

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 2, 2012****CASE NUMBER**

5761

APPLICANT NAME

Mr. & Mrs. E. Lockett Robinson, II

LOCATION

65 North Monterey Street
(West side of Monterey Street, 175'± South of Old Shell Road)

VARIANCE REQUEST

SETBACK: Side and Rear Yard Setback Variances to allow the construction of a carport with storage to be located 1.8'± off side property line and across the rear property line into a public alley in an R-1, Single-Family Residential District.

**ZONING ORDINANCE
REQUIREMENT**

SETBACK: Zoning Ordinance requires an 8' minimum side and rear yard setback with combined side yards of 20' in an R-1, Single-Family Residential District; properties within a historic district may utilize the Historic District Overlay provision to reduce setbacks from property lines to match properties within 150 feet of the site on the same side of the street.

ZONING

R-1, Single Family Residential

AREA OF PROPERTY

0.5 ± Acres

**TRAFFIC ENGINEERING
COMMENTS**

No Comments

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting a Side and Rear Yard Setback Variances to allow the construction of a carport with storage to be located 1.8'± off side property line and across the rear property line into a public alley in an R-1, Single-Family Residential District.

The applicant proposes to construct a carport, over an existing slab. The carport is proposed to be located approximately 1.12-feet over the rear property line into an existing unimproved 13-foot alley, and within 1.8-feet of the south side property line. The applicant claims during the

permitting process in 2007, no one from the City objected to this proposed location when the designer positioned the slab in its present location for two primary reasons. First, to allow vehicles to safely back in and out across the existing patio, and secondly, to maximize the green space in the remainder of the rear yard.

In addition, the applicant states the utility right-of-way has been abandoned for at least 35 to 50 years, when the vehicular gate was constructed the phone company now accesses its facilities with my permission and the water lines are located on the Reed Avenue side of the fence.

In 2007, the applicant applied for a building permit (BLD2007-02142) to allow a 440 square foot addition, construction of a 136 square foot deck and interior renovation to an existing single-family dwelling. The site is located within the Old Dauphin Way Historic District; therefore, approval from the Mobile Historic Development Commission is required for any exterior improvement to the site. A Certificate of Appropriateness was approved by the MHDC staff allowing:

- Replace the existing non-historic outbuilding with a new carport that matches the materials, finishes and details of the main residence.
- Enlarge the main residence with a new two-story addition per the submitted plans.
 - The addition will sit on brick piers with wood lattice to match existing.
 - All new materials, finishes and details will match existing materials, finishes and details to include wood lap siding, exposed rafter tails, shingle roofing and 1/1 wood sash windows.
 - Some windows will be small wood casements.
 - There will be a wood door with one light and a transom at the south elevation and two French doors with one light each at the west (rear) elevation; they will have wood hoods.
 - There will be a small stoop at the south elevation and a deck at the west (rear) elevation with railing to match existing.
- Replace the existing wood privacy fence around the property and the wood gate on the east (front) elevation with a 6'-0" tall stucco wall with an iron gate per the submitted plans.

Subsequently, a site plan was submitted and approved; however, the site plan did not illustrate the carport. In addition, all inspections associated with the interior renovations and additions to the dwelling were completed.

In May 2008, the applicant applied for a building permit (BLD2008-01465) which was approved to pour a slab for a future carport and a masonry wall per the Architectural Review Board. However, a Certificate of Appropriateness was approved by the MHDC staff allowing:

- Replace the existing non-historic outbuilding with a new carport that matches the materials, finishes and details of the main residence.
- Enlarge the main residence with a new two-story addition per the submitted plans.
 - The addition will sit on brick piers with wood lattice to match existing.

- All new materials, finishes and details will match existing materials, finishes and details to include wood lap siding, exposed rafter tails, shingle roofing and 1/1 wood sash windows.
 - Some windows will be small wood casements.
 - There will be a wood door with one light and a transom at the south elevation and two French doors with one light each at the west (rear) elevation; they will have wood hoods.
 - There will be a small stoop at the south elevation and a deck at the west (rear) elevation with railing to match existing.
- Replace the existing wood privacy fence around the property and the wood gate on the east (front) elevation with a 6'-0" tall stucco wall with an iron gate per the submitted plans.

