

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 6, 2022**

<u>CASE NUMBER</u>	6458
<u>APPLICANT NAME</u>	James F. Watkins
<u>LOCATION</u>	103 Lanier Avenue (Northwest corner of Lanier Avenue and Old Shell Road).
<u>VARIANCE REQUEST</u>	SIDE STREET SIDE YARD SETBACK: To allow a six (6)-foot high wall within a required side street, side yard setback in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	SIDE STREET SIDE YARD SETBACK: The Zoning Ordinance requires compliance with the side street, side yard setbacks in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential District
<u>AREA OF PROPERTY</u>	20,211± square feet
<u>CITY COUNCIL DISTRICT</u>	District 1
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments.
<u>URBAN FORESTRY COMMENTS</u>	Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

FIRE DEPARTMENT**COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

ANALYSIS

The applicant is requesting Side Street Side Yard Setback Variance to allow a six (6)-foot high wall within a required side street, side yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires compliance with the side street, side yard setbacks in an R-1, Single-Family Residential District.

The site has been given a Mixed Density Residential (MxDR) land use designation, per the Future Land Use Plan and Map adopted by the Planning Commission. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

This designation applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

These residential areas should offer a mix of single family homes, townhouses, 2- to 4- residential unit buildings, accessory dwellings, and low- and mid-rise multifamily apartment buildings. The density varies between 6 and 10 dwelling units per acre, depending on the mix, types, and locations of the housing as specified by zoning.

Like Low Density Residential areas, Mixed Density Residential areas may incorporate compatibly scaled and sited complementary uses such as neighborhood retail and office uses, schools, playgrounds and parks, and churches and other amenities that create a complete neighborhood fabric and provide safe and convenient access to daily necessities.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

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 states:

The subject property is located at the northwest corner of Old Shell Road and Lanier Avenue. The northern boundary of the site is adjacent to an unimproved city alley which provides access to adjacent property owner's garages. Applicants would like to install a 6ft high masonry and stucco wall along a portion of the north boundary of their property to shield it from the alley and to enclose their rear yard. There is an existing guest house and garage which are within two feet of the alley. Applicants would be allowed to place the proposed wall within two feet of the alley. Request is made to allow for the wall to be on, or very near, the north boundary line of the subject property. The subject wall would not run the entire length of the north boundary of the site, but only approximately 24 feet.

The request is being made due to the location of an existing large camellia and two Japanese magnolia trees. To place the wall at the two-foot setback would cause the removal of those plants. Moving the wall further away from the alley would place it too close to the house and create an unusual look.

As stated, the applicant is seeking relief from the Zoning Ordinance to allow a wall that exceeds the allowed height in a side yard side street setback. Based on the statement from the applicant, the request would allow them to construct the desired wall without the need to remove 3 existing trees which are approximately two (2) feet from the Northern property line.

Section 64-4.D.6.a. of the Zoning Ordinance states: "No fence or wall that obstructs sight shall be erected or altered in any required front yard to exceed a height of three (3) feet, and no fence or wall shall be erected or altered in any required side or rear yard to exceed a height of eight (8) feet. On a corner building site not having to its rear a building site facing toward the intersecting or side street, no fence or wall that obstructs sight shall be erected in the required side yard to exceed a height of three (3) feet."

The subject site is located in an older part of the City of Mobile, and is within the Ashland Place Historic District. As such, it is subject to the Historic District Overlay (HDO) standards. The Historic District Overlay provisions were adopted in 2004, and while they provide the opportunity for flexibility with historic districts, there are no pre-existing examples that would benefit the request at hand.

It should be noted, that while there have been several setback variances granted for privacy fences in the vicinity, there have not been any such requests made along the alley North of the subject site which is utilized by numerous other properties for access. While line-of-site is often a concern with walls and privacy fences as close to street frontages as is proposed, it appears that the proposed wall would only impact the applicant's visibility regarding access to their garage.

