

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 7, 2014**

<u>CASE NUMBER</u>	5888
<u>APPLICANT NAME</u>	Kenneth Ohanlon
<u>LOCATION</u>	50 Mohawk Street (Southwest corner of Mohawk Street and Homewood Street)
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow a duplex (R-2, Two-Family Residential) use in an R-1, Single-Family Residential District
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow R-2 use in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential District
<u>AREA OF PROPERTY</u>	.18± Acres
<u>ENGINEERING COMMENTS</u>	No comments
<u>TRAFFIC ENGINEERING COMMENTS</u>	Driveway number, size, location and design to be approved by Engineering and Traffic Engineering and conform to AASHTO standards.
<u>CITY COUNCIL DISTRICT</u>	District 1
<u>ANALYSIS</u>	The applicant is requesting Use Variance to allow a duplex (R-2, Two-Family Residential) use in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow R-2 use in an R-1, Single-Family Residential District.

The site plan submitted was not created by a design professional, and so therefore it is difficult to verify the accuracy of certain information depicted, such as the property boundaries and size of the structure, as the site plan is not drawn to any engineering or architectural scale. It appears that the site plan actually depicts a legal lot of record (50 Mohawk Street) as well as a ten foot wide metes-and-bounds parcel which appears to be under different ownership. The Board of Zoning Adjustment cannot consider any application when there is a question of ownership, such as this instance.

The applicant states that:

The house located at 50 Mohawk Street suffers from a multitude of problems. Some of the problems involve the house itself and some belong to the neighborhood. It is and has been a vacant major eye sore in the neighborhood for 26 years. The surrounding neighborhood is made up of largely rental properties. This includes everything from single family home, duplexes, and even two 3-plexes only seven houses away. 50 Mohawk's adjacent neighbor (52 Mohawk) is a duplex, three houses down Homewood is another duplex (2161 Homewood), and 3 and 4 houses the other way on Mohawk is yet two more duplexes (110 & 112 Mohawk). 50 Mohawk Street is by far the largest house in the neighborhood, about twice the size of any surrounding house, including those mentioned duplexes. Another problem with 50 Mohawk is that the house is in need of major repairs. It is almost cheaper to buy any house on the street than to repair 50 Mohawk. That is why 50 Mohawk has been VACANT and UNOCCUPIED for 26 YEARS. It's just not worth fixing up. However, if a variance was granted to allow for a two family home, just like next door and all the others mentioned duplexes and 3-plexes the resulting rents would justify incurring the excessive repair costs necessary to make this house an asset to the neighborhood.

The site plan only depicts the residential structure, and does not include any information about proposed parking, existing or proposed tree plantings, or any existing or proposed fences, nor is there any floor plan illustrating the existing or proposed layout of the residence. Based on this, it appears that the applicant desires to make no other improvements to the house except for repairing the structure and renting it to two tenants.

Based on information from the Mobile County Revenue Commission, it appears that the applicant has owned this property since 1989; therefore it is possible that regular maintenance could have been performed, and surely prevented the structure from deteriorating to its current condition.

The applicant is correct in stating that there are several residences with multiple units in the neighborhood, however it is important to note that these locations are likely legal non-conforming, and the Urban Development Department has no documentation on these homes to verify their legal non-conforming status. It is also important to note that there are no homes in the neighborhood which have duplexes that have been a result of an approved application to the Board of Zoning Adjustment, or that have been constructed since the adoption of the Zoning Ordinance.

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.

