



Agenda Item # 7

BOA-002484-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

DETAILS

Location:

208 North Lafayette Street

Applicant / Agent (as applicable):

Napoleon McCovery (Gerald Byrd, Agent)

Property Owner:

Napoleon McCovery and Seneca McCovery

Current Zoning:

B-2, Neighborhood Business District (rezoning pending)

Future Land Use:

Mixed Density Residential and Institutional

Case Number(s):

6516/5817/5662/5531/1653

Unified Development Code (UDC) Requirement:

- All parking to be on-site in a B-2, Neighborhood Business District.

Board Consideration:

- To amend a previously approved Off-Site Parking Variance to allow a parking expansion in a B-2, Neighborhood Business District (rezoning pending)


Report Contents:

	Page
Context Map	2
Site History	3
Staff Comments	3
Variance Considerations	5
Exhibits	6

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential and commercial units.

APPLICATION NUMBER <u>6516</u> DATE <u>May 1, 2023</u>	 NTS
APPLICANT <u>Napoleon McCovery (Gerald Byrd, Agent)</u>	
REQUEST <u>Off-Site Parking Variance</u>	

SITE HISTORY

212 North Lafayette Street, at the Northeast corner of North Lafayette Street and St. Stephens Road, obtained a use variance to allow used car sales in 1962.

Prior to 1968, 208 North Lafayette Street (Southeast corner of North Lafayette Street and St. Stephens Road) was established as a lounge, and has operated as such, since that time. Additionally, in November 2008, a two (2)-lot Subdivision, Rezoning, and Planned Unit Development (PUD) applications were reviewed by the Planning Commission, and were denied.

In August 2009, an unpermitted addition was placed on the existing structure at 208 North Lafayette Street. As a result, the current property owner submitted a variance application to allow a portion of the property, which is zoned R-1, to be used as parking for the club, as well as 212 North Lafayette Street to be used as off-site parking, and a residential buffer (where provided) to be constructed between four-feet (4') to five-feet (5') tall. All variance requests were approved, subject to the following conditions:

- 1) Modification of the recently-added parking areas to match the revised site plan of June 19, 2009, and to provide landscaping and tree plantings in compliance with numbers and ratios required for commercial development, to be coordinated with Urban Forestry;
- 2) All directional arrows applied to paving to be Thermoplastic as approved by Traffic Engineering;
- 3) Installation of parking lot lighting in compliance with Section 64-6.A.3.c. of the Zoning Ordinance, specifically so arranged that the source of light does not shine directly into adjacent residential properties or into traffic;
- 4) Obtaining of any "after-the-fact" permits normally required for improvements already made, and obtaining of any permits required for further improvements; and
- 5) Waiver of the three (3)-foot fence on Lot 2.

Additional variance applications were submitted in April 2011 and March 2013 to allow additions to the club, which were denied.

In December 2022, Planning & Zoning staff received a request for a new Zoning Clearance for the operating club. At that time, staff became aware that 1408 St. Stephens Road had been developed, without permits, as additional parking for the club. The property at 1408 St. Stephens Road is zoned R-1, and was developed with a single-family dwelling until 2020, when the dwelling was removed, with permits.

The applicant has submitted a one (1)-lot Subdivision and Rezoning application for 212 North Lafayette Street and 1408 St. Stephens Road to be combined into a single legal lot of record, and rezone the entire property to B-3, so that parking is allowed by-right. The Planning Commission considered the Subdivision and Rezoning requests at their April 6, 2023 meeting, and heldover the applications to the May 4th meeting, so that the Board of Adjustment could consider the variance application in hand, as this is a substantial change to the existing variances approved by the Board in 2009.

STAFF COMMENTS

Engineering Comments:

It appears that the off-site parking lot located at 1408 St Stephens Rd was built without the proper permits. The applicant must apply for a (after the fact) Land Disturbance and a Right of Way permit for the existing site work. We recommend that the parking lot be blocked off completely from any use until both permits are approved and the site is in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the

City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.

