# BZA Packet

July 13, 2016

**Hello All,**

Enclosed please find your packet for the meeting of July 18, 2016.

**We have:**

- 7 new cases

If you receive any citizen inquiries regarding these cases the proposed plans may be viewed by going to:
www.mtnbrook.org

- Government
- Other Meeting Agendas
- Board of Zoning Adjustment (BZA)
- 2016-July-18 BZA Agenda

If you have any questions about the cases please don't hesitate to give me a call at 802-3821 or send me an email at hazend@mtnbrook.org …

**Looking forward to seeing you on Monday!**

***Dana***

**MEETING AGENDA**
**CITY OF MOUNTAIN BROOK**
BOARD OF ZONING ADJUSTMENT
JULY 18, 2016
PRE-MEETING: (ROOM A106) 4:15 P.M.
REGULAR MEETING: (ROOM A108) 5:00 P.M.
CITY HALL, 56 CHURCH STREET, MOUNTAIN BROOK, AL 35213

*NOTICE*

*Any variance which is granted today expires and becomes null and void six months from today unless construction is begun in less than six months from today on the project for which the variance is granted. If construction will not be started within six months from today, the applicant may come back in five months and ask for a six-months extension, which the Board normally grants.*

*Any variance which is granted, regardless of the generality of the language of the motion granting the variance, must be construed in connection with, and limited by, the request of the applicant, including all diagrams, plats, pictures and surveys submitted to this Board before and during the public hearing on the variance application.*

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1. Approval of Minutes: June 6, 2016

2. Case **A-16-30: Clayton and Blair Trotter**, owners, request a variance from the terms of the Zoning Regulations to allow the construction of additions and alterations to an existing single family dwelling to be 6 feet from the side property line (northwest) in lieu of the required 10 feet. **– 117 Heritage Circle**

3. Case **A-16-31: Rob and Sandy Ballard**, owners, request a variance from the terms of the Zoning Regulations to allow additions and alterations to an existing single family dwelling to be 25.4 feet from the rear property line (southwest) in lieu of the required 30 feet. **– 8 Montevallo Lane**

4. Case **A-16-32: Norman Investment Group,** owner, requests a variances from the terms of the Zoning Regulations to allow a new single family dwelling to be 29 feet from the secondary front property line (Peachtree Street) in lieu of the required 35 feet **– 600 Euclid Avenue.** *(proposal is the same as approved by BZA in January 2015, Case 4161, which has expired).*

5. Case **A-16-34: Alex and Ashley Seligson**, owners, request a variance from the terms of the Zoning Regulations to allow a covered porch to be 25 feet 11 inches from the front property line (Old Brook Lane) in lieu of the required 40 feet. **– 4227 Old Brook Lane.**

6. **Case A-16-35**: **Frank Tomlinson,** owner, requests a variance from the terms of the Zoning Regulations to allow additions and alterations to an existing single family dwelling to be 11 feet from the secondary front property line (Cherry Avenue) in lieu of the required 35 feet. - **3901 Jackson Boulevard**.

7. Case **A-16-36: 1511 Amhurst Circle, LLC**, owner, requests variances from the terms of the Zoning Regulations to allow retaining walls, stairs, landing and handrail to be up to 9.4 feet high in lieu of the allowed 4 feet within the 40-foot front yard setback. **– 1511 Amherst**

**Circle.**

8. Case **A-16-37: Yakar Properties, LLC**, owner, requests variances from the terms of the Zoning Regulations to allow retaining walls, stairs, landing and handrail to be up to 9.4 feet high in lieu of the allowed 4 feet within the 40-foot front yard setback**. – 1507 Amherst Circle.**

9. Next Meeting: August 15, 2016

10. Adjournment

**CITY OF MOUNTAIN BROOK**
BOARD OF ZONING ADJUSTMENT
MINUTES
June 20, 2016

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, June 20, 2016, at 5:00 p.m. in the Council Chamber at Mountain Brook City Hall.

| | | | |
|---|---|---|---|
| Board Present: | Patrick Higginbotham, Chairman<br>William Hereford, Co-Chairman<br>Henry Lapidus<br>Norman Orr<br>Richard Simonton<br>Chris Mitchell | Absent: | Rhett Loveman |

Also present: Virginia Smith, Council Liaison
Tammy Graham, Administrative Assistant

Chairman Higginbotham asked if all adjacent property owners in each of the cases on the agenda had received legal notice of this hearing. Mrs. Graham replied that, based on the information supplied by the applicants, they had been notified.

Mr. Higginbotham stated that any variance which is granted today expires and becomes null and void six months from today, unless construction is begun in less than six months from today on the project for which the variance is granted. If construction will not be started within six months from today, the applicant may come back in five months and ask for a six-month extension.

**1.** The agenda stood approved as printed**.**

**2.** Approval of Minutes - May 16, 2016:

Motion: Mr. Lapidus, to approve as printed
Second: Mr. Hereford
Vote: Unanimously approved

**3.** Case **A-16-25: 2717 Wynward Road** **EXHIBIT 1**

Oak Property Solutions, owner, request variances from the terms of the Zoning Regulations to allow the construction of a new single family dwelling (on existing foundation and basement walls) to be 75.2 feet from the front property line (Wynward Road) in lieu of the required 100 feet, and 32.9 feet from the side property line (east) in lieu of the required 40 feet.

**Hardship:** The narrow width of the lot.

Jeremy Nix, Nix Design Build, the contractor for the property owner, presented the variance request per the submitted application.

Chairman Higginbotham:

- This lot is narrow for Estate zoning.
- It appears that the entire foundation will be used.
- The placement of the existing house is forward into the setback, as are the neighbors to the left and right; sides well into setbacks.
- The front setback is based on the bay window, and the encroachment is actually a wider encroachment for the window.
- If there are any columns or additions on the porch, they will have to be within the setback that is approved.

**Public comment:**

Jack Lavette, 2716 Wynward Road, property owner across the street: What is the anticipated measurement from the street to the new front porch or steps?

Chairman Higginbotham: The proposed porch could be no closer to the street than the house was previously, as measured from the front edge of the bay window; steps can be within the setback.

Mrs. Smith: Are the presented plans the correct plans?

Mr. Nix confirmed the plans presented are the correct plans.

Motion: Mr. Hereford, to grant variance as requested
Second: Mr. Lapidus
Vote: Ayes: Higginbotham, Hereford, Lapidus, Orr, Simonton Nays: None

Variance approved by a 5 – 0 vote.

**4. Case A-16-26: 54 Pine Crest Road** **EXHIBIT 2**

Harry and Julie Foster, owners, request variances from the terms of the Zoning Regulations to allow additions and alterations to an existing single family dwelling to be 14 from the rear property line (south) in lieu of the required 40 feet, and 14 feet from the side property line (west) in lieu of the required 15 feet.

**Hardships:** The irregular shape and shallow depth of the lot.

Harry Foster presented the variance request per the submitted application.

Chairman Higginbotham: The lot does have an irregular shape and is shallow. The right side of the new garage structure would fall on the same line; no setback difference. The only setback change would be in the rear?

Mr. Foster: Correct.

Chairman Higginbotham: It is unclear where the 14' rear setback requested on the application applies to the survey. The legal notice mailed out stated 14' rear and side setbacks.

Mr. Foster: After looking at the survey, I realize that the application reflects a measurement that changed after submission. The rear setback should reflect 15'7" rather than 14'. The 14' existing and proposed side setback on the application remains. Therefore, I request to amend the application to reflect the reduced encroachment in the rear to 15'7". The right setback will remain the same.

Chairman Higginbotham: Restated the requested amendment, changing rear setback from 14' to 15'7".

There were no public comments.

Motion: Mr. Hereford, to approve variance as amended by the applicant
Second: Mr. Simonton
Vote: Ayes: Higginbotham, Hereford, Lapidus, Orr, Simonton Nays: None

Variance approved by a 5 – 0 vote.

**5. Case A-16-27: 121 Crestwood Drive EXHIBIT 3**

David and Kristie Stewart, owners, request variances from the terms of the Zoning Regulations to allow additions and alterations to an existing single family dwelling to be 32 feet from the front property line (Crestwood Drive) and 12 feet from the rear property line, both in lieu of the required 35 feet; for a first floor addition to be 5.8 feet from the side property line (north) in lieu of the required 9 feet.

Chairman Higginbotham stated that Mr. Chris Thomas, 123 Crestwood Drive, sent an email that was distributed to the members of the Board, expressing his option on this case.

**Hardships**: The hardships are the lot width, shape and size; existing design constraints.

Richard Long, Long and Long Design, presented the variance request per the submitted application.

Chairman Higginbotham: The left side setback indicates 5.2 feet and 5.7 feet on the survey.

Mr. Long: Correct. The structure is not parallel to the property line. 5.2 feet is the existing measurement. 5.7 feet is an existing measurement at the very back corner of the structure that will be demolished.

Chairman Higginbotham: Proposed construction, what will be the side setback?
Mr. Long: 5.6 feet

Chairman Higginbotham: The requested amount and noticed amount was 5.8 feet.
Mr. Long: 5.8 feet is the correct amount.
Chairman Higginbotham: The second level will be 13 feet from the property line?
Mr. Long: Yes

Chairman Higginbotham: The lot is narrow and slightly skewed; house placement skewed with existing issues.

No public comments.

Mr. Orr: Noted for the record that Mr. Chris Thomas, 123 Crestwood Drive, sent an email that was distributed to the members of the Board. This email is entered as an attachment to the minutes. In general, Mr. Thomas does not have any issues with the addition, but is concerned with the amount of construction traffic that will park in front of his home and the possible damage to lawn and sprinkler heads by them (based on previous neighborhood construction projects), and the safety hazard for traffic attempting to enter Euclid.

Motion: Mr. Hereford, to grant variance as requested
Second: Mr. Orr
Vote: Ayes: Higginbotham Nays: None
Hereford
Lapidus
Orr
Simonton

Variance approved by a 5 – 0 vote.

**6. Case A-16-28: 44 Greenway Road EXHIBIT 4**

Brantley and Sally McDuffie, owners, request variances from the terms of the Zoning Regulations to allow the construction of a new single family dwelling to be 7.86 feet from the side property line (northwest) in lieu of the required 15 feet; and for a second floor addition to the carriage house to match existing setbacks, 2.2 feet from the rear property line (southwest) in lieu of the required 40 feet and zero (0) feet from the side property line (northwest) in lieu of the required 15 feet. Also, for the lot coverage to be 31.1% in lieu of the maximum allowable 25%.

**Hardships:** The lot size and width, as well as existing design constraints.

Charles Beavers is with Bradley, Arant, Boult Cummings, LLP, and represented the applicant. He presented the variance request as submitted in the application. Mr. McDuffie also attended the meeting.

Mr. Beavers stated that Dorothy Fay Hall, 43 Country Club Blvd., is willing to enter into a Grant of Easement Agreement with the McDuffies for exclusive use of an adjacent strip of land that will allow greater yard and area width to the existing lot where the carriage house and driveway encroaches setbacks. This easement agreement helps with setback encroachments and the reduction in the percentage of lot coverage.

Chairman Higginbotham: The Easement Agreement does not legally give the Board the ability to expand setbacks. It is a point of consideration only.

Mr. Mitchell: This is a broad easement. Could the owner sell the property rather than process through a Use Agreement?

Mr. McDuffie: Historically this has been a 'hand-shake' agreement. Mrs. Hall likes our son and wants to pursue the Use Agreement.

Mr. Beavers: The Agreement is easier for Mrs. Hall than going through the process of moving property lines.

Mr. Beavers stated that the property owner has been working with Glen Merchant, Building Official, concerning the impervious coverage.

Mr. Hereford asked about plans for the garage. Mr. Beavers said that the proposal is to build a bedroom and bathroom for their son for later years. This area will not have a kitchen. The existing garage will be demolished and rebuilt with three cinderblock walls. The bed and bath will be on the second floor.

Mr. Hereford: Height of garage? Mr. McDuffie: Existing roofline will increase 5 feet in height externally.

The Board discussed that the garage structure with the second floor addition is 1200 square feet, which is 400 square feet over the limit for a detached structure. That issue would need to go before the Board at another time after application and legal notification because it was not included in this application.

Chairman Higginbotham: The Board can vote on what was requested and noticed. The applicant may return with additional requests at a later date.

Public Comment:

Katie Crafton, 43 Greenway Road, across the street: It will be a great addition.

Motion: Mr. Hereford, to grant variance as requested and noticed by legal mailing
Second: Mr. Orr
Vote: Ayes: Higginbotham, Hereford, Lapidus, Orr, Simonton Nays: None

Variance approved by a 5 – 0 vote.

**7. Case A-16-29: 39 Clarendon Road** **EXHIBIT 5**

Ruth Siegler, owner; Brandon Davis, agent; request variances from the terms of the Zoning Regulations to allow a new single family dwelling to be 25.1 feet from the primary front property line (Clarendon Road) and 12.5 feet from the secondary front property line (Overbrook Road), both in lieu of the required 35 feet.

Chairman Higginbotham recused himself from this case. Co-chairman Hereford presided. Mr. Mitchell will vote.

**Hardships:** The corner lot configuration, and the narrow width and irregular shape of the lot.

Brandon Davis, agent and prospective property owner, presented the variance request per the submitted application.

Mr. Hereford gave an overview of the application. Mr. Davis stated that access will be through Clarendon, not Overbrook, and that he did not plan to build farther back in the rear than the existing structure.

**Public comment**:

Amy Chauvin, 116 Overbrook Road, adjacent to the property: This could possibly affect my back yard. If approved, how much closer would the structure be to my house?

Mr. Davis showed proposed plans to the resident. He said that the structure will be two-story.

Mrs. Smith asked Mr. Davis about the owner of the property. He stated that he is the prospective buyer of the property. Ruth Siegler is the owner and she, or her agent, sent notification of authorization for him to seek this variance.

Mrs. Graham confirmed that the email was received.

Note: Attached to the minutes is an email from the property owner authorizing Brandon Davis to apply to the City of Mountain Brook BZA for a setback variance for a proposed new construction project at this address.

Motion: Mr. Orr, to grant variance as requested
Second: Mr. Simonton
Vote: Ayes: Hereford, Lapidus, Orr, Simonton, Mitchell  Nays: None

Variance approved by a 5 – 0 vote.

**8. Adjournment -** There being no further business to come before the Board at this time, the meeting stood adjourned at 5:56 p.m.

_____
Tammy Graham, Administrative Assistant

# Variance Application - Part I

Project Data

Address of Subject Property 117 Heritage Circle, 35213

Zoning Classification RES-C

Name of Property Owner(s) Clayton & Blair Trotter

Phone Number 205-585-3694 Email btrotter@trottertech.net

Name of Surveyor Weygand

Phone Number 205-942-0086 Email info@weygandsurveyors.com

Name of Architect (if applicable) _____

Phone Number _____ Email _____

☒ Property owner or representative agent must be present at hearing

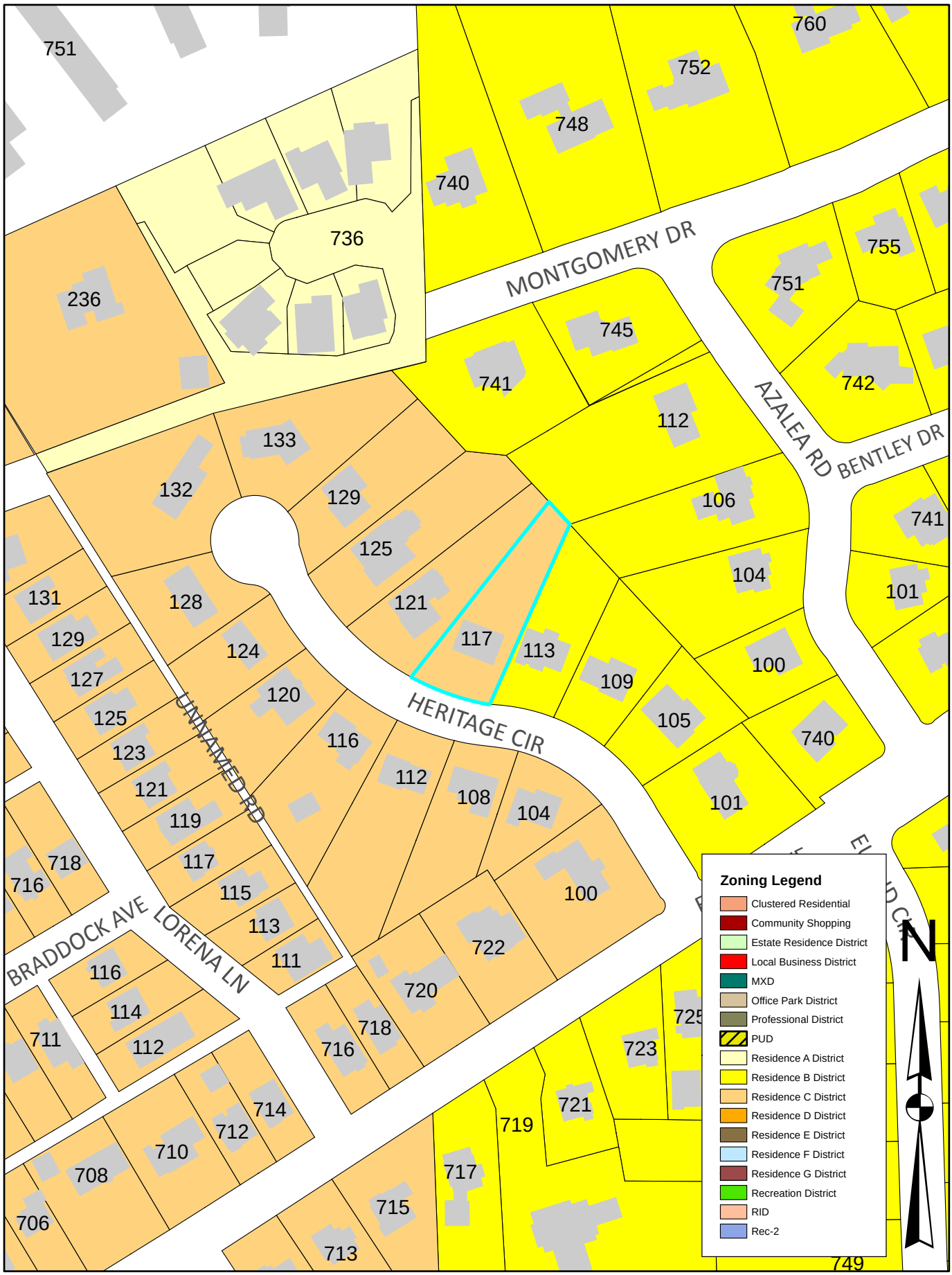
Please **fill in only applicable** project information (relating directly to the variance request(s):

| | Zoning Code Requirement | Existing Development | Proposed Development |
|---|---|---|---|
| Lot Area (sf) | | | |
| Lot Width (ft) | | | |
| Front Setback (ft) *primary* | | | |
| Front Setback (ft) *secondary* | | | |
| Right Side Setback | | | |
| Left Side Setback | | | |
| Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | 10' | 11.5' | 6' |
| Rear Setback (ft) | | | |
| Lot Coverage (%) | | | |
| Building Height (ft) | | | |
| Other | | | |
| Other | | | |

Scope of Project - 117 Heritage Circle

We are planning an addition off the rear of our house. The addition will include a new master suite, main level laundry room, new larger living room and covered porch. The project will add roughly 1200 square feet with the covered porch consisting of 200 square feet. The only portion of the project subject to the variance request is the covered porch.

# A-16-30 (Zoning Map)



# Report to the Board of Zoning Adjustment

## A-16-30

### *Petition Summary*
Request to allow the construction of additions and alterations to an existing single family dwelling to be 6 feet from the side property line (northwest) in lieu of the required 10 feet.

### *Analysis*
The hardships in this case are the irregular shape of the lot and existing design constraints. The exiting front building line is farther than the required 35 feet from the front property line, resulting in the house being somewhat "wedged" into the narrow portion of the lot. The existing rear left corner of the house is 11.5 feet from the side property line, but the house is not parallel to the property line, so the proposed addition to the rear is 6 feet from the side property line at the left corner. All other additions are to conform to the zoning regulations.

### *Impervious Area*
The proposal is in compliance with the allowable impervious surface area.

### *Subject Property and Surrounding Land Uses*
The property contains a single-family dwelling, and is surrounded by same.

