

# **METROPOLITAN BOARD OF ZONING APPEALS**

**The 8/6/20 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, August 5, 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 2nd 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.

**Page 2**

**2020-148 (2000 19<sup>th</sup> AVE S)** Requesting a variance from front setback requirements within the R8 District to maintain an existing fence.

**2020-164 (4417 WAYLAND DR.)** Requesting variances from front contextual setback and side setback requirements within the RS40 District, to construct a single-family residence.

**2020-166 (5800 EDMONDSON PIKE)** Requesting a variance from sign restrictions with the AR2A District, to construct an Electronic message board.

**2020-167 (2960 ARMORY DR)** Requesting a variance from driveway restrictions within the IR District, to construct a distribution facility.

**CASE 2020-148 (Council District - 18)**

**SELINA PEPPER**, appellant and **PEPPER, JOSEPH R., JR.**, owner of the property located at **2000 19TH AVE S**, requesting a variance from setback requirements in the R8 District, to maintain an existing fence. Referred to the Board under Section 17.12.040. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Single Family

Map Parcel 10412019600

**Results-**

**CASE 2020-159 (Council District - 30)**

**HOZAN BARWARI**, appellant and **NASHVILLE HOMES, LLC**, owner of the property located at **4353 GOINS RD**, requesting a variance from front 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 14707014700

**Results-**



**CASE 2020-160 (Council District - 21)**

**ROBERTO GUITIERREZ**, appellant and **1402 BUCHANAN ST, LLC**, owner of the property located at **1402 BUCHANAN ST**, requesting a special exception to reduce the street setback in the CS District, to construct a mixed-use development. Referred to the Board under Section 17.12.035. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 C.

Use-Mixed-use

Map Parcel 08111040800

**Results- Deferred 8/20/20**

**CASE 2020-161 (Council District - 33)**

**MICHAEL AUGUSTINE**, appellant and **CH REALTY VII-DRG NASH. INTERCHANGE CENTER PH II, LLC**, owner of the property located at **3864 LOGISTICS WAY**, requesting a variance from sidewalk requirements in the IR District, to construct a warehouse 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-Warehouse

Map Parcel 17500022700

**Results-**

**CASE 2020-162 (Council District - 25)**

**DUANE CUTHBERTSON**, appellant and **BUILD NASHVILLE DB2, LLC**, owner of the property located at **1715 CASTLEMAN DR**, requesting a variance from front setback requirements in the R20 District, to construct two single-family residences. Referred to the Board under Section 17.12.030 C.3. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Two-Family

Map Parcel 13107006800

**Results-**

**CASE 2020-163 (Council District - 2)**

**KILPATRICK, FREDERICK DOUGLASS NASH**, appellant and **KILPATRICK, FREDERICK DOUGLASS NASH**, owner of the property located at **1402 KELLOW ST**, requesting a variance from lot size requirements in the R6 District, to construct two single-family homes. 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

Map Parcel 08103031900

**Results-**

**CASE 2020-164 (Council District - 34)**

**BAHIRAEI, MANOOCHEHR ET UX**, appellant and **BAHIRAEI, MANOOCHEHR ET UX**, owner of the property located at **4417 WAYLAND DR**, requesting variances from front contextual setback and side setback requirements in the RS40 District, to construct a single-family residence. Referred to the Board under Section 17.12.030 C.3 and 17.12.020 A. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B

Use-Residential

Map Parcel 13011011800

**Results-**

**CASE 2020-165 (Council District - 4)**

**ANDREW JOHNSON**, appellant and owner of the property located at **5555 HILL RD**, requesting a variance from front setback requirements in the R40 District, to construct a carport. Referred to the Board under Section 17.12.030.C. and 17.12.020.(A). The appellant has alleged the Board would have Jurisdiction under section 17.40.180 A.

Use-Single Family

Map Parcel 1600009800

**Results-**

**CASE 2020-166 (Council District - 4)**

**WOODSON CHAPEL CHURCH OF CHRIST**, appellant and **WOODSON CHAPEL CHURCH OF CHRIST, TRS.**, owner of the property located at **5800 EDMONDSON PIKE**, requesting a variance from sign restrictions in the AR2A District, to construct an electronic message board. Referred to the Board under Section 17.32.050. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Religious Institution

Map Parcel 17200002501

**Results-**

**CASE 2020-167 (Council District - 16)**

**JUSTIN STRICKLAND**, appellant and, owner of the property located at **2960 ARMORY DR**, requesting a variance from driveway restrictions in the IR District, to construct a distribution facility. Referred to the Board under Section 17.20.170. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Distribution Facility

Map Parcel 13204000700

**Results-**

**CASE 2020-169 (Council District - 8)**

**DUSTIN MARCELLINO**, appellant and **DUE WEST TOWERS, LLC**, owner of the property located at **1022 S GRAYCROFT AVE**, requesting a special exception in the RM9, RS20 District, to permit the use of daycare. Referred to the Board under Section 17.16.170 (C) 4-8. The appellant has alleged the Board would have jurisdiction under Section 17.40.180

Use-Day-Care

Map Parcel 05106005600

**Results-**

**CASE 2020-170 (Council District - 5)**

**ZIMMER, EMILY ELIZABETH & SANCHEZ, VERONICA TAMARA**, appellant and owner of the property located at **2417A BRASHER AVE**, requesting a variance from fence height restrictions in the R6 District, to maintain an existing fence. Referred to the Board under Section 17.12.040. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Single-Family

Map Parcel 072131C00100CO

**Results-**

**CASE 2020-171 (Council District - 10)**

**S+H Group**, appellant and **P&M INVESTMENT COMPANY, LLC**, owner of the property located at **1616 GALLATIN PIKE**, requesting a variance from bypass lane requirements in the SCR District, to construct a fast-food restaurant. Referred to the Board under Section 17.20.070. The appellant has alleged the Board would have jurisdiction under Section 17.40.180 B.

Use-Restaurant, fast-food

Map Parcel 03406004100

**Results-**

**CASE 2020-172 (Council District - 21)**

**ANCHOR-IRIS DEVELOPMENT, LLC**, appellant and **ANDERSON CHAPMAN INVESTMENTS, LLC**, owner of the property located at **1621 ARTHUR AVE**, requesting a variance from side setback requirements in the RS5 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 08112009200

**Results-**



Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Salina Pepper Date: May 19, 2020  
Property Owner: Ross Pepper Case #: 2020-148  
Representative: \_\_\_\_\_ Map & Parcel: 10412019600  
Council District: 19

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

Purpose: to maintain existing fence.  
Activity Type: Single Family  
Location: 2000 19th Ave. S

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: Setback variance  
Section: 17-12-020

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: Salina Pepper Representative: \_\_\_\_\_  
Phone Number: 615-308-2760 Phone Number: \_\_\_\_\_  
Address: 2000 19th Ave. S Address: \_\_\_\_\_  
Nashville, TN 37212  
Email address: ~~Sferr~~ Email address: \_\_\_\_\_  
Sferrasina@comcast.net

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

  
 \_\_\_\_\_  
 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?**

The current fence has been in place for at least 20 years. Moving the fence line back towards the house any further would require removal of mature trees. Additionally, compliance would put fence within three feet of steps from kitchen exit because of addition of room to ~~the~~ house ~~after~~ ~~Di~~ ~~app~~ before this applicant purchased the home.



July 26, 2020

Board of Zoning Appeals  
Department of Codes and Building Safety  
PO Box 196350  
Nashville, TN 37219-6350

RE: Letter in Support of Rezoning Request Case # 2020-148  
Selina Pepper, 2000 19<sup>th</sup> Avenue South

Dear Sirs,

I am writing in support of the request for rezoning submitted by Selina Pepper at 2000 19<sup>th</sup> Avenue South in Nashville. The home is beautiful, and well maintained, and I am sure that will continue.

Sincerely,



Tom Lewis  
AEA Investment  
2006 19<sup>th</sup> Avenue South  
Nashville, TN 37212

.cc Grace Lewis



Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Hozan Barwari Date: June 3, 2020  
Property Owner: Nashville Homes, LLC Case #: 2020- 159  
Representative: Hozan Barwari Map & Parcel: 147-07, Parcel 147.00  
Council District: 30

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: 4353 Guins Rd

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 from front setback requirements  
Section: 17.12.030.A

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: Nashville Homes, LLC Representative: Hozan Barwari  
Phone Number: 615-496-0990 Phone Number: 615-496-0990  
Address: 1113 Arrowhead Dr. Address: 1113 Arrowhead Dr.  
Brentwood TN 37027 Brentwood, TN 37027  
Email address: hbarwari@yahoo.com Email address: hbarwari@yahoo.com

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

4353 Gosns Rd.

In Simple terms, for the Board to gran you a varlance 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.

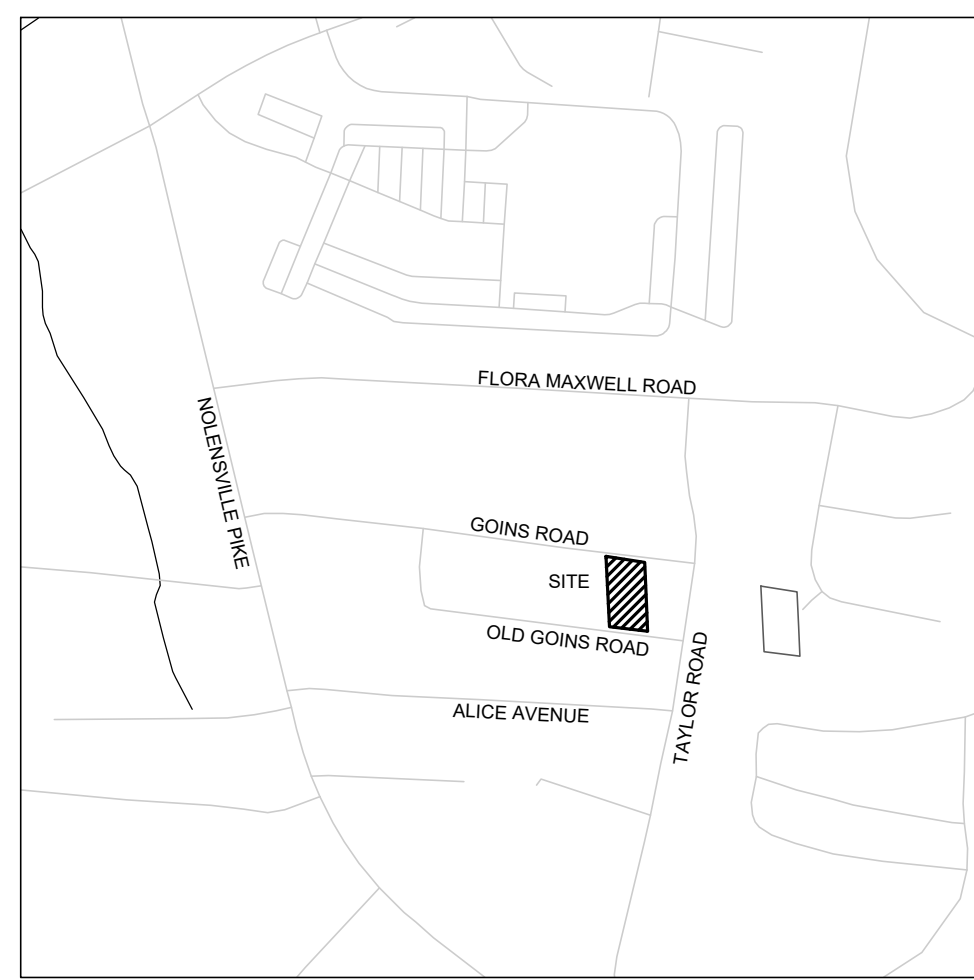
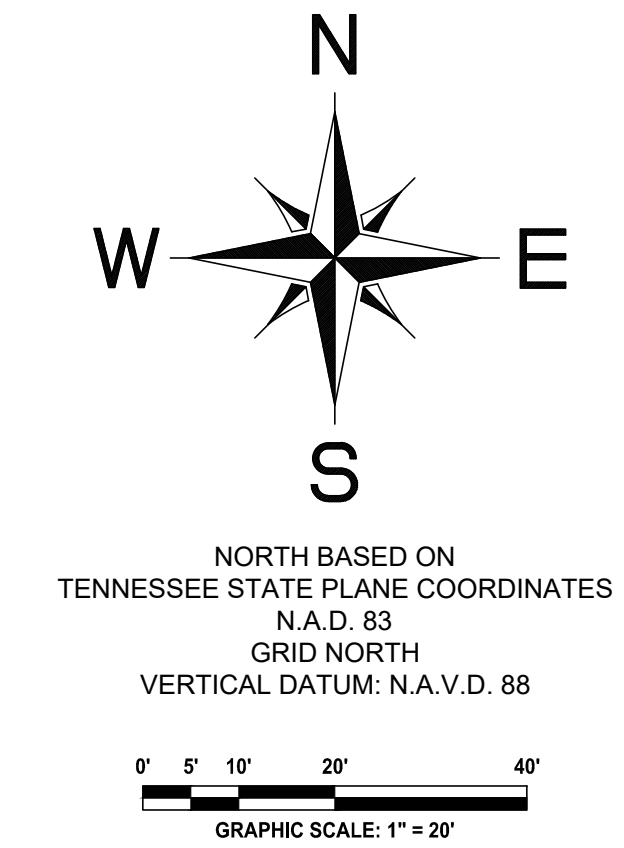
**WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?**

The hardship is "the contextual setback does not provide a buildable building envelope after lot subdivision. Requesting setback per zoning table 17.12.030A for 20 feet front setback for R6 zoning.



# BOUNDARY & TOPOGRAPHIC SURVEY

OF THE  
 NASHVILLE HOMES, LLC PROPERTY  
 METRO PARCEL IDENTIFICATION # 14707014700  
 4353 GOINS RD, NASHVILLE, TN 37211  
 INST.NO.20180524-0049850  
 FINAL PLAT OF THE NASHVILLE HOMES, LLC PROPERTY  
 INST. NO. 20200429-0044962  
 REGISTER'S OFFICE OF DAVIDSON COUNTY, TN  
 30TH COUNCIL DISTRICT OF DAVIDSON COUNTY, TN  
 TOTAL AREA = 19,283.9 SQ. FT. OR 0.44 ACRES, ±  
 ZONE: R6 DATE PREPARED: 9/3/2019



VICINITY MAP  
(NOT TO SCALE)

### SITE LEGEND

- ADJOINING BOUNDARY LINE
  - BOUNDARY LINE
  - - - 5/15 --- CONTOUR LINE INDEX
  - - - 5/15 --- CONTOUR LINE INTERVAL
  - ST --- ST CULVERT PIPE
  - X --- X FENCE
  - P --- P OVERHEAD UTILITY LINE
  - SA --- SA SANITARY SEWER LINE
  - W --- W WATER LINE
  - GIS --- GIS WATER LINE UTILITY (PER GIS)
- 
- ⊕ BENCHMARK
  - ⊙ CLEAN OUT
  - ⊕ ELECTRIC METER
  - ⊕ FIRE HYDRANT
  - ⊕ SANITARY SEWER MANHOLE
  - ⊕ UTILITY POLE
  - ⊕ UTILITY POLE W/ LIGHT
  - ⊕ WATER METER
  - ⊕ WATER VALVE
- 
- ▨ BUILDING
  - ▨ CONCRETE
  - ▨ EASEMENT
  - ▨ PAVEMENT
  - ▨ TREE
- 
- MONUMENT FOUND (1/2" REBAR, UNLESS NOTED OTHERWISE)
  - MONUMENT SET (1/2" REBAR CAPPED 'DBS & ASSOC.')
  - CONCRETE MONUMENT FOUND

- CMP = CORRUGATED METAL PIPE
- CSB = CONTEXTUAL SETBACK LINE
- GIS = GEOGRAPHICAL INFORMATION SYSTEM
- IE = INVERT ELEVATION
- MBSL = MINIMUM BUILDING SETBACK LINE
- N.A.D. = NORTH AMERICAN DATUM
- N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
- PUDE = PUBLIC UTILITY & DRAINAGE EASEMENT
- PVC = POLY VINYL CHLORIDE PIPE
- RCP = REINFORCED CONCRETE PIPE
- RODCT = REGISTER'S OFFICE OF DAVIDSON COUNTY TENNESSEE
- SA = SANITARY SEWER
- TC = TOP OF CASTING
- TNF = TERMINUS NOT FOUND
- TYP = TYPICAL

### DISTRICT BULK REGULATIONS

TABLE 17.12.020A (SINGLE-FAMILY AND TWO-FAMILY DWELLINGS)					
ZONING DISTRICT	MINIMUM LOT AREA (IN SQ. FT.)	MAXIMUM BUILDING COVERAGE	MINIMUM REAR SETBACK (IN FT.)	MINIMUM SIDE SETBACK (IN FT.)	MAXIMUM HEIGHT
R6	6,000	0.50	20	5	3 STORIES

### SURVEYOR'S NOTES

FIELD WORK COMPLETED ON AUGUST 23, 2019.

A TITLE COMMITMENT/ SEARCH WAS NOT FURNISHED AT TIME OF SURVEY, THEREFORE THIS SURVEY IS SUBJECT TO AN ACCURATE TITLE COMMITMENT/ SEARCH.

BEARINGS AND DISTANCES TAKE PRECEDENCE OVER SCALE

SETBACKS ARE AS PER PLAT, PROPERTY IS ZONED AS "R6". SURVEY DOES NOT ADDRESS CONTEXTUAL SETBACKS.

PROPERTY IS SUBJECT TO COVENANTS, EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD AND NOT OF RECORD.

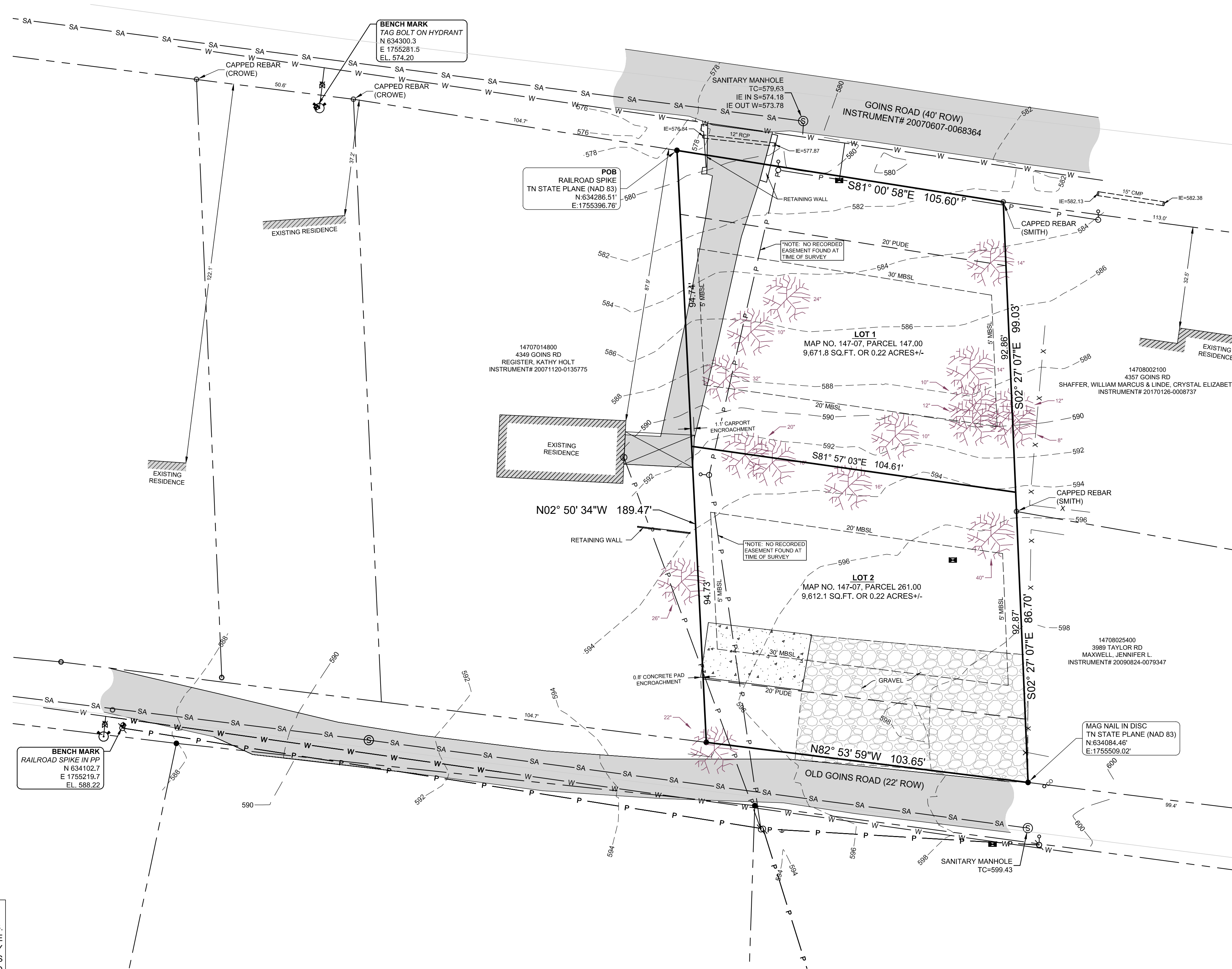
THE SURVEYOR'S LIABILITY FOR THIS DOCUMENT SHALL BE LIMITED TO THE ORIGINAL PURCHASER, AND DOES NOT EXTEND TO ANY UNNAMED PERSONS OR ENTITIES WITHOUT AN EXPRESS RE-CERTIFICATION BY THE SURVEYOR WHOSE NAME APPEARS HEREON.

THIS SURVEY DOES NOT ADDRESS THE EXISTENCE OR NON-EXISTENCE OF WETLANDS AREAS.

TOPOGRAPHIC FEATURES WERE DERIVED FROM FIELD MEASUREMENTS USING RANDOM SHOTS; CONTOUR INTERVAL = 2

### DISCLAIMER

THIS SURVEYOR HAS NOT PHYSICALLY LOCATED 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. THEREFORE, RELIANCE UPON THE TYPE, SIZE, AND LOCATION OF UTILITIES SHOWN SHOULD BE DONE SO WITH THIS CIRCUMSTANCE CONSIDERED. DETAILED VERIFICATION OF EXISTENCE, LOCATION, AND DEPTH SHOULD ALSO BE MADE PRIOR TO ANY DECISION RELATIVE THERETO TO BE MADE. AVAILABILITY AND COST OF SERVICE SHOULD BE CONFIRMED WITH THE APPROPRIATE UTILITY COMPANY. IN TENNESSEE, IT IS A REQUIREMENT, PER "THE UNDERGROUND UTILITY DAMAGE PREVENTION ACT," THAT WHO ENGAGES IN EXCAVATION MUST NOTIFY ALL KNOWN UNDERGROUND UTILITY OWNERS, NO LESS THAN (3) THREE OR NO MORE THAN (10) TEN WORKING DAYS PRIOR TO THE DATE OF THEIR INTENT TO EXCAVATE AND ALSO TO AVOID ANY POSSIBLE HAZARD OR CONFLICT, TENNESSEE ONE CALL 1-800-351-1111.



The perimeter shown here is per a Survey made on the ground, there are no encroachments other than those shown, and the survey is correct to the best of my knowledge, belief and professional opinion.

This tract does not lay within a Special Flood Hazard Area of the Federal Emergency Management Agency according to the Flood Insurance Rate Map (47037 C 0378 H) of the City of Nashville, Davidson County, Tennessee, Dated: APRIL 5, 2017, unless otherwise noted on survey.

I hereby certify that this is a Category-I survey, and that the Closure of the Unadjusted Traverse is better than 1:10,000. This survey was done in compliance with current Tennessee minimum standards of practice.

Bearing and distance shown take precedence over scale.

DAVID B. SMITH TN RLS # 1409  
 DBS & ASSOCIATES ENGINEERING

2200 Rosa L. Parks Blvd.  
 Nashville, TN 37228  
 P: (615) 244-2040  
 F: (931) 647-7135  
 visit us online: www.dbsengr.com  
**DBS & Associates Engineering**  
 est. 1988  
**Engineers • Surveyors • Planners**

## BOUNDARY & TOPOGRAPHIC SURVEY

OF THE  
 NASHVILLE HOMES, LLC PROPERTY  
 METRO PARCEL IDENTIFICATION # 14707014700 & 1470726100  
 4353 GOINS RD, NASHVILLE, TN 37211  
 DATE: 9/3/2019

### REVISIONS

FIELD CREW: TSP

DRAWN BY: BWS

CHECKED BY: NTH

**SHEET**  
**1 OF 1**

## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



Appellant: MICHAEL AUGUSTINE  
 Property Owner: (CH REALTY VII - DRG NASHVILLE INTERCHANGE CENTER PHASE II, LLC)  
 Representative: BRAD CHASE  
 Date: 6/8/2020  
 Case #: 2020-161  
 Map & Parcel: 17500022700

Council District 33

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

## Purpose:

INDUSTRIAL PARK - (5) SPECULATIVE WAREHOUSES WITH NO PEDESTRIAN TRAFFIC.

Activity Type: INDUSTRIAL PARK - (5) SPECULATIVE WAREHOUSES

Location: 3864 LOGISTICS WAY; ANTIOCH, TN 37013

This property is in the IR 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: REQUEST TO NOT INSTALL SIDEWALKS & NOT TO CONTRIBUTE TO THE IN-LIEU OF FUND.

Section(s): 17.20.120

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.

MICHAEL AUGUSTINE

Appellant Name (Please Print)

BRAD CHASE

Representative Name (Please Print)

1001 HAWKINS STREET, SUITE 102

Address

1001 HAWKINS STREET, SUITE 101

Address

NASHVILLE, TN 37203

City, State, Zip Code

NASHVILLE, TN 37203

City, State, Zip Code

615.969.8177

Phone Number

615.568.0747

Phone Number

maugustine@distributionrealty.com

Email

bchase@arcomurray.com

Email

Zoning Examiner: \_\_\_\_\_

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 pf 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.)

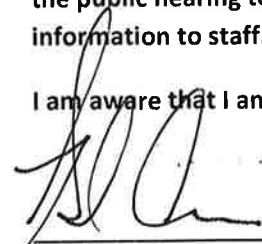
The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being 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 noon, the Friday prior to the public hearing to be included in the record. You must provide eight (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.

  
 \_\_\_\_\_  
 APPELLANT BRAD CHASE

6/9/20  
 DATE

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?**

ON BEHALF OF ARCO AND OUR CLIENT, DRG, WE ARE REQUESTING THAT THE METRO BOARD OF ZONING CONSIDERS OUR APPEAL TO REMOVE THE PROPOSED SIDEWALKS LOCATED ALONG LOGISTICS WAY AND NOT TO CONTRIBUTE TO THE IN-LIEU OF FUND. A SIDEWALK VARIANCE WAS RECEIVED FOR THE FIRST PHASE OF THE PROJECT LOCATED ON PARCEL 17500022400. FOR REFERENCE, THE CASE NUMBER IS 2018107 AND THE VARIANCE NUMBER IS CAPE 201800091642. THE SECOND PHASE OF THE PROJECT IS LOCATED DUE EAST OF THE FIRST BUILDING ON PARCEL 17500022700. THE PROPOSED SIDEWALK IS "LAND LOCKED" AND IS NOT ABLE TO TIE INTO ANY EXISTING SIDEWALK AS IT LEADS TO A DEAD-END ROAD WHICH IS CURRENTLY OCCUPIED BY OTHER LARGE DISTRIBUTION FACILITIES AND HAS NO PEDESTRIAN TRAFFIC. THE VARIANCE FROM THE FIRST PHASE DID NOT CARRY OVER TO THE SECOND PHASE DUE TO THE REPLATTING OF THE PARCEL.

MASTER BUILDING PERMIT #: T2019066167



## 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.*

## Metropolitan Codes Administration CASE SUMMARY

CAZW - 20190075623

**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**

17500022700  
3864 LOGISTICS WAY  
ANTIOCH, TN 37013

**PEOPLE****Property Owner**

CH REALTY VII-DRG NASH. INTERCHANGE CENTER PH  
II,LLC  
3200 WEST END AVE STE 565  
NASHVILLE, TN 37203

**Appellant**

Brad Chase  
Brad Chase

**DATA GROUP****Permit Information****Project Scope**

full waiver for parcel 17500022700 and 5 warehouses.  
Contact person Brad Chase (615) 568-0747  
email bchase@arcomurray.com  
master permit for 5 warehouse buildings on site. 2 at 162,500Sf, 2 at 132,750Sf, and 1 at 242,500Sf.  
no construction this permit.  
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.

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

Approve, with condition to contribute in-lieu and dedicate ROW.

**Waiver Circumstance**

b. Unique Situation

**WORKFLOW**

Task:	Inspector:	Result:	Due/Scheduled:	Completed
Type of Waiver Requested	DLIFSEY	FULLWAIVER	12/12/19	12/11/19
Metro Planning Recommendation	MSEWELL	INREVIEW	12/17/19	01/07/20
Zoning Administrator Decision	JMICHAEL	APPROVCOND	02/07/20	01/15/20
<b>Comment:</b> APPROVE, WITH CONDITIONS TO CONTRIBUTE TO THE IN-LIEU FUND AND DEDICATE RIGHT OF WAY.				

**CONDITIONS**

Code:	Desc:	Date Applied:	Date Completed:
2:16 pm	Tuesday, 9 June, 2020	ALL_CASE_SUMMARY.rpt	Page 1 of 2

## PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

### BZA Case 2020-161 (3864 Logistics Way)

Metro Standard:	4' grass strip, 5' sidewalk, as defined by the Metro Local Street standard
Requested Variance:	Not construct sidewalks; not contribute in-lieu of construction
Zoning:	IR
Community Plan Policy:	D IN (District Industrial)
MCSP Street Designation:	Local Street
Transit:	None existing; none planned.
Bikeway:	None existing; none planned.

### Planning Staff Recommendation: *Disapprove.*

**Analysis:** The applicant proposes to construct five warehouse structures totaling 833,000 SF and seeks relief from building sidewalks or contributing in-lieu of construction. This project constitutes a secondary phase to the previous construction of a 491,625 SF warehouse and a 25,475 SF office building, which was granted approval with conditions by the Board of Zoning Appeals at its June 21, 2018 hearing (Case No. 2018-107). Planning evaluated the following factors for the variance request:

- (1) The first phase of the warehouse facility was granted approval by the Board of Zoning Appeals on condition that the applicant construct a sidewalk connection along the Old Hickory Boulevard property frontage.
- (2) The applicant submitted a request for a sidewalk waiver, which was completed on January 15, 2020. Staff recommended approval on condition that the applicant contribute in-lieu of construction for the Logistics Way frontage. This variance request serves as the applicant's appeal to the staff-level decision.
- (3) The proposed warehousing facility is located within a District Industrial Community Plan area, and at this location because it is on a dead-end street, may not generally experience a high level of pedestrian activity. As such, contribution in-lieu of construction is appropriate and supports Metro's sidewalk fund, ensuring that funding for the construction of sidewalks in prioritized areas which do not have sidewalks continues.

Given the factors above, staff recommends **disapproval**:

1. The applicant shall contribute in-lieu of construction for the property's frontage along Logistics Way.

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



Appellant : Duane Cuthbertson Date: 06.10.20  
Property Owner: Build Nashville Case #: 2020- 162  
Representative: Duane Cuthbertson Map & Parcel: 13107006800

Council District 25

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

Purpose:

Contextual street setbacks on Hunt Place - to construct two residential dwellings on the property.

Activity Type: Two - Family Residential

Location: 1715 Castleman Drive

This property is in the R20 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: Street setback

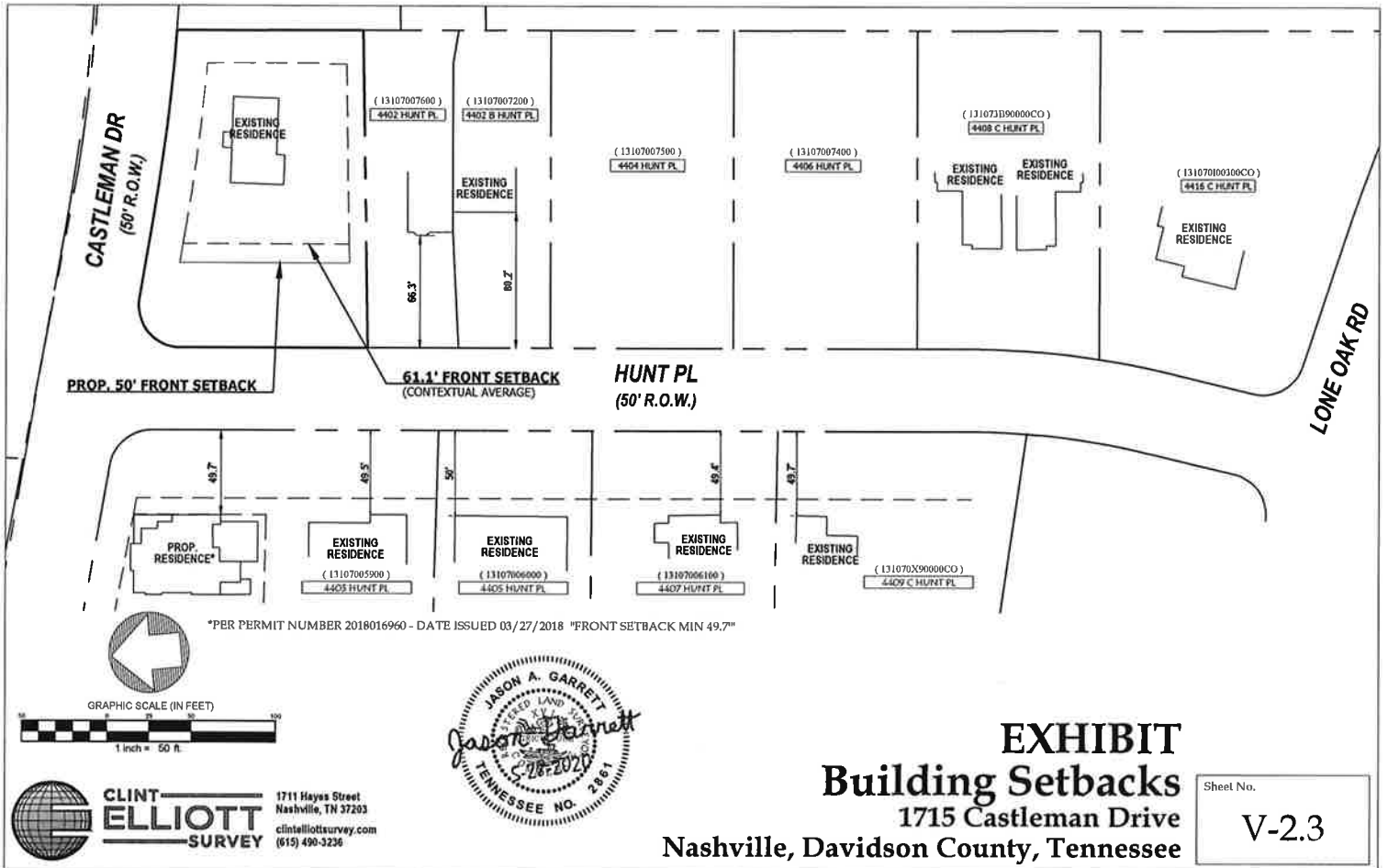
Section(s): 17.12.030.C.3

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.

Duane Cuthbertson  
Appellant Name (Please Print)  
1806 A Allison Place  
Address  
Nashville, TN 37203  
City, State, Zip Code  
615.924.9618  
Phone Number  
dcuthber@gmail.com  
Email

Duane Cuthbertson  
Representative Name (Please Print)  
Same  
Address  
City, State, Zip Code  
Same  
Phone Number  
Email

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



53

**OWNER'S CERTIFICATE**

I hereby certify that I am the owner and accept the title of subdivision of the property as shown herein and warrant all public maps and instruments as noted.

