

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: June 5, 2017

CASE NUMBER

6115

APPLICANT NAME

E. Parks & Andrea R. Moore

LOCATION

102 Levert Avenue
(Northeast corner of Old Shell Road and Levert Avenue.)

VARIANCE REQUEST

FRONT AND SIDE YARD SIDE STREET SETBACKS: Front Yard and Side Yard Side Street Setback Variances to allow the construction of a privacy fence taller than 3' in the front yard and side yard side street setbacks of a corner lot in an R-1, Single-Family Residential District.

ZONING ORDINANCE REQUIREMENT

FRONT AND SIDE YARD SIDE STREET SETBACKS: The Zoning Ordinance does not allow privacy fences taller than 3' in the Front Yard and Side Yard Side Street Setbacks of a corner lot in an R-1, Single Family Residential District.

ZONING

R-1, Single-Family Residential

AREA OF PROPERTY

0.5 ± Acres

CITY COUNCIL DISTRICT

District 1

ENGINEERING COMMENTS

No Comments.

TRAFFIC ENGINEERING COMMENTS

This request was not reviewed by Traffic Engineering.

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 (State Act 61-929 and City Code Chapters 57 and 64).

FIRE
COMMENTS

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code). Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code (2012 IFC).

ANALYSIS

The applicant is requesting a Front Yard and Side Yard Side Street Setback Variances to allow the construction of a privacy fence taller than 3' in the front yard and side yard side street setbacks of a corner lot in an R-1, Single-Family Residential District.; the Zoning Ordinance does not allow privacy fences taller than 3' in the Front Yard and Side Yard Side Street Setbacks of a corner lot 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.

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.

The applicant states:

"To Whom it may concern:

Andrea R. Moore and E. Parks Moore are hereby requesting approval for a wooden fence for our property at 100/102 Levert Ave as shown on the enclosed plans prepared by Douglas B. Kearley, dated 4/27/17. The proposed fence will consist of wooden fence of approximately 48" in height on top of a stucco on CMU base along the southeast corner of the property facing Levert Ave. The fence will sweep up to a taller height of approximately 7'-6" along southern side of the property facing Old Shell Road.

The proposed fence design will tie in nicely with the architecture of the house and will be appropriate fitting for the historical significance of the house and the neighborhood. In addition, the proposed fence heights are consistent with several adjacent residential properties along Old Shell Road. Photos of some of these properties have been included with this application. They include 100 Lanier Ave, 101 Ryan Ave, and 100 Ryan Ave. These existing fences range in height from over 6 feet tall to over 8 feet in height.

We believe that the addition of this fence will add significant character and beauty to both our home and the Levert Ave entrance of the Ashland Place subdivision, as well as the southern property line along Old Shell Road."

As stated, the applicant is seeking relief, from the Zoning Ordinance to allow a fence that exceeds the required height in a front and side yard setback. Based on the statement from the applicant, this request is for the beautification and historical significance of the neighborhood. The applicant believes that granting this variance will be consistent with neighboring properties.

Section 64-4.D.6.a. of the Zoning Ordinance states: *“No fence or wall that obstructs sight shall be erected or altered in any required front yard to exceed a height of three (3) feet, and no fence or wall shall be erected or altered in any required side or rear yard to exceed a height of eight (8) feet. On a corner building site not having to its rear a building site facing toward the intersecting or side street, no fence or wall that obstructs sight shall be erected in the required side yard to exceed a height of three (3) feet.”*

As stated in the applicant’s narrative, there are several properties in the vicinity with fences that exceed the height limit set forth by the Zoning Ordinance: 100 Grand Boulevard, 100 Lanier Avenue and 101 Ryan Avenue are all corner lots and have all been granted fence height variances by the Board of Zoning Adjustment. It should be noted, however, the most recent request was approved at the May 2000 meeting.

The applicant provided drawings of the proposed fence which will consist of open spindle wooden fencing on stucco coping along Levert Avenue for a total height of 5’9”. The fence is then proposed to increase to a height of 7’6” along Old Shell Road, and be a wooden privacy fence.

The Historic District Overlay provisions were adopted in 2004. While they provide the opportunity for flexibility with historic districts, there are no pre-existing examples that would benefit the request at hand.

There are no conditions which exist at this site that would require the applicant to have a fence that exceeds the allowed maximum height requirement. This application seems to be merely the applicant’s desire to aid in the aesthetic character of their property, but does not appear to be a necessity. The applicant has the option to erect fencing along the property that is compliant with the Zoning Ordinance requirements. The applicant could erect an open-air fence in the front and side yard setbacks which exceed 3’ but would be no greater than 6’ and remain compliant. The applicant has not presented any hardship associated with the property or its configuration that would necessitate the approval of this request. However, the Board set a precedent for approving the request at hand when it approved similar requests in 1995 and 200 for two properties located within the same Historic District, 200 feet to the East, also along Old Shell Road.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval:

