



CITY OF PRATTVILLE

BILL GILLESPIE, JR.
MAYOR

CITY COUNCIL

WILLIE WOOD, JR.
PRESIDENT
DISTRICT 2

ALBERT C. STRIPLIN
PRESIDENT PRO TEMPORE
DISTRICT 1

DENISE B. BROWN
DISTRICT 3

JERRY STARNES
DISTRICT 4

GARY L. WHITESIDE
DISTRICT 5

RAY C. BOLES
DISTRICT 6

LORA LEE BOONE
DISTRICT 7

City of Prattville Board of Zoning Adjustment

The minutes of the July 14, 2015 regular meeting of the City of Prattville Board of Zoning Adjustment were approved.

October 13, 2015

James Miles, Vice-Chairman

Date

Planning & Development Department

102 West Main Street ■ Prattville, Alabama 36067 ■ 334-595-0500 ■ 334-361-3677 Facsimile
planning.prattvilleal.gov



CITY OF PRATTVILLE

BILL GILLESPIE, JR.
MAYOR

CITY COUNCIL

WILLIE WOOD, JR.
PRESIDENT
DISTRICT 2

ALBERT C. STRIPLIN
PRESIDENT PRO TEMPORE
DISTRICT 1

DENISE B. BROWN
DISTRICT 3

JERRY STARNES
DISTRICT 4

GARY L. WHITESIDE
DISTRICT 5

RAY C. BOLES
DISTRICT 6

LORA LEE BOONE
DISTRICT 7

**CITY OF PRATTVILLE
BOARD OF ZONING ADJUSTMENT
A G E N D A
July 14, 2015
4:00pm**

Call to Order:

Roll Call:

Chairman Leo Jamieson, Vice-Chairman James Miles, Mr. Jerry Cimis, Mr. Mac Macready, and Mrs. Jerry Schanep.

Minutes:

March 10, 2015, April 14, 2015, and May 12, 2015

Old Business:

None

New Business:

- | | | | |
|--------------|---------------|---|-------------------|
| 1. 150714-01 | VARIANCE | To allow a mobile home in a residential zoned district.
323-B Hazel Street
R-3 Zoning District (Single Family Residential)
Thomas L. Davis, Petitioner | <i>District 2</i> |
| 2. 150714-02 | VARIANCE | To allow a mobile home in a residential zoned district.
Durden Road
R-3 Zoning District (Single Family Residential)
David C. Jernigan, Petitioner | <i>District 1</i> |
| 3. 150714-03 | USE-ON-APPEAL | To allow church use on the property.
Commerce Court (Lot 7)
B-2 Zoning District (General Business)
Abundant Life Church, Petitioner | <i>District 5</i> |
| 4. 150714-04 | VARIANCE | To encroach 22' into the required 40' rear yard setback.
844 Jensen Road
R-2 Zoning District (Single Family Residential)
Willie Motley, Petitioner | <i>District 2</i> |

Miscellaneous:

Adjourn

Planning & Development Department

102 West Main Street ■ Prattville, Alabama 36067 ■ 334-595-0500 ■ 334-361-3677 Facsimile
planning.prattvilleal.gov

**City of Prattville Board of Zoning Adjustment
Minutes
July 14, 2015**

CALL TO ORDER:

The regular meeting of the Prattville Board of Zoning Adjustment (BZA) was called to order by Vice-Chairman James Miles at 4:03 p.m. on Tuesday, July 14, 2015.

ROLL CALL:

Present: Vice-Chairman James Miles, Mr. Gerald Cimis, Mr. Mac Macready, Mrs. Jerry Schannep and Alternate member Captain Michael Whaley. Absent: Chairman Leo Jamieson.

Quorum Present

Staff present: Mr. Joel Duke, City Planner and Ms. Alisa Morgan, Secretary.

Vice-Chairman Miles stated the governing rules for the Prattville Board of Zoning Adjustment according to the *Code of Alabama, 1975* and the procedure of the meeting.

MINUTES:

Mr. Cimis moved to approve the minutes of the March 10, 2015, April 14, 2015, and May 12, 2015 meetings. Mr. Crosby seconded the motion. The motion passed unanimously.

OLD BUSINESS:

None

NEW BUSINESS:

VARIANCE

To allow a mobile home in a residential zoned district.

323-B Hazel Street

R-3 Zoning District (Single Family Residential)

Thomas L. Davis, Petitioner

Mr. Duke provided the staff report for the variance request to replace a mobile home in a residential district on property 323-B Hazel Street. He stated that the property is zoned R-3 for single family residential. He stated that there are two mobile homes located on the lot. The petitioner replaced a dilapidated mobile home with the existing one without obtaining a permit prior to placement.

Thomas Davis, petitioner, presented the request to place a mobile home on his property. He stated that he purchased a 2014 model to replace a 1969 model for his brother who will reside there. He stated that there was always a mobile home on the property and thought that it was grandfathered in.

Vice-Chairman Miles opened the public hearing.

Those who were in attendance for the public hearing spoke in favor of the request. There were none to speak in opposition to the request.

William Davis, 323 Hazel Street

Ulysses Jackson, 359 Hazel Street

Ollie Davis, 561 Clayton Street

Joseph Albright on behalf of Ms. Underwood, 1050 Spring Street

The public hearing was closed.

Mr. Cimis stated that the property is zoned R-3 for single family residential. He stated that the petitioner should seek to rezone the property to allow the mobile home to be placed there by right.

Mr. Duke stated that the zoning in the area hasn't been changed at least since 1987.

After no further comments, questions, or discussion, the vote was called.

Mr. Cimis moved to deny the request as submitted. Mr. Macready seconded the motion. The motion to deny failed by a 4/1 vote as recorded. Oppose: Chief Whaley, Mr. Macready, Mrs. Schannep and Vice-Chairman Miles. Favor: Mr. Cimis

Mr. Cimis moved to withdraw his motion. Mrs. Schannep seconded the motion.

The vote was called to approve the variance request. The vote failed by a 2/3 vote as recorded. Favor: Chief Whaley and Mrs. Schannep. Oppose: Mr. Cimis, Mr. Macready and Vice-Chairman Miles. The request to allow a mobile home in a residential zoned district on property at 323-B Hazel Street was denied.

VARIANCE

To allow a mobile home in a residential zoned district.

Durden Road

R-3 Zoning District (Single Family Residential)

David C. Jernigan, Petitioner

Mr. Duke provided the staff report for the variance request to place a mobile home in a residential zoned district. He stated that the property is a vacant lot located in the Durden Heights subdivision. He stated that the proposed request is a prohibited use in a R-3 district.

David Jernigan, 733 Ruth Street, petitioner, stated that the proposed mobile home would be occupied by family to help take care of him in his failing health. He stated that he had adjacent property rezoned and assumed that this one had been rezoned as well.

Vice-Chairman Miles opened the public hearing.

Miranda Jernigan Leek, 731 Ruth Street, daughter of petitioner, spoke in favor of the request. She stated that they are cleaning up the neighborhood and need someone to look after her father and take care of the property.

Allen Williamson, 715 Ruth Street, spoke in opposition to the request. He stated that they are trying for years to clean up the area from the mix of mobile homes and single family homes.

Jessica Hollinger, 627 Durden Road, spoke in opposition to the request that the mobile home would affect the value of her home.

Misty Cummings, granddaughter of the petitioner, spoke in favor of the request. She stated that the proposed mobile home would be a newer model that would look like a site built home.

Roy Parrish, 630 Durden Road, spoke in opposition to the request. He stated that he has resided in the neighborhood for 68 years. He stated that he was concern about there being additional mobile homes on the lot if approved.

The public hearing was closed.

Mr. Jernigan stated that most people can't afford a site built home and there is nothing wrong with a mobile home if they are erected right.

Commander Whaley stated that the lot is undeveloped and should be properly zoned for mobile home use.

After no further comments, questions, or discussion, the vote was called. The BZA voted unanimously to deny the request to allow a mobile home in a residential zoned district on property located on Durden Road.

USE-ON-APPEAL

To allow church use on property.

Commerce Court (Lot 7)

B-2 Zoning District (General Business)

Abundant Life Church, Petitioner

Mr. Duke introduced the use-on-appeal request to allow a church use on property at vacant lot on Commerce Court.

Geno Tolver, petitioner, presented the request for a church use on property on Commerce Court. He stated that the purchase of the property is contingent upon the board's approval for the church use.

Vice-Chairman Miles opened the public hearing.

Kevin Mcloughlin, 3500 Eastern Blvd., Montgomery, representing the shopping center, stated that they were not opposing the church use but wanted to know how the proposed church use would affect the existing and future businesses that serve alcohol.

Mr. Tolver stated that the church would be an asset to the businesses in the area.

The public hearing was closed.

Mr. Duke stated that the lot is relative small. He stated that a basic site plan would be needed prior to approval. He recommended holding the request to allow time to verify any secondary access easements and adequacy of the lot.

Mr. Cimis moved to table indefinitely the request to allow church use on Commerce Court. Chief Whaley seconded the motion.

The motion to table indefinitely passed unanimously.

Vice-Chairman Miles called a recess at 5:30 p.m. The meeting resumed at 5:35 p.m. with the addition of alternate member Jerry Crosby taking the seat of Chief Whaley all other members were present.

VARIANCE

To encroach 22' into the required 40' rear yard setback.

844 Jensen Road

R-2 Zoning District (Single Family Residential)

Willie Motley, Petitioner

Mr. Duke introduced the variance request to encroach into 40' rear yard setback on property at 844

Jensen Road. He stated that the property was inspected in conjunction with a request for permit to construct a front addition. The inspection revealed that the carport encroaches into the rear yard setback. The encroachment makes the property non-conforming, limiting the Planning Department's ability to approve additions to the structure. He stated that the encroachment does not negatively impact the adjacent property owners.

Willie Motley and Nell Motley, petitioner's, stated that they were not aware on any violations. They stated that the carport was built in 2003.

Richard Glenn of Richard Glenn Construction is the contractor for the addition. He stated that the carport is an aluminum awning. He stated that he did not construct the carport.

Vice-Chairman Miles opened the public hearing. There were none to speak. The public hearing was closed.

Note: (There were two signed in that did not speak).

Mr. Cimis stated that there was no adverse effect to surround property.

After no further comments, questions, or discussion, the vote was called. The BZA voted unanimously to approve the variance to encroach 22' into the 40' rear yard setback on property at 844 Jensen Road.

MISCELLANEOUS:

The BZA will hold training session on August 13, 2015 at 3:00 p.m. in the City Hall Annex.

ADJOURN:

After no further comments, questions or discussion the meeting was adjourned at 6:09 p.m.

Respectfully submitted,



Alisa Morgan, Secretary
Board of Zoning Adjustment

PRATTVILLE BOARD OF ZONING ADJUSTMENT

PETITIONER: **THOMAS L. DAVIS**
 105 PICKETT STREET
 PRATTVILLE, AL 36067

REQUEST: **VARIANCE TO ALLOW A MOBILE HOME IN A RESIDENTIAL**
 ZONED DISTRICT.
 323-B HAZEL STREET
 R-3 ZONING DISTRICT (SINGLE FAMILY RESIDENTIAL)

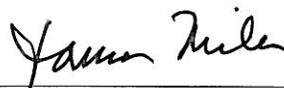
ORDER

The above petition having been duly considered at a public hearing meeting before the Board of Zoning Adjustment of the City of Prattville, having been advertised in *The Prattville Progress*, a newspaper of general circulation in the city limits of Prattville, Alabama, and setting forth notice of the request for a variance to the Zoning Laws of Prattville, Alabama, as set out in the aforesaid petition and giving notice that a public hearing would be held on July 14, 2015 at the City Hall in Prattville, Alabama, and after due consideration of the party in interest, the Board of Zoning Adjustment of the City of Prattville **voted to deny the variance to allow a mobile home in a residential zoned district on property at 323-B Hazel Street.**

IT IS THEREFORE ORDERED the petition of Thomas L. Davis, 105 Pickett Street, Prattville, AL is hereby denied.

DONE THIS THE 14th DAY OF July 2015.

BOARD OF ZONING ADJUSTMENT



JAMES MILES, VICE-CHAIRMAN



ALISA MORGAN, SECRETARY

**CITY OF PRATTVILLE BOARD OF ADJUSTMENT
PUBLIC HEARING
SPEAKERS SIGN-IN SHEET**

MEETING DATE: July 14, 2015

PETITIONER: Thomas L. Davis

ADDRESS OF PETITION: 323-B Hazel Street

	NAME	ADDRESS
1.	Thomas Davis	150 Piswille
2.	William Davis	323 Hazel St
3.	Ulysses Jackson	358 Hazel St
4.	Ollie Davis	269 268 56 Clayton St
5.	Joseph Allright	1050 Spring St
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		

CITY OF PRATTVILLE
Board of Zoning Adjustment

Planning Department Staff Report



DATE:	6/19/15
APPLICATION TYPE:	Variance (150714-01)
PROPERTY LOCATION or DESCRIPTION:	323-B Hazel Street
PETITIONER(S) AND AGENT(S):	Thomas L. Davis
ZONING DISTRICT(S)	R-3 (Single Family Residential)
REQUESTED ACTION:	To allow a mobile home in a residential zoned district.
ZONING ORDINANCE REFERENCE:	<p>Appendix A-Zoning Ordinance Section 71 Residential district requirements:</p> <p>R-3 District: (See: regulations common to all "R" Districts.)</p> <p>All "R" Districts</p> <p>USES PROHIBITED: Mobile homes, house trailers, trailer courts or camps...</p>

