

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: May 4, 2020****CASE NUMBER**

6322

APPLICANT NAME

G. Allan Garstecki, Jr. and Kara M. Garstecki

LOCATION

206 Carmel Drive East
(East side of Carmel Drive East, 170'± North of the intersection of Carmel Drive East and Bexley Lane).

VARIANCE REQUEST

REAR YARD SETBACK: To allow construction of a covered patio within the required rear yard setback in an R-1, Single-Family Residential District.

**ZONING ORDINANCE
REQUIREMENT**

REAR YARD SETBACK: The Zoning Ordinance requires an 8' rear yard setback in an R-1, Single-Family Residential District.

ZONING

R-1, Single-family Residential District

AREA OF PROPERTY

0.48± Acre

**ENGINEERING
COMMENTS**

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

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit – Single Family Residential Affidavit be submitted through Central Permitting.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. 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.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

**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 DEPARTMENT**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)

CITY COUNCIL**DISTRICT**

District 7

ANALYSIS

The applicant is requesting a Rear Yard Setback Variance to allow construction of a covered patio within the required rear yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' rear yard setback for structures in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential land use designation per the Future Land Use Plan and Map, adopted by the Planning Commission at its May 18, 2017 meeting. 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 acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

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.

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 site plan submitted with the application indicates the proposed covered patio is to be within 2' of the rear property line. To the rear is a Common/Detention Area associated with Austill Estate Division Subdivision.

The applicant provided the following narrative regarding the request:

I am requesting, on behalf of the owners for the property located at 206 Camel Drive. The new owners are looking to put in a covered patio addition at the rear of their property adjacent to the newly developed Austil Estates. The planned patio is 16 x 23 feet and will sit adjacent to a common area detention facility for the development next door at 2 feet at a sharp corner. The shape of the property makes it difficult to add an addition anywhere else on the property that allows the owners to use there smaller rear yard. It runs at a severe angle and this rear are flattens out significantly in comparison to the development Austil Estates. The owners have granted an easement over and across their northern portion of property to be used as a drainage easement to allow Austil Estates to tie into the existing City storm water system which restricts the use of this portion of property in the future. We have obtained a letter from the developer stating that he is not opposed to the increase into a typical rear setback. Furthermore, the severe slope and presence of a detention pond in the common area, which creates minimal impact to the only party adjacent.

The enclosure will be a minimal impact and we have access from both directions for maintenance. We ask that the enclosure be approved as submitted based on the shape of the property, slope challenges, presence of common area detention pond in perpetuity and easement granted for the benefit of the adjacent development and City drainage.

The rear property line does fall at an angle, such that the northern corner of the house is only 16 feet 7 inches \pm from the rear property line, while the southern corner of the house is 55 feet 6

inches \pm from the rear property line. There is an existing open patio immediately to the south of the proposed covered patio location.

A covered patio complying with the minimum 8 foot setback could be provided if either 1) the size was reduced to be approximately 15 feet wide, parallel to the house, instead of 26 feet wide, as proposed, or 2) replace the existing patio with a covered patio.

While the applicant has indicated that the abutting neighbor does not oppose the proposal, the applicant has not sufficiently demonstrated a hardship to justify the reduced setback request. Therefore, the Board should consider this request for Denial.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial of the Rear Yard Setback Variance request:

- 1) The applicant did not provide sufficient justification to support the need for the request, and no evidence was provided to indicate a hardship would be imposed by a literal interpretation of the Ordinance;
- 2) No special conditions were shown to exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) There was no evidence presented to indicate that the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

Revised for the June 1, 2020 meeting:

This application was heldover from the May meeting at the applicant's request. Revised information in the form of photographs was provided (attached), however, no additional justification for the request was provided. Therefore, the original recommendation stands.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial of the Rear Yard Setback Variance request:

- 1) *The applicant did not provide sufficient justification to support the need for the request, and no evidence was provided to indicate a hardship would be imposed by a literal interpretation of the Ordinance;*
- 2) *No special conditions were shown to exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) *There was no evidence presented to indicate that the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.*

Revised for the July 6, 2020 meeting:

This application was heldover from the June meeting at the applicant's request. No new information has been submitted. Therefore, the original recommendation stands.

