



Agenda
Gallatin Municipal Board of Zoning Appeals

Thursday, December 12, 2013
DR. J. DEOTHA MALONE COUNCIL CHAMBERS

Municipal Board of Zoning Appeals - 5:30 p.m.
CITY HALL

1. **APPROVE PRIOR MINUTES**
February 28, 2013, MBZA Regular Meeting
August 29, 2013, MBZA Regular Meeting

2. **GMBZA Resolution No. 2013-08**
ROGERS, HARRIET - VARIANCE
BRUCE RAINEY & ASSOCIATES

PC0210-13

The owner and applicant are requesting approval of a five (5) foot side yard variance on both sides for the construction of a One-family Detached Dwelling unit per Section 06.08.040.B of the Gallatin Zoning Ordinance. The property, consisting of 3,728 square feet, is located at 229 Roosevelt Circle, (S.B.E. Tax Map # 113O/M/012.00) and is zoned Residential-6 High Density Residential District (R6).

3. **OTHER BUSINESS**
4. **MOVE TO ADJOURN**

ORIGINAL

MINUTES OF THE GALLATIN
MUNICIPAL BOARD OF ZONING APPEALS

February 28, 2013

MEMBERS PRESENT

Jimmy Moore, Chair
John Puryear
James Pope

STAFF PRESENT

Katherine Schoch, Interim Director Codes/Planning
Kevin Chastine, Planner II
Marianne Mudrak, Board Secretary

MEMBERS ABSENT

Eddie Wyatt, Vice Chair
Jeannie Gregory, Secretary

OTHERS

Applicants

The Gallatin Municipal Board of Zoning Appeals met in a regular meeting on Thursday, February 28, 2013, at 5:30 p.m., in the Dr. J. Deotha Malone Council Chambers of Gallatin City Hall. Mr. Jimmy Moore, Chair, called the meeting to order. A copy of the meeting agenda is attached to these minutes as Exhibit A.

Item 1
Approve Prior Minutes

Mr. Puryear motioned to approve the minutes of the January 31, 2013 Gallatin Municipal Regional Board of Zoning Appeals meeting. Mr. Pope seconded the motion and the motion passed by unanimous vote.

Item 2

GMBZA Resolution No. 2013-03 – PC0090-13 – Gallatin Wrecker Service – Rogers Engineering Group – Public Hearing – Applicant requests a side yard variance per Section 08.03.030.D of the Gallatin Zoning Ordinance to allow an existing building to encroach 0.58 feet to 1.66 feet into the required 10-foot side yard on property containing 0.57 (+/-) acres located at 134 East Schell Street.

Mr. Kevin Chastine, Planner II, presented the staff report and stated the applicant is requesting a side yard variance upwards to 1.66 feet into the side yard. Mr. Chastine said Staff visited the site and discovered the building was nearly complete and was to be used for Gallatin Wrecker. Mr. Chastine said the applicant has submitted a site plan to present to the Gallatin Planning Commission next month, if this variance is approved. Mr. Chastine said when reviewing the site plan, Staff noticed that the garage building had been built too close to the eastern property line.

Mr. Chastine said the applicant answered the standards for variance questions. Mr. Chastine said Staff agrees with eight of the variance standards; however, Staff does not agree that the first variance standard has been met, because the site is fairly rectangular and the building could have been built to meet the side yard to the eastern property line.

Gallatin Municipal Board of Zoning Appeals Meeting Minutes

Mr. Chastine said Staff does not recommend the Municipal Board of Zoning Appeals approve the side yard variance as presented.

Mr. Richard Jones, with Rogers Engineering Group, represented the applicant, and said he understands that Staff cannot go against the ordinance and recommend the variance. Mr. Jones said when the building was put up the adjacent owner was in attendance with the developer and a string was pulled in agreement at the property line. Mr. Jones said the building was originally to be used to garage vehicles. Mr. Jones said he later decided to use the building for Gallatin Wrecker Service with an office. Mr. Jones said both parties believed that the building was setback 10 feet.

Mr. Jones said the plan for the lot is a great improvement to the site. Mr. Jones said the building is near completion and asked for the variance for that reason. Mr. Jones said the building is not abusive to either neighbor.

Chair Moore opened public hearing. No one came forward to speak; therefore, Chair Moore closed public hearing.

Mr. Jones said when the fence was built, the neighbor, Mr. Mike Fritz, was in attendance and agreement. Mr. Fritz also poured the concrete on the building. Mr. Jones said when the permit was issued Mr. Kelly, the developer, did not realize he needed to call the City for an inspection.

Ms. Katherine Schoch, Interim Director Codes/Planning, said the permit was issued for residential use, not commercial use. Ms. Schoch said the existing residential structure is a legal non conforming structure. Ms. Schoch said a structure to be used as accessory to the house on the lot is legal. Ms. Schoch said this is an active zoning violation because it is acting as a commercial building without a site plan.

Mr. Jones clarified that when Mr. Kelly applied for the permit he intended to use the building as a garage for his vehicles. Mr. Jones said Mr. Kelly did not realize he had to re-apply for another permit because he changed the intended of use of the building.

Ms. Schoch said Staff is willing to work with the applicant. Mr. Jones said the applicant is willing to add brick to the building to meet the regulations. Mr. Puyear said architectural materials would be a Planning Commission issue.

Mr. Puyear said it makes complete sense to have a wrecker service on this property. Mr. Puyear said he is concerned that the Municipal Board of Zoning Appeals does not have the authority to grant this variance without the finding of facts. Mr. Puyear suggested that the applicant buy the amount of property he needs from his neighbor and add it to the lot with a minor subdivision plat so the building no longer encroaches into the side yard. Mr. Puyear said the City does not want to cause the applicant to take down his building. Mr. Puyear said to grant the appeal all nine standards must be met.

