

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 2, 2012****CASE NUMBER**

5743

APPLICANT NAME

John Wilson

LOCATION

2010 Emogene Street
(Northeast corner of Emogene Street and South Fulton Street).

VARIANCE REQUEST

SIDE YARD SETBACK: Side Yard Setback Variance to allow the construction of a two-story garage/family entertainment and recreation room within 5 feet of the side property line in an R-1, Single-Family Residential District.

REAR YARD SETBACK: Rear Yard Setback Variance to allow the garage to be within 5 feet of the rear property line.

SIDE STREET YARD SETBACK: Side Street Yard Setback Variance to allow the construction of a bathroom addition on the dwelling within 11.7 feet of the side street property line.

COMBINED SIDE YARD: Combined Side Yard Variance to allow a combined side yard total of 16.6 feet.

**ZONING ORDINANCE
REQUIREMENT**

SIDE YARD SETBACK: The Zoning Ordinance requires a minimum side yard setback of 8 feet in an R-1, Single-Family Residential District.

REAR YARD SETBACK: The Zoning Ordinance requires a minimum rear yard setback of 8 feet in an R-1, Single-Family Residential District.

SIDE STREET YARD SETBACK: The Zoning Ordinance requires a minimum side street yard setback of 20 feet in an R-1, Single-Family Residential District.

COMBINED SIDE YARD: The Zoning Ordinance requires a combined side yard total of 20 feet in an R-1, Single-Family Residential District.

ZONING

R-1, Single-Family Residential

AREA OF PROPERTY

0.2± Acre

TRAFFIC ENGINEERING**COMMENTS**

No comments.

CITY COUNCIL**DISTRICT**

District 1

ANALYSIS

The applicant is requesting Side Yard Setback, Rear Yard Setback, Side Street Yard Setback, and Combined Side Yard Variances to allow the construction of a two-story garage/family entertainment and recreation room within 5 feet of the side property line and 5 feet of the rear property line, and to allow the construction of a bathroom addition on the dwelling within 11.7 feet of the side street property line with a combined side yard total of 16.6 feet in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard and rear yard setback of 8 feet, a minimum side street yard setback of 20 feet, and a combined side yard total of 20 feet in an R-1, Single-Family Residential District.

The subject site has an existing single-family dwelling and single-story garage. The garage is situated approximately 2.3' from the rear property line and approximately 2.2' from the side property line. The applicant proposes to demolish the garage and replace it with a two-story structure containing a garage at ground level with a second-story family entertainment and recreation room. The new structure would be 5' off the rear and side property lines. A covered breezeway would be between the dwelling and the garage. Also, a bathroom addition is proposed on the rear of the dwelling in-line with the existing West wall facing the side street (South Fulton Street), and that wall is currently 11.7' off the West property line. With a covered screen porch on the East side of the dwelling being 4.9' off the East property line, the combined side yard setback total is 16.6'. Total site coverage after all proposed improvements would still be under the 35% maximum allowed in an R-1 district. The applicant cites the typical lot size in this area providing a rear yard of limited size as a hardship for not meeting required setbacks.

As the proposed garage/family entertainment and recreation room would be located further from the side and rear property lines than the existing structure, it would still be non-compliant with regard to setbacks. Such structures are typical of older areas of the city and that is certainly the case within the immediate vicinity of the subject site in all directions. However, the property contains 7,745 square feet (exceeding the minimum requirement of 7,200 square feet), and is approximately 65' wide and exceeds the minimum 60' width requirement at the building setback line. Ample area exists for the proposed structure to be constructed in compliance with the current setback standards. It should be noted that the site is located in the Federally-listed Midtown Historic District; however, this district is not locally recognized, and thus, no relief from the standard setbacks can be granted as in the City-recognized historic districts. With regard to the bathroom addition, again, the property affords ample area to construct the addition to the required side street yard setback. At the required 20' side street yard setback, the

combined side yard total would be 24.9' due to the noncompliant East side setback off the open porch at 4.9'. Technically, the combined side yard total should be 28' for the subject property.

