

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 7, 2014****CASE NUMBER**

5885

APPLICANT NAME

Clyde Covington

LOCATION

1361 Forest Cove Drive
(West side of Forest Cove Drive, at the West terminus of
St. Charles Court)

VARIANCE REQUEST

SIDE AND REAR YARD SETBACK: Side and Rear
Yard Setback Variance to allow the construction of a 10'
by 12' utility shed setback 2' from the side and rear
property lines in an R-1, Single-family Residential District.

**ZONING ORDINANCE
REQUIREMENT**

REAR YARD SETBACK: The Zoning Ordinance
requires 8' side and rear yard setbacks in an R-1, Single-
Family Residential District.

ZONING

R-1, Single Family Residential

AREA OF PROPERTY

14,930 ± Square Feet

ENGINEERING**COMMENTS**

The West property line, as staked in the field, is at the top
of a "berm" that slopes down into the property, and does not appear to provide a suitable site for
a shed without extensive grading. Also, the proposed shed cannot be placed atop the existing
42" storm drain pipe or within its existing 25' wide drainage easement.

TRAFFIC ENGINEERING**COMMENTS**

No traffic impacts anticipated by this variance request.

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 7

ANALYSIS

The applicant is requesting a Side and Rear Yard Setback Variance to allow the construction of a 10' by 12' utility shed setback 2' from the side and rear property lines in an R-1, Single-family Residential District; the Zoning Ordinance requires 8' side and rear yard setbacks in an R-1, Single-Family Residential District.

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.

Applicant's statement: *Property is zoned R-1 and has an 8' side yard setback line along the south boundary line and an 8' rear yard setback line along the west boundary line. Owner is requesting a variance to allow him to put a 10' x 12' shed two feet off the south and west boundary lines, as shown on the attached site plan.*

It should be pointed out that there appear to be several hardships associated with this property. The property's shape is similar to a right-angled triangle and the right side or northeastern lot line has a 25' minimum building setback line and the western lot line contains 25' wide drainage easement for a 42" storm drain. Although the property is nearly 15,000 square feet, the shape of the lot along with the existing house, easement and setback line have all decreased the remaining buildable area of the lot.

Typically, a hardship to a property due to unusual characteristics of the property may be basis for the approval of a variance request as mentioned above, however, the prevailing issue of the existing easement and storm drain at this site should not be over looked. Furthermore, it appears that residentially zoned lots in the immediate vicinity appear to have not encroached within any easement and have been developed in observance of Section 64-3.C.1.e. of the Zoning Ordinance.

As mentioned in the Engineering Comments, the proposed area where the shed would be located is atop a berm and contains a slope which may not be suitable for the shed; however, near the central portion of the lot, there appears to be a small buildable area which may be suitable for the proposed shed. The area is on the northern side of the home, exclusive of any easement, and complies with the 25' minimum setback line as required and, as such, may allow the applicant to develop the property in compliance with the setback regulations of an R-1, Single-Family Residential zoning district, as defined in Section 64-3.C.1.e. of the Zoning Ordinance.