Mr. Paul Kelly, applicant, said he was not aware that he needed to submit a site plan when he decided to use the building as a commercial building instead of a residential outbuilding. Mr. Kelly reiterated how he determined the placement of the building with the help of his neighbor.

Gallatin Municipal Board of Zoning Appeals Meeting Minutes

Ms. Schoch reiterated that the original application for a building permit was for a residential structure. Ms. Schoch said the building is oversized and is not accessory to the principle structure. Mr. Kelly said he did not know he was going to use the building for commercial purposes when he first applied for the permit.

Mr. Jones explained that on the left side of the property there is only a fifteen foot driveway and if they had gone over to that side it would narrow the driveway even more.

Mr. Jones said the applicant was trying to meet the setbacks. Ms. Schoch said there was never a call for a building inspection, which would have brought the mistake to the attention of the applicant before the structure was complete.

Mr. Puryear asked if it would be possible to give the applicant 30 days to speak to his neighbor about purchasing the required land. Mr. Puryear said he was sure that Planning Commission would not have a problem approving the use if the property line could be resolved. Mr. Puryear said he could not vote for this variance; however, he wants to find a way to make this work for the applicant. Mr. Puryear said he is not comfortable setting a precedent by voting to approve a variance that does not meet all nine standards.

Chair Moore agreed that the applicant should try to purchase the property needed. Ms. Schoch said the City Attorney agreed that the variance request did not meet the standards.

Mr. Kelly said he could take down a part of the building if necessary.

Mr. Puryear motioned to defer the item to the next Municipal Board of Zoning Appeals meeting. Mr. Pope seconded the motion and the motion passed by unanimous vote.

Item 3
Other Business

Mr. Puryear said he is not in favor of the paperless agendas.

Item 4
Move to Adjourn

There being no further business, Chair Moore adjourned the meeting at 6:30 p.m.

Respectfully submitted:

Marianne Mudrak, Board Secretary

Approve:

Jimmy Moore, Chair

Jeannie Gregory, Secretary



EXHIBIT A

Agenda Gallatin Municipal Board of Zoning Appeals

Thursday, February 28, 2013
DR. J. DEOTHA MALONE COUNCIL CHAMBERS

Municipal Board of Zoning Appeals - 5:30 p.m.
CITY HALL

1. **APPROVE PRIOR MINUTES**
January 31, 2013, MBZA Regular Meeting

2. **GMBZA Resolution No. 2013-03**
GALLATIN WRECKER SERVICE
ROGERS ENGINEERING GROUP

PC0090-13

Public Hearing

Applicant requests a side yard variance per Section 08.03.030 D. of the Gallatin Zoning Ordinance to allow an existing building to encroach 0.58 feet to 1.66 feet into the required 10-foot side yard on property containing 0.57 (+/-) acres located at 134 East Schell Street.

3. **OTHER BUSINESS**

4. **MOVE TO ADJOURN**

MINUTES OF THE GALLATIN
MUNICIPAL BOARD OF ZONING APPEALS

August 29, 2013

MEMBERS PRESENT

Jimmy Moore, Chair
Ed Wyatt
Jeannie Gregory
John Puryear

STAFF PRESENT

Katherine Schoch, Interim Director Codes/Planning
Marianne Mudrak, Board Secretary

MEMBERS ABSENT

James Pope

OTHERS

Applicant

The Gallatin Municipal Board of Zoning Appeals met in a regular meeting on Thursday, August 29, 2013, at 5:30 p.m., in the Dr. J. Deotha Malone Council Chambers of Gallatin City Hall. Mr. Jimmy Moore, Chair, called the meeting to order. A copy of the meeting agenda is attached to these minutes as Exhibit A.

Item 1
Approve Prior Minutes

Without objection, Chair Moore moved approval of the February 28, 2013 Municipal Board of Zoning Appeals meeting minutes, to the next meeting, due to a lack of quorum on members present who attended that meeting.

Chair Moore presented the April 25, 2013 Municipal Board of Zoning Appeals meeting minutes for approval. Mr. Puryear motioned to approve. Mr. Wyatt seconded the motion and the motion passed by unanimous vote.

Item 2

GMBZA 2013-07 – PC0171-13 – Station Camp Church of Christ – Matchett & Associates – Public Hearing – Applicant requests approval of a Conditional Use Permit, per Section 08.02.010.D of the Gallatin Zoning Ordinance, for a Place of Worship facility on property containing 0.50 (+/-) acres located at 450 West Main Street.

Ms. Katherine Schoch, Interim Director Codes/Planning, presented the staff report and said the applicant is requesting approval of a Conditional Use Permit for a Place of Worship facility. Ms. Schoch said the Conditional Use Permit will allow the Station Camp Church of Christ to use an existing building, located in the Oakland Park Commercial shopping center, for worship services. Ms. Schoch said the applicant has indicated that this is a temporary location for the church at this time. Ms. Schoch said the property is zoned Commercial Services (CS) and a Place of Worship facility is permitted by conditional use in this zone district.

Ms. Schoch said the parking regulations have been met and exceeded. Ms. Schoch said there would not be any exterior renovations and very little interior renovations.

Staff recommends approval of the Conditional Use Permit for a Place of Worship, Community Facility with the conditions listed in the staff report.

Chair Moore opened public hearing. No one came forward to speak; therefore Chair Moore closed public hearing.

Mr. Sam Jones, with Station Camp Church of Christ, represented the applicant.

Mr. Puryear asked if the facility would be open on Wednesday night for services. Mr. Jones said the church does not meet on Wednesday night. Mr. Jones said if the church decided to meet on Wednesday night it would be later than the hours of business of the retail facilities in the shopping center.

