

APPLICATION NUMBER

5244

A REQUEST FOR

**USE VARIANCE TO ALLOW AN EXISTING STRUCTURE
TO BE USED AS A BARBER SHOP IN AN R-1, SINGLE-
FAMILY RESIDENTIAL DISTRICT; THE ZONING
ORDINANCE REQUIRES A MINIMUM OF B-2,
NEIGHBORHOOD BUSINESS DISTRICT**

LOCATED AT

420 HOLCOMBE AVENUE

(West side of Holcombe Avenue, 160'± North of Little Flower Avenue)

APPLICANT/AGENT

M. DON WILLIAMS, III

OWNER

JOSEPH ALLEN FERGUSON, JR.

BOARD OF ZONING ADJUSTMENT

MAY 2004

The applicant is requesting a Use Variance to allow an existing structure to be used as a barbershop in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of B-2, Neighborhood Business District.

The applicant states that an existing 800 sq.ft. building is located on this 1,200 sq.ft. site. The building was recently used as an insurance agency. The current owner proposes to use the building as a barbershop. Since this is a change of use from a professional office (a B-1 use) to a barber shop/beauty salon (a B-2 use) a use variance is required. However, a change from one non-conforming use to another non-conforming use would be allowed, but a change to a higher use such as proposed cannot. It should be noted that the applicant has submitted non-conforming documentation that the substandard parking surface and parking ratio existed prior to the adoption of the Zoning Ordinance.

The applicant states that although the site is zoned single-family residential, the site has been used commercially for many years. The applicant states that the building is at least 50 years old, and predates the Zoning Ordinance, which was adopted in 1967. The applicant states that the barbershop would be open from 8:00 AM to 6:00 PM, Monday through Saturday, with future plans to include 3 employees and 20 customers per day.

Several points must be brought to the Board's attention concerning this variance application. The proposed plan does not illustrate any delineated parking spaces for this site; and while documentation for non-conforming parking surface and parking ratio has been submitted for three parking spaces, the applicant states that he proposes three employees and 20 customers per day. This would indicate that one parking space should be provided for each employee as it is likely that each employee would drive to work in a separate vehicle. Furthermore, with three employees, it would logically follow that three separate customers would drive three separate vehicles as well; therefore, six parking spaces should be provided. The applicant should lease nearby parking space to satisfy his need for more parking, instead of having customers competing for parking spaces.

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.

The applicant failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to use this site as a barbershop. The existing building is non-conforming in terms of setbacks, and while it

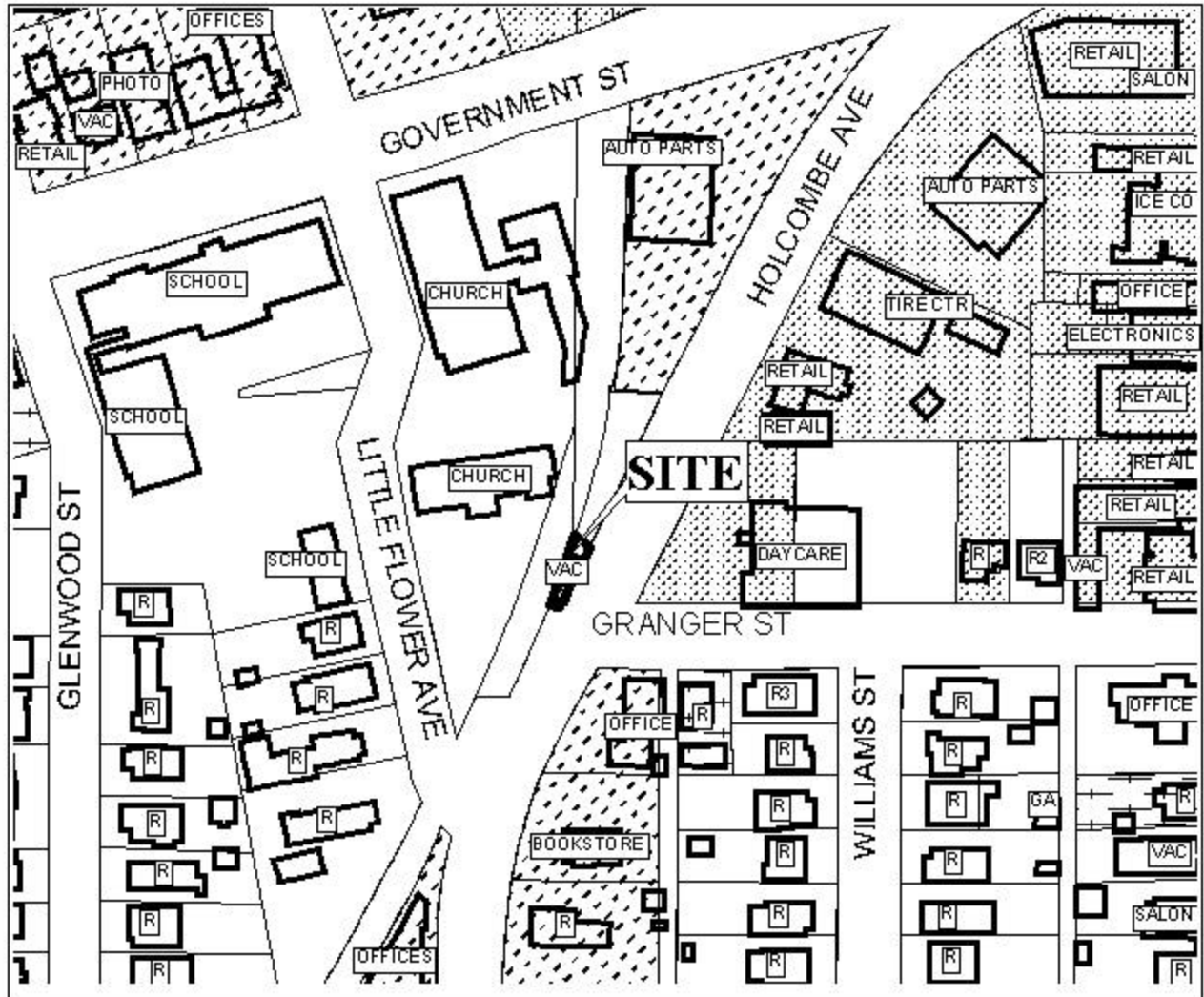
has lost any non-conforming B-2 status, with the provision of off-site parking, the application may comply with the criteria for granting a variance.

