APPLICATION NUMBER

5490/5437

A REQUEST FOR

SIDE YARD SETBACK VARIANCE TO ALLOW TWO 46" HVAC UNITS WITHIN 4'2" OF A SIDE PROPERTY LINE, AND ONE 44" HVAC UNIT WITHIN 4'6" OF A SIDE PROPERTY LINE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE ZONING ORDINANCE REQUIRES A 6' SIDE YARD SETBACK FOR HVAC UNITS 36" HIGH OR HIGHER IN AN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT.

LOCATED AT

64 HAWTHORNE PLACE NORTH

(West side of Hawthorne Place North, 355± South of Kingsway Drive)

APPLICANT/OWNER

MR. & MRS. DOUG RAY, III

AGENT

MR. & MRS. DOUG RAY, III

BOARD OF ZONING ADJUSTMENT

July 2008

ANALYSIS APPLICATION 5490/5437 Date: July 7, 2008

The applicant is requesting a Side Yard Setback Variance to allow two 46" HVAC units within 4'2" of a side property line, and one 44" HVAC unit within 4'6" of a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 6' side yard setback for HVAC units 36" high or higher in an R-1, Single-Family Residential District.

In October of 2007, the applicant filed for and received a Site Variance to allow the construction of a single family home with 38.2% site coverage (maximum site coverage in an R-1 is 35%).

According to a letter submitted by the applicant from the heating and air company responsible for the work, the setbacks cannot be met due to the physical dimensions of the condensing units. They state that there are no other options for the placement of the units without compromising the efficiency and cooling capacity.

It appears that the home is currently under construction. Therefore, redesign is not a feasible option. Further, if approved, there appears to be adequate space left for a fire truck should a situation arise.

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.

Though the applicant has created a self-imposed hardship, a Site Variance was already approved for the size and layout of the home. Upon approval, the hardship changed from a self-imposed to that of an unnecessary one.

