

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: April 3, 2017**

<b><u>CASE NUMBER</u></b>	6096
<b><u>APPLICANT NAME</u></b>	Leroy Anderson
<b><u>LOCATION</u></b>	1055 Elmira Street (South side of Elmira Street, 79' West of Chatham Street).
<b><u>VARIANCE REQUEST</u></b>	<b>USE VARIANCE:</b> To allow construction of a duplex on a 7,900 square foot lot in an R-1, Single-Family Residential District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE VARIANCE:</b> The Zoning Ordinance requires a minimum of 8,000 square feet for a duplex in an R-2, Two-Family Residential District.
<b><u>ZONING</u></b>	R-1, Single-Family Residential District.
<b><u>AREA OF PROPERTY</u></b>	0.2± Acres
<b><u>CITY COUNCIL DISTRICT</u></b>	District 2
<b><u>ENGINEERING COMMENTS</u></b>	No comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments.
<b><u>URBAN FORESTY COMMENTS</u></b>	Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64).
<b><u>ANALYSIS</u></b>	The applicant is requesting a Site Variance to allow construction of a duplex on a 7,900 square foot lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of 8,000 square feet for a duplex in an R-2, Two-Family Residential District.

It appears the applicant obtained the property via a tax deed sale in July, 2014 for the price of \$2,006.11. Since acquisition, the property owner has appeared in Environmental Court for numerous property maintenance violations for this site.

The applicant references neighboring duplexes as justification for the request, stating:

*This request is for a zoning variance to allow the construction of a Duplex at 1055 Elmira Street. The property is 75' x 105' and is 7900 sq./ft. which 100 sq./ft. short of the required 8000 sq./ft. for a Duplex. It will be in a block that currently has a Duplex next door on a lot that is 50% smaller, and an apartment building at the west end of the block on an under sized lot.*

*The proposed Duplex foot print will 42' x 50', and will comply with all setbacks and flood requirements. It will have off street parking on each side of the Duplex, and each one bedroom apartment will be 20' x 40' with fenced in backyard for privacy.*

*The Duplex Design will comply with all of the Design Guidelines of the Mobile Historic Development Commission.*

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.

It should be noted that the site is located within what the Map for Mobile Comprehensive Plan describes as a **Traditional Neighborhood** Development Area, wherein the intent for development includes:

- better connectivity to neighborhood centers with accessibility to retail and services;
- appropriately scaled and designed infill development, including housing in a variety of configurations;
- more sidewalks and streetscaping;
- protections for historic properties; and,
- increased protections for existing traditional development.

The site is also within the Oakleigh Garden Historic District, and was the subject of a zoning study in 1992 that facilitated rezoning of the property from R-3, Multiple-Family District to R-1, Single-Family Residential District at the July 21, 1992 meeting of City Council. As such, if

approved, the duplex would also need to be approved by the Architectural Review Board prior to the issuance of any permits for construction.

No site plan illustrating any proposed improvements to the property was submitted to Staff for review, rather a survey illustrating the existing structure on the property was provided. If approved, a site plan illustrating all proposed site improvements should be required.

The applicant does iterate the following dimensions of a proposed duplex:

*The replacement structure at 1055 Elmira Street will be a single story Duplex (similar to the attached photo). This Duplex will have a foot print of 42' x 50', and will comply with all set back requirements. Each apartment will be a shotgun style unit measuring 20' x 40', and have off street parking on the side.*

*The Duplex will have a foundation approx.. 24" above ground level, and constructed of 2" x 6" with lap siding and painted in a color that reflect the historic character of the neighborhood.*

*The owner will contract for the design of the above described Duplex for review and approval by the Mobile Architectural Review Board and the City Building Departments before construction, once the demolition application has been approved.*

Regarding the applicant's reference to neighboring duplexes, documentation provided to Staff alleges that the property directly to the East of the subject site is used as a rooming, or boarding house; property directly to the West of the subject site is a duplex; property 100'± West of the subject site is used for "services,"; and property 150'± West of the subject site, at the Southeast corner of Elmira Street and George Street, is developed with a three-family apartment building.

Staff can verify that the aforementioned "services" building has nonconforming history as a commercial property, since at least the 1960s, but cannot verify the alleged uses of the other aforementioned properties. Nevertheless, using aerial photographs, it appears each of these properties has been developed since at least 1960, perhaps even since 1938; and, as such, may be considered nonconforming depending on the length of time in which they have been similarly utilized.

