

APPLICATION NUMBER

5261

A REQUEST FOR

**USE AND PARKING RATIO VARIANCES TO ALLOW A
LAW OFFICE WITH THREE ON-SITE PARKING SPACES
IN A R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT;
A LAW OFFICE REQUIRES A MINIMUM OF
B-1, BUFFER BUSINESS DISTRICT, A 2,000 SQUARE
FOOT LAW OFFICE WITH A SINGLE FAMILY
RESIDENCE AND GARAGE APARTMENT REQUIRES A
MINIMUM OF 10 ON-SITE PARKING SPACES**

LOCATED AT

1800 DAUPHIN STREET

(Northwest corner of Dauphin Street and Kenneth Street)

APPLICANT/OWNER

MARY JO ZOGHBY

BOARD OF ZONING ADJUSTMENT

September 2004

The applicant is requesting two variances; the first request is for a use variance to allow a law office in an R -1, Single-Family Residential district. Law offices are allowed by right in R-B, Residential-Business districts through I-2, Heavy Industry districts. Also requested is a parking ratio variance—the applicant proposes a 2,000 square foot law office, with two separate living units, and three on-site parking spaces; 10 parking spaces are required.

The applicant states that a use variance is needed for a pending sale to allow the purchaser to use the downstairs area as a law office and the second floor for a residence. The applicant states that “at this time the activity would be limited to one lawyer and one secretary with duties consistent with the practice of law” and that office hours would be approximately 8:30-5:30.

The applicant goes on to state that the proposed law office located on the first floor of the dwelling “is in conflict with R-1 zoning thereby creating the need for a use variance.” The applicant further states that the property differs from the neighboring properties because it is on a corner, and that there is a vacant lot on the western portion of the property separating the residence from the neighboring homes. Moreover, due to the vacant lot and the small number of clients coming into the law office there should be no negative impact on the surrounding properties. The applicant concludes by saying that the lot to the East across Kenneth Street was granted a use variance for a sign and that the sign “has not presented any negative impact to me or my neighbors.”

It should be noted that the residence could have a law office under the home occupation allowance in the Ordinance; however, no outside employees would be allowed—only persons residing in the dwelling could work at the residence. While the applicant states that the attorney will live on the second floor, a secretary will also be employed on site, thus violating the home occupation requirements of the Ordinance.

The Zoning Ordinance states that no variance shall be granted unless the Board is presented with sufficient evidence illustrating that special conditions exist for the property such that a literal enforcement of the Ordinance will result in unnecessary hardship. The hardship must be associated with the property itself, and in the case of a use variance, the applicant must prove to the Board that the property cannot be used as it is zoned—in this case that the property cannot be used as a single-family residence. However, the main dwelling is currently occupied as a single-family residence, and the applicant states that if the variance is approved, the second floor of the dwelling will be used as a residence, thus illustrating that the property is, and can be used as it is zoned.

In regard to the parking variance request, based upon the proposed square footage (2062) the law office would require seven parking spaces. The applicant states that the second floor would be used residentially, and floor plans illustrate a separate living unit over the garage, thus an additional three parking spaces are required for the two residential units.

The applicant states, "The existing double garage, parking pad and driveway will accommodate 7 automobiles." In reviewing the site plan, the existing garage, carport and drives may be capable of accommodating seven cars; however, based upon the parking, access and maneuvering standards of the Ordinance, only three parking spaces would comply with Ordinance requirements (two cars in the double garage and one in the carport).

The applicant states that the law office would consist of one attorney and one secretary and based upon the available parking this would leave only one space available for clients and the two residential units. Moreover, in the future, this parking deficit would be compounded if additional attorneys or clerks were added to the staff. It should also be noted that there is a letter from the Director of the Mobile Historic Development Commission outlining his opposition to the variance requests and the letter specifically states that the business and "any subsequent business, with or without a residence, would result in an increase in parking that could not possibly be satisfied with just three spaces. There is no on street parking in the area and any more parking spaces would alter the character of the property."

