

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: October 7, 2019**

<u>CASE NUMBER</u>	6286
<u>APPLICANT NAME</u>	James McDonald
<u>LOCATION</u>	4350 The Cedars (North side of The Cedars, 428'± West of Dilston Lane)
<u>VARIANCE REQUEST</u>	SETBACK VARIANCE: Setback variance to allow reduced setbacks for an addition in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	SETBACK VARIANCE: The Zoning Ordinance requires eight (8) foot minimum side yard setbacks in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential
<u>AREA OF PROPERTY</u>	0.25 ± Acres
<u>CITY COUNCIL DISTRICT</u>	District 7
<u>ENGINEERING COMMENTS</u>	No Comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No traffic impacts anticipated by this variance request.
<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 (State Act 2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit.
<u>FIRE COMMENTS</u>	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).

ANALYSIS

The applicant is requesting a variance from the side yard setback requirements to allow the construction of a 140 square foot master bedroom and closet addition. The Zoning Ordinance requires eight (8) foot minimum side yard setbacks in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) land use designation, per the adopted Future Land Use Plan and Map. 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 to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single family housing unit, detached or semidetached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

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 east side of our home is (and has been for over 50 years) three feet from the adjoining lot. We wish to add to our master bedroom 140 sq ft (10' x 14') to add closet by coming out 10' to the south. There is no other way to add the room we desperately need to our home without coming out from the master bedroom.

As stated, the applicant is seeking relief from the Zoning Ordinance to allow the construction of a 140 square foot addition to an existing structure. As proposed the addition would be constructed within the required eight foot side yard setback.

It is not uncommon for the structures in this area to encroach into required setbacks, and the Board has granted similar variances to several properties in the neighborhood. Furthermore, with the applicant wishing to make an addition to their master bedroom, and the existing non-compliant setback of said room, the request may be appropriate. It should be noted that structures less than five feet from the property lines must be fire rated.

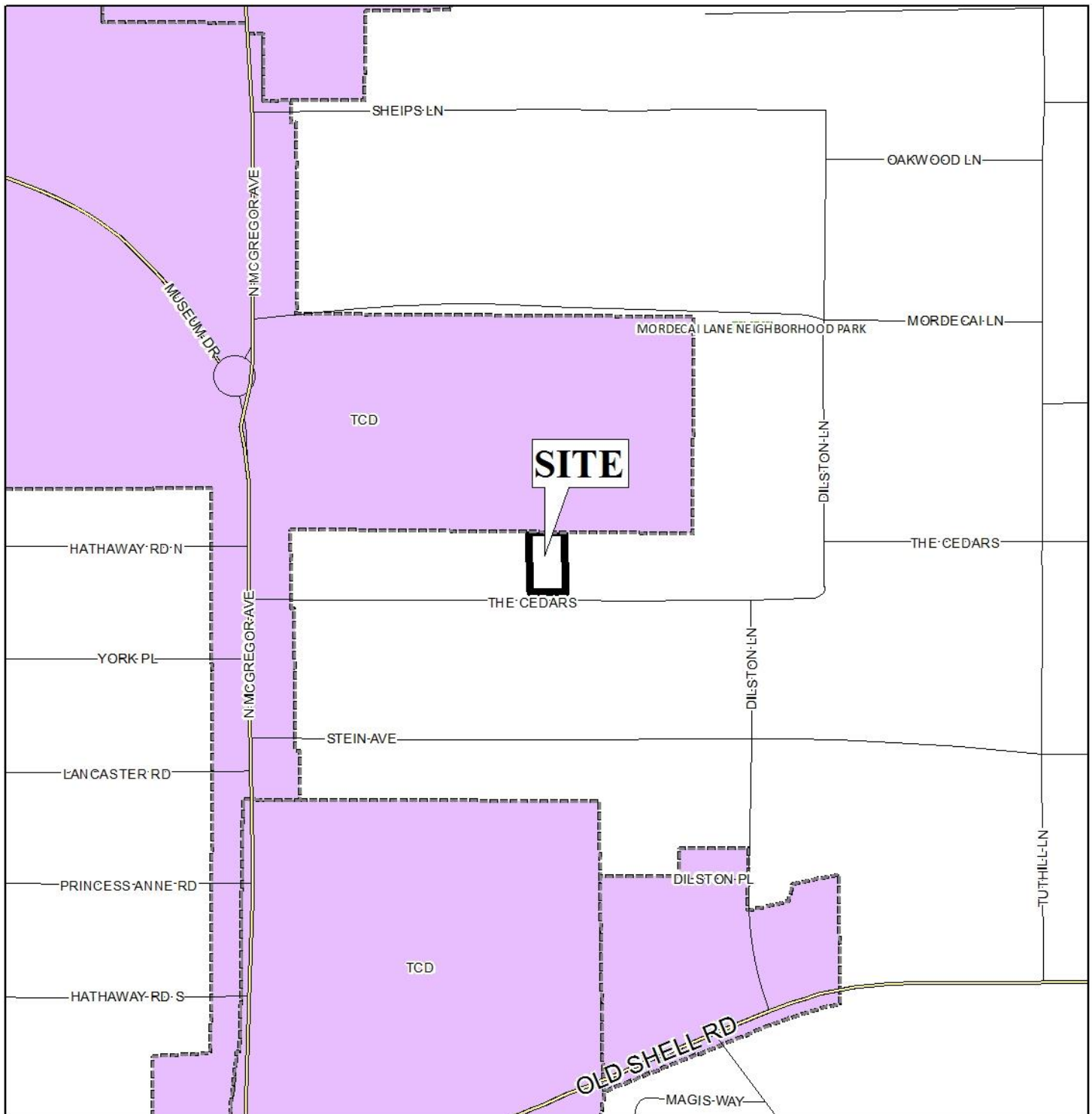
RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approved:

