



Agenda
Gallatin Municipal Board of Zoning Appeals

Thursday, January 28, 2015
DR. J. DEOTHA MALONE COUNCIL CHAMBERS

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

-
- **Call to Order**
 - **Invocation**
 - **Pledge of Allegiance**
 - **Roll Call**
 - **Approve Prior Minutes: September 24, 2015 Gallatin Municipal Board of Zoning Appeals**

REGULAR AGENDA

1. **GMBZA Resolution No. 2016-01**
ELECTION OF OFFICERS
2. **GMBZA Resolution No. 2016-02** **B-1425-15**
HENLEY, JOHN D; VARIANCE

PUBLIC HEARING

THE OWNER AND APPLICANT ARE REQUESTING A VARIANCE OF BETWEEN .58 (+/-) FEET AND 1.66 FEET (+/-) FROM THE REQUIRED 10 FOOT SIDEYARD REQUIREMENTS, PER SECTION 08.03.030 OF THE GALLATIN ZONING ORDINANCE, PROPERTY IS ZONED COMMERCIAL GENERAL (CG), LOCATED AT 134 EAST SCHELL STREET (S.B.E. TAX MAP 126F/B/004.00).

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

MINUTES OF THE GALLATIN
MUNICIPAL BOARD OF ZONING APPEALS
MEETING

September 24, 2015

Present

Jimmy Moore, Chair
Eddie Wyatt
John Puryear
Homer Vaughn

Staff

Bill McCord, Director of Planning
Kevin Chastine, Planner II
Marianne Mudrak, Board Secretary

Absent

Jeannie Gregory

Others Present

Applicants

The Gallatin Municipal Board of Zoning Appeals met in a regular meeting on Thursday, September 24, 2015 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.

Chair Moore led the opening prayer and Mr. Wyatt led the pledge of allegiance. Ms. Mudrak called roll.

Approve Prior Minutes

Chair Moore presented the minutes of the August 27, 2015 Municipal Board of Zoning Appeals meeting for approval. Mr. Puryear made one correction. Mr. Wyatt motioned to approve the minutes as corrected. Mr. Vaughn seconded the motion and the motion passed by unanimous vote.

1. GMBZA Resolution No. 2015-12 – (B-1077-15) – Public Hearing – The owner and applicant request approval of a Conditional Use Permit for a Dwelling Two-family-Duplex use, per article 06.06.020.C. of the Gallatin Zoning Ordinance, on a 0.170 (+/-) acre parcel/lot, zoned Residential-10 (R10), located at 129 Morrison Street.

Mr. Kevin Chastine, Planner II, said the surrounding property owners were notified of the public hearing tonight. The home was built in 1947 and the lot has never been platted and is undersized for the zone district. The property owners want to make several improvements to the structure converting the home to a duplex. Staff recommends denial of the Conditional Use Permit because it does not meet the zoning requirements.

Mr. Mike Price, representing the applicant, said the previous owners used an existing loft as a mother-in-law suite but it was never permitted. The owner plans to convert the house to a duplex and remove the interior stairway and reinforce the exterior stairway to create the only entrance to the upstairs apartment.

Christopher Walker, owner of the adjacent commercial property, is concerned that parking will be an issue and that tenants may complain that his wrecker service trucks enter and exit the lot all hours of the night. He questions the structure of the home and he is opposed to approval of the Conditional Use Permit.

Ms. Priscilla Herrick, 133 Morrison Street, said she is concerned with the structure of the house and potential for flooding. She is opposed to approval of the Conditional Use Permit.

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

Chair Moore asked why this home was used as a duplex without building permits. Mr. Bill McCord, Director of Planning, said he does not believe that the duplex was permitted.

Mr. Chastine said the new owners acknowledge that the work done by the previous owner was not permitted; however, they intend to make permitted changes to improve the home.

Mr. Vaughn asked if there are separate utilities. Mr. Chastine said the utilities are not separate for the two apartments.

Mr. Price said the parking issue is solved by a proposed parking area in the back of the home for the tenant upstairs. The tenant parking on the bottom level would be in the front of the home. The remains of a cinder block shed structure towards the back of the house will be removed. The front driveway is double wide and provides parking for the bottom tenant. The upstairs tenant would drive around the back of the building to park.

Chair Moore said the lot square footage is not near the requirement for a duplex.

Mr. Price said, in response to Ms. Herrick concern about flooding, nothing would be added externally to the house.

Mr. Vaughn asked about the fence. Mr. Price said a privacy fence would be added to the property. He showed on the image display where the upstairs tenant would park and enter the home.

Mr. McCord told the board that if the Conditional Use Permit is granted, the applicant would still have to apply for a variance.

Mr. Wyatt motioned to deny the Conditional Use Permit due to the size of the lot. Mr. Puryear seconded the motion and the motion passed by unanimous vote.

2. Other Business

There was no other business to discuss.

3. Adjourn

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

Respectfully submitted:

Marianne Mudrak, Board Secretary

Approve:

Jimmy Moore, Chair

Jeannie Gregory, Secretary



Agenda
Gallatin Regional Board of Zoning Appeals

Thursday, September 24, 2015
DR. J. DEOTHA MALONE COUNCIL CHAMBERS

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

- **Call to Order**
- **Invocation**
- **Pledge of Allegiance**
- **Roll Call**
- **Approve Prior Minutes: November 20, 2014**

REGULAR AGENDA

1. **GMBZA Resolution No. 2015-01** **B-1087-15R**
Lakeland Property, Variance
Robert Driver

PUBLIC HEARING

OWNER AND APPLICANT REQUEST APPROVAL OF A VARIANCE FROM THE REQUIRED SIDE YARD PER SECTION 06.02.060.B. BASIC YARD REGULATIONS OF THE GALLATIN ZONING ORDINANCE FOR PROPERTY LOCATED AT 1068 LAKE LAND DRIVE (S.B.E. TAX MAP 136P/A/006.00). THE PROPERTY IS CURRENTLY ZONED AGRICUTURAL-RESIDENTIAL (A) AND THE LOT CONTAINS 0.459 (+/-) ACRES.

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

EXHIBIT A

RESOLUTION FOR THE ELECTION OF 2016 GALLATIN MUNICIPAL BOARD OF ZONING APPEALS OFFICERS - CHAIR, VICE-CHAIR, AND SECRETARY-

WHEREAS, THE CITY OF GALLATIN MUNICIPAL- BOARD OF ZONING APPEALS pursuant to T.C.A. 13-7-205, and Article 15, Section 15.04.025, Gallatin Zoning Ordinance is authorized to elected officers each year for the Board of Appeals; and

WHEREAS, THE CITY OF GALLATIN MUNICIPAL BOARD OF ZONING APPEALS considered the Election of Officers for the City of Gallatin at its regular meeting on January 28, 2016; and

WHEREAS, THE CITY OF GALLATIN MUNICIPAL BOARD OF ZONING APPEALS has voted on the election of Chair, Vice-Chair, and Secretary of the Gallatin Municipal Board of Zoning Appeals for 2016;

NOW THEREFORE BE IT RESOLVED BY THE GALLATIN MUNICIPAL-BOARD OF ZONING APPEALS as follows.

Section 1. Action – The Gallatin Municipal Board of Zoning Appeals hereby approves the Election of Officers as follows:

- 1. Chair: _____
- 2. Vice-Chair: _____
- 3. Secretary: _____

BE IT FURTHER RESOLVED BY THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD 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: 1/28/16

_____, Chairman

_____, Secretary

APPROVED AS TO FORM:

SUSAN HIGH-MCAULEY
CITY ATTORNEY

RESOLUTION OF THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS APPROVING A VARIANCE FROM SECTION 08.03.030 OF THE ZONING ORDINANCE OF GALLATIN, TENNESSEE FOR PARCEL 126F/E/004.00, AT 9134 EAST SCHELL STREET – (B-1425-15)

WHEREAS, THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS considered the request for a .58 (+/-) foot and a 1.66 (+/-) foot variance from the required 10 foot side yard for a distance of 40.6 feet, to permit an existing structure, at its regular meeting on January 28, 2016; and

WHEREAS, THE CITY OF GALLATIN, TENNESSEE MUNICIPAL BOARD OF ZONING APPEALS 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, 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 identify the hardships 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 T.C.A. Section 13-7-206; Section 13-7-207(3); and Section 15.05.030 of the Gallatin Zoning Ordinance:

Section 1. The request for a variance of between .58 (+/-) feet and 1.66 (+/-) feet, for a distance of 40.6 feet, from the required 10 foot side yard per Section 08.03.030, to permit the utilization of an existing structure on the property at 134 East Schell Street, meets all nine (9) of the 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 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. Action – The Gallatin Municipal Board of Zoning Appeals hereby approves a variance of between .58 (+/-) feet and 1.66 (+/-) feet, for a distance of 40.6 feet, from the required 10 foot side yard per Section 08.03.030, to permit the utilization an existing structure on the property with the following conditions:

1. The variance shall be substantially consistent with the one (1) sheet plan prepared by Rogers Engineering of Gallatin, TN, dated January 30, 2013.
2. The applicant and owner shall submit a site plan for review and consideration prior to the establishment and operation of any business and/or completion of any site improvements at 134 East Schell Street.

