

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: January 7, 2013**

<u>CASE NUMBER</u>	5809
<u>APPLICANT NAME</u>	R. Michael and C. Brooke Lenz
<u>LOCATION</u>	East terminus of Rochester Place
<u>VARIANCE REQUEST</u>	SETBACK: Front Yard Setback to allow a garage to protrude 7' 4" into the front 25' setback in an R-1, Single Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	SETBACK: Zoning Ordinance requires a minimum 25' front setback in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single Family Residential
<u>AREA OF PROPERTY</u>	0.42 ± Acres
<u>CITY COUNCIL DISTRICT</u>	District 5

ANALYSIS The applicant is requesting a Front Yard Setback to allow a garage to protrude 7' 4" into the front 25' setback in an R-1, Single Family Residential District; the Zoning Ordinance requires a 25' front setback in an R-1, Single-Family Residential District.

The site was the subject of a Subdivision and Planned Unit Development which were approved by the Planning Commission at its February 17, 2005 meeting to allow the development to be placed along a private street. There were no reduced setbacks that were approved as part of the Planned Unit Development. The Board of Zoning Adjustment cannot reduce or remove a setback approved the Planning Commission. The applicant should submit revised Subdivision and Planned Unit Development applications.

The applicant proposes to build a new residence at the site and is requesting permission to have the garage extend into the 25' front setback. The proposed residence will be 4,200± square feet, and will result in approximately 23% site coverage, which is below the maximum allowed site coverage of 35%. Also, based on the information submitted, it appears that the house meets all other setback requirements. It should be noted that no information is given in regards to the depth of the pool and that the pool setback from the property lines must be a minimum of the depth of the pool plus 1'.

The currently proposed location of the residence would produce compliant side and rear yard setbacks. The applicant states that the curve in the street in front of the house is the reason why

the garage protrudes into the front setback, however this should have been considered when designing a structure to be placed on the site. The possibility of relocating the garage to the rear portion of the house has been considered by the applicant, however it was determined that the aesthetic design would be compromised. The applicant also states that if the house were to be relocated to remove the garage from the front setback, it would result in the back yard being a 10' drainage and utility easement, which the applicant wishes to avoid.

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.

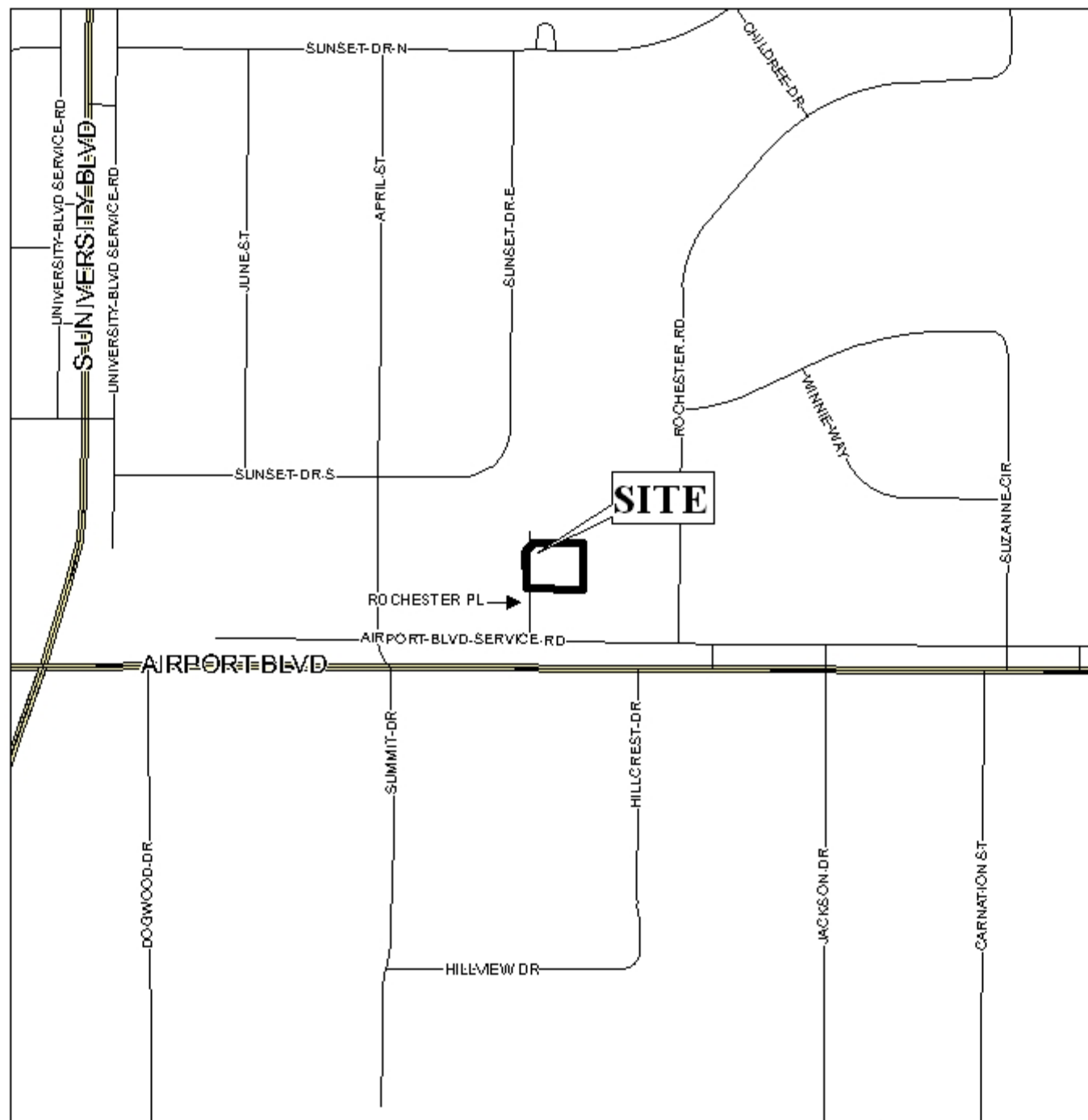
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined 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. The proposed residence could be repositioned to be located behind the front setback, the placement of the garage could be reconfigured to remove it from the setback, or the size of the structure could be reduced, which would remove any encroachments, and result in a larger back yard. Furthermore, aesthetics of design is not a hardship associated with the property, but rather is subjective and ultimately self-imposed. The applicant should submit revised Subdivision and Planned Unit Development application to the Planning Commission instead.

