

APPLICATION NUMBER

5542

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW, AS THE
RESULT OF A SUBDIVISION, A SINGLE-FAMILY
DWELLING 5.08' FROM A SIDE PROPERTY LINE IN AN
R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE
ZONING ORDINANCE REQUIRES A MINIMUM OF A 7.1'
SIDE YARD SETBACK FOR A 50' WIDE LOT IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

4300 COALESWAY DRIVE

(Northwest corner of Coalesway Drive and Belvedere Street)

APPLICANT

HURLEY CREWS, Sr., et al

BOARD OF ZONING ADJUSTMENT

JULY 2009

The applicant is requesting a Side Yard Setback Variance to allow, as the result of a subdivision application, a single-family dwelling 5.08 feet from a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a 7.1-foot side yard setback for a 50-foot wide lot in an R-1, Single-Family Residential District.

On March 17, 2009, a Zoning Inspection was received from Mobile 311 to investigate a report of two dwelling units on a single building site in an R-1, Single-Family Residential District. The investigation revealed that an existing detached garage had been converted into a living space, and a fence had been put up in an attempt to give the appearance of a separate lot. Additionally, the property owners had assigned an unapproved address to the garage of 4300-B Coalesway Drive. After an official Notice of Violation was issued, followed later by a Municipal Offense Ticket, the applicant made contact with staff. Discussions to remedy the zoning issues included options of (a) removing the kitchen from the garage so it would not be a dwelling unit, (b) applying for a subdivision as long as the minimum lot size requirements could be met, or (c) applying to the Board of Zoning Adjustment for a use variance.

The applicant chose to apply for a subdivision. The lot is depicted with a 50-foot width at the 25-foot setback line along along Belvedere Street. Section 64-4.D.7 of the Zoning Ordinance makes a provision of required side yard reductions for lot less than 60 feet in width. Accordingly, the side yard setbacks for the proposed lot would be 7.1 feet on one side and 9.5 feet on the other, with the sum of both side yards totaling 16.7 feet. As currently depicted, the existing structure would have a left side yard of 5.08 feet and a right side yard of 13 feet, with a sum of 18.08 feet. The proposed side yard of 5.08 feet necessitates a variance application, as the proposed subdivision would create a zoning violation.

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.

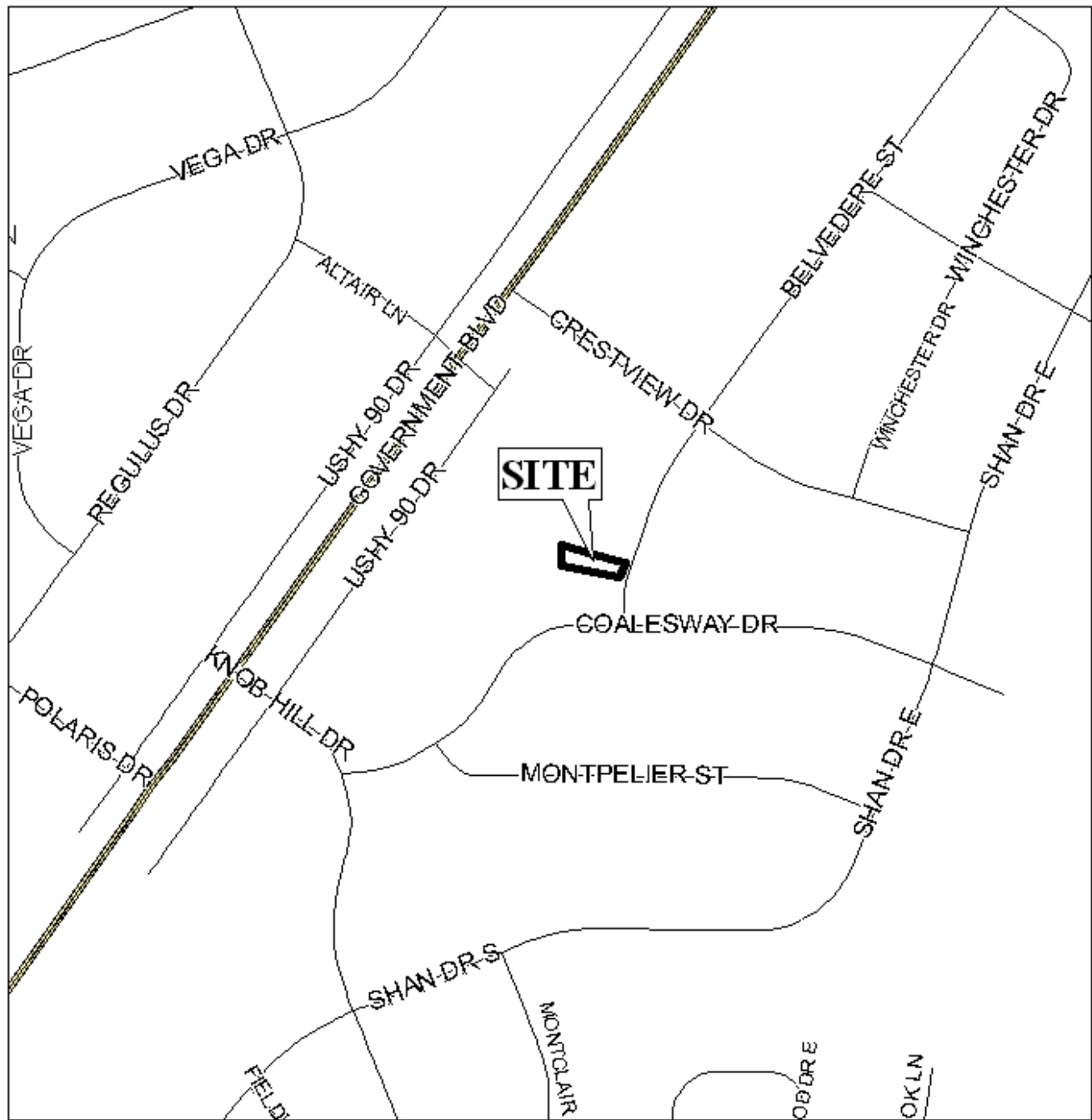
The application for subdivision was to be heard by the Mobile City Planning Commission on June 18, 2009. However, the applicant requested a holdover at that time. The

