

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 2, 2012****CASE NUMBER**

5744

APPLICANT NAME

Anthony Denson

LOCATION

704 South Broad Street
(West side of South Broad Street, 155'± North of Virginia Street).

VARIANCE REQUEST

USE: Allow a take-out restaurant in an R-3, Multiple-Family Residential District.

PARKING RATIO: Reduce required parking to two spaces.

MULTIPLE BUILDINGS: Allow multiple buildings on a single business site.

**ZONING ORDINANCE
REQUIREMENT**

USE: A take-out restaurant requires a minimum of a B-2, Neighborhood Business District.

PARKING RATIO: An 800 square-foot restaurant, with associated separate storage building requires a minimum of four parking spaces.

MULTIPLE BUILDINGS: Only one building is allowed per building site.

ZONING

R-3, Multiple-Family Residential District

AREA OF PROPERTY

0.22 Acres ±

**TRAFFIC ENGINEERING
COMMENTS**

None received.

We have spoken often to Poly Engineering and advised them that due to various parking issues (as addressed in the Analysis), that we would not recommend this for approval. It seems entirely unlikely that traffic problems will not result from this.

CITY COUNCIL
DISTRICT

District 2

ANALYSIS

The applicant is requesting Use, Parking Ratio, and Multiple Building Variances to allow an 800 square-foot take-out restaurant with an existing detached storage building with two parking spaces in an R-3, Multiple-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for restaurant, Planned Unit Development approval for multiple buildings on a single building site, and four parking spaces.

The applicant wishes to construct an 800 square-foot take-out restaurant that would cater exclusively to walk-up traffic. The site is currently developed with an approximately 1,850 square-foot building that the applicant states is used for storage, and will continue to be used for storage. The applicant also proposes only two parking spaces for the entire site, and states that the parking spaces will be marked for employee parking only. The applicant also states that signs will be posted stating that the restaurant is for walk-up traffic only.

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 only hardship that the applicant mentions is the large live oak tree in the right-of-way in front of the property. The applicant states that this live oak affects the access to the site. While the tree may affect access, the tree does not affect the use of the site or the need for more parking. There is no commercial history on this site, and there is no inherent hardship illustrated that would prevent the site from being used for single-family, two-family, or multiple-family purposes as allowed by the Ordinance.

Regarding the parking ratio, two parking spaces are insufficient. While the site may be signed as walk-up traffic only, given the development patterns in the City of Mobile as well as the general automobile dependency of the City, it seems unlikely that the signs would have any effect on keeping patrons from driving their vehicles to the site. Additionally, the site development as proposed could lead to issues with patrons parking their cars in the driveway causing maneuverability issues, or on other business and residential properties without proper authorization, which could lead to disputes with neighbors. Patrons could also begin parking along Broad Street, which is a dangerous and undesirable situation.

The lack of parking and the ostensive nature of the business would likely lead to many undesired consequences, and, with the lack of hardship shown, the requests should be denied.

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

Revised for the May 7, 2012 meeting:

The application was heldover from the April 2, 2012 meeting at the Commission's request. The Commission required information to be submitted, so the following items could be addressed:

- 1) revision of the site plan to indicate a dumpster location;*
- 2) revision of the site plan to indicate additional parking;*
- 3) submission of building elevations for the proposed building; and*
- 4) the obtaining of neighborhood comments on the impact of the proposed operation.*

The applicant submitted a revised site plan illustrating the location of a dumpster pad, however there is not illustration of a compliant 6' high privacy fence or wall to screen the dumpster. The applicant also provided a floor plan and elevations of what the proposed building as requested.

