

**CITY OF MURFREESBORO  
BOARD OF ZONING APPEALS**

Regular Meeting, September 22, 2021, at 1:00 p.m.  
City Hall, 111 West Vine Street, Council Chambers, 1<sup>st</sup> Floor

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**A G E N D A**

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1. Call to order
2. Determination of a quorum
3. New Business

*Variance Request*

- a. **Application Z-21-024 Alviri Hamid Mehryar, represented by Clyde Rountree, Huddleston-Steele Engineering, Inc.**, requesting a front setback variance of 17.5 feet from the required 25 feet front yard setback along Maitland Drive to allow a 7.5 feet front setback. Property is zoned Residential Single Family (RS-8). (Project Planner: Joel Aguilera)
4. Staff Reports and Other Business
    - a. BZA Calendar 2022
  5. Adjourn

**MURFREESBORO BOARD OF ZONING APPEALS**

**STAFF REPORT**

**SEPTEMBER 22, 2021**

**PROJECT PLANNER: JOEL AGUILERA**

**Application:** Z-21-024

**Location:** Southeast corner of the intersection of Byrd Avenue and Maitland Drive  
(Map 80N, Group D, Parcel 3.00)

**Applicant:** Alviri Hamid Mehryar, represented by Clyde Rountree, Huddleston-Steele Engineering, Inc.

**Owner:** Alviri Hamid Mehryar

**Zoning:** Residential Single Family (RS-8)

**Requests:** Front Setback Variance of 17.5 feet from the required 25 feet front-yard setback along Maitland Drive to allow a 7.5 feet front setback.



## **Overview of Request**

The subject property is located at the southeastern corner of Byrd Avenue and Maitland Drive, with frontage along both streets. It is identified as a 0.17-acre portion of Tax Map 80N, Group D, Parcel 03.00, and is zoned RS-8 (Single-Family Residential, 8,000 ft<sup>2</sup> minimum lot size). The aforementioned parcel in question is comprised of four recorded lots, all of which are 25'-wide. There is an existing single-family home on the southern portion of the parcel. This house is bisected by a lot line from the original plat. Recently, the Planning Commission approved a plat to resubdivide the four existing lots into two, one on the southern end containing the existing house and a vacant lot on the northern end. Although the two new lots will be less than the 8,000 ft<sup>2</sup> minimum lot size, the subdivision will reduce the degree of non-conformity of the four existing lots, with respect to both minimum lot width and minimum lot size. The attached site plan depicts the location of the proposed property line.

The applicant, Alviri Hamid Mehryar, represented by Clyde Rountree, Huddleston-Steele Engineering, Inc., has submitted a request for a front setback variance of 17.5 feet from Chart 2, Appendix A of the City of Murfreesboro Zoning Ordinance, which requires a 25-foot front setback, to allow construction of a new house to be located 7.5 feet from the front property line along Maitland Drive. The house construction will comply with all other City regulations, including parking requirements and all other required setbacks in the RS-8 zoning district.

The existing single-family dwelling on the subject parcel is located approximately six feet from the Maitland Drive front property line and 21.5 feet from the Chamberlain Drive front property line. This is due to the house being constructed in 1958, prior to the adoption of the current Murfreesboro Zoning Ordinance, and as such is considered a legal nonconforming (aka. "grandfathered in") structure.

In the applicant's letter, he states that the reason for the variance is due to the narrow width of the property (50 feet), which is unique in that respect as compared with other properties on this street in the vicinity that are wider. In addition, several houses in the vicinity of this property do not meet the 25-foot front setback and presently range from 5 feet to 30 feet from the front property lines for lots fronting along Chamberlain Drive and Maitland Drive.

As such, the applicant states that due to the subject property's narrow width this creates a hardship unique to their property for meeting the front setback. It is not self-created because the applicant did not create the original subdivision that set forth the narrow lot width. In addition, other houses in the neighborhood do not meet the required front setback, and this variance request would allow for a front setback that is similar to other properties in the neighborhood and the same as the existing houses on Maitland Drive. The applicant's letter is attached to the staff report for reference.