RECOMMENDATION: *Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial of the Rear Yard Setback Variance request:*

- 1) The applicant did not provide sufficient justification to support the need for the request, and no evidence was provided to indicate a hardship would be imposed by a literal interpretation of the Ordinance;*
- 2) No special conditions were shown to exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) There was no evidence presented to indicate that the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.*

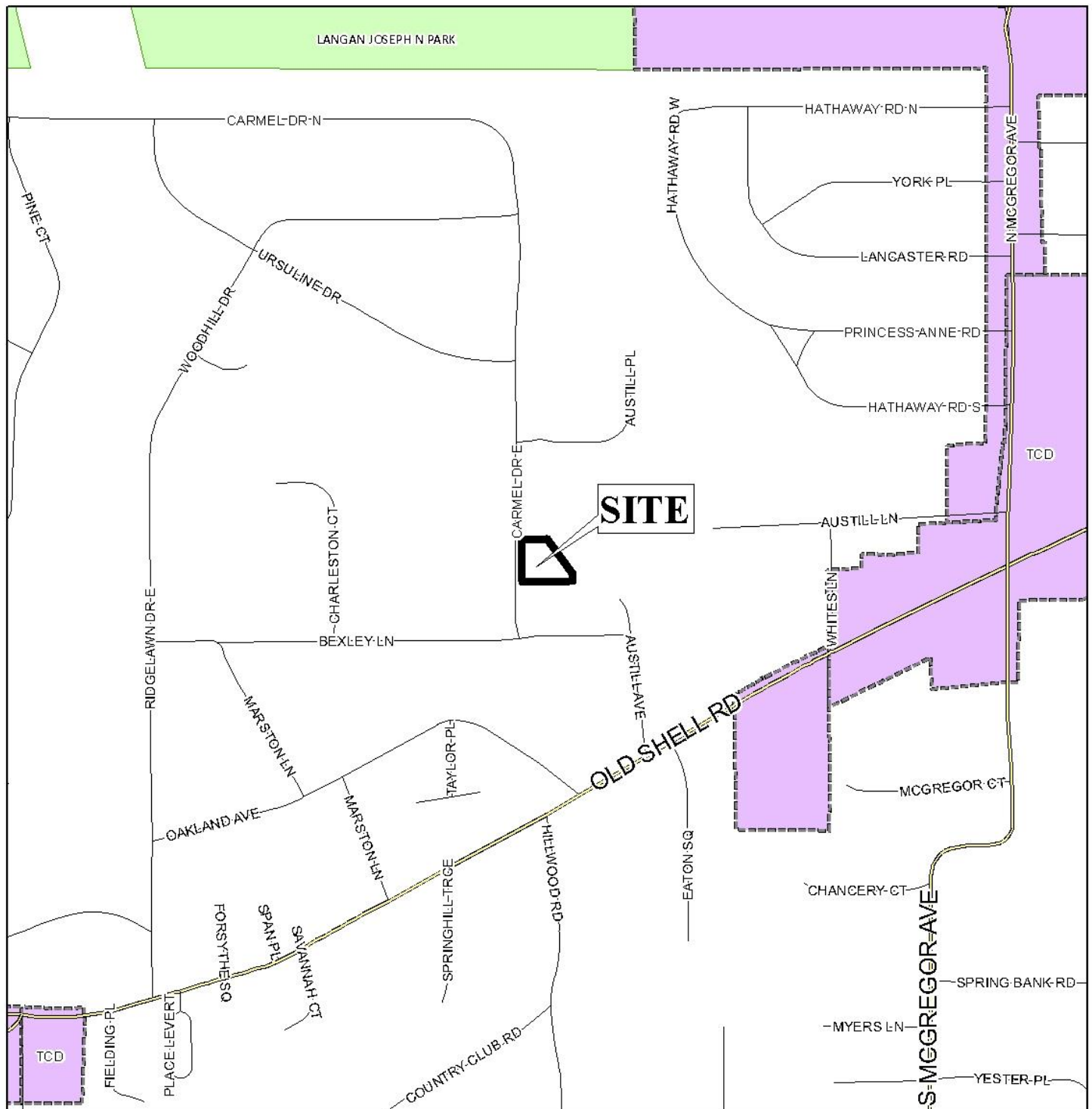
Revised for the August 3, 2020 meeting:

This application was heldover from the July meeting at the applicant's request. No new information has been submitted and again no additional justification for the request was provided; therefore, the original recommendation stands.

