

APPLICATION NUMBER

5402/4340

A REQUEST FOR

**REAR YARD SETBACK VARIANCE TO ALLOW THE
CONSTRUCTION OF A 24' X 39' GARAGE AND GUEST
BEDROOM WITHIN 5' OF A REAR PROPERTY LINE; AN
8' REAR YARD SETBACK IS REQUIRED FOR
STRUCTURES IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT.**

LOCATED AT

262 DOGWOOD LANE

(Southeast corner of Dogwood Lane and Stein Avenue)

APPLICANT/AGENT

PETE J. VALLAS, A.I.A., ARCHITECT

OWNER

MR. & MRS. RUSSELL C. BUFFKIN

BOARD OF ZONING ADJUSTMENT

JANUARY 2007

The applicant is requesting a Rear Yard Setback Variance to allow the construction of 24' x 39' garage and guest bedroom within 5' of a rear property line; an 8' rear yard setback is required for structures in an R-1, Single-Family Residential District.

The applicant is proposing to build a two-story garage and guest bedroom addition to an existing residence on a separate, vacant lot adjacent to the North side of the residence. The addition is proposed to be connected to the main dwelling by an enclosed side entry, creating an attached addition crossing the intermediate property line, and effectively combining the two lots into one. The applicant states that the house was built more than 4' beyond the required 25' front yard setback on a 158' deep lot and that the adjacent lot, where the addition is proposed, is only 95' deep. It is stated that the most architecturally pleasing method of connecting the addition to the main house is to have the back of the addition align with the back of the existing porch, and that this would also setback the front-loading garage as much as possible from Dogwood Lane. In order to construct the back of the addition "in-line" with the back of the existing rear porch, the back of the addition would have to be located 5' off the rear property line, hence this application. The applicant states that this is not out of character with existing properties in the neighborhood.

The existing house was the subject of a 1992 Side Yard Setback Variance to allow the construction of the rear storage extension to within 5' of the side (North) property line. That request was determined to be in keeping with the character of the neighborhood and was approved by the Board. In that application, a hardship was shown to exist by virtue of two existing Oak trees which necessitated locating the house more to the North side of the property. One tree was indicated on the South side of the property and one was indicated in the front yard. It would stand to reason that the increased front yard setback for construction of the residence, as mentioned by the applicant, was due to the location of the large Oak tree (48") in the front yard. That increased setback, combined with the 95' depth of the lot on which the addition is proposed, causes the rear yard setback encroachment for the proposed addition.

The requested setback is 5' and is "in-line" with the existing rear porch. The proposed addition would be in keeping with the residential character of the neighborhood and the Board has been mindful of such when considering similar site variance applications. Furthermore, the Board has been sympathetic in granting variances in urban areas of the city, especially when the addition is "in-line" with the existing structure and/or a minimum setback of 5' is provided. Typically, such variances are granted with the condition that gutters and downspouts be placed on the side of the addition that abuts that rear property line affected by the structure.

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.

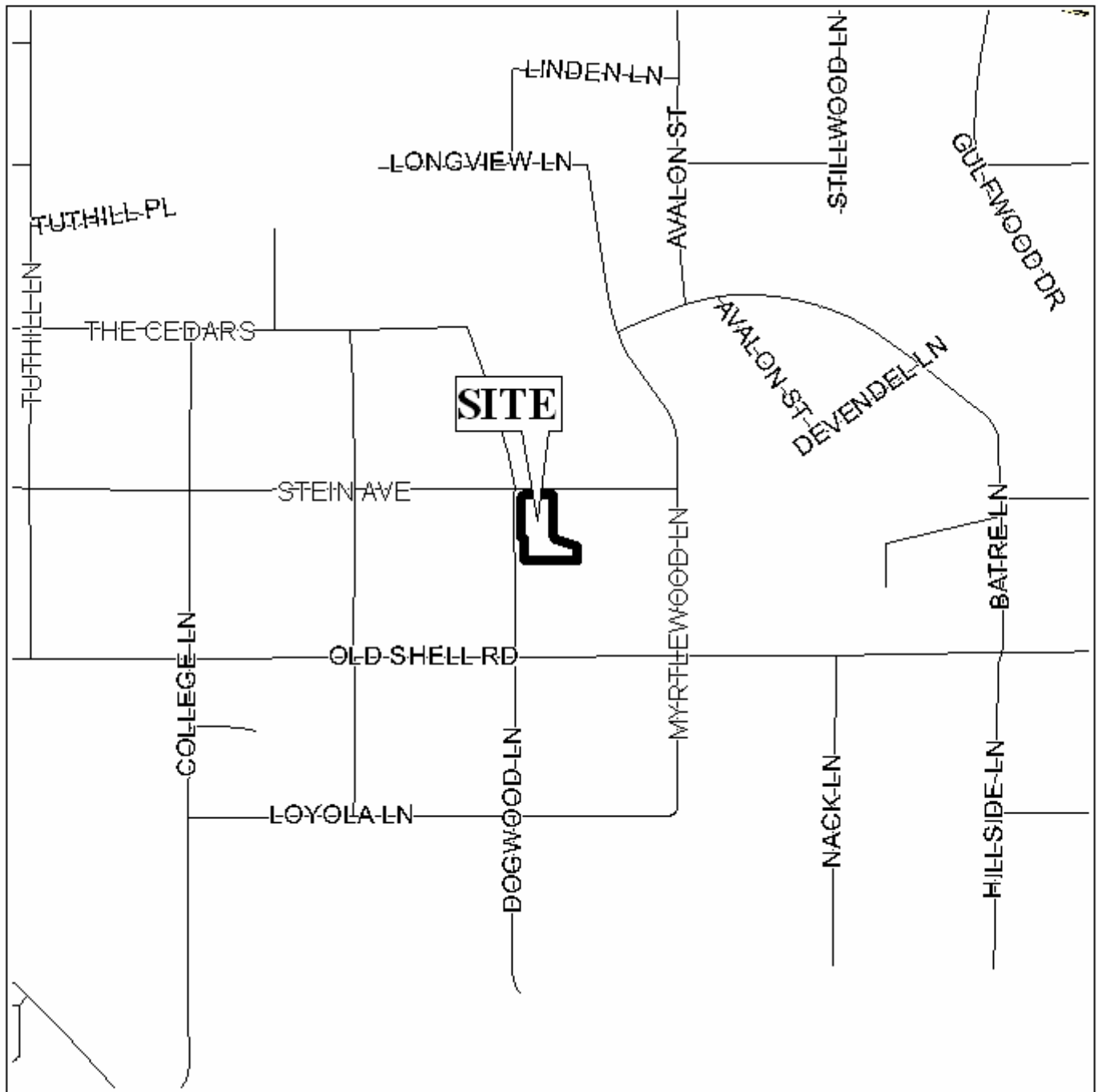
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

