

APPLICATION NUMBER

**5466/5399**

A REQUEST FOR

**PARKING AND ACCESS/MANEUVERING SURFACE  
VARIANCES TO ALLOW AGGREGATE PARKING AND  
ACCESS/MANEUVERING AREAS IN A B-3, COMMUNITY  
BUSINESS, DISTRICT; PARKING AND  
ACCESS/MANEUVERING AREAS MUST BE ASPHALT,  
CONCRETE, OR AN APPROVED ALTERNATIVE PAVING  
SURFACE IN B-3, COMMUNITY BUSINESS DISTRICTS.**

LOCATED AT

**3221 HALLS MILL ROAD**

(South side of Halls Mill Road, 120'± West of Darwood Drive)

APPLICANT

**R.D. LOWE'S PAINTING**

AGENT

**M. DON WILLIAMS ENGINEERING**

OWNER

**ROBERT DENNIS LOWE**

**BOARD OF ZONING ADJUSTMENT**

MAY 2008

The applicant is requesting Parking and Access/Maneuvering Surface Variances to allow aggregate parking and access/maneuvering areas in a B-3, Community Business District; parking and access/maneuvering areas must be asphalt, concrete, or an approved alternative paving surface in B-3, Community Business Districts.

In January of 2007 the applicant filed for and received a variance for the intended purpose stated in this application. However, the applicant failed to obtain the required permits necessary within one year of the approval of the application. There have been no changes in the area that would affect the property.

The applicant is a painting contractor and purchased the subject property two years ago to be used for paint and van storage and as a crew staging site. It is stated that there are no offices located in the existing building as the business is located outside the city limits; however, the City Revenue Department data base indicates the business is a home occupation based at the applicant's residence within the City Limits. There is no customer traffic at the site, but painting crew activity occurs on the site between 7:00 AM and 9:00 AM in the morning, and 4:00PM and 7:00 PM in the afternoon/evening, Monday through Friday. To accommodate the crew parking, the applicant placed approximately 7/10 acre of limestone on the site without permits, stating that he was unaware of storm water and land use regulations regarding paved surfaces. It is now requested that the limestone be allowed to remain as it is stated that it is sufficient to meet the needs of the owner and no further site development is planned at this time. At some time in the future, the site will be developed and will be brought into compliance, but no time frame is furnished.

The subject site was originally part of the drive-in theater which operated on what is now the Christ Anglican Church site adjacent to the West. The existing building on the site was apparently associated with the theater maintenance and has apparently been vacant since the theater ceased operations in the 1970's since no record of business activity can be found on the City's database. Activities associated with this application would constitute a first-time commercial use of the property requiring full site compliance beyond just paving and access/maneuvering surfaces compliance. It is clearly stated by the applicant "The owners do not plan to develop the site further, and consider the site as undeveloped". Inasmuch as the applicant did not fully recognize the storm water and land use regulations regarding paved surfaces, it is incumbent upon property owners and users to become familiar with what is allowed and required on any property, not just where zoning is enforced, and especially when a change in use of property is involved. The proposed property development must be reviewed by several disciplines to ensure proper compliance is met with regard to storm water management, paving surfaces, landscaping, buffering, and neighborhood impact, among other things.

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.

