

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: January 3, 2011**

<b><u>CASE NUMBER</u></b>	5656/5353
<b><u>APPLICANT NAME</u></b>	Nedra Stimpson
<b><u>LOCATION</u></b>	4360 The Cedars (North side of the Cedars, 370'± East of North McGregor Avenue)
<b><u>VARIANCE REQUEST</u></b>	<b>SIDE YARD AND COMBINED SIDE YARD SETBACK:</b> Side Yard and Combined Side Yard Setback Variances to allow the construction of a carport within 5'-5" of a side property line with combined side yards of 9'-6" in an R-1, Single-Family Residential District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>SIDE YARD AND COMBINED SIDE YARDS:</b> The Zoning Ordinance requires an 8' minimum side yard setback with combined side yards of 20' in an R-1, Single-Family Residential District.
<b><u>ZONING</u></b>	R-1, Single-Family Residential
<b><u>AREA OF PROPERTY</u></b>	0.2± Acre
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments.
<b><u>CITY COUNCIL DISTRICT</u></b>	District 7

**ANALYSIS** The applicant is requesting Side Yard and Combined Side Yard Setback Variances to allow the construction of a carport within 5'-5" of a side property line with combined side yards of 9'-6" in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' minimum side yard setback with combined side yards of 20' in an R-1, Single-Family Residential District.

The property was the subject of a previous side yard setback variance in June, 2006, to allow an addition to the dwelling within 5' of a side property line which was approved. That addition was on the East side of the dwelling and was slightly indented from the existing East wall of the dwelling to obtain the 5' setback requested. The proposed carport would be on the West side of the property and would be in line with the existing West side wall of the dwelling.

The applicant states that the existing location of the dwelling precludes construction of a parking garage at any alternate location utilizing the existing driveway. A review of the site plan and site photographs furnished confirms such and the proposed location is the only one where the carport can meet the 25' minimum front yard setback. The site plan submitted does not indicate the 25' minimum setback line, but the carport scales to be beyond the setback. The site plan should be revised to indicate the 25' minimum setback line to verify compliance. With the proposed carport, the site would still be below the 35% maximum allowable site coverage.

With regard to the requested 5'-5" setback off the property line, the site is located in an older neighborhood that predates the adoption of the current Zoning Ordinance, although not in a historic district. The proposed addition would be in keeping with the residential character of the neighborhood and the Board has been mindful of the unique character of older neighborhoods when considering similar site variance applications. Furthermore, the Board has been sympathetic in granting variances in urban areas of the city, especially when the addition is "in-line" with the existing structure and/or a minimum setback of five feet is provided. In this case, the proposed side yard setback is 5'-5", and in previous instances the Board has allowed similar additions to be constructed with the condition that gutters and downspouts be placed on the side of the addition that abuts that side property line affected by the structure.

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.

