

APPLICATION NUMBER

5412

A REQUEST FOR

**USE, SETBACK, AND PARKING VARIANCES TO ALLOW
A HOME OCCUPATION FOR COURTYARD
WEDDINGS/RECEPTIONS, A 16.7' x 19.0' STORAGE
COTTAGE SETBACK 0.1' OFF A REAR PROPERTY LINE
AND 0.25' OFF A SIDE PROPERTY LINE, AND ON-
STREET PARKING IN AN R-B, RESIDENTIAL-BUSINESS
DISTRICT; A HOME OCCUPATION FOR COURTYARD
WEDDINGS/RECEPTIONS IS NOT ALLOWED, THE
ZONING ORDINANCE REQUIRES A ZERO OR 5'+ REAR
AND SIDE YARD SETBACK, AND ON-SITE PARKING IS
REQUIRED 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/OWNER/AGENT

HELEAN I. SHATTO

BOARD OF ZONING ADJUSTMENT

APRIL 2007

The applicant is requesting Use, Setback, and Parking Variances to allow a home occupation for courtyard weddings/receptions, a 16.7' x 19.0' storage cottage setback 0.1' off a rear property line and 0.25' off a side property line, and on-street parking in an R-B, Residential-Business District; a home occupation for courtyard weddings/receptions is not allowed, the Zoning Ordinance requires a zero or 5'+ rear and side yard setback, and on-site parking is required in an R-B, Residential-Business District.

In March 2005, the applicant applied for a business license for courtyard weddings/receptions as a regular business operation, not as a home occupation business, and the associated Zoning Certification was denied because such activity requires Planning Commission approval in an R-B district. However, the City Revenue Department erroneously issued a business license. In September 2006, a Building Inspections investigation found construction work being conducted without permits for the detached storage cottage, 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 for the structure with approved setbacks of 5' on the rear and zero on the side property lines. The applicant failed to relocate the structure within the given ten days to meet the approved setbacks, and a citation was issued. In March 2007, the applicant was discovered to be conducting a home occupation for courtyard weddings/receptions without a variance and was given ten days to comply, hence this application.

With regard to the use variance request, the applicant states that the functions will be small and intended for intimate settings of ten people or less and will be held during the day or early evening. The home occupation provision of the Ordinance allows customer traffic at a residence for certain types of businesses, mainly personal services such as doctors, lawyers, beauticians, accountants, etc., but the activity is limited to being conducted within the residence, utilizing no more than 25% of the total residence square footage, and not intended for group patronage. In this instance, the activity is intended to be solely outdoors with group patronage. Although the neighborhood is of mixed residential and commercial use, all uses fronting North Conception Street between Congress Street and Adams Street are residential and the proposed use would be uncharacteristic of the neighborhood and against the intent of the home occupation allowances.

With regard to the setback variance request, the after-the-fact building permit was approved with a 5' rear setback and a zero side setback. The applicant states that no allowance was made for the eave projections and that the zero side setback was an oversight. The setback requirements are reduced in historic districts. Normally, a zero setback would require a fire-rated wall for residential use. The 5' setback allows for fire fighting access between a structure and a property line. There are discrepancies between the submitted site plan and the photographs of the cottage. The site plan indicates a

covered porch on the rear and side (South) in question, while the photographs indicate no such porches. If the cottage were to be allowed with a zero setback, the eaves would overhang onto adjacent properties. The only viable alternative, therefore, is to relocate the cottage in such a manner that the rear and South side walls are at least 5' from the respective property lines.

With regard to the on-street parking request, parking requirements within the Hank Aaron Loop are reduced, and wedding/receptions require one space per 300 square feet of gross floor area for indoor activities. If using that same formula for the 82' x 17.5' courtyard area, five on-site compliant parking spaces would be required. Traffic Engineering has conducted an on-site review and determined that weddings/receptions would further limit access for vehicular passage and entail problems for emergency vehicles attempting to enter the area while an event is in progress.

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.

