

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: September 13, 2021**

**CASE NUMBER** 6415

**APPLICANT NAME** William R. Healy, Jr.

**LOCATION** 1209 Government Street  
(South side of Government Street, 265'± West of Rapier Avenue).

**VARIANCE REQUEST** **USE:** To allow a second dwelling unit at a residence in an R-1, Single-Family Residential District.

**ZONING ORDINANCE REQUIREMENT** **USE:** The Zoning Ordinance does not allow more than one dwelling unit at a residence in an R-1, Single-Family Residential District.

**ZONING** R-1, Single-Family Residential District

**AREA OF PROPERTY** 1.5± Acres

**ENGINEERING COMMENTS** No comments.

**TRAFFIC ENGINEERING COMMENTS** No comments.

**URBAN FORESTRY COMMENTS** Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

**FIRE DEPARTMENT COMMENTS** All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A

fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

**CITY COUNCIL**  
**DISTRICT**

District 2

**ANALYSIS**

The applicant is requesting a Use Variance to allow a second dwelling unit at a residence in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow more than one dwelling unit at a residence in an R-1, Single-Family Residential District.

The site has been given a Mixed Density Residential (MxDR) land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 by the Planning Commission. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

This designation applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

These residential areas should offer a mix of single family homes, townhouses, 2- to 4- residential unit buildings, accessory dwellings, and low- and mid-rise multifamily apartment buildings. The density varies between 6 and 10 dwelling units per acre, depending on the mix, types, and locations of the housing as specified by zoning.

Like Low Density Residential areas, Mixed Density Residential areas may incorporate compatibly scaled and sited complementary uses such as neighborhood retail and office uses, schools, playgrounds and parks, and churches and other amenities that create a complete neighborhood fabric and provide safe and convenient access to daily necessities.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

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 states the following concerning the request:

*I am requesting a variance to allow living accommodations for my mother on my property at 1209 Government St. Currently, there is a carriage house that sits on the back of the property facing Church St. The carriage house has had many lives over the years being used as a garage, apartments and apparently at some point even a dance studio. However, my current goal if approved would be to renovate the deteriorating carriage house into a wheelchair accessible for her. My mother will turn 80 in January and lives across town from my sister and myself. Renovating the carriage house would allow my mother and caregivers to live on the property with me and within 2 blocks of my sister who lives at 164 Roper St. I am committed to maintaining the character of the structure and the matching the neighborhood as a whole. Thank you for your consideration, please feel free to contact me if you have any questions.*

The subject site has an existing structure at the rear of the site, fronting Church Street, that has a separate address of 1212 Church Street. The applicant has several proposed additions to the existing structure. The site plan submitted shows that the existing structure is 8” from the Church Street property line, but the proposed addition is 2” from the property line. The site is located within the Oakleigh Garden Historic District, and therefore enjoys setback flexibility afforded by the Historic District Overlay (HDO). While the HDO allows for greater flexibility from the standard setback requirements, it limits new construction to the setbacks established by existing structures within 150’ of the same side of the street. As such, the existing structure on the subject site appears to be the only structure within the allocated buffer, therefore the proposed additions should be altered to be no closer to the Church Street property line than the existing structure.

In regards to the applicants request for a second dwelling unit, it should be noted that while garage apartments are not uncommon in the Oakleigh Garden Historic District, the area underwent rezonings by the City Council 1984 and 1992 in an attempt to preserve the single-family residential character of the area. The subject site was rezoned from B-1, Buffer Business District to R-1, Single-Family Residential District in 1984.

The applicant is proposing to utilize the proposed second dwelling unit as a residence for an aging family member, and the Board has been sympathetic to similar requests in the past, with the condition that the use of the proposed dwelling unit be limited to family members. That being said, there is sufficient room, that the applicant could request a 2-lot Subdivision, to create a separate lot for the proposed second dwelling, so that each dwelling would be on its own lot; thus negating the need for a use variance.

**RECOMMENDATION:** Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial for the Use Variance:

- 1) Approving the variance request will be contrary to the public interest due to the fact that a 2-lot Subdivision could make the need for a variance unnecessary;
- 2) Special conditions do not appear to exist, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship due to the ability to create a separate lot for the proposed dwelling; and
- 3) That the spirit of the chapter shall be not observed and substantial justice not done to the applicant and the surrounding neighborhood by granting the variance as it is possible for a dwelling to be created on the subject site without the need for a variance.

