

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 5, 2017****CASE NUMBER**

6111/5745/ 85

APPLICANT NAME

Hosseini Mohandessi

LOCATION

2600 Government Boulevard
(Northeast corner of Government Boulevard Service Road
and Merwina Avenue extending to the Southwest corner of
Government Boulevard Service Road and Kreitner Street)

VARIANCE REQUEST

USE: Use variance an automobile sales business in a B-2,
Neighborhood Business District.

FRONT SETBACK: Front setback variance to allow the
placement of a modular building within 5 feet of two
secondary street frontages.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance requires a minimum of a B-3,
Community Business District for automobile sales

FRONT SETBACK: The Zoning Ordinance requires a
setback of at least 20 feet along secondary street frontages

ZONING

B-2, Neighborhood Business

AREA OF PROPERTY

0.2 ± Acres

**ENGINEERING
COMMENTS**

No Comments.

**TRAFFIC ENGINEERING
COMMENTS**

Government Boulevard and its Service Road are ALDOT
maintained roadways. Proposed site plan does not illustrate
any proposed driveways for the site and should be
illustrated to accurately reflect the amount of space
available to display vehicles for sale. Additionally, a
vertical obstruction (i.e. curbing or low post/chain) should
be included to prohibit the encroachment of display
vehicles from the landscape area and the public right-of-
way.

Revised for the July 10th meeting: Government Boulevard and its Service Road are ALDOT maintained roadways and will require ALDOT permitting for improvements in their right-of-way in addition to required City permits. Site plan has been revised to include additional detail as requested at the previous meeting.

CITY COUNCIL
DISTRICT

District 5

ANALYSIS

The applicant is requesting a Use and Front Setback Variances to allow an automobile sales business in a B-2, Neighborhood Business District and the placement of a modular building within 5 feet of two secondary street frontages; the Zoning Ordinance requires a minimum of a B-3, Community Business District for automobile sales, and setback of at least 20 feet along secondary street frontages.

This site most recently appeared before the Board at the April 2, 2012 meeting with similar requests to allow an automobile sales business in a B-2, Neighborhood Business District, and construction of a building within 5 feet of both Kreitner Street property line and the Merwina Street property line. The variances were approved with the following conditions: “1. limited to eighteen parking spaces for display vehicles, 2. no vehicle hauler trucks allowed to off-load within the right-of-way, 3. full compliance with all other municipal codes and ordinances.”. A demolition permit was approved to remove the existing commercial building. Land Disturbance plans were also submitted, but were failed due to unmet conditions from the plan review. As no revisions were submitted, the BOA approval expired. The applicant now wishes to resubmit to allow for the use of the automobile sales business and the placement of the proposed modular building to be within the required building setbacks.

The applicant states the following reasons to explain the need for the variance:

“The purpose of this variance is to allow a modular building and parking to be constructed on the site for the purpose of selling automobiles. Variance is requested due to the building being larger than the minimum building setback lines on the recoded subdivision plat. Two parking spaces are required with three being provided. Open space parking for automobile display is also being provided. The property cannot be developed in compliance with the Zoning Ordinance due to the irregular shape and size of the lot. The size and shape of the lot occurred from the construction and widening of Government Boulevard. The entire area along Government Boulevard is zoned Business with many automobile sales lots in place. Development of the property with an automobile sales facility will be in keeping with the trend already in place.”

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.

Regarding setbacks, applying the site and the setback requirements from the rights-of-way on all sides of the property presents something of a hardship as it relates to the creation of buildable area. Therefore, some accommodation of a reduced setback along Merwina Avenue and Kreitner Street appears to be of merit (as the previous building actually encroached into the right-of-way).

Although the Board approved the previous request, that approval was based upon a revised detailed site plan. The current site plan submitted only depicts the proposed 12 x 36 feet (432 square feet) modular building, frontage trees and what appears to be 3 parking spaces. Staff needs to review a detailed site plan to ensure that sufficient parking spaces will be provided (including accessible) and that no additional variances will be required. The site plan should also identify the location of the proposed automobile inventory, abutting curbing, sidewalks, proposed curb-cuts, etc.

RECOMMENDATION:

USE: Based upon the preceding, the Use Variance is recommended for Holdover until the July 10, 2017 meeting with revisions due by June 19th for the following reasons:

- 1) revision of the site plan to indicate the parking/display area for vehicles for sale as well as depict sidewalks, curbs, and curb-cuts, etc.

FRONT SETBACK: Based upon the preceding, the Front Setback Variance is recommended for Holdover until the July 10, 2017 meeting with revisions due by June 19th for the following reasons:

- 1) revision of the site plan to indicate the parking/display area for vehicles for sale as well as depict sidewalks, curbs, and curb-cuts, etc.

