

APPLICATION NUMBER

5540/5533

A REQUEST FOR

**FENCE HEIGHT VARIANCE TO ALLOW THE
CONSTRUCTION OF A 13.5 FOOT HIGH WALL ALONG
THE REAR AND SIDE PROPERTY LINES IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT; THE
ZONING ORDINANCE ALLOWS A MAXIMUM WALL
HEIGHT OF 8' ALONG THE PROPERTY LINES IN AN R-
1, SINGLE-FAMILY RESIDENTIAL DISTRICT**

LOCATED AT

(East side of Drury Lane, 365'± North of Wimbledon Drive West)

APPLICANT / OWNER

JOEL THOMAS DAVES & STEPHANIE DAVES

BOARD OF ZONING ADJUSTMENT

JUNE 2009

The applicant is requesting fence height variance to allow the construction of a 13.5 foot high wall along the rear and side property lines in an R-1, Single-Family Residential District; the Zoning Ordinance allows a maximum wall height of 8' along the property lines in an R-1, Single-Family Residential District.

The applicant is requesting to erect a wall greater than 8' in height along the rear property and east property lines. It is argued that there is a low area in the rear of the property. The applicant claims that the excessive wall height is needed in order to infill some of the property to contain storm water and divert it toward the street, rather than to neighboring properties.

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.

Recently, the Board approved a request for increased in site coverage at this site. The applicant now wishes to erect a wall to a height greater than the maximum 8' allowed by the Zoning Ordinance. With regards to the applicant's argument, topographic data shows only a 4' elevation change across 130' of property (approximately 3% slope). Thus, if the purpose of the wall is to divert storm water to the street, then a simple retaining wall should be sufficient. Furthermore, photos submitted by the applicant do not show a "low area" anywhere on the property.

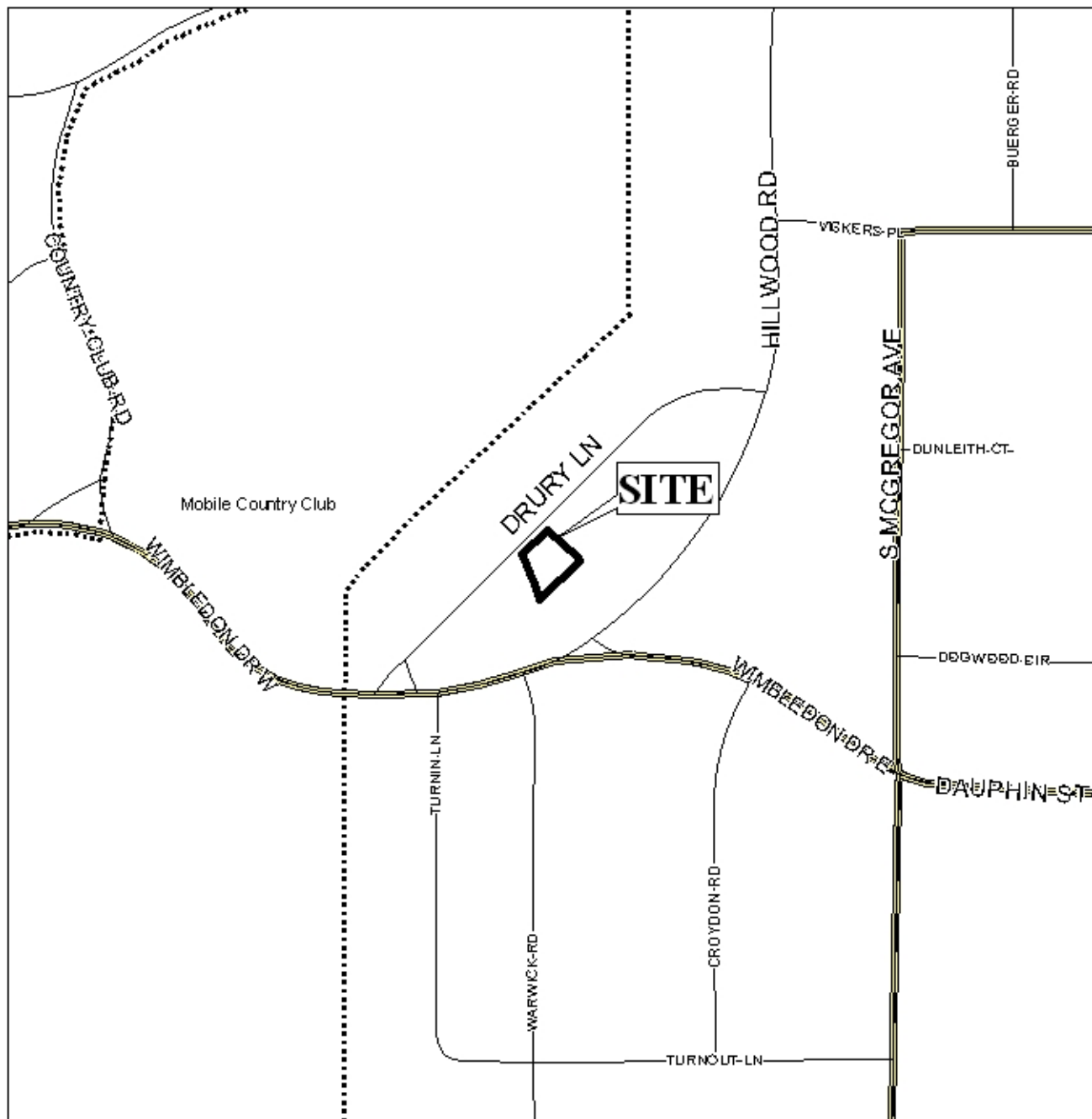
The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship.

