

APPLICATION NUMBER

5397/2755

A REQUEST FOR

**SIDE YARD SETBACK AND COMBINED SIDE YARDS
VARIANCES TO ALLOW THE CONSTRUCTION OF A
DWELLING ADDITION WITHIN 3.5' OF A SIDE
PROPERTY LINE WITH 18.9' TOTAL COMBINED SIDE
YARDS; AN 8' MINIMUM SIDE YARD SETBACK AND A
MINIMUM COMBINED SIDE YARDS OF 20' ARE
REQUIRED IN AN R-1, SINGLE-FAMILY RESIDENTIAL
DISTRICT.**

LOCATED AT

3267 STEIN STREET

(South side of Stein Street, 115' ± East of Batre Lane)

APPLICANT/AGENT

DAVID A. SHIVERS

OWNER

DAVID A. & ALLISON SHIVERS

BOARD OF ZONING ADJUSTMENT

JANUARY 2007

The applicant is requesting Side Yard Setback and Combined Side Yards Variances to allow the construction of a dwelling addition within 3.5' of a side property line with 18.9' total combined side yards; an 8' minimum side yard setback and a minimum combined side yards of 20' are required in an R-1, Single-Family Residential District.

The residence on the subject property is two stories and is currently set back 8' from the West property line and 15.4' from the East property line. The applicant proposes to construct a half-bath and breakfast nook addition projecting 4.5' out from the West wall of the residence to within 3.5' of the West property line. This projection would encroach into the required 8' minimum side yard setback, and reduce the combined side yards to 18.9'. The proposed addition would be approximately 72 square feet and would produce total site coverage of just below 35% when complete.

The applicant states that the addition cannot be located in any other area of the residence due to the driveway and interior layout. The addition would be approximately 25' from the East side of the neighbor's dwelling to the West, and there is an 8' wooden privacy fence located along the common property line between the proposed addition and that neighbor. The applicant further states that this property is like many others in the area in that lot sizes are small with no room for expansion and that the dwelling has no half bath for the downstairs.

The subject property is Lot 3, Lori Place, which was developed in 1972. Of the five lots in this small subdivision, this lot and the two to the West are of substandard size. A variance was sought and denied in 1973 for front, side, and rear setbacks to permit the construction of a residence to within 19' of the front property line and a garage to within 2' of the side and rear property lines. Typically, 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 and/or a minimum setback of 5' is provided. However, in this case, the proposed addition would be projecting beyond the wall line, and the minimum setback would be 3.5'. Three of the primary concerns relating to side yard setbacks are the potential for the spread of fire from one property to another, water run-off onto adjacent properties, and the ability to properly maintain the proposed structure. Other concerns relate to privacy and adequate circulation of light and air.

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.

