

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: May 4, 2015****CASE NUMBER**

5961

**APPLICANT NAME**

David &amp; Kim Padgett

**LOCATION**151 College Lane  
(Northwest corner of College Lane and Stein Avenue)**VARIANCE REQUEST****SITE:** To allow an A/C unit taller than 3' and construction of a 6 feet to 8 feet high brick/wood privacy fence to be constructed within the front 25' minimum setback line in an R-1, Single-Family Residential District.**ZONING ORDINANCE  
REQUIREMENT**

The Zoning Ordinance requires a minimum 25 feet front setback for structures higher than 3 feet tall in an R-1, Single-Family Residential District.

**ZONING**

R-1, Single-family Residential District

**AREA OF PROPERTY**

0.41± Acres

**ENGINEERING****COMMENTS**

If the brick/wood privacy fence is approved for use as requested, the applicant will need to submit a revised land disturbance permit showing the top of wall and proposed ground elevations.

**TRAFFIC ENGINEERING****COMMENTS**

The proposed setback for the 8' high wood or brick fence is adequate and should not impact the line of sight from College Lane. The proposed setback for the 3' high wood fence is also adequate and not anticipated to impact line of sight.

**FIRE DEPARTMENT****COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

**URBAN FORESTRY****COMMENTS**

No comments received.

**CITY COUNCIL**  
**DISTRICT**

District 7

**ANALYSIS**

The applicant is requesting a Site Variance to allow an A/C unit taller than 3' and construction of a 6 feet to 8 feet high brick/wood privacy fence to be constructed within the front 25' minimum setback line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 25 feet front setback for structures higher than 3 feet tall in an R-1, Single-Family Residential District.

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.

Applicant's statement: *David & Kim desire to construct a single family residence on Lots 1 and 2, Sam Hicks Subdivision. This combined lot is on the corner of College Lane and Stein Street, in the Spring Hill neighborhood. The lot is currently vacant, the house on Lot 1 already having been demolished, with the appropriate permit. They plan to start construction immediately on the residence, but will wait for Board action for the requested fence variance.*

*We are requesting two site variances. Our major street frontage will be College Lane, with 25' recorded front setback, with which we will comply. Our minor street frontage will be Stein St, with 25' recorded front setback. We request a fence construction variance to allow us to construct a 6' to 8' high brick/ wood privacy fence along Stein Street right of way line with turn-backs along our west property line and east end of house (not garage). This fence arrangement will give plenty of sight distance for the road intersection, but will restrict sight distance for the future driveway of Lot 3, currently undeveloped to our west. Our second request is to allow air conditioning units higher than 36" tall within the Stein Street front setback. The units will be screened by the requested fence.*

*Our frontage along Stein Street is part of the traffic control pattern for Austin Elementary School, two blocks to the east. Cars routinely park along our frontage for afternoon pick-up of students. A compliant 36" high fence along the right of way line would allow, even encourage, viewing of our private side yard.*

*Spring Hill has a long tradition of fences and vegetation along major and minor road frontages for corner lots. The four city blocks surrounding the College Lane/ Stein Street*

*roadway intersection have 16 corners, 15 excluding our site. Three of the corners have residences with no fence, vegetative hedge or building higher than 36" for both street frontages. Nine of the corners have residences with a fence, vegetative hedge or building higher than 36" for at least one street frontage. Three of the corners are undeveloped with vegetative hedges higher than 36" for both street frontages. In summary, 12 of the nearest 15 corners do not comply with required roadway setbacks.*

The applicant states that the Spring Hill community is unique in that it “has a long tradition of fences and vegetation along major and minor road frontages...” This site and the adjacent lots to the east and west within a distance of 250’ on the north side of Stein Avenue are no exception and all contain existing vegetation along the Stein Avenue right-of-way property line. One of the intents of the front yard setback is to provide adequate visibility for ingress/egress of adjacent property owners and passerby and to help ensure harmonious development within neighborhoods. While there are examples of vegetation, there are no examples of walls or fences along this segment of Stein Avenue, except at the southwest corner of Stein Avenue and Provident Lane. Given the nature of the existing properties within the vicinity of this site, the applicant’s request would seem to be out of character for this neighborhood and it would establish the precedent for 6’ – 8’ high brick/wood fences along Stein Avenue.

