

APPLICATION NUMBER

5355

A REQUEST FOR

**SIDE YARD SETBACK AND COMBINED SIDE YARD
VARIANCES TO ALLOW THE CONSTRUCTION OF A
RESIDENCE WITHIN 6 FEET OF THE SIDE (WEST)
PROPERTY LINE, AND TO ALLOW A TOTAL
COMBINED SIDE YARD OF 18 FEET; AN 8-FOOT SIDE
YARD SETBACK IS REQUIRED FROM A SIDE
PROPERTY LINE, AND A TOTAL COMBINED SIDE
YARD OF 19.6 FEET IS REQUIRED FOR RESIDENTIAL
STRUCTURES ON A LOT 59 FEET WIDE IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

South side of Government Street, 60'± East of Breamwood Avenue.

APPLICANT

FREDERICK W. & LEIGH M. ROWELL

OWNER

SAME

BOARD OF ZONING ADJUSTMENT

JUNE 5, 2006

The applicants are requesting side yard setback and combined side yard variances to allow the construction of a residence within 6 feet of the side (West) property line, and to allow a total combined side yard of 18 feet. An 8-foot side yard setback is required from a side property line, and a total combined side yard of 19.6 feet is required for residential structures on a lot 59 feet wide in an R-1, Single-Family Residential district.

The site has been vacant for many years and the applicants propose to construct a single-family residence maintaining the historic residential character of the neighborhood. The property is a metes and bounds parcel slightly under the standard 60-foot minimum lot width at the 25-foot building setback line, the width decreasing from 59.40 feet at the front property line to 57.51 feet at the rear property line. The proposed house would be 39.5 feet in width with a side yard setback of 6.5 feet on the West property line, and the attached carport/garage/workshop to the rear would have a side yard setback of 6.0 feet along the same property line, hence, the variance request for the 6-foot side yard setback. The proposed side yard setback along the East side property line is 12 feet in order to accommodate the driveway from the street to the garage at the rear of the house. The total combined side yards are, therefore, 18 feet, and hence, the combined side yard setback variance request. The required front and rear yard setbacks are proposed to be met.

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 applicants state that in order to accomplish their goal of constructing a house in keeping with others in the area, they would like to construct it with a width of 39.5 feet. The site is located on the South side of Government Street, outside a historic district, but still within an area of historically significant residential architecture which predates the adoption of the current Zoning Ordinance. The site is not eligible for setback relief under the Historic District Overlay amendment to the Ordinance. In similar cases, the Board has been mindful of the unique character of older areas when considering site variance applications. Furthermore, the Board has been sympathetic in granting variances in urban areas of the city when the structure is within 5 feet of the side property line. In such cases the Board has typically required a minimum setback of 5 feet, with the provision of gutters and downspouts.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, 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

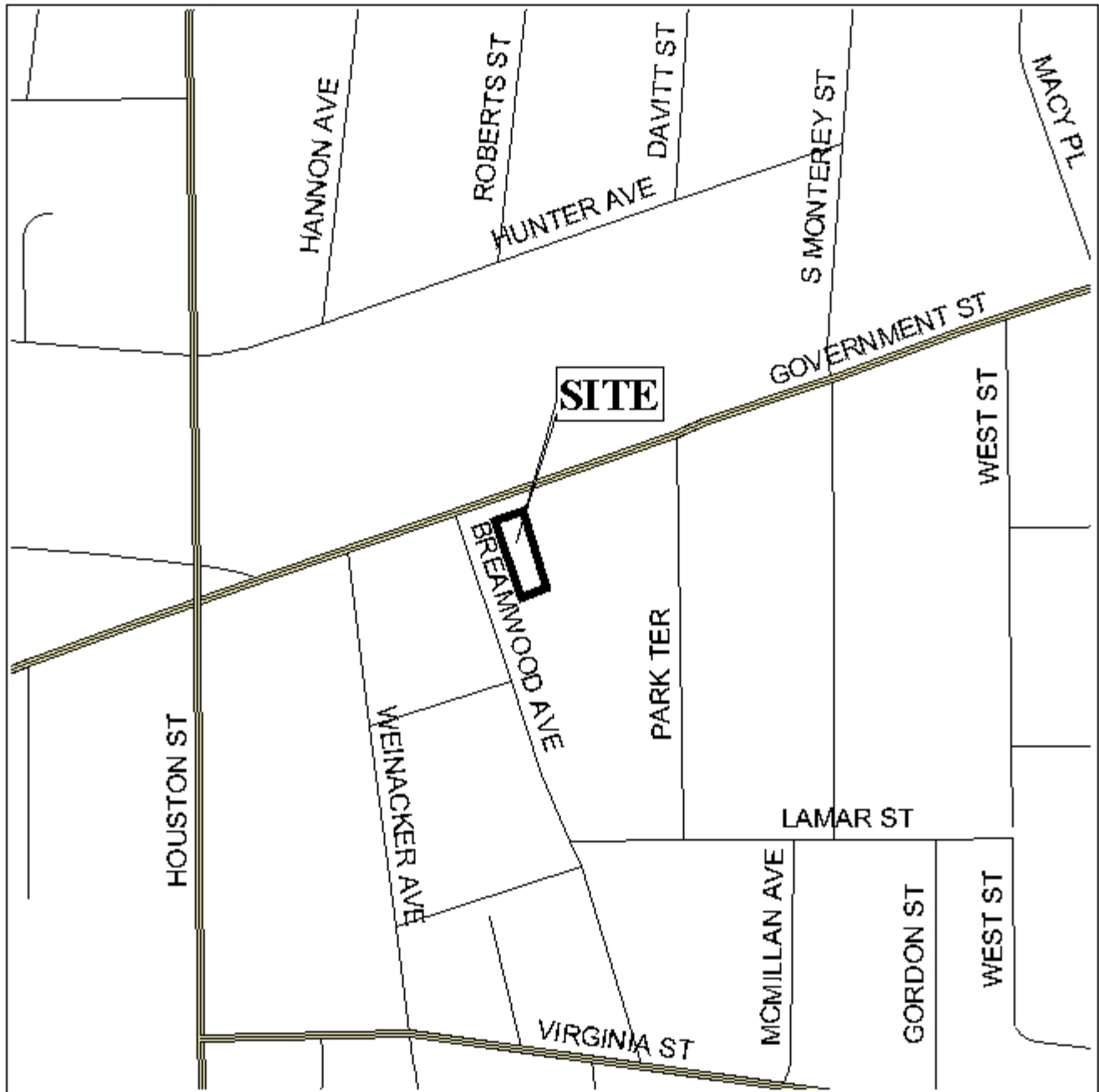
unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