An ALDOT permit will be required if any work was done between the back of the curbs (edges of roadway).

Traffic Engineering Comments:

No comments.

Urban Forestry Comments:

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

Fire Department Comments:

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

Planning Comments:

The applicant is requesting an Off-Site Parking Variance to amend a previously approved Off-Site Parking Variance to allow a parking expansion in a B-2, Neighborhood Business District (rezoning pending); the Unified Development Code (UDC) requires all parking to be on-site in a B-2, Neighborhood Business District.

The site plan submitted for the current application shows a different parking lot configuration for 208 North Lafayette Street than the 2009 approval; the 2009 site plan depicted one-way only traffic, with a total of 15 parking spaces. The current site plan appears to depict two-way traffic through the site, with 29 parking spaces, and the drive aisles on the site are sub-standard for two-way traffic. Furthermore, with the off-site parking seeking to be approved, the club currently has 97 parking spaces.

The UDC parking requirement for a bar/lounge is one (1) parking space per 300 square feet; as the structure is 3,392 square feet, thus 12 parking spaces are currently required. The previous Zoning Ordinance required 34 parking spaces (1 parking space per 100 square feet).

The 2009 approved site plan for the development depicted a dumpster in the Southeast corner of the site, 10-feet from the property line, so as to provide a compliant residential buffer. The current site plan depicts what appears to be a total of three (3) dumpster pads in the same part of the site plan, two (2) of which encroach into the required residential buffer of 10-feet. Furthermore, there is no mention of dumpster enclosures.

The current site plan does depict fencing along the property lines abutting R-1 properties. However, for the fence to serve as a compliant residential buffer, it must be of compliant materials, and be six-feet tall, reduced to three-feet tall within the front 25-foot setbacks.

Finally, it should be noted, that there appears to be a large painted sign on the existing club, facing St. Stephens Road that appears to have been placed on the site without any approvals.

VARIANCE CONSIDERATIONS

Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest;
- where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- the spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states; No variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

Considerations:

Based on the requested Variance application, the Board should consider the following findings of fact for approval or denial of the request:

- 1) The variance **will / will not** be contrary to the public interest;
- 2) Special conditions **exist / do not exist** such that a literal enforcement of the provisions of the chapter **will / will not** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall be / shall not be** observed and substantial justice **done / not done** to the applicant and the surrounding neighborhood by granting the variance.

