

BOARD OF ZONING APPEALS
CITY HALL COUNCIL CHAMBERS
Tuesday, December 11, 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 December 11, 2018.

1. Chairman Sisson called the meeting to order at 6:00 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.

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; Ms. Rhea Clift, Vice Chairman; Mr. Mike Harless; Jodie Bowden; Frank Uhlhorn; and Alderman Mary Ann Gibson

DEVELOPMENT STAFF PRESENT: Mr. Cameron Ross, Economic & Community Development; 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.

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3. Approval of Minutes from the November 13, 2018 Meeting.

Ms. Bowden moved to approve the Board of Zoning and Appeals minutes of November 13, 2018 as discussed; seconded by Ms. Clift, with no further comments or discussions.

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

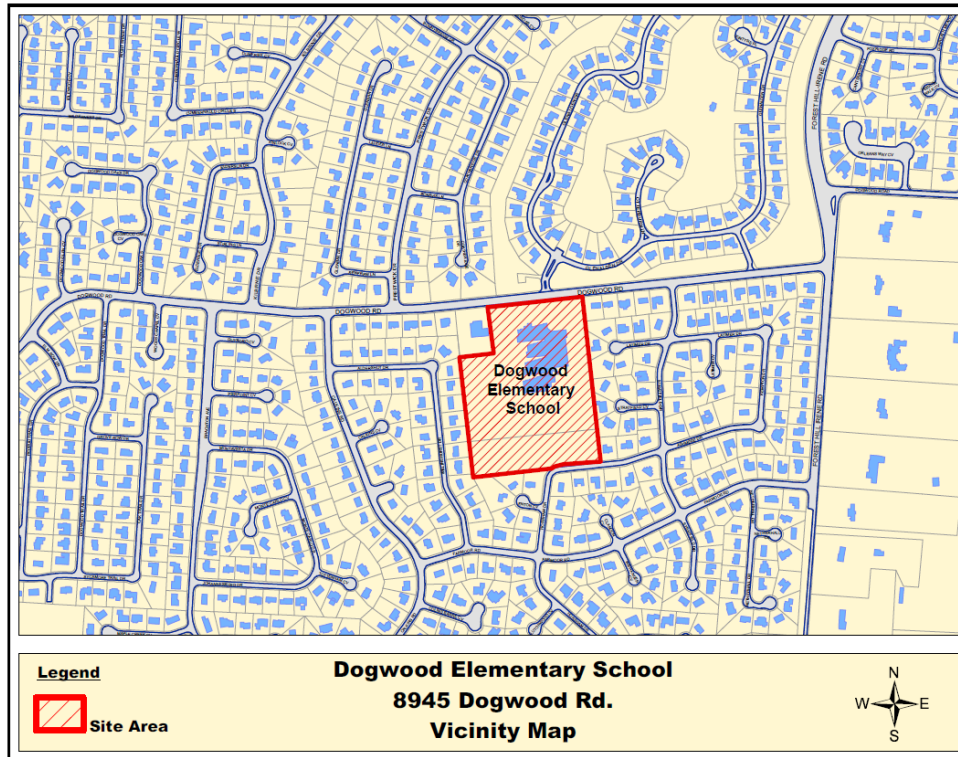
MOTION PASSED

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4. Germantown Municipal School district (GMSD) – 8945 Dogwood Rd (Dogwood Elementary School) – Approval of a Use on Appeal to Allow a Wireless Transmission Facility (Cell Tower) in the R District. (Case No, 18-809)

INTRODUCTION:

Case Number:	18-809
Location:	8945 Dogwood Rd. (Dogwood Elementary School)
Property Owner/ Applicant:	Germantown Municipal School District (GMSD) – Jason Manuel, Superintendent
Representative:	Prime Development Group (Michael Fahy)
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: December 31, 1981, per Ord. 1981-42.

DATE PLAT APPROVED: No recorded plat.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: 1977.

PREVIOUS USE ON APPEAL AND VARIANCE REQUESTS: None.

HISTORY: Dogwood Elementary School was constructed by the Shelby County Board of Education in 1977. In 1985, a classroom addition to the front of the building facing Dogwood Rd. was constructed. The property was transferred to the Germantown Municipal School District when that entity was created in 2014. In 2017, portable classrooms were installed on the property, south of the principal school building.

NATURE OF USE REQUESTED: On behalf of T-Mobile, Prime Development Group is representing the Germantown Municipal School District to propose a new wireless transmission facility. The site of the proposed wireless transmission facility (cell tower) is Dogwood Elementary School, located in the "R" Residential zoning district. Fire Station #2 is to the north and Dogwood Park is to the south of the school site, with single-family residential neighborhoods on the east and west sides of the property. The plan proposes a 140' tall monopine cell tower, with the ability to accommodate up to four carriers (including T-Mobile). The cell tower would be placed in the southeastern portion of the school property, west of the portable classroom buildings, in front of a landscape buffer of trees separating the school property from the park property. It would be 148 ft. from the principal school building and 236 ft. from the front playground. A 30 ft. by 90 ft. equipment compound around the tower base, enclosed by a 6 ft. high wood fence, would be accessed with a driveway leading from the rear parking lot.

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, in regard to criterion #5, the Design Review Commission may require additional landscaping around the equipment compound to further screen it from the view of Dogwood Rd.

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.

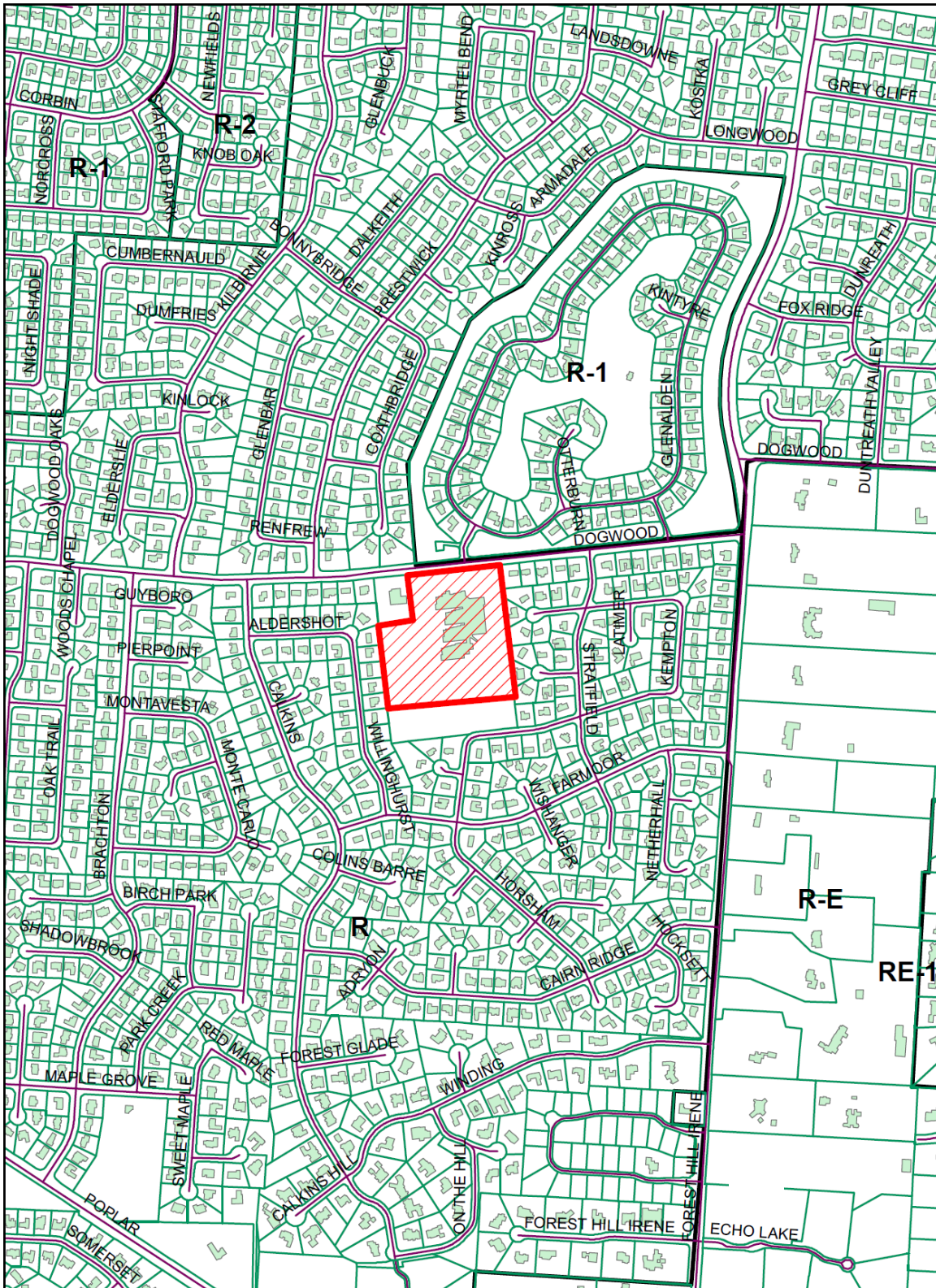
Per Sec. 23-86(c)(1), if the BZA approves the use on appeal, the Planning Commission shall review and approve the site plan, the Design Review Commission shall review and approve a landscaping and fencing plan as well as the appearance of the tower, and the Board of Mayor and Aldermen shall approve a 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. (See applicant's letter and heat maps in this staff report.)

