

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: October 3, 2011****CASE NUMBER**

5714

APPLICANT NAME

Chassity Grech Ebbole

LOCATION2156 Airport Boulevard
(North side of Airport Boulevard, 257'± West of Mohawk Street).**VARIANCE REQUEST****USE:** Use Variance request to allow a tattoo parlor in a B-2, Neighborhood Business District.**ACCESS:** Access Variance request to allow a substandard access.**SURFACING:** Surfacing Variance request to allow aggregate parking surfacing.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance requires a B-3, Community Business District, for a tattoo parlor.**ACCESS:** The Zoning Ordinance requires a 24' wide driveway.**SURFACING:** The Zoning Ordinance requires parking surfacing to be of asphalt, concrete or an approved alternative surface.**ZONING**

B-2, Neighborhood Business

AREA OF PROPERTY

0.18± Acre

**TRAFFIC ENGINEERING
COMMENTS**

24' aisle (the area behind the rear of the stalls) is required to accommodate motorists to back out and exit the site head lights first. If Engineering approves the stone surface, use bumper blocks to designate parking stalls.

**CITY COUNCIL
DISTRICT**

District 5

ANALYSIS

The applicant is requesting Use, Access, and Surfacing Variances to allow a tattoo parlor with substandard access and aggregate parking surfacing in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum of a B-3, Community Business District, zoning with a 24' wide driveway and parking that is paved with concrete, asphalt, or an approved alternative surface.

The applicant proposes to relocate an existing tattoo business to the subject site with hours of operation from 1:30 PM to midnight by appointment only and makes the argument that there is a pizza parlor, Chinese take-out, and a liquor store all with late hours of operation, and a nail salon which is required to have the same Health Department licenses as a tattoo parlor. It is further stated that there is B-3 zoning beginning approximately 200' East of the site extending 1500' further East along both sides of Airport Boulevard. The applicant states that a B-3 use at the subject site will not be out of character with other businesses and should not have an adverse affect on the neighborhood.

With regard to the substandard drive variance request, the applicant states that she is the only employee and by working appointments only, she controls the number of vehicles using the driveway and further states that the driveway width was not a problem for the previous business.

With regard to the surfacing variance request, it is stated that there is an existing aggregate parking area which provides the required four parking spaces and adequate maneuvering space and was allowed for the previous business with no problems.

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 subject property has been used for the past 30 years for a variety of personal service businesses and retail shops, all B-2 uses. The surrounding business sites along that side of and across Airport Boulevard, and extending to the West, are all zoned B-2 and are used for either B-1 or B-2 types of business. There are no B-3 nonconforming uses within the area, and no variances have been granted for such. Although there is B-3 zoning beginning in the next block East of the subject site, the immediate surroundings have remained in B-1 and B-2 uses. Contrary to the applicant's statement that the proposed use would not be out of character with other businesses, it would be a higher use than those within the immediate area currently have or have ever had.

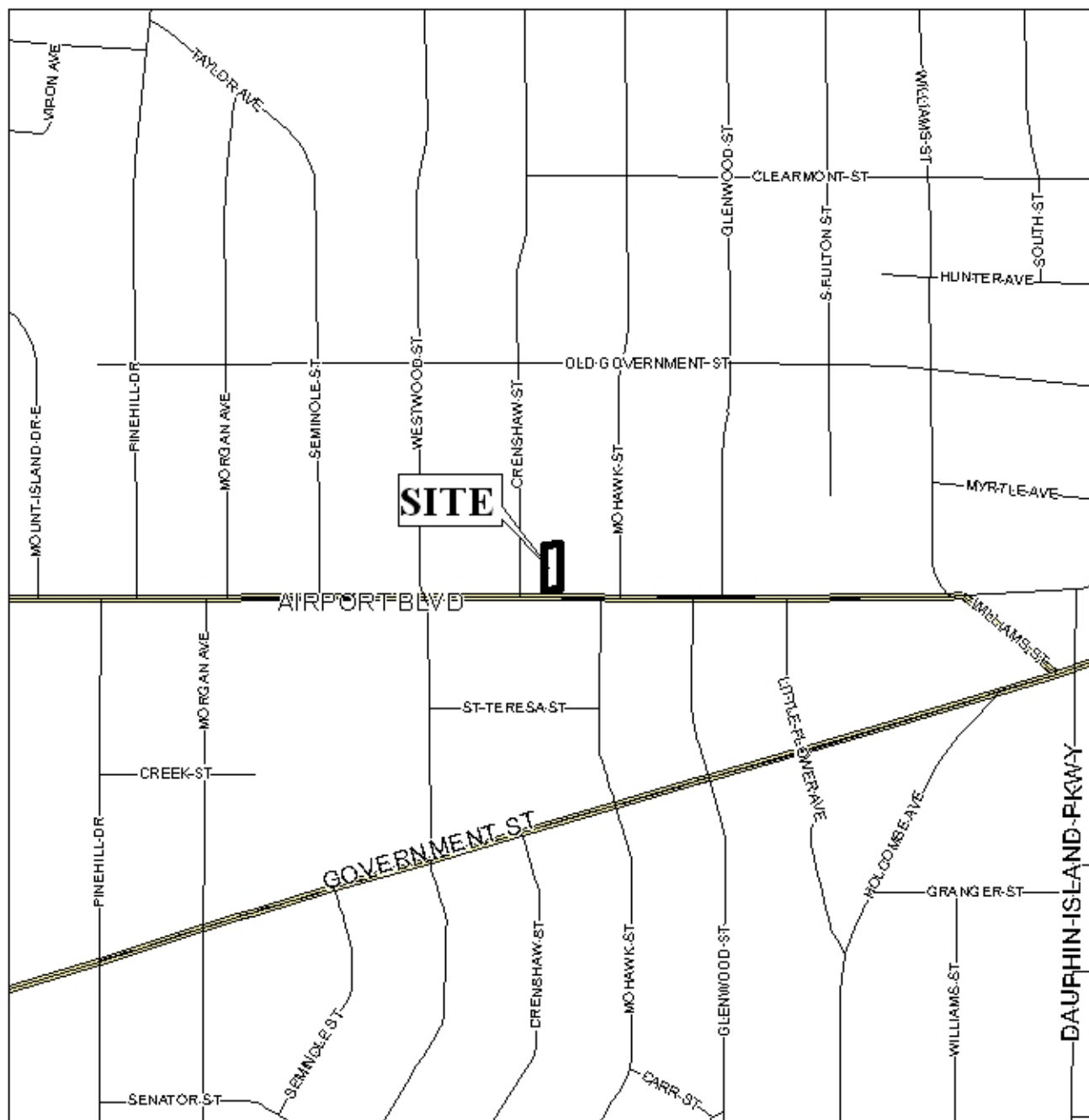
The substandard access variance request has merit in that there is insufficient distance between the existing structure on the site and the West property line to construct a compliant 24' wide two-way traffic driveway. However, there does appear to be sufficient distance to widen the existing driveway to 12'.

