



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-38 **Legistar #:** 20200767

Board of Zoning Appeals Hearing: Monday, October 26, 2020 – 6:00 p.m.

Property Owner: Akli Aggar
505 Delk Street
Marietta, GA 30060

Applicant: Same as owner.

Address: 505 Delk Street

Land Lot: 0290 **District:** 17 **Parcel:** 00310

Council Ward: 1A **Existing Zoning:** RM-8 (Residential Multi-Family – 8units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to remove previous stipulation from case V2017-44 (*accessory structure must not be converted to living space*).

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



505 Delk Street



Accessory Unit

Recommended Action:

Denial. The owner, Akli Aggar, is requesting a variance for the property at 505 Delk Street. The subject property is zoned RM-8 (Multi-Family Residential – 8units/acre) and is 0.328 acres in size. The adjacent properties to the north, south, and west (across Delk Street) are also zoned RM-8. The adjacent property in the rear – to the east – of the subject property is zoned LI (Light Industrial). Although the neighborhood is zoned for multi-family, the majority of the nearby properties are used as single-family residences.

The owner purchased the property in March 2017, demolished the house, and rebuilt the primary structure as well as added a driveway. RM-8 zoning allows single family residences with approval granted from the Development Services Director and subject to the bulk and area regulations for R-4 [§708.04 (H)]. However, the Board of Zoning Appeals granted variances (V2017-44) to allow the existing garage structure to remain as is - 5.6 feet from the side property line and 8.9 feet from the rear property line - with the condition to not convert the accessory structure to living space.

As stated by applicant, the accessory structure has existing utility services. The owner wishes to allow his child to occupy the accessory structure as a living space. Based on the provided floor plan – the detached living space would include an open main room, secondary room, and bathroom. The garage door is shown to remain with a standard entry door beside it which enters the main area. The applicant has stated that his financial situation has changed the previous circumstances. As such the request would not meet the criteria for a hardship; ***therefore, staff recommends denial.***

Other department comments –

- *Fire protection sprinklers will be required to convert from storage use to residential use within the setbacks*
- *Utility services to the accessory dwelling unit shall not be separate from the principal structure.*
- *The structure could not be addressed separately from the principle structure without providing its own utilities.*
- *Garage door would be required to be removed to comply with current energy code.*

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Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2020-38 Legistar #: 20200767 BZA Hearing Dt: 10-26-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-250

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name AKLI Aggar

EMAIL Address: akliaggar@gmail.com

Mailing Address 505 Delk St SE Marietta Zip Code: 30060 Phone Number 404-488-5340

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: _____

EMAIL Address: _____

Mailing Address _____ Zip Code: _____ Phone Number _____

Address of subject property: 505 Delk St SE Marietta GA 30060 Date of Acquisition: 03/14/2017

Land Lot (s) 290 District 17 Parcel 00310 Acreage .328 Zoned RM8 Ward 1A FLU: MDR

List the variance(s) or appeal requested (please attach any additional information):

Resume Use of pre-existing structure as living space.

Remove stipulation from V2017-44 in order to use garage as living space

Required Information

- 1.) Application fee (\$250)
- 2.) Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
- 3.) Copy of the deed that reflects the current owner(s) of the property.
- 4.) Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
- 5.) Site plan – drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
- 6.) Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

AKLI Aggar
Applicant Print Name

[Signature]
Signature of Applicant

OWNER / APPLICANT CERTIFICATION

- The Owner or Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner or Applicant hereby gives permission to enter on the property for inspection during the time application is pending.
- **CAMPAIGN CONTRIBUTIONS:** The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Planning Commission within the two (2) years preceding the filing of the this application.

Applicant Signature (if not the Owner)

Please Print

[Signature]
Owner Signature

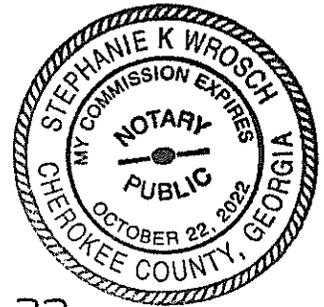
AKLI Aggar
Please Print

505 Delk St SE Marietta, GA 30060
Mailing Address

09/11/20
Date

Signed, sealed and delivered in the presence of:

Stephanie K Wrosch My Commission Expires: 10-22-22



Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

September 10th 2020

Dear Distinguished Members,

In March of 2017, I purchased the property at 505 Delk St SE Marietta, GA 30060. The property contained two existing structures. One was a home in a state of collapse and disrepair. I demolished the home, and replaced it with a new residence, increasing the value of the property, as well as improving the aesthetics of the surrounding community.

