

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 3, 2015****CASE NUMBER**

6021 / 5993

APPLICANT NAME

Douglas B. Kearley

LOCATION604 Eslava Street
(North side of Eslava Street, 80'± West of South Warren Street)**VARIANCE REQUEST****REAR SETBACK:** Setback variance to allow construction of a residential addition within 5' of the rear property line in a T-3 Sub-District within the Downtown Development District**SIDE SETBACK:** Setback variance to allow construction of a residential addition 4'-4" from the side property line in a T-3 Sub-District within the Downtown Development District**EXTERIOR FINISH VARIANCE:** Exterior surface variance to allow the use of stucco as an exterior finish in a T-3 Sub-District.**ZONING ORDINANCE
REQUIREMENT****REAR SETBACK:** The Zoning Ordinance requires a minimum 20' rear setback in a T-3 Sub-District**SIDE SETBACK:** The Zoning Ordinance requires a minimum 10' side setback in a T-3 Sub-District**EXTERIOR FINISH VARIANCE:** The Zoning Ordinance requires that exterior finishes must be wood or cementitious clapboard, shingles or board & batten in a T-3 Sub-District.**ZONING**

T-3 Sub-District, Downtown Development District

AREA OF PROPERTY

4,900 square feet / 0.1±Acres

**CITY COUNCIL
DISTRICT**

District 2

ENGINEERING**COMMENTS**

If the proposed variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans may require a Land Disturbance Permit. Any and all proposed land disturbing activity within the property will need to be submitted for review and be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control; the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
2. The proposed addition should not change the existing drainage patterns to the adjoining properties or the public ROW.

TRAFFIC ENGINEERING**COMMENTS**

This request was not reviewed by Traffic Engineering.

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).

FIRE**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) Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code. (2012 IFC)

ANALYSIS

The applicant is requesting Rear and Side Yard Setbacks, and Exterior Finish Variances to allow the construction of a residential addition 5' from the rear property line and 4'-4" from the side property line, and the use of stucco as an exterior finish in a T-3 Sub-District within the Downtown Development District; the Zoning Ordinance requires a minimum 20' rear setback, a 10' side setback, and exterior finishes must be wood or cementitious clapboard, shingles or board & batten in a T-3 Sub-District within the Downtown Development District.

The site was most recently before the Board at its August 3, 2015 meeting, where Rear and Exterior Finish variance requests were approved. The current request adds a variance for the side yard setback, as the design of the proposed addition has changed.

The applicant states:

"We are applying for a rear yard setback variance of 5 feet in lieu of the 20 foot required setback in a T-3 district. A rear setback variance for a slightly less wide addition was previously approved in ZON2015-01652, a copy of which is attached."

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.

Under the previous Zoning Ordinance requirements for this site, the exterior material would have not been under the purview of zoning review. Similarly, the requested rear and side yard setbacks could possibly have been accommodated without a variance request because of the applicability of the Historic District Overlay and the immediate proximity of other nearby structures which might provide the precedent for the requested setbacks.

Each of the requested variances will be in keeping with the nature of the historic district and the existing historic dwelling unit that will be enlarged. Furthermore, the presence of several large trees restrict the applicant's ability to utilize other portions of the property that would allow a greater rear and side yard setback.

