

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: August 6, 2012****CASE NUMBER**

5769

**APPLICANT NAME**

Robert Myers (M. Don Williams, Agent)

**LOCATION**5000 Carmel Drive North  
(North side of Carmel Drive North at the North terminus of  
Springpark Drive East)**VARIANCE REQUEST****SETBACK:** Rear and Side Yard Setback Variances to  
allow a garage/storage building within 3' of the rear  
property line and 4' of the side property line in an R-1,  
Single Family Residential District.**ZONING ORDINANCE  
REQUIREMENT****SETBACK:** Zoning Ordinance requires an 8' rear yard  
setback and an 8' side yard setback for structures in an R-1,  
Single-Family Residential District.**ZONING**

R-1, Single Family Residential

**AREA OF PROPERTY**

0.25 ± Acres

**TRAFFIC ENGINEERING  
COMMENTS**

No Comments

**CITY COUNCIL  
DISTRICT**

District 7

**ANALYSIS**

The applicant is requesting Rear and Side Yard Setback Variances to allow garage/storage building within 3' of the rear property line and 4' of the side property line in an R-1, Single Family Residential District; the Zoning Ordinance requires 8' rear yard setback and an 8' side yard setback for structures in an R-1, Single-Family Residential District.

The applicant currently has a detached storage building in the back yard which is located 4' from the right side yard property line and is 0' from the rear property line, and has been in its current location for approximately 25 years according to the applicant with no variances being granted for such a structure. The applicant now wishes to remove the existing 294 ± square foot storage building and replace it with a new 517 ± square foot single car garage/storage building, for an increase in size of 223 ± square feet. The proposed location of the new structure would be located the same distance from the right side yard property line, and would increase the rear

setback from 0' to 3'. The applicant goes on to state that if approved, gutters and downspouts will be provided on all four sides of the new building to manage roof storm water. The applicant states that the garage structure must be placed in this location in order to provide adequate maneuvering area for a vehicle parked in the proposed garage.

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 proposed location of the garage/storage building would not only result in a sub-standard side yard setback, but a sub-standard combined side yard setback as well. The Zoning Ordinance requires a minimum combined side yard setback of 20 feet, and if approved, the placement of the proposed structure would result in the continuation of a sub-standard combined side yard setback of 14 feet. The applicant notes that if the garage were positioned in such a manner as to meet the minimum side yard setback that it would not allow for adequate room to park a second car on the existing parking pad, and would result in insufficient maneuvering room for the vehicle exiting the garage.

It should be noted that while the existing structure has been in its current non-conforming structure for several years, the Zoning Ordinance attempts to bring all non-conforming structures into compliance eventually. If this request is approved, it will allow the continuation of a structure being too close to the side and rear yard property lines. Once the existing non-conforming structure is removed from the site, the property will be required to be brought into full compliance.

It appears that if the proposed garage were relocated to the approximate location of the existing brick patio, it would allow the garage to be attached to the primary structure, provide ample maneuvering area, have plenty of area remaining to park other vehicles on, and meet both the rear and side yard setback requirements.

The applicant has failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. The applicant wishes to remove an existing non-conforming structure that was placed without any approvals, and replace it with another non-conforming structure that is almost twice as large. Because it is possible for the proposed garage/storage building to be relocated to fit all setbacks, it is a self-imposed hardship.

