

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: January 6, 2014****CASE NUMBER**

5870

**APPLICANT NAME**

John Kirby

**LOCATION**7049 Dickens Ferry Road  
(South side of Dickens Ferry Road, 550'± East of Cody Road)**VARIANCE REQUEST****PARKING SURFACE:** Parking Surface Variance to allow a gravel lay down yard for the storing of cars for an automobile paint and body shop in a B-3, Community Business District (rezoning pending)**ZONING ORDINANCE  
REQUIREMENT****PARKING SURFACE:** The Zoning Ordinance requires parking areas to be paved with asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.**ZONING**

B-3, Community Business District (rezoning pending)

**AREA OF PROPERTY**

1.4± Acres

**TRAFFIC ENGINEERING****COMMENTS**

As it pertains to the surface variance, any required parking spaces should be delineated by curb stops, as spaces can not be painted on aggregate surface. Other concerns related to this site include the point(s) of access to both public right-of-way and adjacent properties, which should be addressed with the applications to the Planning Commission.

**ENGINEERING****COMMENTS**

If the aggregate surfacing is approved for use as requested the applicant will need to have the following condition met to address unpermitted land disturbing activity on-site: Submit and receive a Land Disturbance Permit for the existing site development additions, including within the AE and X (shaded) Flood Zones.

**CITY COUNCIL  
DISTRICT**

District 7

**ANALYSIS**

The applicant is requesting a Parking Surface Variance to allow a gravel lay down yard for the storing of cars for an automobile paint and body shop in a

B-3, Community Business District (rezoning pending); the Zoning Ordinance requires parking areas to be paved with asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.

The applicant also has applications for this site pending before the Planning Commission to be heard on December 5, 2013 for a 1-lot Subdivision; Planned Unit Development to allow multiple buildings on a single building site and shared access between two building sites; and Rezoning from R-1, Single-Family Residential District to B-3, Community Business District.

It should be noted that the applicant has already cleared the site and placed gravel without receiving any appropriate permits. The applicant is also already using the site to store numerous wrecked or irreparable vehicles. Also of note, is that the site contains a portion of the headwaters of Twelve Mile Creek and associated floodway and floodzones, therefore the area may be environmentally sensitive.

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 gives the following reasons to explain the need for the variance:

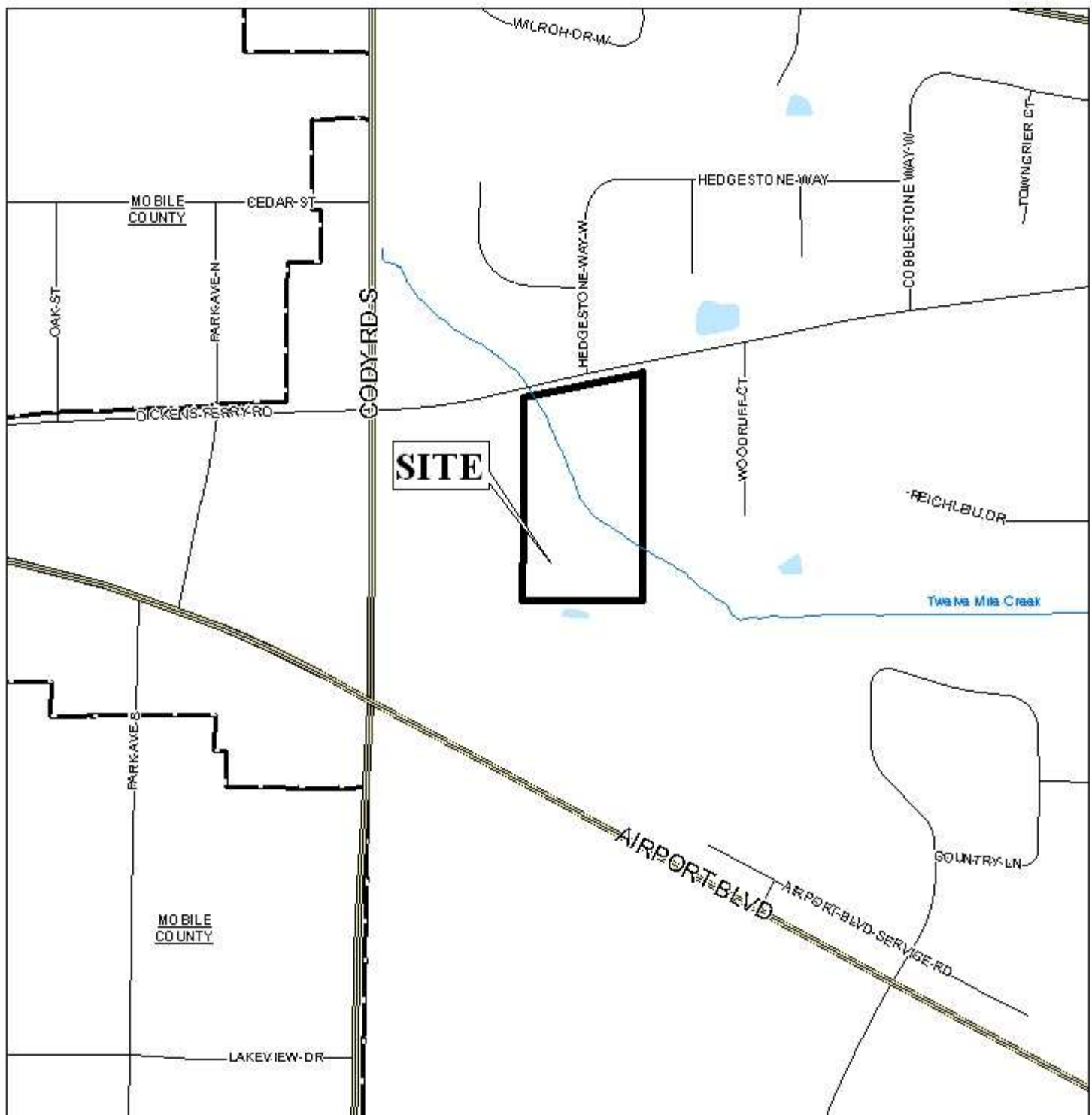
*This property is adjacent to 7060 Airport Boulevard, which is the property we are conducting business on. Our proposal is to clear, grub, and bring in dirt to fill in void space from the clearing and grubbing. In addition, we want to install crushed concrete on the cleared area for extra room. We have had problems with rats, and people living in cardboard boxes on the property, as well as excessive mosquitoes. We know this will bring about a cleaner, safer, environment for us and our neighbors.*