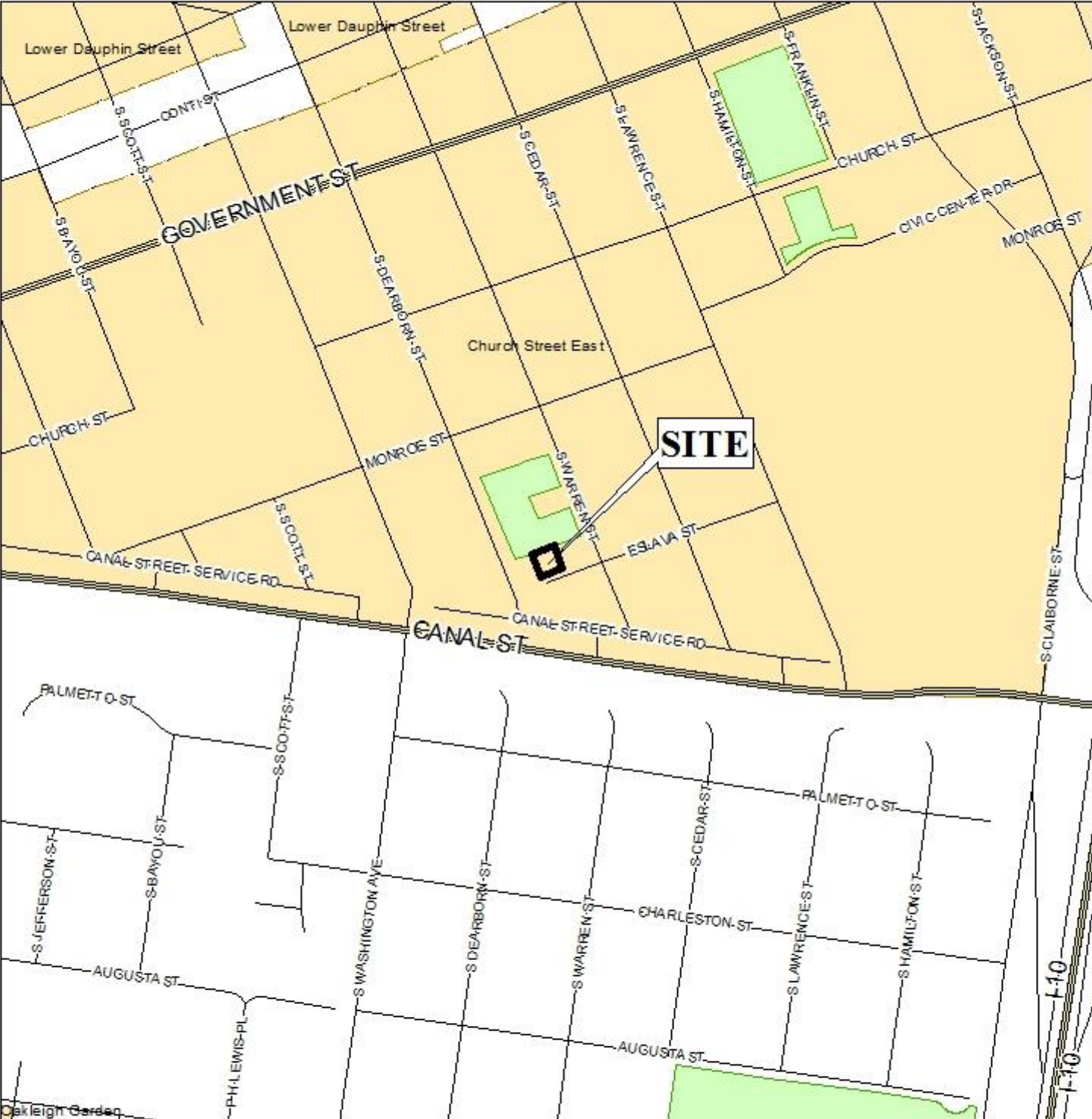
RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) Granting the variance will not be contrary to the public interest because the proposed exterior finish material and building setbacks are in keeping with other structures within the Church Street East Historic District;
- 2) Special conditions exist with the property itself, including the presence of several large trees, the layout of the existing house, and the existing exterior finish of the house, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the requested variances, as the applicant has taken steps to ensure that the historic integrity of the existing dwelling will be respected by the choice of exterior finish materials, and that the setback is not out of keeping with other dwellings within the Church Street East Historic District.

The Approval should be subject to the following condition:

- 1) Full compliance with all municipal codes and ordinances.