Additionally, there are no conditions which exist at this site that would require the applicant to have a fence that exceeds the allowed maximum height limit of three (3) feet, nor has any reason been provided by the applicant in their narrative. This application seems to be merely the applicant's desire to aid in the aesthetic character of their property, but does not appear to be a necessity.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) Approving the variance will be contrary to the public interest because the proposed wall will be the first of its kind along the shared alleyway that runs along the rear of a number of properties;
- 2) Special conditions were not illustrated such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the surrounding neighborhood by granting the variance, as a wall of this type is unprecedented within the neighborhood.

LOCATOR MAP



APPLICATION NUMBER 6456 DATE June 6, 2022
 APPLICANT James F Watkins
 REQUEST Side Street Side Yard Setback Variance



LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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Layer2

Low Density Residential
Mixed Density Residential

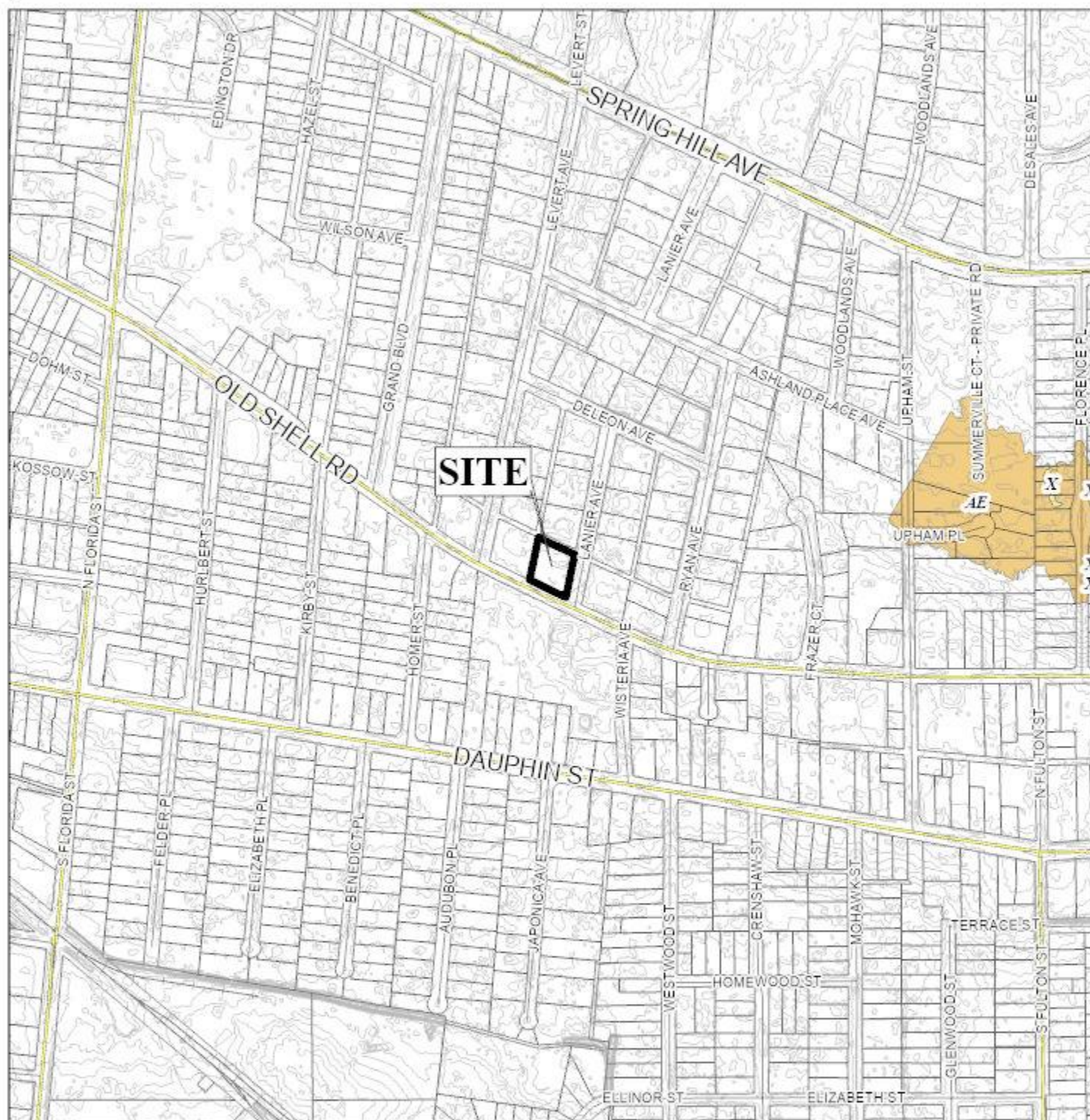
Downtown
District Center
Neighborhood Center - Traditional
Neighborhood Center - Suburban

