

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: March 7, 2022**

**CASE NUMBER**

6447/6420

**APPLICANT NAME**

Roxanne Eaton & Joyce Pritchett

**LOCATION**

3340 Lees Lane  
(West side of Lees Lane, 680'± South of its North terminus).

**VARIANCE REQUEST**

**USE:** Use Variance to allow a family recreation venue with accessory use facilities in an R-1, Single-Family Residential District.

**ZONING ORDINANCE  
REQUIREMENT**

**USE:** The Zoning Ordinance requires that the primary use of a property be for a single-family residential dwelling in an R-1, Single-Family Residential District.

**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

0.6± Acre

**ENGINEERING  
COMMENTS**

No comments.

**TRAFFIC ENGINEERING  
COMMENTS**

No comments.

**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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

**FIRE DEPARTMENT  
COMMENTS**

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). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A

fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

**CITY COUNCIL**  
**DISTRICT**

District 4

**ANALYSIS**

The applicant is requesting a Use Variance to allow a family recreation venue with accessory use facilities in an R-1, Single-Family Residential District; the Zoning Ordinance requires that the primary use of a property be for a single-family residential dwelling in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) land use designation per the Future Land Use Plan and Map, adopted by the Planning Commission at its May 18, 2017 meeting. 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 acknowledges existing commercial development that is spread along Mobile’s transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

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 semi-detached, 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.

Variations 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's narrative states:

### **Proposed Use:**

*The lot size is 0.57 of an acre with dimensions of 60' x 374.13' x 66.82' x 403.59' and is elevated approximately 4 1/2 ft at the street and then is level land with some mature trees.*

*We, the owners, are two sisters, both of us are retired. We both own homes that are located within a 15-minute drive of the lot. We plan to use the lot as our remote backyard. It is a waterfront property and we can enjoy cool breezes because of the trees and flowing water in the creek.*

*We plan to:*

- 1. Sit outside and watch the water as it flows by.*
- 2. Lie on a hammock*
- 3. Fish from the bank of the creek.*
- 4. Get the benefit of exercise by walking around the perimeter of the lot.*
- 5. The 14 x 40 building that's on the lot will be used to store outdoor chairs and provide onsite bathroom and kitchen facilities i.e., a sink, microwave, and refrigerator.*
- 6. We will not have any equipment, machinery or events that will generate excessive noise, odors, air pollution or traffic.*

### **Improvements**

#### **Existing improvements:**

- 1. Paid to have the lot bush hogged and began cutting the grass on a regular basis to cultivate a nice lawn.*
- 2. Purchased a 14' x 40' wooden shed that we placed at the back side of the lot facing the water. The building is partially finished on the inside with a bathroom and a kitchen area. The building also has two unfinished loft areas.*
- 3. We paid Mobile Area Water and Sewer System (MAWSS) to get water and sewer lines added to the lot at the street. There is no water or electricity connected to the cabin.*

**Planned improvements:****Plans for 1 to 4 months: March —June 2022**

1. Obtain a permit for our existing accessory building.
2. Add electricity to the property to power the building and exterior lights and any additional outdoor power needs.
3. Hire a Plummer run the plumbing for water and sewer from the street to the building.

**Plans for 6 to 9 months: July — September 2022**

1. Fence in a small portion of lot for safety of the 7-month-old grandbaby.
2. Hang a hammock.

**Reason Use Variance is Required:**

1. This property is on 60' wide at the street and 66' wide at the back of the lot. It is too narrow to build a substantial living residence, therefore we purchased the land for our recreational use only, i.e., fishing, lounging, enjoying the Creekside views, and possibly launching a canoe.
2. We need a variance to use the lot with accessory building only to store chairs, umbrellas, lawn equipment, a refrigerator, a microwave and have a bathroom facility.
3. We are now coordinating with the permitting department of Build Mobile. We have been informed that a permit is required for the accessory building on our lot.
4. We need a use variance so that we can apply for a permit for the accessory structure.
5. A use variance is also required so that we can obtain permits to connect power and water to the accessory building.
6. In our opinion, our usage of this property will not have a negative impact on the surrounding properties. We plan to be good neighbors.