STAFF COMMENTS:

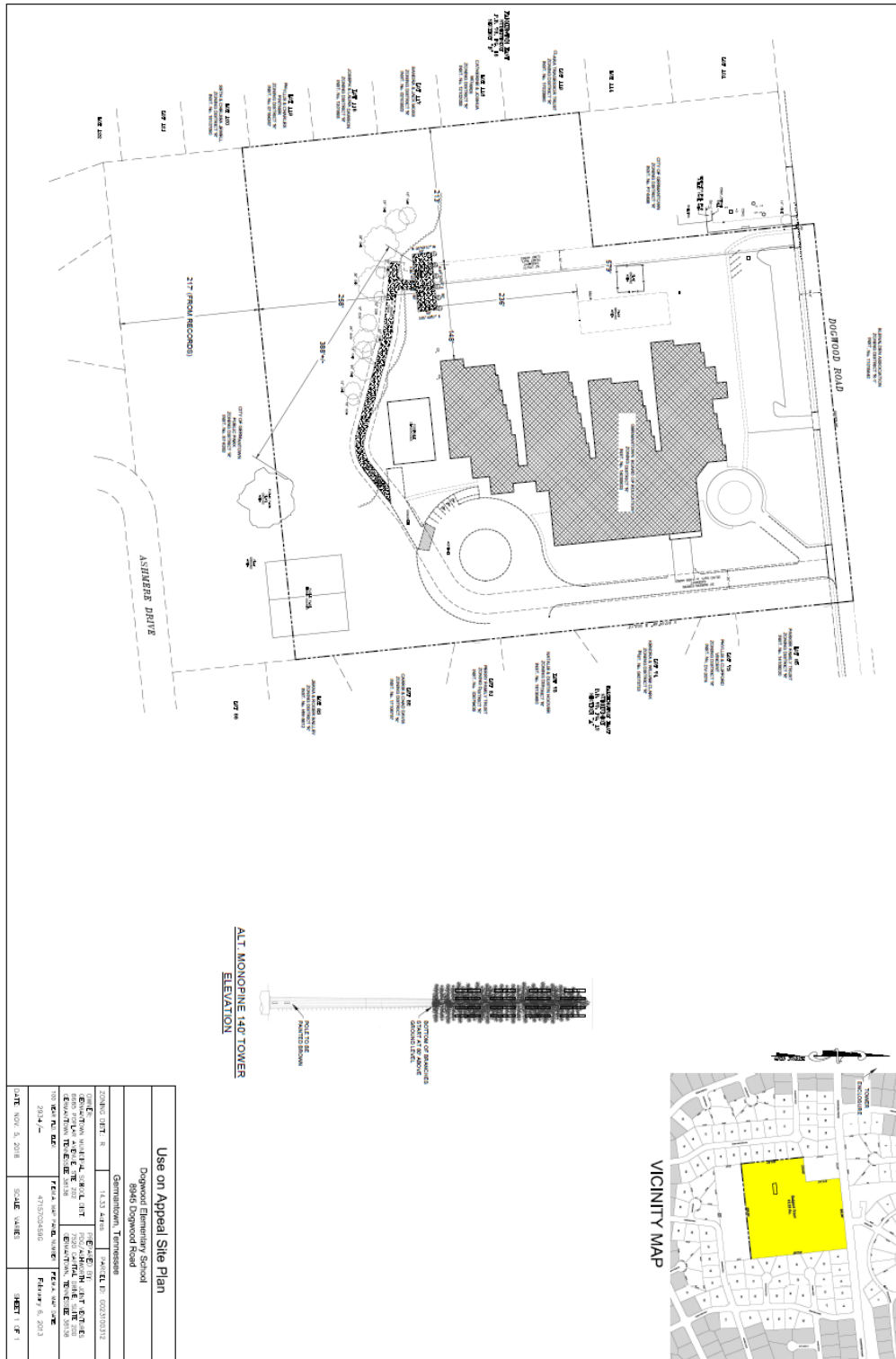
1. If the use on appeal is approved by the Board of Zoning Appeals, the proposed wireless transmission facility (cell tower) shall proceed to the following Boards and Commissions for approval, in this order: Planning Commission for the site plan, Design Review Commission for landscaping, fencing and other appearance items, and to the Board of Mayor and Aldermen for a development contract and final site plan approval. Following securing approvals from the City of Germantown, the applicant shall apply for a building permit through Shelby County Code Enforcement.
2. The following city departments and entities were provided with the use on appeal application materials to review: Engineering, Fire, GMSD, Information Technology, Parks, Police, Public Works. None had any objections to the use on appeal request.
3. Per the City's Information Technology Director, this area of the city is experiencing coverage issues., and the request for a new cell tower at this location is supported.
4. As part of the Planning Commission application submittal, the applicant shall provide a certified structural analysis of the proposed cell tower, related to the fall zone.

PROPOSED MOTION: To approve a Use on Appeal to allow a wireless transmission facility (cell tower) located at Dogwood Elementary School (8945 Dogwood Rd.) in the "R" Low-Density 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

SITE PLAN
(See agenda packet for full-sized plans)



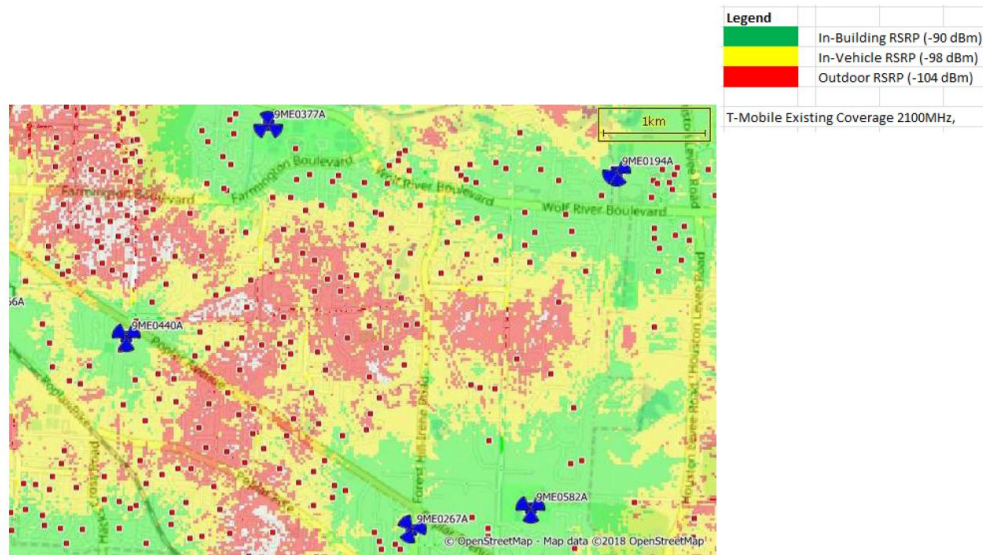
Use on Appeal Site Plan	
Doydson Elementary School 5950 Downroad Road Germantown, Tennessee	
ZONING DISTRICT	15.53 (A) (1)
OWNER	GERMANTOWN METROPOLITAN SCHOOL DISTRICT 1500 W. MAIN ST. # 200 GERMANTOWN, TENN. 37032
PROJECT NAME	RENOVATION OF DUYDSON ELEMENTARY SCHOOL
DATE	NOV. 3, 2018
SCALE	AS SHOWN
DATE	MAY 1, 2013

