

APPLICATION NUMBER

5629

A REQUEST FOR

**FRONT YARD SETBACK VARIANCE TO ALLOW A 22' X
30' CARPORT/STORAGE ROOM WITHIN 8' OF THE
FRONT PROPERTY LINE IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT; THE ZONING ORDINANCE
REQUIRES A 25' MINIMUM BUILDING SETBACK FROM
THE FRONT PROPERTY LINE IN AN R-1, SINGLE-
FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

112 SOUTH MCGREGOR AVENUE

(Southeast corner of McGregor Avenue and Vickers Place)

APPLICANT

JEAN H. AND PHILLIP AUSTIN

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 2010

The applicant is requesting a Front Yard Setback Variance to allow a 22' x 30' carport/storage room within 8' of the front property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 25' minimum building setback from the front property line in an R-1, Single-Family Residential District.

The applicants are proposing to remove an existing non-conforming storage shed which is within 6 feet of the property line, and construct a new open carport with an enclosed storage area, which would be connected to the main house with a breezeway.

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 lot on which the house sits is quite unique. Essentially, the lot is wedge shaped, with the front and West side of the lot being bordered by the right-of-way of a large curve in McGregor Avenue. The lot is further unique in that the access for the lot is via a 25-foot wide reciprocal ingress and egress easement on the adjacent lot. In fact, multiple lots access McGregor Avenue through this common easement and curb cut. As a result, the East side yard of the lot in question essentially functions as the front yard, with the West yard along McGregor Avenue functioning as a rear yard.

Because the West side of the property fronts McGregor Avenue, it is, by technical definition, a "front yard" and requires a 25-foot setback. In reality, the West side functions as a rear yard, which would only require an 8-foot setback. The applicant's did not provide any justification of hardship, however, the shape, access, and orientation of the structures on the lot suggests that this lot is indeed unique, and granting of this variance could be considered appropriate.

While the 8-foot setback would meet the requirements of the Ordinance for a rear yard, the area is, technically, a front yard, along a major street. A simple reduction of the breezeway from the main house to the proposed carport would further reduce the encroachment into the front yard setback. A setback of 10 feet to 12 feet would be preferable to 8 feet. To achieve this, a reduction of the breezeway to 18 or 20 feet would suffice.

It is worth noting that the Board granted an almost identical request on July 12, 1999 (variance #4869) for the property directly South and adjacent to the subject property. In this case, the Board allowed a carport with breezeway to be constructed 5 feet from the property line along McGregor Avenue

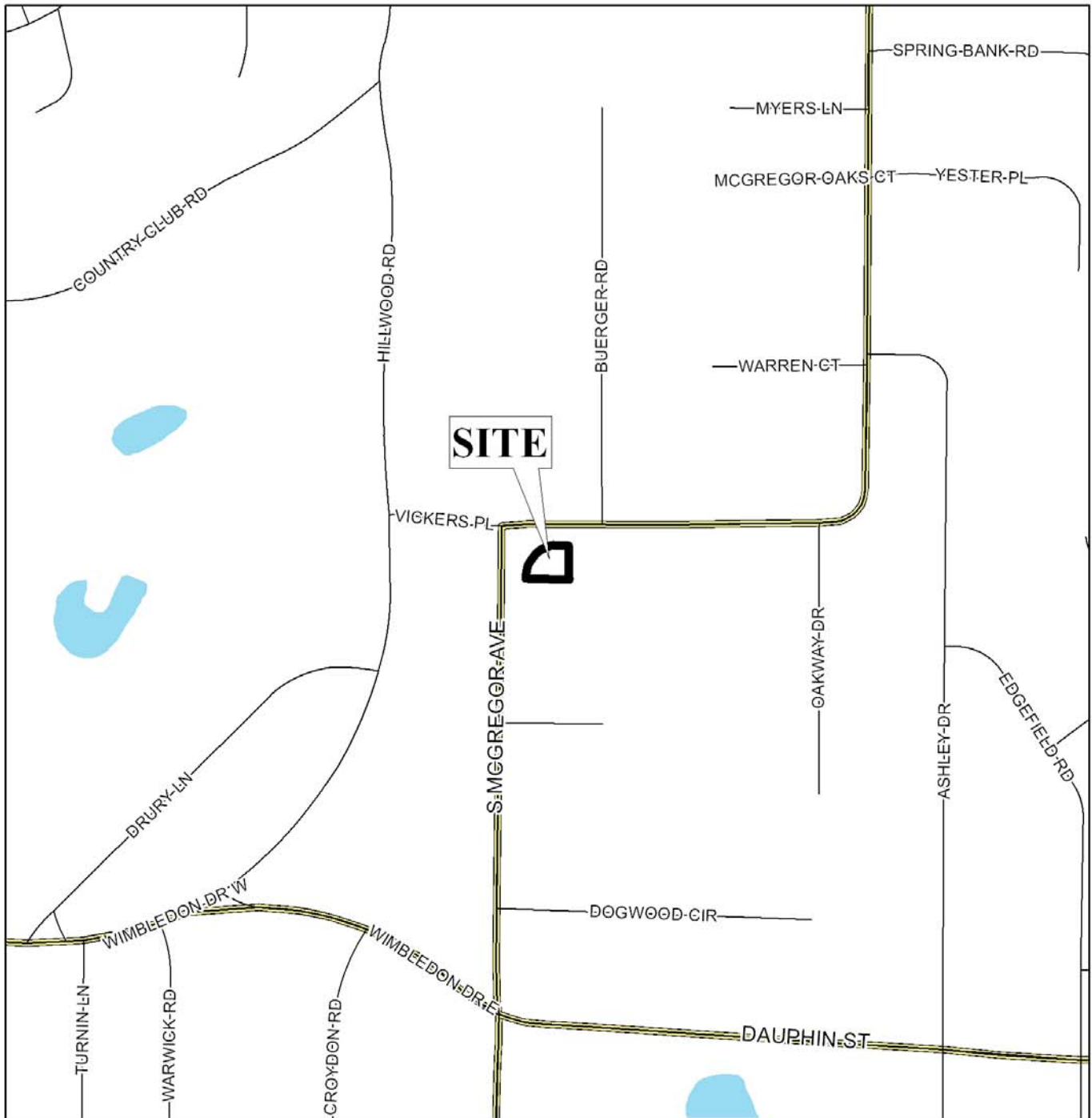
Lastly, access to McGregor Avenue should be denied, and the lot be limited to maintaining a 25-foot setback along the East property line (abutting the ingress and egress easement) to maintain the uniqueness of the site that is the basis for recommending this variance request for approval.

