

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 4, 2011****CASE NUMBER**

5677

APPLICANT NAME

Horace Jones

LOCATION3416 Beltline Park Drive North
(Northeast corner of Beltline Park Drive North and East
I-65 Service Road North).**VARIANCE REQUEST****PARKING SURFACE:** Parking Surface Variance to
allow a gravel parking area for heavy equipment sales and
display in an I-1, Light Industry District.**ZONING ORDINANCE
REQUIREMENT****PARKING SURFACE:** The Zoning Ordinance requires
heavy equipment sales and display areas to be paved with
asphalt, concrete, or an approved alternative paving surface
in an I-1, Light Industry District.**ZONING**

I-1, Light Industry

AREA OF PROPERTY

0.7± Acre

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**CITY COUNCIL
DISTRICT**

District 1

ANALYSIS

The applicant is requesting a Parking Surface Variance to allow a gravel parking area for heavy equipment sales and display in an I-1, Light Industry District; the Zoning Ordinance requires heavy equipment sales and display parking areas to be paved with asphalt, concrete, or an approved alternative paving surface in an I-1, Light Industry District.

The applicant states that the heavy equipment will consist of both tracked equipment and equipment having large off-the-road tires and that asphalt paving is not suitable for the moving and storing of such equipment. It is further stated that the existing gravel parking lot is perfect for this use and it is pointed out that there are other equipment facilities located along the same service road which utilize gravel parking for tracked equipment and equipment having off-the-road tires. The argument is made that the creation of an asphalt parking area for the equipment would create an unnecessary hardship and unnecessarily increase runoff from the site.

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 reason aggregate is not an approved surface is because of the possibility of the aggregate shifting onto the right-of-way and adjacent properties via tires, and parking spaces are not readily delineated. In cases where the basis for a Parking Surface Variance has been the fact that tracked or large off-the-road-tired construction equipment could adversely impact the surface due to crushing and/or chipping, a surface variance has been justified. In this instance, a Parking Surface Variance would be justified and the Board should consider it for approval.

The site has been used in the past for heavy truck sales, a bus service, auto sales, and an auto storage lot, among other things, with the last licensed use in 2007 for a limousine service. Since then, the modular office building has been removed and the site has been vacant. Therefore, any nonconforming site compliance aspects have lost their legal status. That, combined with the fact that a new modular office building is proposed which constitutes a 100% expansion, full site compliance will be required, other than for which any variances are granted. Many of the existing nonconforming aspects of the site are shown to be retained on the site plan: the fenced-in alleyway on the North; substandard drive and parking/maneuvering area; landscaping and trees; a rolling gate on the property line at the street entrance; no dumpster; and no public sidewalks. The applicant's engineer has submitted a revised narrative indicating that these items will all be corrected on the site plan submitted for the Land Disturbance permitting review, and these should be made conditions if this application is approved.

The applicant has illustrated that a literal enforcement of the Ordinance would present an undue hardship with respect to the paving surface requirement and the Board should consider this application for approval, subject to the site plan being revised to show the site to be developed in full compliance with all other requirements of the Zoning Ordinance.

RECOMMENDATION: Based on the preceding, this application is recommended for approval, subject to the following conditions:

- 1) revision of the site plan to remove all fencing from the alleyway adjacent to the North side of the property;
- 2) revision of the site plan to indicate compliant driveways and paved customer/employee parking and maneuvering area;
- 3) revision of the site plan to indicate proper frontage trees along both Beltline Park Drive North and East I-65 Service Road North;

- 4) revision of the site plan to indicate full landscaping compliance;
- 5) revision of the site plan to provide public sidewalks along both Beltline Park Drive North and East I-65 Service Road North;
- 6) revision of the site plan to include a compliant dumpster, or the placement of a note on the site plan stating that there will be no dumpster utilized and stating how trash will be collected;
- 7) revision of the site plan to include a note stating that the rolling gate will remain open at all times during business hours; and
- 8) full compliance with all other codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 5677 DATE May 2, 2011

