



Zoning and Adjustments Board

Tuesday, January 14, 2025 @ 5:00 PM

1. **Call Meeting to Order**
2. **Approval of Minutes - The public is invited to address the Zoning and Adjustment Board for up to 3 minutes for each speaker, for a maximum period of 30 minutes. The Zoning and Adjustment Board will take all comments under advisement. Please identify yourself before speaking**
 - a. Approve Minutes 11-12-2024
3. **Old Business**
 - a. None
4. **New Business**
 - a. Variance request for 209 Dewey Ave - PID#: 60137474.000 - Donovan Scruggs, Agent. The applicant is requesting a 20% variance to reduce the lot width from 100 feet to 85 feet for the first lot, and a reduction to 95 feet for the second lot. Mr. Scruggs is also requesting a lot split by Planning Commission January 14, 2025, at 6:00 PM.
5. **Audience Request - The public is invited to address the Zoning and Adjustment Board for up to 3 minutes for each speaker, for a maximum period of 30 minutes. The Zoning and Adjustment Board will take all comments under advisement. Please identify yourself before speaking.**
6. **Adjourn**

The Minutes of the City of Ocean Springs
Zoning & Adjustment Board
Tuesday, November 12, 2024

1. Call meeting to order

A meeting of the City of Ocean Springs Zoning and Adjustment Board (ZAB) was called to order by Shannon Pfeiffer at 5:00 PM on Tuesday November 12, 2024. Other members present were Don Atwell, Michael Smith and John O'Hara. Absent were Nick Gant and Micheal Smith. Also present were Carter Thompson, Community Development Director, Hannah Sullivan Planning Dept administrator.

2. Approval of Minutes

August 13, 2024 - A motion was made by Don Atwell, seconded by Michael Smith to approve the minutes as amended. The motion carried unanimously.

3. Old Business

a) None

4. New Business

- a. 505 Van Cleave/PID# 61430038.000 - Laura & David Moore - A variance request to reduce the rear setback from 25 feet to 20 feet. The property is zoned R-2.

Carter presented the application. The applicant Laura and David Moore was not present. A motion was made by Don Atwell, seconded by Michael Smith to recommend approval of the variance from the rear setback from 25 feet to 20 feet. It was noted that the plans show a 8 ft side setback that would need to be brought up to 10 ft side setback. The motion passed unanimously.

b. Audience Request

a) None

c. Adjourn

A motion was made by Michael Smith, seconded by Shannon Pfeiffer to adjourn the meeting. The motion was unanimously carried.

**CITY OF OCEAN SPRINGS
COMMUNITY DEVELOPMENT AND PLANNING
POST OFFICE BOX 1800
OCEAN SPRINGS, MS 39566-1800
228-875-4415**

ZONING ADJUSTMENT BOARD REPORT

MEETING DATE: January 14, 2025

APPLICANT(S): Donovan Scruggs (agent for owners)

CURRENT OWNER: Todd Lipps Sr
Dalton Jarrell
Cory Lipps

LOCATION: 209 Dewey Ave

PARCEL NUMBER: 60137474.000

REQUESTED ACTION: A reduction in lot width from 100 feet to 85 feet for the first lot and 95 feet for the second lot.

DATE OF APPLICATION: December 6, 2024

DESCRIPTION OF REQUEST:

A variance request for reduction in the minimum lot width from 100 ft to 85 ft for one lot and 95 ft for the second lot.

ADJACENT ZONING AND LAND USE:

Subject Property Zoning: R-1 – Low Density Residential

North: R-1 – Low Density Residential
East: R-1 – Low Density Residential
South: R-1 – Low Density Residential
West: R-1 – Low Density Residential



FINDINGS:

1. The property is zoned R-1.
The R-1 setbacks as follows:
Front: 25 Feet
Side: 10 feet
Rear: 25 feet
2. One structure appears to be an accessory dwelling unit. Based off the survey the accessory is 11.7 feet off of the side property, which is in compliance with the reduced side yard setback for an accessory of 5 feet.
3. The accessory dwelling unit does not meet the front setback of 25 feet but is 21 feet from the front property line.
4. The principal structure complies with R-1 zoning with a 13.3 side setback, 10 feet is required, and the principal structure is setback 43.8 feet for the front setback, which is 25 feet.
5. The minimum lot width is 100 feet.



Comment: Currently the property does meet the minimum width of 100 feet at 181.4 feet. The owners are proposing a reduction in lot width from 85 feet for one proposed lot and 95 feet for the second proposed lot. Therefore, the proposed new lots do not meet the minimum lot width of the R-1 zoning district. In addition, by splitting these lots the applicant is making a confronting lot non-conforming.

6. The minimum lot size for the R-1 zoning district is 13,500 SF.

Comment: The new lots will be approximately 13,599SF and 22,782SF. The minimum lot size in the R-1 zoning district is 13,500 SF, therefore the proposed lots do meet the minimum lot size.

PUBLIC FEEDBACK:

None received.

2.16.5 Approval Criteria – General Conditions

Hardship definition: The applicant must demonstrate a Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Aldermen require that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional.

Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

ZAB shall have the right by a majority vote to decrease any minimum requirement and to increase any maximum requirement, ***except for the required minimum lot area in residential zoning districts***, by not more than twenty-five percent (25%), and shall be allowed only for good and substantial reasons which shall be made part of the record.

Comment: The applicant is requesting is 20% reduction in lot width.

1.6.2 Development Under Prior Regulations - Development under prior regulations shall be allowed, provided a valid development approval has not expired. All new applications shall comply with the provisions of this UDC, except that a Final Plat may be approved if it is consistent with a valid Preliminary Plat. Any permit issued under prior regulations shall expire twenty-four (24) months or two (2) years after adoption of this UDC. Legal non-conforming situations may continue in conformance with this UDC.

Comment: This is a new application that should comply with the UDC. This application does not demonstrate that.

