

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: September 10, 2012

CASE NUMBER

5784

APPLICANT NAME

Walter Hollinger, Sr.

LOCATION

2000 Barretts Lane
(Northwest corner of Barretts Lane and Donald Street)

VARIANCE REQUEST

USE: to allow a convenience store in an R-1 district

FRONT YARD SETBACK: 23.2' front yard setback

SIDE STREET SIDE YARD SETBACK: 3' side street side yard setback on a 37' wide lot

REAR YARD SETBACK: 5' rear yard setback

SITE COVERAGE: 50.6% site coverage

TREE PLANTING: no tree plantings

LANDSCAPING: reduced landscaped area

RESIDENTIAL BUFFER: no residential buffer

PARKING: no parking

MANEUVERING: reduced maneuvering area

**ZONING ORDINANCE
REQUIREMENT**

USE: a minimum of a B-2, Neighborhood Business District is required for a convenience store

FRONT YARD SETBACK: a 25' front yard setback is required

SIDE STREET SIDE YARD SETBACK: 7' side street side yard setback on a 37' wide lot is required

REAR YARD SETBACK: 8' rear yard setback is required

SITE COVERAGE: 35% maximum site coverage is allowed in an R-1 district

TREE PLANTING: full compliance with tree plantings is required

LANDSCAPING: full compliance with landscaping ordinance is required

RESIDENTIAL BUFFER: provision of a 10' residential buffer with either a 6' high privacy fence or 10' wide screen planting strip is required

PARKING: all parking to be provided on site is required

MANEUVERING: adequate maneuvering area for parking areas is required

ZONING

R-1, Single Family Residential

AREA OF PROPERTY

3700 ± square feet/0.08 ± Acres

**TRAFFIC ENGINEERING
COMMENTS**

No comments

**CITY COUNCIL
DISTRICT**

District 1

ANALYSIS

The applicant is requesting Use, Front Yard Setback, Side Street Side Yard Setback, Rear Yard Setback, Site Coverage, Tree Planting, Landscaping, Residential Buffer, Parking, and Maneuvering Variances to allow a convenience store with a 23.2' front yard setback, 3' side street side yard setback on a 37' wide lot, 5' rear yard setback, 50.6% site coverage, no tree plantings, reduced landscaped area, no residential buffer, no parking, and reduced maneuvering area in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for a convenience store, a 25' front yard setback, 7' side street side yard setback on a 37' wide lot, 8' rear yard setback, 35% maximum site coverage, full compliance with tree and landscaping ordinances, provision of a 10' residential buffer with either a 6' high privacy fence or 10' wide screen planting strip, all required parking to be provided on site, and adequate maneuvering area for parking areas.

The applicant is proposing to open a convenience store in an existing 2,732 ± square foot building. The building includes an approximately 1,882 square foot ground floor, and an 850 square foot second floor that appears to be used as an apartment.

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.

The site appears to have had a commercial use since at least 1980, per staff research into city directories. Any previous non-conforming use approvals have expired, hence the application at hand.

The narrative provided with the application states that the site has been used as a corner store for many years, and it is the desire of the applicant to reopen the store. The small size of the property and the comparatively large size of the existing building limit the applicant's ability to provide compliant on-site parking, tree planting, landscaping, parking maneuvering and residential buffering. The applicant also states that the clientele for the store will be "walk-up" traffic from the neighborhood.

Regarding the proposed use as a convenience store, staff research of city directories did not find any commercial entries for the site after 1989. The last Zoning Clearance issued for the site was in 1987, and there do not appear to be any business licenses on file from 1987. Therefore it would appear that there have not been any legal commercial uses of the site for over 20 years. As such, any new commercial use may require substantial building code and fire code compliance. Additionally, a commercial operation would entail delivery trucks, disrupting traffic on adjacent streets due to limited on site area.

The Zoning Ordinance would require a total of 7 parking spaces for the convenience store, and an additional 2 spaces for the existing apartment, for a total of 9 parking spaces. It appears that the site can only accommodate one somewhat compliant parking space, and the one possible space may have to be compliant with the requirements of the Americans with Disabilities Act (i.e. be "van accessible"). Therefore it appears that there is no space available on site to provide a compliant parking space for a non-handicap person, such as any convenience store employees.

The site would require a total of 444 square feet of landscape area, with 266 square feet of the area between the building and the property line. A total of 9 trees would be required, of which 6 must be overstory trees. No information is provided regarding the amount of existing landscape area, but it appears that the site may be able to comply with the total landscape area requirements and most of the frontage landscape area requirements if there is no additional paving of the property.

There appears to be no room on the site for a commercial dumpster, however, there may be room for commercial roll out containers for curb-side service.

Finally, it would appear that the building is a minimum of 5 feet from the side and rear property lines where it abuts residential property, thus there is adequate room to provide a 6-foot high buffer fence along both property lines, with the fence terminating in line with where the building fronts onto the adjacent streets.

