



August 18, 2022

Notice is hereby given of a Regular Meeting of the Zoning Board of Adjustment to be held on August 18, 2022 at 4:00 p.m., via videoconference, with the opportunity to appear in person in the **Council Chambers, Room 119 of City Hall, 202 E. Pilar Street, Nacogdoches, Texas**, for the purpose of considering the following agenda items. All agenda items are subject to action.

The City of Nacogdoches Zoning Board of Adjustment meeting will be deemed as being conducted via videoconference. However, some Board Members may attend virtually, while others may be present in the above stated physical location. Regardless, the meeting will be streamed live at www.nactx.us/1200/Channel-21. There will be an opportunity for the public to comment on agenda items either by teleconference or in person in Council Chambers.

Members of the public who wish to submit comments on a listed agenda item in writing or via teleconference must contact the Planning & Zoning office by email at lewisr@nactx.us or by calling 936-559-2574 and providing their name, telephone number and relevant agenda item upon which they wish to speak. All requests to make comments via teleconference must be received by 12:00 p.m. on Thursday, August 18, 2022. For all timely requests received, staff will call the submitted phone numbers directly during the meeting when the corresponding item comes up for comment. NOTE: The incoming phone call from City staff will be an unfamiliar number.

PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. Public service recognition to honor Commissioners' service to the citizens of Nacogdoches.
4. Administer Statement of Officer and Oath of Office for newly appointed Planning & Zoning Commission members.
5. Appoint Chair and Vice Chair.
6. **CONSENT AGENDA**
 - A. Approval of Minutes: Consider approval of minutes from the May 19, 2022 Zoning Board of Adjustment meeting.
7. **REGULAR AGENDA**
 - A. **Public Hearing:** Consider a request for a variance to the Zoning Ordinance Section

City of Nacogdoches Planning Department
202 E. Pilar – PO Box 635030 – Nacogdoches, TX 75963
936-559-2574 · Fax 936-559-2912 · www.nactx.us
Home of Stephen F. Austin State University · www.sfasu.edu



118-202.(1)b, for the expansion of a nonconforming single family structure, for Lot 42-C, City Block 45, located at 1117 Ferguson Street. This request has been submitted by Pat Casey. Case File ZBA2022-04.

8. ADJOURN.

Rhonda Lewis, Office Assistant II

The City Council Chambers is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Planning Department at (936) 559-2574 or FAX (936) 559-2910 for further information.

CERTIFICATION

I certify that the above notice was posted on the public notice board at City Hall, 202 East Pilar Street, on Monday, August 15, 2022 at 5:00 p.m. I further certify that the News Media were properly notified of this meeting as stated above.

Rhonda Lewis, Office Assistant II

**MINUTES TO THE
ZONING BOARD OF ADJUSTMENT
May 19, 2022 – 4:00 p.m. Hybrid Meeting**

All Present: Sarah Jones, George Middlebrook, Mary Ann Bentley, Ed Pool, and Olivia Kiritsy

Members Absent: None

Others Present: City Planner, Alaina Helton; Office Assistant, Rhonda Lewis; Planning Intern, McKenzie Rogers; City Engineer, Steve Bartlett; Charles Dear; and George Hansen

1. Call to Order: Chairman Pool called the meeting to order at 4:23 p.m.

2. Pledge of Allegiance

3. Consent Agenda: Approval of the Minutes: March 17, 2022, Regular Session

Chairman Pool made a motion to approve the March 17, 2022 minutes as written. Board Member Bentley seconded the motion. The minutes were approved unanimously 5-0.

4. Public Hearing:

- A. Consider a request for a variance to the Zoning Ordinance Section 118-202.(1)b, for the expansion of a legal nonconforming accessory building on Lots 7 & 8, Block 1 of the Raguet Oaks Subdivision, located at 719 Inwood Lane. This request has been submitted by Charles Dear. Case File ZBA2022-02.**

City Planner (CP) Helton stated that this property is subject to the R-1 Single-Family development codes and that accessory structure(s) must be 10 feet away from the primary structure/residence. She stated that the applicant plans to attach and expand the existing carport which will require a variance to the Zoning Ordinance.

