

APPLICATION NUMBER

5428

A REQUEST FOR

**USE, PARKING, AND ACCESS/MANEUVERING VARIANCES TO
ALLOW AN 1837 SQUARE-FOOT FINANCIAL ADVISOR'S
OFFICE (A B-1, BUFFER BUSINESS DISTRICT USE) WITH NO
DESIGNATED PARKING SPACES, TRAFFIC AISLES, OR
MANEUVERING AREAS IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT; PROFESSIONAL OFFICES ARE
ALLOWED WITHIN A MINIMUM OF A B-1, BUFFER BUSINESS
DISTRICT, SEVEN DESIGNATED PARKING SPACES, EITHER A
12' WIDE DRIVE FOR A ONE-WAY DRIVE OR A 24' DRIVE FOR
TWO-WAY DRIVE, AND MANEUVERING AREAS ARE
REQUIRED ON SITE.**

LOCATED AT

677 SOUTH UNIVERSITY BOULEVARD

(Northeast corner of University Boulevard Service Road and Marmora Drive)

APPLICANT/OWNER

JANE TAYLOR SHROPSHIRE

AGENT

DOUGLAS ANDERSON

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 2007

The applicant is requesting Use, Parking, and Access/Maneuvering Variances to allow an 1837 square-foot financial advisor's office (a B-1, Buffer Business District use) with no designated parking spaces, traffic aisles, or maneuvering areas in an R-1, Single-Family Residential District; professional offices are allowed within a minimum of a B-1, Buffer Business District, seven designated parking spaces (one per 300 square feet of gross floor area), either a 12' wide drive for a one-way drive or a 24-foot drive for two-way drive, and maneuvering areas are required on site.

The applicant purchased the subject property in September 2002, made some interior and site modifications, and began to use it as an office without any business license or zoning certificate. The business operated basically *incognito* until a Notice of Violation was recently issued for operating a business in an R-1 district.

The applicant states that, upon purchase of the property, permits were obtained from the Urban Development Department for changes. Permits were indeed issued in 2002 for various interior modifications and electrical upgrades, but none were disclosed as, or issued for, commercial purposes and no change of occupancy type was indicated on the permits. All permits were issued for a single-family residence. No paving permits for the driveway and parking modifications were issued, as none are required for on-site work at a residence. Had the use been disclosed as commercial, a commercial paving permit would have been required, plus a site plan would have been required for traffic pattern review. All would have been rejected at such time since the subject property is not commercially zoned.

The applicant states that a part-time administrative assistant also works at the site and that the business hours are normally Monday through Friday from 8:00 AM to 5:00 PM, with some occasional evening and weekend hours. It is further stated that there is no negative impact on the neighbors as no heavy machinery is operated and driveway space ensures that the streets are not blocked.

With regard to the use variance request, the circumstances in this case are similar to those in a recent Board case in which an R-1 property was used in a B-1 capacity without any reviews or approvals. Again, there has been no inquiry into permitted uses, no commercial permitting, no business licensing, and no zoning clearance for the use. In this instance, there is entirely B-3, Community Business District zoning across University Boulevard, but the entire block to the North and South (except for a water tower and pumping facility), and all properties expansively adjacent to the rear of the subject site, are zoned and used as R-1. Although the subject site's address is on University Boulevard, it fronts the service road which is residential in character, and is within a single-family residential subdivision. To allow a B-1 use at this location would, in essence, create a spot-zoning situation, and could establish a detrimental precedent for other commercialization of an established R-1 neighborhood.

With regard to the parking and access/maneuvering variance requests, the site plan did not indicate any designated parking and access/maneuvering area, and the configuration of the existing drives and parking area does not come close to meeting Zoning Ordinance requirements. An 1837 square-foot office requires seven on-site parking stalls, and there is insufficient area to provide such.

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.

