



Agenda Item # 1 - HOLDOVER

BOA-002788-2023

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

[Applicant Materials for Consideration](#)

DETAILS

Location:

2815 Grant Street

Applicant / Agent:

Melissa D. Kellam

Property Owner:

Melissa D. Kellam

Current Zoning:

R-1, Single-Family Residential Suburban District

Future Land Use:

Low Density Residential

Case Number(s):

6570

Unified Development Code Requirement:

- Site coverage is limited to a maximum of 35% and prohibits structures to be located in the front 25-foot setback in an R-1, Single-Family Residential Suburban District.

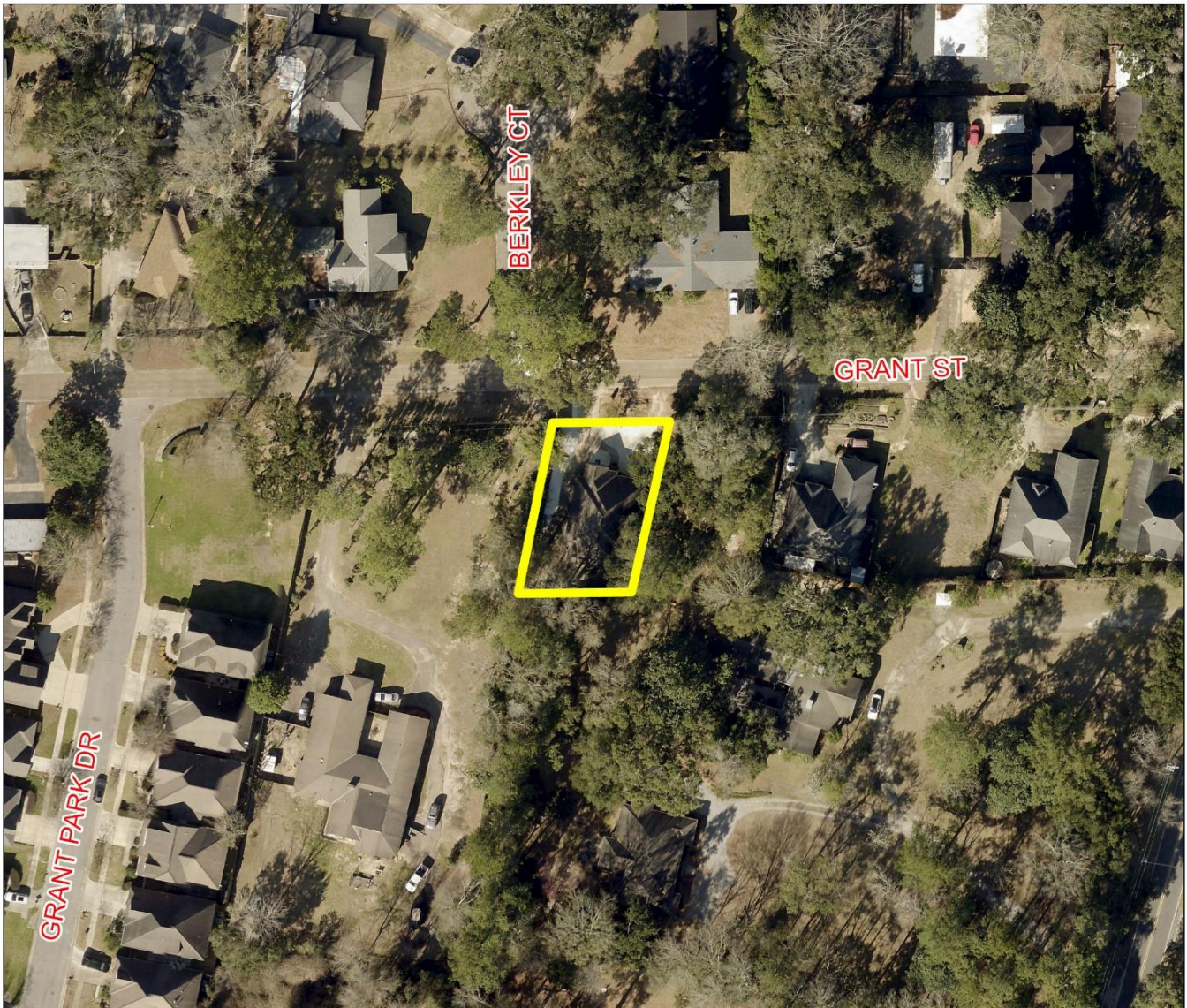
Board Consideration:

- To increase the maximum site coverage and allow a new carport to encroach into the front 25-foot setback in an R-1, Single-Family Residential Suburban District.

