

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 1, 2014**

<u>CASE NUMBER</u>	5936
<u>APPLICANT NAME</u>	Caracher Small Jr.
<u>LOCATION</u>	953 Marine Street (Southeast corner of Marine Street and Kentucky Street)
<u>VARIANCE REQUEST</u>	USE: To allow a reception hall associated with an adjacent funeral home in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow a reception hall in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential District
<u>AREA OF PROPERTY</u>	1.2± acres
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	With the restriction of use to be only associated with the adjacent mortuary service, no additional traffic impacts anticipated by this variance request.
<u>FIRE DEPARTMENT COMMENTS</u>	All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.
<u>CITY COUNCIL DISTRICT</u>	District 3
<u>ANALYSIS</u>	The applicant is requesting a Use Variance to allow a reception hall associated with an adjacent funeral home in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow a reception hall in an R-1, Single-Family Residential District.

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.

Applicant's statement: *The applicant is proposing to remove an existing dwelling that is in poor condition and construct a new 2250 sf building that will be used as a repast center. The repast center will only be used in conjunction with his funeral services and will not be rented for other events. Its use will average 1 to 2 times a week and the hours of operation will not extend past 8:00 P.M. The normal attendance averages 75 visitors with a maximum of 100.*

The interior floor plan of the building will consist of bathrooms and a warming center along a wall. The warming center will have cabinetry to provide a sink and electrical outlets to reheat and keep food items warm that are brought to the center. Food preparation will not be allowed. All chairs and tables will be movable to be arranged in any configuration that the family desires.

The Board of Adjustment approved the applicant's request to construct the adjacent parking facility to be used with his mortuary located at 950 S. Broad Street. The applicant's residence is located next door to the proposed repast center so he will be aware of all functions. The construction and use of this building is very similar to a fellowship hall that is associated with a church and churches are allowed in an R-1 zoning district.

It should be pointed out that contrary to the applicant's claim, churches and related activities are not allowed by right and require Planning Approval from the Planning Commission for approval. This site is currently before the Commission as the applicant has also requested Subdivision approval to create 2 legal lots of record and Planned Unit Development approval for shared access and multiple buildings on a site.

The site most recently appeared before the Board of Zoning Adjustment at its July 11, 2011 meeting where the Board approved a Use Variance request to allow a commercial overflow parking lot in an R-1, Single-Family Residential District. There was, however, neighborhood concern over the overflow parking and associated traffic, which was a result of the applicant's mortuary business which abuts this site. With this in mind, Staff has additional concern that the proposed repast center could generate excessive traffic which may compromise the integrity of the single-family residential character of the neighborhood.

Although the applicant did not appear to address any specific hardship on the property for this request, the existing lot is noticeably commercial in nature due to the previously approved 38-space asphalt parking lot and, as such, the re-use of the site for any type of residential purpose is

highly unlikely. This special condition would appear to make the literal enforcement of the R-1 district regulations a hardship to this property.

The 38 existing parking spaces would appear to be sufficient with regards to the building's proposed size and number of seats; however, the site plan does not appear to illustrate any accessible parking spaces or routes and, although the Planning Section does not enforce accessible parking or ADA, certain aspects of ADA do impact site design. As such, the revised site plan and building plans should depict a compliant number of accessible spaces and design compliance with the requirements of the ADA, in accordance to the applicable building code section 1106 (and 2010 ADA Standards for Accessible Design).

The site plan does not illustrate the location of a dumpster or a note referencing curb-side pickup. Photos of the site from June 2014 show a dumpster located in a landscape area, with the tree trees originally planted in the landscape area no longer present. Use of a dumpster requires the construction of a dumpster pad with enclosure connected to sanitary sewer, and the location of the pad must meet all side and rear yard setbacks. The site plan should be revised to illustrate the location of a dumpster in compliance with Section 64-4.D.9. of the Zoning Ordinance.

Tree and landscaping calculations appear compliant; however, the site plan illustrates 3 proposed trees in the southwest corner of the site, adjacent to a utility pole: these trees no longer are present due to the previously mentioned dumpster. Full tree and landscaping compliance will be required if the use variance request is approved.

The applicant should also be aware that any new lighting on the site will have to comply with the requirements of Sections 64-4.A.2., 64-6.A.3.c., and 64-6.A.8. of the Zoning Ordinance. It appears that there is an unshielded floodlight mounted on a utility pole in the Marine Street right-of-way, shining into the parking area: this existing flood light does not comply with the previous lighting requirements of the Zoning Ordinance in that likely casts light onto the adjacent residence to the south. Existing lighting should be modified with shields and/or redirection so as to not shine onto adjacent residential property. Any new lighting must comply with the requirements of the Zoning Ordinance.