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: 01/28/2016

Jimmy Moore, Chair

Jeannie Gregory, Secretary

APPROVED AS TO FORM:

SUSAN HIGH-MCAULEY
CITY ATTORNEY

ITEM 2

PLANNING DEPARTMENT STAFF REPORT
John Henley - Variance Request – B-1425-15
134 East Schell Street
Date: January 19, 2016



REQUEST: THE OWNER AND APPLICANT IS REQUESTING A VARIANCE OF BETWEEN .58 (+/-) FEET AND 1.66 FEET (+/-) FROM THE REQUIRED 10 FOOT SIDEYARD REQUIREMENTS, PER SECTION 08.03.030 OF THE GALLATIN ZONING ORDINANCE, PROPERTY IS ZONED COMMERCIAL GENERAL (CG), LOCATED AT 134 EAST SCHELL STREET (S.B.E. TAX MAP 126F/B/004.00). (PC FILE# B-1425-15)

OWNER: JOHN HENLEY
APPLICANT: JOHN HENLEY
STAFF RECOMMENDATION: GMBZA RESOLUTION NO. 2016-02
STAFF CONTACT: KEVIN CHASTINE, AICP
MBZA MEETING DATE: JANUARY 28, 2016

PROPERTY OVERVIEW:

The owner and applicant is requesting a variance of between .58 (+/-) feet and 1.66 feet (+/-) from the required 10 foot side yard requirements, per section 08.03.030 of the Gallatin Zoning Ordinance, for property located at 134 East Schell Street (S.B.E. Tax Map 126F/B/004.00). The property is zoned Commercial General (CG). The lot contains an existing residence, which is to be razed and a commercial garage structure, that is vacant. The owner proposes to establish a Transport and Warehousing use, which is a permitted use in the CG zone district. (Attachment 2-1)

Requested Variance

The owner and applicant requests a side yard variance per Section 08.03.030 of the Gallatin Zoning Ordinance to allow an existing building to encroach from between 0.58 feet and 1.66 feet into the required 10-foot side yard for a distance of 40.6 feet. This variance would reduce the required 10 foot side yard to 9.42 feet at the southeast corner of the building and 8.34 feet at the northeast corner of the building.

The property at 134 East Schell Street is rectangular in shape and currently contains a single family detached house constructed circa 1940 and a red metal commercial garage building. A previous owner constructed the commercial garage without submitting a site plan to the Planning Department or building plans to the Codes Department. During construction the previous owner presumed an existing fence was located on the property line. A 2008 boundary survey of the adjacent parcel (Tax Map 126F/E/5.00) indicates the fence is not along the property boundary. (Attachment 2-6) Therefore, the previous owner constructed the structure within the required 10 foot side yard setback along the eastern property boundary. A 2013 property boundary survey for 134 East Schell Street

John Henley - Variance - 134 E. Schell St. (B-1425-15)

indicate the eastern property boundary is not clearly defined and there is an area of overlap between the 2008 boundary survey of the adjacent property and the 2013 survey of 134 East Schell Street. The area of overlap between the two (2) surveys is 415 square feet (.01 acre).

The garage has sat vacant since it was constructed in 2013, due to the death of the previous owner. A new owner purchased the property in November of 2015 and is bringing forward this variance request in an effort to utilize the existing commercial garage for his trucking/hauling company.

The existing garage will not be usable unless a variance is approved, a portion of the building is removed, or the new owner can purchase the adjacent property. The new owner attempted to purchase the adjacent property, but the agreement was terminated by the owner of the adjacent property. If this variance request is approved, the existing residence on the property will be razed and the new owner will submit a site plan for review by the Planning Commission.

CASE BACKGROUND:

Property History and Previous Approvals

On, February 28, 2013, the Gallatin Municipal Board of Zoning Appeals deferred a variance request for this property. (PC0090-13) This variance request began through a zoning violation. Staff investigated the complainant and it was discovered that a 40 foot by 60 foot garage building was under construction. The owner received a building permit for a detached garage, but staff understood the detached garage would be for the existing single family home on the site and not a commercial garage structure. After receiving the violation letter, the owner spoke with staff who determined that the purpose of the garage was to operate Gallatin Wrecker Service from the location. The owner was informed he was required to submit a site plan showing the commercial garage and all other site improvements required to establish the commercial use on this site.

A review of the site plan indicated the garage was encroaching .58 feet to 1.66 feet within the required 10 foot side yard along the eastern property boundary. Since there were no inspections on the building, the encroachment was not caught during construction. Staff suggested the owner submit the variance application with the understanding that staff would not recommend approval of the variance because the owner had created the hardship himself. A detailed timeline of the violation and original variance request is provided in Attachment 2-4.

ENGINEERING DEPARTMENT COMMENTS

The Engineering Division reviewed the variance request and no comments were provided.

OTHER DEPARTMENTAL REVIEW COMMENTS

Other City Departments reviewed the variance request and no comments were provided.

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

APPLICABLE G.Z.O. DEFINITIONS

02.02 Definitions

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.

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

08.03 Intent and Purpose of CG – Commercial General District

This class of district is designed primarily to provide sufficient space in appropriate locations for establishments and uses engaged in wholesale trade, the warehousing of a wide variety of products having the highest performance standards and the least objectionable characteristics, and services ancillary thereto. Other commercial uses are also permitted. As these activities tend to generate relatively large volumes of traffic and have other characteristics detrimental to residential districts, their locations should be removed from the proximity of residential districts insofar as possible.

08.03.030 Area Regulations

Minimum Lot Area - 10,000 square feet
Minimum Front Yard - 10 feet
Minimum Side Yard - 10 feet
Minimum Rear Yard - 20 feet

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 Board of Zoning Appeals shall not grant a variance unless it makes findings based upon evidence presented to it as described in nine (9) specific criteria that are listed below. The applicant responded to these standards in writing (Attachment 2-3). The Board shall determine if this variance request meets all nine (9) of the following 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 and topographic features of the parcel do not create a hardship, but the need for a variance was created by a previous owner who constructed the garage.

- B. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
- This variance request is subject to this property only. No other properties would be entitled to a variance if the Board agreed to grant this variance. The existing garage could be utilized if the variance was approved.
- C. The variance will not authorize activities in a zone district other than those permitted by this Ordinance.
- This variance is related to the placement of an existing building. This variance will not authorize uses or activities that are not currently permitted in the CG district.
- D. Financial returns only shall not be considered as a basis for granting a variance.
- If granted, the variance would permit the new owner to utilize the structure, which will only be possible through the granting of this variance without removing a portion of the existing building, or purchasing the adjacent property. Financial returns will not increase as a result of granting this 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.
- The requested variance is not a hardship created by the current property owner. The hardship was created by a previous owner who constructed the existing garage without submitting a site plan to the Planning Department or building plans to the Codes Department.
- 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.
- If granted, this variance would not confer on the owner any special privilege that is currently denied by the Gallatin Zoning Ordinance to any other property of building within the CG zone district. The variance will allow the new owner to reasonably utilize the existing garage for his company, without having to dismantle the structure.
- G. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- The requested variance is the minimum variance necessary for the existing building to be usable. The building encroachment varies from between 0.58 (+/-) feet and 1.66 (+/-) feet for a distance of 40.6 feet along the east property boundary. The requested variance is the exact area of the building encroachment within the required 10 foot side yard.
- 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.
- The variance, if granted, will not be injurious to the area and is the minimal variance needed to make practical use of the structure. The properties to the east and west are zoned Commercial General (CG) and Commercial Services (CS), respectively, while the property faces a railroad track to the south. To the north is a mid-1900s residential subdivision.
- 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.