LOCATOR ZONING MAP



APPLICATION NUMBER 6516 DATE May 1, 2023

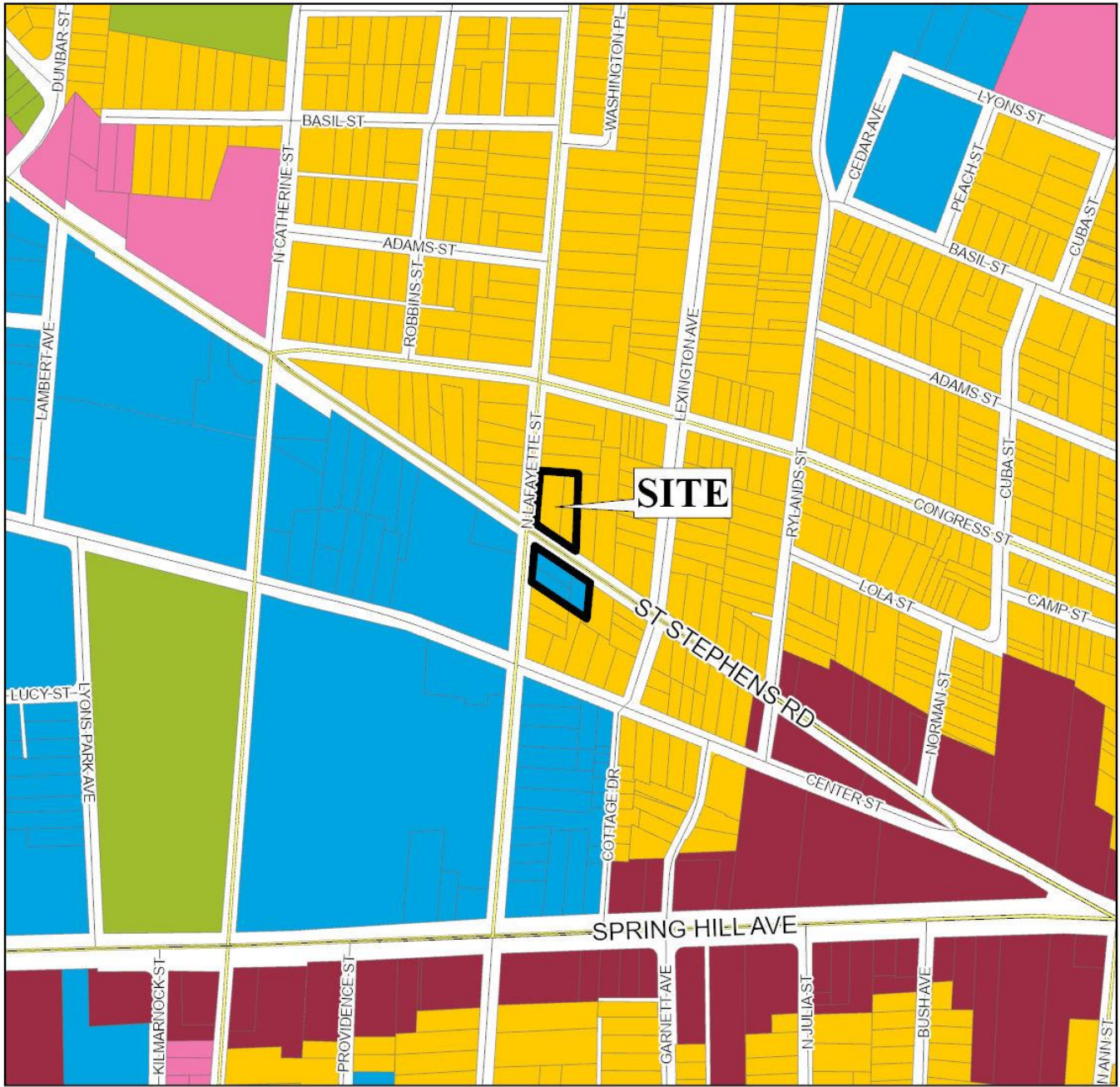
APPLICANT Napoleon McCovery (Gerald Byrd, Agent)

REQUEST Off-Site Parking Variance



NTS

FLUM LOCATOR MAP



APPLICATION NUMBER 6516 DATE May 1, 2023

APPLICANT Napoleon McCovery (Gerald Byrd, Agent)

REQUEST Off-Site Parking Variance


- | | | | |
|---|---|--|--|
| ■ Low Density Residential | ■ Neighborhood Center - Traditional | ■ Downtown Waterfront | ■ Parks & Open Space |
| ■ Mixed Density Residential | ■ Neighborhood Center - Suburban | ■ Light Industry | ■ Water Dependent |
| ■ Downtown | ■ Traditional Corridor | ■ Heavy Industry | |
| ■ District Center | ■ Mixed Commercial Corridor | ■ Institutional | |