Name: Neil Hunt  
Address: 11111

**SURVEYOR'S CERTIFICATE**

I hereby certify that the plat shown herein is correct and that approved monuments shown thereon have been placed as indicated.

Name: C. E. [Signature]  
Address: [Address]

SUBDIVISION NO. 41-20  
COMMISSIONER'S APPROVAL

Approved by the Surveys, County Planning Commission  
at its session, held March 25, 1942.

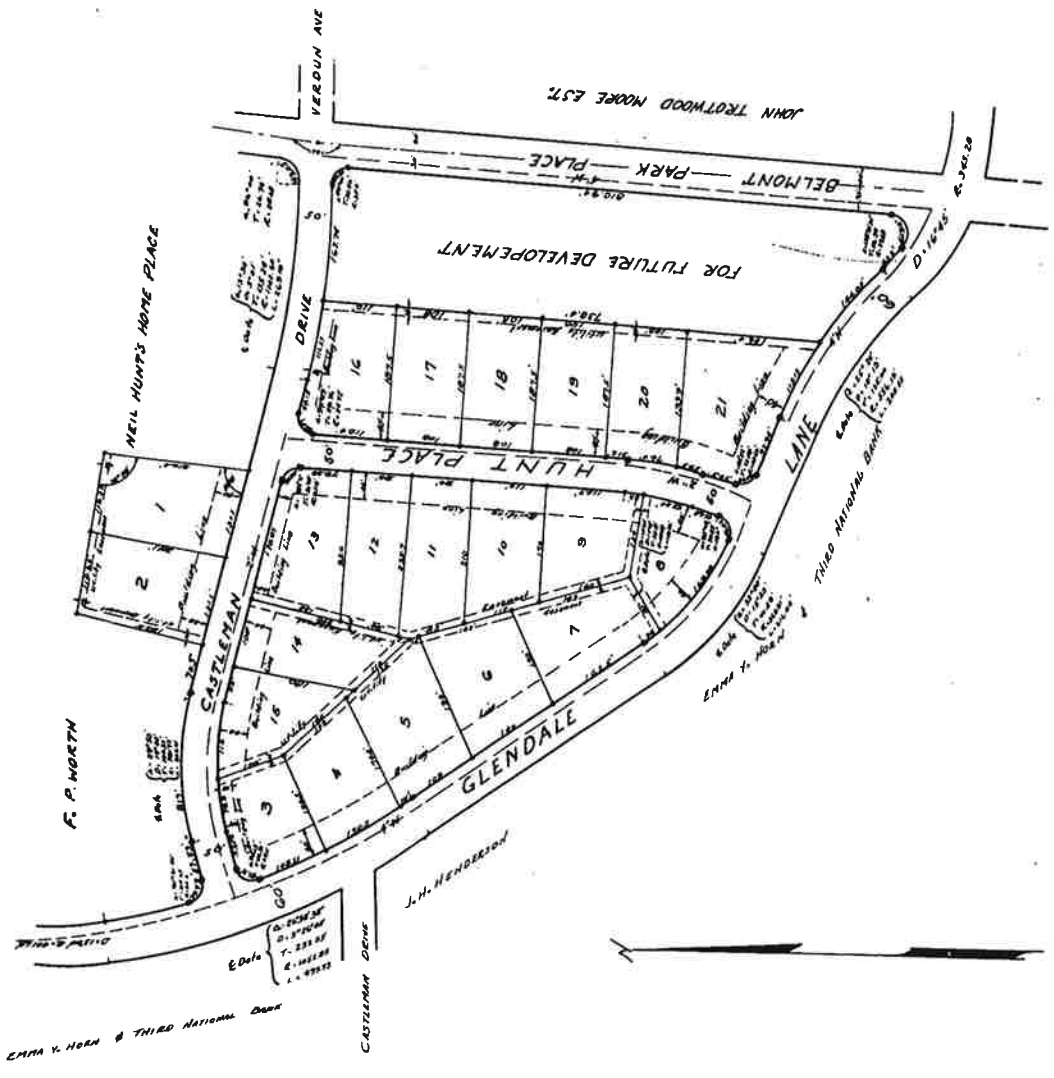
[Signature]  
[Title]

Recorded this 27th day of March 1942, at the  
Register's Office of Davidson County, Tennessee

Surveyed & Platted March 27, 1942 at 11:55 a.m.

**LEGEND**

- Street Line
- Property Line
- Building Footprint
- Corner Markers
- Other City Government



**PART ONE**  
**HUNT TERRACE**  
NEIL HUNT'S SUBDIVISION OF LOT NO. 59 & PARTS OF  
LOT NO. 52, 53 & 54 & CO. BY GEORGE BLAIR'S REVISED  
SUBDIVISION OF BELMONT PARK PLACE.

SCALE: 1" = 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.)

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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.

*Duane Cuthbertson*  
**APPELLANT**

06.10.20  
**DATE**

## Standards for a Variance

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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.

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 lot is a corner lot and has deeper setbacks on two frontages although it's similar in size to surrounding lots. The two houses to the south create the 61' contextual setback although they are the anomaly for the block. The requested setbacks of 50' are more consistent with the neighborhood context and deeper than the lot's platted 40' setback along Hunt.

Applying the contextual setback along Hunt will unnecessarily squeeze the building envelope for this lot and push the two permitted homes together such that they will be out of character to the surrounding neighborhood.

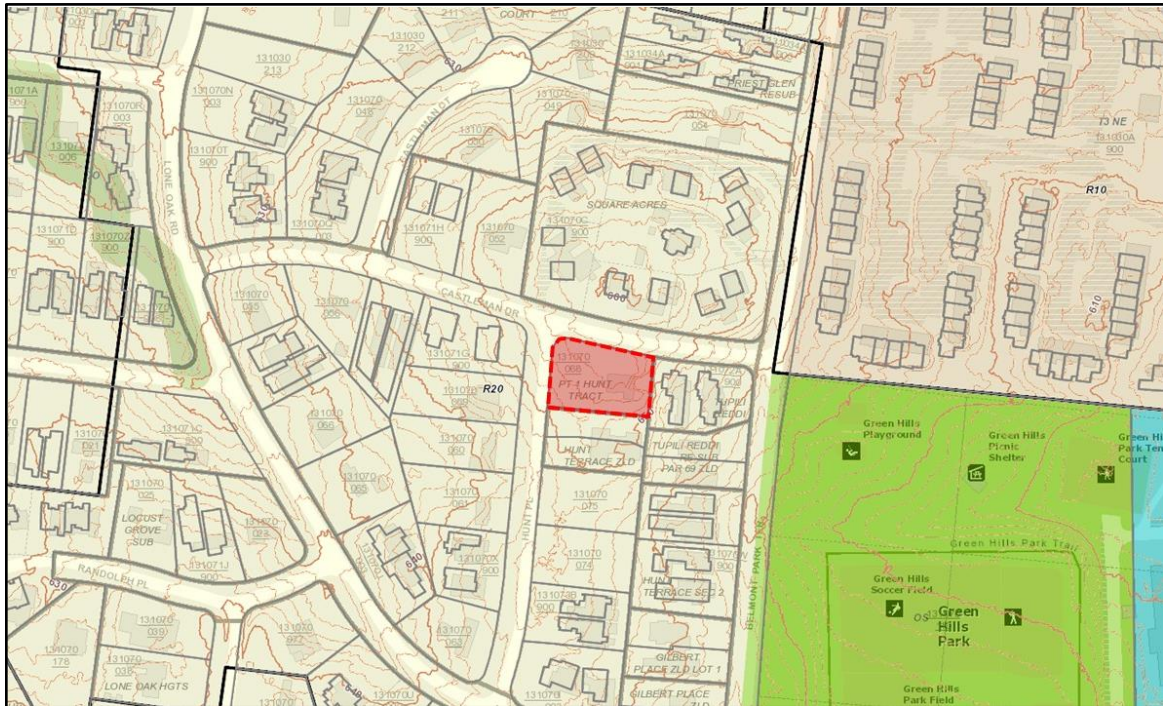
The variance, if granted, will create a more compatible streetscape and allow more space in between the two homes so that the development is consistent with the surrounding context.

Nashville Board of Zoning Appeals

Agenda Date: August 6, 2020

Case No. 2020-162

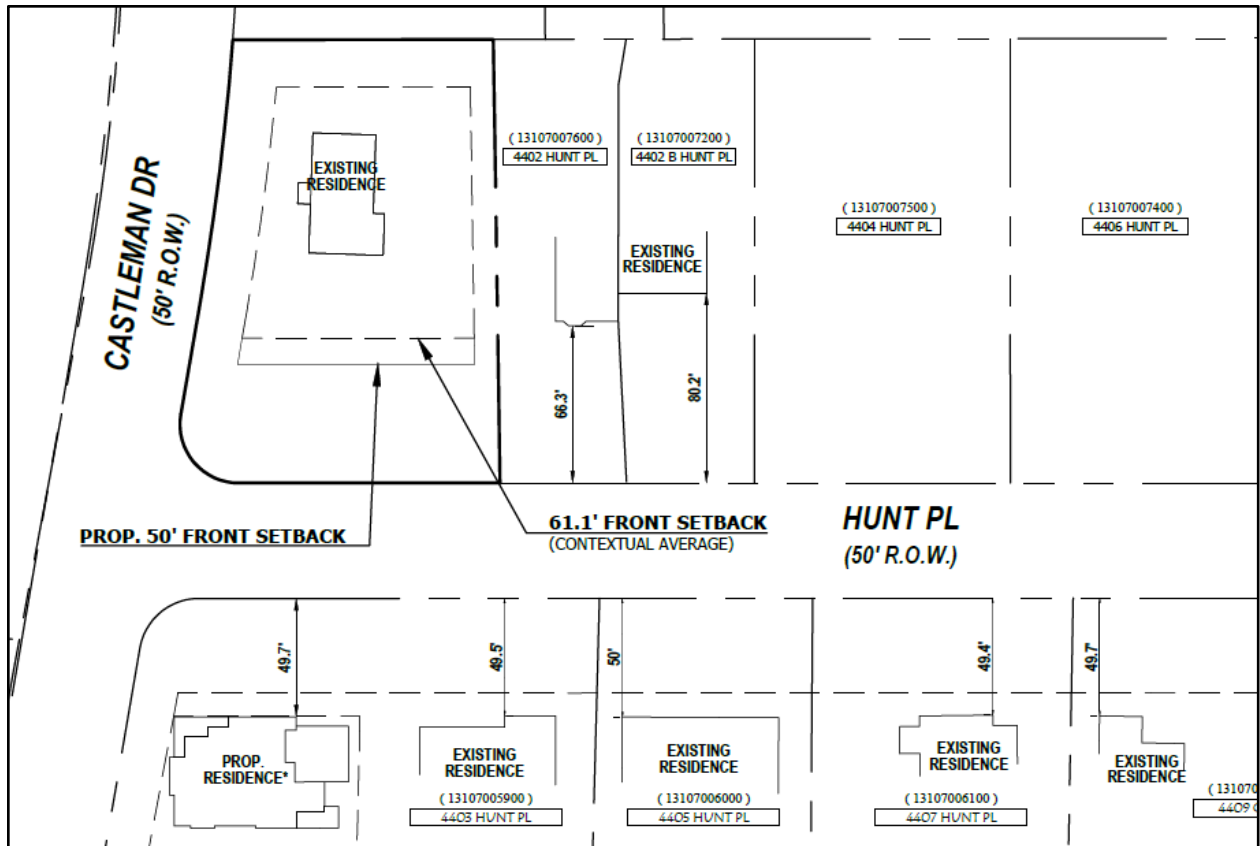
Address: 1715 Castleman Drive



1715 Castleman Drive

**Request:** Variance of the street setback from Hunt Place from 61.1' to 50'.

**Purpose:** To allow one of the two new proposed homes for this site to be situated 11.1 ft closer to Hunt Place. The variance will enable more spacing in between the two proposed dwellings and create clearance for an existing tree.



1715 Castleman: Southeast corner of Castleman and Hunt

The Variance of the street setback on Hunt Place is an adjustment of only 11.1'. The minor request will allow a proposed home to be situated along Hunt Place in a manner that is more consistent with the broader prevailing pattern on this street as evidenced by the five homes on the west side of the street.

**Zoning Requirement / Intent:** The Code requires an 'average' street setback in residential districts. The 'average' street setback is established by measuring the 4 closest homes on the same blockface. In this instance, there are only four other homes on this block (east side of Hunt Place). The average setback is 61.1'.

The street setback requirement is intended to create continuity along a given blockface/ streetscape, to create and maintain a uniform pattern and to create a desirable and proportional relationship between homes and the corresponding street.

This block was originally platted with a 40' street setback on Hunt however for reasons unknown the neighboring lot to the south created a unique circumstance by locating parking areas in front of their homes and pushing their buildings well behind what was required at the time. Their decision to build at 66' and 80' has skewed the average setback for the block significantly such that all new homes are also required to setback at relatively deep distances - out of character with the surrounding neighborhood.

The average across the street is more inline with standard planning practices - it presents a relatively uniform relationship with the street at just under 50'.

Our requested variance is consistent with that pattern.

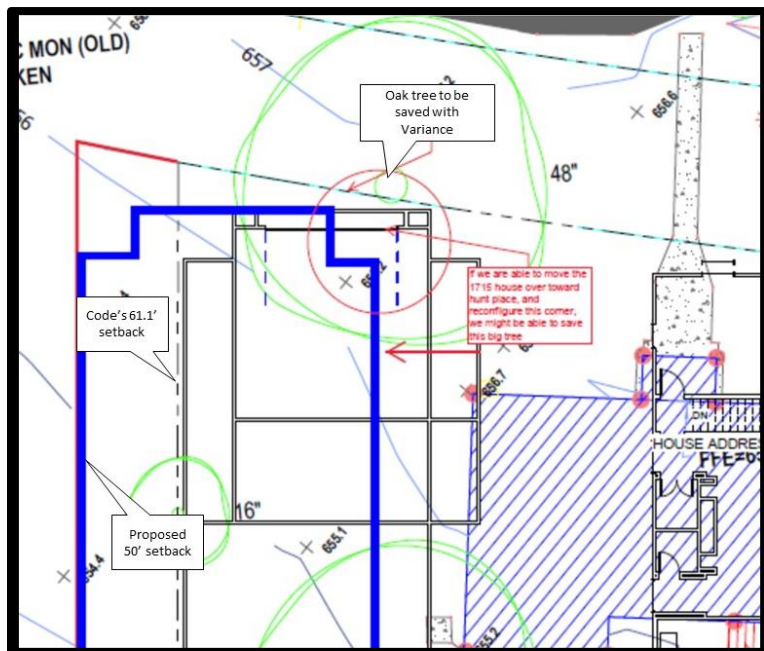
### **Analysis:**

The subject property is a corner lot for which the front street setback is Hunt Place. The subject property is located within the Green Hills neighborhood while there is generally a uniform pattern among residential blocks - differentiation can be found around the neighborhood. It is not uncommon for corner lots to have more shallow setbacks along a given street than the rest of the block.

The required building setback of 61.1' is relatively deep compared to much of the surrounding neighborhood. The corner lot at the opposite end of this same block (on Hunt Place and Lone Oak) contains a recently built home with a 50' setback from Hunt Place. The home across the street (on Hunt Place) similarly has a 50' street setback as well as the other homes on that side of the block. The requested variance will create an outcome consistent with those existing homes.

Two homes are permitted on the R20 zoned subject property. The deep street setback requirement coupled with the deeper street setback from Castleman Drive provide for a relatively small building envelope. The minor variance will allow for two homes to be constructed on the property with 11.1' additional feet in between the buildings. The additional spacing in between buildings will allow for a building pattern more consistent with the surrounding context.

Additionally, there is a mature Oak tree located in the middle of the northern portion of the property (adjacent to Castleman Drive). The variance will allow for more opportunity to create space in between the building and the tree thereby saving the mature tree.



Sketch of potential layout in relation to old Oak Tree



Large Oak Tree on north side of lot.

It is not uncommon for corner lots to contain slightly to significantly shallower setbacks than other homes on the block face. This property contains a fair amount of mature trees along the Hunt Place property line. The builder has every intention of maintaining those trees. Additionally, there is a fair amount of vegetation in between this property and the neighboring property to the south. The vegetation combined with the tree coverage along the street will considerably mitigate any perceived impact from the 11.1' variance.

The variance will also create slightly more room on the property to ensure the proposed homes are two stories in height.

The variance requested appears as if it will have limited impact to the streetscape on Hunt Place and will create conditions on the lot that will benefit the neighborhood development pattern.

The applicant has had significant communication with the community and Councilmember regarding the variance. The owners live in the immediate vicinity (on Castleman) and have spoken with numerous neighbors resulting in support for the request. In addition to Metro notices, the applicant mailed out letters to the same recipients showing the requested variance on a site plan and explaining the rationale for the request. Multiple points of contact were provided on the letters. Only a few calls and emails were received as a result. After a brief conversation all resulted in support (or at least, lack of opposition).

**Unique Circumstances:**

1. The subject property is a relatively shallow corner lot - the combination of deeper street setbacks creates a smaller building envelope on which to fit Green Hills homes;
2. The subject property to the south contains a house that has a uniquely deep street setback (anomaly for the block) that is skewing the average applicable to this property;
3. There is a large oak tree on the north boundary the owners and neighbors would like to save - the variance creates a favorable condition in an attempt to save that mature tree;
4. There are homes on this street (this block and across the street) containing street setback consistent with this variance request.

**Conditions:**

The applicant is willing to condition approval of the variance to a two story building height limit for both homes.



**From:** [Duane Cuthbertson](#)  
**To:** [Shepherd, Jessica \(Codes\)](#); [Lifsey, Debbie \(Codes\)](#)  
**Subject:** Fwd: 1715 castleman bza support letter  
**Date:** Thursday, July 16, 2020 10:38:27 AM

---

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

Will you please accept this email of support for BZA 2020-162 at 1715 Castleman. It's scheduled for 8/6/20.

Duane

----- Forwarded message -----

**From:** **Shaun Burroughs** <[shaun@buildnashvilletn.com](mailto:shaun@buildnashvilletn.com)>  
**Date:** Fri, Jun 12, 2020 at 7:26 AM  
**Subject:** 1715 castleman bza support letter  
**To:** Jamie Duncan <[jamie@buildnashvilletn.com](mailto:jamie@buildnashvilletn.com)>, Duane Cuthbertson <[dcuthber@gmail.com](mailto:dcuthber@gmail.com)>

Thanks,  
Shaun Burroughs  
615-715-6212

Begin forwarded message:

**From:** Elliott Holt <[Elliott.NobleHolt@medicopy.net](mailto:Elliott.NobleHolt@medicopy.net)>  
**Date:** June 12, 2020 at 6:45:34 AM CDT  
**To:** Shaun Burroughs <[shaun@buildnashvilletn.com](mailto:shaun@buildnashvilletn.com)>  
**Subject:** Updated email

To the Board of Zoning Appeals:

My name is Elliott Noble-Holt and I live at 1711 Castleman Drive. Please accept this email as an indication of my support for a request for a Variance of the street setback at 1715 Castleman Drive. The requested street setback reduction from 61' to 50' on Hunt Place is minor and will better complement the streetscape and provide for a more evenly spaced layout for the two homes on the property.

Thank you for your support.

--

Elliott Noble-Holt, CEO  
MediCopy Services, Inc.  
P: [866.587.6274](tel:866.587.6274)

F: [888.233.4226](tel:888.233.4226)

C: [615.604.8468](tel:615.604.8468)

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--

Duane Cuthbertson  
615.924.9618



**From:** [Duane Cuthbertson](#)  
**To:** [Shepherd, Jessica \(Codes\)](#); [Lifsey, Debbie \(Codes\)](#)  
**Subject:** Fwd: BZA Case No. 2020-162  
**Date:** Wednesday, July 22, 2020 12:22:18 PM

---

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

Will you please include the email of support below in our file (BZA 2020-162 : 1715 Castleman)?  
Thank you.

----- Forwarded message -----

**From:** **Shaun Burroughs** <[shaun@buildnashvilletn.com](mailto:shaun@buildnashvilletn.com)>  
**Date:** Tue, Jul 21, 2020 at 10:25 AM  
**Subject:** Fwd: BZA Case No. 2020-162  
**To:** Duane Cuthbertson <[dcuthber@gmail.com](mailto:dcuthber@gmail.com)>

Thanks,  
Shaun Burroughs  
615-715-6212

Begin forwarded message:

**From:** Joe Swing <[jswing@comcast.net](mailto:jswing@comcast.net)>  
**Date:** July 21, 2020 at 9:53:50 AM CDT  
**To:** [shaun@buildnashvilletn.com](mailto:shaun@buildnashvilletn.com)  
**Subject:** BZA Case No. 2020-162

Mr. Burroughs,

This is to confirm that we have ***no objection*** to your request for a variance to reduce the setback on Hunt Place for your upcoming project.

In the past few years, Build Nashville has constructed a number residences on Castleman Drive. This new project will be directly across the street from our home. We have found that you act responsibly during the construction period and are considerate of the surrounding neighbors.

Kindest regards,

Marilyn and Joe Swing

1706 Castleman Drive

Nashville, Tennessee 37215

---

*joe edward Swing*

*...art that's different. On Purpose.*

--

Duane Cuthbertson  
615.924.9618



LEARN MORE:  
www.augusthouseco.com

CONTACT:  
Andrew Scott  
(615) 933-9757  
andrew@augusthouseco.com

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**BUILD Nashville**

**1715 CASTLEMAN**

1715 CASTLEMAN DRIVE  
NASHVILLE, TN 37215

**NOT FOR CONSTRUCTION**

No.	Description	Date
1	50% SCHEMATIC DESIGN	06/24/2020

1715 CASTLEMAN

**ARCHITECTURAL SITE PLAN**

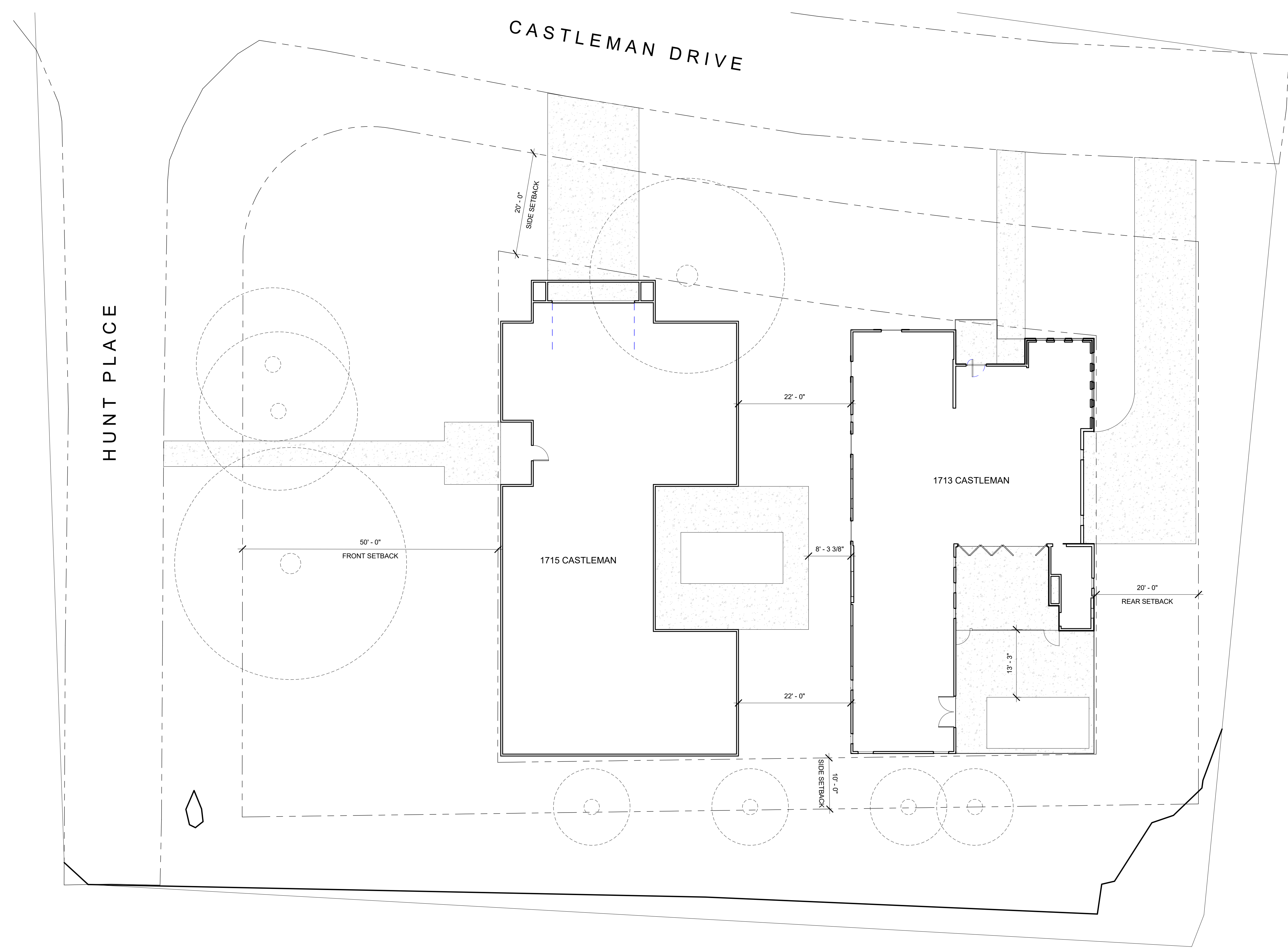
Project number: 200602  
Date: 07/28/2020  
Drawn by: BBW  
Checked by: AAS

**A1**

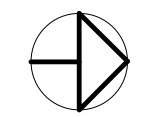
Scale: 1" = 10'-0"

NOTE:

- ARCHITECTURAL SITE PLAN SHOWN FOR REFERENCE. SCHEMATIC BOUNDARIES AND SETBACK REQUIREMENTS ONLY.
- GENERAL CONTRACTOR / OWNER TO COORDINATE FINISH FLOOR ELEVATIONS WITH FINAL GRADING PLAN AND IN FIELD PRIOR TO CONSTRUCTION.



1 Architectural Site Plan  
1" = 10'-0"





Metropolitan Nashville Board of Zoning Appeals  
800 Second Avenue South | P.O. Box 196300  
Nashville, TN 37219-6300

Re; Agenda Date: August 6, 2020  
Case Number: 2020-162  
Address: 1715 Castleman Dr.

Dear Members of the Board of Zoning Appeals:

As a resident and/or property owner in the surrounding neighborhood I would like to express my **support** for a variance of the street setback along Hunt Place to allow an already permitted dwelling to be situated 11.1 ft. Closer to the Right-of-Way.

The reduced setback will allow more separation between the two homes proposed on the property and create a spacious compatible with the context of the surrounding neighborhood. The proposed setback is more in line with the pattern found on Hunt Place and will not disrupt an established streetscape.

Sincerely,

Madison Lee  /Name

1805 Castleman Dr. Nashville TN 37215 /Address





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

Appellant: Frederick Kipatrick Date: 6-15-20  
Property Owner: Frederick Kipatrick Case #: 2020-163  
Representative: \_\_\_\_\_ Map & Parcel: 08103031900  
Council District: Two (2)

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

Purpose: to construct two homes on one lot  
Activity Type: Residential  
Location: 1402 Kellow St.

This property is in the R2 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 lot size to build 2 homes  
Section: 17-12.020 A

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.

Appellant Name: Frederick Kipatrick Representative: \_\_\_\_\_  
Phone Number: 615-497-6191 Phone Number: \_\_\_\_\_  
Address: 1402 Kellow St. Address: \_\_\_\_\_  
Nashville, TN 37208  
Email address: fdnk14@gmail.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**



**ZONING BOARD APPEAL / CAAZ - 20200036710  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 08103031900

**APPLICATION DATE:** 06/15/2020

**SITE ADDRESS:**

1402 KELLOW ST NASHVILLE, TN 37208  
LOT 9 RIVERSIDE GARDENS

**PARCEL OWNER:** KILPATRICK, FREDERICK DOUGLASS NASH

**CONTRACTOR:**

**APPLICANT:**

**PURPOSE:**

Requesting a variance to construct two homes on one lot

*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.)

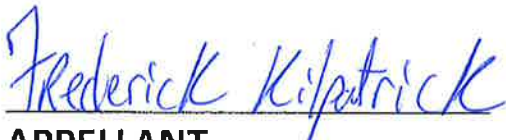
The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being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



**APPELLANT**

\_\_\_\_\_  
**DATE**

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?**

See Attached page. please Thanks.

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Hello my name is Fred Kipatrick  
and I reside at 1402 Kellow street  
in Nashville, TN. My specific and  
unique circumstances or hardship  
is very simple. I live in a area  
that is zoned R6, and my lot  
is 5,461 S.f. That is only 539 s.f.  
short of the bk I need to build  
2 unit on my land. At this time  
I am unable to benefit from what this  
zoning was intended for in the first place.  
I am humbly requesting that the BZA  
grant me this variance request.  
Thank you in advance.

1 of 4

1402 Kellow Street - Site Plan.pdf

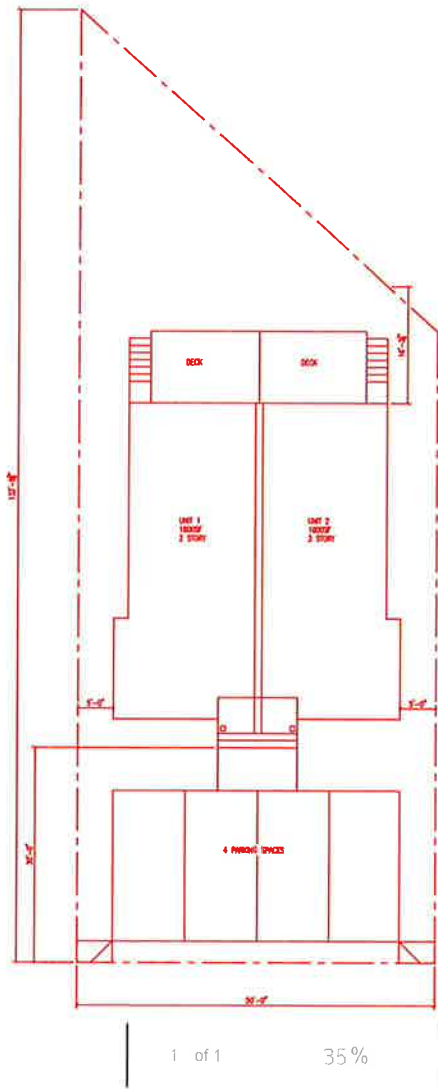
DOWNLOAD

Like it!

