

APPLICATION NUMBER

**5576**

A REQUEST FOR

**USE VARIANCE TO ALLOW A GARAGE APARTMENT  
IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT;  
THE ZONING ORDINANCE REQUIRES A MINIMUM R-2,  
TWO-FAMILY RESIDENTIAL DISTRICT FOR TWO  
DWELLINGS ON A SINGLE BUILDING SITE.**

LOCATED AT

**4300 COALESWAY DRIVE**

(Northwest corner of Coalesway Drive and Belvedere Drive)

APPLICANT

**HURLEY CREWS SR, ET AL**

**BOARD OF ZONING ADJUSTMENT**

NOVEMBER 2009

The applicant is requesting a Use Variance to allow a garage apartment in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum R-2, Two-Family Residential District for two dwellings on a single building site.

On March 18, 2009, an investigation was made at this location in reference to a report of conversion of "an outbuilding" into a second residence. Upon investigation, it was discovered that an existing garage had been converted, without permits, into a second dwelling unit. Permits would be required to ensure compliance with Building, Plumbing, Mechanical, Electrical, and Fire Code requirements for a single-family dwelling. The applicant met Planning Section staff to determine a course of possible actions to resolve the situation. The applicant has already applied to the Planning Commission for a subdivision to divide the property, and the application was denied at the September 17, 2009, meeting because the lot was uncharacteristic of the area.

The applicant is now requesting a use variance. The applicant also has the option of applying for a rezoning to R-2, or removing any kitchen facilities and thus making the structure a conforming accessory structure. It should be noted that when a second electric service to the property was installed, the applicant signed a statement which is on file with Urban Development stating that the garage would not be used for commercial or residential purposes. The statement was required by Urban Development expressly due to a concern that a conversion to a second dwelling unit may occur. Such statements are typically required whenever a second electrical service is proposed to an outbuilding at a single-family residence.

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.

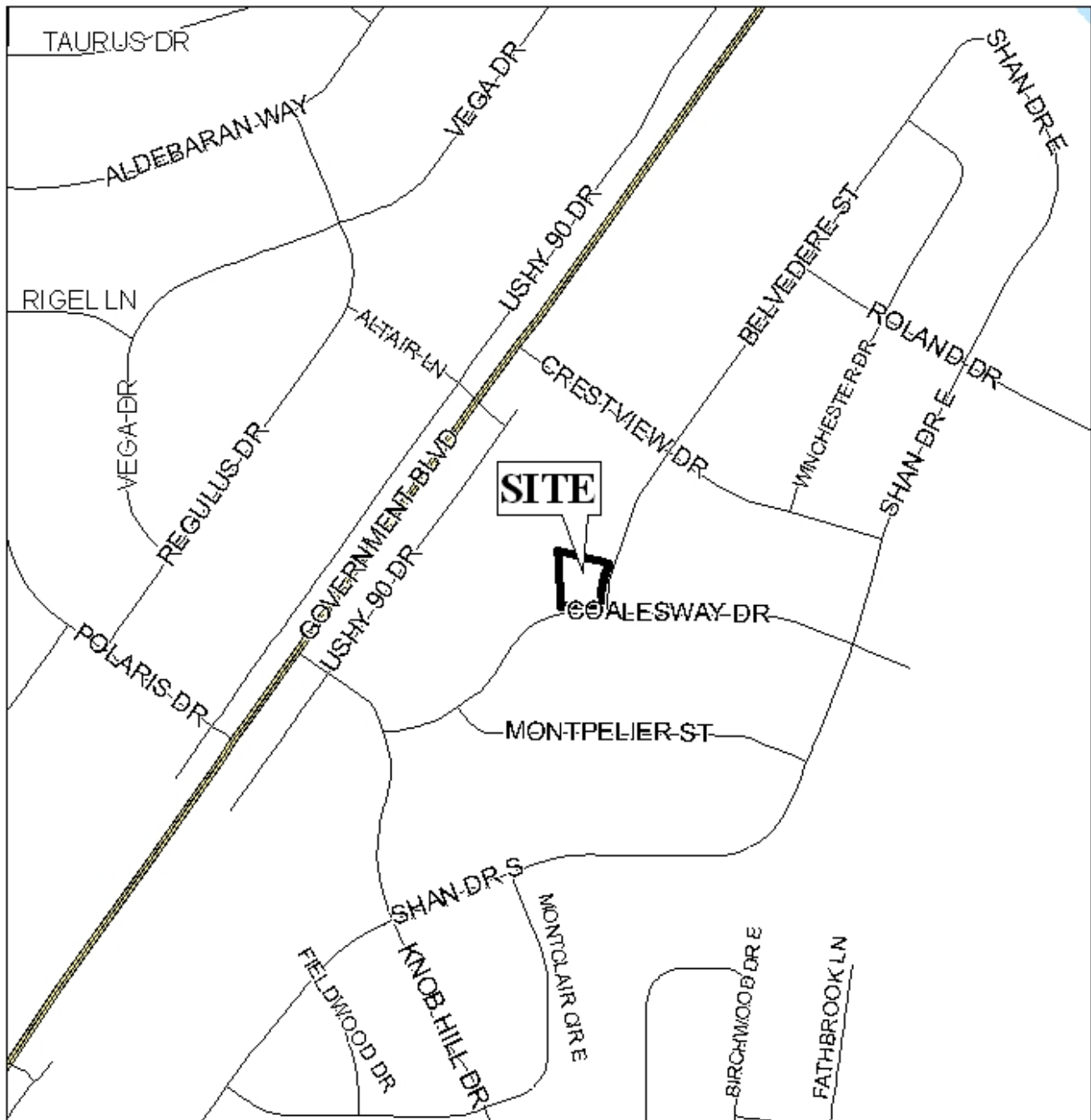
The applicant states that the lot on which the structures are located is one of the largest lots in Crestview Subdivision and one of the few with a private driveway from both Belvedere Drive and Coalesway Drive. The applicant did not provide any further justification of non-financial hardship. Further, the applicant was well aware that the conversion of this structure into a residence was not permissible as evidenced by his signed statement in 2005.

