

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 3, 2015****CASE NUMBER**

5993

APPLICANT NAME

Margaret M. McGovern

LOCATION

604 Eslava Street
(North side of Eslava Street, 80'± West of South Warren Street)

VARIANCE REQUEST

SETBACK: Setback variance to allow construction of a residential addition within 5' of the rear property line in a T-3 Sub-District within the Downtown Development District.

EXTERIOR FINISH VARIANCE: Exterior surface variance to allow the use of stucco as an exterior finish in a T-3 Sub-District.

**ZONING ORDINANCE
REQUIREMENT**

SETBACK: the Zoning Ordinance requires a minimum 5' rear setback in a T-3 Sub-District.

EXTERIOR FINISH VARIANCE: The Zoning Ordinance requires that exterior finishes must be wood or cementitious clapboard, shingles or board & batten in a T-3 Sub-District.

ZONING

T-3 Sub-District, Downtown Development District

AREA OF PROPERTY

4,900 square feet / 0.1±Acres

**CITY COUNCIL
DISTRICT**

District 2

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

This request was not reviewed by Traffic Engineering.

URBAN FORESTRY**COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).

FIRE**COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code) Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code. (2012 IFC)

ANALYSIS

The applicant is requesting Rear Setback and Exterior Finish Variances to allow the construction of a residential addition within 5' of the rear property line and the use of stucco as an exterior finish in a T-3 Sub-District within the Downtown Development District; the Zoning Ordinance requires a minimum 5' rear setback and exterior finishes must be wood or cementitious clapboard, shingles or board & batten in a T-3 Sub-District within the Downtown Development District.

The applicant states:

"The Property use is currently residential. The existing improvements on the property include a residence, fence around property, shell drive, concrete pad and concrete walk. Proposed improvements to the property include an addition and a carport. The time frame for development is as soon as all approvals and permits are ready.

This property is located in the Downtown Development District, zoned T-3 and in the Church Street East Historic District. The Proposed improvements include an addition and a detached carport.

The Zoning Ordinance for T-3, low-density residential district, requires a 20 foot minimum rear setback and a 10' minimum side setback. The ordinance allows for the side setback to match adjacent buildings where they differ from the standard. The existing structure is 7.9' from the property line. The proposed addition will match the 7.9' side setback as allowed.

The variance requested is for the addition to be 5' off the rear property line in lieu of the required 20' setback. The purpose of the request is due to the 70' depth of the property which does not allow for the proposed addition. The width of the addition is dictated by location of the existing house and the tie in point of the addition. It is also restricted by the location of existing trees. The addition as proposed is slightly less than 50% of the existing structure and combined does not cover more than 75% of the property area per the ordinance. The attached picture of the property to the east of this property (600 Eslava Street) shows an addition that was added to this structure and is within 5' of the property.

The owner also request a variance for the exterior finish. The existing structure is stucco with lap siding on the gable ends. The ordinance for T-3 requires exterior finish to be wood or cementitious clapboard, shingles or board & batten. The ordinance states 'Alternate building materials may be considered where the building materials proposed are considered equivalent or better than the materials listed and regionally-available materials are preferred.'

The request for variance is to use stucco as the exterior finish. This finish would match the existing structure and would meet the 'Alternate building materials' as equivalent. The attached photo of the addition to the house across the street (221 S. Dearborn Street) is stucco and faces Eslava Street."

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.

Under the previous Zoning Ordinance requirements for this site, the exterior material would have not been under the purview of zoning review. Similarly, the requested rear yard setback could have been accommodated without a variance request because of the applicability of the Historic District Overlay and the immediate proximity of another structure to the East providing the precedent for the requested setback.

Each of the requested variances will be in keeping with the nature of the historic district and the existing historic dwelling unit that will be enlarged. Furthermore, the presence of several large trees restrict the applicant's ability to utilize other portions of the property that would allow a greater rear yard setback.

