

FBOARD OF ZONING APPEALS
CITY HALL COUNCIL CHAMBERS
Tuesday, August 14, 2018
6:00 p.m.

The regular meeting of the Board of Zoning Appeals was scheduled and held in the Council Chambers of City Hall on August 14, 2018.

1. Chairman Sisson called the meeting to order at 6:03 p.m. and announced, the Board of Zoning Appeals is a Quasi-Judicial body and as such, the latitude for acting on applications is somewhat limited by State Statute and City Ordinance. This meeting is recorded and those appearing before the Board would need to identify themselves, give their address and be sworn in for the record.

Motions made in all meetings are of an affirmative nature and does not necessarily mean that the motion will be approved, but that the language will be of an affirmative nature when the motion is made. Each applicant has the opportunity to withdraw the application up until the time a motion is made. There are limitations as to when an applicant can reapply for the same request once the motion fails. Chairman Sisson Swore in the Staff.

Chairman Sisson noted Agenda Item No. 6 – 2793 Johnson Rd (Case No. 18-825) was withdrawn by the applicant before the meeting.

2. Chairman Sisson requested the roll call. Ms. Regina Gibson called the roll of the Board and established a quorum:

COMMISSIONERS PRESENT: Ms. Jennifer Sisson, Chairman; Mr. Mike Harless; Ms. Rhea Clift, Jodie Bowdon; and Alderman Mary Ann Gibson

DEVELOPMENT STAFF PRESENT: Mr. Cameron Ross, Economic and Community Development Director; Ms. Sheila Pounder, Planning Division Manager; Ms. Sarah Goralewski, Senior Planner; Ms. Regina Gibson, Administrative Secretary; Mr. Joe Nunes, Neighborhood Services Manager; and Mr. Alan Strain, Attorney.

-
3. Approval of Minutes from the June 12, 2018 Meeting.

Mr. Harless moved to approve the Board of Zoning and Appeals minutes of June 12, 2018, as discussed; seconded by Ms. Clift, with no further comments or discussions.

ROLL CALL: Ms. Bowden - Yes; Mr. Harless – Yes; Ms. Clift – Yes; Alderman Gibson – Yes; Chairman Sisson – Yes.

MOTION PASSED

-
4. 2277 West St – West Street Professional Building – Approval of Variance to Allow an Accessory Structure to be Less Than the Required Minimum Distance from a Property Line in the OG District (Case No. 17-749). Previously Known as Agenda Item No. 5

INTRODUCTION:

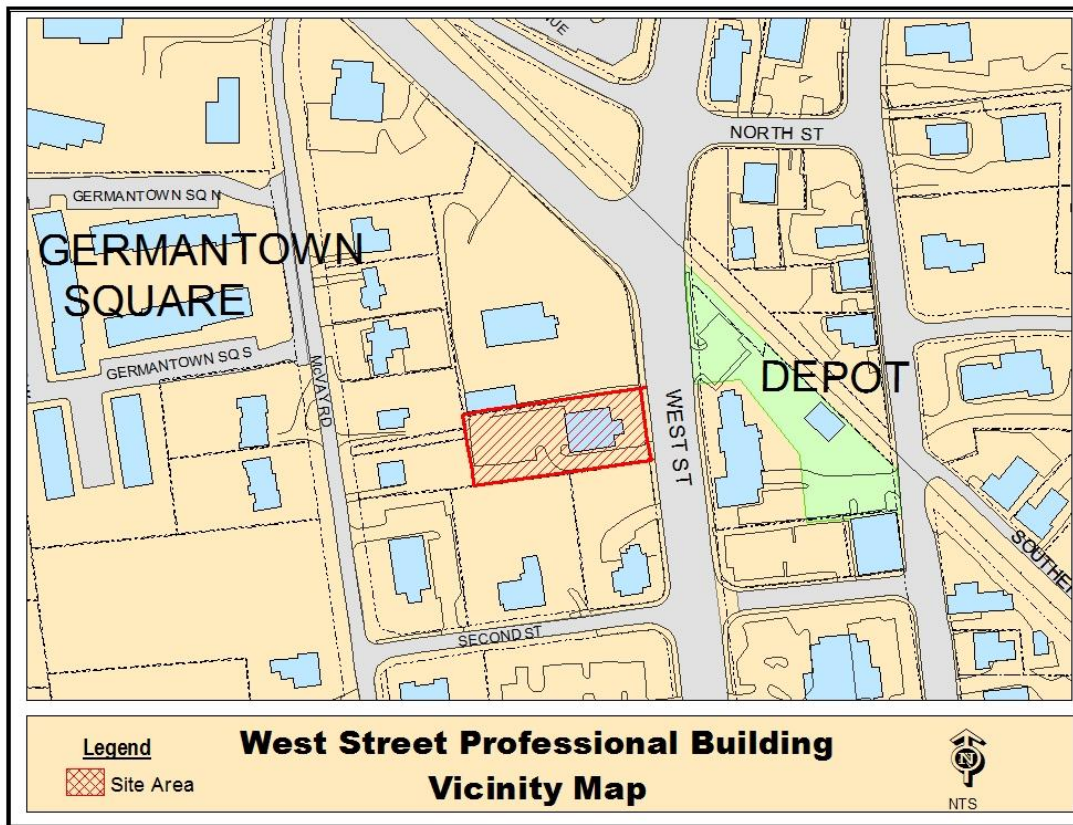
Owner/Applicant Name: Murcielago Holdings, LLC,

Location: 2277 West Street

Current Zoning District: “OG” Old Germantown District

Description of Request: Approval of Variance to Allow an Accessory Structure (a shed) to Replace an Existing Non-Conforming Shed in the OG District

*Refer to the Disclosure Form attached for more information



BACKGROUND:

DATE OF ANNEXATION: The property is located within Old Germantown (Carter B Harville Survey, dated 6-13-1955)

DATE SUBDIVISION APPROVED: N/A

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: The Shelby County Assessor of Property records reflects that the existing building was built in 1966 and is 9,385 sq. ft. in size and the existing accessory structure was built in 1980 and is 120 sq. ft. in size.

PREVIOUS VARIANCE REQUESTS: None.

DISCUSSION:

SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is approval of a variance from § 23-525, – Nonconforming uses and structures. “a) ...to permit legal nonconforming uses and structures, which are not permitted within the Old Germantown district, but which were permitted or considered legal uses and structures prior to April 23, 1984; and b)....if any structure existing within the district presently designated OG is damaged or totally destroyed by fire, wind, storm or any other calamity, the owner shall have the right to reconstruct the structure if such construction is commenced within a one-year period after such calamity, in the same location...”

