

APPLICATION NUMBER

5598

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW AN
EXISTING STRUCTURE WITHIN 4' OF A SIDE
PROPERTY LINE AFTER SUBDIVISION IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT; THE
ZONING ORDINANCE REQUIRES ALL STRUCTURES BE
A MINIMUM OF 8' FROM A SIDE PROPERTY LINE
AFTER SUBDIVISION IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT.**

LOCATED AT

4609 BIT AND SPUR ROAD

(South side of Bit and Spur Road, 150'± West of the South terminus of Hawthorne Place)

APPLICANT/OWNER

PAUL SCHWARZENBERGER

AGENT

PAUL SCHWARZENBERGER

BOARD OF ZONING ADJUSTMENT

FEBRUARY 2010

The applicant is requesting a Side Yard Setback Variance to allow an existing structure within 4' of a side property line after subdivision in an R-1, Single-Family Residential District; the Zoning Ordinance requires all structures be a minimum of 8' from a side property line after subdivision in an R-1, Single-Family Residential District.

The applicant recently received approval for a 2-lot Subdivision of the subject property. Since the rear lot would be a flag lot with a required 25' wide "pole" connecting it with Bit and Spur Road, the West edge of the "pole" would be 4' from the East end of the existing dwelling on the front lot. A condition of approval of the Subdivision is the approval of a Side Yard Setback Variance for the reduced side yard setback, hence this application.

The existing dwelling on the front lot currently has a 30'± side yard setback off the West property line, so the required combined side yard total of 20' is not an issue. The East end of the dwelling is currently 29'± off the existing side property line. Assuming this Variance is approved and the Subdivision is recorded, the 25' wide "pole" would then occupy 25' of the existing 29' setback, leaving the remaining 4' off the East end of the dwelling instead of the required 8' minimum setback. However, since the "pole" for the rear lot is strictly for access and is not part of the buildable site area, no structure may be built within it and this would still leave the current 29' distance between the East end of the dwelling and the adjacent property to the East.

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.

A flag lot Subdivision such as was approved for the applicant would normally not be allowed. However, since the adjacent property to the West was granted such in 1997, a precedent was established within the immediate area. In that instance, there was no issue of side yard setbacks. In this instance, the 25' wide "pole" and the resultant 4' setback would effectively maintain the current 29' setback off the adjacent property to the East.

It should be pointed out that an in-ground pool and patio, located on the West side of the house (but not depicted on the site plan) would prevent access along the wider West side of the property.

