

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 9, 2013****CASE NUMBER**

5858

APPLICANT NAME

James L. O'Brien

LOCATION4167 Burma Road
(South side of Burma Road, at the Southern terminus of
Carriage Drive).**VARIANCE REQUEST****SIDE YARD SETBACK:** Side Yard Setback Variance to
allow the addition of a garage within 3.2' ± of the side yard
property line in an R-1, Single Family Residential District.**ZONING ORDINANCE
REQUIREMENT****SIDE YARD SETBACK:** The Zoning Ordinance requires
a minimum 8' side yard setback in an R-1, Single Family
Residential District.**ZONING**

R-1, Single Family Residential

AREA OF PROPERTY

40,962 ± Square Feet

**ENGINEERING
COMMENTS**

No comments received.

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**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**Property to be developed in compliance with state and local
laws that pertain to tree preservation and protection on both city and private properties (State Act
61-929 and City Code Chapters 57 and 64).**CITY COUNCIL
DISTRICT**

District 4

ANALYSIS

The applicant is requesting a Side Yard Setback Variance to allow the addition of a garage within 3.2' \pm of the side yard property line in an R-1, Single Family Residential District; the Zoning Ordinance requires a minimum 8' side yard setback in an R-1, Single Family Residential District.

It should be noted that in 2011, the front portion of the western side yard lot line in this request was shifted 5' to the west to its current location as the result of a 2011 Subdivision Application. Prior to the lot line being relocated, aerial photography