



## ZBOA Agenda Item # 6

JUNE 6, 2017

### Variance Request by Kenneth & Deborah Anderson File #: APP-2017-03

Kenneth and Deborah Anderson are requesting a Variance to LDR Section 214-1, Table 2, as it pertains to the front yard setbacks in an M-1 district. The subject property is located at 1306 Cypress Street. The parcel consists of 0.16 acres, containing (at the time of this writing) a house damaged by fire. The applicants have a demolition permit to remove the structure. It is zoned M-1, Wholesale/Light Industrial District. The applicant is proposing to demolish the existing damaged house and replace it with a house of the same size (40'x28'). M-1 zoning districts have a front yard setback of 40 feet. The applicants are proposing a front yard setback of 9 feet, therefore requesting a variance of 31 feet. (Single-family houses are not allowed in M-1 zoning. This variance application is running concurrently with a PELUC application to allow the house in an industrial zoning district.)

Section 214-1, Table 2 of the LDR requires a front yard setback of 40 feet. The applicant wants to build the house back in the same location as the damaged house, which complies with all setbacks except for the front yard setback. (The applicant is leaving the pillars and floor until a decision is made by ZBOA but would like to pour a new slab.) Not only did the damaged house sit closer than 40 feet to the front property line (at 9 feet), but residentially zoned properties generally afford less restrictive front yard setbacks than do industrially zoned districts. For houses without garages, the front yard setbacks range from 15 feet to 35 feet depending on zoning district.

Variations are intended to give relief in situations beyond design's control, such as a topographical challenge like a gully. The situation is created by the current zoning of the property, and by the setback requirements of that particular M-1 zoning district for a use that is much less intense (a single-family residence) than the industrial-type uses that require more intensive setbacks. The house existed prior to zoning, and became nonconforming when the M-1 zoning was placed on the property. It was not an issue until the house burned beyond use, necessitating its demolition and therefore the PELUC and Variance. Staff understands the situation and recommends approval of the request, so long as it is for the replacement single-family residence only. Such a Variance approval should not be applicable to any future redevelopment of this property for M-1 type uses.

**Staff Recommendation:** Find consistent with the Variance Review Criteria and approve the request for replacement of the single-family residence only.

## **Variance Review Criteria**

The following criteria shall be applied in evaluating and deciding any application for a Variance. No application for a Variance shall be granted by the Zoning Board of Appeals unless satisfactory provisions and arrangements have been made concerning each of the following criteria, all of which are applicable to each application.

<b>(1) The need for the variance arises from a condition that is unique and peculiar to the land, structures, and buildings involved.</b>	
<b>Applicant:</b>	We had a house fire. Our property is within an industrial area. We have a hard time with the restrictive setbacks.
<b>Staff:</b>	The front yard setback for industrially-zoned properties is more restrictive than most residential properties.
<b>(2) The variance is necessary because the particular physical surroundings, the size, shape or topographical conditions of the specific property involved would result in unnecessary hardship for the owner, lessee or occupants; as distinguished for a mere inconvenience, if the provisions of the LDR are literally enforced.</b>	
<b>Applicant:</b>	It is a small lot.
<b>Staff:</b>	The parcel is smaller for an industrially-zoned lot.
<b>(3) The condition requiring the requested relief is not ordinarily found in properties of the same zoning district as the subject property.</b>	
<b>Applicant:</b>	We are working with a smaller lot.
<b>Staff:</b>	The parcel is smaller than most industrially-zoned lots.
<b>(4) The condition is created by the regulations of Title 2 of the LDR and not by an action or actions of the property owner or the applicant.</b>	
<b>Applicant:</b>	It was created by the LDR.
<b>Staff:</b>	Yes. It was created by the LDR.
<b>(5) The granting of the variance will not impair or injure other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, create a hazard to air navigation, endanger the public safety or substantially diminish or impair property values within the neighborhood.</b>	
<b>Applicant:</b>	No.
<b>Staff:</b>	There will be little to no impact on the adjacent properties.
<b>(6) The variance requested is the minimum variance that will make possible the reasonable use of the land, building, or structures.</b>	
<b>Applicant:</b>	Yes.
<b>Staff:</b>	Yes. The variance requested is minimal.
<b>(7) The requested variance will not be inconsistent with the general spirit and intent of the LDR or the purpose and intent of the Comprehensive Plan.</b>	
<b>Applicant:</b>	It will continue the use.
<b>Staff:</b>	Yes. The requested variance is consistent with the general spirit and intent of the LDR and the purpose and intent of the Comprehensive Plan.