***Revised for the October 4<sup>th</sup> meeting:***

*This application was heldover at the applicant's request from the Board's September 13<sup>th</sup> meeting. No additional information has been submitted, therefore the previous recommendation remains.*

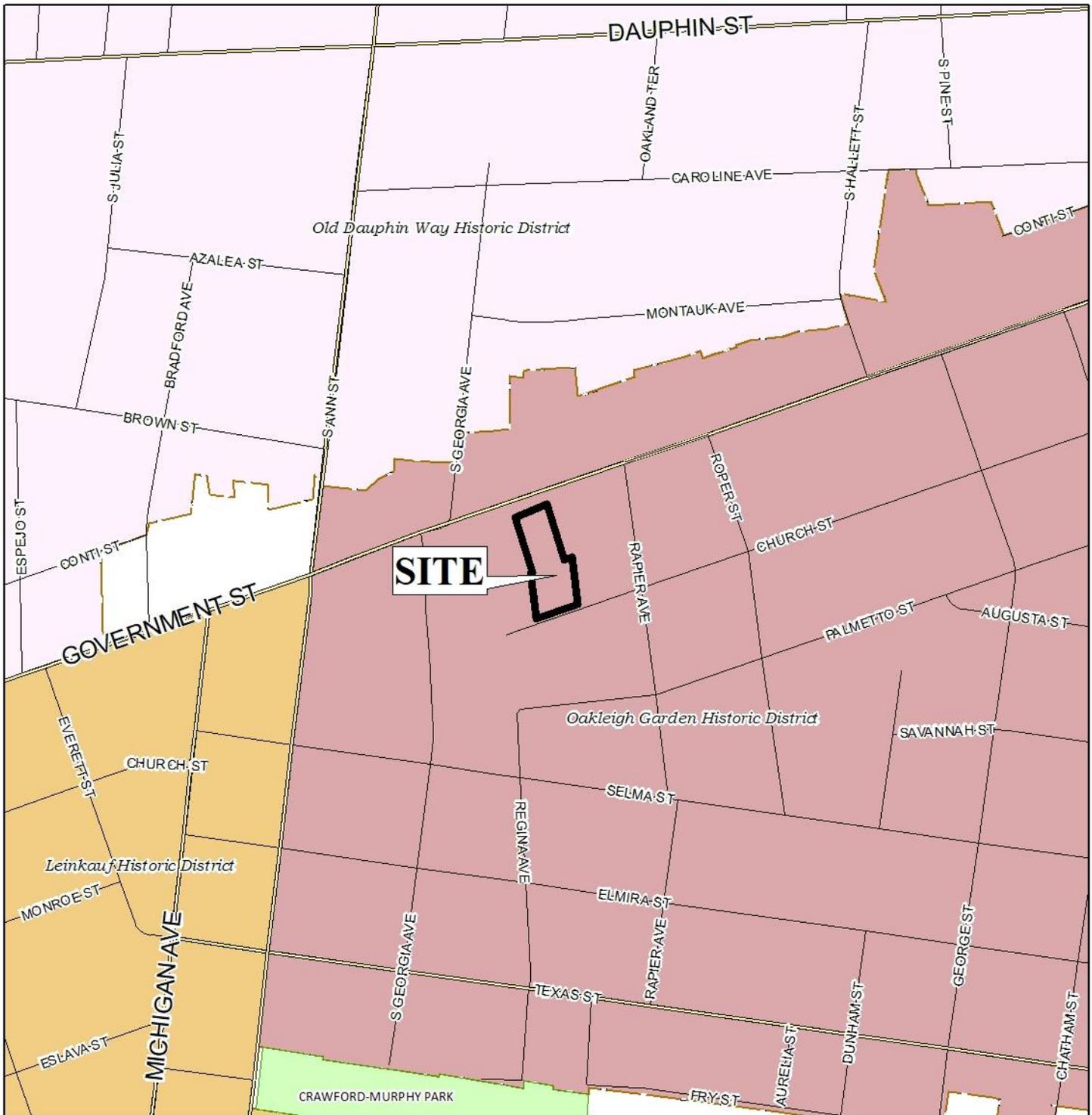
**RECOMMENDATION:** *Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial for the Use Variance:*

- 1) *Approving the variance request will be contrary to the public interest due to the fact that a 2-lot Subdivision could make the need for a variance unnecessary;*
- 2) *Special conditions do not appear to exist, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship due to the ability to create a separate lot for the proposed dwelling; and*
- 3) *That the spirit of the chapter shall be not observed and substantial justice not done to the applicant and the surrounding neighborhood by granting the variance as it is possible for a dwelling to be created on the subject site without the need for a variance.*

