

APPLICATION NUMBER

5570

A REQUEST FOR

**REAR SETBACK VARIANCE FOR AN ACCESSORY
STRUCTURE WITHIN 3' OF A REAR PROPERTY LINE IN AN
R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE
ZONING ORDINANCE REQUIRES AN 8' REAR YARD
SETBACK IN AN R-1, SINGLE-FAMILY RESIDENTIAL
DISTRICT.**

LOCATED AT

262 SOUTH BROAD STREET

(Northwest corner of South Broad Street and Augusta Street)

APPLICANT/AGENT

DOUGLAS BURTU KEARLEY, AIA

OWNER

THOMAS HOST

BOARD OF ZONING ADJUSTMENT

OCTOBER 2009

The applicant is requesting a Rear Yard Setback Variance for an accessory structure within 3' of the rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' rear yard setback in an R-1, Single-Family Residential District.

The applicant proposes to construct a 15' x 15' shed in the Northwest corner of the property located 3' off the side property line and 3' off the rear property line. Construction of the shed to the required 8' rear setback would place it slightly less than 4' from the side of the existing dwelling. The site is located within the Oakleigh Garden District, and the reduced side yard setback is allowed by the Historic District Overlay of the Zoning Ordinance since it would be within the existing range of side yard setbacks on properties within 150' of the subject property on that side of Broad Street. However, there are no existing rear setbacks for structures within the 150' range along Broad Street which would justify the 3' rear setback for the subject property, hence this application.

Three of the primary concerns relating to side and rear yard setbacks are the potential for the spread of fire from one property to another, water run-off onto adjacent properties, and the ability to properly maintain the proposed structure. Other concerns relate to privacy and adequate circulation of light and air. In this instance, the dwelling to the rear faces Augusta Street and is approximately 12' from the rear property line of the subject site. In similar instances, the Board has been mindful of the unique character of older areas when considering setback variance requests and has been sympathetic in granting such, but has typically required a minimum setback of 5', with the provision of gutters and downspouts. In this instance, shifting the structure's proposed location two feet eastwardly would allow the structure to both be constructed to its proposed size and still meet a minimum 5' setback which the Board typically approves in historic districts.

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 has illustrated that a hardship exists with regard to the placement of the structure on the site and the Board should consider the granting of this variance request with the modification to a 5' rear setback.