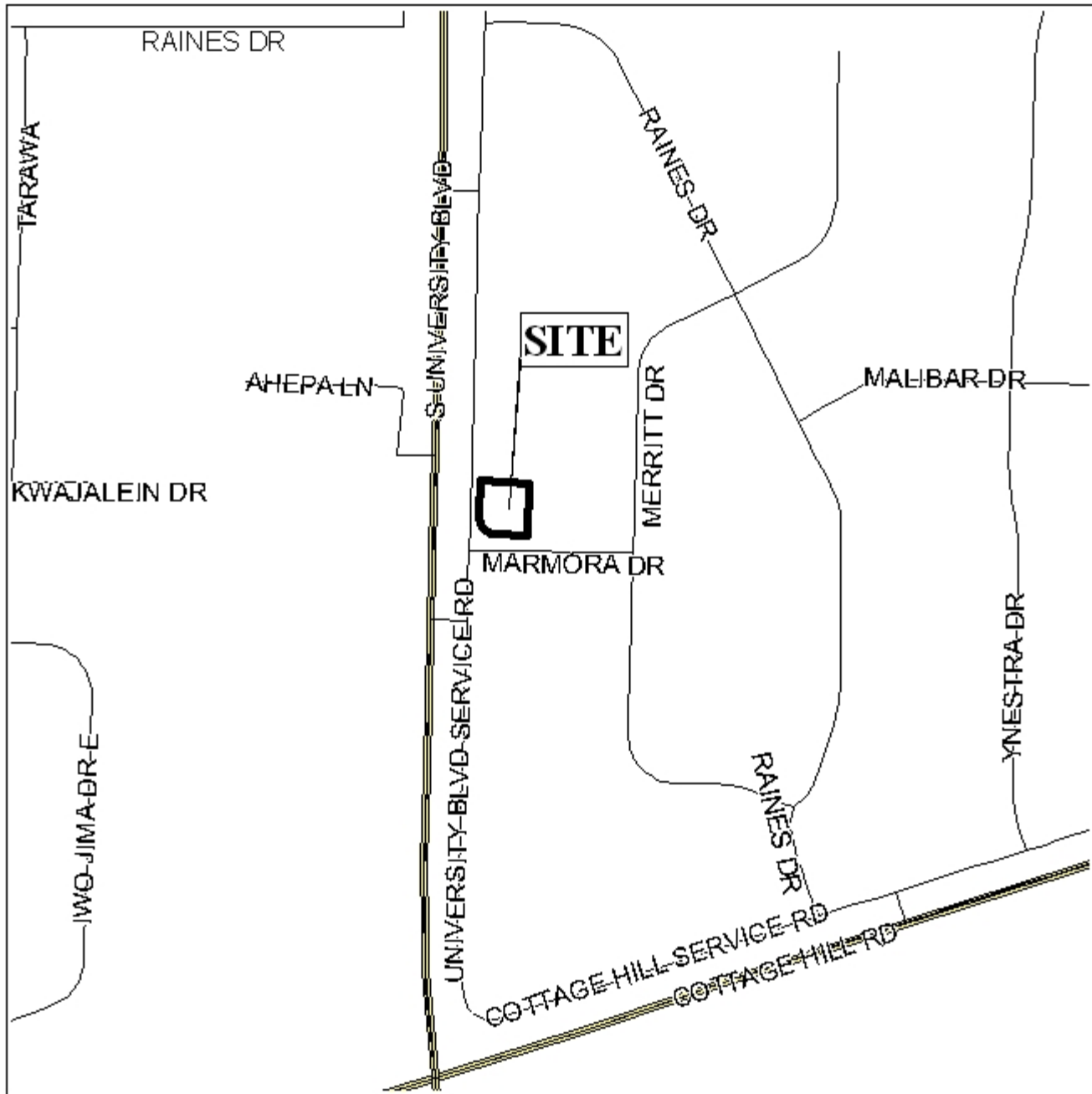
The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to continue to operate a B-1 type business in an established R-1 neighborhood without proper parking and access/maneuvering areas.