While the applicant's intention to provide a clean and safe environment for themselves and the neighbors is respectable, there is no hardship illustrated to provide justification for the approval of the requested surfacing variance.

**RECOMMENDATION:**

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

# LOCATOR MAP



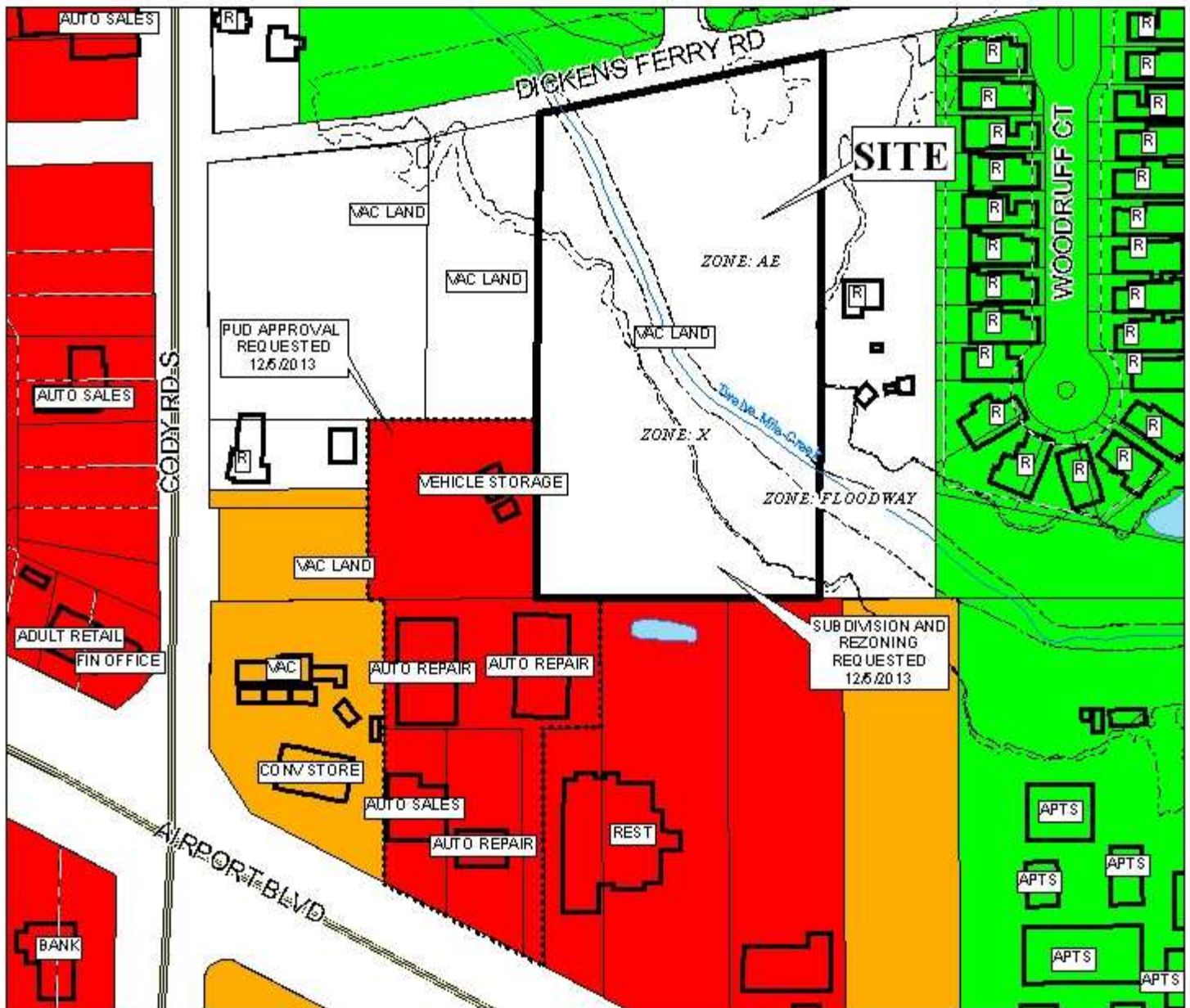
APPLICATION NUMBER 5870 DATE January 6, 2014

