

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 4, 2012**

<u>CASE NUMBER</u>	5753/5519/4575
<u>APPLICANT NAME</u>	Nicholas Stricklin
<u>LOCATION</u>	2605 Spring Hill Avenue (Southwest corner of Spring Hill Avenue and Item Avenue)
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow a catering shop in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for a catering shop.
<u>ZONING</u>	R-1, Single-Family Residential District
<u>AREA OF PROPERTY</u>	4.1± Acres
<u>TRAFFIC ENGINEERING COMMENTS</u>	If any changes are considered for the driveway/curb cut(s), Please contact Traffic Engineering at 251-208-2960 to discuss current requirements.
<u>CITY COUNCIL DISTRICT</u>	District 1

ANALYSIS The applicant is requesting a Use Variance to allow a catering shop in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District, for a catering shop.

The subject site contains an active church and a vacant church school and other associated structures. A previous variance was granted in 1996 to allow a home health care service office on the site, and another was granted in 2008 to allow a day care, both within the vacant school building. The applicant now proposes to utilize the kitchen area of the vacant two-story school building to operate a food catering service. It is stated that there will be no food pick-up on-site and that all food prepared in the kitchen will be delivered off-site. The proposed hours of operation are to be 7:00 AM to 8:00 PM Monday through Saturday depending on the schedule of catered events with the applicant being the sole employee. No floor plan or exterior building changes are proposed and it is further stated that the use should have no impact on the neighborhood.

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 has a history of nonconforming catering uses with City business licenses spanning continuously from December, 1987, to the last business license issued in October, 2000. A Zoning Clearance was issued for the 2000 business license, but there is no verifiable City business license history for catering service use beyond that date and the nonconforming use allowance expired in 2002, hence this application.

Regarding the over-all site, the site plan does not indicate a dumpster, and if approved, a revised site plan with a note stating that curbside pick-up will be used, or illustrating a dumpster, screened from view and in compliance with Section 64-4.D.9. of the Zoning Ordinance, and with a compliant sanitary sewer connection, should be submitted.

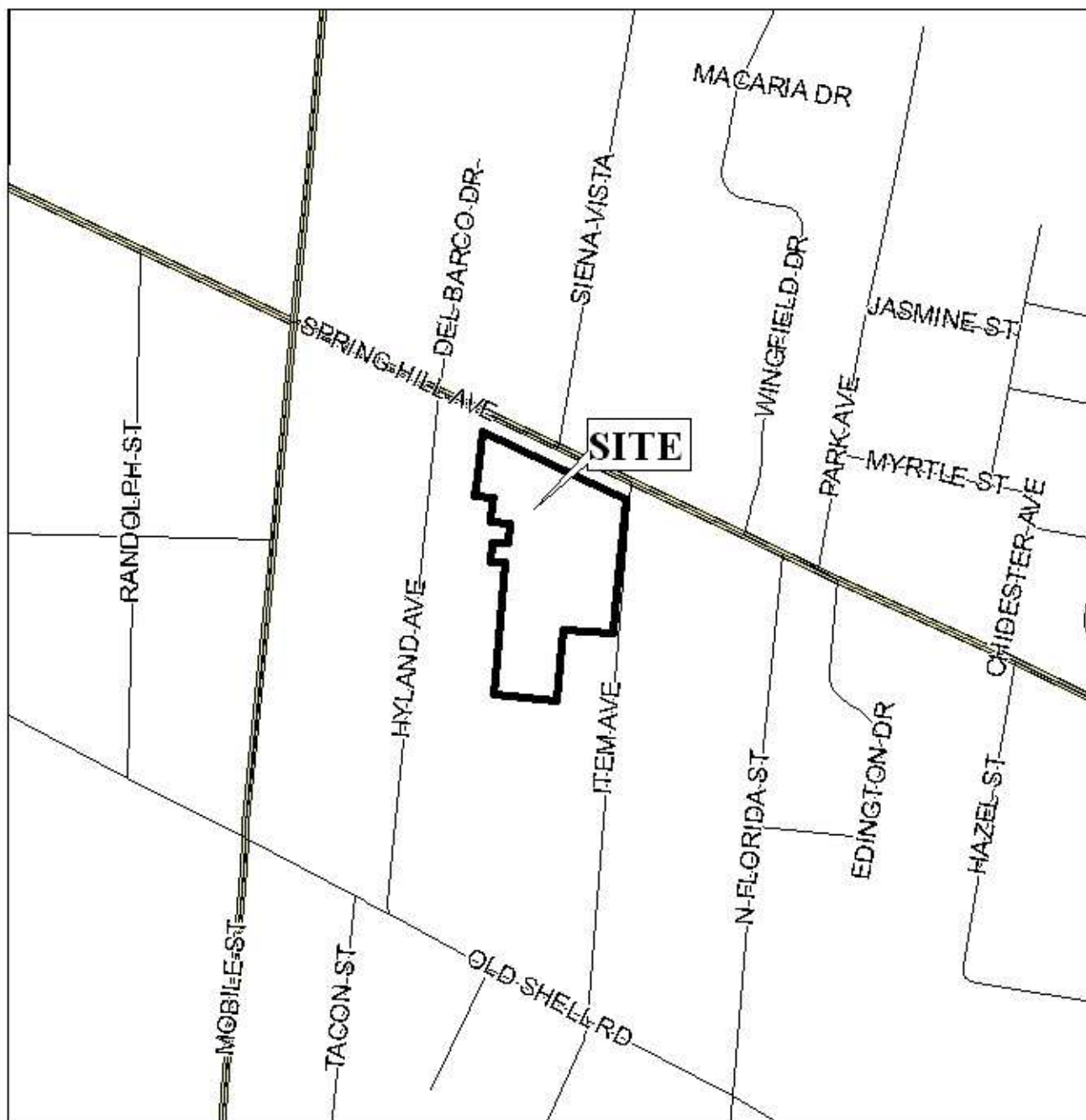
The applicant has failed to illustrate that a hardship would be imposed by a literal interpretation of the Zoning Ordinance. The previous use as a home health care service office was for a B-1 type use, and the use as a child day care is allowed in B-1 with Planning Commission Approval. The approval of a B-2 use would, therefore, be an escalation in the use of the property, and the Board should consider this application for denial.