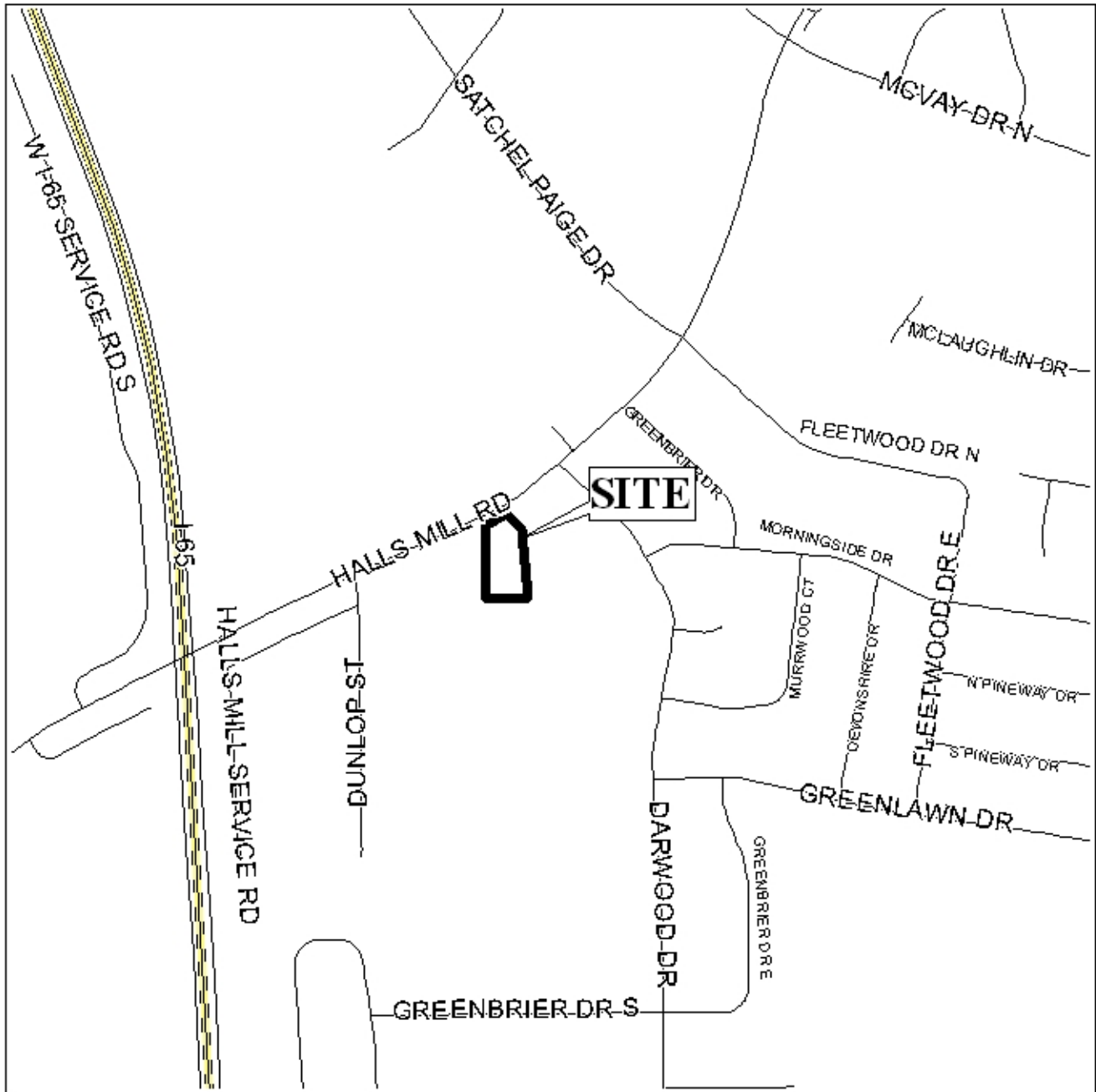
It should be noted, however that the applicant applied for a received this variance in January 2007.

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.

**RECOMMENDATION 5466/5399****Date: May 5, 2008**

Based on the preceding, it is recommended that this application be approved.

