



City of Abilene

Board of Adjustment Agenda

Notice is hereby given of a meeting of the Board of Adjustment of City of Abilene to be held on December 14, 2021, at 8:30 a.m., at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items.

CALL TO ORDER

MINUTES

1. **Minutes:** Receive a Report, Hold a Discussion and Public Hearing on Approving the Minutes from the Regular Meeting Held on September 14, 2021

AGENDA ITEMS

2. **BA-2021-12:** Receive a Report and Hold a Discussion and Public Hearing On A Request From Josh Stallings (Represented By Gerard Real Estate LLC) For Approval Of A Special Exception To Allow Expansion Of A Nonconforming Use, Specifically By Converting A Vacant Accessory Building To An Additional Apartment Unit On The Site Of Existing Apartment Buildings At 1250 Elm Street In A Heavy Commercial Zoning District **(Brad Stone)**

ADJOURNMENT

Notice

In compliance with the Americans with Disabilities Act, the City of Abilene will provide for reasonable accommodations for persons attending meetings. To better serve you, requests should be received forty-eight (48) hours prior to scheduled meetings. Please contact the City Secretary's Office at 325-676-6208. Telecommunication device for the deaf is 325-676-6360.

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 10th day of December, 2021, at 2:45 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



BOARD OF ADJUSTMENT REGULAR MEETING MINUTES

September 14, 2021

8:30 a.m.

BOARD OF ADJUSTMENT OF THE CITY OF ABILENE, TEXAS COUNCIL CHAMBERS, CITY HALL

Members Present: Mr. Robert Beermann
Mr. Mark Odle
Mr. Jon Loudermilk
Col. Morton Langholtz, Vice-Chairman

Members Absent: Mr. Scott Hay, Chairman

Staff Present: Mr. Michael Rice, Assistant City Manager
Mr. Tim Littlejohn, Assistant Director and Building Official
Mr. Stanley Smith, City Attorney
Ms. Cheryl Sawyers, Planning Services Manager
Mr. Brad Stone, Planner III
Ms. Melissa Farr, Executive Assistant

Others Present: Mr. Gordon Washington Mr. Matt Ware
Mr. Grant Leevy Mr. Robert Kern
Mr. James Whitehead

CALL TO ORDER

Colonel Langholtz called the meeting to order at 8:30 a.m. and Ms. Melissa Farr recorded the minutes. A quorum of members was present, and the meeting proceeded.

EXECUTIVE SESSION

Board members participated in Executive Session beginning at 8:33 a.m. and ending at 8:42 a.m.

MINUTES

Mr. Odle made the motion to **approve** the minutes of the previous meeting, which was held on July 13, 2021. Mr. Loudermilk seconded the motion. The vote to **approve** minutes was carried by four (4) with none in opposition.

AYES: Beermann, Odle, Loudermilk, Langholtz

NAYS: None

AGENDA ITEMS

BA-2021-09: Receive a Report and Hold a Discussion and Public Hearing on a request from Titan Towers LP for approval of an 11-foot variance from the ordinary 12-foot limit on the height of signs allowed in Office (O) zoning districts.

Mr. Brad Stone presented this request. The applicants are seeking an 11-foot variance from the ordinary 12-foot limit on the height of signs allowed in Office (O) zoning districts, specifically located at 1500 Industrial Boulevard. Approval of this variance, as requested, will permit installation of a pole-mounted sign as tall as 23 feet on the subject property. No freestanding signs (either pole-mounted or monument-type) presently exist on this property.

Colonel Langholtz opened the public hearing. Mr. Gordon Washington spoke in favor and stated the proposed sign is to allow marketing for tenants.

Property owners within 200 feet of the request were notified. One (1) response was received in favor with none (0) in opposition.

Mr. Thomas moved to **approve** this variance request based upon the findings in the staff report. Mr. Loudermilk seconded the motion. The motion prevailed by the following vote:

AYES: Beermann, Odle, Loudermilk, Langholtz

NAYS: None

BA-2021-10: Receive a Report and Hold a Discussion and Public Hearing on a request from KJack Holdings LLC for approval of a 16-foot Variance request to allow a lot width less than 60-feet wide within a Medium Density (MD) Zoning district on .1414 acres of land at 926 Poplar Street in south-central Abilene.

Mr. Jared Smith presented this request for a variance. The applicant intends to construct a single-family dwelling on this tract of land.

