

# **HOLDOVER**

APPLICATION NUMBER

**5442**

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW THE  
CONSTRUCTION OF A 17.4' x 31.2' CARPORT ON A SIDE  
PROPERTY LINE; AN 8' MINIMUM SIDE YARD  
SETBACK IS REQUIRED IN AN R-1, SINGLE-FAMILY  
RESIDENTIAL DISTRICT**

LOCATED AT

**3269 STEIN STREET**

(South side of Stein Street, 55'± East of Batre Lane)

APPLICANT/OWNER

**BRAD GREEN &AMY MITZNER**

AGENT

**BRAD GREEN**

**BOARD OF ZONING ADJUSTMENT**

DECEMBER 2007

# **HOLDOVER**

**ANALYSIS APPLICATION 5442**

**Date: December 3, 2007**

The applicant is requesting a side yard setback variance to allow the construction of a 17.4' x 31.2' carport on a side property line; an 8' minimum side yard setback is required in an R-1, Single-Family Residential District.

The applicant began constructing the subject structure without a permit which would have depicted the required side yard setback. A zoning inspector issued a Notice of Violation to either remove the structure or seek a variance, hence this application. It is stated by the applicant that there is no other logical place on the property for the structure. Placing it anywhere else, other than the proposed location would impact the neighbor and themselves by being in a clearly secondary location. The applicant also states that it would be compatible with the surrounding area.

With regard to the applicant's request, no hardship has been found that would prevent the client from complying with the Zoning Ordinance. While a swimming pool exists in the rear of the property that inhibits the applicant from meeting setbacks, this does not exhibit a justifiable hardship. A hardship is something caused by a natural feature, whereas the placement of the applicant's swimming pool is considered self-imposed. Furthermore, the carport could possibly be to the south and west to meet the side yard setback, or at least provide a setback close to the minimum.

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 injustice 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 a carport, which is constructed without permits, on the property line.

This application was heldover from the Board's scheduled November meeting due to a lack of quorum to hold the meeting.

