

APPLICATION NUMBER

5452/5158/3153

A REQUEST FOR

**USE, ACCESS, PARKING/MANEUVERING, AND
LANDSCAPING/TREE PLANTING VARIANCES TO
AMEND A PREVIOUSLY APPROVED USE VARIANCE TO
ALLOW TWO DWELLING UNITS (THREE UNITS TOTAL
ON-SITE) IN AN R-1, SINGLE-FAMILY RESIDENTIAL
DISTRICT TO BE RENTED TO NON-FAMILY MEMBERS
(AN R-3, MULTI-FAMILY RESIDENTIAL USE), WITH A
9'± WIDE DRIVE, NON-DESIGNATED PARKING AND
MANEUVERING AREAS, AND AN R-3 USE REQUIRES A
24' WIDE DRIVE AND MANEUERING AREA, FIVE
DESIGNATED PARKING SPACES, AND FOUR TREE
PLANTINGS AND FRONTAGE LANDSCAPING.**

LOCATED AT

1570 DAUPHIN STREET

(North side of Dauphin Street, 335'± East of North Monterey Street)

APPLICANT/OWNER

DALE HALLADAY

BOARD OF ZONING ADJUSTMENT

DECEMBER/2007

The applicant is requesting use, access, parking/maneuvering, and landscaping/tree planting variances to allow two dwelling units (three units total on-site) in an R-1, Single-Family Residential District to be rented to non-family members (an R-3, multi-family residential use), with a 9'± wide drive, non-designated parking and maneuvering areas, and an R-3 use requires a 24' wide drive and maneuvering area, five designated parking spaces, and four tree plantings and frontage landscaping.

The site was before the Board in 1976 to allow two additional residences, for family members, to be constructed behind the original house. The Board denied the applicant's request, but it was appealed to Circuit Court. Subsequently, the court overturned the Board's decision and allowed the two additional residences to be constructed. However, it should be noted that the use was granted for family members only. At the time the applicant purchased the property in 1992, the intent was to rent the two units, and they have been occupied ever since, according to the applicant. The applicant was notified in 2003 that the current use of property is in violation of the Zoning Ordinance, hence this application. The applicant is requesting a variance to amend the previous use variance, in order to rent the two units to non-family members.

With regard to the use variance request, the Board may wish to amend the previous variance to allow the applicant to rent to family members as well the general population. However, the applicant has failed illustrate a justifiable hardship in asking for the variance. It is simply an economic-based request.

With regard to the access, parking/maneuvering, and landscaping/tree planting variances, if the use variance is not granted, consideration for relief from R-3 compliance would be a moot point.

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 failed to demonstrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire use an R-1, Single-Family site in an R-3, Multi-Family manner, without any site compliance modifications.

RECOMMENDATION 5452/5158/3153

Date: December 3, 2007

Based on the preceding, it is recommended that this application be denied.

LOCATOR MAP



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APPLICANT Dale Halladay

REQUEST Use, Access, Parking/Maneuvering, and Landscaping/Tree Planting Variances



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units and there is an office to the southwest.

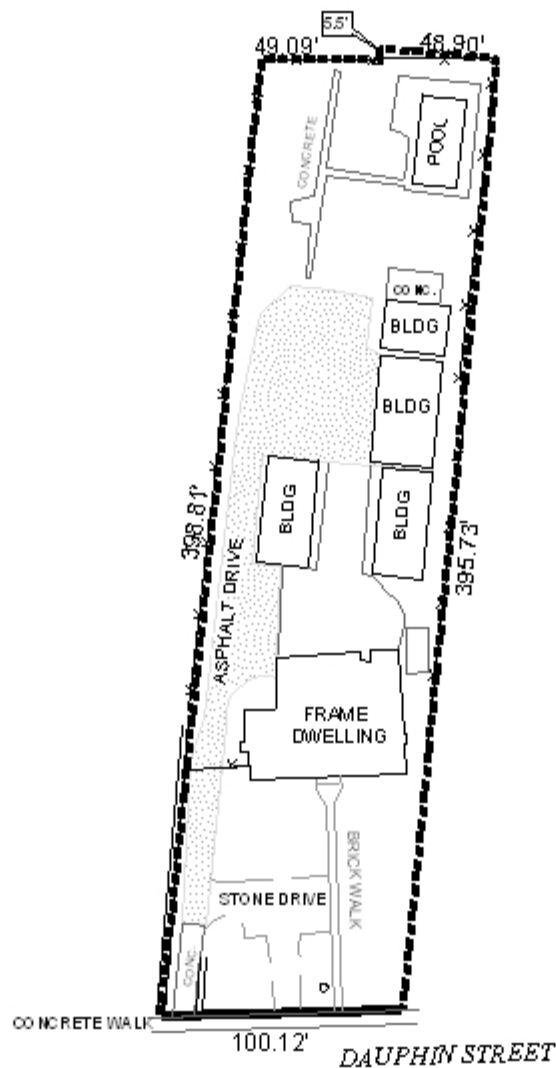
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LEGEND R-1 R-2 R-3 R-A R-B H-B T-B B-1 LB-2 B-2 B-3 B-4 B-5 I-1 I-2 NTS

SITE PLAN



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

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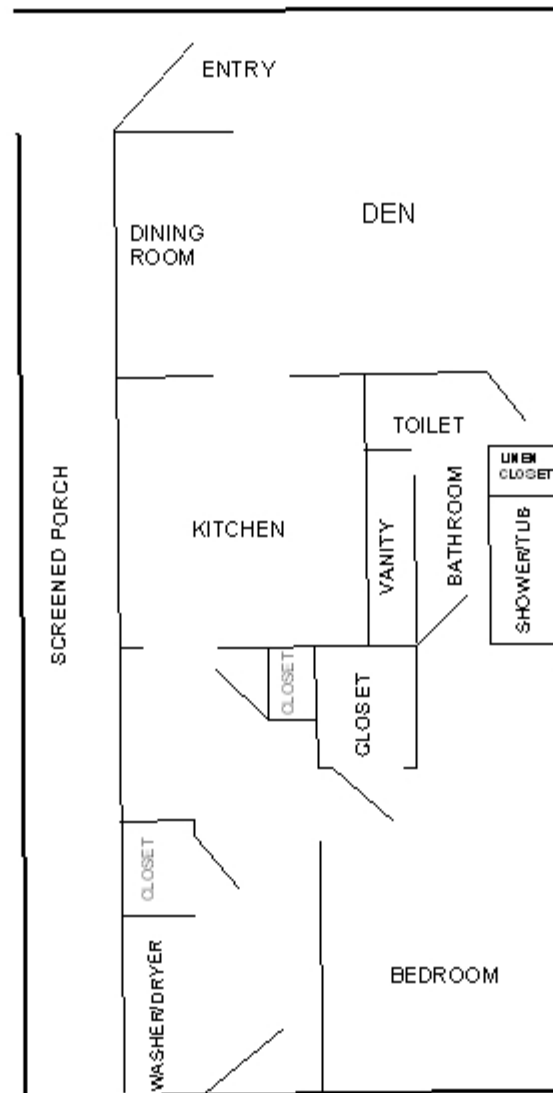
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FLOOR PLAN DETAIL



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