

APPLICATION NUMBER

**5432/5226/810**

A REQUEST FOR

**USE VARIANCE TO AMEND A PREVIOUS VARIANCE  
TO ALLOW ATTORNEYS' OFFICES IN AN R-1, SINGLE-  
FAMILY RESIDENTIAL DISTRICT; ATTORNEYS'  
OFFICES REQUIRE A MINIMUM OF A B-1, BUFFER  
BUSINESS DISTRICT.**

LOCATED AT

**1751 DAUPHIN STREET**

(Southwest corner of Dauphin Street and Hannon Avenue)

APPLICANT/AGENT/OWNER

**WILLIAM MCGOUGH**

**BOARD OF ZONING ADJUSTMENT**

SEPTEMBER 2007

The applicant is requesting a Use Variance to amend a previous variance to allow attorneys' offices in an R-1, Single-Family Residential District; attorneys' offices require a minimum of a B-1, Buffer Business District.

The subject site has had two previous use variances approved, one in 1958 for a dentist's office, and one in 2004 for an employment service, both B-1 uses. The applicant began using the site as lawyers' offices in November 2005, but no Zoning Certificate was requested by the City Revenue Department, and a business license was erroneously issued. Had the Planning Section received a Zoning Certificate request, it would have been denied due to the use and site-specific nature of the previous variances. The current use of the property was recently discovered, and the applicant received a Notice of Violation to correct the matter, hence this application.

The applicant states that the proposed use would not adversely impact the neighborhood due to the previous similar uses for the property. It is stated that there will be no excessive noise, odors, air pollution, or traffic, and only two attorneys and an office manager will work in the building. Hours of operation are stated as being 8 AM to 5 PM Monday through Friday, and less than ten client meetings. It is further stated that the site was brought into parking compliance by the previous owners. Hardships presented as preventing the structure from being used as a single-family dwelling include "chopping up" the interior for small offices and the removal of closets, kitchen appliances and wiring, and the paving of the entire back yard for parking. Numerous other business, duplexes, and quadplexes are sited as making this area of Dauphin Street different from the surrounding neighborhoods.

The proposed use is allowed by right in a B-1 District, as were the previously approved uses. It would follow that the proposed use would be in keeping with the previous uses. It should be noted that the site is located in the Old Dauphin Way Historic District and any improvements would have to be approved by the Architectural Review Board.

Certain site modifications were done as proposed under the previously approved variance, but some aspects were not done according to the approved site plan and all final inspections on the site compliance were not passed. Only four of the five required striped parking spaces are indicated on the current site plan, and the required 6' wooden privacy fence (which was not constructed as a true privacy fence, according to the furnished photographs) is indicated to be encroaching into and diminishing the necessary parking area instead of being on the South property line, as required. Bumper stops are not indicated on the site plan, nor do they show in the site photographs submitted. The previous applicant/owner apparently did not complete the site compliance as required, and never opened the employment service business approved under the variance, at least not with a business license or zoning certificate. Therefore, all site-specific conditions of the previous variance (with modifications, where applicable) should be applied in this

case. Also, the site adjoins residentially zoned and used property to the West; therefore, a 6' high wooden privacy fence should be constructed along the West property line as a buffer.

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.

Whereas the property has enjoyed previous use variances for B-1 uses, it would stand that a B-1 use should be allowed to continue with site modifications for zoning compliance. The Board should consider approving this request with conditions for site compliance.

**RECOMMENDATION 5432/5226/810****Date: September 10, 2007**

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Based on the preceding, this application is recommended for approval subject to the following conditions: (1) compliance with landscaping and trees to the greatest degree practicable, to be coordinated with Urban Forestry; (2) relocation and construction of a 6' high true privacy fence, without open gaps between the vertical boards, along the South property line, not in the parking lot; (3) the reconfiguration of the striped parking area to accommodate five stalls instead of four, to be coordinated with Traffic Engineering; (4) installation of the bumper stops in the parking lot as previously required; (5) any exterior improvements be approved by the Architectural Review Board; (6) construction of a 6' wooden privacy fence along the West property line where the site adjoins residentially zoned and used property; and (7) full compliance with all municipal codes and ordinances.