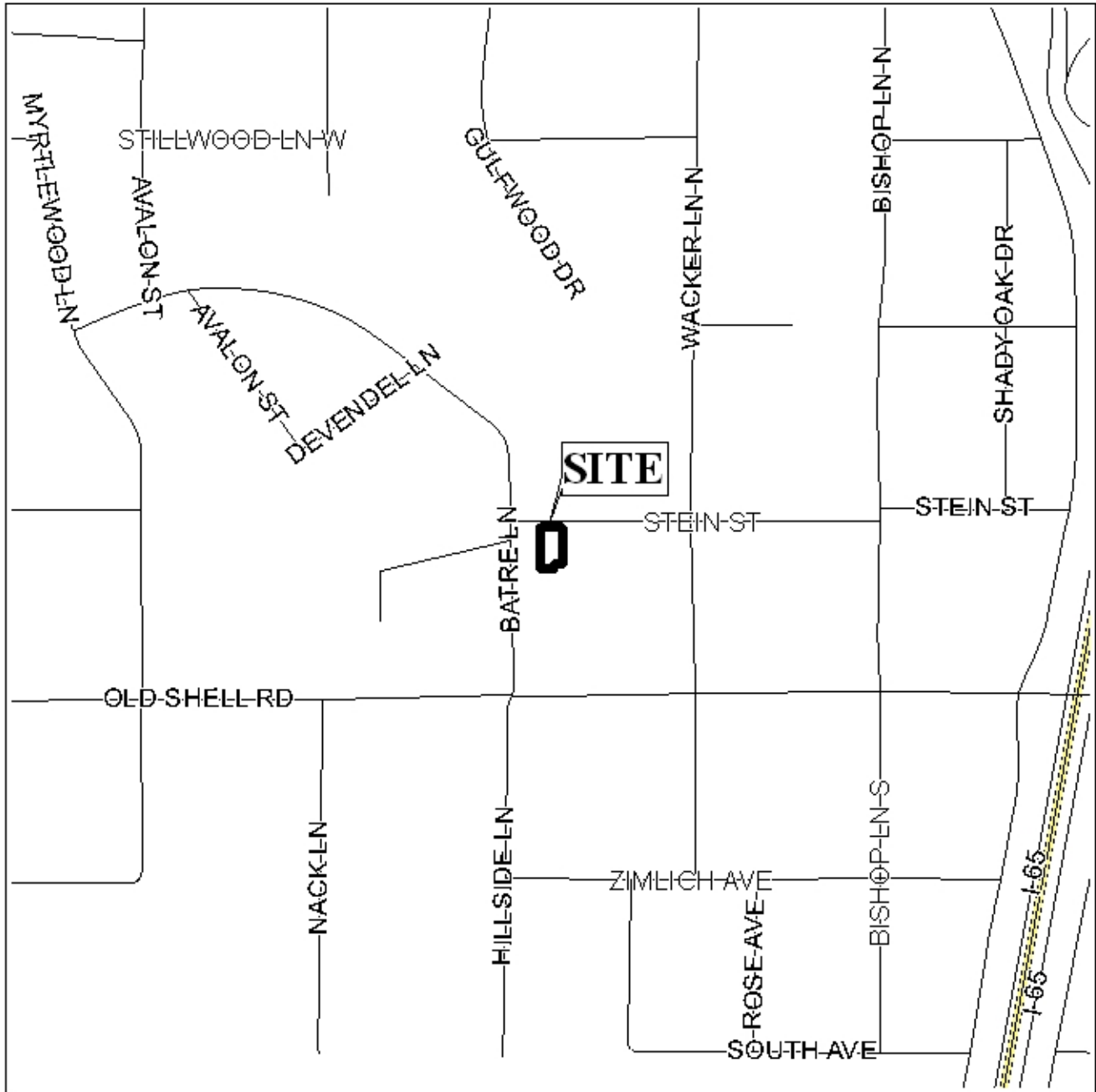
# **HOLDOVER**

**RECOMMENDATION 5442**

**Date: December 3, 2007**

Based on the preceding, it is recommended that this variance request be denied.

# LOCATOR MAP



APPLICATION NUMBER 5442 DATE December 3, 2007

APPLICANT Brad Green & Amy Mitzner

REQUEST Side Yard Setback Variance



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING


















The site is surrounded by single-family residential units

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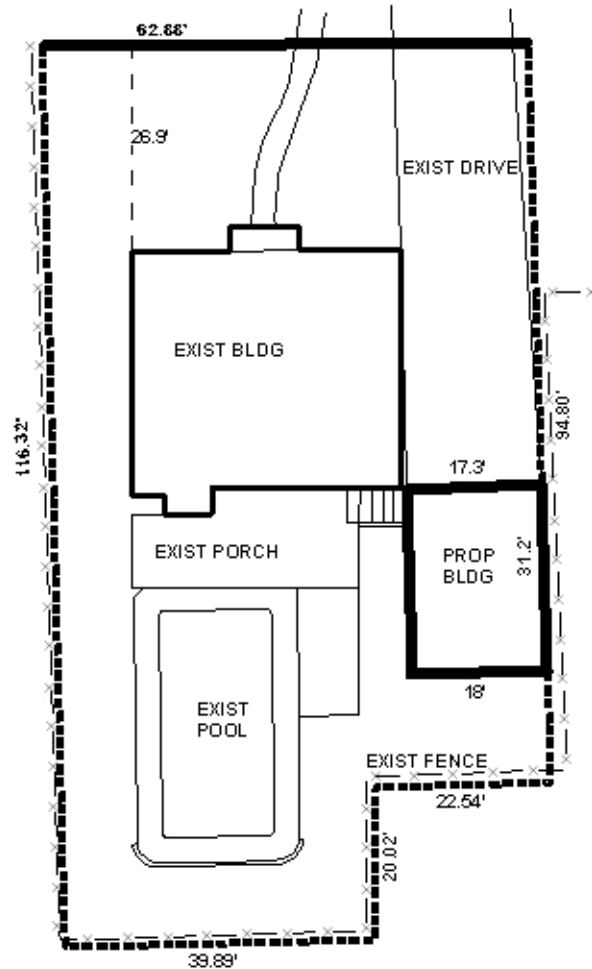
LEGEND

														
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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# SITE PLAN



The site plan illustrates the existing building, pool, and proposed building

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