



# Agenda Item # 8

## BOA-002985-2024

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

[Applicant Materials for Consideration](#)

### DETAILS

---

**Location:**

1802 Old Government Street

**Applicant / Agent:**

Bryan Olson

**Property Owner:**

Bryan Olson

**Current Zoning:**

B-1, Buffer Business Urban District

**Future Land Use:**

Mixed Density Residential

**Case Number(s):**

6600

**Unified Development Code (UDC) Requirement:**

- The UDC does not allow a privacy fence and gate taller than three (3) feet within the ten (10)-foot side street, side yard setback in a B-1, Buffer Business Urban District.

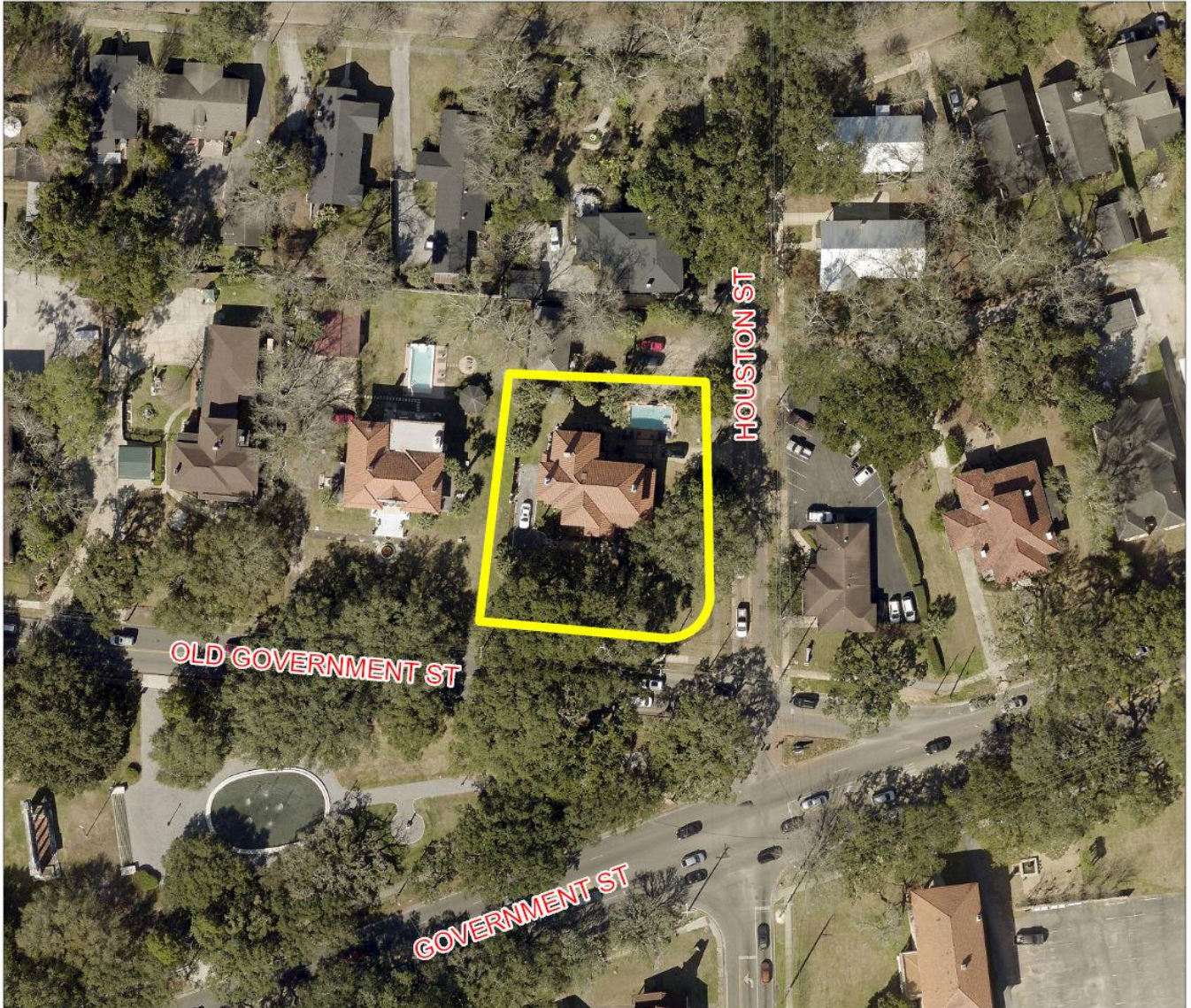
**Board Consideration:**

- Side Street Side Yard Setback Variance to allow a privacy fence and gate taller than three (3) feet within the ten (10)-foot side street, side yard setback in a B-1, Buffer Business Urban District.


**Report Contents:**

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

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential and commercial units.

APPLICATION NUMBER <u>        6600        </u> DATE <u>        July 8, 2024        </u>	 NTS
APPLICANT <u>                                Bryan Olson        </u>	
REQUEST <u>                        Side Street Side Yard Setback Variance        </u>	

## SITE HISTORY

---

Subdivision of the site to create two (2) lots of record, Lots 1 and 2 of Wells Place Subdivision, was approved in November 1998, and subsequently recorded in Mobile County Probate Court.

Resubdivision of the site to adjust an interior lot line between the two (2) lots was approved in March 2021, and the plat was subsequently recorded in Mobile County Probate Court.

The site has not been the subject of any Board of Zoning Adjustment cases.