## **Relevant Zoning Ordinance Sections**

### **Definitions:**

*Frontage:* All the property fronting on one side of a street, measured along such street, between lot lines, an intercepting street, a right-of-way in excess of thirty feet, an end of a dead-end street, a river, a lake or government boundary.

*Lot line, front:* In the case of an interior lot abutting upon only one street, the line separating such lot from such street; in the case of a double frontage lot or a corner lot, each line separating such lot from the street shall be considered a front lot line.

*Lot, width of:* The distance on a horizontal plane between the side lot lines measured at right angles to the lot depth at the minimum front yard line.

*Yard requirements:* The regulations of Appendix A - Zoning establishing minimum front, side, and rear yard requirements and set-back requirements for various uses, structures, and districts.

### **Chart 2 – Minimum Yard Setback Requirements:**

RS-8 District Setbacks:      Front 25 feet   Side 10 feet   Rear 25 feet

RS-8 Minimum Lot Width:   55 feet

RS-8 Minimum Lot Area:    8,000 sq. ft.

## **Standards for Variances from Section 10 of the Zoning Ordinance:**

The Zoning Ordinance requires that no bulk variance or other variance be granted unless the applicant establishes that the bulk or other regulations generally applicable in the zoning classification for the property for which a variance is requested impose practical difficulties which are unusual to the property and are not self-created. In addition, the applicant must also show that the bulk or other variance requested will not be unduly detrimental to other property in the vicinity of the property for which the variance is requested. To satisfy the requirements, applicant must submit written justification that the variance requested meets all the standards contained the Zoning Ordinance.

The applicant states *in italics* the following for each standard (all five standards must be met to qualify for a variance):

- (1) That there are practical difficulties due to specifically identified characteristics of the land, such as the narrowness, shallowness, shape, topography, or other condition of the land, are such that compliance with one or more applicable zoning regulations would be extraordinarily and peculiarly difficult or would result in an undue hardship for the Applicant:

*According to the applicant, the site is only 50 feet wide and has two front setbacks. Due to 55-foot width requirement for RS-8 zone, the narrowness creates a hardship. For full text, please refer to applicant letter.*

**Staff analysis: Variance Standard 1 is met.** The property is 50 feet wide and is a corner site, creating two fronts. Research of other properties in the neighborhood reveal other lots do meet or exceed the minimum lot width, except for the property contiguous to the east. It is also 50 feet wide and currently vacant. The narrow lot is unique and is an undue hardship to build a residence on. In addition, the actual recorded lots are only 25' wide. The applicant is combining lots in an attempt to make them buildable, but the 50' width is still insufficient to build a single-family home without a setback variance.

- (2) The requested variance is due to specifically identified characteristics that are unusual to the subject land as compared to other land in the same zoning classification and in the same area:

*According to the applicant, the reasons stated above, causes the hardship, and meets this standard for unusual characteristics as other lots do not conform to the RS-8 zoning requirements.*

**Staff analysis: Variance Standard 2 is met.** Other properties in the neighborhood are primarily wider and generally larger than the subject property. The adjacent property to the east is 50 feet wide but is currently vacant. This unique hardship is met.

- (3) That the requested variance(s) are due to specifically identified characteristics or hardship were not created by any action or inaction of the owner or the owner's agent, not self-created:

*According to the applicant, the difficulties on site are from the narrowness of the lot and its corner location with the two frontages along Byrd Avenue and Maitland Drive. The lot was already non-conforming of the RS-8 zoning requirements.*

**Staff analysis: Variance Standard 3 is met.** This hardship of the narrow lot is not self-created because the applicant did not create the original subdivision. The proposed resubdivision into two lots is improving the site conditions for development and reducing the degree of non-conformity for the lots.

