

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: February 3, 2020****CASE NUMBER**

6305

**APPLICANT NAME**

Spencer Tuell

**LOCATION**4628 Channing Court  
(North side of Channing Court, 333'± North of Bit and Spur Road).**VARIANCE REQUEST****SETBACK VARIANCE:** Side Yard Setback Variance to allow a structure to encroach within the Side Yard Setback in an R-1, Single Family Residential District.**ZONING ORDINANCE  
REQUIREMENT****SETBACK VARIANCE:** The Zoning Ordinance requires a minimum 8' side yard setback in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential District

**AREA OF PROPERTY**

0.4 ± Acres

**CITY COUNCIL  
DISTRICT**

District 5

**ENGINEERING  
COMMENTS**

If the proposed variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements will require a Land Disturbance Permit – Single Family Residential Affidavit (submitted through Central Permitting).
2. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.

**TRAFFIC ENGINEERING  
COMMENTS**

This request was not reviewed by Traffic Engineering.

**URBAN FORESTRY  
COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will

require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit.

## **FIRE**

### **COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code).

### **ANALYSIS**

The applicant is requesting a Side Yard Setback Variance to allow a structure to encroach within the Side Yard Setback in an R-1, Single Family Residential District. The Zoning Ordinance requires a minimum 8' side yard setback in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) land use designation, per the adopted Future Land Use Plan and Map. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

This designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semidetached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

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.

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 states:

*To Whom It May Concern,*

*Please allow this letter, and the information enclosed herein, to serve as our formal request for a setback variance at my family's residence located at 4628 Channing Court, Mobile, AL 36608. We are attempting to do things the "right way", and to construct an architecturally pleasing garage structure at the end of our driveway.*

*Our family has been in the process of designing and building said garage, on the NW corner of our property, for approximately 6 months now. Tuff Shed is the constructor of the garage and was responsible for developing the engineered drawings and for pulling the permit for the structure. Those drawings are also included for reference.*

*How we got "here":*

*On December 2, 2019, we were told by Tuff Shed's that we had a permit in place (this had never been provided to us — and still has not been provided to us) and that we could proceed with the forming and pouring of the concrete slab. The slab was formed up and we called the City for inspection on December 3, 2019. During the inspection, it was noted that the structure would encroach on the setback adjacent to 4632 Channing Court, by approximately 3.0 feet — in other words, the structure was 5.0' (actually slightly more than 5'0") from this property line. The rear of the structure is 8' from the property line of our rear neighbor located at 4593 Hawthorne Place, so no variance will be required there. During the inspection was the first time we had ever heard mention of 8' setbacks.*

*Goal/Request:*

*We would like to respectfully request a variance for the setback of our garage structure as it relates to the property line between 4628 Channing Court and 4632 Channing Court. The requested setback would be 5'0" in lieu of the 8'0" we were instructed. Below, we will outline why this has been requested. Additionally, we have enclosed a letter from our neighbor, Joe Helton, owner of the 4632 Channing Court property, offering his full support to this variance request.*

*Reasons we believe the variance should be granted:*

- *We have the full support of our neighbors as they view this project as an improvement that will add value to our home as well as theirs. (See attached letter)*
- *Aesthetically, the location of the proposed garage would be centered on the existing driveway and gate. Shifting the structure 2.5-3.0' to the East to create an 8' setback would create a skewed perception of the building from the street, thus reducing home property value.*
- *Shifting the structure 2.5-3.0' to the East would require the removal of a mature oak tree. This would cause not only an additional financial burden, but also have unnecessary negative environmental implications.*
- *The Driveway is located exactly where it was constructed at the time of home construction in 1970. The survey included, shows a 7.5' rear easement for drainage and utilities. There is no called out utility easement on the West side of the property between 4628 and 4632, and since we do meet the 8' setback at the rear of the property, this utility/drainage easement would remain unobstructed.*
- *Shifting the structure 2.5-3.0' to the East would require a complete redirection of the North end of the driveway to ensure that the approach of the driveway is centered on the garage door. This would not only result in additional financial burden but require more paved driveway surface area that would negatively and unnecessarily affect local drainage.*
- *If you look at Google Earth (screenshot attached), you will see that numerous homes in our area have structures that encroach upon or within the setback limits — including some adjacent to our property. We do not feel that this variance would detract from the current architectural motif of the neighborhood and surrounding areas.*

*I would like to personally thank each of you for your time and consideration in this matter. I understand the time and effort that goes into reviewing each and every request, and for that, I am most appreciative. Please let me know if you have any additional questions/comments or would like to visit our home prior to making a judgment.*

*Sincerely,  
Spencer Tuell*

On December 2, 2019, the applicant was issued a building permit and land disturbance permit to construct a 16'x20' detached garage and corresponding concrete slab. As part of the application for the building permit, which was submitted on October 17, 2019, the applicant included a site plan illustrating the existing driveway, setbacks from the northwest corner of said driveway to the rear and side property lines, and illustrated the center point of the proposed shed as corresponding with the center of the driveway.