CITY OF
PRATTVILLE, AL

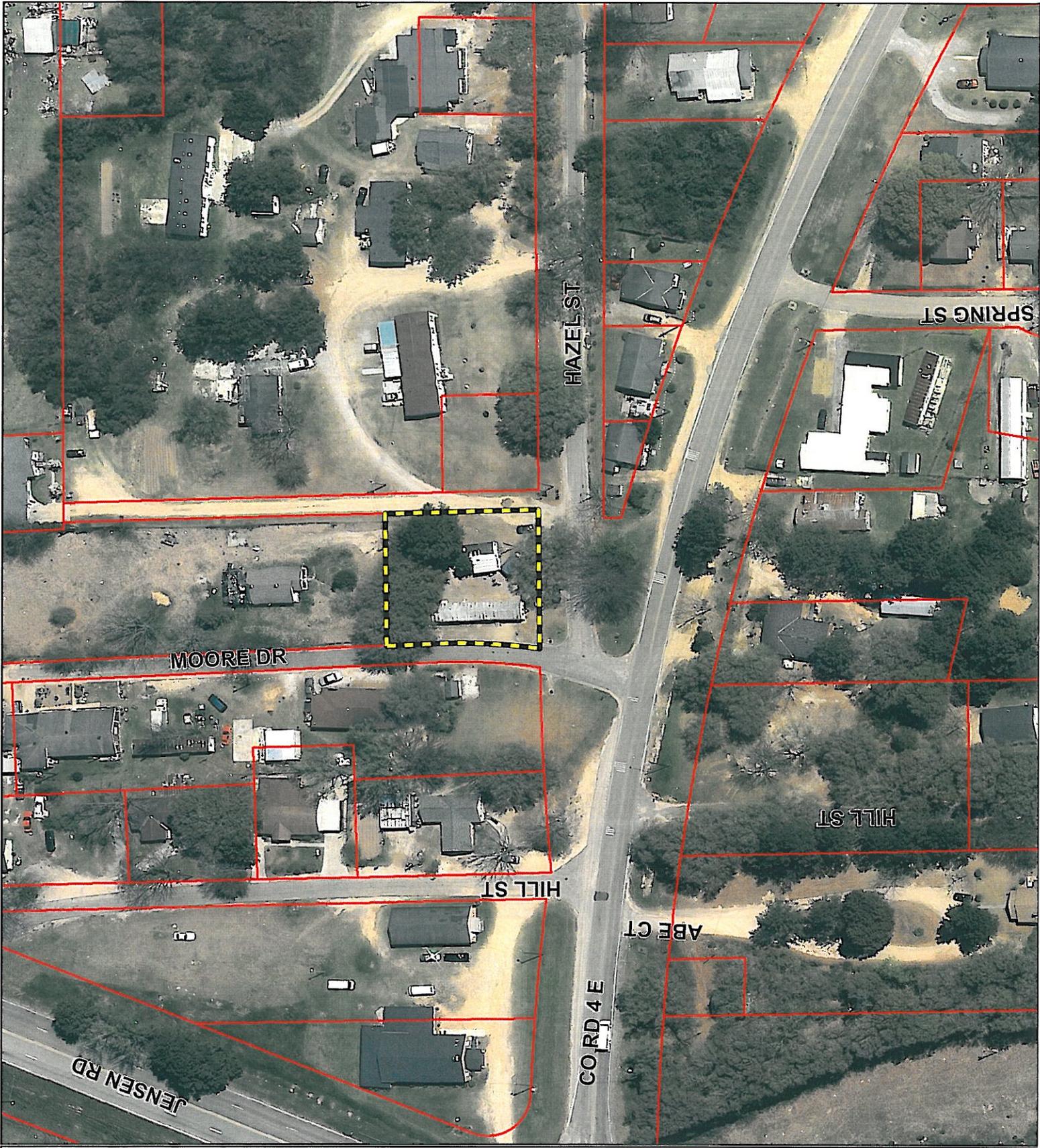
Davis Property
Hazel St

Zoning: R-2

Scale: 1" = 100'



STREETS
TAX PARCEL





150714-01

Variance

To allow a mobile home in a residential zoned district



City Of Prattville
Planning and Development Department
102 W. Main Street
Prattville, AL 36067
(334) 361-3614 Fax (334) 361-3677
www.prattvilleal.gov

**Application
Prattville Board of Zoning Adjustment**

Use-On-Appeal Variance Administrative Appeal

Applicant /Agent Information
Notarized letter from the property owner is required if agent is used for representation

Name: Thomas L. Davis

Street Address: 105 Pickett

City: Prattville State: AL Zip: 36067

Phone Number(s): 334-328-5275

Property Owner Information
If different than above

Name: Thomas L. Davis

Address of Property Owner: 105 Pickett

City: Prattville State: AL Zip: 36067

Phone Number: (34) 328-5275

Property Description

County Tax Parcel Number/Legal Description: BLUE E95 N103 W95S103 TO
POB (19-05-21-3-000-033,000 #0

Current Zoning of Property: R-3 Physical Address: 323-B Hazel St

Proposed Use of Property (generally): Residential

Describe Proposed Use or Variance: To place a mobile home on
property;

150714-01/A

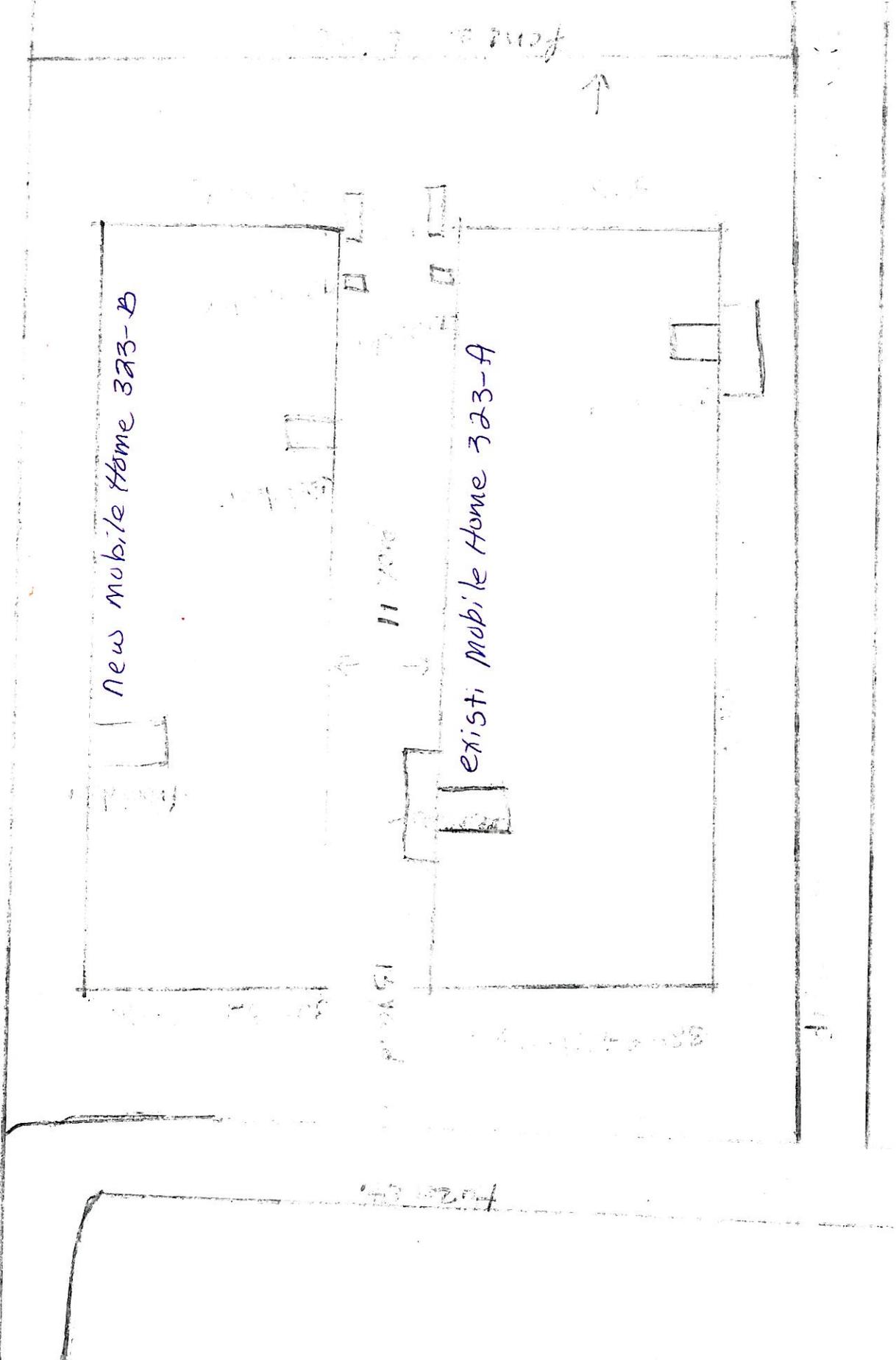
Variance

To allow a mobile home in a residential zoned district

MOORE DR.

New mobile Home 323-B

existi mobile Home 323-A



CITY OF PRATTVILLE
Board of Zoning Adjustment
Planning Department Staff Report



VARIANCE 323-B Hazel Street
BZA Application – 150714-01

DATE July 12, 2015

PROPOSED DEVELOPMENT

Petitioner: Thomas L. Davis

Property Owners: petitioner

Agent: N/A

Location: NE corner of the intersection of Hazel Street and Moore Drive

Development Status and History

Previous Variance Requests/Approvals: N/A

Conditions of Previous Approvals: N/A

Property Configuration

Acreage: 0.28 acres (12,197 square feet)

Zoning Classification: R-3, Single-family Residential

Relevant District Standards:

Zoning Ordinance, Article 1, Section 4. - Uses.

- A. In each district, no use other than the types specified as "permitted" or "permitted on appeal," shall be allowed. (See: Article 7.) Uses specified as "permitted" shall be permitted upon application to the Director of Planning and Development. Uses specified as "permitted on appeal" are exceptions and no permit shall be issued for such uses except with the written approval of the Board of Zoning Adjustment and subject to such

conditions as said Board may require to preserve and protect the character of the district.

- B. Any use or structure existing at the time of enactment or of subsequent amendment to this ordinance, but not in conformity with its provisions, may be continued with the following limitations: Any use or structure which does not conform to the provisions of this ordinance, except with the written approval of the Board of Zoning Adjustment, shall not be:
 - a. Chained to another nonconforming use.
 - b. Re-established after discontinue [discontinuance] for one (1) year.
 - c. Rebuilt after fire or storm loss, exceeding its value, above foundation, at the time of loss.
- C. Mobile homes which do not conform to the district in which they are located may be replaced if totally destroyed or moved by fire, wind, flood or the elements, provided that such replacement occurs within ninety (90) days of the initial movement or distinction. Nonconforming mobile homes shall not be otherwise replaced.

Zoning Ordinance, Article 7, Section 71 Residential District Requirements

All "R" Districts

USES PERMITTED: Accessory structures: gardens, playgrounds and parks; public buildings, including public schools and libraries; satellite dishes or discs as herein defined by that ordinance, and no other; and parking of recreational vehicles, as herein defined subject to the following conditions: a) At no time shall such parked or stored camping and recreational equipment be occupied or used for living, sleeping or housekeeping purposes. b) If the camping and recreational equipment is parked or stored outside of a garage, it shall be parked or stored to the rear of the front of the building line of the lot. c) Notwithstanding the provisions of subparagraph (b), camping and recreational

equipment may be parked anywhere on the premises for loading and unloading purposes.

USES PERMITTED ON APPEAL: Customary home occupations; public utility structures, such as electric substations, gas metering stations, sewage pumping stations and similar structures; general hospitals for humans, except primarily for mental cases; churches; cemeteries; semi-public buildings; golf courses; municipal, county, state or federal use; kindergartens, nurseries, nursery schools, day care centers, private schools; and satellite dishes or discs, not defined herein.

USES PROHIBITED: Mobile homes, house trailers, trailer courts or camps, commercial and industrial uses, including parking lots or parking areas in connection with these uses, not specifically permitted.

R-3 Districts

USES PERMITTED: Single-family dwellings.

USES PERMITTED ON APPEAL: Duplexes and other apartments, Clubs not conducted for profit; rooming and boarding houses. (See: regulations common to all "R" Districts, listed above.)

Effective variance as re-stated by staff (see application for applicant statement):

1. Re-placement of a non-conforming manufactured home in an R district.

Statement of Hardship:
(taken from application)

“The mobile home was 1969 in bad condition. I removed the mobile home and replaced it with 2014 mobile home of the same size”

PLANNING STAFF EVALUATION

Reviewed by: Joel T. Duke, AICP

Site Visits Conducted: May 27, 2015

Recommendation: Denial – Continuation of Non-Conforming Use

Planning Staff Comments:

Background: The lot at the NE corner of the intersection of Hazel Street and Moore Street contains two manufactured housing units. According to city aerial photography, two manufactured housing units have been located on the subject property since at least 1985. The applicant is requesting a variance to replace the existing unit at 323-B Hazel Street with a newer unit. Prior to obtaining permit, the applicant removed the existing home and replaced it with a newer model with the same basic dimensions. When reviewing the permit application, the zoning administrator noted that the location is zoned R-3. As a result, the application for permit was denied since replacement of the unit conflicts with Section 4 (C) of the city's zoning ordinance.

Analysis: Variances fall into two general categories – area and use. Area variances grant some relief from the dimensional requirements of the ordinance such as setbacks, parking spaces, landscaping, sign height, etc. Use variances allow the property to be used for an activity specifically prohibited by the ordinance.

The requested variance would allow a use prohibited in the R-3 district. Use variances are generally considered by planning professionals and by the Prattville BZA as a rezoning/reclassification of the property without following the regular zoning process reserved to the city council by Alabama law. In use variance cases, it is usually difficult to prove an unnecessary hardship. Alabama law does not specifically prohibit use variances. Both use and area variances have been recognized by the Alabama courts. However, proper application of the standards for unnecessary hardship make use variances unlikely.

The general tests of whether a hardship is unnecessary are:

1. Can the land in question yield a reasonable return if used in compliance with the ordinance? Hardship cannot be self-created. Reasonable return does not equal maximum return.
2. The defined hardship must be due to circumstances applying only to the applicant's property and not shared by other properties in the same district or area.

3. The board must determine if the variance will adversely affect the character of the surrounding neighborhood.
4. The hardship may not be self-inflicted by action or acceptance of the conditions
5. Variances should not violate the spirit of the zoning ordinance or be contrary to the public interest.