PHOTO-RENDERING OF PROPOSED TOWER



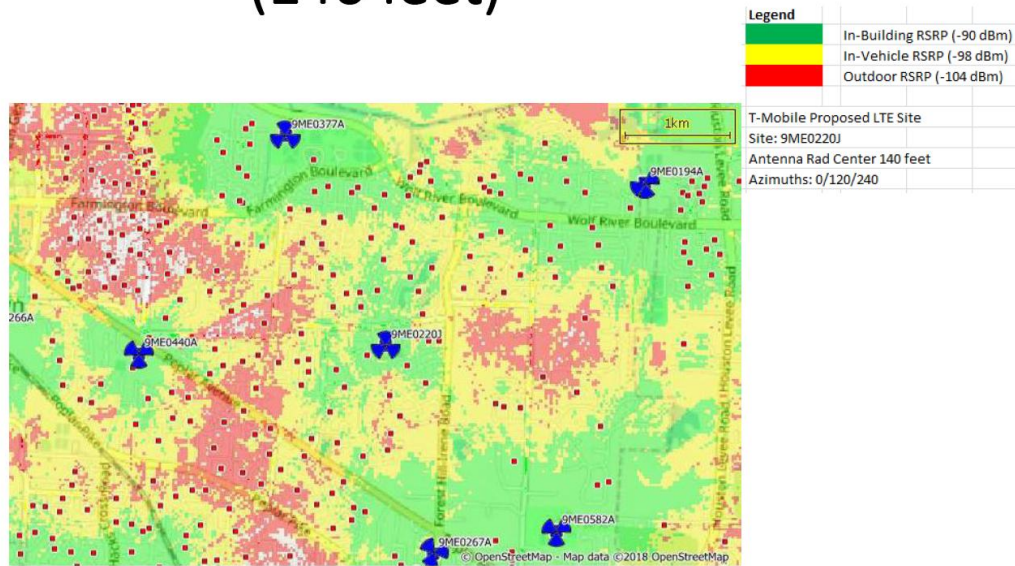
HEAT MAPS

T-Mobile Existing Coverage (2100MHz)



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

I-Mobile Proposed Coverage 2100MHz (140 feet)



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



November 10th, 2018

RE: T-Mobile Site # 9ME0220
8970 Dogwood Rd, Germantown, TN. 38139

To Whom It May Concern:

T-Mobile South LLC (“T-Mobile”) respectfully submits this letter in an effort to construct a new telecommunications tower at 8970 Dogwood Road. The proposed new tower is required to provide capacity, relieve exhausted sectors, improve coverage and provide adequate RF signal for the T-Mobile network within Shelby County Tennessee.

In order for T-Mobile to meet the increasing demand for its wireless service, it is necessary to place telecommunication facilities in strategic locations to adequately provide service for the increasing capacity demand of both its voice and data networks. Specifically, T-Mobile RF Engineering has determined that there is a requirement for increased in-building voice and data capacity at the residential areas near this proposed new site. The residential areas near this proposed new site will experience increased in-building data throughput rates and improved signal as a result of the new tower.

Previous optimization efforts in the area encompassing the capacity exhausted neighboring T-Mobile sites, (9ME0440A, 9ME0377A, 9ME0194A, 9ME0582A, and 9ME0267A) were unable to provide the needed re-distribution of traffic due to surrounding terrain conditions and distance to the targeted area. See the RF maps for details.

Before requesting permission to build a new tower, T-Mobile looks first for co-location opportunities. There are no opportunities for co-location with 1 mile of the proposed new tower.

Additionally, this new site will improve the access to T-Mobile’s enhanced E911 services as required by the FCC and local PSAP and improve safety to the citizens.

T-Mobile takes all precautions necessary to ensure that none of its transmission locations interfere with any other carrier and/or wireless entity.

T-Mobile owns and operates the following frequency bands in the City of Germantown, TN. T-Mobile ensures that all necessary precautions are being done for the frequency bands being used, not to interfere with any other carrier or wireless entity.

2G/GSM T-Mobile Operating Frequency Bands						
Band	Downlink (MHz)			Uplink (MHz)		
	Low	Middle	High	Low	Middle	High
1900 PCS	1930.2	1960	1989.8	1850.2	1880	1909.8

3G/UMTS T-Mobile Operating Frequency Bands							
Band	Name	Downlink (MHz)			Uplink (MHz)		
		Low	Middle	High	Low	Middle	High
2	1900 PCS	1930	1960	1990	1850	1880	1910
4	AWS-1	2110	2132.5	2155	1710	1732.5	1755
4G/LTE T-Mobile Operating Frequency Bands							
Band	Name	Downlink (MHz)			Uplink (MHz)		
		Low	Middle	High	Low	Middle	High
2	1900 PCS	1930	1960	1990	1850	1880	1910
4	AWS-1	2110	2132.5	2155	1710	1732.5	1755
12	700 a	729	737.5	746	699	707.5	716
71	600	617	634.5	652	663	680.5	698

Also, the tower facility will conform to applicable FCC standards for radio frequency emissions and copies of any federally studies or measurements of radio frequency.

If you have additional questions you may contact me at 404-791-9579 or Kristi Anderson at 205-222-6552 or Kristi.anderson@t-mobile.com.

Sincerely,

Pine McCullough

Pine McCullough
 RF Design Engineer

cc: Site File, Kristi Anderson (Development Manager – T-Mobile)
 Enclosure: Current coverage and proposed coverage propagation maps.



Prime Development Group, L
7520 Capital Drive, Ste. 2
Germantown Tn 381
(901) 753-6840
(901) 482-0375
mfahy@pdg-m.com

October 31, 2018

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

**RE: CMCS Tower Facility – Germantown Municipal School District,
Dogwood Elementary School at 8945 Dog wood Road**

Dear Cameron:

On behalf of the Germantown Municipal School District, 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. T-Mobile 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:** The proposed Monopine Tower is 577 feet south of the Dogwood Road right-of-way and has been placed in an existing indentation in the existing tree line at the rear of the school property, which is an additional 260 feet north of Dogwood Park. 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 non-residential (Dogwood Park) 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, non-residential use of the adjoining property, 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**



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: October 22, 2018
2. Action Requested (Circle one): Variance Use on Appeal Interpretation
3. Address of property where action is requested: 8945 Dogwood Road
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
5. Name of person submitting this request: Michael J. Fahy
6. Is this person the (circle one): Property Owner Agent/Representative Attorney
7. Address of person submitting request: _____
7520 Capital Drive, Ste. 200
Germantown TN 38138
8. Telephone Number of person submitting request: 901-753-6840
9. Email Address of person submitting request: mfahy@pdg-m.com
11. Name and address of all property owner(s): _____
Germantown Municipal School District
6685 Poplar Avenue, Ste. 202, Germantown TN 38138
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.

TVT1, LLC, a sister company of 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.

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):

I. **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

BZA Application
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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: Germantown Municipal School District
Address: 6685 Poplar Avenue, Ste. 202, Germantown TN 38138

Authorized Signature for Applicant: _____

President or Equivalent
Chief Executive Officer: Jason Manuel, Superintendent
Signature: _____

Members of the Board of Directors of the Applicant

Name	Business or Home Address
Linda Fisher	6685 Poplar Avenue, Ste. 202, Germantown TN 38138
Betsy Landers	6685 Poplar Avenue, Ste. 202, Germantown TN 38138
Lisa Parker	6685 Poplar Avenue, Ste. 202, Germantown TN 38138
Amy Eoff	6685 Poplar Avenue, Ste. 202, Germantown TN 38138

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15. **Certification**

All applicable parties shown below must sign the application:

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

I, Jason Manuel  (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.

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.

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

Last Revision Date: 7/2017

Board Discussion:

Tony Fischer, City of Germantown - IT Director, explained that he was responsible for moving forward the City's Vision 2030 Strategic Objective goal of improving cell coverage for the city. They have completed studies in terms of coverage around the city and have confirmed that the area in discussion is

the worst coverage area in the city. The school and fire station have little to no service at this time. Police and Fire depend heavily on cellular connections. Ambulances communicate with the hospitals transmitting EKG's and patient records to the hospital through the cellular connections. Cellular networks supply the closest ambulance service to dispatch for a call and this improves response times. Over two-thirds of all 911 calls come in through the use of a cellular network verses a landline.

Mr. Mike Fahy, with Prime Development Group on behalf of Tower Ventures (developer), explained most people have gotten rid of their landlines. It is very difficult for emergency services to find you when you have lost your cell coverage. They have been working on this site with the school system for two years to try and figure out how to put this cell tower in position and shift it to where it will back into the tree line. The tower is more centered in the rear area behind the school, and it will be further away from the school than the original designs, while maintaining a good distance from the neighbors to the west. T-Mobile and Verizon are two carriers that want to go on this tower immediately and the proposed tower will meet the 4-carrier requirement. Meeting this Board's requirements entailed aesthetically tucking the tower within the tree line so it doesn't stick out like a sore thumb, making sure it was not near a playground in order to keep it away from the children, and making sure the road that will be installed isn't designed in a fashion that would seem like an invitation for someone to drive back there. A lot of time and thought has been put into this project to make sure the applicant meets the demand for coverage.

