

APPLICATION NUMBER

5572

A REQUEST FOR

**VEHICULAR ACCESS VARIANCE TO ALLOW THE
CONSTRUCTION OF A 16' WIDE DRIVE IN A
TRADITIONAL CENTER DISTRICT; THE ZONING
ORDINANCE REQUIRES A MINIMUM ACCESS WIDTH
OF 24' FOR DEVELOPMENTS INVOKING THE
TRADITIONAL CENTER DISTRICT OVERLAY**

LOCATED AT

East side of North McGregor Avenue, 170' South of Springhill Avenue

APPLICANT / OWNER

JEFF QUINNELLY

BOARD OF ZONING ADJUSTMENT

NOVEMBER 2009

The applicant is requesting a Vehicular Access Variance to allow the construction of a 16' wide drive in a Traditional Center District; the Zoning Ordinance requires a minimum access width of 24' for commercial developments.

The applicant states that the subject site is only 49' in width due to its subdivision prior to the 1952 adoption of the Subdivision Regulations, which is also prior to the adoption of the Zoning Ordinance. The applicant argues that this narrow lot width presents a unique hardship on the property, making compliance with the required 24' wide drive "nearly impossible," especially with the proposed building located on the front property line. The applicant feels that 16' is the maximum width that will allow suitable development of the property. This, along with a zero lot line, will yield a building 32' in width at most; thus, if the proposed office building (in compliance with standard firewalls and ADA building requirements) contains a standard 5' wide center hallway, offices on either side will be approximately 12' in depth. This is the minimum commercially viable office depth.

The applicant further states that the planned office use is approximately 2,200 square feet and will be serviced by six parking spaces in the rear. Use of the drive will be minimal and would not be required to reach the building in case of fire (due to location of the building on front property line).

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.

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.

It should be noted that the applicant has invoked the Traditional Center District Overlay, which is intended to enable and encourage traditional, walk-able village and neighborhood centers, bringing a balance between vehicular and pedestrian-oriented design. In doing so, the TCD affords significant relief from the existing Ordinance including, but not limited to, zero front and side yard setbacks. Therefore, with regard to the applicant's request, asking for further relief seems excessive, especially since it appears that the site could be developed accordingly to existing B-2, Neighborhood Business District regulations. By locating the proposed office building in the Northeast

corner of the site, the applicant could provide the necessary 24' wide curb cut with parking in the front, as well as required buffering and landscaping; no variance would be needed.

It should also be noted that North McGregor Avenue is part of the Inner Ring Road Thoroughfare of the Major Street Plan; this section is required to have a minimum 80' right-of-way. The subject area of McGregor Avenue currently has a right-of-way approximately 40' in width. However, research by staff indicates that if the proposed major street is ever constructed, all dedication will be from the West side of this section of North McGregor Avenue.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. Any perceived hardship would be based on the applicant's choice to develop a substandard lot under the Traditional Center District overlay, as the site could easily comply with current regulations.

RECOMMENDATION 5572

Date: November 2, 2009

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

LOCATOR MAP



APPLICATION NUMBER 5572 DATE November 2, 2009

APPLICANT Jeff Quinnelly

REQUEST Vehicle Access Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land use with commercial land use to the north.

APPLICATION NUMBER 5572 DATE November 2, 2009

APPLICANT Jeff Quinnelly

REQUEST Vehicular Access 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
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**BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING**



This site is surrounded by residential land use with commercial land use to the north.

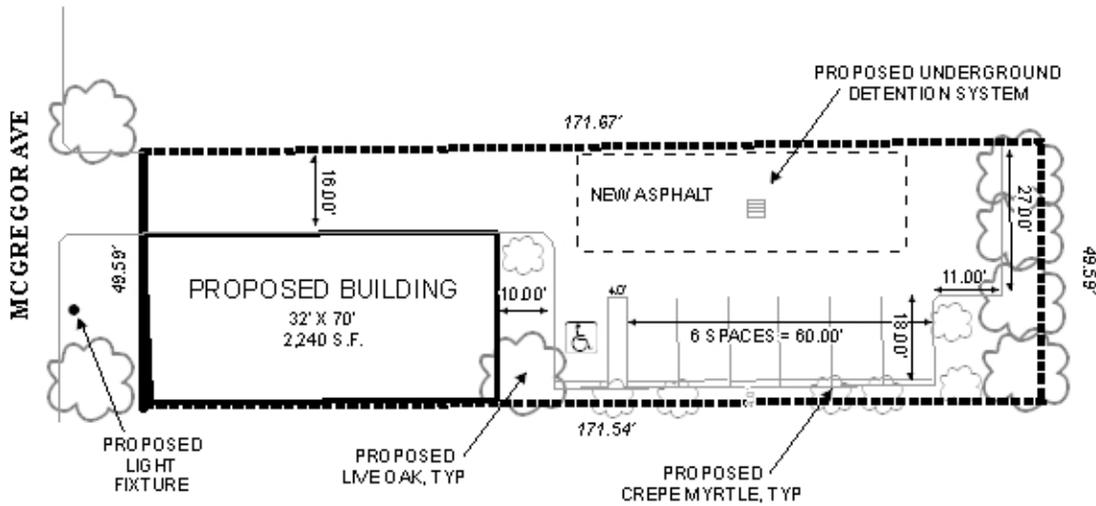
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SITE PLAN



This site plan illustrates the proposed building with associated parking and drive.

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