Colonel Langholtz opened the public hearing. Mr. Matt Ware spoke in favor of this request and stated the desire is to replace the duplex with a single-family residence dwelling.

Property owners within 200 feet of the request were notified. There were no (0) responses received in favor with none (0) in opposition.

Mr. Loudermilk moved to **approve** this variance request based upon Staff's presentation and the Board discussion. Mr. Thomas seconded the motion. The motion prevailed by the following vote:

AYES: Beermann, Odle, Loudermilk, Langholtz

NAYS: None

ADJOURNMENT

There being no further business, Colonel Langholtz moved to adjourn the meeting. Mr. Beermann seconded the motion. The Board of Adjustment meeting was adjourned at 9:20 a.m.

Approved: _____, Vice-Chairman

BOARD OF ADJUSTMENT

BA-2021-12

STAFF REPORT



Scheduled Hearing

Board of Adjustment: December 14, 2021

Applicant

Owner: Integrity First Properties, LLC

Agent: Gerard Real Estate, LLC

Request

The applicant is seeking approval of a special exception to allow expansion of a nonconforming use, specifically by converting a detached accessory building to an additional apartment unit on the site of existing apartment buildings.

Location

1250 Elm Street, one half block east of Butternut Street in south central Abilene

Background

At some time between 1955 and 1964, a building was constructed of cinder block (approximately 30' x 50') on the subject property at 1250 Elm Street. Faded signs painted onto this building indicate that it was once used as a laundry and for dry cleaning.

During 1983 and 1984, two separate four-unit apartment buildings were constructed on this same site, complete with paved parking for as many as 14 automobiles. The original 30' x 50' cinder block building remained on this site and is still there. Site plans accompanying the building permits for apartment construction (in 1983 and 1984) identify this cinder block building to be a self-service laundry; however, it now appears to be vacant.

The new owners of this subject property now desire to convert all or part of that 30' x 50' cinder block building, for use as an additional apartment unit.

Zoning and Land Use (Existing and Proposed)

The property at 1250 Elm Street has been located within a Heavy Commercial (HC) zoning district since 1974, when Abilene's current zoning map was initially adopted by City Council. The same is true of this entire city block extending west to Butternut Street, except for four lots at the northeast corner of this city block. These four lots are located in a residential zoning district.

From 1974 until 2010, one-family, two-family and multi-family residences were ordinarily allowed in Heavy Commercial (HC) zoning districts of Abilene. It was in 2010 that local zoning regulations were amended to prohibit any new residences in HC Districts. The existing apartment buildings at 1250 Elm Street thereby became legally nonconforming, with respect to zoning regulations.

The proponents' planned conversion of this existing accessory building to an additional apartment (on the same site as eight existing apartments) cannot be permitted until and unless the Board of Adjustment approves a special exception for such.

Section 1.4.4.1 of Abilene's Land Development Code concerns Board of Adjustment procedures for considering special exceptions. Paragraph (d)(9) therein states the Board of Adjustment may grant special exceptions to allow, *"the City to issue a building permit for expansion of an existing nonconforming use that is not in compliance with ... the zoning district, when the Board of Adjustment determines the special exception will not adversely impact water, wastewater, stormwater drainage and street transportation systems, is in accord with all city codes and applicable Comprehensive Plan policies, including those pertaining specifically to land use compatibility."*

The Board of Adjustment is thereby authorized to approve the proposed intensification of this nonconforming residential use in a commercial zoning district, specifically, by allowing conversion of an existing accessory building to an additional apartment unit. If so approved, the building's conversion must still comply with all applicable codes relative to its structural, plumbing, electrical and mechanical components.

Although located in a Heavy Commercial zoning district,* the subject property does adjoin residential districts to the north and east:

- To the north are four lots (in this same city block) located in a Residential Medium-Density District.
- To the east is a row of lots bordering the odd-numbered side of Elm Street's 1200 block. This entire row of lots is also located in a Residential Medium-Density District.

Given that particular zoning classification, all these nearby residentially-zoned lots are generally suitable for single- and/or two-family homes.

Criteria Assessment

In reaching a decision on this requested special exception, the Board of Adjustment must make a finding on each of the following questions of concern about expanding a legally nonconforming use.