## LOCATOR MAP



APPLICATION NUMBER 5466/5399 DATE May 5, 2008

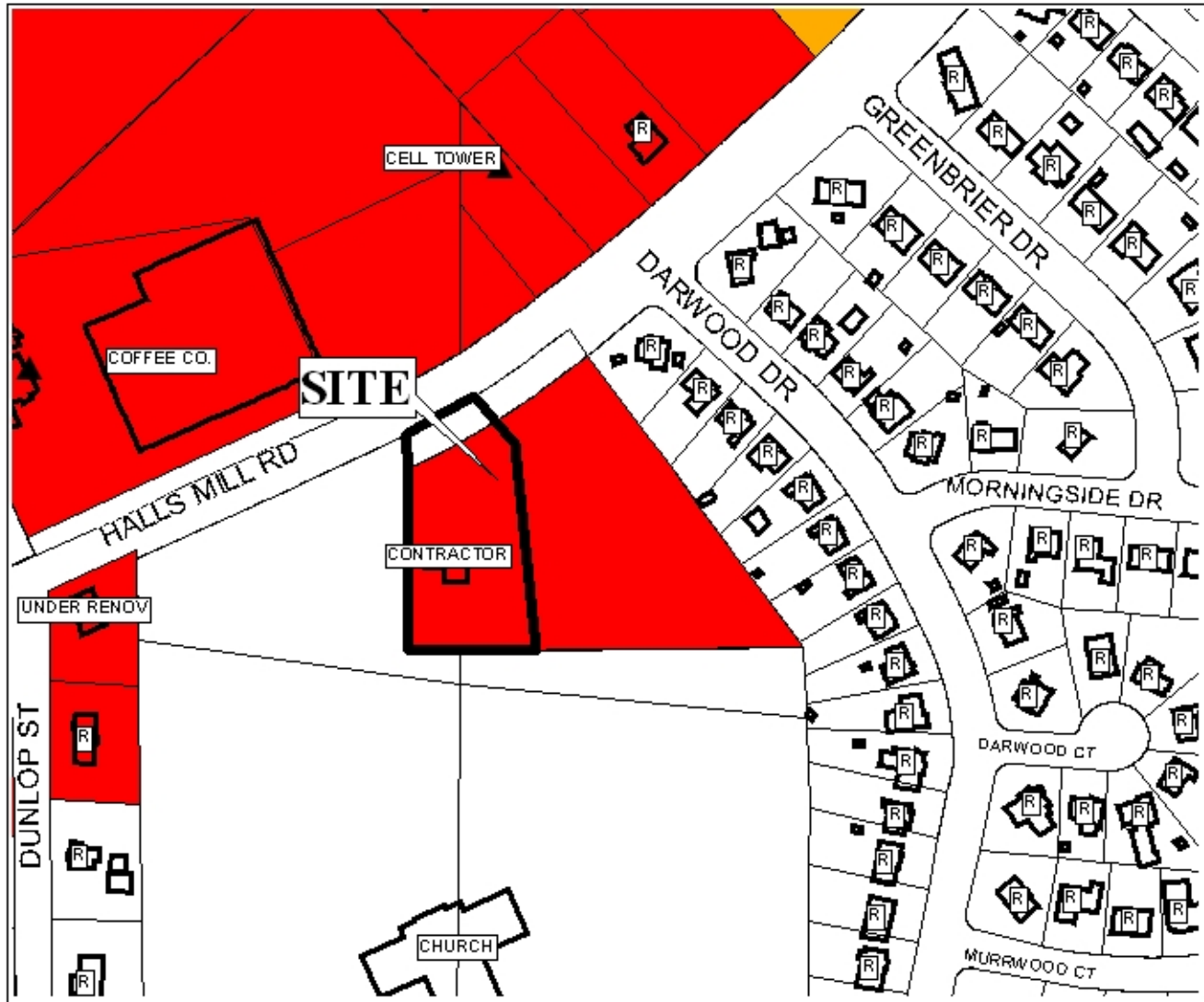
APPLICANT R. D. Lowe's Painting

REQUEST Parking, Access/Maneuvering Variance



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units.  
A coffee company is located to the north of the site.