The permit was issued with no site plan since the permit illustrated that the privacy fence would be constructed along the property line and no setbacks are required for a slab. However, staff instructed the applicant that if a structure is proposed, it must comply with the required setbacks.

In January 2012, the applicant completed a building permit application (BLD2012-00118) and included a site plan to construct a 24-foot x 21-foot detached carport with lattice sides and a concrete back wall. The permit was denied stating that the carport must be at least 5-feet from the side and rear yards. However, it was also stated that the site is located within Old Dauphin Way Historic District and the applicant may utilize the Historic District Overlay provision to reduce setbacks from property lines to match properties within 150 feet of the site on the same side of the street.

The applicant stated that the utility right-of-way was abandoned; however, there appears to be no utility easements but there is an approximately 13-foot unimproved alleyway along the rear of the properties between North Monterey Street and North Reed Avenue. It should be noted that the applicant submit a vacation request to at least claim half of the easement to allow the applicant to gain approximately 6.5-feet of this alleyway right-of-way. With the successful vacation, and the submission of a permit illustrating the location of the carport, may provide enough property to allow the construction of the carport.

In addition, the Board does not have the authority to allow structures within a right-of-way. Therefore, the only option would be the applicant try to vacate the right-of-way.

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 has failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. The site has ample room for the carport to be placed in compliance with the required 5-foot side and rear yard setbacks. It is simply the applicant's desire to allow a carport with storage to be located 1.8'± off side property line and across the rear property line into a public alley in an R-1, Single-Family Residential District.

RECOMMENDATION: Based on the preceding, this application is recommended for denial due to the Board does not have the authority to allow structures in the right-of-way.

LOCATOR MAP



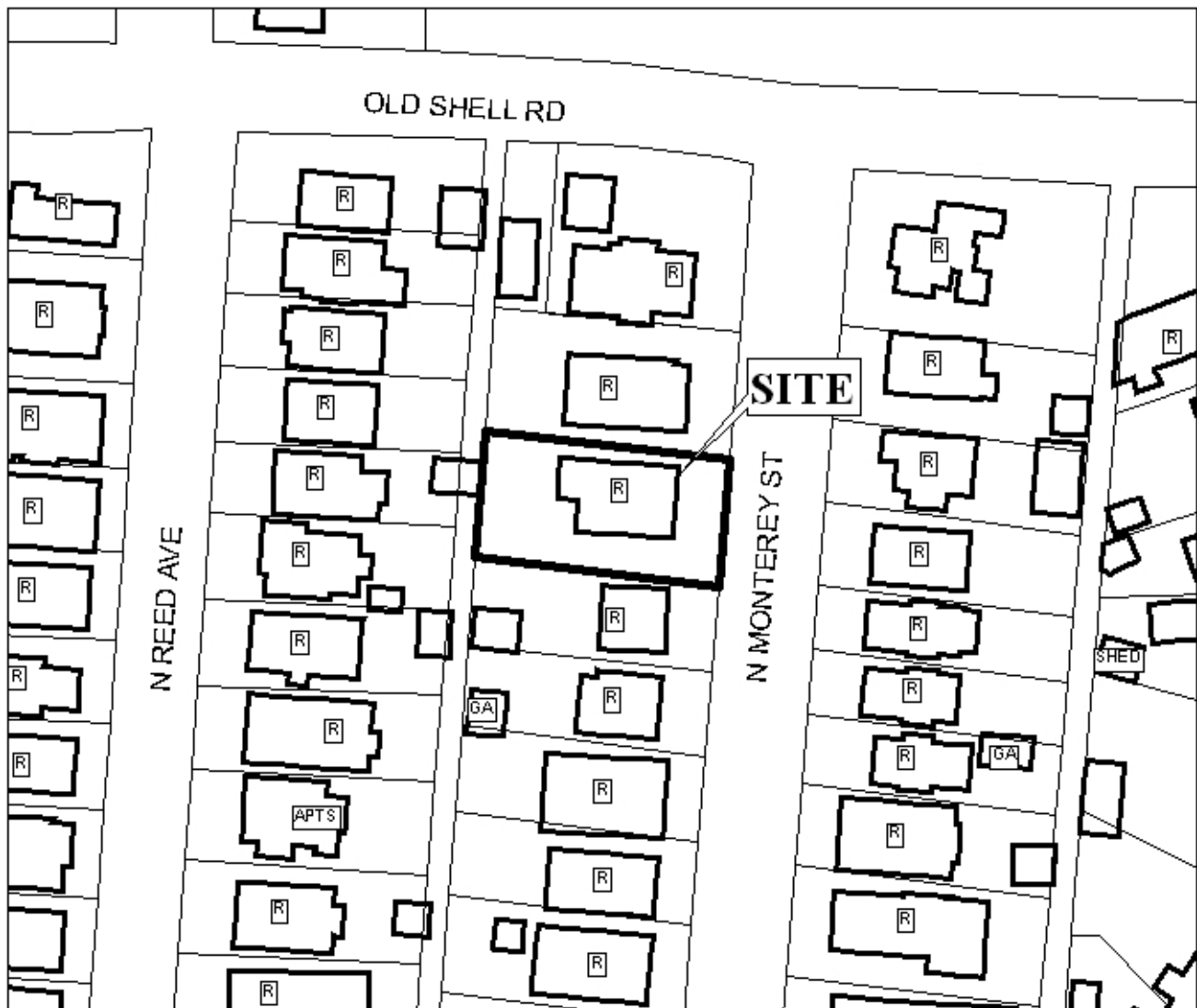
APPLICATION NUMBER 5761 DATE July 2, 2012

