

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 5, 2018****CASE NUMBER**

6166

APPLICANT NAME

William T. Partridge

LOCATION1558 & 1560 West Avenue
(Northeast corner of West Avenue and Adler Avenue.)**VARIANCE REQUEST****FRONT YARD SETBACK:** Front Yard Setback Variance to allow an entrance canopy within 13'-10" of the front property line at a church in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****FRONT YARD SETBACK:** The Zoning Ordinance requires a 25' front yard setback for all structures over 3' high in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

2.5± Acres

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting a Front Yard Setback Variance to allow an entrance canopy within 13'-10" of the front property line at a church in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 25' front yard setback for all structures over 3' high 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.

Variances are site-plan specific; therefore, if approved, any proposed changes to the site layout of the request at hand will require an application to the Board to amend the approved site plan prior to any construction activities.

The site has been given a **Mixed Density Residential** land use designation per the recently adopted Future Land Use Plan and Map. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting. This land use designation applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

Mixed Density Residential areas should offer a mix of single-family homes, townhouses, 2- to 4-residential unit buildings, accessory dwellings, and low- to mid-rise, multi-family apartment buildings. The density varies between 6 and 10 dwelling units per acre, depending on the mix, types and locations of the housing as specified by zoning.

Like Low Density Residential areas, Mixed Density Residential areas may also incorporate compatibly scaled and sited complementary uses, such as: neighborhood retail and office uses; schools, playgrounds and parks; and, churches and other amenities that create a complete neighborhood fabric and provide safe, convenient access to daily necessities.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

The subject site is developed with a church and what appear to be two (2) single-family dwellings and a possible annex building for accessory uses of the property (i.e. banquets, church events, Sunday School, etc.).

The site is non-conforming inasmuch as there are multiple buildings on a single building site; mixed-use of the property is not allowed by right in an R-1, Single-Family Residential District; access and maneuverability are seemingly substandard; there does not appear to be enough off-street parking; and, several of the buildings do not appear to meet applicable setbacks, including

the church. Aerial photos indicate the site has existed in its current configuration since at least 1960, the exception being a building just south of the existing church that was demolished between 1997 and 2002; and, as such, was developed under pre-1967 Zoning Ordinance standards.

Section 64-7.B.1. permits the occupation and operation of structures constructed prior to adoption of the Zoning Ordinance in 1967 that, as a result, may now be considered non-conforming, as long as they are maintained in a state of good repair. Section 64-7.B.2. allows the enlargement or expansion of such structures after 1967, but only when they will conform to the height, building site area, building site coverage, and yard requirements of the district in which they are located.

Section 64-3.C.1.e. of the Zoning Ordinance requires a minimum 25' Front Yard Setback for all structures taller than 3' in an R-1, Single-Family Residential District. The applicant proposes to construct a 9'10" X 12'8" canopy to cover an existing porch at the entrance to the church, which will encroach on this setback by 11'2", hence the request at hand. It should be noted, however, that there is some confusion with regard to the subject site's address: the side of the church the applicant refers to as its front faces Rotterdam Street, but the address for the building is 1703 Dublin Street. As such, the request may be for a Side Street Side Yard Setback Variance considering the proposed structure would also encroach on the minimum 20' Side Street Side Yard at this location.

The applicant has not provided a narrative justifying the request, but the site is located in a neighborhood that, just like the subject site, pre-dates the current Zoning Ordinance. Although the site is not within an historic district, in which similar non-conforming structures benefit from flexible development requirements via the Historic District Overlay, the Board has been mindful of the unique character of older neighborhoods when considering similar site Variance applications. This is perhaps evidenced by the approval of Setback Variances at locations proximal to the subject site, the most recent being 1601 Dublin Street in 2014, 563 Michigan Avenue in 2009, and 1358 Antwerp Street in 2007.

The aforementioned sites were approved for substantial structural additions to encroach on required Front and Side Yard Setbacks, whereas the application at hand would seemingly have minimal effect on the non-conforming nature of not just the structure, but of the surrounding neighborhood; especially since the canopy is not a habitable structure. As such, approving the request may be appropriate. However, a hardship has not been identified that would preclude the applicant from complying with the Zoning Ordinance, and it should be reiterated that Variances are not intended to be granted frequently. Approving the Variance request would be contrary to at least Sections 64-3.C.1.e. and 64-7.B.1. of the Zoning Ordinance and may maintain a precedence not just of substandard site development, but a precedence with which the approval of future, less desirable Variances could be facilitated if no special conditions or hardships to an individual property exist.

