

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: November 6, 2017****CASE NUMBER**

6127

**APPLICANT NAME**

James Randolph Miller, Jr.

**LOCATION**620 Cumberland Road East  
(West side of Cumberland Road East, 136'± North of  
Cumberland Road South)**VARIANCE REQUEST****SIDE AND REAR YARD SETBACKS:** Side and Rear  
Yard Setback Variances to allow a storage building 5.3'  
from the side property line and 7.8' from the rear property  
line in an R-1, Single-Family Residential District.**ZONING ORDINANCE  
REQUIREMENT****SIDE AND REAR YARD SETBACKS:** The Zoning  
Ordinance requires a minimum of 8' side and rear yard  
setbacks in an R-1, Single Family Residential District.**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

0.53 ± Acre

**CITY COUNCIL  
DISTRICT**

District 6

**ENGINEERING  
COMMENTS****SIDE YARD VARIANCE (2'-6" for a Storage Building):**

If the proposed **SIDE YARD VARIANCE** is approved the applicant will need to have the following conditions met:

1. The existing drainage patterns and surface flow characteristics will not be altered so as to have a negative impact on any adjoining or downstream properties.
2. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

**REAR YARD VARIANCE (1'-7" for a Storage Building):**

If the proposed **REAR YARD VARIANCE** is approved the applicant will need to have the following conditions met:

1. The existing drainage patterns and surface flow characteristics will not be altered so as to have a negative impact on any adjoining or downstream properties.
2. 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 61-929 and City Code Chapters 57 and 64).

**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 Side and Rear Yard Setback Variances to allow a storage building 5'-6" from the side property line and 6'-5" from the rear property line in an R-1, Single-Family Residential District. The Zoning Ordinance requires a minimum of 8' side and rear yard setbacks in an R-1, Single Family Residential District.

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:*

*"This letter is to request a variance for side and rear setback requirements stated in City of Mobile Code 64-3.C.1.E for a storage building located AT 620 Cumberland Road*

*East. A newly fabricated storage building located in the North West corner of Ridgefield Parcel R 02-28-05-21-4-001-103 at the stated property address will have less than the required \*' setback requirement against the North and West property lines. The current location of the storage building has a setback that tapers from approximately 6'5" to 5'6" on the North side of the property and a setback that tapers from approximately 9'110" to 6'5" on the West side of the property. This would result in a maximum variance of approximately 2'6" common to the North side of the property and approximately 1'7" common to the West side of the property."*

*"Due to the shape of the lot, existing live oak tree, and existing home structure, the storage building is not able to be located in compliance with Code 654-3.C.1.E requirements. The shape of the lot is not perpendicular to the rest of the lot in the North West corner which results in uneven setback. The storage building is also located perpendicular to the existing home structure for aesthetics and to be similar to other homes and structures in the neighborhood, which further changes the resulting setback as well in relation to the tapered corner of the lot. The West side of the existing home location also prevents the structure from being located any further South to increase setback on the North side. The previously mentioned features combined with an existing large live oak tree in the North West corner of the property, which cannot be removed, results in the storage building being located in a position in which a variance is required."*

*"The storage building is built and designed in a similar style and fashion as other buildings in the neighborhood. The design of this building was submitted to the HOA and approved with no issues noted. The location of the building will also not interfere with any neighboring properties as these properties also have storage buildings in this same corner of the property, so the proposed variance will not result in any negative effects on the neighbor's quality of life or property values. In summary, the proposed variance will allow for the storage building to be located in a position in which has no impact to neighboring properties or structures."*

Upon review of the recorded plat for Ridgefield Subdivision, Unit 1, Section A, it was discovered that there is a 7.5' drainage and utility easement along the rear of the subject lot. As part of the Variance request is to allow a 6.5' setback off the rear property line, this would place the building 1' within the easement and the Board cannot consider encroachments within easements. This application was originally scheduled to be heard at the Board's September meeting, but due to the easement encroachment the applicant requested a holdover to the October meeting to allow time to obtain an accurate survey of the situation and to relocate the structure at least out of the easement. The applicant relocated the structure forward out of the easement and the survey now indicates revised setbacks of 7.8' off the rear property line and 5.3' off the side property line. As the revised side yard setback is actually less than originally given in the initial public notification, and as staff received the revised setback information after the official newspaper public notification was submitted for publication, this application must be heldover to the November meeting to allow proper public notification of the revised side yard setback.

