

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: March 6, 2023**

**CASE NUMBER**

6500

**APPLICANT NAME**

Christopher and Johanna Bolling

**LOCATION**

171 Fenwick Road  
(Northeast corner of Fenwick Road and Conway Drive South).

**VARIANCE REQUEST**

**SIDE YARD SETBACK VARIANCE:** To allow a garage/boat shed less than eight feet (8') from a side yard property line in an R-1, Single-Family Residential District.

**ZONING ORDINANCE  
REQUIREMENT**

**SIDE YARD SETBACK VARIANCE:** The Zoning Ordinance requires at least an eight-foot (8') side yard setback for structures in an R-1, Single-Family Residential District.

**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

0.42± Acres

**CITY COUNCIL  
DISTRICT**

District 5

**ENGINEERING  
COMMENTS**

If the proposed variance is approved the applicant will need to have the following conditions met:

1. If any site improvements are proposed contact [land.disturbance@cityofmobile.org](mailto:land.disturbance@cityofmobile.org) to see what type of Land Disturbance Permit will be required.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

**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 (2021 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.

**ANALYSIS**

The applicant is requesting a Side Yard Setback Variance to allow a garage/boat shed less than eight feet (8') from a side yard property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires at least an eight-foot (8') side yard setback for structures 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 in 2017. 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 in 2015.

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 semidetached, 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.

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 states:

*We are requesting an important change to the standard ordinance from 8 feet to 4 feet, only on the northern side of our residence for the purpose of building an adequate boat shelter and storage room without encroaching on the covered patio. In addition, the structure will necessitate a walkway for traveling to and from our residence. Without the variance change to accommodate the boat's size and essential walkway, the boat will continue to be exposed to the elements, depreciate in value, and remain parked in our front yard.*

*Thank you for your consideration.*

The applicant is proposing to build a 720± square foot boat shelter and 240± square foot storage room structure within the required side yard setback. The applicant states that the structure will be four (4)-feet from the property line. However, upon closer review by staff, it appears that the proposed structure was not drawn to-scale on the site plan for the dwelling. Based on staff's calculations, the proposed structure will be closer to three (3)-feet from the side property line. If approved, a revised site plan showing the proposed addition to-scale should be submitted to staff, prior to the issuance of permits.

