

APPLICATION NUMBER

**5352**

A REQUEST FOR

**FENCE HEIGHT VARIANCE TO ALLOW THE CONSTRUCTION OF AN EIGHT FOOT TALL MASONRY WALL SETBACK A MINIMUM OF TEN FEET FROM THE OLD SHELL ROAD (SIDE STREET) AND HILLWOOD ROAD (FRONT) PROPERTY LINES; A 20-FOOT SIDE YARD SETBACK IS REQUIRED ALONG A SIDE STREET (OLD SHELL ROAD), AND A 25-FOOT FRONT YARD SETBACK IS REQUIRED ALONG HILLWOOD ROAD IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

**159 HILLWOOD ROAD**

(Southeast corner of Old Shell Road and Hillwood Road)

APPLICANT/AGENT

**PETE J. VALLAS, AIA**

OWNER

**MR. & MRS. CHRISTOPHER B. WHITE**

**BOARD OF ZONING ADJUSTMENT**

MAY 2006

The applicant is requesting a Fence Height Variance to allow the construction of an eight-foot masonry wall setback a minimum of ten feet from the Old Shell Road (side street) and Hillwood Road (front) property lines; a 20-foot side yard setback is required along the side street (Old Shell Road), and a 25-foot front yard setback is required along Hillwood Road.

The applicant proposes the construction of an eight-foot high, stucco over concrete block wall along Old Shell Road, continuing Eastward then Southward along the radius of the curve along Hillwood Road, then continuing until it reaches an existing old stone wall along Hillwood Road (about 65 feet South of Old Shell Road), which will remain. At that point the applicant proposes to lower the wall to abut the existing stone wall. From the old stone wall a six-foot tall open iron fence is proposed to run South along Hillwood Road and the front property line. An open type of fence that does not obstruct visibility is allowed within the front setback. The applicant states that the proposed masonry wall will be similar to an existing wall directly across Old Shell Road from the subject property.

This application is basically a re-submittal of a previously approved application which has expired. The original request was for the construction of an 8-foot masonry wall setback a minimum of four feet from the Old Shell Road and Hillwood Road property lines. At the meeting of June 6, 2005, the Board approved a variance for a ten-foot setback, subject to protection of the existing historic stone wall during and after construction.

There are a few minor changes to the site plan from the original submittal. As noted, the requested setback is now ten feet as previously approved by the Board. The existing garage to the South of the main residence is proposed to be a pool house and a pool is proposed to the West of that, in the area of the existing drive from Old Shell Road. This drive is to be removed and redesigned as a service drive with a gated entrance from Old Shell Road.

Subsequent to the Board's granting of the original variance request, the owners submitted a three-lot subdivision request to the Mobile City Planning Commission which was approved on October 6, 2005. The final plat has not yet been submitted to the Planning Staff for signature and the applicant states that the intent now is to keep the property intact and that the owners do not plan to pursue finalization of the subdivision.

The applicant states that Old Shell Road is no longer the quiet residential street it once was and that the wall is desired to minimize traffic noise, to increase privacy and security, and that nearby properties along Old Shell Road have constructed similar walls.

Issues to consider for fences and walls on corner lots are the visibility at the street corner and associated safety issues. The Zoning Ordinance requires a “visibility triangle” at corners which would be reduced with the construction of a solid fence or wall within that area’s line-of-sight. Traffic Engineering has determined that the proposed wall at a ten-foot setback will not compromise line-of-sight at the intersection. However, the existing heavy hedge along Old Shell Road and part of Hillwood Road is a visibility hazard, as determined by Traffic Engineering. As the lot is more than double the width of a standard lot upon which setbacks are based, the proposed wall could be constructed in compliance with the standard setbacks and still provide usable front and side yards for the subject property.

The Zoning ordinance states that no variance shall be granted where economics are the basis for the application. Additionally, no variance shall be granted 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.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant’s desire to have an eight-foot wall within the required setbacks. However, since the original application was recommended for denial but approved by the Board at a revised ten-foot setback, it would follow that this application should be approved subject to conditions.