Following a review by Staff, the application was approved by Planning & Zoning with the conditions that the proposed shed must be 8' from both the rear and side property lines in order to comply with setback requirements. The applicant states that once the slab was formed up a request for inspection was made on December 3, 2019, and a subsequent inspection performed.

At which it was noted that due to the location of the poured slab the proposed structure would encroach into the required 8' setback and be non-compliant.

As the applicant states in their narrative, shifting the proposed shed to the west could potentially encroach upon an existing live oak tree thus requiring its removal. It is important to note that the Board has approved previous variance requests in order to preserve existing Live Oak trees, therefore granting the variance request may be desirable.

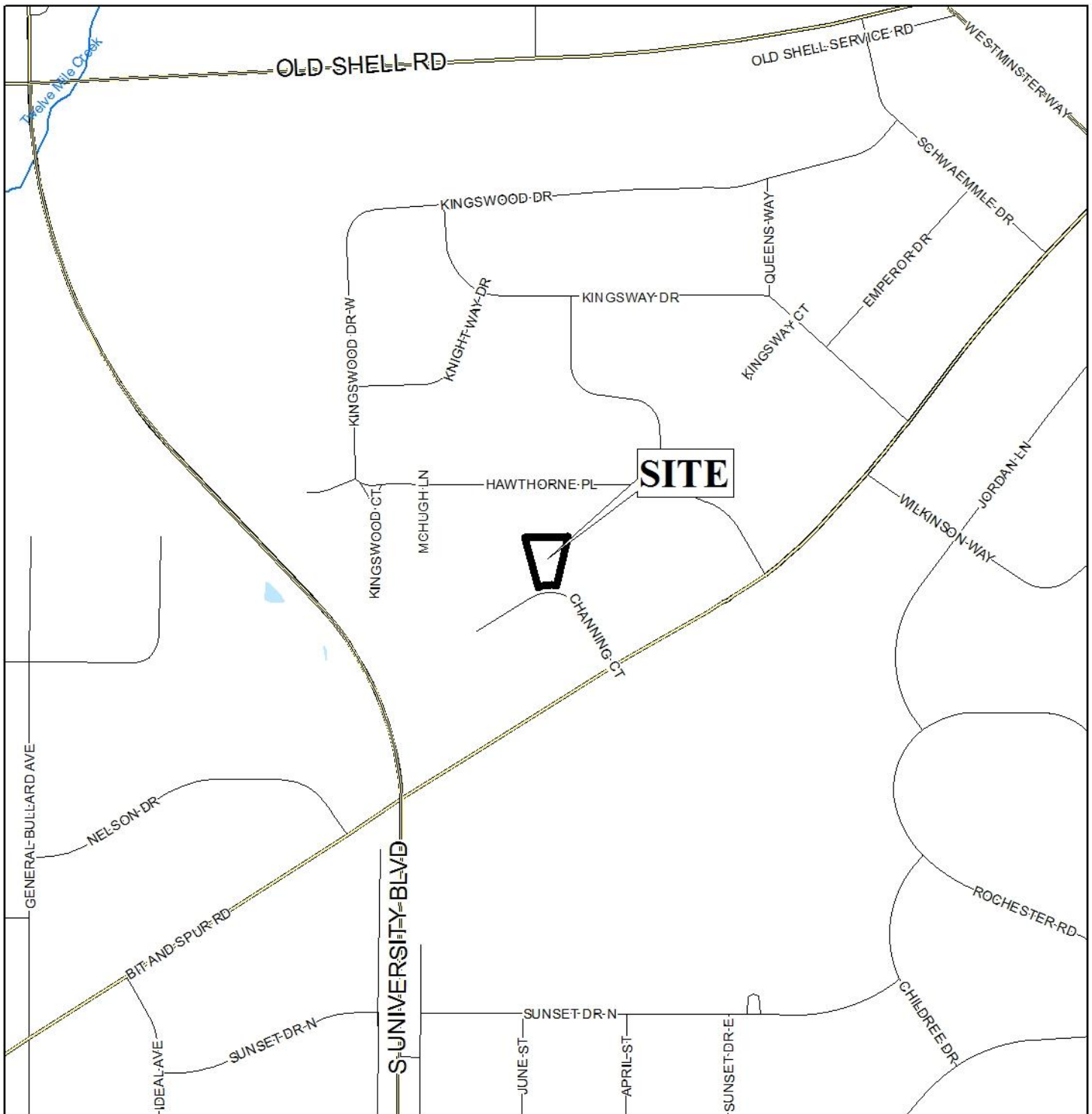
**RECOMMENDATION:** Staff recommends to the Board the following findings of fact for Approval:

- 1) Granting the variance will not be contrary to the public interest in that, previous variances have illustrated a need to preserve existing live oak trees;
- 2) Special conditions were illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the requested setback variance is in keeping with the architectural aesthetics of other properties within the area and would allow for the preservation of an existing live oak tree.