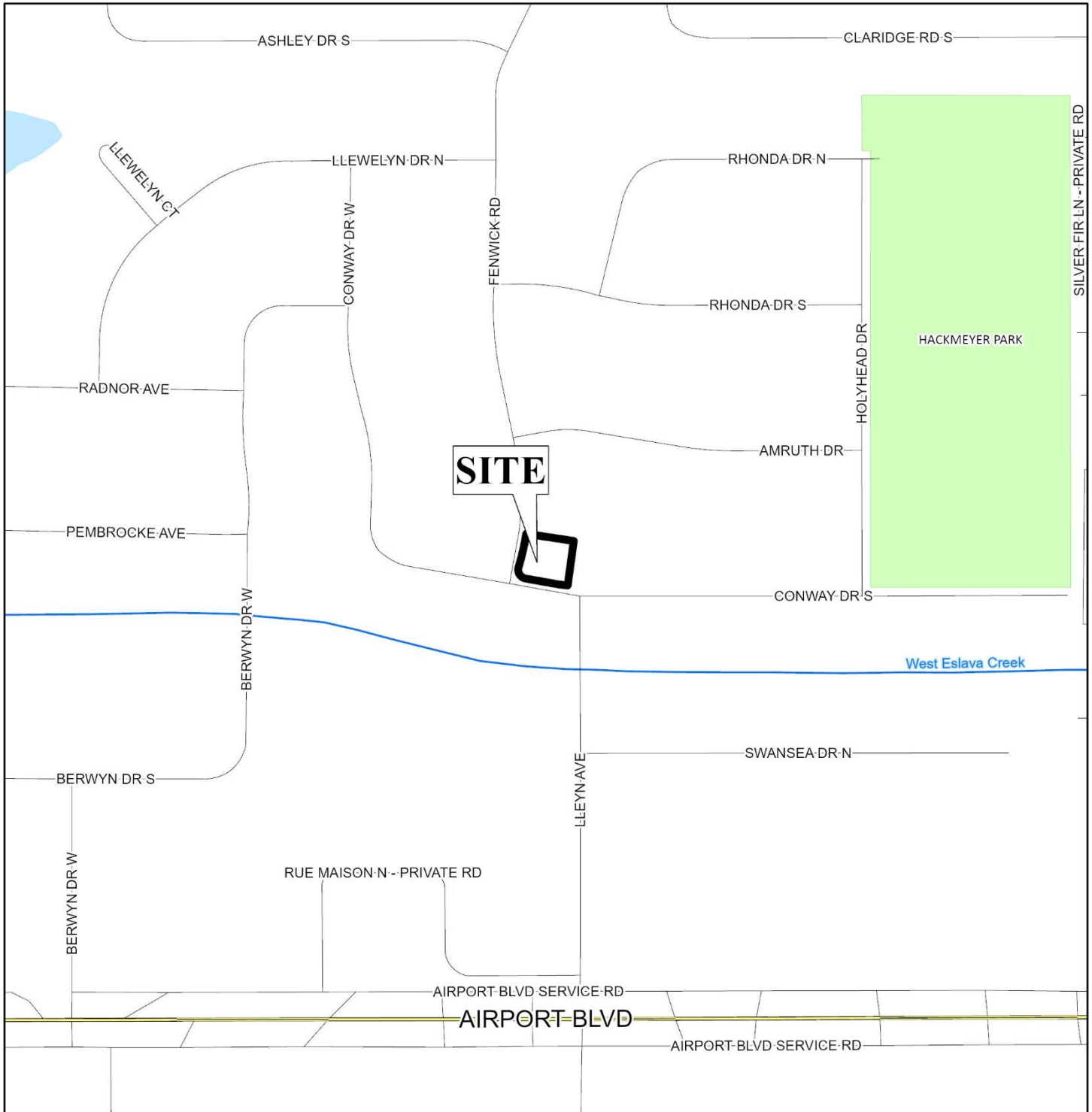
As the previously existing pool in the backyard is no longer present, the proposed addition could be placed on the site behind the existing dwelling, if it were rotated to be parallel with Fenwick Road, or could be placed abutting the home. This would likely allow the structure to be constructed in compliance with all required setbacks.

It should be noted that the proposed structure will result in the site exceeding the maximum allowable site coverage. The site is limited to 35% site coverage, and has 32.1%± site coverage existing; the proposed addition to the site would result in approximately 37.3% site coverage. The applicant did not request a site coverage variance, and as such, the application was not advertised to include this item, therefore the Board cannot consider excessive site coverage without the request being properly advertised first, which would require a holdover and additional fees. Only an addition approximately 524 square feet in size would not exceed the maximum site coverage.

**RECOMMENDATION:** 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 because the structure could be placed in such a way that it would comply with all setbacks;
- 2) Special conditions and hardships do not exist in such a way that a 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 as the proposed addition would result in the site exceeding the maximum allowable site coverage.