2.45.1 Applicability - In situations in which 1) a lot does not conform with the underlying zoning district regulations with regard to minimum lot area or width; or 2) the principal structure does not conform with the underlying zoning district regulations for building setbacks.

Comment: The majority of structures do comply with the R-1 zoning, except the accessory dwelling unit that does not meet the front setback of 25 feet.

The applicant referred to a provision for the setback of accessory dwelling unit.

2.45.2 Initiation - The property owner shall apply to the planning department and provide substantial documentation of the following:

A. A site plan illustrating how a new dwelling will either meet existing front and side yard setbacks established for the current zoning district or that such setbacks are quantifiably consistent with buildings on both sides of the property; or, in the situation of a demolished dwelling, that the proposed setbacks and building height of the new dwelling are quantifiably and reasonably the same as those of the demolished dwelling; acceptable documents include a survey of the former dwelling, photos of the former dwelling or a survey of the slab, foundation or similar evidence;

B. That sufficient off-street parking can be provided within the property boundaries; and

C. That there is an adequate lot frontage on a public right-of-way or private street for ingress and egress.

Comment: A development has not been received but a survey was conducted and is attached for review.

Detached accessory buildings, not exceeding one and one-half (1 1/2) stories in height, including one private garage or servants' quarters when located not less than sixty (60) feet from the front lot line, nor less than the distance required for the main building from any side or rear lot line.

Comment: The accessory dwelling unit 21.2 feet off of the property line. The statement does suggest that the accessory unit will meet that requirement.

Variances shall only be issued when there is:

1. A showing of good and sufficient cause; and

Comment: The lot is zoned R-1 and does meet the minimum lot width of 100 feet and meets the minimum lot size of 13,500 SF. By splitting the lots, the owner creates a non-conforming status. If the lot is not split, it does not meet all the requirements of the current zoning for R-1.

2. A determination that failure to grant the variance would result in an exceptional hardship.

Comment: Staff will rely on the Zoning and Adjustment Board to make their determination whether the proposed variance meets the criteria.

POTENTIAL MOTIONS:

To recommend **approval** of the variance request at 209 Dewey Ave (PIDN: 60137474.000).

– OR –

To recommend **denial** of the variance request at 209 Dewey Ave (PIDN: 60137474.000).



City of Ocean Springs Planning Department

1018 Porter Avenue / PO Box 1800 Ocean Springs, MS 39564

(228) 875-4415

VARIANCE REQUEST APPLICATION

Submittal Requirements:

- Application
 - Fee of \$50.00 must be paid at the time application is submitted.
 - \$1.00 additional fee (per Ordinance 2022-17 following the requirements of Section 25-60-5 MS Code Annotated)
 - Site Plan (or Survey) showing requested variance, with dimensions.
- December 6, 2024

Date: _____

Name of Applicant: Donovan Scruggs (agent for owners)

Address: 317 Pine Drive, OS, MS 39564 Zone: R-1

Phone No. 228-348-1315 Email Address: donovan@scruggsplanning.com

Parcel Identification Number: 60137474.000

Property Owner (if different from Applicant): Todd Lipps, Sr. (228-369-5521), Dalton Jarrell, and Cory Lipps

Property Location for the Variance: 209 and 213 Dewey Avenue

Type of Variance(s) Requested (setback, height, zoning extension, parking, etc.)

Variance for width of lots. Current lot is 180 feet wide and owners hope to create lots of 85 and 95 feet.

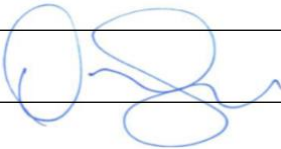
The purpose of this variance is to consider an application to allow:

To provide a lot split for a property that is out of character with other lots along street. [see report]

Provide justification of the variance request. Justification must include exceptional narrowness, shallowness, shape of a specific piece of property, exceptional topographical conditions, or other extraordinary situation or condition for a specific piece of property.

The vast majority of lots within the area are much smaller than the subject lot. With the lot split

the newly created lots will be more consistent with the area. At present, the subject lot is almost twice as large and much wider than other lots. This makes the subject property an "extraordinary situation or condition". [see report]

Applicant Signature:  Date: 12/06/24

Affidavit of Ownership

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the book and page of each conveyance into the present owner as recorded in the County Records of Deeds (Chancery Clerk) office. This affidavit shall indicate the legal ownership of the property, the contract owner of the property, and the date the contract of sale was executed.

I, (print name) Dalton A. Jarrell, hereby certify that:

1. I am the owner of the property that is the subject of this application and that I have read and understand the requirements as outlined in the application.
2. There are no outstanding City of Ocean Springs property taxes or special assessments on the original parcel(s).

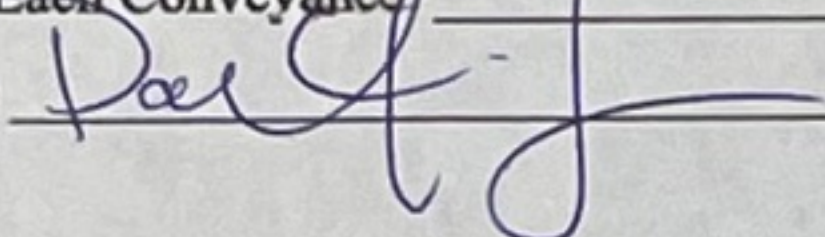
I further acknowledge that the information provided herein is true and correct to the best of my knowledge.

