



# Agenda Item # 1

## BOA-002671-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

### DETAILS

**Location:**

3250 Graham Road North

**Applicant:**

Tanya Garmon

**Property Owner:**

Christian and Tanya R. Garmon

**Current Zoning:**

R-1, Single-Family Residential Suburban District

**Future Land Use:**

Low Density Residential

**Case Number(s):**

6551

**Unified Development Code Requirement:**

- A Home Occupation is to be incidental to the residential use of the property and cannot have a freestanding storage building or garage associated with the use.
- A 25-side street side yard setback for all structures in a R-1, Single-Family Residential Suburban District.

- All uses shall provide the minimum amount of off-street parking.

**Board Consideration:**

- To allow a barbershop to operate in a R-1, Single-Family Residential Suburban District in an accessory structure.
- To allow a structure to encroach within the 25-foot side street side yard setback in a R-1, Single-Family Residential Suburban District.
- To allow a barbershop to operate with no on-site parking in a R-1, Single-Family Residential Suburban District.

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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by single family residential units.

APPLICATION NUMBER <u>6551</u> DATE <u>January 8, 2024</u>	
APPLICANT <u>Tanya Garmon</u>	
REQUEST <u>Use, Side Street Side Yard Setback, and Parking Variances</u>	

## HOLDOVER COMMENTS - FEBRUARY 5TH

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Staff has received a second revised site plan clarifying that the structure that will be occupied by the proposed barbershop which is identified on the site plan as a “mother-in-law suit”. There is a second accessory structure on the subject site, which is a storage building/shed. Staff inspected the site and was able to verify that the proposed barbershop structure has been relocated outside of the setback, as depicted on the site plan. The revised site plan also depicts a proposed customer parking space connected to the existing asphalt driveway.

As depicted, the subject site will no longer require setback or parking variances; only the requested Use Variance.

## HOLDOVER CONSIDERATIONS - FEBRUARY 5TH

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### Planning Comments: (REVISED FOR THE FEBRUARY 5<sup>TH</sup> MEETING)

Based on the requested Variance application and revised documentation submitted, if the Board considers approval of the Use Variance (Setback and Parking no longer required) request, the following findings of fact must be present:

- 1) The variance **will not** be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If the Board is inclined to approve this request, the following condition should apply:

- 1) Obtain all required permits for the structure.

## HOLDOVER COMMENTS - JANUARY 8th

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### Planning Comments: (REVISED FOR THE MEETING)

This application was heldover from the Board of Zoning Adjustment’s November 6<sup>th</sup> meeting to allow the applicant to alter the application and plans to better achieve zoning compliance. A revised site plan was submitted for staff review.

The revised site plan illustrates an additional structure that is not located within the 25-foot setback and was not illustrated on the site plan submitted with the application. The site plan does not provide a label or description to indicate the proposed use of the additional structure. The applicant advised staff that the additional structure is the barbershop, and the proposed barbershop that was in the original location per the site plan submitted with the application was left in place in error. If the Board is inclined to approve this request, it will be necessary to revise the site plan to remove any additional structures that are not present at the site, and all structures are correctly identified.

The applicant has requested a parking variance as no customer parking is proposed. Based on the proposed use as a barbershop, the parking requirement is 1 parking space per 400 square feet of building space. As the proposed barbershop is approximately 341 square feet, only one (1) parking space is required. There is a parking



space illustrated on the revised site plan. However, the site plan does not provide the dimensions and type of surfacing of the parking space, and does not illustrate an access and maneuvering area with compliant surfacing.

The accessory structure was placed at the site in its current location prior to the area being annexed into the City of Mobile in 2023; however, there is no record of a building permit being issued by Mobile County. If the Board is inclined to approve this request, it will be required that the building to comply with all municipal codes and ordinances (including Fire, Building, and Plumbing codes, etc.) and obtain all required permits for the proposed commercial use of the building.

## HOLDOVER CONSIDERATIONS - JANUARY 8th

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Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be present:

- 1) The variance **will not** be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If the Board is inclined to approve this request, the following condition should apply:

- 1) Revision of the site plan to remove the structure that is not to remain, and all structures correctly labeled;
- 2) Revision of the site plan to illustrate a compliant parking area and access and maneuvering area;
- 3) Obtain all required permits for the structure.

## SITE HISTORY

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The site was created as part of the Meadow Lane Estates Second Addition Subdivision, approved by the Planning Commission at their May 2, 1974 meeting. The plat was recorded in Mobile County Probate Court on June 19, 1974.

The site was annexed into the City of Mobile in July of this year, and there have been no other applications before the Planning Commission or Board of Zoning Adjustment for the site.

