

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: May 7, 2018****CASE NUMBER**

6174

APPLICANT NAME

Polysurveying (John Vallas, Agent)

LOCATION

South side of Wilson Avenue, 170'± West of Grand Boulevard

VARIANCE REQUEST**SIDE YARD SETBACK:** Side Yard Setback Variance to allow placement of a house 3.84' the East property line and 8' from the West property line in an R-1, Single-Family Residential District.**COMBINED SIDE YARD SETBACK:** Combined Side Yard Setback Variance to allow a combined side yard setback of 11.84' in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****SIDE YARD SETBACK:** Zoning Ordinance requires a minimum 10' side yard setback in an R-1, Single-Family Residential District.**COMBINED SIDE YARD SETBACK:** Zoning Ordinance requires a minimum combined 20' side yard setback in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential District

AREA OF PROPERTY

0.2 ± acres

ENGINEERING**COMMENTS**

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

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit – Single Family Residential Affidavit.
2. Any and all proposed land disturbing activity within the property will need to 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**

No traffic impacts anticipated by this variance request.

**CITY COUNCIL
DISTRICT**

District 1

ANALYSIS

The applicant is requesting Side Yard and Combined Side Yard Setback Variances to allow placement of a house 3.84' the East property line and 8' from the West property line, and a combined side yard setback of 11.84' in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 10' side yard setback and a minimum 20' combined side yard setback in an R-1, Single-Family Residential District.

The applicant states:

We are submitting a variance application to have a house placed on Lot 2, Midtown Mobile Subdivision. It was previously recorded with a 25 foot front, 10 foot side setbacks, and an 8 foot rear setback. We have illustrated the house our client plans to move to the site. We are showing the house to be located to 8 foot on the west line and 3.8 feet on the east line next to an Alley Not-Open. Several of the properties that abut the Alley have built into it and it does not appear that there are any plans to open said Alleyway. It should also be noted that the house next door is a little over 2 feet from the west line per a prior survey performed by this firm. The homes in this area are traditionally closer to the existing property lines and we are asking for a variance from the setbacks that were created at the time of platting. The intent is to bring in this home immediately upon approval as shown on the survey for a proposed location.

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.

Typically, lots that are 60' wide or more are allowed a minimum side yard setback of 8' and a minimum combined side yard setback of 20'. However, when the subject lot was recorded in Probate Court in November 2016, the plat depicted 10' side yard setbacks for the lot, thus the current request. It should be noted that if approved, the site should also go to the Planning Commission to re-plat the lot with only the minimum front setback depicted.

There is an alley to the East of the site that has had a small segment vacated in 1992. The applicant could apply to have the entire alley abutting their lot vacated, and then go through the subdivision process to incorporate half of the alley (10') into the lot. If this were done, in

conjunction with the removal of the 10' side yard setbacks previously recorded for the site, the proposed dwelling would be compliant with the standard minimum side yard setbacks as well as the combined side yard setback.

As the applicant stated, they wish to place an existing structure on the site from another location. While this may be the applicant's desire, if doing so cannot be achieved without the need for a variance, perhaps that dwelling is inappropriate for the subject site. A new structure could be built on site taking into account Zoning Ordinance requirements, and meet all setbacks.

It should be noted that the property immediately to the West of the subject site had a variance granted in 1965 to allow the dwelling to be constructed within 2' of the West property line.

