

APPLICATION NUMBER

**5485**

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW THE  
CONSTRUCTION OF TWO 30' X 60' BUILDINGS WITHIN  
2.0' OF A SIDE PROPERTY LINE IN A B-2,  
NEIGHBORHOOD BUSINESS DISTRICT; THE ZONING  
ORDINANCE REQUIRES A ZERO OR 5'-PLUS SIDE  
YARD SETBACK IN A B-2, NEIGHBORHOOD BUSINESS  
DISTRICT.**

LOCATED AT

**6361 COTTAGE HILL ROAD**

(South side of Cottage Hill Road, 180'+ East of Hillcrest Road)

APPLICANT

**D'IBERVILLE OIL, LLC**

**BOARD OF ZONING ADJUSTMENT**

**JULY/2008**

The applicant is requesting Side Yard Setback Variance to allow the construction of two 30' x 60' buildings within 2.0' of a side property line in a B-2, Neighborhood Business District; the Zoning Ordinance requires a zero or 5'-plus side yard setback in a B-2, Neighborhood Business District.

This site has recently been developed as an oil change facility. During the construction process, the two buildings in question were erected too close to the East property line. The site was then failed by the Zoning Inspector because the placement of the buildings did not match the approved site plan. The applicant states that the relocation of the buildings at this point would create an extreme hardship. Furthermore, the applicant states that there is open space on the East side of the site, allowing for adequate emergency access, if needed.

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.

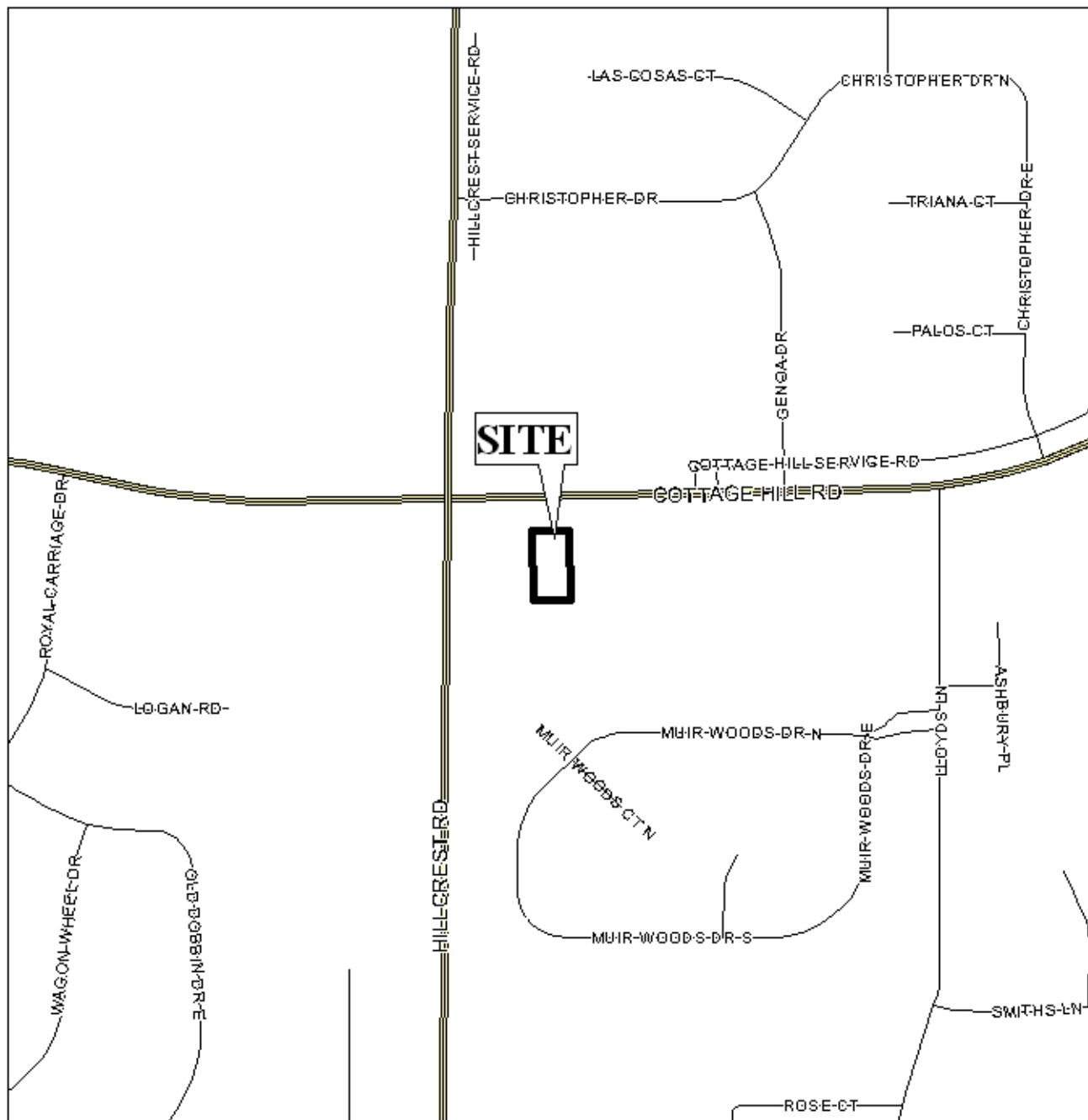
With regard to the applicant's request, the case that the applicant should be arguing is whether a physical hardship exists that prevents the applicant from complying with the Zoning Ordinance. Instead, the applicant is asking for relief for a mistake that happened during construction, thereby constituting a **self-imposed** hardship. Granting a variance here would undermine the entire site plan review process.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. The applicant simply wishes to construct two buildings within 2.0' of a side property line in a B-2, Neighborhood Business District.