## STAFF COMMENTS

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### Engineering Comments:

No comments.

### Traffic Engineering Comments:

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Article 3, Section 64-3-12 of the City's Unified Development Code.

## 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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

## Fire Department Comments:

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all non-sprinklered commercial buildings and within 300' of all sprinklered commercial buildings. Fire water supply for all commercial buildings will be required to meet the guidance of Appendices B and C of the 2021 International Fire Code. The minimum requirement for fire hydrants is to be within 400' of non-sprinkled commercial buildings, within 600' of sprinkled commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

## Planning Comments:

The applicant is proposing to use an accessory structure located in the side street side yard setback for the operation of a barber shop with no on-site parking in a R-1, Single-Family Residential Suburban District.

The site was recently annexed into the City of Mobile in July 2023.

The applicant states that the 384-square foot lofted cabin was purchased prior to annexation to be used as a barber shop. There are no employees other than the resident and days of operation will be Tuesday through Saturday. The expected number of customers per week is 16 to 20 customers. Currently, the site is a residential home and the proposal should not pose any potential adverse impacts due to the limited number of weekly customers, the hours of operation being during regular business hours, and the location on the corner allowing customers to easily access the property.

The entire application packet is available via the link on Page 1.

The proposed use for the accessory structure is a barbershop. However, the site plan submitted illustrates the structure as a mother-in-law suite. Home businesses are allowed to operate as Home Occupations per Article 4, Section 64-4-2.B., under the following conditions:

1. No article shall be sold or offered for sale from the Dwelling unless it is produced inside of the Dwelling by the Dwelling occupants.
2. Home Occupations shall not occupy more than twenty-five (25) percent of the floor area of the Dwelling.
3. The services shall be performed by Persons occupying the home as their private Dwelling.
4. No additional Persons who do not live in the Dwelling shall be employed in the Home Occupation on the property.
5. No more than one (1) customer visit is allowed on the property at any time.
6. A commercial vehicle, limited to one standard sized car, van, or pickup, and one open or one enclosed trailer not to exceed twenty-six (26) feet in length, may be parked overnight on the property.
  - (a) The vehicle and the trailer may include advertising for the business.

- (b) The vehicle and the trailer may be used for equipment storage.
- 7. No freestanding storage building or garage may be used in association with the Home Occupation.

The proposed use as a barbershop taking place within a freestanding storage building is not permissible based on the home occupation requirements.

Furthermore, the accessory structure encroaches into the 25-foot side street side yard setback line along Meadow Avenue. The accessory structure was placed at the site in its current location prior to the area being annexed into the City of Mobile in 2023; however, there is no record of a building permit being issued by Mobile County. If the Board is inclined to approve this request, it will be necessary to comply with all municipal codes and ordinances (including Fire, Building, and Plumbing codes, etc.) and obtain all required permits for the proposed commercial use of the building.

The applicant has requested a parking variance as no customer parking is proposed. Based on the proposed use as a barbershop, the parking requirement is 1 parking space per 400 square feet of building space. As the proposed barbershop is approximately 341 square feet, only one (1) parking space is required. The site plan submitted illustrates sufficient space to allow feasible access and maneuvering for vehicles.

The application does not include information regarding a unique characteristic of the property which precludes the applicant from operating the barbershop in compliance with Home Occupation standards and setback requirements.

## VARIANCE CONSIDERATIONS

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### Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest,
- where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- the spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states; no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

## Considerations:

Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be present:

- 1) The variance **will not** be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If the Board is inclined to approve this request, the following condition should apply:

- 1) Obtain all required permits for the structure.