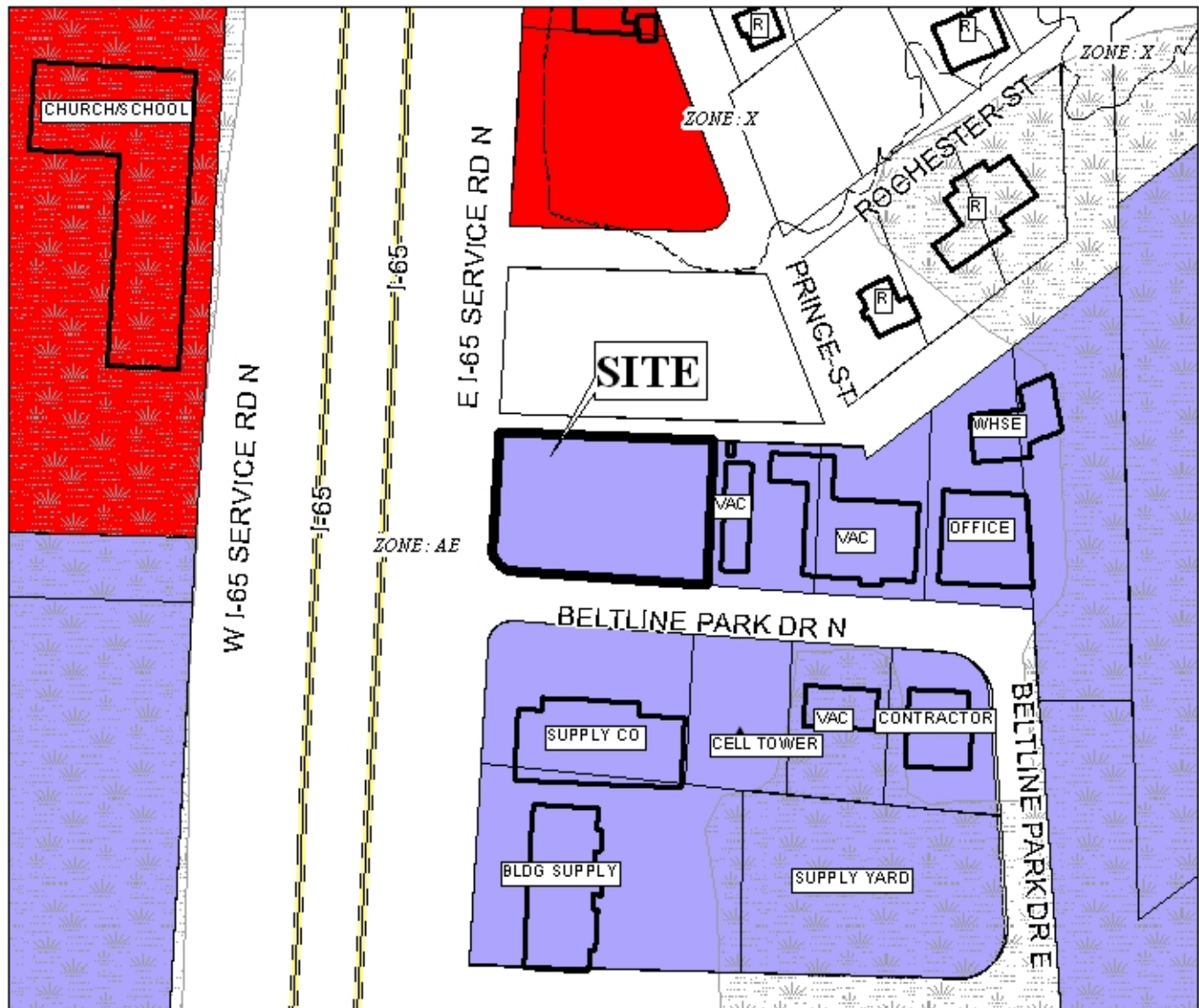
APPLICANT Horace Jones

REQUEST Parking Surface Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



There are single family residential units to the northeast of the site and industrial land use to the south and east.