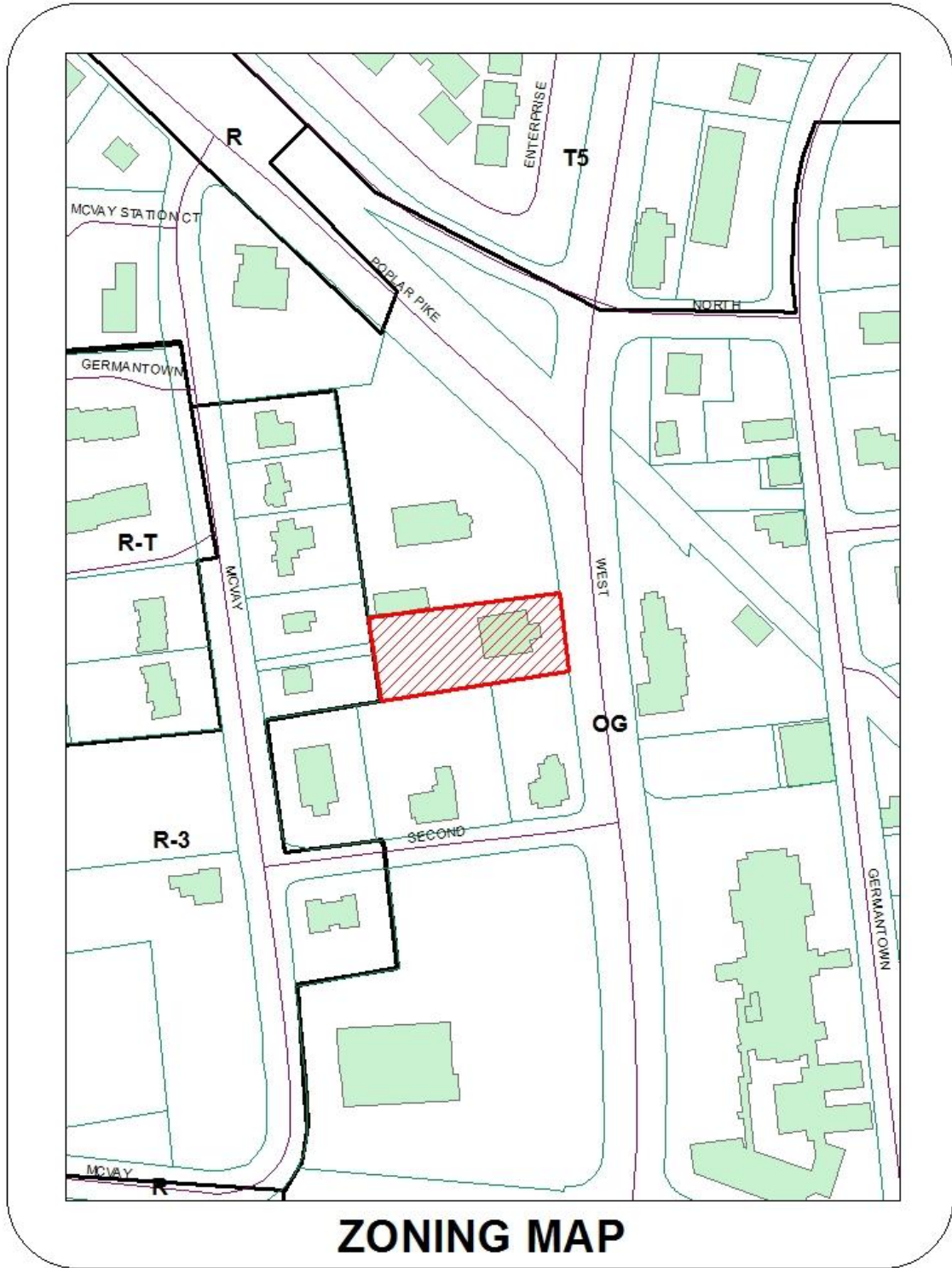
NATURE OF VARIANCE REQUESTED: The specific request by the applicant is for approval to demolish an existing deteriorated storage structure and replace it with a new structure on the existing 30’x8’ concrete slab in the northwest corner of the property.

APPLICANT’S JUSTIFICATION: The applicant is requesting the variance to be allowed to place a new shed in the same location as the current shed since “The current building is in need of massive repairs to make functional, however, even if repairs are made, the building will continue to deteriorate due to the current drainage situation on the property. There is no other place on the property to build a structure that will be in compliance with the current city ordinance and repairing the current structure would only be a temporary fix”. See the application for additional reasoning and pictures (pages6-8), included with this report.

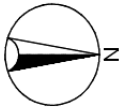
STAFF COMMENTS:

1. An application for the renovations to the building entrances, exterior painting, and a revised landscaping plan was approved on this site by the DRC on September 26, 2017. At the DRC meeting on November 28, 2017, the Commission considered an application for a revised preliminary and final site plan that permitted the replacement of an existing fence, an extension of an existing fence and recommended that the applicant seek approval from the Board of Zoning Appeals to replace an existing, non-conforming storage shed. On January 23, 2018, a third application was considered and approved by the DRC to revise the preliminary and final site plan to allow modification to an existing patio and deck addition.
2. The applicant’s request is not allowed pursuant to Sec. 23-525(b) since the existing structure is being removed and replaced due to disrepair not as permitted by the ordinance. The Board of Zoning Appeals must approve a variance to allow a new accessory building to be placed on the existing concrete foundation. The existing structure is grandfather into its existing location and may be renovated but a new structure is required to be brought into conformance with the regulations.
3. If the Board approves the requested variance, the applicant shall apply for an accessory structure permit from Germantown.

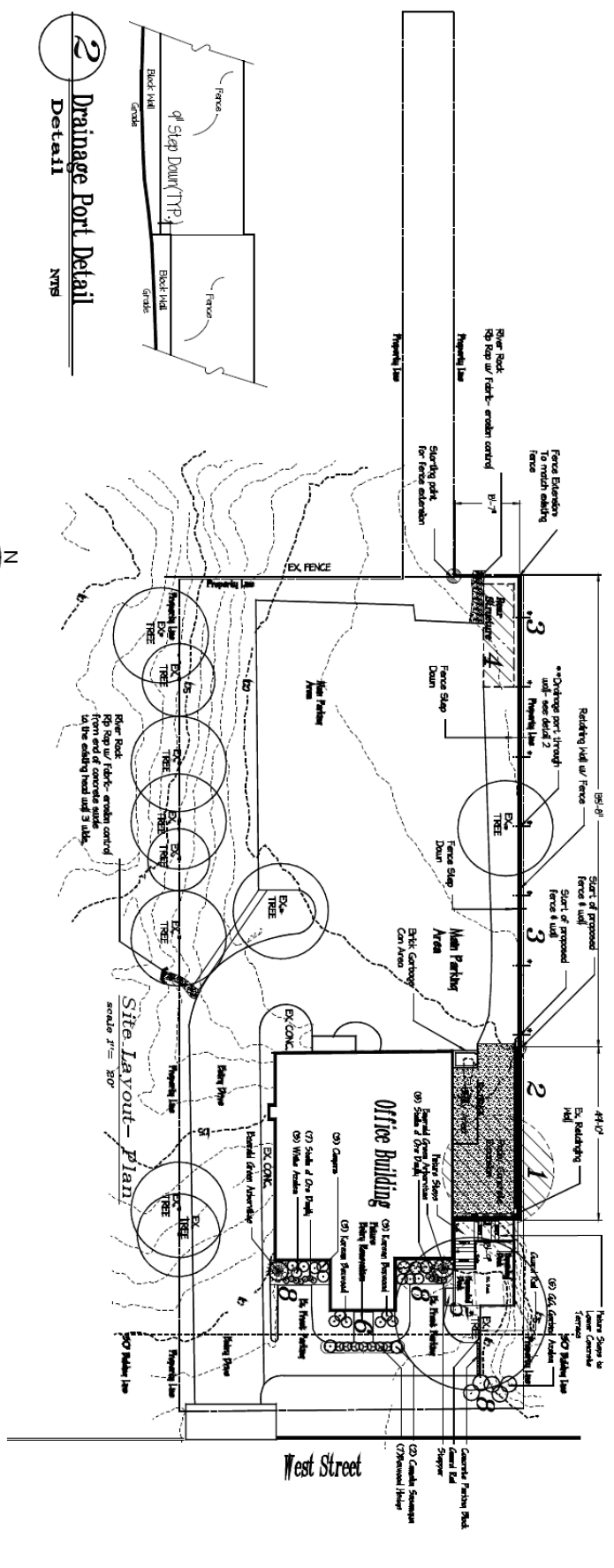
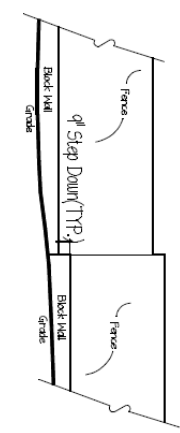
PROPOSED MOTION: To approve a variance to allow a new accessory structure (a shed) to replace an existing non-conforming accessory structure (shed) in the OG District, subject to the Board’s discussion, staff comments noted in the staff report and the site plan submitted with the application.