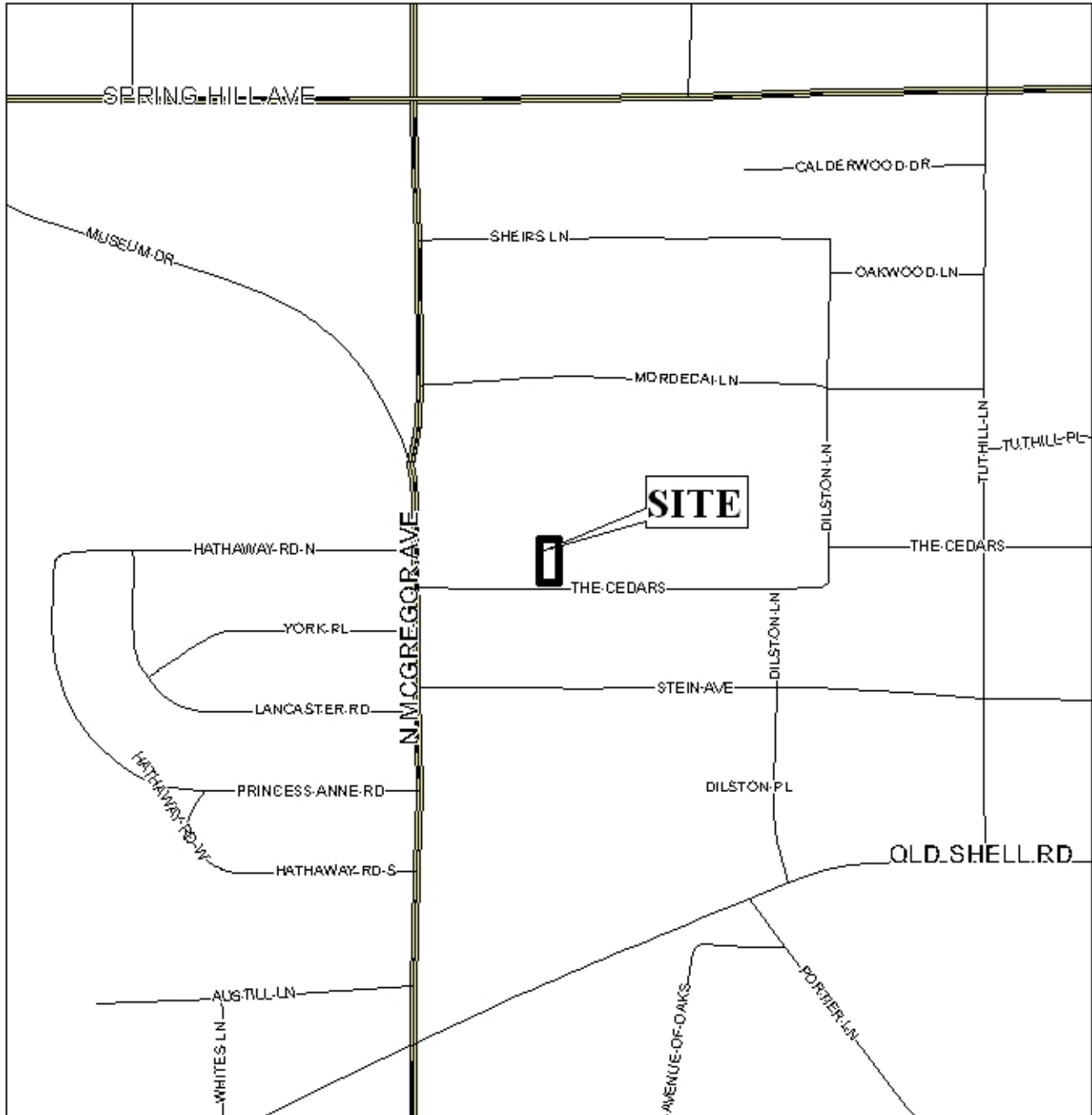
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The proposed 5'-5" side yard setback is consistent with the reduced side yard setbacks typical of the area as is the resultant 9'-6" combined side yard total and the Board should consider this application for approval, subject to conditions.

**RECOMMENDATION:** Based on the preceding, this application is recommended for approval, subject to the following condition:

- 1) the provision of gutters and downspouts on the West side of the carport;
- 2) submission to the Planning Section prior to construction permitting of a copy of a revised site plan illustrating the front 25' minimum building setback line to verify garage setback compliance; and
- 3) full compliance with all other municipal codes and ordinances.

