opposition to your case, this meeting gives you the chance to address those concerns prior to the public hearing at the BZA meeting.

You must create and provide documentation of your efforts to contact the neighboring property owners for the neighborhood meeting. Failure to do so can result in a deferral or denial of your appeal to the BZA.

I ACKNOWLEDGE MY RESPONSIBILITIES regarding the neighborhood meeting preceding the public hearing for by BZA appeal for a special exception

Nikki Hatcher  
APPELLANT (OR REPRESENTATIVE)

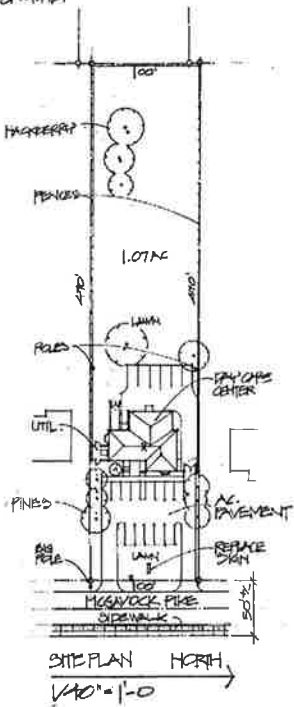
05/21/2020  
DATE

NOTES:  
 LEGAL DESCRIPTION: LOT 21 OF DAN-  
 BRIDE CENTERFIELD RESUB: R-1-22,  
 PARCEL ID# 081600200, UDO CASE #  
 2009 UD-00-011 - LOT AREA: 43,544 sq.  
 LOT/BLDG. OWNER: ARTHUR JONES,  
 267 PENN HATCHER RD. NASHVILLE,  
 TN 37214, 615-832-6949, JONESART@COM-  
 CAST.NET

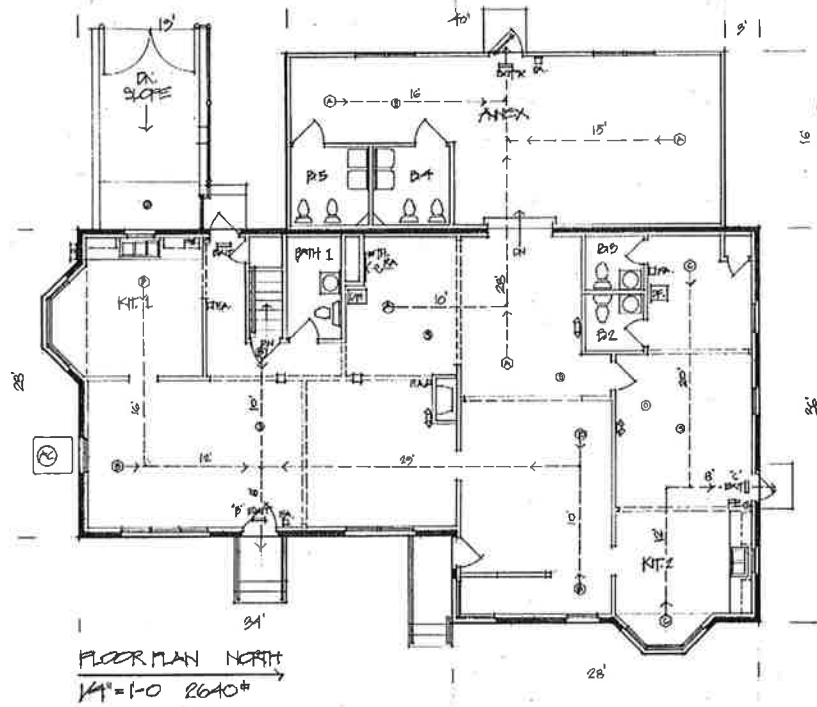
APPROX. GROUND LEVELS + PROJECT  
 MUST MEET OR EXCEED ALL AP-  
 Plicable CODES: 2012 IBC BUILDING,  
 ENERGY, ACCESS, PLUMBING, PLUE,  
 MECHANICAL, ELECTRICAL, FIRE,  
 LIFE SAFETY, ZONING & HEALTH.

PROJECT DESCRIPTION: RENOVATION  
 OF FORMER DAY CARE CENTER  
 FOR NEW TENANT. MOST WORK  
 IS COSMETIC.

NEW DAY CARE OWNERS: ED &  
 NIKKI HATCHER, 615-833-1849.

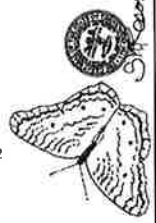


"DANIELSON ACADEMY FOR KIDS"  
 140 MCGANDY PIKE, DANIELSON,  
 TN 37214.  
 LANDSCAPE PLAN: ALL EXISTING.



BUILDING TYPE: SINGLE STORY  
 WOOD FRAME, FORMER RESIDENCE  
 CONCRETE, TIE V.

BUILDING OCCUPANT LOAD:  
 DAY CARE: 2640 sq. ft. @ 35 sq. ft./PERSON = 75  
 EXIT LINE OF TRAVEL: →  
 ○ SMOKE DETECTOR, 10A FIRE ALARM  
 ○ ONE FIRE EXTINGUISHER, WITH EXIT SIGN  
 → EMERGENCY LIGHTS



PROJECT ID: DANEAN ACADEMY FOR KIDS  
 FOR NIKKI HATCHER  
 267 PENN HATCHER RD. NASHVILLE, TN 37214  
 615-833-1849

DANIELSON ARCHITECTURE #100445  
 201 N. RIVER ST. INTERIORS  
 200 BUCKLE UP LN. MT. JULIETT TN 37122  
 615-833-1849

4-29-2020



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3821615

**ZONING BOARD APPEAL / CAAZ - 20200031733  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 08416002100**APPLICATION DATE:** 05/21/2020**SITE ADDRESS:**

140 MCGAVOCK PIKE NASHVILLE, TN 37214  
LOT 17 RESUB BAINBRIDGE & SATTERFIELD

**PARCEL OWNER:** JONES, ARTHUR JR.**CONTRACTOR:****APPLICANT:****PURPOSE:**

parcel has base zone of RS10 with 1.07 acres. MPC STAFF INDICATES THEY WILL NOT REVIEW UDO OVERLAY IN TERMS OF DAY CARE REVIEW. this permit to rehab and convert existing non-res building for a class two day care for 50 children. SPECIAL EXCEPTION REQUIRED PER METZO SECTION 17.16.170 (C) 2 A,B,C. POC ED HATCHER 615-839-1843.

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

---

***There are currently no required inspections***

Inspection requirements may change due to changes during construction.



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3821589

**BUILDING COMMERCIAL - REHAB / CACR - T2020031724  
Permit Tracking Checklist**

**PARCEL:** 08416002100**APPLICATION DATE:** 05/21/2020**PERMIT TRACKING #:** 3821589**SITE ADDRESS:**

140 MCGAVOCK PIKE NASHVILLE, TN 37214  
LOT 17 RESUB BAINBRIDGE & SATTERFIELD

**PARCEL OWNER:** JONES, ARTHUR JR.**CONTRACTOR:****APPLICANT:****PURPOSE:**

parcel has base zone of RS10 with 1.07 acres. MPC STAFF INDICATES THEY WILL NOT REVIEW UDO OVERLAY IN TERMS OF DAY CARE REVIEW. this permit to rehab and convert existing non-res building for a class two day care for 50 children. SPECIAL EXCEPTION REQUIRED PER METZO SECTION 17.16.170 (C) 2 A,B,C. POC ED HATCHER 615-839-1843.

*Before a Building Permit can be issued for this project, the following approvals are required.*

[A] Zoning Review		
CA - Zoning Sidewalk Requirement Review	SWREQUIRED	615-862-6500 Walter.Morgan@nashville.gov
PW - Public Works Sidewalk Capital Project Coordination Revi		pwbldingpermit@nashville.gov
[B] Building Plans Received		615-862-6614 teresa.patterson@nashville.gov
[B] Building Plans Review		615-862-6581 Teresa.Patterson@nashville.gov
[B] Fire Life Safety Review On Bldg App		615-862-5230 fmoplans@nashville.gov
[B] Fire Sprinkler Requirement		615-862-5230 fmoplans@nashville.gov
[B] Fire Alarm Requirement		615-862-5230 fmoplans@nashville.gov
[E] Cross Connect Review For Bldg App		615-862-7225 mws.ds@nashville.gov
[G] Bond & License Review On Bldg App		615-862-6517 permitissuance@nashville.gov
[B] Plans Picked Up By Customer		615-880-2649 Ronya.Sykes@nashville.gov
Grease Control Review On Bldg App		615-862-4590 ECO@nashville.gov
[D] Grading Plan Review For Bldg App		615-862-7225 mws.stormdr@nashville.gov
CA - [B] Fire Review State on Building App		615-741-7190
Kitchen Plans Review On Bldg App		615-340-5620 steve.crosier@nashville.gov
Codes Tree U&O Final Inspection		
[C] Flood Plain Review On Blgd App		615-862-7225 mws.stormdr@nashville.gov
[F] Ramps & Curb Cuts Review For Bldg A		pwbldingpermit@nashville.gov
[F] Solid Waste Review On Bldg App		pwbldingpermit@nashville.gov
[F] Address Review On Bldg App		615-862-8781 bonnie.crumby@nashville.gov
BZA Hearing on a BLDG Permit		
[F] Sidewalk Review For Bldg App		pwbldingpermit@nashville.gov
BZA Hearing		615-862-6505 Debbie.Lifsey@nashville.gov
[J] Planning Zoning Review - CA		615-862-7190 Deborah.Sullivan@nashville.gov



**From:** [Syracuse, Jeff \(Council Member\)](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Cc:** [nikkihatcher573@gmail.com](mailto:nikkihatcher573@gmail.com)  
**Subject:** BZA Case 2020-150 - 140 McGavock Pk - in favor of special exception  
**Date:** Thursday, July 2, 2020 1:44:26 PM  
**Attachments:** [2020-150 application.pdf](#)  
[2020-150 neighborhood letter.pdf](#)  
[image001.png](#)

---

Hello, Board of Zoning Commissioners –

I write to ask for your approval of this special exception request from Nikki Hatcher with the Montessori School of Donelson. Ms. Hatcher has brought a wonderful addition to the Donelson community and has been operating successfully since 2014 on Lebanon Pike. This move to McGavock Pike provides a great opportunity for more space and is a perfect location, which is also much better than on Lebanon Pike. As 140 McGavock Pike had previously been a daycare, I believe it is an easy fit and fully support this special exception so she can take advantage of the opportunity this new location brings to her students, families and her business.

Thank you!

**Jeff Syracuse**

Metro Council Member, 15<sup>th</sup> District

Metro Historic Courthouse

One Public Square, Suite 204

Nashville, TN 37201

(615) 886-9906

[www.jeffsyracuse.com](http://www.jeffsyracuse.com)





## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Vanderbilt University Date: May 26, 2020  
 Property Owner: same Case #: 2020-151  
 Representative: Mary Pat Teague/Alfred Degrafinreid  
 Map & Parcel: 10407013400 & 10407053500  
 Council District: 18th

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: The purpose is to allow for the limited use of lights on the intramural fields until 12 midnight on a maximum of ten days a year. Please see attached map.  
 Activity Type: College  
 Location: 2600 Children's Way and intersection of Blakemore Avenue & Natchez Trace

This property is in the ORI Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Special Exception  
 Section: 17.16.040

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is hereby requested in the above requirement as applied to this property.

Appellant Name:	<u>Vanderbilt University</u>	Representative:	<u>Mary Pat Teague &amp; Alfred Degrafinreid</u>
Phone Number:	<u>615 322-8337</u>	Phone Number:	<u>615 479-4941/615 343-0473</u>
Address:	<u>2007 Terrace Place</u> <u>Nashville, TN 37203</u>	Address:	<u>808 Onslow Way</u> <u>Nashville TN 37221</u>
Email address:	<u><a href="mailto:Marypat.teague@vanderbilt.edu">Marypat.teague@vanderbilt.edu</a></u>	Email address:	<u><a href="mailto:Alfred.degrafinreid@vanderbilt.edu">Alfred.degrafinreid@vanderbilt.edu</a></u>

Appeal Fee: \_\_\_\_\_



# APPLICATION FOR SPECIAL EXCEPTION REQUESTS

After your appeal is filed, zoning staff will visit the site to take photographs for the Board Members so they will have a better idea of the nature of your request. Zoning staff will notify the district councilmember of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in this case. The envelopes must include the return address for the BZA and case number. Fold and insert the notices into the envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding sign placement.) Finally, BZA Rules require that you conduct a community meeting regarding the special exception request before the BZA hearing date.

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the Board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for a hearing until complete.

Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing. I am aware that I am required to conduct a community meeting.

M.P. Ledger on behalf of  
**APPELLANT** Vanderbilt University

5/24/20  
**DATE**



Ym

APPLICATION FOR SPECIAL EXCEPTION REQUEST

**SPECIAL EXCEPTION REQUEST**

BZA Rules of Procedure, Item 9(2) (e) requirements to conduct neighborhood meetings regarding the case that will later appear before the BZA. The BZA Rules specifies, "In the Interest of having informed stake holder in special exception cases. It is required that the appellant make contact with the district council person and neighbors within 1000 feet of the subject property from a mailing list provided by the board staff. Information by the applicant shall include a contact person and include a reasonable representation of the proposal and hold a meeting at a geographically convenient place, date, and time. We encourage you to have the meeting prior to the deadline for additional information to presented to the board. Applicant shall document to the Board that this requirement has been met. Failure to comply may result in deferral of your case."

Zoning staff will provide you a mailing list of property owners in proximity to the location designated for a special exception permit. The BZA Rule then requires you to contact those persons on the mailing list, provide them with the date, time and place of meeting, and discuss your BZA request accordingly. If there is opposition to your case, this meeting gives you the chance to address those concerns prior to the public hearing at the BZA meeting.

You must create and provide documentation of your efforts to contact the neighboring property owners for the neighborhood meeting. Failure to do so can result in a deferral or denial of your appeal to the BZA.

I ACKNOWLEDGE MY RESPONSIBILITES regarding the neighborhood meeting preceding the public hearing for by BZA appeal for a special exception

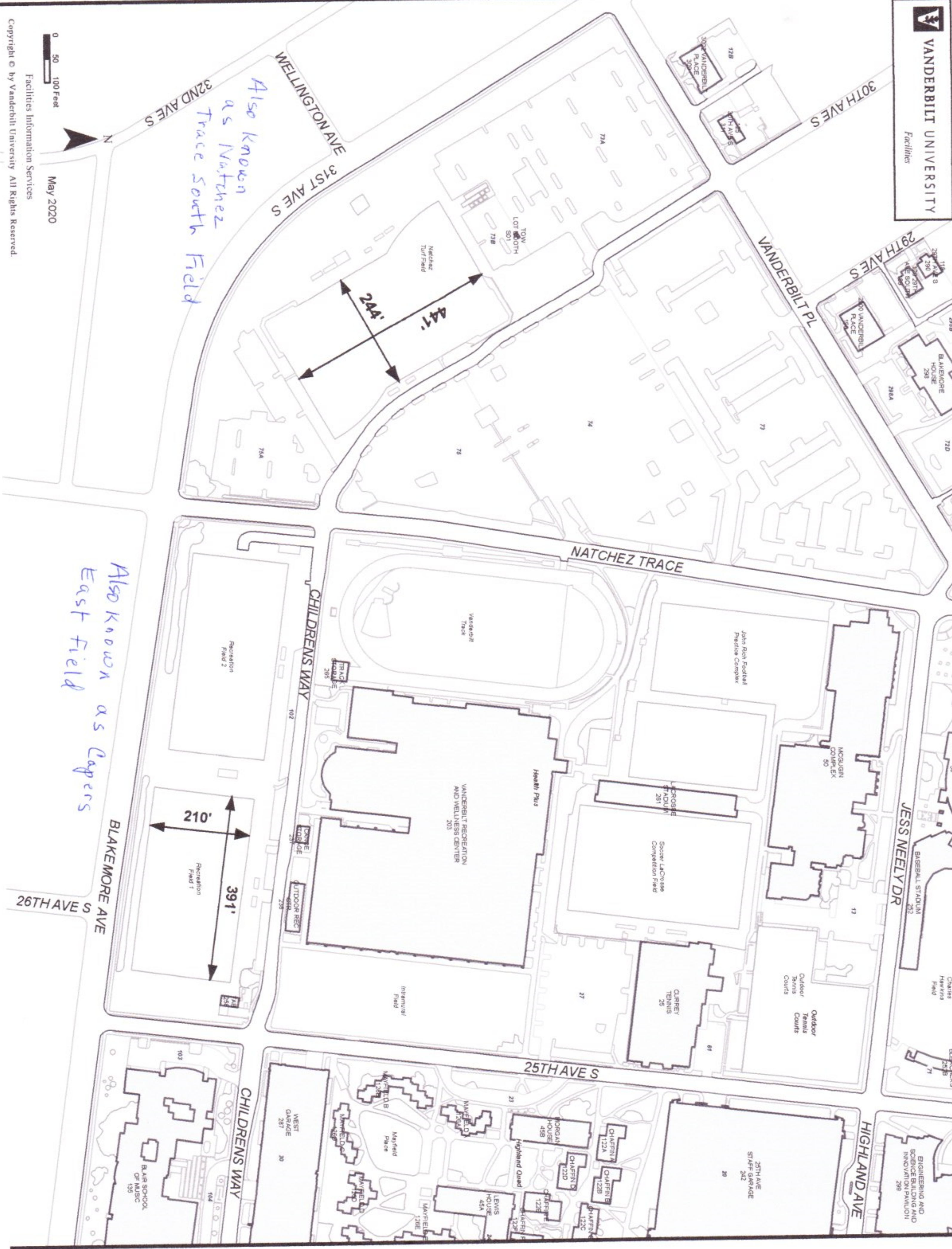
Th P. Tappie  
APPELLANT (OR REPRESENTATIVE)

5/26/20  
DATE





VANDERBILT UNIVERSITY  
Facilities



0 50 100 Feet  
May 2020  
Facilities Information Services  
Copyright © by Vanderbilt University All Rights Reserved.



**From:** [Gregory, Christopher \(Public Works\)](#)  
**To:** [Lifsey, Debbie \(Codes\)](#)  
**Cc:** [Ammarell, Beverly \(Public Works\)](#); [Shepherd, Jessica \(Codes\)](#)  
**Subject:** RE: Recommendations for 7/16/20  
**Date:** Wednesday, July 8, 2020 12:33:28 PM

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**2020-151 2600 Children's Way/1525 Natchez Trace Special exception to make use of lighting till midnight**

Variance: 17.16.040

Response: Public Works takes no exception.

This does not imply approval of the submitted site plan as access and design issues will be addressed and coordinated during the permitting process.

---

**From:** Lifsey, Debbie (Codes) <Debbie.Lifsey@nashville.gov>  
**Sent:** Tuesday, July 7, 2020 11:58 AM  
**To:** Ammarell, Beverly (Public Works) <Beverly.Ammarell@nashville.gov>; Gregory, Christopher (Public Works) <Christopher.Gregory@nashville.gov>  
**Subject:** FW: Recommendations for 7/16/20

I don't believe you were sent a copy of this case.

2020-151 (Special Exception) 2600 Children's Way & 1525 Natchez Trace

Debbie Lifsey  
Administrative Services Officer III  
800 2<sup>nd</sup> Avenue South 1<sup>st</sup> Floor  
Nashville, TN 37210  
(615) 862-6505

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
Planning Department  
Metro Office Building  
800 Second Avenue South  
Nashville, Tennessee 37201  
615.862.7150  
615.862.7209

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# Memo

**To:** Metropolitan Nashville Board of Zoning Appeals  
**From:** Metropolitan Nashville Planning Department  
**CC:** Emily Lamb  
**Date:** July 9, 2020  
**BZA Hearing Date:** July 16, 2020  
**Re:** Planning Department Recommendation for a Special Exception, Case 2020-151

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Pursuant to Section 17.16.150 of the Metro Zoning Code, the Metropolitan Planning Department is providing a recommendation on the following Special Exception case:

## 1. Case 2020-151 Outdoor lights (2600 Children's Way)

**Request:** A Special Exception to allow for the limited use of lights on the intramural fields until 12am midnight for a maximum of 10 days a year.

**Zoning:** Office/Residential Intensive (ORI) is intended for high intensity office and/or multi-family uses with limited retail opportunities.

**Land Use Policy:** District Major Institutional (D MI) is intended to maintain, enhance, and create Districts where major institutional uses are predominant and where their development and redevelopment occurs in a manner that complements the character of surrounding communities. Land uses include large institutions such as medical campuses, hospitals, and colleges and universities as well as uses that are ancillary to the principal use.

**Planning Department Analysis:** The subject site is bounded on the west by Vanderbilt Place, Blakemore Avenue along the south, 25<sup>th</sup> Avenue South the east, and Jess Neely Drive to the north. The site currently is developed with intramural playing fields with a mixture of athletic buildings and established parking lots. The surrounding sites are zoned for office, residential and mixed uses.

The request is to permit the limited use of lights on the intramural fields until 12:00 am midnight for a maximum of 10 days a year. The intramural fields were granted by the BZA in a previously

approved special exception. The intramural playing fields are already in use. This amendment to the previously approved special exception would allow lighting of the playing fields until midnight for a maximum of 10 days a year. The land use policy for this area is District Major Institutional which encourages large institutions such as medical campuses, hospitals, and colleges and universities as well as uses that are ancillary to the principal use. Intramural fields are considered ancillary to the established university. The proposed lighting will encourage additional use of the intramural fields and support the university.

**Planning Recommendation: Approve.**





Metropolitan Board of Zoning Appeals  
Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Angela U. Adams Date: 5-26-20  
Property Owner: Angela U. Adams Case #: 2020-152  
Representative: Self Map & Parcel: 10406022700  
Council District: 18

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: (project) New home construction  
Activity Type: Single Family  
Location: 3212 Acklen Ave.

This property is in the \_\_\_ Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Sidewalk variance  
Section: 17.20.120

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Angela U. Adams Representative: Self - Same  
Phone Number: 615-594-5305 Phone Number: \_\_\_\_\_  
Address: 3212 Acklen Ave. Address: \_\_\_\_\_  
Nashville, TN  
37212  
Email address: angie u adams@ Email address: \_\_\_\_\_  
hotmail.com

Appeal Fee: \_\_\_\_\_

## Metropolitan Codes Administration CASE SUMMARY

CAZW - 20200028093

DONE

Pursuant # 2006-1263 Metro Code of Laws, I (holder OF permit) hereby certify that all construction & demolition waste generated by any & all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction & demolition waste shall be stored on the property in violation of any provision of Metro Code...

### ADDRESSES

#### PROPERTY

10406022700  
3212 ACKLEN AVE  
NASHVILLE, TN 37212

### PEOPLE

#### Property Owner

ADAMS, ANGELA U.  
3212 ACKLEN AVE  
NASHVILLE, TN 37212

#### Appellant

Angela E. Adams

### DATA GROUP

#### Permit Information

##### Project Scope

\*\*\*Asking not to build sidewalks\*\*\*

to construct a single family residence with. corner lot. 28.6' min front s/b; 10' min side street s/b; 5' min interior side s/b; 20' min rear s/b. must comply with tree regulations one new two inch tree for every 30' road frontage. for every 50' site frontage, a 24" x 36" d/f sign must be placed in English and Spanish with information in regards to metro council bill 2017-835.

#### Sidewalk Waiver Request

##### Metro Planning Recommendation

Approve with conditions: Contribute in-lieu of construction and dedicate ROW.

##### Waiver Circumstance

a. Hardship

### WORKFLOW

Task:	Inspector:	Result:	Due/Scheduled:	Completed
CA - Zoning Waiver Payment Confirmation	TMOORE	PAIDZWEE	05/06/20	05/05/20
Type of Waiver Requested	DLIFSEY	OTHER	05/06/20	05/05/20
		Comment: Requesting not to build sidewalks.		
Metro Planning Recommendation	MSEWELL	INREVIEW	05/11/20	05/13/20
Zoning Administrator Decision	JMICHAEL	APPROVCOND	06/13/20	05/19/20
		Comment: Approve with conditions: Contribute in-lieu of construction and dedicate ROW.		

### CONDITIONS

Code:	Desc:	Date Applied:	Date Completed:
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**VIOLATIONS**

<b>Violation:</b>	<b>Desc:</b>	<b>Date Issued:</b>	<b>Date Completed:</b>
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**FEEES**

<b>Code:</b>	<b>Desc:</b>	<b>Amount:</b>	<b>Paid:</b>
CAZWSWFEE	[05/05/2020] CA ZONING WAIVER SIDEWALK FEE	\$360.00	\$360.00
CAZWSWTRIP	[05/05/2020] CA ZONING WAIVER SIDEWALK TRIPLE...	\$0.00	\$0.00
CACONVFEE	[05/05/2020] CA - Convenience Fee	\$8.28	\$8.28
		<b>\$368.28</b>	<b>\$368.28</b>

**PAYMENTS**

<b>Tender:</b>	<b>Reference:</b>	<b>Fee Code:</b>	<b>Date:</b>	<b>Paid:</b>
CREDIT	9746	CAZWSWFEE	05/05/20	\$360.00
CREDIT	9746	CACONVFEE	05/05/20	\$8.28
				<b>\$368.28</b>

**REL DOCS**

<b>Location:</b>	<b>File Name:</b>	<b>Comments:</b>
------------------	-------------------	------------------



5/26/2020

Mail - Angie Adams - Outlook

Outlook

Search



New message

Reply Delete Archive Junk Sweep Move to Categorize Snooze

Favorites

### Codes Zoning Waiver Decision

Sent Items

You forwarded this message on Tue 5/19/2020 11:59 AM

Add favorite

noreply@nashville.gov  
Tue 5/19/2020 11:34 AM  
To: You



Folders

Dear Applicant,

Inbox 1292

Your sidewalk waiver request for property located at 3212 ACKLEN AVE 37212 has been APPROVCOND by the Zoning Administrator with the following comments:

Junk Email 67

Comments: Approve with conditions: Contribute in-lieu of construction and dedicate ROW.

Drafts 88

Sent Items

With this resolution you may now complete the permit application process.

Deleted Items 32

Peoples Comm ...

POP

Archive

Notes

1031 Info

513ABA LLC D... 13

15th Ave Apts 2

Acklen 11

Acklen Proj Rent... 1

AFP Fundraising 7

Alabama Apts 2

Alabama Land

Assisted Living

Austin Fun

Austin House

Austin Jobs 5

Austin Resources

Austin Travel

Babysitters

Ballet Austin 7



## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

Angela U. Adam  
APPELLANT

5-29-20  
DATE

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property**- The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics**- *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

*Hardship not self-imposed- The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases- Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property- The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare**- *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan**- *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*

In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is . Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

*Please see attached*

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**Application for a Variance Request****Property:**

10406022700

3212 Acklen Avenue

Nashville, TN 37212

Angela U. Adams, Property Owner &amp; Appellant

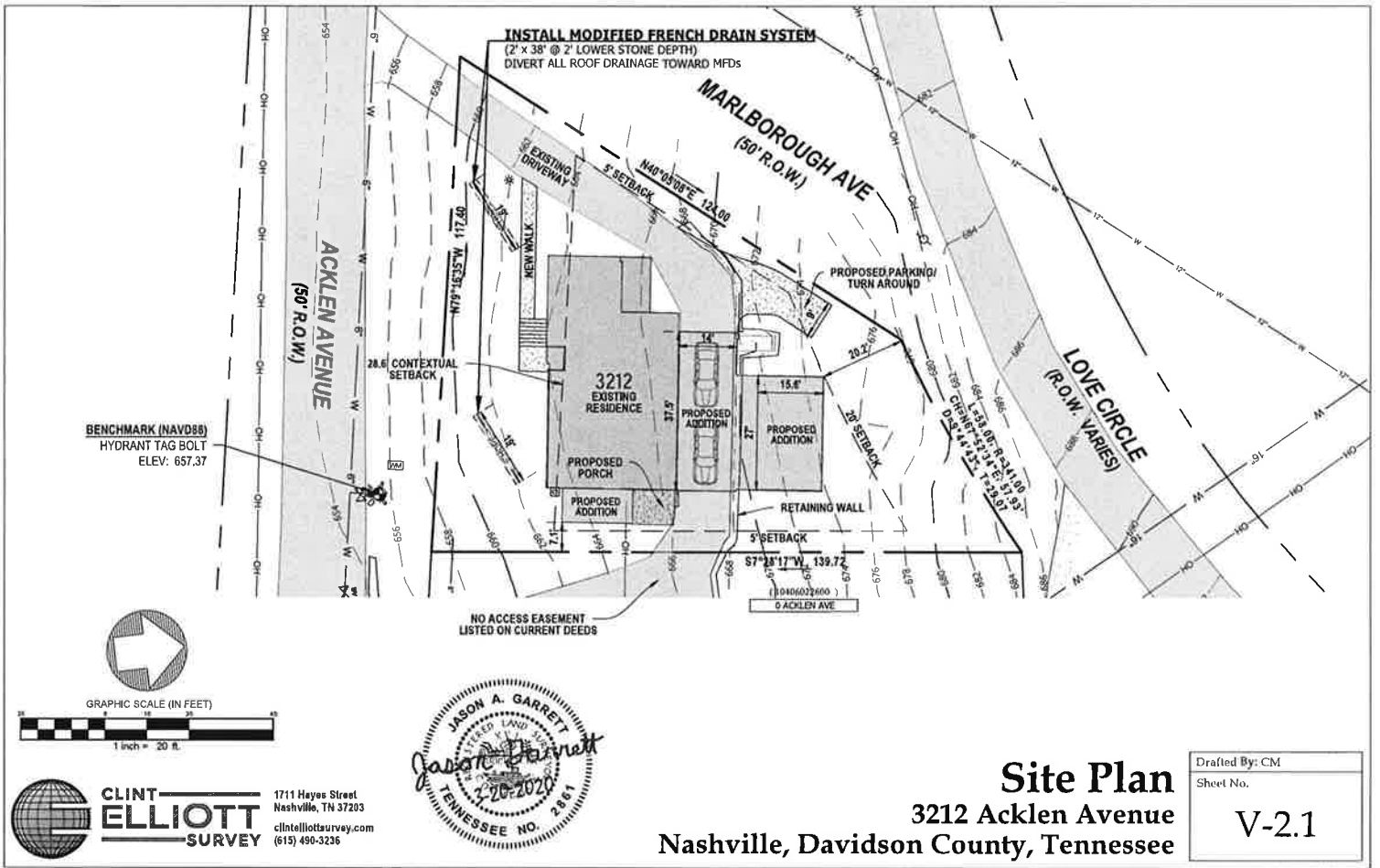
**What specific and unique circumstances (Hardship) exist that would authorize the consideration of the board under the review standards as outlined?**

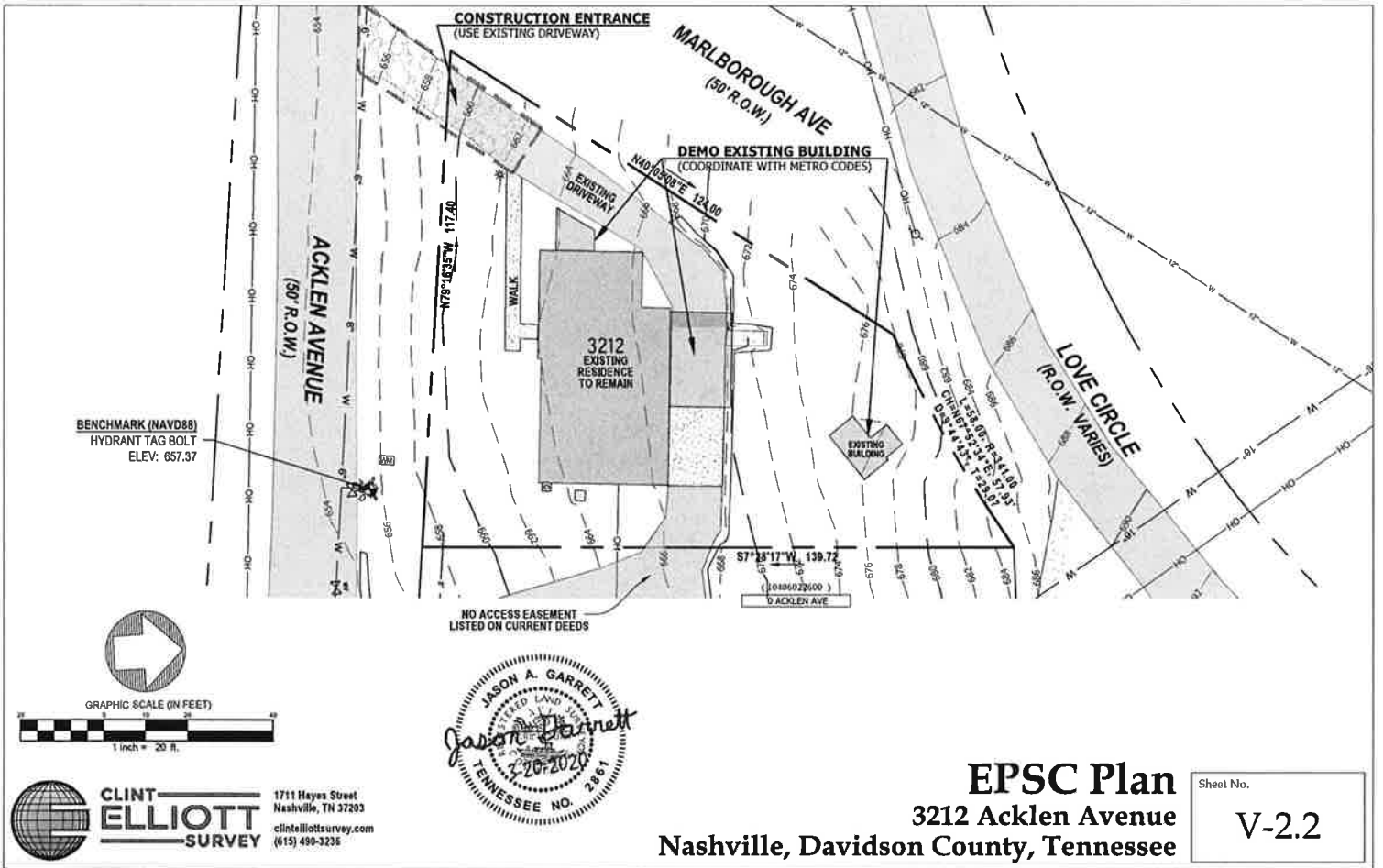
Working with my local Metro Council representatives (Tom Cash and Burkley Allen) we all mutually agree, and I have been approved accordingly, to pay into the sidewalk fund rather than install sidewalks on my property. By approving my request to not build sidewalks on my property, the Zoning Administrator agrees with our assessment that the city's pedestrians would benefit far more by my paying in to the in lieu sidewalk fund, which I am happy to do.

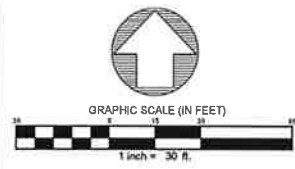
However on that same request I also requested that my in lieu fee be reduced due to my lot frontage being exceptionally large compared to the majority of parcels in the neighborhood. My frontage is 117.5 feet, which would result in my needing to contribute \$17,860 into the sidewalk fund and that level of contribution would be a significant hardship for me. Since most parcels in my neighborhood have frontages of 60 feet, and since a contribution of \$9,120 is much more in line with the estimated cost to build sidewalks in front of my new home, I would request to have my sidewalk calculation based on 60 feet rather than 117.5. I sincerely hope that this request is approved so I can contribute to building sidewalks where they are sorely needed rather than build them where they are not needed but where I can affordably build them.

Angela U. Adams  
Appellant

5-29-20  
Date







**CLINT ELLIOTT SURVEY**

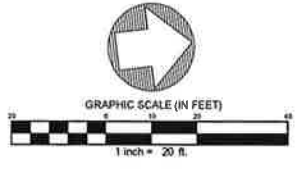
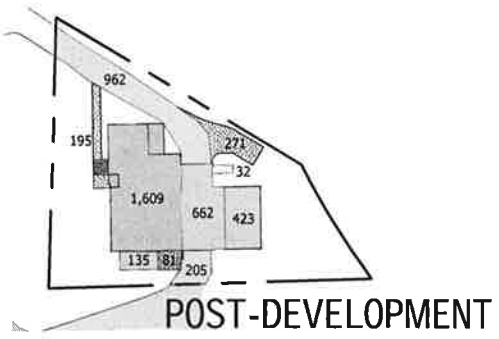
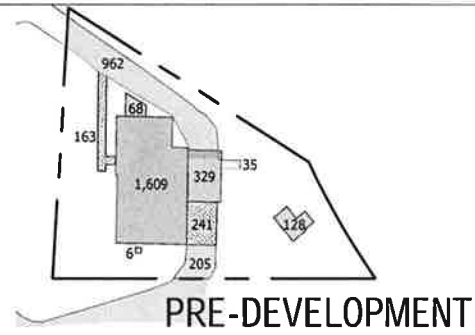
1711 Hayes Street  
Nashville, TN 37203  
clintelliotsurvey.com  
(615) 490-3236

**Building Setbacks**  
3212 Acklen Avenue  
Nashville, Davidson County, Tennessee

Sheet No.  
**V-2.3**



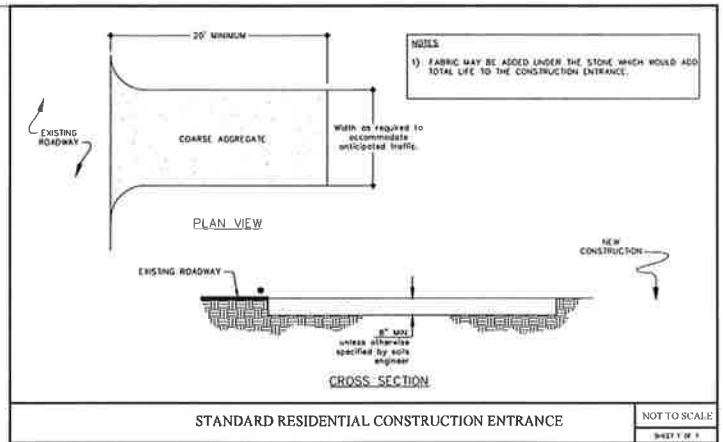
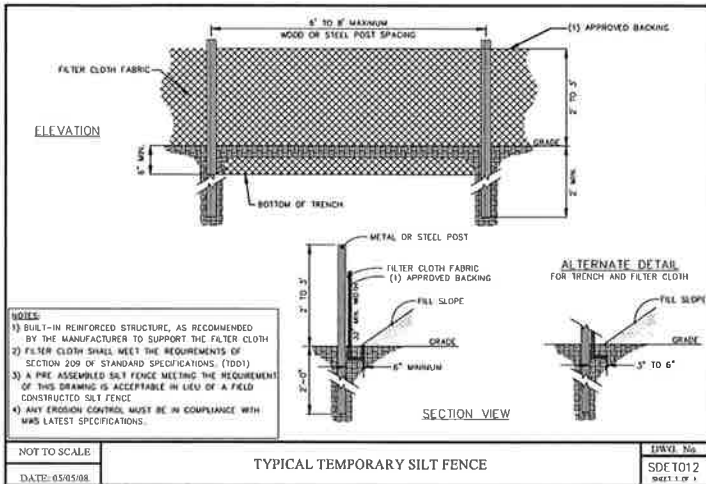
<b>SITE DATA: PRE-DEVELOPMENT</b>	
Total Site Area	9,815 SF
<b>PRE-DEVELOPMENT IMPERVIOUS: 3,746 SF</b>	
Buildings	2,375 SF
Parking/Drives	1,167 SF
Walks/Misc Pads	204 SF
<b>SITE DATA: POST-DEVELOPMENT</b>	
Total Site Area	9,815 SF
<b>POST-DEVELOPMENT IMPERVIOUS: 4,575 SF ( 46.7% )</b>	
Buildings	2,910 SF
Parking/Drives	1,438 SF
Walks/Misc Pads	227 SF
<b>POST- IMPERVIOUS NET GAIN: 829 SF ( TIER I )</b>	
<b>STORMWATER NET GAIN TREATMENT</b>	
Total Site Area	9,815 SF
<b>POST-DEVELOPMENT STORMWATER TREATMENT: 829 SF</b>	
MODIFIED FRENCH DRAIN Required: 2' x 38' @ 24" Lower Stone Depth	



**CLINT ELLIOTT SURVEY**  
 1711 Hayes Street  
 Nashville, TN 37203  
 clintelliottsvey.com  
 (615) 490-3235

**Impervious Areas**  
 3212 Acklen Avenue  
 Nashville, Davidson County, Tennessee

Sheet No.  
**V-2.4**



**SITE GRADING & EROSION CONTROL NOTES**

1. NO PORTION OF THE PROPERTY SHOWN LIES WITHIN A 100 YEAR FLOOD HAZARD AREA AS PER THE CURRENT FEDERAL EMERGENCY MANAGEMENT AGENCY, (FIRM) MAP.
2. CLEAN SILT BARRIERS WHEN THEY ARE APPROXIMATELY 33% FILLED WITH SEDIMENT, SILT BARRIERS SHALL BE REPLACED AS EFFECTIVENESS IS SIGNIFICANTLY REDUCED, OR AS DIRECTED BY THE OWNER'S REPRESENTATIVE.
3. REMOVE THE TEMPORARY EROSION AND WATER POLLUTION CONTROL DEVICES ONLY AFTER A SOLID STAND OF GRASS HAS BEEN ESTABLISHED ON GRADED AREAS AND WHEN THEY ARE NO LONGER NEEDED.
4. PROVIDE TEMPORARY CONSTRUCTION ACCESS(ES) AT THE POINT(S) WHERE CONSTRUCTION VEHICLES EXIT THE CONSTRUCTION AREA. MAINTAIN PUBLIC ROADWAYS FREE OF TRACKED MUD AND DIRT.
5. PROVIDE POSITIVE SLOPE (2% MINIMUM) TO DRAIN ALL BALCONIES, DECKS, PATIOS, WALL(S), DRIVEWAYS, GRADE ADJACENT TO BUILDINGS, AND SWALES REGARDLESS WHETHER PLANS GRAPHICALLY PORTRAY OR INDICATE SLOPE. FINAL CONSTRUCTION SHALL NOT PERMIT PONDING OF WATER IN ANY OF FOREGOING AREAS.



IF YOU DIG IN TENNESSEE...  
CALL US FIRST!  
1-800-351-1111  
1-615-366-1987  
TENNESSEE ONE CALL  
IT'S THE LAW



1711 Hayes Street  
Nashville, TN 37203  
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**Site Details**  
3212 Acklen Avenue  
Nashville, Davidson County, Tennessee

Sheet No.  
**V-2.5**

SKETCH LAYOUT  
 PROVIDE PLAN AND ELEVATION VIEWS OF MFD AND HOUSE SHOWING ROOF AREA DIRECTED TO MFD AND KEY DIMENSIONS, CONNECTIONS AND OVERFLOW RELATIVE TO PROPERTY LINE.

Modified French Drain

SIZING CALCULATION:

Roofing Area (square feet)	Depth of Gravel From Top of Pipe (inches)			
	18	24	30	36
	Required Linear Feet of MFD			
100	6	3	4	3
600	30	25	20	15
1000	60	45	40	35
2000	120	95	75	65
3000	185	140	115	100
4000	245	190	155	130
6000	305	235	195	165

MAINTENANCE:

1. INSPECT GUTTERS AND DOWNSPOUTS REMOVING ACCUMULATED LEAVES AND DEBRIS, CLEANING LEAF REMOVAL SYSTEM(S).
2. IF APPLICABLE, INSPECT PRETREATMENT DEVICES FOR SEDIMENT ACCUMULATION, REMOVE ACCUMULATED TRASH AND DEBRIS.
3. INSPECT MFD FOLLOWING A LARGE RAINFALL EVENT TO INSURE OVERFLOW IS OPERATING AND FLOW IS NOT CAUSING PROBLEMS.

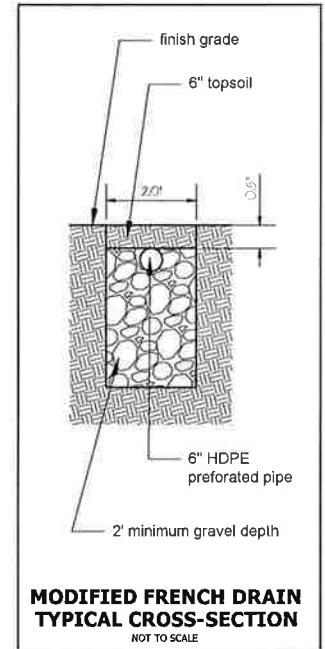
MEASURE CONTRIBUTING DRAINAGE AREA AND READ AREA FOR GIVEN MEDIA DEPTH.

CONTRIBUTING DRAINAGE AREA= 829 SQ FT  
 DEPTH OF STONE MEDIA= 24 INCHES  
 WIDTH OF TRENCH= 24 INCHES  
 LENGTH OF MFD= 38 FT

METRO NASHVILLE  
 DEPARTMENT OF  
 WATER SERVICES

ATTACHED THIS TWO-PAGE  
 SPECIFICATION TO HOUSE  
 PLAN SUBMITTAL

MODIFIED FRENCH DRAIN  
 SPECIFICATIONS  
 PAGE 2 OF 2



**CLINT ELLIOTT SURVEY**  
 1711 Hayes Street  
 Nashville, TN 37203  
 clintelliottsury.com  
 (615) 490-3236

**Stormwater Details**  
 3212 Acklen Avenue  
 Nashville, Davidson County, Tennessee

Sheet No.  
**V-2.6**

**From:** [Bonnie Smith Whitehouse](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Cc:** [Tom Cash](#)  
**Subject:** Case #: 2020-152 Parcel ID: 10406022700  
**Date:** Wednesday, June 24, 2020 1:04:38 PM

---

As a neighbor, I write to express my opposition to the sidewalk variance applied for in **Case**  
#: 2020-152  
**Parcel ID:** 10406022700

Thank you,  
Bonnie Smith Whitehouse  
3111 Acklen Avenue



**From:** [John TeSelle](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Variance case 2020-152 (3212 Acklen Ave)  
**Date:** Thursday, July 2, 2020 12:40:09 PM

---

To the Board of Zoning Appeals:

My house is located within 1000' of the property at 3212 Acklen Avenue, and I received a letter regarding a variance request for this property. I am writing to ask that you deny this variance application based on the following:

- **The lot in question is not exceptional** along this street, and therefore does not meet the requirements for a site-based hardship. This lot is wider at the front (117 feet) than at the back (58 feet) but within a few hundred feet, along the same street, there are other wedge-shaped lots with frontage of 113 feet, 149 feet, 120 feet, 142 feet, and 114 feet.
- **A sidewalk is needed on this street.** This street is curving, narrow, and obstructed by retaining walls and plantings. It is hazardous for pedestrians and granting the variance would be detrimental to public welfare. A sidewalk was recently constructed by Metro along the end of the street leading to West End Avenue, and should be encouraged along the section where the subject property is located.
- **Granting the variance would set the wrong precedent.** Because this lot is not unique on this street, if the variance were granted then other property owners on the street with similar lots would have a case to ask for the same thing. That would reduce the funds or motivation to construct the sidewalk that is needed.

I understand from the applicant's submittal to the BZA that she is asking for a reduction of the amount due to the sidewalk fund, not an outright variance from the requirement. The same arguments against this reduction apply, though. As the law is written, either a sidewalk should be constructed along the full front property line, or the full amount should be contributed to the fund. There is no provision in the law for a reduction in the amount paid due to a non-unique condition on the property.

Thank you,

John TeSelle  
405 Fairfax Ave.  
Nashville, TN 37212

**From:** [Kelly Unger](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Cc:** [Cash, Thomas \(Council Member\)](#)  
**Subject:** Sidewalks  
**Date:** Friday, June 26, 2020 11:01:28 AM

---

I am in support of having a sidewalk on the property 3212 Acklen. It is a dangerous area to walk and I think it would be good for the neighborhood.

Thank you,  
Kelly Unger  
2813 Acklen Ave, Nashville, TN 37212

Sent from my iPhone

Metropolitan Board of Zoning Appeals  
P.O. Box 196350  
Nashville, Tn 37219 – 6350

Re: Appeal Case Number 2020 - 152  
3212 Acklen Ave. Nashville, Tn

Comment:  
Opposing Variance Request

Submitted by:  
Mark J. Smith, Jr  
3311 Orleans Drive  
Nashville, Tn 37212

What possible justification could there be to make an exception of doing a sidewalk at this address? They can obviously afford to build a home there. I am surprised that a variance would even be possible without some justification being cited. The whole point of the ordinance is to help provide sidewalks over time and supplement the City's budgeted efforts in getting this accomplished. The sidewalk is definitely needed there :

1. There is no sidewalk on the other side of the street
2. The location is where Marlborough T's into Acklen, so most people use this side of Acklen to walk in order to avoid walking through the intersection.
3. The Topography is not difficult. Construction of a sidewalk there presents no problem.
4. This is a heavily walked area. My wife and I walk it almost daily as part of a 1 mile loop. We encounter other walkers most days.
5. This is a busy little intersection. We are constantly avoiding cars approaching the 3 way stop (Acklen – Marlborough – Acklen. )

The only possible reason I can think of for wanting a variance here is so that the Owner/Builder can save some money, and if that is a valid reason, you might as well have not passed the ordinance requiring sidewalks in the first place. I could see, if there was already a sidewalk on the other side of the street; or if it was difficult topography ( gully, ditch, etc) or a dead end. But not this Spot. This place "needs" a sidewalk.

My fear is that if someone gets enough Friends to support them in their request the variance might be granted. However, I assume (hope) that the Board's job is to consider each request on the merits of each particular situation and then do what is best to fulfill and carryout the intent and purpose of the ordinance.

I am 76 years old and have some underlying health issues, otherwise I would attend the hearing. However, my mobile phone number is #615 483 4335, and I always have it with me, so feel free should you wish to discuss further.

Sincerely,

Mark Smith



## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2020-152 (3212 Acklen Avenue)

Metro Standard:	Acklen Avenue – 4’ grass strip, 5’ sidewalk, as defined by the Metro Local Street standard
Requested Variance:	Contribute in-lieu of construction (eligible)
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
Zoning:	RS7.5
MCSP Street Designation:	Acklen Avenue – Local Street
Transit:	0.31 miles from #3 West End/White Bridge and #5 West End/Bellevue; future Arterial Bus Rapid Transit planned per nMotion
Bikeway:	None existing; none planned

### Planning Staff Recommendation: *Approve with conditions*

**Analysis:** The applicant is proposing to construct a single-family residence and requests relief from the Board in the calculation of the applicant’s payment in-lieu of construction. The request is an appeal to a sidewalk waiver request that was approved with conditions and completed on May 19, 2020 (**Permit number 20200028093**). Conditions of approval were for the applicant to pay in lieu of construction and to dedicate right-of-way.

The parcel has 117.5 feet of frontage along Acklen Avenue, 124 feet of frontage along an undeveloped right-of-way (west side), and 58 feet of frontage along Joy Circle, which is an unusual circumstance. Other properties on this block of Acklen Avenue – between Marlborough Avenue and 32<sup>nd</sup> Avenue South – include one 30-foot frontage, six 60-foot frontages, one 70-foot frontage, and one 120-foot frontage.

Payment in lieu of construction contributions are calculated based on the length of the parcel’s frontage. Per the Zoning Ordinance, the applicant is eligible to contribute in-lieu of construction because there is no substandard sidewalk, no existing sidewalk on the block face, and no proposed sidewalk on the block face. Electing to make the contribution in-lieu of construction supplements Metro’s annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property, within one of Metro’s 16 pedestrian benefit zones.

The applicant requests that the Board instead calculate in lieu of construction contribution based on a 60-foot-wide frontage, which is more typical for this block. Since the lot has double frontage, it is appropriate to consider it in the context of 17.20.120.A.3.G when calculating the in-lieu contribution. This part of the code states that corner lots in R and RS zoned districts may seek relief that prioritizes construction along streets with a higher functional classification when there is an unusually large amount of street frontage on one or both streets.

Given the factors above, staff recommends **approval with conditions:**

1. The applicant shall contribute in-lieu of construction a payment calculated based on 60 linear feet
2. The applicant shall dedicate right-of-way for future sidewalk construction, which meets the Metro Local Street Standard

John B. Clayton  
Ellen W. Clayton  
504 Fairfax Ave.  
Nashville, TN 37212

July 2, 2020

To Department of Codes and Building Safety:

This letter is in regards to Zoning Appeal Case Number 2020-152. The appellant Angela Adams at 3212 Acklen Avenue, Map Parcel 10406022700, Zoning Classification RS7.5, Council District 18 has requested a variance from sidewalk requirements.

We strongly **OPPOSE** this request.

As neighbors living within 1000 of the appellant's property, we daily experience the dangers to pedestrians of the absence of a sidewalk on that section of Acklen Avenue. This narrow street is daily used by commuters from the large office building at 3401 West End Avenue and elsewhere, who routinely ignore the posted 20 mile per hour Pedestrian Zone speed limit. With curbside parking on the street, bushes, walls, and other obstacles bordering the street, pedestrians are often forced to take unnecessary risks by walking many feet into the roadway.

We hope you will give this objection to the appellant's request serious consideration.

Sincerely yours,



John B. Clayton



Ellen W. Clayton

**From:**

Gis Johannsson  
1708 Riverside Rd  
Old Hickory, TN 37138  
(615) 502 2045

**Regarding:**

Appeal Case Number 2020 - 153  
Parcel ID: 05307005800  
Property address: 1808 Riverside Rd, Old Hickory, TN 37138

Dear members of the Board of Zoning Appeals

Please do not approve variance for appeal case number 2020 - 153, for the purpose of bulding 2 family homes on the lot.

**Why?**

The owner of this property, Mr. Michael Peeks (represented by law firm Baker Donelson) claims this lot is 14,249 square feet in size. He stated that on a zoning appeal application dated 10-31-2019, as well as reiterating that during a meeting with Old Hickory residents on January 13<sup>th</sup> 2019.

By this claim, Mr. Peek maintains that the lot is only 751 square feet shy of meeting minimum R15 zoning requirements but all public information regarding this lot, including on Nashville.gov, lists this lot at 0.32 acres or 13,939.2 square feet. That is 1060.8 square feet shy of meeting minimum R15 zoning requirements. During the January 13<sup>th</sup> 2019 meeting, Mr. Peek stated that official records on the size of this lot are wrong.

Before considering granting variance to build 2 family homes on a lot that according to official public records is 13,939.2 square feet, please do proper diligence and ascertain the true size of this parcel lot.

### **Preserve historic Old Hickory Village architectural landscape**

It would be enormously out phase with Old Hickory Village's 100+ years landscape to build 2 family homes at 1808 Riverside Drive. All of the neighborhood lots feature single-family homes, many of which have been restored to reflect the Village's original landscape and architecture that the area is known and revered for.

As Nashville has grown in popularity, developers have sought to maximize profits by consolidating traditionally single family home lots under 2 homes. I hope that you support the growing concern by many Old Hickory residents that this trend is detrimental to Old Hickory Village's nod to the past and charm. There are homes on the National Register of Historic Places within 1 minute driving distance of 1808 Riverside Rd (0.3 miles). The key to Historic Old Hickory's growth and value is home restoration and preservation but not by altering its historic neighborhoods by consolidating lots for multi family homes, negatively affecting neighborhood real estate and community values.

Historic Old Hickory is revered for the home restoring efforts that have taken place in recent years, making Old Hickory village a sought-after place to live. That is a desirable and a responsible way forward, but not changing the village's architectural landscape for no apparent reason other than developers' profits.

Please reject the appeal for variance for the purpose of building 2 family homes at 1808 Riverside Dive, Old Hickory but encourage the developer to respect the neighborhood's grown architectural landscape and instead build a single-family home on the lot that might enhance the value and charm of Historic Old Hickory Village.

Sincerely,



Gis Johannsson



Metropolitan Board of Zoning Appeals  
Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210



Appellant : Baker Donelson Date: June 2, 2020  
Property Owner: Mike Peek Case #: 2020- 153  
Representative: : Joey Hargis Map & Parcel: 53-7-58

Council District 11

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To allow the use of the existing lot for a two family detached townhome. with insufficient lot area.

Activity Type: Two family

Location: 1808 Riverside Road

This property is in the R-15 Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Variance in lot area 15,000sq. req. 14,249 sf prov

Section(s): 17.12.020A

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection B Of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Baker Donelson  
Appellant Name (Please Print)

Joey Hargis  
Representative Name (Please Print)

211 Commerce St. Ste 800  
Address

\_\_\_\_\_  
Address

Nashville, TN 37201  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

615-726-7391  
Phone Number

\_\_\_\_\_  
Phone Number

jhargis@bakerdonelson.com  
Email

\_\_\_\_\_  
Email

Appeal Fee: \$100

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.



**APPELLANT**

June 2, 2020

**DATE**

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property**- The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics**- *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

**Hardship not self-imposed**- *The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

**Financial gain not only bases**-*Financial gain is not the sole basis for granting the variance.*

**No injury to neighboring property**- *The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare**- *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan**- *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*

In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is . Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and locatlon of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it ls developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a varlance based solely on inconvenience to the applicant or solely on a financial consideration. It ls Incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

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**Name and Address of New Owner:**

Michael W Peek  
P O Box 148393  
Nashville TN 37214

**THIS INSTRUMENT PREPARED BY:**

(Please Return Document to this Address)  
J.D. Kiouss, Attorney  
Lawyers Land & Title Services, LLC  
500 North Walnut St.  
Murfreesboro, TN 37130  
File No.: MR-19050609

**Send Tax Statements To:**

SAME

<p>Karen Johnson Davidson County  Batch# 241997 DEEDWARR  06/11/2019 02:23:30 PM 3 pgs  Fees: \$18.00 Taxes: \$333.74  20190611-0056136</p>
---

**Map and Parcel:** 053 07 0 058.00

## WARRANTY DEED

For and in consideration of the sum of ten dollars (\$10.00), cash in hand paid by the hereinafter named GRANTEE, and other good and valuable considerations, the receipt of which is hereby acknowledged, **Jay Frank Moore**, hereinafter called the GRANTOR, has bargained and sold, and by these presents does transfer and convey unto **Michael W Peek**, hereinafter called the GRANTEE, his heirs and assigns, a certain tract or parcel of land in Davidson County, State of Tennessee, described as follows, to-wit:

**BEING part of Lot Nos. 32 and 33 on the plan of Village of Old Hickory Subdivision, of record in plat book 1424, page 131, in the Register's Office for Davidson County, Tennessee, as follows:**

**BEGINNING at a point on the West margin of Riverside Road at the common front corner between Lot Nos. 32 and 33 of the above Subdivision; thence Southerly with the West margin of said Road as relocated South 28° 12' West 69.48 feet to the beginning of a curve to the right at the intersection of 20th Street, as now relocated; thence along said curve, having a radius of 25 feet, a distance of 41.7 feet to the end of said curve; thence Westwardly along the North margin of 20th Street as relocated, North 56° 13' West 2.04 feet to a point and continuing Westwardly with the margin of 20th Street following the arc of curve with a radius of 531.39 feet, a distance of 131.54 feet to a point on the common rear line of Lot Nos. 33 and 62 of the above Subdivision; thence Northerly along said common rear line of Lots 33, 61 and 62, a distance of 70.2 feet to a point on the rear line of Lot No. 61; thence Southeastwardly along the dividing line between Parcel No. 57 and 58 on Metro Tax Map No. 53-7, a distance of 196.02 feet to the point of beginning and containing 16,600 square feet, more or less.**

**Being the same property conveyed to J. Frank Moore and wife, Mary T. Moore by Warranty Deed filed for record on January 5, 1977 in Book 5103, page 13, of the Register's Office of Davidson County, Tennessee. The said J. Frank Moore died on November 2, 2001, leaving Mary T. Moore as the surviving tenant by the entirety. The said Mary T. Moore died intestate on February 25, 2017, leaving Jay Frank Moore as her surviving heir-at-law as evidenced by Affidavit of Heirship of record in Instrument Number 201906110056136, said Register's Office.**

This conveyance is subject to the following: All matters including but not limited to restrictions of record in Book 1915, page 436, said Register's Office; All matters as set forth per Book 1424, page 131, said Register's Office; HOA Charter of record in Book 8290, page 865, said Register's Office.

This conveyance is further subject to: (1) all applicable zoning ordinances (2) utility, sewer, drainage and other easements of record, (3) all subdivision/condominium assessments, covenants, bylaws, restrictions, declarations and easements of record, (4) building restrictions, and (5) other matters of public record.

This is unimproved property known as: 1808 Riverside Dr., Old Hickory, TN 37138

TO HAVE AND TO HOLD the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEE, his heirs and assigns forever; and I do covenant with the said GRANTEE that I am lawfully seized and possessed of said land in fee simple, have a good right to convey it and the same is unencumbered, unless otherwise herein set out; and I do further covenant and bind myself, my heirs and assigns, to warrant and forever defend the title to the said land to the said GRANTEE, his heirs and assigns, against the lawful claims of all persons whomsoever. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**Subject Property is not the primary residence of Grantor.**

WITNESS my hand this 4th day of June, 2019.

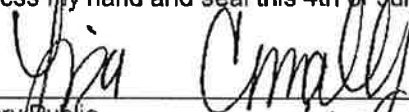
  
Jay Frank Moore

State of Tennessee

County of Rutherford

Personally appeared before me, Jay Frank Moore with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

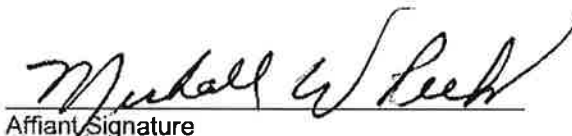
Witness my hand and seal this 4th of June, 2019.

  
Notary Public  
My Commission Expires: 4-19-23

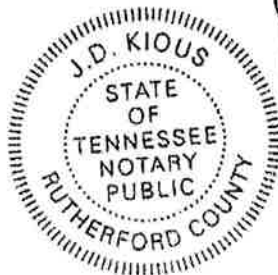



**AFFIDAVIT**

I hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$90,200.00.

  
Affiant Signature

Subscribed and sworn to before me, this 3rd day of June, 2019.



  
Notary Public  
My Commission Expires: 12/18/21

# True Copy Certification

I, Lynn Vaught, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

*Lynn Vaught*  
Signature

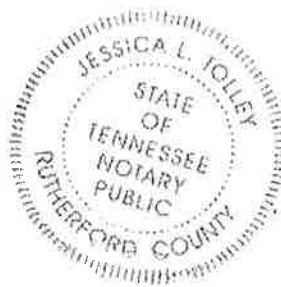
State of Tennessee

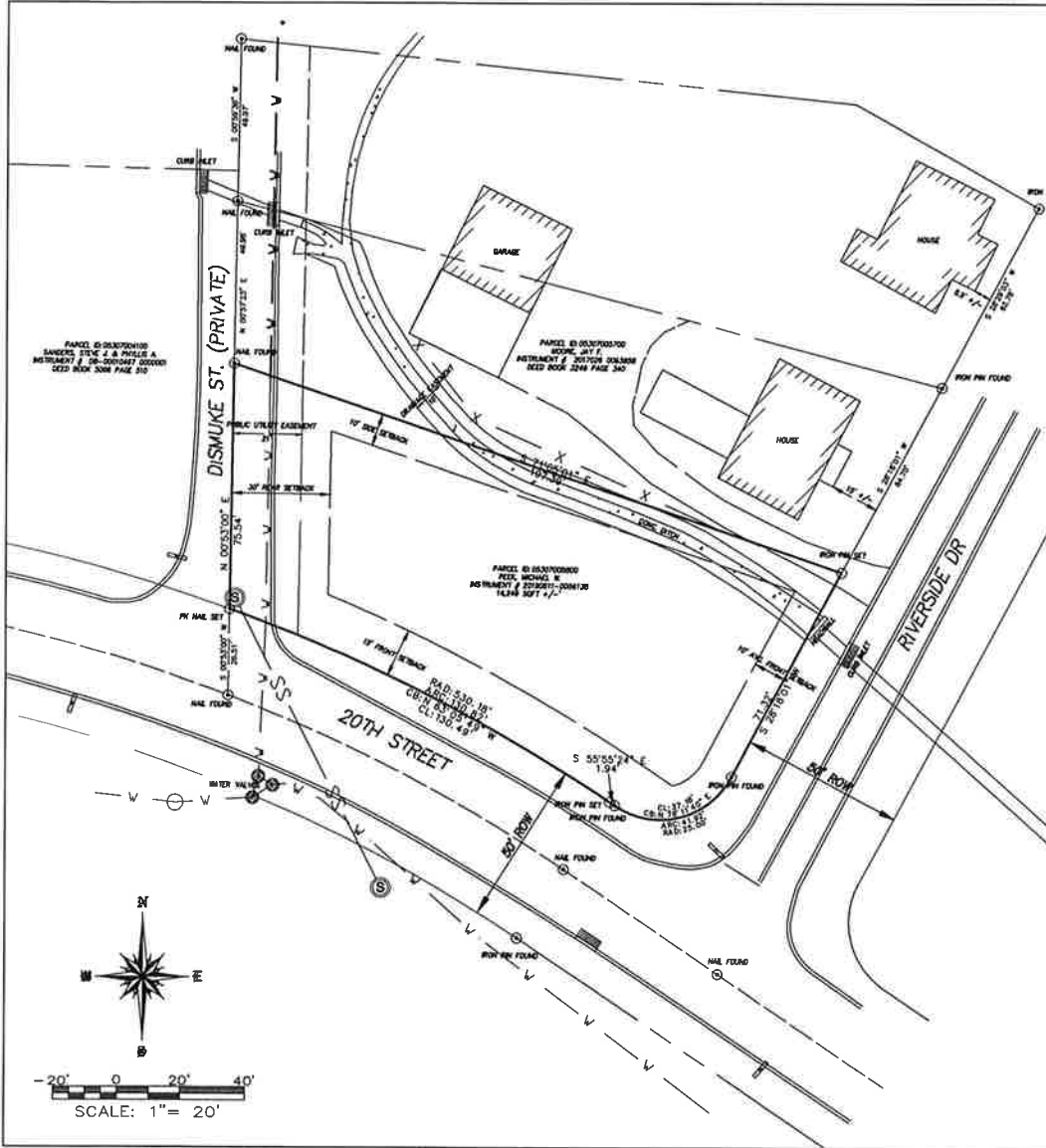
County of Rutherford

Personally appeared before me, the undersigned, a notary public for this county and state, Lynn Vaught who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

*Jessica L. Tolley*  
Notary's Signature

My Commission Expires: 11-20-22





- GENERAL NOTES**
1. BEING PARTS OF LOTS 32 AND 33 IN PLAT BOOK 1424 PAGE 131. LOTS ALSO BEING AFFECTED BY THE CONSTRUCTION OF 20TH STREET.
  2. BEARING SYSTEM IS BASED ON RECORDED SURVEY IN PLAT BOOK 1424 PAGE 131.
  3. THIS PROPERTY LIES WITHIN ZONE X, NOT IN A SPECIAL FLOOD HAZARD AREA, AS DETERMINED FROM ELEVATIONS SHOWN ON FEMA FIRM MAPS FOR DAVIDSON COUNTY COMMUNITY PANEL NO. 47165C0394G, EFFECTIVE DATE 4/17/2012.
  4. SUBJECT PROPERTY IS IDENTIFIED ON DAVIDSON COUNTY PROPERTY MAPS AS PARCEL ID: 05307005800
  5. THIS SURVEYOR HAS NOT PHYSICALLY LOCATED ALL OF THE UNDERGROUND UTILITIES. ABOVE GRADE AND UNDERGROUND UTILITIES SHOWN WERE TAKEN FROM VISIBLE APPURTENANCES AT THE SITE, PUBLIC RECORDS AND/OR MAPS PREPARED BY OTHERS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA OR THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. AVAILABILITY AND LOCATION OF UTILITIES SHOULD BE CONFIRMED WITH THE APPROPRIATE UTILITY COMPANY.
  6. NO TITLE REPORT WAS FURNISHED TO THIS SURVEYOR, THEREFORE, THIS PROPERTY IS SUBJECT TO THE FINDINGS OF A CURRENT AND ACCURATE TITLE SEARCH.
  7. PROPERTY IS ZONED R15 MINIMUM BUILDING SETBACKS SHOWN PURSUANT TO ZONING ORDINANCE 17.12.030 17.12.03A 17.12.030 C2
  8. THIS SURVEY WAS PERFORMED IN THE FIELD ON 06/14/2019
  9. THE DRAINAGE EASEMENT SHOWN IS BASED ON THE RELOCATION OF IT AND THE RELOCATION OF RIVERSIDE DR. AT THE TIME OF 20TH STREET CONSTRUCTION.

