

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: January 9, 2017****CASE NUMBER**

6081

**APPLICANT NAME**

Barron B. Partridge

**LOCATION**

143 Batre Lane  
(West side of Batre Lane, 251'± Northwest of Devendel Lane).

**VARIANCE REQUEST**

**SIDE YARD SETBACKS:** Side Yard Setback Variance to allow a structure within 6.3' of the side property line.

**COMBINED SIDE YARD SETBACKS:** Combined Side Yard Setback Variance to allow a combined Side Yard Setback of 18.21' in an R-1, Single-Family Residential District.

**ZONING ORDINANCE  
REQUIREMENT**

**SIDE YARD SETBACKS:** The Zoning Ordinance requires a minimum 8' side yard setback in an R-1, Single-Family Residential District.

**COMBINED SIDE YARD SETBACKS:** The Zoning Ordinance requires a combined side yard setback minimum of 20' in an R-1, Single-Family Residential District.

**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

8,657± Square Feet / 0.2± Acre

**TRAFFIC ENGINEERING  
COMMENTS**

No comments.

**ENGINEERING  
COMMENTS:**

No comments.

**CITY COUNCIL  
DISTRICT**

District 7

**ANALYSIS**

The applicant is requesting Side Yard Setback and Combined Side Yard Setback Variances to allow a structure within 6.3' of the side property line and a combined side yard setback of 18.21' in an R-1, Single-Family Residential District; the

Zoning Ordinance requires a minimum 8' side yard setback and a combined side yard setback minimum of 20' 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.

The site plan illustrates an existing dwelling and an accessory structure. The applicant proposes to demolish the accessory structure, replacing it with an addition to the dwelling that would encroach on the South side yard setback, thus decreasing the amount of combined side yard setbacks below the minimum requirement in an R-1, Single-Family Residential District. It should be noted that, if approved, a demolition permit for the existing structure would be required prior to the issuance of any permits for new construction.

The applicant states:

*This proposal letter is to request and substantiate the grant of a variance for a residence at 143 Batre Ln in Mobile, AL. The Variance requested is relatively minor at 3'. My neighbor's driveway and my driveway are both on the property line where the variance is requested and are separated by an 8' privacy fence. There is an existing garage structure on a slab that will be torn down and the proposed building will not be as close as the existing structure.*

*I have made an investment in my home and would like to bring it up to the standards of my neighborhood and community by adding a master bedroom, utility room, screened in porch and 1.5 bathrooms. The hardship I'm facing is due to an irregular shaped lot which causes the addition to be within the minimum setback. I have also lost the privacy of my backyard due to an extremely large house being built directly behind me, which is shown in the photos. Due to this loss of privacy, I'd like to maximize my available property to facilitate a larger bedroom and a larger screened in porch to regain some of the privacy that I've lost.*

*Additionally, the proposed addition that this variance is being requested for does not encroach or infringe on any neighboring residential properties, nor would it impose any hardship on my neighbors, nor would it serve to create a situation where any neighbor's quality of life, property value, or peaceful co-existence would be negatively affected. On the contrary, it will actually help to raise the overall property value of my home which in turn will raise the property value of my neighbor's homes.*

The portion of the existing accessory structure to be demolished currently encroaches on the side and rear property lines by 5'± and 1'±, respectively; therefore, the proposed addition would reduce the degree upon which Side and Rear setbacks are currently infringed. However, the existing accessory structure is only visible from aerial photographs since 2006; and, considering no building permits were approved for such a structure, it may not be considered legally nonconforming. While Staff is aware that tax records show the applicant bought the property in August, 2007, and is therefore not responsible for the existing structure, precedence would nevertheless not appropriately justify a continuing nonconformity.

With regards to what the applicant mentions is an irregularly-shaped lot as a means to justify encroaching on the Side and Combined Yard setbacks, the lot is only slightly irregular in shape, but nevertheless exceeds minimum lot size standards for lots served by public water and sewer; and, the lot does not differ in shape from the lots to East or West of the site. Additionally, the site plan illustrates the rear portion of the lot is undeveloped and is a space on which the proposed structure could be constructed without infringing upon any setbacks. Furthermore, the applicant has not submitted evidence as to how encroaching on Combined and Side Yard setbacks would recuperate privacy allegedly lost with the development of a neighboring property to the rear, especially when a smaller or redesigned addition could meet the requirements of the Zoning Ordinance. As such, approving the request may facilitate a self-imposed hardship.