Add a comment

Annotate

0 COMMENTS



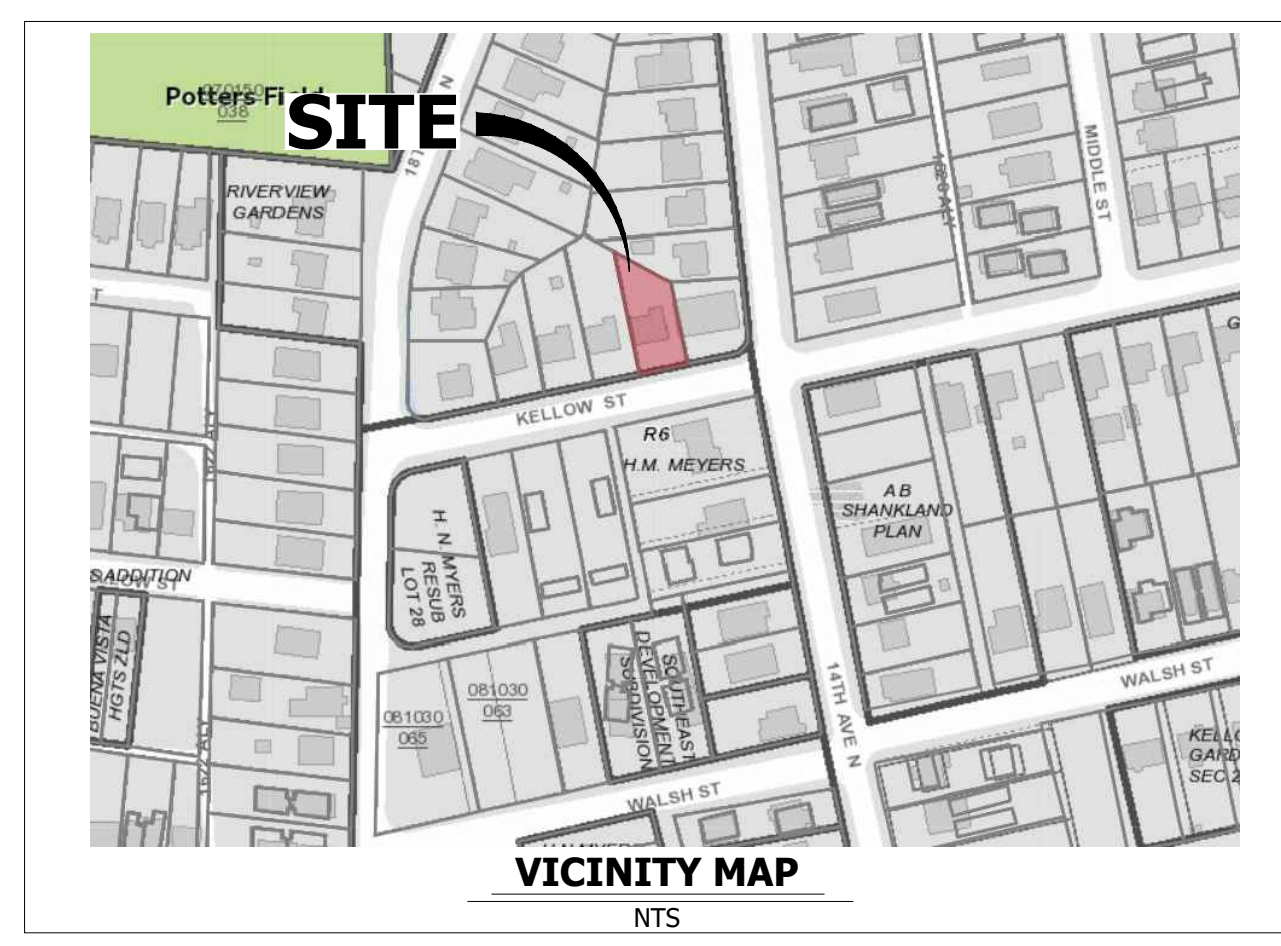
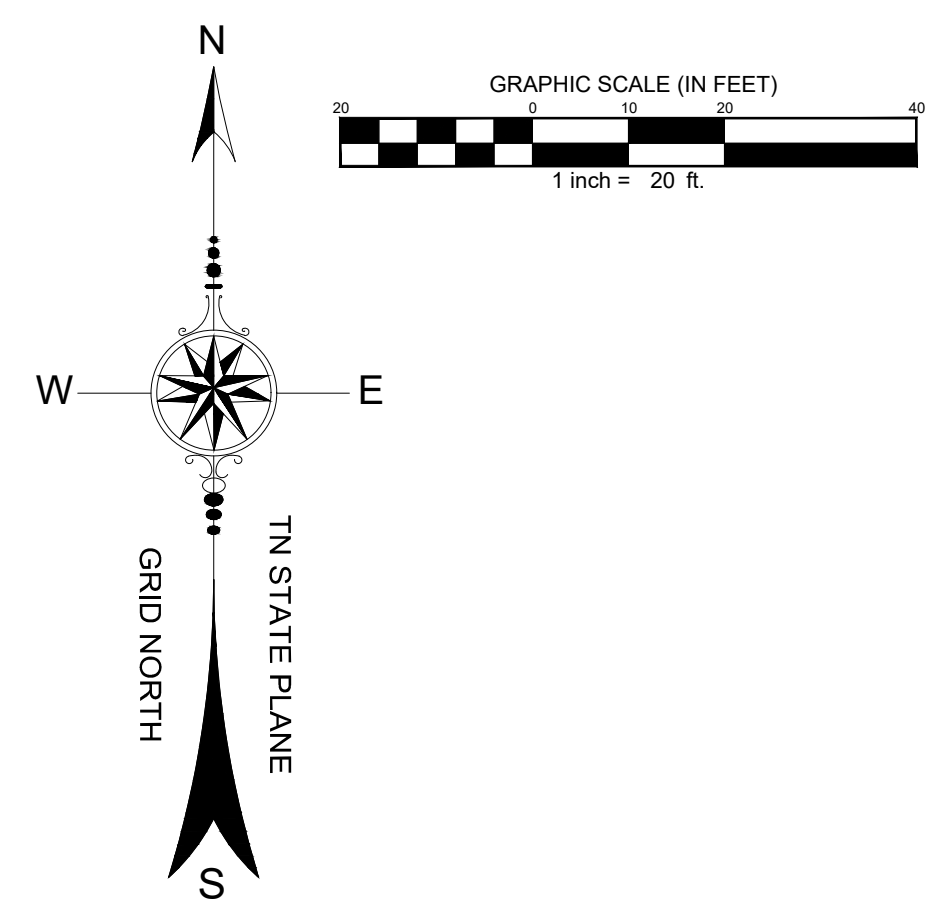
1 of 1 35%

FIT SCREEN

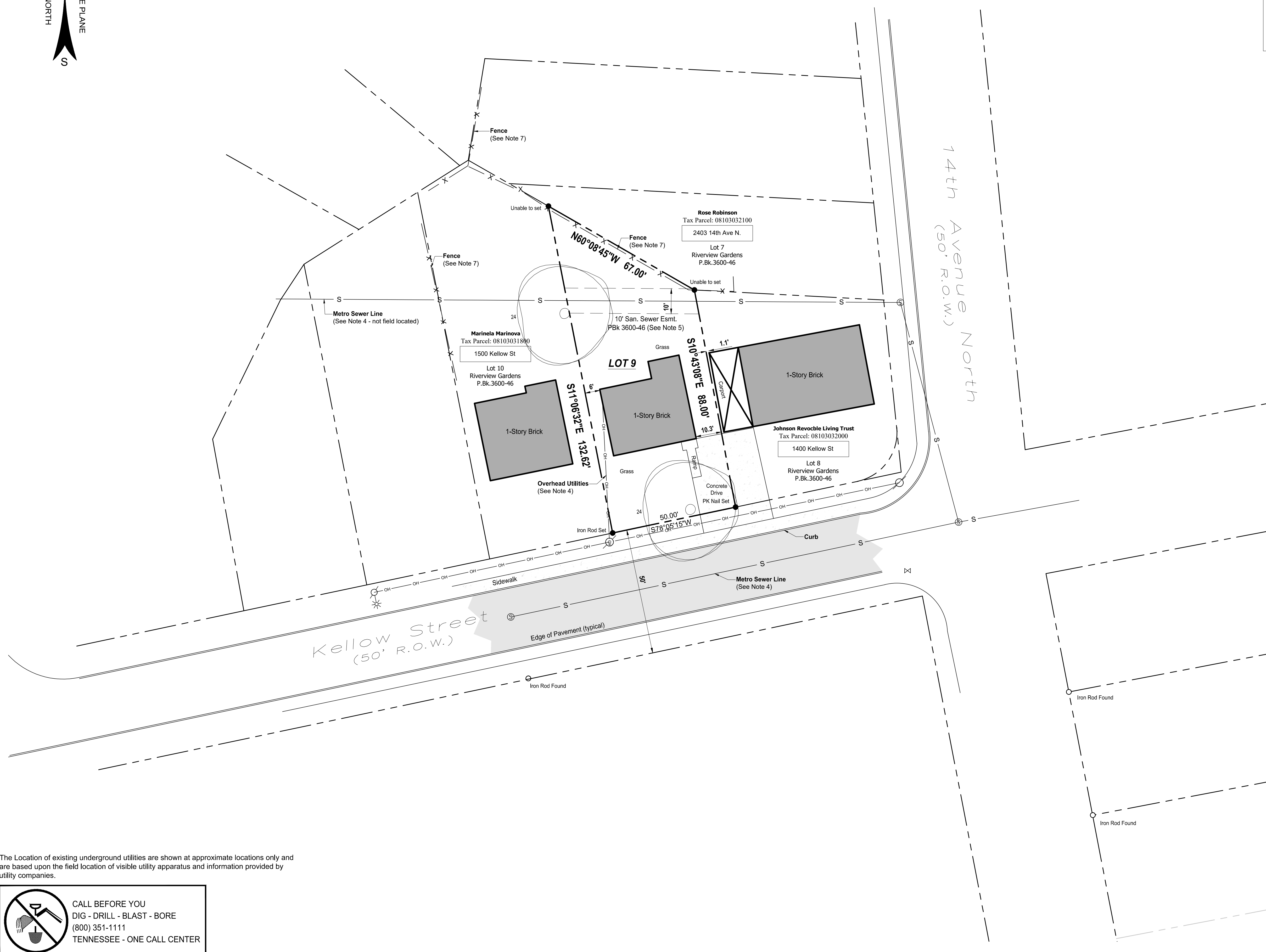
PREVIOUS COMMENT

NEXT COMMENT





**G. Scott Carter, RLS**  
 100 Cotton Gin Ct,  
 Brentwood, Tennessee  
 gscarter963@gmail.com 423-718-3111



**TOTAL AREA**  
 5,554.47 ± square feet or 0.127 acres more or less

**MAP REFERENCE**  
 Parcel ID for subject property is 08103031900 on Davidson County Property Map.

**DEED REFERENCE**  
 Owner : Fredrick Kilpatrick of record in Instrument Number DB-20191204 0124848 in the Register's Office for Davidson County, Tennessee

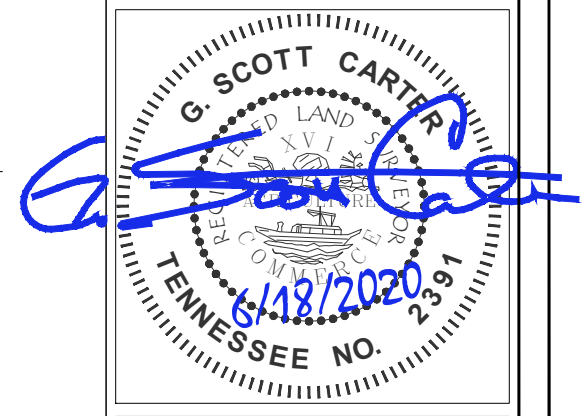
**PLAT REFERENCE**  
 Being Lot # 9 on the Riverside Gardens Subdivision of record in Instrument Number 3600, Page 46 in the Register's Office for Davidson County, Tennessee

- SURVEYOR'S NOTES**
- This Property is located in the 2nd Council District of Davidson County Tennessee.
  - Bearings, Elevations and Coordinates shown are based on Tennessee State Plane NAD83. (NAVD88)
  - The property is located in areas designated as "Zone X" (areas determined to be outside the 0.2 % annual chance floodplain) as noted on the current FEMA Firm Community Panel. MAP NUMBER 47027C0233H MAP REVISED: APRIL 5, 2017
  - Utilities shown hereon were taken from visible structures and other sources available to me at this time. Verification of existence, size, location and depth should be confirmed with the appropriate utility sources.
  - A Title Report was not provided for the preparation of this survey. Therefore, this survey is subject to the findings of an accurate title search.
  - No Stream determinations were provided to this surveyor. Therefore, this survey does not address the existence or non-existence of any Waters of the State, stream buffers or wetlands.
  - This survey does not address the owner of any fence nor address any adverse claim of ownership of any adjoining property. Removal of any property line fence should be coordinated with adjacent owner.
  - Property is currently Zoned "R6". Setbacks to be determined by Metro Codes Administration.
  - This survey was prepared for the exclusive use of the person, persons or entity, it any, named on the certification hereon. Said certificate does not extend to any unnamed person without an express re-certification by the surveyor naming said person.

- GPS Notes:**
- The (TDOT) Tennessee Geodetic Reference Network was used for this survey
  - GPS locations used for this survey were established using a VRS network consisting of multiple reference stations
  - GPS data was collected with a Spectra Precision 80 receiver.
  - The combined scale factor for this survey is 1.000006 computed at TDOT control point 0.0. The date of this survey is: 6-17-2020

**SURVEYOR'S CERTIFICATE**  
 To: Fredrick Kilpatrick

I hereby certify that this survey was actually made on the ground under my direct supervision, using the latest recorded deeds, and other information; and that this survey exceeds the minimum requirements for a Category 1 Urban Land Survey pursuant to Chapter 0820-3, Section .05 of the Department of Insurance Standards of Practice for Land Surveyors; and that this survey is true and correct to the best of my knowledge and belief.



**G. Scott Carter, TN RLS # 2391**

Rev.	Date	Revision Description

The Location of existing underground utilities are shown at approximate locations only and are based upon the field location of visible utility apparatus and information provided by utility companies.

CALL BEFORE YOU  
 DIG - DRILL - BLAST - BORE  
 (800) 351-1111  
 TENNESSEE - ONE CALL CENTER

**Boundary ReTracement Survey**  
 of  
**1402 Kellow Street**  
 Nashville, Davidson County, Tennessee

Issue Date: 6-18-2020  
 Project ID: Kellow St 1402  
 Drafted By: GSC  
 Field Crew: GSC  
 Sheet Title:  
**Boundary Survey**  
 Sheet No.  
**V-1.00**

Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



Appellant : Manoochehr Bahiraei

Date: 06/16/2015

Property Owner: Manoochehr Bahiraei

Case #: 2020- 164

Representative: : Anoshirvan Bahiraei

Map & Parcel: 13011011800

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: No permit yet, Intend to construct a new single family residence  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Activity Type: Residential New Construction

Location: 4417 Wayland Dr 37215

This property is in the RS40 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: Variance from contextual front setback - use 75' plat setback.

Reason: Variance from side setback - 10ft requested  
17.12.020A. and 17.12.030 *CB*

Section(s): \_\_\_\_\_

~~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.

Manoochehr Bahiraei  
Appellant Name (Please Print)

Anoshirvan Bahiraei  
Representative Name (Please Print)

320 Granny White Pike  
Address

4417 Wayland Dr  
Address

Brentwood, TN 37027  
City, State, Zip Code

Nashville, TN 37215  
City, State, Zip Code

615-400-4844  
Phone Number

615-400-8873  
Phone Number

thegrassmere@gmail.com  
Email

thegrassmere@gmail.com  
Email

Zoning Examiner: Lisa Minton

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





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



3836780

**ZONING BOARD APPEAL / CAAZ - 20200037137  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 13011011800**APPLICATION DATE:** 06/16/2020**SITE ADDRESS:**

4417 WAYLAND DR NASHVILLE, TN 37215  
LOT 1 PT 2 HYCREST ACRES

**PARCEL OWNER:** BAHIRAEI, MANOOCHHR ET UX**CONTRACTOR:****APPLICANT:****PURPOSE:**

Requesting a variance from contextual front overlay and variance from side setback requirements. RS40 is that 17.12.20(A) sets a 15ft side setback. We wish to build to 10ft. Also, 17.12.30(C)(3) sets a contextual setback, which according to the survey calculates to 86.25ft if I understand the calculation correctly. We wish to build to 75ft.

*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.

**Lifsey, Debbie (Codes)**

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**From:** The Grassmere Group <thegrassmere@gmail.com>  
**Sent:** Tuesday, June 16, 2020 1:59 PM  
**To:** Morgan, Walter (Codes)  
**Cc:** Lifsey, Debbie (Codes); Kelly Bahiraei  
**Subject:** Re: FW: Attached Image

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

Apologies as I too may be missing something. My understanding for RS40 is that 17.12.20(A) sets a 15ft side setback. We wish to build to 10ft. Also, 17.12.30(C)(3) sets a contextual setback, which according to the survey calculates to 86.25ft if I understand the calculation correctly. We wish to build to 75ft.

And please excuse my ignorance, the survey has the surveyor's seal so I assumed that's stamped. I'm requesting him to stamp it.

## 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 pf 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 noon, the Friday prior to the public hearing to be included in the record. You must provide eight (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.**



**APPELLANT**

6/16/2020

**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?**

Exceptional shape and topography with narrowing makes contextual  
street setback infeasible. Ideal rear building area is w/in 15ft side setback  
Please See Attached  

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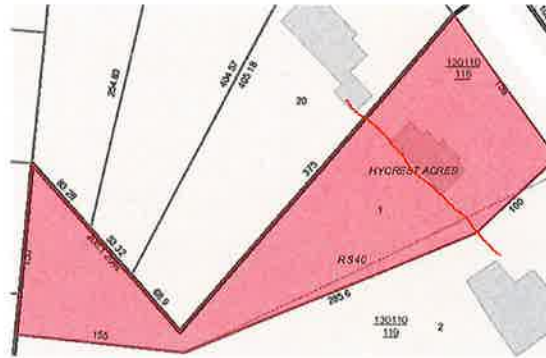


Dear Board of Zoning Appeals,

Thank you for considering our appeal. This property has been with our family since 1985. I (Anoosh) lived here from childhood through college. I was fortunate to move back into the house with my wife Kelly in 2006 when my parents moved to a new home. Now with young children, and a deteriorating ranch house, my wife and I are hoping to build a new family home where we can raise our kids and own for the foreseeable future. Unfortunately, the land provides many challenges. Because of the unusual shape, topography, and narrowing where the build footprint would ideally sit, the required setbacks make it extremely difficult and cost prohibitive to build a home that would be both befitting of the neighborhood, and which would also provide any meaningful backyard space for our kids to enjoy. Even with a granting of a variance of the setbacks, the build would still be extremely challenging. Having spoken to several engineers and architects, without the variance, building and keeping the property would not be a viable option for us.

The **Challenges** are as follows:

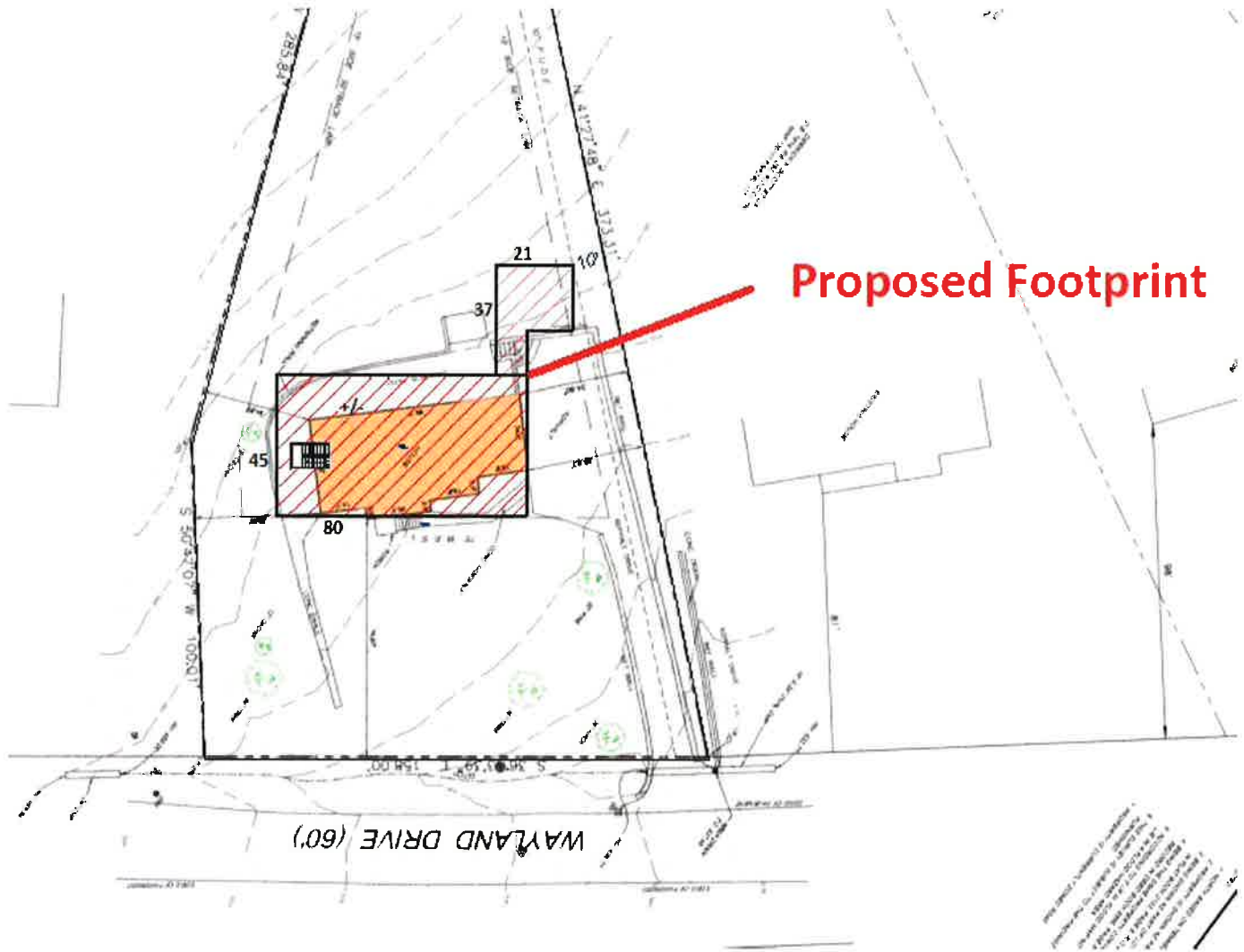
- **The shape of the land is very irregular**
- **The land narrows** immediately at the back line of the current ranch house. New construction in this area is typically much deeper than a 1950s ranch. As we build backwards, we are building into a rapidly narrowing triangle.



- **The land has a steep compound slope.** On top of an issue of narrowing, we also have the challenge of a steep compound slope. Where the ranch house currently sits, at the rear south corner there is already an approximately ~6ft (at its highest point) retaining wall. From there, as can be seen in the topography map, the land slopes steeply upwards and to the southern side. The current ranch house is built at a 75' front setback. Even building into the slope from the current 75' setback of the ranch house will be challenging. To build a house that fits in the neighborhood, we will be building into that already 6ft retaining wall area. The current grade elevation is approximately 652'. If we are allowed a variance and build as proposed in the attached site plan (See Exhibit A), we are still met with the challenge of the main floor naturally exiting in the rear at ~ 665', meaning approximately 13-14' above grade. Although challenging, this can be rectified with grading and retaining walls. If we were forced to use the contextual setback, we would potentially have to have the main floor naturally exiting at 670' or higher, meaning 18-19' or more above grade. The extra slope challenge makes grading such a height difference infeasible for us.
- **The street greatly increases slope and begins to curve at our property.** Once you reach our property travelling south east, the street drastically slopes up and then curves to the right making an apex at the adjacent two southern properties. This shape further limits the front building envelope compared to neighboring properties.

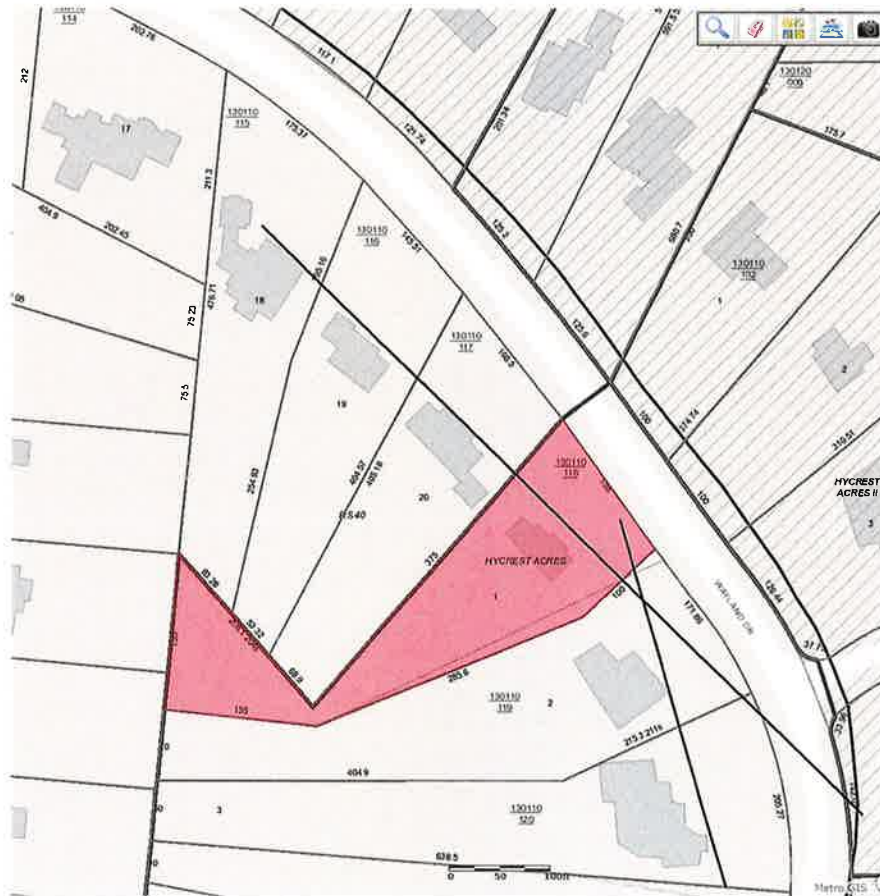
**Our Desired Build Footprint**

A further hardship we face is being able to design a house in a tricky slope/narrowing when we don't know if a variance will be granted. The Architect wishes to know where the house can be placed as the design will be very dependent on this. The Civil Engineer has to work with the architect to ensure that adequate drainage may be designed based on the chosen footprint, and the retaining wall engineer needs to know where everything can go to engineer adequate and cost effective retaining wall structures. It is an undue cost to go through this exercise when we are unsure of the allowable build setback until a variance is granted. What we do know is we need the flexibility to build as close to 75' street and 10' side setbacks as possible in order to navigate the compound slope and narrowing of the property. After at length discussions with builders, engineers, and architects, we believe the below represents an as best as possible draft of the desired build footprint. It was created using a CAD trace of the Stamped Survey lot lines. As can be seen in the draft site plan, the CAD measured distance between the rear corner that is touching the 10' utility easement line is 10' as expected, showing good accuracy of the draft CAD placement.



**Contextual setback ~86.25ft (see Exhibit B survey):**

- It would not be feasible to build back 11.25 ft from the current front setback of the ranch home. It would not only push us further into the compound slope, but also further into the narrowing portion of the land, both making it cost prohibitive and removing the enjoyment of a meaningful back yard.
- The two houses to the South provide very little in contextual uniformity. They both sit at a much higher elevation (visually entirely above the current house) and are situated on a different contextual line.
- The plat setback was originally planned at 75'. At the time it is likely that 75' was intended to avoid the difficulty of building into the staggered topography for a not so deep ranch home.
- Peculiarly, everyone who has seen the house (friends, family, neighbors, builders, architects, engineers) seem to think the current ranch house visually sits back farther than the neighboring houses. Having scratched my head many times, I believe it is because even at 75', it sits back farther than the neighborhood plan layout would have placed it. To remain visually in line with homes to the North, the house would likely sit at a setback of ~65ft. The houses to the south, being entirely at a higher elevation, do not visually conform to the layout seen to the North. Based on the original plat, I believe that the deviation in the street is completely due to the topography. This is best seen in the below representation where the current ranch house at 75' seemingly is farther back than the orderly layout would position it:



To keep in the context of the neighboring northern properties, the house would actually have to be closer to the street than 75' because of the way the houses are laid out. As mentioned above, the two houses to the south are at a much higher elevation and at the same time the apex of a curve in the street,

providing very little contextual uniformity. Therefore, constructing at several feet closer to the street than 75' would be in reality what visually provides the most uniform neighborhood plan. Nevertheless, we are requesting 75' as we understand requesting less would require a plat amendment.

**15' side setback**

- Unfortunately, the flattest most buildable part of the house is within the northern 15' side setback. The northern side still has a challenging compound slope, but relative to the southern side, it is manageable. Because there is also a 10' Utility easement, we are requesting to build only to that 10' easement so that we can utilize the flattest part for building, and then grade/terrace/retaining wall the sloped area to create a usable backyard space.

Attached Exhibits:

Exhibit A - Proposed draft site plan

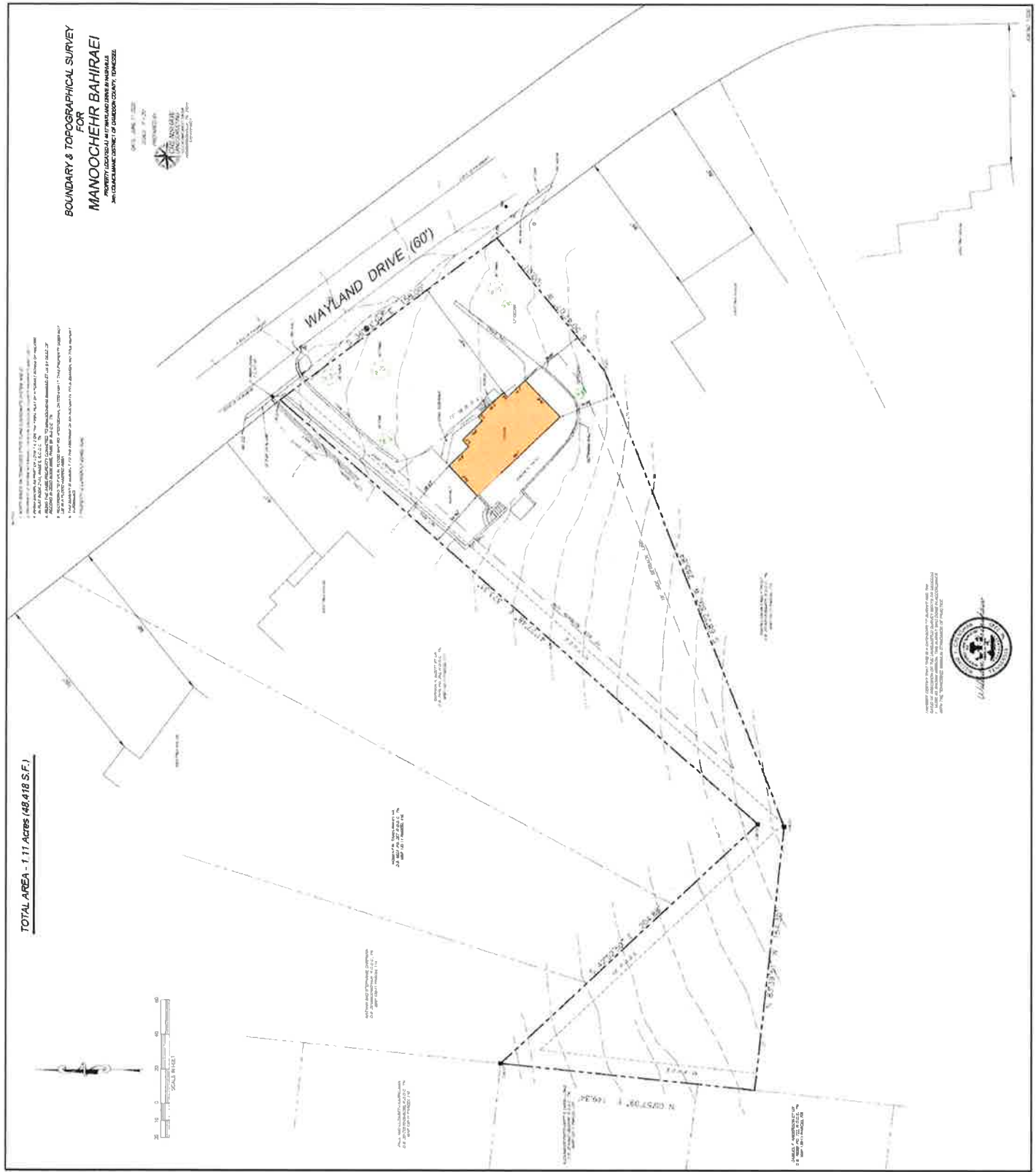
Exhibit B - Survey with Topography and neighboring setbacks

**Exhibit A - Proposed draft site plan**

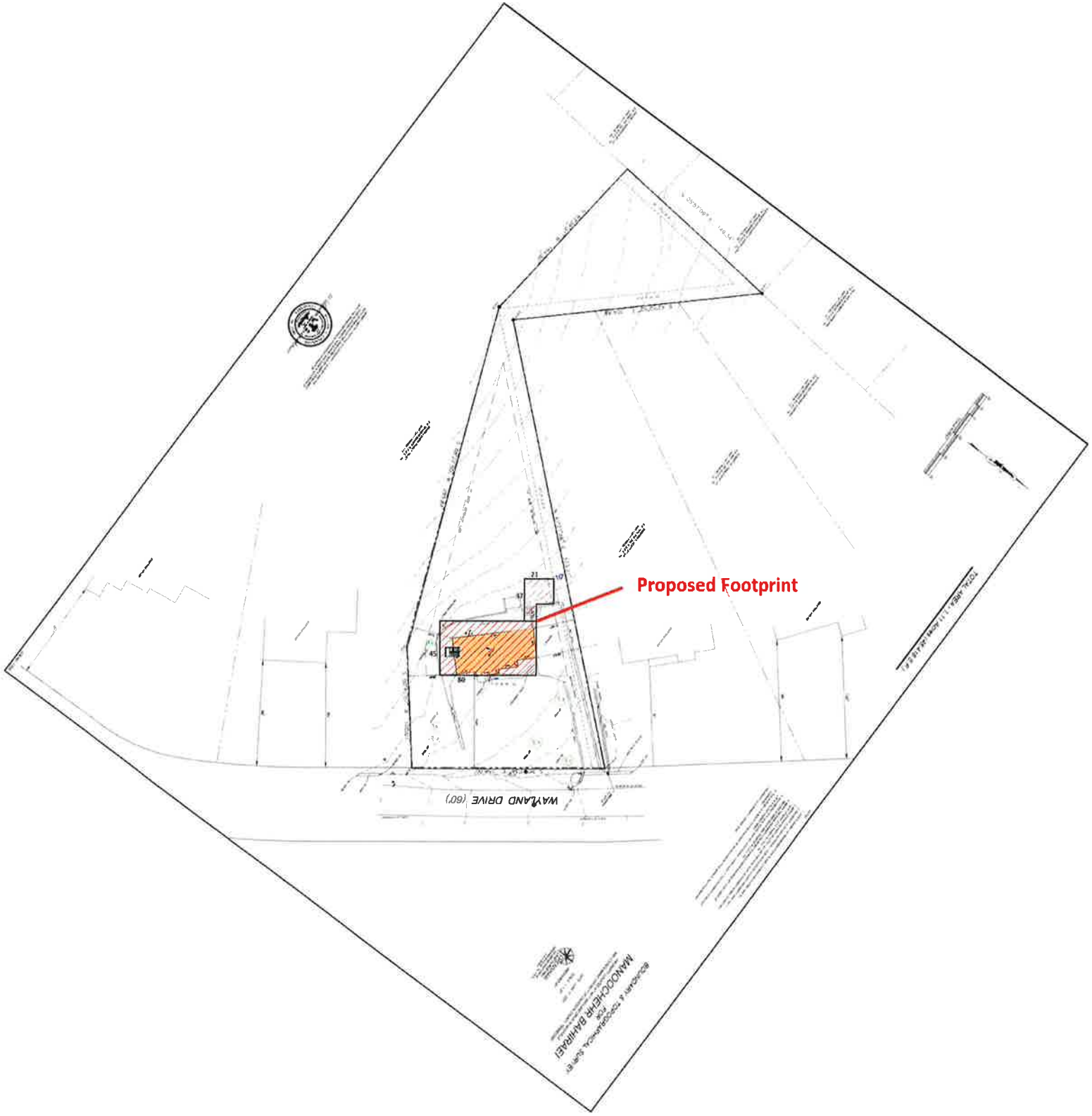




### Exhibit B - Contextual setback









**From:** [Scott Derrick](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Cc:** ["Anoosh Bahiraei"; Beth Derrick \(brderrick0415@gmail.com\)](#)  
**Subject:** Appeal 2020-164  
**Date:** Monday, July 27, 2020 2:09:34 PM  
**Attachments:** [image003.png](#)

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This e-mail is with reference to the above appeal concerning 4417 Wayland Drive, 37215. I am writing on behalf of myself and Beth Roberts Derrick, the owners of 3901 Wayland Drive, the next door neighbor property. We support the requested variances from front contextual setback and side setback requirements in order that the appellants may construct a single-family residence on the property. Please feel free to contact me with any questions. Thank you.



**Scott Derrick**

**Gullett Sanford Robinson & Martin PLLC**

Main: [615.244.4994](tel:615.244.4994) | Direct: [615.921.4262](tel:615.921.4262)

150 Third Avenue South, Suite 1700, Nashville, TN 37201

[sderrick@gsrcm.com](mailto:sderrick@gsrcm.com) | [www.gsrcm.com](http://www.gsrcm.com)



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Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Andrew Johnson Date: June 12, 2020  
Property Owner: Andrew Johnson Case #: 2020- 165  
Representative: Jason Holleman, Esq. Map & Parcel: 16000009800  
Council District: 4

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 carport  
Activity Type: Single Family  
Location: 5555 Hill Rd

This property is in the 04 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: front setback variance  
Section: 17.12.020(C) 17.12.030(A)

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection 17.40.370 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: Andrew Johnson Representative: Jason Holleman, Esq.  
Phone Number: \_\_\_\_\_ Phone Number: (615) 579-8929  
Address: 5555 Hill Road Address: 4210 Park Avenue  
Brentwood, TN 37027 Nashville, Tennessee 37209  
Email address: \_\_\_\_\_ Email address: jason@hollemanlaw.com

Appeal Fee: \$100 CH

## 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.

Andrew Johnson  
APPELLANT

6-11-20  
DATE

by atty: 

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?**

see attached

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MEMORANDUM

**TO: Metro Board of Zoning Appeals**

**FROM: Jason Holleman, Esq., on behalf of Applicant Andrew Johnson**

**RE: Setback variance for construction of carport at  
5555 Hill Road, Brentwood, TN 37027**

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Pursuant to M.C.L. § 17.40.37, an applicant for a setback variance must demonstrate the following:

A. 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 upon the strict application of any regulation enacted by the ordinance codified in this title.

