

APPLICATION NUMBER

**5492**

A REQUEST FOR

**USE VARIANCE TO ALLOW A SINGLE-FAMILY  
DWELLING ON THE GROUND FLOOR IN A B-2,  
NEIGHBORHOOD BUSINESS DISTRICT; THE ZONING  
ORDINANCE REQUIRES A SINGLE-FAMILY DWELLING  
TO BE ABOVE THE GROUND FLOOR IN B-2,  
NEIGHBORHOOD BUSINESS DISTRICTS.**

LOCATED AT

**631 AZALEA ROAD**

(North side of Azalea Road, 390'± West of Village Green Drive).

APPLICANT/OWNER

**LAURENCE R. CARTER & CYNTHIA A. CARTER**

AGENT

**JOE REGAN**

**BOARD OF ZONING ADJUSTMENT**

AUGUST 2008

The applicant is requesting a Use Variance to allow a single-family dwelling on the ground floor in a B-2, Neighborhood Business District; the Zoning Ordinance requires a single-family dwelling to be above the ground floor in B-2, Neighborhood Business Districts.

The site has been before the Mobile City Planning Commission for approvals for resubdivision, rezoning from R-1 to B-2, and Planning Approval to allow a dog day care facility with outside runs in a B-2 district. An Administrative Planned Unit Development (Admin PUD) for the multiple buildings on a single site has also been approved. Not until the Admin PUD was submitted for review did staff learn that the applicants were residing in the dwelling on the site, and planned to continue to do so, requiring this variance request. The Zoning Ordinance was amended in 2005 to allow dwellings in certain commercial districts with certain conditions. Single-Family dwellings were allowed in B-2 Districts only above the first or ground floor. Since the dwelling on this site is one story, the single-family residential use requires a variance.

The applicants state that the canine day care service they operate on-site operates from 5:00 AM to 9:00 PM, seven days a week, and that they must be available for early drop-offs and late pickups. They also state that they feel it is imperative that they be allowed to live on-site in order to meet both customer and canine needs.

With regard to the request, by the literal interpretation of the Zoning Ordinance, the applicants have not demonstrated that the property imposes any hardship which would prevent it from being used in compliance with the allowed B-2 uses, other than the fact that it has an existing one-story dwelling. However, the unique nature of the approved use of the site as a dog day care service and the hours of operation required to adequately service customers and their dogs would support the applicants' argument that residing on the site is a necessity.

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.

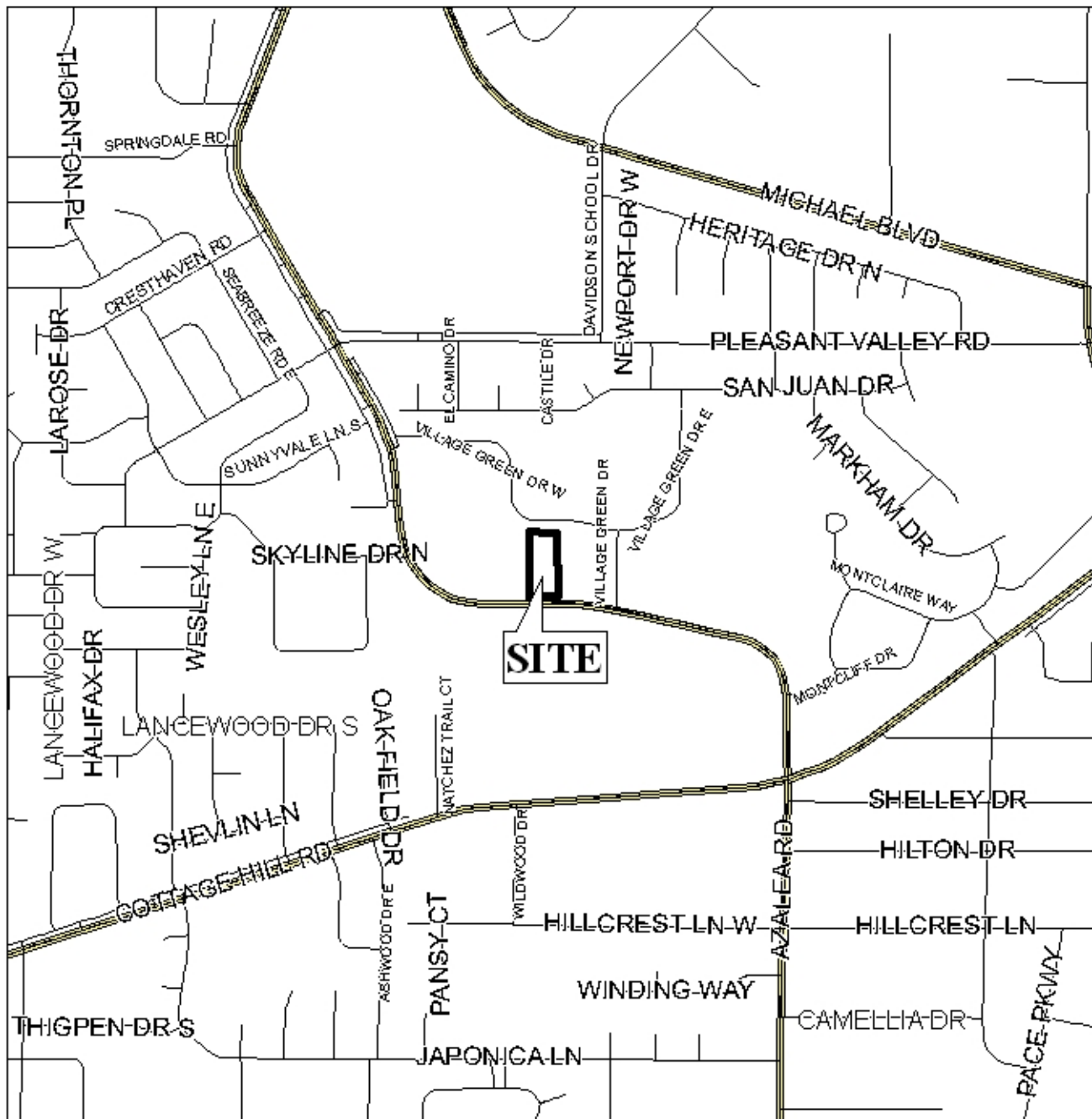
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

