

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 10, 2014****CASE NUMBER**

5881

APPLICANT NAME

Self Radcliff

LOCATION

3700 Tuthill Place
(East Terminus of Tuthill Place extending to the West side
of College Lane [unopened right-of-way])

VARIANCE REQUEST

REAR YARD SETBACK: Rear Yard Setback Variance to amend a previously approved Rear Yard Setback Variance to allow a roof enclosure for an existing structure within 5' of rear property line.

**ZONING ORDINANCE
REQUIREMENT**

REAR YARD SETBACK: The Zoning Ordinance requires a minimum 8' setback for all structures in an R-1, Single-Family Residential District.

ZONING

R-1, Single Family Residential

AREA OF PROPERTY

8,540 ± Square Feet

**ENGINEERING
COMMENTS**

No comments

**TRAFFIC ENGINEERING
COMMENTS**

Engineering

This variance request was not reviewed by Traffic

**FIRE DEPARTMENT
COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile

**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 (State Act 61-929 and City Code Chapters 57 and 64)

**CITY COUNCIL
DISTRICT**

District 7

ANALYSIS

The applicant is requesting a Rear Yard Setback Variance to amend a previously approved Rear Yard Setback Variance to allow a roof enclosure for an existing structure within 5' of rear property line; the Zoning Ordinance requires a minimum 8' setback for all structures in an R-1, Single-Family Residential District.

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.

Applicant's statement: *In February, 2010 (ZON2010-00002), the Board of Zoning Adjustment approved a single story exercise room, with open terrace roof, to be constructed within 5' of the rear property line. The exercise room was constructed to comply with the conditions. The terrace has proven to be less than watertight, allowing rain water to penetrate into the exercise room. We now request placement of a roof structure over the open terrace. We will not expand the footprint of the exercise room. We will not encroach further upon the existing 5' rear setback line with the roof structure (although the roof overhand will extend 24" further). We have attached "before" and "after" floor plans for both floor levels, along with rear and side elevations. We will begin work immediately upon approval.*

We believe the proposed roof construction will not violate the intent of the previously approved BZA application. Our rear neighbor is unopened, dedicated, right of way for College Lane. We believe this application will greatly benefit the owners by providing a better rain cover over the exercise room. We believe this project will have no impact on the neighbors.

This site most recently appeared before the Board at its February 1, 2010 meeting where the Board approved a Rear Yard Setback Variance specifically to allow the construction of a raised brick terrace with enclosed storage room and stairs within 5' of the rear property line. The applicant now desires to construct a roof enclosure with support columns directly above the previously approved enclosure without any expansion of the existing footprint.

Although the applicant has stated that problems associated with rainfall as the main reason for the proposed roof, the existing leaking terrace roof could possibly be replaced without the addition of the proposed roof over the open terrace. Furthermore, it appears this is a self-imposed hardship and the applicant does not present sufficient evidence as listed above, as required Section 64-8.B.6.f.(3).(d). of the Zoning Ordinance.