RECOMMENDATION:

Based on the preceding, this application is recommended

for denial.

LOCATOR MAP



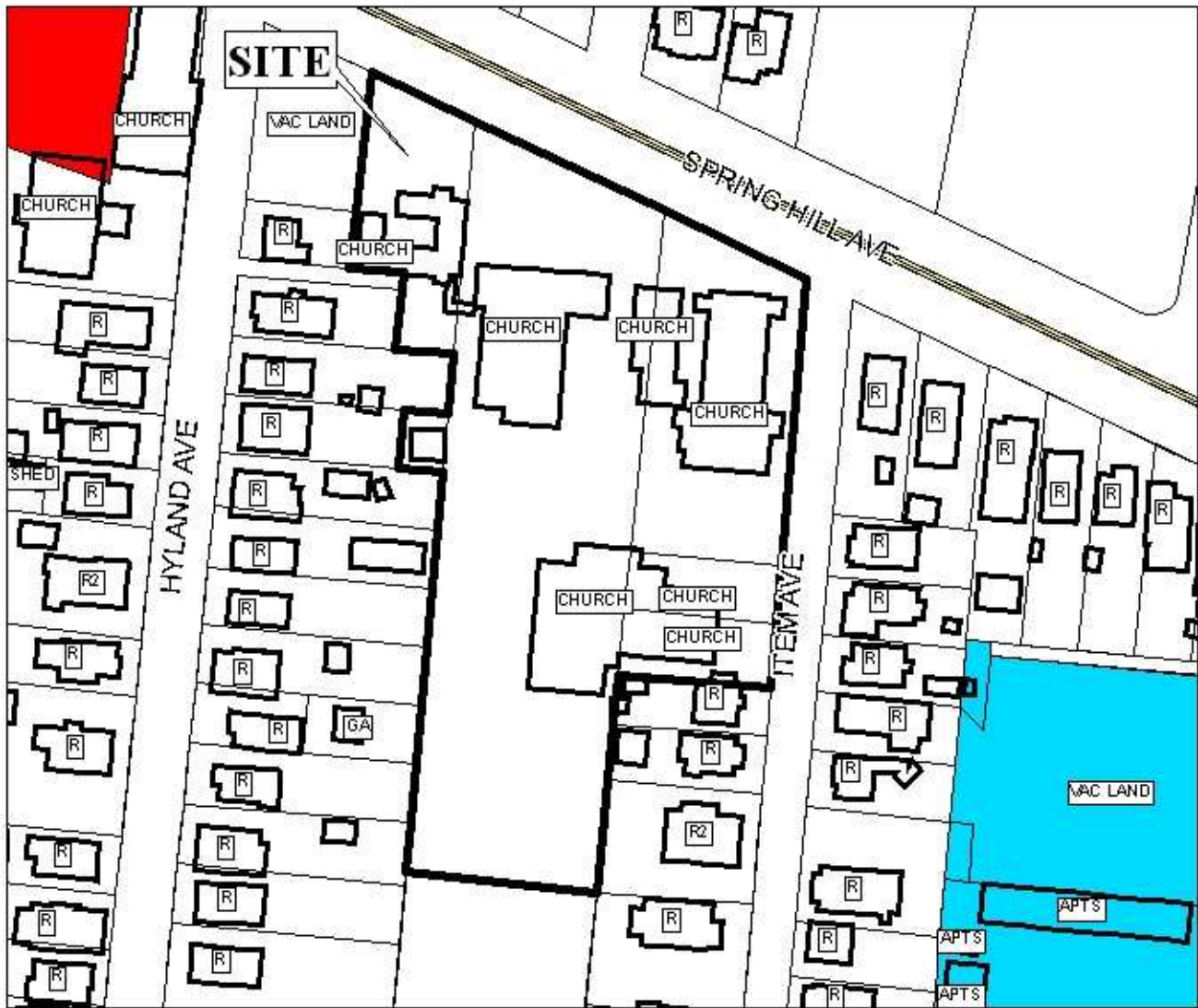
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REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The 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
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