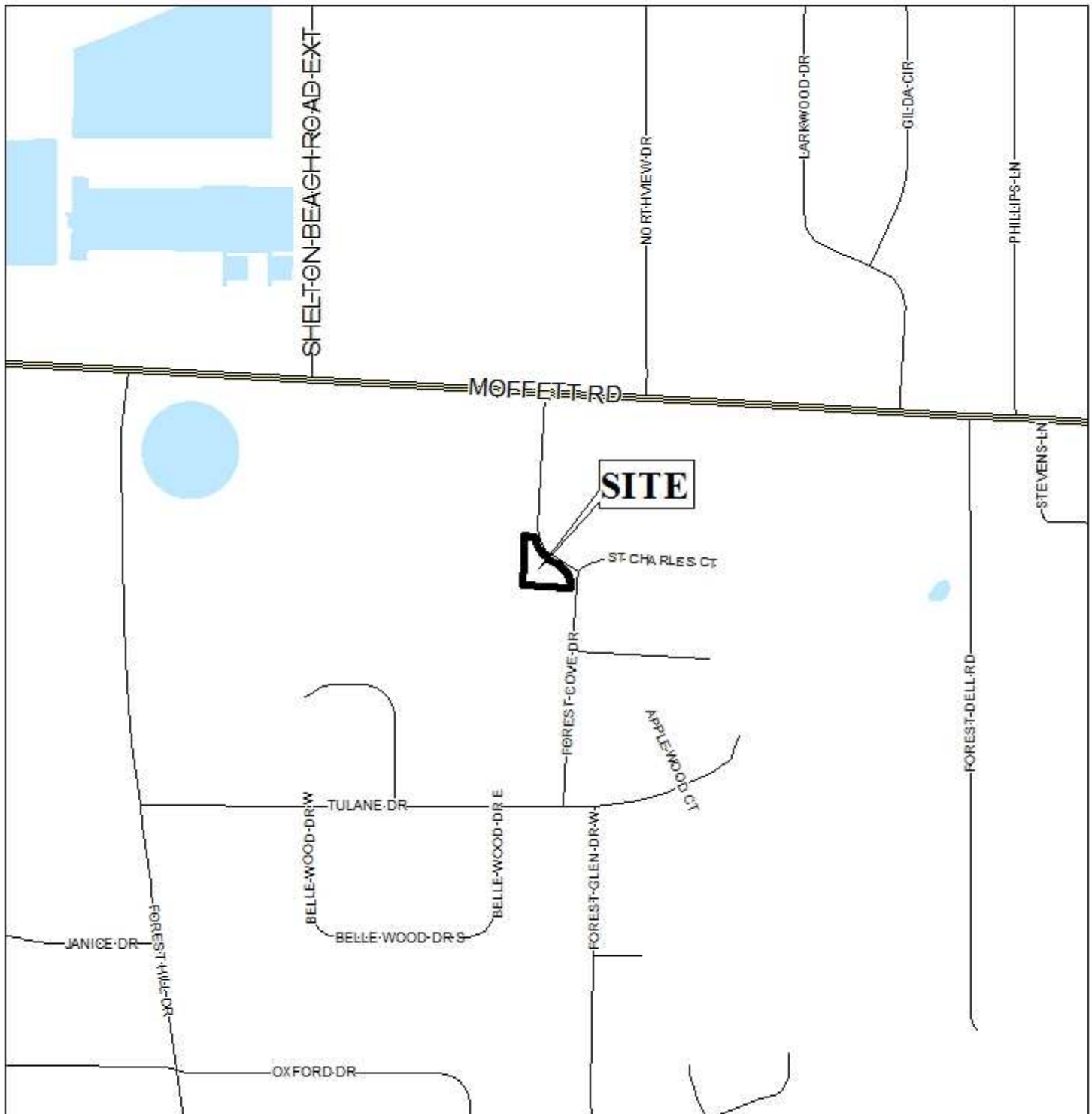
Although this property may contain hardships, Staff has identified an alternate area which may be suitable for the applicant's proposed shed and, as such, the applicant has not presented sufficient evidence as listed above and required in Section 64-8.B.6.f.(3).(d). of the Zoning Ordinance.

It is important to note that if this variance request is approved, granting relief from Zoning Ordinance requirements, **City Staff cannot approve** any building-related permits for a structure proposed within a recorded and active drainage easement due to Engineering Department requirements.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for denial:

- 1) Approving the variance will be contrary to the public interest in that it is contrary to Engineering Department requirements which state the structure cannot be placed atop the existing 42" storm drain pipe or within its existing 25' wide drainage easement and the approval of the variance will be contrary to Section 64-3.C.1.e. of the Zoning Ordinance regarding setbacks within an R-1, Single-Family Residential zoning district;
- 2) Although special conditions, such as a hardship to the property due to the lot's shape do exist, a literal enforcement of the provisions of the chapter will not appear to result in an unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because near-by residentially zoned lots in the immediate vicinity appear to have been developed in observance of Section 64-3.C.1.e of the Zoning Ordinance and have not encroached within any easement.