- The garage is an existing building, constructed in 2013, and has not created any of the above listed issues.

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.

15.05.050 Prohibition of Use Variances

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

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.

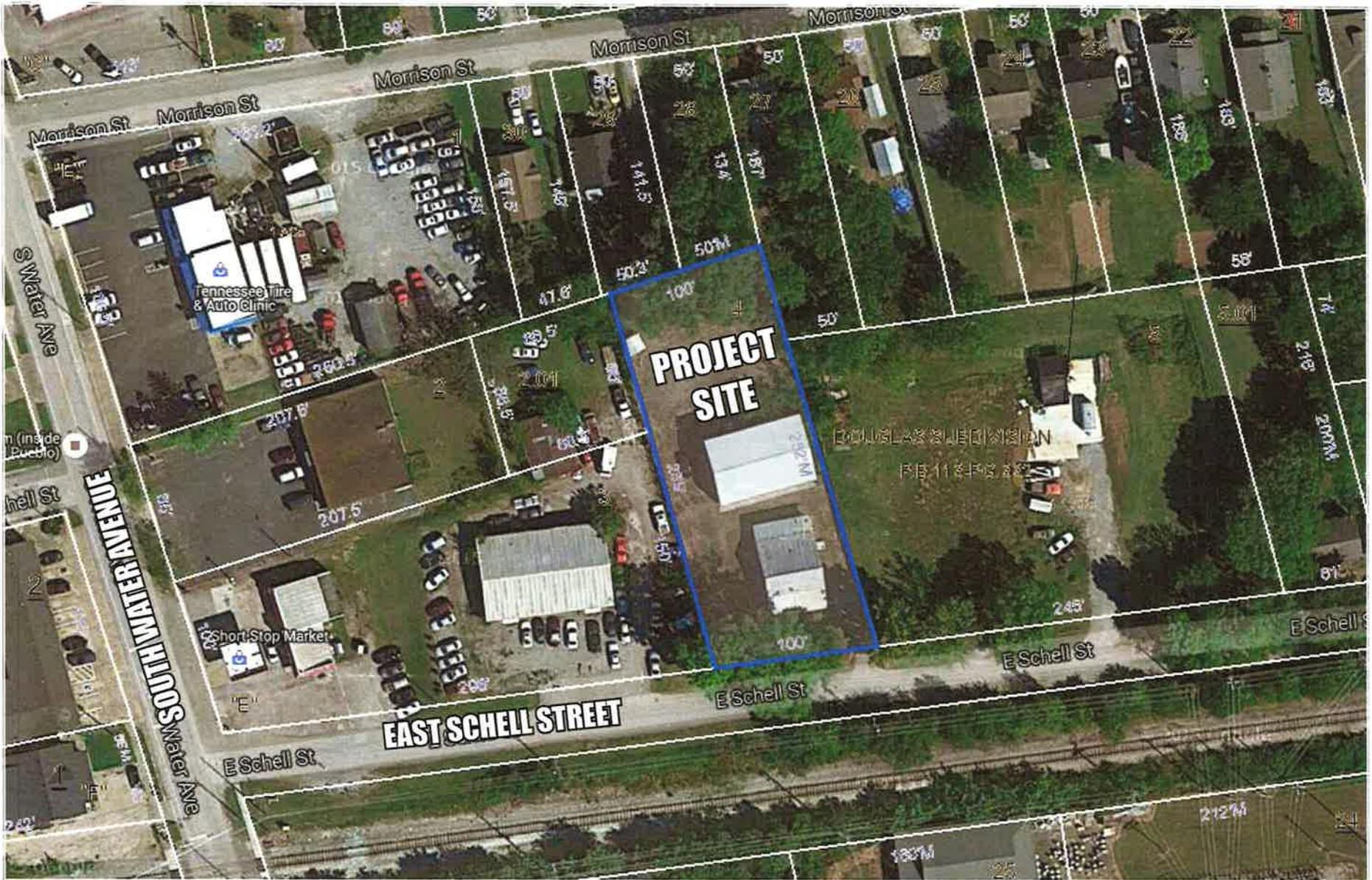
RECOMMENDATION

Staff recommends that the Gallatin Municipal Board of Zoning Appeals approve GMBZA Resolution No. 2016-02 granting a variance of between .58 (+/-) feet and 1.66 (+/-) feet for a distance of 40.6 feet, from the side yard required by G.Z.O. Section 08.03.03, as shown on a one (1) sheet plan, prepared by Rogers Engineering of Gallatin, TN, dated January 30, 2013, with the following conditions of approval:

1. The variance shall be substantially consistent with the one (1) sheet plan prepared by Rogers Engineering of Gallatin, TN, dated January 30, 2013.
2. The applicant and owner shall submit a site plan for review and consideration by the Gallatin Planning Commission prior to the establishment and operation of any business operation or any completion of any site improvements at 134 East Schell Street.

ATTACHMENTS

Attachment	2-1	Location Map
Attachment	2-2	Exhibit to Variance
Attachment	2-3	Applicants response to the Standards for Variance
Attachment	2-4	134 E. Schell St. - Violation and Variance History
Attachment	2-5	Boundary Survey of Hubert Troutt Property (2/26/13)
Attachment	2-6	Boundary Survey of Michael Fitts Property (3/04/08)



Prepared By: Kevin Chastine, AICP
Prepared On: January 21, 2016

Location Map
John Henley - 134 E. Schell Street
Variance
PC File# B-1425-15



CK
LIST

1. The particular physical surroundings, shape, topographic conditions of the specific property does not create a hardship but the existing building was constructed by previous owner.
2. IF approved this variance would only apply to this lot
3. IF approved this variance would not authorize activities other than those permitted
4. this variance request is made to make property useable
5. the hardship was created by previous owner who constructed the building
6. IF approved this variance will not give applicant any special privileges
7. The requested variance is the minimum to make the building useable
8. IF approved this variance will not be detrimental to the public or other property
9. IF approved this variance will not impair light or air to adjacent property, substantially increase congestion in streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area

2-3

ATTACHMENT



B-1425-15

VIOLATION HISTORY

On December 11, 2012 I received a complaint from the tenant of the property located at 134 E. Schell St. His concerns were that the owner and his partner have built a very large building in the back of this property and he believes it does not meet codes. He was also concerned because they were using his electricity to run power tools. I told the tenant that the electric bill was a civil matter, but I would inspect the building and notify the owner if any violations were involved.

Later that day I inspected the property and discovered a 40' x 60' pole barn that had been built on this property. I researched the property and found it is zoned Commercial General (CG). I then looked for a building permit for this address and there was not a permit listed for this property. At this point, I decided a violation letter was needed in order to notify the owners about the violations.

On December 12, 2013 I mailed a letter to the owner to inform him that there was a structure on his property that was not legally permitted. I also made a note in the letter that said, "Since this property is located in a Commercial General (CG) Zoned District, you will also need to speak to one of the City Planners from the Gallatin Planning Department about the structure."

On or about Friday, December 14, 2012 Mr. Troutt (property owner) and Mr. Kelly (business owner) came in about the violation letter and brought a copy of the building permit. The permit they presented was listed for 136 E. Schell St. not 134 E. Schell St., which is why it was not found in the system.

Katherine, Kevin and I spoke to Mr. Kelly. Mr. Troutt was present, but did not say anything. Mr. Kelly asked why he was not allowed to have the building. He said he previously spoke to Kevin who told him the structure would be allowed. Kevin explained to Mr. Kelly that when they spoke, Mr. Kelly indicated that the permit was for a detached garage for the single-family house on the property. Kevin said that would not require Planning Commission approval.

Katherine asked Mr. Kelly about the use of the pole barn. Mr. Kelly said it was for use of his towing garage. Katherine said there is no approved site plan for that business and any new construction and any commercial use on the property would need to be approved by Planning Commission. Katherine said the only approved use for the site is single-family residential, which is a legal non-forming use since the property is zoned CG. Mr. Kelly said his other building did not require Planning Commission approval 30 years ago.