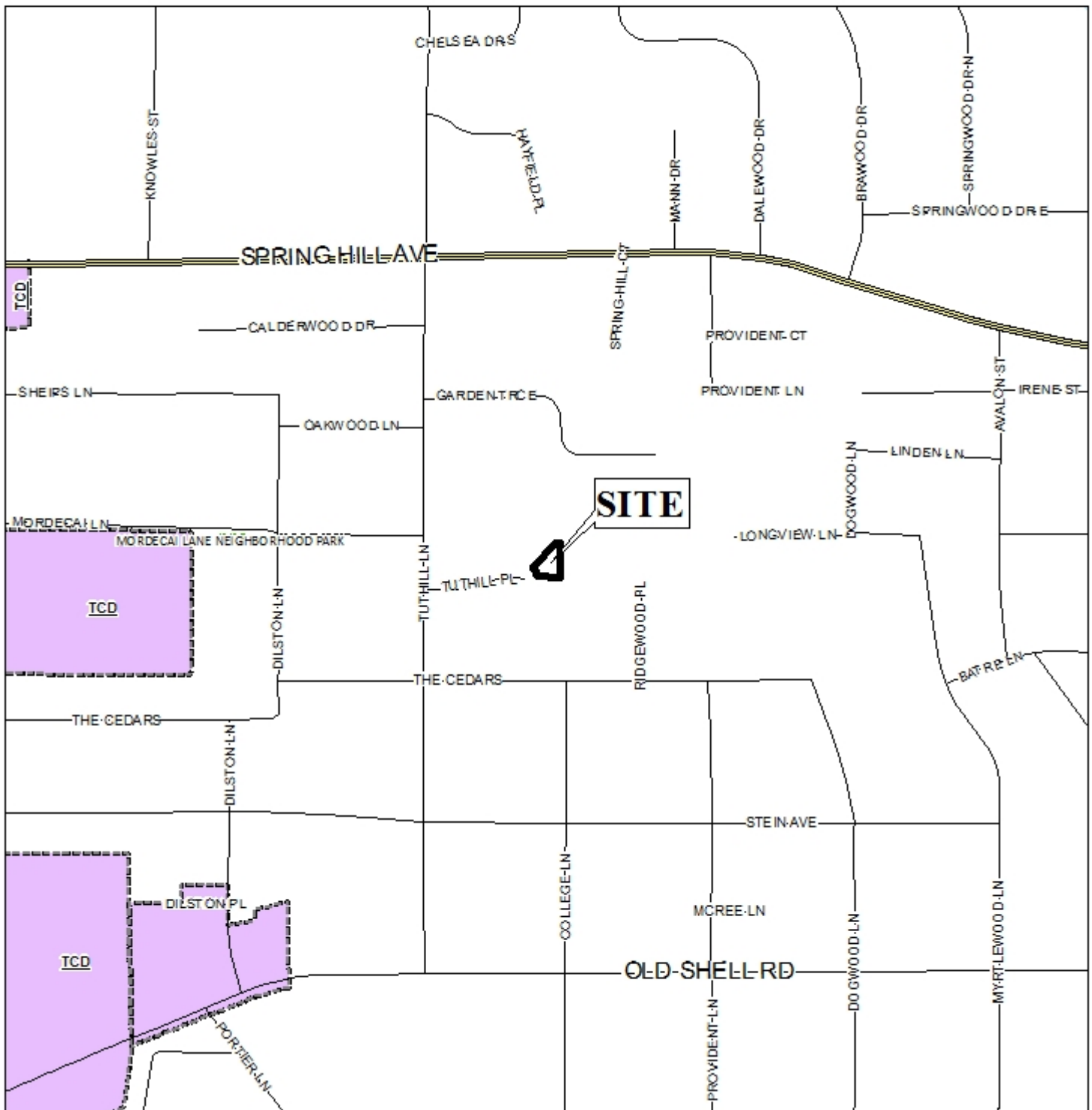
In reference to the unopened, dedicated right-of-way for College Lane as mentioned in the applicant's statement, the property owner may consider requesting a Street Vacation to obtain a portion of the existing right-of-way for private use. The vacation is requested through the Mobile City Council and, if successful, would provide extra room along the eastern property line for the applicant to develop the property in compliance with the regulations of an R-1, Single-Family Residential zoning district, as defined in Section 64-3.C.1.e. of the Zoning Ordinance.

It should be pointed out that when making recommendations to the Board, Staff must also consider any potential future uses. As it pertains to this request, Staff has concerns that future uses of the open-air area under the roof may include fully enclosing the space to create a room. Should the Board be presented sufficient evidence to approve this request, in compliance with Section 64-8.B.6.f.(3).(e). of the Zoning Ordinance, Staff would recommend a condition of approval stating that the area under the proposed roof cannot be enclosed and the enclosure of said area would be in direct violation of the approval of this variance request.

RECOMMENDATION: Based upon the preceding, this application is recommended for denial as the Board finds that the variance request:

- 1) Will be contrary to the public interest in that it is contrary to Section 64-3.C.1.e. of the Zoning Ordinance regarding setbacks within an R-1, Single-Family Residential zoning district;
- 2) In that special conditions, such as a hardship to the property, do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) That the spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because most of the nearby residentially zoned lots in the immediate vicinity appear to have been developed in observance of Section 64-3.C.1.e of the Zoning Ordinance.