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

C. 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 the ordinance codified in this title.

D. Financial Gain Not Only Basis. Financial gain is not the sole basis for granting the variance.

E. 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.

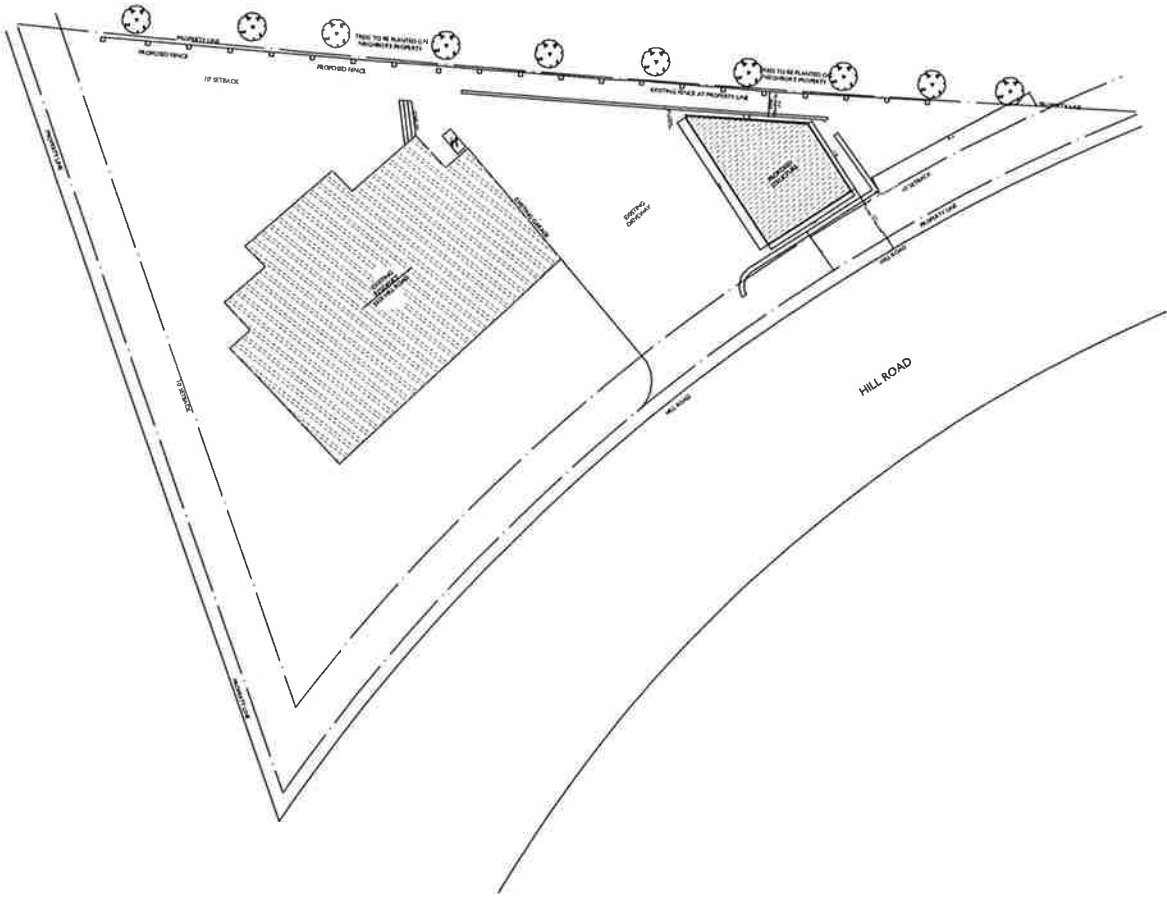
F. No Harm to Public Welfare. The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.

G. 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.

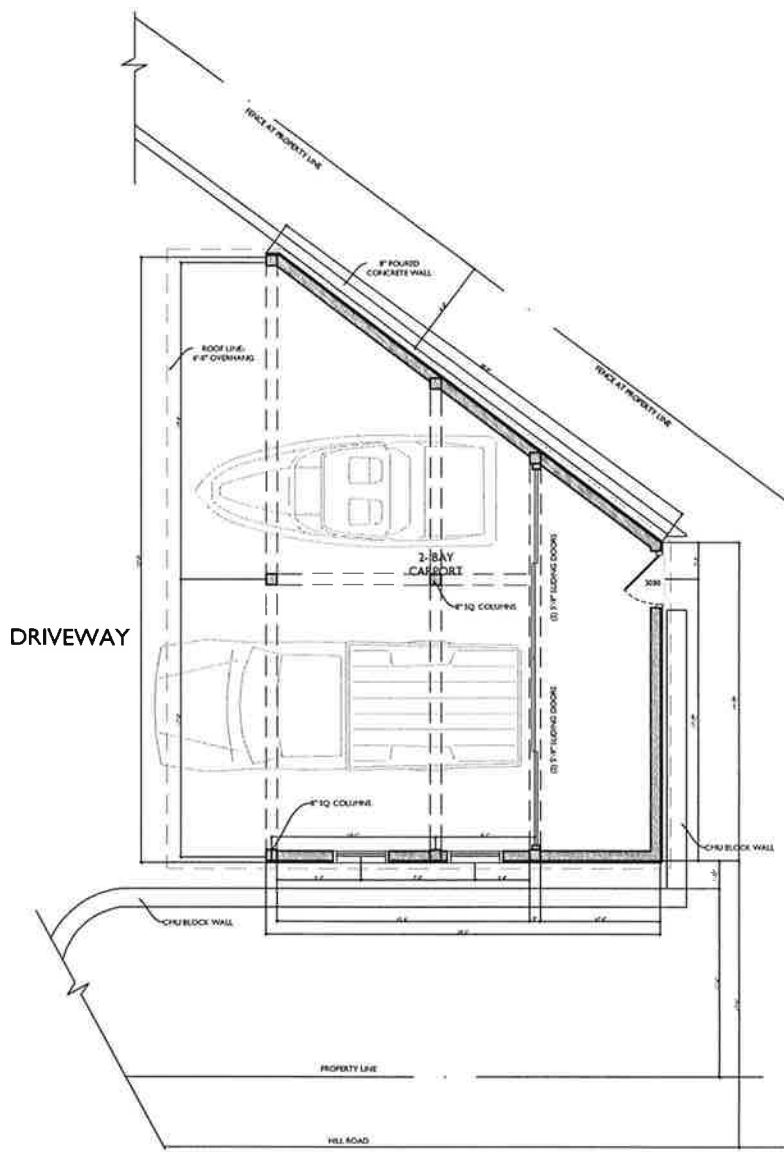
In the present case, the property located at 5555 Hill Road, Brentwood, TN 37027, as evidenced by the attached site plane has an irregular triangular shape, which creates narrow areas at the points of the triangle. The condition of the subject property are unique and not prevalent to other properties in the general area; this lot resulted as the remainder property from another property decades ago to create a subdivision development. Further, this hardship was not self-imposed and the basis of the request is functionality of the lot for vehicular storage rather than financial gain. Likewise,, this variance will not be injurious to neighboring propert(ies) or to the public welfare. In fact, applicant will demonstrate the support of adjacent and surrounding property owners. Finally, this property is not part of any master development plan and, as such, the granting of a variance will not compromise the design integrity of such a development.

Therefore, Applicant Andrew Johnson, meets the criteria for a variance under the Metro Code and requests a setback variance to construct the carport depicted in the attached siteplan.



**JOHNSON CARPORT: 5555 HILL ROAD**





NOTE: THESE DRAWINGS ARE FOR CONCEPTUAL AND LAYOUT PURPOSES ONLY. IT IS THE OWNER'S RESPONSIBILITY TO OBTAIN ALL NECESSARY PERMITS AND TO VERIFY ALL DIMENSIONS AND CONDITIONS BEFORE CONSTRUCTION. ALL DIMENSIONS SHALL BE SHOWN IN THE DRAWING UNLESS OTHERWISE NOTED.

KATHLEEN TIMS  
615.364.3416

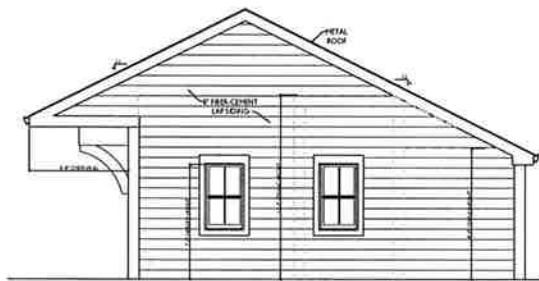
**JOHNSON CARPORT: 5555 HILL ROAD**

REVISIONS:  
03/04/2019  
05/26/2020

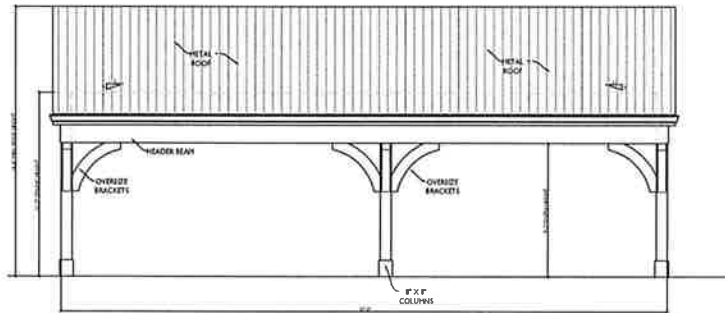
SCALE: 1/4"=1'-0"

**A.1**

DATE: 07/20/2019



**PROPOSED STREET ELEVATION**  
SCALE: 1/4" = 1'



**DRIVEWAY ELEVATION**  
SCALE: 1/4" = 1'

NOTE: THESE DRAWINGS ARE FOR CONCEPTUAL AND LAYOUT PURPOSES ONLY. IT IS THE OWNER'S RESPONSIBILITY TO OBTAIN ALL NECESSARY PERMITS AND TO CHECK ALL APPLICABLE REGULATIONS AND ORDINANCES. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE ACCURACY OF ALL INFORMATION PROVIDED TO THE ARCHITECT. ALL DIMENSIONS SHALL BE SHOWN ON THE DRAWINGS UNLESS OTHERWISE NOTED.

KATHLEEN TIMS  
615.364.3416

**JOHNSON CARPORT: 5555 HILL ROAD**

REVISIONS:  
03/04/2019  
05/26/2020

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

**A.2**

DATE: 07/28/2019

DEPARTMENT OF CODES & BUILDING SAFETY  
PO BOX 196350  
NASHVILLE, TN 37219-6350

July 13<sup>TH</sup>, 2020

RE: Appeal case # 2020-165  
5555 Hill Rd  
Map Parcel: 16000009800  
Zoning Classification: O4  
Council District: 4

Dear Members of the Board of zoning Appeals,

This letter is in response to the zoning appeal case # 2020-165. We live at 108 RAUSCH DRIVE, BRENTWOOD, TN 37027 and within 1000' of the 5555 Hill Road Property. Last year, on April 19, 2019, the property owner filed ~~an~~ appeal case # 2019-161 to construct a detached carport, which was denied (see permit summary for the permit # CAAZ 20190012477).

As we stated at the time, and, as we still maintain now, approving this request would change the landscape of our community (and also reduce the amount of green spaces). Also, allowing the construction of a detached carport will promote additional requests for variances to the established house & property regulations that we all strive to follow. Finally, this appeal should not be allowed under section 17.12.040.E1. Currently, there is a structure which stores construction wood panels at the 5555 Hill Road residence and which was not removed when the 2019-161 permit was denied.

We oppose this request. Sincerely,

JORGE & MONICA PEZZINENTI

5548 Hill Road  
Brentwood, Tennessee 37027  
July 13, 2020

Board of Zoning Appeals  
Metropolitan Government of Nashville & Davidson County  
P.O. Box 196350  
Nashville, Tennessee 37210

To the Board of Zoning Appeals:

Our family has lived directly across from the Johnsons for the past 14 years. We offer unqualified support for their variance (Appeal Case #2020-165).

Although we are not close friends, we value what the Johnsons' presence and property add to our neighborhood. They transformed what could have been an awkward, triangular lot into a home that looks like the cover of *Southern Living* magazine.

We feel that a carport will enhance the street view by interrupting the wide expanse of concrete parking area. The land in question slopes down from the street. This terraced effect will make a carport less obtrusive than it might otherwise look on a level lot.

The Johnsons are constantly working to improve their home and landscape. We never worry when we see them beginning a new project--we already know that the Johnsons will make Hill Road more beautiful than it was before. We feel certain that the proposed carport will do the same.

Thank you for considering our feedback,



Meredith and Shuler Pelham  
Homeowners

*[Faint, illegible text, likely bleed-through from the reverse side of the page]*



# JOHNSON CARPORT: 5555 HILL ROAD

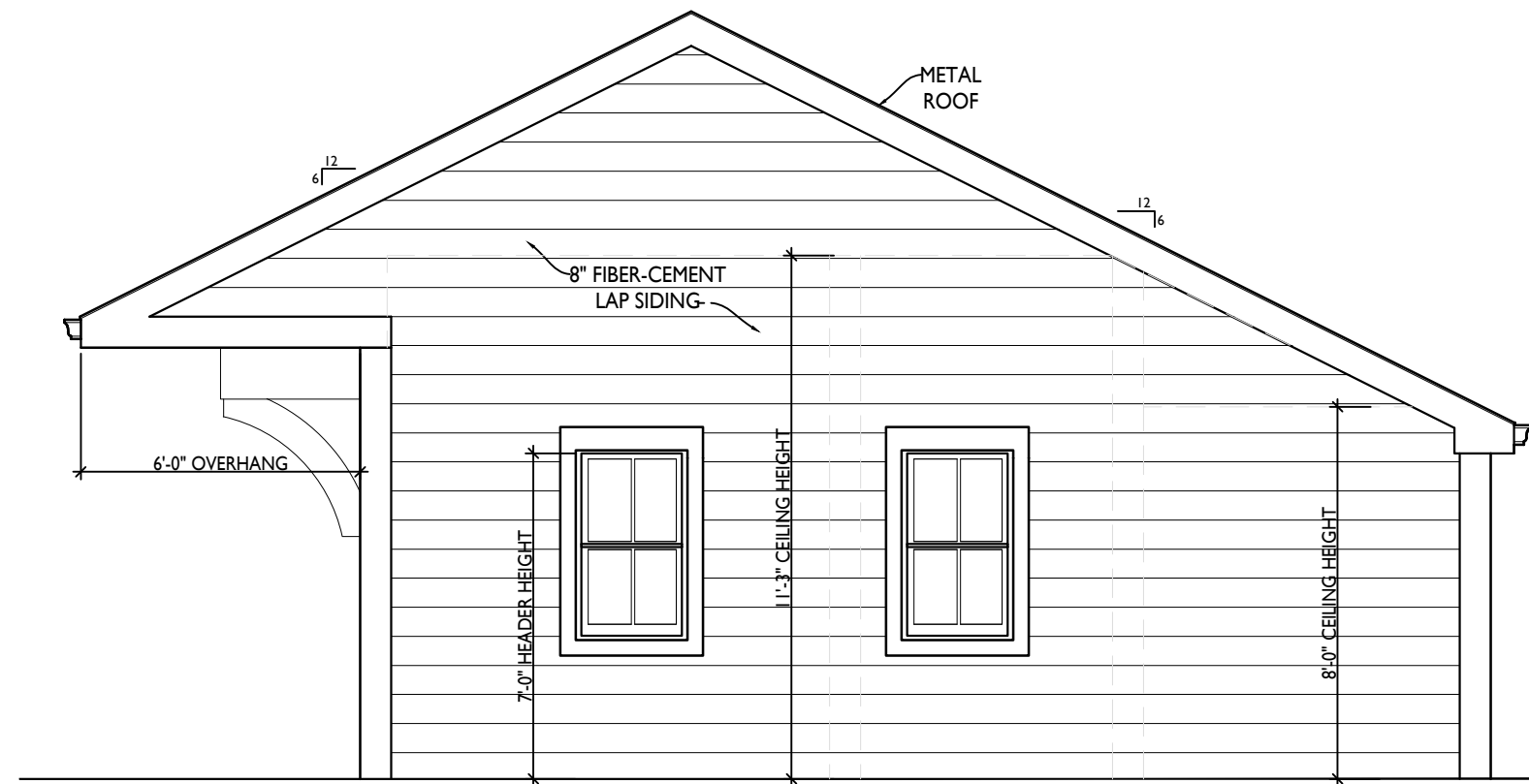
# JOHNSON CARPORT: 5555 HILL ROAD

REVISIONS:  
03/04/2019  
05/26/2020

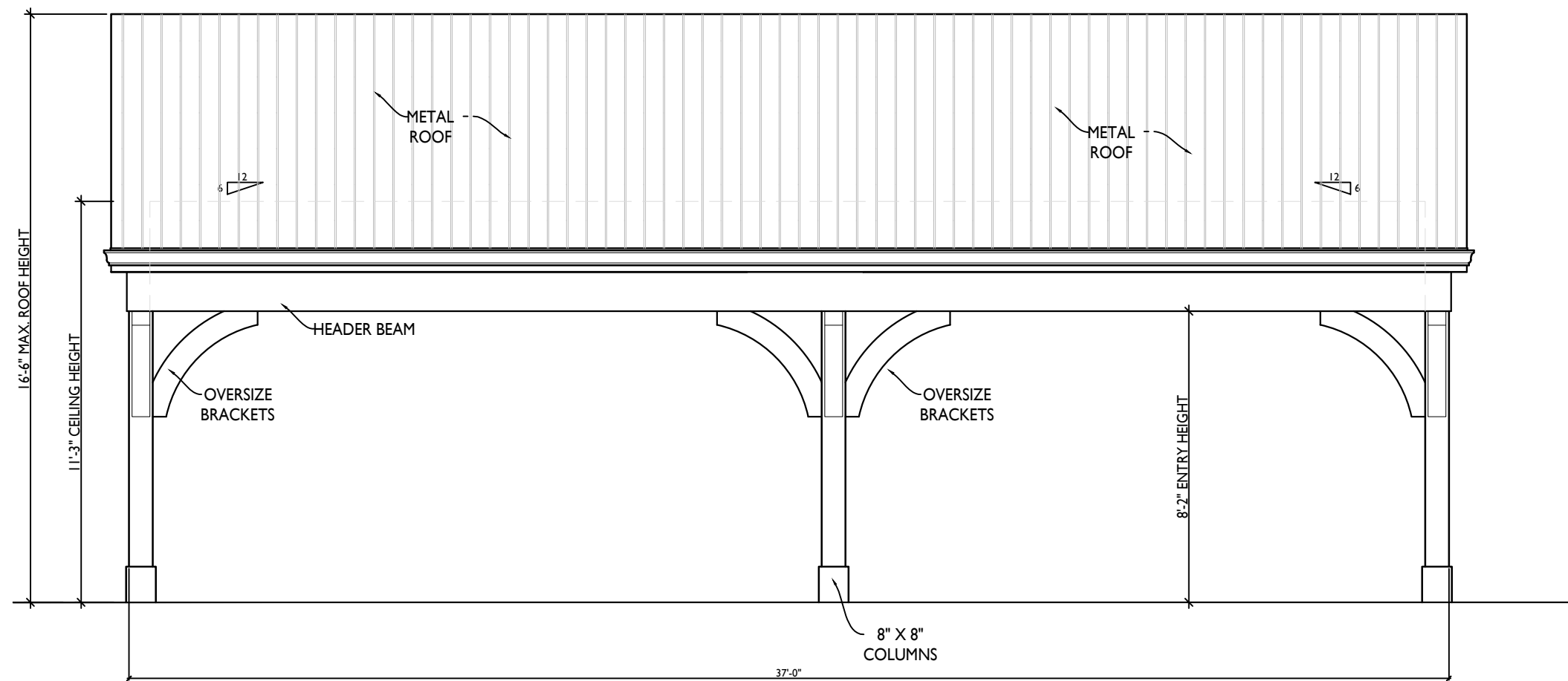
SCALE: 1/4"=1'-0"

## A.2

DATE: 02/20/2019



 **PROPOSED STREET ELEVATION**  
SCALE: 1/4"= 1'



 **DRIVEWAY ELEVATION**  
SCALE: 1/4"= 1'

NOTE: THESE DRAWINGS ARE FOR CONCEPTUAL AND LAYOUT PURPOSES ONLY. IT IS THE OWNERS' CONTRACTORS, AND/OR CABINET MAKERS' RESPONSIBILITY TO FIELD CHECK MEASUREMENTS AND MAKE ADJUSTMENTS TO THE PLAN, AS REQUIRED BY JOB CONDITIONS AND/OR CODES, WHICH BECOME APPARENT DURING THE CONSTRUCTION PROCESS. ALL CHANGES MUST BE APPROVED BY THE OWNER PRIOR TO WORK BEING PERFORMED.

KATHLEEN TIMS  
615.364.3416

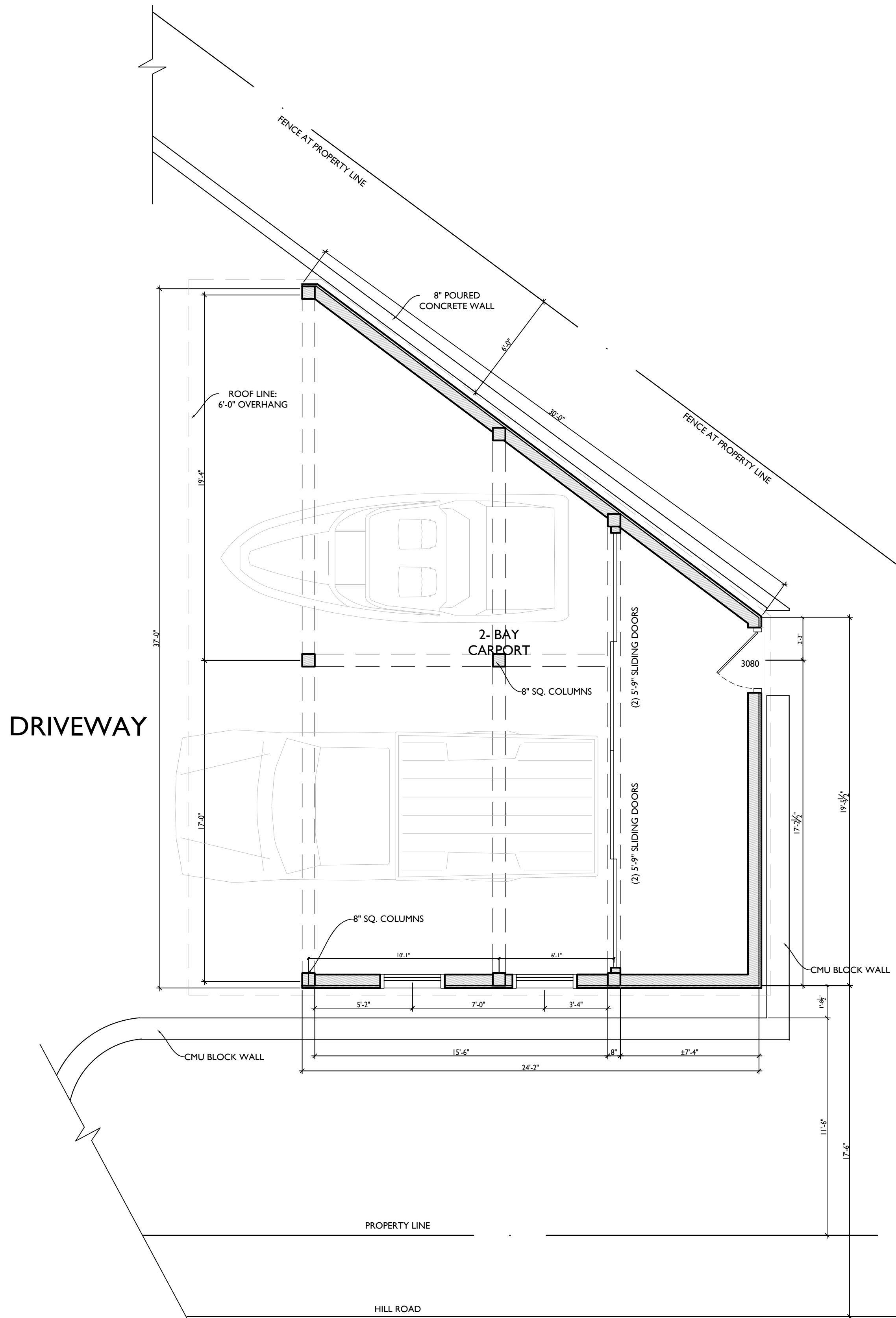
# JOHNSON CARPORT: 5555 HILL ROAD

REVISIONS:  
03/04/2019  
05/26/2020

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

## A.I

DATE: 02/20/2019



NOTE: THESE DRAWINGS ARE FOR CONCEPTUAL AND LAYOUT PURPOSES ONLY. IT IS THE OWNERS' CONTRACTORS, AND/OR CABINET MAKERS' RESPONSIBILITY TO FIELD CHECK MEASUREMENTS AND MAKE ADJUSTMENTS TO THE PLAN, AS REQUIRED BY JOB CONDITIONS AND/OR CODES, WHICH BECOME APPARENT DURING THE CONSTRUCTION PROCESS. ALL CHANGES MUST BE APPROVED BY THE OWNER PRIOR TO WORK BEING PERFORMED.



Andrew & Melody Johnson  
5555 Hill Road  
Brentwood, TN 37027

**August 1, 2020**

Board of Zoning Appeals  
Metropolitan Government of Nashville & Davidson County  
P.O. Box 196350  
Nashville, TN 37210

**Subject: Appeal Case 2020-165 (Setback Variance Request)**

To the Members of the Board of Zoning Appeals,

I appreciate the opportunity to submit our appeal to your board. I was born and raised in Nashville and have lived in Davidson County my entire life. I grew up in Donelson, and now my family has made our home just a few houses down from Granbery Elementary.

I purchased the land at 5555 Hill Road in July 2003. It was a leftover lot (left for abandonment) from the Brentwood Chase Development in the late 1990s (almost the year 2000). It was our first major purchase as a new couple for me and my wife, Melody. The lot was the first step in making a home that we could raise a family.

However, shortly after purchasing the lot, we found out it did not have sewer access, and it was questionable as to whether or not we could get a sewer easement to construct our first house. After many weeks and months of researching what to do, we were able to obtain an easement for the sewer located in the culdesac (Avery Court) on the street behind our house. Two years later, on July 4, 2005, we made 5555 Hill Road our home.

Since it was our first house and we were so young, we were not able to build our home the way we would have wanted. As I mentioned above, the lot was left for abandonment because of its odd triangular shape, and the builder knew it would be a complicated process to build a home.

Now that 17 years have passed, we have put our blood, sweat, and tears into building and making 5555 Hill Road our dream home. We have a 7th-grade daughter and three dogs. It is the house that we built together and the house that we love. Our daughter was born and is being raised in this house. We plan on staying here for many years to come. I would want nothing more but to pass this home down to my daughter someday.

The lot, even though it is non-conforming due to its triangular shape, has plenty of room for a carport. My family is requesting this variance for the following reasons:

1. Provide additional covered parking for my daughter when she turns 16
2. Provide covered parking for my utility trailer

3. Provide storage for small mechanical tools such as our lawnmower, blower, wheel barrels, and weed eater

The lot is non-conforming, but we love it, and it works great for our needs. We are proud of our house and can assure you that we have no intention of building a carport that would be detrimental to our neighbors. The carport is functional by protecting vehicles that already park in this area, and also this project will complete the curb appeal of our home.

I respectfully ask for approval of this carport buildout as it would be something that we have always dreamed of having.

Thank you for your attention to this matter.

Sincerely,

Three handwritten signatures in blue ink are arranged horizontally. From left to right, they appear to be 'Andy C. Johnson', 'Melody Johnson', and 'Elsie Johnson'. The signatures are fluid and cursive.

Andy, Melody, & Elsie Johnson



August 3, 2020

Board of Zoning Appeals  
Metropolitan Government of Nashville & Davidson County  
PO Box 16350  
Nashville, TN 37210

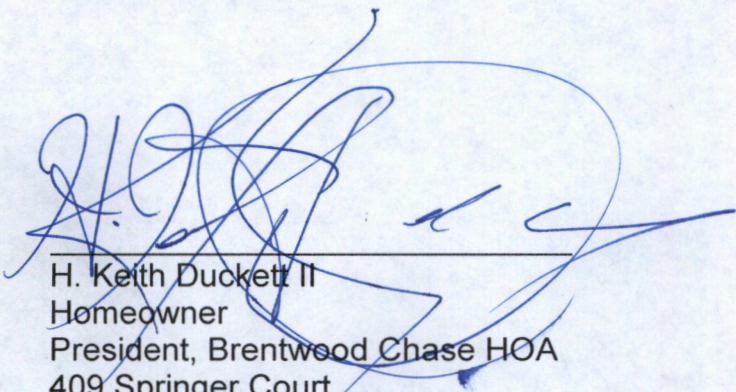
**CASE 2020-165**

Via: Email

I am a homeowner residing near the Johnson residence as described in this case. I personally support the requested variance in that I can see there is no negative impact to the surrounding neighborhood. Observing the quality of the Johnson's property I am confident this will enhance the area. In addition, I am the President of the Brentwood Chase HOA which adjoins the Johnson property. The homeowners I have personally spoken with have not voiced any objection to the requested variance.

This request appears to me to be a unique circumstance and after review of the submitted documents, I can think of no logical reason to oppose the request.

If you need to contact me for additional information, please feel free to do so as indicated below.



---

H. Keith Duckett II  
Homeowner  
President, Brentwood Chase HOA  
409 Springer Court  
Brentwood, TN 7027  
hkduckett@pobox.com



Matthew Weerts  
420 Old Towne Drive  
Brentwood, TN 37027

August 1, 2020

Board of Zoning Appeals  
Metropolitan Government of Nashville & Davidson County  
P.O. Box 196350  
Nashville, TN 37210

**Regarding Appeal Case 2020-165**

Members of the Board of Appeals,

This letter is regarding the requested variance for appeal case 2020-165.

I am the President of the homeowner's association for Terraces of Brentwood Chase, behind the Johnson residence on Hill Road. The fundamental purpose of any homeowner's association is to maintain and increase the value of the homes in the community. I appreciate Andy Johnson seeking my opinion on this matter.

Andy and I have discussed the proposed project in detail, and in my opinion, the structure will add value to his property and to the neighborhood. It will improve the overall appearance by providing an aesthetically pleasing location to store an orange utility trailer and other items, rather than in the driveway or other covered structure currently in place.

Having been both inside their property, as well as, outside, I can speak to their impeccable taste. Candidly, it seems that opposition to this proposal may be misunderstanding the intentions of the Johnson's request.

As a Rule 31 Mediator listed with the Tennessee Supreme Court, I understand the importance of finding an amicable solution for all parties involved, if at all possible. I would urge the Board of Zoning Appeals in this case, to consider whether the voices of protest have personally seen the exterior of the Johnson's residence.

I would also recommend that compromises and alternatives be considered by all parties, so as to find an agreement everyone can live with. It could be possible that individuals would oppose the

request without seeing the property in person. I would hope that those that are less informed, would listen to views differing from their own and seek better understanding. I would ask that everyone involved would listen as much as they want to be heard.

Thank you for the opportunity to write this letter in support of this request. Please do not hesitate to contact me with any questions or concerns.

Best Regards,

A handwritten signature in black ink, appearing to read 'Matthew Weerts', with several long, sweeping horizontal strokes extending to the right.

Matthew Weerts  
President, Terraces of Brentwood Chase  
[mdweerts@gmail.com](mailto:mdweerts@gmail.com)

**(Appeal Case 2020-165)**  
**Support of Variance from Front Setback Requirement**  
**at 5555 Hill Road Brentwood TN 37027**

Chris Watts 313 Avery Court Brentwood, TN 37027  
Email: cwatts@americasmotorsports.com

August 1, 2020

Board of Zoning Appeals  
Metropolitan Government of Nashville & Davidson County  
P.O. Box 196350  
Nashville, TN 37210


To the Board of Zoning Appeals:

I am more than pleased to have the opportunity to support the request for a variance setback by Andy & Melody Johnson. I have been their next-door neighbor for over a decade, and they have consistently improved their house and landscaping. I have always been impressed by their home improvements, and I honestly believe it has added value to their house as well as the other surrounding homes.

The Johnson's have cleaned up the proposed area, have planted over 20 trees and shrubs, and have materially improved the look and feel (where it previously was not a well-maintained area). I have recently removed dead trees and replaced new trees and shrubs to coordinate the landscaping in this area in my yard. Additionally, this area of the Johnson property is also a popular walk through to Hill Road as many of our neighbors use it as a short cut to Granbery Elementary School, which is just down the street.

I wholeheartedly recommend the request for a variance be approved. I am confident the carport will increase the value of the property as well as mine. Please feel free to contact me if you have any questions regarding this matter.

Sincerely,

  
Richard C. Watts ("Chris")



Ted Goldthorpe  
309 Avery Court  
Brentwood, TN 37027

July 23, 2020

Board of Zoning Appeals  
Metropolitan Government of Nashville & Davidson County  
P.O. Box 196350  
Nashville, TN 37210

**Matter: Appeal Case 2020-165 (Request for Variance Setback – 5555 Hill Road)**

To the Board of Zoning Appeals:

I am writing you all this letter in support of the requested Variance Setback requested by Andy and Melody Johnson. The Johnson's are very good friends and our children all attend the same school.

We do not feel the proposed carport causes any issues within the neighborhood. The Johnson's have consistently maintained their property in a manner that brings much curb appeal to the area. The Johnson's have created a pleasant path from our neighborhood (Brentwood Chase) to enter onto Hill Road so that it is easy for our family and neighbors to enjoy Granbery Park and other public areas on or near Hill Road.

Our family and surrounding neighbors are in full support of the carport and fully support the approval of this Variance Setback.

Sincerely,



Ted Goldthorpe

Christopher & Jennifer Kovalcik  
5552 Hill Road  
Brentwood, TN 37027

August 1, 2020

Board of Zoning Appeals  
Metropolitan Government of Nashville & Davidson County  
P.O. Box 196350  
Nashville, TN 37210

**Subject: Appeal Case 2020-165 (Setback Variance Request)**

Dear Members of the Board of Appeals,

We are writing this letter as a show of support for the Johnson Family as they have requested a setback variance in order to build a detached carport on their property. We have lived across the street from the Johnson's for approximately nine years and have seen their continual effort of home and landscaping improvements. They are an exemplary neighbor to all in the area.

Likewise, we have continued to upgrade our house and landscaping, and firmly believe that the improvements efforts we made have increased the status and value of the homes on Hill Road.

Based on our experience with the Johnsons, we are confident this new carport addition will be tastefully done and maintain the charm and character of the houses in the neighborhood. A carport designed in the same character as the existing home will provide much more curb appeal than cars, trucks, lawnmowers, etc. sitting in the driveway.

In addition, we do not believe a carport structure at its current requested placement, will be a detriment to the visual sightlines when driving on Hill Road. We drive past the Johnson's house at least three or four times daily, for work and kids' activities, and can attest there is no visual impairment with oncoming cars or the street sightlines.

My family strongly recommends the approval of this setback as we feel it is in the best interest of the area's stakeholders. Please let us know if any further clarification or insights are needed regarding our support.

Sincerely,



Christopher Kovalcik

---

August 4, 2020

Board of Zoning Appeals  
Metropolitan Government of Nashville & Davidson County  
PO Box 16350  
Nashville, TN 37210

CASE #2020-165

Via: E-mail

To the Board of Zoning Appeals-

Regarding the stated case #2020-165 of Andrew Johnson, I am a neighbor residing in close proximity to the said homeowner in the case. I fully support the variance requested by the Johnson's. They are known for the quality and craftsmanship in their home and property. Thus, the variance would elevate their existing property value. Any opposition to this variance would be inconsequential.

Sincerely yours,

Nancy Stillwell

Homeowner

409 Springer Court Brentwood TN 37027. 615-516-0945

Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210



Appellant: WOODSON CHAPEL CHURCH OF CHRIST Date: 6-14-20  
Property Owner: WOODSON CHAPEL Case #: 2020- 166  
Representative: KENDALL HARRIS Map & Parcel: 17200002501

Council District 4

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

Purpose: requesting variance to allow an electronic message center at 5800 Edmondson Pike. The address is in an Agricultural/Residential zoning.

Activity Type: Signage

Location: 5800 Edmondson Pike

This property is in the AR2A 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: In Agricultural/Residential zoning district.

Section(s): 17.32.050

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.