Owner(s) Name: Dalton A. Jarrell

Parcel ID(s): 60137474.000

Date Property Acquired Date: January 29, 2023

Book and Page of Each Conveyance: DB 2106 Pgs 730 to 733

Owner's Signature  Date 12-5-24

STATE OF MISSISSIPPI

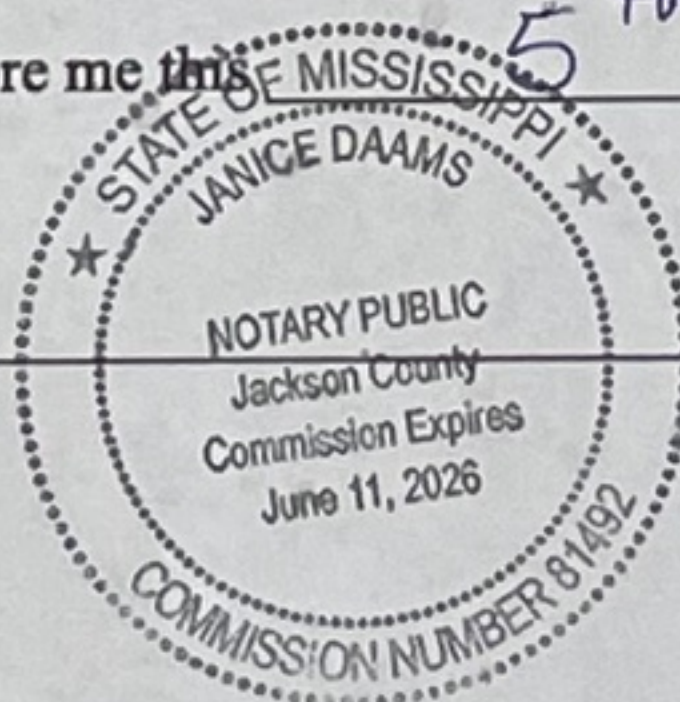
COUNTY OF JACKSON

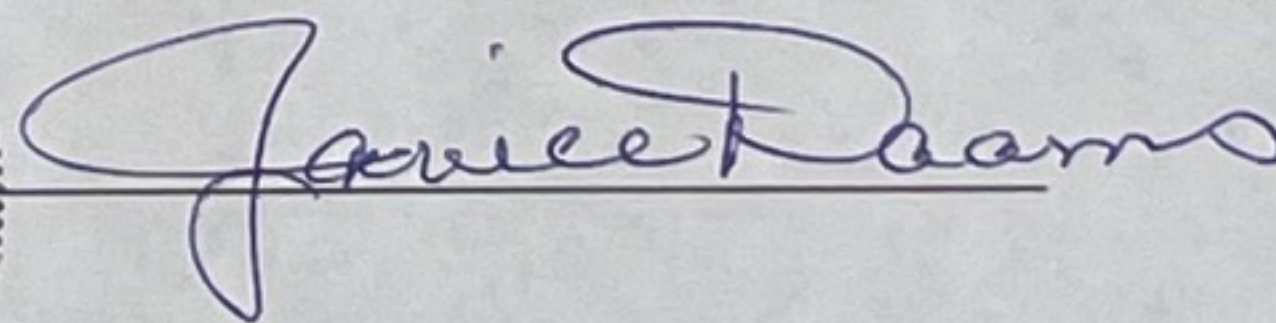
I DALTON JARRELL, hereby depose and say that all the above statements and the statements contained in the papers submitted herewith are true.

Mailing Address 15021 PISMUKO AVE
BILOXI, MS 39532

Subscribed and sworn before me this 5th day of December, 2024

My commission expires 6/11/26





Regulations of the Unified Development Code:

Lot Split: Section 2.30

Parcel Reconfiguration: 2.43

Plat Amendment: 2.23

Affidavit of Ownership

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the book and page of each conveyance into the present owner as recorded in the County Records of Deeds (Chancery Clerk) office. This affidavit shall indicate the legal ownership of the property, the contract owner of the property, and the date the contract of sale was executed.

Andrew Corbitt Lipps

I, (print name) _____, hereby certify that:

1. I am the owner of the property that is the subject of this application and that I have read and understand the requirements as outlined in the application.
2. There are no outstanding City of Ocean Springs property taxes or special assessments on the original parcel(s).

I further acknowledge that the information provided herein is true and correct to the best of my knowledge.

Andrew Corbitt Lipps

Owner(s) Name: _____

Parcel ID(s): 60137474.000

Date Property Acquired Date: January 29, 2023

Book and Page of Each Conveyance: DB 2106 Pgs 730 to 733

Owner's Signature _____ Date 1-2-5-2024

STATE OF Mississippi

COUNTY OF Harrison

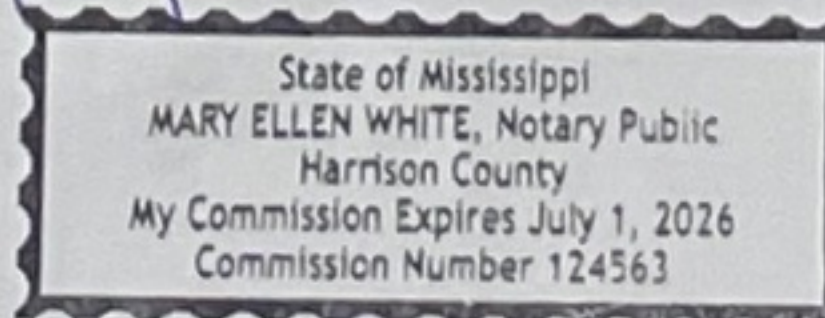
I Andrew Corbitt Lipps, hereby depose and say that all the above statements and the statements contained in the papers submitted herewith are true.

Mailing Address 1250 McElmood Rd, Slidell
LA 70458

Subscribed and sworn before me this 5th day of December.

My commission expires

07/01/2026 Mary Ellen White



Regulations of the Unified Development Code:

Lot Split: Section 2.30

Parcel Reconfiguration: 2.43

Plat Amendment: 2.23

Affidavit of Ownership

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the book and page of each conveyance into the present owner as recorded in the County Records of Deeds (Chancery Clerk) office. This affidavit shall indicate the legal ownership of the property, the contract owner of the property, and the date the contract of sale was executed.

I, (print name) Todd Lipps, Sr., hereby certify that:

1. I am the owner of the property that is the subject of this application and that I have read and understand the requirements as outlined in the application.
2. There are no outstanding City of Ocean Springs property taxes or special assessments on the original parcel(s).