- (4) That granting the requested variance will not be unduly detrimental to other land in the vicinity of the land for which the variance is requested:

*According to the applicant, the requested variances will not be detrimental to other land in the area.*

**Staff analysis: Variance Standard 4 is met.** Staff agrees, granting of the variance would not be detrimental to other land in the area. several houses in the vicinity of this property do not meet the 25-foot front setback and presently range from 5 feet to 30 feet from the front property lines for lots fronting along Chamberlain Drive and Maitland Drive. The construction of the house will comply with all other setbacks and development requirements. In addition, it will not create a line-of-sight issues.

- (5) That granting the requested variance will not impair an adequate supply of light and air to adjacent properties, unreasonably increase the congestion in public streets, increase the danger of fire or otherwise endanger the public health, safety, comfort, or morals, or substantially impair the intent and purpose of the Zoning Ordinance or of the general plan for the area:

*According to the applicant, the requested variances will not impair the adequate supply of light or air to adjacent properties. Nor will it unreasonably increase the congestion in public streets, increase the danger of fire or otherwise endanger the public health, safety, comfort, morals, or substantially impair the intent and purpose of the zoning ordinance. The requested variances will have no effect on these matters.*

**Staff analysis: Variance Standard 5 is met.** Staff agrees, granting of the variance would not impair light, air, increase congestion, danger of fire or otherwise endanger public health, safety, comfort or impair the general area in any way. The construction of the house will comply with all other setbacks and development requirements.

### **Staff Comments:**

A variance may be approved if it meets all five standards, as required by the Zoning Ordinance. Whether the variance is approved or denied, the BZA must make specific findings of fact on each of the variance standards. If in the judgment of the BZA that if any of the above standards have not been met by a preponderance of the evidence, the variance must be denied, and written findings provided stating the evidence for why the standard(s) are not met. If the BZA believes that all of the standards have been met by a preponderance of the evidence, then the variance can be approved, and written findings provided stating the evidence for why the standards are met.

For this variance requested, staff recommends approval because the five variance standards appear to have been met.

In addition, staff recommends that if approved, the variance be conditioned in accordance with Section 10, Subsection G (Conditions on Variances) with the following condition:

### **Conditions of Approval:**

1. Prior to issuance of any permit, including building permits, the final plat resubdividing the property shall be recorded with the Rutherford County Register's Office. In addition, the plat shall be revised to include the specifics of this variance, as required by the Subdivision Regulations.
2. At the time of building permit application, a plot plan prepared and sealed by a licensed surveyor shall be submitted to the Planning Department for review and approval. In addition, the licensed surveyor shall be required to lay out the footing for this structure and provide written confirmation to the City that there are not encroachments into any required setbacks.

3. *The house constructed on the subject property shall be substantially the same as depicted in the plot plan and building elevations submitted with this application.*

The applicant's representative will be in attendance at the public hearing to respond to any questions the Board may have.

**Attached Exhibits**

- 1) BZA Application
- 2) Applicant Letter
- 3) Site Plan – Plat Map
- 4) Elevation - photo

9.8.2021

Mr. Greg McKnight  
Planning Director  
City of Murfreesboro Planning Department  
111 West Vine Street  
P.O. Box 1139  
Murfreesboro, TN 37133-1139

Prepared by: Huddleston-Steele Engineering  
Clyde Rountree  
2115 Northwest Broad Street  
Murfreesboro, TN 37129

RE: Variance Request for a reduction in the front setback on a corner lot.

Dear Greg,

The following is a variance request for a reduction in the front setback for Lot 30 of Block C of the Henry King Subdivision of the Kingwood Heights Subdivision in Murfreesboro. We are requesting the front setback along Maitland Drive be reduced from 35' to 7.5' resulting in a 27.5' variance request. In the Appendix (A: 293), Chart 2, of the City of Murfreesboro Zoning Ordinance (Updated: August 5, 2021), RS-8 Zoning District requires a 35' front setback;

(E) Standards for Variance.