from as early as 1997 verifies the presence of a 21' \pm wide by 23' \pm long carport which appears to have encroached the western side yard lot line. The applicant states that the previous carport was torn down and photos submitted for this application do not show an existing structure. It should be pointed out that the applicant did not, apparently, obtain a demolition permit for the carport. Therefore, an after the fact demolition permit should be required. The proposed garage measures approximately 3' wider and 3' longer than the previous carport.

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.

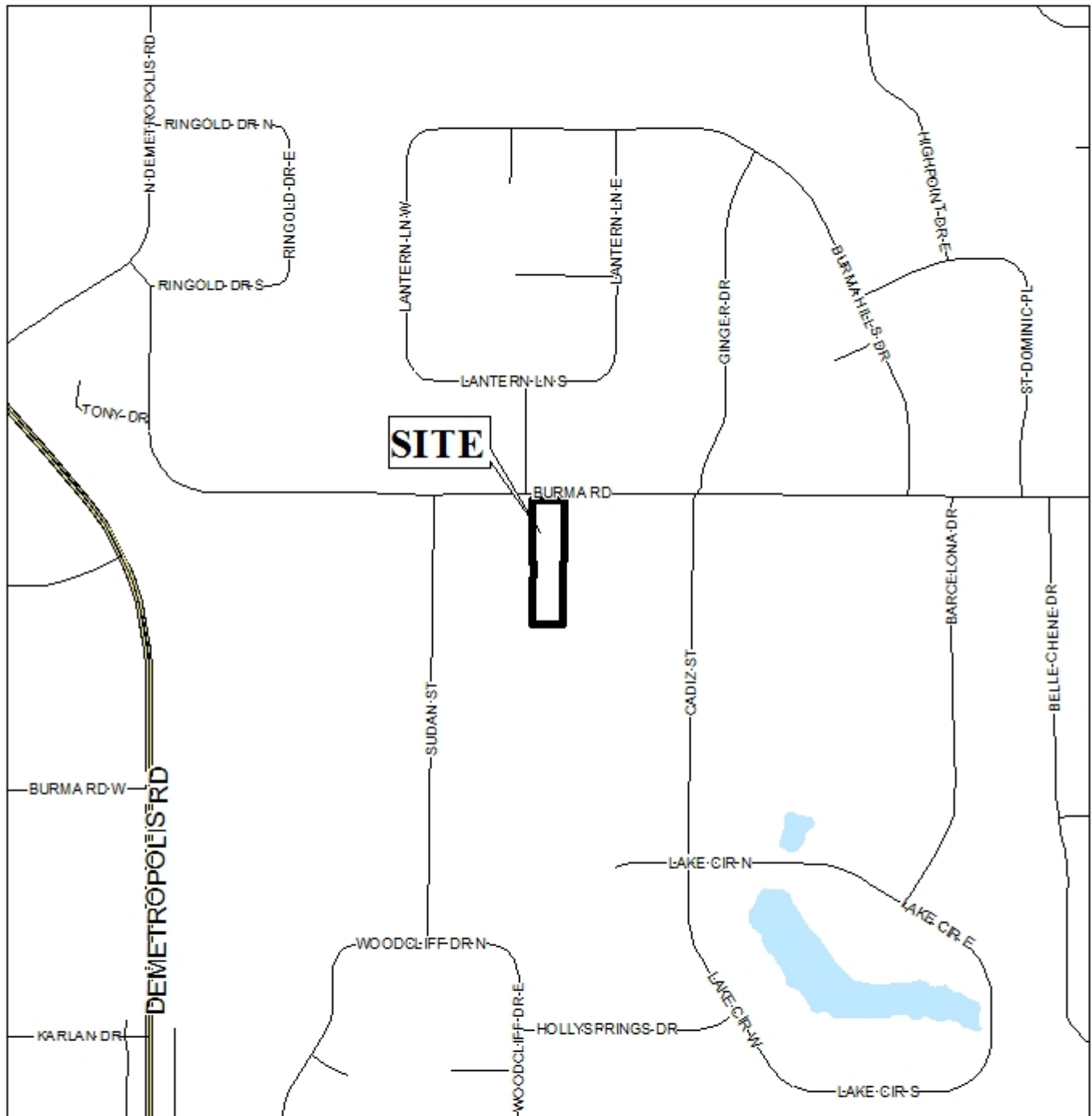
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant states that he wants to improve his property with the addition of the garage and mentions that his neighbor could not concede any additional footage due to the location of his driveway. However, there appears to be other locations on the applicant's property which may be favorable for construction and able to accommodate the size and accessibility of the proposed garage. It should be noted that any structure placed less than 5 feet from a property line must have fire-rated walls, per the Building and Fire Codes. It should be pointed out that if the applicant can provide documentation showing that the carport structure was not removed prior to September 2011, he may apply for a Non-Conforming status, and if approved, will be allowed to construct the new carport or garage the exact same size as the former carport and in the same location, but no closer than 5' \pm from the western property line.

