

# BOARD OF ZONING ADJUSTMENT

## AGENDA

**August 2022**

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## **Minutes July 2022**

**MEMBERS PRESENT:** Chair, Delayne Dean, , Mr. Steven Thomas

**SUPERNUMERARIES:** Mr. Larry Waye, Mr. Chester Ayers

**COPIED TO:** Mr. Collis Stevenson, Rev. George Allen

**OTHERS PRESENT:** Mrs. Ruth Priest, Asst. City Attorney  
Mr. Lee Terry, Planning Department  
Mr. Bob Sims, Building Inspector  
Mrs. Nancy Whiteside, Recorder

Chairperson, Delayne Dean called the meeting to order at 4:00 p.m. in the council chambers on the 1<sup>st</sup> floor at City Hall.

Mr. Bob Sims, Building Department, called the roll.

**POINT OF INFORMATION:** Only four Board members are present at today's meeting. A unanimous vote will be needed for any case to be approved. Any applicant may have their case tabled until next month when five Board members may be present.

The minutes from the June 2022 meeting were approved without any changes. Mr. Larry Waye motioned to approve the minutes. Mr. Chester Ayers seconded the motion. On a voice vote, the motion carried.

### **CASE NO. 1**

Application and appeal of Wesley Irish for a 3.5 foot side yard variance from Section 25-10.8 (2) ( e) in order to build a covered deck located at 2408 Crestview Dr. SE, property is located in a R-1 Single Family Residential District.

Mr. Wesley Irish presented this case to the Board. Mr. Irish stated his name was Wesley Irish and his address was 2408 Crestview Dr. SE. Mr. Irish stated he was asking for a 3.5 foot side yard setback variance.

Mr. Irish stated he was changing his request from adding a deck that would have been 2 feet off of the ground to just a slab which would only be about 10 inches off of the ground but he did however still request the 3.5 foot side yard setback variance.

Mr. Larry Waye asked Mr. Irish if the design, other than the foundation, would stay the same, Mr. Irish agreed.

Chair Dean verified the dimensions would stay the same, Mr. Irish agreed.

Chair Dean asked for any further questions from the Board or the public.

There were no comments.

Mr. Bob Sims, Building Department, had no comment.

Mr. Lee Terry, Planning Department, had no comment.

Mr. Steven Thomas motioned to approve this case as submitted. Mr. Larry Way seconded the motion. On a roll-call vote the motion carried.

## **CASE NO. 2**

Application and appeal of Francisco Hernandez for a 30 space parking variance reduction from Section 25-16 (q) from 144 spaces to 114 spaces located at 928 Sims St. SW, property is located in a M-1A Expressway Commercial District.

Mr. Blake McAnally, with Pugh, Wright McAnally Engineering, presented this case to the Board representing Mr. Hernandez.

Mr. McAnally stated the area discussed today was the facility located on Fairgrounds Rd, which is currently under construction.

Mr. McAnally stated Mr. Hernandez owns the balance of the property that is encompassed with Sims Rd and Fairgrounds Rd and behind the Academy Store and Mr. Hernandez is looking to do additional development with the property.

Mr. McAnally stated that the parking lot now has about 40 spaces that is never used and the variance will free up additional space for the future development.

Mr. McAnally stated that the architect has made studies from the 2009 IBC chapter 10 in relationship to the architectural drawing that the occupancy level can be reduced therefore changing the number of parking spaces needed for the building.

Mr. McAnally stated the hardship is that the design meets the intent but not the requirement for the code for the City of Decatur therefore; they are requesting a variance of 30 space reduction of the parking spaces.

Chair Dean asked if the other parking lot would be demolished or used for the planned future use.

Mr. McAnally stated the parking lot would not be demolished completely at this time but would free up some area for additional development and 25 percent of it would still be used.

Mr. McAnally stated the development being considered would also have parking within each unit so some of the area would be regained for that development that is being considered.

Chair Dean asked for questions from the Board or the public, there were no comments.

Mr. Steven Thomas asked Mr. McAnally maximum occupancy of the building.

Mr. McAnally stated that the maximum occupancy of the building would be 299 and would be posted which the presumption is not everyone would drive their own car and not everyone would be there at one time. The actual capacity would be closer to 280

There were no comments from the public.

Mr. Bob Sims, Building Department, had no comment.

Mr. Lee Terry, Planning Department, had no comment.

Mr. Steven Thomas motioned to approve this case as submitted. Mr. Chester Ayers seconded the motion. On a roll-call vote the motion carried.