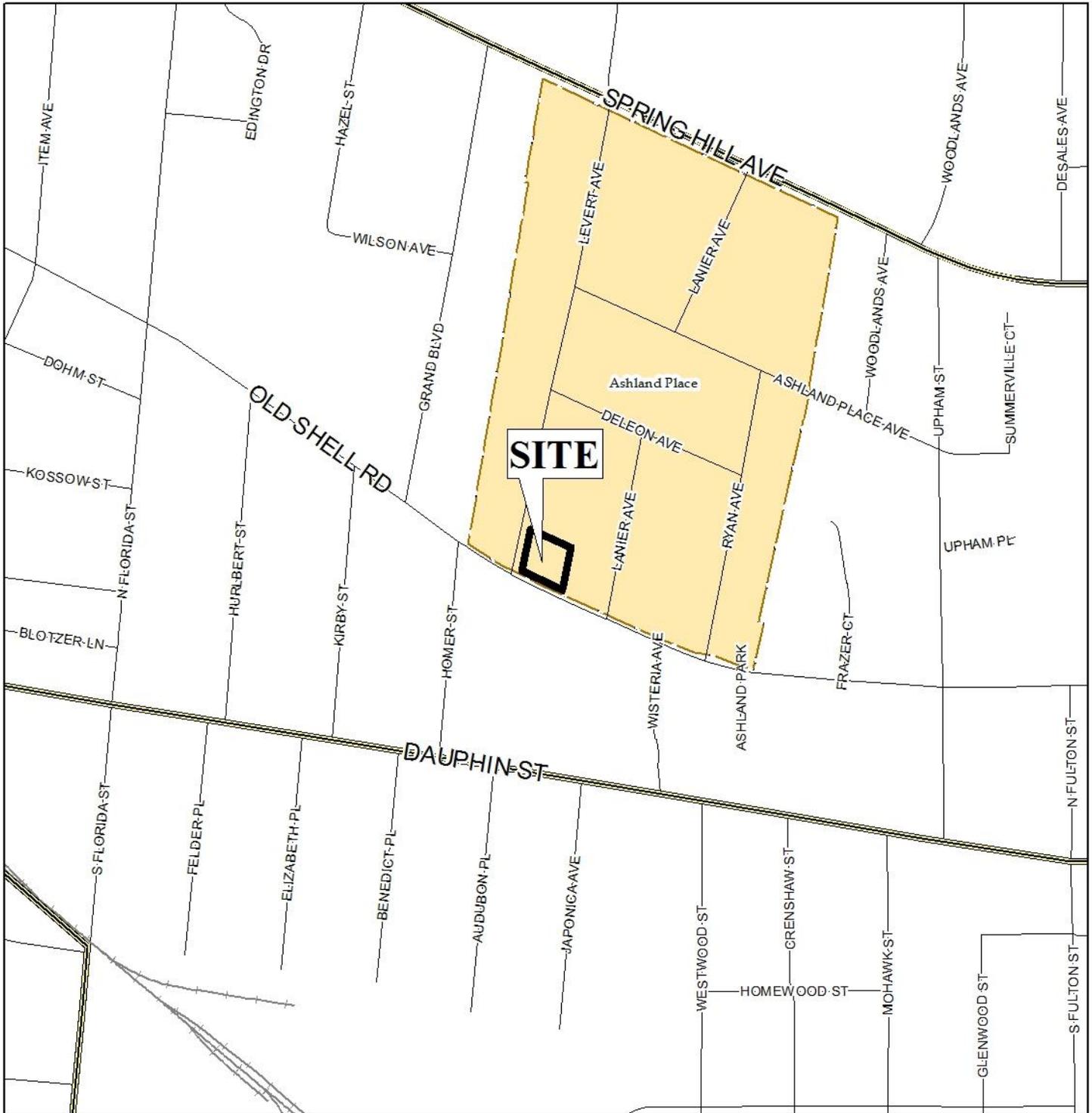
- 1) Granting the variance will not be contrary to the public interest in that the Board has approved similar applications within the same Historic District;

- 2) Special conditions may exist such as proximity to a street, location in a historic district and aesthetics, such that a literal enforcement of the provisions of the chapter may result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the Board has granted similar requests for similar sites within the same Historic District.

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) Obtaining Certificate of Appropriateness
- 2) Obtaining permits for fence construction

