



# Agenda Item # 10

## BOA-002687-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

### DETAILS

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**Location:**

4671 Old Shell Road

**Applicant / Agent:**

Kari Givens, Byrd Surveying

**Property Owner:**

Mitzi Pate

**Current Zoning:**

R-1, Single-Family Residential Suburban District

**Future Land Use:**

Low Density Residential

**Case Number(s):**

6559/4777

**Unified Development Code Requirement:**

- A 5-foot side yard setback in an R-1, Single-Family Residential Suburban District.

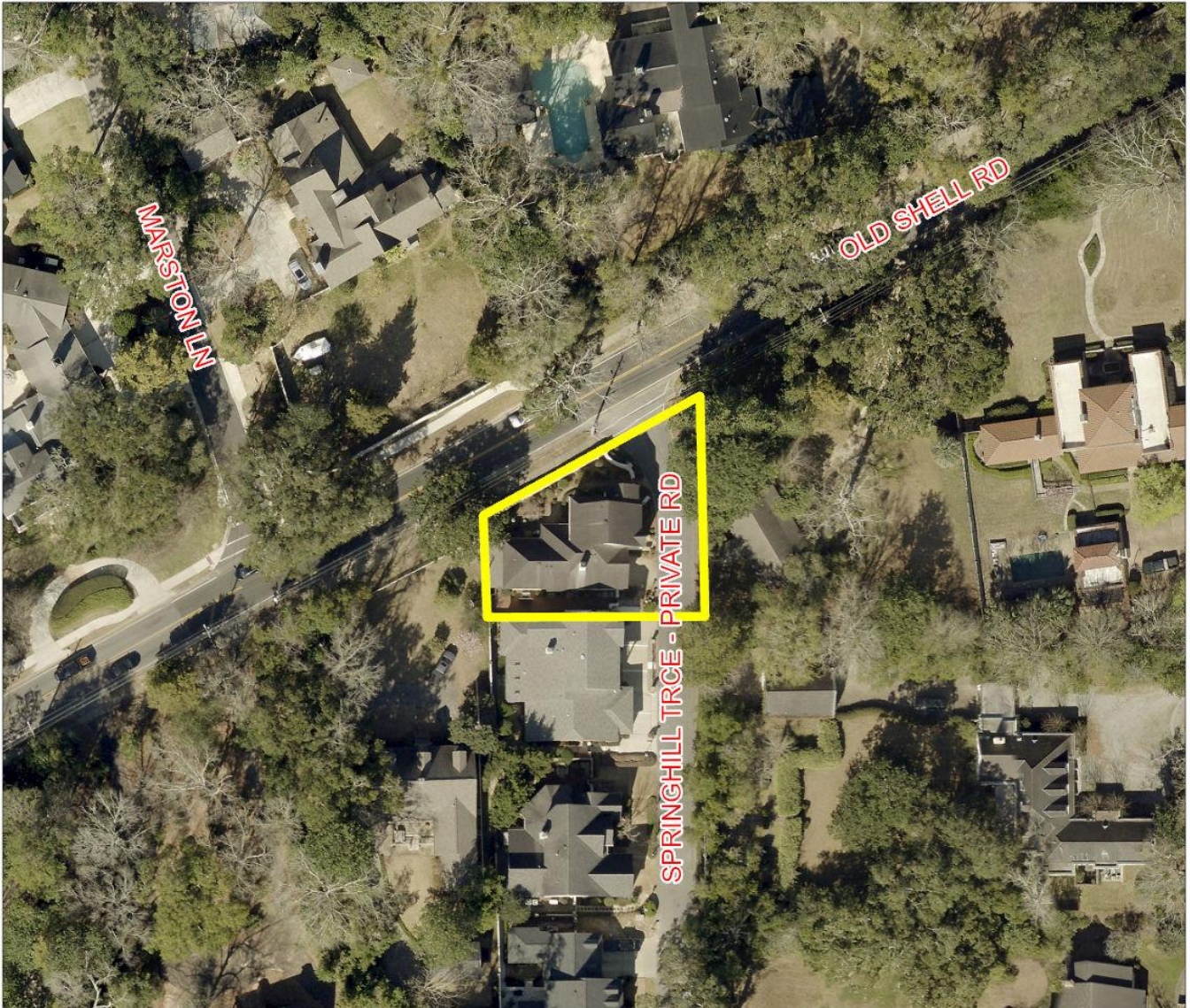
**Board Consideration:**

- To allow a structure within a side yard setback in an R-1, Single-Family Residential Suburban District.