To be entitled to a variance an Applicant must be shown by substantial material evidence: (1) That the specifically identified characteristics of the land, such as the narrowness, shallowness, shape, topography or other condition of the land, are such that compliance with one or more applicable zoning regulations would be extraordinarily and peculiarly difficult or would result in an undue hardship for the Applicant;

*The subject property is only 50' wide and has two front setbacks, one along Maitland Drive and the other along Byrd Avenue. The current zoning ordinance requires lots in the RS-8 zone to have 55' width; The narrowness of the subject property and it's location on the corner create the hardship on this site;*

(2) That the specifically identified characteristics are unusual to the subject land as compared to other land in the same zoning classification and in the same area;



*The subject property is narrow (50' Wide), the adjacent property to the east is narrow as well, however, it only has a front setback along Byrd Avenue. Additional lots on the block are the 50' width and out of compliance with the required 55' width in the RS-8 zone;*

(3) That the specifically identified characteristics or hardship were not created by any action or inaction of the owner or the owner's agent;

*The narrow width of the lot and the corner location where not conditions created by the owner of the property;*

(4) That granting the requested variance will not be unduly detrimental to other land in the vicinity of the land for which the variance is requested;

*It is my professional opinion that the approval of this variance will not have any detrimental impact to other land in the vicinity of the subject property;*

and (5) That granting the requested variance will not impair an adequate supply of light and air to adjacent properties, unreasonably increase the congestion in public streets, increase the danger of fire or otherwise endanger the public health, safety, comfort, or morals, or substantially impair the intent and purpose of the Zoning Ordinance or of the general plan for the area;

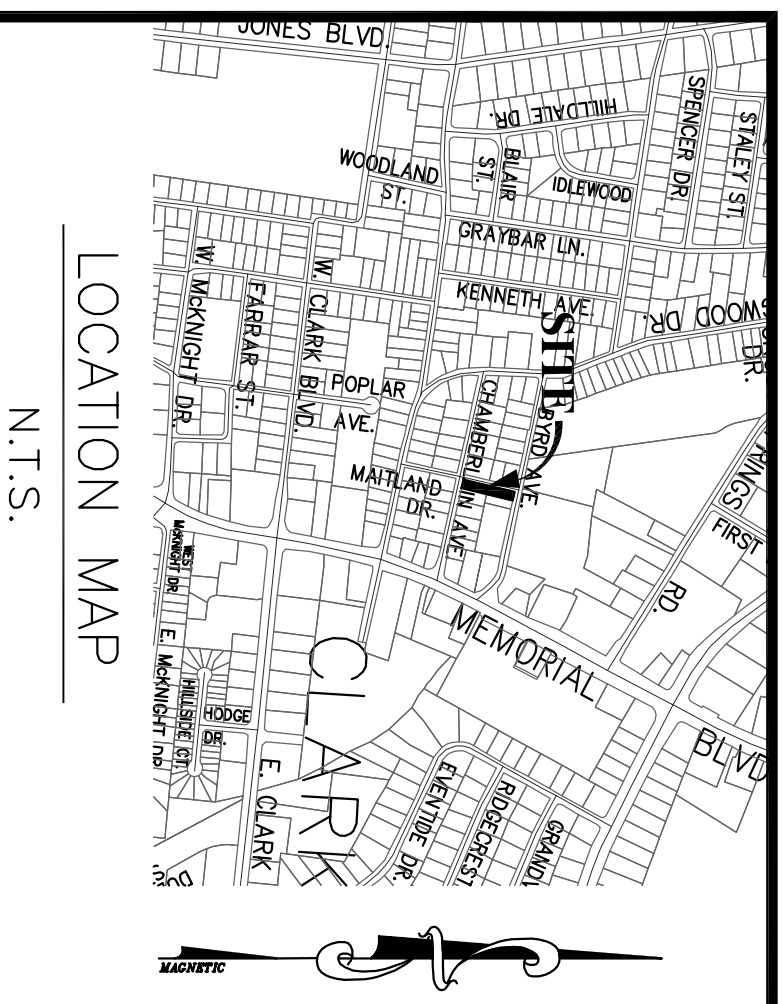
*It is my professional opinion that granting this requested variance will not have any of the adverse effect to the adjacent properties as mentioned in the list above.*

Thank you for considering this variance request.

