

HOLDOVER

APPLICATION NUMBER

5479/3588

A REQUEST FOR

**USE, PARKING SURFACE, PARKING RATIO, AND TREE
AND LANDSCAPING VARIANCES TO AMEND A
PREVIOUSLY APPROVED USE VARIANCE TO ALLOW
THE EXPANSION OF A BOAT REPAIR SHOP WITH
AGGREGATE VEHICLE PARKING AND BOAT STORAGE
AREAS, UNDESIGNATED PARKING AREA, AND NO
PROPOSED TREE PLANTINGS AND LANDSCAPING
AREAS IN A B-2, NEIGHBORHOOD BUSINESS
DISTRICT; THE ZONING ORDINANCE REQUIRES A
MINIMUM B-3, COMMUNITY BUSINESS DISTRICT
WITH PLANNING APPROVAL FOR BOAT REPAIR,
WITH CONCRETE, ASPHALT, OR AN APPROVED
ALTERNATIVE PAVING SURFACE FOR VEHICLE
PARKING AND BOAT STORAGE, AN APPROPRIATE
NUMBER OF DESIGNATED PARKING SPACES, STREET
FRONTAGE LANDSCAPING AND FRONTAGE AND
PERIMETER TREE PLANTINGS IN A B-2,
NEIGHBORHOOD BUSINESS DISTRICT.**

LOCATED AT

2704 OLD SHELL ROAD

(Northwest corner of Old Shell Road and North Mobile Street)

APPLICANT

HOWARD C. MELECH

BOARD OF ZONING ADJUSTMENT

AUGUST 2008

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ANALYSIS APPLICATION 5479/3588

Date: August 4, 2008

The applicant is requesting use, parking surface, parking ratio, and tree and landscaping variances to amend a previously approved use variance to allow the expansion of a boat repair shop with aggregate vehicle parking and boat storage areas, undesignated parking area, and no proposed tree plantings and landscaping areas in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum B-3, Community Business District with Planning Approval for boat repair, with concrete, asphalt, or an approved alternative paving surface for vehicle parking and boat storage, an appropriate number of designated parking spaces, street frontage landscaping and frontage and perimeter tree plantings in a B-2, Neighborhood Business District.

This application was held over at the July 7th meeting at the applicant's request; however, no new information has been submitted.

In 1980, the applicant received a use variance for the current boat repair business, which was for Lot 13, Block 2 of Crichton Subdivision. Since that time, the applicant has acquired Lots 14, 15, and 16, which are now also being used for the boat repair business. Since variances are site specific, the applicant did not have approval to expand his business onto the other lots; hence this application.

The applicant plans to continue using the subject property for the same purposes that it has been used for since the time of purchase. The applicant states that Lot 14 is used to park one employee car and the owner's car, and lots 15 and 16 are used to store clients' boats while waiting to be serviced. Furthermore, the applicant states that the current zoning of the property in question (B-2, Neighborhood Business District) is what was thought to be required for the proposed use.

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.

As already mentioned, the applicant thought that boat repair was allowed in a B-2, Neighborhood Business District. However, since a variance was required in 1980 for the boat repair business, it would appear that the applicant was in fact aware of the

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requirements and knowingly expanded the business without the proper approvals. Nevertheless, the issue here is whether there is a hardship which prevents the applicant from complying with the B-2 zoning. Since the inception of the business in 1980, it has obviously outgrown Lot 13 and needs more space to satisfy current demands. With that said, denying the proposed expansion may cause the applicant to relocate the business, which could be considered a hardship.

With regard to the parking ratio and surfacing variance requests, there appears to be adequate open area on the site where compliant parking could be provided. Furthermore, in cases where the basis for a Parking and Access/Maneuvering Surface Variance has been the fact that non-mobile heavy industrial equipment and construction and fabrication materials or tracked construction equipment could adversely impact the surface due to dragging, chipping, or sharp impact, a surface variance has been justified. In this case, the equipment is apparently not of a surface detriment if it is capable of traveling the public streets. Also of concern is the continuous curb cut along Old Shell Road which allows vehicles to back into the street which could be a traffic safety issue. This should be corrected while bringing the site into compliance. In variance cases where there is no hardship imposed by the property impacting the possibility of site improvements to comply with the Ordinance, the site improvements are preferred. In this instance, no hardship is illustrated; therefore it is recommended that the applicant comply with Section 64-6 of the Zoning Ordinance, close the continuous curb cut along Old Shell Road, and install two curb cuts approved by Traffic Engineering.

With regard to the tree/landscaping variance, there appears to be adequate space for the applicant to comply with Section 64-4.E. of the Zoning Ordinance.

Furthermore, there is no depiction on the site plan of proper buffering where the site abuts residential property. If approved, the applicant should revise the site plan to provide the buffer, as required by Section 64-4.D. of the Zoning Ordinance.

