

HOLDOVER

APPLICATION NUMBER

5427

A REQUEST FOR

**USE, PARKING/MANEUVERING, LANDSCAPING AND TREE
PLANTING VARIANCES TO ALLOW A CONVENIENCE STORE
ON THE GROUND FLOOR WITH A STUDIO APARTMENT
(SINGLE-FAMILY DWELLING) ON THE SECOND FLOOR IN AN
R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, WITH
UNDESIGNATED PARKING AND MANEUVERING AREAS, NO
LANDSCAPING PROVIDED AND NO TREES ON SITE; THE
ZONING ORDINANCE REQUIRES B-2, NEIGHBORHOOD
BUSINESS DISTRICT, FOR A CONVENIENCE STORE ON THE
GROUND FLOOR WITH A SINGLE-FAMILY DWELLING ON THE
SECOND FLOOR, STRIPED PARKING STALLS, 24' WIDE
MANEUVERING AREA, 12 PERCENT LANDSCAPING, AND 22
TOTAL TREES (15 OVERSTORY AND 7 UNDERSTORY) ARE
REQUIRED.**

LOCATED AT

1907 PRICHARD AVENUE WEST

(Southeast corner of Prichard Avenue West and Summerville Street)

APPLICANT/AGENT

**ANTHONY RICHARDSON & CHRISTOPHER CALHOUN,
SR.**

OWNER

ESTHER TALETON BEASLEY

BOARD OF ZONING ADJUSTMENT

OCTOBER 2007

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ANALYSIS APPLICATION 5427

Date: October 1, 2007

The applicant is requesting Use, Parking/Maneuvering, Landscaping and Tree Planting Variances to allow a convenience store on the ground floor with a studio apartment (single-family dwelling) on the second floor in an R-1, Single-Family Residential District, with undesignated parking and maneuvering areas, no landscaping provided and no trees on site; the Zoning Ordinance requires B-2, Neighborhood Business District, for a convenience store on the ground floor with a single-family dwelling on the second floor, striped parking stalls, 24' wide maneuvering area, 12 percent landscaping, and 22 total trees (15 over story and 7 under story) are required.

This application was heldover from the Board's September meeting to allow the applicant to submit revised plans illustrating parking, maneuvering area, landscaping, and existing trees; however, no revised plan was submitted.

The subject property has been used in the past as a convenience store, but the last business license activity was in December 2002, and the right for it to be used in a legal nonconforming status has expired. The applicant states that the purpose of the business would be to provide needed staples to customers in the area that do not have reliable transportation and is next to low income housing apartments. It is further stated that the location is not suitable to be a residence because of the existing commercial configuration. The proposed business operating hours would be from 7 AM to 7 PM.

With regard to the use variance request, the site consists of approximately 1/3 acre and would be considered too small for rezoning, but obviously has been developed as a commercial site. The proposed use of a single-family dwelling above the convenience store is now allowed under the Zoning Ordinance as amended in November 2005. The convenience store use would be consistent with the previous use, and would also be consistent with neighboring legal nonconforming B-2 uses at the Southwest corner of Prichard Avenue West and Summerville Street.

With regard to the parking/maneuvering variance request, it is proposed that the site would again be used as in the past with unstriped parking and substandard maneuvering area. Whereas the site was apparently developed commercially prior to the current parking/maneuvering standards, there is adequate undeveloped open area on the site where compliant parking and maneuvering could be provided. Also of concern is the continuous curb cut along Prichard Avenue West which allows vehicles to back into the street which could be a traffic safety issue. This should be corrected while bringing the site into compliance. In variance cases where there is no hardship imposed by the property impacting the possibility of site improvements to comply with the Ordinance, the site improvements are preferred. In this instance, no hardship is illustrated; therefore modification of the parking/maneuvering area and closing of the continuous curb cut along Prichard Avenue West, along with the installation of a curb cut approved by Traffic Engineering, would be desired.

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With regard to the landscaping and tree planting variance requests, it follows that if no hardship is illustrated which would prevent the installation of required landscaping and tree plantings, those, too, are preferred. In this instance, no hardship has been illustrated, and with site modifications along Prichard Lane West, sufficient room would exist for required frontage landscaping and tree planting. Sufficient open area remains along the South and East property lines for the balance of the tree planting requirements.

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.