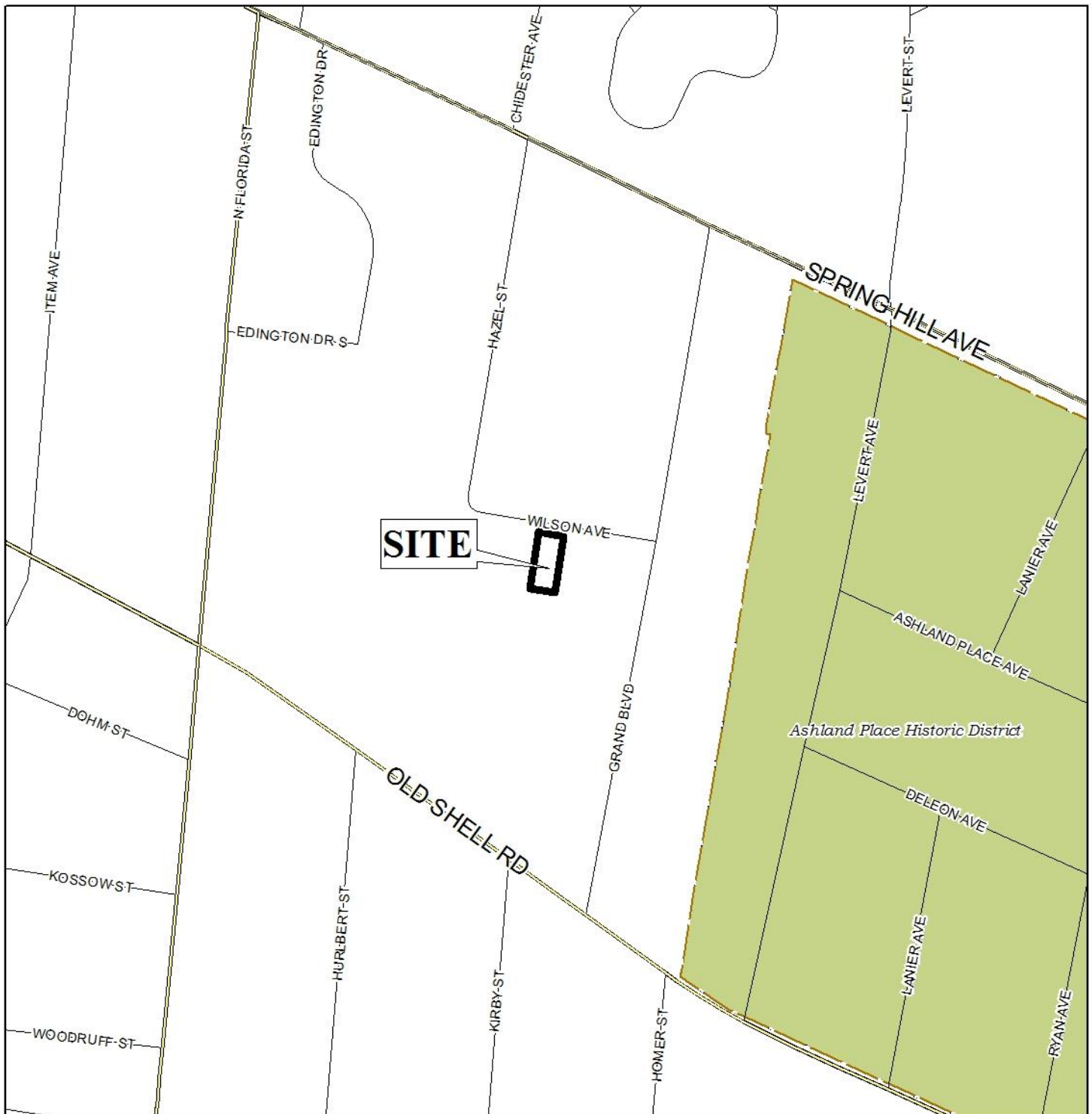
Given that there is are options that the applicant could explore that would result in the site being developed in compliance with all Zoning Ordinance requirements, without the need for a variance, there does not seem to be sufficient justification for the approval of the current request.

RECOMMENDATION

Staff recommends to the Board the following findings of facts for Denial:

- 1) allowing the proposed reduced setbacks would be contrary to the public interests inasmuch as a new structure could be placed on the site in compliance with all setback requirements;
- 2) that special conditions do not exist in preventing the site from complying with side yard setback requirements in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the applicant could have the abutting alley vacated and then incorporate a portion of that alley into the subject lot or not move the proposed house to this site; and,
- 3) that the spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the applicant has not exhausted all alternatives.

