BOARD OF ZONING ADJUSTMENT
STAFF REPORT Date: August 1, 2011

CASE NUMBER 5700 / 5336

APPLICANT NAME Richard Stallworth

LOCATION 1755 Duval Street
(South Side of Duval Street, 85'± East of Amsterdam Court)

VARIANCE REQUEST

USE: Use Variance to allow an automobile repair shop in an R-1, Single-Family Residential District.

PARKING RATIO: Parking Ratio Variance to allow no designated parking for a 1,786 square-foot office/work space building.

MANEUVERING: Maneuvering Variance to allow two-way maneuvering and accessways less than 24' wide.

BUFFER: Buffer Variance to allow no buffer fencing and substandard buffer area between commercial and residential properties.

SCREENING: Fence Height Variance to allow no screening of vehicles waiting to be serviced.

(All for a commercial site in an existing R-1, Single-Family Residential District)

ZONING ORDINANCE REQUIREMENT

USE: The Zoning Ordinance requires a minimum B-3, Community Business District, for an automobile repair shop.

PARKING RATIO: The Zoning Ordinance requires six (6) designated parking spaces for a 1,786 square-foot office/work space building.

MANEUVERING: The Zoning Ordinance requires all two-way drive aisles to be 24-foot wide.

BUFFER: The Zoning Ordinance requires a 6-foot high wooden privacy fence with a 10-foot wide restricted use buffer.

SCREENING: The Zoning Ordinance requires screening of vehicles waiting to be services with a landscape berm.

(All for a commercial site in a B-3, Community Business District).

ZONING R-1, Single-Family Residential

AREA OF PROPERTY .14± Acres

TRAFFIC ENGINEERING COMMENTS No Comments

CITY COUNCIL DISTRICT District 3

ANALYSIS The applicant is requesting Use, Parking Ratio, Maneuvering, Residential Buffer, and Screening Variances to allow an automobile repair shop with no designated parking, substandard maneuvering area, with no buffer fencing and substandard buffer area, and no screening of vehicles waiting to be serviced in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-3, Community Business District zoning, six (6) parking spaces, 24-foot wide two-way drive aisles, a 6-foot high wooden privacy fence with a 10-foot wide restricted use buffer, and screening of vehicles waiting to be serviced with a landscape berm.

This site was originally brought to Urban Development's attention when a zoning clearance was requested and denied in May 2005 due to the property being zoned residentially. A similar variance application to the current one was filed and heard at the December 5, 2005 meeting of the Board of Zoning Adjustment. The Board tabled the case for 90 days to allow the applicant to furnish more information to the Board as to the exact proposed use or submit a rezoning application to the Planning Commission. The applicant did not submit either in the 90 days given, therefore the application was automatically denied. In May 2006, the applicant's architect brought a rezoning application to Urban Development; however, because not enough information was submitted with the application regarding the use associated with the property, the application was not accepted. A second zoning clearance was requested and denied in November 2007.

The applicant requests that the "continued operation of the existing automobile service garage business" be allowed, but does not state what type of repairs are done. The business is currently operating illegally. This information is needed to determine if the proposed use would require a B-2, Neighborhood Business District or a B-3, Community Business District zoning.

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.

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.

It should be noted, that the applicant shows two new live oaks to be planted on the property's street frontage. These trees, in addition to those existing on site, would bring the site into compliance with the Zoning Ordinance's landscaping requirements.