Mr. Wyatt motioned to approve the Conditional Use Permit with the following conditions:

1. This Conditional Use Permit has an expiration date of two (2) years from the date of approval. The Municipal Board of Zoning Appeals shall review the application every two (2) years to verify that the church is still operating under a Conditional Use Permit. The applicant may apply to extend the approval of the Conditional Use Permit at that time.
2. The applicant shall obtain a Use and Occupancy permit from the Codes/Planning Department.
3. Life Safety Inspections shall be performed prior to occupancy. The applicant shall contact the Codes/Planning Department and the Gallatin Fire Department to schedule the Life Safety Inspections.
4. The applicant shall submit an application and plans for approval of an in house change of use site plan prior to the issuance of a Use and Occupancy permit from the Codes/Planning Department.
5. The applicant shall obtain sign permits from the Codes/Planning Department prior to the installation of any signage.

Ms. Gregory seconded the motion and the motion passed by unanimous vote.

Item 3
Other Business

There was no other business to discuss.

Item 4
Move to Adjourn

There being no further business, Chair Moore adjourned the meeting at 5:36 p.m.

Respectfully submitted:

Marianne Mudrak, Board Secretary

Approve:

Jimmy Moore, Chair

Jeannie Gregory, Secretary



**Agenda
Gallatin Municipal Board of Zoning Appeals**

**Thursday, August 29, 2013
Dr. Deotha Malone Council Chambers**

**5:30 PM
City Hall**

Regular Agenda

1. APPROVE PRIOR MINUTES

**February 28, 2013
April 25, 2013**

February 28, 2013 Minutes

April 25, 2013 Minutes

**2. GMBZA 2013-07
STATION CAMP CHURCH OF CHRIST
MATCHETT & ASSOCIATES**

PC0171-13

PUBLIC HEARING:

APPLICANT REQUESTS APPROVAL OF A CONDITIONAL USE PERMIT, PER SECTION 08.02.010.D OF THE GALLATIN ZONING ORDINANCE, FOR A PLACE OF WORSHIP FACILITY ON PROPERTY CONTAINING 0.50 (+/-) ACRES LOCATED AT 450 WEST MAIN STREET.

Station Camp Ch. of Christ Cond. Use Permit

3. OTHER BUSINESS

- **MOVE TO ADJOURN**

EXHIBIT A

RESOLUTION OF THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS APPROVING A VARIANCE FROM SECTION 06.08.040.B OF THE ZONING ORDINANCE OF GALLATIN, TENNESSEE FOR PROPERTY 229 ROOSEVELT CIRCLE – (PC0210-13)

WHEREAS, THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS considered the request for a five (5) foot variance from both side yards for property located at 229 Roosevelt Circle, per Section 06.08.040.B of the Gallatin Zoning Ordinance, submitted by the applicant, Bruce Rainey & Associates, at its regular meeting on December 12, 2013; and

WHEREAS, THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS has reviewed the application materials and supporting documentation submitted by the applicant, the analysis, findings and recommendations presented by City Staff and in the Municipal Board of Zoning Appeals Staff Report, attached hereto as Exhibit A, and evidence and testimony presented during the meeting; and

WHEREAS, THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS is required in its deliberations, pursuant to Gallatin Zoning Ordinance Section 15.04.028.E, to indicate the specific section of the Zoning Ordinance of Gallatin, Tennessee under which the variance is being considered and state specific findings and specifically identified the hardship warranting such action by the Board; and

NOW THEREFORE BE IT RESOLVED BY THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS makes the following findings pursuant to TCA Section 13-7-206; 13-7-207(3); and Section 15.05.030 of the Gallatin Zoning Ordinance:

- Section 1. The request for a five (5) foot variance from both side yards for property located at 229 Roosevelt Circle, per Section 06.08.040.B of the Gallatin Zoning Ordinance, meets all nine (9) of the following Standards for Variances as described in the body of the Staff Report and as set forth in Gallatin Zoning Ordinance, Section 15.05.030:
- A. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Ordinance were carried out must be stated;
 - B. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;
 - C. The variance will not authorize activities in a zone district other than those permitted by this Ordinance;
 - D. Financial returns only shall not be considered as a basis for granting a variance;
 - E. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Ordinance;
 - F. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same districts;
 - G. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
 - H. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located; and
 - I. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.
- Section 2. It has been determined that the variances will not create adverse effects upon adjoining property owners and will not adversely affect the public health, safety and general welfare.

- Section 3. It has been determined that the unusual shape and size of the lot has created a hardship for the owner to rebuild on the property within the required yard lines for the R6 zone district. This hardship was not created by the owner and is strictly related to the shape and size of the lot platted in 1945.
- Section 4. It has been determined that the residence shall be constructed in accordance with the minimum fire-resistance rating shown in Table R302.1, Exterior Walls, of the 2006 International Residential Code due to the reduced side yards and close proximity to the adjacent lots and residential structure.
- Section 5. Action – The Gallatin Municipal Board of Zoning Appeals hereby approves Resolution 2013-08 for a variance from Section 06.08.040.B of the Gallatin Zoning Ordinance consisting of a side yard variance of five (5) feet to allow for a three (3) foot side yard on both sides of the combined lots 32 and 33, located at 229 Roosevelt Circle, as shown on the plan consisting of one (1) page, dated November 25, 2013; job #130142 prepared by Bruce Rainey & Associates, with the following conditions:
1. The owner shall obtain a building permit prior to construction.
 2. The residence shall be constructed in accordance with the minimum fire-resistance rating shown in Table R302.1, Exterior Walls, of the 2006 International Residential Code.

BE IT FURTHER RESOLVED BY THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS that this resolution shall take effect from and after its final passage, the public welfare requiring such.

IT IS SO ORDERED.