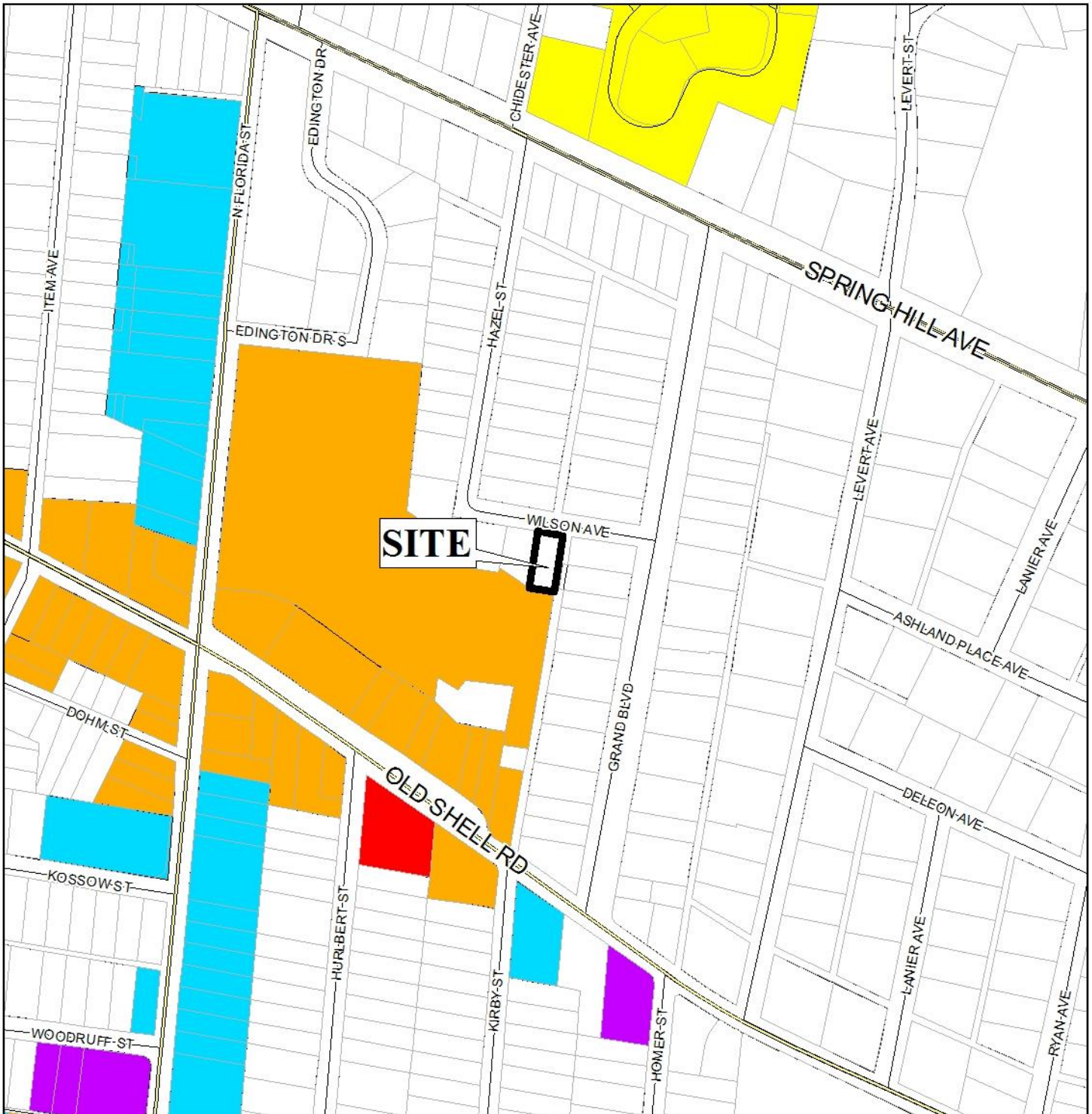
LOCATOR MAP



APPLICATION NUMBER 6174 DATE May 7, 2018
APPLICANT Polysurveying (John Vallas, Agent)
REQUEST Side Yard and Combined Side Yard Setback Variances