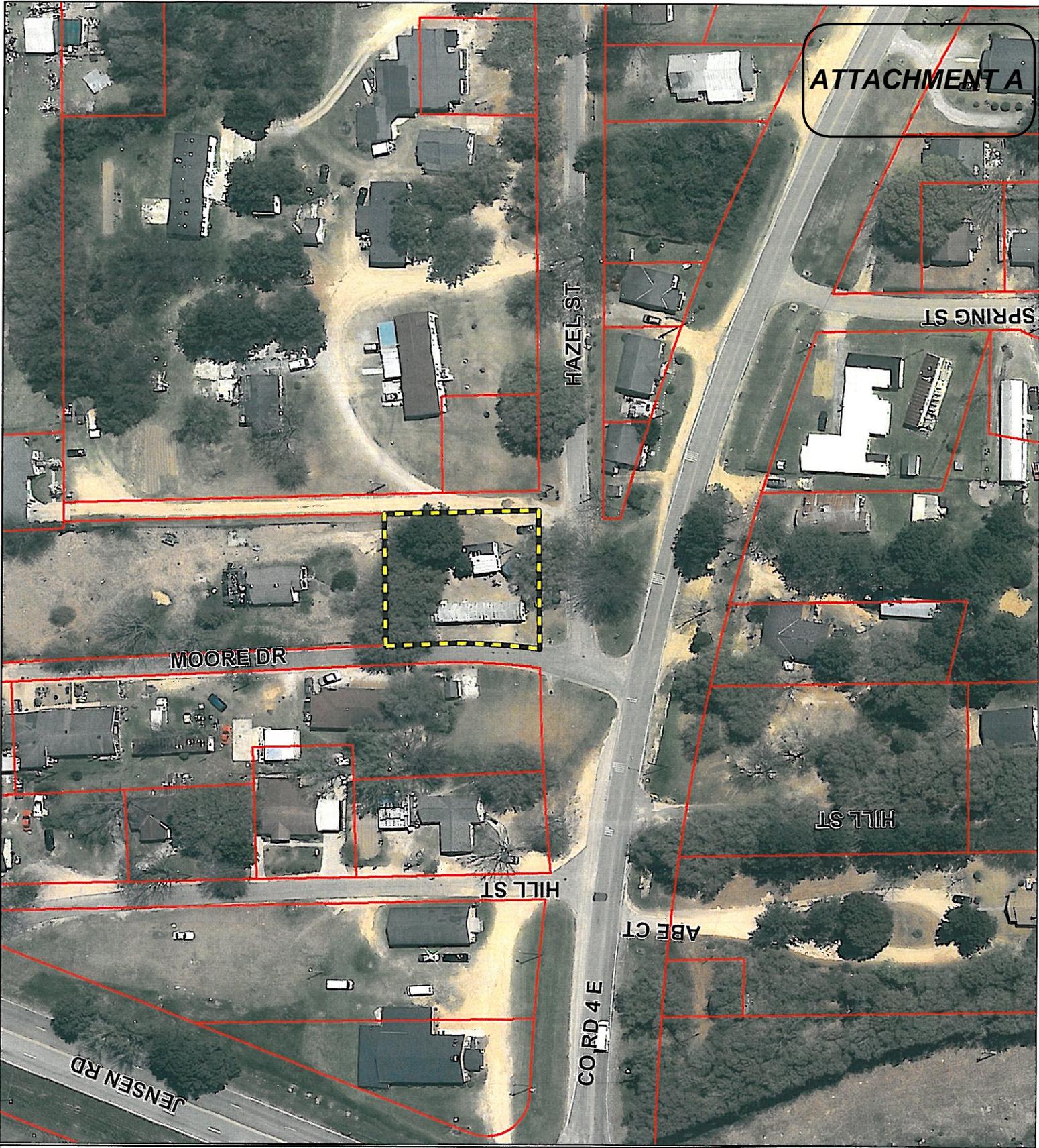
The requested variance is contrary to the specific language of Section 4 (C) concerning replacement of non-conforming manufactured homes. In addition, at 12,632 square feet, 105 feet wide and 120 feet deep, the subject property meets the basic dimensional requirements for its present R-3 zoning designation. As a result, the request for variance fails the initial test for hardship since the lot can be developed by the applicant or sold for a reasonable return. Therefore, the application for variance may be denied and a suggestion made to the applicant to request a rezoning of the property.

State code and best practices require the BZA to measure variance requests against several basic standards. Below is the staff opinion regarding the standards and this request.

1. No special conditions and circumstances exist regarding this structure which are not applicable to other lands, structures, or buildings in the same R-3 zoning district.
2. A literal interpretation of the zoning ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
3. The special conditions and circumstances do result from actions of the applicant.
4. The granting of a variance will confer a special privilege on the applicant that is denied by this ordinance to other lands, structures, or buildings in the same R-3 district;
5. The granting of a variance is not in harmony with the intent and purposes of the zoning ordinance;
6. A variance may not adversely affect the surrounding property, the general neighborhood, or the community as a whole;
7. A variance will allow the establishment of a use prohibited under the terms of the zoning ordinance in an R-3 district.

ATTACHMENTS

- A. Location Map
- B. Application
- C. Staff Photos



CITY OF PRATTVILLE, AL

Davis Property
Hazel St

Zoning: R-2

Scale: 1" = 100'



- STREETS
- ▭ TAX PARCEL



ATTACHMENT



City Of Prattville
Planning and Development Department
102 W. Main Street
Prattville, AL 36067
(334) 361-3614 Fax (334) 361-3677
www.prattvilleal.gov

**Application
Prattville Board of Zoning Adjustment**

Application Type: Use-On-Appeal Variance Administrative Appeal

Applicant /Agent Information

Notarized letter from the property owner is required if agent is used for representation.

Name: Thomas L. Davis
Street Address: 105 Pickett
City: Prattville State: AL Zip: 36067
Phone Number(s): 334-328-5275

Property Owner Information

If different than above

Name: Thomas L. Davis
Address of Property Owner: 105 Pickett
City: Prattville State: AL Zip: 36067
Phone Number: (334) 328-5275

Property Description

County Tax Parcel Number/Legal Description: 714E E95 N103 W95S103 TO
POB (19-05-21-3-000-033,000 #0
Current Zoning of Property: R-3 Physical Address: 323-B Hazel St
Proposed Use of Property (generally): Residential
Describe Proposed Use or Variance: To place a mobile home on
property;

Moore St.

Hazel St.

Driveway

323-A-Mobile Home

323-B-Mobile Home

13 yard →

5 yard ↑



existi Mobile Home 323-A

front door



New Mobile Home 323-B

↑

↓

11 yard

back door



back door



gas meter



gas meter



power pole



5 yard

5 yard

↓

fence line

HAZEL ST





PRATTVILLE BOARD OF ZONING ADJUSTMENT

**PETITIONER: DAVID C. JERNIGAN
731 RUTH STREET
PRATTVILLE, AL 36067**

**REQUEST: VARIANCE TO ALLOW A MOBILE HOME IN A RESIDENTIAL
ZONED DISTRICT.
DURDEN ROAD
R-3 ZONING DISTRICT (SINGLE FAMILY RESIDENTIAL)**

ORDER

The above petition having been duly considered at a public hearing meeting before the Board of Zoning Adjustment of the City of Prattville, having been advertised in *The Prattville Progress*, a newspaper of general circulation in the city limits of Prattville, Alabama, and setting forth notice of the request for a variance to the Zoning Laws of Prattville, Alabama, as set out in the aforesaid petition and giving notice that a public hearing would be held on July 14, 2015 at the City Hall in Prattville, Alabama, and after due consideration of the party in interest, the Board of Zoning Adjustment of the City of Prattville **voted to deny the variance to allow a mobile home in a residential zoned district on property at Durden Road.**

IT IS THEREFORE ORDERED the petition of David C. Jernigan, 731 Ruth Street, Montgomery, AL is hereby denied.

DONE THIS THE 14th DAY OF July 2015.

BOARD OF ZONING ADJUSTMENT



JAMES MILES, VICE-CHAIRMAN



ALISA MORGAN, SECRETARY

**CITY OF PRATTVILLE BOARD OF ADJUSTMENT
PUBLIC HEARING
SPEAKERS SIGN-IN SHEET**

MEETING DATE: July 14, 2015

PETITIONER: David C. Jernigan

ADDRESS OF PETITION: Durden Road

	NAME	ADDRESS
1.	<u>Miranda Jernigan Lato</u>	<u>731 Ruth Street Pratt</u>
2.	<u>David C. Jernigan</u>	<u>733 Ruth Street Pratt</u>
3.	<u>Alan Williamson</u>	<u>715 Ruth St.</u>
4.	<u>Jessica Hollinger</u>	<u>627 Durden Rd</u>
5.	<u>Mistie Cummings</u>	<u>733 Ruth St. Pratt.</u>
6.	<u>ROY PARRISH</u>	<u>630 Durden RD.</u>
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____
13.	_____	_____
14.	_____	_____
15.	_____	_____
16.	_____	_____
17.	_____	_____
18.	_____	_____
19.	_____	_____
20.	_____	_____
21.	_____	_____

CITY OF PRATTVILLE
Board of Zoning Adjustment

Planning Department Staff Report



DATE:	6/23/15
APPLICATION TYPE:	Variance (150714-02)
PROPERTY LOCATION or DESCRIPTION:	Durden Road
PETITIONER(S) AND AGENT(S):	David C. Jernigan
ZONING DISTRICT(S)	R-3 (Single Family Residential)
REQUESTED ACTION:	To allow a mobile home in a residential zoned district.
ZONING ORDINANCE REFERENCE:	Appendix A-Zoning Ordinance Section 71 Residential district requirements: R-3 District: (See: regulations common to all "R" Districts.) All "R" Districts USES PROHIBITED: Mobile homes, house trailers, trailer courts or camps...

CITY OF
PRATTVILLE, AL

Durden Rd
Property

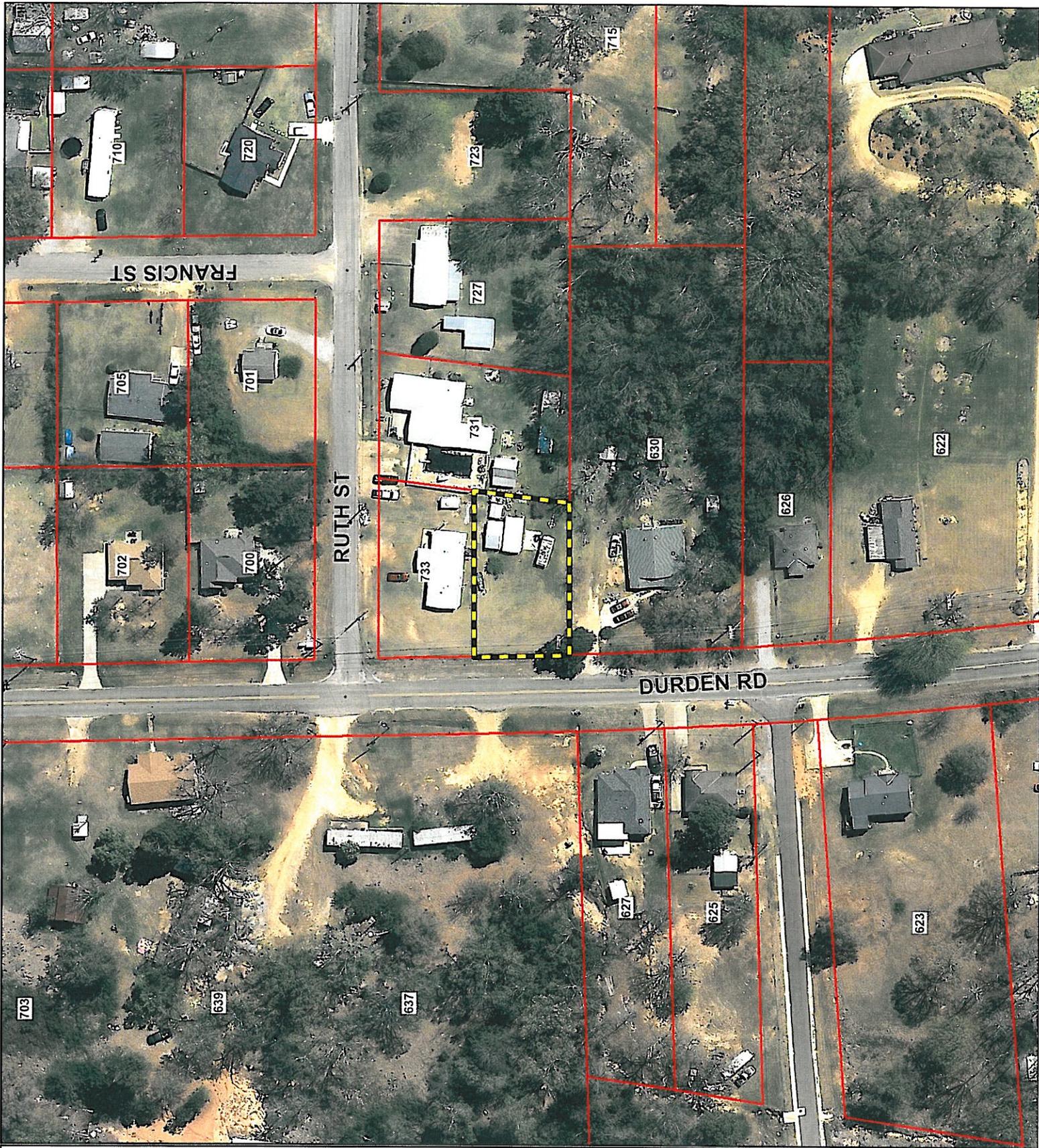
Zoning: R-3

Scale: 1" = 100'



— STREETS

▭ TAX PARCEL





City Of Prattville
 Planning and Development Department
 102 W. Main Street
 Prattville, AL 36067
 (334) 361-3614 Fax (334) 361-3677
 www.prattvilleal.gov

150714-02

Variance

To allow a mobile home in a residential zoned district

Application

Prattville Board of Zoning Adjustment

pe: Use-On-Appeal Variance Administrative Appeal

Applicant /Agent Information
Notarized letter from the property owner is required if agent is used for representation

Name: David Coster Ternigan

Street Address: 731 Ruth Street

City: Prattville State: Alabama Zip: 36067

Phone Number(s): 334-365-7508

Property Owner Information
If different than above

Name: David Coster Ternigan

Address of Property Owner: 731 Ruth Street

City: Prattville State: Alabama Zip: 36067

Phone Number: (334) 365-7508

Property Description

County Tax Parcel Number/Legal Description: 19030610050060000

Current Zoning of Property: R3 Physical Address: Durden Rd.

Proposed Use of Property (generally): Place Manufactured Home

Describe Proposed Use or Variance: Place a ~~mobile~~ manufactured home in residential zoned district.