RECOMMENDATION 5540/5533

Date: June 1, 2009

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

LOCATOR MAP



APPLICATION NUMBER 5540 / 5533 DATE June 1, 2009

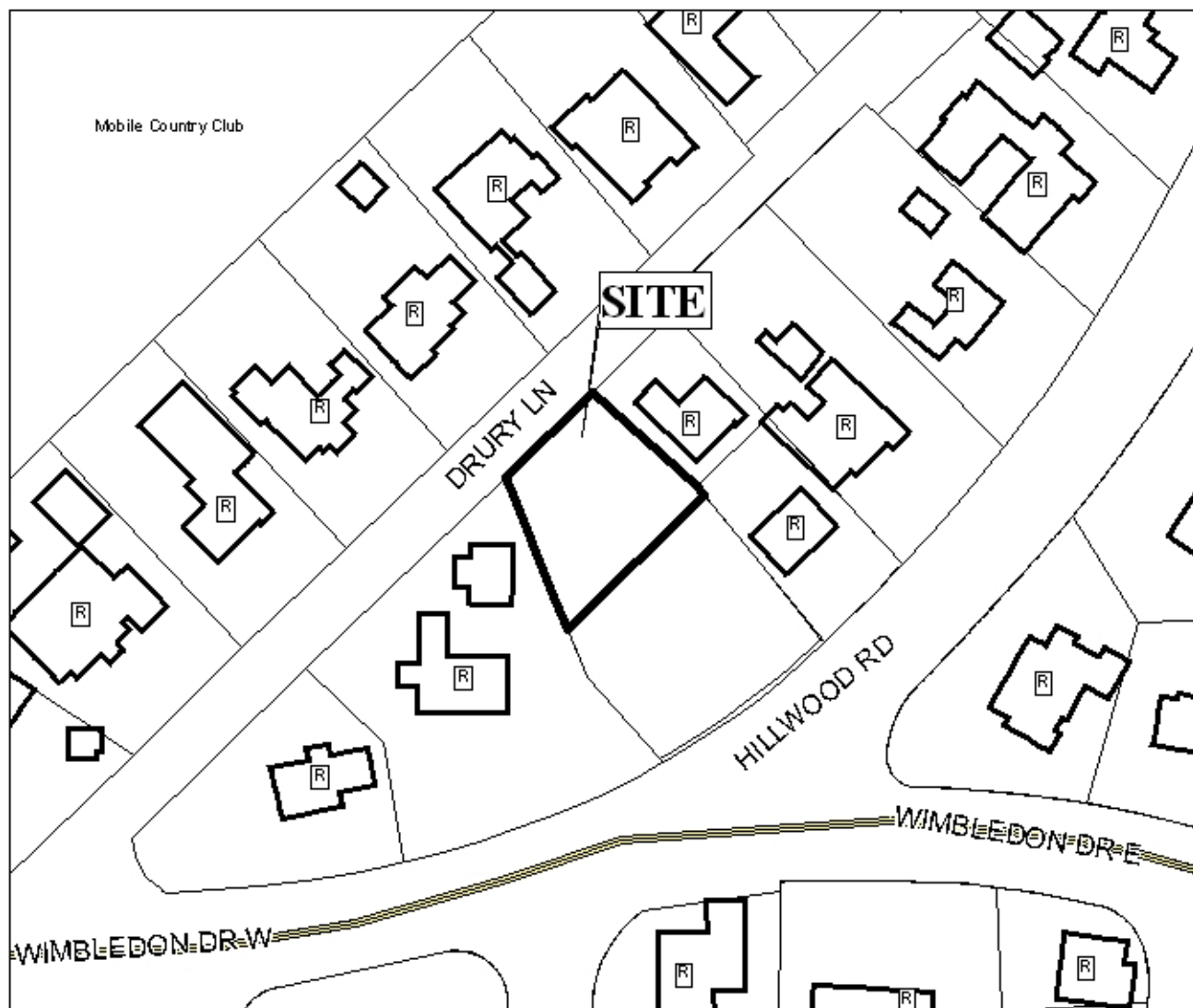
APPLICANT Joel Thomas Daves & Stephanie Daves