RECOMMENDATION 5629**Date: September 13, 2010**

The variance request is recommended for approval subject to the following conditions:

- 1) the setback be increased from 8 feet to at least 10 feet;
- 2) the site is not to have any direct access to McGregor Avenue, rather the access continue to be through the common ingress and egress easement;
- 3) that a 25-foot setback be maintained along the East property line where the site abuts the ingress and egress easement and functions as a front yard; and
- 4) full compliance with all municipal codes and ordinances.

LOCATOR



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

















This site is surrounded by residential land use.

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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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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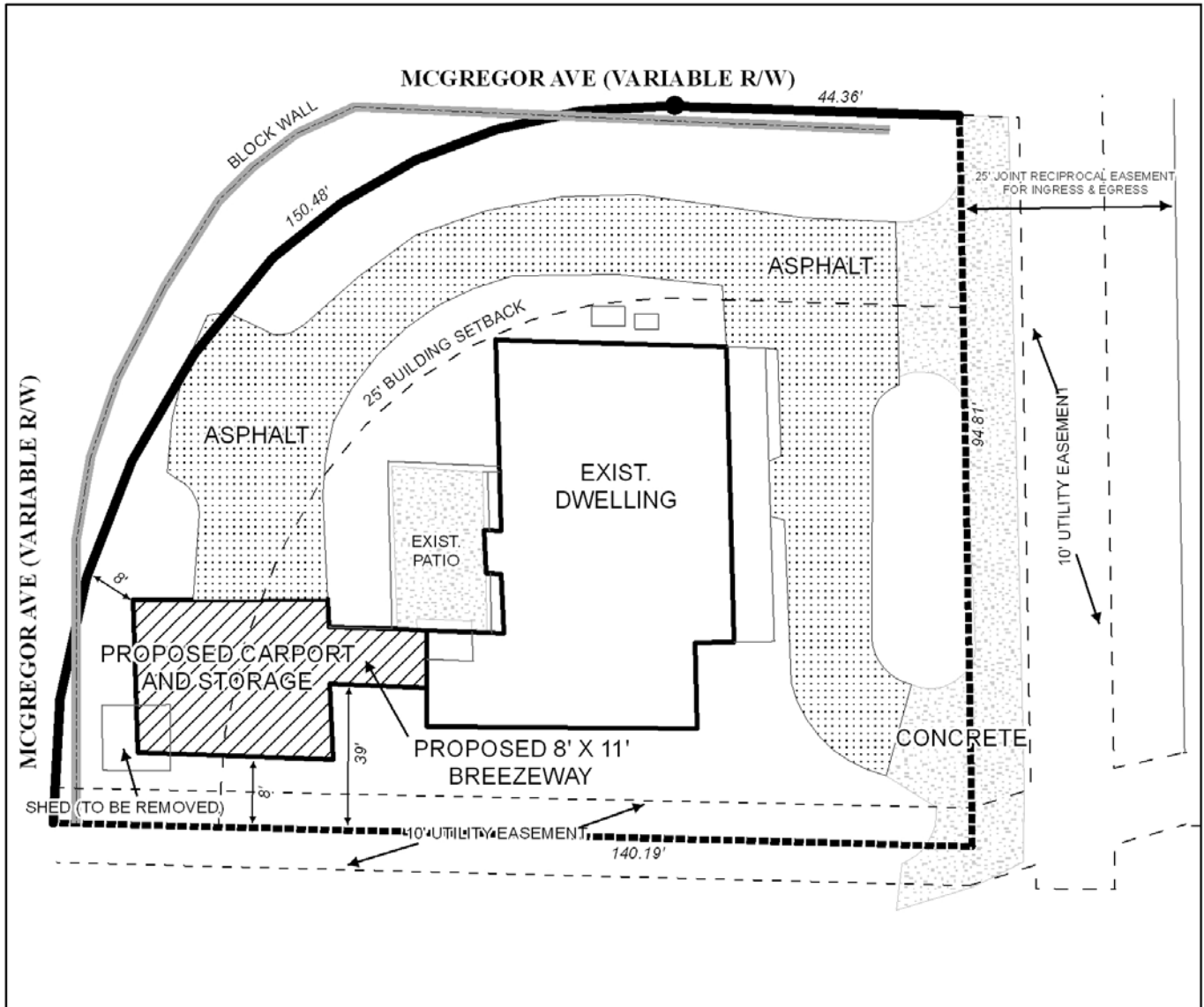
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SITE PLAN



This site plan illustrates the existing lot configuration and proposed carport addition.

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