150714-02/A

Variance

To allow a mobile home in a residential zoned district

DURDEN HEIGHTS SUB

MB 2/PG 27

5.6 Ac(c) 5

Michael A & Regina K Mims
1830 Hwy B1N
Prattville, AL 36067

379.2

Jessica Jenn
627 Durden Rd
6.001 36067

6.003

SPEARS LAND

MB 2/PG 242

6.002

7

7.001

8

UNAVOIDABLE OVERSTRIKE

3

UNAVOIDABLE OVERSTRIKE

6.001

7

8

Glenor Bolt
700 Durden Rd
36067

Gwa Diane Smith
PO Box
680247
36068

50 RUTH ST

6

Roy Daniel Parrish
630 Durden Rd
36067

Zelma McDaniel
727 Ruth St
Prattville
36067

UNAVOIDABLE OVERSTRIKE

10

12

11

13

100	28	<u>12</u>	100	FRANCE	100	<u>6</u>	37	100
165	155(s)							
150								UNAVO
100	29	<u>11</u>	100		100	<u>6.001</u>		100
200	14		200		100		38	
166	154(s)		30		100	<u>7</u>	39	
100	15		100	31	<u>10</u>			100
166	153(s)		130		100	<u>7.001</u>		100
100	16		100	32	<u>9</u>		41	
166	152(s)		130		100	<u>8</u>		100

DURDEN RD

100	14	<u>5</u>	100	David Jennings	100			
150	17		150		100	<u>4</u>		
150	18	<u>6</u>	150		150	<u>3</u>		
134.1			19		150	<u>2</u>		
318			318		21			
134.1			19		21			
310.9			310.9		121.6			
68.5			68.5		67(s)			
215			223.3		67(s)			
68.5			68.5		412			
215			215		412			
180(s)			630(s)					
209.5			273(s)					
209.5			209.5					
255(s)			255(s)					
181.1(s)			595.7					

CITY OF PRATTVILLE
Board of Zoning Adjustment

Planning Department Staff Report



VARIANCE Vacant Lot – Immediately South of the Intersection of Durden Road/Ruth Street – West Side of Durden Road

BZA Application – 150714-02

DATE July 13, 2015

PROPOSED DEVELOPMENT

Petitioner: David C. Jernigan

Property Owners: petitioner

Agent: N/A

Location: Vacant lot – immediately south of the intersection of Durden Road/Ruth Street – west side of Durden Road.

Lot 18 Durden Heights subdivision as record in Book 86, Page 102 in the Office of Autauga County Judge of Probate, April 28, 1956.

Development Status and History

Previous Variance Requests/Approvals: N/A

Conditions of Previous Approvals: N/A

Property Configuration

Acreage: 0.21 acres (9,148 square feet)

Zoning Classification: R-3, Single-family Residential

Relevant District Standards: **Zoning Ordinance, Article 7, Section 71 Residential District Requirements**

All "R" Districts

USES PERMITTED: Accessory structures: gardens, playgrounds and parks; public buildings, including public

schools and libraries; satellite dishes or discs as herein defined by that ordinance, and no other; and parking of recreational vehicles, as herein defined subject to the following conditions: a) At no time shall such parked or stored camping and recreational equipment be occupied or used for living, sleeping or housekeeping purposes. b) If the camping and recreational equipment is parked or stored outside of a garage, it shall be parked or stored to the rear of the front of the building line of the lot. c) Notwithstanding the provisions of subparagraph (b), camping and recreational equipment may be parked anywhere on the premises for loading and unloading purposes.

USES PERMITTED ON APPEAL: Customary home occupations; public utility structures, such as electric substations, gas metering stations, sewage pumping stations and similar structures; general hospitals for humans, except primarily for mental cases; churches; cemeteries; semi-public buildings; golf courses; municipal, county, state or federal use; kindergartens, nurseries, nursery schools, day care centers, private schools; and satellite dishes or discs, not defined herein.

USES PROHIBITED: Mobile homes, house trailers, trailer courts or camps, commercial and industrial uses, including parking lots or parking areas in connection with these uses, not specifically permitted.

R-3 Districts

USES PERMITTED: Single-family dwellings.

USES PERMITTED ON APPEAL: Duplexes and other apartments, Clubs not conducted for profit; rooming and boarding houses. (See: regulations common to all "R" Districts, listed above.)

Requested Variance:

Effective variance as re-stated by staff (see application for applicant statement):

1. Placement of a manufactured home in an R district.

Statement of Hardship: "Health Reasons."
(taken from application)

PLANNING STAFF EVALUATION

Reviewed by: Joel T. Duke, AICP

Site Visits Conducted: July 12, 2015

Recommendation: Denial – Appropriate action is a request for rezoning

Planning Staff Comments:

Background: The applicant is requesting permission to locate a manufactured home on the vacant lot platted as Lot 18 of the Durden Heights subdivision. Lot 18 is zoned R-3, Single-family residential, which specifically prohibits use of the lot for mobile homes (manufactured homes). Lot 18 is one of three connected lots owned by the petitioner. The applicant's other parcels, Lots 17 and 19 (addressed as 733 and 731 Ruth Street), are zoned T-2, Area for Parking Mobile Homes. Lot 17 is currently occupied by a manufactured home. Lot 19 contains a site built structure. The zoning of Lots 17 and 19 is consistent with the T-2 zoning applied to all Durden Heights lots on the south side of Ruth Street, except Lot 18. While the neighborhood contains a 50/50 mixture of site built and manufactured homes, T-2 is the predominant zoning classification for the Durden Heights lots.

Analysis: Variances fall into two general categories – area and use. Area variances grant some relief from the dimensional requirements of the ordinance such as setbacks, parking spaces, landscaping, sign height, etc. Use variances allow the property to be used for an activity specifically prohibited by the ordinance.

The requested variance would allow a use prohibited in the R-3 district. Use variances are general considered by planning professionals and by the Prattville BZA as a rezoning/reclassification of the property without following the regular zoning process reserved to the city council by Alabama law. In use variance cases, it is usually difficult to prove an unnecessary hardship. Alabama law does not specifically prohibit use variances. Both use and area variances have been recognized by the Alabama courts. However, proper application of the standards for unnecessary hardship make use variances unlikely.

The general tests of whether a hardship is unnecessary are:

1. Can the land in question yield a reasonable return if used in compliance with the ordinance? Hardship cannot be self-created. Reasonable return does not equal maximum return.
2. The defined hardship must be due to circumstances applying only to the applicant's property and not shared by other properties in the same district or area.
3. The board must determine if the variance will adversely affect the character of the surrounding neighborhood.
4. The hardship may not be self-inflicted by action or acceptance of the conditions
5. Variances should not violate the spirit of the zoning ordinance or be contrary to the public interest.

At 9,148 square feet, 75 feet wide and 118 feet deep, Lot 18 meets the basic dimensional requirement for its present R-3 zoning designation. As a result, the request for variance fails the initial test for hardship since the lot can be developed by the applicant or sold for a reasonable return. Therefore, the application for variance may be denied and a suggestion made to the applicant to request a rezoning of the property.

State code and best practices require the BZA to measure variance requests against several basic standards. Below is the staff opinion regarding the standards and this request.

1. No special conditions and circumstances exist regarding this structure which are not applicable to other lands, structures, or buildings in the same R-3 zoning district.
2. A literal interpretation of the zoning ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
3. The special conditions and circumstances do result from actions of the applicant.
4. The granting of a variance will confer a special privilege on the applicant that is denied by this ordinance to other lands, structures, or buildings in the same R-3 district;
5. The granting of a variance is not in harmony with the intent and purposes of the zoning ordinance;
6. A variance will adversely affect the surrounding property, the general neighborhood, or the community as a whole;

7. A variance will allow the establishment of a use prohibited under the terms of the zoning ordinance in an R-3 district.

ATTACHMENTS

- A. Location Map
- B. Application
- C. Plat – Durden Heights subdivision - 1956
- D. Staff Photos

CITY OF
PRATTVILLE, AL

Durden Rd
Property

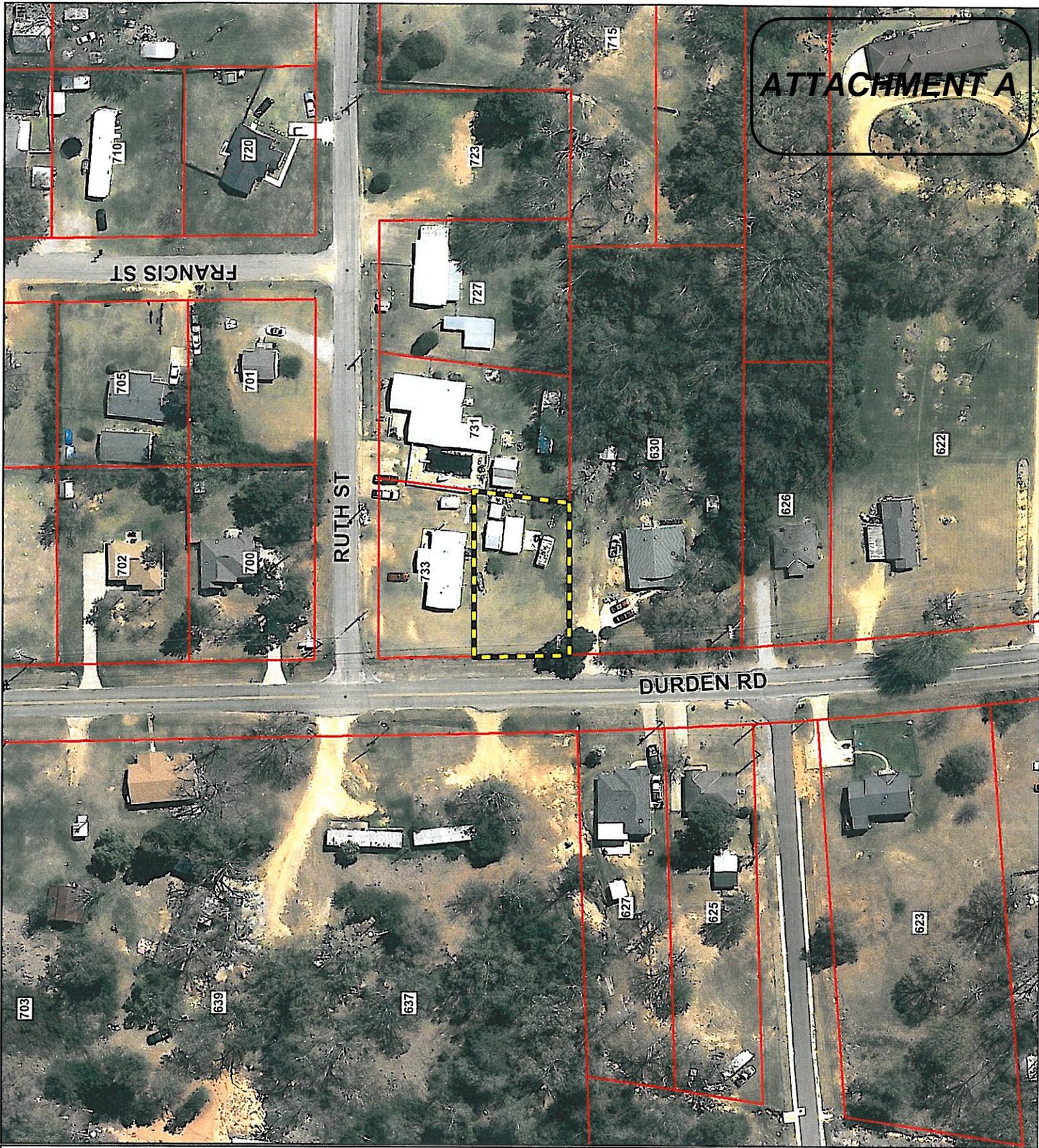
Zoning: R-3

Scale: 1" = 100'



STREETS

TAX PARCEL





City Of Prattville
Planning and Development Department
102 W. Main Street
Prattville, AL 36067
(334) 361-3614 Fax (334) 361-3677
www.prattvilleal.gov

Application
Prattville Board of Zoning Adjustment

Application Type: Use-On-Appeal Variance Administrative Appeal

Applicant /Agent Information

Notarized letter from the property owner is required if agent is used for representation

Name: David Coster Ternigan
Street Address: 731 Ruth Street
City: Prattville State: Alabama Zip: 36067
Phone Number(s): 334-365-7508

Property Owner Information

if different than above

Name: David Coster Ternigan
Address of Property Owner: 731 Ruth Street
City: Prattville State: Alabama Zip: 36067
Phone Number: (334) 365-7508

Property Description

County Tax Parcel Number/Legal Description: 19030610050060000

Current Zoning of Property: R3 Physical Address: Durden Rd.

Proposed Use of Property (generally): Place Manufactured Home

Describe Proposed Use or Variance: Place a ~~mobile~~ manufactured home in residential zoned district.



The following items must be attached to the application (check those items included):

- Tax record map from the Autauga County or Elmore County Tax Assessors Office
- Site sketch plan (drawn to scale) showing any property lines, required and proposed setbacks, existing and proposed structures and any additional information you believe will be helpful to the Board of Adjustment
- Application fees: Variance and Administrative Appeal - Fifty dollars (\$50), Use-on-Appeal - Two hundred fifty dollars (\$250).
- Names and address of all property owners immediately adjacent to the subject property (not required for administrative appeals). Adjacent properties include those directly across the street from the subject property.
- If person signing application is someone other than property owner, attach authorization to file application (i.e. notarized letter, real estate contract, etc.)

N/A

Hardship: The Board requests a statement of hardship to justify any variance application:

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done." Code of Alabama, 1975, as amended. § 11-52-80(d) (3)

Health Reasons

I certify that I am the property owner, or authorized agent, and attest that all facts are true and correct. I do hereby certify that the property owner list attached to this application was obtained from the Autauga County Revenue Office, (Elmore County if applicable), and is a complete list of all real property owners adjacent to the parcel submitted for consideration. I also attest that I have read and understand what a hardship is according to the Code of Alabama, 1975, as amended.

David Coster Jernigan
 David Coster Jernigan
 Printed Name Signature Date

I the undersigned authority, a Notary Public in and for said County in said State, hereby certify that David Coster Jernigan, whose name is signed to the forgoing petition, and who is known to me, acknowledged same before me on this the 8th day of

June, 2015.