The Board approved a similar collection of variance requests for a similar use, a walk-up convenience store, at its October 3, 2011 meeting. The 2011 approval was for a similar site (1318 Congress Street), in that the site was a constrained corner site, had an existing commercial-style building, and had a history of commercial uses that lost its non-conforming status due to a period of vacancy exceeding 2 years.

RECOMMENDATION:

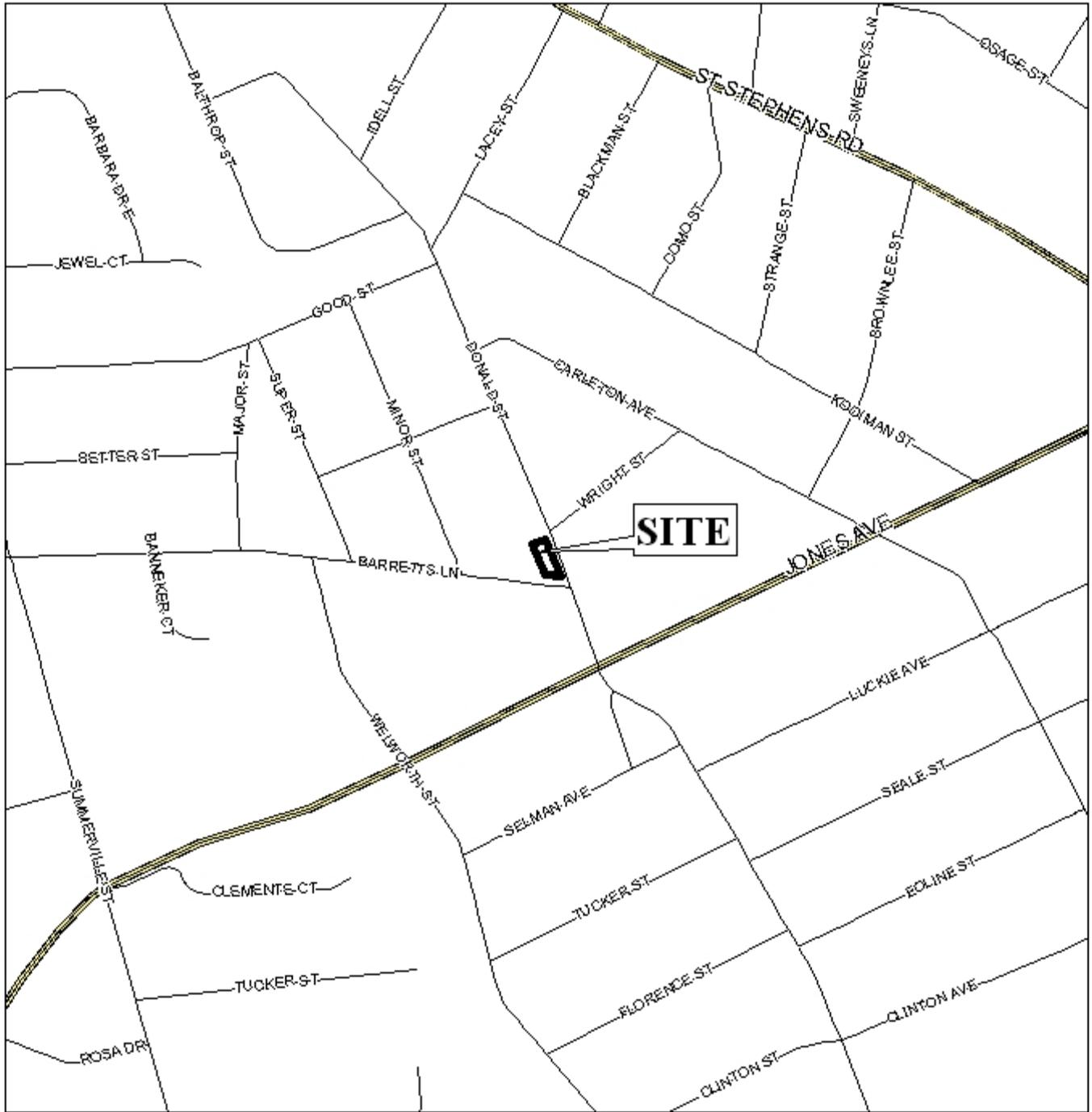
Based on the preceding, the following requests are recommended for **Approval**, subject to conditions:

- 1) **USE:** Approval, to allow a convenience store in an R-1 district.
Approval Condition: compliance with all applicable building, plumbing, mechanical, electrical and fire codes for the proposed commercial use.
- 2) **FRONT YARD SETBACK:** Approval, to allow a 23.2' front yard setback.
- 3) **SIDE STREET SIDE YARD SETBACK:** Approval, to allow a 3' side street side yard setback on a 37' wide lot.
- 4) **REAR YARD SETBACK:** Approval, to allow a 5' rear yard setback.
- 5) **SITE COVERAGE:** Approval, to allow a 50.6% site coverage.
- 6) **LANDSCAPING:** Approval, to allow reduced landscaped area.
Approval Condition: Provide a revised site plan listing the total landscape area provided (not to be less than 444 square feet), and the amount of frontage landscape area to be provided.
- 7) **MANEUVERING:** Approval, to allow reduced maneuvering area.