PRESENT AND VOTING

AYE:

NAY:

DATED: 12/12/13

Jimmy Moore, Chair

Jeannie Gregory, Secretary

APPROVED AS TO FORM:

JOE H. THOMPSON
CITY ATTORNEY

Item 2



PLANNING DEPARTMENT STAFF REPORT

Side Yard Variance Request (PC0210-13)

229 Roosevelt Circle

Meeting Date: December 12, 2013

REQUEST:	VARIANCE OF FIVE (5) FEET ON BOTH SIDE YARDS
OWNER:	HARRIETT ROGERS
APPLICANT:	BRUCE RAINEY & ASSOCIATES
STAFF RECOMMENDATION:	APPROVAL WITH CONDITION
STAFF CONTACT:	KATHERINE SCHOCH, AICP
GMBZA MEETING DATE:	DECEMBER 12, 2013

PROPERTY OVERVIEW: The owner and applicant are requesting approval of a five (5) foot side yard variance on both sides for the construction of a One-family Detached Dwelling unit per Section 06.08.040.B of the Gallatin Zoning Ordinance. The property, consisting of 3,728 square feet, is located at 229 Roosevelt Circle, (S.B.E. Tax Map # 1130/M/012.00) and is zoned Residential-6 High Density Residential District (R6). Staff originally thought this project would also require a variance from the Maximum Floor Area Ratio, but the Gallatin Zoning Ordinance exempts One-Family Detached Dwellings from the Floor Area Ratio requirement.

CASE BACKGROUND:

Previous Approvals

There are no Planning Department case files for this particular property; however, a similar side yard variance was requested for a comparable size lot at 225 Roosevelt Circle last year. At the May 24, 2012 meeting, the Planning Staff recommended approval of the variance request, which was approved with one condition and the variances were approved by the Municipal Board of Zoning Appeals at that meeting. A building permit was obtained for that structure and the residence is complete. Granting a variance for a neighbor or similarly situated property is not a basis for granting this variance request per Section 15.05.040 of the Gallatin Zoning Ordinance.

ANALYSIS

The property is zoned Residential-6 High Density Residential District (R6) and Dwelling, One-family Detached is a permitted use in the R6 zone district. No portion of this property is located in a flood hazard area. The lot, consisting of two (2) platted tracts, currently contains a One-Family Detached Dwelling, which does not meet the side yard lines. The existing structure does, however, meet the front and rear yard lines for the R6 zone district. It is important to note that the existing structure encroaches eight (8) feet into the western side yard and ends at the side property line. Please refer to the photographs of the existing residence included as Attached 2-6 and the property surety which is Attachment 2-5. The owner would like to demolish the existing home and construct a new 870 square foot single-family residence on this parcel.

*Harriett Rogers Variance Request
December 12, 2013*

When the contractor researched the building permit application process, it came to his attention that the new structure would not meet the required eight (8) foot side yard lines since the home, as designed, would encroach five (5) feet into each required side yard. If the variance is approved, the house will be constructed with three (3) foot side yards.

This property was platted as part of the Block B of the Ford Addition Subdivision in 1945. Please refer to the recorded subdivision plat for this property, a copy of which has been included with this staff report as Attachment 2-2. The Ford Addition Subdivision was platted with 15-foot wide tracks, which have been combined throughout the years to create individual parcels. This property is comprised of two (2), 15-foot wide by 125 feet long tracts (tracts 32 and 33). The R6 zone district requires 6,000 square foot minimum lots with a minimum lot width of 45 feet. The subject property only contains 3,728 square feet, so it is considered undersized for the R6 zone district. In addition, the R6 zone district requires 20-foot front and rear yards, and eight (8) foot side yards. Side yards may be reduced to five (5) feet on interior side lots, but the total side yards must equal 16 feet according to Section 06.08.040.B the Gallatin Zoning Ordinance. Please refer to the R6 Section of the Gallatin Zoning Ordinance included as Attachment 2-8.

If this lot were being platted today it would require a variance from the Minimum Required Lot Area of 6,000 square feet and the Minimum Lot Width since it is only 30 feet wide. Since this lot was platted prior to the adoption of the 1979 Gallatin Zoning Ordinance, these variances are not required and the property is considered legally non-conforming.

OTHER DEPARTMENTAL REVIEW COMMENTS

The Gallatin Department of Utilities reviewed the proposed plan and found no issues with existing utility lines on this particular property. There are no Public Utility and Drainage Easements (P.U.D.E.) on this parcel. The Gallatin Fire Department made the general statement that all applicable fire codes shall be followed. The Interim Building Official indicated that the residence shall be constructed in accordance with the minimum fire-resistance rating shown in Table R302.1, Exterior Walls, of the 2006 International Residential Code. A copy of Table R302.1 has been included with this staff report as Attachment 2-4. In addition, a building permit shall be obtained by the owner prior to construction.

Other applicable definitions and sections from the Gallatin Zoning Ordinance that apply to this case are listed below.

APPLICABLE G.Z.O. DEFINITIONS

Dwelling, One-Family Detached - A one-family dwelling entirely separated from structures on adjacent lots.

Floor Area Ratio - The total floor area on a zone lot, divided by the lot area of that zone lot. (For example, a building containing twenty thousand (20,000) square feet of floor area on a zone lot of ten thousand (10,000) square feet has a floor area ratio of 2.0). One-Family detached dwellings shall be exempt from the Floor Area Ratio requirement.

Required Yard - That portion of a zone lot that is required by the specific district regulations to be open from the ground to the sky and may contain only explicitly listed obstructions.

Harriett Rogers Variance Request
December 12, 2013

Yard – That part of a zone lot extending open and unobstructed from the lowest level to the sky along the entire length of a lot line, and from a lot line equivalent to a depth or width set forth in the applicable regulations.

