

APPLICATION NUMBER

5578

A REQUEST FOR

**FRONT YARD SETBACK AND SITE COVERAGE
VARIANCES TO ALLOW A 1,016 SQUARE FOOT
ADDITION TO AN EXISTING DWELLING 13' FROM THE
FRONT PROPERTY LINE AT 42% SITE COVERAGE IN
AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE
ZONING ORDINANCE REQUIRES A MINIMUM FRONT
SETBACK OF 25' AND A MAXIMUM SITE COVERAGE
OF 35% IN AN R-1, SINGLE-FAMILY RESIDENTIAL
DISTRICT.**

LOCATED AT

1813 IDELL STREET

(East side of Idell Street, 250' South of St. Stephens Road)

APPLICANT

ISAAC TAYLOR

BOARD OF ZONING ADJUSTMENT

NOVEMBER 2009

The applicant is requesting a front yard setback and site coverage variances to allow a 1,016 square foot addition to an existing dwelling 13' from the front property line at 42% site coverage in an R-1, single-family residential district; the Zoning Ordinance requires a minimum front setback of 25' and a maximum site coverage of 35% in an R-1, single-family residential district.

The applicant is proposing to construct an addition to the south side of the existing dwelling. The applicant's property is a double lot, and is larger than most of the other lots on both sides of the street. The current dwelling is a legally non-conforming structure that is 14 feet from the front property line. The current dwelling is 1,305 square feet, and the proposed addition is 1,016 square feet. There is also a 1,860 square-foot garage on the property. It should be noted, however, that the garage appears to lack a roof, thus it does not meet the definition of a "building" as per the Zoning Ordinance. The Zoning Ordinance states in Section 64-2 that a "structure" is defined as "anything constructed or erected which requires location on the ground or is attached to something having a location on the ground; except (a) public utility poles, wires, guy wires, and cables; and, (b) fences and walls other than building walls." Further, a "building" is defined in the same section of the Ordinance as "any covered structure intended for shelter, housing, or enclosure of persons, animals, or chattels."

As the garage is not a "building", it does not count towards the 35% building site coverage. As such, the existing dwelling and proposed addition would only be 23% site coverage, which is compliant with the Ordinance, and therefore, the application for site coverage is unnecessary, unless the applicant proposes to roof the structure, which is not indicated in the application package.

It should be noted, however, that a permit was issued to the applicant in 1997 to roof and repair the garage. Photos submitted by the applicant, aerial photography, and an on-site inspection indicate that the walls are still unroofed. Further, there are no active permits to roof the structure. As such, no work or improvements can be undertaken until the permits are obtained.

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 states that the front yard setback encroachment would simply be an extension of the existing encroachment, and that there are several houses in the neighborhood that are equally as close to the street. While the applicant did not provide any evidence of this, a review of aerial photographs does show that there are houses in the immediate vicinity that are as close, if not closer to the street than this dwelling. That being stated, there does appear to be no viable reason associated with the land as to why the addition could not be built in compliance with the ordinance with regards to the front setback. It should also be noted that the internal layouts of the existing and proposed new construction provided by the applicant does not appear to justify the new construction not meeting setbacks. It appears, based on the drawings submitted, that the new work could be shifted back and meet setbacks.