REQUEST Site Coverage Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units

APPLICATION NUMBER 5540 / 5533 DATE May 4, 2009

APPLICANT Joel Thomas Daves & Stephanie Daves

REQUEST Site Coverage Variance

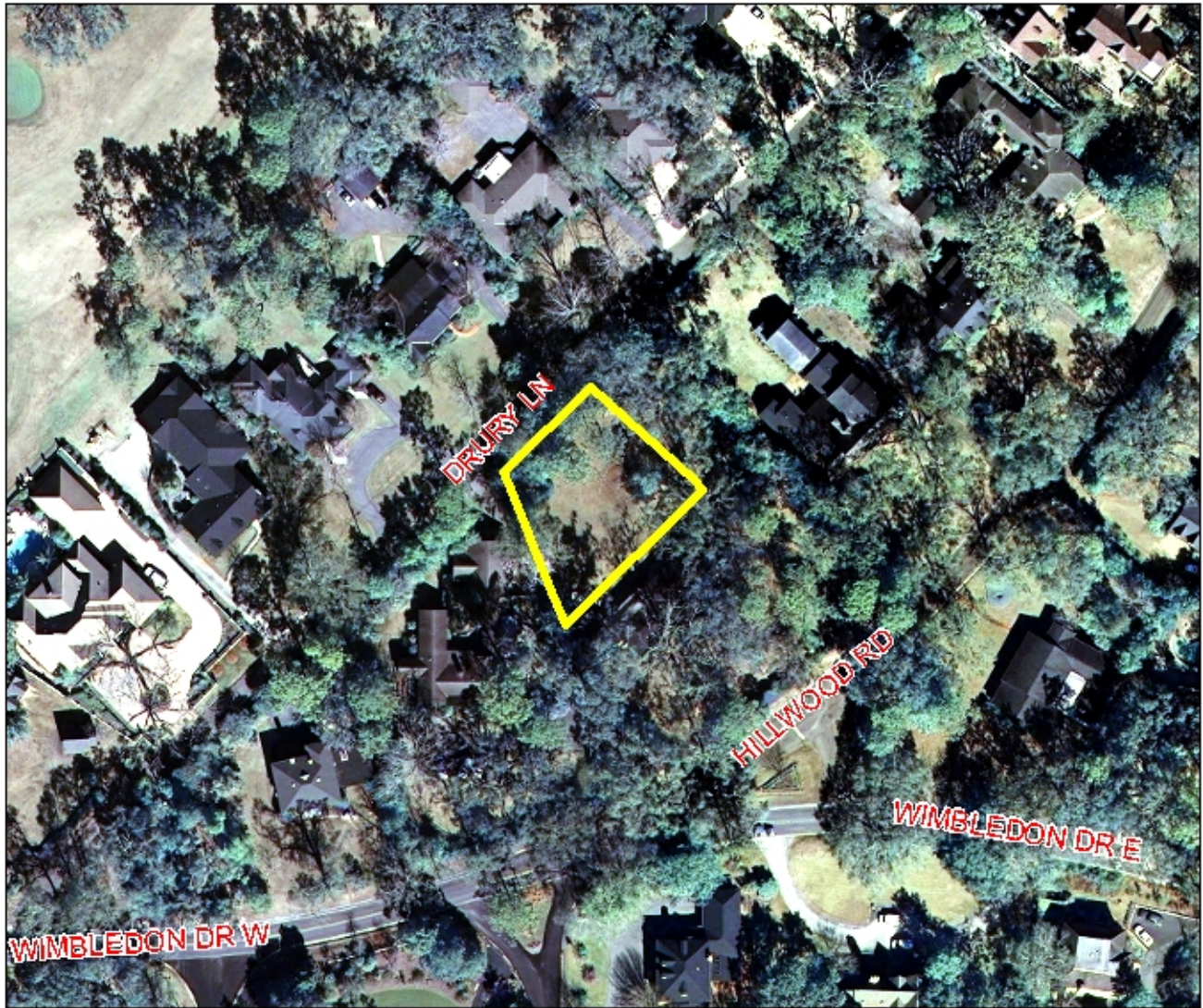
LEGEND

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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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units

