



**OFFICIAL AGENDA
BOARD OF ADJUSTMENTS & APPEALS
CITY OF STARKVILLE, MISSISSIPPI
MEETING OF WEDNESDAY, OCTOBER 28, 2020
2ND FLOOR CITY HALL – COMMUNITY DEVELOPMENT,
110 WEST MAIN STREET, 4:00 PM**

- I. CALL TO ORDER
- II. ROLL CALL
- III. CONSIDERATION OF THE OFFICIAL AGENDA
- IV. APPROVAL OF THE MINUTES:
 - A. CONSIDERATION OF THE UNAPPROVED MINUTES FOR AUGUST 26, 2020
- V. NEW BUSINESS
 - A. VA 20-11 REQUEST FOR A VARIANCE TO VARY FROM THE REQUIREMENT THAT PLAYGROUNDS ASSOCIATED WITH A DAY CARE SHALL BE LOCATED BEHIND THE FRONT BUILDING LINE IN THE REAR YARD OR SIDE YARD FOR A PROPERTY LOCATED AT 732 WHITFIELD WITHIN A CN ZONING DISTRICT WITH THE PARCEL NUMBER 102C-00-118.00.
 - B. VA 20-12 REQUEST FOR A VARIANCE FROM THE SIDE YARD SETBACK REQUIREMENT FOR A CORNER LOT IN ORDER TO PLACE A CARPORT ON THE SUBJECT PROPERTY LOCATED AT 701 ROUNDHOUSE ROAD WITHIN A RN ZONING DISTRICT WITH THE PARCEL NUMBER 118A-00-039.00
- VI. ADJOURN

**UNAPPROVED MINUTES OF THE MEETING OF
THE BOARD OF ADJUSTMENTS & APPEALS
CITY OF STARKVILLE, MISSISSIPPI
AUGUST 26, 2020**

Be it remembered that the members of the Board of Adjustments & Appeals of the City of Starkville held their regularly scheduled meeting on August 26, 2020 at 4:00 p.m. in the conference room on the 2nd floor of City Hall located at 110 West Main Street, Starkville, MS.

There being physically present were Bill Webb, Chairman, Ward 5, and Joining the meeting via Google Meets virtual meeting platform were George Ford, Ward 1, Jerry Jefferson, Ward 2, Bo Richardson, Ward 3, Robert Camp, Ward 4, Marco Nicovich, Ward 6, and Shawn Sullivan, Ward 7. Physically present attending the Commissioners was City Planner Daniel Havelin, Assistant City Planner Emily Corban, and Community Development Director Dr. Simon Kim.

Chairman Webb opened the meeting.

A CONSIDERATION OF THE WRITTEN AGENDA

**OFFICIAL AGENDA
BOARD OF ADJUSTMENTS & APPEALS
CITY OF STARKVILLE, MISSISSIPPI
MEETING OF WEDNESDAY, AUGUST 26, 2020
2ND FLOOR CITY HALL – COMMUNITY DEVELOPMENT,
110 WEST MAIN STREET, 4:00 PM**

- I. CALL TO ORDER
- II. ROLL CALL
- III. CONSIDERATION OF THE OFFICIAL AGENDA
- IV. APPROVAL OF THE UNAPPROVED MINUTES FOR JULY 22, 2020
- V. NEW BUSINESS
 - A. VA 20-07 REQUEST FOR A VARIANCE FROM REQUIRED LOT SIZE AND DIMENSIONS LOCATED ON THE 798 PINE CIRCLE IN A SD-2 ZONING DISTRICT WITH THE PARCEL NUMBER 102H-00-113.01.
 - B. VA 20-09 REQUEST FOR A VARIANCE FROM THE REQUIRED AMOUNT OF PARKING FOR A PROPOSED CONDOMINIUM DEVELOPMENT LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF GUEST DRIVE AND MALLORY LANE IN A C ZONING DISTRICT WITH THE PARCEL NUMBERS 103A-00-001.42 AND 103A-00-001.43.
 - C. VA 20-08 REQUEST FOR A VARIANCE FROM THE REQUIRED PARKING SETBACKS FOR A FUTURE RETAIL DEVELOPMENT LOCATED ON THE 601 HIGHWAY 12 WEST IN A C ZONING DISTRICT WITH THE PARCEL NUMBER 102F-00-053.00. (THIS ITEM WAS PULLED BY THE APPLICANT ON 8-20-20 BY EMAIL)
- VI. ADJOURN

The Board considered the matter of the approval of the written agenda as amended dated August 26, 2020. Upon the motion of Mr. Jefferson, seconded by Mr. Sullivan, the Board voted unanimously to approve the written agenda as amended.