**WEST STREET
 PROFESSIONAL BUILDING**
 2255 West Street- Germantown, TN 38138



2 Drainage Port Detail
 NMS



Good Minds
 Design Studio & Construction

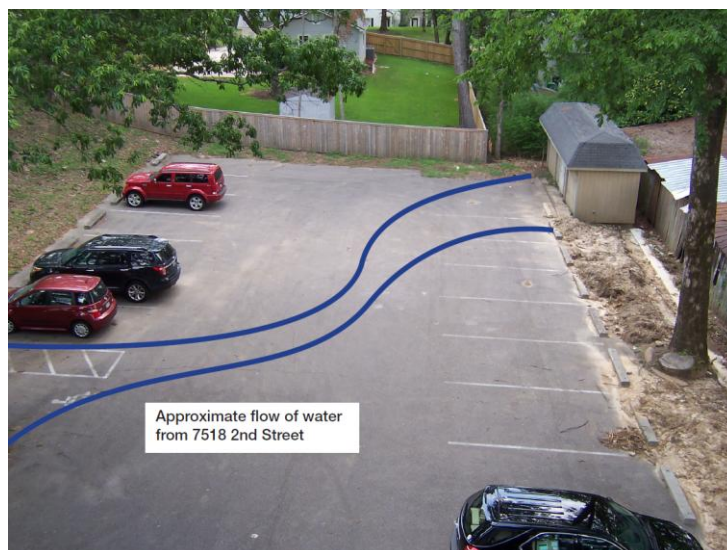
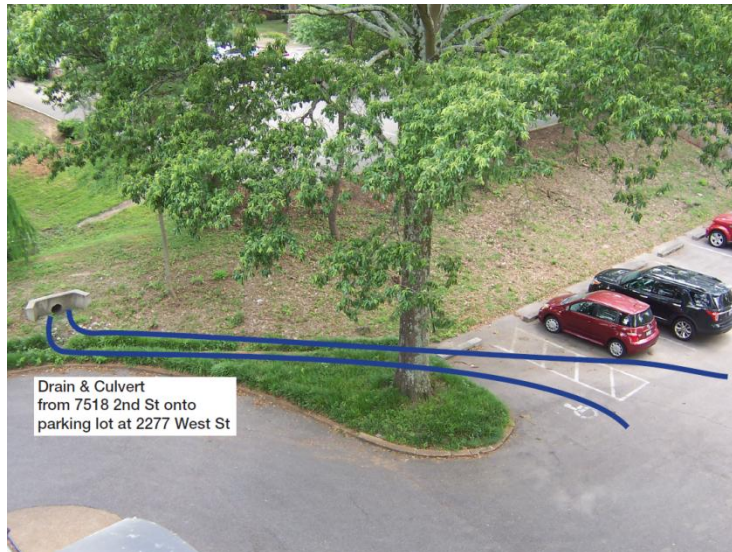
EXISTING SHED



NEW SHED



Drainage Issue: (Enlarged Pictures are included with the BZA web package)







CITY OF GERMANTOWN TENNESSEE

1930 South Germantown Road • Germantown, Tennessee 38138-2815
Phone (901) 757-7200 Fax (901) 757-7292 www.germantown-tn.gov

Date Received: 6/11/18
Received By: Gofalewski

BOARD OF ZONING APPEALS OFFICIAL APPLICATION FORM

1. Date of Application: JUNE 11, 2018
2. Action Requested (Circle one): Variance Use on Appeal Interpretation
3. Address of property where action is requested: 2277 WEST ST.
4. Briefly explain the specific action requested (e.g. "variance from required front yard setback in an "R" zoning district", or "variance to allow fencing to exceed six feet in height"):
REMOVAL & REPLACEMENT OF AN EXISTING STORAGE STRUCTURE WHICH IS CURRENTLY LOCATED LESS THAN 3' FROM THE PROPERTY LINE
5. Name of person submitting this request: JAMES BRUCE
6. Is this person the (circle one): Property Owner Agent/Representative Attorney
7. Address of person submitting request: 8643 TANOAK DRIVE, GERMANTOWN, TN
8. Telephone Number of person submitting request: 901 634-1901
9. Email Address of person submitting request: JIM BRUCE 2918 @ ATT.NET
11. Name and address of all property owner(s): MURCIELAGO HOLDINGS, LLC - 2277 WEST ST.
JAMES BRUCE 8643 TANOAK DR GERMANTOWN, TN
BRET RODRIGUEZ 679 FT. SUMPTER CV COLLETSVILLE TN
12. In the space below, describe the reasons for submitting the identified request. Include in the explanation the reason(s) why there is not another solution or why it cannot be accomplished in compliance with the Ordinance. Attach additional sheets if necessary.

SEE ATTACHED

BZA Application
Page 2

PLEASE NOTE: THE INFORMATION LISTED BELOW MUST BE PROVIDED OR YOUR APPLICATION MAY BE DEEMED INCOMPLETE

13. If a variance is requested, provide the following required information below to best of your ability.

The Board of Zoning Appeals has the following powers: (Section 23-49)

Where, by reason of *exceptional narrowness, shallowness or shape* of a specific piece of property or by reason of *exceptional topographic conditions* or *other extraordinary and exceptional situation or condition of such piece of property*, the strict application of any provision of this chapter would result in *peculiar and exceptional practical difficulties* to or *undue hardship upon the owner* of such property, to authorize upon appeal relating to the property a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. *Financial disadvantage to the property owner is not sufficient proof of hardship.* [Emphasis added]

This application for a variance is based on the condition(s) checked below (check all that applies):

1. Condition of property:

Exceptional narrowness, shallowness, or shape
(Describe in the box below if checked)

Exceptional topographic conditions
(Describe in the box below if checked)

THE DRAINAGE PATTERN CAUSED BY A RETENTION POND AND CULVERT FROM A NEIGHBORING PROPERTY CAUSES WATER TO FLOW DIRECTLY ONTO THE BASE OF THE EXISTING STRUCTURE CAUSING DAMAGE.

BZA Application
Page 3

Other extraordinary and exceptional situation or condition of the piece of property
(Describe in the box below if checked)

2. **Resulting in:**

Peculiar and exceptional practical difficulties
(Describe in the box below if checked)

Undue hardship upon the owner
(Describe in the box below if checked)

ACCORDING TO AN EMPLOYEE OF THE GERMANTOWN WATER DEPT. THE CULVERT PROBABLY SHOULD HAVE BEEN DIVERTED TO AN UNDERGROUND SYSTEM; HOWEVER, THIS NEVER HAPPENED. THERE IS AN EXCESSIVE AMOUNT OF WATER FLOWING OVER THE PARKING LOT AND DRAINING DIRECTLY INTO THE BASE OF AN EXISTING STRUCTURE CAUSING DAMAGE.