**CERTIFICATE OF ACCURACY**

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE DAVIDSON COUNTY, TENNESSEE, PLANNING COMMISSION, THAT THE PRECISION OF THE UNADJUSTED SURVEY IS 1:10,000 OR GREATER, AND THAT MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON TO THE SPECIFICATIONS OF THE CITY ENGINEER.

DATE: 06/26/2019

*Matthew D. Listovitch*  
 MATTHEW D. LISTOVITCH  
 SURVEYOR  
 TENNESSEE

	<b>MATTHEW LISTOVITCH SURVEYING</b>
	542 HEARTLAND LN MURFREESBORO, TN 37127 PHONE: 615.427.1118 EMAIL: MLISTOVITCH@GMAIL.COM
<b>PROPERTY SURVEY</b>	
<b>MICHAEL PEEK</b>	
PARCEL ID: 05307005800 1808 RIVERSIDE DR. OLD HICKORY DAVIDSON COUNTY TENNESSEE	



**BAKER DONELSON**  
BEARMAN, CALDWELL & BERKOWITZ, PC

BAKER DONELSON CENTER,  
SUITE 800  
211 COMMERCE STREET  
NASHVILLE, TENNESSEE 37201

MAILING ADDRESS:  
P.O. BOX 190613  
NASHVILLE, TENNESSEE 37219

PHONE: 615.726.5600  
FAX: 615.726.0464

[www.bakerdonelson.com](http://www.bakerdonelson.com)

JOEL K. HARGIS, ATTORNEY  
**Direct Dial:** 615.726.7391  
**Direct Fax:** 615.744.7391  
**E-Mail Address:** [jhargis@bakerdonelson.com](mailto:jhargis@bakerdonelson.com)

July 9, 2020

Jon Michael, Zoning Administrator  
800 2<sup>nd</sup> Avenue South  
Nashville, TN 37072

Re: Proposed Lot Area Variance – Case 2020-153  
1808 Riverside Road, Nashville, TN

Dear Mr. Michael and Members of the BZA:

Enclosed are submittal materials associated with variance request for the above-referenced location.

Our client purchased a lot via auction and discovered after the purchase that the deeded acreage originally represented by Metropolitan Government on its deed to the prior purchaser, Frank and Mary Koors and on the deed from Mr. Moore to our client contained incorrect lot area. The deeds in the deed chain all state that the lot had 16,600 square feet more or less. Generally, more or less would indicate a slight variation in lot area. These variations in my experience are within a few square feet to a few hundred.

A survey performed by our client post purchase discovered that this lot had only 14,249 square feet. This would be approximately 5% less than the needed 15,000 square feet required for a two-family dwelling. The discrepancy between Metro's deed and the actual lot area of the property is 2,351 square feet or 14.6% of the stated lot area. Our client's purchase of the property was intended for this purpose and he would not have purchased had he had any indication that there was such an extremely large (14.6%) discrepancy in lot area.

Our client has met with his neighbors and provided them information with his proposal. He had a majority of residents nearby supportive and only a few residents who indicated they were opposed. Included in our submittal are copies of the drawings he provided to the neighbors at his neighborhood meeting held in early February of 2020.

4813-5335-9298v1  
2950162-000001 07/09/2020

July 9, 2020

Page 2

Also included are the original plat for his property prior to Metro Government's purchase and construction of the road (20<sup>th</sup> Street) adjoining his property. This hardship was created originally by Metro Government's own actions in its original deed to the first purchaser for value and was passed along to our client in his purchase. No actions by our client created the hardship upon which this variance is requested.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC

A handwritten signature in blue ink that reads "Joel K. Hargis". The signature is written in a cursive, flowing style.

Joel (Joey) K. Hargis, Attorney

**Name and Address of New Owner:**

Michael W Peek  
P O Box 148393  
Nashville TN 37214

**Send Tax Statements To:**

SAME

<p>Karen Johnson Davidson County Batch# 241997 DEEDWARR 06/11/2019 02:23:30 PM 3 pgs Fees: \$18.00 Taxes: \$333.74 20190611-0056136</p>
---

**THIS INSTRUMENT PREPARED BY:**

(Please Return Document to this Address)  
J.D. Kiouss, Attorney  
Lawyers Land & Title Services, LLC  
500 North Walnut St.  
Murfreesboro, TN 37130  
File No.: MR-19050609

**Map and Parcel:** 053 07 0 058.00

**WARRANTY DEED**

For and in consideration of the sum of ten dollars (\$10.00), cash in hand paid by the hereinafter named GRANTEE, and other good and valuable considerations, the receipt of which is hereby acknowledged, **Jay Frank Moore**, hereinafter called the GRANTOR, has bargained and sold, and by these presents does transfer and convey unto **Michael W Peek**, hereinafter called the GRANTEE, his heirs and assigns, a certain tract or parcel of land in Davidson County, State of Tennessee, described as follows, to-wit:

**BEING part of Lot Nos. 32 and 33 on the plan of Village of Old Hickory Subdivision, of record in plat book 1424, page 131, in the Register's Office for Davidson County, Tennessee, as follows:**

**BEGINNING at a point on the West margin of Riverside Road at the common front corner between Lot Nos. 32 and 33 of the above Subdivision; thence Southerly with the West margin of said Road as relocated South 28° 12' West 69.48 feet to the beginning of a curve to the right at the intersection of 20th Street, as now relocated; thence along said curve, having a radius of 25 feet, a distance of 41.7 feet to the end of said curve; thence Westwardly along the North margin of 20th Street as relocated, North 56° 13' West 2.04 feet to a point and continuing Westwardly with the margin of 20th Street following the arc of curve with a radius of 531.39 feet, a distance of 131.54 feet to a point on the common rear line of Lot Nos. 33 and 62 of the above Subdivision; thence Northerly along said common rear line of Lots 33, 61 and 62, a distance of 70.2 feet to a point on the rear line of Lot No. 61; thence Southeastwardly along the dividing line between Parcel No. 57 and 58 on Metro Tax Map No. 53-7, a distance of 196.02 feet to the point of beginning and containing 16,600 square feet, more or less.**

Being the same property conveyed to J. Frank Moore and wife, Mary T. Moore by Warranty Deed filed for record on January 5, 1977 in Book 5103, page 13, of the Register's Office of Davidson County, Tennessee. The said J. Frank Moore died on November 2, 2001, leaving Mary T. Moore as the surviving tenant by the entirety. The said Mary T. Moore died intestate on February 25, 2017, leaving Jay Frank Moore as her surviving heir-at-law as evidenced by Affidavit of Heirship of record in Instrument Number 201906110056136, said Register's Office.

This conveyance is subject to the following: All matters including but not limited to restrictions of record in Book 1915, page 436, said Register's Office; All matters as set forth per Book 1424, page 131, said Register's Office; HOA Charter of record in Book 8290, page 865, said Register's Office.

This conveyance is further subject to: (1) all applicable zoning ordinances (2) utility, sewer, drainage and other easements of record, (3) all subdivision/condominium assessments, covenants, bylaws, restrictions, declarations and easements of record, (4) building restrictions, and (5) other matters of public record.

This is unimproved property known as: 1808 Riverside Dr., Old Hickory, TN 37138

TO HAVE AND TO HOLD the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEE, his heirs and assigns forever; and I do covenant with the said GRANTEE that I am lawfully seized and possessed of said land in fee simple, have a good right to convey it and the same is unencumbered, unless otherwise herein set out; and I do further covenant and bind myself, my heirs and assigns, to warrant and forever defend the title to the said land to the said GRANTEE, his heirs and assigns, against the lawful claims of all persons whomsoever. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**Subject Property is not the primary residence of Grantor.**

WITNESS my hand this 4th day of June, 2019.

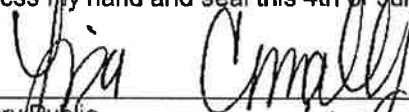
  
Jay Frank Moore

State of Tennessee

County of Rutherford

Personally appeared before me, Jay Frank Moore with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

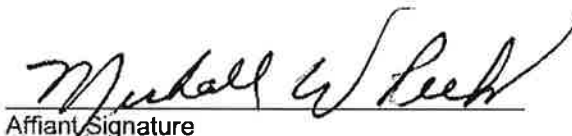
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Notary Public  
My Commission Expires: 4-19-23

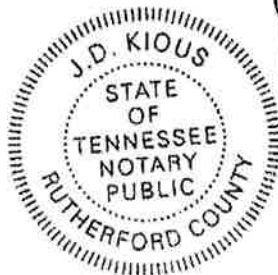



**AFFIDAVIT**

I hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$90,200.00.

  
Affiant Signature

Subscribed and sworn to before me, this 3rd day of June, 2019.



  
Notary Public  
My Commission Expires: 12/18/21



# True Copy Certification

I, Lynn Vaught, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

*Lynn Vaught*  
Signature

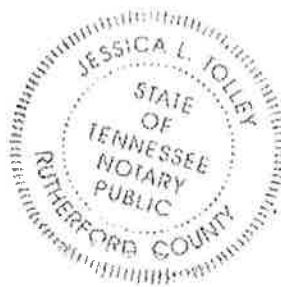
State of Tennessee

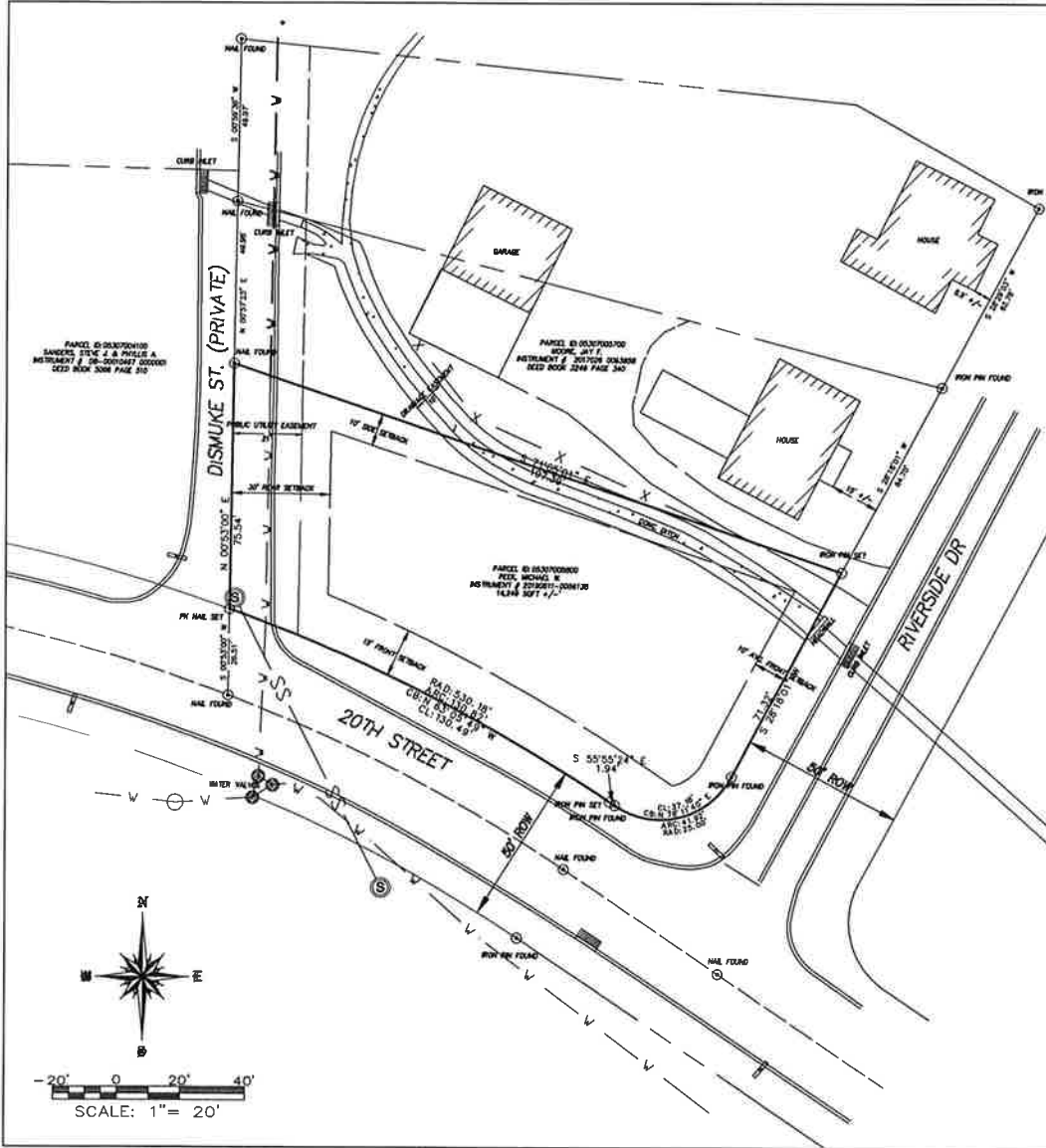
County of Rutherford

Personally appeared before me, the undersigned, a notary public for this county and state, Lynn Vaught who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

*Jessica L. Tolley*  
Notary's Signature

My Commission Expires: 11-20-22





- GENERAL NOTES**
1. BEING PARTS OF LOTS 32 AND 33 IN PLAT BOOK 1424 PAGE 131. LOTS ALSO BEING AFFECTED BY THE CONSTRUCTION OF 20TH STREET.
  2. BEARING SYSTEM IS BASED ON RECORDED SURVEY IN PLAT BOOK 1424 PAGE 131.
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**CERTIFICATE OF ACCURACY**

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE DAVIDSON COUNTY, TENNESSEE, PLANNING COMMISSION, THAT THE PRECISION OF THE UNADJUSTED SURVEY IS 1:10,000 OR GREATER, AND THAT MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON TO THE SPECIFICATIONS OF THE CITY ENGINEER.

DATE: 06/26/2019

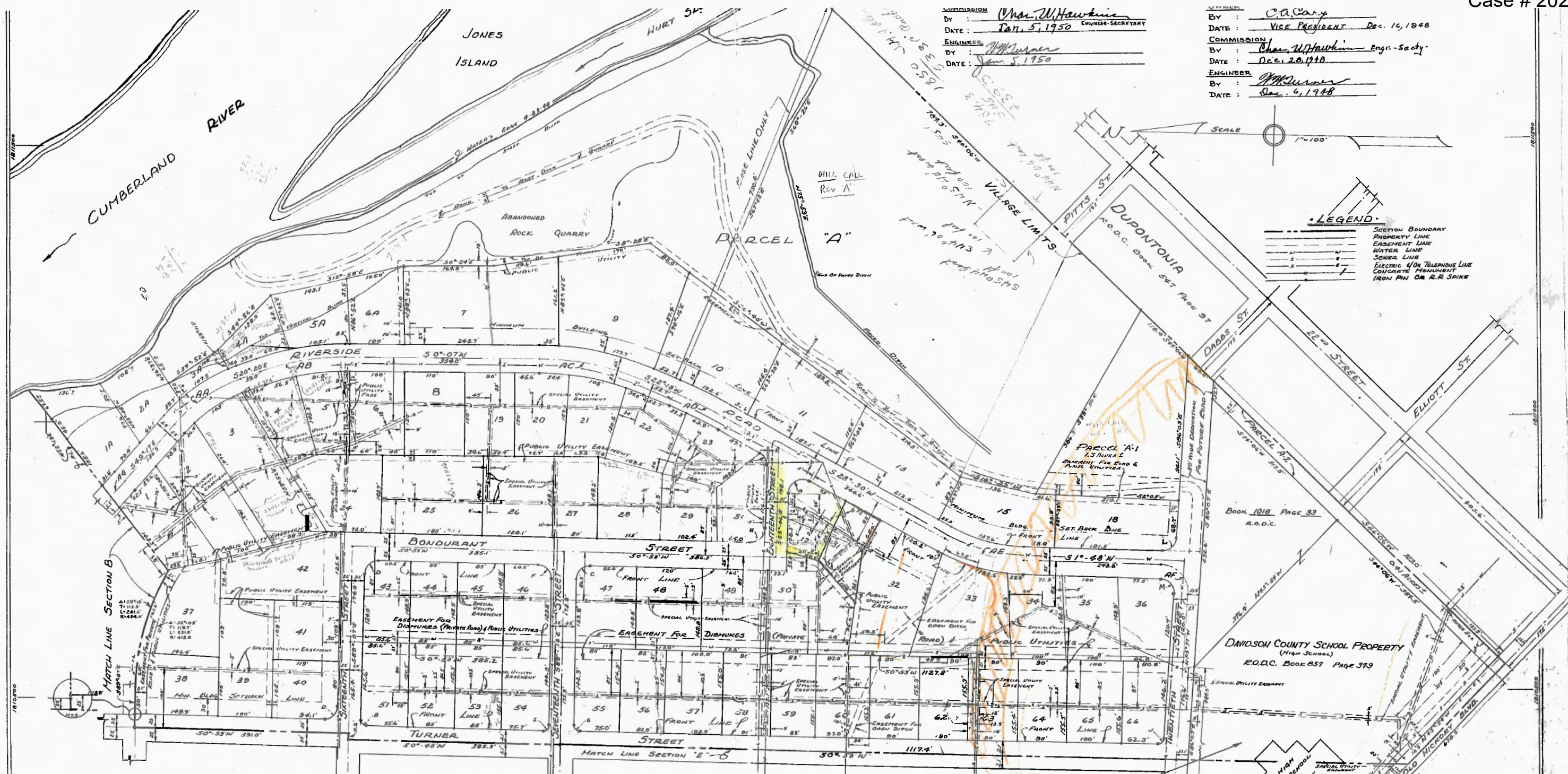
*Matthew D. Listovitch*  
 MATTHEW D. LISTOVITCH  
 SURVEYOR  
 TENNESSEE REG. NO. 14510

	<b>MATTHEW LISTOVITCH SURVEYING</b>
	542 HEARTLAND LN MURFREESBORO, TN 37127 PHONE: 615.427.1118 EMAIL: MLISTOVITCH@GMAIL.COM
<b>PROPERTY SURVEY</b>	
<b>MICHAEL PEEK</b>	
PARCEL ID: 05307005800	
1808 RIVERSIDE DR. OLD HICKORY	
DAVIDSON COUNTY TENNESSEE	



SUBDIVISION Chas. W. Hawkins  
 BY: Jan. 5, 1950 ENGINEER-SECRETARY  
 DATE: Jan. 5, 1950  
 ENGINEER W.W. Turner  
 BY: Jan. 5, 1950  
 DATE: Jan. 5, 1950

BY: C.A. Cary  
 DATE: Dec. 16, 1948 VICE PRESIDENT  
 COMMISSION Chas. W. Hawkins Engr.-Sec'y.  
 BY: Dec. 20, 1948  
 DATE: Dec. 20, 1948  
 ENGINEER W.W. Turner  
 BY: Dec. 6, 1948  
 DATE: Dec. 6, 1948



**LEGEND**  
 SECTION BOUNDARY  
 PROPERTY LINE  
 EASEMENT LINE  
 WATER LINE  
 SEWER LINE  
 ELECTRIC OR TELEPHONE LINE  
 CONCRETE MONUMENT  
 IRON PIN OR R.R. SPIKE

Book 1018 Page 93  
 R.O.D.C.

DAVIDSON COUNTY SCHOOL PROPERTY  
 (High School)  
 E.O.D.C. Book 657 Page 319

WE HEREBY APPROVE AND DEDICATE SPECIAL UTILITY EASEMENTS, AS DEFINED AND NOTED HEREON, AS APPLYING TO THE LANDS OF THE DAVIDSON COUNTY SCHOOL PROPERTY (HIGH SCHOOL), BOARD OF EDUCATION, DAVIDSON COUNTY, TENN.

BY: E. Chudwin  
 TITLE: Chairman Davidson School Bd.  
 DATE: Dec 13 - 1948

REVISED PLAN OF  
**SECTION "F"**  
 FOURTH CIVIL DISTRICT DAVIDSON COUNTY, TENNESSEE  
 VILLAGE OF OLD HICKORY

NOTE: THE RECORDING OF THIS PLAT VOIDS AND SUPERSEDES RECORDING OF SEPT. 11, 1948 BOOK 1424 PAGE 78 R.O.D.C. & DEC. 30, 1948 BOOK 1424 PAGE 86 R.O.D.C.

**CURVE DATA RIVERSIDE ROAD**

CURVE	Δ	T	L	R
AA	121.57	76.0	174.6	204.1
AB	121.57	76.0	174.6	204.1
AC	121.57	76.0	174.6	204.1
AD	121.57	76.0	174.6	204.1
AE	121.57	76.0	174.6	204.1
AF	121.57	76.0	174.6	204.1
AG	121.57	76.0	174.6	204.1

**CURVE DATA**

CURVE	Δ	T	L	R
A	117.16	41.0	212.8	28.7
B	30.48	10.0	15.7	10.1
C	94.08	26.0	38.8	26.7
D	30.40	26.0	39.3	25.7
E	89.97	10.0	15.7	10.1
F	28.18	22.0	32.8	22.1
G	28.48	10.0	15.7	10.1
H	28.18	22.0	32.8	22.1
I	28.18	22.0	32.8	22.1
J	28.18	22.0	32.8	22.1
K	28.18	22.0	32.8	22.1
L	28.18	22.0	32.8	22.1
M	28.18	22.0	32.8	22.1

**OWNER'S CERTIFICATE**  
 WE HEREBY CERTIFY THAT WE ARE THE OWNERS, EXCEPT AS OTHERWISE NOTED, AND ADOPT THE PLAN OF SUBDIVISION OF THE PROPERTY AS SHOWN HEREON AND DEDICATE ALL PUBLIC WAYS AND EASEMENTS AS NOTED.  
 NAME: E.I. DU PONT DE NEMOURS & CO.  
 BY: C.A. Cary  
 TITLE: VICE-PRESIDENT  
 DATE: JUNE 9, 1948

**NOTES**  
 PUBLIC UTILITY EASEMENTS ARE PERMANENT, WHEREAS, SPECIAL UTILITY EASEMENTS ARE TO BE VOIDED IF AND WHEN SUCH EASEMENT IS ABANDONED OR OTHERWISE VACATED, FOR ANY REASON, BY THE UTILITY NOW LOCATED THEREON AND IS NOT TO BE USED BY ANY OTHER UTILITY UNDER AUTHORITY OF THIS DEDICATION.  
 DETACHED LOTS CARRYING AN "A" SUFFIX ARE NOT BUILDING LOTS BUT ARE A PART OF THE LOT CARRYING THE SAME NUMBER. - EXAMPLE: LOT NO. 2 AND 2A CONSTITUTE ONLY ONE LOT.  
 ALL LOTS IN THIS SECTION HAVE AN AVAILABLE WATER LINE ADJACENT TO THE PROPERTY, AND ALL LOTS HAVE AN AVAILABLE SEWER LINE EXCEPT LOTS NO. 7, 11, 13, 15, 18 WHICH WILL REQUIRE SEPTIC TANKS.

**THE PLANNING COMMISSION CERTIFICATE**  
 APPROVED AND RELEASED FOR PUBLIC RECORD AS BEING A COMPLETE SURVEY DESCRIPTION OF A SUBDIVISION DEVELOPED AND OTHERWISE IMPROVED PRIOR TO FEBRUARY 1949, THE EFFECTIVE DATE OF RULES AND REGULATIONS FOR LAND SUBDIVISION IN DAVIDSON COUNTY.

BY: Chas. W. Hawkins  
 DATE: Sept. 10, 1948 ENGINEER-SECRETARY

**ENGINEER'S CERTIFICATE**  
 WE HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT AND THAT APPROVED MONUMENTS SHOWN THEREON HAVE BEEN PLACED AS INDICATED.  
 W.W. TURNER COMPANY

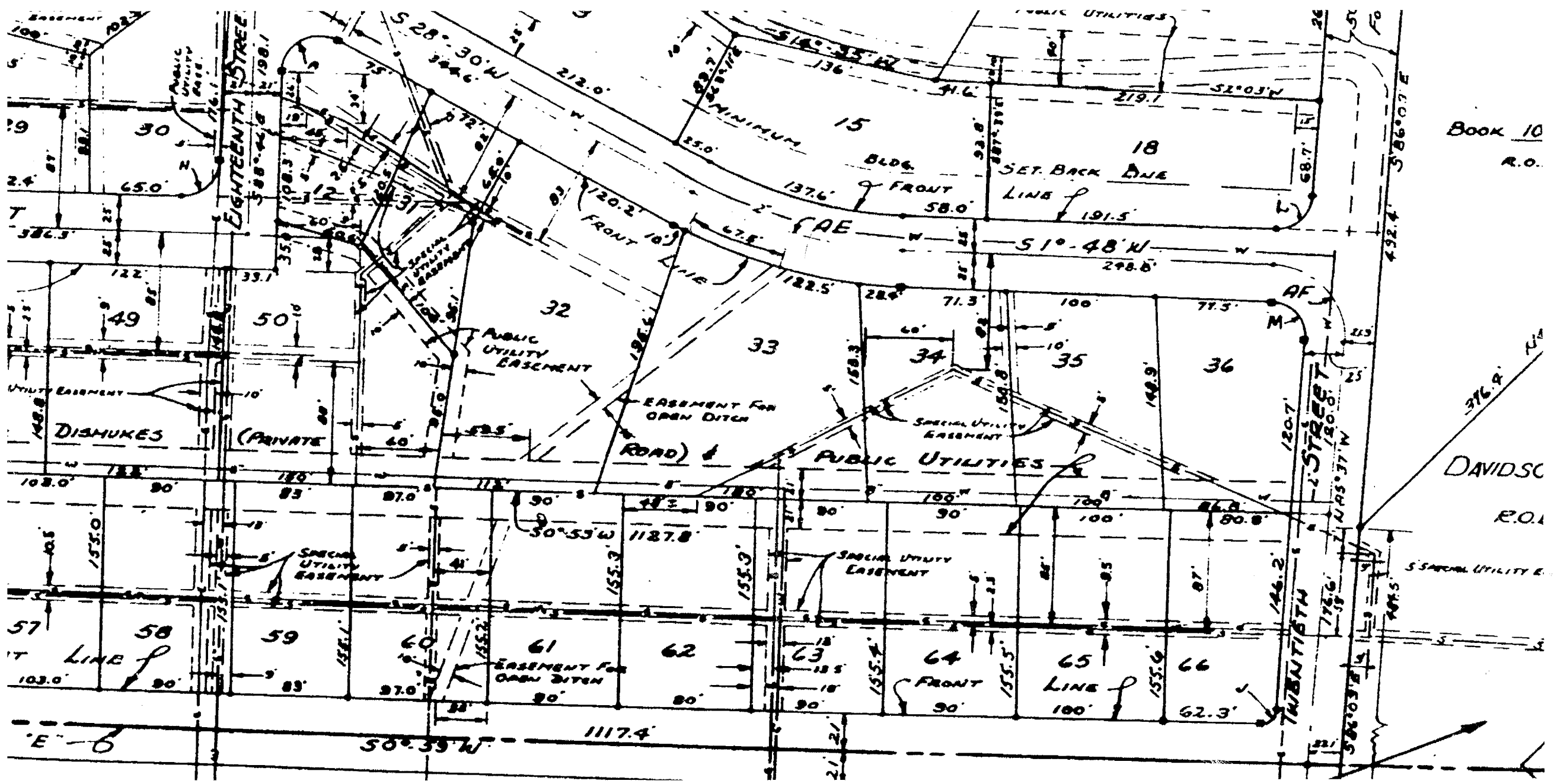
**REVISIONS**

Rev. No.	REVISIONS	Revised DATE	Entered DATE	Approved DATE
1	ISSUED FOR RECORD	1-18-48	1-18-48	1-18-48
2	REVISED LOTS ON EAST SIDE	7-6-48	7-6-48	7-6-48
3	REVISED LOTS ON WEST SIDE	8-24-48	8-24-48	8-24-48
4	REVISED LOTS ON SOUTH SIDE	12-1-48	12-1-48	12-1-48
5	CHANGED LOTS ON TURNED SIDE	1-3-50	1-3-50	1-3-50

RECORDED Jan. 6, 1950 BOOK 1424 PAGE 131  
 REGISTER'S OFFICE DAVIDSON COUNTY, TENNESSEE



BOOK 10  
R.O.





## Community Meeting for 1808 Riverside

Thank you for coming this evening.

The purpose of the meeting is to welcome your input and questions concerning the building plans for the referenced lot. I will list possible concerns you may have and welcome feedback.

After discussion, on the attached page, indicate whether you support by checking yes or no and comments that you may have.

In March, you can attend the Board of Zoning appeals meeting to voice your opinion.

- 1) Why Variance needed. The lot survey after purchase 14,249 sq ft. The zoning for R-15 requires a minimum of 15,000 sq.ft. & allows a one or two family residence.
- 2) Why (2) Homes. Purchased based on deed indicating 16,600 sq.ft. & the investment.
- 3) Building style. To fit in with the character of the neighboring homes and enhance the area. Planning ranch/cottage type.  
Note: No tall skinny
- 4) Building orientation. Objective is to place homes on the lot facing Riverside & 20th street as far apart as possible. Estimate 30ft.
- 5) Home size. Planning 1400 sq.ft plus or minus 10%.
- 6) Driveway entry. Public works will have final approval. Likely 20th street.
- 7) Project construction. Every effort will be made to mitigate noise, street traffic, and debris during the construction.

1808 Riverside Rd Old Hickory, TN

Print your name and address and indicate below by circling yes or no whether you support the variance request for (2) homes and any other comments.

Name \_\_\_\_\_

Address \_\_\_\_\_

Support    Yes    No

Comments:

*Doc 1876 T.M. Moore 32*

(Instrument prepared by J.M. Whitsitt, Jr., Attorney, Hiway 100, Nashville, Tenn)

ADDRESS NEW OWNER(S) AS FOLLOWS <b>J. Frank Moore et ux</b> <small>(NAME)</small>		SEND TAX BILLS TO: same	MAP-PARCEL NUMBERS: Map 53 Parcel 7
<b>1806 B. Riverside</b> <small>(STREET ADDRESS OR ROUTE NUMBER)</small>		<b>BOOK 5103 PAGE 13</b> <small>(NAME)</small>	
<b>Old Hickory, Tenn 37038</b> <small>(CITY)</small>	<b>Tenn</b> <small>(STATE)</small>	<b>37038</b> <small>(ZIP CODE)</small>	

WARRANTY DEED

For and in consideration of the sum of Five Thousand Seven Hundred and NO/100-----  
(\$5,700.00)----- DOLLARS

STATE OF TENNESSEE  
 COUNTY OF DAVIDSON  
 THE ACTUAL CONSIDERATION OR TRUE VALUE  
 WHICHEVER IS GREATER, FOR THIS TRANSFER IS  
 \$ 5,700.00  
 I, J. Frank Moore  
 AFFIDAVIT  
 SUBSCRIBED AND SWORN TO BEFORE ME, THIS  
 THE 5<sup>th</sup> DAY OF January 1977  
S. St. Paul  
 Deputy Registrar

83850  
 JAN 5 12 43 PM '77  
 DAVIDSON COUNTY REGISTER  
 REFERENCE

we, the Metropolitan Government of Nashville & Davidson County, Tennessee, have bargained and sold, and by these presents do transfer and convey unto the said

J. Frank Moore and wife, Mary T. Moore

the GRANTEES herein, their heirs and assigns, a certain tract or parcel of land in Davidson County, State of Tennessee, described as follows:

BEING part of Lot Nos. 32 and 33 on the plan of Village of Old Hickory Sub-division, of record in plat book 1424, page 131, in the Register's Office for Davidson County, Tennessee, as follows:

BEGINNING at a point on the West margin of Riverside Road at the common front corner between Lot Nos. 32 and 33 of the above Subdivision; thence Southerly with the West margin of said Road as relocated South 28° 12' West 69.48 feet to the beginning of a curve to the right at the intersection of 20th Street, as now relocated; thence along said curve, having a radius of 25 feet, a distance of 41.7 feet to the end of said curve; thence Westwardly along the North margin of 20th Street as relocated, North 56° 13' West 2.04 feet to a point and continuing Westwardly with the margin of 20th Street following the arc of curve with a radius of 531.39 feet, a distance of 131.54 feet to a point on the common rear line of Lot Nos. 33 and 62 of above Subdivision; thence Northerly along said common rear line of Lots 33, 61 and 62, a distance of 70.2 feet to a point on the rear line of Lot No. 61; thence Southeastwardly along the dividing line between Parcel No. 57 and 58 on Metro Tax Map No. 53-7, a distance of 196.02 feet to the point of beginning and containing 16,600 square feet, more or less.

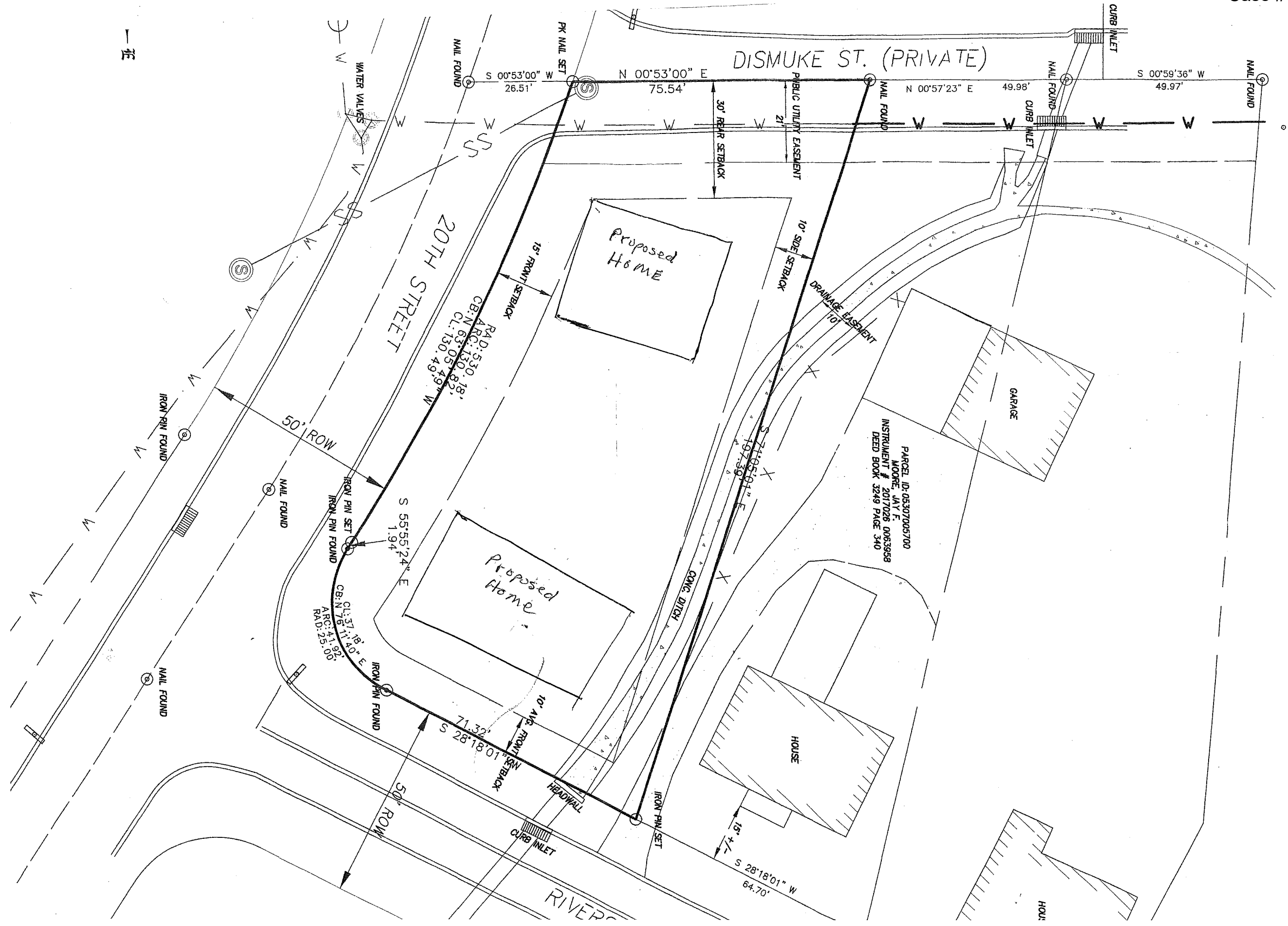
<i>69.48</i>	JAN-57 CONV	*5,700.00		
	JAN-57 S'TAX		B*	14.82
	JAN-57 PR'FEE		B*	.50
	JAN-57 W'DEED		B*	4.00 * 19.32

unimproved ( )  
 This is improved ( ) property, known as \_\_\_\_\_  
 (House Number) (Street)  
 \_\_\_\_\_  
 (P. O. Address) (City or Town) (Zip Code)

To have and to hold the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEES, their heirs and assigns, forever. And we do covenant with the said GRANTEES that we are lawfully seized and possessed of said land in fee simple, have a good right to convey it, and the same is unencumbered, unless otherwise herein set out. And we do further covenant and bind ourselves, our heirs and representatives to warrant and forever defend the title to the said land to the said GRANTEES, their heirs and assigns against the lawful claims of all persons, whomsoever.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.



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**From:**

Gis Johannsson  
1708 Riverside Rd  
Old Hickory, TN 37138  
(615) 502 2045

**Regarding:**

Appeal Case Number 2020 - 153  
Parcel ID: 05307005800  
Property address: 1808 Riverside Rd, Old Hickory, TN 37138

Dear members of the Board of Zoning Appeals

Please do not approve variance for appeal case number 2020 - 153, for the purpose of bulding 2 family homes on the lot.

**Why?**

The owner of this property, Mr. Michael Peeks (represented by law firm Baker Donelson) claims this lot is 14,249 square feet in size. He stated that on a zoning appeal application dated 10-31-2019, as well as reiterating that during a meeting with Old Hickory residents on January 13<sup>th</sup> 2019.

By this claim, Mr. Peek maintains that the lot is only 751 square feet shy of meeting minimum R15 zoning requirements but all public information regarding this lot, including on Nashville.gov, lists this lot at 0.32 acres or 13,939.2 square feet. That is 1060.8 square feet shy of meeting minimum R15 zoning requirements. During the January 13<sup>th</sup> 2019 meeting, Mr. Peek stated that official records on the size of this lot are wrong.

Before considering granting variance to build 2 family homes on a lot that according to official public records is 13,939.2 square feet, please do proper diligence and ascertain the true size of this parcel lot.

### **Preserve historic Old Hickory Village architectural landscape**

It would be enormously out phase with Old Hickory Village's 100+ years landscape to build 2 family homes at 1808 Riverside Drive. All of the neighborhood lots feature single-family homes, many of which have been restored to reflect the Village's original landscape and architecture that the area is known and revered for.

As Nashville has grown in popularity, developers have sought to maximize profits by consolidating traditionally single family home lots under 2 homes. I hope that you support the growing concern by many Old Hickory residents that this trend is detrimental to Old Hickory Village's nod to the past and charm. There are homes on the National Register of Historic Places within 1 minute driving distance of 1808 Riverside Rd (0.3 miles). The key to Historic Old Hickory's growth and value is home restoration and preservation but not by altering its historic neighborhoods by consolidating lots for multi family homes, negatively affecting neighborhood real estate and community values.

Historic Old Hickory is revered for the home restoring efforts that have taken place in recent years, making Old Hickory village a sought-after place to live. That is a desirable and a responsible way forward, but not changing the village's architectural landscape for no apparent reason other than developers' profits.

Please reject the appeal for variance for the purpose of building 2 family homes at 1808 Riverside Dive, Old Hickory but encourage the developer to respect the neighborhood's grown architectural landscape and instead build a single-family home on the lot that might enhance the value and charm of Historic Old Hickory Village.

Sincerely,



Gis Johannsson

Metropolitan Board of Zoning Appeals  
Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210



Appellant : Baker Donelson Date: June 2, 2020  
Property Owner: Ciara Properties Case #: 2020- 154  
Representative: Joey Hargis Map & Parcel: 91-14-203

Council District 24

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To allow the construction of a new single family residence

Activity Type: Single Family Residence

Location: 234 Orlando Avenue

This property is in the R6 Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Variance in street setback; Required 20' Providing 10'

Section(s): 17.12.030A

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection B Of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Baker Donelson  
Appellant Name (Please Print)

\_\_\_\_\_  
Representative Name (Please Print)

211 Commerce St. Ste. 800  
Address

\_\_\_\_\_  
Address

Nashville, TN 37201  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

615-726-7391  
Phone Number

\_\_\_\_\_  
Phone Number

jhargis@bakerdonelson.com  
Email

\_\_\_\_\_  
Email

\_\_\_\_\_  
Appeal Fee:

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

*Joel K. Hargis*

**APPELLANT**

June 2, 2020

**DATE**



## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property-** The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics-** *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

*Hardship not self-imposed-* *The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases-* *Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property-* *The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare-** *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan-** *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*

In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

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**APPELLANT**

June 2, 2020

**DATE**

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**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

The exceptional topographic and floodplain/floodway issues which encumber this property  
are the basis of our hardship

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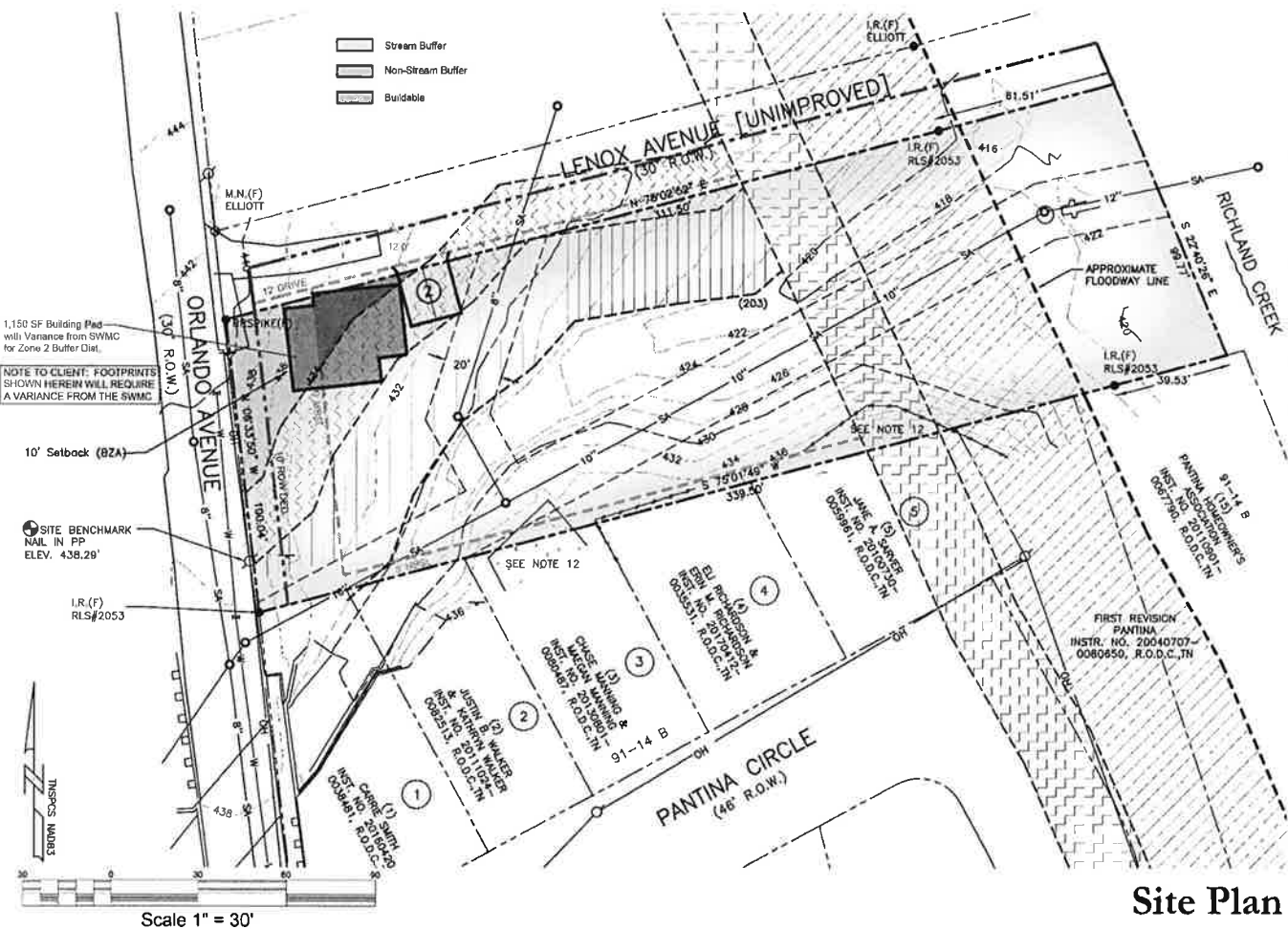
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Scale 1" = 30'

**234 ORLANDO AVENUE**




BEING PARCEL 203 ON TAX MAP 91-14  
 NASHVILLE, DAVIDSON COUNTY, TENNESSEE

DATE: 10/31/19

**DD**  
**Dale & Associates**

Consulting Civil Engineering  
 Land Planning & Zoning  
 Surveying & Architecture  
 514 Heather Place  
 Nashville, Tennessee 37204  
 (615) 271-5386

**Site Plan**

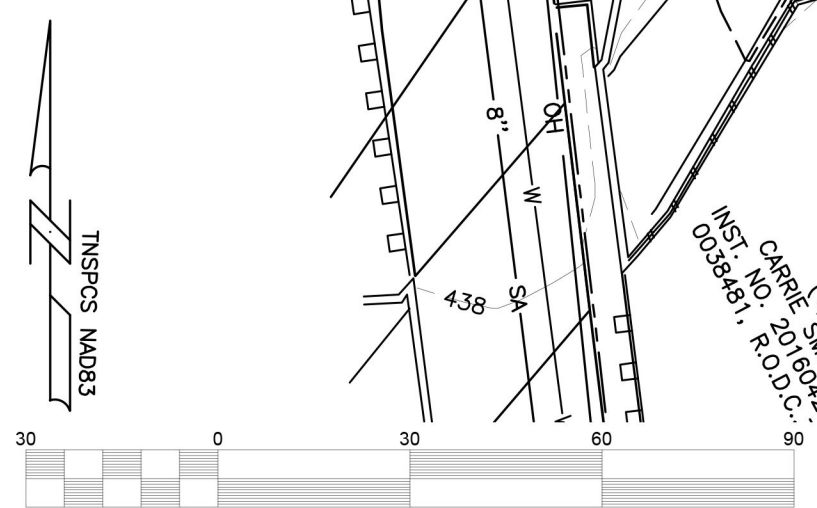
-  Stream Buffer
-  Non-Stream Buffer
-  Buildable

1,150 SF Building Pad with Variance from SWMC for Zone 2 Buffer Dist.

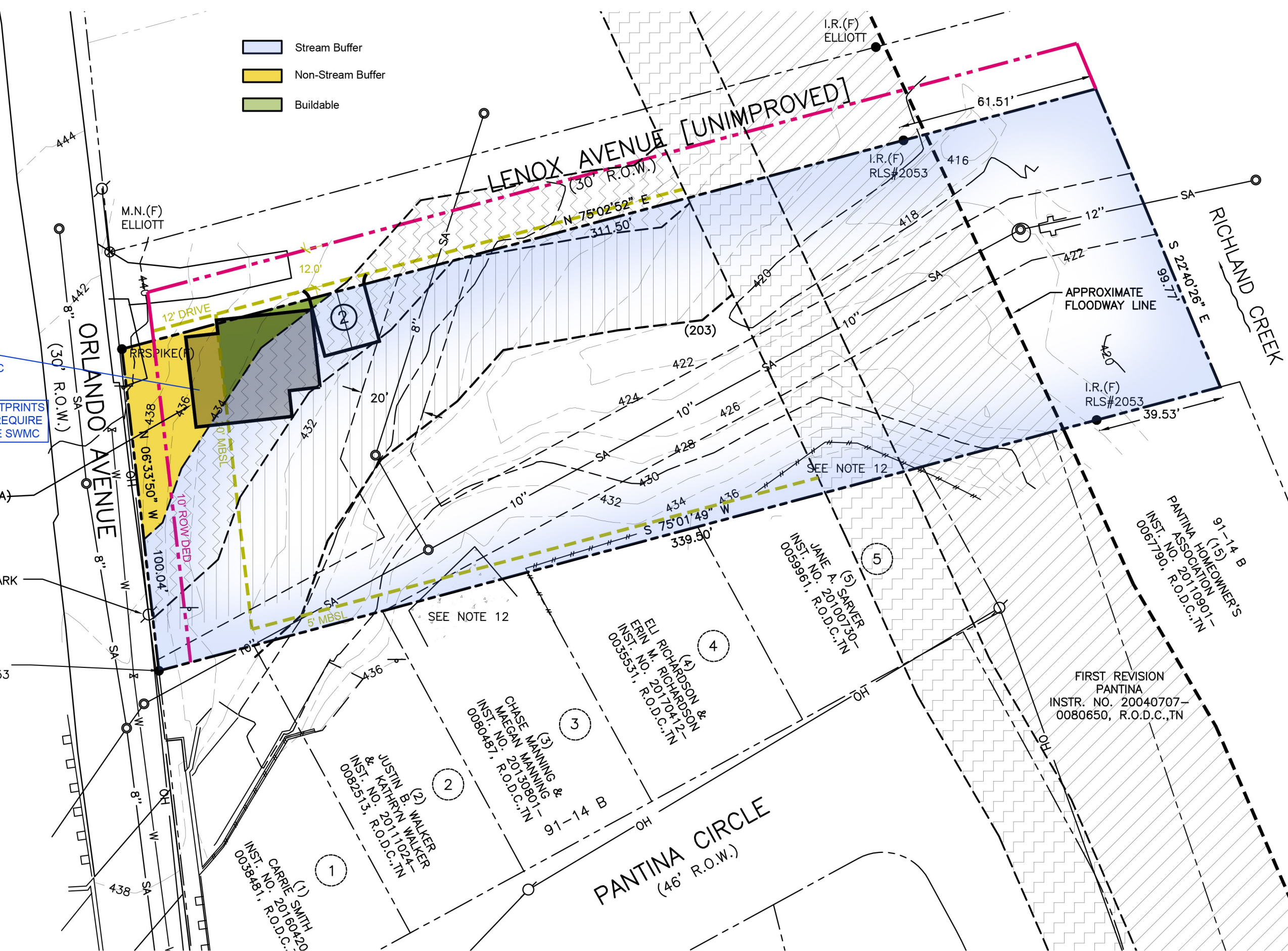
NOTE TO CLIENT: FOOTPRINTS SHOWN HEREIN WILL REQUIRE A VARIANCE FROM THE SWMC

10' Setback (BZA)

SITE BENCHMARK  
NAIL IN PP  
ELEV. 438.29'



Scale 1" = 30'




Site Plan

# 234 ORLANDO AVENUE

BEING PARCEL 203 ON TAX MAP 91-14  
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

DATE: 10/31/19



## Dale & Associates

Consulting Civil Engineering  
Land Planning & Zoning  
Landscape Architecture  
Surveying

516 Heather Place  
Nashville, Tennessee 37204  
(615) 297-5166

FIRST REVISION  
PANTINA  
INSTR. NO. 20040707-  
0080650, R.O.D.C.,TN

91-14 B  
PANTINA HOMEOWNER'S  
ASSOCIATION  
INST. NO. 20110901-  
0067790, R.O.D.C.,TN

(4)  
ERIN M. RICHARDSON &  
ELI RICHARDSON  
INST. NO. 20170412-  
0035551, R.O.D.C.,TN

(3)  
CHASE MANNING &  
MEGAN MANNING  
INST. NO. 20130801-  
0080487, R.O.D.C.,TN

(2)  
JUSTIN B. WALKER  
& KATHRYN WALKER  
INST. NO. 20111024-  
0082513, R.O.D.C.,TN

(1)  
CARRIE SMITH  
INST. NO. 20160420-  
0038481, R.O.D.C.,TN

(5)  
JANE A. SARVER  
INST. NO. 20100130-  
0059861, R.O.D.C.,TN



**From:** [HENRY PARMER](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** comment appeal case # 2020-154  
**Date:** Thursday, July 9, 2020 6:17:36 PM

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Dear Board of Zoning Appeal members:

I tried to send this earlier but was unable to, system problems.

I am writing in opposition to the setback appeal for the following address  
Appeal Case number 2020-154  
234 Orlando Avenue  
Map Parcel: 091140200300  
zoning classification: R6  
Council District 24

I am in opposition to the setback appeal for the above mentioned property for several reasons.

It is rather close to the bridge that crosses the tertiary creek that feeds into Richland Creek.

Orlando Avenue is a narrow street, which is frequented by residents and people cutting through the neighborhood from Charlotte Pike.

When school is in session many more people drive up and down Orlando with their children who attend The Big Picture High School which is also in the neighborhood.

If you have any questions for me regarding my comments, I can be reached by way of this e-mail address [hjparmer@comcast.net](mailto:hjparmer@comcast.net).

I will be unable to attend the meeting as I will be out of town.

Sincerely:  
Joan Parmer  
5406 Burgess Avenue  
Nashville, Tn. 37209

**White Bridge Neighborhood Association**

P. O. Box 91003  
Nashville, TN 37209

July 12, 2020

VIA EMAIL

Metro Nashville Board of Zoning Appeals  
800 Second Avenue South  
Nashville, TN 37210

SUBJECT: Case Number 2020-154 (July 16, 2020 BZA Meeting)

Dear Board of Zoning Appeals Members:

The White Bridge Neighborhood Association (WBNA) area includes over 1,000 households. We would like to submit comments on the request from street setback requirements to construct a new single-family residence at 234 Orlando Avenue.

We understand that the request before the BZA is for a 10-foot variance from the front setback requirement. Orlando Avenue is a very narrow street, and we oppose allowing a home to be built closer to the street than the current Metro requirement for the setback.

In addition, the proposed plan seems to show that only 120 square feet of the lot would be buildable, which makes it unsuitable for this development.

The developer indicated that part of the residence would be built in the stream buffer, which we oppose in order to protect the water quality of the stream, which flows into Richland Creek, a short distance away.

Thank you for your consideration of our request.

Sincerely,



Suzette Crutchfield  
President





## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Jay Fulmer Date: 06/01/2020  
 Property Owner: Saunders Properties, LLC Case #: 2020- 159  
 Representative: Jay Fulmer Map & Parcel: 10503003700  
 Council District: 17

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: Exemption from all parking requirements due to narrowness of site.  
 Activity Type: Retail/Light Manufacturing  
 Location: 1117 3<sup>rd</sup> Ave S, Nashville TN 37210

This property is in the MUL-A Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Narrowness of site and inability to make curb-cuts on 3<sup>rd</sup> Ave.  
 Section: 17.2.030

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Jay Fulmer Representative: Jay Fulmer  
 Phone Number: 615-345-3770 Phone Number: 615-345-3770  
 Address: 2002 Richard Jones Rd | Suite B200 Address: 2002 Richard Jones Rd | Suite B200  
Nashville TN 37215 Nashville TN 37215  
 Email address: jay@fulmerlucas.com Email address: jay@fulmerlucas.com

Appeal Fee: \_\_\_\_\_

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

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**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

Jay Fulmer

**APPELLANT**

06/01/2020

**DATE**

## Standards for a Variance

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*Hardship not self-imposed-* *The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases-* *Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property-* *The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

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At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

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**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

We are unable to provide required parking due to narrowness of site and an inability to make curb-cuts on 3rd Ave S.

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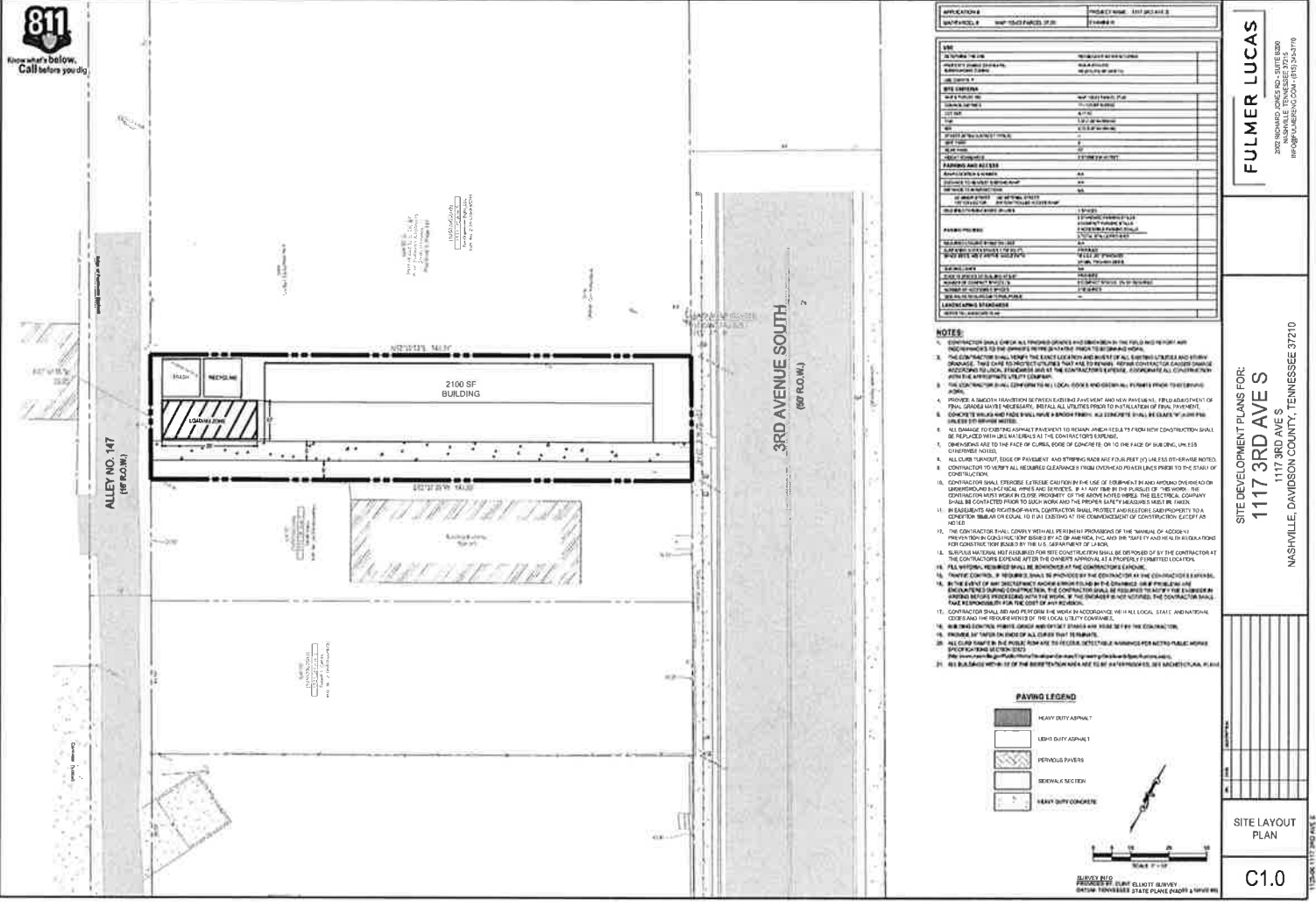
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APPLICATION #	PROJECT NAME	DATE SUBMITTED
2020-155	FULMER LUCAS	08/11/2020

DATE	DESCRIPTION	APPROVED BY
08/11/2020	PRELIMINARY REVIEW	[Signature]
08/11/2020	FINAL REVIEW	[Signature]

ITEM	REMARKS
1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF NASHVILLE'S ZONING ORDINANCES AND THE NASHVILLE CITY CODE.	
2. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
3. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
4. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
5. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
6. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
7. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
8. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
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15. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
16. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
17. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
18. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
19. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	
20. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES THAT ARE TO REMAIN.	

**FULMER LUCAS**  
 2002 NICHOLS DRIVE, SUITE 200  
 NASHVILLE, TENNESSEE 37203  
 PHONE: 615.259.1234

---

**SITE DEVELOPMENT PLANS FOR:**  
**1117 3RD AVE S**  
 NASHVILLE, DAVIDSON COUNTY, TENNESSEE 37210

---

**SITE LAYOUT PLAN**

**C1.0**

**From:** [Sledge, Colby \(Council Member\)](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#); [Lamb, Emily \(Codes\)](#); [Cathey, Eben \(Planning\)](#); [Michael, Jon \(Codes\)](#)  
**Subject:** District 17 positions for July 16 meeting  
**Date:** Monday, July 13, 2020 12:57:58 PM

---

Good afternoon, all,

Here are my positions on the three D17 items:

Case 2020-155: I **strongly support** this appeal.

Case 2020-156: I support the operation but want the applicant to pay into the sidewalk fund.

Case 2020-157: I **strongly oppose** this appeal.

Colby

----

Colby Sledge

Metro Councilmember, District 17

(615) 442-3727

[Sign up for my weekly newsletter here!](#)

Metropolitan Board of Zoning Appeals  
800 Second Avenue South  
Nashville, TN 37210  
615-862-6530

Applicant: Joni Elder Date: May 28, 2020  
Property Owner:  
Norman, Duina & Stratton, Pia Case #: 156  
Representative: George A. Dean Map & Parcel: 10510010200

Council District: 17

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: Operation of a kennel; distance requirement variance; and a variance from sidewalk requirements

Activity Type: Kennel

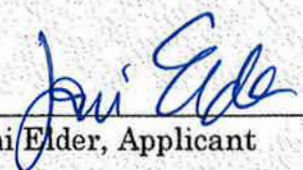
Location: 1802 8<sup>th</sup> Ave. S.

This property is in the CS Zone District; in accordance with this application, and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal, and including the previous appeals, ##2018-252 & 2019-269.. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason: Special exception and variance

Sections: MetZo §§17.16.150 & 175(A)

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in §17.40.180, subsection B & C (Tenn. Code Ann. § 13-7-207(2&3)) of the Metropolitan Zoning Ordinance, a special exception and variance are hereby requested in the above requirement as applied to this property.

\_\_\_\_\_  
Completed and Witnessed

  
\_\_\_\_\_  
Joni Elder, Applicant

\_\_\_\_\_  
Date

This will also serve as a receipt of (cash) (check) (credit card) to partly compensate for the expenses under

## BEFORE THE METROPOLITAN BOARD OF ZONING APPEALS

RE: Joni Elder Appeal Case 2019-269  
 1802 8TH AVE S  
 Map Parcel: 10510010200  
 Zoning Classification: CS

ORDER

This matter came to be heard in public hearing on 6/20/2019, before the Metropolitan Board of Zoning Appeals, upon application for a variance from sidewalk requirements to conduct interior renovations without building sidewalks or paying into the sidewalk fund.

Based upon the entire record as recorded on the video recording and contained in the file, from all of which the Board finds that:

- (1) Proper legal and written notice of the public hearing had been complied with as set forth in Section 17.40.720 of the Metropolitan Code.
- (2) The appellant sought this permit under Section 17.40.180 of the Metropolitan Code.
- (3) The appellant HAS satisfied all of the standards for a variance under Section 17.40.370 of the Metropolitan Code.

