

APPLICATION NUMBER

**5513/4981**

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW THE  
CONSTRUCTION OF A MASTER BEDROOM AND  
PORCH ADDITION TO A SINGLE-FAMILY  
RESIDENTIAL DWELLING WITHIN 10' OF A SIDE  
STREET PROPERTY LINE ON A 53.8' WIDE LOT IN AN  
R-1, SINGLE FAMILY RESIDENTIAL DISTRICT; THE  
ZONING ORDINANCE REQUIRES A 16.1' SIDE STREET  
YARD SETBACK FOR A 53.8' WIDE LOT IN AN R-1,  
SINGLE FAMILY RESIDENTIAL DISTRICT.**

LOCATED AT

**2058 OLD GOVERNMENT STREET**

(Northeast corner of Old Government Street and Glenwood Street)

APPLICANT

**JAMES L. WILLIAMS, JR.**

AGENT

**F. KEVIN UTEG  
CAROLINE CONTRACTING**

**BOARD OF ZONING ADJUSTMENT**

DECEMBER 2008

The applicant is requesting a Side Yard Setback Variance to allow the construction of a master bedroom and porch addition to a single-family residential dwelling within 10' of a side street property line on a 53.8' wide lot in an R-1, Single-Family Residential District; the Ordinance requires a 16.1' side street yard setback for a 53.8' wide lot in an R-1, Single-Family Residential District.

The applicant is proposing the construction of a 940 square foot addition, with porch, to the rear of an existing non-conforming dwelling. The addition is proposed to be within 10 feet of the side property line. Because the lot on which the dwelling is constructed is a corner lot, Section 64-4.D.3 of the Zoning Ordinance requires a larger side yard from corner lots in order to reduce line-of-sight issues for properties facing the side street to the rear of the subject property. In this case, a west side yard of 16.1 feet is required.

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.

The applicant is requesting 6.1 feet of relief from the 16.1 foot requirement. In this case a variance was granted in December, 2000, which allowed a 6 foot-high privacy fence along the west property line. Fences that obstruct sight must be 3 feet tall or less if located within a required setback. In this case, the board felt that allowing the fence would be appropriate as long as it was in-line with the existing dwelling. The existing dwelling is within 3'1" of the property line according to a survey done in 2000. The fence, which was granted by the aforementioned variance, is also within 3'1" of the property line. The applicant's proposed addition is 10 feet from the property line, which is within the current fenced-in area. Because of this, any line-of-sight issues that may result from the addition would be moot due to the privacy fence already being in place. Given this fact, the side yard variance may be appropriate as it would not impact line-of-sight anymore than the existing fence.

