

APPLICATION NUMBER

5419/5412

A REQUEST FOR

**REAR AND SIDE YARD SETBACK VARIANCES TO
ALLOW A 16.6' X 19.0' STORAGE COTTAGE SETBACK
0.1' OFF THE REAR (EAST) PROPERTY LINE AND 0.25'
OFF THE SIDE (SOUTH) PROPERTY LINE IN AN R-B,
RESIDENTIAL-BUSINESS DISTRICT; THE ZONING
ORDINANCE REQUIRES A ZERO OR 5'+ REAR AND
SIDE YARD SETBACK IN AN R-B, RESIDENTIAL-
BUSINESS DISTRICT.**

LOCATED AT

312 NORTH CONCEPTION STREET

(East side of North Conception Street, 65' ± South of Adams Street)

APPLICANT/AGENT/OWNER

HELEAN I. SHATTO

BOARD OF ZONING ADJUSTMENT

JUNE 2007

The applicant is requesting Rear and Side Yard Setback Variances to allow a 16.6' x 19.0' storage cottage setback 0.1' off the rear (East) property line and 0.25' off the side (South) property line in an R-B, Residential-Business District; the Zoning Ordinance requires a zero or 5'+ rear and side yard setback in an R-B, Residential-Business District.

This request was part of a request also seeking a use and parking variance which was heard and denied at the April Board meeting. Since this request is for only the setback variance portion of the previous request, it can be reheard as a separate request within the normal six-month waiting period following the initial variance hearing.

In September 2006, a Building Inspections investigation found construction work being conducted without permits for the subject structure, and an associated zoning investigation discovered property line setbacks not met on the structure. The applicant was given ten days to comply with the setbacks. A building permit was obtained with approved setbacks of 5' on the rear and zero on the side property lines. The applicant failed to relocate the structure to the permitted setbacks, and a citation was issued. The applicant subsequently applied for the setback variance, among others, and was denied at the April meeting. No appeal to the Board's decision was filed, but the structure still was not relocated to comply with the approved setbacks of the permit. Now the applicant requests to be allowed to retain the structure in its current location stating that this is necessary due to the hardship and extreme expense involved to try to move it to meet setback requirements.

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.

If a building permit had been applied for before construction of the cottage had begun, and had the allowed setbacks been adhered to on such permit, the applicant would not have the current setback issues. The applicant's contention that this variance is necessary due to the hardship and extreme expense to try to move the cottage to the required setbacks has no validity under the Ordinance for two reasons. First, any hardship imposed is not due to the property but the applicant's failure to originally obtain a building permit and coordinate setbacks, and thus would be self-imposed; and, economic loss as the sole basis for an application cannot be considered.

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.