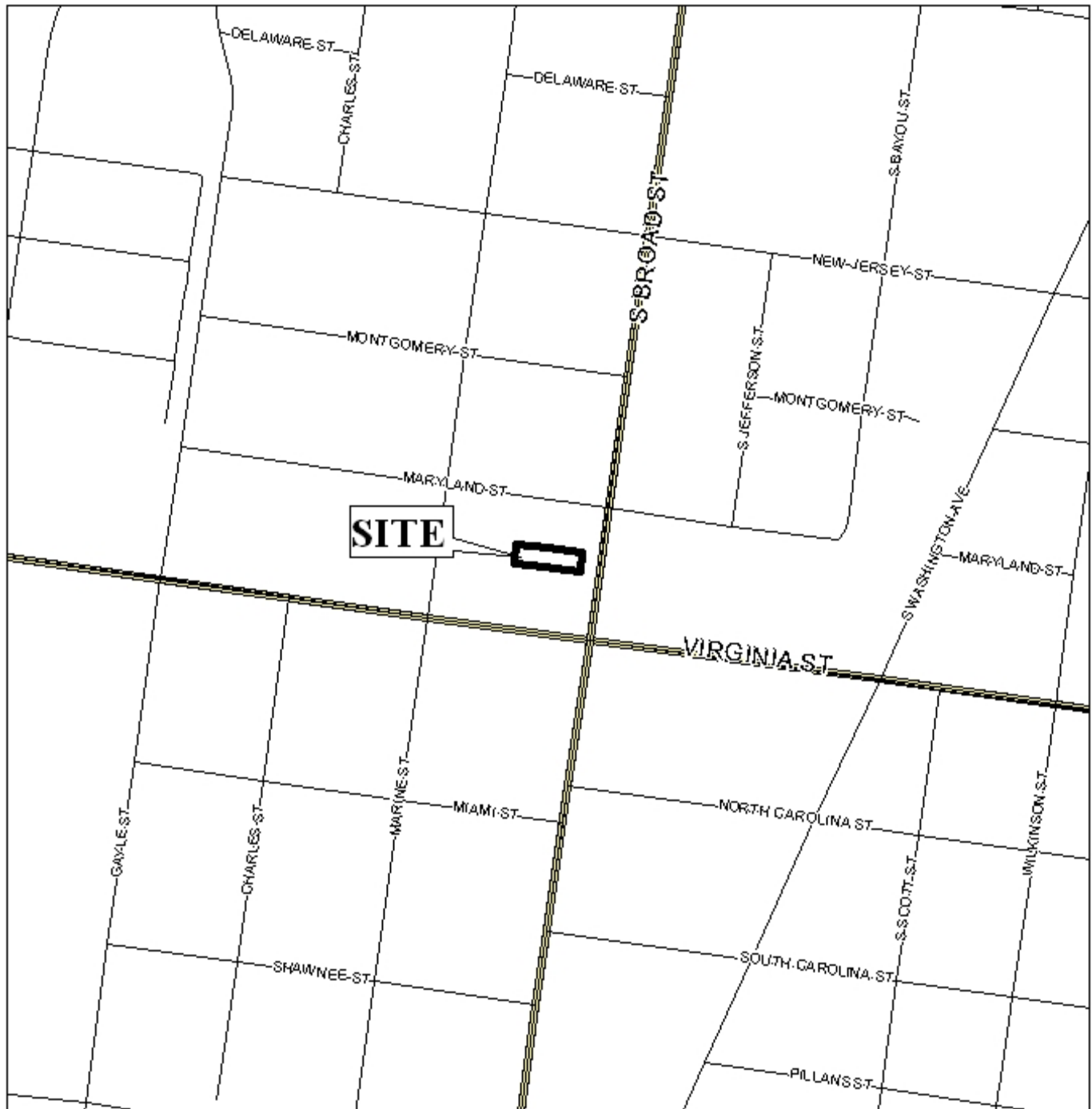
The site plan was also revised to illustrate three, rather than two parking spaces (with none being handicap accessible as required by the Americans with Disabilities Act), as well as the placement of "Employee Parking Only" signs to be placed at the curb-cut, and a fence with a gate to the parking area to be located 35' away from the curb-cut. The proposed 35' between the curb-cut and the gate does not meet the requirements of Section 64-4.F.2. of the Zoning Ordinance stating that 51' is needed to provide 17' long queuing spaces for three vehicles. Traffic Engineering concurs that the proposed parking situation is far from ideal, and that traffic problems will likely occur related to the proposed project. In an effort to provide a solution to potential traffic and parking issues, the applicant has submitted a letter from the manager of the Greer's Market located at 670 South Broad Street (located 155'± to the North of the site, across Maryland Street) which states that the proposed restaurant may use their parking facilities. However, Section 64-6.2. of the Zoning Ordinance requires that all parking for a site be located on that same site. Furthermore, the applicant did not submit a letter from the owner of Greer's stating there would be adequate parking, or a site plan of the Greer's Market site for staff to determine if there is adequate parking for the uses associated with that property as well as the proposed restaurant.