**RECOMMENDATION:** Due to the fact that a revised public notification must be given for the further reduced side yard setback request, staff recommends this application be heldover to the November meeting to allow sufficient time for the revised notification to be given.

***Revised for the November meeting:***

*This application was heldover from the October meeting due to the fact that a revised public notification must be given for the further reduced side yard setback request.*

*The revised site plan indicates the relocated subject building now to be 7.8' from the rear property line and out of the 7.5' drainage and utility easement. Therefore, the Board can consider the rear setback Variance request. However, the relocation reduced the side yard setback to 5.3' from the previous 5'-6" (5.5') setback requested.*

*As previously mentioned, in Variance requests, an applicant must illustrate that there is a very unusual characteristic of the property that satisfies the variance standards. In this instance, the location of the 72" Live Oak tree precludes the structure from being located within an area meeting the setback requirements. In other similar variance requests where the location of a large heritage tree has presented the same situation, the Board has been sympathetic to the applicant's request and approved setback variances. The Board should also consider this request for approval.*

**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 that Board has approved similar applications with similar hardships;*
- 2) Special conditions exist such as the proximity of the Live Oak tree within the buildable area where setbacks could normally be met that a literal enforcement of the provisions of the chapter may 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 Board has granted similar requests for similar sites within residential districts.*

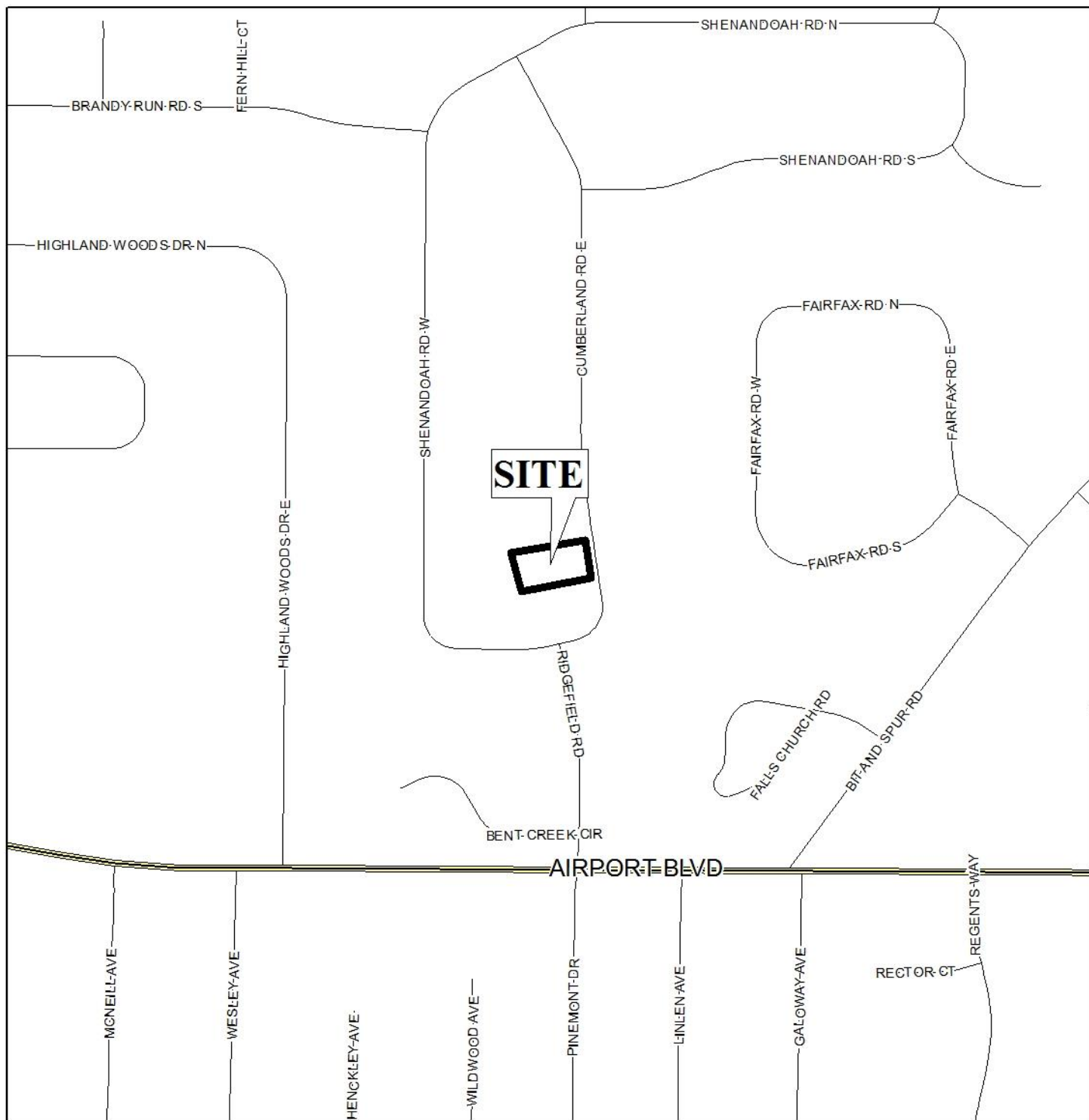
*Therefore, this application is recommended for approval, subject to the following conditions:*