LOCATOR ZONING MAP



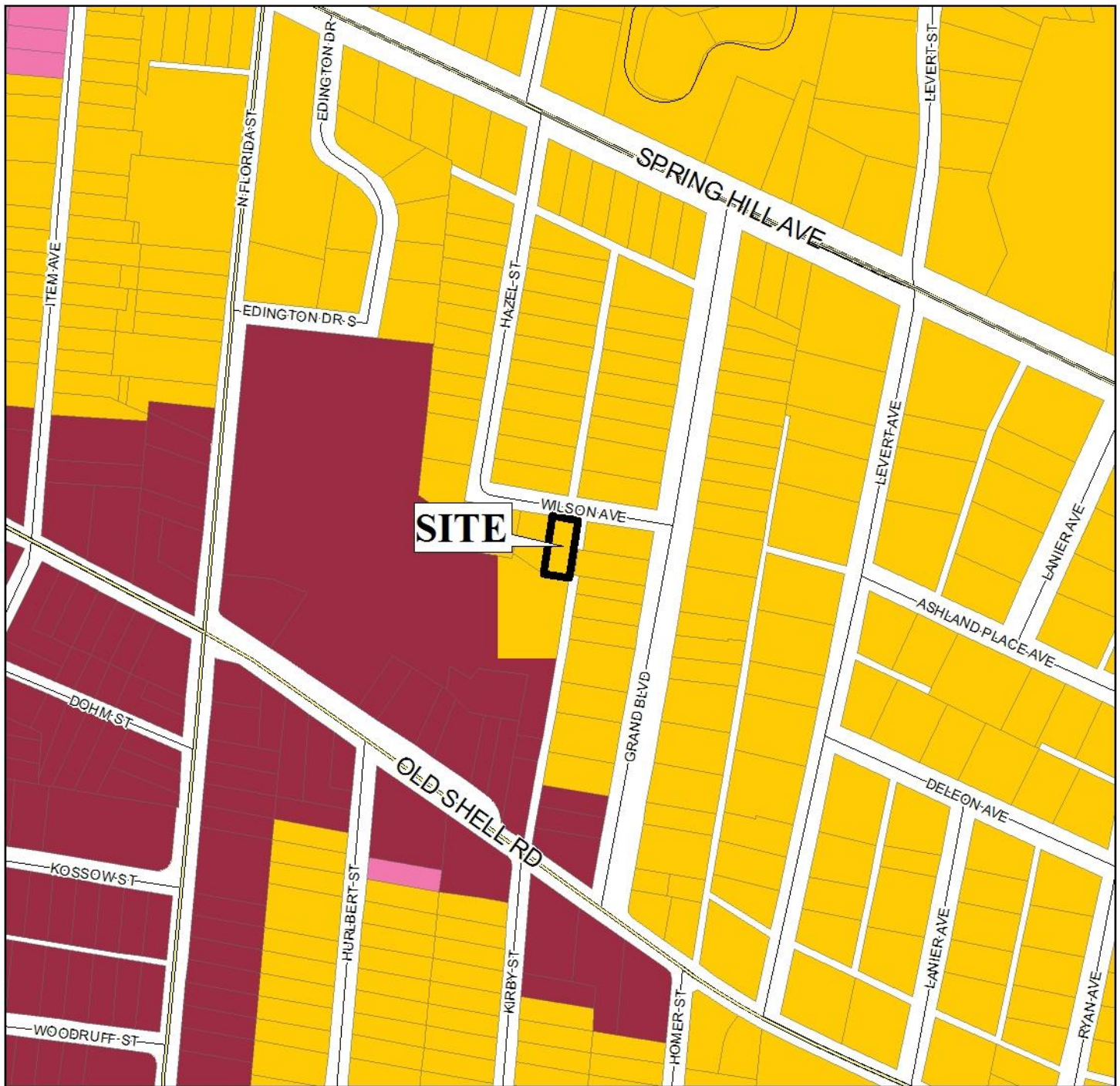
APPLICATION NUMBER 6174 DATE May 7, 2018

APPLICANT Polysurveying (John Vallas, Agent)

REQUEST Side Yard and Combined Side Yard Setback Variances



FLUM LOCATOR MAP



APPLICATION NUMBER 6174 DATE May 7, 2018

APPLICANT Polysurveying (John Vallas, Agent)