**In order for any concerns to be considered by the Board you must email your concerns to [planning@cityofmobile.org](mailto:planning@cityofmobile.org) or they may be uploaded to the website via the portal under the meeting date and case. Comments must be entered by 2:00 PM on Friday, October 1<sup>st</sup>, before the meeting, in order to be considered by the Board.**

**If you wish to participate in the meeting, you must email [planning@cityofmobile.org](mailto:planning@cityofmobile.org) by 2:00 PM on Friday, October 1<sup>st</sup>, before the meeting. In accordance with the Rules of the Board of Zoning Adjustment, no more than four (4) speakers are allowed to speak for or against an application. Speaking time is limited to five (5) minutes per speaker.**

# LOCATOR MAP



APPLICATION NUMBER 6415 DATE October 4, 2021

APPLICANT William R. Healy, Jr.

REQUEST Use Variance



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# LOCATOR ZONING MAP



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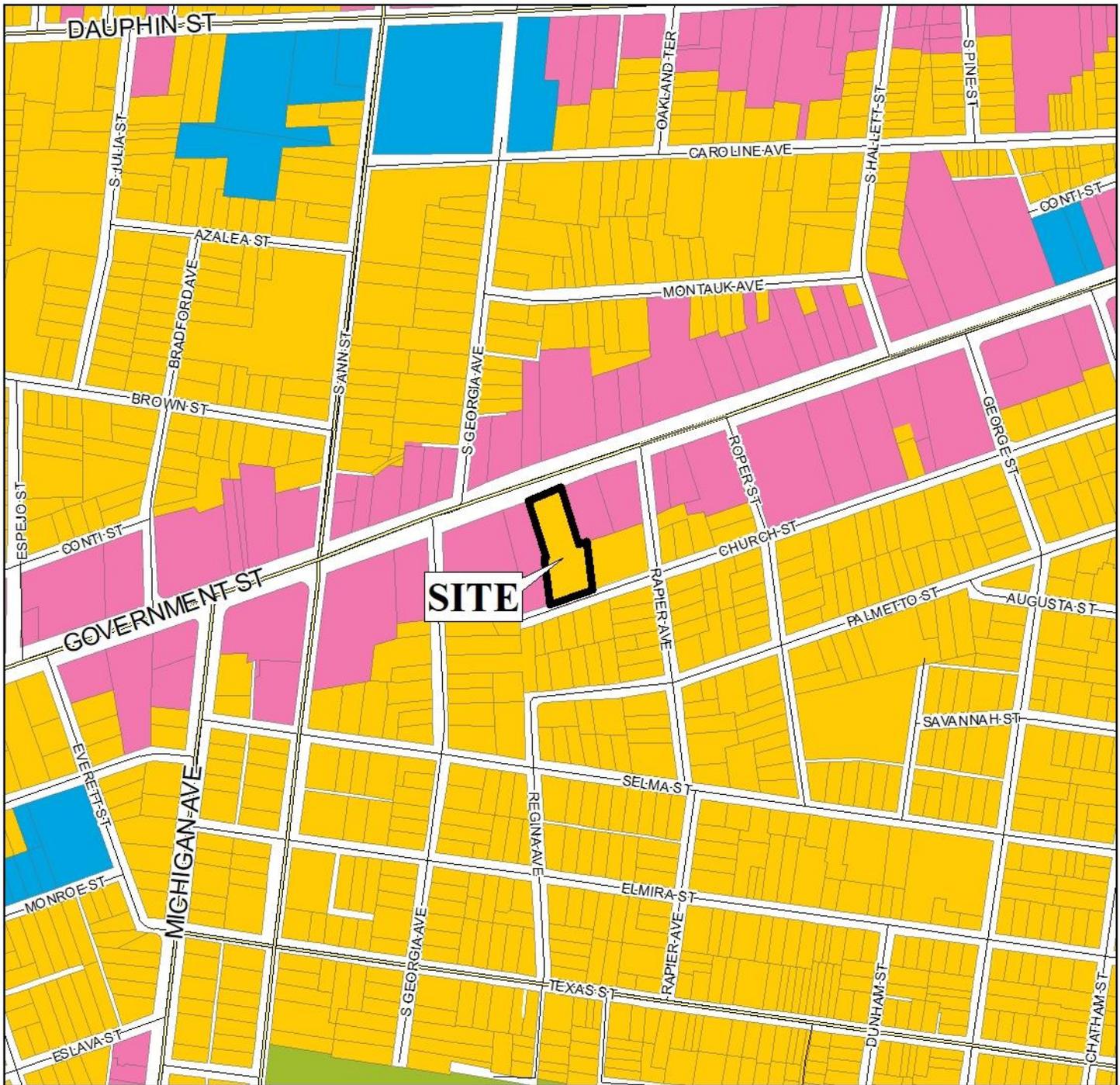
APPLICANT William R. Healy, Jr.