# LOCATOR MAP



APPLICATION NUMBER 6500 DATE March 6, 2023

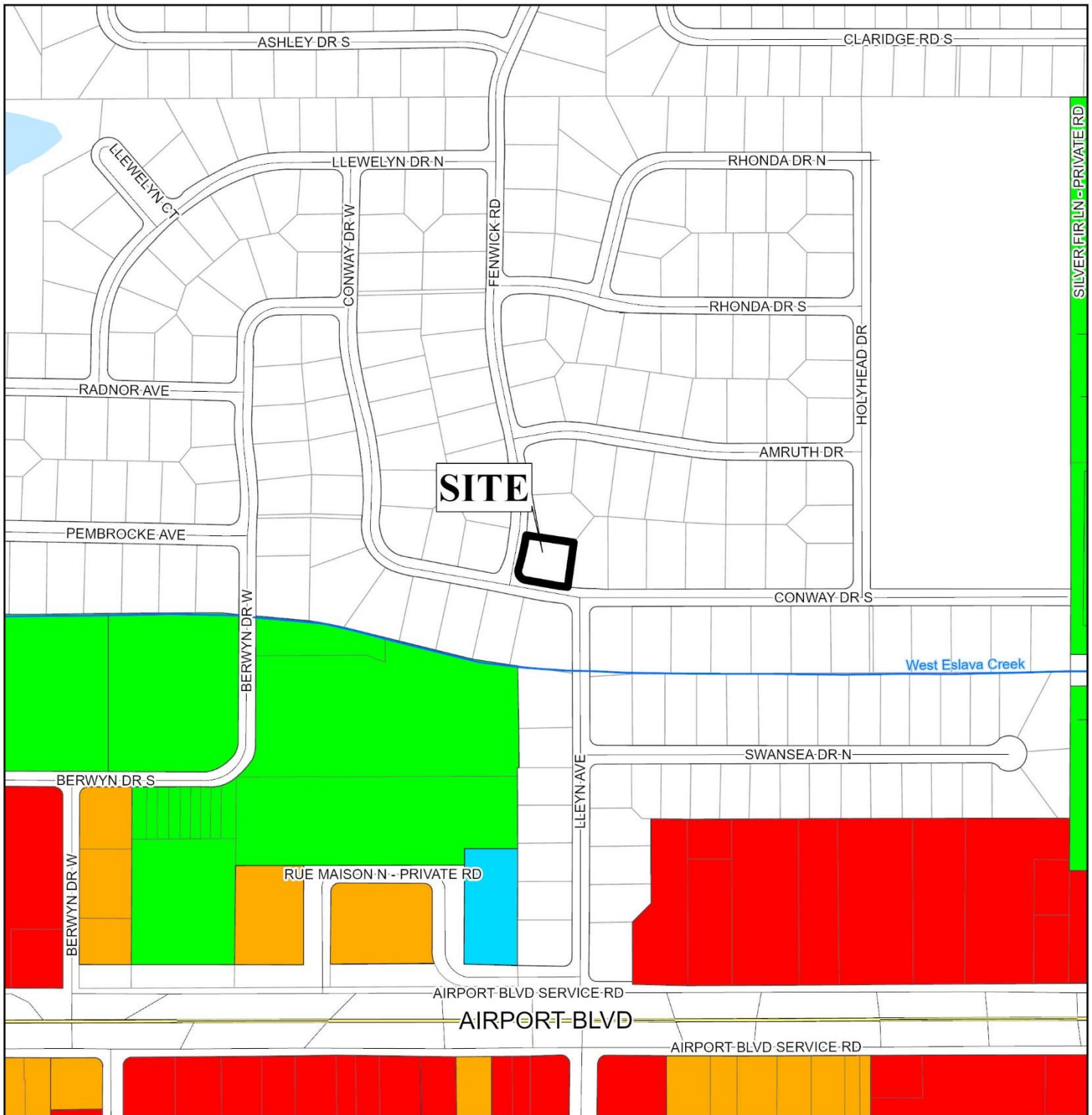
APPLICANT Christopher and Johanna Bolling