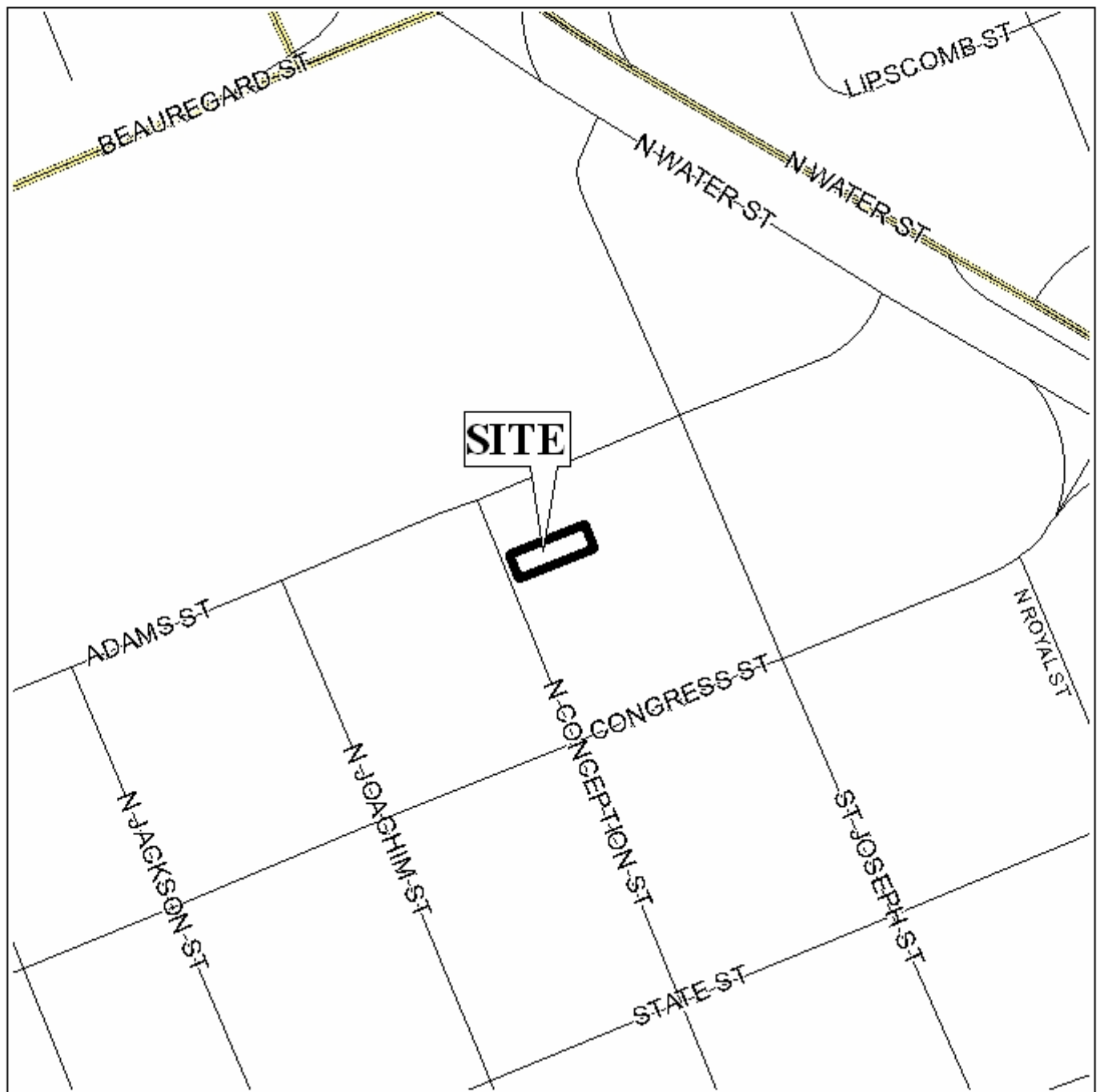
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

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 have a home occupation for weddings/receptions with on-street parking, and retain substandard setbacks on a storage cottage.