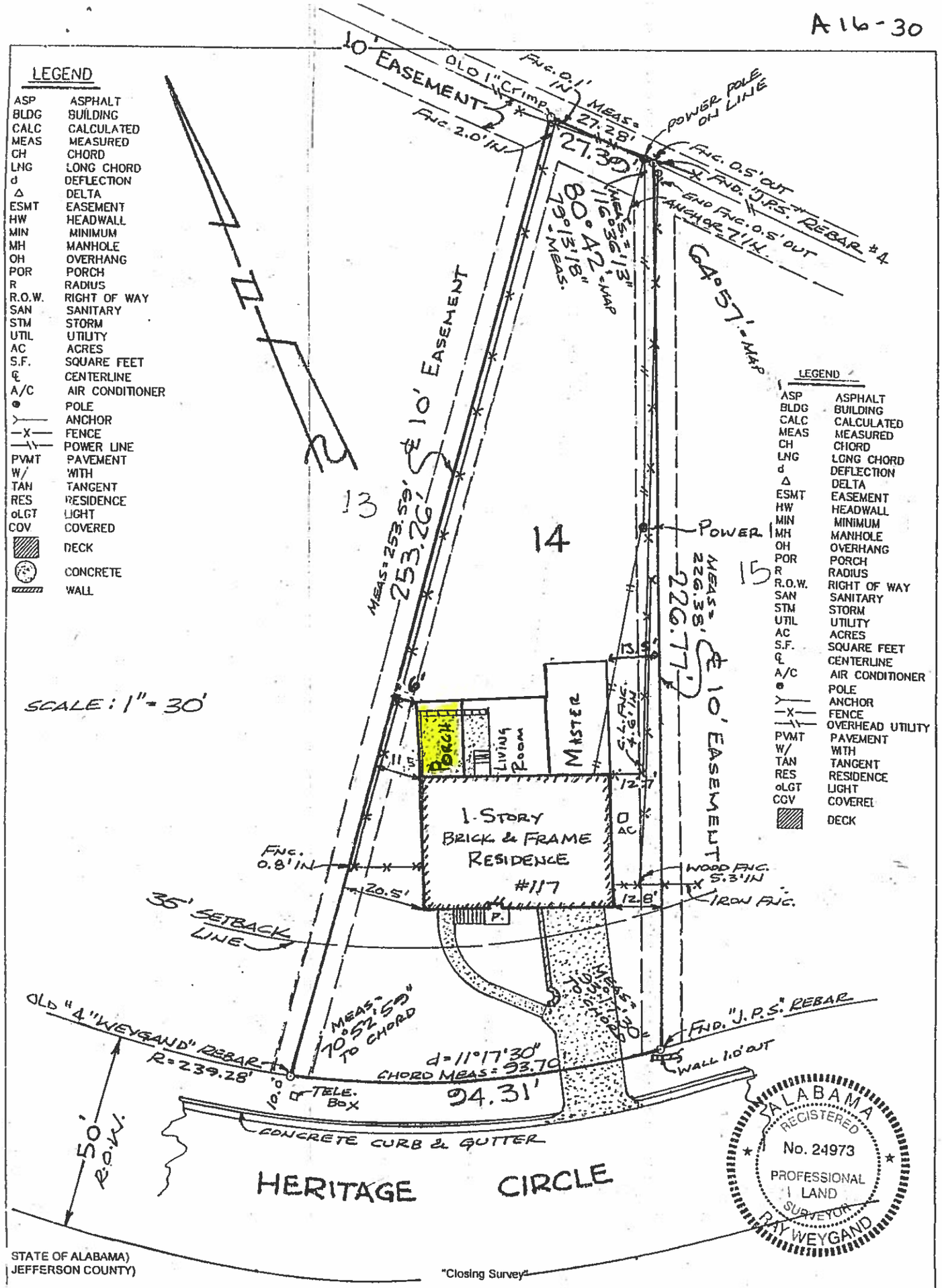
### *Affected Regulation*
Article V, Residence C District; Section 129-62, Area and Dimensional Requirements

### *Appends*
LOCATION: 117 Heritage Circle

ZONING DISTRICT: Res-C

OWNERS: Clayton and Blair Trotter

A16-30




STATE OF ALABAMA)
JEFFERSON COUNTY)

"Closing Survey"

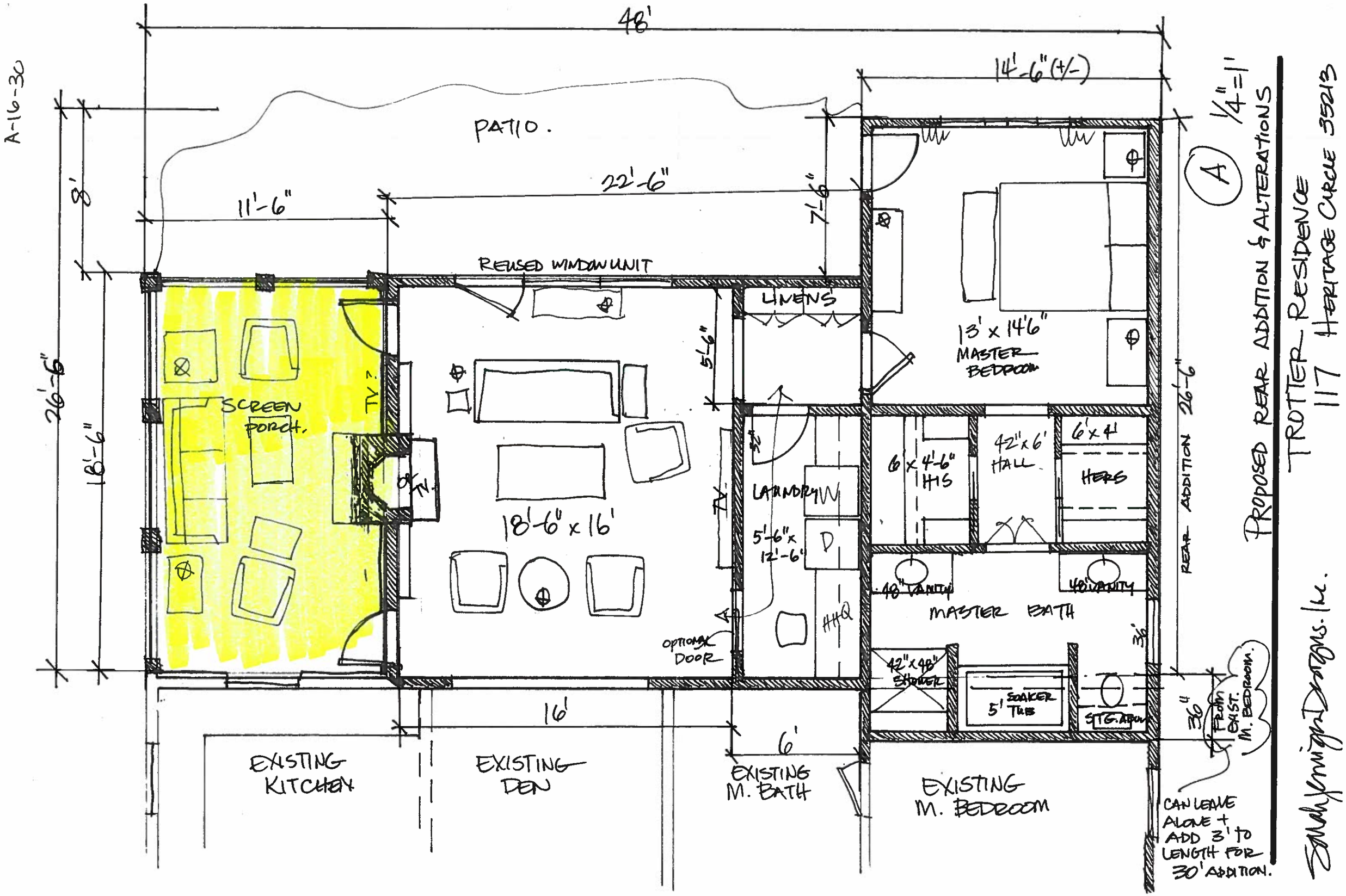
I, Ray Weygand, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed Lot 14 HERITAGE HILL as recorded in Map Volume 67 Page 96 in the Office of the Judge of Probate, Jefferson County, Alabama; that there are no rights-of-way, easements or joint driveways over or across said land visible on the surface except as shown; that there are no electric or telephone wires (excluding wires which serve the premises only) or structures or supports therefor, including poles, anchors and guy wires, (visible on the surface) on or over said premises except as shown; that there are no encroachments on said lot except as shown and that improvements are located as shown above. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief; according to my survey of June 14, 2016. Survey invalid if not sealed in red

Order No.: 74479
Purchaser: TROTTER
Address: 117 HERITAGE CIRCLE

Ray Weygand, Reg. L.S. #24973
169 Oxmoor Road Homewood, AL 35209
Phone: (205) 942-0086 Fax: (205) 942-0087

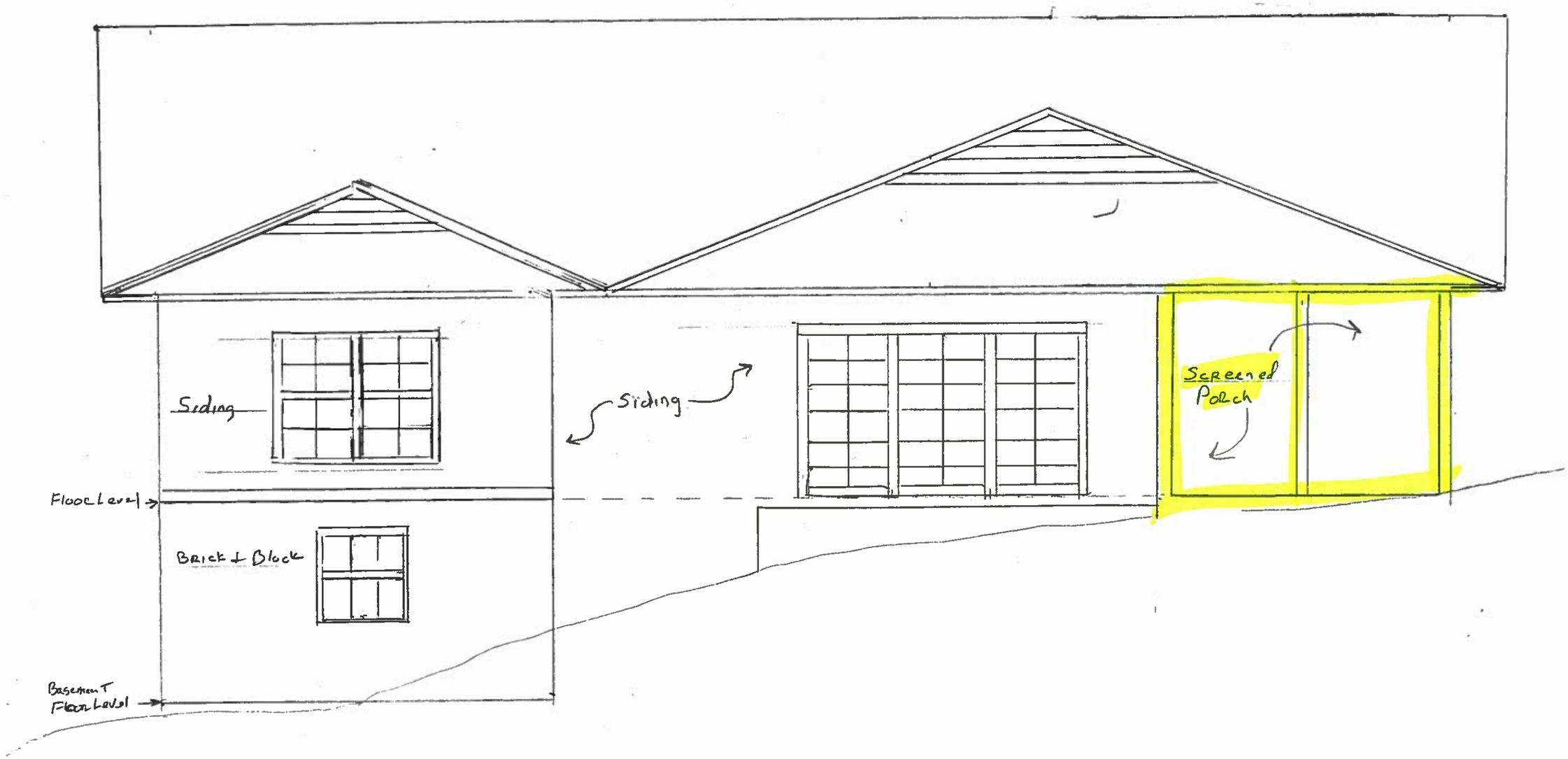
Copyright ©

Note: (a) No title search of the public records has been performed by this firm and land shown hereon was not abstracted for easements and/or rights-of-way, recorded or unrecorded. The parcel shown hereon is subject to setbacks, easements, zoning, and restrictions that may be found in the public records of said county and/or city. (b) All bearings and/or angles, are deed/record map and actual unless otherwise noted. (c) Underground portions of foundations, footings, and/or other underground structures, utilities, cemeteries or burial sites were not located unless otherwise noted. We do not look for underground sewers or flip manhole covers. (d) The shown north arrow is based on deed/record map. (e) This survey is not transferable and is only good for 6 years and only good to the person/co. that pays for it at time of survey. (f) Easements not shown on record map are not shown above.


A-16-30
48'
14'-6" (+/-)
PATIO.
22'-6"
11'-6"
8'
7'-6"
26'-6"
18'-6"
REUSED WINDOW UNIT
LINENS
13' x 14'6"
MASTER BEDROOM
5'-6"
SCREEN PORCH.
TV?
18'-6" x 16'
LAUNDRY
5'-6" x 12'-6"
D
HHQ
6' x 4'-6" HIS
42" x 6' HALL
6' x 4'
HERS
48" VANITY
48" VANITY
MASTER BATH
OPTIONAL DOOR
42" x 48" SHOWER
5' SOAKER TUB
STG. ABOVE
36"
16'
6'
EXISTING KITCHEN
EXISTING DEN
EXISTING M. BATH
EXISTING M. BEDROOM
CAN LEAVE ALONE + ADD 3' TO LENGTH FOR 30' ADDITION.
REAR ADDITION
1/4" = 1'
A
PROPOSED REAR ADDITION & ALTERATIONS
TROTTER RESIDENCE
117 HERITAGE CIRCLE 35213
Sandy Knight Designs, Inc.

# REAR ELEVATION
## 117 HERITAGE CIRCLE

A-16-30



# A-16-30 (Aerial Map)

# Variance Application
# Part II

## Required Findings (Sec. 129-455 of the Zoning Ordinance)

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made by the Board of Zoning Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

Irregularly shaped lot and existing design constraints (in that the house is farther back on the lot than the minimum 35 foot front setback).

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "...converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

No

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

The proposed addition is in keeping with the spirit and intent of the code in that light and air to the adjoining residential property is still maintained, given the pie-shape of both lots, it appears that there is still approximately 25 feet or more between the houses, where RES-C district requires a minimum of 20 feet between houses (or a 10 foot side setback for each to the common property line).

# Variance Application - Part I

## Project Data

Address of Subject Property 8 MONTEVALLO LANE

Zoning Classification B

Name of Property Owner(s) SANDY & ROB BALLARD

Phone Number Rob: 205-913-4848 Email sandybal@bellsouth.net

Name of Surveyor CHRIS DELUCIA - LANDMARK PROFESSIONALS

Phone Number 205-515-7210 Email ch @landmarkpro.org

Name of ~~Architect~~ Designer (if applicable) MICHAEL ERIC DALE

Phone Number 205-599-6949 Email eric@ericdale.com

☒ Property owner or representative agent must be present at hearing

Please **fill in only applicable** project information (relating directly to the variance request(s):

| | Zoning Code Requirement | Existing Development | Proposed Development |
|---|---|---|---|
| Lot Area (sf) | 10,000 | 7,000 | |
| Lot Width (ft) | 75 | 70 | |
| Front Setback (ft) *primary* | | | |
| Front Setback (ft) *secondary* | | | |
| Right Side Setback | | | |
| Left Side Setback | | | |
| Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | 9 | * 11.1 | * 11.0 |
| Rear Setback (ft) | 30 | 28 | 25 |
| Lot Coverage (%) | 40 | 40+ | 40 |
| Building Height (ft) | | | |
| Other | | | |
| Other | | | |

* survey is to concrete block foundation; siding overlaps

MICHAEL ERIC DALE
RESIDENCE DESIGN
INTERIOR DESIGN

June 22, 2016

Board of Zoning Adjustment
City of Mountain Brook, Alabama

Re: #8 Montevallo Lane, 35213

Dear Board Members:

My clients, Sandy and Rob Ballard, would like to add a Master Bedroom/ Bath addition to their existing home. The Ballards are long time owners of this home, desire to remain in their home, and would like to make it more comfortable for their own future use.

This addition would be to the left rear of the house, aligned with the existing side setback. It is modest in scale- 22 feet deep and about 16 feet wide.

Our hardship is that the lot is very shallow at only 100 feet deep. Since we would very much like to maintain the existing side setback to avoid intrusion toward the next door neighbor's property, we are asking for an additional 5 feet of depth for the rear. This is 3 feet past the existing 28 feet rear setback of this home.

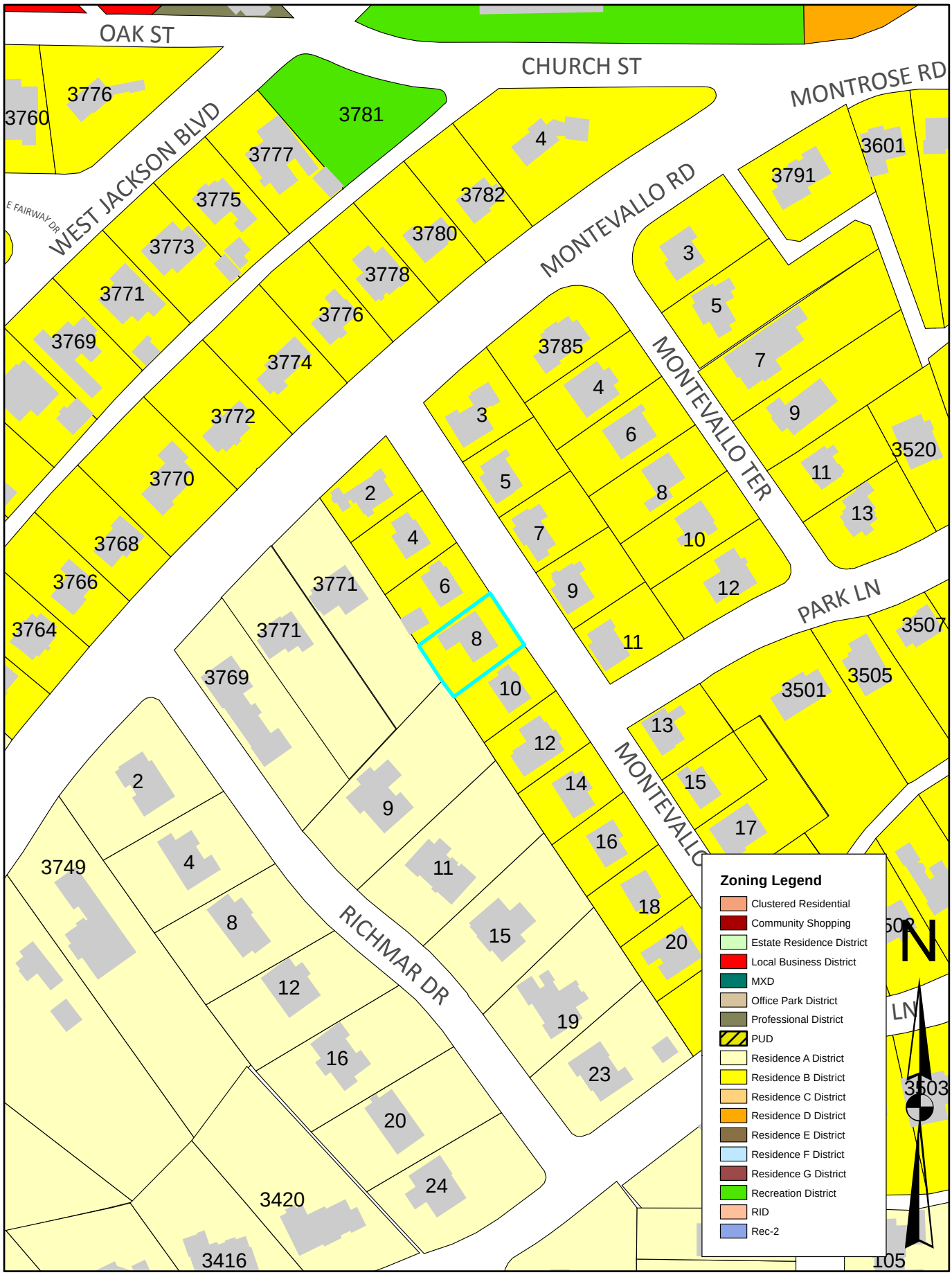
Because the adjacent two properties at the rear have very deep lots, there are no homes that would be negatively impacted by locating the house a little closer to the rear property line. In fact, there are no buildings directly behind this home. The attached maps of the area illustrate this and also show that two other properties have similar existing setbacks. Existing vegetation serves as a screen between the properties. We believe we are placing the addition in the best possible location.

We appreciate your consideration.

Eric Dale

935 LANDALE ROAD
BIRMINGHAM, AL 35222
VOICE: 205.599.6949
TEXTS: 205.873.1676
ERIC@ERICDALE.COM

# A-16-31 (Zoning Map)



# Report to the Board of Zoning Adjustment

## A-16-31

### *Petition Summary*
Request to allow additions and alterations to an existing single family dwelling to be 25.4 feet from the rear property line (southwest) in lieu of the required 30 feet.

### *Analysis*
The hardships in this case are the size of the lot (7,000 in lieu of the required 10,000), the narrow width (70 feet in lieu of the required 75 feet) and the shallow depth (100 feet). The addition is proposed to the left rear of the house, and will mimic and existing addition to the right rear. As may be seen on the attached zoning map, the lots to the rear of the subject property contain houses that maintain large rear setbacks and are 100 and 150 feet from the proposed addition. Therefore, it is not anticipated that the proposed addition would be detrimental to adjoining properties.

### *Impervious Area*
The proposal is in compliance with the allowable impervious surface area.

### *Subject Property and Surrounding Land Uses*
The property contains a single-family dwelling, and is surrounded by same.