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

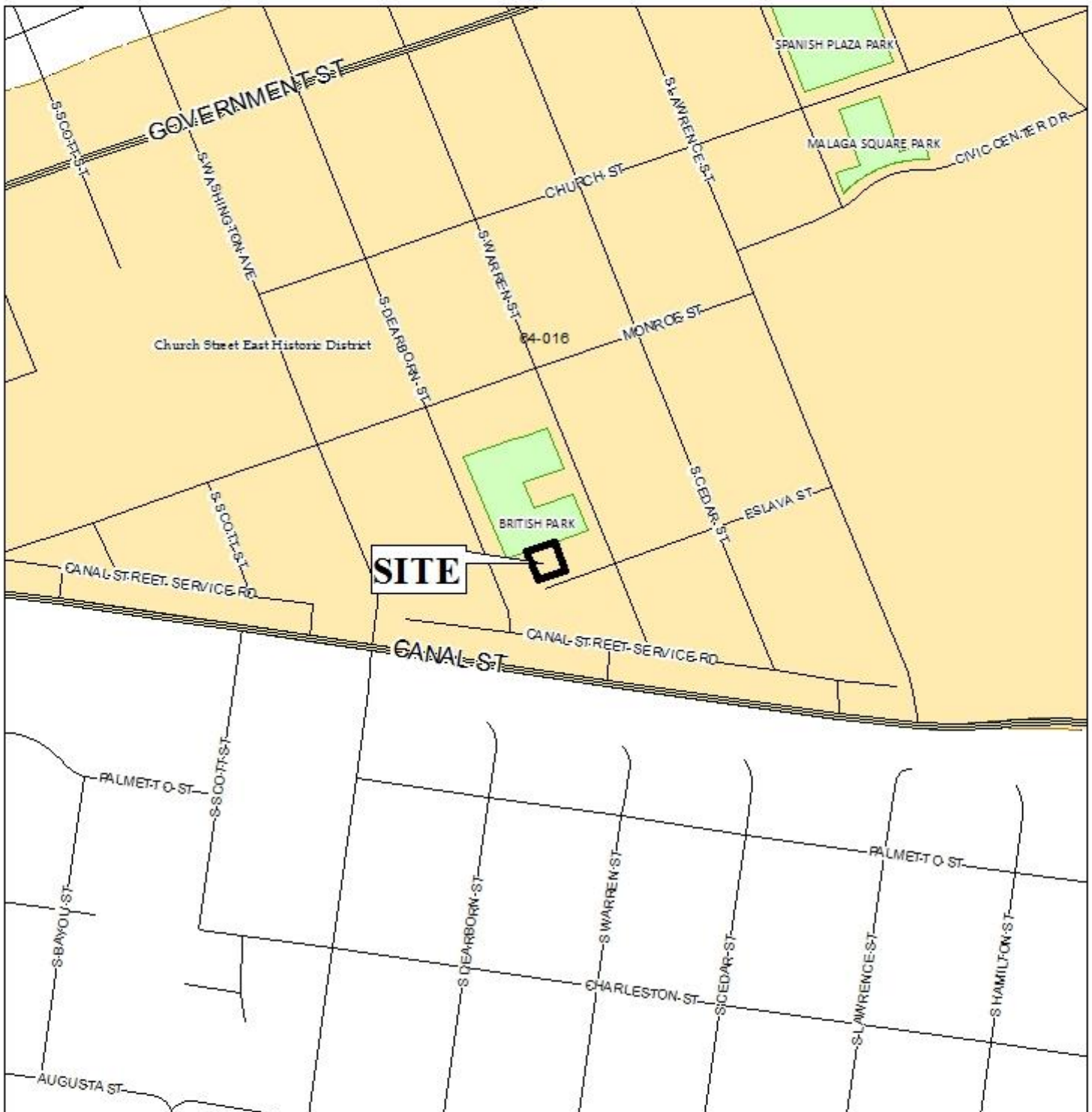
- 1) Granting the variance will not be contrary to the public interest because the proposed exterior finish material and building setbacks are in keeping with other structures within the Church Street East Historic District;
- 2) Special conditions exist with the property itself, including the presence of several large trees, the layout of the existing house, and the existing exterior finish of the house, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and

- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the requested variances, as the applicant has taken steps to ensure that the historic integrity of the existing dwelling will be respected by the choice of exterior finish materials, and that the setback is not out of keeping with other dwellings within the Church Street East Historic District.