The second structure was a garage building with a small living quarter. It was evident, due to connected plumbing features and heating elements that the building had been used as a residence at one time. The structural integrity of the building was solid, though the roof and siding were unsightly and in need of replacement. When I applied for my initial permit for the demolition and construction of the main residence, I was informed I would need to apply for a variance in order to keep the garage structure.

In Nov 2017, I appeared before this body for a variance hearing. My request was approved. The one stipulation issued was that the building was not to be used as a living area. At the time, I had no intention of this type of use, and readily agreed. Since this time, life changes have inspired me to restore the space to a small living area.

As I transition through a divorce, I have had my three adult daughters express interest in residing closer and offering their assistance. The ability to provide private space at a low rent to one of them would be a great benefit to me, as well as them.

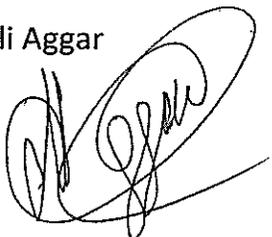
The external structure of the building will not be altered in any way, and the existing internal structure will not be altered. The drawing of existing structure is added in this application. The building is removed from close proximity to other residence, as to prevent privacy issues for myself and my neighbors.

I hope you will take into consideration the past history of the structure, as well as the opportunity for me, as I age, to offer the availability to one of my daughters to live closer to me and assist.

I welcome questions and concerns regarding this matter.

Regards,

Akli Aggar

A handwritten signature in black ink, appearing to read 'Akli Aggar', written over a large, loopy scribble.



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Rusty Roth, AICP, Director

November 28, 2017

Akli Aggar
Via Email: akliaggar@gmail.com

Re: Petition of **AKLI AGGAR** is requesting variances for property zoned RM8 (Multi Family Residential – 8 units/acre), located in Land Lot 290, District 17, Parcel 0310, 2nd Section, Marietta, Cobb County, Georgia, and being known as **505 Delk Street**.
File ID: V2017-44

Dear Sir/Madam,

This is to inform you that on November 27, 2017, the Board of Zoning Appeals approved with stipulation the variance request for the above-described property.

The following variance as stipulated was approved:

1. Variance to reduce the side setback of the accessory structure from 10 feet to 5.6 feet. [*§708.10 (F.1.)*]
2. Variance to reduce the rear setback of the accessory structure from 10 feet to 8.9 feet. [*§708.10 (F.1.)*]

Stipulation: Accessory Structure must not be converted to living space.

If you should need any additional information, please contact Shelby Little at (770) 794-5671.

Sincerely,

Ines Embler

Ines Embler
Planning and Zoning Department

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: October 9, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, October 26th, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-38 [VARIANCE] AKLI AGGAR is requesting a variance for property zoned RM-8 (Multifamily Residential – 8 units/acre), located in Land Lot 290, District 17, Parcel 0310, 2nd Section, Marietta, Cobb County, Georgia, and being known as 505 Delk Street. Request to remove stipulation approved with V2017-44. Ward 1A.