The approval is subject to the following conditions:

- 1) provision of gutters and downspouts; and
- 2) full compliance with all municipal codes and ordinances

# LOCATOR MAP



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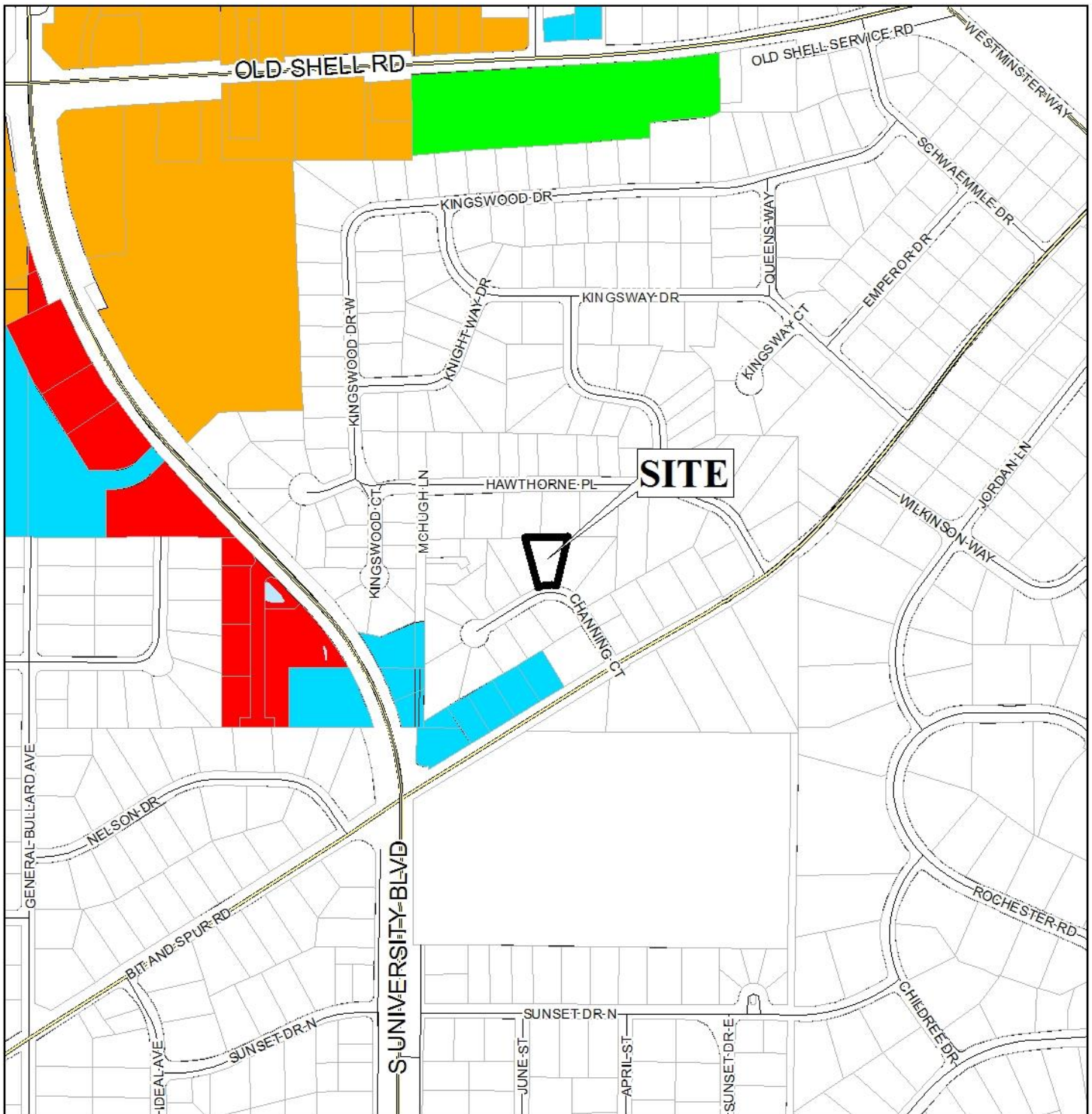
APPLICANT Spencer Tuell

