

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 7, 2015****CASE NUMBER**

6017/4385

APPLICANT NAME

Garden Design Solutions, Inc.

LOCATION65 Oakland Avenue
(South side of Oakland Avenue, 129'± East of Ridgelawn Drive East)**VARIANCE REQUEST****SETBACK:** Side Street Side Yard Setback Variance to allow the construction of a 7' high brick wall on the side street side yard property line in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****SETBACK:** The Zoning Ordinance requires a 20' setback for all structures taller than 3' in a side street side yard in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential District

AREA OF PROPERTY

1.09± Acres

**CITY COUNCIL
DISTRICT**

District 7

**ENGINEERING
COMMENTS**

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

1. If the proposed fence is going to be located within the Ridgelawn Dr. E. or Oakland Ave. ROW a ROW Permit must be obtained from the City of Mobile Engineering Dept. The fence should not change the existing drainage patterns to the adjoining properties or the public ROW.
2. The overall proposed improvements shown on the submitted plans may require a Land Disturbance Permit. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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.

**TRAFFIC ENGINEERING
COMMENTS**

This request was not reviewed by Traffic Engineering.

URBAN FORESTRY
COMMENTS

No comments.

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 a Side Street Side Yard Variance to allow the constructions of a 7' high brick wall on the side street side yard property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 20' setback for all structures taller than 3' in a side street side yard in an R-1, Single-Family Residential District.

The applicant states:

"This request for a variance in the zoning ordinance at 65 Oakland Avenue is in regards to the owner's desire to construct a privacy wall along the East Ridgelawn Drive portion of their property. Although the owner's home fronts onto Oakland Avenue, the side yard of the site fronts onto East Ridgelawn Drive. Our client would like to establish a privacy wall constructed of brick approximately 7' height at the property line along East Ridgelawn Drive. This would be consistent with other neighboring homes along the street and around the neighborhood. Using the current setback in the zoning code of 20' to construct a privacy wall would push the wall well into the interior of the site. This would severely restrict the owner's use of their side yard."

"The variance request to build the wall at the property line would keep the wall consistent with other privacy walls and fences along this section of East Ridgelawn Avenue. If the wall were to be installed 20' inside the site as per current zoning, a visual discontinuity would be apparent between this property and other fences on the same side of the street."

"We respectfully request your consideration for approval of this zoning variance to allow Mrs. Stimpson to construct the privacy wall in a manner to fully enjoy her side yard and establish a sense of privacy."

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.

It should be pointed out that staff can substantiate the applicant's claim that the proposed wall would be consistent with others in the neighborhood, several of which were approved via similar Variance requests. In those instances, as in this, no clear hardship was identified related to the property but, instead, emphasis was put on privacy and neighborhood harmony. To that end, this request would follow in that same spirit and would not seem to be out of character in this neighborhood given the fact that other similar requests have been approved setting a precedence for approval of this request, subject to conditions.