**RECOMMENDATION 5485****Date: July 7, 2008**

Based on the preceding, this application is recommended for denial.

# LOCATOR MAP



APPLICATION NUMBER 5485 DATE July 7, 2008  
APPLICANT D'iberville Oil, LLC  
REQUEST Side Yard Setback Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by miscellaneous land use.

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APPLICANT D'iberville Oil, LLC

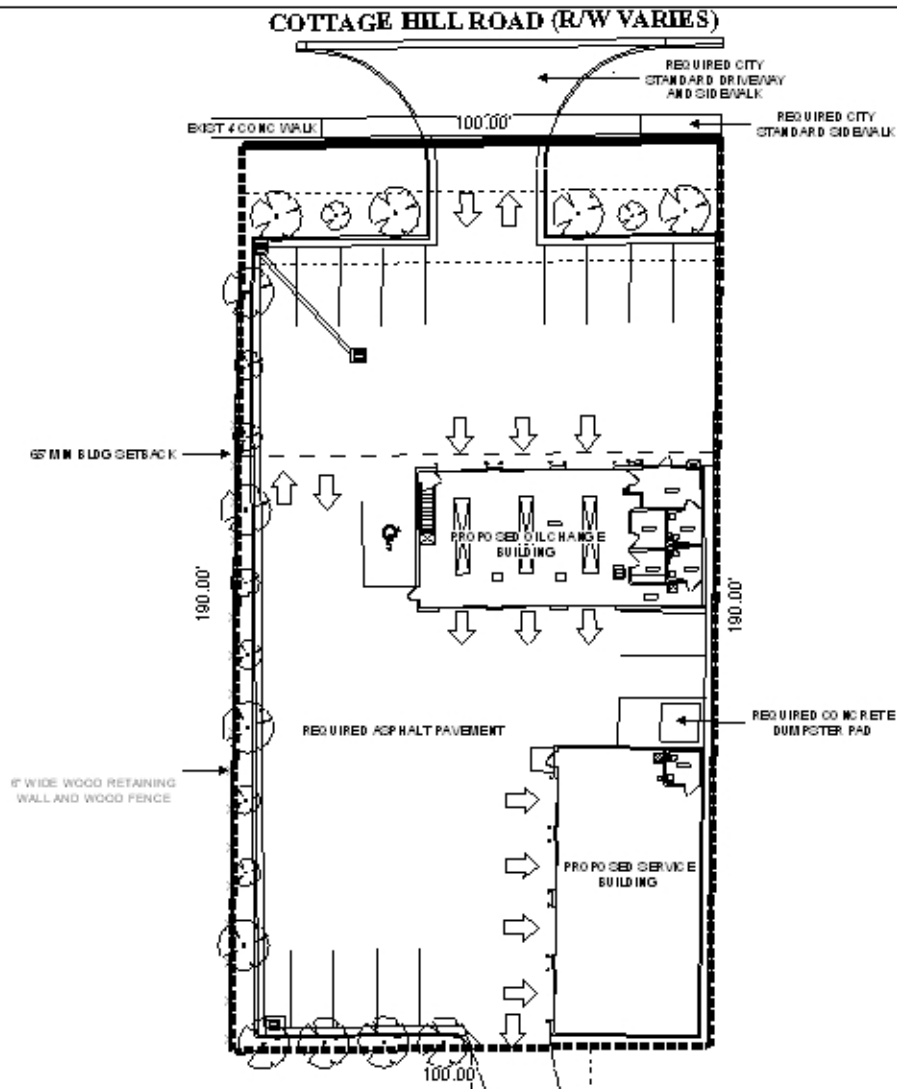
REQUEST Side Yard Setback Variance

LEGEND

R-1	R-2	R-3	R-4	R-5	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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# SITE PLAN



This site plan illustrates existing and proposed structures with improvements.

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