REQUEST Setback Variance



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# LOCATOR ZONING MAP



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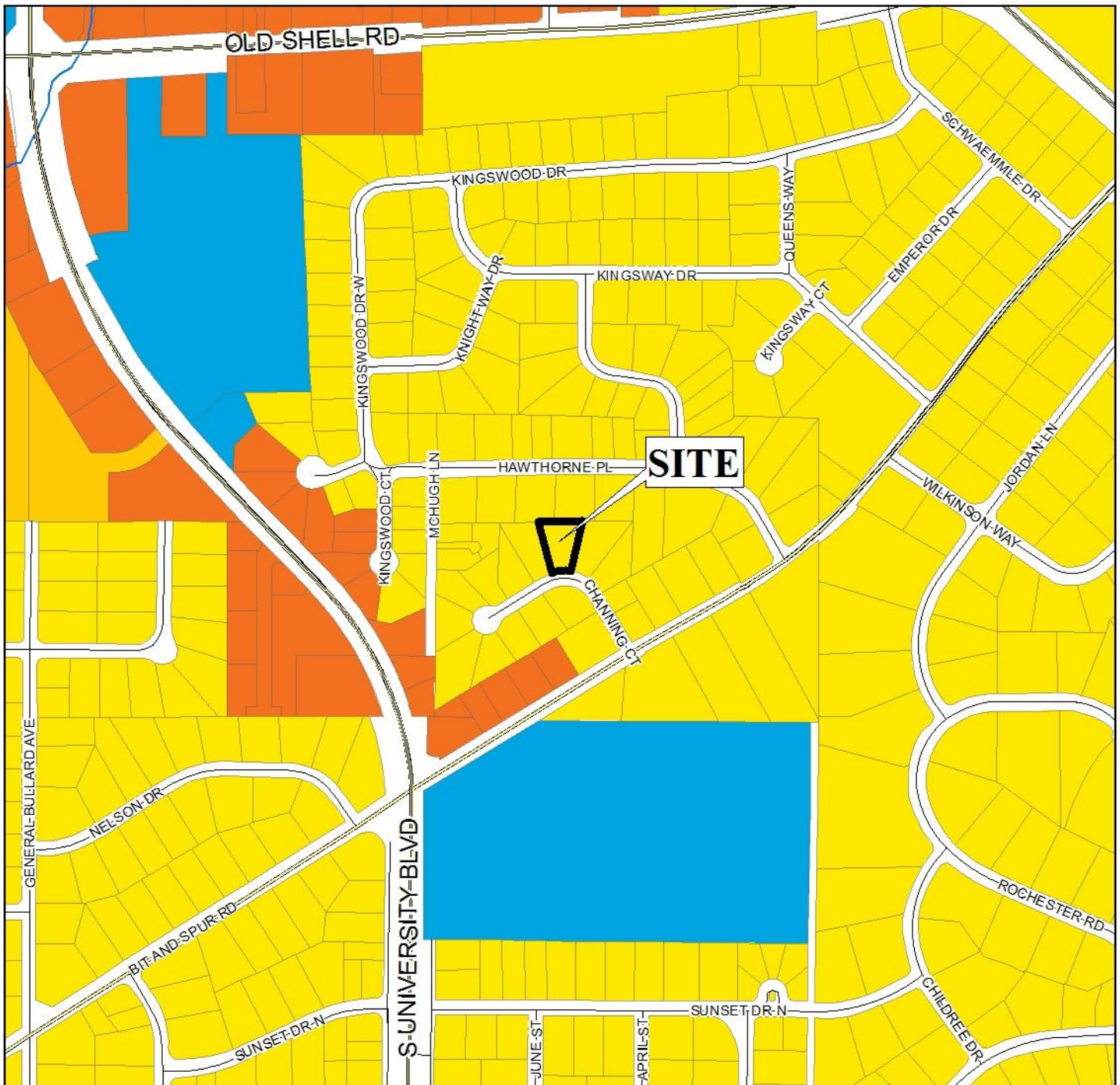
APPLICANT Spencer Tuell