Katherine explained to Mr. Kelly that the building permit should have never been issued without an approved site plan and explained that the reason it was issued, was because it appeared from the information on the permit that it was a detached garage for residential use only. Katherine also asked Mr. Kelly why he never called for any inspections on the structure and Mr. Kelly said he was unaware that inspections were required.

We asked Mr. Kelly if he would be or if he was currently running Gallatin Wrecker Service from this location. Mr. Kelly said he was currently running and storing cars from Gallatin Wrecker Service on this property. Katherine asked Mr. Kelly about his intentions for the house on the property and he said he would like to remove the house eventually.

Katherine gave the following instructions to Mr. Kelly in writing:

- 1) Stop construction of the building immediately (Katherine said she would check with Tony Allers about Mr. Kelly still operating the business during the approval of the site plan.)
- 2) Contact a civil engineer to prepare a site plan (Katherine gave Mr. Kelly an application and site plan checklist)
- 3) Submit application and Site Plans (9) copies. Katherine told Mr. Kelly that the existing structure might not be approved by Planning Commission since it does not meet the 70% brick or stone requirement.
- 4) The site plan to go before Planning Commission for approval
- 5) If approved, correct building permit may be issued
- 6) Owner must call for all proper building inspections
- 7) Sign permit must be issued before sign may be put up

Mr. Kelly took this information and said that he will contact a civil engineer.

On December 19, 2012 Katherine, Kevin and I met with Richard Jones about the site plan for Paul Kelly's commercial building at 134 E. Schell Street. Mr. Jones wanted Katherine to ask Tony if he would allow Mr. Kelly to still use the back of the lot to park cars while the site plan is being prepared. He said he will not be using the new building and will cease construction until the site plan is approved by Planning Commission.

On Friday, December 21, 2012 Mr. Kelly came in and we met with Tony. Mr. Kelly asked Tony if he would still pull cars in and out of the property. Tony told Mr. Kelly that he could trade in and out vehicles, but the number of vehicles was not to exceed 14 at any given time. Tony told Mr. Kelly that I had pictures of the site and would monitor the number of vehicles on site. The site was re-inspected on 12/31/12; 13 cars on property and re-inspected again on 1/31/13; 8 cars on property

VARIANCE INFORMATION

I (Kevin) received a phone call from Richard Jones (Rogers Engineering) on or before January 7, 2013 informing me that the new building at 134 E. Schell Street was encroaching with the 10 required side yard along the eastern property boundary.

Richard asked for direction on whether or not Mr. Kelly could request a variance from the 10 foot side yard or if Mr. Kelly would be required to take the building down and move the building back in order to conform to the side yard requirement.

After speaking with Katherine on January 11, 2013 I sent an email to Richard Jones explaining that Mr. Kelly could submit the variance request, but if the BZA did not approve the variance there was the possibility the building would have to be moved. We also told Richard that staff could not recommend approval of the variance request.

I provided Richard with an example from a couple of years ago where an addition was required to be removed due to a similar situation. I asked Richard how large the encroachment was and he informed me it was approximately 40 feet in length and varied in depth of encroachment from six (6) inches to two (2) feet.

The variance request was submitted for placement onto the February 28th MBZA meeting. The variance request was reviewed on Monday February 11th and review comments were sent to Richard Jones that afternoon.

A site plan has also been submitted for review and approval by the Planning Commission at the 3/25/13 meeting pending approval of the variance request.

- LEGEND**
- FOUND PIN OR PIPE (F/P)
 - SET IRON PIN (S/IP)
 - FOUND MONUMENT (F/M)
 - SET MONUMENT (S/M)
 - ELECTRIC JUNCTION BOX
 - CABLE PEDESTAL
 - ★ LIGHT POLE
 - GUY WIRE
 - ◇ BENCHMARK
 - DECIDUOUS TREE
 - CONIFEROUS TREE
 - FLEMING TREE
 - SHRUB / BUSH
 - TELEPHONE MANHOLE
 - PHONE PEDESTAL
 - GAS METER
 - GAS VALVE
 - STORM SEWER MANHOLE
 - CATCH BASIN OR CURB INLET
 - SANITARY SEWER MANHOLE
 - FENCE
 - H—H— GUARDRAIL
 - WATER METER
 - WATER VALVE
 - FIRE HYDRANT
 - POST INDICATOR VALVE
 - MONITORING WELL
 - GEOTECHNICAL TEST PIT

SURVEYOR'S NOTES:

1. The utility information shown hereon was taken from actual field evidence, utility agency records, or any other available evidence. Other utilities may exist and may not be shown, or may vary from what is shown. No guarantee is expressed or implied in regard to the utility locations shown hereon. The Contractor and Commission(s) should assume responsibility to verify utility estimates, sizes, locations, depths, and availability of service, and to make any necessary adjustments to the utility location service prior to commencing construction.
2. Subsurface and environmental conditions were not examined or considered as a part of this survey. No statement is made concerning the existence of underground conditions, facilities, voids, water, sinkholes, unmarked grave sites, or debris that may affect the use or development of this tract.
3. This drawing was prepared in accordance with my field survey notes as shown hereon and they exist to the best of my knowledge, but is not guaranteed to be correct in each and every detail.
4. The property shown hereon is located within the City of Gallatin, City limits and Sumner County, Tennessee. All matters pertaining to construction, use, location of improvements, signage, parking, noise, vibration, emissions, fire hazards, landscaping, materials, illumination, setback provisions, etc., are subject to the Zoning Regulations as amended and required by the Department of Planning and Codes.
Current Zoning is "C20" Commercial General District
Front Yard - 10'
Side Yard - 10'
Rear Yard - 20'
5. The total area of the parcel as shown hereon is 0.576 Acres or 24,870.25 Square feet.
6. This property is currently identified as Parcel 4.00 of Group "E" on Tax Map No. 128F. For designation shown that 1000' indicates Parcel Numbers for said map.
7. Deed reference: Record Book 286D, Page 415, as recorded in the Register's Office, Sumner County, Tennessee.
8. Boundaries based on: Tennessee State Plane (NAD 83)
9. By my review of available information, which is subject to map inaccuracies and errors, this property is in Zone "C" of the Flood Insurance Rate Map Community Panel Number: 27155C0145 effective date of 08/07/2012. Only an elevation certificate can determine the exact designation. Based on the information above, this property IS NOT in a special flood hazard area.
10. This survey was prepared from current deeds of record without the benefit of facts and does not represent a title search or a guarantee of title, and is subject to any state of facts a current, full, or accurate search may reveal. No investigation or independent search for easements, encumbrances, restrictive covenants, or other title evidence has occurred. The surveyor reserves the right to revise any easement(s) not provided for or known of on the date of this survey.
11. The Surveyor's liability for this document shall be limited to the party shown in the site of the survey, and does not extend to any unmarked person or entities without an expressed re-certification.
12. Elevations and spotshots were derived using digital terrain modeling by 1. Radial trigonometry with a Topcon Electronic Robotic Total Station and/or 2. GPS with a Topcon Hiper Lite - Dual Frequency RTK base and rover. Control intervals are one (1) foot, and the source of vertical datum is as listed below.

UTILITY OWNERS

WATER AND SEWER
GALLATIN PUBLIC UTILITIES
230 HANCOCK STREET
GALLATIN, TN 37066
(615) 451-5922

GAS
GALLATIN PUBLIC UTILITIES
230 HANCOCK STREET
GALLATIN, TN 37066
(615) 451-5922

CABLE
COMCAST
840 SOUTH WESTLAND AVENUE
GALLATIN, TN 37068
(615) 244-5900

ELECTRIC
GALLATIN DEPARTMENT OF ELECTRICITY
135 JONES STREET
GALLATIN, TN 37068
(615) 452-5152

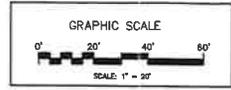
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1-615-396-1987
TENNESSEE ONE CALL
IT'S THE LAW**

TELEPHONE
ATA
2501 PARK PLAZA
NASHVILLE, TN 37203
(615) 244-5285

SOURCE OF VERTICAL DATUM

1. NATIONAL GEODETIC SURVEY (NGS) ONLINE POSITONING USER SERVICE (OPUS)
GPS STATIC ON GPS BARRIS STATIC SURVEY SESSION DATED 12/07/12.