While neighboring properties may be used for multiple-family residences, the subject site is not, and no evidence has been provided to Staff to suggest otherwise. Additionally, the greater surrounding neighborhood appears to be developed with single-family residences.

Finally, while the lot on which construction of a duplex is proposed may lack only 100 square feet to meet the minimum size requirements for lots with two-family residences, such lots must be within zoning districts with at least an R-2, Two-Family Residence District designation; and, it is reasonable to assume that rezoning of the neighborhood from R-3, Multiple-Family District, to R-1, Single-Family Residential District, was to prevent such multi-family developments or, in this case, redevelopments. Such intimation could further be reinforced by the development intentions of a Traditional Neighborhood in the Map for Mobile Comprehensive Plan,

particularly with respect to 1) protections for historic properties, and 2) increased protections for existing traditional development: the site is currently developed with a single-family dwelling and continued, similar use of the property should be maintained.

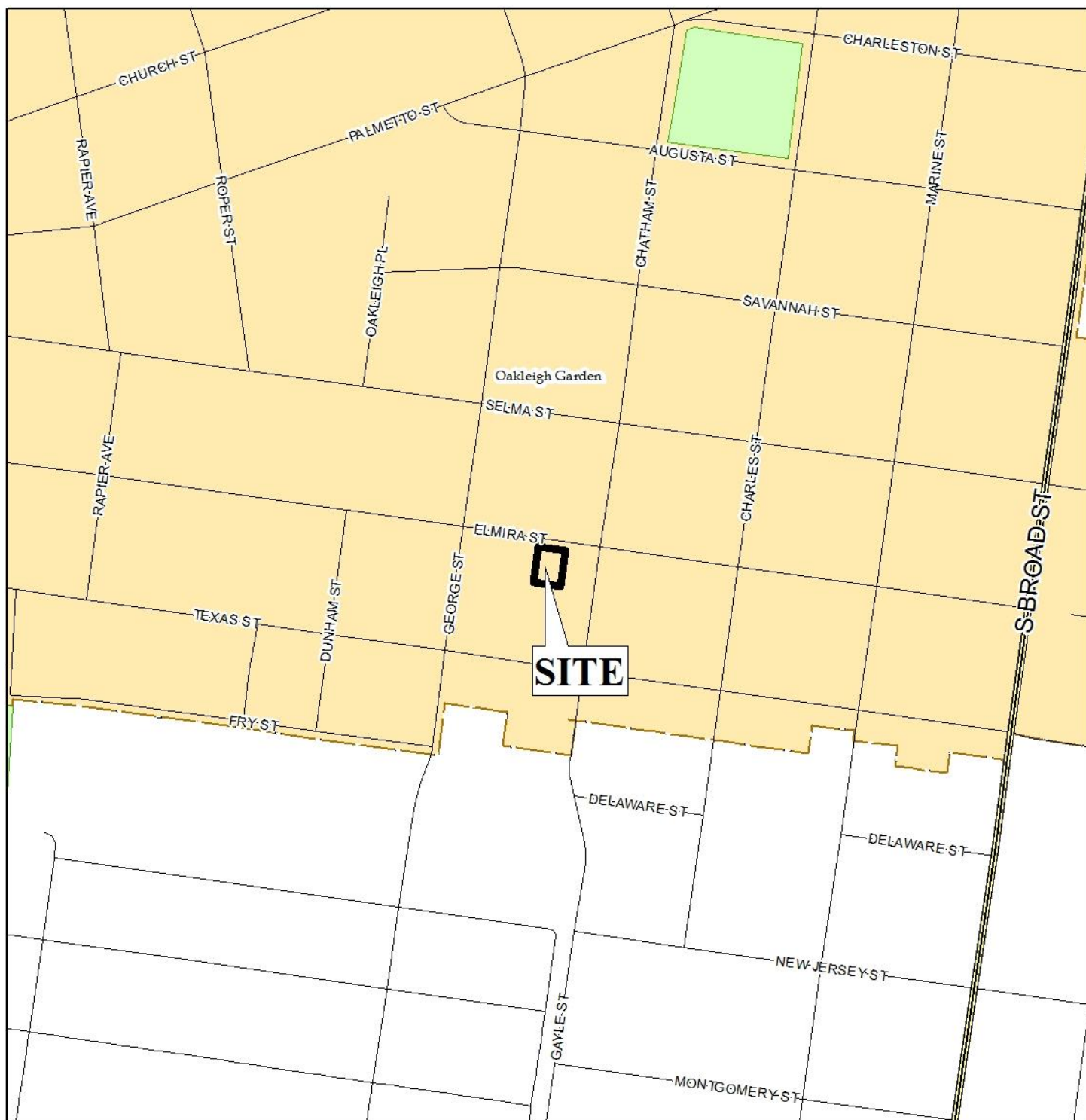
Considering the preceding, as well as the fact that the size of the lot on which construction of the duplex is proposed is more than adequate enough to accommodate a single-family dwelling, the applicant has not successfully presented evidence of a hardship; and, as a result, approval of the variance would seemingly be inconsistent with the most recent intentions to characterize the neighborhood, at most, with R-1, Single-Family Residential Districts. Denial of the request to allow construction of a duplex on a 7,900 square foot lot in an R-1, Single-Family Residential District may, therefore, be appropriate.

