

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: July 7, 2014**

**CASE NUMBER**

5894

**APPLICANT NAME**

Jason Bunch

**LOCATION**

85 Schillinger Road North  
(Northwest corner of Schillinger Road North and Airway Park Drive).

**VARIANCE REQUEST**

**USE:** Use Variance to allow off -site temporary storage of vehicles on a vacant lot in a B-3, Community Business District.

**SITE:** Site Variance to allow gravel surface in a B-3, Community District.

**TREE AND LANDSCAPE:** *To allow no tree plantings or landscaped area.*

**ZONING ORDINANCE  
REQUIREMENT**

**USE:** The Zoning Ordinance requires all off-street parking facilities to be located on the building site on which the use or structure for which they are provided is located in a B-3, Community Business District.

**SITE:** The Zoning Ordinance requires asphalt, concrete, or an approved alternative paving surface for parking surfaces in a B-3, Community Business District.

**TREE AND LANDSCAPE:** *The Zoning Ordinance requires full compliance with tree planting and landscaped areas.*

**ZONING**

B-3, Community Business District

**AREA OF PROPERTY**

0.31 ± Acres

**ENGINEERING  
COMMENTS**

If the aggregate surfacing is approved for use as requested the applicant will need to have the following conditions met to address unpermitted land disturbing activity on-site and within the ROW:

- a. Submit and receive a Land Disturbance Permit for the proposed site development.

- b. Submit a ROW Permit for the work within the Airway Park Dr. ROW. Aggregate surfacing will not be allowed within the Airway Park Dr. ROW.

*Revised for the July 7<sup>th</sup> meeting: If the aggregate surfacing is approved for use as requested the applicant will need to have the following conditions met to address the land disturbing activity on-site and within the ROW:*

- a. *Submit and receive a Land Disturbance Permit for the proposed site development (aggregate vehicle storage area).*
- b. *Submit a ROW Permit for the work within the Airway Park ROW. Aggregate surfacing will not be allowed within the ROW.*

**TRAFFIC ENGINEERING**

**COMMENTS**

If aggregate surface is approved, provide some form of a vertical obstruction (e.g. bumper stops) to prevent parking in landscaped areas. Aggregate surface should not extend into the right-of-way. City standard driveway is required.

*Revised for the July 7<sup>th</sup> meeting: Aggregate surface should not extend into the right-of-way. City standard driveway should be required.*

**CITY COUNCIL**

**DISTRICT**

District 7

**ANALYSIS**

The applicant is requesting a Use and Site Variances to allow the off-site temporary storage of vehicles on a vacant lot with gravel surface in a B-3, Community Business District; the Zoning Ordinance requires off-street parking facilities to be located on the building site on which the use or structure for which they are provided is located in a B-3, Community Business District; and asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.

The applicant is requesting this variance after being denied a Land Disturbance permit in January 2014. The applicant submitted plans for review with the Land Disturbance permit. Staff reviewed and failed the plans and listed the following comments for the applicant’s review. “1. Aggregate surfacing for vehicular storage is NOT allowed in a B-3 district. Site either must be paved, or applicant must obtain variance. 2. If site is used for the adjacent business at 85 Schillinger Rd N, a PUD application will be required because it is a separate lot, or include that in a variance request. 3. The proposed parking area LD application must include a tree and landscape plan that shows full compliance for the parking site on Airway Park Drive.”; hence the reason for this application.

It should be pointed out that a tree and landscaping variance was not included in the applicant’s variance request.

It should also be noted that the aggregate parking area appears to have been constructed after annexation, and without any permits or approval being granted.

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.

Variations 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 gives the following reasons to explain the need for the variance:

*“The applicant is requesting a Use Variance to utilize the 0.31 acre parcel located on the north side of Airway Park Drive adjacent to the existing Carfinders car sales lot at 85 Schillinger Road. The proposed use will be temporary storage of inventory. Approximately 30 vehicles can be stored on this lot.*

*This lot was a separately platted parcel on the original subdivision plat. The Zoning Ordinance requires that that will be operated by the existing adjacent car lot (Carfinders). The applicant is the owner of the associated retail business. The applicant also owns the parcel immediately to the west of this parcel,*

*This overflow parking lot will generally be used on a temporary basis as inventory is moved from this lot to the main lot for sale. The lot will be utilized during normal operations of the Carfinder’s Retail Business. Only current employees will utilize this lot and no additional building square footage will be placed on this lot.*

*The applicant is requesting a Site Variance to allow for the use of gravel surfacing for this lot in lieu of Asphalt Surface. The lot will be used on a temporary basis to store excess inventory. The detention facility located on the adjacent lot was sized to accommodate this parcel at the time of the original development. The existing adjacent parcels are currently zoned B-3 according to City GIS data. No adverse impacts are expected on the surrounding properties.”*

The applicant states that the lot utilized for storage of the vehicles will store approximately 30 vehicles. However, the plans submitted do not depict the number of parking spaces nor does it delineate how the cars will be stored on the property. Based upon staff’s review the site would only be able to store approximately 24 cars in accordance with the standard 9’ x 18’ dimensions and 24’ wide access aisle as required by the Zoning Ordinance.