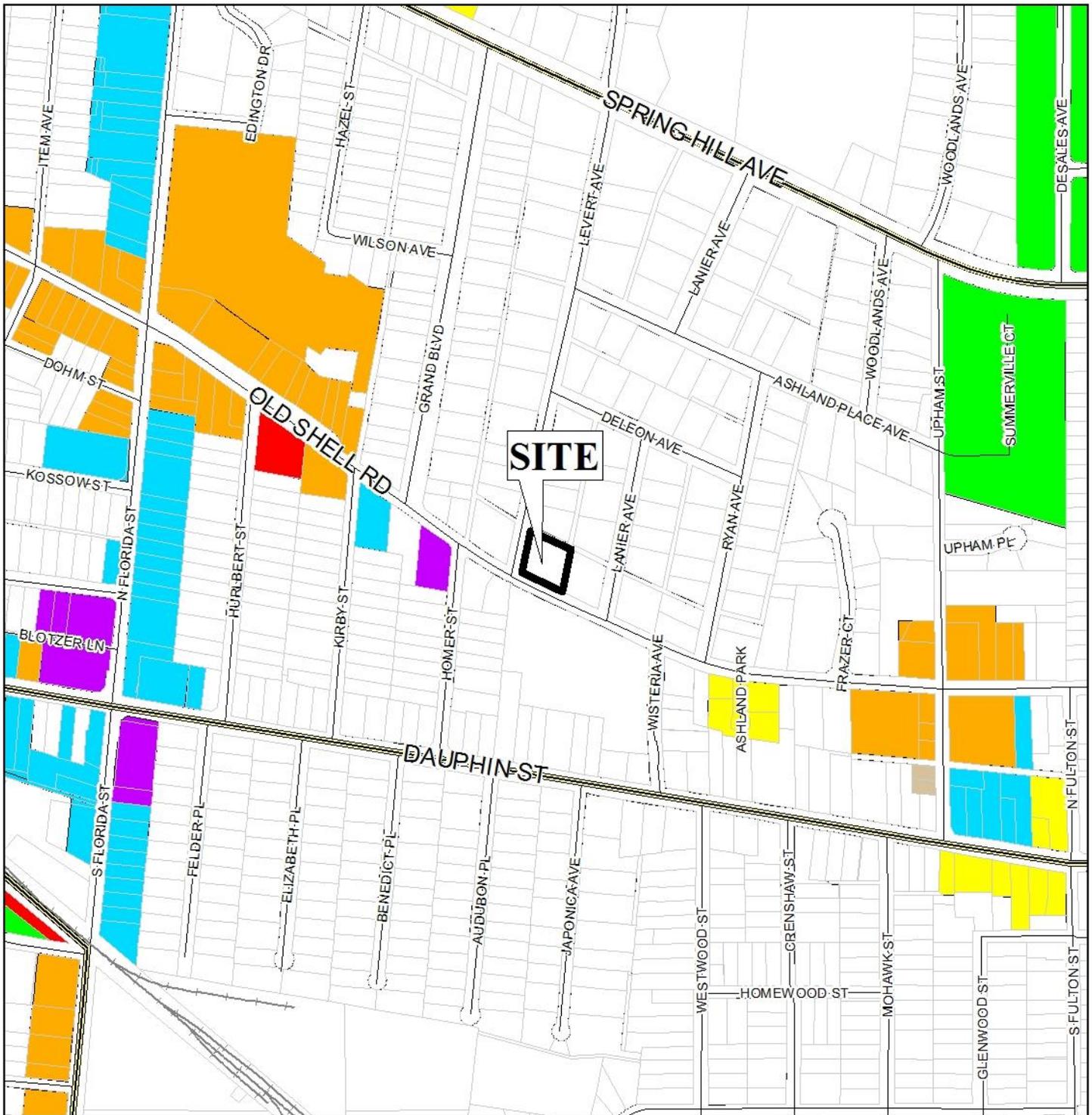
LOCATOR MAP



APPLICATION NUMBER 6115 DATE June 5, 2017
APPLICANT E. Parks & Andrea R. Moore
REQUEST Front Yard and Side Yard Side Street Setback Variances



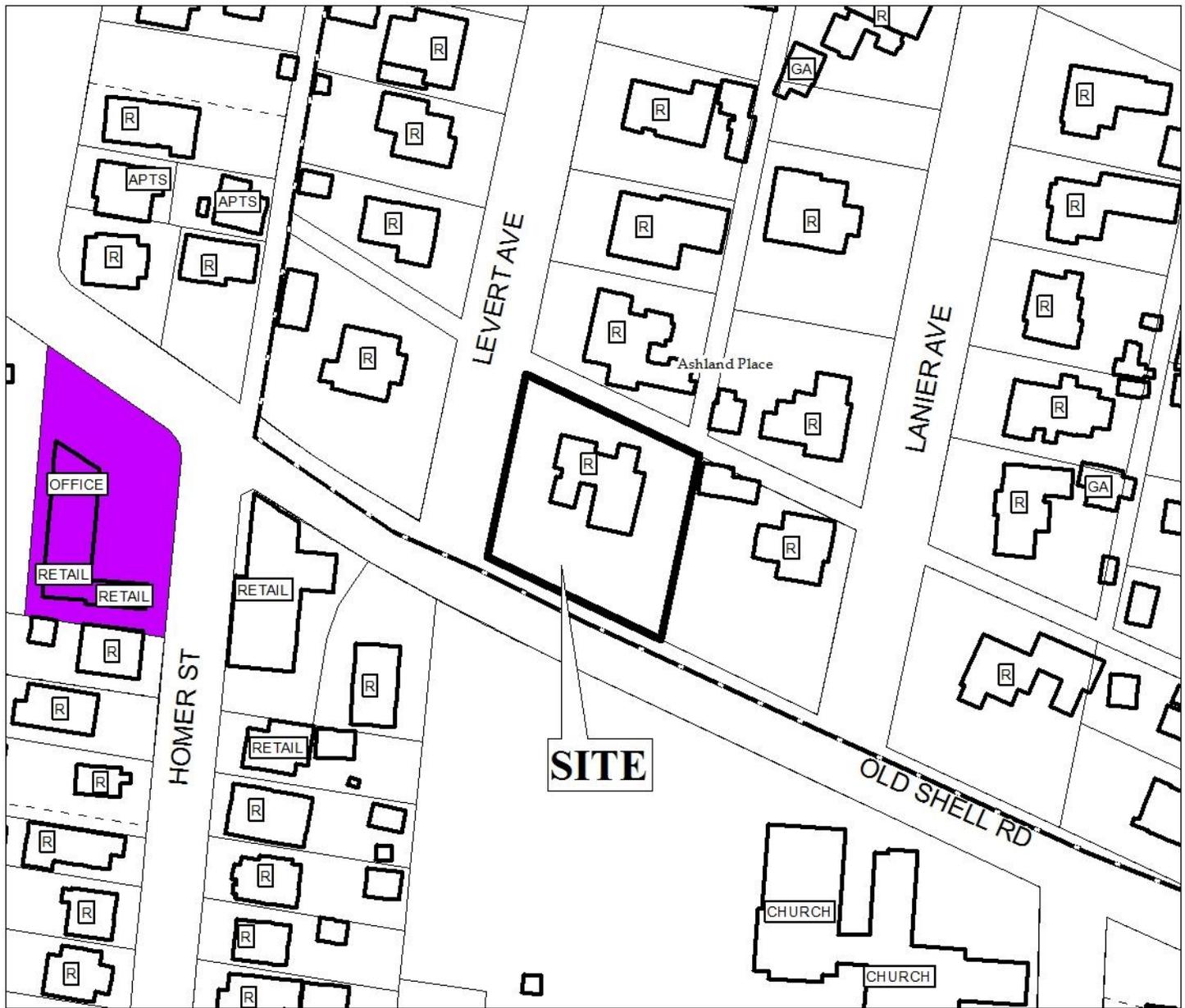
LOCATOR ZONING MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A church is located to the south.

