

APPLICATION NUMBER

5500

A REQUEST FOR

**SIDE YARD SETBACK AND COMBINED SIDE YARD
VARIANCES TO ALLOW THE CONSTRUCTION OF A
STORAGE SHED WITHIN 3.1' OF A SIDE PROPERTY
LINE WITH A COMBINED SIDE YARDS TOTAL OF 17.1'
IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT;
THE ZONING ORDINANCE REQUIRES AN 8' MINIMUM
SIDE YARD SETBACK WITH A COMBINED SIDE YARDS
TOTAL OF 20' IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT.**

LOCATED AT

3909 McGREGOR COURT

(South side of McGregor Court, 160' ± West of South McGregor Avenue)

APPLICANT/OWNER

MR. & MRS. JOE BROWN, JR.

AGENT

MR. & MRS. JOE BROWN, JR.

BOARD OF ZONING ADJUSTMENT

OCTOBER 2008

The applicant is requesting Side Yard Setback and Combined Side Yard Variances to allow the construction of a storage shed within 3.1' of a side property line with a combined side yards total of 17.1' in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' minimum side yard setback with a combined side yards total of 20' in an R-1, Single-Family Residential District.

The applicant recently began construction of a storage shed and a Building Inspector observed the construction and discovered the work without a permit and the possibility of improper setbacks and issued a Notice of Violation. An attempt was made to obtain a building permit, but it was denied due to the setback issue. The applicant wishes to continue construction at the current setback, hence this variance request.

The applicant states that the storage shed is simply a roof without walls, approximately 6'-6" high, extending off the side of the house and is not visible from outside the privacy fence. Originally, the roof was intended to span from the house to the property line fence, but the applicant has revised the design to stop the roof approximately 3.1' from the fence. The shed is intended to store lawn equipment, a golf cart and bicycles. No basis for a hardship imposed by the property limiting the location of the shed was submitted.

Inasmuch as the shed is over three feet above ground, any support structure (posts or wall) would be subject to setbacks. Posts or a wall would require an 8' setback, and the roof could extend into the required setback 2', or 6' from the property line. In this instance, the edge of the roof is 3.1' from the property line. Three of the primary concerns relating to side yard setbacks are the potential for the spread of fire from one property to another, water run-off onto adjacent properties, and the ability to properly maintain the structure. Other concerns relate to privacy and adequate circulation of light and air.

The site plan submitted does not indicate any hardship which the property imposes which would not allow the structure to be placed in a compliant location, nor does the requested setback appear to be typical of the neighborhood. In instances where a hardship has been demonstrated to be imposed by the property, or where the requested setback would be typical of the neighborhood, the Board has typically been sympathetic in granting variances in urban areas of the city when the structure is within 5' of the side property line. In such cases the Board has typically required a minimum setback of 5', with the provision of gutters and downspouts. The site plan also indicates an existing garden shed encroaching into the required side yard setback along the same property line further toward the rear of the property. As no variance appears to have been granted for this structure, its presence should be questioned and appropriate action taken.

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.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. Any hardship imposed in this instance is self-imposed due to the fact that the site plan indicates ample area for the structure to be located in such a manner to meet the required setback. Had the applicant attempted to obtain the necessary Building Permit prior to commencing construction, the proper setbacks would have been established and alternative locations for the structure could have been sought. It is simply the applicant's desire to allow construction of the shed within 3.1' of a side property line with a combined side yards total of 17.1'.

RECOMMENDATION 5500

Date: October 6, 2008

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

LOCATOR MAP



APPLICATION NUMBER 5500 DATE October 6, 2008

APPLICANT Mr. & Mrs. Joe Brown, Jr.

REQUEST Side Yard Setback and Combined Side Yard Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land use.

APPLICATION NUMBER 5500 DATE October 6, 2008

APPLICANT Mr. & Mrs. Joe Brown, Jr.

REQUEST Side Yard Setback and Combined Side Yard Variances

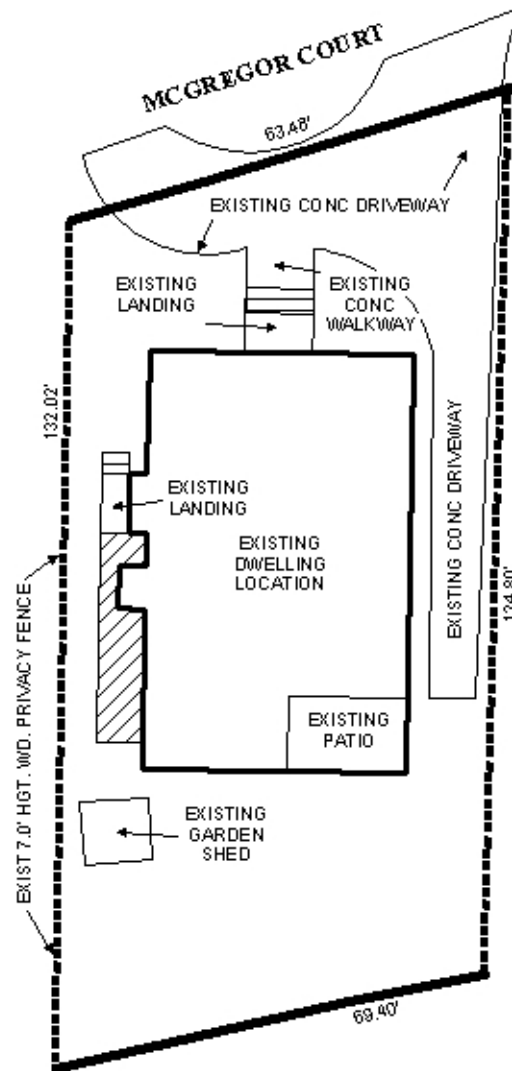
LEGEND

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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NTS

