

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: October 6, 2014**

**CASE NUMBER** 5924

**APPLICANT NAME** Joey Pittman

**LOCATION** 166 South Street  
(West side of South Street, 125'± North of Clearmont Street).

**VARIANCE REQUEST** **SIDE YARD SETBACK:** Side Yard Setback Variance to allow a proposed structure within 5' of the side property line.

**ZONING ORDINANCE REQUIREMENT** **SIDE YARD SETBACK:** The Zoning Ordinance requires an 8' side yard setback in an R-1, Single-Family Residential District.

**ZONING** R-1, Single-Family Residential

**AREA OF PROPERTY** 8,540 Square Feet / 0.28± Acre

**TRAFFIC ENGINEERING COMMENTS** No comments.

**ENGINEERING COMMENTS:** No comments.

**CITY COUNCIL DISTRICT** District 2

**ANALYSIS** The applicant is requesting a Side Yard Setback Variance to allow a proposed structure within 5' of the side property line, in an R-1, Single-Family Residential District; the Zoning Ordinance requires at least an 8' side yard setback in an R-1, Single-Family Residential District.

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.

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 site plan illustrates that there are two existing structures currently in the same area as the proposed garage. The applicant proposes to remove the two existing structures, and place the currently proposed garage with a greater setback (5') than the existing structures, however the increased setback is still less than the Zoning Ordinance requirement. It should be noted that any setback of less than 5' will require a fire-rated wall per Building Code requirements.

The applicant states that:

*Joey Pittman currently parks his cars under a metal shed structure, which has a 1' side yard setback. He utilizes a metal outside storage building, which has a 3' side yard setback and 3' rear yard setback. His South side neighbor parks her car within a wood frame garage, which has a 2' side yard setback with 2' eave (no gutters). Joey would like to remove his car shed and outside storage building. He would like to replace them with a 25' wide, 28' deep, wood framed garage building, with walk-up storage above, with 5' side yard setback and 8' rear yard setback. Joey would place gutters and downspouts on both sides of the proposed garage. Joey would like to extend his current concrete driveway to the new garage building. Building site coverage would decrease from 36% to 33%.*

*Joey's two existing buildings, along with the buildings on neighbors to the South and West, appear to have been constructed long ago. None of them comply with current required side and rear yards. The proposed garage building will be more compliant. Our required left side setback would have to be 12' to compensate for the existing 6' right side setback of the existing house, and would even then fall short of 20' combined side yard setbacks. Moving the proposed building that far into the center of our site would endanger the root system of our 48" diameter live oak tree, not to mention creating a radical swing of the extended driveway. We believe our 5' side yard setback request complies with overall harmony of the neighborhood and improves an obvious non-compliant situation.*

It appears that the existing accessory structures were added to the site between 1997 and 2002, according to aerial photos, well before the applicant's purchase of the property.

It should be noted that at its January 5, 1987 meeting, the Board of Zoning Adjustment approved a variance to allow a garage within 4' 1" of the side property line, and within 2' from the rear property line at a site 62'± South of the subject site. The currently proposed setback is greater than those of the existing structures, and decreases site coverage to a compliant range.

**RECOMMENDATION:** Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) approving the variance will not be contrary to the public interest based upon the fact that there exists a large live oak tree that prevents the new structure from meeting side yard setback requirements without damaging the tree roots;
- 2) locating the structure to meet side yard setback requirements may result in damage to the existing live oak tree roots, thus resulting in an unnecessary hardship; and
- 3) that the spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the variance by approving the request for reduced side yard setback for a new accessory structure to avoid the root system of the existing live oak tree.

Based on the preceding, the Side Yard Setback Variance for the proposed structure is recommended for approval, subject to the following conditions:

- 1) obtain demolition permits for the two existing structures on the site;
- 2) the provision of gutters and downspouts on the side of the proposed structure; and
- 3) full compliance with all other municipal codes and ordinances.