**RECOMMENDATION 5352****Date: May 8, 2006**

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Based on the preceding, this application is recommended for approval subject to the following conditions: (1) protection of the existing historic wall during and after construction; (2) removal or substantial trimming of the hedges along Old Shell Road and Hillwood Road within thirty days following completion of the wall to correct the visibility issues stated by Traffic Engineering, and in compliance with Section IV.4. of the Zoning Ordinance; (3) any new plantings outside the wall be in compliance with Section IV.4. of the Zoning Ordinance as required by Traffic Engineering; (4) the existing driveway onto Old Shell Road be gated and used only on a limited basis for service purposes; and (5) the property remain as one lot of record and the three-lot subdivision not be finalized.

# LOCATOR MAP



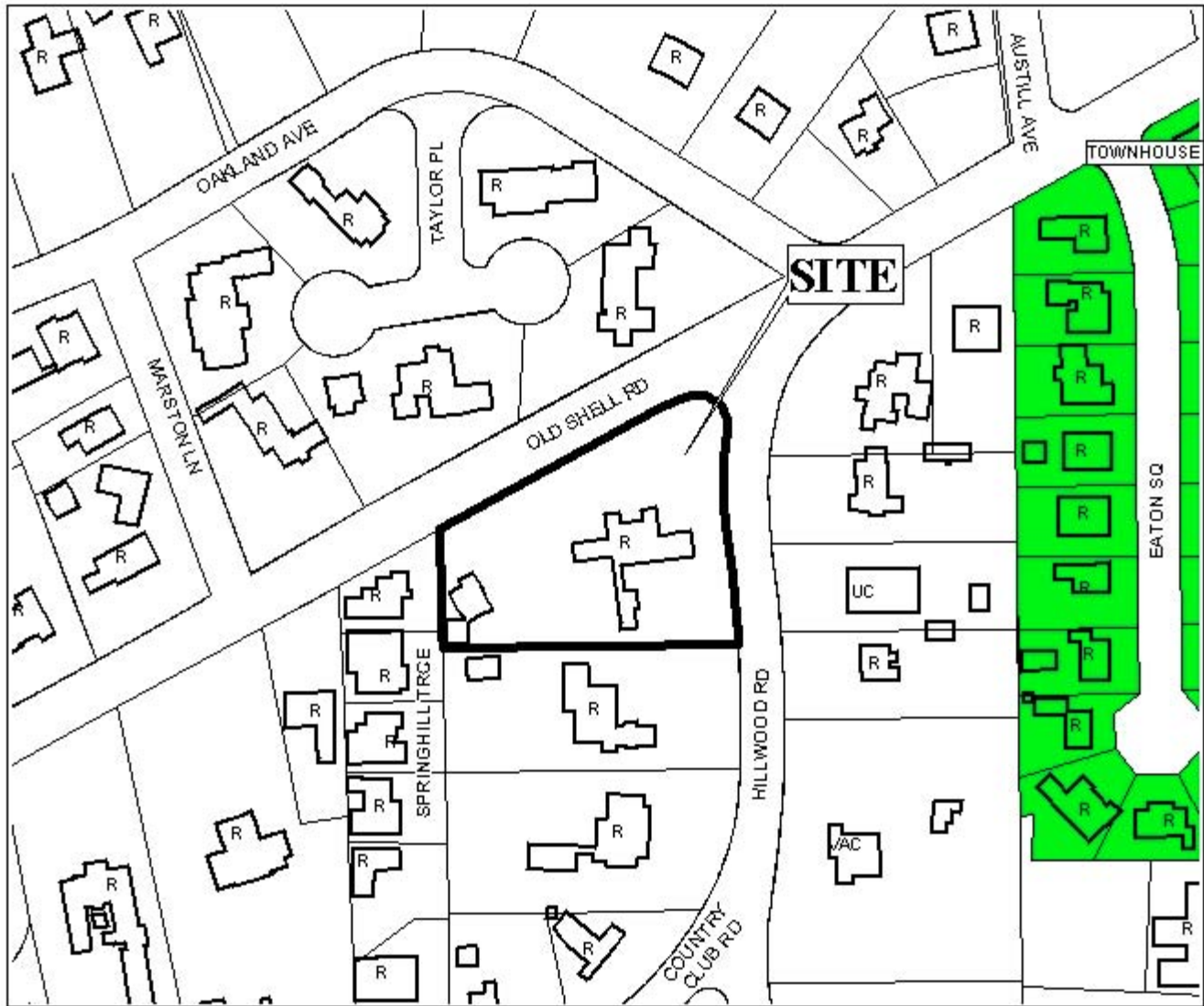
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APPLICANT Pete J. Vallas, A.I.A. (Mr. & Mrs. Christopher B. White, Owners)

REQUEST Fence Height Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential dwellings.