**RECOMMENDATION:**  
for denial.

Based on the preceding, this application is recommended

## LOCATOR MAP

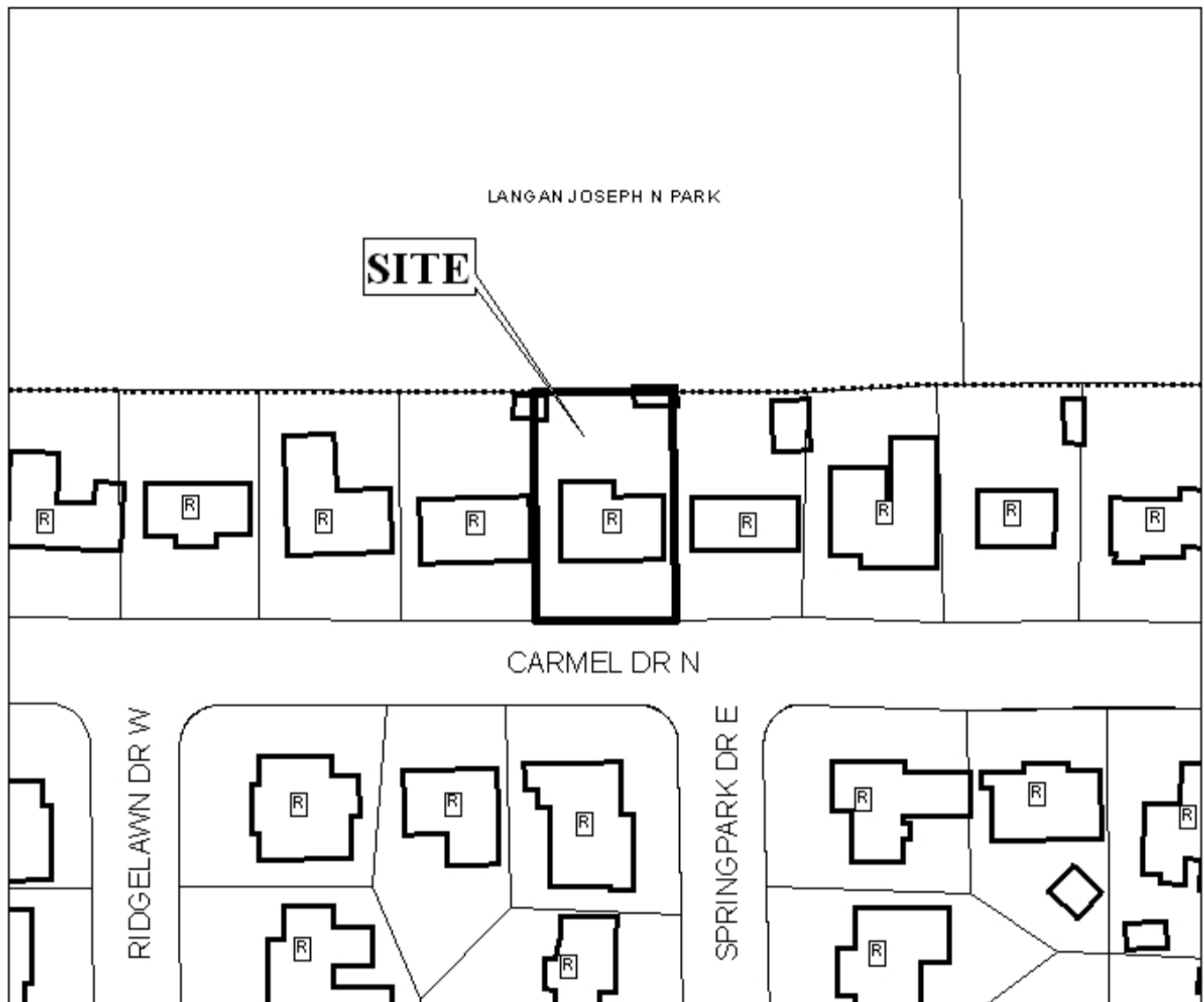


APPLICATION NUMBER 5769 DATE August 6, 2012  
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REQUEST Rear and Side Yard Setback Variances



# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



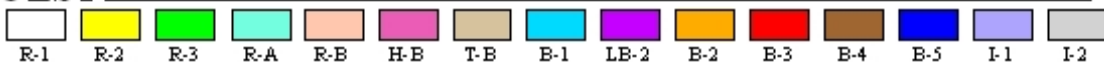
Single-family residences are located to the east, west, and south of the site. Langan Park is located to the north of the site.

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LEGEND



NTS

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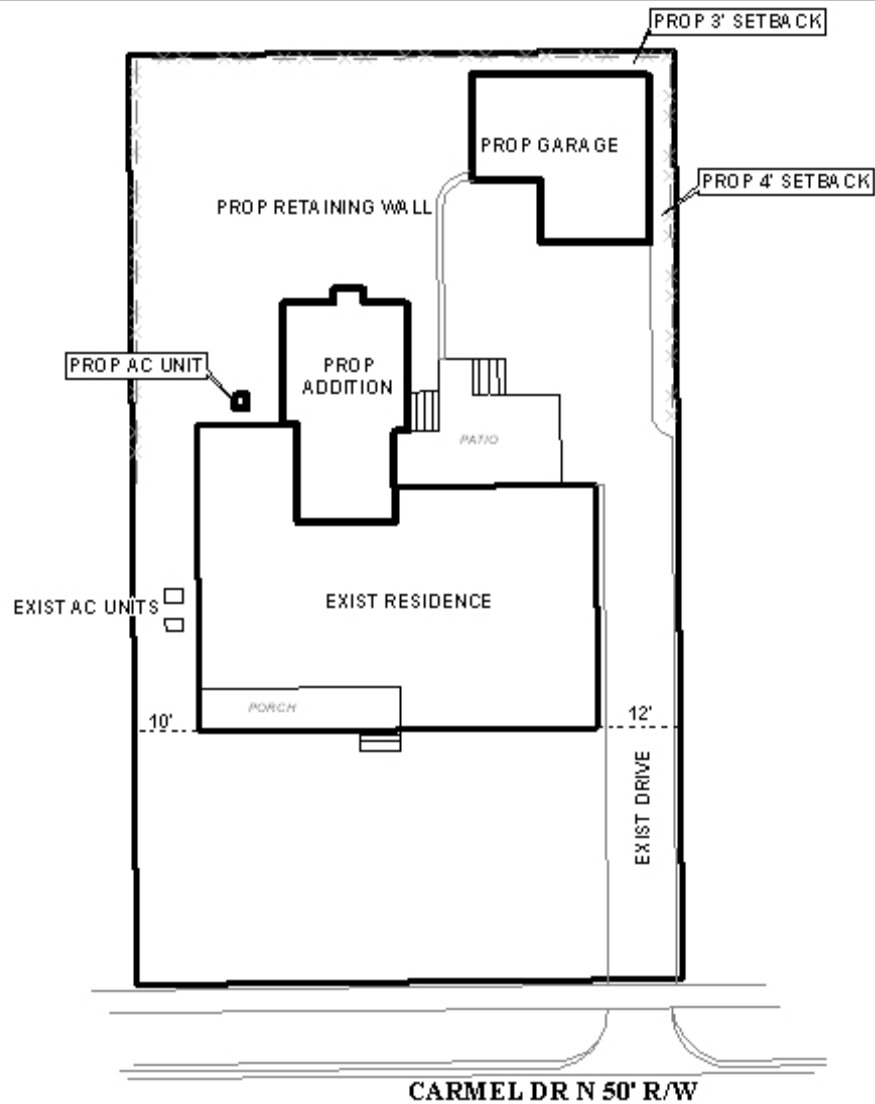


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# SITE PLAN



The site plan illustrates the proposed additions and setbacks.

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