Traditional Corridor
Mixed Commercial Corridor
Downtown Waterfront
Light Industry

Heavy Industry
Institutional
Parks & Open Space
Water Dependent



ENVIRONMENTAL LOCATOR MAP



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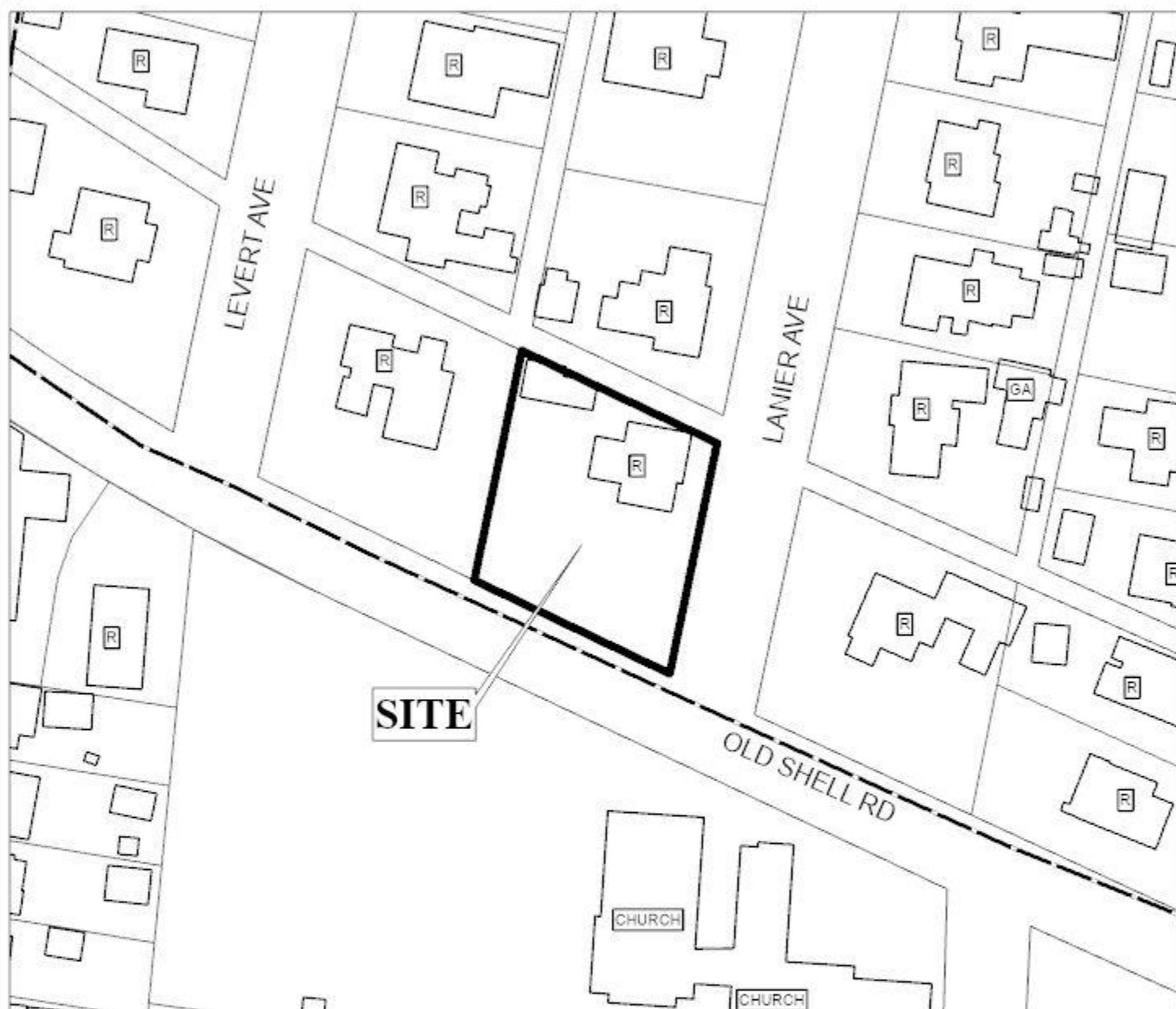
APPLICANT James F Watkins