I further acknowledge that the information provided herein is true and correct to the best of my knowledge.

Owner(s) Name: Todd Lipps, Sr.

Parcel ID(s): 60137474.000

Date Property Acquired Date: January 29, 2023

Book and Page of Each Conveyance: DB 2106 Pgs 730 to 733

Owner's Signature Todd Lipps Sr Date 12-05-2024

STATE OF Mississippi

COUNTY OF Jackson

I Jaime Holland, hereby depose and say that all the above statements and the statements contained in the papers submitted herewith are true.

Mailing Address 1953 Bienville Blvd
Ocean Springs, MS 39564

Subscribed and sworn before me this 5th day of December, 2024

My commission expires 4/16/28



Land Use Report for 209 and 213 Dewey Avenue
PIDN: 60137474.000
Owners: Todd Lipps, Sr., Dalton A. Jarrell, and Andrew. C. Lipps
Variance of Minimal Lot Width Requirement
And Lot Split

Overview:

In January 2023, the subject property being approximately 36,180 square feet (.84 acres) was inherited by three brothers. The property is located on Dewey Avenue approximately midway between Calhoun Street and LaFontaine Avenue. The property is located on the west side of Dewey Avenue and includes two structures addressed as 209 and 213 Dewey Avenue. The brothers are attempting to divide the property. While the property is larger than the minimum requirements of the zoning district (R-1), the overall area is only large enough to create two lots that meet the minimum area requirements. Dividing the property into three compliant lots with the required area is simply not possible. While the City can grant variances for setbacks, lot widths, and other dimensional requirements, the Unified Development Code indicates that minimum lot area cannot be reduced by a variance. For this reason, one brother intends to 'buy-out' another brother, and the property is intended to be split between the two remaining brothers. The brother with 'two-shares' will have a slightly larger lot, and the remaining lot will be approximately the minimum lot size (13,600 sq. ft). Because the width of the property is approximately 183 feet (180 feet based on survey), the lots will be slightly narrower than the minimum required lot width of 100 feet, if approved. However, the lots will be consistent with the majority of lots within the immediate area and meet or exceed the minimum area.

To divide the property between the two siblings, two applications will be submitted. These include an application for a Lot Split to the Planning Commission and an application to the Zoning and Adjustment Board for Lot Width Variances for the two lots.

Variance Request and Hardships:

The subject property has a width of 180 feet. The R-1 Single-Family Residential District requires a lot of 100 feet and a minimum area of 13,500 square feet. The owners intend to divide the property with the issuance of variance of the lot width requirements to create two new lots. Both new lots will have areas that meet or exceed the minimum requirements. The northern lot will be 13,600 square feet, and the larger southern lot will be 22,580 (approximate).

According to the Unified Development Code, the Zoning and Adjustment Board is provided certain authority in administering or granting variances:

Powers relative to Variances: Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or **other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the area**, the strict application of these regulations would result in peculiar and **exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property**, the ZAB shall have the right by a majority vote to decrease any minimum requirement and to increase any maximum requirement, except for the required minimum lot area in residential zoning districts, by not more than twenty-five percent (25%), and shall be allowed only for good and substantial reasons which shall be made part of the record. (1.21.2.D UDC pg. 14).

Below are the “extraordinary or exceptional situations or conditions of a specific piece of property, which is generally not prevalent in the area” which causes hardships for the owners.

1. The property includes two single family dwelling units and functions as two-family residential instead of single family residential use. The zoning and neighborhood are single-family residential, generally, but there are two multifamily sites to the south of the subject parcel. The nonconforming status of the structures on the subject lot could prevent the expansion, remodeling, or improvements to the structures. The northern structure, specifically, is small and in need of improvements to be consistent with the neighborhood. The owners would like to enlarge the structure but cannot as a nonconforming structure. The smaller structure is approximately 500 square feet with only two bedrooms and one bath.
2. The existing lot is approximately 36,180 square feet in area. This lot is significantly larger than other properties along the Dewey Avenue and the adjacent area of Lafontaine (only the Knight property at the corner of Dewey and Lafontaine is larger). Smaller lot areas are prevalent along the street. The areas of the proposed lots will meet the minimum requirements of the UDC and are consistent with other properties in the area.
3. The property is 180 feet in width (deed indicates 183). This is the widest property along Dewey Avenue. The vast majority of lots along the street are 85 feet or less in total width. This greater width “is generally not prevalent in the area” and places a unique burden on the owners of the subject property.
4. Other properties, specifically 1016 and 1018 Lafontaine Avenue were previously included as a single-property. This parcel was split in a very similar manner creating two new lots of 86 feet and 88 feet. The proposed split in this case will create two new lots that are 85 feet and 95 feet. The Lafontaine split was approved largely because the area of both newly created lots exceeded the minimum requirements and the widths were within the limits.

These items or hardships will be addressed in greater detail within this report.

Nonconforming Structures and Uses:

The site includes two single-family residential structures. These structures include separate physical addresses of 209 and 213 Dewey Avenue. The main structure (209 Dewey) is located on the southern portion of the property. The smaller cottage (213 Dewey) is located along the northern portion of the property. The small structure does not function as an ‘accessory to the primary structure’ but instead has been used as a rental property for a number of years. Additionally, the building line of the main structure has a deeper setback than the smaller cottage (accessory structures should be setback 60 feet and behind the primary structure). For this reason, the smaller structure can be considered nonconforming in terms of location and use. The site functions more as a two-family residential site instead of a single-family residential property.

The nonconforming nature of the uses and structures creates a hardship for the owners. The nonconforming status could prohibit the expansion of both structures. While the southern structure is in relatively ‘good shape’ the northern structure is smaller and in need of repair. The division of the lot would allow the owners to remedy the nonconformities of the property. The small cottage could be improved and expanded or demolished and rebuilt for a larger, more compatible structure. The UDC addresses the consideration of nonconformities on other lots, but not the subject property, as follows:

No nonconforming use of neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted use of lands, buildings, or other structures in adjacent

districts, shall be considered as grounds for issuance of a variance permitting similar uses. (7.2 UDC pg. 45)

The consideration of nonconforming “uses” is limited to those on “neighboring lands” within the same district.