The plan fails to illustrate any wheel stops, bumper stops, or curbing for the parking spaces as required by Section 64-6.3 of the Zoning Ordinance.

The plan also fails to depict any trees and landscaping on the site; although staff made mention of the requirements during the plan review. The applicant has failed to ask for a tree and

landscaping variance as well as failed to provide tree and landscaping on the site plan which may possibly reduce the total estimated number of parking spaces. A revised site plan illustrating full tree and landscaping compliance is required, or the applicant must amend the variance application to add tree and landscaping, and provide new mailing labels, notification fees, and the additional variance fee.

The site plan does not illustrate fencing or gates on the proposed plan. If the applicant proposes to provide fencing or gates on the site, it must be depicted on the site plan. If the applicant chooses not to provide fencing or gates on the site plan, neither will be allowed.

It should be noted the site plan submitted does not show the lot line that separates the two lots. A revised site plan illustrating the lots as two separate lots is required.

As the proposed development will provide more than 25 parking spaces, any new lighting on the site will have to comply with the requirements of Sections 64-4.A.2., 64-6.A.3.c., and 64-6.A.8. of the Zoning Ordinance to ensure the lighting does not bleed over onto adjacent properties and roadways. A photometric plan will be required at the time of permitting.

The applicant has not provided evidence of any hardship that would justify the granting of this variance. It is simply the applicants desire to use aggregate surfacing for the adjacent lot without attempting to bring the site into any form of compliance. The applicant has failed to depict important information of the site plan; thus, this application should not be considered as proposed.

**RECOMMENDATION:** Based on the preceding, this application is recommended for Holdover until the July 7, 2014 meeting, with revisions due by June 10<sup>th</sup> to address the following:

- 1) revise the site plan to depict full tree and landscaping compliance, or submit a revised narrative to include a tree planting and landscaping variance and payment of associated application fees; and notification labels and notification fees;
- 2) revise the site plan to depict the property line between the two separate lots;
- 3) revise the site plan to depict the number of parking spaces and delineate how the cars will be stored on the property; and
- 4) revise the site plan to depict wheel stops, bumper stops, or curbing for the proposed parking spaces.

***Revised for the July 7, 2014 meeting:***

*This application was heldover from the June 3, 2014 meeting to allow the applicant to submit and address the above listed items. A revised narrative including the request for a tree planting and landscaping variance was received along with the payment of associated fees for the additional request.*

*The applicant also submitted a revised site plan that depicts the property line that separates the two lots, a total of 20 striped parking spaces, and depicts bumper stops to prevent the vehicles from extending beyond the parking facility as required by the Zoning Ordinance.*

*The applicant added the following paragraph to the revised narrative:*

*“The applicant is requesting a Tree Planting and Landscaping Variance to eliminate the Tree Planting Requirements. This site has an existing 30” drainage pipe crossing the property parallel to the northern property line making planting of overstory and understory trees north of the proposed parking lot impractical. The applicant is concerned that sap dripping and falling leaves trees located adjacent to inventory parking will damage paint jobs. Should the gravel parking variance be approved, the parking material (gravel) will result in reduced “heat island” affects in comparison to asphalt paved parking areas. Existing trees along the northern property line currently serve as a buffer. The revised site plan will result in 36% of the subject property, excluding the detention facility, being in landscape areas. Including the detention areas grassed slopes and bottoms, the subject site will consist of 49% landscaped areas.”*