Upon reviewing City of Mobile aerial photos from 1997, it appears that there was a residence on the subject site illustrating that it can be used residentially as zoned, and that no hardship exists to make the approval of a take-out restaurant justified.

It should also be noted that the applicant has not submitted any documentation of comments from residents of the area to suggest that they have discussed the proposal with anyone, or obtained any support other than the manager at the Greer's Market.

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

LOCATOR MAP



APPLICATION NUMBER 5744 DATE May 7, 2012
APPLICANT Anthony Denson
REQUEST Use, Parking Ratio, and Multiple Building Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial and residential land use.

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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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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

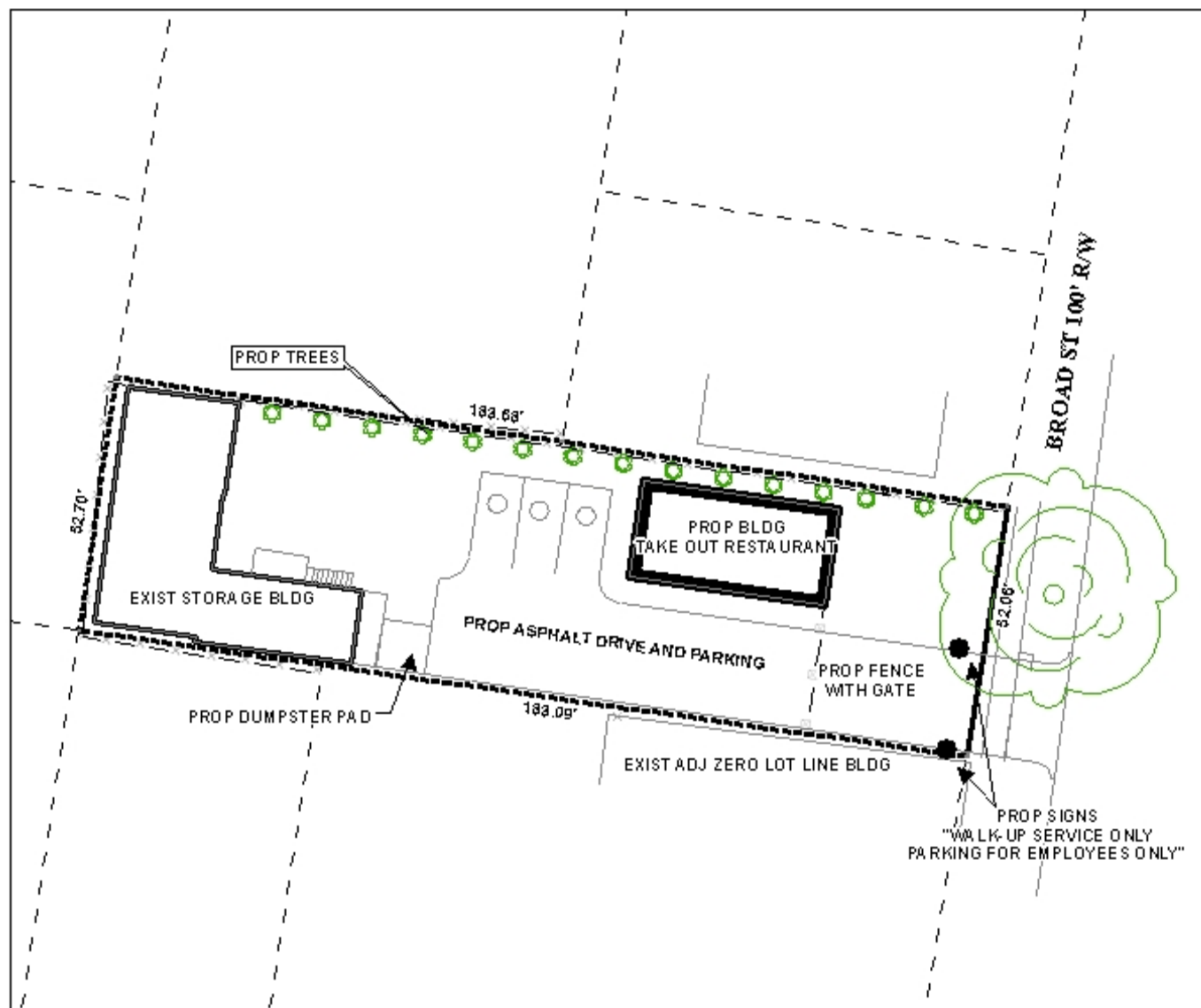


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SITE PLAN

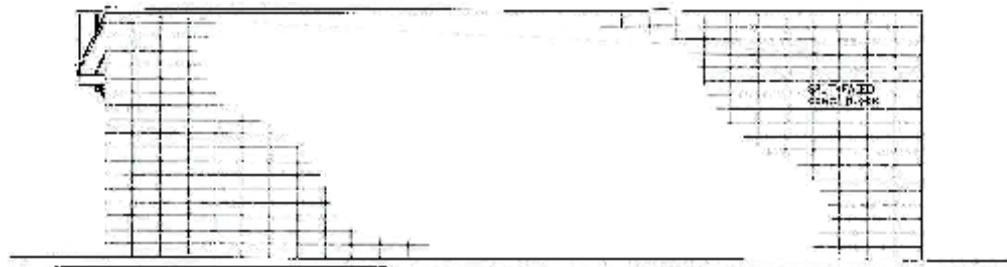


The site plan illustrates the proposed building, parking, and landscaping.

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BUILDING ELEVATION DETAIL

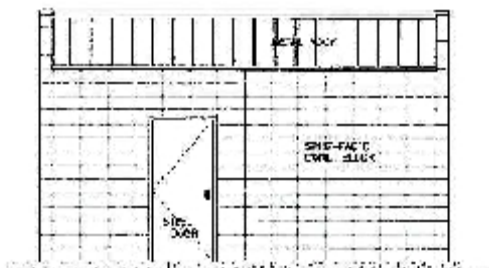


NORTH ELEVATION

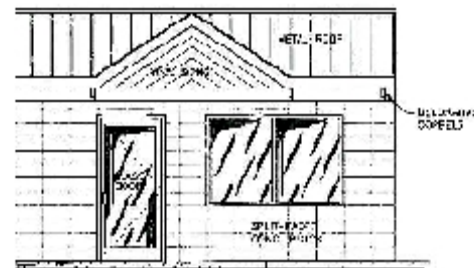
SCALE: 1/2" = 1'-0"



SOUTH ELEVATION



REAR ELEVATION

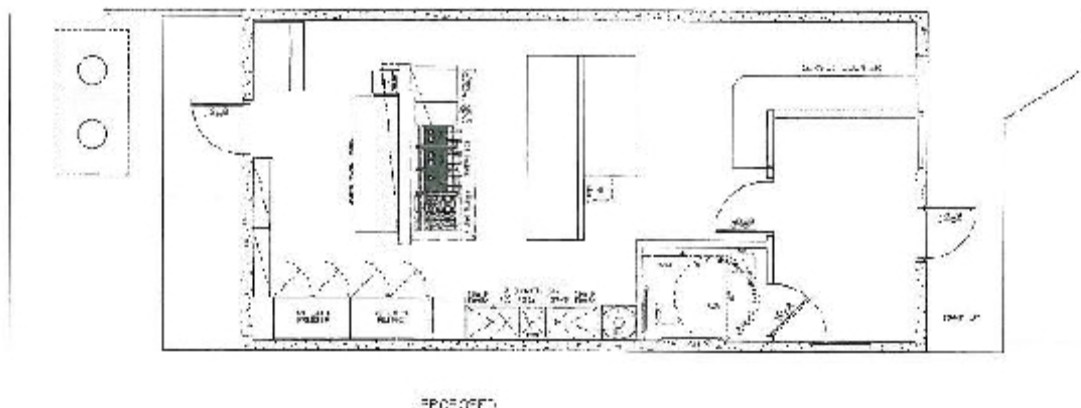


FRONT ELEVATION

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FLOOR PLAN DETAIL



PROPOSED

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