

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: September 10, 2018****CASE NUMBER**

6208

**APPLICANT NAME**

Tony M. Jones &amp; Thomas P. Baines

**LOCATION**

221 South Dearborn Street  
(Northeast corner of South Dearborn Street and Canal  
Street Service Road).

**VARIANCE REQUEST**

**SITE:** Site Variance to allow a third building on a residential lot in a T-3 Sub-District of the Downtown Development District.

**SETBACK:** Setback Variance to allow an accessory building within the secondary frontage in a T-3 Sub-District of the Downtown Development District.

**ZONING ORDINANCE  
REQUIREMENT**

**SITE:** The Zoning Ordinance allows a maximum of two (2) buildings per lot in a T-3 Sub-District of the Downtown Development District.

**SETBACK:** The Zoning Ordinance states that outbuildings should be no closer to the secondary frontage than the rear façade of the primary building in a T-3 Sub-District of the Downtown Development District.

**ZONING**

T-3 Sub-District.

**AREA OF PROPERTY**

0.1± Acres

**TRAFFIC ENGINEERING  
COMMENTS**

No comments.

**CITY COUNCIL  
DISTRICT**

District 2

**ANALYSIS**

The applicant is requesting a Site and Setback Variance to allow a third building within the required secondary frontage setback on a residential lot in a T-3 Sub-District of the Downtown Development District; the Zoning Ordinance allows a maximum of two (2) buildings per lot with outbuildings no closer to the secondary frontage than the rear façade of the primary building in a T-3 Sub-District of the Downtown Development District.

The site has been given a Downtown 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.

Downtown is called out as a separate land use designation due to its distinct role, layout and fabric.

As a land use district, Downtown is the ultimate mixed-use environment. Land development and redevelopment will emphasize variety, mixed uses, and unity of form within buildings or complexes.

As the city's and region's center for commercial and service employment, Downtown supports intense development and a dynamic combination of uses: specialty and regional retail shopping and offices; business support services; urban housing at higher densities (starting at 10 du/ac); civic, educational and cultural destinations; entertainment options; and other public amenities including active and passive park space. The successful integration of a mix of housing types and densities will be critical to achieve a vibrant, 24/7-active Downtown Mobile.

Development in the Downtown district will focus on new, redeveloped and adaptively reused buildings that frame attractive, human-scaled streetscapes, memorable public spaces, bicycle and pedestrian-friendly streets and convenient transit access to jobs, housing and entertainment. Accordingly, certain areas of Downtown will be more intensively developed to facilitate that pedestrian orientation.

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 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 applicant states:

*“To Whom it may concern, Members of Variance Board*

*I, Tony M. Jones and Thomas P. Baines have enjoyed living in the East Church Street Historic District for 21 years. From the onset of the purchase of our lot in this district we wanted this lot for the size and its location. In conceiving our house via planning and designing, three things were essential in our concept of what the house lot should include for our needs. Our considerations have and still have been to be, in a historic area and having a new house that was built to look and feel old. We wanted a new house in the Federal townhouse style. In our design, the concept from day one included the main house, detached garage, and an outbuilding (shed) as the main structures. The addition to the master bedroom was just a needed item in living here for so long. In adding the structure out from the master bedroom, it was added with the historic concept still in consideration. The neighbors have been very complimentary upon completion. I must say the addition on the 2<sup>nd</sup> floor master bedroom, looks great myself. When the shed went up in February 2016, its design took on the historic look also and now needs completion. I have not been able to complete this due to the change in the rule made by the city in a historic area to allow only two structures per lot in the downtown area. So now there is a much more needed structure that needs to be added to our property but now we are not allowed. This is my fault in that I was trying to get things done as we were able to afford instead of the practical order of things of need. So this is where we are today, coming before the board for consideration for a variance to our property via the application to allow an additional structure (garage). With the 3<sup>rd</sup> structure added and the board consideration of our lot size and the exit/entry from Canal street does make the aesthetics of the property more appealing. So please let us include this much needed asset of a garage to our neighborhood and property. It will be an enhancement to us and the neighborhood as a whole in this request. We would like to add the garage in the near future, upon getting the variance for garage and the present shed, we would be able to obtain the permit for shed to completed. The permit for the garage would come later after the completion of the shed. Thanks for all or any considerations in this urgent matter. Our most kindest regards,...*”