APPLICANT John Kirby

REQUEST Parking Surface Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residences and businesses.

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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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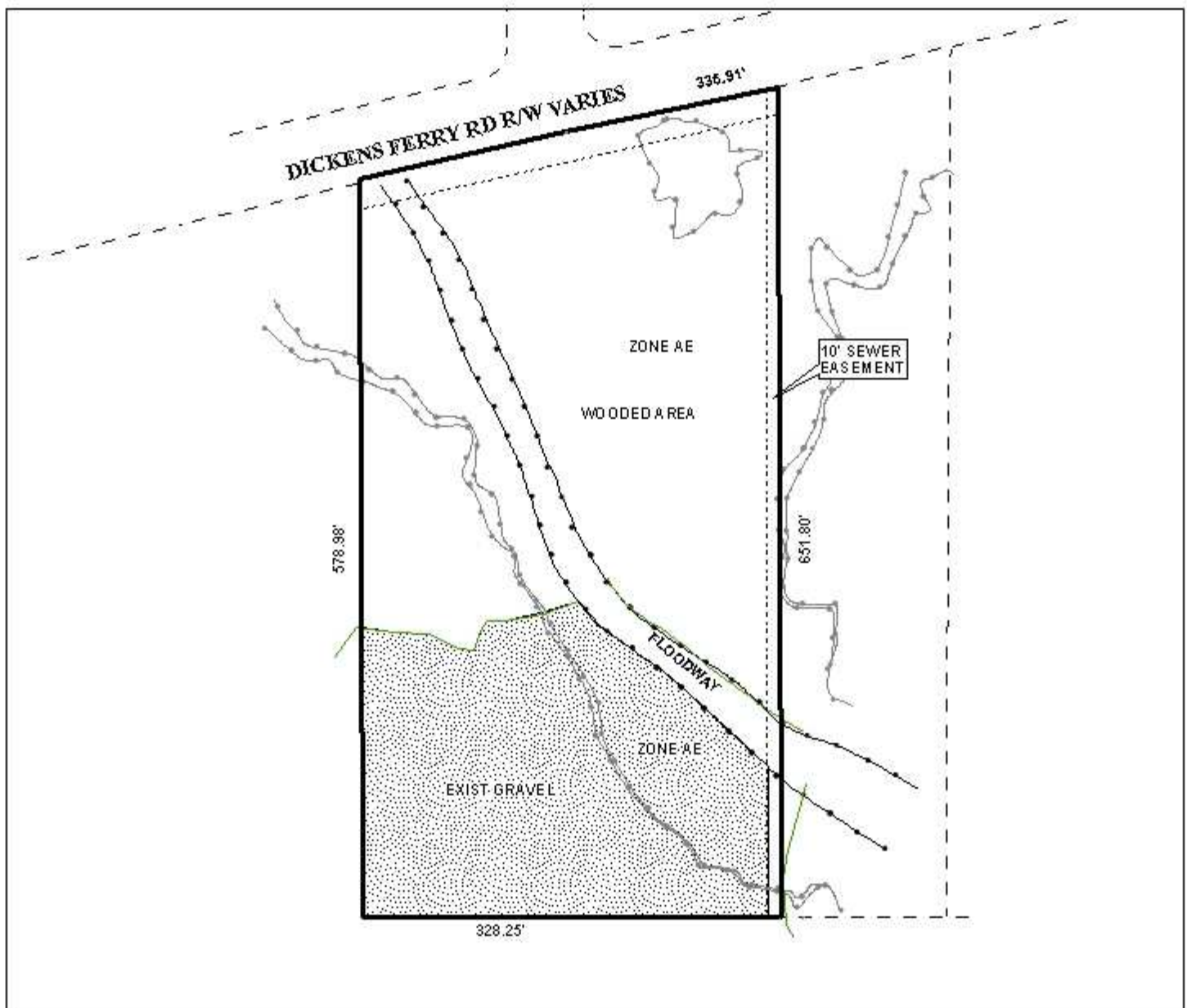
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NTS

# SITE PLAN



The site plan illustrates the existing gravel surface area.

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