

APPLICATION NUMBER

5381

A REQUEST FOR

**FRONT AND SIDE (STREET) YARD SETBACK
VARIANCES TO ALLOW THE CONSTRUCTION OF A 6-
FOOT TALL MASONRY PRIVACY WALL ALONG THE
FRONT (PALMETTO STREET) PROPERTY LINE, AND
10' FROM THE SIDE (MARINE STREET) STREET
PROPERTY LINE; A MINIMUM 13' FRONT YARD
SETBACK AND A 13' SIDE (STREET) YARD SETBACK
ARE REQUIRED IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT WITHIN THE HISTORIC
OVERLAY DISTRICT.**

LOCATED AT

915 PALMETTO STREET

(Southeast corner of Palmetto Street and Marine Street)

APPLICANT

BRILEY E. SHIRAH

OWNER

BRILEY E. & KAREN K. SHIRAH

BOARD OF ZONING ADJUSTMENT

OCTOBER 2006

The applicant is requesting Front and Side (Street) Yard Setback Variances to allow the construction of a 6-foot tall masonry privacy wall along the front (Palmetto Street) property line, and 10' from the side (Marine Street) street property line; a minimum 13' front yard setback and a 13' side (street) yard setback are required in an R-1, Single-Family Residential District within the Historic Overlay District.

The subject property currently has a 6' wooden privacy fence in the area of the proposed wall. An existing 3' wooden picket fence along Palmetto Street will remain intact. The property is located within the Oakleigh Garden Historic District and has been granted a Certificate of Appropriateness by the Architectural Review Board. Since it is in a historic district, setbacks are governed by the Historic District Overlay section of the Ordinance which states that the front yard setback shall be no greater or lesser than the front setback of those structures on the same side of the street within 150 feet of both sides (exclusive of right-of-way) of the proposed building site; and the side yard setback on side streets may be no less than the side yard setback of the other corner lots, along the same street, at the same intersection. In this instance, both the front and side street (street) yard setbacks were determined to be 13 feet.

No permit was obtained for the existing 6' high privacy fence; hence, no setbacks were established. The applicant has submitted a permit application for the proposed wall and setbacks are now (and would have been for the privacy fence) an issue. The front wall is proposed to run along the Palmetto Street property line, turn at an angle at the West end, then turn again to become the side wall along Marine Street. The wall would be 10' back from the Marine Street property line. Another 10-foot tall wall is proposed on the South side of the dwelling, setback 10' from the Marine Street property line, to enclose the rear yard. The applicant has not submitted any basis for a hardship imposed by the setback requirements. Traffic Engineering has conducted an on-site review of the proposed wall and has determined that there is no line-of-site problem with the proposed wall.

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.

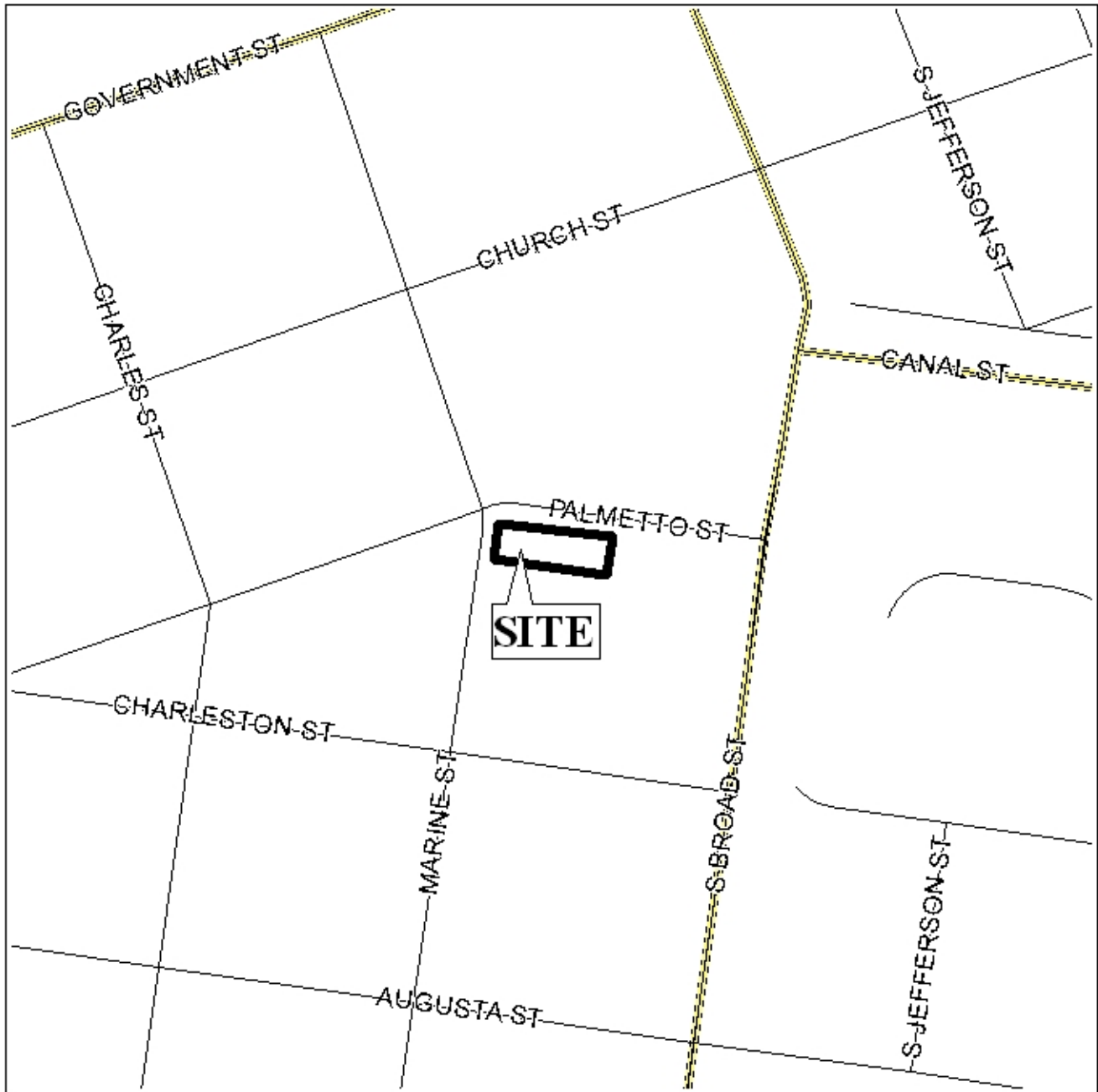
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

