

APPLICATION NUMBER

5565

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW
CONSTRUCTION OF AN ADDITION TO A SINGLE
FAMILY DWELLING 15' FROM THE SIDE STREET
PROPERTY LINE IN A R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT; THE ZONING ORDINANCE
REQUIRES A MINIMUM OF 20' SIDE STREET YARD
SETBACK IN A R-1, SINGLE-FAMILY RESIDENTIAL
DISTRICT.**

LOCATED AT

203 WOODLANDS AVENUE

(Northwest corner of Woodlands Avenue and Ashland Place Avenue.)

APPLICANT

DOUGLAS B. KEARLEY

AGENT

DOUGLAS B. KEARLEY

BOARD OF ZONING ADJUSTMENT

OCTOBER 2009

The applicant is requesting a Side Yard Setback Variance to allow construction of an addition to a single family dwelling 15' from the side street property line in a R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of 20' side street yard setback in a R-1, single-family residential district.

The site is located at the intersection of Woodlands Avenue and Ashland Place Avenue. The applicant states that the house suffered a fire several months ago at the rear portion. The owner now wishes to repair the fire damage and construct an addition and a screened porch to the rear of the dwelling. By doing this they encroach on the 20 foot side yard setback. The house already had legal nonconforming setbacks because the existing rear corner was 16.7 feet from the side street property line. The proposed addition would be 15 feet from the property line.

Because the lot on which the dwelling is constructed is a corner lot, Section 64-4.D.3 of the Zoning Ordinance requires a larger side yard from corner lots in order to reduce line-of-sight issues for properties facing the side street to the rear of the subject property.

Although the site is not within a historic district, it is located in an older neighborhood that far predates the adoption of the current Zoning Ordinance. As proposed, the addition minimally increases non-conformance over the original structure. The Board has been mindful of the unique character of older areas when considering site variance applications; and the proposed addition maintains the residential character of the neighborhood. The proposed addition provides no further encroachment on the side street yard setback than the existing rear corner. An analysis of GIS data confirms that the nonconforming side yard setbacks are typical of the neighborhood.

It should also be noted that, if approved, construction of the addition will not cause the applicant to exceed the maximum site coverage of the lot.

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.

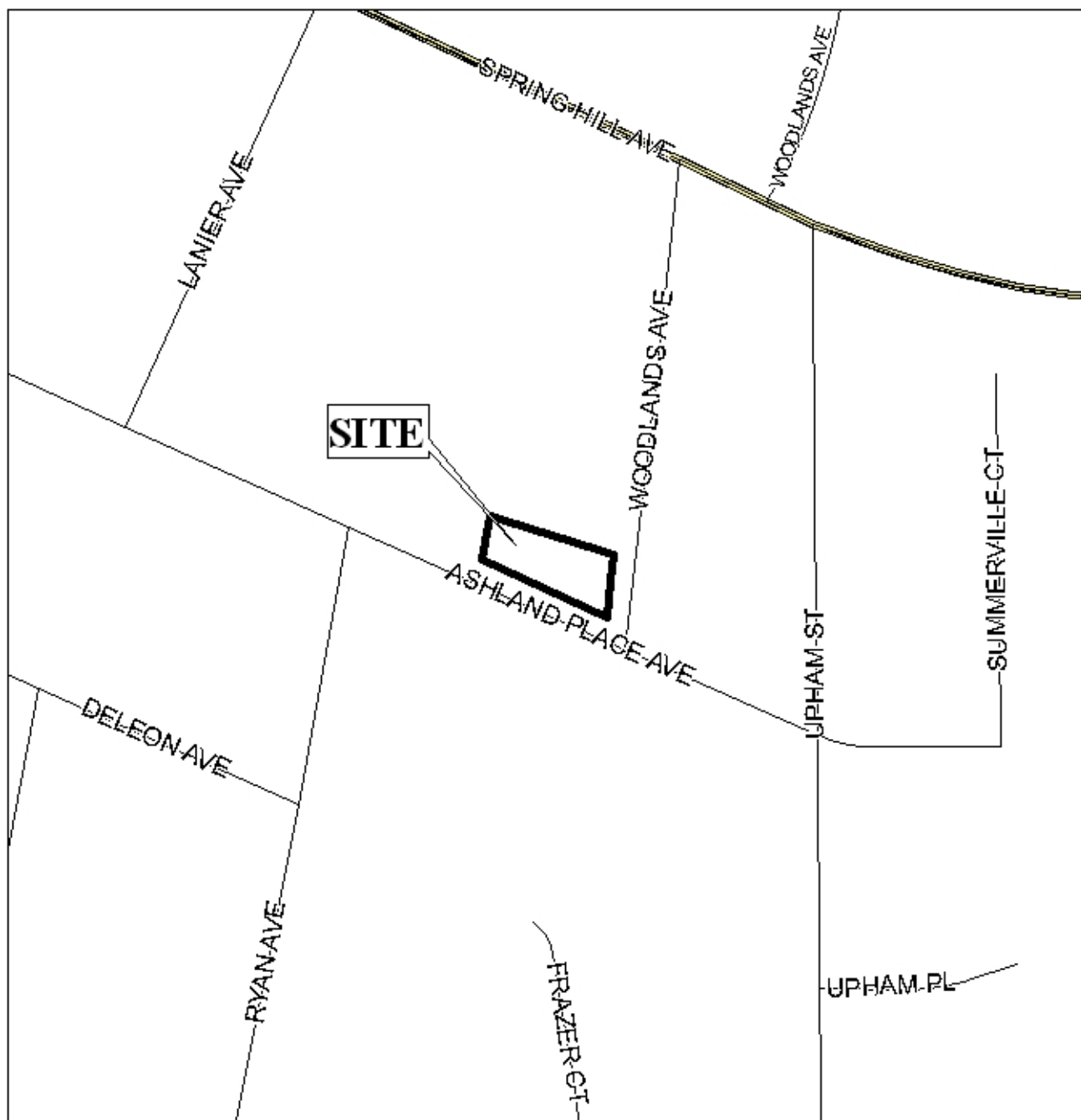
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