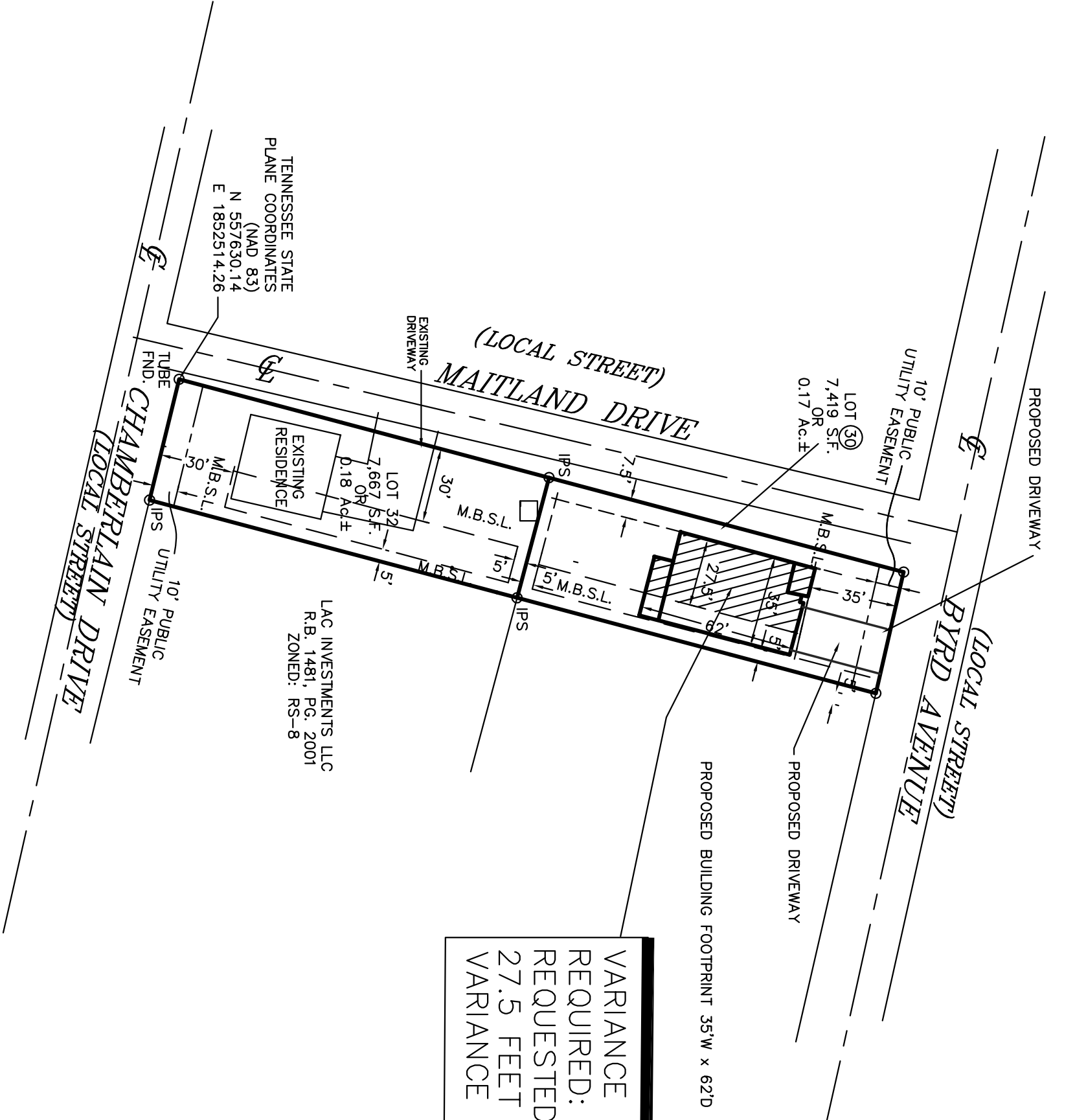
Sincerely,



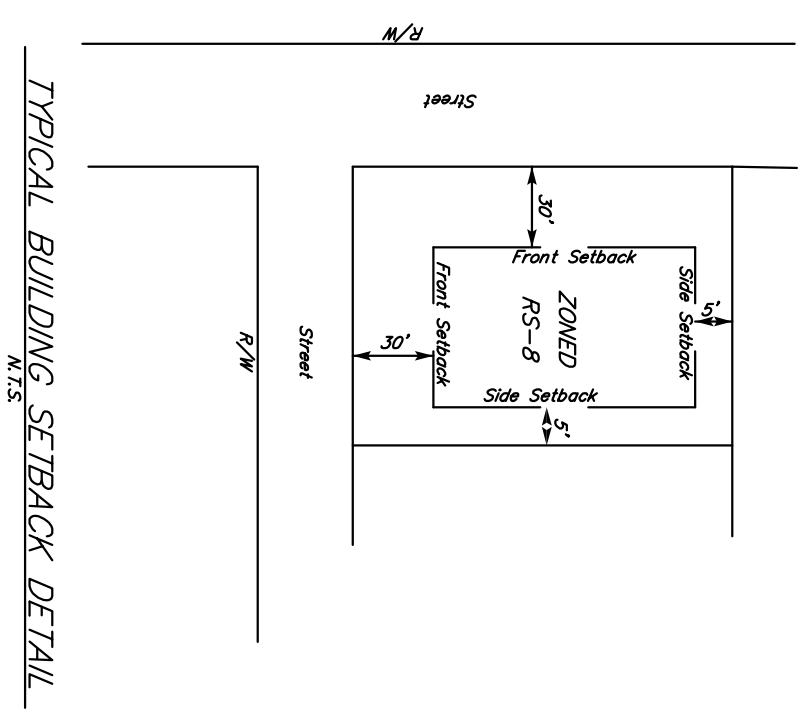
Clyde Rountree



- GLOBAL POSITION SYSTEM SURVEY NOTES**
- The survey portion was performed using the following global positioning system (GPS) station NNS for horizontal and for vertical control.
  - Control points were established using category "IV" survey verification.
  - The date that fieldwork was performed for this survey was: May 2021
  - Epoch: 2010 or the 1001 VERT: NAD 1988
  - Fixed Control Station designation with positional data:  
 STATE PLANE (TN 410)-US SURVEY FT - MONROE: 583,348.5  
 STATE PLANE (TN 410)-US SURVEY FT - ELEVATION: 558.34 FT
  - Geoid model used - GEOID03
  - Combined gpc factors for TOOT CORS station NNS:  
 0.99992680 (STATE PLANE-TN 410-US SURVEY FT)



**VARIANCE #1**  
 REQUIRED: 35 FEET (FRONT SETBACK)  
 REQUESTED: 7.5 FEET (FRONT SETBACK)  
 27.5 FEET FRONT SETBACK  
 VARIANCE REQUESTED



1. The minimum yard set back on Chart 2 shall be required unless the property owner can provide a minimum yard set back of 5 feet from the front and side of the lot and a minimum yard set back of 10 feet from the rear of the lot plus an additional ten feet.