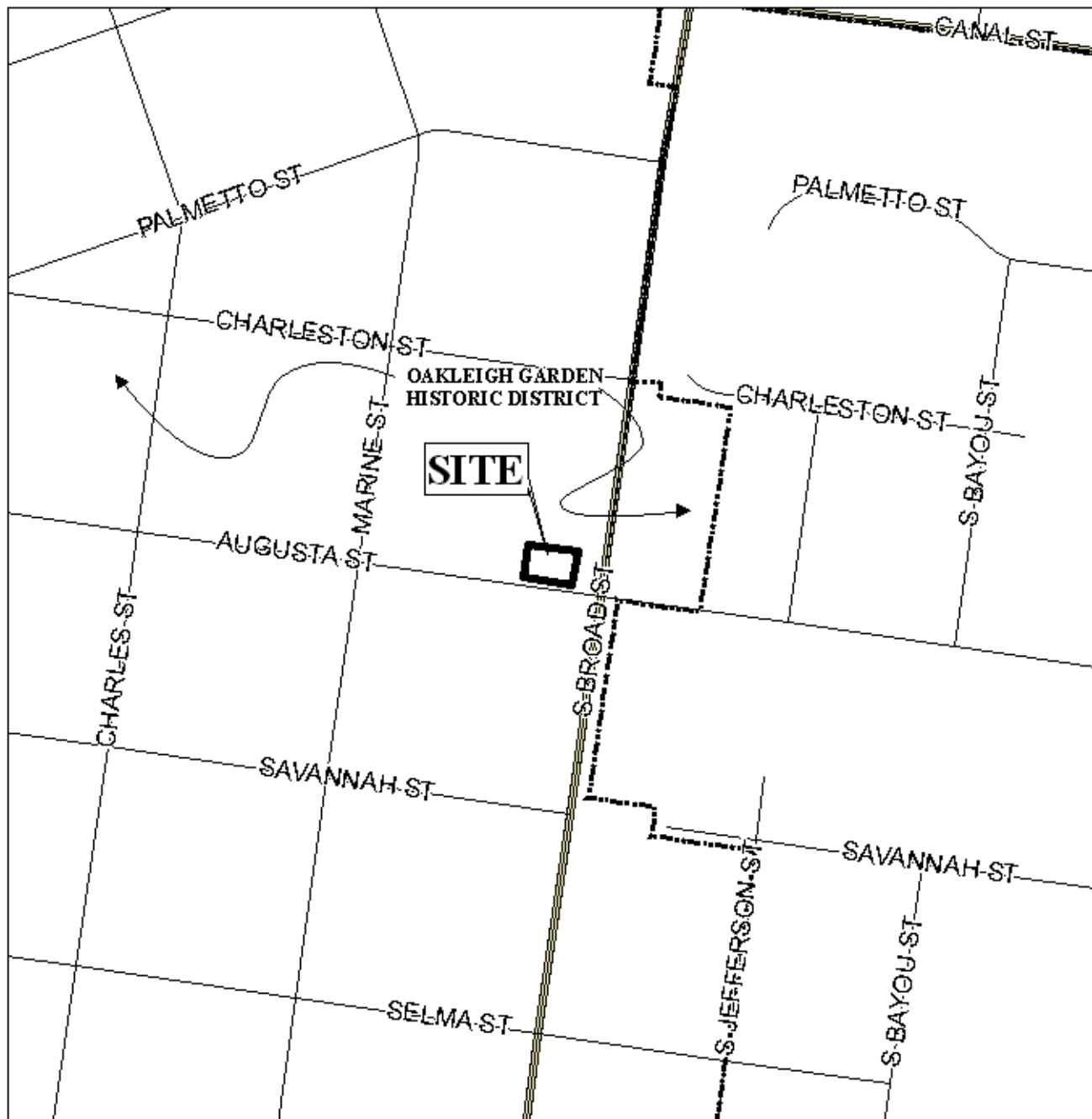
RECOMMENDATION 5570

Date: October 5, 2009

Based upon the preceding, this application is recommended for approval modified to a 5' rear setback, subject to the following conditions:

- 1) the provision of gutters and downspouts along the rear of the shed;
- 2) approval by the Architectural Review Board; and
- 3) obtaining of a Tree Removal Permit from Urban Forestry for the Live Oak currently located in the area of the proposed shed.

LOCATOR MAP



APPLICATION NUMBER 5570 DATE October 5, 2009

APPLICANT Douglas Kearley

REQUEST Rear Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use

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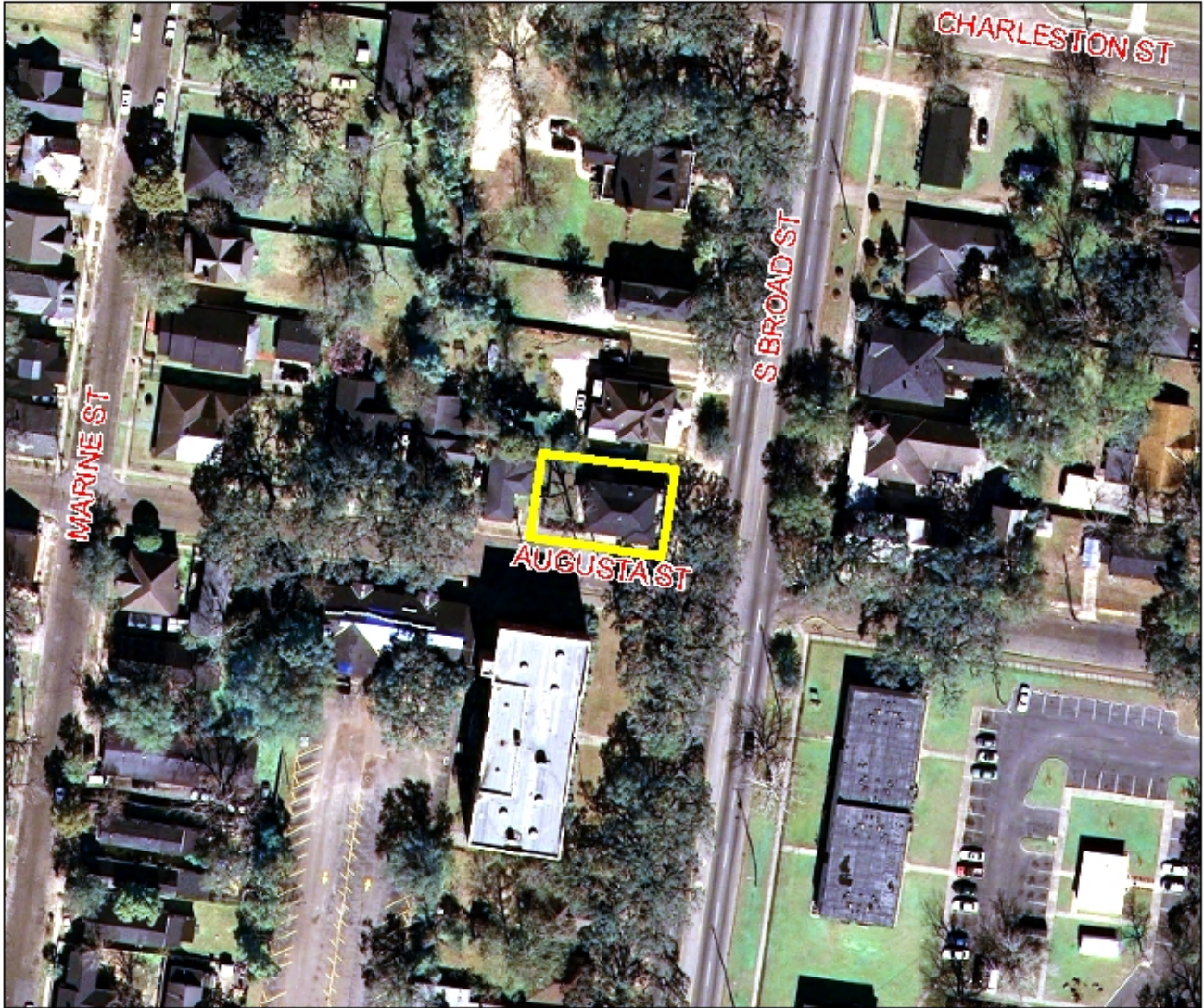
LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use