# LOCATOR ZONING MAP

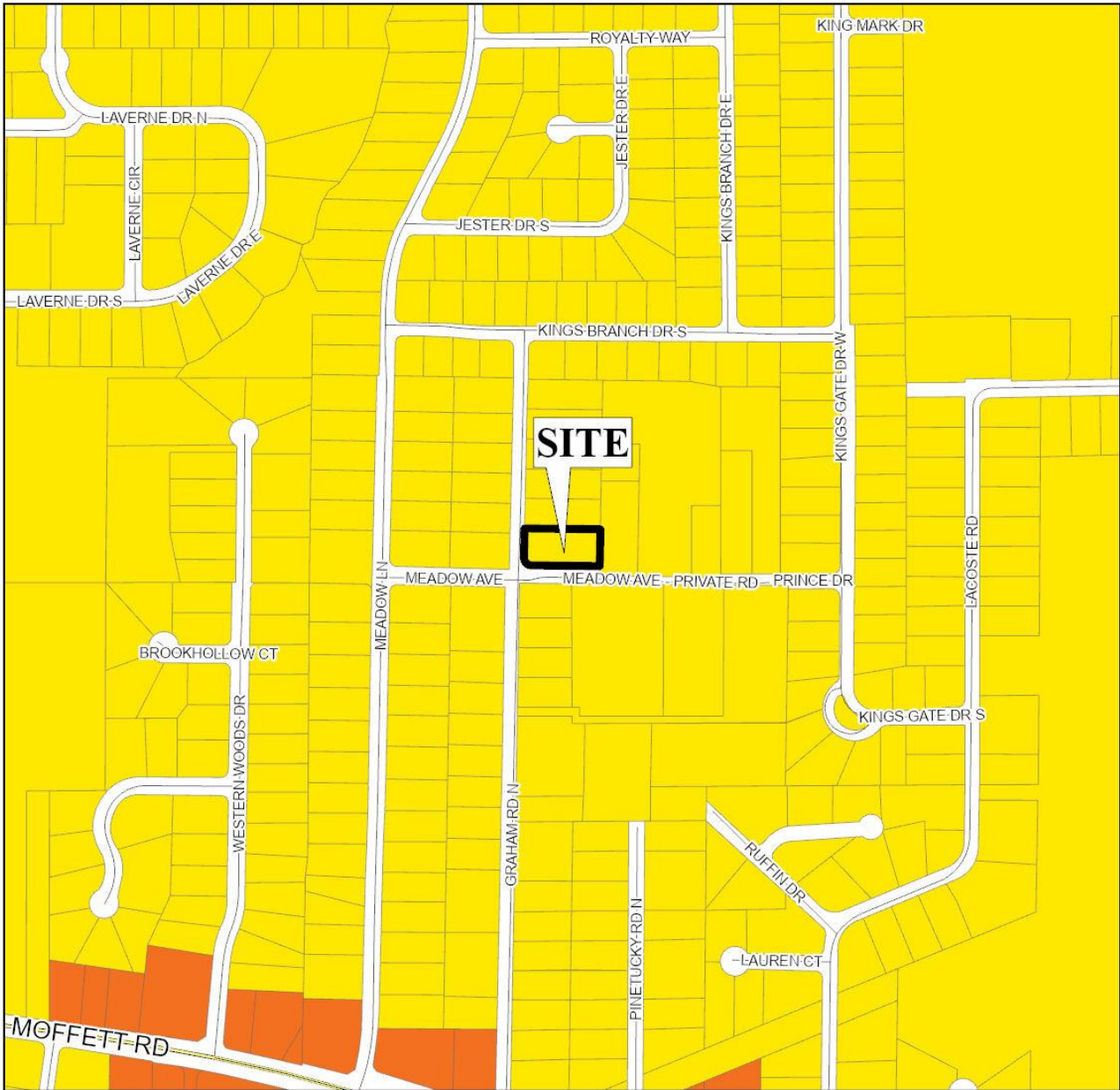


APPLICATION NUMBER 6551 DATE January 8, 2024  
APPLICANT Tanya Garmon  
REQUEST Use, Side Street Side Yard Setback, and Parking Variances