The applicant has failed to illustrate that a literal enforcement of the ordinance would result in an unnecessary hardship. It is simply the applicant's wish to have two dwellings on a single-family zoned property.

**RECOMMENDATION 5576****Date: November 2, 2009**

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

## LOCATOR MAP



APPLICATION NUMBER 5576 DATE November 2, 2009

APPLICANT Hurley Crews, Sr., et al

REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units and there is a mini storage facility to the north of the site.

APPLICATION NUMBER 5576 DATE November 2, 2009

APPLICANT Hurley Crews, Sr., et al

REQUEST Use 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

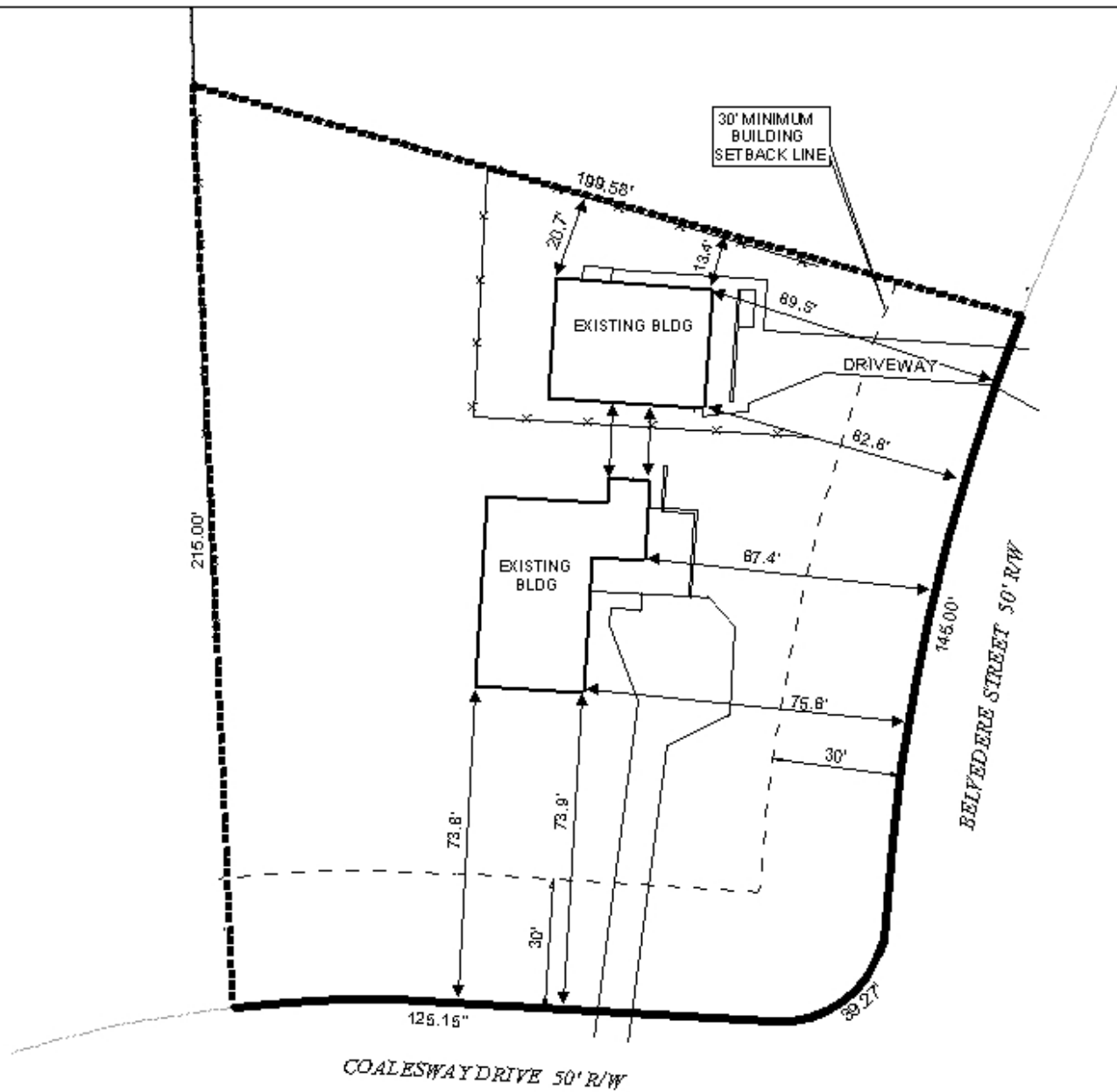


The site is surrounded by single family residential units and there is a mini storage facility to the north of the site.

APPLICATION NUMBER 5576 DATE November 2, 2009  
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## DETAIL SITE PLAN



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