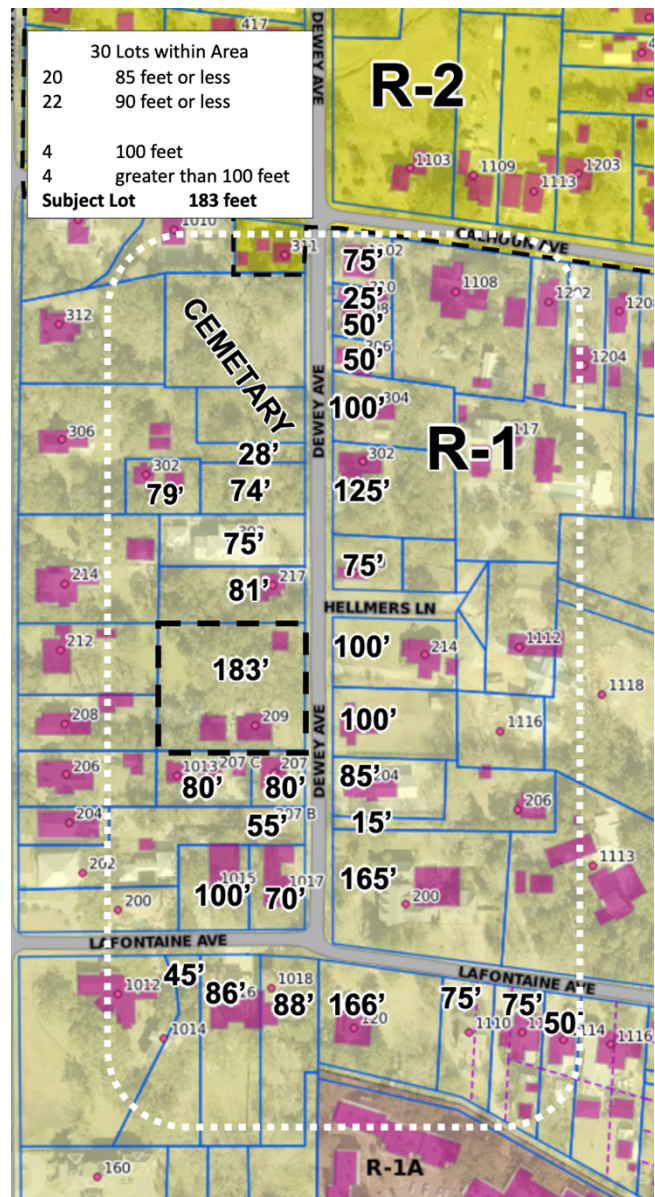
This consideration is limited to the “use” and does not mention nonconforming lots, sites, or structures. It also addresses only neighboring lands and not the subject property. This prohibition is for a “use” to prohibit “use variances” for properties. These types of use variances are considered spot zoning and are generally not legal. The division of the property will create two buildable, compliant lots (with a variance for width that are consistent with other lots in the area). If a variance is provided, the property is not considered nonconforming.

As a nonconforming use, the structure cannot be expanded. It cannot be demolished and rebuilt and maintain its nonconforming use status. Currently, it is a 2 bedroom, 1 bath cottage of approximately 500 square feet, and it can remain in its current condition and size. As the street has significantly improved in recent years, this site is left in a state of flux based on potential nonconformities. The dividing of the property can remove the ‘accessory structure’ issues and allow the structures to be improved, expanded, or demolished and rebuilt as a more conforming site. Neighbors within the area have indicated no objection to the split but feel the structures (specifically to the north) need to be improved.

Lot Widths Prevalent within the Area:

According to the UDC, the Zoning and Adjustment Board “shall have the power to vary these regulations when it can be shown by the Applicant that there is an **extraordinary or exceptional situation or condition** of a specific piece of property, which condition is **not generally prevalent** in the area”.

A review of the area demonstrates that the width of the subject lot is “not generally prevalent in the area”. The subject property has a width of 183 feet. This is the widest lot along Dewey Avenue. Of the 30 private lots along Dewey Avenue and the immediate area of Lafontaine Avenue 22 lots have widths that are less than 90 feet (non-conforming) and 20 have a width equal to or less than the proposed width (85 feet) or the north lot. The south lot (proposed at 95 feet) is wider than approximately 75 percent of the lots along Dewey Avenue and Lafontaine (see map). There are only four lots that are 100 feet in width and an additional four lots exceed the minimum requirements (total of



8 compliant lots) . The subject lot is the widest lot along Dewey Avenue and one of only eight compliant lots within the immediate area containing 30 lots.

The lots immediately north and south along the west side of Dewey Avenue have widths of 55, 80, 81, 75, 74, or 28 feet. Lots on the east side of Dewey Avenue include one lot with a width of 25 feet and two with widths of 50 feet. Other lots range in widths from 75 feet to as much as 165 feet.

Lots to the south and along Lafontaine Avenue demonstrate similar widths that are prevalent along Dewey Avenue. These include widths of 45, 85, 75, and 50 feet with one lot having a width of 166 feet.