APPLICANT Mr. & Mrs. E. Luckett Robinson, II

REQUEST Side and Rear Yard Setback Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use.

APPLICATION NUMBER 5761 DATE July 2, 2012

APPLICANT Mr. & Mrs. E. Luckett Robinson, II

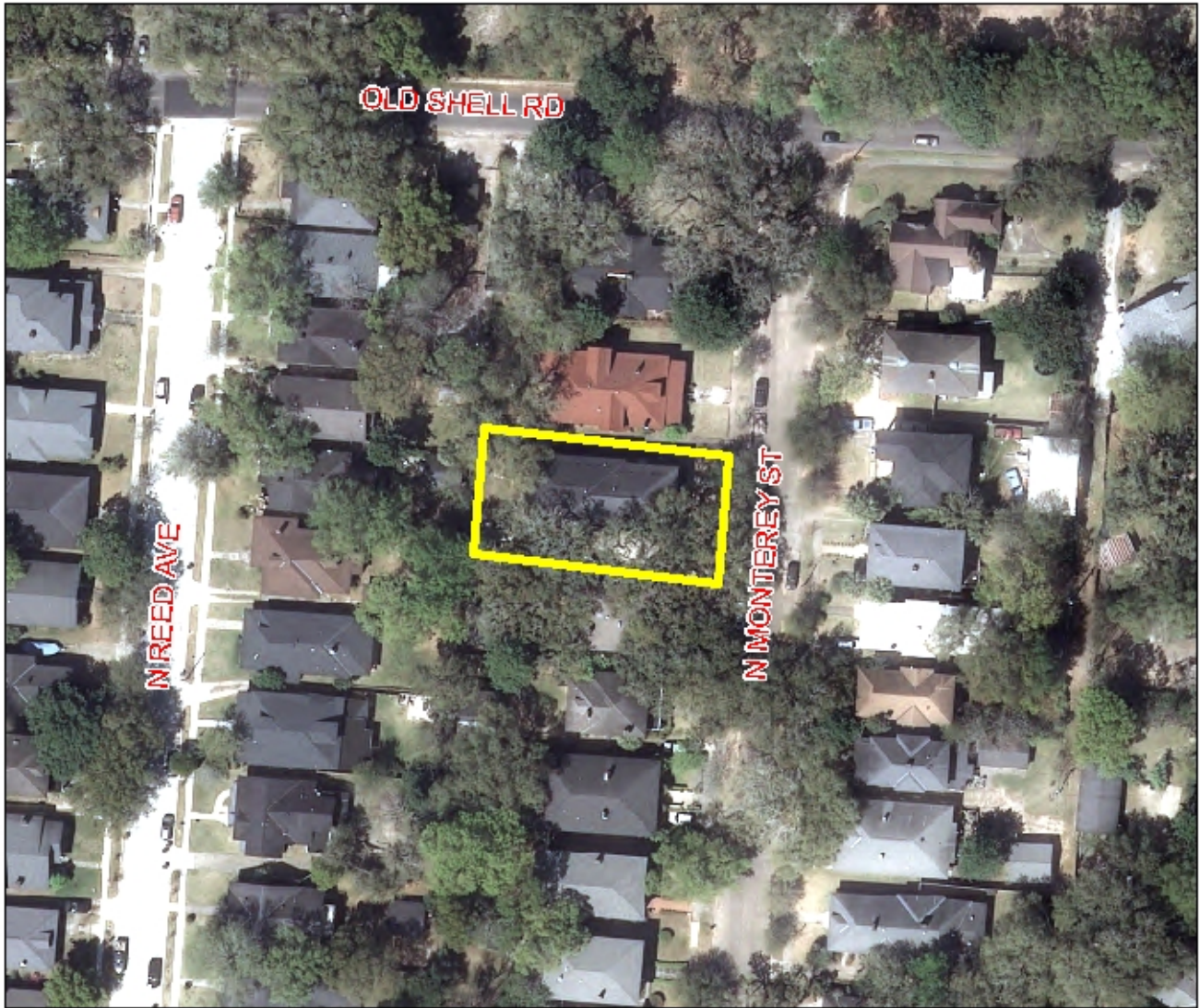
REQUEST Side and Rear Yard Setback Variances