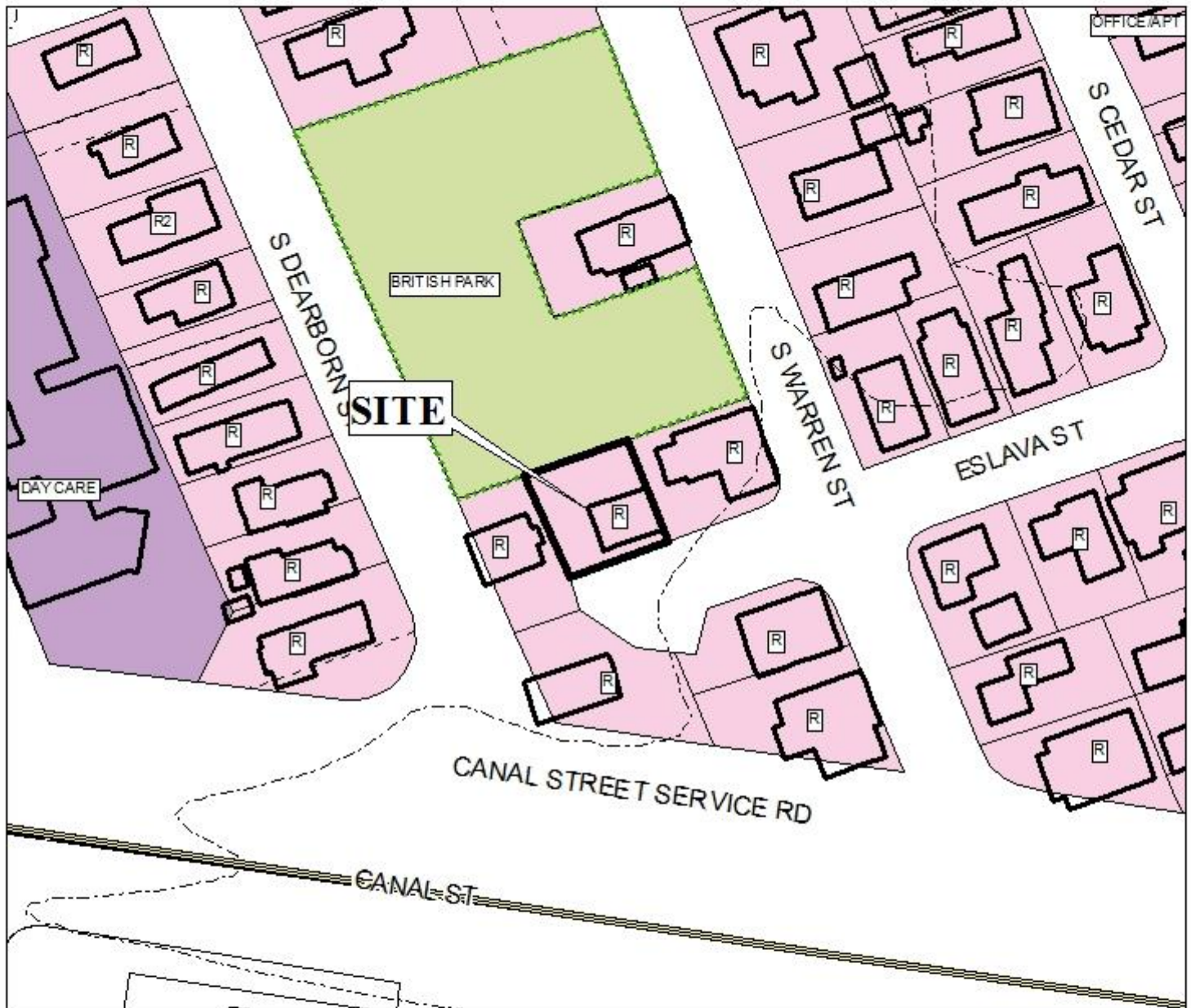
LOCATOR MAP



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 REQUEST Rear and Side Yard Setbacks and Exterior Finish Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A day care is located to the west of the property.

