

APPLICATION NUMBER

5387/5299

A REQUEST FOR

**SIDE YARD (STREET) SETBACK VARIANCE TO ALLOW
THE CONSTRUCTION OF A SINGLE-FAMILY
RESIDENCE WITHIN 12' FROM THE EAST (STREET)
SIDE PROPERTY LINE; A MINIMUM SIDE YARD
SETBACK OF 20' IS REQUIRED FOR RESIDENTIAL
STRUCTURES ON A LOT 60 FEET WIDE OR WIDER,
ALONG A SIDE STREET IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT.**

LOCATED AT

2805 GRANT STREET

(Southwest corner of Grant Street and Cottage Hill Road)

APPLICANT/AGENT/OWNER

PERSONS DEVELOPMENT, LLC

BOARD OF ZONING ADJUSTMENT

NOVEMBER 2006

The applicant is requesting a Side Yard (Street) Setback Variance to allow the construction of a single-family residence within 12' from the East (street) side property line; a minimum side yard setback of 20' is required for residential structures on a lot 60 feet wide or wider, along a side street in an R-1, Single-Family Residential District.

This application is a re-submittal of a previous request which was approved by the Board. However, no permits were obtained for the construction of the residence within the six months following the approval, and no extension of approval was requested, therefore, the approved Variance expired. The applicant is now ready to construct the residence as previously approved and must obtain a new Variance.

In December 2004 the applicant applied for a resubdivision of the site in order to allow approval for a 12-foot setback line on a subdivision plat. Staff determined that the Planning Commission would only be able to approve a 12-foot setback that is required by the Zoning ordinance if a variance from the Board of Adjustment is approved. The subdivision application was withdrawn.

The subject property, Lot 6, was created as part of the eight-lot YNG Place Subdivision in 1996. The original YNG Place Subdivision plat indicates that the side street side-yard setback for Lot 6 is 25 feet, which exceeds the Zoning Ordinance's corner lot, side street, side-yard setback of 20 feet. This requirement has been in effect since the Ordinance's adoption in 1967.

A Fence Height Variance was granted for the site in August 2004, permitting the construction of a 7-foot high masonry wall, one-foot two-inches from the property line along Cottage Hill Road.

The attached Site Plan depicts a 2400± sf (footprint) single-family house proposed by the applicant, with approximately 600sf of the house within the requested setback variance. The applicant states that the combination of the 25' setback on Cottage Hill Road and the 25' setback on Grant Street leaves insufficient room to construct a conventional house on this lot.

As shown on the Site Plan, Lot 6 is approximately 8,067 sf in size, and the maximum buildable area permitted under R-1 zoning is 35% of the site, or approximately 2,823 sf (first floor). The reduction in setbacks would not impact site coverage. Under the setbacks that currently apply to Lot 6, the available building envelope is approximately 40 feet in width, and 71 feet in depth. Utilizing the Zoning Ordinance's maximum side street side-yard setback of 20 feet, the available building envelope increases to approximately 46 feet in width, and 71 feet in depth. The applicant's requested side street side-yard of 12 feet will result in a building envelope of approximately 54 feet in width, and 71 feet in depth.

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.

