

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: October 3, 2011

CASE NUMBER

5715

APPLICANT NAME

Casmarah Mani

LOCATION

1318 Congress Street
(Northeast corner of Congress Street and Cuba Street)

VARIANCE REQUEST

USE: Variance to allow a convenience store in an R-1, Single-Family Residential District.

PARKING RATIO: Variance to allow no on-site parking.

FRONTAGE LANDSCAPING: Variance to allow reduced frontage landscaping.

TREE PLANTING: Variance to allow no tree plantings.

BUFFER: Variance to allow no residential buffer.

**ZONING ORDINANCE
REQUIREMENT**

USE: Requires at least B-2, Neighborhood Business District.

PARKING RATIO: Requires all required parking to be provided on-site.

FRONTAGE LANDSCAPING: Requires full compliance with landscaping ordinances.

TREE PLANTING: Requires full compliance with tree ordinances.

BUFFER: Requires the provision of a buffer between commercial and residential uses.

ZONING

R-1, Single-Family Residential District

AREA OF PROPERTY

0.1± Acres

**ENGINEERING
COMMENTS**

No comments

TRAFFIC ENGINEERING
COMMENTS

Onsite parking is required.

CITY COUNCIL
DISTRICT

District 2

ANALYSIS

The applicant is requesting approval for Use, Parking Ratio, Frontage Landscaping, Tree Planting, and Buffer Variances to allow a convenience store with no on-site parking, reduced frontage landscaping, no tree plantings, and no residential buffer in an R-1, Single-Family Residential District; the Zoning Ordinance requires B-2, Neighborhood Business District, for a convenience store, with all required parking to be provided on-site, full compliance with landscaping and tree planting requirements, and a buffer between commercial and residential uses.

It should be noted that several notarized non-conforming use affidavits have been received from the property’s various owners in March 1989, June 1999, and January 2001 stating that the property has been used as both a grocery store and a convenience store since 1960. The last record of a business license issued at this address is for a convenience store in 2001. Because the property has been vacant for more than two years, it has lost its nonconforming status, making the current variance applications necessary.

It should also be noted that the applicant states that the owner has recently painted the building and made other improvements to the site, but has stopped work until the zoning issues can be resolved. No building permits have been obtained for any of this work, and these should be obtained, if the variances are approved.

In regards to the parking variance, it appears the site does not have adequate space to place adequate accessways or adequate parking spaces. The store’s size (2,088± square feet) and use would require 7 parking spaces to be provided. The applicant states that most customers are expected to walk to the store, and requests that on-street parking be allowed for any customers who require it.

In regards to the landscaping and tree planting variance requests, the site is required to provide 220 square feet of front landscaped area, and the site plan illustrates 193 square feet of front landscaped area to be provided, resulting in a shortage of 27 square feet. In addition, the site would be required to provide 3 frontage trees, 2 perimeter overstory trees, and 2 perimeter understory trees. While the applicant may not be able to meet these minimum tree planting requirements, they should coordinate with Urban Forestry to comply as much as possible.

In regards to the buffer variance, the applicant states this requirement should be waived because of the small size of the lot. While the lot is smaller than the current standard lot size, there is no reason a 6’ high privacy could not be placed on the North and West property boundaries.