A similar request by the applicant was scheduled to be heard at the Board's October, 2021 meeting, but was withdrawn.

The subject site is located on the West side of Lees Lane within an area of developed sites used as single-family dwellings and vacant land, all of which are zoned R-1. To the East across Lees Lane is I-1, Light Industry zoning, mostly vacant, but with one church and one single-family residence. The site is bordered along the rear by Moore Creek, a tributary of Dog River. The applicant proposes to use the site for strictly recreational purposes instead of for single-family residential purposes; hence, this variance request.

As the applicant has stated in the narrative, a shed of approximately 14 feet by 40 feet has already been placed on the site to serve as a kitchen and bathroom facility. However, this was

done without any of the necessary site plan reviews, building code reviews or building permits having been obtained. A Right-of-Way permit was obtained for the water and sewer connections to the site, but those permits are not reviewed by Planning and Zoning. Had a building permit been applied for, the structure would not have been approved, as an accessory structure is not allowed in an R-1 district (prior to the construction of the primary structure, a single-family dwelling). It should be noted that a structure with facilities for cooking and sleeping are allowed by right in R-1 districts.

Pertaining to the request, the applicant has not provided justification as to what hardships prevent the property from being used in compliance with the current R-1 zoning classification, and the applicant has not illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship. The surrounding neighborhood is zoned R-1, and there appear to be no unusual characteristics of the property that satisfy variance standards; therefore, the Board should consider this request for denial.

**RECOMMENDATION:** Staff recommends to the Board the following findings of facts for Denial of the Use Variance request to allow a family recreation venue with accessory use facilities in an R-1, Single-Family Residential District:

- 1) Approving the variance will be contrary to the public interest in that the use would be contrary to the established zoning classification of the site and use of the surrounding neighborhood as single-family residential;
- 2) Special conditions were not 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 not be observed, and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the use would be incompatible to an established R-1 District.