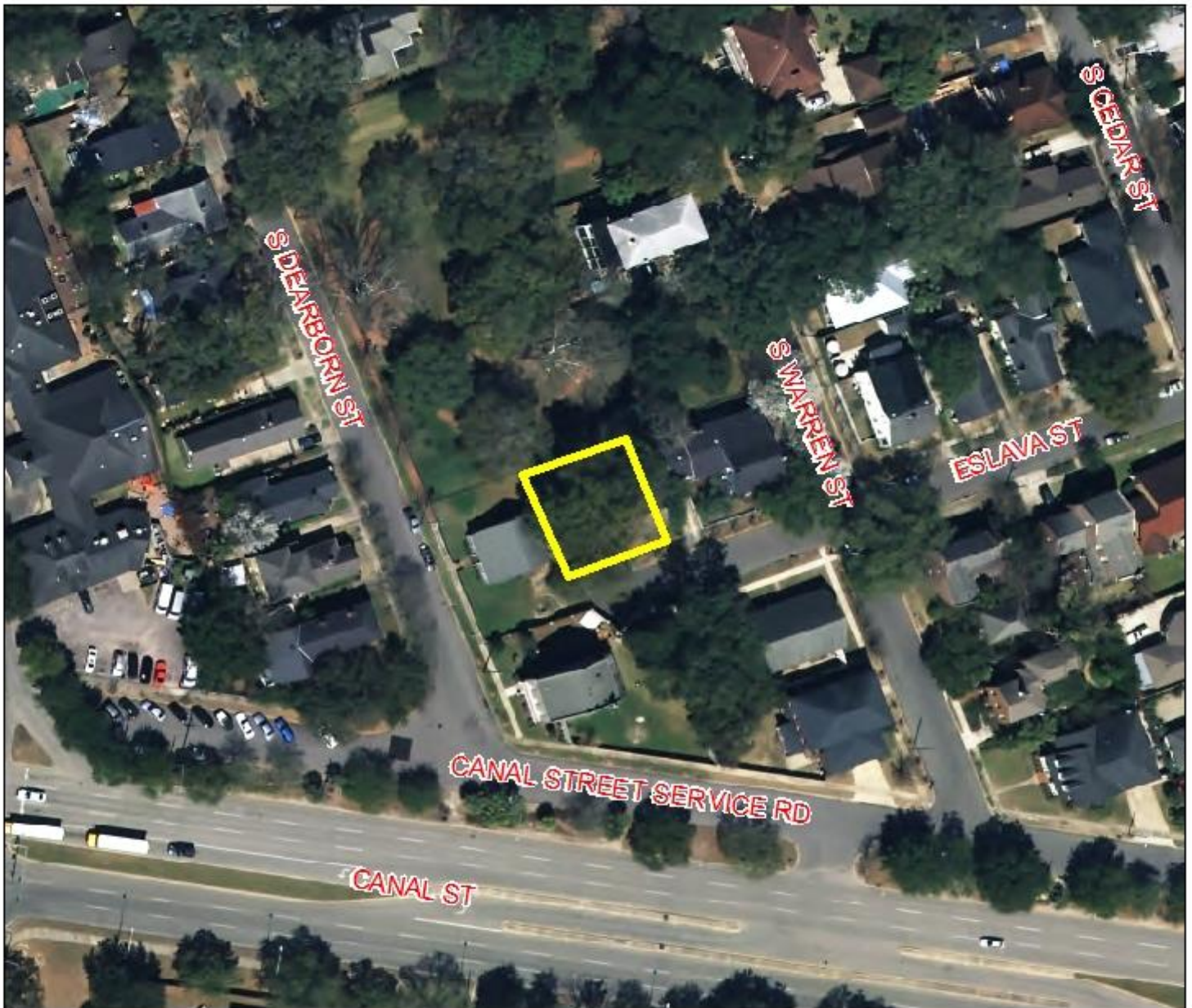
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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING

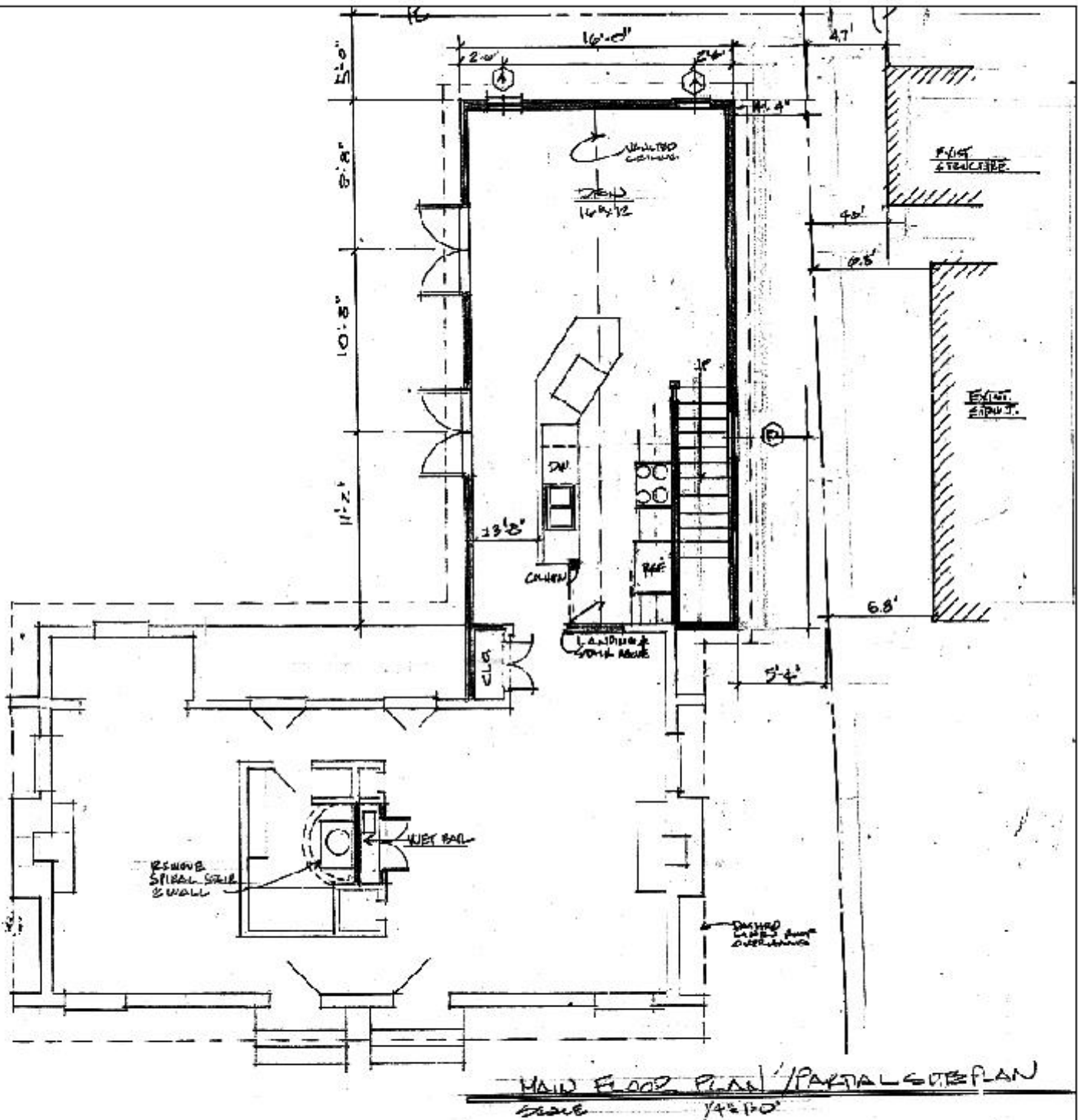


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