REQUEST Side Yard and Combined Side Yard Setback Variances

Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



ENVIRONMENTAL LOCATOR MAP

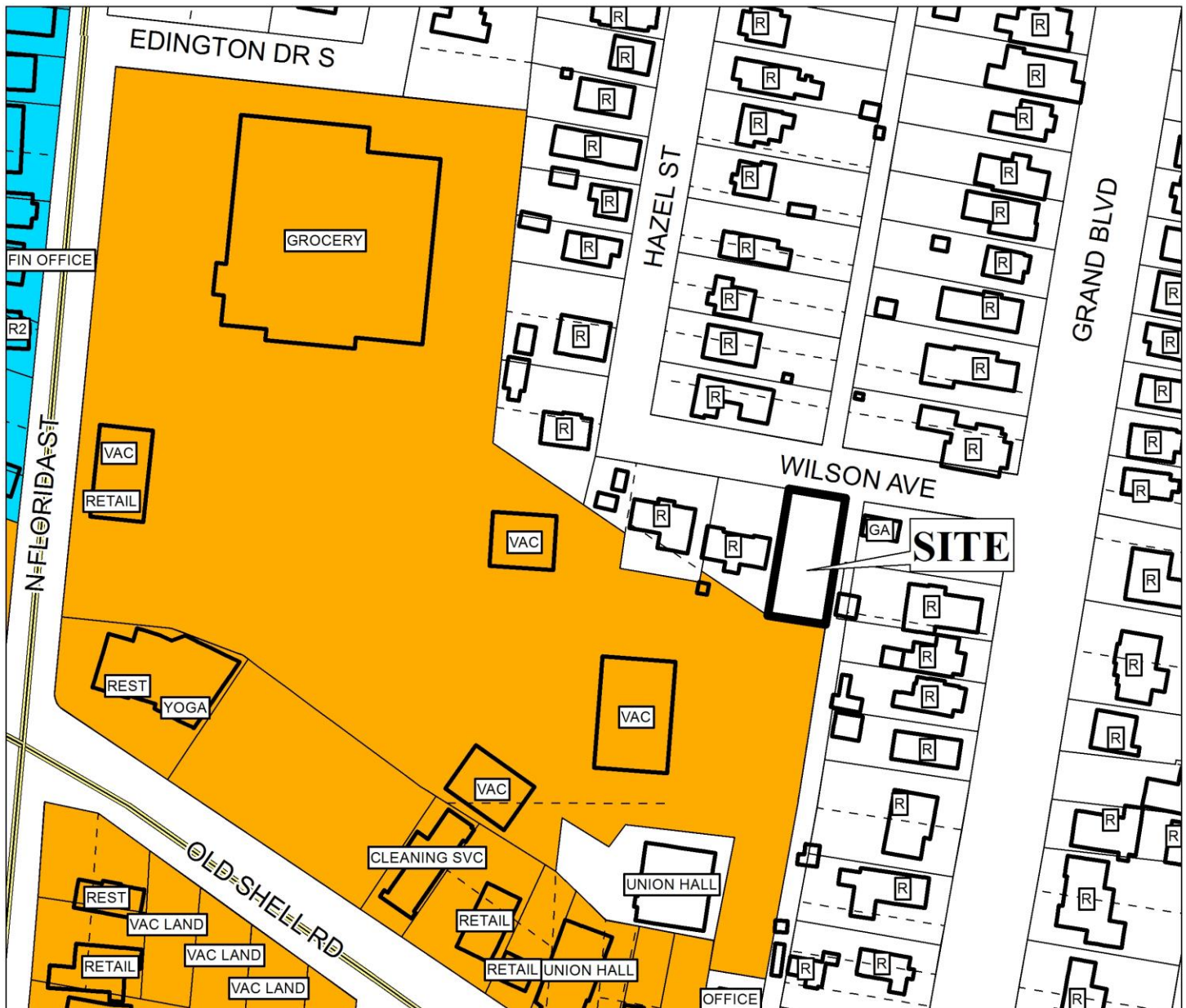


APPLICATION NUMBER 6174 DATE May 7, 2018
APPLICANT Polysurveying (John Vallas, Agent)
REQUEST Side Yard and Combined Side Yard Setback Variances



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the north and east, and commercial units to the west and south.

