APPLICATION NUMBER

5597

A REQUEST FOR

REAR YARD SETBACK VARIANCE TO ALLOW THE CONSTRUCTION OF A RAISED BRICK TERRACE WITH ENCLOSED STORAGE ROOM AND STAIRS WITHIN 5' OF THE REAR PROPERTY LINE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE ZONING ORDINANCE REQUIRES A MINIMUM   8' REAR YARD SETBACK FOR ALL STRUCTURES IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT.

LOCATED AT

3700 TUTHILL PLACE

(West terminus of Tuthill Place extending to the East side of College Lane [unopened right-of-way])

APPLICANT

W. SELF AND CATHY RADCLIFF

AGENT

PETE J. VALLAS

BOARD OF ZONING ADJUSTMENT

FEBRUARY 2010

The applicant is requesting a Rear Yard Setback Variance to allow the construction of a raised brick terrace with enclosed storage room and stairs within 5' of the rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 8' rear yard setback for all structures in an R-1, Single-Family Residential District.

The applicants purchased the subject property with the existing improvements on the property. Upon commissioning a survey of the property, the applicants found that the existing deck, concrete, and stairway encroached onto the unopened right-of-way of College Lane. The applicants now wish to rectify the encroachment by removing the existing 10-foot high wooden deck and staircase and constructing an 8-foot high, brick terrace, with a storage room below the terrace.

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 survey of the existing situation presented by the applicants shows the existing deck on the property line, and the wooden stairs to the deck encroaching into the right-of-way. The proposed site plan depicts the new brick terrace 6 feet from the property line, and stairs to the terrace top at 5 feet from the property line.

It should be noted that the right-of-way mentioned is a 33-foot wide unopened right-of-way currently occupied by a concrete drainage flume. Given that the right-of-way is inadequate for roadway construction, and that both sides of the right-of-way are developed, it is unlikely that a roadway will ever be constructed here, and thus would mitigate any impacts from the setback encroachment.

Given that this project would rectify an existing encroachment onto city right-of-way and reduce the non-conformity of the existing deck, and the fact that the right-of-way is unopened and unlikely to ever be constructed, a variance to reduce the rear yard requirement may be appropriate.

RECOMMENDATION 5597 Date: February 1, 2010

The variance request is recommended for approval.

LOCATOR MAP

SPRING HILL AVE

MANN DR

SPRING HILL CT

PROVIDENT LN

DALEWOOD DR

BRAWOOD DR

CALDERWOOD DR

PROVIDENT LN

IRENE ST

OAKWOOD LN

DOGWOOD LN

MORDECAI LN

SITE

LONGVIEW LN

TUTHILL LN

TUTHILL PL

DILSTON LN

RIDGEWOOD PL

THE CEDARS

DOGWOOD LN

COLLEGE LN

PROVIDENT LN

DILSTON LN

STEIN AVE

APPLICATION NUMBER ___5597___ DATE __February 1, 2010__

APPLICANT _____Pete J. Vallas_____

REQUEST _____Rear Yard Setback Variance_____

N

NTS

BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING

SITE

TUTHILL LN

TUTHILL PL

COLLEGE LANE (NOT OPEN)

RIDGEWOOD PL

THE CEDARS

The site is surrounded by single family residential units.