### **RECOMMENDATION:**

Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) Granting the variance will be contrary to the public interest due to the single-family character of the surrounding neighborhood;
- 2) Special conditions do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship due to the fact that the lot may be developed for uses appropriate within an R-1, Single-Family Residential District; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance since evidence of the intended character of the neighborhood does not suggest use of the property as an R-2, Two-Family Residence District, would be appropriate.

# LOCATOR MAP



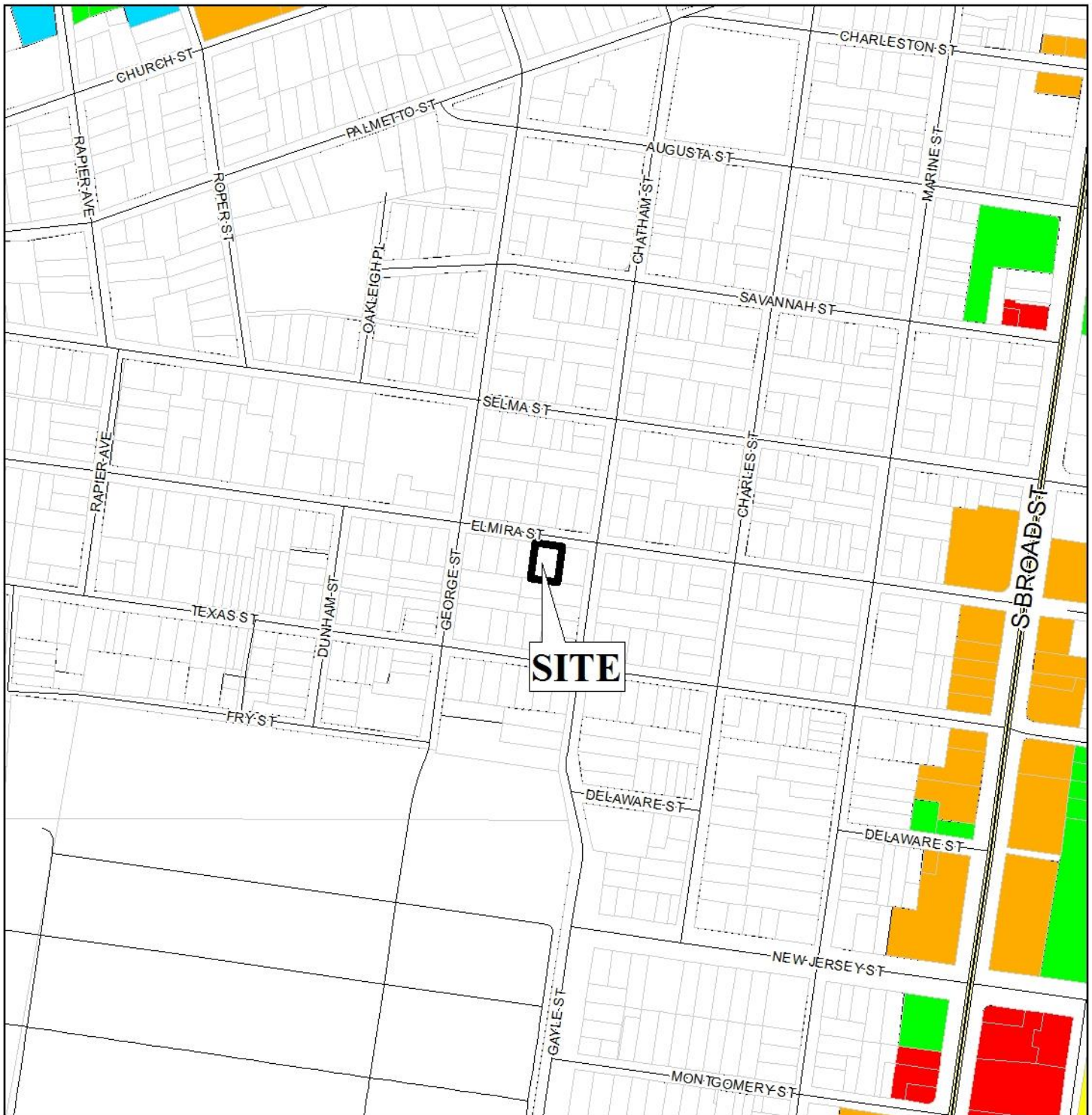
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APPLICANT Leroy Anderson

