

APPLICATION NUMBER

**5622**

A REQUEST FOR

**FRONT YARD SETBACK VARIANCE TO ALLOW  
A STRUCTURE 11' FROM A FRONT PROPERTY  
LINE IN A B-2, NEIGHBORHOOD BUSINESS  
DISTRICT; THE ORDINANCE REQUIRES A  
MINIMUM 25' FROM FRONT PROPERTY LINES  
IN A B-2, NEIGHBORHOOD BUSINESS DISTRICT.**

LOCATED AT

**1066 HILLCREST ROAD**

(Northwest corner of Hillcrest Road and Johnston Lane)

APPLICANT

**RICH'S CAR WASH**

**BOARD OF ZONING ADJUSTMENT**

JULY 2010

**ANALYSIS APPLICATION 5622****Date: July 12, 2010**

The applicant is requesting front yard setback variance to allow a structure 11' from a front property line in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum 25' front yard setback in a B-2, Neighborhood Business District.

The subject site has been used for several years as a car wash facility. It should be noted that the site recently received Commission approvals for a PUD to allow car drying/vacuuming shed, oil change building, office and customer waiting area on a single building site and rezoning from R-1 to B-2 to remove split zoning.

The applicant states that there are three canopies to protect cars as they are vacuumed and detailed. The applicant further states that the canopies have metal roofs and are supported by metal pipe columns and have no walls. The applicant also states that the front canopy along Hillcrest Road was permitted when the main building was permitted and apparently the two canopies along Johnston Road, the minor street were constructed without building permits. The applicant points out that one of the canopies has an 11' front yard setback from Johnston Road to support columns. The applicant further points out that this application seeks to allow the unpermitted canopy to remain.

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.

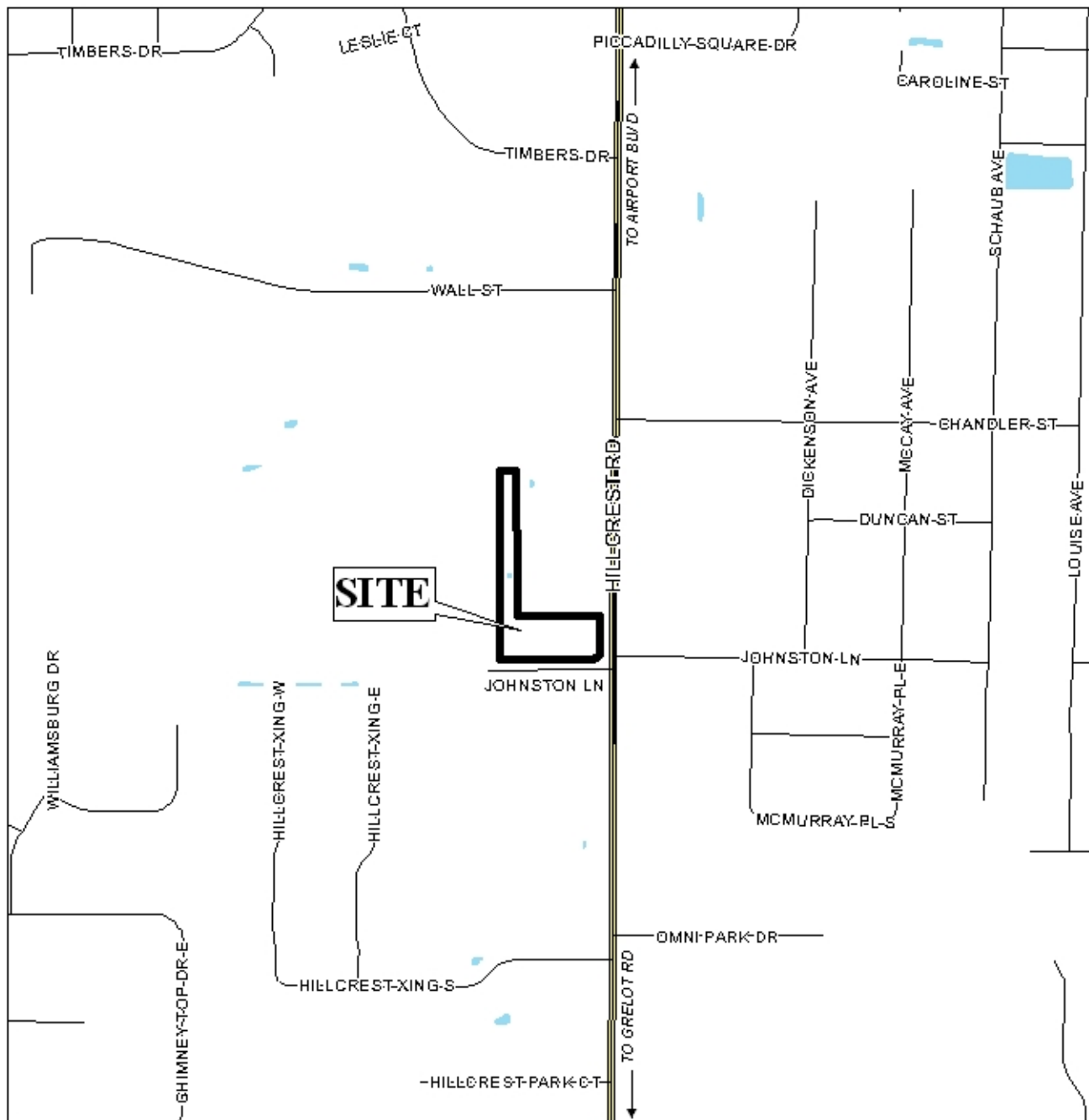
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