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.

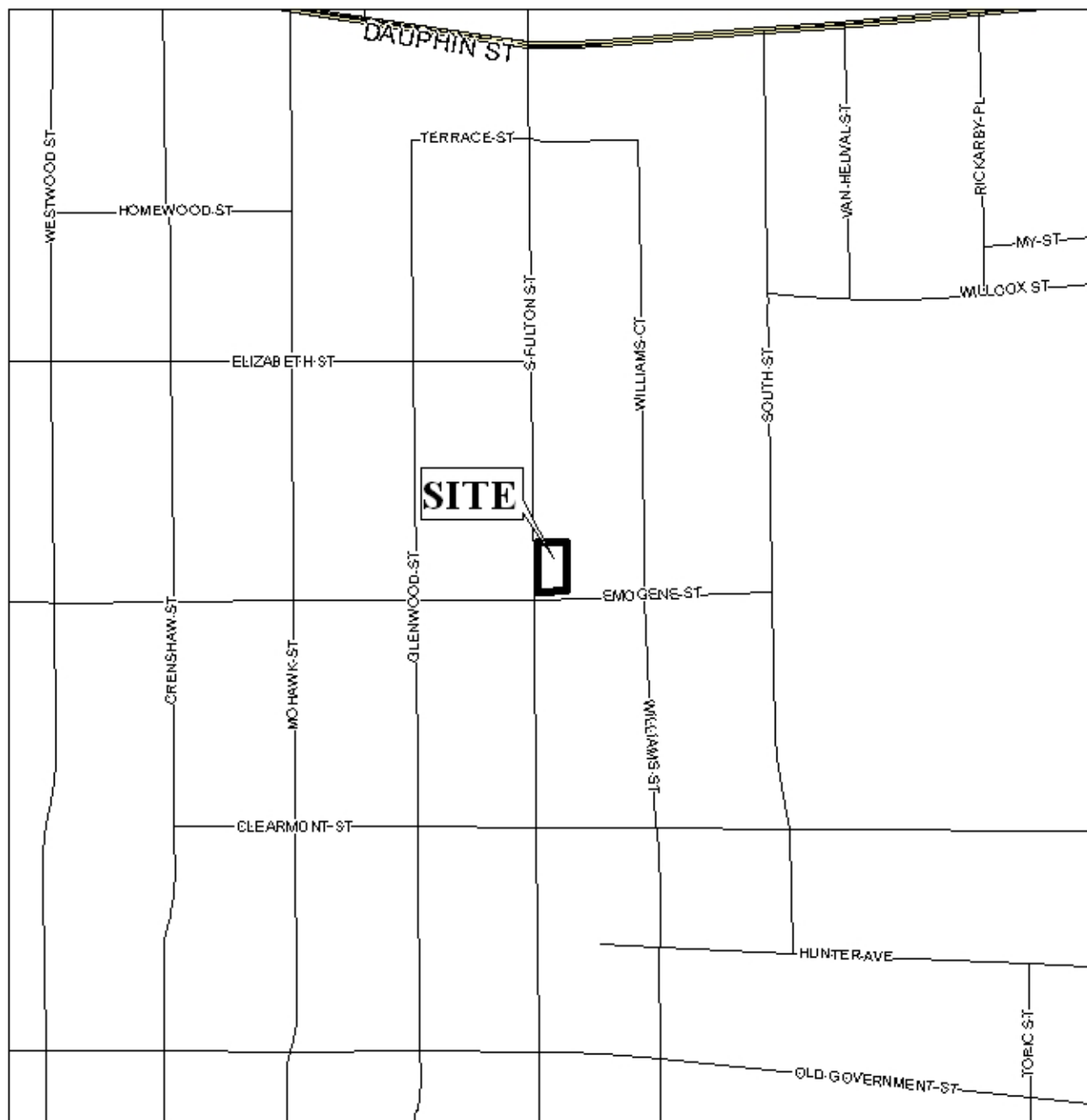
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

The applicant has failed to demonstrate that a literal enforcement of the Ordinance would cause an undue hardship with respect to setback requirements and the Board should consider this application for denial.