LOCATOR MAP



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REQUEST Rear Yard Setback Variance



NTS

BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



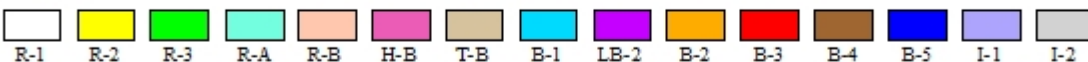
The site is surrounded by single family residential units.

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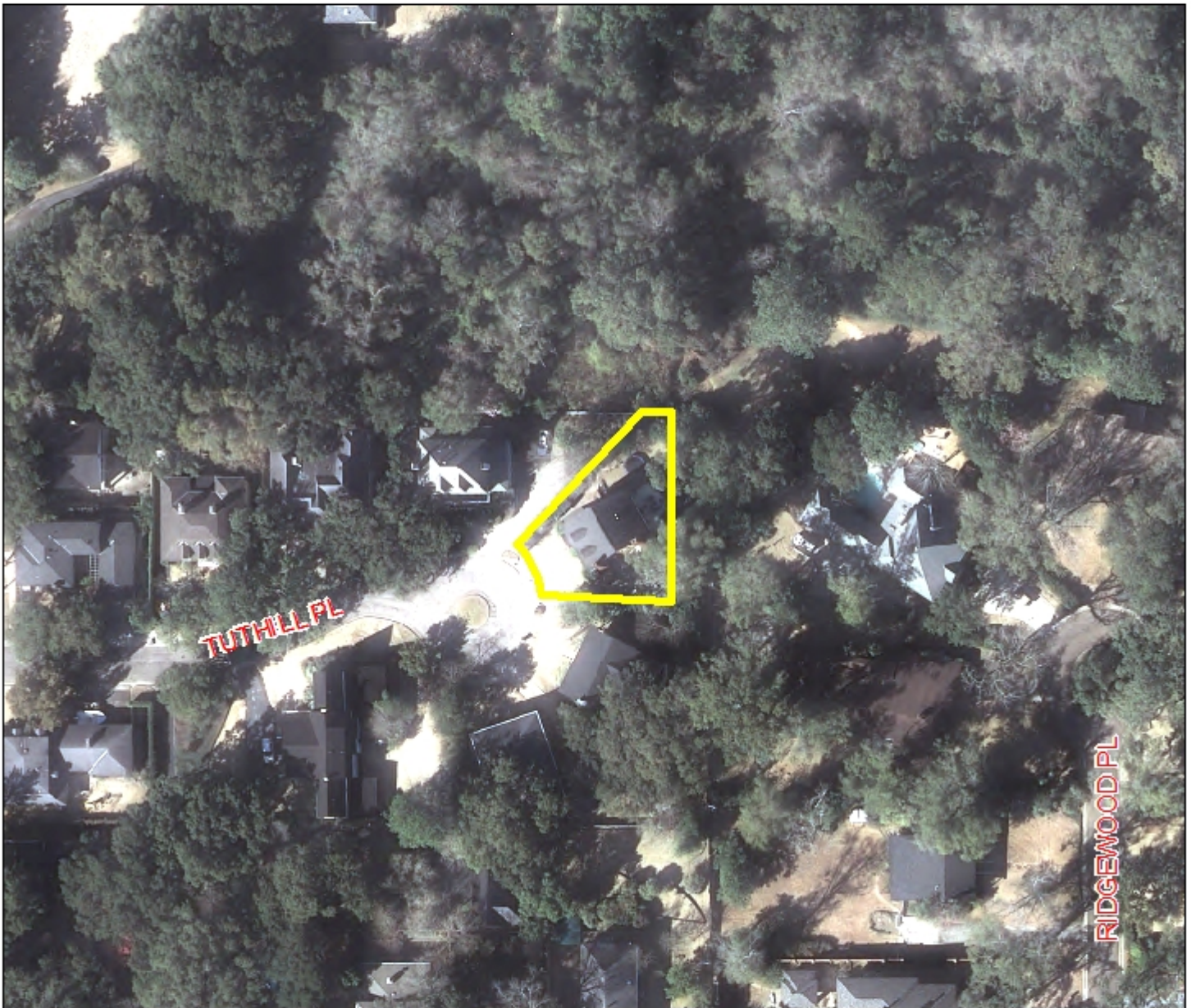
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LEGEND



