

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 11, 2011**

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| <u>CASE NUMBER</u> | 5688 |
| <u>APPLICANT NAME</u> | Small's Enterprises, LLC |
| <u>LOCATION</u> | 953 Marine Street (East side of Marine Street, 50'± South of Kentucky Street) |
| <u>VARIANCE REQUEST</u> | USE: Allow construction of a commercial overflow parking lot. |
| <u>ZONING ORDINANCE REQUIREMENT</u> | USE: A minimum of a B-1, Buffer Business District, is required for a commercial parking lot. |
| <u>ZONING</u> | R-1, Single-Family Residential District |
| <u>AREA OF PROPERTY</u> | 0.4 Acre ± |
| <u>TRAFFIC ENGINEERING COMMENTS</u> | The parking lot shows an existing drive. Please bring it up to current standards, i.e. 24' wide with 20' radii. The stalls and aisles appear to meet standards with 24' wide aisles and 18' by 9' stalls. If you will be working in the roadway or performing any activities that will affect traffic, you must submit a Traffic Control Plan at least two working days prior to proceeding. |
| <u>CITY COUNCIL DISTRICT</u> | District 3 |

ANALYSIS The applicant is requesting a Use Variance to allow a commercial overflow parking lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of B-1, Buffer Business District for a commercial parking lot.

The applicant wishes to construct a commercial parking lot in an R-1, Single-Family Residential Zoning District in order to handle overflow traffic from his mortuary business which is adjacent to this site. The mortuary building was constructed in 2002, as a mortuary, and meets the parking requirements of the Zoning Ordinance.

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 applicant does not specifically state what the hardship on the property is, if any. In fact, the applicant's narrative states that the site is already being used, albeit without approvals, as overflow parking, and the applicant "recognizes this as an inconvenience to the neighborhood."

The applicant further states that the construction of the actual parking lot is an attempt to resolve the inconvenience issue. However, the construction of a 38-space asphalt parking lot where there had previously been green space would likely only exacerbate the existing "inconvenience." Further, this request represents further encroachment of commercial activity from Broad Street into an existing and well established single-family neighborhood, and has the potential to drastically alter the residential character of the street. Further, a 38-space parking lot would significantly alter the traffic volume on a minor residential street, further detracting from the single-family character of the neighborhood. In fact, Urban Development has received complaints that the applicant has already been using the area as overflow parking improperly, and residents of the neighborhood have expressed concern over the traffic and overflow parking. Lastly, the proposed parking lot is on a lot with a single-family dwelling and directly adjacent to another lot with a single-family dwelling, and this parking lot may have a significant negative effect on the continued function of these properties as residences.

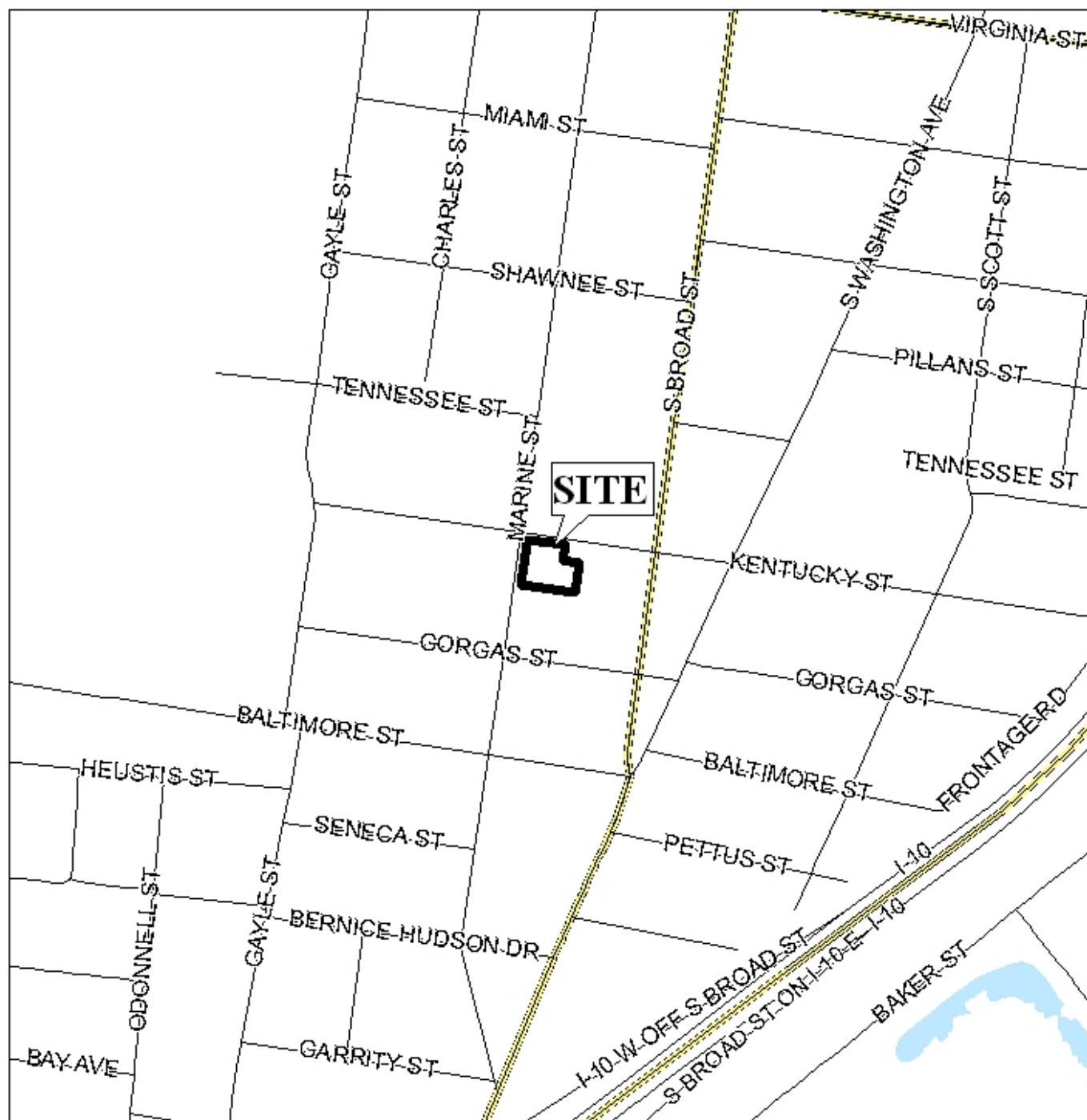
Given that there is no hardship and that the use, based on the applicant's own statements and the analysis of the existing development, is clearly incompatible with the neighborhood, this request is recommended for denial.