# LOCATOR MAP



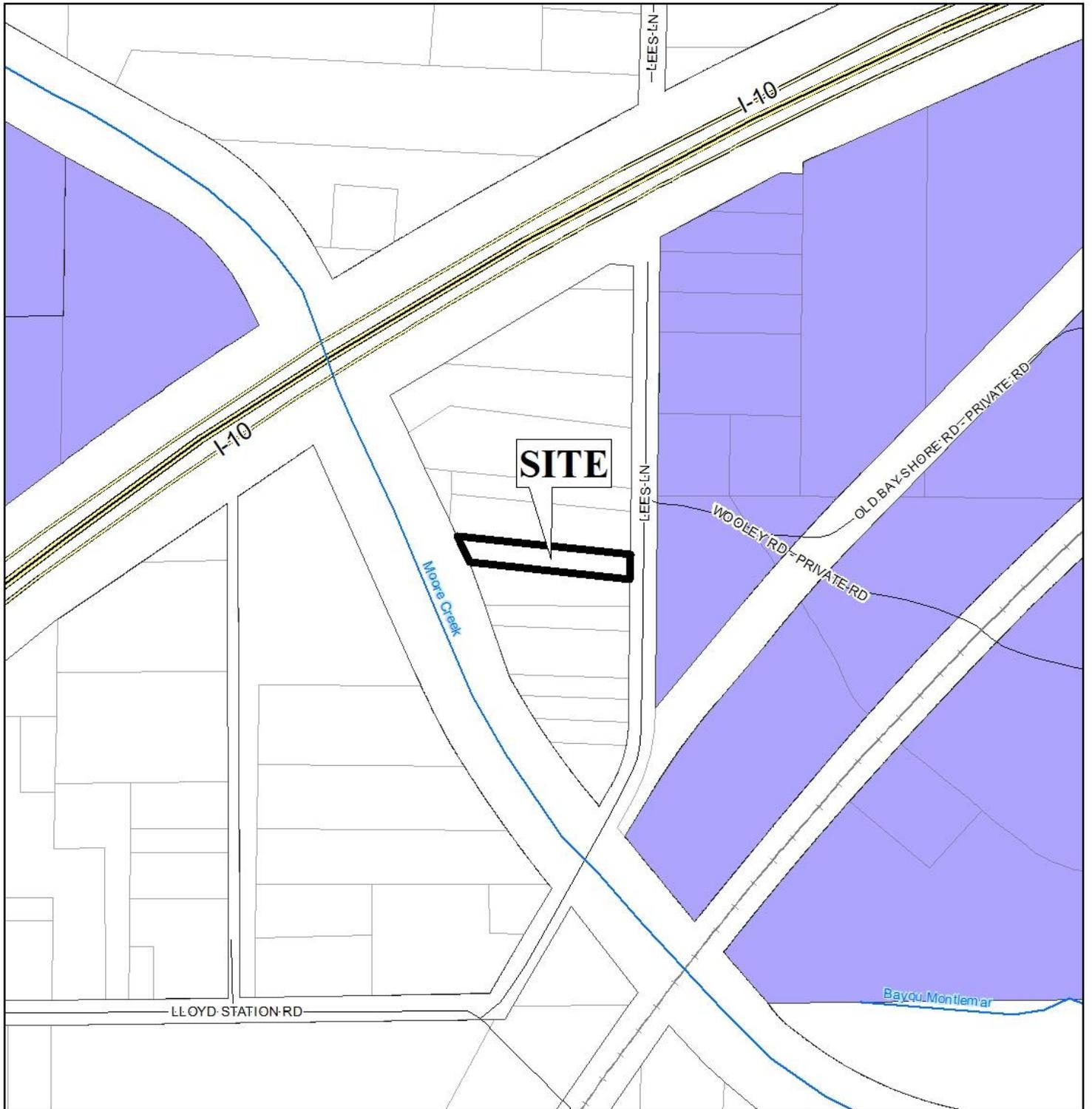
APPLICATION NUMBER 6447 DATE March 7, 2022