Mr. Harless asked for the cell tower fall zone clarification for this tower. Mr. Fahy informed the Board that it is the collapsible tower that will fall on itself and stay within its equipment compound.

Ms. Valerie Burgess, Glen Alden Resident, spoke against this tower placement. She expressed the health issues resulting from the danger of radiation that will be coming from this tower. She feels the school is sacrificing the children's health for financial gain. She asked the Board to deny this request.

Mr. Fahy explained that the American Cancer Society has said that there is no health threat as well as the federal government. There is no credible study that has allowed been allowed by a court to be admissible and prove that there is an issue. Years ago, cancer claims were made against the TVA transmission towers, but were later proven to be a hoax. Due to the benefit and nightmare of the internet, you can find whatever you want to find, but the American Cancer Society has rendered that there is no health threat.

Also included in the file are two emails in opposition and four emails in support.

After much discussion, Chairman Sisson called for a motion.

Mr. Uhlhorn moved to approve a Use on Appeal to allow a wireless transmission facility (cell tower) located at Dogwood Elementary School (8945 Dogwood Rd.) in the "R" Low-Density 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, seconded by Alderman Gibson, with no further discussion.

ROLL CALL: Alderman Gibson – Yes, based on a safety and security issue; it is needed and necessary; Ms. Bowden – Yes, agree with what was previously stated; Ms. Clift – Yes, because the increase in cell coverage is needed for all 911 situations; Mr. Uhlhorn – Yes; Mr. Harless – Yes, one the biggest issues we hear in the city is the lack of cell phone coverage for personal and 911 calls; Chairman Sisson – Yes, for the reasons previously stated.

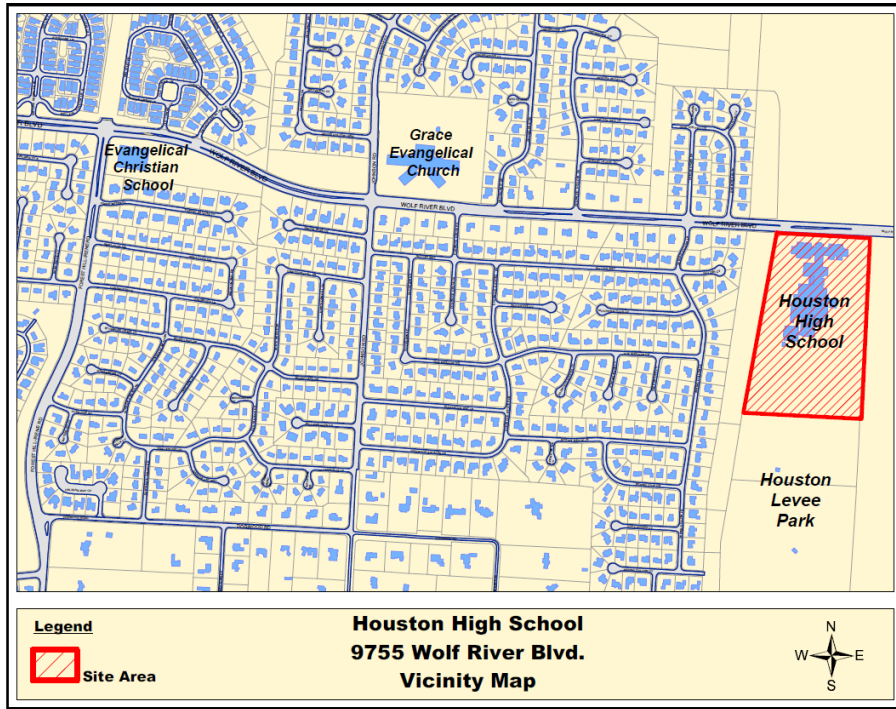
MOTION PASSED

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5. Germantown Municipal School district (GMSD) – 9755 Wolf River Blvd – Approval of a Use on Appeal to Allow a Building Expansion and Accessory Buildings in the R District (Case No. 18-845).

INTRODUCTION:

Case Number:	18-846
Location:	9755 Wolf River Blvd.
Property Owner/ Applicant:	Germantown Municipal School District (GMSD) – Jason Manuel, Superintendent
Representative Name:	Fleming Architects - Steve Landwehr, Agent
Current Zoning District:	“R” Low-Density Residential District
Description of Request:	Approval of a Use on Appeal for Accessory Uses at a Public High School in the “R” Low-Density Residential District

*Refer to the Disclosure Form attached for more information



BACKGROUND:

DATE OF ANNEXATION: December 31, 1989, per Ord. No. 1989-22

DATE PLAT APPROVED: No recorded plat.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: 1988.

PREVIOUS USE ON APPEAL AND VARIANCE REQUESTS: None.

HISTORY: Houston High School was constructed by the Shelby County Board of Education in 1988. In 2003, a building addition was constructed. The property was transferred to the Germantown Municipal School District when that entity was created in 2014.

NATURE OF USE REQUESTED: The property is 44.94 acres, developed as a public high school complex. The existing high school buildings total 266,104 sq.ft. and the property have 753 parking

spaces. The proposed project would be a four phase expansion to the school's athletic and arts facilities, consisting of: 1) new field house for the football team (12,480 sq.ft.); 2) building expansion of the band room (approximately 4,000 sq.ft.); 3) building expansion to the performing arts center (approximately 14,000 sq.ft.); and 4) renovation of the previous band storage building into a concession stand, the "Paddock" (3,200 sq.ft.). The four-phase expansion is projected to commence in spring 2019 and be completed by the end of 2020.

SPECIFIC SECTION OF ZONING ORDINANCE: The request for a use on appeal is based on Section 23-228 of the Zoning Ordinance: Uses Permitted by the Board of Zoning Appeals in the "R" Low-Density Residential zoning district (see bold text): "The uses listed in this section shall be permitted by the Board of Zoning Appeals, provided that the use requested is to be located on a route designated as either a major street or a collector street on the official major road plan, and that the other requirements set forth in this division article II, division 4 and article II, division 2 of this chapter are met: Philanthropic or religious institutions; places of worship; public, private or parochial schools offering general educational courses; municipal, county, state or federal uses; public utilities, golf courses; private and country clubs; parks and playgrounds; cultural activities; cemeteries; family day care homes and wireless transmission facilities. Accessory buildings and structures and accessory uses customarily incidental to the above uses are allowed, provided that the principal structure on the site was approved by the board of zoning appeals, or if the principal structure on the site is classified as an allowable, nonconforming use, per Section 23-666 of this chapter."

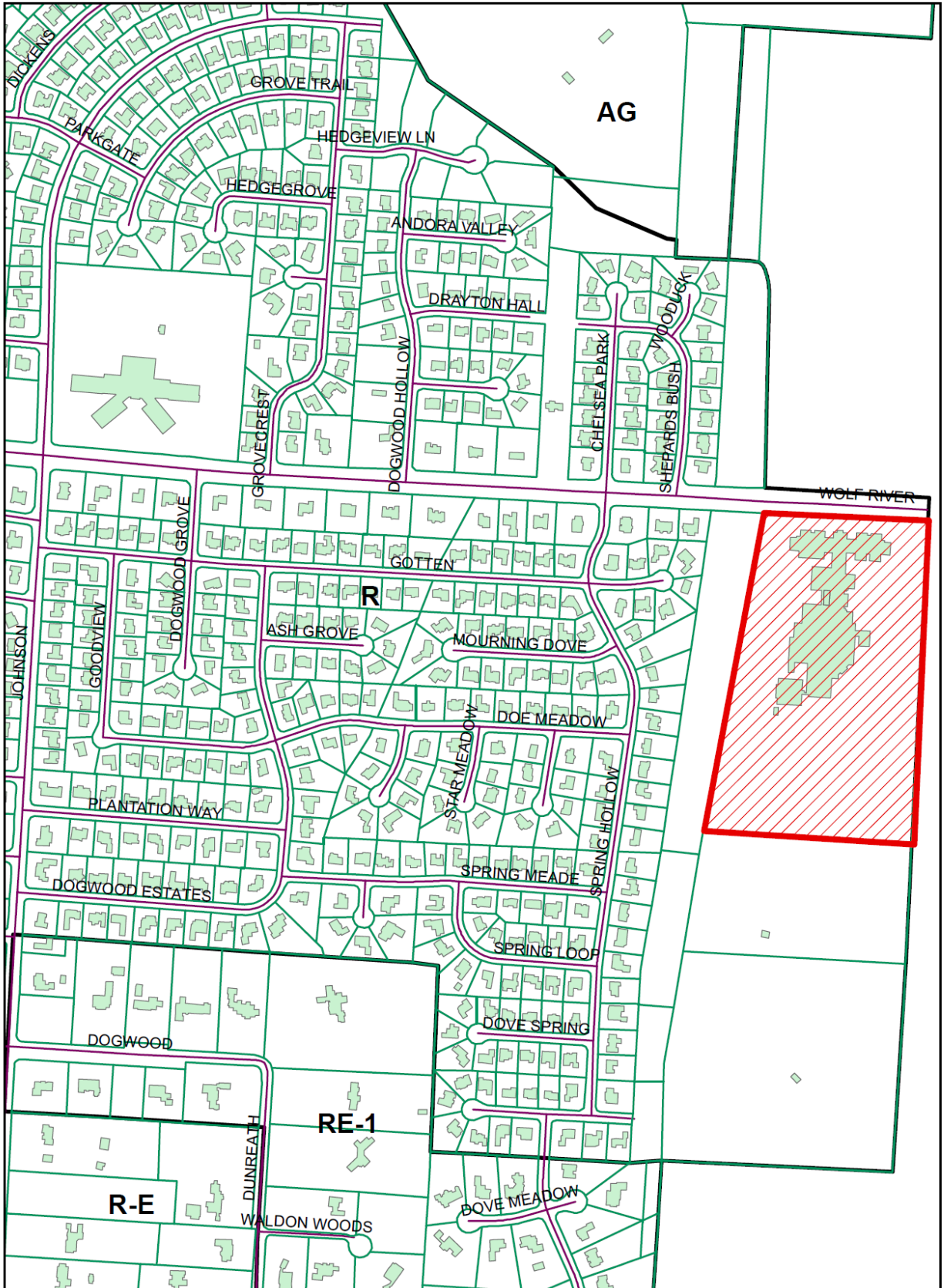
Article II, Division 2 describes the project characteristics the Board of Zoning Appeals must review in its deliberations on the use: 1) whether or not the approval will impair an adequate supply of light and air to adjacent property, 2) will it unreasonably increase the congestion of public streets, 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.