### *Affected Regulation*
Article IV, Residence B District; Section 129-53, Special Provisions for Nonconforming Residence B Lots

### *Appends*
LOCATION: 8 Montevallo Lane

ZONING DISTRICT: Res-B

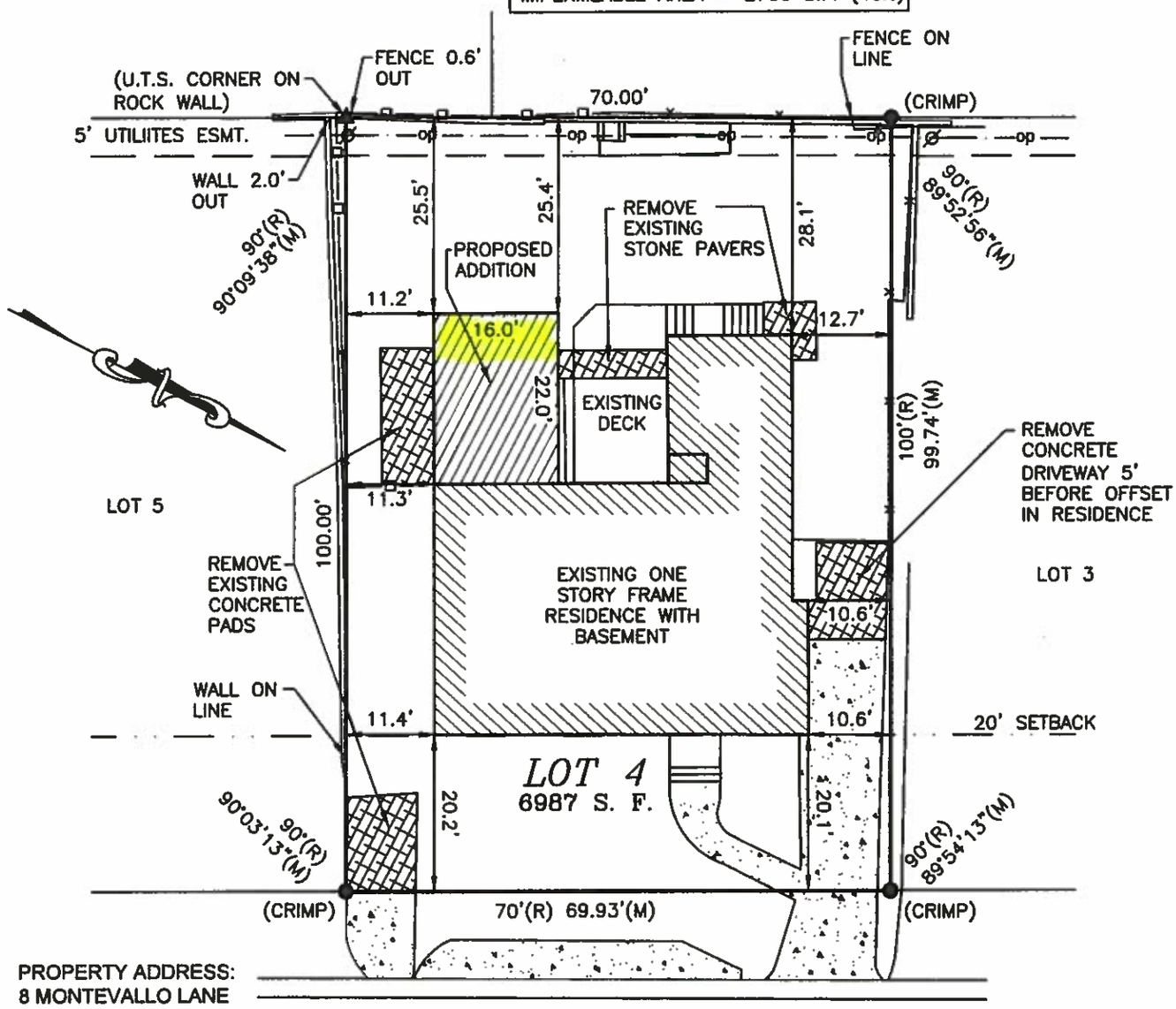
OWNERS: Rob and Sandy Ballard

A-16-3

NOTE:
PROPERTY DIMENSIONS MATCH RECORD PLAT, UNLESS OTHERWISE NOTED.

**SITE DATA**
TOTAL AREA = 6987 S.F.
PERMEABLE AREA = 4221 S.F. (60%)
IMPERMEABLE AREA = 2766 S.F. (40%)

PROJECT # 16-06033




PROPERTY ADDRESS:
8 MONTEVALLO LANE
MOUNTAIN BROOK, AL 35213

*MONTEVALLO LANE*
(46' R.O.W.)

*ALL DIMENSIONS TO THE EXISTING AND PROPOSED STRUCTURES ARE TO THE BLOCK FOUNDATION WALLS*

Lot Survey & Plot Plan

STATE OF ALABAMA
JEFFERSON COUNTY

0 20 40 60

TO ALL INTERESTED PARTIES:
SCALE: 1" = 20'

I hereby state that this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief.

Lot 4, according to the survey of Montevallo Lane, as the same appears of record in the Office of the Judge of Probate, Jefferson County, Alabama, in Map Book 24, Page 76.

That there are no rights-of-way, easements, joint driveways or encroachments, over or across said land, visible on the surface or shown on recorded map, except as shown; that this survey shows the improvements located on said property; and that there are no electrical or telephone wires, (excluding wire which serve the premises only) or structures or supports therefor, including poles, anchors and guy wires, on or over said property, except as shown; and that the property is not located in a special hazard area and is shown in Zone "X" on the Flood Insurance Rate Map for this area (Map No. 01073C0557H, dated September 3, 2010).

ALABAMA LICENSED NO. 30342 PROFESSIONAL LAND SURVEYOR CHRISTOPHER P. DELUCIA

GIVEN UNDER MY HAND AND SEAL, this the 21st day of June, 2016.

CHRISTOPHER P. DELUCIA ALABAMA REG. NO. 30342

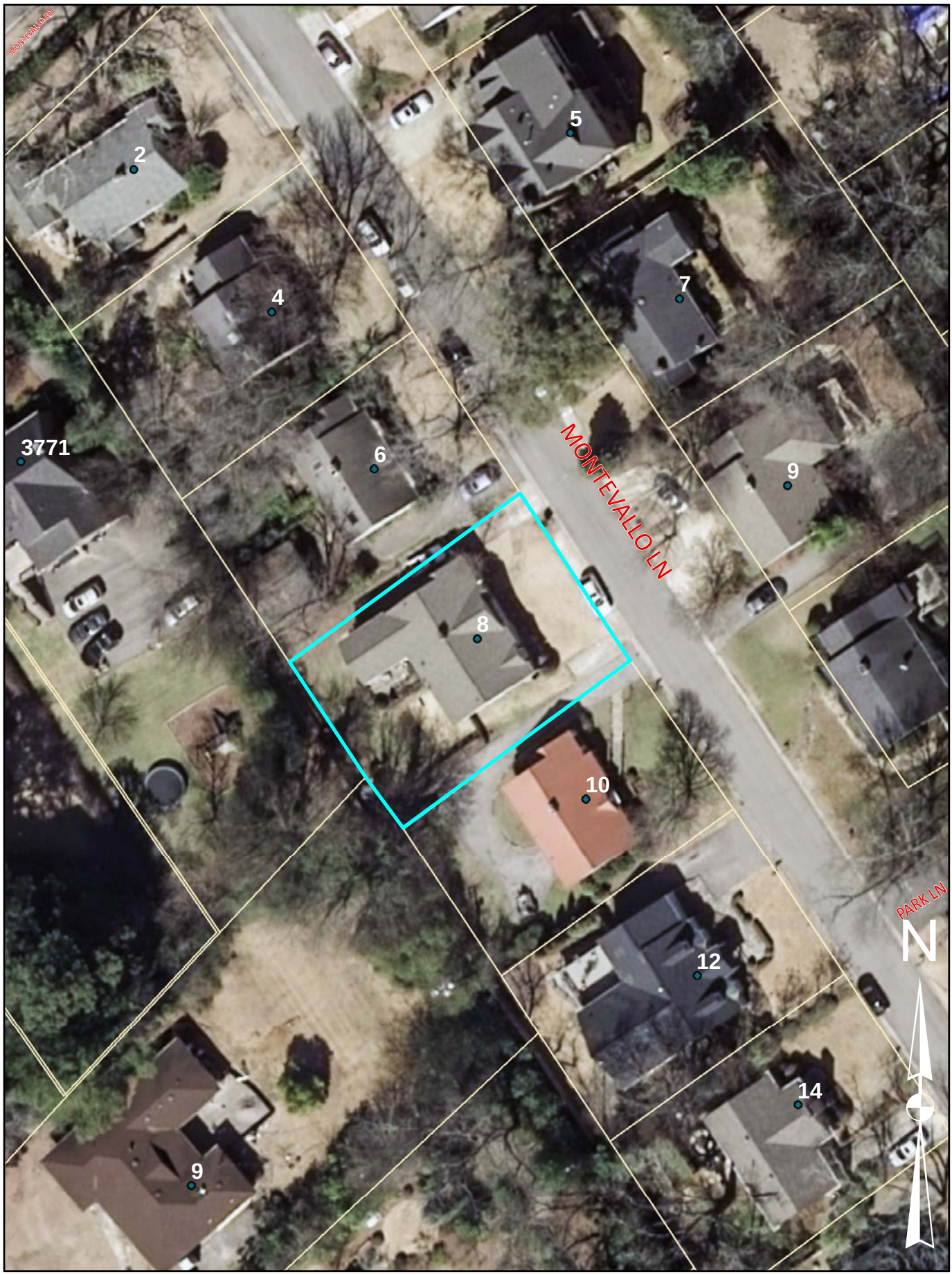
CLIENT:
ROB BALLARD

*Field Survey: 06-21-2016*


**Landmark Professionals, Inc.**
RESIDENTIAL & COMMERCIAL LAND SURVEYING
1072 DUNNAVANT PLACE
BIRMINGHAM, ALABAMA 35242
PHONE: (205) 515-7210


WOOD FENCE | CHAIN LINK FENCE | CONCRETE | COVERED PORCH/DECK | U.T.S. = UNABLE TO SET | (R) = RECORDED | (M) = MEASURED | M.B.L. = MINIMUM BUILDING LINE | CAPPED REBAR SET | IRON FOUND (DESCRIPTION) | ASPH. = ASPHALT | OVERHEAD POWER | POWER POLE

# A-16-31 (Aerial Map)



# Variance Application
# Part II

## Required Findings (Sec. 129-455 of the Zoning Ordinance)

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made by the Board of Zoning Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

LOTS ON MONTEVALLO LANE ARE MUCH SMALLER THAN OTHER LOTS IN THE NEIGHBORHOODS SURROUNDING IT. THEY ARE VERY SHALLOW @ ONLY 100 FEET DEEP. BY CONTRAST, THE LOTS ADJACENT TO THE REAR OF THIS PROPERTY ARE QUITE DEEP.

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "…converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback…")

No.

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

- WE DO NOT WANT TO NARROW THE EXISTING SIDE SETBACKS THAT ARE COMMON ON THE STREET. DOING SO WOULD IMPACT THE NEXT DOOR NEIGHBOR. INSTEAD, WE BELIEVE THAT EXTENDING THE ADDITION BACK SLIGHTLY FURTHER IS THE BEST APPROACH.
- BECAUSE THERE ARE NO HOMES DIRECTLY TO THE REAR OF THIS PROPERTY, THE ADDITION WOULD HAVE NEGLIGIBLE IMPACT ON PROPERTIES TO THE REAR.
- OTHER HOMES ON THE WEST SIDE OF MONTEVALLO LANE HAVE EXISTING ADDITIONS OF COMPARABLE DEPTH.

**Part 2**
Project Data

Address of Property: **600 Euclid Ave Mountain Brook, AL 35213**
Zoning Classification: **Residence C**
Name of Property Owner(s): **Norman Investment Group, LLC**
Name of Representative Agent: **Davis Building Group**
Phone Number: **205-873-4412**

| | Zoning Code Requirement | Existing Development | Proposed Development |
|---|---|---|---|
| Lot Area (sf) | 7500 | 9425 | 9425 |
| Lot Width (ft) | 69.29' | 69.29' | 69.29' |
| Front Setback (ft) | 35' | 35' | 35' |
| Side Setback (ft) | 35' | 35' | 29' |
| Side Setback (ft) | 10' | 10' | 10' |
| Rear Setback (ft) | 10' | 10' | 10' |
| Lot Coverage (%) | 35.00% | less than 35% | less than 35% |
| Building Height (ft) | maximum of 35' | less than 35' | less than 35' |
| Other | x | x | x |
| Other | x | x | x |

**Part 3**
Plans

(PROVIDED)

**Adjacent Property Owners**

Mary Williamson
608 Euclid Ave
Mountain Brook, AL 35213

Carolyn Lackey
101 Peachtree Rd
Mountain Brook, AL 35213

Ellen Rushton McClees
512 Euclid Ave
Mountain Brook, AL 35213

James and Judy Hard
603 Euclid Ave
Mountain Brook, AL 35213

Eugene and Laura Millsap
601 Euclid Ave
Mountain Brook, AL 35213

Jacob and Madeline Reiss
511 Euclid Ave
Mountain Brook, AL 35213

**Board of Zoning Adjustment**
City of Mountain Brook
56 Church Street
Mountain Brook, AL 35213

To Whom It May Concern,

Davis Building Group, the applicant, on behalf of Norman Investment Group, LLC, the property owner, is requesting a variance at 600 Euclid Ave Mountain Brook, AL 35213 for the purpose of constructing a new home. Under the Residence C zoning ordinance the width of the home would presently be limited to 25'. We are requesting a 6' variance to the current side setback from Peachtree Road to allow for construction of a home comparable to those nearby. The proposed home will be 1.5 stories and 2500-3500 ft2 and the footprint of the home would be approximately 30.8' x 50'.

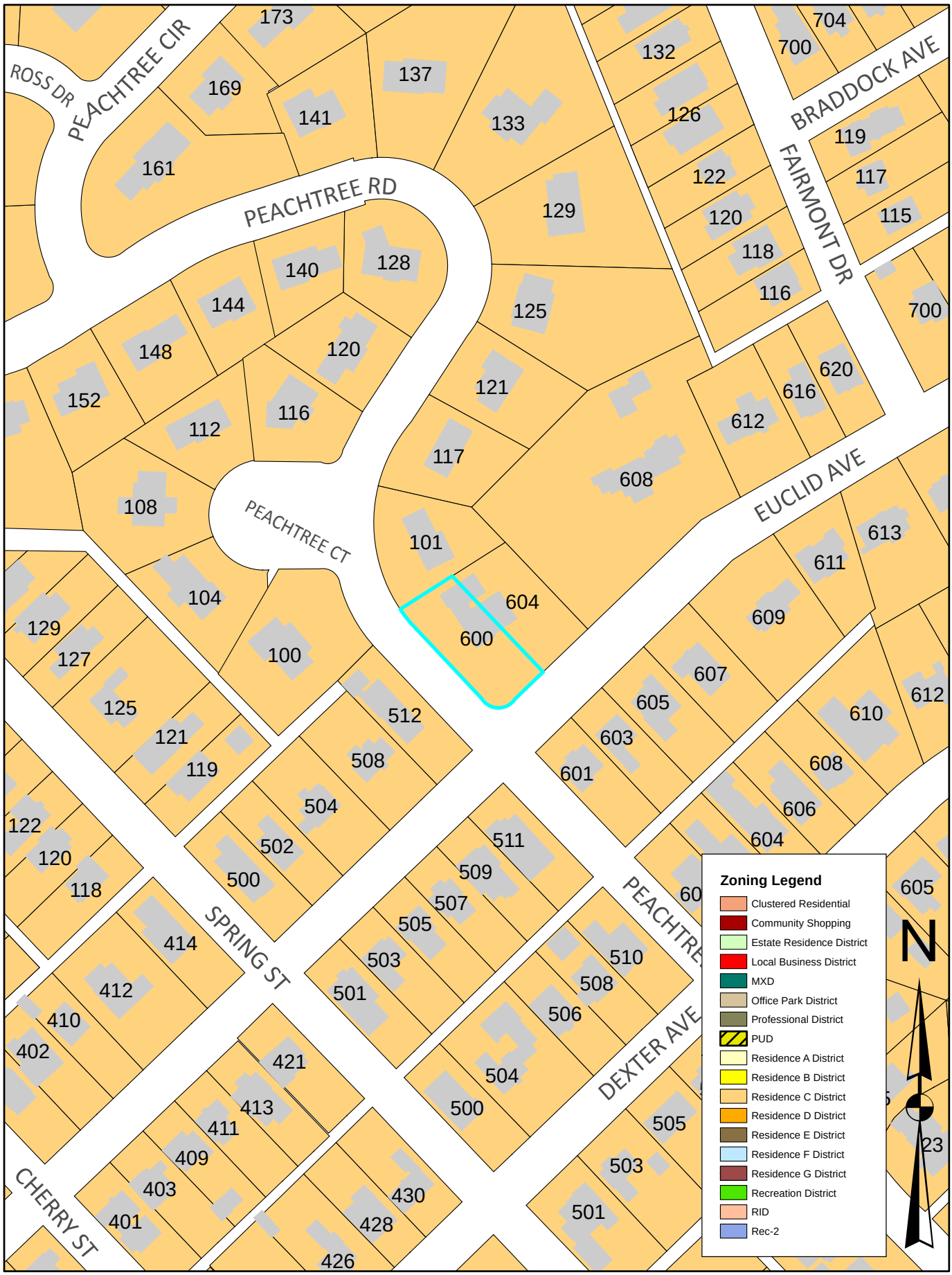
Thank you sincerely for your consideration.

Regards,

Brian Scott Davis – *owner* *date*

Jeremy Paul Simmons – *owner* 6-23-16 *date*

# A-16-32 (Zoning Map)



# Report to the Board of Zoning Adjustment

## A-16-32

### *Petition Summary*

Request to allow a new single family dwelling to be 29 feet from the secondary front property line (Peachtree Street) in lieu of the required 35 feet. *(proposal is the same as approved by BZA in January 2015, Case 4161, which has expired).*

### *Background*

On December 8, 2014, the applicant withdrew Variance Case 4158 (which was a request to allow a new single family dwelling to be 25 feet from the secondary front property line (Peachtree Road) in lieu of the required 35 feet) in an attempt to redesign a project that would be more satisfactory to neighbors who had expressed opposition to the impending variance at the December 1, 2014 Planning Commission hearing of the resurvey case.

On December 1, 2014, the Planning Commission approved Case 1937, which was a request to subdivide an existing large lot at 600 Euclid Avenue into two 70-foot wide conforming Res-C lots. The new Lot 1-A, at the intersection of Euclid and Peachtree, is the subject of this application for a new single family dwelling.

### *Analysis*

The hardship in this case is the two "front" setbacks on a corner lot. The proposal involves a new single family dwelling to be 29 feet from the secondary front (Peachtree) in lieu of the required 35 feet. It should be noted that if there was an existing alley at the rear of this property then the zoning code would automatically allow the construction of a new single family dwelling to be 17.5 feet from the secondary front property line.

The importance of the alley in the writing of this code requirement is that when an alley exists to the rear of a lot such as the subject lot on Euclid, often an alley separates the rear property line from other properties along the secondary front (in this case, Peachtree) that have that same secondary street as a primary frontage (or 35 feet). Clear as mud? The point is that with a natural alley break between the rear property line of such a lot and those lots whose primary frontage is along the same street, it can serve as a protection for the streetscape.

In this case Peachtree is not a "straight street" and actually bends up away from the subject lot to the northeast. Therefore, allowing an encroachment into the secondary front in this case would not necessarily be detrimental to the streetscape along the same side of Peachtree.

It should be noted that all three of the other lots at the intersection of Euclid and Peachtree are 57 feet side, with houses that are less than 35 feet from the secondary front of Peachtree Street. The two houses that front the south side of Euclid do have the alley configuration on the secondary front and so would automatically qualify for the reduced setback of 17.5 feet. The house at 512 Euclid does not have the rear alley configuration,

and without a survey an exact dimension for that house is not known, but it is safe to say that is not 35 feet from Peachtree if the lot is 57 feet wide.

### *Impervious Area*

Since the complete lot design has not been developed (as to driveways, walkways, etc.) the proposed impervious area is not know at this time, but will have to conform to the 40% maximum in order to obtain any building permit.

### *Subject Property and Surrounding Land Uses*

The property contains a single-family dwelling, and is surrounded by same.

### *Affected Regulation*

Article V, Residence C District; Section 129-62, Area and Dimensional Requirements

### *Appends*

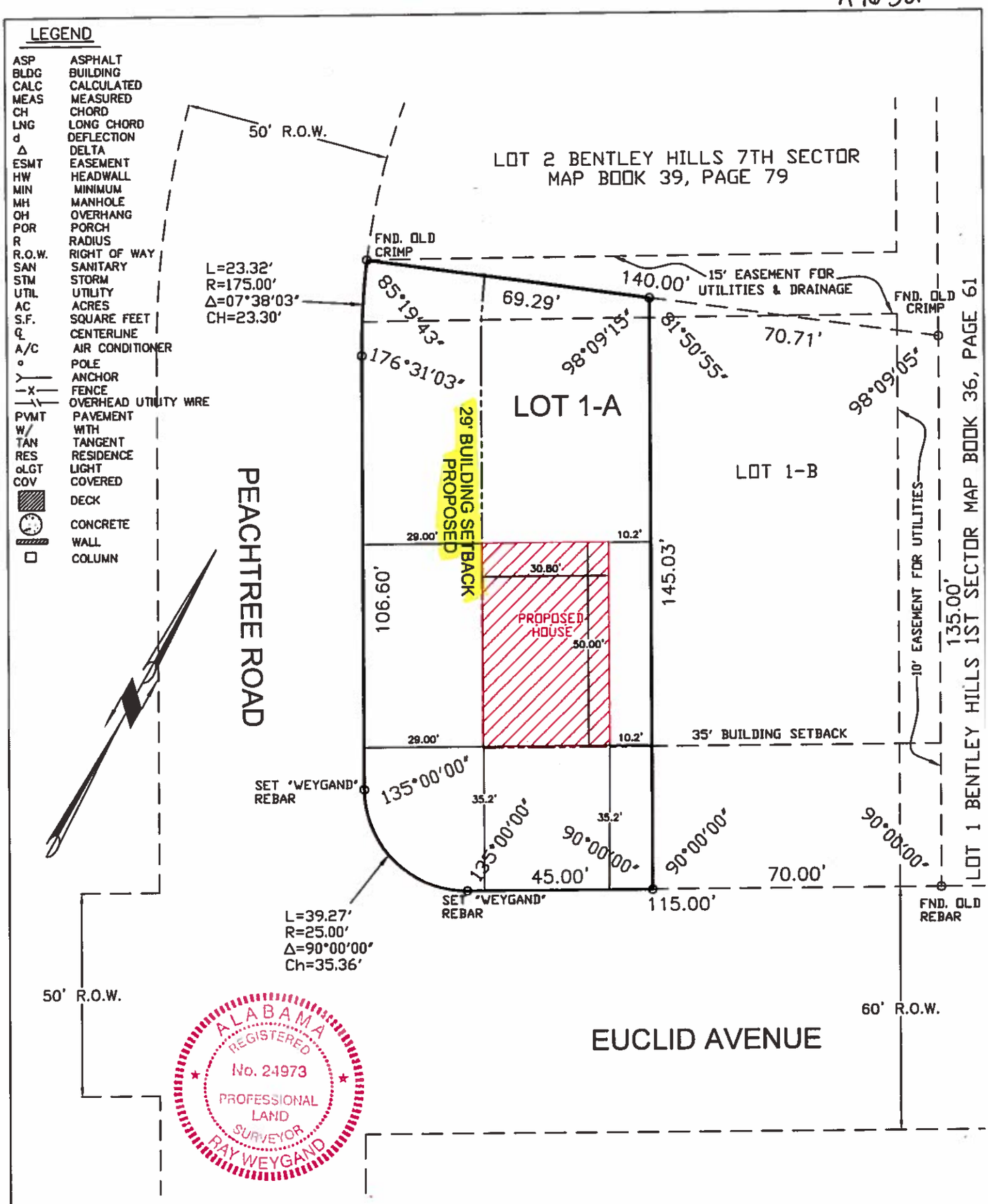
LOCATION: 600 Euclid Avenue

ZONING DISTRICT: Residence C

OWNER: Norman Investment Group, LLC

AGENT: Davis Building Group

A-16-32




SCALE: 1"=30'

STATE OF ALABAMA)
JEFFERSON COUNTY)

"PLOT PLAN"

I, Ray Weygand, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed Lot 1A, RESURVEY OF LOT 1 BENTLEY HILLS SEVENTH SECTOR, as recorded in Map Volume 240, Page 33, in the Office of the Judge of Probate, Jefferson County, Alabama; that there are no rights-of-way, easements or joint driveways over or across said land visible on the surface except as shown; that there are no electric or telephone wires (excluding wires which serve the premises only) or structures or supports therefor, including poles, anchors and guy wires, (visible on the surface) on or over said premises except as shown; that there are no encroachments on said lot except as shown and that improvements are located as shown above. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief; according to my survey of JUNE 22, 2016.

