

APPLICATION NUMBER

5501

A REQUEST FOR

**USE, ACCESS/MANEUVERING, PARKING, AND
LANDSCAPING/TREE PLANTING VARIANCES TO
ALLOW AN AUTOMOTIVE REPAIR SHOP IN A B-2,
NEIGHBORHOOD BUSINESS DISTRICT, WITH NO
DIRECT VEHICULAR PUBLIC STREET ACCESS, NO
DESIGNATED MANEUVERING AND PARKING AREAS,
AND NO LANDSCAPING AND TREE PLANTINGS; THE
ORDINANCE REQUIRES A B-3, COMMUNITY BUSINESS
DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP,
DIRECT VEHICULAR ACCESS TO A PUBLIC STREET,
DESIGNATED MANEUVERING AND PARKING AREAS,
12% TOTAL SITE LANDSCAPING WITH 60% OF THE
TOTAL AS FRONTAGE LANDSCAPING, FOUR
FRONTAGE TREES, FOURTEEN PERIMETER TREES,
AND ONE PARKING LOT TREE.**

LOCATED AT

3806 MOFFETT ROAD

(North side of Moffett Road, 240'± West of Stimpson Lane)

APPLICANT

MIKE SCHAMBEAU

BOARD OF ZONING ADJUSTMENT

NOVEMBER 2008

The applicant is requesting use, access/maneuvering, parking, and landscaping/tree planting variances to allow an automotive repair shop in a B-2, Neighborhood Business District, with no direct vehicular public street access, no designated maneuvering and parking areas, and no landscaping and tree plantings; the Ordinance requires a B-3, Community Business District for an automotive repair shop, direct vehicular access to a public street, designated maneuvering and parking areas, 12% total site landscaping with 60% of the total as frontage landscaping, four frontage trees, fourteen perimeter trees, and one parking lot tree in a B-2, Neighborhood Business District.

The applicant states when he purchased this location, he was unaware of the zoning classification of the property, and further states that the property had, for many years, been Major Move Auto and Repair, and prior to that had been Hacker Automotive. The applicant states that he would have never knowingly violated city code and that he cannot afford to relocate at this time. The applicant plans to use the location as an automotive repair shop and not to make any improvements to the property.

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.

Regarding the use portion of the variance request, the applicant stated that Major Move Auto and Repair had been at this location prior to him purchasing the property, and as a result, he was under the impression that an automobile repair shop was allowed in this zoning district. City of Mobile Revenue data indicates that Major Move Auto and Repair was indeed issued a license by the city Revenue department beginning in 2002 and continuing through 2006 in spite of the fact that zoning clearance was denied by Urban Development. The zoning clearance was denied due to the fact that automotive repair was not allowed and that no nonconforming use documentation for the address was on file. Regarding Hacker Automotive, which was also cited by the applicant, City of Mobile nonconforming use documentation dated December 7, 2001, indicates that Hacker Automotive was located at 3808 Moffett Road and not at 3806 Moffett Road, as the applicant had indicated. Nevertheless, the site has functioned as an automotive repair

shop for at least four years, albeit without zoning clearance, but with a city business license.

There is B-3 zoned property within the immediate vicinity as well as a property with a B-3, nonconforming use. Therefore, it would seem that a B-3 use would not be out of character for this area.

With regard to the access/maneuvering, parking, and landscaping/tree planting variances, the site plan illustrates existing asphalt sufficient to provide the required nine parking spaces of sufficient size and the required maneuvering area. Also, the applicant has failed to provide a reason as to why a curb cut to Moffett Road could not be constructed. Currently, the applicant accesses the property via a curb cut at 3808 Moffett Road. Furthermore, a rezoning request, from R-1, Single Family Residential to B-2, Neighborhood Business District, was approved in June, 1988, which stipulated that the applicant submit "a more detailed site plan illustrating the necessary parking and access" as a condition of the rezoning. This more detailed site plan could not be located in the archives; however, the adopted rezoning ordinance does not indicate any prohibitions in reference to limited access to Moffett Road. Further, in this instance, no hardship is illustrated; therefore, it is recommended that the applicant fully comply with Section 64-6 of the Zoning Ordinance with the stipulation that any curb cuts be approved by traffic engineering and ALDOT, and obtain proper permits; and that the shared access with 3808 Moffett Road be sealed off.

With regard to the landscaping and tree planting variance, there is sufficient area illustrated on the site plan where landscaping and trees could be provided. In these instances, it is recommended that the applicant fully comply with Section 64-4.E of the Zoning Ordinance.