WOODSON CHAPEL CHURCH OF CHRIST  
Appellant Name (Please Print)

5800 EDMONDSON PIKE  
Address

NASHVILLE TN 37211  
City, State, Zip Code

615-833-8480  
Phone Number

OFFICE @ WOODSON CHAPEL.COM  
Email

Mike Shea  
Representative Name (Please Print)

630 Murfreesboro Pike  
Address

Nashville, TN 37210  
City, State, Zip Code

615-255-3463  
Phone Number

mikeshea@joslinsign.com  
Email

Appeal Fee: \$200.00

## 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 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.

Kendall B. Harris  
**APPELLANT**  
 (FOR WOODSON CHAPEL CHURCH)  
 KENDALL HARRIS

6-14-20  
**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 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?**

See Attached (next page)

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118 SQ FT



**WOODSON CHAPEL**

5800 EDMONDSON PIKE  
NASHVILLE, TN 37211

200076-S30

05-15-20	1 / 2
M.SHEA	M. CLINE

Q-098635

WO-XXXXXX

PHOTO RENDERING

CUSTOMER

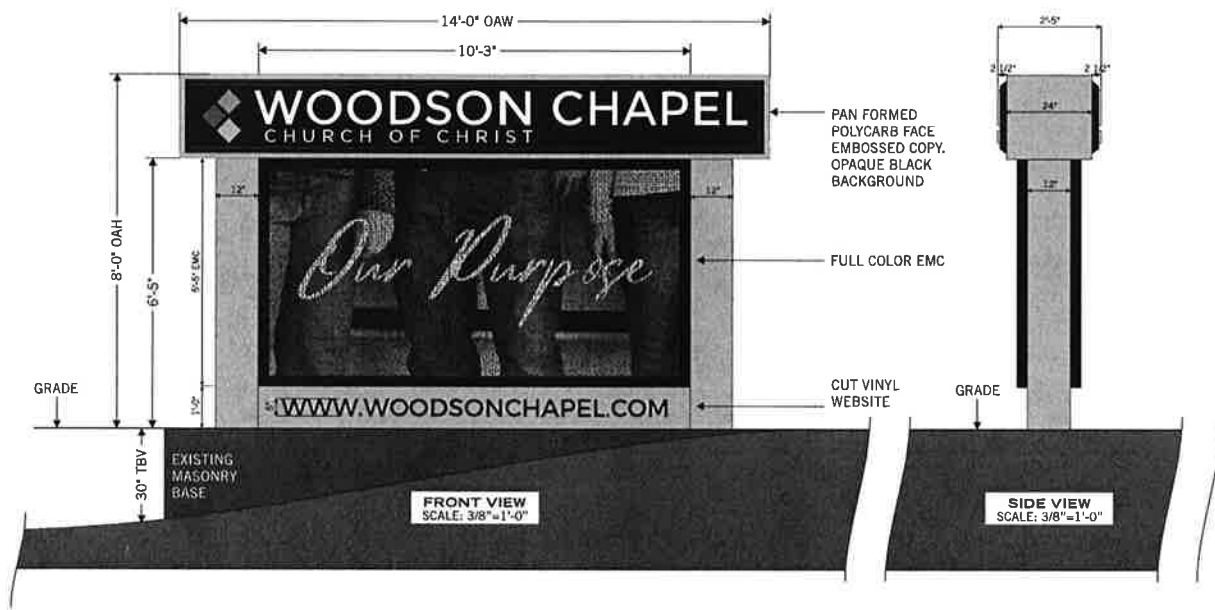
PROJECTIONS



JOSLIN AND SON SIGNS  
1100 W. WOODSON PIKE  
NASHVILLE, TN 37211

DESIGN & DRAWING PROPERTY OF JOSLIN & SON SIGNS. USE WITHOUT CONSENT SUBJECT TO INVOICING AND / OR LITIGATION

118 SQ FT



PAINT COLORS TBD

**ELECTRICAL NOTES**  
 ELECTRICAL IN J. BOX  
 INSIDE CAB CONNECTED  
 TO PRIMARY LEADS:  
 POWER-POWER  
 NEUTRAL-NEUTRAL  
 GROUND-GROUND  
THIS SIGN IS DESIGNED FOR FREESTANDING APPLICATIONS.  
 WITH THE PROPERLY INSTALLED ELECTRICAL CONNECTIONS,  
 ELECTRICAL CODES AND THE PROPER WIRING, THIS SIGN IS  
 THE PROPERTY OF JOSLIN & SON SIGN CO. FOR THE USE OF  
 THE CLIENT. THIS SIGN IS NOT TO BE USED FOR ANY OTHER PURPOSE.  
 AVAILABLE FOR THE LOCAL MARKET.

<b>WOODSON CHAPEL</b>	
5800 EDMONDSON PIKE NASHVILLE, TN 37211	
<b>200076-S30</b>	
05-15-20	2/2
M.SHEA	M. CLINE
<b>Q-098635</b>	
<b>WO-XXXXXX</b>	
FABRICATE/INSTALL NEW ALUMINUM MOUNTMENT SIGN WITH DF LED ILLUM TOP CABINET W/ PAN FORMED AND EMBOSSED FACES, FULL COLOR EMC AND CUT VINYL COPY.	
	CABINET COLOR TBD
	PMS 1245 C
	PMS 7545 C
	COOL GRAY 4 C
	BLACK
	WHITE
JOSLIN & SON SIGN CO.	
2100 W. WOODSON PIKE NASHVILLE, TN 37211 615-251-1977	

DESIGN & DRAWING PROPERTY OF JOSLIN & SON SIGNS. USE WITHOUT CONSENT SUBJECT TO INVOICING AND / OR LITIGATION

# THE CHURCH OF CHRIST AT WOODSON CHAPEL

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5800 Edmondson Pike  
Nashville, TN 37211  
Phone: 615-833-8480  
Fax: 615-833-9929

June 14, 2020


Members of the Board of Zoning Appeals,

Thank you for time and consideration of the request by us to permit a new sign to be placed at our current footprint.

- Woodson Chapel has been a part of this community since 1880. So, for 140 years, we have had a congregation meeting on the property located at Edmondson Pike. We take pride in maintaining our current property to provide a pleasing appearance.
- Our new sign will be placed at our current footprint and although a slightly different shape, it will maintain the approximate size of our current sign.
- The new sign will allow us to provide messages in a more timely and convenient manner, in addition to having an updated appearance.
- The property directly across from us is vacant and from our understanding is zoned a flood plain. The other property across the street (toward Old Hickory Blvd.) that is located next to Kroger is buffered by trees and other landscaping.
- We also own the two houses that border the property on our south side. These are used to provide housing for our ministers and are maintained by us as well. All the other property around us is commercial property.

Thank you for your consideration and your service,

On behalf of Woodson Chapel Church of Christ,

  
Kendall B. Harris

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**From:** [Fred and Chris Guenther](#)  
**To:** [Board of Zoning Appeals \(Codes\)](#)  
**Subject:** Appeal Case Number: 2020-166  
**Date:** Friday, July 10, 2020 8:55:54 AM

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I reviewed this case at epermits (#20200038929) this morning hoping to find additional information regarding their signage request but found NO useful information that might help me make a decision. For example: How large will the sign be, where will it be located (same as the current sign or elsewhere), how bright will it be when illuminated, how distracting will it be to traffic on Edmondson Pike? In light of the ongoing pandemic, we are not planning to attend the public hearing, but given the lack of information they are willing to share online, we do NOT support their request.

Respectfully,  
Siegfried and Christine Guenther  
neighbors at 6101 Frontier Ct.



## NASHVILLE METROPOLITAN COUNCIL

**ROBERT SWOPE**

MEMBER OF COUNCIL

**Councilman, District 4**

5025 Marc Drive \* Nashville \* Tennessee \* USA  
[Robert.Swope@Nashville.gov](mailto:Robert.Swope@Nashville.gov) 615.308.0577

17 July 2020

Members of the Board of Zoning Appeals,

Thank you so much for your time and consideration of the request by the Woodson Chapel Church on Edmondson Pike Nashville, TN 37211 in District 4 which I represent. I am writing to express my support to their request to replace their current sign with an electronic message board for the following reasons:

- That section of Edmondson Pike is just off a major corridor intersection (with Old Hickory Blvd) that is completely commercial with very few residential properties.
- No residential properties are located directly across from this church. Any residences are buffered by landscaping on Edmondson.
- There are other churches in the area that have switched over to electronic message boards on Old Hickory Blvd, a major corridor.

I thank you for your consideration, and your continued service to our great City.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Swope", with a horizontal line extending to the right.

Robert Swope  
Member of Metro Council, District 4





## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Justin Strickland, Seefried Properties Date: 6/22/2020  
 Property Owner: Amazon.com Services, Inc. Case #: 2020-167  
 Representative: BL Companies, Inc. Map & Parcel: 13204000900  
 Council District: 16

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

Purpose: Add a fourth driveway onto Armory Drive, to better serve the new development and improve safety for Employees navigating through the site.  
 Activity Type: Distribution Facility  
 Location: 2960 Armory Drive, Nashville

This property is in the IR 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: Per Zoning Ordinance, only 3 driveways are allowed based on the site's property frontage.  
 Section: 17.20.170

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: Justin Strickland, Seefried Properties Representative: BL Companies, Inc.  
 Phone Number: 678-741-8045 Phone Number: 704-565-7076  
 Address: Seefried Properties Address: 3420 Toringdon Way  
3333 Riverwood Pkwy, Suite 200 Suite 210  
Atlanta, GA 30339 Charlotte, NC 28277  
 Email address: justins@seefriedproperties.com Email address: mcarlson@blcompanies.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.)

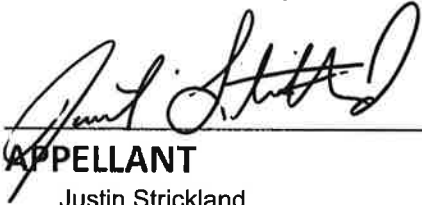
The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being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

  
 \_\_\_\_\_  
**APPELLANT**

Justin Strickland  
 Seefried Properties  
 770.468.8862

6/19/2020  
 \_\_\_\_\_

**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.*

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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?**

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## TECHNICAL MEMORANDUM

**To:** Metropolitan Board of Zoning Appeals

**From:** John Karnowski, PE, PTOE, AICP ([john.karnowski@NV5.com](mailto:john.karnowski@NV5.com))

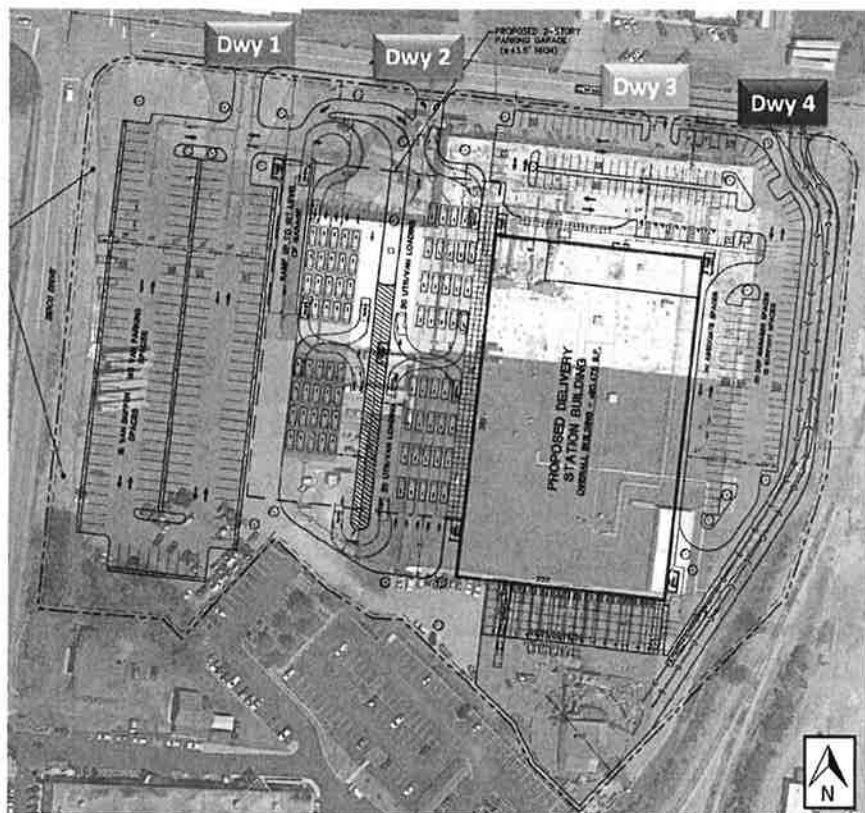
**Date:** June 19, 2020

**Re:** Site Access Variance  
Amazon Delivery Station DNA2  
2960 Armory Drive  
Nashville, TN

An Amazon package delivery station will be located at 2960 Armory Drive – in the southeast quadrant of the intersection of Sidco Drive and Armory Drive. Because of the grade of Sidco Drive relative to the site elevation, all access must be via Armory Drive. The proposed development will have four access points on Armory Drive. (See inset plan below.) The Nashville Zoning Code provides for a variance on the limitation of three driveways per development. This memo documents the variance criteria and an examination of its applicability/suitability.

### Site Description

The site will consist of three distinct traffic areas. Line-haul truck deliveries will be on the south side of the building (shown in red). Trucks will enter from Driveway 4 – furthest from Sidco Drive and circulate to the rear of the building. Employees will enter at Driveway 3 and park on the east and north sides of the building (gold). The delivery vehicles, a.k.a. “sprinter vans”, will park to the east of the building (blue) on two levels and enter the property from Driveway 1, closest to Sidco Avenue. When waiting to load, the vans will queue between the van parking area and the loading area on the west side of the building (purple). The loaded vans (green) will exit Driveway 2 on Armory Drive. There is an internal circulator driveway for the vans to move back to the parking area without using Armory Drive. Driveway 2 is one-way exiting the site.



Delivery stations are the last mile connection between Amazon's fulfillment process and their customers. Packages are transported to delivery stations via tractor-trailer trucks from neighboring Amazon fulfillment and sortation centers and are further sorted, picked and loaded into delivery vehicles.

Delivery stations operate 24/7 to support delivery of packages to customer locations between 10:30 AM and 9:00 PM. At the proposed Nashville facility, Amazon expects seven (7) line haul trucks transporting packages to the delivery station each day, primarily between the hours of 10:00 PM to 8:00 AM. There will be 85 on-site employees, resulting in 170 two-way trips per day.

The delivery operations primarily consist of 86 employees that arrive around 9:20 AM. Beginning at 9:50 AM and ending at 11:30 AM, 86 delivery vans will load and depart from the delivery station at a rate of 30 vans every 20 minutes. The vans return to the delivery station between 7:10 PM and 9:00 PM. The drivers park the delivery vans and leave using a personal vehicles or public transport.

The delivery station will also use Amazon Flex to deliver packages from this location. Amazon anticipates 23 traditional passenger vehicles entering the facility staggered between 4:30 PM and 6:00 PM. Flex vehicles will load and depart every 15 minutes. They will not return to the station that same day. Table 1 shows the anticipated traffic volume by vehicle type.

**Table 1. Trip Generation**

Traffic	Daily Trips
Auto - Employees	342
Delivery Vans	172
Auto - Flex	45
Line-Haul Trucks	14
<b>Total Traffic</b>	<b>573</b>

## Variance Elements

- A. *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 upon the strict application of any regulation enacted by the ordinance codified in this title.
- B. *Unique Characteristics.* The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.
- C. *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 the ordinance codified in this title.
- D. *Financial Gain Not Only Basis.* Financial gain is not the sole basis for granting the variance.
- E. *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.
- F. *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.
- G. *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.

An examination of each criteria follows:

### A. Physical Characteristic of the Property

The site may only be accessed via Armory Drive because the grade of Sidco Drive is so much lower than the parking lot. The site is not large enough to create multiple internal intersections such that the traffic can be separated after arriving on the site. Moreover, Armory Drive essentially ends at the railroad tracks with very few vehicles using it. (Source, *Traffic Impact Study, June 2020, NV5*)



**B. Unique Characteristics**

The site was operational for many years with a number of different businesses occupying the space. There are currently four full-access curb cuts for the property along Armory Drive. The most recent occupant used a roll-back gate to close off Driveway 4 but used the other three driveways.

The traffic to and from the site is very distinct in composition and in times of use. The majority of employees arrive in the middle of the night and leave in the afternoon. The few trucks that arrive do so over a 10-12 hours period or time. Sprinter vans dispatch after the morning "rush hours" and do not conflict with any other site traffic. In essence, there are multiple times during the day when vehicles will use their respective driveways but will primarily do so when there are few other vehicles using the other driveways.

The four proposed driveways constitute three points of ingress and four points of egress. For safety reasons, Amazon requires a separation of truck traffic from employee traffic. In addition, because the vans release in waves, there are times when 30 vans will leave the facility at the same time, so it is desirable to isolate their operations from the rest of the traffic.

**C. Hardship Not Self-Imposed**

As mentioned previously, the site currently has four points of access along Armory Drive. The Amazon delivery station was laid out to take advantage of those curb cuts and separate the disparate traffic from each other.

**D. Financial Gain Not Only Basis**

There does not appear to be a financial gain to the request for four driveways. Instead, the reason is to provide better and safer site circulation.

**E. No Injury to Neighboring Property**

There are two parcels that use Armory Drive. One contains a wholesale bakery with two driveways on Armory Drive between Sidco Drive and the railroad tracks and another along the north stretch of Armory Drive. Most of their vehicle activity is in the early morning for employees and deliveries. The other parcel with access on Armory Drive is the rear loading area of a low-rise industrial space; the major tenant is CenturyLink, a technology/communications company. The volume of traffic along Armory Drive is light (less than 100 vehicles in an hour). The Amazon delivery station will have very few vehicles impacting the road network during the peak hours.

**F. No Harm to Public Welfare**

The proposed land use on the subject site, Amazon's package delivery station, is consistent with the zoning and with other businesses in the area, including the wholesale bakery to the immediate north of the subject site.

**G. Integrity of Master Development Plan**

The site is not part of a master planned development. It is within an industrial area and its use is consistent with other uses.

**Summary**

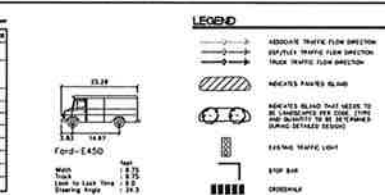
In my opinion, the proposed Amazon delivery station plan to utilize the existing four driveways for its operations are consistent with the variance request.

Attachment A: Proposed Traffic Schedule

DNA2 in Nashville, TN - 1W1F												
Time	Autos			Trucks			Vans			Total		
	In	Out	Total	In	Out	Total	In	Out	Total	In	Out	Total
00:00	0	0	0	0	0	0	0	0	0	0	0	0
01:00	45	0	45	1	0	1	0	0	0	46	0	46
02:00	0	0	0	0	1	1	0	0	0	0	1	1
03:00	0	0	0	0	0	0	0	0	0	0	0	0
04:00	0	0	0	1	1	2	0	0	0	1	1	2
05:00	14	0	14	0	0	0	0	0	0	14	0	14
06:00	0	0	0	1	0	1	0	0	0	1	0	1
07:00	0	0	0	0	1	1	0	0	0	0	1	1
07:30	0	0	0	0	0	0	0	0	0	0	0	0
08:00	0	0	0	0	0	0	0	0	0	0	0	0
08:30	0	0	0	0	0	0	0	0	0	0	0	0
09:00	50	0	50	1	0	1	0	0	0	51	0	51
10:00	36	0	36	0	1	1	0	86	86	36	87	123
11:00	2	0	2	0	0	0	0	0	0	2	0	2
12:00	0	45	45	0	0	0	0	0	0	0	45	45
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14:00	0	14	14	0	0	0	0	0	0	0	14	14
15:00	0	0	0	0	0	0	0	0	0	0	0	0
16:00	23	0	23	0	0	0	0	0	0	23	0	23
16:30	0	12	12	0	0	0	0	0	0	0	12	12
17:00	0	11	11	0	0	0	0	0	0	0	11	11
17:30	0	0	0	0	0	0	0	0	0	0	0	0
18:00	0	10	10	1	0	1	0	0	0	1	10	11
19:00	0	24	24	0	1	1	47	0	47	47	25	72
20:00	0	57	57	1	0	1	39	0	39	40	57	97
21:00	0	5	5	0	1	1	0	0	0	0	6	6
22:00	0	16	16	1	0	1	0	0	0	1	16	17
23:00	0	0	0	0	1	1	0	0	0	0	1	1
<b>Total</b>	<b>194</b>	<b>194</b>	<b>387</b>	<b>7</b>	<b>7</b>	<b>14</b>	<b>86</b>	<b>86</b>	<b>172</b>	<b>287</b>	<b>287</b>	<b>573</b>

1st Shift:	2:00 AM	12:30 PM	45	Assoc.
2nd Shift:	6:00 AM	2:30 PM	14	Assoc.
3rd Shift:	1:30 PM	10:00 PM	14	Assoc.
PFSD Shift:	2:00 PM	6:00 PM	10	Assoc.
RTS Shift:	12:00 PM	10:30 PM	2	Assoc.
Drivers:	9:20 AM	8:50 PM	86	Drivers

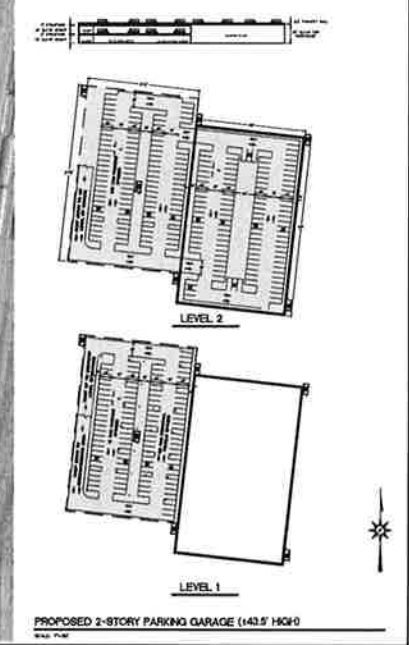
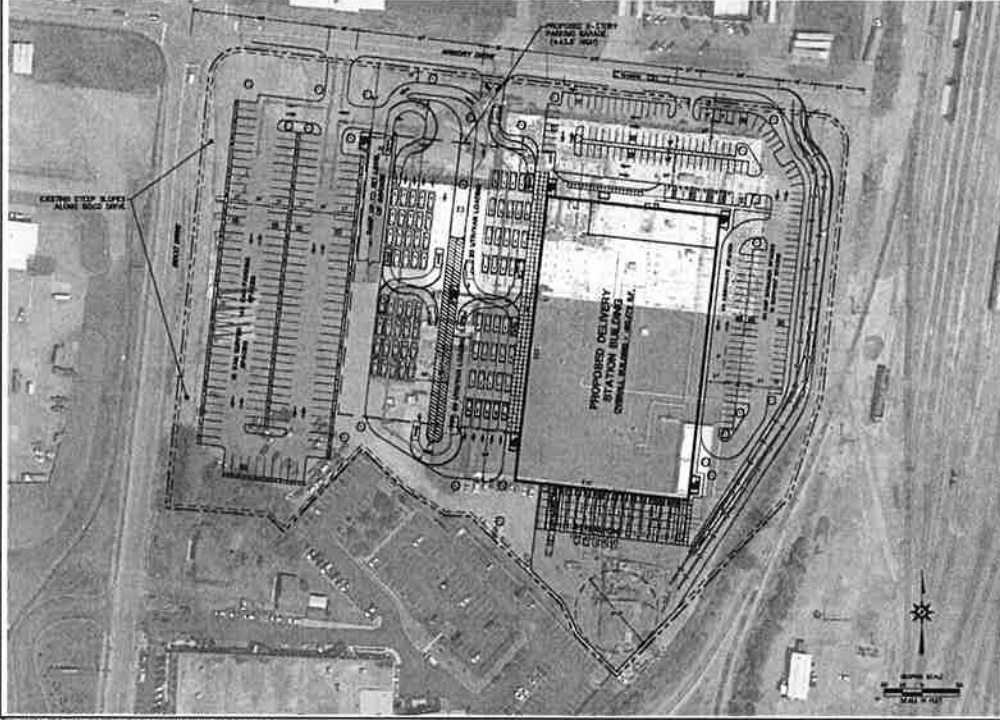
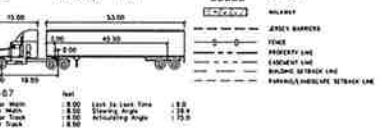
ITEM #	TYPE	REQUIREMENT	PROPOSED	REMARKS
1	MINIMUM LOT AREA	1,000 SQ FT (275 SQ M)	1,000 SQ FT	
2	MINIMUM LOT WIDTH	30 FT	30 FT	
3	MINIMUM DRIVEWAY WIDTH	10 FT	10 FT	
4	MINIMUM DRIVEWAY SPACING	10 FT	10 FT	
5	MINIMUM DRIVEWAY SETBACK	5 FT	5 FT	
6	MINIMUM DRIVEWAY WIDTH	10 FT	10 FT	
7	MINIMUM DRIVEWAY SPACING	10 FT	10 FT	
8	MINIMUM DRIVEWAY SETBACK	5 FT	5 FT	
9	MINIMUM DRIVEWAY WIDTH	10 FT	10 FT	
10	MINIMUM DRIVEWAY SPACING	10 FT	10 FT	
11	MINIMUM DRIVEWAY SETBACK	5 FT	5 FT	
12	MINIMUM DRIVEWAY WIDTH	10 FT	10 FT	
13	MINIMUM DRIVEWAY SPACING	10 FT	10 FT	
14	MINIMUM DRIVEWAY SETBACK	5 FT	5 FT	
15	MINIMUM DRIVEWAY WIDTH	10 FT	10 FT	
16	MINIMUM DRIVEWAY SPACING	10 FT	10 FT	
17	MINIMUM DRIVEWAY SETBACK	5 FT	5 FT	
18	MINIMUM DRIVEWAY WIDTH	10 FT	10 FT	
19	MINIMUM DRIVEWAY SPACING	10 FT	10 FT	
20	MINIMUM DRIVEWAY SETBACK	5 FT	5 FT	



APPROXIMATE LOT AREA- 47- 12.04 A.C.

PARKING BREAKDOWN	REQUIRED	PROPOSED ON-SITE	PROPOSED OFF-SITE	DELTA (+/-)
ASSOCIATE	115	134	0	+19
DSP MANAGER	20	20	0	0
SUPPORT SPACES	15	15	0	0
ADA SPACES	8	7	0	+1
VAN PERSONAL SPACES	0	0	0	0
TOTAL AUTO SPACES (GVW?)	158	176	0	20
VAN PARKING	343	368	0	+25
VAN PERSONAL VEHICLE	80	80	0	0
VAN BUFFER	18	18	0	0
TOTAL VAN SPACES (GVW?)	441	466	0	25
TOTAL PARKING	607	642	0	45
UTV/ VAN LOADING	39	40	-	+1
VAN COURING	40	40	-	0
TRAILER/BOX TRUCK LOADING	7	7	-	0
S/T TRAILER PARKING	0	8	-	+8

ITEM #	TYPE	REQUIREMENT	PROPOSED	REMARKS
1	MINIMUM # OF ADA	8	183	
2	MINIMUM # OF VAN SPA	400	183	
3	MINIMUM # OF ADA SPA	200	183	
4	MINIMUM # OF ADA SPA	200	183	
5	MINIMUM # OF ADA SPA	200	183	
6	MINIMUM # OF ADA SPA	200	183	
7	MINIMUM # OF ADA SPA	200	183	
8	MINIMUM # OF ADA SPA	200	183	
9	MINIMUM # OF ADA SPA	200	183	
10	MINIMUM # OF ADA SPA	200	183	
11	MINIMUM # OF ADA SPA	200	183	
12	MINIMUM # OF ADA SPA	200	183	
13	MINIMUM # OF ADA SPA	200	183	
14	MINIMUM # OF ADA SPA	200	183	
15	MINIMUM # OF ADA SPA	200	183	
16	MINIMUM # OF ADA SPA	200	183	
17	MINIMUM # OF ADA SPA	200	183	
18	MINIMUM # OF ADA SPA	200	183	
19	MINIMUM # OF ADA SPA	200	183	
20	MINIMUM # OF ADA SPA	200	183	



PROPOSED DEVELOPMENT  
2-STOREY PARKING GARAGE  
NASHVILLE, TN

SC (R13)



Metropolitan Board of Zoning Appeals

Metro Howard Building
800 Second Avenue South
Nashville, Tennessee 37210

Appellant: Dustin Marcellino Date: 06/18/2020
Property Owner: Charles R. Jones Case #: 2020- 169
Representative: Map & Parcel: 051-06-0 056
Council District: 08

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

Purpose: To permit the USE of a Day-Care. Special Exception
Activity Type: Day Care
Location: 1022 S Graycroft Ave.
RM9-06

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: Special Exception
Section: 17.1b.170(c)4-8

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: Dustin Marcellino Representative:
Phone Number: 615-655-3364 Phone Number:
Address: 106 Abbey Rd. Lebanon TN 37090 Address:
Email address: dustinmarcellino@gmail.com Email address:

Appeal Fee: \$200 \$ Walter



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



3837667

**ZONING BOARD APPEAL / CAAZ - 20200037588  
Inspection Checklist for Use and Occupancy  
This is not a Use and Occupancy Notification**

**PARCEL:** 05106005600**APPLICATION DATE:** 06/17/2020**SITE ADDRESS:**

1022 S GRAYCROFT AVE MADISON, TN 37115  
N OF DUE WEST AV W OF GRAYCROFT AV

**PARCEL OWNER:** DUE WEST TOWERS, LLC**CONTRACTOR:****APPLICANT:****PURPOSE:**

Requesting a special Exception permit for a proposed Day Care for 99 children per METZO section 17.16.170 (C) 4 thru 8. Day Care Center use was discontinued about 10 years ago.

*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**



3837660

**BUILDING USE & OCCUPANCY / CAUO - T2020037584  
Permit Tracking Checklist**

PARCEL: 05106005600

APPLICATION DATE: 06/17/2020

PERMIT TRACKING #: 3837660

**SITE ADDRESS:**

1022 S GRAYCROFT AVE MADISON, TN 37115  
N OF DUE WEST AV W OF GRAYCROFT AV

PARCEL OWNER: DUE WEST TOWERS, LLC

CONTRACTOR:

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

parcel is zoned RM9 and contains 11.14 acres. this permit to use existing non-res building for a Day Care center for 99 children. Special exception permit requested per METZO section 17.16.170 (C) 4 thru 8.

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

[A] Site Plan Review	
[A] Zoning Review	
[B] Building Plans Received	615-862-6614 teresa.patterson@nashville.gov
[B] Plans Picked Up By Customer	615-880-2649 Ronya.Sykes@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 Sprinkler Review On Bldg App	615-862-5230
[B] Fire Alarm Requirement	615-862-5230 fmoplans@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	615-862-8781 bonnie.crumby@nashville.gov
[F] Ramps & Curb Cuts Review For Bldg A	pwbldgpermit@nashville.gov
[F] Solid Waste Review On Bldg App	pwbldgpermit@nashville.gov
[G] Bond & License Review On Bldg App	615-862-6517 permitissuance@nashville.gov
Kitchen Plans Review On Bldg App	615-340-5620 steve.crosier@nashville.gov
Landscaping & Tree Review	615-862-6488 stephan.kivett@nashville.gov
[B] Plans Picked Up By Customer	615-880-2649 Ronya.Sykes@nashville.gov
CA - Zoning Sidewalk Requirement Review	
CA - [B] Fire Review State on Building App	615-741-7190



## 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.

*Justin Macchia*

APPELLANT

6-18-2020

DATE

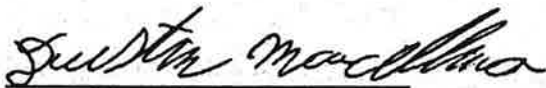
## SPECIAL EXCEPTION REQUEST

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 my BZA appeal for a special exception.



APPELLANT (OR REPRESENTATIVE)

6-18-2020

DATE

## Codes Adopted by State Fire Marshal

International Building Code (IBC), 2012 edition, published by the International Code Council (ICC), except for:

1. Chapter 11 Accessibility; and,
2. Chapter 34, Section 3411 Accessibility for Existing Buildings;

(b) International Residential Code (IRC), 2009 edition, published by the ICC, except for:

1. Section R313, Automatic Fire Sprinkler Systems, pursuant to T.C.A. § 68-120-101(a)(8); and,
2. Chapters 34-43, relating to Electrical;

(c) The International Fuel Gas Code (IFGC), 2012 edition, published by the ICC;  
 (d) The International Mechanical Code (IMC), 2012 edition, published by the ICC;  
 (e) The International Plumbing Code (IPC), 2012 edition, published by the ICC;  
 (f) The International Property Maintenance Code (IPMC), 2012 edition, published by the ICC;  
 (g) The International Fire Code (IFC), 2012 edition, published by the ICC;  
 (h) For commercial buildings: the International Energy Conservation Code (IECC), 2012 edition, published by the ICC, except that the provisions of the IECC, 2006 edition, shall apply to the following occupancy classifications: Moderate-hazard factory industrial, Group F-1; Low-hazard factory industrial, Group F-2; Moderate-hazard storage, Group S-1; and, Low-hazard storage, Group S-2;

(i) For one- and two-family dwellings and townhomes: the IECC, 2009 edition, published by the ICC, with amendments. Amendments can be found here;

(j) The International Existing Building Code (IEBC), 2012 edition, published by the ICC;

(k) For state buildings, educational occupancies and any other occupancy requiring an inspection by the State Fire Marshal for initial licensure, NFPA 101 Life Safety Code, 2012 edition, published by the National Fire Protection Association (NFPA); and,

(l) The National Electrical Code (NEC), 2017 edition, published by the NFPA, except that:

1. Section 110.24, Available Fault Current shall be optional; and
2. Arc Fault Circuit Interrupters (AFCIs) shall be optional for bathrooms, laundry areas, garages, unfinished basements, which are porches or areas of the basement not intended as habitable rooms and limited to storage, work or similar area, and for branch circuits dedicated to supplying refrigeration equipment;

1022 S GRAYCROFT AVE

MADISON, TN 37115

**Parcel ID:** 05106005600

Site Area - Approximately 73,810 square feet, or 1.69 acres. Exact amount pending survey and pending sale.

Built ca. 1991

One Story

Building Gross Square Feet 6,982

Approximate height = 18'

Originally opened and licensed for 99 children

## Graycroft Child Care Center

1022 South Graycroft Ave  
Madison, TN 37115

**Owner**  
Dustin Marcellino

**Architect**  
Cyril Stewart  
3813 Whilland Ave  
Nashville, TN  
37205

### List of code editions adopted by the Metro Government:

- 2012 International Building Code with local amendments\*
- 2012 International Residential Code with local amendments\*
- 2012 International Energy Conservation Code
- 2009 ICC/ANSI A-117.1 Accessible And Usable Buildings And Facilities
- 2012 International Plumbing Code with local amendments\*
- 2012 International Mechanical Code with local amendments\*
- 2012 International Fuel Gas Code with local amendments\*
- 2011 National Electrical Code with local amendments\*
- 2012 International Fire Code with local amendments\*\*
- 2012 Life Safety Code (NFPA 101) with local amendments\*\*

NFPA 101 is to be used in addition to the 2012 International Fire Code for new and existing State of Tennessee and Metropolitan Government of Nashville owned buildings, and for the following new and existing occupancies as defined in the NFPA 101 Life Safety Code 2012 edition:

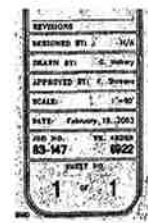
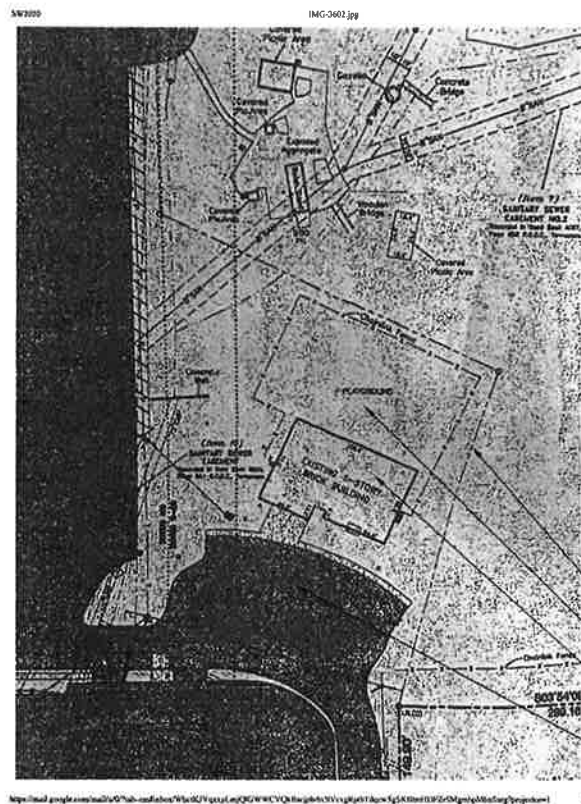
- 1 Educational occupancies
- 2 Day Care occupancies
- 3 Residential board and care occupancies
- 4 Health Care occupancies.