Should the Board wish to consider approval of the proposed repast center, it is recommended that it be subject to conditions regarding the hours of operation, number of operating days per week, use of facility to be limited to the adjacent mortuary business, and the provision of necessary waste disposal facilities, as such conditions would aim to protect the public interest and maintain the spirit of the Zoning Ordinance.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for approval:

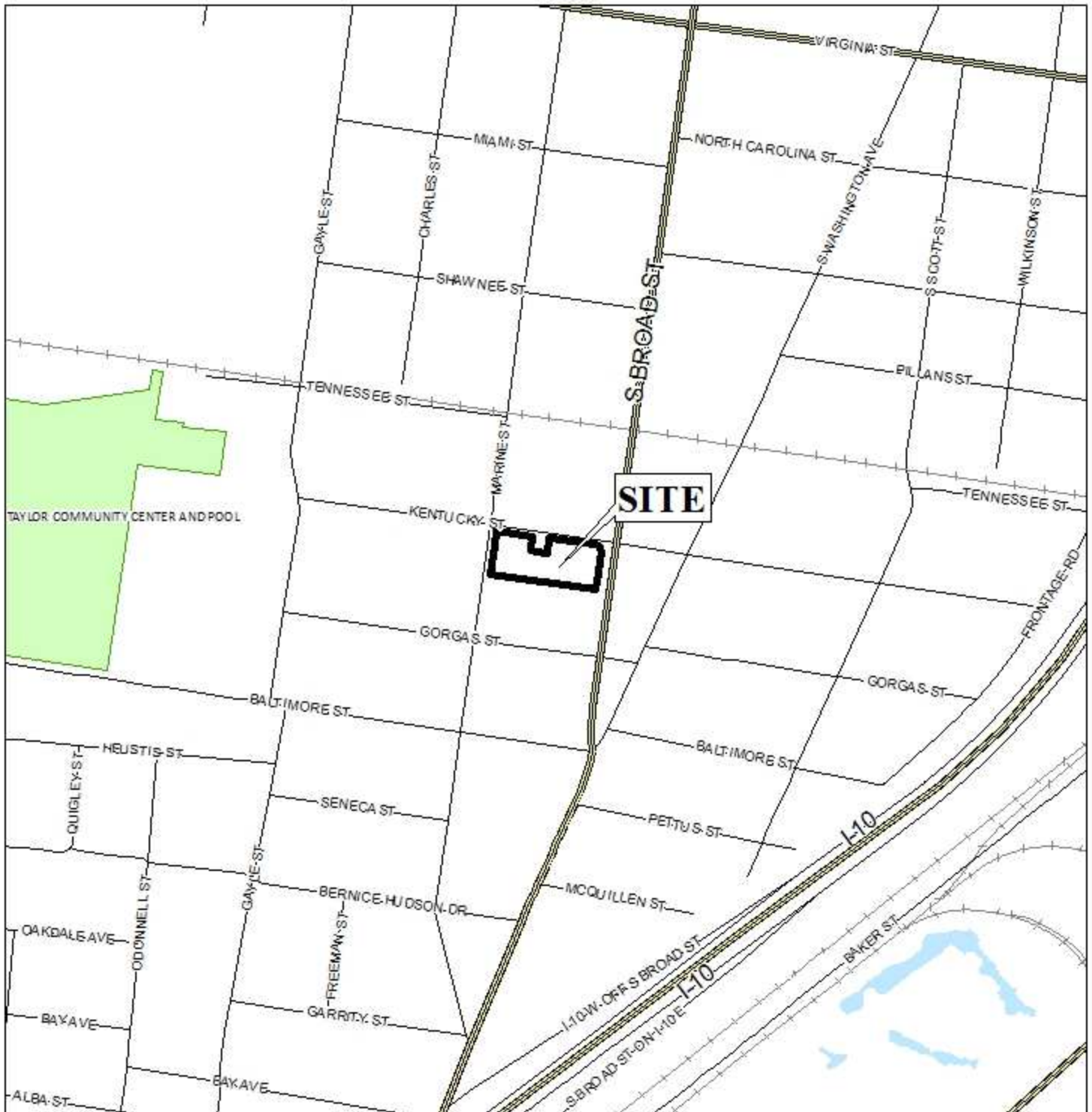
- 1) Approving the variance request will not be contrary to the public interest given the commercial nature of the site and if precautions are undertaken to limit the hours of operation and number of operating days per week;

- 2) Special conditions appear to exist, including the current site conditions and R-1 zoning, 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 with the provision of necessary waste disposal facilities.