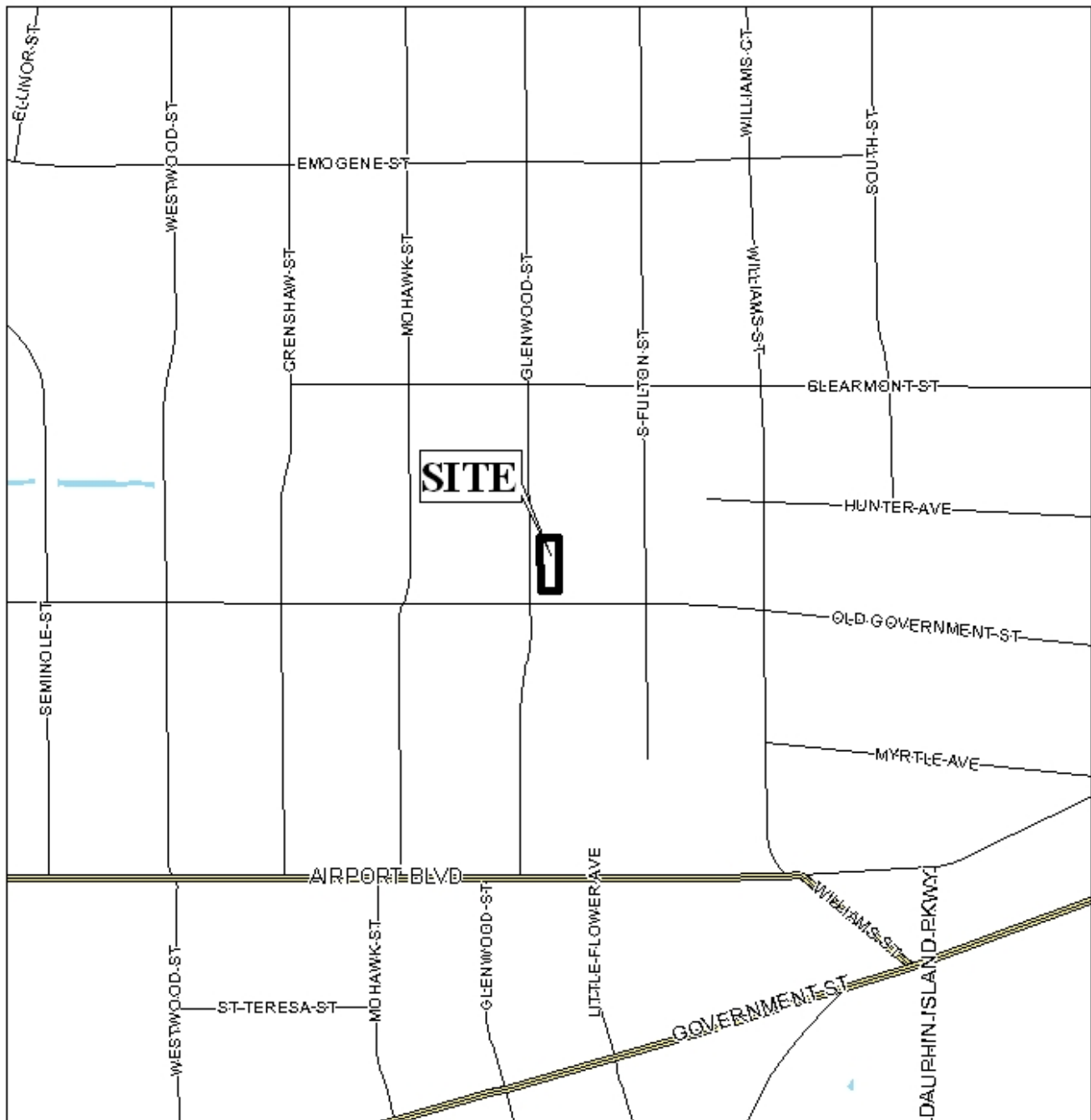
Lastly, the site is located within the Midtown Historic District, which, although not under the auspices of the Mobile Historic Development Commission Regulations, is an area of the city where development far predates the adoption of the Zoning Ordinance. The proposed addition would not increase the nonconformity; it would only extend the nonconformity in a less invasive manner. The Board, in the past, has been mindful of the unique character of older areas of the city when considering site variance applications.

**RECOMMENDATION 5513/4981****Date: December 1, 2008**

Based on the preceding, the 6.1 foot west side yard variance is recommended for approval subject to the following condition:

1. Compliance with all municipal codes and ordinances.

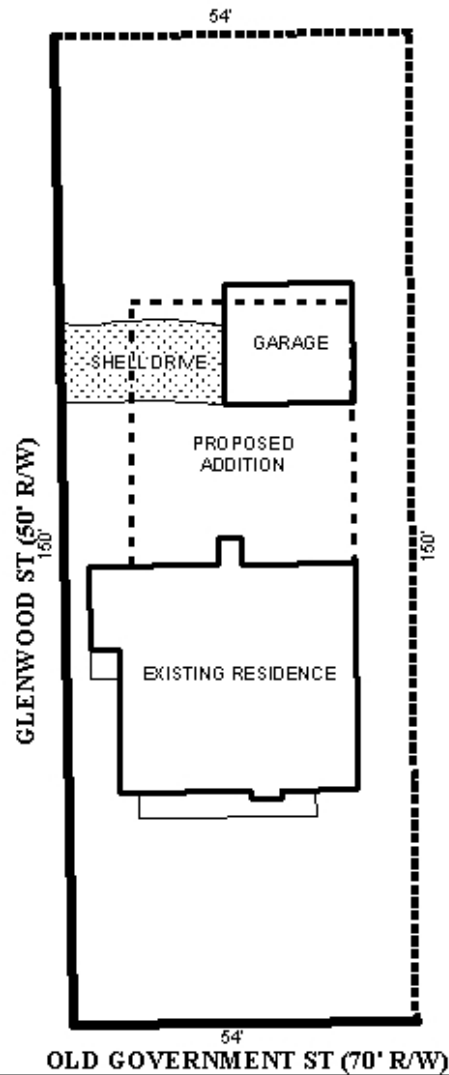
# LOCATOR MAP



APPLICATION NUMBER 5513/4981 DATE December 1, 2008  
APPLICANT James L. Williams, Jr.  
REQUEST Side Yard Setback Variance



# SITE PLAN



This site plan illustrates existing structures and proposed additon to residence.