# LOCATOR MAP



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REQUEST Side Yard setback Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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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



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**BOARD OF ADJUSTMENT  
VICINITY MAP - EXISTING ZONING**



The site is surrounded by single family residential units.

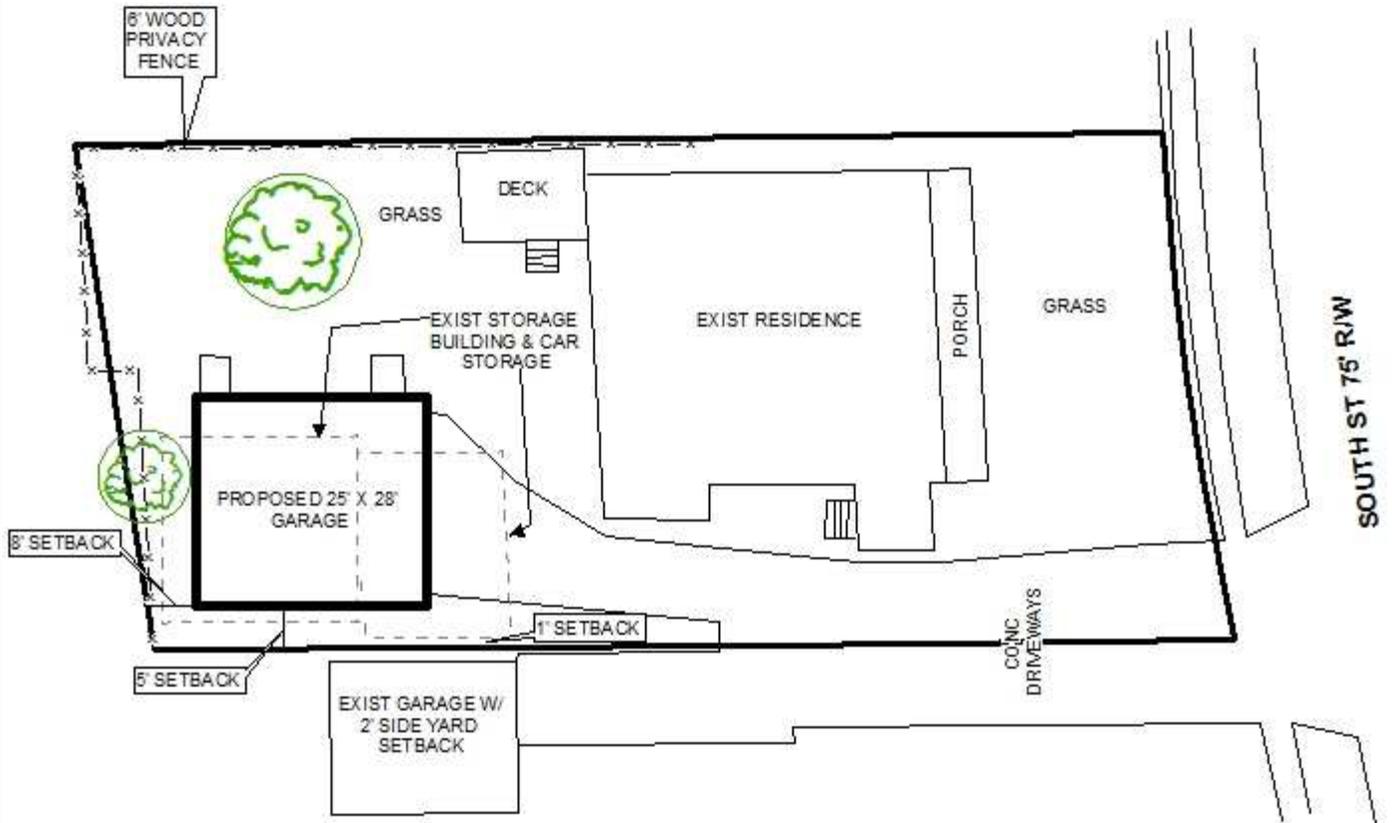
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# SITE PLAN



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

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