- 1) Granting the variance will not be contrary to the public interest in that, similar variances have been approved on nearby properties;
- 2) Special conditions were illustrated such that the 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 request is in line with similar requests that have been approved within the neighborhood.

The approval is subject to the following conditions:

- 1) provision of gutters and downspouts; and
- 2) full compliance with all municipal codes and ordinances

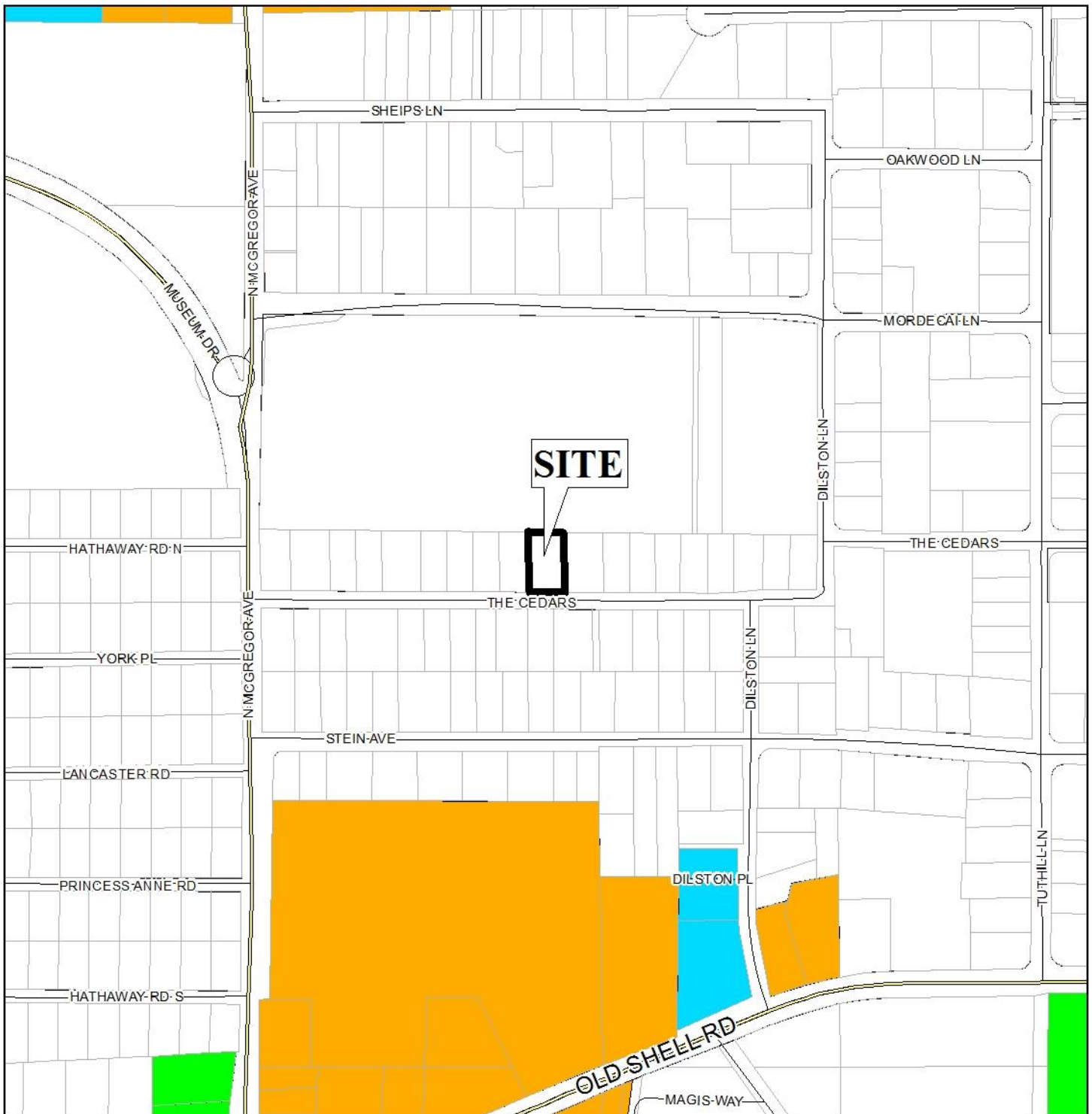
LOCATOR MAP