REQUEST Use Variance



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# FLUM LOCATOR MAP



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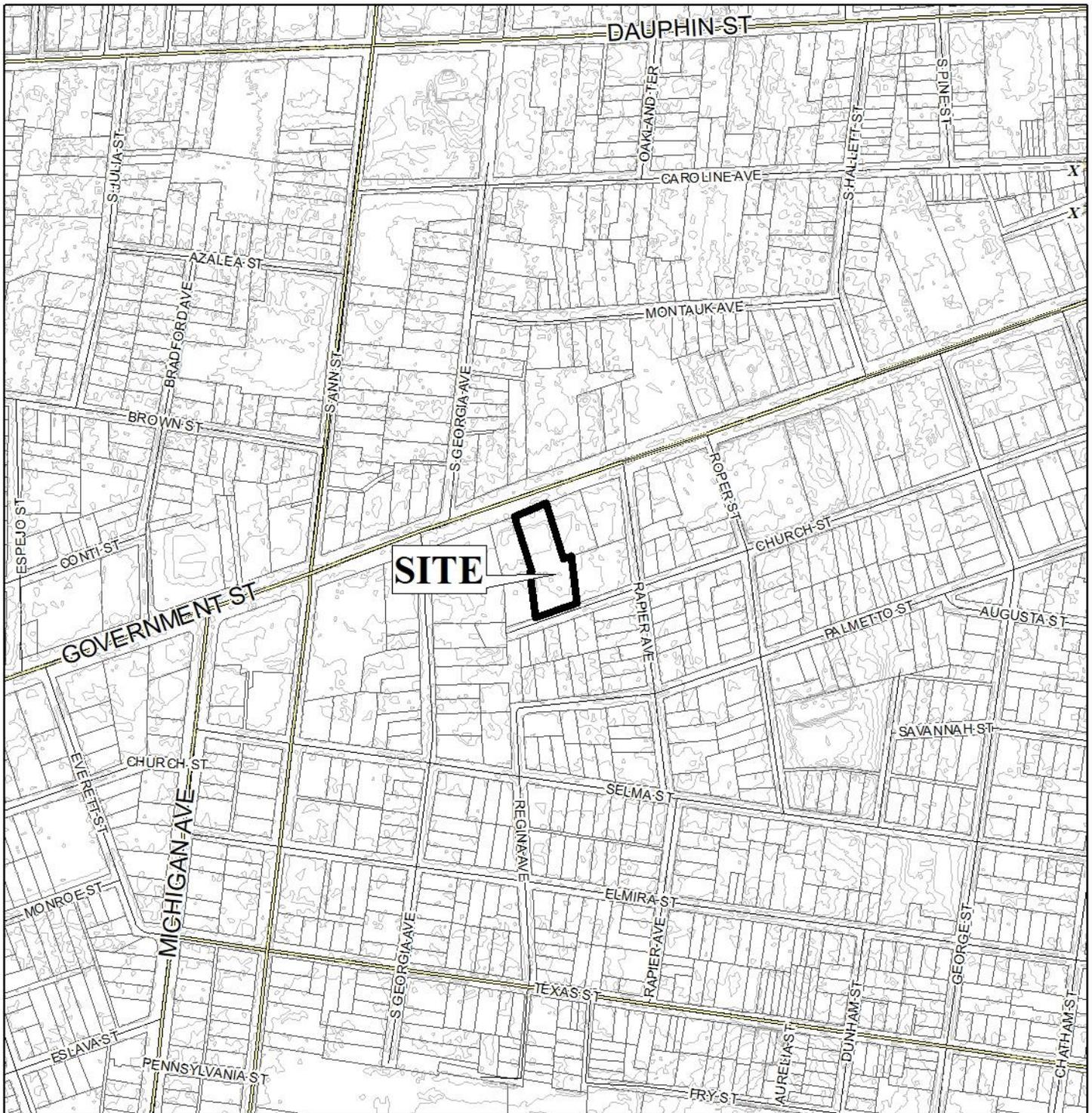
APPLICANT William R. Healy, Jr.

REQUEST Use Variance

- |                           |                                   |                     |                    |
|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential   | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood Center - Suburban    | Light Industry      | Water Dependent    |
| Downtown                  | Traditional Corridor              | Heavy Industry      |                    |
| District Center           | Mixed Commercial Corridor         | Institutional       |                    |



# ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6415 DATE October 4, 2021

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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A medical clinic lies west of the site.