- 1) obtaining of all required after-the-fact building permits;*
- 2) subject to the Engineering comments: (If the proposed **SIDE YARD VARIANCE** is approved the applicant will need to have the following conditions met: 1. The existing drainage patterns and surface flow characteristics will not be altered so as to have a negative impact on any adjoining or downstream properties. 2. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site. If the proposed **REAR YARD VARIANCE** is approved the applicant will need to have the following conditions met: 1. The existing drainage patterns and surface flow*

*characteristics will not be altered so as to have a negative impact on any adjoining or downstream properties. 2. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.);*

- 3) subject to the 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 61-929 and City Code Chapters 57 and 64).];*
- 4) subject to the 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).]; and*
- 5) full compliance with all other municipal codes and ordinances.*

# LOCATOR MAP



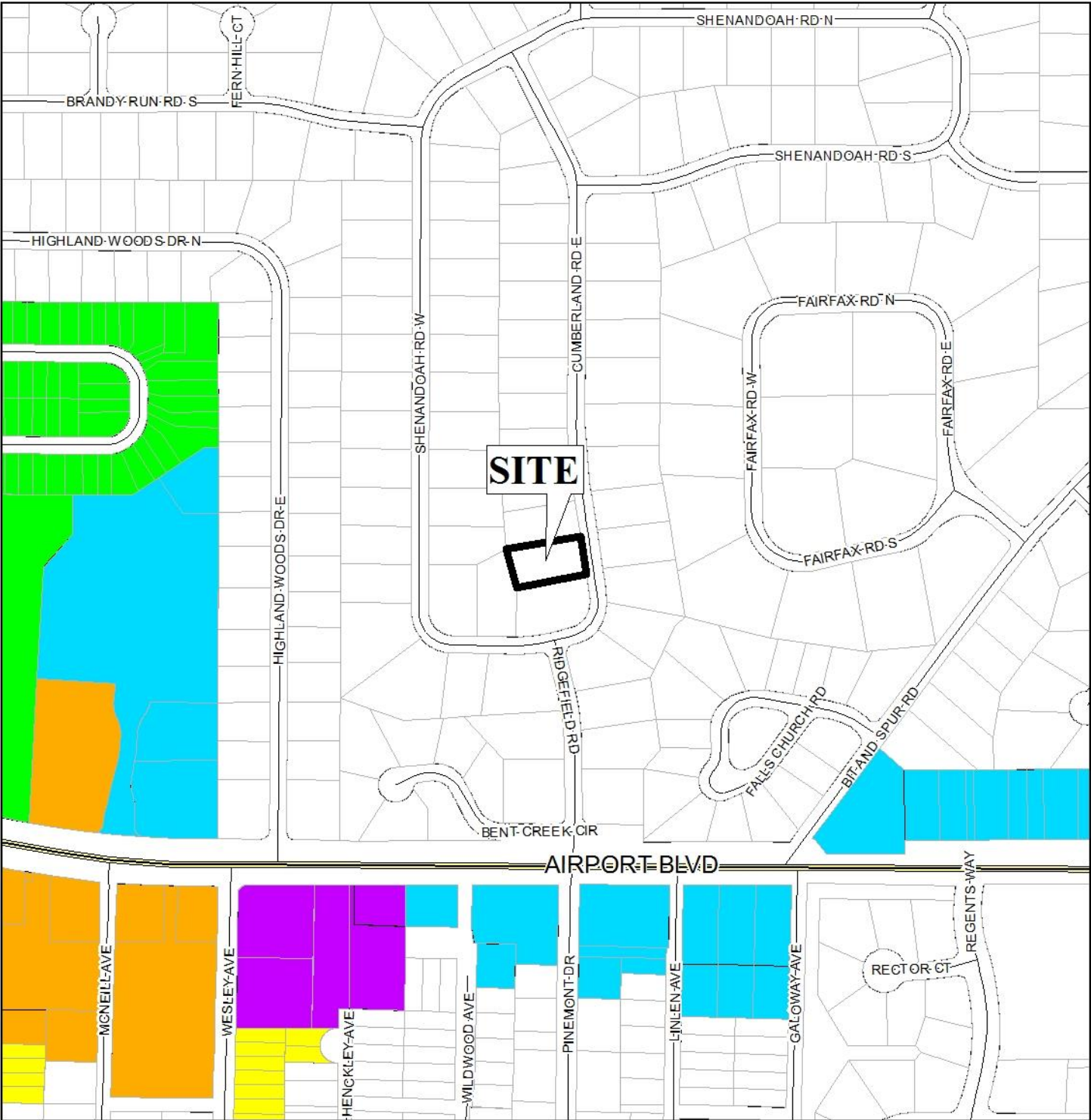
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APPLICANT James Randolph Miller, Jr.