## STAFF COMMENTS

---

### **Engineering Comments:**

No comments.

### **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 Side Street Side Yard Setback Variance to allow a privacy fence and gate taller than three (3) feet within the ten (10)-foot side street, side yard setback in a B-1, Buffer Business Urban District; the UDC does not allow a privacy fence and gate taller than three (3) feet within the ten (10)-foot side street, side yard setback in a B-1, Buffer Business Urban District.

A detailed narrative of the request can be viewed using the link on Page 1 of this report. In summary, the applicant states that the required setback is inconsistent with the placement of similar fences and gates elsewhere in the neighborhood.

The subject site is a corner lot within the Old Dauphin Way Historic District Overlay (HDO). Corner lots typically have slightly increased setbacks along intersecting streets to avoid line-of-sight issues for vehicle traffic.

Properties within the HDO typically benefit from reduced setbacks if there is an existing structure on the same side of the street, and within 150 feet of the subject site that encroaches on the setbacks of the underlying zoning district, per Article 14, Section 64-14.1.C. of the UDC. Upon review of a request by the applicant to permit the fence in question, there were no qualifying structures that would exempt the site from meeting the side street, side yard setback requirements of the UDC. As such, the fence is required to meet the height and setback requirements of the underlying zoning district.

It should be reiterated that a privacy fence is allowed within the side street, side yard setback as long as it is not taller than three (3) feet.

