

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: August 3, 2015

CASE NUMBER

5992

APPLICANT NAME

Raymond & Janie Carney

LOCATION

511 Houston Street
(Southeast corner of Houston Street and Booker Street).

VARIANCE REQUEST

USE: Use Variance to allow a seafood distributorship in a B-2, Neighborhood Business District.

PARKING SURFACE: Surface Variance to allow aggregate access, maneuvering and parking surfaces.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance requires a minimum of an I-1, Light Industry District for a seafood distributorship.

PARKING SURFACE: The Zoning Ordinance requires asphalt, concrete, or an approved alternative paving surface for access, maneuvering, and parking areas in a B-2, Neighborhood Business District.

ZONING

B-2, Neighborhood Business District

AREA OF PROPERTY

0.47± Acres

**ENGINEERING
COMMENTS**

If the aggregate surfacing is approved for use the applicant will need to have the following conditions met: Any proposed site improvements, including adding additional aggregate surfacing, may require a submittal of a Land Disturbance Permit.

**TRAFFIC ENGINEERING
COMMENTS**

Driveway number, size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. Any new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.

CITY COUNCIL
DISTRICT

District 2

ANALYSIS

The applicant is requesting Use and Parking Surface Variances to allow a seafood distributorship with aggregate access, maneuvering, and parking surfaces in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum of an I-1, Light Industry District for a seafood distributorship and requires asphalt, concrete, or any approved alternative paving surface for access, maneuvering, and parking areas in a B-2, Neighborhood Business District.

The applicant states the following reasons to explain the need for the variance:

“The applicant proposes to locate a seafood distributorship to this developed site. Even though there are other buildings located on the property, this request is only for the northernmost building that backs up to Booker Street. The existing drive is located on Houston Street and there are no plans for any additional drives.

The business purchases live crabs from local crabbers and packages them to be shipped nationwide. The business is open 8:00 A.M. to 8:00 P.M., 5 days a week. This proposed business is very similar to the lumber companies that owned and operated building supply stores on this site since the 1960’s. They received lumber shipments and redistributed the building supplies to home builder in the area.

Due to the previous distributorship and the property being surrounding by B-2 zoning, this request should not have a negative effect on the surrounding neighborhood.

The second request is to allow the existing aggregate surface to remain for the drives and parking areas. Everywhere on this property that is not a building or concrete has an aggregate or shell driving surface that was used for the lumber trucks to maneuver. The aggregate is not visible on the aerial photographs since grass and/or weeds have grown over the surface due to non-use.”

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 applicant desires to use a commercially zoned property for a light distribution, commercial use.

This segment of Houston Street appears to be commercial in nature; the property in question either abuts or is adjacent to other B-2, Neighborhood Business Districts. There are nearby residential properties north, on Booker Street, and north and south on Houston Street; however the proposed site is buffered by either railroad tracks or by the aforementioned commercial districts.

While it appears that a lumber business once operated at this site, staff cannot find any business license for such a use or any non-conforming documentation regarding use or surfacing. It should be noted that even if the site enjoys non-conforming status related to the lumber operation (a B-3, Community Business District use), that would not be sufficient to allow a seafood processing plant (an I-1, Light Industry District use).

The site plan depicts a proposed warehouse and office space devoted to the proposed use of the site. Per the parking table provided by the applicant, two (2) parking spaces would be provided for four (4) warehouse employees, two (2) parking spaces would be provided for 363 s.f. of proposed office space, and three (3) spaces would be provided for trucks upon which distribution product would presumably be loaded. The Zoning Ordinance requires one (1) parking space per three (3) warehouse employees and one (1) parking space per three hundred (300) s.f. of gross floor area devoted to office use. As such, a total of six (6) parking spaces are proposed and would exceed the minimum parking requirements of four (4) parking spaces, the sizes of which are also compliant with the Zoning Ordinance.

The site plan also depicts an existing 6' high wooden privacy fence along the west side of the lease parcel and an existing 6' high chain link fence along the south, east, and north sides of the lease parcel. A 16' wide gate is also illustrated on the site plan that will provide access to the site only during business hours. However, while staff has found that the chain link fences have existed since at least 2007, serving as a buffer for a previous business at this location, no permits have been submitted for the wooden privacy fence.

It should be noted that the applicant is only leasing a portion of the site. Per Alabama state law, a subdivision must be approved for the creation of a lease parcel, which would also require a Planned Unit Development (PUD) to allow shared access with the remainder of the site. No dumpster is illustrated on the site plan, however the applicant does make note that curbside pickup will be utilized. The applicant should verify, however, that the proposed use will not be required by the Mobile County Health Department to provide a dumpster.

The site is surfaced in aggregate, which the applicant wishes to maintain for the parking and maneuvering of vehicles. Aggregate surfacing for such uses is only allowed by right in I-1, Light Industry, and I-2, Heavy Industry zoning districts. The applicant states that aggregate surfacing has been used previously at this site, specifically for the maneuvering of lumber trucks. However, as staff previously discovered, use of the site as a lumber distributor was non-conforming and, subject to the conditions of a site legally operating as a non-conforming use, the proposed site cannot continue to be considered non-conforming. While nearby commercial districts may be non-conforming in their use, there is no evidence of non-conformance in their surfacing; as such, aggregate surfacing for the proposed site may be uncharacteristic of

neighboring commercial districts. Furthermore, the applicant does not state that heavy equipment with tracks will be utilized on the site, which may make aggregate surfacing appropriate.

