

# **HOLDOVER**

APPLICATION NUMBER

**5433**

A REQUEST FOR

**SIDE AND REAR YARD SETBACK VARIANCES TO  
ALLOW THE CONSTRUCTION OF A CARPORT 0.5' OFF  
A SIDE PROPERTY LINE AND 2.0' OFF A REAR  
PROPERTY LINE ON A 70'-WIDE LOT IN AN R-1,  
SINGLE-FAMILY RESIDENTIAL DISTRICT; AN 8'  
MINIMUM SIDE YARD SETBACK AND AN 8' REAR  
SETBACK ARE REQUIRED ON A 70'-WIDE LOT IN AN  
R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

**951 LINLEN AVENUE**

(East side of Linlen Avenue, 400'± North of Chandler Street)

APPLICANT/OWNER

**NORMAN R. HIGGINS, JR.**

AGENT

**NORMAN R. HIGGINS, JR.**

**BOARD OF ZONING ADJUSTMENT**

DECEMBER 2007

# **HOLDOVER**

## **ANALYSIS APPLICATION 5433**

**Date: December 3, 2007**

The applicant is requesting Side and Rear Yard Setback Variances to allow the construction of a carport 0.5' off a side property line and 2.0' off a rear property line on a 70'-wide lot in an R-1, Single-Family Residential District; an 8' minimum side yard setback and an 8' rear setback are required on a 70'-wide lot in an R-1, Single-Family Residential District.

The applicant constructed the subject structure without a building permit which would have depicted the required side and rear setbacks. A citizen complaint was filed and a Zoning Inspector issued a Notice of Violation to either remove the structure or seek a variance, hence this application. It is stated by the applicant that the carport/patio cover was constructed in October, 2006, to cover a boat, is open on all four sides, and is better than many observed in the Pinehurst neighborhood.

No basis for hardship was submitted which would have prevented the applicant from designing and constructing the structure to meet the required property line setbacks. With prior coordination on required building setbacks, a suitably located and sized structure could have been designed and built. The subject site is wider than typical lots in the area due to the inclusion of a portion of vacated right-of-way along the North side where the carport is constructed. This increases the property width to 70', 10' wider than the standard 60' upon which the 8' side yard setback is based. Typically, the Board has been sympathetic in granting variances where hardships have been shown to be imposed by a property or when an addition is "in-line" with an existing structure and/or a minimum setback of 5' is provided. However, a 0.5' setback off a side property line, and a 2.0' setback off a rear property line are inordinate requests. Three of the primary concerns relating to side and rear setbacks are the potential for the spread of fire from one property to another, water run-off onto adjacent properties, and the ability to properly maintain the proposed structure. In this instance, all three of those concerns would be applicable and genuine.

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

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.

## **HOLDOVER**

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to retain a carport constructed without permits 0.5' off the side property line and 2.0' off the rear property line.

This application was heldover from the Board's October meeting to allow the applicant to contact the property owner to the North to acquire a portion of the vacated right-of-way to allow the applicant to meet the side yard setbacks. No information has been received by the staff concerning any progress by the applicant in acquiring a portion of the vacated right-of-way; therefore, no conditions of the original analysis have changed.