Survey invalid if not sealed in red.

Order No.: _____
Purchaser: _____
Address: _____

Ray Weygand, Reg. L.S. #24973
189 Oxmoor Road Homewood, AL 35209
Phone: (205) 942-0086 Fax: (205) 942-0087
Copyright ©

Note: (a) No title search of the public records has been performed by this firm and land shown hereon was not abstracted for easements and/or rights-of-way, recorded or unrecorded. The parcel shown hereon is subject to setbacks, easements, zoning, and restrictions that may be found in the public records of said county and/or city. (b) All bearings and/or angles, are deed/record map and actual unless otherwise noted. (c) Underground portions of foundations, footings, and/or other underground structures, utilities, cemeteries or burial sites were not located unless otherwise noted. We do not look for underground sewers or flip manhole covers. (d) The shown north arrow is based on deed/record map. (e) This survey is not transferable and is only good for 6 years and only good to the person/co. that pays for it at time of survey. (f) Easements not shown on record map are not shown above.

# A-16-32 (Aerial Map)

## Application for Variance

**Part 1**

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

1. Based on Sec. 129-62 of the City of Mountain Brook building code the minimum front (primary) yard setback is 35'. Because the property is a corner lot and there is no dedicated alley, the code currently requires a 35' setback from both Euclid Ave and Peachtree Rd. Considering the side yard setback of 10' from the adjacent lot, the width of the proposed home would be limited to 25'.
2. A 25' limitation for the width of a home does not generally apply to other buildings in the vicinity
3. A 35' set back from both streets on a corner lot without a dedicated alley does not generally apply to other buildings in the vicinity.

Why is the granting of this variance necessary to preserve property rights on the subject property and not be the granting or a special privilege for the applicant's convenience?

The granting of this variance will preserve the owners right to:

1. Maximize the value of their property
2. Build a home similar in style and dimension to those adjacent and nearby

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "...converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

1. The condition from which relief is being sought is not a result of action by the applicant. The applicant has been contracted by the owners to construct a new home on the property. The applicant is seeking a variance to decrease the required set back from Peachtree Road to 29' to build a new home comparable to homes adjacent to and surrounding the property.

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations.

The granting of this variance:

1. Will maximize the value of this property and potentially increase the value of adjacent properties
2. Will allow for the construction of a new home that is consistent in both style and dimension with those being built in the area
3. Will not impair adequate supply of light and air to adjacent property
4. Will not increase noise of danger of fire
5. Will not imperil the public safety
6. Will not increase the congestion in public streets
7. Will not increase risk of flooding or water damage
8. Will not unreasonably diminish or impair established property values within the surrounding areas.
9. Will not in any other respect, impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

# Variance Application - Part I

## Project Data

Address of Subject Property 4227 OLD BROOK LANE

Zoning Classification RESIDENCE A

Name of Property Owner(s) ALEX AND ASHLEY SELIGSON

Phone Number 205-862-4866 (ASHLEY) Email alexseligson@hotmail.com ashleyseligson@hotmail.com

Name of Surveyor RAY WEYGAND

Phone Number 205-942-0086 Email ray_weygand@bellsouth.net

Name of Architect (if applicable) Carrie Taylor

Phone Number 205-835-8069 Email carrie@carrietaylorarchitect.com

☒ Property owner or representative agent must be present at hearing

Please fill in only applicable project information (relating directly to the variance request(s):

| | Zoning Code Requirement | Existing Development | Proposed Development |
|---|---|---|---|
| Lot Area (sf) | | | |
| Lot Width (ft) | | | |
| Front Setback (ft) *primary* | 40'-0" | 26'-5" | 25'-11" |
| Front Setback (ft) *secondary* | | | |
| Right Side Setback | | | |
| Left Side Setback | | | |
| Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Rear Setback (ft) | | | |
| Lot Coverage (%) | | | |
| Building Height (ft) | | | |

**Carrie Taylor Architect**

833 Oxmoor Road ◆ Birmingham, Alabama 35209
Phone: 205.835.8069 ◆ carrie@carrietaylorarchitect.com

Date: June 23, 2016

Dana Hazen, MPA, AICP
Director of Planning, Building and Sustainability
City of Mountain Brook
56 Church Street
Mountain Brook, AL 35213

Dear Ms. Hazen:

Thank you for the opportunity to present our application for a variance for the residence located at 4227 Old Brook Lane. Our scope for the proposed project on this property is a front porch replacement, as the existing front porch columns are rotten. We are asking for a variance to bring the house into compliance with the current zoning code as well as an additional 6" to convert the rotten columns from wood to stone. There are several hardships associated with this project including the existing home's location and the topography as well as the shape of the lot.

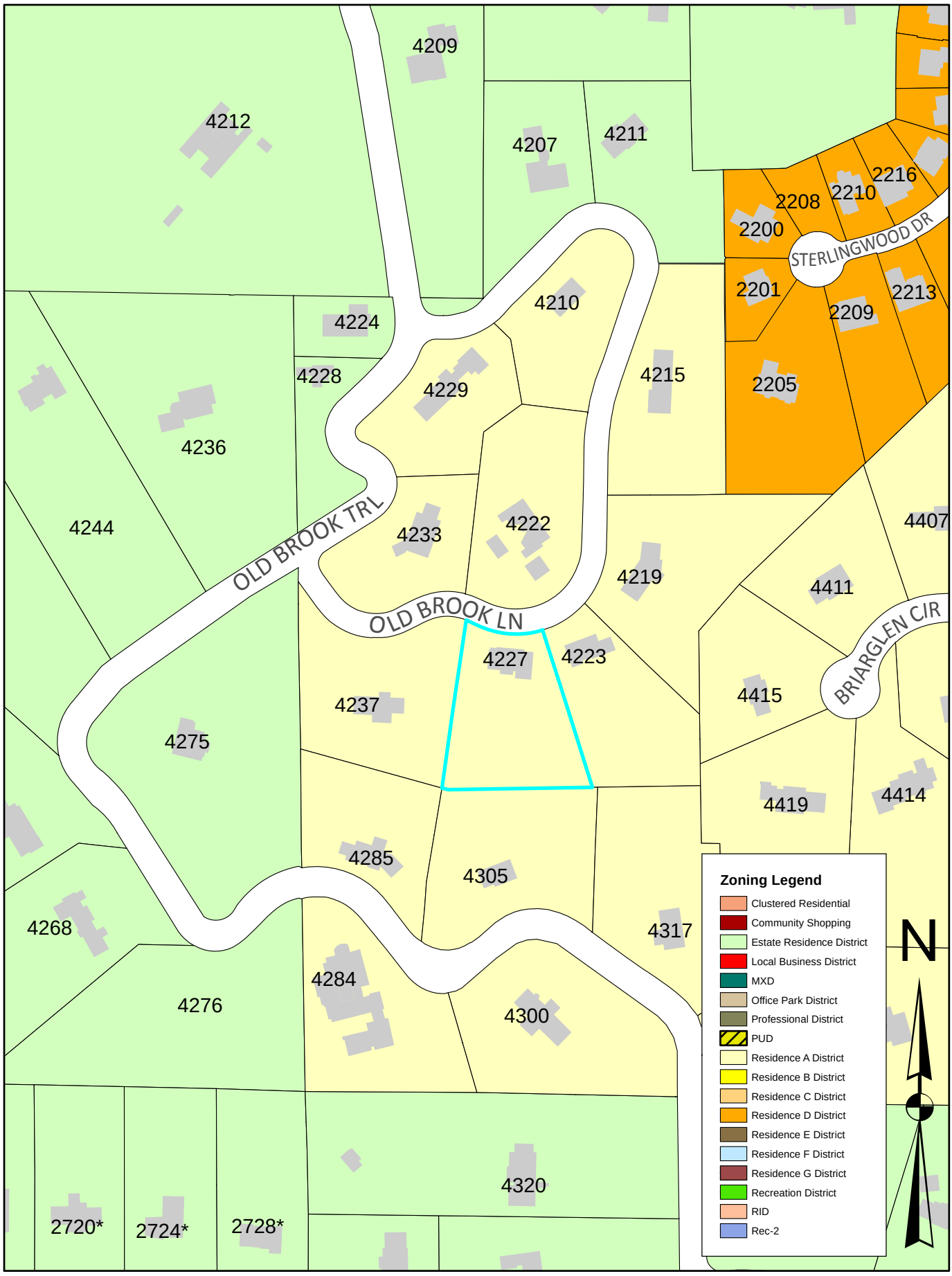
The porch is an original component of the home, which was built in the 1960's. The house sits almost 15'-0" over the front yard setback for homes zoned Residence A. To our knowledge there has never been a request for a variance for this home. It is sited on the most buildable portion of the lot as there is an existing creek that bisects the middle of the property, and there is a severe slope from the street to the creek, both of which also limit its buildable area.

Additionally, the lot is pie-shaped and located on a curve, which further reduces the available front yard of the house and puts a hardship on it that is unique from adjacent properties. Thank you for your consideration of this application.

Sincerely,

Carrie Taylor
Principal Architect

# A-16-33 (Zoning Map)



# Report to the Board of Zoning Adjustment

## A-16-34

### *Petition Summary*
Request to allow a covered porch to be 25 feet 11 inches from the front property line (Old Brook Lane) in lieu of the required 40 feet.

### *Analysis*
The hardships in this case are the curvature of the street, existing design constraints, the topography and the creek (which bisects the lot). The proposal is to replace a covered front porch (columns and roof), which currently encroach to within 25 feet 5 inches from the front property line.

As may be seen on the attached zoning map, most of the properties along the subject street are closer to the front property line than the required 40 feet (they may have been built when in unincorporated Jefferson County, prior to annexation in MB). Also, given the curvature of the street, the proposal would not be detrimental to the streetscape.

### *Impervious Area*
The proposal is in compliance with the allowable impervious surface area.

### *Subject Property and Surrounding Land Uses*
The property contains a single-family dwelling, and is surrounded by same.

### *Affected Regulation*
Article III, Residence A District; Section 129-34, Area and Dimensional Requirements

### *Appends*
LOCATION: 4227 Old Brook Lane

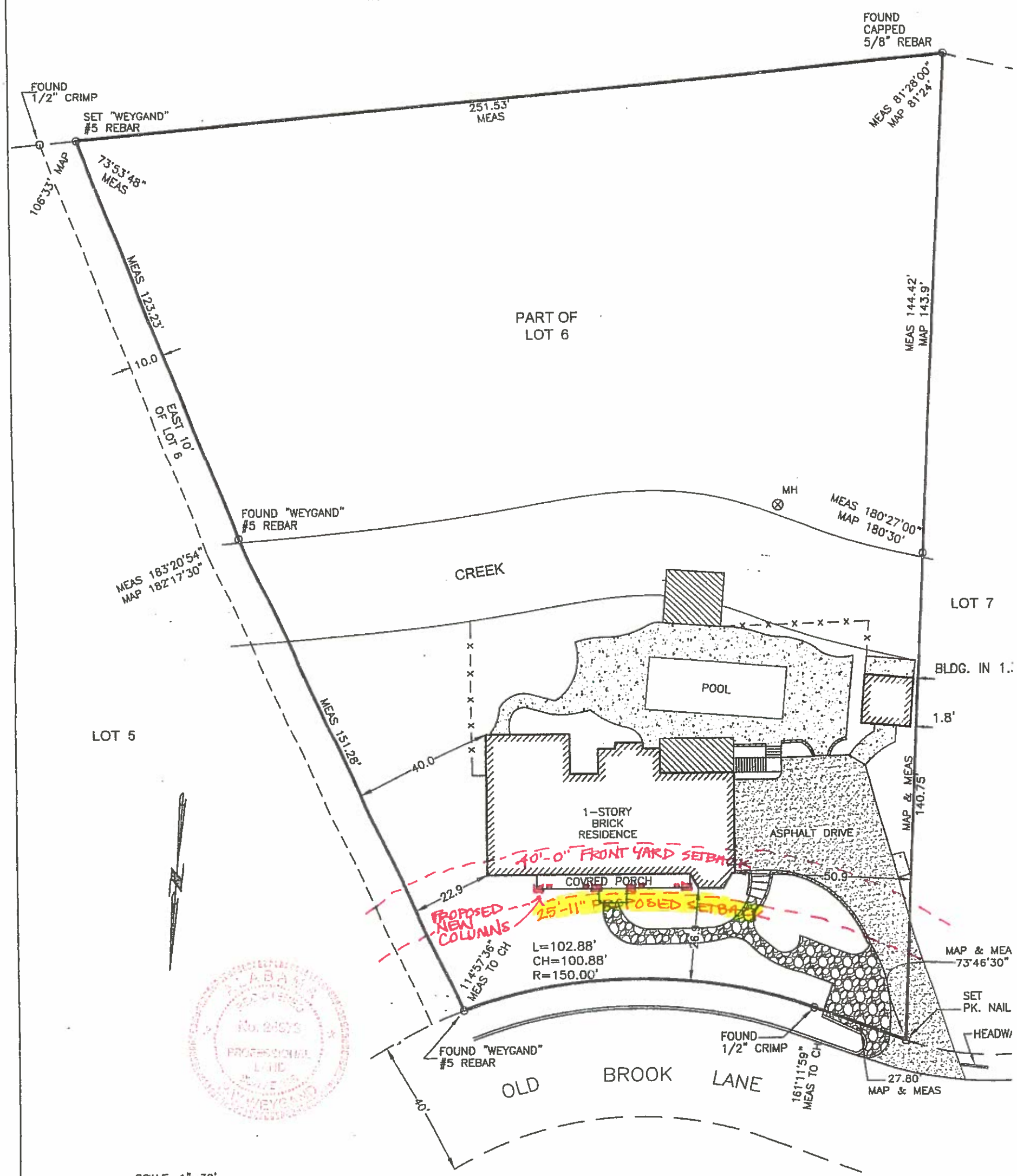
ZONING DISTRICT: Res-A

OWNERS: Alex and Ashley Seligson

A-16-34

LEGEND

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| ASP | ASPHALT | HW | HEADWALL | oLGT | LIGHT | | ANCHOR |
| BLDG | BUILDING | MIN | MINIMUM | COV | COVERED | R | RADIUS |
| CALC | CALCULATED | MH | MANHOLE | | DECK | R.O.W. | RIGHT OF WAY |
| MEAS | MEASURED | OH | OVERHANG | | | SAN | SANITARY |
| CH | CHORD | | POWER LINE | | CONCRETE | STM | STORM |
| LNG | LONG CHORD | PVMT | PAVEMENT | | WALL | UTIL | UTILITY |
| d | DEFLECTION | W/ | WITH | | | AC | ACRES |
| Δ | DELTA | TAN | TANGENT | | FENCE | S.F. | SQUARE FEET |
| ESMT | EASEMENT | RES | RESIDENCE | POR | PORCH | ℄ | CENTERLINE |




SCALE: 1"=30'
STATE OF ALABAMA)
JEFFERSON COUNTY)

"Closing Survey"

I, Ray Weygand, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed Lot 6 Except the East 10 feet, SHADY BROOK ESTATES, as recorded in Map Volume 42, Page 75, in the Office of the Judge of Probate, Jefferson County, Alabama. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief; according to my survey of JUNE 15, 2016. Survey invalid if not sealed in red.

Order No.: 74603
Purchaser:
Address: 4227 OLD BROOK LANE


Ray Weygand/Reg. L.S. #24973
169 Oxmoor Road Homewood, AL 35209
Phone: (205) 942-0086 Fax: (205) 942-0087

Copyright ©

WEYGAND SURVEYORS

Note: (a) No title search of the public records has been performed by this firm and land shown hereon was not abstracted for easements and/or rights-of-way, recorded or unrecorded. The parcel shown hereon is subject to setbacks, easements, zoning, and restrictions that may be found in the public records of said county and/or city. (b) All bearings and/or angles, are deed/record map and actual unless otherwise noted. (c) Underground portions of foundations, footings, and/or other underground structures, utilities, cemeteries or burial sites were not located unless otherwise noted. (d) The shown north arrow is based on deed/record map. (e) This survey is not transferable. (f) Easements not shown on recorded map are not shown above.

# A-16-33 (Aerial Map)

# Variance Application
# Part II

**Required Findings (Sec. 129-455 of the Zoning Ordinance)**

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made by the Board of Zoning Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

This house sits on a pie-shaped lot that slopes dramatically from the street to the creek in the middle of the lot. Therefore, the house is located closer the street than the adjacent houses because the buildable area is smaller.

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "...converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

The columns on the existing porch are rotten and need replacing. The existing house sits 13'-8" over the setback (house was built in the '60's). In order to replace the columns, since they sit in the setback, we are requesting a variance.

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

This house has conditions that adjacent houses are not dealing with due to shape of the lot, topography, and existing location of the home relative to the street.

# Variance Application - Part I

## Project Data

Address of Subject Property 3901 JACKSON BLVD. BIRMINGHAM, AL 35222

Zoning Classification RESIDENCE 1 B

Name of Property Owner(s) FRANK TOMLINSON

Phone Number (205) 907-8030 Email FRANKTOMLINSON@gmail.com

Name of Surveyor RAY NEYGAND

Phone Number (205) 942-0086 Email RAY-NEYGAND@bellsouth.net

Name of Architect (if applicable) JIMMY LAUGHLIN

Phone Number (205) 807-7814 Email JAMESLAUGHLIN4@gmail.com

☒ Property owner or representative agent must be present at hearing jamesLaughlin4@gmail

Please fill in only applicable project information (relating directly to the variance request(s):

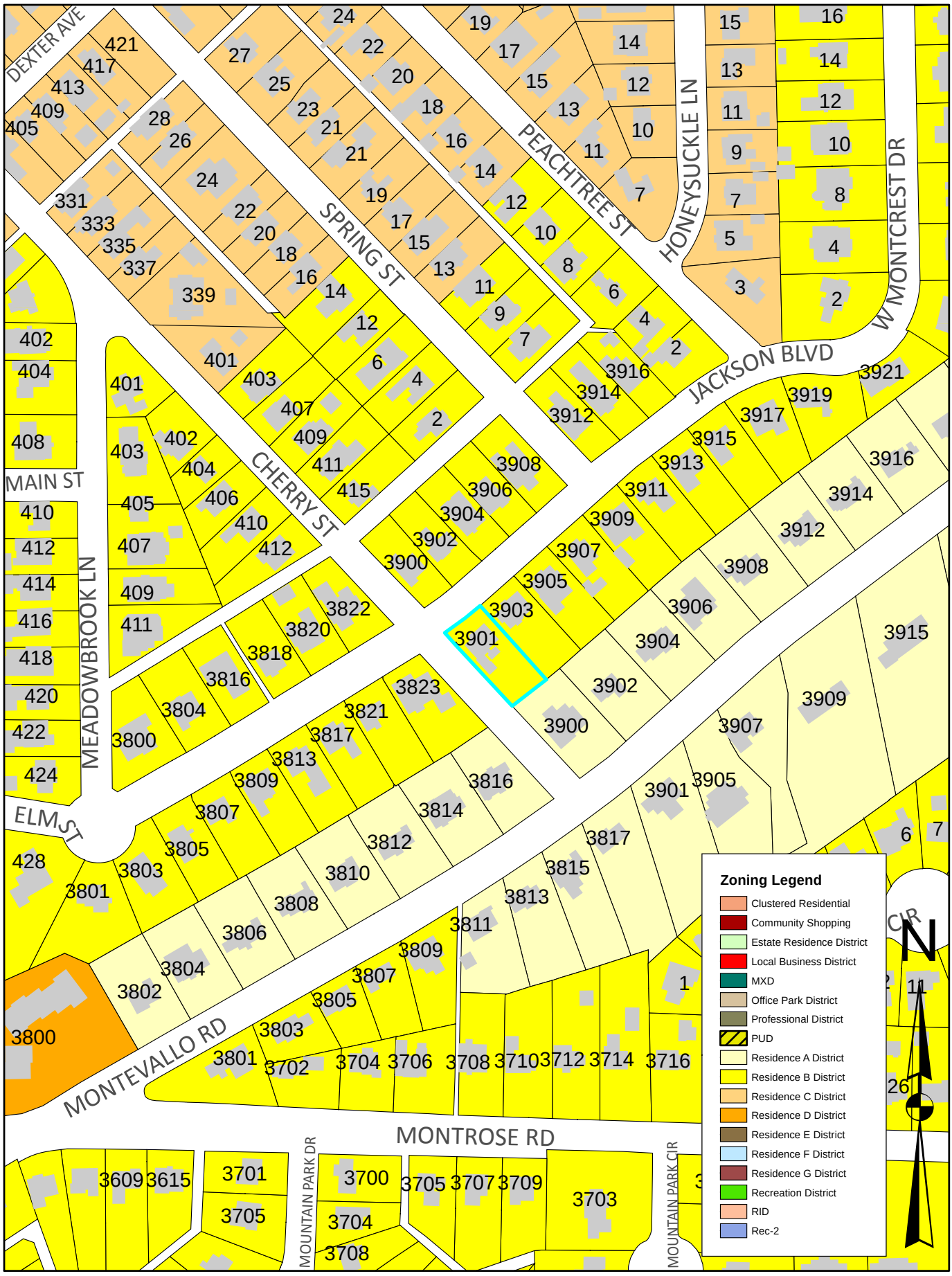
| | Zoning Code Requirement | Existing Development | Proposed Development |
|---|---|---|---|
| Lot Area (sf) | | | |
| Lot Width (ft) | | | |
| Front Setback (ft) *primary* | 35 FT | | |
| Front Setback (ft) *secondary* | 35' | | 11'-0" |
| Right Side Setback | | | |
| Left Side Setback | | | |
| Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Rear Setback (ft) | 35 FT | | |
| Lot Coverage (%) | 35 % | | 23% |
| Building Height (ft) | 35 FT | | |
| Other | | | |
| Other Impervious | 40% | | 40% |

*Variance request for 3901 Jackson Boulevard, Birmingham, AL 35213*

The property is located on the southeast corner of Jackson Boulevard and Cherry Street. The proposed addition extends toward the rear of the property, bracketing Cherry Street, in line with the existing house along the original fifteen-foot side yard setback.