# LOCATOR MAP



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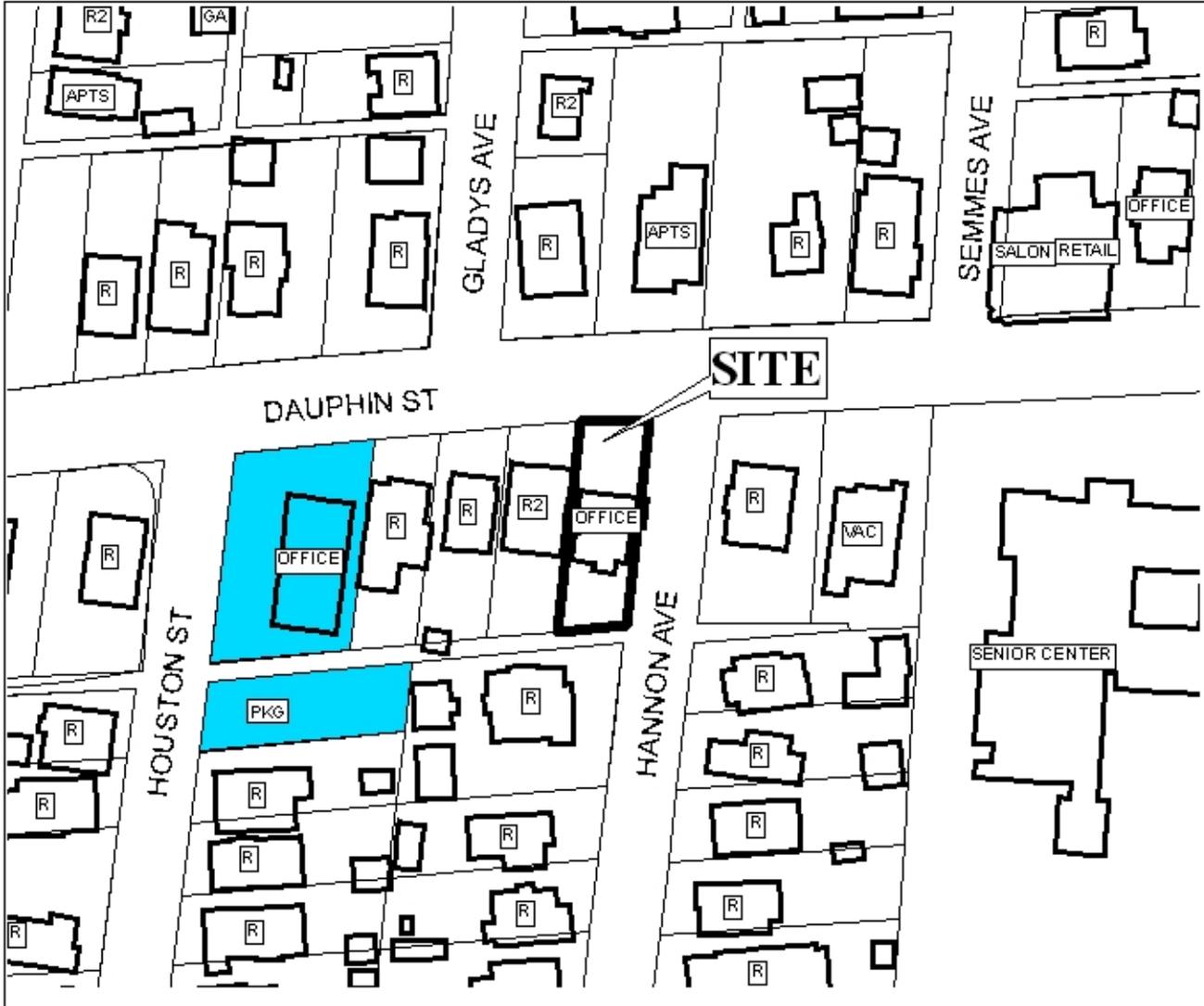
APPLICANT William McGough

REQUEST Use Variance



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by mixed land use

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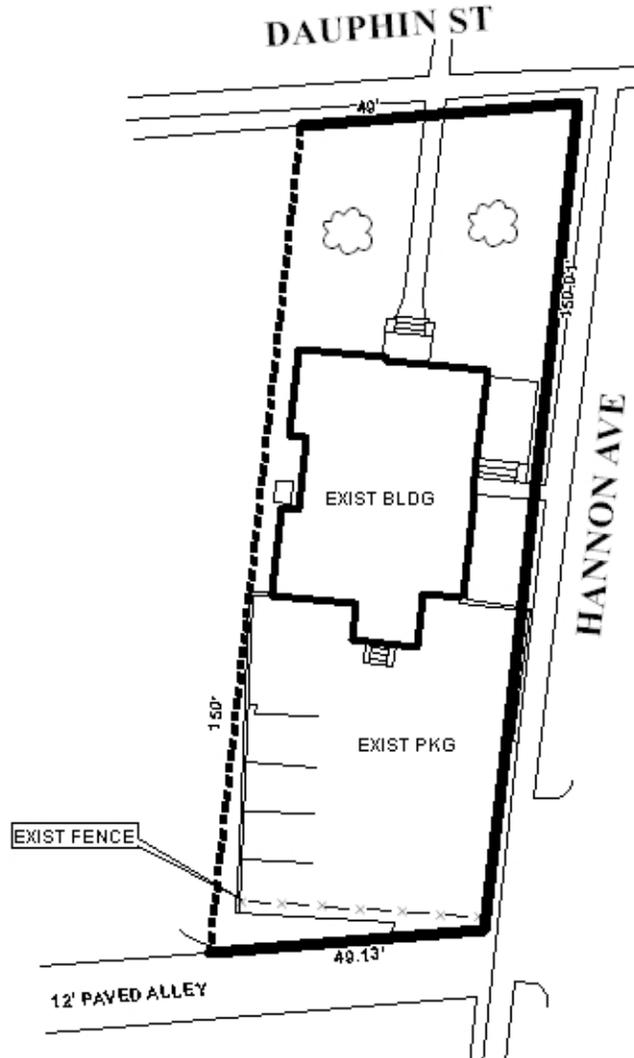
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LEGEND															NTS
	R-1	R-2	R-3	R-A	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2



# SITE PLAN



The site plan illustrates the existing building and parking

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