The following requests are recommended for **Denial**, with conditions for compliance:

- 1) **TREE PLANTING:** Denial, to allow no tree plantings.
Compliance Condition: provide three (3) understory trees, with the location and species to be approved by Planning.
- 2) **RESIDENTIAL BUFFER:** Denial, to allow no residential buffer.
Compliance Condition: provide a 6-foot high wooden privacy fence along the property line where the site abuts residentially-zoned property, with the fence to end in line with the building edge along the adjacent street frontages.
- 3) **PARKING:** Denial, to allow no parking.
Compliance Condition: provide one (1) compliant parking space, to comply if necessary with the requirements of the 2009 International Building Code and/or the Americans with Disabilities Act.

LOCATOR MAP



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APPLICANT Walter Hollinger, Sr.

REQUEST Use, Front Yard Setback, Side Street Side Yard Setback, Rear Yard Setback, Site Coverage, Tree Planting, Landscaping, Residential Buffer, Parking, and Maneuvering Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residences.

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LEGEND															NTS
	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

**BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING**



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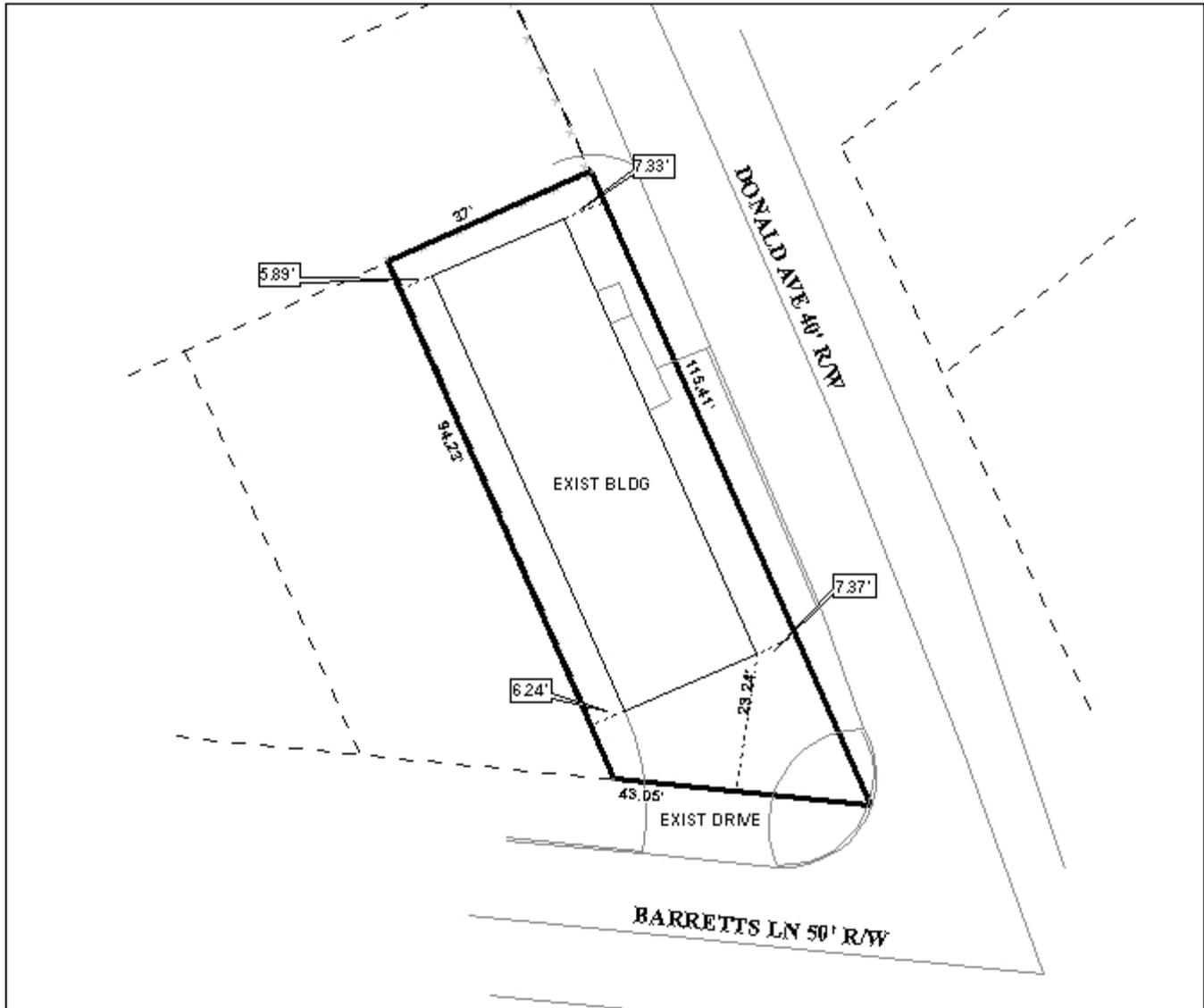
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NTS

SITE PLAN



The site plan illustrates the existing building, drive, and setbacks.

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