

APPLICATION NUMBER

5377/3885

A REQUEST FOR

USE AND ACCESS/MANEUVERING VARIANCES TO ALLOW PROFESSIONAL OFFICES IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, A SUBSTANDARD (9-FOOT) WIDE ACCESS DRIVE, AND A 10-FOOT WIDE MANEUVERING AREA; PROFESSIONAL OFFICES ARE ALLOWED WITHIN A MINIMUM OF A B-1, BUFFER BUSINESS DISTRICT, A 12' WIDE DRIVE FOR A ONE-WAY DRIVE, AND 24-FOOT MANEUVERING AREA ARE REQUIRED.

LOCATED AT

6015 COTTAGE HILL ROAD

(South side of Cottage Hill Road, 195' ± East of Spring Creek Circle)

APPLICANT

LEE D. PEACOCK

OWNER

LEE D. & PATTI P. PEACOCK

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 2006

The applicant is requesting Use and Access/Maneuvering Variances to allow professional offices in an R-1, Single-Family Residential District, a substandard (9-foot) wide access drive, and a 10-foot wide maneuvering area; professional offices are allowed within a minimum of a B-1, Buffer Business District, a 12' wide drive for a one-way drive, and 24-foot maneuvering area are required.

The subject site came before the Board for a Use Variance as an insurance office in 1983 by the current applicant. That variance was denied, and the applicant constructed the existing structure as his residence, and operated the insurance agency as a home occupation. The applicant no longer resides in the dwelling and desires to continue operating the insurance business in it. It is stated that the hours of operation will be 9:00 AM to 5:00 PM, with two employees, and on average, there are three customers per day. As justification for hardship, the applicant states that it is not believed the property is suitable for R-1 use for a couple of reasons. First, the property has been used commercially for over twenty years, and, secondly, the area has developed in such a way that it is unlikely someone would buy the site for residential use. It is further stated that the church and school across Cottage Hill Road have grown, and Cottage Hill Road is now a busy five-lane major thoroughfare, and that there are enough alternatives for housing in the area.

With regards to the applicant's statement that the property is not suitable for R-1 use because of its commercial use, the floor plan submitted with the application clearly indicates a three-bedroom, two-full bathroom dwelling of approximately 1,900 square feet. The commercial use mentioned was as a home occupation which is strictly an accessory use to the primary use as a single-family residence, and the commercial use can only cover a maximum of 25 percent of the interior residential space as per the Zoning Ordinance. The two employees mentioned by the applicant are not allowed in a home occupation if they do not reside within the home. Also, although there has been increased growth at the school and church across Cottage Hill Road, all other properties along both sides of Cottage Hill Road within the immediate area remain zoned for and used for single-family residential.

On the site plan submitted with the application, no on-site traffic pattern was indicated, and no parking, access/maneuvering compliance was indicated. No site improvements above the current noncompliant situation were indicated.

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.