Virginia Bass
Notary Public

My commission expires 5-23-16

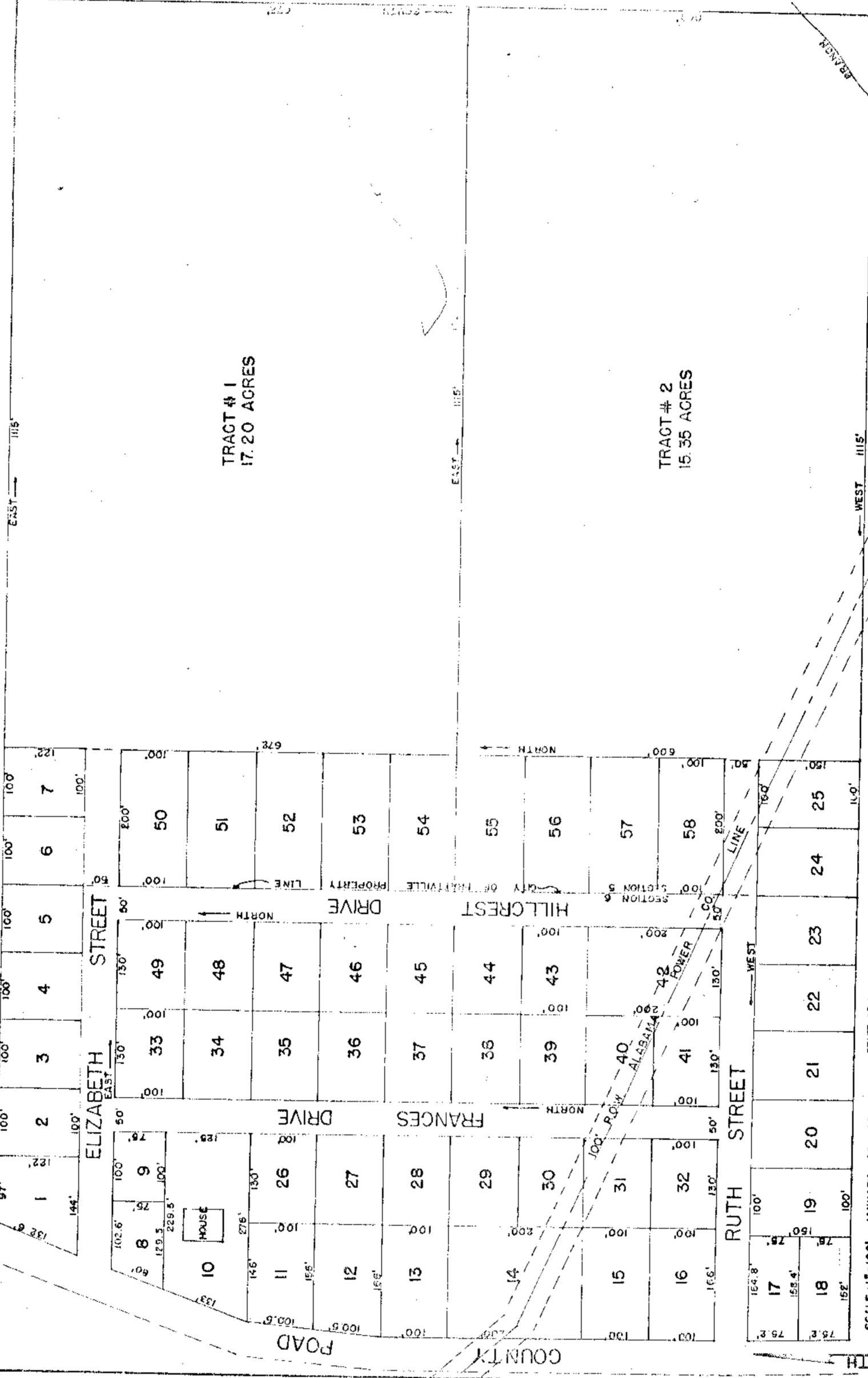
ROBERTS & SON, INC.
 PRINTERS
 MICROFILM AND MICRO REPRODUCTIONS
 P. O. BOX 130
 BIRMINGHAM, ALABAMA
 PHONE 822-1122

Durden Heights

DURDEN HEIGHTS

PROPERTY OF V. B. GRIGG
 N.W. 1/4 OF SECTION 5 & PART OF SECTION 6
 N.E. 1/4 OF SECTION 6, TOWNSHIP 17,
 RANGE 16, AUTAUGA COUNTY, ALABAMA.

State of Alabama, Autauga County
 I, JAMES A. RICE, Judge of Probate for said County, hereby certify that the within instrument was received in office for record at 10:45 a.m. on the 20th day of January, 1956, and that the same was duly recorded on the 20th day of January, 1956, in book N 276 on Page 102 of the Public Records.
 Recording Fee \$1.00
 JAMES A. RICE
 JUDGE OF PROBATE



STATE OF ALABAMA, AUTAUGA COUNTY.
 I, V. B. GRIGG, OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN FOR SUBDIVISION. THERE ARE NO SUITS OF ACTION, LEASES, EASES, OR TRUSTS ON THE PROPERTY SHOWN ON THIS PLAN.
 V. B. GRIGG, OWNER

STATE OF ALABAMA, AUTAUGA COUNTY.
 I, V. B. GRIGG, OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN FOR SUBDIVISION. THERE ARE NO SUITS OF ACTION, LEASES, EASES, OR TRUSTS ON THE PROPERTY SHOWN ON THIS PLAN.
 V. B. GRIGG, OWNER

STATE OF ALABAMA, AUTAUGA COUNTY
 I, V. B. GRIGG, OWNER AND E. M. SMITH, SURVEYOR, HEREBY CERTIFY THAT THIS IS A CORRECT PLAT OF THE LARDS SHOWN HEREON SHOWING THE RELATION TO THE GOVERNMENT SURVEY.
 THIS 20 DAY OF JANUARY 1956
 E. M. SMITH, SURVEYOR

SCALE 1"=100'
 JANUARY 20, 1956
 E. M. Smith
 DALTON, GA.
 REGISTERED SURVEYOR 2715.
 AUCTION BY
 W. H. TODD AUCTION CO.
 502 W. 3rd ST. ROME, GA.





PUBLIC RECORDS
BOARD OF ALABAMA
595-0500



**CITY OF PRATTVILLE BOARD OF ADJUSTMENT
PUBLIC HEARING
SPEAKERS SIGN-IN SHEET**

MEETING DATE: July 14, 2015

PETITIONER: Abundant Life Church

ADDRESS OF PETITION: Commerce Court (Lot 7)

	NAME	ADDRESS
1.	<u>Geno Tolver</u>	<u>116 Co. Rd 29 Prattville AL 36067</u>
2.	<u>Kevin M. Myrghlin</u>	<u>3500 EASTON BLD MONTGOMERY 36116</u>
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____
13.	_____	_____
14.	_____	_____
15.	_____	_____
16.	_____	_____
17.	_____	_____
18.	_____	_____
19.	_____	_____
20.	_____	_____
21.	_____	_____

CITY OF PRATTVILLE
Board of Zoning Adjustment

Planning Department Staff Report



DATE:	6/23/15
APPLICATION TYPE:	Use-On-Appeal (150714-03)
PROPERTY LOCATION or DESCRIPTION:	Commerce Court (Lot 7)
PETITIONER(S) AND AGENT(S):	Abundant Life Church Representative: Geno Tolver
ZONING DISTRICT(S)	B-2 (General Business)
REQUESTED ACTION:	Use-On-Appeal to allow church use on property.
ZONING ORDINANCE REFERENCE:	<p>Article 7. District Requirements. Appendix A-Zoning Ordinance Section 72 Business District Requirements</p> <p>(B-2) USES PERMITTED: ...any use permitted in a B-1 Local Shopping District.</p> <p>(B-1) USES PERMITTED: Any use permitted or permitted on appeal in the R-4 Residential District, and subject to all district requirements of an R-4 District as specified in Section 71, hereof.</p> <p>Section 71 Residential District Requirements (R-4) USES PERMITTED ON APPEAL: (See: regulations common to all "R" Districts...)</p> <p>All "R" Districts USES PERMITTED ON APPEAL: ...churches...</p>

CITY OF
PRATTVILLE, AL

Commerce Ct
Property

Zoning: B-2

Scale: 1" = 100'



STREETS

TAX PARCEL





150714-03

Use-On-Appeal
To allow church use on property

City Of Prattville
Planning and Development Department
102 W.-Main Street
Prattville, AL 36067
(334) 361-3614 Fax (334) 361-3677
www.prattvilleal.gov

Application
Prattville Board of Zoning Adjustment

Use-On-Appeal Variance Administrative Appeal



Applicant /Agent Information
Notarized letter from the property owner is required if agent is used for representation.

Name: Abundant Life Church Ministries /Geno Tolver
 Street Address: 116 County Rd 29
 City: Prattville State: AL Zip: 36067
 Phone Number(s): 334-312-5511
 Contact # Geno Tolver - 334-312-5511

Property Owner Information
If different than above

Name: JL Goodson Builders Inc
 Address of Property Owner: 319 Upper Kingston Rd
 City: Prattville State: AL Zip: 36067
 Phone Number: (334) 657-6323

Property Description

County Tax Parcel Number/Legal Description: 19061410010010130
Attached @ Commerce Court - lot 7
 Current Zoning of Property: B2 Physical Address: Lot 7 Commerce Ct
 Proposed Use of Property (generally): Church
 Describe Proposed Use or Variance:
Property will be used for normal religious
activity of any other established church.
Sunday service, Wednesday night bible study
and occasional other religious programs

The following items must be attached to the application (check those items included):

- Tax record map from the Autauga County or Elmore County Tax Assessors Office
- Site sketch plan (drawn to scale) showing any property lines, required and proposed setbacks, existing and proposed structures and any additional information you believe will be helpful to the Board of Adjustment
- Application fees: Variance and Administrative Appeal - Fifty dollars (\$50), Use-on-Appeal - Two hundred fifty dollars (\$250).
- Names and address of all property owners immediately adjacent to the subject property (not required for administrative appeals). Adjacent properties include those directly across the street from the subject property.
- If person signing application is someone other than property owner, attach authorization to file application (i.e. notarized letter, real estate contract, etc.)

Hardship: The Board requests a statement of hardship to justify any variance application:

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done." *Code of Alabama, 1975, as amended. § 11-52-80(d) (3)*

I certify that I am the property owner, or authorized agent, and attest that all facts are true and correct. I do hereby certify that the property owner list attached to this application was obtained from the Autauga County Revenue Office, (Elmore County if applicable), and is a complete list of all real property owners adjacent to the parcel submitted for consideration. I also attest that I have read and understand what a hardship is according to the *Code of Alabama, 1975, as amended.*

JL Gordon Jr [Signature] 5-29-15
 Printed Name Signature Date

I the undersigned authority, a Notary Public in and for said County in said State, hereby certify that JL Gordon, Jr., whose name is signed to the forgoing petition, and who is known to me, acknowledged same before me on this the 29th day of May, 2015.

Lori A. Simmons
 Notary Public

My commission expires **LORI A. SIMMONS**
 A Notary Public of Alabama
 My Commission Expires
 January 25, 2019



Prattville Board of Zoning Adjustment
Application
Supplemental Information – Church Uses

150714-03/A

Use-On-Appeal
To allow church use on property

1. What is the approximate membership of the church as of the date of this application?	100
2. What are the days & hours for services?	Sunday 9-11:00 Wed 6:30-7:30
3. What is the approximate attendance for each of the services listed above?	Sunday 75 Wed 40
4. What are the days & hours of any church sponsored activities on the property?	WED SAT SUN
5. Will any of the church sponsored activities regularly take place outside?	No
6. If answering "Yes" to Question 5, please specify the type of activities:	
7. How many off-street parking spaces are on the property where the church is located?	1
8. How many seats will be available in the worship center?	175

Form Completed By: Davina Tolver	Phone Number: 334-312-0113
Application Address: Commerce Ct.	
CITY USE ONLY	
Application Number:	Application Date:

CITY OF PRATTVILLE
Board of Zoning Adjustment

Planning Department Staff Report



USE-ON-APPEAL Abundant Life Church
Vacant Lot – Commerce Court
Lot 7, Cherry Tree Properties, Plat 1

BZA Application – 150714-03

DATE July 13, 2015

PROPOSED DEVELOPMENT

Petitioners: Abundant Life Church
Property Owners: J. L. Goodson, Jr.
Agent: Geno Tolver
Location: West end of Commerce Court (behind K-Mart), Vacant lot
(Lot 7, Cherry Tree Properties, Plat 1)

Development Status and History

Submission Status: Platted as Lot 7, Cherry Tree Properties, Plat 1, July 1997.
Initial request for site development of this property
Previous Approvals: N/A
Conditions of Previous Approvals: N/A

Property Configuration

Acreage: Approximately 1.76 acres
Proposed Use: Church
Current Zoning: B-2 (General Business)
Required Zoning: Church permitted with use-on-appeal approval from the Board of Zoning Adjustment.

<i>Surrounding Developments and Uses:</i>	The property north, east, and west of the site is zoned B-2, General Business and developed as such. The property to the south is zoned R-2, Single-family Residential and used for low density housing. The property is immediately adjacent to three lots in the Prattville East Subdivision on Seasons Drive.
<i>Street Extensions or New Streets:</i>	None required or proposed.
<i>Water and Sewer:</i>	Adequate potable water and sanitary sewer for the proposed use is provided to the site.

PLANNING STAFF EVALUATION

Reviewed by:	Joel T. Duke, AICP
Site Visits Conducted:	July 12, 2015
Recommendation:	Table Request Until Additional Site Information Can Be Provided and Reviewed.

Planning Staff Comments:

Background. According to Mr. Tolver, the Abundant Life Church is currently meeting at the Doster Community Center, and does not expect to build on the subject site within 3 to 5 years. The congregation has offered to purchase the subject property contingent on use-on-appeal approval for a church use.

Mr. Tolver provided a plan and profile layout of the proposed 14,400 square foot church building. He was not able to provide a site layout at this time. The 120' by 120' structure (excluding front porch and attached portico) includes an auditorium with seating for 329.

Analysis. Below is the staff assessment of the three general question applicable to uses-on-appeal:

1. *Is the proposed church an allowable use-on-appeal, and not a prohibited use in a B-2 district?*

The requested use is a permitted use-on-appeal. It is not a prohibited use in a B-2 district.

2. *Is development of the proposed church on Lot 7 of the Cherry Tree Properties, Plat 1 subdivision located at the west end of Commerce Court in the public interest? Does the proposed development meet the spirit of the City of Prattville Zoning Ordinance?*

The answer to these two question is not clear based on the presented information. A primary purpose of the city's zoning ordinance is to insure that adequate space and facilities are provided for a given use. Regarding churches, the zoning ordinance requires adequate setback from adjacent properties and an adequate parking field. Per city ordinance, the church's 329 seats dictate a minimum of 132 parking spaces. At minimum 9' x 18' configuration, the spaces will require 21,384 square feet. The required 24' wide parking lot aisles will consume an additional 15,000 square feet. Without accounting for the front porch and the attached portico shown on the plan, the proposed church structure uses 14,400 square feet of the lot. These three basic site components require 1.17 acres. The subject 1.76 acres is irregularly configured with platted easements on the north, west, and south property lines. The easements remove or hamper the use of .31 acres on the site. This basic analysis does not account for required frontage and interior landscaping or the 20' vegetated buffer required on the south property line where a B-2 district abuts an R-2 district. Whether and how these zoning requirements can be accommodated by the subject property is not clear without a basic site plan. Furthermore, if the site can accommodate the initial construction, it is unclear whether it contains sufficient space for a modest expansion of the church at a later date.