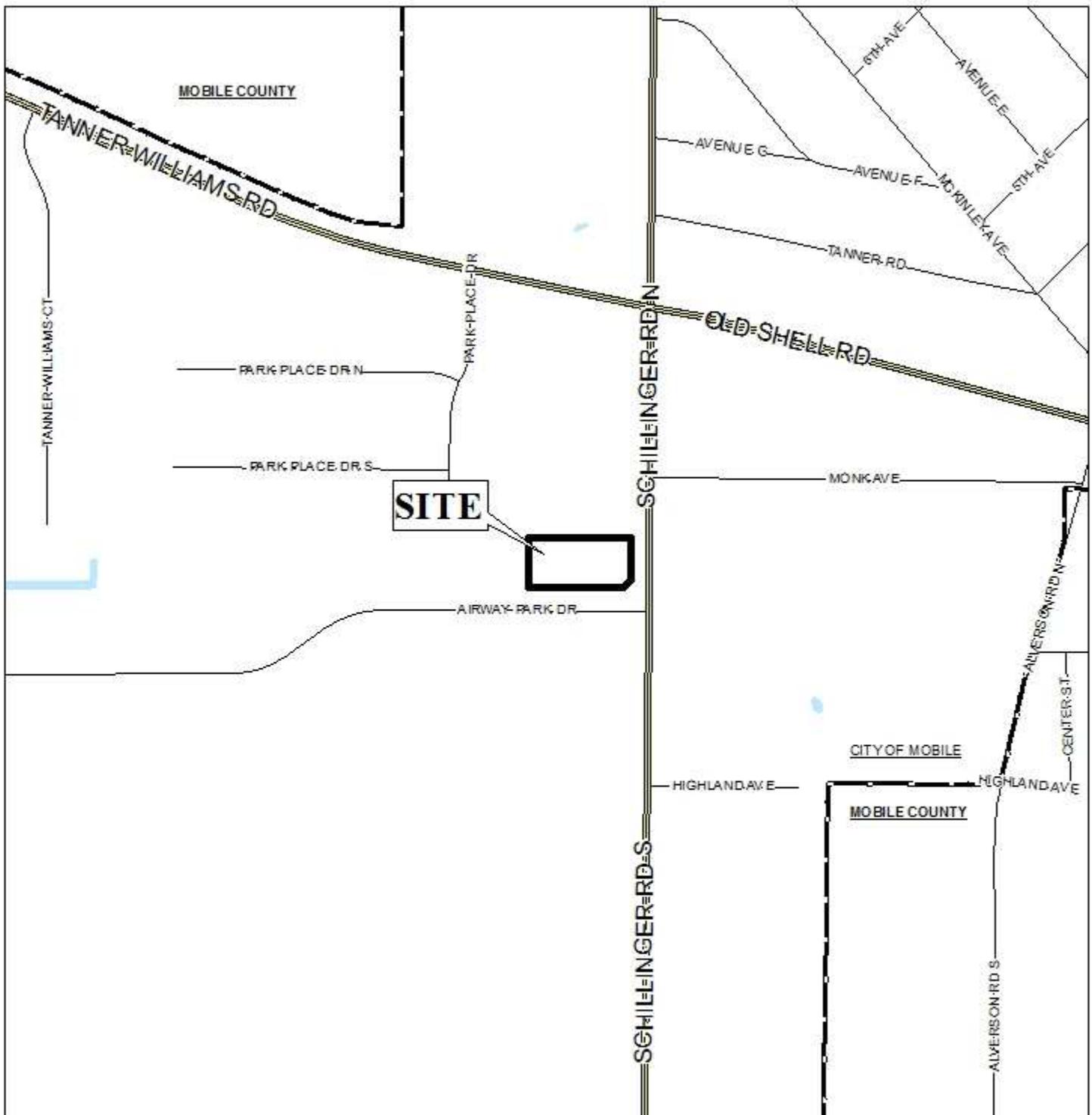
*With regards to the Tree and Landscape Variance request, the site is roughly 13,300 ± square feet and would require a total landscaped area of 1,596 ± square feet, with 958 ± square feet being frontage landscaping, along with 3 frontage trees, 12 perimeter trees, and 1 parking tree. There are currently some trees located to the north of the site and the applicant states that the “existing trees along the northern property line currently serve as a buffer” and “the parking material (gravel) will result in reduced ‘heat island’ affects in comparison to asphalt paved parking areas”. However, additional tree planting and landscaping as required by the Zoning Ordinance would increase the amount of green space and serve as an additional buffer and minimize the “heat island” affects.*

*Although the applicant has submitted a more detailed site plan addressing the previous concerns, the applicant has not provided evidence of a true hardship to justify granting the approval of the variance requests. It is simply the applicant’s desire to use aggregate surfacing for the adjacent lot instead of asphalt or concrete and not provide adequate trees or landscaping as required per the Zoning Ordinance.*

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

- 1) approving the variance requests will be contrary to the public interest in that it is contrary to Section 64-6.A.3.a. of the Zoning Ordinance pertaining to surfacing parking lots with concrete, asphaltic concrete, asphalt or alternative parking surface, and the requirement that commercial sites provide trees and landscaping;*
- 2) special conditions, with the property, that prevent the paving of the parking area or the planting of trees do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; 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 variance because the near-by businesses expanded since annexation have complied with the surfacing requirements of the Zoning Ordinance.*

# LOCATOR MAP



APPLICATION NUMBER 5894 DATE July 7, 2014

APPLICANT Jason Bunch (Carfinder's)

REQUEST Use and Site Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use.