# FLUM LOCATOR MAP

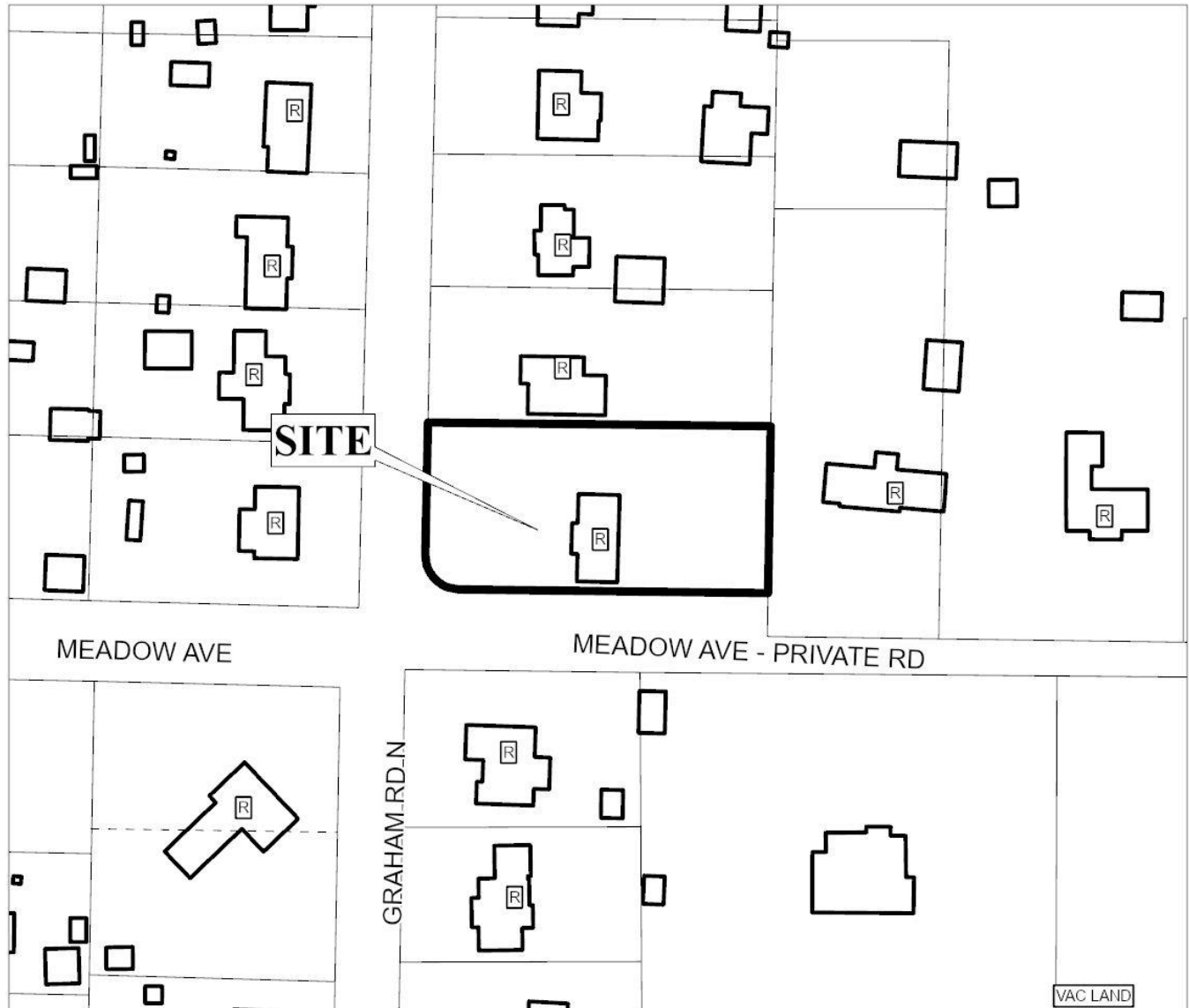


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- |   |  |  |  |
|---|--|--|--|
| <span style="color: yellow;">■</span> Low Density Residential   | <span style="color: darkred;">■</span> Neighborhood Center - Traditional | <span style="color: brown;">■</span> Downtown Waterfront | <span style="color: lightgreen;">■</span> Parks & Open Space |
| <span style="color: orange;">■</span> Mixed Density Residential | <span style="color: blue;">■</span> Neighborhood Center - Suburban       | <span style="color: lightgrey;">■</span> Light Industry  | <span style="color: darkblue;">■</span> Water Dependent      |
| <span style="color: magenta;">■</span> Downtown                 | <span style="color: pink;">■</span> Traditional Corridor                 | <span style="color: purple;">■</span> Heavy Industry     |  |
| <span style="color: red;">■</span> District Center              | <span style="color: orange;">■</span> Mixed Commercial Corridor          | <span style="color: cyan;">■</span> Institutional        |  |