Yard, Side - A yard extending along a side lot line from the required front yard to the required rear yard. In the case of a corner lot, any yard which abuts a street line and which is not designated a front yard shall be considered a side yard. In the case of a through lot, side yards shall extend between the required front yards, except when such corner lots are required by these regulations specifically to have more than one front yard. A side yard abutting a street shall be twice the required minimum side yard.

APPLICABLE G.Z.O. SECTIONS

15.05 Zoning Variances

The Board of Zoning Appeals may grant variances where it makes findings of fact based upon the standards prescribed in this section.

15.05.030 Standards for Variances

Section 15.05.030 of the Gallatin Zoning Ordinance states the Municipal Board of Zoning Appeals shall not grant a variance unless it makes findings based upon evidence presented to it in nine (9) specific categories that are listed below. The applicant has responded to these standards in writing and that information is included with this staff report as Attachment 2-2. Staff is in agreement with the applicant's opinion that this variance request meets all nine (9) standards for a variance as required by the Gallatin Zoning Ordinance as described below.

- A. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Ordinance were carried out must be stated.
 - The shape of the subject property is unusually long and narrow, but matches the sizes of other combined lots in the Ford Addition Subdivision. These tracts were platted in 1945 prior to zoning in the City of Gallatin. The two (2) platted tracts that were combined for this lot are considered undersized for the R6 zone district and legally non-conforming. Although the Gallatin Zoning Ordinance states that non-conformity does not constitute grounds for variance approval, Staff considers the size and shape of the property to be hardships with the land. Staff did not find any unusual topographic issues with this lot upon inspection.
- B. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
 - The variance request only applies to 229 Roosevelt Circle; however, many lots in this subdivision are also undersized for the R6 zone district based upon the design of the recorded subdivision plat. Furthermore, it appears that many of the existing structures were probably constructed prior to the 1979 Zoning Ordinance and most likely do not meet the current R6 zone district yard line requirements. The house recently constructed at 225 Roosevelt Circle received a side yard variance for three (3) foot side yards on both sides of the lot. A photograph of that residence has been included with this staff report as Attachment 2-7.
- C. The variance will not authorize activities in a zone district other than those permitted by this Ordinance.

Harriett Rogers Variance Request
December 12, 2013

- The variance request will not authorize activities in the zone district other than those permitted by the Gallatin Zoning Ordinance. The variance requested is for side yards only, not for uses. The existing and proposed use of the property is One-family, Detached Dwelling, which is a permitted use in the R6 zone district.
- D. Financial returns only shall not be considered as a basis for granting a variance.
- No financial records/returns have been supplied or considered as a basis for reviewing this variance request.
- E. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Ordinance.
- If the lot was 6,000 square feet, as required by the Gallatin Zoning Ordinance for R6 zoned property, the proposed structure would most likely meet the side yard requirements. These combined tracts are considerably undersized for the R6 zone district and the limited size has created a hardship for the owner to rebuild on these combined tracts.
- F. That granting the variance requested would not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same districts.
- Property owners wanting to receive a variance within the Gallatin City limits must apply to the Municipal Board of Zoning Appeals and each case is considered by the Board upon its own merits. The variance will allow for reasonable use and accommodation of a new structure on the property.
- G. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- The requested five (5) foot variances from the required eight (8) foot side yard requirement is the minimum variance needed to allow for the placement of the proposed residence. These variances will allow for the structure to be constructed three (3) feet from each side property line. The footprint of the proposed house will be located further away from the western side property line than the existing structure, which currently extends to the property line.
- H. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.
- Staff does not believe that granting the variance for the home will be detrimental to the public health, safety, and welfare, or injurious to other property or improvements in the area. Since the existing house is being replaced, no additional traffic should be generated in the neighborhood and no additional driveway cuts are proposed onto Roosevelt Circle. Allowing a replacement structure on the lot will not add traffic on area streets. A new/replacement structure will likely have greater value than the existing structure and improve the housing quality in the neighborhood.
- I. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.
- Staff does not believe that a variance would affect the items listed above. It appears that many of the existing residences on the street do not meet the required yard lines for the R6 zone district.

Harriett Rogers Variance Request
December 12, 2013

15.05.040 Non-conformity Does Not Constitute Grounds for Granting of a Variance

No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

15.05.060 Conditions and Restrictions by the Board

The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in Section 15.05.030 to reduce or minimize the injurious effect to such variation; upon surrounding property and better carry out the general intent of this Ordinance. The Board may establish expiration dates as a condition or as a part of the variances.

RECOMMENDATION

Given that the combined tracts are considered undersized for the R6 zone district, Staff supports the requested variance consistency with the Gallatin Zoning Ordinance's Standards for Variances according to Section 15.05.030.A-I. Staff recommends that the Gallatin Municipal Board of Zoning Appeals approve Resolution 2013-08 granting a variance from G.Z.O. Section 06.08.040.B, consisting of a five (5) foot side yard variance to allow three (3) foot side yards on both sides of the combined tracts 32 and 33, consistent with the variance request plan consisting of one (1) page, dated November 25, 2013; job 130142 prepared by Bruce Rainey & Associates, with the following conditions:

1. The owner shall obtain a building permit prior to construction.
2. The residence shall be constructed in accordance with the minimum fire-resistance rating shown in Table R302.1, Exterior Walls, of the 2006 International Residential Code.