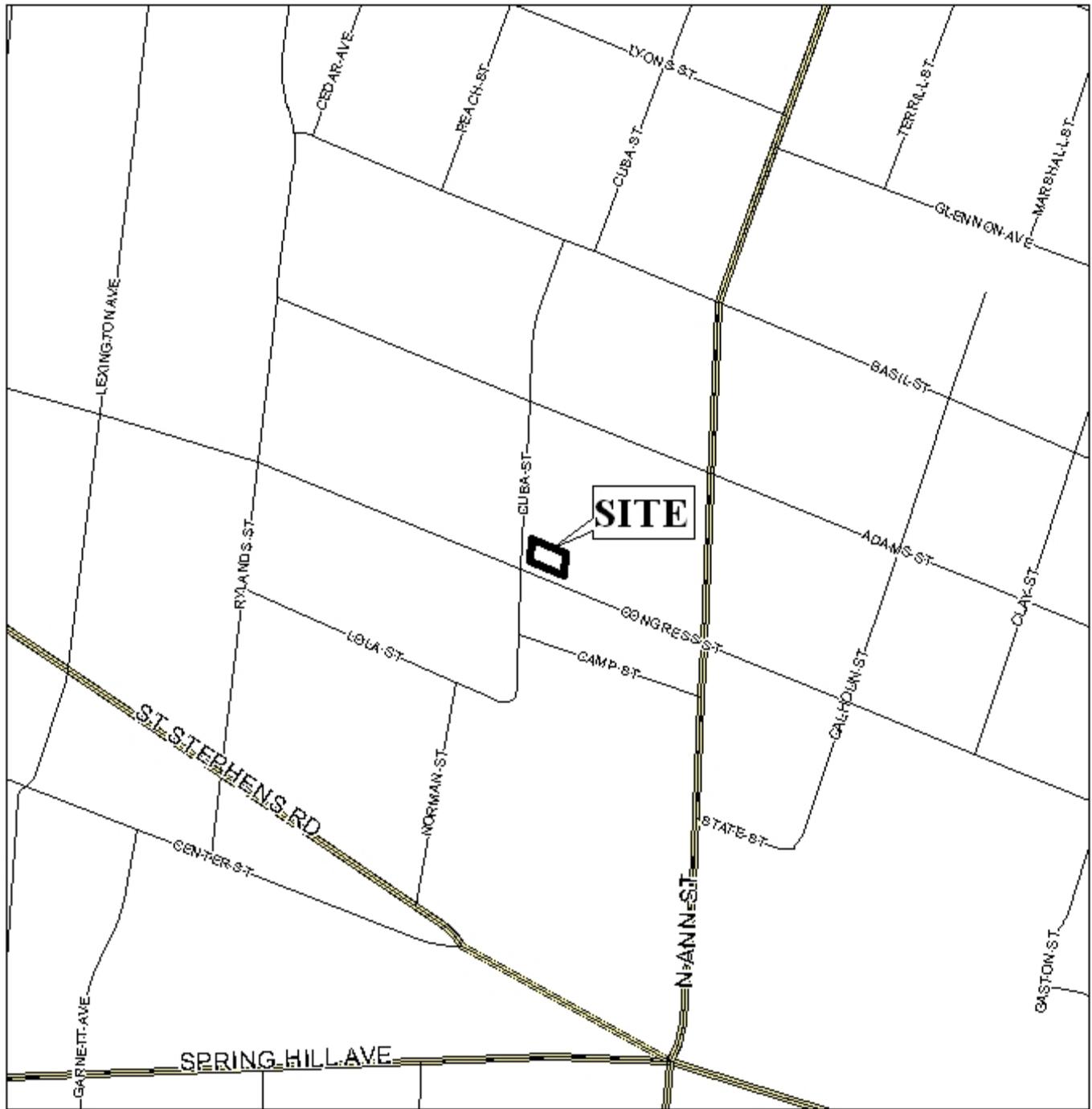
The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the must present sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal

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.

Variations 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.

RECOMMENDATION: Based on the preceding, the use, frontage landscaping, and parking ratio variances are recommended for approval. The applicant should coordinate with Urban Forestry to comply with tree planting requirements as much as possible. The buffer variance request is recommended for denial. Building permits should be obtained for the work already completed as well as any other improvements planned.

LOCATOR MAP



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APPLICANT Casmarah Mani

REQUEST Use, Parking Ratio, Frontage Landscaping, Tree Planting, and Buffer Variances



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use.

