

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: July 6, 2015****CASE NUMBER**

5984

**APPLICANT NAME**

Angel T. Bumpers

**LOCATION**308 South Dearborn  
(Southwest corner of Palmetto Street and South Dearborn Street).**VARIANCE REQUEST****USE VARIANCE:** Use Variance to allow a daycare facility to operate in an R-1, Single-Family Residential District.**ZONING ORDINANCE  
REQUIREMENT****USE VARIANCE:** The Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a daycare.**ZONING**

R-1, Single-Family Residential District

**AREA OF PROPERTY**

0.72 ± Acres

**CITY COUNCIL  
DISTRICT**

District 2

**ENGINEERING  
COMMENTS**

No Comments

**TRAFFIC ENGINEERING  
COMMENTS**

If on street parking becomes an issue during pick-up/drop-off, on street parking restrictions may have to be installed based on the width of S Dearborn St. If a new perimeter fence is to be installed, Traffic Engineering will need to review its location for clear line-of-sight at the intersection of S Dearborn St and Palmetto St.

**URBAN FORESTRY  
COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).

**ANALYSIS**

The applicant is requesting a Use Variance to allow a daycare facility to operate in an R-1, Single Family District. The Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a daycare.

The Zoning Ordinance further 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 applicant states the following regarding the variance requests:

*My proposal for the change of land use from residential to commercial use is for the purpose of operating a licensed Montessori Day Care facility. The building and property has at one point been a school, because of this layout of property and building, there will be no need to construct or modify the property. It is in a condition suitable for the use intended and is available for immediate occupancy.*

*The variance is required by the City of Mobile. With the proposed request approved it will allow for the school to be open Monday through Friday operating time will be 7 am to 6 pm. There is on property parking for staff and students parents for drop-off and pick-up. Staff will consists of approximately 6 employees and enrollment of 30 to 40 students.*

*Occupancy of the property will add value and beautification to the neighborhood. I can see no negative effects that the school could have on the surrounding properties. This property has been vacant for years.*

As stated, the applicant wishes to operate a day care facility in property zoned R-1, Single Family Residential; however, according to the Zoning Ordinance, day care facilities are allowed, at minimum, in a B-2, Neighborhood Business District. The applicant stated that the operation will take place Monday-Friday during the hours of 7 am until 6 pm in order to mitigate and deter any adverse effects to the property and the surrounding neighborhood.

As a daycare with six employees, the site will be required to have a minimum of nine parking spaces. The site plan submitted does not illustrate the number of parking spaces available; however, based on aerial photos of the site, there are more than nine. If approved, the site plan should be revised to accurately illustrate all parking spaces on site.

The applicant does not mention if a dumpster or curbside pickup will be utilized. If approved, the site plan should be revised to either include a note stating that curbside pickup will be utilized, or illustrate a dumpster connected to sanitary sewer with an enclosure compliant with Section 64-4.D.9 of the Zoning Ordinance.

As the site is adjacent to R-1, Single Family residential, a residential buffer compliant with Section 64-4.D.1 of the Zoning Ordinance should be provided, if approved.

At the April 5, 1955 Board of Zoning Adjustment meeting, the Catholic Archdiocese of Mobile requested front yard, side yard, and rear yard variances to allow the construction of a school building within 5' of the front yard and south property lines, and within 6' of the rear property line.

Historically, this building served as the former St. Peter Claver Elementary School according to the Office of the Catholic Archdiocese. When the school closed in the early 1970s, the building was then used as a central office for the educational department by the Archdiocese until they relocated to a new space in 2012. The building has sat vacant since that time. Although the applicant has not identified a hardship to the property, the use of the building as a day care within a residential district would seem to align with the initial use of the building as a school. It also appears that the general character of the area has not changed considerably within the last sixty years. Given that use of the building as a single family residence is not likely due to space and architectural consideration, the building presents a hardship as it relates to establishing an R-1 compliant use.