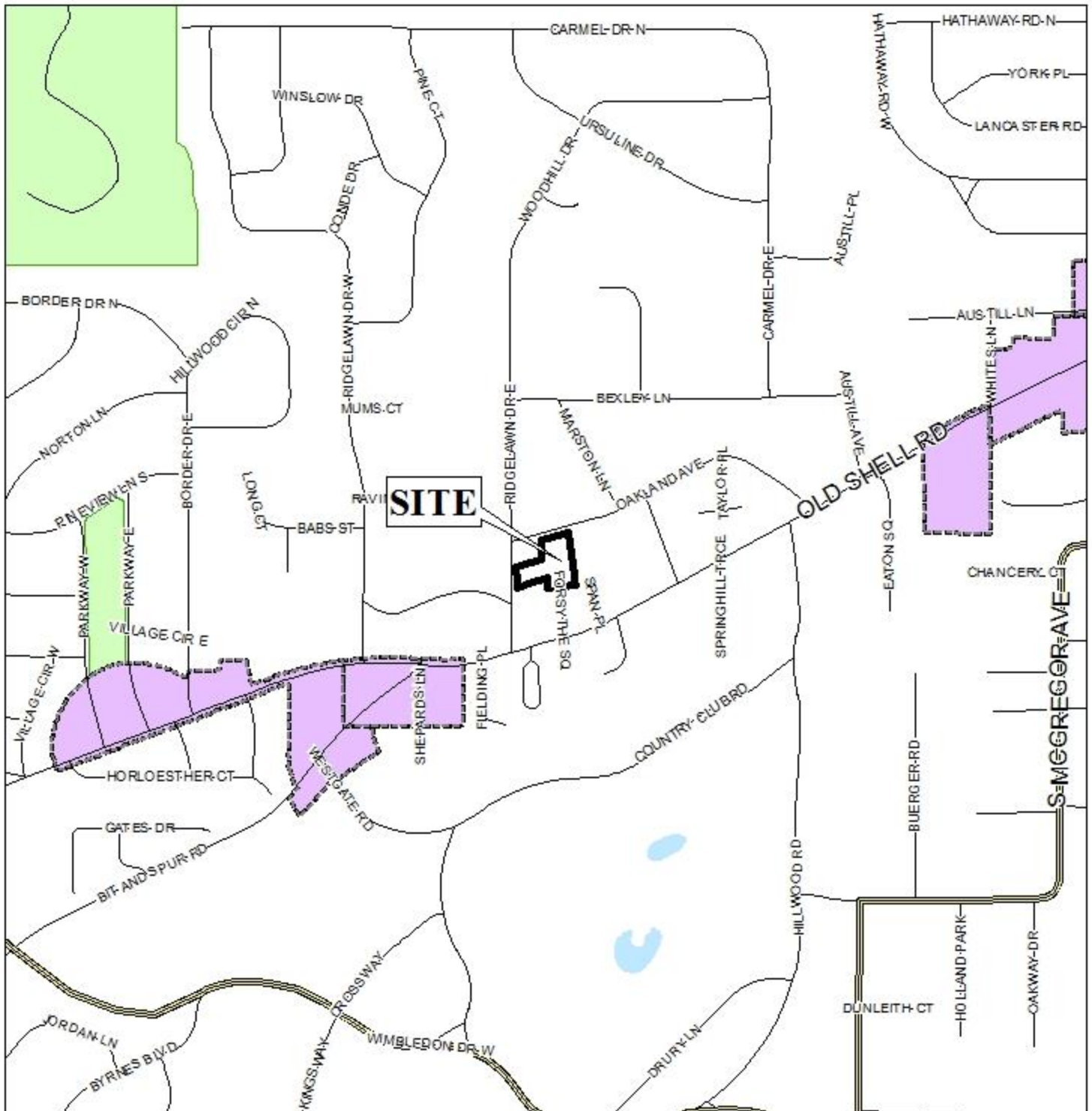
RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) Granting the variance will not be contrary to the public interest because very similar requests have been approved within the neighborhood;
- 2) Special conditions exist, such as the fact that other properties within the neighborhood have fences and walls close to the street property line, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the variance because the request is similar to and not uncommon for other properties within the Spring Hill area.

The Approval is subject to the following conditions:

- 1) subject to the Engineering comments: *[If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. If the proposed fence is going to be located within the Ridgelawn Dr. E. or Oakland Ave. ROW a ROW Permit must be obtained from the City of Mobile Engineering Dept. The fence should not change the existing drainage patterns to the adjoining properties or the public ROW. 2. The overall proposed improvements shown on the submitted plans may require a Land Disturbance Permit. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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];*
- 2) the approval by Traffic Engineering for line-of-site safety relating to vehicular and pedestrian traffic;
- 3) the obtaining of all necessary permits for the construction of the wall; and
- 4) full compliance with all municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6017 DATE December 7, 2015
 APPLICANT Garden Design Solutions Inc
 REQUEST Side Street Side Yard Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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APPLICANT Garden Design Solutions Inc

