

APPLICATION NUMBER

5336

A REQUEST FOR

**USE, PARKING RATIO, PARKING SURFACE AND
ACCESS/MANEUVERING VARIANCES TO ALLOW AN
AUTOMOBILE SERVICE GARAGE (1,700 SQUARE-FEET)
IN A R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT
WITH TWO (2) ON-SITE PARKING SPACES AN
AGGREGATE PARKING SURFACE AND A 13' WIDE
TWO-WAY DRIVE; THE ZONING ORDINANCE
REQUIRES A B-3, COMMUNITY BUSINESS ZONING
DISTRICT, A MINIMUM OF SIX (6) ON-SITE PARKING
SPACES, THAT PARKING SURFACES BE ASPHALT,
CONCRETE OR AN APPROVED ALTERNATIVE
PARKING SURFACE AND A 24' WIDE DRIVE FOR TWO-
WAY TRAFFIC**

LOCATED AT

1755 DUVAL

(South side of Duval Street, 100'± East of Amsterdam Court)

APPLICANT/OWNER

RICHARD STALLWORTH

BOARD OF ZONING ADJUSTMENT

DECEMBER 2005

The applicant is requesting Use, Parking Ratio, Parking Surface and Access/Maneuvering Variances to allow an automobile service garage (1,700 square-feet) in a R-1, Single-Family Residential district with two (2) on-site parking spaces an aggregate parking surface and a 13' wide two-way drive; the Zoning Ordinance requires a B-3, Community Business District zoning, a minimum of six (6) on-site parking spaces, that parking surfaces be asphalt, concrete or an approved alternative parking surface and a 24' wide drive for two-way traffic.

The applicant proposes to continue to use the existing property as an automobile service garage. The applicant states the existing structure is a utility type building with additions over the years that resulted in a 1,700 square foot structure. The applicant states that the exact history of the structure is unknown, and that the structure would require extensive alterations to serve as a dwelling unit.

The applicant states that the hours of operation of the service garage would be from 8:00 AM to 5:00 PM, Monday to Friday and limited to a few hours on Saturdays. The applicant states one full time and two part time employees will work on approximately five vehicles per day. The applicant states that excessive noise should not be a problem with the general repair activities. The applicant proposes the addition of a 6-foot privacy fence where the property borders residential properties to screen the garage activities. Additionally, the applicant proposes to plant two heritage trees within the first 25-feet to comply with the tree planting requirements.

The district regulations are very explicit for R-1, Single-Family Residential, are designed to protect the residential character of the area by prohibiting businesses.

A search of Urban Development records does not illustrate a nonconforming use at this location, and a search of the business records illustrated no business licenses at this location since 1985.

Several points must be brought to the Board's attention concerning this variance application. The proposed plan does not illustrate any delineated parking spaces for this site; and the applicant proposes three employees and five customers each day. This would indicate that at least three parking spaces should be provided for employee parking. Furthermore, as the proposed use is a garage, each customer will be driving a vehicle, thus it will logically follow that one space per customer should be provided.

The Zoning Ordinance states that a nonconforming use can continue unless the use ceases to operate for longer than two years. Zoning Ordinances use this process as a tool to eliminate nonconforming uses through attrition. This site appears to have lost its nonconforming status 18-20 years ago.