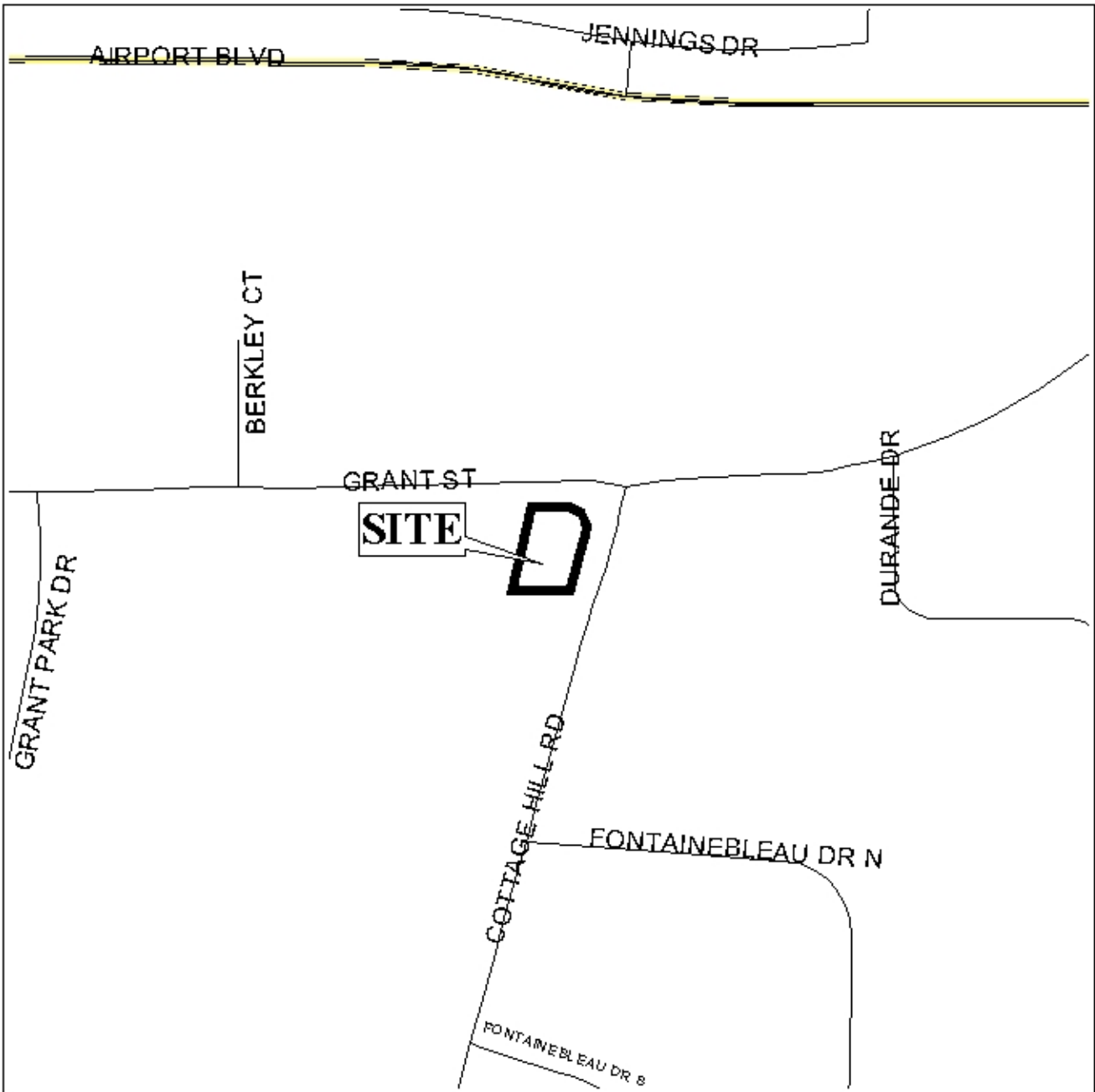
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

Without the approval of the requested setback variance, construction of the single-family dwelling as designed will not be possible. However, the applicant appears to have sufficient area available with the existing side street side-yard setback of 25 feet to construct a single-family dwelling that would meet current market demand. Furthermore, the applicant has not provided sufficient evidence to indicate that conforming to the maximum side street side-yard setback of 20 feet, stated in the Zoning Ordinance, would cause an unnecessary hardship. However, inasmuch as the original variance request was recommended for denial, but was approved by the Board, it would follow that this request, too, should be approved.

RECOMMENDATION 5387/5299**Date: November 6, 2006**

Based upon the preceding, this application is recommended for approval subject to the following condition: (1) coordination with Urban Forestry to minimize any possible damage to the Oak tree root system in the area of the driveway to Grant Street.

