



Springfield Board of Adjustment

City Council Chambers (830 N. Boonville)

Date: October 4th, 2022

Time: 1:30 p.m.

MEMBERS: Derek Lee (Chair), Bryan Fisher (Vice-Chair), Shelby Lawhon, Steve Jackson, and Thomas Kondro

1. ROLL CALL:

2. Approval Of Minutes:

2.I. September 13, 2022

Documents:

[MINUTES 9-13-2022.PDF](#)

3. Unfinished Business:

4. Communications:

5. Introduction Of Zoning Ordinance As Evidence:

6. Hearings:

7. Special Exception 1306

2581 South Skyline Drive, Wesley James

Documents:

[SPECIAL EXCEPTION 1306 SR.PDF](#)

8. Reports:

9. New Business:

10. Adjournment:

You are welcome to speak to any item on this agenda. The Board of Adjustment Chairperson will invite anyone who wishes to speak to an item after staff makes its presentation. When you address the Board of Adjustment, please step to the microphone at the podium and state your name and address. All meetings are tape recorded. Please limit your remarks to five minutes unless the Board of Adjustment allows a longer time. In accordance with ADA guidelines, if you need special accommodations when attending any City meeting, please notify the City Clerk's Office at 864-1443 at least three days prior to the scheduled meeting.

MINUTES OF THE BOARD OF ADJUSTMENT

DATE: September 13, 2022

TIME: 1:30 p.m.

The meeting and public hearing of the Board of Adjustment was held on the above date and time with the following members and personnel in attendance: Derek Lee (Chair) Bryan Fisher (Vice Chair), Shelby Lawhon, and Steve Jackson. Absent: Thomas Kondro. Staff: Daniel Neal, Senior Planner, Jill Burris, Assistant City Attorney, Duke McDonald, Assistant City Attorney, Brock Rowe, Acting Director of Building and Development Services, and Bob Hosmer, Planning Manager.

INTRODUCTION OF ZONING ORDINANCE AS EVIDENCE: Mr. Neal introduced the Zoning Ordinance.

APPROVAL OF MINUTES: The minutes of April 5, 2022, were approved.

COMMUNICATIONS: None

PUBLIC HEARING:

Special Exception 1305

1653 East Nora Street

Applicant: Kenneth Madden

Mr. Derek Lee, (Chair) opened the public hearing.

Mr. Kenneth Madden, 1653 E. Nora Street, is the current owner and has a landscaping business and wants to add a shed at his residence for his business. He also noted that the roof gable will only be visible to the three businesses near him, and they have no concerns/issues regarding the extra 2 feet of height and went over the specifics for acquiring the shed.

Mr. Derek Lee closed the public hearing.

Mr. Daniel Neal states that is a request to allow an accessory building in excess of the height requirements. The applicant applied for a residential accessory building permit on June 13, 2022. Building Development Services reviewed the application and site plan and determined that it didn't meet the height requirements. The applicant was notified that it would require a Board of Adjustment special exception if he intended to proceed with the building permit. The applicant is requesting a special exception to allow a new two-story storage building/shed in excess of the 16 feet height limit. The applicant has provided photos and elevations of the proposed accessory building. In this special exception, the Board of Adjustment has jurisdiction and authority to grant special exceptions from the terms of this article in certain instances. In this case, the Board of Adjustment must determine whether the proposed accessory building that exceeds the height requirements can meet the conditions to grant a special exception. If the special exception is approved; the proposed accessory building is allowed to be permitted meeting the elevations and plans provided. The height of the accessory building is not to exceed 19 feet in height. If this special exception is denied; the applicant must comply with the ordinance for any residential accessory building.

Sec. 36-366. - Special exceptions.

(1) Jurisdiction and authority. The board of adjustment shall have jurisdiction and authority to grant special exceptions from the terms of this article in the following instances:

(e) Height of accessory structures. The board of adjustment may grant a special exception to allow an accessory structure in any district to exceed the height requirements for accessory structures provided all of the following conditions are met:

1. The proposed accessory structure shall not be within the front yard.
2. The proposed accessory structure shall be setback as required by subsection 36-450(5), unless a greater setback is required by subsection 36-482(11). The board of adjustment may establish a greater setback to reduce any potential impacts on adjoining properties
3. The height and design of the proposed accessory structure shall be consistent with the height and design of the primary structure on the lot.
 - ✓ The proposed accessory building is 18 feet 2 ½ inches tall at its peak while the existing house is approximately 16 feet 2 inches tall. The existing house is on a higher grade than the proposed accessory building location. The applicant has stated that the house is approximately 2 foot higher than the proposed grade of the accessory structure.
4. The height and design of the proposed accessory structure shall be consistent with the character of the neighborhood.
 - ✓ The design of the two-story shed is an octagonal barn style shed. The Greene County Assessor office describes the existing residence as a ranch style home that was built in 1959
5. The proposed accessory structure otherwise conforms to all other applicable requirements of this article including section 36-450, accessory uses and structures
 - ✓ The applicant is not proposing the placement of the accessory building on any platted easements or stream buffer areas to the east of the property. It appears all requirements of Subsection 36-366(1)(e) have been met.

Board members asked about any neighborhood response and Mr. Neal that there were none.

Member Action

Mr. Fisher motioned to **approve** Special Exception 1305 (1653 East Nora Street). Mr. Lawhon seconded the motion. Motion carried as follows: Ayes: Lee, Fisher, Jackson, and Lawhon. Nays: None. Absent: Kondro.

Special Exception Findings of Fact and Conclusions of Law for Special Exception 1305.

Approved: 4/0

Agreed: The proposed accessory structure shall not be within the front yard.

Agreed: The proposed accessory structure shall be setback as required by subsection 36-450(5), unless a greater setback is required by subsection 36-482(11). The board of adjustment may establish a greater setback to reduce any potential impacts on adjoining properties.

Agreed: The height and design of the proposed accessory structure shall be consistent with the height and design of the primary structure on the lot.

✓ *Height is same with elevation.*

Agreed: The height and design of the proposed accessory structure shall be consistent with the character of the neighborhood.

Agreed: The proposed accessory structure otherwise conforms to all other applicable requirements of this article including section 36-450, accessory uses and structures.

Variance 588

2101 & 2107 North Main Avenue and 609 & 613 West Dale Street

Applicant: Barrett Fisk Investments, LLC

Mr. Derek Lee, (Chair) opened the public hearing.

Mr. Rick Wilson, 235 South Stewart Avenue representing the owner and noted that this is a unique situation where there are four houses on 2 lots and that the subdivision was done in the late 1800's and the houses were

built around 1920. He stated that they cannot meet the minimum 6000 sq ft however with the porches only make it 8 feet from the setback and noted that they have done a lot work on the homes.

Mr. Lee asked if Mr. Wilson has read the criteria and Mr. Wilson acknowledged that he has.

Mr. Wilson went over the responses of the standards for the variance.

Mr. Jackson made a statement about a lot split, and Mr. Wilson noted that they have worked towards that and hope it is completed by the approval of this variance.

Mr. Hosmer noted that the 3 houses on the one lot are non-conforming, but the one house meets the criteria (on single lot).

Mr. McDonald asked about the driveway and off-street parking surface (paving).

Mr. Wilson noted that they have agreed to meet all the requirements regarding driveway and off-street surfaces.

Mr. McDonald questioned about the paving and showed snapshots of the standards of driveway and off-street surfaces.

Mr. Wilson noted that they will meet the requirements and Mr. Fisk noted that the entire proposal has been crafted with City staff.

Mr. McDonald went over the staff findings for surfacing of driveway/parking and noted that it requires paving per city code.

Mr. Fisher noted that he was unhappy about the questioning to Mr. Wilson, who is not the owner and believes the questions should be answered by the owner.

Mr. McDonald asked about paving.

Mr. Fisher noted that he did not see a request for a variance for the driveway and off-street parking in the application.

Mr. Wilson noted that they intend to meet all requirements from the city and have done since the beginning of the project and have been in contact with City traffic engineers.

Mr. Barrett Fisk, 2001 East Trafficway, the owner and wanted to clarify the situation by showing a snapshot of the location/GIS view. He would like to have these designated as single-family housing.

Mr. McDonald asked Mr. Fisk about gravel versus pavement surfaces.

Mr. Fisk said that they would meet all requirements with driveway regulations when they sell the properties and only at this time want a lot line variance to make single family housing.

Mr. Hosmer noted/asked about the front yard encroachment/setbacks.

Mr. Fisk said he would meet all conditions/requirements of the setbacks and lot line variance.

Mr. Hosmer clarified that part of the zoning variance should be stricken from the record. "The request also proposes a variance from Section 36-483(1)(f) which requires driveways and off-street parking surfaces to be paved."