BZA Application
Page 4

14. Ownership Shares in Project (if applicable).

A. If the owner of the land which is the subject of this Application (including all owners, lessees and developers) is a for-profit entity, i.e. individual, sole proprietor, general partnership, limited partnership, corporation, limited liability company, R.E.I.T., a trust, or any other form of for-profit business entity or a non-profit entity, the authorized representative of the Owner must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Owner. (If another business entity owns 10% or more of the ownership interests in the Owner, all persons owning a 10% or more interest in such last mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Owner, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Owner/President or Equivalent: JAMES BRUCE
Signature: [Signature]

Persons or Entities* Owning
10% or More of the Ownership
Interests of the Owner:

Name	Business or Home Address
<u>JAMES BRUCE</u>	<u>8443 TANORAK DR GERMANTOWN, TN</u>
<u>BRET RODRIGUEZ</u>	<u>679 FT. SUMPTER CV COLLEGEVILLE, TN</u>

*See language in parenthesis above.

B. Not-for-Profit Entities. If the applicant submitting the Application (including all owners, lessees and developers) is a not-for-profit entity, the authorized representative of the Applicant must list below the name and business or home address of the President (or equivalent chief executive officer) and the members of its board of directors:

Applicant: _____
Address: _____
Authorized Signature for Applicant: _____

President or Equivalent
Chief Executive Officer: _____
Signature: _____

Members of the Board of Directors of the Applicant:


Name	Business or Home Address
_____	_____
_____	_____
_____	_____
_____	_____


BZA Application
Page 5

15. Certification

All applicable parties shown below must sign the application:

Sign the following statement and indicate owner, agent or attorney.

I,  _____, (property owner), attest to the best of my knowledge that the items submitted above are correct and accurate.

I,  _____, (agent or attorney), attest to the best of my knowledge that the items submitted above are correct and accurate.

Note that approval of the application is based upon information provided herein and any change in this information including any change in ownership interests of the subject real property, after filing the application may result in reconsideration of any approval.

The Applicant/Property Owner/Lessee acknowledges and agrees that if the developer of a project is not the owner of the subject real property, the owner/lessee and developer shall be required to join in the project development contract with the City and the obligations of the project development contract shall be the joint and several obligations of the developer, owner, and lessee.

In the space below, describe the reasons for submitting the identified request. **Include in the explanation the reason(s) why there is not another solution or why it cannot be accomplished in compliance with the Ordinance.** Attach additional sheets if necessary.

The current structure sits in the northwest corner of the property, which is located in OG zoning. The structure sits on an 8' x 30' concrete slab that was obviously poured for the construction of this particular structure. This structure (and therefore the slab) sits approximately 1' from the northern property line and 2' from the western property line, and the construction of the building precedes the ordinance regarding the distance from property lines that a structure must be built. The existing building backs up to a much larger building that is on the property of Germantown Lumber located at 7501 Poplar Pike. The Germantown Lumber building sits approximately 1' from the property line as well.

The design review commission has given overall site approval to the plan to improve 2277 West Street, including painting of the main building, new landscaping, new fencing, a new and enlarged deck area, a new patio area, and removal of the existing structure to be replaced with a new storage building structure. Although the DRC gave approval to the overall site plan, a variance is sought from the BZA to actually complete the storage building portion of the overall site plan improvement project.

The current building is in need of massive repairs to make functional, however, even if repairs are made, the building will continue to deteriorate due to the current drainage situation on the property. Although I have been unable to determine an exact date, many years ago, a retention pond was built on an adjacent property located at 7518 Second Street. A concrete culvert was attached to the retention pond and instead of diverting the drainage into an underground drainage system, the culvert allows rainwater to divert directly onto the southeast corner of the existing parking lot at 2277 West Street. All of the water drains in a northwest direction across the parking lot directly into the base of the existing storage building causing water damage, rot, and wood decay.

A variance is requested to build a new building with a galvanized base with weep holes, to allow the water to drain in its current path without causing damage to the building. The new proposed building will be less obtrusive than the existing building by being 2' shorter than the existing building. The new building will be painted to match the new paint of the main building as approved in the overall site planning. There is no other place on the property to build a structure that will be in compliance with the current city ordinance and repairing the current structure would only be a temporary fix.

BOARD DISCUSSION:

Mr. Bruce (owner) explained that it can be seen how bad the water damage is by the 3 foot water line on the side of the storage building. This damage is due to drainage in this area and neglect before he purchased the property. The building could possibly be repaired; however, the building is in very bad

shape. The new building he is proposing is two feet shorter than the one presently sitting there, and the new building will also have a galvanized base. This will have weep holes that will allow water to flow through, in case of a significant water event and which should eliminate the possible damage to the new building.

After much discussion, Chairman Sisson called for a motion.

Ms. Bowden made a motion to approve a variance to allow a new accessory structure (a shed) to replace an existing non-conforming accessory structure (shed) in the OG District, subject to the Board's discussion, staff comments noted in the staff report and the site plan submitted with the application, seconded by Ms. Clift.

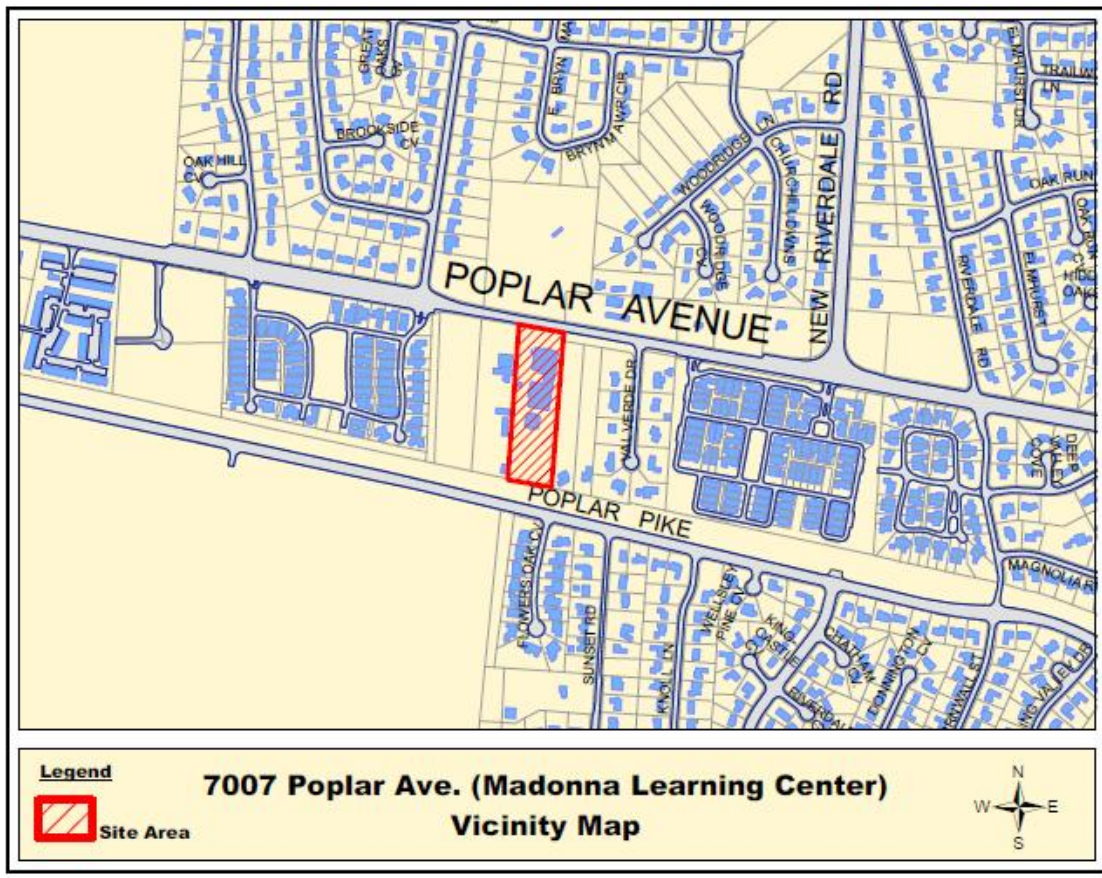
ROLL CALL: Mr. Harless – Yes; Ms. Clift – Yes; Ms. Bowden – Yes; Alderman Gibson – Yes, based on the exceptional topographic condition; Chairman Sisson – Yes, because this plan seems to address the drainage issue and should be allowed.