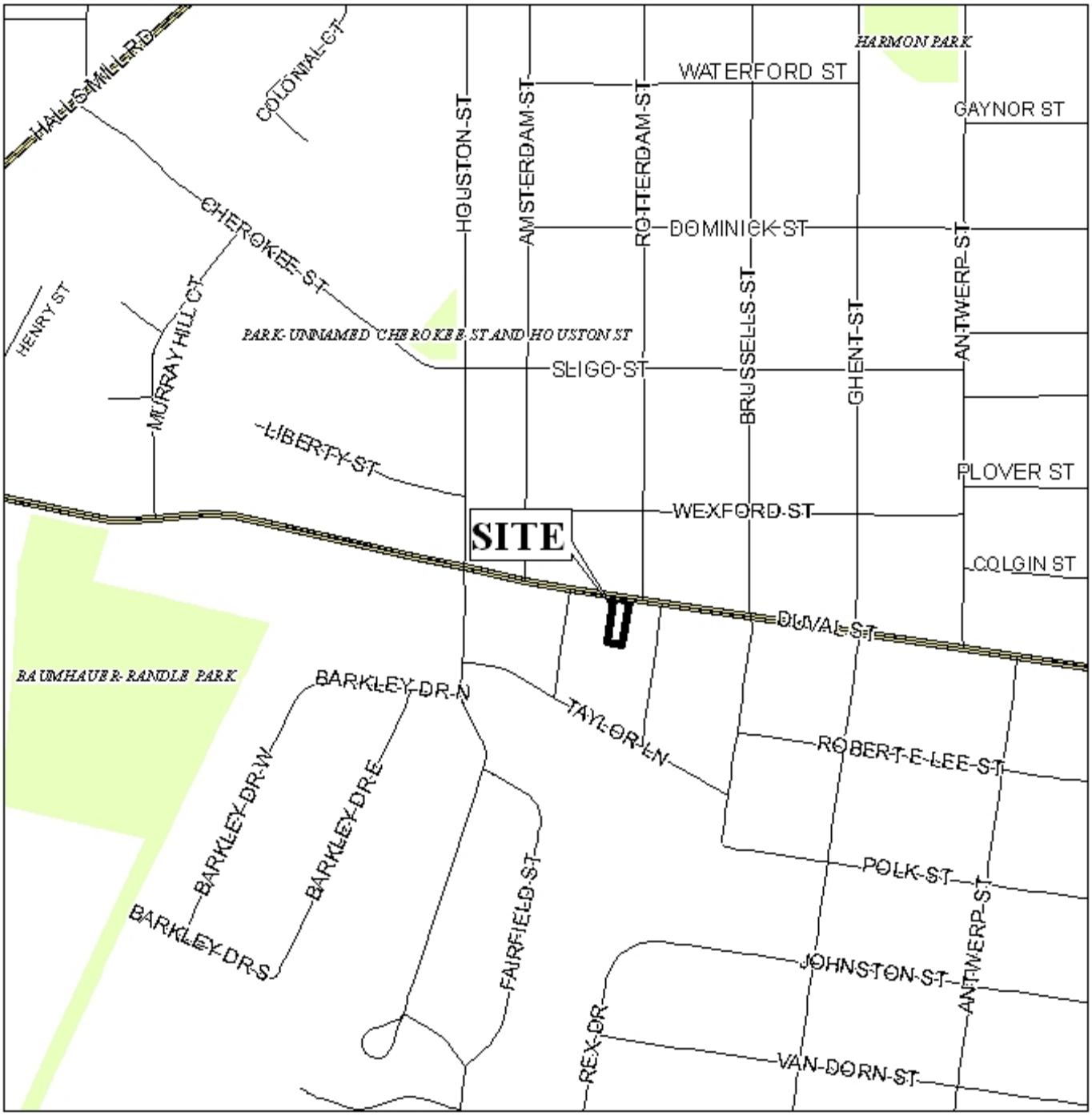
Since the 2005 Board of Zoning Adjustment's meeting this application was last heard at, two permits have been issued for changes at the site. The first permit was issued in June 2006 for the installing an asphalt driveway over and existing concrete driveway. The second permit was for residential land disturbance with excavation.

The applicant has known since 2005 that the use being applied to the subject property is not an allowed use, and despite going through the process of requesting a variance before, never finished the procedure. The applicant seems to apply very little importance on the following of the Zoning Ordinance and its requirements.

The Board should consider all of the applicant's requested variances for denial as no hardship is shown to be imposed by the property which would prevent its single-family residential use. The applicant simply desires to continue to use the property in a commercial capacity while retaining almost all of the non-compliant aspects of the site, all of which were created by the applicant and with little or no regard to City Code.

RECOMMENDATION: Based on the preceding, this application is recommended for denial.

LOCATOR MAP



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REQUEST Use, Parking Ratio, Maneuvering, Residential Buffer, and Screening Variances

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NTS

BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING

There is a convenience store to the north of the site and the north side of Duval Street is zoned B-2. There are single family residential units to the east and south.