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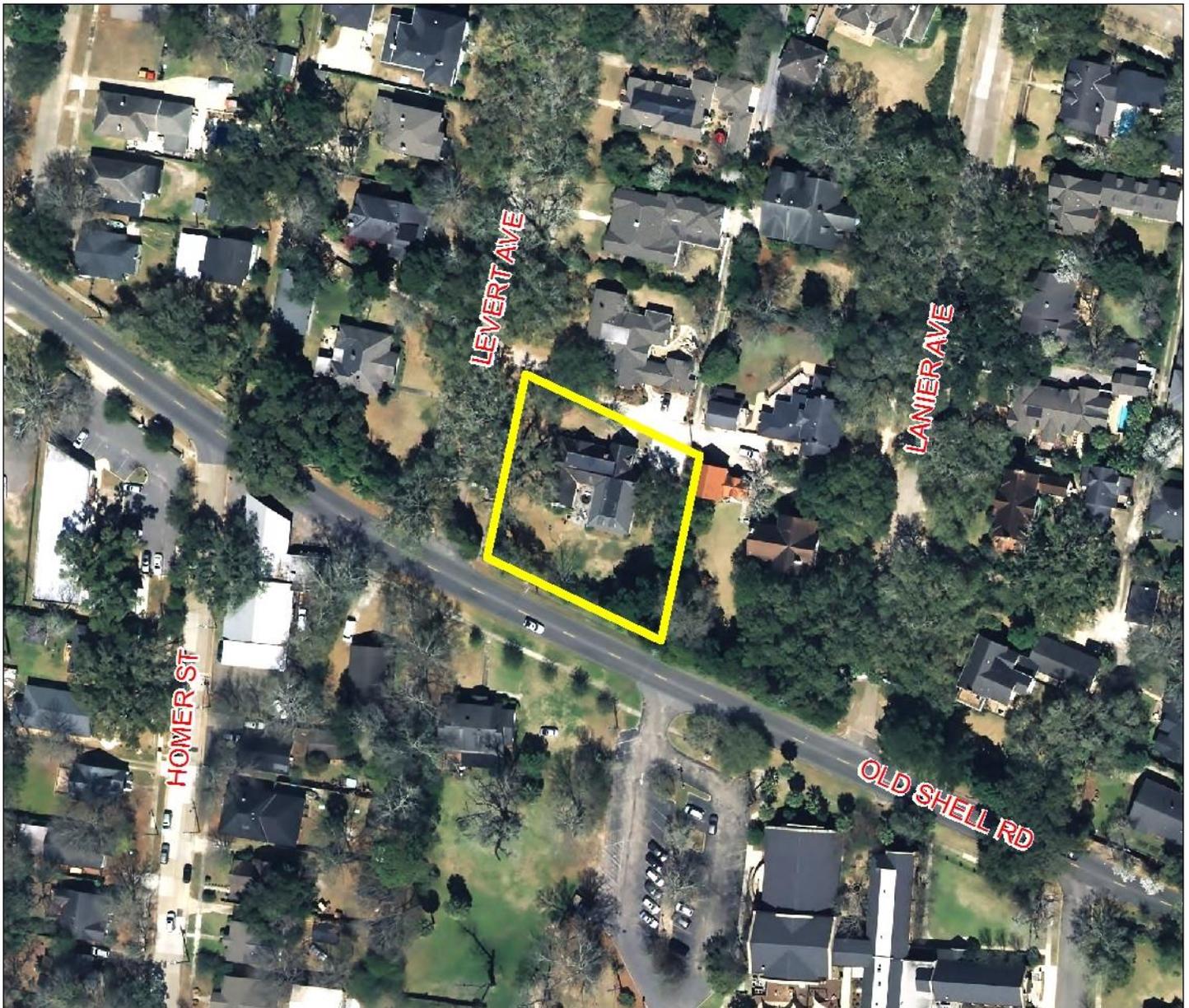
APPLICANT E. Parks & Andrea R. Moore