application is now scheduled to be heard at the July 16, 2009 meeting. As granting any variance for a side yard setback would be a moot point if the Subdivision is not approved, the Board should delay its decision until the Planning Commission has rendered a decision regarding the Subdivision.

RECOMMENDATION 5542**Date: July 6, 2009**

Based on the preceding, the application is recommended for holdover until the August 3, 2009 meeting.

LOCATOR MAP



APPLICATION NUMBER 5542 DATE July 6, 2009

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REQUEST Side Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units with a mini storage business to the north.

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LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

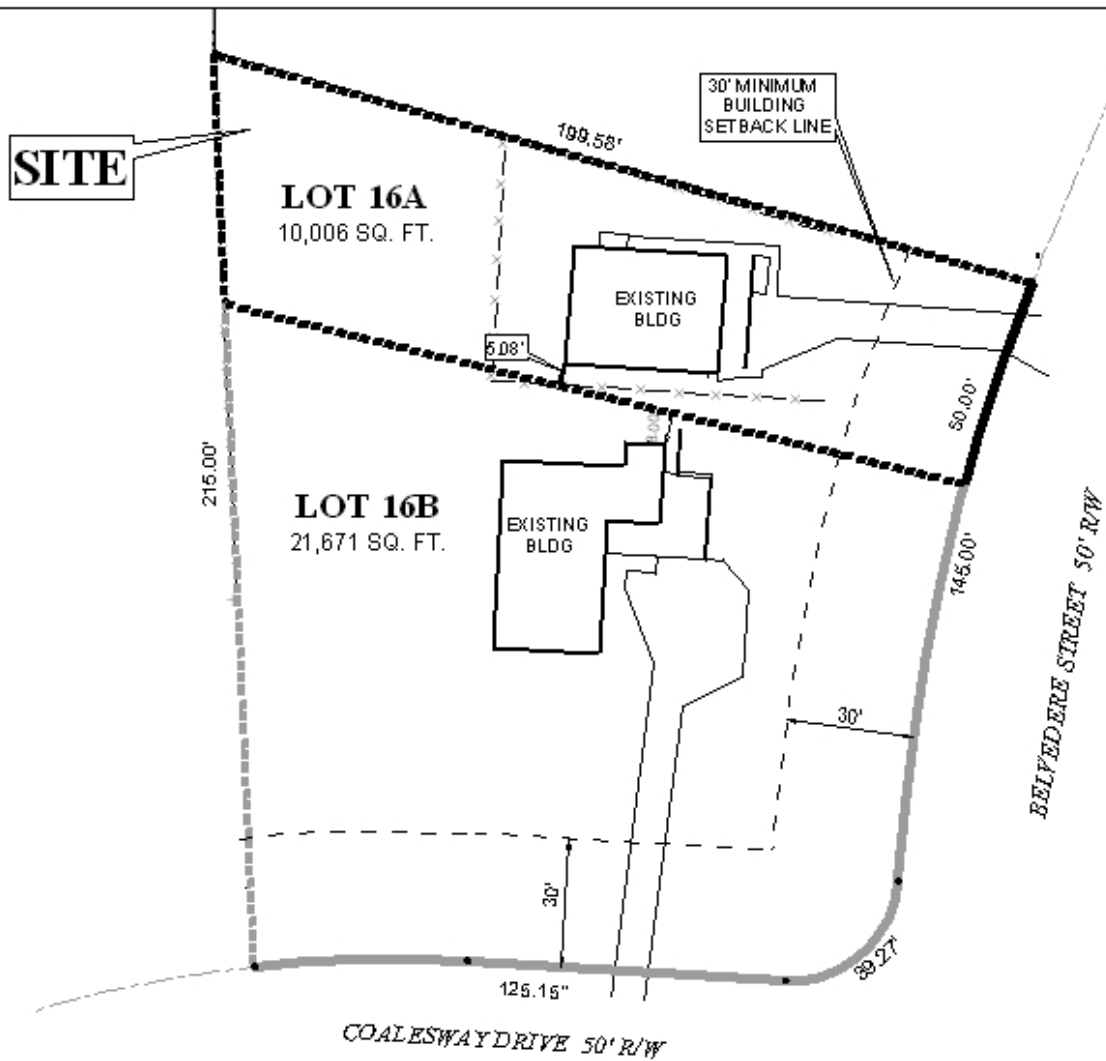


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SITE PLAN



The site plan illustrates the existing buildings, drives, and setbacks.

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