

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 4, 2012****CASE NUMBER**

5756

APPLICANT NAME

Charles Calagaz

LOCATION

63 Midtown Park Drive East
(East side of Midtown Park Drive East, 575'± South of
Dauphin Street Service Road)

VARIANCE REQUEST

PARKING RATIO: Parking Ratio Variance to allow 23 parking spaces for a 10,100 square foot dance studio with offices in a B-3, Community Business District.

FRONTAGE LANDSCAPING AND TREE PLANTING: Landscaping and Tree Planting Variances to allow no landscaping area or tree plantings in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

PARKING RATIO: The Zoning Ordinance requires that 34 parking spaces be provided for a 10,100 square-foot dance studio with offices in a B-3, Community Business District.

FRONTAGE LANDSCAPING AND TREE PLANTING: The Zoning Ordinance requires 12% total site landscaping with 60% of the total as frontage landscaping, three frontage trees, seventeen perimeter trees, and two parking trees in a B-3, Community Business District.

ZONING

B-3, Community Business District

AREA OF PROPERTY

0.51± Acres

**ENGINEERING
COMMENTS**

No comments

**TRAFFIC ENGINEERING
COMMENTS**

The Northern-most driveway should be eliminated and the other driveway brought up to the current standards, i.e., the driveway should be 24' wide with 20' radii for a total curb cut (opening) of 64'. We do not want a situation to occur where the

number of cars exceeds the on-site parking availability. How many classes and students will be attending the lessons?

CITY COUNCIL
DISTRICT

District 1

ANALYSIS

The applicant is requesting Parking and Landscaping/Tree Planting Variances to allow 23 parking spaces to be provided for a 10,100 square-foot dance studio with offices and no landscaping area or tree plantings in a B-3, Community Business District; the Zoning Ordinance requires that 34 parking spaces be provided for a 10,100 square-foot dance studio with offices and 12% total site landscaping with 60% of the total as frontage landscaping, three frontage trees, seventeen perimeter trees, and two parking trees in a B-3, Community Business District.

The subject site was originally developed in 1975 and occupied by a photography supply and film processing business until 2000, then other retail and wholesale businesses, but has been vacant for about four years. A dance studio with offices is now proposed to occupy the building, but since the site is noncompliant as far as parking ratio, landscaping area, and tree plantings and this would be a change of occupancy, and the legal nonconforming use status has expired, the site must be brought into compliance before new commercial activity can be allowed; hence this variance request.

As the site was developed prior to the current checks-and-balances coordination with the Zoning Ordinance, it has always been substandard with regard to parking requirements. Aerial photographs of the site through 2010 indicate only approximately 25 parking spaces, many of which are noncompliant with regard to access and maneuvering. The site plan submitted with this application indicates 23 compliant parking spaces provided. Although this is slightly less than the original provided and still less than the 34 required, given the site constraints, this is a vast improvement since compliant stall size and access and maneuvering areas are now provided. However, the handicap parking space/access aisle in front of the building should be revised to a compliant size. No dumpster is indicated; however, a note on the site plan indicates that the site will have curb-side trash pick-up. The site is not required to comply with buffering standards as it is surrounded by commercial sites and zoning.

Site access is currently via two substandard drives to Midtown Park East. As per Traffic Engineering's comments, the Northern-most driveway should be eliminated and the other driveway should be 24' wide with 20' radii, for a total curb cut (opening) of 64'.

With regard to the frontage landscaping ratio and tree planting variance requests, staff calculations indicate ample grassed area on the site to exceed the minimum 12% (2,665 square feet) of total landscaping area, and the site does have a small area along the front next to the sidewalk where some asphalt could be removed and replaced with frontage landscaping and trees. There would still not be sufficient area to meet the frontage landscaping requirement, however. But the site appears to have ample room to meet the tree planting requirements. Along the South side and rear of the site the grassy area could be utilized for tree plantings. The current

asphalted area to the rear of the building could also be utilized for further landscaping and tree plantings as no parking is now proposed within it.

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 has illustrated that a hardship is imposed with regard to the parking ratio and frontage landscaping requirements for the site, and the Board should consider these variance requests for approval, subject to conditions. However, the applicant has not illustrated that a hardship is imposed with regard to the total site landscaping and tree planting requirements. The site has ample room to meet the 12% total landscaping requirement, ample frontage area to plant three required frontage trees, and ample area to meet the remaining tree planting requirements.