2. TOP OF IRON PIN CAPPED "IN 1071 KY 3050" ALONG THE EASTERLY PROPERTY LINE.
ELEVATION 644.11 (MVD 88)



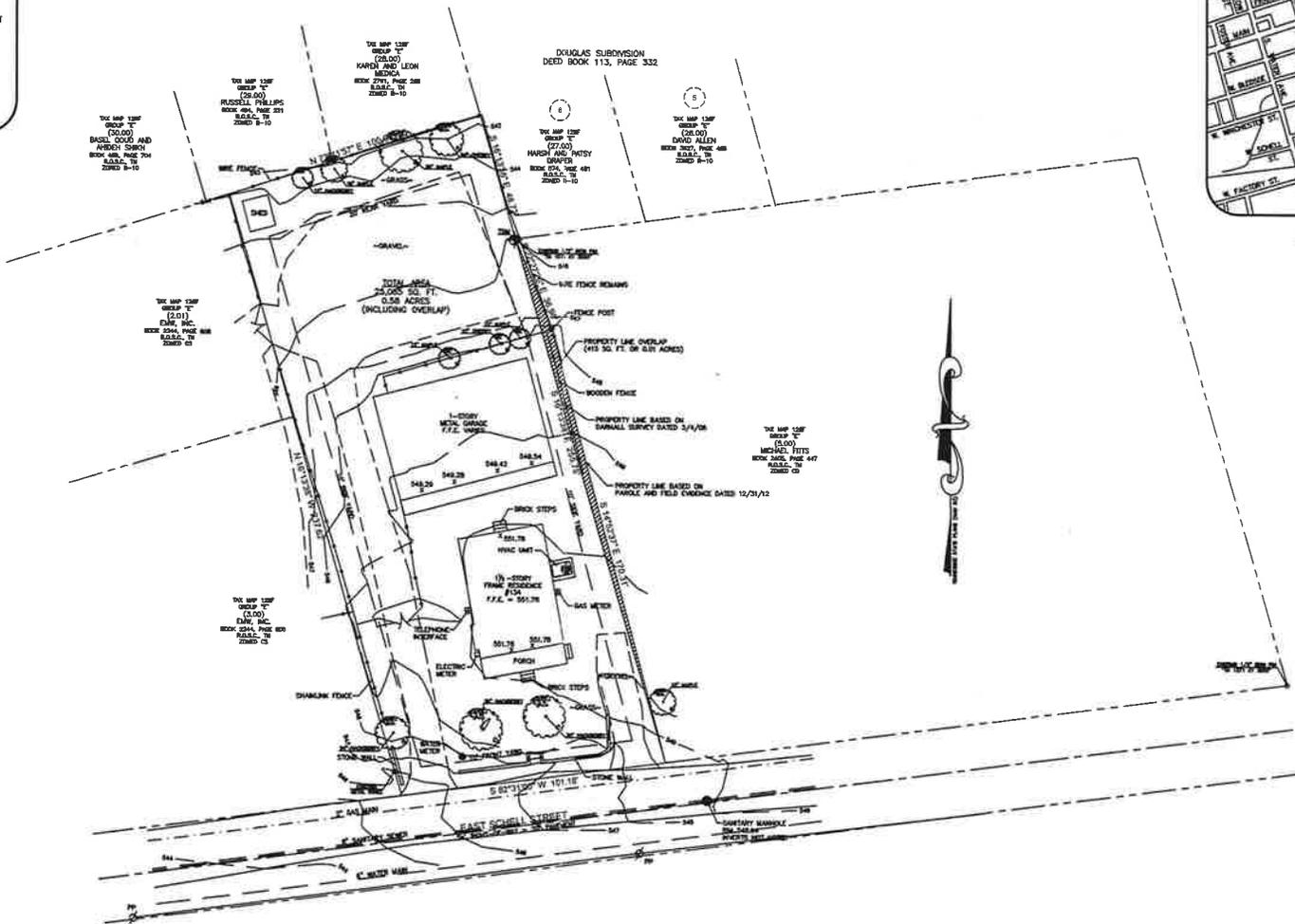
BLUE RIDGE SURVEYING, INC.
230 WINDSORTON AVENUE GALLATIN, TENNESSEE
OFFICE (615) 451-6758 CELL (615) 451-1149
BLUESURV@YAHOO.COM

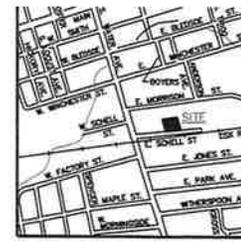
TOPOGRAPHIC SURVEY
OF THE
HUBERT TROUTT PROPERTY

134 EAST SCHELL STREET, 3RD CIVIL DISTRICT
GALLATIN, SUMNER COUNTY, TENNESSEE

PREPARED FOR
ROGERS ENGINEERING GROUP, INC.
321 DURHAM AVENUE, SUITE A
GALLATIN, TENNESSEE 37066

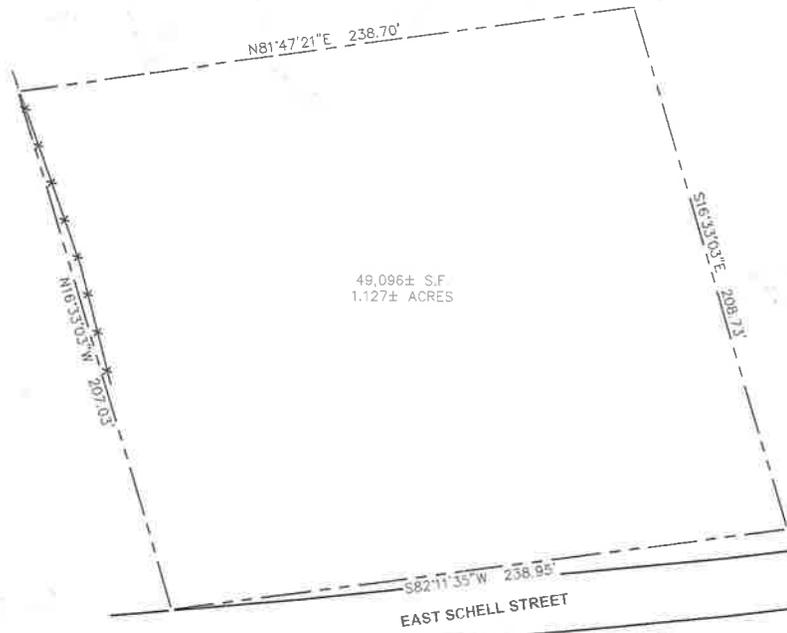
DATE OF SURVEY: DECEMBER 31, 2012
DATE OF DRAWING: FEBRUARY 26, 2013





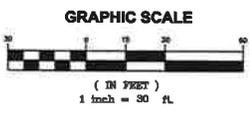
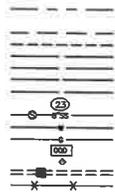
LOCATION MAP

NOT TO SCALE



49,096± S.F.
1.127± ACRES

- LEGEND**
- PROPERTY BOUNDARY
 - LOT LINE
 - BUILDING SETBACK LINE
 - EASEMENT
 - CONCRETE MONUMENT (NEW)
 - CONCRETE MONUMENT (OLD)
 - CAPPED 1/2" IRON ROD (NEW)
 - IRON ROD (OLD)
 - LOT NUMBER
 - SANITARY SEWER W/ MANHOLE
 - WATER LINE
 - GAS LINE
 - 911 ADDRESS
 - FIRE HYDRANT
 - STORM SEWER
 - FENCE



SURVEYOR'S CERTIFICATE

EAST SCHELL STREET

CSX RAILROAD

OWNER.