RECOMMENDATION 5565**Date: October 5, 2009**

Based on the preceding, it is recommended that this application be approved subject to the following conditions:

- 1) Contingent upon approval from Traffic Engineering; and
- 2) Compliance with all municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 5565 DATE October 5, 2009

APPLICANT Douglas B. Kearley

REQUEST Side Yard Setback Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units.

APPLICATION NUMBER 5565 DATE October 5, 2009

APPLICANT Douglas B. Kearley

REQUEST Side Yard Setback 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
-----	-----	-----	-----	-----	-----	-----	-----	------	-----	-----	-----	-----	-----	-----

NTS



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units.

APPLICATION NUMBER 5565 DATE October 5, 2009

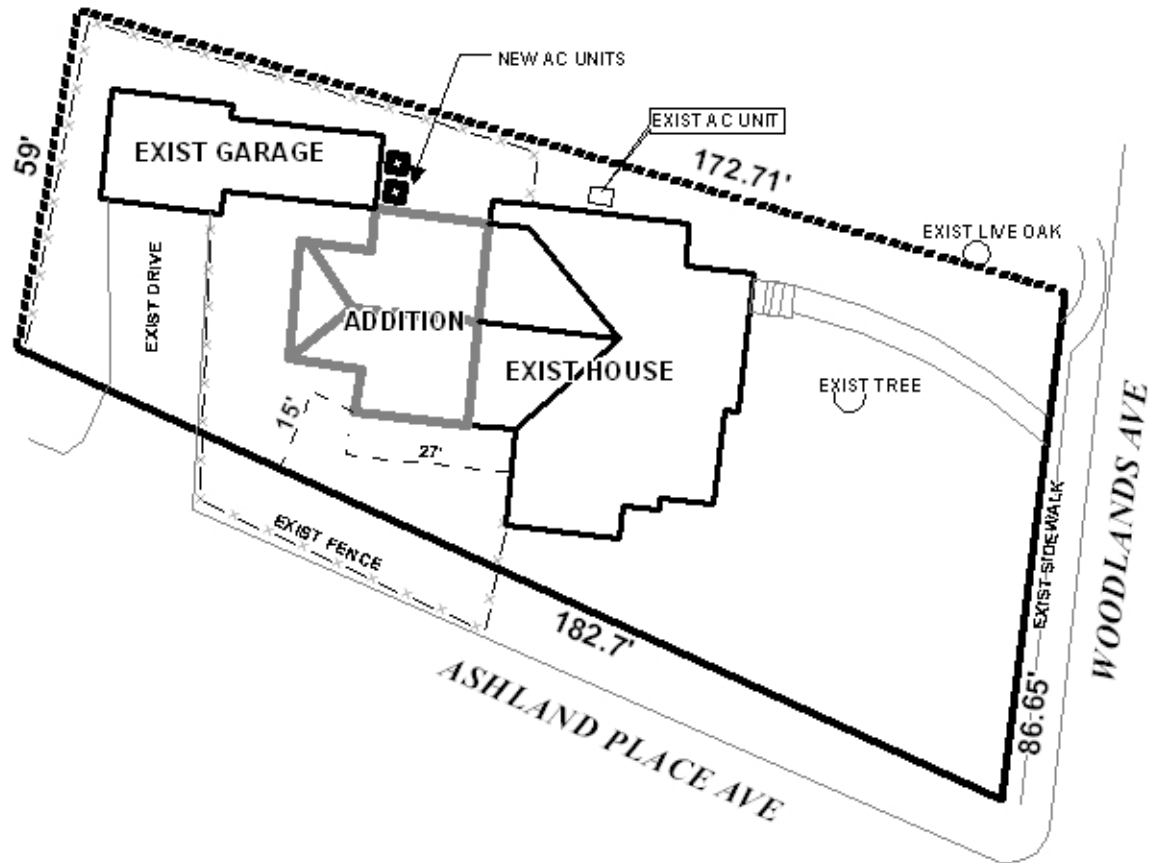
APPLICANT Douglas B. Kearley

REQUEST Side Yard Setback Variance



NTS

SITE PLAN



The site plan illustrates the proposed addition to an existing residence

APPLICATION NUMBER 5565 DATE October 5, 2009

APPLICANT Douglas B. Kearley

REQUEST Side Yard Setback Variance



NTS