If approved, it may be prudent to require the applicant to submit non-conforming documentation for all existing non-conformities on the site. Doing so would provide Staff with information that,

should future requests for permits or other site permissions be made, legal non-conforming status of the property can mitigate any uncertainties with regards to applicable development standards.

Finally, as mentioned, Variances are site-plan specific. The applicant provided drawings that isolate construction of the proposed canopy and, as such, approval should be on the condition that a site plan showing all site improvements is submitted to the Planning and Zoning Department prior to the approval of any land disturbing or building activities. Such a site plan may be helpful in the review of legal non-conforming status of the property.

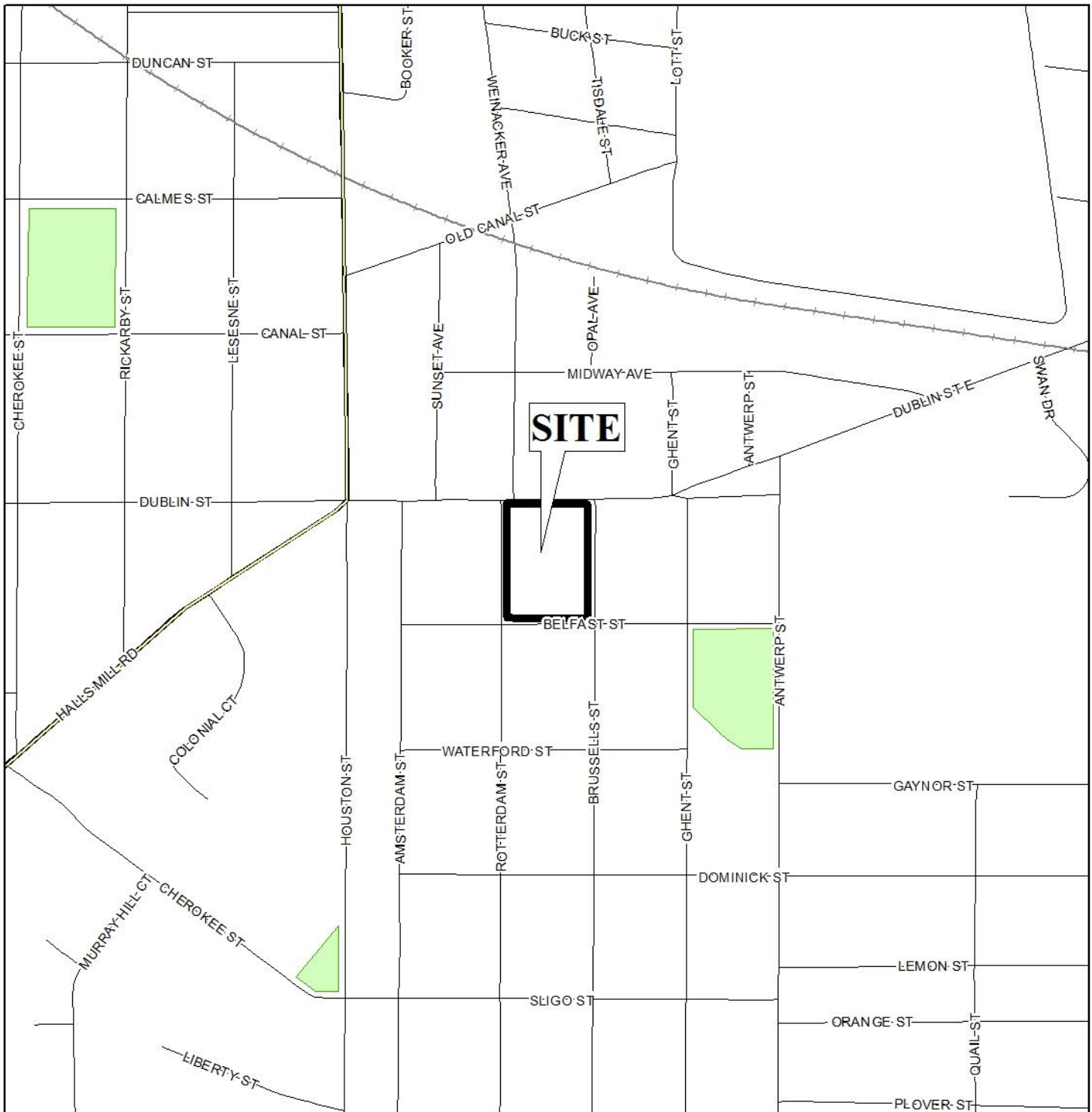
RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval of the Front Yard Setback Variance:

- 1) Granting the Variance will not be contrary to the public interest since the structure would be compatible with the non-conforming nature of the site;
- 2) Special conditions associated with the site exist, such that a literal enforcement of the provision of the chapter will result in an unnecessary hardship due to the site's configuration since at least 1960 inhibiting compliance with minimum Front Yard Setback requirements; and,
- 3) The spirit of the chapter shall be observed and substantial justice done to the surrounding neighborhood by granting the Variance since it would maintain the existing character of similar historically significant areas, and because the Board has been sympathetic in granting similar Variance requests to neighboring properties.

The approval is subject to the following conditions:

- 1) Provision of a site plan showing all existing and proposed site improvements to the Planning and Zoning Department prior to the issuance of any land disturbance or building permits;
- 2) Provision and approval of non-conforming documentation by the Planning and Zoning Department for all existing non-conformities on the site; and,
- 3) Compliance with all applicable Codes and Ordinances.

LOCATOR MAP



APPLICATION NUMBER 6166 DATE March 5, 2018

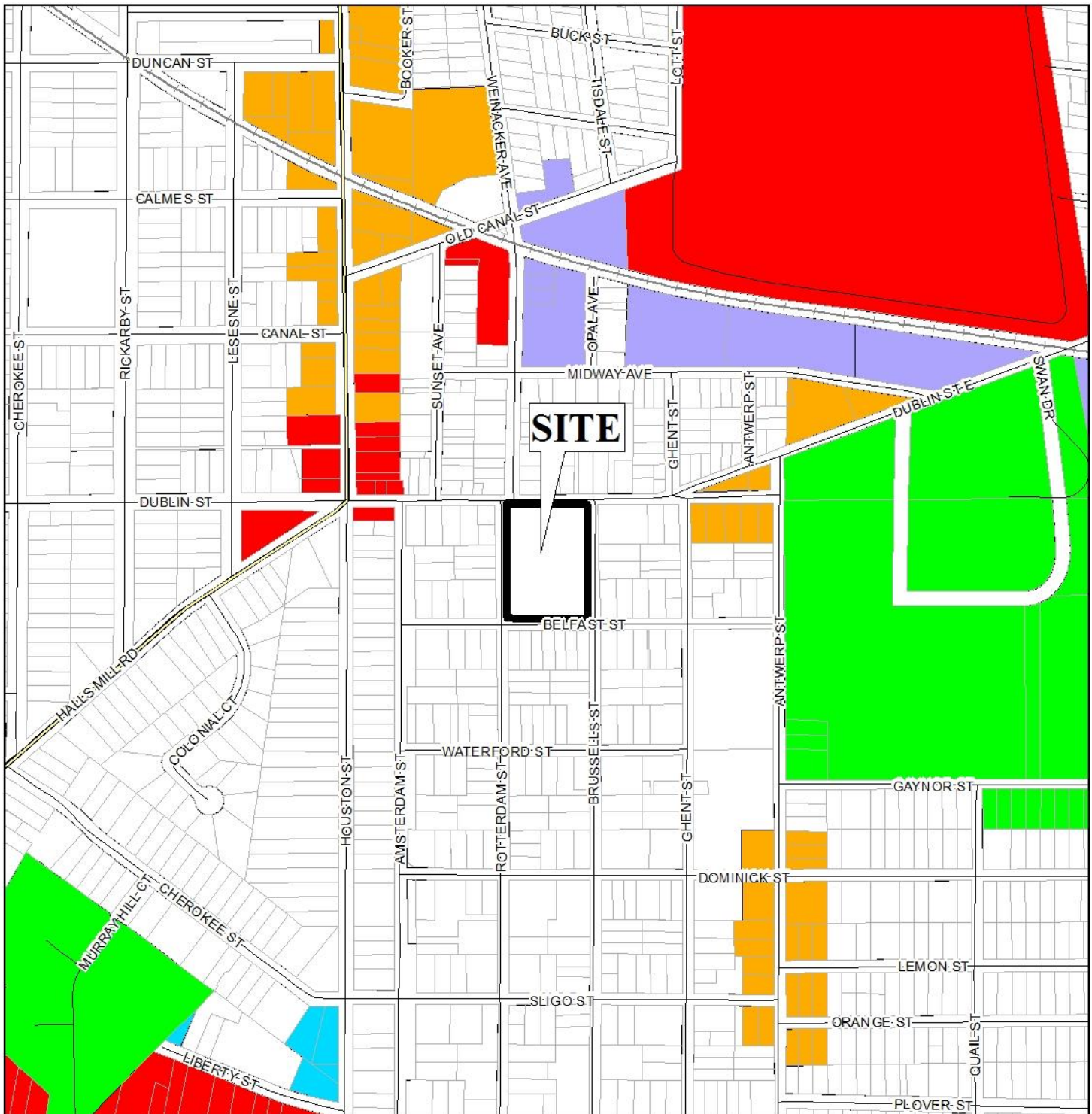
APPLICANT William T. Partridge

REQUEST Front Yard Setback Variance



NTS

LOCATOR ZONING MAP



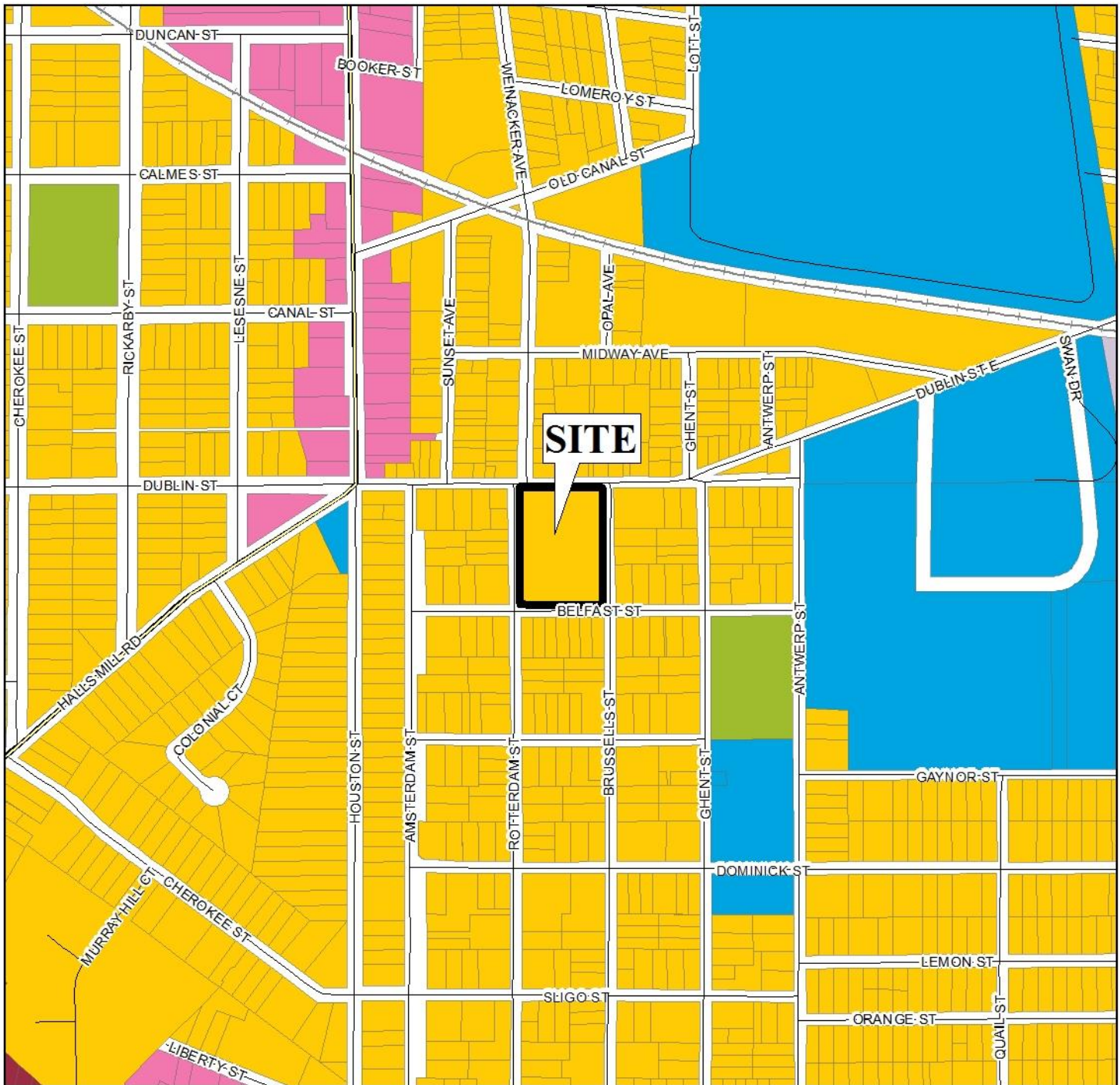
APPLICATION NUMBER 6166 DATE March 5, 2018