RECOMMENDATION: Based on the preceding, the Parking Ratio and Frontage Landscaping Variance requests are recommended for approval, subject to the following conditions:

- 1) the provision of a frontage landscaping area within the property adjacent to the public sidewalk;
- 2) revision of the site plan to eliminate the Northern-most driveway and modification of the Southern-most driveway to a 24' width with 20' radii for a total curb cut (opening) of 64';
- 3) provision of full tree plantings required for the site;
- 4) furnishing of landscaping and tree planting calculations on a revised site plan based on the above-mentioned conditions;
- 5) revision of the site plan to illustrate a compliant size for the handicap parking space/access aisle in front of the building; and
- 6) full compliance with all other municipal codes and ordinances.

The request to waive total site landscaping area and tree plantings is recommended for denial. Landscaping and tree planting compliance for the site should be coordinated with Urban Forestry.

LOCATOR MAP



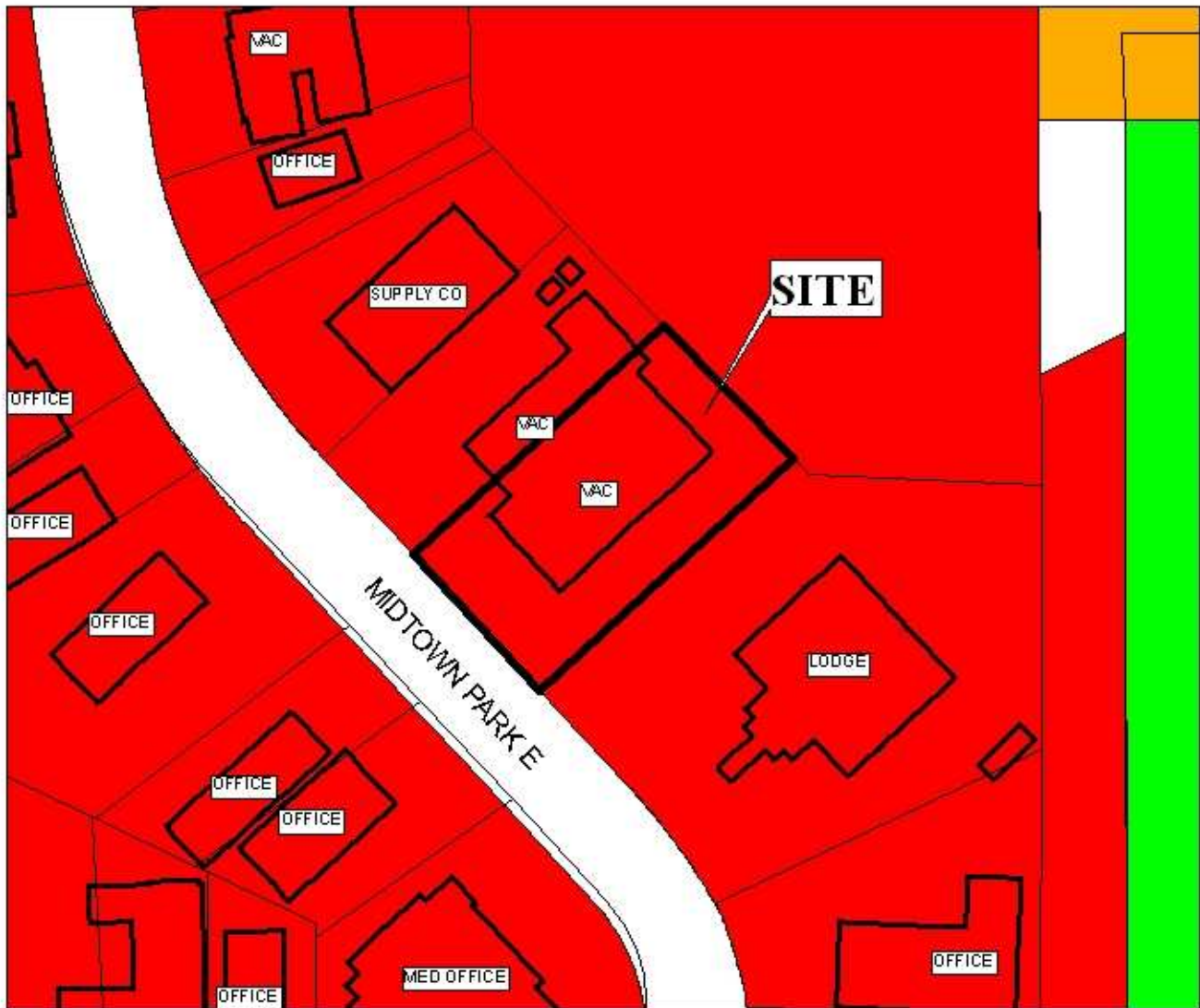
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use.