Report Contents:

	Page
Context Map	2
Holdover Comments.....	3
Holdover Considerations.....	3
Site History	4
Staff Comments	4
Board Considerations	6
Exhibits	7

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER	6570	DATE	March 4, 2024
APPLICANT	Melissa D. Kellam		
REQUEST	Site Coverage and Setback Variances		



HOLDOVER COMMENTS

This application was heldover from the Board's February 5th meeting at the applicant's request to allow the applicant to amend the application to better achieve zoning compliance. The applicant was advised at the meeting that the non-compliant wooden fences along the side property lines would also need to be addressed. No revisions were submitted by the applicant. However, the applicant submitted an email message stating that the fence replaced a nonconforming fence which had been in place for more than the last 20 years.

The applicant purchased the subject property in August 2020. A review of Google Street View going back to 2011 and continuing to February 2019 did not indicate any fence along either side property line. The earliest indication of fences was December 2023, showing the new fences in question. Therefore, the legal nonconforming status of any prior fences cannot be confirmed. Furthermore, a fence permit issued for the subject site on June 13, 2023 stated that the front 73 feet of fencing would be aluminum (chain link), which is allowed in front setbacks.

The issues associated with the carport as outlined previously are still applicable.

HOLDOVER CONSIDERATIONS

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 approved, the following conditions must apply:

- 1) Bringing the fence into compliance with the approved fence permit;
- 2) Obtaining of all necessary after-the-fact building permits; and
- 3) Full compliance with all municipal codes and ordinances.

SITE HISTORY

The site was created as part of YNG Place Subdivision, an eight (8)-lot subdivision, approved by the Planning Commission at its December 7, 1995 meeting, and recorded in Probate Court.

The site has not had any other Planning Commission or Board of Zoning Adjustment cases associated with it.

STAFF COMMENTS

Engineering Comments:

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

1. The proposed improvements will require a Land Disturbance Permit be submitted through the CSS Portal.
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:

No comments.

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-sprinklered commercial buildings, within 600' of sprinklered commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

Planning Comments:

The applicant is requesting Site Coverage and Setback Variances to increase the maximum site coverage and allow a new carport to encroach into the front 25-foot setback in an R-1, Single-Family Residential-Suburban District; the Unified Development Code (UDC) limits site coverage to a maximum of 35% and does not allow structures to be located in the front 25-foot setback in an R-1, Single-Family Residential Suburban District.

The site plan submitted with the application indicates that the edge of the support post closest to the front property line is setback approximately five (5)-feet; a 20-foot encroachment into the required setback. The roof of the carport is setback approximately 2.25 feet from the front property line, a 22.75-foot encroachment into the required front setback. In order to comply with the minimum standards of the Unified Development Code, the support posts would have to be 25-feet from the front property line, and the roof could then "overhang" or encroach two (2)-feet into the required setback. The overall site coverage allowed is 35 percent; however, with the carport, the site is at 36 percent site coverage; one (1) percent over the maximum allowance.

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

The applicant had the subject carport built in early 2023 without a building permit, and a complaint was filed with the City's 311 system since the carport encroached into the required front yard building setback. A Building Code inspection case was generated on March 1, 2023. The subsequent inspection on March 3, 2023 indicated that the structure had been constructed without a building permit, and a Notice of Violation (NOV) was issued. A follow-up inspection on May 31, 2023 was failed due to the lack of a building permit. The applicant applied for a building permit on June 13, 2023, but the permit application was incomplete. Another follow-up inspection on July 24, 2023 was failed, again due to the failure to obtain a building permit.

Regardless of application completeness, zoning could not approve the application due to setback and site coverage violations. The applicant cites the size of the lot (7,835.7 square feet) as being the hardship, restricting the only space for desirable covered parking to be in the front yard. However, the site plan indicates the driveway extends along the West side of the dwelling, and there are approximately 14-feet (14') from the side setback line to the dwelling. This would allow a carport to be built within this area and still allow a two-foot (2') roof overhang into the required side yard setback. Furthermore, a carport on the side of the house would most likely comply with site coverage allowances.

A wood privacy fence along both sides of the property encroaches into the 25-foot (25') front yard setback as it is over three feet (3') in height within the required setback.

The setback and site coverage standards are based on a typical residential lot with dimensions of 60-feet by 120-feet, or 7,200 square feet. The carport as built is an egregious violation and requires all maneuvering area in the right of way which is a safety hazard. Moreover, the existing dwelling is "in-line" with the other dwellings facing Grant Street.