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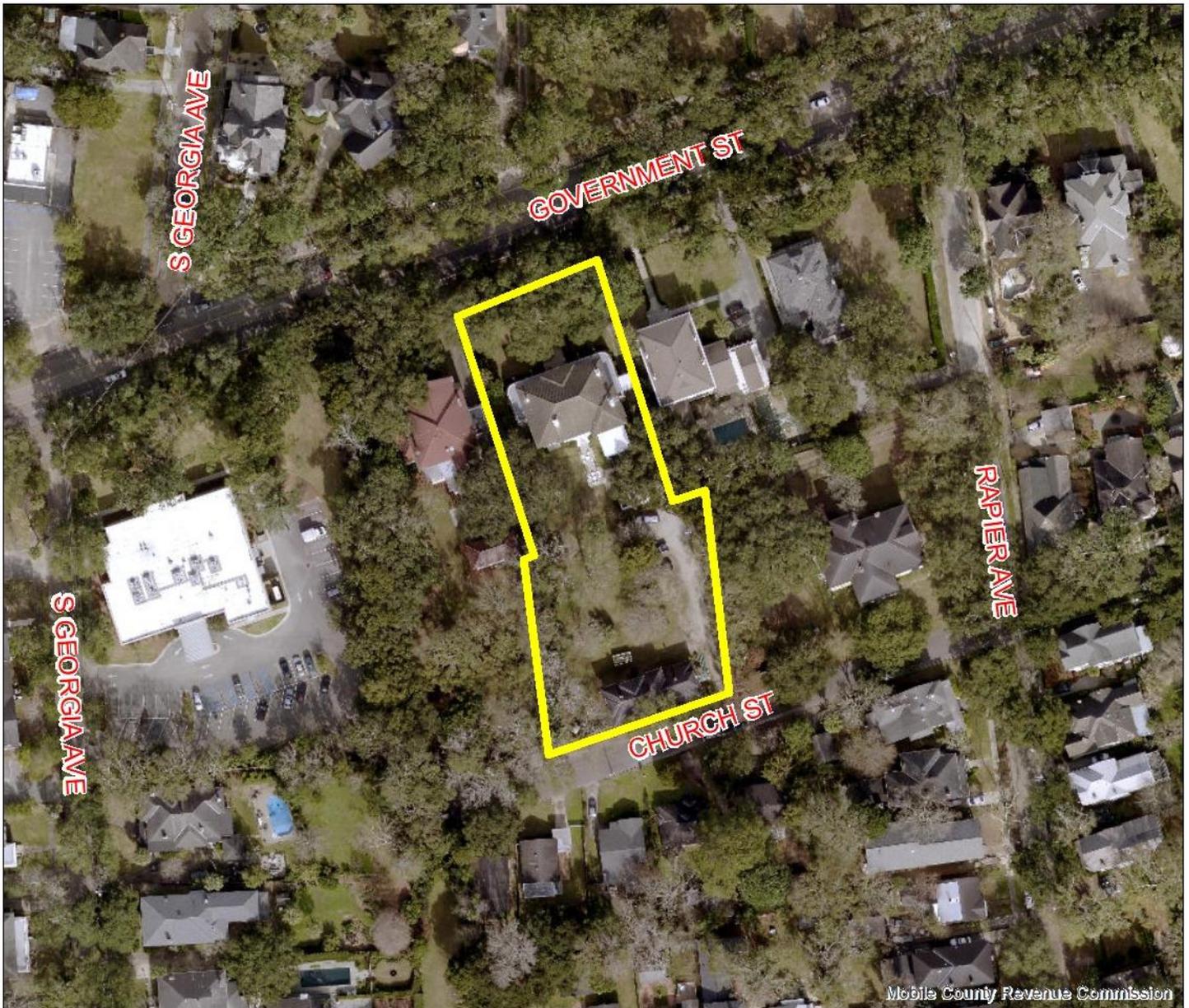
APPLICANT William R. Healy, Jr.

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. A medical clinic lies west of the site.

