

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: August 1, 2011

CASE NUMBER

5692

APPLICANT NAME

MLK Avenue Redevelopment Corporation

LOCATION

1201 St. Madar Street
(Southwest corner of St. Madar Street and Plum Street)

VARIANCE REQUEST

SETBACK: Side Yard and Combined Side Yard Setback Variances to allow the construction of a dwelling on a 50-foot wide lot corner building site within 7.14 feet of the side street for a combined side yard setback of 16.9'± in an R-2, Two-Family Residential District.

**ZONING ORDINANCE
REQUIREMENT**

SETBACK: Zoning Ordinance requires a minimum 12.9 foot side yard with a minimum combined side yard setback of 20' for a 50 foot wide lot that is also a corner building site in an R-2, Two-Family Residential District.

ZONING

R-2, Two-Family Residential

AREA OF PROPERTY

0.126 ± acres

**ENGINEERING
COMMENTS**

No comments

**TRAFFIC ENGINEERING
COMMENTS**

No comments

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting a side yard setback variance to allow a residence to be constructed within 7.14 feet of a side street property line on a 50 foot wide lot in an R-2, Two-Family Residential District; the Zoning Ordinance requires a minimum side street yard of 12.9 feet on a 50 foot wide lot in an R-2, Two-Family Residential District.

The applicant states that the reduced side yard setback is required so that the proposed new residence can have its driveway on the right side of the house where the driveway will be approximately 40'± away from the intersection. However, it should be noted that there is ample room for a driveway to be placed on the rear of the property, and this location would place the

driveway approximately 76'± away from the intersection. The applicant further states that the reduced side street yard setback of 7.14 feet would be greater than the existing side street yard setback provided by the two other homes at the same intersection. After reviewing City of Mobile GIS data, it appears that the two existing homes at the intersection do have side yard setbacks similar to those proposed to exist with the construction of this new residence. It should be noted that the lot on the Northeast corner of Plum Street and St. Madar Street from the applicant's property is 25' wide and the property directly across the street from the applicant's is 50' wide. Both houses were constructed prior to 1967, the year when the Zoning Ordinance was adopted, and therefore not subject to the required minimum side street yard setbacks.

It should be noted that the variance for the combined side yard setback was not caught until after the applicant had submitted fees with this application. If approved, an additional \$25 should be submitted to the Urban Development Department for this oversight.

A similar variance was granted by the Board of Zoning Adjustment at its March 3, 1986 meeting for a lot at the corner of Plum Street and Pecan Street that allowed a reduced side street yard setback of 7 feet for a 100-foot wide corner lot. However, it should be noted in that case the variance was for a combination grocery store, barber shop, and laundromat, not a residence.

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.

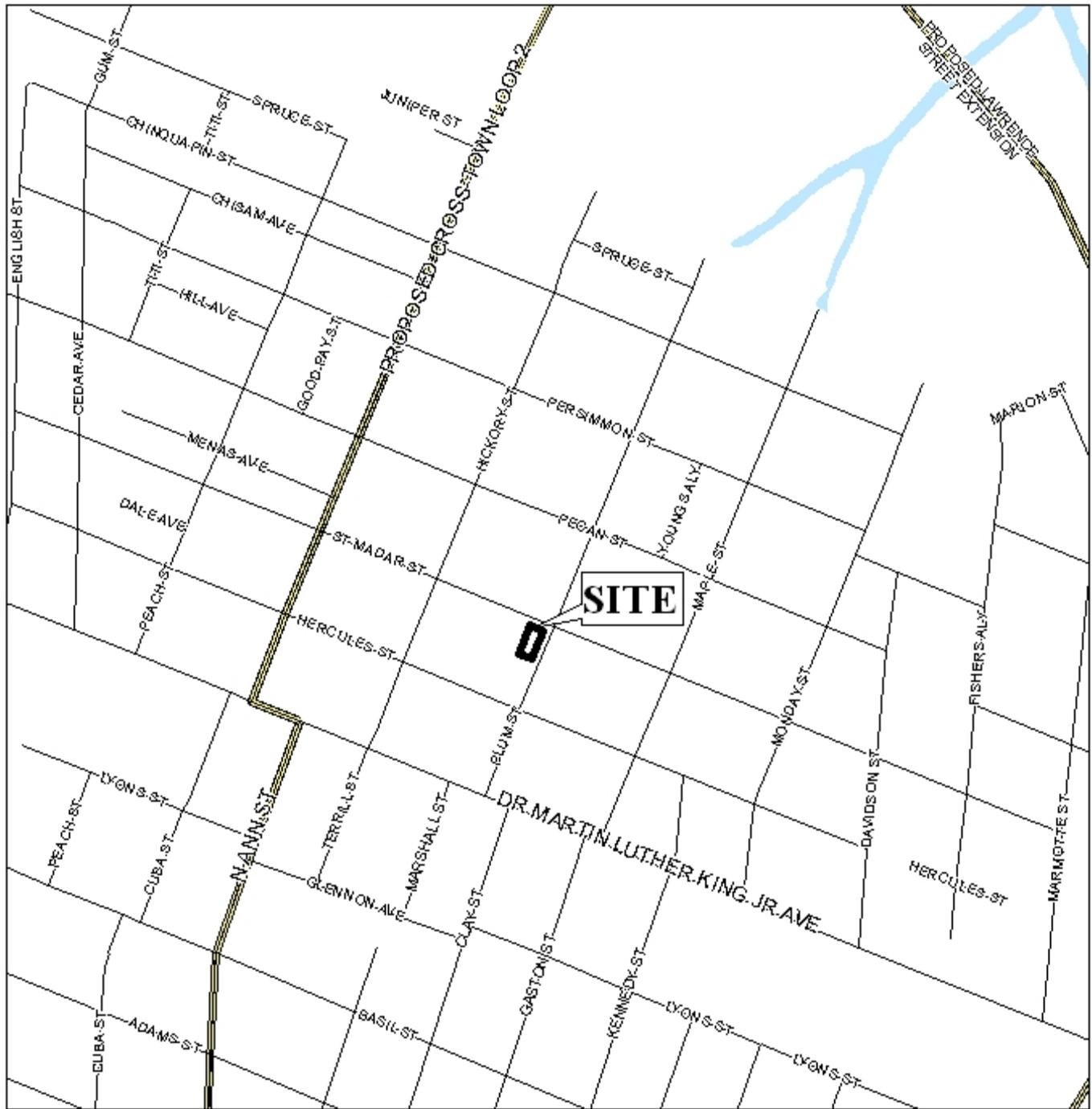
Variations are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant has failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to have the driveway on the right side of the house instead of the rear, which will result in setbacks less than the requirements of the Ordinance.