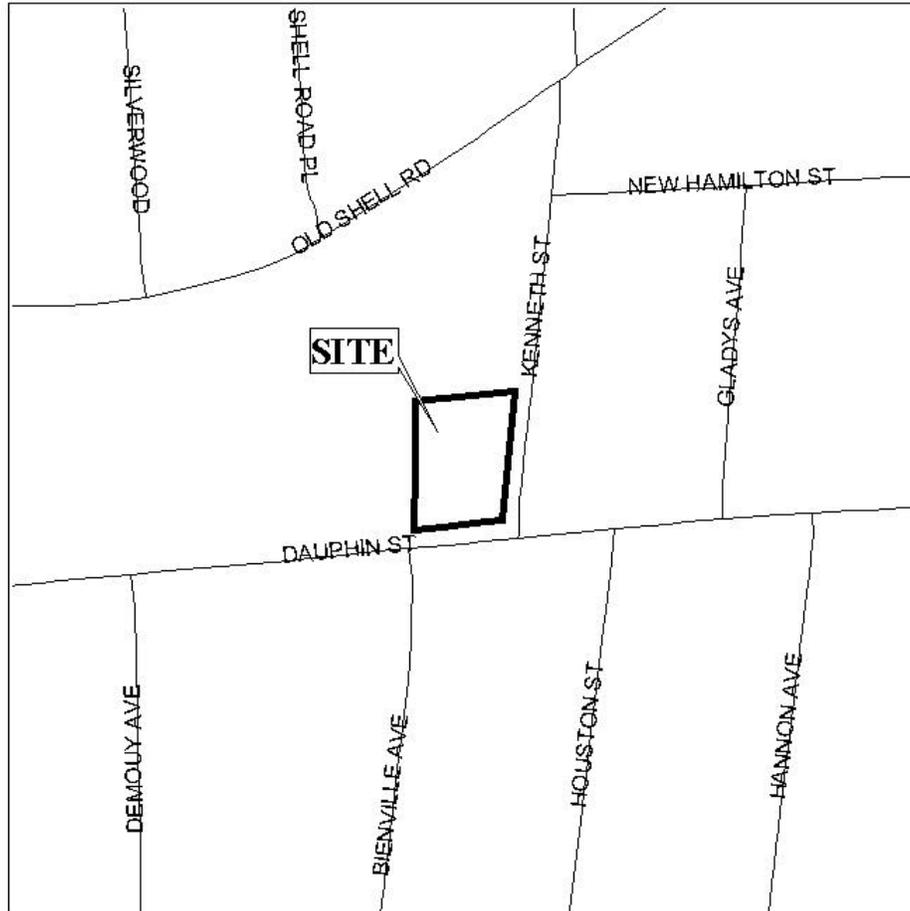
The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. The applicant proposes to continue to use the property residentially in conjunction with the proposed business, thus illustrating there is no hardship which precludes the property from being used as it is zoned.

RECOMMENDATION 5261

Date: September 13, 2004

Based upon the preceding, this application is recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5261 DATE September 13, 2004

APPLICANT Mary Jo Zoghby

REQUEST Use, Parking Ratio Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

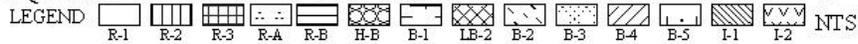


The site is surrounded by single-family residential units. Offices are located to the north and south of the site. Apartments and duplexes are located to the east and west of the site.

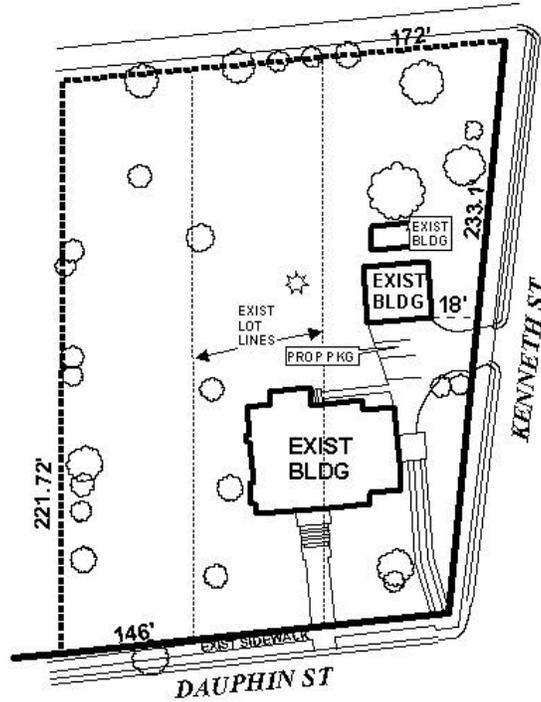
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SITE PLAN



The site plan illustrates the existing buildings, landscaping, drives, and proposed parking spaces.

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