APPLICANT William T. Partridge

REQUEST Front Yard Setback Variance



FLUM LOCATOR MAP



APPLICATION NUMBER 6166 DATE March 5, 2018

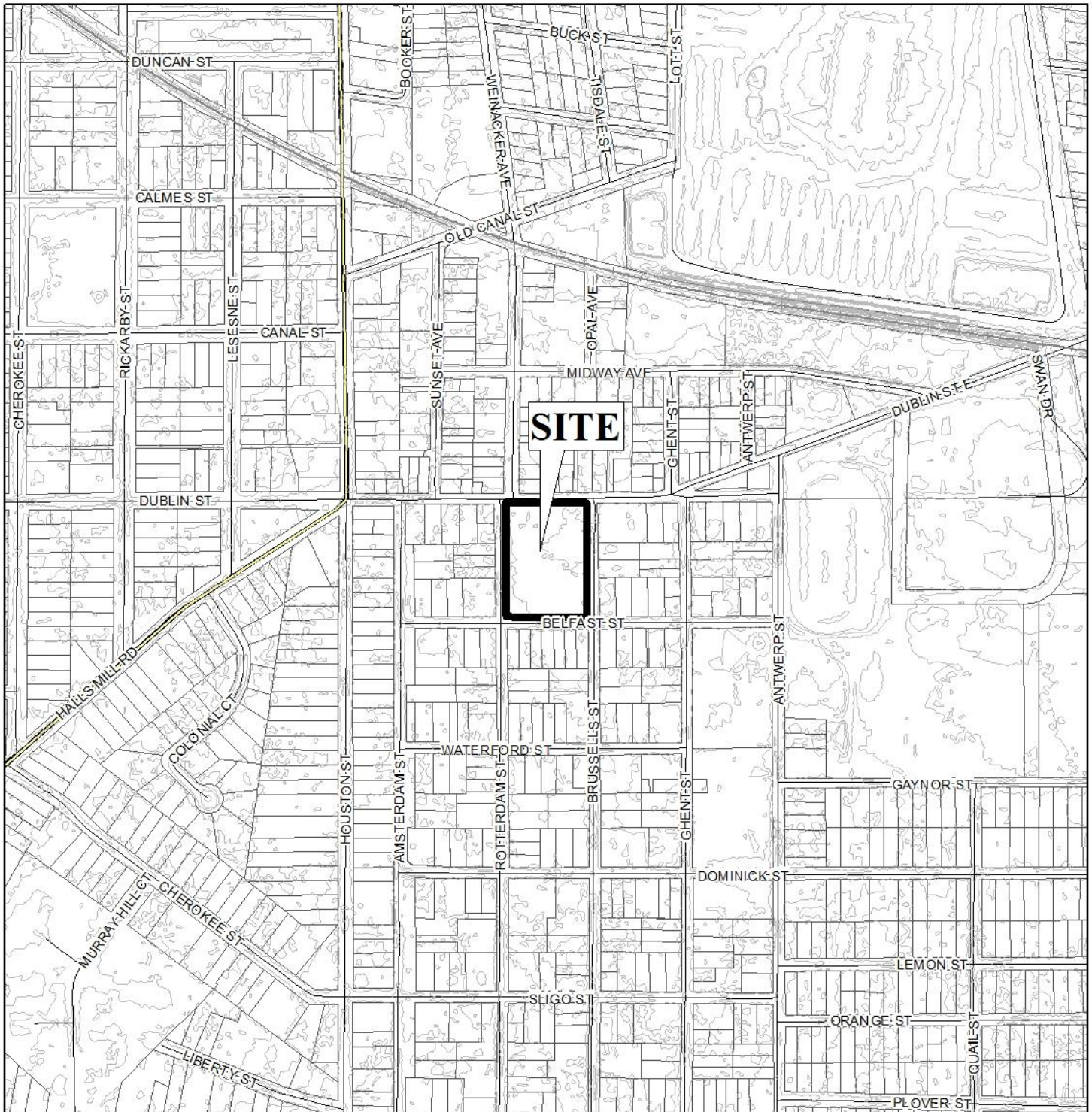
APPLICANT William T. Partridge

REQUEST Front Yard Setback Variance

Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6166 DATE March 5, 2018

APPLICANT William T. Partridge

