

APPLICATION NUMBER

5493

A REQUEST FOR

**REAR YARD SETBACK VARIANCE TO ALLOW THE
CONSTRUCTION OF A GREENHOUSE ADDITION TO A
SINGLE-FAMILY DWELLING WITHIN A 3.5' OF A REAR
PROPERTY LINE IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT WITH R-B, RESIDENTIAL-
BUSINESS DISTRICT SETBACKS APPLICABLE; THE
ZONING ORDINANCE REQUIRES A 5' REAR YARD
SETBACK FOR ALL STRUCTURES IN AN R-1, SINGLE-
FAMILY RESIDENTIAL DISTRICT WITH R-B,
RESIDENTIAL BUSINESS DISTRICT SETBACKS
APPLICABLE.**

LOCATED AT

256 SOUTH CEDAR STREET

(West side of South Cedar Street, 90 ± South of Eslava Street)

APPLICANT/OWNER

Warren Carmichael

AGENT

Warren Carmichael

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 2008

ANALYSIS APPLICATION

Date: September 8, 2008

The applicant is requesting a Rear Yard Setback Variance to allow the construction of a greenhouse addition to a single-family dwelling within 3.5' of a rear property line in an R-1, Single Family Residential District with R-B, Residential-Business District setbacks applicable; the Zoning Ordinance requires a 5' rear yard setback for all structures in an R-1, Single-Family Residential District with R-B, Residential Business District setbacks applicable.

The applicant states that the already existing structure is attached to his house and being used for a greenhouse. He states that he uses the structure for this flowers and his generator and to secure various items during hurricane season.

According to Mobile City records, a complaint for a building being built too close to the property line was registered with the City's 311 system in July of 2008. After review, a Notice of Violation was issued on July 11, 2008 with a re-inspection set for July 21, 2008. At this time, the property owner indicated he was applying for a variance.

In 1998, a Zoning Amendment was adopted that changed the zoning of Lots 2,3,4,5,6,7 & 8 of West Church Development Subdivision, along with several other lots in the area, from R-B, Residential-Business District to R-1, Single Family Residential. The ordinance states,

"...to use said premises for any use permitted by the terms of said Ordinance in R-1, Single Family Residential District, provided, however, that the plans for any structure of building sought to be erected on said property shall be in compliance with the building laws of the City of Mobile, and shall further comply with the setback and site coverage requirements applicable in R-B, Residential Business Districts..."

After reviewing Mobile City aerial photographs, it appears to be uncharacteristic of the neighborhood for structures to not meet the rear setbacks. It is unclear from a 2006 aerial photograph whether or not the structure had been constructed however, no building permit for the structure has been found.

It should also be noted that, if approved, the greenhouse will not cause the applicant to exceed the maximum site coverage of the lot. In addition, there does not appear to be any other location on the lot where a structure of this size can be constructed.

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.

The applicant has failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to add a structure that will not meet setbacks.

RECOMMENDATION 5493**Date: September 8, 2008**

Based upon the preceding, this application is recommended for denial.

LOCATOR MAP



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APPLICANT Warren Carmichael

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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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REQUEST Rear Yard Setback Variance

LEGEND

| | | | | | | | | | | | | | | | |
|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|
| R-1 | R-2 | R-3 | R-A | R-B | H-B | T-B | B-1 | LB-2 | B-2 | B-3 | B-4 | B-5 | I-1 | I-2 | NTS |
|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

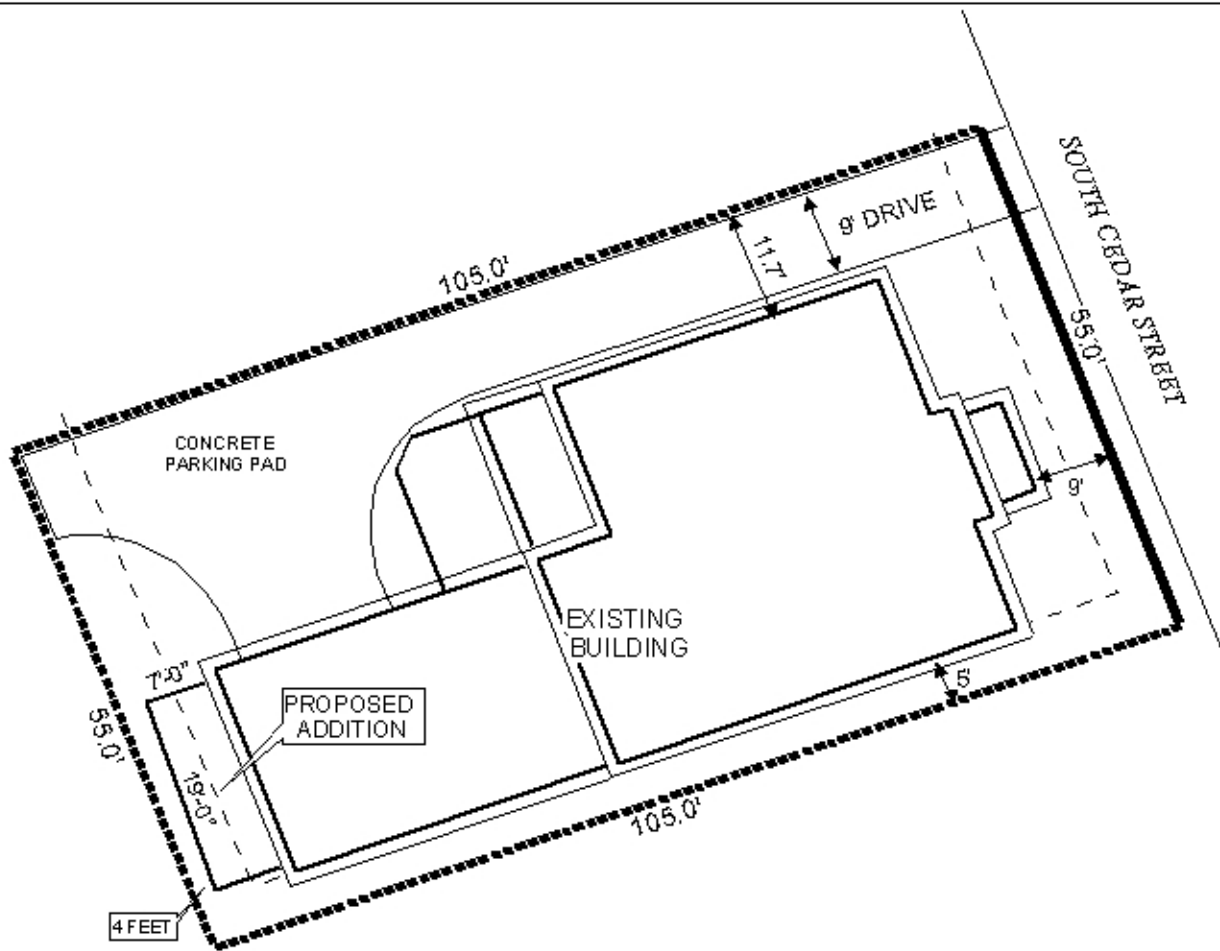


The site is surrounded by single family residential units.

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SITE PLAN



Drive, parking, existing and proposed structures are represented in the site plan.

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NTS