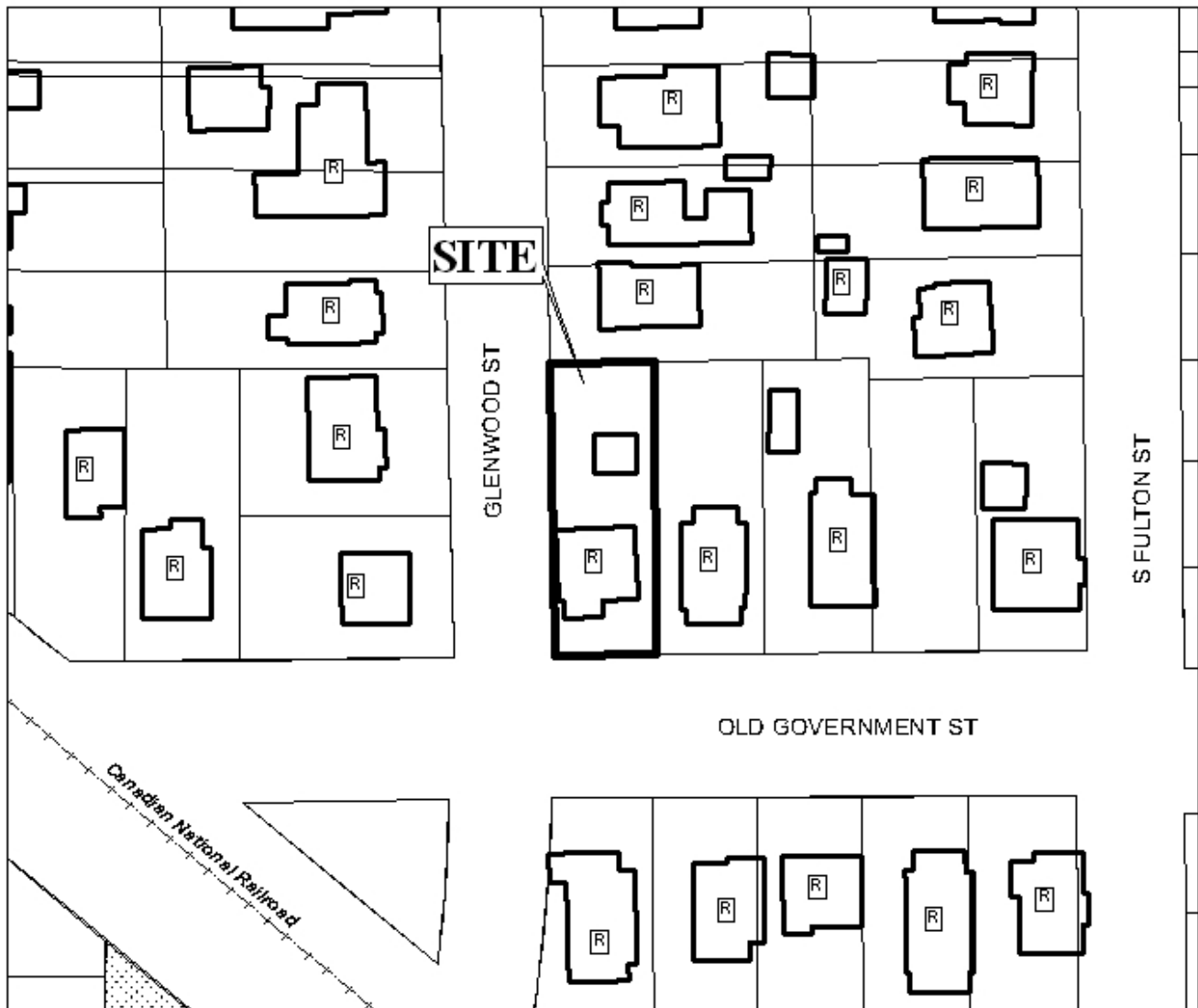
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site plan is surrounded by residential land use.