REQUEST Side Street Side Yard Variance

 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

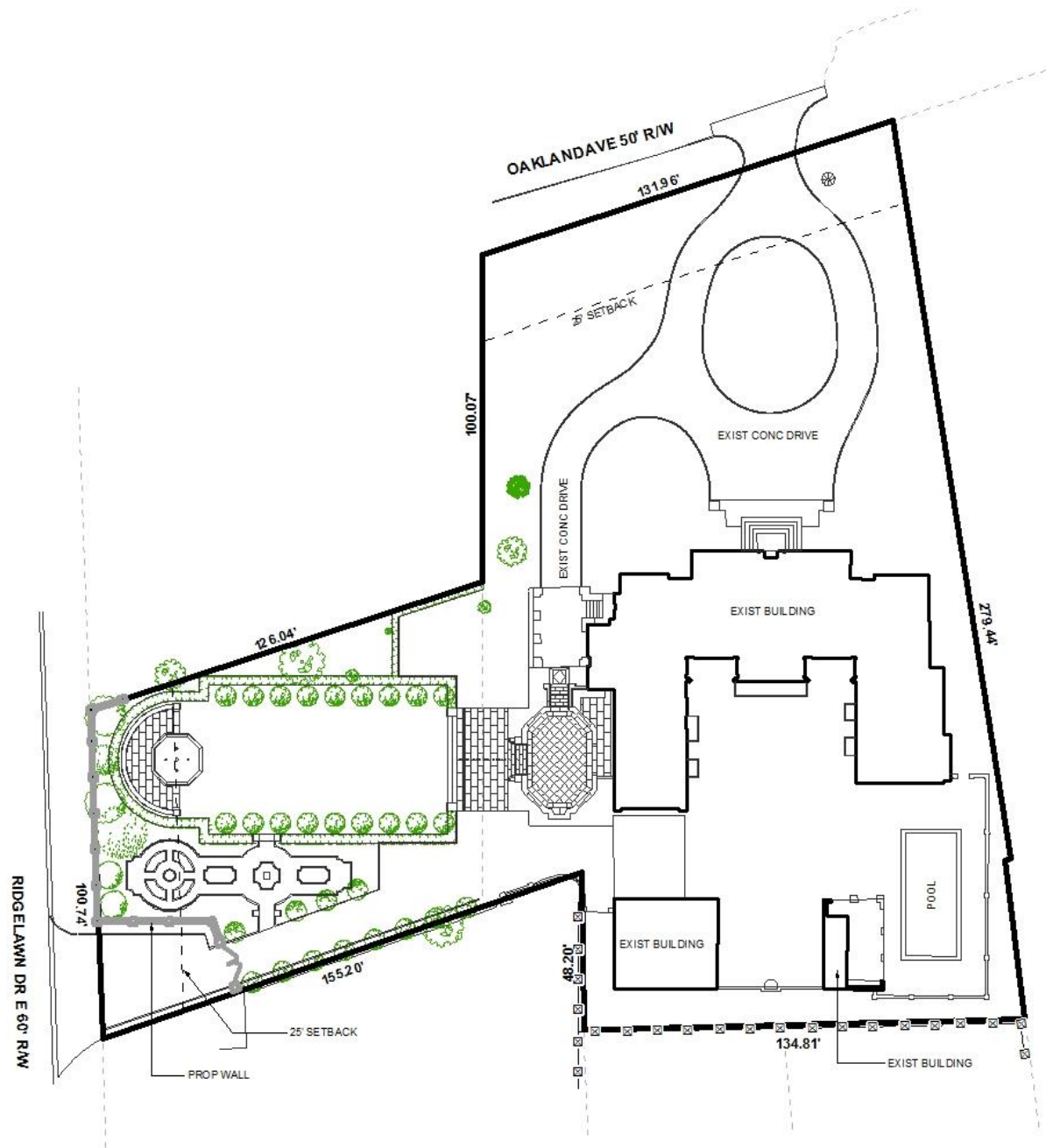


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SITE PLAN



The site plan illustrates the existing buildings, existing drives, setbacks, and proposed wall.