The applicant also states:

*“Shed. The shed was started back in 2016 without a permit. The shed was built 10’x12’ against the wall. I continued with the walls and roof, shingles, siding and sheathing. As it went above the wall, it was noticed and a stop work order was issued by the city. The shed now stands incomplete. Needs Bricking.*

*Garage, The garage, is in limbo due to the new rule of city. We propose to build Garage within a timely manner of asking the city to approve our request in allowing us to add an additional structure to our property. As per plan it is all laid out with plenty of room to spare.*

*City. If the city grants our approval, we will in turn continue with our plans to obtain a permit for the shed and proceed to completion and then make plans to construct garage, after obtaining a permit for it as well. No Work as preceded in aspect to garage."*

As stated, the applicants are seeking approval to place a third structure on their property which will encroach in the secondary frontage setback in the Downtown Development District. The lot is currently comprised of a single-family dwelling and an out building. As stated in the narrative, construction on the outbuilding began without the issuance of a building permit. Our records indicate that a Notice of Violation and a Stop-Work Order were issued on July 21, 2014 as a result of a citizen complaint. It appears that an attempt to obtain a permit occurred shortly after Stop-Work Order was issued but a permit was never issued. The outbuilding remains incomplete.

The applicants are now proposing an additional structure (garage) on the property. The proposed three car garage will be approximately 43' x 25' and will be located in the Southeast corner of the property. The proposed garage is illustrated as encroaching in the required setback. There is also a curb cut proposed to Canal Street Service Road.

It should be noted that the curb-cut may only be 25 feet in width along a secondary frontage in a T-3 district and, as proposed, appears that the curb-cut will be 30 feet in width.

Section 64-4.I.8. of the Zoning Ordinance states in "Table 1: Site Configuration" that a maximum of two (2) buildings are allowed on a single site in a T-3 District. The table also states that the primary and secondary frontage requirement for outbuildings is to the rear the rear of the façade. The side and rear setback requirements for outbuildings is unrestricted if fire rating requirements are met.

Because the subject site is located within the Downtown Development District, Consolidated Review Committee (CRC) approval would be required. At this time, Staff finds no instance of receipt of an application to CRC for review. Additionally, the subject property is located in the Church Street East Historic District therefore; approval from the Architectural Review Board (ARB) would be required as well.

Based on the application the applicants have not presented a hardship that will necessitate the approval of the request. It is noted that this is the applicants' desire to establish an additional building on the site however, it should also be noted that the existing outbuilding is currently incomplete. The applicants have the option to obtain a permit for the outbuilding to complete the work that has already begun. They also have the option to obtain permits to demolish the shed and obtain permits for the garage that has been described as more of a necessity. The lot would still be allowed only two (2) structures and each structure would be required to meet the appropriate setbacks according to the Section 64-4.I.8. of the Zoning Ordinance. The proposed garage could be enlarged to provide storage.