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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

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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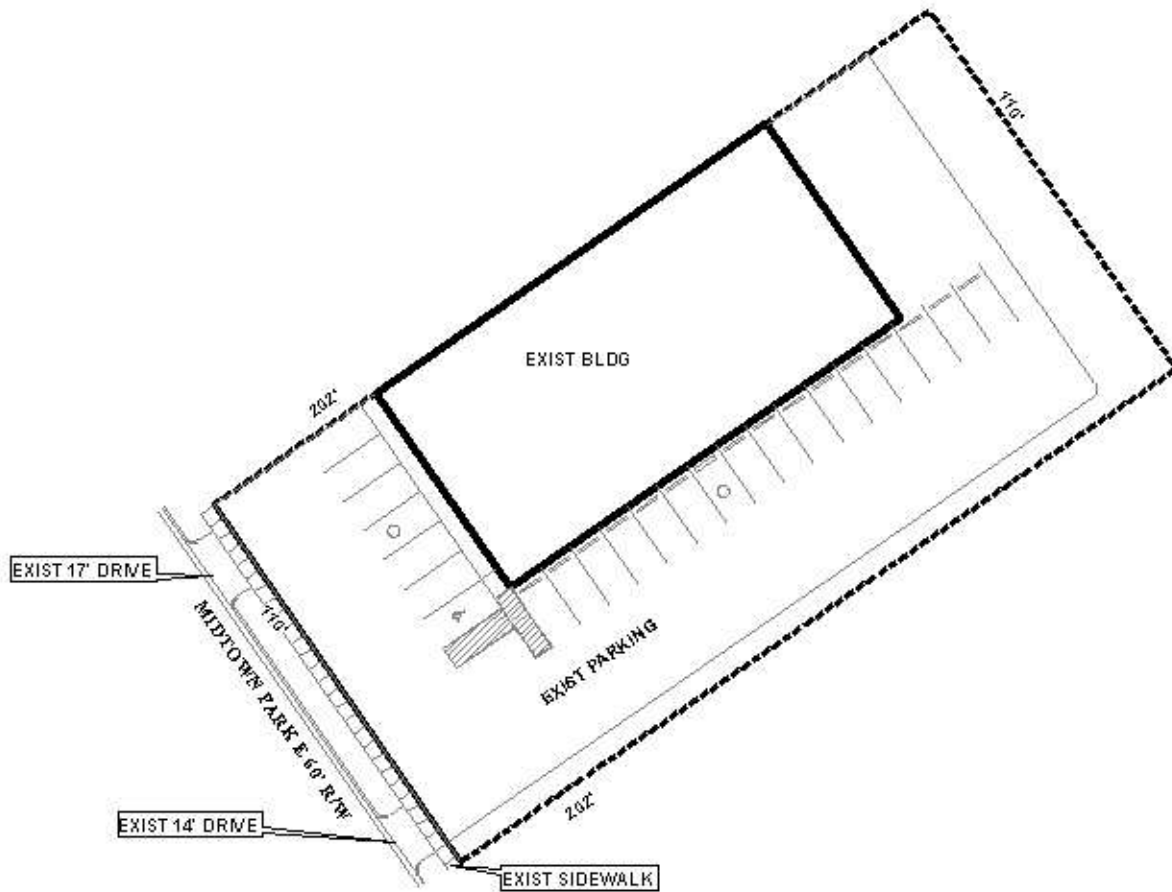
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SITE PLAN



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

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