**Report Contents:**

	<b>Page</b>
Context Map .....	2
Site History .....	3
Staff Comments .....	3
Board Considerations .....	4
Exhibits .....	6

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER <u>6559</u> DATE <u>November 6, 2023</u>	
APPLICANT <u>Kari Givens, Byrd Surveying</u>	
REQUEST <u>Side Yard Setback Variance</u>	

## SITE HISTORY

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The site was created as part of the Springhill Trace Subdivision approved by the Planning Commission at their January 7, 1982 meeting. The plat was recorded in Mobile County Probate Court on January 26, 1982.

The site was the subject of a variance request in 1998 to allow the construction of a single-family residence to be constructed within 19' of the front property line which was approved by the Board of Zoning Adjustment at its August 3, 1998 meeting.

## STAFF COMMENTS

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### **Engineering Comments:**

With the information provided it appears that there is runoff diverted to an adjacent property. If the variance is approved the applicant must collect the water and release it onto their own property without impacting adjacent properties.

### **Traffic Engineering Comments:**

No traffic impacts anticipated by this variance request.

### **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 non-sprinklered commercial buildings and within 300' of all sprinklered commercial buildings. Fire water supply for all commercial buildings will be required to meet the guidance of Appendices B and C of the 2021 International Fire Code. The minimum requirement for fire hydrants is to be within 400' of non-sprinkled commercial buildings, within 600' of sprinkled commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

### **Planning Comments:**

The applicant is requesting a Setback Variance for the side yard to allow an existing covered patio within 1-foot of the Western property line within the 5-foot side yard setback in an R-1, Single-Family Residential-Suburban District; the Unified Development Code (UDC) requires all structures to be located outside of the five-foot (5') side setback in an R-1, Single-Family Residential Suburban District.

The entire application packet is available via the link on Page 1.

This application is for a variance for the Western yard setback to allow an existing covered patio within one-foot (1') of the Western property line in a R-1, Single-Family Residential Suburban District. The covered patio roof has been extended to one-foot (1') from the property line to allow the water flow to exit in the drainage and utility easement on the Western property line.

The applicant states that as a result of the lot size, a special condition exists which required a setback variance for the Northern property line approved in 1996 to allow the property to be built closer to Old Shell Road. Therefore, the approval of this variance may not be contrary to the public interest due to a history of setback variances in the vicinity.

The site plan submitted indicates the structure encroaching into the five-foot (5') side setback line as well as a drainage and utility easement. No structure shall be constructed in any easement without permission of the easement holder or without vacation of the easement. If the Board is inclined to approve this request, the applicant should be advised that permission of the easement holder is required or the easement must be vacated.

There is an approved variance for the front property line from 1998 that allowed the construction of the home to encroach into the front setback due to the size and configuration of the lot. However, the application does include information regarding a unique characteristic of the property which precludes the applicant from constructing the structure outside of the five-foot (5') setback line.