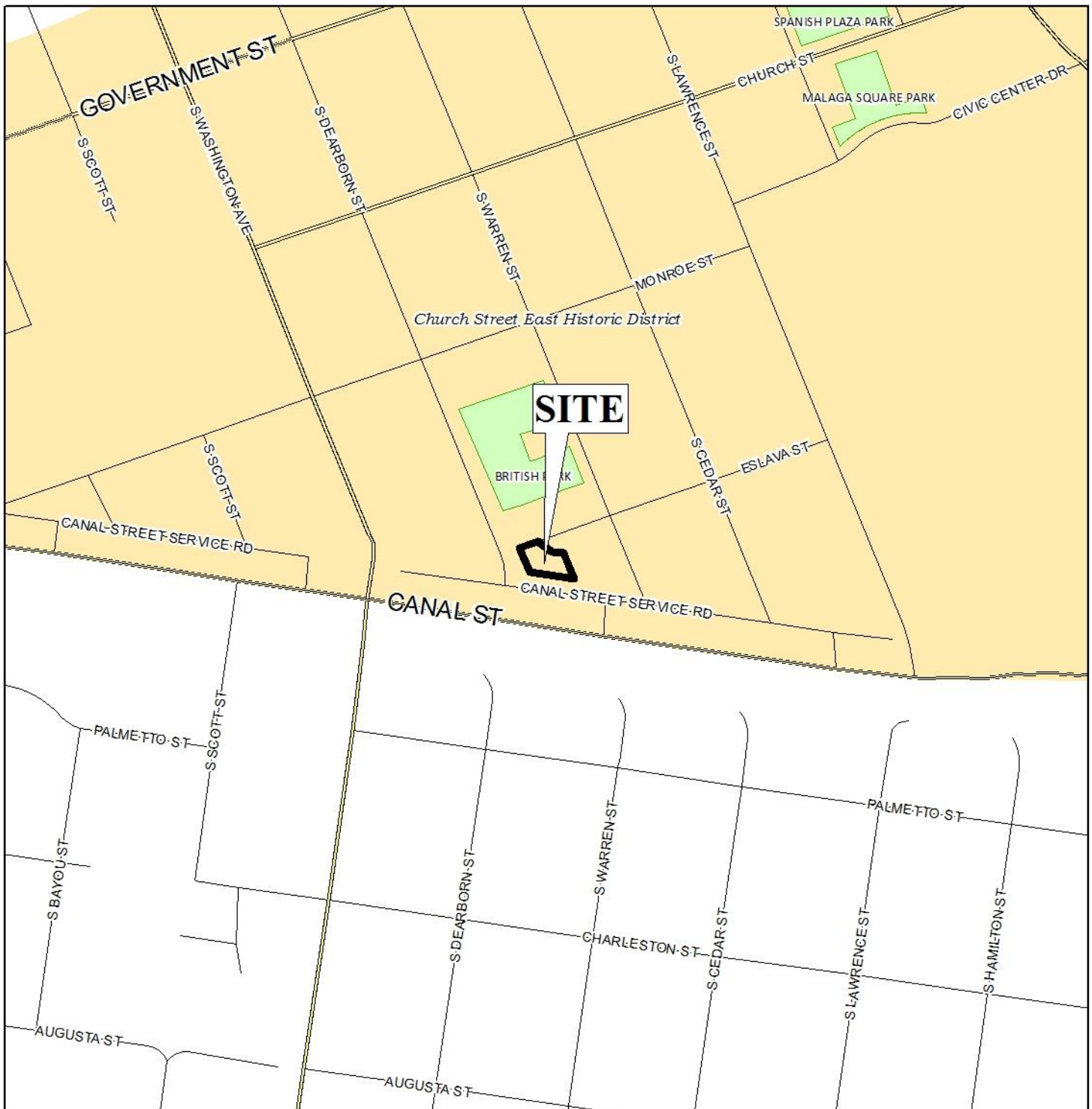
There are no conditions which exist at this site that would require the applicant to develop the site without complying with the requirements of the Downtown Development District. This application seems to be the merely the applicant's desire to establish a third building on the site. There has not been any hardship presented associated with the property or its configuration that would necessitate the approval of this request.

**RECOMMENDATION:**

Staff recommends to the Board the following findings of fact for Denial:

- 1) Approving the variance will be contrary to public interest in that the Zoning Ordinance in that it is contrary to the requirements of the Downtown Development District;
- 2) Special conditions do not exist and there are no hardships with the property which exist that make the development necessary as proposed;
- 3) 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 the site can be developed in compliance the requirements of the ordinance.