The applicant addressed the Board and explained that he would like to expand an existing storage area on the rear of the carport from 5 feet, to an additional 25 feet. He also stated that the addition would match the style of the home and structure.

Board Member Kiritsy asked if the applicant's builder would obtain the proper permits. The applicant answered yes. Board Member Kiritsy also asked if there would be any plumbing or gas.

The applicant confirmed no, there would be no plumbing or gas, only an extension of the electricity.

Chairman Pool opened the floor for public comment.

There were none.

Chairman Pool made a motion that the request be granted. Board Member Kiritsy seconded the motion and the motion was approved unanimously 5-0.

- B. Consider a request for a variance to the Zoning Ordinance Section 118-202.(3)a, for the expansion of a nonconforming single family residence, for Lot 5-F, City Block 61, located**

at 3203 Old Tyler Road. This request has been submitted by George Hansen. Case File ZBA2022-03.

CP Helton presented the request stating that the residence was built before the current zoning ordinance was adopted. She stated that five (5) notices were sent out to the neighboring properties, but there were no responses.

Board Member Middlebrook asked if the request was compliant with the Comprehensive Plan, and CP Helton stated, yes.

Board Member Bentley asked if the addition was doubling the size of the house, CP Helton stated, no.

Chairman Pool opened the floor for public comment.

There were no comments from the public.

Chairman Pool called for a motion. Board Member Kiritsy made a motion to approve the request, and Board Member Bentley seconded the motion. The request was approved unanimously 5-0.

5. Adjourn: Meeting was adjourned at 4:50 p.m.

Chairman, Ed Pool

Attest: Rhonda Lewis, Planning Department



Zoning Board of Adjustments

Date: August 18, 2022

Case No: ZBA2022-04

PRESENTER: Alaina Helton, City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for a variance to the Zoning Ordinance Section 118-202.(1)b, for the expansion of a nonconforming single family structure, for Lot 42-C, City Block 45, located at 1117 Ferguson Street. This request has been submitted by Pat Casey. Case File ZBA2022-04.

TYPE OF REQUEST: Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of the property.

The ZBA rules and procedures state this type of variance may be requested “whenever, owing, to exceptional and extraordinary conditions, the literal enforcement of the provisions of the zoning regulations will result in unnecessary hardship in the development of the property.”

The applicant is requesting a variance to the Zoning Ordinance *Sec. 118-202(1)b – Enlargement*. This section of the ordinance states that a nonconforming building or structure shall not be added to or enlarged in any manner unless such additions and enlargements are made to conform to all of the requirements of the district in which such building structure is located. The specific variance being requested is to expand the existing single family residence by constructing a 576 square foot addition to the west (rear) side of the house. The structure is nonconforming because the house encroaches 2.5 feet into the 6-foot side yard building setback along the northern property line.

BACKGROUND INFORMATION:

The property is approximately 6,000 square feet in size with a 1,300 square foot single family residence constructed in 1941. The property is zoned R-4, Multi Family, which has a 6-foot side yard building setback. The northwest corner of the residence is approximately 3.5 feet from the northern property line, making the structure nonconforming with the building setback. The applicant is proposing to expand the living area of the residence with a 576 square foot addition on the west (rear) side of the residence. The proposed addition will meet the building setbacks for this zoning district.

Adjacent Land Use & Zoning

The subject property is zoned R-4, Multi Family and is developed with a *Single Family Residence*. The surrounding zoning and land uses are as follows:

Direction	Zoning	Existing Land Use
North	R-4, Multi Family	Single Family
South	R-4, Multi Family	Single Family
East (Across Ferguson St.)	M, Medical	Single Family

West	B-2, General Business	Commercial

Physical Characteristics

1. Frontage: The property has approximately 55 feet of frontage on Ferguson Street.
2. Access: The property takes direct access from Ferguson Street.
3. Topography and vegetation: The property is fairly flat with no trees on the property.
4. Floodplain: The subject property is not located within the FEMA regulated floodplain.