APPLICANT'S JUSTIFICATION: See the included application and proposed site plan for additional information.

STAFF COMMENTS:

1. The proposed accessory uses would be expressly for Houston High School and are in conformance with the primary use of the property, per Section 23-228.
2. Per Section 23-234(2), "permitted uses other than residential shall have no limitations on the number of buildings, but the aggregate of all buildings shall not cover more than 25 percent of the entire lot area." With the proposed accessory uses, the approximate building coverage on the property would be 15.4%.
3. If the Use on Appeal is approved, the applicant shall apply to the City of Germantown Planning Commission for revised site plan approval, and then to the Design Review Commission for building elevation, landscape, fence, sign and lighting plan approval.
4. As part of the Planning Commission application, the applicant shall submit a site plan showing all existing easements in the project areas. The applicant is aware that if there is a conflict between any of the proposed structure placements and the easements, there may be a revision needed to the proposed building layout.

PROPOSED MOTION: To approve a Use on Appeal for a four phase expansion of accessory uses at Houston High School, located at 9755 Wolf River Blvd., specifically: 1) new football field house; 2) band hall building expansion; 3) performing arts building expansion and 4) athletic field concession stand renovation, subject to the Board's discussion, staff comments and the site plan submitted with the application.

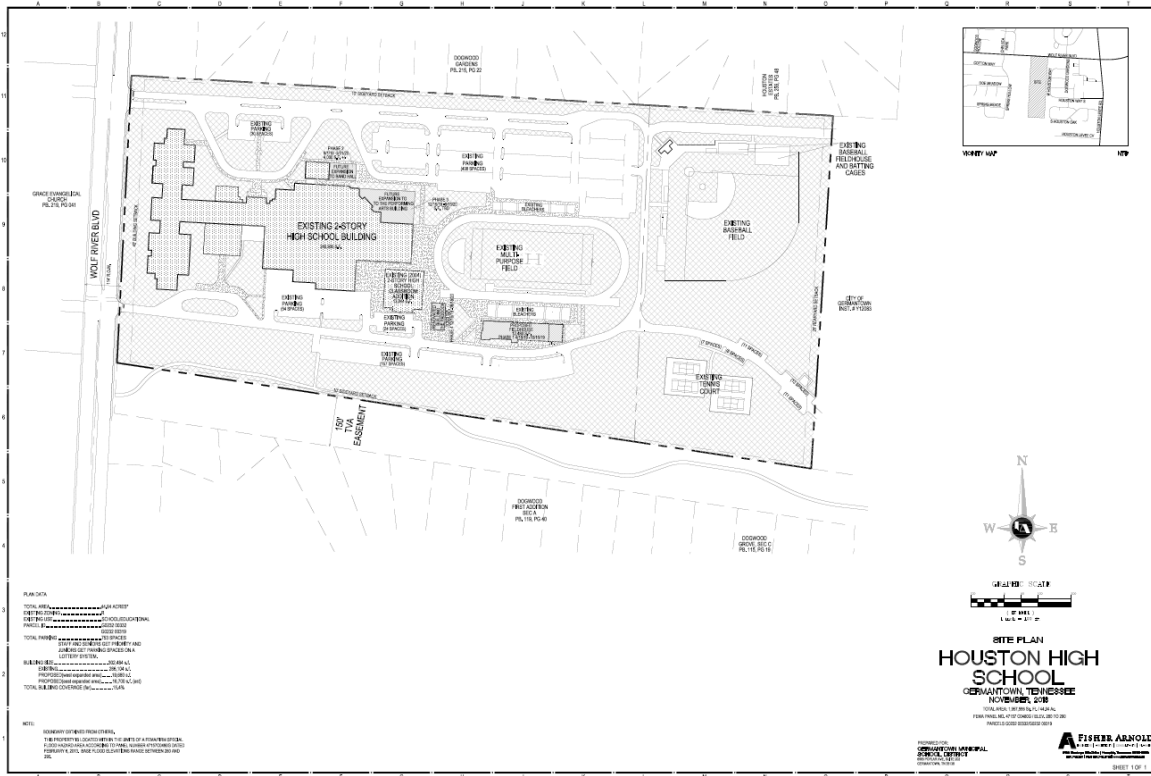


ZONING MAP

EXISTING CONDITIONS
 See enlarged plans included with supplemental materials



PROPOSED SITE PLAN



PROPOSED PHASE 1 – FOOTBALL FIELD HOUSE



PROPOSED PHASE 4: THE PADDOCK CONCESSION STAND





November 14, 2018

Mr. Cameron Ross, AICP
Economic and Community Development Director
City of Germantown
1930 South Germantown Road
Germantown, TN 38138

Dear Cameron:

On behalf of the Germantown Municipal School District, we are respectfully applying for a Use on Appeals for several future improvements to the Houston High School campus. The subject property is located on the south side of Wolf River Blvd approximately 790 feet west of Dogwood Gardens Drive. The subject property is zoned R and contains 44.94 acres. The improvements being pursued are as follows:

1. A new, stand-alone accessory use Athletic Field House which will contain a weight room, training room, laundry room, head coach and assistant coaches offices, freshman and JV/Varsity locker rooms, positions classrooms, and an equipment storage room.
2. Renovation of an existing metal building, currently used for band storage, for a new restroom and concession pavilion for all sports events.
3. A 4,000 s.f. addition to the existing Band Room. This addition will take the place of the vacated metal building which will be used for the restroom and concession pavilion.
4. A potential 14,000 s.f. expansion to the existing Theater/Auditorium.

As the Germantown Municipal School District has flourished over the past four years, the Athletic and Arts programs have since outgrown the spaces previously allocated to them. Also, with Houston High School's age, major improvements are desired to allow the school to provide much needed improvements in equipment, technology, and overall aesthetics to provide the proper atmosphere for the students to advance their talents.

In addition to the required information provided in the packet, we are also including several concepts for the first two items listed above, as they are the priority at this time. It was recommended by Staff that we make one application for all desired improvements so that future applications could be avoided.

We are happy to provide any additional information at your request.

We hope you find the application in order and look forward to working with this Board and with the City's Staff on these projects.

Yours Very Truly,

FLEMING ARCHITECTS

A handwritten signature in blue ink, appearing to read "Steve Landwehr", written over a horizontal line.

Steve Landwehr
Principal

RESPONSE LETTER TO STAFF COMMENTS



December 6, 2018

Mr. Cameron Ross, AICP
Economic and Community Development Director
City of Germantown
1930 South Germantown Road
Germantown, TN 38138

Dear Cameron:

I have received Staff Comments for our BZA application, and have made the required corrections which are enclosed with this packet. I wanted to acknowledge the additional comments contained within the body of the e-mail containing the BZA comments, and make a few additional verbal responses.