# LOCATOR MAP



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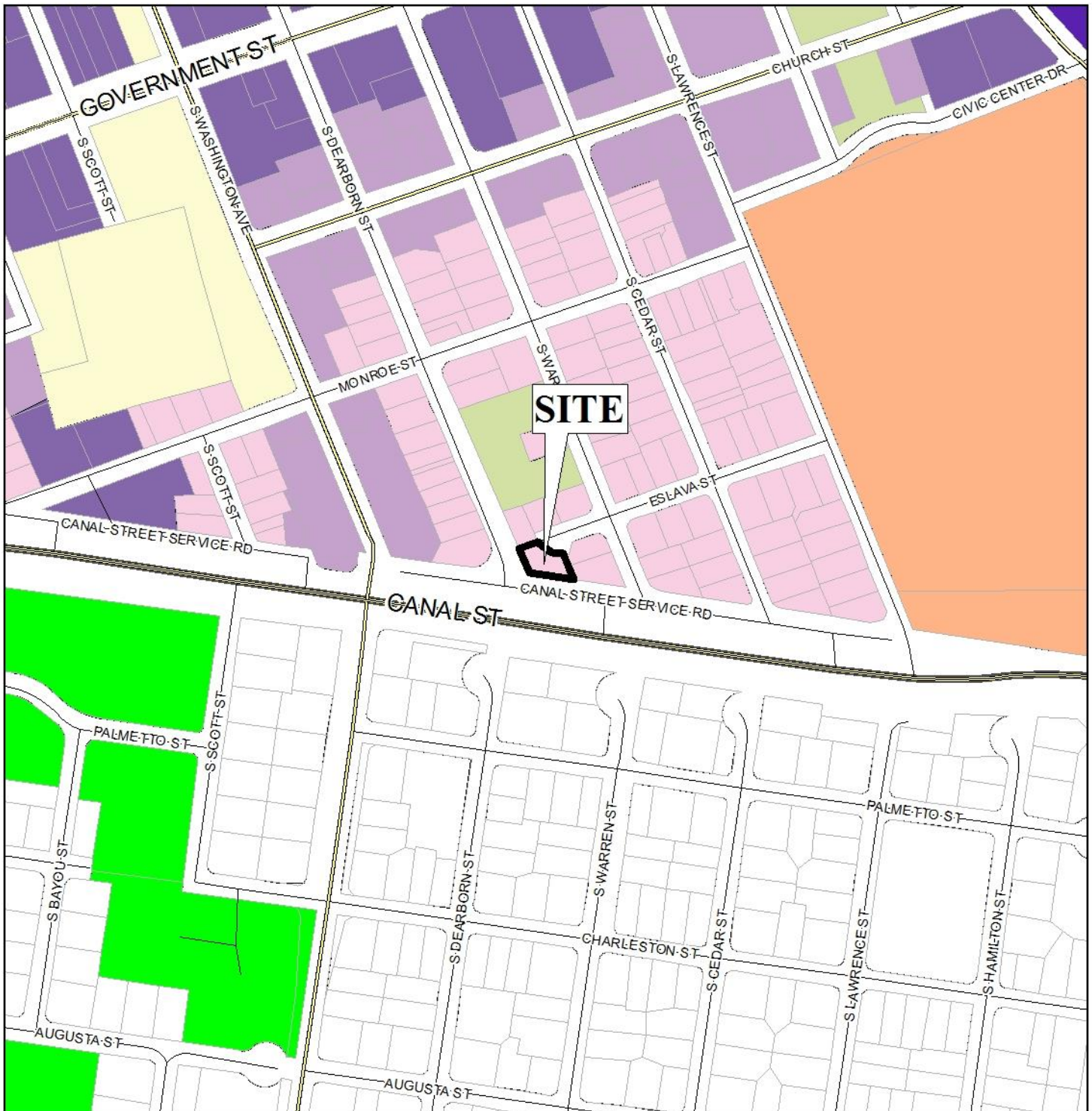
APPLICANT Tony M. Jones & Thomas P. Baines