With the current thirty-five foot side yard setback and the given narrow lot width (73.3'), we are requesting a variance in order for the placement of the addition to work optimally within the constructs of the lot, the neighborhood fabric and the directly adjacent neighbor. The proposed addition does not exceed the height of existing residence, brackets the street promoting safety in the rear yard and does not impose on the adjacent neighbor's light, privacy, etc.

# A-16-34 (Zoning Map)



# Report to the Board of Zoning Adjustment

## A-16-35

### *Petition Summary*
Request to allow additions and alterations to an existing single family dwelling to be 11 feet from the secondary front property line (Cherry Avenue) in lieu of the required 35 feet.

### *Analysis*
The hardship in this case is the corner lot configuration. The existing house is 11-14 feet from the secondary front (Cherry Street) and the proposal is to roughly match these two facades with additions at 11 and 15 feet. Given the average lot width of 72 feet, the required 35-foot secondary front takes up roughly half of the lot (see highlighted portion of site plan). As may be seen on the attached zoning map, other houses in the immediate vicinity (with secondary fronts on Cherry) do not maintain 35 feet (probably most had variance approval). Being that this a one-story addition (that is at a lower elevation than 3900 Montevallo), and is in keeping with other establish Cherry setbacks at the same intersection, it is not anticipated that an approval of this addition would be detrimental to the streetscape.

### *Impervious Area*
The proposal is in compliance with the allowable impervious surface area.

### *Subject Property and Surrounding Land Uses*
The property contains a single-family dwelling, and is surrounded by same.

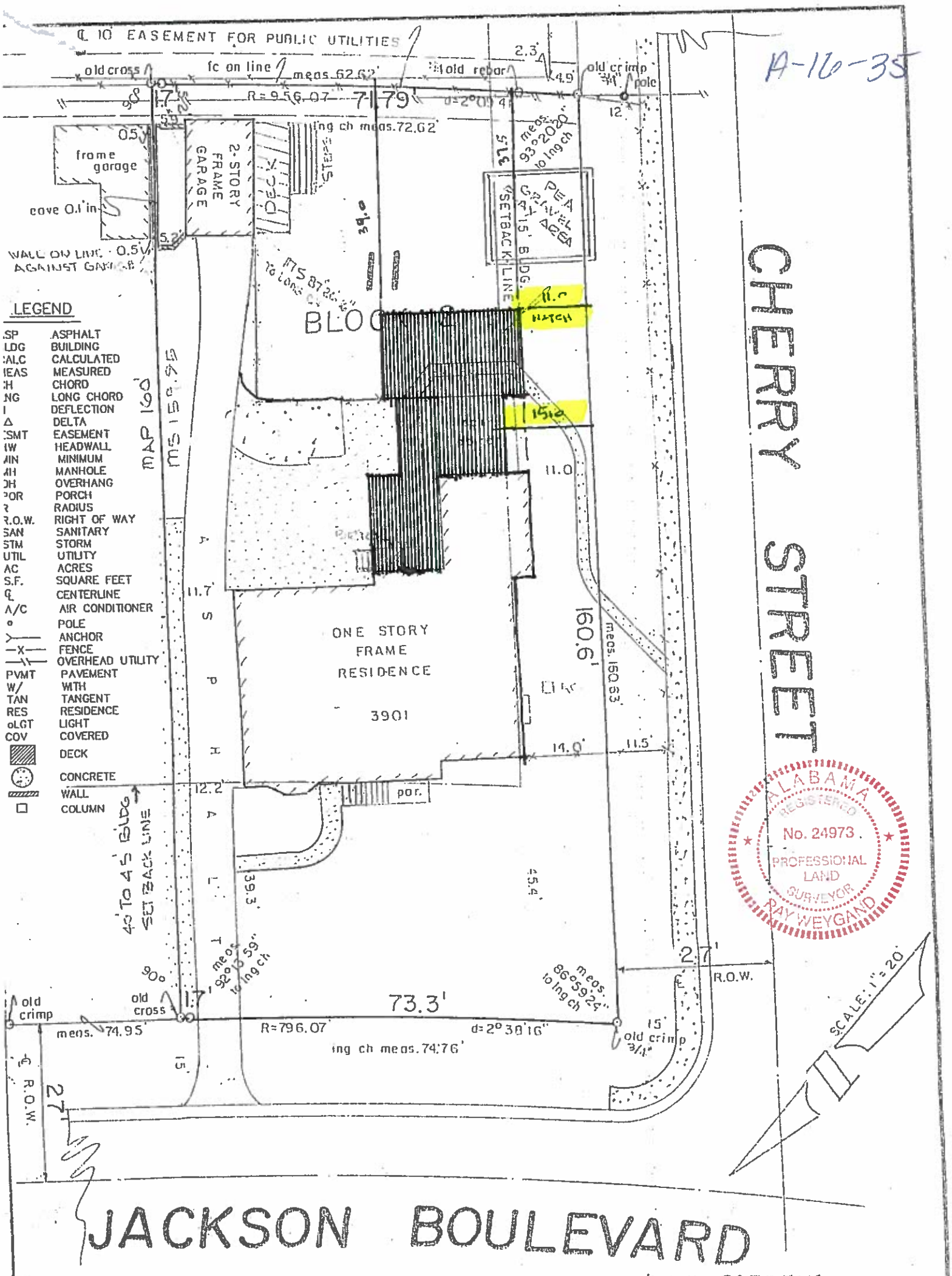
### *Affected Regulation*
Article IV, Residence B District; Section 129-52, Area and Dimensional Requirements

### *Appends*
LOCATION: 3901 Jackson Boulevard

ZONING DISTRICT: Res-B

OWNER: Frank Tomlinson

A-16-35




STATE OF ALABAMA)
JEFFERSON COUNTY)

"Closing Survey"

* VALLEY GARDENS

I, Ray Weygand, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed Lot 11 Block 2 SHADES * as recorded in Map Volume 24, Page 68, in the Office of the Judge of Probate, Jefferson County, Alabama. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief; according to my survey of July 6, 2016 Survey invalid if not sealed in red.

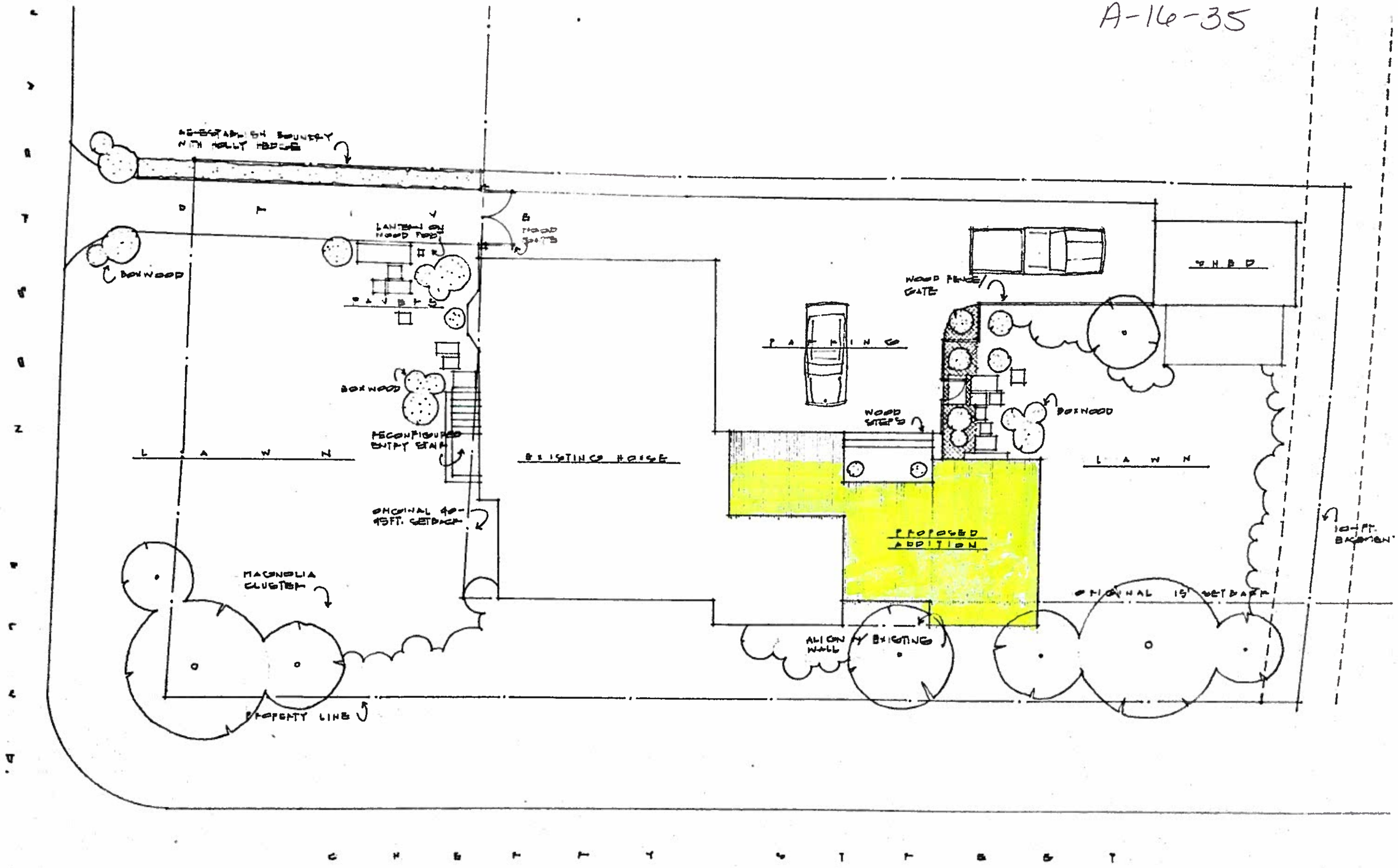
Order No.: 76031
Purchaser: Tomlinson
Address: 3901 JACKSON BLVD

Ray Weygand, Reg. L.S. #24973
169 Oxmoor Road Homewood, AL 35209
Phone: (205) 942-0086 Fax: (205) 942-0087
Copyright ©

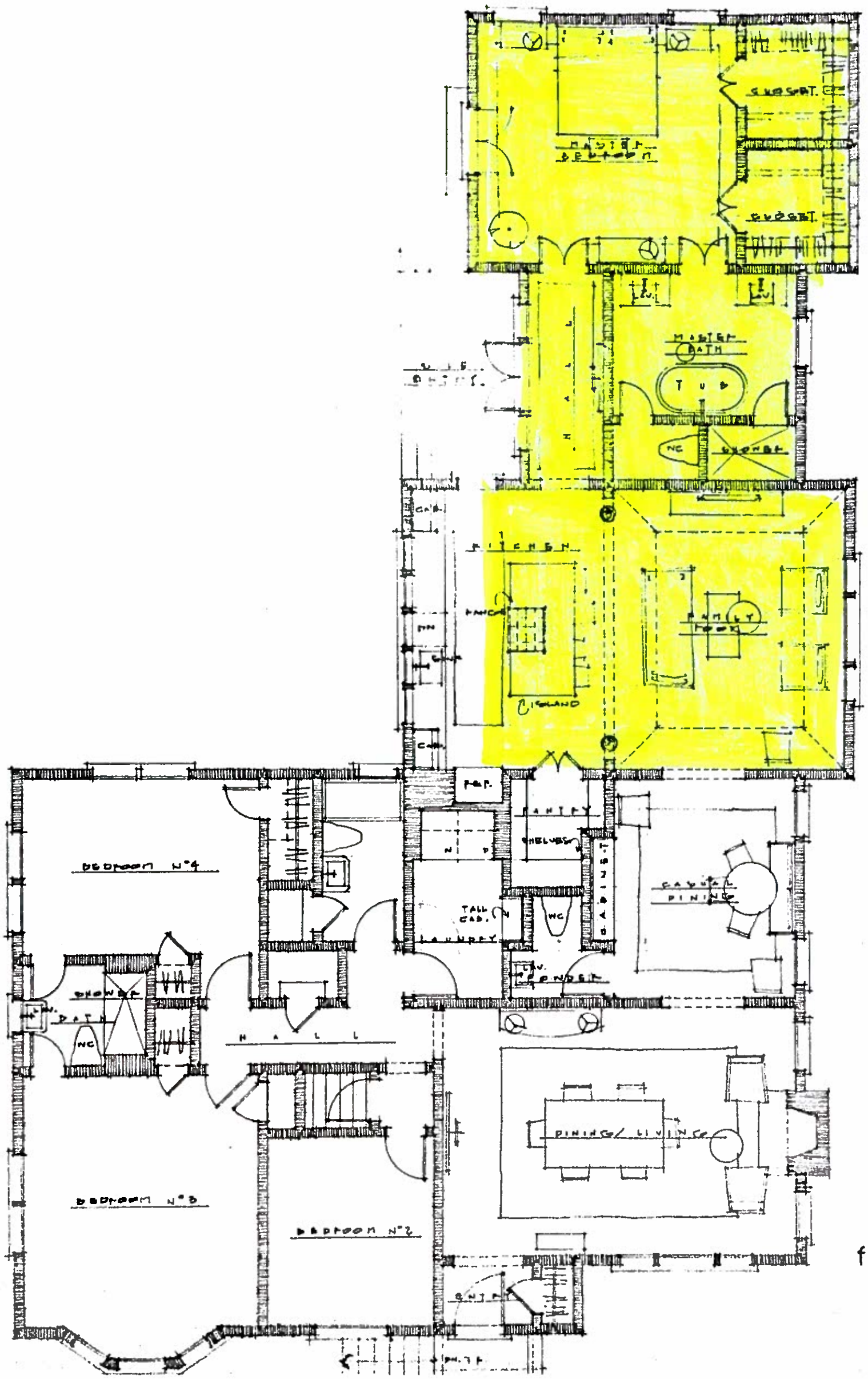
WEYGAND SURVEYORS

Note: (a) No title search of the public records has been performed by this firm and land shown hereon was not abstracted for easements and/or rights-of-way, recorded or unrecorded. The parcel shown hereon is subject to setbacks, easements, zoning, and restrictions that may be found in the public records of said county and/or city. (b) All bearings and/or angles, are deed/record map and actual unless otherwise noted. (c) Underground portions of foundations, footings, and/or other underground structures, utilities, cemeteries or burial sites were not located unless otherwise noted. (d) The shown north arrow is based on deed/record map. (e) This survey is not transferable. (f) Easements not shown on recorded map are not shown above.

A-16-35



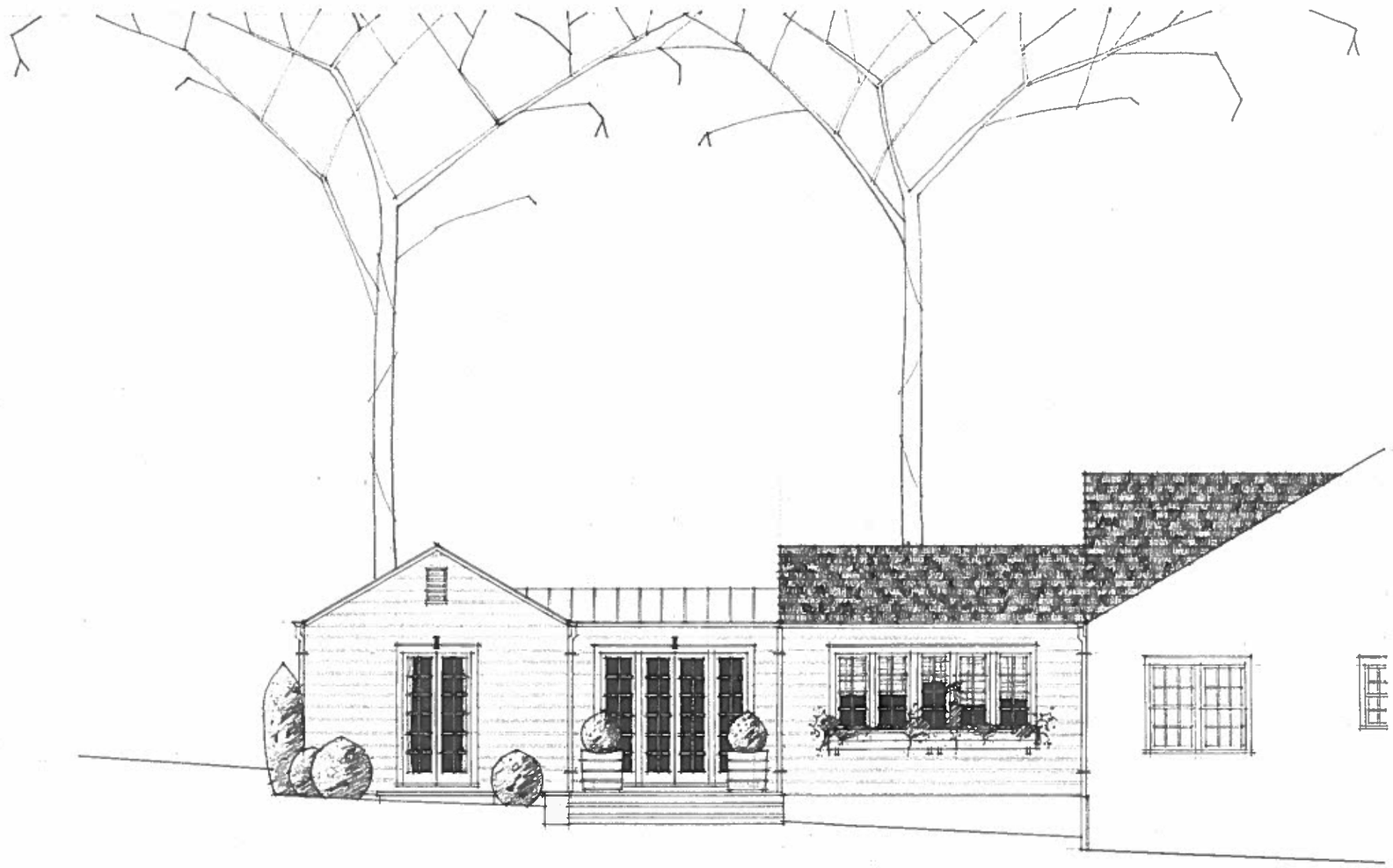

site plan




floor plan

A-16-35

A-



renovations and additions for

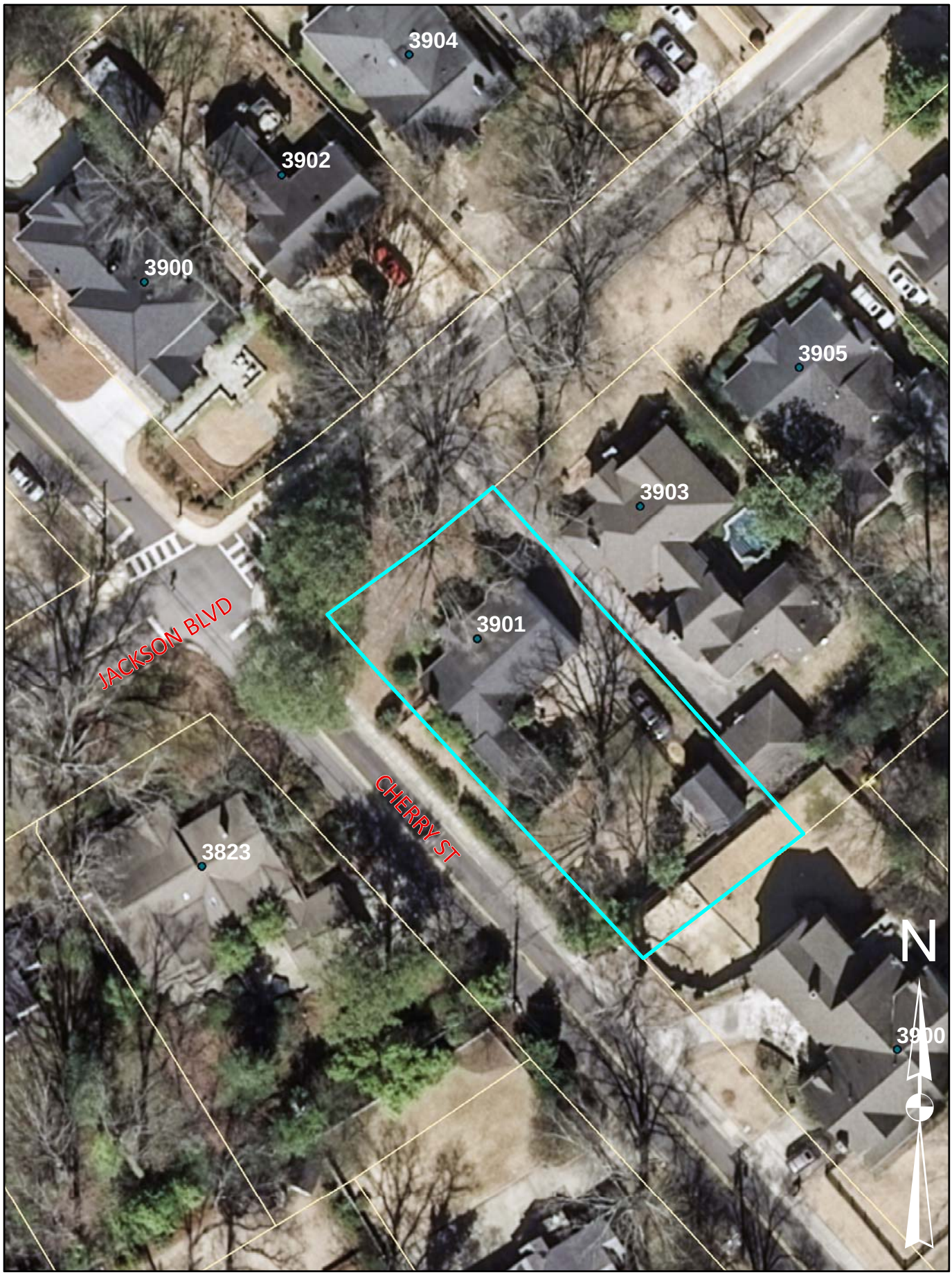
# emily and frank tomlinson

to 3901 jackson boulevard

mountain brook, alabama

East Elevatic

# A-16-34 (Aerial Map)



# Variance Application
# Part II

## Required Findings (Sec. 129-455 of the Zoning Ordinance)

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made by the Board of Zoning Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

HAVING A 35 FT SIDE SETBACK ON A RELATIVELY NARROW LOT (73.3 FT) — THE PROPOSED ADDITION IS IN LINE W/ EXISTING HOUSE AND SATISFIES REAR SETBACK.