## 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
- 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:

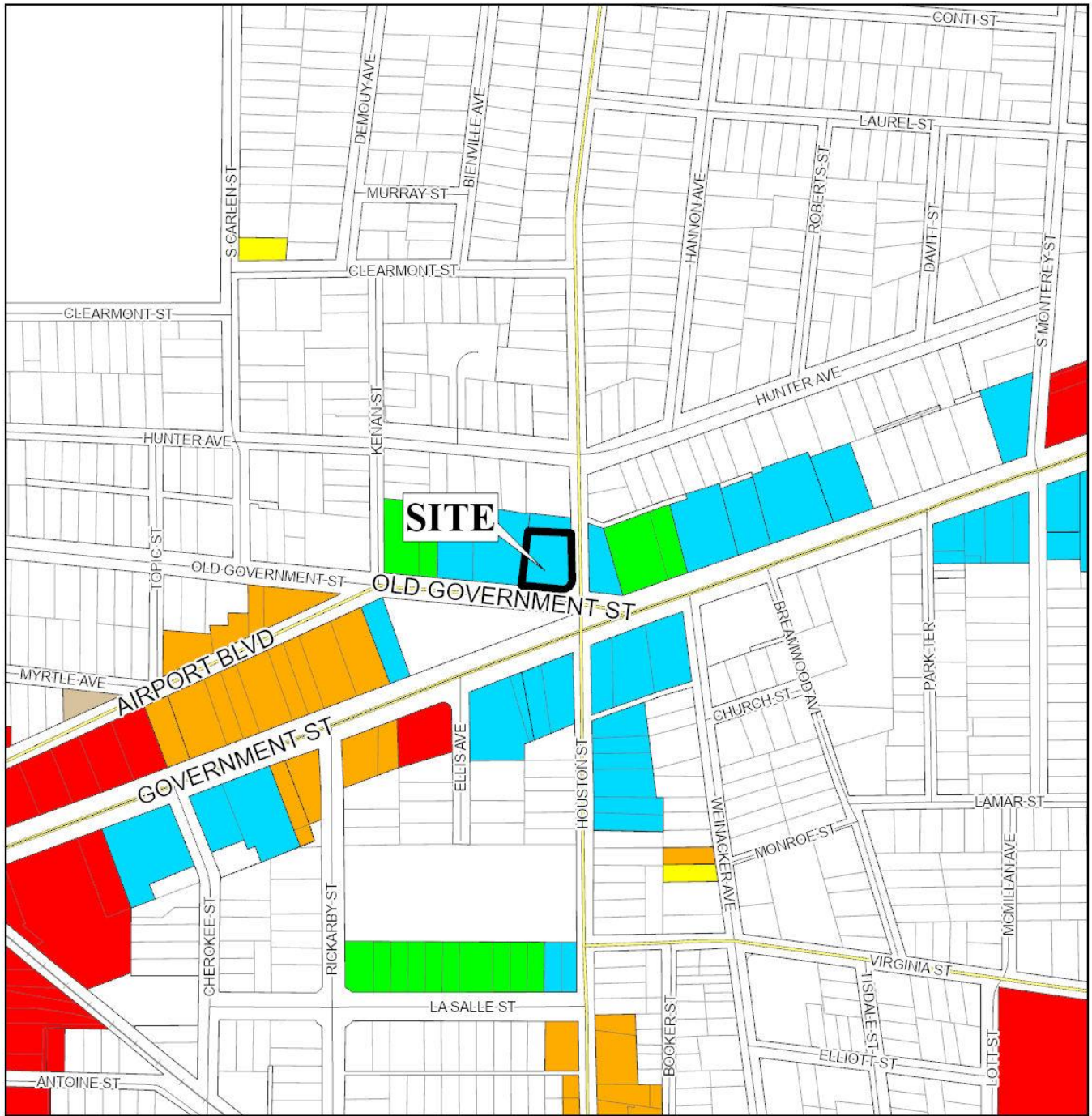
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- 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** 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 approved, the following conditions should apply:

- 1) The obtaining of the required Certificate of Appropriateness from the Architectural Review Board; and
- 2) Obtaining of the required fence permit from the Central Permitting Department.

