

APPLICATION NUMBER

5302

A REQUEST FOR

**REAR YARD SETBACK VARIANCE TO ALLOW
CONSTRUCTION OF A TWO-STORY, 1,600 SQUARE
FOOT, DOUBLE GARAGE/PLAYROOM TO AN EXISTING
DWELLING 2' FROM THE REAR PROPERTY LINE; A
MINIMUM REAR YARD SETBACK OF 8' IS REQUIRED
IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT**

LOCATED AT

62 MARSTON LANE

(East side of Marston Lane. 155'± North of Oakland Avenue)

APPLICANT/OWNER

ALBERT & ANNE HAAS

AGENT

M. DON WILLIAMS, III

BOARD OF ZONING ADJUSTMENT

APRIL 2005

The applicant is requesting a Rear Yard Setback Variance to allow construction of a two-story, 1,600 square foot, double garage/playroom to an existing dwelling 2' from the rear property line; a minimum rear yard setback of 8' is required in an R-1, single-Family Residential District.

The applicant states the proposed construction consists of a two-story, 800 square foot footprint, addition to an existing dwelling. The addition will consist of a two car garage/storage area downstairs and a playroom upstairs. The applicant states that construction would be completed within 6 months.

The applicant submitted a similar rear yard variance in 1998, the Board approved a 3-foot rear yard setback; however, the applicant has submitted a new site plan illustrating a change of design and increasing the rear yard setback to 2-foot.

The applicant states a 2-foot rear yard setback is required because of the unusual shape of the existing dwelling and pie-shaped lot. The applicant states the existing double carport requires a 180 degree turn from the driveway, whereas, the proposed double garage will provide a 90 degree turn. The applicant states that a standard two-car garage necessitates a width that brings the proposed structure within 2-feet from the rear property line. The applicant states the proposed addition illustrates no windows from the second story which faces the adjacent property to the rear, and the proposed addition provides better driveway access and more efficient utilization of the rear yard.

In the past, the Board has considered areas such as older sections of the city as unique, based on the character of the existing development; and granted yard variances which were in character or sympathetic with the existing conditions. Typically, in granting such relief the Board has maintained a minimum setback of 5-feet, to allow for proper maintenance of the structure, access by emergency vehicles and personnel, and to allow for proper drainage (keeping run-off from the structure off the adjacent property).

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.

The site in question is over 17,480 square feet and 138-feet wide, more than 2.4 times the width upon which minimum setbacks are based; therefore, the size of the lot is not a factor upon awarding this variance. The applicant has presented no evidence to illustrate that the site cannot be developed in accordance with the minimum requirements of the

Zoning Ordinance. In this specific situation, the lot is almost twice the width upon which standard setbacks are based, nor is the site located in an older, urban style setting. Furthermore, the previous variance was to allow a three-foot setback; the current application proposes a 2-foot setback.

RECOMMENDATION 5302**Date: April 4, 2005**

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

LOCATOR MAP



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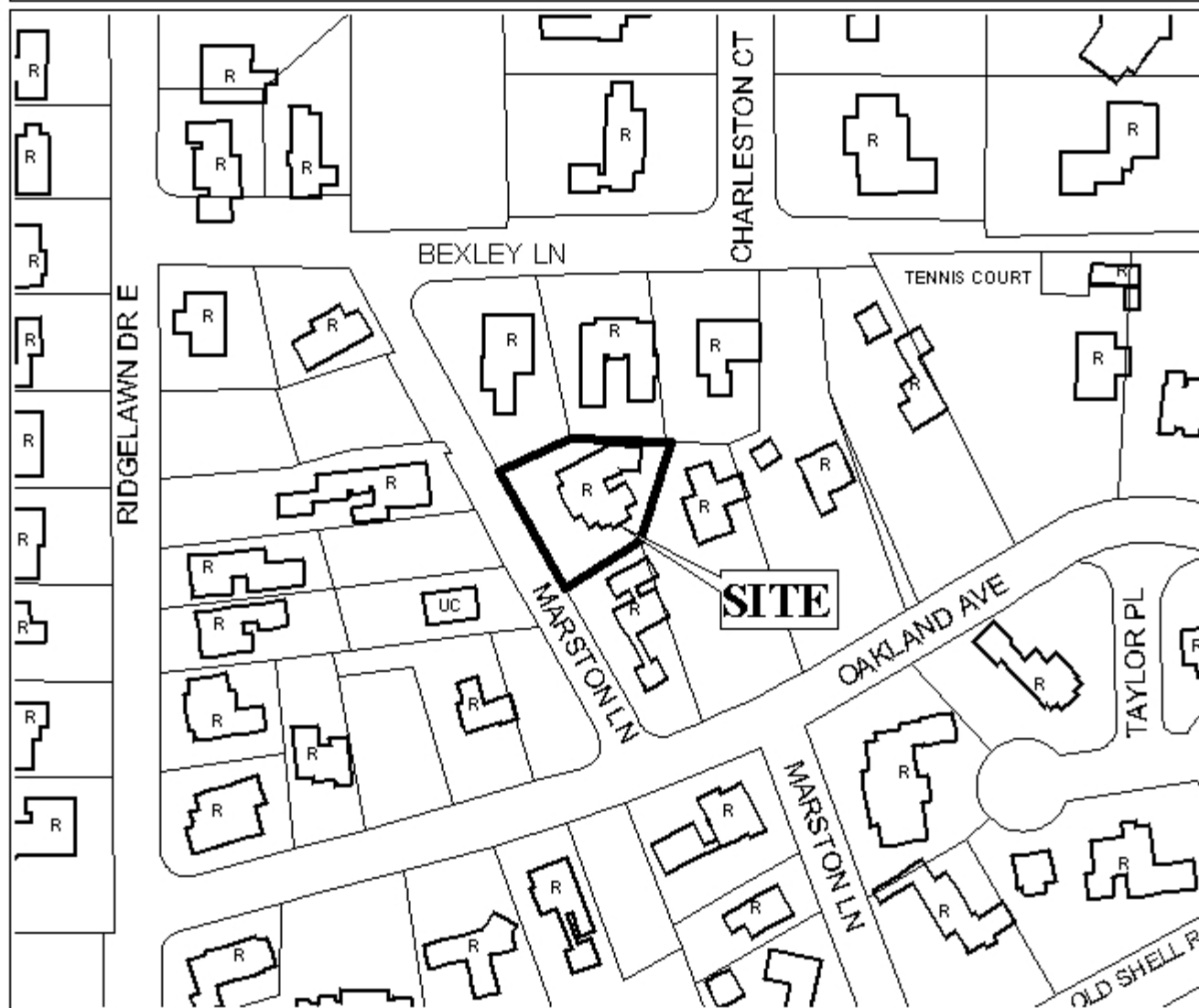
APPLICANT M. Don Williams, III (Albert & Anne Haas, Owners)