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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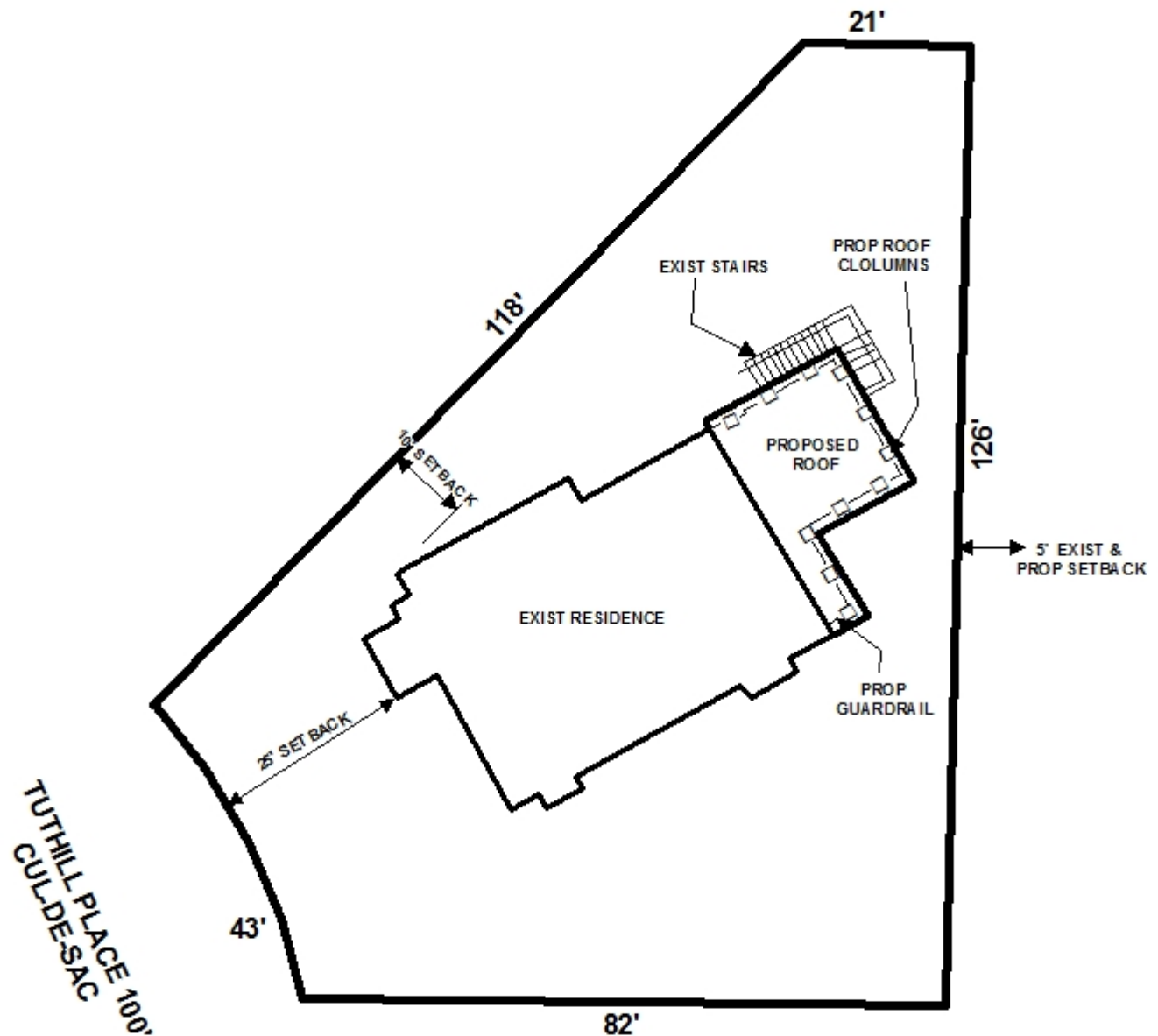
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SITE PLAN