Darnall & Associates, LLC
LAND SURVEYING - LAND DEVELOPMENT SERVICES
CONSTRUCTION STAKING - DESIGN

MICHAEL FITTS PROPERTY

DATE: MARCH 4, 2008 JOB #08-005

APPROVED
MICHAEL FITTS

2-6

KAREN AND LEON MEDICA
 R.B. 2761, PG. 268, R.O.S.C., TN
 MAP 126F, GROUP "E",
 PARCEL 28.00
 ZONING R-10

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 GALLATIN PLANNING
 & ZONING

LIPS
 R.O.S.C., TN
 UP "E",
 00
 10

PROPOSED 6 FT
 CHAIN LINK FENCE

HARSH AND PATSY DRAPER
 R.B. 574, PG. 481, R.O.S.C., TN
 MAP 126F, GROUP "E",
 PARCEL 27.00
 ZONING R-10

R.B. 3627
 MAP

BEGINNING OF PROPOSED
 6" CHAIN-LINK FENCE

20' REAR YARD & TYPE 20 ALT BUFFER

GRAVEL AUTO-STORAGE
 FOR APPROXIMATELY
 16 STANDARD VEHICLES

2400 SF AUTO SERVICE
 CENTER AND OFFICE
 1-STORY
 F.F.E. = 549.42
 SH: 17'-6"
 RH: 25'-2"

PROPOSED 6"
 CHAIN-LINK
 FENCE

ITEM 2

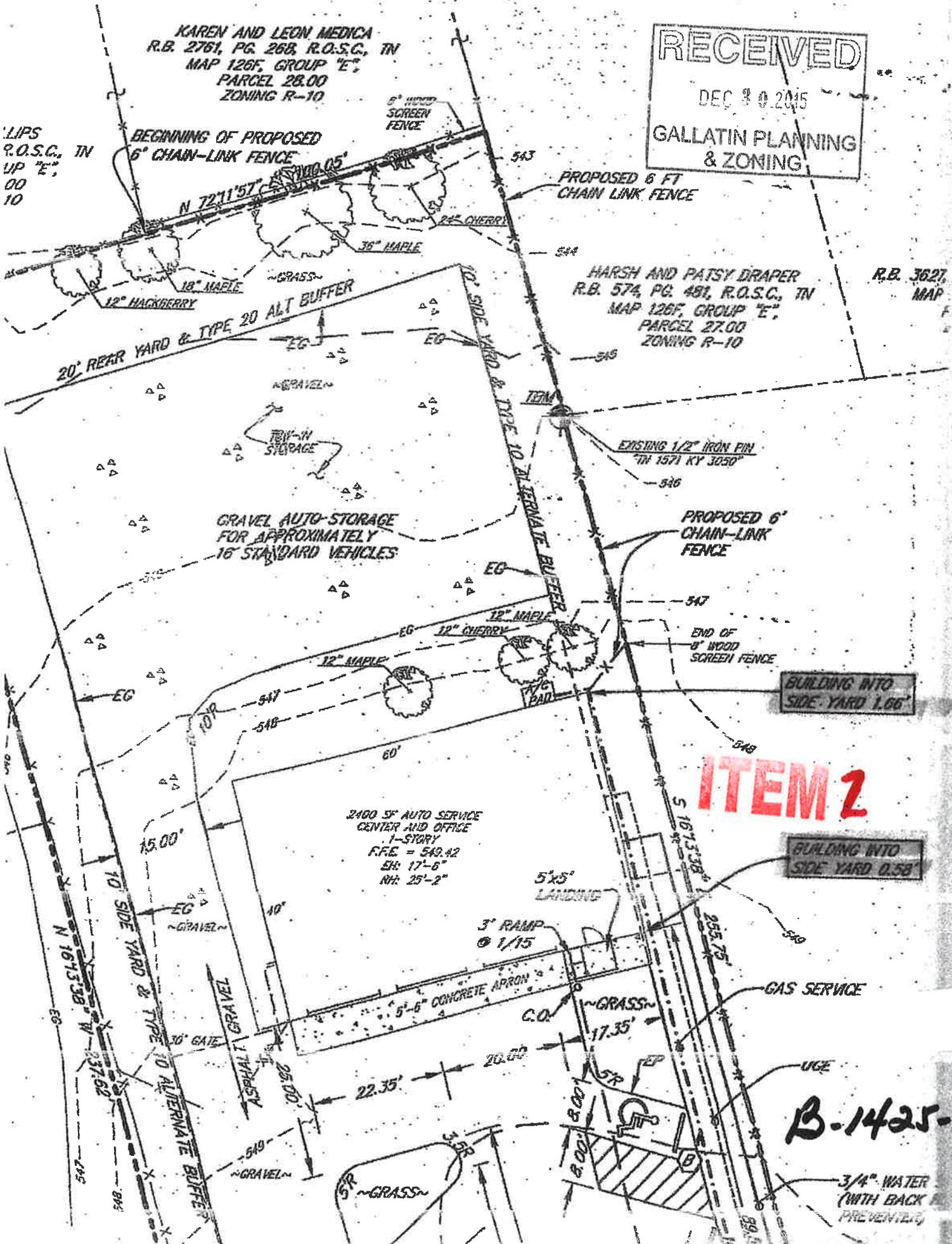
BUILDING INTO
 SIDE-YARD 1.00'

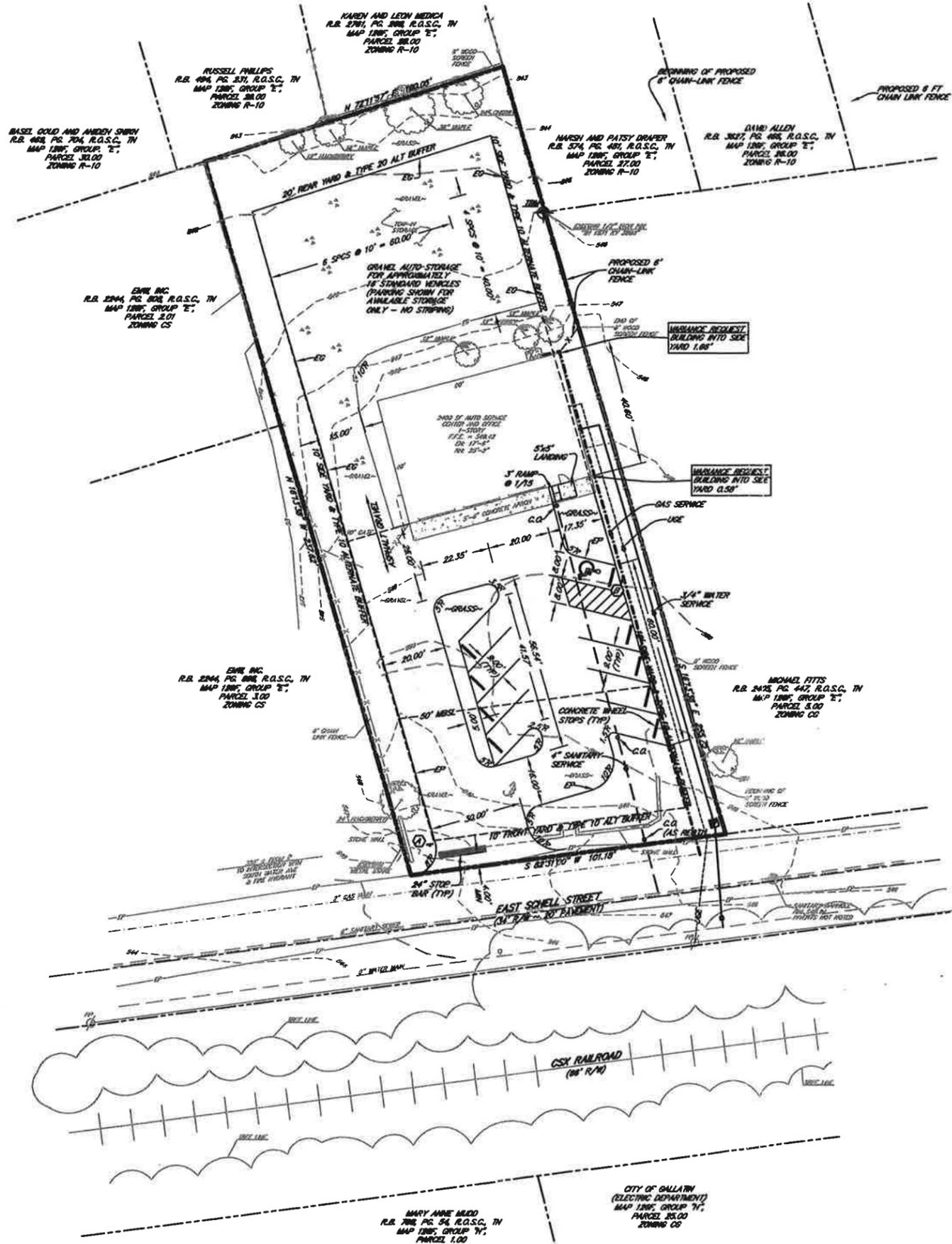
BUILDING INTO
 SIDE-YARD 0.58'