It is, therefore, ORDERED by the Metropolitan Board of Zoning Appeals that the appellant's request shall be GRANTED, subject to the following conditions: 1. The appellant must maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk. 2. If the site is redeveloped or sidewalks are triggered in the future, the redevelopment or site improvements shall incorporate appropriate site work to construct a sidewalk to current standards unless a new sidewalk variance is granted by the Board of Zoning Appeals. 3. The variance is granted until 11/20/2020.

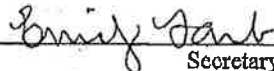
UPON MOTION BY: Ross Pepper Seconded By: Christina Karpynec  
 Ayes: Ashonti Davis, Alma Sanford, Cynthia Chappell, David Taylor  
 Nays:  
 Abstaining:  
 Absent:

ENTERED THIS 27 DAY OF JUNE, 2019

METROPOLITAN BOARD OF ZONING APPEALS



Chair



Secretary

## BEFORE THE METROPOLITAN BOARD OF ZONING APPEALS

Re: Applicant: Joni Elder  
1802 Eighth Avenue South  
Map: 105-1 Parcel: 102  
Zoning Classification: CS

Case # 2018-252

## ORDER

This matter came to be heard in public hearing on August 2, 2018, before the Metropolitan Board of Zoning Appeals, upon the request of Joni Elder, appellant, and for a dog day care (classified as a kennel under MetZo) on property located at 1802 Eighth Avenue South. The board has jurisdiction under MetZo §17.40.180(C), and the requirements of MetZo §§17.16.150 & 210(C) apply. The appellant proposes to lease the property referenced above and requests a special exception for the use. The use is permitted in an CS zoning district upon meeting the general and specific conditions of MetZo §§ 17.16.150 & 175.

In addition, the applicant announced at the last meeting of the Board and reiterated at this meeting, that out of deference to neighborhood concerns, there would be no outdoor exercise or play area for the animals. A small percentage of the dogs would need to be walked (estimated at 2%).

Based upon the entire record as recorded on the video recording and as contained in the file, from all of which the Board finds that:

1. Proper legal and written notice of the public hearing has been given as set forth in § 17.40.720 & 730 of MetZo;
2. The applicant has requested the issuance of a special exception permit under §§ 17.40.180(C), 17.16.150 and §17.16.175 of MetZo;
3. The property is located at by 1802 Eighth Avenue South, in a commercial zoning district.
4. The board concludes that the applicant has demonstrated compliance with all of the requirements applicable to this request, including the general provisions under MetZo §17.16.150 and the requirement of a meeting with the neighbors pursuant to the rules of this Board.



### Specific Standards

5. **Setback.** No part of any building or structure in which animals are housed shall be closer than two hundred feet, and no kennel run shall be located within one hundred feet, from any existing residence, other than one owned or occupied by an owner or operator of the kennel or stable. In the event more than ten horses are boarded on five acres or more, the building setback shall increase to two hundred feet from the property line.

The building which will house this facility is located 147 feet from the closest residence. The applicant is asking for a variance concerning that distance. The Board finds that the applicant's modifications to the existing structure which will limit the amount of noise created by the animals to less than those typically found within a commercial corridor. As stipulated at the last meeting (and again at this hearing), there will not be any outdoor play area associated with this use, although naturally some of the dogs will need to be walked from time to time.

The Board concludes that the distance requirement is intended to act as a buffer both with regard to noise and odor. The applicant's decision to eliminate outdoor exercise area correspondingly reduces the buffer needed and the changes to the structure in order to soundproof the building are exceptional conditions justifying the variance. The Board finds that these measures will limit noise to the surrounding properties and are a proper basis for the requested variance.

The Board also finds that the hardship here is not self-imposed: the distance between the two buildings was created by combination of factors and not purely by this applicant or any predecessor in title. Furthermore, financial gain is not the only basis for the request. Because of the soundproofing, there will not be an adverse impact to the residential unit or units, and in fact, little or no impact any surrounding property. There will certainly also be no harm to the public welfare or any detriment to the intent or purpose of the zoning ordinance itself.

6. **Building Temperature.** Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting.

The building will be heated and air-conditioned. The floors of the building will be impervious.

7. **Cages.** For a kennel, each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages. Cages are to be of material and construction that permits cleaning and sanitizing. Cage floors of concrete, unless radiantly heated, shall have a resting board or some type of

bedding.

Each dog will be provided its own container with sufficient space to stand up, lie down, and turn around without touching the sides or top of the cages. Cages will be kept in sanitary condition at all times. Bedding will be provided for the comfort of the animals.

8. Runs. For a kennel, each run must have at least a six-foot high fence completely surrounding it. Fences must be maintained in escape-proof condition. Runs shall provide an adequate exercise area and protection from the weather. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.

Inapplicable; the applicant does not intend to have outdoor exercise areas for the animals based on the hearing before this board at its last meeting.

9. Requirements 9-12 are inapplicable to this application.
10. Watering of Animals. All animals shall have fresh water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and shall be of the removable type.

The dogs will all have fresh water available at all times.

11. On-Site Waste Collection. All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products from the kennel shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.

The applicant has indicated that on-site waste will be collected each day and held in the building in a separate enclosure or freezer, until trash collection. The Board finds that this meets the requirement.

### General Provisions

The Board further finds that the applicant also meets the requirements of the General Provisions, found at MetZo § 17.16.150, as follows:

- A. Burden of Proof. A special exception permit shall not be considered an entitlement, and shall be granted by the board of zoning appeals only after the applicant has demonstrated to the satisfaction of the board that all of the

required standards are met.

The applicant meets all of the requirements of the code except for the distance requirement.

- B. **Ordinance Compliance.** The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this title, unless circumstances qualify the special exception for a variance in accordance with Chapter 17.40, Article VIII. Any accessory use to a special exception must receive express authorization from the board of zoning appeals.

See above.

- C. **Integrity of Adjacent Areas.** A special exception use permit shall be granted provided that the board finds that the use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The board shall determine from its review that adequate public facilities are available to accommodate the proposed use, and that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties. The board may request a report from the metropolitan planning commission regarding long-range plans for land use development.

The facility is located, designed, and proposed to be operated so as to ensure that the public welfare will be protected. There are adequate public facilities available to accommodate the proposed use, including water and sewer and trash and refuse collection. This area of the city is significantly commercial and although there are residential properties in the area, there will be no adverse effect that would impair the reasonable long-term use of those properties. The planning commission has recommended approval if the distance variance is granted.

Along the same lines, the Board finds that there are a number of other uses permitted by right in this zoning district including bars and nightclubs, mini-markets selling beer and cigarettes, flea markets, grocery stores, home-improvement sales, hotels and motels, laundry plants, liquor sales, major appliance repair, fast food restaurants, full-service restaurants, take out restaurants, vehicular rentals, and many more. When compared with these kinds of uses which are by right in the zoning district, this animal day care facility certainly will not impair the integrity of the adjacent properties.

- D. **Design and Architectural Compatibility.** The operational and physical characteristics of the special exception shall not adversely impact abutting

properties, including those located across street frontages. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.

The operational and physical characteristics will not adversely impact adjacent properties. The architectural features of the building will essentially remain and those have been present for many years.

- E. Natural Features. Special exception uses in residential zone districts must comply with the nonresidential tree protection regulations and other natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of nonresidential structures and parking areas.

This property is not located within a residential zoning district.

- F. Historic Preservation. Features of historical significance shall not be adversely affected by the granting of any special exception. The metropolitan historic zoning commission shall be consulted regarding those features essential to preserve the historical integrity of a building or site of historical significance.

The Board finds that there are no historic structures or historically significant features which will be affected by this proposal.

- G. Traffic Impact. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. The board of zoning appeals may require a traffic impact study for any special exception land use.

This property fronts on Eighth Avenue, in a significantly commercial corridor. This use will have no impact on the traffic in the area.

- H. Repealed.

- I. Hazard Protection. The proposed use shall reasonably protect persons and property from erosion, flooding, fire, noise, glare or similar hazards.

The Board finds that use on this property will not increase any kind of hazard, including those from erosion, flooding, fire, noise or other similar problems. The dogs will for the most part be indoors, and the interior of the building will be soundproofed as a condition of approval.

- J. Special Conditions. Notwithstanding a finding by the board of zoning appeals that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

Conditions as stated below are required.

It is therefore ORDERED by the Metropolitan Board of Zoning Appeals that the request for the waste transfer station special exception is hereby granted, subject to the following conditions:

1. The special exception is granted for a period of 24 months.
2. The applicant must remain associated with the franchise, Dogtopia.
3. No more than 100 dogs during regular business hours; no more than 50 dogs at night.
4. Waste management procedures as follows:
  - a. On-site waste will be collected each day and held in the building in a separate enclosure or freezer, until trash collection.
    - Pick up solid waste immediately using plastic bag
    - Clean area immediately with bio-enzymatic cleaner
    - Securely tie the plastic bag
    - Place in a tightly lidded bin lined with 2<sup>nd</sup> plastic trash liner
    - Empty the trash bin at the end of each day, double bagged waste placed in freezer inside facility
    - Trash collected twice weekly
  - b. A specific dumpster will be marked and placed as far away from residential uses as possible.
5. Sound proofing as specified by the applicant is required. A copy of the diagrams detailing the method is attached.
6. The special exception is granted only for this applicant.



Upon Motion Made By: Karpynek                      Seconded by: Harper

Ayes: Harper, Ewing, Karpynek and Sanford

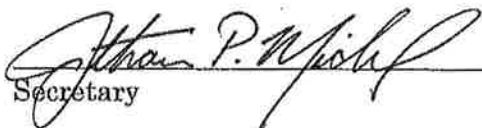
Nays: Ewing, Chappell

Absent: King

Entered this 7<sup>th</sup> day of August, 2018.

Metropolitan Board of Zoning Appeals

  
Chair

  
Secretary

7/13/2018

### Sound Control - Walls

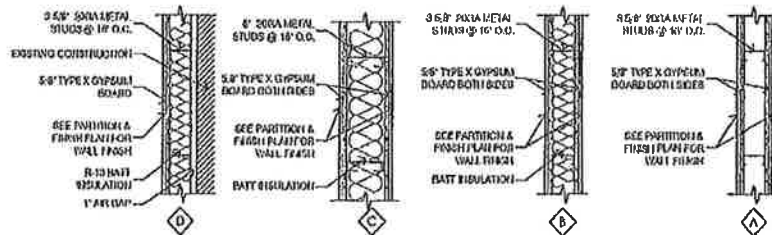
- 6 Inch thick, fully Insulated, metal studs type X-5/8 Gypsum board on each side
- Wall spans floor to roof deck and filled with acoustical insulation
- Wall is continuous and prevents any substantial amount of sound or smell from escaping
- Exterior walls have a 2 wall system with an air-gap applied
- Acoustic sealant then applied
- This assembly results in STC rating of approx 70 (Class rating superb)



27

### Sound Control

- Special Wall Type at Demising Wall(s) that Extend to the Roof Deck
- Special Wall Type Between Playrooms and PeopleSpace that Extend to the Roof Deck
- Air Gap at the Demising Wall
- Type A: Walls for Bathrooms, Dog Food Prep Area, etc (Non-Dog Rooms)
- Type B: Walls Between the Dog Playrooms.
- Type C: Demising Walls (Adjacent/Shared wall with Neighboring Tenant(s))
- Type D: Wall Between Playroom and People Spaces (i.e. -- Hallways, Restrooms, Spa/Grooming, etc) Extends to Roof Deck



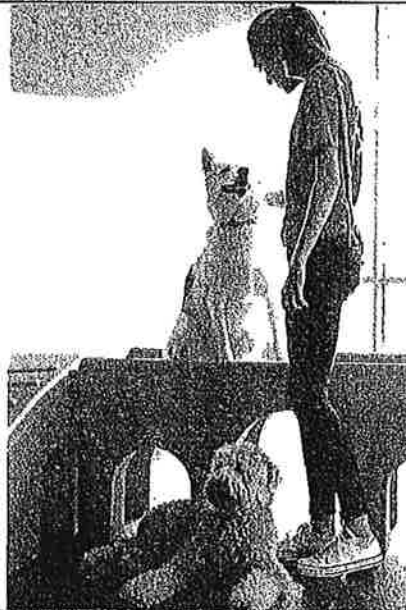
STANDARD OPERATING PROCEDURES



7/13/2018

### Sound Control - Ceiling

- Suspended ceiling system with School Zone lay in acoustical tiles to absorb sound from escaping
- Tiles have a noise reduction coefficient of .7 and a ceiling attenuation class of up to 40; these tiles are often used in schools where sound absorption and reduction are critical
- Above ceiling tiles is an R-30 insulation
- Together this system provides excellent sound reduction



STANDARD OPERATING PROCEDURES



## Metropolitan Codes Administration CASE SUMMARY

CAZW - 20200021063

**DONE**

Pursuant # 2006-1263 Metro Code of Laws, I (holder OF permit) hereby certify that all construction & demolition waste generated by any & all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction & demolition waste shall be stored on the property in violation of any provision of Metro Code...

**ADDRESSES****PROPERTY**

10510010200  
1802 8TH AVE  
NASHVILLE, TN 37203

**PEOPLE****Property Owner**

NORMAN, DUINA Z.& STRATTON, PIA D.  
913 BOWRING PIKE

NASHVILLE, TN 37215

**Permit/License Applicant**

MTLC INCORPORATED

FRANKLIN, TN 37064

**Appellant**

Joni Elder  
Joni Elder

**DATA GROUP****Permit Information****Project Scope**

to conduct rehab work to existing building for Dogtopia.  
MUST COMPLY WITH BZA ORDER FROM CASE 2018-252

\*\*\*PURSUANT TO ORDINANCE NO 2008-1263 of the Metropolitan Code of Laws, I, holder of this permit, hereby certify that all construction and demolition waste generated by any and all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction or demolition waste shall be stored on the property in violation of any provisions of the Metropolitan Code. For every 30 feet of street frontage, or fraction thereof, one 2 inch caliper tree as listed in the Urban Forestry approved tree list shall be planted on the subject property.\*

**Sidewalk Waiver Request****Metro Planning  
Recommendation**

Disapprove: construct sidewalk to MCSP standard

**Waiver Circumstance**

b. Unique Situation

**WORKFLOW**

Task:	Inspector:	Result:	Due/Scheduled:	Completed
CA - Zoning Waiver Payment Confirmation	TMOORE	PAIDZWEE	04/03/20	04/07/20
Type of Waiver Requested	JCSHEPHERD	FULLWAIVER	04/08/20	04/07/20



Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210



3661517

ZONING BOARD APPEAL / CAAZ - 20190023768  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification

PARCEL: 10510010200

APPLICATION DATE: 04/24/2019

## SITE ADDRESS:

1802 8TH AVE S NASHVILLE, TN 37203

PT LOTS 4&amp;5 SUB OF PT HORTON &amp; WAVERLY PLANS

PARCEL OWNER: NORMAN, DUINA Z.&amp; STRATTON, PIA D.

CONTRACTOR:

APPLICANT:

PURPOSE:

REQUIRED: PER 17.20.120 SIDEWALKS REQUIRED

REQUEST: NOT TO INSTALL SIDEWALKS OR CONTRIBUTE

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

*There are currently no required inspections*

Inspection requirements may change due to changes during construction.



## APPLICATION FOR A VARIANCE REQUEST

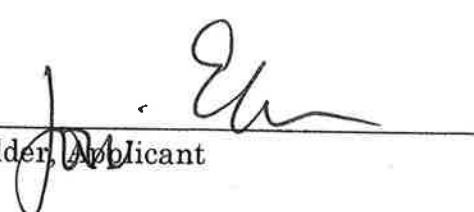
After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better idea of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete. Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

  
\_\_\_\_\_  
Joni Elder, Applicant

May 28, 2020

In simple terms, for the Board to grant you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a **HARDSHIP** as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

The building which will house this facility is located 147 feet from the closest residence. The applicant is asking for a variance concerning that distance. The applicant's modifications to the existing structure now limit the amount of noise created by the animals to less than those typically found within a commercial corridor. There will not be any outdoor play area associated with this use, although naturally some of the dogs will need to be walked from time to time.

The distance requirement is intended to act as a buffer both with regard to noise and odor. The applicant's decision to eliminate outdoor exercise area correspondingly reduces the buffer needed and the changes to the structure in order to soundproof the building are exceptional conditions justifying the variance. These measures will limit noise to the surrounding properties and are a proper basis for the requested variance.

See prior order of the Board of Zoning Appeals dated August 7, 2018.

## SPECIAL EXCEPTION REQUEST

BZA Rules of Procedure, Item 9(2) (e) requirements to conduct neighborhood meetings regarding the case that will later appear before the BZA. The BZA Rules specifies, "In the interest of having informed stake holder in special exception cases. It is required that the appellant make contact with the district council person and neighbors within 1000 feet of the subject property from a mailing list provided by the board staff. Information by the applicant shall include a contact person and include a reasonable representation of the proposal and hold a meeting at a geographically convenient place, date, and time. We encourage you to have the meeting prior to the deadline for additional information to presented to the board. Applicant shall document to the Board that this requirement has been met. Failure to comply may result in deferral of your case."

Zoning staff will provide you a mailing list of property owners in proximity to the location designated for a special exception permit. The BZA Rule then requires you to contact those persons on the mailing list, provide them with the date, time and place of meeting, and discuss your BZA request accordingly. If there is opposition to your case, this meeting gives you the chance to address those concerns prior to the public hearing at the BZA meeting.

You must create and provide documentation of your efforts to contact the neighboring property owners for the neighborhood meeting. Failure to do so can result in a deferral or denial of your appeal to the BZA.

I ACKNOWLEDGE MY RESPONSIBILITIES regarding the neighborhood meeting preceding the public hearing for by BZA appeal for a special exception



APPELLANT (OR REPRESENTATIVE)



DATE

**From:** [Gregory, Christopher \(Public Works\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#)  
**Cc:** [Ammarell, Beverly \(Public Works\)](#); [Lifsey, Debbie \(Codes\)](#)  
**Subject:** RE: Appeal 2020-156  
**Date:** Friday, June 5, 2020 10:43:43 AM

---

PW reviewed this case from a traffic standpoint of view. The sidewalk variance part, we are not addressing.

**2020-156 1802 8<sup>th</sup> Ave S. Distance from other buildings requirement variance**

Variance: 17.16.150 & 17.16.175 A

Response: Public Works takes no exception on condition that adequate parking is provided on site per code.

This does not imply approval of the submitted site plan as access and design issues will be addressed and coordinated during the permitting process.

---

**From:** Shepherd, Jessica (Codes) <Jessica.Shepherd@nashville.gov>  
**Sent:** Wednesday, June 3, 2020 2:43 PM  
**To:** Ammarell, Beverly (Public Works) <Beverly.Ammarell@nashville.gov>; Gregory, Christopher (Public Works) <Christopher.Gregory@nashville.gov>  
**Subject:** Appeal 2020-156

Appeal 2020-156 on agenda for 7-16-2020.

May 21, 2020

Re: Dogtopia 8th Avenue Letter of Recommendation

To whom it may concern,

As a pet owner and customer of Dogtopia 8th Ave., I can say without any hesitation that they have provided nothing but an exceptional experience for owners and their pets. I have lived in the Nashville area for over 20 years, and when my husband and I recently moved towards the fairgrounds, a huge factor was where we could take our dogs for daycare and boarding.

We previously lived near Dogtopia Old Hickory and started to send our dogs there. When we found out they were opening up a location on 8th Ave., near where we were looking to buy, it solidified we wanted to move in that area. I had done my research on dog daycares in the area, and none of them met the standards of what Dogtopia 8th Avenue offers. I personally feel like they provide a service that is needed in the 8th Ave/Wedgewood/Fairgrounds area that is not offered.

Mike and Joni have gone above and beyond to make sure their pet parents needs are met and have personally formed relationships with us and our pets. I have also seen them take the proper precautions to make sure they are operating as a good neighbor to surroundings businesses. When Paw Pals of Brentwood, TN had to temporary close last year due to roof problems, they instructed their customers to check out Dogtopia.

I have seen the growth and change in Nashville personally, and 8th Avenue is becoming a place where a lot of people want to move because of what businesses are around and the proximity of downtown. Dogtopia is in the perfect place and I think is an essential business for dog owners who are looking to move to the area. With more construction upon us, you need places like Dogtopia to appeal to families moving in the area and not feel like they have to go outside of the city to find a dog daycare.

Please feel free to reach out to me with any questions.



615.336.3992



Zane and Donna King  
2427 Elliott Ave.  
Nashville, TN, 37204  
615-427-2819  
donnakingmusic@gmail.com  
5-21-2020

To the board of zoning appeals,

We are not only from the neighborhood, but also clients of DOGTOPIA.

Having a wonderful place for our pet to hang and play that is safe, convenient, and extremely well-run is a great thing for us and for our neighborhood and city.

We have seen no negative effects to this wonderful place being up the street. The traffic flow is good. They run a very clean and organized facility.

We strongly encourage you to allow this business to stay for the VERY long haul. It has improved our family's life and our neighborhood experience as we meet others who also have their pets there for daycare and boarding.

Thank you!

Sincerely,  
Donna M. King  
Zane D. King

---

**From:** Board of Zoning Appeals (Codes)  
**To:** Joni Elder  
**Subject:** RE: BZA Letter of Support for Dogtopia 8th Ave BZA Case 2020-156

Dear Sir or Madam,

Thank you for your consideration to grant Dogtopia another permit. As a healthcare worker having a place my dog is cared for so well makes working long shifts so much easier on my husband and me. Our dog Sadie loves going to daycare there and their staff loves her in return. Please continue to allow this Dogtopia to operate in our neighborhood. They are an asset to so many like us.

Sincerely,  
Briana Brinkley

Sent from my iPhone

Dear Sir or Madam,

Thank you for your consideration to grant Dogtopia another permit. As a healthcare worker having a place my dog is cared for so well makes working long shifts so much easier on my husband and me. Our dog Sadie loves going to daycare there and their staff loves her in return. Please continue to allow this Dogtopia to operate in our neighborhood. They are an asset to so many like us.

Sincerely,  
Briana Brinkley

May 29, 2020

To Whom It May Concern,

Please know that as an essential healthcare professional in the community it was crucial to have Dogtopia open on 8<sup>th</sup> avenue. The location of 8<sup>th</sup> and Wedgewood is also very critical for my family and I as the location allows for it to be a quick/efficient drop off close to my home in the 12 south neighborhood. Not having their nearby location would make it very difficult for us to continue to have our rescue, Cooper. His anxiety makes it impossible to leave him at home and his Houdini abilities makes it impossible to kennel him anywhere else.

I think its also important to remember that their daycare is all inside a building and doesn't require any disturbances to nearby neighbors in terms of noise or issues of escaping pups. They keep a clean facility to allow customers a comfortable place to bring their pups but also cater to the neighbors by not having an outside area that creates a disturbance to the community.

We are very grateful for their care.

Thank you,

A handwritten signature in black ink that reads "Emily Isbell". The signature is written in a cursive, flowing style.

Emily Isbell

May 29, 2020

To Whom It May Concern,

Please know that I am very grateful to have Dogtopia. The location of 8<sup>th</sup> and Wedgewood is very critical for my family and I. The location allows for it to be a quick/efficient drop off close to my home in the 12 south neighborhood. Our rescue, Cooper is very anxious and cannot be left at home without causing major distraction. One day he broke through the front window and the cops were called because our neighbors thought we had a break in. Our camera footage proved otherwise, thankfully.

We are very grateful for their care and especially grateful for their nearby location.

Thank you,

A handwritten signature in black ink that reads "Tara Isbell". The signature is written in a cursive, flowing style.

Tara Isbell



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**From:** Board of Zoning Appeals (Codes)  
**To:** Joni Elder  
**Subject:** RE: Letter for board of zoning/appeals support for Dogtopia 8th ave from Ginny Caballero - BZA Case 2020-156

To who it may concern:

I want to express my gratitude and appreciation for the services of Dogtopia at 1802 8th Ave S, Nashville, TN 37203. Their location is not only ideal, but is conveniently located from my home and work. I have relied heavily on their services as I am a healthcare worker with a strenuous schedule and daily exposure to Covid-19. You cant imagine the difficulty of raising a puppy at the height of social distancing and Covid-19 shut-down. As I go to work everyday to selflessly take care of others, it gives me peace of mind knowing that the wonderful staff at Dogtopia is taking special care of my girl, Gia. Even on the most difficult of days, I can truly focus on my job knowing that my puppy is in great hands. At the end of the day, picking Gia up from Dogtopia is truly the highlight of my day.

Thank you,

Ginny Caballero

May 28<sup>th</sup>, 2020

To whom it may concern:

I am a resident of Berry Hill, and I am employed full-time at a local hospital. Dogtopia has enabled me to work long hours yet still provide my dog the attention and exercise that he requires. The location has been ideal for my commute to the medical campus, and their hours are designed to accommodate a variety of work schedules.

During the Covid-19 pandemic, Dogtopia could have closed their doors to save money due to so many of their clients working from home. However, they chose to stay open and extend additional services to essential workers in order to support their employees and the community. They made appropriate and responsible changes to ensure social distancing and safety. I do not know how I would have managed had they decided to close.

I believe that this local small business is a great asset to our community. I have always had nothing but positive experiences here. Dogtopia is very well managed, always clean, transparent and communicative, and above all kind. I am so fortunate to have a place that I can wholeheartedly trust with my dog.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emily Bahr', with a long horizontal flourish extending to the right.

Emily Bahr

To Whom It May Concern:

I am writing in support of Dogtopia on 8<sup>th</sup> Avenue in Nashville. Since it opened, Dogtopia has been a place where my dog has learned to socialize and play well with other dogs in a safe environment, and every staff member I've dealt with has always been friendly and helpful. Additionally, Dogtopia is on my way to work, so it is in a very convenient location to drop off and pick up my dog before and after work. The drop off and pick up process is very easy and seamless, and I have never heard any noise coming from the building or the parking lot. As a resident of the Nashville area for over 10 years, I feel that the addition of this business and others along 8<sup>th</sup> Avenue, such as Dogtopia and Baked on 8<sup>th</sup> bakery, have improved the appearance of the neighborhood buildings along this stretch of road, and have provided a lot of new offerings for residents in the surrounding areas. I would be very disappointed if Dogtopia was required to move, and recommend that the city allow the business to continue to operate in its current location.

Thanks,

Mary Ann C.  
(615) 336-2872

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**From:** Board of Zoning Appeals (Codes)  
**To:** Joni Elder  
**Subject:** RE: Dogtopia business license Letter of support from Kelsey Cooper BZA Appeal Case 2020-156

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**From:** Kelsey Cooper <[kecooper01@gmail.com](mailto:kecooper01@gmail.com)>  
**Sent:** Tuesday, May 26, 2020 10:32 AM  
**To:** Joni Elder <[JoniE@dogtopia.com](mailto:JoniE@dogtopia.com)>  
**Subject:** Dogtopia business license

To whom it may concern:

As a neighbor in the community and customer of Dogtopia I would like to support the extension of their business license. They have been an exceptional addition to our community providing a great service to local dog owners in a safe, clean, and respectful manner.

Thank you,  
Kelsey Cooper

To Whom it may Concern:

Dogtopia on 8th Avenue has been such a blessing for our family, especially our pup, Magnolia. This location of a dog daycare is merely 10 minutes from our house, which is perfect for my daily commute to the hospital and my husband's job downtown as well. We are so thankful for Joni and all the workers at Dogtopia who truly make our lives better. We look forward to many years of business with them.

Thank you,  
Seth & Kaleigh Sabin  
(615)775-8699



May 28, 2020

Zach Cavalier  
2914 Franklin Pike  
Nashville, TN 37204

Dear Zoning Committee Members,

I am writing this letter in regards to the re-evaluation of the zoning permit for the Dogtopia on 8<sup>th</sup> Ave in Nashville.

The addition of Dogtopia on 8<sup>th</sup> avenue has been extremely vital in our everyday life. As a full time remote employee, having a puppy in a small apartment can cause significant challenges on one's work life. Not to mention, the changes with forced remote work due to COVID-19 has as added more family members to an already small space. It can be extremely difficult to keep a puppy out of one's work, let alone a Zoom call.

Without Dogtopia, we would not have been able to accomplish this. We know that our puppy is in good hands with the staff at Dogtopia (plus we can watch her from the online webcam). The 8<sup>th</sup> Ave location is extremely convenient for us and does not require ~1 hour commute (due to Nashville traffic) to drop her off at the other locations. Our puppy has also improved her behavioral skills due to staying at Dogtopia.

We hope you use this letter as a strong recommendation to allow Dogtopia to continue to operate on 8<sup>th</sup> Avenue location.

Sincerely,



Zach Cavalier

VANDERBILT  UNIVERSITY  
MEDICAL CENTER

VANDERBILT OUTPATIENT PHARMACY  
1211 MEDICAL CENTER DR, TVC 1815  
NASHVILLE, TN 37232  
615.322.6480

Joni Elder  
1802 8<sup>th</sup> Avenue South  
Nashville, TN 37203  
615.486.2626

May 28, 2020

Joni Elder,

This letter is in response to a very concerning petition to remove Dogtopia on 8th from its business location.

We are highly disturbed that such an upstanding, professional, necessary business could potentially be removed.

All employees and the owner have been nothing but accommodating and take outstanding care of all the owners and animals that come into the facility. We are thrilled to have found a place where we know our furbabies will be taken care of like family, without any doubt in our minds.

As a healthcare professional family, Dogtopia on 8<sup>th</sup> Avenue has been essential to keep us afloat as we also tend to our community needs. Accordingly, the staff have lent our dog Lexi a warm and welcoming place where she has been able to flourish and stay safe.

We continue to always favor local businesses for our community in the 8th Ave/12South area, and Dogtopia on 8th is an outstanding example of how local businesses help the local community thrive and prosper.

Should you have further inquiry regarding our exceptional experience with Dogtopia on 8<sup>th</sup> Avenue, please feel to reach back out to me at your earliest convenience. Thanks for your time and attention.

Sincerely,

Anu and Shati Paul

**Anupam Paul, PharmD, MBA**  
*Pharmacy Supervisor*  
Vanderbilt Outpatient Pharmacy (TVC)  
Vanderbilt University Medical Center  
615.322.6480 | [anupam.paul@vumc.org](mailto:anupam.paul@vumc.org)

**TUNE, ENTREKIN & WHITE, P.C.**

THOMAS V. WHITE  
 JOHN W. NELLEY, JR.  
 THOMAS C. SCOTT  
 PETER J. STRIANSE  
 HUGH W. ENTREKIN  
 JOHN P. WILLIAMS \*  
 ROBERT L. DELANEY  
 GEORGE A. DEAN  
 LESA HARTLEY SKONEY  
 JOSEPH P. RUSNAK  
 SHAWN R. HENRY  
 T. CHAD WHITE  
 BRANDT M. MCMILLAN \*  
 CHRISTOPHER B. FOWLER  
 TIMOTHY N. O'CONNOR  
 SAMUEL J. BLANTON

ATTORNEYS AT LAW

SUITE 1700  
 315 DEADERICK STREET  
 NASHVILLE, TENNESSEE 37238

TEL (615) 244-2770 FAX (615) 244-2778

JOHN C. TUNE  
 1931-1983

ERVIN M. ENTREKIN  
 1927-1990

*\*Rule 31 listed General Civil Mediator*

July 9, 2020

Emily Lamb  
 Secretary, Board of Zoning Appeals  
 Metro Office Building  
 800 Second Avenue South  
 Nashville, TN 37201

Re: Joni Elder, Lessee  
 1802 Eighth Avenue South  
 Map: 105-1 Parcel: 102

MBZA Case # 2020-156  
 Zoning Classification: CS

Dear Emily:

This letter is submitted in support of the application of Joni Elder for a renewal of her special exception to permit a day care for dogs (classified as a kennel under MetZo) on property located at 1802 Eighth Avenue South. She also asks for a renewal of the variance<sup>1</sup> so that she need not construct a sidewalk on the front of the property (which has an existing sidewalk) and also requests not to contribute to the fund. The property is zoned CS. We would request that this letter be made a part of the record of this case. If the special exception is granted, the applicant asks that two of the conditions imposed when the kennel was first approved be altered: first, that the time limit be extended beyond two years, and second that the kennel be permitted to board up to 100 dogs overnight.

**History**

The appellant leases the property referenced above and is requesting a renewal of the special exception granted by the Board of Zoning Appeals in August of 2018 which was granted for a period of two years. A number of important conditions were attached to the original issuance of the permit, and a copy of that order is attached hereto. The applicant has complied with all requirements, including the conditions attached to the previous order of the Board. In particular, Ms. Elder spent a considerable sum on soundproofing the building so as to minimize the noise that might otherwise be associated with a kennel. Obviously, getting a

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<sup>1</sup> See footnote two.

**TUNE, ENTREKIN & WHITE, P.C.**

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new business up and running is never easy, and Ms. Elder hopes the board will consider the effort and expenditures she's made in reviewing her application for renewal.

Additionally, Ms. Elder came before the board in June 2019 for a variance of the sidewalk requirements. The board granted that request with conditions until November 20, 2020. A copy of that order is also attached.<sup>2</sup>

The business has been open for the last nine months and Ms. Elder has not received any complaints from any of her neighbors. The business itself has a five star rating on Google and she hopes to continue the business for many years.

There were only two people who expressed an interest in at the zoom neighborhood meeting and because there was a technical glitch, she contacted both of those people personally to ensure that they had an opportunity to discuss the business. Both were supportive of the operations of the facility.

### **Current Application**

The use is permitted in an CS zoning district as a special exception upon meeting the general and specific conditions of MetZo §§ 17.16.150 & 175.

The application complies with the conditions required by the terms of MetZo, except for the distance requirement and the applicant asks for a variance concerning that element of the special exception. Each of the requirements of the code will be discussed separately to demonstrate how each is met.

The specific standards are found at MetZo § 17.16.175 and provide as follows:

### **Specific Standards**

1. *Setback. No part of any building or structure in which animals are housed shall be closer than two hundred feet, and no kennel run shall be located within one hundred feet, from any existing residence, other than one owned or occupied by an owner or operator of the kennel or stable. In the event more than ten horses are*

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<sup>2</sup> With regard to the variance requests, variances typically run with the land and usually are not time limited. *McClurkan v Metro Board of Zoning Appeals*, 565 SW 2d 495 (Tenn. App. 1977).

**TUNE, ENTREKIN & WHITE, P.C.**

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*boarded on five acres or more, the building setback shall increase to two hundred feet from the property line.*

The building which houses this facility is located 147 feet from the closest residence. The applicant is asking for a renewal of the variance previously granted concerning that distance, for two reasons: first, because she has made modifications to the structure which limit the amount of noise created by the animals to less than those typically found within a commercial corridor. As stipulated at the previous board hearings, there will not be any outdoor play area associated with this use, although naturally some of the dogs will need to be walked from time to time.

Both MetZo §17.40.3 70 and the statute, Tenn. Code Ann. §13-7-207 (3), have a provision which amounts to a catchall, allowing a variance for "other exceptional conditions of the property." In this case, the distance requirement is clearly intended to act as a buffer both with regard to noise and odor. The applicant has made changes to the structure to soundproof the building, and this is an exceptional condition of the property. In addition, it limits any noise to the surrounding properties and should serve as a basis for the variance as requested.

The hardship here is not self-imposed: the distance between the two buildings was created by combination of factors and not purely by this applicant or any predecessor in title. Furthermore, financial gain is not the only basis for the request. Because of the soundproofing, there is no adverse impact to the residential unit or units, and in fact, little or no impact any surrounding property. There will certainly also be no harm to the public welfare or any compromise to the intent or purpose of the zoning ordinance itself.

2. *Building Temperature. Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting.*

The building is heated and air-conditioned. The floors of the building are constructed of impervious material.

3. *Cages. For a kennel, each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages. Cages are to be of material and construction that permits cleaning and sanitizing. Cage floors of concrete, unless radiantly heated, shall have a resting board or some type of bedding.*

Each dog will be provided its own container with sufficient space to stand up,



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lie down, and turn around without touching the sides or top of the cages. Cages will be kept in sanitary condition at all times. There is no concrete cage flooring.

4. *Runs. For a kennel, each run must have at least a six-foot high fence completely surrounding it. Fences must be maintained in escape-proof condition. Runs shall provide an adequate exercise area and protection from the weather. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.*

Inapplicable; the applicant does not have outdoor exercise areas for the animals as stated at the previous hearings before this board.

5. *Stalls. Each horse shall have sufficient space to stand up, lie down and turn around without touching the sides of the stall. Stalls are to be of material and construction that permits cleaning and sanitizing.*

Inapplicable.

6. *Riding Ring. For a horse, no riding ring, including jumps and corrals, shall be located closer than fifty feet to any property line.*

Inapplicable.

7. *Trail Rides. No horse shall be ridden or walked along public rights-of-way for any length of time or duration.*

Inapplicable.

8. *Gates and Locks. All gates for entrance/exit to the stalls, riding rings, and other training area must be kept locked when not in use. All horses connected with the riding stable shall be enclosed by appropriate fencing so they shall not be permitted to run at large.*

Inapplicable.

9. *Watering of Animals. All animals shall have fresh water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and shall be of the removable type.*

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The dogs have fresh water available at all times.

10. *On-Site Waste Collection. All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products from the kennel shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.*

On-site waste is collected each day and held in the building in a separate freezer, until trash collection. Collection is weekly. By way of summary:

- A. Pick up solid waste immediately using plastic bag
- B. Clean area immediately with bio-enzymatic cleaner
- C. Securely tie the plastic bag
- D. Place in a tightly lidded bin lined with 2nd plastic trash liner
- E. Empty the trash bin at the end of each day, double bagged waste placed in freezer inside facility
- F. Trash collected weekly

### General Provisions

The General Provisions, found at MetZo § 17.16.150, provide as follows:

- A. *Burden of Proof. A special exception permit shall not be considered an entitlement, and shall be granted by the board of zoning appeals only after the applicant has demonstrated to the satisfaction of the board that all of the required standards are met.*

The applicant meets all of the requirements of the code except for the distance requirement.

- B. *Ordinance Compliance. The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this title, unless circumstances qualify the special exception for a variance in accordance with Chapter 17.40, Article VIII. Any accessory use to a special exception must receive express authorization from the board of zoning appeals.*

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As described in this letter, the existing use does comply with all applicable regulations.

- C. *Integrity of Adjacent Areas. A special exception use permit shall be granted provided that the board finds that the use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The board shall determine from its review that adequate public facilities are available to accommodate the proposed use, and that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties. The board may request a report from the metropolitan planning commission regarding long-range plans for land use development.*

The facility is located, designed, and operated so as to ensure that the public welfare will be protected. There are adequate public facilities available to accommodate the use, including water and sewer and trash and refuse collection. This area of the city is significantly commercial and although there are residential properties in the area, there is no adverse effect that would impair the reasonable long-term use of those properties.

Along the same lines, it is also interesting to note the number of other uses which are permitted by right in this zoning district. These include: bars and nightclubs, mini-markets selling beer and cigarettes, flea markets, grocery stores, home-improvement sales, hotels and motels, laundry plants, liquor sales, major appliance repair, fast food restaurants, full-service restaurants, take out restaurants, vehicular rentals, and many more. When compared with these kinds of uses which are by right in the zoning district, this animal day care facility certainly does not impair the integrity of the adjacent properties.

- D. *Design and Architectural Compatibility. The operational and physical characteristics of the special exception shall not adversely impact abutting properties, including those located across street frontages. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.*

The operational and physical characteristics do not adversely impact adjacent properties. The architectural features of the building have been present for many

**TUNE, ENTREKIN & WHITE, P.C.**

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years.

- E. *Natural Features. Special exception uses in residential zone districts must comply with the nonresidential tree protection regulations and other natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of nonresidential structures and parking areas.*

This property is not located within a residential zoning district.

- F. *Historic Preservation. Features of historical significance shall not be adversely affected by the granting of any special exception. The metropolitan historic zoning commission shall be consulted regarding those features essential to preserve the historical integrity of a building or site of historical significance.*

There are no historic structures or historically significant features affected by this proposal.

- G. *Traffic Impact. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. The board of zoning appeals may require a traffic impact study for any special exception land use.*

This property fronts on Eighth Avenue, in a significantly commercial corridor. This use has no impact on the traffic in the area.

- H. Repealed.

- I. *Hazard Protection. The proposed use shall reasonably protect persons and property from erosion, flooding, fire, noise, glare or similar hazards.*

The use on this property has not increased any kind of hazard, including those from erosion, flooding, fire, noise or other similar problems. The dogs are for the most part indoors, and the interior of the building is soundproofed.

- J. *Special Conditions. Notwithstanding a finding by the board of zoning appeals that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and*

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*welfare.*

The previous order granting the special exception at this location, Case #2018-252, included several conditions. Ms. Elder agrees to the continuation of those conditions except that Condition #1 limited the duration of the special exception to 24 months. Ms. Elder would request that the special exception be granted for longer period of time and suggests seven years as a reasonable timeframe. In addition, Condition #3 limited the number of dogs that she could board overnight to 50; Ms. Elder would like to increase that to 100 dogs, the same number that she is permitted by the Board's order to take care of during the day.

### **Sidewalk Variance**

Ms. Elder has also requested a variance in the sidewalk provisions found at MetZo §17.20.120. As mentioned previously, the Board of Zoning Appeals previously granted the variance, with an expiration date of November 2020. A copy of the order is attached.

There are several reasons for the variance in this instance as explained at the last meeting where the board considered the original application. First, there is an existing sidewalk. Second, the surrounding properties are positioned such that unless and until those properties are entirely demolished and reconstructed, there is insufficient width for most of the properties to accommodate the required sidewalk. The sidewalk in front of this property therefore will be, for an extended period of time, the only portion of the sidewalk which complies.

Also, there will be no evidence that the continued use of this property now, or even at the time of the original application, would increase the necessity for use of a sidewalk, or an expanded sidewalk under the current regulations. Constitutionally, imposition of a exaction such as this, where an increase in the activity at the property itself is not causing a need for the exaction or dedication, is inappropriate. The leading case is *Nollan v California Coastal Commission*, 483 US 825 (1987). *Nollan* is strikingly similar to this case. Mr. Nollan owned property on the California coast between two public beaches. The state had a policy of extending walkways along the coastline. There was no walkway on his property, and when he applied for permit to demolish the existing home and create a bigger one, the commission imposed a requirement that he dedicate an easement across his property as a public walkway. The Supreme Court invalidated the requirement, finding no public justification for the requirement. Certainly, the state policy of extending public



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walkways along the coastline was a good one; but the US Supreme Court held that the state needed to condemn the land rather than “extort” money from the property owner. 483 US 837.


In precisely the same way, the policy of extending and improving sidewalks throughout many areas of Metro Nashville is a good one. However, without a demonstration that the dedication or exaction has an “essential nexus” to some difficulty created by the kennel, it is not appropriate. Since there is already an existing 8 foot sidewalk, and since the kennel use of the property does not increase in any significant way, the amount of foot traffic (as compared for example to the prior uses of the property), the requirement of the ordinance clearly fall short in the constitutional sense.

**Conclusion**

The applicant meets all the requirements of the zoning ordinance with regard to her application for a special exception for a kennel. The applicant respectfully requests that the board renew the special exception as well as a variance for the distance requirement. Ms. Elder also asks the board to renew the sidewalk variance so that she need not construct a sidewalk unnecessarily nor contribute to the fund.<sup>3</sup>

Respectfully submitted,

**TUNE ENTREKIN & WHITE**



George A. Dean

GAD:dns

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<sup>3</sup> To the extent that objections are raised by opponents who do not live in the immediate vicinity of the subject property, the applicant objects to their standing. In addition, to the extent that email or other written communications concerning the issues involved in this case are received by the board but not discussed during the meeting, the applicant objects to such materials being considered as part of the administrative record.

## BEFORE THE METROPOLITAN BOARD OF ZONING APPEALS

RE: Joni Elder Appeal Case 2019-269  
 1802 8TH AVE S  
 Map Parcel: 10510010200  
 Zoning Classification: CS

**ORDER**

This matter came to be heard in public hearing on 6/20/2019, before the Metropolitan Board of Zoning Appeals, upon application for a variance from sidewalk requirements to conduct interior renovations without building sidewalks or paying into the sidewalk fund.

Based upon the entire record as recorded on the video recording and contained in the file, from all of which the Board finds that:

- (1) Proper legal and written notice of the public hearing had been complied with as set forth in Section 17.40.720 of the Metropolitan Code.
- (2) The appellant sought this permit under Section 17.40.180 of the Metropolitan Code.
- (3) The appellant HAS satisfied all of the standards for a variance under Section 17.40.370 of the Metropolitan Code.

It is, therefore, ORDERED by the Metropolitan Board of Zoning Appeals that the appellant's request shall be GRANTED, subject to the following conditions: 1. The appellant must maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk. 2. If the site is redeveloped or sidewalks are triggered in the future, the redevelopment or site improvements shall incorporate appropriate site work to construct a sidewalk to current standards unless a new sidewalk variance is granted by the Board of Zoning Appeals. 3. The variance is granted until 11/20/2020.

UPON MOTION BY: Ross Pepper Seconded By: Christina Karpynech  
 Ayes: Ashonti Davis, Alma Sanford, Cynthia Chappell, David Taylor  
 Nays:  
 Abstaining:  
 Absent:

ENTERED THIS 27 DAY OF June, 2019

METROPOLITAN BOARD OF ZONING APPEALS

*David F. Jay*

Chair

*Emily Sant*

Secretary

## BEFORE THE METROPOLITAN BOARD OF ZONING APPEALS

Re: Applicant: Joni Elder  
1802 Eighth Avenue South  
Map: 105-1 Parcel: 102  
Zoning Classification: CS

Case # 2018-252

## ORDER

This matter came to be heard in public hearing on August 2, 2018, before the Metropolitan Board of Zoning Appeals, upon the request of Joni Elder, appellant, and for a dog day care (classified as a kennel under MetZo) on property located at 1802 Eighth Avenue South. The board has jurisdiction under MetZo §17.40.180(C), and the requirements of MetZo §§17.16.150 & 210(C) apply. The appellant proposes to lease the property referenced above and requests a special exception for the use. The use is permitted in an CS zoning district upon meeting the general and specific conditions of MetZo §§ 17.16.150 & 175.

In addition, the applicant announced at the last meeting of the Board and reiterated at this meeting, that out of deference to neighborhood concerns, there would be no outdoor exercise or play area for the animals. A small percentage of the dogs would need to be walked (estimated at 2%).

Based upon the entire record as recorded on the video recording and as contained in the file, from all of which the Board finds that:

1. Proper legal and written notice of the public hearing has been given as set forth in § 17.40.720 & 730 of MetZo;
2. The applicant has requested the issuance of a special exception permit under §§ 17.40.180(C), 17.16.150 and §17.16.175 of MetZo;
3. The property is located at by 1802 Eighth Avenue South, in a commercial zoning district.
4. The board concludes that the applicant has demonstrated compliance with all of the requirements applicable to this request, including the general provisions under MetZo §17.16.150 and the requirement of a meeting with the neighbors pursuant to the rules of this Board.

### Specific Standards

5. **Setback.** No part of any building or structure in which animals are housed shall be closer than two hundred feet, and no kennel run shall be located within one hundred feet, from any existing residence, other than one owned or occupied by an owner or operator of the kennel or stable. In the event more than ten horses are boarded on five acres or more, the building setback shall increase to two hundred feet from the property line.

The building which will house this facility is located 147 feet from the closest residence. The applicant is asking for a variance concerning that distance. The Board finds that the applicant's modifications to the existing structure which will limit the amount of noise created by the animals to less than those typically found within a commercial corridor. As stipulated at the last meeting (and again at this hearing), there will not be any outdoor play area associated with this use, although naturally some of the dogs will need to be walked from time to time.

The Board concludes that the distance requirement is intended to act as a buffer both with regard to noise and odor. The applicant's decision to eliminate outdoor exercise area correspondingly reduces the buffer needed and the changes to the structure in order to soundproof the building are exceptional conditions justifying the variance. The Board finds that these measures will limit noise to the surrounding properties and are a proper basis for the requested variance.

The Board also finds that the hardship here is not self-imposed: the distance between the two buildings was created by combination of factors and not purely by this applicant or any predecessor in title. Furthermore, financial gain is not the only basis for the request. Because of the soundproofing, there will not be an adverse impact to the residential unit or units, and in fact, little or no impact any surrounding property. There will certainly also be no harm to the public welfare or any detriment to the intent or purpose of the zoning ordinance itself.

6. **Building Temperature.** Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting.

The building will be heated and air-conditioned. The floors of the building will be impervious.

7. **Cages.** For a kennel, each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages. Cages are to be of material and construction that permits cleaning and sanitizing. Cage floors of concrete, unless radiantly heated, shall have a resting board or some type of

bedding.

Each dog will be provided its own container with sufficient space to stand up, lie down, and turn around without touching the sides or top of the cages. Cages will be kept in sanitary condition at all times. Bedding will be provided for the comfort of the animals.

8. **Runs.** For a kennel, each run must have at least a six-foot high fence completely surrounding it. Fences must be maintained in escape-proof condition. Runs shall provide an adequate exercise area and protection from the weather. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.

Inapplicable; the applicant does not intend to have outdoor exercise areas for the animals based on the hearing before this board at its last meeting.

9. **Requirements 9-12 are inapplicable to this application.**
10. **Watering of Animals.** All animals shall have fresh water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and shall be of the removable type.

The dogs will all have fresh water available at all times.

11. **On-Site Waste Collection.** All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products from the kennel shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.

The applicant has indicated that on-site waste will be collected each day and held in the building in a separate enclosure or freezer, until trash collection. The Board finds that this meets the requirement.

### General Provisions

The Board further finds that the applicant also meets the requirements of the General Provisions, found at MetZo § 17.16.150, as follows:

- A. **Burden of Proof.** A special exception permit shall not be considered an entitlement, and shall be granted by the board of zoning appeals only after the applicant has demonstrated to the satisfaction of the board that all of the



required standards are met.

The applicant meets all of the requirements of the code except for the distance requirement.

- B. **Ordinance Compliance.** The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this title, unless circumstances qualify the special exception for a variance in accordance with Chapter 17.40, Article VIII. Any accessory use to a special exception must receive express authorization from the board of zoning appeals.

See above.

- C. **Integrity of Adjacent Areas.** A special exception use permit shall be granted provided that the board finds that the use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The board shall determine from its review that adequate public facilities are available to accommodate the proposed use, and that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties. The board may request a report from the metropolitan planning commission regarding long-range plans for land use development.

The facility is located, designed, and proposed to be operated so as to ensure that the public welfare will be protected. There are adequate public facilities available to accommodate the proposed use, including water and sewer and trash and refuse collection. This area of the city is significantly commercial and although there are residential properties in the area, there will be no adverse effect that would impair the reasonable long-term use of those properties. The planning commission has recommended approval if the distance variance is granted.

Along the same lines, the Board finds that there are a number of other uses permitted by right in this zoning district including bars and nightclubs, mini-markets selling beer and cigarettes, flea markets, grocery stores, home-improvement sales, hotels and motels, laundry plants, liquor sales, major appliance repair, fast food restaurants, full-service restaurants, take out restaurants, vehicular rentals, and many more. When compared with these kinds of uses which are by right in the zoning district, this animal day care facility certainly will not impair the integrity of the adjacent properties.

- D. **Design and Architectural Compatibility.** The operational and physical characteristics of the special exception shall not adversely impact abutting

properties, including those located across street frontages. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.

The operational and physical characteristics will not adversely impact adjacent properties. The architectural features of the building will essentially remain and those have been present for many years.

- E. Natural Features. Special exception uses in residential zone districts must comply with the nonresidential tree protection regulations and other natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of nonresidential structures and parking areas.

This property is not located within a residential zoning district.

- F. Historic Preservation. Features of historical significance shall not be adversely affected by the granting of any special exception. The metropolitan historic zoning commission shall be consulted regarding those features essential to preserve the historical integrity of a building or site of historical significance.

The Board finds that there are no historic structures or historically significant features which will be affected by this proposal.

- G. Traffic Impact. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. The board of zoning appeals may require a traffic impact study for any special exception land use.

This property fronts on Eighth Avenue, in a significantly commercial corridor. This use will have no impact on the traffic in the area.

- H. Repealed.

- I. Hazard Protection. The proposed use shall reasonably protect persons and property from erosion, flooding, fire, noise, glare or similar hazards.

The Board finds that use on this property will not increase any kind of hazard, including those from erosion, flooding, fire, noise or other similar problems. The dogs will for the most part be indoors, and the interior of the building will be soundproofed as a condition of approval.

- J. Special Conditions. Notwithstanding a finding by the board of zoning appeals that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

Conditions as stated below are required.

It is therefore ORDERED by the Metropolitan Board of Zoning Appeals that the request for the waste transfer station special exception is hereby granted, subject to the following conditions:

1. The special exception is granted for a period of 24 months.
2. The applicant must remain associated with the franchise, Dogtopia.
3. No more than 100 dogs during regular business hours; no more than 50 dogs at night.
4. Waste management procedures as follows:
  - a. On-site waste will be collected each day and held in the building in a separate enclosure or freezer, until trash collection.
    - Pick up solid waste immediately using plastic bag
    - Clean area immediately with bio-enzymatic cleaner
    - Securely tie the plastic bag
    - Place in a tightly lidded bin lined with 2<sup>nd</sup> plastic trash liner
    - Empty the trash bin at the end of each day, double bagged waste placed in freezer inside facility
    - Trash collected twice weekly
  - b. A specific dumpster will be marked and placed as far away from residential uses as possible.
5. Sound proofing as specified by the applicant is required. A copy of the diagrams detailing the method is attached.
6. The special exception is granted only for this applicant.

Upon Motion Made By: Karpynek                      Seconded by: Harper

Ayes: Harper, Ewing, Karpynek and Sanford

Nays: Ewing, Chappell

Absent: King

Entered this 7<sup>th</sup> day of August, 2018.

Metropolitan Board of Zoning Appeals

  
Chair

  
Secretary

7/13/2018

### Sound Control - Walls

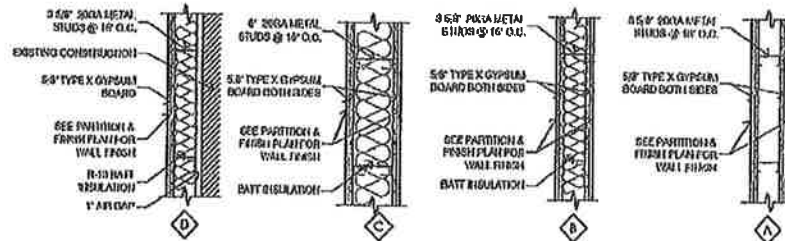
- 6 Inch thick, fully Insulated, metal studs type X-5/8 Gypsum board on each side
- Wall spans floor to roof deck and filled with acoustical insulation
- Wall is continuous and prevents any substantial amount of sound or smell from escaping
- Exterior walls have a 2 wall system with an air-gap applied
- Acoustic sealant then applied
- This assembly results in STC rating of approx 70 (Class rating superb)



17

### Sound Control

- Special Wall Type at Demising Wall(s) that Extend to the Roof Deck
- Special Wall Type Between Playrooms and People Space that Extend to the Roof Deck
- Air Gap at the Demising Wall
- Type A: Walls for Bathrooms, Dog Food Prep Area, etc (Non-Dog Rooms)
- Type B: Walls Between the Dog Playrooms.
- Type D: Demising Walls (Adjacent/Shared wall with Neighboring Tenant(s))
- Type C: Wall Between Playroom and People Spaces (i.e. - Hallways, Restrooms, Spa/Grooming, etc) Extends to Roof Deck



STANDARD OPERATING PROCEDURES





7/13/2018

### Sound Control - Ceiling

- Suspended ceiling system with School Zone lay in acoustical tiles to absorb sound from escaping
- Tiles have a noise reduction coefficient of .7 and a ceiling attenuation class of up to 40; these tiles are often used in schools where sound absorption and reduction are critical
- Above ceiling tiles is an R-30 insulation
- Together this system provides excellent sound reduction



STANDARD OPERATING PROCEDURES



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
Planning Department  
Metro Office Building  
800 Second Avenue South  
Nashville, Tennessee 37201  
615.862.7150  
615.862.7209

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# Memo

**To:** Metropolitan Nashville Board of Zoning Appeals  
**From:** Metropolitan Nashville Planning Department  
**CC:** Emily Lamb  
**Date:** July 8, 2020  
**BZA Hearing Date:** July 16, 2020  
**Re:** Planning Department Recommendation for Special Exception Cases

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Pursuant to Section 17.40.300 of the Metro Zoning Code, the Metropolitan Planning Department is providing recommendations on the following Special Exception case:

## **Case 2020-156 (1802 8<sup>th</sup> Ave S.) –Special Exception**

**Request:** To permit a kennel as the use on the property and to permit the reduction of the setback requirements from 200 feet to 147 feet.

**Zoning:** Commercial Service (CS) is intended for retail, consumer service, financial, restaurant, office, self-storage, light manufacturing and small warehouse uses.

**Land Use Policy:** T4 Urban Mixed Use Corridor (T4 CM) is intended to enhance urban mixed use corridors by encouraging a greater mix of higher density residential and mixed use development along the corridor, placing commercial uses at intersections with residential uses between intersections; creating buildings that are compatible with the general character of urban neighborhoods; and a street design that moves vehicular traffic efficiently while accommodating sidewalks, bikeways, and mass transit.

**Existing Context:** The property is approximately 17,424 square feet (0.4 acres), located on the east side of 8<sup>th</sup> Avenue S. The site is south of the intersection of 8<sup>th</sup> Avenue S. and E. Argyle Ave. Alley 402 abuts the eastern property line. The property has been developed with one single story commercial building. The proposal is to establish a kennel within the existing structure. The surrounding properties to the north, south, and west, along 8<sup>th</sup> Ave. S have been developed with commercial uses. The properties to the east, across Alley 402, have been developed with residential uses.

### **Planning Department Analysis:**

The applicant is requesting two exceptions:

- Special exception to permit a kennel.

- Special exception to reduce the distance required between a kennel and a residential use from 200 feet to 147 feet.

T4 Urban Mixed Use Corridors (T4-CM) prioritize higher-intensity mixed use and commercial uses at intersections with preference given to residential uses between intersections. The request is consistent with the intent of the policy to maintain commercial corridors by establishing a commercial use, a kennel, within an urban context. The proposed use would provide a service to the surrounding area. The site is located along an arterial street with existing commercial development and could likely support additional commercial uses with existing parking and vehicular access via a public street and from an alley.

The potential impact is addressed in the standards for kennel special exceptions with a required setback of 200 feet between any part of the building which animals are housed and surrounding residences. The existing structure would not meet this standard and is requesting that the existing distance of 147 feet of separation be permitted. The orientation of the surrounding residential uses should also be taken into consideration. These residential units are across an existing alley, and oriented along the southern property line of the adjacent property. This creates additional space between the proposed use and existing residential development. According to the information provided by the applicant, all animal play areas will be indoors, in an attempt to not create excess noise. Given the proposed use along a commercial corridor and the requested reduced setback still provides over 100 feet of separation, staff recommends approval of the two exceptions.

**Planning Recommendation:** Approval.

## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2020-156 (1802 8<sup>th</sup> Avenue South)

Metro Standard:	8 <sup>th</sup> Avenue South – 4’ grass strip, 8’ sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not construct sidewalks; not contribute in-lieu of construction
Community Plan Policy:	T4 CM (Urban Mixed Use Corridor)
Zoning:	CS
MCSP Street Designation:	8 <sup>th</sup> Avenue South – Arterial Boulevard (T4-M-AB4-IM)
Transit:	#8 – 8 <sup>th</sup> Avenue South; future Major Local per nMotion
Bikeway:	None existing; major separated bikeway planned

### Planning Staff Recommendation: *Disapprove*

**Analysis:** In addition to a special exception request in this application, the applicant requests not to construct sidewalks or contribute in-lieu of construction. The subject request is an appeal to a sidewalk waiver request which was approved with conditions and completed on May 13, 2020 (**Permit number 20200021063**). Conditions of approval were that the applicant pay to the in-lieu fund and dedicate right-of-way. Electing to make the contribution in-lieu of construction supplements Metro’s annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property, within one of Metro’s 16 pedestrian benefit zones. Staff finds no unique hardship for the property.

After reviewing the sidewalk request in the context of the overall application that includes a special exception component, Planning staff agree with the Zoning Administrator’s conditions of approval. If and when a more wholesale redevelopment of the property is considered, sidewalks along 8<sup>th</sup> Avenue South should be improved to meet the Major and Collector Street Plan cross section required for this location.

Staff recommends **disapproval**.

## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2019-269 (1802 8<sup>th</sup> Avenue South)

Metro Standard:	4' grass strip, 8' sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not upgrade sidewalks; not contribute in-lieu of construction (not eligible)
Zoning:	CS
Community Plan Policy:	T4 CM (Urban Mixed Use Corridor)
MCSP Street Designation:	T4-M-AB4-IM
Transit:	#8 – 8 <sup>th</sup> Avenue South; planned major local bus service per nMotion
Bikeway:	None existing; planned for major protected bikeway per WalknBike

### Planning Staff Recommendation: *Approve with conditions.*

**Analysis:** The applicant proposes to renovate an existing commercial building for a new dog kennel use and requests a variance to upgrading sidewalks or contributing in-lieu of upgrading sidewalks along 8<sup>th</sup> Avenue South. Planning evaluated the following factors for the variance request:

- (1) An 8' sidewalk currently exists along the 8<sup>th</sup> Avenue South frontage, which is consistent with adjacent properties to the north and south.
- (2) Given the scale of the internal renovation which does not create additional site work, upgrading sidewalks in this instance is premature.
- (3) Future redevelopment of the property will require construction of a 4' grass strip and 8' sidewalk, which meet the Major and Collector Street Plan standard.

Given the factors above, staff recommends **approval with conditions:**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.
2. If the site is redeveloped or sidewalks are triggered in the future, the redevelopment or site improvements shall incorporate appropriate site work to construct a sidewalk to current standards unless a new sidewalk variance is granted by the Board of Zoning Appeals.



**From:** [Sledge, Colby \(Council Member\)](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#); [Lamb, Emily \(Codes\)](#); [Cathey, Eben \(Planning\)](#); [Michael, Jon \(Codes\)](#)  
**Subject:** District 17 positions for July 16 meeting  
**Date:** Monday, July 13, 2020 12:57:58 PM

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Good afternoon, all,

Here are my positions on the three D17 items:

Case 2020-155: I **strongly support** this appeal.

Case 2020-156: I support the operation but want the applicant to pay into the sidewalk fund.

Case 2020-157: I **strongly oppose** this appeal.

Colby

----

Colby Sledge

Metro Councilmember, District 17

(615) 442-3727

[Sign up for my weekly newsletter here!](#)

Metropolitan Board of Zoning Appeals

Metro Howard Building

800 Second Avenue South

Nashville, Tennessee 37210



Appellant: Matthew Robb  
Property Owner: Gotham Contracting  
Representative: Matthew Robb

Date: 6/3/20  
Case #: 2020-158  
Map & Parcel: 08203017400

Council District 5

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To build a front porch

Activity Type: Front porch

Location: 1018 Stockell St. Nashville TN 37207

This property is in the SP Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Variance from front setbacks

Section(s): 17.12.030.C3

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection B Of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Matthew Robb  
Appellant Name (Please Print)

Matthew Robb  
Representative Name (Please Print)

919 B Cabal Ave  
Address

Address

Nashville, TN  
City, State, Zip Code

City, State, Zip Code

917-887-5427  
Phone Number

Phone Number

Matt@gothamcontracting.net  
Email

Email

Zoning Examiner: \_\_\_\_\_

Appeal Fee: \_\_\_\_\_



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



**ZONING BOARD APPEAL / CAAZ - 20200034266  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 08203017400

**APPLICATION DATE:** 06/03/2020

**SITE ADDRESS:**

1018 STOCKELL ST NASHVILLE, TN 37207  
PT LOT 37 BENEDICT LAND CO SUB LINDSLEY TRACT

**PARCEL OWNER:** GOTHAM CONTRACTING, LLC

**CONTRACTOR:**

**APPLICANT:**

**PURPOSE:**

Variance to 17.12.030 C3 for front contextual street setback of 26 ft required, requesting 18 ft.

\*\*\*

Rejected Site Plan, does not meet 26 ft contextual front setback

To construct an 8 ft x 35.2 ft (282 sq ft) covered front porch on existing single family residence. Minimum 26 ft front setback per contextual average, 5 ft side setback, and 10 ft side street setback along Evanston Street. Must comply with easements. Pursuant # 2006-1263 Metro Code of Laws, I (holder OF permit) hereby certify that all construction & demolition waste generated by any & all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction & demolition waste shall be stored on the property in violation of any provision of Metro Code. For every 50 feet of site frontage, a double-sided sign 24" x 36" in size must be posted in English and Spanish that contains the information required by Ordinance No. 2017-835. No more than three signs are required.

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

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***There are currently no required inspections***

Inspection requirements may change due to changes during construction.

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

Matthew Robb  
**APPELLANT**

6/1/20  
**DATE**

In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a **HARDSHIP** as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

I am looking to renovate a home in the heart of the Cleveland Park Neighborhood that was built in the 1980's. It is on a corner lot and, unlike most of the other, older homes on the same and surrounding blocks, was built right up to the setbacks leaving no room for a covered front porch. It is one of only a few homes along this street that does not have one, and being in such a prominent corner location I believe the proper thing to do would be to add one to compliment the other craftsmen style homes that define the neighborhood. I am requesting a variance to build a front porch that extends 8 feet into the street setback along Stockell St. This will be only one level, will not include any heated and cooled space and will not extend into the side setback along Evanston St..

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Metropolitan Board of Zoning Appeals  
 Metro Howard Building  
 800 Second Avenue South  
 Nashville, Tennessee 37210

Appellant: Amber Stormberg Date: 6-2-2020  
 Property Owner: CCAM Housing, LLC Case #: 2020- 157  
 Representative: Amber Stormberg Map & Parcel: 105114E00200CO  
 Council District: 17

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To obtain a STRP permit  
 Activity Type: Short Term Rental  
 Location: 505 B Wedgewood Ave

This property is in the CS Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Item A appeal, challenging the zoning administrator's denial of a short term rental permit. Appellant operated after issued short term rental permit expired.