APPLICATION NUMBER 5540 / 5533 DATE May 4, 2009

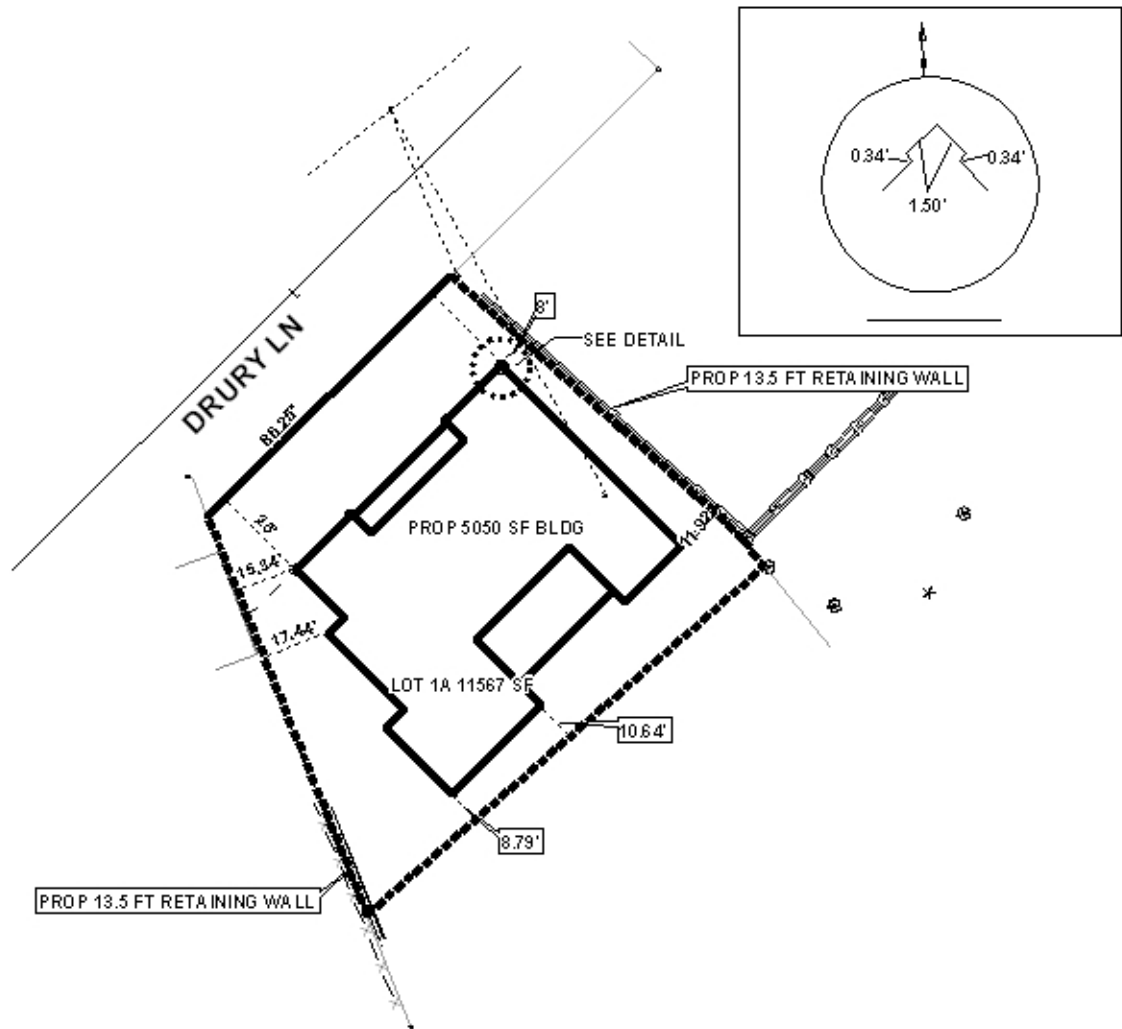
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SITE PLAN



The site plan illustrates the proposed residence.

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