

HOLDOVER

APPLICATION NUMBER

5411

A REQUEST FOR

**USE VARIANCE TO ALLOW A HOME OCCUPATION
BEAUTY SHOP IN A DETACHED ACCESSORY
STRUCTURE ON AN ADJACENT PARCEL OF
PROPERTY; THE ZONING ORDINANCE REQUIRES A
HOME OCCUPATION TO BE CONDUCTED WITHIN THE
BUSINESS OWNER'S PRIMARY DWELLING.**

LOCATED AT

3157 ORLEANS STREET

(South side of Orleans Street, 215' ± East of Paris Avenue)

APPLICANT/AGENT/OWNER

MICHELLE FRAZIER HARRIS

BOARD OF ZONING ADJUSTMENT

MAY 2007

HOLDOVER

ANALYSIS APPLICATION 5411

Date: May 7, 2007

The applicant is requesting a Use Variance to allow a home occupation beauty shop in a detached accessory structure on an adjacent parcel of property; the Zoning Ordinance requires a home occupation to be conducted within the business owner's primary dwelling.

The applicant obtained a City business license and Zoning Certification for a home occupation beauty shop in January 2007. Specifically noted on the Zoning Certification is the standard requirement for a home occupation that the business activity shall not take place in the yard or in a detached building or occupy more than 25% of the floor area of the dwelling. Subsequent to that, the Planning Section received complaints of the business operating in a detached structure on an adjacent parcel of property next to the primary residence. A zoning investigation confirmed the situation and the applicant was issued a Notice of Violation with the order to cease business until the proper approval was obtained, hence this application.

The intent of the home occupation provision of the Ordinance is to allow an occupation for gain or support conducted only by members of a family residing in a dwelling while maintaining the primary residential character of the dwelling and neighborhood. In this instance, both are in question. The previous owner of the adjacent parcel built the existing accessory structure in 1996 by permit and sold the property to the applicant in 2005. Although built by permit, the accessory structure should not have been built on a vacant R-1 site and the applicant should not have opened a home occupation in a detached, off-premise structure. And by square footage calculations, the house contains approximately 1,515 square feet, and the accessory structure contains approximately 380 square feet, or almost exactly 25% the house square footage. The allowance of a home occupation in a detached, off-premise structure would be an expansion of a nonconforming use uncharacteristic of the neighborhood and against the intent of the home occupation allowances. As the business is proposed to operate in this application, it is actually for a B-2, Neighborhood Business use in an R-1 subdivision.

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.

HOLDOVER

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to operate a home occupation beauty shop in a detached accessory structure on an adjacent parcel of property. An approval of this request could establish a detrimental precedence in the allowance of home occupations.

Subsequent to the April meeting, the applicant submitted a revised site plan proposing to relocate the subject off-premise, detached building onto the primary residential lot and attach it to the rear of the dwelling as an addition.. The site plan indicated that the addition would meet all required setbacks and would not exceed the 35% maximum site coverage. If the applicant pursues this proposal, there would be no need for this variance request since all aspects of use would be in compliance with the conditions of a home occupation beauty shop. Therefore, to ensure the revised plan is implemented, the applicant should withdraw the application, or the Board should deny the request.