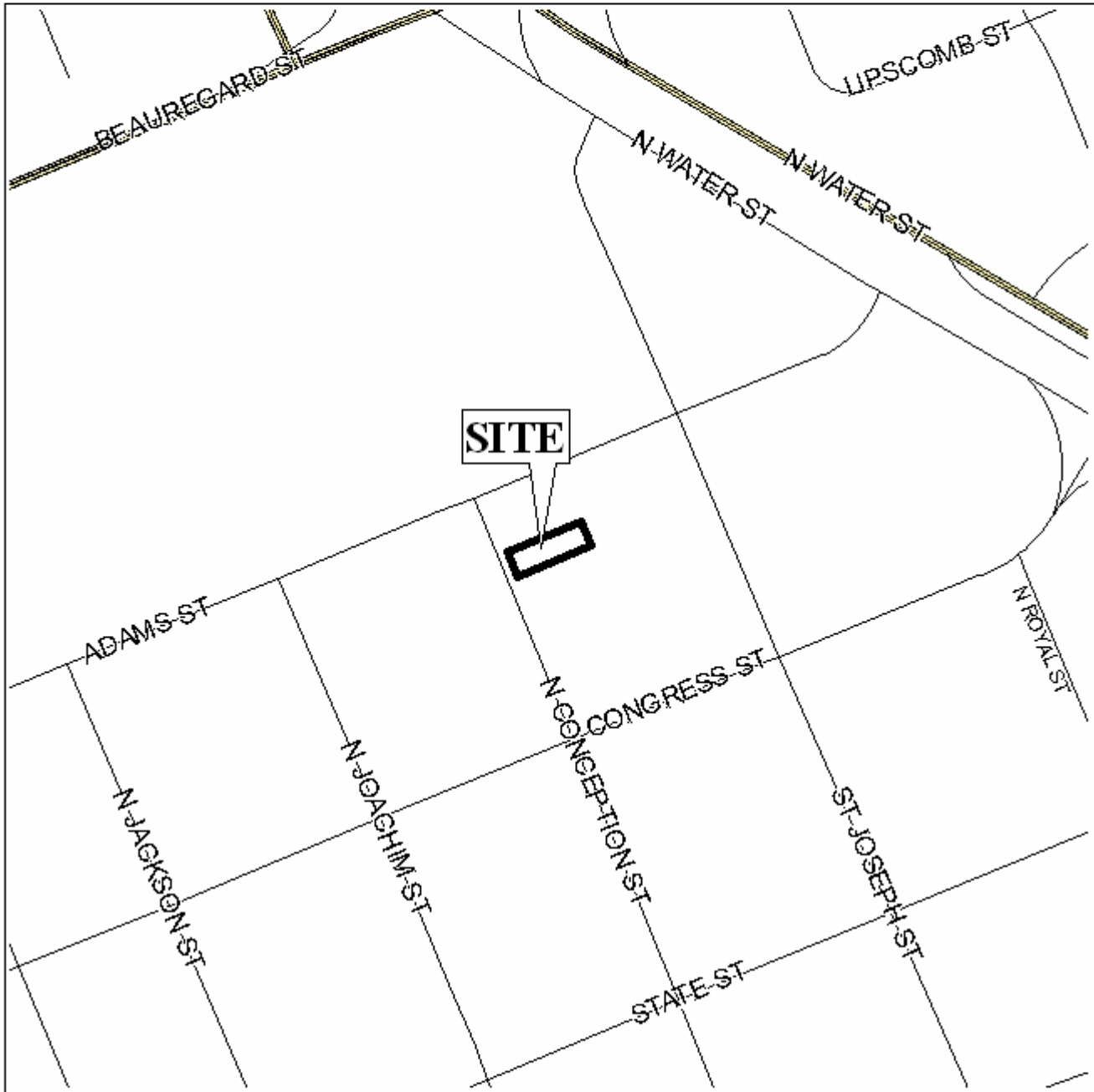
The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to retain the setback 0.1' off the rear property line and 0.25' off the side property line.