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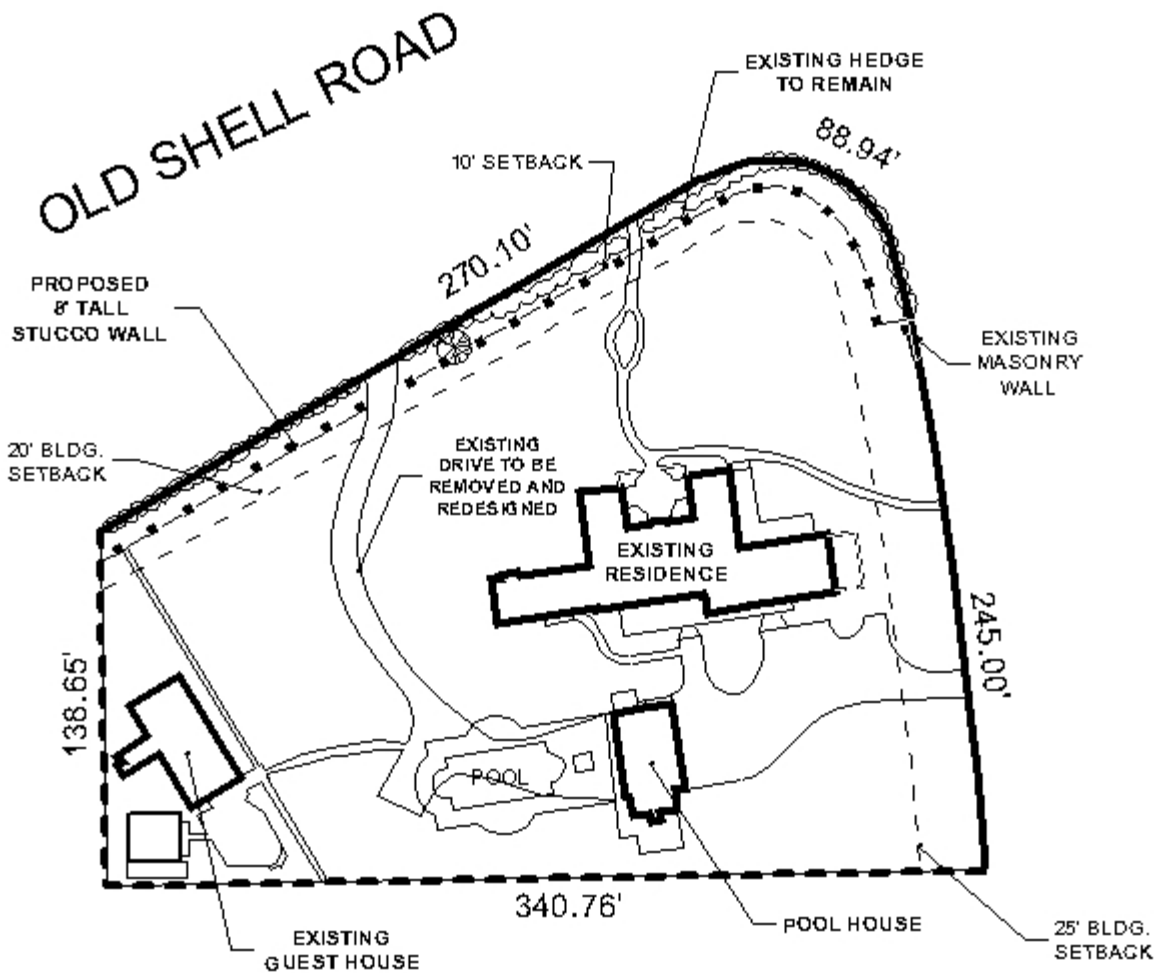
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LEGEND  R-1  R-2  R-3  R-A  R-B  H-B  B-1  LB-2  B-2  B-3  B-4  B-5  I-1  I-2



# SITE PLAN



The site is located at the Southwest corner of Old Shell Road and Hillwood Road. The plan illustrates the existing structures and the proposed wall.

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