SITE PLAN



This site plan illustrates existing lot configuration.

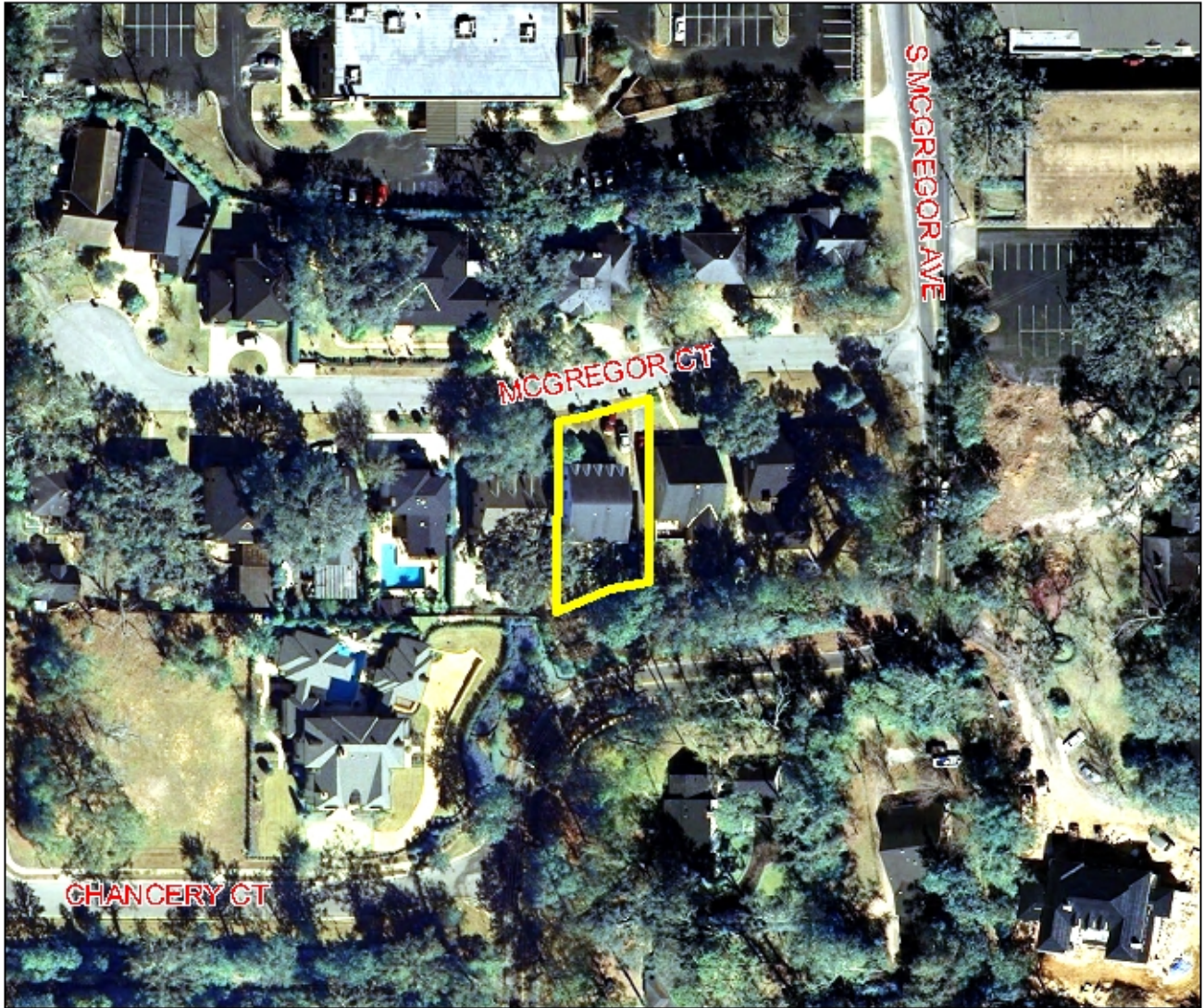
APPLICATION NUMBER 5500 DATE October 6, 2008

APPLICANT Mr. & Mrs. Joe Brown, Jr.

REQUEST Side Yard Setback and Combined Side Yard Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land use.

APPLICATION NUMBER 5500 DATE October 6, 2008

APPLICANT Mr. & Mrs. Joe Brown, Jr.

REQUEST Side Yard Setback and Combined Side Yard Variances

