

APPLICATION NUMBER

5285

A REQUEST FOR

SIDE YARD SETBACK VARIANCE TO ALLOW A 13' X 21.9' CARPORT 2.7' FROM THE SIDE (EAST) PROPERTY LINE; A MINIMUM SIDE YARD SETBACK OF 8' IS REQUIRED FOR A LOT THAT IS 60' WIDE OR WIDER AT THE MINIMUM FRONT BUILDING SETBACK LINE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT

LOCATED AT

1958 COLLEGE COURT

(North side of College Court, 200'± West of Tuscaloosa Street)

APPLICANT/OWNER

JANIS BISHOP

BOARD OF ZONING ADJUSTMENT

JANUARY 2005

The applicant is requesting Side Yard Setback Variance to allow an 13' x 21.9' carport 2.7' from the side (East) property; a minimum side yard setback of 8' is required for a lot that is 60' wide or wider at the minimum front building setback line in an R-1, Single-Family Residential District.

In October, the applicant was issued a Notice of Violation the closeness of several buildings to the side property line. The applicant was given several options such as, the submission of non-conforming documentation verifying the location of the buildings; to relocate all structures to comply with the setback requirements of the Ordinance, or apply to the Board of Adjustment for a side yard setback variance.

The applicant submitted this variance to allow a 13' x 21.9' carport to remain 2.7' from the side (East) property line. The applicant states that a framed playhouse was constructed in 2003 and was recently moved to comply with the setback requirements of the Ordinance. The frame garage illustrated on the site plan has been unchanged since 1950; however, a new roof was added to the lean-to in 2004. The applicant states that the carport, the subject of this application, had metal supports that rusted which were replaced with 6" x 6" wooden posts in March 2004.

Researching this address, staff located two recently issued permits, a permit for a 12' x 12' detached playhouse located 8-feet from the East side property line (October 18th) and to construct a 6-foot high privacy fence along the East side property line (October 18th).

It should be noted that the staff has received a letter from Mr. Bru, the adjacent neighbor to the East stating a discrepancy with the applicant's survey. Mr. Bru states that the applicant's survey is different from his own survey and this discrepancy makes this garage closer to his property line that stated in this variance application.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

The applicant stated that the carport has existed for several years and the only improvements were the replacement of the metal posts with wooden posts; however, no nonconforming documentation was provided.

Regardless of the conflicting surveys, if the variance were approved, the carport would simply remain in its current location. However, the staff could not find any

nonconforming documentation that would illustrate that the carport was constructed prior to 1967. Moreover, while the site is located in an older area of the city and the Board has typically granted some degree of relief for side and rear yard setback variance requests, those requests typically provided a minimum setback of 5-feet.

RECOMMENDATION 5285**Date: January 10, 2005**

Based upon the preceding, this application is recommended for denial.