The Approval should be subject to the following condition:

- 1) Full compliance with all municipal codes and ordinances.

LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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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 ZONING



The site is surrounded by single family residential units.

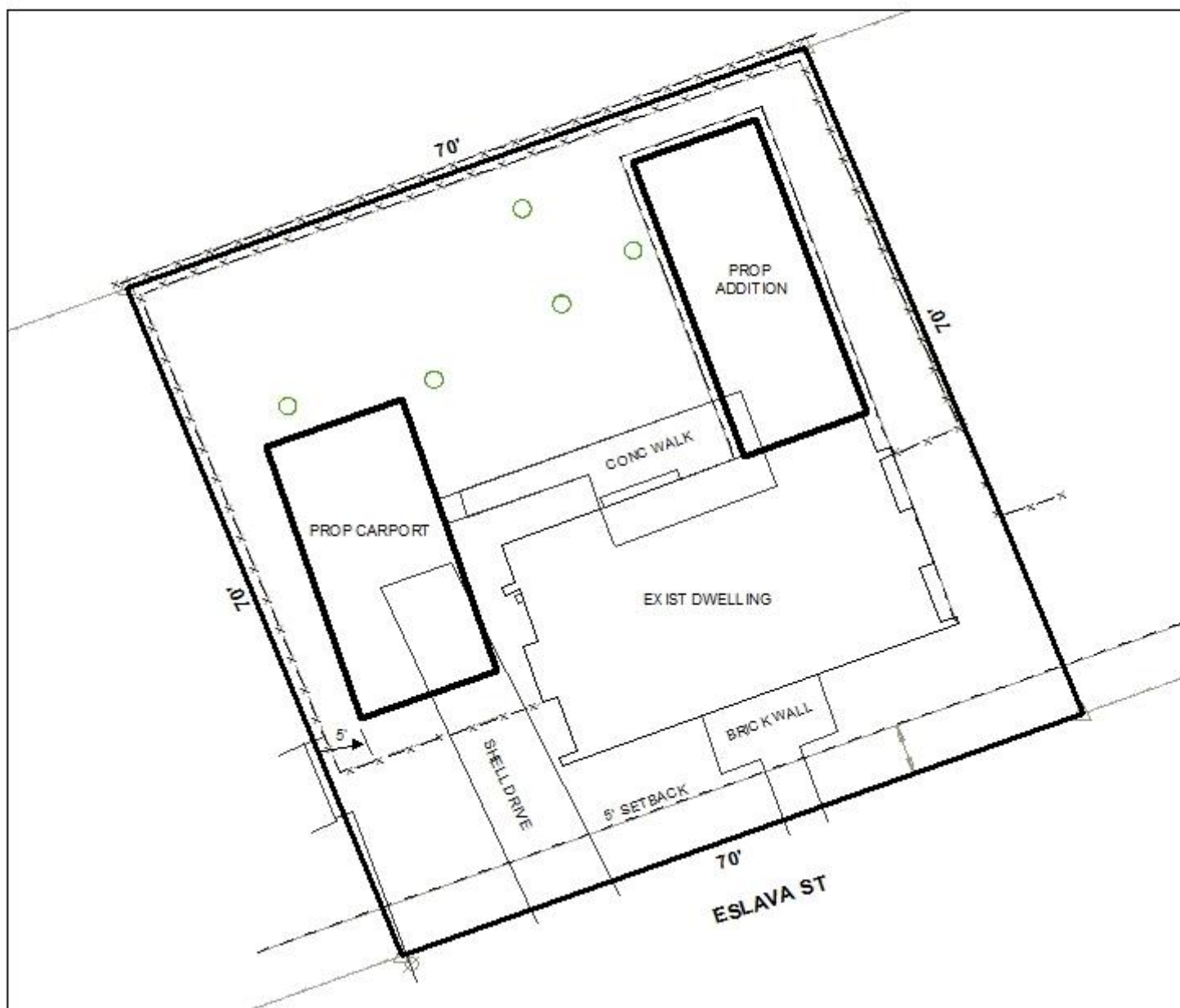
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SITE PLAN



The site plan illustrates the existing dwelling, proposed carport, proposed addition, and setback.