With regard to the canopy encroaching 11' from the front property line, had the applicant's contractor attempted to obtain the proper building permits for the addition of a new canopy, a more suitable location for the canopy may have been found. It should be noted that the site in question has an additional unpermitted structure, a portable storage building; consequently, one of the conditions of approval for both the PUD and rezoning cases considered by the Planning Commission at its June 17<sup>th</sup> meeting included removal of the unpermitted portable storage building that encroaches into the right-of-way of Johnston Road. The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship and any hardship imposed by the encroaching canopy is self-imposed. It is simply the applicant's desire to allow the unpermitted encroaching canopy to remain 11' from the front property line.

**RECOMMENDATION 5622****Date: July 12, 2010**

Based on the preceding, it is recommended that the applicant's request be denied.

# LOCATOR



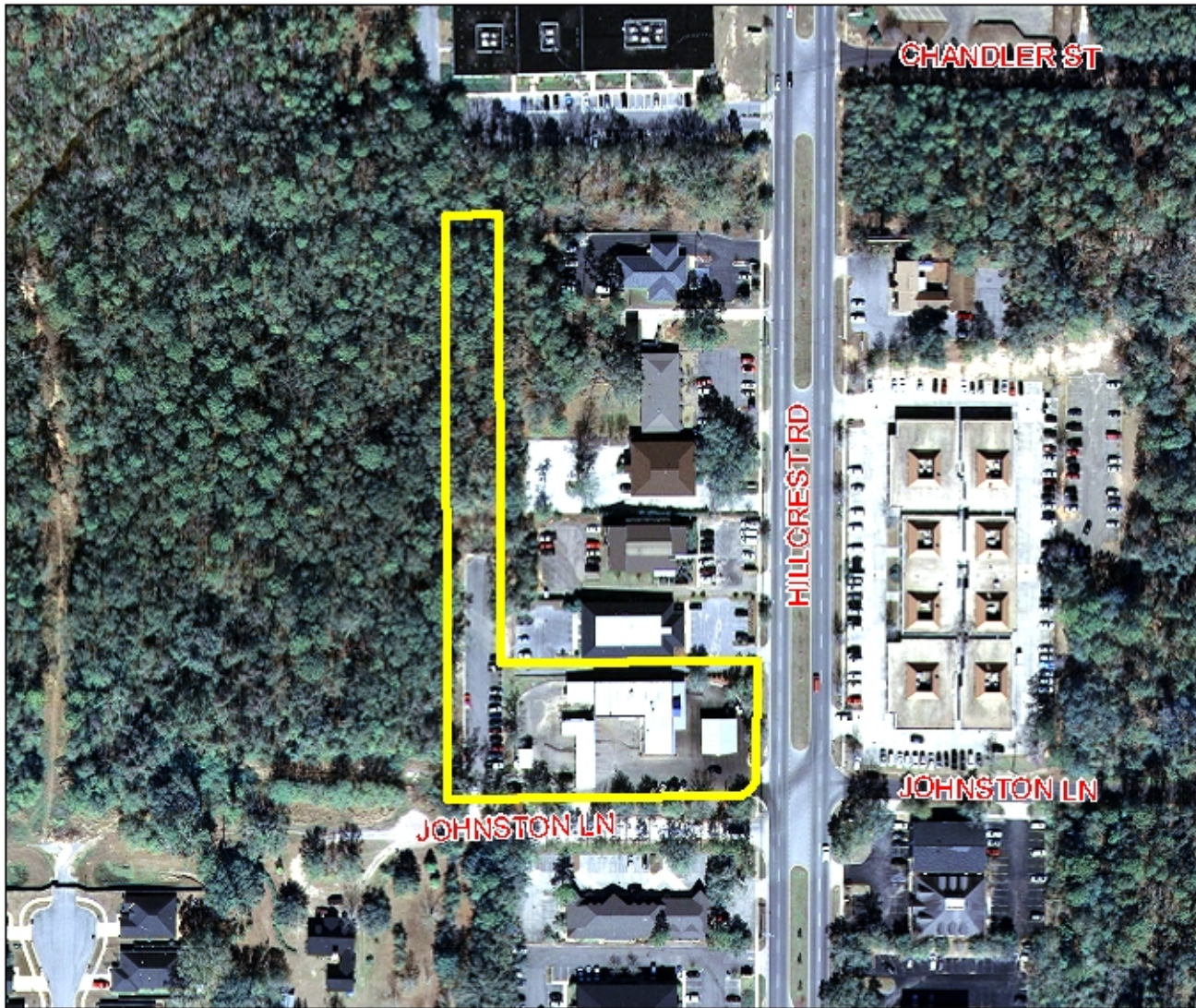
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REQUEST Front Yard Setback Variance