RECOMMENDATION: *Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial of the Rear Yard Setback Variance request:*

- 1) The applicant did not provide sufficient justification to support the need for the request, and no evidence was provided to indicate a hardship would be imposed by a literal interpretation of the Ordinance;*
- 2) No special conditions were shown to exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) There was no evidence presented to indicate that the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.*

LOCATOR MAP



APPLICATION NUMBER 6322 DATE August 3, 2020

APPLICANT G. Allen Garstecki, Jr. and Kara M. Garstecki

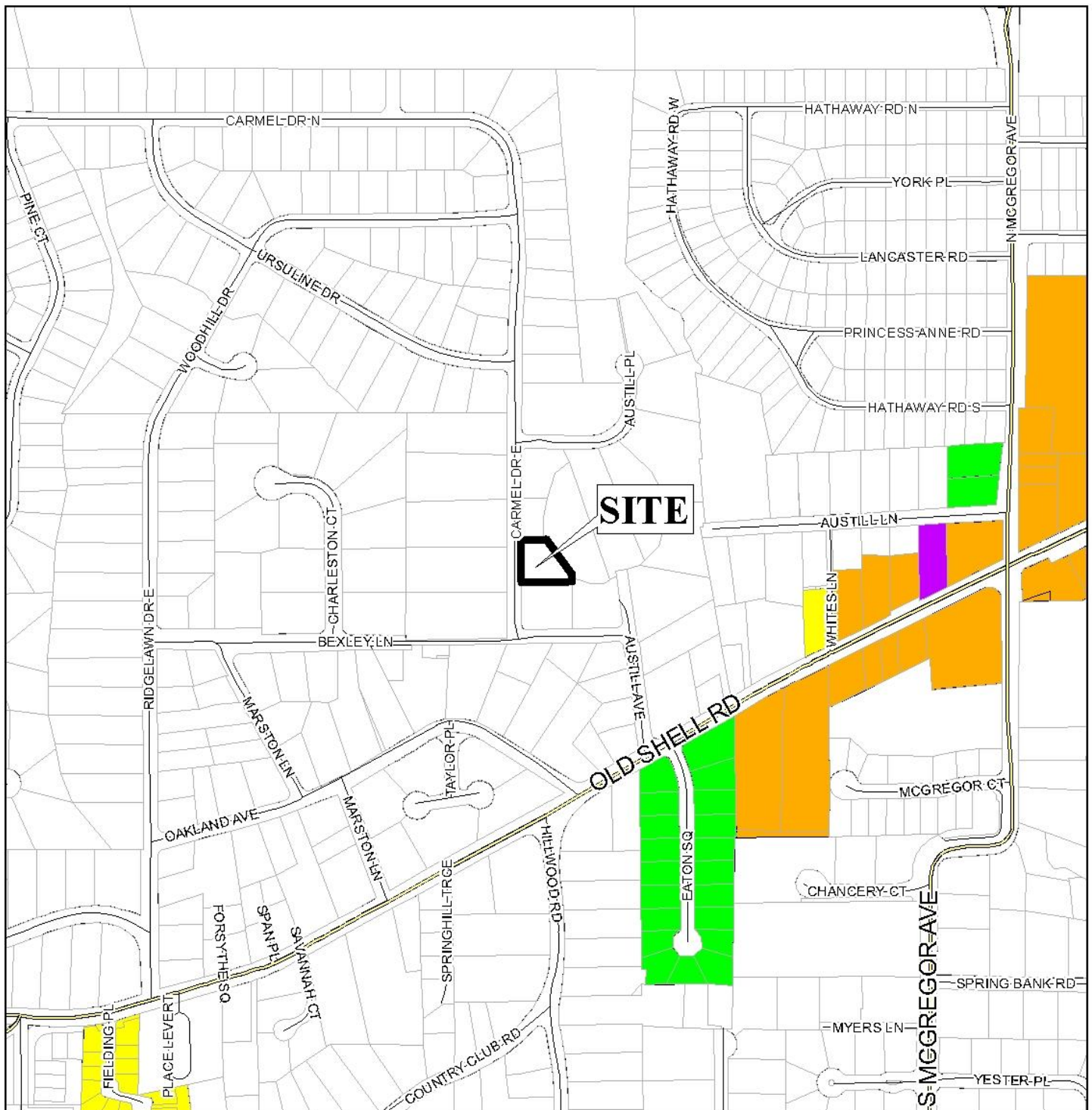
REQUEST Setback Variance

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NTS

LOCATOR ZONING MAP



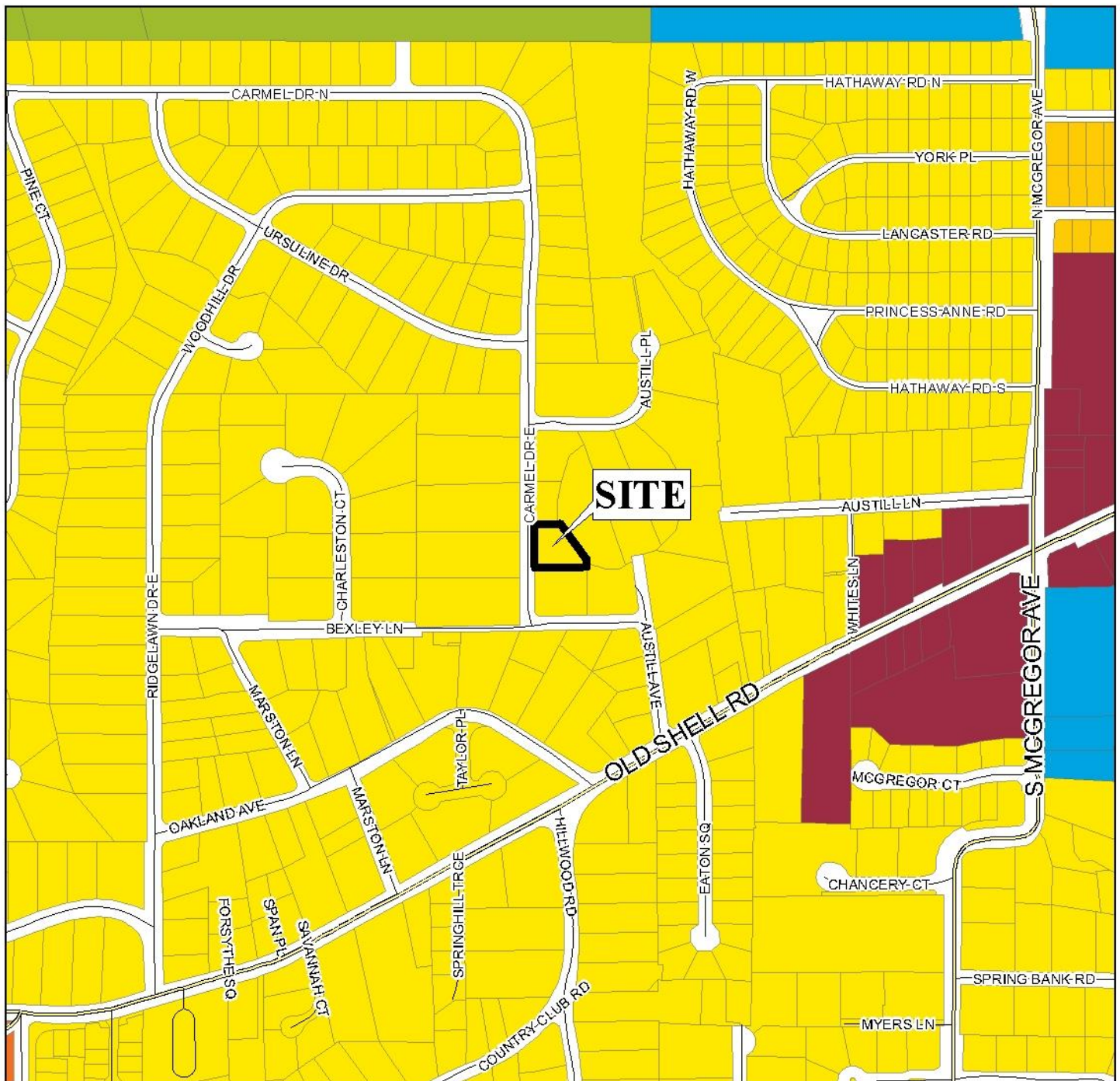
APPLICATION NUMBER 6322 DATE August 3, 2020