REQUEST Site and Setback Variances





# LOCATOR ZONING MAP

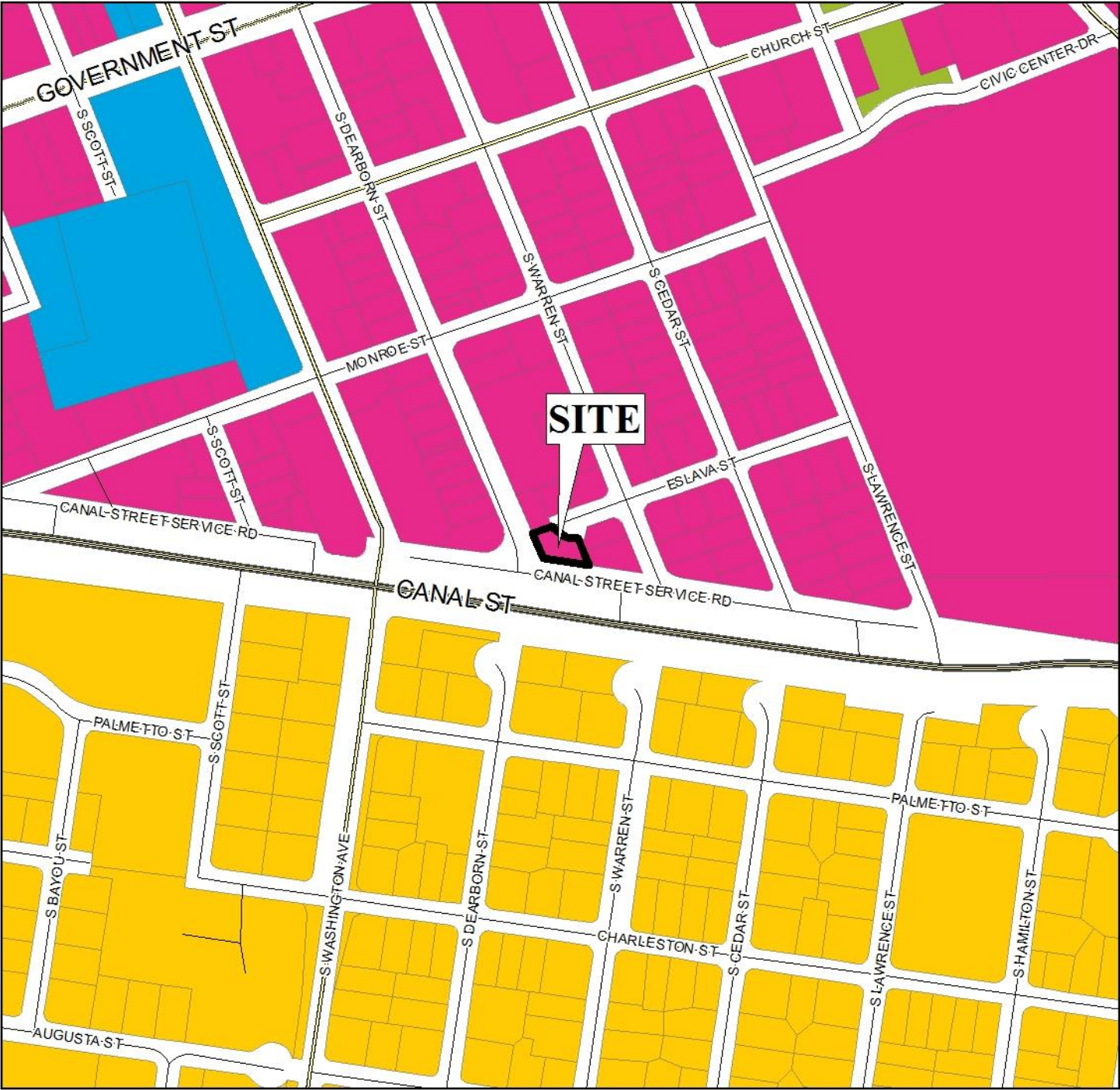


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# FLUM LOCATOR MAP



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REQUEST\_\_\_\_\_Site and Setback Variances