Although the use of the property may pose unique requirements as far as customer and dog care service, the applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship with respect to the use of the property.

**RECOMMENDATION 5492****Date: August 4, 2008**

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

## LOCATOR MAP



APPLICATION NUMBER 5492 DATE August 4, 2008

APPLICANT Laurence R. Carter & Cynthia A. Carter

REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



A single family residence, retail land use and apartments are to the east, apartments are to the north, and single family residential units are to the west and south.

APPLICATION NUMBER 5492 DATE August 4, 2008

APPLICANT Laurence R. Carter & Cynthia A. Carter

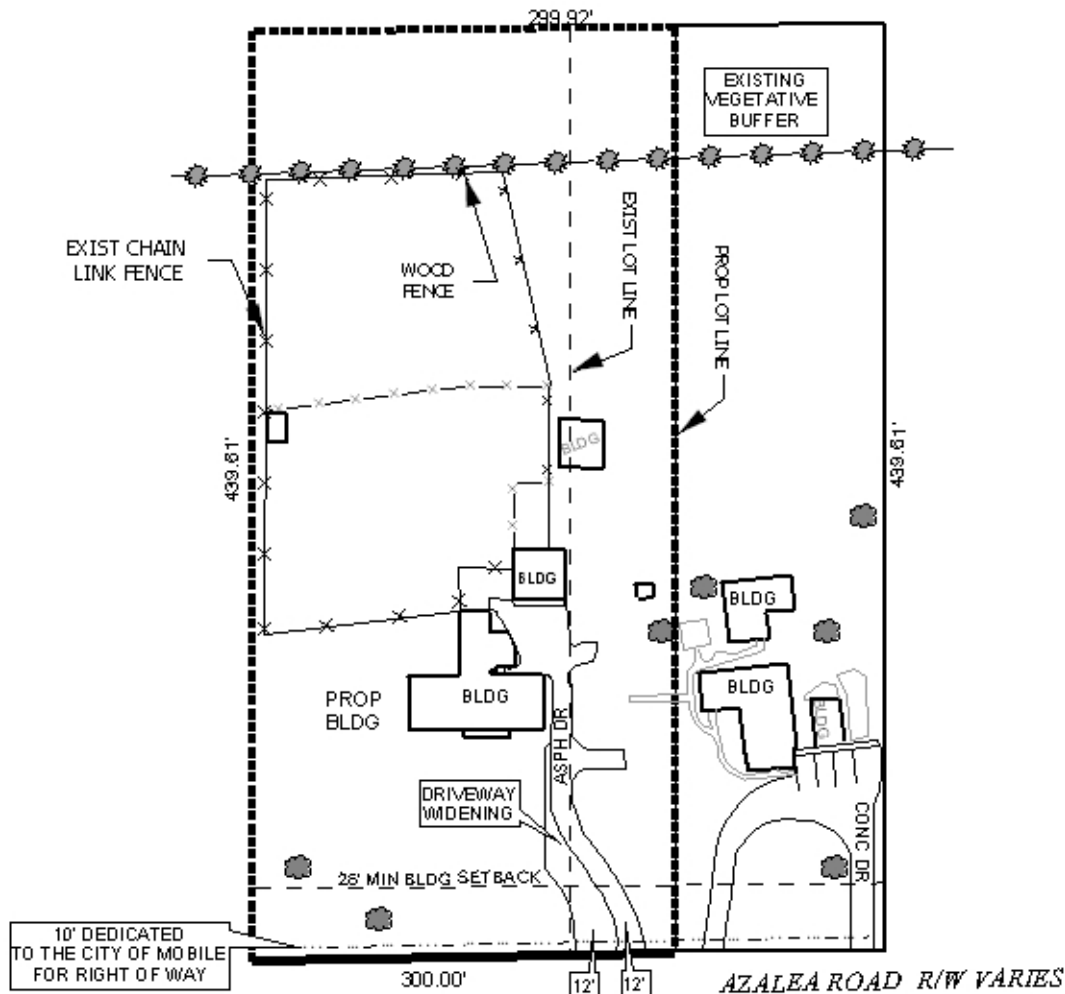
REQUEST Use Variance

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
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# SITE PLAN



The site plan illustrates the proposed building, existing buildings, existing trees, fences and parking, and proposed parking.

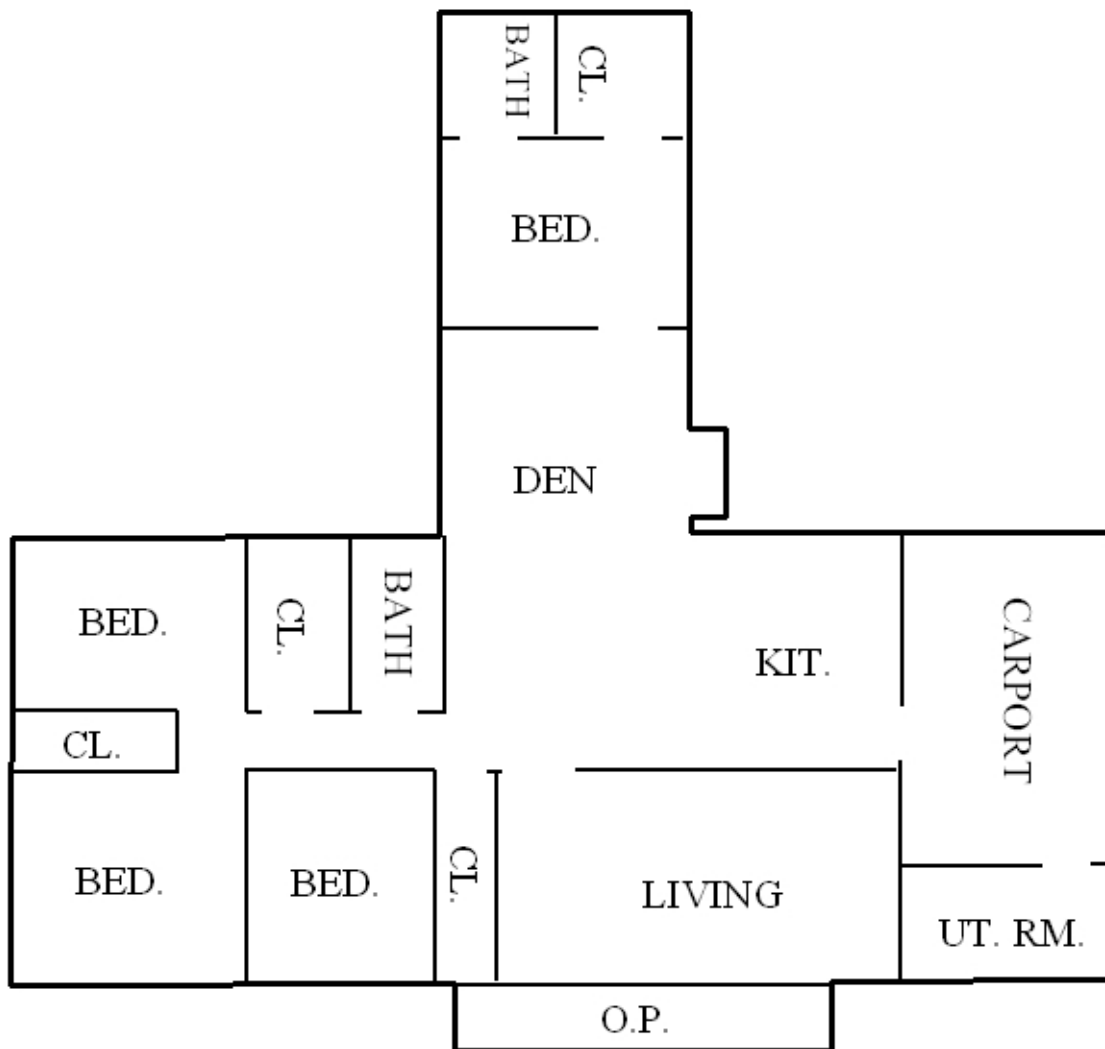
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## DETAIL SITE PLAN



FLOOR PLAN OF RESIDENCE LOT "A",  
RESUB. LOTS 11 & 12 COTTAGE HILL GARDENS

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