

APPLICATION NUMBER

5429

A REQUEST FOR

**SIDE AND REAR YARD SETBACK VARIANCES TO
ALLOW A 12.2' X 12.2' STORAGE SHED TO BE
CONSTRUCTED 1' FROM THE SIDE AND REAR
PROPERTY LINES ON A 50' WIDE LOT IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT; THE
ZONING ORDINANCE REQUIRES A 7.1' SIDE YARD
SETBACK AND AN 8' REAR SETBACK ON A 50' WIDE
LOT IN AN R-1, SINGLE-FAMILY RESIDENTIAL
DISTRICT.**

LOCATED AT

1062 GALOWAY AVENUE

(West side of Galoway Avenue, 600' ± North of McMurray Street)

APPLICANT/AGENT

MUJO HASANOVIC

OWNER

MUJO HASANOVIC & VAHDETA GAZIC

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 2007

The applicant is requesting Side and Rear Yard Setback Variances to allow a 12.2' x 12.2' storage shed to be constructed 1' from the side and rear property lines on a 50' wide lot in an R-1, Single-Family Residential District; the Zoning ordinance requires a 7.1' side yard setback and an 8' rear setback on a 50' wide lot in an R-1, Single-Family Residential District.

The applicant constructed the subject storage shed without a building permit which would have depicted the required side and rear setbacks. A complaint was filed concerning the setback encroachment, and the applicant attempted to obtain a building permit, but was denied due to the fact that there was no intention to relocate the shed to meet the required setbacks, hence this application.

It is stated by the applicant that the shed is needed to store equipment and tools since there is no extra storage room in the house for such. It is further stated that a swimming pool is planned in the back yard for a disabled family member who needs rehabilitation, and there is no other location recommended for the shed.

The site plan furnished does not indicate the proposed pool, but a 36" diameter tree is indicated in that area of the rear yard which, if a heritage tree, would prevent the shed from meeting the minimum setbacks in the Southwest corner of the yard. No species was indicated on the site plan, however. The general outline of the pool is superimposed on photographs of the site furnished with the application and they seem to indicate that the pool would occupy a considerable area of the back yard.

Whereas the 36' diameter tree may present a hardship limiting the placement of the shed, required setbacks should have been coordinated prior to commencing construction on the shed so that an alternate location and/or size for the shed could have been arranged. Likewise, the proposed pool should be planned around structures on the site meeting setback compliance. Typically, the Board has been sympathetic in granting variances where hardships have been shown to be imposed by a property or when an addition is "in-line" with an existing structure and/or a minimum setback of 5' is provided. However, a 1' setback off both a side and rear property line in a residential subdivision is an inordinate request. Three of the primary concerns relating to side and rear setbacks are the potential for the spread of fire from one property to another, water run-off onto adjacent properties, and the ability to properly maintain the proposed structure. In this instance, all three of those concerns would be applicable and genuine.

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.