APPROVAL OF THE UNAPPROVED MINUTES FOR JULY 22, 2020

The Board considered the matter of the approval of the minutes of the July 22, 2020 Board of Adjustments and Appeals meeting. Upon the motion of Mr. Sullivan, seconded by Mr. Camp, the Board voted unanimously to approve the minutes as amended.

NEW BUSINESS

A. VA 20-07 REQUEST FOR A VARIANCE FROM REQUIRED LOT SIZE AND DIMENSIONS LOCATED ON THE 798 PINE CIRCLE IN A SD-2 ZONING DISTRICT WITH THE PARCEL NUMBER 102H-00-113.01.

This is a request by Tommy Turner for a variance from the required lot size and dimensions for an existing legal non-conforming lot in accordance with Section 3.17.1.A.2 of the Unified Development Code (UDC). The approval of the request is needed to construct a new detached dwelling home on the lot. The applicant is requesting relief from minimum lot size and minimum lot width for an existing lot located at 798 Pine Circle in the Pleasant Acres neighborhood. The lot was originally a part of lot 9 of the Pleasant Acres Subdivision platted around 1955. Lot 9 was subdivided to create subject lot in 1958 prior to being annexed into the City (see attachment 5). The current lot does not meet the minimum size requirements for a lot in an SD-2 zoning district. It is therefore classified as a legal non-conforming lot. A legal nonconforming lot is a lot existing legally at the time of the passage of the UDC, or the time of annexation into the City's jurisdiction, which does not by reason of design or dimensions conform to the regulations of the district in which it is located. The lot is approximately 45% smaller than the required 17,500 square feet and is 70'6" wide which is less than the required 100'. The applicant is proposing to build a single residential dwelling on the property.

The request was noticed in accordance with Section 3.7.3.E of the Unified Development Code. 11 property owners of record within 160 feet of the subject property were notified directly by mail of the request. A legal ad was published in the Starkville Daily News on August 11, 2020. A sign was posted on the property in a conspicuous location. As of this date the Planning Office has received only two emails against the request.

Chairman Webb opened the public hearing to citizen comments.

The applicant was not present for the request.

Call for and receiving no additional comments, Chairman Webb closed the public hearing and opened the item up for discussion.

After a discussion and upon the motion of Mr. Camp, duly seconded by Mr. Nicovich, the motion to approve VA 2007 received approval 5 to 2 with Mr. Ford and Mr. Jefferson being the dissenting votes.

B. VA 20-09 REQUEST FOR A VARIANCE FROM THE REQUIRED AMOUNT OF PARKING FOR A PROPOSED CONDOMINIUM DEVELOPMENT LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF GUEST DRIVE AND MALLORY LANE IN A C ZONING DISTRICT WITH THE PARCEL NUMBERS 103A-00-001.42 AND 103A-00-001.43.

This is a variance request by Willis Owens of Pritchard Engineering on behalf of Charlie Morgan from the required amount of parking for a proposed condominium development. The proposed development is located on the northeast corner of the intersection of Guest Drive and Mallory Lane in a C zoning district with the parcel numbers 103A-00-001.42 and 103A-00-001.43. The applicant is proposing to build a 30-unit condominium development. The applicant is requesting relief from the minimum parking spaces required. The city code requires 1.25 parking spaces per bedroom which would require 75 parking spaces for the development. The applicant is requesting to reduce the parking to 1 space per bedroom, which would be 60 parking spaces for the development. The Board of Aldermen approved a special exception request to construct a 32-unit townhome on the subject property on July 7, 2020.

The request was noticed in accordance with Section 3.7.3.E of the Unified Development Code. 41 property owners of record within 160 feet of the subject property were notified directly by mail of the request. A legal ad was published in the Starkville Daily News on August 11, 2020. A sign was posted on the property in a conspicuous location. As of this date the Planning Office has received one call about the request.

Chairman Webb opened the public hearing to citizen comments.

The applicant, Mr. Charlie Morgan, came forward to speak in favor of the request. The engineer representing the applicant, Mr. Willis Owens, came forward to speak in favor of the request.

Call for and receiving no additional comments, Chairman Webb closed the public hearing and opened the item up for discussion.

After a discussion and upon the motion of Mr. Richardson, duly seconded by Mr. Jefferson, the motion to approve VA 20-09 received approval 6 to 1 with Mr. Nicovich being the dissenting vote.

C. VA 20-08 REQUEST FOR A VARIANCE FROM THE REQUIRED PARKING SETBACKS FOR A FUTURE RETAIL DEVELOPMENT LOCATED ON THE 601 HIGHWAY 12 WEST IN A C ZONING DISTRICT WITH THE PARCEL NUMBER 102F-00-053.00. (THIS ITEM WAS PULLED BY THE APPLICANT ON 8-20-20 BY EMAIL)

This is a request was pulled by the applicant but because it was advertised as a public hearing, a public hearing must still be held.

Chairman Webb opened the public hearing to citizen comments.