3. *Does the proposed church use cause substantial adverse impact to adjacent or nearby properties or uses?*

The proposed use is located at the end of Commerce Court; a 985' long cul-de-sac. Commerce Court will be sole access point for the church. In addition, the configuration of the lot suggests that any structure will be at least another 100' to 200' past the end of the cul-de-sac. As an assembly occupancy, the single access point and the greater than 1000' distance from McQueen Smith Road may not be permitted under city building or fire codes. Without a basic site plan review by city departments, it is unclear whether the proposed use can be permitted. In addition, the Board of Zoning Adjustment should consider the impact of an average of 100 vehicles accessing the site from a single point. The presented information raises several questions which can only be answered with an initial site plan review. Question 3 cannot be answered at this time.

ATTACHMENTS

- A. Location Map
- B. Application
- C. Subdivision Plat – Cherry Tree Properties, Plat 1
- D. Plan and Profile – Proposed Church Building

CITY OF
PRATTVILLE, AL

Commerce Ct
Property

Zoning: B-2

Scale: 1" = 100'



STREETS

TAX PARCEL

ATTACHMENT A





City Of Prattville
Planning and Development Department
102 W. Main Street
Prattville, AL 36067
(334) 361-3614 Fax (334) 361-3677
www.prattvilleal.gov



Application
Prattville Board of Zoning Adjustment

Application Type: Use-On-Appeal Variance Administrative Appeal

Applicant /Agent Information
Notarized letter from the property owner is required if agent is used for representation.

Name: Abundant Life Church Ministries /Geno Tolver
 Street Address: 116 County Rd 29
 City: Prattville State: AL Zip: 36067
 Phone Number(s): 334-312-5511
 Contact # Geno Tolver - 334-312-5511

Property Owner Information
If different than above

Name: JL Goodson Builders Inc
 Address of Property Owner: 319 Upper Kingston Rd
 City: Prattville State: AL Zip: 36067
 Phone Number: (334) 657-6323

Property Description

County Tax Parcel Number/Legal Description: 19061410010010130
Attached @ Commerce Court - lot 7
 Current Zoning of Property: B2 Physical Address: Lot 7 Commerce Ct
 Proposed Use of Property (generally): Church
 Describe Proposed Use or Variance:
Property will be used for normal religious
activity of any other established church.
Sunday service, Wednesday night bible study
and occasional other religious programs

The following items must be attached to the application (check those items included):

- Tax record map from the Autauga County or Elmore County Tax Assessors Office
- Site sketch plan (drawn to scale) showing any property lines, required and proposed setbacks, existing and proposed structures and any additional information you believe will be helpful to the Board of Adjustment
- Application fees: Variance and Administrative Appeal - Fifty dollars (\$50), Use-on-Appeal - Two hundred fifty dollars (\$250).
- Names and address of all property owners immediately adjacent to the subject property (not required for administrative appeals). Adjacent properties include those directly across the street from the subject property.
- If person signing application is someone other than property owner, attach authorization to file application (i.e. notarized letter, real estate contract, etc.)

Hardship: The Board requests a statement of hardship to justify any variance application:

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done." Code of Alabama, 1975, as amended. § 11-52-80(d) (3))

I certify that I am the property owner, or authorized agent, and attest that all facts are true and correct. I do hereby certify that the property owner list attached to this application was obtained from the Autauga County Revenue Office, (Elmore County if applicable), and is a complete list of all real property owners adjacent to the parcel submitted for consideration. I also attest that I have read and understand what a hardship is according to the Code of Alabama, 1975, as amended.

JL Gordon Jr [Signature] 5-29-15
 Printed Name Signature Date

I the undersigned authority, a Notary Public in and for said County in said State, hereby certify that JL Gordon, Jr., whose name is signed to the forgoing petition, and who is known to me, acknowledged same before me on this the 29th day of May, 2015.

[Signature]
Notary Public

My commission expires ORLA SIMMONS
A Notary Public of Alabama
My Commission Expires
January 25, 2019



Abundant Life Ministries

**Prattville Board of Zoning Adjustment
Application
Supplemental Information – Church Uses**

1. What is the approximate membership of the church as of the date of this application?	100
2. What are the days & hours for services?	Sunday 9-100 Wed 6:30-7:30
3. What is the approximate attendance for each of the services listed above?	Sunday 75 Wed 40
4. What are the days & hours of any church sponsored activities on the property?	WED SAT SUN
5. Will any of the church sponsored activities regularly take place outside?	NO
6. If answering "Yes" to Question 5, please specify the type of activities:	
7. How many off-street parking spaces are on the property where the church is located?	1
8. How many seats will be available in the worship center?	175

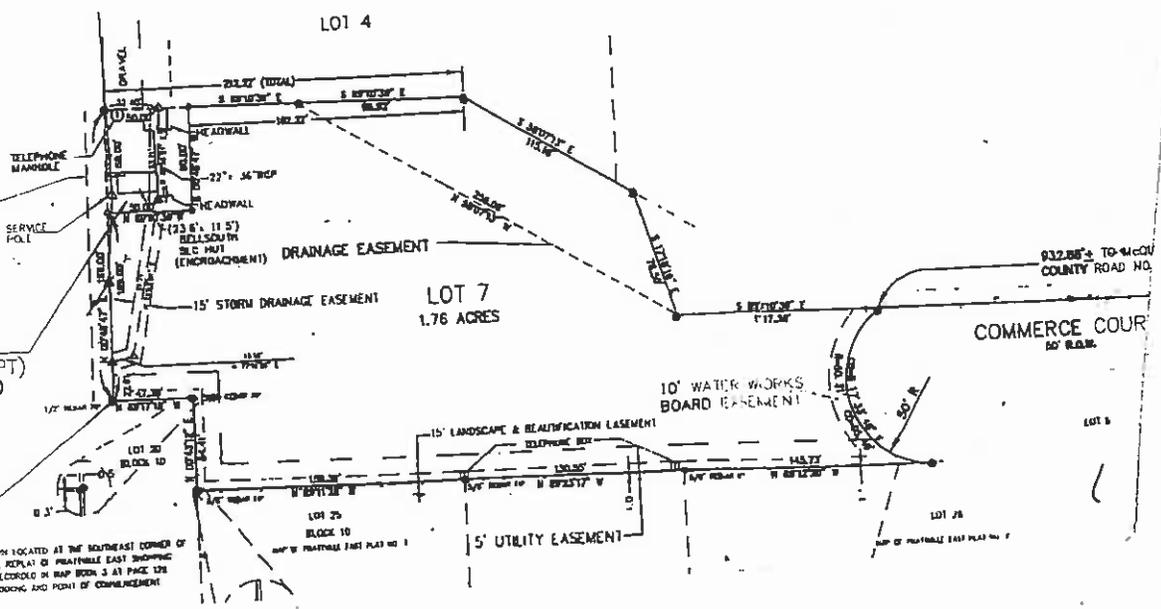
Form Completed By: Davina Tolver	Phone Number: 334-312-0113
Application Address: Commerce Ct.	
CITY USE ONLY	
Application Number:	Application Date:

PARCEL NO 1
REPLAT OF PRATVILLE EAST
SHOPPING CENTER MAP BOOK 3
PAGE 128

12" JOINT TELEPHONE,
POWER, WATER AND
SANITARY SEWER
EASEMENT

PARCEL 1
(LESS & EXCEPT)
0.07 ACRES (3000 S.F.)

FOUND IRON PIN LOCATED AT THE SOUTHEAST CORNER OF
PARCEL NO 1, REPLAT OF PRATVILLE EAST SHOPPING
CENTER, AS RECORDED IN MAP BOOK 3 AT PAGE 128
POINT OF BEGINNING AND POINT OF COMMENCEMENT



932.88' TO
COUNTY ROAD NO.

COMMERCE COUR
RD. R.O.B.

LOT 5

LOT 28

SURVEYOR'S CERTIFICATE AND DESCRIPTION OF LAND PLATTED
 STATE OF ALABAMA
 AUTAUGA COUNTY
 I, Gregory M. Gillian, a Registered Engineer and Land Surveyor of Autauga County, Alabama, hereby certify that I have surveyed the property of Cherry Tree Properties, L.L.C. (an Alabama Limited Liability Company) and Peoples Bank, as Mortgagee, of Cherry Tree Properties, Plot No. 1, situated in Autauga County.
 And that the plat or map contained hereon is a true and correct map showing the subdivision into which the property described is divided, giving the length and bearings of the boundaries of each lot and number, and showing the streets, alleys and public grounds and giving the bearings, length, width, and name of the streets, said map further shows the relation to the land so platted to the Government Survey, and that permanent monuments have been placed at points marked (o) as hereon shown, and I further certify that all parts of this survey and drawing have been completed in accordance with the Minimum Technical Standards for the Practice of Land Surveying in the State of Alabama.
 WITNESS my hand this the 1st day of July 1997
 Gregory M. Gillian
 Alabama Registration No. 15163

ACKNOWLEDGMENT BY THE NOTARY PUBLIC
 STATE OF ALABAMA
 COUNTY OF AUTAUGA
 I, Melissa K. Mills, Notary Public in and for said County, in said State, hereby certify that Ernest Goodson, as member of Cherry Tree Properties, L.L.C., as Owner, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he executed the same voluntarily.
 GIVEN under my hand and official seal this 3rd day of July, 1997
 Melissa K. Mills
 NOTARY PUBLIC
 2-14-2001

CERTIFICATE OF THE PRATTVILLE FIRE DEPARTMENT
 The undersigned, as authorized by the Fire Department of the City of Prattville, Alabama, hereby accepts the within plat for the recording of the same in the Probate Office of Autauga County, Alabama, this the 3rd day of July, 1997.
 [Signature]
 Fire Department
 Prattville, Alabama

CERTIFICATE OF THE WASTE WATER DEPARTMENT
 The undersigned, as authorized by the Waste Water Department of the City of Prattville, Alabama, hereby accepts the within plat for the recording of the same in the Probate Office of Autauga County, Alabama, this the 3rd day of July, 1997.
 [Signature]
 Waste Water Department
 Prattville, Alabama

CERTIFICATE OF APPROVAL BY THE DIRECTOR OF PLANNING AND DEVELOPMENT
 The undersigned, as Director of Planning and Development of the City of Prattville, Alabama, hereby accepts the within plat for the recording of the same in the Probate Office of Autauga County, Alabama, this the 3rd day of July, 1997.
 [Signature]
 Director of Planning and Development
 Prattville, Alabama

CERTIFICATE OF APPROVAL BY THE COUNTY ENGINEER
 The undersigned, being the County Engineer of Autauga County, Alabama, hereby accepts the within plat for the recording of the same in the Probate Office of Autauga County, Alabama, this the 3rd day of July, 1997.
 [Signature]
 Autauga County Engineer

OFFICE OF THE JUDGE OF PROBATE
 I hereby certify that this Plat in Map was filed in this Office this the 3rd day of July, 1997, at 9:37 o'clock A.M. and recorded in Book 5 of Plats and Maps Page 16 Recording Page 1.
 [Signature]
 Judge of Probate
 Autauga County, Alabama

ACKNOWLEDGMENT BY THE NOTARY PUBLIC
 STATE OF ALABAMA
 COUNTY OF AUTAUGA
 I, Melissa K. Mills, Notary Public in and for said County, in said State, hereby certify that Todd Stephens, as member of Cherry Tree Properties, L.L.C., as Owner, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he executed the same voluntarily.
 GIVEN under my hand and official seal this 3rd day of July, 1997.
 Melissa K. Mills
 NOTARY PUBLIC
 2-14-2001

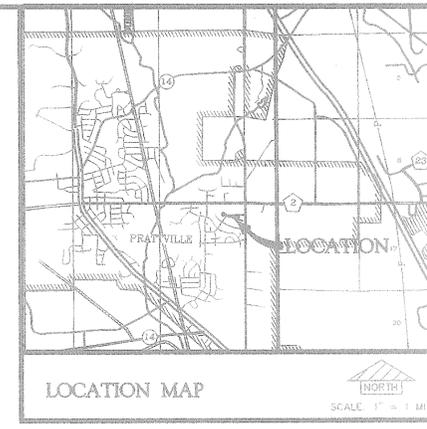
ACKNOWLEDGMENT BY THE NOTARY PUBLIC
 STATE OF ALABAMA
 COUNTY OF AUTAUGA
 I, Dita B. Carter, Notary Public in and for said County, in said State, hereby certify that Paul Daffin, as Vice President of Peoples Bank, as Mortgagee, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he executed the same voluntarily.
 GIVEN under my hand and official seal this 2nd day of June, 1997.
 Dita B. Carter
 NOTARY PUBLIC
 1-24-2000

CERTIFICATE OF APPROVAL BY THE AUTAUGA COUNTY HEALTH DEPARTMENT
 The undersigned, as authorized by the Autauga County Health Department, Alabama, hereby accepts the within plat for the recording of the same in the Probate Office of Autauga County, Alabama, this the 3rd day of July, 1997.
 [Signature]
 Health Officer
 Autauga County, Alabama

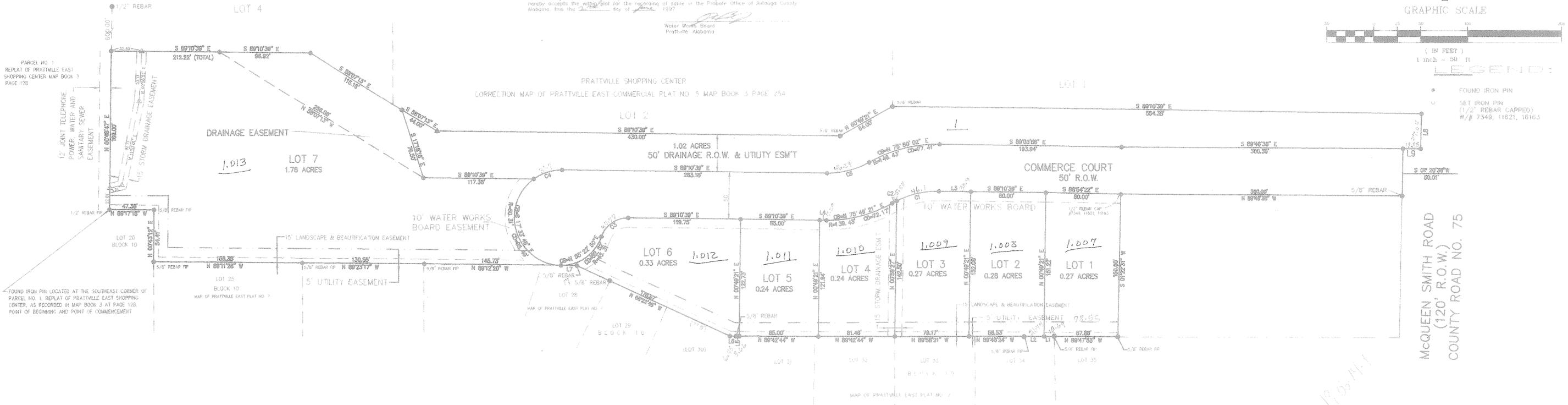
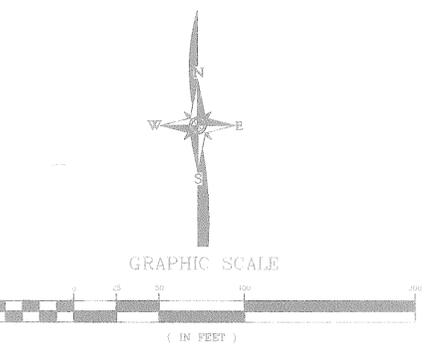
CERTIFICATE OF THE WATER WORKS BOARD
 The undersigned, as authorized by the Water Works Board of the City of Prattville, Alabama, hereby accepts the within plat for the recording of the same in the Probate Office of Autauga County, Alabama, this the 3rd day of July, 1997.
 [Signature]
 Water Works Board
 Prattville, Alabama