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "...converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

NO, ALL EXISTING CONDITIONS

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

GIVEN THE NATURE OF A CORNER LOT, THE ADDITION BRACKETS THE SIDE STREET CREATING HARMONY W/IN THE NEIGHBORHOOD FABRIC AND DOES NOT IMPOSE ON, OR BLOCK LIGHT FROM DIRECTLY NEIGHBORING PROPERTY.

Lot 7

# Variance Application - Part I

## Project Data

Address of Subject Property 1511 Amherst Circle, Mountain Brook, AL 35216

Zoning Classification Residential A

Name of Property Owner(s) 1511 Amherst Circle, LLC

Phone Number 205.949.2098 Email charmullenefi@gmail.com

Name of Surveyor Surveying Solutions, Inc. Carl Daniel Moore

Phone Number 205.991.8965 Email davidentrekin@ssi-ala.com

Name of Architect (if applicable) Landscape Architect: HNP, Inc. Tommy Holcombe

Phone Number 205.870.9936 Email tommy@hnpsiteplan.com

☒ Property owner or representative agent must be present at hearing

**Please fill in only applicable project information (relating directly to the variance request(s):**

| | Zoning Code Requirement | Existing Development | Proposed Development |
|---|---|---|---|
| Lot Area (sf) | | | |
| Lot Width (ft) | | | |
| Front Setback (ft) *primary* | | | |
| Front Setback (ft) *secondary* | | | |
| Right Side Setback | | | |
| Left Side Setback | | | |
| Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Rear Setback (ft) | | | |
| Lot Coverage (%) | | | |
| Building Height (ft) | | | |
| Other Retaining Wall Height (ft) | 4' | | 4.25' - 9.4' |
| Other | | | |

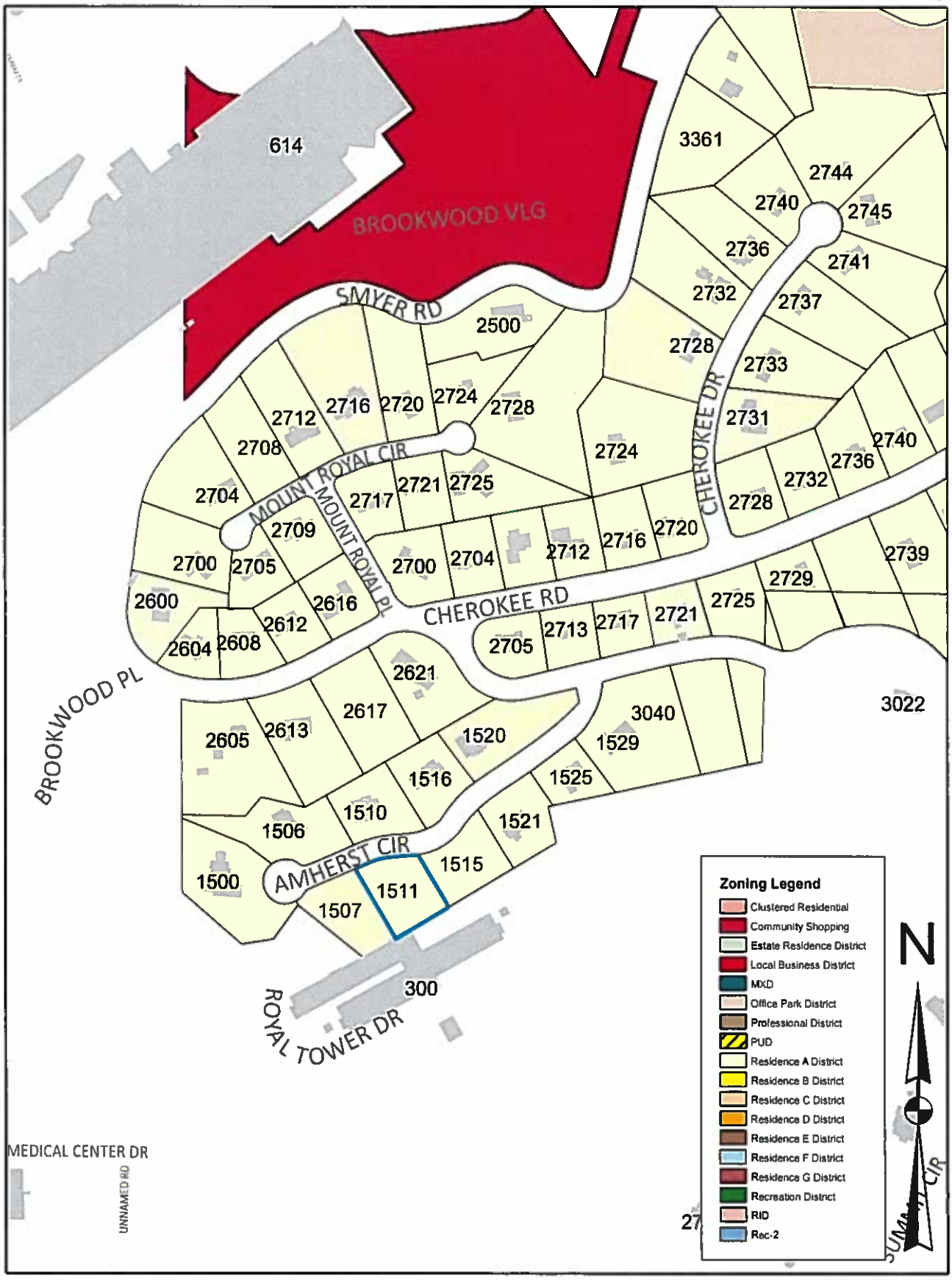
Amherst Lot 7 Variance Application

Original topography of the lot does not allow for driveway placement that would be in keeping with the established look of the neighborhood. Retaining walls are required to achieve an attractive front yard and driveway. The topography dictates that the walls be slightly above the zoning code requirement. Thus, we are requesting a variance on the wall heights in the submitted plan.

Owner or Owner's representative _____

Date 6/24/15

# A-16-36 (Zoning Map)



# Report to the Board of Zoning Adjustment

## A-16-36

### *Petition Summary*

Request to allow retaining walls, stairs, landing and handrail to be up to 9.4 feet high in lieu of the allowed 4 feet within the 40-foot front yard setback.

### *Analysis*

The hardship in this case is topography. As may be seen on the attached original topography map (Site/Grading Plan) the elevation at the front property line is 107 and is 150 at the rear retaining wall, for an overall grade change of 43 feet within the first 110 feet of the lot.

The proposal involves retaining walls and related improvements for the driveway and front entrance stairs and landing. Proposed retaining wall heights are shown in circles, which range from 1 foot to 6.4 feet above original grade within the 40-foot front setback. Circles highlighted in yellow reflect the portions of the wall that are above the 4-foot height limit (ranging from 4.25 feet to 6.4 feet). In addition a 3-foot high wrought iron guard rail is proposed atop the 6.4 foot wall at the stair and landing, for a total height of 9.4 feet in lieu of the allowed 4 feet. Refer to attached Sections 7A and 7B to see the grade and proposed improvements in side view.

### *Landscaping*

Questions have been raised by neighboring property owners as to how the proposed retaining walls will be buffered with landscaping, and what sort of landscaping is proposed in the front setback; also, how landscaping could be maintained on such a steep slope.

Should the Board be inclined to approve the retaining walls, it may be prudent to ensure a proper landscape buffer to soften the effect of high walls from the street view. The top of the rail (between 35-40 feet from the front property line) is to be approximately 29 feet above the street grade at the front property line.

Photos of neighboring lots on the same side of Amherst Circle (1515, 1521, 1525 and 1529 Amherst Circle) are attached for comparison as to how adjoining steep lots have been developed and landscaped.

### *Letter of Opposition*

Attached is a letter of opposition from the property owners at 1506 Amherst Circle (across the street). The letter addresses a variety of complaints and concerns regarding the project as a whole; chief among these are the height of the house, management of the site and the road during construction, run-off, and lack of Amherst Association approval.

The height of the house has been determined by staff to be in compliance with the 35-foot height limit and is not the subject of the variance hearing. Complaints regarding construction and conformance with City codes continue to be addressed at the staff level. The City does not get involved with Association approvals or covenants.

### *Impervious Area*
The proposal is in compliance with the allowable impervious surface area.

### *Subject Property and Surrounding Land Uses*
The property contains a single-family dwelling, and is surrounded by same.

### *Affected Regulation*
Article III, Residence A District; Section 129-34, Area and Dimensional Requirements

Article XIX, General Area and Dimensional Requirements; Section 129-315, Fences and Walls in Residential Districts

### *Appends*
LOCATION: 1511 Amherst Circle

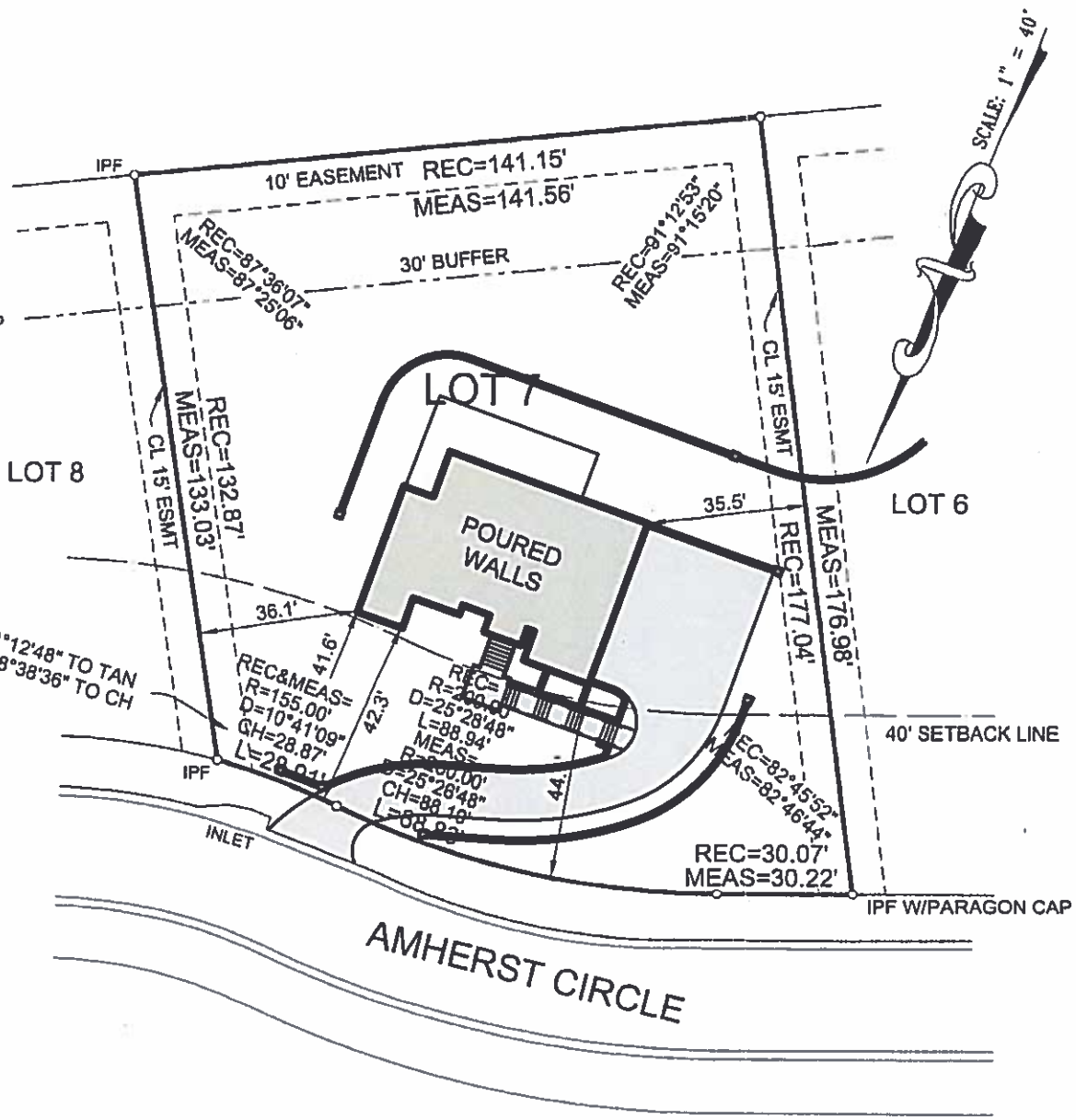
ZONING DISTRICT: Res-A

OWNER: 1511 Amherst Circle, LLC

A-16-36

LEGEND:

ASPH = asphalt
BRG = bearing
BLDG = building
CALC = calculated
CAP = capped iron
CL = centerline
CH = chord
CONC = concrete
C = covered
d = deflection
D = curve delta angle
E = east
ESMT = easement
FC = fence
FD = found
HW = headwall
IPF = iron pin found
IPF* = iron pin found w/KBW cap
IPS = iron pin set w/SSI cap
L = length
MEAS = measured
MIN = minimum
MH = manhole
N = north
OH = overhang
P = porch
PC = point of curve
POB = point of beginning
POC = point of commencement
PT = point of tangent
PVMT = pavement
R = radius
REC = recorded
RES = residence
ROW = right of way
S = south
SAN = sanitary
STM = storm
SWR = sewer
SYN = synthetic
UTIL = utility
U = uncovered
W = west
YI = yard inlet
° = degrees
' = minutes, in bearings or angles
" = seconds, in bearings or angles
' = feet, in distance
AC = acres
± = more or less, or plus or minus




STATE OF ALABAMA
SHELBY COUNTY

I, Carl Daniel Moore, a registered Land Surveyor, certify that I have surveyed Lot 7, AMHERST as recorded in Map Book 178, Page 10 in the Office of the Judge of Probate, Jefferson County, Alabama; that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief; that the correct address is as follows: 1511 Amherst Circle according to my survey of February 12, 2016. Survey is not valid unless it is sealed with embossed seal or stamped in red.

Order No. 14718
Purchaser: KEAM
Type of Survey: Foundation

SURVEYING SOLUTIONS, INC.
2232 CAHABA VALLEY DRIVE SUITE M
BIRMINGHAM, AL 35242
PHONE: 205-991-8965

Carl Daniel Moore

Carl Daniel Moore, Reg. L.S. #12159

2-17-16

Date of Signature

ALABAMA REGISTERED No. 12159 PROFESSIONAL LAND SURVEYOR CARL DANIEL MOORE

ACAD\SUBDIVISION\JEFFERSON COUNTY\AMHERST\LOT7 AMHERST FDN

M-16-56

0 20 40 60
GRAPHIC SCALE 1" = 20'

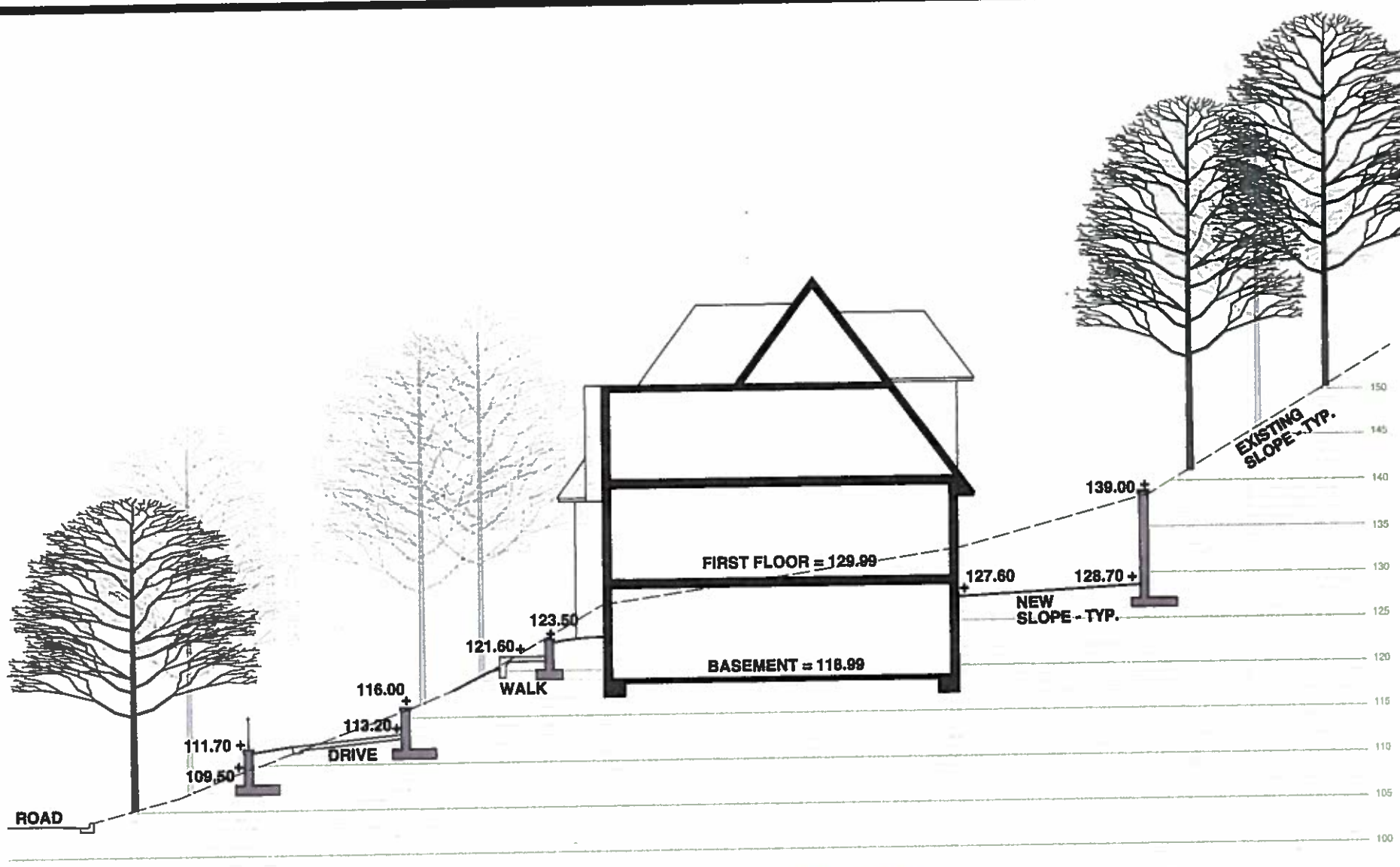
NORTH

IPF
10' EASEMENT
30' BUFFER
LOT 7
(VACANT LOT)
CL 15' ESMT
CL 15' ESMT
TREE SAVE
TREE SAVE
TREE SAVE
7A
7B
FIRST FLOOR F.F.E. = 129.99
BASEMENT F.F.E. = 118.99
LOT 6
40' SETBACK LINE
IPF
INLET
IPF W/PARAGON CAP
AMHERST CIRCLE

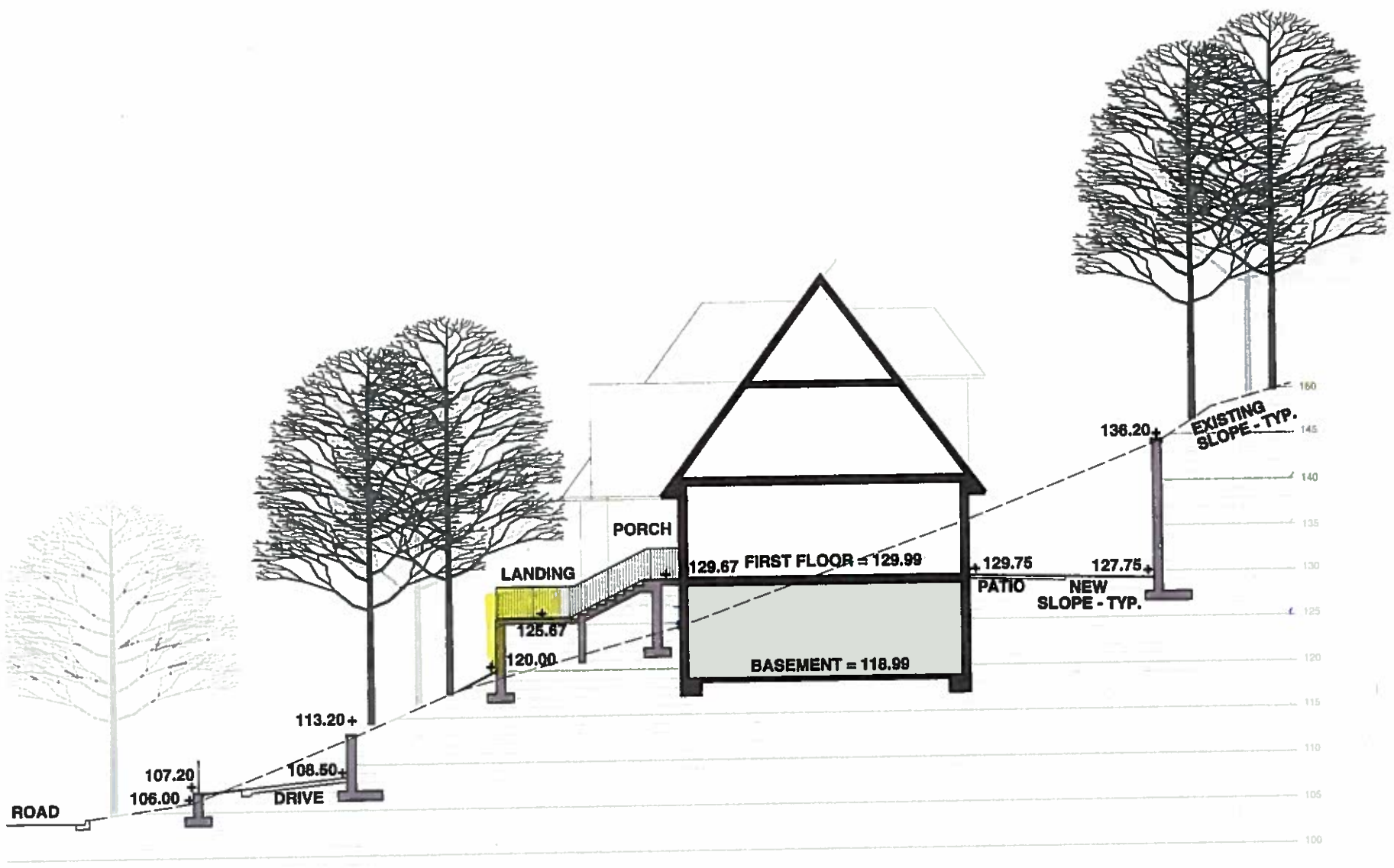
(1.00') HEIGHT OF RETAINING WALL FROM TOP OF WALL TO EXISTING GRADE OR NEW GRADE (WHICHEVER IS GREATEST)

# SITE PLAN/ GRADING PLAN
# LOT 7 - AMHERST CIRCLE

A-16-36




SITE SECTION 7A




SITE SECTION 7B

# ECTIONS

# MHERST CIRCLE

## OOK, ALABAMA

27, 2016

SCALE: 1/16" =1'-0"

NORTH

2621
2617
2613
1520
1529
1516
1525
1510
1521
1506
1529
1515
Mountain Brook
Vestavia Hills
1525
1511
1521
65m
1507
200ft

Amherst Cir

Amherst Cir

Amherst Cir

©2015 Google

Amherst Cir

Amherst Cir

# A-16-36 (Aerial Map)

# Variance Application
# Part II

## Required Findings (Sec. 129-455 of the Zoning Ordinance)

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made by the Board of Zoning Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

The original topography specific to this lot does not allow for the driveway to be in keeping with the established look of the neighborhood.

