

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: May 7, 2012****CASE NUMBER**

5748/5627/3332

**APPLICANT NAME**

Vincent Boothe

**LOCATION**

1514 South Broad Street  
(West side of South Broad Street, 200'± South of Sutton Avenue, extending to Lucille Street [unopened right-of-way])

**VARIANCE REQUEST**

**SETBACK:** Front Yard Setback Variance to allow a doorway awning within 15' of the front property line in a B-5, Office-Distribution District.

**VEHICLE STACKING AREA:** Vehicle Stacking Area Variance to allow a driveway gate with a 37' vehicle stacking area in a B-5 Office-Distribution District.

**ZONING ORDINANCE  
REQUIREMENT**

**SETBACK:** Zoning Ordinance requires a 25' minimum front yard setback for building structures in a B-5 Office-Distribution District.

**VEHICLE STACKING AREA:** Zoning Ordinance requires a 51' vehicle stacking area in a B-5, Office-Distribution District.

**ZONING**

B-5, Office-Distribution District

**AREA OF PROPERTY**

3.46 ± acres

**TRAFFIC ENGINEERING  
COMMENTS**

No Comments

**CITY COUNCIL  
DISTRICT**

District 3

**ANALYSIS**

The applicant is requesting Front Yard Setback and Vehicle Stacking Area Variances to amend a previous variance to allow a doorway awning within 15' of the front property line, and a driveway gate with a 37' vehicle stacking area in a B-5, Office-Distribution District; the Zoning Ordinance requires a 25' minimum front yard setback for building structures, and requires a 51' vehicle stacking area in a B-5 Office-Distribution District.

The site came to the Planning Commission on February 5, 2009 as part of a 2-lot subdivision and a rezoning from R-1, Single-Family Residential and B-3, Community Business District to I-1, Light Industry District. Both applications were approved, but the subdivision was not recorded. The applicant then submitted a 1-lot subdivision that increased the size of the previously proposed lot, and was approved by the Planning Commission at its March 4, 2010 meeting. At the Planning Commission's September 2, 2010 meeting the applicant revised the 1-lot subdivision to remove a portion of the Lucille Street right-of-way to the South of the site when the applicant failed to have it vacated, as well as another rezoning request since the 2009 approval had expired. The Planning Commission approved the subdivision and the rezoning, with the site to be rezoned as B-5, Office-Distribution District. The subdivision was recorded on November 2, 2010, and the conditions of approval for the rezoning were all met.

The recorded 2010 subdivision required a dedication to be made to the City of Mobile to provide 50' of right-of-way from the centerline along South Broad Street, resulting in a portion of the existing structure being located in the new 25' front building setback. The applicant also had a variance approved by the Board of Zoning Adjustment at its September 13, 2010 meeting to allow frontage landscaping and portions of the front parking access/maneuvering area to be located within a dedicated right-of-way.

Since that time, the applicant has installed an awning over the front door, which is the portion of the building that occupies the 25' front building setback. The applicant did not obtain a permit for the awning, and was aware that the existing structure already did not meet setback requirements. If a building permit had been applied for as required, the applicant would have been told that the location of the awning would not be allowed.

During final inspections to obtain the building's certificate of occupancy, it was determined that the awning had been placed in the right-of-way without proper approvals, and that the primary parking area and entrance gate on the South portion of the site was not as it was depicted on the approved site plan of the 2010 variance. The approved plan illustrated the gate being located a compliant 51' from the right-of-way line; however, when the parking area was developed, it was shifted towards the front of the property, resulting in the gate being 37' from the right-of-way line.

Also, upon reviewing the submitted site plan, there are two other discrepancies. The only fence depicted on the 2010 approved site plan was to the South of the main parking area as well as along the entrance to the main parking area. The current site plan illustrates a chain link fence depicted around all parking areas with a note stating that the fence is topped with barbed wire. No permits have been obtained for the additional fence or the barbed wire, and the applicant should obtain a permit for the fencing and either remove the barbed wire or receive the necessary permit.

Pictures of the site taken by staff on September 14, 2011 show that a dumpster was located in the main parking area, and blocked a parking space. It should also be noted that the dumpster was not properly connected to sanitary sewer, nor was it properly screened. There is a note on the submitted site plan stating that curb side trash pick up will be used, so it is unclear why the dumpster was at the site. If a dumpster will be utilized, the site plan should be revised to

illustrate a location that does not block a parking space, is connected to sanitary sewer, and is properly screened with a 6' high privacy fence or wall, and provides adequate access and maneuvering area.