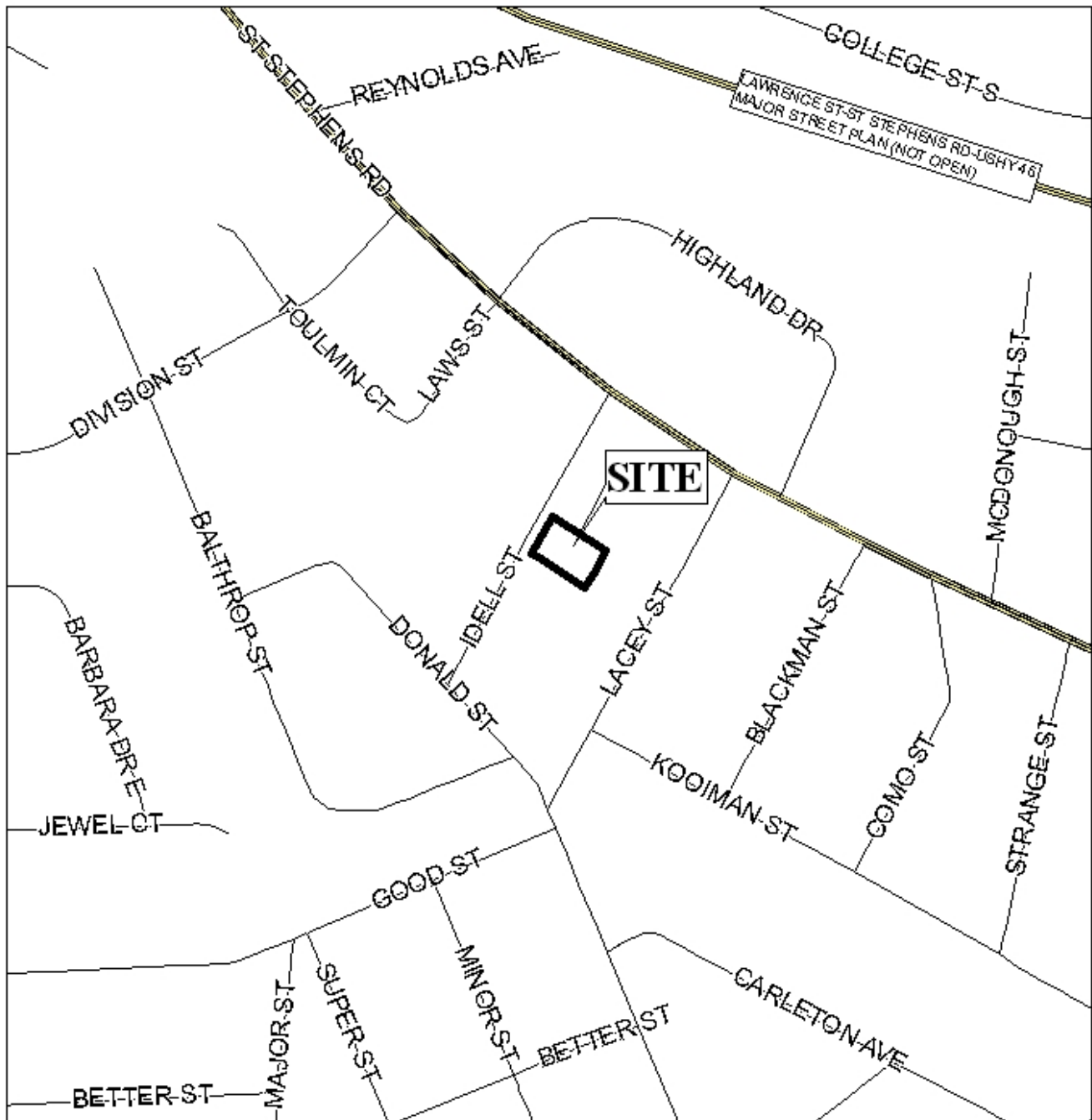
Regarding the site coverage issue, the applicant states that other properties in the vicinity appear to exceed the maximum allowed building site coverage of 35%. While a review of aerial photography does seem to suggest that this is the case, these lots are smaller than the double lot in question, and, in some cases, are as much as 50% smaller. Therefore, such an increase in site coverage would seem to be incompatible with the rest of the neighborhood. And, as the garage is not a “building”, building site coverage is not an issue until and unless the applicant attempts to obtain permits to complete the garage.

The applicant has failed to illustrate that a literal enforcement of the ordinance would result in an unnecessary hardship. It is simply the applicant’s wish to have a non-conforming structure on the property.

RECOMMENDATION 5578**Date: November 2, 2009**

Based on the preceding, the application is recommended for denial. The applicant should also be informed that roofing of the garage will require a variance application and any necessary permits prior to the work being undertaken.

