

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: November 5, 2012**

<b><u>CASE NUMBER</u></b>	5791
<b><u>APPLICANT NAME</u></b>	Richardson, Inc. (M. Don Williams, Agent)
<b><u>LOCATION</u></b>	422 Azalea Road (West side of Azalea Road, 195'± South of Springdale Road)
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> Use Variance to allow light warehousing in an LB-2, Limited Neighborhood Business District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> The Zoning Ordinance requires a minimum B-3, Community Business District, for light warehousing.
<b><u>ZONING</u></b>	LB-2, Limited Neighborhood Business
<b><u>AREA OF PROPERTY</u></b>	1.3± Acres
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments.
<b><u>CITY COUNCIL DISTRICT</u></b>	District 5
<b><u>ANALYSIS</u></b>	The applicant is requesting a Use Variance to allow light warehousing in an LB-2, Light Neighborhood Business District; the Zoning Ordinance requires a minimum B-3, Community Business District, for light warehousing.

The subject property was rezoned in 2004 from B-1, Buffer Business District, to its current LB-2, to allow an interior decorating shop. LB-2 districts are intended to allow limited activities in lieu of what would normally be allowed in a B-2, Neighborhood Business District, especially in locations abutting residential areas, by prohibiting certain commercial uses. The applicant proposes to convert the use of the existing 6,000 square-foot building to offices for his area car wash businesses and plans were submitted for permitting review for such. However, only 2,000 square feet are indicated to be for office space and the remaining 4,000 square feet are proposed to be warehousing for distribution of soaps and spare parts for the car wash sites. There is also a proposed 1,250 square-foot expansion of the building for additional warehousing space. Since the proposed warehousing space is more than twice the proposed office space, the primary use of the building would be considered for warehousing, and the plan review was subsequently failed

by the Planning Section. The applicant now seeks a Use Variance to allow the warehousing operation, hence this application.

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.

The building was originally used as a florist shop and the applicant states that the front half was devoted to retail sales and business offices for such and the rear half was devoted to flower and decorative storage. That business operated in a nonconforming manner in a B-1 District, and the right of nonconforming use continuance expired after the site was vacant for four years following a fire in 2000. In 2004, the site was rezoned to its current LB-2 for the proposed interior decorator shop, but that project never came to fruition due to economic conditions. The applicant argues that there would presumably have been at least 50% of the floor plan devoted to storage of residential furniture, carpets, lighting fixtures, etc., to be used on job sites. But as no plan submittals are indicated within the Permitting database, no record exists of the interior space use proposed for that operation. Besides, a condition of the rezoning was “full compliance with all municipal codes and ordinances” which would potentially not allowed for up to one-half space utilization as warehousing.

The applicant states that the in-building storage is for his business use only and not for distribution to other entities and that this should not be considered as light warehousing as determined by the Planning staff. It is further stated that there will be no warehouse employees and incoming supplies will be delivered by truck once or twice a week. The business proposes to base a 16’ box truck on the site for service calls and is not expected to run daily.

Previous nonconforming use and un-permitted interior modifications, if any, into a non-compliant status would have no legitimate bearing upon the allowance of the proposed warehousing. Also, LB-2 does not allow for the proposed storage of commercial vehicles such as the 16’ box truck. And as the rezoning to LB-2 was specifically conditioned upon full compliance with all municipal codes and ordinances, the allowance of the warehousing operation would not be in keeping with the spirit and intent of the Zoning Ordinance and the Board should consider this application for denial.

**RECOMMENDATION:**

Based on the preceding, this application is recommended

for denial.