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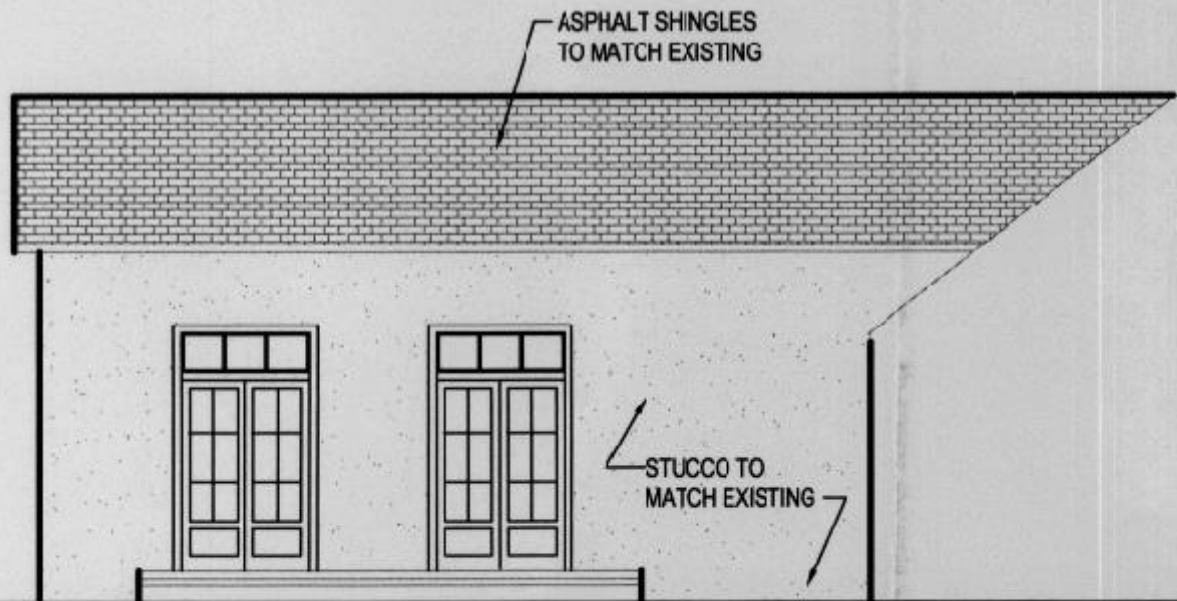
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BUILDING ADDITION DETAIL SITE PLAN

SCALE: 1/8"=1'-0"



EAST ELEVATION

SCALE: 1/8"=1'-0"