APPLICANT G. Allen Garstecki, Jr. and Kara M. Garstecki

REQUEST Setback Variance



FLUM LOCATOR MAP



APPLICATION NUMBER 6322 DATE August 3, 2020

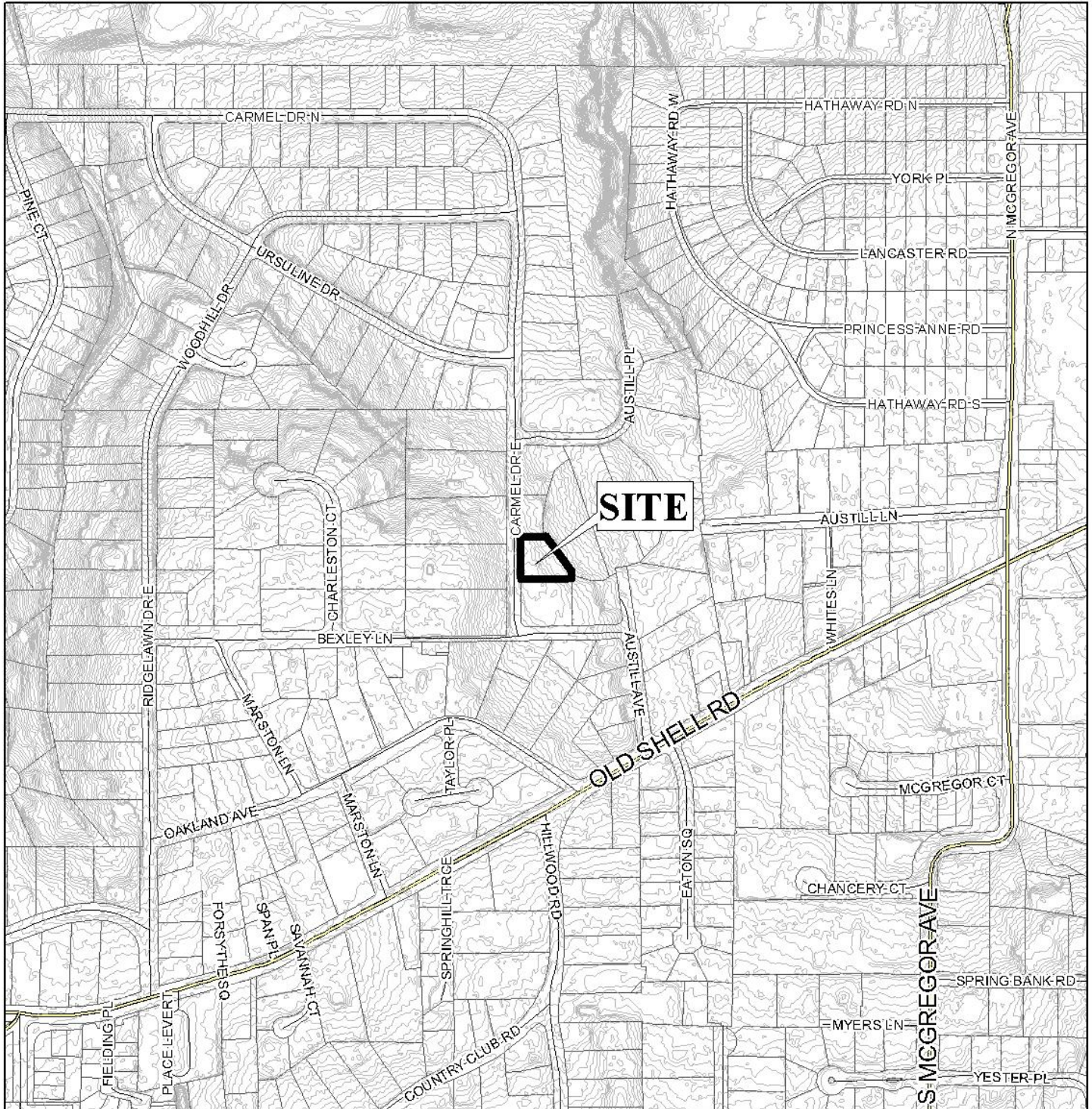
APPLICANT G. Allen Garstecki, Jr. and Kara M. Garstecki