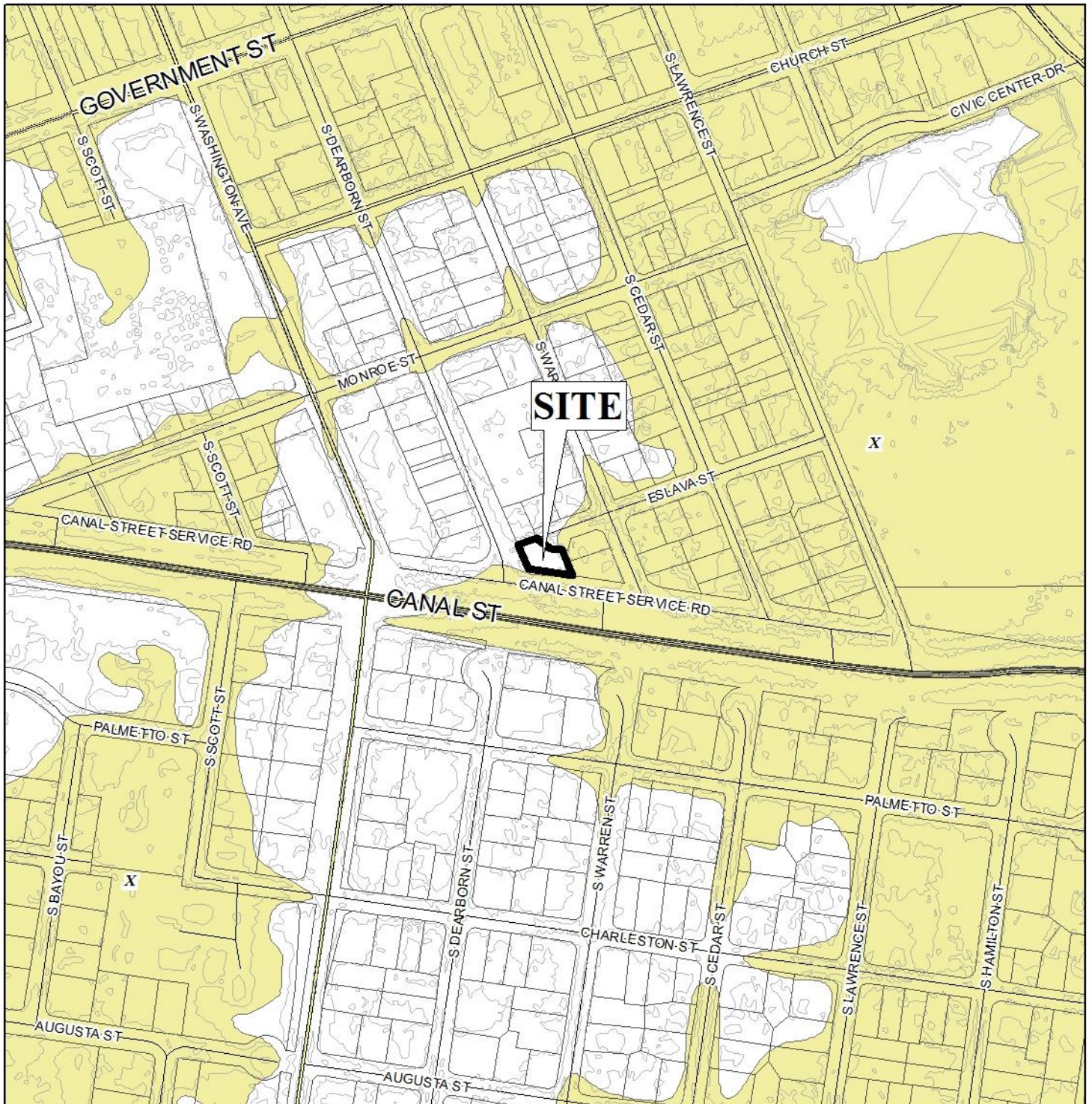
- |                           |                                   |                     |                    |
|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential   | Neighborhood Center - Traditional | Downtown Waterfront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