Mr. Fisk stated that he is not an engineer, surveyor, etc., and that Rick Wilson may want to come back and confirm the requirements.

Mr. Hosmer reconfirmed what needed to be paved/concrete by city code.

Mr. Fisher again asked why this is being discussed because it is not in the packet (paved surface area).

Mr. McDonald asked everyone to look at 36-483(f) for design standards.

Mr. Fisher asked for clarification (variance) on what is being requested.

Mr. McDonald said Section 36-483(1)(f) is being struck from the record.

Mr. Lee asked Ms. Gardner if she had any comments to add.

Ms. Gardner noted the design standards for off-street parking.

Mr. Lee closed the public hearing.

Member Action #1

Mr. Lee motioned **to strike Section 36-483(1)(f) from Variance 588** (2101 & 2107 North Main Avenue and 609 & 613 West Dale Street). Mr. Lawhon seconded the motion. Motion carried as follows: Ayes: Lee, Fisher, Jackson, and Lawhon. Nays: None. Absent: Kondro.

Member Action #2

Mr. Lee motioned to **approve as amended** Variance 588 (2101 & 2107 North Main Avenue and 609 & 613 West Dale Street). Mr. Lawhon seconded the motion. Motion carried as follows: Ayes: Lee, Fisher, Jackson, and Lawhon. Nays: None. Absent: Kondro.

Variance Findings of Fact and Conclusions of Law for Variance 588.

Approved: 4/0

Agreed: The variance requested arises from the particular physical surroundings, shape, or topographical condition of the specific property involved would result in an unnecessary hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were carried out;

- ✓ *Three houses built on a lot that was permissible at the time but isn't now. Homes built over 100 years ago.*

Agreed: The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same zoning classification;

- ✓ *Homes built over 100 years ago.*

Agreed: The purpose of the variance is not based exclusively upon a desire to enhance the value of the property, or increase the return or income therefrom;

- ✓ *Owner occupied increases safety. Homes existing.*

Agreed: The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located;

- ✓ *Homes existing.*

Agreed: The alleged hardship has not been created by any person presently having an interest in the property;

✓ *Houses were built in the 1920's. Homes existing.*

Agreed: The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, or diminish or impair the values thereof;

✓ *Homes existing.*

Agreed: The proposed variance will not impair an adequate supply of light and air to adjacent property, or cause or substantially increase congestion in the public streets, or increase the danger of fire or the spread of fire, or endanger the public safety;

✓ *Not applicable.*

Agreed: The variance, if granted, will not alter the essential character of the neighborhood;

✓ *Houses are already there. Homes are existing.*

Agreed: The variance requested is consistent with the purposes and intent of this article and the Springfield Comprehensive Plan.

✓ *Helps the neighborhood move towards ownership.*

Other Findings:

✓ *Amend to strike 36-483(1)(f) from variance request.*

Appeal 73

2207 North Grant Avenue

Applicant: Bruce & Sherlyn Mullins

Mr. Derek Lee opened the public hearing.

Mr. Craig Lowther, 901 St. Louis Street, attorney representing the owner and, can the city terminate a non-conforming use because no city license has been purchased. He went over the situation and talked about Section 36-457(4)(l) and how the land was used and said that the tenant did not get a city license and believes that the land usage is what counts. Mr. Lowther says the land use was never abandoned and went out several scenarios and went back to the use of the land and gave out an argument from the State of Missouri (Missouri Courts have ruled that revocation of non-conforming use status for failure to obtain a license is not appropriate when the license is necessary to conduct the act to gain non-conforming status.) This is how the property was used and always has been a car lot and meets the requirements for a non-conforming use and the usage has not been terminated.

Mr. Jackson asked if there are any relationship between past and present owners and was told no.

Mr. Fisher asked if the city offered to let him pay back payment on fees and believes this sounds like forgetting to register with the state.

Mr. Lowther talked about the usage of the land and said it has always been a used car lot.

Mr. Lee asked if there any other questions.

Mr. Brock Rowe stated that this is a completely different matter due to a different owner and this area is zoned Limited Business (LB) which used car sales are not allowed.

Mr. Lowther said it's not a people matter, but a land usage matter.

Mr. Hosmer asked if the previous owner (renter) was in full operation.

Mr. Lowther said that is not what we are here for and there's no question if the previous land use (used car sales) was ever stopped.

Mr. McDonald asked to show Exhibit A (letter from Lowther Johnson) and asked for clarification on what was documented.

Mr. Jackson asked how long Mr. Mullens has owned the property. Mr. Lowther said that Mr. Mullens could answer that question.

Mr. Bruce Mullen, 8413 N. Oak Lawn Drive, stated that when the property was purchased it was rented by Degraffenreid Auto Sales and then a couple of other auto sales renters and then the current renter GS Auto, and he was denied getting a business license.

Mr. McDonald asked if the land was used as a car lot continuously for years, however used without a license.

Mr. Mullen's acknowledged that it did not have a license and said he would have gotten a license himself if he knew that one was not active.

Mr. Derek Lee asked if it is common for individual renters to obtain their own business license and Mr. Rowe agreed that it is not uncommon.

Mr. Lee questioned whether if it is responsibility of the owner to get a license and Mr. Rowe said that it is based on different situations.

Mr. Neal made a brief presentation and stated this is a request to appeal the decision of Section 36-457(4)(l). The applicants, Bruce and Sherlyn Mullins own property located at 2207 North Grant Avenue and are requesting to appeal the decision of Section 36-457(4)(l) of the termination of a non-conforming use for illegality. The property at 2207 Grant Avenue is zoned LB, Limited Business District in the City of Springfield. The LB, Limited Business District does not allow the retail sales or leasing of consumer vehicles. City code does allow nonconforming uses (grandfathering) to continue as long as they are "lawfully" operating and are not discontinued for 12 consecutive months (per 36-457(4)(l)). City business license records have determined that the last business license at this location was in 2016.

City Code Section 70-34: License Required: No person shall engage in any occupation named in this article without obtaining a license therefor and City Code Section 70-84: Automobile dealers—Used: Wholesale or retail automobile or motor vehicle companies or dealers, dealing only in used motor vehicles (other than motorcycles or motor scooters), who may also deal in tires, parts, accessories and repairs, shall pay a license fee based on the standard scale with a minimum of \$75.00, together with an insurance policy and a performance bond.

Mr. Neal showed exhibit #3 Letter from Brandy Atnip City Business License Inspector stating... "This site is not considered nonconforming because the last auto dealers license expired in 2016" and exhibit #6 - Letter from Kevin Pierce Code Administrator dated July 19, 2022, stating... "A review of the city records has revealed that a business license for this property has not been issued since 2016. Based on these findings, it has been ruled that the use as auto sales can no longer be permitted due to the abandonment or discontinuance as described in Section 36-457 (4) (j) of the Zoning Ordinance. The auto sales use must cease, or you must file an appeal with 90 days of this letter".

In the Missouri Court of Appeals, Southern District, Division Two, Williams v. Department of Building Development Services of the City of Springfield, No. 27330, May 20, 2006, a salvage yard owner, who had

expanded a structure without a building permit, appealed order of Board of Adjustment ruling that he could no longer operate his business under the nonconforming use zoning provision. Under the zoning ordinances, Plaintiff's legal nonconforming use was terminated due to the unlawful expansion of his building. In this case, the applicant violated City law by operating without a business license since 2016, thus forfeiting the nonconforming (grandfathering) use of the property.

Extent of the Board's Appeal Powers:

- Affirm the administrative decision wholly or in part;
- Reverse the administrative decision; or
- Modify the administrative decision.

Mr. Fisher asked who made the legal decision to deny the license and asked other various questions about how the city could deny an application for license.

Ms. Quincy Covert, 8827 N. Choctaw Lane, Licensing Supervisor (City of Springfield) and duties are to oversee the Licensing Division of the Finance Department

Mr. McDonald asked Ms. Covert about the existence of a business license and she explained what the city records show and stated that they have not had a license since December 2019.

Mr. Andrew Menke, 840 Boonville, Assistant Planner (City of Springfield) stated that he does intake for development applications, processes short term rental applications, and reviews business license applications based on zoning compliance.

Mr. McDonald asked if he was aware that the used car lot had lost its legal non-conforming use.

Mr. Menke acknowledged that he was aware.

Mr. McDonald asked how it was determined to deny the business license and Mr. Menke read out the section where it shows that they cannot renew the license based on the zoning ordinance.

Mr. Lee asked if notices were sent out that the license was expired and Mr. Menke states that he informs the business license office, but not the applicant.

Mr. Fisher asked if anything is sent to the owner and Mr. Menke states that he does not send anything.