REQUEST Front Yard Setback Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

APPLICATION NUMBER 6166 DATE March 5, 2018

APPLICANT William T. Partridge

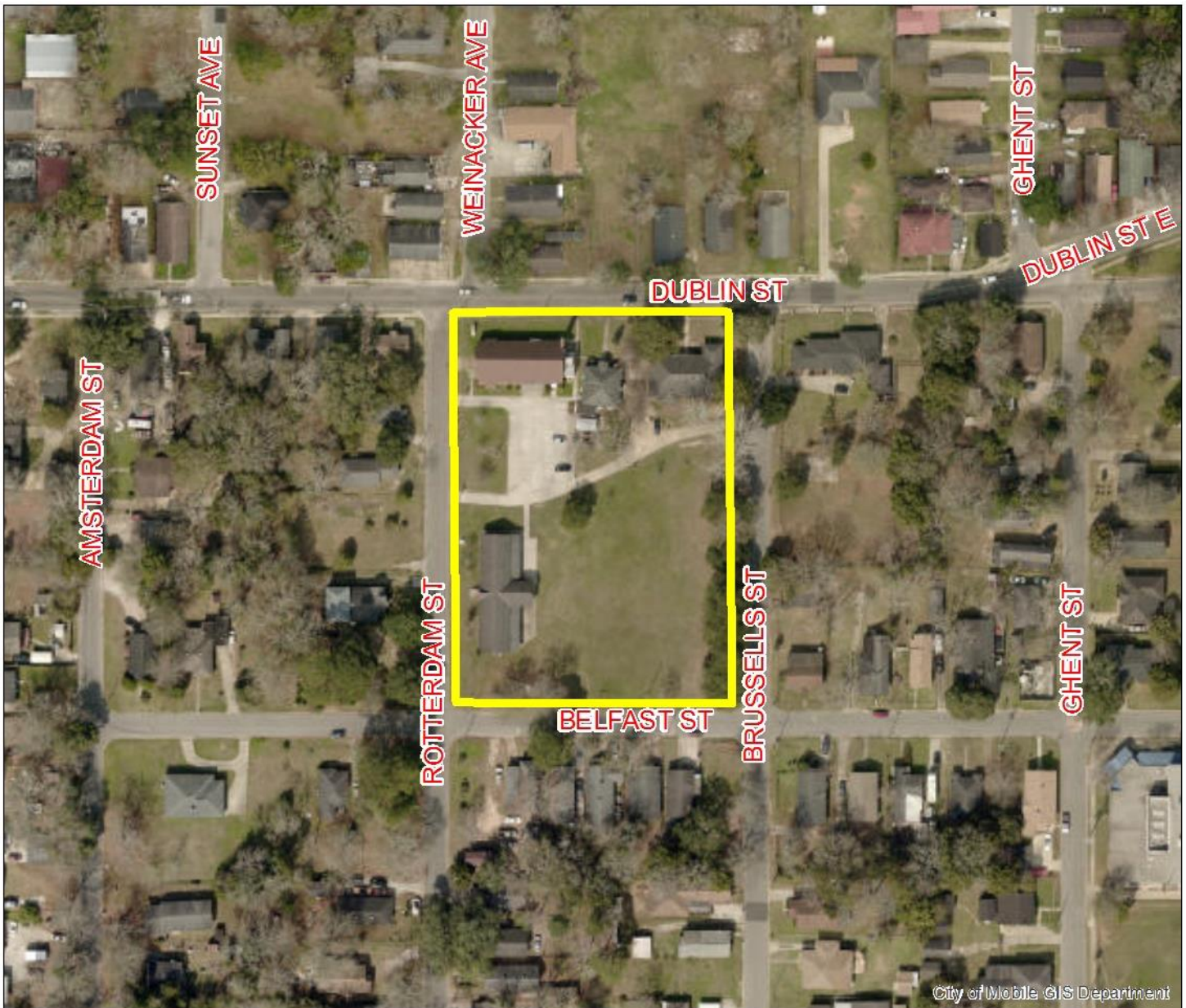
REQUEST Front Yard Setback Variance

 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 AERIAL



The site is surrounded by residential units.