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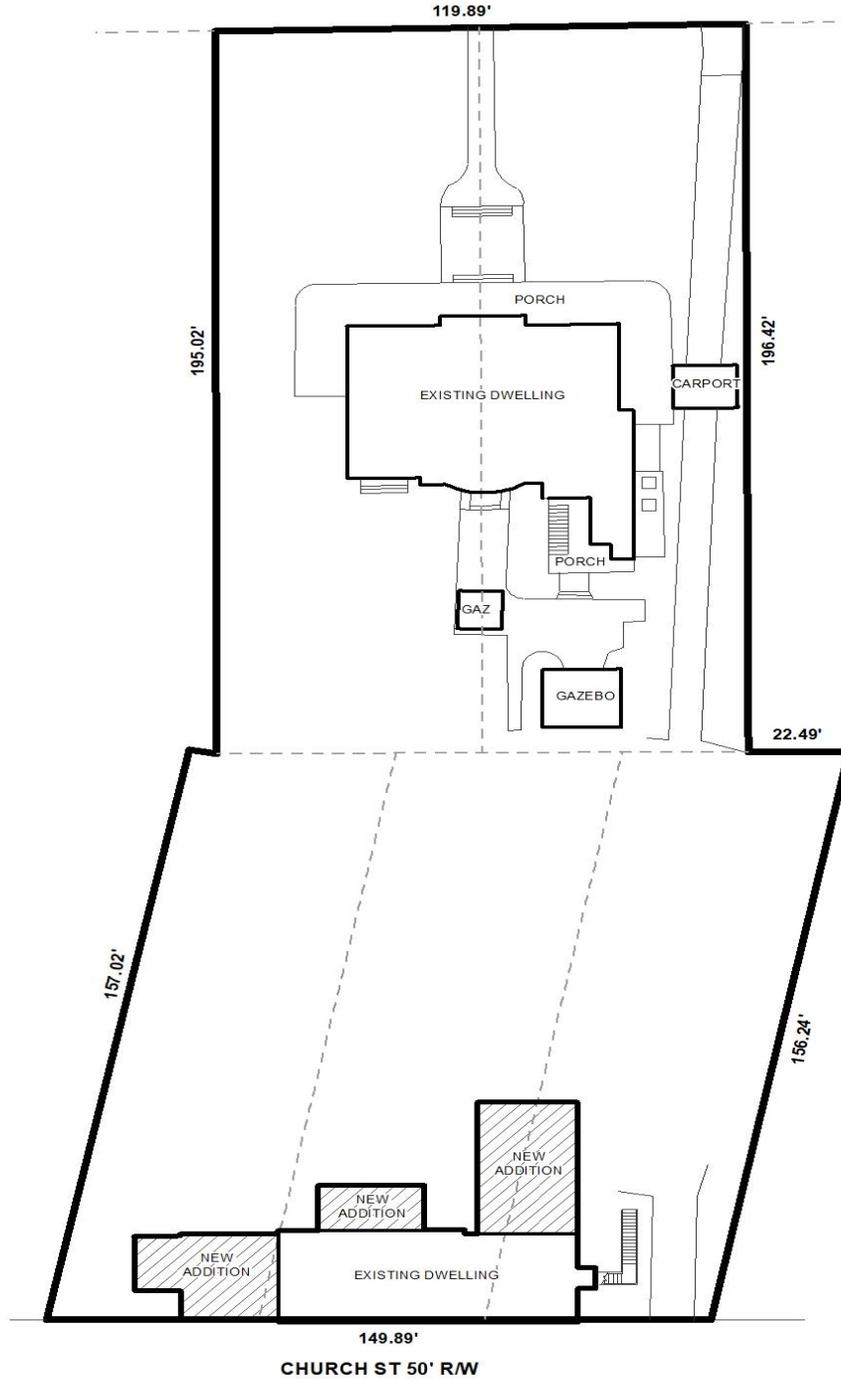
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# SITE PLAN

GOVERNMENT ST 100' R/W



The site plan illustrates the existing dwellings, gazebos, and proposed new additions.