A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

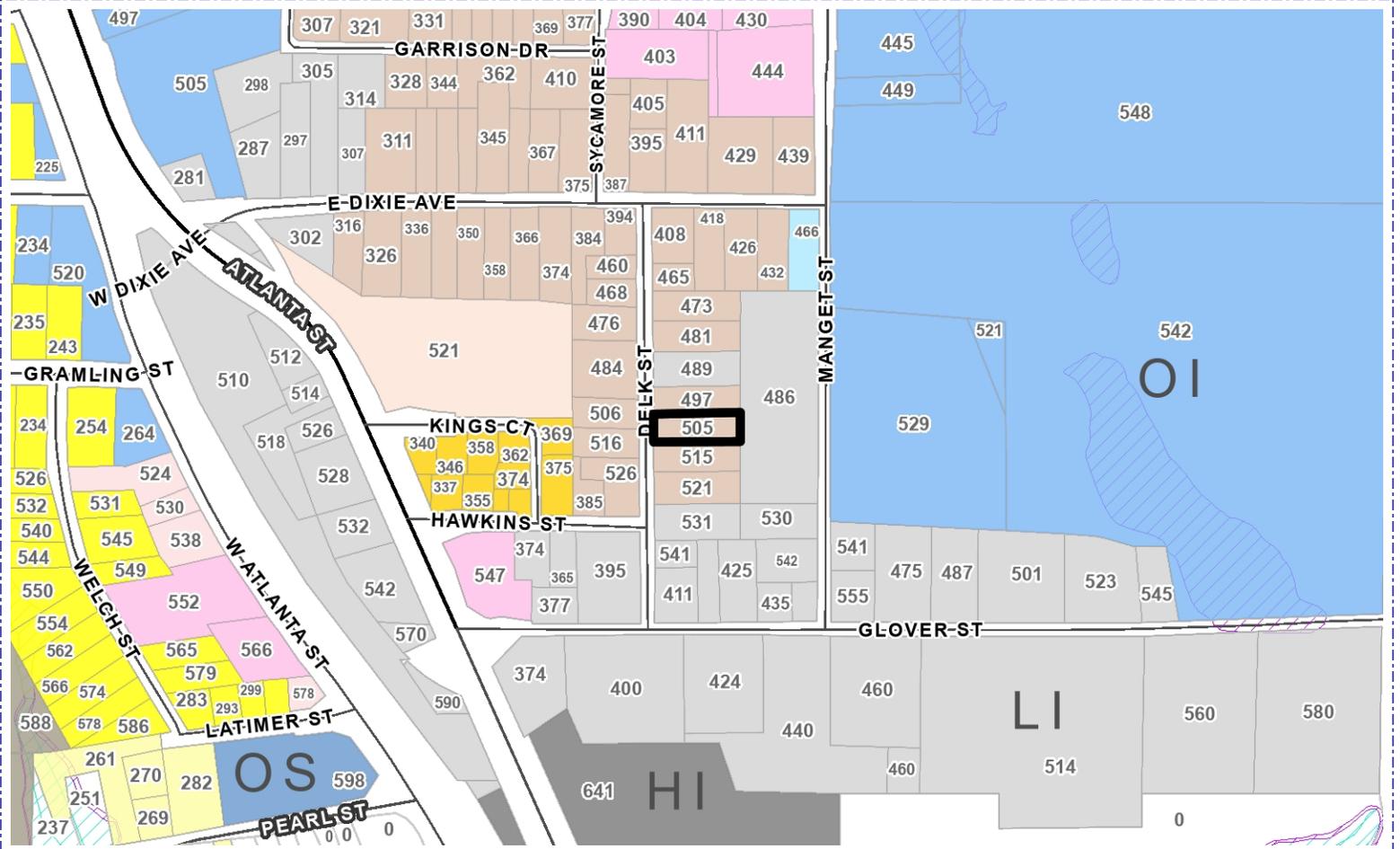
For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