APPLICATION NUMBER 5894 DATE July 7, 2014

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REQUEST Use and Site Variances

LEGEND	<span style="display: inline-block; width: 15px; height: 15px; background-color: white; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow;"></span> R-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: green;"></span> R-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan;"></span> R-A	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange;"></span> R-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: pink;"></span> H-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: brown;"></span> T-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: blue;"></span> B-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: gold;"></span> B-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: red;"></span> B-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkred;"></span> B-4	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkblue;"></span> B-5	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightblue;"></span> I-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightgrey;"></span> I-2
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use.

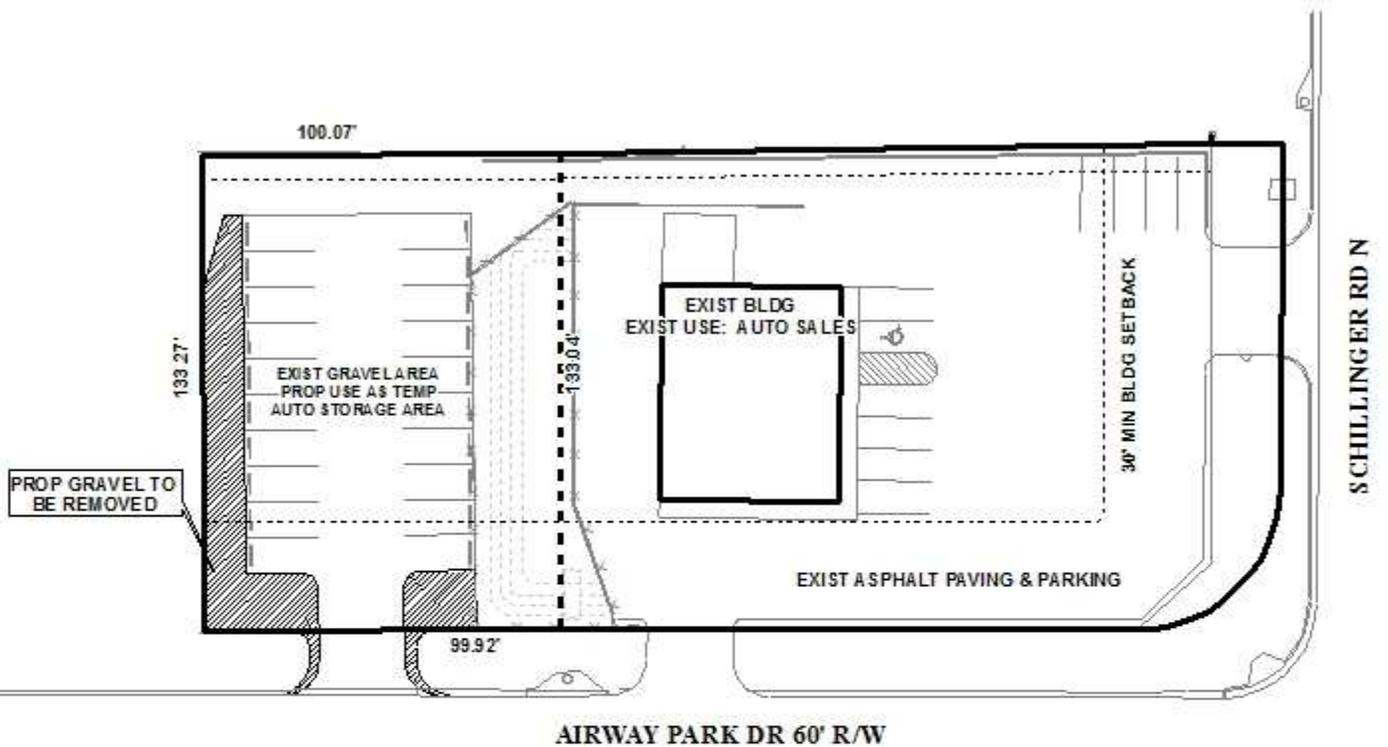
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# SITE PLAN



The site plan illustrates the existing improvements.

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