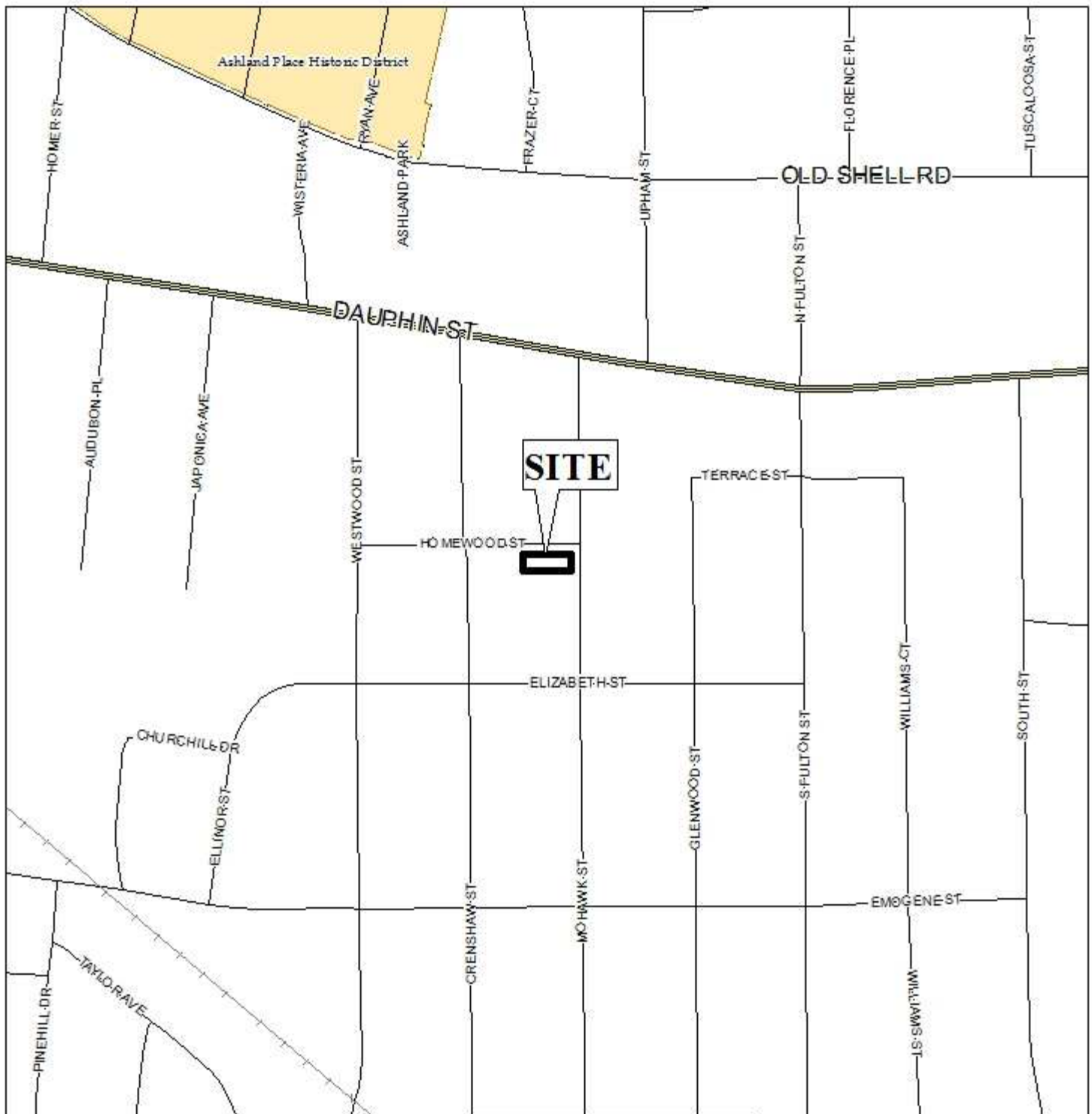
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

On Saturday, March 29, 2014, staff observed that the house which is the subject of this variance request has been demolished (without permits) to its foundation. Therefore, there is nothing to prevent to construction of a new, compliant single family residence

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

- 1) the subject of the use variance, the residence has been demolished;
- 2) the variance cannot be considered with questions of ownership unresolved;
- 3) approving the variance request will be contrary to the public interest in that it is contrary to Section 64-3.C.1. of the Zoning Regulations in that R-1, Single-Family Residential Districts are intended to consist primarily of single-family residence;
- 4) special conditions such as the site is unusable as a conforming, single-family residence, aside from economics, do not exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 5) the spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because none of the nearby multiplexes have been granted approval from the Board of Zoning Adjustment or Planning Commission, and should phase out eventually.