APPLICATION NUMBER 6174 DATE May 7, 2018

APPLICANT Polysurveying (John Vallas, Agent)

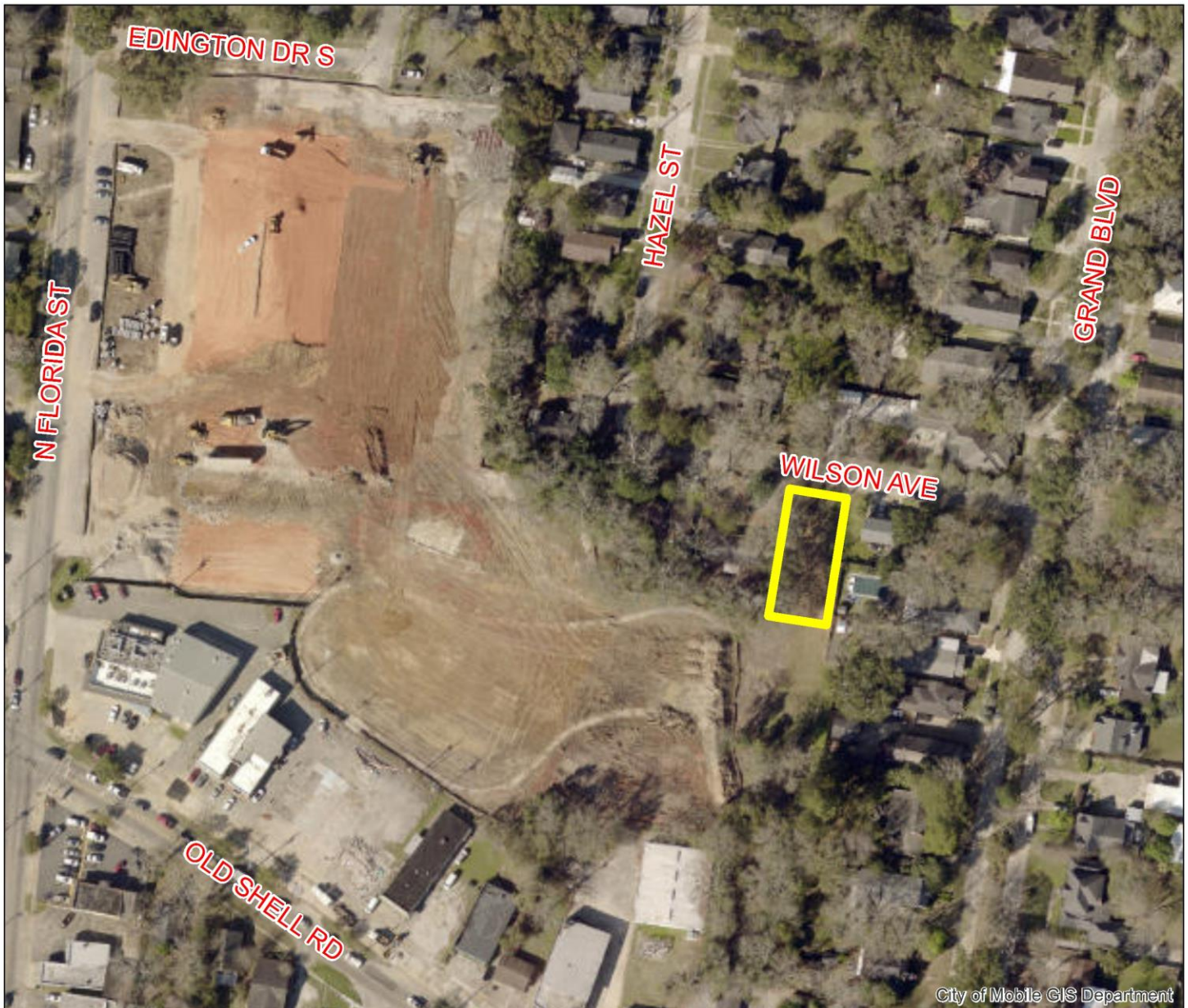
REQUEST Side Yard and Combined Side Yard Setback Variances