Mr. Fisher asked if it was Mr. Menke who approved the denial and Mr. Menke confirmed that it was.

Mr. Fisher asked about terminating the license and Mr. McDonald said the city does not terminate the license, but the owner failed to continue his license. Mr. Menke noted that it is a state process and is a different scenario.

Mr. Fisher asked what harm it was for the city to just ask for delinquent payments to get up to date.

Mr. Menke said that the renewal of the license is the how the continuity of a non-conforming use is checked.

Mr. Jackson noted that the harm is on the owner because he is not notified of what is going on.

Mr. Fisher asked if that is reasonable about informing the owner, and Mr. Menke noted that he believes it is the owner's responsibility about zoning and compliance.

Discussion on different scenario's/situations by board members and they reviewed sections of the appeal and the city standards for renewing the license.

Mr. Derek Lee asked Ms. Coovert if a notice about non-conforming use was sent to the owner and Ms. Quincy said that she said it was not and it is the owner of the business who gets the notices, not property owner.

Mr. Derek Lee asked about the non-conforming use and Mr. Lowther believes that they were terminated by misinformation (non-conforming use was never terminated) and went over the staff report and cited court cases (State Ex Rel. Keeven v City of Hazelwood) and (State Ex Rel. Capps v. Bruns). Missouri court cases have ruled that revocation of a non-conforming use status for failure to obtain a license is not appropriate when the license necessary to conduct the act has not gained non-conforming use.

Mr. McDonald disagreed with the reasoning.

Mr. Lee closed the public hearing.

Member Action

Mr. Fisher motioned to **reverse the administrative decision and find to retain the use of non-conformity** for Appeal 73 (2207 North Grant Avenue). Mr. Jackson seconded the motion. Motion carried as follows: Ayes: Lee, Fisher, Jackson, and Lawhon. Nays: None. Absent: Kondro.

Appeal Findings of Fact and Conclusions of Law for Appeal 73.

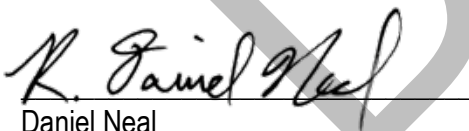
Approved: 4/0

Reverse wholly the administrative decision and make the following order.

- ✓ *Failure to get a business license is not grounds for termination of non-conforming use. The use should continue in legal non-conforming status.*

OTHER BUSINESS:

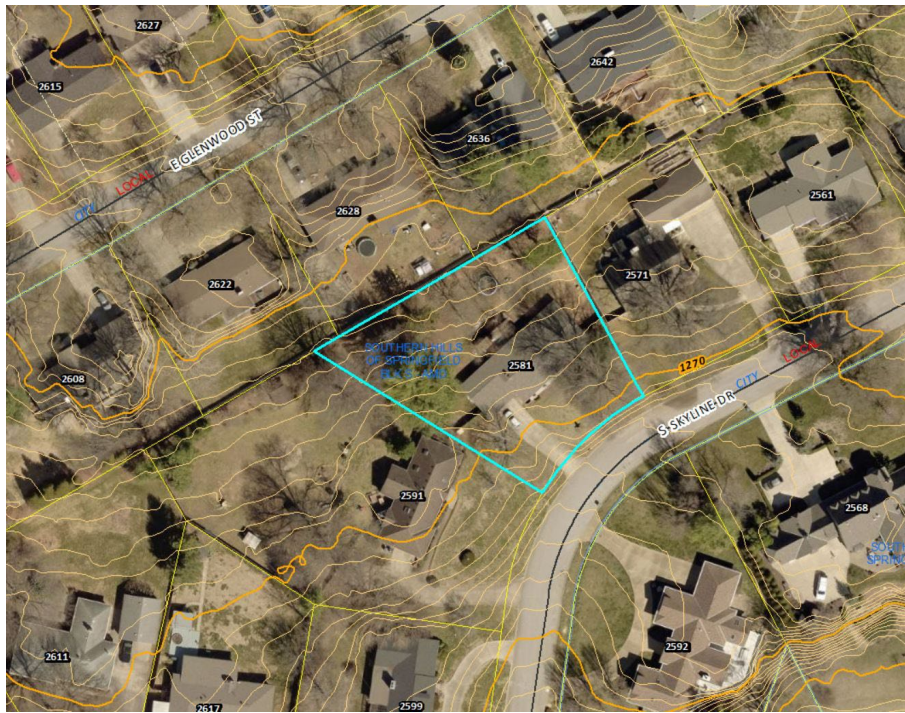
ADJOURNMENT:


Daniel Neal
For Executive Secretary

Development Review Staff Report

BOARD OF ADJUSTMENT PUBLIC HEARING:

OCTOBER 4, 2022



CASE NUMBER:

Special Exception 1306

LOCATION:

2581 S. Skyline Drive

ACRES:

0.54 acre

EXISTING LAND USE:

Single-family residential uses

APPLICANT:

Wesley James

STAFF:

Daniel Neal, 864-1036

SUMMARY OF SPECIAL EXCEPTION:

Request to allow an accessory building to exceed the height requirements in the R-SF, Single-Family Residential District as prescribed in the Zoning Ordinance.

STAFF FINDINGS:

1. In this special exception, the Board of Adjustment has jurisdiction and authority to grant special exceptions in certain instances. In this case, the Board of Adjustment must determine whether the height of the accessory building, which exceeds the requirements, meets the conditions to grant a special exception.
2. The applicant is requesting a special exception to allow a two-story storage shed in excess of the 16 feet height limit. The applicant has provided elevations of the proposed accessory building.
3. The applicant applied for a residential accessory building permit on July 29, 2022. Building Development Services reviewed the application and site plan and determined that it didn't meet the height requirements. The applicant was notified that it would require a Board of Adjustment special exception if he intended to proceed with the building permit.
4. The special exception section 36-366(e) 3. states, "*The height and design of the proposed accessory structure shall be consistent with the height and design of the primary structure on the lot*".
5. The proposed accessory building is 18 feet 2 ½ inches tall at its peak while the existing house is approximately 19 feet tall. The existing house is on a lower grade than the proposed accessory building location. It appears the location of the accessory structure will be one foot higher than the house.
6. The special exception section 36-366(e) 4. states, "*The height and design of the proposed accessory structure shall be consistent with the character of the neighborhood*".
7. The design of the two-story shed is an octagonal barn style shed. The Greene County Assessor office describes the existing residence as a ranch style home that was built in 1961.

Development Review Staff Report



8. The applicant is not proposing the placement of the accessory building on any platted easements or stream buffer areas to the north or west of the property. It appears all requirements of Subsection 36-366(1)(e) have been met.
9. The applicant has submitted a site plan specific to the accessory building, existing site photos and neighborhood building character photos. They are attached as Exhibit 2.
10. If the special exception is approved; the proposed accessory building is allowed to be permitted meeting the elevations and plans provided. The height of the accessory building is not to exceed 19 feet in height.
11. If this special exception is denied; the applicant must comply with the ordinance for any residential accessory building.

APPLICANTS RESPONSES TO STANDARDS

36-366 (1) (e) Height of accessory structures. The board of adjustment may grant a special exception to allow an accessory structure in any district to exceed the height requirements for accessory structures provided all of the following conditions are met:	Applicant Response:
1. The proposed accessory structure shall not be within the front yard.	The proposed accessory structure will be located in our back yard, meeting the first conditions. Attached is a photo for reference of where the shed will go, and the concrete pad we have for it to sit on.
2. The proposed accessory structure shall be setback as required by subsection 36-450(5), unless a greater setback is required by subsection 36-482(11). The board of adjustment may establish a greater setback to reduce any potential impacts on adjoining properties.	The proposed accessory structure is set back as required by subsection 36-450(5) in that; it is not in the front yard, it is more than three feet from property lines, does not sit on a corner lot, it will be the only accessory building on the lot, is not more than two thirds of the principal structure's square foot in that the accessory structure will be 16x16 which is 256 sq ft, and the house is roughly 1,956 sq ft, and will not block any vehicular access to any public ways. The only requirement it does not meet is that it is 18ft tall, therefore exceeding the 16ft height maximum and thus why we are applying for the special exception.
3. The height and design of the proposed accessory structure shall be consistent with the height and design of the primary structure on the lot.	The height and design of the proposed accessory structure is consistent with the height and design of the primary structure. The primary structure is a ranch style home with an attached two car garage. The home is blue in color. The primary structure is roughly 1956 sq. ft. and has a height of roughly 19ft. The proposed accessory structure will be a two story shed with a barn style roof measuring 18 ft 2 in. The accessory structure will also be blue in color. The accessory structure is being manufactured and constructed by a reputable company, Tuff Shed who work through Home Depot. There is a large pine tree that could block some view of the shed from the street. Attached are photos of the primary structure and lot.
4. The height and design of the proposed accessory structure shall be consistent with the character of the neighborhood.	The height and design of the proposed accessory structure is consistent with the character of the neighborhood. Southern Hills is a beautiful neighborhood with many properties with accessory structures, detached garages or guest houses. Our