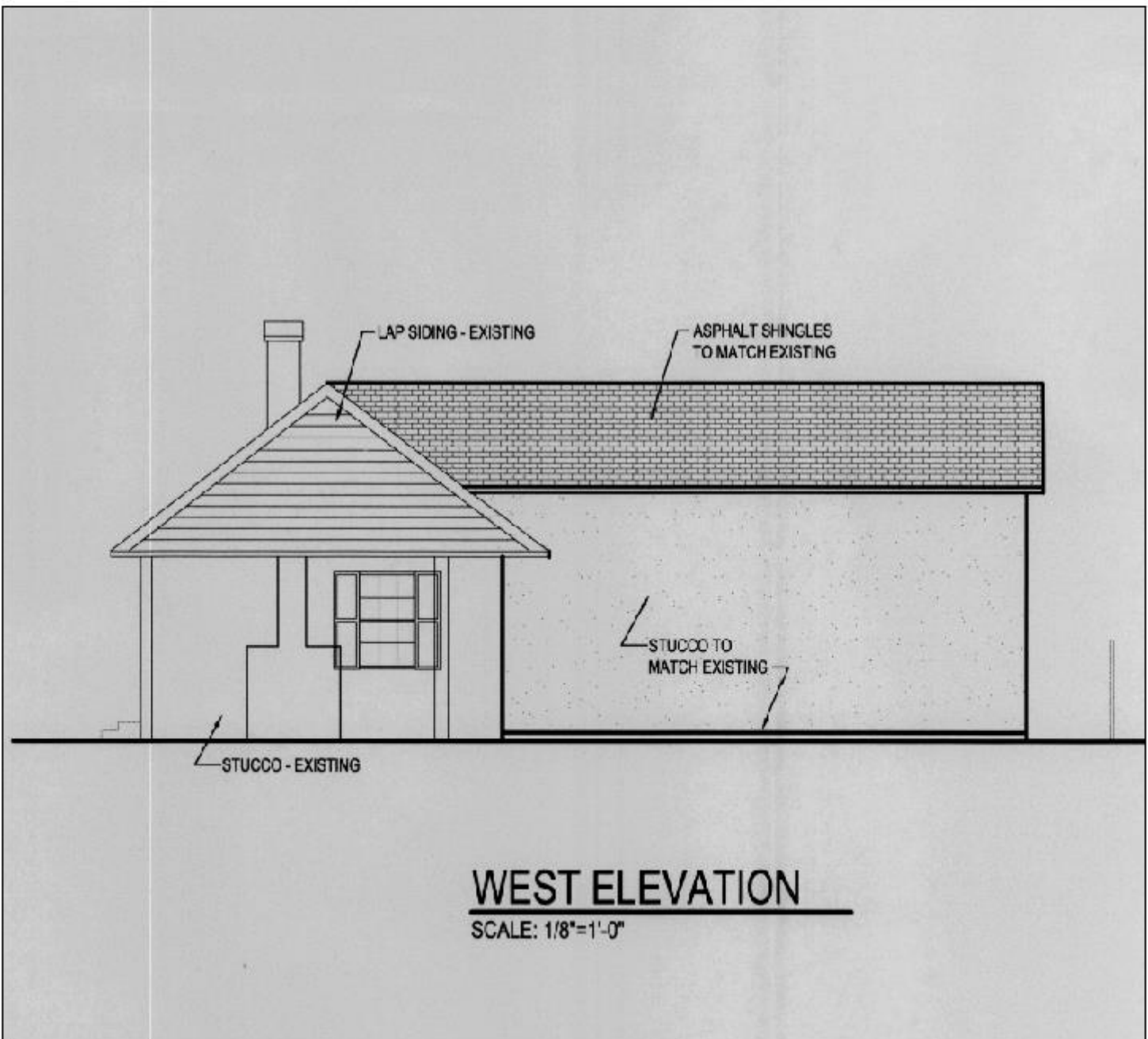
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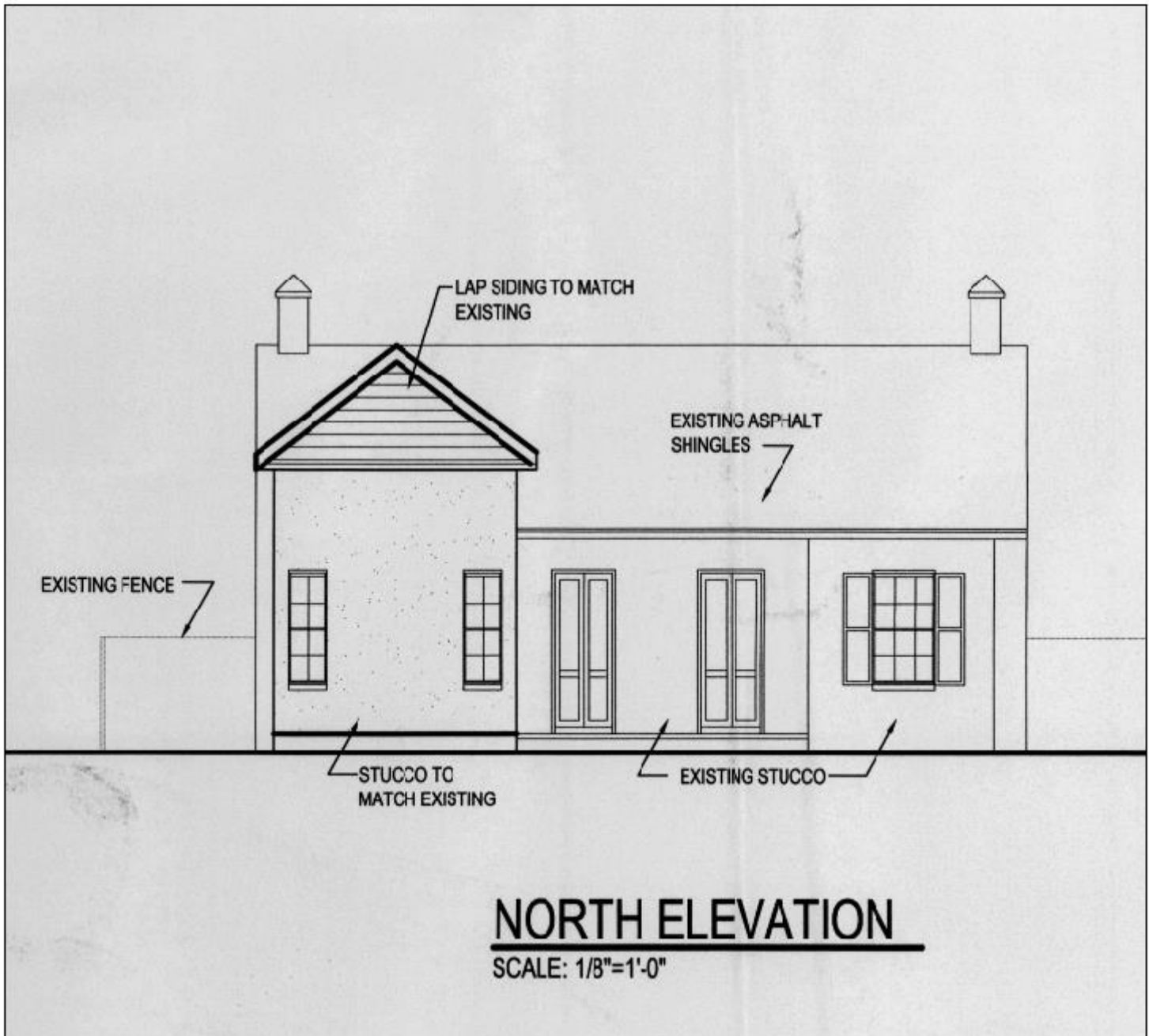