REQUEST Side Yard Setback Variance



NTS

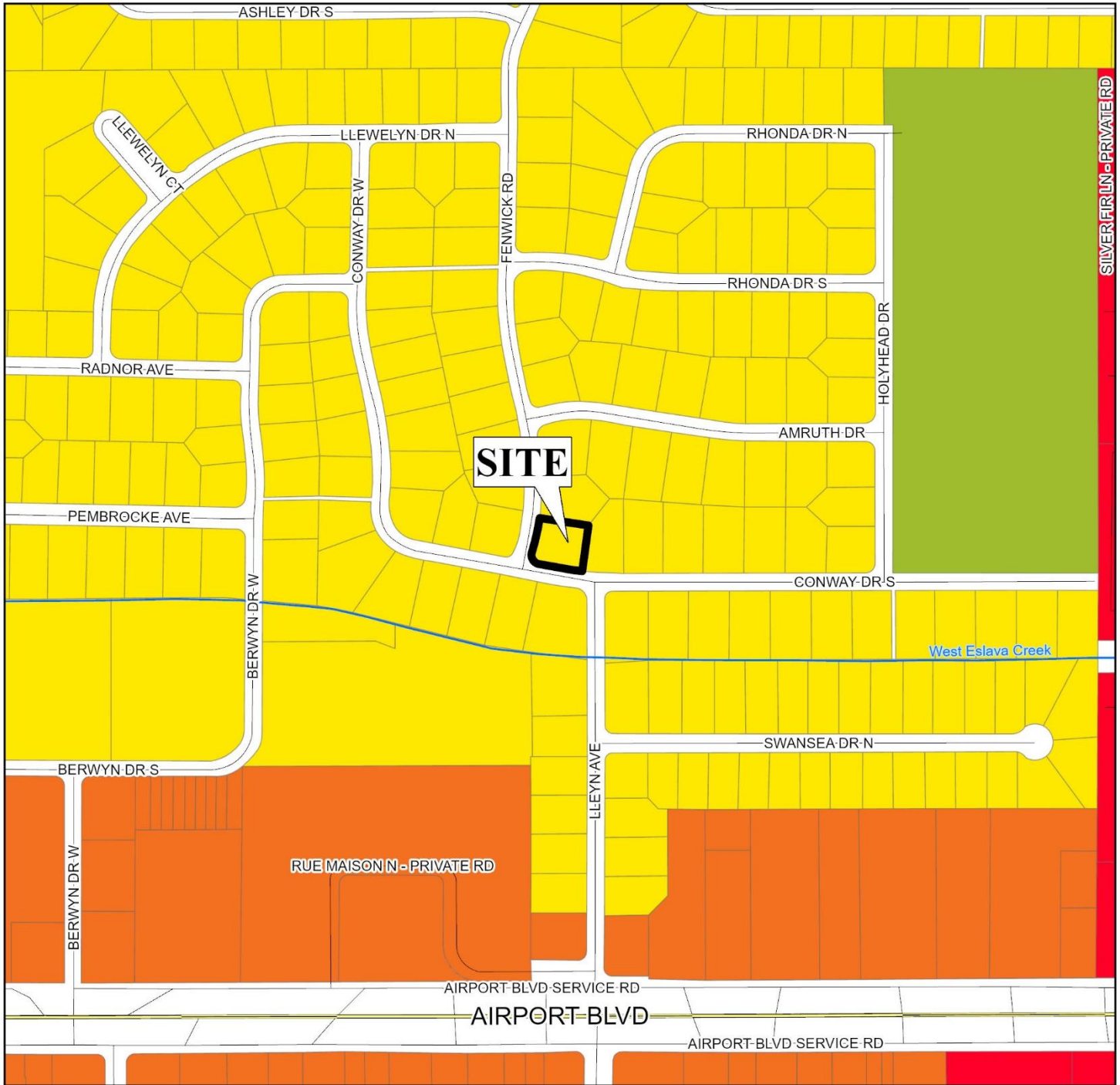
# LOCATOR ZONING MAP



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 APPLICANT Christopher and Johanna Bolling  
 REQUEST Side Yard Setback Variance



# FLUM LOCATOR MAP



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REQUEST Side Yard Setback Variance