Section: 17.16.070.U

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Amber Stromberg Representative: \_\_\_\_\_  
 Phone Number: 615 294-8314 Phone Number: \_\_\_\_\_  
 Address: 311 Levisa Ln. Address: \_\_\_\_\_  
Franklin, TN 37064  
 Email address: amber@stormberggroup.com.com Email address: \_\_\_\_\_

Appeal Fee: \$100.00



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3828179

**ZONING BOARD APPEAL / CAAZ - 20200034144  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 105114E00200CO**APPLICATION DATE:** 06/02/2020**SITE ADDRESS:**

505 B WEDGEWOOD AVE NASHVILLE, TN 37203

UNIT B 505 WEDGEWOOD TOWNHOMES

**PARCEL OWNER:** CCAM HOUSING, LLC**CONTRACTOR:****APPLICANT:****PURPOSE:**

Item A appeal, challenging the zoning administrator's denial of a short term rental permit. Appellant operated after issued short term rental permit expired.

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

---

***There are currently no required inspections***

Inspection requirements may change due to changes during construction.

**From:** [Sledge, Colby \(Council Member\)](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#); [Lamb, Emily \(Codes\)](#); [Cathey, Eben \(Planning\)](#); [Michael, Jon \(Codes\)](#)  
**Subject:** District 17 positions for July 16 meeting  
**Date:** Monday, July 13, 2020 12:57:58 PM

---

Good afternoon, all,

Here are my positions on the three D17 items:

Case 2020-155: I **strongly support** this appeal.

Case 2020-156: I support the operation but want the applicant to pay into the sidewalk fund.

Case 2020-157: I **strongly oppose** this appeal.

Colby

----

Colby Sledge

Metro Councilmember, District 17

(615) 442-3727

[Sign up for my weekly newsletter here!](#)

Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



Appellant : Wade Hyatt Date: 2/4/2020  
Property Owner: Brentwood Medical Trading, LLC  
Representative: Chip Howorth Case #: 2020- 073  
Map & Parcel: 16109015500

Council District 04

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

**Purpose:**

To allow a reduction in the number of required parking spaces as established in section 17.20.030 and to allow a reduction in the required landscape buffer as established in section 17.24.230.

Activity Type: Medical Office

Location: 5429 Edmondson Pike

This property is in the OL Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

To allow the ability to use the general office classification when calculation in establishing

Reason: minimum parking spaces, and to allow the use of the 5' "A" standard landscape buffer

Section(s): 17.20.030 & 17.24.230

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_\_\_ Of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Wade Hyatt  
Appellant Name (Please Print)

5505 Edmondson Pike, Ste. 101  
Address

Nashville, TN, 37211  
City, State, Zip Code

615-496-3433  
Phone Number

cwhyatt@me.com  
Email

S+H Group, LLC (Chip Howorth)  
Representative Name (Please Print)

2606 Eugenia Ave, Suite D  
Address

Nashville, TN 37211  
City, State, Zip Code

615-647-8775  
Phone Number

chip@shgroupllc.com  
Email

Appeal Fee: \$200



## APPLICATIONS FOR VARIANCE REQUESTS

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members so that they will have a better idea of the nature of your request. Zoning staff will notify the district councilmember of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 600 feet of the property at issue in this case. The envelopes must include the return address for the BZA and the case number. Fold and insert the notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the Board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for a hearing until complete.

Any correspondence to the Board must be submitted to our office by noon, the Monday prior to the public hearing to be included in the record. You must provide eight (8) copies of your information to staff.

We hope that this information will be of help to you in understanding the variance procedure and if our office can be of further assistance, please do not hesitate to contact us.

**METROPOLITAN BOARD OF ZONING APPEALS (615) 862-6530**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

Wade Hyatt  
APPELLANT

2/4/2020

DATE

### STANDARDS FOR A VARIANCE

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of this Zoning Code based upon findings of fact related to the standards in Section 17.40.370. This Section is included as follows:

Physical characteristics of the property - The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owner of such property.

Unique characteristics - The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.

Hardship not self-imposed - The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after the effective date of this Zoning Code.

Financial gain not only basis - Financial gain is not the sole basis for granting the variance.

No injury to neighboring property - The granting of the variance will not be injurious to other property or improvements in the area, impair an adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.

No harm to public welfare - The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.

Integrity of Master Development Plan - The granting of the variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.

The Board shall not grant variances to the land use provisions of Section 2.3, the density of Floor Area Ratio (FAR) standards of Tables 3-B and 3-C, nor the required size of residential lots approved by the Planning Commission under the authority of Section 3.7 (Lot Averaging), Section 3.8 (Cluster Lot Option) or Section 9.E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.

In simple terms, for the Board to grant you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness; irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of the neighborhood and the way it is developed. One or more of these conditions MUST affect your inability to build or occupy the property to prove your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you can not build in accordance with zoning without requesting a variance and why you feel you have a legitimate hardship.

The Board can not grant a variance based solely on an inconvenience to the applicant nor solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

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See attached letter.

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2606 Eugenia Ave, Suite D · Nashville, TN 37211 · 615.647.8775 · www.shgroupllc.com

February 4, 2020

Board of Zoning Appeals  
800 2nd Ave S  
Nashville, TN 37210

Re: 5429 Edmondson Pike  
Nashville, TN 37211  
Parcel 16109015500  
CACN T2020004386

To Whom It May Concern:

On behalf of our client, S+H Group (S+H) is submitting the referenced property located at 5429 Edmondson Pike, Nashville, TN 37211 (the "property") for a Variance Request from Section 17.20.030 and 17.24.230 of the Metropolitan Code pertaining to minimum parking requirements and landscape buffer requirements, respectively. Due to the property's primary use and location in relation to the floodway, we are requesting that the number of minimum parking spaces be either determined by the calculation used for general office building requirements as dictated by Section 17.20.030 of the Code or reduced by reduced by approximately 20% or four (4) total spaces. In addition to the parking variance we are requesting that the landscape buffer requirement be reduced to an "A" standard buffer of 5-foot width with a 6-foot masonry wall. Please consider this letter and the enclosed documents as our Variance Application. Please find our unique circumstances (hardships) described below and the following documents enclosed:

1. Eight (8) copies of the Site Plan
2. Eight (8) copies of the FEMA FIRM Map
3. Exhibit - Urban Zoning District Map
4. Board of Zoning Appeals Checklist
5. Application for Variance Request
6. Check in the amount of \$200.00 to Board of Zoning

**Unique Circumstance (Hardship)**

The unique circumstance (hardship) that affects the property is the location of the adjacent floodway and associated zone 1 and zone 2 water quality buffers. Accordingly, this constricts the available building and parking areas on site. With the request of reduction in parking and landscape buffer the site is more developable for the proposed use while considering protection and mitigation of the stream water quality buffers.

**Variance Request - Reduction in Parking Requirement/Parking Spaces**

Per Section 17.20.030 and Table 17.20.030 of the Code, the minimum required parking spaces for a medical office development outside the UZO district is 1 space per 200 square feet (SF) of office or 24 total spaces. For general office the requirement is 1 space per 300 SF of office. This would reduce the required amount of parking required for the proposed construction to 15 spaces. Currently 20 spaces are provided on the attached site plan.



2606 Eugenia Ave, Suite D · Nashville, TN 37211 · 615.647.8775 · [www.shgroupllc.com](http://www.shgroupllc.com)

**Variance Request - Reduction in Landscape Buffer Requirement**

Per Section 17.24.230 of the Code, the minimum required landscape buffer for OL zoning adjoining R10 zoning is a “C” standard buffer. If a “C” standard buffer was implemented, access to the property via Edmondson Pike would further reduce the amount of parking spaces provided and making the request of general office parking achievable. Additionally, the majority of the buffer width would be located in an existing sanitary sewer easement, which per 17.24.210.D is not permitted in utility or drainage easements unless approved by the affected utility or Metro Water Services. By allowing for a 5-foot “A” standard buffer with a 6’ masonry wall, additional parking spaces are provided above the minimum request of the general office classification, but still unable to meet the amount of spaces required per medical office classification.

If you have any questions or concerns, please call or email me at 615-647-8775 ext. 101 and [chip@shgroupllc.com](mailto:chip@shgroupllc.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Chip Howorth', written over a horizontal line.

Chip Howorth  
Principal



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3752021

**APPLICATION FOR BUILDING COMMERCIAL - NEW / CACN - T2020004386  
THIS IS NOT A PERMIT**

PARCEL: 16109015500

APPLICATION DATE: 01/21/2020

**SITE ADDRESS:**

5429 EDMONDSON PIKE NASHVILLE, TN 37211  
LOT 2 CARDEN SUBDIVISION

PARCEL OWNER: BRENTWOOD MEDICAL TRADING, LLC

**APPLICANT:****PURPOSE:**

construct 4500 sq.ft. medical office for NASHVILLE EYE GROUP Sidewalks ARE required for this project because this parcel fronts on a street in the Major and Collector Street Plan.

You are NOT eligible to contribute to the Pedestrian Benefit Zone in-lieu of construction because the parcel is on a street in the Major and Collector Street Plan.ROUP

POC CHIP HOWORTH 615-419-4150

*Before a building permit can be issued for this project, the following approvals are required.  
The Applicant is responsible for providing any plans or other information to the individual agencies*

[A] Site Plan Review	REJECTED	615-880-2649 Ronya.Sykes@nashville.gov
[A] Site Plan Review		
[A] Zoning Review	APPROVED	615-880-2649 Ronya.Sykes@nashville.gov
[C] Flood Plain Review On Bldg App		615-862-7225 mws.stormdr@nashville.gov
CA - Zoning Sidewalk Requirement Review	SWREQUIRED	615-880-2649 Ronya.Sykes@nashville.gov
PW - Public Works Sidewalk Capital Project Coordinatic		615-862-6558 Jonathan.Honeycutt@nashville.gov
[B] Fire Life Safety Review On Bldg App		615-862-5230
[B] Fire Sprinkler Requirement		615-862-5230
[B] Fire Alarm Requirement		862-5230
[B] Building Plans Received		615-862-6614 teresa.patterson@nashville.gov
[B] Building Plans Review		615-862-6581 Teresa.Patterson@nashville.gov
[B] Plans Picked Up By Customer		615-880-2649 Ronya.Sykes@nashville.gov
[D] Grading Plan Review For Bldg App		615-862-7225 mws.stormdr@nashville.gov
[E] Cross Connect Review For Bldg App		615-862-7225 mws.ds@nashville.gov
Grease Control Review On Bldg App		615-862-4590 ECO@nashville.gov
[E] Sewer Availability Review For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Sewer Variance Approval For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Water Availability Review For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Water Variance Approval For Bldg		615-862-7225 mws.ds@nashville.gov
[F] Address Review On Bldg App	APPROVED	615-862-8781 Bonnie.Crumby@nashville.gov
[F] Ramps & Curb Cuts Review For Bldg A		615-862-8782 PWPermitsl@nashville.gov
[F] Solid Waste Review On Bldg App		615-862-8782
[G] Bond & License Review On Bldg App		
Landscaping & Tree Review		615-862-6488 stephan.kivett@nashville.gov



# National Flood Hazard Layer FIRMette



36°3'1.62"N

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

## Legend

**SPECIAL FLOOD HAZARD AREAS**

- Without Base Flood Elevation (BFE)  
Zone A, V, A99
- With BFE or Depth Zone AE, AO, AH, VE, AR
- Regulatory Floodway

**OTHER AREAS OF FLOOD HAZARD**

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile (Zone X)
- Future Conditions 1% Annual Chance Flood Hazard (Zone X)
- Area with Reduced Flood Risk due to Levee. See Notes, Zone X
- Area with Flood Risk due to Levee (Zone D)

**OTHER AREAS**

- Area of Minimal Flood Hazard (Zone X)
- Effective LOMRs
- Area of Undetermined Flood Hazard (Zone X)

**GENERAL STRUCTURES**

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

**OTHER FEATURES**

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

**MAP PANELS**

- Digital Data Available
- No Digital Data Available
- Unmapped

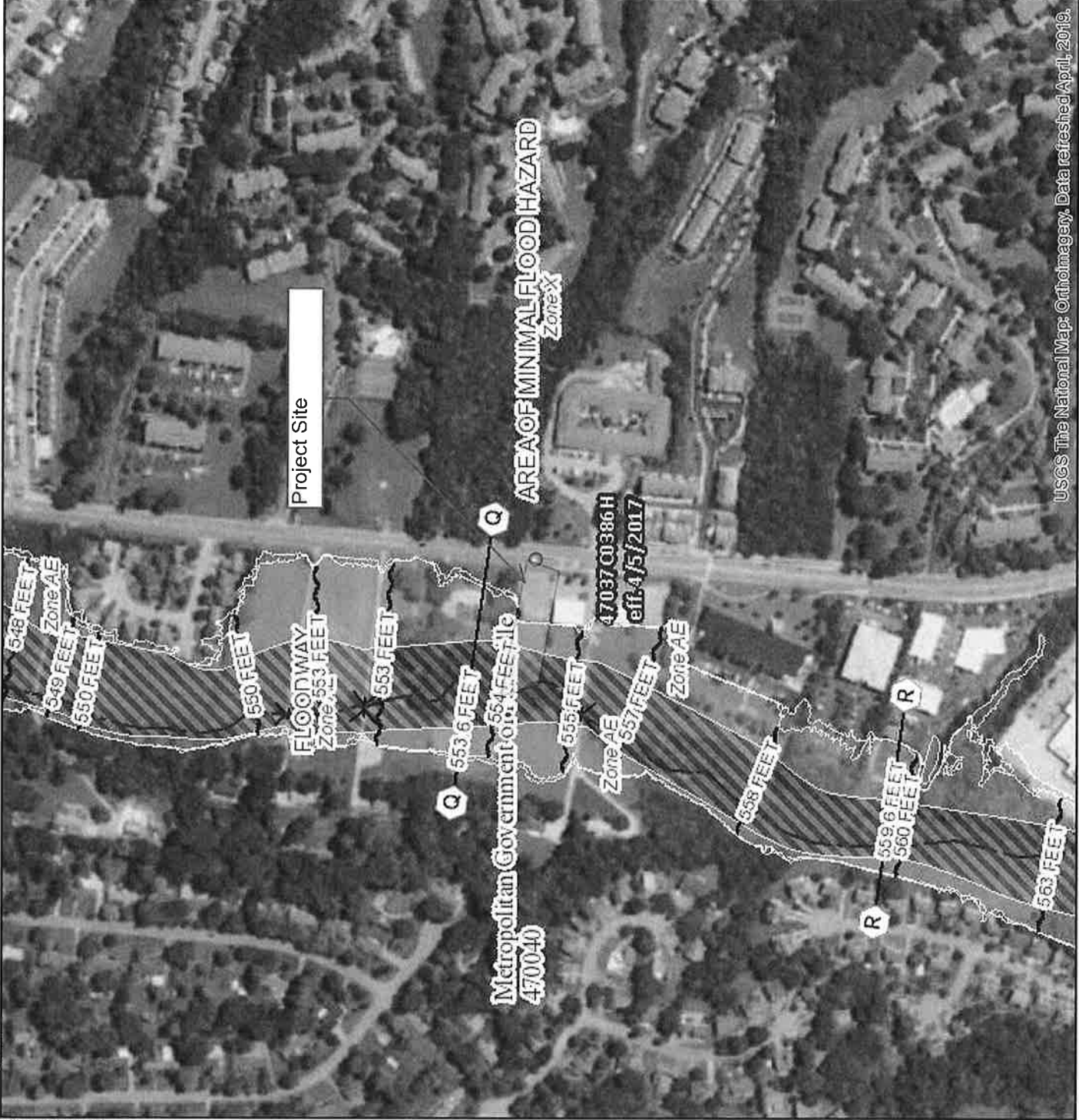
The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

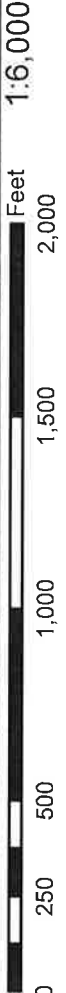
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 1/28/2020 at 10:48:00 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

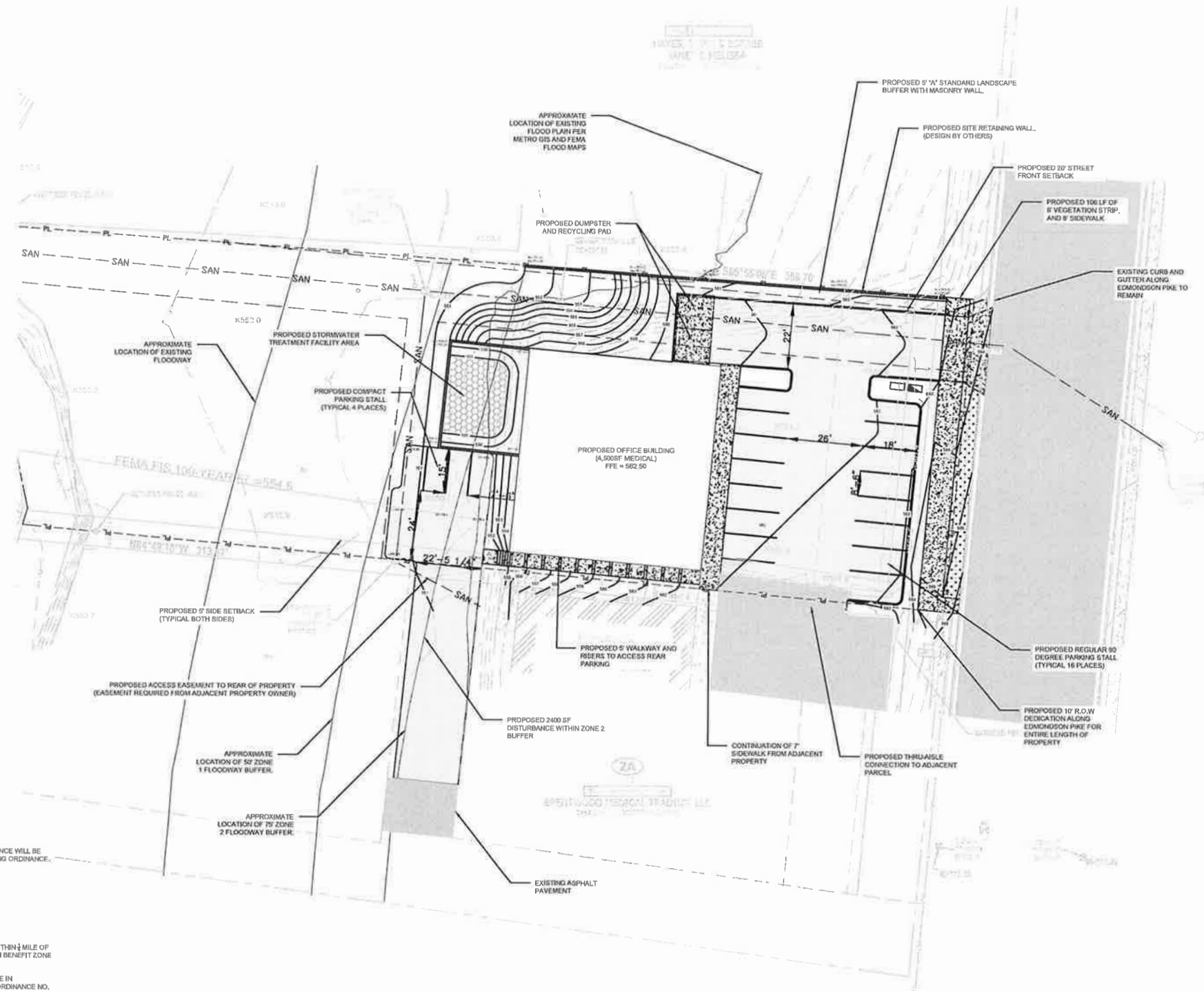
This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

86°44'19.22"W



USGS The National Map: Orthoimagery. Data refreshed April, 2019. 36°2'32.52"N





- GENERAL NOTES:**
- SURVEY INFORMATION PROVIDED BY CLINT ELLIOT SURVEY, DATED 11/27/2019.
  - LANDSCAPE BUFFER SHOWN AS 5' X 1' STANDARD ALONG NORTH PROPERTY BOUNDARY. VARIANCE WILL BE REQUIRED TO VOID THE 20' X 2' STANDARD BUFFER REQUIRED BY THE METRO NASHVILLE ZONING ORDINANCE.
  - PARKING
    - REQUIRED = 1 SPACE PER 200 SF MEDICAL OFFICE = 4,900 / 200 = 23.5 SPOTS REQUIRED MEDICAL OFFICE
    - 16 REGULAR (18x8.5) SPOTS PROVIDED
    - 4 COMPACT (15x7.5) SPOTS PROVIDED
    - 20 TOTAL SPOTS PROVIDED (PARKING VARIANCE REQUIRED)
  - SIDEWALKS ARE REQUIRED FOR THIS PROJECT BECAUSE THE FRONTAGE OF THE PARCEL IS WITHIN 1/4 MILE OF A NASHVILLE NEXT CENTER. THE OWNER IS NOT ELIGIBLE TO CONTRIBUTE TO THE PEDESTRIAN BENEFIT ZONE IN-LIEU FUND.
  - ANY EXCAVATION, FILL, OR DISTURBANCE OF THE EXISTING GROUND ELEVATION MUST BE DONE IN ACCORDANCE WITH THE CURRENT STORMWATER MANAGEMENT MANUAL AS AUTHORIZED BY ORDINANCE NO. 78-840 AND ANY APPLICABLE METRO CODE PROVISIONS AND BE APPROVED BY THE METROPOLITAN DEPARTMENT OF WATER SERVICES.
  - THIS PRELIMINARY STORMWATER MANAGEMENT PLAN IS FOR ILLUSTRATION PURPOSES TO INDICATE THE BASIC PREMISE OF THE DEVELOPMENT. THE DETAILS OF THE PLAN SHALL BE GOVERNED BY THE APPROPRIATE REGULATIONS AT THE TIME OF FINAL APPLICATION.

DATE	DESCRIPTION OF REVISION

WADE HYATT  
5505 EDMONDSON PIKE, STE. 101  
NASHVILLE, TN 37211

NASHVILLE EYE GROUP  
5429 EDMONDSON PIKE

PRELIMINARY SITE UTILITY PLAN

**S+H** ENGINEERING DESIGN CONSULTING  
208 RUGGIERA AVENUE  
NASHVILLE, TN 37211  
TEL: 615.843.1900

DATE: FEBRUARY 5, 2020  
SCALE: 1" = 20'  
DRAWN BY: J. JACOBY  
REVIEWED BY: F. SMITH



**TENNESSEE811**  
KNOW WHAT'S BELOW  
CALL BEFORE YOU DIG

Sheet Name: **FIG.1**

**From:** [Kivett, Stephan \(Codes\)](#)  
**To:** [Lifsey, Debbie \(Codes\)](#); [Lamb, Emily \(Codes\)](#)  
**Subject:** RE: buffer-BZA 3-19  
**Date:** Friday, March 6, 2020 11:54:25 AM

---

I would be against the granting of the buffer variance, UNLESS the neighbor to the north has absolutely no problem

They would still need to install a side perimeter strip (tree @ 50ft intervals in a 5 ft wide strip), if the buffer were to magically go away.

Stephan Kivett

---

**From:** Lifsey, Debbie (Codes) <Debbie.Lifsey@nashville.gov>  
**Sent:** Friday, March 06, 2020 10:16 AM  
**To:** Kivett, Stephan (Codes) <Stephan.Kivett@nashville.gov>  
**Subject:** landscape buffer case to be heard on 3-19

**CASE 2020-073 (Council District - 4)**

WADE HYATT, appellant and BRENTWOOD MEDINCAL TRADING, LLC, owner of the property located at 5429 EDMONDSON PIKE, requesting variances from parking and landscape buffer requirements in the OL District, to use existing space for a medical office. Referred to the Board under Section 17.20.030 and 17.24.230. The appellant alleged the Board would have jurisdiction under Section 17.40.180 B.



Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Dewey Engineering Date: 5/5/2020  
Property Owner: PMT Properties, LLC Case #: 2020-141  
Representative: Michael Dewey Map & Parcel: Map 160, Parcel 130  
Council District: 34

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To create a consistent blockface interms of massing and setbacks along Franklin Pike  
Activity Type: Residential  
Location: 5611 Franklin Pike

This property is in the CL Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Irregular TDOT ROW along Franklin Pike as welll as width and depth of subject lot.  
Section: 17.16.030.F.6, 17.12.030B, 17.12.020C

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Dewey Engineering Representative: \_\_\_\_\_  
Phone Number: 615-401-9956 Phone Number: \_\_\_\_\_  
Address: 2925 Berry Hill Dr Address: \_\_\_\_\_  
Nashville, TN 37204 \_\_\_\_\_  
Email address: mdewey@dewey-engineering.com Email address: \_\_\_\_\_

Zoning Examiner : Clint Harper

Appeal Fee: \$200.00



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3814165

**ZONING BOARD APPEAL / CAAZ - 20200028723  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 16000001300**APPLICATION DATE:** 05/07/2020**SITE ADDRESS:**

5611 FRANKLIN PIKE BRENTWOOD, TN 37027  
PT LOT 1 ROSER HGTS

**PARCEL OWNER:** PMT PROPERTIES, LLC**CONTRACTOR:****APPLICANT:****PURPOSE:**

To construct 6 residential units, variances from front and rear setback requirements and a special exception for the commercial/retail use requirement of the Adaptive Reuse Development standards

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

---

***There are currently no required inspections***

Inspection requirements may change due to changes during construction.

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

  
\_\_\_\_\_  
APPELLANT

  
\_\_\_\_\_  
DATE



**James L. Murphy III**

jmurphy@bradley.com  
615.252.2303 direct  
615.252.6303 fax



jm

May 27, 2020

**VIA EMAIL**

Emily Lamb  
Secretary  
Metropolitan Board of Zoning Appeals  
800 Second Avenue South  
Nashville, Tennessee 37210

RE: Case No. 2020-141-Variances for PMT Properties, LLC, 5611 Franklin Pike,  
Nashville, Tennessee (Tax Map 160, Parcel 13).

Dear Emily:

I represent PMT Properties, LLC (“PMT”), the owner of the property located at 5611 Franklin Pike, Nashville, Tennessee (the “Property”). The property is located in the CL zoning district and PMT proposes to construct a 6-unit multifamily residential development (the “Project”) on the Property. Dewey Engineering has applied for variances needed for the Project from the front and rear yard setbacks and for a special exception to permit a deviation from the requirement for Adaptive Residential Developments that commercial or retail uses occupy 75% of the street frontage. I am submitting this letter to the Board of Zoning Appeals (“BZA”) to provide additional information regarding the history of the Property that supports the request for the variance and special exception.

The Property is located on the western margin of Franklin Pike and adjoins the north boundary of the parcels utilized for the Shell station at the intersection of Franklin Pike and Old Hickory Boulevard (Map 160, Parcels 102 and 279). The properties to the north and west of the Property are within the City of Oak Hill. The Property is 50 feet in width and 144 feet deep on the north boundary and 129 feet deep on the south boundary. An aerial map showing the Property highlighted in red and the surrounding properties is attached hereto as Exhibit A.

As shown on the site plan submitted by Dewey Engineering and attached hereto as Exhibit B, the western edge of the right of way of Franklin Pike is approximately 15 feet to the west of the edge of the right of way of Franklin Pike for Parcel 160, Map 102. As shown on the photographs attached hereto as Exhibit C, Exhibit D, Exhibit E and Exhibit F, the edge of the pavement of Franklin Pike is 25 feet from the eastern boundary of the Property. This condition was discovered by a representative of AAMP, LLC prior to the time AAMP, LLC acquired the Property and certain adjoining properties to the north and west in 1997. During the due diligence investigation of the Property, AAMP, LLC learned that a portion right-of-way adjacent to the Property was formerly located within the right-of-way of the Nashville & Decatur Railroad Company. In 1929 the Nashville & Decatur Railroad Company conveyed this right-of-way to the Department of Highways and Public Works of the State of Tennessee. A drawing referencing the area conveyed to the Department of Highways and Public Works is attached hereto as Exhibit G.

Emily Lamb  
May 27, 2020  
Page 2

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AAMP, LLC then discovered that the Tennessee Department of Transportation considered the portion of the right-of-way adjacent to the Property to be surplus right-of-way. See the letter from John H. Burke, Reginal Engineer to Mr. R.D. Minnigan, State Right-of-Way Engineer, dated August 23, 1976, and attached hereto as Exhibit H. A representative of AAMP, LLC then contacted Lon F. West, Metro's Zoning Administrator, who advised that in light of the fact that the portion of the right-of-way adjacent to the Property was surplus right of way, he would support a zero setback on the properties from Map 160, Parcel 109 to Map 160, Parcel 102, which includes the Property. A copy of the letter from Mr. West is attached hereto as Exhibit I. The recommendation of a zero setback for the Property was confirmed in a letter from C. Rick Shepherd, Zoning Examiner Chief, which is attached hereto as Exhibit J.

As noted in the letter submitted by Dewey Engineering with the application for the variances, the Property is unusually narrow and shallow when compared to other CL zoned properties. The 15 foot front setback and the 20 foot rear setback would not provide sufficient area to develop the Project. As noted in the letter submitted by Dewey Engineering utilizing a zero foot setback for the Property would align the building with the 15 foot setback on Map 160, Parcel 102 and with the building with a zero setback on Map 160, Parcel 109. Due to the screening to the north and west of the Property which is shown on Exhibit B, the rear of the building will be screened from the residential properties to the north and west. In addition, the proposed multifamily residential development will have comparable design and setbacks to the residential development at the corner of Old Hickory Boulevard and Town Center Boulevard in Brentwood as shown in the photographs attached hereto as Exhibit K, Exhibit L and Exhibit M. The proposed multifamily residential development will also be more compatible to the residential uses located in the City of Oak Hill to the north and west than would be the case for other commercial uses permitted in the CL zoning district.

Section 17.16.030 F 11 of the Zoning Code permits alternative design standards when a proposed residential development cannot comply with the standards of Section 17.16.030 F. The alternative design must be approved by the BZA in accordance with Sections 17.16.140 and 17.16.150 of the Zoning Code. Section 17.16.030 F 11 provides that in granting such approval of a special exception application, the BZA shall determine that the applicant has demonstrated that the relief being requested will not be injurious to surrounding properties, nor violates the adopted general plan. The BZA cannot act on any application without first considering a recommendation from the planning department.

As noted in the letter submitted by Dewey Engineering with the application for the special exception, the narrowness of the Property prevents the Project from complying with Section 17.16.030 F 6 of the Zoning Code, which requires that an Adaptive Residential Developments must have commercial or retail uses occupying 75% of the street frontage. Due to the constrained site, the access drive into the parking garage will make it impossible to provide and commercial or retail uses on the street frontage. As discussed above the proposed multifamily residential development will have comparable design and setbacks to the residential development in Brentwood and will be more compatible to the residential uses located in the City of Oak Hill to the north and west than would be the case for other commercial uses

Emily Lamb  
May 27, 2020  
Page 3

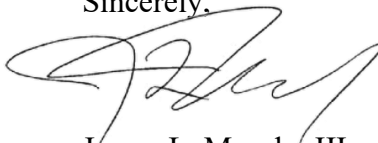
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permitted in the CL zoning district. The proposed multifamily residential development will be screened from the residential properties to the north and west by the screening on the adjoining property as shown on the site plan. Therefore the proposed multifamily residential development will not be injurious to surrounding properties.

As for compliance with the General Plan, the Property is in an area designated as T3-Neighborhood Center on the Community Plan. See the map showing the T3-NC designation attached hereto as Exhibit N. A mixture of residential and commercial uses are contemplated in T3-NC areas and low-rise and mid-rise townhomes and low-rise and mid-rise flats are contemplated as building types. Shallow setbacks are recommended in T3-NC areas. Therefore the proposed multifamily residential development is consistent with the General Plan.

For these reasons, and the reasons stated in the letter submitted by Dewey Engineering, the front and rear yard setbacks and the special exception to permit a deviation from the requirement for Adaptive Residential Developments that commercial or retail uses occupy 75% of the street frontage should be granted by the BZA

Sincerely,



James L. Murphy III

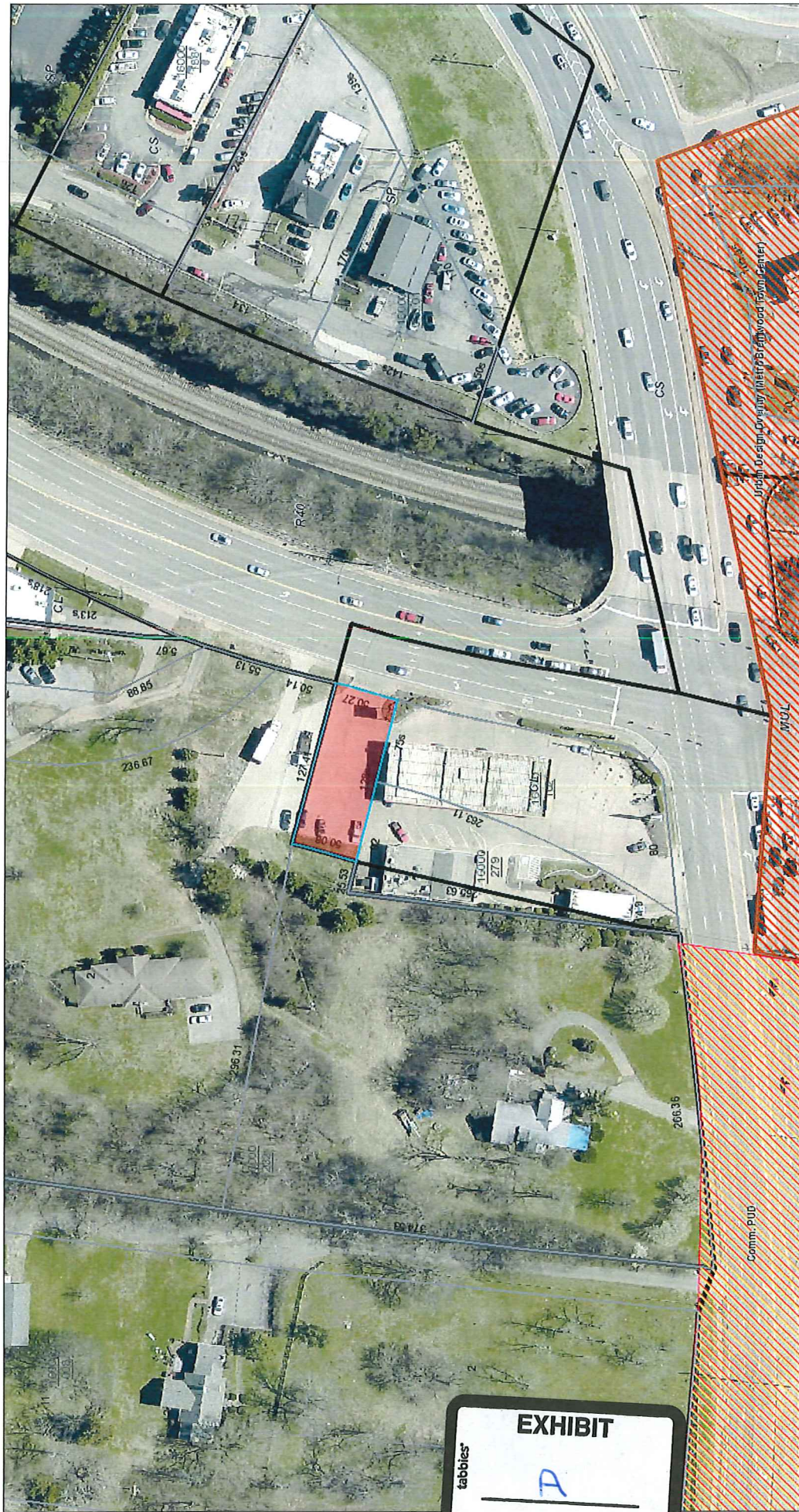
JLM

Enclosures

cc: Michael Dewey (via email, w/ enclosures)



# Nashville / Davidson County Parcel Viewer



May 27, 2020

polyonLayer

Override 1

Ownership Parcels

Planned Unit Development

Urban Design Overlay District

Zoning

1:1,128

0 0.0125 0.025 0.05 mi

0 0.02 0.04 0.08 km

Metro GIS, Pictometry International

Made by: Metro GIS





1

Exhibit



**5611 Franklin Pike**  
Tax Map 160, Parcel 130  
Nashville, Davidson County, Tennessee

Date: May 5, 2020





SITE REQUESTING  
-0- SETBACK  
5611 FRANKLIN  
PIKE

EXHIBIT  
C





5611 FRANKLIN RD  
FROM R.O.W TO  
SURVEYED PROPERTY LINE  
STAKE  
2.5ft - SEE NEXT  
SLIDE

EXHIBIT  
D



561 FRANKLIN PIKE

25 FT



tabbles®

**EXHIBIT**

E

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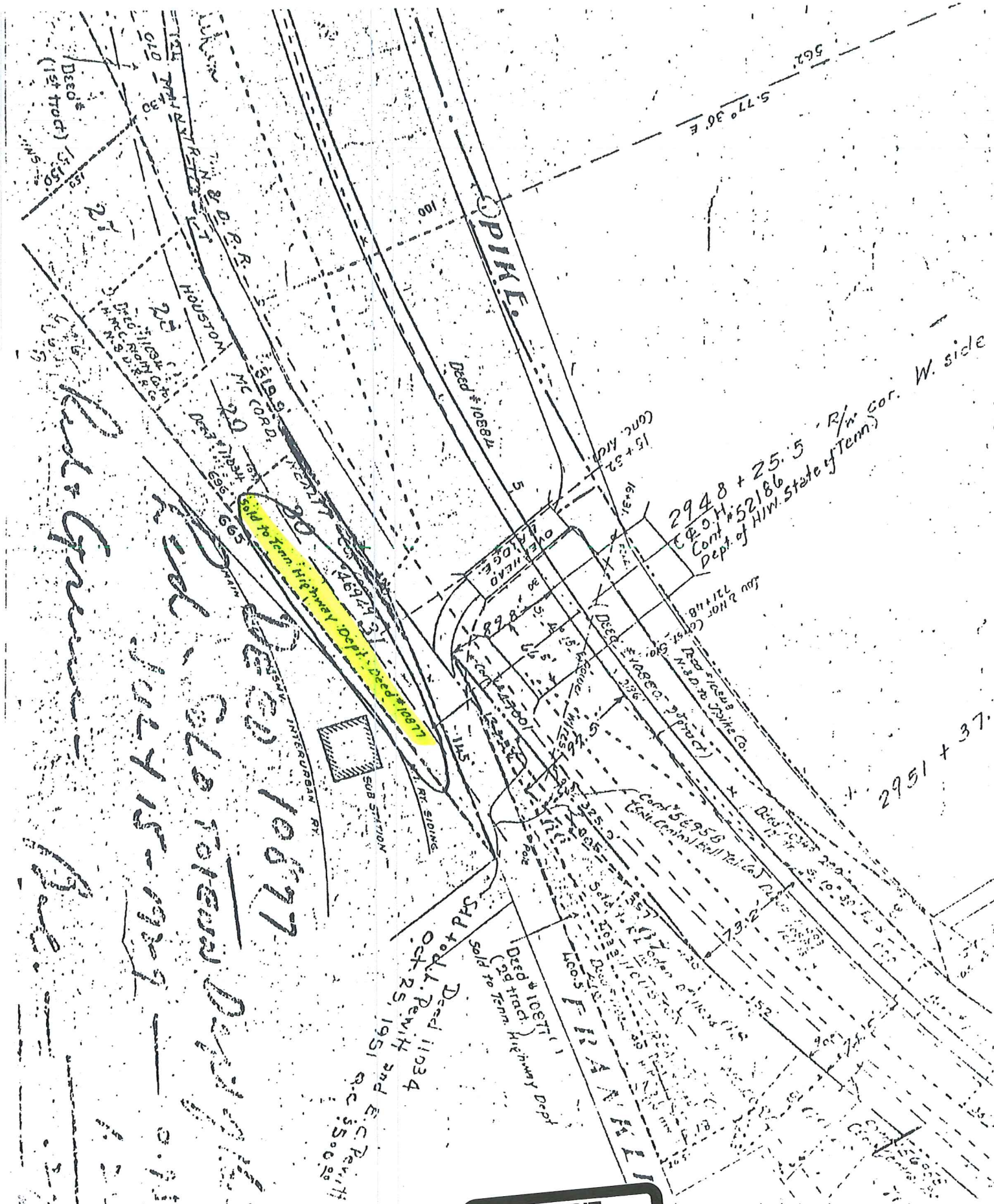
5611 FRANKLIN  
FRONT  
CORNER

PROP. COR.

EXHIBIT  
F

tabbies



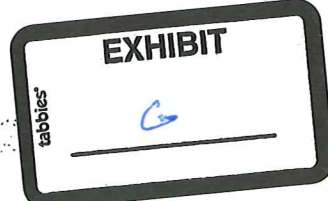


Red Green - Blue - 102-15-1929 - 0.75

Deed # 10577

Sold to Tenn. Highway Dept. Deed # 10677

2948 + 25:5 R/W Cor. W. side  
 (Cont. # 52186 Dept. of H.W. State of Tenn.)







— TENNESSEE DEPARTMENT OF TRANSPORTATION —

— NASHVILLE 37219 —

RAY BLANTON  
GOVERNOR

August 23, 1976

EDDIE SHAW  
COMMISSIONER

W. A. GOODWIN  
DEPUTY COMMISSIONER

Mr. R. D. Minnigan  
State Right-of-Way Engineer  
242 Doctors Building  
Nashville, Tennessee 37219

ATTENTION: MR. BOB AGEE

RE: EXCESS LAND SALES  
STATE ROUTE 6  
DAVIDSON COUNTY

Dear Mr. Agge:

Please find enclosed herewith a request received from Mr. Hubert A. Sumner asking that a parcel of land belonging to the Department and being part of the above referenced highway, be declared excess.

I have had this request reviewed in the Region and it is our determination that there is no contemplated future need for this property and as such I do concur in this request and ask that the matter be referred to the standing committee of the Department for such purposes.

As a matter of reference, in our review of the request it was found that the Department's deed to the property is unrecorded; however, we do understand that a copy of this deed may be obtained through the office of Mr. Bill Lamb, Director, Public Works Administration, Metropolitan Government of Nashville and Davidson County. We also found that Mr. Sumner does hold a quitclaim deed which purports to convey this property. This deed is recorded in Book 5008, page 258, Register's Office for Davidson County, Tennessee.

Yours very truly,

John H. Burke  
Regional Engineer

ppm  
Enclosure  
cc: S. N. Wilson



BUREAU OF HIGHWAYS \* BUREAU OF PLANNING \* BUREAU OF BUSINESS MANAGEMENT \* BUREAU OF AERONAUTICS

\* BUREAU OF AREA MASS TRANSIT \* BUREAU OF INDUSTRIAL MARINE & WATERCRAFT TRANSPORTATION



BILL PURCELL, MAYOR


 METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

 BUILDING  
 ELECTRICAL  
 GAS/MECHANICAL  
 HOUSING  
 PLUMBING  
 ZONING

February 21, 1997

 DEPARTMENT OF CODES ADMINISTRATION  
 METRO HOWARD BUILDING  
 700 2ND AVENUE, SOUTH  
 NASHVILLE, TENNESSEE 37210  
 (615) 862-6500  
 FAX NUMBER (615) 862-6514

 Mr. Mark Marshal  
 Marshall Developments  
 P.O. Box 2142  
 Brentwood, TN 37024

 RE: Franklin Pike, Brentwood TN 37027  
 Parcel 160: Map 102 & 109

Dear Mr. Marshal:

From all the records in the Department of Codes Administration and Metro Planning Commission, it appears that the referenced parcels are in Davidson County outside the corporate limits of the City of Oak Hill.

TDOT has explained to us and Metro Mapping that TDOT sold extra surplus Parcel 160 Map 109 to Herb Summers and the remaining of the majority of right-of-way between Parcel 160 Map 102 and Parcel 160 Map 109 is considered surplus right-of-way but not deemed extra surplus right-of-way which TDOT received by deed from the abandonment of the railroad in approximately 1929.

Therefore, it is my opinion that the subject properties are within the jurisdiction of Metro Government (not the City of Oak Hill) and is currently zoned ("CL") which is the successor zoning to ("Commercial A"). As it relates to the final approval of the zero front set back in front of Parcel 160 - Map 102 50 foot strip and the surplus right-of-way land between said two parcels I would support a zero front setback due to the depth of right-of-way (that the majority of right-of-way is deemed surplus right-of-way) which would have to receive final approval by the Board of Zoning Appeals.

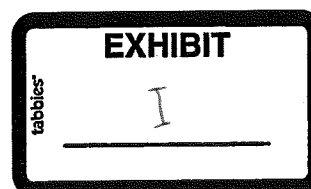
Should you need further information, please feel free to contact me @ 862-6608

Very truly yours,



 Lon F. West Zoning  
 Metropolitan Zoning Administrator

LFW:ljb



PHILIP BRIDGES, MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

BUILDING  
ELECTRICAL  
MECHANICAL  
PLUMBING  
ZONING

DEPARTMENT OF CODES ADMINISTRATION  
METRO HOWARD BUILDING  
790 3RD AVENUE, SOUTH  
NASHVILLE, TENNESSEE 37210  
(615) 893-4560  
FAX NUMBER (615) 893-8914

August 24, 1999

Mr. Mark Marshall  
Marshall Developments  
P.O. Box 2142  
Brentwood, TN 37024

RE: Franklin Pike, Brentwood TN 37027  
Map: 160 Parcel: 102

Dear Mr. Marshall:

This is to confirm our conversation regarding the referenced parcel. As confirmed in our conversations with Mr. Freddie Stroupe in the Metro Mapping Division, the property beginning with the northwest corner of Franklin Pike and Old Hickory Boulevard is all one parcel. This includes the Sheli site and the remaining approximately 50 foot strip you propose to develop to the north.

As we have previously discussed with Lon F. West, we support and also would recommend that the said parcel should have a zero front setback due to the fact that both Metro Mapping and the State of Tennessee show that most of the area in the R.O.W. in front of the 50 foot strip is surplus right-of-way and is deemed out of the normal R.O.W. that will never be needed for Highway Purposes. Please note that while we recommend a zero front set back it would have to be heard by the Board of Zoning Appeals prior to being approved by Codes.

The 50 foot strip portion of the said parcel that you propose to develop is all within the jurisdiction of Metropolitan Nashville, Davidson County, Tennessee with the City of Oak Hill having jurisdiction north of the site. This is indicated on a subdivision plat recorded in Book 8250 Page 785 approved by the City of Oak Hill.

The subject parcel is zoned "CL" and upon submittal of plans and application to the BZA, to our office, demonstrating compliance with applicable codes we will issue a building permit.

Sincerely,

C. Rick Shepherd  
Zoning Examination Chief  
jh



Aug 24 1999



METRO CODES





5720  
FRANKLIN RD  
SITTING ON  
- O - STONE

JCT  
254  
Hampden

AVAILABLE  
DAVID C. STREMIC  
615.474.6001  
PDM REALTY ADVISORS, LLC  
615.370.8384

tabbies  
EXHIBIT  
K





5720 FRANKLIN  
PKE - RESIDENTIAL  
BUILDING SETTING M/F  
OFF RIGHT-OF-WAY

EXHIBIT  
L

tabbles®





145

tabbies®

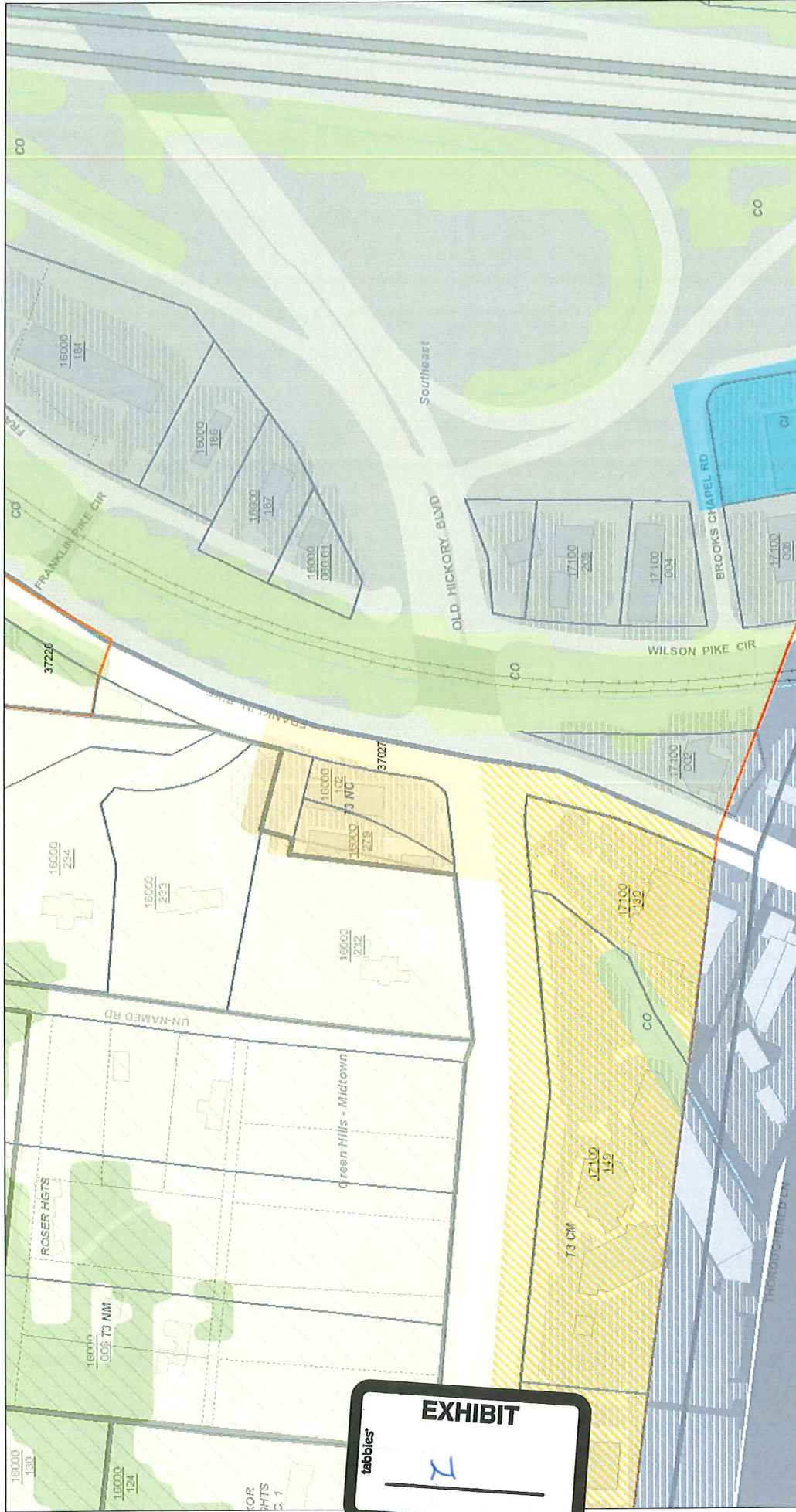
**EXHIBIT**

M

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# Nashville / Davidson County Parcel Viewer



May 27, 2020

Ownership Parcels

Zip Codes

<all other values>

ARTS CENTER REDEVELOPMENT DISTRICT

BORDEAUX REDEVELOPMENT DISTRICT

CAPITOL HILL REDEVELOPMENT DISTRICT

CAPITOL MALL REDEVELOPMENT DISTRICT

CAYCE REDEVELOPMENT DISTRICT

CENTRAL STATE REDEVELOPMENT DISTRICT

EAST BANK REDEVELOPMENT DISTRICT

FIVE POINTS REDEVELOPMENT DISTRICT

JEFFERSON STREET REDEVELOPMENT DISTRICT

PHILLIPS-JACKSON STREET REDEVELOPMENT DISTRICT

RUTLEDGE HILL REDEVELOPMENT DISTRICT

SKYLINE REDEVELOPMENT PLAN

Community Planning Areas

1:2,257

0 0.0275 0.055 0.11 mi

0 0.0425 0.085 0.17 km

Nashville Planning Department  
Metro GIS

Made by: Metro GIS



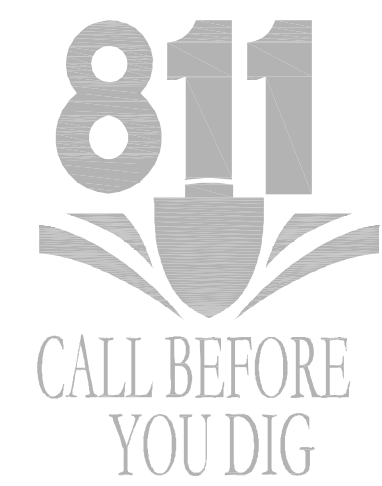




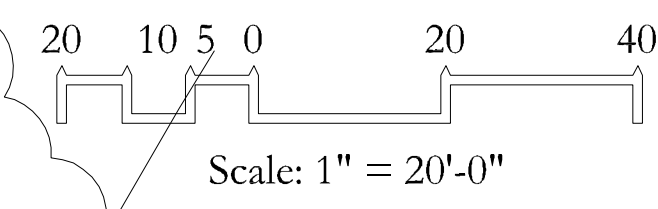








**NORTH**  
 Date: 06-24-2020  
 Revisions: 00-00-2020



**MATERIALS SCHEDULE - 5595 PROPERTY**

KEY	AMOUNT	SCIENTIFIC NAME/ COMMON NAME	HEIGHT	SPREAD	TRUNK	NOTES
<b>TREES</b>						
CC	3	<i>Cercis canadensis</i> 'Merlot' / Merlot Redbud	6' Min.	2'-3'	2"	Matched
<b>SHRUBS</b>						
IC	14	<i>Ilex crenata</i> 'Helleri' / Heller's Compact Holly	18" Min.	15"-18"	F.T.B.	
TO	7	<i>Thuja occidentalis</i> 'Smaragd' / Emerald Green Arborvitae	48" Min.	15"-18"	F.T.B.	
<b>TURF</b>						
SOD		Rebel II Fine Bladed Sod	Install at disturbed areas.			
<b>MISCELLANEOUS</b>						
Mulch Bed		Hardwood Bark Mulch	Minimum 3" depth throughout.			
<b>NOTES</b>						
FTB = Full To Bottom						

**MATERIALS SCHEDULE - 5611 PROPERTY**

KEY	AMOUNT	SCIENTIFIC NAME/ COMMON NAME	HEIGHT	SPREAD	TRUNK	NOTES
<b>TREES</b>						
AR	3	<i>Acer rubrum</i> 'Karpick' / Karpick Red Maple	12'-14'	4'-5'	2"	Matched 3' Clear
<b>SHRUBS</b>						
IC	7	<i>Ilex crenata</i> 'Helleri' / Heller's Compact Holly	18" Min.	15"-18"	F.T.B.	
SJ	5	<i>Spiraea japonica</i> 'Walbumba' / Magic Carpet Spirea	15" Min.	15"-18"	F.T.B.	
<b>GRASSES</b>						
PA	4	<i>Pennisetum alopecuroides</i> 'Hameln' / Dwarf Fountain Grass	Install where shown.			
<b>TURF</b>						
SOD		Rebel II Fine Bladed Sod	Install where shown.			
<b>MISCELLANEOUS</b>						
Mulch Bed		Hardwood Bark Mulch	Minimum 3" depth throughout.			
HB	2	Hose Bib, Water Spigot, Hydrant	Install within 100' of any new landscaping on subject property.			
<b>NOTES</b>						
FTB = Full To Bottom						
THE LANDSCAPE CONTRACTOR SHALL NOT MAKE SUBSTITUTIONS						
* OFFSITE, NO TDU OR LANDSCAPE CREDIT						

**REQUIREMENTS**

PARCEL ID #	16000001300
PROPERTY ZONE:	CL-SP
GROSS PARKING AREA:	0 SF
INTERIOR PLANTING AREA REQUIRED:	NA
AREA OF LOT:	0.15 ACRES
BUILDING COVERAGE:	- 0.12 ACRES
AREA OF REQUIRED COMPLIANCE:	0.03 ACRES
	x 22.0
REQUIRED TREE DENSITY UNITS:	0.66
PROPOSED NEW TREES:	
2" CAL @ 0.25 3 x 0.25 =	0.75
CREDIT FOR NEW TREES:	0.75
TOTAL TDU PROVIDED:	0.75
IRRIGATION REQUIREMENTS SATISFIED VIA HOSE BIBS	

**NOTES**

THE LANDSCAPE CONTRACTOR SHALL COORDINATE ALL CONSTRUCTION WITH THE APPROPRIATE UTILITY COMPANY AND SHALL BE RESPONSIBLE FOR ANY DAMAGE.

THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE FINE GRADING OF ALL PLANTING AREAS.

ALL PLANTING AREAS SHALL BE FERTILIZED WITH 12#/1000 S.F. OF 10-10-10 FERTILIZER.

ALL PLANTING BEDS SHALL HAVE A MINIMUM OF 3" DEPTH OF SHREDDED BARK MULCH. FINELY GROUND, NO NUGGETS, 1/2" DIAMETER MAX. PIECES. REFUSE & STONE FREE.

ALL DISTURBED AREAS SHALL BE PLANTED WITH TURF AS INDICATED ON THE MATERIALS SCHEDULE.

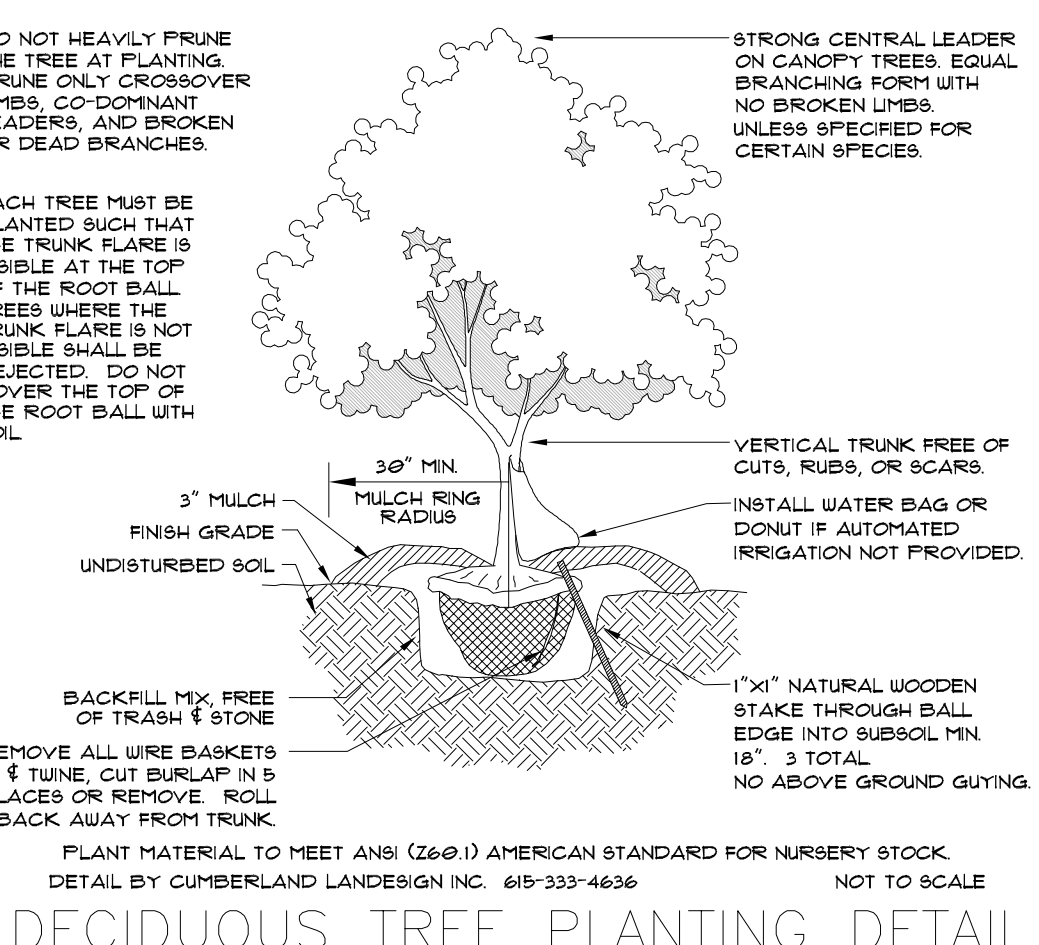
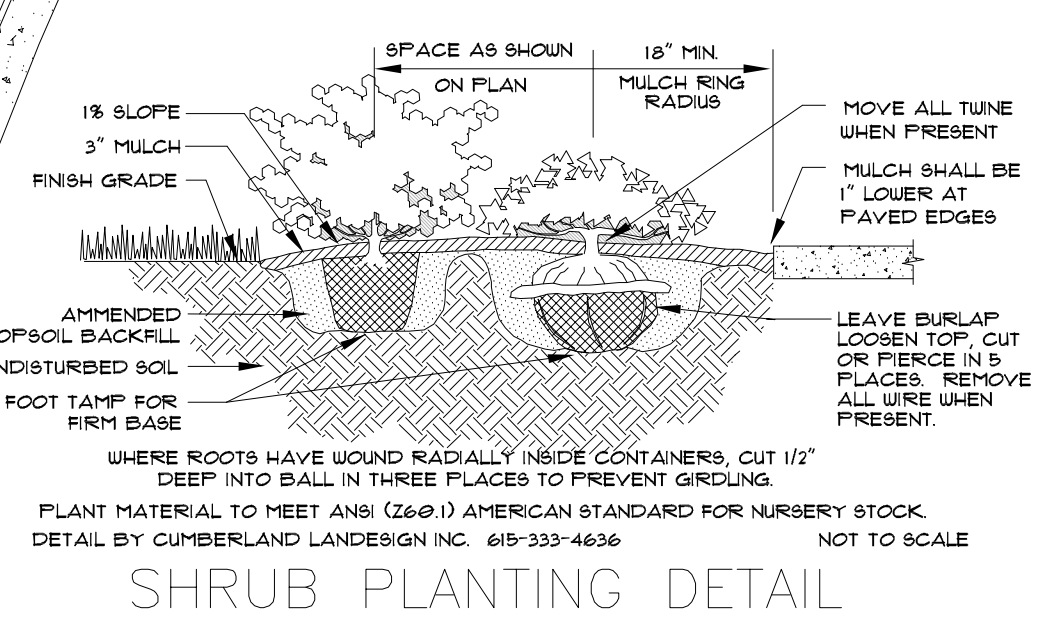
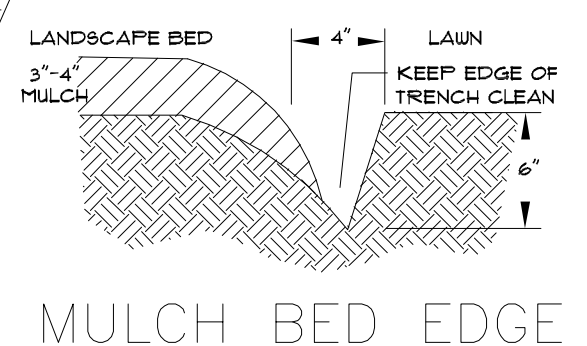
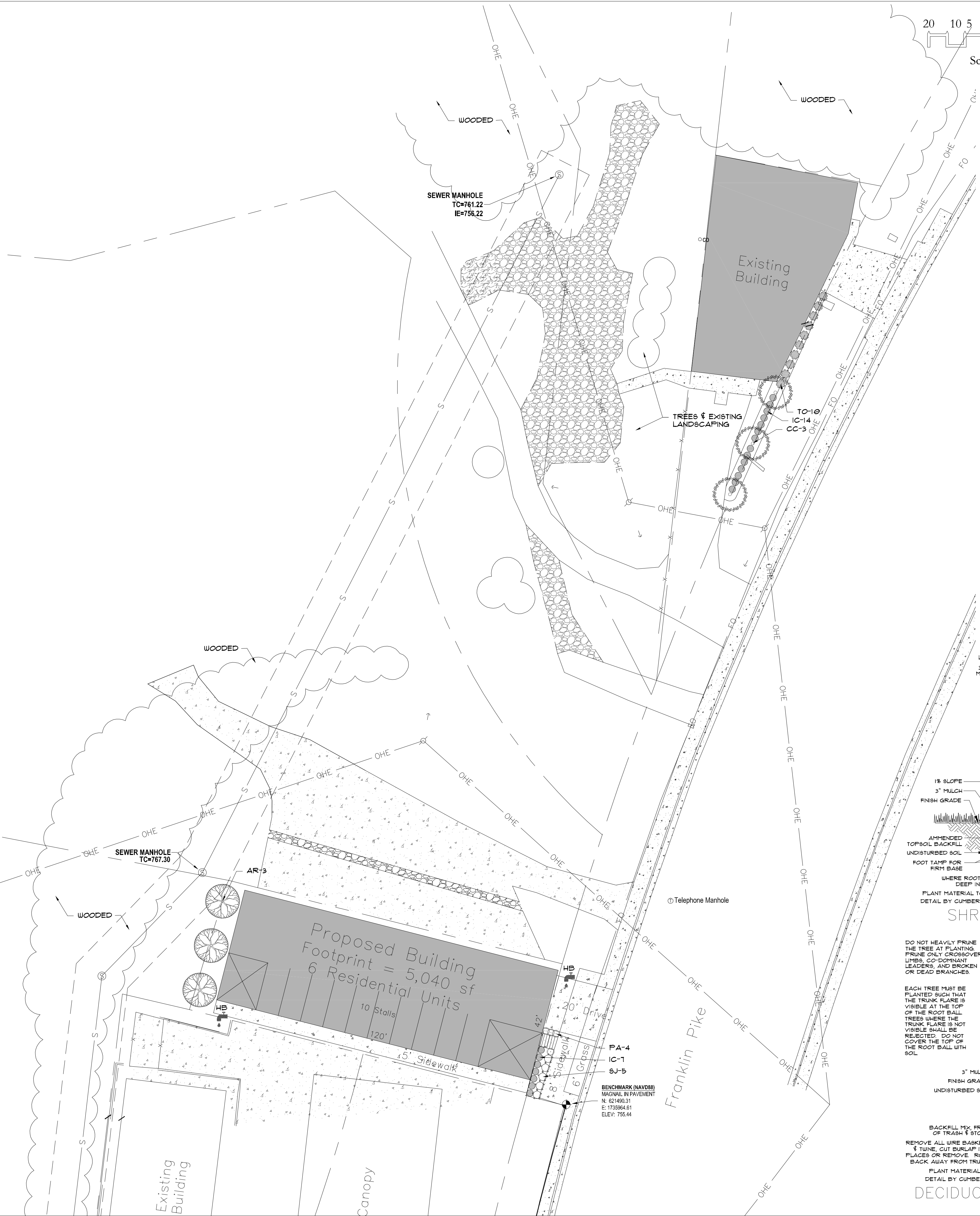
PLANT SIZES SHOWN ARE MINIMUMS REQUIRED BY THE LOCAL MUNICIPALITY AND MATERIALS SHOWN HAVE BEEN SELECTED SPECIFICALLY FOR THIS PROJECT.