Call for and receiving no additional comments, Chairman Webb closed the public hearing and opened the item up for discussion.

ADJOURNMENT

After discussion, Mr. Sullivan moved to adjourn which was seconded by Mr. Nicovich, and the Board voted unanimously to adjourn until 4:00 p.m. on September 23, 2020 in the second-floor conference room located at 110 West Main Street, Starkville, MS.

Bill Webb, Chairman

Daniel Havelin, City Planner



THE CITY OF STARKVILLE
PLANNING DEPARTMENT
BOARD OF ADJUSTMENTS & APPEALS
CITY HALL, 110 WEST MAIN STREET
STARKVILLE, MISSISSIPPI 39759

STAFF REPORT

To: Members of the Board of Adjustments & Appeals
From: Daniel Havelin, City Planner (662-323-2525 ext. 3136)
Emily Corban, Assistant City Planner (662-323-2525 ext. 3138)
Subject: VA 20-11 Request for a variance to vary from the requirement that playgrounds associated with a day care shall be located behind the front building line in the rear yard or side yard for a property located at 732 Whitfield within a CN zoning district with the parcel number 102C-00-118.00.
Date: October 28, 2020

The purpose of this report is to provide information regarding a Variance Request by Martisa Francis to vary from the requirement that playgrounds associated with a day care shall be located behind the front building line in the rear or side yard. The property is located at 732 Whitfield within a CN zoning district with the parcel number 102C-00-118.00. Please see attachments 1- 3.

BACKGROUND INFORMATION

The applicant Martisa Francis is requesting to vary from the requirement that playgrounds associated with a day care shall be located behind the front building line in the rear yard or side yard. The existing playground is currently located in the side and front yard which is considered a legal nonconforming that cannot be expanded without meeting the requirements of the code. The applicant is wishing to add a canopy cover to the fenced-in play area and grass turf inside the fenced-in area which constitutes an expansion of a nonconforming site feature. Variance approval is needed to modify the existing nonconforming playground feature.

If the request for Variance is recommended for approval, the applicant's requests will be heard by the Board of Aldermen at the November 3, 2020 meeting.

VARIANCE REQUEST FROM

Section 3 Procedures and Processes

3.17.4. Nonconforming site feature. A legal nonconforming feature is a physical site feature existing legally at the time of the passage of this Code, or the time of annexation into the City's jurisdiction, which does not because of design or dimension conform to the use or development standards for the district in which it is situated. Nonconforming features include, but are not limited to: driveway widths, fence height, parking lot layout, parking lot paving, number of required parking spaces, loading areas, buffer areas, landscaping, sidewalks, ADA requirements, etc. A site feature added, changed, repaired, or modified after the passage of this Code which does not conform to the regulations of the district in which it is situated shall be considered an illegal nonconforming feature and is a violation of this Code. Legal nonconforming features may be continued subject to the following limitations:

- A. Increase in nonconformity prohibited.** No action shall be taken which increases the degree or extent of the nonconformity. Any enlargement, extension, structural alteration, layout changes, access modifications, landscaping, and other changes to the site shall conform to all current requirements use and development standards.
- B. Continuation permitted.** For a development existing before the effective date of current regulations, a feature made nonconforming by a change in use and development standards may continue to exist until any proposed improvements on the site require site plan approval or the existing primary structure on the same site as the nonconforming feature is modified to the extent

that the construction cost, as determined by the Building Department, for the modification is less than fifty percent (50%) of its tax assessor's replacement value or an appraised replacement value at the time of modification of the structure only, not including the land. A remodel of an existing structure shall be considered a modification.

Section 13 Use Regulations

13.6.2 Care Center

- A. Definition:** A place meeting all state requirements which provides shelter and personal care for five or more persons regardless of age for any part of the twenty- four (24) hour day but not to exceed twelve and a half (12 ½) hours in a day, whether such place be organized or operated for profit or not. This shall include daycares, child or adult care centers, and any other facility that fits within the scope of the definition regardless of ownership. Excluded from this definition is any facility operating as a kindergarten, nursery school, or Head Start in conjunction with an elementary or secondary school system, whether it is public, private, or parochial, whose primary purpose is a structured school readiness program. Also excluded is any medical care facility such as a hospital, convalescent home, nursing home, rehabilitation center, regulated group home, or group care facility.
- B. Parking:**
 - 1. One (1) space is required for each employee, and one (1) space for each five (5) enrolled persons at maximum capacity.
 - 2. See zoning district base dimensional standards for parking location and setback requirements.
- C. Loading:** Trucks delivering materials to and from the premises shall not be permitted to unload on the right-of-way.
- D. Additional Standards:**
 - 1. Drop-off and pick-up areas must be shown on a site plan and approved by the Development Review Committee.
 - 2. Space requirements shall be as stipulated by the Mississippi State Board of Health and the International Building Code, or other appropriate state or federal agency.
 - 3. Outdoor play and recreation areas **shall be located behind the front building line in the rear yard or side yard only.** A four (4) foot high fence with a secure gate shall be provided around any outdoor play and recreation area. Fences adjacent to a public street shall be opaque and fully screen the play and recreation area.
 - 4. Outdoor activities are limited to the hours of 8:00 a.m. to 8:00 p.m.