**FLUM**

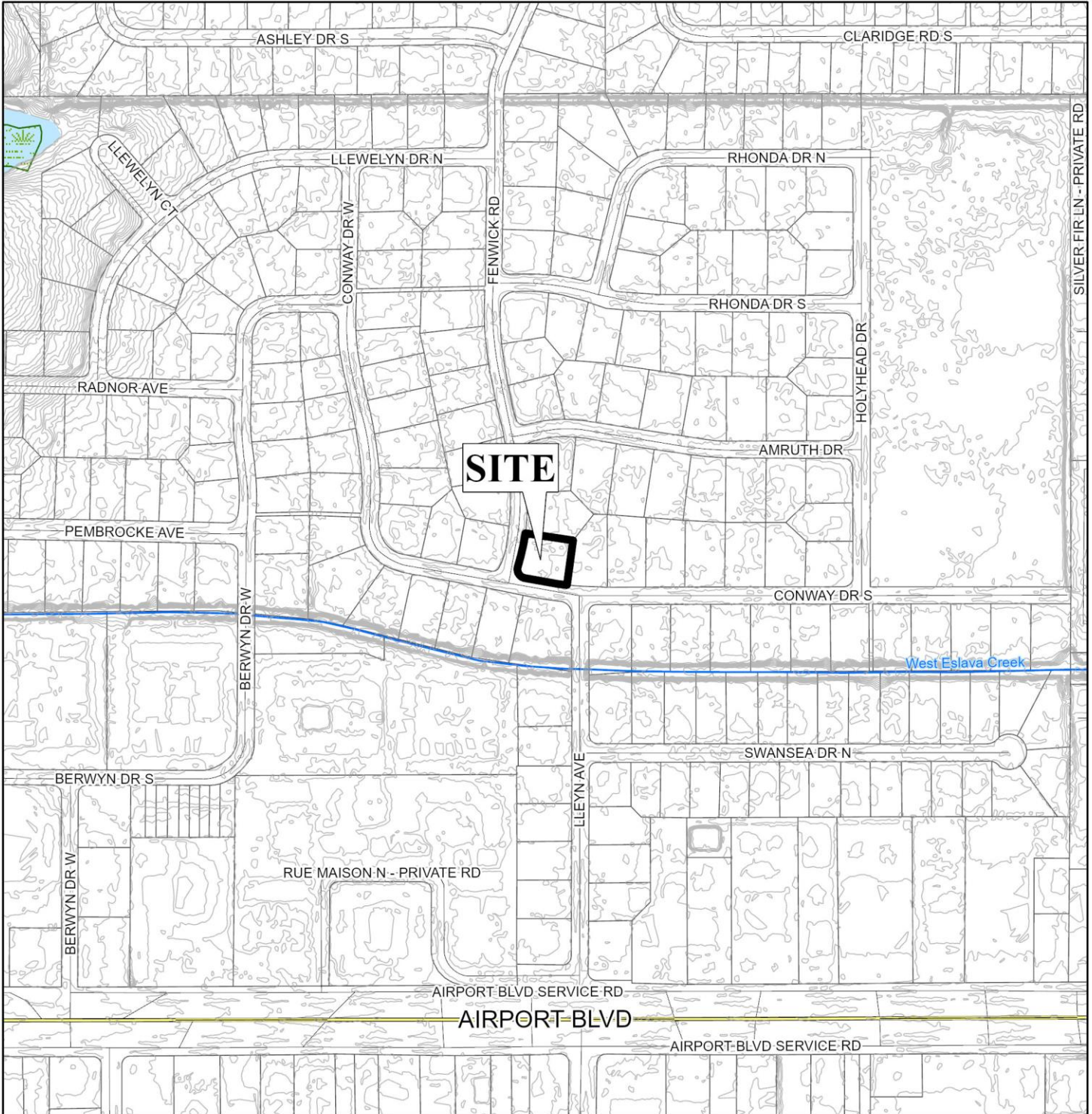
- |                                   |                     |                           |                    |
|-----------------------------------|---------------------|---------------------------|--------------------|
| Low Density Residential           | Downtown            | Traditional Corridor      | Heavy Industry     |
| Mixed Density Residential         | District Center     | Mixed Commercial Corridor | Institutional      |
| Neighborhood Center - Traditional | Downtown Waterfront | Light Industry            | Parks & Open Space |
| Neighborhood Center - Suburban    |                     |                           | Water Dependent    |



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# ENVIRONMENTAL LOCATOR MAP



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APPLICANT Christopher and Johanna Bolling