1. Will the expanded use adversely impact water, wastewater, storm water drainage and street transportation systems?

The subject property is located on a fully-improved local street (36 feet wide, bordered by curb-and gutter) situated only one short block from a fully-improved arterial on Butternut Street. Adding one additional apartment unit to the eight already existing on this property should have no detrimental impact on traffic movement systems.

Converting the exiting accessory building (to an additional apartment unit) will create no more impermeable surface to this building site. Even the existing paved parking surface will not need to be enlarged, to accommodate the one proposed new apartment. Approving this requested special exception will thereby have **no** impact on storm water drainage.

The existing apartment buildings are served with municipal water from a 4-inch-wide water main located in an alley north of this subject property. While a 4-inch-wide water main might be

* extending westward to and across Butternut Street

generally suitable for domestic water service to the apartments existing and planned on this property, no fire hydrant is connected to this water main. The closest hydrant (to the subject property) lies 320 feet southwest and across the width of an existing commercial parking lot at 1273 Butternut Street. Such distances (from fire hydrants) are quite common for the one- and two-family dwellings in the neighborhood existing north and east of this property.

The existing apartment buildings are served by 6-inch-wide sewer mains situated on three sides of these apartments. One of these 6-inch-wide sewer mains lies in an easement at the rear of this subject property, and **the accessory building proposed to be converted to a residence lies directly atop this existing sewer main.** See accompanying excerpt from the City of Abilene's digital map of its water and sewer system. It is unclear exactly how this undesirable circumstance occurred, but City staff is obliged to make the following observations:

- This sewer main lies in the alignment of what was once an alley having been abandoned during 1954.
- No permit record exists for the 30' x 50' accessory building (formerly a laundry and dry cleaners) proposed to be converted for residential use. Sanborn Maps and aerial photos indicate this building to have initially appeared at some time between 1955 and 1964.

2. Is the expanded use in accord with all City Codes and applicable Comprehensive Plan policies, including those pertaining specifically to land use compatibility?

The subject property is situated in a Heavy Commercial zoning district but not near the center of that commercial district, where residences might be impacted by incompatible uses in every direction. That would create an inhospitable living environment where expanding the residential use would be detrimental to persons living there as well as to long-term prospects for the value of that residential investment.

Instead, as mentioned above, this subject property lies at the edge of a Heavy Commercial District, bordered by one- and two-family residences on two sides. This specific siting of existing (and proposed) apartments thereby functions as a suitable transition in the intensity of use, between a heavy commercial environment (on Butternut Street) and relatively low-densities of residences existing nearby. Such transitional arrangements are consistent with city planning principles expressed in Abilene's Comprehensive Plan.

Recommendation

City staff recommends **denying** this requested special exception, solely because the accessory building proposed to be converted (to a residence) lies atop a municipal sewer main. The useful life of an approximately 60-year-old accessory building should not be prolonged by allowing its residential use, if it obstructs access to an aging sewer main (composed of vitreous clay) that will someday require repair or replacement. Such maintenance efforts may necessitate demolishing some or all of this building.

Notification

Pursuant to Section 1.2.2.2 of Abilene's Land Development Code, City staff mailed personal notices on December 3, 2021 to the applicant and other owners of property within a 200-foot radius of this subject property. These property owners and associated addresses are identified in Table 1.

TABLE 1

Owner	Situs	Parcel ID	Response
ACUNA MAGANN	1265 ELM ST	68355	
ALAMILLA NARCISO & DIANA T	1218 ELM ST	50603	
ALEXANDER JOSEPH	1273 ELM ST	68475	
ARROYO DEBRA D	1233 ELM ST	67847	
BELL JEANNIE	1225 ELM ST	67727	
CASILLAS EDWARD & HERLINDA	1249 ELM ST	68104	
CHAPMAN LARRY J & SUSAN L	1209 S 12TH ST	19574	
CLASSIC SUBS INC	1250 BUTTERNUT ST	52841	
HERNANDEZ JOSE JESUS	1217 BUTTERNUT ST	49957	
LWMW MANAGEMENT LLC	1258 ELM ST	50867	
LWMW MANAGEMENT LLC	1273 BUTTERNUT ST	50205	
LWMW MANAGEMENT LLC	1260 ELM ST	19831	
MASTERS WILLIS ARCHIE	1241 ELM ST	67976	
MORENO JOE	1241 BUTTERNUT ST	50078	
MOSES ALVIN LYNN	1201 ELM ST	67358	
ROBINSON SUSAN REEVES	1250 ELM ST APT F	50740	
RODRIGUEZ YOLANDA	1257 ELM ST	68235	
SILVA ALFREDO	1242 BUTTERNUT ST	52706	
SILVA ALFREDO	1226 BUTTERNUT ST	52705	
SMITH ALTON	1217 S 12TH ST	19701	
SMITH ALTON	1217 ELM ST	67610	
STONEHENGE INVESTMENTS LLC	1201 S 12TH ST	19452	
WALKE JOHN & MARTHA	1201 BUTTERNUT ST	49829	
WILLIAMS JACK S JR	1209 ELM ST	67484	