DEDICATION
 We, Ernest Goodson, George Kennedy and Todd Stephens, as members of Cherry Tree Properties, L.L.C., as Owner, and Paul Daffin as Vice President of Peoples Bank, as Mortgagee, have caused the land embraced in the within plat to be surveyed, laid out and platted to be known as Cherry Tree Properties, Plot No. 1, located in Section 14, T-17-N, R-18-E, Autauga County, Alabama, and that the streets as shown on said plat are hereby dedicated to the use of the public.
 By: Ernest Goodson AS MEMBER OF CHERRY TREE PROPERTIES, L.L.C. OWNER
Todd Stephens AS MEMBER OF CHERRY TREE PROPERTIES, L.L.C. OWNER
 By: Paul Daffin AS VICE PRESIDENT PEOPLES BANK MORTGAGEE
George Kennedy AS MEMBER OF CHERRY TREE PROPERTIES, L.L.C. OWNER

ACKNOWLEDGMENT BY THE NOTARY PUBLIC
 STATE OF ALABAMA
 COUNTY OF AUTAUGA
 I, Melissa K. Mills, Notary Public in and for said County, in said State, hereby certify that George Kennedy, as member of Cherry Tree Properties, L.L.C., as Owner, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he executed the same voluntarily.
 GIVEN under my hand and official seal this 3rd day of July, 1997.
 Melissa K. Mills
 NOTARY PUBLIC
 2-14-2001



BEARINGS ROTATED TO MATCH SOUTH LINE OF LOT 1. CORRECTION MAP OF PRATTVILLE EAST COMMERCIAL PLAT 5. MAP BOOK 5 PAGE 254



LINE	BEARING	DISTANCE
L1	N 89°45'58\"	10.69
L2	N 89°45'58\"	21.47
L3	S 89°10'39\"	33.90
L4	S 89°10'39\"	7.29
L5	N 89°42'44\"	3.66
L6	N 89°42'44\"	6.45
L7	N 89°12'20\"	17.00
L8	S 01°29'40\"	37.04
L9	N 89°46'38\"	18.85

CURVE	RADIUS	CHORD LENGTH	CHORD BEARING
C1	99.43	46.10	N 77°25'07\"
C2	99.43	5.54	N 62°25'07\"
C3	30.00	34.77	N 55°22'18\"
C4	50.31	31.70	N 72°26'12\"
C5	89.43	46.29	N 75°49'21\"

PROPERTY RESTRICTIONS

The property shall be conveyed by Seller to Purchaser of closing subject to the following covenants and restrictions, which shall be imposed by Seller, run with the property and bind Purchaser, its successors and assigns in title to ownership and use of the property.

A. Restriction on use of property as: (i) a bar (except a bar shall be permitted if located in a business whose principal use is as a full service restaurant); (ii) an off-track betting business; (iii) a massage parlor; (iv) a skating rink; (v) a night club; (vi) an adult book or adult video tape store (which are defined as stores in which any portion of the inventory is not available for sale or rental to children under eighteen [18] years old because such inventory, explicitly deals with or depicts human sexuality); (vii) a bowling alley; (viii) a dance hall; (ix) a billiard or pool hall; (x) a hall for bingo or similar games of chance; (xi) a game arcade; (xii) coin-operated machines; (xiii) flea market or (xiv) salvage store.

B. No flashing or portable signs of any type shall be placed on the property. Furthermore, all signs placed on the property shall be limited to business identification signage, with placement and height governed by zoning regulations, except as herein noted. All free standing signs shall be monument-type construction, no taller than eight (8) feet as measured from the existing ground surface. Signage placed on the exterior of the building shall not protrude or extend above the roof line of the building.

CHERRY TREE PROPERTIES PLAT NO. 1

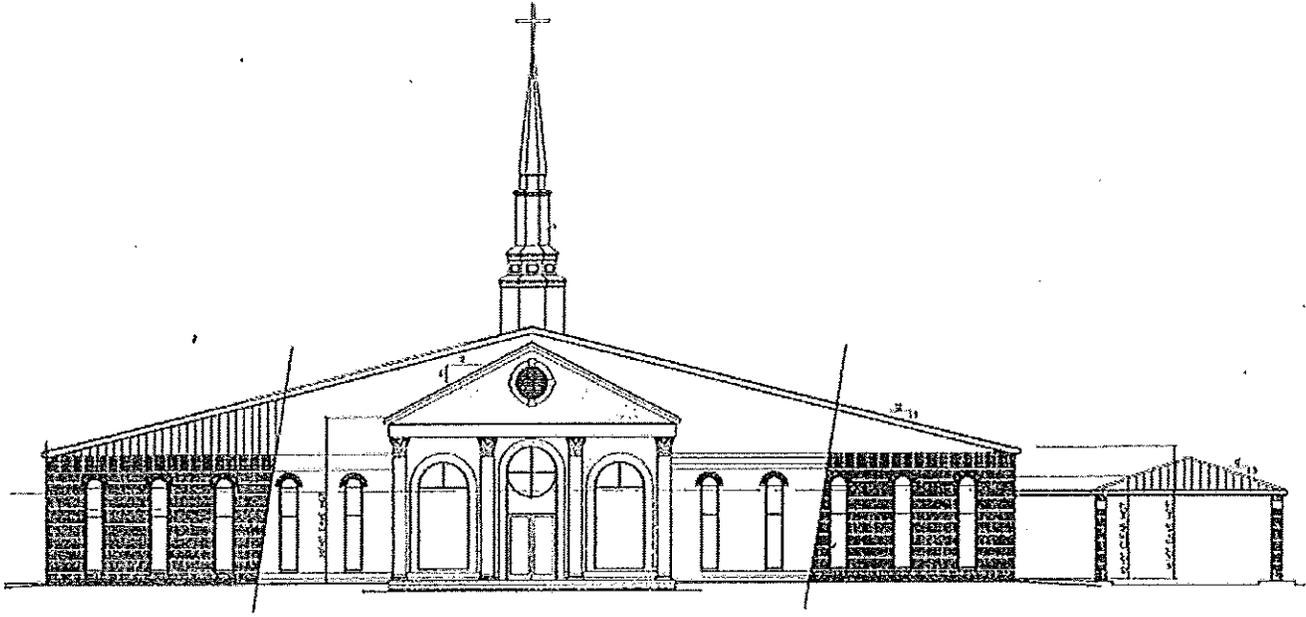
LOCATED IN THE NORTH 1/2 OF THE NE 1/4 OF SECTION 14, T-17-N, R-18-E, AUTAUGA COUNTY, AL

PLAT 5 16
 Recorded in Above Book and Page
 07/03/1997 09:37AM
 Cordy Taylor
 Probate Judge
 Autauga County, Alabama

SPT Fee
 Recording Fee
 TOTAL 10.00
 6.00
 16.00

LARRY E. SPEAKS & ASSOCIATES
 CONSULTING ENGINEERS
 LAND SURVEYORS
 544 MARTHA STREET
 MONTGOMERY, AL 36104
 TEL - 334/262-1091

Note: All power services shall be underground from Power Co. pole to building.



Seats 329

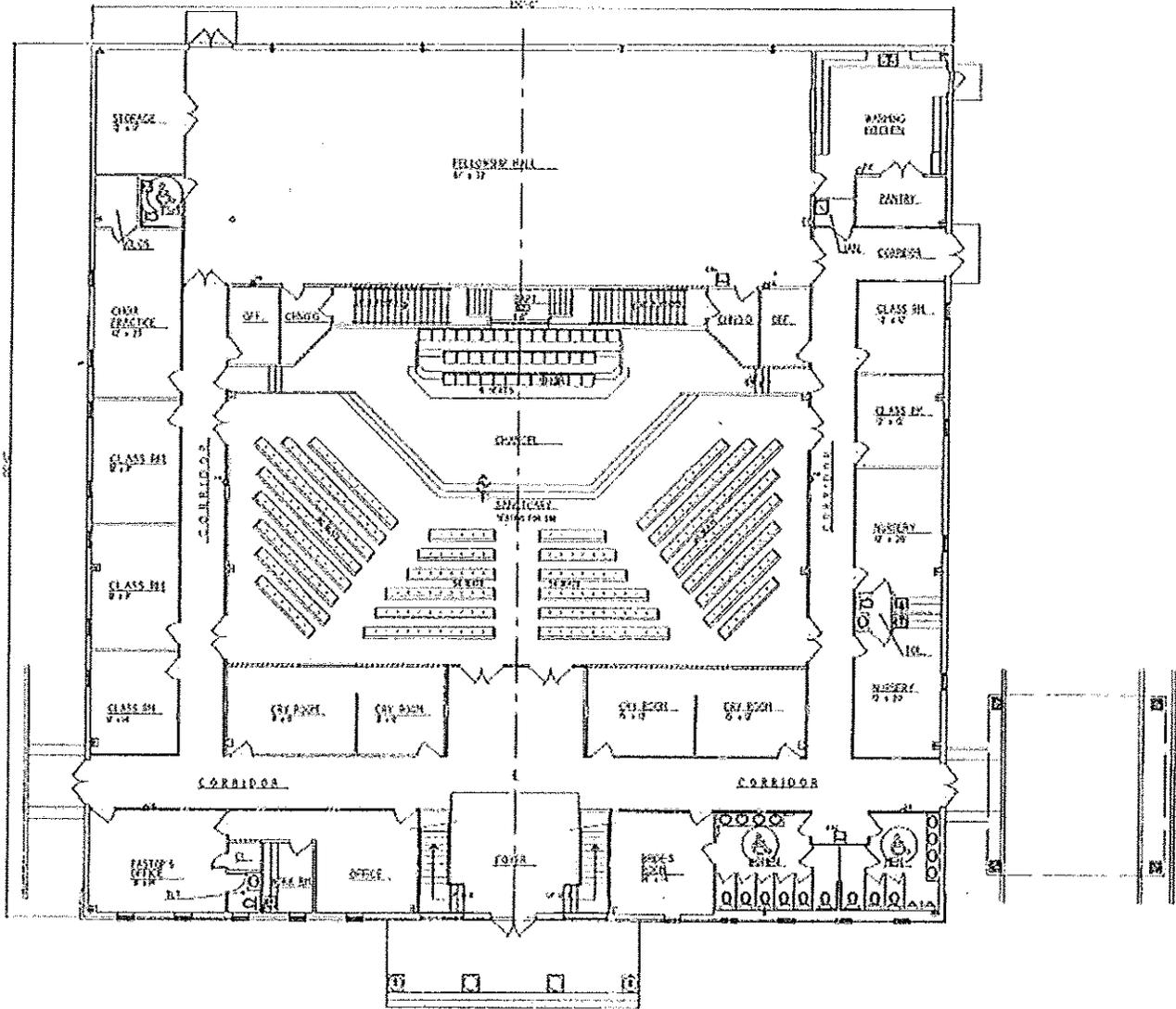
Sq ft 14,400

steel frame Construction

3 to 5 years before any construction ~~is~~ begins

120ft

120ft



PRATTVILLE BOARD OF ZONING ADJUSTMENT

PETITIONER: WILLIE MOTLEY
844 JENSEN ROAD
PRATTVILLE, AL 36067

REQUEST: VARIANCE TO ENCROACH 22' INTO THE REQUIRED 40' REAR
YARD SETBACK
844 JENSEN ROAD
R-2 ZONING DISTRICT (SINGLE FAMILY RESIDENTIAL)

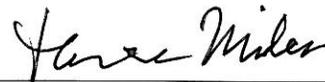
ORDER

The above petition having been duly considered at a public hearing meeting before the Board of Zoning Adjustment of the City of Prattville, having been advertised in *The Prattville Progress*, a newspaper of general circulation in the city limits of Prattville, Alabama, and setting forth notice of the request for a variance to the Zoning Laws of Prattville, Alabama, as set out in the aforesaid petition and giving notice that a public hearing would be held on July 14, 2015 at the City Hall in Prattville, Alabama, and after due consideration of the party in interest, the Board of Zoning Adjustment of the City of Prattville **voted to approve the variance to encroach 22' into the 40' rear yard setback on property at 844 Jensen Road.**

IT IS THEREFORE ORDERED the petition of Willie Motley, 844 Jensen Road, Prattville, AL is hereby approved.

DONE THIS THE 14th DAY OF July 2015.