RECOMMENDATION:
for denial.

Based on the preceding, this application is recommended

LOCATOR MAP



APPLICATION NUMBER 5692 DATE August 1, 2011
APPLICANT MLK Avenue Redevelopment Corporation
REQUEST Side Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

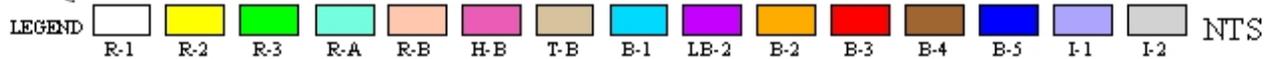


The site is surrounded by residential land use.

APPLICATION NUMBER 5692 DATE August 1, 2011

APPLICANT MLK Avenue Redevelopment Corporation

REQUEST Side Yard Setback Variance



**BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING**

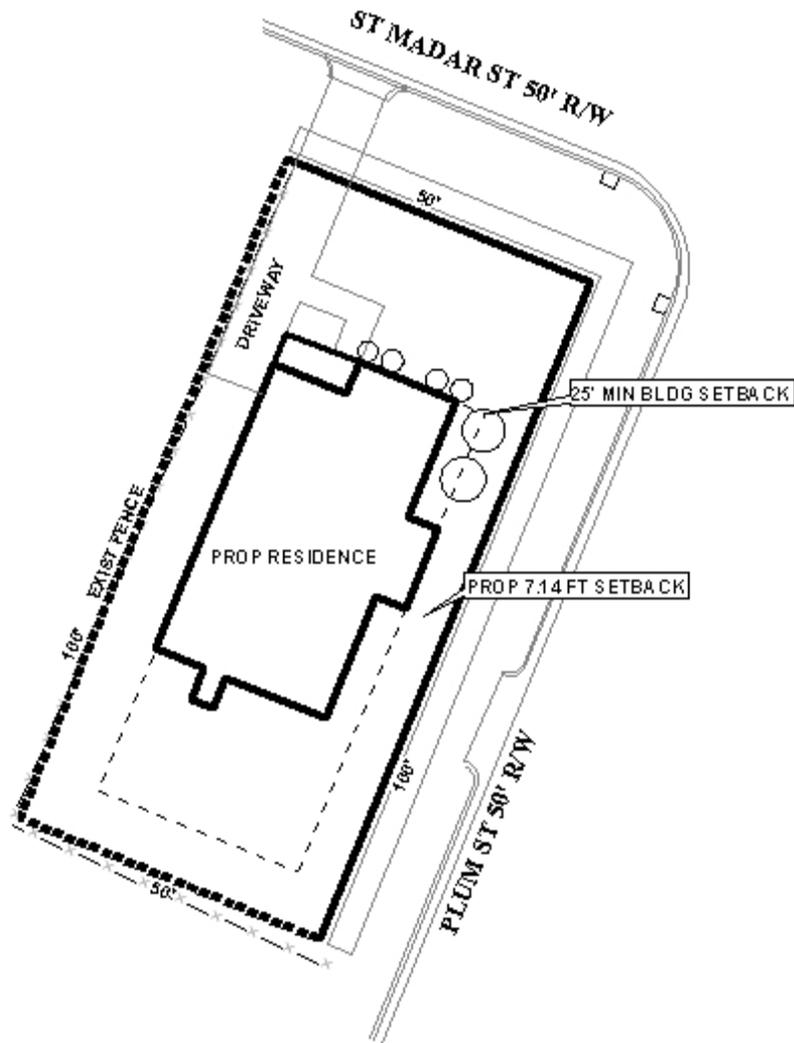


The site is surrounded by residential land use.

APPLICATION NUMBER 5692 DATE August 1, 2011
APPLICANT MLK Avenue Redevelopment Corporation
REQUEST Side Yard Setback Variance



SITE PLAN



The site plan illustrates the proposed residence and setbacks.

APPLICATION NUMBER 5692 DATE August 1, 2011
APPLICANT MLK Avenue Redevelopment Corporation
REQUEST Side Yard Setback Variance