# LOCATOR ZONING MAP



APPLICATION NUMBER 6600 DATE July 8, 2024

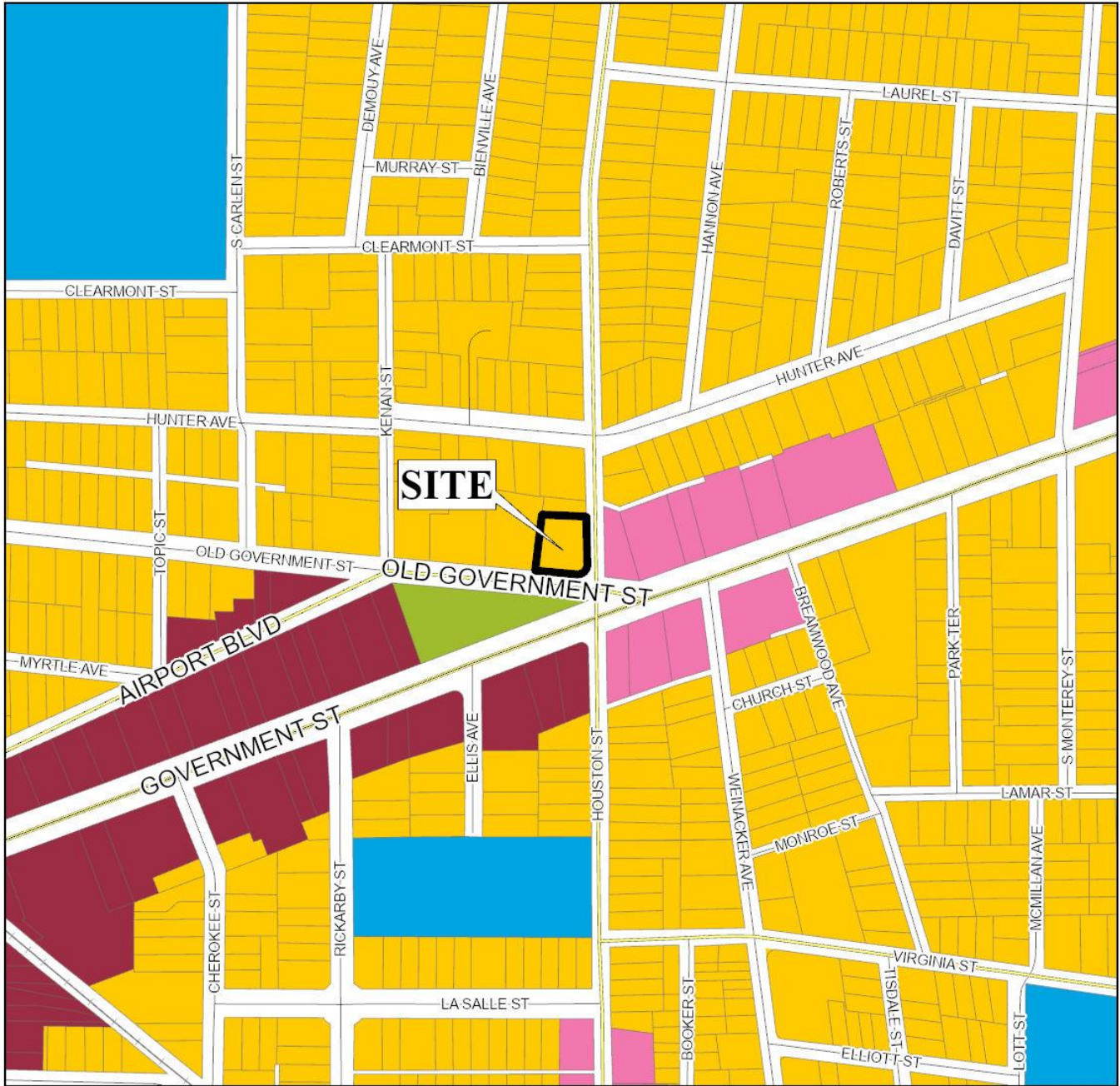
APPLICANT Bryan Olson

REQUEST Side Street Side Yard Setback Variance



NTS

# FLUM LOCATOR MAP



APPLICATION NUMBER 6600 DATE July 8, 2024

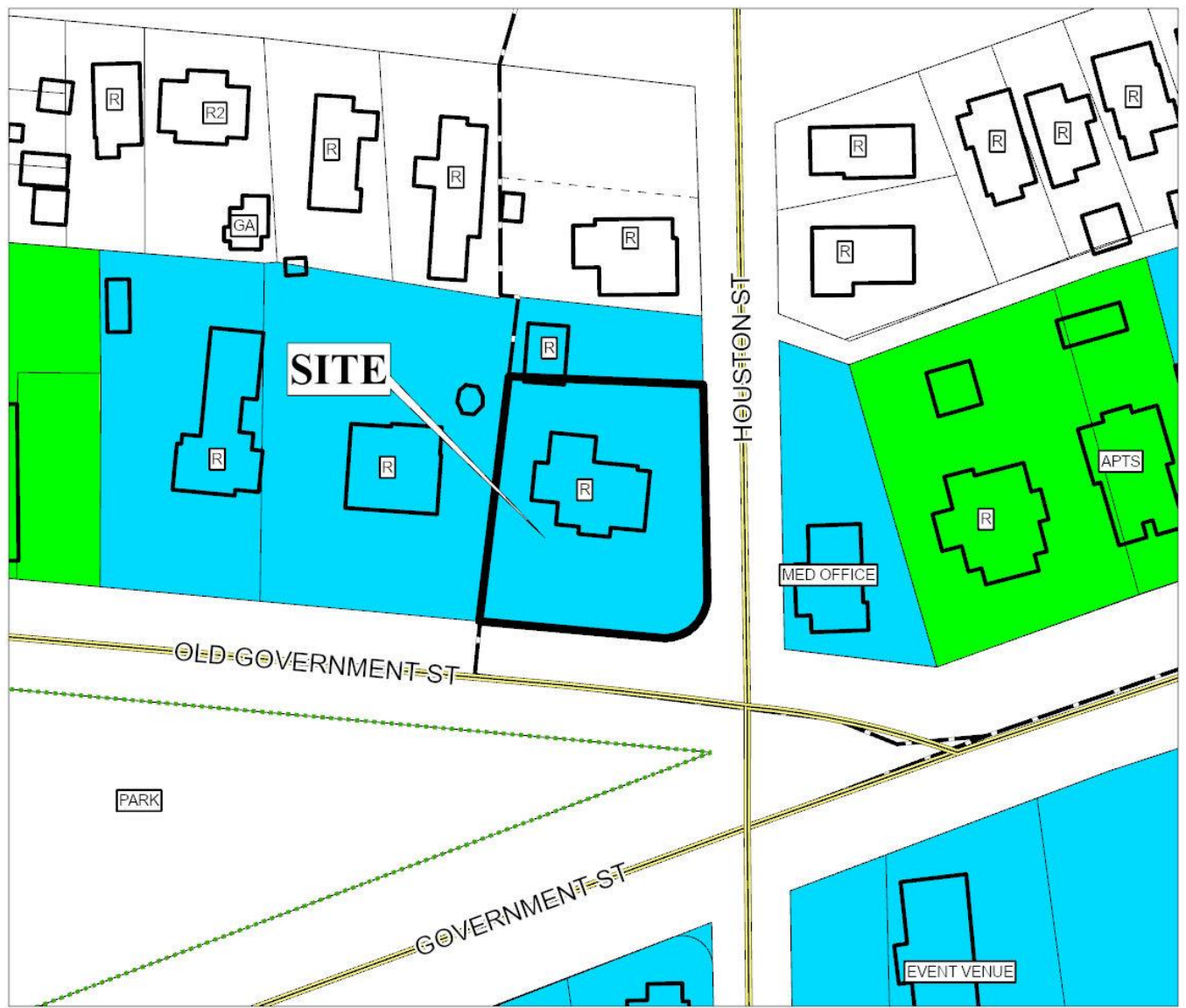
APPLICANT Bryan Olson

REQUEST Side Street Side Yard Setback Variance

- |   |   |  |  |
|---|---|--|--|
| <span style="color: yellow;">■</span> Low Density Residential   | <span style="color: maroon;">■</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: pink;">■</span> Downtown                    | <span style="color: lightpink;">■</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        |  |



