

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: January 5, 2015****CASE NUMBER**

5941

APPLICANT NAME

Gary D.E. Cowles

LOCATION464 St. Michael Street
(Northeast corner of St. Michael and N. St Lawrence Street)**VARIANCE REQUEST****SITE:** Site Variance to allow a 6' high chain link fence along the front property line on a lawn frontage in the Downtown Development District.**ZONING ORDINANCE
REQUIREMENT****SITE:** The Zoning Ordinance allows a maximum height of 4' for a fence along the front property line on a lawn frontage in the Downtown Development District.**ZONING**

SD-WH- Special District Warehouse

AREA OF PROPERTY

1,976 ± square feet

**CITY COUNCIL
DISTRICT**

District 2

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request. Line of sight for this corner of the intersection is minimal based on the directionality of the one-way streets.

**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).

**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.

ANALYSIS

The applicant is requesting a Site Variance to allow a 6' high chain link fence along the front property line on a lawn frontage in the Downtown Development District; the Zoning Ordinance allows a maximum height of a 4' for a fence along the front property line on a lawn frontage in the Downtown Development District.

It should be pointed out, while the application is for a Site Variance, the request for an additional 2' in height for the chain link fence is more specifically related with a fence height variance. The site has been vacant since at least 1997, according to aerial photos, and appears to have remained unfenced until recently. The Downtown Development District regulates the height of the fence as well as the materials. Due to the fact the fence is along the front property lines in a lawn frontage in the Downtown Development District, a variance is required.

The applicant states the following reasons to explain the need for the variance:

The project address is 460 St. Michael Street Mobile, AL, 36602. A new 6' high chain link fence was installed to replace an existing chain link fence that had been previously removed. The 6' high fence was chosen in order to match the existing fence on two sides of the property. The fence was added for security. A dog house is currently on the property and the chain link fence was installed so that transients could not access the dog. The dog is on the property during normal business hours only. Cowls, Murphy, Glover & Associates have an office directly across the street.

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.

It would appear that the intent the 6' high chain link fence is for safety purposes to protect both the dog as well as the pedestrians that pass by. One would assume that a higher fence is needed to prevent potential contact between the dog and passersby's as a 4' fence may not prevent the dog from escaping, nor prevent the people from climbing the fence to tantalize or pester the dog. A higher fence could possibly eliminate any future attacks to the passerby and or injuries to the dog.

It should also be noted that there is a second 6' high chain link fence that is located around the existing dog house as well which would serve as additional protection.

While the site is zoned SD-WH and allows a maximum 4' high fence the chain link fence will not impose any injustice on the surrounding neighbors nor will it create a line of sight issue for drivers as stated by Traffic Engineering. Also, due to the site's close proximity to the core of

downtown and the high pedestrian foot traffic, a 2' increase in height for the fence would not seem impractical.

RECOMMENDATION:

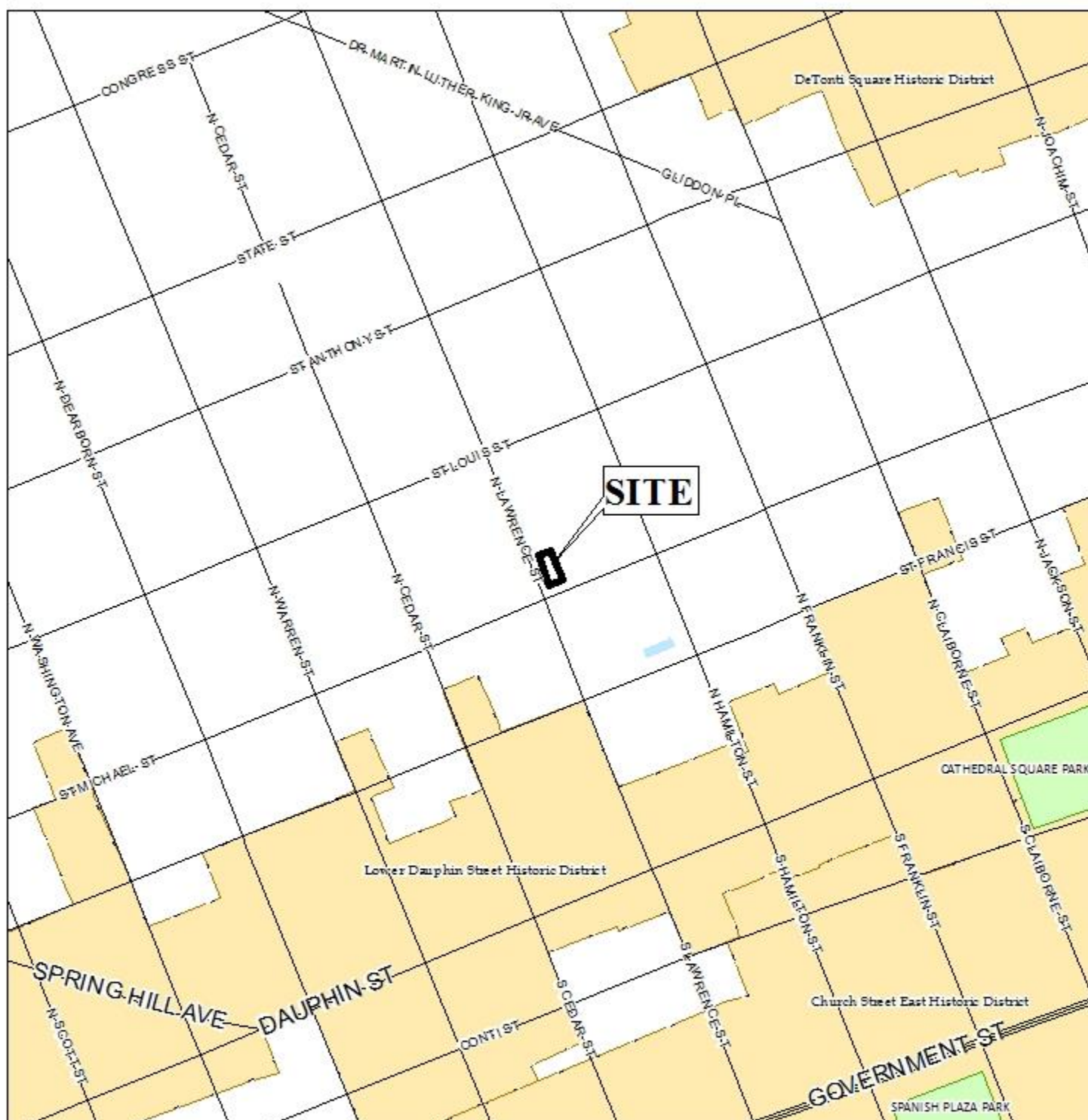
Staff recommends to the Board the following findings of fact for Approval:

- 1) approving the variance will not be contrary to the public interest in that the fence will not cause a line of sight issue for drivers and is constructed of a Downtown Development District compliant material;
- 2) special conditions appear to exist, such as the dog must be contained within a high enough fence to prevent possible contact with pedestrians, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) the spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the proposed fence will serve as a protective barrier for the dog and pedestrians.

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) submission of an after the fact building permit;
- 2) no screening may be added around the chain link fence that would possibly create a line of sight issue in the future; and
- 3) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 5941 DATE January 5, 2015

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REQUEST Site Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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REQUEST Site 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 ZONING



The site is surrounded by commercial units.

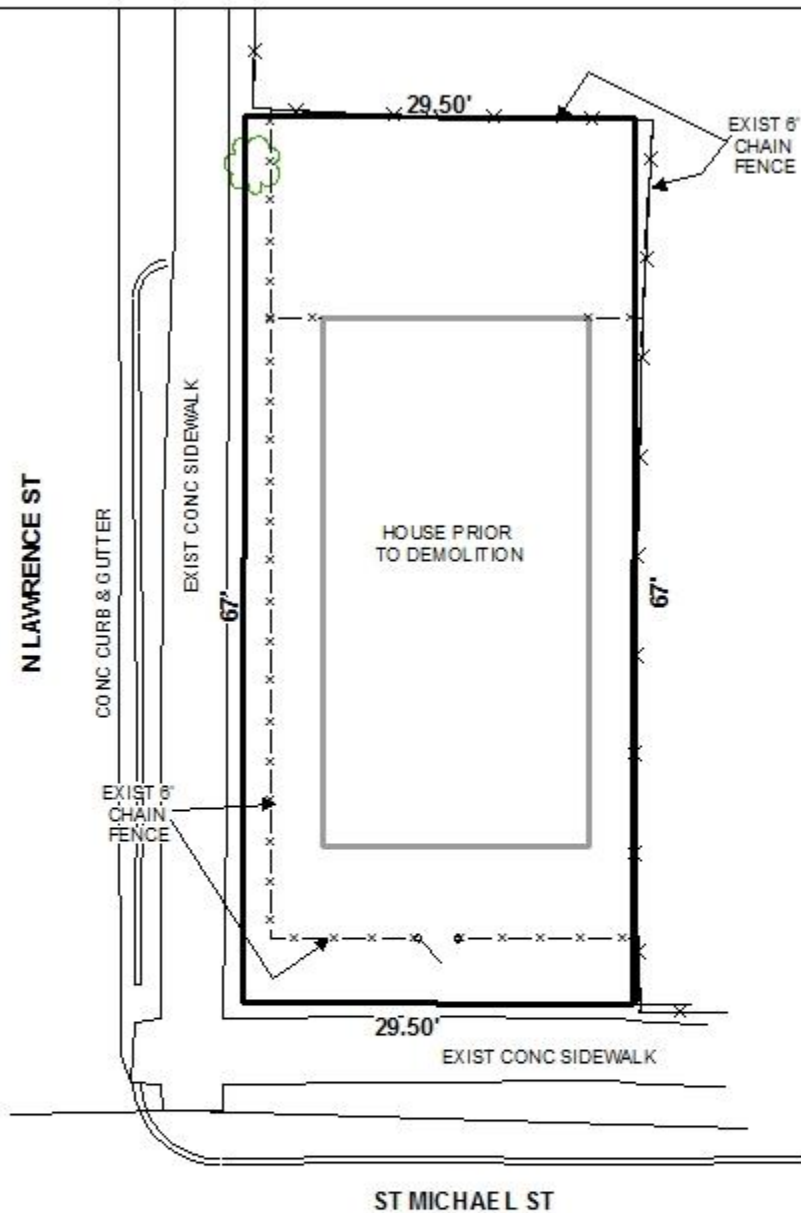
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REQUEST Site Variance