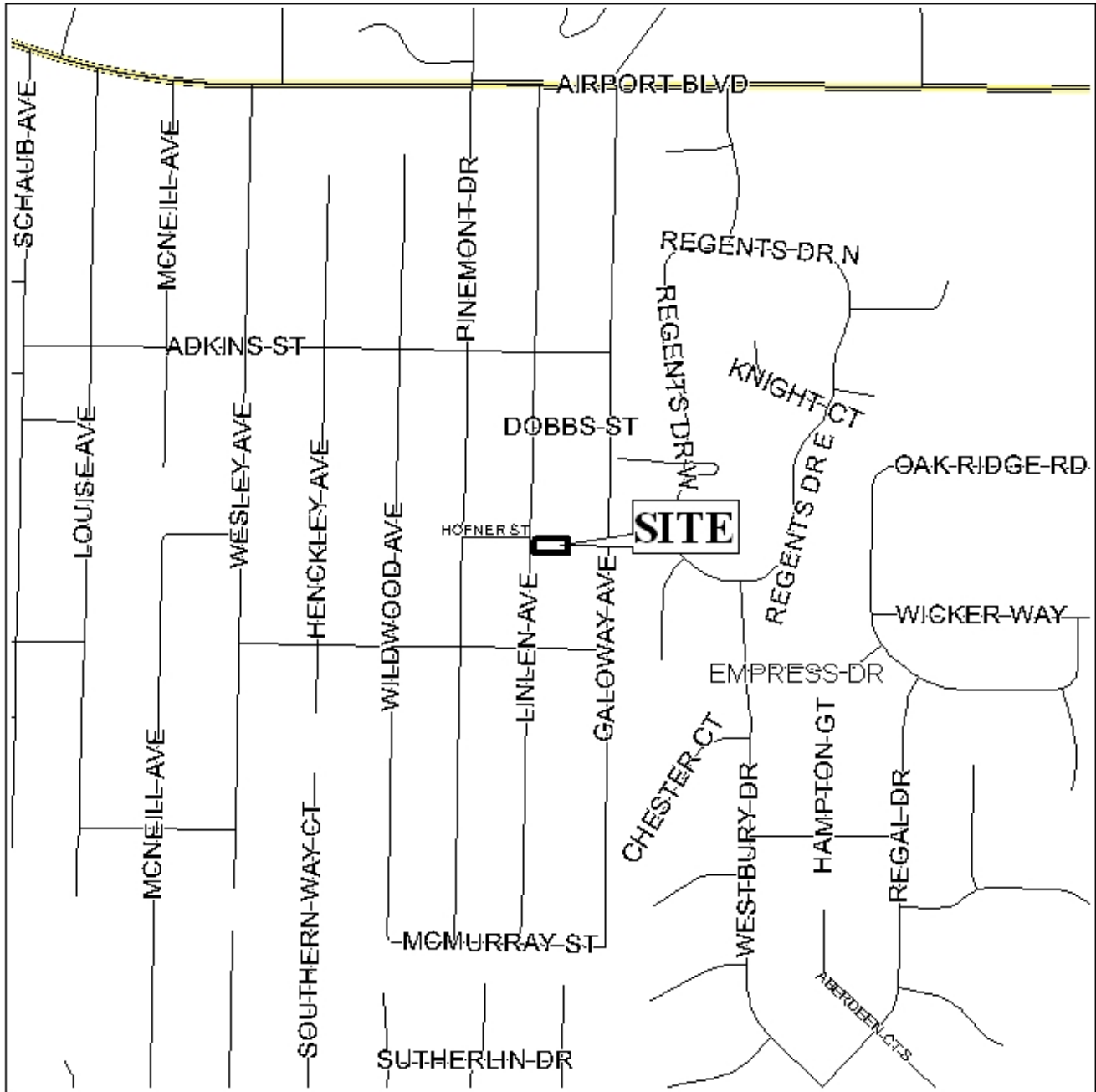
# **HOLDOVER**

**RECOMMENDATION 5433**

**Date: December 3, 2007**

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

# LOCATOR MAP



APPLICATION NUMBER 5433 DATE December 3, 2007

APPLICANT Norman R. Higgins, Jr.

REQUEST Side, Rear Yard Setback Variance



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential land use

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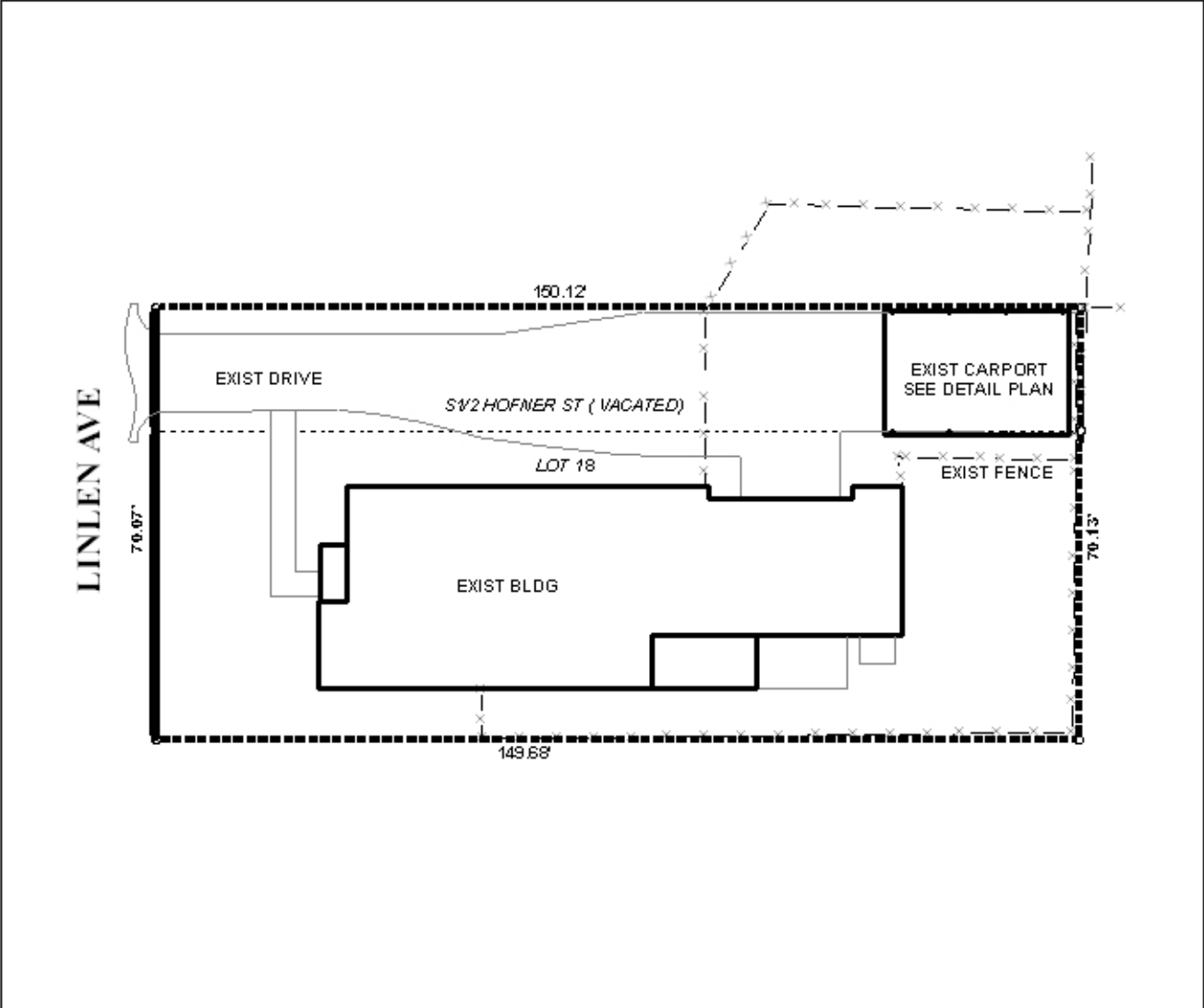
APPLICANT Norman R. Higgins, Jr.