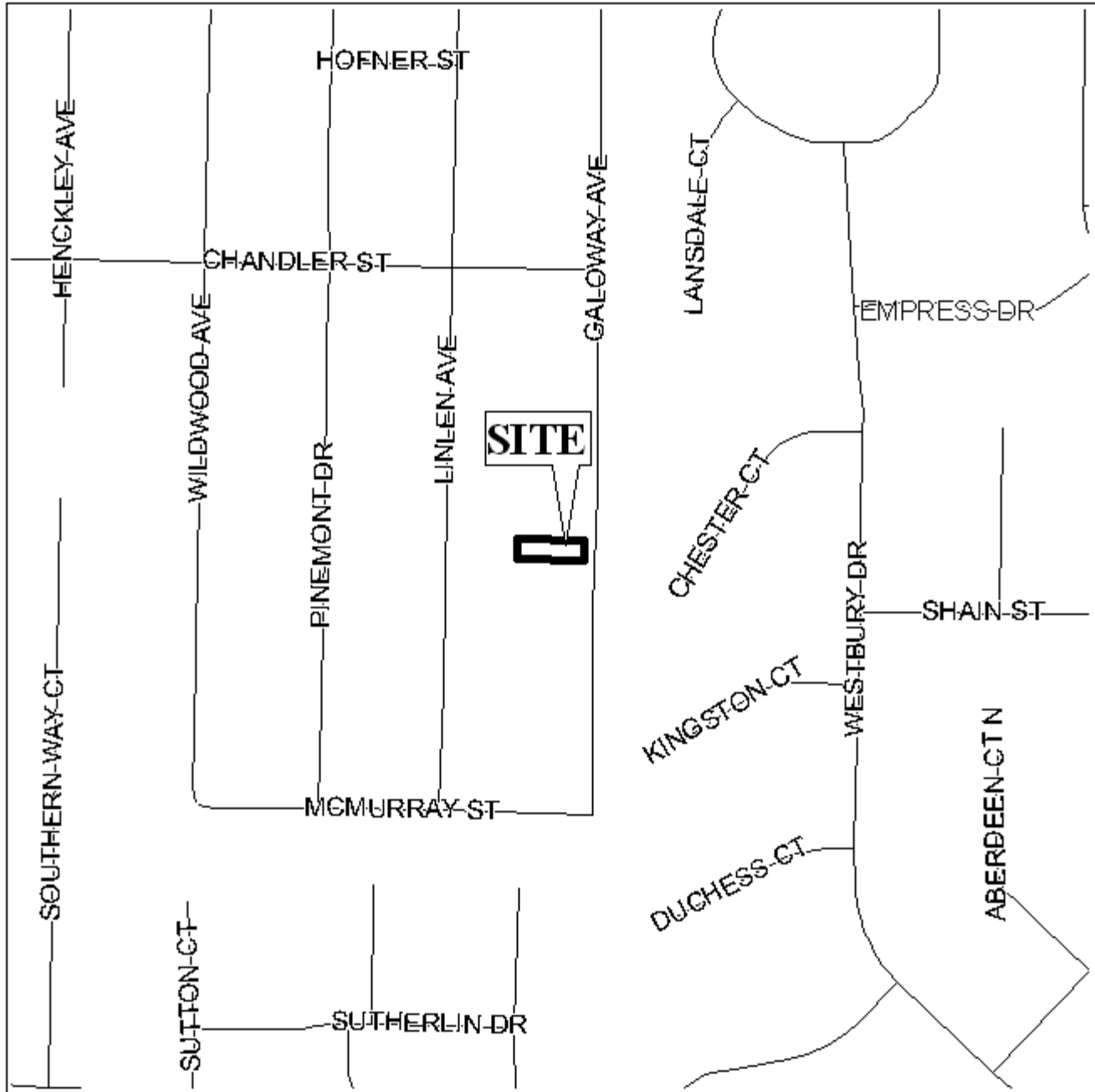
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. The location of the future pool should not be considered as a hardship imposed by the property since it is a self-imposed hardship. It is simply the applicant's desire to retain a storage shed constructed without permits 1' off the side and rear property lines.

RECOMMENDATION 5429**Date: September 10, 2007**

Based on the preceding, this application is recommended for denial.