### **CASE NO. 3**

Application and appeal of Taylor Jones for a 3 foot side yard set-back variance from Section 25-10.10 (2)(e) and a 7.2 foot rear yard set-back variance from Section 25-10.10 (2) (d) for a deck located at 825 Grant St SE, property is located in a R 3-H Historical Residential Single Family District.

Mr. Taylor Jones opted to tabled this case until next month's meeting August 26<sup>th</sup>, 2022.

### **CASE NO. 4**

Application and appeal of Gustavo N. Lopez for an administrative decision from Section 25-144 to allow a trailer repair business as a permitted home occupation, located at 1829 5<sup>th</sup> Av SW, property is located in a R-1 Single Family Residential District.

Mr. Gustavo Lopez presented this case to the Board. Mr. Lopez stated his address was 1829 5<sup>th</sup> Av SW. Mr. Lopez stated he would like a business license for trailer repair. Mr. Lopez had an interpreter, the address is 1703 Leanne St SW.

Chair Dean explained that this application was presented to the Building Department and was denied because it does not fall within the definition of a home occupation.

Mr. Lopez explained why he felt this does fall within the definition of a home occupation Mr. Lopez stated he has the space on his property to fix the trailers and he has a building to fix the trailers in.

Mr. Lopez stated he is not able to rent or buy a building to repair the trailers and this is his one means of income.

Chair, Dean explained that there is a list of occupations that can not be approved as a home occupation and that is why the Building department could not approve this request.

Mr. Lopez stated he thought since he was so close to a commercial district he would be able to operate the business at his residence.

Chair Dean explained this Board was not able to approve this request because it does fall under the list of prohibited occupations.

Chair Dean explained even though the home is located close to a commercial district, it is still located in a residential zone and cannot be approved.

Mr. Lopez stated he does not build the trailers he only repairs them and stated he does not have any other source of income and cannot afford to rent a building or buy a building.

Mr. Bob Sims, Building Department explained to Mr. Lopez if he could take the trailers elsewhere to work on them he could use his home as an office.

Mr. Bob Sims, Building Department explained he would have to keep tools and supplies on a truck or trailer to take elsewhere to work on the trailers.

Mr. Bob Sims, Building Department stated Mr. Lopez would have to demonstrate he was not using the home for trailer repair and then could resubmit the application.

Mr. Bob Sims, Building Department had no further comments.

Mr. Lee Terry, Planning Department, had no comments.

Mr. Larry Waye motioned to approve this case as submitted. Mr. Steven Thomas seconded the motion. On a roll-call vote of 3-1 this motion did not pass.

Meeting adjourned at 4:25 p.m.

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Chair, Delayne Dean

# **AGENDA**

## **August 2022**

The Board of Zoning Adjustment of the City of Decatur will hold a public meeting in the COUNCIL CHAMBERS ON THE FIRST FLOOR OF City Hall, 402 Lee Street NE, on Tuesday, August 30, 2022 at 4:00 p.m. And, also broadcast live on City of Decatur You Tube Channel at <https://www.youtube.com/c/CityofDecaturAl> for the purpose of hearing the following applications and appeals at which time all interested parties are requested to be present and will be given an opportunity to be heard. Questions may be submitted via email at [bozaquestions@decatur-al.gov](mailto:bozaquestions@decatur-al.gov).

### **CASE NO. 1-TABLED FROM JULY 2022**

Application and appeal Taylor Jones for a 3 foot side yard set-back variance from Section 25-10.10 (2)(e) and a 7.2 foot rear yard set-back variance from Section 25-10.10 (2) (d) for a deck located at 825 Grant St SE, property is located in a R 3-H Historical Residential Single Family District.

### **CASE NO. 2-**

Application and appeal of Spence Searcy and Sam Bryan for a use permitted on appeal from Section 25-11 for an R-4 Multi-family use in a B-2 General Business District for multiple properties located at 1401 Point Mallard Parkway SE. The properties are located in a B-2 General Business District. The parcel numbers for this case are the following:

Parcel: 03-09-32-4-002-007.000

Parcel: 12-03-05-1-001-002.000

Parcel: 12-03-05-1-001-001.000

### **CASE NO. 3**

Application and appeal of Greystone Properties of Decatur, LLC & Land Services, LLC to modify the requirements of Section 25-10.1 (I) to allow for a 40% lot coverage, a 15 foot front yard setback, a 15 foot rear yard setback, a 8 foot side yard setback for the exterior lots, and to eliminated the additional building setback because of height requirements. Variance is conditional upon approval of PRD-7 rezoning by the City Council. Property is located at 4101 Central Ave property is located in an AG-1 Agricultural District.



