

APPLICATION NUMBER

5558

A REQUEST FOR

SIDE YARD SETBACK, COMBINED SIDE YARD, AND INCREASED SITE COVERAGE VARIANCES TO ALLOW THE CONSTRUCTION OF A SINGLE-FAMILY DWELLING WITHIN 10' OF A SIDE PROPERTY LINE ON THE GREATER SIDE YARD WITH 18' OF COMBINED SIDE YARDS, AND 39.4% TOTAL SITE COVERAGE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE ZONING ORDINANCE REQUIRES A 12' SETBACK ON THE GREATER SIDE YARD WITH 20' OF COMBINED SIDE YARDS, AND ALLOWS A MAXIMUM OF 35% TOTAL SITE COVERAGE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT.

LOCATED AT

808 COUNTRY CLUB COURT

(West side of Country Club Court at its South terminus)

APPLICANT/OWNER

TWILLEY BROTHERS, INC.

AGENT

M. DON WILLIAMS

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 2009

The applicant is requesting Side Yard Setback, Combined Side Yard, and Increased Site Coverage Variances to allow the construction of a single-family dwelling within 10' of a side property line on the greater side yard with 18' of combined side yards, and 39.4% total site coverage in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 12' setback on the greater side yard with 20' of combined side yards, and allows a maximum of 35% total site coverage in an R-1, Single-Family Residential District.

A building permit was issued in July, 2009 for the subject site with the proposed dwelling meeting required setbacks and site coverage. Since then, the dwelling design has been expanded with setback encroachments and increased site coverage. The subject site is located within Country Club Court Subdivision which was approved as a private street gated subdivision in 1999. A Planned Unit Development was approved for the private, gated street, but no other allowances were requested or granted, i.e. reduced setbacks or increased site coverage; hence this application.

With regard to all variance requests, the applicant simply states that the house will not fit on the lot conforming to the City's setback requirements. As proposed, the dwelling meets the 8' minimum side yard setback on the lesser side, but a front corner of the dwelling encroaches 2' into the greater side yard required on the other side of the property. Although this is a minimal encroachment, two other houses have already been constructed within this subdivision on slightly smaller lots meeting the setback requirements. The dwelling is simply over-designed for the lot. Also, there have been no other variances granted within this subdivision or the immediate area for relief from setback requirements. Therefore, the granting of such in this case would be out of character for the area.

With regard to the increased site coverage variance request, such was granted for the adjacent lot to the North in 2006 for 40.5% total site coverage. The dwelling in that case was also over-designed for the lot, but it met required setbacks. In that this request is for 39.4% total site coverage and less than the previously approved, the granting of this request would not be out of character with the set precedence. However, granted variances are site plan specific. In this instance, the denial of the setback request would automatically mean that the site coverage request must be denied, also.

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.

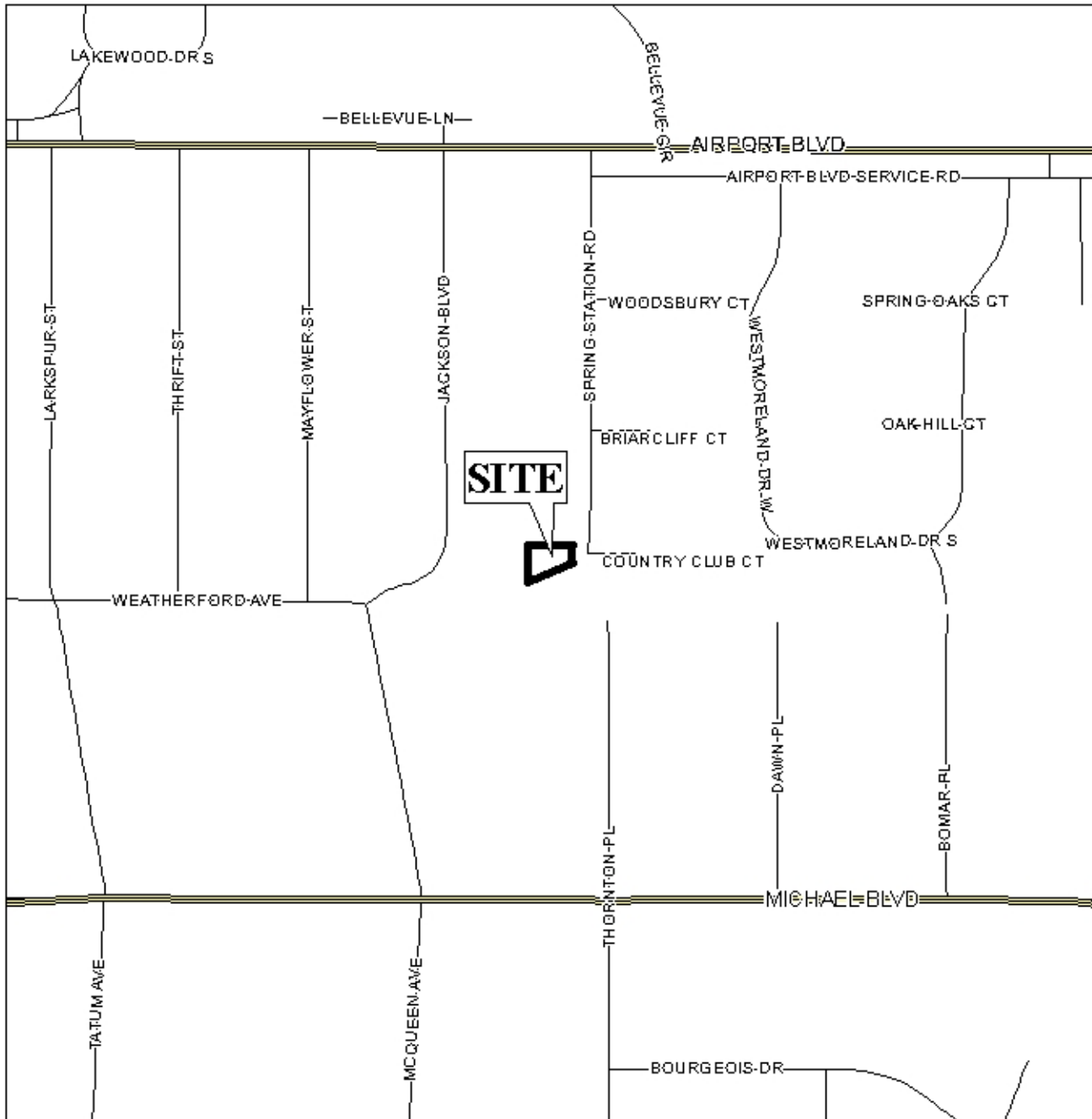
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant has failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship with respect to meeting required setbacks and maximum site coverage allowances. Any hardships would be self-imposed due to over-designing of the proposed structure. In spite of the fact that the adjacent property was granted a site coverage variance, this request also includes a setback request. Since variances are site plan specific, one request cannot be granted while the other approved.

