

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: October 3, 2011**

<u>CASE NUMBER</u>	5711
<u>APPLICANT NAME</u>	Roto-Rooter Plumbing Service
<u>LOCATION</u>	22 Midtown Park West (West side of Midtown Park West, 254' ± North of Midtown Park South)
<u>VARIANCE REQUEST</u>	SIGNAGE: Sign Variance to allow a 200 square-foot off premise sign.
<u>ZONING ORDINANCE REQUIREMENT</u>	SIGNAGE: All signs must be on the same property as the businesses they serve.
<u>ZONING</u>	B-3, Community Business District.
<u>AREA OF PROPERTY</u>	0.77± Acre
<u>TRAFFIC ENGINEERING COMMENTS</u>	None received
<u>CITY COUNCIL DISTRICT</u>	District 1
<u>ANALYSIS</u>	The applicant is requesting a Sign Variance to allow a 200 square-foot off-premise wall sign; the Zoning Ordinance requires that all signs be on the same property as the business they serve.

Roto-Rooter occupied the site of 22 Midtown Park South until 1997, based on the information provided by the applicant and Zoning Clearances issued at this site. The applicant states that when Roto-Rooter moved from this location to 2001 West I-65 Service Road North, they were given permission to leave up the sign in question, but have not provided any documentation of such permission. At that point, the sign became an off-premise sign because the company had moved. Off premise signage is not allowed. It should be noted that the new location of the business places the off-premise sign approximately 3 miles away from the business it serves. This matter came to the attention of Urban Development due to a citizen complaint after the sign graphics were recently changed without a permit. Upon further investigation, it was discovered that the sign was, indeed, an off premise sign.

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 states that they believe that the sign should be allowed to remain because the sign has been up for many years, the owner of the property is also the owner of Roto-Rooter, and the sign is well maintained. While the sign has been up for many years, the sign graphics have changed at least twice, without a permit, and, had a permit been applied for, it would have been denied and this matter would have been brought to staff's attention before now. Regarding site ownership, while the owner of the property may also own Roto-Rooter, it still does not negate the fact that Roto-Rooter is not located on the property, making the sign off-premise. The applicant further states that the sign is well maintained, and while this may be the case, maintenance is not a reason to allow an illegal sign to remain. If granted, this variance would create a precedent for other property owners who own businesses not located on their property to place off-site signs. The applicant has not demonstrated that a hardship exists on the property, and, as such, the application should be denied.

RECOMMENDATION

for denial.

Based upon the preceding, this application is recommended

LOCATOR MAP



APPLICATION NUMBER 5711 DATE October 3, 2011
 APPLICANT Roto-Rooter Plumbing Service
 REQUEST Sign Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use.

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APPLICANT Roto-Rooter Plumbing Service

REQUEST Sign 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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use.