Given the existing use variance and the age of the business, an approval for the expansion of this business may be justified. However, with regard to the parking ratio, surface, and tree/landscaping variances, the applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. The applicant simply wishes to operate a boat repair shop with aggregate vehicle parking and boat storage areas, undesignated parking area, and no tree planting and landscaping in a B-2, Neighborhood Business District.

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RECOMMENDATION 5479/3588

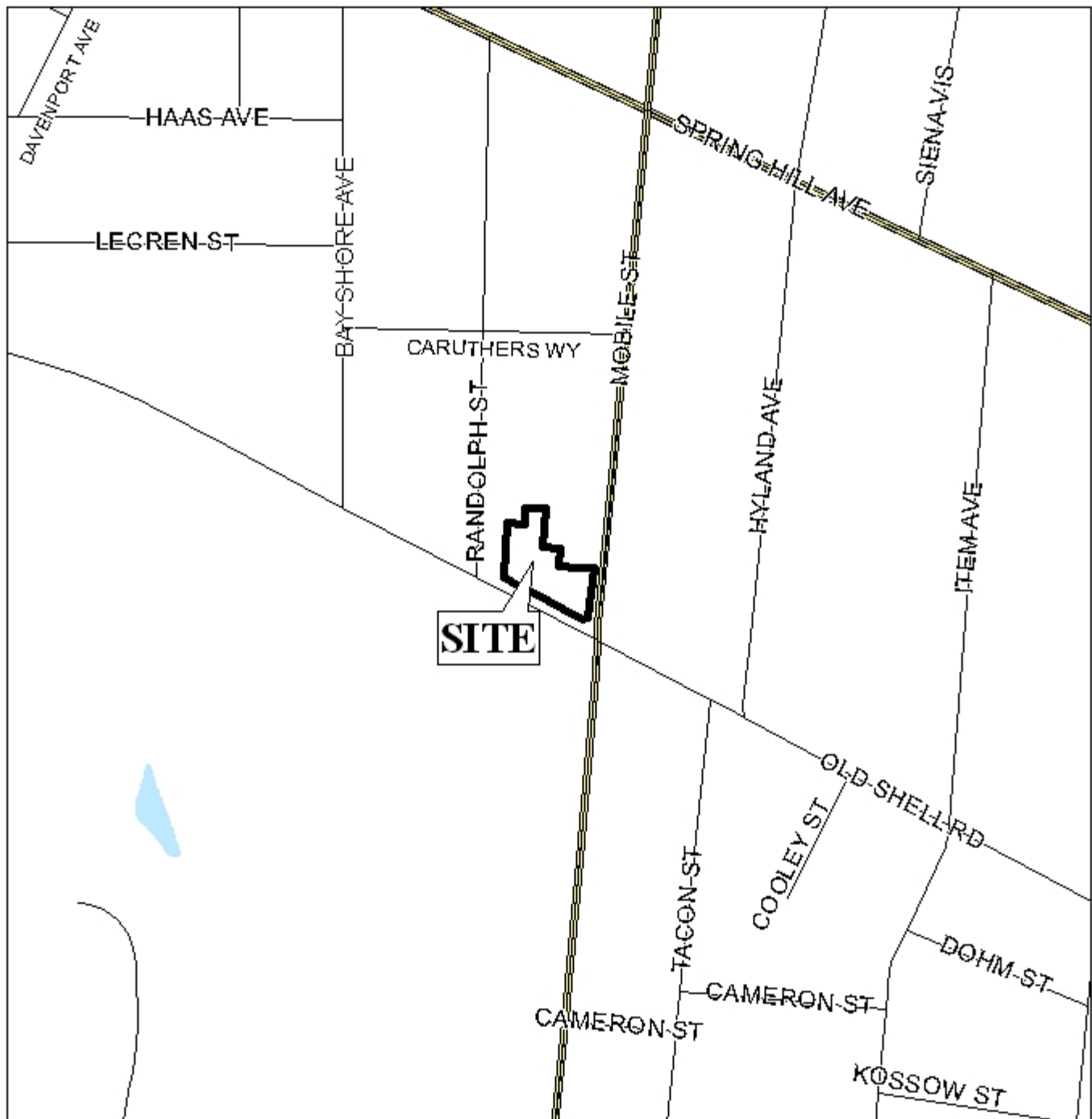
Date: August 4, 2008

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

- 1) Provision of parking and surfacing, as required by Section 64-6 of the Zoning Ordinance;
- 2) Provision of tree/landscaping, as required by Section 64-4.E. of the Zoning Ordinance;
- 3) Closing of the continuous curb cut along Old Shell Road and the provision of two curb cuts along Old Shell Road, with the size, location, and design approved Traffic Engineering and conforming to AASHTO standards;
- 4) Provision of a buffer, in compliance with Section 64-4.D. of the Zoning Ordinance, where the site abuts residentially zoned property;
- 5) Submission of a revised site plan to the Planning Department of Urban Development prior to the issuance of any permits or land disturbance activities; and
- 6) Full compliance with all other municipal codes and ordinances.