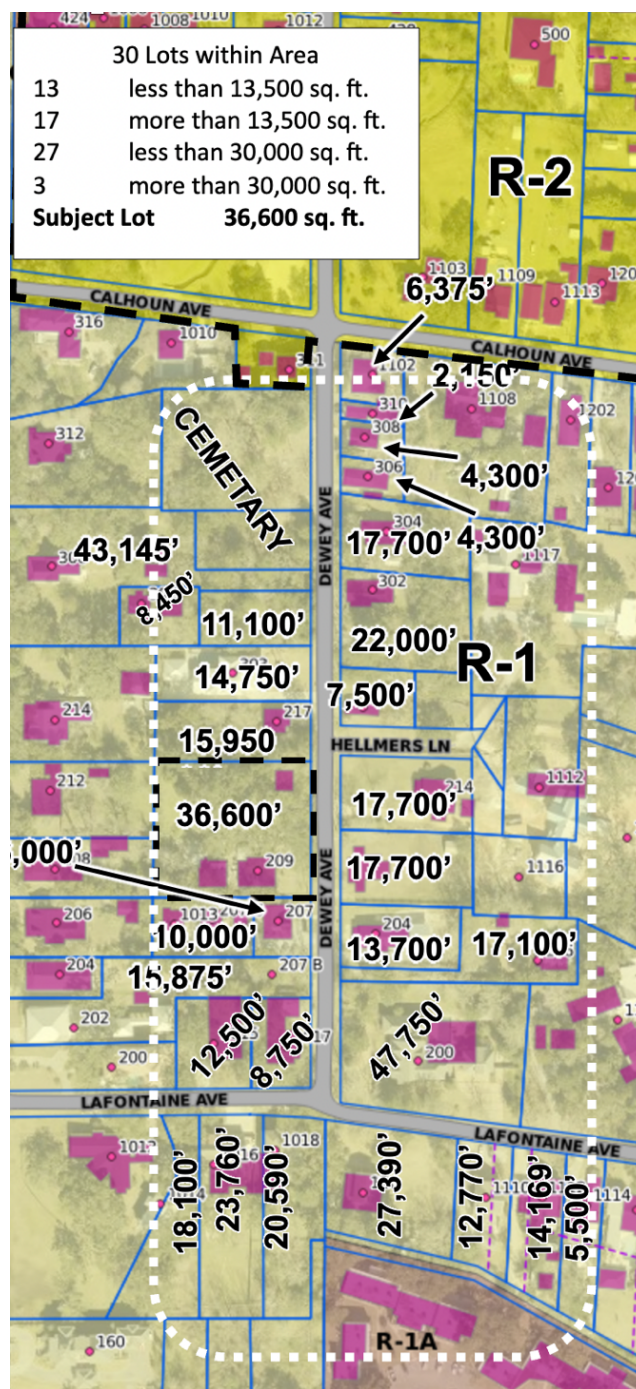
The lots in this area are “old Ocean Springs” lots that were generally created prior to the adoption of zoning regulations, however, several within the area were created in recent years. The R-1 Designation does not fit the widths of the vast majority of these lots.

Lot Areas Prevalent in Area:

Similarly to widths, there are also a number of lots within the area that do not comply with the minimum lot sizes. While both proposed lots will meet the minimum lot sizes of the R-1 District (13,500 is the minimum lot area), approximately 43 percent of the lots within the area along Dewey Avenue including the intersection with Lafontaine Avenue includes lots that have areas that are less than the prescribed 13,500 square feet of the R-1 District. This reinforces that there is not a ‘one size fits all’ within the area, but that larger areas and greater widths in lots are generally not prevalent. The subject area includes a number of lots that are smaller than the minimum requirements of the district. Many of the lots within the area are nonconforming in terms of lot sizes or widths. However, most uses within the area are considered conforming single-family residential uses.

According to the UDC:

The Zoning and Adjustment Board shall have the power to vary these regulations when it can be shown by the Applicant that extraordinary hardships or **identifiable concerns** are brought about by strict compliance with these regulations and that a variance is required so that **substantial justice** may be done and the public interest secured provided that such variations will not have the effect of reducing or nullifying the intent and purpose of the



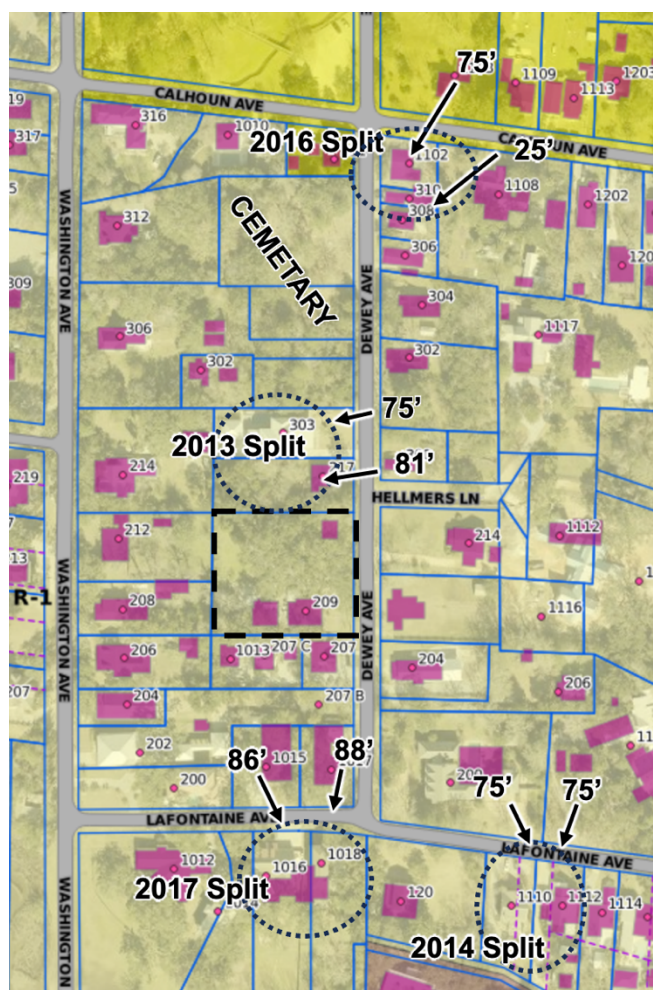
comprehensive City plan. **No nonconforming use of neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted use of lands, buildings, or other structures in adjacent districts, shall be considered as grounds for issuance of a variance permitting similar uses. (7.2 UDC pg. 45)** This specifically relates to “uses”.