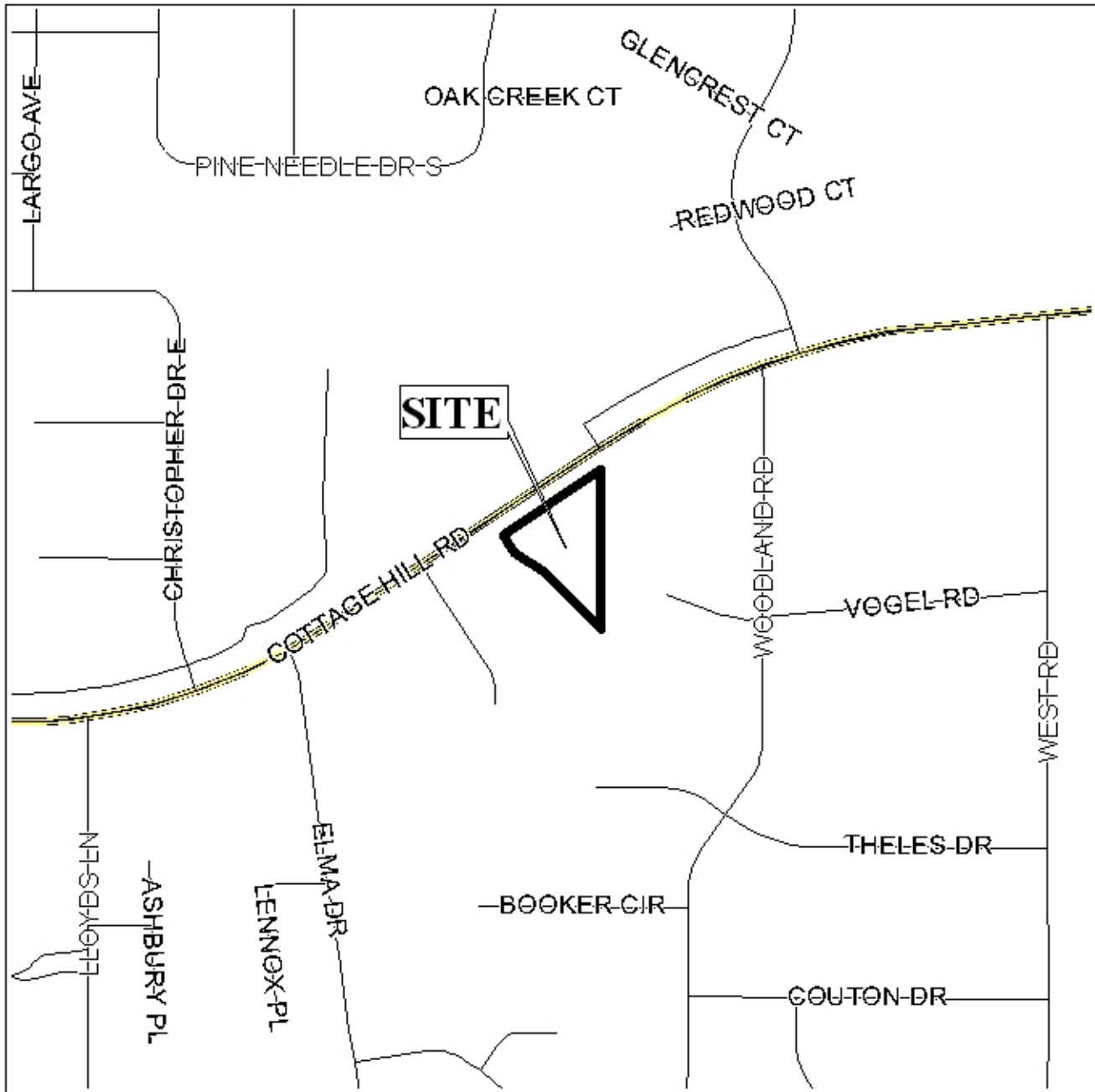
The applicant failed to illustrate that there is a hardship imposed by the past use of the property which would prevent it from continuing to be use as a single-family residence. It is simply the applicant's desire to use the property solely for commercial use without any type of site compliance.

RECOMMENDATION 5377/3885

Date:September11, 2006

Based on the preceding, this application is recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5377/3885 DATE September 11, 2006