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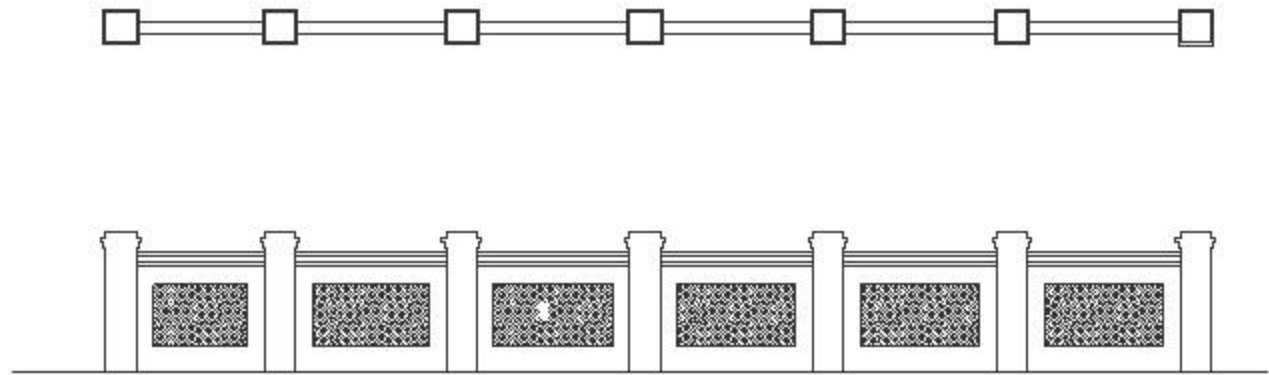
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NTS

DETAIL SITE PLAN



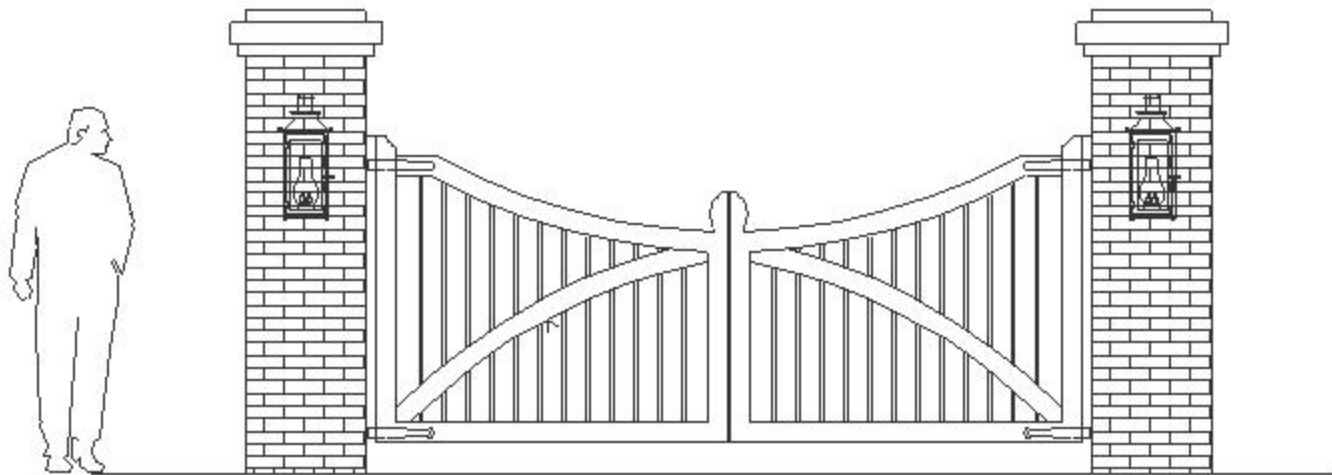
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DETAIL SITE PLAN



DRIVE GATE

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