RECOMMENDATION

Based upon the preceding, the following is recommended

for denial.

LOCATOR MAP



APPLICATION NUMBER 5688 DATE July 11, 2011

APPLICANT Small's Enterprises, LLC

REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



There are single family residential units to the north, west, and south of the site and a mortuary and salon to the east.

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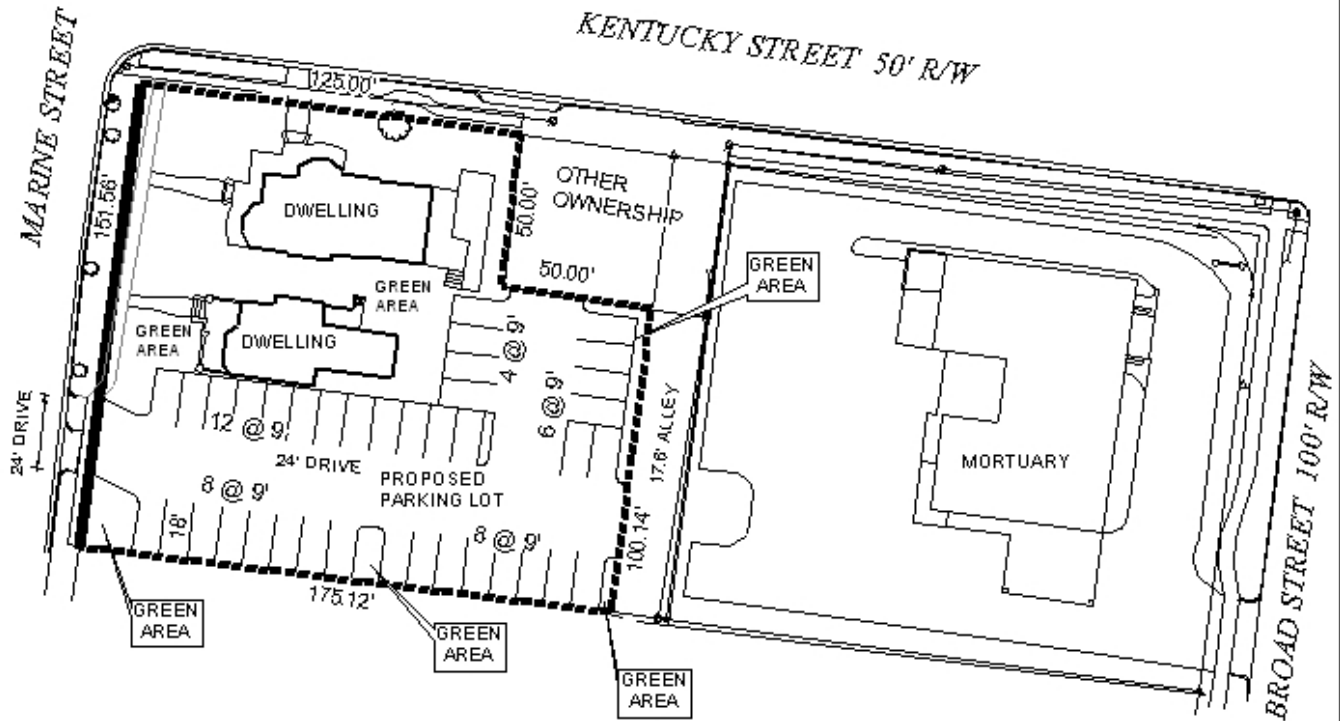
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NTS

SITE PLAN



Existing buildings and proposed drives, parking, and landscaping are illustrated in the site plan.

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NTS