- As we were not originally contracted to obtain information for the entire property, we may not have all of the easement information being requested. That said, we have made GMSD aware that a full site study will be required to obtain any and all easement information. We are also aware that any found easements may impact the designs we are presenting. We are requesting approval with stipulations tied to any found easements that do impact our design and will work with staff to provide this information prior to the project moving forward.
- We will submit final plans (at the end of January) to The Memphis and Shelby County Office of Construction Code Enforcement as well as the State Fire Marshal for review, comment, and correction.
- The owner is aware of the proximity of the southwest corner of the Athletic Field House to the street, and is requesting no change. The owner would like to keep the west building face uniform along its length for aesthetic purposes, and be able to capture all of the square footage it encompasses to maximize much needed storage in the building.
- Water, sewer and stormwater details have been provided in our recent submission to the Planning Commission.
- Screening, landscaping, setbacks, etc. will be addressed either in our applications to the Planning Commission or the Design Review Commission. It is our opinion that, as all of the improvements proposed are at the center/interior of the site, that these improvements will not negatively impact the property, or the surrounding neighbors' property. Though landscaping will be provided to enhance the proposed additions and renovations, it is also our opinion that the existing screening at the east and west property lines has already been established and is adequate to block the views from the neighbors.

We are happy to field additional questions, provide informative answers, and work with Staff and the Board of Zoning and Appeals to ensure a successful project for all involved.

Respectfully,

FLEMING ARCHITECTS

A handwritten signature in blue ink, appearing to read "Steve Landwehr", written over a dark blue horizontal line.

Steve Landwehr
Principal



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: 11/14/18
2. Action Requested (Circle one): Variance Use on Appeal Interpretation
3. Address of property where action is requested: 9755 Wolf River Blvd.
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"):
We would like approval for the following:
 1. A new, stand-alone accessory use Athletic Field House
 2. Renovation of an existing metal building for a new restroom and concession pavilion
 3. A 4,000 s.f. addition to the existing Band Room
 4. A potential 14,000 s.f. expansion to the existing Theater/Auditorium
5. Name of person and title submitting this request: Jason Manuel, Superintendent, GMSD
6. Is this person the (circle one): Property Owner Agent/Representative Attorney
7. Address of person submitting request: Germantown Municipal School District, 6685 Poplar Pike, Suite 202
8. Telephone Number of person submitting request: 901-752-7900
9. Email Address of person submitting request: jason.manuel@gmsdk12.org
11. Name, address, phone number and email address of all property owner(s): _____
Germantown Municipal School District, 6685 Poplar Pike, Suite 202
Contact: Jason Manuel, Superintendent, P: 901-752-7900, E: jason.manuel@gmsdk12.org
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.
N/A

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. If this section is not completed, the application will be deemed incomplete and returned.

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)

N/A

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

N/A

BZA Application

Page 3

_____ 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

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.

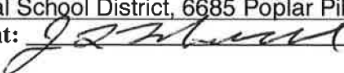
Owner/President or Equivalent & Title: N/A
Signature: _____

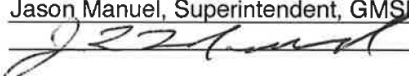
Persons or Entities* Owning
10% or More of the Ownership
Interests of the Owner:

Name	Business or Home Address
<u>N/A</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 Name & Title: Jason Manuel, Superintendent, GMSD
Address: Germantown Municipal School District, 6685 Poplar Pike, Suite 202
Authorized Signature for Applicant: 

President or Equivalent
Chief Executive Officer: Jason Manuel, Superintendent, GMSD
Signature: 

Members of the Board of Directors of the Applicant:


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

BZA Application
Page 5

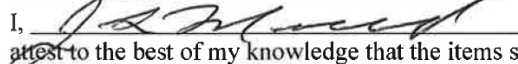
15. **Certification**

All applicable parties shown below must sign the application:

Sign the following statement and indicate owner, agent or attorney.
Jason Manuel, Superintendent, GMSD

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

Jason Manuel, Superintendent, GMSD

I, , (agent or attorney & title), 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.

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

IF THE BOARD VOTES ON AND DENIES YOUR REQUEST, YOU MAY NOT RESUBMIT THE SAME REQUEST FOR AT LEAST 6 MONTHS.

NO REFUNDS ARE ISSUED FOR WITHDRAWN OR DENIED REQUESTS.

Board's Discussion:

Mr. Landwehr of Fleming Architects (applicant's representative) explained that a private donor said he would give \$1 million if the school board, the City, and the boosters would match his \$1 million donation, making the total project budget \$4 million. Phase 1 is the Athlete Field House which contains the football weight room, locker room, coaches' offices and much needed storage. They are finalizing the plans for that phase now. Phase 2 is the band room addition of about 4,000 sq. ft. Phase 3 is the auditorium renovation and expansion, which currently is in discussion due to a driveway and parking being affected. Phase 4 is the renovation the existing metal building, which is currently the band's storage room, into a concession stand and much needed additional restrooms.

Mr. Harless asked if these plans had been approved by the school board and what the time line is for all four phases. Mr. Landwehr said the school board had already approved these plans. They really do not know when the last phase will start, but they believe they can finish all of these phases by the end of 2020. The donor requested all work start by the end of 2019, with a timeline set on his donation.

Alderman Gibson asked if any community meetings had been held with the neighbors for any input on the project renderings? Mr. Landwehr said he knew that the boosters had reached out to the community for additional money, and the people that attended those meetings have seen the renderings. ECD staff requested that GMSD setup a public meeting, so everyone else will be made aware of this as well, prior to this request being considered by the Planning Commission. They are now in the process of making those meeting plans with GMSD now.

After much discussion, Chairman Sisson called for a motion.

Mr. Uhlhorn made a motion to approve Use on Appeal for a four phase expansion of accessory uses at Houston High School, located at 9755 Wolf River Blvd., specifically: 1) new football field house; 2) band hall building expansion; 3) performing arts building expansion and 4) concession stand renovation, subject to the Board's discussion, staff comments and the site plan submitted with the application, seconded by Alderman Gibson with no further discussion.

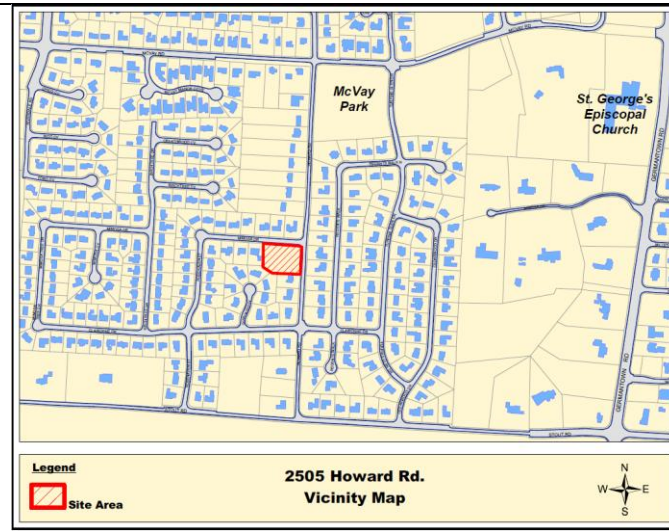
ROLL CALL: Mr. Harless – Yes, this is an excellent private/public partnership that is sorely needed in our community. He applauded the donor and fundraisers to make this happen; Mr. Uhlhorn – Yes; Ms. Clift – Yes; Ms. Bowden – Yes; Alderman Gibson – Yes, for reasons previously stated; Chairman Sisson – Yes, for reasons previously stated.

MOTION PASSED

6. Daniel Jones – 2505 Howard Rd. – Approval of a Variance for an Additional Driveway in the R District (Case No. 18-846).

INTRODUCTION:

Case Number:	18-846
Applicant/Owner:	Daniel Jones
Representative:	John Duke, Agent
Location:	2505 Howard Rd.
Current Zoning District:	“R” Residential district
Description of Request:	Approval of a Variance to Allow a Second Driveway in the Front Yard on a Corner Lot



BACKGROUND:

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

DATE PLAT APPROVED: Plat Book 30 Page 5, Section "A" Mimosa Gardens Subdivision. Recorded on May 26, 1964.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: Vacant land. New house to be constructed.

PREVIOUS VARIANCE REQUESTS: None.

DISCUSSION:

NATURE OF VARIANCE REQUESTED: The applicant wishes to add a second driveway (circular) in the required front yard setback facing Howard Rd., requiring two curb cuts to this road. Per the proposed site layout for the new house, the principal driveway would be off of Mimosa Dr., leading to the garage. This principal driveway would not connect with the proposed second circular driveway.

SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is approval of a variance from §23-235(a), which states "off-street parking spaces required in the "R" district under this section shall be provided on the same lot, parcel or tract as the principal building, but not in any portion of the required front yard." Additionally, the Zoning Ordinance defines a driveway as follows: "Driveway means a paved way, on private property, providing access from a public way, street or alley to the main buildings, carport, garage, parking space or other portion of the premises." On July 28, 2014, the Board of Mayor and Aldermen approved an amendment to Ordinance 2014-08 – Regulations on Front Yard Parking in Residential Districts, which does not expressly allow for the addition of a second driveway in the front yard setback.

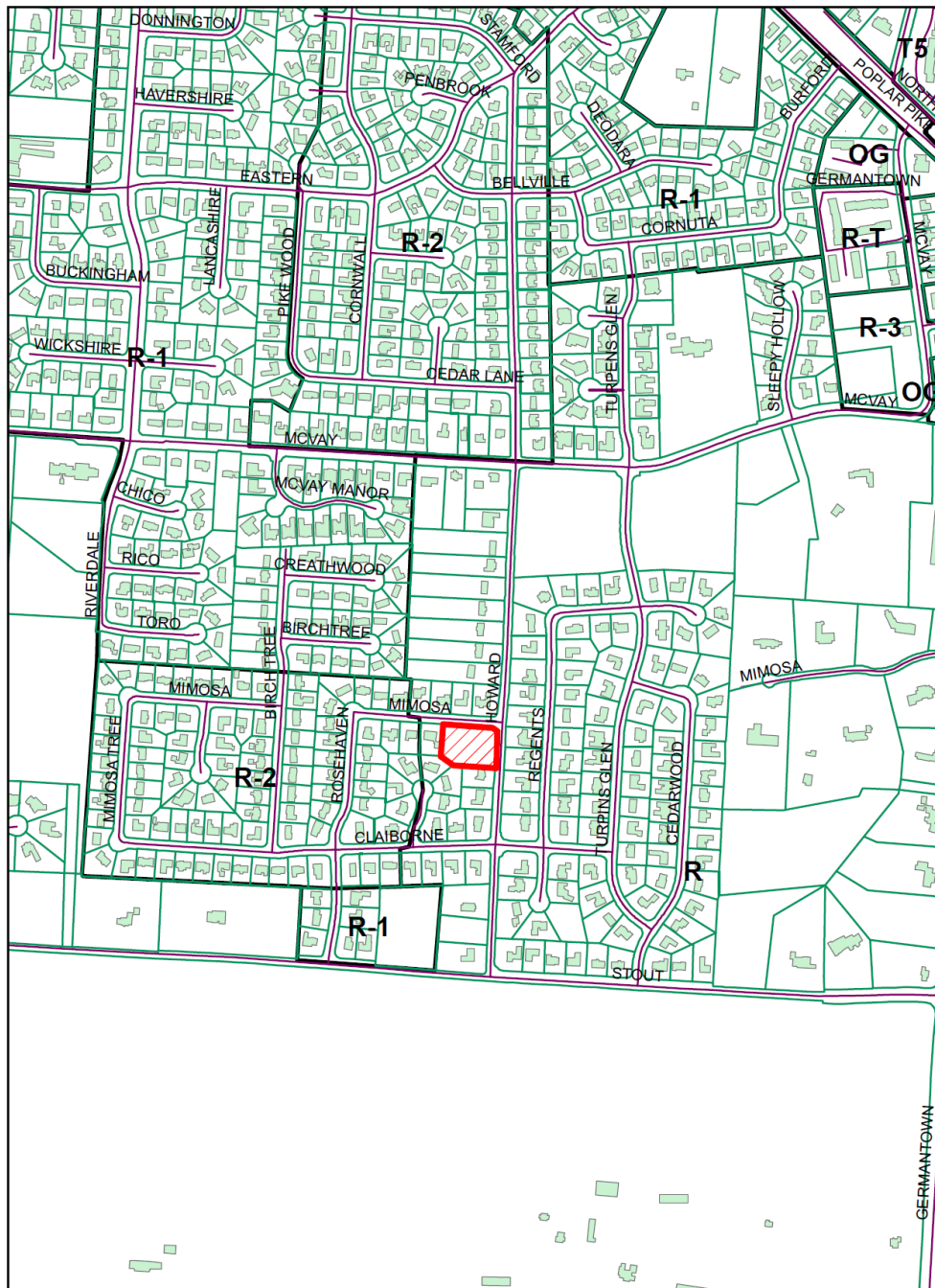
APPLICANT'S JUSTIFICATION: The applicant states that the reason for the variance request is due to exceptional shape of the lot, resulting in peculiar and exceptional practical difficulties. Per the applicant, "Because this is a corner lot, we have property constraints that the other interior lots do not have. While they have the less traveled side streets, we face Howard Rd., the busier of the two." See attached application.

STAFF COMMENTS:

1. The property is a corner lot, which would allow for a 300 sq. ft parking pad in the front yard setback, abutting the principal driveway off of Mimosa Dr., per Section 23-88(a) of the Municipal Code.

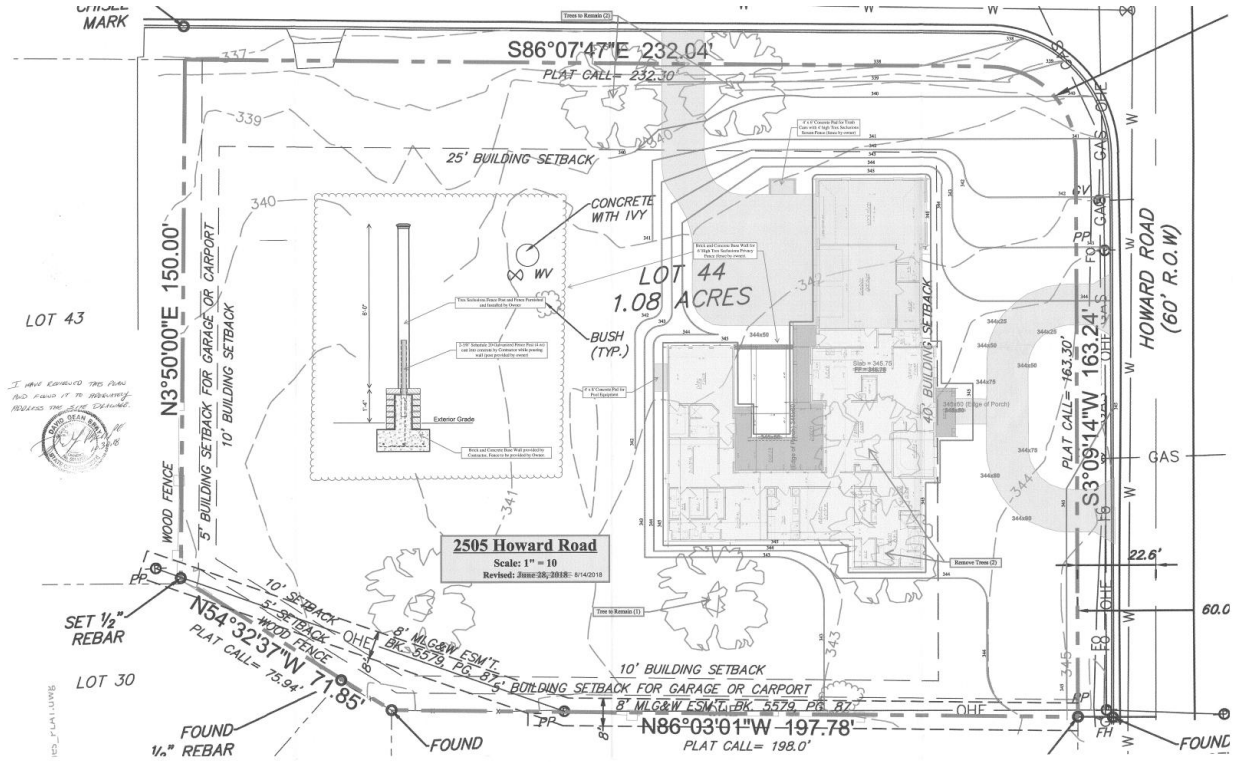
2. The requested variance will result in allowing a second circular driveway, not connecting to the existing driveway, to be located in the front yard setback of this property off of Howard Rd.
3. Per Section 23-88(d) of the Municipal Code, the applicant shall submit a driveway permit to the Engineering Division for any new curb cuts. In conjunction with this request, the applicant shall work with the City's Storm Water Engineer to ensure that proper erosion control measures are in place on this property.

PROPOSED MOTION: To approve a variance for 2505 Howard Rd. to allow a second driveway (circular) in the front yard setback facing Howard Rd., on a corner lot in the "R" Low Density Residential District, subject to the board's discussion, staff comments contained in the staff report, and the site plan submitted with the application.