In addition to requesting a variance from the Board of Zoning Adjustment, the applicant is also seeking certification from the American Montessori Society to convert the subject building from a daycare facility into a Montessori school in the future if today's request is approved. Montessori schools are based on the philosophies and concepts developed by Italian physician and educator Dr. Maria Montessori. This educational model provides a child-centered and constructivist or exploratory approach to learning for children between the ages of two and six years old. This would appear to be an educational benefit to families in the surrounding area.

However, the applicant should be aware that if the daycare use is approved, a Planning Approval will be required for the conversion of the daycare facility into a Montessori school, as schools require Planning Approval when located in R-1 districts. In addition to pursuing Planning Approval, the applicant will also need to seek approval from the state in order to operate as a school.

It should also be noted that at the March 8, 1976 Board of Zoning Adjustment meeting, a similar request for variance was approved allowing a building located at the southwest corner of Charleston Street and South Warren Street to operate as a day care facility in an R-1, Single Family Residential District. The existing and functioning daycare is located within close vicinity to the subject site, and is under the same conditions as it relates to zoning; therefore, the current request would not appear to be contrary to the public's interest should the Board consider approval of the application at hand.

### **RECOMMENDATION:**

Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) Granting the variance will not be contrary to the public interest due to the fact that the applicant desires to provide an access to quality education for children residing in the area;
- 2) Special conditions appear to exist as the building was originally constructed to be an educational facility, and since 1955 until 2012 was used in such a manner that a literal enforcement of the provisions could potentially result in an unnecessary hardship to the applicant and any future owners of the proposed site due to the building's unsuitability for R-1 compliant use; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the requested variance, as the proposed use will not be a detriment to the surrounding neighborhood due to the fact the original building was constructed to be an educational facility.

The approval is subject to the following conditions:

- 1) Revision of the site plan to illustrate all parking spaces available on site;
- 2) Revision of the site plan to either include a note stating that curbside pickup will be utilized, or illustrate a dumpster connected to sanitary sewer with an enclosure compliant with Section 64-4.D.9 of the Zoning Ordinance;
- 3) Revision of the site plan to illustrate a residential buffer compliant with 64-4.D.1 of the Zoning Ordinance;
- 4) Provision of two revised site plans to the Planning Division prior to the issuance of permits;
- 5) Obtainment of all necessary permits before beginning any building renovations and/or alterations; and
- 6) Full compliance with all Municipal Codes and Ordinances.

***Revised for the August 2015 meeting:***

*This application was heldover from the Board's July 6<sup>th</sup> meeting to allow the applicant an opportunity to meet with neighbors to discuss the proposed use of the structure as a daycare facility.*

*As no new information was received from the applicant, the original recommendation of approval still stands.*

**RECOMMENDATION:** *Staff recommends to the Board the following findings of fact for Approval:*

- 1) *Granting the variance will not be contrary to the public interest due to the fact that the applicant desires to provide an access to quality education for children residing in the area;*
- 2) *Special conditions appear to exist as the building was originally constructed to be an educational facility, and since 1955 until 2012 was used in such a manner that a literal enforcement of the provisions could potentially result in an unnecessary hardship to the*