Development Review Staff Report



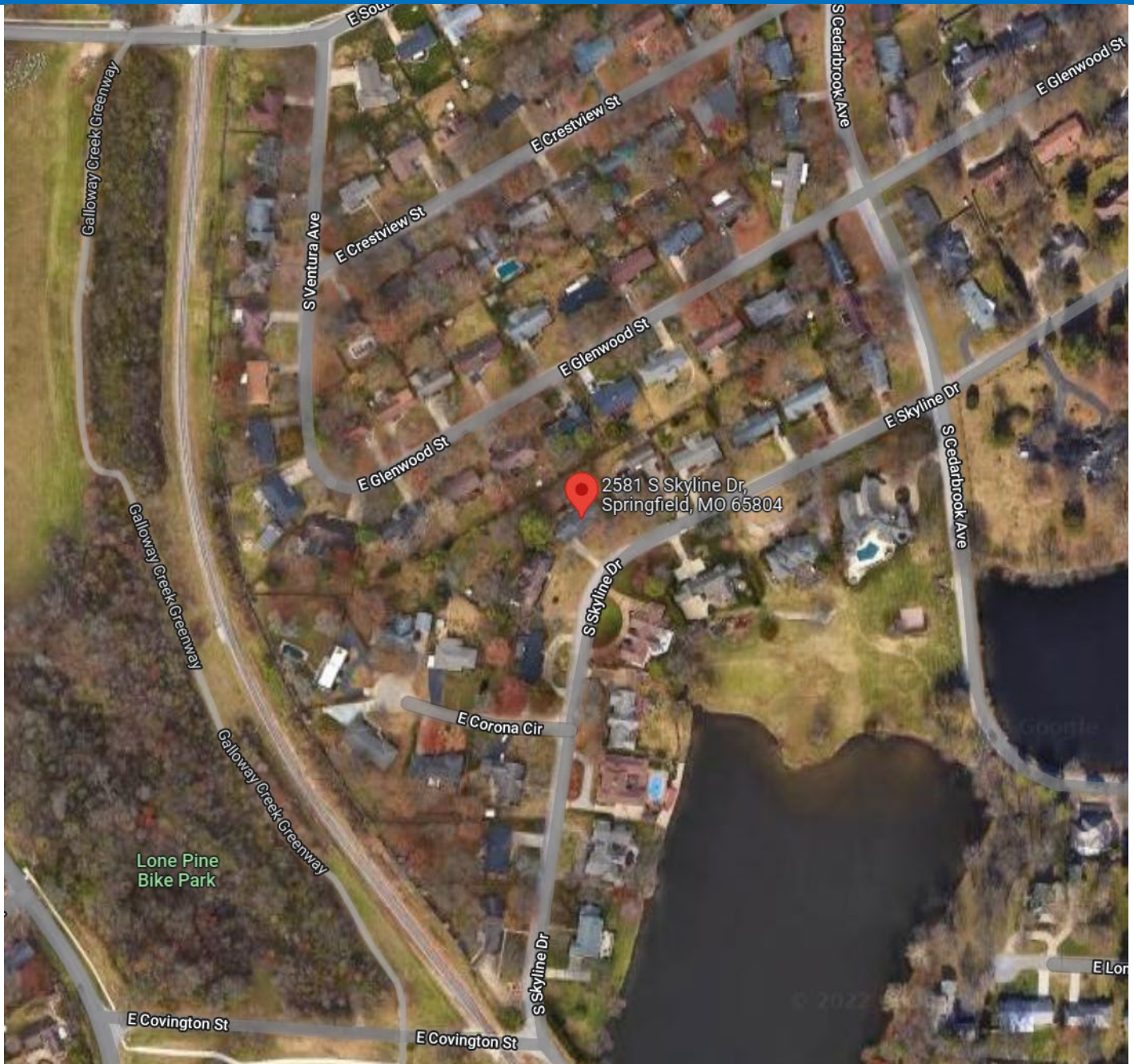
	shed is being professionally manufactured and installed and will look appealing, and will add to our property value.
5. The proposed accessory structure otherwise conforms to all other applicable requirements of this article including section 36-450, accessory uses and structures.	The proposed accessory structure conforms to all other applicable requirements of this article, including section 36-450 in that; it will be a large storage shed, used to store a golf cart, kayaks, furniture, and other items, will not be used as living quarters, will not house any commercial vehicles, is being built on land that already has a primary structure, will be located in the back yard, and it meets setback requirements.

SURROUNDING ZONING AND LAND USES:

	NORTH	SOUTH	EAST	WEST
ZONING	R-SF	R-SF	R-SF	R-SF
LAND USE	Single-family residence	Single-family residence	Single-family residence	Single-family residence

Development Review Staff Report

SURROUNDING LAND USES (AERIAL VIEW):



STREET VIEW:



BOARD OF ADJUSTMENT ORDINANCE AUTHORITY:

The following excerpt from the Zoning Ordinance lists the limits of the Board of Adjustment's authorization in this instance:

Sec. 36-366. - Special exceptions.

- (1) *Jurisdiction and authority.* The board of adjustment shall have jurisdiction and authority to grant special exceptions from the terms of this article in the following instances:
 - (e) *Height of accessory structures.* The board of adjustment may grant a special exception to allow an accessory structure in any district to exceed the height requirements for accessory structures provided all of the following conditions are met:
 1. The proposed accessory structure shall not be within the front yard.
 2. The proposed accessory structure shall be setback as required by subsection 36-450(5), unless a greater setback is required by subsection 36-482(11). The board of adjustment may establish a greater setback to reduce any potential impacts on adjoining properties.
 3. The height and design of the proposed accessory structure shall be consistent with the height and design of the primary structure on the lot.
 4. The height and design of the proposed accessory structure shall be consistent with the character of the neighborhood.
 5. The proposed accessory structure otherwise conforms to all other applicable requirements of this article including section 36-450, accessory uses and structures.

The board of adjustment may place conditions upon the granting of a special exception, and may require that a bufferyard be provided adjacent to any adjoining properties zoned residential.

Sec. 36-351. - Board of adjustment.

In considering and deciding appeals and applications for variances and special exceptions, the board acts in a quasi-judicial capacity.

- (4) Conduct of hearings by board of adjustment. Public hearings conducted by the board of adjustment on any matter over which it has jurisdiction shall be subject to the following rules.
 - (a) Any person, or his agent, who has an interest in the subject matter of the hearing shall be afforded an opportunity to present evidence, exhibits and argument, and to question, through the chairman of the board of adjustment, witnesses on all relevant issues, subject to the chairman's imposition of reasonable limitations on the number of witnesses, and the nature and length of testimony and questioning.
 - (b) All testimony at the hearing shall be under oath, or by affirmation, administered by the chairman.
 - (c) The board of adjustment shall have a written record of each public hearing and the deliberations of the board kept.
 - (d) Members of the board of adjustment shall base their consideration of matters on which the board conducts a public hearing upon the following information and evidence:
 1. Testimony, exhibits, and argument presented at the hearing, and not upon direct or indirect communication with any party or representative of such party made outside of the hearing;

Development Review Staff Report



2. Reports, memoranda and other materials prepared by the director of planning and development, director of building development services, director of public works, other employees of the City of Springfield or consultants in connection with the application and made a part of the record at the time of hearing; and

3. Inspections of the site when all interested parties or their representatives have the opportunity to be present, or when no such parties or their representatives are present.

(e) The board of adjustment shall adopt, and may from time to time amend, such additional procedural rules as it may deem necessary or desirable for the efficient and orderly conduct of its business. Copies of such rules shall be available in the office of the director of building development services.

(5) Required vote. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official of the city, or to decide in favor of the applicant on any matter upon which it is required to act under this article, such as granting a variance or allowing a special exception.

(6) Limitation on refiling. No appeal, request, or application to the board of adjustment shall be allowed with respect to the same parcel of land, building, or structure prior to the expiration of six months from the date of the ruling of the board unless a substantial change of circumstances or conditions can be demonstrated by the applicant.

(7) Recordation of orders of the board. Whenever the board of adjustment shall have acted upon an appeal, application for special exception, or variance the board shall cause its order granting or denying said appeal or application to be recorded in the land records of the county recorder of deeds, however, no order shall be recorded until the order has become final by the passage of 30 days from the date said order is filed in the department of planning and development without an action being filed in a court of competent jurisdiction challenging the issuance of said order or until a court of competent jurisdiction upholds said order if it is challenged within said 30-day period.