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

Per Section 118.99 of the Nacogdoches Zoning Ordinance, the applicant must demonstrate to the satisfaction of the board that the decisions of the board will be in the best interest of the community and would carry out the spirit and intent of the zoning regulations. The board of adjustment may grant variances and exceptions upon finding that the following conditions have been met:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance.

The general purpose of the comprehensive plan and zoning ordinance is to promote the health, safety, and welfare of Nacogdoches through orderly and efficient development. Additionally, the 2003 Comprehensive Plan Future Land Use Map designates the property as Central City Mixed Use which includes a mix of retail, office, residential and public uses. The addition will meet all current City development codes, and is not in conflict with the uses recommended in the Central City Mixed Use future land use.

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district.

The subject property and the surrounding properties are developed as single family residences. The proposed addition will meet the building setbacks of the zoning district, and take access from Ferguson Street. Therefore, granting this variance would not affect the appropriate use of the adjacent property.

3. Such variance will not adversely affect the health, safety or general welfare of the public.

The proposed addition will meet the current building codes and building setbacks for the zoning district. Therefore, granting of the variance will not adversely affect the health, safety or general welfare of the public.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance sought is located.

The variance is expansion of an existing single family residence, and will not authorize a use other than those permitted under the current R-4, Multi Family zoning district.

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

The property was developed as a single family residence in 1941, prior to the adoption of the City zoning ordinance and current development codes. The adoption of the zoning ordinance and associated building setbacks rendered the previously conforming residence into a nonconforming structure. The adjacent lot to the south and the lot to the east (across Ferguson St.) also appear to be constructed within the side yard building setbacks, however this is not a general condition of the other structures in the area.

6. The variance itself is not a self-created hardship.

A self-created hardship is one that is created by the owner or his or her predecessor in interest, rather than the nature of the property itself, and thus implies an intent to create a hardship. This is not a self-created hardship, as the property was in this condition when the applicant purchased it.

STAFF RECOMMENDATION:

Staff recommends approval of the variance due to the unique circumstances existing on the property that are not due to or the result of general conditions in the district in which the property is located.

Notices

Staff sent out twelve (12) notices to property owners within the 200-foot notification area. At the time of this report, Staff had received no responses to the request.

NOTICES:

- ATTACHMENTS:**
1. ZBA Exhibit
 2. Location Map
 3. Aerial Map
 4. Zoning Map
 5. Notification Map
 6. Site Photos

NW corner of the house is approximately 3.5 feet from the north property line.