RECOMMENDATION 5419/5412

Date: June 4, 2007

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

LOCATOR MAP



APPLICATION NUMBER 5419/5412 DATE June 4, 2007

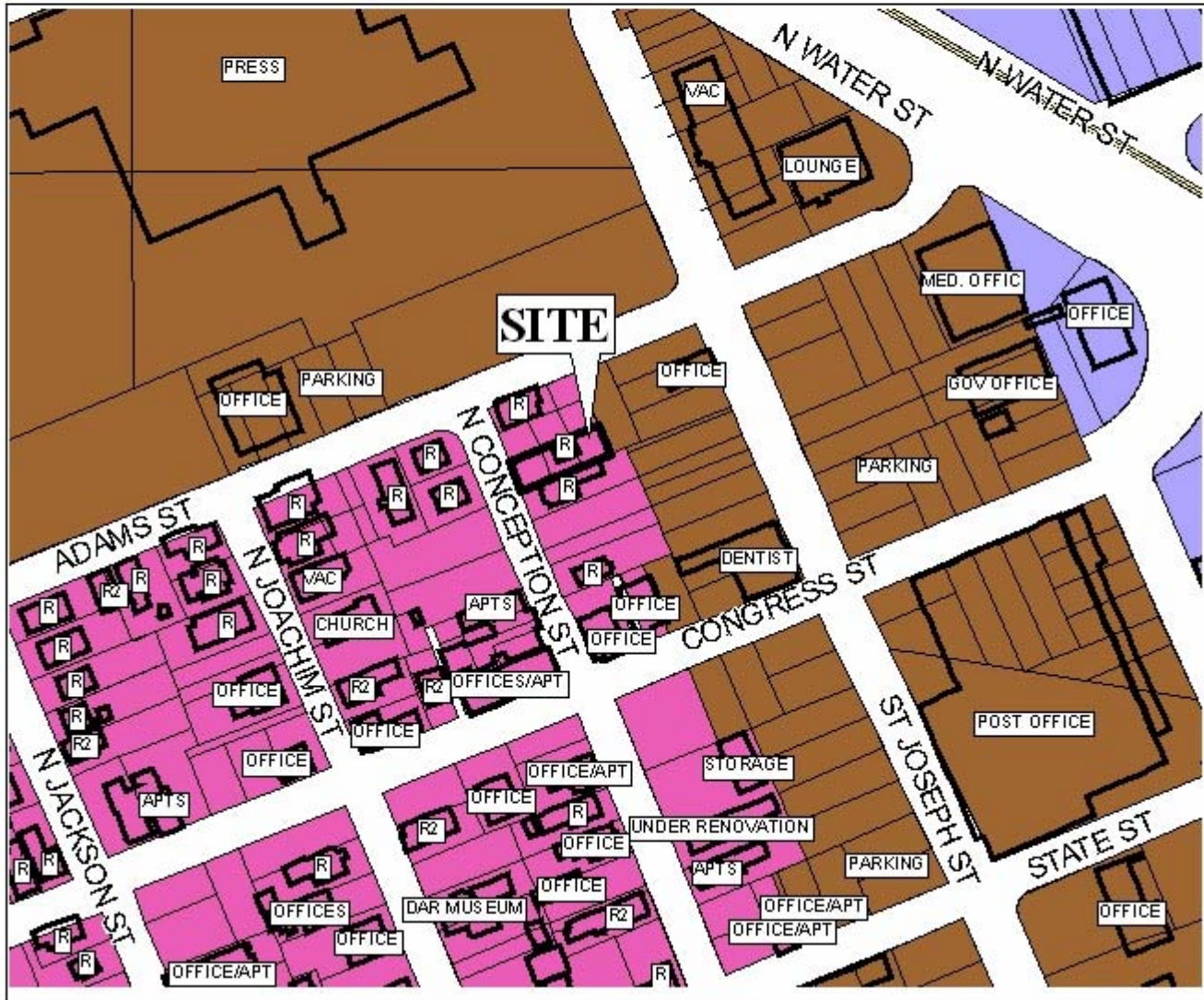
APPLICANT Helean I. Shatto

REQUEST Rear and Side Yard Setback Variances



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



There are offices to the east of the site, two single family residential units and offices to the south, single family residential units to the west, and the Mobile Press Register building is to the north.