REQUEST Use Variance



# LOCATOR ZONING MAP



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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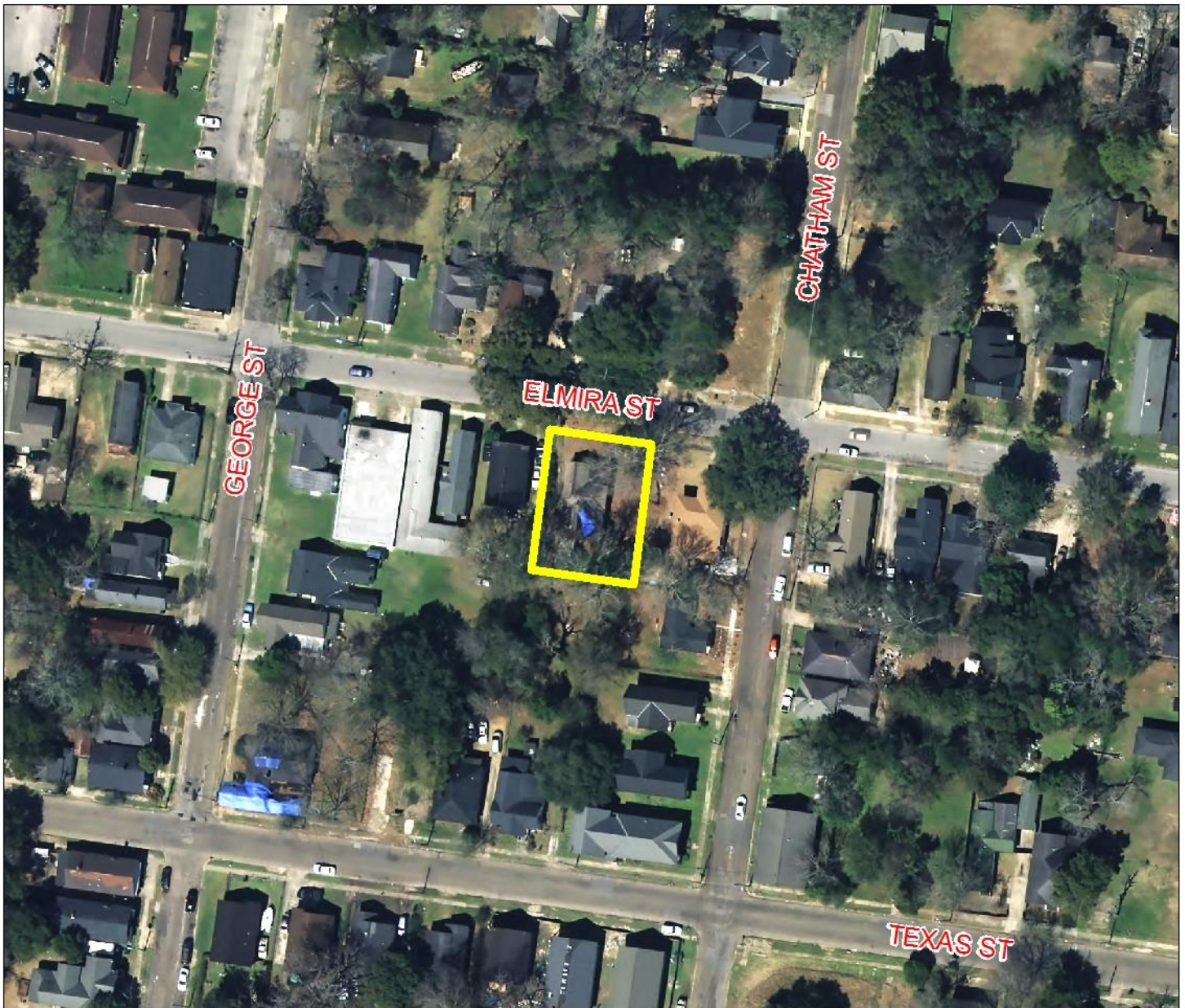
REQUEST Use Variance