APPLICATION NUMBER 5466/5399 DATE May 5, 2008

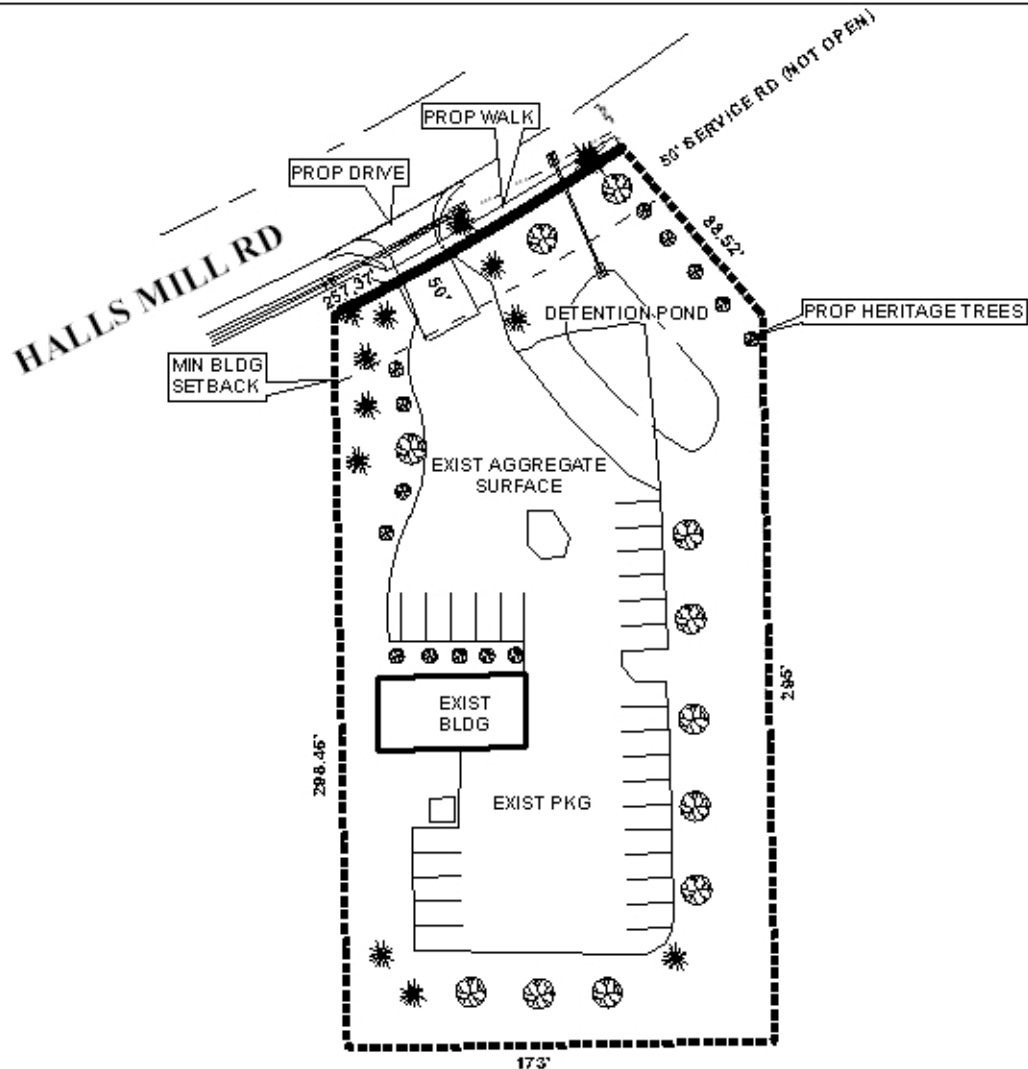
APPLICANT R. D. Lowe's Painting

REQUEST Parking, Access/Maneuvering Variance

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	NTS
-----	-----	-----	-----	-----	-----	-----	-----	------	-----	-----	-----	-----	-----	-----	-----

# SITE PLAN



The site plan illustrates the existing building, parking, aggregate surface area, proposed landscaping, and detention area

APPLICATION NUMBER 5466/5399 DATE May 5, 2008

APPLICANT R. D. Lowe's Painting

REQUEST Parking, Access/Maneuvering Variance



NTS