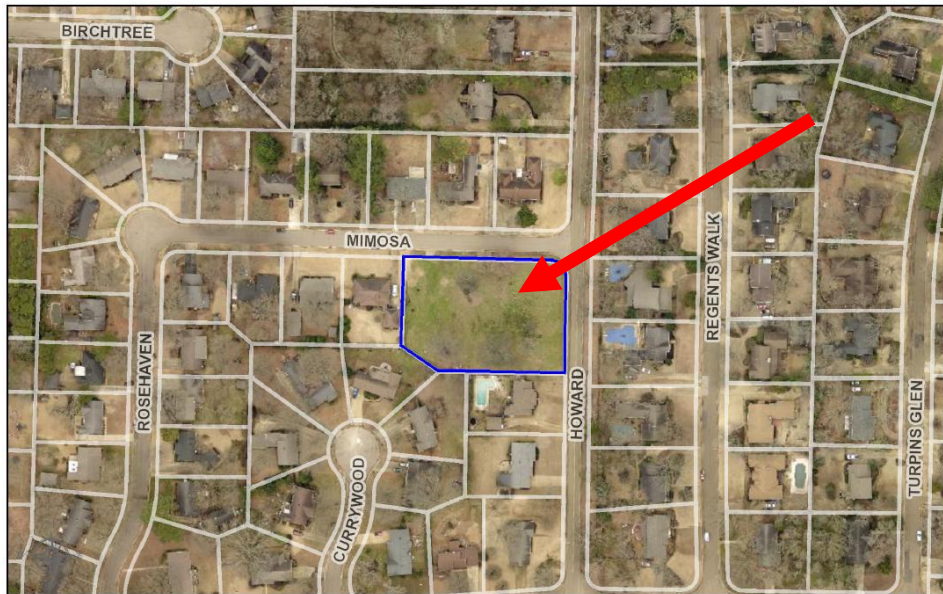
ZONING MAP

PROPOSED ADDITIONAL DRIVEWAY



AERIAL PHOTO OF SUBJECT PROPERTY

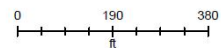
2505 Howard Rd.



SHELANDRA Y. FORD, REGISTER OF DEEDS
 SHELBY COUNTY, TENNESSEE

DISCLAIMER: PROPERTY TAX MAPS AND PARCEL BOUNDARIES DO NOT REFLECT ACCURATE SURVEY INFORMATION OR EXACT LEGAL OWNERSHIP BOUNDARIES, AND ARE ONLY PROVIDED FOR GENERAL INFORMATION PURPOSES. THEREFORE, THEY SHOULD NOT BE RELIED UPON AS A REPRESENTATION OF ANY PROPERTY FOR ANY PURPOSE.

MAP DATE: December 7, 2018



CITY OF GERMANTOWN ZONING ORDINANCE - DRIVEWAYS

Sec. 23-88. - *Driveways.*

(a)

Maximum width. The maximum width of a *driveway* in the required front yard shall be 24 feet at the apron with a maximum *driveway* surface width of 18 feet, with the following exceptions:

(1)

For houses that require additional width to accommodate garage/carport access, driveways may be up to the width of the garage/carport within 20 feet of the garage/carport;

(2)

For residential corner lots only, a parking pad located beyond the limits of the *driveway* as described above may be permitted within the required front yard, provided the parking pad's paved area abuts the principal *driveway*, and does not exceed a maximum of 300 square feet within the required front yard.

(b)

Parking spaces. Parking spaces constructed in a legal location and of a permitted material prior to the effective date of this section shall be permitted and may be maintained in their current location.

(c)

Nonconforming driveways. Any *driveway* installed according to the ordinances in effect at the time of installation may be maintained, repaired or replaced in its present configuration. However, no *driveway* may be altered except in conformity with the provisions of this article.

(d)

Driveway permits. It shall be unlawful to commence the installation or alteration of a *driveway* until the city engineer or his designated representative has issued a permit for such work. Applications for *driveway* permits will be available at the offices of the city. The city engineer may require the owner to provide an official signed and sealed survey, by a land surveyor in the State of Tennessee, in order to determine the appropriateness of the application for a permit.

(e)

Violation and penalty. Any person violating any provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in [section 1-10](#). Each day's continuance of a violation shall be considered a separate offense. The owner of any premises, or part thereof, where anything in violation of this article shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense. Persons in violation of this article may also be subject to injunctive proceedings.

(Ord. No. 2005-9, § 12, 9-23-05; Ord. No. 2014-08, § 1, 7-28-14)



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

RECEIVED

NOV 14 2018

CITY OF GERMANTOWN

1. Date of Application: 11/9/18
2. Action Requested (Circle one): Variance Use on Appeal Interpretation
3. Address of property where action is requested: 2505 Howard Rd, Germantown, TN 38138
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"):
We would like to install a circular drive, in addition to the driveway facing mirrosa. With Howard being a busy street, we would like to give safe access to delivery people and guests who are coming to the front door. We are requesting extra curb cuts to accomplish this
5. Name of person and title submitting this request: John Duke
6. Is this person the (circle one): Property Owner Agent/Representative Attorney
7. Address of person submitting request: 985 Reddock Cr,
Memphis, TN 38119
8. Telephone Number of person submitting request: 901-870-5076
9. Email Address of person submitting request: JDUKEHOME1@aol.com
11. Name, address, phone number and email address of all property owner(s):
Daniel Jones
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.
We are submitting this request because we cannot accomplish the additional, safe access driveway without the extra curb cuts.

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. If this section is not completed, the application will be deemed incomplete and returned.

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 (corner)
(Describe in the box below if checked)

Because this is a corner lot, we have property constraints that the other, interior lots do not have. While they have the less traveled side streets, we face Howard, the busier of the two for our property.

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

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)

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 & Title: Owner

Signature: [Handwritten Signature]

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

Name	Business or Home Address
<u>Daniel Jones</u>	<u>3077 Cotton Plant Road</u> <u>Memphis, TN 38119</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 Name & Title: _____

Address: _____

Authorized Signature for Applicant: _____

President or Equivalent
Chief Executive Officer: _____

Signature: _____

Members of the Board of Directors of the Applicant:

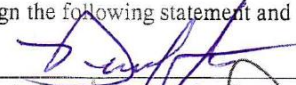
Name	Business or Home Address
_____	_____
_____	_____
_____	_____
_____	_____

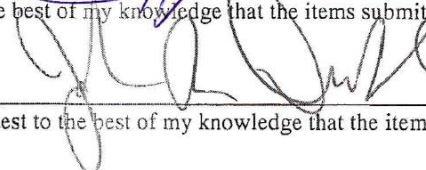
BZA Application
Page 5

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 & title), 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.

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

IF THE BOARD VOTES ON AND DENIES YOUR REQUEST, YOU MAY NOT RESUBMIT THE SAME REQUEST FOR AT LEAST 6 MONTHS.

NO REFUNDS ARE ISSUED FOR WITHDRAWN OR DENIED REQUESTS.

Board's Discussion:

Mr. Uhlhorn recused himself from this item.

Mr. Daniel Jones, property owner, explained the reason they are requesting the a second driveway on Howard Rd. was due to safety concerns. He feels it is almost impossible to get to the front of the proposed house without having a second circular driveway facing Howard Rd. If you were to stop in front of the house, someone will run over you, as there are no sidewalks. Secondly, they are building a one-story home. They have big families with elderly parents and people with wheelchair issues, so they would like this house to be totally assessible to all. The elevation of the curb on Howard Rd., as compared to the curb on Mimosa Rd. is about an 8 foot drop. They will have ample parking in the back, off of Mimosa Rd., and will not allow anyone to park in the front on the circular driveway for more than a brief visit.

Chairman Sisson called for a motion.

Ms. Bowden made a motion to approve a variance for 2505 Howard Rd. to allow a second driveway (circular) in the front yard setback facing Howard Rd., on a corner lot in the “R” Low Density Residential District, subject to the board’s discussion, staff comments contained in the staff report, and the site plan submitted with the application, seconded by Ms. Clift with no further discussions.

ROLL CALL: Mr. Uhlhorn – Recused himself; Mr. Harless – Yes; Ms. Clift – Yes; Ms. Bowden – Yes, due to the exceptional nature of the lot; Alderman Gibson – Yes, for safe access on that corner lot and the exceptional nature of the property; Chairman Sisson – Yes, due to the topography issues not apparent by the drawings and for the exceptional nature of the property.

MOTION PASSED

7. New/Old Business: Chairman Sisson asked if there were any new or old business to discuss. There was none.
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ADJOURNMENT

There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 6:53 p.m.