Tommy Findeisen, RPLS No. 1915



**SURVEYED FOR
EARL HERRERA**

FIRM NUMBER 1008 1200

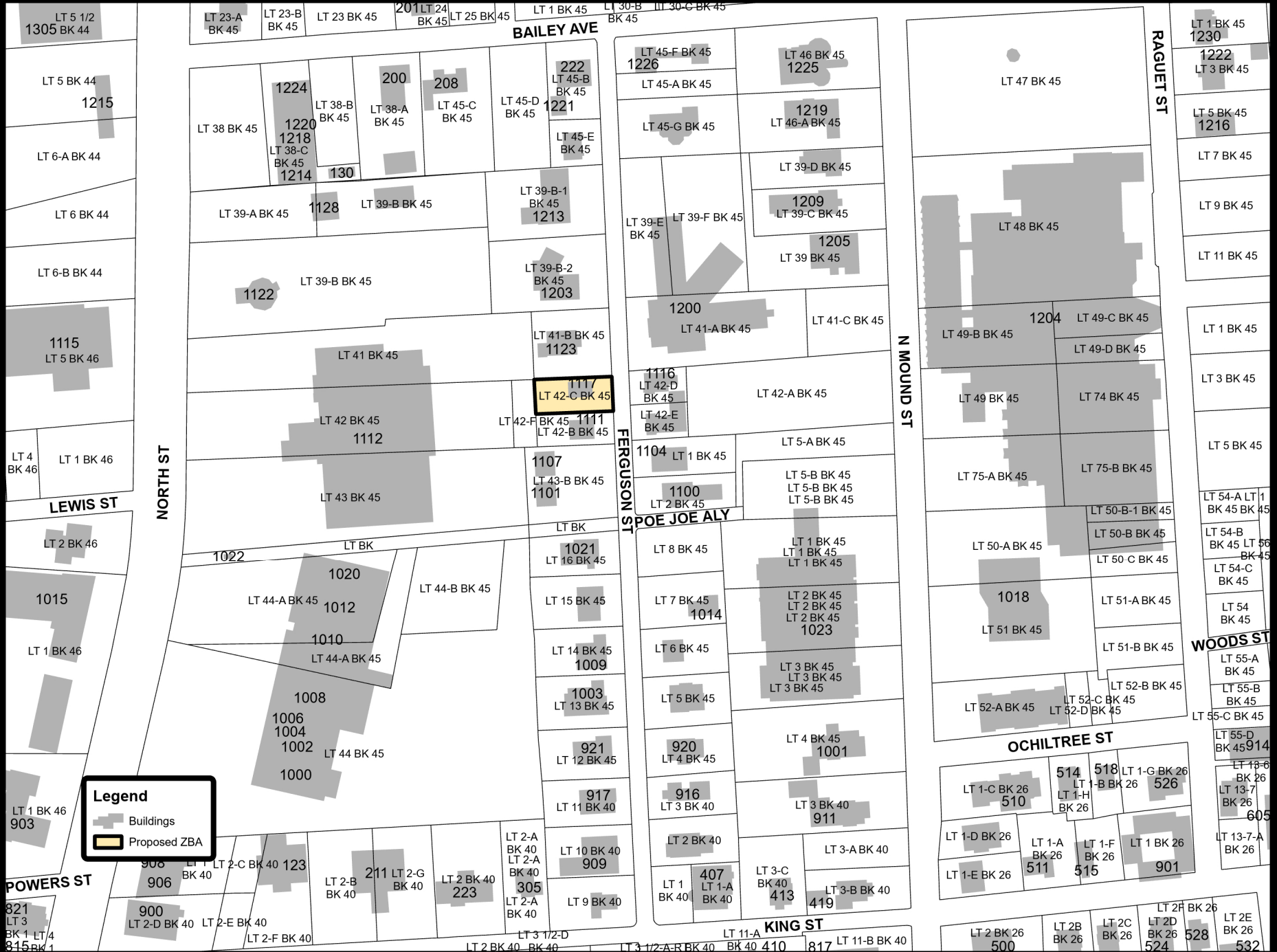
1001 PARK STREET

NACOGDOCHES, TEXAS 75961
PHONE (936) 564-6402
FAX (936) 564-7992

LOT 42-C (PREVIOUSLY CALLED 42-E), BLOCK 45
NACOGDOCHES, TEXAS

REVISIONS		DATE: 7/29/2020
NO.	DATE	REMARKS
		SCALE: 1" = 20'
		JOB NO: 512/26
SHEET NO. 1 OF 1		