In instances where commercial legal nonconforming statuses have expired and reuse is sought, policy is to obtain as much site compliance as possible beyond any illustrated hardship. The use of the property as a convenience store would be a reasonable request due to the configuration and past use of the building as a commercial structure and should be considered for approval, subject to conditions. The single-family dwelling on the second floor would be in compliance with the Ordinance under the amended B-2 allowable uses. With regard to the parking/maneuvering, landscaping and tree planting variance requests, the applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. In this instance, the site has adequate area to provide compliant parking/maneuvering, landscaping, and tree planting. It is simply the applicant's desire to retain undesignated parking and maneuvering areas and provide no landscaping and tree planting.

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RECOMMENDATION 5427

Date: October 1, 2007

Based on the preceding, the Use Variance request is recommended for approval subject to the following conditions: (1) the installation of a 6' wooden privacy fence along the South and East property lines where the site adjoins residentially zoned properties; (2) reconfiguration of the site plan to provide parking/maneuvering in compliance with the Ordinance; (3) elimination of the continuous curb cut along Prichard Avenue West, with the installation of one curb cut, with its size, location, and design to be approved by Traffic Engineering; (4) the provision of a frontage landscaped area and frontage and perimeter tree plantings, to be coordinated with urban Forestry; and (5) full compliance with all municipal codes and ordinances.

The Parking/maneuvering, Landscaping and Tree Planting Variance requests are recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5427 DATE October 1, 2007

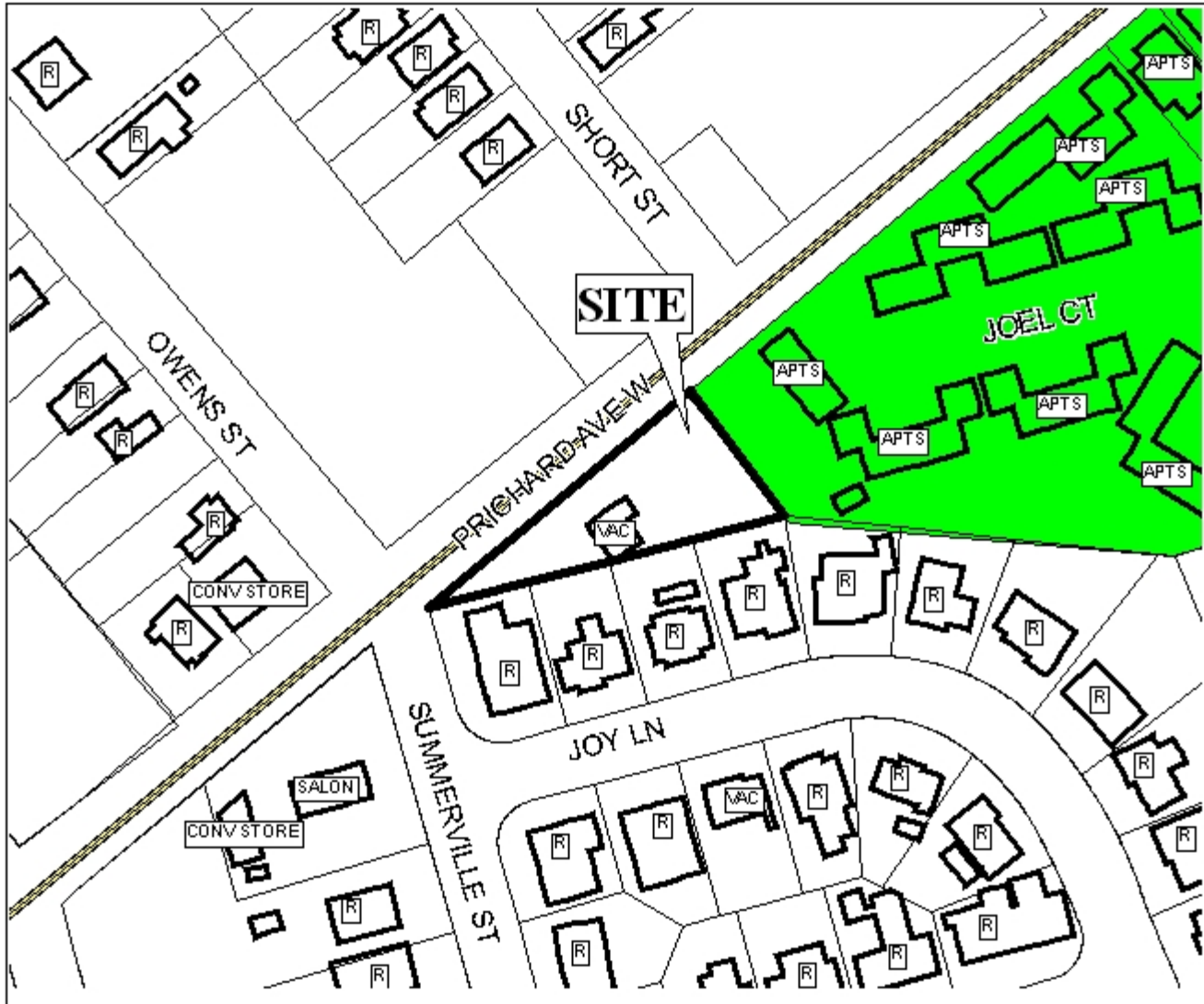
APPLICANT Anthony Richardson and Christopher Calhoun, Sr.