1998 Metropolitan Comprehensive Zoning Ordinance\*\*\*



June 18, 2020

Cover



Excerpt from survey by Ragan Smith provided by the owner

- Property lines
- Playgrounds
- Child Care Center
- 30 Parking Spaces

**Graycroft  
Child Care  
Center**  
1022 South Graycroft Ave  
Madison, TN 37115

**Owner**  
Dustin Marcellino

**Architect**  
Cyril Stewart  
3813 Whitland Ave  
Nashville, TN  
37205

June 18, 2020

**Survey**



**Graycroft  
Child Care  
Center**  
1022 South Graycroft Ave  
Madison, TN 37115

**Owner**  
Dustin Marcellino

**Architect**  
Cyril Stewart  
3813 Whilland Ave  
Nashville, TN  
37205

Aerial Photo from Google Earth - not to scale



June 18, 2020

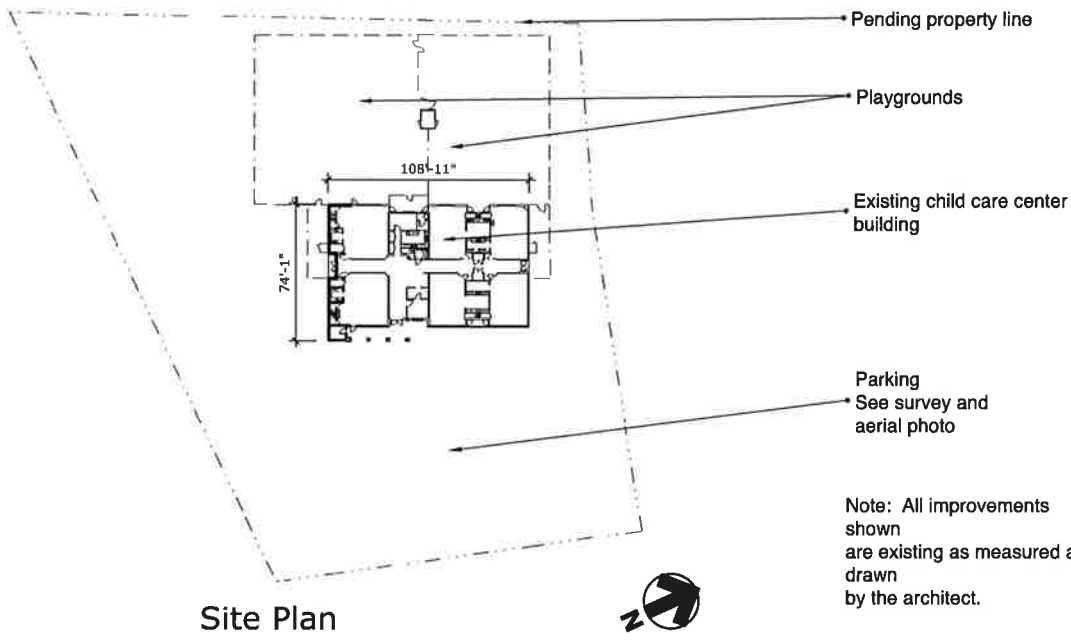
**Aerial  
View of  
Site**

# Graycroft Child Care Center

1022 South Graycroft Ave  
Madison, TN 37115

Owner  
Dustin Marcellino

Architect  
Cyril Stewart  
3813 Whitland Ave  
Nashville, TN  
37205



Site Plan



June 18, 2020

Site Plan



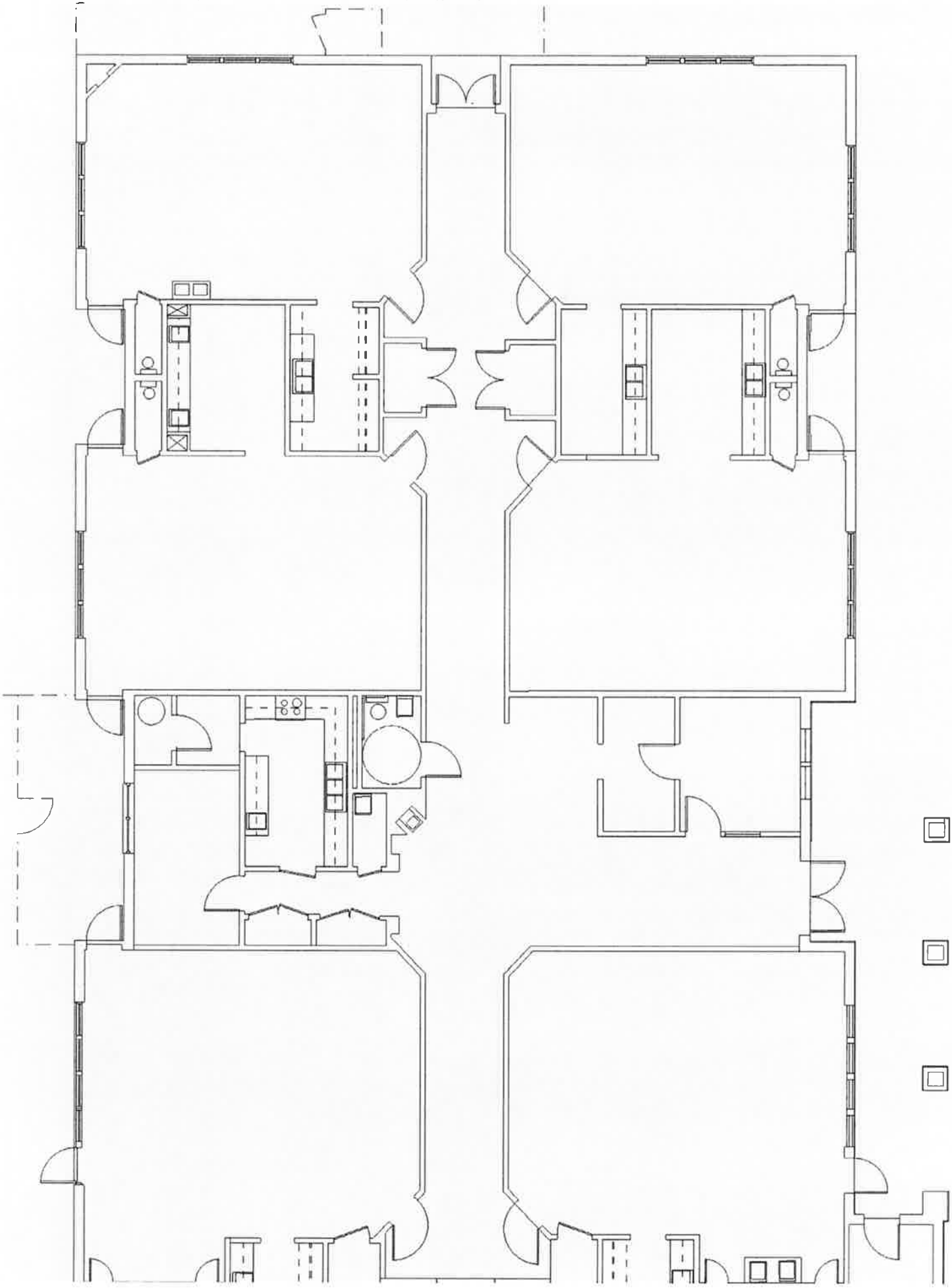
**Gray Chilc Cent**  
1022 Sou Ave  
Madison,

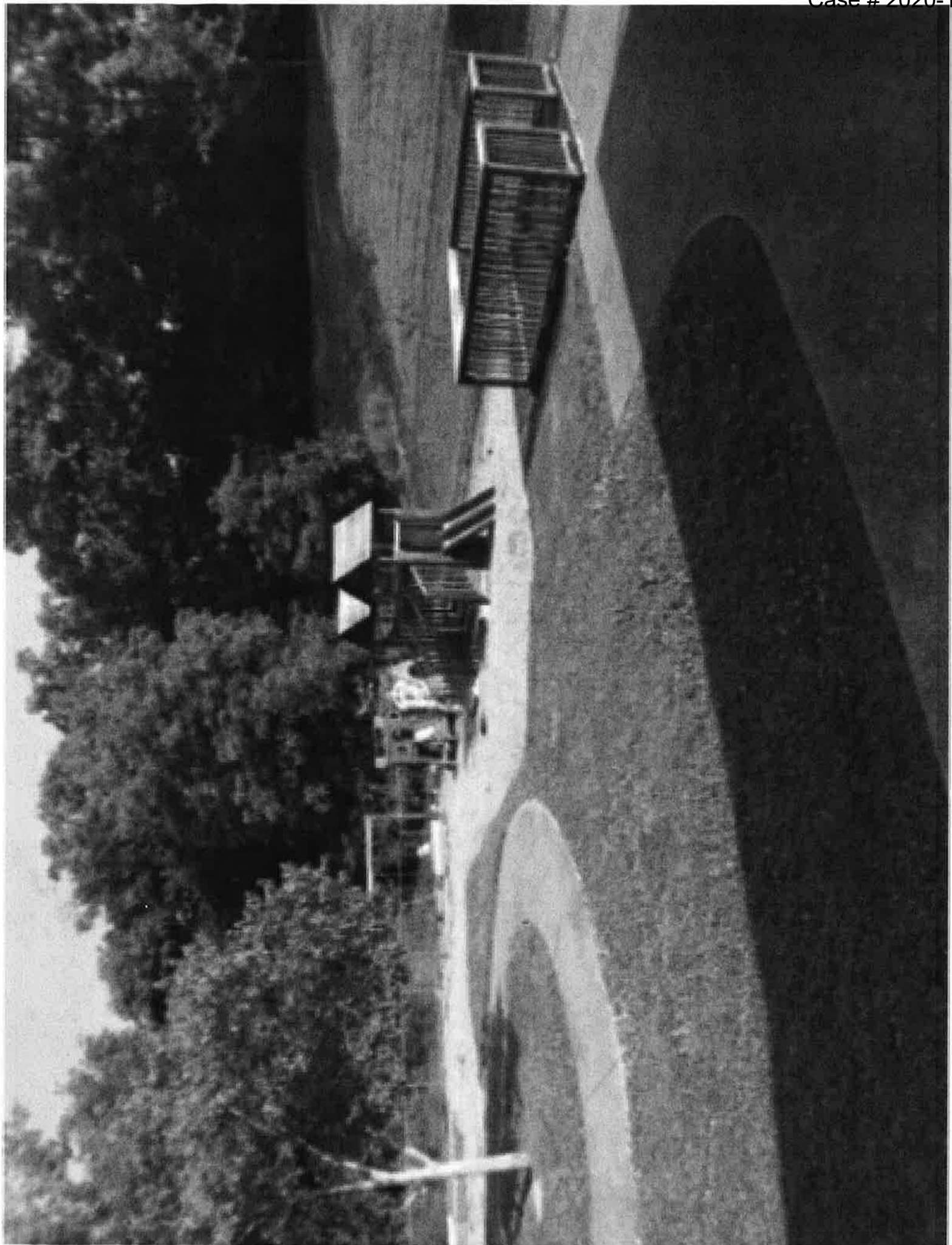
**Owner**  
Dustin Marce  
Address?

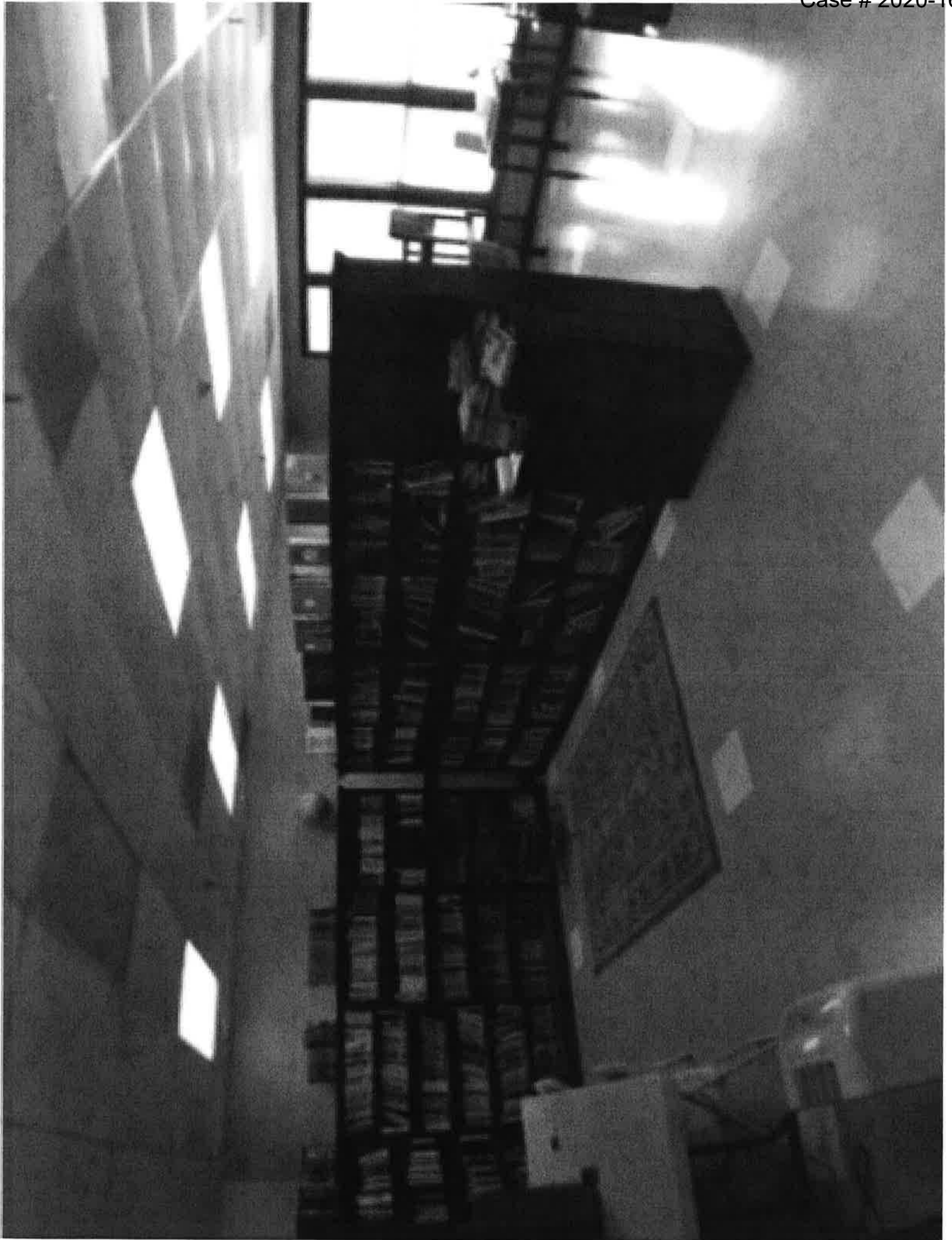
**Archite**  
Cyril Stew  
3813 Whi  
Nashville,  
37205

May 30, 20

Case # 2020-169  
**Floor Plan**

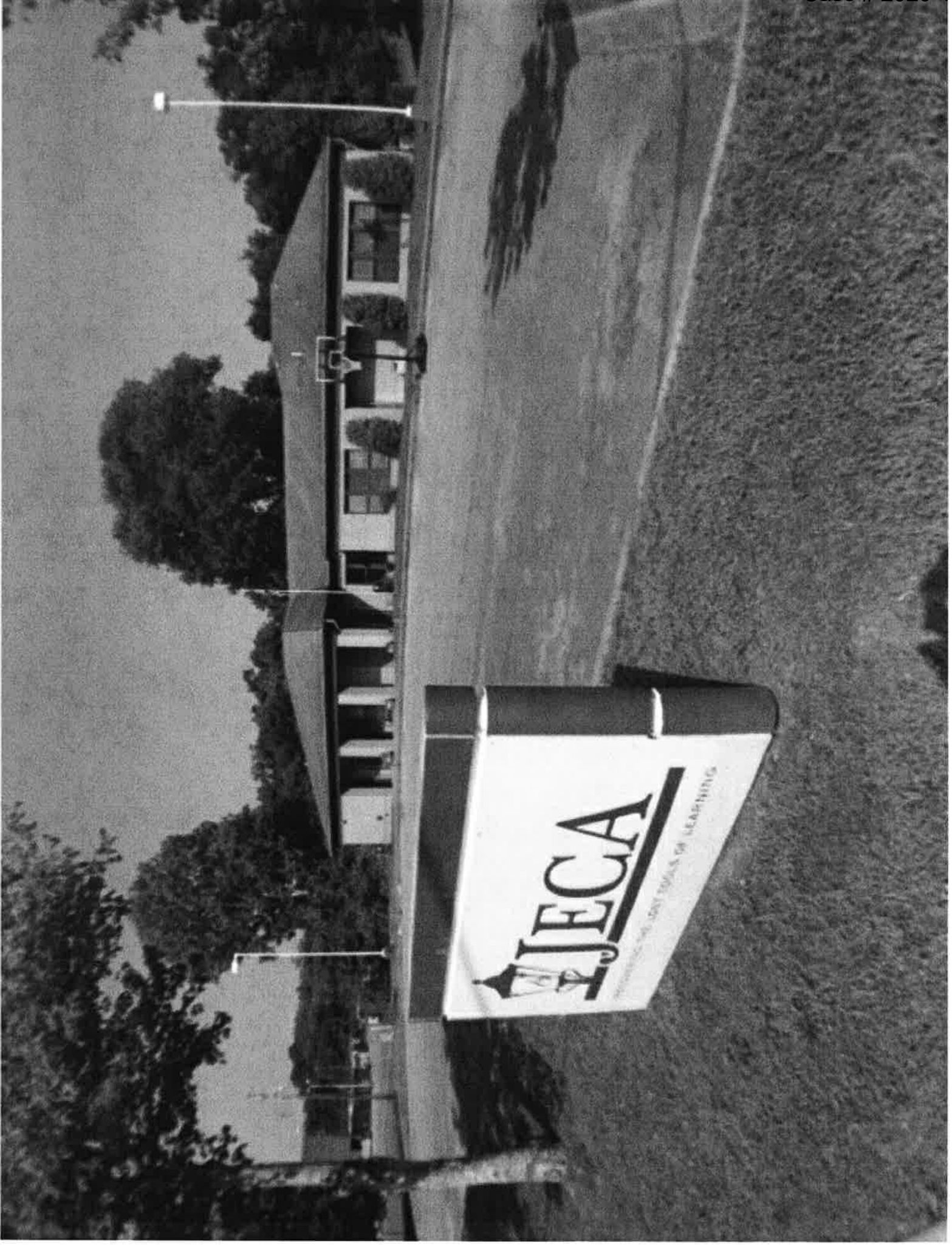


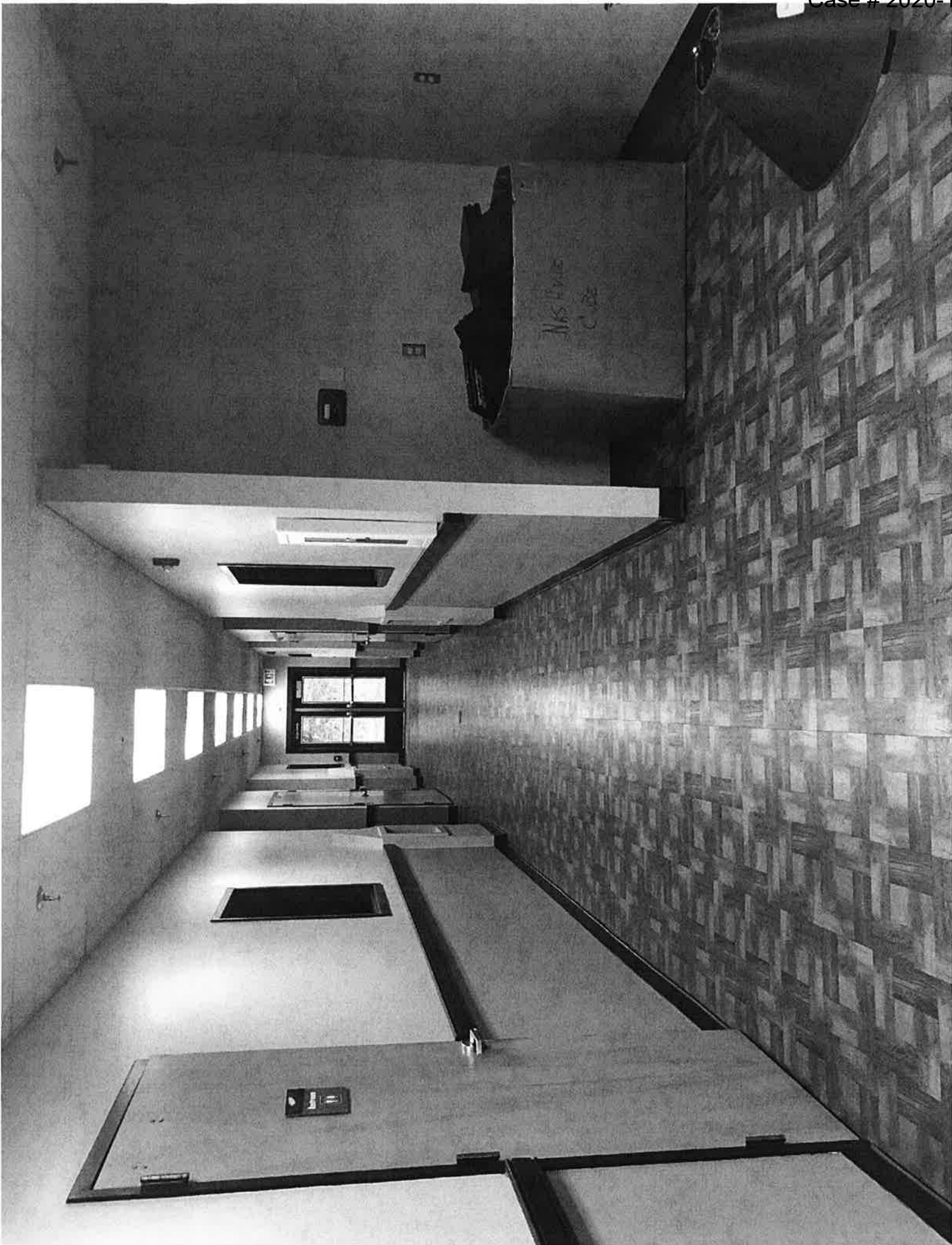












Mrs. Eric  
C. [unclear]

11





**From:** [Gregory, Christopher \(Public Works\)](#)  
**To:** [Shepherd, Jessica \(Codes\)](#)  
**Cc:** [Lifsey, Debbie \(Codes\)](#); [Boghozian, Jon \(Public Works\)](#)  
**Subject:** RE: BZA 2020-169  
**Date:** Wednesday, July 22, 2020 9:23:27 AM

---

**2020-169    1022 S Graycroft Ave    Permit use of a daycare**

Variance: 17.16.170 C. (4 – 8)

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

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**From:** Shepherd, Jessica (Codes) <Jessica.Shepherd@nashville.gov>  
**Sent:** Monday, July 13, 2020 3:54 PM  
**To:** Ammarell, Beverly (Public Works) <Beverly.Ammarell@nashville.gov>; Gregory, Christopher (Public Works) <Christopher.Gregory@nashville.gov>  
**Subject:** BZA 2020-169

Appeal 2020-169 on agenda for 8/6/2020.

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:** July 24, 2020

**BZA Hearing Date:** August 8, 2020

**Re:** Planning Department Recommendation for a Special Exception, Case 2020-169

---

Pursuant to Section 17.40.300 of the Metro Zoning Code, the Metropolitan Planning Department is providing a recommendation on the following Special Exception case:

**1. Case 2020-169 Day Care Center (1022 S Graycroft Avenue)**

**Request:** A Special Exception to operate a Day Care Center in the RM9 and RS20 zoning district.

**Zoning:** Multi-Family Residential (RM9) is intended for single-family, duplex, and multi-family dwellings at a density of nine dwelling units per acre.

Single-Family Residential (RS20) requires a minimum 20,000 square foot lot and is intended for single-family dwellings at a density of 1.85 dwelling units per acre.

**Overlay District:** n/a

**Land Use Policy:**

T3 Suburban Neighborhood Maintenance (T3 NM) is intended to maintain the general character of developed suburban residential neighborhoods. T3 NM areas will experience some change over time, primarily when buildings are expanded or replaced. When this occurs, efforts should be made to retain the existing character of the neighborhood. T3 NM areas have an established development pattern consisting of low- to moderate-density residential development and institutional land uses. Enhancements may be made to improve pedestrian, bicycle, and vehicular connectivity.

Conservation (CO) is intended to preserve environmentally sensitive land features through protection and remediation. CO policy applies in all Transect Categories except T1 Natural, T5 Center, and T6 Downtown. CO policy identifies land with sensitive environmental features including, but not limited to, steep slopes, floodway/floodplains, rare or special plant or animal habitats, wetlands, and unstable or problem soils. The guidance for preserving or enhancing these features varies with what Transect they are in and whether or not they have already been disturbed.

**Planning Department Analysis:** The subject site is located west of South Graycroft and north of Due West Avenue. The site is 11.14 acres, consists of a non-residential building, and is accessed via South Graycroft Road via a drive that also serves the old hospital building that currently has office or medical uses. This parcel is zoned RM9 and RS20.

The request is to use a non-residential building to operate a Class IV Day Care Center institution for more than 75 children. Class IV Day Care Centers are required to meet the development standards of a Class III Day Care Center, the preferred location standards, and other development standards. The T3 Neighborhood Maintenance policy list institutional uses as a potentially appropriate land use. Staff finds that the proposed land use is consistent with the land use policy for the area.

**Planning Recommendation: Approve.**



Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Emily Zimmer & Veronica Sanchez Date: 6-22-20  
Property Owner: Emily Zimmer / Veronica Sanchez Case #: 2020-170  
Representative: Danny Jones Map & Parcel: 072131C00100C0  
Council District: 05

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

Purpose: to permit an existing fence  
Activity Type: single-family  
Location: 2417 A Brasher Ave, Nashville TN 37206

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: a variance from fence height restrictions.  
Section: 17.12.040

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 here by requested in the above requirement as applied to this property.

Appellant Name: Emily Zimmer / Veronica Sanchez Representative: Danny Jones  
Phone Number: (615) 397-2607 Phone Number: (615) 785-8558  
Address: 729 Tahleah Ave. Address: \_\_\_\_\_  
Madison TN 37115  
Email address: emily2@rjwherry.com Email address: dannywjones@comcast.net

Appeal Fee: TC

## 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

6/22/20  
DATE



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?**

Please see next sheet.

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Metro Codes,

We spoke to Bill Earle in regards to filing a variance for a privacy fence we recently had to put up for one of our properties in East Nashville. There was a complaint filed by our next door neighbor and Bill Earle went out to measure it. He told us we needed to make the first two sections of fence a max height of 6' which would be a total of 16LF we would need to cut down. We hired a professional to build the fence and were confident knowing 8ft was codes max and that we were far from impeding on city easement. We would like to file for a variance. Our next door neighbor Kathy Williams has threatened our lives various times. The harassment has been unbearable. We feel that our safety, our tenant's safety and the right to privacy is at stake. From her porch and windows she can look right into our floor to ceiling bedroom windows. She has sat and watched every move we have made up until the fence went up. She has video cameras inside her home by her windows and outside on her porch and has countless times told me of every move our contractors have made while complaining about the progress made to our home. We had to file two police reports because she threatened our lives. Our real estate agent also had to file a report with the police. We have almost 48 straight hours of threats and harassment filed in text. Occasionally Ms. Kathy, stands on the street with her hose and floods out our front lawn cleaning gravel or dirt that is on the street before we could sweep it ourselves. She pours full clumps of soiled cat litter between our property lines which rain washes onto our property and the smell is unbearable. Instead of parking in her driveway Ms. Kathy has her vehicle intentionally parked at all times butting into our property line. She's aware that the NES pole (on the other side of our driveway) makes it almost impossible for our cars to turn into our driveway. She spray painted PL on the street telling us that part of our driveway was hers and we were not allowed to park on it. When we had the land surveyed, she moved the stakes and we had to get it surveyed for a second time with her in front of us. We watched her bully our professional surveyor and she slandered him online jeopardizing the company's reputation.

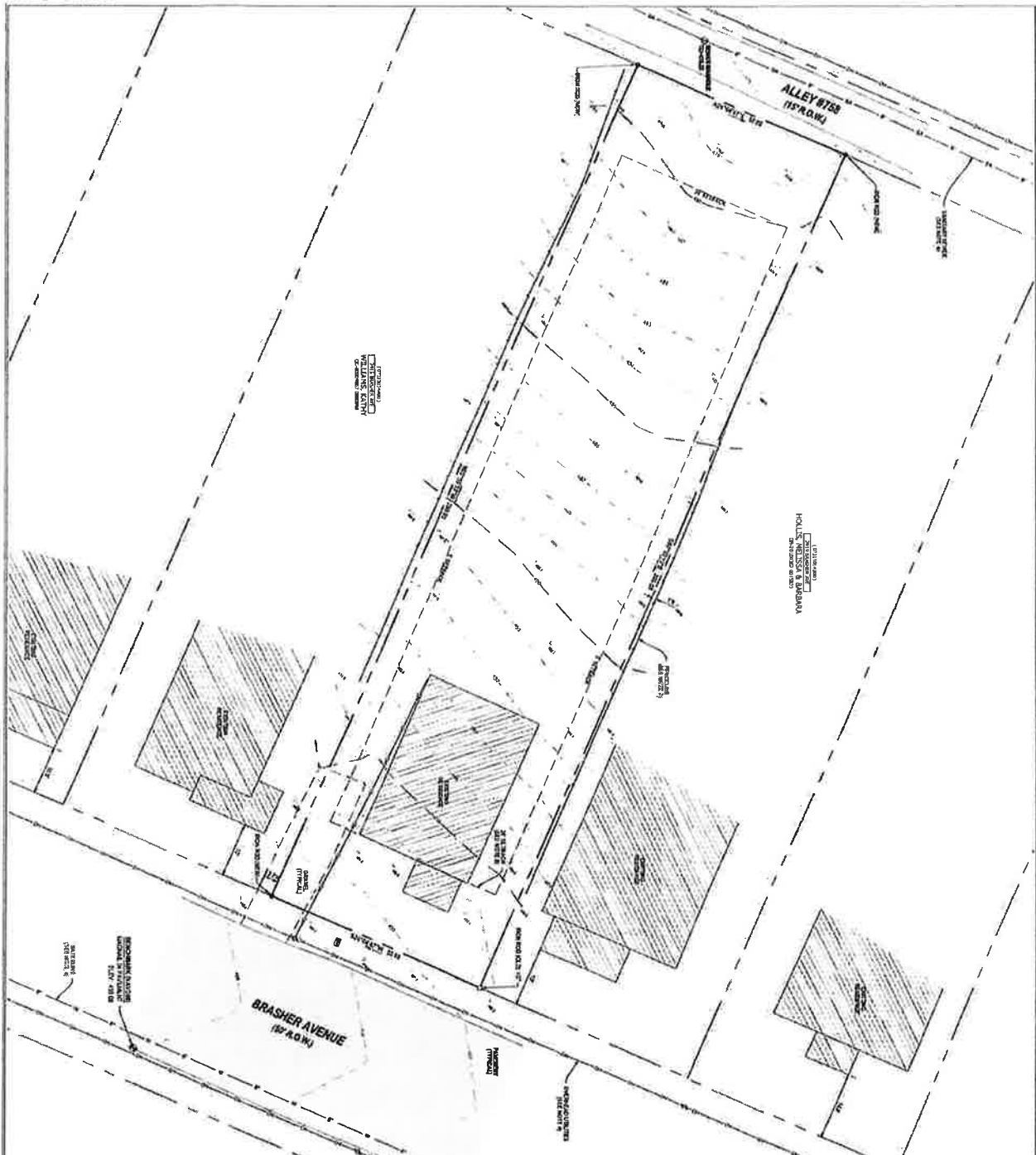
We worked really hard on renovating this house and would really appreciate it if metro codes could help us keep our rental property a safe place for us and our tenants. Bringing the fence down 2 feet would defeat the whole purpose of why we made the fence an 8 footer in the first place. Her windows and elevated porch sit in the exact location were we would need to bring it down. The fence around the rest of the property will be at 6' tall.

Sincerely,

Emily Zimmer & Veronica Sanchez

Property: 2417 A Brasher Ave Nashville TN 37206

Plot Date: 02/26/2019 10:28:23 AM  
 © 1999 Bentley, Inc. All rights reserved. Brasher Ave 2417 Brasher Ave 2417 - Survey.dwg



**TOTAL LOT AREA**  
 10,008 SF OR 0.227 ACRES

**MAP REFERENCE**  
 Plat 2014 for parcel property of 07/20/14 in Davidson County, Tennessee

**DEED REFERENCE**  
 Deed 1 - Davidson County, TN, recorded on 07/20/14 at 07:20:14 in Davidson County, Tennessee

**PLAT REFERENCE**  
 Being Plat of 04/11/18 in the First Tennessee Subdivision of Home, as defined in Book 12, Page 71 of the Davidson County, Tennessee Deeds

**SURVEYOR'S NOTES**

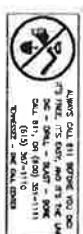
1. This property is located in the City of Nashville, Tennessee.
2. The property is located in the Davidson County, Tennessee.
3. The property is located in the First Tennessee Subdivision of Home, as defined in Book 12, Page 71 of the Davidson County, Tennessee Deeds.
4. The property is located in the City of Nashville, Tennessee.
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11. The property is located in the Davidson County, Tennessee.
12. The property is located in the First Tennessee Subdivision of Home, as defined in Book 12, Page 71 of the Davidson County, Tennessee Deeds.

**SURVEYOR'S CERTIFICATE**

I, the undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey as shown to me by the client, and that the same was made by me or under my direct supervision and control, and that I am a duly licensed and qualified surveyor in the State of Tennessee, and that I am not a party to any dispute or controversy involving the property surveyed.

Subscribed and sworn to before me on this 26th day of February, 2019, at Nashville, Tennessee.