GAS SERVICE

B-1425-6

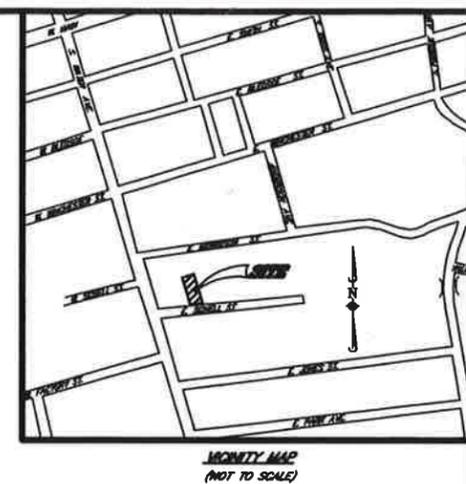
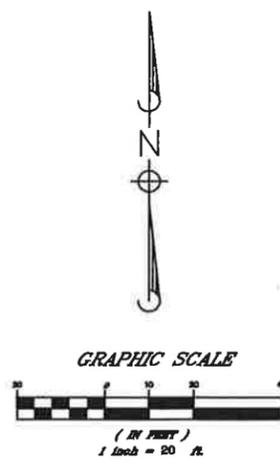
3/4" WATER
 (WITH BACK
 PREVENTING)





- LEGEND**
- FOUND PIN OR PIPE (P/O)
 - SET IRON PIN (I/P)
 - FOUND MONUMENT MON(M)
 - SET MONUMENT MON(M)
 - ELECTRIC JUNCTION BOX
 - CABLE PEDESTAL
 - LIGHT POLE
 - UTILITY POLE
 - GUY WIRE
 - BENCHMARK
 - DECIDUOUS TREE
 - CONIFEROUS TREE
 - SHRUB
 - TELEPHONE MANHOLE
 - PHONE PEDESTAL
 - GAS METER
 - GAS VALVE
 - STORM SEWER MANHOLE
 - CATCH BASIN OR CURB INLET
 - SANITARY SEWER MANHOLE
 - SEWER CLEAN OUT
 - WATER METER
 - WATER VALVE
 - FIRE HYDRANT
 - FENCE
 - TREE LINE
 - BOUNDARY LINE
 - EXTRUDED CURB

- SIGN LEGEND**
- ⓐ STOP SIGN
 - ⓑ HANDICAP PARKING



SITE DATA TABLE:

HUBERT TROUT
 RD 3880, PG 415, R.O.S.C. TN
 TAX MAP 1285, GROUP 'E', PARCEL 4.00
 0.57 ± AC ZONING C2

SITE LOCATION - 134 EAST SCHELL STREET
EXISTING USE - RESIDENCE AND TOP-IN VEHICLE PARKING
PROPOSED USE - WRECKER SERVICE, AUTO SERVICE SHOP FOR THE WRECKER SERVICE, AND TOP-IN VEHICLE PARKING

DEVELOPER REGULATIONS	REQUIRED	PROPOSED
MINIMUM LOT COVERAGE	3.0	8.87 %
MAXIMUM FLOOR AREA RATIO	0.067	0.067
MINIMUM BUILDING SETBACK	30 FEET	118.80 FEET
FRONT YARD	10 FEET	10 FEET
SIDE YARD	10 FEET	10 FEET (WITH REQUESTED VARIANCE ON EAST SIDE)
REAR YARD	30 FEET	30 FEET
MINIMUM LOT AREA	10,000 SF	24,870 ± SF
MAXIMUM HEIGHT	30 FEET	35'-2"

BUFFER YARDS	REQUIRED	PROPOSED
CS TO R10	TYPE 33	TYPE 30 ALTERNATE
CS TO CS	TYPE 15	TYPE 10 ALTERNATE
CS TO CS	TYPE 15	TYPE 10 ALTERNATE

DEMA NOTE:
 A REVIEW OF FEMA FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 471503014G, EFFECTIVE DATE APRIL 17, 2012, SHOWS THIS PROPERTY IS WITHIN 'ZONE 1' AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

PURPOSE DESCRIPTION:
 THIS PLAN REQUESTS A VARIANCE ON THE EAST SIDE YARD OF THE NEW BUILDING TO 6.43 FT IN THE FRONT AND 8.34 FT IN THE REAR.

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 GALLATIN PLANNING & ZONING

ITEM 2

OWNER:
 HUBERT TROUT
 175 GILES LANE
 GALLATIN, TN 37066
 615-487-3000

DEVELOPER:
 PAUL KELLY
 300 NORTH WATER
 GALLATIN, TN 37066
 615-487-3000

0.57 ± ACRES
 ZONING C2



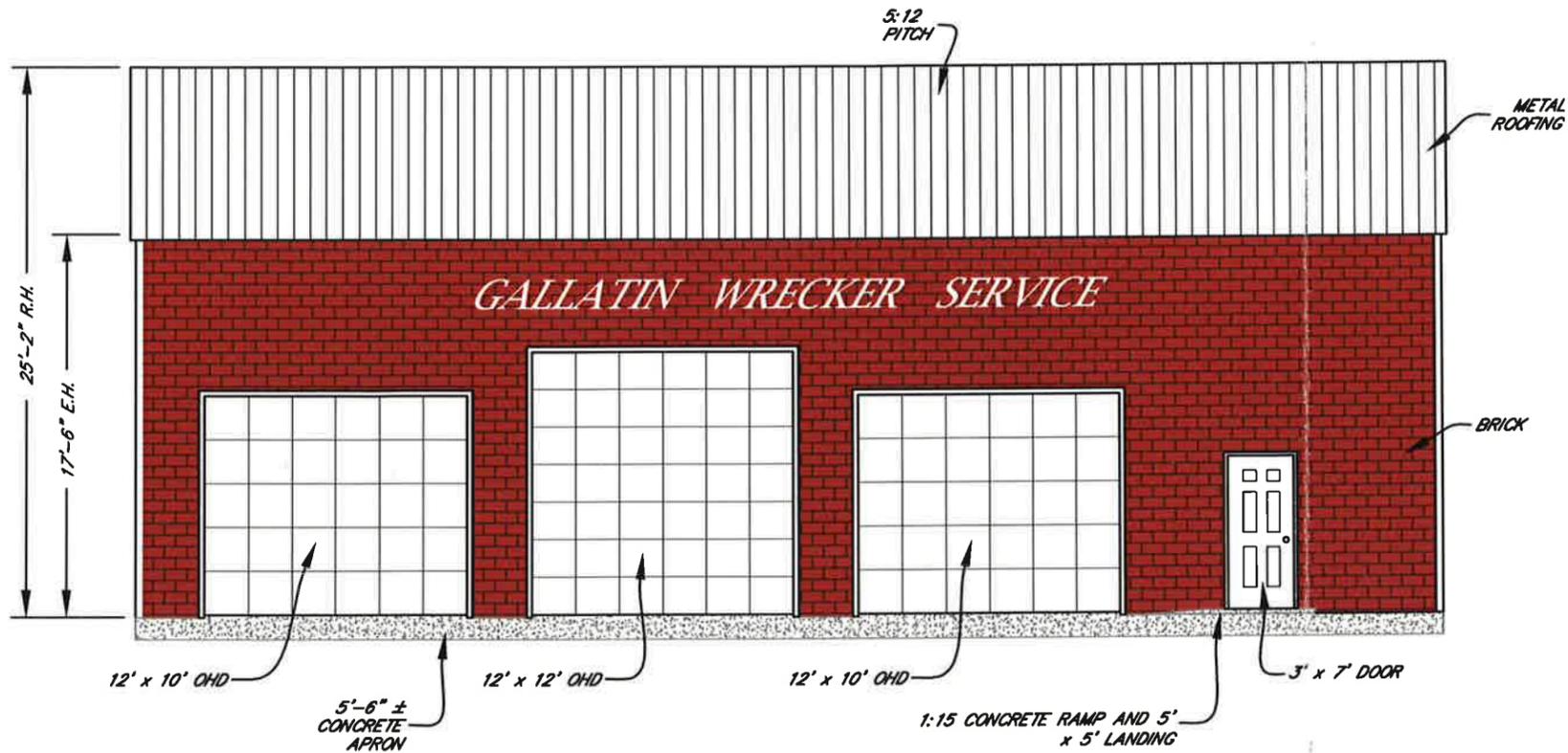
GALLATIN WRECKER SERVICE
 VARIANCE PLAN FOR SIDE SETBACKS
 134 EAST SCHELL STREET
 GALLATIN, 3RD CIVIL DISTRICT
 SUMNER COUNTY, TENNESSEE
 DATE: 30 JANUARY 2013 JOB # 12-032 SHEET 1 OF 1