MOTION PASSED

-
5. 7007 Poplar Ave – Madonna Learning Center – Approval of a Use on Appeal to Allow a Wireless Transmission Facility (Cell Tower) in the R District (Case No. 15-512). Previously Known as Agenda Item No. 4

INTRODUCTION:

Case Number:	15-512
Location:	7007 Poplar Ave. (Madonna Learning Center)
Applicant:	Prime Development Group (Michael Fahy)
Property Owner:	Madonna Learning Center (Jo Gilbert, Director)
Zoning District:	“R” Low-Density Residential District
Description of Request:	Use on appeal to allow a Wireless Transmission Facility (cell tower)



BACKGROUND:

DATE OF ANNEXATION: June 13, 1955. Carter & Harville Survey.

DATE PLAT APPROVED: Madonna Learning Center (ROW Dedication Plat), recorded in 2014. Plat book 260, page 44.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: 1983 (original school building). 2014 (expansion).

PREVIOUS USE ON APPEAL AND VARIANCE REQUESTS: November 12, 2013 (use on appeal for an expansion of the school) and March 8, 2016 (variance for an accessory structure)

BACKGROUND: The Board of Zoning Appeals (BZA) approved a use on appeal to enable the expansion of the Madonna Learning Center on November 12, 2013. The Planning Commission approved the preliminary and final site plan for the expansion on February 4, 2014, and the Design Review Commission (DRC) approved building elevations, landscape plans and lighting on February 25, 2014. On March 24 and August 25, 2015, the DRC approved wall signs for the school. (The existing ground-mounted sign was approved with a variance by the DRC on July 23, 1996.) On March 8, 2016, the BZA granted a variance to allow an accessory structure (storage building) to encroach into the side yard setback. On August 22, 2017, the DRC approved 6' high gates located behind the front yard setback.

NATURE OF USE REQUESTED: The site of the proposed wireless transmission facility (cell tower) is Madonna Learning Center, located in the "R" Residential zoning district. The neighbor to the west is Millstone Nursery and the neighbor to the east is a single-family house. There are no adjoining neighbors to the immediate north or south. The plan proposes a 140'

tall monopole tower to be placed in the side yard, approximately 15' from the west side property line, approximately 75' west of the existing school building and 150' from the curb of Poplar Ave. A 21 ft. by 80 ft. equipment compound around the tower, enclosed by a 6' wood fence, would be 10' from the west side property line.

SPECIFIC SECTION OF ZONING ORDINANCE:

Per Section 23-86(c) (2), wireless transmission facilities are allowed within residential districts, with the approval of a use on appeal.

Section 23-86(h) describes the specific requirements for a wireless transmission facility within a residential district: 1) the parcel must have a minimum of 200 feet of public street frontage; 2) the tower must be setback from property lines a minimum distance of the tower's height plus 10 feet; 3) all associated buildings and structures must meet the minimum setback distances of the zoning district; 4) the maximum tower height is 140 feet; 5) a minimum buffer strip of 50 feet is required on the outer perimeter of property; 6) the applicant's engineer must provide documentation that the WTF meets or exceeds the ANSI standards for radio frequency emissions. The proposed cell tower complies with the above criteria, except for #5. An exception to this requirement may be considered by the Design Review Commission.

Article II, Division 2 describes the project characteristics the Board of Zoning Appeals must review in its deliberations on the use: 1) whether or not the approval will impair an adequate supply of light and air to adjacent property, 2) will it unreasonably increase the congestion of public streets, 3) increase the danger of fire and endanger public safety; 4) or in any other way impair the public health, safety, comfort or welfare of the inhabitants of the city. Further consideration may relate to screening, landscaping, location or other conditions necessary to protect property in the vicinity of the subject site.

Per Sec. 23-86(c) (1), if the BZA approves the use on appeal, the Planning Commission shall review and approve the site plan, the Design Review Commission shall review and approve a landscaping and fencing plan as well as the appearance of the tower, and the Board of Mayor and Aldermen shall approve a development contract for the construction of the tower and the associated equipment compound.

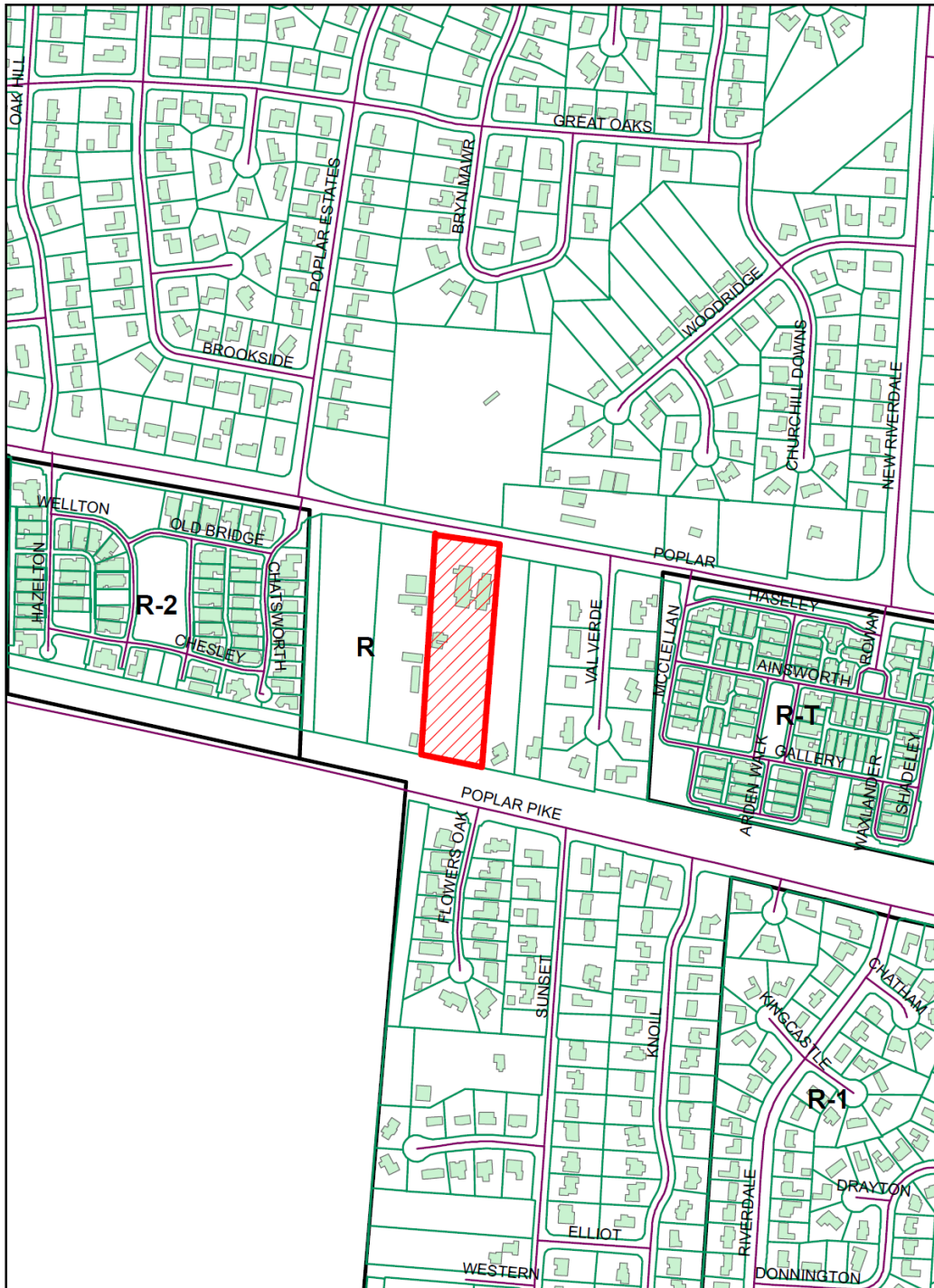
APPLICANT'S JUSTIFICATION: The applicant is requesting the new wireless transmission facility to improve coverage and capacity issues and has provided a heat map to show this. The applicant has not indicated in their request if the new cell tower is intended for shared use among multiple carriers. (See applicant's letter and heat maps in this staff report.)