ZBA 2022-04



Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



0 50 100 200 Feet

Date Created: July 27, 2022 Software: ArcGIS Pro 2.9.3

ZBA 2022-04



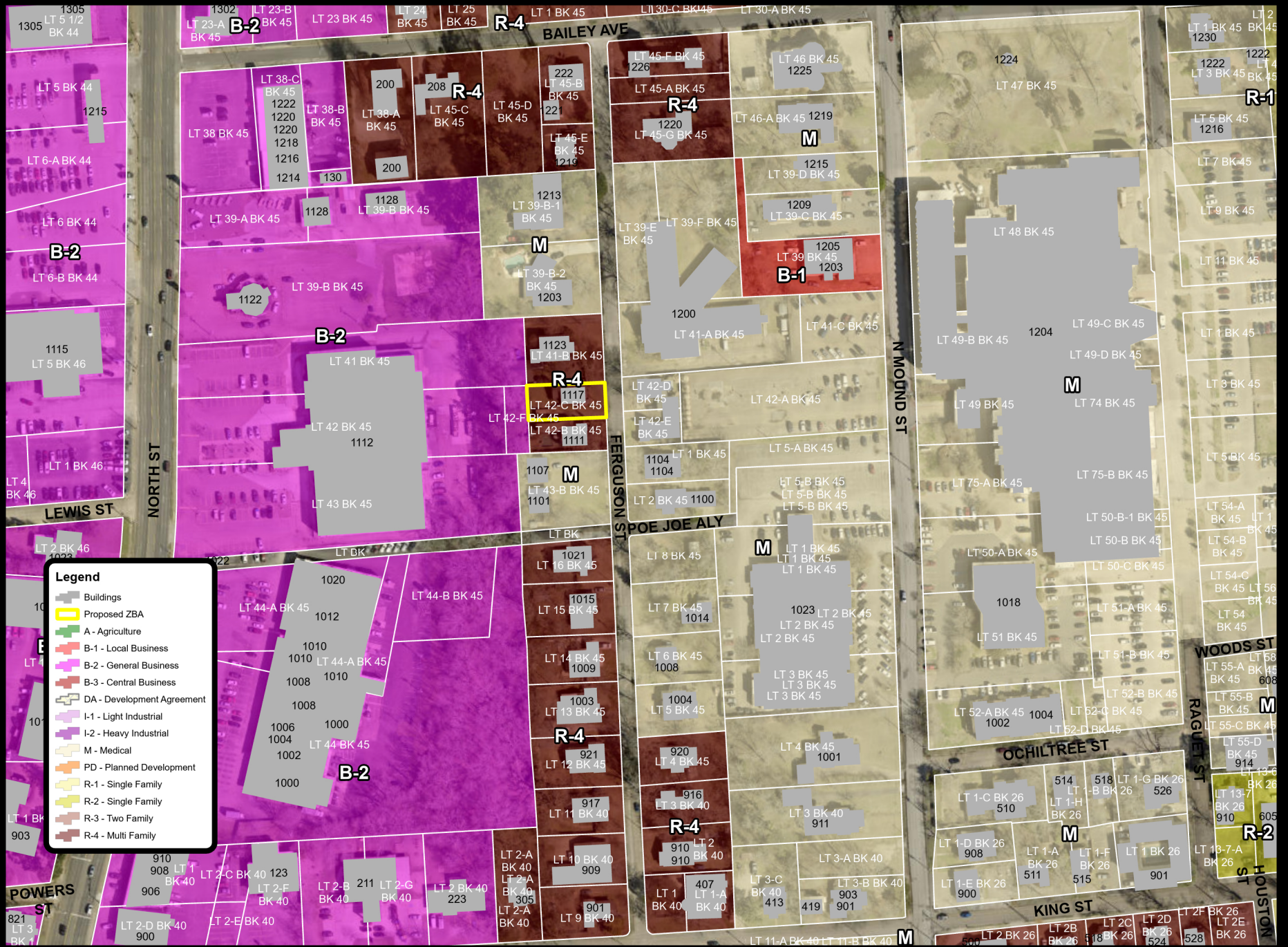
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0 50 100 200 Feet

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200 Foot Notification Map

ZBA2022-04: 1117 Ferguson St.