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

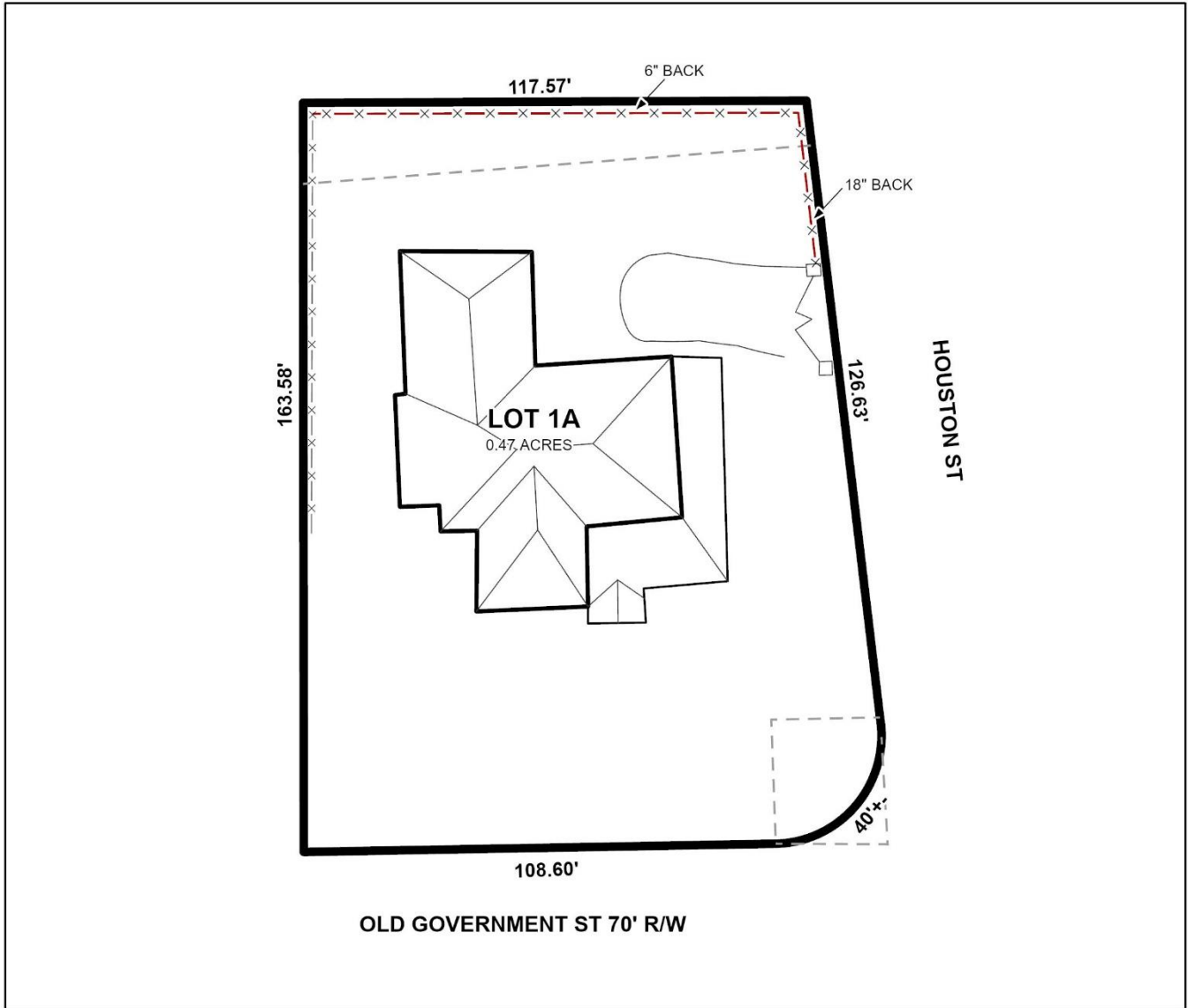


The site is surrounded by residential and commercial units.