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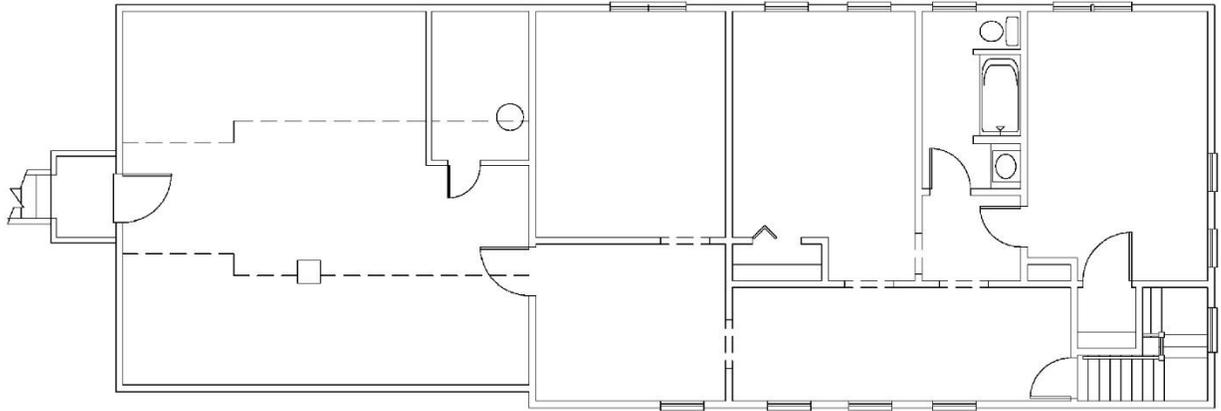
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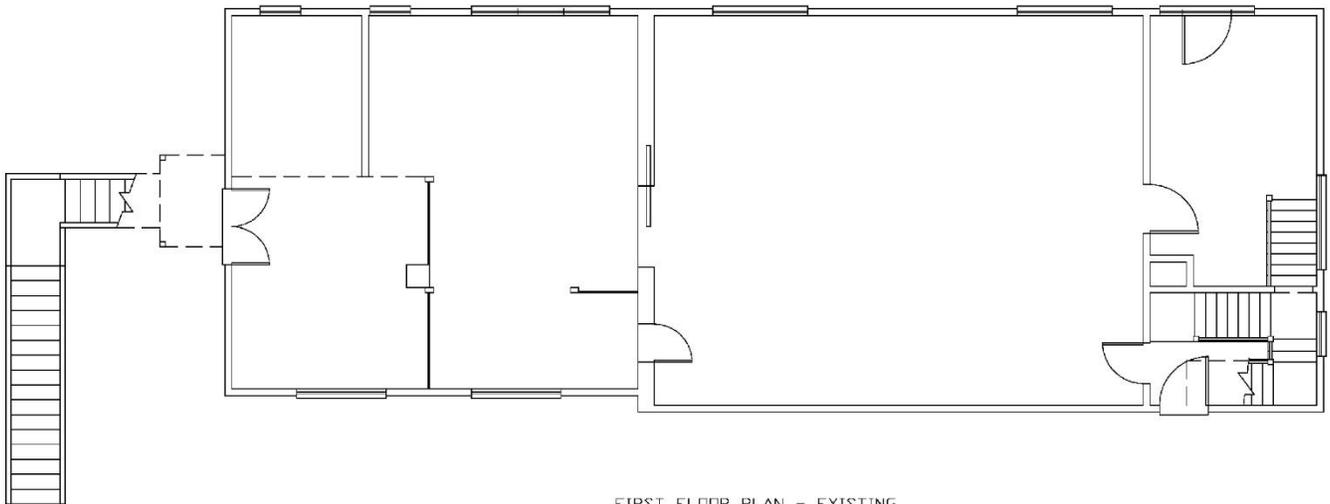
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# DETAIL SITE PLAN



SECOND FLOOR PLAN - EXISTING

SCALE: 1/4"=1'-0"



FIRST FLOOR PLAN - EXISTING

SCALE: 1/4"=1'-0"