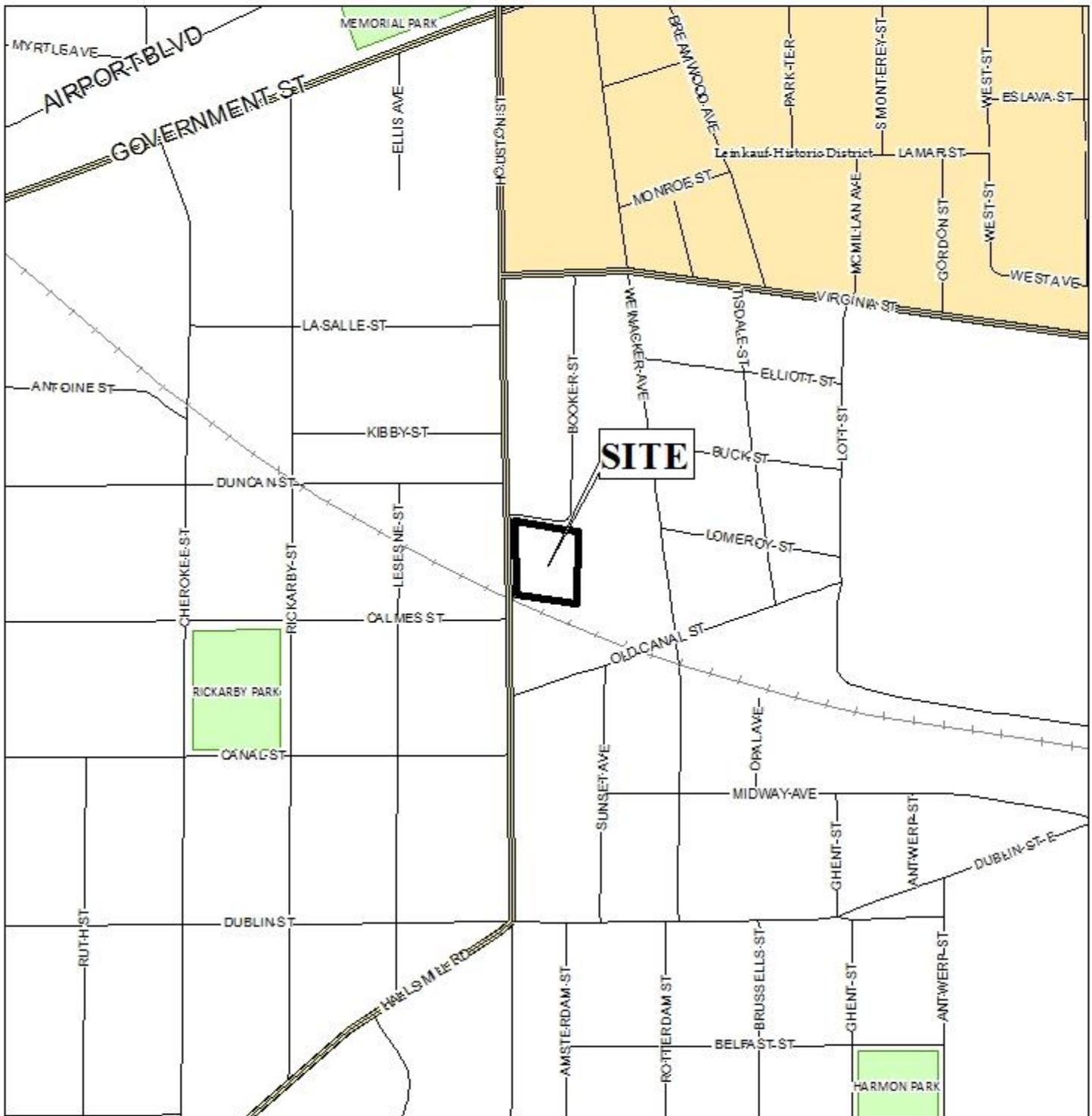
It should be noted that it appears that the applicant intends to enlarge the existing 1,841 sf \pm building to 2,977 sf \pm . Any new construction must comply with all applicable Building and Fire Code requirements.

The applicant has not illustrated that a hardship would be imposed by a literal interpretation of the commercial use requirements of this B-2 site, nor if the proposed use were allowed, that providing properly paved surfacing would be a hardship. Instead, it simply appears that the requests are based upon the applicants desire to utilize the property with as minimal improvements as possible. Thus, the Board should consider this application for denial.