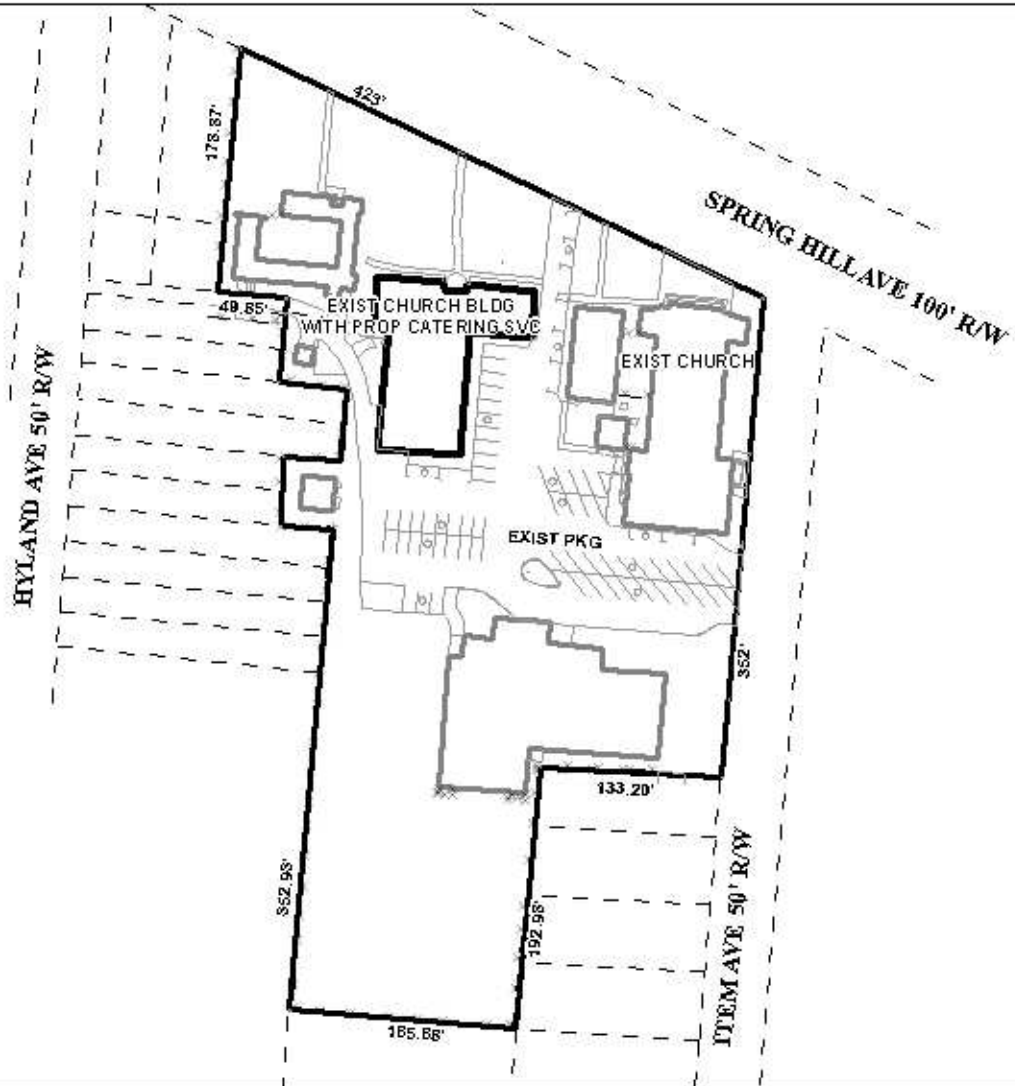


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SITE PLAN



The site plan illustrates the existing church and the proposed location of the catering service.