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REQUEST Use Variance



# LOCATOR ZONING MAP



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# FLUM LOCATOR MAP



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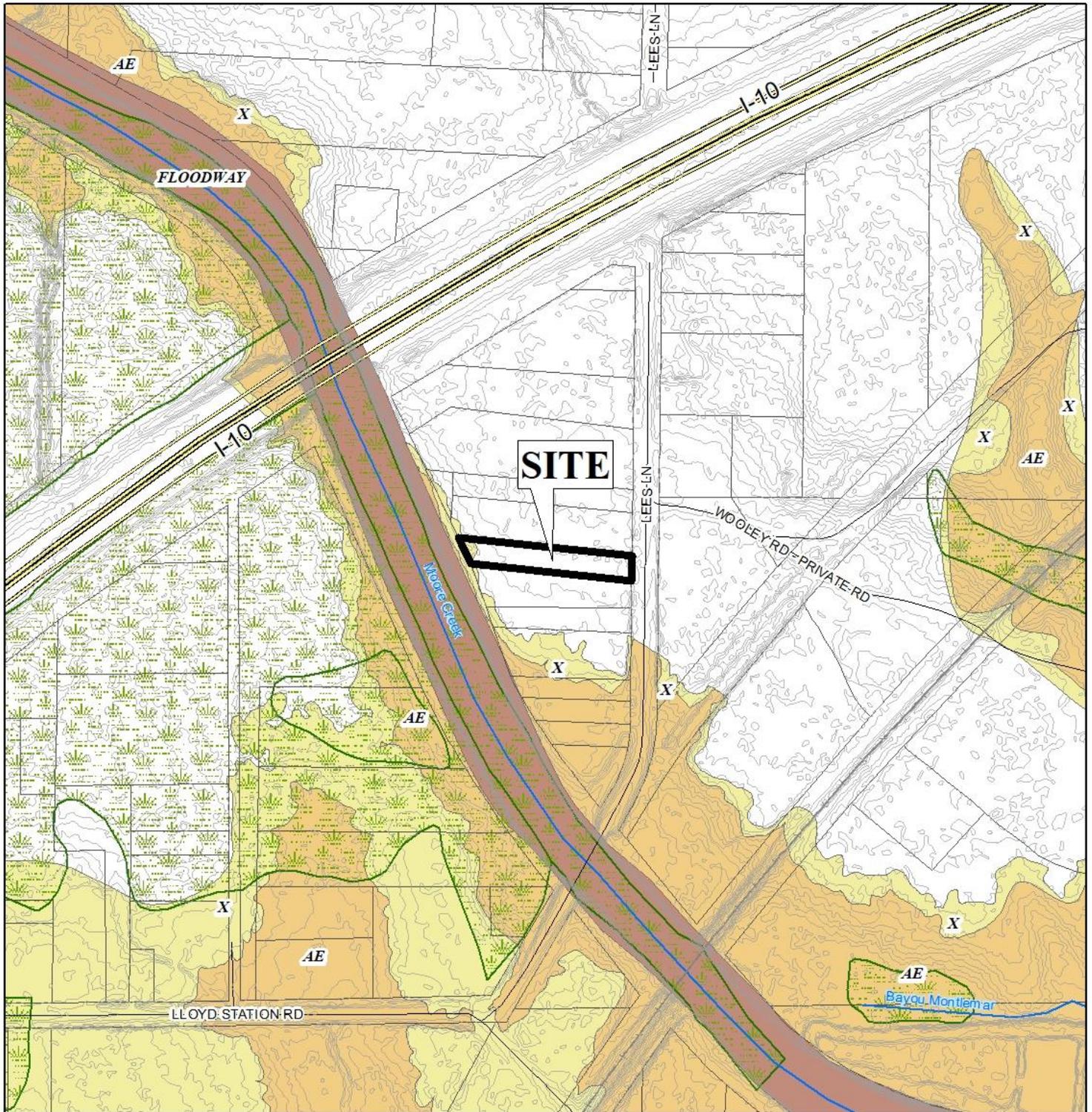
REQUEST Use Variance

- |                           |                                   |                     |                    |
|---------------------------|-----------------------------------|---------------------|--------------------|
| 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       |                    |