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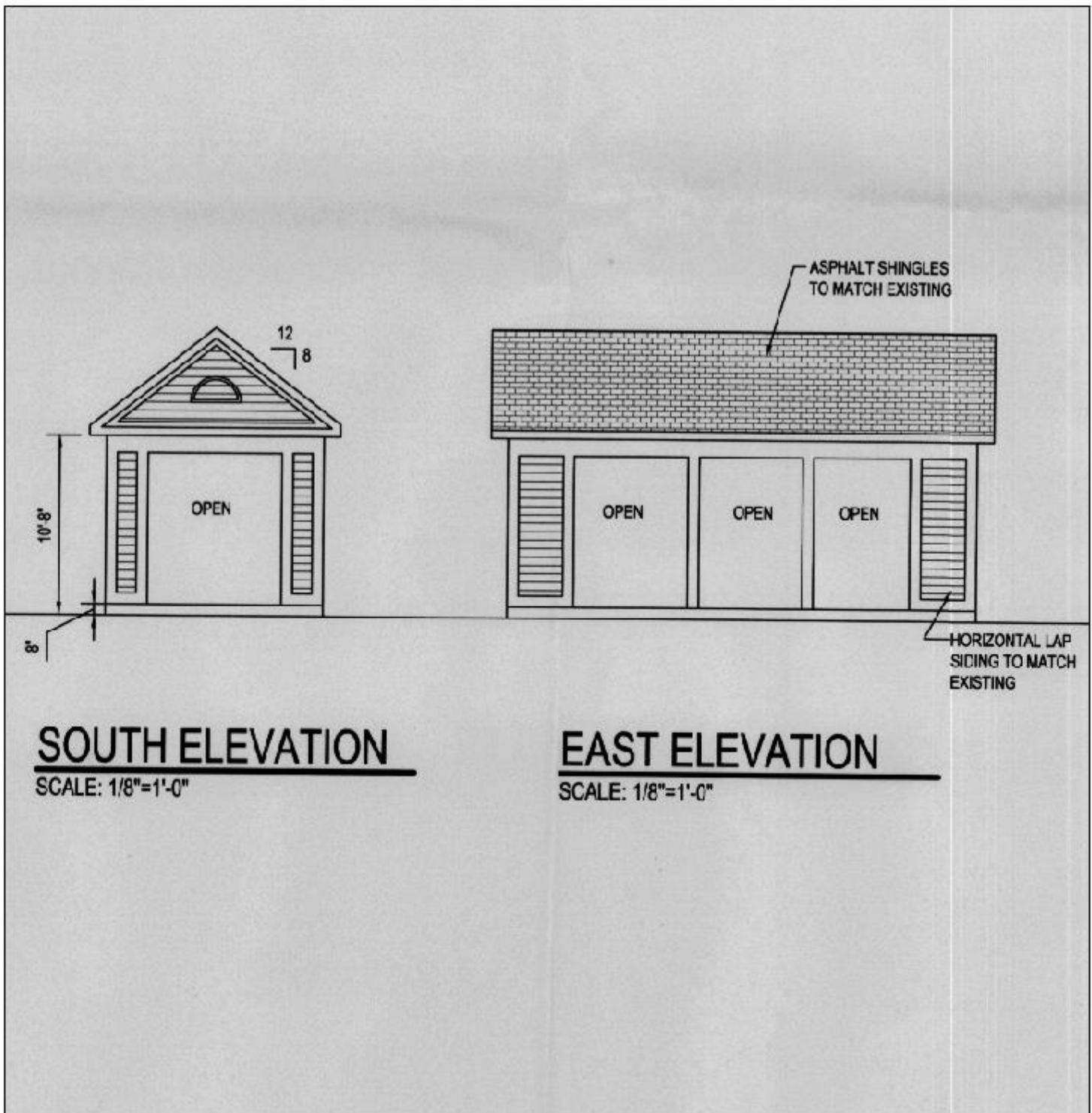
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CARPORT DETAIL SITE PLAN