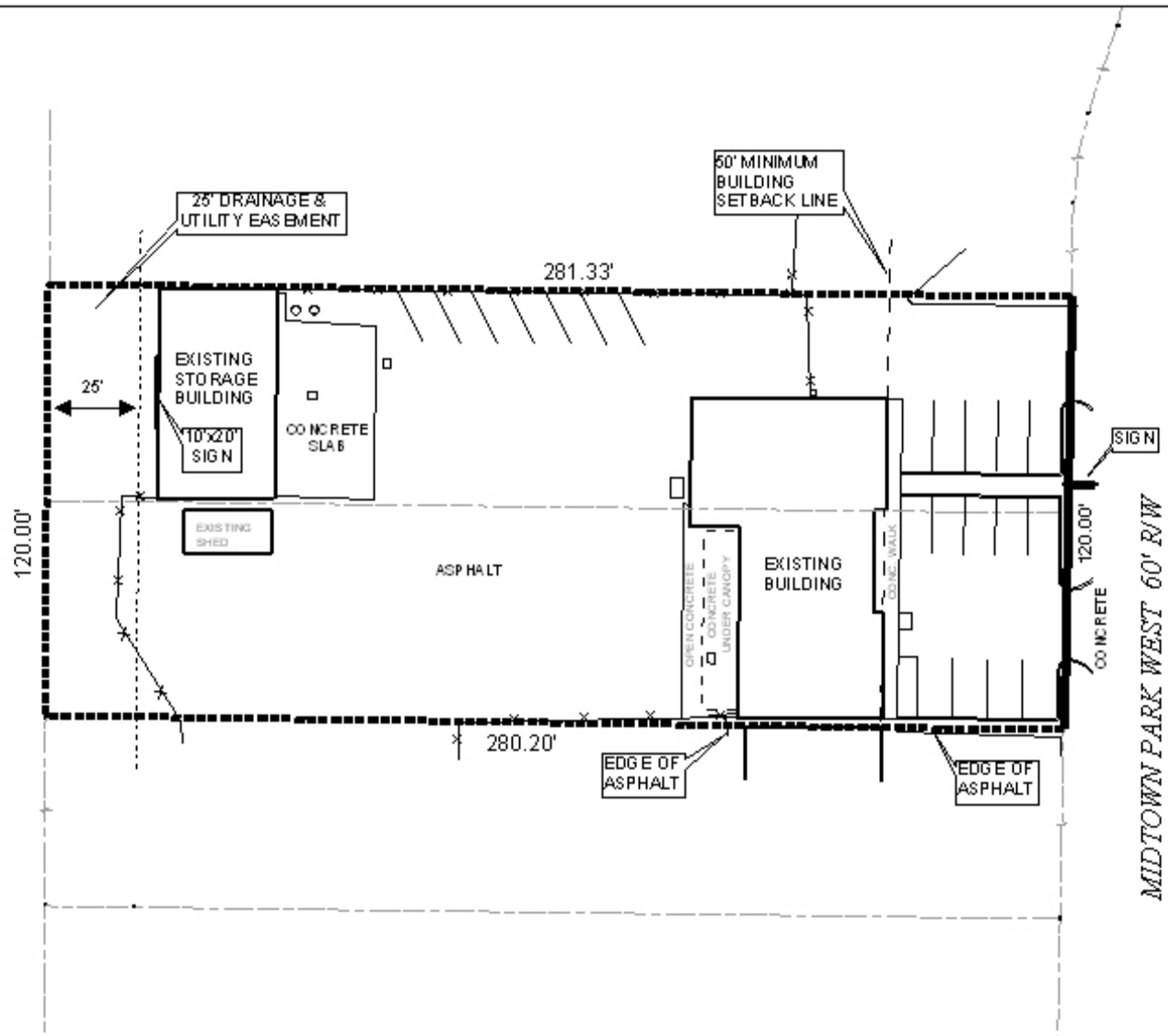
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REQUEST Sign Variance



SITE PLAN



Buildings, parking, and easements are illustrated in the site plan.

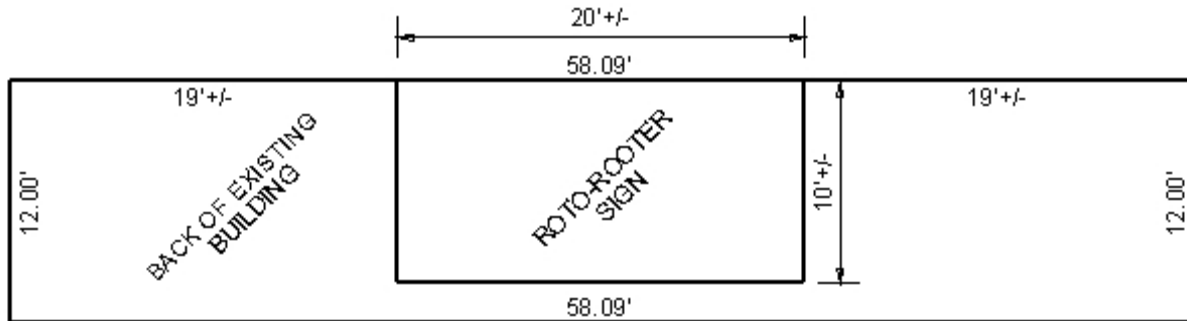
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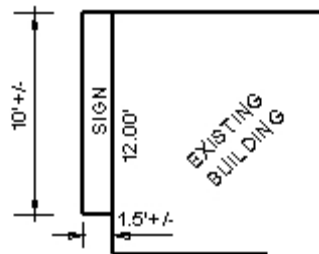
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DETAIL SITE PLAN



FRONT VIEW OF SIGN



SIDE VIEW OF SIGN

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