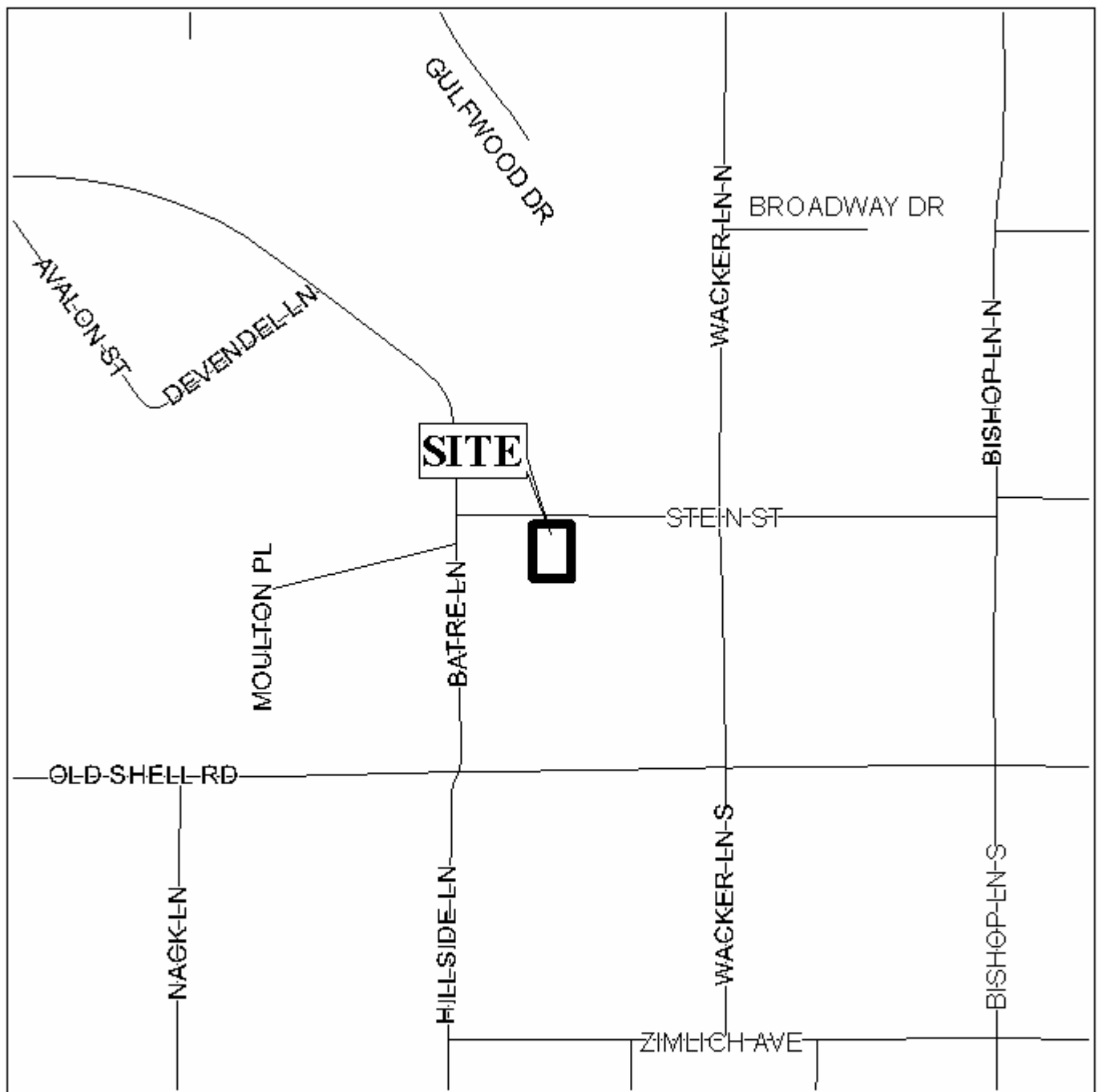
The applicant failed to illustrate that a literal enforcement of the ordinance would result in an unnecessary hardship. It is simply the applicant's desire to build a dwelling addition to within 3.5' of a side property line.