LOCATOR MAP



APPLICATION NUMBER 5578 DATE November 2, 2009

APPLICANT Isaac Taylor

REQUEST Front Yard Setback and Site Coverage Variances



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

APPLICATION NUMBER 5578 DATE November 2, 2009

APPLICANT Isaac Taylor

REQUEST Front Yard Setback and Site Coverage Variances

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

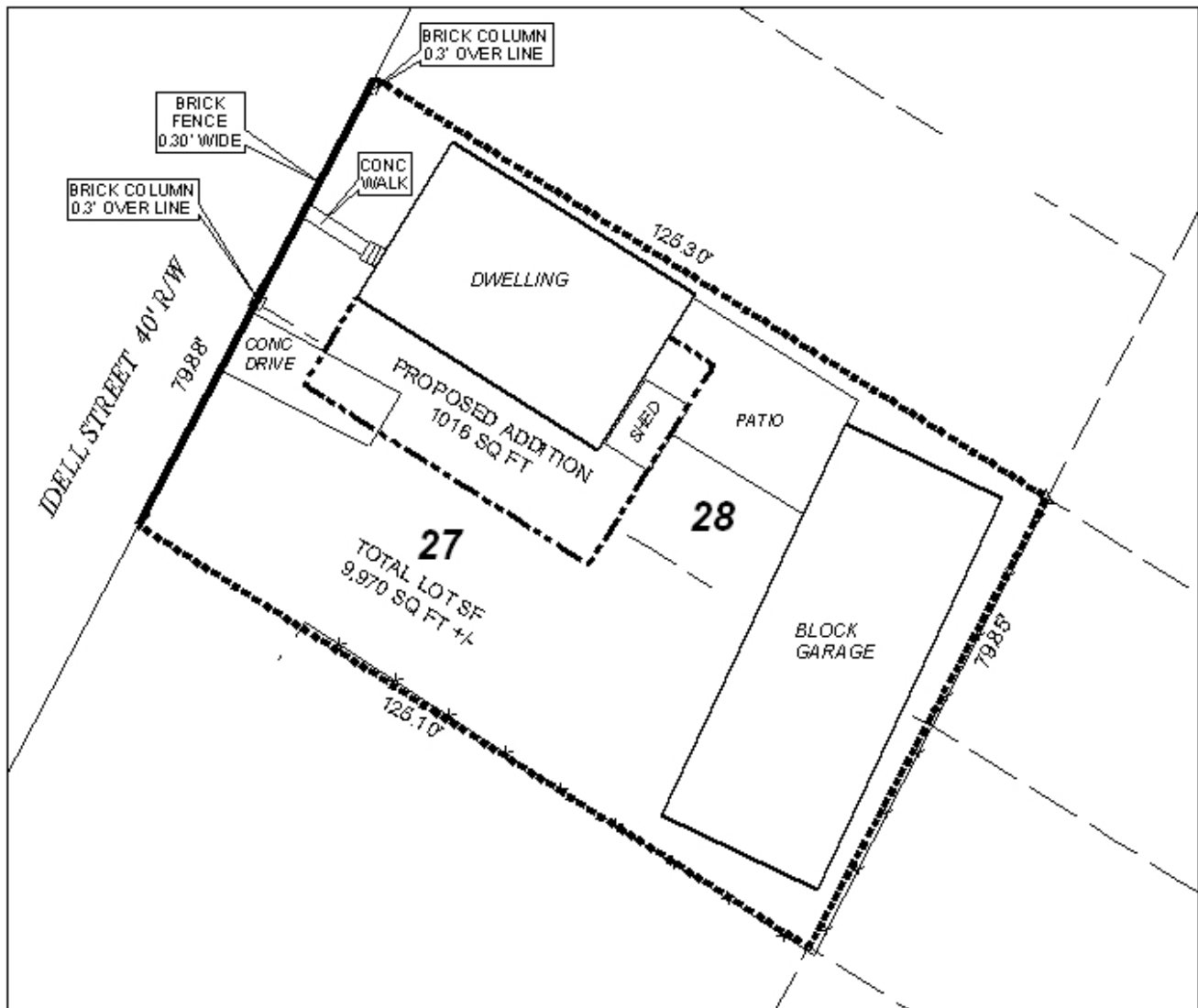


The site is surrounded by single family residential units.