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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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units. A church is located to the south.

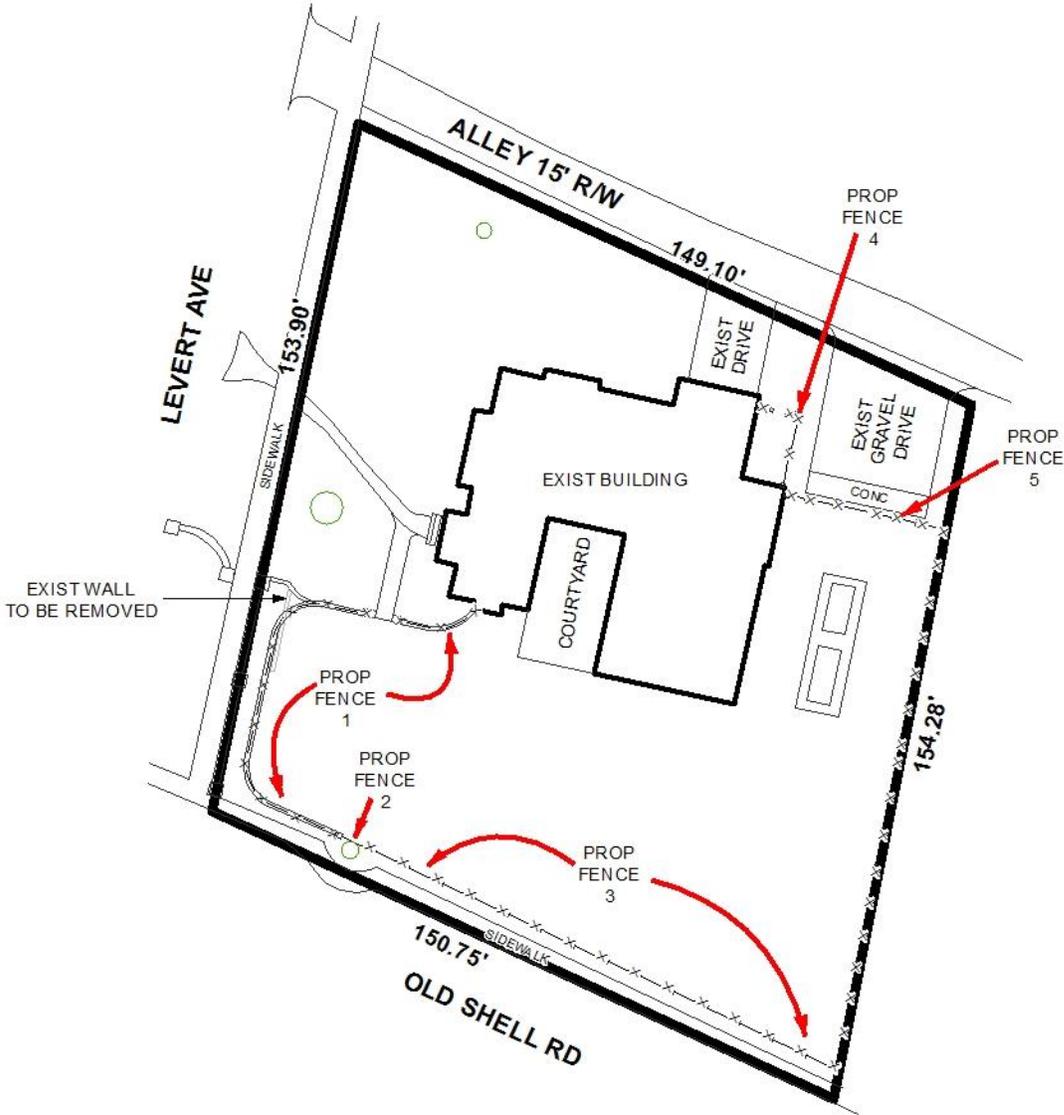
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SITE PLAN