APPLICATION NUMBER ___5597___ DATE _February 1, 2010_

APPLICANT _____Pete J. Vallas_____

REQUEST _____Rear Yard Setback Variance_____

N
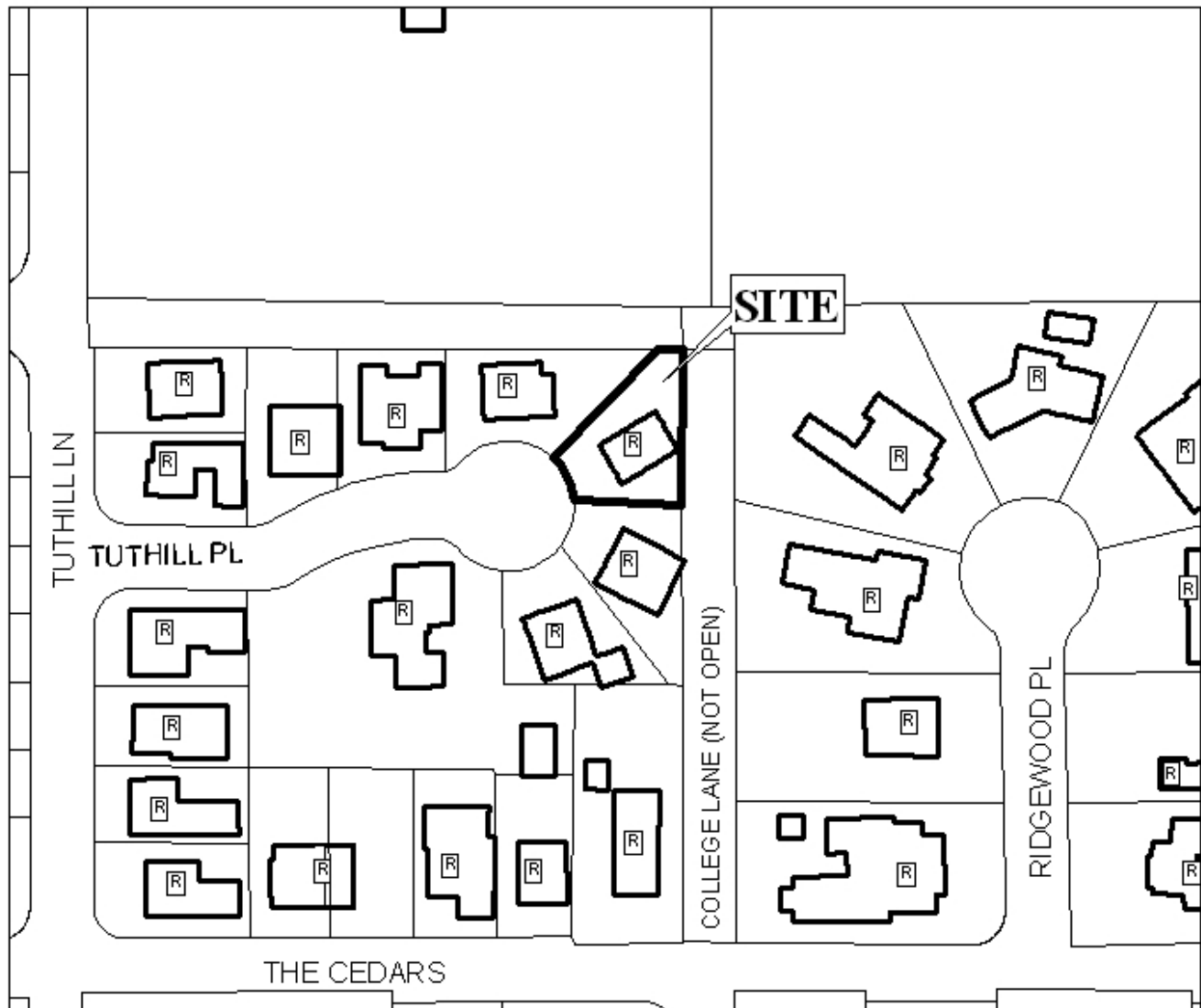
LEGEND

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

BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING

TUTHILL LN

TUTHILL PL

COLLEGE LANE (NOT OPEN)

RIDGEWOOD PL

THE CEDARS

The site is surrounded by single family residential units.

APPLICATION NUMBER _____5597_____ DATE __February 1, 2010__

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N

NTS

SITE PLAN

21.0'

10'

10'

117.91'

SETBACK
LINE

STEPS

PROPOSED
ADDITION

PROPOSED
VARIANCE ADDITION

PROPOSED
PAVING

REMOVED
DECK AREA

STEP

EXISTING

EXISTING PAVING
BELOW

126.37'

COLLEGE LANE (NOT OPEN)

25'-0"

42.62'

TUTHILL PLACE

10'