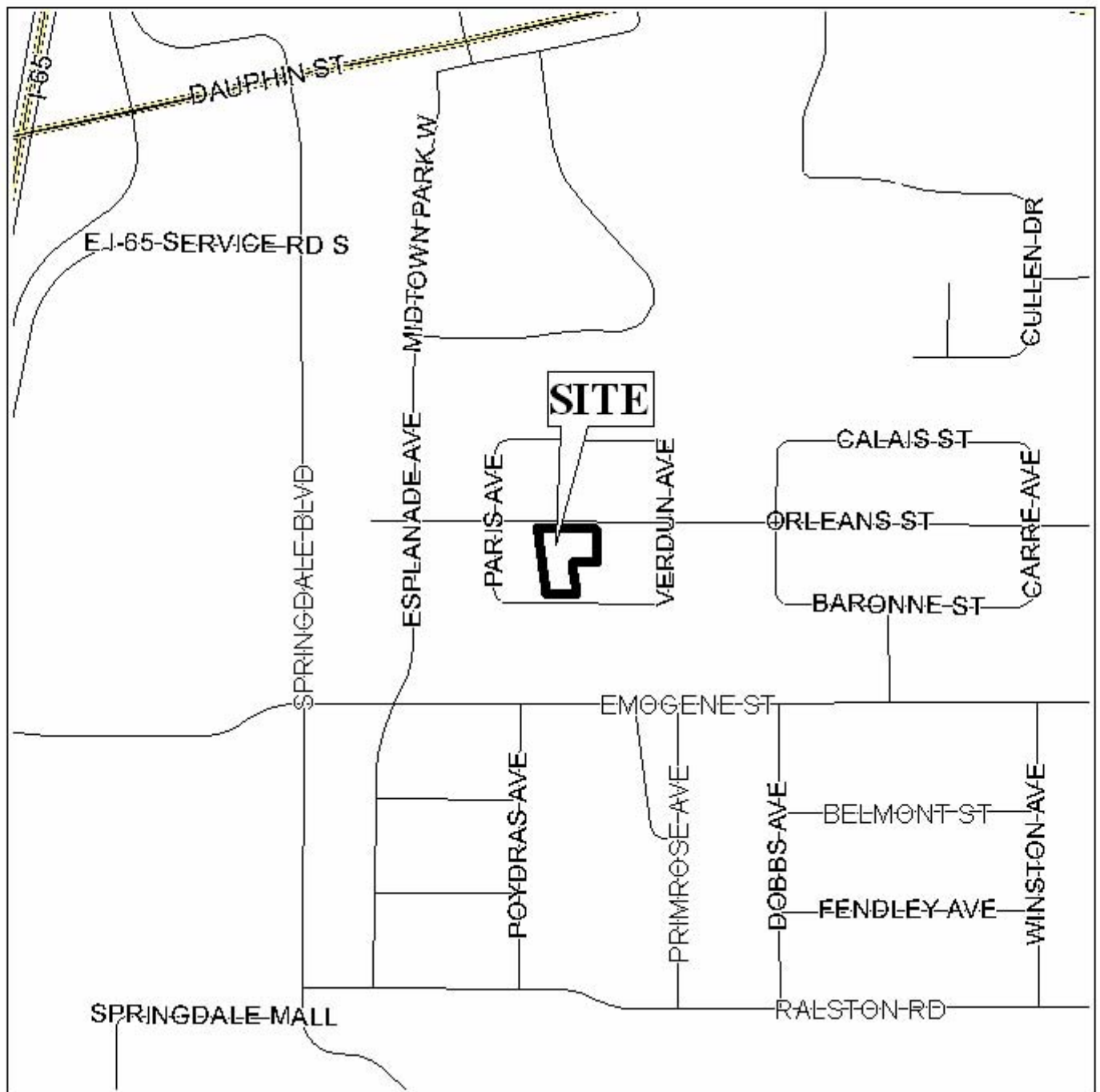
HOLDOVER

RECOMMENDATION 5411

Date: May 7, 2007

Based on the preceding, this application is recommended for denial if the applicant does not withdraw the application..

LOCATOR MAP



APPLICATION NUMBER 5411 DATE May 7, 2007
APPLICANT Michelle Frazier Harris
REQUEST Use Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

APPLICATION NUMBER 5411 DATE May 7, 2007

APPLICANT Michelle Frazier Harris

REQUEST Use Variance

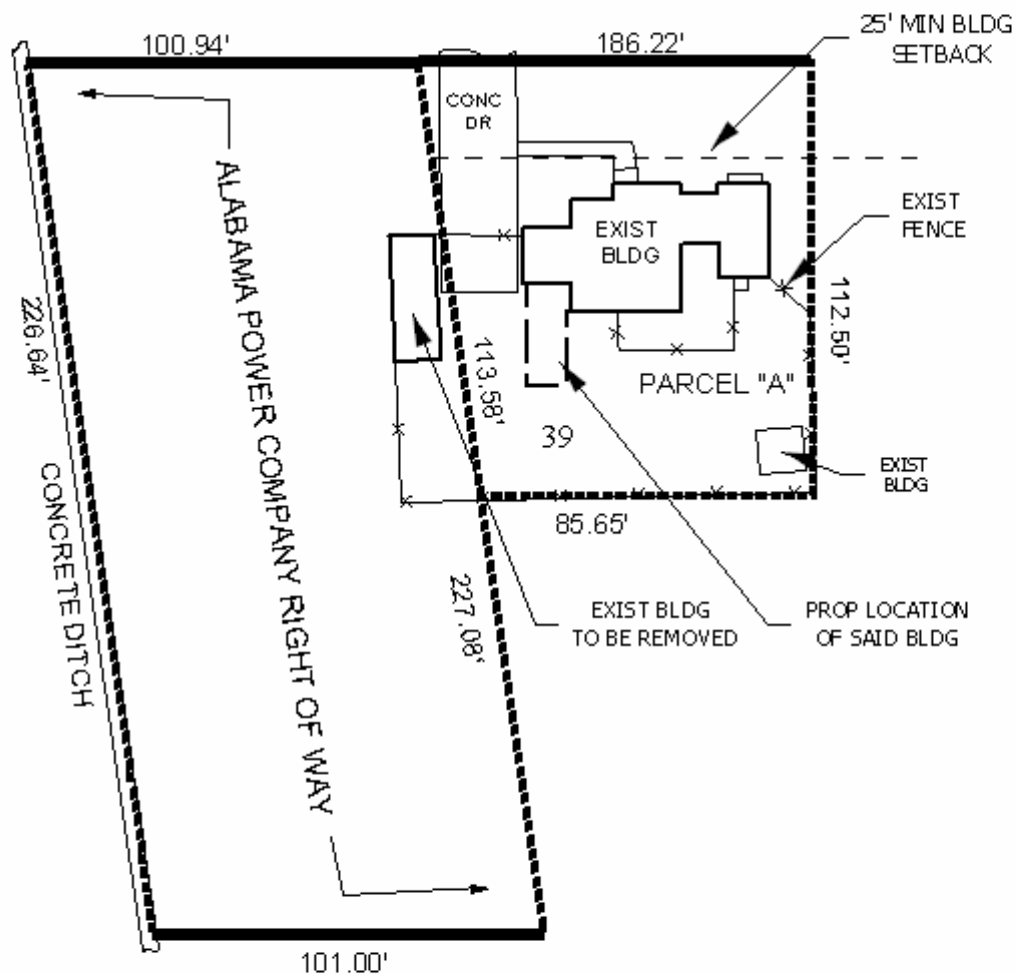
LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
-----	-----	-----	-----	-----	-----	-----	------	-----	-----	-----	-----	-----	-----



NTS

SITE PLAN



The site plan illustrates existing buildings, fences, setbacks and right of way.

APPLICATION NUMBER 5411 DATE May 7, 2007
 APPLICANT Michelle Frazier Harris
 REQUEST Use Variance



NTS

HOLDOVER