The proposed 5' rear yard setback is consistent with the previously approved 5' side yard setback for this property and is typical of other setback variances granted within this block. The Board should consider approving this application with conditions.

RECOMMENDATION 5402/4340 **Date: January 8, 2006**

Based upon the preceding, this application is recommended for approval subject to the following condition: (1) the placement of gutters and downspouts on the East side of the addition.

LOCATOR MAP



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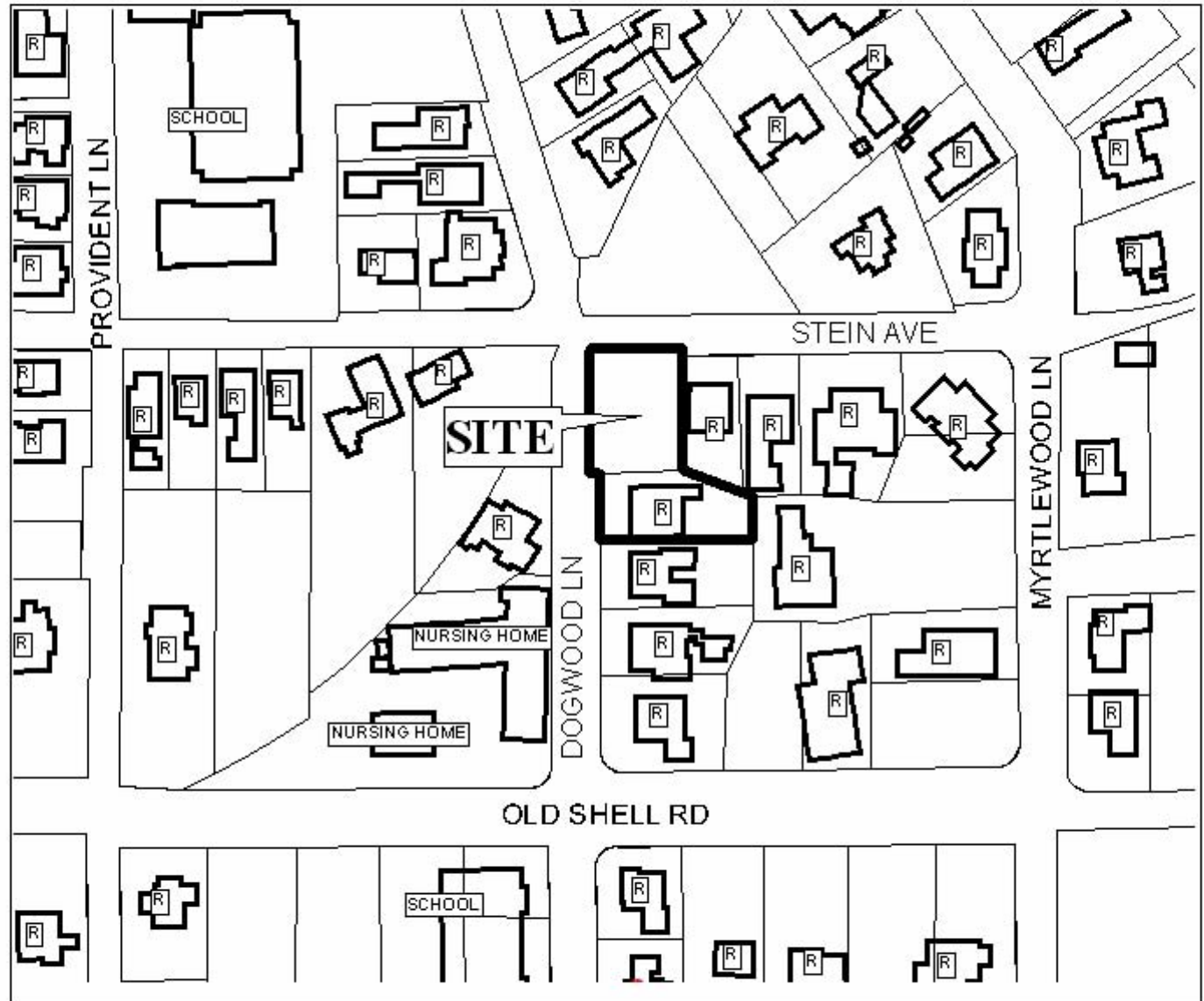
APPLICANT Pete J. Vallas, A.L.A., Architect