LOCATOR MAP



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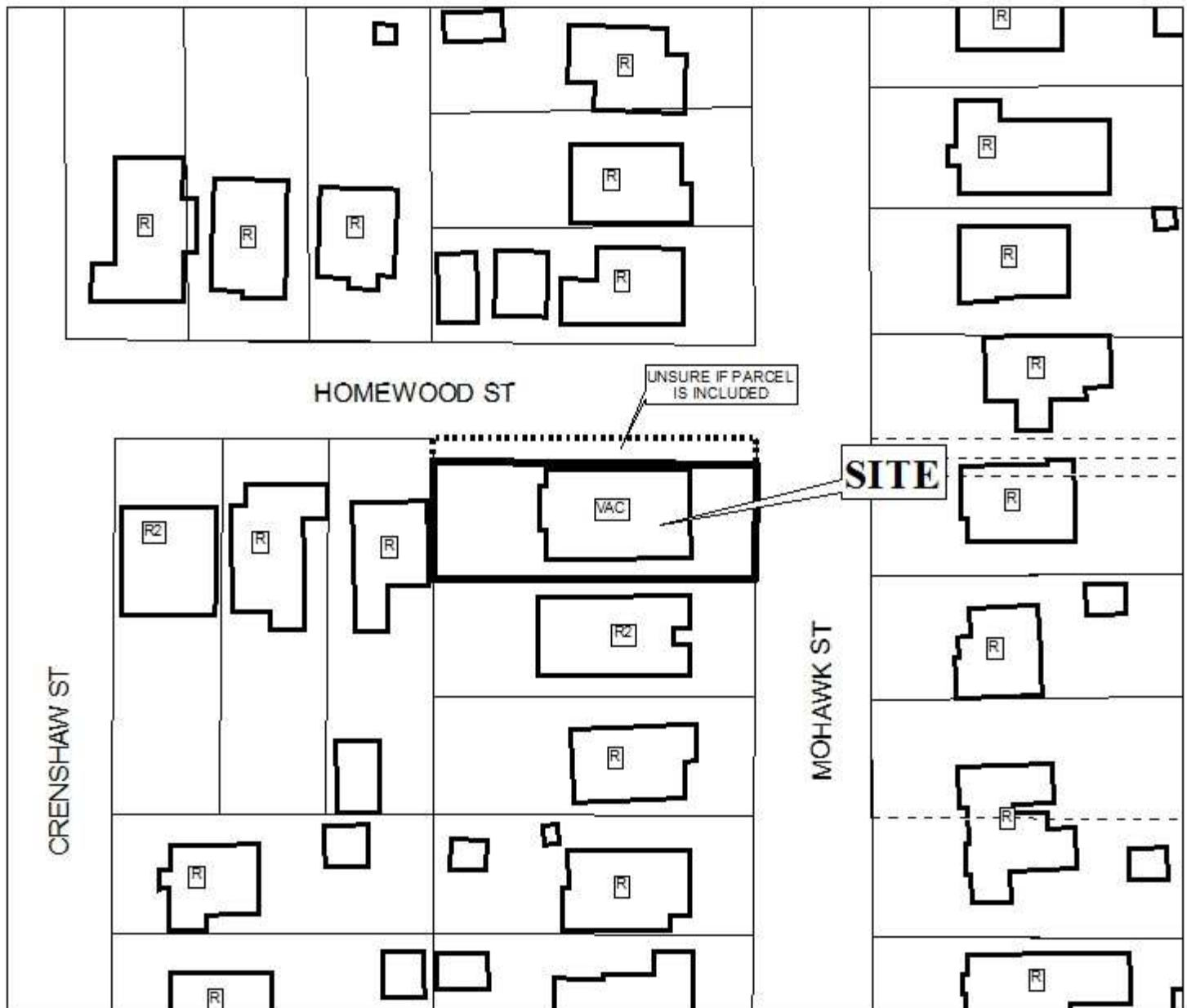
APPLICANT Kenneth Ohanlon

REQUEST Use Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



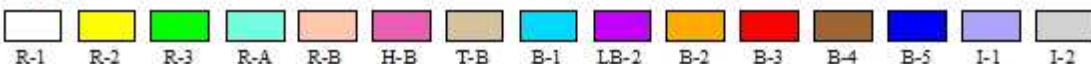
The site is surrounded by residential units.