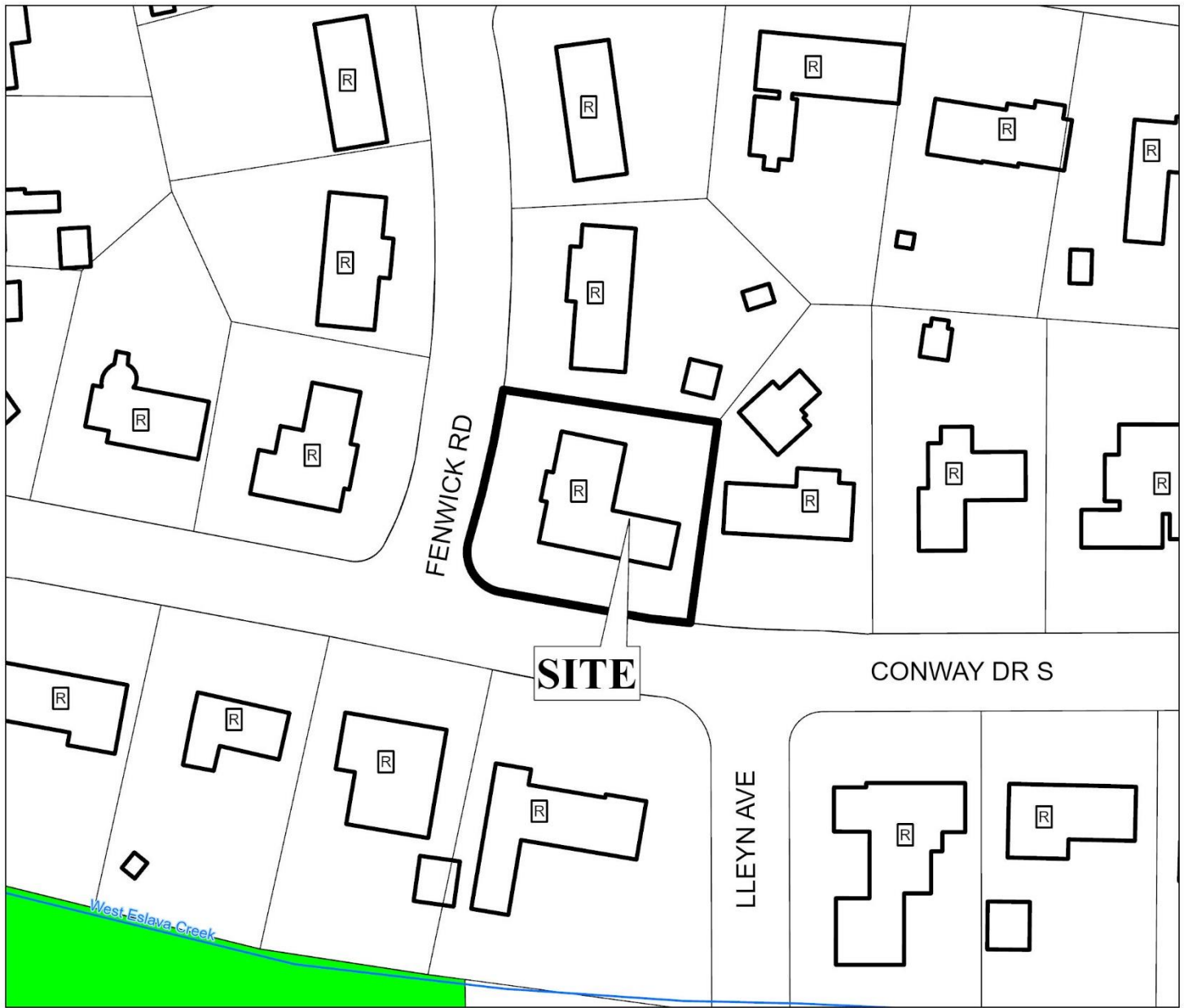
REQUEST Side Yard Setback Variance



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



























The site is surrounded by residential units.