Given the precedent for use of the site as permitted by City Revenue, a use variance to allow automotive repair may be justified. However, with regard to the access/maneuvering, parking, and landscaping/tree planting variances, the applicant has failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. The applicant simply wishes to operate the automotive repair business with no direct vehicular public street access, no designated maneuvering area, and no landscaping and tree planting in a B-2, Neighborhood Business District.

RECOMMENDATION 5501**Date: November 3, 2008**

Based on the preceding, the use variance is recommended for approval subject to the following conditions:

- 1) Provision of designated parking and maneuvering area, as required by Section 64-6 of the Zoning Ordinance;
- 2) Provision of a curb cut onto Moffett Road so as to provide direct vehicular public street access, with the size, location, and design to be approved by traffic engineering and ALDOT, with appropriate permits;
- 3) Removal of the shared access with 3808 Moffett Road;
- 4) Provision of landscaping and tree planting as required by Section 64-4.E of the Zoning Ordinance;
- 5) Submission of a revised site plan, illustrating compliance with this approval and all conditions, to the Planning Section of the Urban Development Department of the City of Mobile prior to the issuance of any permits or land disturbance activities; and
- 6) Full compliance with all municipal codes and ordinances.

The Access/Maneuvering, Parking, and Landscaping/Tree Planting Variances are recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5501 DATE November 3, 2008

APPLICANT Mike Schambeau

REQUEST Use, Access/Maneuvering, Parking, Landscaping/Tree Planting Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous land use

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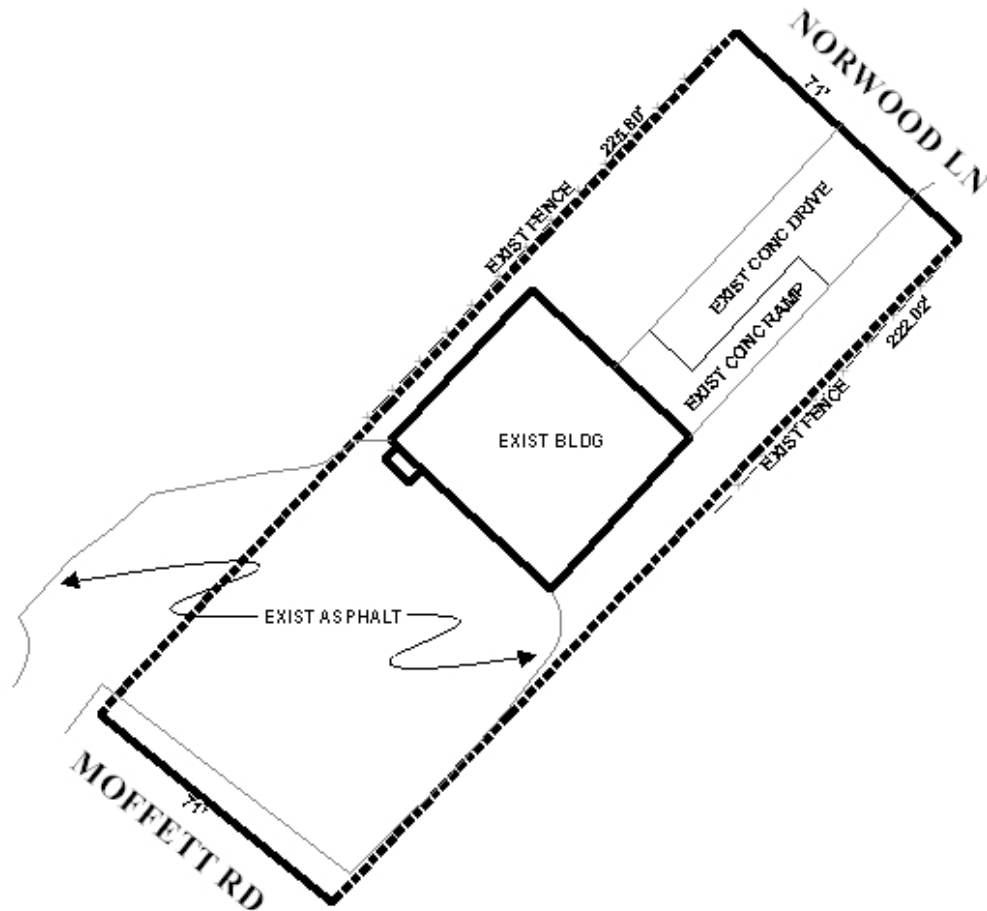
REQUEST Use, Access/Maneuvering, Parking, and Landscaping/Tree Planting Variances

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



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SITE PLAN



The site plan illustrates the existing improvements

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