Legend



200 Foot Buffer



Proposed Variance



Single Family- Rental



Single Family-
Owner Occupied



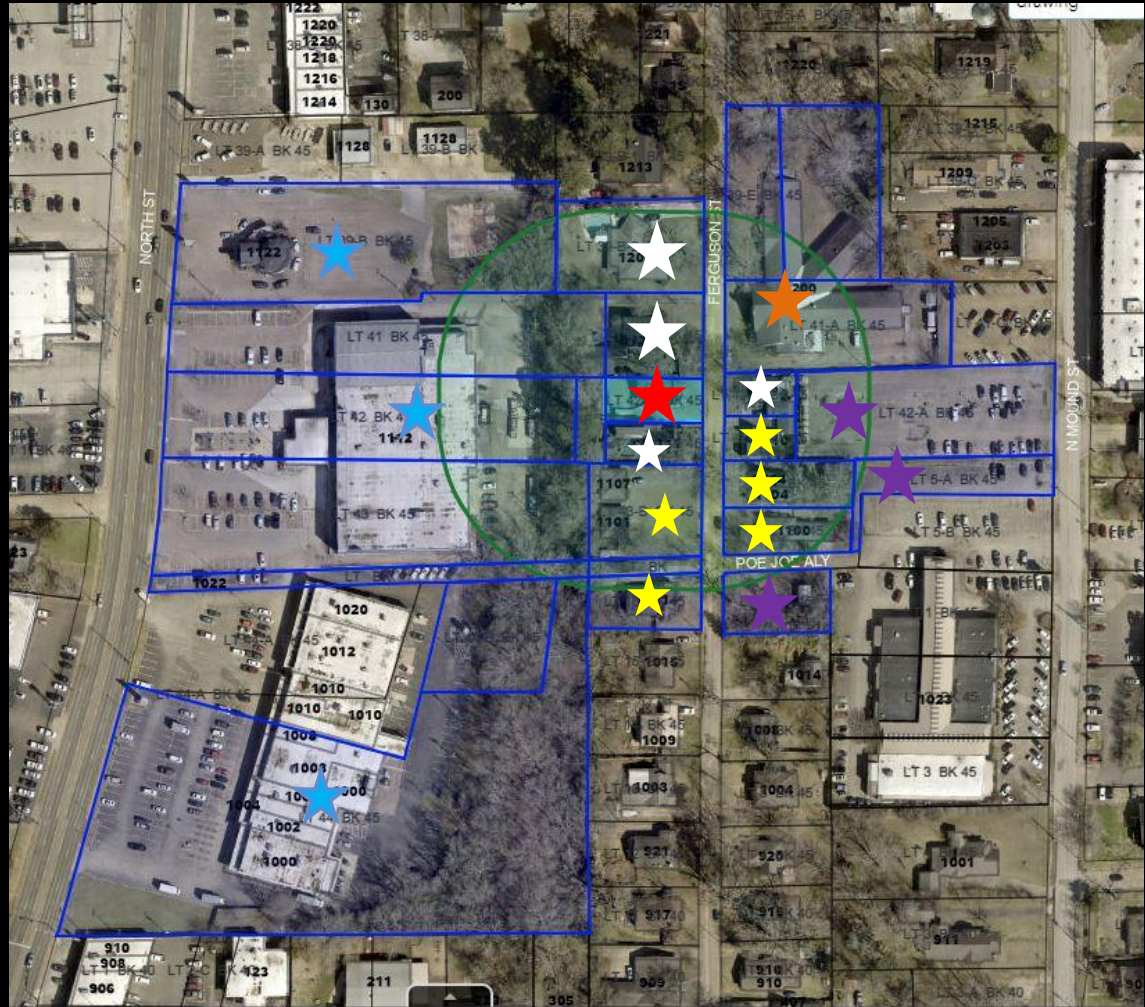
Vacant



Medical



Commercial



1117 Ferguson St. – Subject Property





Residences to the south





Residences to the
east across
Ferguson St.



Vacant nursing home to the north





Street view
looking south

Street view
looking north
along