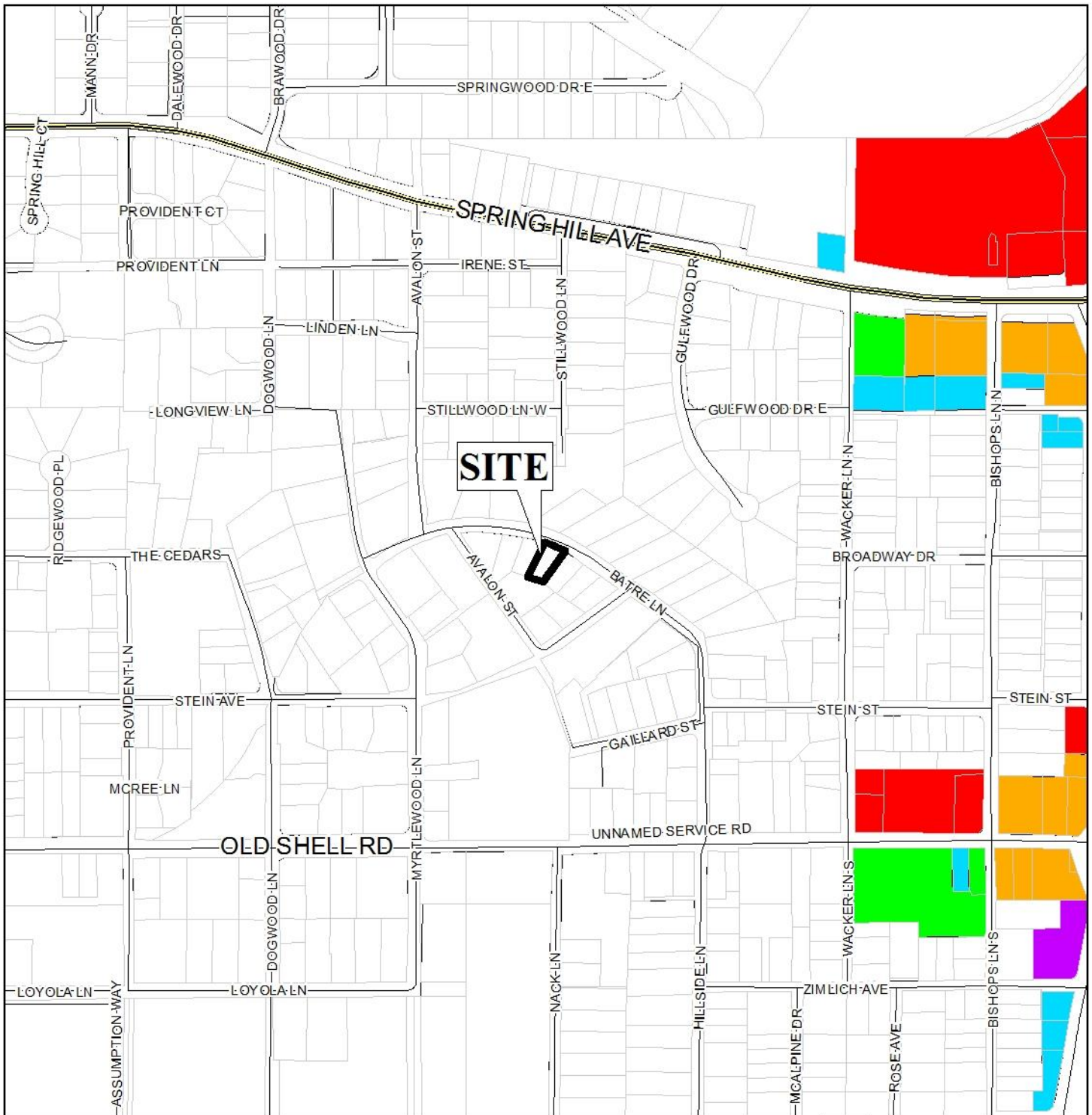
Finally, regarding how the proposed structure could incentivize the value of the applicant's and neighbors' property values, variances cannot be granted on the basis of economics; rather, they can only be granted on the basis of a hardship associated with the property. Similar variances for reduced setbacks have been granted to neighboring properties within 500' of the subject property, the most recent being in 2008; however, the applicant has not presented sufficient evidence demonstrating a hardship as required in Section 64-8.B.6.f.(3).(d). of the Zoning Ordinance and denial of the request may therefore be appropriate.

**RECOMMENDATION:** Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) Granting the variance will be contrary to the public interest in that it will be contrary to Section 64-3.C.1.e. of the Zoning Ordinance regarding Side and Combined Side Yard setbacks within an R-1, Single-Family Residential District;
- 2) Special conditions do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, especially when a smaller or redesigned addition could meet setback requirements of the Zoning Ordinance; 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 for the structure since encroaching on Side and Combined Yard setbacks would represent a self-imposed hardship.