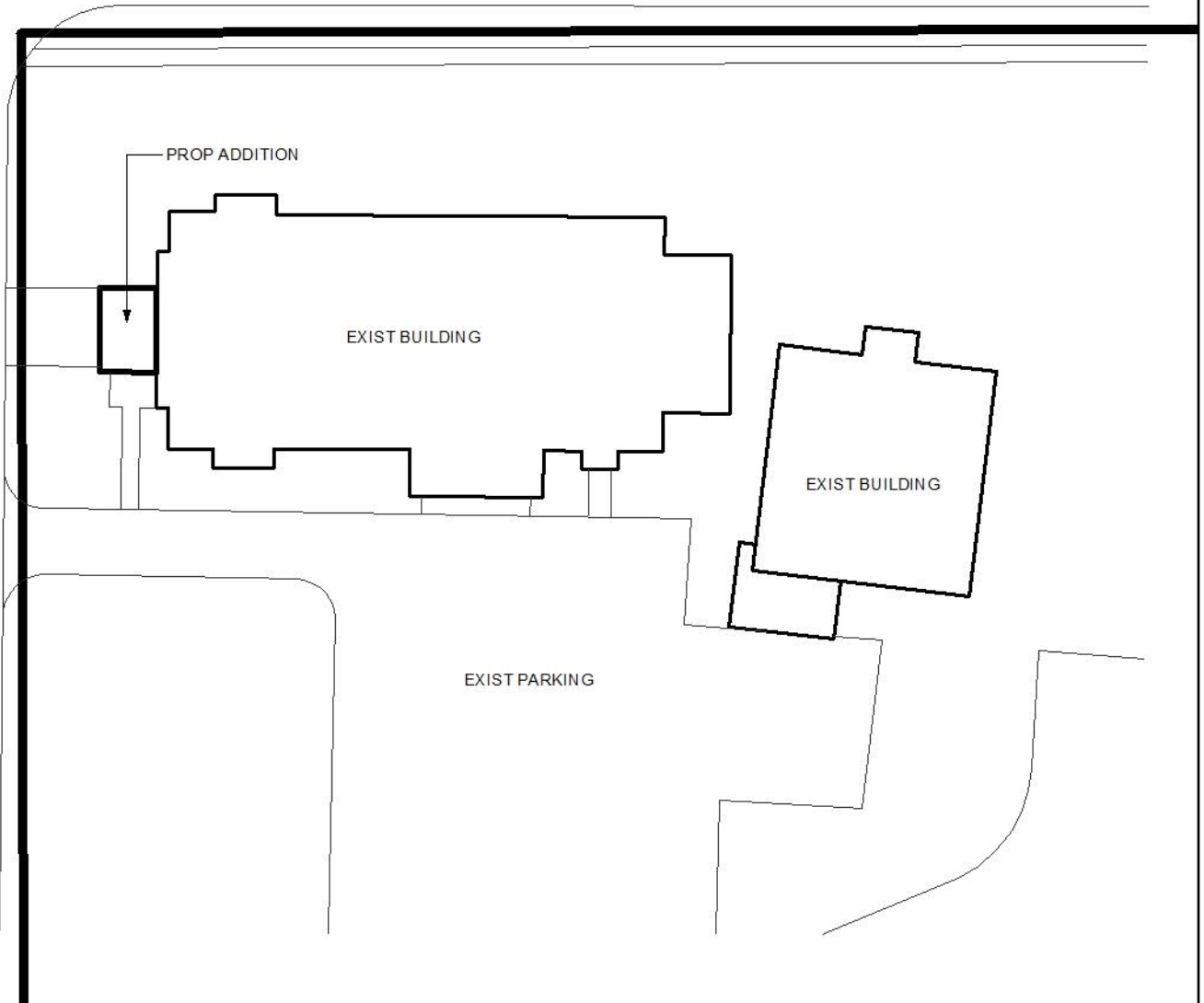
APPLICATION NUMBER	6166	DATE	March 5, 2018
APPLICANT	William T. Partridge		
REQUEST	Front Yard Setback Variance		



SITE PLAN

DUBLIN ST

ROTTERDAM ST



The site plan illustrates the existing buildings, existing parking, and proposed addition.