It should be noted that there have not been any Front Yard Setback Variances granted within the subject neighborhood. Therefore, the approval of this variance may be contrary to the public interest due to no history of such variances in the vicinity.

VARIANCE CONSIDERATIONS

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
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Considerations:

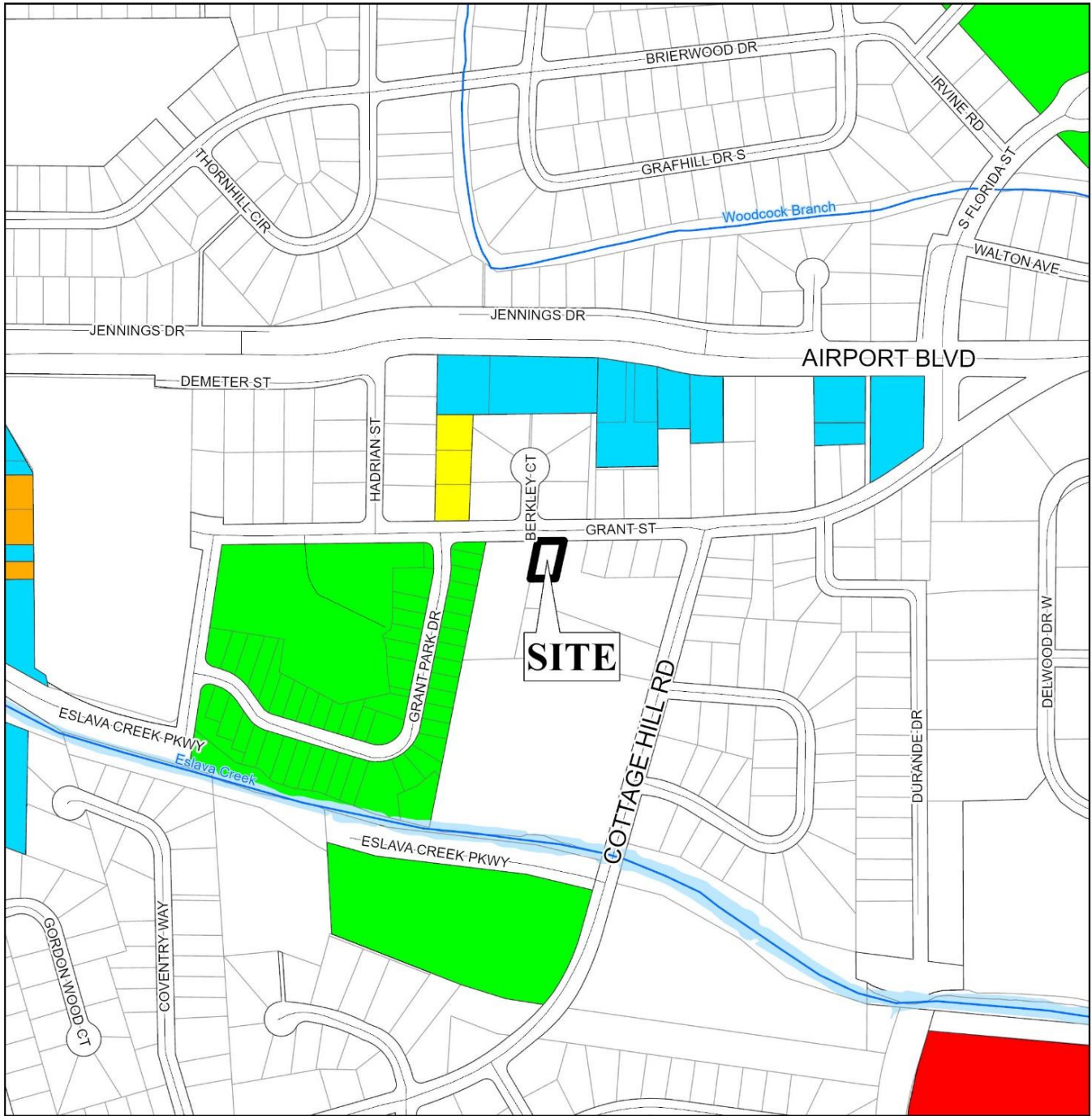
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be present:

- 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 approved, the following conditions must apply:

- 1) Obtaining of all necessary after-the-fact building permits; and
- 2) Full compliance with all municipal codes and ordinances.

