

APPLICATION NUMBER

5510/1193

A REQUEST FOR

**USE, PARKING, LANDSCAPING/TREE PLANTING
VARIANCES TO AMEND A PREVIOUS USE VARIANCE
TO ALLOW LIGHT WAREHOUSING STORAGE FOR
LAW OFFICE PURPOSES WITH NO ON-SITE PARKING,
AND NO LANDSCAPING AND TREE PLANTINGS IN AN
R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE
ORDINANCE REQUIRES A B-3, COMMUNITY BUSINESS
DISTRICT FOR LIGHT WAREHOUSING, ALL PARKING
TO BE ON-SITE, 12% TOTAL SITE LANDSCAPING WITH
60% OF THE 12% TO BE FRONTAGE LANDSCAPING
WITH 19 FRONTAGE TREES IN A B-3, COMMUNITY
BUSINESS DISTRICT.**

LOCATED AT

550 LEESNE STREET

(Southwest corner of Lesesne Street and Duncan Street).

APPLICANT/OWNER

1601 DAUPHIN BUILDING PARTNERSHIP, LLP

AGENT

GREGORY BREEDLOVE

BOARD OF ZONING ADJUSTMENT

NOVEMBER 2008

The applicant is requesting Use, Parking, Landscaping/Tree Planting Variances to amend a previous Use Variance to allow light warehousing storage for law office purposes with no on-site parking, and no landscaping and tree plantings in an R-1, Single-Family Residential District; the Ordinance requires a B-3, Community Business District for light warehousing, all parking to be on-site, 12% total site landscaping with 60% of the 12% to be frontage landscaping with 19 frontage trees in a B-3, Community Business District.

The site was granted a Use Variance in 1960 to allow the construction of a pole line hardware equipment company (B-3 use) in an R-1 District. In addition to the Use Variance granted, a City Attorney's determination was made that, although not specifically requested in the application, due to the site plan submitted with that application, the intention of the Board was to also grant side, front, and rear yard setback variances. The original applicant had business license activity at the site until 1998. The applicant purchased the site in 2000 and began to use it as a warehouse for storage for its associated law office purposes. In late 2007, a citizen complaint prompted a zoning investigation into the new use, and nonconforming documentation was requested by staff. It was later determined that the new use would require a new variance since granted variances are use-specific. Since the granting of the original variance, the Ordinance has been amended to include parking and landscaping/tree planting requirements, and since the site is deficient in such, relief from those requirements is also sought.

The applicant states that the property is not suitable for residential use due to its commercial warehouse nature. It is further stated that, due to site constraints, on-site parking and landscaping/tree planting compliance would negate the continued use of the truck well and loading areas. Continuation of the on-street parking use is proposed since the site would have no full-time employees and only have occasional visitors for the purpose of storing or removing warehoused items.

With regard to the Use Variance request, the site is obviously commercial in nature and would not be suitable for single-family residential use. With regard to the Parking Variance request, the site is very restricted in its vehicular access, maneuvering and parking potentials, with barely adequate maneuvering area for transit trucks to access the rear loading/unloading docks. Requirement of providing on-site parking would be impracticable in this instance. Transit truck access is via a substandard curb cut onto Duncan Street, and this should be modified to accommodate such vehicles, to be coordinated with Traffic Engineering with permitting as required by the Right-of-Way division of City Engineering. With regard to the Landscaping/Tree Planting Variance requests, the site appears to have only limited areas available with minor compliance potential, specifically North of the truck well and toward the point at the West end of the site. Inasmuch as full compliance cannot be achieved, the site should be revised to include as much landscaping and tree planting as can be accommodated. It should also be noted that the existing wood privacy fence partially along Duncan Street is

noncompliant and should either be relocated to a 12' setback or replaced with an open visibility type fence, and all barbed wire fencing should either be permitted or removed.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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.