APPLICATION NUMBER	6600	DATE	July 8, 2024																														
APPLICANT	Bryan Olson																																
REQUEST	Side Street Side Yard Setback Variance																																
<table style="width: 100%; font-size: small;"> <tr> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> R-A</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #00FF00; border: 1px solid black;"></span> R-3</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #00BFFF; border: 1px solid black;"></span> B-1</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFD700; border: 1px solid black;"></span> B-2</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #0000FF; border: 1px solid black;"></span> B-5</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> ML</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #D3D3D3; border: 1px solid black;"></span> I-2</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #C8E6C9; border: 1px solid black;"></span> OPEN</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFB6C1; border: 1px solid black;"></span> T-3</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #483D8B; border: 1px solid black;"></span> T-5.2</td> </tr> <tr> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFFF; border: 1px solid black;"></span> R-1</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FF69B4; border: 1px solid black;"></span> R-B</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #D2B48C; border: 1px solid black;"></span> T-B</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FF0000; border: 1px solid black;"></span> B-3</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #A9A9A9; border: 1px solid black;"></span> CW</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #008080; border: 1px solid black;"></span> MH</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #32CD32; border: 1px solid black;"></span> PD</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black;"></span> SD</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #9370DB; border: 1px solid black;"></span> T-4</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #4B0082; border: 1px solid black;"></span> T-6</td> </tr> <tr> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFF00; border: 1px solid black;"></span> R-2</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFA07A; border: 1px solid black;"></span> H-B</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #8A2BE2; border: 1px solid black;"></span> LB-2</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #8B4513; border: 1px solid black;"></span> B-4</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> MM</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #9370DB; border: 1px solid black;"></span> I-1</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFE0; border: 1px solid black;"></span> MUN</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #FF8C00; border: 1px solid black;"></span> SD-WH</td> <td><span style="display: inline-block; width: 15px; height: 10px; background-color: #6A5ACD; border: 1px solid black;"></span> T-5.1</td> <td></td> </tr> </table>				<span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 10px; background-color: #00FF00; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #00BFFF; border: 1px solid black;"></span> B-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFD700; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #0000FF; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> ML	<span style="display: inline-block; width: 15px; height: 10px; background-color: #D3D3D3; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #C8E6C9; border: 1px solid black;"></span> OPEN	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFB6C1; border: 1px solid black;"></span> T-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #483D8B; border: 1px solid black;"></span> T-5.2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFFF; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF69B4; border: 1px solid black;"></span> R-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #D2B48C; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF0000; border: 1px solid black;"></span> B-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #A9A9A9; border: 1px solid black;"></span> CW	<span style="display: inline-block; width: 15px; height: 10px; background-color: #008080; border: 1px solid black;"></span> MH	<span style="display: inline-block; width: 15px; height: 10px; background-color: #32CD32; border: 1px solid black;"></span> PD	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 10px; background-color: #9370DB; border: 1px solid black;"></span> T-4	<span style="display: inline-block; width: 15px; height: 10px; background-color: #4B0082; border: 1px solid black;"></span> T-6	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFF00; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFA07A; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #8A2BE2; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #8B4513; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> MM	<span style="display: inline-block; width: 15px; height: 10px; background-color: #9370DB; border: 1px solid black;"></span> I-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFE0; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF8C00; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 10px; background-color: #6A5ACD; border: 1px solid black;"></span> T-5.1	
<span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 10px; background-color: #00FF00; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #00BFFF; border: 1px solid black;"></span> B-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFD700; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #0000FF; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> ML	<span style="display: inline-block; width: 15px; height: 10px; background-color: #D3D3D3; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #C8E6C9; border: 1px solid black;"></span> OPEN	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFB6C1; border: 1px solid black;"></span> T-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #483D8B; border: 1px solid black;"></span> T-5.2																								
<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFFF; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF69B4; border: 1px solid black;"></span> R-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #D2B48C; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF0000; border: 1px solid black;"></span> B-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #A9A9A9; border: 1px solid black;"></span> CW	<span style="display: inline-block; width: 15px; height: 10px; background-color: #008080; border: 1px solid black;"></span> MH	<span style="display: inline-block; width: 15px; height: 10px; background-color: #32CD32; border: 1px solid black;"></span> PD	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 10px; background-color: #9370DB; border: 1px solid black;"></span> T-4	<span style="display: inline-block; width: 15px; height: 10px; background-color: #4B0082; border: 1px solid black;"></span> T-6																								
<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFF00; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFA07A; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #8A2BE2; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #8B4513; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> MM	<span style="display: inline-block; width: 15px; height: 10px; background-color: #9370DB; border: 1px solid black;"></span> I-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFE0; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF8C00; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 10px; background-color: #6A5ACD; border: 1px solid black;"></span> T-5.1																									
 NTS																																	