RECOMMENDATION 5490/5437 **Date: July 7, 2008**

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

LOCATOR MAP

APPLICATION NUMBER 5490 / 5437 DATE July 7, 2008

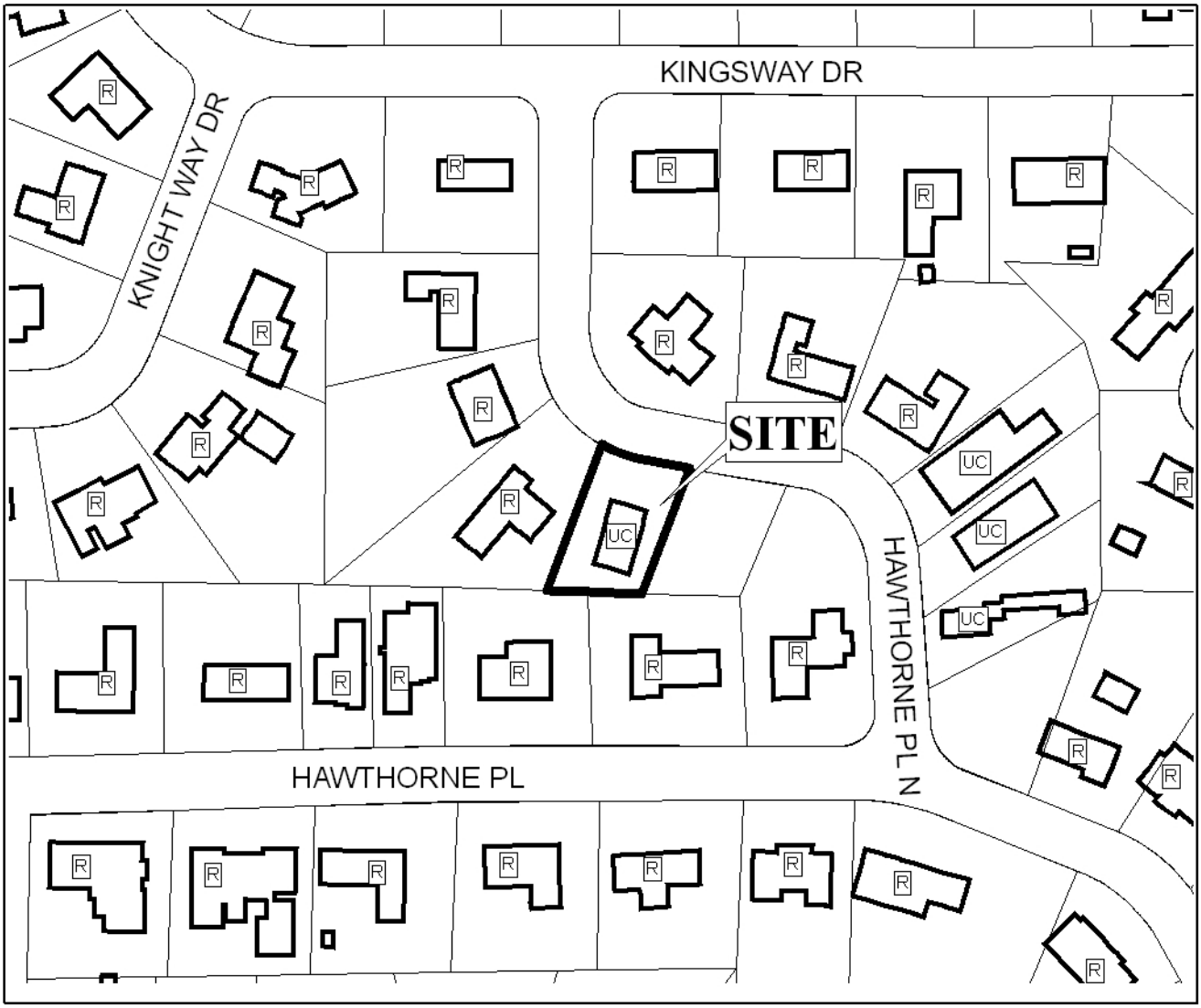
APPLICANT Mr & Mrs Doug Ray, III

REQUEST Side Yard Setback Variance

N

NTS

BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units

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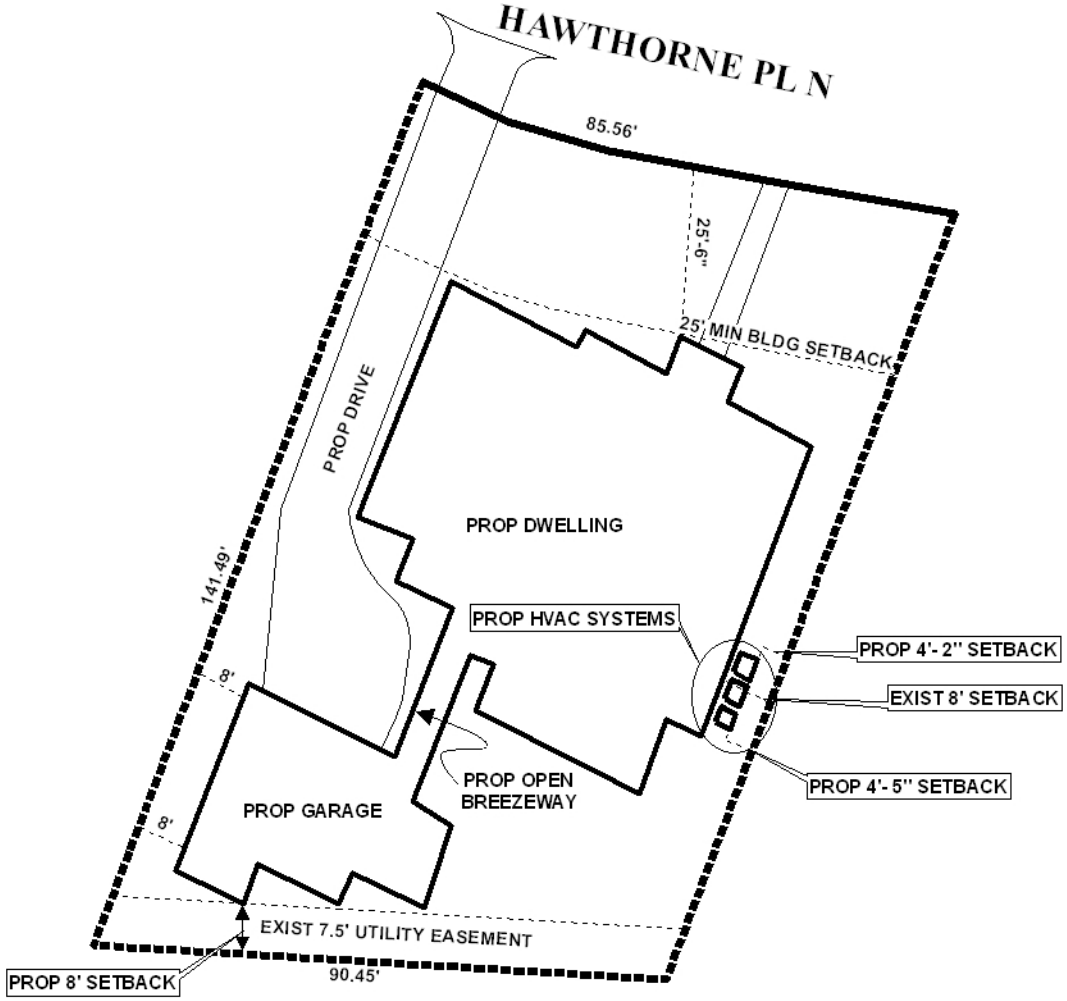
LEGEND R-1 R-2 R-3 R-A R-B H-B T-B B-1 LB-2 B-2 B-3 B-4 B-5 I-1 I-2

NTS

SITE PLAN



The site plan illustrates the proposed building, setbacks, and drive

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NTS