It should be pointed out that although a wall of vegetation currently exists along Stein Avenue, the adjacent properties to the west are undeveloped. Although there may be no plans at this time for new home construction, by placing the fence on the Stein Avenue right-of-way property line, Staff and the applicant are both aware that the construction of the fence could affect visibility needed for ingress/egress in the future, once developed.

The Zoning Ordinance allows a 20’ side street yard setback where the property to the rear fronts onto the side street. Given the fact that Stein Avenue provides direct access to a school one block away, the request for no setback would seem to go against the need to protect school children, especially given the lack of sidewalks along Stein Avenue.

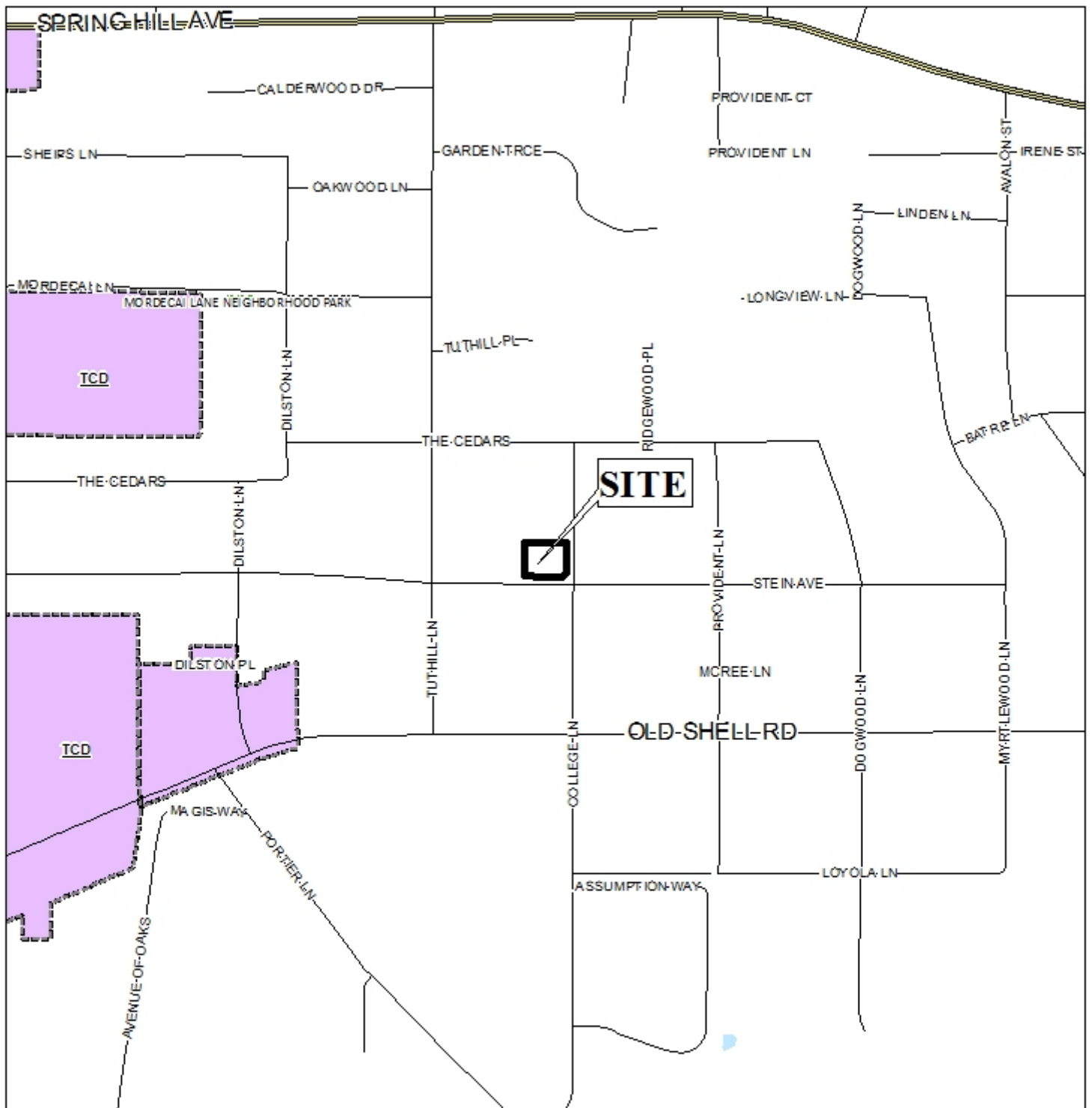
The applicant also proposes 2 A/C units taller than 36” within the front (side street) yard setback along Stein Avenue due to the orientation of the proposed house, which will front College Lane. Although the applicant did not provide the height of the units on the site plan, it would be unlikely that the units would be visible from the street since they would be located within the area enclosed by the proposed 6’-8’ high fence. Should the Board decide not to approve the applicant’s request for the fence, the A/C units would be located a distance of 20’± from the Stein Avenue right-of-way property line and would not appear to affect visibility.