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REQUEST Side Yard Setback Variance

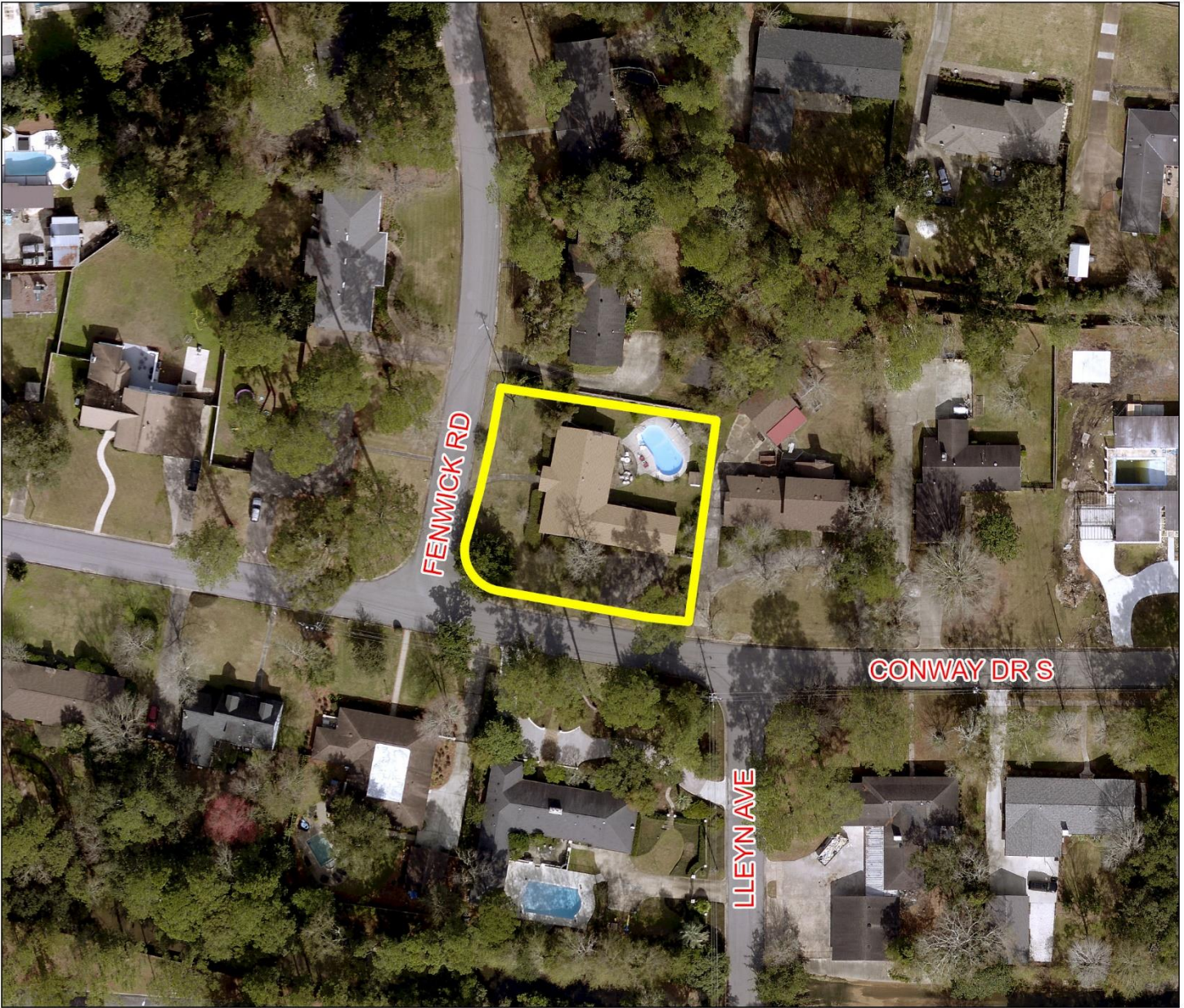
 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



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**BOARD OF ADJUSTMENT  
VICINITY MAP - EXISTING AERIAL**



The site is surrounded by residential units.