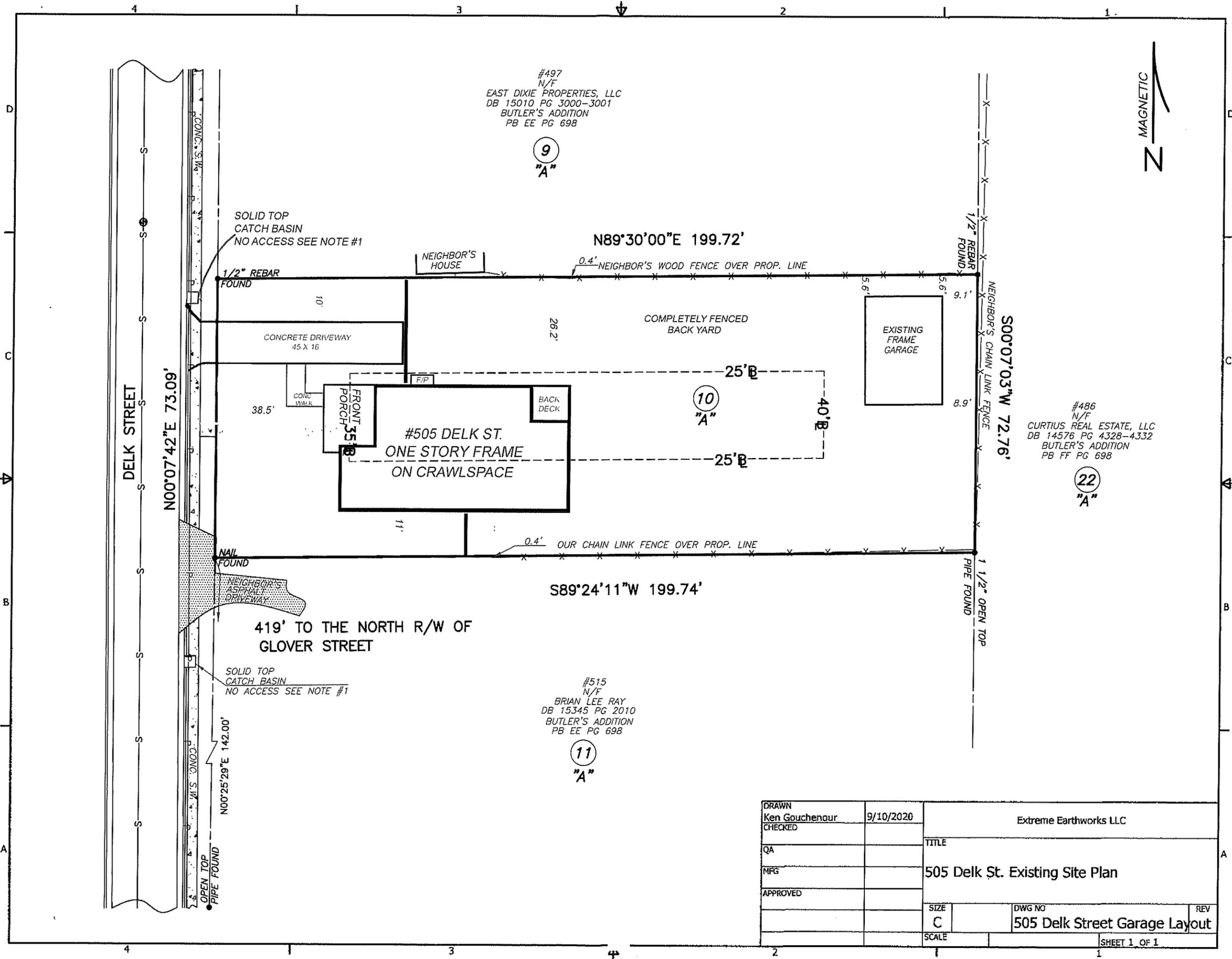


Variance

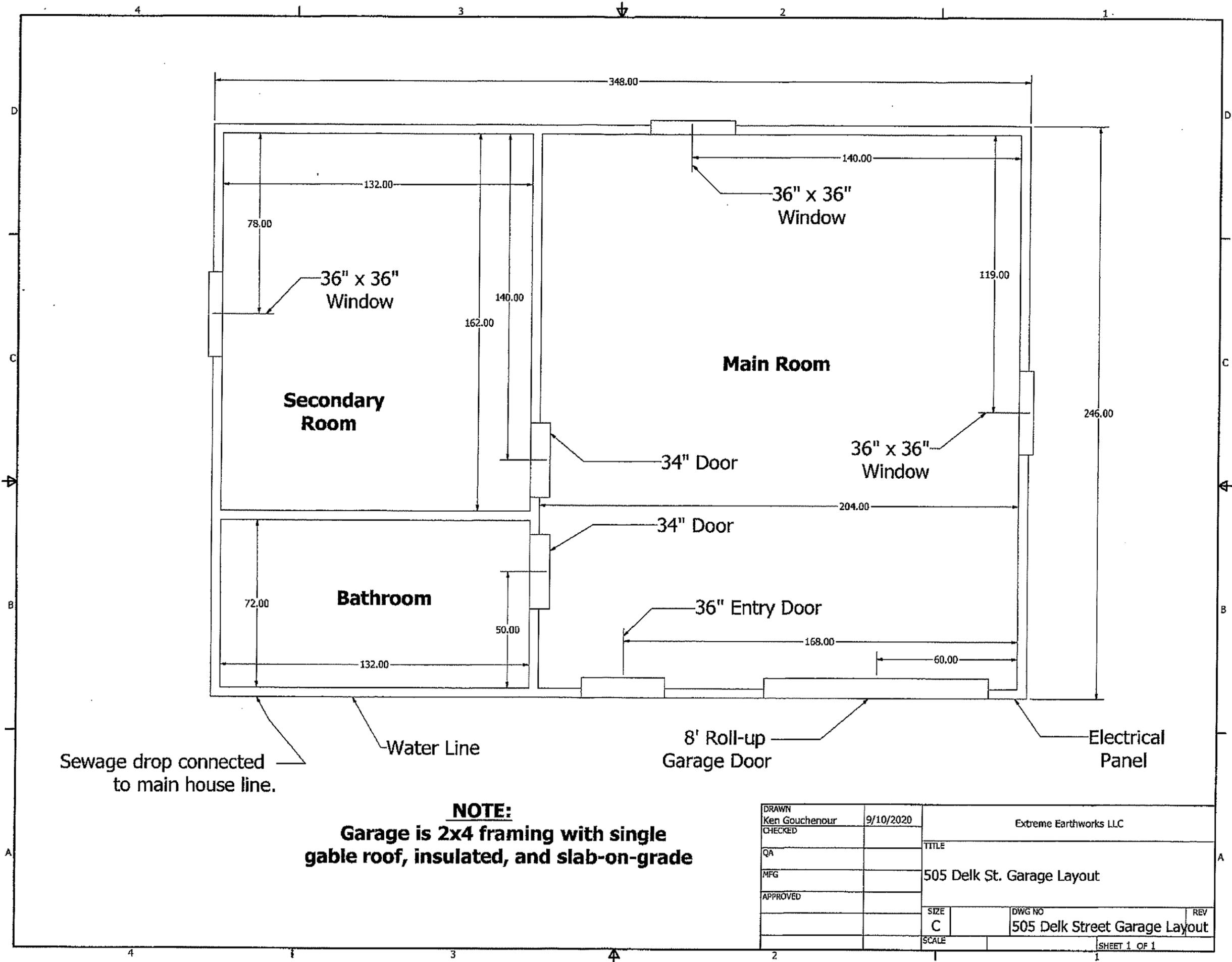


Address	Parcel Number	Acreage	Ward	Zoning	FLU
505 DELK ST	17029000310	0.328	1A	RM8	MDR

Property Owner:	Akli Aggar	Zoning Symbols - Railroads - City Limits - Cobb County Pockets - NA - R1 - Single Family Residential (1 unit/acre) - R2 - Single Family Residential (2 units/acre) - R3 - Single Family Residential (3 units/acre) - R4 - Single Family Residential (4 units/acre) - RA4 - Single Family Residential - Attached - RA6 - Single Family Residential - Attached - RA8 - Single Family Residential - Attached - MHP - Mobile Home Park - PRD-SF - Planned Residential Dev. Single Family - RM8 - Multi Family Residential (8 units/acre) - RM10 - Multi Family Residential (10 units/acre) - RM12 - Multi Family Residential (12 units/acre) - RHR - Residential High Rise - PRD-MF - Planned Residential Dev Multi Family - NRC - Neighborhood Retail Commercial - CRC - Community Retail Commercial - RRC - Regional Retail Commercial - PCD - Planned