OWNER: ALVIN MEHRVAR  
 ADDRESS: 220 CHAMBERLAIN DRIVE  
 MURFREESBORO, TN, 37129  
 TAX MAP: 80 GROUP 0 PARCEL 3.00  
 RECORD BOOK: 2020 PAGE: 2198  
 FLOOD MAP: PANEL: 471480200H  
 DATED: JAN. 5, 2007 ZONE: AE & X  
 OWNER'S INTEREST: AS SHOWN ON ANY RECORD MAP OR ANY PRESCRIPTION THAT A COMPLETE TITLE SEARCH MAY REVEAL.

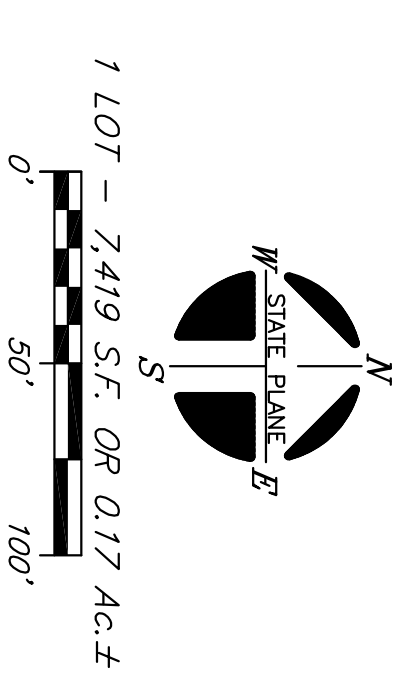
**CERTIFICATE OF ACCURACY**  
 I HEREBY CERTIFY THAT THIS IS A CORRECT "IV" SURVEY AND THE PRECISION OF THE GPS POSITION OF THE POINTS SHOWN IS AS SHOWN AT THE BASE CORNER LEVEL IS 1:10,000 AS SHOWN HEREON AND THAT THIS SURVEY WAS DONE IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR LAND SURVEYORS AND THAT THE SURVEYOR HAS REVIEWED THE RECORD MAPS AND PRESCRIPTIONS TO THE SPECIFICATIONS OF THE CITY ENGINEER.

FOR REVIEW ONLY

**HS HUDDLESTON-STEEL ENGINEERING, INC.**  
 13th CIVIL DISTRICT - RUTHERFORD COUNTY - TN.  
 DATE: SEPTEMBER 2021 SCALE: 1"=50' SH. 1 OF 1

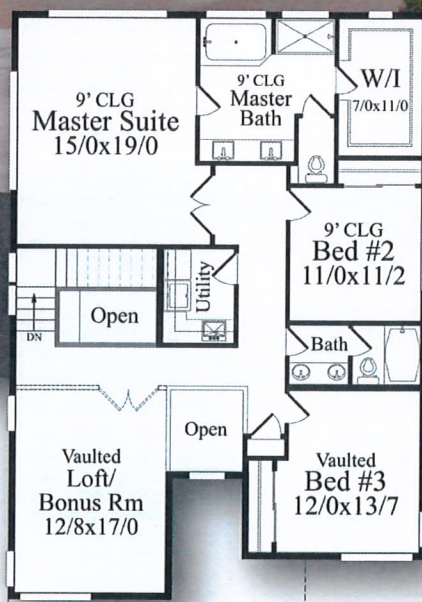
**BZA EXHIBIT**

LOT 30 OF BLOCK C OF  
 THE HENRY KING RESUBDIVISION  
 OF THE KINGWOOD HEIGHTS SUBDIVISION  
 13th CIVIL DISTRICT - RUTHERFORD COUNTY - TN.  
 DATE: SEPTEMBER 2021 SCALE: 1"=50' SH. 1 OF 1