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "...converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

We took no action to create the need for which relief is sought. The relief is sought due to the naturally occurring topography of this lot.

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

Retaining walls are required in order to achieve a pleasing landscape design and driveway. The topography specific to this lot dictates that the retaining walls be above the zoning code requirement set forth by the city of Mountain Brook. Thus, the granting of this variance will allow us to create a beautiful landscape and driveway in keeping with the established neighborhood and the City of Mountain Brook.

July 12, 2016

City of Mountain Brook
Board of Zoning Adjustment
City Hall, 56 Church Street
Mountain Brook, AL 35213

RE: 2016-July-18 BZA Case# A16-36 and #A16-37

Dear Board Member:

We are writing to request that you NOT approve the proposed variance for the above referenced cases. Further, we would request that you issue a cease and desist from any additional work on the site until the builders meet City of Mountain Brook Code ("the City".)

We are directly across from Amherst Lot 6 and will be directly impacted by a proposed variance.

The original plans submitted to the city should have incorporated all the proposed requirements for building on these lots. We have had direct experience questioning the builder and the approach going back to May 30, 2015. At that time the builder started clearing land without approval of the neighborhood association. Further, the builder failed to follow the City's building code in protecting against runoff and drainage issues from the proposed clearing. On multiple occasions, we have had to notify the city of short cuts by this builder.

Now, they are requesting a variance AFTER they have already poured concrete, framed and finished the exterior of the property; thus, creating their own "hardship". Further, they have enclosed with drywall the interior pending this proposed variance.

At this point, the height and base cannot be changed. Now, they want a variance that will result in such a sloped yard that it will be impossible to maintain. Further, the exterior aesthetics are being compromised by their failure to meet the tiering and grading proposed in their original plan. Comparison to other houses in the neighborhood would not meet the same requirements as the neighborhood association mandates, the look and feel of the neighborhood, or the City's code.

Additionally, upon review of the submitted survey, it appears that the Surveyor has misrepresented the current condition of aspects of the property. There is no "tree save in Northwest corner (closest to the street.) Trees were to be preserved, but, they cleared them against the plan that was approved by the Amherst Neighborhood association requirements. Further, the builder has NOT yet poured any retaining walls. The members should be aware that the site survey bears no markings that the walls are proposed. Instead, the members are lead to believe that the builder have already completed the work; and the project is now presented as finished, when it is within the builders ability to make a correction. (See attached file: Comment Copy Amherst Maps – Item 1.)

Next, as a member of the appointed Amherst Architectural committee for the purpose of reviewing plans, I, Kyle, had assurances from the builder's representative that they had adjusted the plans to meet City requirements: (See Item 3: Waltz Email 20150610.pdf)

> Attached are the BMP plans for lots 6 & 7 Amherst that were submitted to the city at the permitting phase. I thought I had already sent these so apologize you did not get them. In addition to your drainage questions, this also shows the retaining walls we have planned for the lots. Right now, my thoughts are they will be 10' in height across the back and starting down the sides, stepping down accordingly. My goal is to line it up like the existing house to the left of our property from the street. (I think that's lot 8?) As for the questions of the height of the house, Mountain Brook has an ordinance in the city that states we are not allowed to be any higher than 35' from the front stoop of the house to the top of the roof line. We have already adjusted the plans once for the city in order to be in compliance with this. As you see it on the plans is how I'll have to build it. The other items the ARC has requested are still be reviewed by my superiors but I had this info so wanted to go ahead and get it over so at least something is moving. Let me know if you have any questions on these.
> Thanks,
> Sarah Waltz
> Prominence Homes

The highlighted section above shows that the builder knew as early as June 10, 2015, that they had to meet City code. At this point it is intellectually dishonest to say they have a hardship in meeting requirements.

Next, the builders have not been good neighbors. We have had to complain to them and to the City to correct issues with: trash, drainage, mud, and stones in the street. (Please see picture of current trash pile that was there for the 4th of July.)

Additionally, the builder does not appear to have connected to any utilities. There is a temporary electric post, which should not be there, and we have not seen any evidence that they have connected to municipal sewer or water systems. Therefore, it is clear that is not too late to deal with meeting City code requirements.

Finally, the photos attached show the extreme height from street level to the stoop and to the peak. We were concerned with the approach initially and attempted to give guidance/comments then, but, were ignored.

Again, we urge you to NOT approve either variance and issue a cease and desist until they meet City code.

Thank you,

Mr. & Mrs. Kyle G Schultz

Kyle and Cindy Schultz

Item 2:

Kyle Schultz From: Sarah Waltz <sarahwaltz138@gmail.com> Sent: Wednesday, June 10, 2015 10:58 AM To: Kyle-personal Subject: Fwd: Mountain Brook BMP plans Attachments: LOT7BMP.pdf; LOT6BMP.pdf

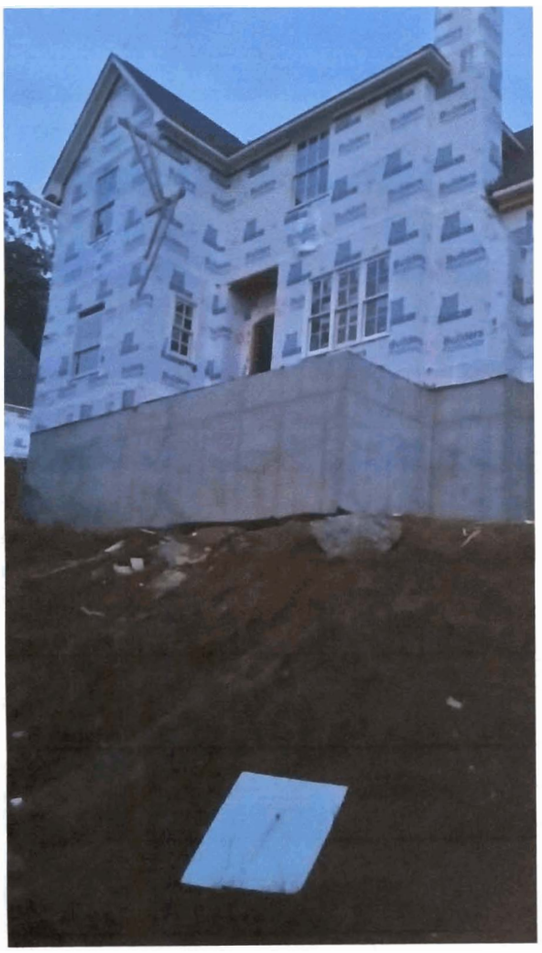
Kyle, Attached are the BMP plans for lots 6 & 7 Amherst that were submitted to the city at the permitting phase. I thought I had already sent these so apologize you did not get them. In addition to your drainage questions, this also shows the retaining walls we have planned for the lots. Right now, my thoughts are they will be 10' in height across the back and starting down the sides, stepping down accordingly. My goal is to line it up like the existing house to the left of our property from the street. (I think that's lot 8?) As for the questions of the height of the house, Mountain Brook has an ordinance in the city that states we are not allowed to be any higher than 35' from the front stoop of the house to the top of the roof line. We have already adjusted the plans once for the city in order to be in compliance with this. As you see it on the plans is how I'll have to build it. The other items the ARC has requested are still be reviewed by my superiors but I had this info so wanted to go ahead and get it over so at least something is moving. Let me know if you have any questions on these. Thanks, Sarah Waltz Prominence Homes

Sarah Waltz KEAM,LLC / Prominence Homes 2084 Valleydale Rd Birmingham, AL 35244 sarahwaltz138@gmail.com phone: (205) 379-1418 cell: (205) 461-8611 fax: (205) 949-2050

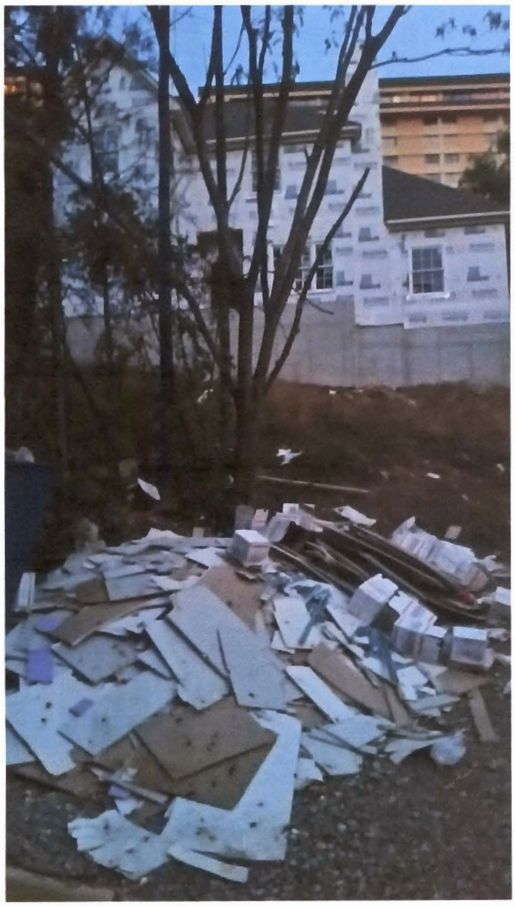
"By wisdom a house is built, And by understanding it is established" - Proverbs 24:3

Item 3: Photos:

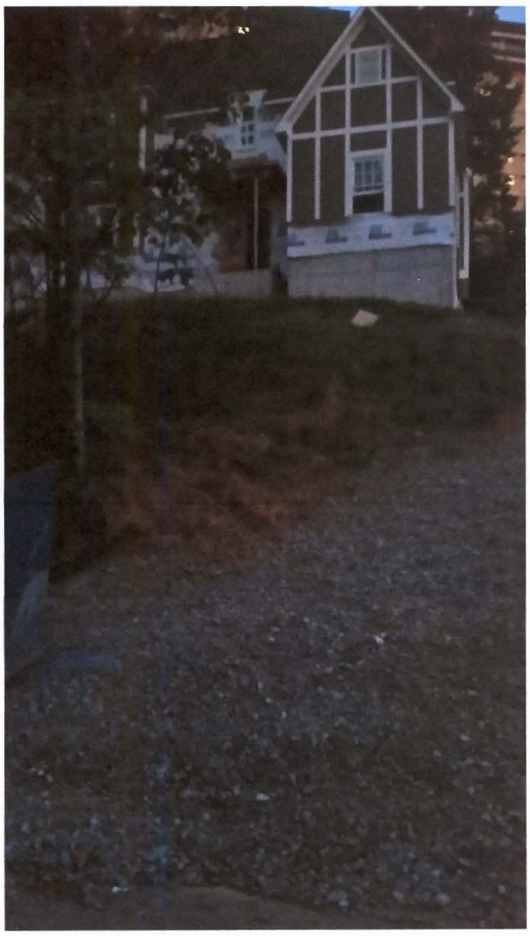
Lot 6 from approximate step locations



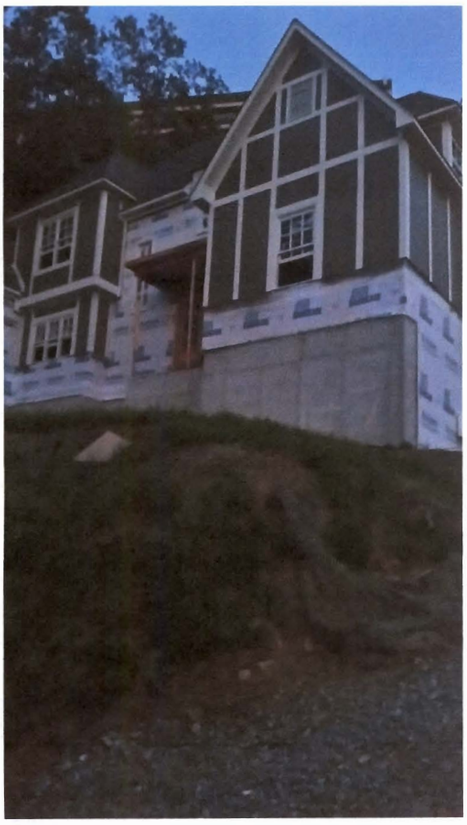
Lot 6 from street:



Lot 7 from street:



Lot 7 from approximate step location:



Lot 6

# Variance Application - Part I

## Project Data

Address of Subject Property 1507 Amherst Circle, Mountain Brook, AL 35216

Zoning Classification Residential A

Name of Property Owner(s) Yakar Properties LLC

Phone Number 205.949.2098 Email charmullenefi@gmail.com

Name of Surveyor Surveying Solutions, Inc. Carl Daniel Moore

Phone Number 205.991.8965 Email davidentrekin@ssi-ala.com

Name of Architect (if applicable) Landscape Architect: HNP, Inc. Tommy Holcombe

Phone Number 205.870.9936 Email tommy@hnpsiteplan.com

☒ Property owner or representative agent must be present at hearing

**Please fill in only applicable** project information (relating directly to the variance request(s):

| | Zoning Code Requirement | Existing Development | Proposed Development |
|---|---|---|---|
| Lot Area (sf) | | | |
| Lot Width (ft) | | | |
| Front Setback (ft) *primary* | | | |
| Front Setback (ft) *secondary* | | | |
| Right Side Setback | | | |
| Left Side Setback | | | |
| Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater → | | | |
| Rear Setback (ft) | | | |
| Lot Coverage (%) | | | |
| Building Height (ft) | | | |
| Other Retaining Wall Height (ft) | 4' | | 4.5' - 9.4' |
| Other | | | |

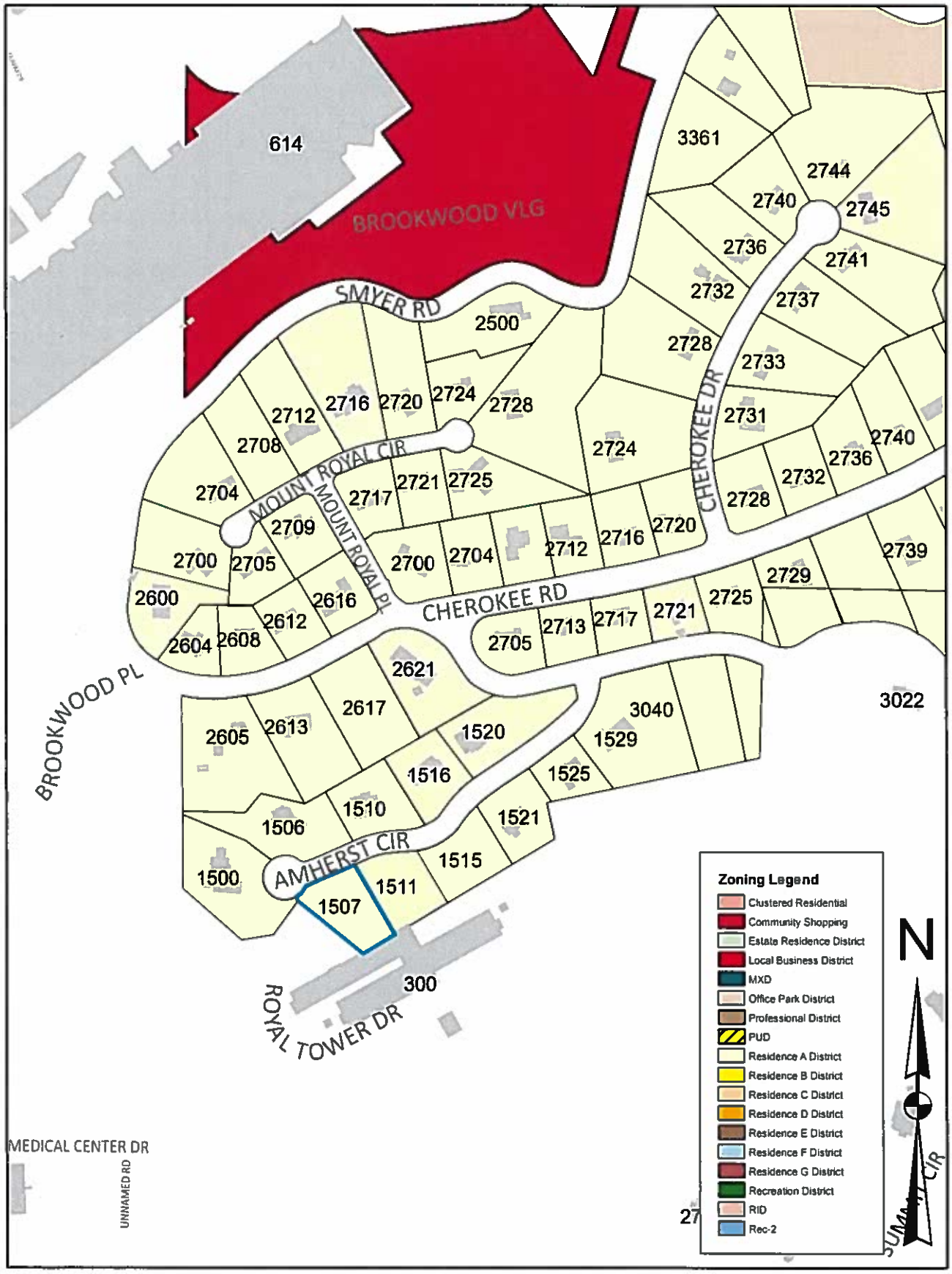
Amherst Lot 6 Variance Application

Original topography of the lot does not allow for driveway placement that would be in keeping with the established look of the neighborhood. Retaining walls are required to achieve an attractive front yard and driveway. The topography dictates that the walls be slightly above the zoning code requirement. Thus, we are requesting a variance on the wall heights in the submitted plan.

Owner or Owner's representative _____

Date 6/24/16

# A-16-37 (Zoning Map)



# Report to the Board of Zoning Adjustment

## A-16-37

### *Petition Summary*

Request to allow retaining walls, stairs, landing and handrail to be up to 9.4 feet high in lieu of the allowed 4 feet within the 40-foot front yard setback.

### *Analysis*

The hardship in this case is topography. As may be seen on the attached original topography map (Site/Grading Plan) the elevation at the front property line is 90 and is 130 at the rear retaining wall, for an overall grade change of 40 feet within the first 100 feet of the lot.

The proposal involves retaining walls and related improvements for the driveway and front entrance stairs and landing. Proposed retaining wall heights are shown in circles, which range from 3 feet to 6.4 feet above original grade within the 40-foot front setback. Circles highlighted in yellow reflect the portions of the wall that are above the 4-foot height limit (ranging from 4.5 feet to 6.4 feet). In addition a 3-foot high wrought iron guard rail is proposed atop the 6.4 foot wall at the stair and landing, for a total height of 9.4 feet in lieu of the allowed 4 feet. Refer to attached Sections 6A and 6B to see the grade and proposed improvements in side view.

### *Landscaping*

Questions have been raised by neighboring property owners as to how the proposed retaining walls will be buffered with landscaping, and what sort of landscaping is proposed in the front setback; also, how landscaping could be maintained on such a steep slope.

Should the Board be inclined to approve the retaining walls, it may be prudent to ensure a proper landscape buffer to soften the effect of high walls from the street view. The top of the rail (between 30-40 feet from the front property line) is to be approximately 36 feet above the street grade at the front property line.

Photos of neighboring lots on the same side of Amherst Circle (1515, 1521, 1525 and 1529 Amherst Circle) are attached for comparison as to how adjoining steep lots have been developed and landscaped.

### *Letter of Opposition*

Attached is a letter of opposition from the property owners at 1506 Amherst Circle (across the street). The letter addresses a variety of complaints and concerns regarding the project as a whole; chief among these are the height of the house, management of the site and the road during construction, run-off, and lack of Amherst Association approval.

The height of the house has been determined by staff to be in compliance with the 35-foot height limit and is not the subject of the variance hearing. Complaints regarding construction and conformance with City codes continue to be addressed at the staff level. The City does not get involved with Association approvals or covenants.

### *Impervious Area*
The proposal is in compliance with the allowable impervious surface area.

### *Subject Property and Surrounding Land Uses*
The property contains a single-family dwelling, and is surrounded by same.