## LOCATOR MAP



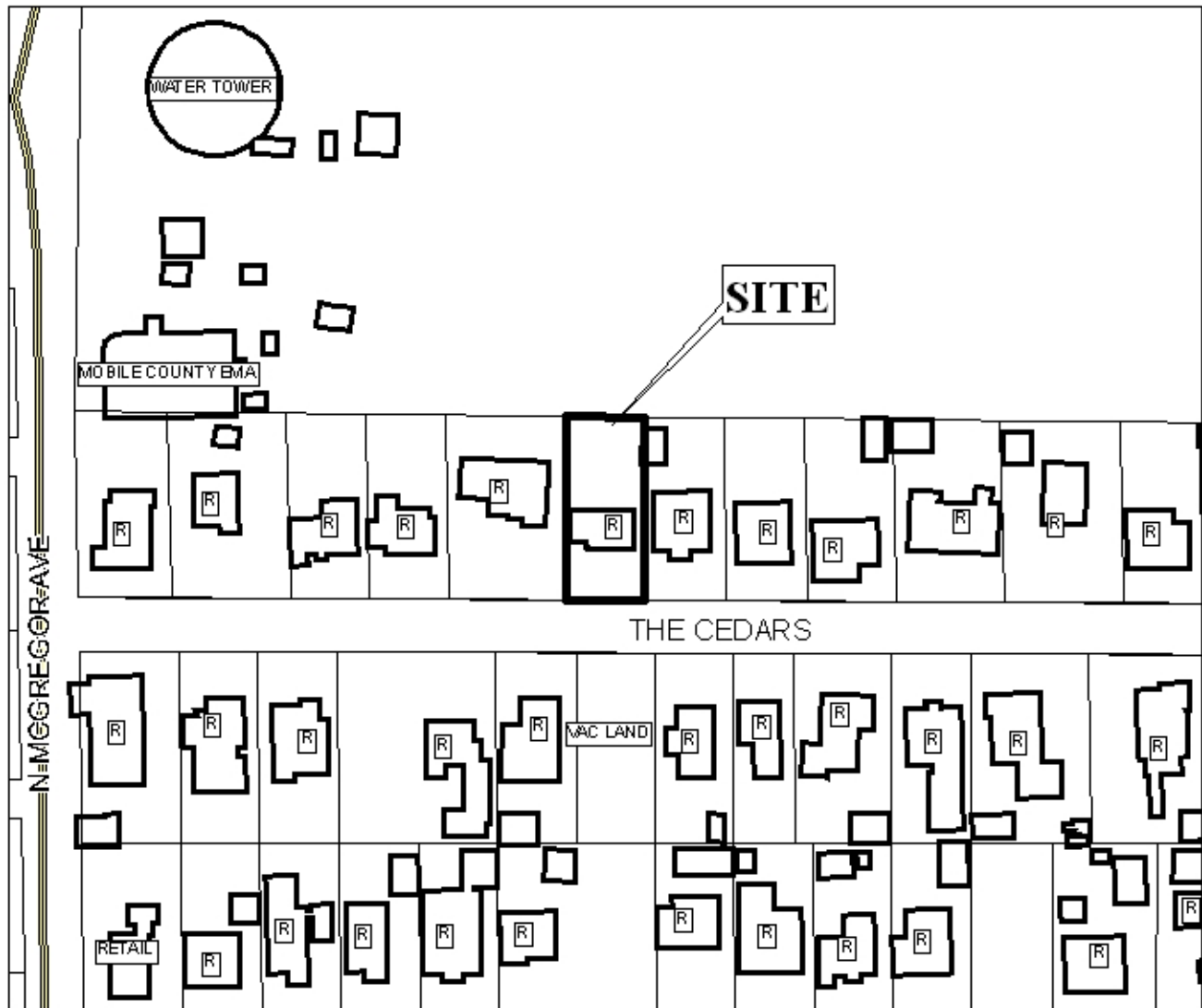
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APPLICANT Nedra Stimpson

REQUEST Side Yard and Combined Side Yard Setback Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Single-family residential units are located to the west, east, and south of the site. Mobile County EMA is located to the north of the site.

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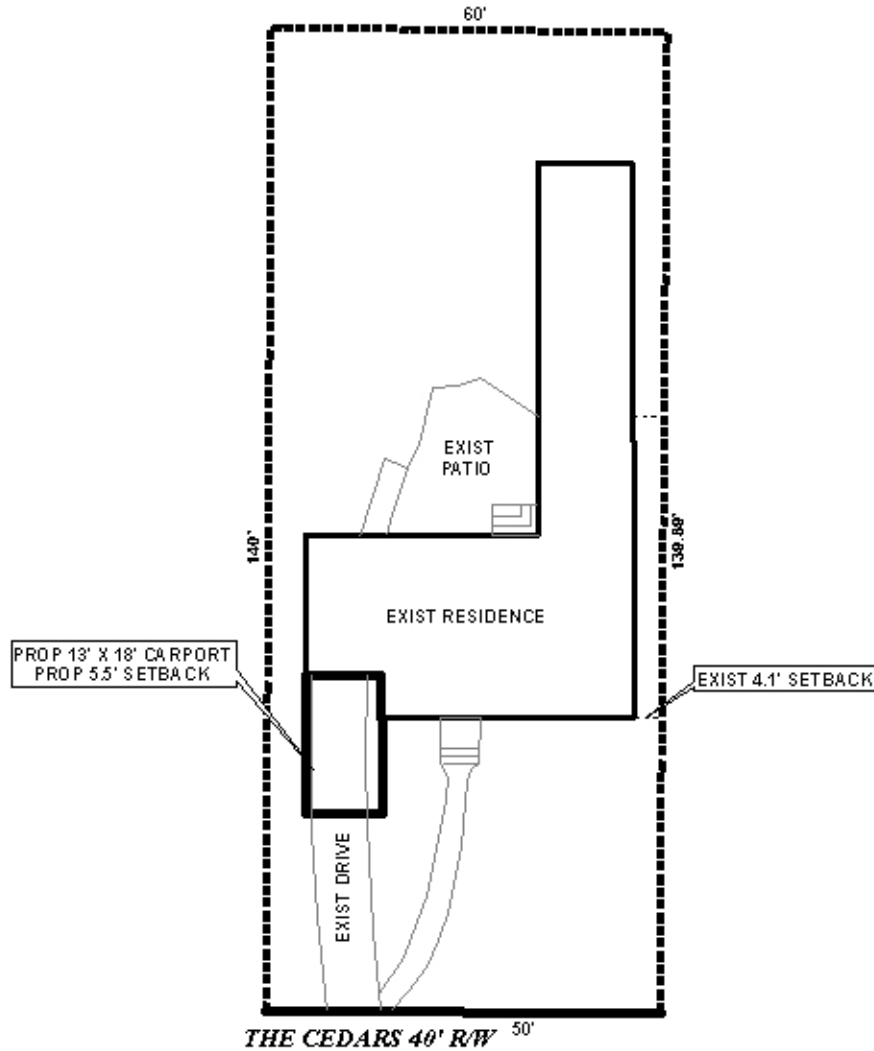
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## SITE PLAN