While the applicant did not illustrate that any hardship would be imposed by a literal enforcement of the Ordinance, the facts that the site is in a historic district, has received Architectural Review Board Approval, and would not impose a line-of-site problem should all be considered. Approval of this variance would conform to the Board's previous approvals for similar setback variances to allow fences or walls exceeding 3' high in historic districts.

RECOMMENDATION 5381**Date: October 2, 2006**

Based on the preceding, this application is recommended for approval subject to the following condition: (1) coordination with Urban Forestry to minimize any damage to the Magnolia tree root system at the East end of the wall along the front property line.

LOCATOR MAP



APPLICATION NUMBER 5381 DATE October 2, 2006

APPLICANT Briley E. Shirah

REQUEST Front and Side (Street) Yard Setback Variances



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Apartments and duplexes are to the east of the site, commercial property to the northeast, and single family residential units to the northwest, west, and south.

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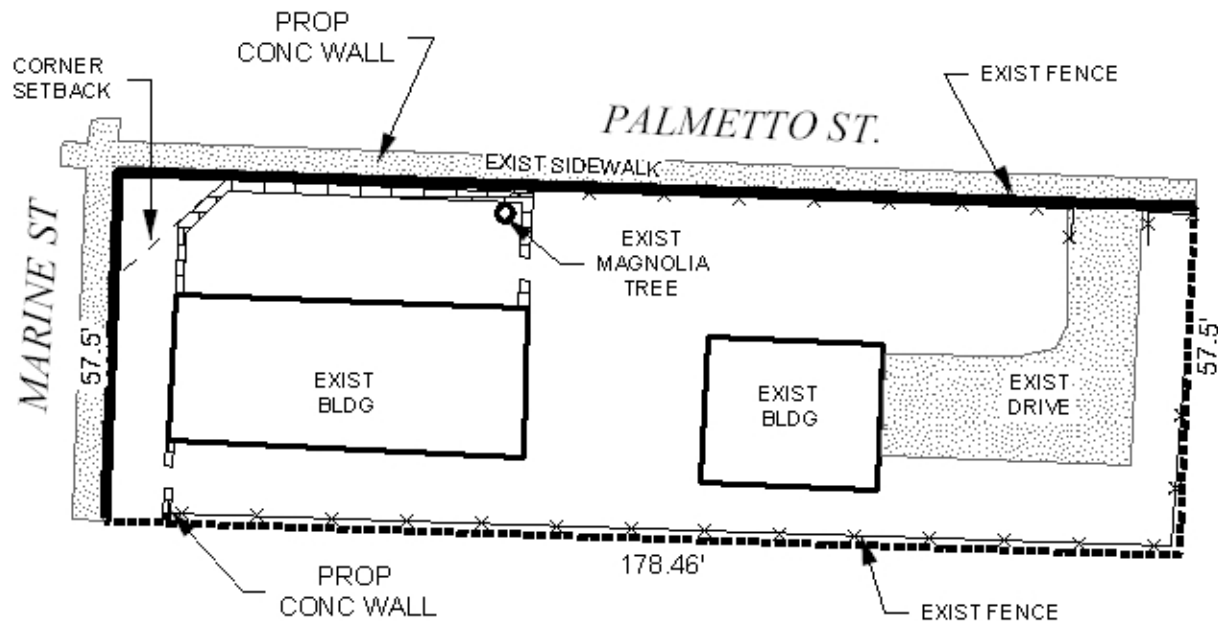
LEGEND

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



The site plan illustrates existing buildings, fences, drive, setback, and proposed wall.

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