

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: November 7, 2011****CASE NUMBER**

5719

**APPLICANT NAME**

B.C. Daniels

**LOCATION**802 Galoway Avenue  
(West side of Galoway Avenue, 675'± South of Airport  
Boulevard)**VARIANCE REQUEST****SETBACK:** Side Street Side Yard Variance to allow construction of a dwelling within 9 feet of a side street side property line on a 50 foot wide lot that is also a corner building site in an R-1, Single-Family Residential District.**ZONING ORDINANCE  
REQUIREMENT****SETBACK:** Zoning Ordinance requires a 12.9 foot minimum side street side yard for a 50 foot wide lot that is also a corner building site in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

0.17 ± acres

**ENGINEERING  
COMMENTS**

No comments

**TRAFFIC ENGINEERING  
COMMENTS**

No comments

**CITY COUNCIL  
DISTRICT**

District 6

**ANALYSIS**

The applicant is requesting a side street side yard setback variance to allow the construction of a dwelling within 9 feet of a side street side yard on a 50 foot wide lot that is also a corner building site in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side street side yard setback of 12.9 feet on a 50 foot wide lot that is also a corner building site in an R-1 Single-Family Residential District.

It should be noted that Howard Street, which is an unopened street to the North of the site, has a right-of-way that has been vacated several blocks to the West of the site. The applicant states that for this reason, the reduced side street side yard setback should be allowed. However, there

is no reason why the applicant could not apply for a street vacation of the Howard Street right-of-way. If the Howard Street right-of-way is successfully vacated, the site would no longer be considered a corner lot and would be allowed a minimum side yard setback of 7.1 feet with a combined side yard setback of 16.7 feet. The residence illustrated on the submitted site plan would be compliant with these requirements. It should also be noted that if the right-of-way is successfully vacated, the applicant could apply for a subdivision to incorporate half the right-of-way into the lot.

The required minimum side street side yard setbacks should have been incorporated into the design of the proposed residence. The standard side street side yard setback requirements in an R-1, Single-Family Residential District are already reduced for a 50 foot wide lot, and it appears that the applicant simply wishes to construct the residence as desired regardless of Zoning Ordinance requirements.

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.

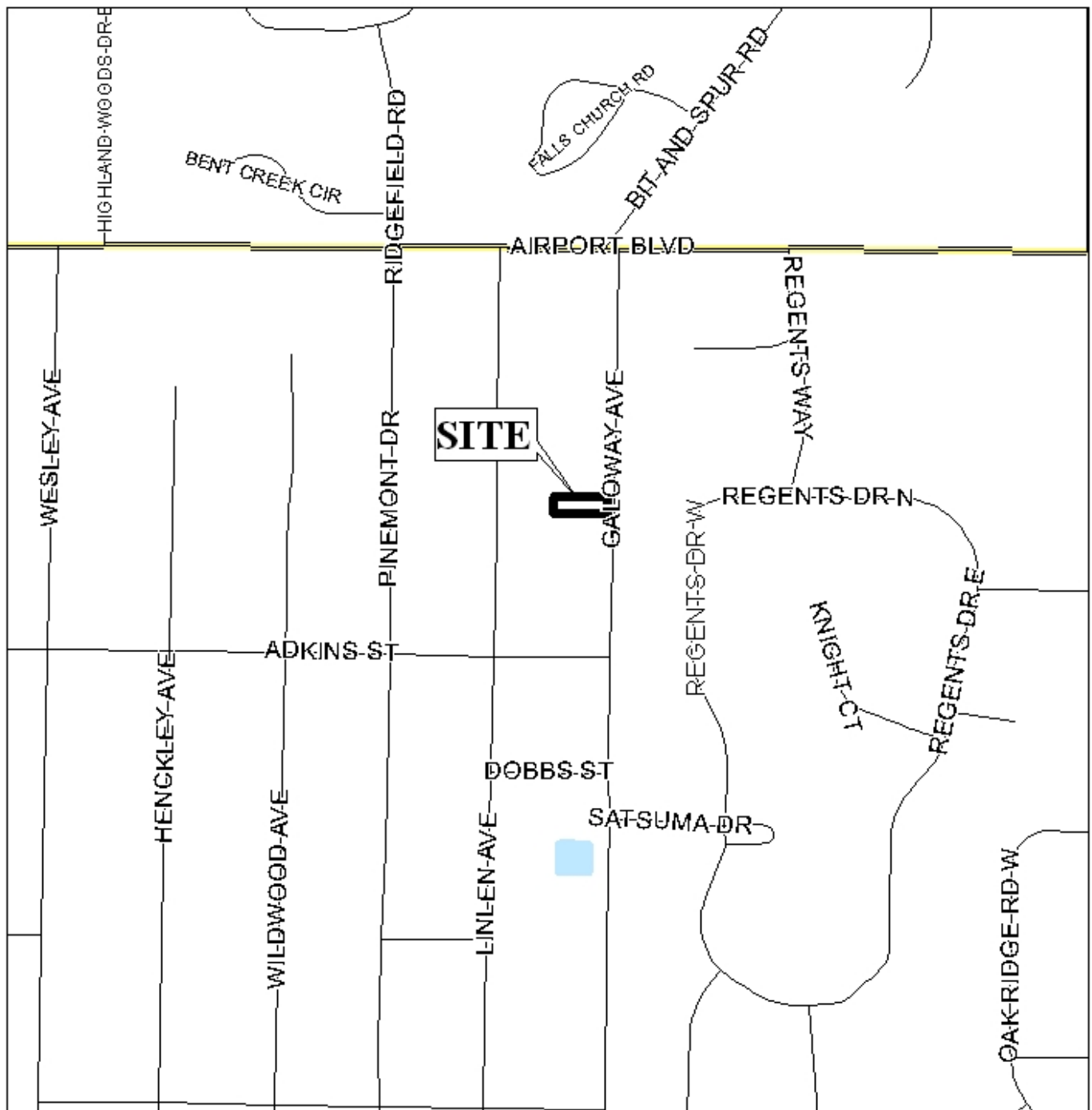
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