In the same set of photos taken by staff on September 14, 2011, a "for lease" sign was observed by the roadside. Since the current tenant only occupies a portion of the existing building, it is possible that an additional tenant could occupy the remainder of the building. The site currently provides 49 parking spaces for the current usage which requires 25 parking spaces. Any future uses that result in parking requirements in excess of what the site currently provides will require additional paved parking to be provided, or a new variance to be applied for and approved since variances are site plan specific.

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.

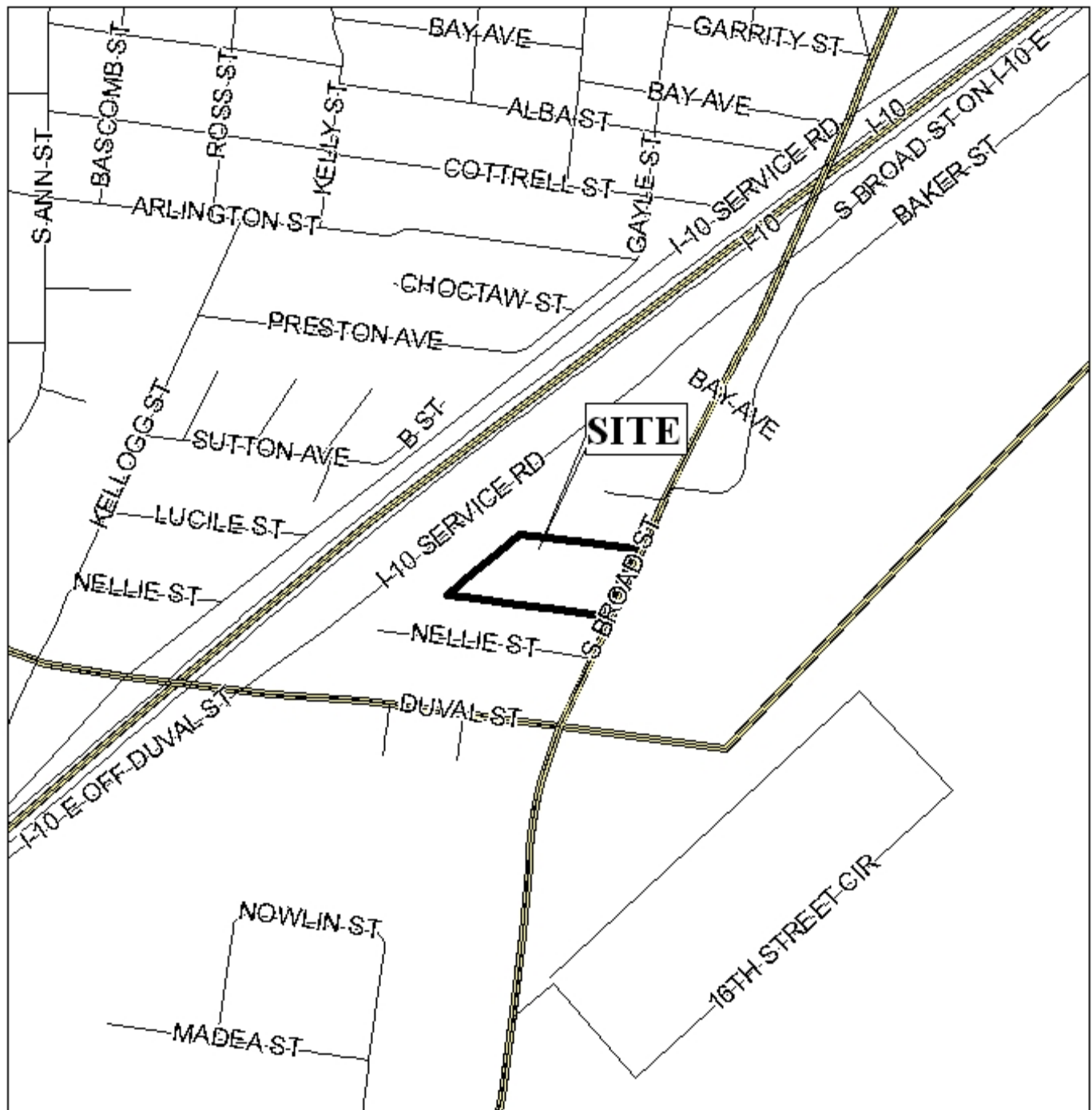
The applicant has failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. The applicant was aware of front building setback issues at the time of the variance application in 2010, and installed a non-compliant awning in the setback without proper approvals. The existing location of the main parking area and the gate vary from the approved site plan. If the site had been developed according to the approved plan, there would be adequate queuing spaces available. The applicant has shown a disregard for the Zoning Ordinance requirements by not developing the site according to approved plans.

