

APPLICATION NUMBER

**5462**

A REQUEST FOR

**SIDE STREET YARD SETBACK VARIANCE TO ALLOW THE  
CONSTRUCTION OF A 6' HIGH WOODEN PRIVACY FENCE ALONG THE  
SIDE STREET YARD PROPERTY LINE IN AN R-3, MULTI-FAMILY  
RESIDENTIAL DISTRICT; THE ZONING ORDINANCE REQUIRES A 20'  
SIDE STREET YARD SETBACK FOR FENCES HIGHER THAN 3' IN AN R-3,  
MULTI-FAMILY RESIDENTIAL DISTRICT**

LOCATED AT

**400 AND 401 CRENSHAW STREET, AND 401 WESTWOOD  
STREET**

(Southwest and Southeast corners of Government Street and Crenshaw Street, and  
Southeast corner of Government Street and Westwood Street)

APPLICANT

**Jean-Francois DeBien**

OWNER

**Jean-Francois DeBien**

**BOARD OF ZONING ADJUSTMENT**

MARCH 2008

The applicant is requesting a side street yard setback variance to allow the construction of a 6' high wooden privacy fence along the side street yard property line in an R-3, Multi-Family Residential District; the zoning ordinance requires a 20' side street yard setback for fences higher than 3' in an R-3, Multi-Family Residential District.

The applicant states that at the time he purchased the subject property, it was known for its drug-trafficking, crime, and prostitution. With the blessing of adjacent property owners and the Mobile Police Department, the past 18 months have been a vast rebuilding and clean-up process. Several letters on behalf of the applicant have been submitted, including two from police officers who patrol the subject area. According to them, there has been a tremendous decrease in the amount of crime and drug-trafficking in the area, and they give most of the credit to the fence that the applicant built along Government Street. However, not only was the fence built without proper permitting, it does not meet the setbacks of the City of Mobile Zoning Ordinance. The applicant was recently issued a notice of violation, hence this application.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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.

With regard to the issues of drug-trafficking, crime, and prostitution that exist in the subject area, a privacy fence at this location may have a positive affect on the neighborhood. However, the placement thereof should meet the setback requirements of the Zoning Ordinance. Furthermore, as illustrated on the site plan, the fence is located in the City of Mobile Right-of-Way. If approved, it should be moved South 0.6' out of the right-of-way.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's request to keep a privacy fence within the required 20' side street setback in a multi-family district.

**RECOMMENDATION 5462****Date: March 3, 2008**

Based on the preceding, this application is recommended for denial. However, while the applicant may not have technically illustrated a hardship, the fence's service to the community, as supported by the Mobile Police Department, in reduction of crime, may be considered by the Board. And if approved, the fence should be moved South 0.6' out of the City of Mobile Right-of-Way.

# LOCATOR MAP



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APPLICANT Jean-Francois DeBien

REQUEST Side Street Yard Setback Variance



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous land use

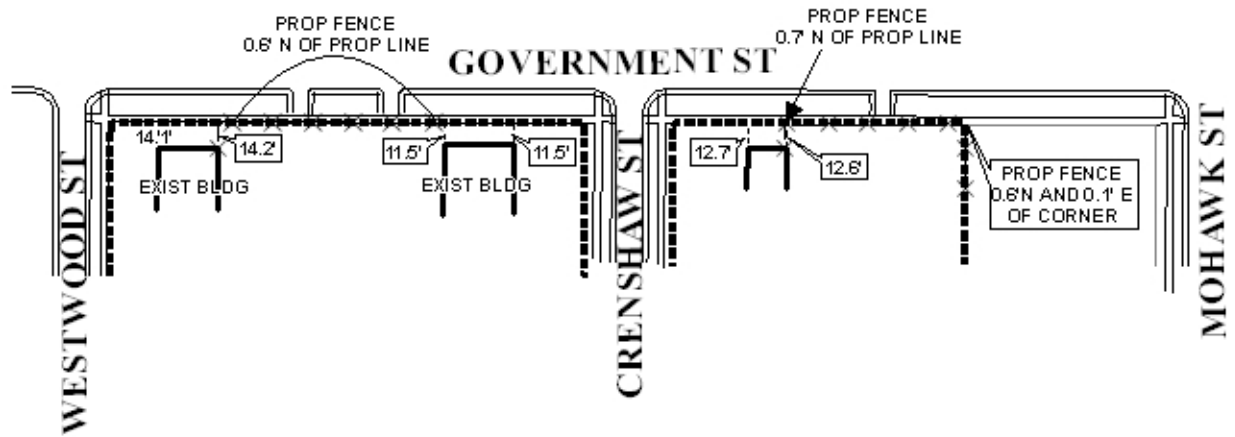
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LEGEND

# SITE PLAN



The site plan illustrates the proposed fence and existing building setbacks

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NTS