

## Zoning Board of Appeals Staff Report

This staff report was prepared for the Zoning Board of Appeals meeting on March 11, 2024. *This project was deferred from the January 2024 meeting.*

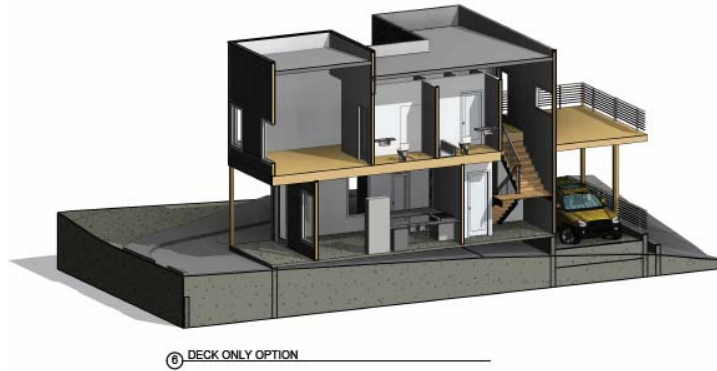
**Applicant(s):** Derek Bigham  
**Property Address:** 102 5<sup>th</sup> Avenue  
**Parcel ID Number:** 15 213 02 139  
**Land Use/Zoning:** Low Density Residential / R-60 Single Family  
**Variance Request:** Setbacks, Height, and FAR

1. The property is a 0.04 acre (1809sqft.) undeveloped trapezoidal corner lot with frontage along Oakview Road and 5<sup>th</sup> Avenue (see Exhibit A).
2. Surrounding Use and Zoning: The subject is surrounded by residential and institutional uses. Single-family detached uses are located south and east of the site. Fifth Avenue Upper Elementary School is located west of the subject site across 5<sup>th</sup> Avenue. Spring Pointe, a walk-up flat community is located northwest of the subject site across Oakview Road.
3. Project Summary: The applicant proposes to construct a two-story single-family detached residence with road access from Oakview Road. The applicant provides three different design options that are substantially similar with differences being an option for a third bedroom and/or a deck. The three design options below are imagery taken from the application construction documents:

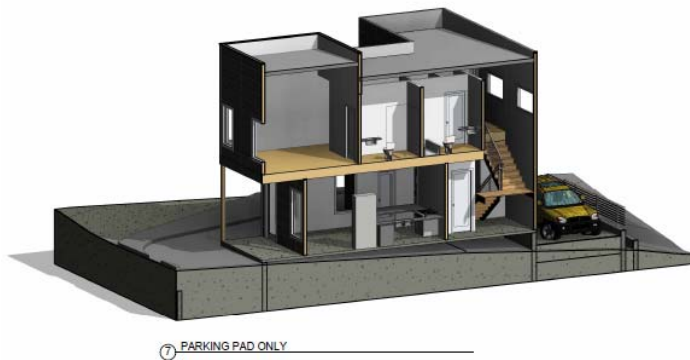


② THIRD BEDROOM OPTION

Option 1: Third Bedroom and Deck



Option 2: Only Deck



Option 3: Only Parking Pad

### Zoning and Development Standards

The following is a summary of applicable development standards from the Unified Development Ordinance (UDO):

Standard	Required	Proposed	Meets Standard?
Building Height	Maximum 25'	27'	No
Front Yard Setback	Minimum 30'	0' (Oakview) 15.9' (5 <sup>th</sup> )	No
Side Yard Setback	Minimum 10'	3.1'	No
Rear Yard Setback	Minimum 30'	0.6'	No
Lot Coverage	Maximum 40%	32%	Yes
FAR	Maximum 0.40	0.80	No

4. City staff recognizes the peculiar, extraordinary, and practical difficulties of this proposal due to the shallowness and shape of the lot. The applicant previously provided design options with road access from 5<sup>th</sup> avenue which drew concerns because this is a corner lot on a Safe Routes to School and could hinder visibility. The site has limited road frontage along 5<sup>th</sup> avenue and its proximity to stop sign prevents adequate access from 5<sup>th</sup>.

The applicant has provided a new design with road access from Oakview Road. The applicant requests a variance from all setbacks, height, and maximum floor area ratio (FAR) requirements. The applicant has also provided site line renderings of the proposed residence from the point of view of 5<sup>th</sup> Avenue and Oakview Road (Exhibit D).