**RECOMMENDATION:**

Based on the preceding, this application is recommended

for denial.

## LOCATOR MAP



APPLICATION NUMBER 5748/5627/3332 DATE May 7, 2012

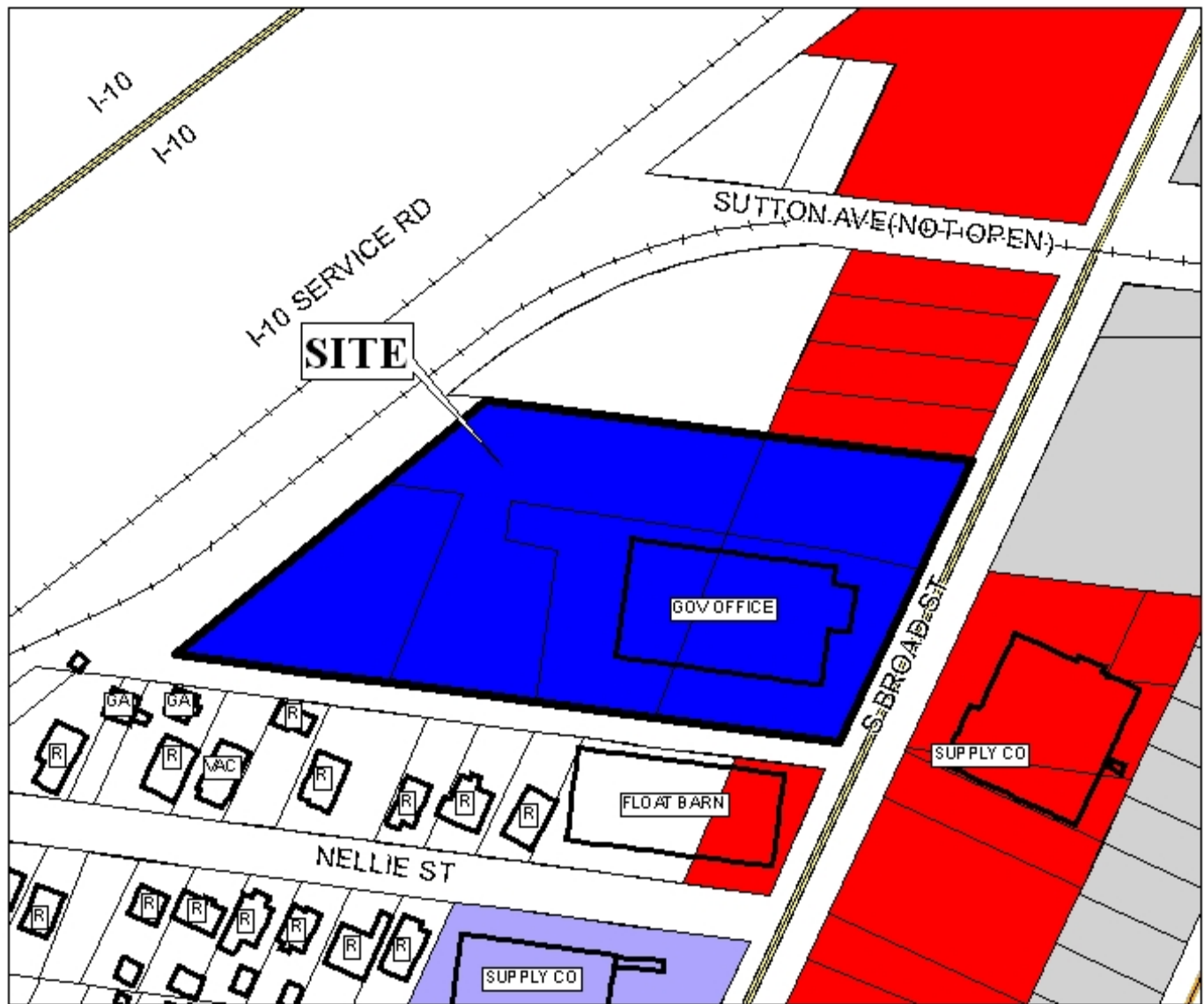
APPLICANT Vincent Boothe

REQUEST Front Yard Setback and Vehicle Stacking Area Variances



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Single family residential units, commercial sites, and industrial sites are located to the south and east of the site.