REQUEST Setback Variance





# FLUM LOCATOR MAP



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APPLICANT Spencer Tuell

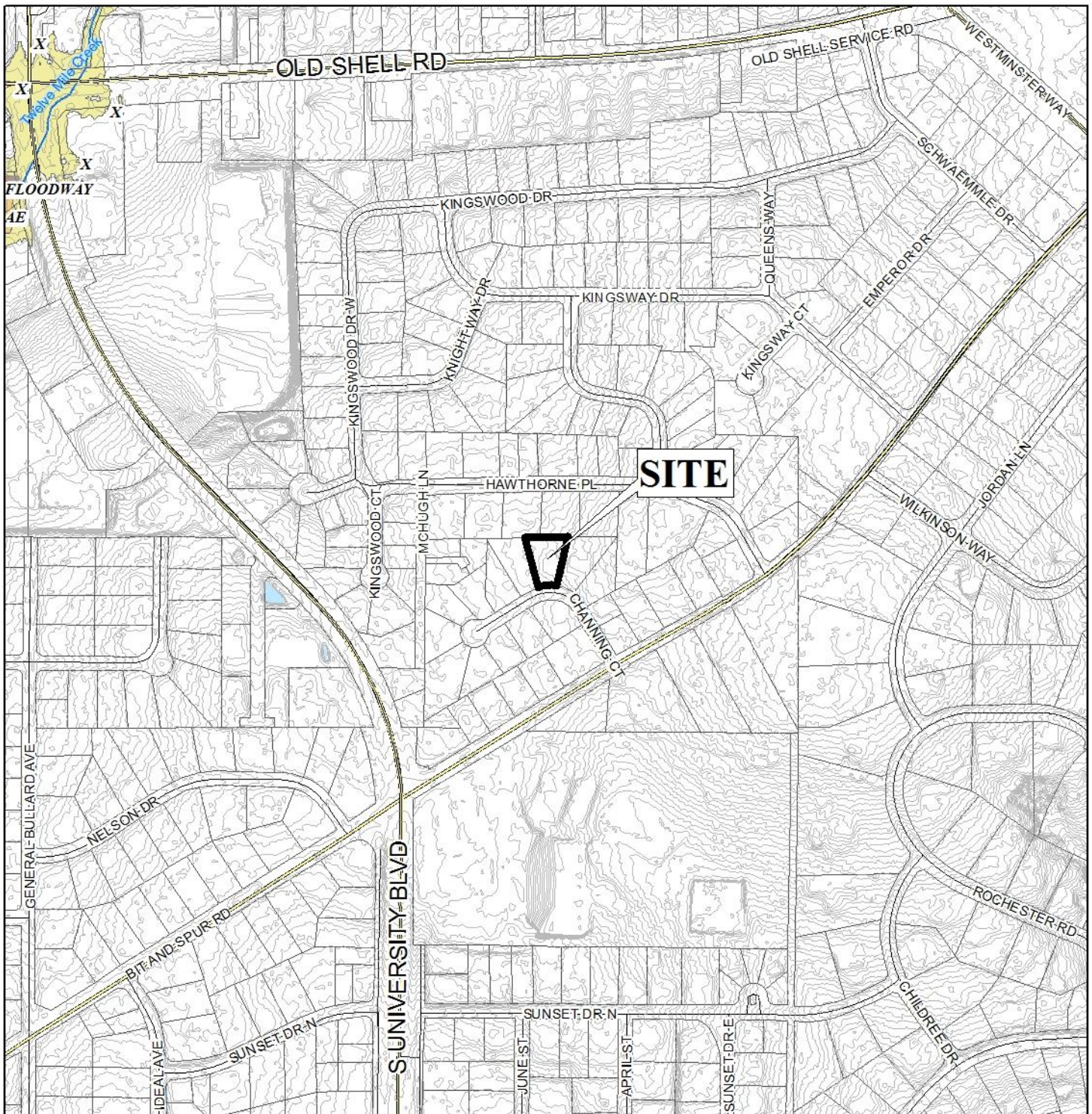
REQUEST Setback Variance

Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	





# ENVIRONMENTAL LOCATOR MAP



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APPLICANT Spencer Tuell

REQUEST Setback Variance





# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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REQUEST Setback Variance

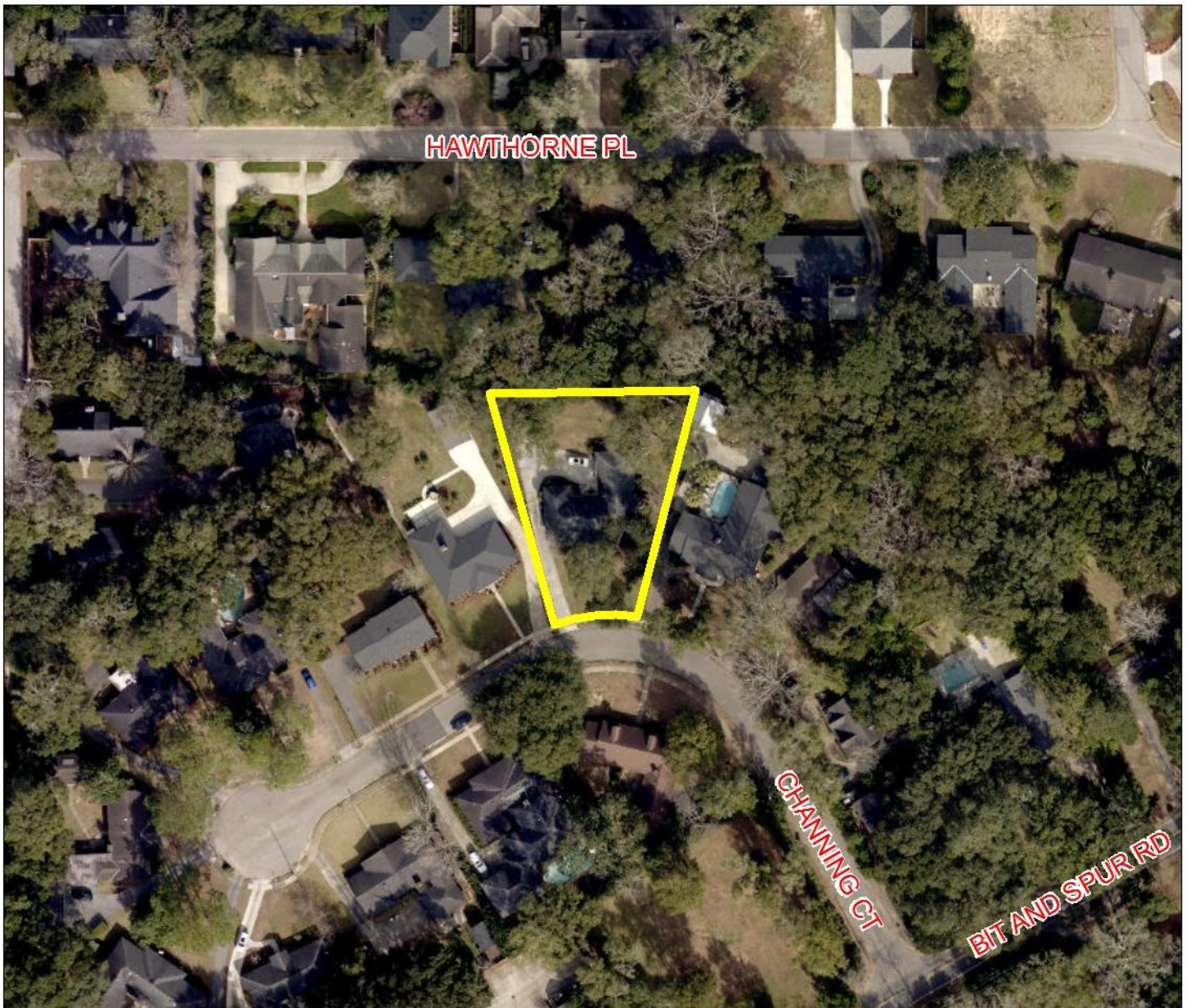
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<span style="background-color: white; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-1	<span style="background-color: pink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-B	<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-1	<span style="background-color: red; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-3	<span style="background-color: lightblue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> I-1	<span style="background-color: lightgreen; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> OPEN	<span style="background-color: lightpink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T3	<span style="background-color: darkpurple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.2
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# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING

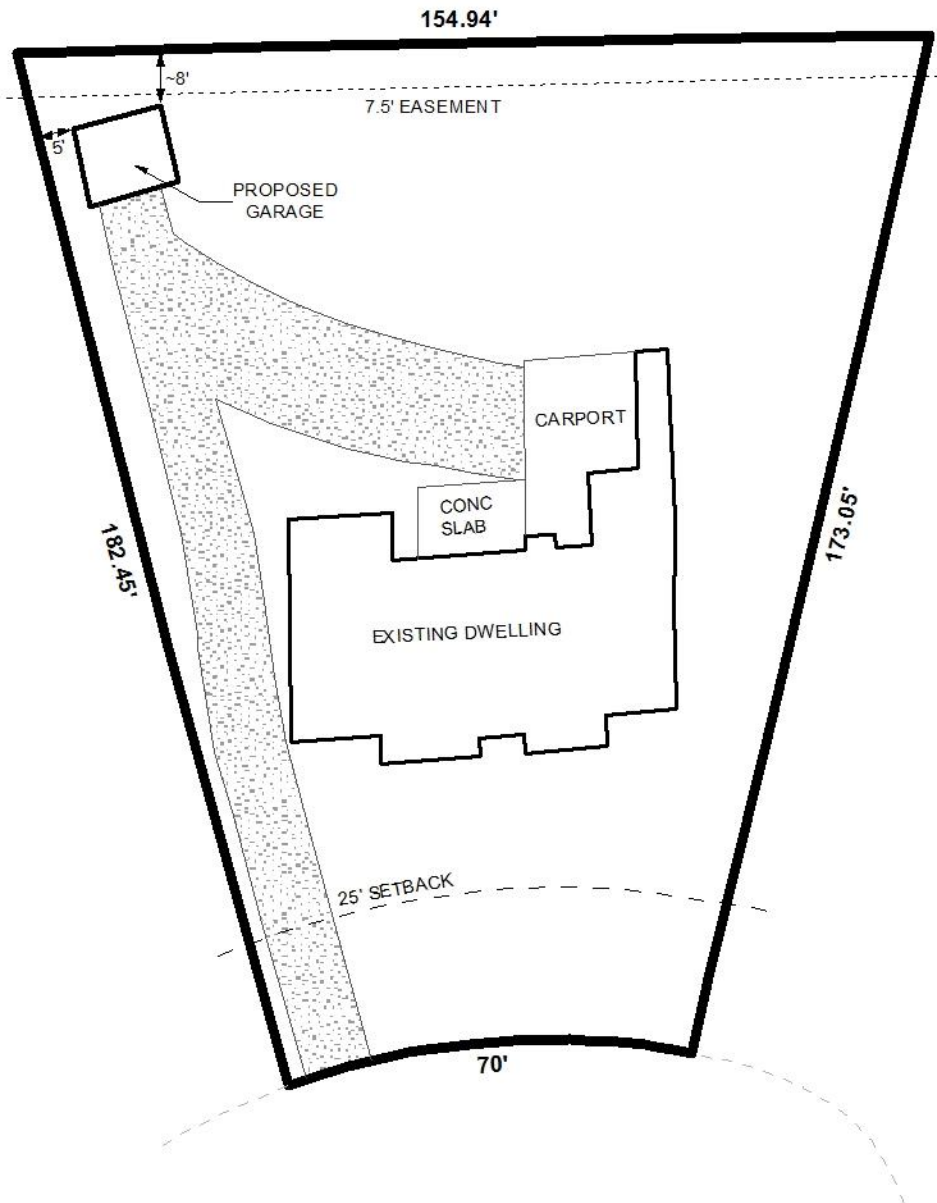


The site is surrounded by residential units.