STAFF COMMENTS:

1. The City of Germantown Information Technology staff reviewed this request and stated that this is an area experiencing coverage issues. Thus, they support the request.
2. If the use on appeal is approved by the Board of Zoning Appeals, the proposed wireless transmission facility (tower) shall proceed to the following Boards and Commissions for approval, in this order: Planning Commission for the site plan, Design Review Commission for landscaping, fencing and other appearance items and to the Board of Mayor and Aldermen for a development contract. Following securing approvals from the City of Germantown, the applicant shall apply for a building permit through Shelby County Code Enforcement.

PROPOSED MOTION: To approve a Use on Appeal to allow a wireless transmission facility (cell tower) located at Madonna Learning Center (7007 Poplar Ave.) in the "R"

Single-Family Residential district, subject to the Board's discussion, staff comments noted in the staff report and the site plan and documents submitted with the application.



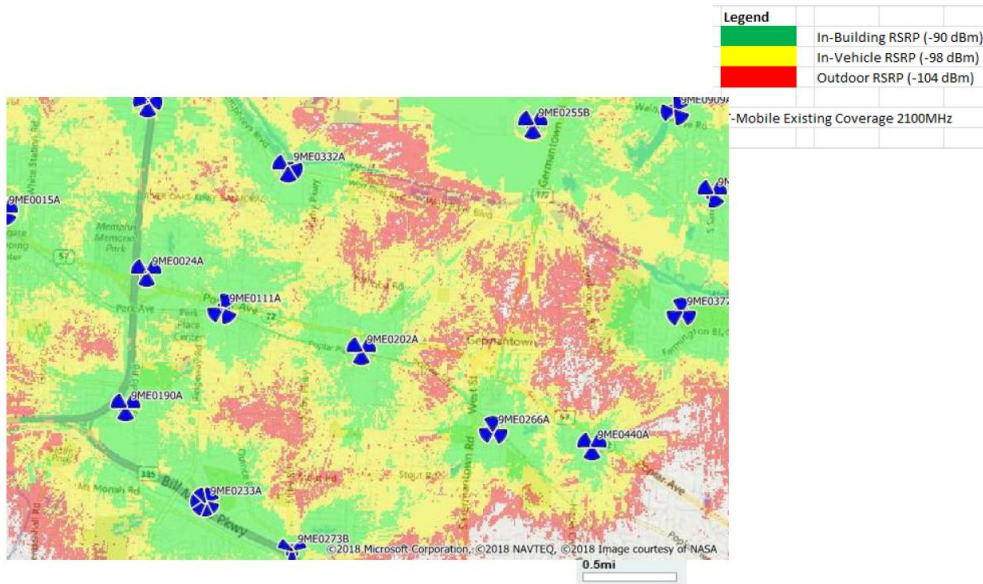
ZONING MAP

PHOTO-RENDERING OF PROPOSED TOWER



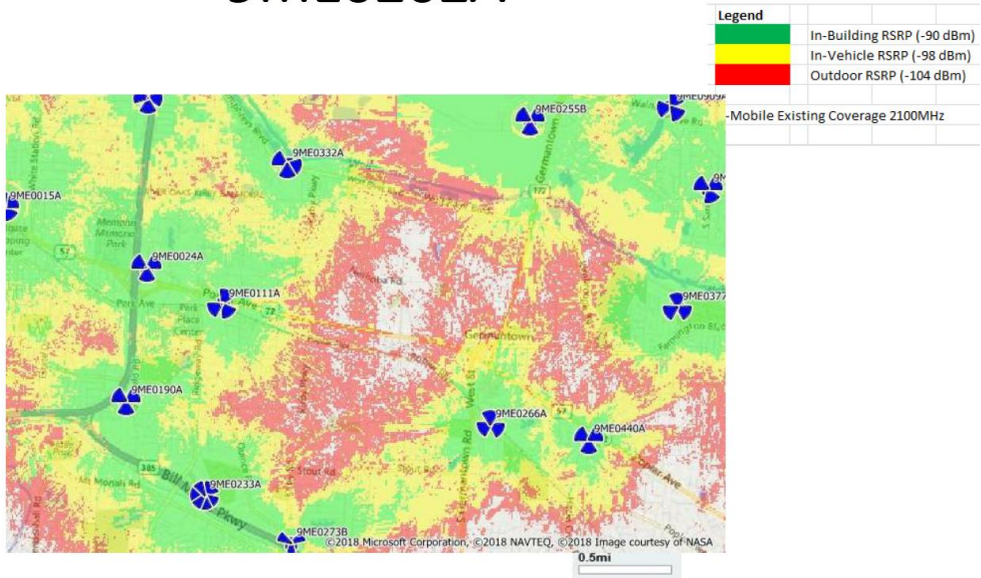
HEAT MAPS

T-Mobile Existing Coverage



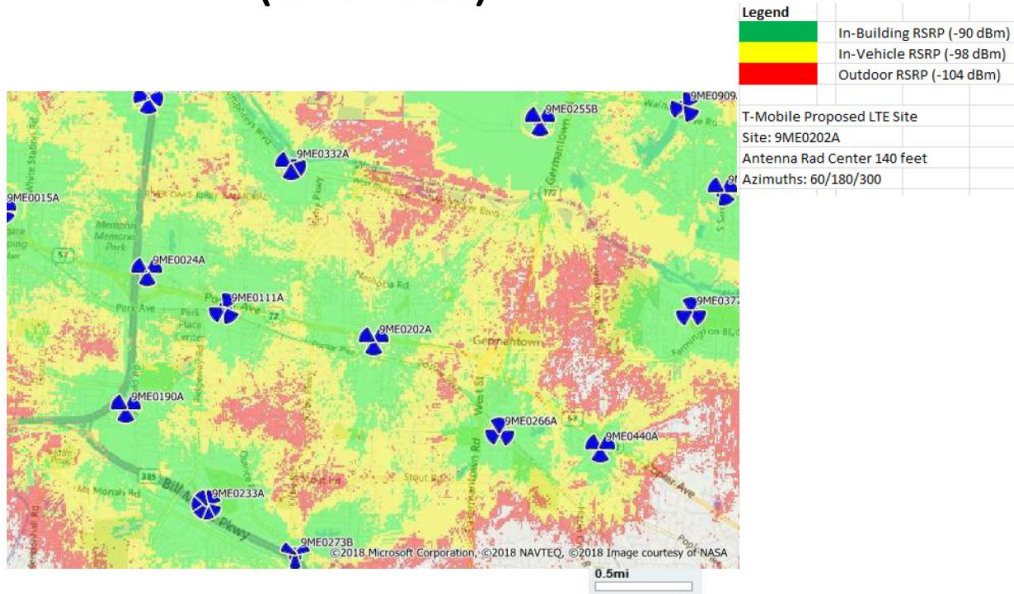
This slide indicates the predicted coverage of T-Mobile existing network.