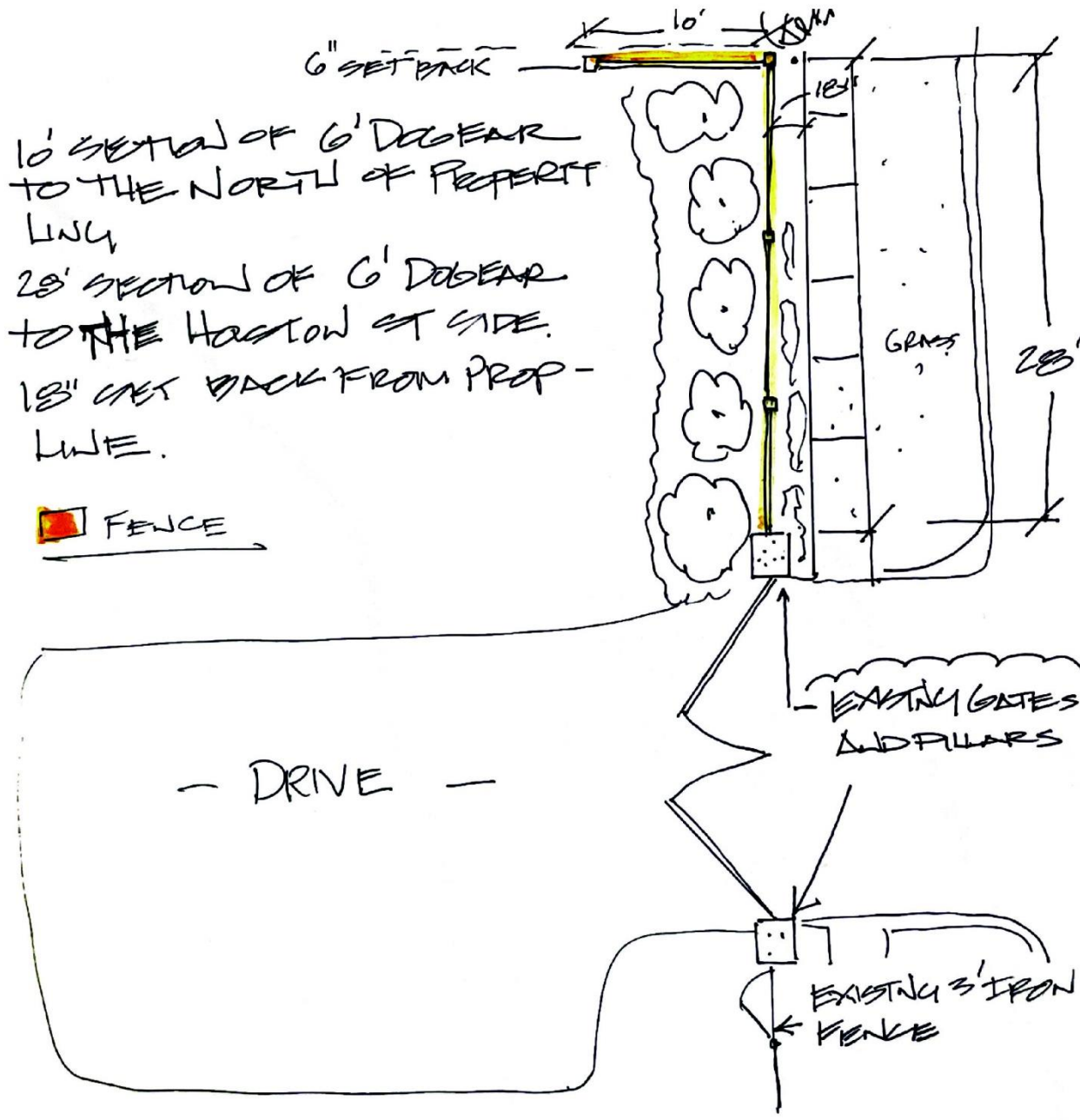
# SITE PLAN



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

APPLICATION NUMBER <u>6600</u> DATE <u>July 8, 2024</u>	 NTS
APPLICANT <u>Bryan Olson</u>	
REQUEST <u>Side Street Side Yard Setback Variance</u>	

# DETAIL SITE PLAN



APPLICATION NUMBER 6600 DATE July 8, 2024

APPLICANT Bryan Olson

REQUEST Side Street Side Yard Setback Variance



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 (WDW/UR)	
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.