

APPLICATION NUMBER

5472

A REQUEST FOR

SIDE (STREET) YARD SETBACK VARIANCE TO ALLOW A 6' HIGH WOODEN PRIVACY FENCE ALONG THE SIDE (STREET) YARD AT A CORNER LOT IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE ZONING ORDINANCE REQUIRES A 12' SIDE (STREET) YARD SETBACK FOR FENCES HIGHER THAN 3' IN AN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT.

LOCATED AT

2676 WEEMS DRIVE

(Northwest corner of North Mobile Street and Weems Drive)

APPLICANT

DONALD WILLIAM ANDERSON

OWNER

DONALD WILLIAM ANDERSON

BOARD OF ZONING ADJUSTMENT

JUNE 2008

The applicant is requesting a side (street) yard setback variance to allow a 6' high wooden privacy fence along the side (street) yard at a corner lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 12' side (street) yard setback for fences higher than 3' in an R-1, Single-Family Residential District.

The applicant states that the City has failed to maintain their right of way and have failed to uphold the law regarding eyesores inside the city limits. He further states that he faces issues with individuals walking through his yard and that the condition of the yard behind him has made it difficult to enjoy his property.

According to Mobile City records, a complaint was registered with Mobile's 311 system in March of 2008. After review, a Notice of Violation was then issued on March 18, 2008 for the fence located at 2676 Weems Drive due to the owner's failure to obtain a permit before construction and for exceeding the height limit while located in the required 12' setback off Mobile Street. The same day, the owner applied for and received a building permit for the fence. He was told the fence was to be no higher than 3' tall while located in the required 12' setback off Mobile Street. According to the Zoning Ordinance, the applicant may put a privacy fence in the 12' setback if the fence is no higher than 3' tall. He may also put a chain link fence not to exceed 8' in height while in the setback. Records state that on April 8, 2008 the owner was again informed by the Zoning Inspector that the fence was exceeding the height limit in the 12' required setback. At this time the owner stated that he would apply for a variance for the fence height in the setback.

It should be noted that Mobile Street is included in the Major Street Plan. The Plan requires Mobile Street to have an 80' right of way, which it has at this location. If the fence were allowed, it would interfere with visibility at the intersection of Weems Drive and Mobile Street should Mobile Street be widened.

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.

Variations 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 request to keep a privacy fence within the required 12' side street setback in a single-family district.

RECOMMENDATION 5472

Date: June 2, 2008

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

LOCATOR MAP



APPLICATION NUMBER 5472 DATE June 2, 2008
APPLICANT Donald William Anderson
REQUEST Side (Street) Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



A duplex is located to the northeast of the site, vacant lots to the east and south, and single family residential units are located to the west.

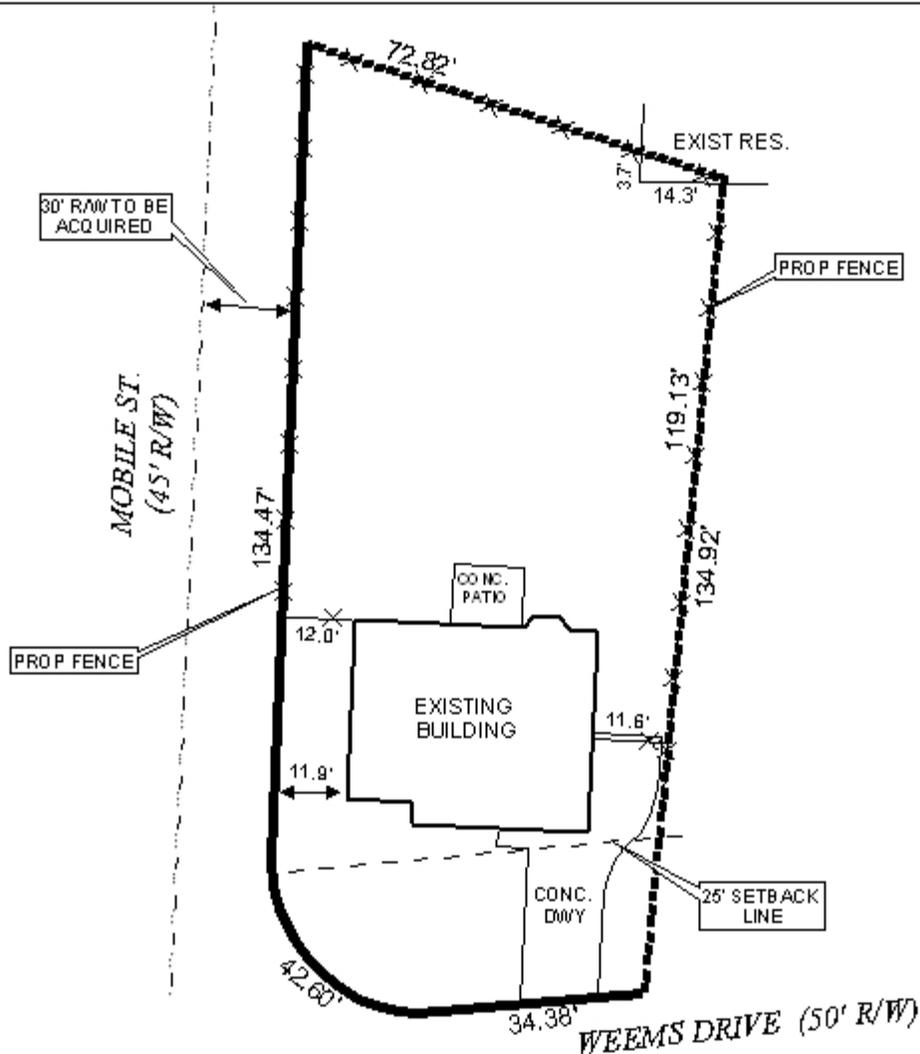
APPLICATION NUMBER 5472 DATE June 2, 2008

APPLICANT Donald William Anderson

REQUEST Side (Street) Yard Setback Variance



SITE PLAN



The exiting residence, building setback, and proposed fence are illustrated in the site plan.

APPLICATION NUMBER 5472 DATE June 2, 2008
 APPLICANT Donald William Anderson
 REQUEST Side (Street) Yard Setback Variance