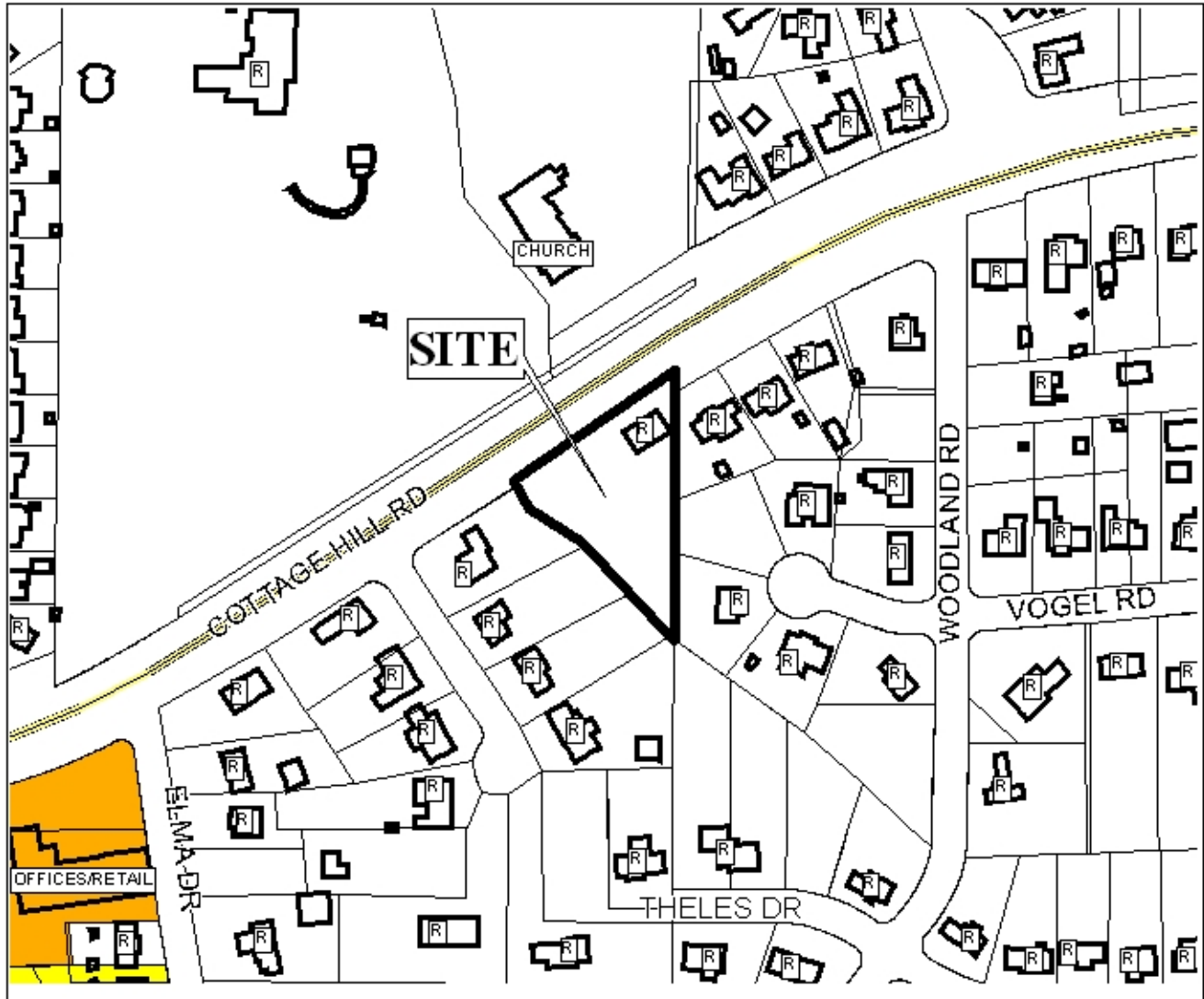
APPLICANT Lee D. Peacock

REQUEST Use and Access/Maneuvering Variances



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Single-family residential units are located to the south, west, and east of the site.
A church is to the north and commercial landuse one block to the west.

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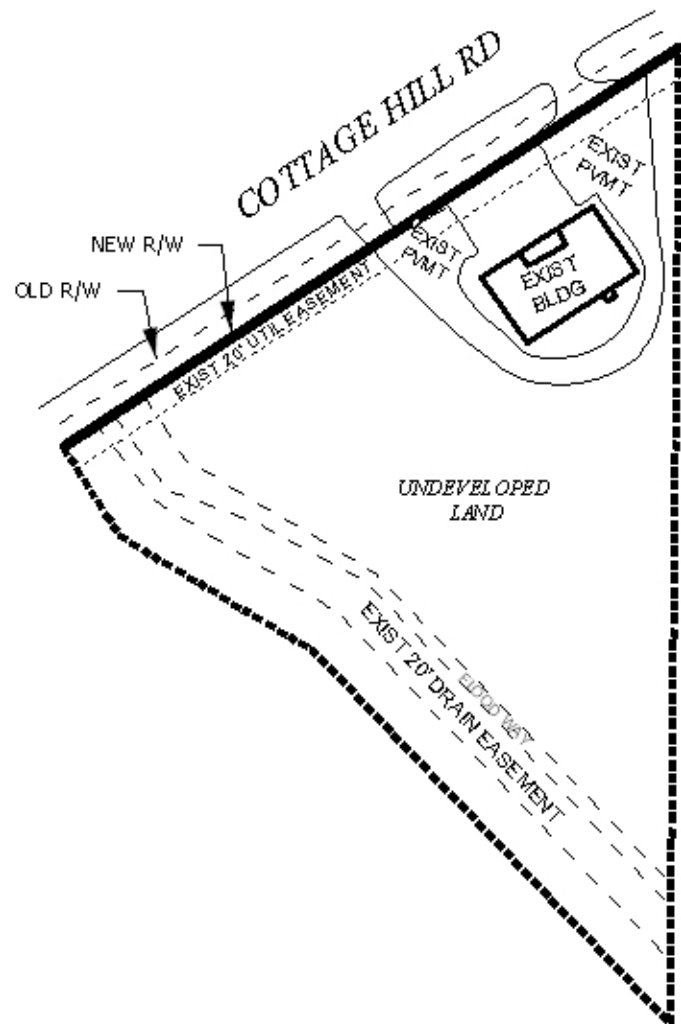
LEGEND

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|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|
| | | | | | | | | | | | | | |
| R-1 | R-2 | R-3 | R-A | R-B | H-B | B-1 | LB-2 | B-2 | B-3 | B-4 | B-5 | I-1 | I-2 |



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SITE PLAN



The site plan illustrates existing building, drives and property easements.

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