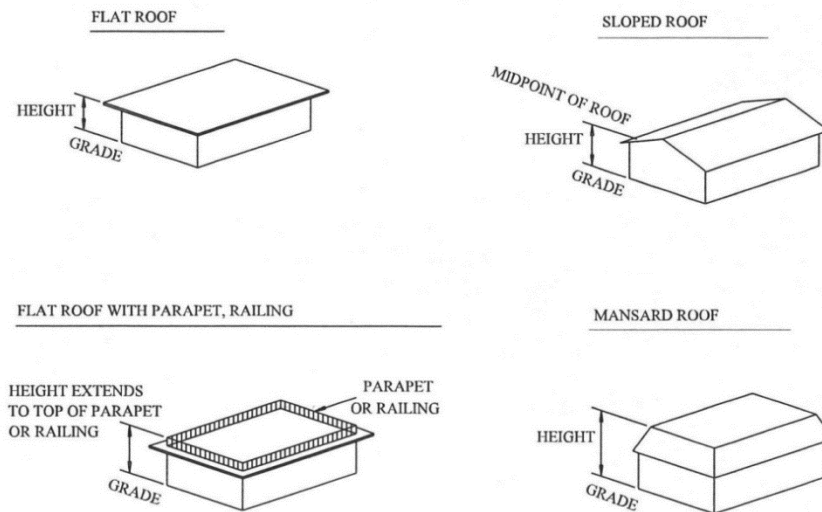
ZONING ORDINANCE SECTIONS SUBJECT TO THE SPECIAL EXCEPTION:

The following excerpts contain pertinent passages from the Zoning Ordinance:

Section 36-321. Definitions.

Height: The vertical distance of a structure measured from the average established grade at the street lot line or from the average natural ground level, if higher; or if no street grade has been established to the highest point of the roof's surface if a flat surface; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for hip or gable roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, telecommunication towers, ornamental cupolas, domes, or spires, elevator bulk heads, penthouses, tanks, water towers, and parapet walls not exceeding four feet in height (Figure 2-5).

Figure 2-5



Height limit: The vertical distance measured from the average ground level at the base of a structure above which no part of any structure shall extend.

Sec. 36-450. - Accessory structures and uses.

- (1) **Purpose.** This section is designed to collect in one place the regulations with respect to accessory structures and uses and to list those common accessory structures and uses that are specifically allowed.
- (2) **Definition.** An accessory structure or use serves a principal structure or a principal use by contributing to the comfort, convenience or needs to the occupants, business, or industry of the principal structure or use and is located on the same lot as the principal structure or use served.
- (3) **Permitted accessory structures and uses.** Any structure or use that meets the definition in section 36-452 may be allowed as an accessory structure or use.
 - (a) Accessory structures include, but are not limited to, the following list of examples:
 1. Buildings or structures incidental to a principal structure, such as storage buildings, workshops, studios, carports or garages incidental to a permitted use.
 2. Children's playhouses.
 3. Private swimming pools and bath houses.
 4. Guest houses or servant's quarters in any residential district or rooms for guests in an accessory structure provided such facilities:
 - a. Are used for the occasional housing of guests or servants of the occupants of the principal structure; and
 - b. Are not used as rental units or for permanent occupancy as housekeeping units; and
 - c. Are on a lot which exceeds 10,000 square feet in area.
 5. Greenhouses.
 6. Guard stations.
 7. Food lockers.

Development Review Staff Report



- (5) *Bulk, setback, and spacing regulations.* All accessory structures shall comply with the following regulations:
- (a) *Residential districts.*
1. Minimum yard requirements, except clubhouses in subsection 36-450(5)(a)2.c. below:
 - a. *Rear and side:* Three feet. An accessory structure may be located on the lot lines provided the abutting residential zoned property also has an accessory structure abutting the common lot line and provided both accessory structures abut one another for the entire length of their abutting walls.
 - b. *Front:* No accessory structure shall be permitted in any front yard unless it is permitted by section 36-453, supplemental open space and yard regulations.
 - c. On a corner lot, no accessory structure shall project beyond the front yard of adjacent lots to the rear of the corner lot.
 2. Maximum structure height, except as permitted by subsection 36-366(1)(e):
 - a. The height limit for hip or gable roofs shall be 16 feet.
 - b. The height limit for flat, single slope or mansard roofs shall be 12 feet.
 - c. Clubhouses in a permitted multifamily development shall not exceed the height limit of any multi-family structure within the same development and also provided the clubhouse structure shall remain below a 45-degree bulk plane as measured from the boundary of any R-SF, single-family residential or R-TH, residential townhouse district.

COMPREHENSIVE PLAN:

The *Community Physical Image and Character Plan* element of the *Comprehensive Plan* developed goals to improve the visual appearance of the urban area and the *Growth Management and Land Use Plan* element encourages the protection of residential neighborhoods from adverse impacts of proposed development and inappropriate land use changes. New development should be compatible with existing development in terms of scale, materials, rooflines, setbacks and open space.

PUBLIC NOTIFICATION:

The property was posted by the applicant at least 10 days prior to the public hearing. Public notice letters were sent out at least 10 days prior to the public hearing to all property owners within 185 feet.

Notices sent to property owners within 185 feet: Mailed: 17 Returned: 0

DEPARTMENT COMMENTS

BUILDING DEVELOPMENT SERVICES COMMENTS:

No comments.

CITY UTILITIES:

No issues with the proposed exception/variance. No apparent impact to CU.

CLEAN WATER SERVICES COMMENTS:

No impact on public sewer.

FIRE DEPARTMENT COMMENTS:

Development Review Staff Report



No comments.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

Traffic has no issues with the proposed special exception.

STORMWATER COMMENTS:

PW-Stormwater has no concerns with an exception for accessory structure at the proposed location. No Stormwater Infrastructure is affected.