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# ENVIRONMENTAL LOCATOR MAP



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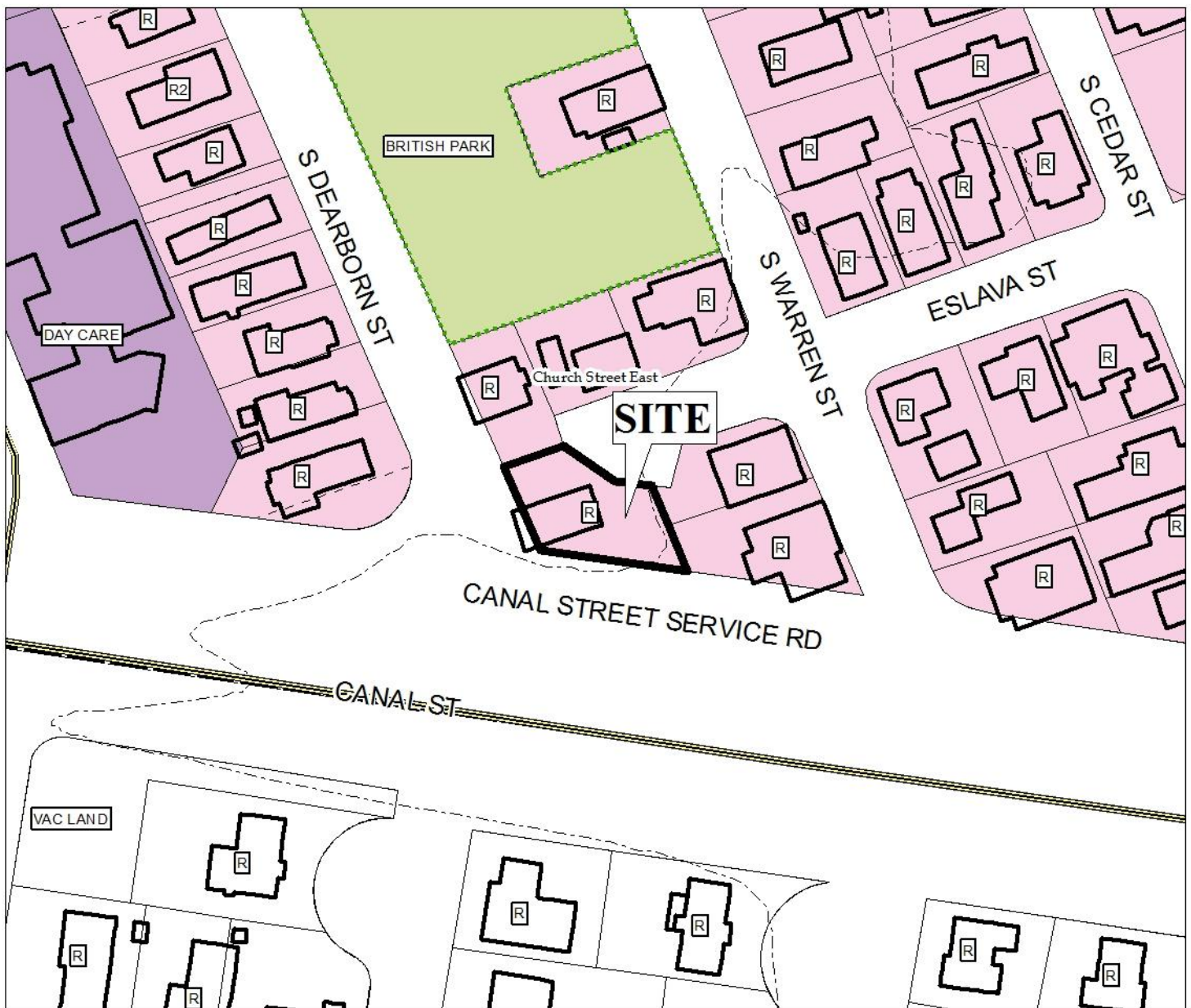
APPLICANT Tony M. Jones & Thomas P. Baines