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DETAIL SITE PLAN



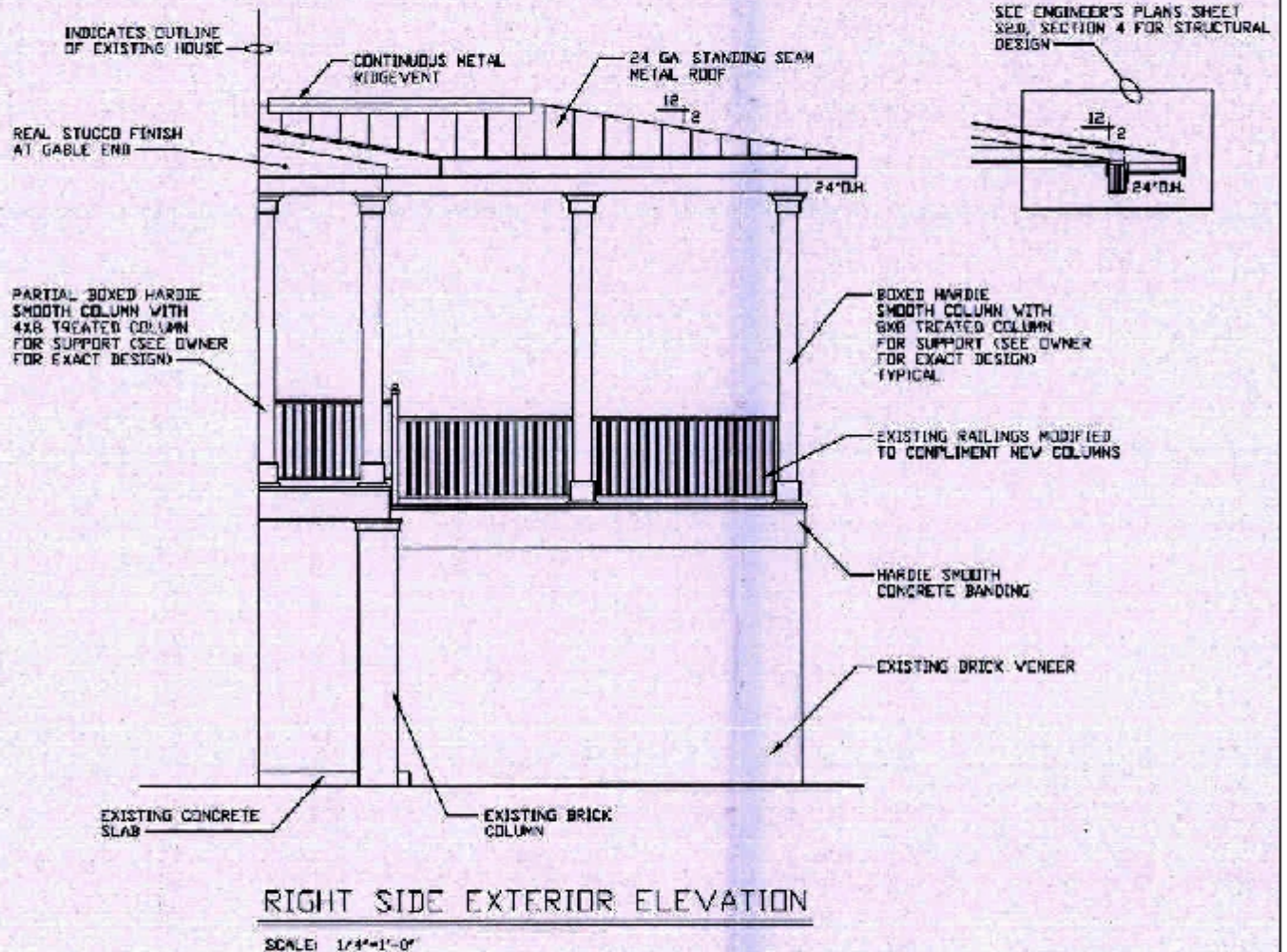
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DETAIL SITE PLAN