REQUEST Use Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential landuse with
commercial landuse to the southwest.

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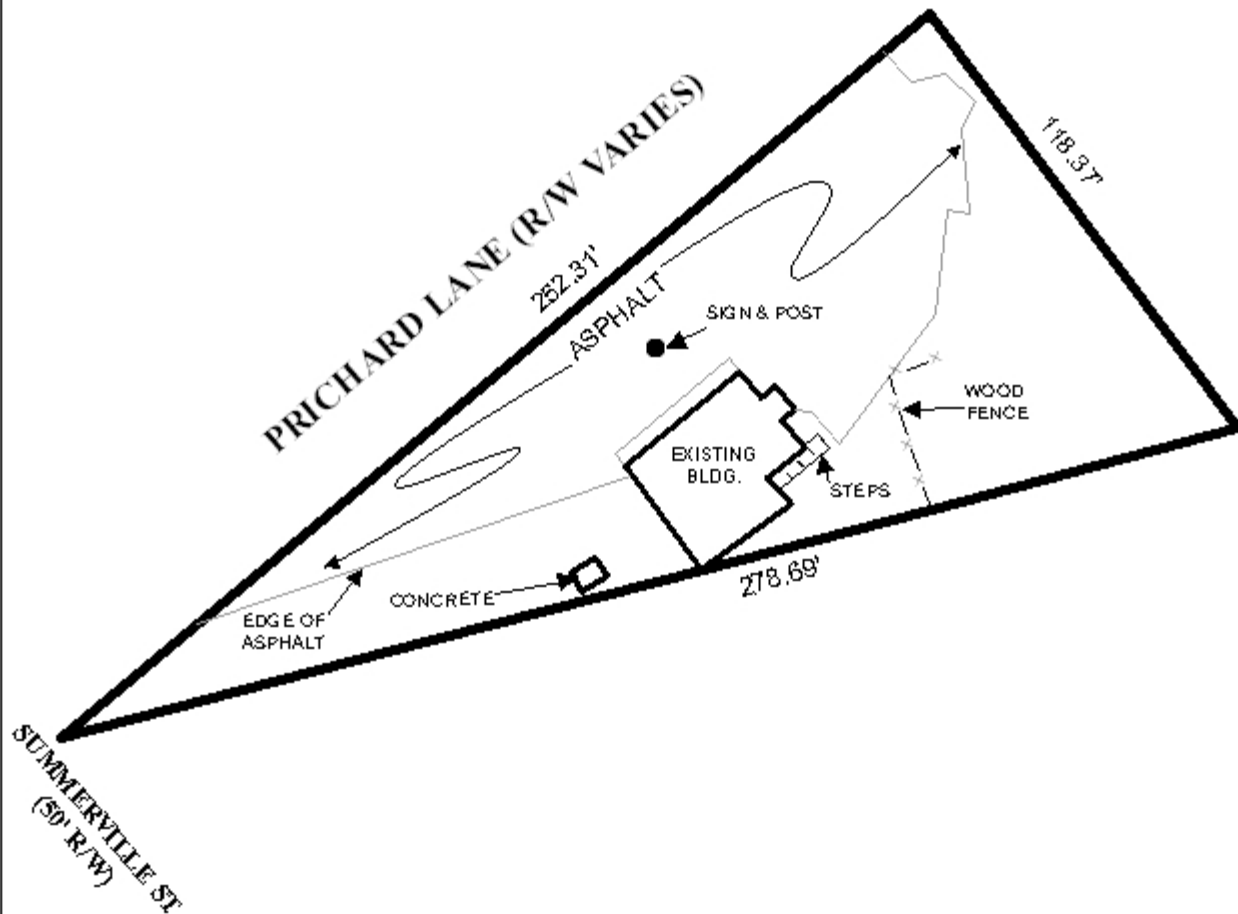
REQUEST Use Variance

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



SITE PLAN



This site plan illustrates the existing building and asphalt parking.

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