402 Lee St NE 1<sup>st</sup> Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: Taylor Jones  
MAILING ADDR: 825 Grant Street  
CITY, STATE, ZIP: Decatur, Alabama 35601  
PHONE: 205-266-7682

PROPERTY OWNER: Taylor Jones  
OWNER ADDR: 825 Grant Street  
CITY, STATE, ZIP: Decatur, Alabama 35601 PHONE: 205-266-7682

ADDRESS FOR APPEAL: 825 Grant Street

NATURE OF APPEAL:

- ☐ HOME OCCUPATION ☒ SETBACK VARIANCE ☐ SIGN VARIANCE  
☐ USE PERMITTED ON APPEAL ☐ APPEAL OF ADMINISTRATIVE DECISION  
☐ OTHER ☒ SURVEY FOR VARIANCES ATTACHED ☐ DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL; (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

This variance request is for the newly constructed non-covered wood deck that is tied to the existing home and is located in the rear side of the property. The wood deck connects to the SW corner of the home and is 4.1' offset from the west property sideline at this connection point. The SW corner of the deck juts out to being 3.0' from the westerly sideline, as shown on the provided Map of Survey. The south side of the deck is 27.5' offset from the rear lot line. The R-3-H zoning for this property has a 6' side line setback and a 35' rear setback. The client requests that a setback variance be provided for the above listed variances, which are all behind a gated fence and are not visible to the public.

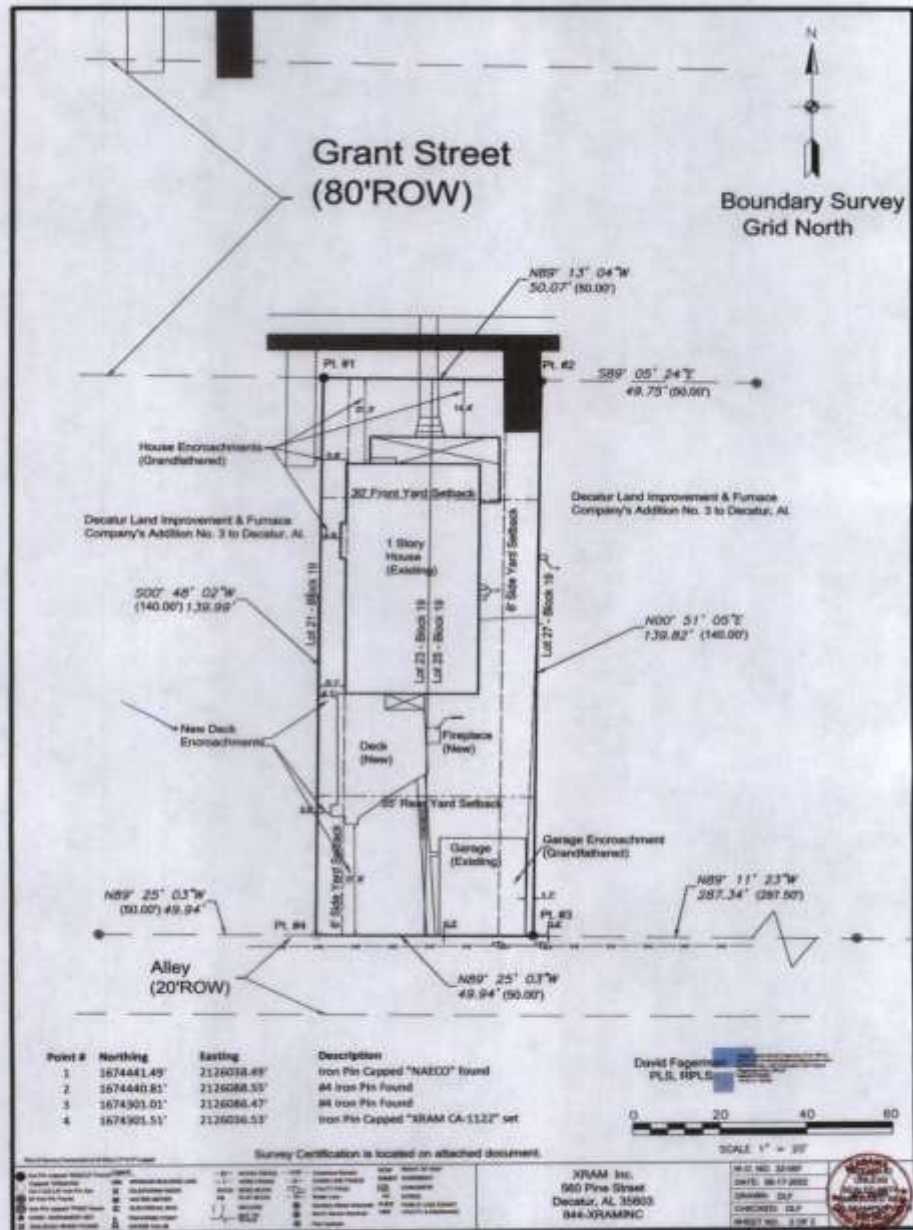
Applicant Name (print) Taylor Jones  
Signature \_\_\_\_\_  
Representative Name (print) David Lee Fagerman  
Signature DL Fagerman, PLS  
Date July 8, 2022