Development Review Staff Report

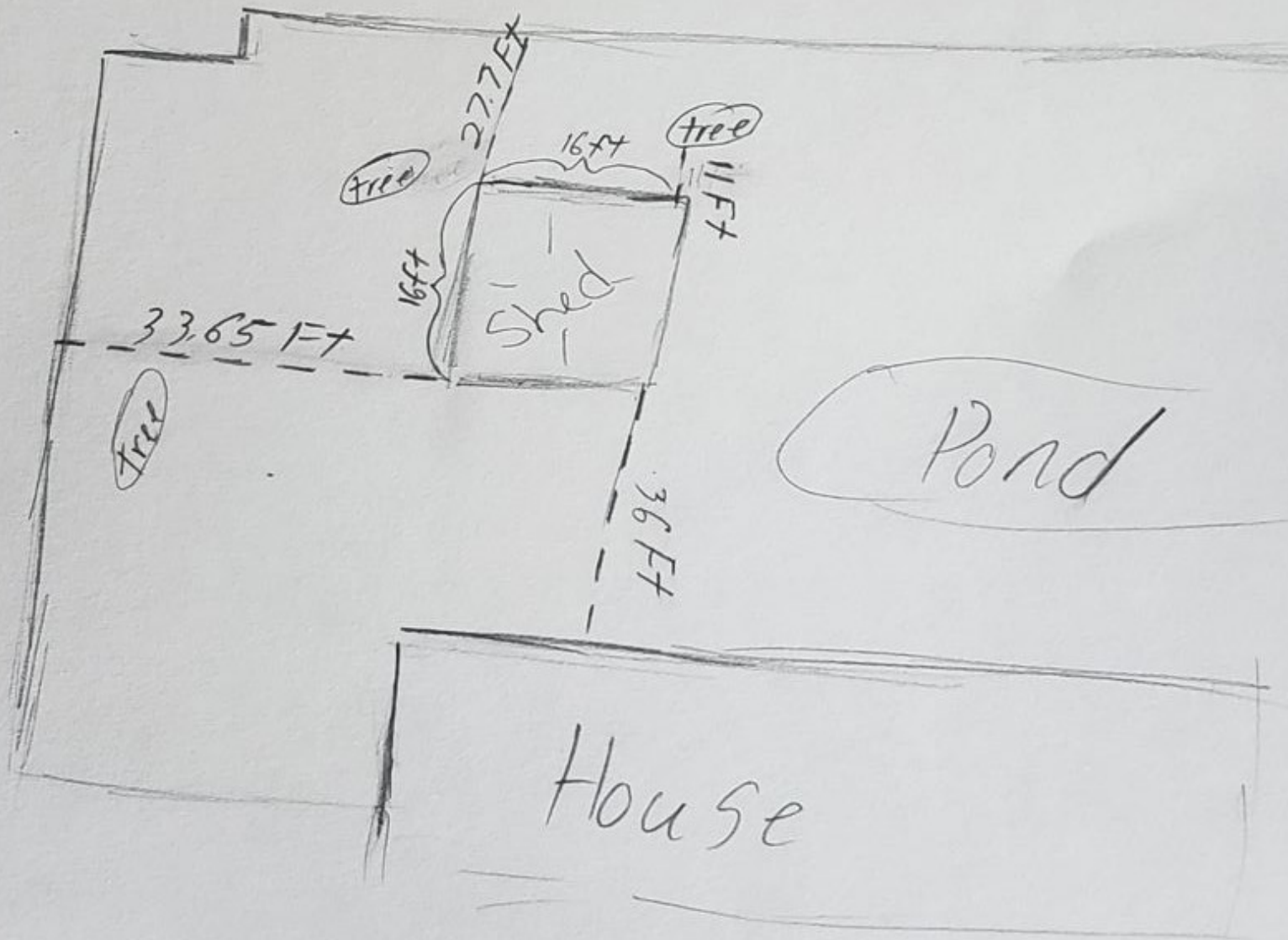


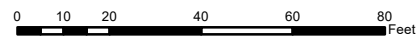
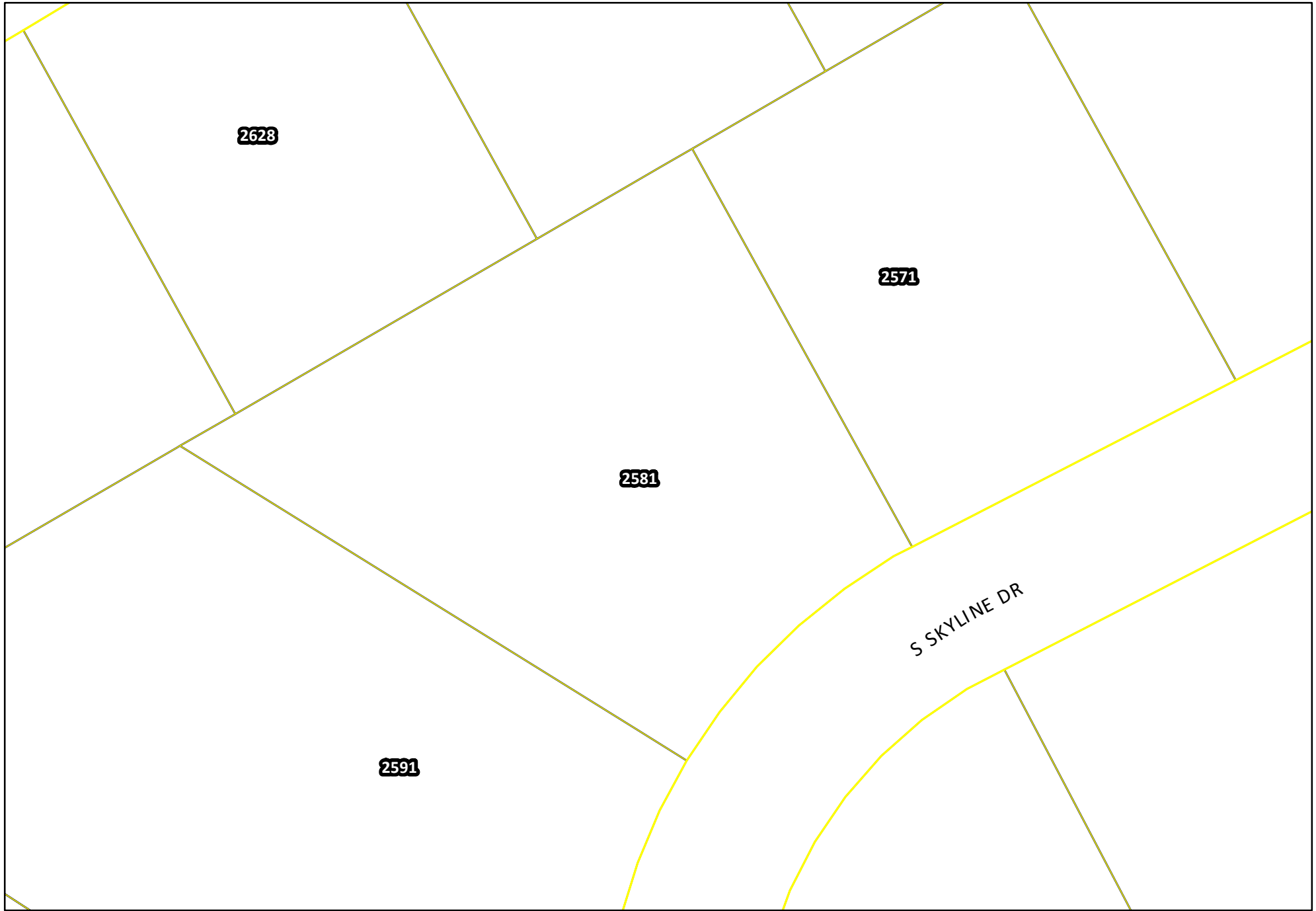
PROPERTY DESCRIPTION:

EXHIBIT 1 LEGAL DESCRIPTION

All of lot twenty-five (25) in the Block "S" in the amended plat of Block "S" Southern Hills of Springfield, a subdivision in Springfield, Greene County, Missouri.

Exhibit 2

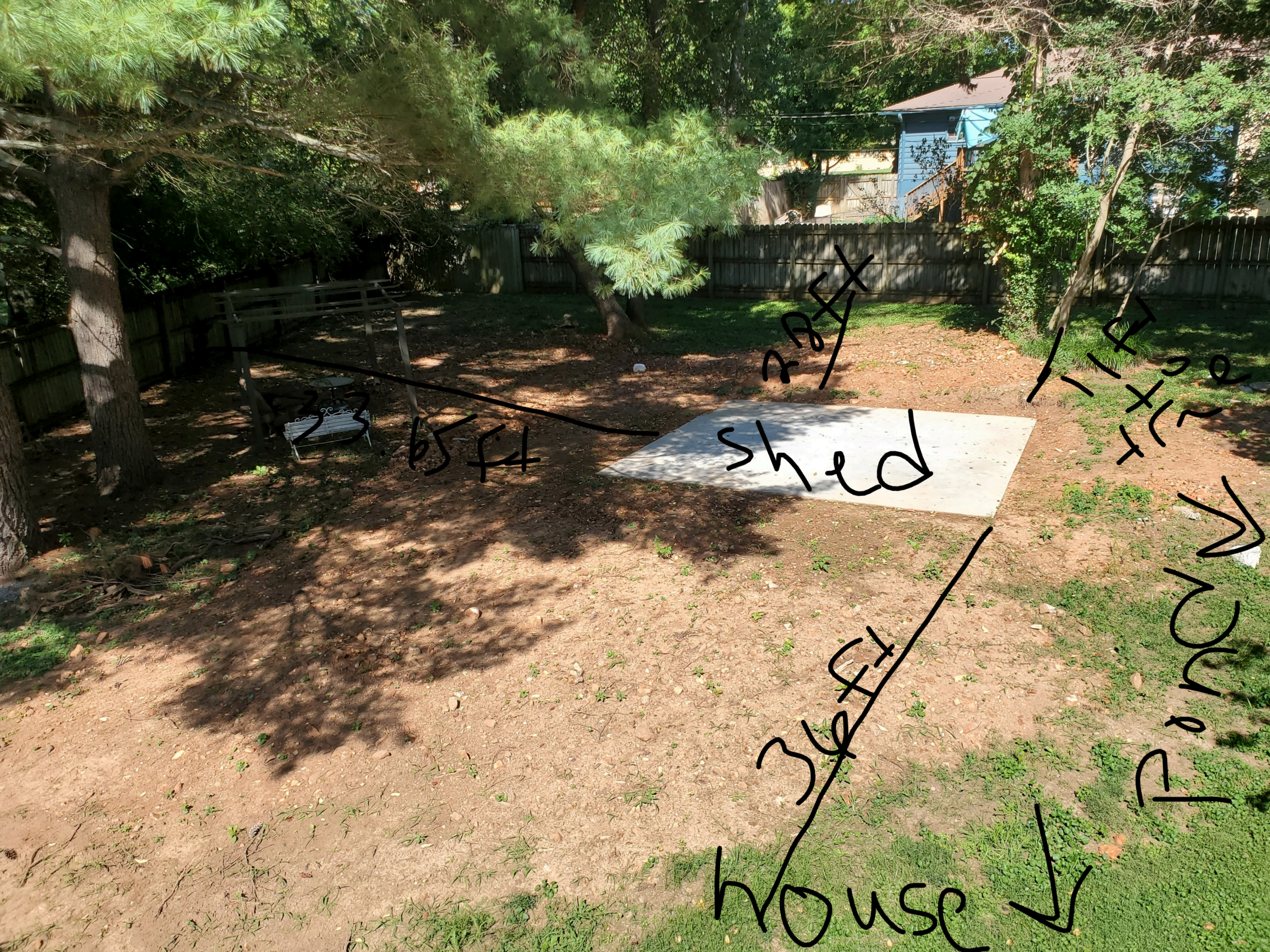




SCALE: 1:502



DISCLAIMER: All information included on this map or digital file is provided "as-is" for general information purposes only. The City of Springfield, and all other contributing data suppliers, make no warranties, expressed or implied, concerning the accuracy, completeness, reliability, or suitability of the data for any particular use. Furthermore, the City of Springfield, and all other contributing data suppliers, assume no liability whatsoever associated with the use or misuse of the data.