The Parking Ratio, Surface, Tree and Landscaping Variance requests are recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5479/3588 DATE August 4, 2008

APPLICANT Howard C. Melech

REQUEST Use, Parking Surface, Parking Ratio, and Tree and Landscaping
Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



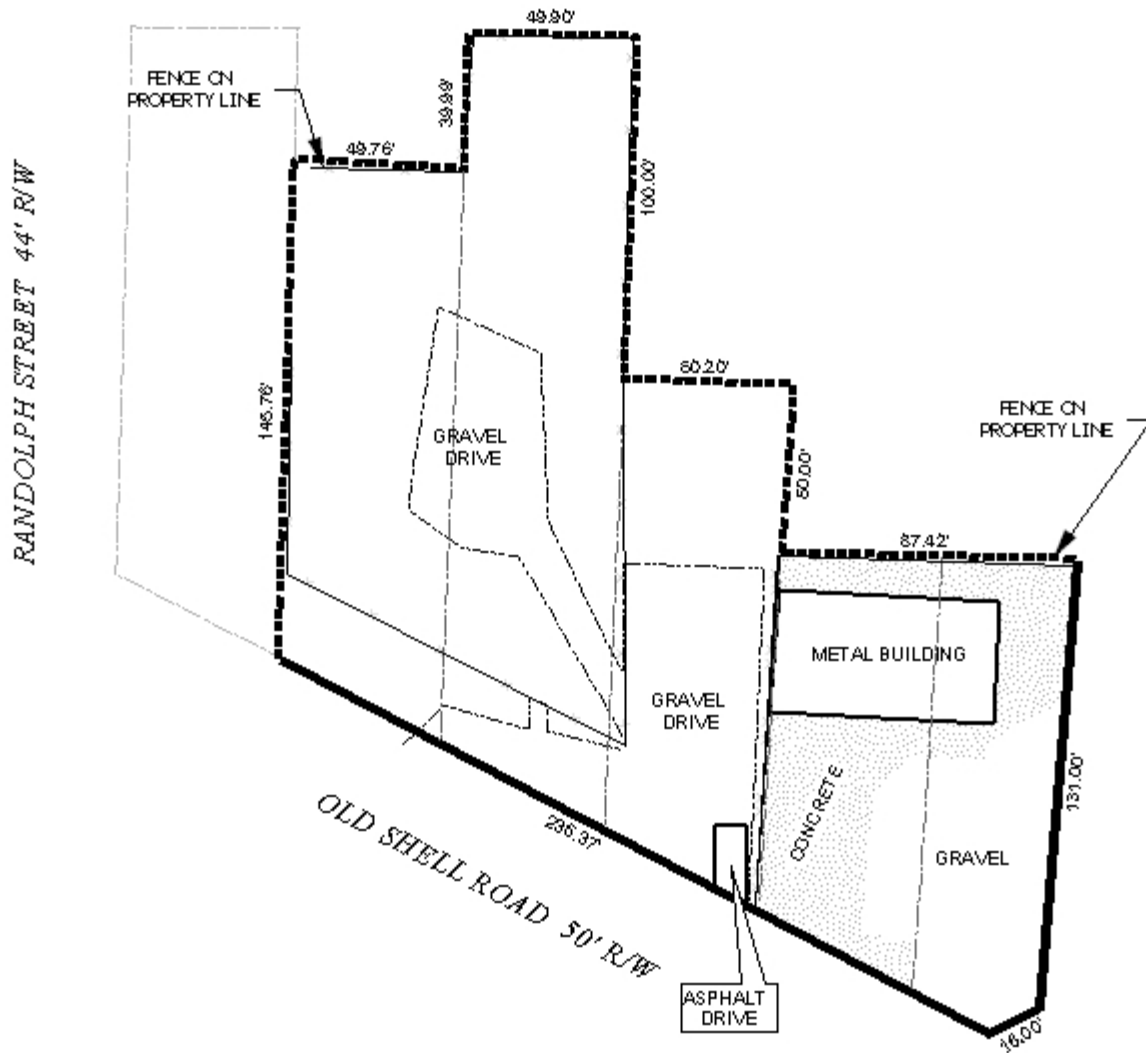
A lounge is located to the east of the site, an auto repair is to the south, a retail business is located to the west, and apartments are to the north.

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 APPLICANT Howard C. Melech
 Use, Parking Surface, Parking Ratio, and Tree and Landscaping
 REQUEST 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	NTS
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SITE PLAN



The site plan illustrates the drives, building, concrete, and fences.

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NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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