The applicants failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to construct a dwelling with accessory structures within 6 feet of the West property line, and within 12 feet of the East property line, with a total combined side yard of 18 feet. However, the applicants did present evidence that the proposed structure would maintain the residential character of the neighborhood and be of a harmonious nature with respect to development.

RECOMMENDATION 5355**Date: June 5, 2006**

Based upon the preceding, it is recommended that this application be approved subject to the following condition: (1) the provision of gutters and downspouts along the West side of the structure.

LOCATOR MAP



APPLICATION NUMBER 5355 DATE June 5, 2006

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REQUEST Side Yard Setback and Combined Side Yard Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Located to the East and South of the site are single family residential dwellings; to the West is a multiple family residential dwelling. Located to the North of the site is an office.

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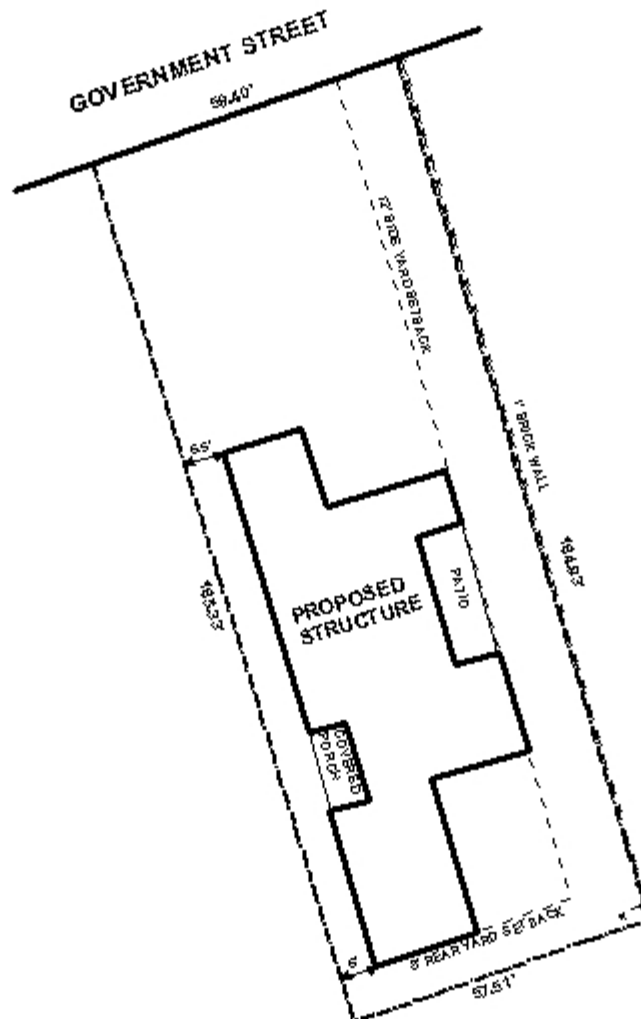
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LEGEND

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



SITE PLAN



The site is located on the South side of Government Street, 60' East of Breamwood Avenue. The plan illustrates the proposed building and setbacks.

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