LOCATOR ZONING MAP



APPLICATION NUMBER 6570 DATE March 4, 2024

APPLICANT Melissa D. Kellam

REQUEST Site Coverage and Setback Variances



FLUM LOCATOR MAP



APPLICATION NUMBER 6570 DATE March 4, 2024

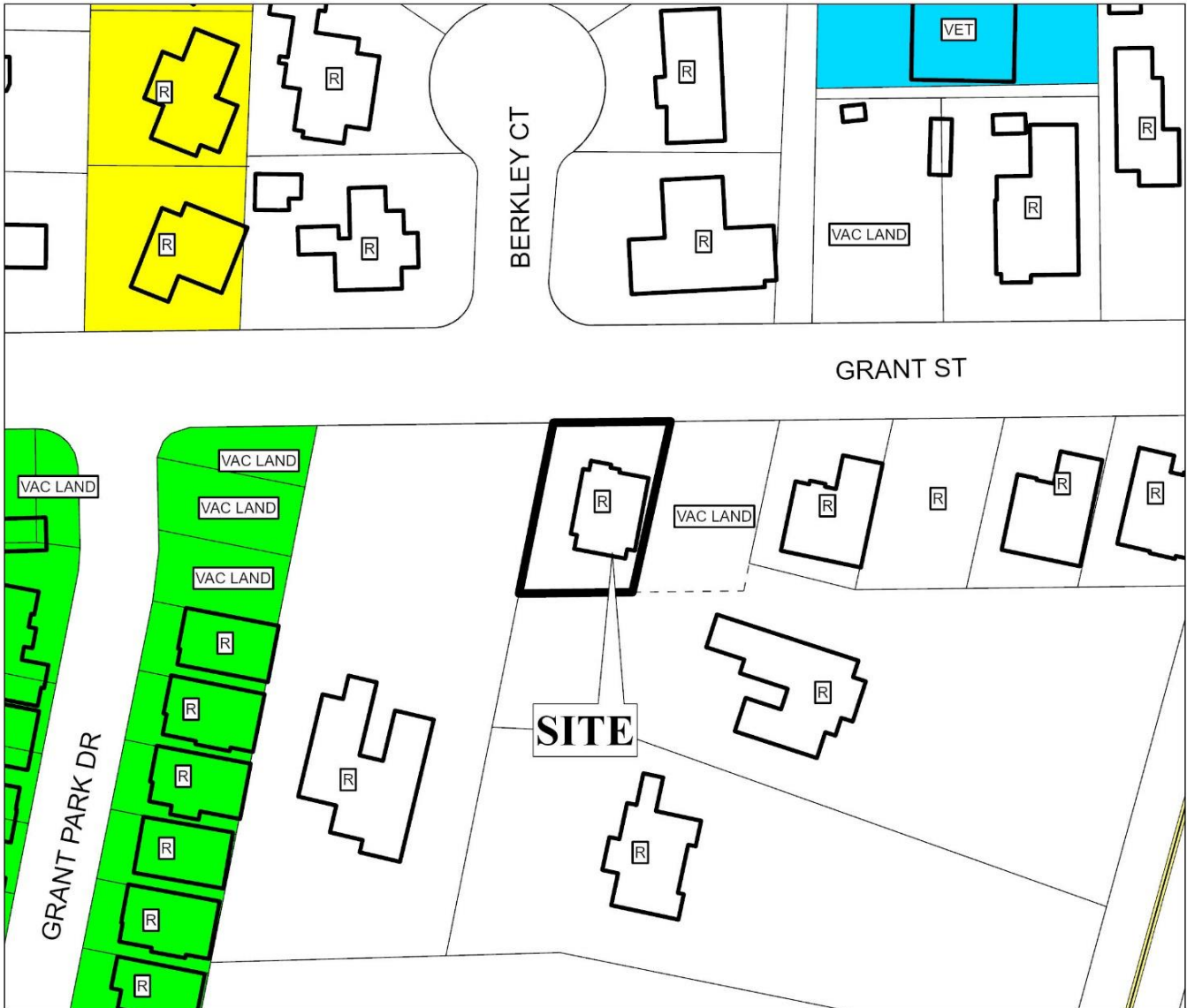
APPLICANT Melissa D. Kellam

REQUEST Site Coverage and Setback Variances

- | | | | |
|---|--|--|--|
| ■ 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 | |