LOCATION MAP



ZONING MAP

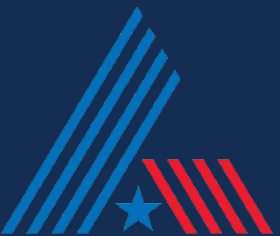


SEWER MAP



Case # BA-2021-12
December 6, 2021

Case: BA-2021-12
Owner: Integrity First Properties, LLC
Agent: Gerard Real Estate, LLC
Request: Expansion of nonconforming use, converting a detached accessory building to an additional apartment unit on the site of existing apartment complex
Location: 1250 Elm Street
Notification: 0 in Favor, 0 Opposed
Board of Adjustment: December 14, 2021



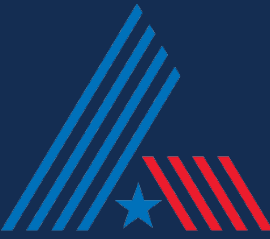
BA-2021-12 AERIAL LOCATION MAP



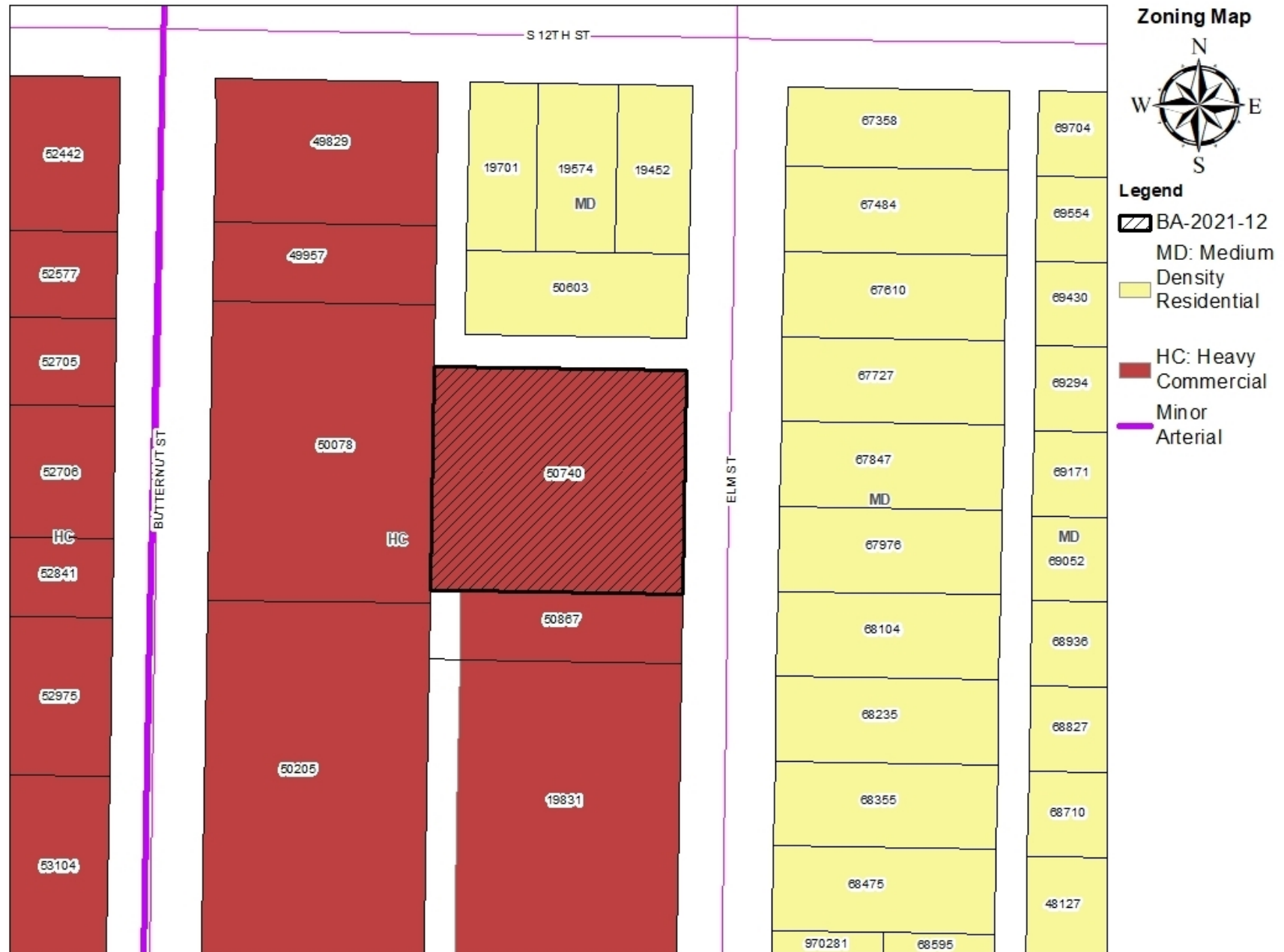
Location Map

Legend

BA-2021-12



BA-2021-12 ZONING MAP



BA-2021-12 SEWER MAP





Subject property



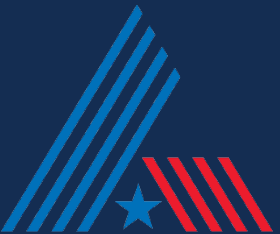
Subject property



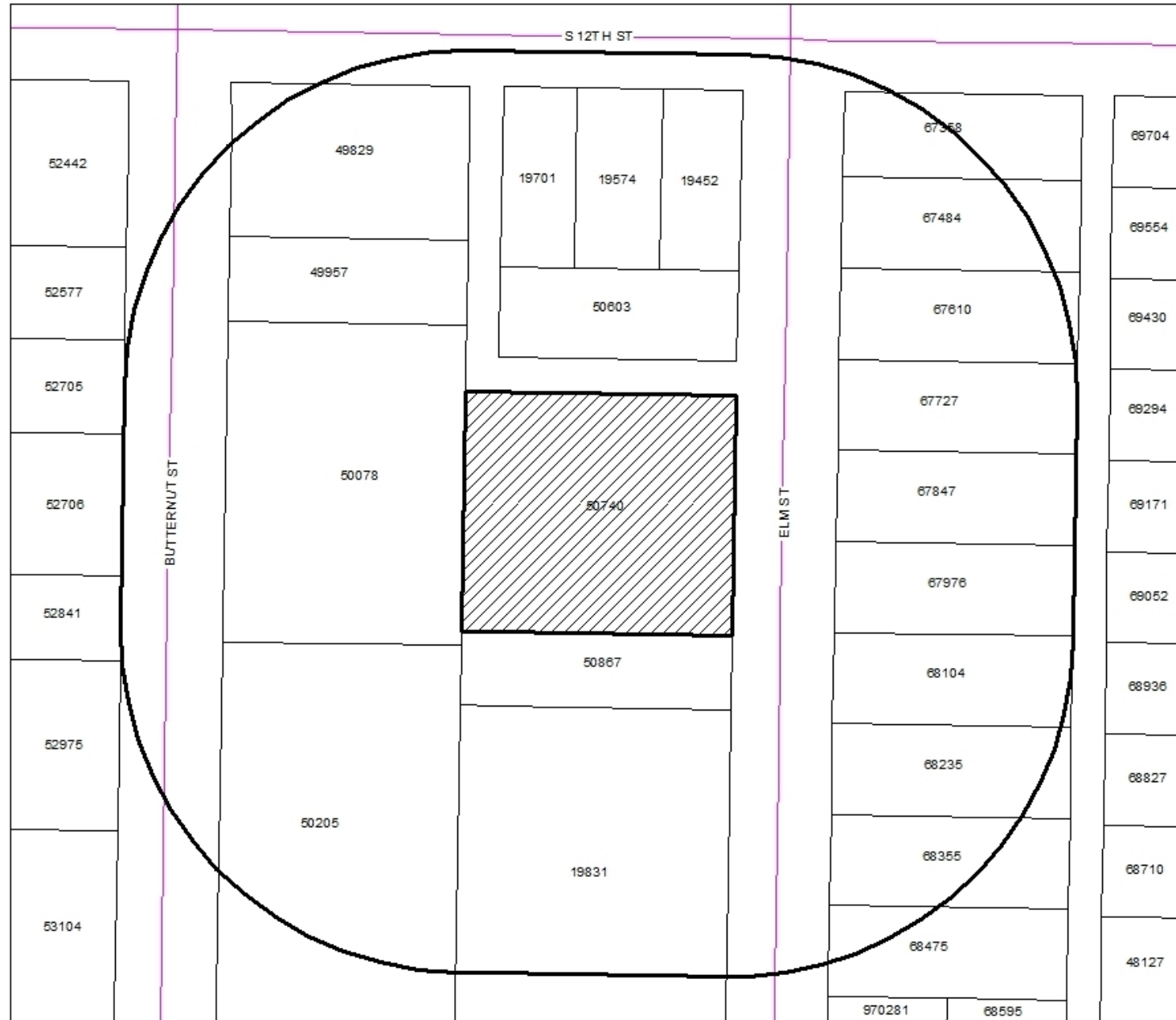
Neighboring property (north)



