

APPLICATION NUMBER

**5440**

A REQUEST FOR

**FENCE HEIGHT VARIANCE TO ALLOW THE  
CONSTRUCTION OF AN 8' HIGH MASONRY WALL  
ALONG THE OLD SHELL ROAD (SIDE STREET)  
PROPERTY LINE; A 20' SIDE YARD SETBACK IS  
REQUIRED ALONG A SIDE STREET (OLD SHELL ROAD)  
IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

Northwest corner of Old Shell Road and Austill Avenue

APPLICANT/OWNER

**CHRISTOPHER SCHATZMAN**

AGENT

**M. DON WILLIAMS**

**BOARD OF ZONING ADJUSTMENT**

OCTOBER 2007

The applicant is requesting a Fence Height Variance to allow the construction of an 8' high masonry wall along the Old Shell Road (side street) property line: a 20' side yard setback is required along a side street (Old Shell Road) in an R-1, Single-Family Residential District.

The applicant plans to build a residence on the subject property and proposes to construct the wall along the Old Shell Road property line starting approximately 38' back from the front property line along Austill Avenue. It is stated that a hardship exists due to the fact that the property elevation drops approximately 10' from both roadways to the rear of the property. The argument is made that the neighboring property to the rear (West) is the only one in that block facing Old Shell Road and that property owner's fence and palm trees already restrict that driveway's exit visibility. The applicant states that the proposed wall will not create any more of a visibility restriction and would be further away from the street intersection than the wall along Old Shell Road at the large family compound in the next block to the West. The applicant further sites other similar walls and vegetative hedges along the rights-of-way in other areas of Spring Hill and believes a wall along Old Shell Road will create a safer traffic situation by eliminating the existing drop-off into the back yard at the site.

Traffic Engineering has conducted an on-site review and determined the wall would not compromise line-of-sight from Austill Avenue. However, there is concern about vision from the adjacent neighbor's driveway to the West, already impacted by the large tree in the right-of-way. As a result of the review, Traffic Engineering has suggested that the wall be located inside the property line a few feet.

A review of the topographic contour lines on the site plan indicates the elevation drops about 1.5' within the first 6' inside the property line, then drops another 7' within the next 12'. The contour line 6' inside the property line is fairly level parallel to the property line, whereas, the elevation drops dramatically both parallel and perpendicular to the property line from there back to the 20' setback line. In a best-case scenario, a wall could be built level only as far back as 6' from the Old Shell Road property line.

Walls exist in the immediate neighborhood, either by variance or "grandfathered", and the proposed wall would not be out of character with the neighborhood. However, a maximum setback obtainable should be enforced.

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. The applicant has illustrated that a hardship is imposed by the property preventing the wall from being constructed to meet the required 20' setback. The maximum logical setback achievable should be required; therefore, the Board should consider approving this request but modified to require a 5' setback off the Old Shell Road property line.

**RECOMMENDATION 5440****Date: October 1, 2007**

Based on the preceding, this application is recommended for approval, but modified to a 6' setback off the Old Shell Road property line.

## LOCATOR MAP



APPLICATION NUMBER 5440 DATE October 1, 2007

APPLICANT Christopher Schatzman

REQUEST Fence Height Variance



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land use.

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APPLICANT Christopher Schatzman

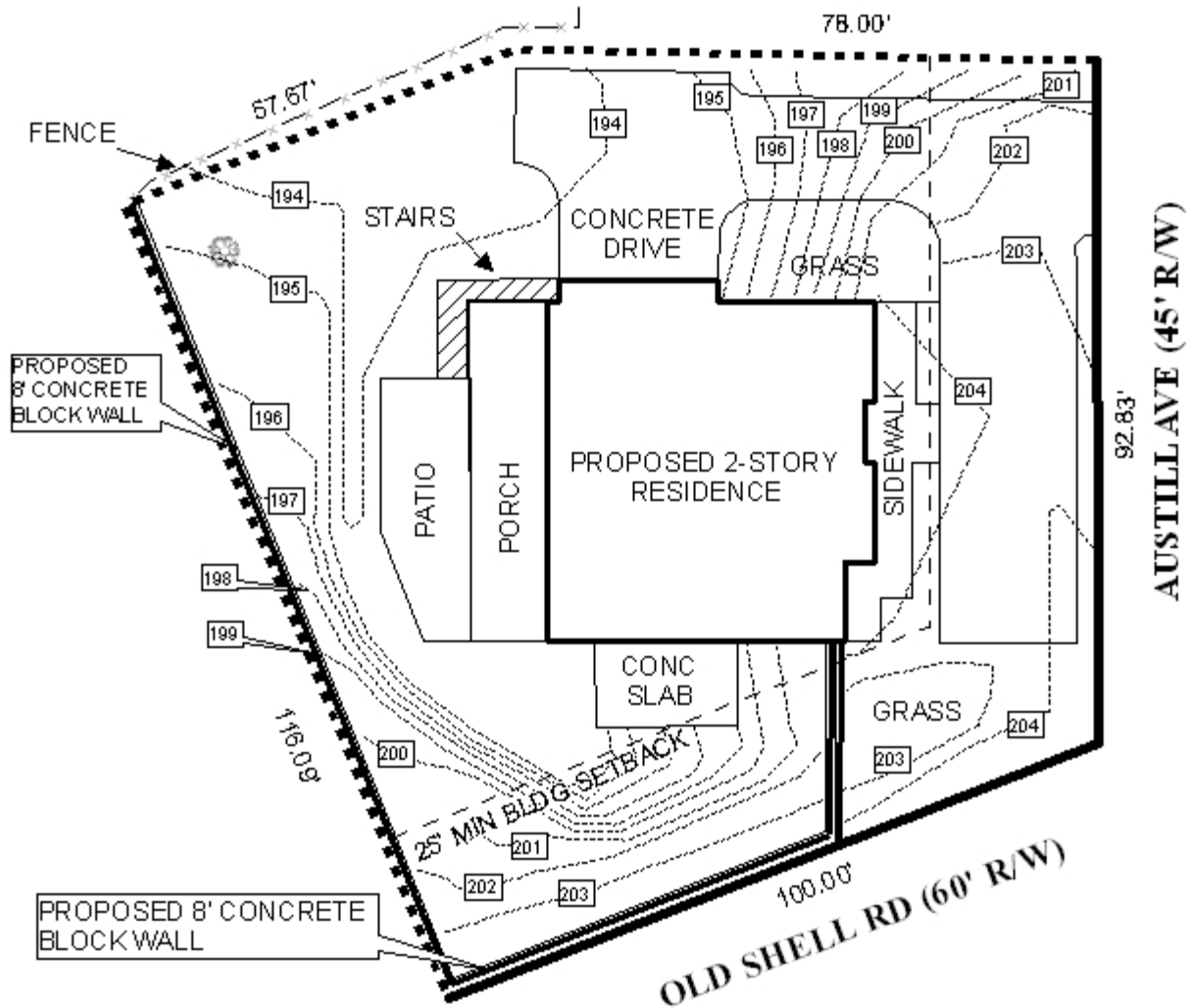
REQUEST Fence Height Variance

LEGEND

															NTS
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	



# SITE PLAN



This site plan illustrates proposed structures and surrounding elevation (feet).

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