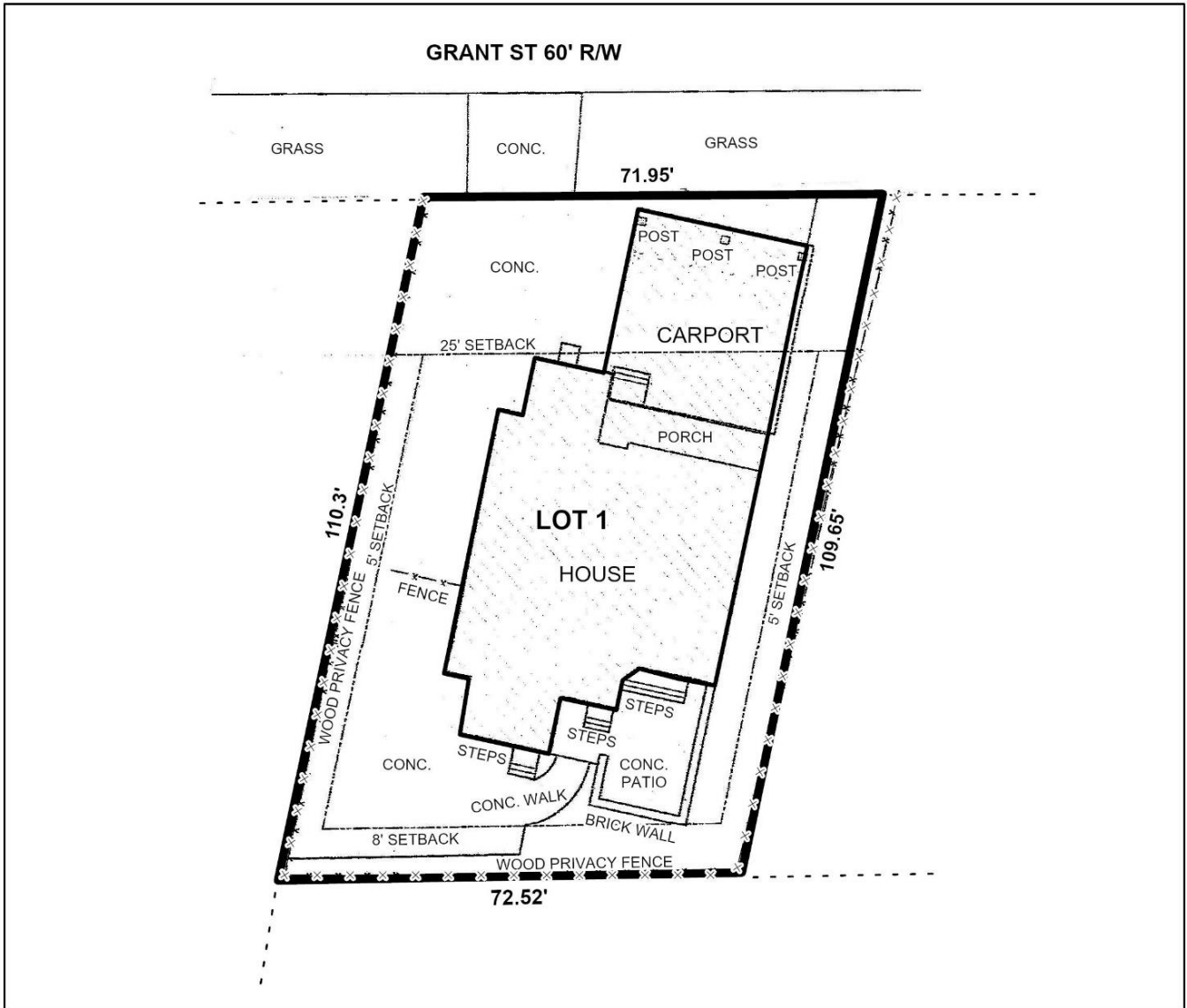
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING




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<table style="width: 100%; font-size: small;"> <tr> <td> R-A</td> <td> R-3</td> <td> B-1</td> <td> B-2</td> <td> B-5</td> <td> ML</td> <td> I-2</td> <td> OPEN</td> <td> T-3</td> <td> T-5.2</td> </tr> <tr> <td> R-1</td> <td> R-B</td> <td> T-B</td> <td> B-3</td> <td> CW</td> <td> MH</td> <td> PD</td> <td> SD</td> <td> T-4</td> <td> T-6</td> </tr> <tr> <td> R-2</td> <td> H-B</td> <td> LB-2</td> <td> B-4</td> <td> MM</td> <td> I-1</td> <td> MUN</td> <td> SD-WH</td> <td> T-5.1</td> <td></td> </tr> </table>		 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	
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SITE PLAN



The site plan illustrates setbacks, the existing residence, and the proposed carport.

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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 (WDWURU)
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.