## VARIANCE CONSIDERATIONS

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### Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest,
- where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- the spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states; no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

### Considerations:

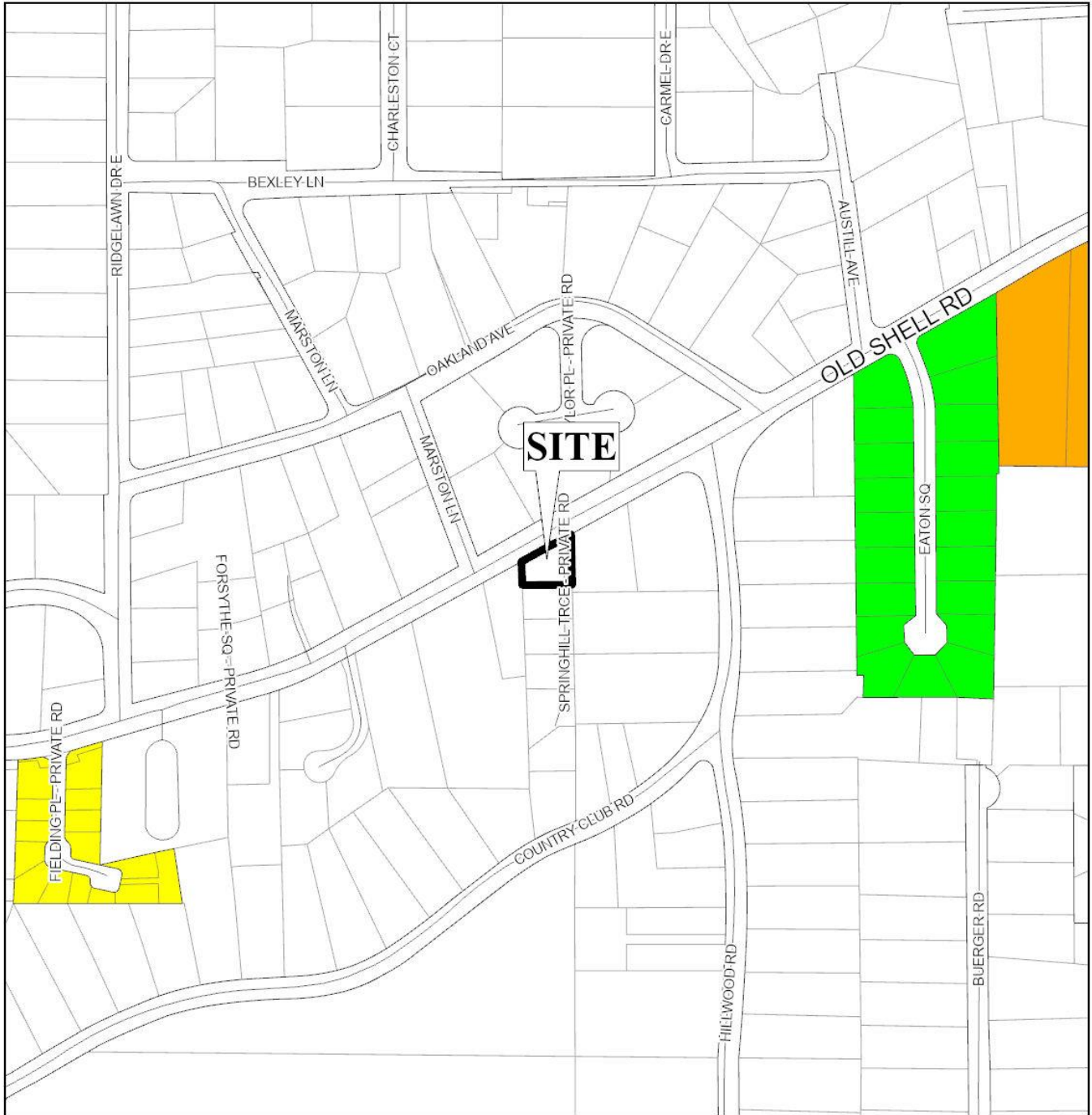
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be present:

- 1) The variance **will not** be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If approved, the following conditions must apply:

- 1) Either vacate the drainage & utility easement or obtain approval of the easement holder; and
- 2) Obtain an after-the-fact building permit.

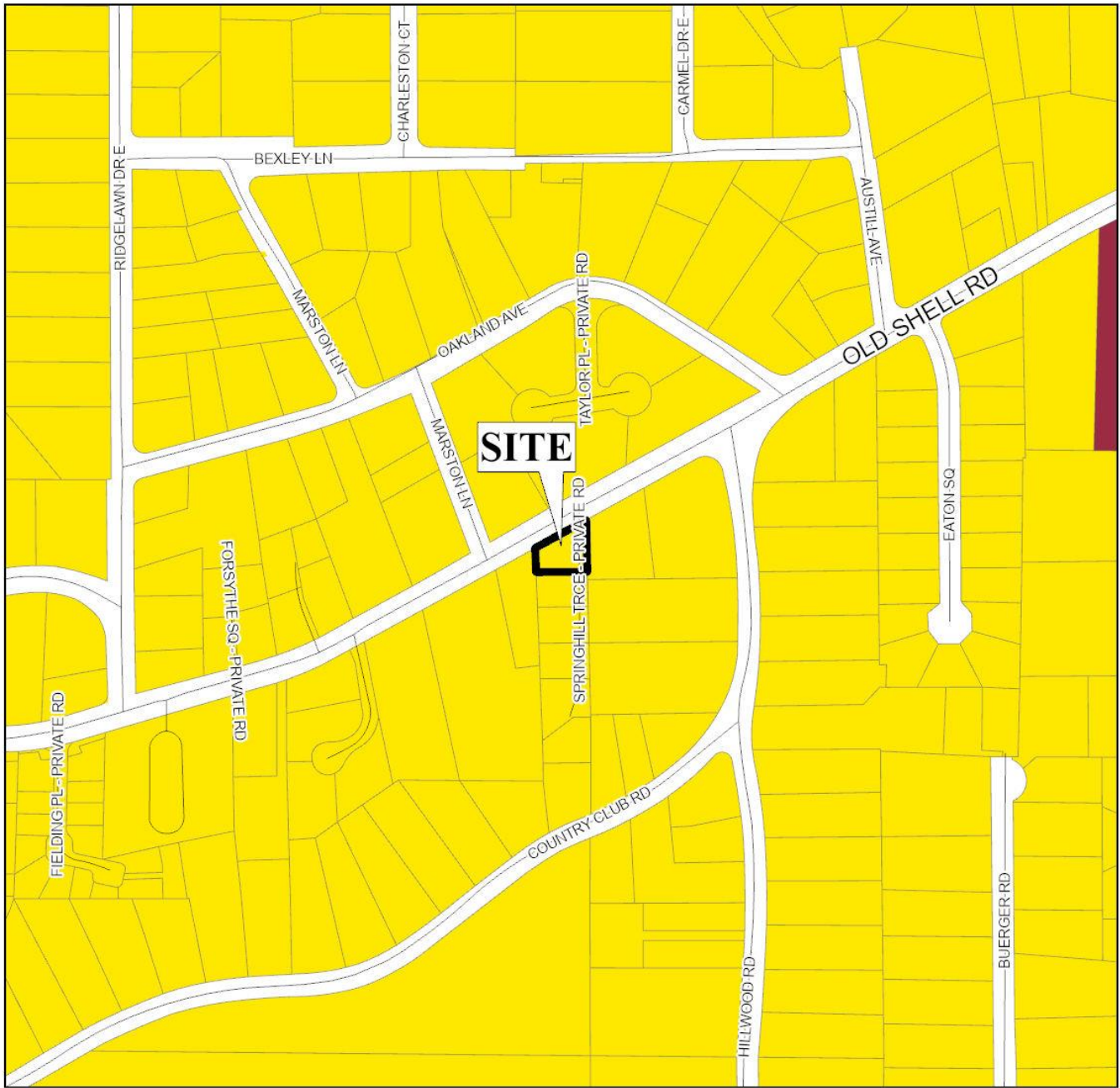
# LOCATOR ZONING MAP



APPLICATION NUMBER 6559 DATE November 6, 2023  
APPLICANT Kari Givens, Byrd Surveying  
REQUEST Side Yard Setback Variance