BOARD OF ZONING ADJUSTMENT



JAMES MILES, VICE-CHAIRMAN



ALISA MORGAN, SECRETARY

**CITY OF PRATTVILLE BOARD OF ADJUSTMENT
PUBLIC HEARING
SPEAKERS SIGN-IN SHEET**

MEETING DATE: July 14, 2015

PETITIONER: Willie Motley

ADDRESS OF PETITION: 844 Jensen Road

	NAME	ADDRESS
1.	Richard Glen	634 Wetumpka St
2.	Willie Motley	844 Jensen Rd
3.	Nell Motley	844 Jensen Rd
4.	Theodis Smith	850 Jensen
5.	Ethel Smith	850 Jensen
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		

CITY OF PRATTVILLE
Board of Zoning Adjustment

Planning Department Staff Report



DATE:	6/24/15
APPLICATION TYPE:	Variance (150714-04)
PROPERTY LOCATION or DESCRIPTION:	844 Jensen Road
PETITIONER(S) AND AGENT(S):	Willie Motley Representative: Ricky Glenn, Richard Glenn Construction, LLC
ZONING DISTRICT(S)	R-2 (Single Family Residential)
REQUESTED ACTION:	Variance to encroach 22' into the required 40' rear yard setback.
ZONING ORDINANCE REFERENCE:	Appendix A-Zoning Ordinance Section 71 Residential district requirements: R-2 District: Minimum Yard Size Front yard - 35' Rear Yard – 40' Side Yard – 10'

CITY OF
PRATTVILLE, AL

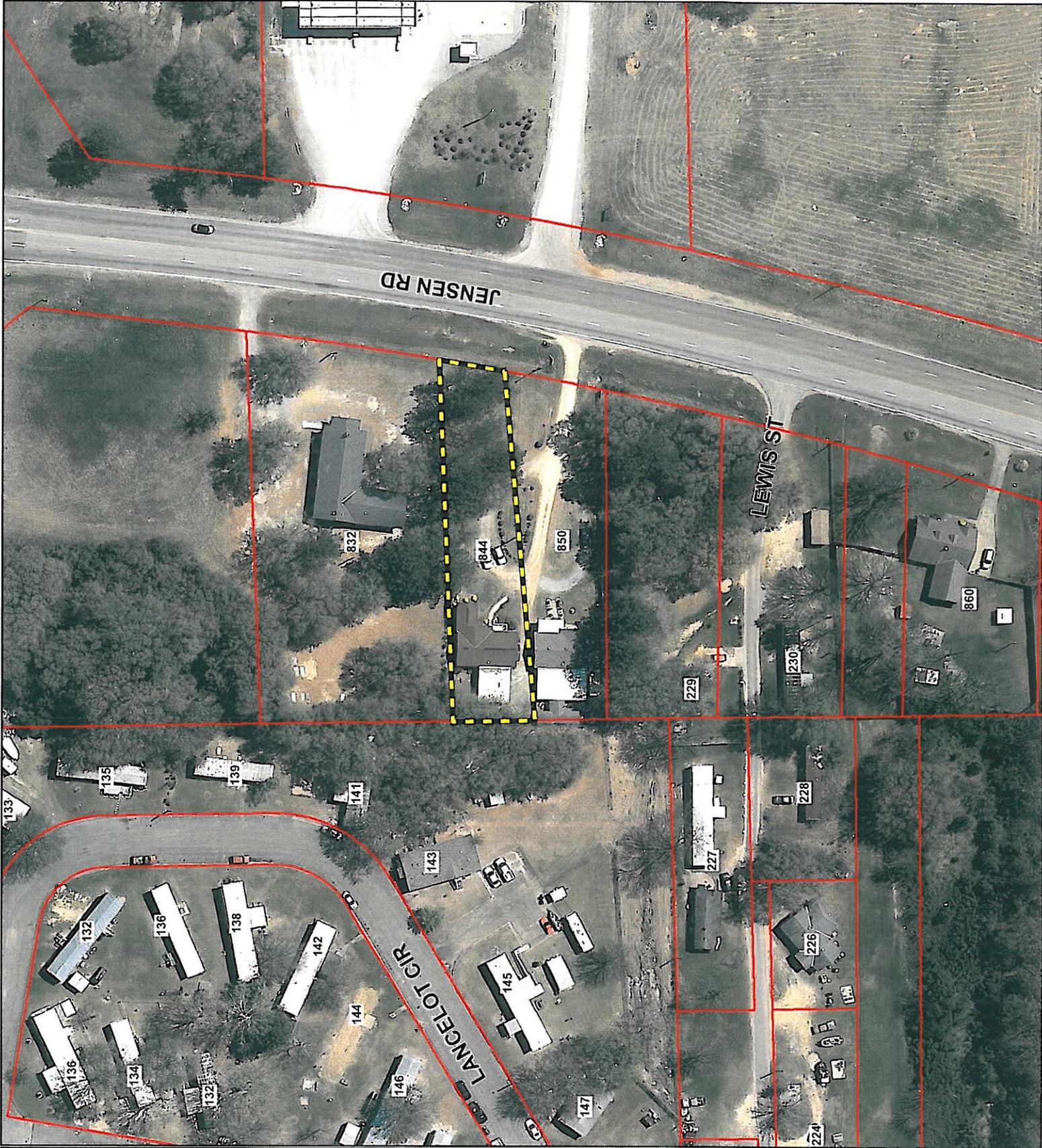
844
Jensen Rd

Zoning: R-2

Scale: 1" = 100'



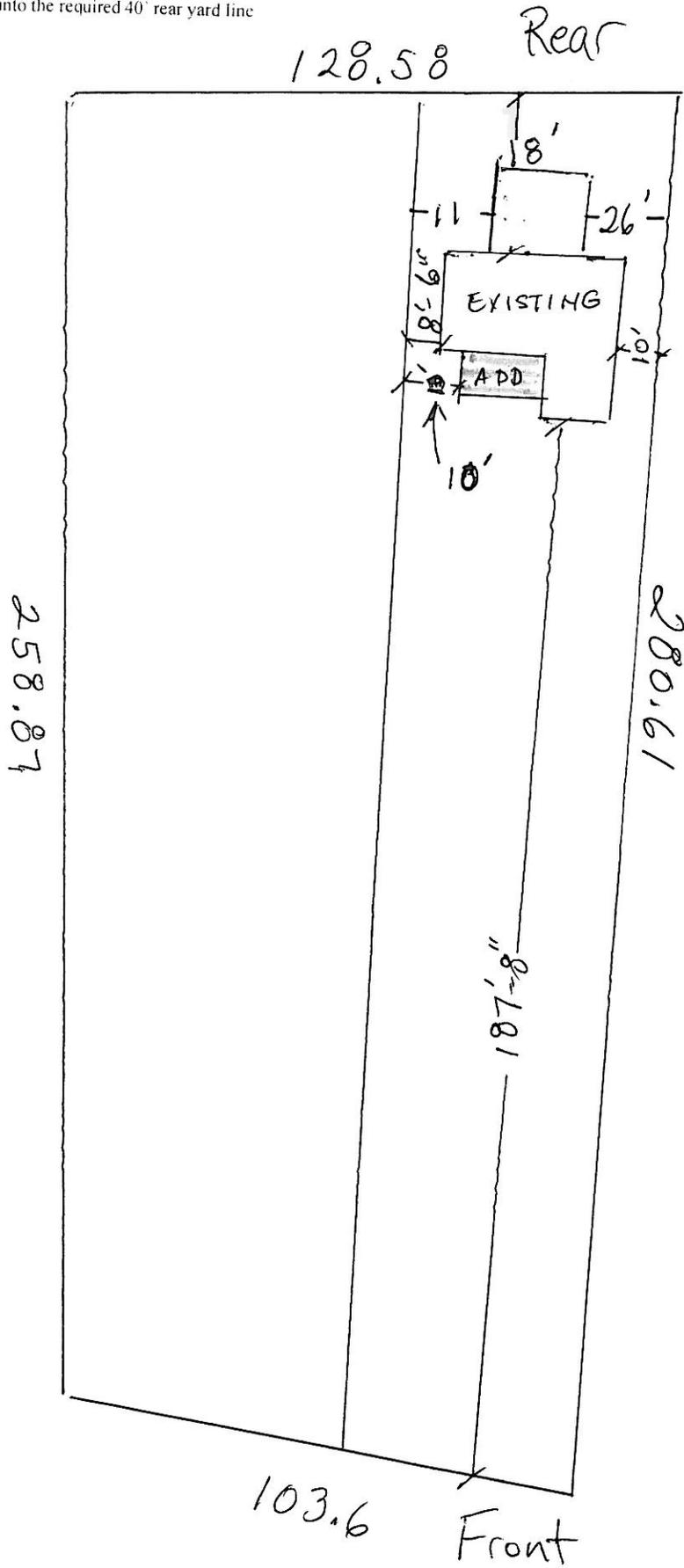
— STREETS
□ TAX PARCEL



150714-04/A

Variance

To encroach 22' into the required 40' rear yard line



1" = 50'



150714-04

Variance

To encroach 22' into the required 40' rear yard line

City Of Prattville
Planning and Development Department
102 W. Main Street
Prattville, AL 36067
(334) 361-3614 Fax (334) 361-3677
www.prattvilleal.gov

**Application
Prattville Board of Zoning Adjustment**

Application type: Use-On-Appeal Variance Administrative Appeal

Applicant /Agent Information
Notarized letter from the property owner is required if agent is used for representation

Name: Richard Glenn Construction LLC

Street Address: 634 Wetumpka St.

City: Prattville State AL Zip: 36067

Phone Number(s): 334-657-4820

Property Owner Information
If different than above

Name: Willie Motley

Address of Property Owner: 844 Jensen Rd.

City: Prattville State: AL Zip: 36067

Phone Number: 334 365-5244

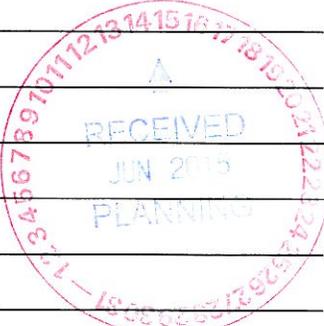
Property Description

County Tax Parcel Number/Legal Description: _____

Current Zoning of Property: R-2 Physical Address: 844 Jensen Rd

Proposed Use of Property (generally): Residential

Describe Proposed Use or Variance: Carpport/Aluminum
is encroaching rear set back by
22'



The following items must be attached to the application (check those items included):

- Tax record map from the Autauga County or Elmore County Tax Assessors Office
- Site sketch plan (drawn to scale) showing any property lines, required and proposed setbacks, existing and proposed structures and any additional information you believe will be helpful to the Board of Adjustment
- Application fees: Variance and Administrative Appeal - Fifty dollars (\$50), Use-on-Appeal - Two hundred fifty dollars (\$250).
- Names and address of all property owners immediately adjacent to the subject property (not required for administrative appeals). Adjacent properties include those directly across the street from the subject property.
- If person signing application is someone other than property owner, attach authorization to file application (i.e. notarized letter, real estate contract, etc.)

Hardship: The Board requests a statement of hardship to justify any variance application:

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done." *Code of Alabama, 1975, as amended. § 11-52-80(d) (3)*

unable to move carport

I certify that I am the property owner, or authorized agent, and attest that all facts are true and correct. I do hereby certify that the property owner list attached to this application was obtained from the Autauga County Revenue Office, (Elmore County if applicable), and is a complete list of all real property owners adjacent to the parcel submitted for consideration. I also attest that I have read and understand what a hardship is according to the *Code of Alabama, 1975, as amended.*

<u>Willie Lee Motley</u>	<u>Willie Lee Motley</u>	<u>June 12, 2015</u>
Printed Name	Signature	Date

I the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Willie Lee Motley, whose name is signed to the forgoing petition, and who is known to me, acknowledged same before me on this the 12 day of June, 2015.

Risa Glenn
Notary Public

My commission expires 6-15-16

CITY OF PRATTVILLE
Board of Zoning Adjustment
Planning Department Staff Report



VARIANCE 844 Jensen Road
BZA Application – 150714-04

DATE July 12, 2015

PROPOSED DEVELOPMENT

Petitioner: Willie Motley

Property Owners: same as petitioner

Agent: Richard Glenn Construction

Location: 844 Jensen Road

Development Status and History

Previous Variance Requests/Approvals: No previous variances

Conditions of Previous Approvals: N/A

Property Configuration

Acreage: Approximately 0.35 acres (15,246 square feet)

Zoning Classification: R-2, Single Family Residential

Relevant Standards: Section 4. – Uses
(B) Any use or structure existing at the time of enactment or of subsequent amendment to this ordinance, but not in conformity with its provisions, may be continued with the following limitations: Any use or structure which does not conform to the provisions of this ordinance, except with the written approval of the Board of Zoning Adjustment, shall not be:

- (a) Chained to another nonconforming use.
- (b) Re-established after discontinue [discontinuance] for one (1) year.

- (c) Rebuilt after fire or storm loss, exceeding its value, above foundation, at the time of loss.

Section 5. - Building lots, yards and open spaces.

In each district, each structure, hereafter erected or altered, shall be provided with the yards specified and shall be on a lot of the area and width specified in Article 7. No open space or lot required for a building or structure shall during its life be occupied by or counted as open space for another building or structure.

Exceptions to the district requirements for building lots and yards follow:

- a. Where the owner of a lot of official record at the time of adoption of this ordinance does not own sufficient adjacent land to enable him to conform to the yard and other requirements of this ordinance, one (1) building and its accessory structures may be built provided the yard space and other requirements conform as closely as possible, in the opinion of the Board of Zoning Adjustment, to the requirements of the district in which it is located; and further provided that neither side yard shall be reduced to less than five (5) feet in width.
- b. No building need be set back more than the average of the setbacks of the existing residences within one hundred (100) feet each side thereof.

Section 68 – Definitions.

Yard, rear. The yard extending across the entire width of the lot between the main building, including covered porches, and the rear lot line.

Section 71— R-2 Districts

Minimum Lot Size: 10,500 square feet

Maximum Lot Coverage: 45%

Yard Setbacks:

Front: 35'

Rear: 40'

Sides: 10'

Requested Variance: Effective variance as re-stated by staff (see application for applicant statement): Existing, attached aluminum carport encroaches 22' into the required 40' rear yard setback. Requesting approval of variance for this addition.

Statement of Hardship: "Unable to move carport"
(taken from application)

PLANNING STAFF EVALUATION

Reviewed by: Joel T. Duke, AICP

Site Visits Conducted: June 10, 2015

Recommendation: Recommend approval – no adverse impact to adjacent properties or spirit of the ordinance.

Planning Staff Comments:

On June 9, 2015, the petitioner's contractor applied for a permit to add on to the front of the structure at 844 Jensen Road. Upon inspection, the zoning administrator determined that the existing structure had sufficient front setback – approximately 185' to accommodate the proposed 16' x 28' addition. The administrator also noted that the existing structure included an attached carport extending 22' into the required 40' rear setback. Upon finding a non-conforming structure, the administrator denied the requested permit based on the non-conforming use clauses found in Section 4 (B) of the city's zoning ordinance. The applicant is requesting a variance to account for the previously added carport and its encroachment into the rear yard.

State code and best practices require the BZA to measure variance requests against several basic standards. Below is the staff opinion regarding the standards and this request.

1. No special conditions and circumstances exist regarding this structure which are not applicable to other lands, structures, or buildings in the same R-2 zoning district.

2. A literal interpretation of the zoning ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
3. The special conditions and circumstances do not result from actions of the applicant.
4. The granting of a variance will confer a special privilege on the applicant that is denied by the zoning ordinance to other lands, structures, or buildings in the same R-3 district;
5. The granting of a variance is in harmony with the intent and purposes of the zoning ordinance;
6. A variance will not adversely affect the surrounding property, the general neighborhood, or the community as a whole;
7. A variance will not allow the establishment of a use prohibited under the terms of the zoning ordinance in an R-2 district.

ATTACHMENTS

None. Please see earlier mail out.