REQUEST Side Street Side Yard Setback Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



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APPLICANT James F Watkins

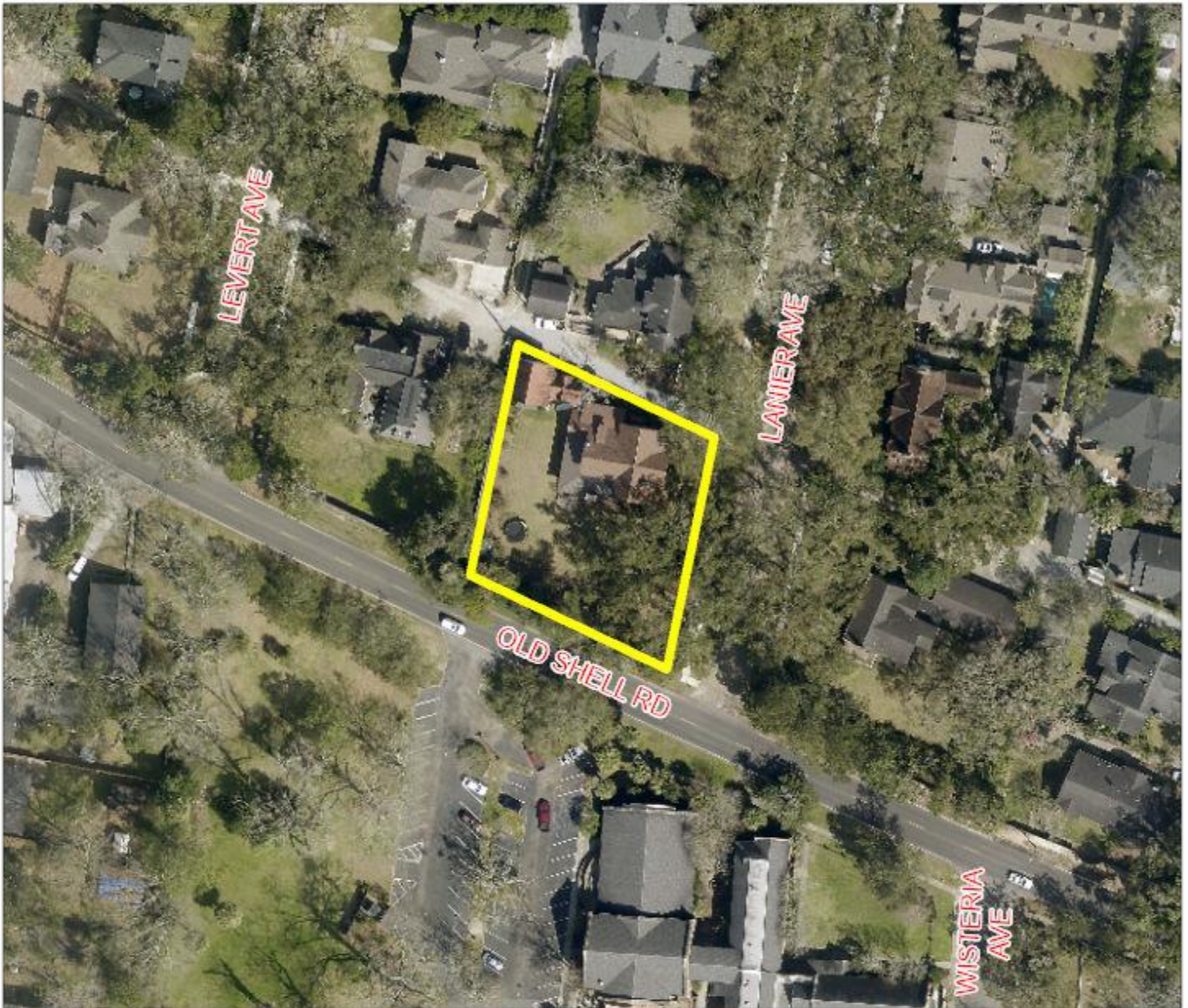
REQUEST Side Street Side Yard Setback Variance