RECOMMENDATION:

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

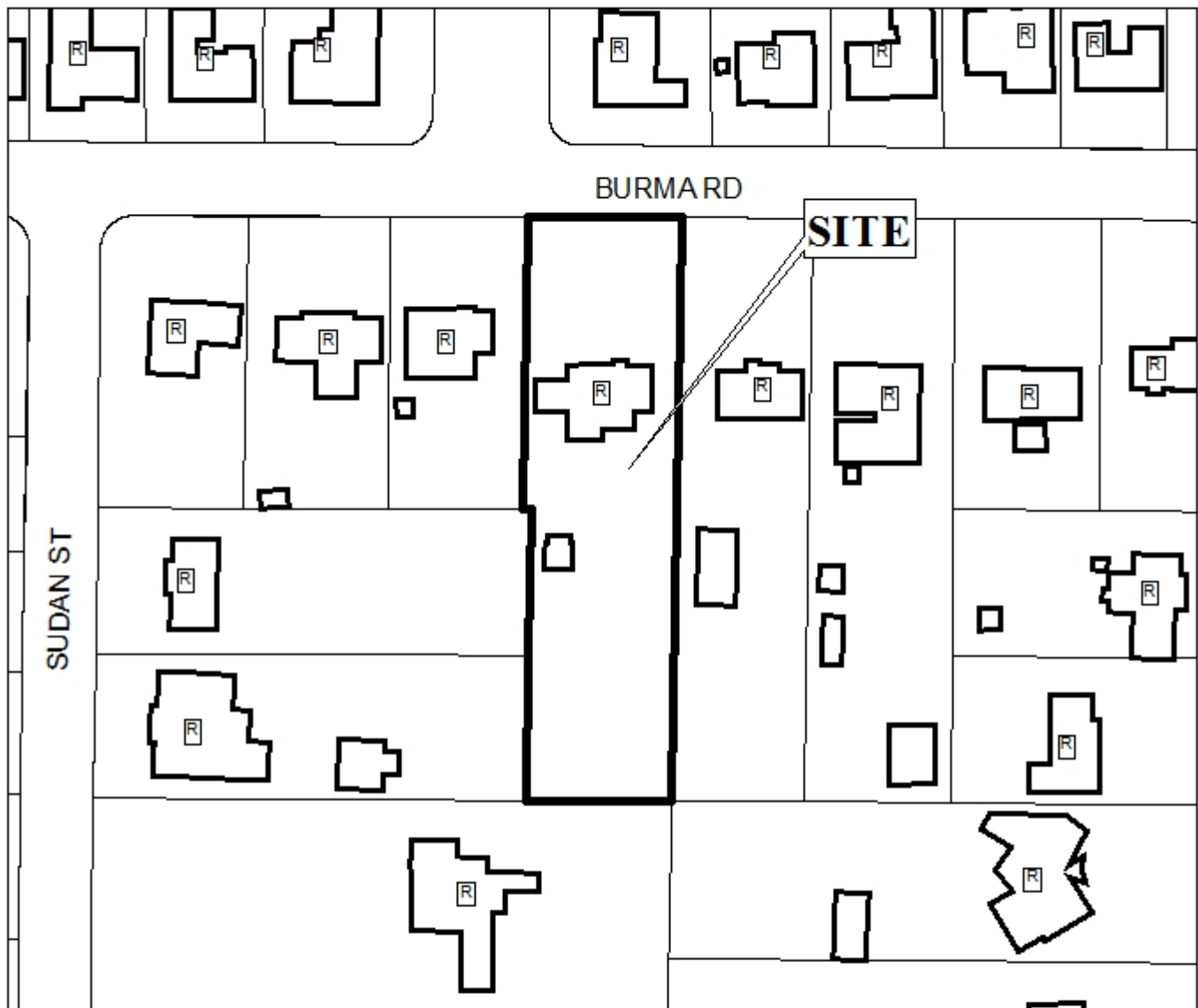
LOCATOR MAP



APPLICATION NUMBER 5858 DATE September 9, 2013
 APPLICANT James L. O'Brien
 REQUEST Side Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING






The site is located in a single family residential district.

APPLICATION NUMBER 5858 DATE September 9, 2013

APPLICANT James L. O'Brien

REQUEST Side Yard Setback Variance

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

NTS



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

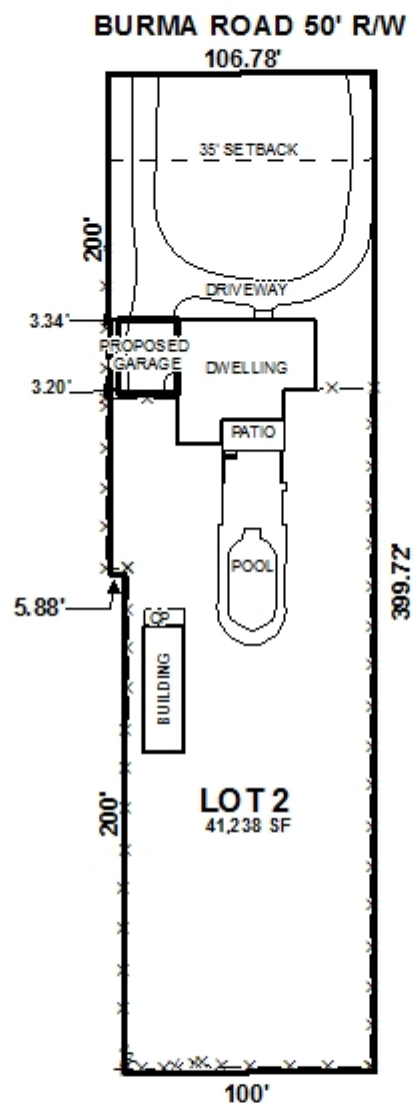


The site is located in a single family residential district.

APPLICATION NUMBER 5858 DATE September 9, 2013
APPLICANT James L. O'Brien
REQUEST Side Yard Setback Variance



SITE PLAN



The site illustrates the proposed garage, existing buildings, and pool.

APPLICATION NUMBER 5858 DATE September 9, 2013
 APPLICANT James L. O'Brien
 REQUEST Side Yard Setback Variance