# FLUM LOCATOR MAP



APPLICATION NUMBER 6559 DATE November 6, 2023

APPLICANT Kari Givens, Byrd Surveying

REQUEST Side Yard Setback Variance

- |   |  |  |  |
|---|--|--|--|
| <span style="color: yellow;">■</span> Low Density Residential   | <span style="color: darkred;">■</span> Neighborhood Center - Traditional | <span style="color: brown;">■</span> Downtown Waterfront | <span style="color: lightgreen;">■</span> Parks & Open Space |
| <span style="color: orange;">■</span> Mixed Density Residential | <span style="color: blue;">■</span> Neighborhood Center - Suburban       | <span style="color: lightgrey;">■</span> Light Industry  | <span style="color: darkblue;">■</span> Water Dependent      |
| <span style="color: magenta;">■</span> Downtown                 | <span style="color: pink;">■</span> Traditional Corridor                 | <span style="color: purple;">■</span> Heavy Industry     |  |
| <span style="color: red;">■</span> District Center              | <span style="color: orange;">■</span> Mixed Commercial Corridor          | <span style="color: cyan;">■</span> Institutional        |  |



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

APPLICATION NUMBER 6559 DATE November 6, 2023

APPLICANT Kari Givens, Byrd Surveying

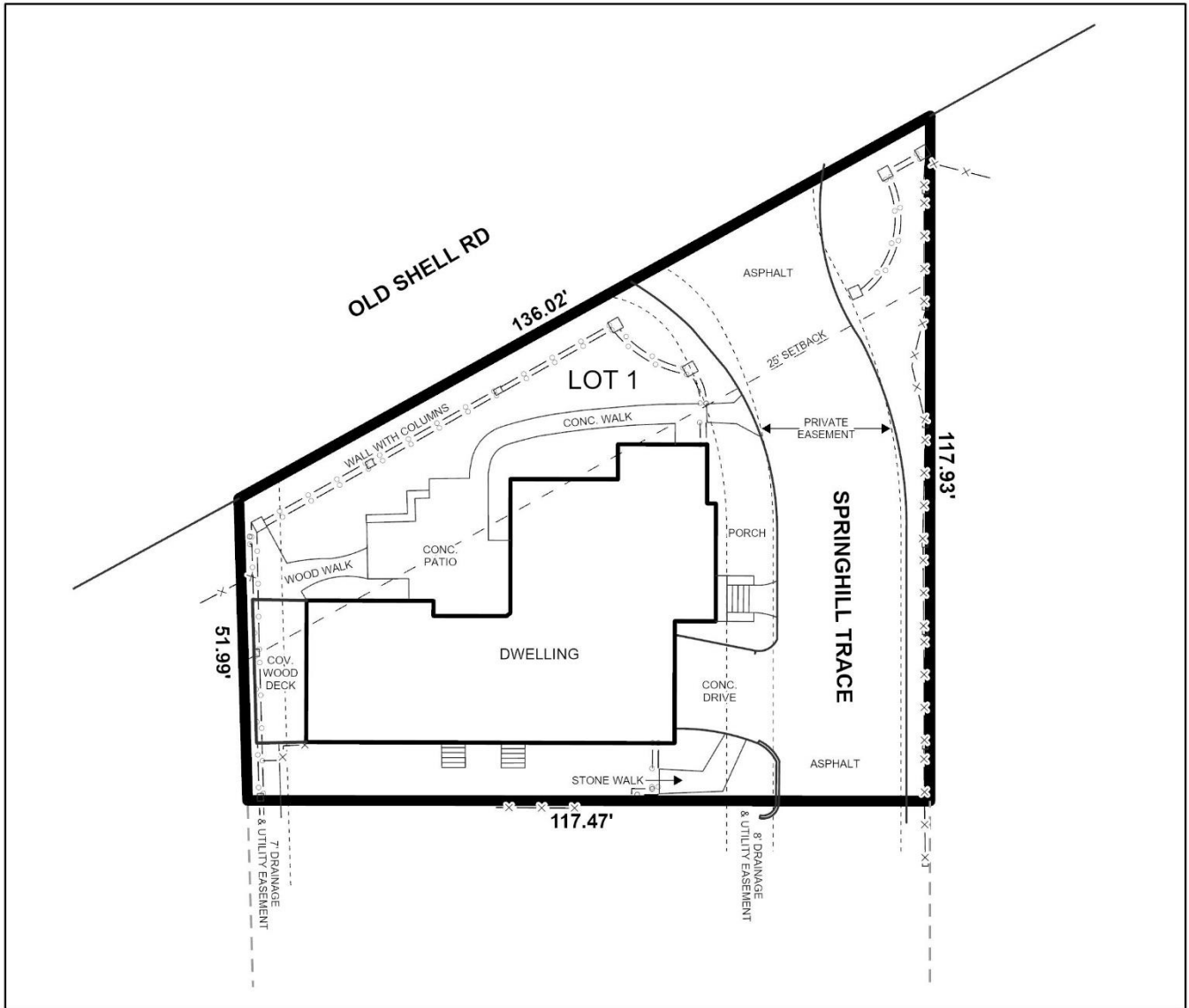
REQUEST Side Yard Setback Variance

<span style="color: cyan;">■</span> R-A	<span style="color: green;">■</span> R-3	<span style="color: cyan;">■</span> B-1	<span style="color: orange;">■</span> B-2	<span style="color: blue;">■</span> B-5	<span style="color: lightblue;">■</span> ML	<span style="color: gray;">■</span> I-2	<span style="color: lightgreen;">■</span> OPEN	<span style="color: pink;">■</span> T-3	<span style="color: purple;">■</span> T-5.2
<span style="color: white;">■</span> R-1	<span style="color: magenta;">■</span> R-B	<span style="color: brown;">■</span> T-B	<span style="color: red;">■</span> B-3	<span style="color: gold;">■</span> CW	<span style="color: teal;">■</span> MH	<span style="color: green;">■</span> PD	<span style="color: orange;">■</span> SD	<span style="color: purple;">■</span> T-4	<span style="color: darkpurple;">■</span> T-6