RECOMMENDATION 5397/2755

Date: January 8, 2007

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

LOCATOR MAP



APPLICATION NUMBER 5397/2755 DATE January 8, 2007

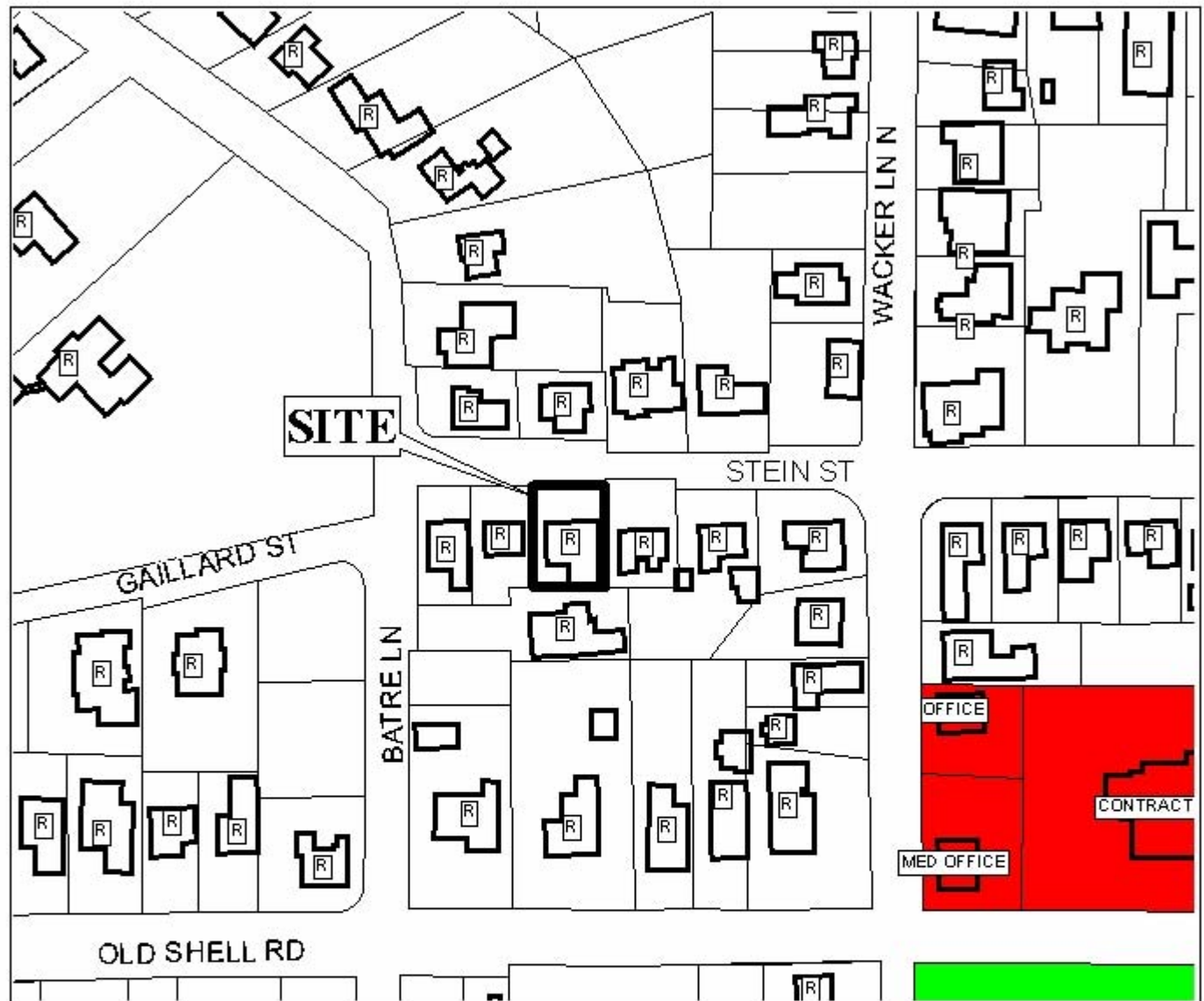
APPLICANT David A. Shivers

REQUEST Side Yard Setback, Combined Side Yards Variance



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units. Offices are located to the southeast of the site.

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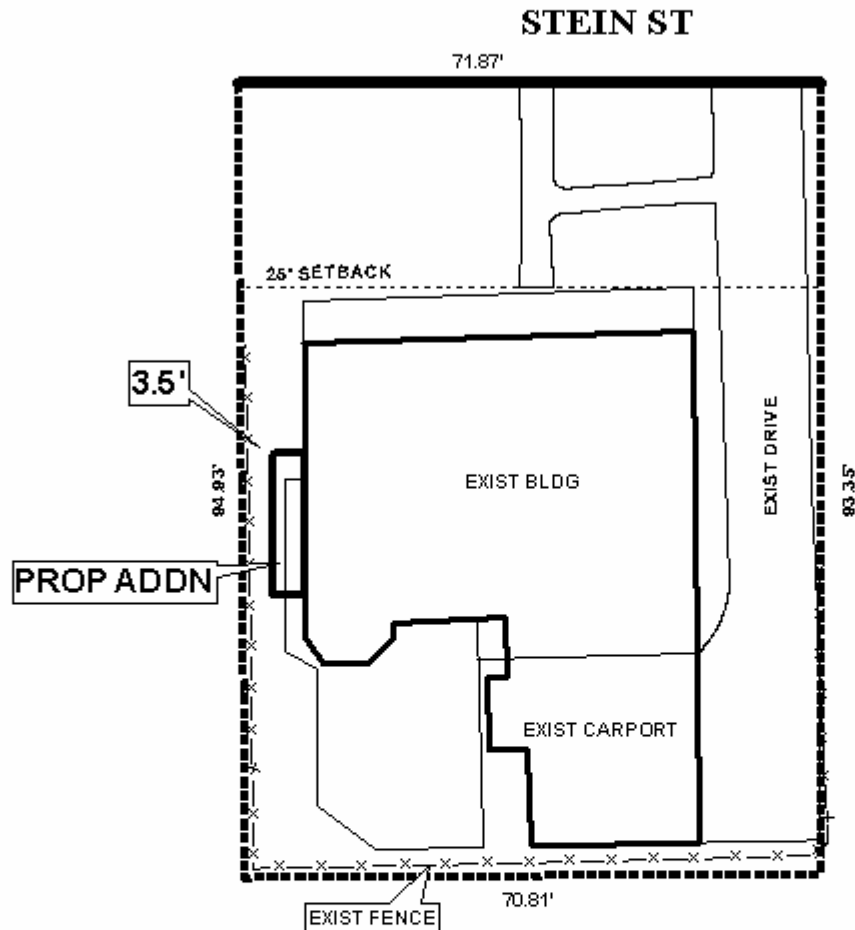
LEGEND

 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 buildings, drive, and proposed building addition

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