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

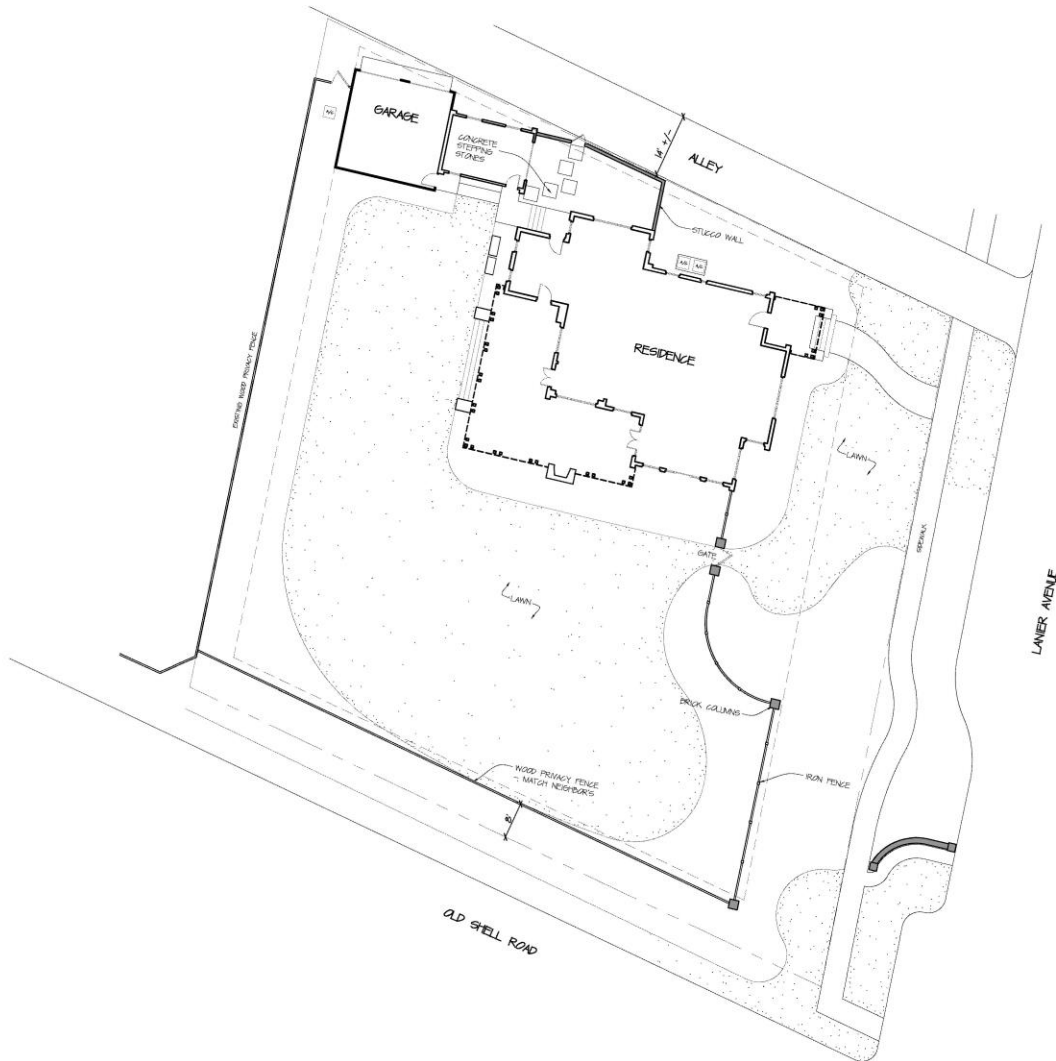


This site is surrounded by residential units.

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SITE PLAN



This site illustrates the existing dwelling and side alley.

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