# LOCATOR ZONING MAP



APPLICATION NUMBER 6081 DATE January 9, 2017  
APPLICANT Barron B. Partridge  
REQUEST Side Yard Setback and Combined Side Yard Setback Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

APPLICATION NUMBER 6081 DATE January 9, 2017

APPLICANT Barron B. Partridge

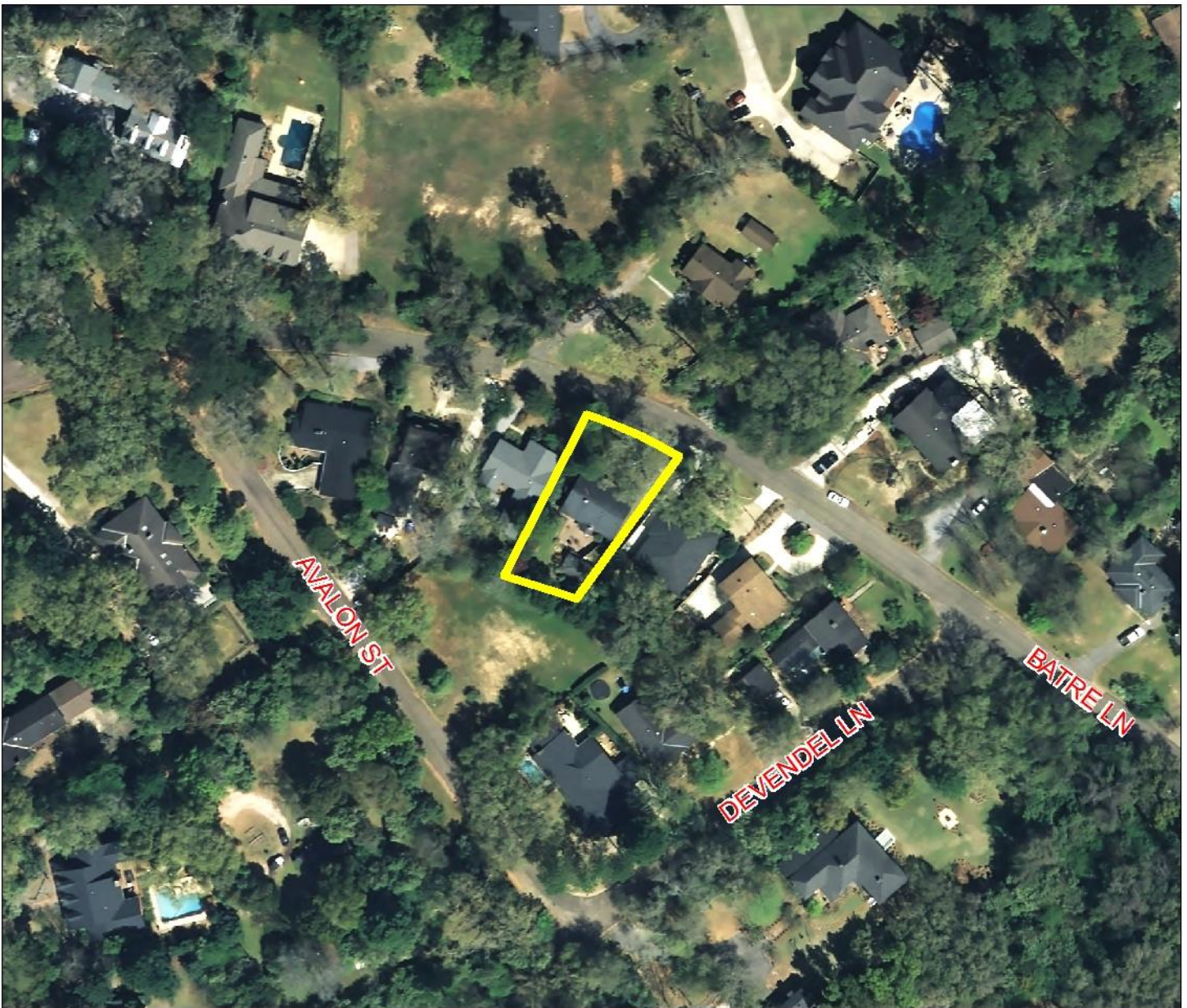
REQUEST Side Yard Setback and Combined Side Yard Setback Variances

<span style="display: inline-block; width: 15px; height: 10px; background-color: cyan; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 10px; background-color: green; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: tan; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: blue; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 10px; background-color: yellow; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span> T5.1
<span style="display: inline-block; width: 15px; height: 10px; background-color: white; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: magenta; border: 1px solid black;"></span> R-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: cyan; border: 1px solid black;"></span> B-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: red; border: 1px solid black;"></span> B-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black;"></span> I-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightgreen; border: 1px solid black;"></span> OPEN	<span style="display: inline-block; width: 15px; height: 10px; background-color: pink; border: 1px solid black;"></span> T3	<span style="display: inline-block; width: 15px; height: 10px; background-color: darkblue; border: 1px solid black;"></span> T5.2
<span style="display: inline-block; width: 15px; height: 10px; background-color: yellow; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: peachpuff; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: brown; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 10px; background-color: grey; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightpurple; border: 1px solid black;"></span> T4	<span style="display: inline-block; width: 15px; height: 10px; background-color: darkpurple; border: 1px solid black;"></span> T6



# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING AERIAL

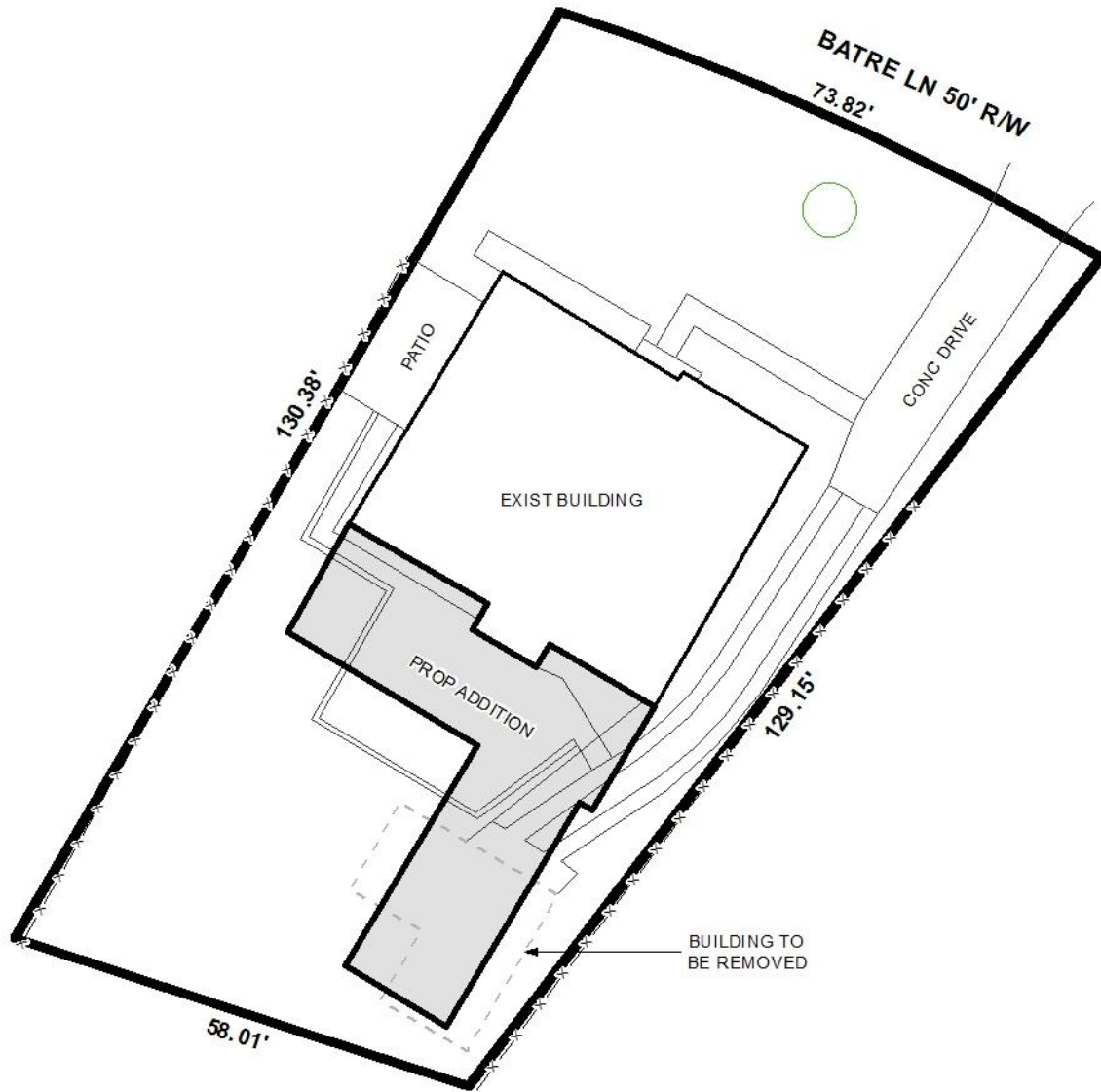


The site is surrounded by residential units.

APPLICATION NUMBER 6081 DATE January 9, 2017  
APPLICANT Barron B. Partridge  
REQUEST Side Yard Setback and Combined Side Yard Setback Variances



# SITE PLAN



The site plan illustrates the existing building, existing drive, building to be removed, and proposed addition.

APPLICATION NUMBER 6081 DATE January 9, 2017  
APPLICANT Barron B. Partridge  
REQUEST Side Yard Setback and Combined Side Yard Setback Variances