The approval is subject to the following conditions:

- 1) Use of the facility to be limited only to the adjacent mortuary business;
- 2) Hours of operation not to exceed 8:00 P.M.;
- 3) Facility's use to be limited to a maximum 3 days per week;
- 4) Full compliance with the dumpster requirements in Section 64-4.D.9. of the Zoning Ordinance, or removal of the dumpster from the site;
- 5) Provision of a compliant tree and landscape plan at time of any land disturbance request for the facility;
- 6) Revision of the site plan to illustrate to depict a compliant number of accessible spaces adjacent to the proposed facility, and design compliance with the requirements of the ADA, in accordance to the applicable building code section 1106 (and 2010 ADA Standards for Accessible Design);
- 7) Modification of existing site lighting, through redirection and/or shielding, to not shine onto any adjacent residences;
- 8) All new lighting on the site to comply with the requirements of Sections 64-4.A.2., 64-6.A.3.c., and 64-6.A.8. of the Zoning Ordinance;
- 9) Compliance with Traffic Engineering comments: *(With the restriction of use to be only associated with the adjacent mortuary service, no additional traffic impacts anticipated by this variance request.);*
- 10) Compliance with Fire Department comments: *(All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.);*
- 11) Obtainment of a demolition permit for the removal of the structure, prior to any requests for new construction;
- 12) Submission of a revised site plan to the Planning Division of the Urban Development Department; and
- 13) Full compliance with building and fire codes.

LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the north and west.
Commercial units lie to the southeast.

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REQUEST Use Variance

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 ZONING

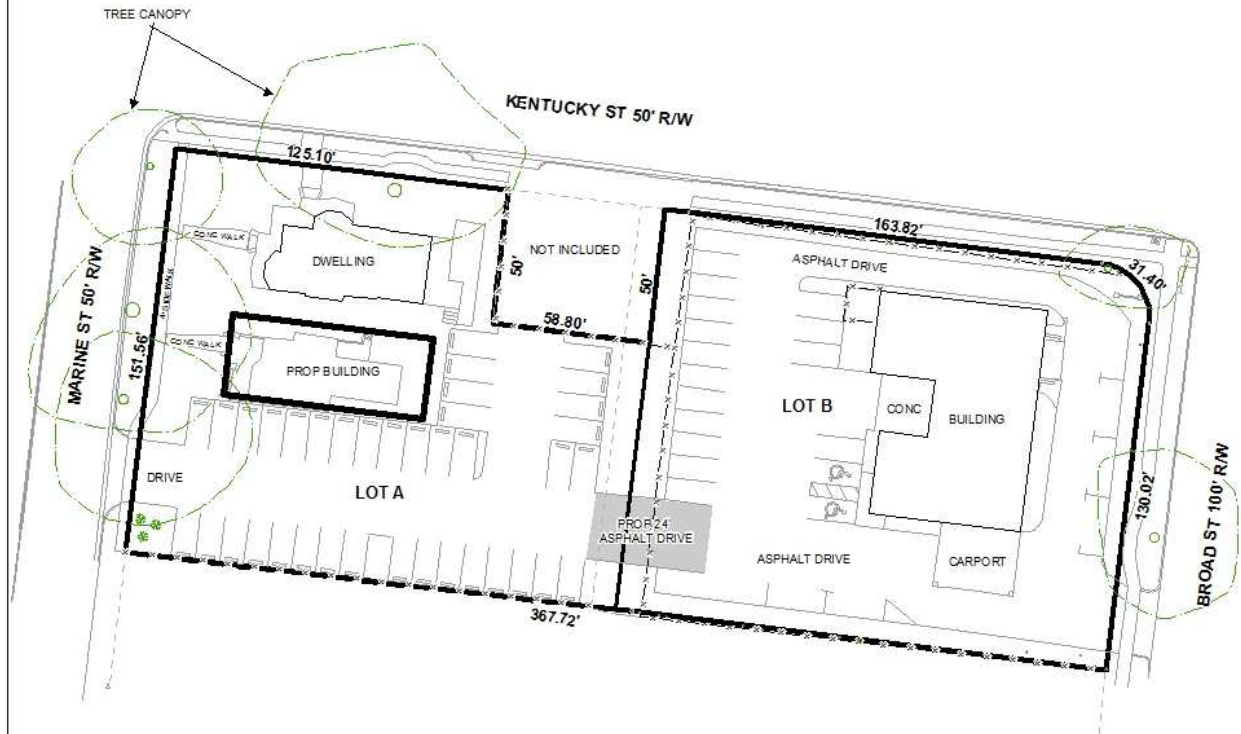


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SITE PLAN



The site illustrates the proposed building and asphalt drive, existing buildings, trees, and parking.

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