RECOMMENDATION:
for denial.

Based on the preceding, this application is recommended

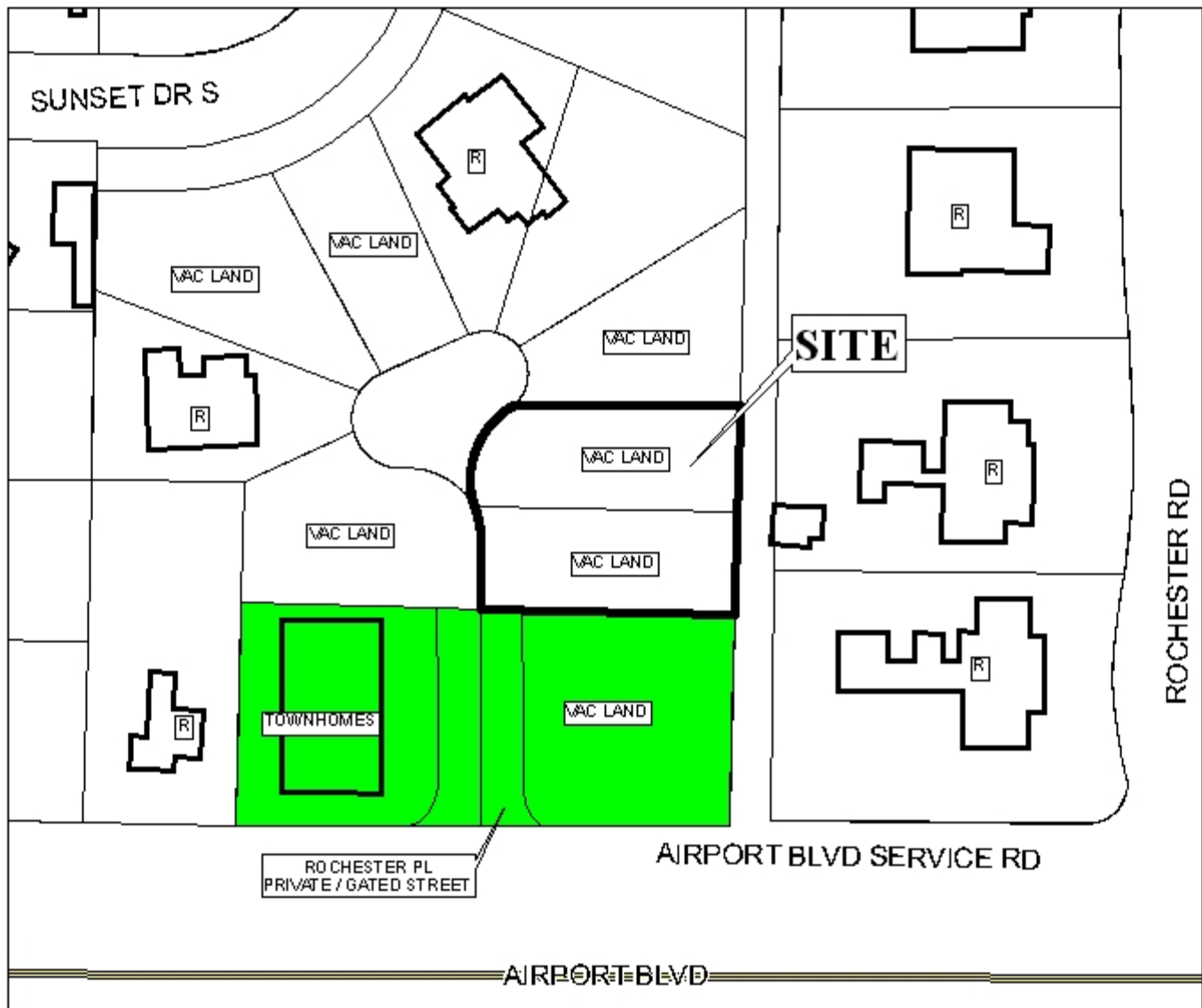
LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Townhomes are located to the south of the site. Single-family residences are located to the north, west, and east of the site.

