

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 12, 2011****CASE NUMBER**

5702/5678/5606/2239

APPLICANT NAME

Jada and Willie McElroy

LOCATION1350 Arlington Street
(Northwest corner of Arlington Street and Olive Street)**VARIANCE REQUEST****PROTECTION BUFFER:** Variance to waive the requirement of a 6' high wooden privacy fence along the property boundary with adjoining residential property for a commercial site in an R-1, Single-Family Residential District (B-2, Neighborhood Business District use by Variance).**ZONING ORDINANCE
REQUIREMENT****PROTECTION BUFFER:** Requires a 6' high protection buffer wall or fence along a property boundary with adjoining residential property for a commercial site in an R-1, Single-Family Residential District with a B-2, Neighborhood Business District Use Variance.**ZONING**

R-1, Single-Family Residential District

AREA OF PROPERTY

7,514± square feet / 0.17± Acres

**TRAFFIC ENGINEERING
COMMENTS**

No Comments

**CITY COUNCIL
DISTRICT**

District 3

ANALYSIS

The applicant is requesting a Protection Buffer Variance to waive the requirement of a 6' high protection buffer wall or fence be provided along a property boundary with adjoining residential property for a commercial site in an R-1, Single-Family Residential District with a B-2, Neighborhood Business District Use Variance. The Zoning Ordinance requires a 6' high protection buffer wall or fence along a property boundary with adjoining residential property for a commercial site in an R-1 Single-Family Residential District with a B-2, Neighborhood Business District Use Variance.

This site was presented to the Board of Zoning Adjustment at its June 6, 2011 meeting where it was granted Use, Parking Ratio, Access & Maneuvering, Off-Site Parking, Tree Planting, and

Landscaping Variances. The applicant applied for a land disturbance permit after the previous variances were granted, and it was during the site plan review process that it was discovered that the applicant did not provide a 6' high privacy fence or wall buffer as required by Section 64-4.D.1. of the Zoning Ordinance.

The applicant states that if a privacy fence is constructed as required, it "will result in a reduction in security and safety for the business owner, employees, and customers." The applicant reasons that the fence would restrict the view of adjacent property owners into the back of the site, making it less safe. The applicant continues by stating that the property's air conditioning units are in the area that would be behind the fence, thus making them more likely to be targeted by copper thieves.

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.

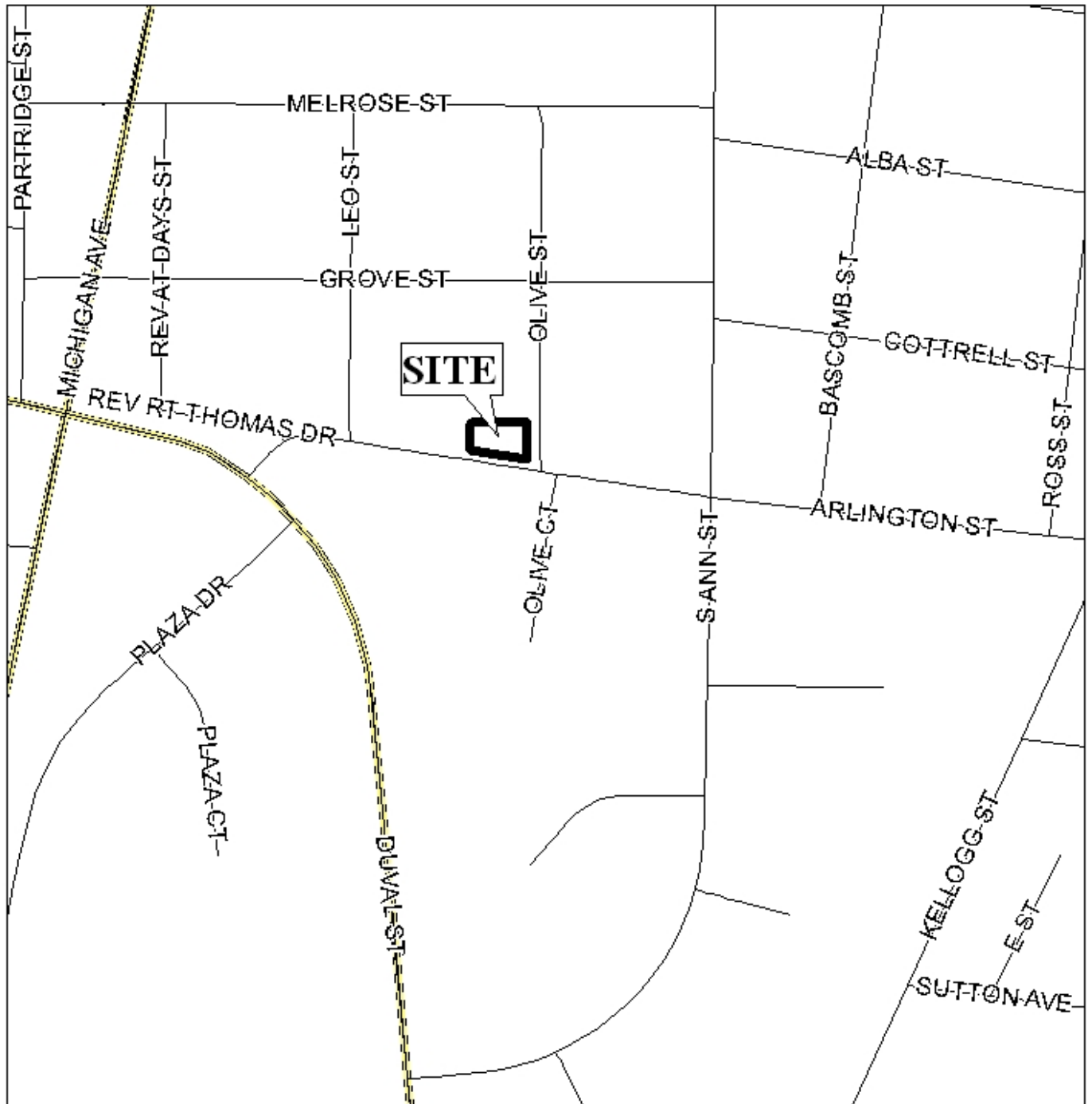
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

