

APPLICATION NUMBER

5272/3366/3139

A REQUEST FOR

**USE, FRONT YARD SETBACK AND PARKING RATIO
VARIANCES TO ALLOW THE EXPANSION (1,330
SQUARE FOOT COURTYARD) OF AN EXISTING (5,800
SQUARE FOOT) RESTAURANT, 19' FROM THE FRONT
PROPERTY LINE WITH 59 PARKING SPACES IN A B-1,
BUFFER BUSINESS DISTRICT; A RESTURANT
REQUIRES A MINIMUM ZONING OF B-2,
NEIGHBORHOOD BUSINESS DISTRICT, A 25-FOOT
FRONT YARD SETBACK WITH 72 PARKING SPACES
ARE REQUIRED FOR A 7,130 SQUARE FOOT
RESTAURANT**

LOCATED AT

1757 GOVERNMENT STREET

(Northwest corner of Government Street and Weinacker Avenue)

APPLICANT/OWNER

ROBERT MATTHEW SHIPP

BOARD OF ZONING ADJUSTMENT

NOVEMBER 2004

The applicant is requesting Use, Front Yard Setback and Parking Ratio Variances to allow the expansion (1,330 square foot courtyard) of an existing (5,800 square foot) restaurant, 19' from the front property line with 59 parking spaces in an B-1, Buffer Business District; a restaurant requires a minimum zoning of B-2, Neighborhood Business, and a 25-foot front yard setback with 72 parking spaces are required for a 7,130 square foot restaurant.

The applicant proposes a 35' x 38' outdoor courtyard around an existing 11' x 11' fountain. A pergola would be built and an iron fence would surround the courtyard. The applicant states that the courtyard would be used for outdoor dining and would consist of approximately 8-10 tables with four seats per table to allow seating for approximately 32-40 patrons. The courtyard would operate at the same time as the restaurant and would not offer live music.

The Board approved a Use Variance for the site to allow a restaurant in a B-1, Buffer Business district in July, 1976, restricting parking to the rear, and limited development of the site to the accompanying site plan. In May, 1978, the Board approved Use and Side Yard Variances to allow the expansion of the restaurant within 5-feet of the side property line.

The prior variances allow the property to be used as restaurant. However, the applicant's proposed expansion of approximately 25% of the existing square footage, the encroachment into the required front setback, the deficit required parking, and no opportunity for on-street parking in the area all illustrate that the property is not large enough to support the proposed expansion.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with 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.

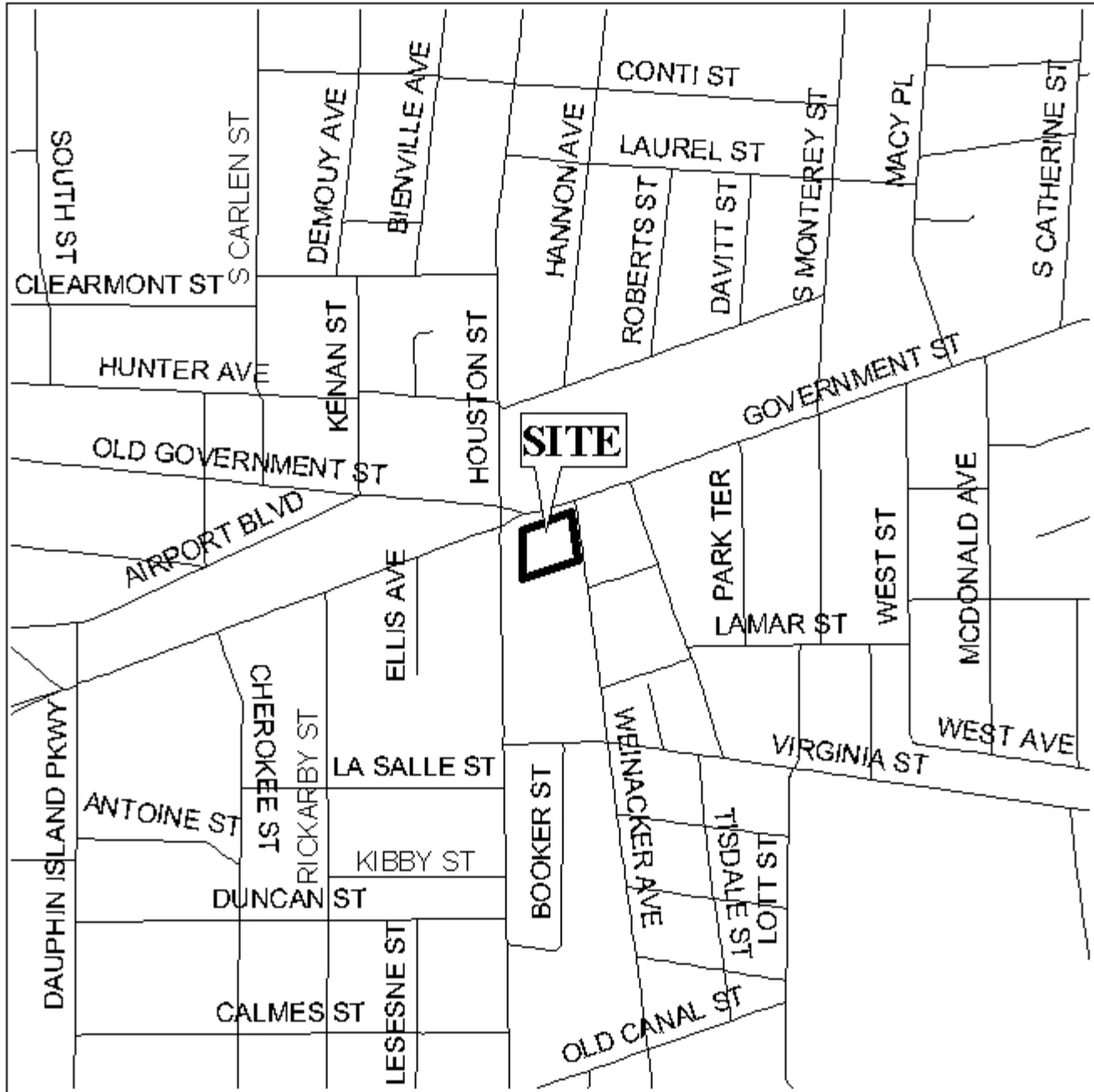
The applicant failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to expand an existing restaurant within 19' of the front property line without providing the required parking.

