

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 5, 2012**

<u>CASE NUMBER</u>	5792
<u>APPLICANT NAME</u>	Susan and Kevin Carley
<u>LOCATION</u>	19 Westgate Road (North side of Westgate Road, 250'± East of Bit and Spur Road)
<u>VARIANCE REQUEST</u>	SETBACK: Side Yard Setback Variance to allow a porch expansion within 5.5' of a side property line in an R-1, Single Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	SETBACK: Zoning Ordinance requires a minimum side yard setback of 8-feet in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single Family Residential
<u>AREA OF PROPERTY</u>	21635.2± Square Feet/0.5± Acres
<u>ENGINEERING COMMENTS</u>	No comments
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments.
<u>URBAN FORESTRY COMMENTS</u>	No comments
<u>FIRE DEPARTMENT COMMENTS</u>	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.
<u>CITY COUNCIL DISTRICT</u>	District 5
<u>ANALYSIS</u>	The applicant is requesting a Side Yard Setback Variances to allow a porch expansion within 5.5' of a side property line in an R-1, Single Family

Residential District; the Zoning Ordinance requires a minimum side yard setback of 8-foot side for structures in an R-1, Single-Family Residential District.

The applicant acquired the property in 2003, and proposes to add an overhead cover to the existing courtyard area to provide a shelter over the outdoor furniture and patio area. However, this addition will span from the existing residence to an existing accessory structure thereby creating a single building within 2-feet of the side property line. The applicant states that the addition complies with all other required setbacks and is well below the maximum site coverage.

It should be noted that this addition is proposed to be one continuous roofline; therefore, the requirement to provide 8-feet side yard setback, whereas, the existing setback is 2-feet. Since the accessory structure is considered a nonconforming structure and the structure is included within the addition, nonconformance is lost, due to the change in the size of the structure.

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 proposed location of the addition would not result in creating a sub-standard side yard setback; however, it does extend the substandard setback and may create an undesirable situation for adjacent neighbors by creating more surface area from roof run-off. The Zoning Ordinance requires a minimum 8-foot for side yards; however, if approved, the placement of the addition would result in the continuation of a sub-standard side yard setback of 2-feet.

It should be noted that while the existing detached accessory structure has been a non-conforming structure for several years, the Zoning Ordinance attempts to bring all non-conforming structures into compliance eventually. If this request is approved, it would allow the continuation of a structure being too close to the side yard property lines. Further, the storage shed was not a habitable structure and the conversion to habitable living area should have required a side yard variance when the structure was converted.

The applicant has failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. The applicant wishes to create a cover from an existing residence to an existing non-conforming structure. It is possible for the proposed cover to be relocated to fit all setbacks; therefore, this is a design issue not a site issue, and thus it is a self-imposed hardship.

RECOMMENDATION:

Based on the preceding, this application is recommended for denial.

LOCATOR MAP



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REQUEST Side Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residences.
A salon is located to the west of the site.

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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**

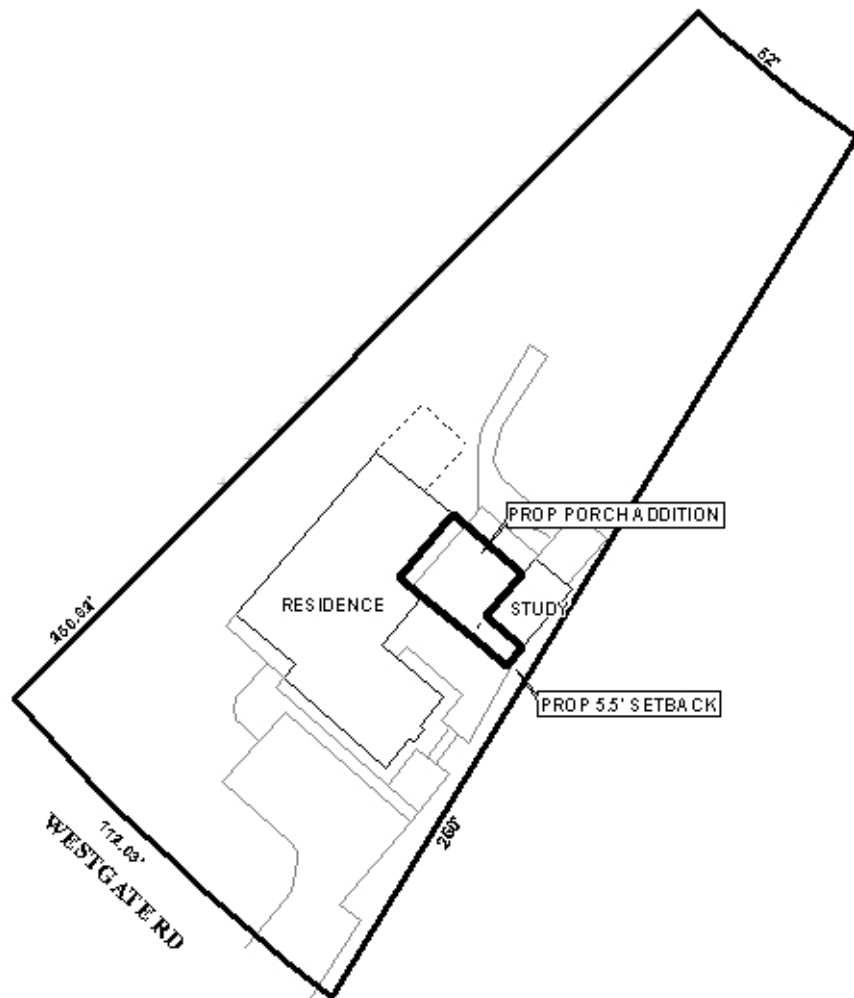


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SITE PLAN



The site plan illustrates the proposed porch addition and setbacks.

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