APPLICATION NUMBER 5419/5412 DATE June 4, 2007

APPLICANT Helean I. Shatto

REQUEST Rear and Side Yard Setback Variances

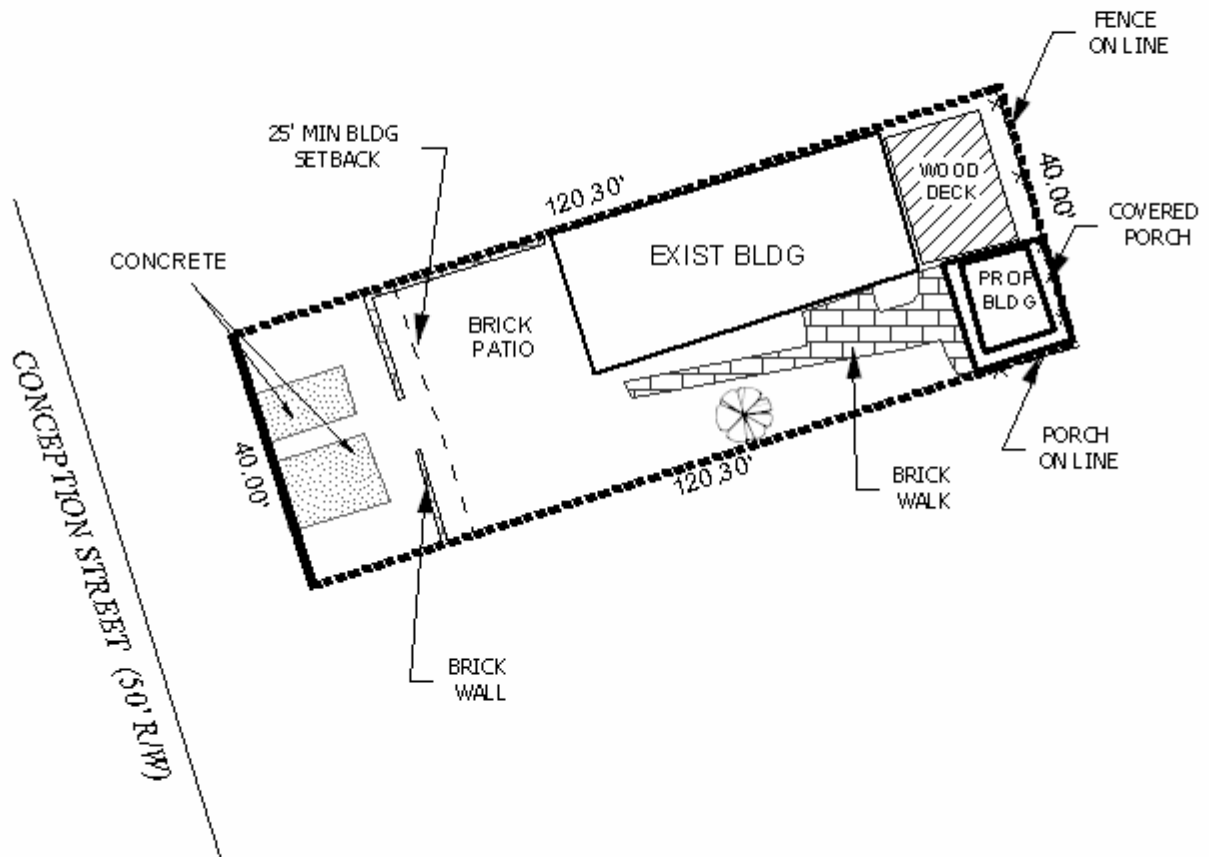
LEGEND

R-1	R-2	R-3	R-A	R-B	H-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 proposed building, existing building, minimum building setback, and patio.

APPLICATION NUMBER 5419/5412 DATE June 4, 2007

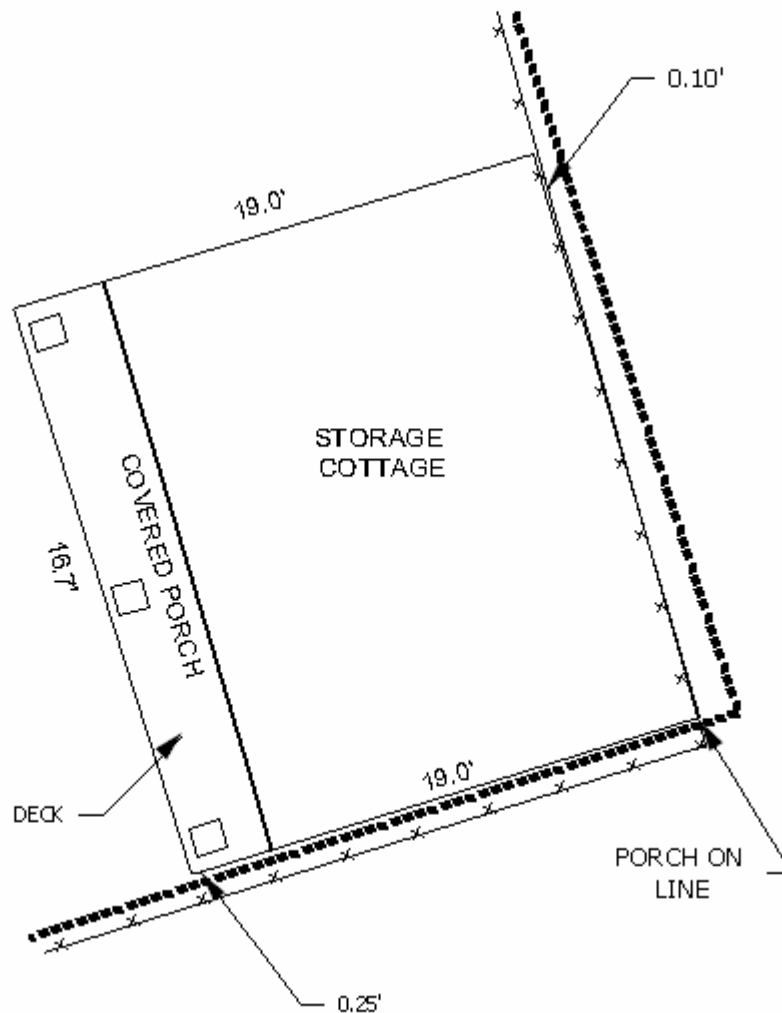
APPLICANT Helean I. Shatto

REQUEST Rear and Side Yard Setback Variances



NTS

DETAIL SITE PLAN



APPLICATION NUMBER 5419/5412 DATE June 4, 2007

APPLICANT Helean I. Shatto

REQUEST Rear and Side Yard Setback Variances



NTS