The applicant has failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. If the applicant still wishes to construct the residence as currently proposed, a vacation of the right-of-way will be more appropriate.

**RECOMMENDATION:**  
for denial.

Based on the preceding, this application is recommended

# LOCATOR MAP



APPLICATION NUMBER 5719 DATE November 7, 2011

APPLICANT B. C. Daniels

REQUEST Side Street Side Yard Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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REQUEST Side Street Side Yard 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	NTS
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

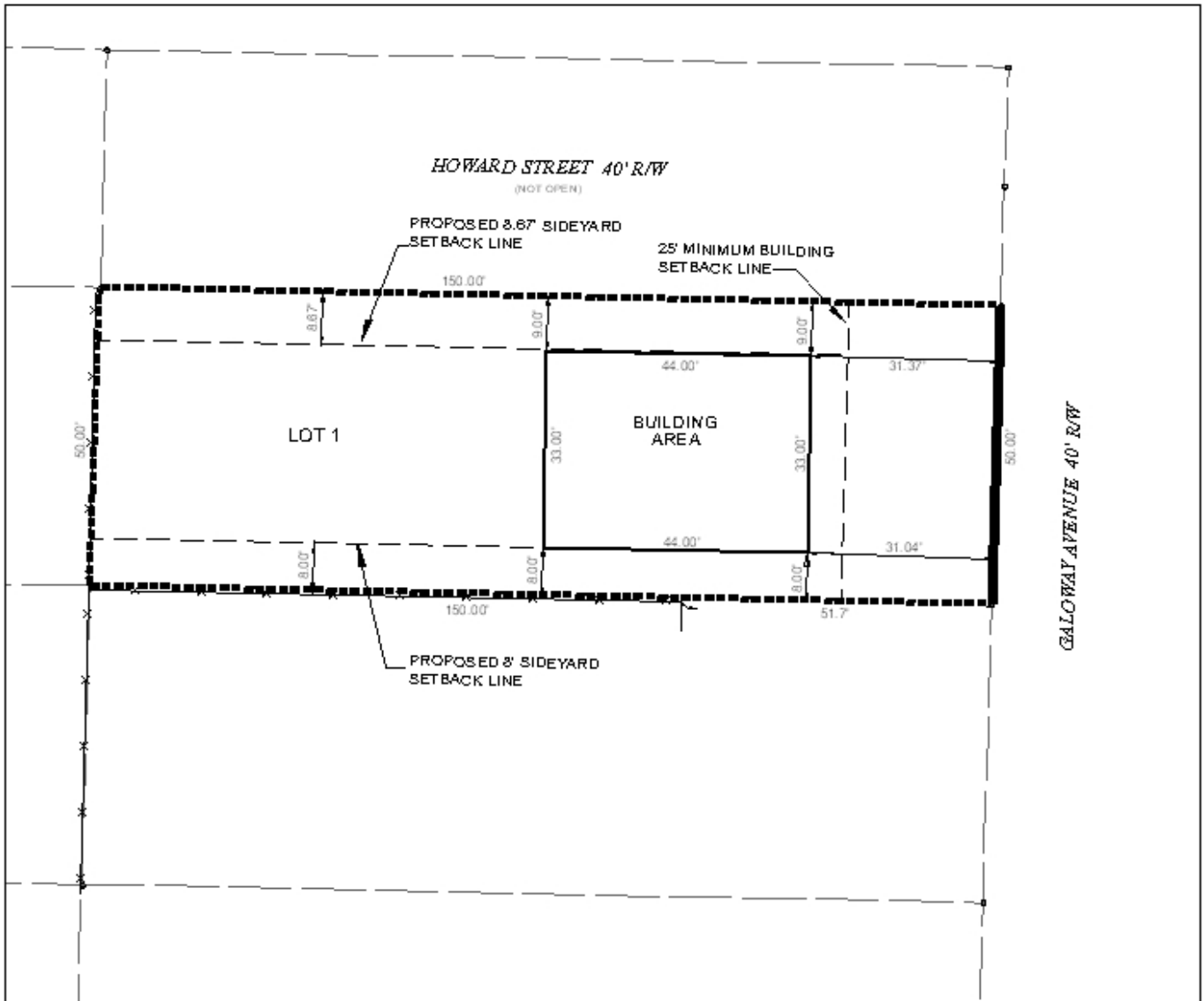


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## SITE PLAN



The proposed building setbacks are illustrated in the site plan.

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NTS