The site plan illustrates the proposed carport addition to the existing residence.

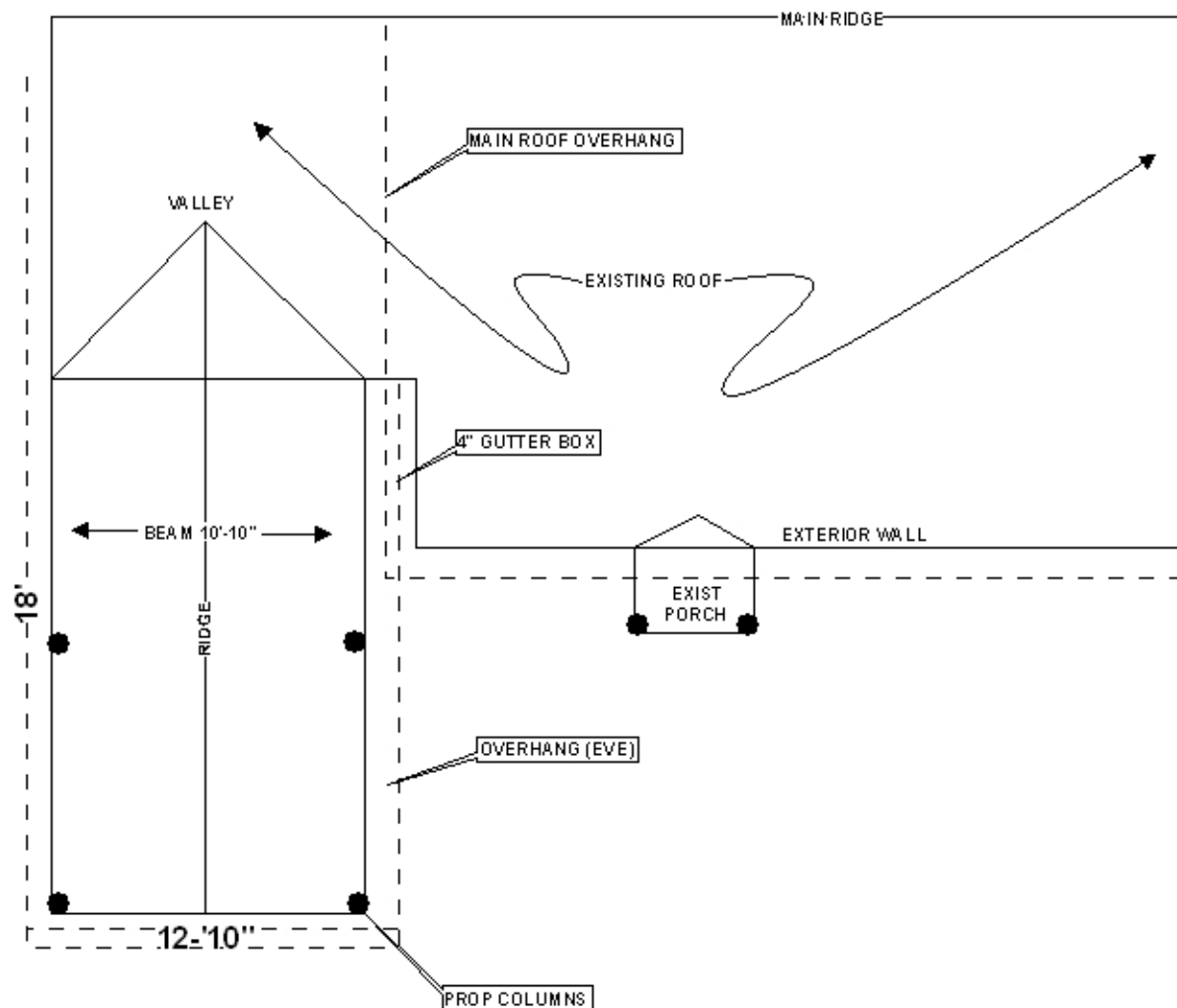
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## DETAIL SITE PLAN