ALL WIRE BASKETS SHALL BE COMPLETELY REMOVED. REMOVE ALL TWINE FROM BURLAP MATERIALS.

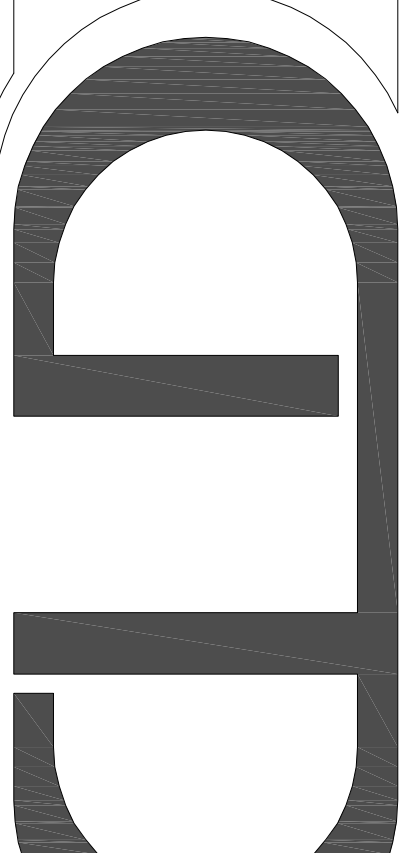
STAKE TREES IN PLACE PER DETAIL - WIRE OR ROPE GUYING IS NOT ALLOWED.

NO CANOPY TREE SHALL BE LOCATED WITHIN 15' OF AN OVERHEAD UTILITY, POWER LINE, OR LIGHT POLE.

NO CANOPY TREE SHALL BE LOCATED WITHIN A GAS, WATER, SEWER, UNDERGROUND ELECTRIC, CABLE, FIBER, OR PUBLIC UTILITY EASEMENT WITHOUT SIGNING OF A RELEASE WAIVER AND APPROVAL BY THE EASEMENT HOLDER.



Landscape Concept Plan for:  
**5611 Franklin Pike**  
 Nashville, TN 37220







Members of the Metropolitan Board of Zoning Appeals  
800 Second Avenue South  
Nashville, Tennessee 37210

Re: Case No. 2020-141-Variances for PMT Properties, LLC, 5611 Franklin Pike, Nashville, Tennessee

Dear Board Members:

I am submitting this letter to address questions on the marketability of the residential development at 5611 Franklin Pike that were raised at a recent community meeting. I have been involved with PMT Properties, LLC in the design and planning of this development for some time. I have helped in selections of the quality finishes most coveted by the target buyer group of this project and have assisted with both interior layouts and exterior finishes.. My 15 years of experience has been instrumental in my team selling nearly 550 properties last year and nearly \$1 billion in sales in my career. I take a strategic approach to each project I market and sell.

This particular project boasts the coveted Brentwood address, close proximity to the interstate and great accessibility to the commercial district of Brentwood as well as Nashville. I do recognize the proximity to the Shell Station is a negative to overcome, but I am no stranger to selling property where you have something to overcome. I sold multiple properties on Alice Street in Nashville that were next to the Marathon holding station. Any time the wind picked up you would smell very strong gas fumes at those properties. This was a big issue to overcome but it did not prevent the homes from being sold for top dollar when marketed with upgraded finishes. Those properties had a \$500k price point and buyers were simply willing to overlook the one negative for the many positive features.

The development team and I recognized possible negatives of the nearby gas station. From the beginning of our planning sessions great care and detail was taken to make sure the architect designed a wall that had added character with its brickwork but also a screen to take the focus away from the adjacent property. The private courtyard allows a luxury feeling by incorporating

ivy and other green plant materials. As far as ingress and egress is concerned, this particular is accessible for traffic coming from either North or South on Franklin Road. I truly believe this is not only the best use for the property but will certainly provide a lot less traffic for the Old Hickory Boulevard and Franklin Road intersection than if the property was developed as a drive-thru coffee operation or similar commercial use.

I look forward to showing prospective buyers that this property offers luxury brownstone living with great accessibility. We plan to market these properties once they finish the build out of the model units. It is important for buyers to see the finished product. I anticipate a 4-6 month selling cycle once I have a model unit available.

I am available for any questions you have on this project.

Best,



Erin Krueger- MBA, ABR, ASP, CRS, Affiliate Broker, REALTOR®=  
The Erin Krueger Team at Compass - Team Lead  
1033 Demonbreun St, Suite #300  
Nashville TN 37203  
m: 615.509.7166 / o: 615-475-5616  
[www.erinkrueger.com](http://www.erinkrueger.com)  
License #309197

**From:** [Gregory, Christopher \(Public Works\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#)  
**Cc:** [Ammarell, Beverly \(Public Works\)](#)  
**Subject:** RE: Appeal 2020-141  
**Date:** Friday, June 26, 2020 11:48:50 AM

---

Response is copied below.

**2020-141 5611 Franklin Pike Reduce building setback**

Variance: 17.16.030 F.6, 17.12.030 B, 17.12.020 C

Response: Public Works takes no exception on condition that adequate parking is provided on site per code.

This does not imply approval of the submitted site plan as access and design issues will be addressed and coordinated during the permitting process.

**Christopher E. Gregory, E.I.T.**  
***Metropolitan Government of Nashville***

*Department of Public Works*

*Engineering Division*

720 South Fifth Street

Nashville, TN 37206

Ph: (615) 880-1678

---

**From:** Shepherd, Jessica (Codes) <[Jessica.Shepherd@nashville.gov](mailto:Jessica.Shepherd@nashville.gov)>  
**Sent:** Friday, June 26, 2020 10:27 AM  
**To:** Ammarell, Beverly (Public Works) <[Beverly.Ammarell@nashville.gov](mailto:Beverly.Ammarell@nashville.gov)>  
**Cc:** Gregory, Christopher (Public Works) <[Christopher.Gregory@nashville.gov](mailto:Christopher.Gregory@nashville.gov)>  
**Subject:** RE: Appeal 2020-141

Hello,

I am just following up on this.

Thank you,

Jessica

---

**From:** Ammarell, Beverly (Public Works) <[Beverly.Ammarell@nashville.gov](mailto:Beverly.Ammarell@nashville.gov)>  
**Sent:** Tuesday, June 23, 2020 10:27 AM  
**To:** Shepherd, Jessica (Codes) <[Jessica.Shepherd@nashville.gov](mailto:Jessica.Shepherd@nashville.gov)>  
**Cc:** Gregory, Christopher (Public Works) <[Christopher.Gregory@nashville.gov](mailto:Christopher.Gregory@nashville.gov)>  
**Subject:** Re: Appeal 2020-141

Chris , have you prepared a traffic response ?

---

**From:** Shepherd, Jessica (Codes) <[Jessica.Shepherd@nashville.gov](mailto:Jessica.Shepherd@nashville.gov)>

**Sent:** Wednesday, June 3, 2020 2:06 PM

**To:** Ammarell, Beverly (Public Works) <[Beverly.Ammarell@nashville.gov](mailto:Beverly.Ammarell@nashville.gov)>; Ammarell, Beverly (Public Works) <[Beverly.Ammarell@nashville.gov](mailto:Beverly.Ammarell@nashville.gov)>

**Subject:** Appeal 2020-141

Appeal 2020-141 on agenda for 6/18/2020



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
Planning Department  
Metro Office Building  
800 Second Avenue South  
Nashville, Tennessee 37201  
615.862.7150  
615.862.7209

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# Memo

**To:** Metropolitan Nashville Board of Zoning Appeals  
**From:** Metropolitan Nashville Planning Department  
**CC:** Emily Lamb  
**Date:** June 30, 2020  
**BZA Hearing Date:** July 2, 2020  
**Re:** Planning Department Recommendation for Special Exception Cases

---

Pursuant to Section 17.16.030.F.11 of the Metro Zoning Code, the Metropolitan Planning Department is providing recommendations on the following Special Exception case:

## **Case 2020-141 (5611 Franklin Pike) – Special exception**

**Request:** A special exception to permit a deviation from the requirement for Adaptive Residential Developments with ground floor parking facilities to have commercial or retail uses occupy 75% of the parking facility frontage along a street.

**Zoning: Commercial Limited (CL)** is intended for retail, consumer service, financial, restaurant, and office uses.

**Policy: T3 Suburban Neighborhood Center (T3 NC)** is intended to enhance and create suburban neighborhood centers that serve suburban neighborhoods generally within a 5 minute drive. They are pedestrian friendly areas, generally located at intersections of suburban streets that contain commercial, mixed use, residential, and institutional land uses. T3 NC areas are served with well-connected street networks, sidewalks, and mass transit leading to surrounding neighborhoods and open space. Infrastructure and transportation networks may be enhanced to improve pedestrian, bicycle and vehicular connectivity.

**Existing Context:** The 0.15 acre site is located on the west side of Franklin Pike, north west of the intersection of Franklin Pike and Old Hickory Boulevard.

The subject site is currently vacant. The properties at the intersection of Franklin Pike and Old Hickory Boulevard are primarily commercial. The properties to the south and east are primarily commercial land uses within commercial policy. The properties to the north and west of the site are primarily residential within residential policy.

**Planning Department Analysis:**

The applicant is requesting one special exception:

- A special exception to allow for a reduction to the commercial and retail uses required on the ground floor of parking facilities abutting a public street.

The proposed site is eligible for Adaptive Residential Development, as it is located in the urban services district and has the majority of the building frontage on an arterial as shown in the Major Street Plan. Under the Adaptive Residential Development requirements, if parking is provided in a new deck or structure, the ground floor of the parking facility abutting a public street shall contain commercial or retail uses for seventy-five percent of the street frontage. Other requirements for Adaptive Residential Developments include orienting the building to the street. The proposed elevations show a pedestrian entrance onto the street as well as a vehicular entrance.

The intent of the T3 NC policy is to create suburban neighborhood centers compatible with the general character of suburban neighborhood development. These centers are intended to provide a variety of services to surrounding suburban neighborhoods. The property is on the border of the T3 NC policy and Suburban Neighborhood Maintenance (T3 NM) policy areas. The T3 NM policy area is a residential policy. For properties on the boundary of policy areas, proposed development should serve as a transition between properties. The requested special exception would allow a fully residential development. By providing an exclusively residential development, in a multi-family product type, a transition between the existing commercial development to the south and existing residential development to the north is created.

**Planning Recommendation:** Approve the requested special exception.

**Resolution: R-20-06-01-90****A resolution in reference to a multi-family residential zoning request in Metro Nashville/Davidson County**

**Whereas**, the City of Oak Hill has maintained its single family residential zoning land use since its inception.

**Whereas**, the City of Oak Hill has adopted significant ordinances to protect all parcels of land within the corporate limits from future commercial and/or multi-family land use considerations.

**Whereas**, the Board of Commissioners of the City of Oak Hill have concerns about the possibility of new multi-family land use options being made available at 5611 Franklin Pike.

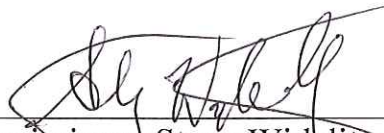
**Whereas**, The Board of Commissioners of the City of Oak Hill have safety concerns with the traffic patterns at this location (5611 Franklin Pike) due to the high volume of traffic accessing the intersection of Old Hickory and Franklin Pike.

**NOW, THEREFORE BE IT RESOLVED** that the City of Oak Hill Board of Commissioners strongly support maintaining the existing zoning classifications for the property located at 5611 Franklin Pike and request that the Metropolitan Board of Zoning Appeals deny any and all variance requests now before the board to include: a request to construct 6 residential units, variances from front and rear setback requirements and a special exception for the commercial/retail use requirement of the adaptive reuse development standards.

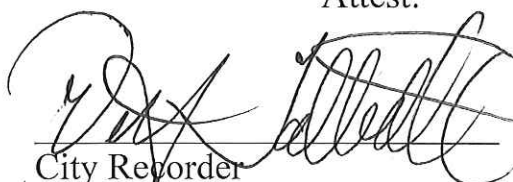
**NOW, BE IT FURTHER RESOLVED** that this resolution shall be provided to the Metropolitan Board of Zoning Appeals.

  
\_\_\_\_\_  
Mayor Heidi Campbell

  
\_\_\_\_\_  
Vice Mayor Dale Grimes

  
\_\_\_\_\_  
Commissioner Stacy Widelitz

Attest:

  
\_\_\_\_\_  
City Recorder

  
\_\_\_\_\_  
City Attorney

**From:** [Robert C Cobb](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Case #2020-141  
**Date:** Tuesday, June 9, 2020 1:32:18 PM

---

Members of the Board:

I am writing in opposition to the variance request referenced above. The location of the proposed structure will adversely effect visibility at a congested intersection and limit access to adjoining businesses and residences.

Cal Cobb  
5520 Hillview Dr.  
Brentwood, TN 37027



**From:** [Mr. Jonah Rabinowitz](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Variance Case#2020-141  
**Date:** Tuesday, June 9, 2020 11:52:28 AM

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Dear members of the Nashville Board of Zoning Appeals,

I would like to urge you to decline the request for variances for case# 2020-141, at the property of 5611 Franklin Pike, 37027.

The corner of OHB and Franklin Pike has multiple issues of parking, and entrance and egress. Traffic becomes backed up through the intersection if even a single car is attempting to make the left turn into the gas station adjacent to this property (going north on Franklin Pike). Adding 6 residential units, will only create more issues in an already untenable situation. There is not sufficient space for parking for the building next to this lot, and I question the motives for squeezing a multi residential onto this slice of land.

Please, before making any decisions, examine this matter closely by visiting the site.

Thank you for your time and consideration,  
Carole Rabinowitz

**From:** [Rob Freundlich](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** opposition to variance request 2020-141  
**Date:** Monday, June 8, 2020 6:41:19 PM

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As a resident of Oak Hill and the neighborhood involved in variance request 2020-141, I would like to express my opposition to the proposed multifamily dwelling at the corner of Franklin Pike and Old Hickory. Part of the charm of living in Oak Hill has been its somewhat unique ability to resist excessive development and high density housing, unlike much of the rest of Nashville. I am concerned that permitting the construction of high density housing would lead to a slippery slope of development.

I would be happy to speak more at any time with you or any members of your staff about my opposition. Thank you very much for your time.

Sincerely,  
Rob Freundlich

**From:** [Zach Baldwin](#)  
**To:** [Henderson, Angie \(Council Member\)](#); [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Opposition to Case 2020-141: 5611 Franklin Pike  
**Date:** Sunday, June 14, 2020 9:32:28 AM

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All:

As a resident of Oak Hill, nominated Oak Hill BZA member soon to take responsibilities, and candidate for commissioner of Oak Hill, I am writing to express my opposition to the planned development on 5611 Franklin Pike.

While understanding the development is in Nashville and not Oak Hill, it still borders the city of Oak Hill that has strict ordinances against commercial development. The proposed development does not fit into the context of the surrounding areas. I hope that you will respectfully decline the request for variances for this location.

Gratefully,

Zach



**Zach Baldwin | Senior Project Manager**

[zachb@americanconstructors.us](mailto:zachb@americanconstructors.us)

O: 615.329.0123 | M: 615.405.0047

2900 Vanderbilt Place

Nashville, TN 37212





## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Muktar Osman Date: 5-12-2020  
 OSMAN, MUKTAR & ABDULAHI,  
 Property Owner: LOULA Case #: 2020- 143  
 Representative: Osman Baker Map & Parcel: 134090B02300CO  
 Council District: 26

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: Construct a carport addition  
 Activity Type: Addition single family residence  
 Location: 4144 PARTNER WAY NASHVILLE 37211

This property is in the R10 Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Encroachment into side setback and adjoining lot.  
 Section: Table 17.12.020A

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Muktar Osman Representative: Osman Baker  
 Phone Number: 6153379543 Phone Number: 6155221416  
 Address: 4144 Partner Way Address: 4148 Partner Way  
Nashville, TN 37211 Nashville, TN 37211  
 Email address: Muktar@bellsouth.net Email address: obaker40@gmail.com

Appeal Fee: \$100.00



## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by Thursday, prior to the public hearing to be included in the record. You must provide (1) copy of your information to staff.**

**I am aware that I am responsible for posting and removing the sign(s) after the public hearing.**

MUKTAR-BAKER-OSMAN  
APPELLANT

05/05/2020  
DATE

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property**- The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics**- *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

*Hardship not self-imposed- The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases-Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property- The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare**- *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan**- *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*

In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a **HARDSHIP** as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

I put up the carport to keep the rain water from getting in the basement to mitigate that.

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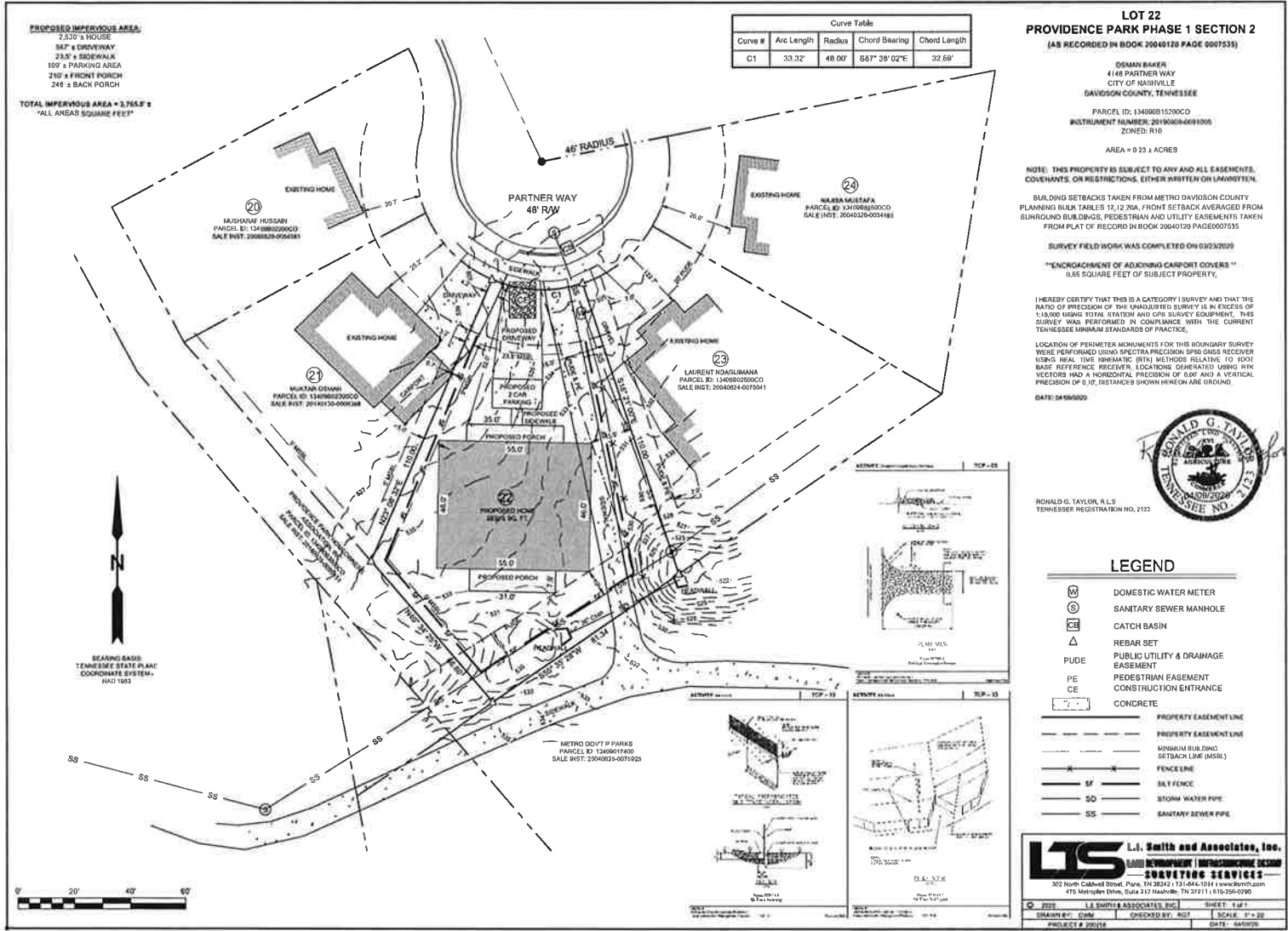
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**From:** [Michael, Jon \(Codes\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#); [Lifsey, Debbie \(Codes\)](#)  
**Subject:** FW: 4144 Partner way - BZA 2020-143  
**Date:** Monday, July 13, 2020 2:31:05 PM

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For the case file on BZA Case 143. CM Support.

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**From:** Johnston, Courtney (Council Member) <Courtney.Johnston@nashville.gov>  
**Sent:** Monday, July 13, 2020 2:05 PM  
**To:** Osman M <obaker40@gmail.com>; Michael, Jon (Codes) <Jon.Michael@nashville.gov>; Lamb, Emily (Codes) <Emily.Lamb@nashville.gov>  
**Subject:** Re: 4144 Partner way - BZA 2020-143

Mr. Michael and Mrs. Lamb,

With regard to the aforementioned BZA case number, I want to send my letter of support for this variance/appeal. I've spoken to the owner and I see no reason not to vote in favor of this. Should you need me to speak in favor, please let me know as I'm happy to dial in, if needed. Otherwise let this email service as my letter of support.

Thank you for all you do!

Courtney

Courtney Johnston

Metro Nashville Councilmember, District 26

Office 615-953-9395

[www.District26Nashville.com](http://www.District26Nashville.com) | [www.fb.com/courtneyforcouncil26](http://www.fb.com/courtneyforcouncil26)

Vice-Chair Public Safety, Beer and Regulated Beverages | Convention, Tourism & Public Entertainment Facilities | Codes, Fair and Farmer's Market | Traffic, Parking and Transportation

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**From:** Osman M <[obaker40@gmail.com](mailto:obaker40@gmail.com)>  
**Sent:** Monday, July 13, 2020 12:58:10 PM  
**To:** Johnston, Courtney (Council Member) <[Courtney.Johnston@nashville.gov](mailto:Courtney.Johnston@nashville.gov)>  
**Subject:** 4144 Partner way - BZA 2020-143

**Attention:** This email originated from a source external to Metro Government. Please exercise caution when opening any attachments or links from external sources.

Hi Courtney,

I wanted to inform you of a BZA meeting this Thursday at 1:00pm for my parents house. It is a request for variance from side setback requirements. I apologize for sending this email a bit late but wanted to inform you and potentially discuss it with you should you be interested. Attached is the letter for the meeting. Please let me know should you have any questions or concerns.

Thanks,

Osman

615-522-1416





## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Urban Dwell homes Date: 5-16-2020  
 Property Owner: Urban Dwell Homes Case #: 2020-147  
 Representative: Brandon McDonald Map & Parcel: 072070K00200Co  
 Council District: 7

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To construct a single- family residence  
 Activity Type: Single family  
 Location: 1226 b McGavock Pike

This property is in the R8\_\_\_ Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Sidewalk variance  
 Section: 17.20.120

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Urban Dwell Homes Representative: Brandon McDonald  
 Phone Number: 615-594-6838 Phone Number: \_\_\_\_\_  
 Address: 1226 McGavock Pike Address: \_\_\_\_\_  
37216  
 Email address: brandonm@urbandwellhomes.com Email address: \_\_\_\_\_

Appeal Fee: \_\_\_\_\_



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



**APPLICATION FOR BUILDING RESIDENTIAL - NEW / CARN - T2020009611  
THIS IS NOT A PERMIT**

**PARCEL:** 072070K00200CO

**APPLICATION DATE:** 02/12/2020

**SITE ADDRESS:**

1226 B MCGAVOCK PIKE NASHVILLE, TN 37216  
UNIT B HOMES AT 1226 MCGAVOCK PIKE

**PARCEL OWNER:** URBAN DWELL HOMES, GP

**APPLICANT:** MCDONALD, ROBERT BRANDON  
GENERAL CONTRACTOR

NASHVILLE, TN 37216 615-594-6838

**PURPOSE:**

to construct 1501SF single family residence with 120SF porches. 5' min. side setback, 20' min. rear setback, rear unit of hpr. unit 1 of 2. lot coverage is 952SF of max 9467SF lot coverage. not to be over any easements. Max height 3 stories or 27'11".

\*\*\*PURSUANT TO ORDINANCE NO 2008-1263 of the Metropolitan Code of Laws, I, holder of this permit, hereby certify that all construction and demolition waste generated by any and all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction or demolition waste shall be stored on the property in violation of any provisions of the Metropolitan Code\* For every 30 feet of street frontage, or fraction thereof, one 2 inch caliper tree as listed in the Urban Forestry approved tree list shall be planted on the subject property.\* For every 50 feet of site frontage, a double-sided sign 24" x 36" in size must be posted in English and Spanish that contains the information required by Ordinance No. 2017-835. No more than three signs are required.\*\*\*

*Before a building permit can be issued for this project, the following approvals are required.  
The Applicant is responsible for providing any plans or other information to the individual agencies*

[A] Site Plan Review	APPROVED	clint.harper@nashville.gov
[A] Zoning Review	APPROVED	clint.harper@nashville.gov
CA - Zoning Sidewalk Requirement Review	SWREQUIRED	clint.harper@nashville.gov
PW - Public Works Sidewalk Capital Project Coordinatic		615-862-6558 Jonathan.Honeycutt@nashville.gov
[B] Fire Life Safety Review On Bldg App		615-862-5230
[E] Sewer Availability Review For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Sewer Variance Approval For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Water Availability Review For Bldg		615-862-7225 mws.ds@nashville.gov
[E] Water Variance Approval For Bldg		615-862-7225 mws.ds@nashville.gov
[G] Bond & License Review On Bldg App	APPROVED	clint.harper@nashville.gov
[F] Address Review On Bldg App		615-862-8781 bonnie.crumby@nashville.gov
[D] Grading Plan Review For Bldg App		615-862-7225 mws.stormdr@nashville.gov
[F] Ramps & Curb Cuts Review For Bldg A		615-862-8782 PWPermits@nashville.gov



### WAIVER STATEMENT OF HARDSHIP

WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD SUPPORT THE REQUEST FOR A WAIVER OF THE SIDEWALK REQUIREMENT UNDER ORDINANCE BL2019-1659?

1226 McGavock Pike 072070K00200C0

T 2020009611

Theres a large Stral NES Pole that would need to be moved. We request to pay the in lieu of fee instead.

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## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

\_\_\_\_\_  
APPELLANT

\_\_\_\_\_  
DATE

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property-** The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics-** *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

**Hardship not self-imposed-** *The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

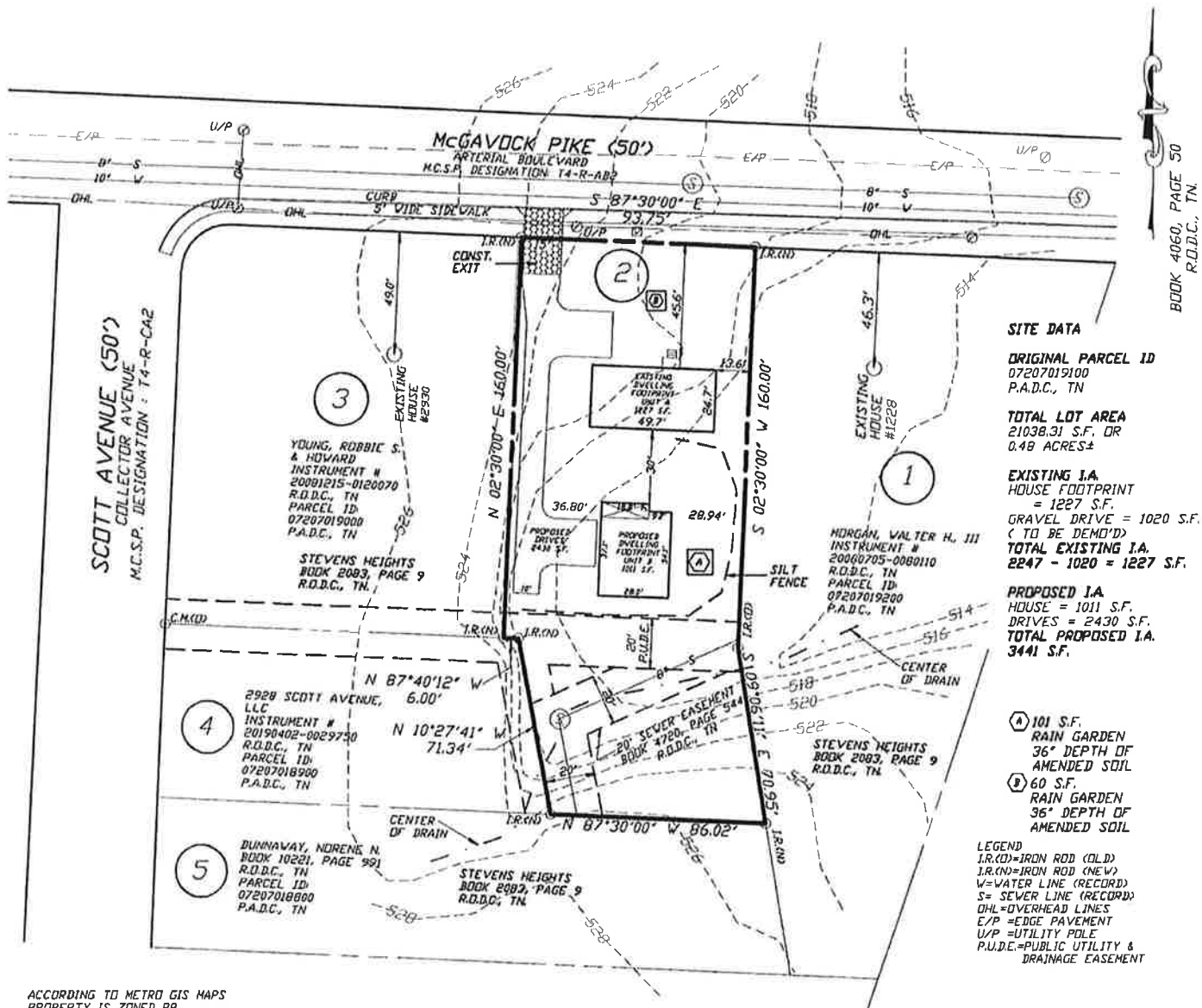
**Financial gain not only bases-** *Financial gain is not the sole basis for granting the variance.*

**No injury to neighboring property-** *The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare-** *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan-** *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*



**SITE DATA**

**ORIGINAL PARCEL ID**  
07207019100  
P.A.D.C., TN

**TOTAL LOT AREA**  
21038.31 S.F. OR  
0.48 ACRES±

**EXISTING I.A. HOUSE FOOTPRINT**  
= 1227 S.F.  
GRAVEL DRIVE = 1020 S.F.  
( TO BE DEMO'D'D )  
**TOTAL EXISTING I.A.**  
2247 - 1020 = 1227 S.F.

**PROPOSED I.A. HOUSE** = 1011 S.F.  
**DRIVES** = 2430 S.F.  
**TOTAL PROPOSED I.A.**  
3441 S.F.

- (A) 101 S.F. RAIN GARDEN  
36" DEPTH OF AMENDED SOIL
- (B) 60 S.F. RAIN GARDEN  
36" DEPTH OF AMENDED SOIL

**LEGEND**  
I.R.(O) = IRON ROD (OLD)  
I.R.(N) = IRON ROD (NEW)  
W = WATER LINE (RECORD)  
S = SEWER LINE (RECORD)  
OHL = OVERHEAD LINES  
E/P = EDGE PAVEMENT  
U/P = UTILITY POLE  
P.U.D.E. = PUBLIC UTILITY & DRAINAGE EASEMENT

ACCORDING TO METRO GIS MAPS PROPERTY IS ZONED RB SETBACKS FOR RB ZONING TAKEN FROM DISTRICT BULK TABLES TITLE 17 "ZONING" CHAPTER 17.12

FRONT = STREET AVERAGE OR MIN. SETBACK FOR COLLECTOR = 40'  
SIDES = 5'  
REAR = 20'  
VERIFY SETBACKS WITH CODES BEFORE DESIGN OR CONSTRUCTION DECISIONS ARE MADE.

BY GRAPHIC SCALING FROM THE LATEST F.E.M.A. / FLOOD INSURANCE RATE MAP THIS PROPERTY IS NOT LOCATED IN A F.E.M.A. / F.I.R.M SPECIAL FLOOD HAZARD AREA MAP 470040 PANEL 0253 H EFFECTIVE DATE = 4-5-17

THIS SURVEY WAS PREPARED FROM THE LATEST RECORDED DEED DESCRIPTION. THIS SURVEY IS SUBJECT TO THE FINDINGS OF A CURRENT TITLE EXAMINATION. NO TITLE REPORT WAS FURNISHED PRIOR TO THE SURVEY.

UTILITIES SHOWN WERE TAKEN FROM PUBLIC AS-BUILT RECORDS & FIELD LOCATION. THERE MAY BE UTILITIES OR EASEMENTS PRESENT THAT ARE NOT SHOWN ON THIS SURVEY. CONTACT THE TENNESSEE ONE CALL SYSTEM PRIOR TO ANY CONSTRUCTION OR DIGGING.

PREPARED BY:  
CAMPBELL, McRAE & ASSOCIATES, SURVEYING, INC.  
2918 BERRY HILL DRIVE  
NASHVILLE, TN, 37204  
PH. 615-298-2424  
FAX 615-297-2828  
EMAIL cmc@att.net



I HEREBY CERTIFY THAT THIS IS A CATEGORY 1 SURVEY WITH THE RATIO OF PRECISION OF THE UNADJUSTED SURVEY BEING 1:18,000. THIS SURVEY WAS DONE IN COMPLIANCE WITH THE CURRENT STANDARDS OF PRACTICE ADOPTED BY THE TENNESSEE STATE BOARD OF EXAMINERS FOR LAND SURVEYORS.

JOHN ALAN HOOD  
TN R.L.S.#1838

**SITE PLAN, LOT 2, RE-SUB. OF LOT 2 AND LOT 4, STEVENS HEIGHTS SUBDIVISION BOOK 4060, PAGE 50 R.O.D.C., TN. PROPERTY LOCATED IN THE 7TH COUNCIL DISTRICT OF NASHVILLE, DAVIDSON COUNTY TENNESSEE ON THE SOUTHERLY MARGIN OF MCGAVOCK PIKE, EAST OF SCOTT AVENUE**  
**PROPERTY ADDRESS:**  
1226 MCGAVOCK PIKE, NASHVILLE, TN., 37216  
**DEED REFERENCE:**  
INSTRUMENT# 20190816-0082228 R.O.D.C., TN.  
**ORIGINAL PARCEL ID:**  
07207019100 P.A.D.C., TN.  
**DATE :** 7-10-19  
**SCALE :** 1"=60'  
**PREPARED FOR:**  
DANNY ESQUIBEL



BOOK 4060, PAGE 50 R.O.D.C., TN.

## Metropolitan Codes Administration CASE SUMMARY

CAZW - 20200010848

**DONE**

Pursuant # 2006-1263 Metro Code of Laws, I (holder OF permit) hereby certify that all construction & demolition waste generated by any & all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction & demolition waste shall be stored on the property in violation of any provision of Metro Code...

### ADDRESSES

**PROPERTY**

072070K00200CO  
1226B MCGAVOCK PIKE  
NASHVILLE, TN 37216

### PEOPLE

**Property Owner**

URBAN DWELL HOMES, GP  
203 POINT E DR  
NASHVILLE, TN 37216

**Permit/License Applicant**

MCDONALD, ROBERT BRANDON GENERAL  
CONTRACTOR

### DATA GROUP

**Permit Information****Project Scope**

to construct 1501SF single family residence with 120SF porches. 5' min. side setback, 20' min. rear setback, rear unit of hpr. unit 1 of 2. lot coverage is 952SF of max 9467SF lot coverage. not to be over any easements. Max height 3 stories or 27'11".  
\*\*\*PURSUANT TO ORDINANCE NO 2008-1263 of the Metropolitan Code of Laws, I, holder of this permit, hereby certify that all construction and demolition waste generated by any and all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction or demolition waste shall be stored on the property in violation of any provisions of the Metropolitan Code\* For every 30 feet of street frontage, or fraction thereof, one 2 inch caliper tree as listed in the Urban Forestry approved tree list shall be planted on the subject property.\* For every 50 feet of site frontage, a double-sided sign 24" x 36" in size must be posted in English and Spanish that contains the information required by Or

**Sidewalk Waiver Request****Metro Planning  
Recommendation**

Disapprove: construct to the Major and Collector Street Plan standard; work with Planning and MPW, if necessary, to avoid existing utility pole.

**Waiver Circumstance**

a. Hardship

### WORKFLOW

Task:	Inspector:	Result:	Due/Scheduled:	Completed
Type of Waiver Requested	CWHARPER	INLIEU	02/20/20	02/19/20
Metro Planning Recommendation	MSEWELL	INREVIEW	02/25/20	03/13/20
Zoning Administrator Decision	JMICHAEL	APPROVCOND	04/13/20	04/22/20
<b>Comment:</b> Disapprove as requested: construct to the Major and Collector Street Plan standard; work with Planning and MPW, if necessary, to avoid existing utility pole.				



## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2020-147 (1226 B McGavock Pike)

Metro Standard:	8' grass strip, 6' sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not upgrade sidewalk; contribute in-lieu of construction (not eligible)
Zoning:	R8
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	T4-R-AB2
Transit:	#4 – Shelby; Approximately 0.33 miles from High Capacity Transit along Gallatin Pike
Bikeway:	None existing; none planned

### Planning Staff Recommendation: *Approve with conditions.*

**Analysis:** The applicant proposes constructing a two-family dwelling and requests a variance from upgrading sidewalks to the Arterial-Boulevard standard due to the presence of an existing sidewalk along the frontage of the site. Planning evaluated the following factors for the variance request:

- (1) There is currently a 5' sidewalk without a grass strip at this location which is consistent with adjacent properties to the east and west along the block face.
- (2) Given the scope of the applicant's request and existing sidewalk along the property which provides a clear path of travel without utility obstructions, a contribution in-lieu of upgrading the sidewalks at this location is an acceptable alternative to ensure sidewalks in the larger area can be connected to meet future walking needs of the neighboring *Nashville Next* First Tier Center.

Given the factors above, staff recommends **approval with conditions:**

1. The applicant shall contribute in-lieu of construction for the property frontage.
2. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.

**From:** [Brandon Mcdonald](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** 1226 B Mcgavock pike  
**Date:** Thursday, July 2, 2020 2:50:15 PM

---

I am the representative for Urban Dwell Homes. We request to pay the sidewalk fee since there is a relatively new metal NES pole installed in the path of the proposed new sidewalk as well as to not interrupt the continuity of sidewalks that already exist down the entire street that are already constructed.

URBAN DWELL HOMES, GP, appellant and owner of the property located at 1226 B MCGAVOCK PIKE, requesting a variance from sidewalk requirements in the R8 Page 5 District, to construct a single-family residence without building sidewalks but instead contribute to the sidewalk fund. Referred to the Board under Section 17.20.120. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B. Use-Single Family Map Parcel 072070K00200CO

--

Brandon McDonald  
Urban Dwell Homes  
615-594-6838

**From:** [Benedict, Emily \(Council Member\)](#)  
**To:** [S B](#)  
**Cc:** [Board of Zoning Appeals \(Codes\)](#); [Lamb, Emily \(Codes\)](#)  
**Subject:** Re: Upcoming Zoning Appeal on McGavock Pike RE: Sidewalks  
**Date:** Wednesday, June 17, 2020 11:21:41 AM

---

Stephanie,

Thank you for your thorough email. By cc on this message, the Board of Zoning Appeals has this on record and will include it in their consideration of the case.

Emily Benedict  
District 7 Councilwoman  
[emily.benedict@nashville.gov](mailto:emily.benedict@nashville.gov)

---

**From:** S B <[sbnds00@gmail.com](mailto:sbnds00@gmail.com)>  
**Sent:** Wednesday, June 17, 2020 10:08:13 AM  
**To:** Benedict, Emily (Council Member) <[Emily.Benedict@nashville.gov](mailto:Emily.Benedict@nashville.gov)>  
**Subject:** Upcoming Zoning Appeal on McGavock Pike RE: Sidewalks

**Attention:** This email originated from a source external to Metro Government. Please exercise caution when opening any attachments or links from external sources.

Hi Emily!

I am Stephanie Bounds, your constituent on Huffine Street in East Nash. I was able to meet you during the campaign through Lawson Patten and then was able to sit with you at Dose for one of your first coffee hours.

I received a note in the mail last week that the organization Urban Dwell Homes has filed a zoning appeal (Appeal # 2020-147) to construct a single-family residence without building sidewalks but instead contribute to the sidewalk fund.

The location of this construction would be 1216B McGavock Pike. That address is located between Scott Ave and Huffine Street off of McGavock Pike near the railroad tracks.

The appeal will be heard 7.2.20 by the Board of Zoning Appeals beginning at 1pm.

I am against the approval of this request and will try to make the meeting. But as my district representative and the head of the Sidewalk commission I was hoping you could help with this action.

The sidewalk in question is the only continuous sidewalk from Gallatin to Cooper Lane, which takes it right through Riverside Village. Riverside Village has several restaurants, a pharmacy and a convenience store. This sidewalk is a vital artery for walkers in navigating the neighborhood. It should also be noted that there is no bike line on McGavock Pike either. So the sidewalk is the only safe area for pedestrians.

Thank you for considering my concern. I hope we are able to positively affect this appeal and keep our sidewalks!

Sincerely,  
Stephanie Bounds  
845-238-1183

**From:** [Benedict, Emily \(Council Member\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#); ["David Taylor"](#); ["Christina Karpynec"](#); [THOMAS LAWLESS](#); ["ashontidavis@gmail.com"](#); [Poole, Quan \(Legal\)](#); [Logan Newton](#); [Ross Pepper](#)  
**Cc:** [Michael, Jon \(Codes\)](#); [Butler, Lisa \(Codes\)](#)  
**Subject:** Re: BZA 7-2 Packet  
**Date:** Friday, June 26, 2020 12:06:12 PM

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Members of the BZA,

I hope you are all well and safe from Covid. Having more time, lately, to reflect and appreciate those around us, I want to share my thanks for the work you do for Nashvillians.

On to business, I do not support the appellants' cases 2020-147 and 2020-131.

In 2020-131, it is my understanding that the HOA between the owners of the homes on this parcel explicitly disallows any type of short term rental. I have sent more details advance of the last meeting, so hopefully you still have that.

In 2020-147, the sidewalk variance request is due to a metal utility pole near the driveway. I do not believe this pole is a hardship. McGavock Pike, 37216, currently has sidewalks that do not meet the MCSP standard because they are too narrow and right against the street, therefore dangerous. The owner is encouraged to create an alternate and acceptable design that will help Nashvillians more safely walk on this street. Additionally, the Planning Department is working with CM VanReece and me to extend the UZO up and around Gallatin Pike, which would include this portion of McGavock Pike.

As always, should you have any additional questions, please let me know.

Emily Benedict  
District 7 Councilwoman  
[emily.benedict@nashville.gov](mailto:emily.benedict@nashville.gov)  
she/her/hers/councilwoman

Check out [hub.nashville.gov](http://hub.nashville.gov) for assistance!

---

**From:** Shepherd, Jessica (Codes) <[Jessica.Shepherd@nashville.gov](mailto:Jessica.Shepherd@nashville.gov)>  
**Sent:** Friday, June 26, 2020 11:26 AM  
**To:** 'David Taylor' <[dftaylor98@gmail.com](mailto:dftaylor98@gmail.com)>; 'Christina Karpynec' <[ckarpynec@moodynolan.com](mailto:ckarpynec@moodynolan.com)>; THOMAS LAWLESS <[tomlawless@comcast.net](mailto:tomlawless@comcast.net)>; 'ashontidavis@gmail.com' <[ashontidavis@gmail.com](mailto:ashontidavis@gmail.com)>; Poole, Quan (Legal) <[Quan.Poole@nashville.gov](mailto:Quan.Poole@nashville.gov)>; Logan Newton <[lnewton@hmka.com](mailto:lnewton@hmka.com)>; Ross Pepper <[rpepper@pepperlawplc.com](mailto:rpepper@pepperlawplc.com)>  
**Cc:** Council Members <[CouncilMembers@nashville.gov](mailto:CouncilMembers@nashville.gov)>; Michael, Jon (Codes) <[Jon.Michael@nashville.gov](mailto:Jon.Michael@nashville.gov)>; Butler, Lisa (Codes) <[Lisa.Butler@nashville.gov](mailto:Lisa.Butler@nashville.gov)>



**Subject:** BZA 7-2 Packet

Hello All,

Below is the board packet for the 7-2-2020 docket. We are still waiting on the recommendations from Planning and Public Works for case 2020-141. Al

Have a great weekend.

Jessica Shepherd

<https://www.nashville.gov/document/ID/e8ab244a-59fe-4630-8e27-f8995862d1bf/Board-Packet-July-2-2020>



## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Nikki Hatcher Date: 05/21/2020  
 Property Owner: Arthur Jones, Jr. Case #: 2020-150  
 Representative: Nikki Hatcher Map & Parcel: 084 16 0 021.00  
 Council District: 15

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: Daycare  
 Activity Type: Daycare services for children and families  
 Location: 140 McGavock Pike

This property is in the RS10 Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Previously used as daycare for many years under CL zoning; Zoning has since changed to RS10  
 Section: \_\_\_\_\_

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection A of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is hereby requested in the above requirement as applied to this property.

Appellant Name: Nikki Hatcher Representative: Nikki Hatcher  
 Phone Number: 615-763-5580 Phone Number: 615-763-5580  
 Address: 336 Pineway Drive Address: same  
Nashville, TN 37217  
 Email address: Nikkiahatcher573@gmail.com Email address: same

Appeal Fee: \$200

## APPLICATION FOR SPECIAL EXCEPTION REQUESTS

After your appeal is filed, zoning staff will visit the site to take photographs for the Board Members so they will have a better idea of the nature of your request. Zoning staff will notify the district councilmember of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in this case. The envelopes must include the return address for the BZA and case number. Fold and insert the notices into the envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding sign placement.) Finally, BZA Rules require that you conduct a community meeting regarding the special exception request before the BZA hearing date.

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the Board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for a hearing until complete.

Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing. I am aware that I am required to conduct a community meeting.

Nikki Hatcher  
APPELLANT

05/21/2020  
DATE

## SPECIAL EXCEPTION REQUEST

BZA Rules of Procedure, Item 9(2) (e) requirements to conduct neighborhood meetings regarding the case that will later appear before the BZA. The BZA Rules specifies, "In the Interest of having informed stake holder in special exception cases. It is required that the appellant make contact with the district council person and neighbors within 1000 feet of the subject property from a mailing list provided by the board staff. Information by the applicant shall include a contact person and include a reasonable representation of the proposal and hold a meeting at a geographically convenient place, date, and time. We encourage you to have the meeting prior to the deadline for additional information to presented to the board. Applicant shall document to the Board that this requirement has been met. Failure to comply may result in deferral of your case."

Zoning staff will provide you a mailing list of property owners in proximity to the location designated for a special exception permit. The BZA Rule then requires you to contact those persons on the mailing list, provide them with the date, time and place of meeting, and discuss your BZA request accordingly. If there is opposition to your case, this meeting gives you the chance to address those concerns prior to the public hearing at the BZA meeting.

You must create and provide documentation of your efforts to contact the neighboring property owners for the neighborhood meeting. Failure to do so can result in a deferral or denial of your appeal to the BZA.

I ACKNOWLEDGE MY RESPONSIBILITIES regarding the neighborhood meeting preceding the public hearing for by BZA appeal for a special exception

Nikki Hatcher  
APPELLANT (OR REPRESENTATIVE)

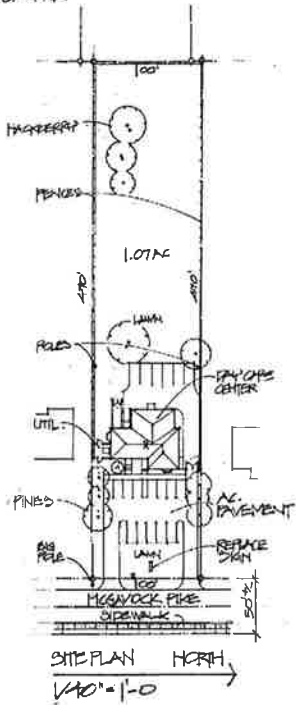
05/21/2020  
DATE

NOTES:  
 LEGAL DESCRIPTION: LOT 21 OF DAN-  
 BRIDE CENTERFIELD RESUBD: R-1-22,  
 PARCEL ID# CB1600200, LIDO CASE #  
 2009 UD-00-011 - LOT AREA: 43,544 sq ft.  
 LOT/BLDG OWNER: ARTHUR JONES,  
 267 PINEHURST BEND RD NASHVILLE,  
 TN 37214, 615-312-6949, JONESART@COM-  
 CAST.NET

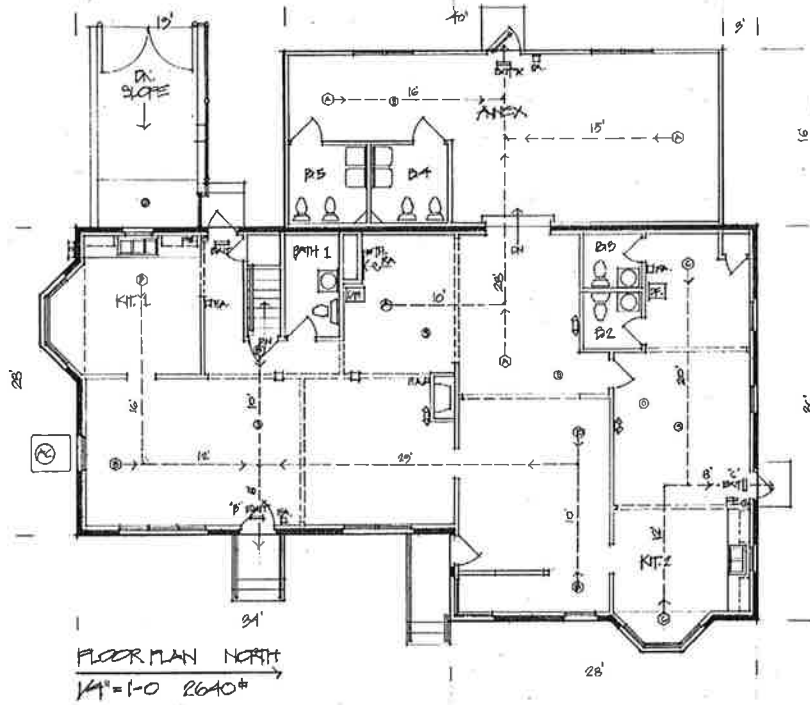
APPROVED CODE LISTING PROJECT  
 MUST MEET OR EXCEED ALL AP-  
 Plicable CODES: 2012 IBC BUILDING,  
 ENERGY, ACCESS, PLUMBING, PLUE,  
 MECHANICAL, ELECTRICAL, FIRE,  
 LIFE SAFETY, ZONING & HEALTH.

PROJECT DESCRIPTION: RENOVATION  
 OF FORMER DAY CARE CENTER  
 FOR NEW TENANT. MOST WORK  
 IS COSMETIC.

NEW DAY CARE OWNERS: ED &  
 NIKKI HATCHER, 615-855-1849.



"DANIELSON ACADEMY FOR KIDS"  
 410 MCKAYOCK PIKE, DANIELSON,  
 TN 37214.  
 LANDSCAPE PLAN: ALL EXISTING.



BUILDING TYPE: SINGLE STORY  
 WOOD FRAME, FORMER RESIDENCE  
 CONCRETE, TYP. V.

BUILDING OCCUPANT LOAD:  
 DAY CARE: 2640 sq ft / PERSON = 75  
 EXIT LINE OF TRAVEL: →  
 ○ SMOKE DETECTOR, 10A FIRE ALARM  
 ○ ONE FIRE EXTINGUISHER, 10B EXIT SIGN  
 → EMERGENCY LIGHTS



PROFESSIONAL ARCHITECT FOR KIDS  
 FOR NIKKI HATCHER  
 410 MCKAYOCK PIKE, DANIELSON, TN 37214  
 615-855-1849  
 4-23-2020  
 DANIELSON ARCHITECTS #100445  
 201 N. RIVER ST. INTERIORS  
 DANIELSON, TN 37214  
 615-855-1849





**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3821615

**ZONING BOARD APPEAL / CAAZ - 20200031733  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 08416002100**APPLICATION DATE:** 05/21/2020**SITE ADDRESS:**

140 MCGAVOCK PIKE NASHVILLE, TN 37214  
LOT 17 RESUB BAINBRIDGE & SATTERFIELD

**PARCEL OWNER:** JONES, ARTHUR JR.**CONTRACTOR:****APPLICANT:****PURPOSE:**

parcel has base zone of RS10 with 1.07 acres. MPC STAFF INDICATES THEY WILL NOT REVIEW UDO OVERLAY IN TERMS OF DAY CARE REVIEW. this permit to rehab and convert existing non-res building for a class two day care for 50 children. SPECIAL EXCEPTION REQUIRED PER METZO SECTION 17.16.170 (C) 2 A,B,C. POC ED HATCHER 615-839-1843.

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

---

***There are currently no required inspections***

Inspection requirements may change due to changes during construction.



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3821589

**BUILDING COMMERCIAL - REHAB / CACR - T2020031724  
Permit Tracking Checklist**

PARCEL: 08416002100

APPLICATION DATE: 05/21/2020

PERMIT TRACKING #: 3821589

**SITE ADDRESS:**

140 MCGAVOCK PIKE NASHVILLE, TN 37214  
LOT 17 RESUB BAINBRIDGE & SATTERFIELD

PARCEL OWNER: JONES, ARTHUR JR.

CONTRACTOR:

**APPLICANT:****PURPOSE:**

parcel has base zone of RS10 with 1.07 acres. MPC STAFF INDICATES THEY WILL NOT REVIEW UDO OVERLAY IN TERMS OF DAY CARE REVIEW. this permit to rehab and convert existing non-res building for a class two day care for 50 children. SPECIAL EXCEPTION REQUIRED PER METZO SECTION 17.16.170 (C) 2 A,B,C. POC ED HATCHER 615-839-1843.

*Before a Building Permit can be issued for this project, the following approvals are required.*

[A] Zoning Review		
CA - Zoning Sidewalk Requirement Review	SWREQUIRED	615-862-6500 Walter.Morgan@nashville.gov
PW - Public Works Sidewalk Capital Project Coordination Revi		pwbldingpermit@nashville.gov
[B] Building Plans Received		615-862-6614 teresa.patterson@nashville.gov
[B] Building Plans Review		615-862-6581 Teresa.Patterson@nashville.gov
[B] Fire Life Safety Review On Bldg App		615-862-5230 fmoplans@nashville.gov
[B] Fire Sprinkler Requirement		615-862-5230 fmoplans@nashville.gov
[B] Fire Alarm Requirement		615-862-5230 fmoplans@nashville.gov
[E] Cross Connect Review For Bldg App		615-862-7225 mws.ds@nashville.gov
[G] Bond & License Review On Bldg App		615-862-6517 permitissuance@nashville.gov
[B] Plans Picked Up By Customer		615-880-2649 Ronya.Sykes@nashville.gov
Grease Control Review On Bldg App		615-862-4590 ECO@nashville.gov
[D] Grading Plan Review For Bldg App		615-862-7225 mws.stormdr@nashville.gov
CA - [B] Fire Review State on Building App		615-741-7190
Kitchen Plans Review On Bldg App		615-340-5620 steve.crosier@nashville.gov
Codes Tree U&O Final Inspection		
[C] Flood Plain Review On Blgd App		615-862-7225 mws.stormdr@nashville.gov
[F] Ramps & Curb Cuts Review For Bldg A		pwbldingpermit@nashville.gov
[F] Solid Waste Review On Bldg App		pwbldingpermit@nashville.gov
[F] Address Review On Bldg App		615-862-8781 bonnie.crumby@nashville.gov
BZA Hearing on a BLDG Permit		
[F] Sidewalk Review For Bldg App		pwbldingpermit@nashville.gov
BZA Hearing		615-862-6505 Debbie.Lifsey@nashville.gov
[J] Planning Zoning Review - CA		615-862-7190 Deborah.Sullivan@nashville.gov

**From:** [Syracuse, Jeff \(Council Member\)](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Cc:** [nikkihatcher573@gmail.com](mailto:nikkihatcher573@gmail.com)  
**Subject:** BZA Case 2020-150 - 140 McGavock Pk - in favor of special exception  
**Date:** Thursday, July 2, 2020 1:44:26 PM  
**Attachments:** [2020-150 application.pdf](#)  
[2020-150 neighborhood letter.pdf](#)  
[image001.png](#)

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Hello, Board of Zoning Commissioners –

I write to ask for your approval of this special exception request from Nikki Hatcher with the Montessori School of Donelson. Ms. Hatcher has brought a wonderful addition to the Donelson community and has been operating successfully since 2014 on Lebanon Pike. This move to McGavock Pike provides a great opportunity for more space and is a perfect location, which is also much better than on Lebanon Pike. As 140 McGavock Pike had previously been a daycare, I believe it is an easy fit and fully support this special exception so she can take advantage of the opportunity this new location brings to her students, families and her business.

Thank you!

**Jeff Syracuse**

Metro Council Member, 15<sup>th</sup> District

Metro Historic Courthouse

One Public Square, Suite 204

Nashville, TN 37201

(615) 886-9906

[www.jeffsyracuse.com](http://www.jeffsyracuse.com)





## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Vanderbilt University Date: May 26, 2020  
 Property Owner: same Case #: 2020-151  
 Representative: Mary Pat Teague/Alfred Degrafinreid  
 Map & Parcel: 10407013400 & 10407053500  
 Council District: 18th

**The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:**

Purpose: The purpose is to allow for the limited use of lights on the intramural fields until 12 midnight on a maximum of ten days a year. Please see attached map.  
 Activity Type: College  
 Location: 2600 Children's Way and intersection of Blakemore Avenue & Natchez Trace

**This property is in the ORI Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:**

Reason: Special Exception  
 Section: 17.16.040

**Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is hereby requested in the above requirement as applied to this property.**

Appellant Name: Vanderbilt University Representative: Mary Pat Teague & Alfred Degrafinreid  
 Phone Number: 615 322-8337 Phone Number: 615 479-4941/615 343-0473  
 Address: 2007 Terrace Place Address: 808 Onslow Way  
Nashville, TN 37203 Nashville TN 37221  
 Email address: [Marypat.teague@vanderbilt.edu](mailto:Marypat.teague@vanderbilt.edu) Email address: [Alfred.degrafinreid@vanderbilt.edu](mailto:Alfred.degrafinreid@vanderbilt.edu)

Appeal Fee: \_\_\_\_\_



## APPLICATION FOR SPECIAL EXCEPTION REQUESTS

After your appeal is filed, zoning staff will visit the site to take photographs for the Board Members so they will have a better idea of the nature of your request. Zoning staff will notify the district councilmember of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in this case. The envelopes must include the return address for the BZA and case number. Fold and insert the notices into the envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding sign placement.) Finally, BZA Rules require that you conduct a community meeting regarding the special exception request before the BZA hearing date.

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the Board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for a hearing until complete.

Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing. I am aware that I am required to conduct a community meeting.

M.P. Ledger on behalf of  
**APPELLANT** Vanderbilt University

5/24/20  
**DATE**



Ym

APPLICATION FOR SPECIAL EXCEPTION REQUEST

**SPECIAL EXCEPTION REQUEST**

BZA Rules of Procedure, Item 9(2) (e) requirements to conduct neighborhood meetings regarding the case that will later appear before the BZA. The BZA Rules specifies, "In the Interest of having informed stake holder in special exception cases. It is required that the appellant make contact with the district council person and neighbors within 1000 feet of the subject property from a mailing list provided by the board staff. Information by the applicant shall include a contact person and include a reasonable representation of the proposal and hold a meeting at a geographically convenient place, date, and time. We encourage you to have the meeting prior to the deadline for additional information to presented to the board. Applicant shall document to the Board that this requirement has been met. Failure to comply may result in deferral of your case."

Zoning staff will provide you a mailing list of property owners in proximity to the location designated for a special exception permit. The BZA Rule then requires you to contact those persons on the mailing list, provide them with the date, time and place of meeting, and discuss your BZA request accordingly. If there is opposition to your case, this meeting gives you the chance to address those concerns prior to the public hearing at the BZA meeting.

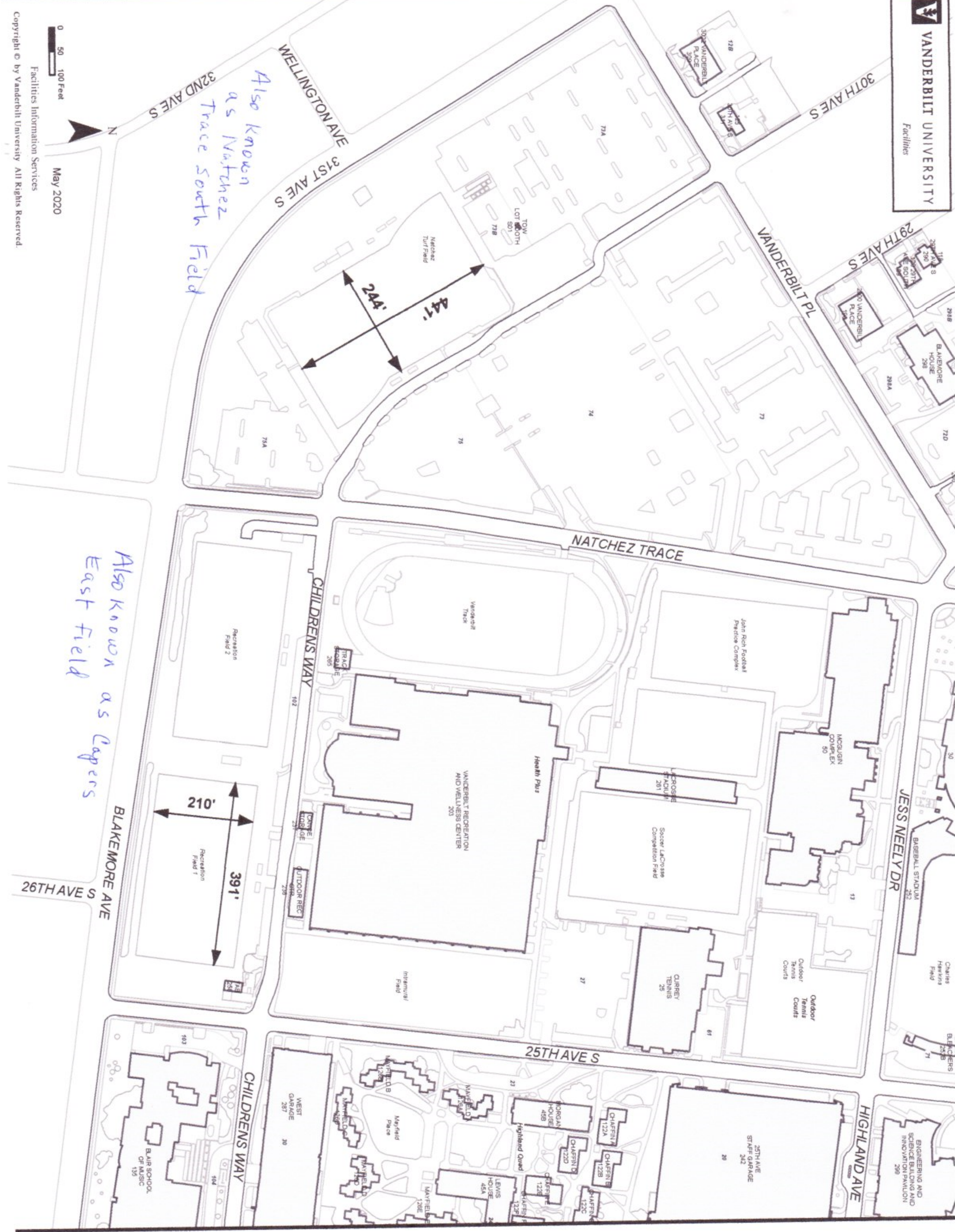
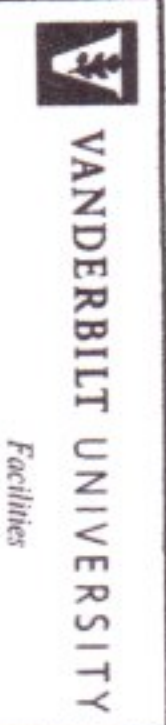
You must create and provide documentation of your efforts to contact the neighboring property owners for the neighborhood meeting. Failure to do so can result in a deferral or denial of your appeal to the BZA.