I-Mobile Existing Coverage without 9ME0202A



This slide indicates the predicted coverage of T-Mobile existing network without 9ME0220A.

Mobile Proposed Coverage with 9ME0202A (140 feet)



indicates the predicted coverage of T-Mobile existing network and the proposed CAPACITY SITE with 140 feet height



Prime Development Group, Inc.
7520 Capital Drive, Ste. 200
Germantown Tn 38138
(901) 753-6840
(901) 482-0375
mfahy@pdg-m.com

July 9, 2018

Mr. Cameron Ross
Economic and Community Development Director
City Of Germantown
1920 South Germantown Road
Germantown TN 38138

RE: CMCS Tower Facility – Madonna Learning Center
7007 Poplar Avenue

Dear Mr. Ross:

On behalf of the Madonna Learning Center, we are pleased to present this Use of Appeal application to allow the placement of a telecommunications tower on a property within the “R” residential zoning district. TMobile Wireless requires a new cell site in order to help improve coverage and capacity issues due to increased wireless demand and congestion. There are no suitable tower structures in the area upon which to co-locate as they are single-user structures.

The proposed CMCS Mono-Pine CMCS facility will be on hundred forty-foot (140') tower, with the equipment enclosed within a six-foot (6') sight-proof fence. The facility will be unmanned with limited routine maintenance visits by technicians. It will be constructed in compliance with all federal, state and local building codes and standards. The site will be in conformance with Enhanced 911, to improve the reliability of E911 service to the citizens of Germantown.

This proposal is consistent with the purpose of the Ordinance and Board review in the following ways:

1. **View Protection:** Due to the location of the existing transmission tower on the adjoining property, the existing treeline/hedgerow and the MonoPine Stealth Tower design, the proposed facility will not create materially adverse visual impacts to surrounding property or the public right-of-way.

2. **Land Use Compatibility:** Due to the existing transmission tower, the commercial use of the adjoining property and the MonoPine Tower design will not cause an any increase in traffic, with no adverse effect due to lighting, noise, dust or odor. The proposed facility will not interfere with the use and enjoyment of surrounding lands and will fit the character of the land use and development at the proposed location.
3. **Design Harmony:** Due to the MonoPine design, existing tree line, commercial use of the adjoining property, and the existing transmission towers, the proposed design, no increase in traffic, lighting, noise, dust or odor, the proposed facility will not disturb the harmony of the natural settings and surrounding developments.
4. **Technical Justification:** Enclosed Coverage Maps illustrate the technical necessity for this proposed facility location and design as necessary to improve service coverage.

With ever increasing demand for both voice and data wireless coverage in Germantown for citizens and emergency services in this area, as well as future collocation for future carriers, the proposed MonoPine CMCS Tower will improve public safety and improve coverage for the community.

Regards,



Michael J. Fahy
President

Board of Zoning Appeal

August 14, 2018

Page | 24



Project Number: U0142-670-181

July 30, 2018

Cameron Ross
Economic and Community Development Director
1920 S. Germantown Road
Germantown, TN 38138

REFERENCE: **Madonna School TV18-01024W-05R0: 7007 Poplar Avenue, Germantown, TN 38138**
Fall Zone Letter for 140'-0" Concealment Pole

Dear Cameron,

It is our understanding that a 140 ft concealment monopine has been proposed for this site.

The above-mentioned pole will be designed in accordance with the International Building Code, 2012 Edition and the National Standard for Towers (Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, TIA-EIA-222-G). Additionally, all steel members and connections will be designed to meet the requirements of the AISC Steel Construction Manual.

The pole will be designed for the following criteria:

1. Wind speed (V): 115 mph (3-second gust) per the ASCE 7-10
2. Ice: 1" radial ice (nominal) with concurrent 30 mph wind (3-second gust)
3. Basic wind speed of 60 mph (3-second gust) for the service condition (deflection limitations only)
4. Structure Class II, Exposure C, Topographic Category 1 with a crest height of 0 ft.

It has been requested that the proposed monopine be designed for a 70ft fall zone. This requirement will be satisfied by ensuring that in the unlikely event of failure, the point of maximum stress will occur at the fall zone location, which is defined as 70ft from the top of structure. The structure above the fall zone will be designed such that the highest stress within the fall zone will be less than or equal to 100% of capacity. Expected stress ratios of all other structural elements below this point will be at least 20% less than the highest stress ratio that occurs at the fall zone location.

Please note that "fall zone" is a term not defined in the standards listed above. Our approach to the fall zone design is described in the preceding paragraph and is our best attempt to meet what we believe to be the intent of the fall zone request. Current code does not address failure mechanics. It is difficult to impossible to predict the behavior of a failing structure. Physics of a fall during a wind event, including possible bouncing or rolling, may place all or part of the ruptured pole section outside of the intended fall zone. Nonstructural components attached to the steel structure are outside of our scope. Nonstructural components may break free from the structure and fall outside of the fall zone even at loads below code-specified magnitudes if the components and their attachments are not properly designed and installed.

We hope this meets your needs. If you have any questions or require additional information, please call this office at your convenience.

Very truly yours,
VECTOR STRUCTURAL ENGINEERING, LLC

Roger T. Alworth, P.E.
Principal Engineer

RTA/djf



07/30/2018



CITY OF GERMANTOWN TENNESSEE

1930 South Germantown Road • Germantown, Tennessee 38138-2815
Phone (901) 757-7200 Fax (901) 757-7292 www.germantown-tn.gov

Date Received: _____
Received By: _____

BOARD OF ZONING APPEALS OFFICIAL APPLICATION FORM

1. Date of Application: July 2, 2018
2. Action Requested (Circle one): Variance Use on Appeal Interpretation
3. Address of property where action is requested: 7007 Poplar Avenue
4. Briefly explain the specific action requested (e.g. "variance from required front yard setback in an "R" zoning district", or "variance to allow fencing to exceed six feet in height"):
 Use on Appeal to allow of a 140 foot tall Mono-Pine CMCS Tower in the 'R' Zoning District

Name of person submitting this request: Michael J. Fahy

Is this person the (circle one): Property Owner Agent/Representative Attorney

Address of person submitting request: _____
7520 Capital Drive, Ste. 200
Germantown TN 38138

Telephone Number of person submitting request: 901-753-6840

Email Address of person submitting request: mfahy@pdg-m.com

Name and address of all property owner(s): _____
Madonna Learning Center, Inc.
7007 Poplar Avenue, Germantown TN 38138

In the space below, describe the reasons for submitting the identified request. **Include in the explanation the reason(s) why there is not another solution or why it cannot be accomplished in compliance with the Ordinance.** Attach additional sheets if necessary.

Tower Ventures is requesting approval of a 140 foot tall Mono-Pine CMCS Tower to improve coverage and capacity for TMobile to improve wireless congestion in the area. The CMCS Tower will be designed to allow co-location of additional carriers in the future.
Coverage maps detailing the before and after placement of the MonoPine CMCS Tower are attached.