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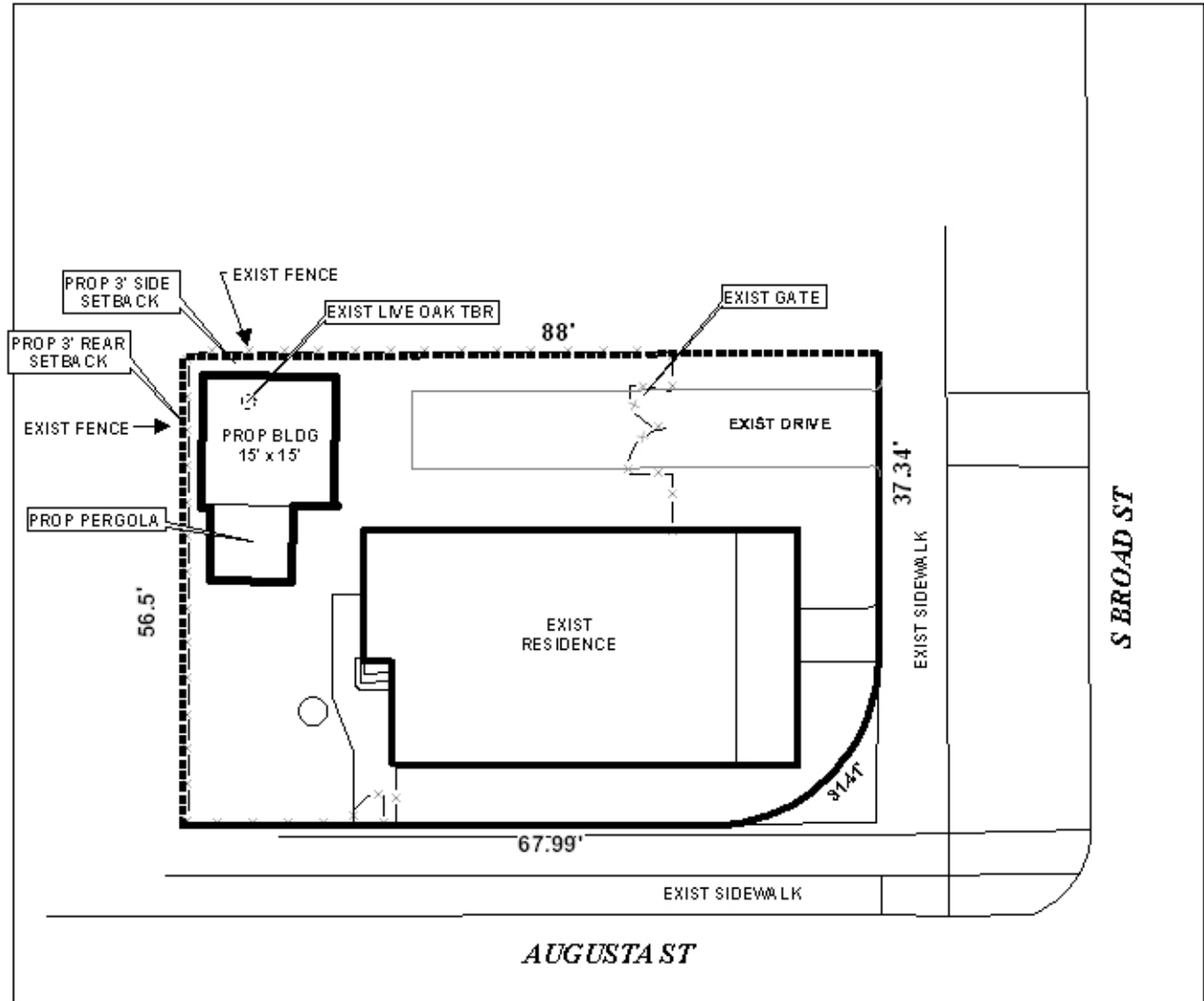
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SITE PLAN



The site plan illustrates the existing residence and proposed structure.