\_\_\_\_\_  
 Notary Public for the State of Tennessee



**Symbol Legend**

- Symbol for boundary
- Symbol for easement
- Symbol for utility
- Symbol for structure
- Symbol for fence
- Symbol for tree
- Symbol for rock
- Symbol for monument
- Symbol for iron pipe
- Symbol for iron nail
- Symbol for iron spike
- Symbol for iron rod
- Symbol for iron pipe
- Symbol for iron nail
- Symbol for iron spike
- Symbol for iron rod

**Boundary & Topographic Survey**

2417 Brasher Avenue  
 Nashville, Davidson County, Tennessee 37206

CLINT ELLIOTT SURVEY

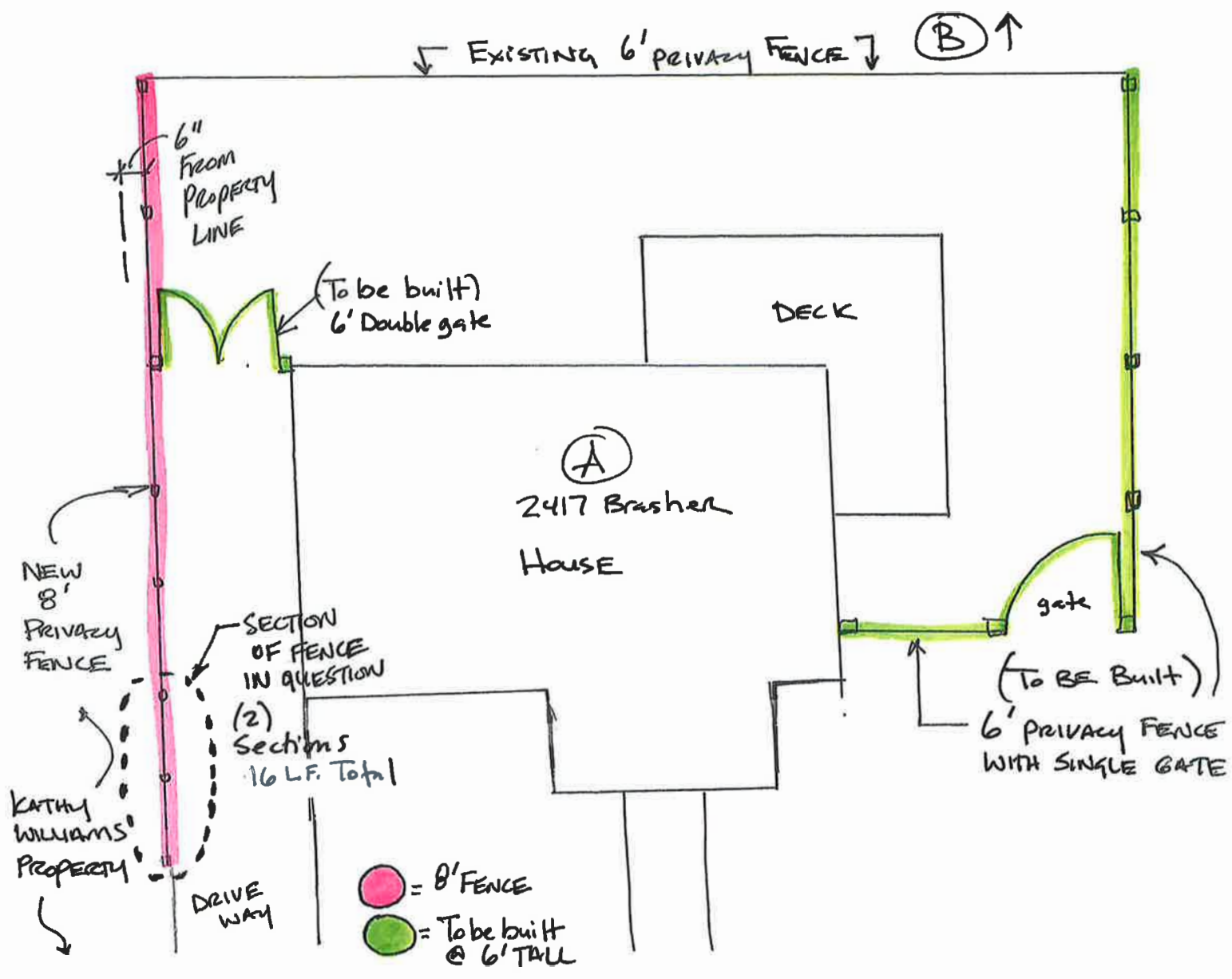
12111 Mayes Drive  
 Nashville, TN 37203  
 clint@elliotts.com  
 (615) 496-3224

Scale: 1" = 100'

Plot Date: 02/26/2019 10:28:23 AM

Project Title: Boundary & Topographic Survey

V-1.00



July 22, 2020

Board of Zoning Appeals  
Department of Codes & Building Safety  
Metro Office Building – 3<sup>rd</sup> Floor  
800 Second Avenue, South  
Nashville, TN 37210

**Re: Zoning Appeal 2020-170  
Opposition 2417A Brasher Avenue  
Map Parcel: 072131C00100CO**

I am writing to show opposition to my neighbor's appeal for a variance on their newly constructed fence. It is easily over the 6'-0" maximum height set by the city. Not only does it violate code, it is also an eye sore in the neighborhood. My view and many of my neighbors, who live on the same side of the street, see only their fence from our front porch now. They have degraded our front yards.

The front yard setback is a tool used to create a shared zone within a neighborhood that provides a sense of community and also a pleasant streetscape. They have eliminated this zone on our street. This neighbor just recently moved into the neighborhood. They have done extensive renovations on the original home and also built an additional home on the property, on the alley behind the house. Building a fence for privacy due to density, which they have created more of; or cost of construction to remedy the code violation, which they have spent a lot of, should not be a defense for these homeowners.

To bring this fence within code compliance requires a circular saw. The top bracing board can be removed and, once the fence is cut down to the correct height, reused. The overall construction and appearance will remain similar. The fence in violation does not need to be a scrap job. The home owner also has the option to reach out to their fence installer to correct this. They have options.

**My neighbor's request for a variance is asking the city to make a decision in their individual favor and not the neighborhoods'. I urge you to require them to take the simple steps needed to bring their fence within code compliance. Thank you for your consideration.**

Sincerely,



Rebecca Shew  
Architect



July 15, 2020

**Metropolitan Board of Zoning Appeals**

P.O. Box 196350  
Nashville, TN 37219-6350


To whom it may concern,

This letter is in support of Emily Zimmer and Veronica Sanchez for their zoning appeal to maintain an existing fence. This is regarding Appeal Case Number **2020-170** for permit number **20200038925**. The property address is 2417A Brasher Ave, Nashville, TN 37206.

I live at 908 McClurkan Ave, about 250 feet from the fence in question. The fence is in direct view from my property. I do not have any problems with the fence in question and wish to allow them to keep their current fence. I do not personally know the party who filed the appeal. This letter is in response to a notice mailed to me on June 29, 2020.

If you have any questions please contact me at the address below.

Sincerely,



Daniel Hawblitzel

908 McClurkan Ave  
Nashville, TN 37206  
(937) 219-6403  
dhawblitzel@gmail.com

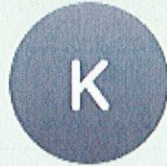


Sprint

8:03 AM



< 291



Kathy Williams >

Tue, Dec 3, 8:04 PM

When yall get ready to talk land surveying, my daughter wants to be here as she will be most likely be the one to sell house in the future and she likes to be on top of things, very smart. When yall get ready let me know so we can make appt to meet at a good time for all of us.

Absolutely. We'll definitely plan a good time for all of us to meet.

Okay. Goodnite





Kathy Williams >

What yall had man today was unlawful as he is not a licensed land surveyor and its against the law to deface property that is Not Yours. Disrespectful to say the least and I remember our last conversation about the land on this side not being driveway. Land was surveyed and property lines were posted. Even though you drove the stakes in the ground doesnt make the legal line disappear. I have it all on video for my records. Your 50 ft. measuring tape is of no significance and what your friend did today was totally ignorant. Property around here is 236 00 a sq ft



Sprint

8:03 AM



< 291



Kathy Williams >

from here on out. I dont bother anyone and very nice under normal circumstances but I wont tolerate disrespect

He's not a surveyor. He's our fence and deck contractor. He made it clear to you that he wasn't a surveyor. We told you that we would have a licensed surveyor come out and that we would coordinate a time for us all to get together to establish property lines.

Meeting is off. No more trespassing.



Sprint

8:01 AM



291



+1 (615) 505-3954 &gt;

Text Message  
Fri, Jan 10, 9:44 PM

This is just one land map that shows property lines and as you can see if you will look the lines from the surveyor you hired are incorrect my at least two feet. I have on 47 ft property on my side after what these unlicensed idiots come in here and done. Moving property pens and stakes are illegal. I want copy of the work with address of where I can have you served for court. Yall are a greedy bunch of thieves and the house with the bandaide on it looks like shit.

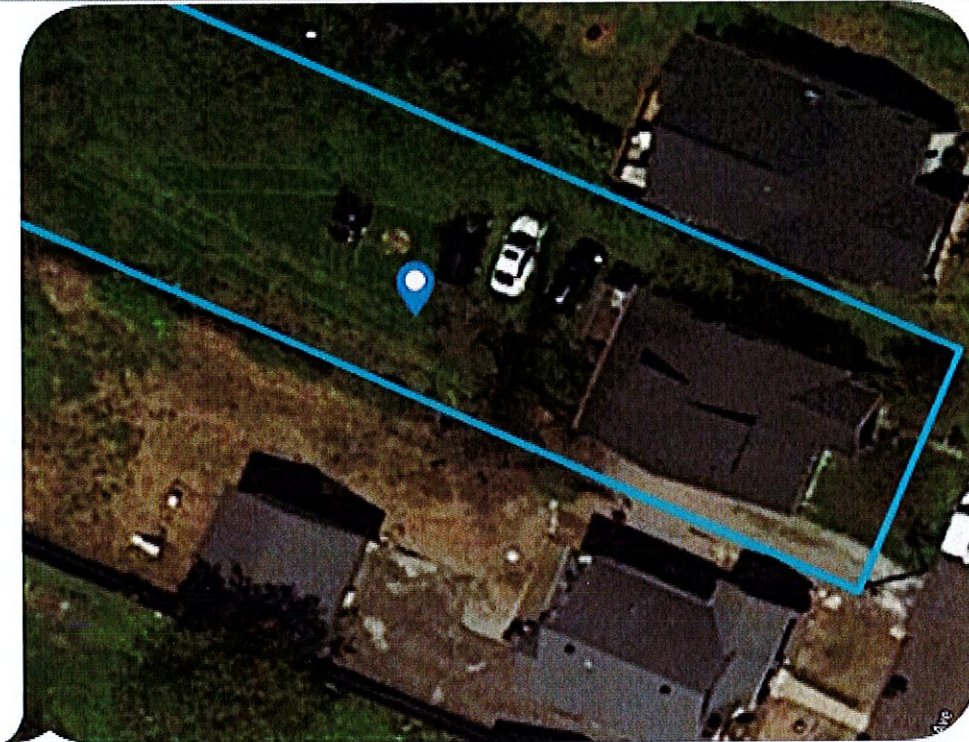


Sprint

8:01 AM

 291

+1 (615) 505-3954 &gt;



Just like them fools in the back, yall want to build on my side because its clean and free of work and money. Why in the hell would someone want to buy a house where the driveway is on other side of entrance? Those trees are too large for small yard and rooting



Sprint

8:01 AM



< 291



+1 (615) 505-3954 >

been a driveway. Its rocky, the whole landscape is. Its part mine and If u want to put up fence, check Tn laws. 3ft from line or fence is mine too. You arent going to live here so you dont care

Shall swoop in here like shit on flies to make easy money. Yall go right ahead with your greedy because its coming back to bite all of you in the ass. I have put up with yalls shit, your illigal immigrants with their bullshit, noise, a tore up tv and property damage and looking and filthy dumpsters for weeks and you have the fucking nerve



Sprint

8:01 AM



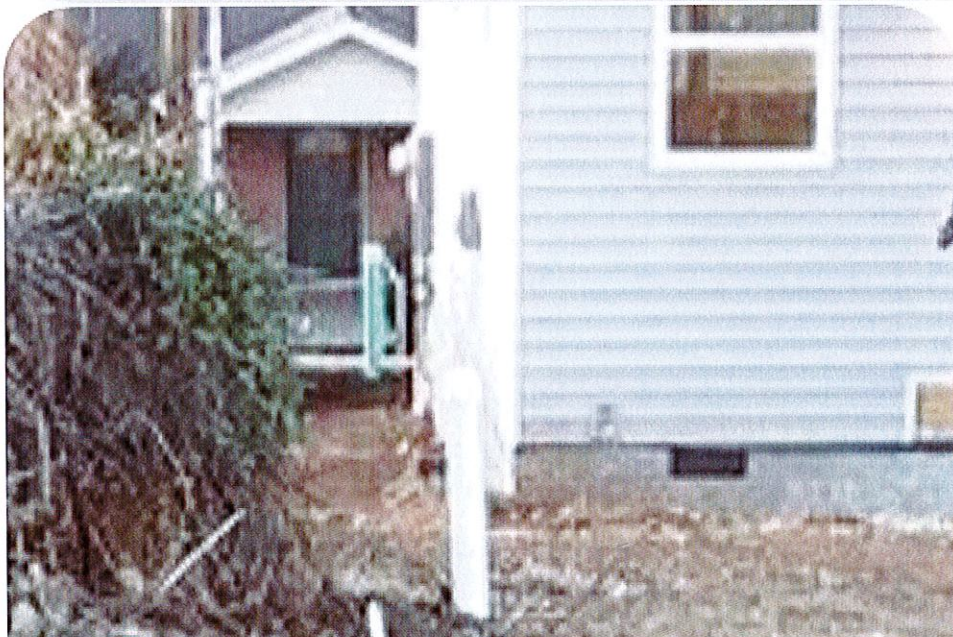
291



+1 (615) 505-3954 &gt;

Its funny how the property stakes and pens were moved when yall hired the clowns from ClintElliottSurvey. This land is being resurveyed by the County Assessors Office.

And if you will note from land parcel pic, parking was in back yard and in front of house.





Sprint

8:01 AM



< 291





+1 (615) 505-3954 >

And next time yall want to be the smartass bitches that you are, let me know so I can have my clan here. Clickity clack.

Ad be sure to forward all this to the man that tries to blow smoke up peoples ass. He dont sceer me and neither do the PoPo. I got friends that are police and they know I dont care.

And know this now, I wouldnt call fire dept if I saw the piece of shit on fire. Yall are unprofessional, disrespectful, LAZYASS, thieving, dishonest



Sprint  

8:02 AM

 291

+1 (615) 505-3954 &gt;

You can send copy of  
fraudelant survey to  
williamskathy31|[gmail.com](mailto:williamskathy31@gmail.com)

And the property on other side  
where your land has the widest  
part to install driveway is not  
marked. They can not do a  
partial land. I am very  
intelligent and it doesnt take  
smarts to see they didnt stake  
properly and that will be for  
courts to decide. I dont have  
money to throw away on this  
but I will get it all back. Minus a  
bunch of fools out of business.

I will make it my mission to let



Sprint

8:02 AM



291



+1 (615) 505-3954 &gt;

sceered of yall and I will fight in a heart beat. Stayoff my land until A judge tells you different.

Please stop contacting us.

Okay Queenies. You got my number. Its 2415 and keep your goddamn ass off of it. There is an encroachment, utility will not move lines for you and Im notgoing to give you the right of way. So do the right thing, and get off your lazyasses and cut the tree down. You dont have to pour gravel. The yard is all rock anyway just like the side you want to steal. Dont be trying to take an easy route



 Sprint 

8:04 AM

 291

Kathy Williams &gt;

Clint Elliott Surveys has performed property line survey and there is an encroachment on my land since it has been used as parking. I was told to tell yall to stop using it as such. And was told u are having parking put in rear so I suggest you put driveway on side it supposed to be on. Fences do not mean they are property lines and land buyers should do their homework before investing. I dont want anymore trespassing. Make other plans.

Sat, May 23, 10:30 PM

I will move my car in the next



Sprint

8:04 AM



< 291



Kathy Williams >

you put driveway on side it supposed to be on. Fences do not mean they are property lines and land buyers should do their homework before investing. I dont want anymore trespassing. Make other plans.

Sat, May 23, 10:30 PM

I will move my car in the next day or two. It wont start so I got to wait until Son can get to it. Just letting u know. Please no more wide loading trucks. And Im assuming that its done now. Remember Do unto others as you would have them do unto u. If everyone would respect





289



Danny Jones &gt;

↓ These text messages  
were sent to Danny Jones  
From Kathy Williams.  
He also filed a police  
Report.

A bandaid. They have done nothing but cheap work. I think it looks like shit. Im ready to go to court as I dont have a problem with stopping corruption. Yall are a bunch of thieves. Bitch will not stand on front of me and tell me what she going to do with my land without a tire rod upside her head.

If yall want my land, you may purchase it but you wont steal with lying land surveyors or bullying. Yall not getting my land and I aint sceered of the PO PO.

Them smartass bitches that u spoke so highly of had crew from Clinton Elliott Survey to come early yesterday morning and I am short over 2 ft land in



Text Message





Danny Jones >

and I am short over 2 ft land in front. They are not liscenses and register of deeds have no info on them so County Assessors is going to investigate. My brother has money to bail me out of jail should he need to. If either one of them queens cross the line Ive worked hard for and kept clean, I will commit bodily assault. The entrance to home is on other side so. Are they ignorant or just greedy. I have tolerated illegal immagrant workers that just pull their dicks out to piss and property damage, overflowing dumpsters for weeks, etc. and yall want to complain about my cat litter.??????? U bragged about how good that place looks and I see

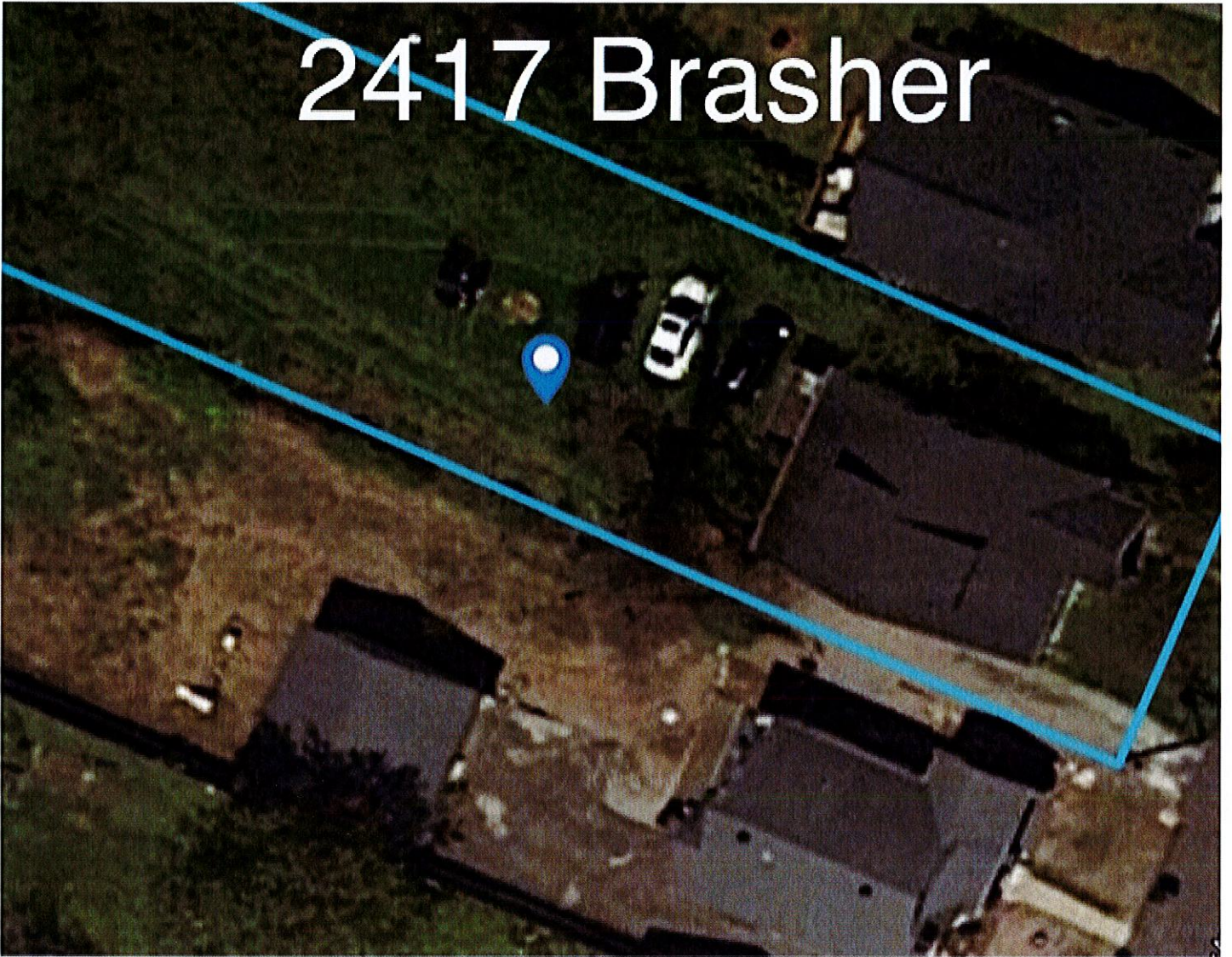


Text Message



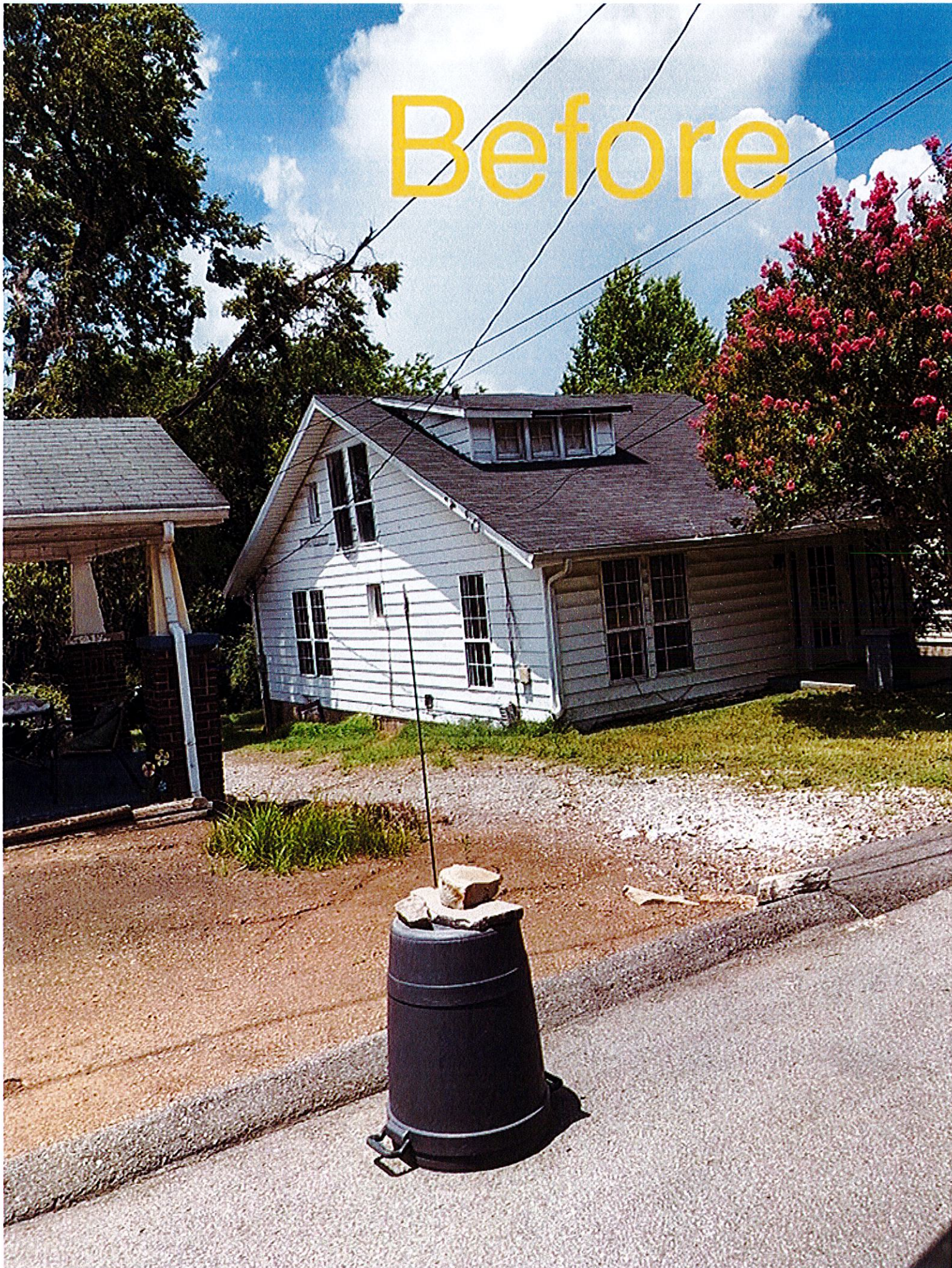


2417 Brasher





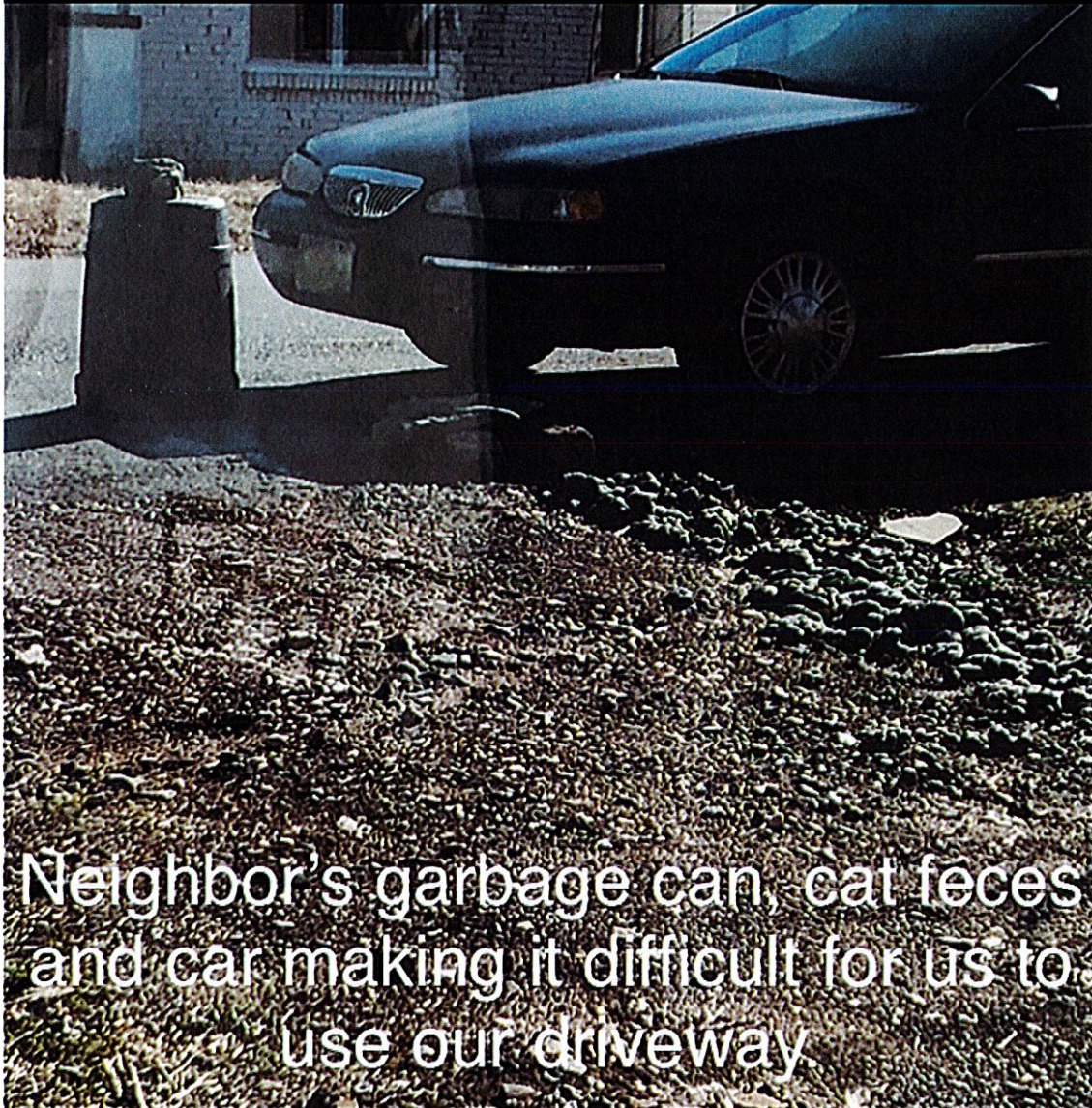
# Before





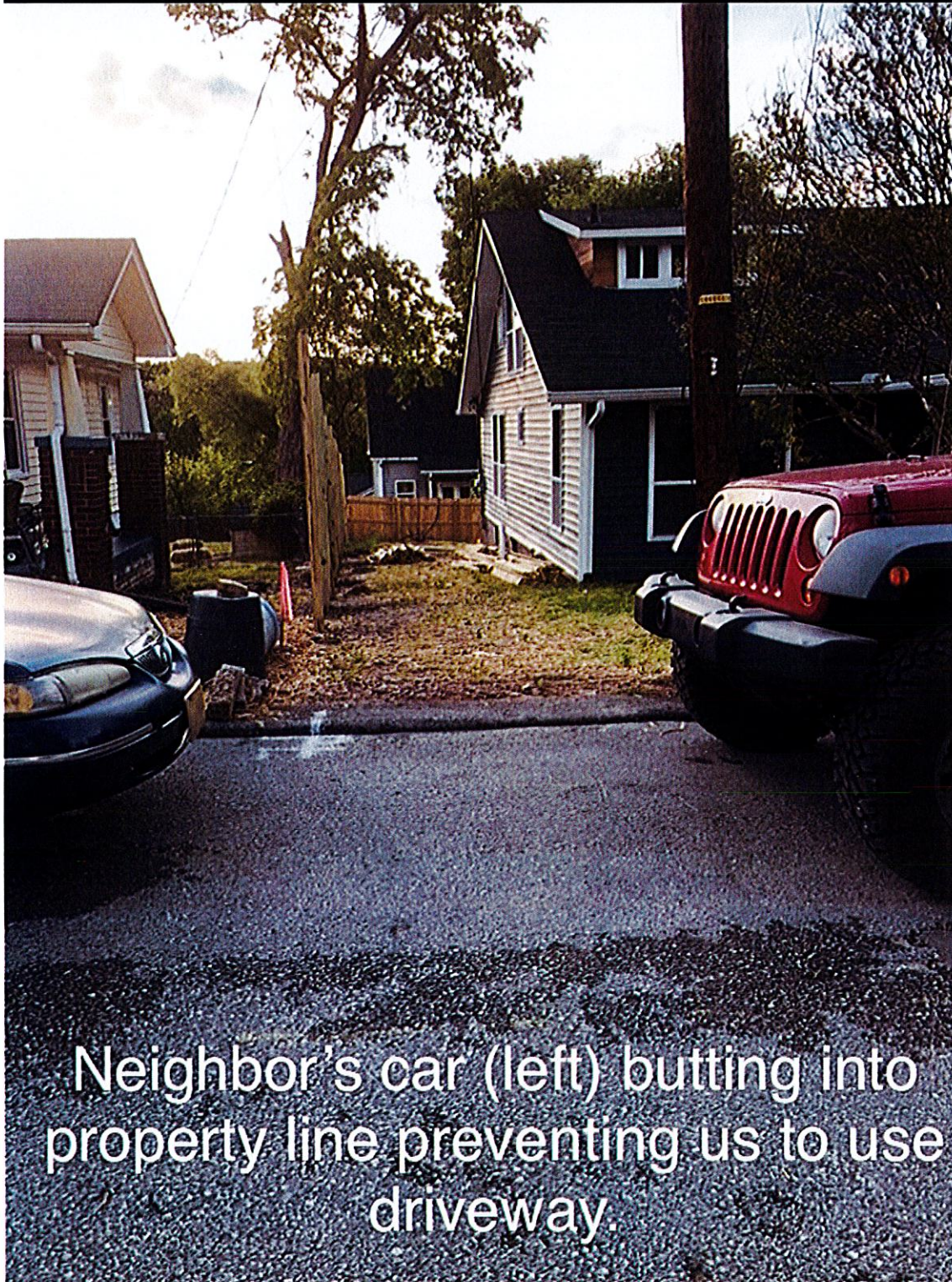






Neighbor's garbage can, cat feces  
and car making it difficult for us to  
use our driveway.





