

APPLICATION NUMBER

**5573**

A REQUEST FOR

**USE AND SETBACK VARIANCES TO ALLOW A DUPLEX  
2' FROM A SIDE PROPERTY LINE IN AN R-1, SINGLE-  
FAMILY RESIDENTIAL DISTRICT; THE ZONING  
ORDINANCE REQUIRES A MINIMUM R-2, TWO-  
FAMILY RESIDENTIAL DISTRICT FOR A DUPLEX,  
WITH A MINIMUM SETBACK OF 8' FROM A SIDE  
PROPERTY LINE.**

LOCATED AT

**606 GOOD PAY STREET**

(East side of Good Pay Street, 160' North of Pecan Street)

APPLICANT/OWNER/AGENT

**ROBERT & ELEANOR BROADNAX**

**BOARD OF ZONING ADJUSTMENT**

NOVEMBER 2009

The applicant is requesting Use and Setback Variances to allow a duplex 2' from a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum R-2, Two-Family Residential District for a duplex, with a minimum setback of 8' from a side property line.

The applicant purchased this property and the adjacent property to the South in February, 2009 with the intent to use both as residential duplexes. Due to the fact that both properties are zoned R-1 and no nonconforming use history was clearly established, building permits for renovations as duplexes were questioned and the applicant decided to seek Use Variances for each property. Also, a covered porch on this property encroaches onto the adjacent property and the applicant has submitted a two-lot subdivision application to relocate the common property line between the two. Due to the fact that the proposed relocated property line would be 5' off the side wall of each structure and the eaves of the porches would be 2' off the common property line, a Side Yard Setback Variance is also being sought for each property. No additions are proposed.

Floor plans furnished with the application indicate mirror image dwelling units in each half of the building and Land Use studies as late as 1995 indicate use as a residential duplex. The site adjoins R-2 zoning to the rear (East) which extends throughout the neighborhood for several blocks to the East.

With regard to the side yard setback variance request, since there are only 4' between the facing porch eaves on each lot, a 2' setback off each would seem a logical setback. This area of the city has numerous substandard size lots which are overbuilt and which have noncompliant setbacks. Since the structure obviously predates the current Zoning Ordinance, other site compliance factors such as front setback, combined side yards, site coverage, and on-site parking and access are not met and cannot be met.

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 has illustrated that the property imposes hardships with respect to both use and the side yard setback and that the granting of this variance request would not be contrary to the public interest and would be consistent with surrounding neighborhood uses and the general neighborhood build-out.

**RECOMMENDATION 5573****Date: November 2, 2009**

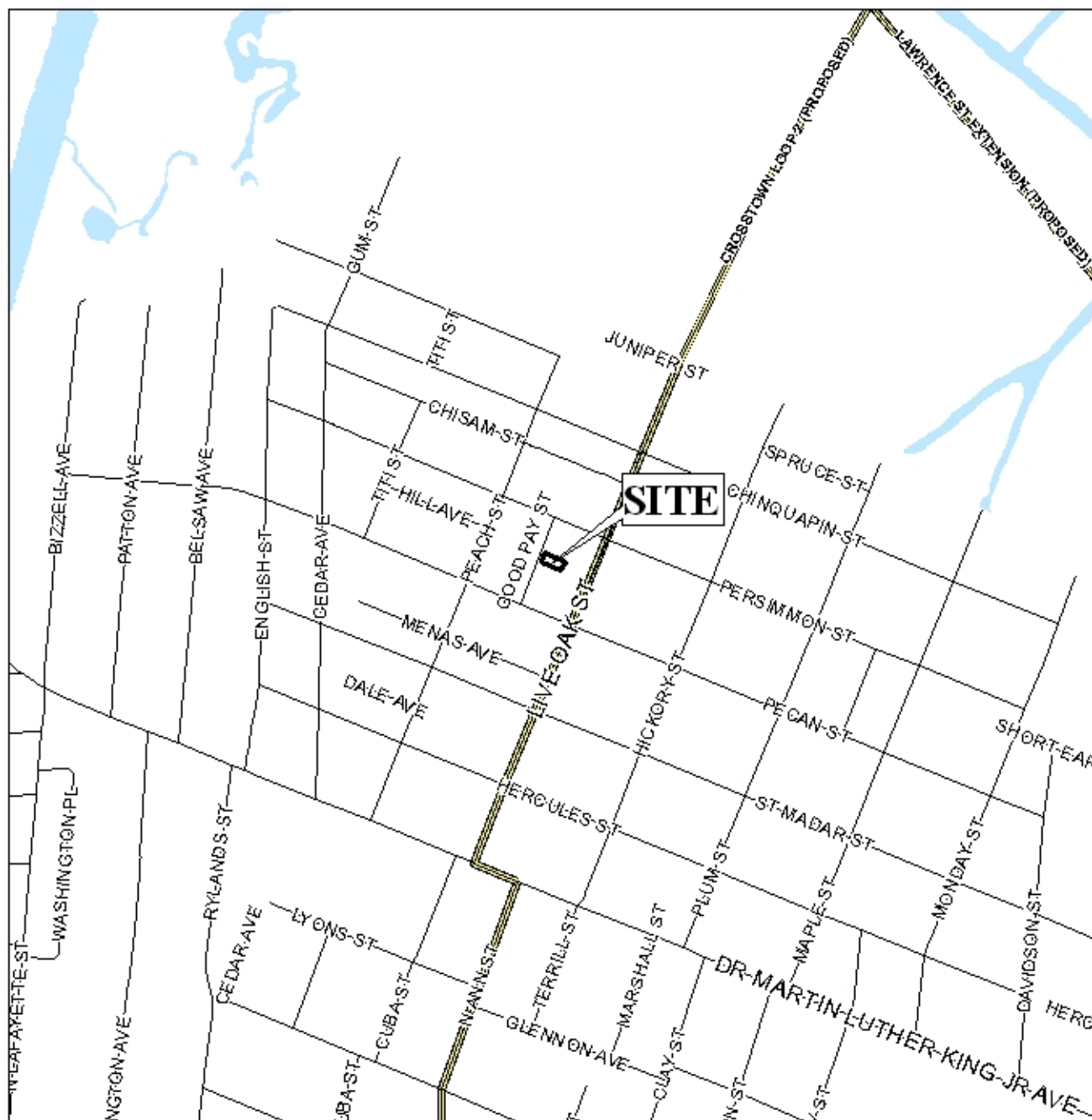
Based upon the preceding, the Use Variance request is recommended for approval, subject to the following condition:

- 1) obtaining of any required building permits for residential duplex use.

The Setback Variance request is recommended for approval, subject to the following condition:

- 1) completion of the subdivision process to shift the common property line between this property and the adjacent property to the South to 2' off the porch eave.

## LOCATOR MAP



APPLICATION NUMBER 5573 DATE November 2, 2009

APPLICANT Robert & Eleanor Broadnax

REQUEST \_\_\_\_\_ Use and Setback Variances



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use.  
A church is located to the south of the site.

APPLICATION NUMBER 5573 DATE November 2, 2009

APPLICANT Robert & Eleanor Broadnax

REQUEST Use and Setback Variances

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



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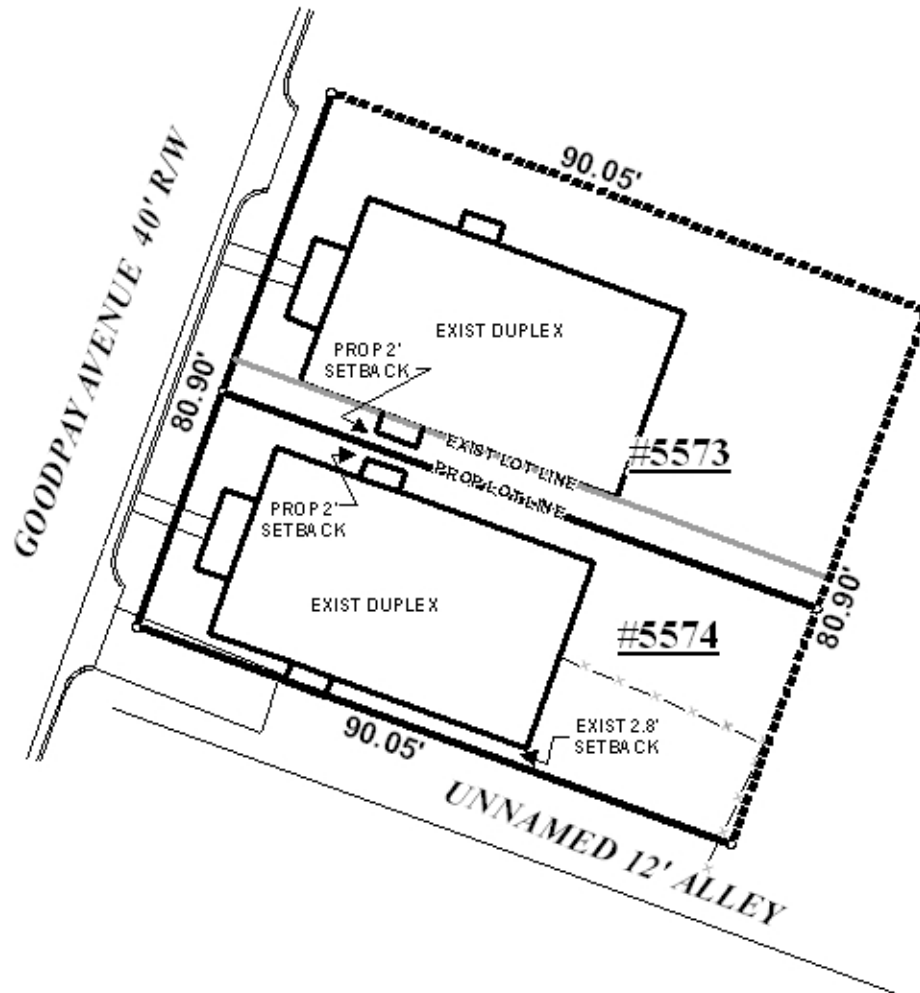
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NTS

## SITE PLAN



The site plan illustrates the existing duplexes, existing lot lines, proposed setbacks, and proposed lot configuration.

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