5. *Criteria for Approval.* The Zoning Board of Appeals shall have the authority to authorize upon application in specific cases a variance from the terms of this UDO such as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this UDO will result in unnecessary hardship, but where the spirit of the ordinance shall be observed and substantial justice done. Such special conditions shall be limited to exceptional narrowness, shallowness, or shape of a specific piece of property existing at the time of the enactment of this UDO, or exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such piece of property as would result in peculiar, extraordinary, and practical difficulties. Per UDO Section 11.2.9.D, no variance shall be authorized unless the Board finds that all of the following conditions exist:
  - a) The special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.
  - b) The granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.
  - c) The condition from which relief or a variance is sought did not result from action by the applicant.
  - d) The authorizing of the variance will not impair an adequate supply of light and air to adjacent properties, unreasonably increase the congestion in public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of the City.
  - e) The granting of the variance will be in harmony with the general purpose and intent of the Decatur Land Use Plan.
  - f) The granting of the variance will not allow a structure or use in a district restricted against such structure or use.

6. *Conditions to Approval.* Per UDO Section 11.2.9.F, the Zoning Board of Appeals may impose special conditions it deems necessary in order to mitigate negative impacts upon surrounding properties which may be expected without the imposition of those conditions. Such conditions may consist of a variety of requirements, including, but not limited to:
  - a) Setbacks from any lot line if such setback is a proper part of the application under review;
  - b) Specified or prohibited locations for buildings, parking, loading or storage, or other structures;
  - c) Restrictions in the location of driveways and curb cuts;
  - d) Maximum building heights and other dimensions;
  - e) Landscaping requirements which may include location, type, and maintenance of plant materials, fences, walls, earth berms or other buffers; screening or other protective measures;
  - f) Preservation of existing trees and other vegetation;
  - g) Special measures to alleviate undesirable views, light, glare, noise, dust, or odor;
  - h) Permitted hours of operation;
  - i) Requiring that an existing building be retained;
  - j) Requiring that development take place according to a site plan, development plan, and/or building plan;
  - k) Limitation on exterior modifications to existing buildings;
  - l) Public facility improvements by the owner;
  - m) A time limit within which the property must either be used as allowed by the variance, special exception, or other appeal; or
  - n) Any other requirement deemed appropriate and necessary as a condition of approval.
7. Requirements imposed as a condition of approval shall be required of the property owner and all subsequent owners as a condition of the use of the property and interpreted and continuously enforced by the Zoning Administrator.

**Exhibits:**

- A. Locational Map with Current Lot Configuration
- B. Variance Application Page and Narrative
- C. Site Plan
- D. Site Lines
- E. Construction Documents

**Exhibit A: Locational Map with Current Lot Configuration**



**Exhibit B: Variance Application Page and Narrative**

# VARIANCE APPLICATION

## Planning & Zoning

2635 Talley Street  
Decatur, GA 30030  
Phone 404-377-6198  
Fax 404-378-5054



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 102 5th Avenue Decatur, GA 30030

Name of applicant Derek Bigham Phone 404-234-8520

Address PO Box 956012 City/state/ZIP Decatur, GA 30033

Email derek@invest2911.com

Name of property owner 2911 Investment Group LLC Phone 404-234-8520

Address PO Box 956012 City/state/ZIP Decatur, GA 30033

Current zoning of property R-60

-----  
Please answer all of the following questions on a separate sheet.

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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I hereby certify that the above and attached statements and documents are true to the best of my knowledge and belief.

Applicant signature  Date 7/3/2023



This is a revised version of our previous narrative. Previous discussions in ZBA meetings focused on the site's flooding and water issues. In this submission, our proposal includes an elevated slab to raise the main floor level approximately 3-4 feet above grade in the rear, addressing the water accumulation issue. Additionally, we plan to implement a sub-grade drainage system to channel excess stormwater into the on-site manhole and the public stormwater system.

For this hearing, we are seeking setback variances on all four sides: approximately .6' on the right side, zero on the Oakview side, around 15.9 feet in the rear, and about 15.9 feet for the front setback.

Regarding the setback request, a concern raised in the previous meeting was the impact of our proposed building on sightlines and safety. Based on the attached drawings and site photos, our assessment indicates minimal impact on visibility and safety.

Since Oakview is a split road, it is a one-way street on each side of the traffic island. Our building placement will not significantly affect traffic in the north or south directions. The provided pictures show a clear path of at least 134 plus feet when traveling southbound; even with my truck parked on the existing sidewalk(see photos), there is a clear line of sight for incoming traffic. Notably, the existing trees on the traffic island pose more of a hazard than our proposed building.