If applicant is using a representative for the request both signatures are required

Office Use Received By: TP  
Zone R-3 Historic  
Hearing Date 7/26/22  
Approved/Disapproved \_\_\_\_\_

CASE NO. 1 825 GRANT ST. SE





**SURVEY**

**State of Alabama  
County of Morgan**

I, David Lee Fagerman, a Registered Land Surveyor with the firm of XRAM Inc., hereby certify that to the best of my knowledge, information and belief, the foregoing is a true and correct map or plat of the following described property:

**Property Location: 825 Grant Street S.E., Decatur, Alabama 35601**

That tract of land as described in Deed Book 1638 at Page 203, as found recorded in the Judge of Probate's office in the City of Decatur, Morgan County, Alabama, said tract being more particularly described as follows:

Lots 23 and 25, Block 19, Decatur Land Improvement and Furnace Company's Addition No. 3 to Decatur, Alabama, per Plat Book 1, Page 17, as found in the Judge of Probate's office in the City of Decatur, Morgan County, Alabama.

**Surveyor's Notes:**

- 1) Bearing basis for this tract was from GPS data collection, using Alabama West, U.S. Survey Foot, NAD 83 coordinate system for all values.
- 2) This property is zoned R-3-H. Setbacks are shown on the Map of Survey.
- 3) The front, side and rear setbacks are encroached upon by the existing old structures. These are shown on the Map of Survey and are called out as "Grandfathered" due to their existence prior to the zoning classifications.
- 4) The side and rear setback lines are encroached upon by the new construction. Ties to the property line are shown on the Map of Survey.
- 5) Unless stated otherwise, jurisdictional areas, if any, which might impact the use of the premises were not located.
- 6) Unless stated otherwise, this survey was prepared without the benefit of an abstract of title.
- 7) Unless stated otherwise, only evidence of easements or structures thereto which are apparent from a casual above ground inspection of premises are shown.
- 8) Unless stated otherwise, no evidence of any type of easements, including prescriptive easements or and structures thereto were located during the survey of the premises.
- 9) No investigation was made during the performance of the survey to discover evidence of the existence of any structures which may indicate the location of buried utilities on the premises.
- 10) The premises shown and described hereon are subject to any existing easements, rights-of-way, restrictions, covenants, and set-back lines, whether or not recorded in public records.

I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama, to the best of my knowledge, information, and belief. Copyrighted by XRAM Inc., no part of this drawing may be copied, added to, altered, or reproduced by any means without written permission from XRAM Inc.