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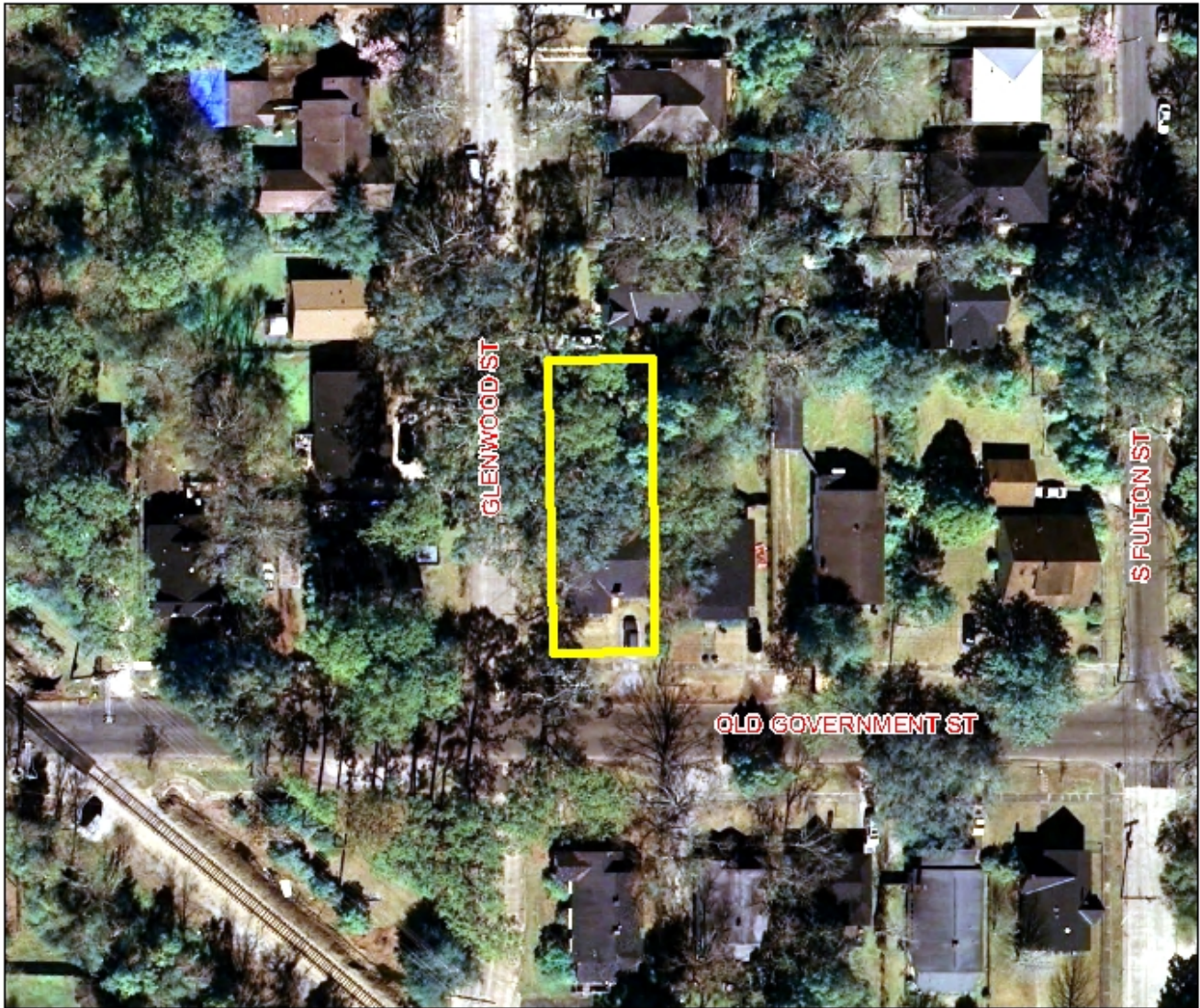
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LEGEND 

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

 NTS

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