RECOMMENDATION:

Based on the preceding, this application is recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5743 DATE April 5, 2012

APPLICANT John Wilson

REQUEST Side Yard Setback and Rear Yard Setback Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use.

APPLICATION NUMBER 5743 DATE April 5, 2012

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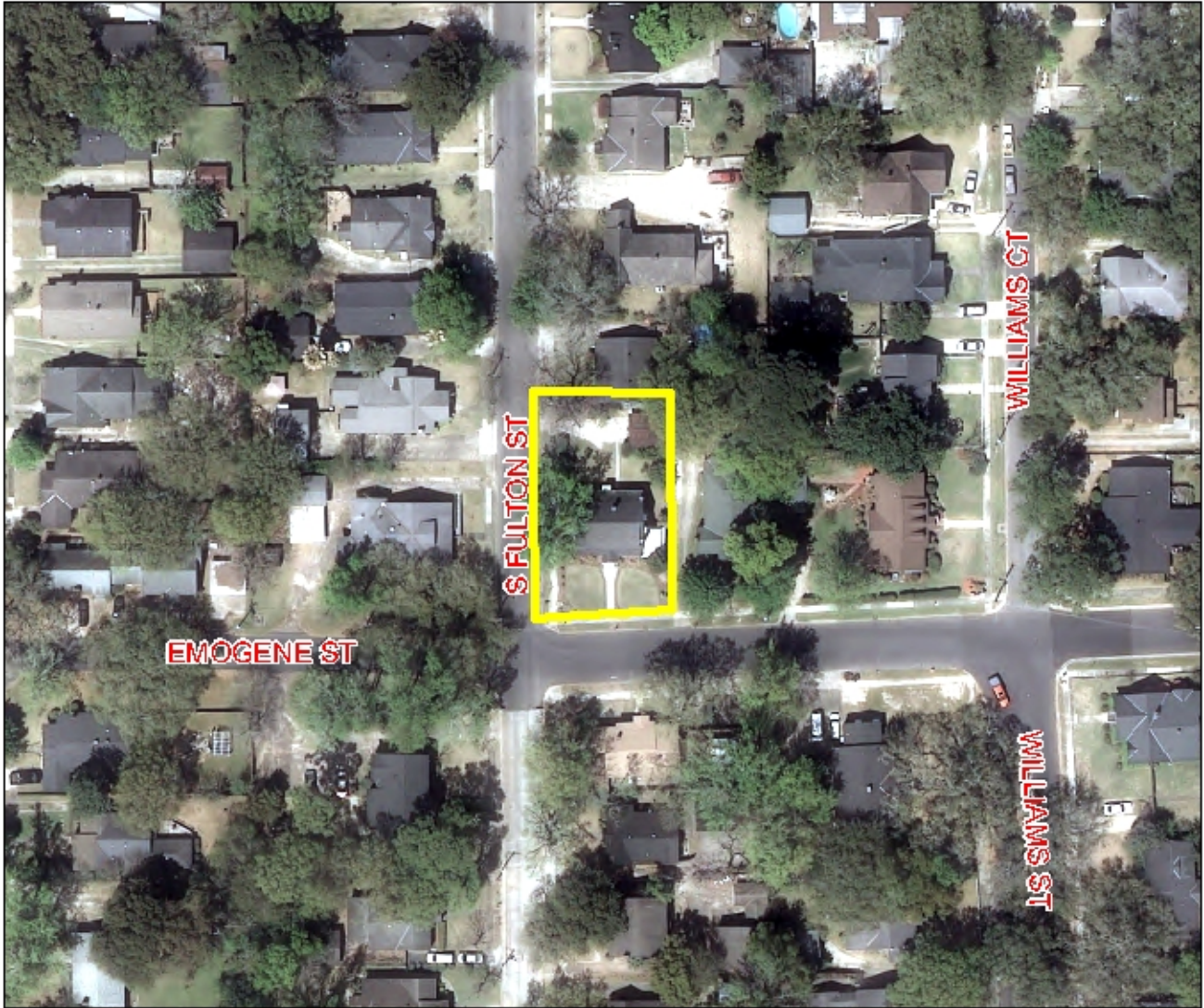
REQUEST Side Yard Setback and Rear Yard Setback Variances