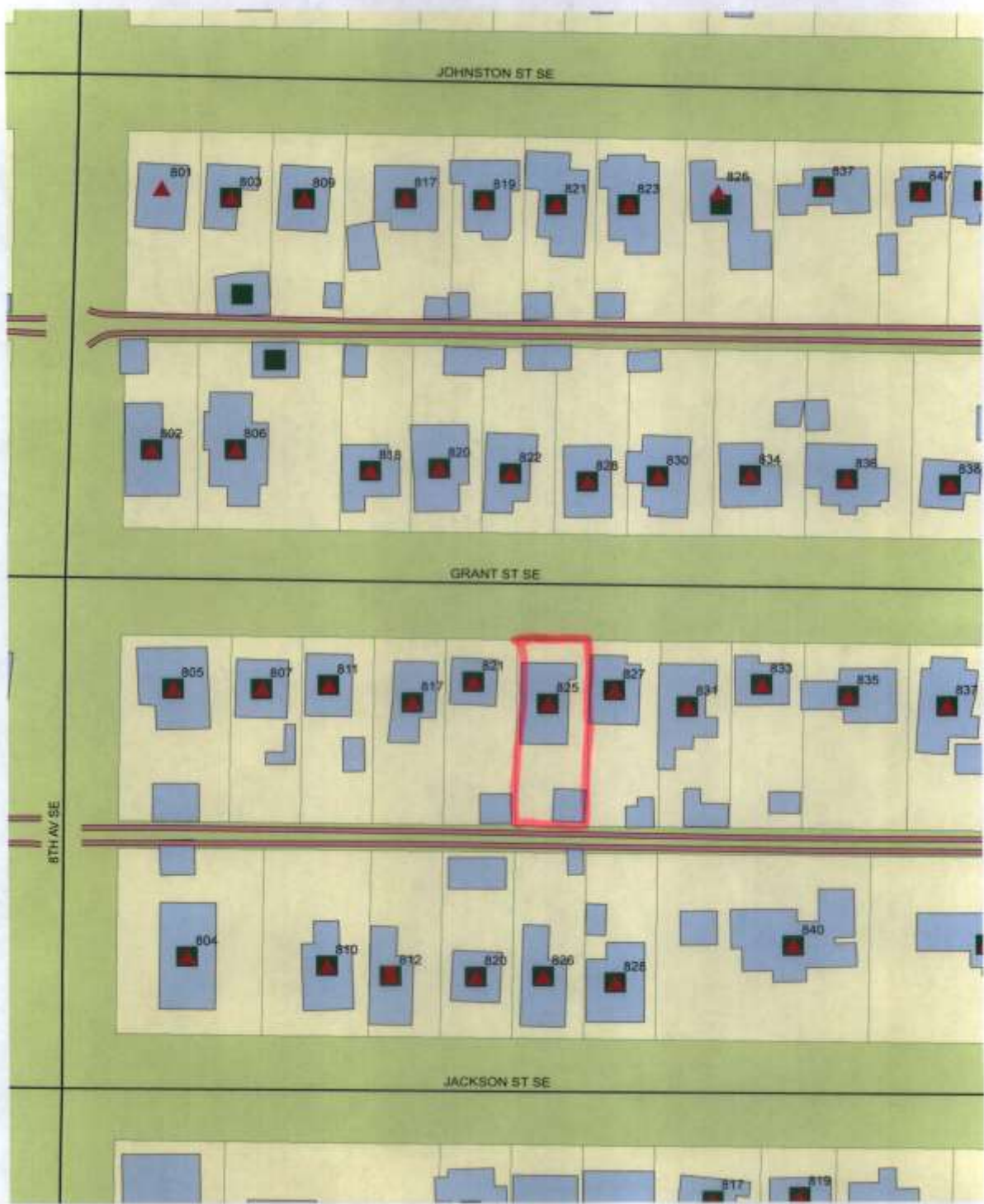
According to this Survey, under my supervision, this the 17<sup>th</sup> day of June 2022.

David Fagerman  
PLS, RPLS

David Lee Fagerman, PLS #19253



**LETTER**



MAP



②



City Hall, Council Chamber 402 Lee St NE @ 4:00PM

### Board of Zoning Adjustment

APPLICANT: Spence Searcy + Sam Bryan  
MAILING ADDR: 600 Cambridge Way  
CITY, STATE, ZIP: Atlanta, GA 30328  
PHONE: 404.354.1740

PROPERTY OWNER: William Prince Management Trust and WLP, LLC  
OWNER ADDR: 216 Johnston St, SE, Ste 201  
CITY, STATE, ZIP: Decatur, AL 35601  
PHONE: \_\_\_\_\_

ADDRESS FOR APPEAL: Parcels: 03-09-32-4-002-007.000; 12-03-05-1-001-002.000; 12-03-05-1-001-001.000

#### NATURE OF APPEAL:

- ☐ HOME OCCUPATION    ☐ SETBACK VARIANCE    ☐ SIGN VARIANCE  
☒ USE PERMITTED ON APPEAL    ☐ APPEAL OF ADMINISTRATIVE DECISION  
☐ OTHER    ☐ SURVEY FOR VARIANCES ATTACHED    ☐ DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

Asking For R-4 multi-Family use inside the current B-2 zoning designation.

Applicant Name (print) Spence Searcy  
Signature [Signature]  
Representative Name (print) Sam Bryan  
Signature [Signature]  
Date 8/18/22

If applicant is using a  
representative for the  
request both signatures  
are required

Office Use Received By: \_\_\_\_\_  
Zone R-4  
Hearing Date 8/30/22  
Approved/Disapproved \_\_\_\_\_

CASE NO. 2 POINT MALLARD PKWY

**Whiteside, Nancy**

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**From:** Spence Searcy <ssearcy@riverstonecg.com>  
**Sent:** Tuesday, August 9, 2022 10:28 AM  
**To:** Whiteside, Nancy  
**Subject:** Decatur Site (Old Chamber of Commerce Location)  
**Attachments:** [Untitled].pdf; Decatur. Retail Pad Sites Ingress-Egress from Architect. 8.4.22. v2.pdf; Decatur -  
Parcels Included in Sale. 7.14.22. v1.pdf

Nancy,

Please find the attached application and a few supporting attachments to show the site we're requesting the Use on Appeal for (old Chamber of Commerce site beside the Target Center). Per conversations with Lee and Dane Shaw, we're requesting an R-4 use in the current B-2 zoning in the northern-most 3 parcels (the southern-most is having to be rezoned).

