

# **HOLDOVER**

APPLICATION NUMBER

**5441**

A REQUEST FOR

**ACCESS/MANEUVERING, PARKING RATIO,  
LANDSCAPING AND TREE PLANTING, AND BUFFER  
VARIANCES TO ALLOW NOSE-IN PARKING, A 10'-  
WIDE DRIVE AND UNDESIGNATED MANEUVERING  
AREA, UNDESIGNATED PARKING, NO LANDSCAPING  
AND TREE PLANTING, AND NO RESIDENTIAL BUFFER  
IN A B-2, NEIGHBORHOOD BUSINESS DISTRICT; NOSE-  
IN PARKING IS NOT ALLOWED, DRIVES MUST BE 24'  
WIDE AND MANEUVERING AREAS MUST BE  
DESIGNATED, FOUR DESIGNATED PARKING SPACES  
MUST BE PROVIDED, FRONTAGE LANDSCAPING AND  
SIX FRONTAGE TREES ARE REQUIRED, AND A 6' HIGH  
RESIDENTIAL BUFFER FENCE MUST BE PROVIDED IN  
A B-2, NEIGHBORHOOD BUSINESS DISTRICT**

LOCATED AT

**2712 OLD SHELL ROAD**

(Northeast corner of Old Shell Road and Randolph Street)

APPLICANT/OWNER

**CHRIS BOWEN**

AGENT

**CHRIS BOWEN**

**BOARD OF ZONING ADJUSTMENT**

DECEMBER 2007

# HOLDOVER

## **ANALYSIS APPLICATION 5441**

**Date: December 3, 2007**

The applicant is requesting Access/Maneuvering, Parking Ratio, Landscaping and Tree Planting, and Buffer Variances to allow nose-in parking, a 10'-wide drive and undesignated maneuvering area, undesignated parking, no landscaping and tree planting, and no residential buffer in a B-2, Neighborhood Business District. Head-in parking is not allowed, drives must be 24' wide and maneuvering areas must be designated, four designated parking spaces must be provided, frontage landscaping and six frontage trees are required, and a 6' high residential buffer fence must be provided in a B-2, Neighborhood Business District.

The site is zoned B-2 and has had mixed uses over the years. It was used commercially for several years, and then it was used as residential for several years. The applicant purchased the property in January 2006. Permits issued in 2004 and 2006 for renovating general repairs and service repairs were issued as Single-Family Residential permits. The property now appears to be used commercially, and since the property was used as residential for more than two years, the legal non-conforming status, with regard to parking/maneuvering and tree/landscaping, has expired. Consequently, the conversion back to commercial use requires full compliance with the Zoning Ordinance.

The applicant states that the site currently has four parking spaces in front of the building, including one handicap parking space, and one space in the rear. Cars parked in front have to perform maneuvering within the city right-of-way. The applicant states that there is not enough open space in the rear of the property to accommodate four parking spaces. Moving all the parking to the rear would require the removal of large trees and paving over the grass back yard.

The applicant states that there are numerous trees and shrubs on the property currently. Any additionally required landscaping could not be of the types that need much sunlight due to the large trees already present on the site, which absorb the majority of the sunlight.

A chain link fence currently exists in the rear of the property. The applicant states that existence of trees prevents the placement of the fence on the property line.

With regard to the parking/access/maneuvering variance requests, entrances and exits for off-street parking shall be provided and located so as to minimize traffic congestion and to prevent vehicles backing from the area into the roadway. The site in question seems to have adequate undeveloped open area in the rear where compliant parking and maneuvering could be provided. Furthermore, aerial photos from 1997, 2002 and 2006 show that no paving, other than gravel in the front yard, existed on the site. The site now has a paved front yard (with gravel in the right-of-way), a paved driveway, and paved access into the rear of the site. The paving of the site does not appear to have received

## **HOLDOVER**

appropriate permitting, which alone would have required commercial site plan review and full compliance to the Zoning Ordinance.

With regard to the landscaping variance request, if the parking in the front yard is removed, there will be adequate open space for the applicant to bring the site into compliance.

With regard to the buffer variance, the chain link fence is not sufficient. Whenever a B-2 use abuts a residential use, the Zoning Ordinance requires a buffer strip. In this particular case, a six foot privacy fence along the rear property line would be appropriate.

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.

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 space to be brought into compliance.

This application was heldover from the Board's scheduled November meeting due to a lack of quorum to hold the meeting.

# **HOLDOVER**

**RECOMMENDATION 5441**

**Date: December 3, 2007**

Based on the preceding, it is recommended that this request be denied.

## LOCATOR MAP



APPLICATION NUMBER 5441 DATE December 3, 2007

APPLICANT Chris Bowen

REQUEST Access/Maneuvering, Parking Ratio,  
Landscaping and Tree Planting, and Buffer Variances



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by miscellaneous land use.

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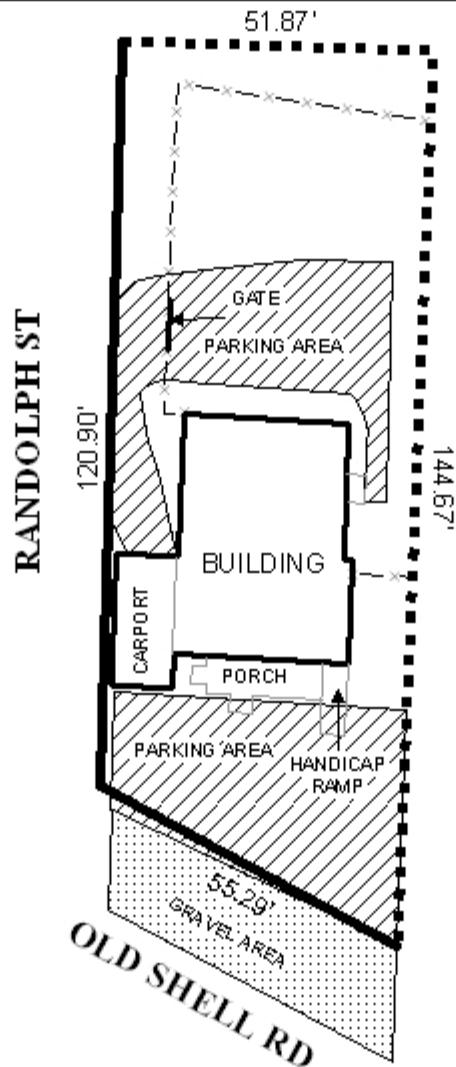
REQUEST Access/Maneuvering, Parking Ratio, Landscaping and Tree Planting, and Buffer Variances

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



This site plan illustrates existing buildings and structures

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