LOCATOR MAP



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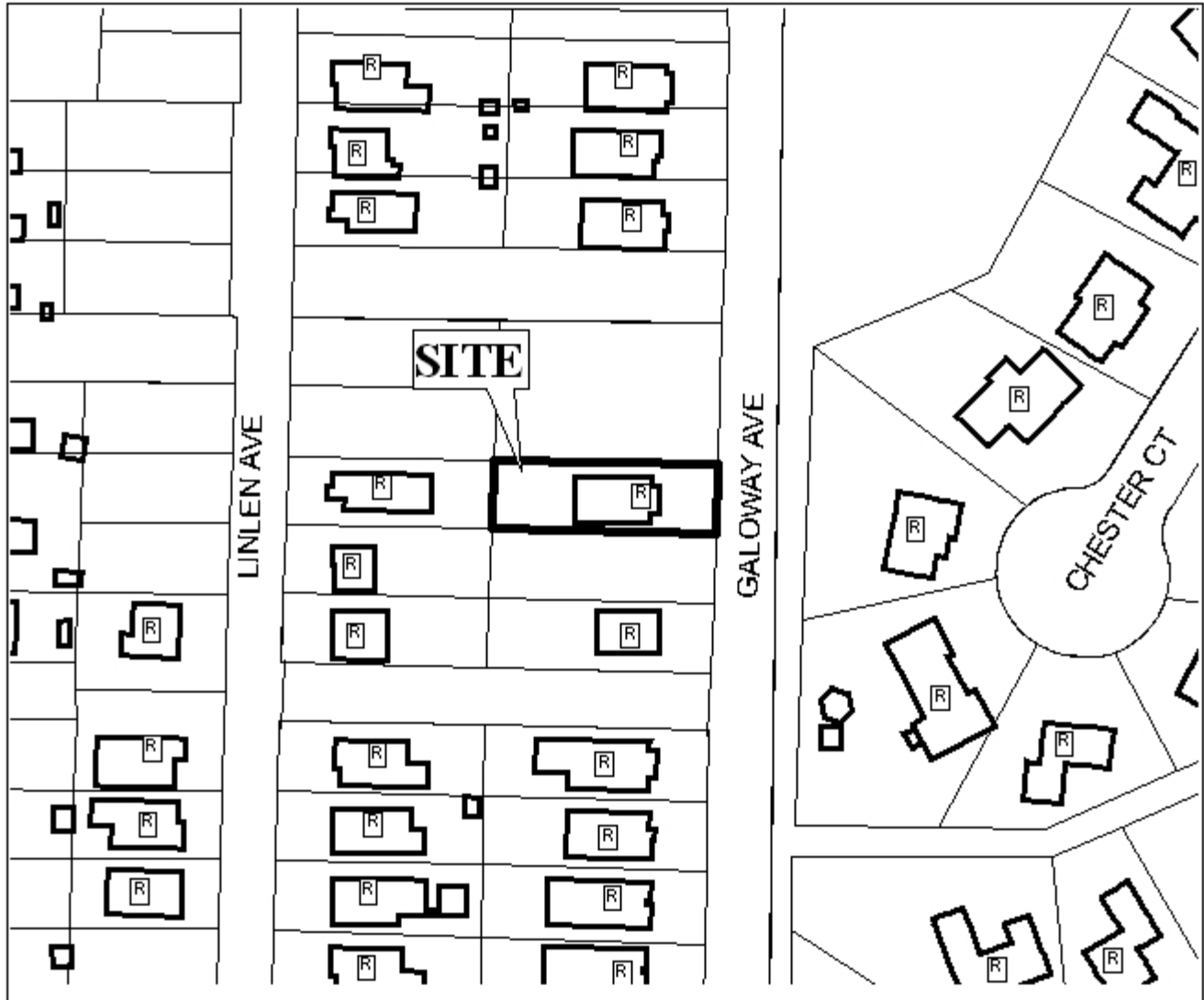
APPLICANT Mujo Hasanovic

REQUEST Side and Rear Yard Setback Variances



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING




This site is surrounded by residential landuse.

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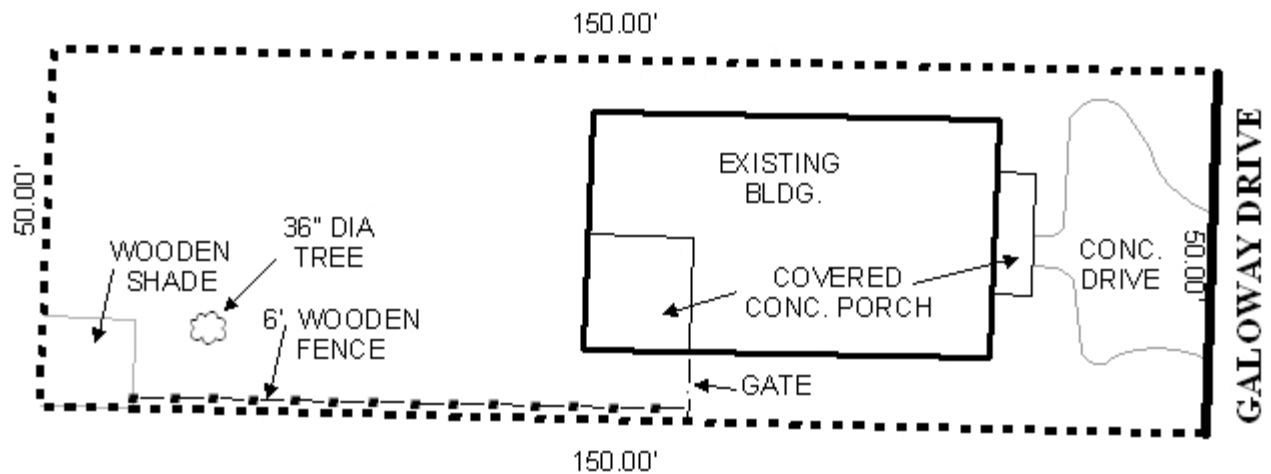
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LEGEND

															NTS
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	

SITE PLAN



This site illustrates an existing building and structures.

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