ATTACHMENTS:

Attachment	2-1	GMBZA Resolution No. 2013-08
Attachment	2-2	Variance Request Checklist
Attachment	2-3	Ford Addition Block B Subdivision Plat
Attachment	2-4	Table R302.1, Exterior Walls, 2006 International Residential Code
Attachment	2-5	Variance Request Site Plan
Attachment	2-6	Photograph of existing residence at 229 Roosevelt Circle (subject property)
Attachment	2-7	Photograph of existing residence at 225 Roosevelt Circle (adjacent property)
Attachment	2-8	Gallatin Zoning Ordinance, Section 06.08 <u>R6-High Density Residential District</u>



WILLIAM McCORD, AICP
CITY PLANNER
WILLIAM.MCCORD@GALLATIN-TN.GOV

KATHERINE SCHOCH, AICP
ASSISTANT CITY PLANNER
KATHERINE.SCHOCH@GALLATIN-TN.GOV

Project Comments

Meeting Date: 12/12/2013
RE: ROGERS, HARRIET - VARIANCE, MBZA
Reference #: PC0210-13

Department of Public Utilities

Review Date: 11/15/2013
NO PROBLEMS

Planning Department

PLANNING DEPARTMENT PROJECT MANAGER: KATHERINE SCHOCH
REVIEW DATE: 11/22/13

1. ADD FOLLOWING PERFORMANCE STANDARDS NOTE: " ALL CONSTRUCTION AND USE OF THE PROPOSED FACILITY TO MEET THE APPLICABLE PERFORMANCE STANDARDS AS SET FORTH IN THE CITY OF GALLATIN ZONING ORDINANCE, SEC. 13.02".
2. STAFF WILL RECOMMEND APPROVAL OF VARIANCE SINCE REQUEST APPEARS TO MEET ALL 9 STANDARDS FOR A VARIANCE IN ADDITION, LOT DOES NOT MEET MINIMUM REQUIRED LOT AREA OR MINIMUM LOT WIDTH FOR R6 ZONE DISTRICT.
3. ADD NOTE ABOUT 5' FOOT SIDE YARD VARIANCE REQUESTED ON BOTH SIDES AND A VAIANCE FROM THE FLOOR AREA RATION REQUIREMENT. MAXIMUM FAR IN R6 IS 1.0; FAR OF 4.28 SHOWN.
4. PLEASE LIST SIDE YARDS AS SHOWN IN G.Z.O. SEC. 06.08.040.B SHALL BE A MINIMUM OF 16 FEET.
5. PLEASE SUBMIT DIGITAL FILE OF PLAN FOR PRESENTATION AT 12/12/2013 MBZA MEETING.
6. SUBMIT TEN (10) CORRECTED, FOLDED COPIES OF THE RESUBMITTAL DOCUMENTS AND 10 ARCHITECTURAL ELEVATIONS IF NEEDED.
7. SUBMIT DIGITAL COPIES OF PLANS AND SUPPORTING INFORMATION/CORRESPONDENCE PERTAINING TO THIS PROJECT IN THE FOLLOWING FORMATS: DGN OR DWG FILE (MICROSTATION VERSION "J" SOFTWARE) OF SUBDIVISION PLATS, SITE PLANS, PMDP, AND FMDP. SUBMIT PDF FILES OF ALL PAGES OF SUBDIVISION PLATS, SITE PLANS, PMDP, AND FMDP AND SUBMIT PDF FILES OF ALL SUPPORTING DOCUMENTS AND CORRESPONDENCE. LABEL FILE FORMATS ON CD.
8. SUBMIT A DETAILED RESPONSE LETTER ADDRESSING ALL DEPARTMENTAL REVIEW COMMENTS.
9. **RETURN CHECKPRINT & CHECKLIST.**
10. RESUBMITTAL DOCUMENTS MUST BE TURNED IN TO THE CODES/PLANNING DEPARTMENT **BY 4:30 PM ON 11/27/2013.**
11. RESUBMITTALS MUST INCLUDE THE ABOVE INFORMATION IN ORDER TO BE CONSIDERED A COMPLETE RESUBMITTAL.

CITY OF GALLATIN



PLANNING DEPARTMENT

WILLIAM MCCORD, AICP
CITY PLANNER
WILLIAM.MCCORD@GALLATIN-TN.GOV

KATHERINE SCHOCH, AICP
ASSISTANT CITY PLANNER
KATHERINE.SCHOCH@GALLATIN-TN.GOV

Codes Department

Review Date: 11/22/2013

1. SIDE WALLS - REDUCED SETBACK MEET REQUIREMENT INTERNATIONAL RESIDENTIAL CODE
302.1. EXTERIOR WALLS, WALLS/OPENINGS/PROJECTIONS/PENETRATIONS.

Engineering Division

Review Date: 11/19/2013

NO COMMENTS

Fire Department

Review Date: 11/20/2013

THIS OFFICE HAS NO COMMENTS AT THIS TIME.

ALL APPLICABLE FIRE CODES SHALL BE FOLLOWED.

Police Department

Review Date: 11/19/2013

REVEIWED: NO COMMENTS

Gallatin Department of Electricity

Review Date: 11/18/2013

O.K.

Sumner County, E-911

Review Date:

N/A

Industrial Pre-treatment Department

Review Date: 11/19/2013

NO COMMENTS

VARIANCE CHECKLIST	
Project Name: <u>Harnett Rogers</u>	Map #: <u>1130</u> Group <u>M</u> Parcel #: <u>12.00</u>
Contact Person: <u>Bruce Rainey</u>	PC File Number: <u>PC0210-13</u>

The Variance checklist is designed to assist applicants with identifying the information that must be included on all Boards of Zoning Appeals (BZA) applications. Initial submittals must include a completed BZA Application Form, a completed Variance checklist, and nine (9) folded copies of the Variance documents by 4:30 PM on the submittal deadline.