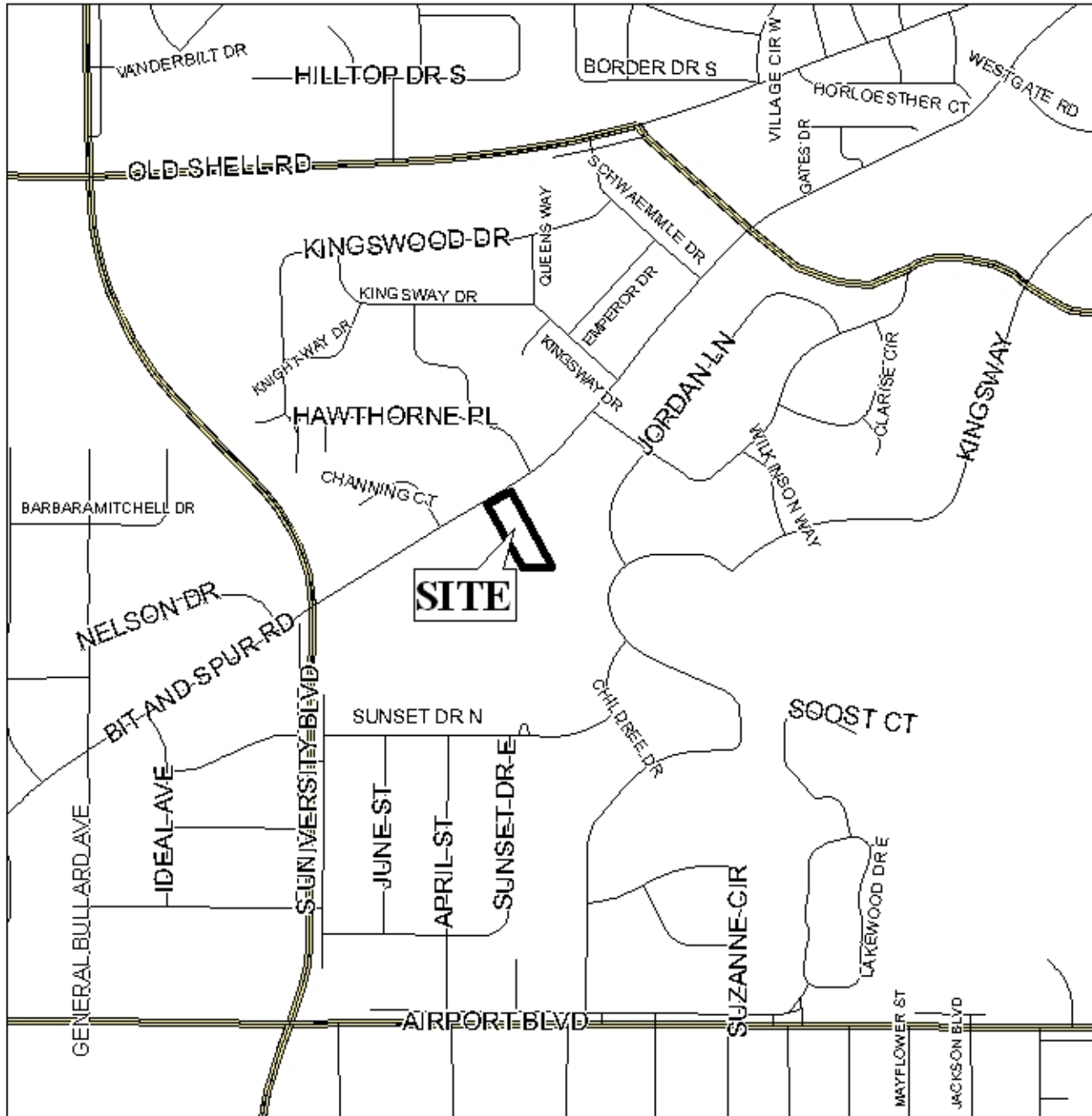
RECOMMENDATION 5598

Date: February 1, 2010

Based upon the preceding, this application is recommended for approval, subject to the following condition:

- 1) full compliance with all municipal codes and ordinances.

LOCATOR MAP



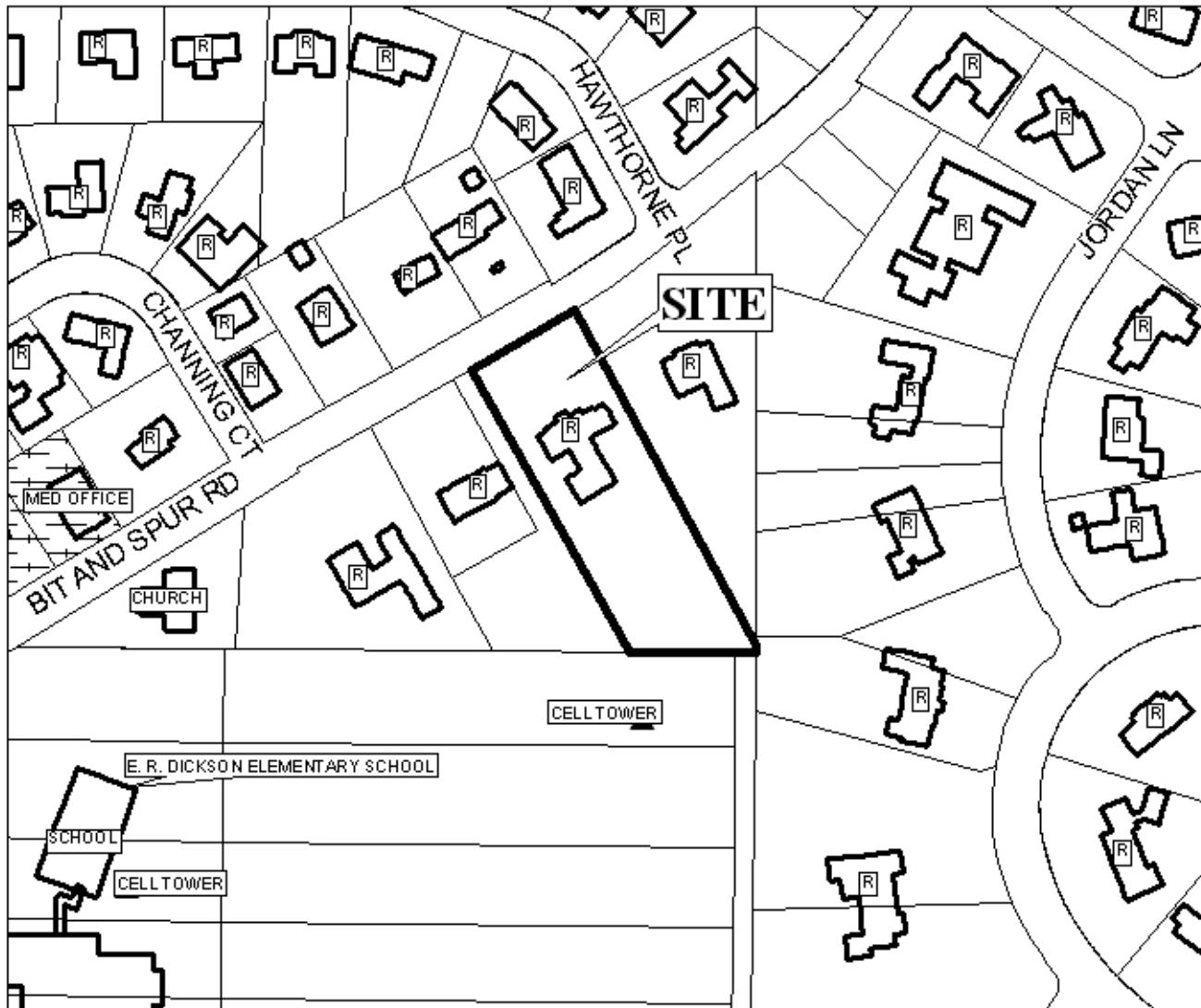
APPLICATION NUMBER 5598 DATE February 1, 2010

APPLICANT Paul Schwarzenberger

REQUEST Side Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units and there is a medical office and elementary school to the west.