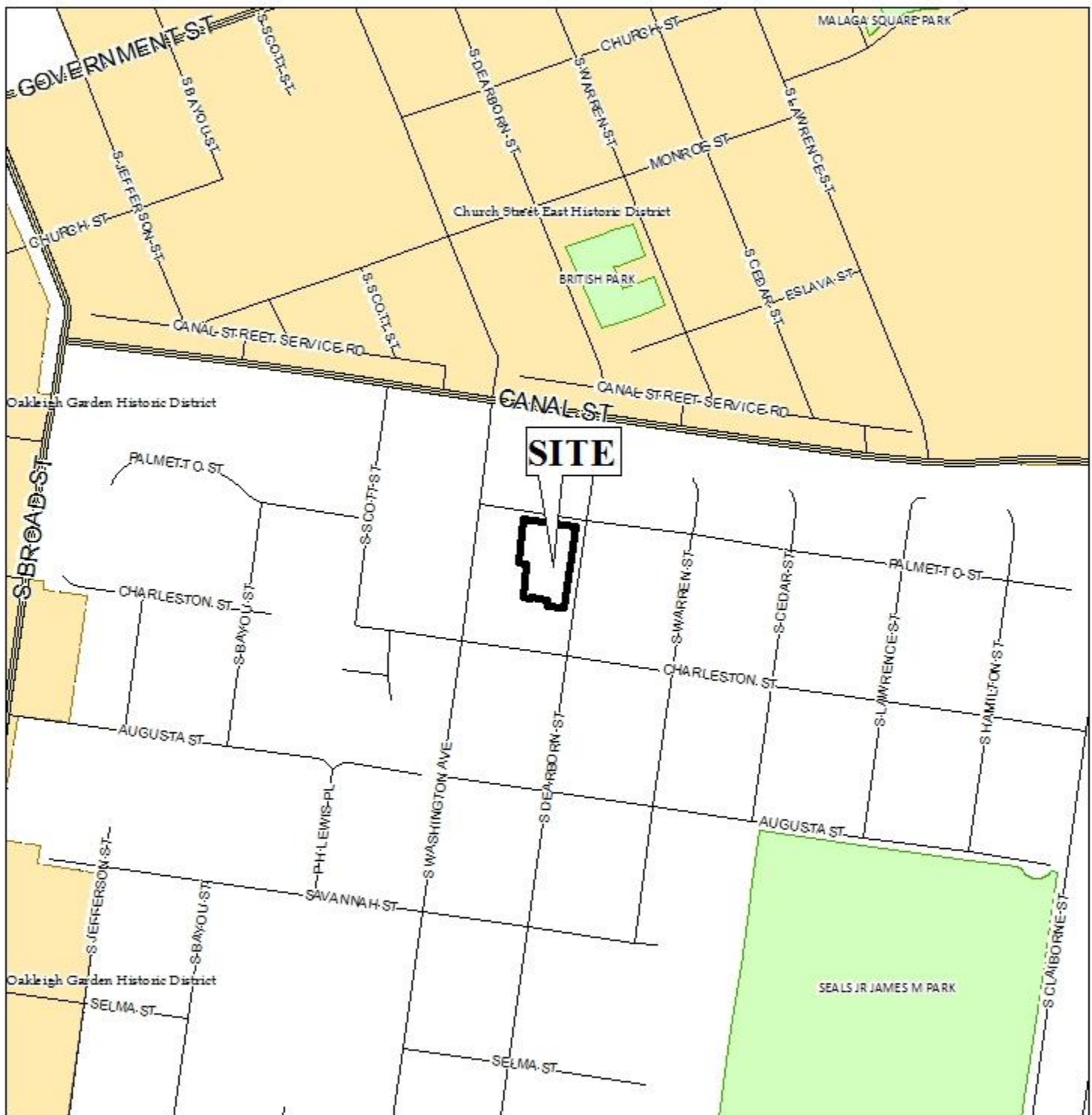
*applicant and any future owners of the proposed site due to the building's unsuitability for R-1 compliant use; and*

- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the requested variance, as the proposed use will not be a deterrent to the surrounding neighborhood due to the fact the original building was constructed to be an educational facility.*

*The approval is subject to the following conditions:*

- 1) Revision of the site plan to illustrate all parking spaces available on site;*
- 2) Revision of the site plan to either include a note stating that curbside pickup will be utilized, or illustrate a dumpster connected to sanitary sewer with an enclosure compliant with Section 64-4.D.9 of the Zoning Ordinance;*
- 3) Revision of the site plan to illustrate a residential buffer compliant with 64-4.D.1 of the Zoning Ordinance;*
- 4) Provision of two revised site plans to the Planning Division prior to the issuance of permits;*
- 5) Obtainment of all necessary permits before beginning any building renovations and/or alterations; and*
- 6) Full compliance with all Municipal Codes and Ordinances.*