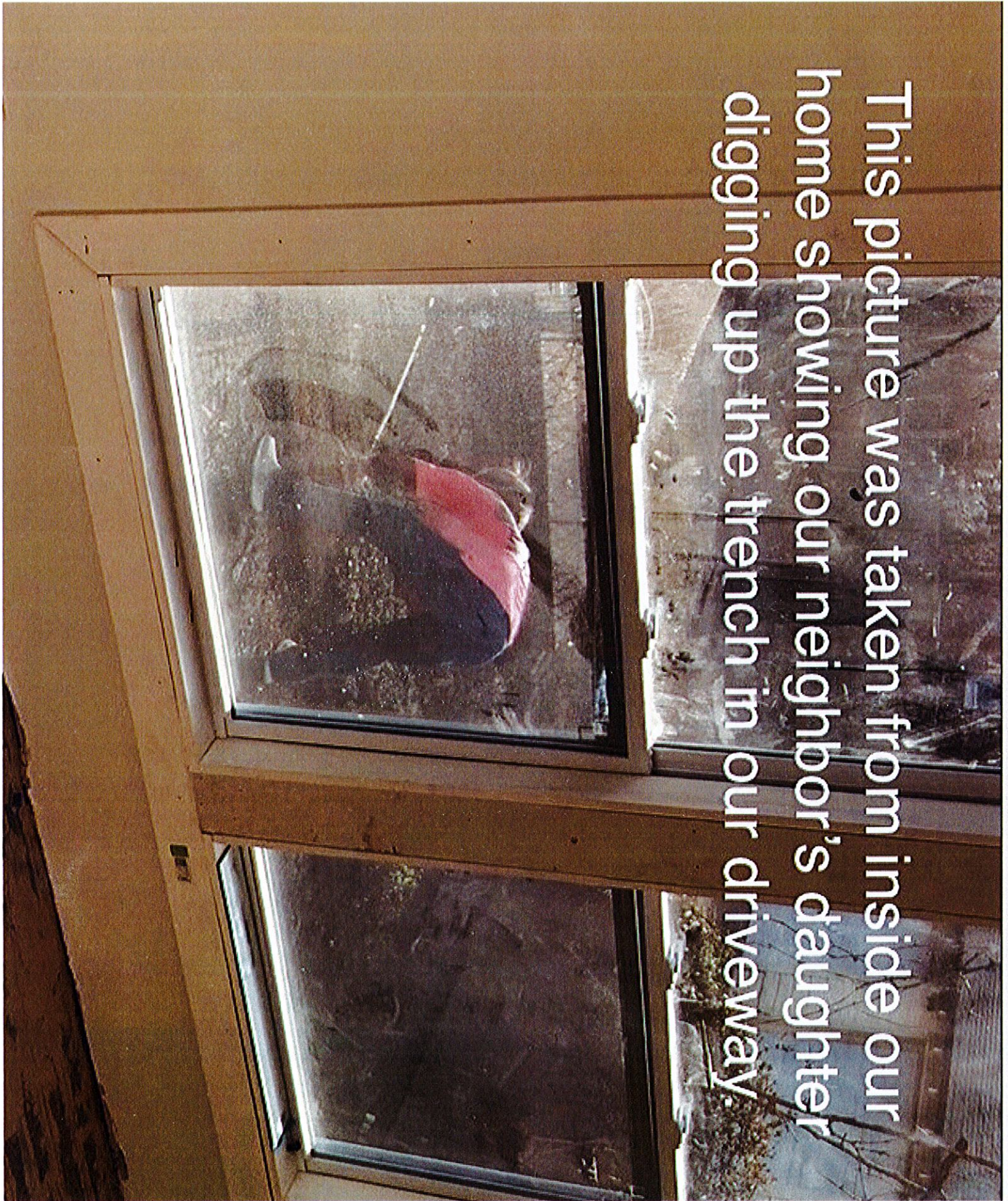




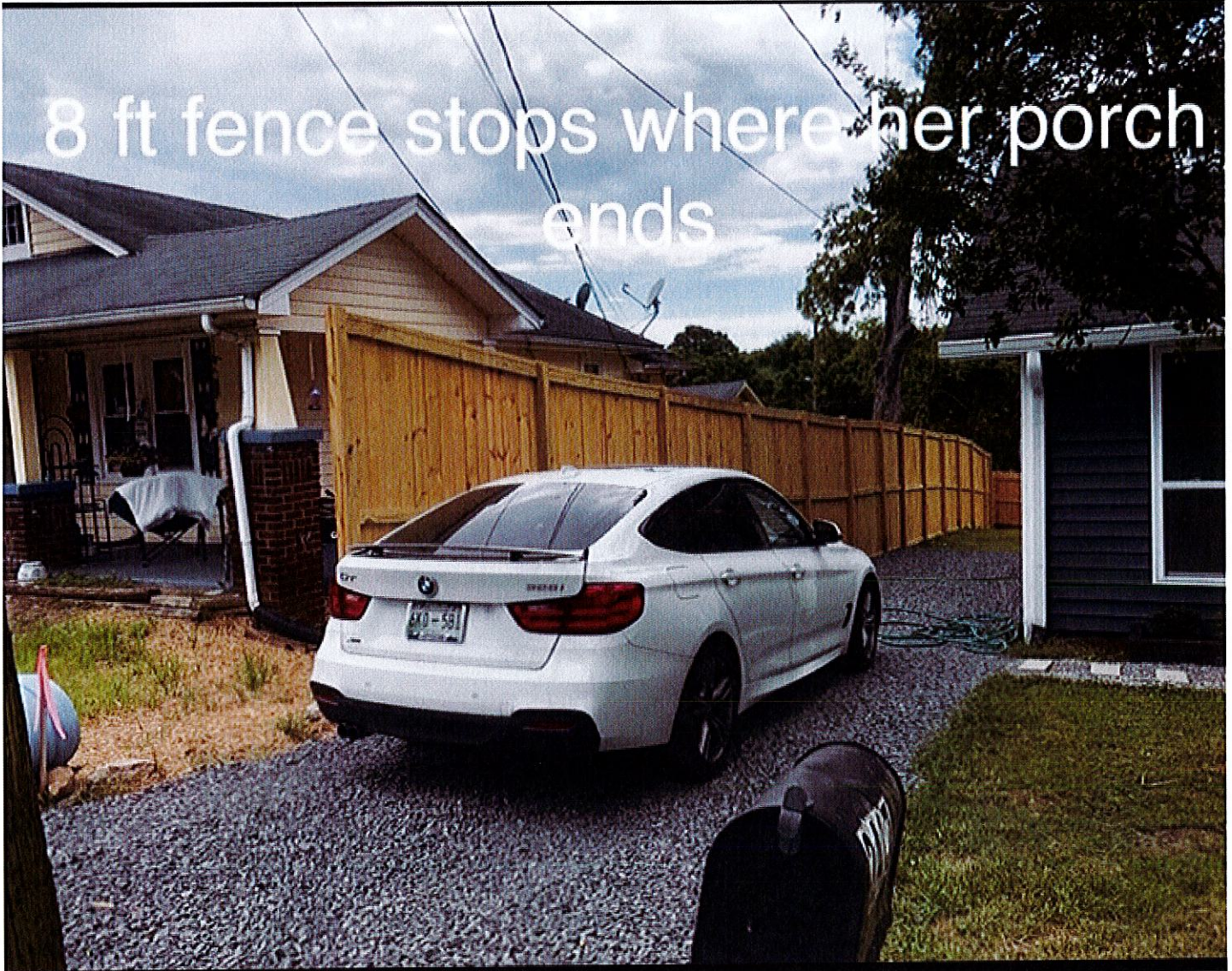
This trench was dug by our neighbor and her daughter. They claim this trench represents actual property line. Stakes were placed by Clint Elliot Land survey & represent actual property line.



This picture was taken from inside our home showing our neighbor's daughter digging up the trench in our driveway.















2417Brasher before



A photograph of a home's interior, showing a dark-stained wooden floor in the foreground. In the middle ground, a staircase with white balustrade and a dark wood handrail leads up. To the right, there are large windows and a glimpse into a kitchen with white cabinetry and a brick backsplash. The ceiling is white with recessed lighting. The overall scene is bright and clean.

AFTER





**METROPOLITAN POLICE DEPARTMENT**  
of Nashville and Davidson County

John Cooper, Mayor

Steve Anderson  
Chief of Police

**PUBLIC RECORD REQUEST RESPONSE FORM**

Governmental Entity Name and Address: MNPD Central Records Division 811 Anderson Lane, Suite 100 Madison, TN 37115

Date: 07-07-2020 RE: 20200023401

Requestor's Name and Contact Information: Veronica Sanchez

In response to your records request received on 07-06-2020 our office is taking the action(s) indicated below:  
[Date Request Received]

- The public record(s) responsive to your request will be made available for inspection:
- Location: \_\_\_\_\_
  - Date & Time: \_\_\_\_\_
- Copies of public record(s) responsive to your request are:
- Attached;
  - Available for pickup at the following location: \_\_\_\_\_; or
  - Being delivered via:  USPS First-Class Mail  Electronically  Other: \_\_\_\_\_
- Your request is denied on the following grounds:
- Your request was not sufficiently detailed to enable identification of the specific requested record(s). You need to provide additional information to identify the requested record(s).
  - No such record(s) exists or this office does not maintain record(s) responsive to your request.
  - No proof of Tennessee citizenship was presented with your request. Your request will be reconsidered upon presentation of an adequate form of identification.
  - You are not a Tennessee citizen.
  - You have not paid the estimated copying/production fees.
  - The following state, federal, or other applicable law prohibits disclosure of the requested records:  
Open Case - Rule 16 of the Tennessee Rules of Criminal Procedure and Tennessean v. Metro. Gov't of Nashville, 485 S.W.3d 857 (Tenn. 2016)
- It is not practicable for the records you requested to be made promptly available for inspection and/or copying because:
- It has not yet been determined that records responsive to your request exist; or
  - The office is still in the process of retrieving, reviewing, and/or redacting the requested records.

The time reasonably necessary to produce the record(s) or information and/or to make a determination of a proper response to your request is: \_\_\_\_\_.

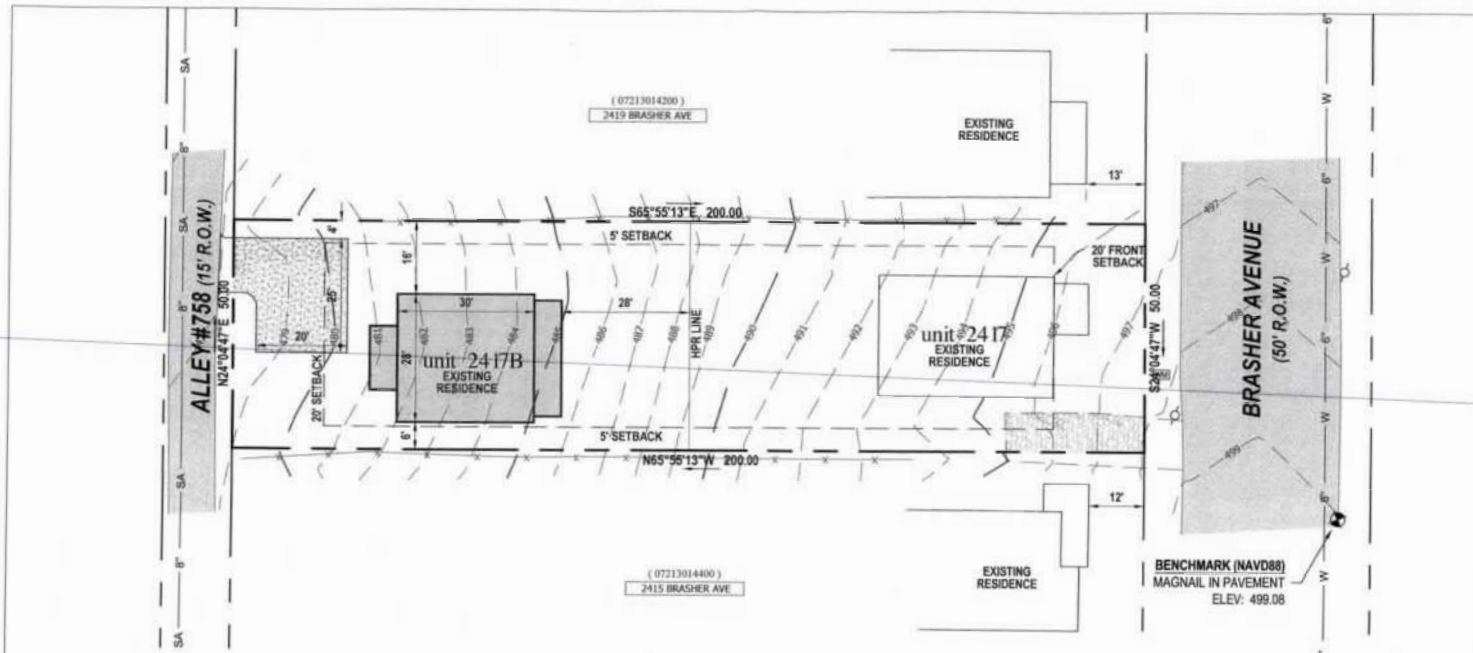
If you have any additional questions regarding your record request, please contact Public Records Request Coordinator.

Sincerely,

**Central Records Division 615-862-7631**

**CLERK-260866**





**Site Plan**  
 2417 B Brasher Avenue  
 Nashville, Davidson County, Tennessee

Drafted By: XX
Sheet No.
V-2.1

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



## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Kelsey Bright Date: 06/23/2020  
 Property Owner: Sosa Properties, LLC Case #: 2020- 171  
 Representative: J.C. Toribio Map & Parcel: 03406004100  
 Council District: 10

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

Purpose: Requesting a variance from bypass lane for drive-thru lane around building (section 17.20.070)  
 Activity Type: Fast food restaurant with drive-thru  
 Location: Rear boundary of property at 1616 Gallatin Pike, Madison, TN

**This property is in the SCR 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: Requesting to waive the requirements for a bypass lane next to the drive-thru (proposing an alternate bypass)  
 Section: 17.20.070

**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: S + H Group Representative: J.C. Toribio  
 Phone Number: (484) 686-9560 Phone Number: (615) 730-4978  
 Address: 2606 Eugenia Ave Suite D Address: 30 Harding Mall Dr  
Nashville, TN 37211 Nashville, TN 37211  
 Email address: kelsey@shgroupllc.com Email address: jctoribio@jctbiz.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.




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**APPELLANT**

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**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 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?**

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2606 Eugenia Ave · Nashville, TN 37211 · 615.645.1560 · www.shgroupllc.com

June 23, 2020

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

Re: 1616 Gallatin Pike, Madison, TN 37115  
Parcel No. 03406004100

To Whom It May Concern:

On behalf of our client, we are submitting the referenced project for a Variance Request from Chapter 17.20.070 of the Metropolitan Code pertaining to bypass lane requirements for a queuing lane (drive-thru lane). Due to the hardships related to existing lot layout and the small property size, we are requesting an alternative bypass route for the drive-thru in lieu of the required drive-thru bypass lane. Please consider this letter and the enclosed documents as our Variance Application. Please find our unique circumstance (hardship) description below and the following attachments:

1. One (1) copy of the Site Plan
2. Aerial and street view photos of the property
3. Application for Variance Request

**Unique Circumstance (Hardship)**

The unique circumstance (hardship) that affects the property is the existing lot size and layout. The proposed 0.7 acre property is a currently zoned SCR, and its intended use is a fast-food restaurant with a drive-thru lane. Improvements to the property include renovations to the existing building, a 200 square foot patio addition, and minor upgrades to the existing parking lot and curbing. The location of the proposed drive-thru lane is considered to be the existing through lane on the northwestern side of the building, approximately eight feet from the property line. Per the requirements of Chapter 17.20.070, a bypass lane next to a drive-thru lane must be a minimum of twelve feet in width. Since the existing building will remain in place, there is not sufficient space next to the drive-thru lane for a bypass lane. However, vehicles entering the parking lot will still have the opportunity to bypass the drive-thru lane. An alternate bypass has been provided that allows vehicles to turn right onto the shopping center drive via the northern "exit only", and re-enter the drive via the northeastern entrance. This proposed route has been identified on the attached site plan with black arrows.

For the reasons presented above and our understanding of the circumstances and resulting hardship, we are requesting to waive the drive-thru bypass lane requirement. Vehicles will still have the opportunity to bypass the drive-thru lane by exiting the property via the northern exit and re-entering the property via the northeastern entrance.

If you have any questions or concerns, you may reach me by phone at 484-686-9560 or by email at [kelsey@shgroupllc.com](mailto:kelsey@shgroupllc.com).

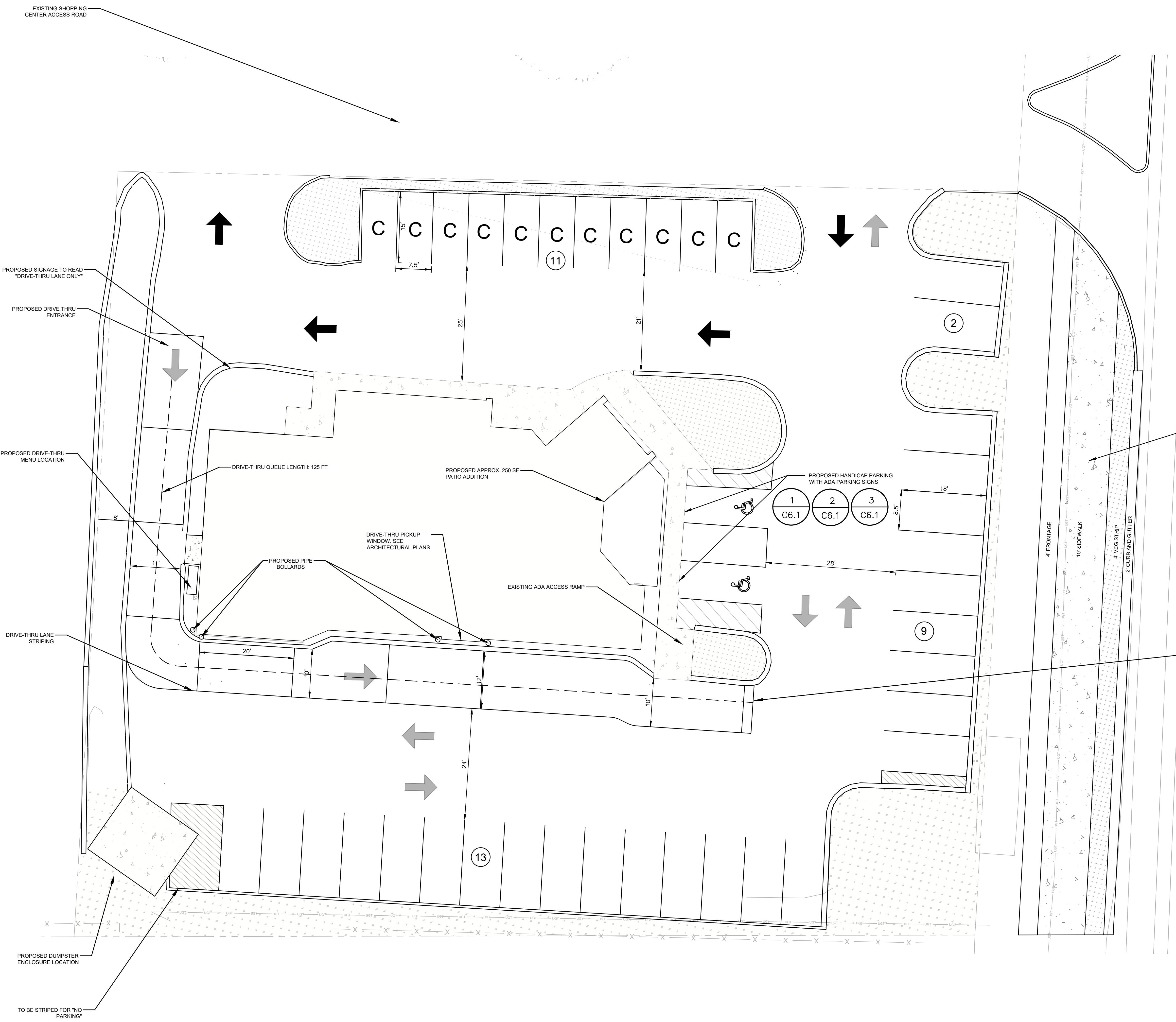
Sincerely,

Kelsey Bright  
Project Engineer

cc: Chip Howorth, Principal  
Tripp Smith, Principal, Director of Operations

**SITE SUMMARY:**  
 ADDRESS: 1616 GALLATIN PIKE  
 ZONE: SHOPPING CENTER REGIONAL (SCR)  
 UZO: NO  
 CSO: NO  
 SITE AREA: 0.7 ACRES  
 SETBACKS:  
 STREET SETBACK: 20 FT  
 SIDE SETBACK: NONE  
 REAR SETBACK: 20 FT  
 BUILDING AREA: EX. = APPROX. 3,621 SF  
 PROP. = APPROX. 3,871 SF  
 FAR:  
 MAX ALLOWED: 1.00  
 ISR:  
 MAX ALLOWED: 0.80  
 BUILDING HEIGHT:  
 MAX ALLOWED: 3 STORIES IN 45 FT  
 EXISTING: 1 STORY  
 FLOOD MAP: 47037CO357H, DATED 04/05/2017  
 FLOOD ZONE: X - NOT WITHIN A FLOOD HAZARD AREA

**PARKING SUMMARY**  
 RESTAURANT (FULL SERVICE): 1 SPACE PER 100 SF  
 FLOOR AREA (EXCL. BATHROOMS, COOLER, AND PLAYGROUND): 3,613 SF  
 SPACES REQ'D: 36  
 SPACES PROPOSED: 37  
 COMPACT ALLOWED: 36 X 30% = 11  
 COMPACT PROPOSED: 11



2 3  
 C6.0 C6.0  
 SIDEWALK AND CURB AND GUTTER UPGRADES PER PLANNING RECOMMENDATION PER MCSP STANDARD. REMOVE AND REPLACE EXISTING SIDEWALK WITH NEW GRASS STRIP AND SIDEWALK.

PROPOSED DRIVE-THRU LANE EXIT STOP WITH STOP SIGN

**POLLO CAMPERO**  
 1616 GALLATIN PIKE N  
 MADISON, TENNESSEE 37115

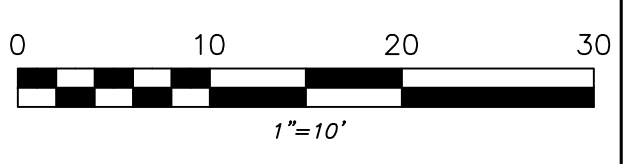
**SITE PLAN**

**S+H** ENGINEERING DESIGN CONSULTING  
 2006 EUGENIA AVENUE  
 NASHVILLE, TN 37211 SUITE D  
 TEL: 615.647.8775

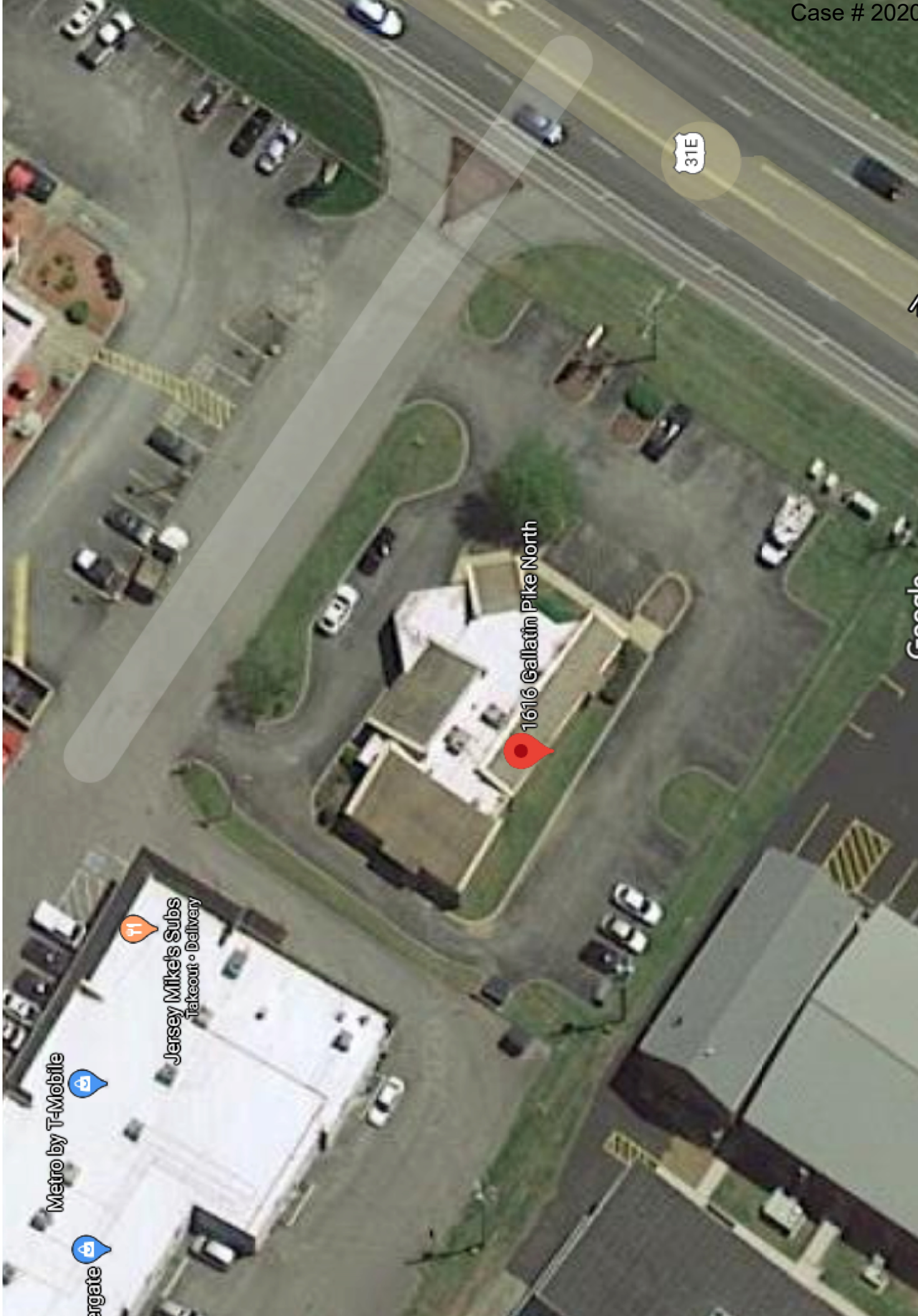
DATE: 06/23/2020  
 SCALE: 1" = 10'  
 DRAWN BY: K. BRIGHT  
 REVIEWED BY: F. SMITH

SHEET NUMBER: **C3.0**

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















## METROPOLITAN COUNCIL

Member of Metro Council

**Zach Young****Metro Councilman, District 10**

93 French Street • Goodlettsville, TN 37072  
Telephone 615-390-6840 • zach.young@nashville.gov

June 30, 2020

Chair David Taylor and Members  
Metropolitan Board of Zoning Appeals  
Metro Office Building/ Sonny West Conference Center  
700 Second Avenue South  
Nashville, TN 37219-6300

**RE: Appeals Case No. 2020-171  
Variance Request at 1616 Gallatin Pike**

Dear Chair Taylor and Members,

I have spoken with the applicant regarding the need for the variance and their end goals. The existing building is a former medical office building, and the applicant wishes to convert it to a restaurant concept with a drive-thru. In the course of their design, the applicant has run into a site constraint, which is the reason for the variance request.

Due to where the existing building is located on the property in relation to the property line, there is not enough room on the site to have both a drive-thru lane and a by-pass lane as required by 17.20.070 of the Code. As you can see in the materials submitted with the variance request, to achieve the queuing spaces as required by Code, the applicant is constrained to where they can locate the drive-thru windows.

The applicant has provided me traffic flow diagrams that I will provide a reasonable alternative solution to a by-pass lane. I believe that the intent of the by-pass lane will be met along the northern face of the building from the entrance point, allowing a vehicle to by-pass the drive-thru lane by exiting the site at the western access and re-entering the site at the eastern access to access parking along the southern side of the building.

For the reasons noted above, I support the applicant's variance request.

Cordially,

Zach Young  
Metro Councilman, District 10



## Metropolitan Board of Zoning Appeals

Metro Howard Building  
800 Second Avenue South  
Nashville, Tennessee 37210

Appellant: Anchor-Iris Developments, LLC Date: 06/22/2020  
 Property Owner: Anderson Chapman Investments, LLC Case #: 2020-172  
 Representative: Timo6, LLC Map & Parcel: 08112009200  
 Council District: 21

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

Purpose: Construction of legal non-conforming detached HPR with 3' setbacks as set forth in Rs5 setback regs.  
 Activity Type: New construction.  
 Location: 1621 Arthur Ave, Nashville, TN 37208

**This property is in the Rs5 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: Rs5 allows for 3' or 5' side setbacks. This has been disallowed for construction of legal non-conforming duplex.  
 Section: 17.12.020(A)

**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: Anchor-Iris Developments, LLC Representative: Timo6, LLC  
 Phone Number: 615-419-9198 Phone Number: 615-239-8763  
 Address: 942 Lawn View Ln Address: 100 N Main St, Suite E-1  
Franklin, TN 37064 Goodlettsville, TN 37072  
 Email address: Brian@HeltonRealEstateGroup.com Email address: Office@TimoSix.com

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.

Anchor-Iris Developments, LLC

06/22/2020

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**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.*

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?**

This property has an Rs5 zoning with a T4 NE community character. The block face consists of various lot frontages ranging from 25' to 50' in width. In addition to this property located at 1621 Arthur Ave, we are also developing two adjacent lots located at 1623 & 1625 Arthur Ave. Both of those lots have 25' lot fronts and the option to utilize 3' side setbacks.

When we were performing our due diligence on the properties, it was originally communicated to us by zoning that we had the option of 3' or 5' side setbacks. (See attached email #1) With that understanding, we contracted to purchase all 3 lots at 1621, 1623 & 1625 Arthur Ave to develop 4 single family or, detached, properties that would all be uniform in sizing and spacing between the units

When we had worked through the process to attain the legal non-conforming duplex eligibility status for 1621 Arthur, we proposed the question again to zoning to confirm that we would be able to utilize the 3' side setback option. At this time it was communicated to us by zoning that we would only have the option of a 5' setback due to the construction of an HPR. (See attached email #2)

It is our opinion that the reason for the different answers regarding setbacks was likely due to the ease of misunderstanding that can be had when attempting to process complex development matters via email; as we are having to do so at the current time due to the virus situation.

Our intent is to provide development that contributes to uniform appearance on the block face. The other 2 newer homes on the block face are also detached. If we are not allowed to build with a 3' side setback, we will have to construct 2 connected units next door to 2 detached units, thus leading to a less uniform appearance.

Due to the T4 NE community character, our intent to create uniformity on the block face and an apparent misunderstanding between ourselves and zoning when performing due diligence, we respectfully request that the board grant approval for the construction of the legal non-conforming duplex (HPR) at 1621 Arthur Ave with 3' side setbacks for each of the 2 homes, so that we may construct 4 single family or, detached, homes that are uniform in size and spacing between the homes across the 3 properties.

Respectfully,  
-Timo6, LLC & Anchor-Iris Developments, LLC: June 22nd, 2020

## Email # 1

**RE: 1621, 1623, 1625 Arthur Ave, 37208 DD** 

From [REDACTED] (Codes) on 2020.03.31 8:42 am

  Plain text

Doing well. Hope you and yours are doing well also. We will indeed need the NES records to determine the non-conforming status of the property at 1621. Since the property is zoned RS5, you will have the option of using either the 3' side setback with a max of 35' height or the 5' side setback with a max height of 45' three floors max. doing a garage port should not be a problem as far as the Codes department is concerned as long as you maintain a 10' min rear setback. I have also copied to Jonathan who can weight in as far as Public Works is concerned. Sidewalks WILL be required for these properties. Thanks

---

**From:** Matthew Bolton <matthew@timosix.com>**Sent:** Tuesday, March 31, 2020 7:46 AM**To:** [REDACTED] (Codes) <[REDACTED]@nashville.gov>**Subject:** 1621, 1623, 1625 Arthur Ave, 37208 DD

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

[REDACTED]

I hope this email finds you well!

We just went under contract on these 3 properties. They are all Rs5.

1621 currently has a triplex on it. If the owner can provide the NES records showing continuous service from 12/23/1974 forward with no 30 month breaks, will that allow us to put 2 or 3 back on the property?

For all 3 properties, what will our side setbacks be? 5' or 3'?

Is there anything that would prevent us from being able to put "garage-ports" off the alley in the rear?

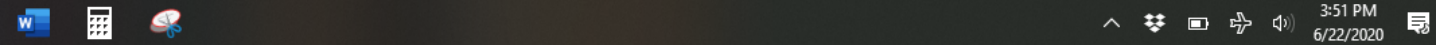
Thank you in advance, [REDACTED]

--

Matthew D. Bolton



Timosix





## Email # 2

RE: 1621 ABC Arthur Ave - NES Records 

From [REDACTED] (Codes) on 2020.06.03 7:24 am

 Details  Plain text

For a duplex it would actually be 5' side yard.

---

**From:** Matthew Bolton <matthew@timosix.com>

**Sent:** Wednesday, June 3, 2020 7:05 AM

**To:** Matthew@timosix.com; [REDACTED] (Codes) <[REDACTED]@nashville.gov>; Matthew@timosix.com

**Subject:** Re: 1621 ABC Arthur Ave - NES Records

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

Morning, [REDACTED]

I know you were out for a few day...just following up on this question.

Thank you!

Matthew Bolton  
TimoSIX  
Managing Member, GC  
W: TimoSix.com  
O: 615-239-8763  
A: 100 N. Main St Ste E-1  
Goodlettsville, TN 37072  
1 Timothy 6:6-10, 17-19

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On May 29, 2020, at 11:39 AM, Matthew Bolton <[matthew@timosix.com](mailto:matthew@timosix.com)> wrote:

Hey [REDACTED]

On this Rs5 legally non-conforming duplex eligible lot at 1621 Arthur Ave...can we build this as 2 detached units with 3' side setbacks & 6' between the 2 units?

Thank you and have a great weekend!

---  
Matthew D. Bolton

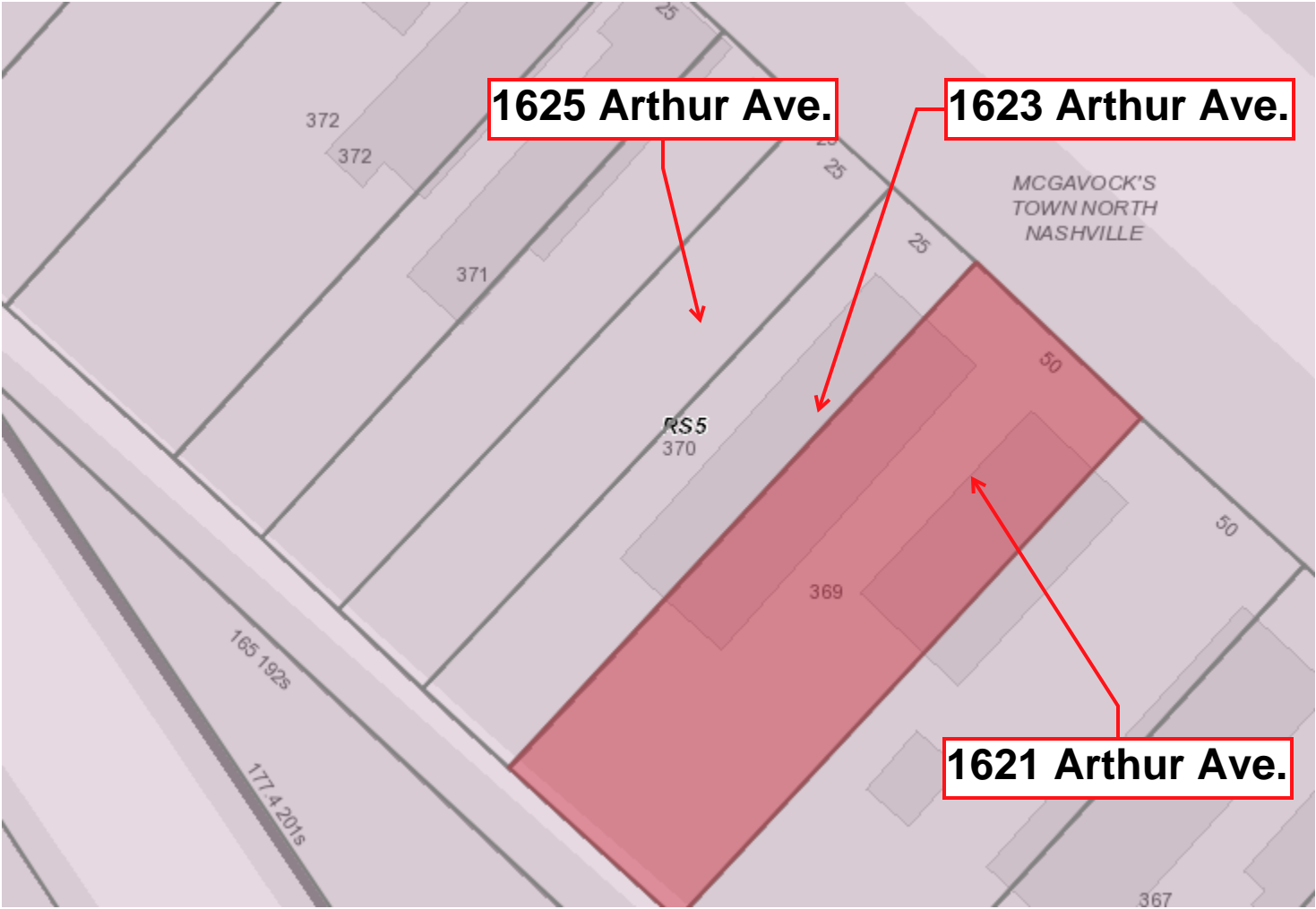
<46069b1b.png>  
Managing Member, GC  
W: TimoSix.com  
O: 615-239-8763  
A: 100 N. Main St Ste E-1  
Goodlettsville, TN 37072  
1 Timothy 6:6-10, 17-19

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On 2020.05.19 9:12 am, [REDACTED] (Codes) wrote:



**1621 Arthur Ave & Adjacent  
1623 & 1625 Arthur Ave**



**Arthur Avenue**

**1621 Arthur Ave  
Site Plan Concept**

**Front  
contextual  
setback.**

**6'  
between  
the two  
homes.**



**3' side setback  
for which we are  
requesting  
variance.**

**3' side setback  
for which we are  
requesting  
variance.**



**Required setback  
off of ally.**

**500 Aly: Improved**