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# SITE PLAN



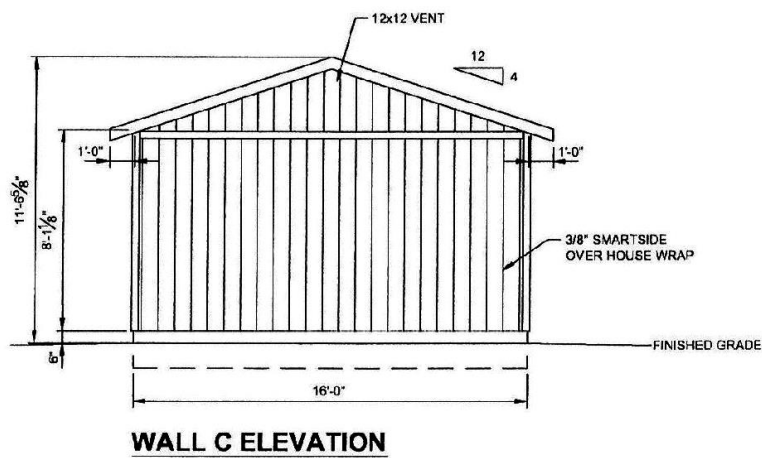
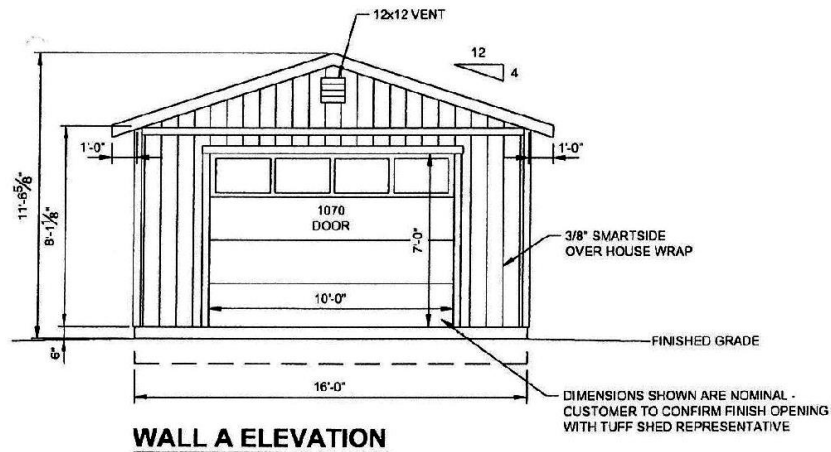
The site plan illustrates the proposed garage, the existing house, setbacks and easements.

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# DETAIL SITE PLAN



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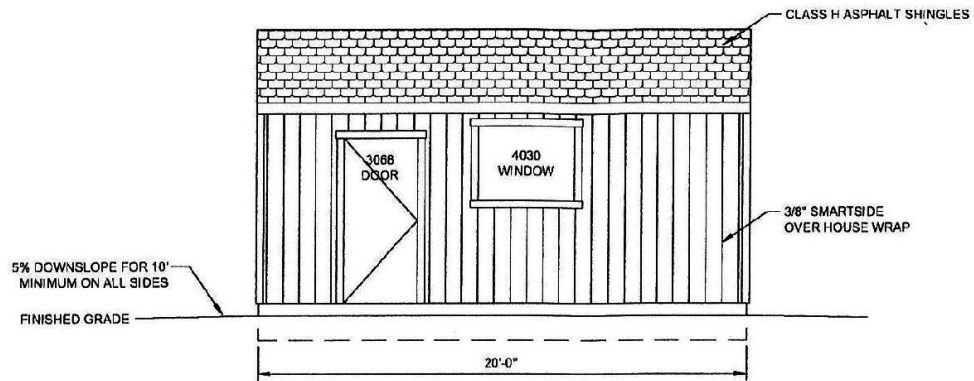
REQUEST Setback Variance