81.50'
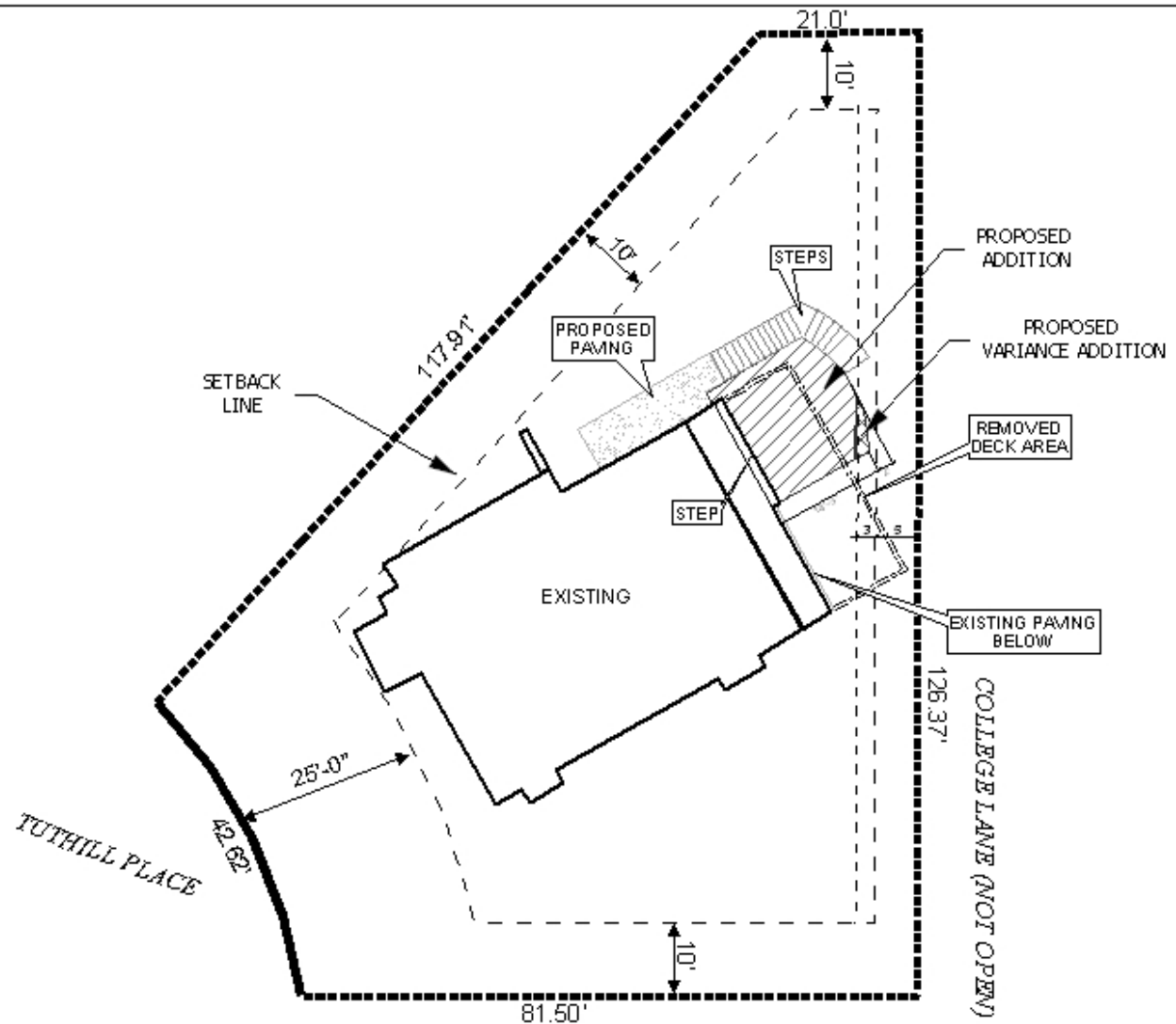
The removed deck area and proposed addition are illustrated in the site plan.

APPLICATION NUMBER ___5597___ DATE __February 1, 2010__

APPLICANT _____Pete J. Vallas_____

REQUEST _____Rear Yard Setback Variance_____

N

NTS