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LEGEND																NTS
	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	



**BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING**



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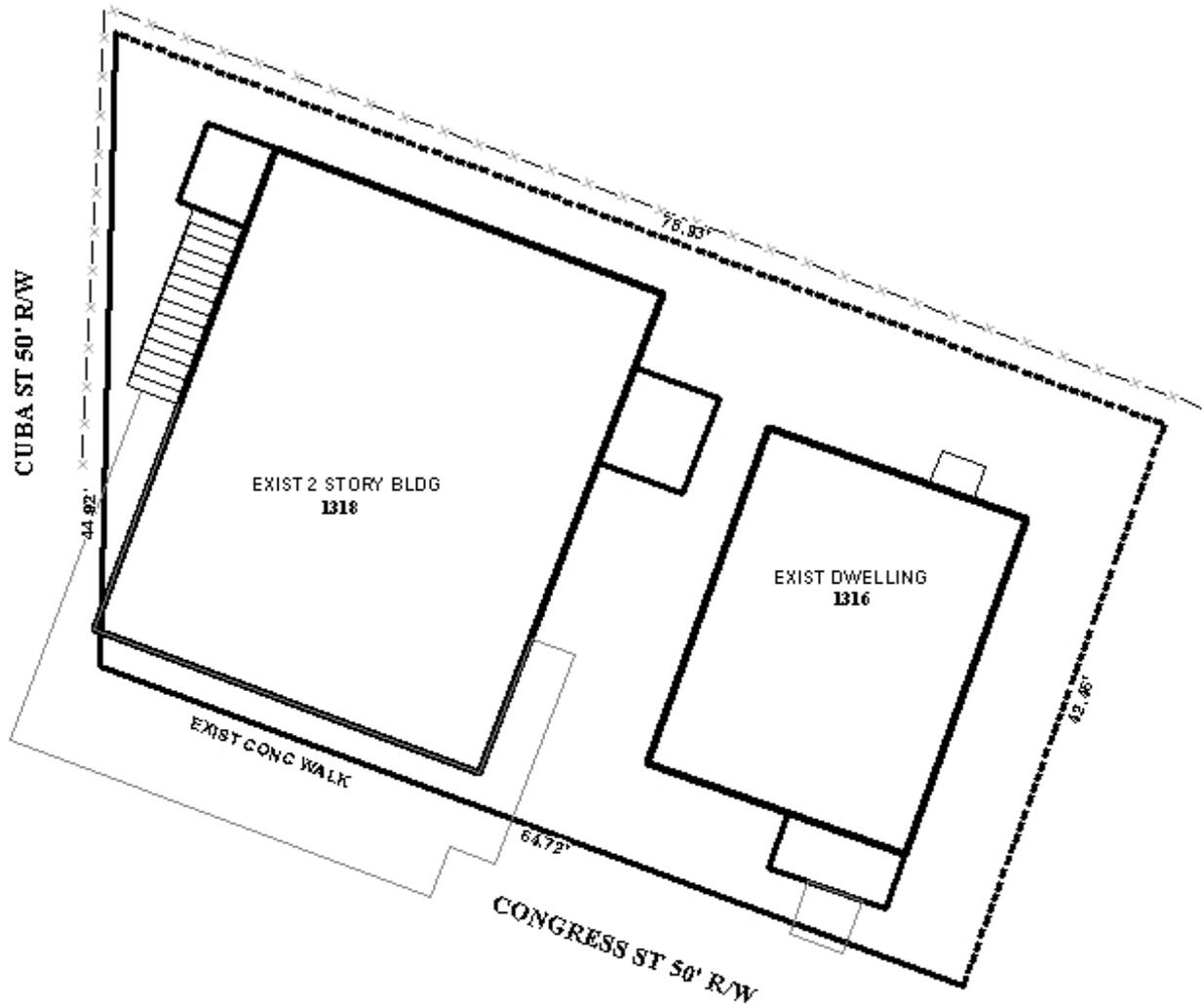
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SITE PLAN



The site plan illustrates the existing improvements.

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