**Relevant Development Standards in the LDR that are “Significant” to the Proposal**

<b>Zoning District</b>	<b>Min. Lot Size (square feet)</b>	<b>Max. Dwelling Unit Density per Acre</b>	<b>Max. Building Height (feet)</b>	<b>Min. Lot Width (feet)</b>	<b>Min. Front Setback <sup>1,6</sup> (feet)</b>	<b>Min. Side Setback <sup>1,2,6</sup> (feet)</b>	<b>Min. Rear Setback <sup>1</sup> (feet)</b>	<b>Max. % Impervious Surface <sup>4</sup></b>
M-1	4,000	n/a	None <sup>3</sup>	60	40	0 / 20 25 / 40	12 50	75

**Staff Review Comments:**

**Engineering Department:** No comments.

**Fire Department:** No comments.

**Plan Review:** No comments.

**Public Works:** No comments.

**Utilities:** No comments.

**Landscape:** No comments.

**Historic Preservation:** This property is not within the Local Historic District or an Overlay District and therefore requires no further review from this Department.

**Police:** No comments.

**Attachments:**

- Zoning Location Map
- Aerial Map
- Site Plan



Kenneth and Deborah Anderson  
PELUC & Variance Request

1306 Cypress St  
Tax Map: 0157A Parcel: 032



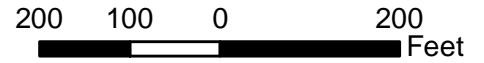
\*\* Map Data Source: VALOR GIS, May 2017