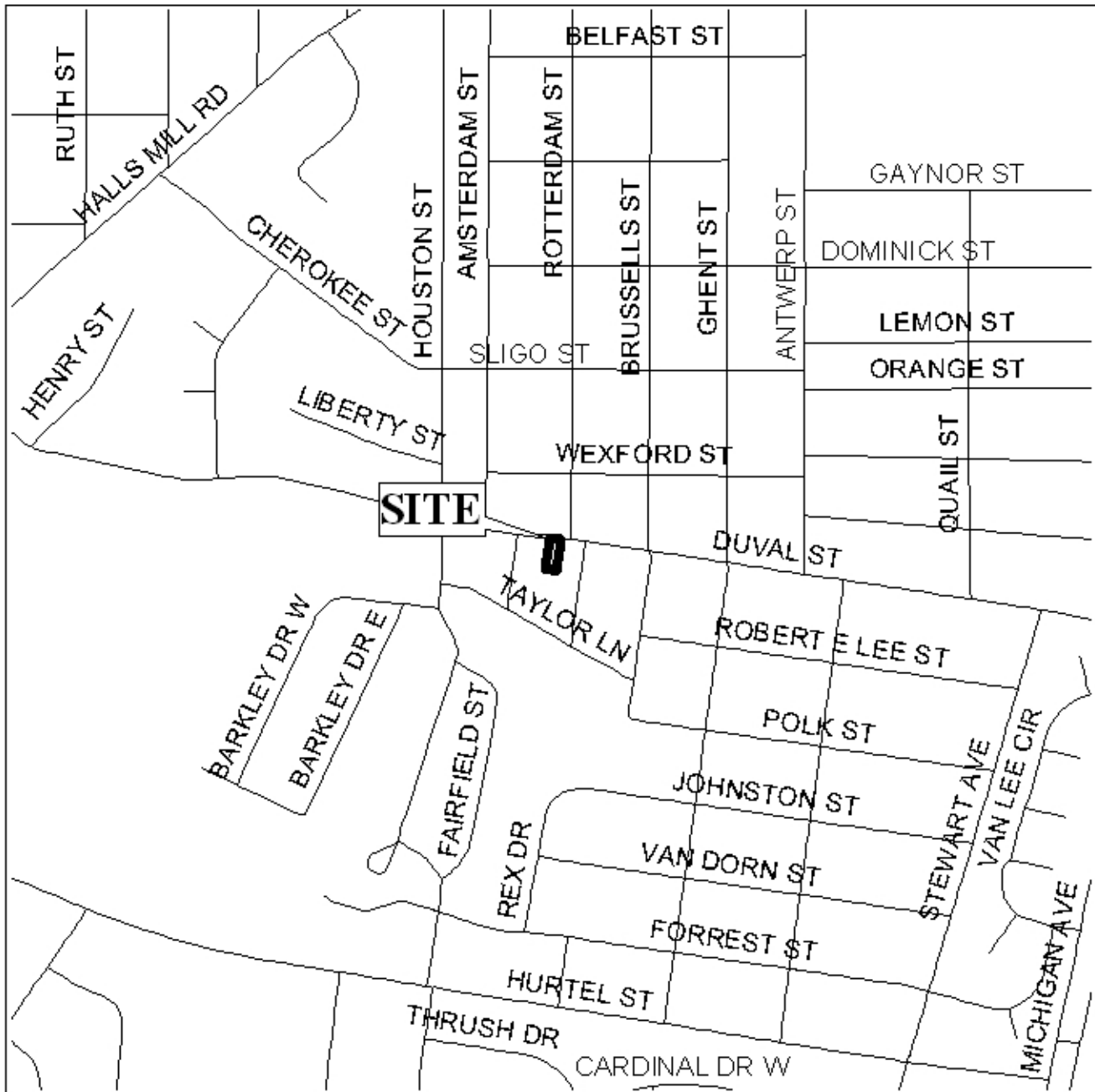
The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement 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.

The applicant failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to use this property as an automobile service garage with substandard parking, parking surface, and inadequate maneuvering area.

RECOMMENDATION 5336**Date: December 5, 2005**

Based on the preceding, it is recommended that this application be denied.

LOCATOR MAP



APPLICATION NUMBER 5336 DATE December 5, 2005

APPLICANT Richard Stallworth

REQUEST Use, Parking Ratio, Parking Access/Maneuvering Variances

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is located in an area of mixed land use.

APPLICATION NUMBER 5336 DATE December 5, 2005

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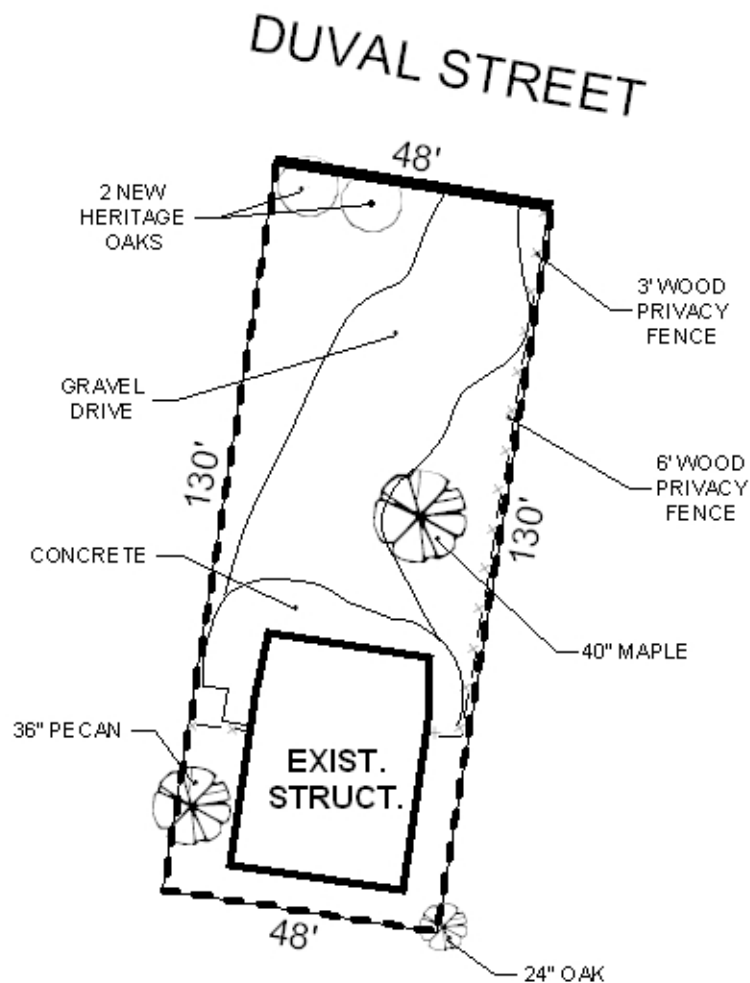
REQUEST Use, Parking Ratio, Parking Access/Maneuvering Variances

LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2



SITE PLAN



The site is located on the South side of Duval Street, 100' East of Amsterdam Court. The plan illustrates the existing structure and parking.

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