

APPLICATION NUMBER

5621

A REQUEST FOR

**MANEUVERING VARIANCE TO ALLOW THE
CONSTRUCTION OF A ONE WAY ACCESS WAY
COMPOSED OF TWO 18-INCH WIDE ASPHALT STRIPS
WITH A 4-FOOT WIDE GRASS STRIP IN BETWEEN
THEM WITH A TOTAL ACCESS WAY WIDTH OF 7
FEET; THE ZONING ORDINANCE REQUIRES A
CONTINUOUS WIDTH OF 12 FEET OF ASPHALT,
CONCRETE, ASPHALTIC CONCRETE, OR AN
APPROVED ALTERNATIVE PARKING SURFACE FOR A
ONE-WAY ACCESS WAY IN A B-3, COMMUNITY
BUSINESS DISTRICT.**

LOCATED AT

2908 SPRINGHILL AVENUE

(Northeast corner of Springhill Avenue and Union Avenue).

APPLICANT

MYMS, Inc.

BOARD OF ZONING ADJUSTMENT

JUNE 2010

The applicant is requesting a Maneuvering Variance to allow the construction of a one way access way composed of two 18-inch wide asphalt strips with a 4-foot wide grass strip in between them with a total access way width of 7 feet; the Zoning Ordinance requires a continuous width of 12 feet of asphalt, concrete, asphaltic concrete, or an approved alternative parking surface for a one-way access way in a B-3, Community Business District.

This site was redeveloped beginning in March, 2009, and completed with the Certificate of Occupancy being issued in August, 2009. The site was designed with a parking lot on the South side of the property to be accessed from Springhill Avenue, and a parking lot on the North side of the property to be accessed from Union Avenue. Additionally, the Union Avenue parking lot shares access with the parcel to the East, for which a Planned Unit Development application was approved. There was no connection for the North and South parking lots noted in the original approvals.

The applicant states now that because of the difficulty of exiting onto Springhill Avenue from the Southern parking lot, customers have begun driving over the required landscaping area to access the Northern parking lot and exit onto Union Avenue and access Springhill Avenue at the signal-controlled intersection. This situation is in violation of Section 64-4.E.3.d. of the Zoning Ordinance which requires all landscaped areas to be maintained at all times.

The applicant now wishes to construct a one-way accessway consisting of two (2) 18-inch wide asphalt strips with a 4-foot wide grass median. The total width of the accessway would be seven (7) feet. One-way accessways require a minimum of 12 feet of continuous width of asphalt, concrete, asphaltic concrete, or an approved alternative paving surface.

Ribbon driveways are not allowed in commercial districts for several reasons including possible erosion of landscaping areas due to vehicle wear, possible creation of mud during rain from vehicle wear, and also possible water ponding.

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.

While the applicant has stated that there is a hardship on the site involving entering and exiting the site from Springhill Avenue, the variance request is for accessway width. The applicant has provided no justification that a hardship exists that would preclude the construction of an accessway of adequate width. Further, calculations by staff indicate that an accessway of adequate 12-foot width could be constructed on the property without causing the site to fall below required parking ratio or required landscaping area. The applicant would need only to obtain approvals from the Planning Commission for a modification of the Planned Unit Development. Further, the applicant could also revise the existing Planned Unit Development to access the rear parking lot via the adjacent parcel, as shared access between the two parcels already exists, and is allowed by Planned Unit Development.

