

APPLICATION NUMBER

**5199**

A REQUEST FOR

**FRONT YARD SETBACK AND FENCE HEIGHT  
VARIANCES TO ALLOW THE CONSTRUCTION OF A 10'  
FENCE, ALONG THE FRONT PROPERTY LINE; A 25'  
FRONT YARD SETBACK IS REQUIRED FOR A FENCE  
HIGHER THAN 3-FEET IN AN R-1, SINGLE-FAMILY  
RESIDENTIAL DISTRICT AND THE MAXIMUM HEIGHT  
OF A WALL OR FENCE IS 8'.**

LOCATED AT

(North side of Old Shell Road, 210'± West of Ridgelawn Drive West)

APPLICANT

**MICHAEL L. LAPEYROUSE**

**BOARD OF ZONING ADJUSTMENT**

SEPTEMBER 2003

The applicant is requesting Front Yard Setback and Fence Height Variances to allow the construction of a 10' fence, along the front property line; a 25' front yard setback is required for a fence higher than 3-feet in an R-1, Single-Family Residential District and the maximum height of a wall or fence is 8'.

The applicant states the proposed fence will be located 10' inside the property line along Old Shell Road and that the fence will be "in-line" with the neighboring fences. In addition, the applicant states that if the fence were placed further off Old Shell Road, it would create a roadside "pull off" and would be inconsistent with the fencing along this portion of Old Shell Road. Regarding the proposed height of the fence, the applicant states that the bottom of the fence would be approximately two feet below grade of Old Shell Road; thus the 10-foot fence would be provide the privacy of an eight-foot fence.

There are a few concerns with the placement and design of the fence. First, the applicant is obstructing access to this property from Old Shell Road, the site's frontage on a public right-of-way is Old Shell Road. If the fence is constructed as proposed (no entry gate), the site's only access would be via a 15' easement from Babs Street, through unopened, sub-standard, right-of-way. This would prohibit emergency vehicle access to the site from an open public right-of-way. The second concern involves the height of the fence. The board has approved numerous fence height variances along street frontages for eight feet, but have typically denied requests for 10-foot high fences. The third concern involves the placement of the fence in proximity to existing Live Oak trees. Urban Forestry has stated that there are several large Live Oak trees that the fence would be have to be built around, thus the construction of the 10' fence could damage the root system of the existing Live Oak trees.

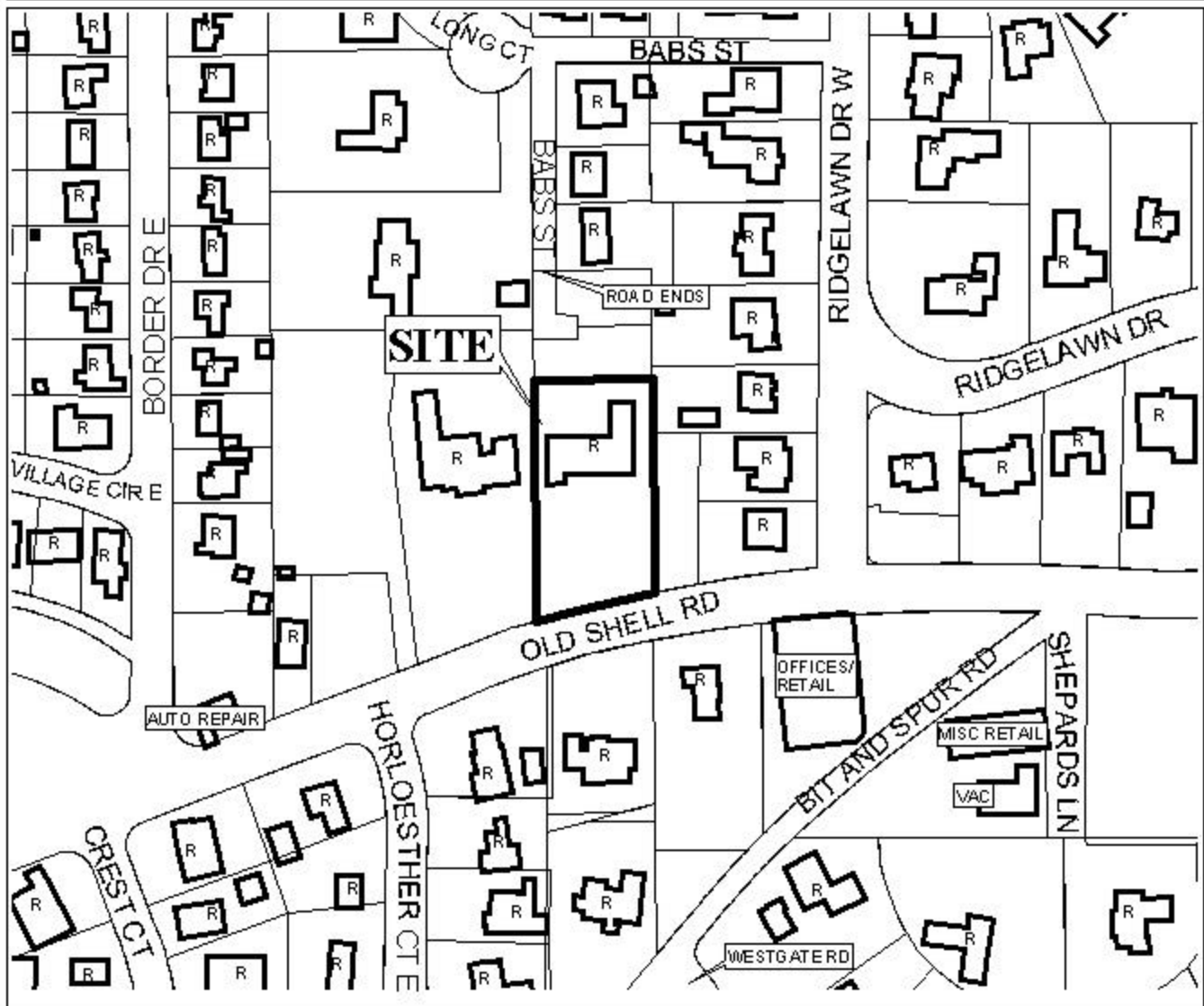
The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Additionally, no variance shall be granted unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions 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.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to construct a fence along the front property line.

**RECOMMENDATION 5199****Date: September 8, 2003**

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

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family, residential units.  
Offices and retail stores are located to the southeast of the site.

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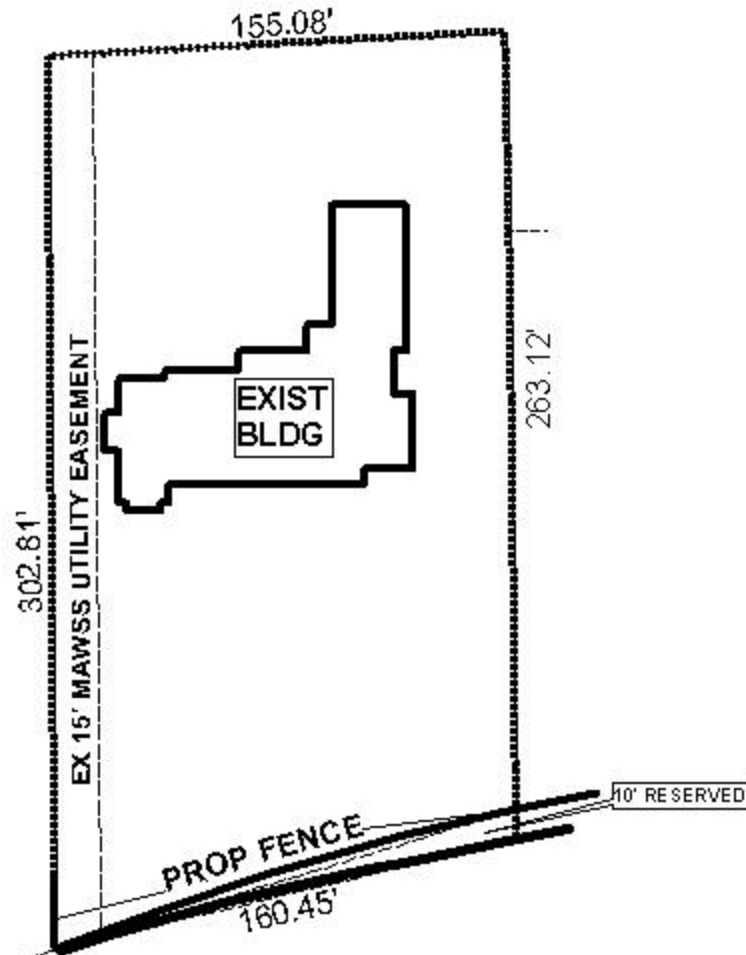
REQUEST Front Yard Setback, Fence Height Variance

LEGEND

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



## SITE PLAN



North side of Old Shell Road, 210' West of Ridgelawn Drive West, the site plan illustrates the existing building, easements, and proposed fence location

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