CRITERIA FOR VARIANCE REVIEW AND APPROVAL (Section 3.7.1)

3.7.1. Criteria for variance review and approval.

- A. Special Conditions.** That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and the same conditions are not applicable to other land, structures, and buildings in the surrounding area.
- B. Literal Interpretation.** That the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.
- C. Hardship.** That the hardship has not resulted from the actions of the applicant.
- D. Special Privilege.** That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district.
- E. Minimum Variance.** That granting the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- F. Consistency with Comprehensive Plan.** That the granting of the variance will be consistent with the general purpose, intent, goals, objectives, and policies of the Comprehensive Plan and this code and will not be injurious to surrounding areas or otherwise detrimental to the public welfare.

NOTIFICATION:

The request was noticed in accordance with Section 3.7.3.E of the Unified Development Code.

1. 18 property owners of record within 160 feet of the subject property were notified directly by mail of the request.
2. A legal ad was published in the Starkville Daily News on September 30, 2020.
3. A sign was posted on the property in a conspicuous location.

RESPONSE TO NOTIFICATION

As of this date, the Planning Office has received 1 phone call requesting information about this request.

ANALYSIS

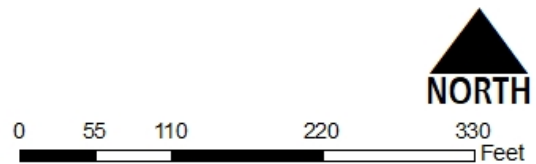
In the opinion of the Planning Department the proposed variance request could meet the criteria for variance review and approval.

CONDITIONS OF APPROVAL

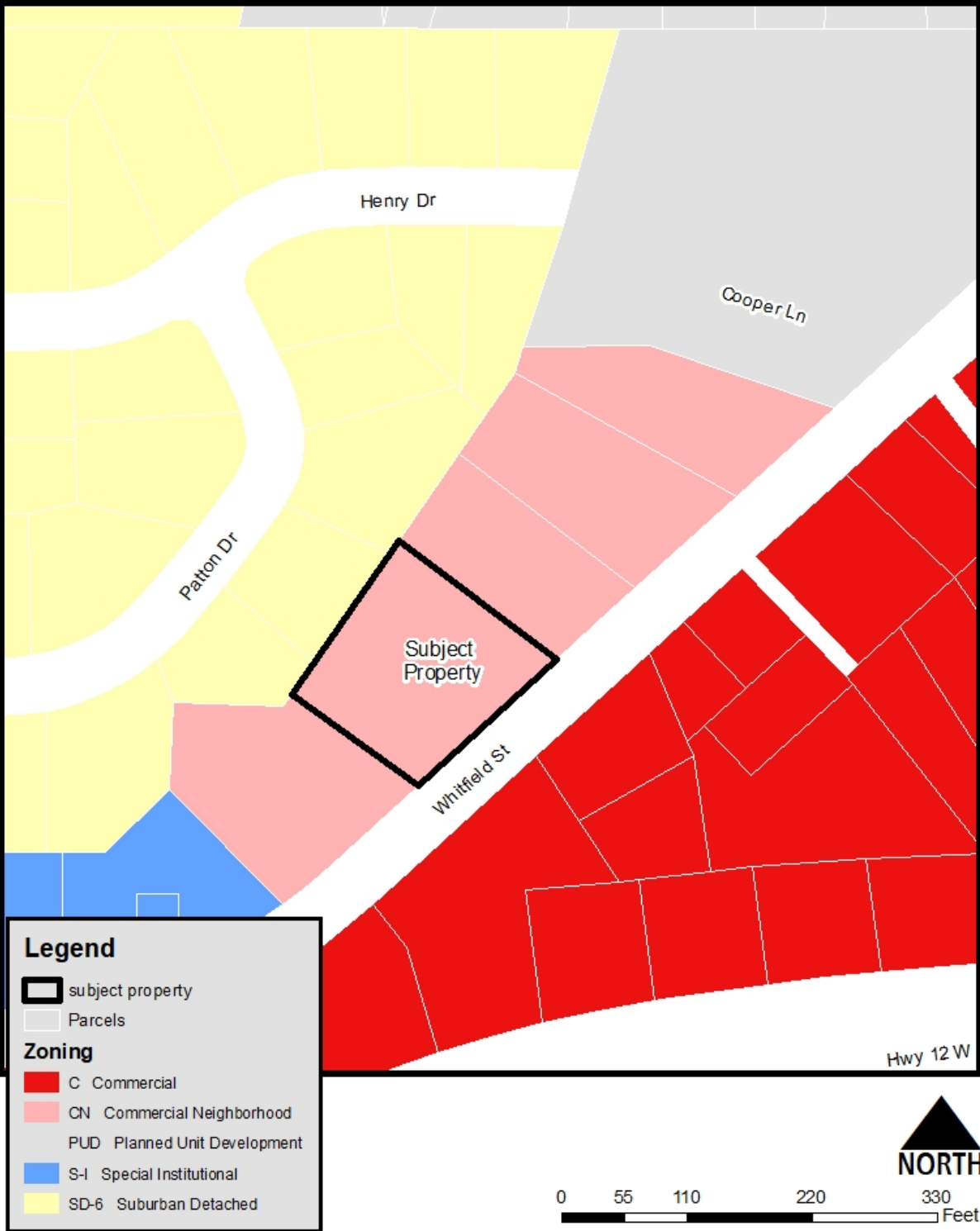
Any condition attached to the approval of a variance by the Mayor and Board of Aldermen shall run with the land and shall be binding upon the applicants, their heirs, and successors. The following conditions of approval are recommended by the Planning Department:

1. The applicant shall be required to add the addition of a screen to the fenced in area that is visible from the right-of-way to meet the intent of the additional use standards for that use which require it to fully screen the play and recreation area.

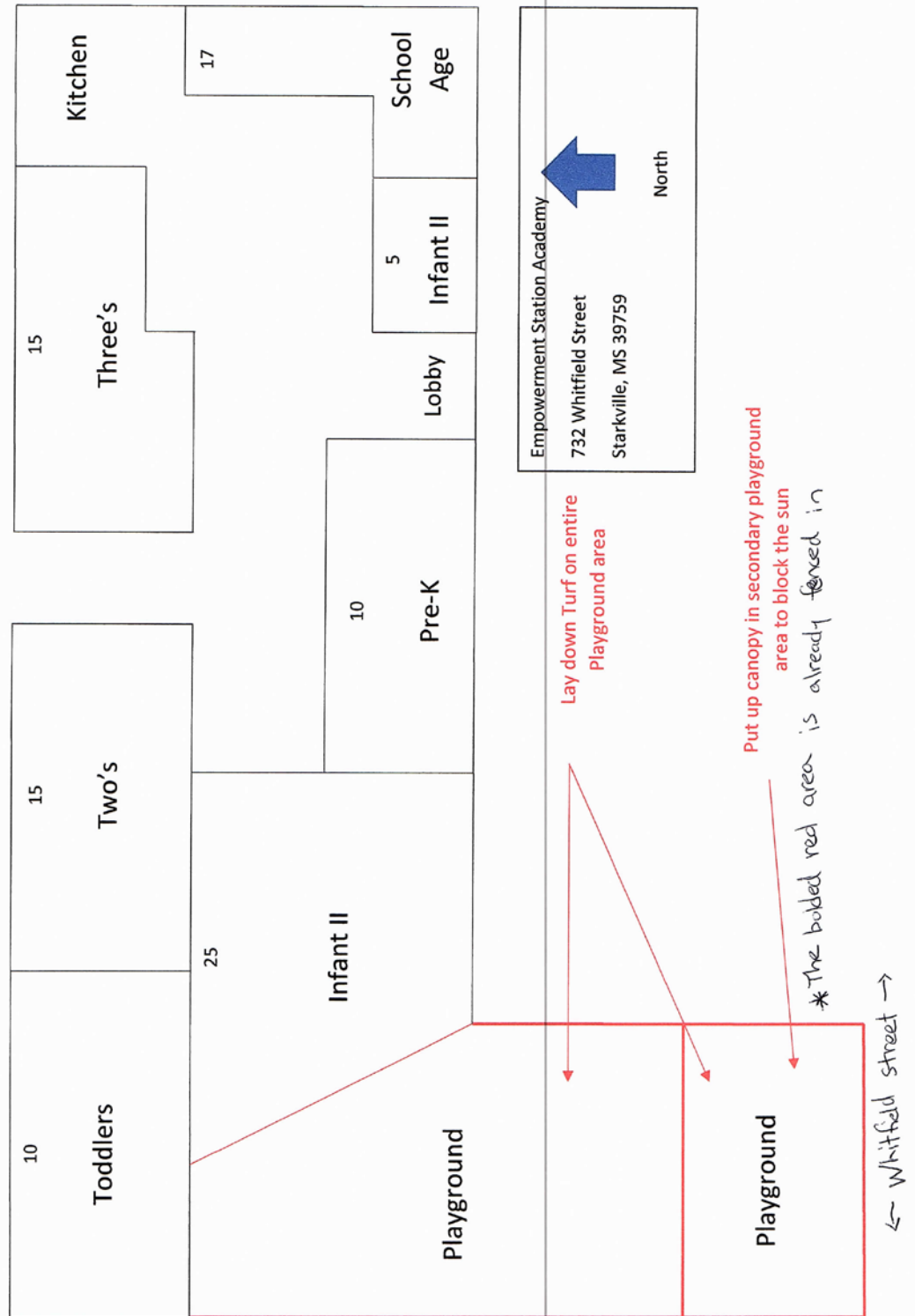
Attachment 1
SE 20-11- Aerial

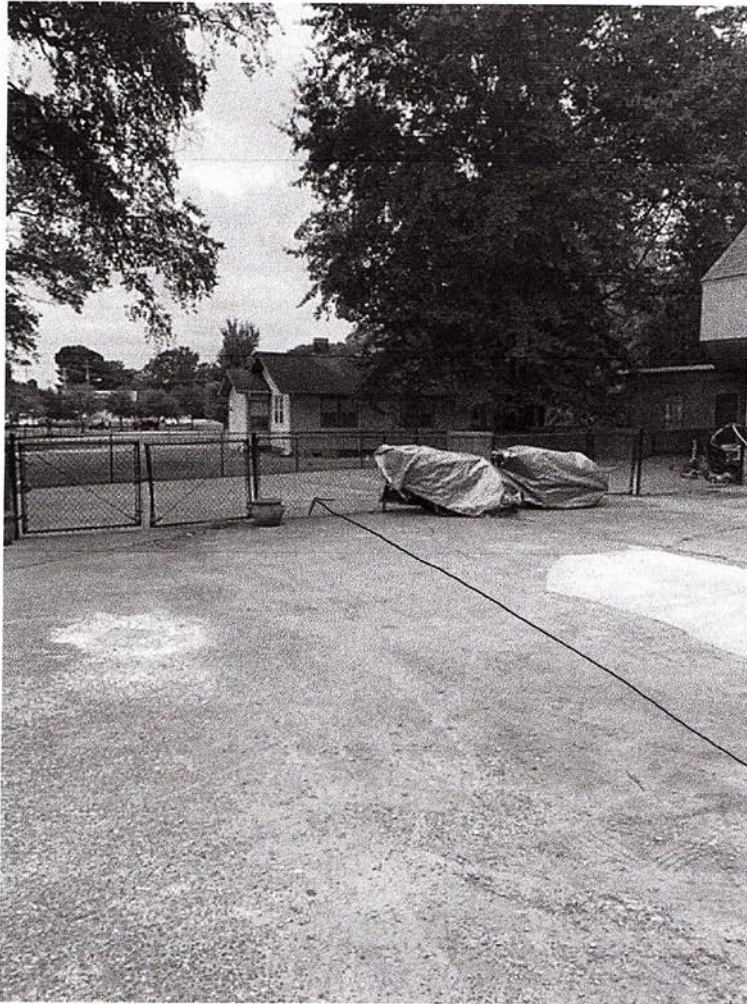


Attachment 2
SE 20-11- Zoning



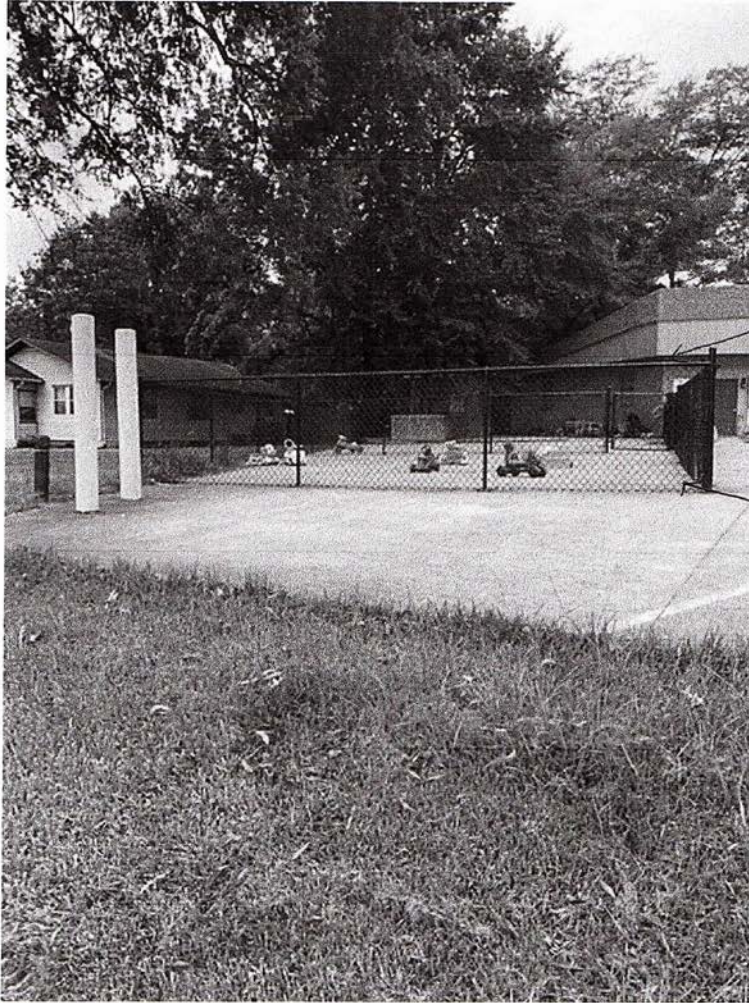
Attachment 3- Applicant's Drawings





View from front of the
building, facing the
play ground.

add grass turf inside
fenced area



Canopy to cover
play area

add grass turf inside
fenced area

9/27/2020

IMG_5233.jpg



View from the street

9/27/2020

IMG_5231.jpg

Whitfield Street



facing the playground from
the ~~park~~ parking lot



THE CITY OF STARKVILLE
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 CITY HALL, 110 WEST MAIN STREET
 STARKVILLE, MISSISSIPPI 39759

STAFF REPORT

To: Members of the Board of Adjustments & Appeals
From: Daniel Havelin, City Planner (662-323-2525 ext. 3136)
 Emily Corban, Assistant City Planner (662-323-2525 ext. 3138)
Subject: VA 20-12 Request for a variance from the side yard setback requirement for a corner lot in order to place a carport on the subject property located at 701 Roundhouse Road within a RN zoning district with the parcel number 118A-00-039.00
Date: October 28, 2020

The purpose of this report is to provide information regarding a Variance Request by Anne Burchfield to vary from the side yard setback requirement for a corner lot in order to place a carport on the subject property. The property is located 701 Roundhouse Road within a RN zoning district with the parcel number 118A-00-039.00. Please see attachments 1- 3.

