

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 3, 2015****CASE NUMBER**

5995/5924

APPLICANT NAME

Joey Pittman

LOCATION166 South Street
(West side of South Street, 125'± North of Clearmont
Street).**VARIANCE REQUEST****SIDE YARD SETBACK:** Side Yard Setback Variance to
allow the construction of a garage 5' from the side property
line.**REAR YARD SETBACK:** Rear Yard Setback Variance
to allow the construction of a garage 5' from the rear
property line.**ZONING ORDINANCE
REQUIREMENT****SIDE YARD SETBACK:** The Zoning Ordinance requires
a minimum 8' side yard setback in an R-1, Single-Family
Residential District.**REAR YARD SETBACK:** The Zoning Ordinance
requires a minimum 8' rear yard setback in an R-1, Single-
Family Residential District.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

8,540 Square Feet / 0.28± Acre

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**ENGINEERING
COMMENTS:**Drawing submitted indicates that the existing driveway is
going to be altered to allow a shared driveway with the property to the West. This will require a
ROW permit.**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting a Side Yard and Rear Yard Setback Variance to allow the construction of a garage 5' from the side property line and 5' from the rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 8' side yard setback and minimum 8' rear yard setback in an R-1, Single-Family Residential District.

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 site plan illustrates that there are two existing structures currently in the same area as the proposed garage. The applicant has obtained a demolition permit to remove the two existing structures, and proposes to construct the garage with a greater setback (5') than the existing structures, however the increased setback is still less than the Zoning Ordinance requirement of 8' on the side and rear. It should be noted that any setback of less than 5' will require a fire-rated wall per Building Code requirements.

The applicant states that:

"Joey Pittman currently parks his cars under a metal shed structure, which has a 1' side yard setback. He utilizes a metal outside storage building, which has a 3' side yard setback and 3' rear yard setback (at closest point). His South side neighbor parks her car within a wood-framed garage, which has a 2' side yard setback with 2' eaves (no gutters). Joey would like to remove his car shed and outside storage building. He would like to replace them with a 25' deep, 28' wide, wood framed garage building, with walk-up storage above (no living unit), with 5' side yard setback and 5' rear yard setback (at closest point). Joey would place gutters and downspouts on both sides of the proposed garage (ridge running parallel to South Street, roof water flowing east and west). Joey would like to extend his current concrete driveway to the new garage building. Building site coverage would decrease from 36% to 33%."

"Joey's two existing buildings, along with the buildings on neighbors to the south and west, appear to have been constructed long ago. None of them comply with current required side and rear yards. Joey's house is not in an historic district, but if it were, the historic district overlay would allow our request, without going to the BZA for permission. As the attached site plan shows, the proposed garage building will be more compliant. Our required left side setback, for full compliance, would have to be 12' to compensate for the existing 6' right side setback of the existing house, and would even then fall short of 20' combined side yard setbacks."

“Our current request is different from our recent October 6, 2014 BZA approval (ZON2014-01931) in that we would like to remove the existing 48” diameter live oak tree in our rear yard, rotate our proposed building 90 degrees to bring the door to the upstairs storage closer to the residence and move the proposed building back 3’ to obtain a 5’ rear yard setback (at closest point, 8’ at farthest point). These changes will create a less radical swing of the proposed driveway and move us toward greater compliance with the Zoning Ordinance.”

“The original house apparently did not have a car shelter. The driveway is tight to the house. A suitable double car garage will occupy a good amount of the limited back yard and will necessitate a tight entry/exit maneuver. Easing the side and rear yards to 5’ will help car maneuvering and will be in keeping with the neighborhood.”

It appears that the existing accessory structures were added to the site between 1997 and 2002, according to aerial photos, well before the applicant’s purchase of the property. The applicant did not pursue the construction of the proposed garage after the Board’s October, 2014 approval for the Side Yard Setback Variance due to the reduced maneuvering area allowed by the adherence to the 8’ rear setback requirement. The current request maintains the 5’ approved in the previous request, but reduces the rear setback to 5’ from the 8’ which was to be maintained previously.

It should be noted that at its January 5, 1987 meeting, the Board of Zoning Adjustment approved a variance to allow a garage within 4’ 1” of the side property line, and within 2’ from the rear property line at a site approximately 65’ to the South and rear of the subject site, and 62’± South of the subject site. As the applicant stated, the existing 48” diameter live oak tree will be removed. This same tree was used as part of the hardship justification for the previous variance approved by the Board. The currently proposed setbacks are greater than those of the existing structures, and the proposal decreases site coverage to a compliant range. The proposal would be in keeping with the residential character of the neighborhood and the Board has been mindful of the unique character of older neighborhoods when considering similar site variance requests. Furthermore, the Board has been sympathetic in granting variances in older areas of the city, especially when a minimum setback of five feet is provided.

RECOMMENDATION:

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

- 1) approving the variance will not be contrary to the public interest based upon the fact that maintaining the required 8’ rear setback would restrict vehicle maneuvering area between the existing dwelling and the proposed garage, and similar variances have been granted in older neighborhoods;
- 2) locating the structure to meet side and rear yard setback requirements would result in diminished vehicular maneuvering area, thus resulting in an unnecessary hardship; and
- 3) that the spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by approving the request for reduced side and rear yard setbacks for a new accessory structure in that it would be similar to others granted in older areas of the city.

Based on the preceding, the Side Yard Setback and Rear Yard Setback Variances for the proposed structure are recommended for approval, subject to the following conditions:

- 1) the provision of gutters and downspouts on the rear of the proposed structure;
- 2) obtaining all necessary building permits;
- 3) obtaining a Right-of-Way permit for the driveway alteration; and
- 4) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 5995 DATE August 3, 2015

APPLICANT Joey Pittman

REQUEST Side Yard and Rear Yard Setback Variances



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

APPLICATION NUMBER 5995 DATE August 3, 2015

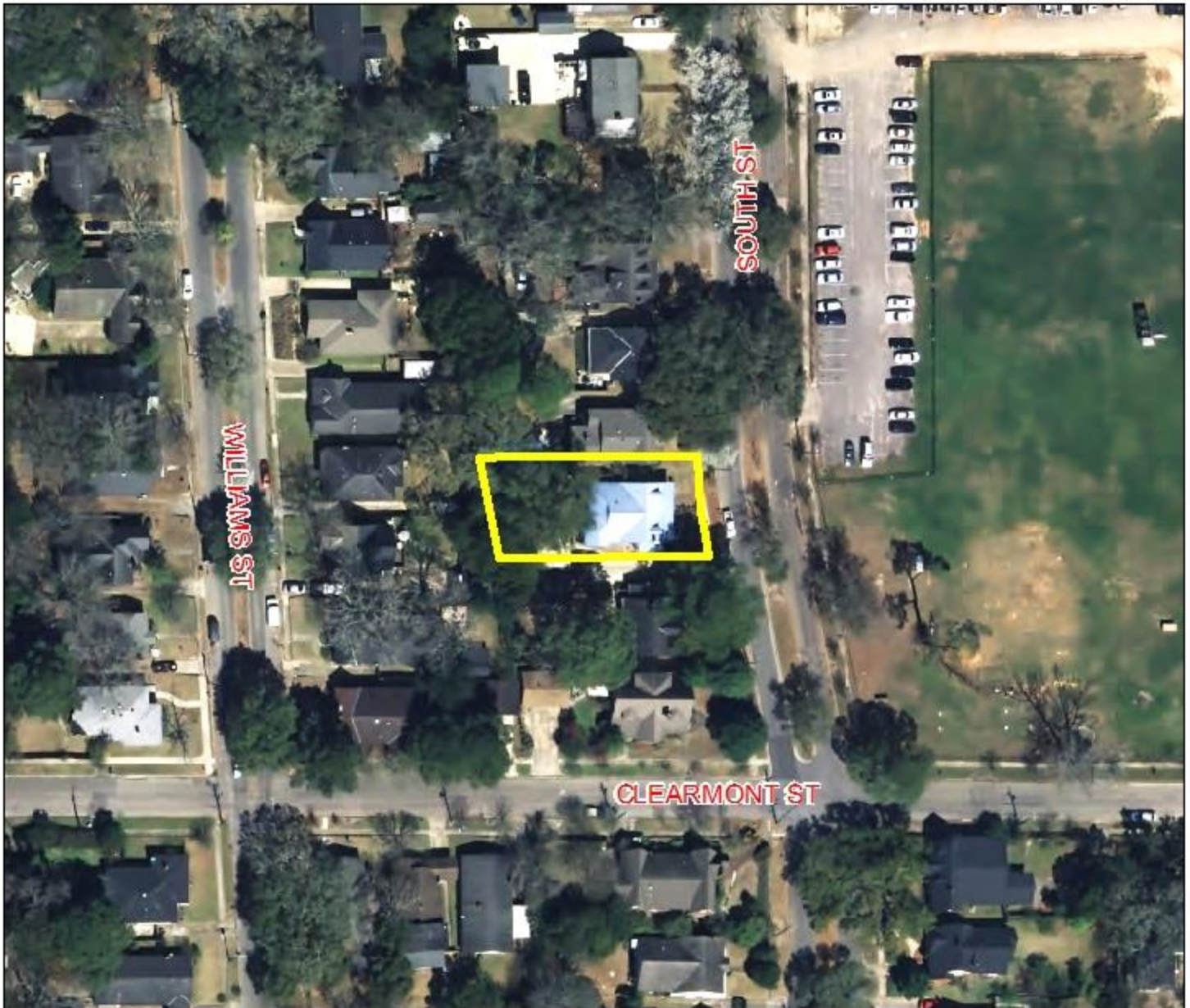
APPLICANT Joey Pittman

REQUEST Side Yard and Rear Yard Setback Variances

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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

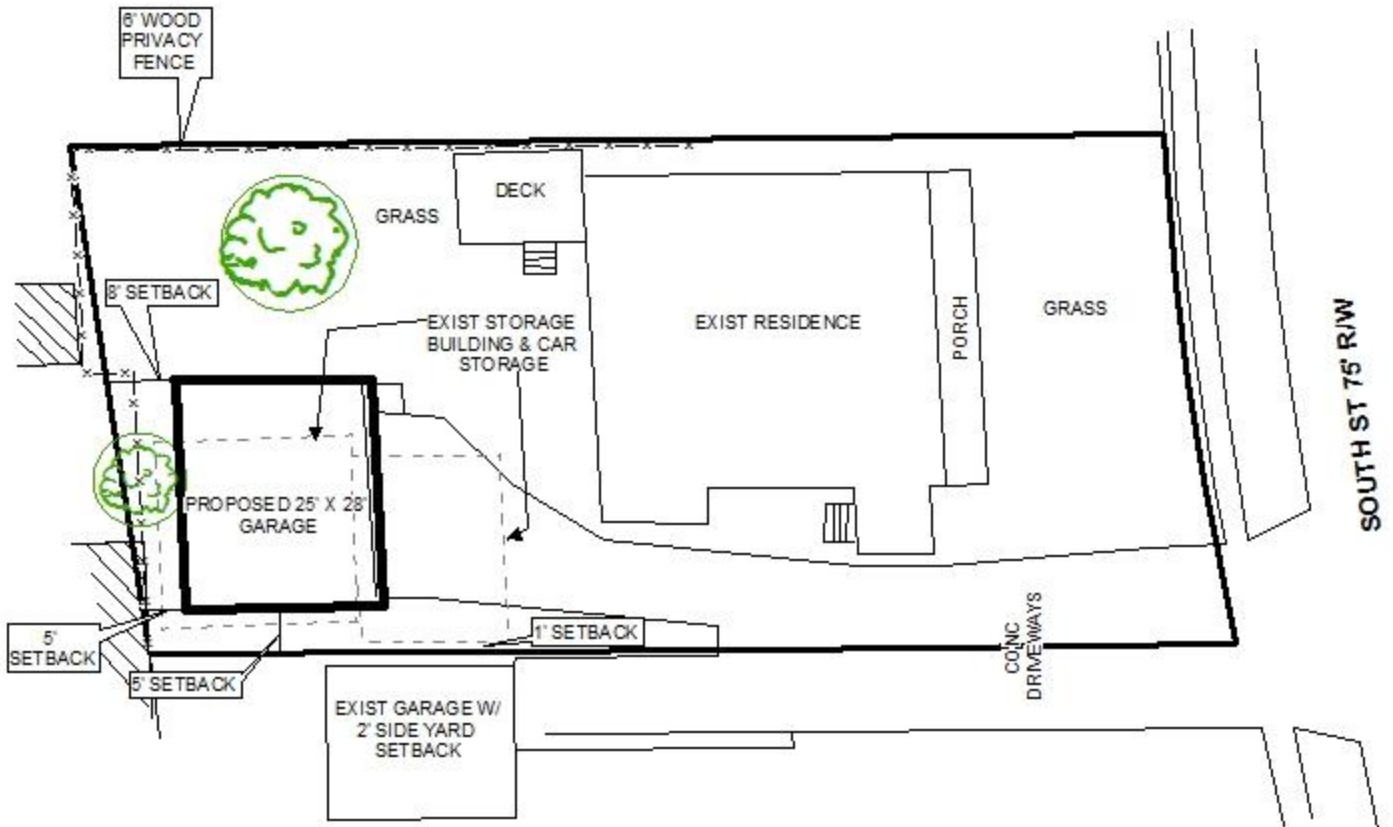


The site is surrounded by single family residential units.

APPLICATION NUMBER	5995	DATE	August 3, 2015
APPLICANT	Joey Pittman		
REQUEST	Side Yard and Rear Yard Setback Variances		



SITE PLAN



The site plan illustrates the existing buildings, the proposed building, and fence.

APPLICATION NUMBER 5995 DATE August 3, 2015

APPLICANT Joey Pittman

REQUEST Side Yard and Rear Yard Setback Variances