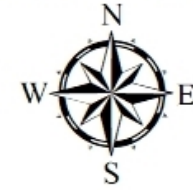
Neighboring property (south)



BA-2021-12 NOTIFICATION AREA MAP



Notification Map



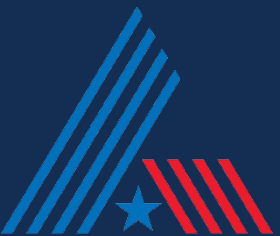
Legend

- 200'
- Notification Area
- BA-2021-12

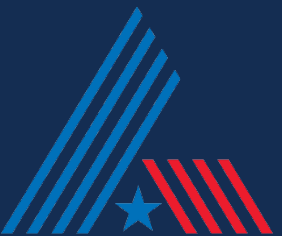
- 0 - In Favor-
- 0 - Opposed-

Section 1.4.4.1 (e) Criteria for Approval

- A. Will be wholly compatible with the use and permitted development of adjacent property, either as filed or subject to such requirements as the Board finds necessary to protect and maintain the stability of adjacent properties.
 - B. Will place no undue burden on public facilities. Public facilities to be considered shall include, but are not limited to streets and alleys, water and sewer utilities, schools and parks.
 - C. The approval of the special exception is clearly in harmony with the general purpose and intent of this Ordinance and furthermore, provides for substantial justice
-
- Staff Recommendation: Denial, due to the existing building being located over an existing sewer main.



Questions?



OWNER AND/OR AGENT AUTHORIZATION

Owner Name: JOSH STALLINGS
Address: 302 Sassafras Street
City, State, Zip: Browns Mills, NJ 08015 Fax: _____
Phone: 609-795-1737 Email: Cjstallings@hotmail.com
Agent Name: MIKE POWELL w/ Gerard Real Estate LLC
Address: 2810 S. 27th Street
City, State, Zip: Arlene, Tx 79605 Fax: 325-690-6322
Phone: 325-370-4000 Email: mike@gerardre.com

"I am the property owner, and I certify that the information included in this application is true to the best of my knowledge.
(Name) _____ will act as my agent before the Board of Adjustment."

Witness my hand this day, of _____ 20____

☒ Special Exceptions ☐ Variance ☐ Appeal

What is the specific nature of the request?

EXPAND A NONCONFORMING USE, SPECIFICALLY, BY CONVERTING A
DETACHED DETACHMENT (LAUNDRY) BUILDING TO AN ADDITIONAL RESIDENTIAL
UNIT, ON THE SITE OF AN EXISTING MULTI-FAMILY RESIDENTIAL
BUILDING ON THE SUBJECT PROPERTY IN A HEAVY COMMERCIAL
ZONING DISTRICT.

Project Address: 1250 ELM STREET No. of lots: 1 Acreage: _____
Legal Description (Use attachment if necessary): LOT 101, BLOCK 5,
BELLEVEUE RIDGE
Current Zoning: HC

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: 10-26-21

FOR OFFICE USE ONLY

Received: 10/28/2021 Fee: \$ 400 Receipt No.: 0001065927
Case No.: PD-2021-12 Reviewed By: P.H.