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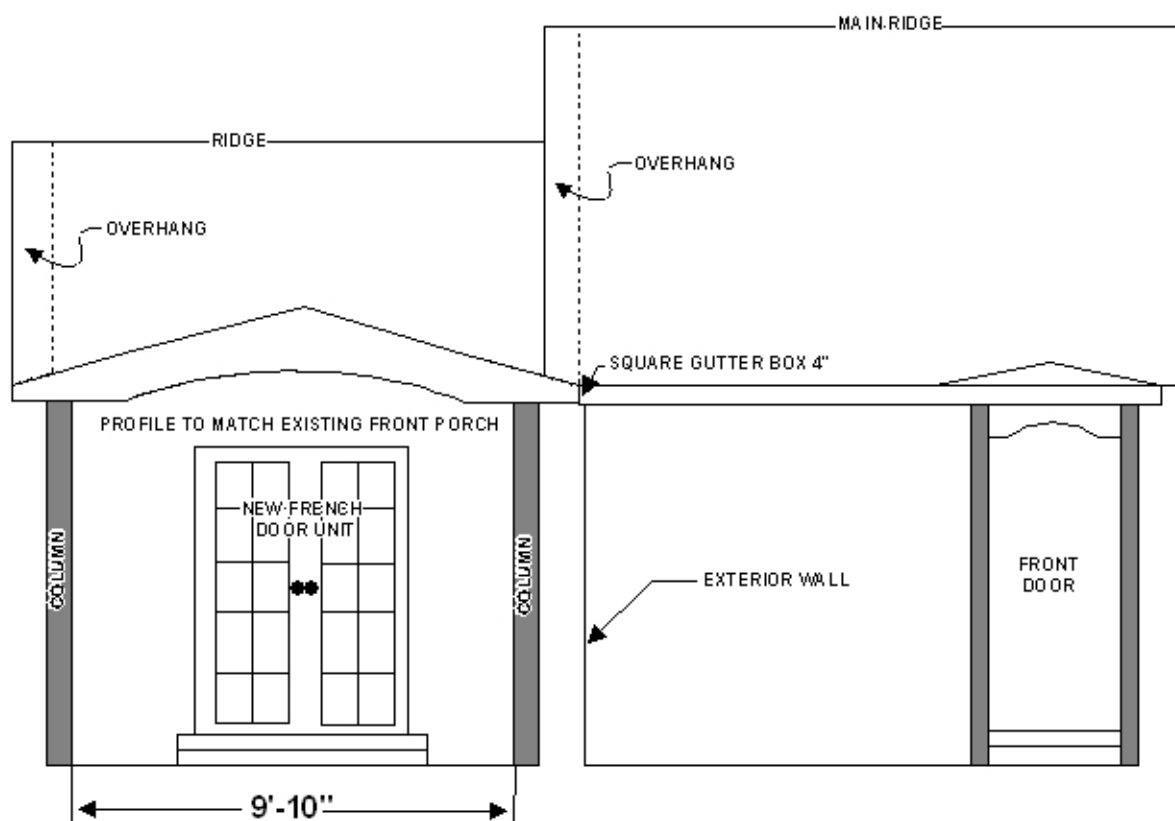
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