Commercial Development - LI - Light Industrial - HI - Heavy Industrial - PID - Planned Industrial Development - MXD - Mixed Use Development - CBD - Central Business District - OIT - Office Institutional Transitional - LRO - Low Rise Office - OI - Office Institutional - OS - Office Services - OHR - Office High Rise
Applicant:		
BZA Hearing Date:	10/26/2020	
Acquisition Date:		
Case Number:	V2020-38	
City of Marietta Planning & Zoning		



DRAWN	Ken Gouchenour	9/10/2020	Extreme Earthworks LLC	
CHECKED			TITLE	
QA			505 Delk St. Existing Site Plan	
MFG			SIZE	DWG NO
APPROVED			C	505 Delk Street Garage Layout
			SCALE	REV
				1
				SHEET 1 OF 1



Sewage drop connected to main house line.

Water Line

8' Roll-up Garage Door

Electrical Panel

NOTE:
Garage is 2x4 framing with single gable roof, insulated, and slab-on-grade

DRAWN Ken Gouchenour	9/10/2020	Extreme Earthworks LLC	
CHECKED		TITLE	
QA		505 Delk St. Garage Layout	
MFG		SIZE	DWG NO
APPROVED		C	505 Delk Street Garage Layout
		SCALE	REV
			1
			SHEET 1 OF 1