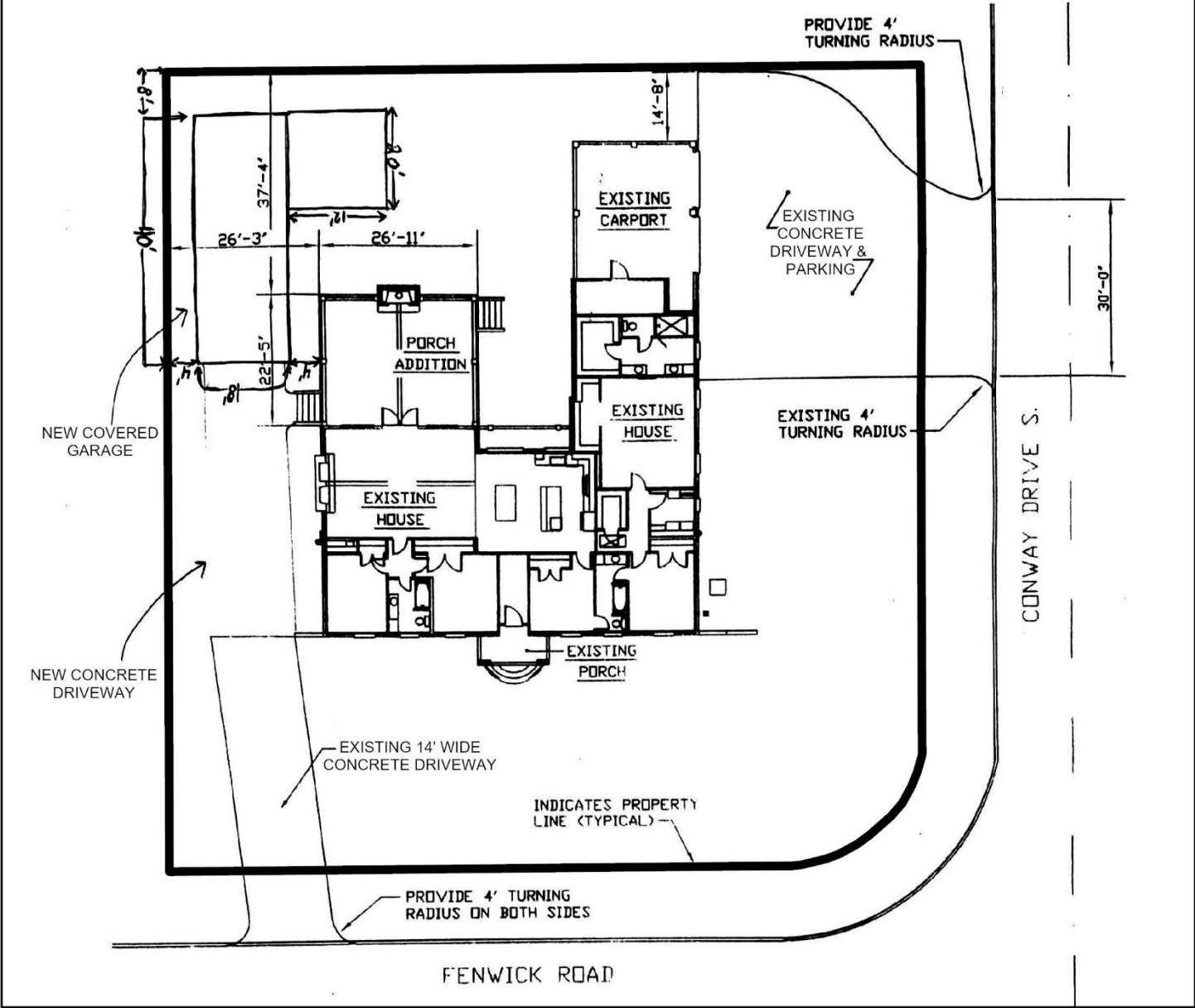
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# SITE PLAN



The site plan illustrates

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