LOCATOR MAP



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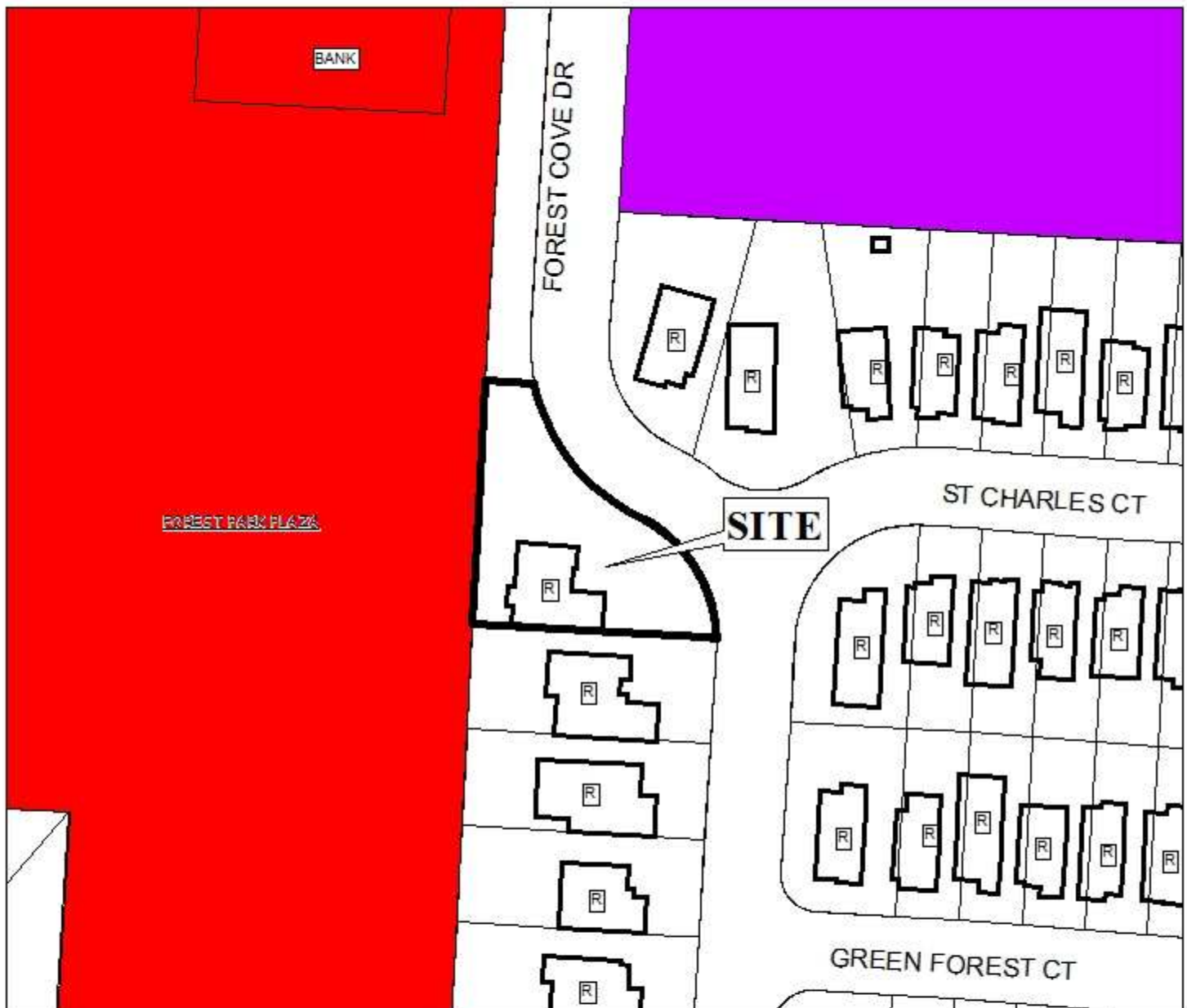
APPLICANT Clyde Covington

REQUEST Side and Rear Yard Setback Variances



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING


















The site is surrounded by single family residential units. A bank lies to the northwest of the site.