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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
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NTS



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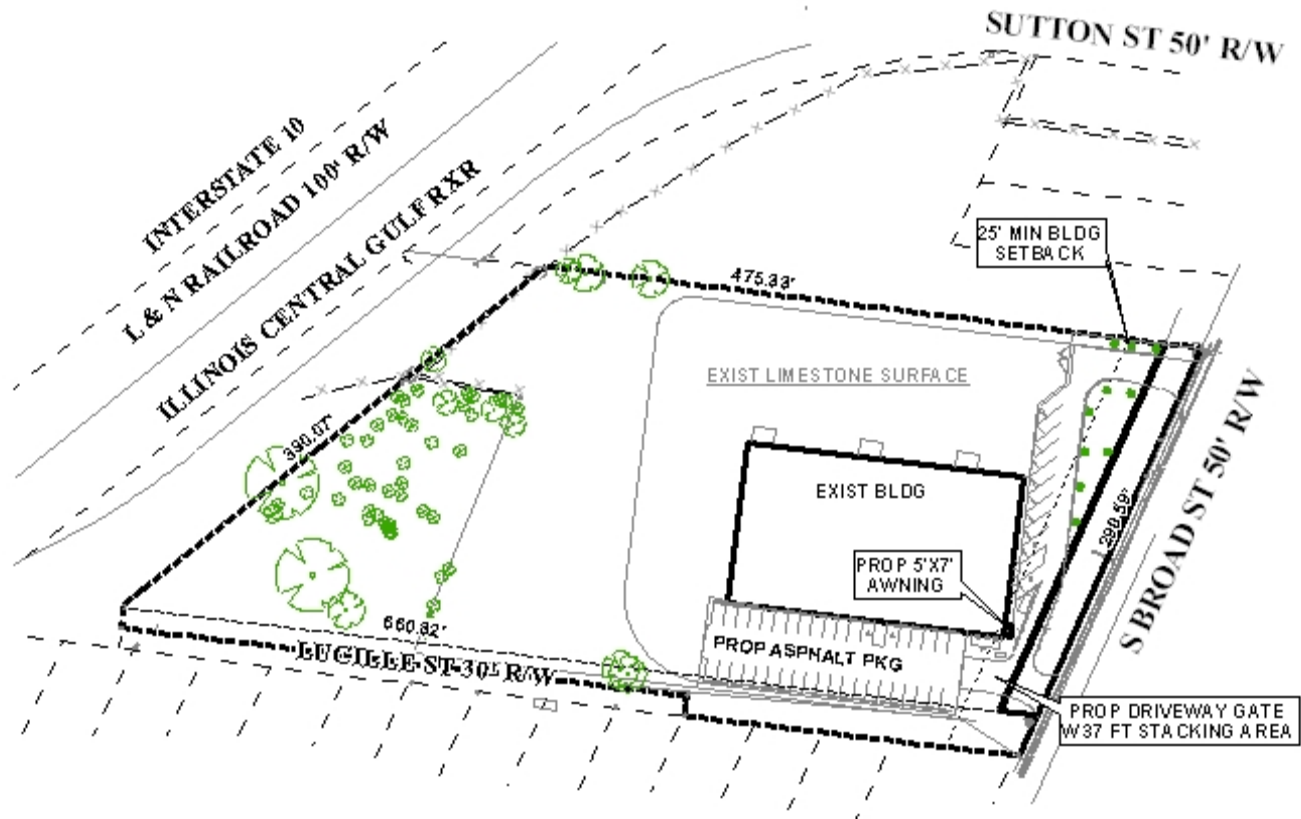


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# SITE PLAN



The site plan illustrates the proposed awning and vehicle stacking area.

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