It should be noted that by reducing the visibility of the air conditioning units to passersby that it would reduce the chances of the units being subjected to copper theft. Also, the provision of the 6' privacy fence requirement will reduce the visibility of vehicles in the parking lot to adjacent property owners, making the commercial activity less intrusive on the adjacent residential properties.

RECOMMENDATION:
for denial.

Based on the preceding, this application is recommended

LOCATOR MAP



APPLICATION NUMBER 5702/5678/
5606/2239 DATE September 12, 2011
APPLICANT Jada and Willie McElroy
REQUEST Protection Buffer Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



There are single family residential units west and north of the site, retail to the east, and apartments to the south.

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 REQUEST Protection Buffer 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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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

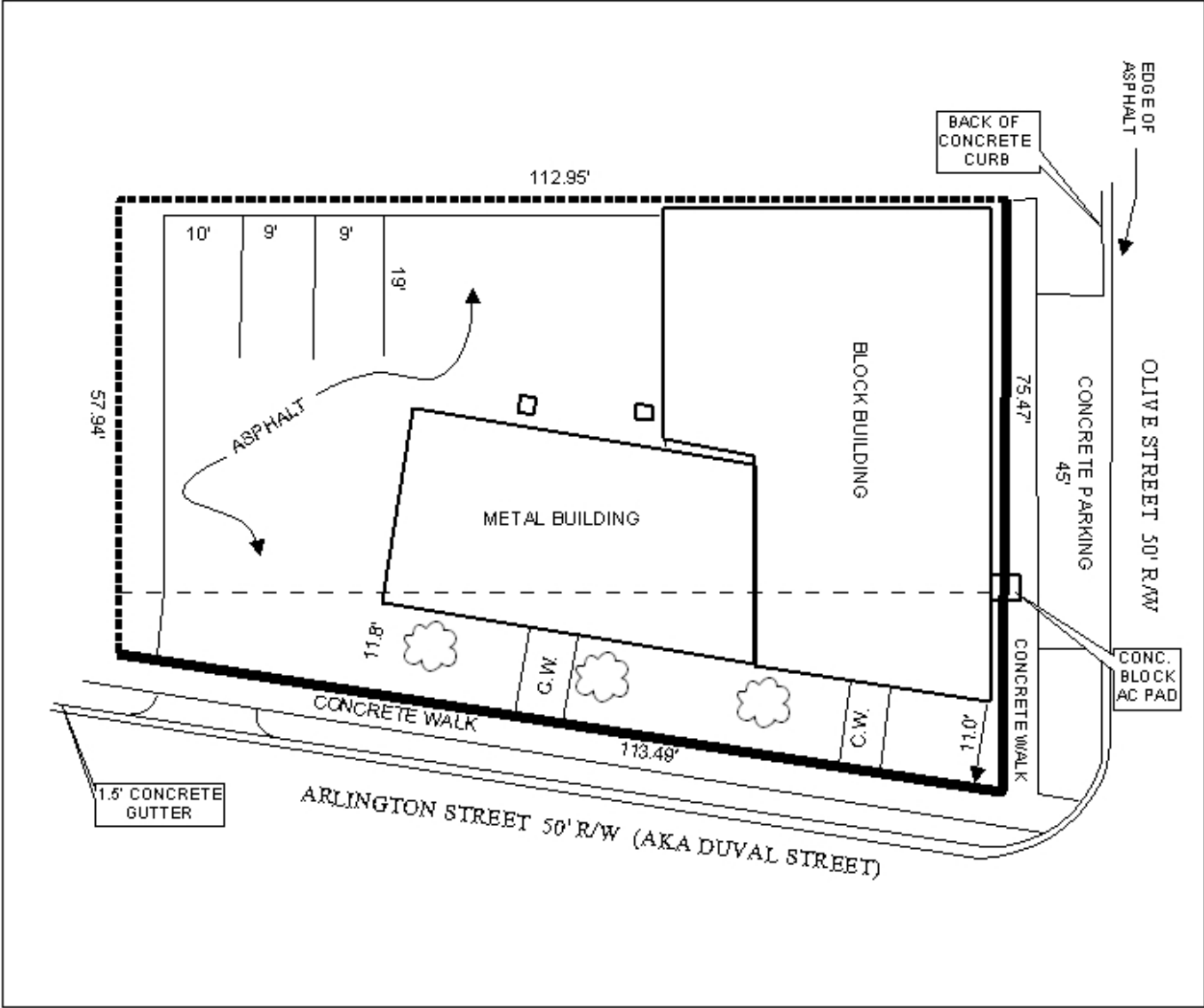


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APPLICANT Jada & Willie McElroy
REQUEST Parking Surface Variance



SITE PLAN



The site plan illustrates the existing buildings, proposed parking, and drives.

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