APPLICATION NUMBER 6166 DATE March 5, 2018

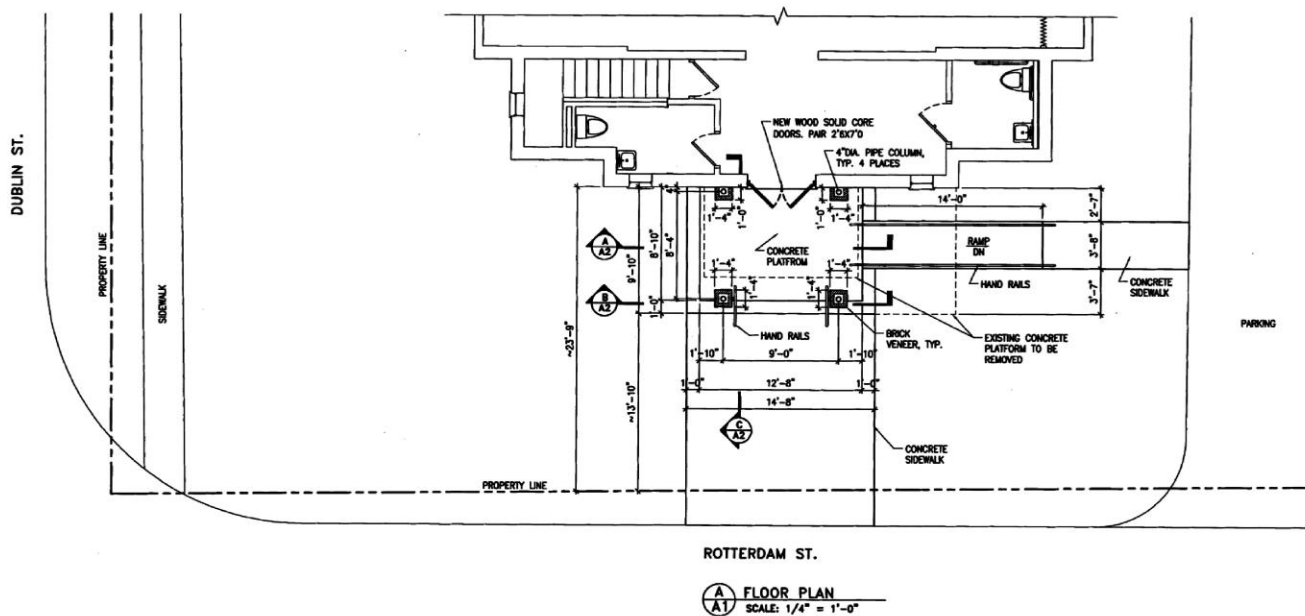
APPLICANT William T. Partridge

REQUEST Front Yard Setback Variance



NTS

DETAIL SITE PLAN



APPLICATION NUMBER 6166 DATE March 5, 2018

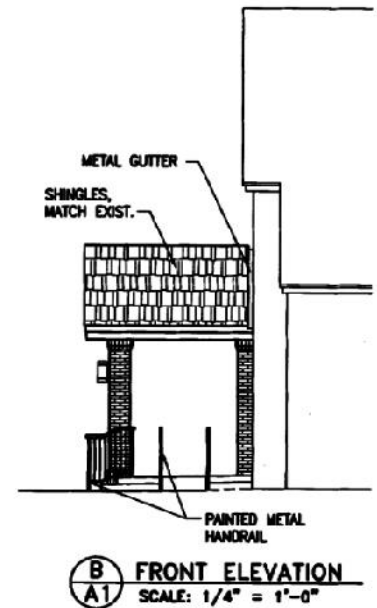
APPLICANT William T. Partridge

REQUEST_____Front Yard Setback Variance



NTS

DETAIL SITE PLAN



APPLICATION NUMBER 6166 DATE March 5, 2018
APPLICANT William T. Partridge
REQUEST Front Yard Setback Variance