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REQUEST Setback Variance



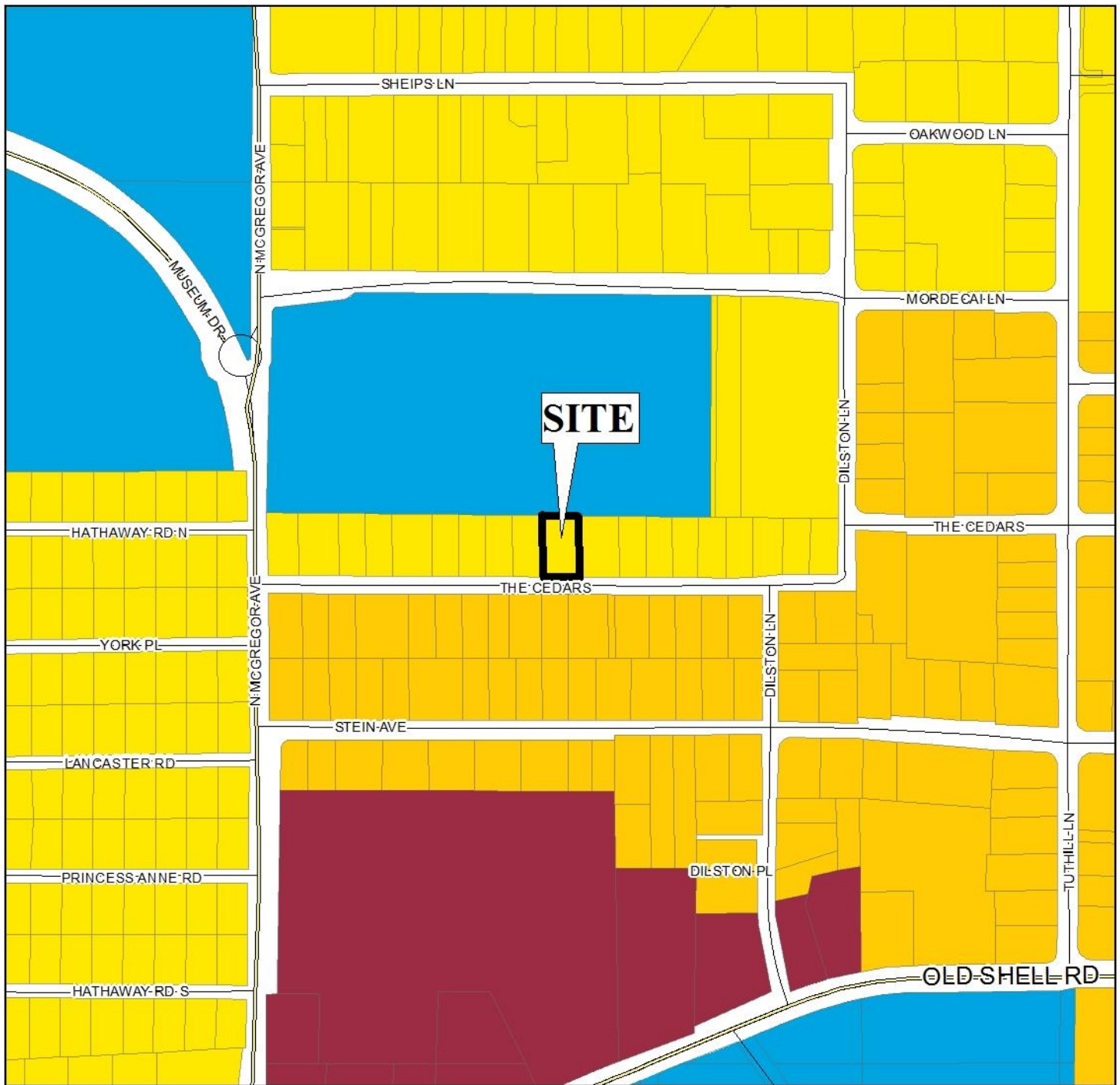
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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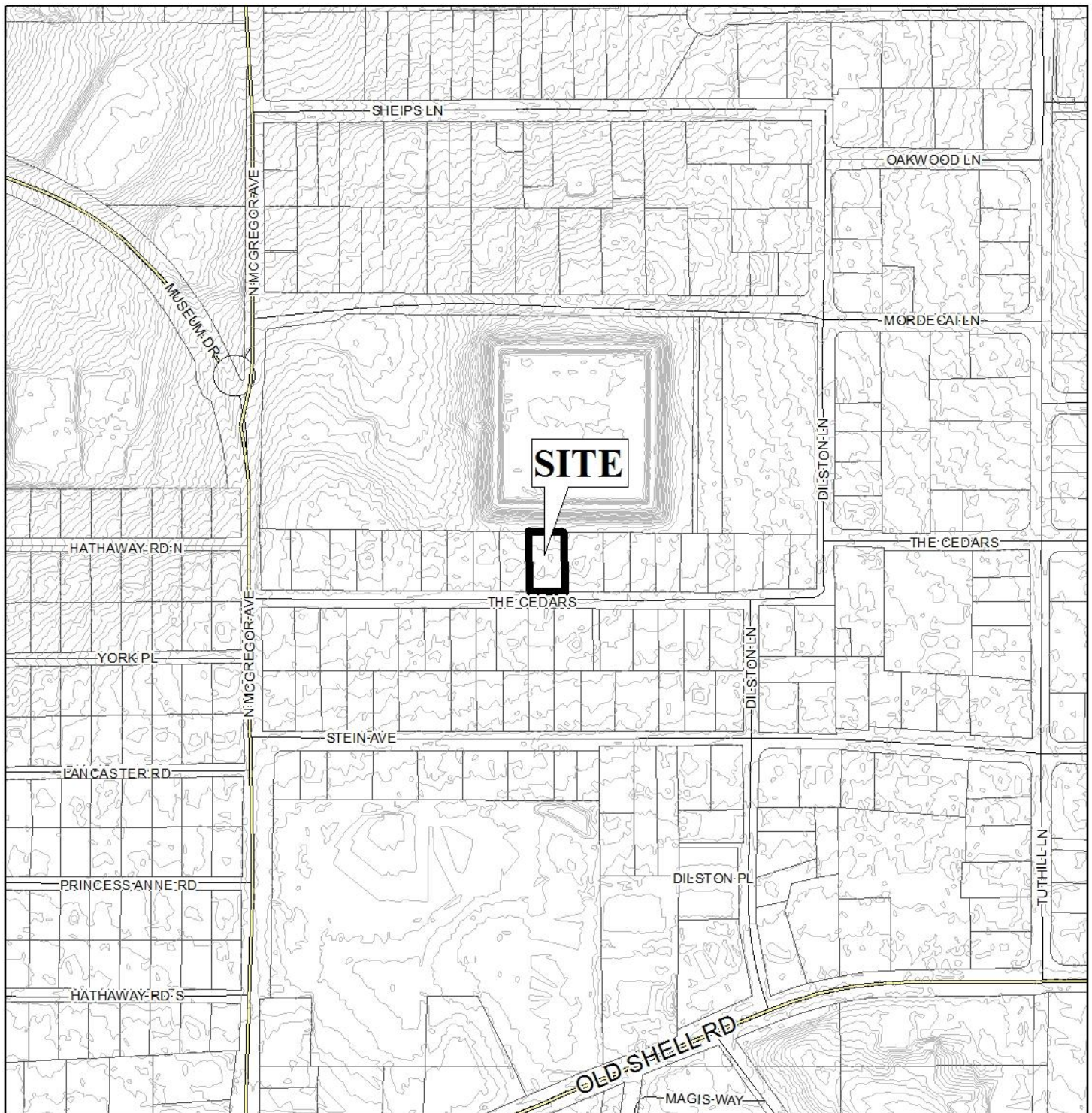
APPLICANT James McDonald