# LOCATOR MAP



APPLICATION NUMBER 5984 DATE August 3, 2015

APPLICANT Angel T. Bumpers

REQUEST Use Variance



# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

APPLICATION NUMBER 5984 DATE August 3, 2015

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REQUEST Use Variance

R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6





# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



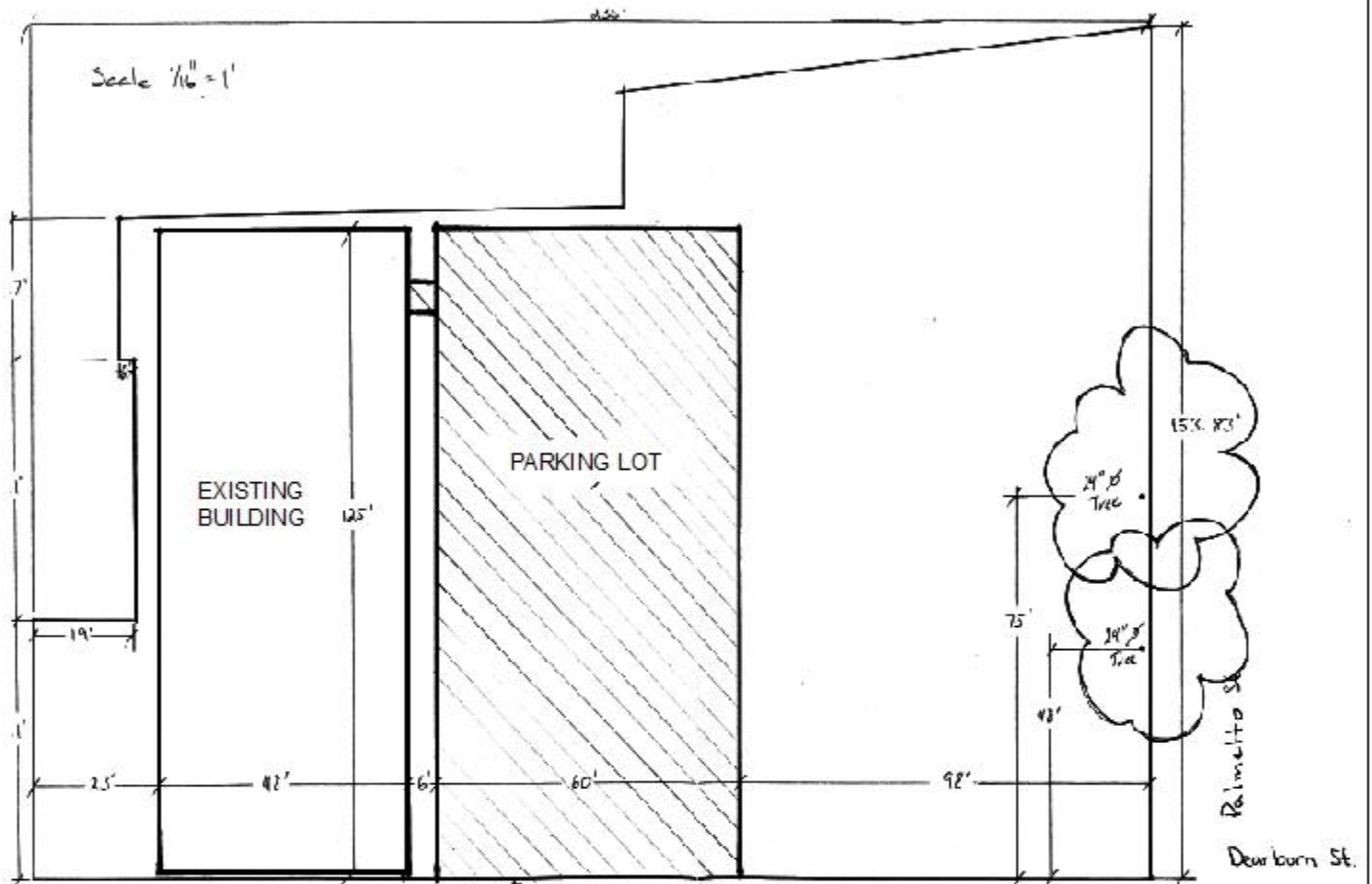
The site is surrounded by residential units.

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# SITE PLAN



The site plan illustrates the existing building, and parking lot.

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