

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: May 2, 2016****CASE NUMBER**

6037

APPLICANT NAME

Laura Zacher

LOCATION1006 ½ & 1008 Caroline Avenue
(North side of Caroline Avenue, 190'± West of Common Street).**VARIANCE REQUEST****FRONT SETBACK:** Front Setback Variance to allow an existing structure within 10.4 feet from the front property line.**SIDE YARD SETBACK:** Side Yard Setback Variance to allow an existing structure within 1.7 feet from the side property line.**ZONING ORDINANCE
REQUIREMENT****FRONT SETBACK:** The Zoning Ordinance required a minimum 25' front yard setback.**SIDE YARD SETBACK:** The Zoning Ordinance requires a minimum 5' side yard setback.**ZONING**

B-2, Neighborhood Business District

AREA OF PROPERTY

7,405± Square Feet / 0.17± Acres

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**ENGINEERING
COMMENTS:**

If the variance is approved for use the applicant will need to submit and receive approval, through Central Permitting, of a Land Disturbance Permit for the proposed site development.

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting Front and Side Yard Setback Variances to allow an existing structure within 10.4 feet of the front property line and 1.7 feet

from the side property line in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum 25' front yard setback and a minimum 5' side yard setback for a structure in a B-2, Neighborhood Business District.

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 site plan illustrates that two dwellings currently exist on the property: one 711± s.f. structure is located near the South property line, and one 583± s.f. structure is located near the North property line. The structure near the South property line has frontage along Caroline Avenue and infringes upon the minimum 25' front yard setback and 5' side yard setback by 14.6' and 3.3', respectively. The applicant proposes to construct a 404.8 s.f. addition to the West of the existing structure near the North property line. It should be noted that the structures and the proposed addition will remain less than 35% of the maximum building site coverage established by the Zoning Ordinance.

The applicant states that:

To whom it may concern:

The property located at 1006/1008 Caroline Avenue is zoned B-2. The property is being used as residential which allows 2 dwellings at this location. We are adding an addition to the rear residence of 10' x 40' and are not impacting current setbacks. The variance request is to allow this addition to the property. We also ask for variances on existing setbacks so the buildings remain in their locations. We have submitted a 1-Lot subdivision as part of this application as well and seek your approval.

As the applicant mentions, the property is zoned B-2, Neighborhood Business District. Dwellings are allowed in B-2, Neighborhood Business Districts, but only above the first or ground floor; both existing dwellings appear to be single level and, as such, are not traditionally allowed by right. Also, while the applicant states that the proposed addition to the existing structure near the North property line will not infringe upon any setbacks, review of the site plan reveals that a porch with stairs is proposed as part of this addition and infringes upon the minimum 5' side yard setback by 2'±.

It is unknown when the existing structures were erected on the property, but Staff can verify their existence since at least 1960 using aerial photographs. As such, their uses as first or ground floor

dwelling in a B-2, Neighborhood Business District, along with any infringement on current setbacks, may be considered non-conforming. Additionally, it should be noted that the lot on which the current structures and addition will be situated is substandard in width: the lot is 37'± wide whereas standard lots for residential use are required to be at least 60' wide at the building setback line per current Subdivision Regulations; however, the lot was subject to recent Subdivision approval by the Planning Commission at its April 7, 2016 meeting and therefore benefits from reduced setbacks. As such, a hardship may exist with regards to existing structures infringing on setbacks resulting from the approved substandard lot. This may not facilitate, however, a hardship for the proposed porch and stairs of the proposed addition to infringe upon the minimum 5' side yard setback, especially when a smaller or redesigned porch with stairs could meet the requirements of the Zoning Ordinance. It should be noted that the site is within an historic district but does not benefit from exceptions to the building envelope regarding side yard setbacks due to commercial zoning of the property as a B-2, Neighborhood Business District; however, the site may reflect the character of the surrounding neighborhood with respect to side yard setbacks.

Given the length of time the existing structures have been situated on the property, the property's location within an historic district and the character of the surrounding neighborhood, approval of the Variance request may be appropriate. It should be noted that, as a condition of Subdivision approval of the lot, any new construction on the property requires submission of a Planned Unit Development application to the Planning and Zoning Department to allow multiple buildings on a single building site. A Planned Unit Development application has been submitted and will appear on the Planning Commission's May 19th agenda; however, it should be noted that additional Variance requests could have allowed multiple buildings on a single building site, and residential use of the ground floor of the existing structures in a B-2, Neighborhood Business District.