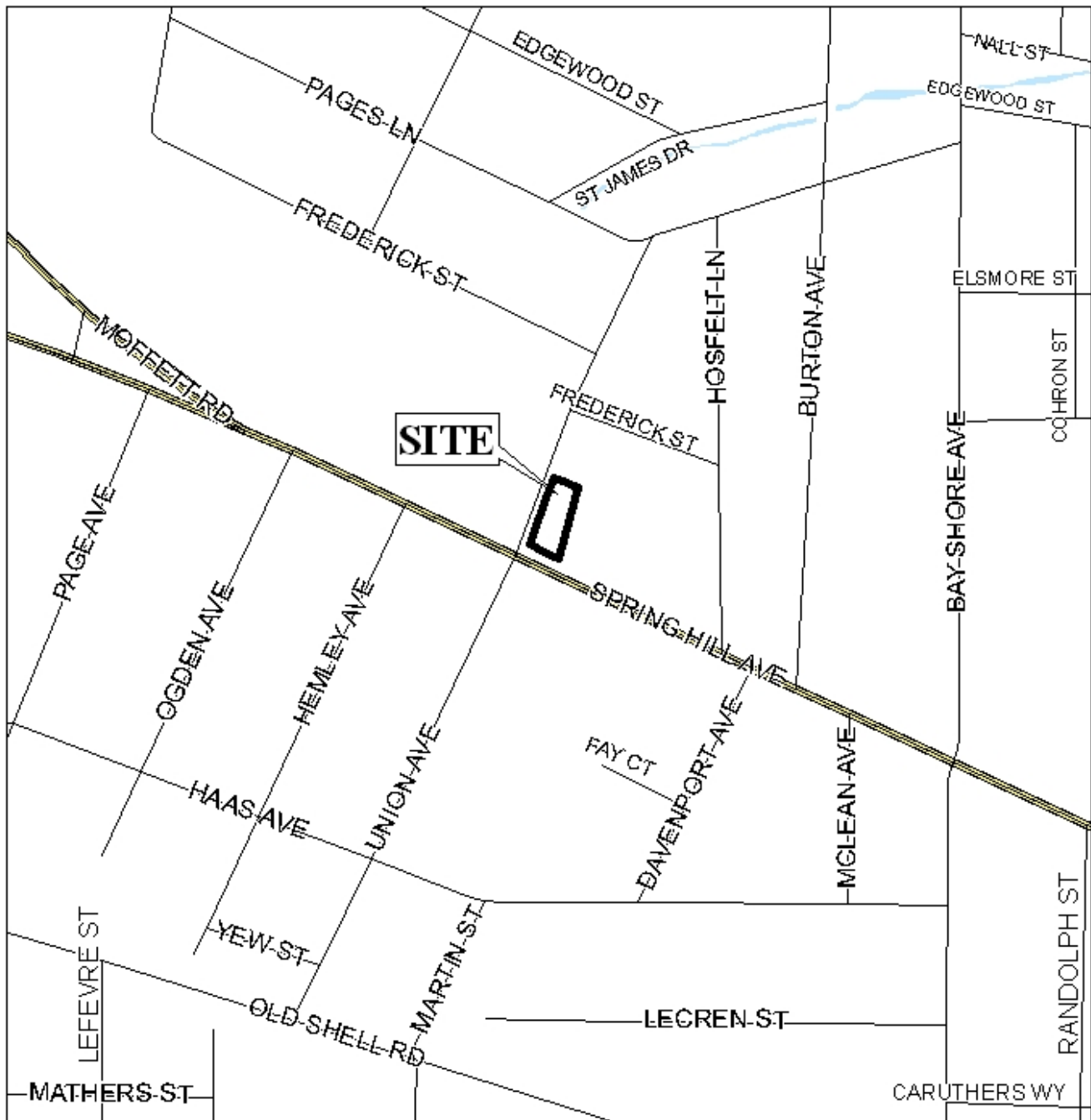
Given these facts, granting of a variance would not appear to be appropriate as any perceived hardship of access from Spring Hill Avenue is the result of design issues that should have been considered prior to development and, as such, any perceived hardship would be self-imposed. It should be noted that Planning Commission approval will be required regardless of obtaining a variance or not.

RECOMMENDATION 5621

Date: June 7, 2010

The variance request is recommended for denial.

LOCATOR MAP



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APPLICANT MYMS, Inc.
REQUEST Maneuvering Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



There is a restaurant to the east of the site, a convenience store to the south, retail to the west and a warehouse to the north.