APPLICATION NUMBER 5598 DATE February 1, 2010

APPLICANT Paul Schwarzenberger

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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units and there is a medical office and elementary school to the west.

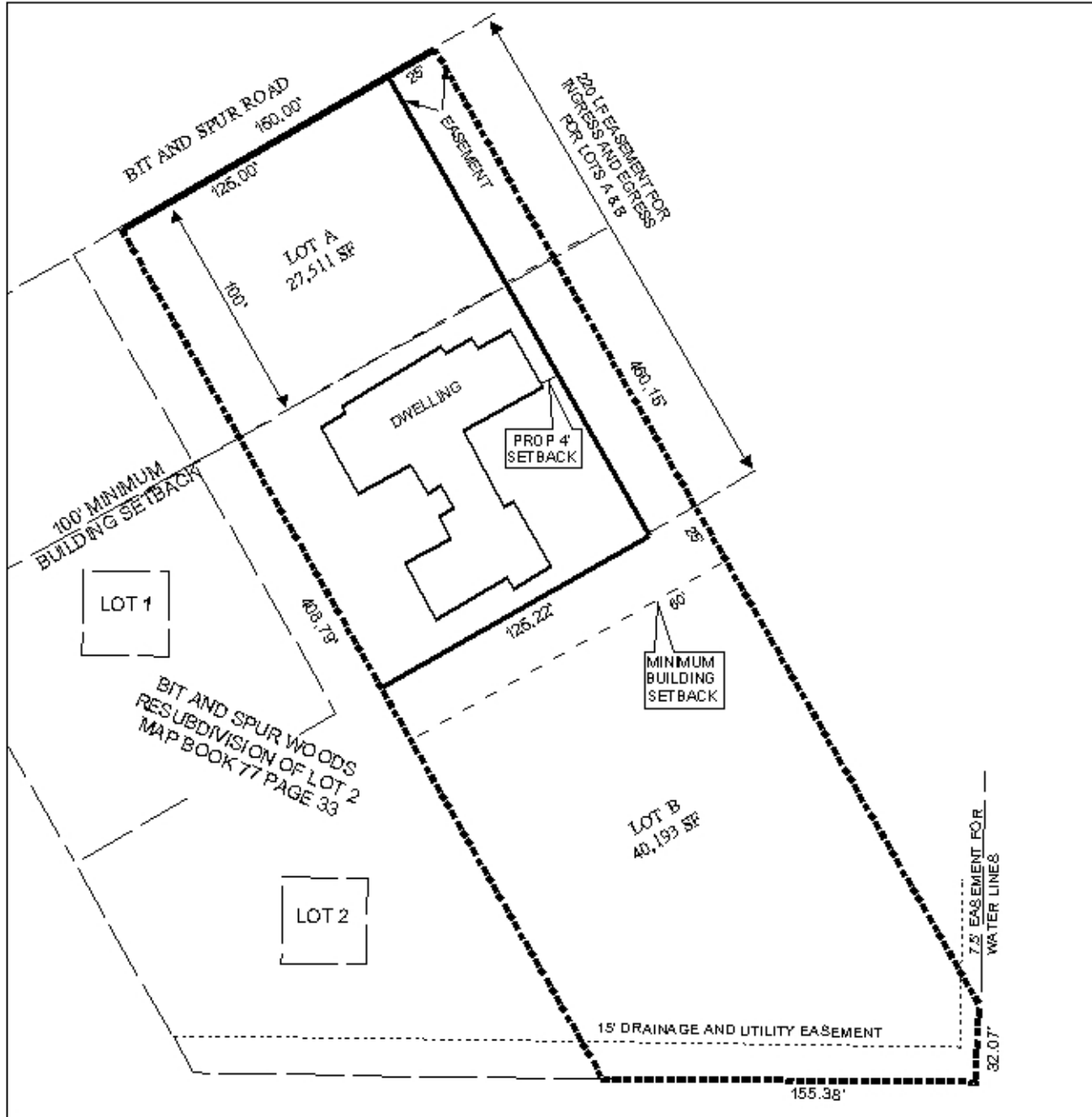
APPLICATION NUMBER 5598 DATE February 1, 2010

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REQUEST Side Yard Setback Variance



DETAIL SITE PLAN



APPLICATION NUMBER 5598 DATE February 1, 2010

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REQUEST Side Yard Setback Variance