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

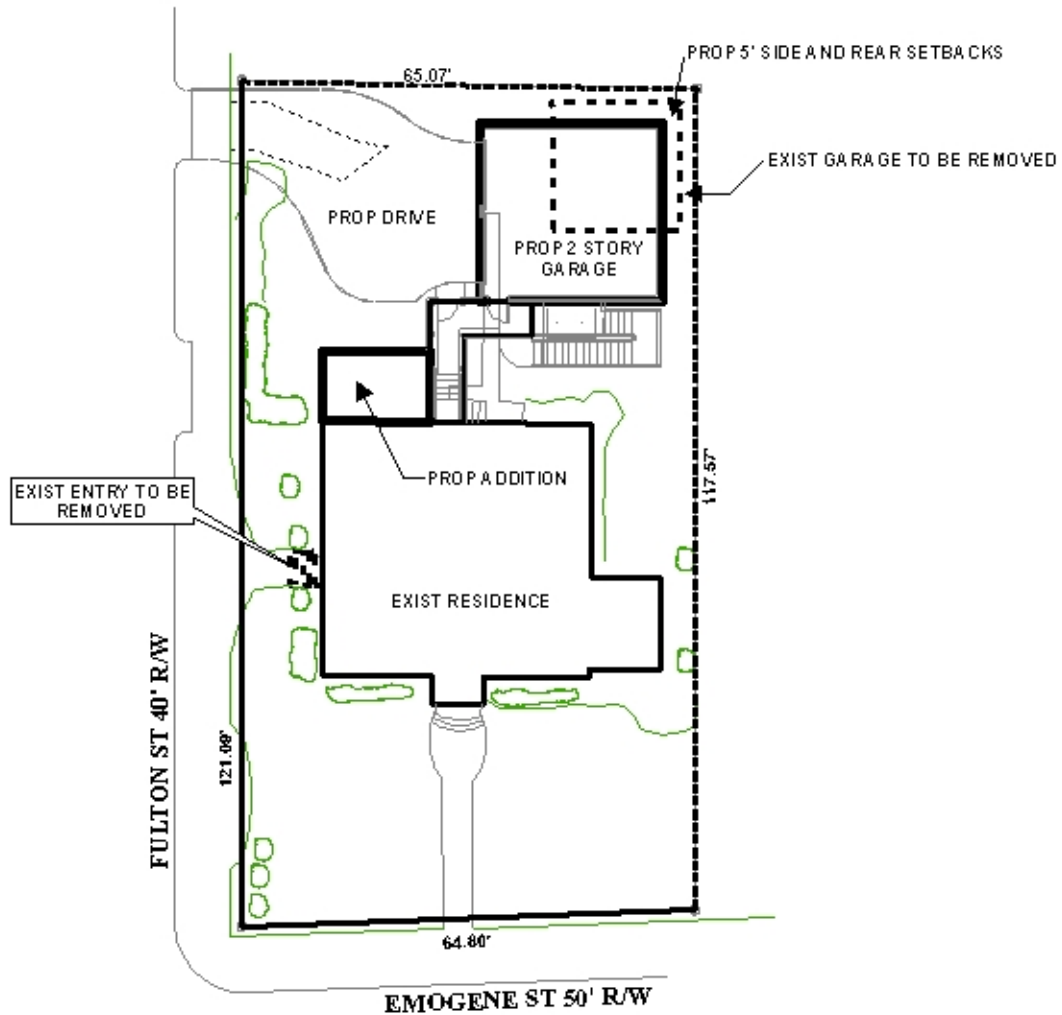


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SITE PLAN



The site plan illustrates the proposed garage and residential addition.

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