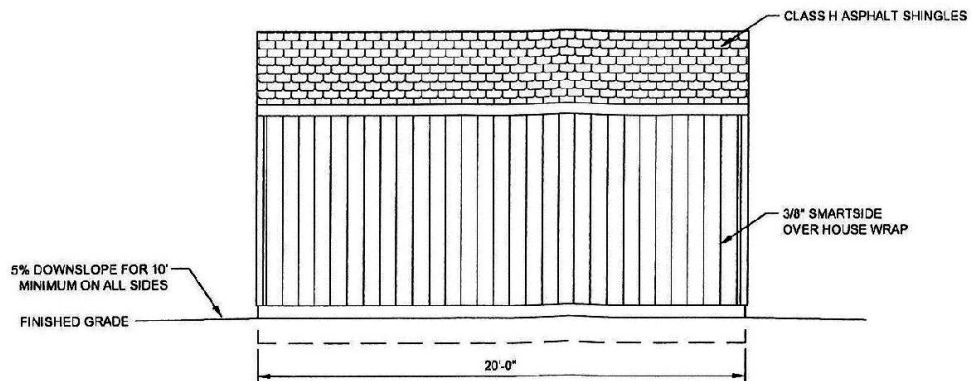
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# DETAIL SITE PLAN



**WALL B ELEVATION**



**WALL D ELEVATION**

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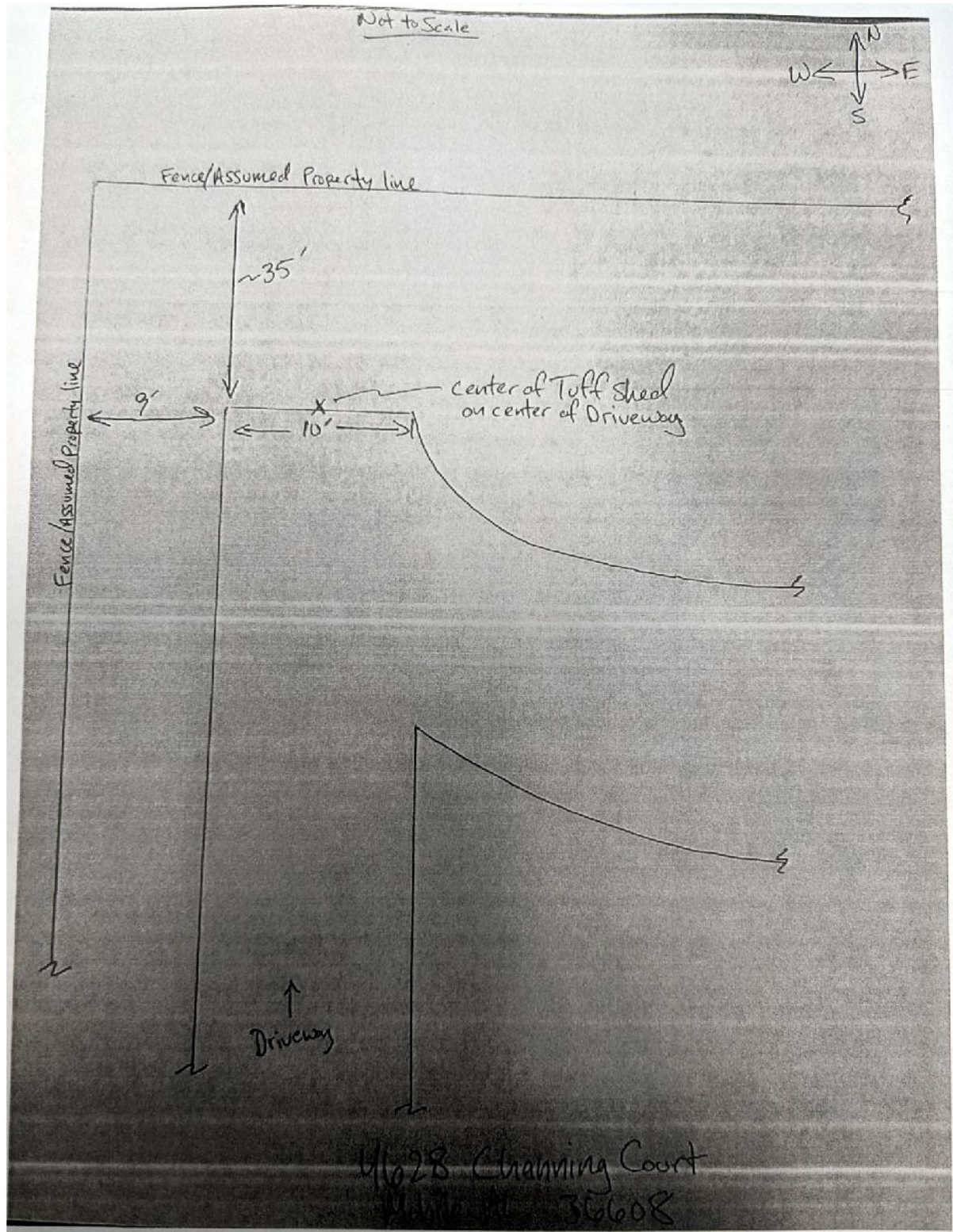
APPLICANT Spencer Tuell

REQUEST Setback Variance



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# DETAIL SITE PLAN



APPLICATION NUMBER	6305	DATE	February 3, 2020
APPLICANT	Spencer Tuell		
REQUEST	Setback Variance		

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