RECOMMENDATION 5558**Date: September 14, 2009**

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

LOCATOR MAP



APPLICATION NUMBER 5558 DATE September 14, 2009

APPLICANT Twilley Brothers, Inc

REQUEST Side Yard Setback, Combined Side Yard,
and Increased Site Coverage Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land use.

APPLICATION NUMBER 5558 DATE September 14, 2009

APPLICANT Twilley Brothers, Inc
Side Yard Setback, Combined Side Yard,
and Increased Site Coverage Variances

REQUEST _____

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	NTS
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land use.

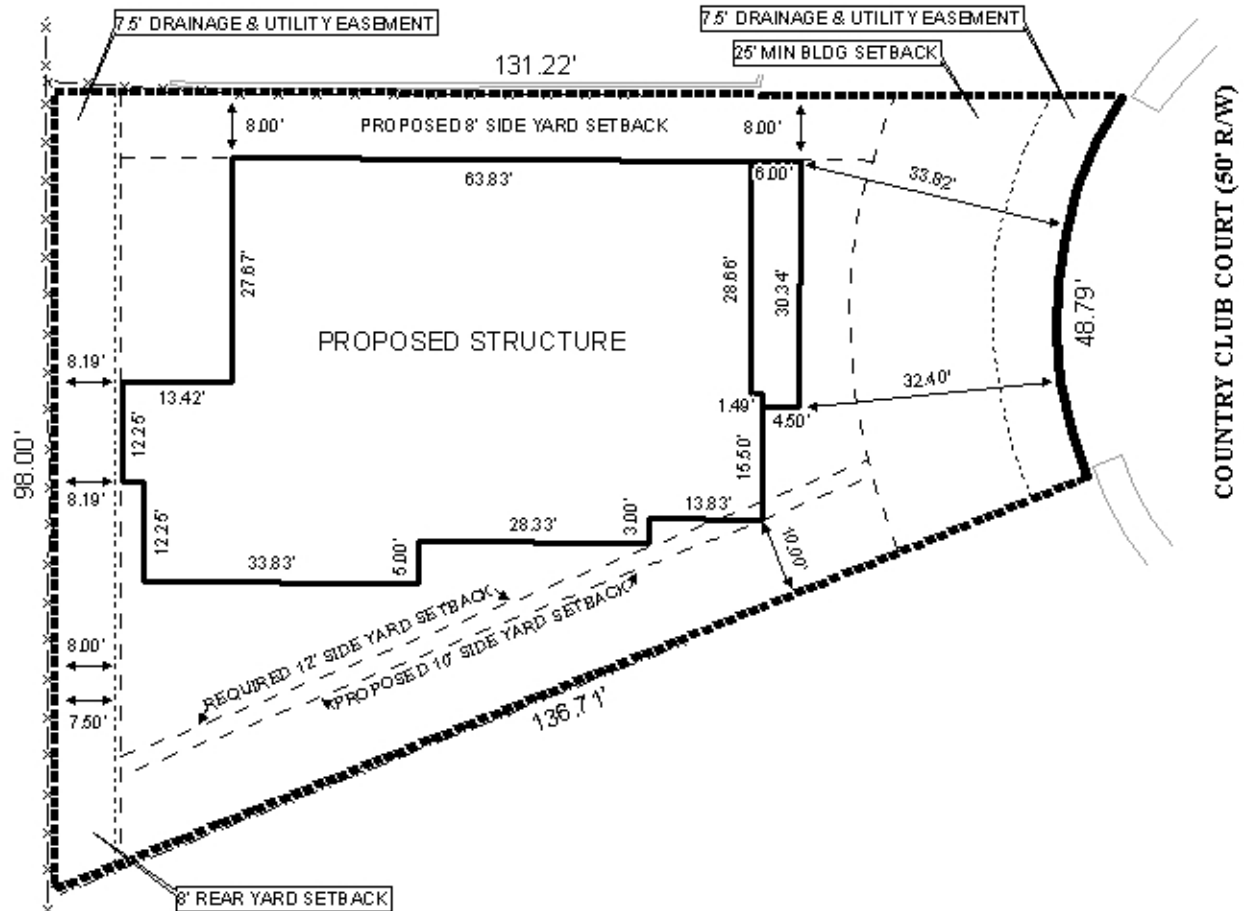
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SITE PLAN



This site plan illustrates the proposed structure and building setbacks.

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