### *Affected Regulation*
Article III, Residence A District; Section 129-34, Area and Dimensional Requirements

Article XIX, General Area and Dimensional Requirements; Section 129-315, Fences and Walls in Residential Districts

### *Appends*
LOCATION: 1507 Amherst Circle

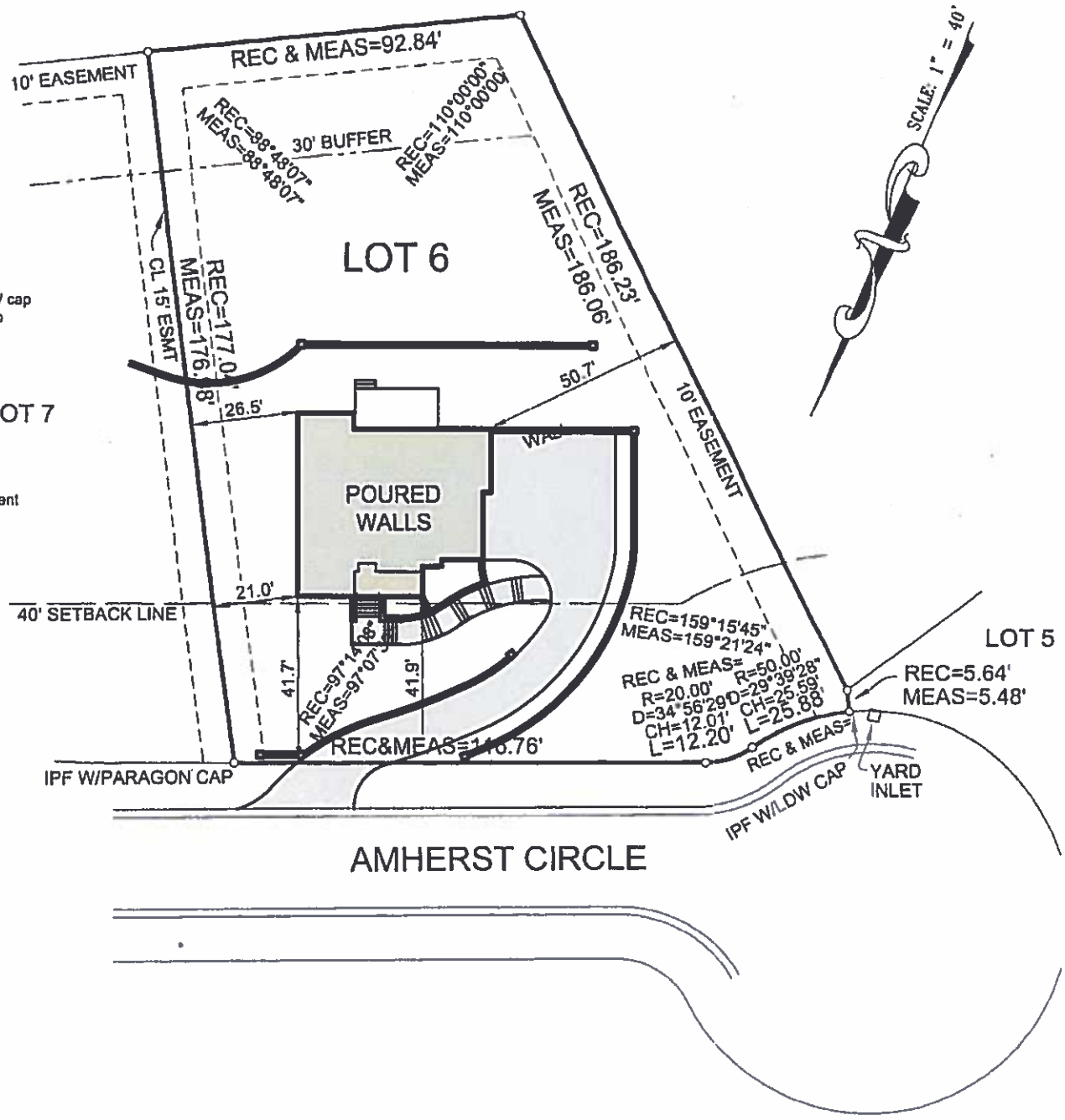
ZONING DISTRICT: Res-A

OWNER: Yakar Properties, LLC

A-16-37

LEGEND:

ASPH = asphalt
BRG = bearing
BLDG = building
CALC = calculated
CAP = capped iron
CL = centerline
CH = chord
CONC = concrete
C = covered
d = dollection
D = curve delta angle
E = east
ESMT = easement
FC = fence
FD = found
HW = headwall
IPF = iron pin found
IPF* = iron pin found w/KBW cap
IPS = iron pin set w/SSI cap
L = length
MEAS = measured
MIN = minimum
MH = manhole
N = north
OH = overhang
P = porch
PC = point of curve
POB = point of beginning
POC = point of commencement
PT = point of tangent
PVMT = pavement
R = radius
REC = recorded
RES = residence
ROW = right of way
S = south
SAN = sanitary
STM = storm
SWR = sewer
SYN = synthetic
UTIL = utility
U = uncovered
W = west
YI = yard inlet
° = degrees
' = minutes, in bearings or angles
" = seconds, in bearings or angles
' = feet, in distance
AC = acres
± = more or less, or plus or minus




STATE OF ALABAMA
SHELBY COUNTY

I, Carl Daniel Moore, a registered Land Surveyor, certify that I have surveyed Lot 6, AMHERST as recorded in Map Book 178, Page 10 in the Office of the Judge of Probate, Jefferson County, Alabama; that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief; that the correct address is as follows: 1507 Amherst Circle according to my survey of February 12, 2016. Survey is not valid unless it is sealed with embossed seal or stamped in red.

Order No. 14718
Purchaser: KEAM
Type of Survey: Foundation

SURVEYING SOLUTIONS, INC.
2232 CAHABA VALLEY DRIVE SUITE M
BIRMINGHAM, AL 35242
PHONE: 205-991-8965

Carl Daniel Moore

Carl Daniel Moore, Reg. L.S. #12159

2-17-16

Date of Signature

ALABAMA REGISTERED No. 12159 PROFESSIONAL LAND SURVEYOR CARL DANIEL MOORE

ACAD\SUBDIVISION\JEFFERSON COUNTY\AMHERST\LOT6 AMHERST FDN

A-16-37

0 20 40 60
GRAPHIC SCALE 1" = 20'

NORTH

10' EASEMENT

30' BUFFER

LOT 6
(VACANT LOT)

CL 15' ESMT

TREE SAVE

6B 6A

LOT 7

FIRST FLOOR F.F.E. = 119.73
BASEMENT F.F.E. = 108.73

40' SETBACK LINE

TREE SAVE

TREE SAVE

IPF W/PARAGON CAP

IPF W/LDW CAP

YARD INLET

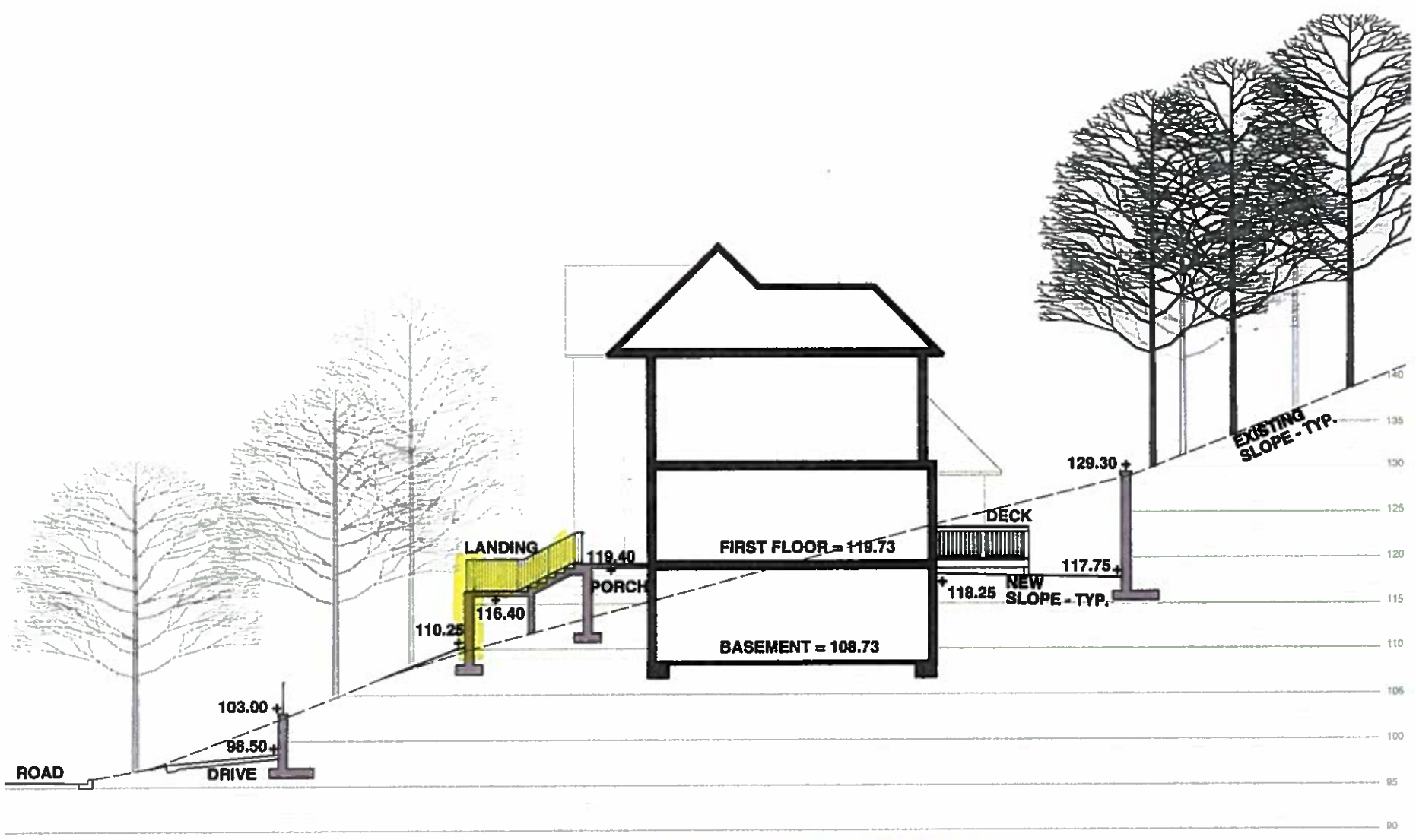
AMHERST CIRCLE

(1.00') HEIGHT OF RETAINING WALL FROM TOP OF WALL TO EXISTING GRADE OR NEW GRADE (WHICHEVER IS GREATEST)

# SITE PLAN/ GRADING PLAN
# LOT 6 - AMHERST CIRCLE

A-16-37

## SITE SECTION 6A




## SITE SECTION 6B

# SITE S

# LOTS 6 & 7 - A

## MOUNTAIN BF

JUI

2621
2617
2613
1520
1529
1516
1525
1510
1521
1506
1529
1515
Mountain Brook
Vestavia Hills
1525
1511
1521
65m
1507
200ft

Amherst Cir

Amherst Cir

Amherst Cir

©2015 Google

Amherst Cir

Amherst Cir

# A-16-37 (Aerial Map)

# Variance Application
# Part II

## Required Findings (Sec. 129-455 of the Zoning Ordinance)

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made by the Board of Zoning Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

The original topography specific to this lot does not allow for the driveway to be in keeping with the established look of the neighborhood.

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "...converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

We took no action to create the need for which relief is sought. The relief is sought due to the naturally occurring topography of this lot.

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

Retaining walls are required in order to achieve a pleasing landscape design and drive way. The topography specific to this lot dictates that the retaining walls be above the zoning code requirement set forth by the City of Mountain Brook. Thus, the granting of this variance will allow us to create a beautiful landscape and driveway in keeping with the established neighborhood and the City of Mountain Brook.

July 12, 2016

City of Mountain Brook
Board of Zoning Adjustment
City Hall, 56 Church Street
Mountain Brook, AL 35213

RE: 2016-July-18 BZA Case# A16-36 and #A16-37

Dear Board Member:

We are writing to request that you NOT approve the proposed variance for the above referenced cases. Further, we would request that you issue a cease and desist from any additional work on the site until the builders meet City of Mountain Brook Code ("the City".)

We are directly across from Amherst Lot 6 and will be directly impacted by a proposed variance.

The original plans submitted to the city should have incorporated all the proposed requirements for building on these lots. We have had direct experience questioning the builder and the approach going back to May 30, 2015. At that time the builder started clearing land without approval of the neighborhood association. Further, the builder failed to follow the City's building code in protecting against runoff and drainage issues from the proposed clearing. On multiple occasions, we have had to notify the city of short cuts by this builder.

Now, they are requesting a variance AFTER they have already poured concrete, framed and finished the exterior of the property; thus, creating their own "hardship". Further, they have enclosed with drywall the interior pending this proposed variance.

At this point, the height and base cannot be changed. Now, they want a variance that will result in such a sloped yard that it will be impossible to maintain. Further, the exterior aesthetics are being compromised by their failure to meet the tiering and grading proposed in their original plan. Comparison to other houses in the neighborhood would not meet the same requirements as the neighborhood association mandates, the look and feel of the neighborhood, or the City's code.

Additionally, upon review of the submitted survey, it appears that the Surveyor has misrepresented the current condition of aspects of the property. There is no "tree save in Northwest corner (closest to the street.) Trees were to be preserved, but, they cleared them against the plan that was approved by the Amherst Neighborhood association requirements. Further, the builder has NOT yet poured any retaining walls. The members should be aware that the site survey bears no markings that the walls are proposed. Instead, the members are lead to believe that the builder have already completed the work; and the project is now presented as finished, when it is within the builders ability to make a correction. (See attached file: Comment Copy Amherst Maps – Item 1.)

Next, as a member of the appointed Amherst Architectural committee for the purpose of reviewing plans, I, Kyle, had assurances from the builder's representative that they had adjusted the plans to meet City requirements: (See Item 3: Waltz Email 20150610.pdf)

> Attached are the BMP plans for lots 6 & 7 Amherst that were submitted to the city at the permitting phase. I thought I had already sent these so apologize you did not get them. In addition to your drainage questions, this also shows the retaining walls we have planned for the lots. Right now, my thoughts are they will be 10' in height across the back and starting down the sides, stepping down accordingly. My goal is to line it up like the existing house to the left of our property from the street. (I think that's lot 8?) As for the questions of the height of the house, Mountain Brook has an ordinance in the city that states we are not allowed to be any higher than 35' from the front stoop of the house to the top of the roof line. We have already adjusted the plans once for the city in order to be in compliance with this. As you see it on the plans is how I'll have to build it. The other items the ARC has requested are still be reviewed by my superiors but I had this info so wanted to go ahead and get it over so at least something is moving. Let me know if you have any questions on these.
> Thanks,
> Sarah Waltz
> Prominence Homes

The highlighted section above shows that the builder knew as early as June 10, 2015, that they had to meet City code. At this point it is intellectually dishonest to say they have a hardship in meeting requirements.

Next, the builders have not been good neighbors. We have had to complain to them and to the City to correct issues with: trash, drainage, mud, and stones in the street. (Please see picture of current trash pile that was there for the 4th of July.)

Additionally, the builder does not appear to have connected to any utilities. There is a temporary electric post, which should not be there, and we have not seen any evidence that they have connected to municipal sewer or water systems. Therefore, it is clear that is not too late to deal with meeting City code requirements.

Finally, the photos attached show the extreme height from street level to the stoop and to the peak. We were concerned with the approach initially and attempted to give guidance/comments then, but, were ignored.

Again, we urge you to NOT approve either variance and issue a cease and desist until they meet City code.

Thank you,

Mr. & Mrs. Kyle G Schultz

Kyle and Cindy Schultz

Item 2:

Kyle Schultz From: Sarah Waltz <sarahwaltz138@gmail.com> Sent: Wednesday, June 10, 2015 10:58 AM To: Kyle-personal Subject: Fwd: Mountain Brook BMP plans Attachments: LOT7BMP.pdf; LOT6BMP.pdf

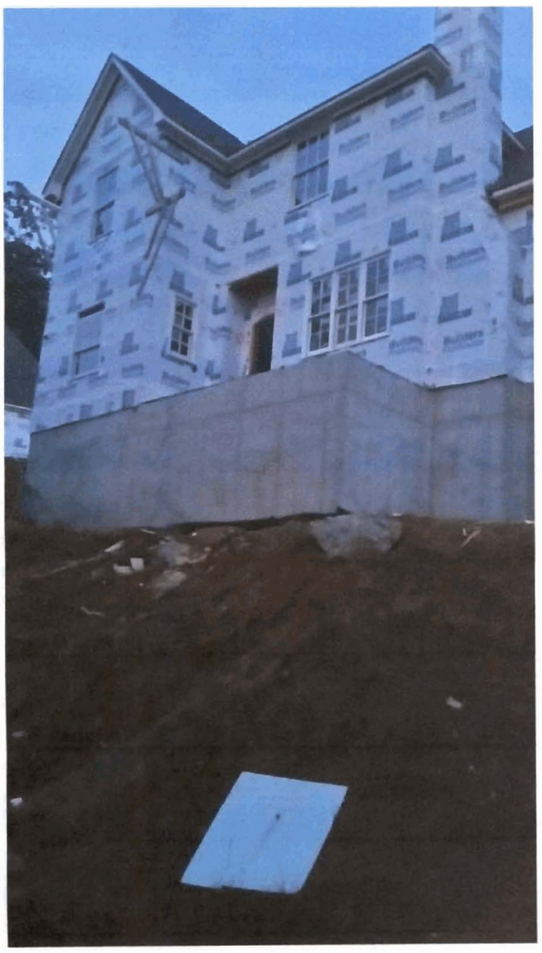
Kyle, Attached are the BMP plans for lots 6 & 7 Amherst that were submitted to the city at the permitting phase. I thought I had already sent these so apologize you did not get them. In addition to your drainage questions, this also shows the retaining walls we have planned for the lots. Right now, my thoughts are they will be 10' in height across the back and starting down the sides, stepping down accordingly. My goal is to line it up like the existing house to the left of our property from the street. (I think that's lot 8?) As for the questions of the height of the house, Mountain Brook has an ordinance in the city that states we are not allowed to be any higher than 35' from the front stoop of the house to the top of the roof line. We have already adjusted the plans once for the city in order to be in compliance with this. As you see it on the plans is how I'll have to build it. The other items the ARC has requested are still be reviewed by my superiors but I had this info so wanted to go ahead and get it over so at least something is moving. Let me know if you have any questions on these. Thanks, Sarah Waltz Prominence Homes

Sarah Waltz KEAM,LLC / Prominence Homes 2084 Valleydale Rd Birmingham, AL 35244 sarahwaltz138@gmail.com phone: (205) 379-1418 cell: (205) 461-8611 fax: (205) 949-2050

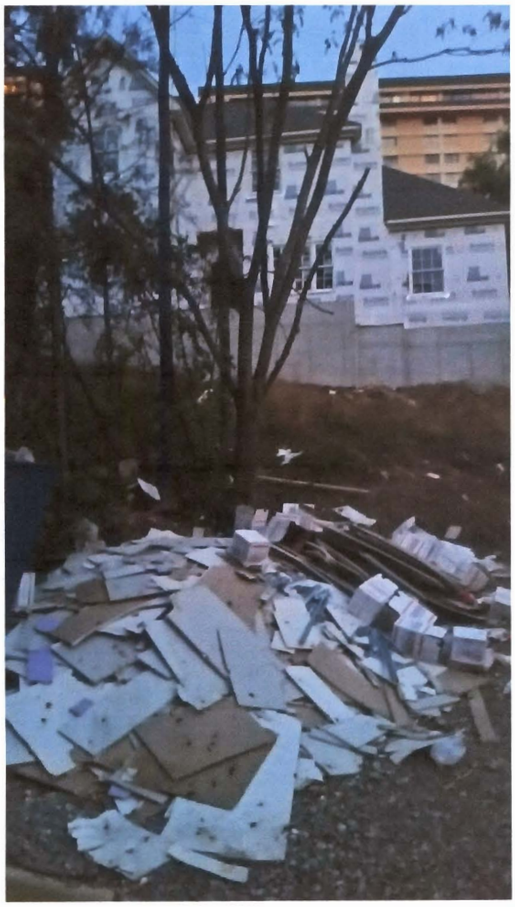
"By wisdom a house is built, And by understanding it is established" - Proverbs 24:3

Item 3: Photos:

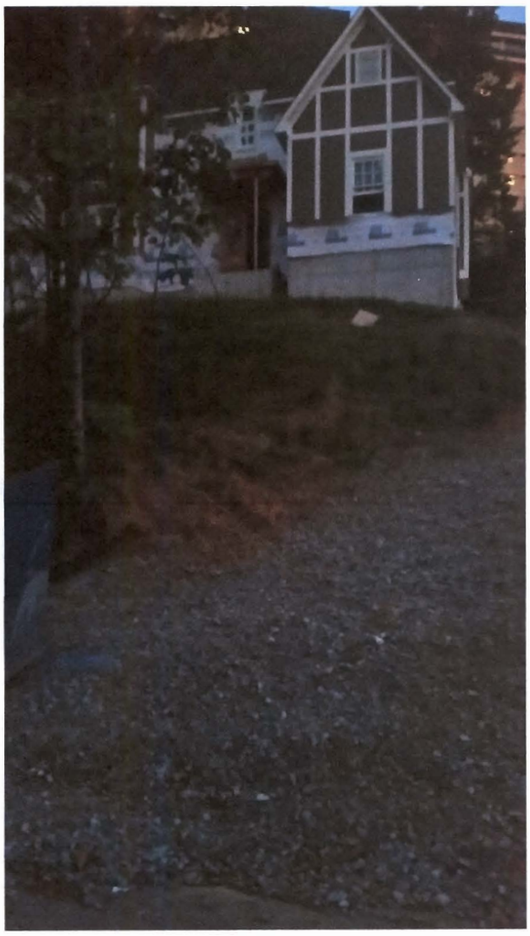
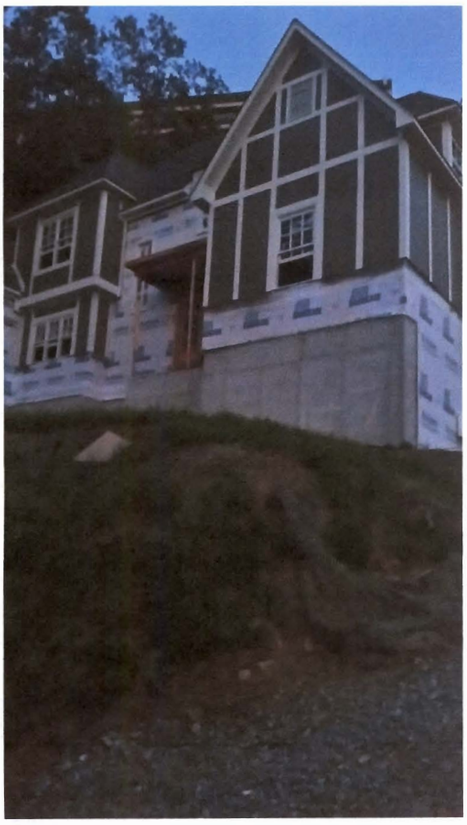
Lot 6 from approximate step locations



Lot 6 from street:



Lot 7 from street:



Lot 7 from approximate step location: