



Agenda Item # 1 - HOLDOVER

BOA-003161-2024

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

[Applicant Materials for Consideration](#)

DETAILS

Location:

560 Shady Oak Drive

Applicant / Agent (as applicable):

Bryan Maisel Builders, LLC

Property Owner:

Bryan Maisel Builders, LLC

Current Zoning:

R-1, Single-Family Residential Suburban District

Future Land Use:

Mixed Density Residential

Case Number(s):

6642

Unified Development Code Requirement:

- The Unified Development Code (UDC) does not allow privacy fences exceeding three-feet (3') tall within a recorded rear yard setback in an R-1, Single Family Residential Suburban District.

Board Consideration:

- Setback Variance to allow an eight-foot (8') tall privacy fence within a recorded 25-foot rear yard setback in an R-1, Single Family Residential Suburban District.


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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER <u> 6642 </u> DATE <u> February 3, 2025 </u>	 NTS
APPLICANT <u> Bryan Maisel Builders, LLC </u>	
REQUEST <u> Rear Yard Setback Variance </u>	

HOLDOVER COMMENTS

The application was heldover by the Board of Adjustment at its January 6, 2025 meeting to give the applicant the opportunity to attend the meeting.

No revisions have been made to the application.

HOLDOVER CONSIDERATIONS

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 the approval of the request, the following findings of fact must be present:

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

If the Board is inclined to approve this request, the following condition should apply:

- 1) Obtain all required permits for the structure; and
- 2) Full compliance with all other municipal codes and ordinances.

SITE HISTORY

The site was annexed into Mobile City limits in 1956.

At its meeting on February 21, 2024, the Planning Commission approved Oak Place Subdivision, a 1-lot subdivision which was subsequently recorded in Mobile County Probate Court.

There have been no other applications before the Planning Commission or Board of Zoning Adjustment for the site.

STAFF COMMENTS

Engineering Comments:

No comments.

Traffic Engineering Comments:

No comments.

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 commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

Planning Comments:

The applicant is requesting a Setback Variance to allow an eight-foot (8') high tall privacy fence within a recorded 25-foot rear yard setback in an R-1, Single Family Residential Suburban District; the Unified Development Code (UDC) does not allow privacy fences exceeding three-feet (3') tall in any required front yard setback in an R-1, Single Family Residential Suburban District.

A detailed description of the proposed Setback Variance request is available via the link on Page 1 of this report.

In summary, the applicant proposes to construct an eight-foot (8') tall privacy fence five-feet (5') off of the rear property line abutting West I-65 Service Road South. The site plan submitted illustrates an existing shed which is proposed to be demolished prior to construction of a new residence and the proposed fence. Development permits for the proposed structure are currently under review.

The site is a double fronting lot with frontage both on Shady Oak Drive and West I-65 Service Road South. As such, the recorded plat for Shady Place Subdivision illustrates a required 25-foot minimum building setback along both street frontages and denies the Lot access to West I-65 Service Road South.

Additionally, it should be noted that at its March 31, 2024 meeting the Board approved a similar Variance request at 556 Shady Oak Dr, two (1) lots South of the subject site to allow an eight foot tall privacy fence within a recorded 25-foot rear yard setback in an R-1 district.

VARIANCE CONSIDERATIONS

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
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- (e) Where economic loss is the sole basis for the required variance; or
- (f) Where the variance is otherwise unlawful.

Considerations:

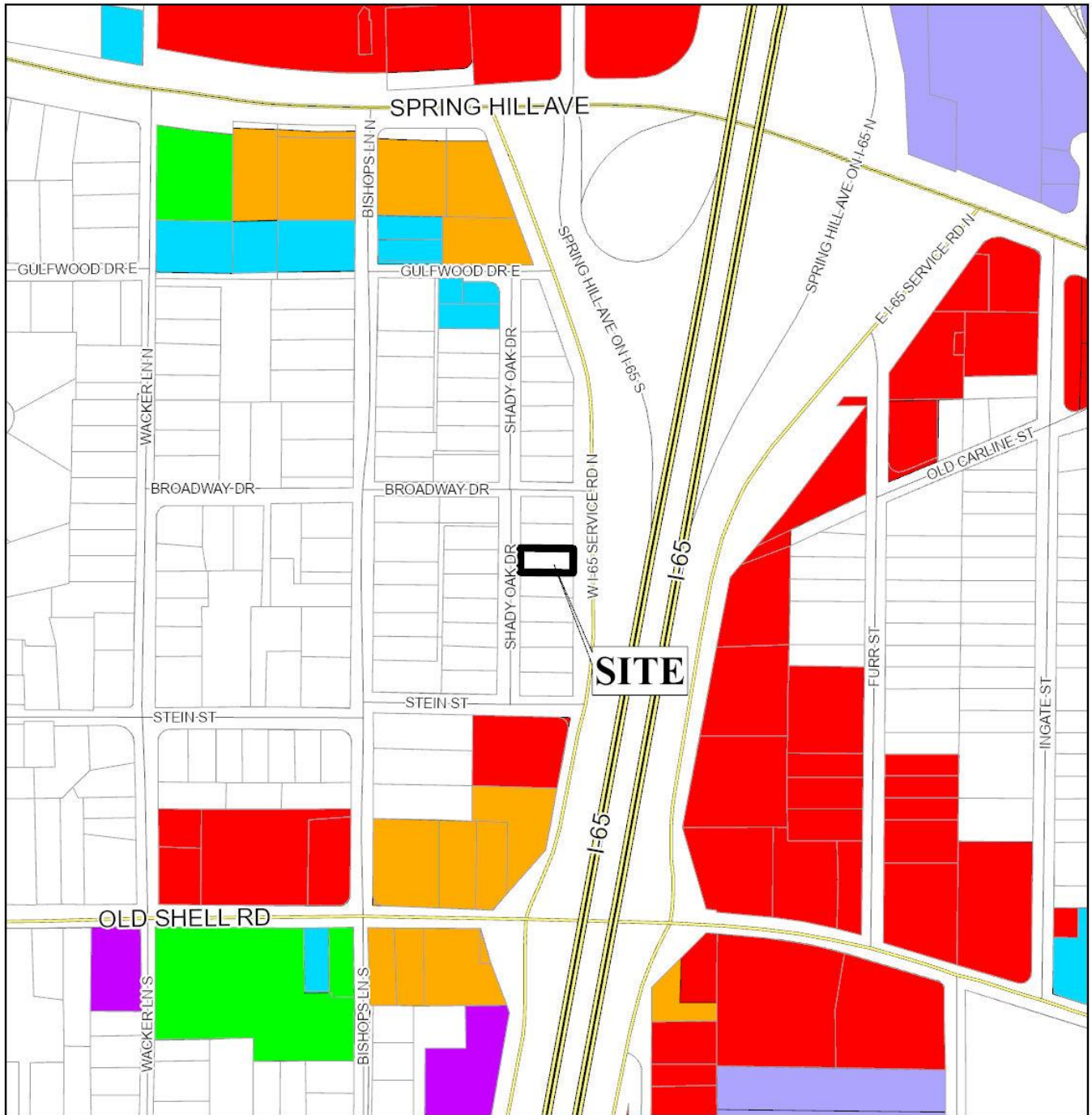
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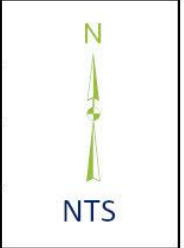
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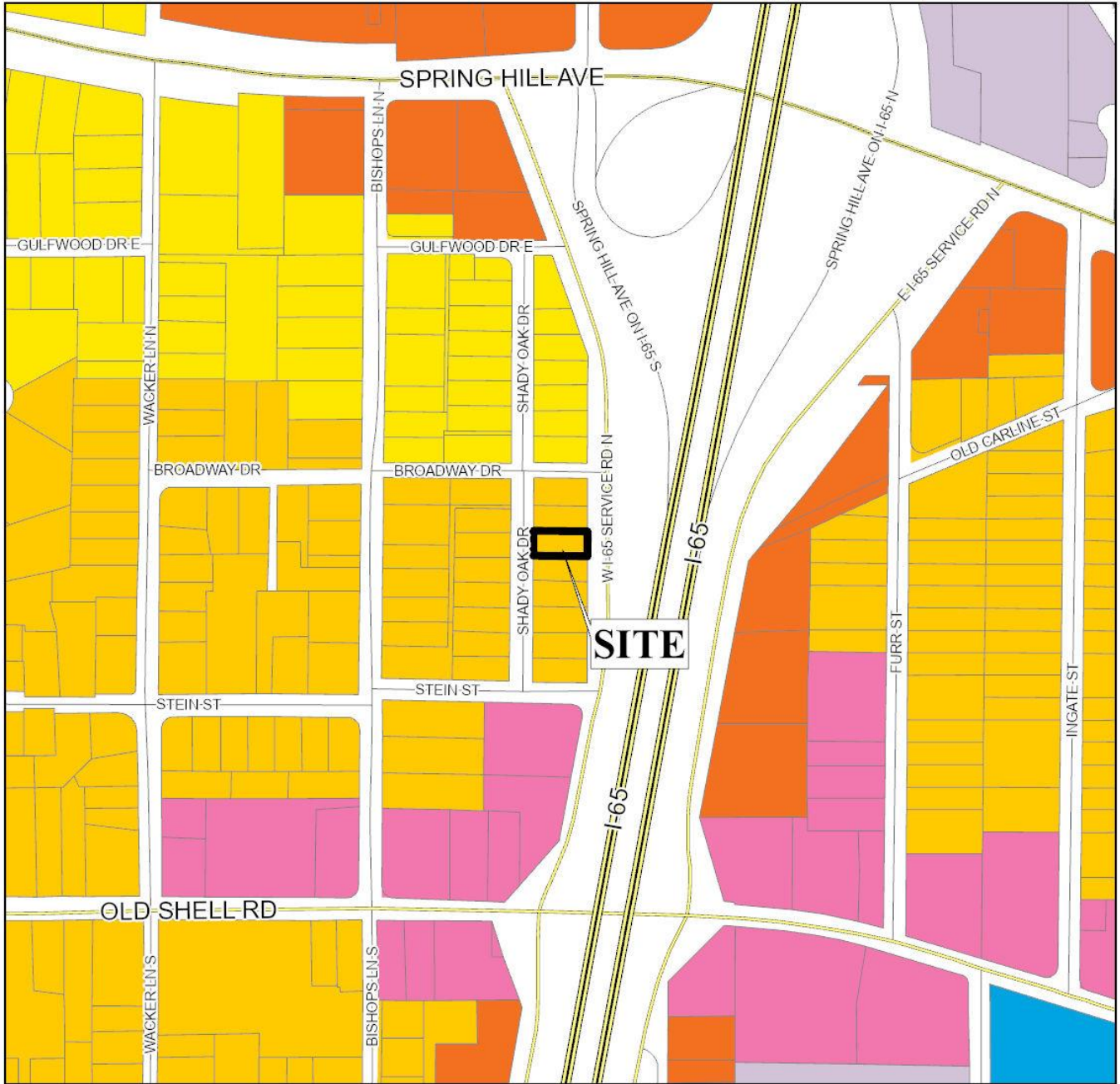
LOCATOR ZONING MAP