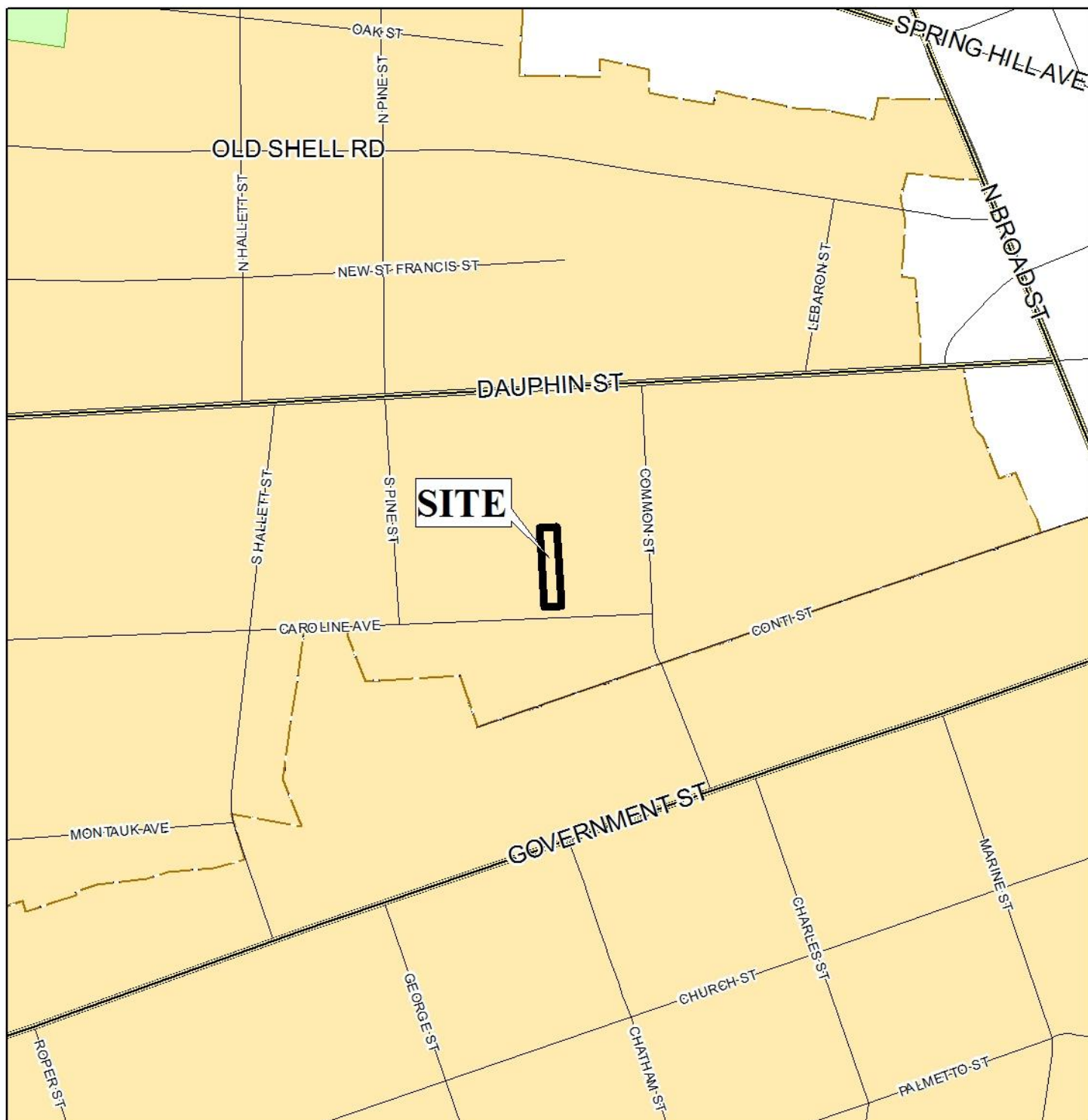
RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) granting the variance will not be contrary to the public interest in that the existing structures appear to have existed since at least 1960 without conflict, and only a small portion of the proposed addition will require a reduced side yard width;
- 2) that special conditions exist, including the substandard width of the lot and the potentially non-conforming use of the property and its reduced setbacks, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) that the spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the site is located within an historic district and is developed similarly to neighboring properties with regards to reduced setbacks.

The approval should be subject to the following conditions:

- 1) completion of the Subdivision process;
- 2) acquisition of the appropriate land disturbance and building permits; and
- 3) full compliance with all applicable codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6037 DATE May 2, 2016

APPLICANT Laura Zacher

REQUEST Front and Side Yard Setback Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

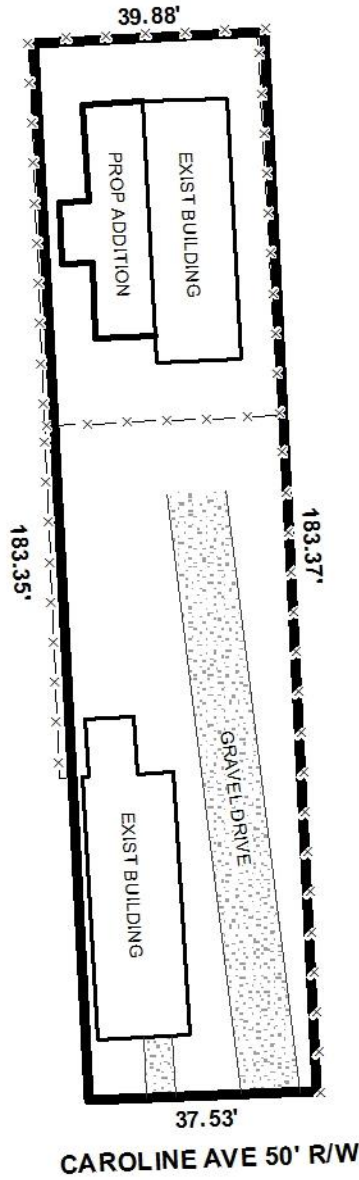


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SITE PLAN



The site plan illustrates the existing buildings, gravel drive, and proposed addition.

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