We are also seeking a F.A.R variance, presenting three options. Two options would require an additional 727 SF of heated space, while the third option would need 587 SF of F.A.R variance. As stated above, the footprint does not affect visibility on the site, so adding additional square footage on the second story has no impact on any of the factors that were brought up in previous meetings.

While showing a parking pad/carport in the easement area, we ensure access to the on-property manhole for maintenance. We are proposing two options for the water management. One where downspouts tie into the manhole that is on the property and piped directly into the stormwater system, this should significantly reduce the flooding in that area. The second option is to do a permeable driveway.

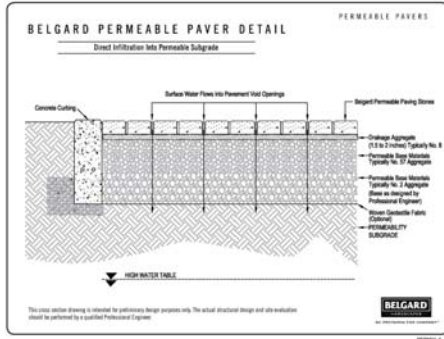
We understand that we could build up to 27 feet, but if that is not the case, we request a height variance.

Photos are in link below.

<https://app.companycam.com/galleries/qyP9X7jK>

**Exhibit C: Site Plan**

HOUSE 685 SF  
 DRIVEWAY 386 SF  
 TOTAL = 1,071 SF



**SWITCH LAYOUT**

PREPARE PLAN AND ELEVATION VIEWS OF PERMEABLE PAVEMENT AND INCLUDE FINISHING ROOF AREA DESIGN TO PREVENT AND REDUCE POTENTIAL CONNECTIONS AND ANY APPLICABLE OVERFLOW RELATIVE TO PROPERTY LINE. ATTACH DRAINAGE CURVE SPECIFICATIONS IF APPLICABLE.

**STORM CALCULATION**

Contributing Area (Acres)	Runoff Coefficient (C)	Depth of Rainfall (Inches)	Time of Concentration (Minutes)	Peak Discharge (CFS)
1.0	0.5	1.0	10	100
2.0	0.5	1.0	10	200
3.0	0.5	1.0	10	300
4.0	0.5	1.0	10	400
5.0	0.5	1.0	10	500

PREPARE CONTRIBUTING DRAINAGE AREA AND ROAD AREA FOR OTHER FEATURES.