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



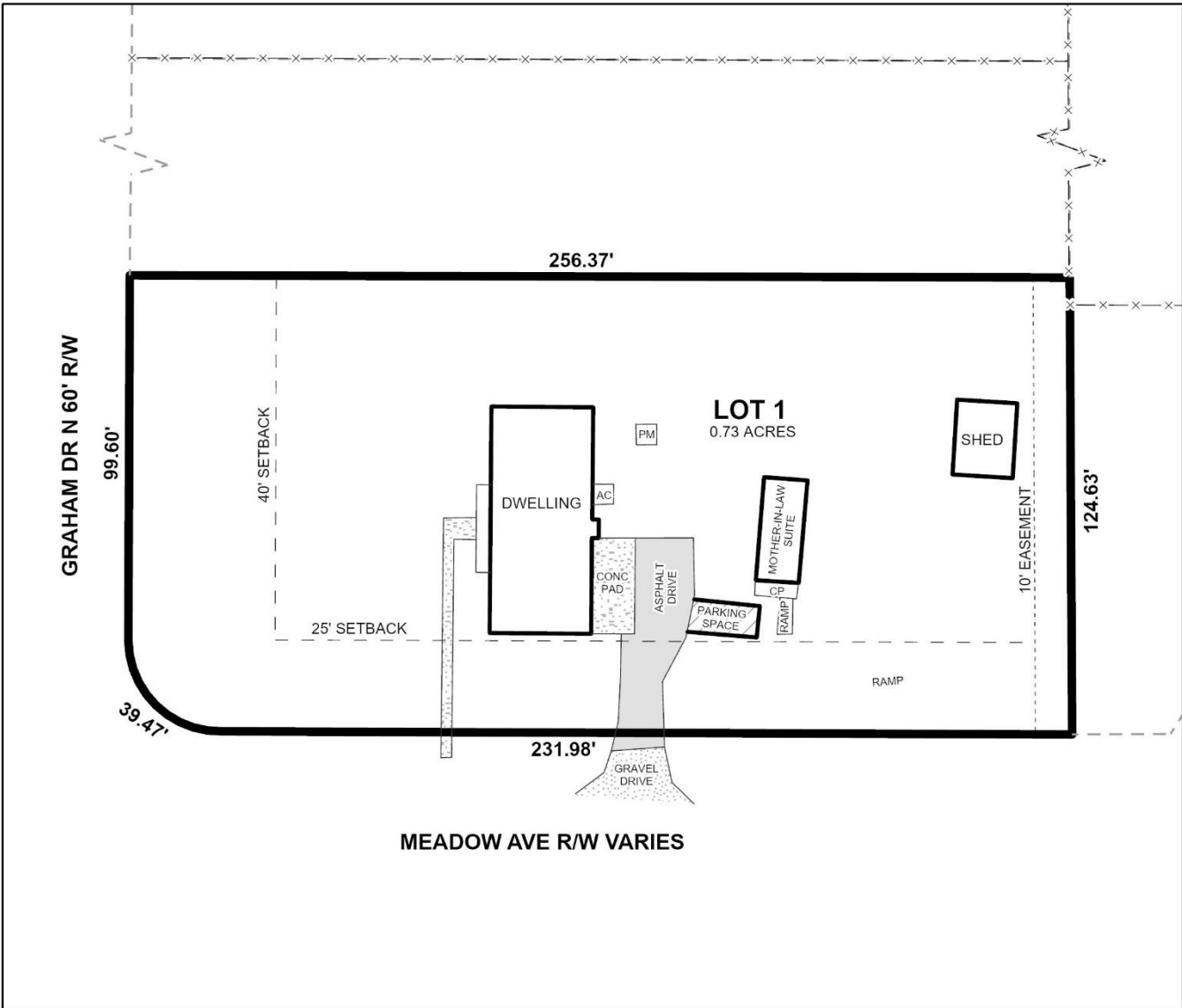
The site is surrounded by single family residential units.

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R-A	R-3	B-1	B-2	B-5	ML	I-2	OPEN	T-3	T-5.2
R-1	R-B	T-B	B-3	CW	MH	PD	SD	T-4	T-6
R-2	H-B	LB-2	B-4	MM	I-1	MUN	SD-WH	T-5.1	



# SITE PLAN



The site plan illustrates the existing buildings, setbacks, easement, and proposed parking space.

APPLICATION NUMBER <u>6551</u> DATE <u>January 8, 2024</u>	
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REQUEST <u>Use, Side Street Side Yard Setback, and Parking Variances</u>	

ZONING DISTRICT CORRESPONDENCE MATRIX			LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRU)
RESIDENTIAL - AG	R-A															
ONE-FAMILY RESIDENCE	R-1	■				■		■						□		
TWO-FAMILY RESIDENCE	R-2	■				■		■						□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■	■						□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■						□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■						□		
HISTORIC BUSINESS	H-B			■		■		■						□		
VILLAGE CENTER	TCD					■	■							□		
NEIGH. CENTER	TCD					■	■							□		
NEIGH. GENERAL	TCD					■								□		
DOWNTOWN DEV. DDD	T-6			■										□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□						□		
DOWNTOWN DEV. DDD	T-5.2			■		■								□		
DOWNTOWN DEV. DDD	T-4			■		■		□						□		
DOWNTOWN DEV. DDD	T-3			■		■								□		
DOWNTOWN DEV. DDD	SD-WH										○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○			○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■					□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■					□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■					□	○	
COMMUNITY BUSINESS	B-3				■				■				○	□	○	
GEN. BUSINESS	B-4			■					■				○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■				□	□	
LIGHT INDUSTRY	I-1									■				□	□	□
HEAVY INDUSTRY	I-2											■		□		□

**Zoning District Correspondence Matrix**

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)



# Residential Land Use



## LOW DENSITY RESIDENTIAL (LDR)

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 semi-detached, 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.