Although the existing aggregate parking appears to have been on the site for many years, judging from aerial photographs, the applicant has not presented any hardship which would warrant the granting of a surfacing variance. And the argument that there is sufficient maneuvering area is erroneous since the site plan indicates an 18.5' maneuvering area behind the parking stalls instead of the required 24'. The site affords sufficient area to revise the parking area to provide a compliant 24' maneuvering area behind the parking stalls.

The applicant has not demonstrated that a hardship is imposed by the property which would prevent its continued use in a B-2 manner, and there are not now, nor have been, any uses within the immediate area of a higher use classification. The introduction of such would be out of character with the area and the Board should consider the Use Variance request for denial. The requests for Access and Surfacing Variances would, therefore, be moot.

RECOMMENDATION: Based on the preceding, the Use Variance request is recommended for denial. The requests for Access and Surfacing Variances are, therefore, moot.

LOCATOR MAP



APPLICATION NUMBER 5714 DATE October 3, 2011

APPLICANT Chassity Grech Ebbole

REQUEST Use, Access, and Surfacing Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Business land use is located to the south, west, and east of the site. Residential land use is located to the north of the site.

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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 |



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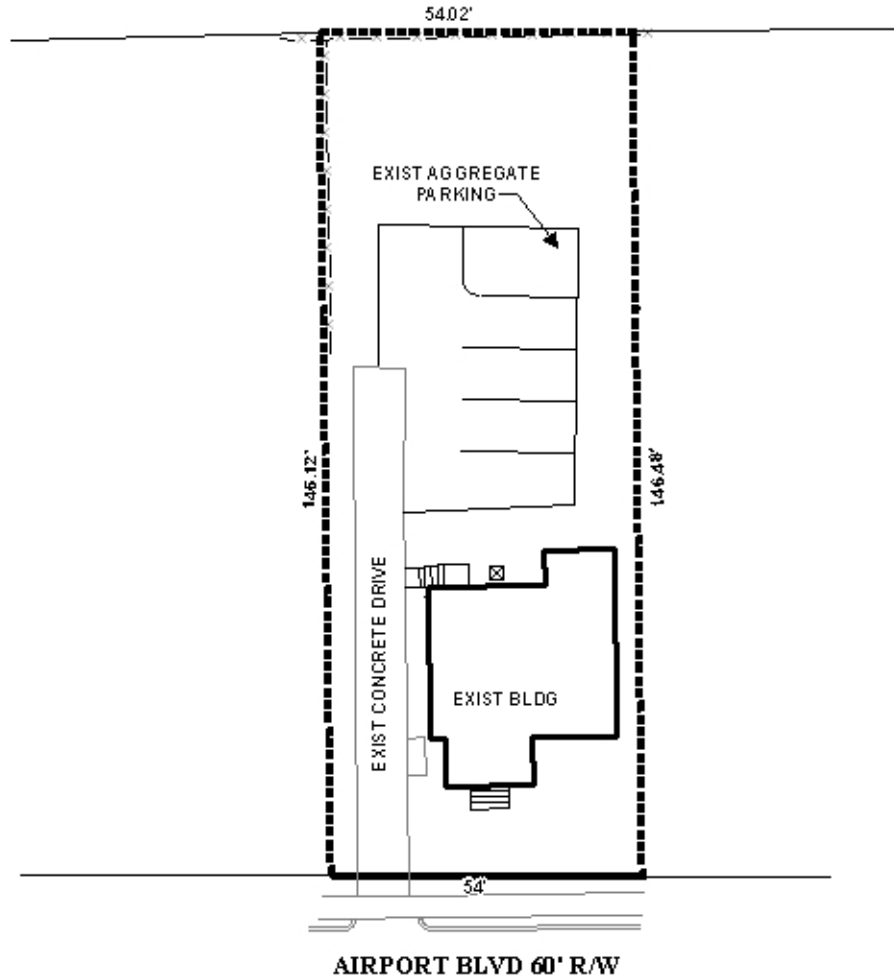
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SITE PLAN



The site plan illustrates the existing improvements and parking area.

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