<span style="color: yellow;">■</span> R-2	<span style="color: peachpuff;">■</span> H-B	<span style="color: purple;">■</span> LB-2	<span style="color: brown;">■</span> B-4	<span style="color: lightblue;">■</span> MM	<span style="color: lightpurple;">■</span> I-1	<span style="color: yellow;">■</span> MUN	<span style="color: orange;">■</span> SD-WH	<span style="color: purple;">■</span> T-5.1	






# SITE PLAN



The site plan illustrates an existing building, fencing, and driveway.

APPLICATION NUMBER <u>6559</u> DATE <u>November 6, 2023</u>	 NTS
APPLICANT <u>Kari Givens, Byrd Surveying</u>	
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ZONING DISTRICT CORRESPONDENCE MATRIX			LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRU)
RESIDENTIAL - AG	R-A															
ONE-FAMILY RESIDENCE	R-1	■				■		■						□		
TWO-FAMILY RESIDENCE	R-2	■				■		■						□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■	■						□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■						□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■						□		
HISTORIC BUSINESS	H-B			■		■		■						□		
VILLAGE CENTER	TCD					■	■							□		
NEIGH. CENTER	TCD					■	■							□		
NEIGH. GENERAL	TCD					■								□		
DOWNTOWN DEV. DDD	T-6			■										□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□						□		
DOWNTOWN DEV. DDD	T-5.2			■		■								□		
DOWNTOWN DEV. DDD	T-4			■		■		□						□		
DOWNTOWN DEV. DDD	T-3			■		■								□		
DOWNTOWN DEV. DDD	SD-WH										○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○			○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■					□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■					□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■					□	○	
COMMUNITY BUSINESS	B-3				■				■				○	□	○	
GEN. BUSINESS	B-4			■					■				○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■				□	□	
LIGHT INDUSTRY	I-1									■				□	□	□
HEAVY INDUSTRY	I-2										■			□		□

**Zoning District Correspondence Matrix**

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)



## **LOW DENSITY RESIDENTIAL (LDR)**

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 semi-detached, 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.