I ACKNOWLEDGE MY RESPONSIBILITES regarding the neighborhood meeting preceding the public hearing for by BZA appeal for a special exception

Th P. Tappie  
APPELLANT (OR REPRESENTATIVE)

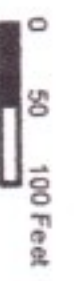
5/26/20  
DATE





Also known as Natchez Trace South Field

Also known as Capers East Field



May 2020

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**From:** [Gregory, Christopher \(Public Works\)](#)  
**To:** [Lifsey, Debbie \(Codes\)](#)  
**Cc:** [Ammarell, Beverly \(Public Works\)](#); [Shepherd, Jessica \(Codes\)](#)  
**Subject:** RE: Recommendations for 7/16/20  
**Date:** Wednesday, July 8, 2020 12:33:28 PM

---

**2020-151 2600 Children's Way/1525 Natchez Trace Special exception to make use of lighting till midnight**

Variance: 17.16.040

Response: Public Works takes no exception.

This does not imply approval of the submitted site plan as access and design issues will be addressed and coordinated during the permitting process.

---

**From:** Lifsey, Debbie (Codes) <Debbie.Lifsey@nashville.gov>  
**Sent:** Tuesday, July 7, 2020 11:58 AM  
**To:** Ammarell, Beverly (Public Works) <Beverly.Ammarell@nashville.gov>; Gregory, Christopher (Public Works) <Christopher.Gregory@nashville.gov>  
**Subject:** FW: Recommendations for 7/16/20

I don't believe you were sent a copy of this case.

2020-151 (Special Exception) 2600 Children's Way & 1525 Natchez Trace

Debbie Lifsey  
Administrative Services Officer III  
800 2<sup>nd</sup> Avenue South 1<sup>st</sup> Floor  
Nashville, TN 37210  
(615) 862-6505

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
Planning Department  
Metro Office Building  
800 Second Avenue South  
Nashville, Tennessee 37201  
615.862.7150  
615.862.7209

---

# Memo

**To:** Metropolitan Nashville Board of Zoning Appeals  
**From:** Metropolitan Nashville Planning Department  
**CC:** Emily Lamb  
**Date:** July 9, 2020  
**BZA Hearing Date:** July 16, 2020  
**Re:** Planning Department Recommendation for a Special Exception, Case 2020-151

---

Pursuant to Section 17.16.150 of the Metro Zoning Code, the Metropolitan Planning Department is providing a recommendation on the following Special Exception case:

## 1. Case 2020-151 Outdoor lights (2600 Children's Way)

**Request:** A Special Exception to allow for the limited use of lights on the intramural fields until 12am midnight for a maximum of 10 days a year.

**Zoning:** Office/Residential Intensive (ORI) is intended for high intensity office and/or multi-family uses with limited retail opportunities.

**Land Use Policy:** District Major Institutional (D MI) is intended to maintain, enhance, and create Districts where major institutional uses are predominant and where their development and redevelopment occurs in a manner that complements the character of surrounding communities. Land uses include large institutions such as medical campuses, hospitals, and colleges and universities as well as uses that are ancillary to the principal use.

**Planning Department Analysis:** The subject site is bounded on the west by Vanderbilt Place, Blakemore Avenue along the south, 25<sup>th</sup> Avenue South the east, and Jess Neely Drive to the north. The site currently is developed with intramural playing fields with a mixture of athletic buildings and established parking lots. The surrounding sites are zoned for office, residential and mixed uses.

The request is to permit the limited use of lights on the intramural fields until 12:00 am midnight for a maximum of 10 days a year. The intramural fields were granted by the BZA in a previously

approved special exception. The intramural playing fields are already in use. This amendment to the previously approved special exception would allow lighting of the playing fields until midnight for a maximum of 10 days a year. The land use policy for this area is District Major Institutional which encourages large institutions such as medical campuses, hospitals, and colleges and universities as well as uses that are ancillary to the principal use. Intramural fields are considered ancillary to the established university. The proposed lighting will encourage additional use of the intramural fields and support the university.

**Planning Recommendation: Approve.**





Metropolitan Board of Zoning Appeals  
Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Angela U. Adams Date: 5-26-20  
Property Owner: Angela U. Adams Case #: 2020-152  
Representative: Self Map & Parcel: 10406022700  
Council District: 18

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: (project) New home construction  
Activity Type: Single Family  
Location: 3212 Acklen Ave.

This property is in the \_\_\_ Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Sidewalk variance  
Section: 17.20.120

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Angela U. Adams Representative: Self - Same  
Phone Number: 615-594-5305 Phone Number: \_\_\_\_\_  
Address: 3212 Acklen Ave. Address: \_\_\_\_\_  
Nashville, TN  
37212  
Email address: angie u adams@ Email address: \_\_\_\_\_  
hotmail.com

Appeal Fee: \_\_\_\_\_

## Metropolitan Codes Administration CASE SUMMARY

CAZW - 20200028093

DONE

Pursuant # 2006-1263 Metro Code of Laws, I (holder OF permit) hereby certify that all construction & demolition waste generated by any & all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction & demolition waste shall be stored on the property in violation of any provision of Metro Code...

### ADDRESSES

#### PROPERTY

10406022700  
3212 ACKLEN AVE  
NASHVILLE, TN 37212

### PEOPLE

#### Property Owner

ADAMS, ANGELA U.  
3212 ACKLEN AVE  
NASHVILLE, TN 37212

#### Appellant

Angela E. Adams

### DATA GROUP

#### Permit Information

##### Project Scope

\*\*\*Asking not to build sidewalks\*\*\*

to construct a single family residence with. corner lot. 28.6' min front s/b; 10' min side street s/b; 5' min interior side s/b; 20' min rear s/b. must comply with tree regulations one new two inch tree for every 30' road frontage. for every 50' site frontage, a 24" x 36" d/f sign must be placed in English and Spanish with information in regards to metro council bill 2017-835.

#### Sidewalk Waiver Request

##### Metro Planning Recommendation

Approve with conditions: Contribute in-lieu of construction and dedicate ROW.

##### Waiver Circumstance

a. Hardship

### WORKFLOW

Task:	Inspector:	Result:	Due/Scheduled:	Completed
CA - Zoning Waiver Payment Confirmation	TMOORE	PAIDZWEE	05/06/20	05/05/20
Type of Waiver Requested	DLIFSEY	OTHER	05/06/20	05/05/20
		Comment: Requesting not to build sidewalks.		
Metro Planning Recommendation	MSEWELL	INREVIEW	05/11/20	05/13/20
Zoning Administrator Decision	JMICHAEL	APPROVCOND	06/13/20	05/19/20
		Comment: Approve with conditions: Contribute in-lieu of construction and dedicate ROW.		

### CONDITIONS

Code:	Desc:	Date Applied:	Date Completed:
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**VIOLATIONS**

<b>Violation:</b>	<b>Desc:</b>	<b>Date Issued:</b>	<b>Date Completed:</b>
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**FEEES**

<b>Code:</b>	<b>Desc:</b>	<b>Amount:</b>	<b>Paid:</b>
CAZWSWFEE	[05/05/2020] CA ZONING WAIVER SIDEWALK FEE	\$360.00	\$360.00
CAZWSWTRIP	[05/05/2020] CA ZONING WAIVER SIDEWALK TRIPLE...	\$0.00	\$0.00
CACONVFEE	[05/05/2020] CA - Convenience Fee	\$8.28	\$8.28
		<b>\$368.28</b>	<b>\$368.28</b>

**PAYMENTS**

<b>Tender:</b>	<b>Reference:</b>	<b>Fee Code:</b>	<b>Date:</b>	<b>Paid:</b>
CREDIT	9746	CAZWSWFEE	05/05/20	\$360.00
CREDIT	9746	CACONVFEE	05/05/20	\$8.28
				<b>\$368.28</b>

**REL DOCS**

<b>Location:</b>	<b>File Name:</b>	<b>Comments:</b>
------------------	-------------------	------------------

5/26/2020

Mail - Angie Adams - Outlook

Outlook

Search



New message

Reply Delete Archive Junk Sweep Move to Categorize Snooze

Favorites

### Codes Zoning Waiver Decision

Sent Items

You forwarded this message on Tue 5/19/2020 11:59 AM

Add favorite

noreply@nashville.gov  
Tue 5/19/2020 11:34 AM  
To: You



Folders

Dear Applicant,

Inbox 1292

Your sidewalk waiver request for property located at 3212 ACKLEN AVE 37212 has been APPROVCOND by the Zoning Administrator with the following comments:

Junk Email 67

Comments: Approve with conditions: Contribute in-lieu of construction and dedicate ROW.

Drafts 88

Sent Items

With this resolution you may now complete the permit application process.

Deleted Items 32

Peoples Comm ...

POP

Archive

Notes

1031 Info

513ABA LLC D... 13

15th Ave Apts 2

Acklen 11

Acklen Proj Rent... 1

AFP Fundraising 7

Alabama Apts 2

Alabama Land

Assisted Living

Austin Fun

Austin House

Austin Jobs 5

Austin Resources

Austin Travel

Babysitters

Ballet Austin 7



## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

Angela U. Adam  
APPELLANT

5-29-20  
DATE



## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property**- The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics**- *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

*Hardship not self-imposed- The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases- Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property- The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare**- *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan**- *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*

In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is . Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

*Please see attached*

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**Application for a Variance Request****Property:**

10406022700

3212 Acklen Avenue


Nashville, TN 37212

Angela U. Adams, Property Owner &amp; Appellant

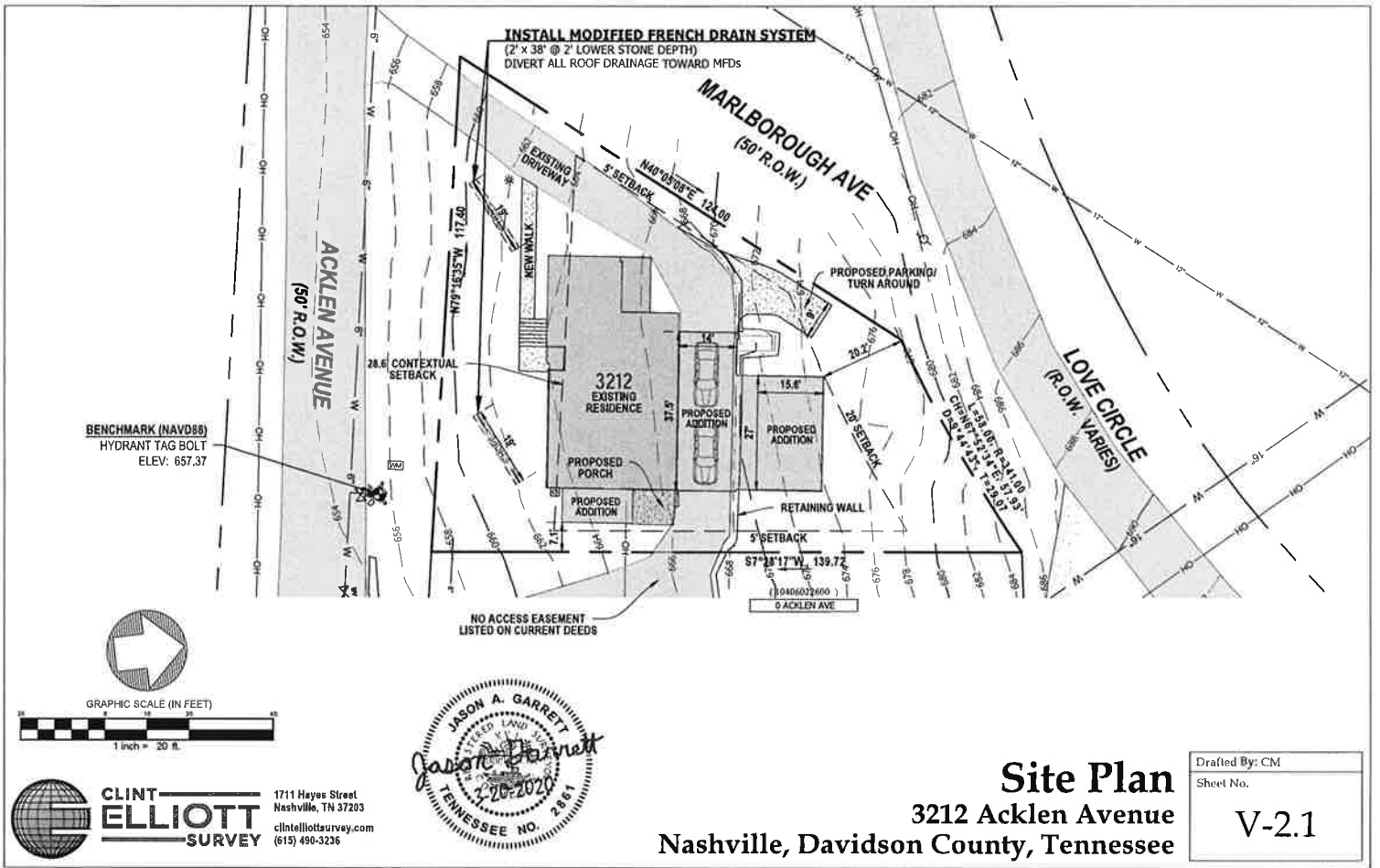
**What specific and unique circumstances (Hardship) exist that would authorize the consideration of the board under the review standards as outlined?**

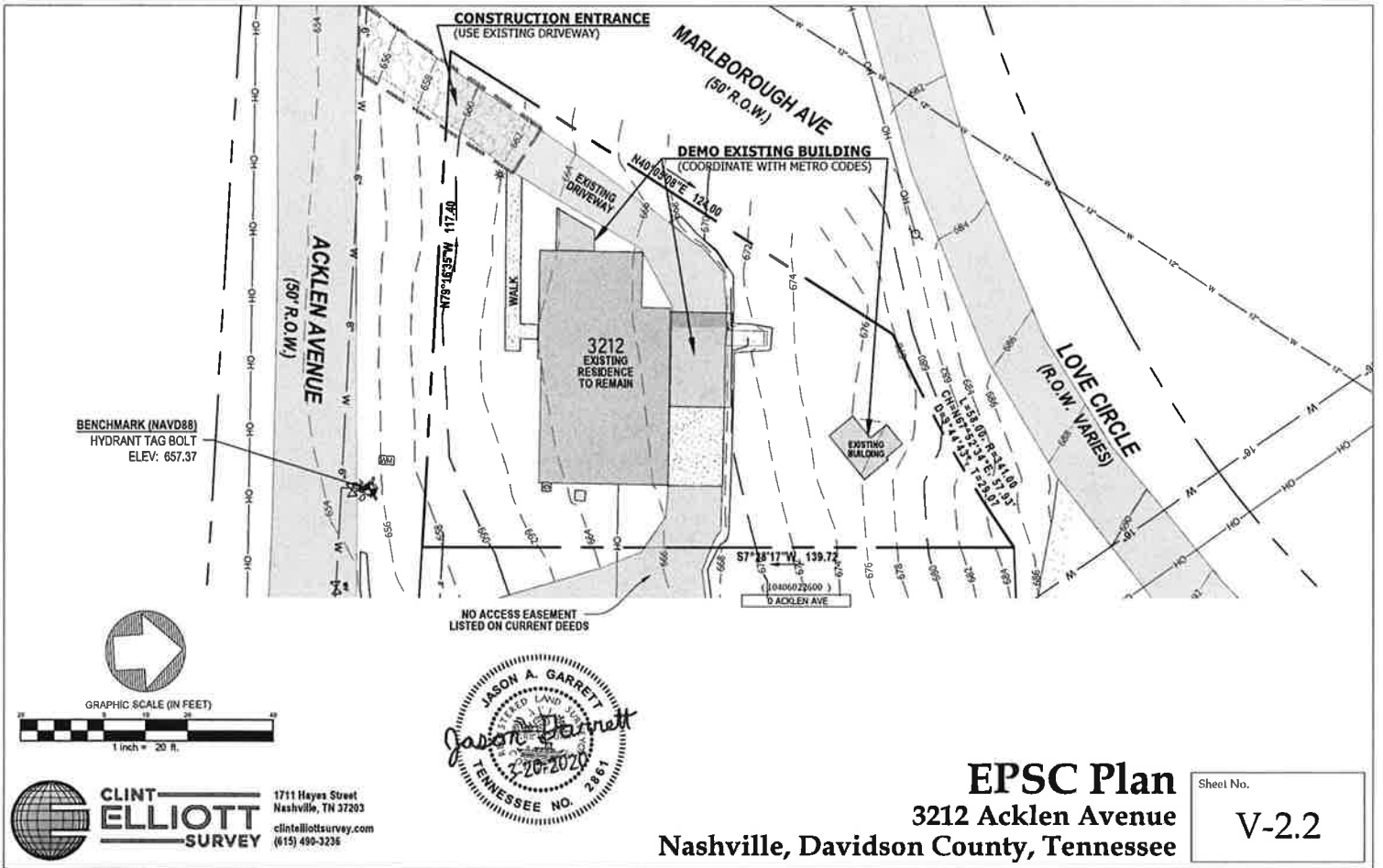
Working with my local Metro Council representatives (Tom Cash and Burkley Allen) we all mutually agree, and I have been approved accordingly, to pay into the sidewalk fund rather than install sidewalks on my property. By approving my request to not build sidewalks on my property, the Zoning Administrator agrees with our assessment that the city's pedestrians would benefit far more by my paying in to the in lieu sidewalk fund, which I am happy to do.

However on that same request I also requested that my in lieu fee be reduced due to my lot frontage being exceptionally large compared to the majority of parcels in the neighborhood. My frontage is 117.5 feet, which would result in my needing to contribute \$17,860 into the sidewalk fund and that level of contribution would be a significant hardship for me. Since most parcels in my neighborhood have frontages of 60 feet, and since a contribution of \$9,120 is much more in line with the estimated cost to build sidewalks in front of my new home, I would request to have my sidewalk calculation based on 60 feet rather than 117.5. I sincerely hope that this request is approved so I can contribute to building sidewalks where they are sorely needed rather than build them where they are not needed but where I can affordably build them.

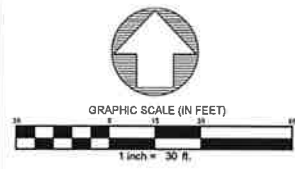
  
\_\_\_\_\_  
Appellant

5-29-20  
Date







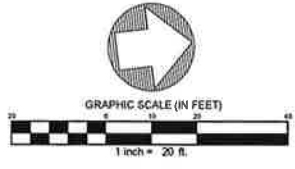
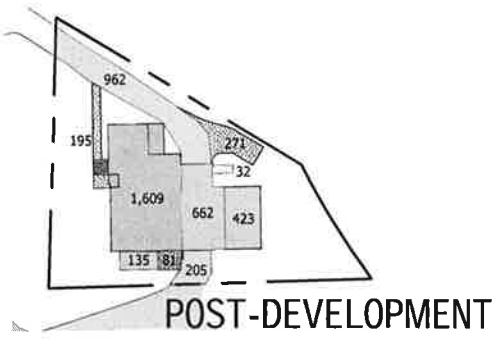
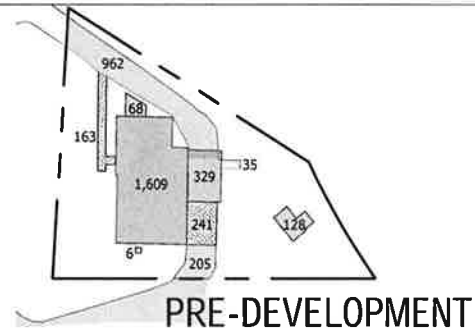


**CLINT ELLIOTT SURVEY**  
1711 Hayes Street  
Nashville, TN 37203  
clintelliotsurvey.com  
(615) 490-3236

**Building Setbacks**  
3212 Acklen Avenue  
Nashville, Davidson County, Tennessee

Sheet No.  
**V-2.3**

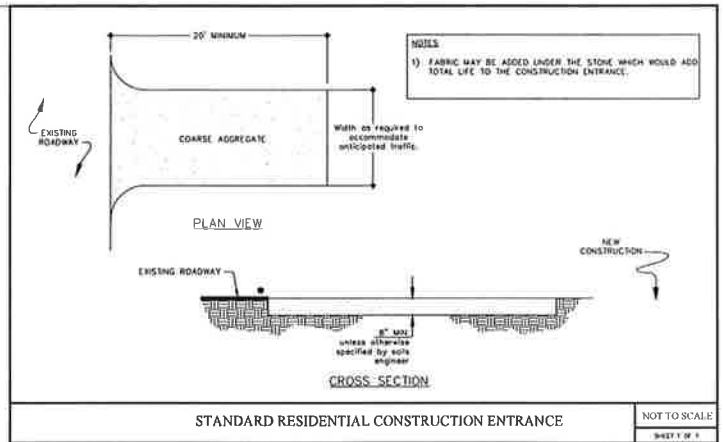
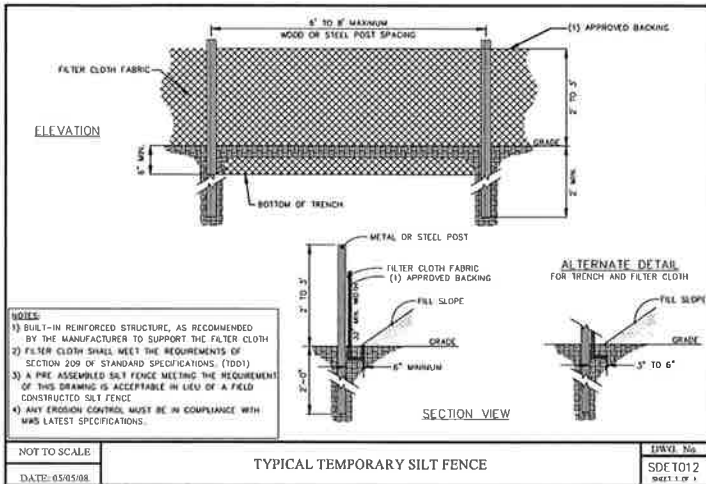
<b>SITE DATA: PRE-DEVELOPMENT</b>	
Total Site Area	9,815 SF
<b>PRE-DEVELOPMENT IMPERVIOUS: 3,746 SF</b>	
Buildings	2,375 SF
Parking/Drives	1,167 SF
Walks/Misc Pads	204 SF
<b>SITE DATA: POST-DEVELOPMENT</b>	
Total Site Area	9,815 SF
<b>POST-DEVELOPMENT IMPERVIOUS: 4,575 SF ( 46.7% )</b>	
Buildings	2,910 SF
Parking/Drives	1,438 SF
Walks/Misc Pads	227 SF
<b>POST- IMPERVIOUS NET GAIN: 829 SF ( TIER I )</b>	
<b>STORMWATER NET GAIN TREATMENT</b>	
Total Site Area	9,815 SF
<b>POST-DEVELOPMENT STORMWATER TREATMENT: 829 SF</b>	
MODIFIED FRENCH DRAIN Required: 2' x 38' @ 24" Lower Stone Depth	



**CLINT ELLIOTT SURVEY**  
 1711 Hayes Street  
 Nashville, TN 37203  
 clintelliottsvey.com  
 (615) 490-3235

**Impervious Areas**  
 3212 Acklen Avenue  
 Nashville, Davidson County, Tennessee

Sheet No.  
**V-2.4**



**SITE GRADING & EROSION CONTROL NOTES**

1. NO PORTION OF THE PROPERTY SHOWN LIES WITHIN A 100 YEAR FLOOD HAZARD AREA AS PER THE CURRENT FEDERAL EMERGENCY MANAGEMENT AGENCY, (FIRM) MAP.
2. CLEAN SILT BARRIERS WHEN THEY ARE APPROXIMATELY 33% FILLED WITH SEDIMENT, SILT BARRIERS SHALL BE REPLACED AS EFFECTIVENESS IS SIGNIFICANTLY REDUCED, OR AS DIRECTED BY THE OWNER'S REPRESENTATIVE.
3. REMOVE THE TEMPORARY EROSION AND WATER POLLUTION CONTROL DEVICES ONLY AFTER A SOLID STAND OF GRASS HAS BEEN ESTABLISHED ON GRADED AREAS AND WHEN THEY ARE NO LONGER NEEDED.
4. PROVIDE TEMPORARY CONSTRUCTION ACCESS(ES) AT THE POINT(S) WHERE CONSTRUCTION VEHICLES EXIT THE CONSTRUCTION AREA. MAINTAIN PUBLIC ROADWAYS FREE OF TRACKED MUD AND DIRT.
5. PROVIDE POSITIVE SLOPE (2% MINIMUM) TO DRAIN ALL BALCONIES, DECKS, PATIOS, WALL(S), DRIVEWAYS, GRADE ADJACENT TO BUILDINGS, AND SWALES REGARDLESS WHETHER PLANS GRAPHICALLY PORTRAY OR INDICATE SLOPE. FINAL CONSTRUCTION SHALL NOT PERMIT PONDING OF WATER IN ANY OF FOREGOING AREAS.



IF YOU DIG IN TENNESSEE...  
CALL US FIRST!  
1-800-351-1111  
1-615-366-1987  
TENNESSEE ONE CALL  
IT'S THE LAW



1711 Hayes Street  
Nashville, TN 37203  
clintelliotsurvey.com  
(615) 490-3236

**Site Details**  
3212 Acklen Avenue  
Nashville, Davidson County, Tennessee

Sheet No.  
**V-2.5**

SKETCH LAYOUT  
 PROVIDE PLAN AND ELEVATION VIEWS OF MFD AND HOUSE SHOWING ROOF AREA DIRECTED TO MFD AND KEY DIMENSIONS, CONNECTIONS AND OVERFLOW RELATIVE TO PROPERTY LINE.

Modified French Drain

SIZING CALCULATION:

Roofing Area (square feet)	Depth of Gravel From Top of Pipe (inches)			
	18	24	30	36
	Required Linear Feet of MFD			
100	6	3	4	3
600	30	25	20	15
1000	60	45	40	35
2000	120	95	75	65
3000	185	140	115	100
4000	245	190	155	130
6000	305	235	195	165

MEASURE CONTRIBUTING DRAINAGE AREA AND READ AREA FOR GIVEN MEDIA DEPTH.

CONTRIBUTING DRAINAGE AREA= 829 SQ FT  
 DEPTH OF STONE MEDIA= 24 INCHES  
 WIDTH OF TRENCH= 24 INCHES  
 LENGTH OF MFD= 38 FT

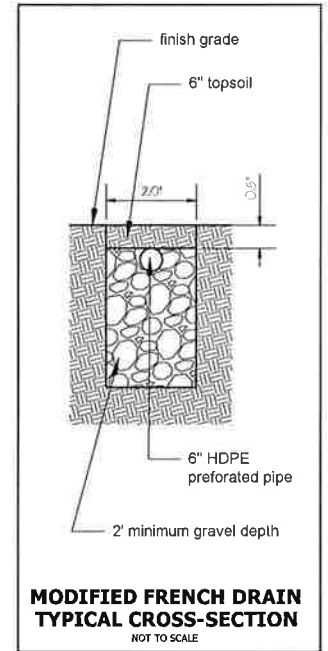
MAINTENANCE:

1. INSPECT GUTTERS AND DOWNSPOUTS REMOVING ACCUMULATED LEAVES AND DEBRIS, CLEANING LEAF REMOVAL SYSTEM(S).
2. IF APPLICABLE, INSPECT PRETREATMENT DEVICES FOR SEDIMENT ACCUMULATION, REMOVE ACCUMULATED TRASH AND DEBRIS.
3. INSPECT MFD FOLLOWING A LARGE RAINFALL EVENT TO INSURE OVERFLOW IS OPERATING AND FLOW IS NOT CAUSING PROBLEMS.

METRO NASHVILLE  
 DEPARTMENT OF  
 WATER SERVICES

ATTACHED THIS TWO-PAGE  
 SPECIFICATION TO HOUSE  
 PLAN SUBMITTAL

MODIFIED FRENCH DRAIN  
 SPECIFICATIONS  
 PAGE 2 OF 2



**CLINT ELLIOTT SURVEY**  
 1711 Hayes Street  
 Nashville, TN 37203  
 clintelliottsury.com  
 (615) 490-3236

**Stormwater Details**  
 3212 Acklen Avenue  
 Nashville, Davidson County, Tennessee

Sheet No.  
**V-2.6**

**From:** [Bonnie Smith Whitehouse](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Cc:** [Tom Cash](#)  
**Subject:** Case #: 2020-152 Parcel ID: 10406022700  
**Date:** Wednesday, June 24, 2020 1:04:38 PM

---

As a neighbor, I write to express my opposition to the sidewalk variance applied for in **Case**  
#: 2020-152  
**Parcel ID:** 10406022700

Thank you,  
Bonnie Smith Whitehouse  
3111 Acklen Avenue



**From:** [John TeSelle](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Variance case 2020-152 (3212 Acklen Ave)  
**Date:** Thursday, July 2, 2020 12:40:09 PM

---

To the Board of Zoning Appeals:

My house is located within 1000' of the property at 3212 Acklen Avenue, and I received a letter regarding a variance request for this property. I am writing to ask that you deny this variance application based on the following:

- **The lot in question is not exceptional** along this street, and therefore does not meet the requirements for a site-based hardship. This lot is wider at the front (117 feet) than at the back (58 feet) but within a few hundred feet, along the same street, there are other wedge-shaped lots with frontage of 113 feet, 149 feet, 120 feet, 142 feet, and 114 feet.
- **A sidewalk is needed on this street.** This street is curving, narrow, and obstructed by retaining walls and plantings. It is hazardous for pedestrians and granting the variance would be detrimental to public welfare. A sidewalk was recently constructed by Metro along the end of the street leading to West End Avenue, and should be encouraged along the section where the subject property is located.
- **Granting the variance would set the wrong precedent.** Because this lot is not unique on this street, if the variance were granted then other property owners on the street with similar lots would have a case to ask for the same thing. That would reduce the funds or motivation to construct the sidewalk that is needed.

I understand from the applicant's submittal to the BZA that she is asking for a reduction of the amount due to the sidewalk fund, not an outright variance from the requirement. The same arguments against this reduction apply, though. As the law is written, either a sidewalk should be constructed along the full front property line, or the full amount should be contributed to the fund. There is no provision in the law for a reduction in the amount paid due to a non-unique condition on the property.

Thank you,

John TeSelle  
405 Fairfax Ave.  
Nashville, TN 37212

**From:** [Kelly Unger](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Cc:** [Cash, Thomas \(Council Member\)](#)  
**Subject:** Sidewalks  
**Date:** Friday, June 26, 2020 11:01:28 AM

---

I am in support of having a sidewalk on the property 3212 Acklen. It is a dangerous area to walk and I think it would be good for the neighborhood.

Thank you,  
Kelly Unger  
2813 Acklen Ave, Nashville, TN 37212

Sent from my iPhone

Metropolitan Board of Zoning Appeals  
P.O. Box 196350  
Nashville, Tn 37219 – 6350

Re: Appeal Case Number 2020 - 152  
3212 Acklen Ave. Nashville, Tn

Comment:  
Opposing Variance Request

Submitted by:  
Mark J. Smith, Jr  
3311 Orleans Drive  
Nashville, Tn 37212

What possible justification could there be to make an exception of doing a sidewalk at this address? They can obviously afford to build a home there. I am surprised that a variance would even be possible without some justification being cited. The whole point of the ordinance is to help provide sidewalks over time and supplement the City's budgeted efforts in getting this accomplished. The sidewalk is definitely needed there :

1. There is no sidewalk on the other side of the street
2. The location is where Marlborough T's into Acklen, so most people use this side of Acklen to walk in order to avoid walking through the intersection.
3. The Topography is not difficult. Construction of a sidewalk there presents no problem.
4. This is a heavily walked area. My wife and I walk it almost daily as part of a 1 mile loop. We encounter other walkers most days.
5. This is a busy little intersection. We are constantly avoiding cars approaching the 3 way stop (Acklen – Marlborough – Acklen. )

The only possible reason I can think of for wanting a variance here is so that the Owner/Builder can save some money, and if that is a valid reason, you might as well have not passed the ordinance requiring sidewalks in the first place. I could see, if there was already a sidewalk on the other side of the street; or if it was difficult topography ( gully, ditch, etc) or a dead end. But not this Spot. This place "needs" a sidewalk.

My fear is that if someone gets enough Friends to support them in their request the variance might be granted. However, I assume (hope) that the Board's job is to consider each request on the merits of each particular situation and then do what is best to fulfill and carryout the intent and purpose of the ordinance.

I am 76 years old and have some underlying health issues, otherwise I would attend the hearing. However, my mobile phone number is #615 483 4335, and I always have it with me, so feel free should you wish to discuss further.

Sincerely,

Mark Smith

## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2020-152 (3212 Acklen Avenue)

Metro Standard:	Acklen Avenue – 4’ grass strip, 5’ sidewalk, as defined by the Metro Local Street standard
Requested Variance:	Contribute in-lieu of construction (eligible)
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
Zoning:	RS7.5
MCSP Street Designation:	Acklen Avenue – Local Street
Transit:	0.31 miles from #3 West End/White Bridge and #5 West End/Bellevue; future Arterial Bus Rapid Transit planned per nMotion
Bikeway:	None existing; none planned

### Planning Staff Recommendation: *Approve with conditions*

**Analysis:** The applicant is proposing to construct a single-family residence and requests relief from the Board in the calculation of the applicant’s payment in-lieu of construction. The request is an appeal to a sidewalk waiver request that was approved with conditions and completed on May 19, 2020 (**Permit number 20200028093**). Conditions of approval were for the applicant to pay in lieu of construction and to dedicate right-of-way.

The parcel has 117.5 feet of frontage along Acklen Avenue, 124 feet of frontage along an undeveloped right-of-way (west side), and 58 feet of frontage along Joy Circle, which is an unusual circumstance. Other properties on this block of Acklen Avenue – between Marlborough Avenue and 32<sup>nd</sup> Avenue South – include one 30-foot frontage, six 60-foot frontages, one 70-foot frontage, and one 120-foot frontage.

Payment in lieu of construction contributions are calculated based on the length of the parcel’s frontage. Per the Zoning Ordinance, the applicant is eligible to contribute in-lieu of construction because there is no substandard sidewalk, no existing sidewalk on the block face, and no proposed sidewalk on the block face. Electing to make the contribution in-lieu of construction supplements Metro’s annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property, within one of Metro’s 16 pedestrian benefit zones.

The applicant requests that the Board instead calculate in lieu of construction contribution based on a 60-foot-wide frontage, which is more typical for this block. Since the lot has double frontage, it is appropriate to consider it in the context of 17.20.120.A.3.G when calculating the in-lieu contribution. This part of the code states that corner lots in R and RS zoned districts may seek relief that prioritizes construction along streets with a higher functional classification when there is an unusually large amount of street frontage on one or both streets.

Given the factors above, staff recommends **approval with conditions:**

1. The applicant shall contribute in-lieu of construction a payment calculated based on 60 linear feet
2. The applicant shall dedicate right-of-way for future sidewalk construction, which meets the Metro Local Street Standard



John B. Clayton  
Ellen W. Clayton  
504 Fairfax Ave.  
Nashville, TN 37212

July 2, 2020

To Department of Codes and Building Safety:

This letter is in regards to Zoning Appeal Case Number 2020-152. The appellant Angela Adams at 3212 Acklen Avenue, Map Parcel 10406022700, Zoning Classification RS7.5, Council District 18 has requested a variance from sidewalk requirements.

We strongly **OPPOSE** this request.

As neighbors living within 1000 of the appellant's property, we daily experience the dangers to pedestrians of the absence of a sidewalk on that section of Acklen Avenue. This narrow street is daily used by commuters from the large office building at 3401 West End Avenue and elsewhere, who routinely ignore the posted 20 mile per hour Pedestrian Zone speed limit. With curbside parking on the street, bushes, walls, and other obstacles bordering the street, pedestrians are often forced to take unnecessary risks by walking many feet into the roadway.

We hope you will give this objection to the appellant's request serious consideration.

Sincerely yours,



John B. Clayton



Ellen W. Clayton

**From:**

Gis Johannsson  
1708 Riverside Rd  
Old Hickory, TN 37138  
(615) 502 2045

**Regarding:**

Appeal Case Number 2020 - 153  
Parcel ID: 05307005800  
Property address: 1808 Riverside Rd, Old Hickory, TN 37138

Dear members of the Board of Zoning Appeals

Please do not approve variance for appeal case number 2020 - 153, for the purpose of bulding 2 family homes on the lot.

**Why?**

The owner of this property, Mr. Michael Peeks (represented by law firm Baker Donelson) claims this lot is 14,249 square feet in size. He stated that on a zoning appeal application dated 10-31-2019, as well as reiterating that during a meeting with Old Hickory residents on January 13<sup>th</sup> 2019.

By this claim, Mr. Peek maintains that the lot is only 751 square feet shy of meeting minimum R15 zoning requirements but all public information regarding this lot, including on Nashville.gov, lists this lot at 0.32 acres or 13,939.2 square feet. That is 1060.8 square feet shy of meeting minimum R15 zoning requirements. During the January 13<sup>th</sup> 2019 meeting, Mr. Peek stated that official records on the size of this lot are wrong.

Before considering granting variance to build 2 family homes on a lot that according to official public records is 13,939.2 square feet, please do proper diligence and ascertain the true size of this parcel lot.

### **Preserve historic Old Hickory Village architectural landscape**

It would be enormously out phase with Old Hickory Village's 100+ years landscape to build 2 family homes at 1808 Riverside Drive. All of the neighborhood lots feature single-family homes, many of which have been restored to reflect the Village's original landscape and architecture that the area is known and revered for.

As Nashville has grown in popularity, developers have sought to maximize profits by consolidating traditionally single family home lots under 2 homes. I hope that you support the growing concern by many Old Hickory residents that this trend is detrimental to Old Hickory Village's nod to the past and charm. There are homes on the National Register of Historic Places within 1 minute driving distance of 1808 Riverside Rd (0.3 miles). The key to Historic Old Hickory's growth and value is home restoration and preservation but not by altering its historic neighborhoods by consolidating lots for multi family homes, negatively affecting neighborhood real estate and community values.

Historic Old Hickory is revered for the home restoring efforts that have taken place in recent years, making Old Hickory village a sought-after place to live. That is a desirable and a responsible way forward, but not changing the village's architectural landscape for no apparent reason other than developers' profits.

Please reject the appeal for variance for the purpose of building 2 family homes at 1808 Riverside Dive, Old Hickory but encourage the developer to respect the neighborhood's grown architectural landscape and instead build a single-family home on the lot that might enhance the value and charm of Historic Old Hickory Village.

Sincerely,



Gis Johannsson

**From:** [meredithsacks7770@gmail.com](mailto:meredithsacks7770@gmail.com)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Cc:** [Cash, Thomas \(Council Member\)](#); [David Sacks](#)  
**Subject:** CASE 2020-152  
**Date:** Tuesday, July 14, 2020 3:49:14 PM

---

Hello,

Thank you for allowing neighborhood input. The Hillsboro/Vandy area is a walking community and sidewalks are needed around Love Circle to support safety and good health. My understanding is that this piece of property is large, and a sidewalk would be a huge benefit. In addition, Metro owns the property next to the home and they could complete the sidewalk to Love Circle. The home owner bought the house for \$350,000.00 and then tore it down to build a new home. No problem, but if the home owner does not want to build a sidewalk, they should be required to pay the whole \$18,000.00 fee. This also creates a bad precedent for future building.

Thank you,  
Meredith Sacks  
330 Chesterfield Ave  
Nash, TN 37212

**CASE 2020-152 (Council District - 18) ADAMS, ANGELA U., appellant and owner of the property located at 3212 ACKLEN AVE, requesting a variance from sidewalk requirements in the RS7.5 District, to construct a single-family residence without building sidewalks or paying into the sidewalk fund. Referred to the Board under Section 17.20.120. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.**

Metropolitan Board of Zoning Appeals  
Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210



Appellant : Baker Donelson Date: June 2, 2020  
Property Owner: Mike Peek Case #: 2020- 153  
Representative: : Joey Hargis Map & Parcel: 53-7-58

Council District 11

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To allow the use of the existing lot for a two family detached townhome. with insufficient lot area.

Activity Type: Two family

Location: 1808 Riverside Road

This property is in the R-15 Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Variance in lot area 15,000sq. req. 14,249 sf prov

Section(s): 17.12.020A

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection B Of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Baker Donelson  
Appellant Name (Please Print)

Joey Hargis  
Representative Name (Please Print)

211 Commerce St. Ste 800  
Address

\_\_\_\_\_  
Address

Nashville, TN 37201  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

615-726-7391  
Phone Number

\_\_\_\_\_  
Phone Number

jhargis@bakerdonelson.com  
Email

\_\_\_\_\_  
Email

Appeal Fee: \$100



## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. **You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number.** Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.



**APPELLANT**

June 2, 2020

**DATE**

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property**- The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics**- *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

*Hardship not self-imposed- The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases- Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property- The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare**- *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan**- *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*



**Name and Address of New Owner:**

Michael W Peek  
P O Box 148393  
Nashville TN 37214

**THIS INSTRUMENT PREPARED BY:**

(Please Return Document to this Address)  
J.D. Kiouss, Attorney  
Lawyers Land & Title Services, LLC  
500 North Walnut St.  
Murfreesboro, TN 37130  
File No.: MR-19050609

**Send Tax Statements To:**

SAME

Karen Johnson Davidson County Batch# 241997 DEEDWARR 06/11/2019 02:23:30 PM 3 pgs Fees: \$18.00 Taxes: \$333.74 20190611-0056136
--

**Map and Parcel:** 053 07 0 058.00

## WARRANTY DEED

For and in consideration of the sum of ten dollars (\$10.00), cash in hand paid by the hereinafter named GRANTEE, and other good and valuable considerations, the receipt of which is hereby acknowledged, **Jay Frank Moore**, hereinafter called the GRANTOR, has bargained and sold, and by these presents does transfer and convey unto **Michael W Peek**, hereinafter called the GRANTEE, his heirs and assigns, a certain tract or parcel of land in Davidson County, State of Tennessee, described as follows, to-wit:

**BEING part of Lot Nos. 32 and 33 on the plan of Village of Old Hickory Subdivision, of record in plat book 1424, page 131, in the Register's Office for Davidson County, Tennessee, as follows:**

**BEGINNING at a point on the West margin of Riverside Road at the common front corner between Lot Nos. 32 and 33 of the above Subdivision; thence Southerly with the West margin of said Road as relocated South 28° 12' West 69.48 feet to the beginning of a curve to the right at the intersection of 20th Street, as now relocated; thence along said curve, having a radius of 25 feet, a distance of 41.7 feet to the end of said curve; thence Westwardly along the North margin of 20th Street as relocated, North 56° 13' West 2.04 feet to a point and continuing Westwardly with the margin of 20th Street following the arc of curve with a radius of 531.39 feet, a distance of 131.54 feet to a point on the common rear line of Lot Nos. 33 and 62 of the above Subdivision; thence Northerly along said common rear line of Lots 33, 61 and 62, a distance of 70.2 feet to a point on the rear line of Lot No. 61; thence Southeastwardly along the dividing line between Parcel No. 57 and 58 on Metro Tax Map No. 53-7, a distance of 196.02 feet to the point of beginning and containing 16,600 square feet, more or less.**

**Being the same property conveyed to J. Frank Moore and wife, Mary T. Moore by Warranty Deed filed for record on January 5, 1977 in Book 5103, page 13, of the Register's Office of Davidson County, Tennessee. The said J. Frank Moore died on November 2, 2001, leaving Mary T. Moore as the surviving tenant by the entirety. The said Mary T. Moore died intestate on February 25, 2017, leaving Jay Frank Moore as her surviving heir-at-law as evidenced by Affidavit of Heirship of record in Instrument Number 201906110056136, said Register's Office.**

This conveyance is subject to the following: All matters including but not limited to restrictions of record in Book 1915, page 436, said Register's Office; All matters as set forth per Book 1424, page 131, said Register's Office; HOA Charter of record in Book 8290, page 865, said Register's Office.

This conveyance is further subject to: (1) all applicable zoning ordinances (2) utility, sewer, drainage and other easements of record, (3) all subdivision/condominium assessments, covenants, bylaws, restrictions, declarations and easements of record, (4) building restrictions, and (5) other matters of public record.

This is unimproved property known as: 1808 Riverside Dr., Old Hickory, TN 37138

TO HAVE AND TO HOLD the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEE, his heirs and assigns forever; and I do covenant with the said GRANTEE that I am lawfully seized and possessed of said land in fee simple, have a good right to convey it and the same is unencumbered, unless otherwise herein set out; and I do further covenant and bind myself, my heirs and assigns, to warrant and forever defend the title to the said land to the said GRANTEE, his heirs and assigns, against the lawful claims of all persons whomsoever. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**Subject Property is not the primary residence of Grantor.**

WITNESS my hand this 4th day of June, 2019.

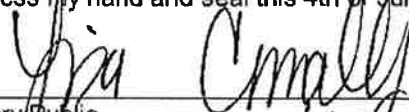
  
Jay Frank Moore

State of Tennessee

County of Rutherford

Personally appeared before me, Jay Frank Moore with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

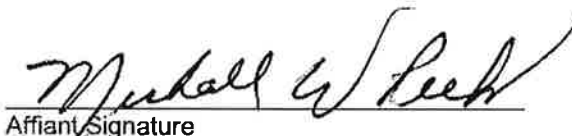
Witness my hand and seal this 4th of June, 2019.

  
Notary Public  
My Commission Expires: 4-19-23




**AFFIDAVIT**

I hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$90,200.00.

  
Affiant Signature

Subscribed and sworn to before me, this 3rd day of June, 2019.



  
Notary Public  
My Commission Expires: 12/18/21



# True Copy Certification

I, Lynn Vaught, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

*Lynn Vaught*  
Signature

State of Tennessee

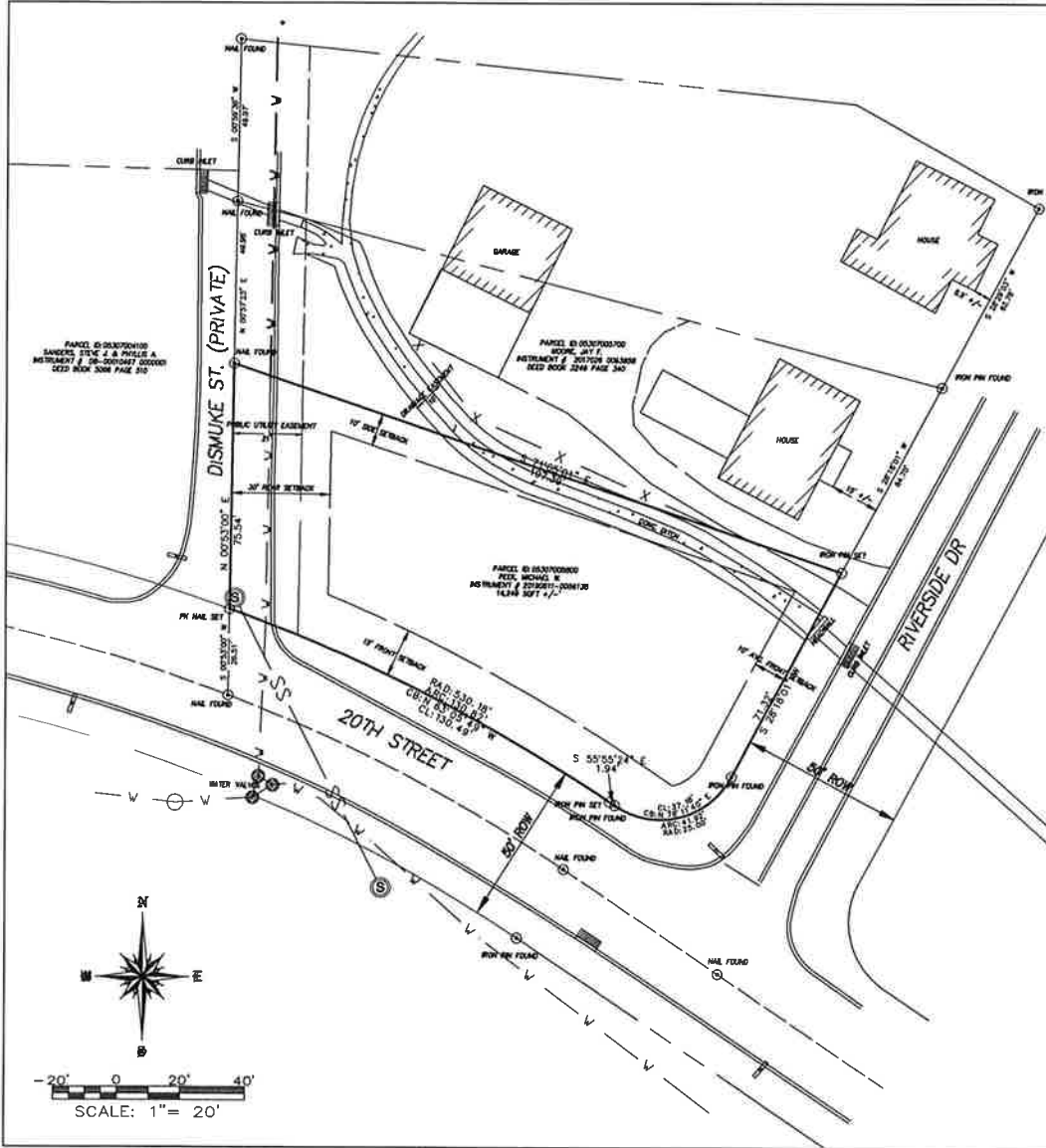
County of Rutherford

Personally appeared before me, the undersigned, a notary public for this county and state, Lynn Vaught who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

*Jessica L. Tolley*  
Notary's Signature

My Commission Expires: 11-20-22





- GENERAL NOTES**
1. BEING PARTS OF LOTS 32 AND 33 IN PLAT BOOK 1424 PAGE 131. LOTS ALSO BEING AFFECTED BY THE CONSTRUCTION OF 20TH STREET.
  2. BEARING SYSTEM IS BASED ON RECORDED SURVEY IN PLAT BOOK 1424 PAGE 131.
  3. THIS PROPERTY LIES WITHIN ZONE X, NOT IN A SPECIAL FLOOD HAZARD AREA, AS DETERMINED FROM ELEVATIONS SHOWN ON FEMA FIRM MAPS FOR DAVIDSON COUNTY COMMUNITY PANEL NO. 47165C0394G, EFFECTIVE DATE 4/17/2012.
  4. SUBJECT PROPERTY IS IDENTIFIED ON DAVIDSON COUNTY PROPERTY MAPS AS PARCEL ID: 05307005800
  5. THIS SURVEYOR HAS NOT PHYSICALLY LOCATED ALL OF THE UNDERGROUND UTILITIES. ABOVE GRADE AND UNDERGROUND UTILITIES SHOWN WERE TAKEN FROM VISIBLE APPURTENANCES AT THE SITE, PUBLIC RECORDS AND/OR MAPS PREPARED BY OTHERS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA OR THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. AVAILABILITY AND LOCATION OF UTILITIES SHOULD BE CONFIRMED WITH THE APPROPRIATE UTILITY COMPANY.
  6. NO TITLE REPORT WAS FURNISHED TO THIS SURVEYOR, THEREFORE, THIS PROPERTY IS SUBJECT TO THE FINDINGS OF A CURRENT AND ACCURATE TITLE SEARCH.
  7. PROPERTY IS ZONED R15 MINIMUM BUILDING SETBACKS SHOWN PURSUANT TO ZONING ORDINANCE 17.12.030 17.12.03A 17.12.030 C2
  8. THIS SURVEY WAS PERFORMED IN THE FIELD ON 06/14/2019
  9. THE DRAINAGE EASEMENT SHOWN IS BASED ON THE RELOCATION OF IT AND THE RELOCATION OF RIVERSIDE DR. AT THE TIME OF 20TH STREET CONSTRUCTION.

**CERTIFICATE OF ACCURACY**

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE DAVIDSON COUNTY, TENNESSEE, PLANNING COMMISSION, THAT THE PRECISION OF THE UNADJUSTED SURVEY IS 1:10,000 OR GREATER, AND THAT MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON TO THE SPECIFICATIONS OF THE CITY ENGINEER.

DATE: 06/26/2019

*Matthew D. Listovitch*  
 MATTHEW D. LISTOVITCH  
 SURVEYOR  
 TENNESSEE REG. NO. 14510

	<b>MATTHEW LISTOVITCH SURVEYING</b>
	642 HEARTLAND LN MURFREESBORO, TN 37127 PHONE: 615.427.1118 EMAIL: MLISTOVITCH@GMAIL.COM
<b>PROPERTY SURVEY</b>	
<b>MICHAEL PEEK</b>	
PARCEL ID: 05307005800	
1808 RIVERSIDE DR. OLD HICKORY	
DAVIDSON COUNTY TENNESSEE	

**BAKER DONELSON**  
BEARMAN, CALDWELL & BERKOWITZ, PC

BAKER DONELSON CENTER,  
SUITE 800  
211 COMMERCE STREET  
NASHVILLE, TENNESSEE 37201

MAILING ADDRESS:  
P.O. BOX 190613  
NASHVILLE, TENNESSEE 37219

PHONE: 615.726.5600  
FAX: 615.726.0464

[www.bakerdonelson.com](http://www.bakerdonelson.com)

JOEL K. HARGIS, ATTORNEY  
**Direct Dial:** 615.726.7391  
**Direct Fax:** 615.744.7391  
**E-Mail Address:** [jhargis@bakerdonelson.com](mailto:jhargis@bakerdonelson.com)

July 9, 2020

Jon Michael, Zoning Administrator  
800 2<sup>nd</sup> Avenue South  
Nashville, TN 37072

Re: Proposed Lot Area Variance – Case 2020-153  
1808 Riverside Road, Nashville, TN

Dear Mr. Michael and Members of the BZA:

Enclosed are submittal materials associated with variance request for the above-referenced location.

Our client purchased a lot via auction and discovered after the purchase that the deeded acreage originally represented by Metropolitan Government on its deed to the prior purchaser, Frank and Mary Koors and on the deed from Mr. Moore to our client contained incorrect lot area. The deeds in the deed chain all state that the lot had 16,600 square feet more or less. Generally, more or less would indicate a slight variation in lot area. These variations in my experience are within a few square feet to a few hundred.

A survey performed by our client post purchase discovered that this lot had only 14,249 square feet. This would be approximately 5% less than the needed 15,000 square feet required for a two-family dwelling. The discrepancy between Metro's deed and the actual lot area of the property is 2,351 square feet or 14.6% of the stated lot area. Our client's purchase of the property was intended for this purpose and he would not have purchased had he had any indication that there was such an extremely large (14.6%) discrepancy in lot area.

Our client has met with his neighbors and provided them information with his proposal. He had a majority of residents nearby supportive and only a few residents who indicated they were opposed. Included in our submittal are copies of the drawings he provided to the neighbors at his neighborhood meeting held in early February of 2020.

4813-5335-9298v1  
2950162-000001 07/09/2020

July 9, 2020

Page 2

Also included are the original plat for his property prior to Metro Government's purchase and construction of the road (20<sup>th</sup> Street) adjoining his property. This hardship was created originally by Metro Government's own actions in its original deed to the first purchaser for value and was passed along to our client in his purchase. No actions by our client created the hardship upon which this variance is requested.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC

A handwritten signature in blue ink that reads "Joel K. Hargis". The signature is written in a cursive, flowing style.

Joel (Joey) K. Hargis, Attorney

**Name and Address of New Owner:**

Michael W Peek  
P O Box 148393  
Nashville TN 37214

**Send Tax Statements To:**

SAME

<p>Karen Johnson Davidson County Batch# 241997 DEEDWARR 06/11/2019 02:23:30 PM 3 pgs Fees: \$18.00 Taxes: \$333.74 20190611-0056136</p>
---

**THIS INSTRUMENT PREPARED BY:**

(Please Return Document to this Address)  
J.D. Kiouss, Attorney  
Lawyers Land & Title Services, LLC  
500 North Walnut St.  
Murfreesboro, TN 37130  
File No.: MR-19050609

**Map and Parcel:** 053 07 0 058.00

## WARRANTY DEED

For and in consideration of the sum of ten dollars (\$10.00), cash in hand paid by the hereinafter named GRANTEE, and other good and valuable considerations, the receipt of which is hereby acknowledged, **Jay Frank Moore**, hereinafter called the GRANTOR, has bargained and sold, and by these presents does transfer and convey unto **Michael W Peek**, hereinafter called the GRANTEE, his heirs and assigns, a certain tract or parcel of land in Davidson County, State of Tennessee, described as follows, to-wit:

**BEING part of Lot Nos. 32 and 33 on the plan of Village of Old Hickory Subdivision, of record in plat book 1424, page 131, in the Register's Office for Davidson County, Tennessee, as follows:**

**BEGINNING at a point on the West margin of Riverside Road at the common front corner between Lot Nos. 32 and 33 of the above Subdivision; thence Southerly with the West margin of said Road as relocated South 28° 12' West 69.48 feet to the beginning of a curve to the right at the intersection of 20th Street, as now relocated; thence along said curve, having a radius of 25 feet, a distance of 41.7 feet to the end of said curve; thence Westwardly along the North margin of 20th Street as relocated, North 56° 13' West 2.04 feet to a point and continuing Westwardly with the margin of 20th Street following the arc of curve with a radius of 531.39 feet, a distance of 131.54 feet to a point on the common rear line of Lot Nos. 33 and 62 of the above Subdivision; thence Northerly along said common rear line of Lots 33, 61 and 62, a distance of 70.2 feet to a point on the rear line of Lot No. 61; thence Southeastwardly along the dividing line between Parcel No. 57 and 58 on Metro Tax Map No. 53-7, a distance of 196.02 feet to the point of beginning and containing 16,600 square feet, more or less.**

Being the same property conveyed to J. Frank Moore and wife, Mary T. Moore by Warranty Deed filed for record on January 5, 1977 in Book 5103, page 13, of the Register's Office of Davidson County, Tennessee. The said J. Frank Moore died on November 2, 2001, leaving Mary T. Moore as the surviving tenant by the entirety. The said Mary T. Moore died intestate on February 25, 2017, leaving Jay Frank Moore as her surviving heir-at-law as evidenced by Affidavit of Heirship of record in Instrument Number 201906110056136, said Register's Office.

This conveyance is subject to the following: All matters including but not limited to restrictions of record in Book 1915, page 436, said Register's Office; All matters as set forth per Book 1424, page 131, said Register's Office; HOA Charter of record in Book 8290, page 865, said Register's Office.

This conveyance is further subject to: (1) all applicable zoning ordinances (2) utility, sewer, drainage and other easements of record, (3) all subdivision/condominium assessments, covenants, bylaws, restrictions, declarations and easements of record, (4) building restrictions, and (5) other matters of public record.



This is unimproved property known as: 1808 Riverside Dr., Old Hickory, TN 37138

TO HAVE AND TO HOLD the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEE, his heirs and assigns forever; and I do covenant with the said GRANTEE that I am lawfully seized and possessed of said land in fee simple, have a good right to convey it and the same is unencumbered, unless otherwise herein set out; and I do further covenant and bind myself, my heirs and assigns, to warrant and forever defend the title to the said land to the said GRANTEE, his heirs and assigns, against the lawful claims of all persons whomsoever. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**Subject Property is not the primary residence of Grantor.**

WITNESS my hand this 4th day of June, 2019.

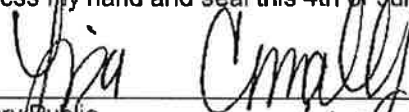
  
Jay Frank Moore

State of Tennessee

County of Rutherford

Personally appeared before me, Jay Frank Moore with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

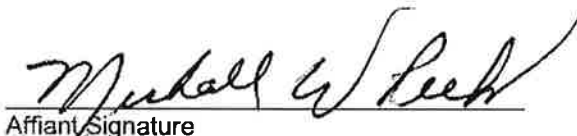
Witness my hand and seal this 4th of June, 2019.

  
Notary Public  
My Commission Expires: 4-19-23




**AFFIDAVIT**

I hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$90,200.00.

  
Affiant Signature

Subscribed and sworn to before me, this 3rd day of June, 2019.



  
Notary Public  
My Commission Expires: 12/18/21

# True Copy Certification

I, Lynn Vaught, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

*Lynn Vaught*  
Signature

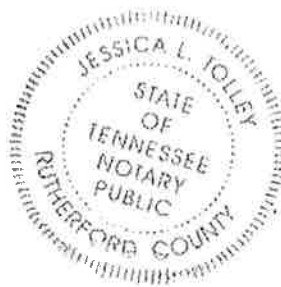
State of Tennessee

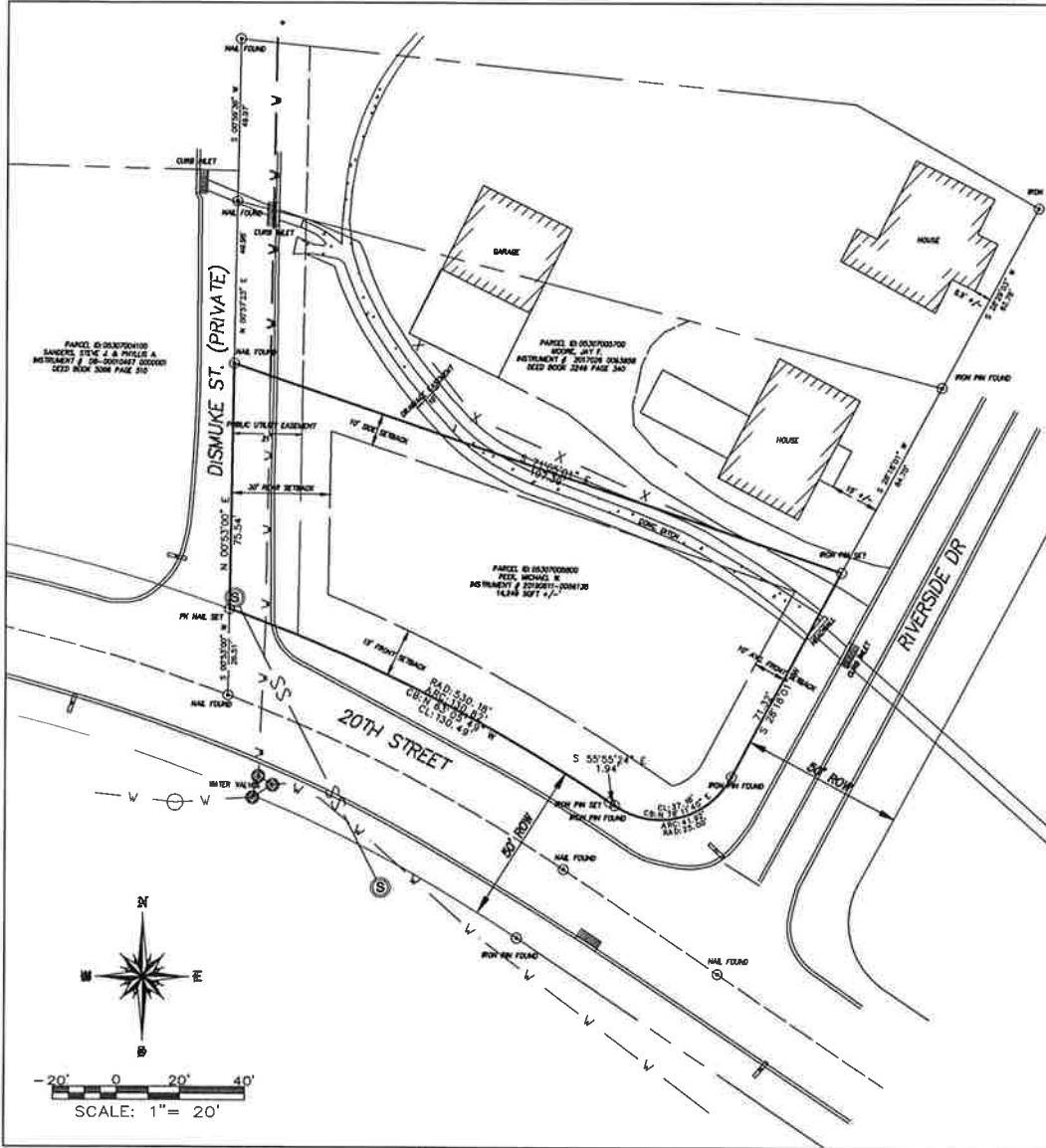
County of Rutherford

Personally appeared before me, the undersigned, a notary public for this county and state, Lynn Vaught who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

*Jessica L. Tolley*  
Notary's Signature

My Commission Expires: 11-20-22





- GENERAL NOTES**
1. BEING PARTS OF LOTS 32 AND 33 IN PLAT BOOK 1424 PAGE 131. LOTS ALSO BEING AFFECTED BY THE CONSTRUCTION OF 20TH STREET.
  2. BEARING SYSTEM IS BASED ON RECORDED SURVEY IN PLAT BOOK 1424 PAGE 131.
  3. THIS PROPERTY LIES WITHIN ZONE X, NOT IN A SPECIAL FLOOD HAZARD AREA, AS DETERMINED FROM ELEVATIONS SHOWN ON FEMA FIRM MAPS FOR DAVIDSON COUNTY COMMUNITY PANEL NO. 47165C0394G, EFFECTIVE DATE 4/17/2012.
  4. SUBJECT PROPERTY IS IDENTIFIED ON DAVIDSON COUNTY PROPERTY MAPS AS PARCEL ID: 05307005800
  5. THIS SURVEYOR HAS NOT PHYSICALLY LOCATED ALL OF THE UNDERGROUND UTILITIES. ABOVE GRADE AND UNDERGROUND UTILITIES SHOWN WERE TAKEN FROM VISIBLE APPURTENANCES AT THE SITE, PUBLIC RECORDS AND/OR MAPS PREPARED BY OTHERS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA OR THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. AVAILABILITY AND LOCATION OF UTILITIES SHOULD BE CONFIRMED WITH THE APPROPRIATE UTILITY COMPANY.
  6. NO TITLE REPORT WAS FURNISHED TO THIS SURVEYOR, THEREFORE, THIS PROPERTY IS SUBJECT TO THE FINDINGS OF A CURRENT AND ACCURATE TITLE SEARCH.
  7. PROPERTY IS ZONED R15 MINIMUM BUILDING SETBACKS SHOWN PURSUANT TO ZONING ORDINANCE 17.12.030 17.12.03A 17.12.030 C2
  8. THIS SURVEY WAS PERFORMED IN THE FIELD ON 06/14/2019
  9. THE DRAINAGE EASEMENT SHOWN IS BASED ON THE RELOCATION OF IT AND THE RELOCATION OF RIVERSIDE DR. AT THE TIME OF 20TH STREET CONSTRUCTION.