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LEGEND



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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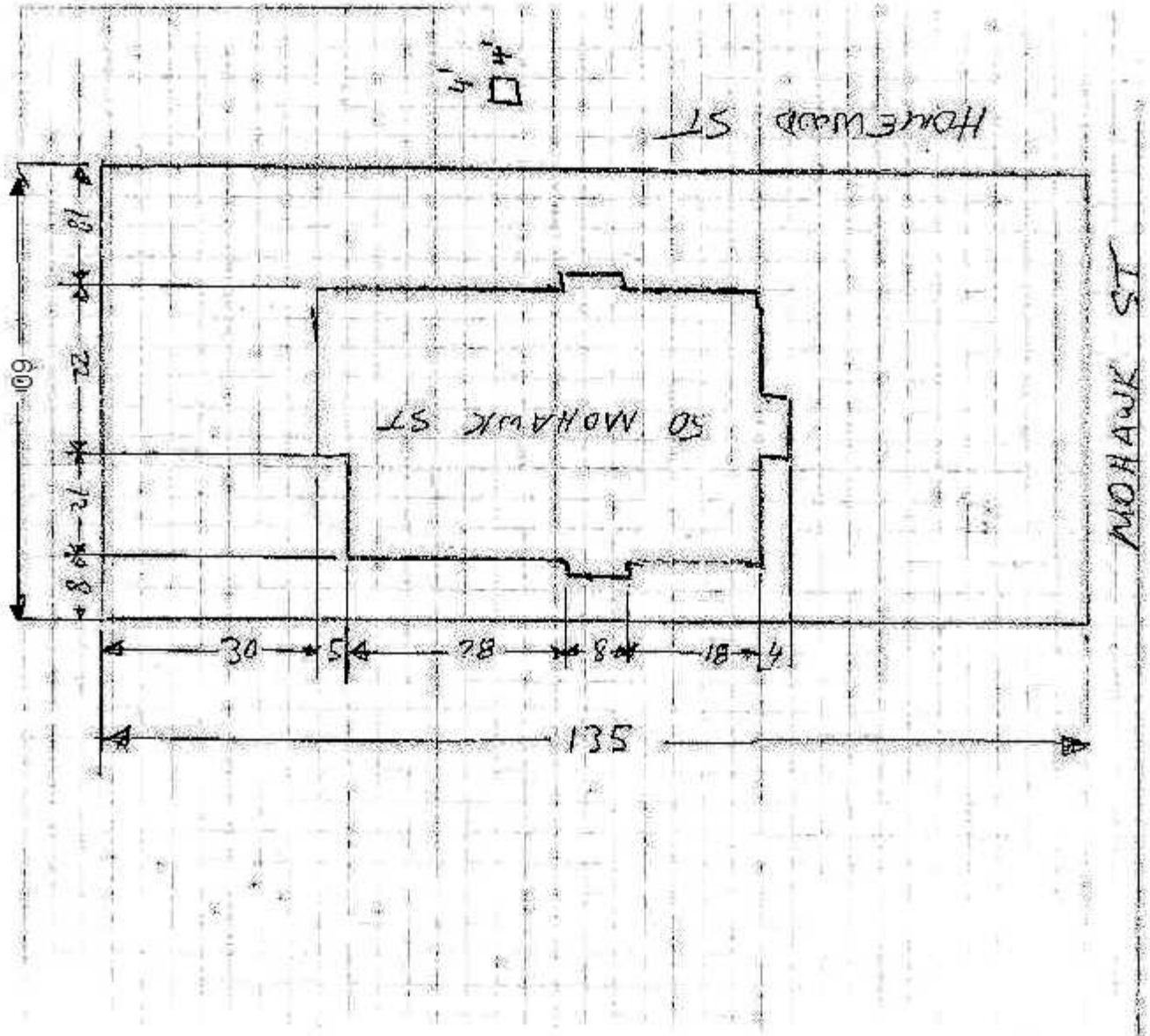
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SITE PLAN



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