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



This site is surrounded by commercial land use with residential land use to the west.

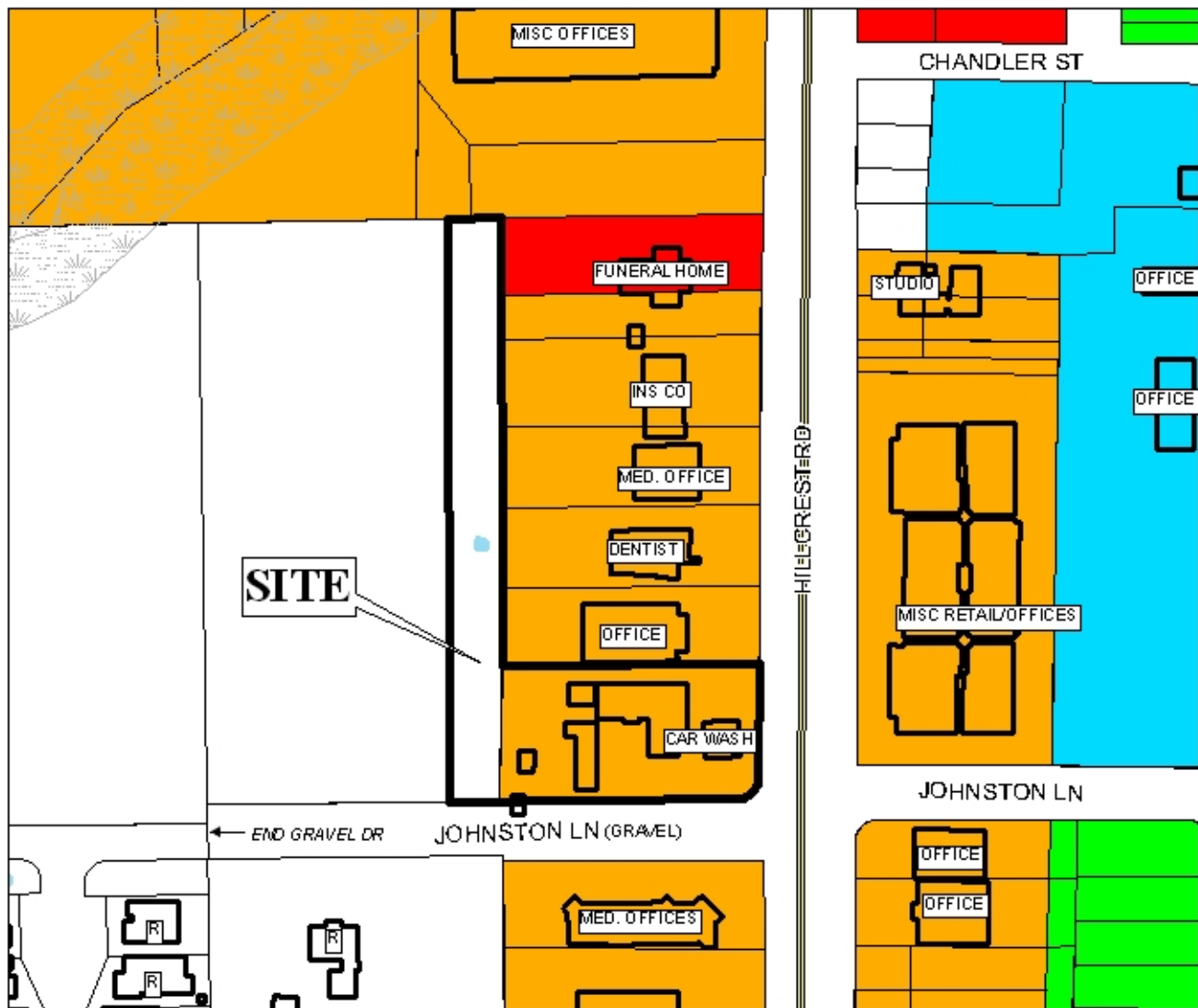
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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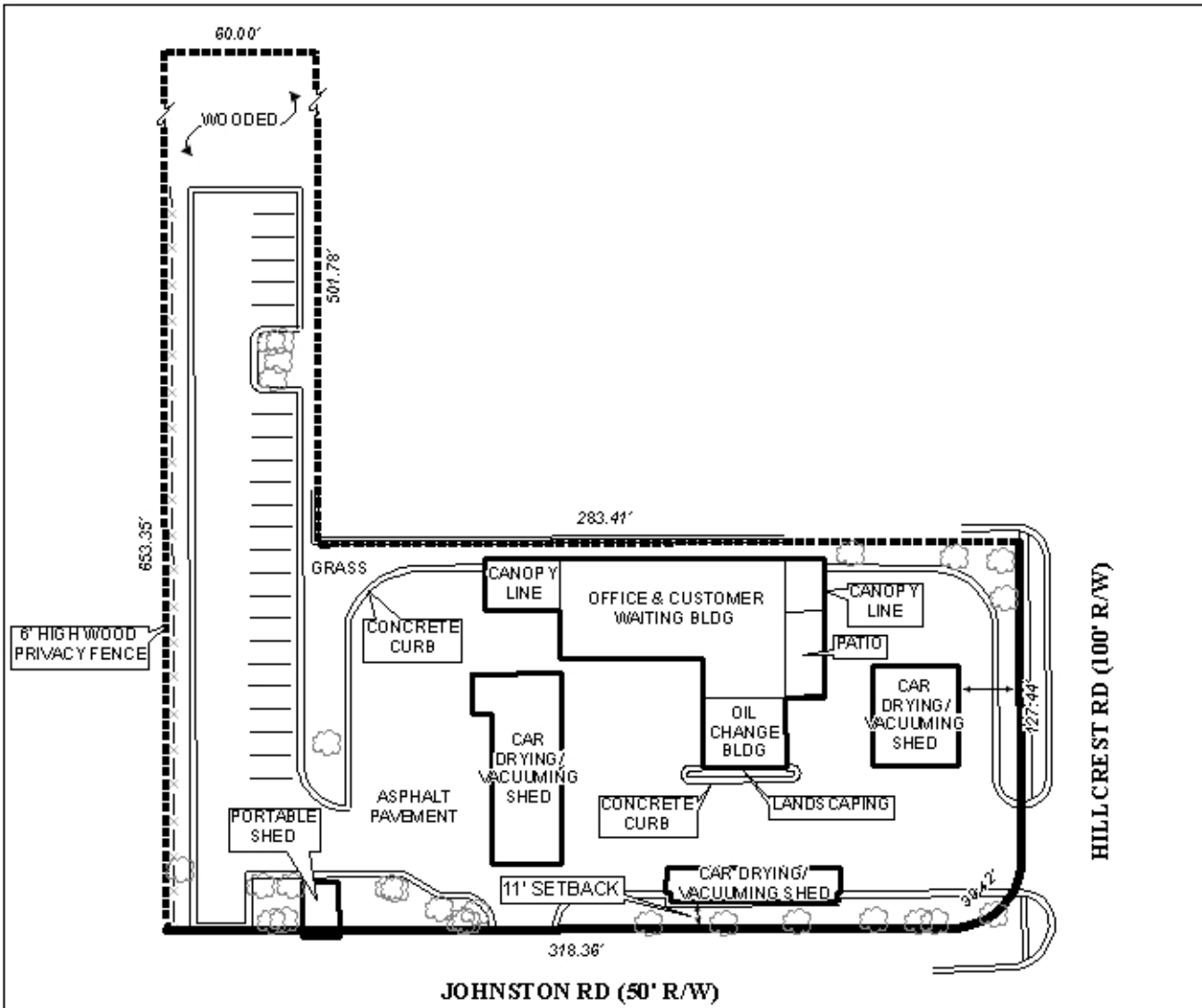
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LEGEND  R-1  R-2  R-3  R-A  R-B  H-B  T-B  B-1  LB-2  B-2  B-3  B-4  B-5  I-1  I-2 NTS

# SITE PLAN



This site plan illustrates the existing lot configuration and setbacks.

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