**RECOMMENDATION:** Based upon the preceding, Staff recommends to the Board the following findings of fact for denial for the following reasons:

- 1) Approving the variance request will be contrary to the public’s interest since the proposed 6’ – 8’ high brick/wood fence will cause visibility issues for adjacent property owners and may endanger passing school children;

- 2) Special conditions do not appear to exist due to the orientation of the home on the corner lot and that a literal enforcement of the provisions of the chapter will not result in unnecessary hardship; and
- 3) That the spirit of the chapter will not be observed and substantial justice not done to the applicant and the surrounding neighborhood by granting the variance.

# LOCATOR MAP



APPLICATION NUMBER 5961 DATE May 4, 2015

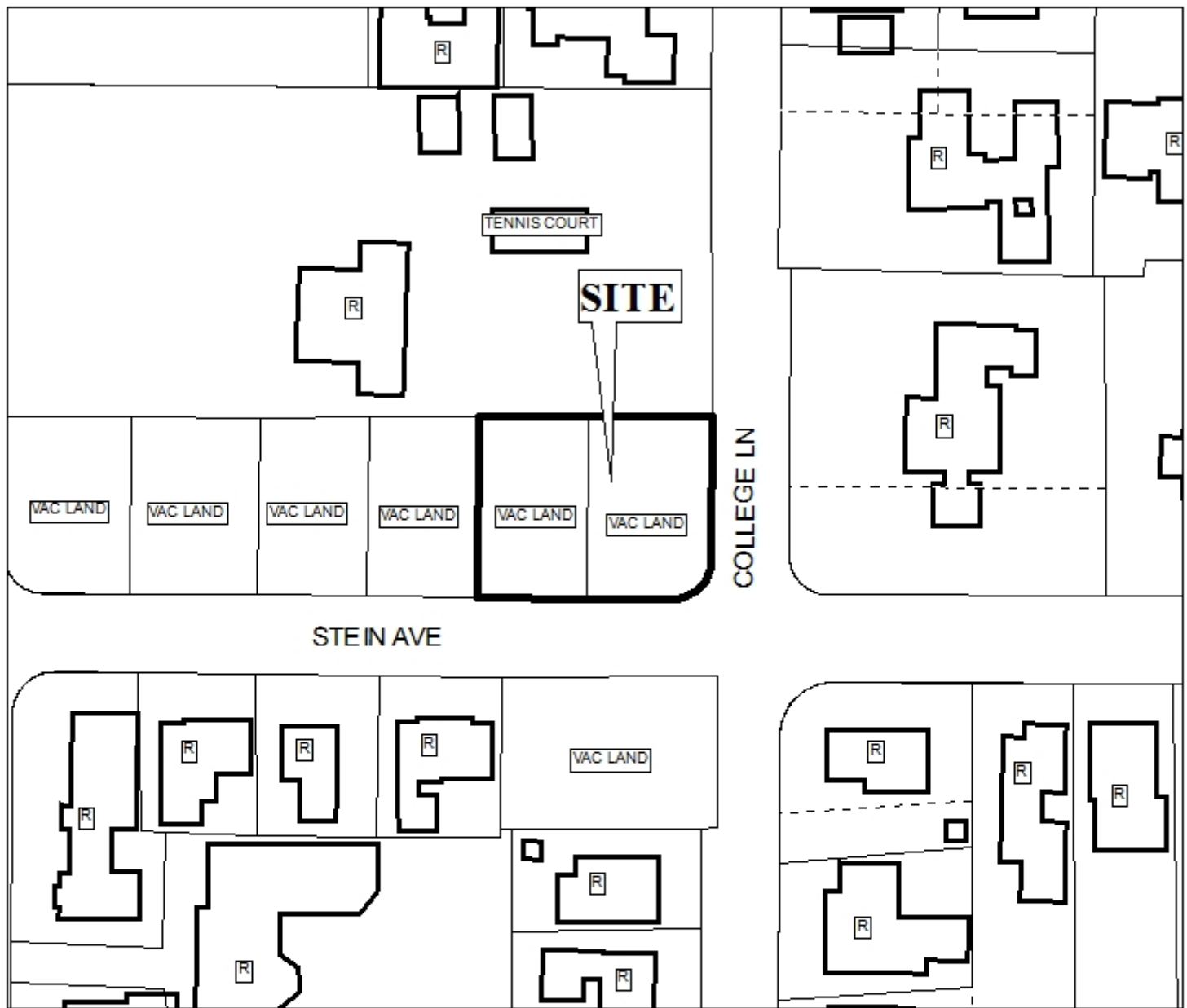
APPLICANT David & Kim Padgett

REQUEST Site Variance



# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

APPLICATION NUMBER 5961 DATE May 4, 2015

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| <span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> R-A   | <span style="display: inline-block; width: 15px; height: 15px; background-color: green; border: 1px solid black;"></span> R-3     | <span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> T-B    | <span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> B-2 | <span style="display: inline-block; width: 15px; height: 15px; background-color: blue; border: 1px solid black;"></span> B-5      | <span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> MUN      | <span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD-WH   | <span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> T5.1     |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: white; border: 1px solid black;"></span> R-1  | <span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> R-B      | <span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> B-1     | <span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> B-3    | <span style="display: inline-block; width: 15px; height: 15px; background-color: lightblue; border: 1px solid black;"></span> I-1 | <span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; border: 1px solid black;"></span> OPEN | <span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> T3        | <span style="display: inline-block; width: 15px; height: 15px; background-color: darkpurple; border: 1px solid black;"></span> T5.2 |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R-2 | <span style="display: inline-block; width: 15px; height: 15px; background-color: peachpuff; border: 1px solid black;"></span> H-B | <span style="display: inline-block; width: 15px; height: 15px; background-color: magenta; border: 1px solid black;"></span> LB-2 | <span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> B-4  | <span style="display: inline-block; width: 15px; height: 15px; background-color: grey; border: 1px solid black;"></span> I-2      | <span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD       | <span style="display: inline-block; width: 15px; height: 15px; background-color: lightpurple; border: 1px solid black;"></span> T4 | <span style="display: inline-block; width: 15px; height: 15px; background-color: darkblue; border: 1px solid black;"></span> T6     |