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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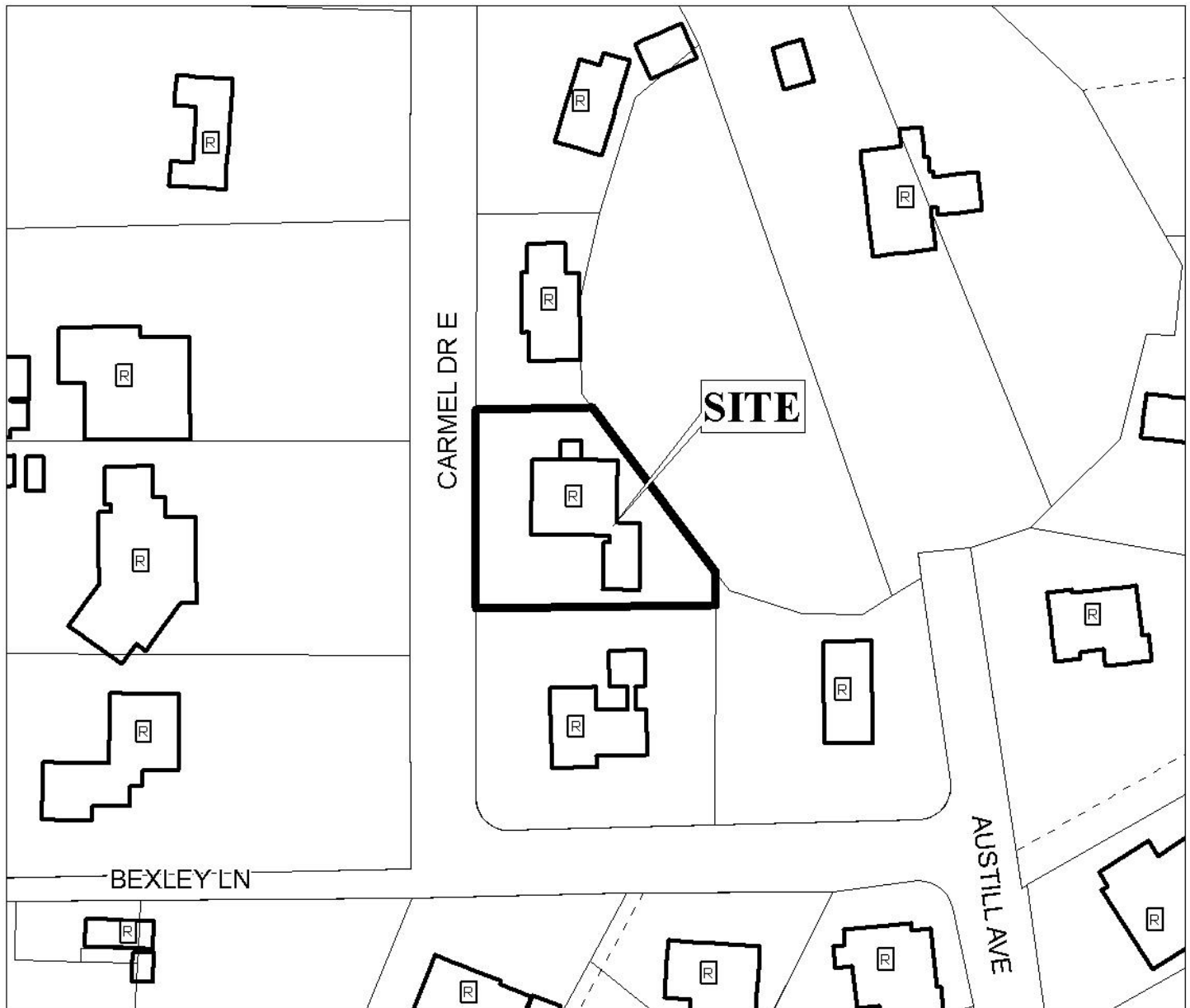
REQUEST Setback Variance