APPLICATION NUMBER	6642	DATE	February 3, 2025
APPLICANT	Bryan Maisel Builders, LLC		
REQUEST	Rear Yard Setback Variance		



FLUM LOCATOR MAP



APPLICATION NUMBER 6642 DATE February 3, 2025

APPLICANT Bryan Maisel Builders, LLC

REQUEST Rear Yard Setback Variance

- | | | | |
|---|--|---|--|
| ■ Low Density Residential | ■ Neighborhood Center - Traditional | ■ Downtown Waterfront | ■ Parks & Open Space |
| ■ Mixed Density Residential | ■ Neighborhood Center - Suburban | ■ Light Industry | ■ Water Dependent |
| ■ Downtown | ■ Traditional Corridor | ■ Heavy Industry | |
| ■ District Center | ■ Mixed Commercial Corridor | ■ Institutional | |




NTS

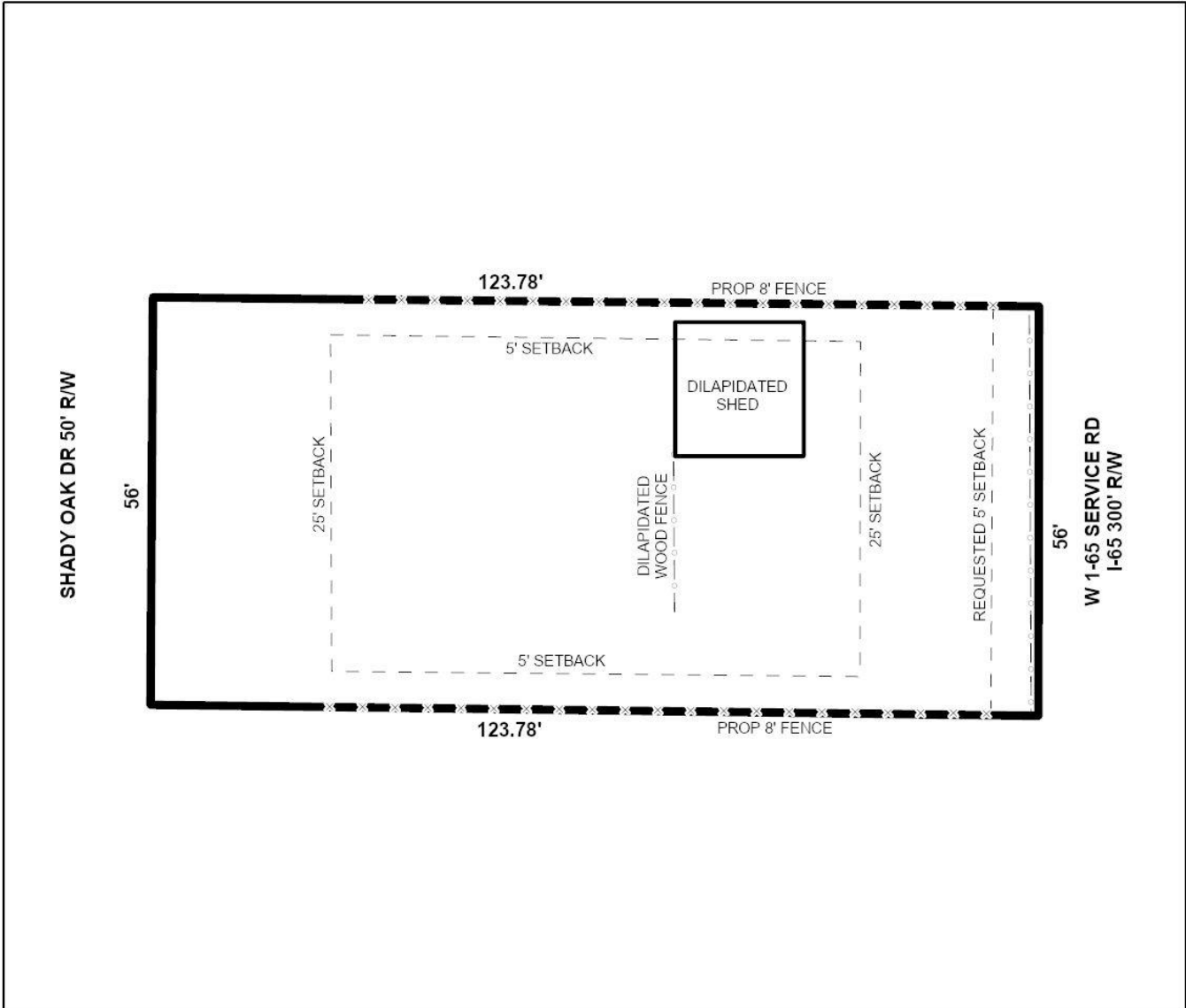
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING




The site is surrounded by residential units.

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<table style="width: 100%; font-size: small;"> <tr> <td> R-A</td> <td> R-3</td> <td> B-1</td> <td> B-2</td> <td> B-5</td> <td> ML</td> <td> I-2</td> <td> OPEN</td> <td> T-3</td> <td> T-5.2</td> </tr> <tr> <td> R-1</td> <td> R-B</td> <td> T-B</td> <td> B-3</td> <td> CW</td> <td> MH</td> <td> PD</td> <td> SD</td> <td> T-4</td> <td> T-6</td> </tr> <tr> <td> R-2</td> <td> H-B</td> <td> LB-2</td> <td> B-4</td> <td> MM</td> <td> I-1</td> <td> MUN</td> <td> SD-WH</td> <td> T-5.1</td> <td></td> </tr> </table>		 R-A	 R-3	 B-1	 B-2	 B-5	 ML	 I-2	 OPEN	 T-3	 T-5.2	 R-1	 R-B	 T-B	 B-3	 CW	 MH	 PD	 SD	 T-4	 T-6	 R-2	 H-B	 LB-2	 B-4	 MM	 I-1	 MUN	 SD-WH	 T-5.1	
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SITE PLAN



The site plan illustrates the existing shed, fencing, setbacks, proposed fences, and proposed setback.

APPLICATION NUMBER <u>6642</u> DATE <u>February 3, 2025</u>	
APPLICANT <u>Bryan Maisel Builders, LLC</u>	
REQUEST <u>Rear Yard Setback Variance</u>	

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)



MIXED DENSITY RESIDENTIAL (MxDR)

This designation applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

These residential areas should offer a mix of single family homes, townhouses, 2- to 4- residential unit buildings, accessory dwellings, and low- and mid-rise multifamily apartment buildings. The density varies between 6 and 10 du/ac, depending on the mix, types, and locations of the housing as specified by zoning.

Like LDR areas, MxDR areas may incorporate compatibly scaled and sited complementary uses such as neighborhood retail and office uses, schools, playgrounds and parks, and churches and other amenities that create a complete neighborhood fabric and provide safe and convenient access to daily necessities.