OLD SITE PLAN



The site plan illustrates the house and fences prior to house demolition.

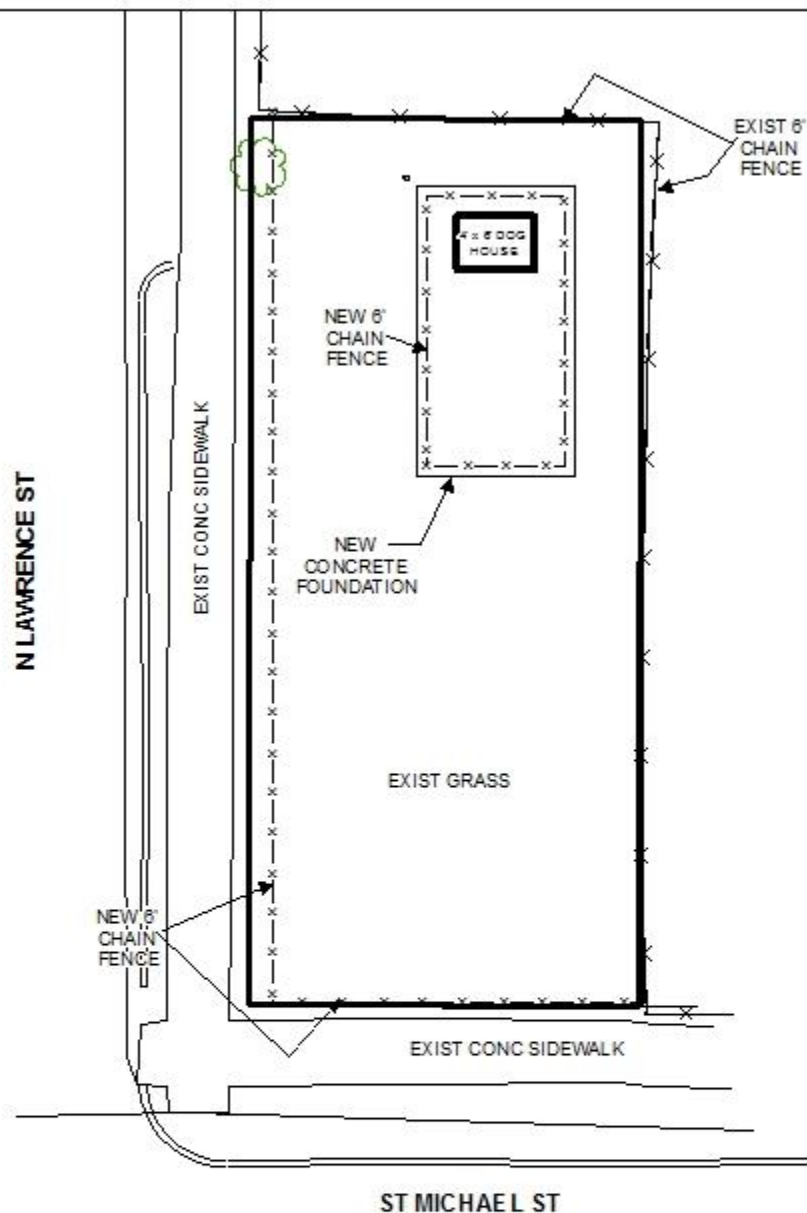
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NEW SITE PLAN



The site plan illustrates the existing fences, new fences, and new dog house.

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DETAIL SITE PLAN



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