

APPLICATION NUMBER

5395

A REQUEST FOR

**FENCE HEIGHT VARIANCES TO ALLOW THE
CONSTRUCTION OF A 6' FENCE (20" BRICK BASE AND
4'-4" HIGH WROUGHT IRON) WITH 6'-6" BRICK
COLUMNS, 2' FROM THE FRONT PROPERTY LINE AND
A 6' SOLID WOODEN FENCE ALONG THE SIDE
PROPERTY LINE WITHIN THE 25' BUILDING SETBACK
LINE; A 25' FRONT YARD SETBACK FROM THE FRONT
PROPERTY LINE IS REQUIRED FOR A WALL OR
FENCE HIGHER THAN 3' IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT.**

LOCATED AT

2100 OLD MILITARY ROAD

(West side of Old Military Road, 735'± North of its South terminus)

APPLICANT/OWNER/AGENT

STEVEN A. & BEVERLY PAT BLACK

BOARD OF ZONING ADJUSTMENT

JANUARY 2007

The applicant is requesting Fence Height Variances to allow the construction of a 6' fence (20" brick base and 4'-4" high wrought iron) with 6'-6" brick columns, 2' from the front property line and a 6' solid wooden fence along the side property line within the 25' building setback line; a 25' front yard setback from the front property line is required for a wall or fence higher than 3' in an R-1, Single-Family Residential District.

The brick and wrought iron fence has been partially constructed, and the wooden fences are complete. A permit was issued for the brick and iron fence to be erected 25' back from the front property line, but it was begun with setbacks of 2' at the South end and 6' at the North end. The wooden privacy fences were built without permits. Now, visibility has become an issue. The applicant states that the brick and iron fence is being built for beautification, security, and privacy. A swimming pool is proposed to be built on the property and the applicant has two dogs which the fences will contain. It is stated that a 3' high fence will not contain the dogs. The applicant also states that the required 25' front setback would encroach on the limited area of the property in front of the house where a garage is permitted to be built. The garage will have to meet the required 25' front setback.

With regard to the brick and iron front fence and the wooden privacy fence along the North property line, the Northern neighbor's driveway enters Old Military Road at, and partially encroaching into, the applicant's Northeast property corner. The applicant has set the brick columns back from the front property line about 6' at this point. The wooden privacy fence meets the Northern-most brick column at this point. At the South side of the applicant's property, the brick and iron fence is 2' off the front property line, and the wooden privacy fence along the South property line meets the Southern-most brick column at this point. The Southern neighbor's driveway is not well-denied, but generally appears to be the middle portion of the front yard along the front property line. Visibility from the Northern neighbor's driveway could be a major safety issue, especially to the South along Old Military Road. Traffic Engineering has conducted an on-site review of the subject property and determined that the privacy fence and front fence columns compromise line-of-sight for the neighbor to the North and pose a potential pedestrian traffic danger.

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.

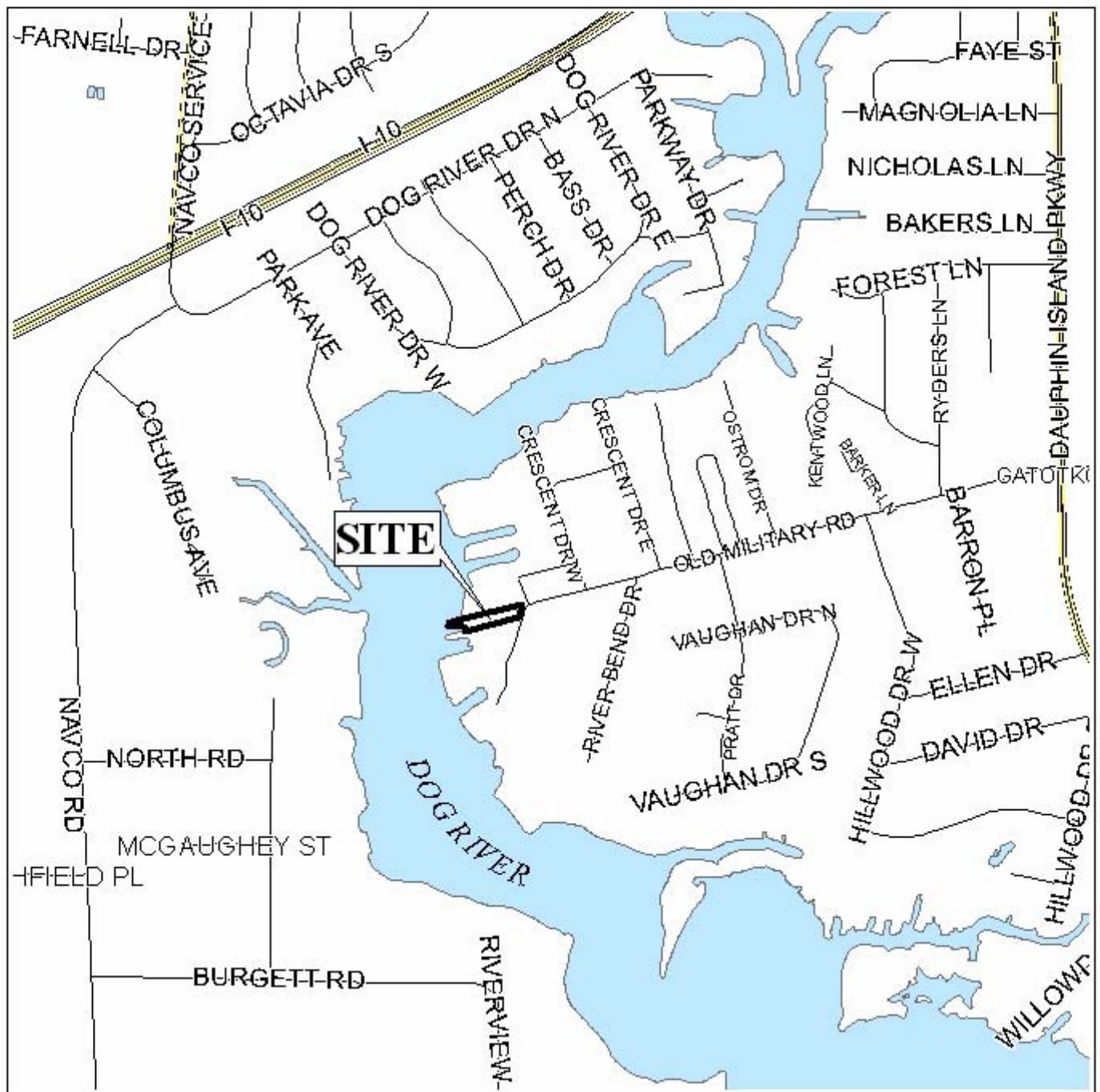
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

The applicant has failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to retain an improperly located front brick and iron fence, and an unpermitted, noncompliant wooden privacy fence.

RECOMMENDATION 5395**Date: January 8, 2007**

Based upon the preceding, this application is recommended for denial.

LOCATOR MAP

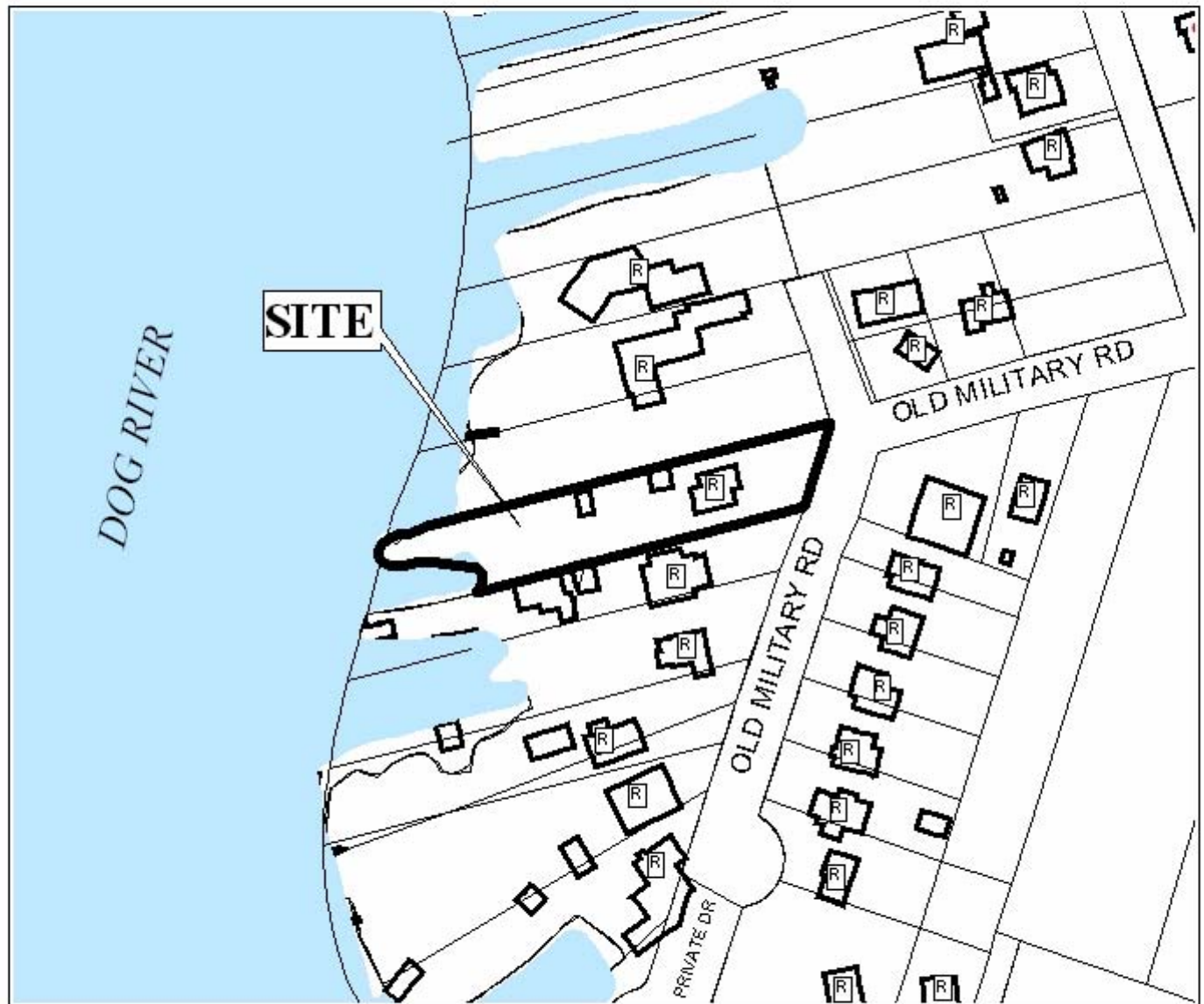


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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units with Dog River to the west.

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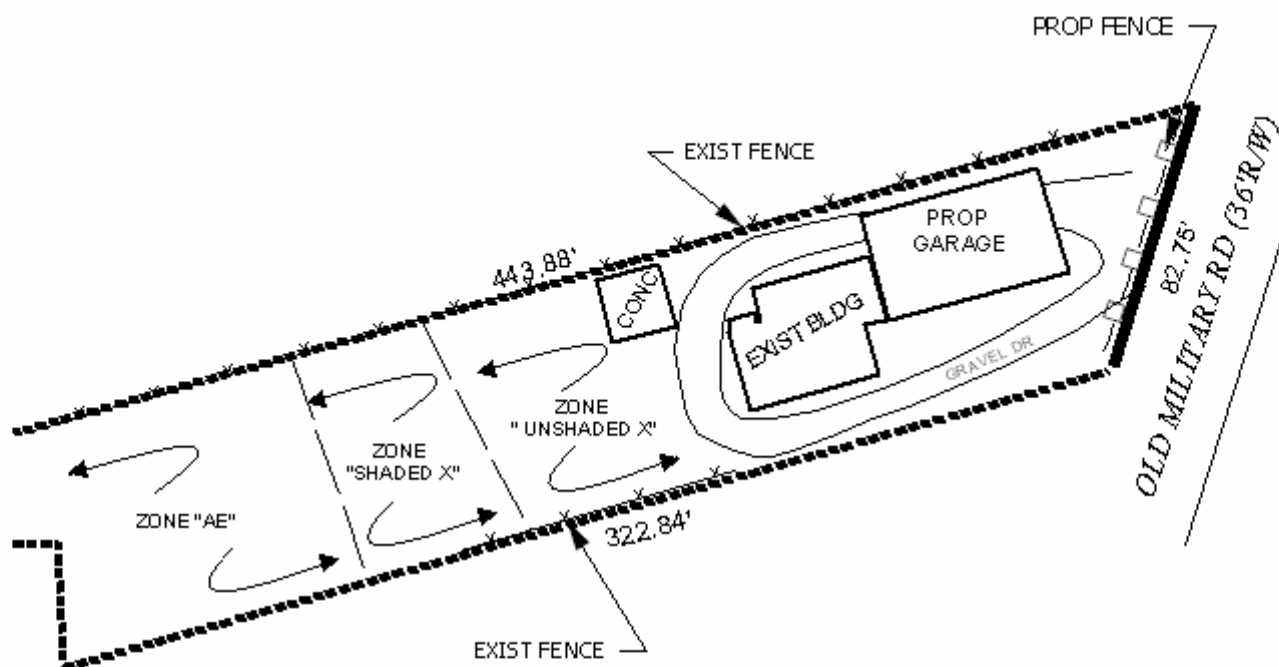
LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2



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SITE PLAN



The site plan illustrates existing buildings, drive, and proposed fence.

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