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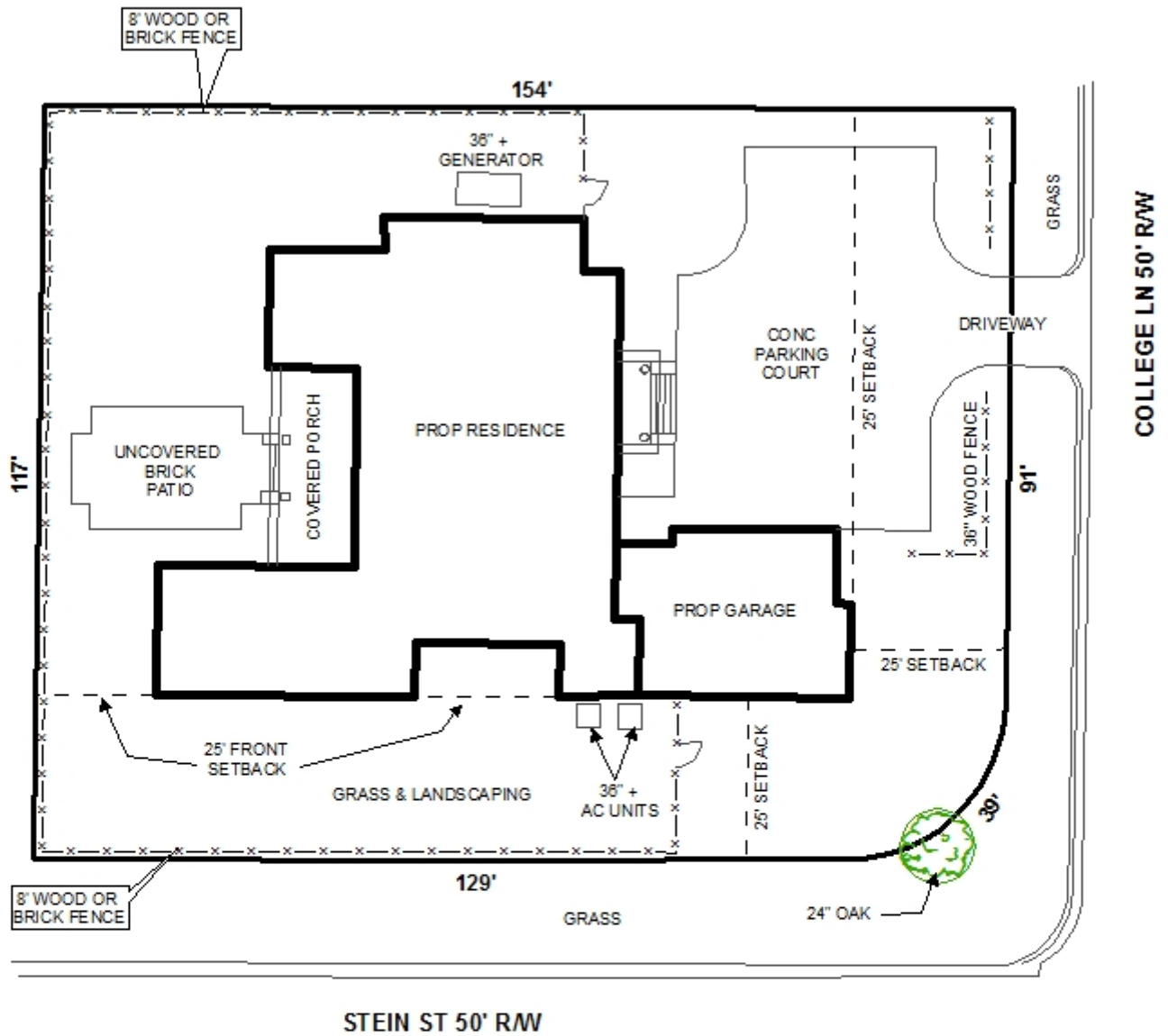
APPLICATION NUMBER 5961 DATE May 4, 2015

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# SITE PLAN



The site plan illustrates the proposed residence and garage, setbacks, proposed fence, and proposed AC units.

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