BACKGROUND INFORMATION

The applicant is requesting relief from side setback requirements for a corner lot to add a carport on to an existing home. The applicant is proposing to place a carport on the eastern side of the property. However, the existing house is currently only +-41 feet from the property line. The proposed structure is 16 feet wide. The side setback adjacent to a street in a RN zoning district is 40 feet. The applicant is requesting to reduce the side setback adjacent to the street to 24 feet to allow for the placement of the carport on the east side of the house.

If the request for Variance is recommended for approval, the applicant's requests will be heard by the Board of Aldermen at the November 3, 2020 meeting.

VARIANCE REQUEST FROM

Detached and Attached Duplex Dwelling	
A. Lot Dimensions	RN
A1 Lot size per unit in sq. ft (min.)	40000
A2 Lot width (min.)	140'
A3 Lot width at corner (min.)	140'
B. Primary Building Setbacks	RN
B1 Front setback	40' min
B2 Side setback (min.)	10'
B3 Side setback corner lot (min.)	40'
B4 Rear setback (min.)	30'
B5 Rear setback adjacent to street or alley (min.)	20'
C. Accessory Dwelling Unit/Structure Setbacks	RN
C1 Front setback	Behind rear wall of primary building
C2 Side setback	5' min
C3 Side setback corner lot (min.)	40'
C4 Rear setback	5', 100 for structures housing livestock

C5 Rear setback adjacent to alley for garages (min.)	N/A
C6 Structures housing livestock (min.)	100' min
D. Parking Setbacks	RN