R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



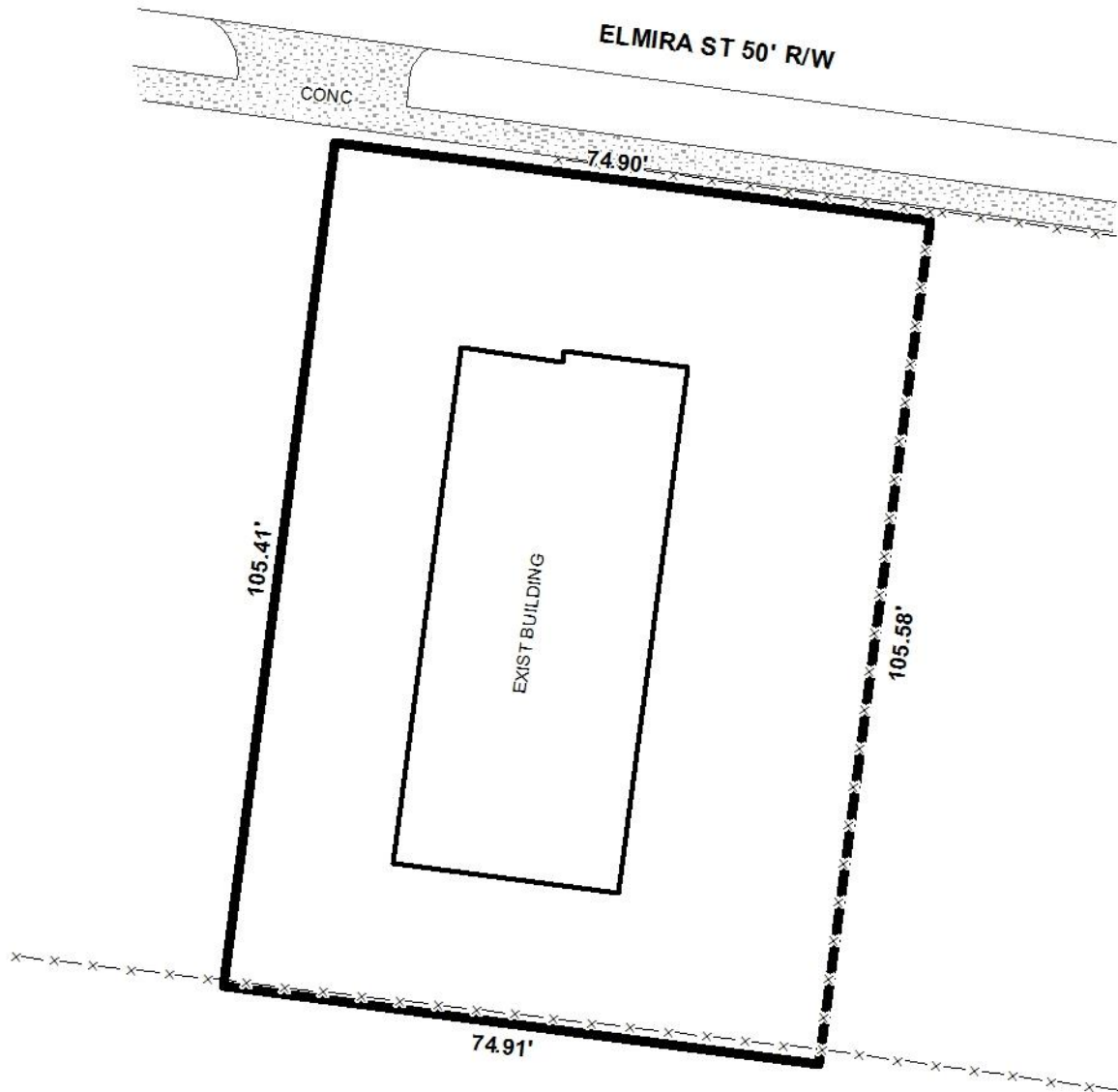
The site is surrounded by residential units.

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# SITE PLAN



The site plan illustrates the existing building and concrete drive.

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