RECOMMENDATION: Based upon the preceding, staff recommends to the Board the following findings of facts for denial:

- 1) approving the variance request will be contrary to the public interest in that the property is located in a neighborhood that is predominantly zoned B-2, Neighborhood Business District, which is adjacent to predominantly R-1, Single-Family Residential property, and may therefore set unwanted precedence of unwanted commercial uses of property in the area;
- 2) special conditions with the site or unusual site constraints do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship considering I-1, Light Industry Districts exist 500' \pm East of the proposed site and in which the proposed use would be permitted; and
- 3) the spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variances because the majority of the adjacent properties are used appropriately, or used legally as non-conforming uses, for the districts in which they are zoned, and because the majority of the adjacent properties are appropriately surfaced.

LOCATOR MAP



APPLICATION NUMBER 5992 DATE August 3, 2015

APPLICANT Raymond & Janie Carney

REQUEST Use and Surface Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units and residential units.

APPLICATION NUMBER 5992 DATE August 3, 2015

APPLICANT Raymond & Janie Carney

REQUEST Use and Surface Variances

R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



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



The site is surrounded by commercial units and residential units.

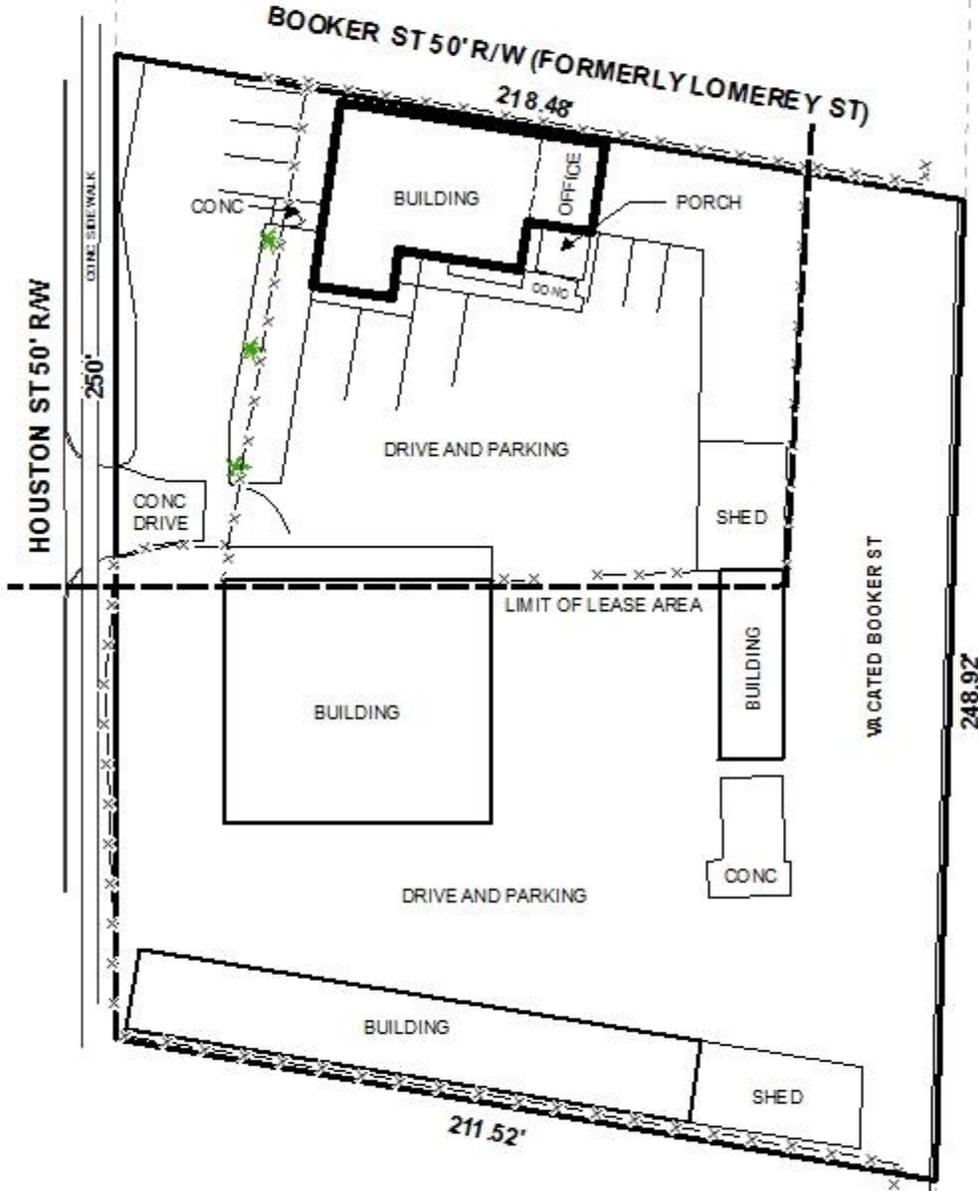
APPLICATION NUMBER 5992 DATE August 3, 2015

APPLICANT Raymond & Janie Carney

REQUEST Use and Surface Variances



PROP SITE PLAN



The site plan illustrates the existing buildings, existing sheds, and proposed parking areas.

APPLICATION NUMBER 5992 DATE August 3, 2015

APPLICANT Raymond & Janie Carney

REQUEST Use and Surface Variances