**CERTIFICATE OF ACCURACY**

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE DAVIDSON COUNTY, TENNESSEE, PLANNING COMMISSION, THAT THE PRECISION OF THE UNADJUSTED SURVEY IS 1:10,000 OR GREATER, AND THAT MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON TO THE SPECIFICATIONS OF THE CITY ENGINEER.

DATE: 06/26/2019

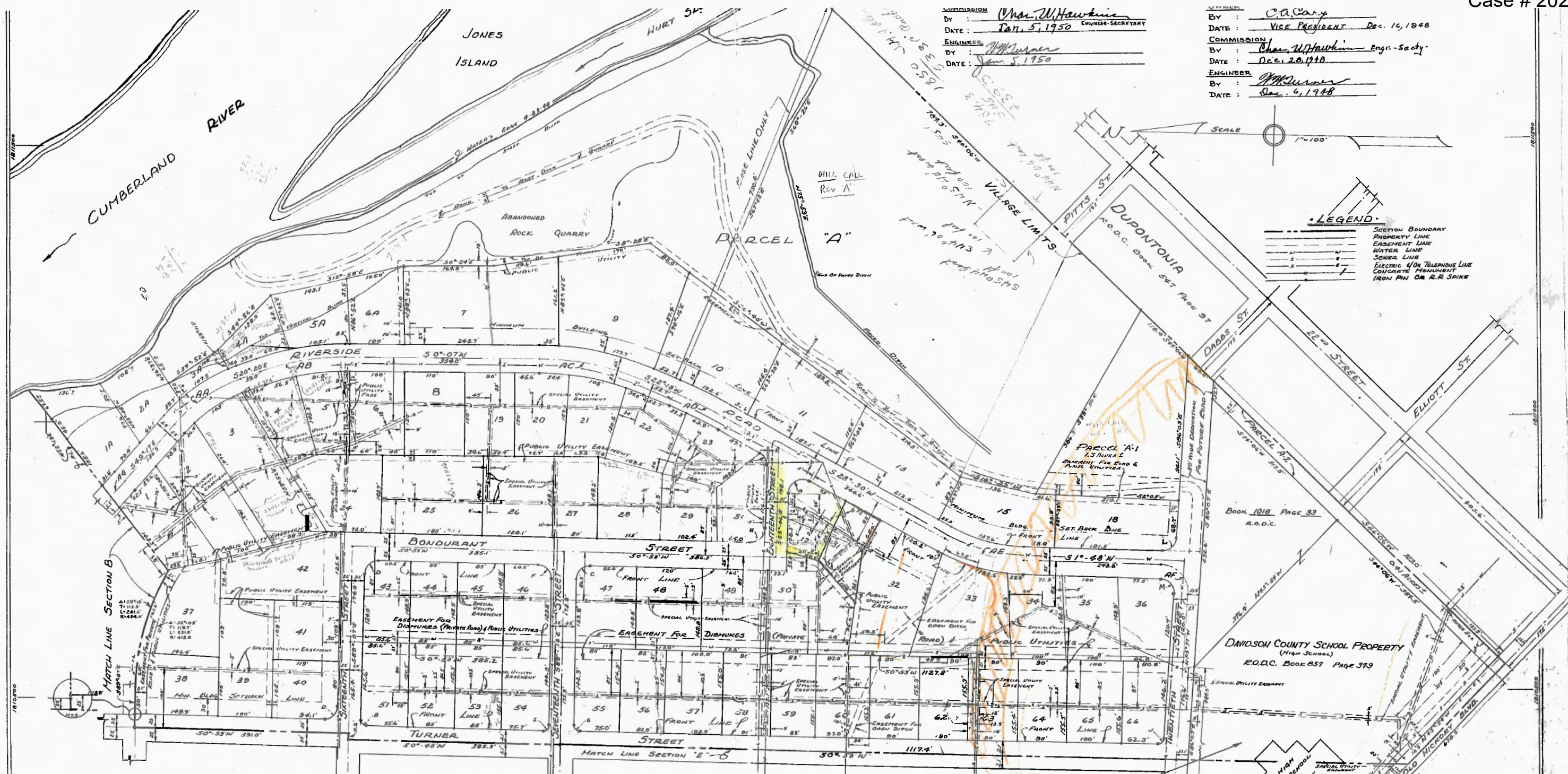
*Matthew D. Listovitch*  
 MATTHEW D. LISTOVITCH  
 SURVEYOR  
 TENNESSEE  
 061810

	<b>MATTHEW LISTOVITCH SURVEYING</b>
	542 HEARTLAND LN MURFREESBORO, TN 37127 PHONE: 615.427.1118 EMAIL: MLISTOVITCH@GMAIL.COM
<b>PROPERTY SURVEY</b>	
<b>MICHAEL PEEK</b>	
PARCEL ID: 05307005800	
1808 RIVERSIDE DR. OLD HICKORY	
DAVIDSON COUNTY TENNESSEE	



SUBDIVISION Chas. W. Hawkins  
 BY: Jan. 5, 1950 ENGINEER-SECRETARY  
 ENGINEER W.W. Turner  
 BY: Jan. 5, 1950  
 DATE:

BY: C.A. Cary  
 DATE: Dec. 16, 1948  
 COMMISSION  
 BY: Chas. W. Hawkins Engr.-Sec'y.  
 DATE: Dec. 20, 1948  
 ENGINEER  
 BY: W.W. Turner  
 DATE: Dec. 6, 1948



**LEGEND**  
 SECTION BOUNDARY  
 PROPERTY LINE  
 EASEMENT LINE  
 WATER LINE  
 SEWER LINE  
 ELECTRIC OR TELEPHONE LINE  
 CONCRETE MONUMENT  
 IRON PIN OR R.R. SPIKE



Book 1018 Page 93  
 R.O.D.C.

DAVIDSON COUNTY SCHOOL PROPERTY  
 (High School)  
 E.O.D.C. Book 657 Page 319

WE HEREBY APPROVE AND DEDICATE SPECIAL UTILITY EASEMENTS, AS DEFINED AND NOTED HEREON, AS APPLYING TO THE LANDS OF THE DAVIDSON COUNTY SCHOOL PROPERTY (HIGH SCHOOL), BOARD OF EDUCATION, DAVIDSON COUNTY, TENN.

BY: E. Chudwin  
 TITLE: Chairman Davidson School Bd.  
 DATE: Dec 13 - 1948

REVISED PLAN OF  
**SECTION "F"**  
 FOURTH CIVIL DISTRICT DAVIDSON COUNTY, TENNESSEE  
 VILLAGE OF OLD HICKORY

NOTE: THE RECORDING OF THIS PLAT VOIDS AND SUPERSEDES RECORDING OF SEPT. 11, 1948 BOOK 1424 PAGE 78 R.O.D.C. & DEC. 30, 1948 BOOK 1424 PAGE 86 R.O.D.C.

**CURVE DATA RIVERSIDE ROAD**

CURVE	Δ	T	L	R
AA	121.57	76.0	174.6	204.1
AB	121.57	76.0	174.6	204.1
AC	121.57	76.0	174.6	204.1
AD	121.57	76.0	174.6	204.1
AE	121.57	76.0	174.6	204.1
AF	121.57	76.0	174.6	204.1
AG	121.57	76.0	174.6	204.1

**CURVE DATA**

CURVE	Δ	T	L	R
A	117.16	41.0	212.8	28.7
B	30.48	10.0	15.7	10.1
C	94.08	26.0	38.8	26.7
D	30.40	26.0	39.3	25.7
E	89.97	10.0	15.7	10.1
F	29.12	22.0	32.8	22.1
G	29.49	10.0	15.7	10.1
H	29.12	22.0	32.8	22.1
I	29.12	22.0	32.8	22.1
J	29.12	22.0	32.8	22.1
K	29.12	22.0	32.8	22.1
L	29.12	22.0	32.8	22.1
M	29.12	22.0	32.8	22.1

**OWNER'S CERTIFICATE**  
 WE HEREBY CERTIFY THAT WE ARE THE OWNERS, EXCEPT AS OTHERWISE NOTED, AND ADOPT THE PLAN OF SUBDIVISION OF THE PROPERTY AS SHOWN HEREON AND DEDICATE ALL PUBLIC WAYS AND EASEMENTS AS NOTED.  
 NAME: E.I. DU PONT DE NEMOURS & CO.  
 BY: C.A. Cary  
 TITLE: VICE-PRESIDENT  
 DATE: JUNE 9, 1948

**NOTES**  
 PUBLIC UTILITY EASEMENTS ARE PERMANENT, WHEREAS, SPECIAL UTILITY EASEMENTS ARE TO BE VOIDED IF AND WHEN SUCH EASEMENT IS ABANDONED OR OTHERWISE VACATED, FOR ANY REASON, BY THE UTILITY NOW LOCATED THEREON AND IS NOT TO BE USED BY ANY OTHER UTILITY UNDER AUTHORITY OF THIS DEDICATION.  
 DETACHED LOTS CARRYING AN "A" SUFFIX ARE NOT BUILDING LOTS BUT ARE A PART OF THE LOT CARRYING THE SAME NUMBER. - EXAMPLE: LOT NO. 2 AND 2A CONSTITUTE ONLY ONE LOT.  
 ALL LOTS IN THIS SECTION HAVE AN AVAILABLE WATER LINE ADJACENT TO THE PROPERTY, AND ALL LOTS HAVE AN AVAILABLE SEWER LINE EXCEPT LOTS NO. 7, 11, 13, 15, 18 WHICH WILL REQUIRE SEPTIC TANKS.

**THE PLANNING COMMISSION CERTIFICATE**  
 APPROVED AND RELEASED FOR PUBLIC RECORD AS BEING A COMPLETE SURVEY DESCRIPTION OF A SUBDIVISION DEVELOPED AND OTHERWISE IMPROVED PRIOR TO FEBRUARY 1949, THE EFFECTIVE DATE OF RULES AND REGULATIONS FOR LAND SUBDIVISION IN DAVIDSON COUNTY.

BY: Chas. W. Hawkins  
 DATE: Sept. 10, 1948 ENGINEER-SECRETARY

**ENGINEER'S CERTIFICATE**  
 WE HEREBY CERTIFY THAT THE PLAT SHOWN HEREON IS CORRECT AND THAT APPROVED MONUMENTS SHOWN THEREON HAVE BEEN PLACED AS INDICATED.  
 W.W. TURNER COMPANY

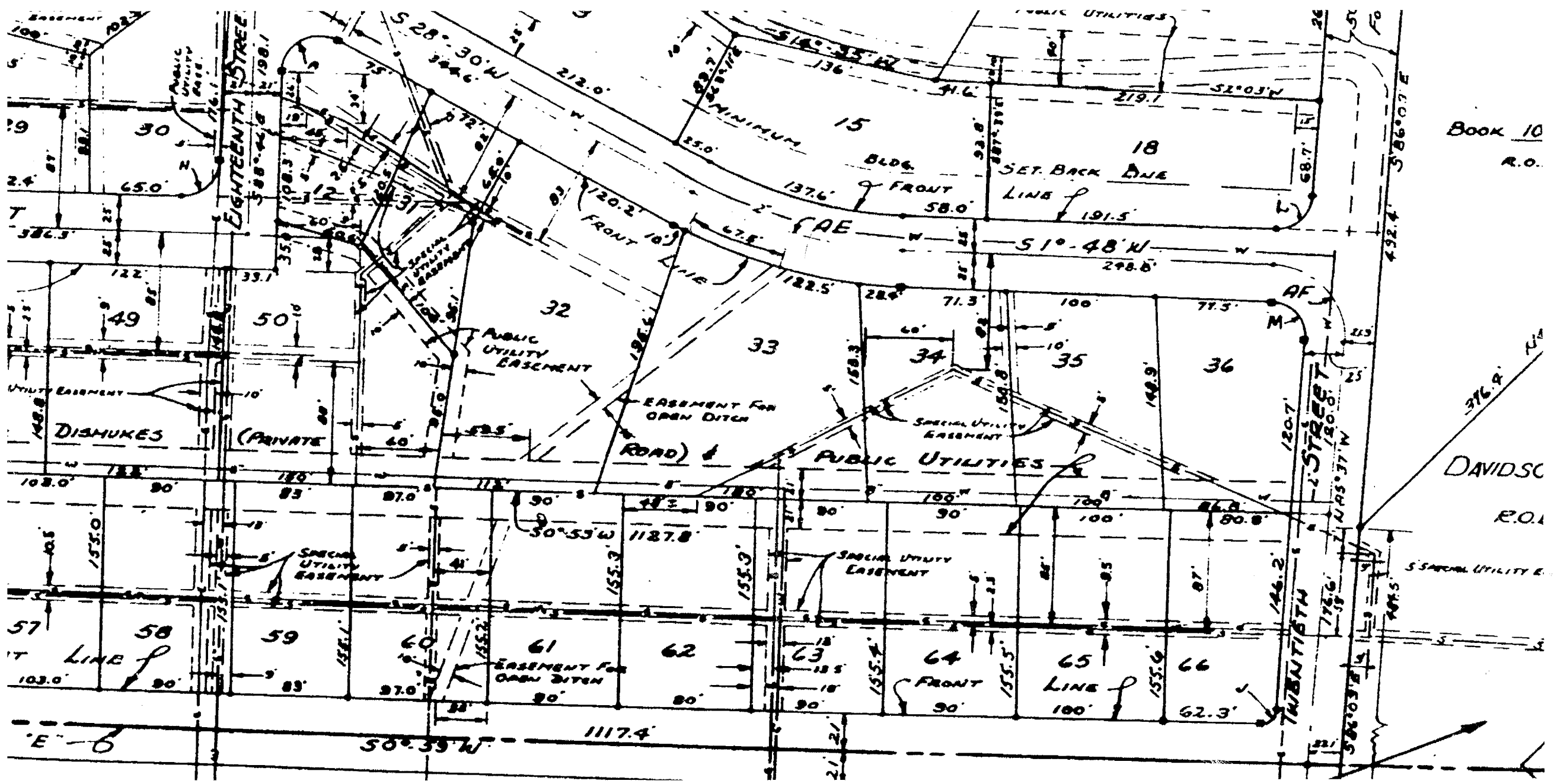
**REVISIONS**

Rev. No.	REVISIONS	Revised DATE	Entered DATE	Approved DATE
1	ISSUED FOR RECORD	1-18-48	1-18-48	1-18-48
2	REVISED LOTS ON EAST END	7-6-48	7-6-48	7-6-48
3	REVISED LOTS ON WEST END	8-24-48	8-24-48	8-24-48
4	REVISED LOTS ON SOUTH END	12-1-48	12-1-48	12-1-48
5	CHANGED RIVER COURSE	1-3-50	1-3-50	1-3-50

RECORDED Jan. 6, 1950 BOOK 1424 PAGE 131  
 REGISTER'S OFFICE DAVIDSON COUNTY, TENNESSEE



BOOK 10  
R.O.





## Community Meeting for 1808 Riverside

Thank you for coming this evening.

The purpose of the meeting is to welcome your input and questions concerning the building plans for the referenced lot. I will list possible concerns you may have and welcome feedback.

After discussion, on the attached page, indicate whether you support by checking yes or no and comments that you may have.

In March, you can attend the Board of Zoning appeals meeting to voice your opinion.

- 1) Why Variance needed. The lot survey after purchase 14,249 sq ft. The zoning for R-15 requires a minimum of 15,000 sq.ft. & allows a one or two family residence.
- 2) Why (2) Homes. Purchased based on deed indicating 16,600 sq.ft. & the investment.
- 3) Building style. To fit in with the character of the neighboring homes and enhance the area. Planning ranch/cottage type.  
Note: No tall skinny
- 4) Building orientation. Objective is to place homes on the lot facing Riverside & 20th street as far apart as possible. Estimate 30ft.
- 5) Home size. Planning 1400 sq.ft plus or minus 10%.
- 6) Driveway entry. Public works will have final approval. Likely 20th street.
- 7) Project construction. Every effort will be made to mitigate noise, street traffic, and debris during the construction.

1808 Riverside Rd Old Hickory, TN

Print your name and address and indicate below by circling yes or no whether you support the variance request for (2) homes and any other comments.

Name \_\_\_\_\_

Address \_\_\_\_\_

Support    Yes    No

Comments:

*Doc 1876 T.M. Snow 32*

(Instrument prepared by J.M. Whitsitt, Jr., Attorney, Hiway 100, Nashville, Tenn)

ADDRESS NEW OWNER(S) AS FOLLOWS <b>J. Frank Moore et ux</b> <small>(NAME)</small>		SEND TAX BILLS TO: same	MAP-PARCEL NUMBERS: Map 53 Parcel 7
<b>1806 B. Riverside</b> <small>(STREET ADDRESS OR ROUTE NUMBER)</small>		<b>BOOK 5103 PAGE 13</b> <small>(NAME)</small>	
<b>Old Hickory, Tenn 37038</b> <small>(CITY)</small>	<b>Tenn</b> <small>(STATE)</small>	<b>37038</b> <small>(ZIP CODE)</small>	

WARRANTY DEED

For and in consideration of the sum of Five Thousand Seven Hundred and NO/100-----  
(\$5,700.00)----- DOLLARS

STATE OF TENNESSEE  
 COUNTY OF DAVIDSON  
 THE ACTUAL CONSIDERATION OR TRUE VALUE  
 WHICHEVER IS GREATER, FOR THIS TRANSFER IS  
 \$ 5,700.00  
 SUBSCRIBED AND SWORN TO BEFORE ME, THIS  
 THE 5<sup>th</sup> DAY OF Jan 1977  
 Deputy Registrar

83850  
 JAN 5 12 43 PM '77  
 DAVIDSON COUNTY REGISTER  
 REFERENCE

we, the Metropolitan Government of Nashville & Davidson County, Tennessee, have bargained and sold, and by these presents do transfer and convey unto the said \_\_\_\_\_

J. Frank Moore and wife, Mary T. Moore

the GRANTEES herein, their heirs and assigns, a certain tract or parcel of land in Davidson County, State of Tennessee, described as follows:

BEING part of Lot Nos. 32 and 33 on the plan of Village of Old Hickory Sub-division, of record in plat book 1424, page 131, in the Register's Office for Davidson County, Tennessee, as follows:

BEGINNING at a point on the West margin of Riverside Road at the common front corner between Lot Nos. 32 and 33 of the above Subdivision; thence Southerly with the West margin of said Road as relocated South 28° 12' West 69.48 feet to the beginning of a curve to the right at the intersection of 20th Street, as now relocated; thence along said curve, having a radius of 25 feet, a distance of 41.7 feet to the end of said curve; thence Westwardly along the North margin of 20th Street as relocated, North 56° 13' West 2.04 feet to a point and continuing Westwardly with the margin of 20th Street following the arc of curve with a radius of 531.39 feet, a distance of 131.54 feet to a point on the common rear line of Lot Nos. 33 and 62 of above Subdivision; thence Northerly along said common rear line of Lots 33, 61 and 62, a distance of 70.2 feet to a point on the rear line of Lot No. 61; thence Southeastwardly along the dividing line between Parcel No. 57 and 58 on Metro Tax Map No. 53-7, a distance of 196.02 feet to the point of beginning and containing 16,600 square feet, more or less.

<i>69.48</i>	JAN-57 CONV	*5,700.00		
	JAN-57 S'TAX		B*	14.82
	JAN-57 PR'FEE		B*	.50
	JAN-57 W'DEED		B*	4.00 * 19.32

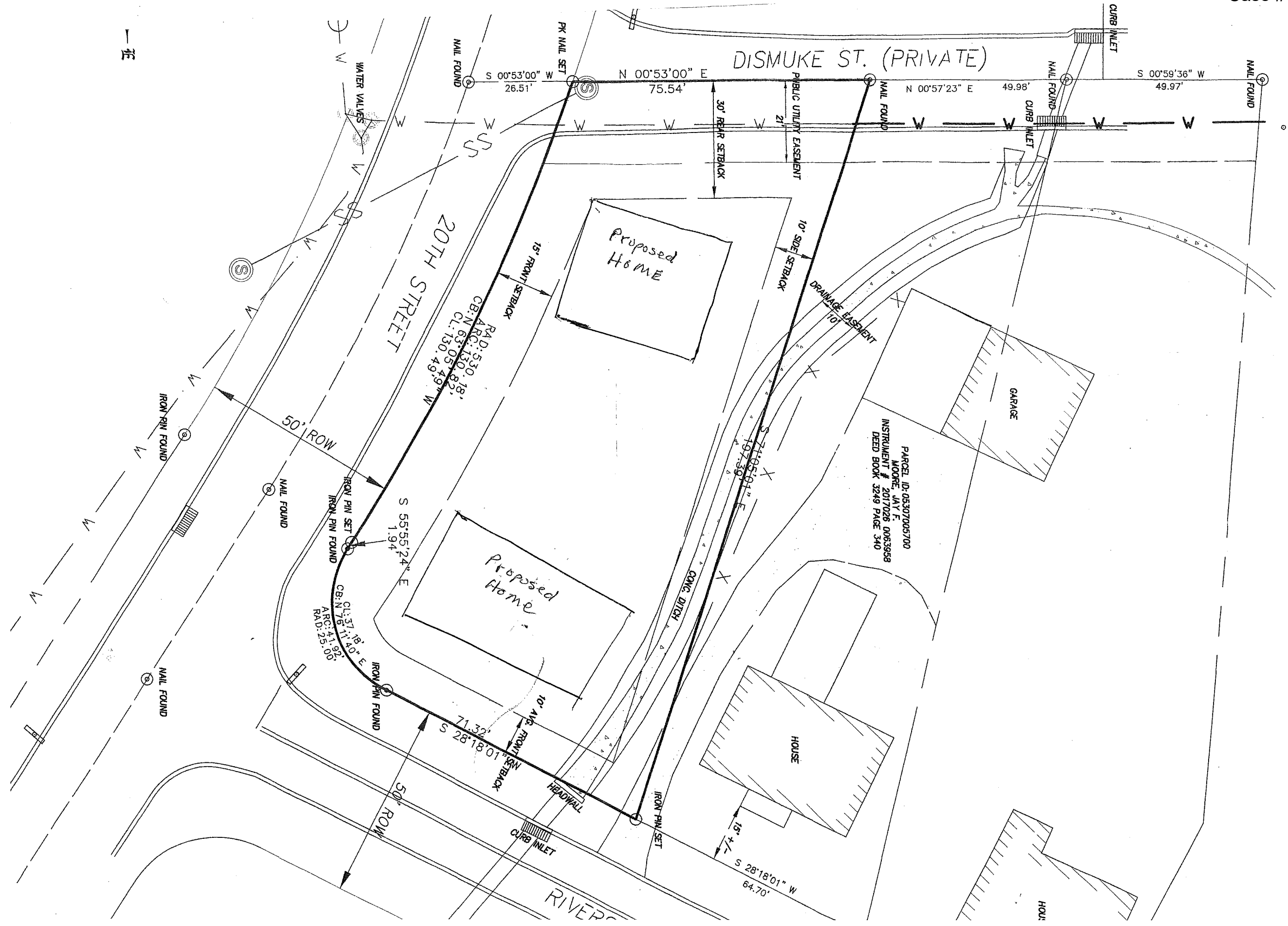
unimproved ( )  
 This is improved ( ) property, known as \_\_\_\_\_  
(House Number) (Street)

\_\_\_\_\_  
(P. O. Address) (City or Town) (Zip Code)

To have and to hold the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEES, their heirs and assigns, forever. And we do covenant with the said GRANTEES that we are lawfully seized and possessed of said land in fee simple, have a good right to convey it, and the same is unencumbered, unless otherwise herein set out. And we do further covenant and bind ourselves, our heirs and representatives to warrant and forever defend the title to the said land to the said GRANTEES, their heirs and assigns against the lawful claims of all persons, whomsoever.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.



DISMUKE ST. (PRIVATE)

20TH STREET

RIVER

Proposed Home

Proposed Home

GARAGE

HOUSE

HOUSE

PARCEL ID: 03307005700  
 MOORE, JAY F.  
 INSTRUMENT # 2017026 0063958  
 DEED BOOK 3249 PAGE 340

S 00°53'00" W 26.51'  
 N 00°53'00" E 75.54'  
 N 00°57'23" E 49.98'  
 S 00°59'36" W 49.97'

R.A.D.: 530.18'  
 C.B.: N 63°03'18.2"  
 C.L.: 130.49' W

S 55°55'24" E 1.94'  
 C.L.: 37.18' E  
 C.B.: N 76°11'40"  
 A.R.C.: 41.00'  
 R.A.D.: 25.00'

71.32'  
 S 28°18'01" W  
 10' AVE. FRONT SETBACK

15' +/-  
 S 28°18'01" W 64.70'

一 狹

**From:**

Gis Johannsson  
1708 Riverside Rd  
Old Hickory, TN 37138  
(615) 502 2045

**Regarding:**

Appeal Case Number 2020 - 153  
Parcel ID: 05307005800  
Property address: 1808 Riverside Rd, Old Hickory, TN 37138

Dear members of the Board of Zoning Appeals

Please do not approve variance for appeal case number 2020 - 153, for the purpose of bulding 2 family homes on the lot.

**Why?**

The owner of this property, Mr. Michael Peeks (represented by law firm Baker Donelson) claims this lot is 14,249 square feet in size. He stated that on a zoning appeal application dated 10-31-2019, as well as reiterating that during a meeting with Old Hickory residents on January 13<sup>th</sup> 2019.

By this claim, Mr. Peek maintains that the lot is only 751 square feet shy of meeting minimum R15 zoning requirements but all public information regarding this lot, including on Nashville.gov, lists this lot at 0.32 acres or 13,939.2 square feet. That is 1060.8 square feet shy of meeting minimum R15 zoning requirements. During the January 13<sup>th</sup> 2019 meeting, Mr. Peek stated that official records on the size of this lot are wrong.

Before considering granting variance to build 2 family homes on a lot that according to official public records is 13,939.2 square feet, please do proper diligence and ascertain the true size of this parcel lot.



### **Preserve historic Old Hickory Village architectural landscape**

It would be enormously out phase with Old Hickory Village's 100+ years landscape to build 2 family homes at 1808 Riverside Drive. All of the neighborhood lots feature single-family homes, many of which have been restored to reflect the Village's original landscape and architecture that the area is known and revered for.

As Nashville has grown in popularity, developers have sought to maximize profits by consolidating traditionally single family home lots under 2 homes. I hope that you support the growing concern by many Old Hickory residents that this trend is detrimental to Old Hickory Village's nod to the past and charm. There are homes on the National Register of Historic Places within 1 minute driving distance of 1808 Riverside Rd (0.3 miles). The key to Historic Old Hickory's growth and value is home restoration and preservation but not by altering its historic neighborhoods by consolidating lots for multi family homes, negatively affecting neighborhood real estate and community values.

Historic Old Hickory is revered for the home restoring efforts that have taken place in recent years, making Old Hickory village a sought-after place to live. That is a desirable and a responsible way forward, but not changing the village's architectural landscape for no apparent reason other than developers' profits.

Please reject the appeal for variance for the purpose of building 2 family homes at 1808 Riverside Dive, Old Hickory but encourage the developer to respect the neighborhood's grown architectural landscape and instead build a single-family home on the lot that might enhance the value and charm of Historic Old Hickory Village.

Sincerely,



Gis Johannsson

Metropolitan Board of Zoning Appeals  
Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210



Appellant : Baker Donelson Date: June 2, 2020  
Property Owner: Ciara Properties Case #: 2020- 154  
Representative: Joey Hargis Map & Parcel: 91-14-203

Council District 24

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose:

To allow the construction of a new single family residence

Activity Type: Single Family Residence

Location: 234 Orlando Avenue

This property is in the R6 Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Variance in street setback; Required 20' Providing 10'

Section(s): 17.12.030A

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection B Of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Baker Donelson  
Appellant Name (Please Print)

\_\_\_\_\_  
Representative Name (Please Print)

211 Commerce St. Ste. 800  
Address

\_\_\_\_\_  
Address

Nashville, TN 37201  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

615-726-7391  
Phone Number

\_\_\_\_\_  
Phone Number

jhargis@bakerdonelson.com  
Email

\_\_\_\_\_  
Email

\_\_\_\_\_  
Appeal Fee:

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

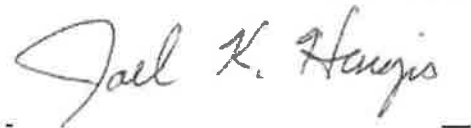
The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.



**APPELLANT**

June 2, 2020

**DATE**

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property-** The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics-** *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

*Hardship not self-imposed-* *The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases-* *Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property-* *The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare-** *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan-** *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*





## APPLICATION FOR A VARIANCE REQUEST

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**APPELLANT**

June 2, 2020

**DATE**

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*Financial gain not only bases-Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property- The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare-** *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan-** *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*

In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is . Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is Incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

The exceptional topographic and floodplain/floodway issues which encumber this property  
are the basis of our hardship

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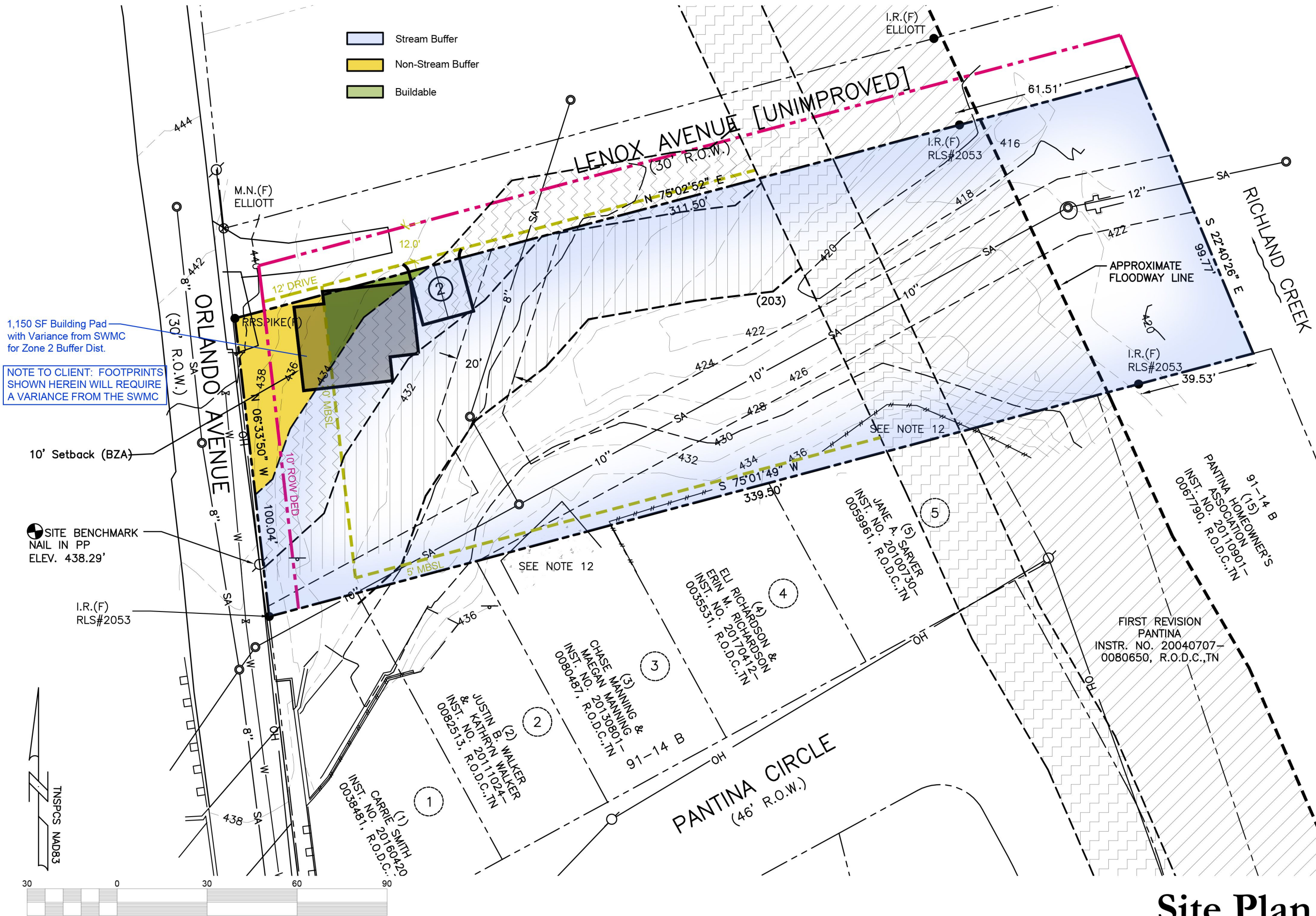
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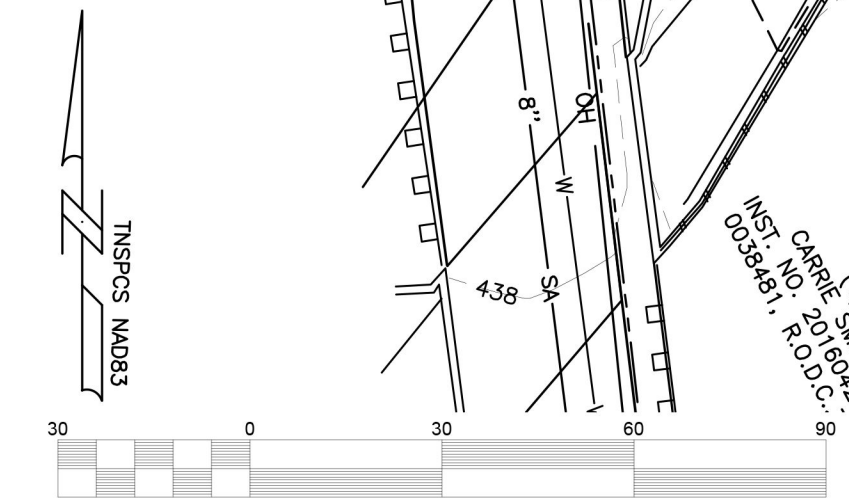


1,150 SF Building Pad with Variance from SWMC for Zone 2 Buffer Dist.

NOTE TO CLIENT: FOOTPRINTS SHOWN HEREIN WILL REQUIRE A VARIANCE FROM THE SWMC

10' Setback (BZA)

SITE BENCHMARK  
NAIL IN PP  
ELEV. 438.29'



# 234 ORLANDO AVENUE

BEING PARCEL 203 ON TAX MAP 91-14  
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

DATE: 10/31/19

## Dale & Associates

Consulting Civil Engineering  
Land Planning & Zoning  
Landscape Architecture  
Surveying

516 Heather Place  
Nashville, Tennessee 37204  
(615) 297-5166

### Site Plan

- Stream Buffer
- Non-Stream Buffer
- Buildable

LENOX AVENUE [UNIMPROVED]  
(30' R.O.W.)

APPROXIMATE FLOODWAY LINE

RICHLAND CREEK

PANTINA CIRCLE  
(46' R.O.W.)

JUSTIN B. WALKER & KATHRYN WALKER  
INST. NO. 2011102A-0082513, R.O.D.C., TN

CHASE MANNING & MEGAN MANNING  
INST. NO. 20130801-0080487, R.O.D.C., TN

ERIN M. RICHARDSON & ELI RICHARDSON  
INST. NO. 20170412-0035551, R.O.D.C., TN

JANE A. SARVER  
INST. NO. 20100130-0059861, R.O.D.C., TN

PANTINA ASSOCIATION  
INST. NO. 20110901-0067790, R.O.D.C., TN

FIRST REVISION  
PANTINA  
INSTR. NO. 20040707-0080650, R.O.D.C., TN

Scale 1" = 30'



**From:** [HENRY PARMER](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** comment appeal case # 2020-154  
**Date:** Thursday, July 9, 2020 6:17:36 PM

---

Dear Board of Zoning Appeal members:

I tried to send this earlier but was unable to, system problems.

I am writing in opposition to the setback appeal for the following address  
Appeal Case number 2020-154  
234 Orlando Avenue  
Map Parcel: 091140200300  
zoning classification: R6  
Council District 24

I am in opposition to the setback appeal for the above mentioned property for several reasons.

It is rather close to the bridge that crosses the tertiary creek that feeds into Richland Creek.

Orlando Avenue is a narrow street, which is frequented by residents and people cutting through the neighborhood from Charlotte Pike.

When school is in session many more people drive up and down Orlando with their children who attend The Big Picture High School which is also in the neighborhood.

If you have any questions for me regarding my comments, I can be reached by way of this e-mail address [hjparmer@comcast.net](mailto:hjparmer@comcast.net).

I will be unable to attend the meeting as I will be out of town.

Sincerely:  
Joan Parmer  
5406 Burgess Avenue  
Nashville, Tn. 37209

**White Bridge Neighborhood Association**

P. O. Box 91003  
Nashville, TN 37209

July 12, 2020

VIA EMAIL

Metro Nashville Board of Zoning Appeals  
800 Second Avenue South  
Nashville, TN 37210

SUBJECT: Case Number 2020-154 (July 16, 2020 BZA Meeting)

Dear Board of Zoning Appeals Members:

The White Bridge Neighborhood Association (WBNA) area includes over 1,000 households. We would like to submit comments on the request from street setback requirements to construct a new single-family residence at 234 Orlando Avenue.

We understand that the request before the BZA is for a 10-foot variance from the front setback requirement. Orlando Avenue is a very narrow street, and we oppose allowing a home to be built closer to the street than the current Metro requirement for the setback.

In addition, the proposed plan seems to show that only 120 square feet of the lot would be buildable, which makes it unsuitable for this development.

The developer indicated that part of the residence would be built in the stream buffer, which we oppose in order to protect the water quality of the stream, which flows into Richland Creek, a short distance away.

Thank you for your consideration of our request.

Sincerely,



Suzette Crutchfield  
President

**From:** Kelly Greene <loggsgreene65@gmail.com>  
**Sent:** Tuesday, July 14, 2020 8:42 PM  
**To:** Board of Zoning Appeals (Codes) <bza@nashville.gov>  
**Subject:** ZONING Appeal

Hello, my name is Kelly Greene, Address 202 Orlando ave. 37209. I am saying, No to any development @ 234 Orlando ave. 1st Due to: stream FLOODING. Richland creek. Much history of richland creek circa 1770, runs to other water sources. Orlando ave this sit, is the last piece of land. ON BUFFER. much wildlife relies on this beautiful water supply. Studies in 4/2017. 1st, zoning 2020-154 Denied, DUE to this STORM WATER RULES. Pre State field Representative, this land Confirmed life cycles, to all streams require Healthy Repairain life!! 2nd: HOME to Streamline Salamanders, Eastern box turtles, Great Blue Herons these are High Priority Conservation. I see deer, mallard ducks, spawning of Crayfish. This is, Education and truth. Why is this okay?? 615-840-2121. Reminder 2010 Flood? This is about Flood Plane.

thanks Kelly M Greene

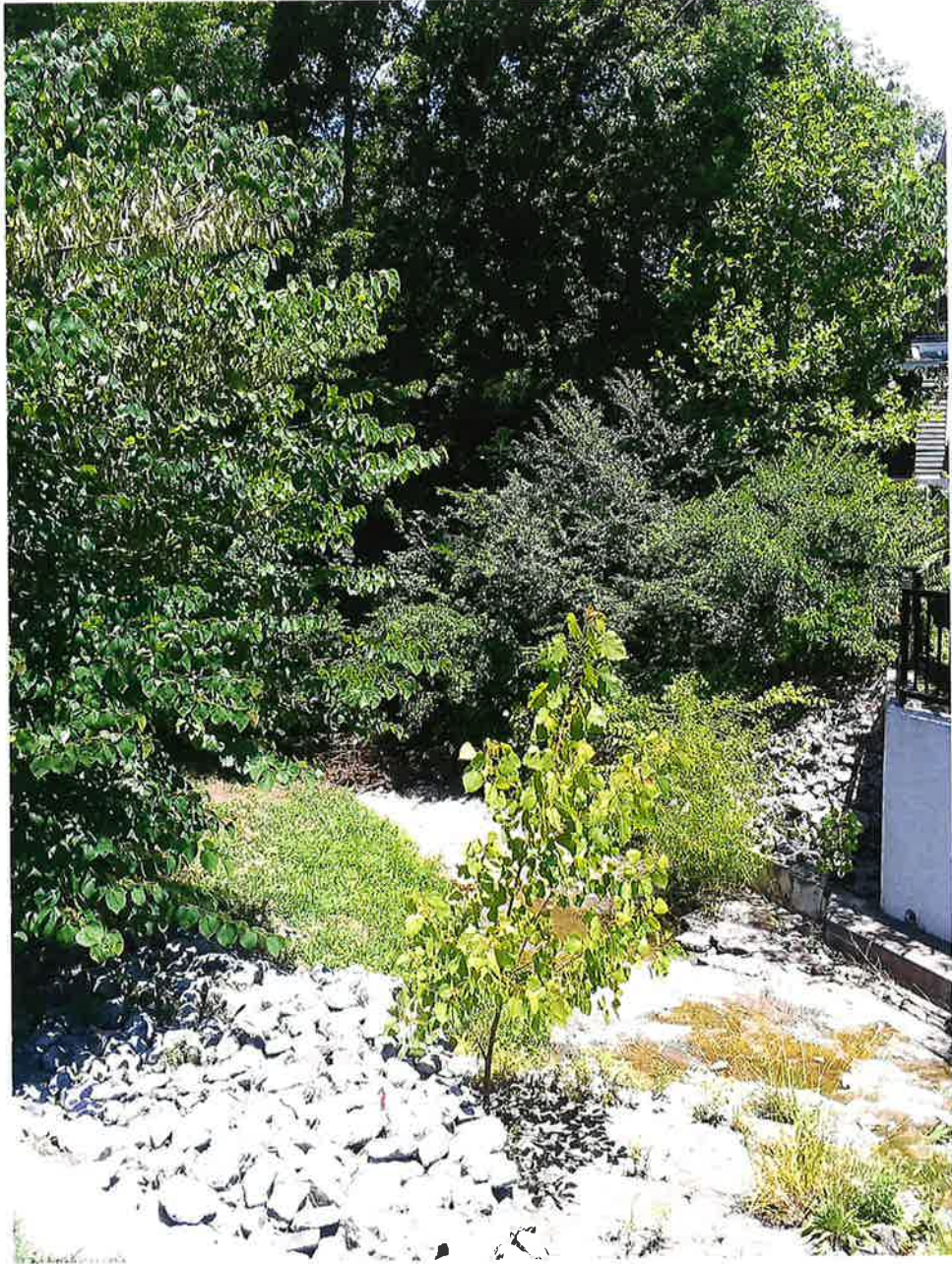




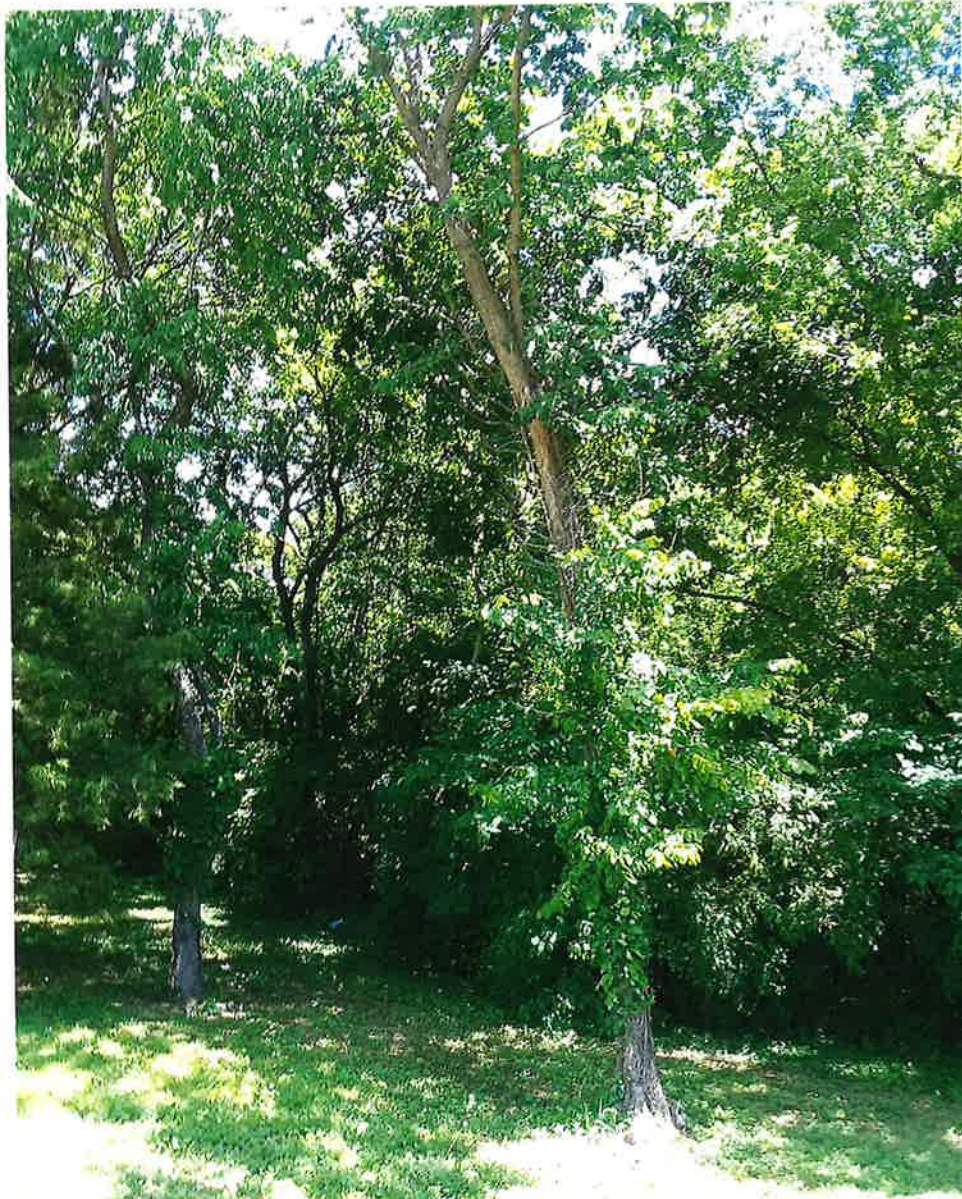
























**STREAM  
BUFFER**

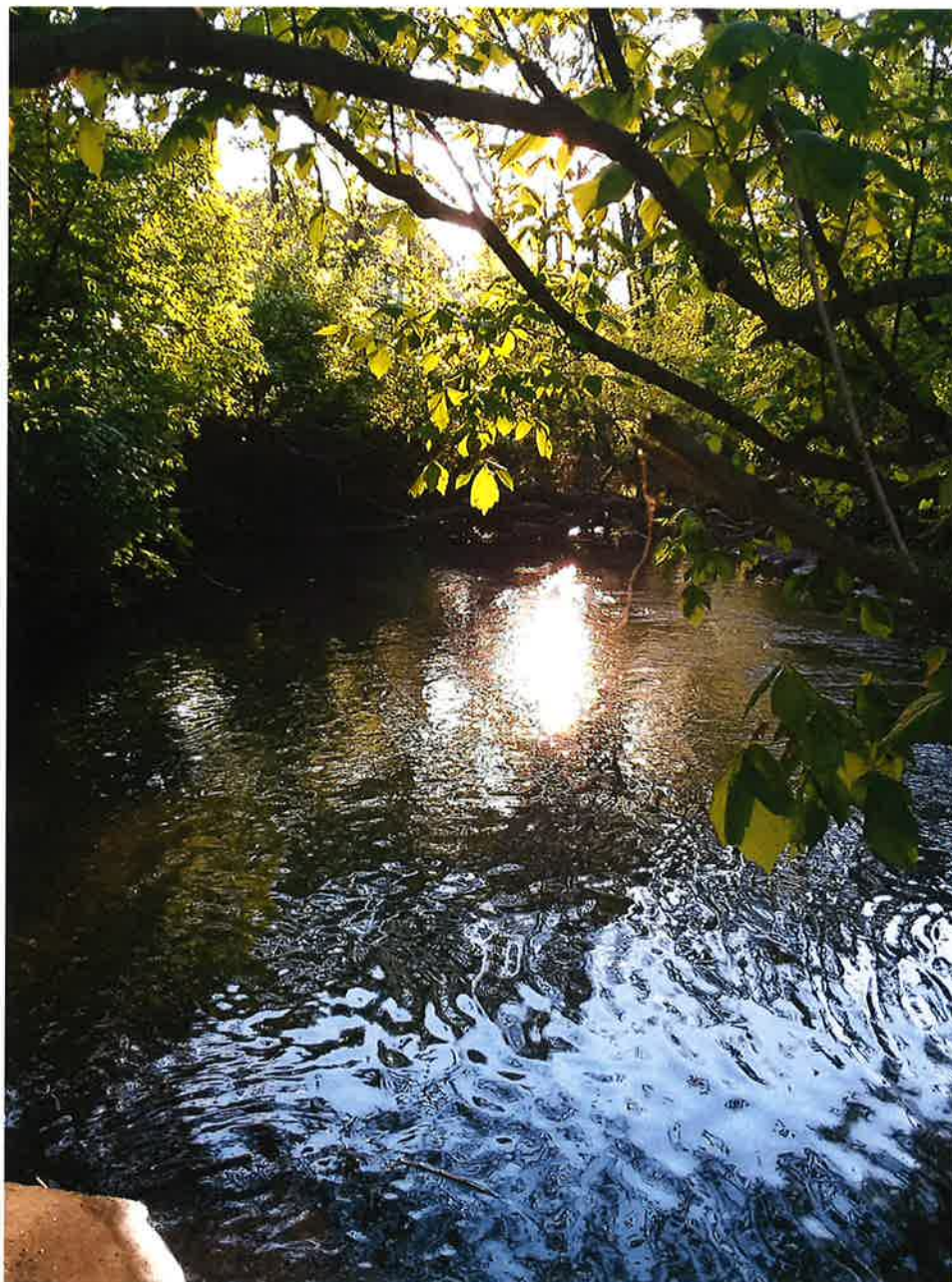
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**DO NOT  
DISTURB**

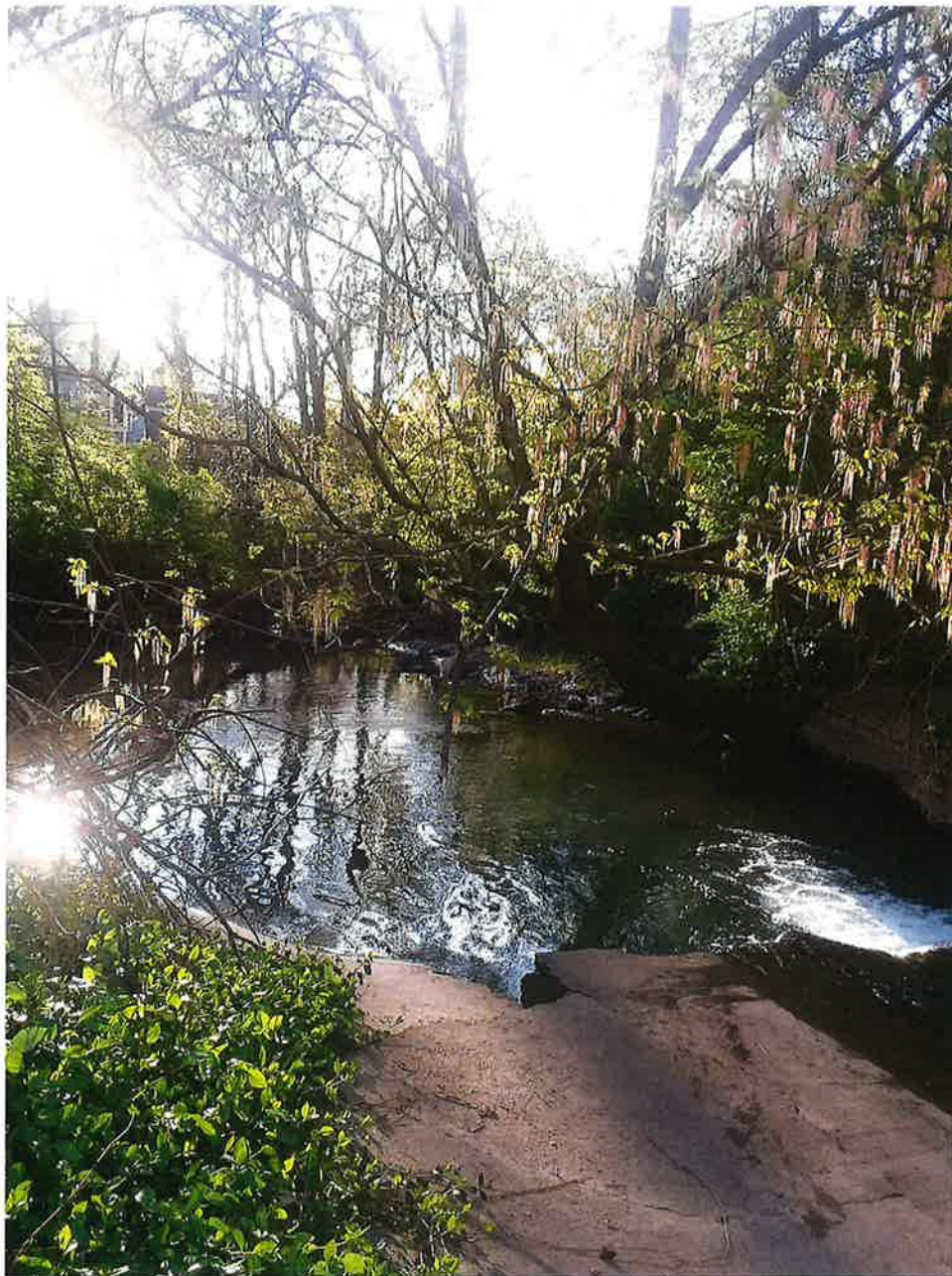
Metro Nashville  
Stormwater NPDES Department  
880-2420





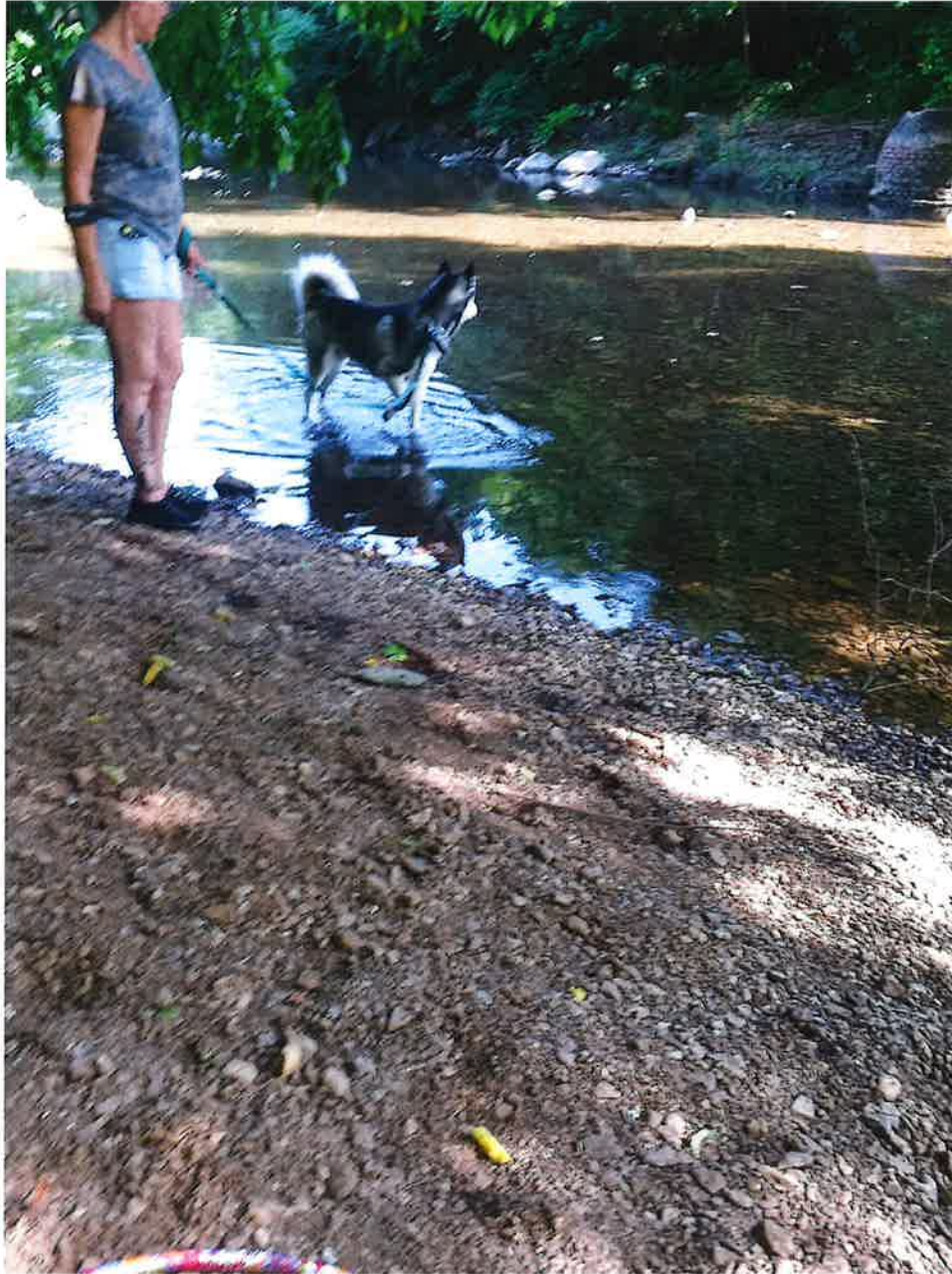




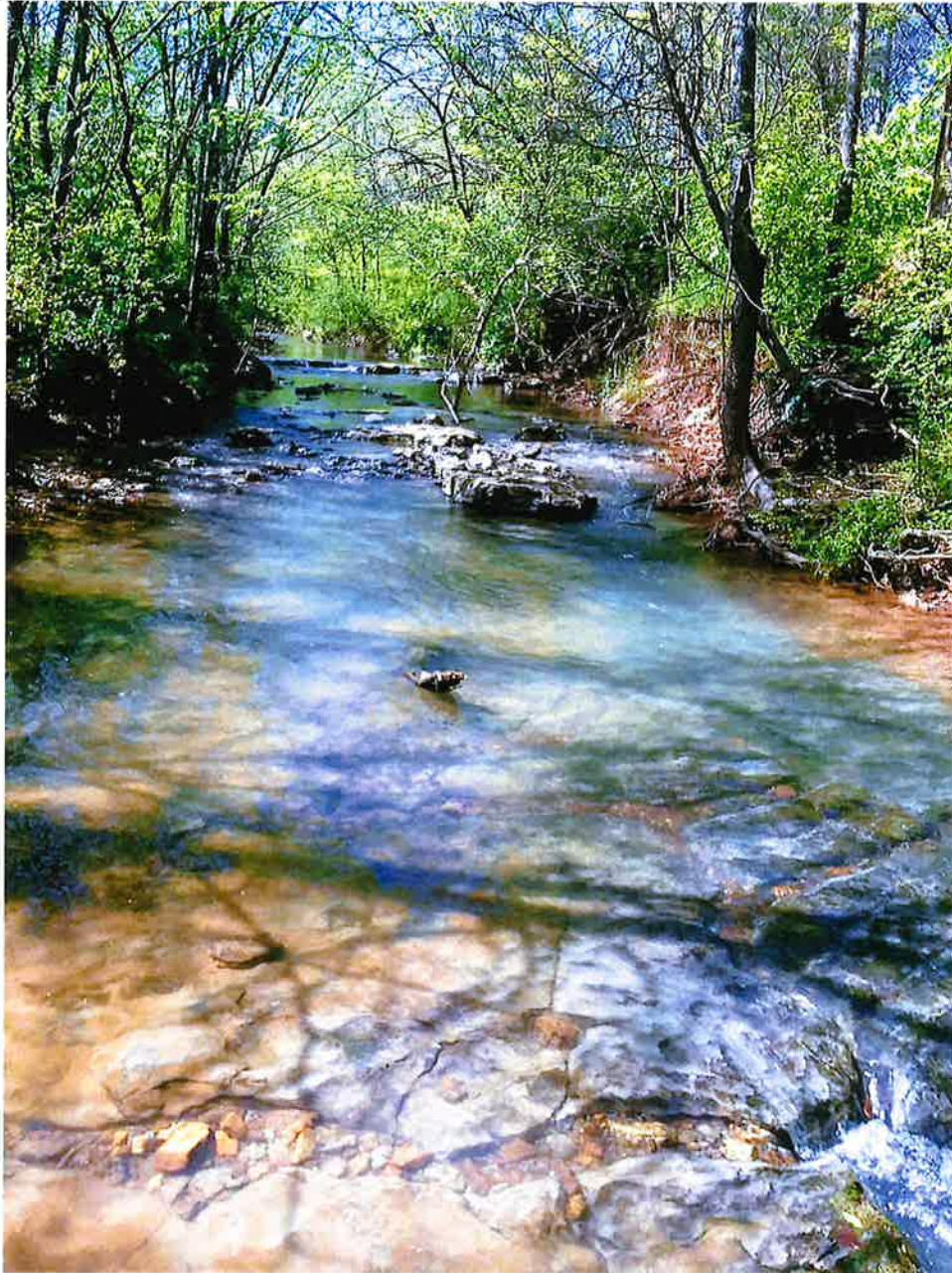














## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Jay Fulmer Date: 06/01/2020  
 Property Owner: Saunders Properties, LLC Case #: 2020- 159  
 Representative: Jay Fulmer Map & Parcel: 10503003700  
 Council District: 17

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: Exemption from all parking requirements due to narrowness of site.  
 Activity Type: Retail/Light Manufacturing  
 Location: 1117 3<sup>rd</sup> Ave S, Nashville TN 37210

This property is in the MUL-A Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Narrowness of site and inability to make curb-cuts on 3<sup>rd</sup> Ave.  
 Section: 17.2.030

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Jay Fulmer Representative: Jay Fulmer  
 Phone Number: 615-345-3770 Phone Number: 615-345-3770  
 Address: 2002 Richard Jones Rd | Suite B200 Address: 2002 Richard Jones Rd | Suite B200  
Nashville TN 37215 Nashville TN 37215  
 Email address: jay@fulmerlucas.com Email address: jay@fulmerlucas.com

Appeal Fee: \_\_\_\_\_

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

Jay Fulmer

**APPELLANT**

06/01/2020

**DATE**

## Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

**Physical Characteristics of the property-** The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

**Unique characteristics-** *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

*Hardship not self-imposed- The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.*

*Financial gain not only bases-Financial gain is not the sole basis for granting the variance.*

*No injury to neighboring property- The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**No harm to public welfare-** *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

**Integrity of Master Development Plan-** *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

*The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.*



In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is . Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

We are unable to provide required parking due to narrowness of site and an inability to make curb-cuts on 3rd Ave S.

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**From:** [Sledge, Colby \(Council Member\)](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#); [Lamb, Emily \(Codes\)](#); [Cathey, Eben \(Planning\)](#); [Michael, Jon \(Codes\)](#)  
**Subject:** District 17 positions for July 16 meeting  
**Date:** Monday, July 13, 2020 12:57:58 PM

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Good afternoon, all,

Here are my positions on the three D17 items:

Case 2020-155: I **strongly support** this appeal.

Case 2020-156: I support the operation but want the applicant to pay into the sidewalk fund.

Case 2020-157: I **strongly oppose** this appeal.

Colby

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Colby Sledge

Metro Councilmember, District 17

(615) 442-3727

[Sign up for my weekly newsletter here!](#)



## BEFORE THE METROPOLITAN BOARD OF ZONING APPEALS

RE: Joni Elder  
1802 8TH AVE S  
Map Parcel: 10510010200  
Zoning Classification: CS

Appeal Case 2019-269

ORDER

This matter came to be heard in public hearing on 6/20/2019, before the Metropolitan Board of Zoning Appeals, upon application for a variance from sidewalk requirements to conduct interior renovations without building sidewalks or paying into the sidewalk fund.

Based upon the entire record as recorded on the video recording and contained in the file, from all of which the Board finds that:

- (1) Proper legal and written notice of the public hearing had been complied with as set forth in Section 17.40.720 of the Metropolitan Code.
- (2) The appellant sought this permit under Section 17.40.180 of the Metropolitan Code.
- (3) The appellant HAS satisfied all of the standards for a variance under Section 17.40.370 of the Metropolitan Code.

It is, therefore, ORDERED by the Metropolitan Board of Zoning Appeals that the appellant's request shall be GRANTED, subject to the following conditions: 1. The appellant must maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk. 2. If the site is redeveloped or sidewalks are triggered in the future, the redevelopment or site improvements shall incorporate appropriate site work to construct a sidewalk to current standards unless a new sidewalk variance is granted by the Board of Zoning Appeals. 3. The variance is granted until 11/20/2020.