B-1425-15

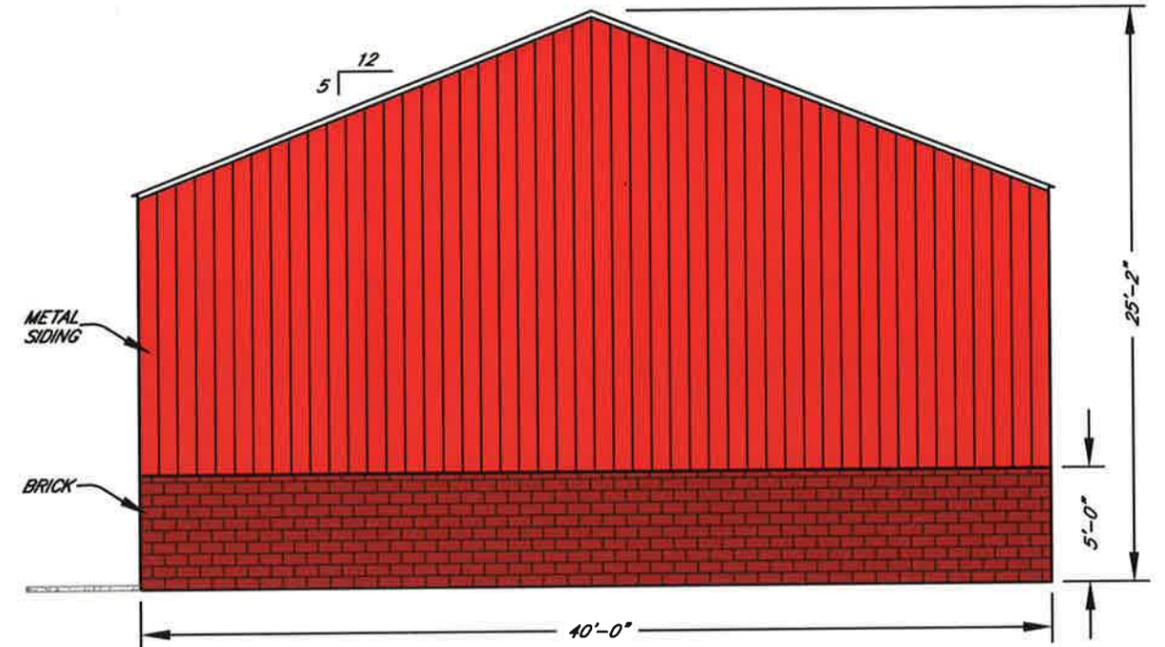
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 1-800-301-1111
 1-615-305-1987
 TENNESSEE ONE CALL
 IT'S THE LAW

ROGERS ENGINEERING GROUP
 312 DURHAM AVENUE NORTH, SUITE A
 Gallatin, Tennessee 37066
 TEL: 615-230-7269 FAX: 615-230-7271
 richard.jones@rogersgroupinc.com

SITE PLAN



FRONT

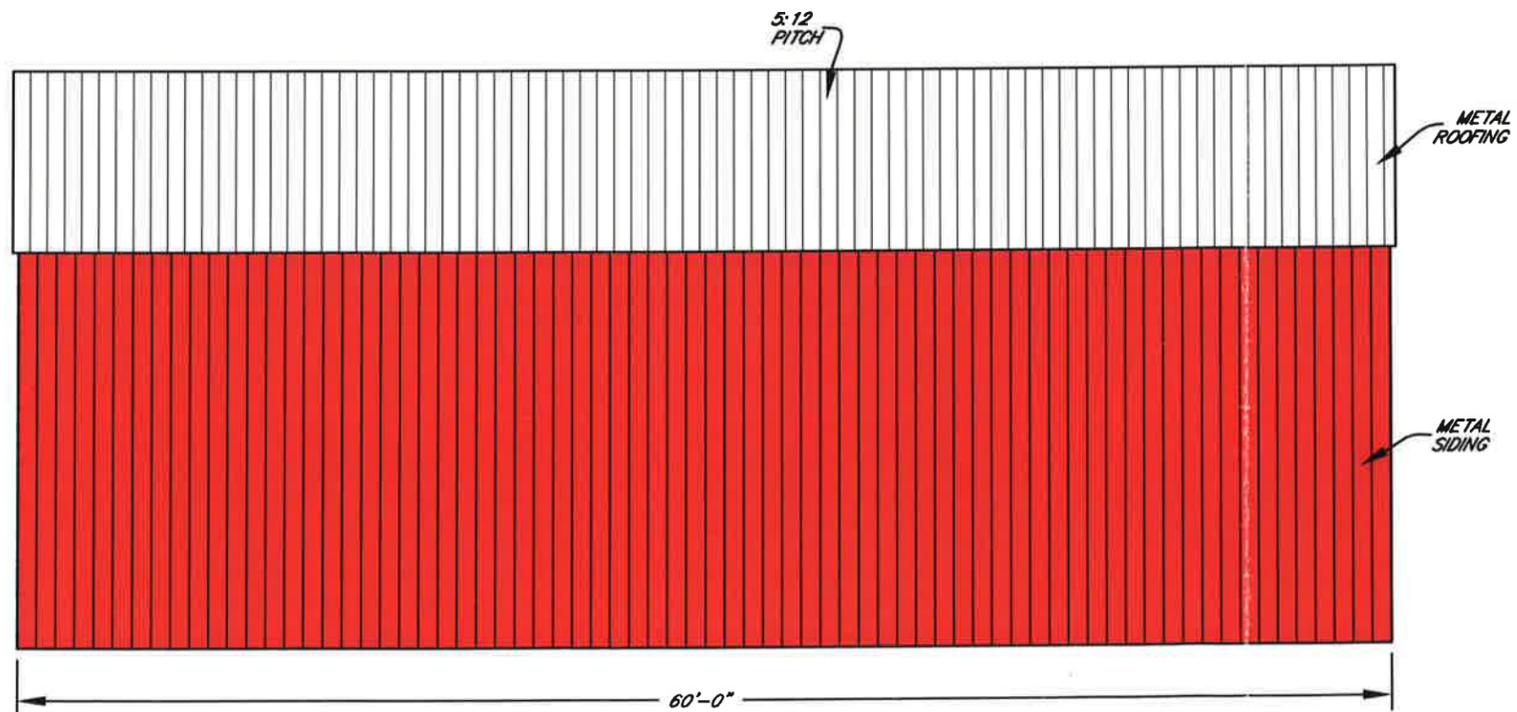


RIGHT SIDE

RECEIVED
FEB 15 2013

GALLATIN PLANNING & DESIGN

ITEM 2



REAR

BUILDING PLANS FOR GALLATIN WRECKER SERVICE		
SCALE: 1/8" = 1'-0"	APPROVED BY:	REVISED: 15 FEBRUARY 2013
DATE: 30 JANUARY 2013		JOB #12-032
ROGERS ENGINEERING GROUP 312 DURHAM AVENUE NORTH, SUITE A Gallatin, Tennessee 37068		TEL: 615-230-7200 FAX: 615-230-7271 richard.jones@rogersgroupinc.com
ELEVATIONS		DRAWING NUMBER A-1 of 1

DECEIVED



01.11.2013 11:07

B-1425-15