CONTRIBUTING DRAINAGE AREA = 1,071 SQ FT  
 DEPTH OF STORM WETLAND = 8 INCHES  
 PAVEMENT = 300 SQ FT

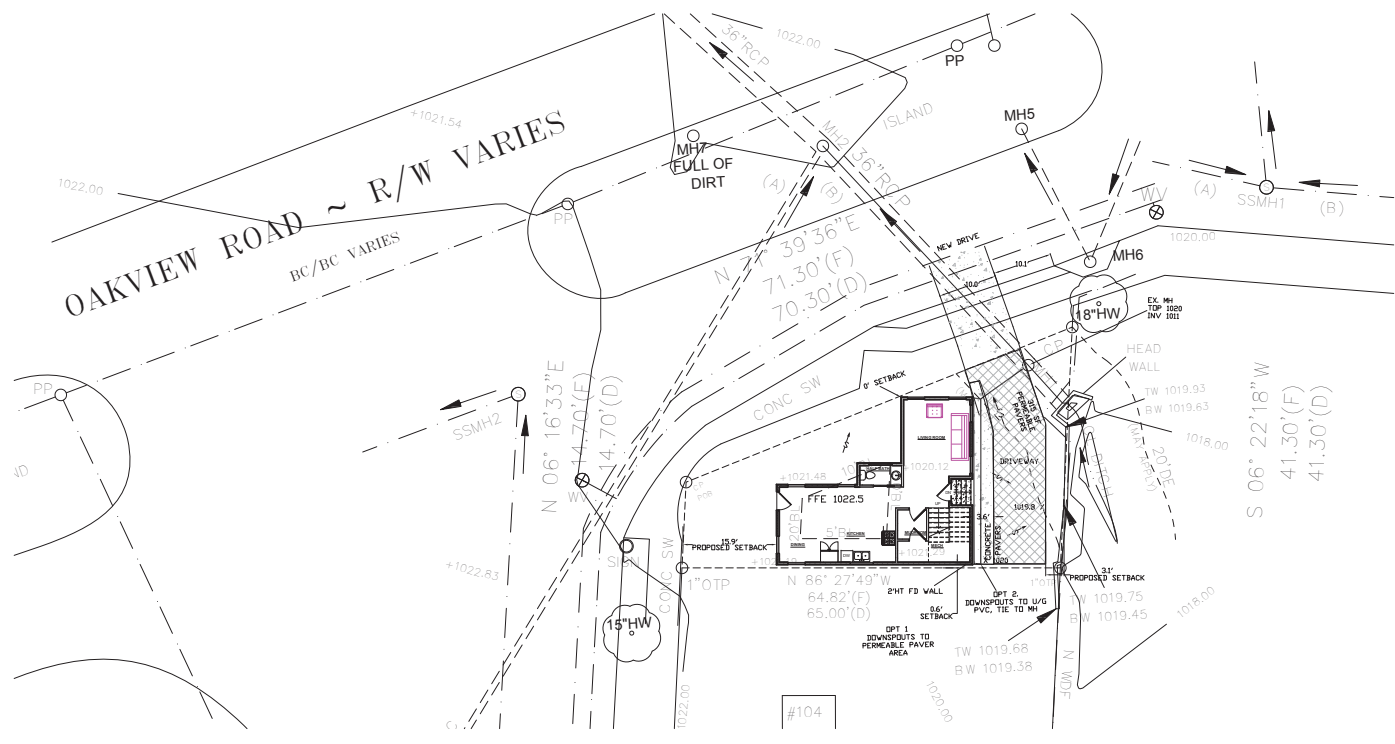
**REQUIREMENTS:**

1. PERMEABLE PAVEMENT SHALL BE DESIGNED TO ACCOMMODATE THE DESIGN FLOOD FLOW RATE.
2. CONCRETE OR PERMEABLE PAVEMENT SHALL BE DESIGNED TO WITHSTAND THE DESIGN FLOOD FLOW RATE.
3. VACUUM, SLOPE OR BLOWN PERMEABLE PAVEMENT SHALL BE DESIGNED TO WITHSTAND THE DESIGN FLOOD FLOW RATE.
4. PERMEABLE PAVEMENT SHALL BE DESIGNED TO WITHSTAND THE DESIGN FLOOD FLOW RATE.

CITY OF ATLANTA  
 DEPARTMENT OF WATERBORN MANAGEMENT

ATTACH THIS TWO-PAGE SPECIFICATION TO SUBMITTAL

PERMEABLE PAVER SPECIFICATIONS PAGE 2 OF 2



DRAWN BY: TLD  
 CHECKED BY: TLD  
 APPROVED:

DATE	NO.	BY	REVISIONS	DATE

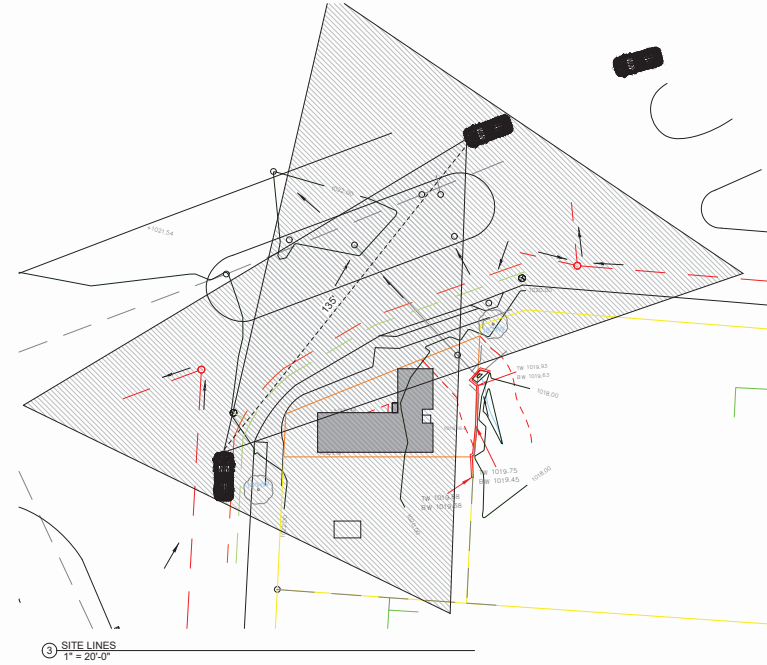
**SITE PLAN**  
 FOR  
 102 5TH AVE  
 LOCATED AT  
 102 5TH AVE  
 DECATUR, GA 30030

PROJECT ADDRESS:

**DAWSON ENGINEERING CONSULTANTS, LLC**  
 3400 WOODBRIDGE DRIVE  
 SUITE 300  
 DECATUR, GEORGIA 30035  
 PH: 678-485-9610  
 EMAIL: tony@dawsonec.com