REQUEST Side, Rear Yard Setback Variance

LEGEND  R-1  R-2  R-3  R-A  R-B  H-B  T-B  B-1  LB-2  B-2  B-3  B-4  B-5  I-1  I-2 NTS




## SITE PLAN




The site plan illustrates the existing residence, carport, drive, and fencing


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
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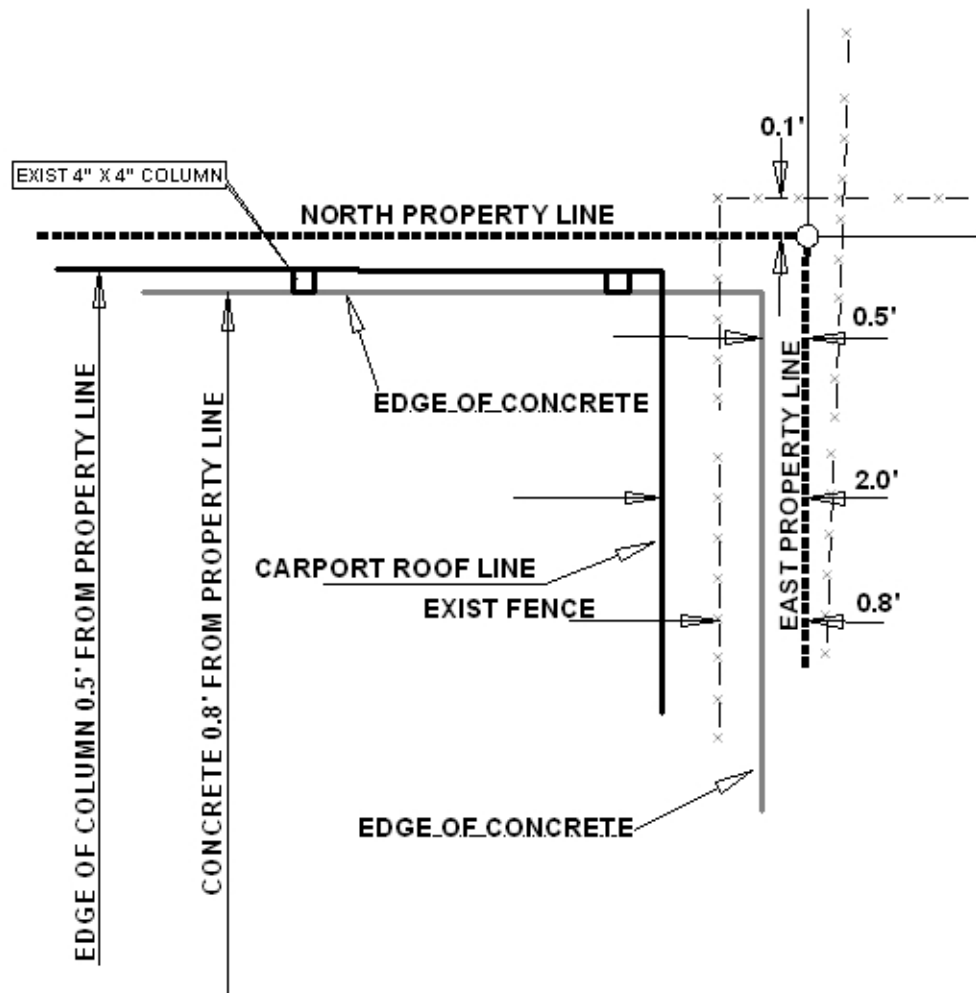
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## DETAIL SITE PLAN



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NTS