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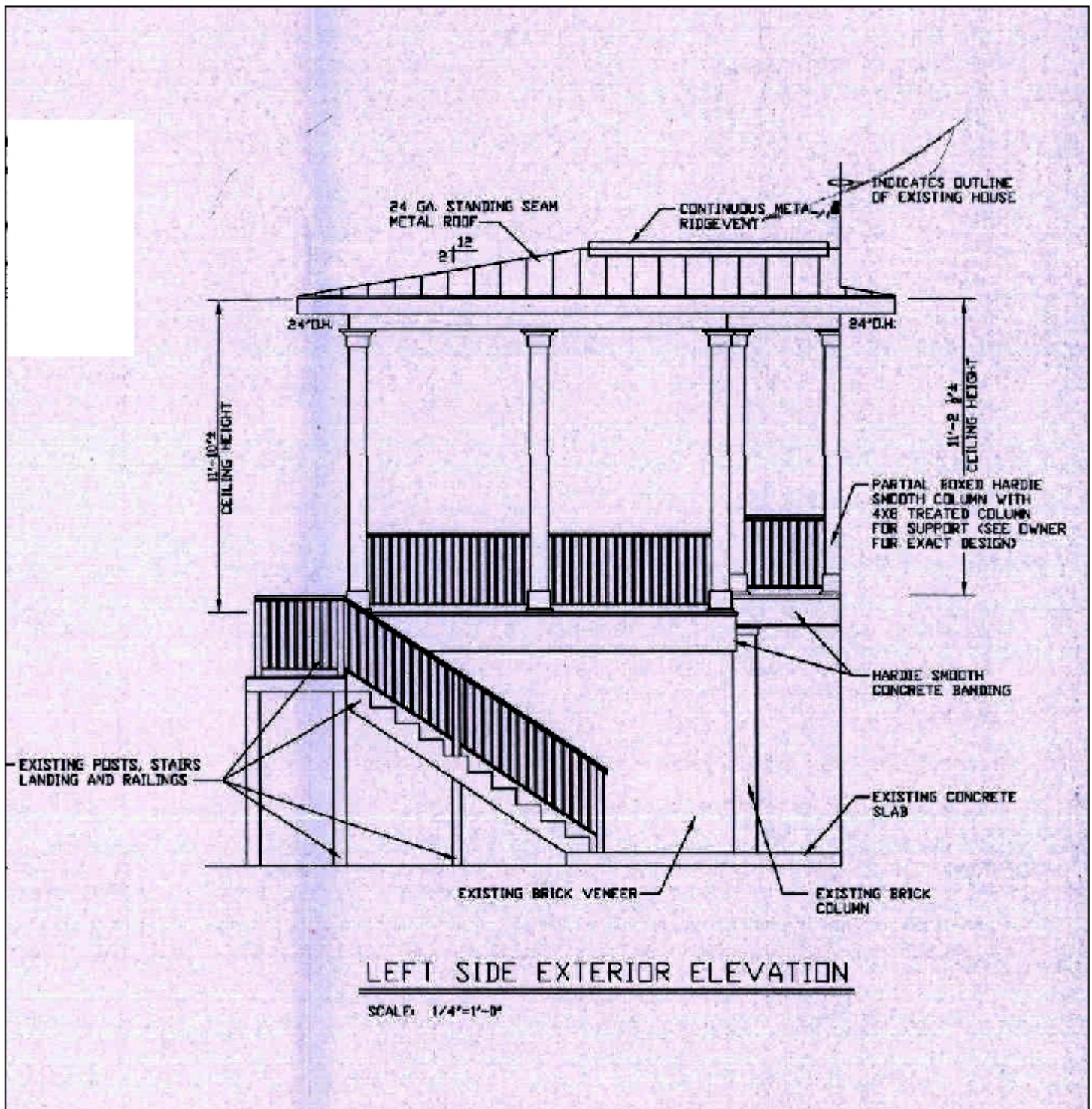
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