RECOMMENDATION 5272/3366/3139

Date: November 1, 2004

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

LOCATOR MAP



APPLICATION NUMBER 5272/3366/3139 DATE November 5, 2004

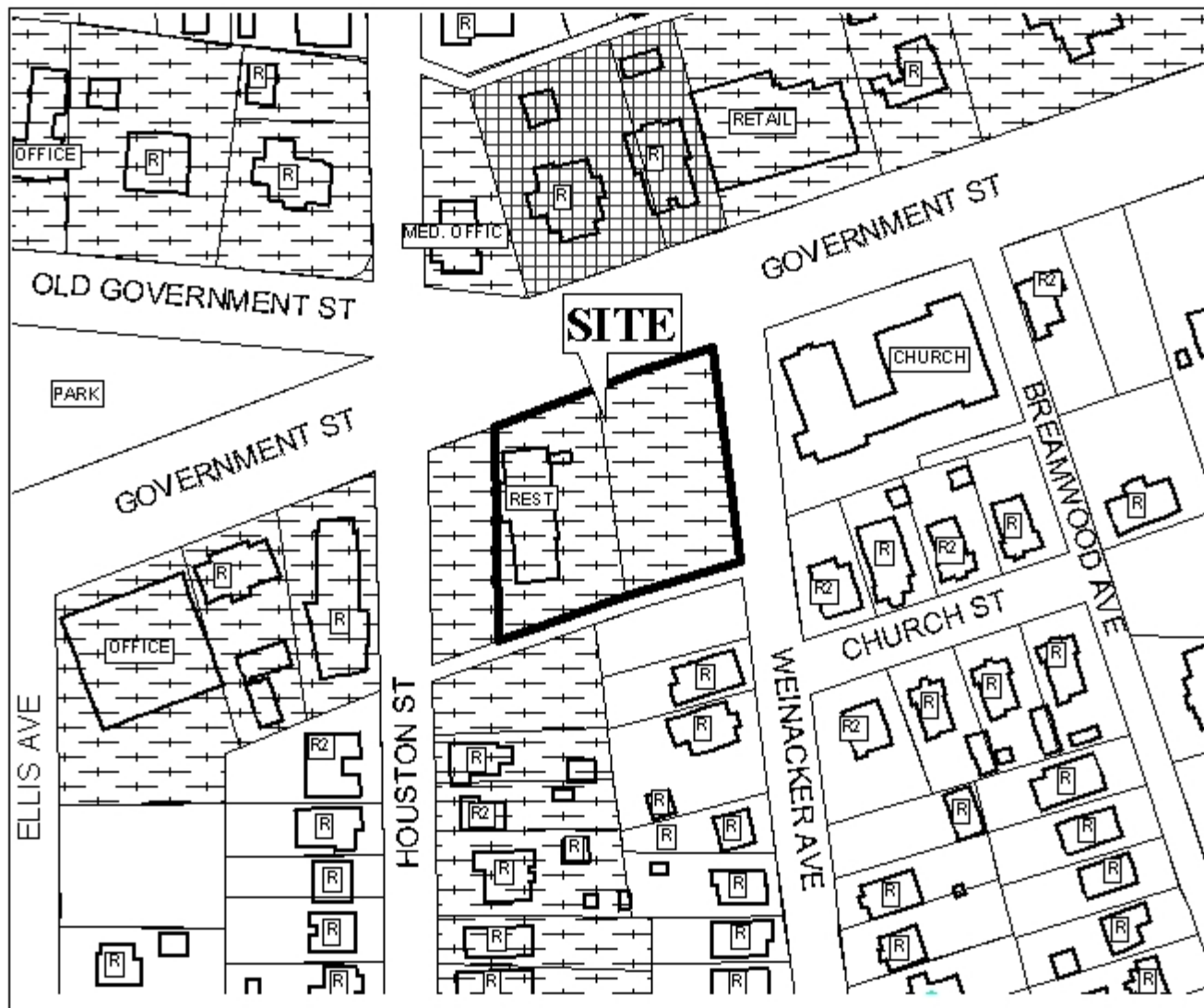
APPLICANT Robert Matthew Shipp

REQUEST Use, Front Yard Setback and Parking Ratio Variances



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is located in an area of mixed land use.