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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
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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



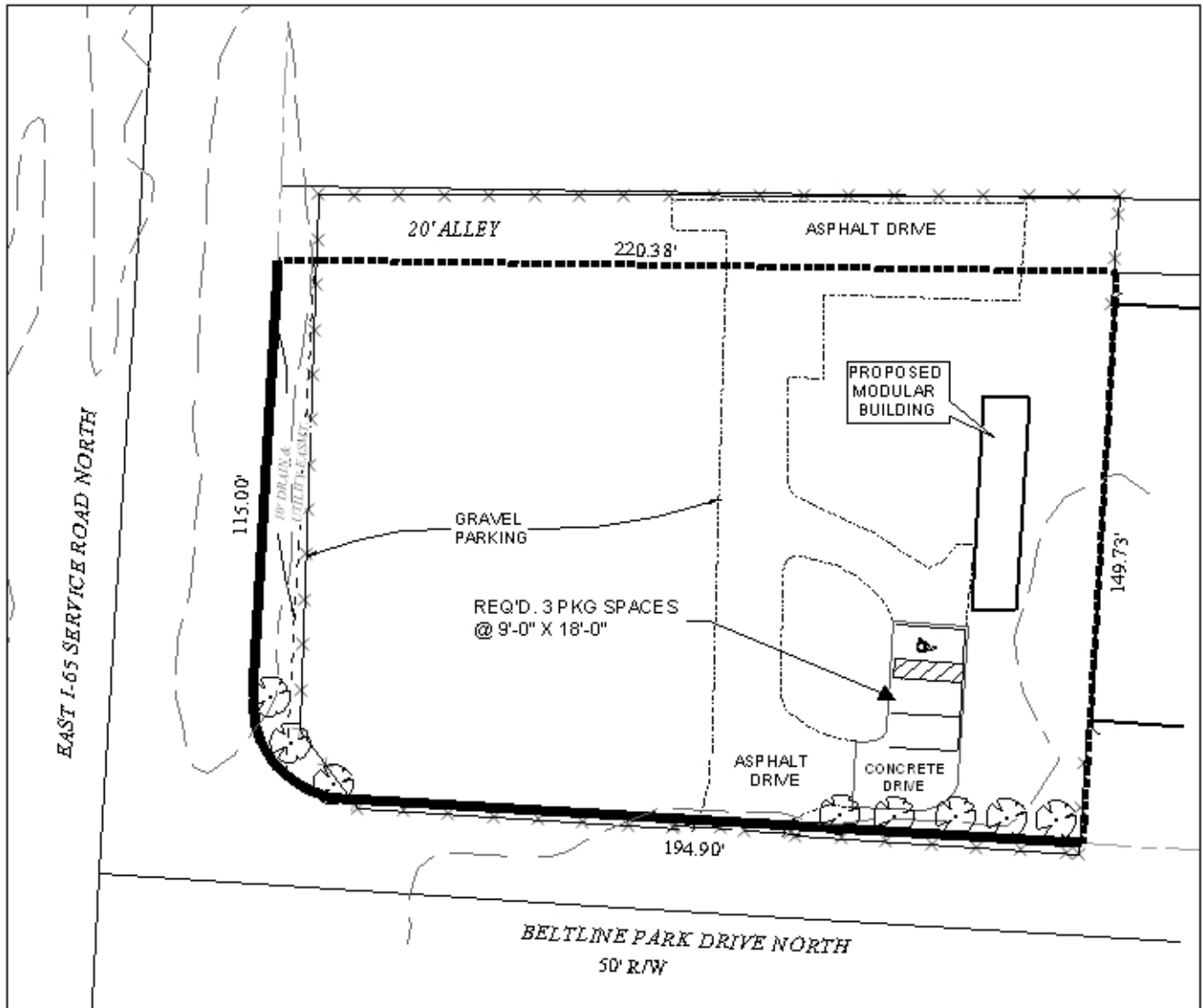
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NTS

SITE PLAN



The proposed modular building, parking, and asphalt drives are illustrated in the site plan.

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NTS