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	NTS
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use.

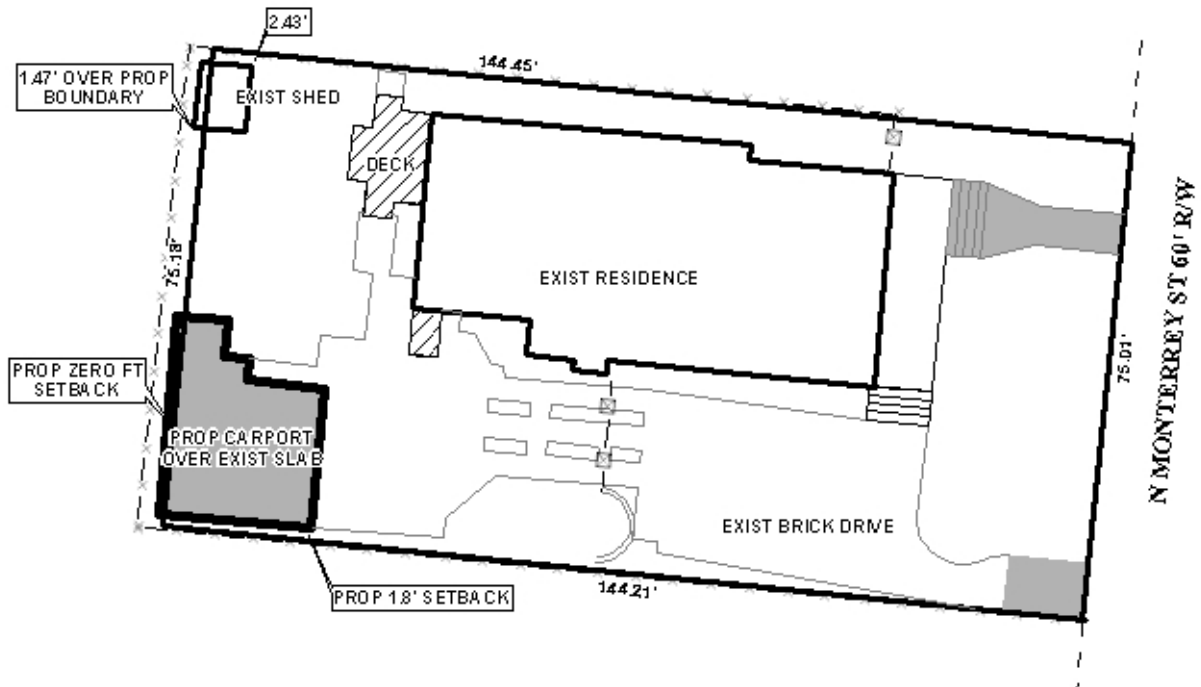
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SITE PLAN



The site plan illustrates the existing structures and proposed carport.

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