REQUEST Side and Rear Setback Variances



# LOCATOR ZONING MAP



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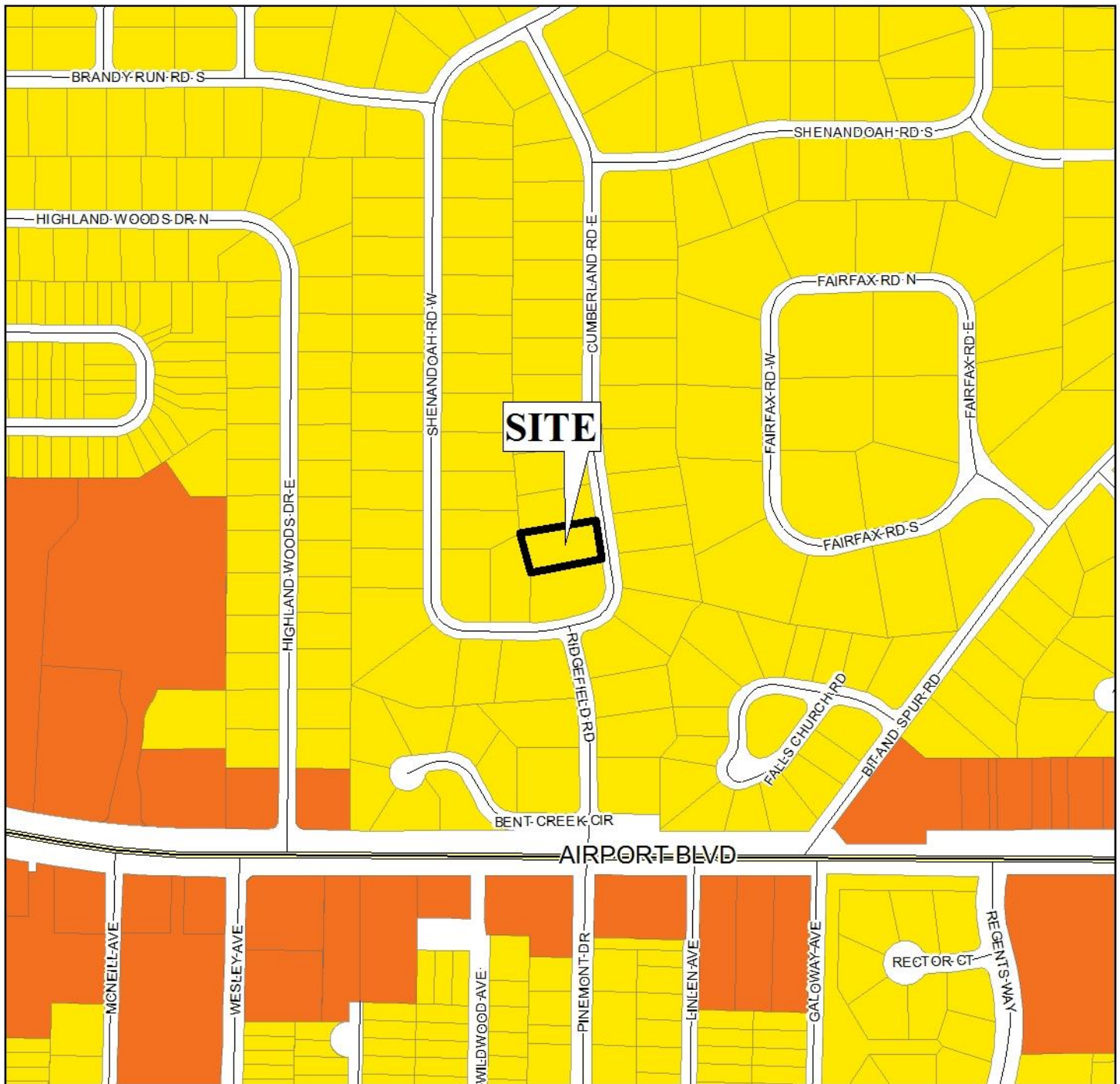
REQUEST\_\_\_\_\_Side and Rear Setback Variances