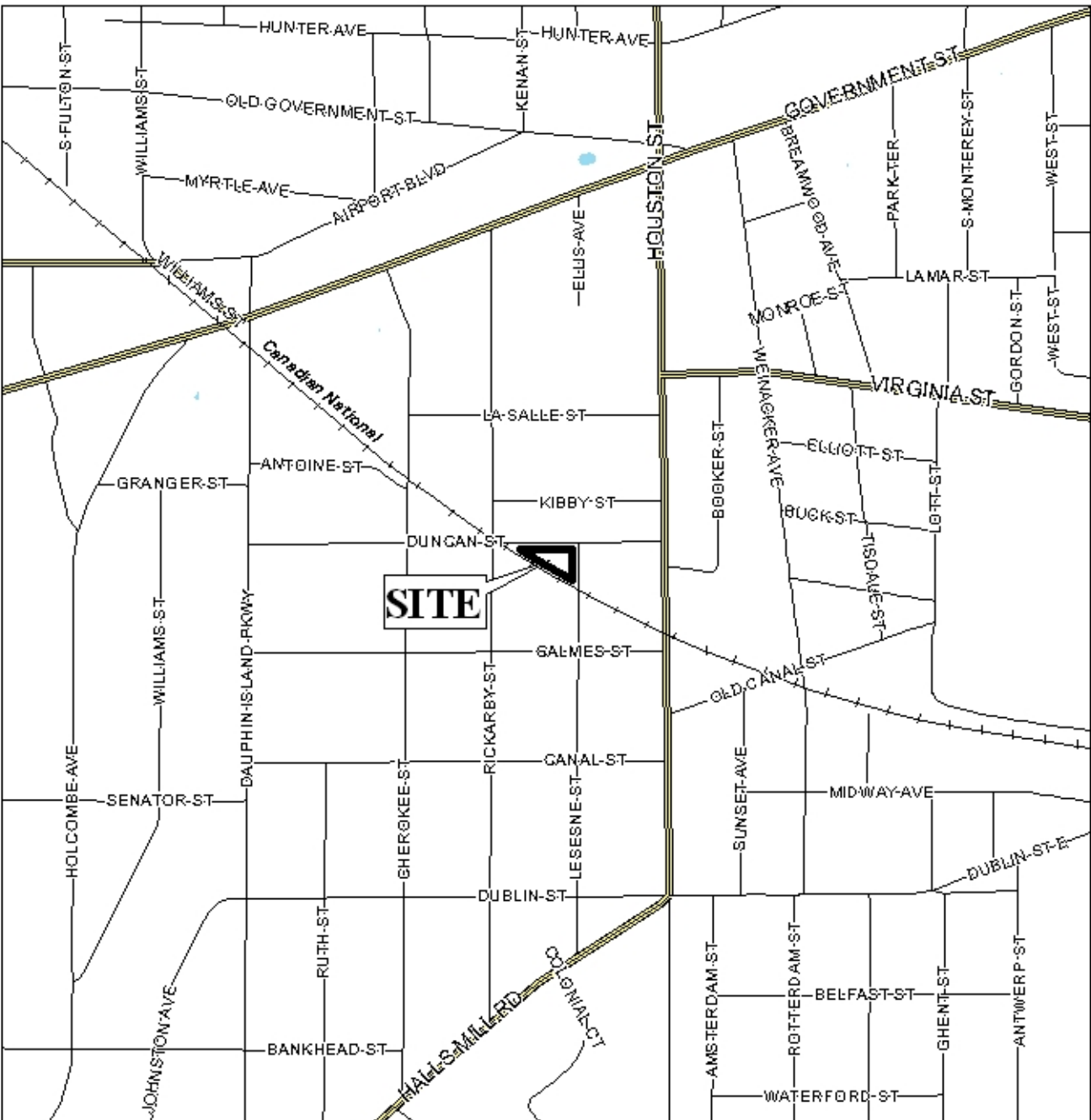
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant has illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship with regard to certain aspects of the site, specifically to the use and parking and the variance requests for such should be considered by the Board for approval. The site plan submitted seems to indicate the possibility of some limited landscaping/tree planting compliance and the board should consider approval of those requests, with modifications. With regard to other existing noncompliant aspects of the site, the Board should consider the modifications of such to compliance as conditions of approval.

Based upon the preceding, the Use and Parking requests are recommended for approval, and the Landscaping/Tree Planting request is recommended for approval with modifications. All approvals are subject to the following conditions:

- 1) modification of the substandard curb cut onto Duncan Street to accommodate transit trucks with the size, design and location of the curb cut to be approved by Traffic Engineering and conform to AASHTO standards, and be properly permitted by the Right-of-Way division of City Engineering;
- 2) revision of the site plan to provide as much landscaping and tree planting compliance as practicable in the areas North of the truck well and the point at the West end of the site;
- 3) relocation of the existing wood privacy fence along Duncan Street to a 12' setback, or the replacement of such along the property line with an open visibility type fence;
- 4) removal of all barbed wire fencing, or the obtaining of permits from the Director of Urban Development for such to remain.

