

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: July 7, 2014

CASE NUMBER

5901

APPLICANT NAME

City of Mobile, Community Planning and Development Department

LOCATION

906 and 908 Delaware Street
(North Side of Delaware Street, 110'± West of South Broad Street).

VARIANCE REQUEST

BULK: Bulk Variance to allow a duplex on a 6,680 square foot site in an R-3, Multi-Family Residential District.

FRONT SETBACK: Front Setback Variance to allow the construction of a structure within 21'6" of the front property line.

SIDE YARD SETBACK: Side Yard Setback Variance to allow the construction of a structure within 1' of the side property line on a 72'± wide lot.

**ZONING ORDINANCE
REQUIREMENT**

BULK: The Zoning Ordinance requires a minimum of 8,000 square feet to allow a duplex in an R-3, Multi-Family Residential District.

FRONT SETBACK: The Zoning Ordinance requires a minimum front yard setback of 25'.

SIDE YARD SETBACK: The Zoning Ordinance requires a minimum of 8' side yard setback on a 72'± wide lot.

ZONING

R-3, Multi-Family Residential District

AREA OF PROPERTY

0.15± Acres

**ENGINEERING
COMMENTS**

No comments

**TRAFFIC ENGINEERING
COMMENTS**

No comments

removed; therefore the legal non-conforming status of having multiple units on the site has expired.

In regards to the front yard setback request, the site plan illustrates that the portion of the 1,568 square foot home and 162 square foot porch which will encroach into the required 25' front setback would be the covered front porch. It should be noted that if the front porch were not as large, it would not extend into the required setback; another possible alternative would be that if the front porch were not covered, and less than 3' in height, it would not be subject to setback requirements.

The request for a reduced side yard setback to allow the existing 41" oak plenty of room to continue to be healthy as well as reduce the potential for damage to be caused to the proposed structure from either falling limbs or roots interfering with the foundation has merit in that it is based on a unique characteristic to the site. However, the construction of a single-family residence instead of a duplex might allow for a smaller house which could comply with the side yard setback and not impact the tree.

It should further be noted that a multi-family residence requires 1.5 parking spaces per dwelling unit. The proposed duplex site plan only illustrates two parking spaces, making the site one parking space short of the required minimum.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, 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.

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.

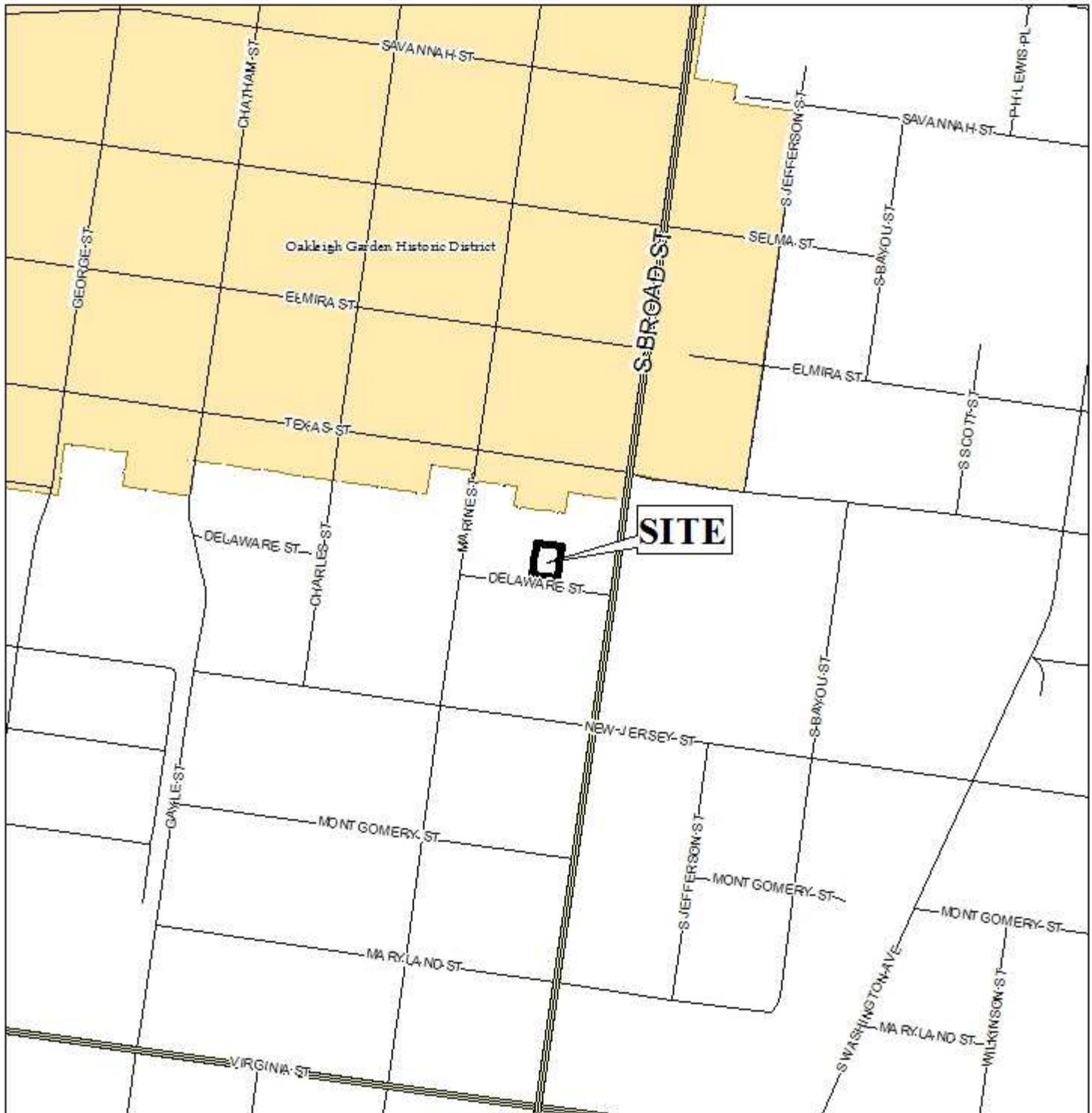
It is simply the applicant's wish to develop the site with a duplex, when there are no special conditions which prevent the site from being developed as a single family home. Similarly, there are alternative options which could be taken to make the request for a reduced front and side yard setbacks unnecessary.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial of the Bulk and Front Yard Setback and Side Yard Setback Variance requests:

- 1) approving the variance request will be contrary to the public interest in that allowing multiple units on a sub-standard lot with a reduced front yard setback can create a crowded environment;

- 2) special conditions do not exist that prevent the site from being developed as a single family residence with a compliant front yard and side yard setback; and
- 3) the spirit of the chapter shall not be observed and substantial justice shall not be done in that the purpose of the Zoning Ordinance is to prevent undue concentration of population

LOCATOR MAP



APPLICATION NUMBER 5901 DATE July 7, 2014
APPLICANT City of Mobile, Community Planning and Development Department
REQUEST Bulk, Front Setback, and Side Yard Setback Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the west, and commercial units to the east.

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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



NTS

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VICINITY MAP - EXISTING ZONING**



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