While the normal threshold for a zoning variance is that a “hardship” exists, the ordinance states that the applicant need only show that “**identifiable concerns** are brought about by strict compliance with these regulations”. Clearly if the subject parcel is required to maintain a total area that may be more than two or three of the adjacent or nearby parcels, this should be considered an “identifiable concern”. Similarly, if the width is greater than the combined width of two or three of the adjacent or nearby structures that could be considered an “identifiable concern”. “Substantial justice” should also be considered in that the subject property or owners are not permitted to enjoy the same densities or lot sizes that other nearby property owners are entitled. This is not situated in an area where lot widths of 100 feet are prevalent or widespread in the area. In fact, the normal size of lots within this area are more similar to that of the R-2 District.

The variance provides that “substantial justice may be done” and the “public interest secured” in the approval of a variance. The proposed lot widths associated with the requested variance includes providing the applicant some justice or fairness when additional lot within the area are substantially smaller and narrower than the subject lot. When two lots can meet or exceed the minimum lot area while adjacent or nearby lots do not, the variance will provide “substantial justice” for the applicant. Similarly, because the lots will conform to the area, the “public interest” will be secured.

The above cited section of the UDC indicates that variances granted should not nullify the purpose or intent of the Comprehensive Plan. The proposed request is actually consistent with and encouraged by the Plan as infill development:

Due to the lower density nature of residential development, there is strong potential for in-fill development in the CBD. In-fill development consists of using vacant, underused, or orphaned land for new development. It can create more affordable development since it uses existing infrastructure. It also can be used to encourage population growth needed to sustain commercial activities and vitality in the heart of the City. Furthermore, by using land in mature areas, in-fill development can reduce the demand for housing in undeveloped areas that require new services and reduce the cost to taxpayers. Forms of potential in-fill development include:



- *The addition of new dwellings on vacant lots or other undeveloped parcels surrounded by existing residential development.*
- *Dwelling units added to existing houses and businesses (e.g., upstairs apartments)*
- *Small, detached dwellings added to lots of sufficient size with existing houses (e.g., “granny ” flats)*
- *Redevelopment of properties*
- *Neighborhood-related, non-residential development (page 28 Ocean Springs Comprehensive Plan, 2010)*

The current Comprehensive Plan also states:

Policy 1.5: Encourage compatible infill development that is designed and constructed to be consistent with the character of the existing neighborhood. (page 98 Ocean Springs Comprehensive Plan, 2010).

While not adopted, the proposed Comprehensive Plan for the City also addresses infill development:

1.4. Develop compatible mixed-use activity centers and infill development consistent with neighborhood character. (Page 79, proposed 2045 Comprehensive Plan).

As provided in this report, the proposed split is consistent with the character of the existing character of the neighborhood. As a result, the requested split does not reduce or nullify the intent of the Comprehensive Plan.

Previous Splits within the Area

Substantial justice can also be satisfied by comparison of similar lot splits within the area. In recent years, four lots or properties have been “split” These lots were conveyed despite minimum lot size requirements of 13,500 square feet and minimum widths of 100 feet were in place for the R-1 District. The basis of these splits was largely conformance with the area. The lots reduced the lots either within the variance limits (2017 split) or outside of the limits (2013, 2014 and 2016 splits). Providing “substantial justice” to the applicant would tend to permit the split within the variable limits for lot widths as previously approved or permitted with other properties.

The UDC states:

The application shall demonstrate that the existing conditions and circumstances are such that **the strict application of the provisions of the UDC provisions would deprive the Applicant of reasonable use of said land, building, or structure, equivalent to the use made of lands, buildings, or structures in the same district** and permitted under the terms of this provision and that the peculiar conditions and circumstances are not the result of the actions of the Applicant. (2.16.2 UDC pg. 45)

Hardship

According to the UDC, hardship is defined as follows:

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. **The Board of Aldermen require that the variance is exceptional, unusual, and peculiar to the property involved.** Mere economic or financial

hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended. (2.16.2 UDC pg. 336)

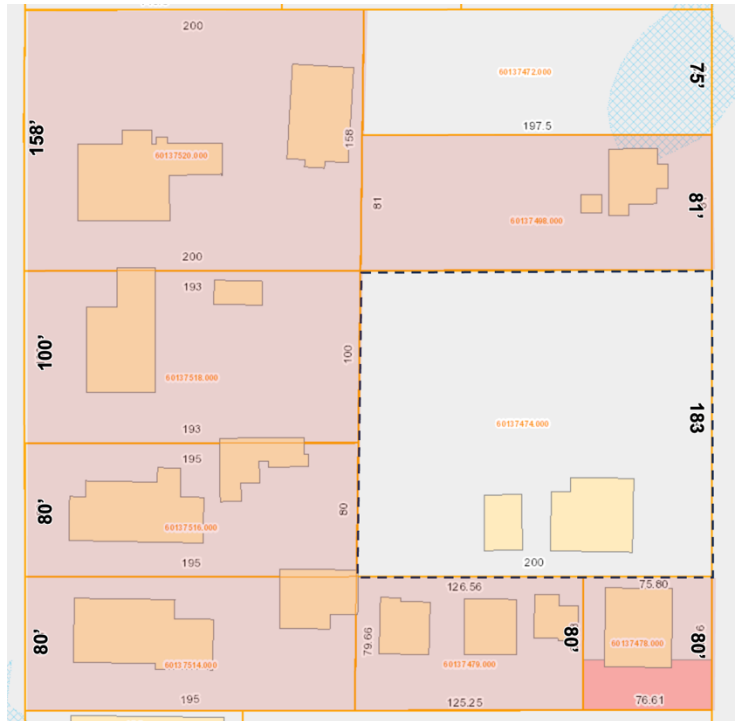
In the case of the subject property, the size and width of the property is exceptional, unusual, and peculiar to the property. Typical lot widths within the area are either at or below the minimum requirement. With several instances along the street that provide existing lot widths of 25, 50, 75, 85 and others, it is clear that a lot width of 183 feet (the widest along Dewey Avenue) is not usual.