RECOMMENDATION 5244

Date: May 3, 2004

Based on the preceding, it is recommended that this application be approved subject to the leasing of at least three parking spaces within 300 feet of the site.

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Single and multi-family residential units are located to the south of the site. A church and a school are located to the west of the site. Commercial sites are located to the east and north of the site.

APPLICATION NUMBER 5244 DATE April 5, 2004

APPLICANT Joseph Ferguson

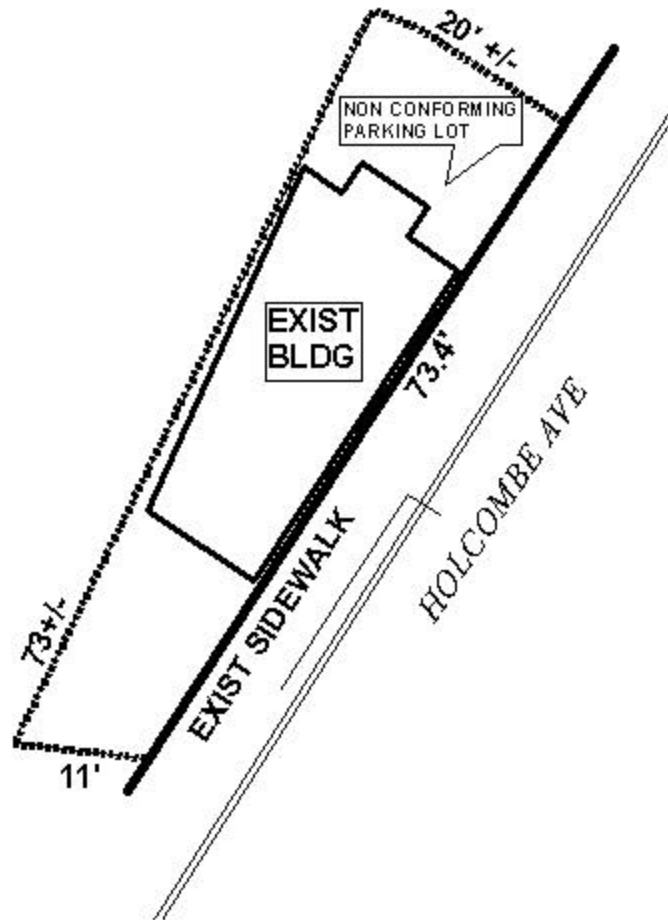
REQUEST Use Variance

LEGEND

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



SITE PLAN



The site plan illustrates the existing building and parking lot.

APPLICATION NUMBER 5244 DATE May 3, 2004

APPLICANT Joseph Ferguson

REQUEST Use Variance



NTS