NTS

BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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REQUEST Setback Variance

 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING AERIAL

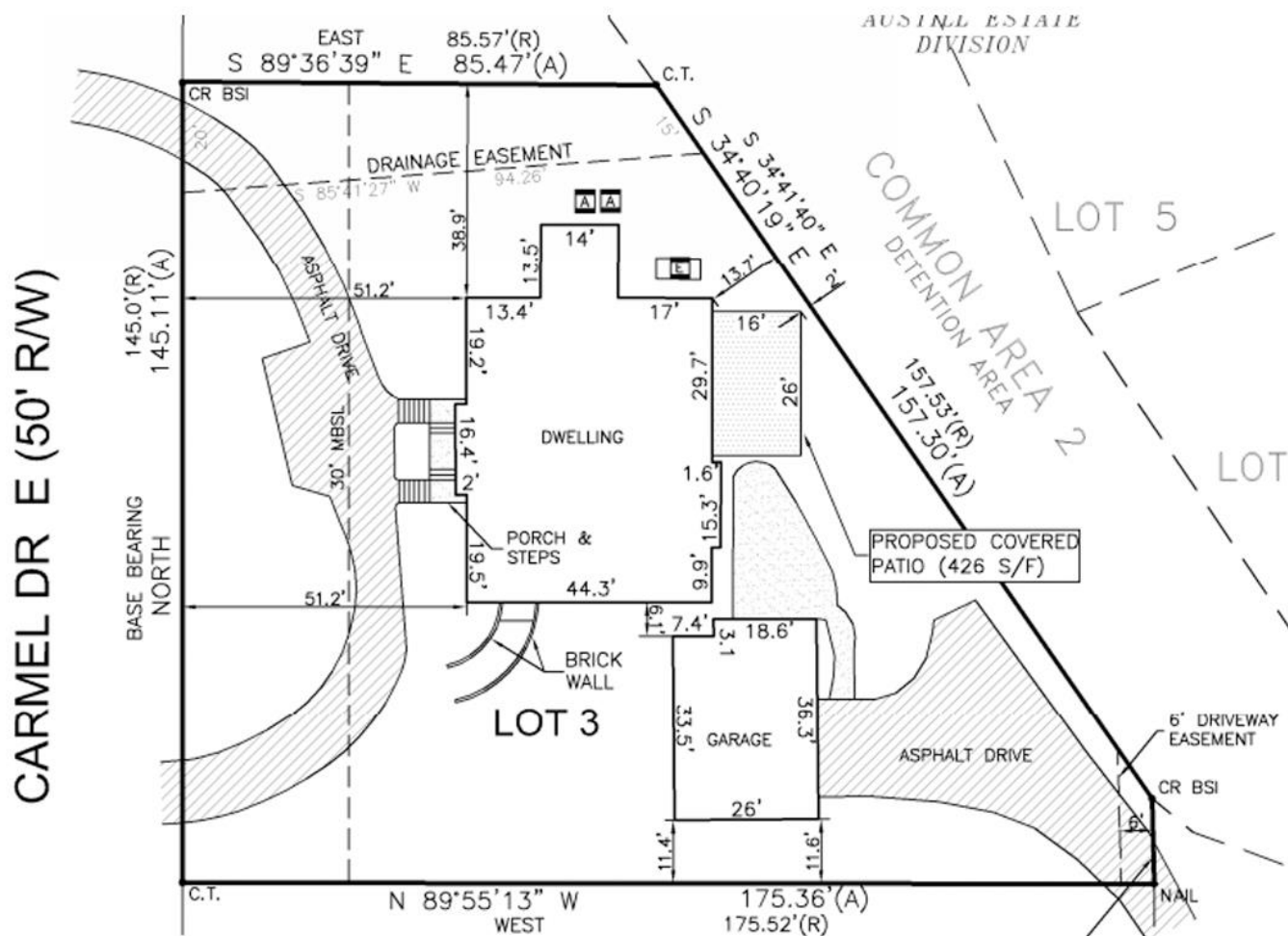


The site is surrounded by single family residential units.

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SITE PLAN



The site plan illustrates the existing dwelling, garage, proposed patio and setbacks.

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REQUEST Setback Variance



Images provided by the applicant.





shrubs at top of retention