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 AERIAL

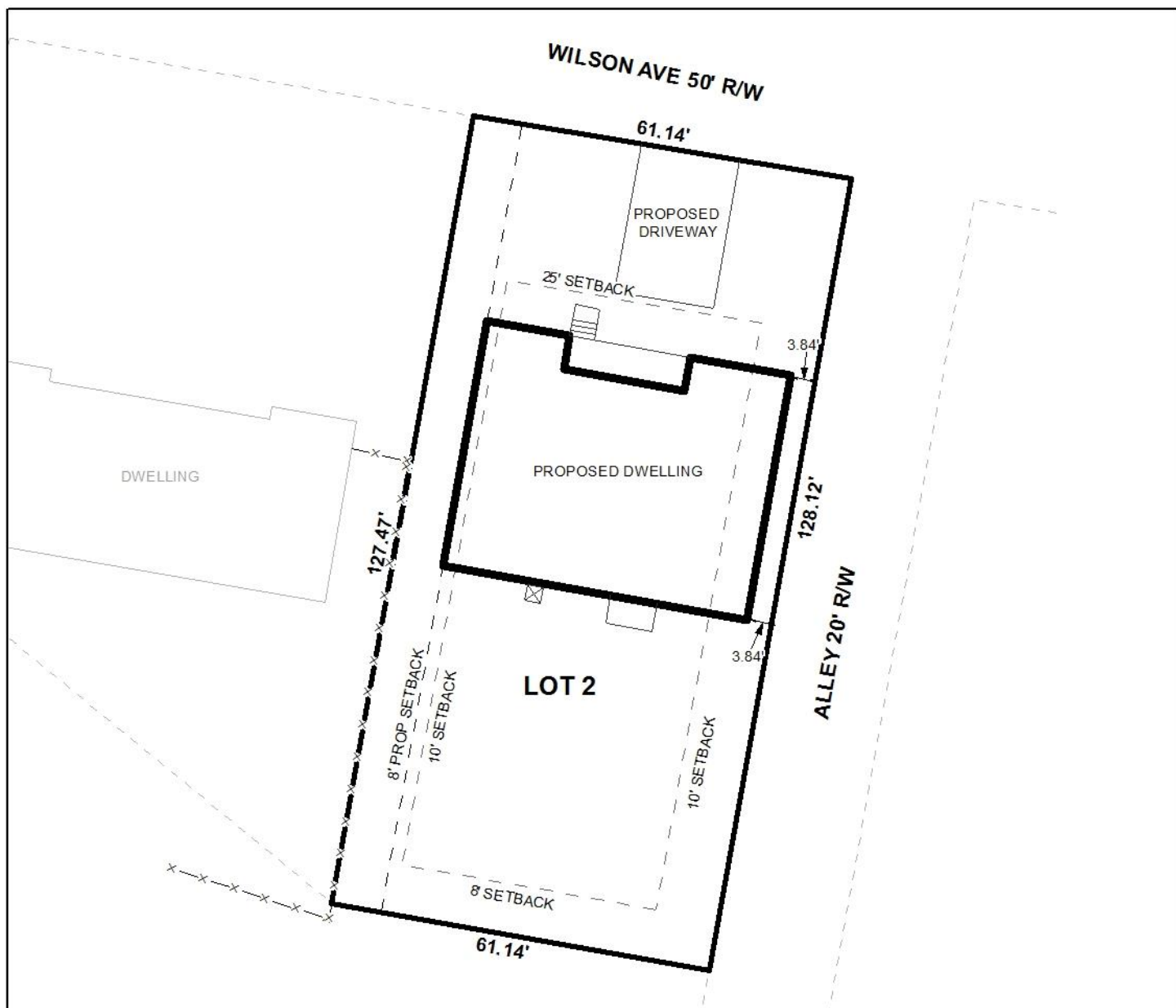


The site is surrounded by residential units to the north and east, and commercial units to the west and south.

APPLICATION NUMBER <u>6174</u> DATE <u>May 7, 2018</u>
APPLICANT <u>Polysurveying (John Vallas, Agent)</u>
REQUEST <u>Side Yard and Combined Side Yard Setback Variances</u>



SITE PLAN



The site plan illustrates the proposed dwelling, existing setbacks, and proposed setback.

APPLICATION NUMBER 6174 DATE May 7, 2018
 APPLICANT Polysurveying (John Vallas, Agent)
 REQUEST Side Yard and Combined Side Yard Setback Variances