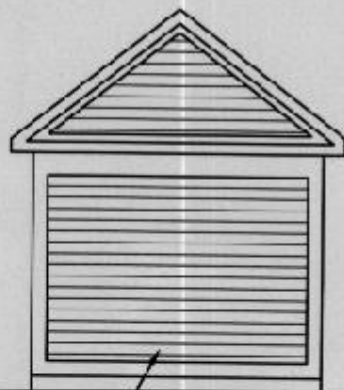
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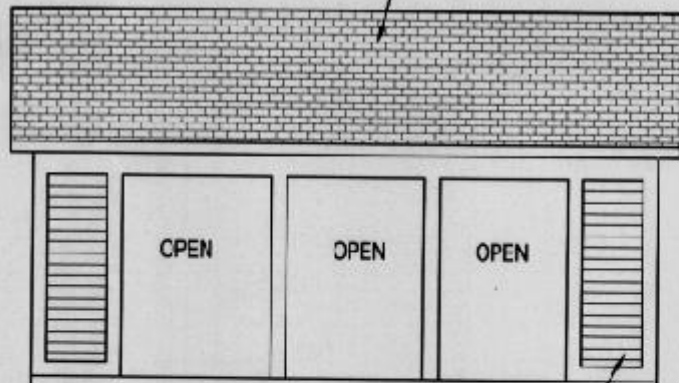
CARPORT DETAIL SITE PLAN



HORIZONTAL LAP
SIDING TO MATCH
EXISTING

NORTH ELEVATION

SCALE: 1/8"=1'-0"



ASPHALT SHINGLES
TO MATCH EXISTING

HORIZONTAL LAP
SIDING TO MATCH
EXISTING

WEST ELEVATION

SCALE: 1/8"=1'-0"

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NTS