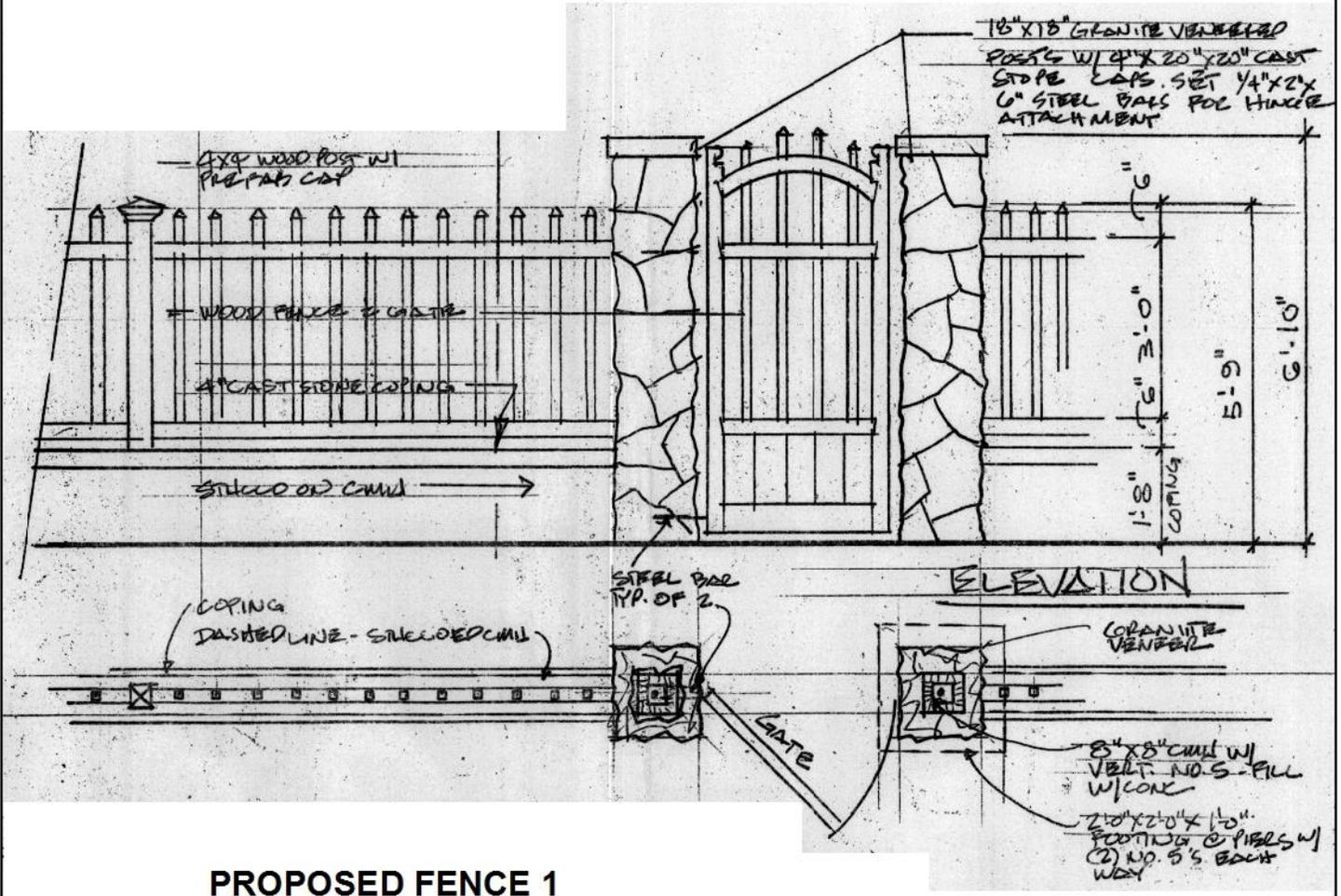


The site plan illustrates the existing building, existing drives, and proposed fence locations.