The Municipal and Regional Boards of Zoning Appeals may grant variances where it makes findings of fact based upon the standards outlined below. Please provide a **written description** that explains how the variance being requested addresses the following nine standards for variances:

- The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Ordinance were carried out must be stated;** All lots in this subdivision are extremely narrow .15' each and were sold requiring 2 or 3 lots to create building site

- The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;**
The R4 District requires a larger lot than created in this subdivision

- The variance will not authorize activities in a zone district other than those permitted by this Ordinance;** this variance request is to replace a single family dwelling

- Financial returns only shall not be considered as a basis for granting a variance;**
Agree

- The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Ordinance;**
The subdivision and this parcel were created in the 1950s

R
E
C
E
I
V
E
D
 NOV 13 2013

GALLATIN PLANNING & ZONING

VARIANCE CHECKLIST	
Project Name: <i>Rogers Variance</i>	Map #: <i>1130</i> Group: <i>M</i> Parcel #: <i>1200</i>
Contact Person:	PC File Number: <i>PC0210-13</i>

- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same districts; *this type variance may be necessary on other lots in this development*
- The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; *the home size has been altered to fit minimum width of house*
- The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located; and *there are several existing homes in this subdivision that do not meet minimum side setbacks*
- The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

this variance is in keeping with existing homes in this development.

RECEIVED
NOV 13 2013

GALLATIN PLANNING
& ZONING

EXHIBIT A

ATTACHMENT 2-3

K.



SITE

FORD ADDITION
to
GALLATIN, TENNESSEE
Scale 1 inch = 50 feet

PC0210-13
229 Roosevelt Circle

PLAT OF
Ford Addition
SUBDIVISION
CIVIL DISTRICT OF SUMNER COUNTY, TENNESSEE
OWNER
DEVELOPER
E. H. GORROTT SURVEYOR

EXHIBIT A

APPROVED BY:
SUMNER COUNTY PLANNING COMMISSION
SUMNER COUNTY, TENNESSEE
FILED FOR RECORD THE *18* DAY
OF *SEP* 10 *85* 10:00 AM

SECTION R302 EXTERIOR WALL LOCATION

R302.1 Exterior walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1. These provisions shall not apply to walls, projections, openings or penetrations in walls that are perpendicular to the line used to determine the fire separation distance. Projections beyond the exterior wall shall not extend more than 12 inches (305 mm) into the areas where openings are prohibited.

Exceptions:

1. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide wall protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.
2. Detached garages accessory to a dwelling located within 2 feet (610 mm) of a lot line are permitted to have roof eave projections not exceeding 4 inches (102 mm).
3. Foundation vents installed in compliance with this code are permitted.

SECTION R303 LIGHT, VENTILATION AND HEATING

R303.1 Habitable rooms. All habitable rooms shall have an aggregate glazing area of not less than 8 percent of the floor area of such rooms. Natural ventilation shall be through windows, doors, louvers or other approved openings to the outdoor air. Such openings shall be provided with ready access or shall otherwise be readily controllable by the building occupants. The minimum openable area to the outdoors shall be 4 percent of the floor area being ventilated.

Exceptions:

1. The glazed areas need not be openable where the opening is not required by Section R310 and an approved mechanical ventilation system capable of producing 0.35 air change per hour in the room is

installed or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) (78 L/s) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom.

2. The glazed areas need not be installed in rooms where Exception 1 above is satisfied and artificial light is provided capable of producing an average illumination of 6 footcandles (65 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.
3. Use of sunroom additions and patio covers, as defined in Section R202, shall be permitted for natural ventilation if in excess of 40 percent of the exterior sunroom walls are open, or are enclosed only by insect screening.

R303.2 Adjoining rooms. For the purpose of determining light and ventilation requirements, any room shall be considered as a portion of an adjoining room when at least one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room but not less than 25 square feet (2.3 m²).

Exception: Openings required for light and/or ventilation shall be permitted to open into a thermally isolated sunroom addition or patio cover, provided that there is an openable area between the adjoining room and the sunroom addition or patio cover of not less than one-tenth of the floor area of the interior room but not less than 20 square feet (2 m²). The minimum openable area to the outdoors shall be based upon the total floor area being ventilated.

R303.3 Bathrooms. Bathrooms, water closet compartments and other similar rooms shall be provided with aggregate glazing area in windows of not less than 3 square feet (0.3 m²), one-half of which must be openable.

Exception: The glazed areas shall not be required where artificial light and a mechanical ventilation system are provided. The minimum ventilation rates shall be 50 cubic feet per minute (24 L/s) for intermittent ventilation or 20 cubic feet per minute (10 L/s) for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside.

TABLE R302.1
EXTERIOR WALLS

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	(Fire-resistance rated)	1 hour with exposure from both sides	0 feet
	(Not fire-resistance rated)	0 hours	5 feet
Projections	(Fire-resistance rated)	1 hour on the underside	4 feet
	(Not fire-resistance rated)	0 hours	5 feet
Openings	Not allowed	N/A	< 3 feet
	25% Maximum of Wall Area	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R317.3	< 5 feet
		None required	5 feet

N/A = Not Applicable.

ATTACHMENT 2-6



Attachment 2-6
229 Roosevelt Circle (subject property)
PC0210-13

EXHIBIT A

ATTACHMENT 2-7



Attachment 2-7
225 Roosevelt Circle (adjacent property)
PC0210-13

EXHIBIT A

06.08 R6 - High Density Residential District

06.08.010 Purpose of the R6 - High Density Residential District

The R-6 District is intended to provide locations for higher density, multiple family housing in the approximate range of 7 to 15 dwelling units per gross acre of site area. It is not the intent of this Ordinance, however, to restrict in number the dwelling units thereon. Generally, this district will be characterized by residential structures each containing a multiple number of dwelling units. The R-6 District applies to areas in which a mix of single-family and multiple-family housing is appropriate to create a unified urban neighborhood; transitional areas between lower and higher intensity uses; developing area of multiple-family housing where sufficient urban facilities are available or where such facilities will be available prior to development. This district is intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of this district, or which are benefited by and compatible with a residential environment.