APPLICATION NUMBER 5578 DATE November 2, 2009
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SITE PLAN



The site plan illustrates the proposed addition, existing buildings, walks, and drives.

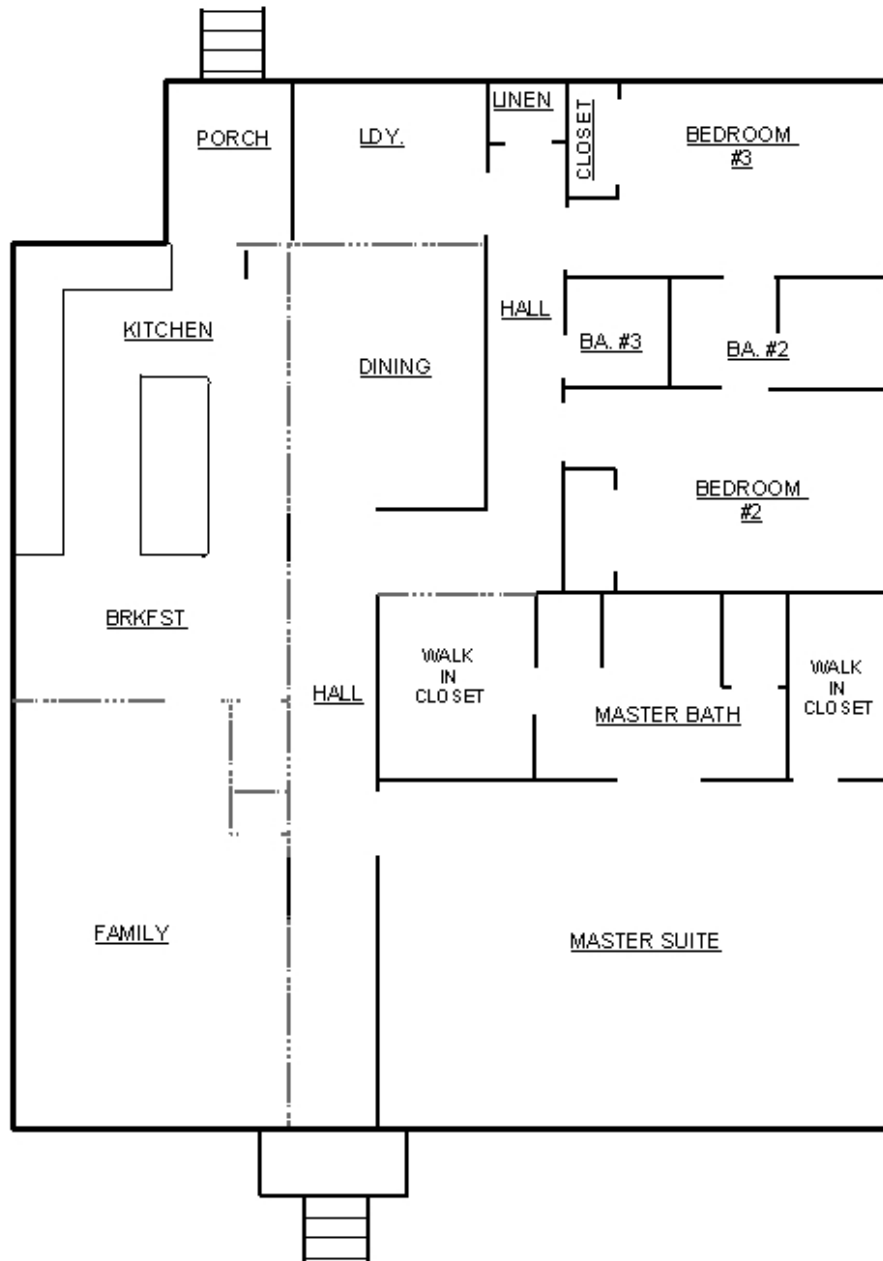
APPLICATION NUMBER 5578 DATE November 2, 2009

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DETAIL SITE PLAN



APPLICATION NUMBER 5578 DATE November 2, 2009

APPLICANT Isaac Taylor

REQUEST Front Yard Setback and Side Coverage Variances