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APPLICANT Robert Matthew Shipp

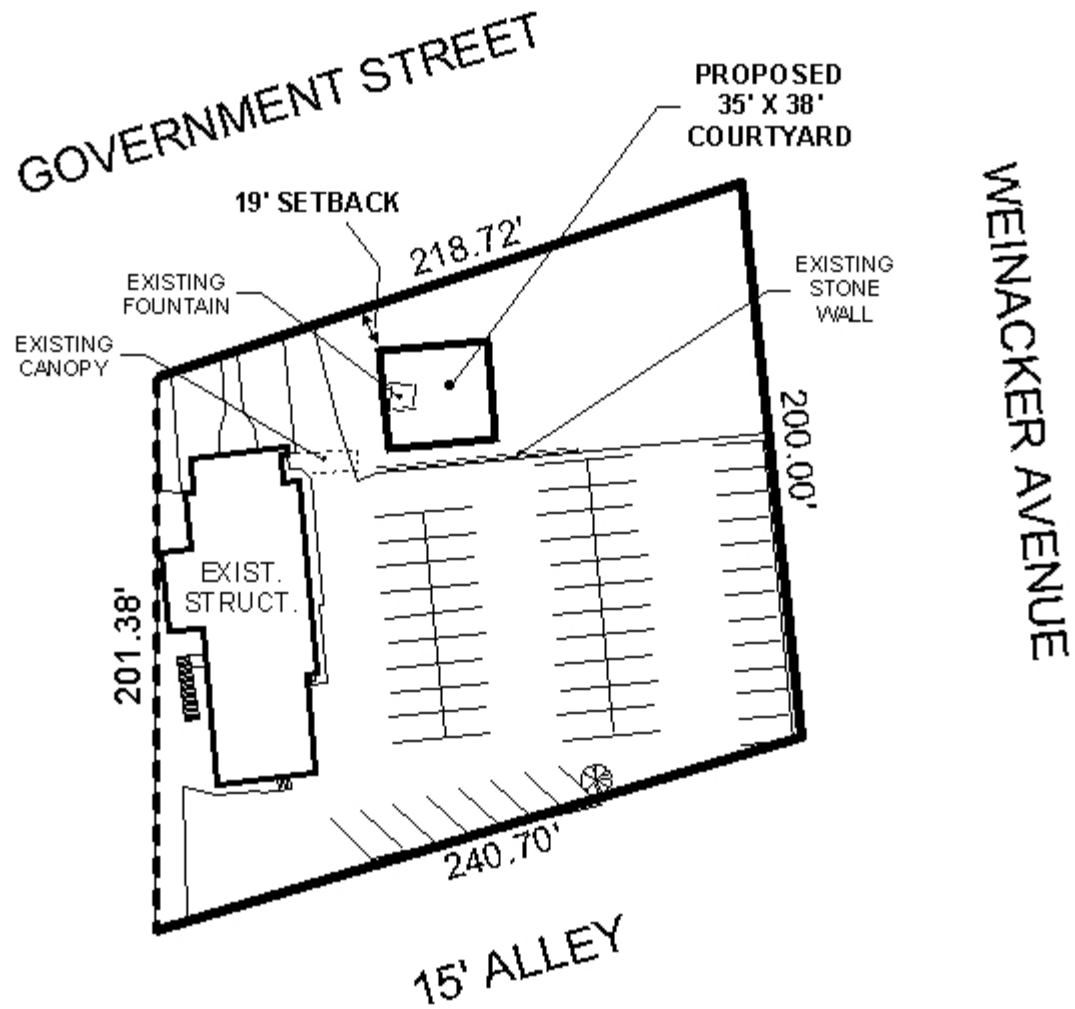
REQUEST Use, Front Yard Setback and Parking Ratio Variances

LEGEND

R-1	R-2	R-3	R-A	R-B	H-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 is located at the Northwest corner of Government Street and Weinacker Avenue. The plan illustrates the existing and proposed structures and parking.

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