RECOMMENDATION 5428

Date: September 10, 2007

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

LOCATOR MAP



APPLICATION NUMBER 5428 DATE September 10, 2007

APPLICANT Jane Taylor Shropshire

REQUEST Use Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential landuse with commercial landuse to the west.

APPLICATION NUMBER 5428 DATE September 10, 2007

APPLICANT Jane Taylor Shropshire

REQUEST Use 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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NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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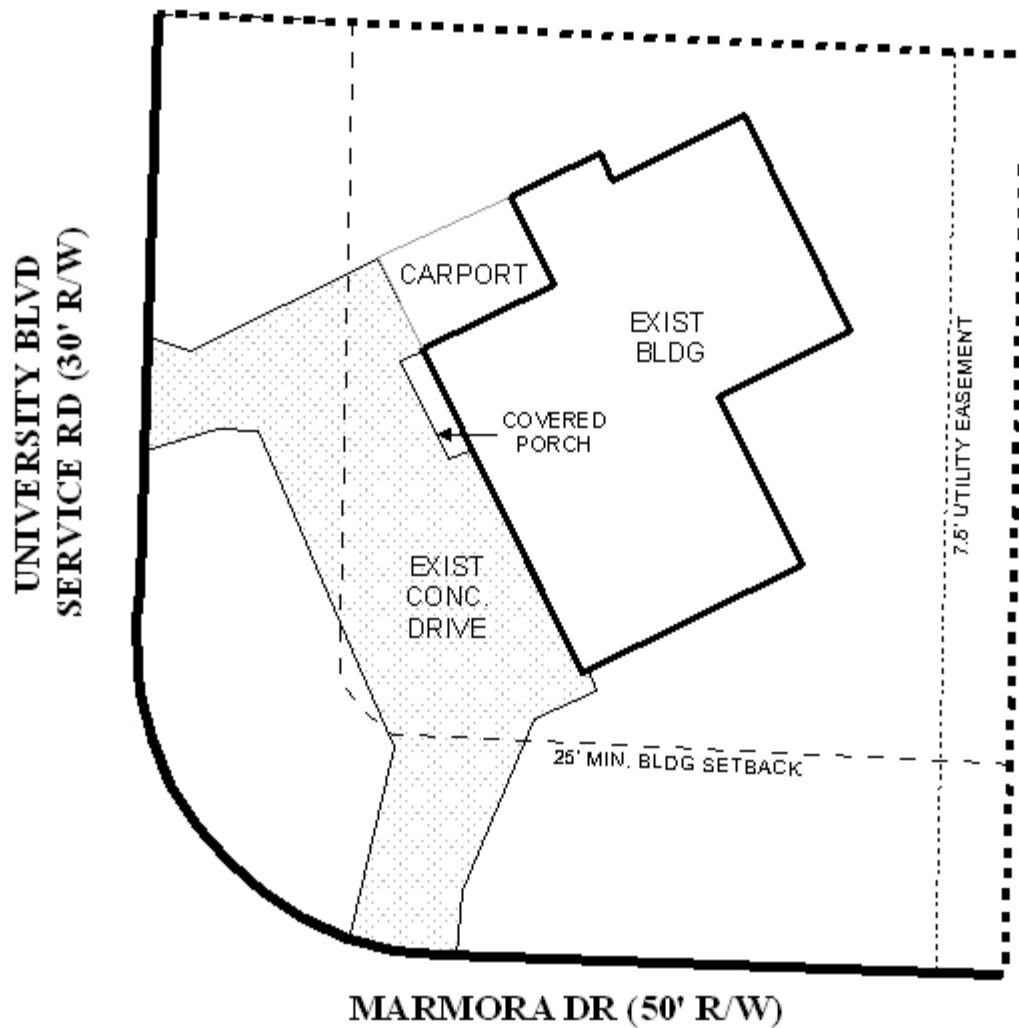
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SITE PLAN



This site plan illustrates existing structures and concrete drive.

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