RECOMMENDATION 5412**Date: April 2, 2007**

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

LOCATOR MAP



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APPLICANT Helean I Shatto

REQUEST Use, Setback, and Parking Variances



NTS

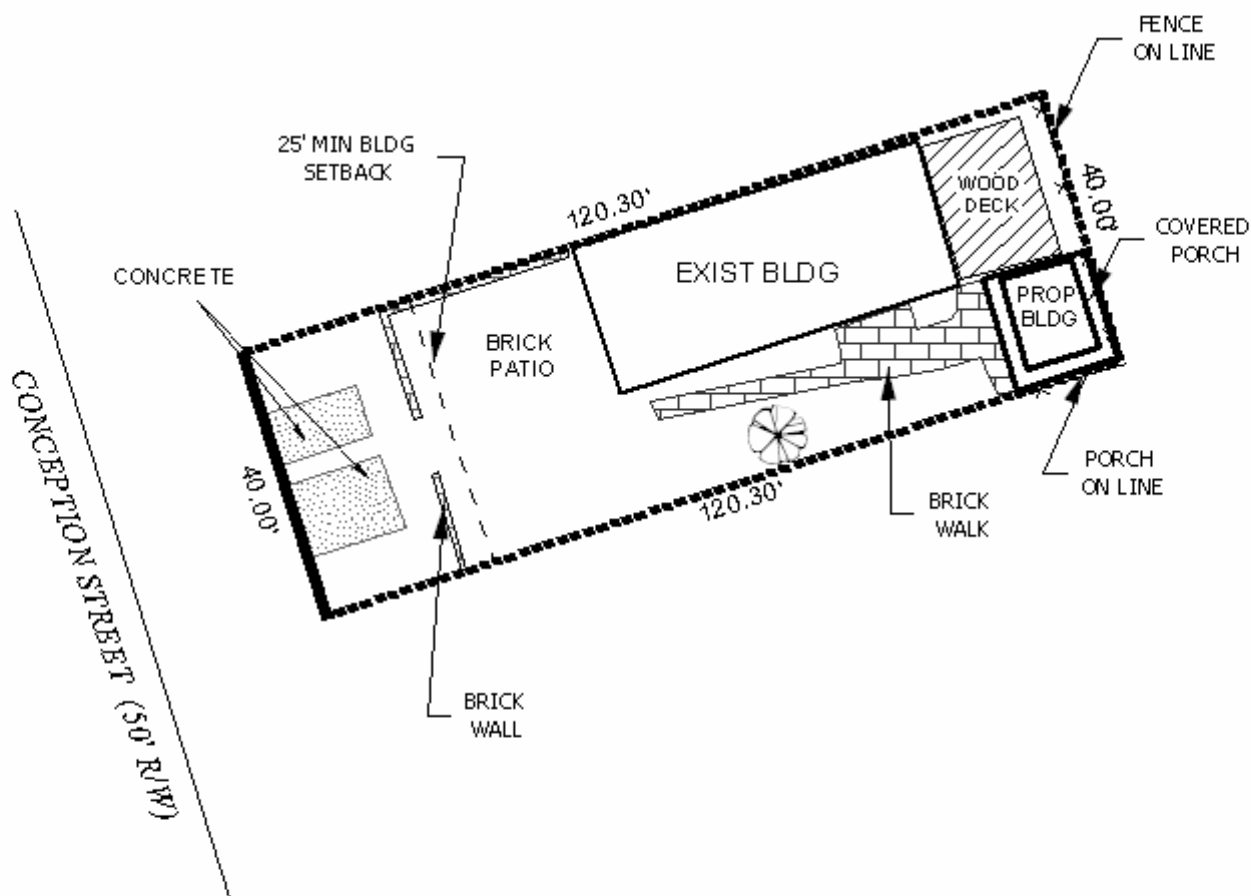
The map shows a grid of streets in downtown St. Joseph, Missouri. The streets are labeled: Adams St, N Jackson St, N Joachim St, N Conception St, N Water St, Congress St, St Joseph St, and State St. The map is color-coded: brown for commercial/industrial areas, pink for residential areas, and blue for public spaces. Key landmarks include the Press, Church, Dar Museum, Post Office, and various offices and parking lots. A specific area is labeled 'SITE'.

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SITE PLAN



The site plan illustrates the proposed building, existing building, minimum building setback, and patio.

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REQUEST Site Variance, Use Variance



NTS