LOCATOR MAP



APPLICATION NUMBER 5510/1193 DATE November 3, 2008

APPLICANT 1601 Dauphin Building Partnership LLP (Gregory Breedlove, Agent)

REQUEST Use, Parking, Landscape/Tree Planting Variance

NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land use with commercial land use to the east.

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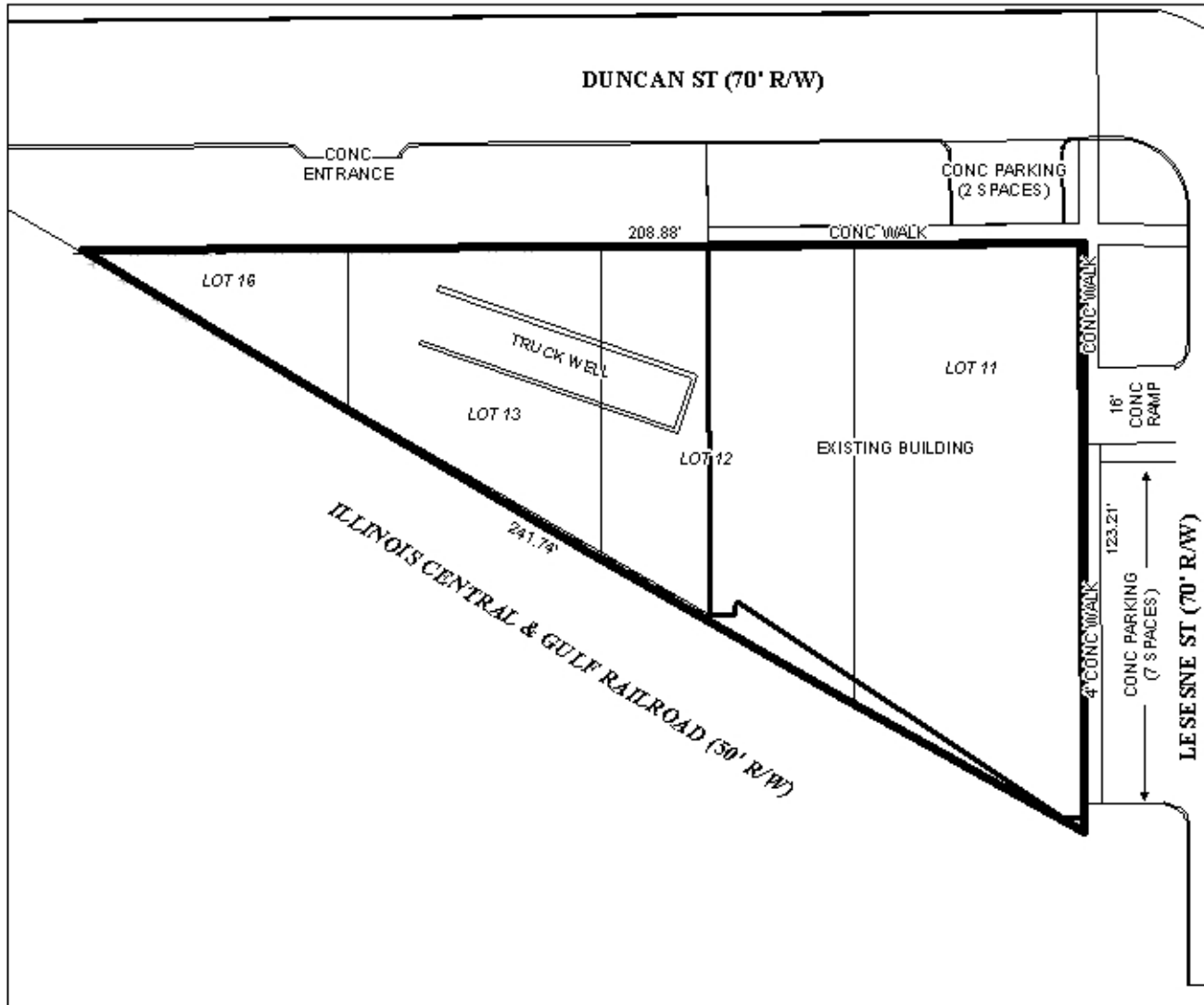
REQUEST Use, Parking, Landscape/Tree Planting Variance

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
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SITE PLAN



This site plan illustrates existing structures

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