Revised for the July 10th meeting:

This application was heldover from the June 5th meeting so that the applicant could provide the following:

- 1) Revision of the site plan to indicate the parking/display area for vehicles for sale as well as depict sidewalks, curbs, and curb-cuts, etc.*

The applicant has submitted a revised site plan that clearly depicts the proposed layout of the site which includes the location of the building, total number of parking spaces for the vehicular inventory, staff parking, sidewalks, and the closing of multiple existing curb-cuts. The revised site plan provided appears to address staff's previous concerns, and appears to be similar to the previous site plan approved by the Board in 2012.

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

- 1) Based on the fact that the previous existing building actually encroached into the right-of-way and the newly proposed building location is setback further than the previous location, the variance will not be contrary to the public interest;*
- 2) Special conditions exist with the size, shape, and required setbacks associated with the property such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that the subject business would be an improvement to the site and the surrounding area.*

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) limited to ten (10) parking spaces for display vehicles;*
- 2) no vehicle hauler trucks allowed to off-load within the right-of-way; and*
- 3) full compliance with all other municipal codes and ordinances.*

LOCATOR MAP



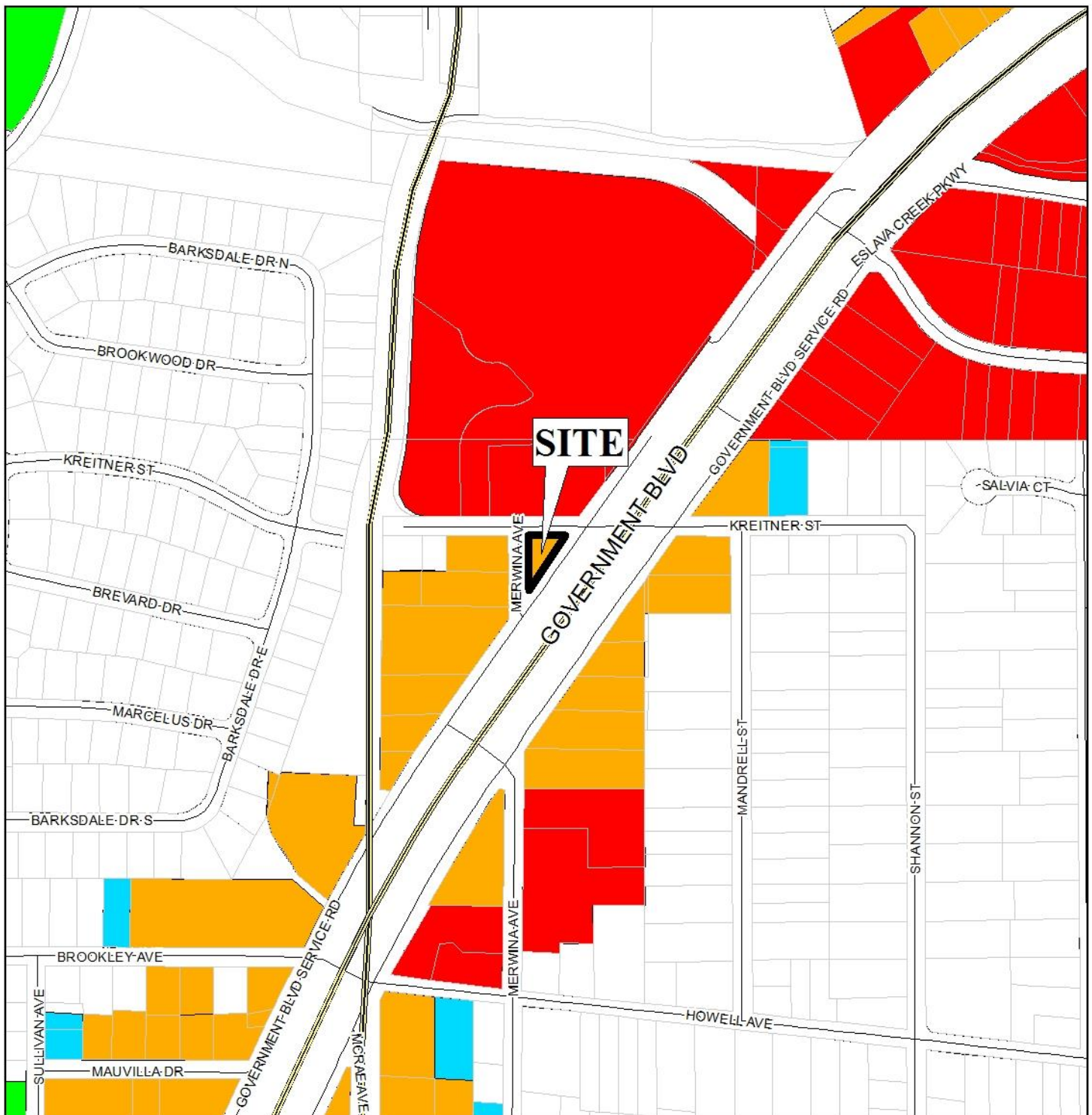
APPLICATION NUMBER 6111 DATE July 10, 2017

APPLICANT Hossein Mohandessi

REQUEST Use and Front Setback Variances



LOCATOR ZONING MAP



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REQUEST Use and Front Setback Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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REQUEST Use and Front Setback Variances

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 AERIAL



The site is surrounded by commercial units.