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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



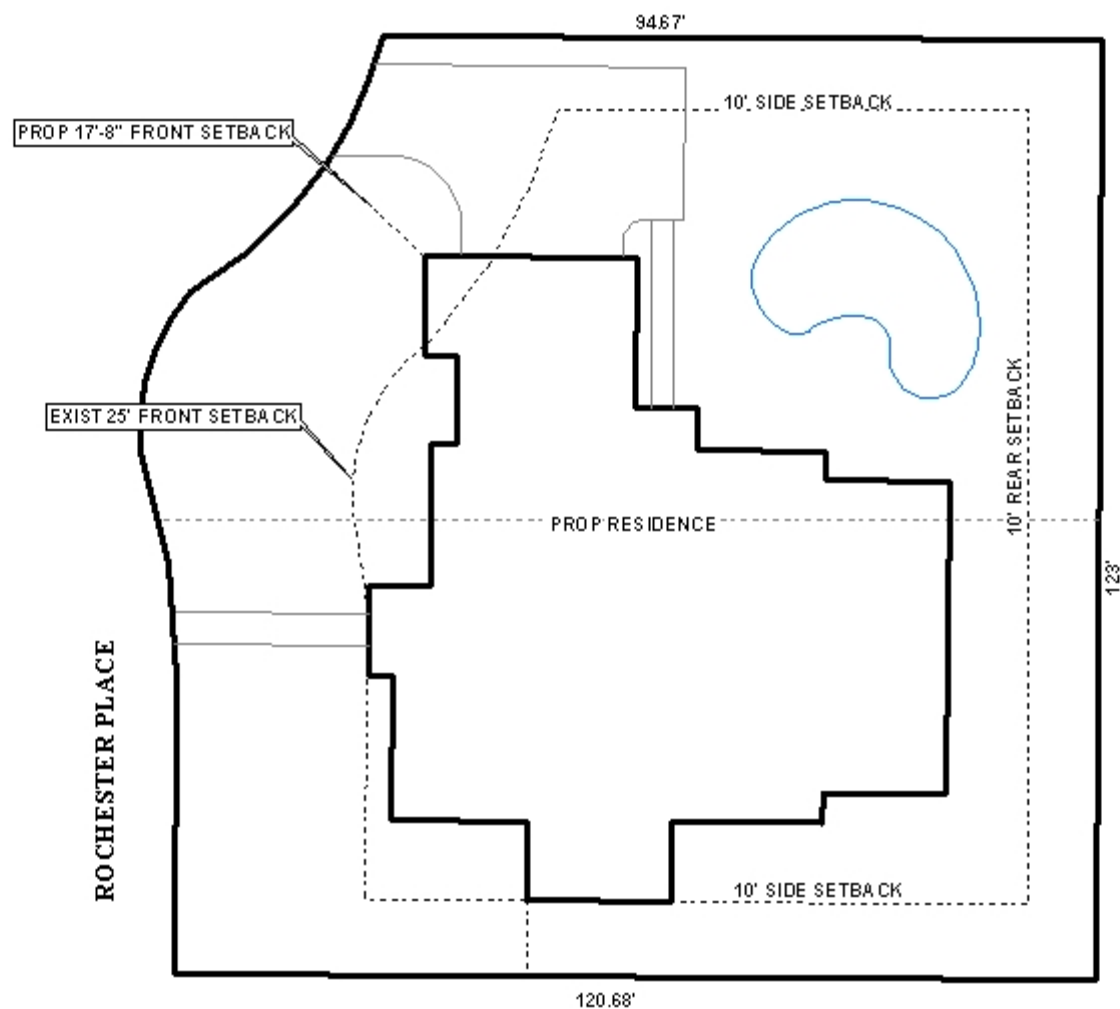
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SITE PLAN



The site plan illustrates the proposed residence and setbacks.

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