38 ft

11 ft

65 ft

shed

house

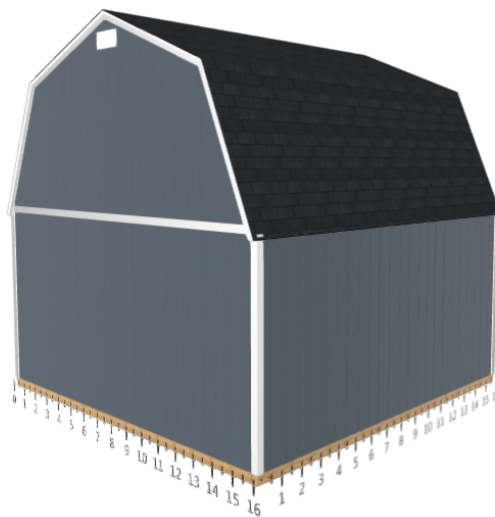
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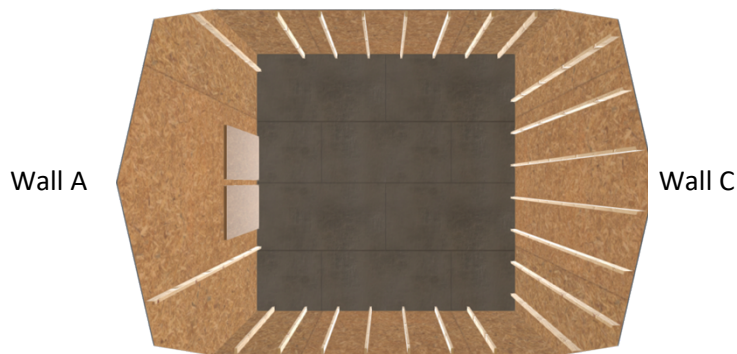




AMBER JAMES
2581 S SKYLINE DR
SPRINGFIELD MO 65804
Q-1681882



Wall D



Wall A

Wall C

Wall B

Base Details

Building Size & Style

TB-800 - 16' wide by 16' long

Paint Selection

Base: Goblin, Trim: Delicate White

Roof Selection

Charcoal 3 Tab

Drip Edge

White

Is a permit required for this job?

Yes

Who is pulling the permit?

Tuff Shed

Options Details

Doors

3' x 6'7" Double Shed Door (6'), Heavy Duty Ramp Pair

Windows

3 Ea 2'x2' Insulated Horizontal Sliding Window

Roof

404 Sq Ft Radiant Barrier Roof Decking

Floor and Foundation

256 Sq Ft 3/4" Treated Floor Decking Upgrade
256 Sq Ft PT Floor Frame in lieu of Steel
256 Sq Ft 16" OC Joist Spacing

Interior

Stairs - Inside

Vents

2 Ea 16"x8" Wall Vent - White

Jobsite/Installer Details

Do you plan to insulate this building after Tuff Shed installs it?

No

Is there a power outlet within 100 feet of installation location?

Yes

The building location must be level to properly install the building. How level is the install location?

Within 4" of level

Will there be 24" of unobstructed workspace around the perimeter of all four walls?

Yes

Can the installers park their pickup truck & trailer within approximately 200' of your installation site?

Yes

Substrate Shed will be installed on?

Dirt/Gravel

DocuSigned by:

Signature:

A3E9E6931E6E4AB...