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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

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VICINITY MAP - EXISTING ZONING

There is a convenience store to the north of the site and the north side of Duval Street is zoned B-2. There are single family residential units to the east and south.

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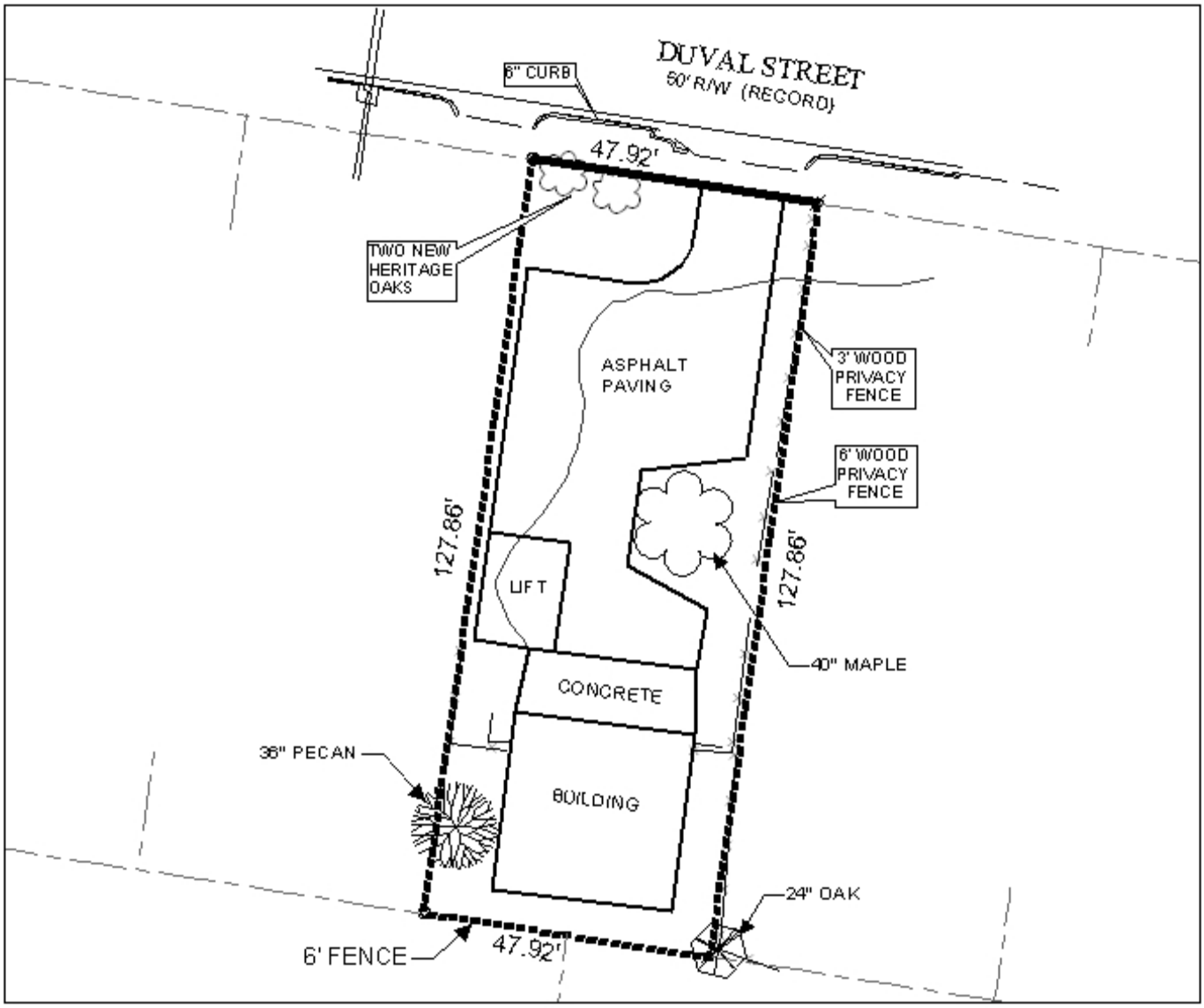
SITE PLAN



The site illustrates landscaping, buildings, and paving.

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