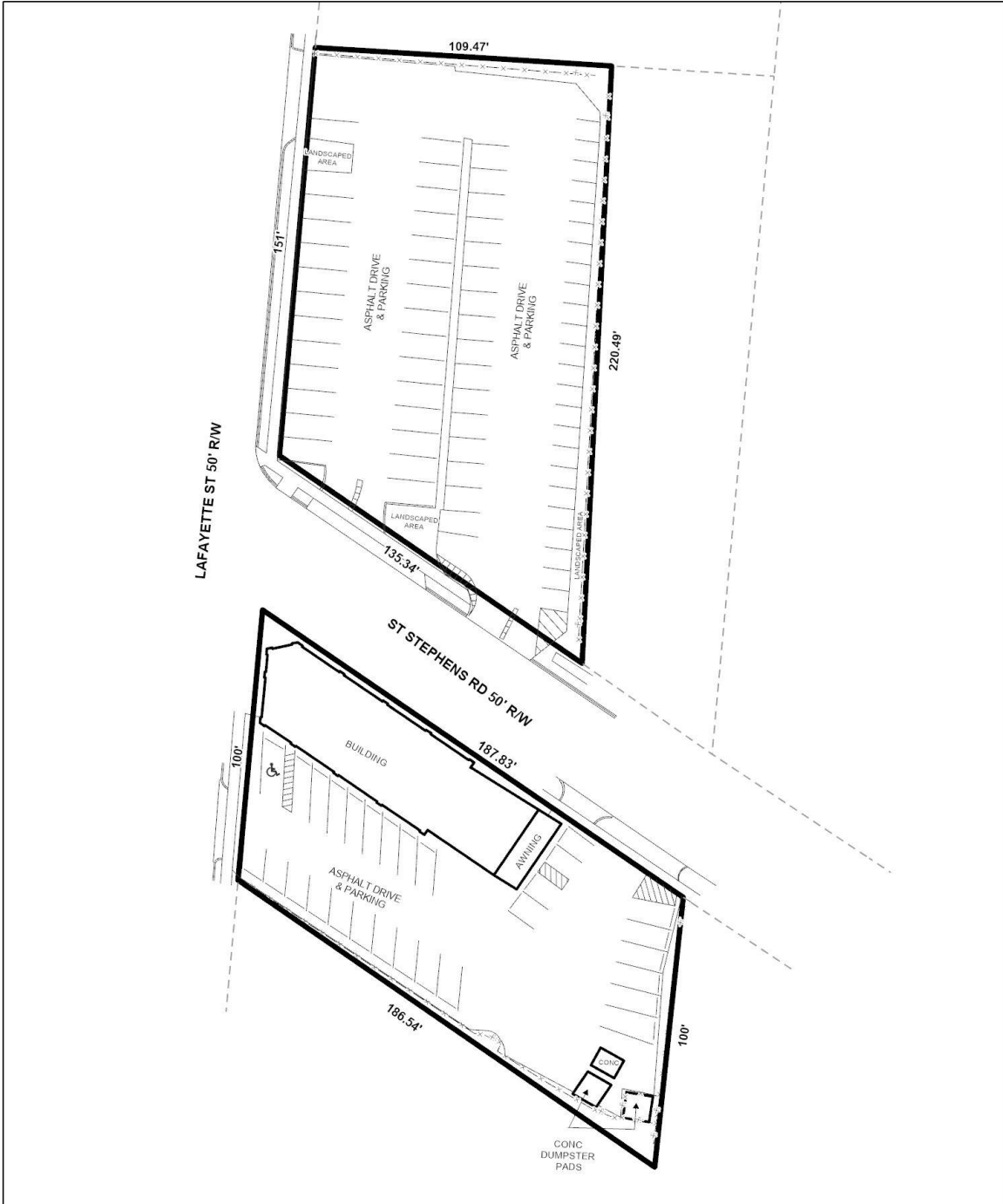
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial units.

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<table style="width: 100%; font-size: small;"> <tr> <td> R-A</td> <td> R-3</td> <td> T-B</td> <td> B-2</td> <td> B-5</td> <td> MUN</td> <td> SD-WH</td> <td> T5.1</td> </tr> <tr> <td> R-1</td> <td> R-B</td> <td> B-1</td> <td> B-3</td> <td> I-1</td> <td> OPEN</td> <td> T3</td> <td> T5.2</td> </tr> <tr> <td> R-2</td> <td> H-B</td> <td> LB-2</td> <td> B-4</td> <td> I-2</td> <td> SD</td> <td> T4</td> <td> T6</td> </tr> </table>	 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
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 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																	

SITE PLAN



The site plan illustrates the existing parking, drives, building, pads, and landscaping.

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