Below is the link to our website for the project we are currently 3 years into in Athens called Cambridge Place. We are planning the same type of product on this site in Decatur. Our Athens project will be 180 units and this one is planned for around 110 currently, depending on the access road and outparcel locations. We will be doing retail along the road frontage of Point Mallard Pkwy (architect drawing attached).

[www.CambridgePlaceAthens.com](http://www.CambridgePlaceAthens.com)

Also please let me know the best way to pay the \$50 application fee as I'm in Atlanta (zoning had a number to call the city clerk's office).

Thanks,

Spence Searcy  
Managing Partner  
Riverstone Capital Group

Cell: 404.354.1740  
ssearcy@riverstonecg.com

---

**From:** Builtby Bryan <builtbybryan1@gmail.com>  
**Sent:** Monday, August 8, 2022 1:39 PM  
**To:** Spence Searcy <ssearcy@riverstonecg.com>; Spencesearcy <spencesearcy@gmail.com>  
**Subject:** Fwd:

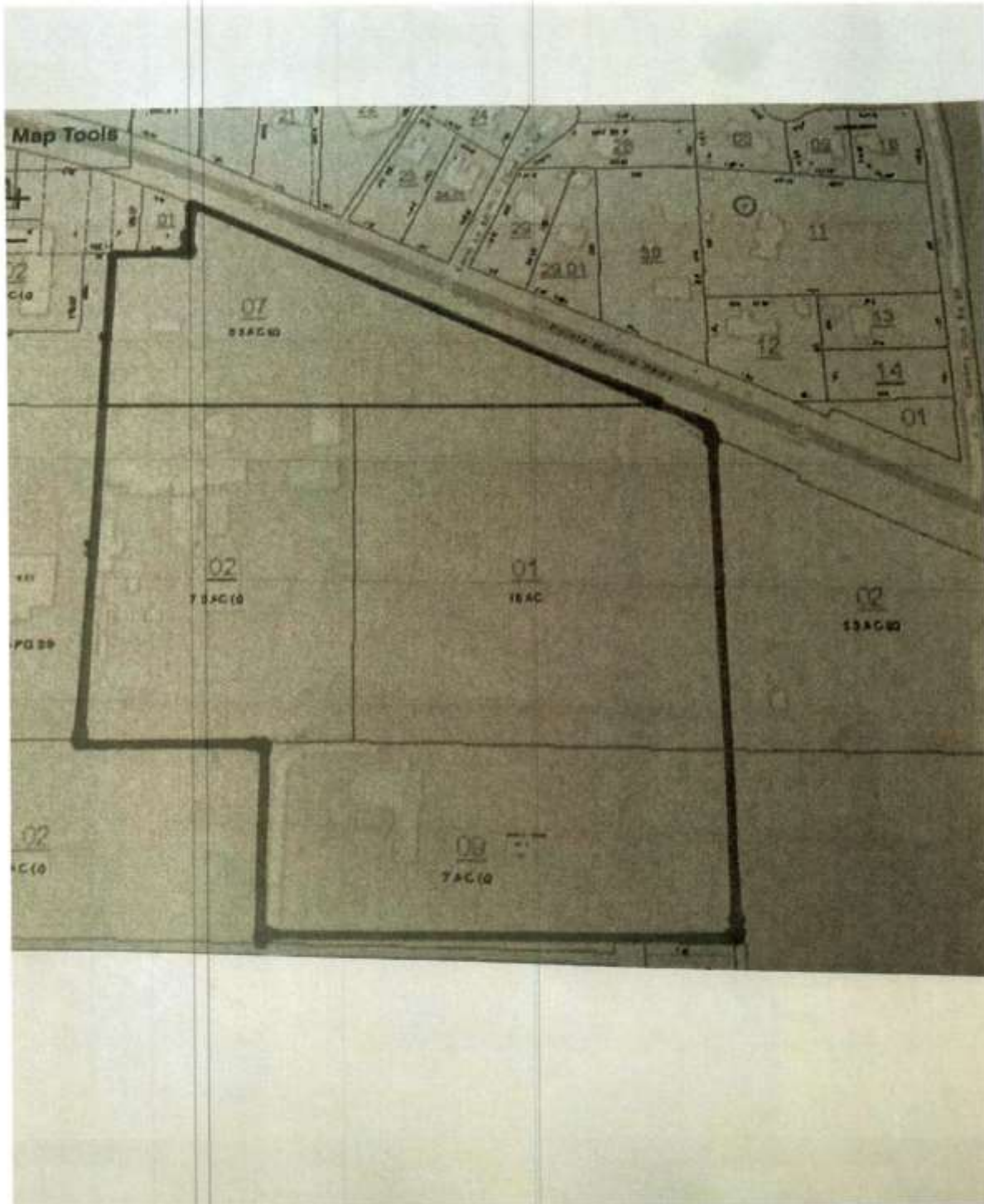
----- Forwarded message -----

**From:** Bryan <builtbybryan1@gmail.com>  
**Date:** Mon, Aug 8, 2022 at 11:58 AM  
**Subject:**  
**To:** Builtbybryan1 <builtbybryan1@gmail.com>



## SITE PLAN







MAP 2



3



402 Lee St NE 1<sup>st</sup> Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: Greystone Properties of Decatur, LLC & Land Services, LLC  
MAILING ADDR: PO Box 1965  
CITY, STATE, ZIP: Decatur, AL 35601  
PHONE: 256-353-1112

PROPERTY OWNER: Greystone Properties of Decatur, LLC & Land Services, LLC  
OWNER ADDR: PO Box 1965  
CITY, STATE, ZIP: Decatur, AL 35601 PHONE: 256-353-1112