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# FLUM LOCATOR MAP



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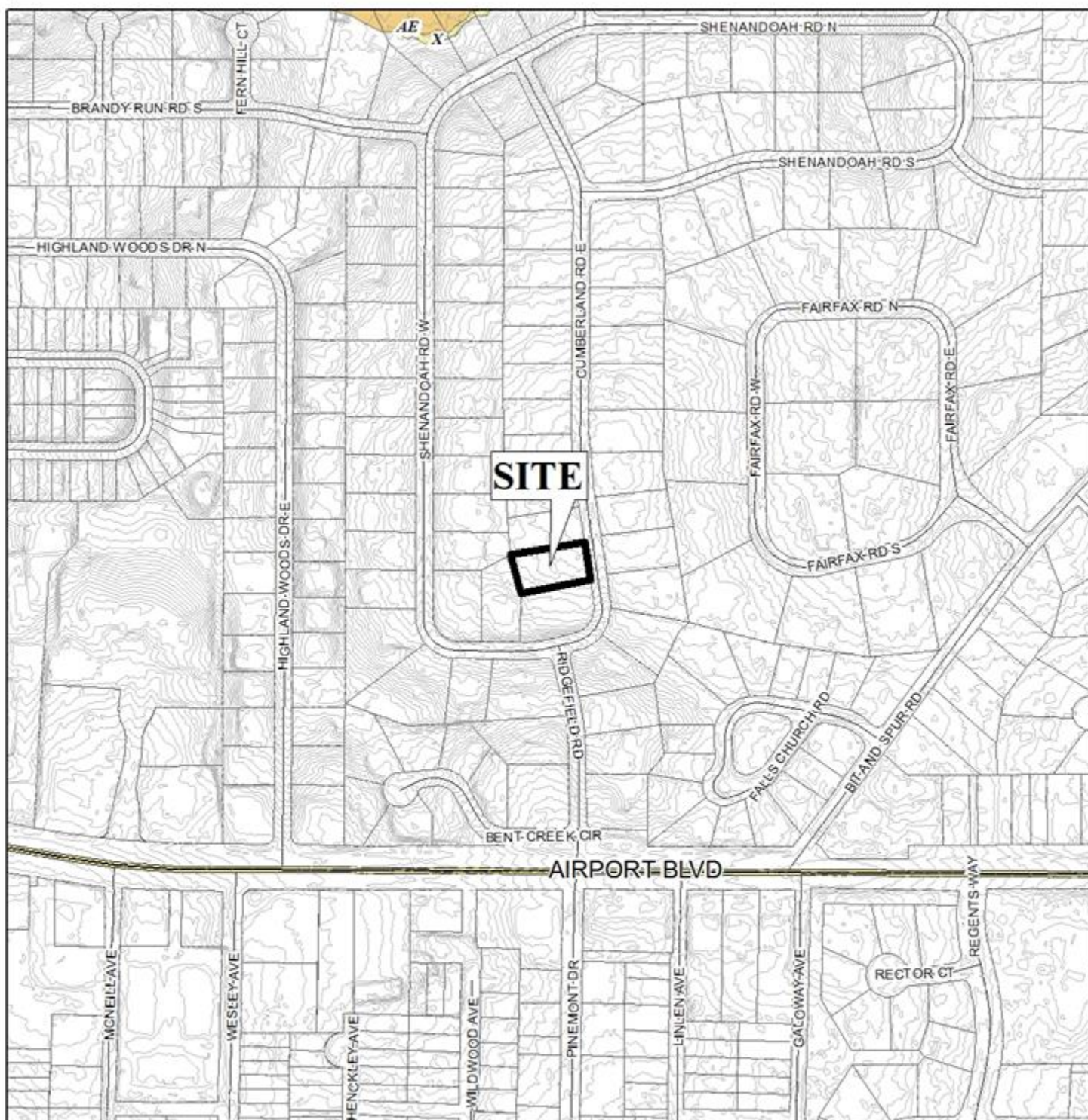
REQUEST Side and Rear Setback Variances

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





# ENVIRONMENTAL LOCATOR MAP



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# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-A	<span style="background-color: green; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-3	<span style="background-color: brown; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T-B	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-2	<span style="background-color: blue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-5	<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> MUN	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> SD-WH	<span style="background-color: purple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.1
<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: pink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T3	<span style="background-color: darkblue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.2
<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-2	<span style="background-color: peachpuff; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> H-B	<span style="background-color: magenta; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> LB-2	<span style="background-color: brown; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-4	<span style="background-color: gray; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> I-2	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> SD	<span style="background-color: purple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T4	<span style="background-color: darkpurple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T6





# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

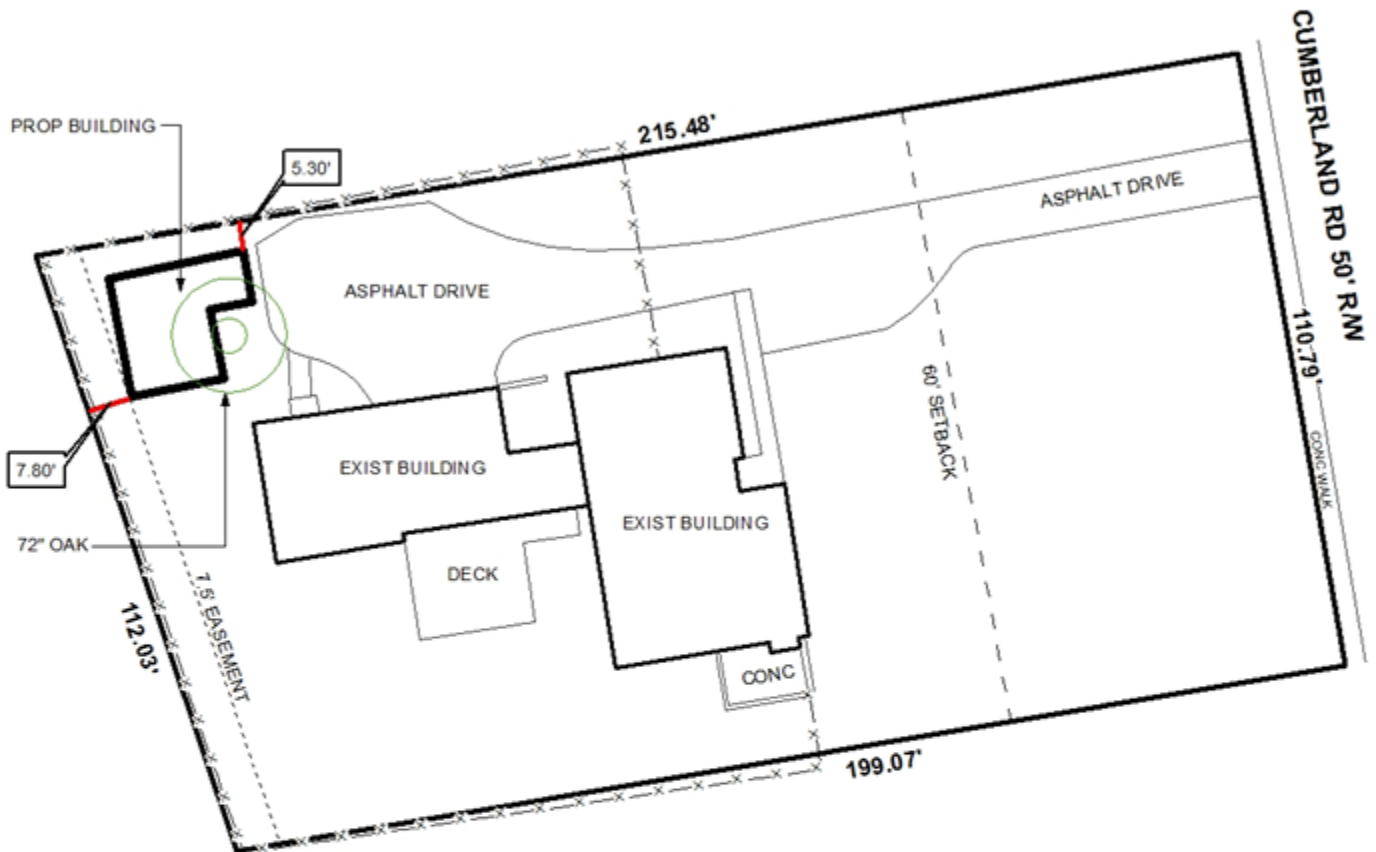
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# SITE PLAN



The site plan illustrates the existing house, tree, and proposed storage building.

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