

APPLICATION NUMBER

**5256**

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW A  
34' 6" X 32' GARAGE 16' FROM THE SIDE (WEST)  
STREET PROPERTY LINE, A 20' SIDE YARD SETBACK  
IS REQUIRED FOR A CORNER LOT THAT IS 60' WIDE  
OR WIDER IN AN R-1, SINGLE-FAMILY RESIDENTIAL  
DISTRICT.**

LOCATED AT

Southeast corner of Stein Avenue and Dilston Lane

APPLICANT

**TOM & DONNA HENDERSON**

**BOARD OF ZONING ADJUSTMENT**

AUGUST 2004

The applicant is requesting a Side Yard Setback Variance to allow a 34' 6" x 32' garage 16' from the side (west) street property line; a 20' side yard setback is required for a corner lot that is 60' or wider in a R-1, Single-Family Residential District.

The applicant states that the required 20' setback would obscure the rear yard view from the family room and will render the covered patio unusable (due to enclosure of sunlight). Furthermore, with the dedication of 10' of right-of-way (which was required by the subdivision), the available side yard setback has been reduced, and it is unlikely that Dilston Lane will be widened; thus the structure would appear to be setback farther than neighboring structures.

The applicant did not state as to why he could not meet the minimum setbacks as required by the Ordinance. Several of the applicants concerns are related to aesthetics. As illustrated on the site plan, there is sufficient space for the structure to meet the minimum side yard setbacks. Based upon the width of the lot at the building setback line (95' wide), the Ordinance would require a 20' side yard setback.

The Zoning Ordinance requires minimum building setbacks for corner lots with residences facing the side street. This is to allow for proper visibility for the residences accessing the side street. As illustrated on the site plan, there is ample room to move garage four feet to the east and comply with the setbacks. It should be noted that house and garage is new construction not just a simple building addition. The applicant is simply overbuilding the property.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Additionally, no variance shall be granted unless the Board is presented with 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.

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 in the side yard setback.

**RECOMMENDATION 5256****Date: August 5, 2004**

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

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential dwellings.

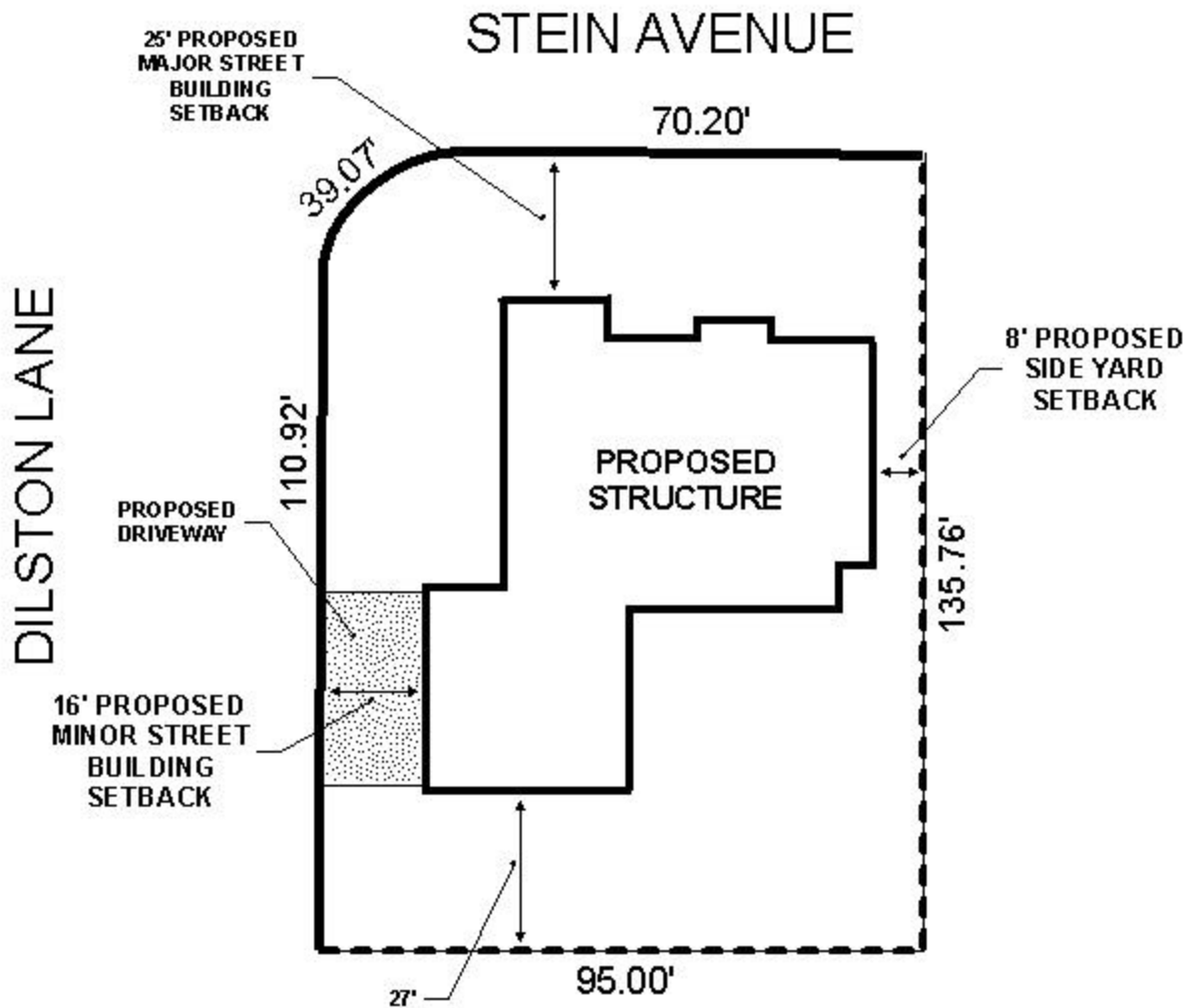
APPLICATION NUMBER 5256 DATE August 2, 2004  
 APPLICANT Tom and Donna Henderson  
 REQUEST Side Yard Setback Variance

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 is located at the Southeast corner of Stein Avenue and Dilston Lane.  
The plan illustrates the proposed structure and setbacks.

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