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



There are single family residential units surrounding the site as well as a nursing home to the southwest of the site and a school to the northwest.

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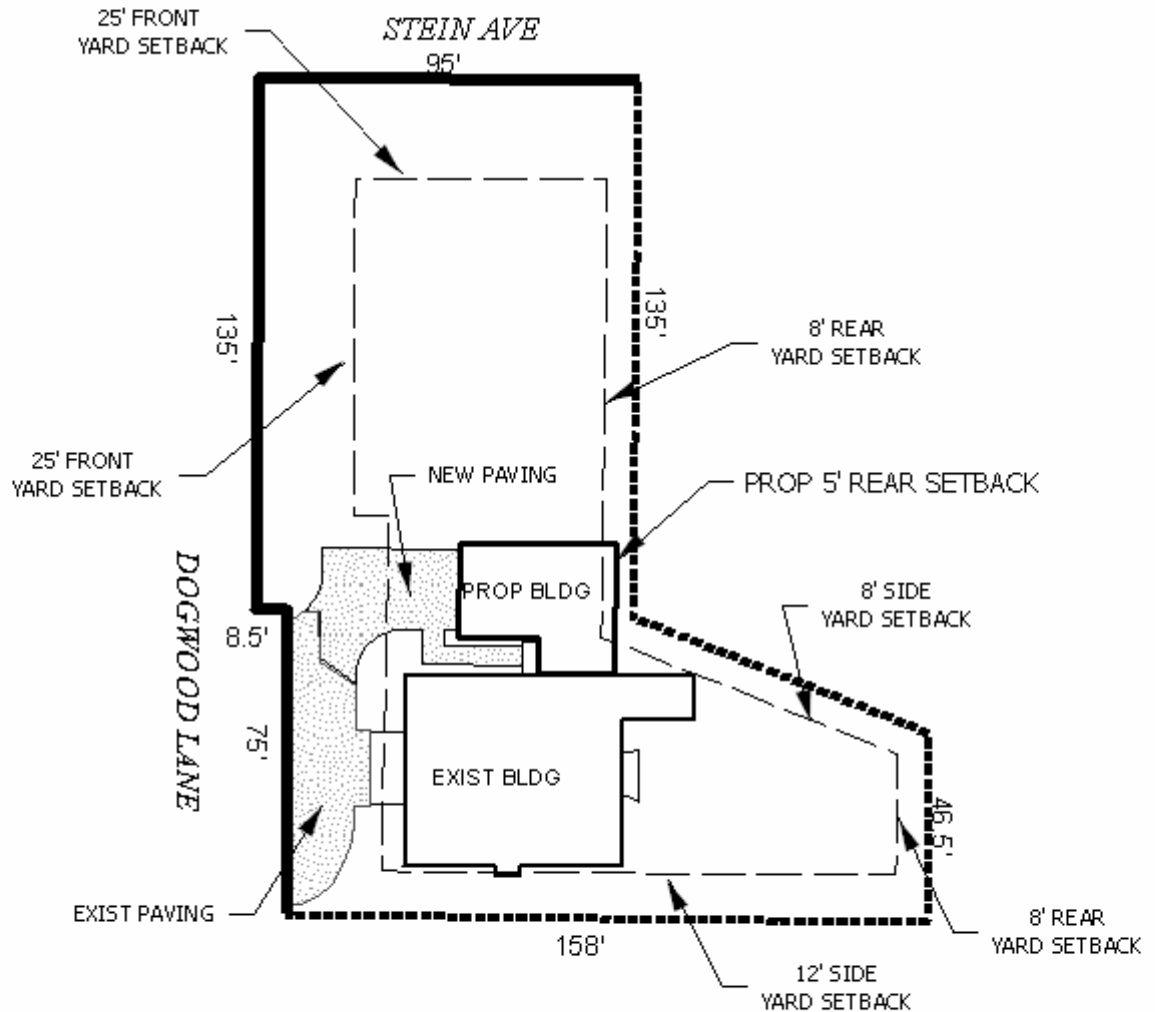
LEGEND

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 the existing building, proposed building, paving, and setbacks.

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