

APPLICATION NUMBER

5403

A REQUEST FOR

**SIDE (STREET) YARD SETBACK VARIANCE TO ALLOW
CONSTRUCTION OF AN ADDITION TO A SINGLE-
FAMILY RESIDENCE WITHIN 11' OF THE SIDE
(ROBERT E. LEE STREET) PROPERTY LINE; A 20' SIDE
STREET YARD SETBACK IS REQUIRED IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

1358 ANTWERP STREET

(Northwest corner of Antwerp Street and Robert E. Lee Street)

APPLICANT/OWNER

CORINTHIS THOMAS

AGENT

M. DON WILLIAMS ENGINEERING

BOARD OF ZONING ADJUSTMENT

JANUARY 2007

The applicant is requesting a Side (Street) Yard Setback Variance to allow construction of an addition to a single-family residence within 11' of the side (Robert E. Lee Street) property line; a 20' side street yard setback is required in an R-1, Single-Family Residential District.

The site is currently occupied by a vacant one-story dwelling which encroaches into the 25' front yard setback and the 20' side street yard setback, and the applicant proposes to add a second story and extend the structure 6' to the rear. The front yard setback encroachment is a roofed porch, but it projects beyond the main part of the dwelling where the second story is proposed. The side street yard encroachment is currently 9' and the addition to the rear is proposed to be in-line with the current side wall and will meet the 8' rear yard setback. The second story will be entirely above the existing main body of the dwelling and the proposed rear addition. The applicant states that the residence is only 26' wide and that the logical way to expand is to continue the side lines to the rear of the building and that the expansion will not make the existing encroachment worse. It is further stated that several houses within the neighborhood have front and/or side street yard encroachments.

With regard to the addition of the second story above the existing side street yard encroachment, such additions are allowed if not increasing the encroachment and would be allowed in this instance above the existing structure. The proposed 6' addition to the rear within the side street yard encroachment would be considered an expansion of a nonconforming structure, hence this variance. The site is located in an older neighborhood that predates the adoption of the current Zoning Ordinance, although not within a historic district. The proposed addition would be in keeping with the residential character of the neighborhood and the Board has been mindful of the unique character of older neighborhoods 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.

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.

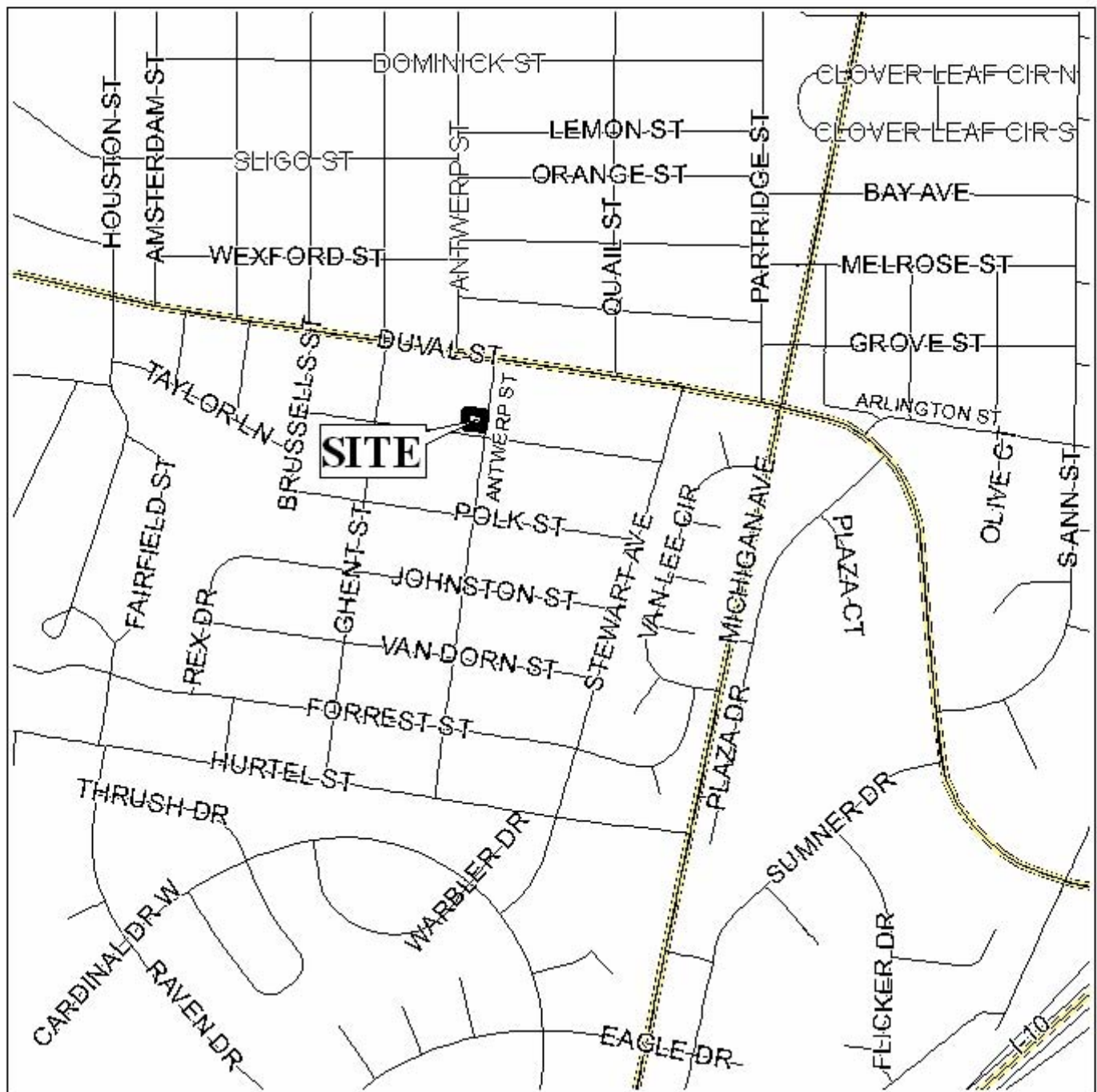
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