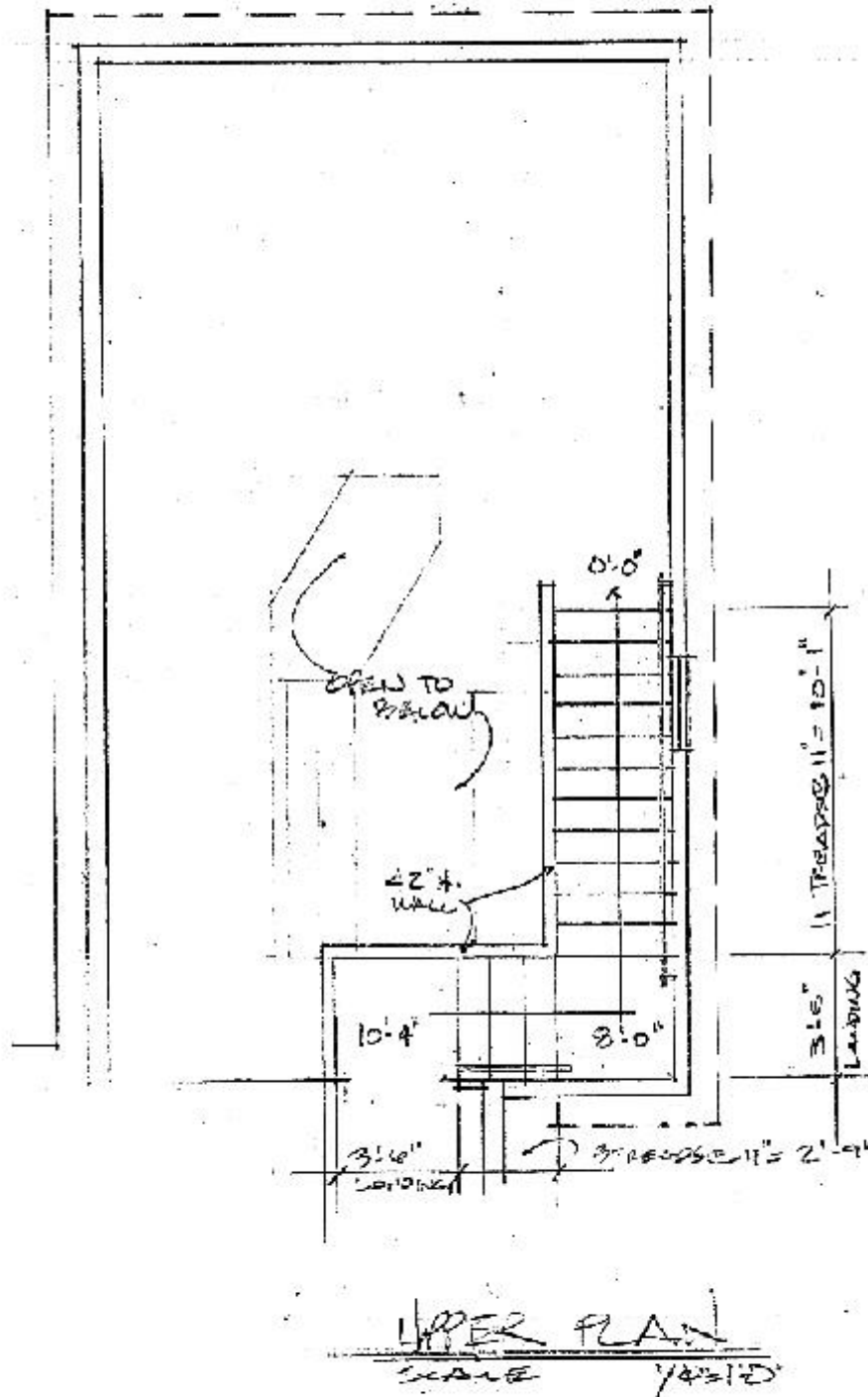
DETAIL SITE PLAN



