

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 5, 2011****CASE NUMBER**

5726

APPLICANT NAME

New Hope Baptist Church

LOCATION

1270 & 1272 Pecan Street, 608 Live Oak Street, 1261 & 1263 Persimmon Street
(Northeast corner of Pecan Street and Live Oak Street extending to the Southeast corner of Pecan Street and Persimmon Street).

VARIANCE REQUEST

TREE PLANTING: Reduce the number of Frontage Heritage Trees required to one (1) on Pecan Street and four (4) on Live Oak Street.

**ZONING ORDINANCE
REQUIREMENT**

TREE PLANTING: A total of two (2) Frontage Heritage Trees are required along Pecan Street and ten (10) Frontage Heritage Trees along Live Oak Street.

ZONING

R-2, Two-Family Residential District

AREA OF PROPERTY

3.4 Acres ±

**TRAFFIC ENGINEERING
COMMENTS**

None received.

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting a Tree Planting Variance to reduce the number of Frontage Heritage Trees required for a church in a R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of one frontage heritage tree per 30 linear feet of street frontage for a church in an R-1, Single-Family Residential District.

The applicant wishes to construct a 246-seat sanctuary addition, as well as offices and classrooms, to an existing non-conforming church building. The applicant has requested Subdivision, Planned Unit Development, and Planning approvals for the church addition from the Mobile City Planning Commission. Part of the Planned Unit Development request is a request to reduce the setback along Live Oak Street to 8 feet. These requests were heldover by the Planning Commission to their December 15, 2011, meeting. It should be noted that staff has

recommended denial of both the PUD and the Planning Approval due to problems with the site plan and potential overdevelopment of the site.

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 applicant states that due to location of the existing church building and the location and size of the required driveway, that they are unable to provide the required frontage trees. It should be noted that all required perimeter trees and parking lot trees are shown to be provided.

Along Live Oak Street, there is sufficient room to plant the required trees. The applicant is providing four (4) trees, and six (6) more are required. There is an 8.5-foot strip of land between the property line and the proposed building wall that is 140 feet long, which provides an area large enough that the six trees could be planted in. Although not stated in the narrative, the applicant has verbally stated that they do not believe the 8.5-foot wide strip would be adequate for Live Oak Trees (required due to overhead power lines). Live Oaks Trees have been planted with less space, and, indeed, Live Oaks are shown with less than 8.5-feet on the same plan. Regardless of that fact, the 8.5-foot limitation is based on the applicant's site plan, and, as mentioned by staff to the Planning Commission, it may mean that the site is being proposed for overdevelopment.

The potential overdevelopment issue is also apparent with the Pecan Street frontage. Due to the location of a required parking space, driveways, and the existing non-conforming church building, there is only one frontage tree proposed to be provided. Again, this lack of space is a function of the applicant's site plan, which may indicate that the site is being proposed for overdevelopment, and thus, any hardship would be self-imposed.

Based upon the preceding, the application is recommended for denial.