The proposed addition would have minimal effect on the nonconforming nature of the residence and would be in keeping with other nonconforming structures within the immediate neighborhood. Furthermore, approval of this variance would conform to the Board's previous approvals for similar variances.

RECOMMENDATION 5403**Date: January 8, 2007**

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

LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units,
a duplex to the east and retail to the northeast.

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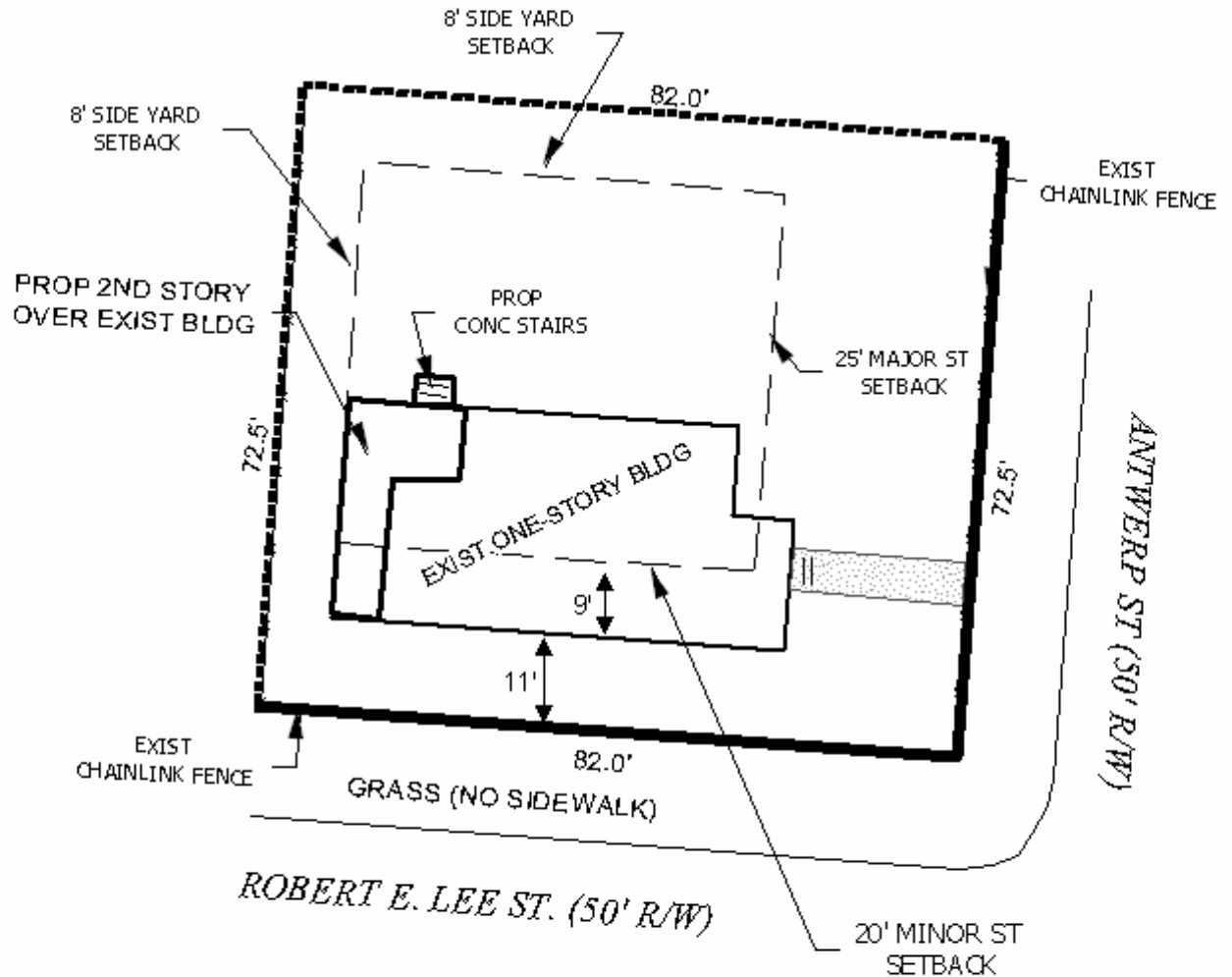
LEGEND

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 addition, and building setbacks.

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