BZA Application
Page 2

PLEASE NOTE: THE INFORMATION LISTED BELOW MUST BE PROVIDED OR YOUR APPLICATION MAY BE DEEMED INCOMPLETE

13. If a **variance is requested**, provide the following required information below to best of your ability.

The Board of Zoning Appeals has the following powers: (Section 23-49)

Where, by reason of *exceptional narrowness, shallowness or shape* of a specific piece of property or by reason of *exceptional topographic conditions* or *other extraordinary and exceptional situation or condition of such piece of property*, the strict application of any provision of this chapter would result in *peculiar and exceptional practical difficulties* to or *undue hardship upon the owner* of such property, to authorize upon appeal relating to the property a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. *Financial disadvantage to the property owner is not sufficient proof of hardship.* [Emphasis added]

This application for a variance is based on the condition(s) checked below (check all that applies):

Condition of property:

Exceptional narrowness, shallowness, or shape
(Describe in the box below if checked)

N/A

Exceptional topographic conditions
(Describe in the box below if checked)

N/A

_____ Other extraordinary and exceptional situation or condition of the piece of property
(Describe in the box below if checked)

N/A

2. **Resulting in:**

_____ Peculiar and exceptional practical difficulties
(Describe in the box below if checked)

N/A

_____ Undue hardship upon the owner
(Describe in the box below if checked)

N/A

14. Ownership Shares in Project (if applicable).

A. If the owner of the land which is the subject of this Application (including all owners, lessees and developers) is a for-profit entity, i.e. individual, sole proprietor, general partnership, limited partnership, corporation, limited liability company, R.E.I.T., a trust, or any other form of for-profit business entity or a non-profit entity, the authorized representative of the Owner must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Owner. (If another business entity owns 10% or more of the ownership interests in the Owner, all persons owning a 10% or more interest in such last mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Owner, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Owner/President or Equivalent: _____

Signature: _____

Persons or Entities* Owning
10% or More of the Ownership
Interests of the Owner:

Name	Business or Home Address
_____	_____
_____	_____

***See language in parenthesis above.**

B. Not-for-Profit Entities. If the applicant submitting the Application (including all owners, lessees and developers) is a not-for-profit entity, the authorized representative of the Applicant must list below the name and business or home address of the President (or equivalent chief executive officer) and the members of its board of directors:

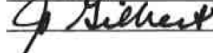
Applicant: Madonna Learning Center, Inc.

Address: 7007 Poplar Avenue, Germantown TN 38138

Authorized Signature for Applicant: _____

President or Equivalent

Chief Executive Officer: Jo Gilbert, Executive Director

Signature: 

Members of the Board of Directors of the Applicant:


Name	Business or Home Address
<u>see attached</u>	_____
_____	_____
_____	_____
_____	_____

Application
e 5

Certification

All applicable parties shown below must sign the application:

Sign the following statement and indicate owner, agent or attorney.

I, Jo Gilbert,  (property owner), attest to the best of my knowledge that the items submitted above are correct and accurate.

I, Michael J. Fahy,  (~~agent~~ or attorney), attest to the best of my knowledge that the items submitted above are correct and accurate.

That approval of the application is based upon information provided herein and any change in this information including any change in ownership interests of the subject real property, after filing the application may result in reconsideration of any approval.

Applicant/Property Owner/Lessee acknowledges and agrees that if the developer of a project is not the owner of the subject real property, the owner/lessee and developer shall be required to join in the project development contract with the City and the obligations of the project development contract shall be the joint and several obligations of the developer, owner, lessee.

PLEASE NOTE THAT YOUR APPLICATION MAY BE WITHDRAWN AT THE PUBLIC HEARING PRIOR TO THE BOARD OF ZONING APPEALS VOTING ON IT, SUBJECT TO THE BOARD'S APPROVAL OF YOUR WITHDRAWAL REQUEST.

MADONNA BOARD OF DIRECTORS
2018 - 2019
(revised 6-11-18)

Joanna Curtis, CFRE

Sr. Director for University
Development University of Memphis

Barbara Daush - Mike

Barbara H. Daush
Senior Consultant
Carney Sandoe & Associates
(term expires 6/30/17)

John Haase - Kathy

(term expires 6/30/15)

Dr. Mike Neel - Liz

President
(term expires 6/30/15)

Mike Glenn - Donna

(term expires 6/30/18)

Elizabeth Williamson - Russell

Board Secretary

(term expires 6/30/15)

Barney Abis - Caren

(term expires 6/30/15)

John Bobango -

Lisa

(term expires 6/30/15)

Past Board Members

Tom Tompkins – Cheryl

Marianne Hartquist

Chris Miller – Gina

John Sampietro - Suzanne

Jimmy Dickey - Pam

The Marston Group, PC c/o Anne
Caraway Certified Public
Accountants and Bus. Advisors The
Marston Group
(term expire 6/30/18)

Andy Gattas

Knowledge

Tree

(term expires 6/30/17)

Brother Chris Englert ,F.S.C

Christian

Brothers

(term expires
6/30/2017)

Mike Mattingly - Gretchen

(term expires
6/30/2017)

BOARD DISCUSSION:

Mr. Mike Fahy w/ Prime Development Group explained that the applicant, Tower Ventures, is proposing a new cell tower at Madonna Learning Center. This cell tower would accommodate multiple carriers, some of which are currently located at other sites, and may consider relocating here. For example, the existing T-Mobile tower in the MLGW transmission tower on the neighboring site cannot modify its tower to be compatible with upcoming technology. Thus, it will be coming down. The separate AT&T tower, presently on the neighboring, is only designed to be used by only one carrier, which is AT&T. This existing tower is not structurally capable of carrying any other users. The 5G tower that is being proposed at Madonna Learning Center will be able to accommodate 4 carriers, and the intent is to have as many users on this tower as possible. They tried to position this tower far enough back on the property to meet the city's regulation. The elevation of this property drops off 40 feet toward the back of the lot, thus the tower is more effective being located at the front of the site, where the elevation is higher. If something catastrophic happens, and the tower falls, the school is located 75 feet away from the tower. The proposed tower is designed to break at 70 feet and fall down upon its self. There is no need for a 20 foot fence or shelter around this cell tower. The beneficiary for this tower is Madonna School.

Mr. Charles Watson (1973 Val Verde Dr., Germantown) spoke in favor of the new tower and feels it is necessary. However, he would rather see the tower placed 30 feet back to the south, so more equipment could be added to both sides.

Mr. Harless made a motion approve a Use on Appeal to allow a wireless transmission facility (cell tower) located at Madonna Learning center (7007 Poplar Ave.) in the "R" Single-Family Residential district, subject to the Board's discussion, staff comments noted in the staff report and the site plane and documents submitted with the application, seconded by Alderman Gibson.

ROLL CALL: Ms. Bowden – Yes, based on the shape of the property and the topography on the south side; Ms. Clift – Yes, for the reasons previously stated; Mr. Harless – Yes, although he still has concerns for it being on the Madonna property because the children are there and also recognizes that there are still several more steps they are going to have to go through before they get their final approval; Alderman Gibson – Yes, because she feels this will give a better life line coverage; Chairman Sisson – Yes, for issues of safety and topography.

MOTION PASSED

6. NEW/OLD BUSINESS: Chairman Sisson noted that Hunter Browndyke has taken a position with the City and would no longer be able to serve as a member of the Board of Zoning Appeals. She acknowledged her appreciation for the years he served on this board and the time he served as Vice-Chairman.
-

ADJOURNMENT

There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 6:31 p.m.