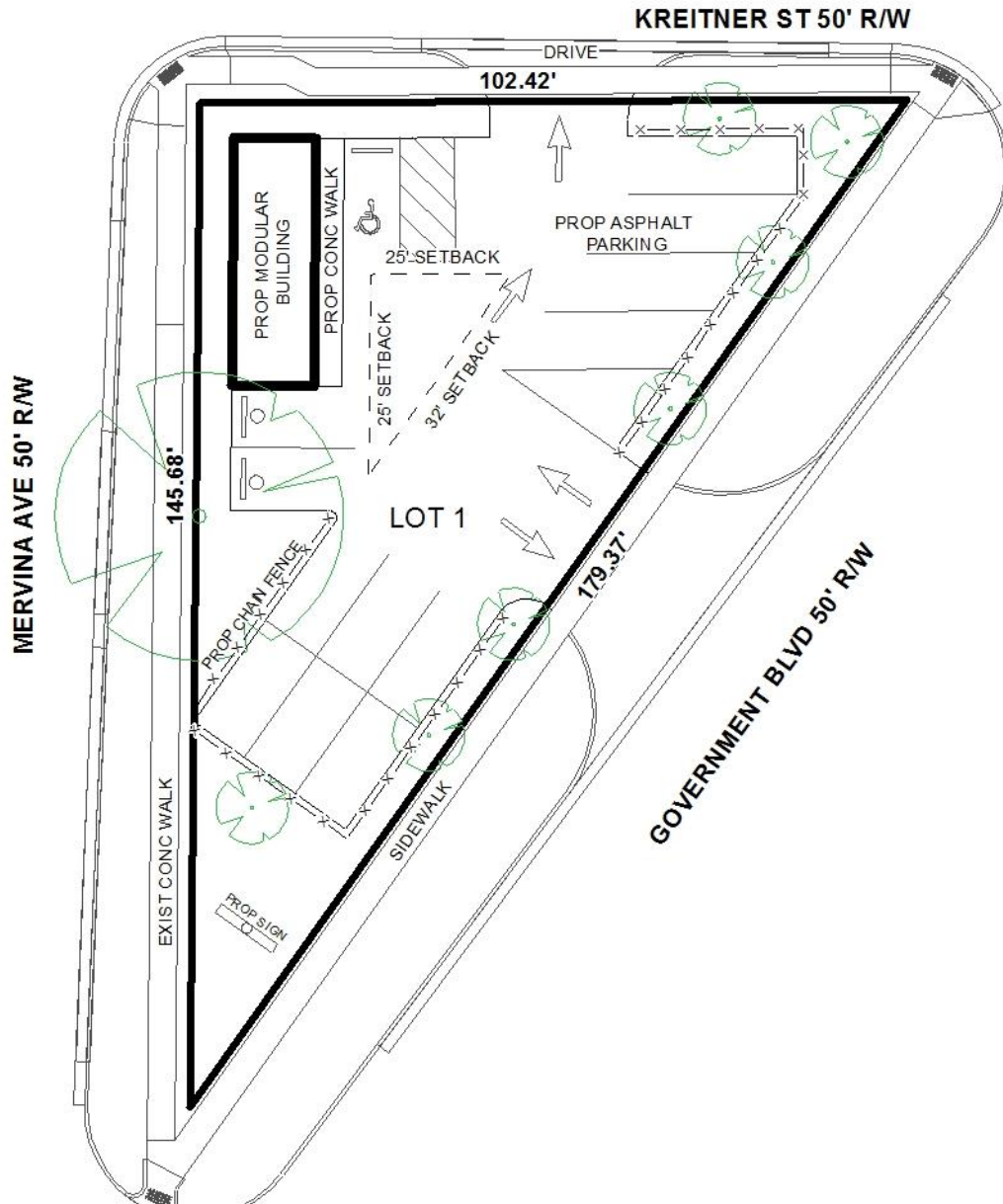
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SITE PLAN



The site plan illustrates the proposed modular building, proposed parking, fences, walks, and setbacks.

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NTS