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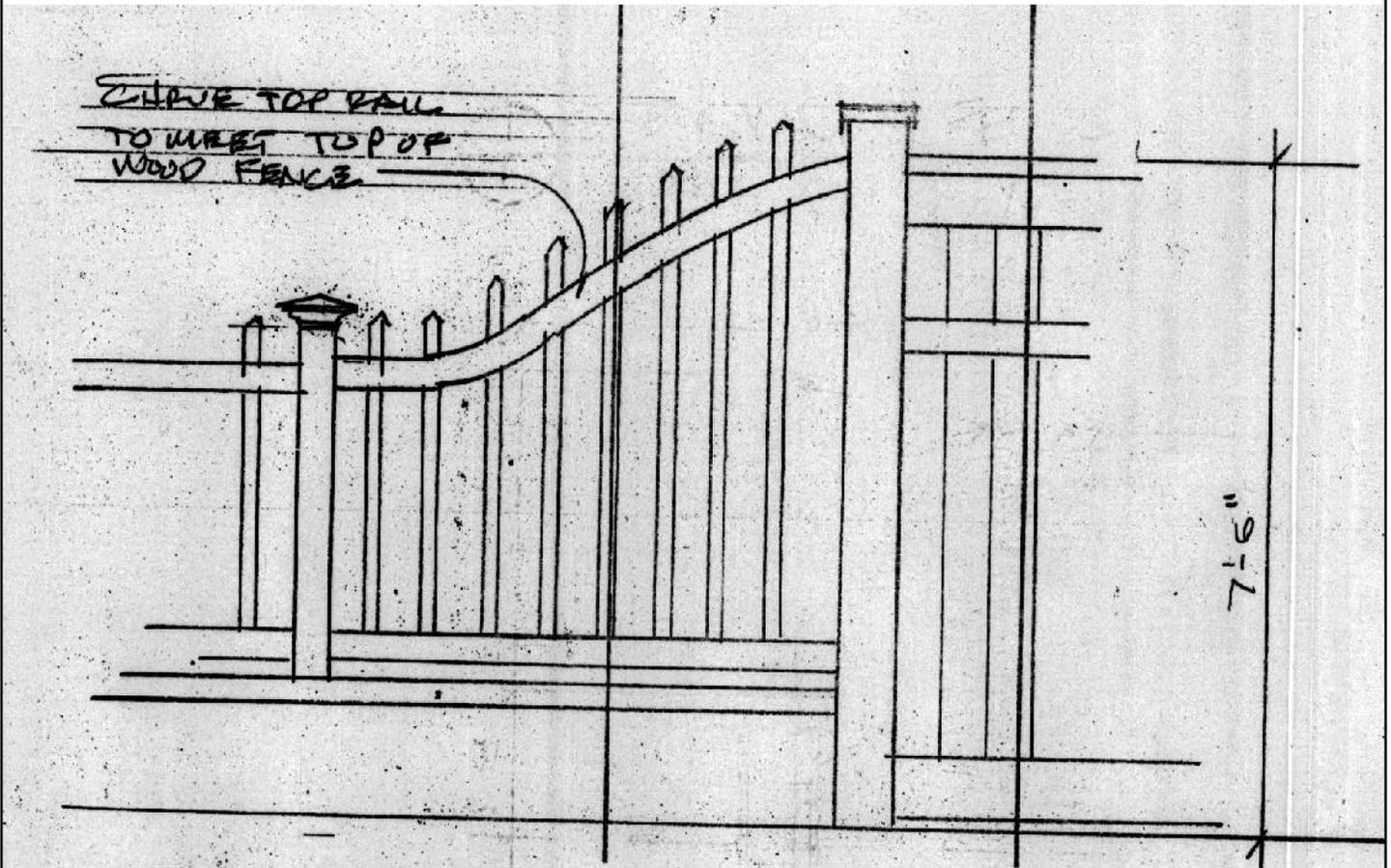
DETAIL SITE PLAN