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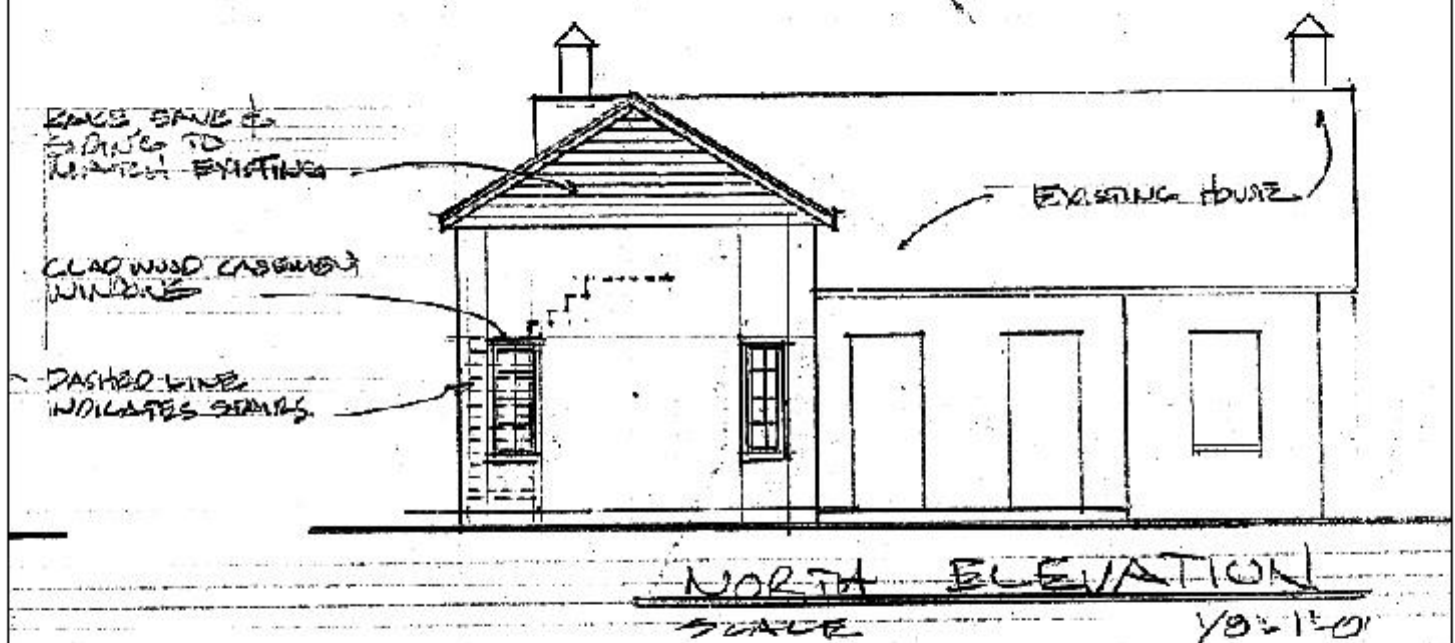
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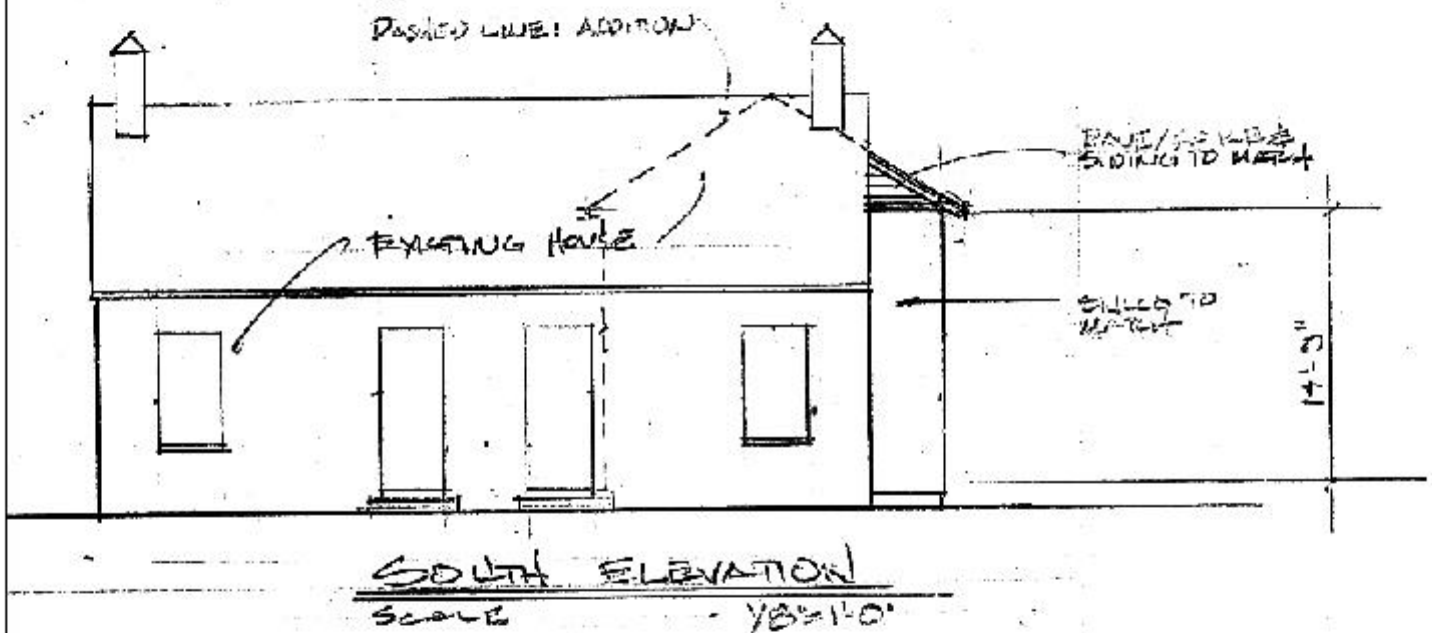