Date: 5/27/2022

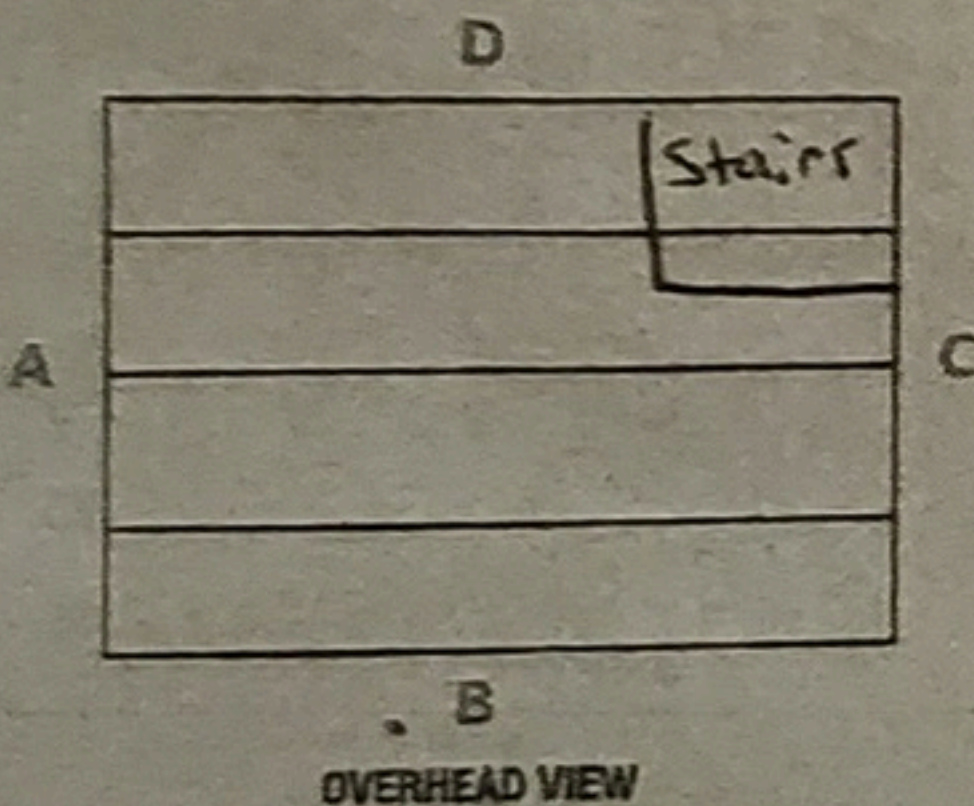
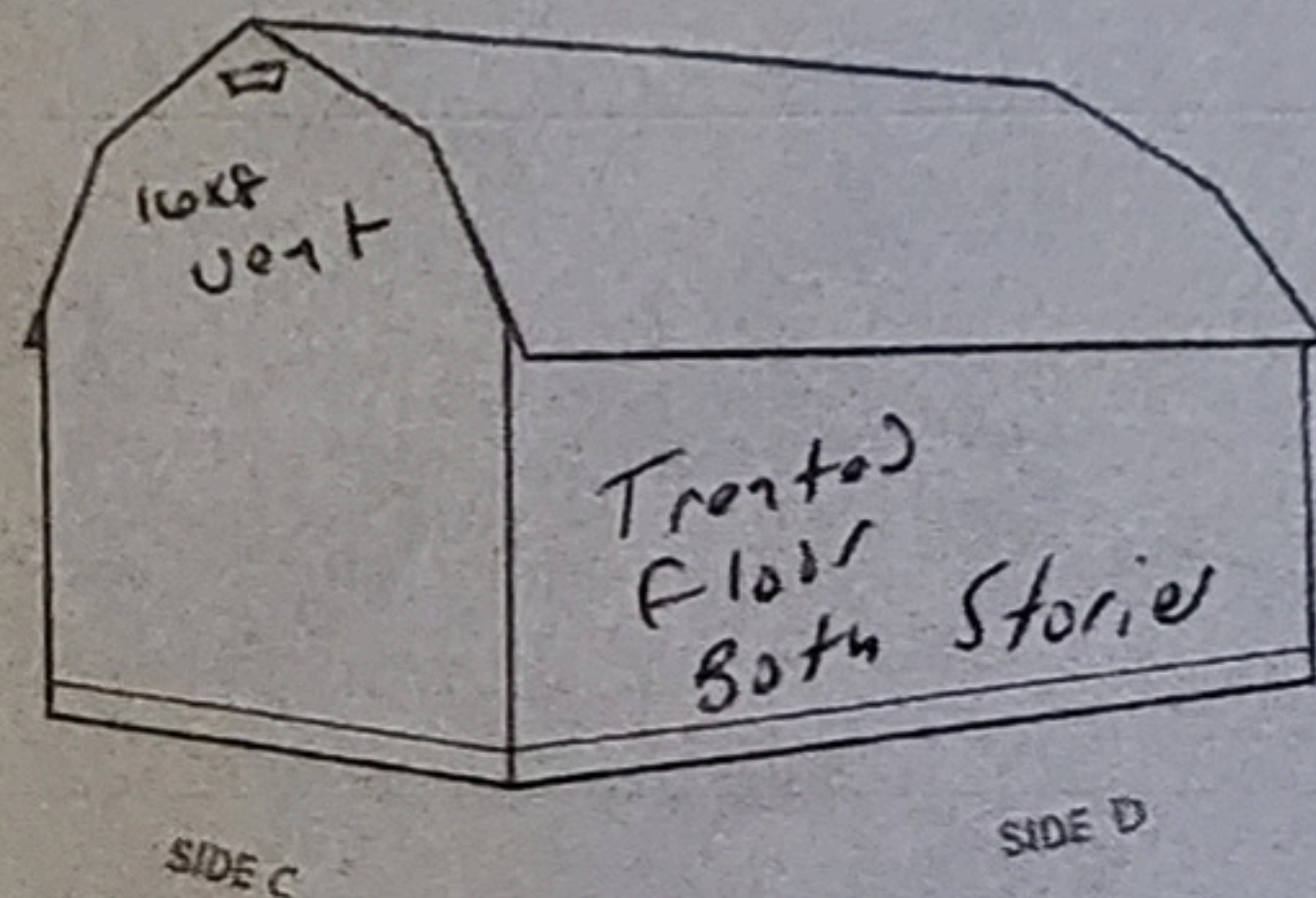
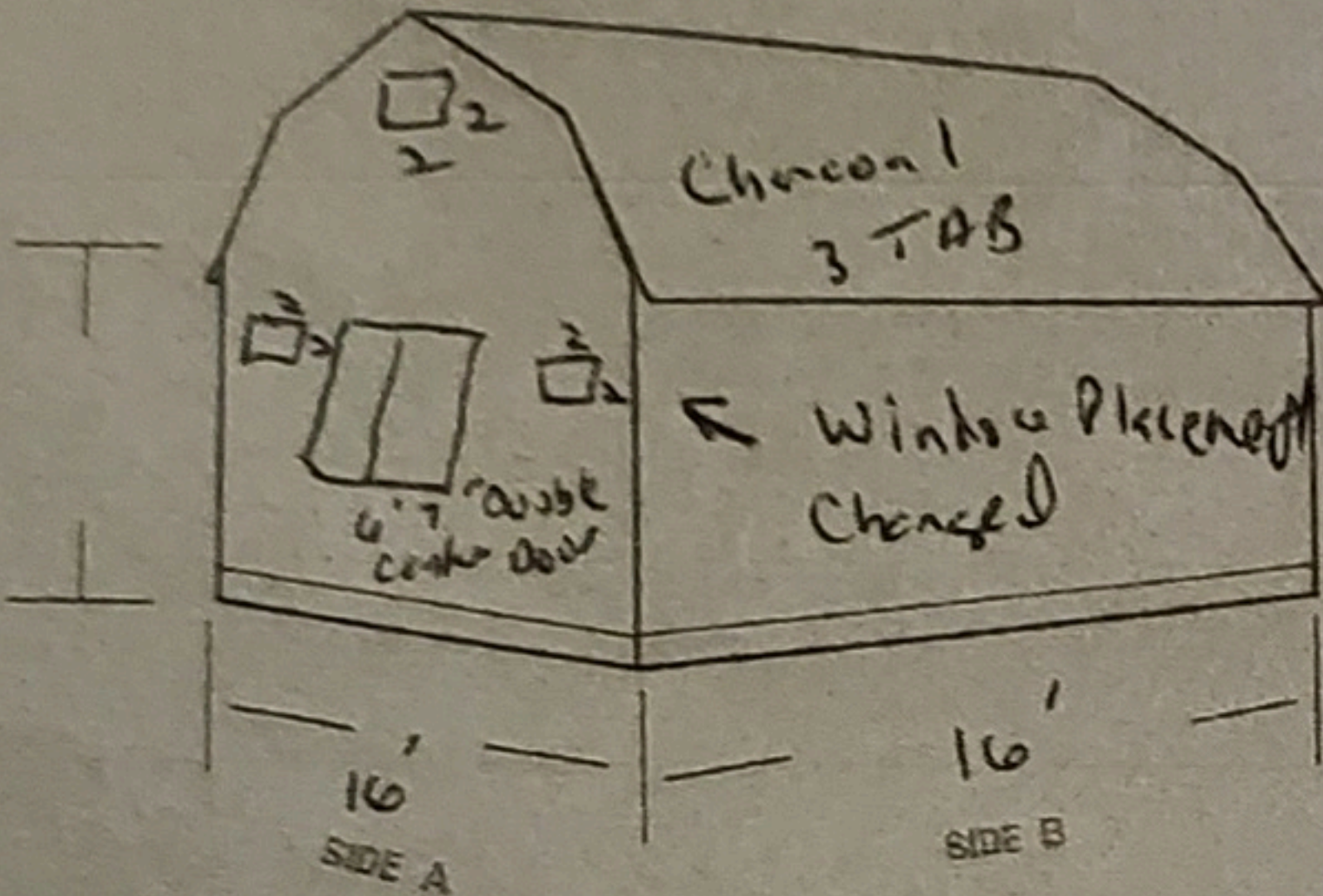


BUILDER'S HELPER

SO #:

Sales Consultant: George CoreyCustomer Name: Amber JamesBARN MODEL: TB-800

INSTALL DATE:



Base Paint: Goblin
Trim Paint: Delicate White
Accent Paint(AP): —
AP Location: —
Shingle: Charcoal 3 TAB
Drip/Vent Color: White

Options (List): 2 Story
HD RAMPT
Treated Floor Both Stories

Initials

Customer or responsible individual will be at site at time of delivery? ☒ YES ☐ NO
Is site clean and level? (Customer understands a leveling fee may apply if site is more than 4" out of level.) ☒ YES ☐ NO
Is there 24" clearance around all 4 sides of the building? ☒ YES ☐ NO
Is there clear access to the building site? ☒ YES ☐ NO
Is there a 110-volt/20 AMP power outlet within 100'? ☒ YES ☐ NO
Customer understands building permits, fees and all related cost of site readiness are customer's responsibility? ☒ YES ☐ NO
Customer has been presented the "What to Expect" document? ☒ YES ☐ NO
Customer understands that changes, cancellations or postponement will result in restocking/rescheduling fee? ☒ YES ☐ NO
Is this a NO FLOOR option? ☐ YES ☒ NO
Does the Customer plan to insulate this building? ☐ YES ☒ NO
How close to the build site can we park our vehicle? 100' ft.

Special Instructions:

CUSTOMER APPROVAL:

Signature: Amber JamesWesley D. JamesDate: 6-13-22















From: wills62054@yahoo.com
To: Zoning@springfieldmo.gov
Subject: Objection
Date: Friday, September 30, 2022 9:11:59 AM

****CAUTION**** This email originated from outside the organization. Do not open attachments or click links from sources you do not know and trust.

We are against the BOA Case # 1306 at 2581 South Skyline for a 18' tall building in neighborhood. Please adhere to Springfield codes to prevent encroachment of this kind.

Charles and Joann Wills
2431 S. Skyline Drive
Springfield, MO 65804

From: [David Lewis](#)
To: Zoning@springfieldmo.gov
Subject: BOA Case #1306, 2581 S. Skyline Dr.
Date: Thursday, September 29, 2022 2:49:08 PM

****CAUTION**** This email originated from outside the organization. Do not open attachments or click links from sources you do not know and trust.

I'm writing in regard to the special exemption on BOA Case #1306 at 2581 S. Skyline Dr. The request is for an accessory building to exceed the maximum height limit. We are opposed to this being permitted partly because of the size and height but also we don't want it to establish a precedent in the neighborhood of Southern Hills. We don't want to see other residences erecting larger and larger buildings in our neighborhood.

We hope that the Development Review Office of Springfield will see fit to decline this special exemption request.

Sincerely,
Hope & David Lewis
2439 S. Skyline Dr.
Springfield, MO 65804
Cell #417-350-9786