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DETAIL SITE PLAN

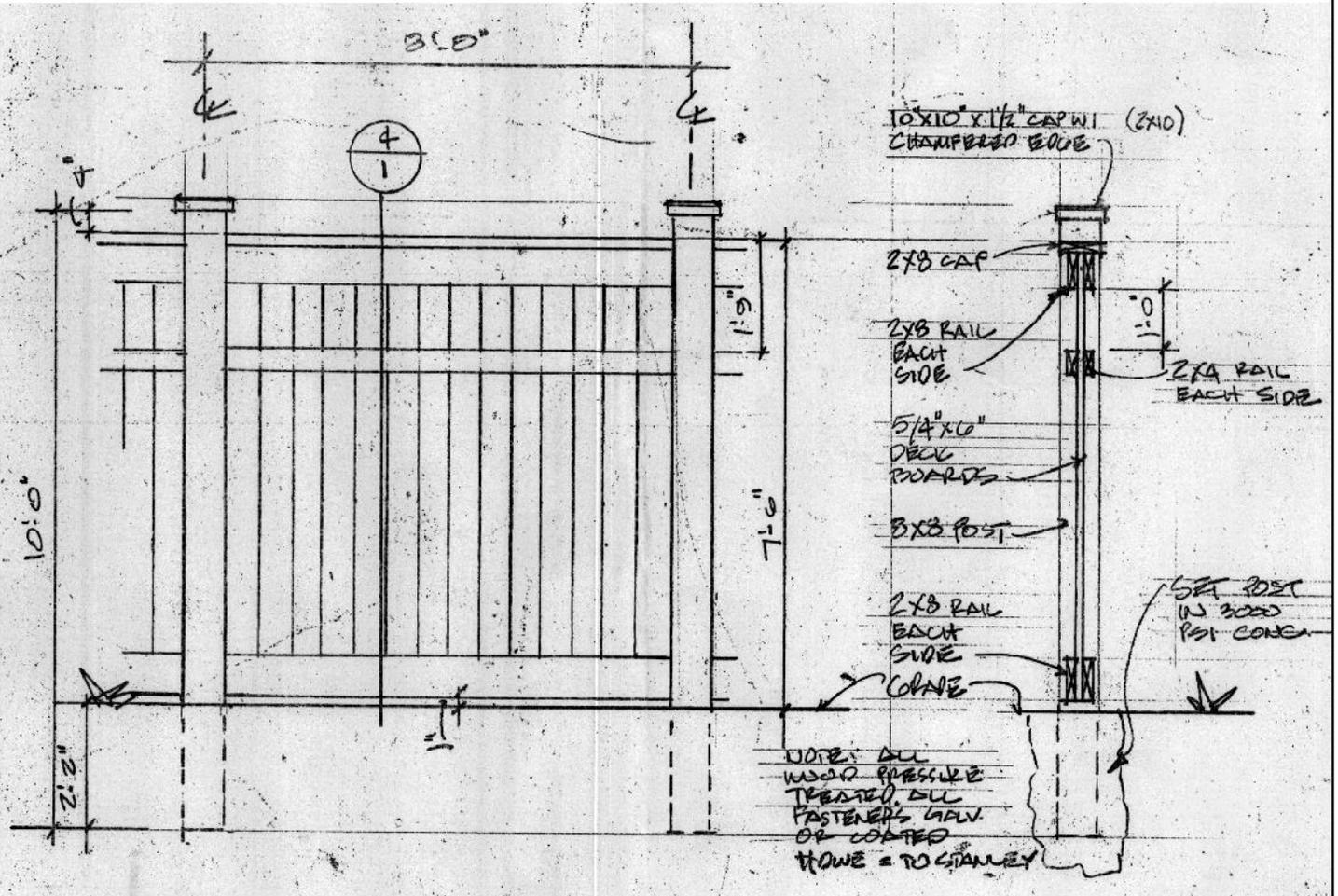


PROPOSED FENCE 2

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DETAIL SITE PLAN

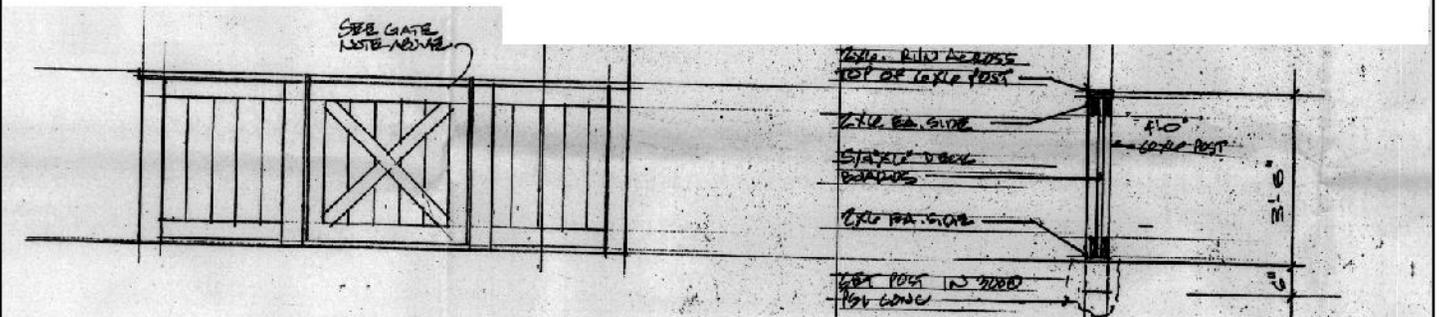


PROPOSED FENCE 3

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DETAIL SITE PLAN

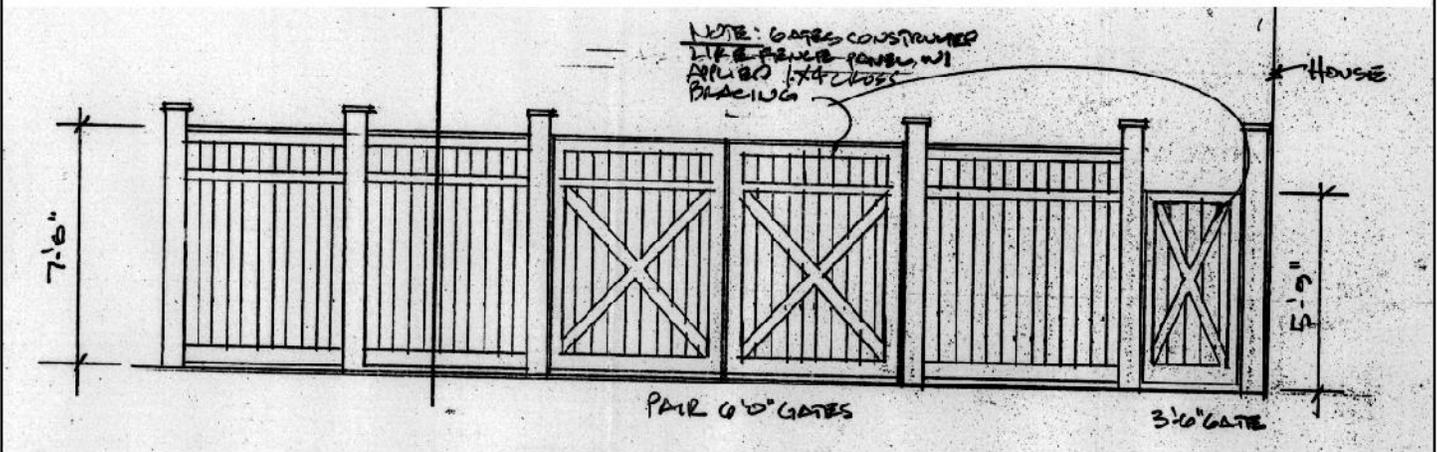


PROPOSED FENCE 4

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DETAIL SITE PLAN



PROPOSED FENCE 5

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