REQUEST Setback Variance

Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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 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

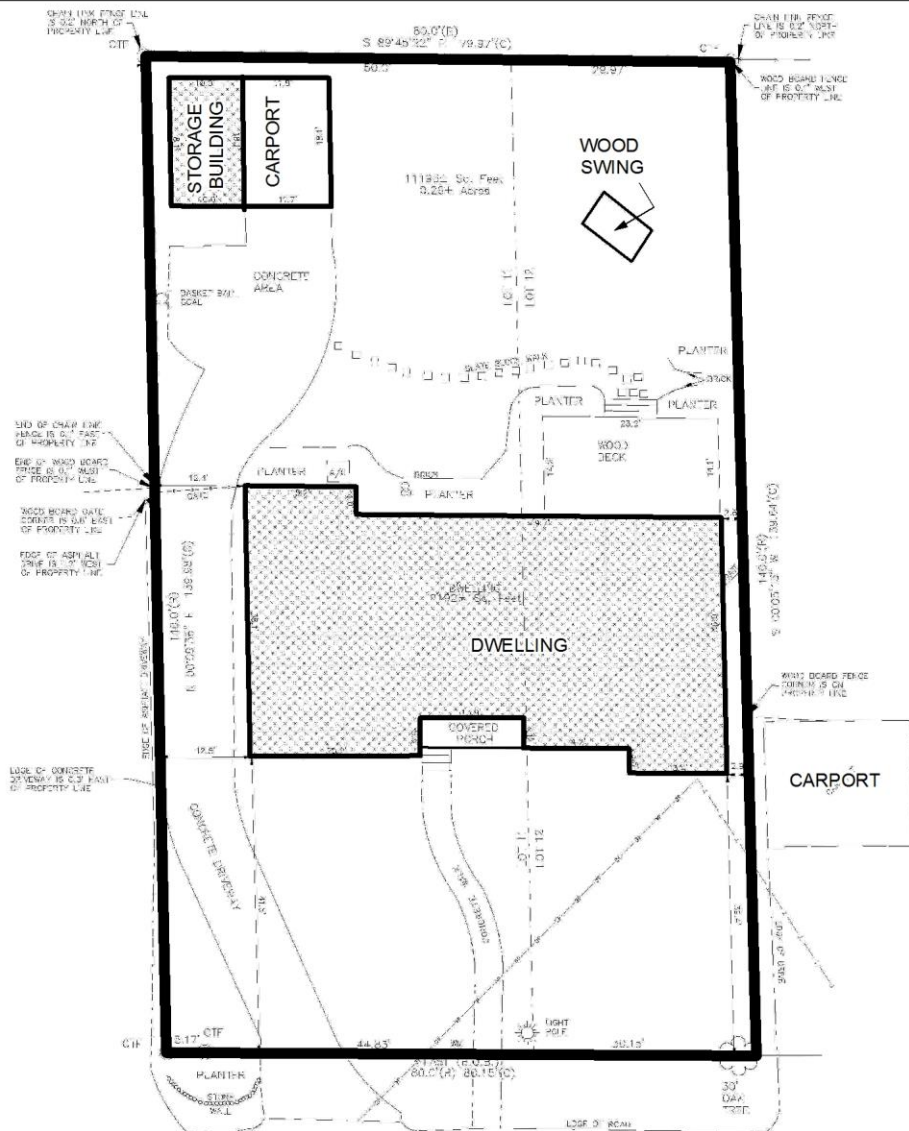


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EXIST SITE PLAN

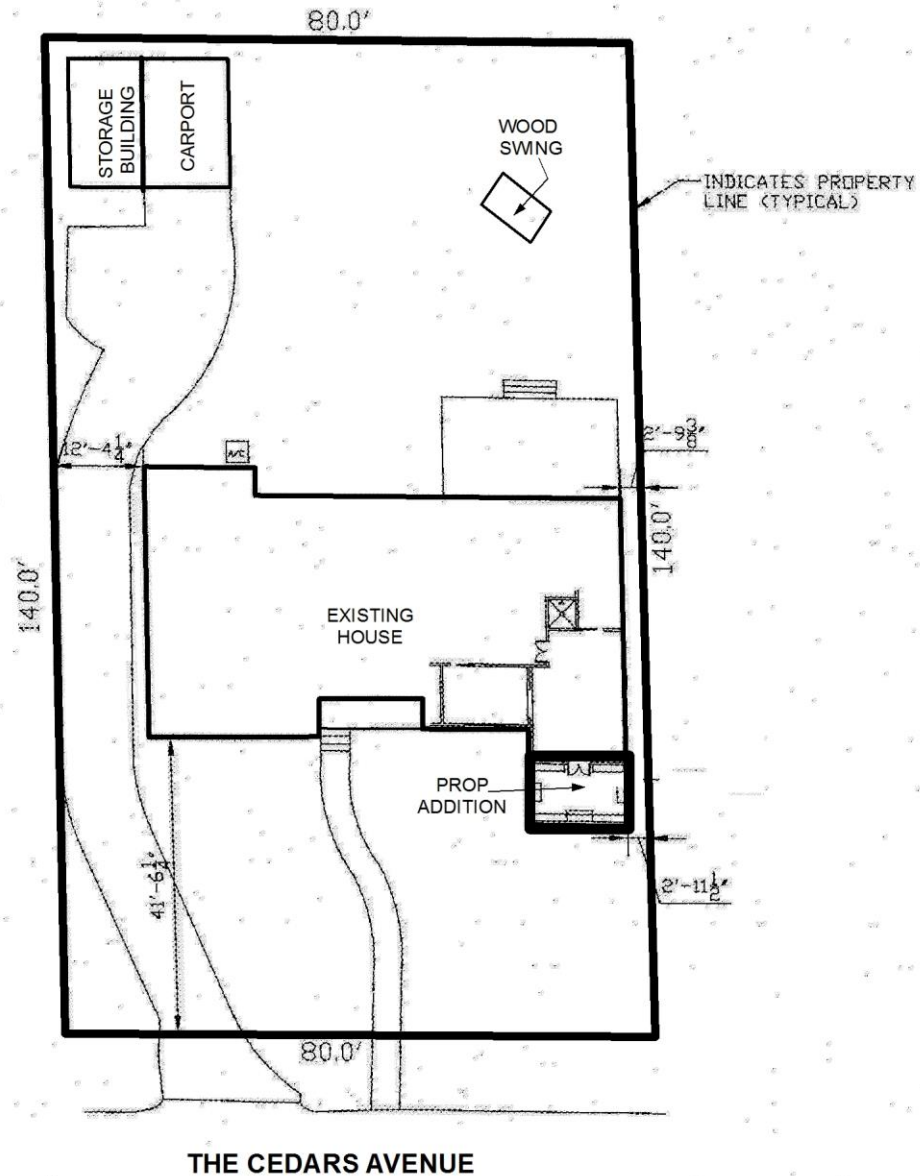


The site plan illustrates the existing dwelling, drive, storage, and carport.

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PROPOSED SITE PLAN



The site plan illustrates the existing dwelling, proposed building addition, drive, storage, and carport.

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