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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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VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units. A bank lies to the northwest of the site.

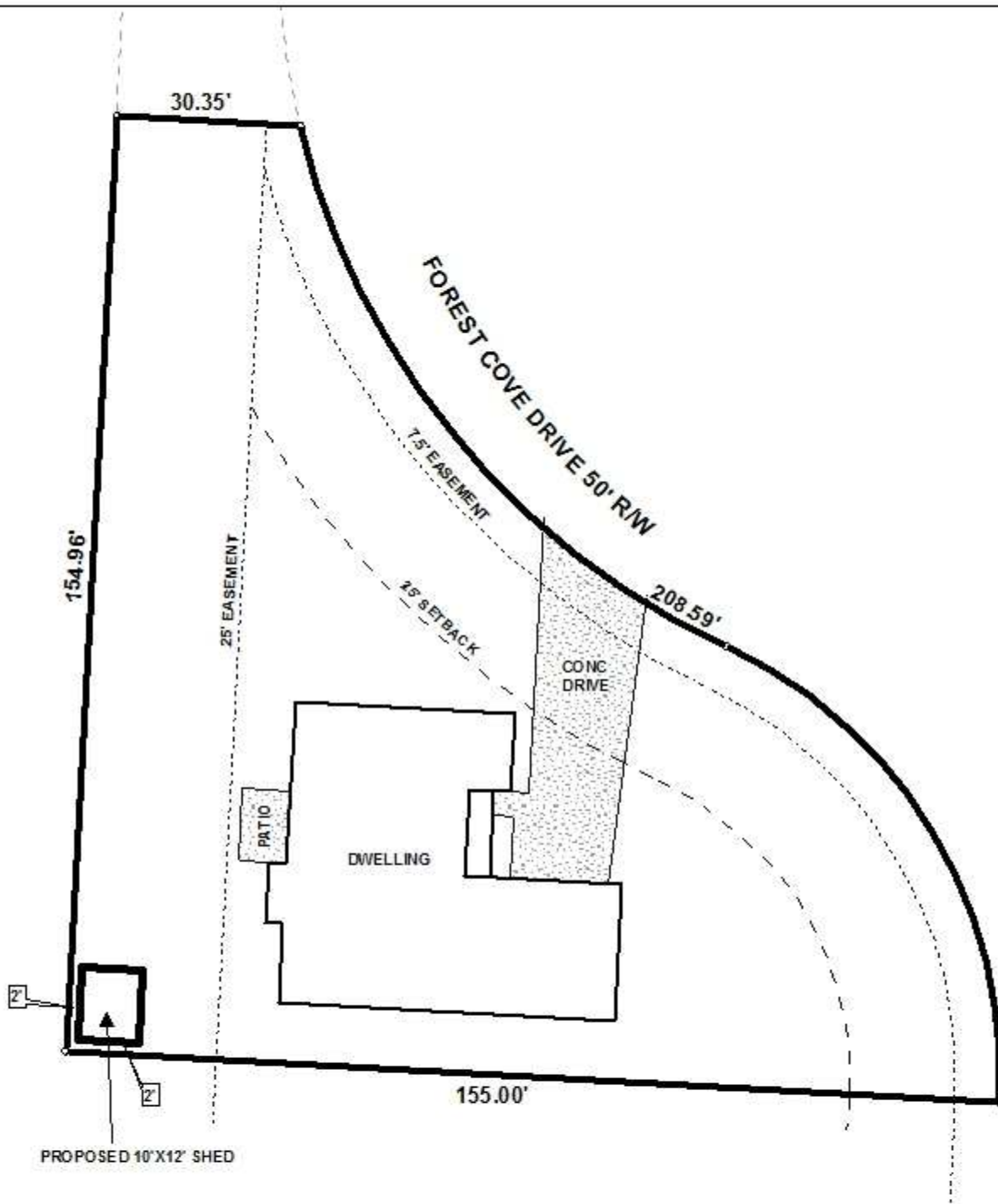
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SITE PLAN



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