ADDRESS FOR APPEAL: SW corner of the intersection of Pool Valley Road & Central Ave SW

NATURE OF APPEAL:

- ☐ HOME OCCUPATION    ☒ SETBACK VARIANCE    ☐ SIGN VARIANCE  
☐ USE PERMITTED ON APPEAL    ☐ APPEAL OF ADMINISTRATIVE DECISION  
☒ OTHER    ☐ SURVEY FOR VARIANCES ATTACHED    ☒ DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order  
For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

The property is currently being Re-Zoned from AG-1 to PRD-7 Residential District with a Front yard Setback of Twenty Five (25) Feet, a Rear Yard Setback of Thirty (30) Feet, and a Side Yard Setback of Eight (8) Feet, Max percentage lot coverage of buildings on gross development 35%. We are asking for a ten (10) foot variance for a Front Yard Setback, a Fifteen (15) foot variance for a Rear Yard Setback, and a Three (3) foot variance for a Side Yard Setback, 5% variance for Max percentage lot coverage for a new construction. See Sketch attached.  
The hardship is our expectation that the new Zoning Ordinance re-write will accommodate the lot geometry we are seeking. But due to the fact that the mentioned above re-write has not been approved yet, and due to the timing of this project, we are requesting these variances now.

Applicant Name (print) <u>Greystone Properties of Decatur, LLC</u>	If applicant is using a representative for the request both signatures are required	Office Use Received By: _____
Signature <u>[Signature]</u>		Zone _____
Representative Name (print) _____		Hearing Date _____
Signature _____		Approved/Disapproved _____
Date _____		