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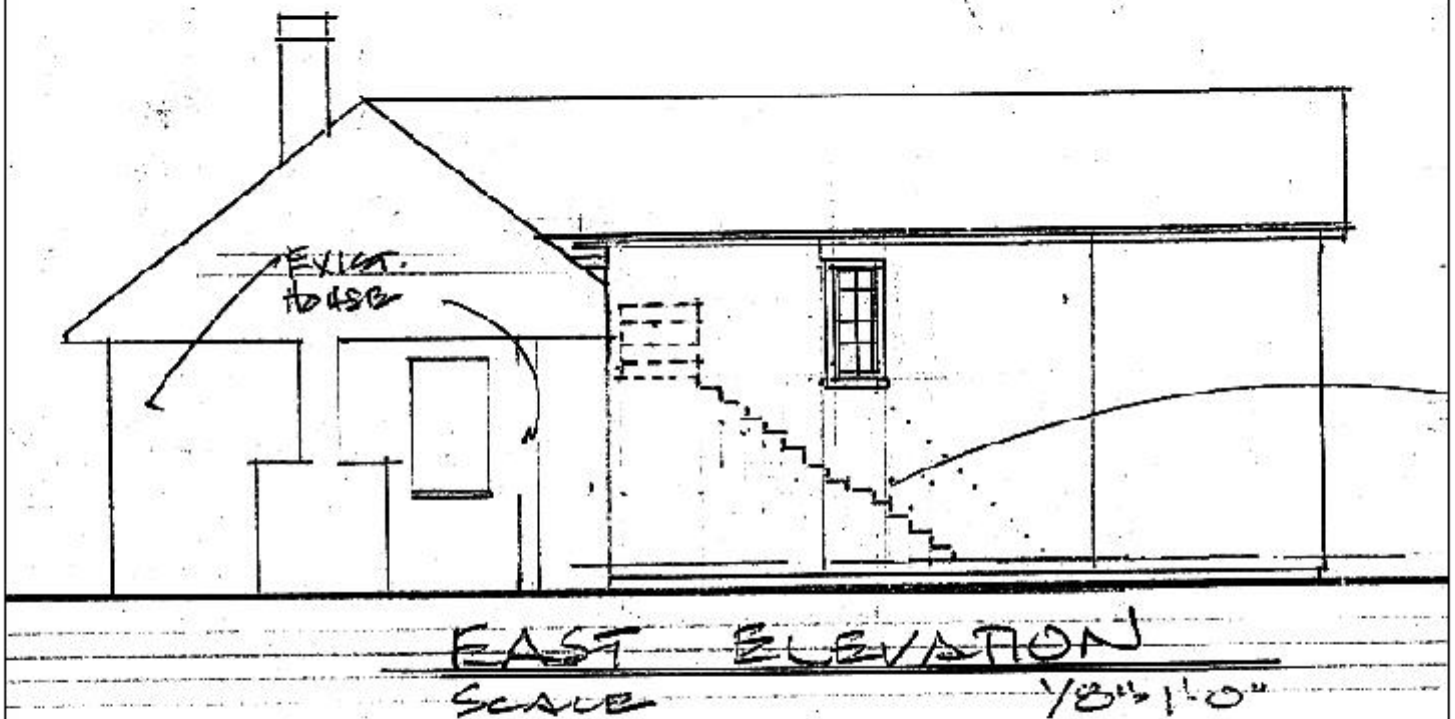
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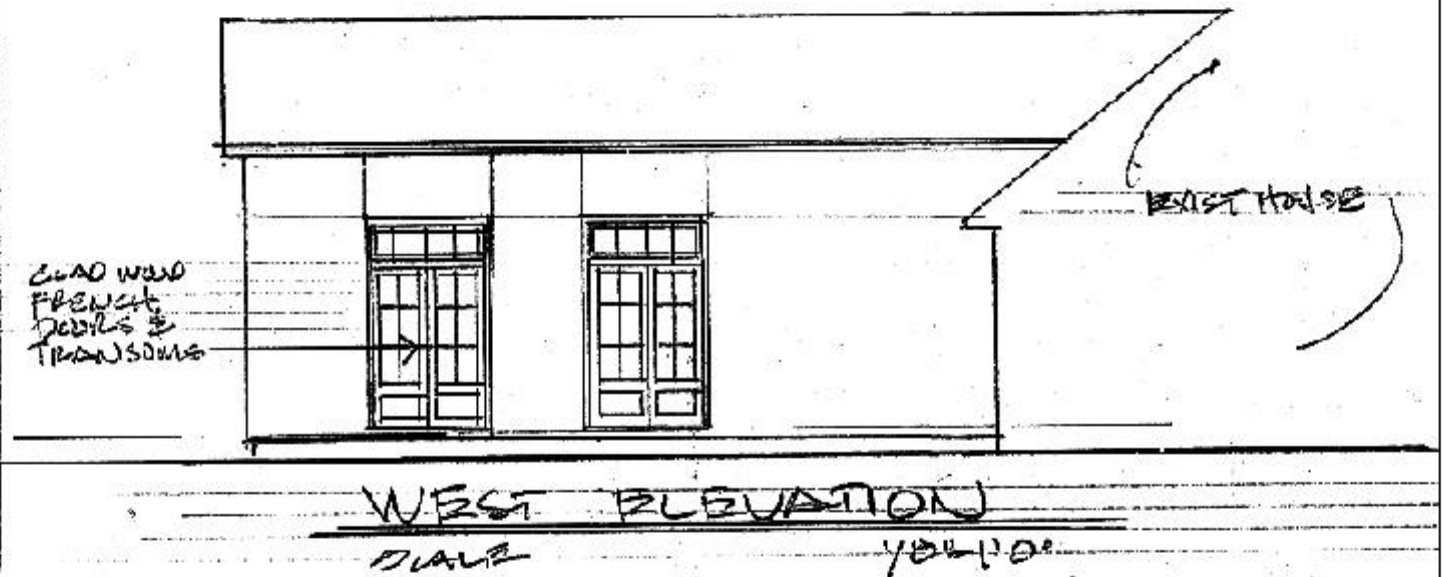
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