NTS

# ENVIRONMENTAL LOCATOR MAP



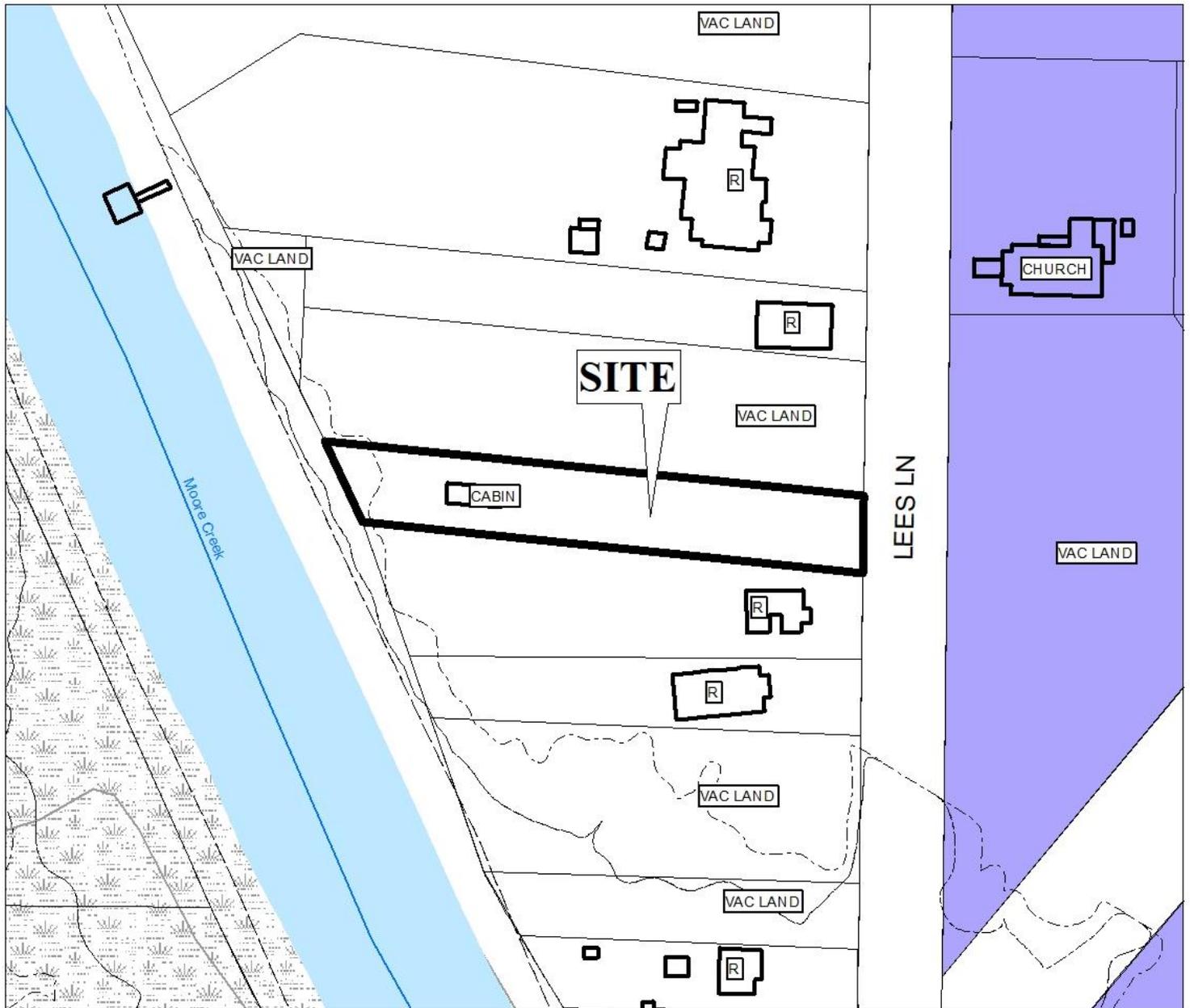
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A church lies northeast of the site.

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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

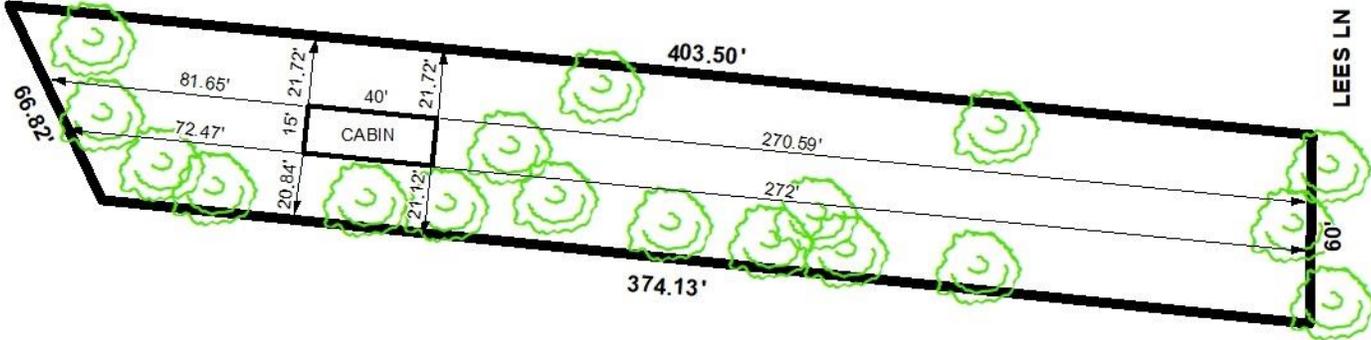


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# SITE PLAN



The site plan illustrates the property, trees, and cabin.

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