D1 From primary street	N/A
E. Height	RN
E1 Principle building(s) (max)	35', 2.5 story
E. Height (cont.)	RN
E2 Accessory Dwelling Unit(s)/Structure(s) (max)	Less than primary building
E3 Accessory structure agricultural use	70'
F. Pedestrian Access	RN
F1 Street-facing primary entrance along street	yes

CRITERIA FOR VARIANCE REVIEW AND APPROVAL (Section 3.7.1)

3.7.1. Criteria for variance review and approval.

- A. Special Conditions. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and the same conditions are not applicable to other land, structures, and buildings in the surrounding area.
- B. Literal Interpretation. That the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.
- C. Hardship. That the hardship has not resulted from the actions of the applicant.
- D. Special Privilege. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district.
- E. Minimum Variance. That granting the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- F. Consistency with Comprehensive Plan. That the granting of the variance will be consistent with the general purpose, intent, goals, objectives, and policies of the Comprehensive Plan and this code and will not be injurious to surrounding areas or otherwise detrimental to the public welfare.

NOTIFICATION:

The request was noticed in accordance with Section 3.7.3.E of the Unified Development Code.

1. 12 property owners of record within 160 feet of the subject property were notified directly by mail of the request.
2. A legal ad was published in the Starkville Daily News on October 10, 2020.
3. A sign was posted on the property in a conspicuous location.