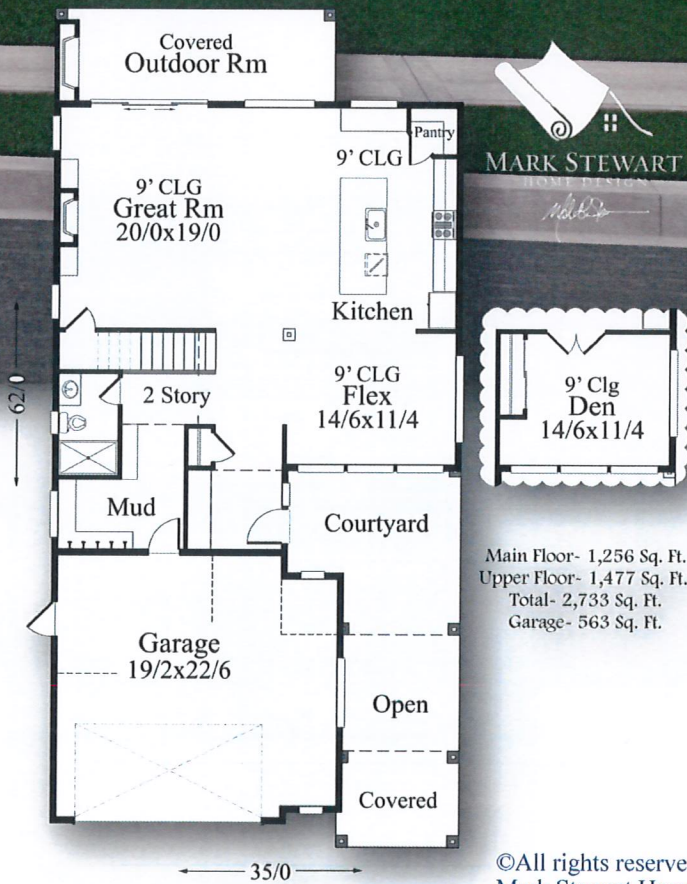
**LEGEND**  
 ○ ROUN PIN SET (1/2" REBAR)  
 ○ WITH STAMPED PLASTIC CAP (H-S ENCR.)  
 ○ IRON PIN FND.  
 △ WALL

- NOTES**
- In Tennessee, it is a requirement per "The Underground Utility Damage Prevention Act" that anyone who engages in excavation three or more than ten working days of their field to be notified of the location of any underground utility lines. A list of these utilities may be obtained from the Tennessee One Call system. The One Call system can be notified by calling toll free 1-800-4-A-ONECALL. The One Call system will provide the utility owner prior to commencing any work.
  - Underground utilities shown were located using available above ground evidence, and data from information obtained from the utility owner and any other utilities which may be present at the site. It is the responsibility of each residential builder to design and construct the drainage system in accordance with the requirements of the subdivision developer.
  - Facilities may be subject to additional easements, and/or title encumbrances, and the subdivision developer is responsible for providing the subdivision developer with a complete title encumbrance report.
  - Facilities may be subject to additional easements, and/or title encumbrances, and the subdivision developer is responsible for providing the subdivision developer with a complete title encumbrance report.
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**"Monarch"**  
**MM-2733-A**

Main Floor	1256 sq. ft.
Upper Floor	1477 sq. ft.
<b>Total</b>	<b>2733 sq. ft.</b>
<b>35/0-Width</b>	<b>62/0-Depth</b>



Main Floor- 1,256 Sq. Ft.  
 Upper Floor- 1,477 Sq. Ft.  
 Total- 2,733 Sq. Ft.  
 Garage- 563 Sq. Ft.

©All rights reserved:  
 Mark Stewart Home Design. This plan is available everywhere except King and Pierce County in Washington State.

CITY OF MURFREESBORO  
2021 BOARD OF ZONING APPEALS (BZA) CALENDAR

Monthly Submittal Deadline (3:00 PM)	BZA Meeting Date (1:00 PM)
January 11	January 27
February 8	February 24
March 8	March 24
April 12	April 28
May 10	May 26
June 7	June 23
July 12	July 28
August 9	August 25
September 3	September 22
October 11	October 27
November 1	November 22
November 29	December 20