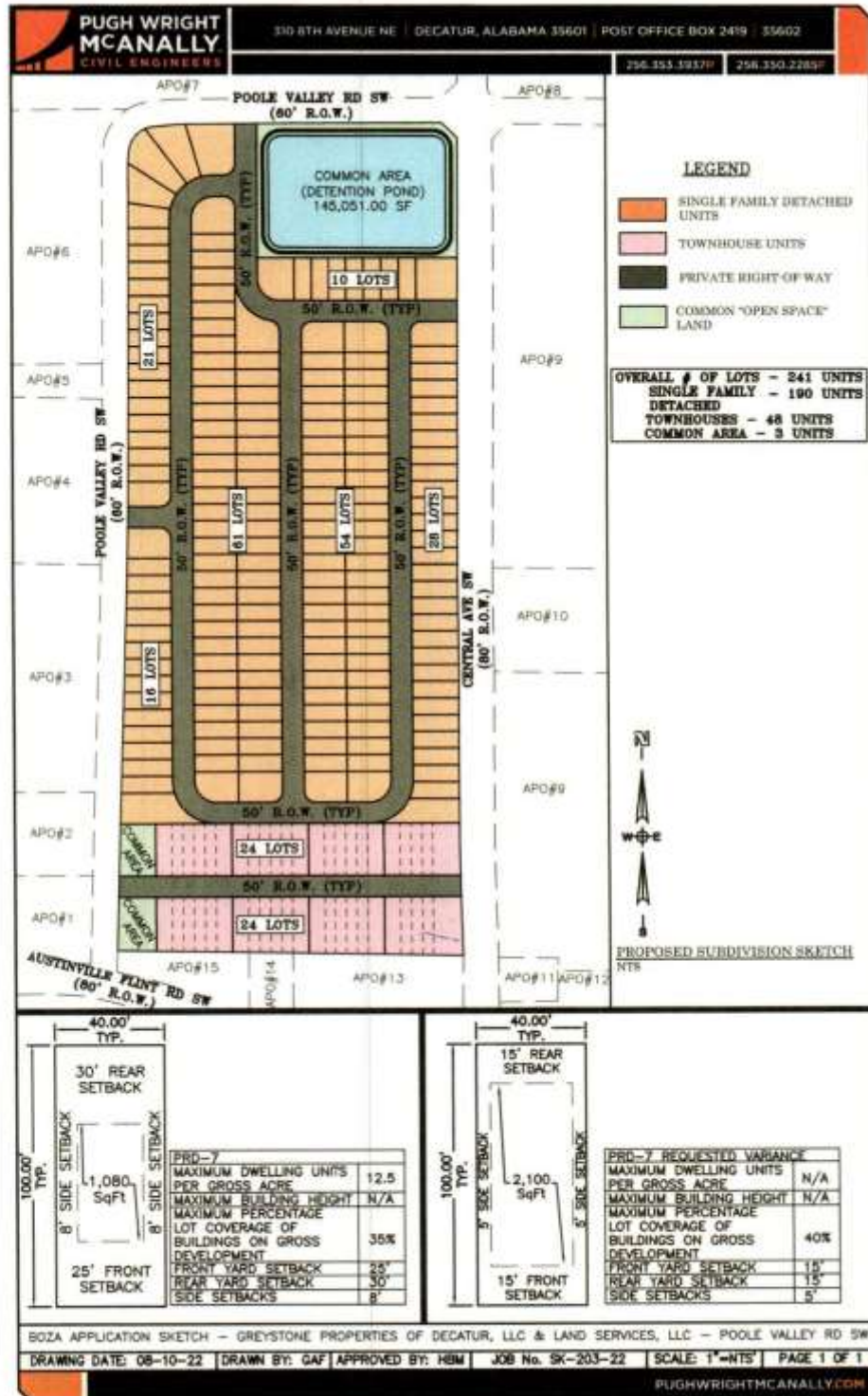
CASE NO. 3 APPLICATION

RE: **Board of Zoning Adjustment Application – Setback Variance**  
 SK-203-22 by Pugh Wright McAnally, Inc  
 Greystone Properties of Decatur, LLC & Land Services, LLC  
 Poole Valley SW, Central Ave SW, Decatur, AL 35603

ADJACENT PROPERTY OWNERS

APO #	Parcel #	Name	Mailing address
1	1204180000004000	Robert Mathew Young	4219 Poole Valley Road SW Decatur, AL 35603
2	1204180000004002	Rona Blevins	4213 Poole Valley Rd SW Decatur, AL 35603
3	1204180000004001	Edward E. Kirby & Peggy S. Kirby	4205 Poole Valley Rd SW Decatur, AL 35603
4	1204180000005000	Kenneth A. Klinovsky C/O Norma J. Spousta	4121 Poole valley Rd SW Decatur, AL 35603
5	1204180000006004	Ted Russell Jr. Poole	4412 Maple Lane Decatur, AL 35603
6	1204180000006003	Ted Russell Jr. Poole	4412 Maple Lane Decatur, AL 35603
7	1203070000007000	Charles R Bryant	4113 Spring Ave SW Decatur, AL 35603
8	1203080000010001	Carlos Roman & Israel Roman	2215 Gallahad Dr SW Decatur, AL 35603
9	1204170004002000	Greystone Properties of Decatur, LLC & Land Services, LLC	PO BOX 1965 Decatur, AL 35601
10	1204170004003000	Joe Wheeler Electric Membership Corporation	PO Box 460 Trinity, AL 35673
11	1204170004004000	Conrex Residential Property Group 2013-9 Operating Company, LLC	3 Cordes ST Charleston, SC 29401
12	1204170004005002	Rodger Rodgers & Charlotte Rodgers	4304 Central Pkwy SW Decatur, AL 35603
13	1204180000002000	David Burnett	406 Austinville Flint Rd SW Decatur, AL 35603
14	1204180000002002	Demastus Jim & Betty	314 Austinville Flint Rd SW Decatur, AL 35603
15	1204180000002001	Demastus Jim & Betty	314 Austinville Flint Rd SW Decatur, AL 35603

**PROPERTIES**



PROPOSED SUBDIVISION SKETCH