The owners do not intend to sell the property but hopes to improve the structures. This is not an economic or financial hardship. The hardship is dimensional and based on the current size of the property that is larger and wider than each of the adjacent structures. Furthermore, 5 of the 7 adjacent structures lack the minimum lot widths of the district (100 feet).

This consideration is limited to the “use” and does not mention nonconforming lots, sites, or structures. It also addresses only neighboring lands and not the subject property. The division of the property will create two buildable, compliant lots (with a variance for width).

Additional Considerations

The site includes three very large live oaks with diameters of 4.5 feet, 7.5 feet, and 8.5 feet. These great trees are long the center area of the property. This creates an issue because it prevents a home from being constructed in the center of the lot and either requires an excessive setback to be centered or it requires placing a structure to either side. The large trees provide a natural split of the property and by placing the trees along a common property line, they can be preserved. While the lot is buildable, the majority of structures along the street are centered and have somewhat narrow or common setbacks.

A photograph showing three large, mature live oak trees that dominate the center of a property. The trees have thick trunks and dense, spreading canopies. In the foreground, a black golf cart is parked on a dirt or gravel area. To the left, a portion of a white house with a covered porch is visible. To the right, a grey house with a similar porch is seen. The background shows more trees and a clear sky. The image illustrates the scale of the trees and how they define the central area of the lot.

The proposed division places these trees along the common property lines to encourage their preservation. The smaller lot widths will encourage construction of residential structures that are similar in scale other homes along the street.

Conclusion

The subject property is not consistent with other lots in the area. It is larger and wider than the vast majority of those lots within the area. The prevailing lot widths along Dewey Avenue and within the area are generally much narrower ranging from 25, 75, 80, and 85 feet with a handful of lots at 100 feet or greater. After the split, the lots will remain some of the larger and wider lots within the area with proposed widths of 85 and 95 feet and areas of 13,600 and 22,580 square feet.

Over the past 10 years several splits have occurred based on the consistency with the area. Other similar splits have been denied in other areas, but in those cases the prevailing lot widths did not justify a variance. In areas where a proposed request is not consistent with an area or would be considered out of character, a variance request may be denied or reduced. By not permitting a variance and lot split for the subject property, the owners are being required to maintain an area or lot size that is much larger than others in the area. This places a burden or hardship on the owners of the subject property.

The requested split is consistent with the existing and proposed Comprehensive Plans that promote infill residential development that is consistent with the area or neighborhood. Furthermore, the split provides subtitled justice by permitting this property to be treated in a similar manner that is consistent with others in the area. As proposed, the lot areas and widths will be compatible with the neighborhood and should be approved.

OFFICIAL RECORDS JACKSON COUNTY
 Josh Eldridge
 CHANCERY CLERK
 RECORDING FEE: \$26.00
 #202301822 BK: 2106 PG: 730-733
 01/30/2023 10:50:16 AM 4 PGS
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202301822 4 PGS

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Indexing Instructions:
 Claim Section 37-7-8
 Jackson County, MS

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Grantees:
 TODD LIPPS, SR.
 9536 Red Bluff Drive
 Ocean Springs, MS 39564
 Telephone: 228-369-5521

DALTON ANTHONY JARRELL
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ANDREW CORBITT LIPPS
 Post Office Box 1182
 Slidell, LA 70459
 Telephone: 985-960-2537

STATE OF MISSISSIPPI

COUNTY OF JACKSON

TRANSFER ON DEATH DEED

For and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) cash in hand

paid, and other good and valuable consideration, I, **MILDRED MCGINTY LIPPS JARRELL**, do hereby sell, convey and warrant my interest in the following described property at my death unto **TODD LIPPS SR. and DALTON ANTHONY JARRELL and ANDREW CORBITT LIPPS**, as tenants in common:

That certain lot or parcel of land beginning at a point on the West margin of Dewey Avenue at a point that is Northeast corner of the property now or formerly of Ed Berthaut, and being the Southeast corner of the property herein conveyed, running thence West along the North line of the property now or formerly of Ed Berthaut, for a distance of 200 feet, more or less, to the property now or formerly of Elliott and Harrison, running thence North along the property now or formerly of Elliott, a distance of 183 feet, more or less, to the property now or formerly of Elgin and Bailey, running thence East along the South line of property now or formerly of Elgin and Bailey for a distance of 200 feet, more or less, to the West margin of Dewey Avenue, running thence South along the West margin of Dewey Avenue a distance of 183 feet, more or less, to the Point of Beginning. Said property lying in Claim Section 37, Township 7 South, Range 8 West, Jackson County, Mississippi.

The above described tract is situated in the Bellande Strip in Claim Section 37, Township 7 South, Range 8 West, Jackson County, Mississippi.

By executing this Transfer On Death Deed, I am revoking a previously executed Transfer On Death Deed that I signed on July 29, 2022 and was recorded on August 2, 2022 in Deed Book 2082 at Page 786 in the Land Records of Jackson County, Mississippi.

Before my death, I have the right to revoke this deed as set forth in Section 91-27-21, Mississippi Code of 1972.

This conveyance is made subject to any and all recorded restrictive covenants, rights-of-way, easements and reservations of any oil, gas, minerals and other rights.

WITNESS THE SIGNATURE of the undersigned on this the 29th day of

January, 202³.



MILDRED MCGINTY LIPPS JARRELL

STATE OF MISSISSIPPI

COUNTY OF JACKSON

On this 29 day of January, 2023, before me, the undersigned officer, personally appeared **MILDRED MCGINTY LIPPS JARRELL**, to me known to be the identical person who executed the within instrument by her mark in my presence and in the presence of Sheree L. Ranson and Linda Giardelli, as witnesses, , the Transfer On Death Deed having been read to her, she being a person unable to write; and she acknowledged to me the she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 29 day of January, 2023.



My Commission Expires

Edward Foley Ranson
NOTARY PUBLIC

Sheree L. Ranson

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Linda Giardelli

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