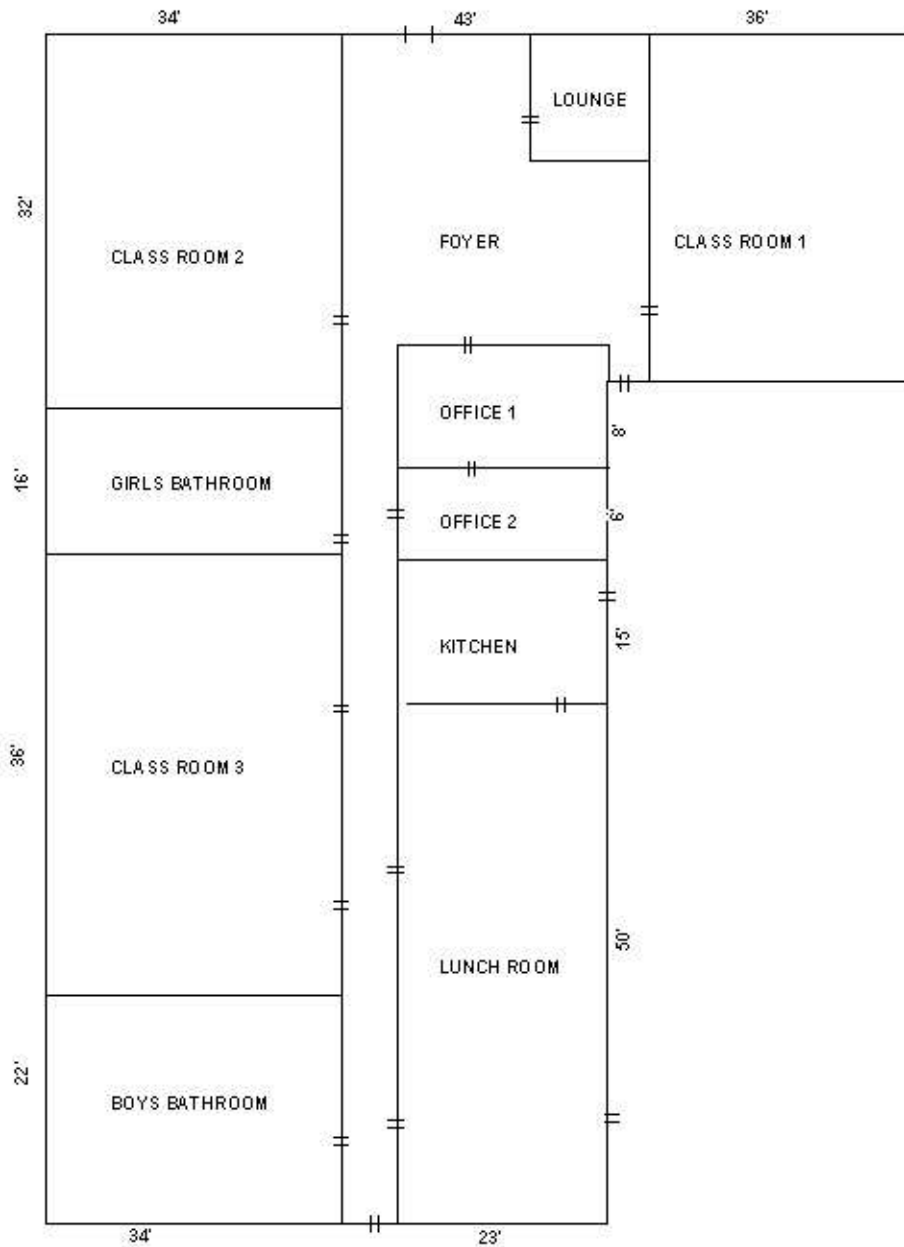
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DETAIL SITE PLAN



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