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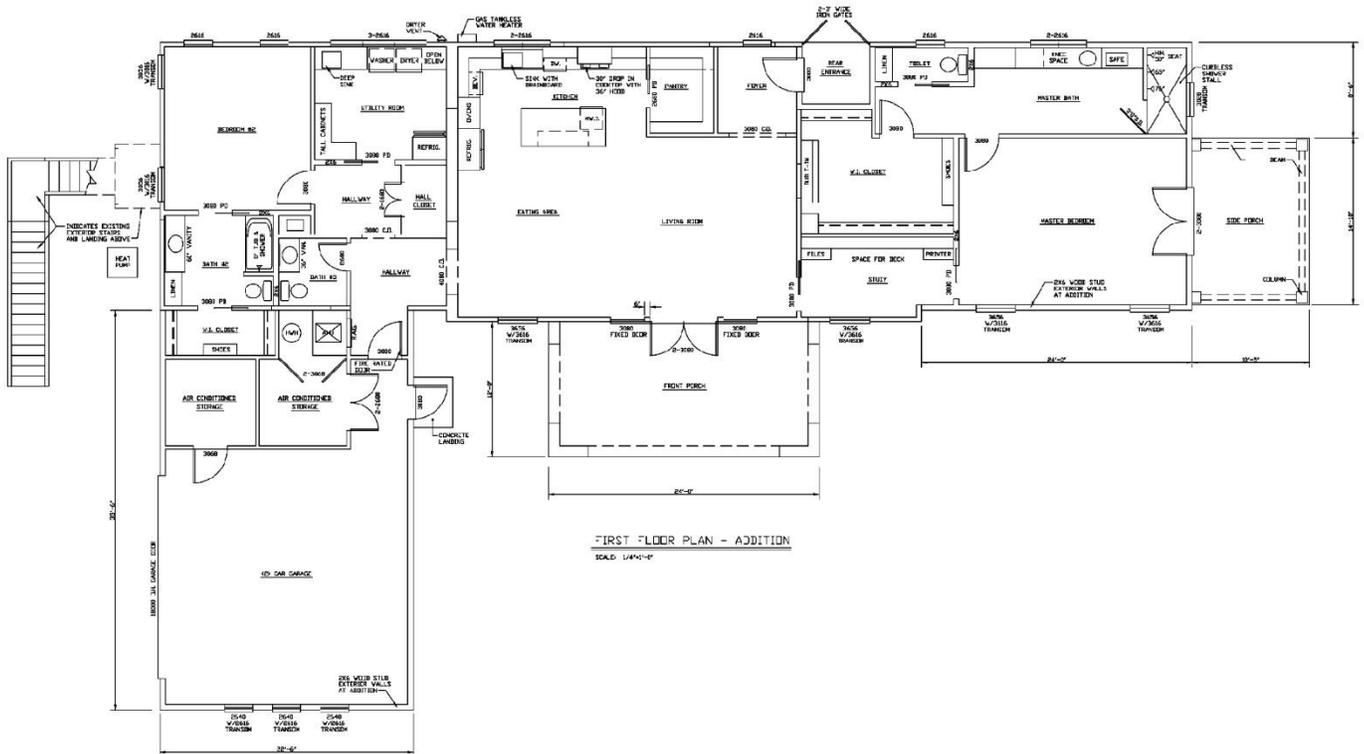
APPLICANT William R. Healy, Jr.

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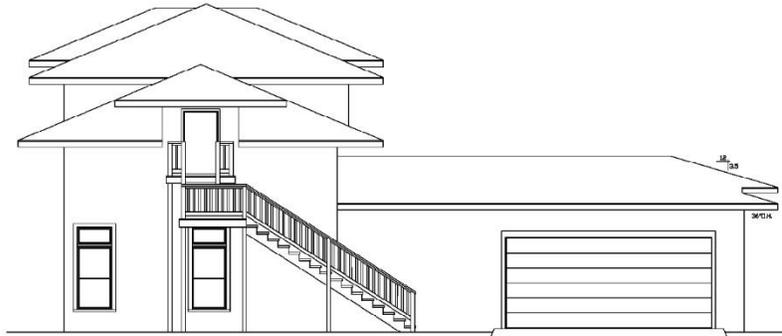
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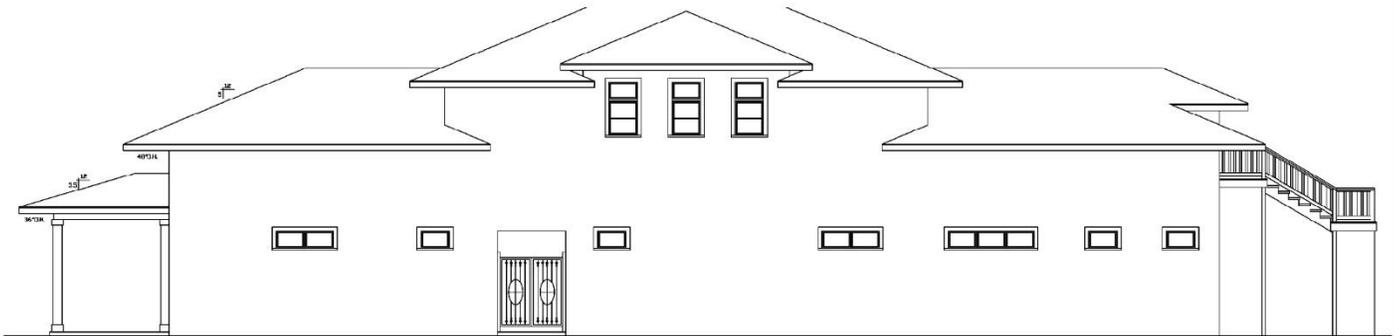
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# DETAIL SITE PLAN



LEFT SIDE EXTERIOR ELEVATION  
SCALE 1/4"=1'-0"



REAR EXTERIOR ELEVATION  
SCALE 1/4"=1'-0"

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