REQUEST Site and Setback Variances





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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

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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 AERIAL

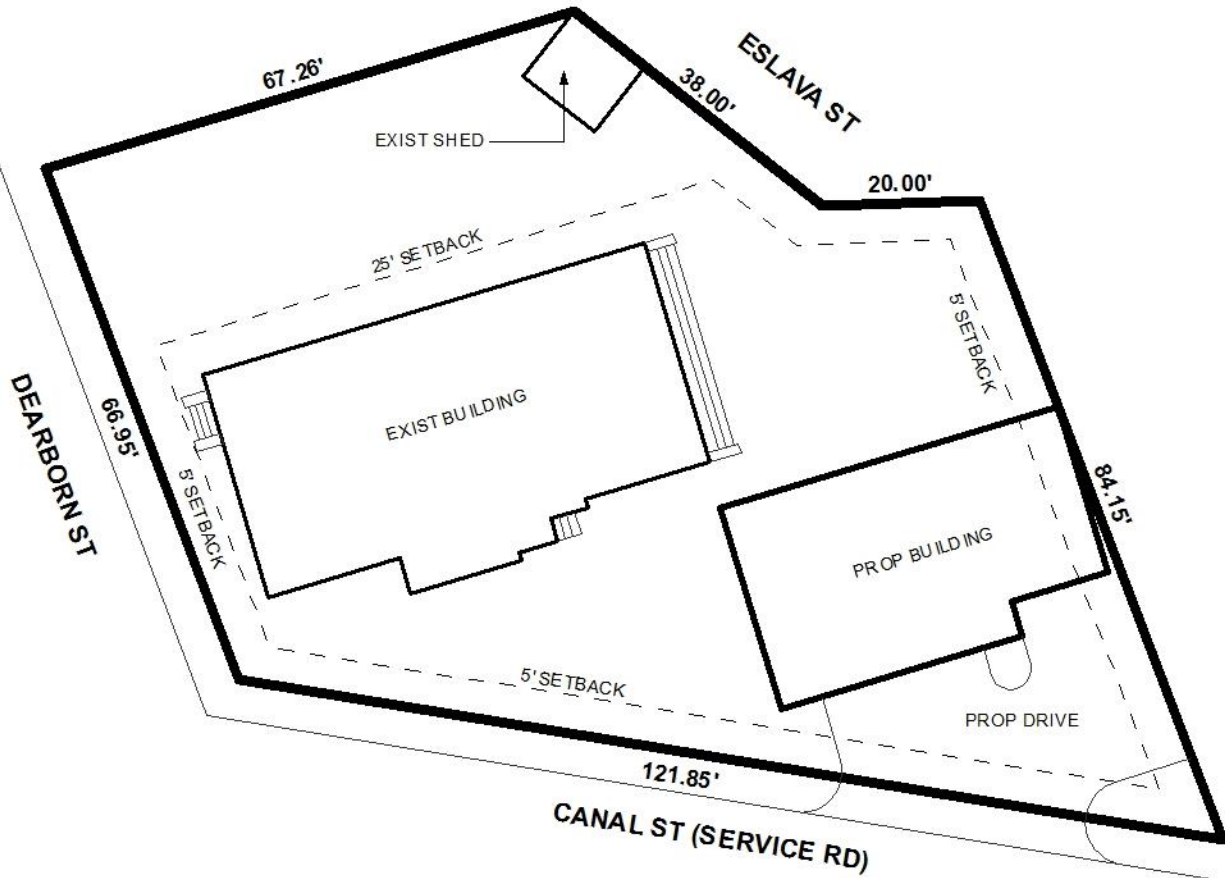


The site is surrounded by residential units. A day care is located to the west.

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# SITE PLAN



The site plan illustrates the existing building, existing shed, setbacks, proposed building, and proposed drive.

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