## LOCATOR MAP



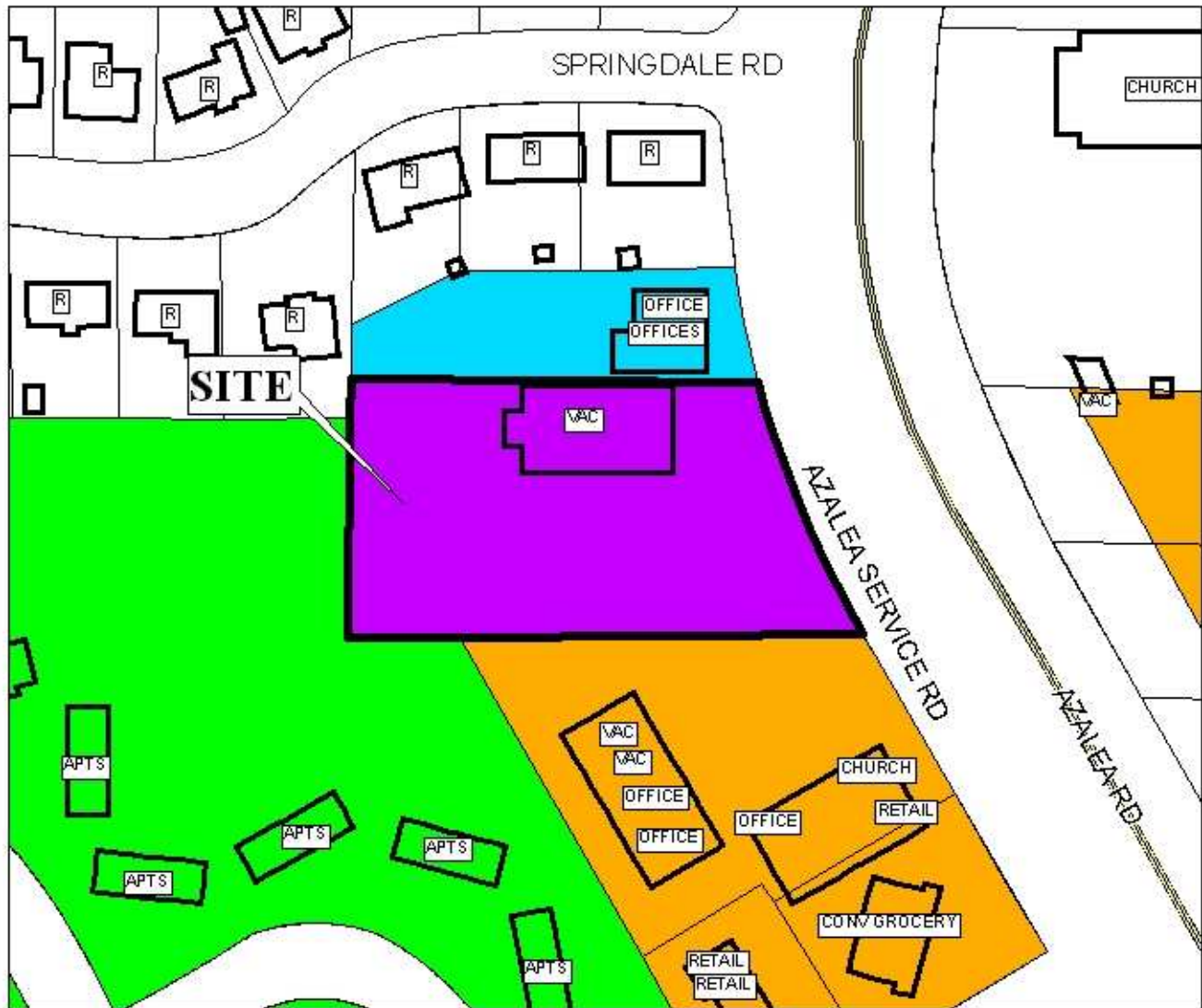
APPLICATION NUMBER 5791 DATE November 5, 2012

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REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

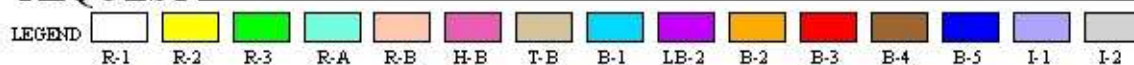


Offices are located to the north of the site. Offices and retail stores are located to the south of the site. An apartment complex is located to the west of the site.

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REQUEST Use Variance



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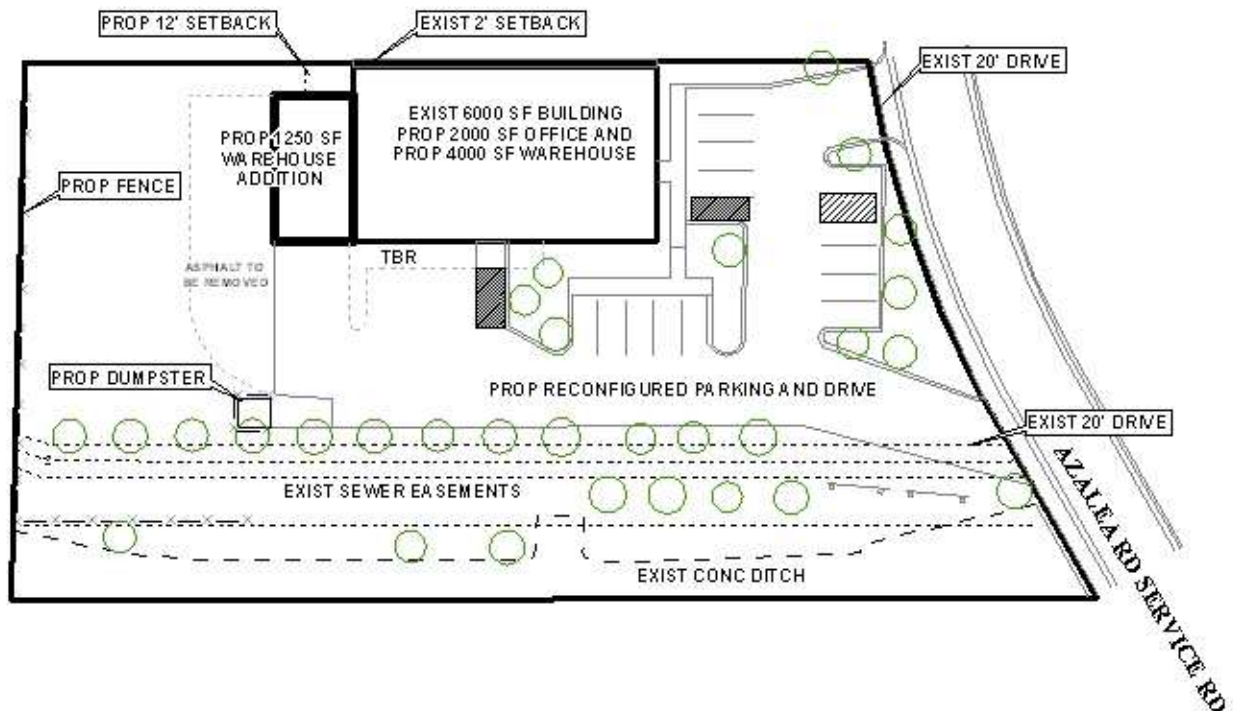


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## SITE PLAN



The site plan illustrates the proposed improvements.

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