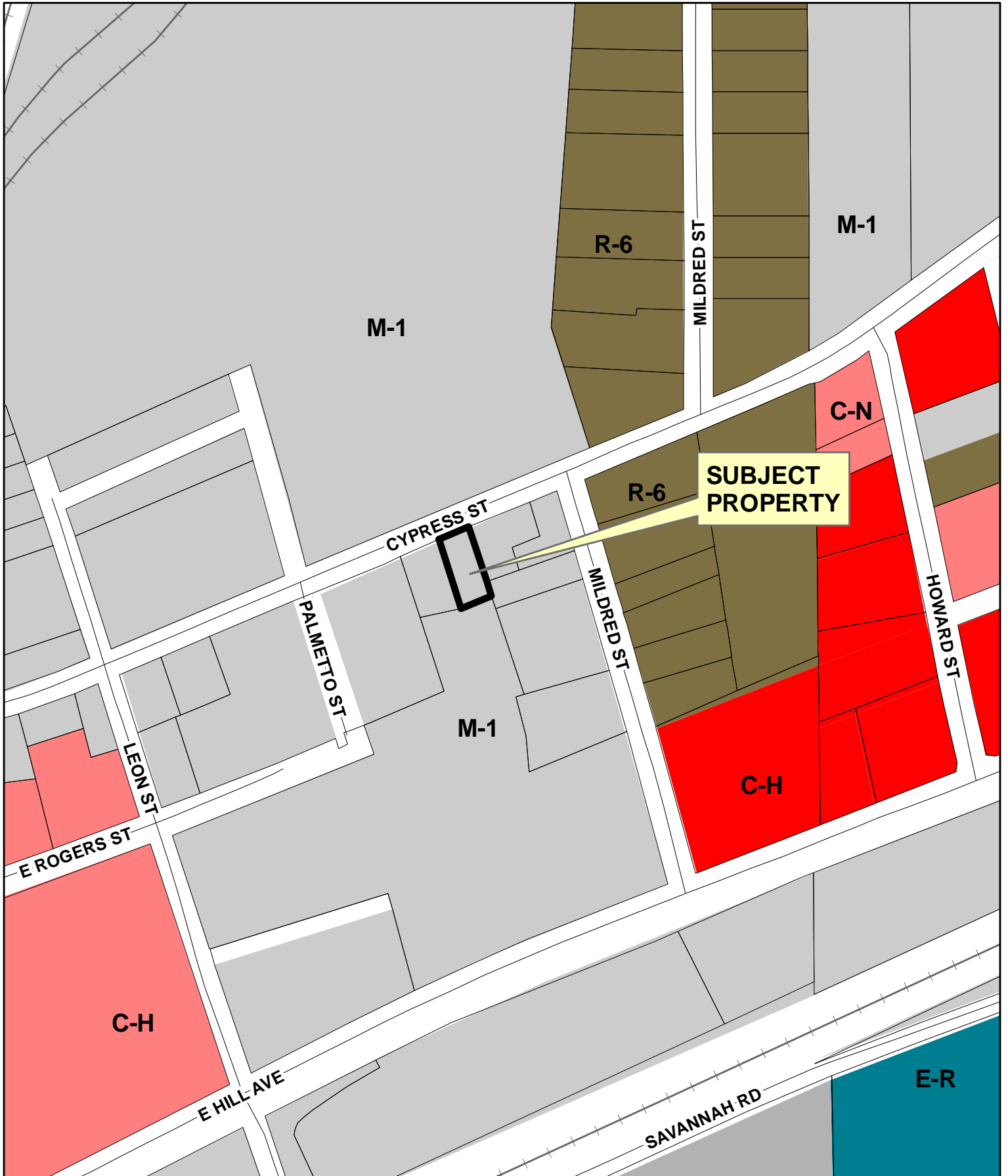


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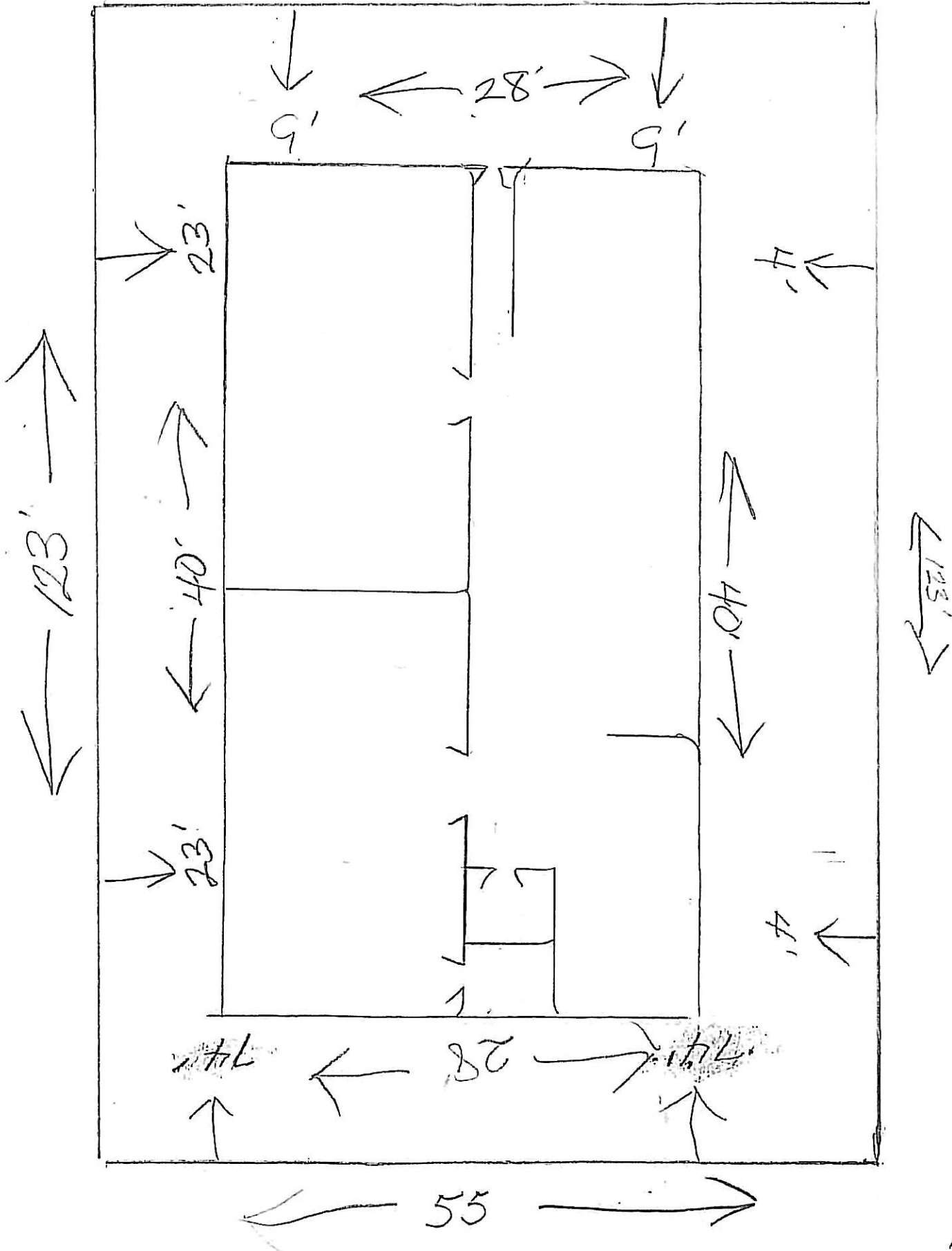


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Cypress Street

55



BF  
23 WA1  
Kenny A