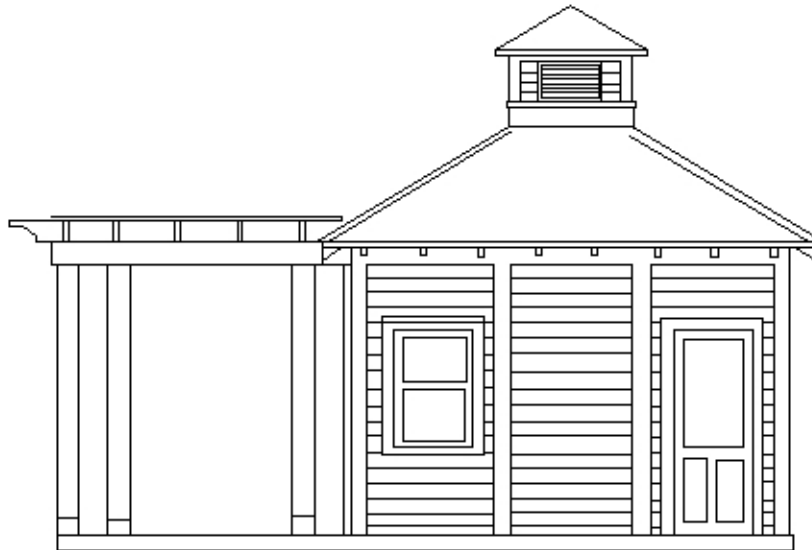
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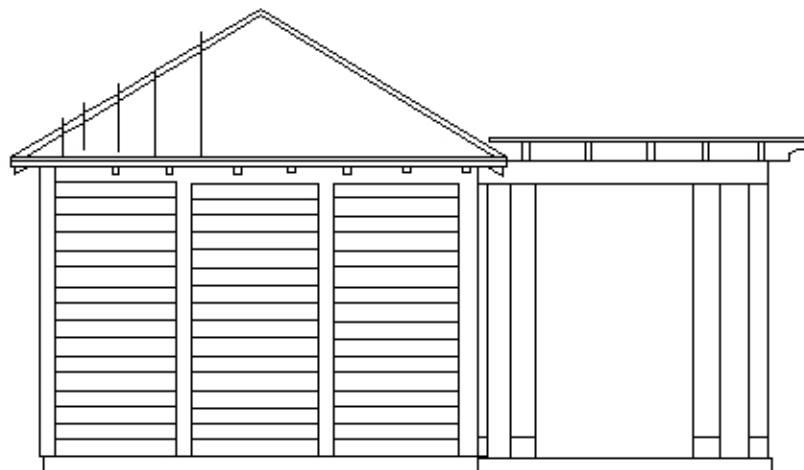
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ELEVATION DETAIL



EAST ELEVATION



WEST ELEVATION

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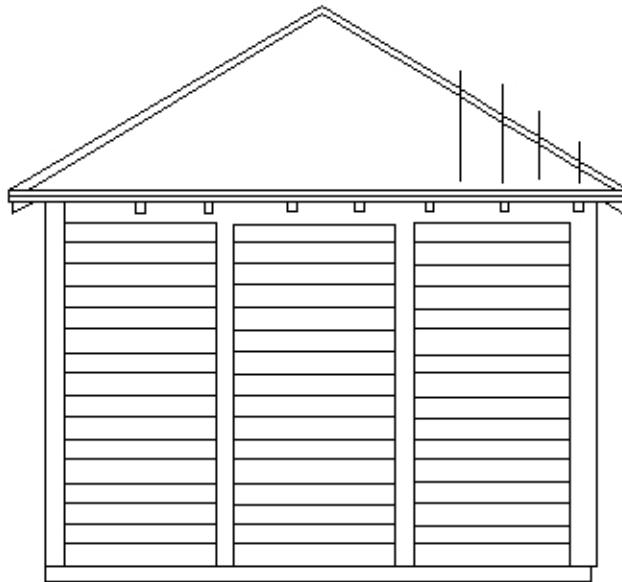
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ELEVATION DETAIL



SOUTH ELEVATION



NORTH ELEVATION

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