06.08.020 Permitted Uses

A. Principal Permitted Uses and Structures - Within the R6 High Density Residential Districts as shown on the Gallatin Municipal Zoning Map, the following activities as described in Section 03.05 are permitted:

Residential Activities

- Dwelling Multi-Family
- Dwelling One-Family Detached
- Dwelling Two-Family Detached - Duplex
- Dwelling Attached

Community Facility Activities

- Essential Services

B. Permitted Accessory Uses and Structures

1. Private Garages and parking areas;
2. Private swimming pools, tennis courts, and other outdoor recreation facilities exclusively for the use of the residents;
3. Signs complying with applicable regulations set forth in Section 13.07;
4. Home occupations as defined and subject to the provisions of this Ordinance;
5. Accessory uses or structures customarily incidental to the above permitted uses.

ATTACHMENT 2-8

06.08.060 Use of Zero Lot Line in One-Family Detached Dwellings in R-6 District

Within a common development, one (1) interior side yard may be equal to zero for one-family detached residential use, subject to the following additional regulations:

- A. The side yard opposite to the zero yard must equal at least 10 feet.
- B. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development, or not otherwise designated for zero lot line use.
- C. An easement providing for maintenance of the zero lot line facade is filed with the County Register of Deeds and the Codes/Planning Department at the time of application for a building permit.

06.08.061 One-Family Attached Dwellings in the R-6 District

One-family attached dwelling units are permitted in this district, subject to the following additional regulations:

- A. Minimum lot area is six thousand (6,000) square feet for an entire structure and four thousand (4,000) square feet for any one (1) dwelling unit sold individually.
- B. Minimum lot width shall be sixty (60) feet for an entire structure and thirty (30) feet for any one (1) dwelling unit sold individually.
- C. The side yard opposite to the common wall must be equal to at least eight (8) feet.

06.08.062 Townhouse Residential in the R-6 District

Townhouse residential is permitted in this district, subject to the following additional regulations:

- A. A maximum of eight (8) townhouse units may be attached in any one (1) townhouse structure.
- B. The site area per unit for any common townhouse development must equal at least two thousand two hundred (2,200) square feet.
- C. The minimum size for any townhouse lot sold individually shall be fifteen hundred (1,500) square feet.
- D. The minimum width for any townhouse lot sold individually shall be twenty (20) feet.
- E. The maximum floor area ratio shall be computed for the entire common development and for each individual lot within the development. The entire common development and/or a single lot within the common development cannot exceed the maximum floor area ratio of 1.00 (1.00 square feet of building area per one (1) square foot of site/lot area).

C. Conditional Uses

The following activities may be permitted only as conditional uses in accordance with Section 15.06:

Residential Activities

- Mobile Home Park
- Bed and Breakfast Home

Community Facility Activities

- Place of Worship
- Community Education
- Utility and Vehicular
- Intermediate Impact
- Community Assembly
- Limited Child and Adult Care

D. Prohibited Uses

Any use not permitted by right, by accessory use, or conditional use is prohibited in the R6 High Density Residential Districts.

06.08.030 Bulk Regulations

The bulk regulations appearing below apply to buildings or other structures located on any zone lot or portion of a zone lot, including all new developments, enlargements, extensions or conversions located in any R6 District.

- A. Minimum Required Lot Area - Within the R6 Districts, the minimum required lot area shall be 6,000 square feet.
- B. Minimum Development Area Per Dwelling Unit - Within R6 Districts, no dwelling unit shall be permitted on a zone lot with a total development area of less than 2,200 square feet per dwelling unit.
- C. Maximum Floor Area Ratio - Within R6 Districts, the maximum floor area ratio shall be 1.0
- D. Maximum Overall Density (Site) - In all R6 Districts, the maximum overall site density shall be 15.0 units per gross acre.
- E. Minimum Lot Width - In all R6 Districts, the minimum lot width at the building line shall be forty-five (45) feet.

06.08.040 Yard Requirements

- A. General Provisions - General provisions applicable to all residential districts concerning visibility at intersections, permitted obstructions in required yards, obstruction prohibited at street intersections, adjustments for lot area remainder, exceptions to these provisions and other regulations are contained in Articles 12.00 and 13.00 of this Ordinance.
- B. Basic Provisions - The basic yard regulations appearing below apply to all zone lots located within R6 Districts.

<u>Required Yard</u>	<u>Single Family Detached</u>	<u>Single Family Attached</u>	<u>All Other Uses</u>
1. Front Yard	20	20	25
2. Interior Side Yard	5*	10 feet on yard opposite common wall	10
3. Street Side Yard	8*	10	10
4. Rear Yard	20	20	25

* The total sum of all required side yards shall be a minimum of sixteen (16) feet.

06.08.050 Additional Site Development Regulations

- A. Preliminary Master Development Plan Approval Required: The establishment of the R6 zoning district shall be based upon the submission and approval of a preliminary master development plan according to the provisions of Sections 12.02 and 15.07 of this Ordinance. The preliminary master development plan shall form the basis of the proposed R6 District, and, if approved, the plan and all of its components shall run with the land. All other conditions, regulations, and stipulations of the preliminary master development plan requirements shall be applied to any proposed development in the R6 District. A preliminary master development plan is not required for property zoned R6 prior to July 14, 1998.
- B. Final Master Development Plan Approval Required: The Mayor and Aldermen's approval of a preliminary master development plan of a R6 District shall authorize and form the basis for the Planning Commission's final approval of said development. The final approval of the Planning Commission of the development shall be subject to the provisions of Section 12.02 of this Ordinance:
- C. Additional Site Design Standards: All developments occurring within a R6 District shall be designed and developed to comply with the standards of Articles 11.00, 12.00, and 13.00 of this Ordinance.
- D. One-Family Detached Dwelling Unit Exclusion: One-family detached dwelling units shall be exempt from the preliminary master development plan requirements when there are twenty (20) or fewer single-family units.