RESPONSE TO NOTIFICATION

As of this date, the Planning Office has received one phone call in favor of the request.

ANALYSIS

In the opinion of the Planning Department the proposed variance request could meet the criteria for variance review and approval.

CONDITIONS OF APPROVAL

Any condition attached to the approval of a variance by the Mayor and Board of Aldermen shall run with the land and shall be binding upon the applicants, their heirs, and successors.

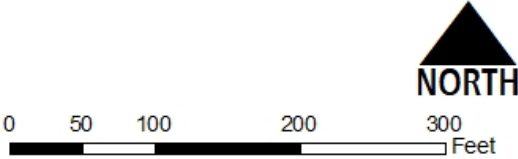
Attachment 1
SE 20-12 Aerial



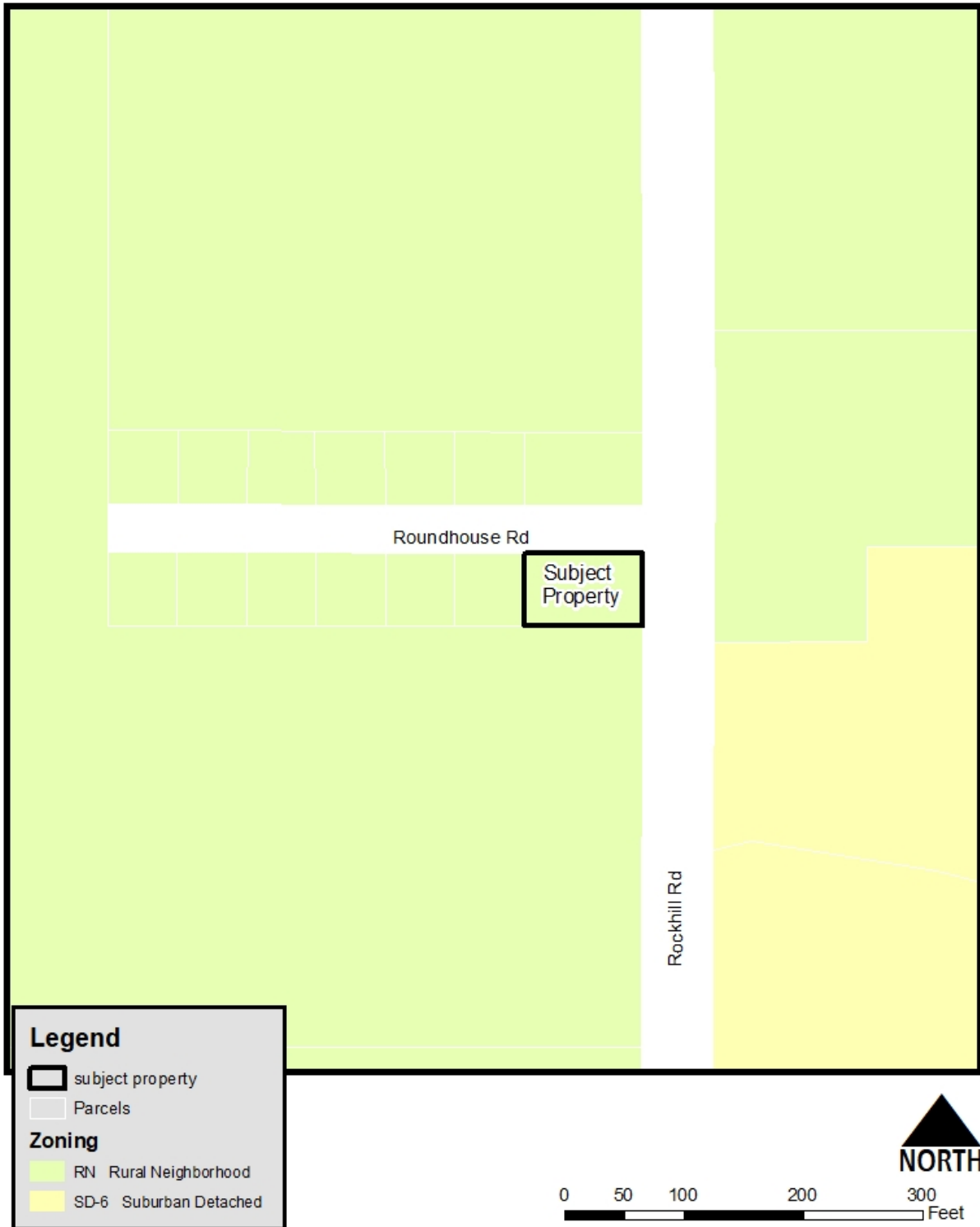
Legend

 subject property

 Parcels



Attachment 2
SE 20-12 Zoning



Attachment 3- Conceptual Site Plan