UPON MOTION BY: Ross Pepper  
Ayes: Ashonti Davis, Alma Sanford, Cynthia Chappell, David Taylor  
Nays:  
Abstaining:  
Absent:

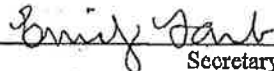
Seconded By: Christina Karpynech

ENTERED THIS 27 DAY OF JUNE, 2019

METROPOLITAN BOARD OF ZONING APPEALS



Chair



Secretary



## BEFORE THE METROPOLITAN BOARD OF ZONING APPEALS

Re: Applicant: Joni Elder  
1802 Eighth Avenue South  
Map: 105-1 Parcel: 102  
Zoning Classification: CS

Case # 2018-252

## ORDER

This matter came to be heard in public hearing on August 2, 2018, before the Metropolitan Board of Zoning Appeals, upon the request of Joni Elder, appellant, and for a dog day care (classified as a kennel under MetZo) on property located at 1802 Eighth Avenue South. The board has jurisdiction under MetZo §17.40.180(C), and the requirements of MetZo §§17.16.150 & 210(C) apply. The appellant proposes to lease the property referenced above and requests a special exception for the use. The use is permitted in an CS zoning district upon meeting the general and specific conditions of MetZo §§ 17.16.150 & 175.

In addition, the applicant announced at the last meeting of the Board and reiterated at this meeting, that out of deference to neighborhood concerns, there would be no outdoor exercise or play area for the animals. A small percentage of the dogs would need to be walked (estimated at 2%).

Based upon the entire record as recorded on the video recording and as contained in the file, from all of which the Board finds that:

1. Proper legal and written notice of the public hearing has been given as set forth in § 17.40.720 & 730 of MetZo;
2. The applicant has requested the issuance of a special exception permit under §§ 17.40.180(C), 17.16.150 and §17.16.175 of MetZo;
3. The property is located at by 1802 Eighth Avenue South, in a commercial zoning district.
4. The board concludes that the applicant has demonstrated compliance with all of the requirements applicable to this request, including the general provisions under MetZo §17.16.150 and the requirement of a meeting with the neighbors pursuant to the rules of this Board.

### Specific Standards

5. **Setback.** No part of any building or structure in which animals are housed shall be closer than two hundred feet, and no kennel run shall be located within one hundred feet, from any existing residence, other than one owned or occupied by an owner or operator of the kennel or stable. In the event more than ten horses are boarded on five acres or more, the building setback shall increase to two hundred feet from the property line.

The building which will house this facility is located 147 feet from the closest residence. The applicant is asking for a variance concerning that distance. The Board finds that the applicant's modifications to the existing structure which will limit the amount of noise created by the animals to less than those typically found within a commercial corridor. As stipulated at the last meeting (and again at this hearing), there will not be any outdoor play area associated with this use, although naturally some of the dogs will need to be walked from time to time.

The Board concludes that the distance requirement is intended to act as a buffer both with regard to noise and odor. The applicant's decision to eliminate outdoor exercise area correspondingly reduces the buffer needed and the changes to the structure in order to soundproof the building are exceptional conditions justifying the variance. The Board finds that these measures will limit noise to the surrounding properties and are a proper basis for the requested variance.

The Board also finds that the hardship here is not self-imposed: the distance between the two buildings was created by combination of factors and not purely by this applicant or any predecessor in title. Furthermore, financial gain is not the only basis for the request. Because of the soundproofing, there will not be an adverse impact to the residential unit or units, and in fact, little or no impact any surrounding property. There will certainly also be no harm to the public welfare or any detriment to the intent or purpose of the zoning ordinance itself.

6. **Building Temperature.** Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting.

The building will be heated and air-conditioned. The floors of the building will be impervious.

7. **Cages.** For a kennel, each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages. Cages are to be of material and construction that permits cleaning and sanitizing. Cage floors of concrete, unless radiantly heated, shall have a resting board or some type of

bedding.

Each dog will be provided its own container with sufficient space to stand up, lie down, and turn around without touching the sides or top of the cages. Cages will be kept in sanitary condition at all times. Bedding will be provided for the comfort of the animals.

8. Runs. For a kennel, each run must have at least a six-foot high fence completely surrounding it. Fences must be maintained in escape-proof condition. Runs shall provide an adequate exercise area and protection from the weather. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.

Inapplicable; the applicant does not intend to have outdoor exercise areas for the animals based on the hearing before this board at its last meeting.

9. Requirements 9-12 are inapplicable to this application.
10. Watering of Animals. All animals shall have fresh water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and shall be of the removable type.

The dogs will all have fresh water available at all times.

11. On-Site Waste Collection. All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products from the kennel shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.

The applicant has indicated that on-site waste will be collected each day and held in the building in a separate enclosure or freezer, until trash collection. The Board finds that this meets the requirement.

### General Provisions

The Board further finds that the applicant also meets the requirements of the General Provisions, found at MetZo § 17.16.150, as follows:

- A. Burden of Proof. A special exception permit shall not be considered an entitlement, and shall be granted by the board of zoning appeals only after the applicant has demonstrated to the satisfaction of the board that all of the

required standards are met.

The applicant meets all of the requirements of the code except for the distance requirement.

- B. **Ordinance Compliance.** The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this title, unless circumstances qualify the special exception for a variance in accordance with Chapter 17.40, Article VIII. Any accessory use to a special exception must receive express authorization from the board of zoning appeals.

See above.

- C. **Integrity of Adjacent Areas.** A special exception use permit shall be granted provided that the board finds that the use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The board shall determine from its review that adequate public facilities are available to accommodate the proposed use, and that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties. The board may request a report from the metropolitan planning commission regarding long-range plans for land use development.

The facility is located, designed, and proposed to be operated so as to ensure that the public welfare will be protected. There are adequate public facilities available to accommodate the proposed use, including water and sewer and trash and refuse collection. This area of the city is significantly commercial and although there are residential properties in the area, there will be no adverse effect that would impair the reasonable long-term use of those properties. The planning commission has recommended approval if the distance variance is granted.

Along the same lines, the Board finds that there are a number of other uses permitted by right in this zoning district including bars and nightclubs, mini-markets selling beer and cigarettes, flea markets, grocery stores, home-improvement sales, hotels and motels, laundry plants, liquor sales, major appliance repair, fast food restaurants, full-service restaurants, take out restaurants, vehicular rentals, and many more. When compared with these kinds of uses which are by right in the zoning district, this animal day care facility certainly will not impair the integrity of the adjacent properties.

- D. **Design and Architectural Compatibility.** The operational and physical characteristics of the special exception shall not adversely impact abutting

properties, including those located across street frontages. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.

The operational and physical characteristics will not adversely impact adjacent properties. The architectural features of the building will essentially remain and those have been present for many years.

- E. Natural Features. Special exception uses in residential zone districts must comply with the nonresidential tree protection regulations and other natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of nonresidential structures and parking areas.

This property is not located within a residential zoning district.

- F. Historic Preservation. Features of historical significance shall not be adversely affected by the granting of any special exception. The metropolitan historic zoning commission shall be consulted regarding those features essential to preserve the historical integrity of a building or site of historical significance.

The Board finds that there are no historic structures or historically significant features which will be affected by this proposal.

- G. Traffic Impact. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. The board of zoning appeals may require a traffic impact study for any special exception land use.

This property fronts on Eighth Avenue, in a significantly commercial corridor. This use will have no impact on the traffic in the area.

- H. Repealed.

- I. Hazard Protection. The proposed use shall reasonably protect persons and property from erosion, flooding, fire, noise, glare or similar hazards.

The Board finds that use on this property will not increase any kind of hazard, including those from erosion, flooding, fire, noise or other similar problems. The dogs will for the most part be indoors, and the interior of the building will be soundproofed as a condition of approval.



- J. Special Conditions. Notwithstanding a finding by the board of zoning appeals that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

Conditions as stated below are required.

It is therefore ORDERED by the Metropolitan Board of Zoning Appeals that the request for the waste transfer station special exception is hereby granted, subject to the following conditions:

1. The special exception is granted for a period of 24 months.
2. The applicant must remain associated with the franchise, Dogtopia.
3. No more than 100 dogs during regular business hours; no more than 50 dogs at night.
4. Waste management procedures as follows:
  - a. On-site waste will be collected each day and held in the building in a separate enclosure or freezer, until trash collection.
    - Pick up solid waste immediately using plastic bag
    - Clean area immediately with bio-enzymatic cleaner
    - Securely tie the plastic bag
    - Place in a tightly lidded bin lined with 2<sup>nd</sup> plastic trash liner
    - Empty the trash bin at the end of each day, double bagged waste placed in freezer inside facility
    - Trash collected twice weekly
  - b. A specific dumpster will be marked and placed as far away from residential uses as possible.
5. Sound proofing as specified by the applicant is required. A copy of the diagrams detailing the method is attached.
6. The special exception is granted only for this applicant.

Upon Motion Made By: Karpynek                      Seconded by: Harper

Ayes: Harper, Ewing, Karpynek and Sanford

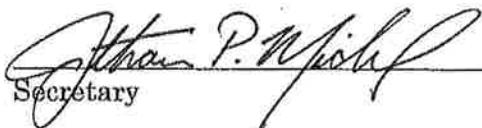
Nays: Ewing, Chappell

Absent: King

Entered this 7<sup>th</sup> day of August, 2018.

Metropolitan Board of Zoning Appeals

  
Chair

  
Secretary

7/13/2018

### Sound Control - Walls

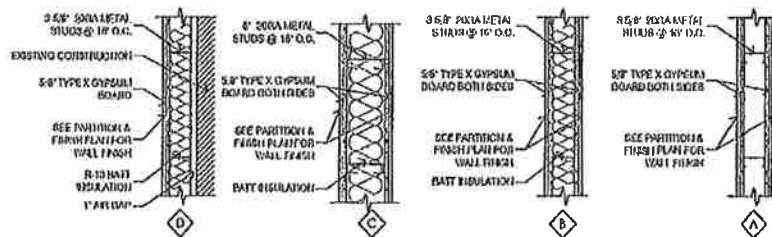
- 6 Inch thick, fully Insulated, metal studs type X-5/8 Gypsum board on each side
- Wall spans floor to roof deck and filled with acoustical insulation
- Wall is continuous and prevents any substantial amount of sound or smell from escaping
- Exterior walls have a 2 wall system with an air-gap applied
- Acoustic sealant then applied
- This assembly results in STC rating of approx 70 (Class rating superb)



27

### Sound Control

- Special Wall Type at Demising Wall(s) that Extend to the Roof Deck
- Special Wall Type Between Playrooms and PeopleSpace that Extend to the Roof Deck
- Air Gap at the Demising Wall
- Type A: Walls for Bathrooms, Dog Food Prep Area, etc (Non-Dog Rooms)
- Type B: Walls Between the Dog Playrooms.
- Type D: Demising Walls (Adjacent/Shared wall with Neighboring Tenant(s))
- Type C: Wall Between Playroom and People Spaces (i.e. -- Hallways, Restrooms, Spa/Grooming, etc) Extends to Roof Deck



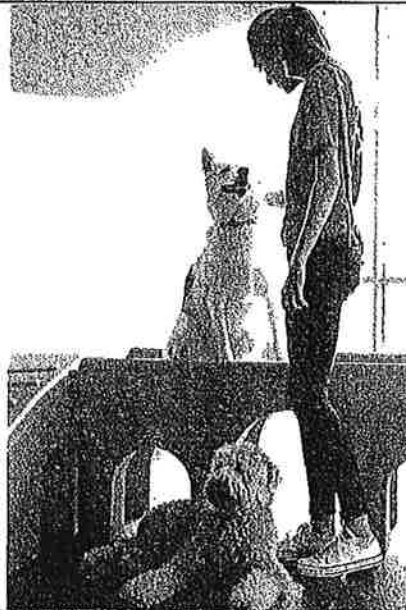
STANDARD OPERATING PROCEDURES



7/13/2018

### Sound Control - Ceiling

- Suspended ceiling system with School Zone lay in acoustical tiles to absorb sound from escaping
- Tiles have a noise reduction coefficient of .7 and a ceiling attenuation class of up to 40; these tiles are often used in schools where sound absorption and reduction are critical
- Above ceiling tiles is an R-30 insulation
- Together this system provides excellent sound reduction



STANDARD OPERATING PROCEDURES



## Metropolitan Codes Administration CASE SUMMARY

CAZW - 20200021063

**DONE**

Pursuant # 2006-1263 Metro Code of Laws, I (holder OF permit) hereby certify that all construction & demolition waste generated by any & all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction & demolition waste shall be stored on the property in violation of any provision of Metro Code...

**ADDRESSES****PROPERTY**

10510010200  
1802 8TH AVE  
NASHVILLE, TN 37203

**PEOPLE****Property Owner**

NORMAN, DUINA Z.& STRATTON, PIA D.  
913 BOWRING PIKE

NASHVILLE, TN 37215

**Permit/License Applicant**

MTLC INCORPORATED

FRANKLIN, TN 37064

**Appellant**

Joni Elder  
Joni Elder

**DATA GROUP****Permit Information****Project Scope**

to conduct rehab work to existing building for Dogtopia.  
MUST COMPLY WITH BZA ORDER FROM CASE 2018-252

\*\*\*PURSUANT TO ORDINANCE NO 2008-1263 of the Metropolitan Code of Laws, I, holder of this permit, hereby certify that all construction and demolition waste generated by any and all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction or demolition waste shall be stored on the property in violation of any provisions of the Metropolitan Code. For every 30 feet of street frontage, or fraction thereof, one 2 inch caliper tree as listed in the Urban Forestry approved tree list shall be planted on the subject property.\*

**Sidewalk Waiver Request****Metro Planning  
Recommendation**

Disapprove: construct sidewalk to MCSP standard

**Waiver Circumstance**

b. Unique Situation

**WORKFLOW**

Task:	Inspector:	Result:	Due/Scheduled:	Completed
CA - Zoning Waiver Payment Confirmation	TMOORE	PAIDZWEE	04/03/20	04/07/20
Type of Waiver Requested	JCSHEPHERD	FULLWAIVER	04/08/20	04/07/20





Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210



3661517

ZONING BOARD APPEAL / CAAZ - 20190023768  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification

PARCEL: 10510010200

APPLICATION DATE: 04/24/2019

## SITE ADDRESS:

1802 8TH AVE S NASHVILLE, TN 37203

PT LOTS 4&amp;5 SUB OF PT HORTON &amp; WAVERLY PLANS

PARCEL OWNER: NORMAN, DUINA Z.&amp; STRATTON, PIA D.

CONTRACTOR:

APPLICANT:

PURPOSE:

REQUIRED: PER 17.20.120 SIDEWALKS REQUIRED

REQUEST: NOT TO INSTALL SIDEWALKS OR CONTRIBUTE

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

*There are currently no required inspections*

Inspection requirements may change due to changes during construction.

## APPLICATION FOR A VARIANCE REQUEST

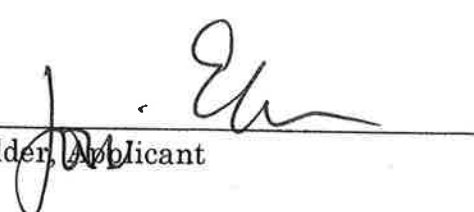
After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better idea of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied. You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete. Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

  
\_\_\_\_\_  
Joni Elder, Applicant

May 28, 2020

In simple terms, for the Board to grant you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a **HARDSHIP** as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

The building which will house this facility is located 147 feet from the closest residence. The applicant is asking for a variance concerning that distance. The applicant's modifications to the existing structure now limit the amount of noise created by the animals to less than those typically found within a commercial corridor. There will not be any outdoor play area associated with this use, although naturally some of the dogs will need to be walked from time to time.

The distance requirement is intended to act as a buffer both with regard to noise and odor. The applicant's decision to eliminate outdoor exercise area correspondingly reduces the buffer needed and the changes to the structure in order to soundproof the building are exceptional conditions justifying the variance. These measures will limit noise to the surrounding properties and are a proper basis for the requested variance.

See prior order of the Board of Zoning Appeals dated August 7, 2018.



**From:** [Gregory, Christopher \(Public Works\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#)  
**Cc:** [Ammarell, Beverly \(Public Works\)](#); [Lifsey, Debbie \(Codes\)](#)  
**Subject:** RE: Appeal 2020-156  
**Date:** Friday, June 5, 2020 10:43:43 AM

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PW reviewed this case from a traffic standpoint of view. The sidewalk variance part, we are not addressing.

**2020-156 1802 8<sup>th</sup> Ave S. Distance from other buildings requirement variance**

Variance: 17.16.150 & 17.16.175 A

Response: Public Works takes no exception on condition that adequate parking is provided on site per code.

This does not imply approval of the submitted site plan as access and design issues will be addressed and coordinated during the permitting process.

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**From:** Shepherd, Jessica (Codes) <Jessica.Shepherd@nashville.gov>  
**Sent:** Wednesday, June 3, 2020 2:43 PM  
**To:** Ammarell, Beverly (Public Works) <Beverly.Ammarell@nashville.gov>; Gregory, Christopher (Public Works) <Christopher.Gregory@nashville.gov>  
**Subject:** Appeal 2020-156

Appeal 2020-156 on agenda for 7-16-2020.



May 21, 2020

Re: Dogtopia 8th Avenue Letter of Recommendation

To whom it may concern,

As a pet owner and customer of Dogtopia 8th Ave., I can say without any hesitation that they have provided nothing but an exceptional experience for owners and their pets. I have lived in the Nashville area for over 20 years, and when my husband and I recently moved towards the fairgrounds, a huge factor was where we could take our dogs for daycare and boarding.

We previously lived near Dogtopia Old Hickory and started to send our dogs there. When we found out they were opening up a location on 8th Ave., near where we were looking to buy, it solidified we wanted to move in that area. I had done my research on dog daycares in the area, and none of them met the standards of what Dogtopia 8th Avenue offers. I personally feel like they provide a service that is needed in the 8th Ave/Wedgewood/Fairgrounds area that is not offered.

Mike and Joni have gone above and beyond to make sure their pet parents needs are met and have personally formed relationships with us and our pets. I have also seen them take the proper precautions to make sure they are operating as a good neighbor to surroundings businesses. When Paw Pals of Brentwood, TN had to temporary close last year due to roof problems, they instructed their customers to check out Dogtopia.

I have seen the growth and change in Nashville personally, and 8th Avenue is becoming a place where a lot of people want to move because of what businesses are around and the proximity of downtown. Dogtopia is in the perfect place and I think is an essential business for dog owners who are looking to move to the area. With more construction upon us, you need places like Dogtopia to appeal to families moving in the area and not feel like they have to go outside of the city to find a dog daycare.

Please feel free to reach out to me with any questions.



615.336.3992

Zane and Donna King  
2427 Elliott Ave.  
Nashville, TN, 37204  
615-427-2819  
donnakingmusic@gmail.com  
5-21-2020

To the board of zoning appeals,

We are not only from the neighborhood, but also clients of DOGTOPIA.

Having a wonderful place for our pet to hang and play that is safe, convenient, and extremely well-run is a great thing for us and for our neighborhood and city.

We have seen no negative effects to this wonderful place being up the street. The traffic flow is good. They run a very clean and organized facility.

We strongly encourage you to allow this business to stay for the VERY long haul. It has improved our family's life and our neighborhood experience as we meet others who also have their pets there for daycare and boarding.

Thank you!

Sincerely,  
Donna M. King  
Zane D. King

---

**From:** Board of Zoning Appeals (Codes)  
**To:** Joni Elder  
**Subject:** RE: BZA Letter of Support for Dogtopia 8th Ave BZA Case 2020-156

Dear Sir or Madam,

Thank you for your consideration to grant Dogtopia another permit. As a healthcare worker having a place my dog is cared for so well makes working long shifts so much easier on my husband and me. Our dog Sadie loves going to daycare there and their staff loves her in return. Please continue to allow this Dogtopia to operate in our neighborhood. They are an asset to so many like us.

Sincerely,  
Briana Brinkley

Sent from my iPhone

Dear Sir or Madam,

Thank you for your consideration to grant Dogtopia another permit. As a healthcare worker having a place my dog is cared for so well makes working long shifts so much easier on my husband and me. Our dog Sadie loves going to daycare there and their staff loves her in return. Please continue to allow this Dogtopia to operate in our neighborhood. They are an asset to so many like us.

Sincerely,  
Briana Brinkley

May 29, 2020

To Whom It May Concern,

Please know that as an essential healthcare professional in the community it was crucial to have Dogtopia open on 8<sup>th</sup> avenue. The location of 8<sup>th</sup> and Wedgewood is also very critical for my family and I as the location allows for it to be a quick/efficient drop off close to my home in the 12 south neighborhood. Not having their nearby location would make it very difficult for us to continue to have our rescue, Cooper. His anxiety makes it impossible to leave him at home and his Houdini abilities makes it impossible to kennel him anywhere else.

I think its also important to remember that their daycare is all inside a building and doesn't require any disturbances to nearby neighbors in terms of noise or issues of escaping pups. They keep a clean facility to allow customers a comfortable place to bring their pups but also cater to the neighbors by not having an outside area that creates a disturbance to the community.

We are very grateful for their care.

Thank you,

A handwritten signature in black ink that reads "Emily Isbell". The signature is written in a cursive, flowing style.

Emily Isbell



May 29, 2020

To Whom It May Concern,

Please know that I am very grateful to have Dogtopia. The location of 8<sup>th</sup> and Wedgewood is very critical for my family and I. The location allows for it to be a quick/efficient drop off close to my home in the 12 south neighborhood. Our rescue, Cooper is very anxious and cannot be left at home without causing major distraction. One day he broke through the front window and the cops were called because our neighbors thought we had a break in. Our camera footage proved otherwise, thankfully.

We are very grateful for their care and especially grateful for their nearby location.

Thank you,

A handwritten signature in black ink that reads "Tara Isbell". The signature is written in a cursive, flowing style.

Tara Isbell

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**From:** Board of Zoning Appeals (Codes)  
**To:** Joni Elder  
**Subject:** RE: Letter for board of zoning/appeals support for Dogtopia 8th ave from Ginny Caballero - BZA Case 2020-156

To who it may concern:

I want to express my gratitude and appreciation for the services of Dogtopia at 1802 8th Ave S, Nashville, TN 37203. Their location is not only ideal, but is conveniently located from my home and work. I have relied heavily on their services as I am a healthcare worker with a strenuous schedule and daily exposure to Covid-19. You cant imagine the difficulty of raising a puppy at the height of social distancing and Covid-19 shut-down. As I go to work everyday to selflessly take care of others, it gives me peace of mind knowing that the wonderful staff at Dogtopia is taking special care of my girl, Gia. Even on the most difficult of days, I can truly focus on my job knowing that my puppy is in great hands. At the end of the day, picking Gia up from Dogtopia is truly the highlight of my day.

Thank you,

Ginny Caballero

May 28<sup>th</sup>, 2020

To whom it may concern:

I am a resident of Berry Hill, and I am employed full-time at a local hospital. Dogtopia has enabled me to work long hours yet still provide my dog the attention and exercise that he requires. The location has been ideal for my commute to the medical campus, and their hours are designed to accommodate a variety of work schedules.

During the Covid-19 pandemic, Dogtopia could have closed their doors to save money due to so many of their clients working from home. However, they chose to stay open and extend additional services to essential workers in order to support their employees and the community. They made appropriate and responsible changes to ensure social distancing and safety. I do not know how I would have managed had they decided to close.

I believe that this local small business is a great asset to our community. I have always had nothing but positive experiences here. Dogtopia is very well managed, always clean, transparent and communicative, and above all kind. I am so fortunate to have a place that I can wholeheartedly trust with my dog.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emily Bahr', with a long horizontal flourish extending to the right.

Emily Bahr

To Whom It May Concern:

I am writing in support of Dogtopia on 8<sup>th</sup> Avenue in Nashville. Since it opened, Dogtopia has been a place where my dog has learned to socialize and play well with other dogs in a safe environment, and every staff member I've dealt with has always been friendly and helpful. Additionally, Dogtopia is on my way to work, so it is in a very convenient location to drop off and pick up my dog before and after work. The drop off and pick up process is very easy and seamless, and I have never heard any noise coming from the building or the parking lot. As a resident of the Nashville area for over 10 years, I feel that the addition of this business and others along 8<sup>th</sup> Avenue, such as Dogtopia and Baked on 8<sup>th</sup> bakery, have improved the appearance of the neighborhood buildings along this stretch of road, and have provided a lot of new offerings for residents in the surrounding areas. I would be very disappointed if Dogtopia was required to move, and recommend that the city allow the business to continue to operate in its current location.

Thanks,

Mary Ann C.  
(615) 336-2872

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**From:** Board of Zoning Appeals (Codes)  
**To:** Joni Elder  
**Subject:** RE: Dogtopia business license Letter of support from Kelsey Cooper BZA Appeal Case 2020-156

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**From:** Kelsey Cooper <[kecooper01@gmail.com](mailto:kecooper01@gmail.com)>  
**Sent:** Tuesday, May 26, 2020 10:32 AM  
**To:** Joni Elder <[JoniE@dogtopia.com](mailto:JoniE@dogtopia.com)>  
**Subject:** Dogtopia business license

To whom it may concern:

As a neighbor in the community and customer of Dogtopia I would like to support the extension of their business license. They have been an exceptional addition to our community providing a great service to local dog owners in a safe, clean, and respectful manner.

Thank you,  
Kelsey Cooper



To Whom it may Concern:

Dogtopia on 8th Avenue has been such a blessing for our family, especially our pup, Magnolia. This location of a dog daycare is merely 10 minutes from our house, which is perfect for my daily commute to the hospital and my husband's job downtown as well. We are so thankful for Joni and all the workers at Dogtopia who truly make our lives better. We look forward to many years of business with them.

Thank you,  
Seth & Kaleigh Sabin  
(615)775-8699

May 28, 2020

Zach Cavalier  
2914 Franklin Pike  
Nashville, TN 37204

Dear Zoning Committee Members,

I am writing this letter in regards to the re-evaluation of the zoning permit for the Dogtopia on 8<sup>th</sup> Ave in Nashville.

The addition of Dogtopia on 8<sup>th</sup> avenue has been extremely vital in our everyday life. As a full time remote employee, having a puppy in a small apartment can cause significant challenges on one's work life. Not to mention, the changes with forced remote work due to COVID-19 has as added more family members to an already small space. It can be extremely difficult to keep a puppy out of one's work, let alone a Zoom call.

Without Dogtopia, we would not have been able to accomplish this. We know that our puppy is in good hands with the staff at Dogtopia (plus we can watch her from the online webcam). The 8<sup>th</sup> Ave location is extremely convenient for us and does not require ~1 hour commute (due to Nashville traffic) to drop her off at the other locations. Our puppy has also improved her behavioral skills due to staying at Dogtopia.

We hope you use this letter as a strong recommendation to allow Dogtopia to continue to operate on 8<sup>th</sup> Avenue location.

Sincerely,



Zach Cavalier

VANDERBILT  UNIVERSITY  
MEDICAL CENTER

VANDERBILT OUTPATIENT PHARMACY  
1211 MEDICAL CENTER DR, TVC 1815  
NASHVILLE, TN 37232  
615.322.6480

Joni Elder  
1802 8<sup>th</sup> Avenue South  
Nashville, TN 37203  
615.486.2626

May 28, 2020

Joni Elder,

This letter is in response to a very concerning petition to remove Dogtopia on 8th from its business location.

We are highly disturbed that such an upstanding, professional, necessary business could potentially be removed.

All employees and the owner have been nothing but accommodating and take outstanding care of all the owners and animals that come into the facility. We are thrilled to have found a place where we know our furbabies will be taken care of like family, without any doubt in our minds.

As a healthcare professional family, Dogtopia on 8<sup>th</sup> Avenue has been essential to keep us afloat as we also tend to our community needs. Accordingly, the staff have lent our dog Lexi a warm and welcoming place where she has been able to flourish and stay safe.

We continue to always favor local businesses for our community in the 8th Ave/12South area, and Dogtopia on 8th is an outstanding example of how local businesses help the local community thrive and prosper.

Should you have further inquiry regarding our exceptional experience with Dogtopia on 8<sup>th</sup> Avenue, please feel to reach back out to me at your earliest convenience. Thanks for your time and attention.

Sincerely,

Anu and Shati Paul

**Anupam Paul, PharmD, MBA**  
*Pharmacy Supervisor*  
Vanderbilt Outpatient Pharmacy (TVC)  
Vanderbilt University Medical Center  
615.322.6480 | [anupam.paul@vumc.org](mailto:anupam.paul@vumc.org)

**TUNE, ENTREKIN & WHITE, P.C.**

THOMAS V. WHITE  
 JOHN W. NELLEY, JR.  
 THOMAS C. SCOTT  
 PETER J. STRIANSE  
 HUGH W. ENTREKIN  
 JOHN P. WILLIAMS \*  
 ROBERT L. DELANEY  
 GEORGE A. DEAN  
 LESA HARTLEY SKONEY  
 JOSEPH P. RUSNAK  
 SHAWN R. HENRY  
 T. CHAD WHITE  
 BRANDT M. MCMILLAN \*  
 CHRISTOPHER B. FOWLER  
 TIMOTHY N. O'CONNOR  
 SAMUEL J. BLANTON

ATTORNEYS AT LAW

SUITE 1700  
 315 DEADERICK STREET  
 NASHVILLE, TENNESSEE 37238

TEL (615) 244-2770 FAX (615) 244-2778

JOHN C. TUNE  
 1931-1983

ERVIN M. ENTREKIN  
 1927-1990

*\*Rule 31 listed General Civil Mediator*

July 9, 2020

Emily Lamb  
 Secretary, Board of Zoning Appeals  
 Metro Office Building  
 800 Second Avenue South  
 Nashville, TN 37201

Re: Joni Elder, Lessee  
 1802 Eighth Avenue South  
 Map: 105-1 Parcel: 102

MBZA Case # 2020-156  
 Zoning Classification: CS

Dear Emily:

This letter is submitted in support of the application of Joni Elder for a renewal of her special exception to permit a day care for dogs (classified as a kennel under MetZo) on property located at 1802 Eighth Avenue South. She also asks for a renewal of the variance<sup>1</sup> so that she need not construct a sidewalk on the front of the property (which has an existing sidewalk) and also requests not to contribute to the fund. The property is zoned CS. We would request that this letter be made a part of the record of this case. If the special exception is granted, the applicant asks that two of the conditions imposed when the kennel was first approved be altered: first, that the time limit be extended beyond two years, and second that the kennel be permitted to board up to 100 dogs overnight.

### History

The appellant leases the property referenced above and is requesting a renewal of the special exception granted by the Board of Zoning Appeals in August of 2018 which was granted for a period of two years. A number of important conditions were attached to the original issuance of the permit, and a copy of that order is attached hereto. The applicant has complied with all requirements, including the conditions attached to the previous order of the Board. In particular, Ms. Elder spent a considerable sum on soundproofing the building so as to minimize the noise that might otherwise be associated with a kennel. Obviously, getting a

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<sup>1</sup> See footnote two.

**TUNE, ENTREKIN & WHITE, P.C.**

Letter to Ms. Emily Lamb  
July 9, 2020  
Page 2

new business up and running is never easy, and Ms. Elder hopes the board will consider the effort and expenditures she's made in reviewing her application for renewal.

Additionally, Ms. Elder came before the board in June 2019 for a variance of the sidewalk requirements. The board granted that request with conditions until November 20, 2020. A copy of that order is also attached.<sup>2</sup>

The business has been open for the last nine months and Ms. Elder has not received any complaints from any of her neighbors. The business itself has a five star rating on Google and she hopes to continue the business for many years.

There were only two people who expressed an interest in at the zoom neighborhood meeting and because there was a technical glitch, she contacted both of those people personally to ensure that they had an opportunity to discuss the business. Both were supportive of the operations of the facility.

### **Current Application**

The use is permitted in an CS zoning district as a special exception upon meeting the general and specific conditions of MetZo §§ 17.16.150 & 175.

The application complies with the conditions required by the terms of MetZo, except for the distance requirement and the applicant asks for a variance concerning that element of the special exception. Each of the requirements of the code will be discussed separately to demonstrate how each is met.

The specific standards are found at MetZo § 17.16.175 and provide as follows:

### **Specific Standards**

1. *Setback. No part of any building or structure in which animals are housed shall be closer than two hundred feet, and no kennel run shall be located within one hundred feet, from any existing residence, other than one owned or occupied by an owner or operator of the kennel or stable. In the event more than ten horses are*

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<sup>2</sup> With regard to the variance requests, variances typically run with the land and usually are not time limited. *McClurkan v Metro Board of Zoning Appeals*, 565 SW 2d 495 (Tenn. App. 1977).



**TUNE, ENTREKIN & WHITE, P.C.**

Letter to Ms. Emily Lamb  
July 9, 2020  
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*boarded on five acres or more, the building setback shall increase to two hundred feet from the property line.*

The building which houses this facility is located 147 feet from the closest residence. The applicant is asking for a renewal of the variance previously granted concerning that distance, for two reasons: first, because she has made modifications to the structure which limit the amount of noise created by the animals to less than those typically found within a commercial corridor. As stipulated at the previous board hearings, there will not be any outdoor play area associated with this use, although naturally some of the dogs will need to be walked from time to time.

Both MetZo §17.40.3 70 and the statute, Tenn. Code Ann. §13-7-207 (3), have a provision which amounts to a catchall, allowing a variance for "other exceptional conditions of the property." In this case, the distance requirement is clearly intended to act as a buffer both with regard to noise and odor. The applicant has made changes to the structure to soundproof the building, and this is an exceptional condition of the property. In addition, it limits any noise to the surrounding properties and should serve as a basis for the variance as requested.

The hardship here is not self-imposed: the distance between the two buildings was created by combination of factors and not purely by this applicant or any predecessor in title. Furthermore, financial gain is not the only basis for the request. Because of the soundproofing, there is no adverse impact to the residential unit or units, and in fact, little or no impact any surrounding property. There will certainly also be no harm to the public welfare or any compromise to the intent or purpose of the zoning ordinance itself.

2. *Building Temperature. Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting.*

The building is heated and air-conditioned. The floors of the building are constructed of impervious material.

3. *Cages. For a kennel, each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages. Cages are to be of material and construction that permits cleaning and sanitizing. Cage floors of concrete, unless radiantly heated, shall have a resting board or some type of bedding.*

Each dog will be provided its own container with sufficient space to stand up,

**TUNE, ENTREKIN & WHITE, P.C.**

Letter to Ms. Emily Lamb  
July 9, 2020  
Page 4

lie down, and turn around without touching the sides or top of the cages. Cages will be kept in sanitary condition at all times. There is no concrete cage flooring.

4. *Runs. For a kennel, each run must have at least a six-foot high fence completely surrounding it. Fences must be maintained in escape-proof condition. Runs shall provide an adequate exercise area and protection from the weather. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.*

Inapplicable; the applicant does not have outdoor exercise areas for the animals as stated at the previous hearings before this board.

5. *Stalls. Each horse shall have sufficient space to stand up, lie down and turn around without touching the sides of the stall. Stalls are to be of material and construction that permits cleaning and sanitizing.*

Inapplicable.

6. *Riding Ring. For a horse, no riding ring, including jumps and corrals, shall be located closer than fifty feet to any property line.*

Inapplicable.

7. *Trail Rides. No horse shall be ridden or walked along public rights-of-way for any length of time or duration.*

Inapplicable.

8. *Gates and Locks. All gates for entrance/exit to the stalls, riding rings, and other training area must be kept locked when not in use. All horses connected with the riding stable shall be enclosed by appropriate fencing so they shall not be permitted to run at large.*

Inapplicable.

9. *Watering of Animals. All animals shall have fresh water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and shall be of the removable type.*

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The dogs have fresh water available at all times.

10. *On-Site Waste Collection. All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products from the kennel shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.*

On-site waste is collected each day and held in the building in a separate freezer, until trash collection. Collection is weekly. By way of summary:

- A. Pick up solid waste immediately using plastic bag
- B. Clean area immediately with bio-enzymatic cleaner
- C. Securely tie the plastic bag
- D. Place in a tightly lidded bin lined with 2nd plastic trash liner
- E. Empty the trash bin at the end of each day, double bagged waste placed in freezer inside facility
- F. Trash collected weekly

### General Provisions

The General Provisions, found at MetZo § 17.16.150, provide as follows:

- A. *Burden of Proof. A special exception permit shall not be considered an entitlement, and shall be granted by the board of zoning appeals only after the applicant has demonstrated to the satisfaction of the board that all of the required standards are met.*

The applicant meets all of the requirements of the code except for the distance requirement.

- B. *Ordinance Compliance. The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this title, unless circumstances qualify the special exception for a variance in accordance with Chapter 17.40, Article VIII. Any accessory use to a special exception must receive express authorization from the board of zoning appeals.*

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As described in this letter, the existing use does comply with all applicable regulations.

- C. *Integrity of Adjacent Areas. A special exception use permit shall be granted provided that the board finds that the use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The board shall determine from its review that adequate public facilities are available to accommodate the proposed use, and that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties. The board may request a report from the metropolitan planning commission regarding long-range plans for land use development.*

The facility is located, designed, and operated so as to ensure that the public welfare will be protected. There are adequate public facilities available to accommodate the use, including water and sewer and trash and refuse collection. This area of the city is significantly commercial and although there are residential properties in the area, there is no adverse effect that would impair the reasonable long-term use of those properties.

Along the same lines, it is also interesting to note the number of other uses which are permitted by right in this zoning district. These include: bars and nightclubs, mini-markets selling beer and cigarettes, flea markets, grocery stores, home-improvement sales, hotels and motels, laundry plants, liquor sales, major appliance repair, fast food restaurants, full-service restaurants, take out restaurants, vehicular rentals, and many more. When compared with these kinds of uses which are by right in the zoning district, this animal day care facility certainly does not impair the integrity of the adjacent properties.

- D. *Design and Architectural Compatibility. The operational and physical characteristics of the special exception shall not adversely impact abutting properties, including those located across street frontages. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.*

The operational and physical characteristics do not adversely impact adjacent properties. The architectural features of the building have been present for many

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years.

- E. *Natural Features. Special exception uses in residential zone districts must comply with the nonresidential tree protection regulations and other natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of nonresidential structures and parking areas.*

This property is not located within a residential zoning district.

- F. *Historic Preservation. Features of historical significance shall not be adversely affected by the granting of any special exception. The metropolitan historic zoning commission shall be consulted regarding those features essential to preserve the historical integrity of a building or site of historical significance.*

There are no historic structures or historically significant features affected by this proposal.

- G. *Traffic Impact. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. The board of zoning appeals may require a traffic impact study for any special exception land use.*

This property fronts on Eighth Avenue, in a significantly commercial corridor. This use has no impact on the traffic in the area.

- H. Repealed.

- I. *Hazard Protection. The proposed use shall reasonably protect persons and property from erosion, flooding, fire, noise, glare or similar hazards.*

The use on this property has not increased any kind of hazard, including those from erosion, flooding, fire, noise or other similar problems. The dogs are for the most part indoors, and the interior of the building is soundproofed.

- J. *Special Conditions. Notwithstanding a finding by the board of zoning appeals that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and*



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*welfare.*

The previous order granting the special exception at this location, Case #2018-252, included several conditions. Ms. Elder agrees to the continuation of those conditions except that Condition #1 limited the duration of the special exception to 24 months. Ms. Elder would request that the special exception be granted for longer period of time and suggests seven years as a reasonable timeframe. In addition, Condition #3 limited the number of dogs that she could board overnight to 50; Ms. Elder would like to increase that to 100 dogs, the same number that she is permitted by the Board's order to take care of during the day.

### **Sidewalk Variance**

Ms. Elder has also requested a variance in the sidewalk provisions found at MetZo §17.20.120. As mentioned previously, the Board of Zoning Appeals previously granted the variance, with an expiration date of November 2020. A copy of the order is attached.

There are several reasons for the variance in this instance as explained at the last meeting where the board considered the original application. First, there is an existing sidewalk. Second, the surrounding properties are positioned such that unless and until those properties are entirely demolished and reconstructed, there is insufficient width for most of the properties to accommodate the required sidewalk. The sidewalk in front of this property therefore will be, for an extended period of time, the only portion of the sidewalk which complies.

Also, there will be no evidence that the continued use of this property now, or even at the time of the original application, would increase the necessity for use of a sidewalk, or an expanded sidewalk under the current regulations. Constitutionally, imposition of a exaction such as this, where an increase in the activity at the property itself is not causing a need for the exaction or dedication, is inappropriate. The leading case is *Nollan v California Coastal Commission*, 483 US 825 (1987). *Nollan* is strikingly similar to this case. Mr. Nollan owned property on the California coast between two public beaches. The state had a policy of extending walkways along the coastline. There was no walkway on his property, and when he applied for permit to demolish the existing home and create a bigger one, the commission imposed a requirement that he dedicate an easement across his property as a public walkway. The Supreme Court invalidated the requirement, finding no public justification for the requirement. Certainly, the state policy of extending public

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walkways along the coastline was a good one; but the US Supreme Court held that the state needed to condemn the land rather than “extort” money from the property owner. 483 US 837.


In precisely the same way, the policy of extending and improving sidewalks throughout many areas of Metro Nashville is a good one. However, without a demonstration that the dedication or exaction has an “essential nexus” to some difficulty created by the kennel, it is not appropriate. Since there is already an existing 8 foot sidewalk, and since the kennel use of the property does not increase in any significant way, the amount of foot traffic (as compared for example to the prior uses of the property), the requirement of the ordinance clearly fall short in the constitutional sense.

### Conclusion

The applicant meets all the requirements of the zoning ordinance with regard to her application for a special exception for a kennel. The applicant respectfully requests that the board renew the special exception as well as a variance for the distance requirement. Ms. Elder also asks the board to renew the sidewalk variance so that she need not construct a sidewalk unnecessarily nor contribute to the fund.<sup>3</sup>

Respectfully submitted,

**TUNE ENTREKIN & WHITE**



George A. Dean

GAD:dns

---

<sup>3</sup> To the extent that objections are raised by opponents who do not live in the immediate vicinity of the subject property, the applicant objects to their standing. In addition, to the extent that email or other written communications concerning the issues involved in this case are received by the board but not discussed during the meeting, the applicant objects to such materials being considered as part of the administrative record.

## BEFORE THE METROPOLITAN BOARD OF ZONING APPEALS

RE: Joni Elder Appeal Case 2019-269  
 1802 8TH AVE S  
 Map Parcel: 10510010200  
 Zoning Classification: CS

**ORDER**

This matter came to be heard in public hearing on 6/20/2019, before the Metropolitan Board of Zoning Appeals, upon application for a variance from sidewalk requirements to conduct interior renovations without building sidewalks or paying into the sidewalk fund.

Based upon the entire record as recorded on the video recording and contained in the file, from all of which the Board finds that:

- (1) Proper legal and written notice of the public hearing had been complied with as set forth in Section 17.40.720 of the Metropolitan Code.
- (2) The appellant sought this permit under Section 17.40.180 of the Metropolitan Code.
- (3) The appellant HAS satisfied all of the standards for a variance under Section 17.40.370 of the Metropolitan Code.

It is, therefore, ORDERED by the Metropolitan Board of Zoning Appeals that the appellant's request shall be GRANTED, subject to the following conditions: 1. The appellant must maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk. 2. If the site is redeveloped or sidewalks are triggered in the future, the redevelopment or site improvements shall incorporate appropriate site work to construct a sidewalk to current standards unless a new sidewalk variance is granted by the Board of Zoning Appeals. 3. The variance is granted until 11/20/2020.

UPON MOTION BY: Ross Pepper Seconded By: Christina Karpynec  
 Ayes: Ashonti Davis, Alma Sanford, Cynthia Chappell, David Taylor  
 Nays:  
 Abstaining:  
 Absent:

ENTERED THIS 27 DAY OF June, 2019

METROPOLITAN BOARD OF ZONING APPEALS

*David F. Jay*

Chair

*Emily Sant*

Secretary

## BEFORE THE METROPOLITAN BOARD OF ZONING APPEALS

Re: Applicant: Joni Elder  
1802 Eighth Avenue South  
Map: 105-1 Parcel: 102  
Zoning Classification: CS

Case # 2018-252

## ORDER

This matter came to be heard in public hearing on August 2, 2018, before the Metropolitan Board of Zoning Appeals, upon the request of Joni Elder, appellant, and for a dog day care (classified as a kennel under MetZo) on property located at 1802 Eighth Avenue South. The board has jurisdiction under MetZo §17.40.180(C), and the requirements of MetZo §§17.16.150 & 210(C) apply. The appellant proposes to lease the property referenced above and requests a special exception for the use. The use is permitted in an CS zoning district upon meeting the general and specific conditions of MetZo §§ 17.16.150 & 175.

In addition, the applicant announced at the last meeting of the Board and reiterated at this meeting, that out of deference to neighborhood concerns, there would be no outdoor exercise or play area for the animals. A small percentage of the dogs would need to be walked (estimated at 2%).

Based upon the entire record as recorded on the video recording and as contained in the file, from all of which the Board finds that:

1. Proper legal and written notice of the public hearing has been given as set forth in § 17.40.720 & 730 of MetZo;
2. The applicant has requested the issuance of a special exception permit under §§ 17.40.180(C), 17.16.150 and §17.16.175 of MetZo;
3. The property is located at by 1802 Eighth Avenue South, in a commercial zoning district.
4. The board concludes that the applicant has demonstrated compliance with all of the requirements applicable to this request, including the general provisions under MetZo §17.16.150 and the requirement of a meeting with the neighbors pursuant to the rules of this Board.

### Specific Standards

5. **Setback.** No part of any building or structure in which animals are housed shall be closer than two hundred feet, and no kennel run shall be located within one hundred feet, from any existing residence, other than one owned or occupied by an owner or operator of the kennel or stable. In the event more than ten horses are boarded on five acres or more, the building setback shall increase to two hundred feet from the property line.

The building which will house this facility is located 147 feet from the closest residence. The applicant is asking for a variance concerning that distance. The Board finds that the applicant's modifications to the existing structure which will limit the amount of noise created by the animals to less than those typically found within a commercial corridor. As stipulated at the last meeting (and again at this hearing), there will not be any outdoor play area associated with this use, although naturally some of the dogs will need to be walked from time to time.

The Board concludes that the distance requirement is intended to act as a buffer both with regard to noise and odor. The applicant's decision to eliminate outdoor exercise area correspondingly reduces the buffer needed and the changes to the structure in order to soundproof the building are exceptional conditions justifying the variance. The Board finds that these measures will limit noise to the surrounding properties and are a proper basis for the requested variance.

The Board also finds that the hardship here is not self-imposed: the distance between the two buildings was created by combination of factors and not purely by this applicant or any predecessor in title. Furthermore, financial gain is not the only basis for the request. Because of the soundproofing, there will not be an adverse impact to the residential unit or units, and in fact, little or no impact any surrounding property. There will certainly also be no harm to the public welfare or any detriment to the intent or purpose of the zoning ordinance itself.

6. **Building Temperature.** Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting.

The building will be heated and air-conditioned. The floors of the building will be impervious.

7. **Cages.** For a kennel, each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages. Cages are to be of material and construction that permits cleaning and sanitizing. Cage floors of concrete, unless radiantly heated, shall have a resting board or some type of



bedding.

Each dog will be provided its own container with sufficient space to stand up, lie down, and turn around without touching the sides or top of the cages. Cages will be kept in sanitary condition at all times. Bedding will be provided for the comfort of the animals.

8. **Runs.** For a kennel, each run must have at least a six-foot high fence completely surrounding it. Fences must be maintained in escape-proof condition. Runs shall provide an adequate exercise area and protection from the weather. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.

Inapplicable; the applicant does not intend to have outdoor exercise areas for the animals based on the hearing before this board at its last meeting.

9. **Requirements 9-12 are inapplicable to this application.**
10. **Watering of Animals.** All animals shall have fresh water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and shall be of the removable type.

The dogs will all have fresh water available at all times.

11. **On-Site Waste Collection.** All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products from the kennel shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.

The applicant has indicated that on-site waste will be collected each day and held in the building in a separate enclosure or freezer, until trash collection. The Board finds that this meets the requirement.

### General Provisions

The Board further finds that the applicant also meets the requirements of the General Provisions, found at MetZo § 17.16.150, as follows:

- A. **Burden of Proof.** A special exception permit shall not be considered an entitlement, and shall be granted by the board of zoning appeals only after the applicant has demonstrated to the satisfaction of the board that all of the

required standards are met.

The applicant meets all of the requirements of the code except for the distance requirement.

- B. **Ordinance Compliance.** The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this title, unless circumstances qualify the special exception for a variance in accordance with Chapter 17.40, Article VIII. Any accessory use to a special exception must receive express authorization from the board of zoning appeals.

See above.

- C. **Integrity of Adjacent Areas.** A special exception use permit shall be granted provided that the board finds that the use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The board shall determine from its review that adequate public facilities are available to accommodate the proposed use, and that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties. The board may request a report from the metropolitan planning commission regarding long-range plans for land use development.

The facility is located, designed, and proposed to be operated so as to ensure that the public welfare will be protected. There are adequate public facilities available to accommodate the proposed use, including water and sewer and trash and refuse collection. This area of the city is significantly commercial and although there are residential properties in the area, there will be no adverse effect that would impair the reasonable long-term use of those properties. The planning commission has recommended approval if the distance variance is granted.

Along the same lines, the Board finds that there are a number of other uses permitted by right in this zoning district including bars and nightclubs, mini-markets selling beer and cigarettes, flea markets, grocery stores, home-improvement sales, hotels and motels, laundry plants, liquor sales, major appliance repair, fast food restaurants, full-service restaurants, take out restaurants, vehicular rentals, and many more. When compared with these kinds of uses which are by right in the zoning district, this animal day care facility certainly will not impair the integrity of the adjacent properties.

- D. **Design and Architectural Compatibility.** The operational and physical characteristics of the special exception shall not adversely impact abutting

properties, including those located across street frontages. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.

The operational and physical characteristics will not adversely impact adjacent properties. The architectural features of the building will essentially remain and those have been present for many years.

- E. Natural Features. Special exception uses in residential zone districts must comply with the nonresidential tree protection regulations and other natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of nonresidential structures and parking areas.

This property is not located within a residential zoning district.

- F. Historic Preservation. Features of historical significance shall not be adversely affected by the granting of any special exception. The metropolitan historic zoning commission shall be consulted regarding those features essential to preserve the historical integrity of a building or site of historical significance.

The Board finds that there are no historic structures or historically significant features which will be affected by this proposal.

- G. Traffic Impact. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. The board of zoning appeals may require a traffic impact study for any special exception land use.

This property fronts on Eighth Avenue, in a significantly commercial corridor. This use will have no impact on the traffic in the area.

- H. Repealed.

- I. Hazard Protection. The proposed use shall reasonably protect persons and property from erosion, flooding, fire, noise, glare or similar hazards.

The Board finds that use on this property will not increase any kind of hazard, including those from erosion, flooding, fire, noise or other similar problems. The dogs will for the most part be indoors, and the interior of the building will be soundproofed as a condition of approval.

- J. Special Conditions. Notwithstanding a finding by the board of zoning appeals that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

Conditions as stated below are required.

It is therefore ORDERED by the Metropolitan Board of Zoning Appeals that the request for the waste transfer station special exception is hereby granted, subject to the following conditions:

1. The special exception is granted for a period of 24 months.
2. The applicant must remain associated with the franchise, Dogtopia.
3. No more than 100 dogs during regular business hours; no more than 50 dogs at night.
4. Waste management procedures as follows:
  - a. On-site waste will be collected each day and held in the building in a separate enclosure or freezer, until trash collection.
    - Pick up solid waste immediately using plastic bag
    - Clean area immediately with bio-enzymatic cleaner
    - Securely tie the plastic bag
    - Place in a tightly lidded bin lined with 2<sup>nd</sup> plastic trash liner
    - Empty the trash bin at the end of each day, double bagged waste placed in freezer inside facility
    - Trash collected twice weekly
  - b. A specific dumpster will be marked and placed as far away from residential uses as possible.
5. Sound proofing as specified by the applicant is required. A copy of the diagrams detailing the method is attached.
6. The special exception is granted only for this applicant.

Upon Motion Made By: Karpynek                      Seconded by: Harper

Ayes: Harper, Ewing, Karpynek and Sanford

Nays: Ewing, Chappell

Absent: King

Entered this 7<sup>th</sup> day of August, 2018.

Metropolitan Board of Zoning Appeals

  
Chair

  
Secretary



7/13/2018

### Sound Control - Walls

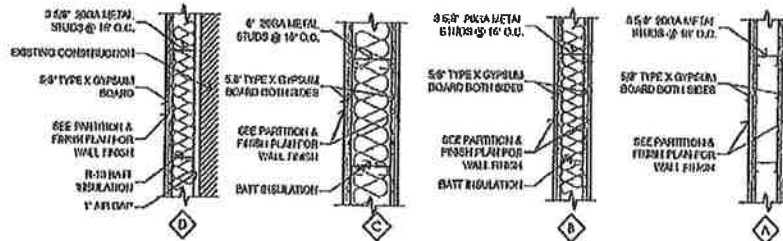
- 6 Inch thick, fully Insulated, metal studs type X-5/8 Gypsum board on each side
- Wall spans floor to roof deck and filled with acoustical insulation
- Wall is continuous and prevents any substantial amount of sound or smell from escaping
- Exterior walls have a 2 wall system with an air-gap applied
- Acoustic sealant then applied
- This assembly results in STC rating of approx 70 (Class rating superb)



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### Sound Control

- Special Wall Type at Demising Wall(s) that Extend to the Roof Deck
- Special Wall Type Between Playrooms and People Space that Extend to the Roof Deck
- Air Gap at the Demising Wall
- Type A: Walls for Bathrooms, Dog Food Prep Area, etc (Non-Dog Rooms)
- Type B: Walls Between the Dog Playrooms.
- Type D: Demising Walls (Adjacent/Shared wall with Neighboring Tenant(s))
- Type C: Wall Between Playroom and People Spaces (i.e. - Hallways, Restrooms, Spa/Grooming, etc) Extends to Roof Deck



STANDARD OPERATING PROCEDURES



7/13/2018

### Sound Control - Ceiling

- Suspended ceiling system with School Zone lay in acoustical tiles to absorb sound from escaping
- Tiles have a noise reduction coefficient of .7 and a ceiling attenuation class of up to 40; these tiles are often used in schools where sound absorption and reduction are critical
- Above ceiling tiles is an R-30 insulation
- Together this system provides excellent sound reduction



STANDARD OPERATING PROCEDURES



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
Planning Department  
Metro Office Building  
800 Second Avenue South  
Nashville, Tennessee 37201  
615.862.7150  
615.862.7209

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# Memo

**To:** Metropolitan Nashville Board of Zoning Appeals  
**From:** Metropolitan Nashville Planning Department  
**CC:** Emily Lamb  
**Date:** July 8, 2020  
**BZA Hearing Date:** July 16, 2020  
**Re:** Planning Department Recommendation for Special Exception Cases

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Pursuant to Section 17.40.300 of the Metro Zoning Code, the Metropolitan Planning Department is providing recommendations on the following Special Exception case:

## **Case 2020-156 (1802 8<sup>th</sup> Ave S.) –Special Exception**

**Request:** To permit a kennel as the use on the property and to permit the reduction of the setback requirements from 200 feet to 147 feet.

**Zoning:** Commercial Service (CS) is intended for retail, consumer service, financial, restaurant, office, self-storage, light manufacturing and small warehouse uses.

**Land Use Policy:** T4 Urban Mixed Use Corridor (T4 CM) is intended to enhance urban mixed use corridors by encouraging a greater mix of higher density residential and mixed use development along the corridor, placing commercial uses at intersections with residential uses between intersections; creating buildings that are compatible with the general character of urban neighborhoods; and a street design that moves vehicular traffic efficiently while accommodating sidewalks, bikeways, and mass transit.

**Existing Context:** The property is approximately 17,424 square feet (0.4 acres), located on the east side of 8<sup>th</sup> Avenue S. The site is south of the intersection of 8<sup>th</sup> Avenue S. and E. Argyle Ave. Alley 402 abuts the eastern property line. The property has been developed with one single story commercial building. The proposal is to establish a kennel within the existing structure. The surrounding properties to the north, south, and west, along 8<sup>th</sup> Ave. S have been developed with commercial uses. The properties to the east, across Alley 402, have been developed with residential uses.

### **Planning Department Analysis:**

The applicant is requesting two exceptions:

- Special exception to permit a kennel.

- Special exception to reduce the distance required between a kennel and a residential use from 200 feet to 147 feet.

T4 Urban Mixed Use Corridors (T4-CM) prioritize higher-intensity mixed use and commercial uses at intersections with preference given to residential uses between intersections. The request is consistent with the intent of the policy to maintain commercial corridors by establishing a commercial use, a kennel, within an urban context. The proposed use would provide a service to the surrounding area. The site is located along an arterial street with existing commercial development and could likely support additional commercial uses with existing parking and vehicular access via a public street and from an alley.

The potential impact is addressed in the standards for kennel special exceptions with a required setback of 200 feet between any part of the building which animals are housed and surrounding residences. The existing structure would not meet this standard and is requesting that the existing distance of 147 feet of separation be permitted. The orientation of the surrounding residential uses should also be taken into consideration. These residential units are across an existing alley, and oriented along the southern property line of the adjacent property. This creates additional space between the proposed use and existing residential development. According to the information provided by the applicant, all animal play areas will be indoors, in an attempt to not create excess noise. Given the proposed use along a commercial corridor and the requested reduced setback still provides over 100 feet of separation, staff recommends approval of the two exceptions.

**Planning Recommendation:** Approval.

## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2020-156 (1802 8<sup>th</sup> Avenue South)

Metro Standard:	8 <sup>th</sup> Avenue South – 4’ grass strip, 8’ sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not construct sidewalks; not contribute in-lieu of construction
Community Plan Policy:	T4 CM (Urban Mixed Use Corridor)
Zoning:	CS
MCSP Street Designation:	8 <sup>th</sup> Avenue South – Arterial Boulevard (T4-M-AB4-IM)
Transit:	#8 – 8 <sup>th</sup> Avenue South; future Major Local per nMotion
Bikeway:	None existing; major separated bikeway planned

### Planning Staff Recommendation: *Disapprove*

**Analysis:** In addition to a special exception request in this application, the applicant requests not to construct sidewalks or contribute in-lieu of construction. The subject request is an appeal to a sidewalk waiver request which was approved with conditions and completed on May 13, 2020 (**Permit number 20200021063**). Conditions of approval were that the applicant pay to the in-lieu fund and dedicate right-of-way. Electing to make the contribution in-lieu of construction supplements Metro’s annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property, within one of Metro’s 16 pedestrian benefit zones. Staff finds no unique hardship for the property.

After reviewing the sidewalk request in the context of the overall application that includes a special exception component, Planning staff agree with the Zoning Administrator’s conditions of approval. If and when a more wholesale redevelopment of the property is considered, sidewalks along 8<sup>th</sup> Avenue South should be improved to meet the Major and Collector Street Plan cross section required for this location.

Staff recommends **disapproval**.



## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2019-269 (1802 8<sup>th</sup> Avenue South)

Metro Standard:	4' grass strip, 8' sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not upgrade sidewalks; not contribute in-lieu of construction (not eligible)
Zoning:	CS
Community Plan Policy:	T4 CM (Urban Mixed Use Corridor)
MCSP Street Designation:	T4-M-AB4-IM
Transit:	#8 – 8 <sup>th</sup> Avenue South; planned major local bus service per nMotion
Bikeway:	None existing; planned for major protected bikeway per WalknBike

### Planning Staff Recommendation: *Approve with conditions.*

**Analysis:** The applicant proposes to renovate an existing commercial building for a new dog kennel use and requests a variance to upgrading sidewalks or contributing in-lieu of upgrading sidewalks along 8<sup>th</sup> Avenue South. Planning evaluated the following factors for the variance request:

- (1) An 8' sidewalk currently exists along the 8<sup>th</sup> Avenue South frontage, which is consistent with adjacent properties to the north and south.
- (2) Given the scale of the internal renovation which does not create additional site work, upgrading sidewalks in this instance is premature.
- (3) Future redevelopment of the property will require construction of a 4' grass strip and 8' sidewalk, which meet the Major and Collector Street Plan standard.

Given the factors above, staff recommends **approval with conditions:**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.
2. If the site is redeveloped or sidewalks are triggered in the future, the redevelopment or site improvements shall incorporate appropriate site work to construct a sidewalk to current standards unless a new sidewalk variance is granted by the Board of Zoning Appeals.

**From:** [Sledge, Colby \(Council Member\)](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#); [Lamb, Emily \(Codes\)](#); [Cathey, Eben \(Planning\)](#); [Michael, Jon \(Codes\)](#)  
**Subject:** District 17 positions for July 16 meeting  
**Date:** Monday, July 13, 2020 12:57:58 PM

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Good afternoon, all,

Here are my positions on the three D17 items:

Case 2020-155: I **strongly support** this appeal.

Case 2020-156: I support the operation but want the applicant to pay into the sidewalk fund.

Case 2020-157: I **strongly oppose** this appeal.

Colby

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Colby Sledge

Metro Councilmember, District 17

(615) 442-3727

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Metropolitan Board of Zoning Appeals

Metro Howard Building

800 Second Avenue South

Nashville, Tennessee 37210



Appellant: Matthew Robb  
Property Owner: Gotham Contracting  
Representative: Matthew Robb

Date: 6/3/20  
Case #: 2020-158  
Map & Parcel: 08203017400

Council District 5

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To build a front porch

Activity Type: Front porch

Location: 1018 Stockell St. Nashville TN 37207

This property is in the SP Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Variance from front setbacks

Section(s): 17.12.030.C3

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection B Of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Matthew Robb  
Appellant Name (Please Print)

Matthew Robb  
Representative Name (Please Print)

919 B Cabal Ave  
Address

Address

Nashville, TN  
City, State, Zip Code

City, State, Zip Code

917-887-5427  
Phone Number

Phone Number

Matt@gothamcontracting.net  
Email

Email

Zoning Examiner: \_\_\_\_\_

Appeal Fee: \_\_\_\_\_



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



**ZONING BOARD APPEAL / CAAZ - 20200034266  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 08203017400

**APPLICATION DATE:** 06/03/2020

**SITE ADDRESS:**

1018 STOCKELL ST NASHVILLE, TN 37207  
PT LOT 37 BENEDICT LAND CO SUB LINDSLEY TRACT

**PARCEL OWNER:** GOTHAM CONTRACTING, LLC

**CONTRACTOR:**

**APPLICANT:**

**PURPOSE:**

Variance to 17.12.030 C3 for front contextual street setback of 26 ft required, requesting 18 ft.

\*\*\*

Rejected Site Plan, does not meet 26 ft contextual front setback

To construct an 8 ft x 35.2 ft (282 sq ft) covered front porch on existing single family residence. Minimum 26 ft front setback per contextual average, 5 ft side setback, and 10 ft side street setback along Evanston Street. Must comply with easements. Pursuant # 2006-1263 Metro Code of Laws, I (holder OF permit) hereby certify that all construction & demolition waste generated by any & all activities governed by this permit shall be disposed of in an approved landfill. Further, I certify that no construction & demolition waste shall be stored on the property in violation of any provision of Metro Code. For every 50 feet of site frontage, a double-sided sign 24" x 36" in size must be posted in English and Spanish that contains the information required by Ordinance No. 2017-835. No more than three signs are required.

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

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***There are currently no required inspections***

Inspection requirements may change due to changes during construction.

## APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 1,000 feet of the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

**Any correspondence to the Board must be submitted to our office by close of business, the Thursday prior to the public hearing to be included in the record.**

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.

Matthew Robb  
APPELLANT

6/1/20  
DATE



In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a **HARDSHIP** as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

I am looking to renovate a home in the heart of the Cleveland Park Neighborhood that was built in the 1980's. It is on a corner lot and, unlike most of the other, older homes on the same and surrounding blocks, was built right up to the setbacks leaving no room for a covered front porch. It is one of only a few homes along this street that does not have one, and being in such a prominent corner location I believe the proper thing to do would be to add one to compliment the other craftsmen style homes that define the neighborhood. I am requesting a variance to build a front porch that extends 8 feet into the street setback along Stockell St. This will be only one level, will not include any heated and cooled space and will not extend into the side setback along Evanston St..

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Metropolitan Board of Zoning Appeals  
 Metro Howard Building  
 800 Second Avenue South  
 Nashville, Tennessee 37210

Appellant: Amber Stormberg Date: 6-2-2020  
 Property Owner: CCAM Housing, LLC Case #: 2020- 157  
 Representative: Amber Stormberg Map & Parcel: 105114E00200CO  
 Council District: 17

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: To obtain a STRP permit  
 Activity Type: Short Term Rental  
 Location: 505 B Wedgewood Ave

This property is in the CS Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: Item A appeal, challenging the zoning administrator's denial of a short term rental permit. Appellant operated after issued short term rental permit expired.

Section: 17.16.070.U

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection \_\_\_ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Amber Stromberg Representative: \_\_\_\_\_  
 Phone Number: 615 294-8314 Phone Number: \_\_\_\_\_  
 Address: 311 Levisa Ln. Address: \_\_\_\_\_  
Franklin, TN 37064  
 Email address: amber@stormberggroup.com.com Email address: \_\_\_\_\_

Appeal Fee: \$100.00



**Metropolitan Government  
of Nashville and Davidson County, Tennessee  
Department of Codes and Building Safety  
800 Second Avenue South, Nashville, TN 37210**



3828179

**ZONING BOARD APPEAL / CAAZ - 20200034144  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 105114E00200CO**APPLICATION DATE:** 06/02/2020**SITE ADDRESS:**

505 B WEDGEWOOD AVE NASHVILLE, TN 37203

UNIT B 505 WEDGEWOOD TOWNHOMES

**PARCEL OWNER:** CCAM HOUSING, LLC**CONTRACTOR:****APPLICANT:****PURPOSE:**

Item A appeal, challenging the zoning administrator's denial of a short term rental permit. Appellant operated after issued short term rental permit expired.

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.  
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

---

***There are currently no required inspections***

Inspection requirements may change due to changes during construction.

**From:** [Sledge, Colby \(Council Member\)](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#); [Lamb, Emily \(Codes\)](#); [Cathey, Eben \(Planning\)](#); [Michael, Jon \(Codes\)](#)  
**Subject:** District 17 positions for July 16 meeting  
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Case 2020-156: I support the operation but want the applicant to pay into the sidewalk fund.

Case 2020-157: I **strongly oppose** this appeal.

Colby

----

Colby Sledge

Metro Councilmember, District 17

(615) 442-3727

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