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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 NTS



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

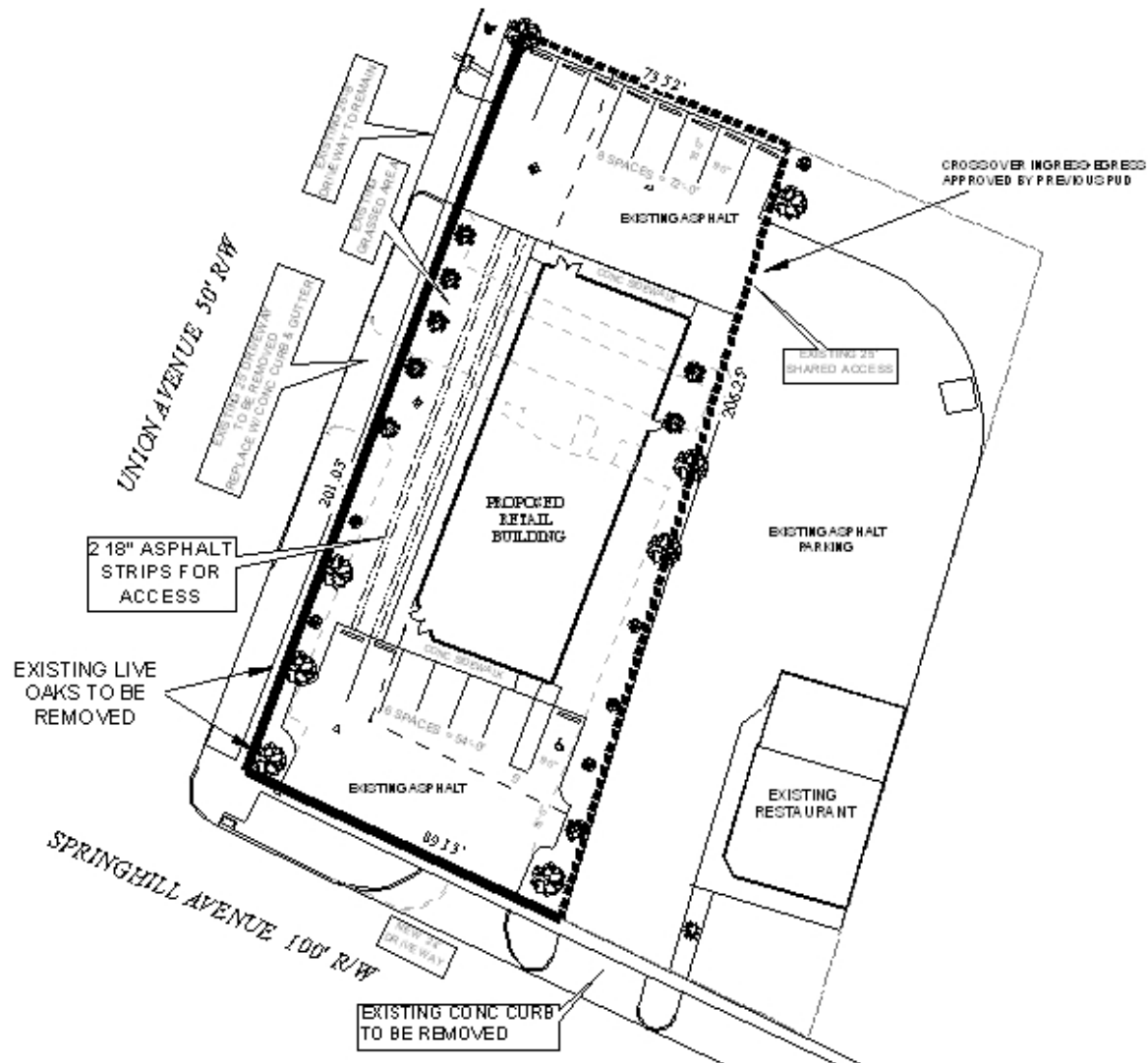


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NTS

SITE PLAN



The site plan illustrates the existing parking and drives and the proposed access.

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