LOCATOR MAP



APPLICATION NUMBER 5387/5299 DATE November 6, 2006

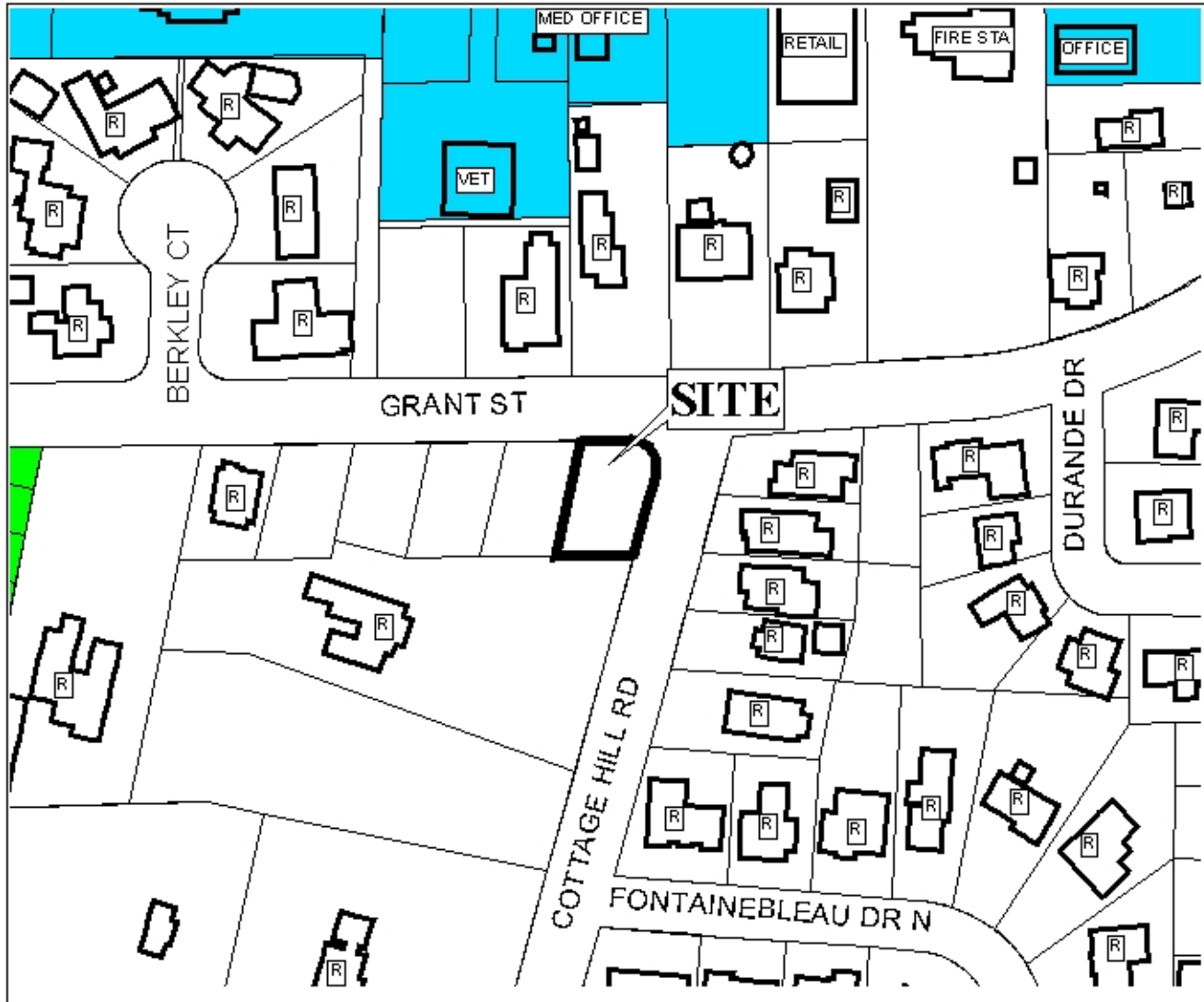
APPLICANT Persons Development, LLC

REQUEST Side Yard (Street) Setback Variance



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units. A fire station and commercial sites are located to the north of the site.

APPLICATION NUMBER 5387/5299 DATE November 6, 2006 N

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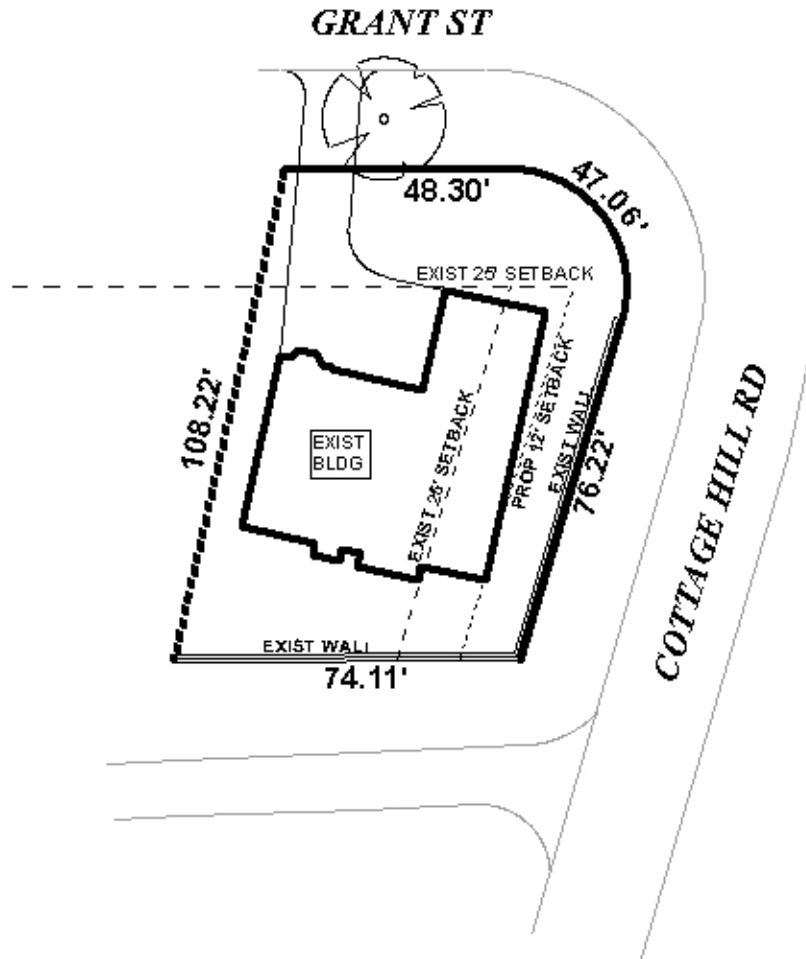
REQUEST Side Yard (Street) Setback Variance

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

 NTS

SITE PLAN



The site plan illustrates the proposed building, setbacks, and proposed wall.

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