LOCATOR MAP

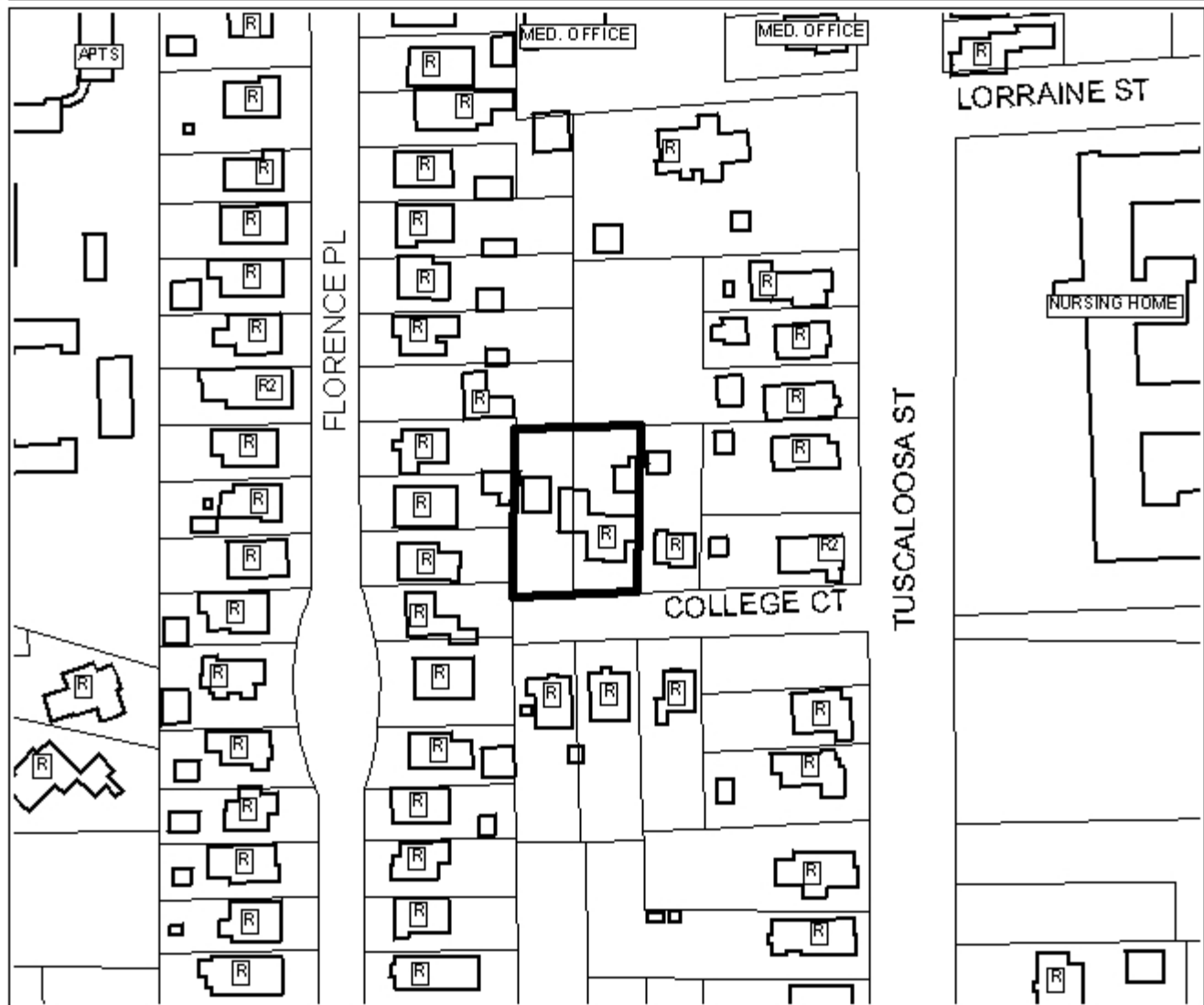


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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential dwellings.

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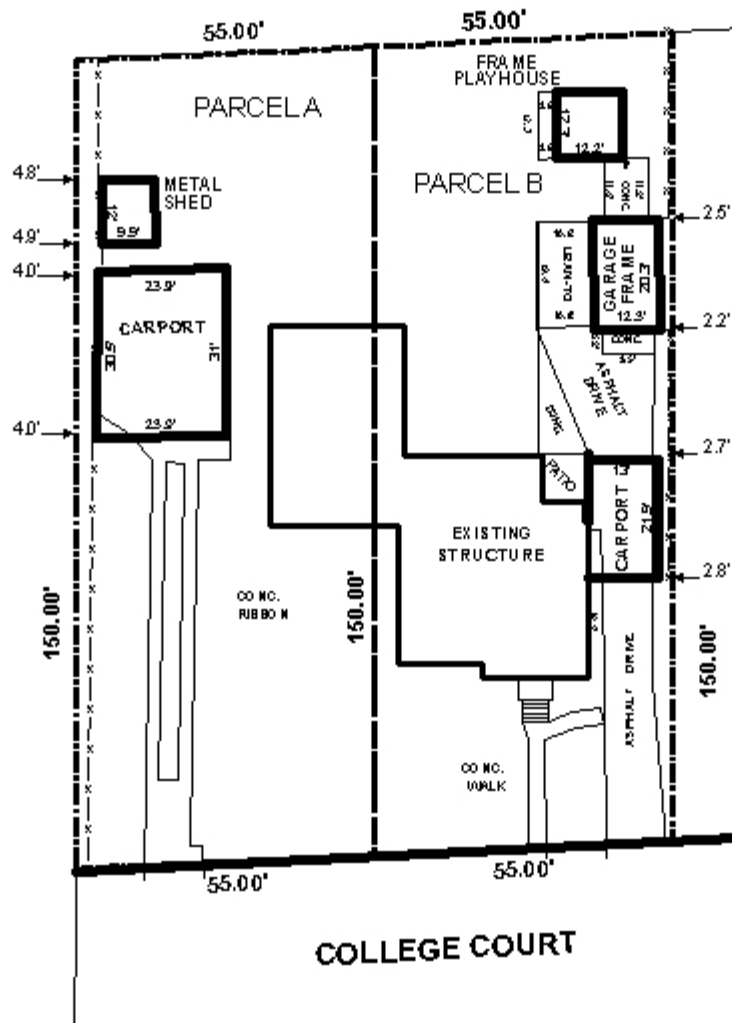
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LEGEND



SITE PLAN



The site plan illustrates the proposed buildings, existing buildings, and proposed setbacks

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