REQUEST Rear Yard Setback Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential dwellings.

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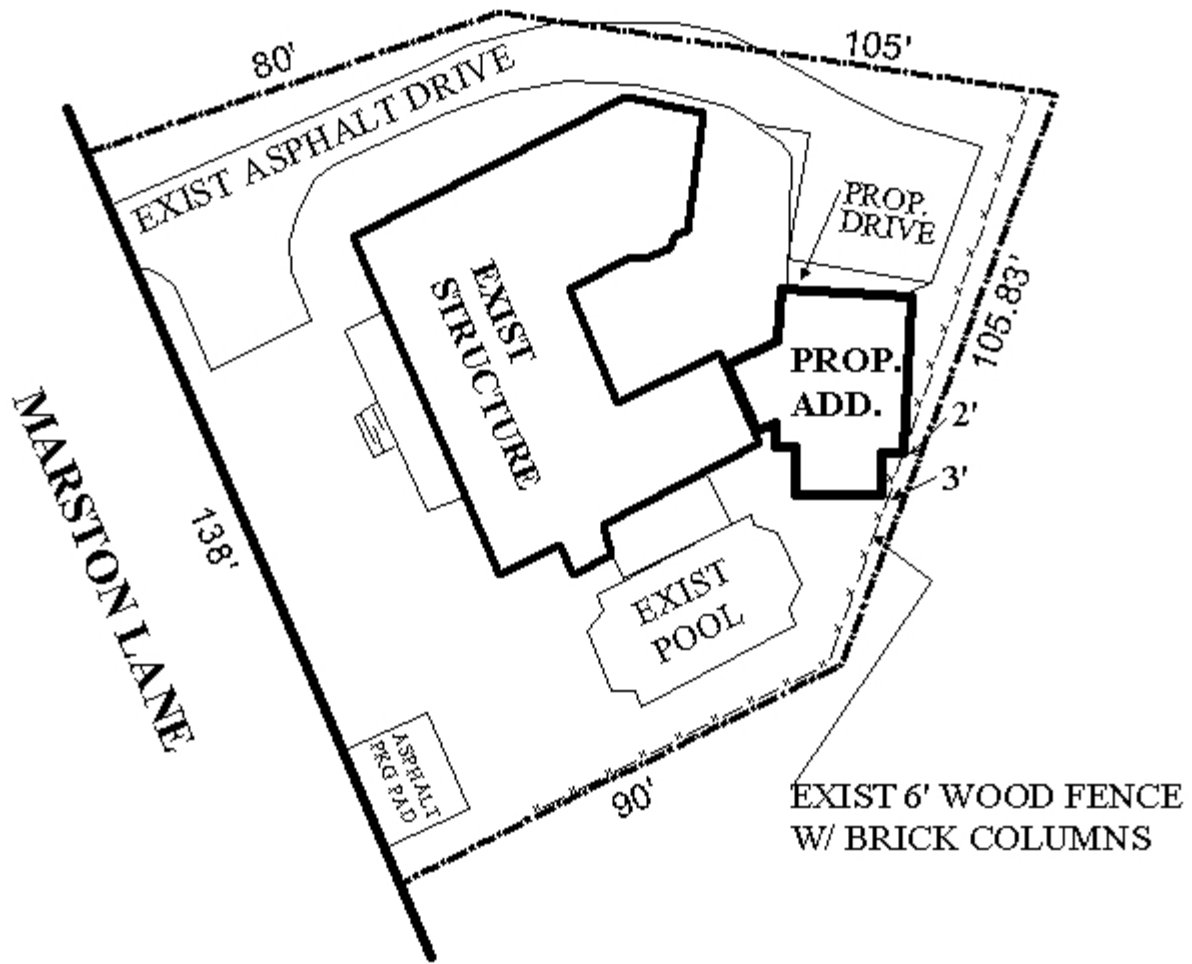
APPLICANT M. Don Williams, III (Albert & Anne Haas, Owners)

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LEGEND



SITE PLAN



The site is located on the East side of Marston Lane, 155' North of Oakland Avenue. The plan illustrates the existing structure, drive, pool, and fence, along with the proposed addition and drive extension.

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