

APPLICATION NUMBER

5365

A REQUEST FOR

**SIDE YARD SETBACK AND HEIGHT VARIANCES TO
ALLOW THE CONSTRUCTION OF AN 8'-2" TALL
MASONRY PRIVACY WALL WITH 8'-9" COLUMNS
SETBACK A MINIMUM OF FOUR INCHES FROM THE
VAN HEUVAL STREET (SIDE STREET) PROPERTY
LINE; A 20' SIDE YARD SETBACK IS REQUIRED ALONG
A SIDE STREET (VAN HEUVAL STREET), AND 8' IS THE
MAXIMUM ALLOWABLE WALL HEIGHT IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

1911 DAUPHIN STREET

(Southeast corner of Dauphin Street and Van Heuval Street)

APPLICANT/OWNER

FRED D. FAMBROUGH

BOARD OF ZONING ADJUSTMENT

AUGUST 2006

The applicant is requesting a Side Yard Setback and Height Variances to allow the construction of an 8'-2" tall masonry privacy wall with 8'-9" columns setback a minimum of four inches from the Van Heuval Street (side street) property line; a 20' side yard setback is required along a side street (Van Heuval Street), and 8' is the maximum allowable wall height in an R-1, Single-Family Residential District.

The purpose of this application is actually to allow the wall to remain as it was recently constructed without any reviews, approvals, or permits. The wall replaces a fence in excess of seven feet in height which was damaged by Hurricane Ivan, then destroyed by Hurricane Katrina, but no nonconforming history has been furnished to document such fence existing prior to the adoption of the Zoning Ordinance. The applicant states that the intention was to replace the fence with a structure which would not be destroyed by the next hurricane to strike the Mobile area. In addition, the lack of privacy from neighboring two-story dwellings, infringing pedestrian traffic, and the ability to contain a dog were also listed as reasons for building the wall.

Since no legal nonconforming existence of a fence of this height could be established, any replacement would have to meet the standards of setbacks and maximum height allowances. Not only does the wall not meet the height and setback requirements along the side street yard, there is an alley to the rear which serves as a driveway for the residence to the rear of the subject property. Traffic Engineering has reviewed this site and determined that the wall obstructs line-of-site visibility along the sidewalk for drivers exiting the alley. The provision of a 45° angle from the gate to the property line may alleviate that concern.

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.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to allow the nonconforming wall to remain as built.

RECOMMENDATION 5365**Date: August 7, 2006**

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

LOCATOR MAP



APPLICATION NUMBER 5365 DATE August 7, 2006

APPLICANT Fred D. Fambrough

REQUEST Side Yard Setback, Height Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Single-family residential units are located on all sides of the site.

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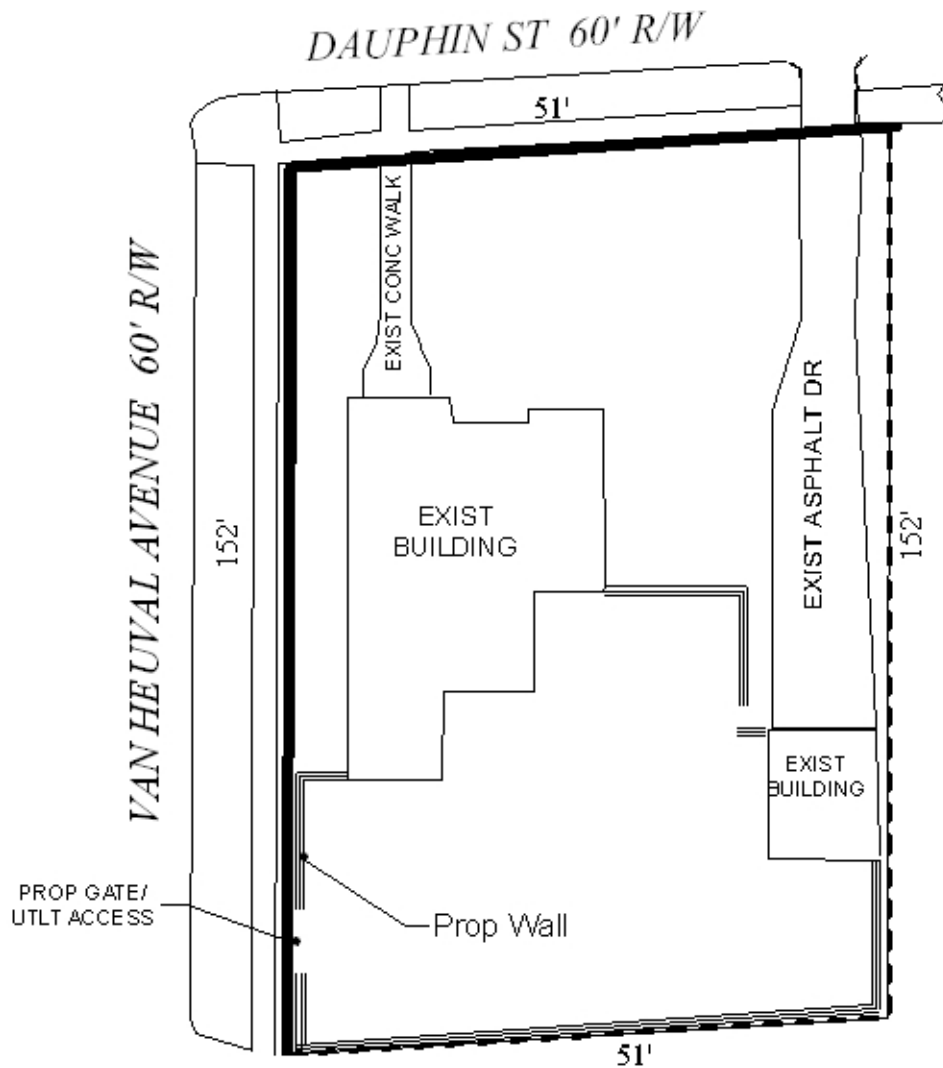
REQUEST Side Yard setback, Height Variance

LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
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SITE PLAN



Site plan illustrates existing buildings and proposed fencing.

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