**DEC**

**Exhibit D: Site Lines**



No.	Description	Date

DRAWN BY: CHRISTOPHER J. MALONE  
 DESIGNED BY: CHRIS MALONE DESIGNS  
 1/17/2024, 3:09:15 PM

CONTRACTOR CONTACT:  
 CHRIS MALONE  
 DESIGNS LLC

OWNER CONTACT:  
 DEREK BIGHAM  
 NEW CONSTRUCTION

PLAN NAME  
 PROJECT NUMBER: 2021-002  
 PROJECT ADDRESS:  
 102 5TH AVE DECATUR  
 GA 30030

**CMD**  
 CHRIS MALONE  
 DESIGNS

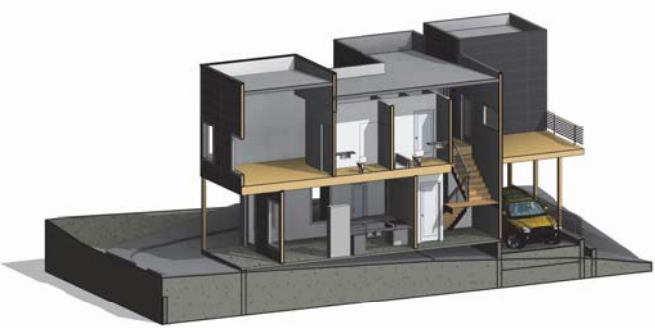
SITE LINES  
**P4**  
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RELEASED FOR CONSTRUCTION

**Exhibit E: Construction Documents**





② THIRD BEDROOM OPTION



⑥ DECK ONLY OPTION

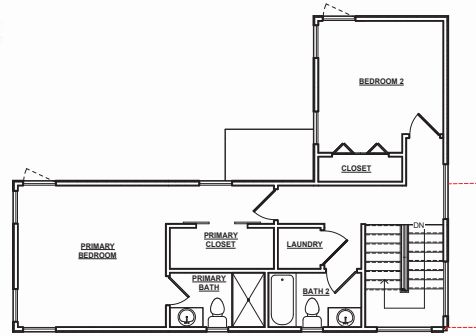


⑦ PARKING PAD ONLY

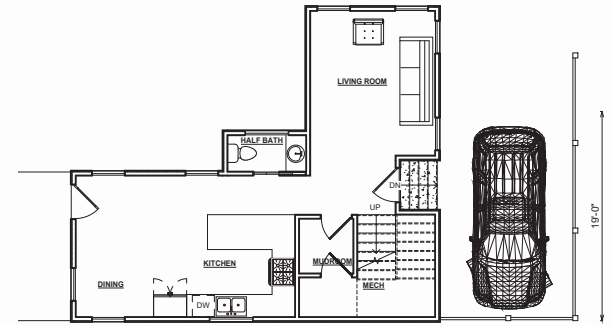
AREA SCHEDULE LOT COVERAGE			
NAME	AREA	Site Area	LOT COVERAGE
CARPORT	352 SF		0%
MAIN FLOOR	581 SF	1889 SF	32%
TOTAL LOT COVERAGE	933 SF		32%

AREA SCHEDULE F.A.R.				
NAME	AREA	Site Area	F.A.R.	Above/Below Grade
<b>HEATED TOTAL</b>				
MAIN FLOOR	581 SF	1889 SF	32%	ABOVE GRADE
SECOND FLOOR	870 SF	1889 SF	46%	
TOTAL LOT COVERAGE	1451 SF		80%	

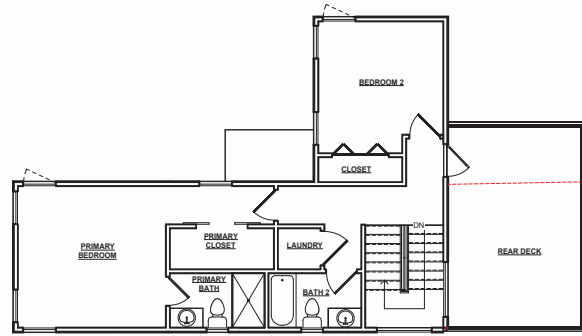
AREA SCHEDULE	
NAME	AREA
CARPORT	352 SF
UNCOVERED DECK	171 SF
	823 SF
<b>HEATED TOTAL</b>	
MAIN FLOOR	581 SF
SECOND FLOOR	870 SF
TOTAL	1451 SF



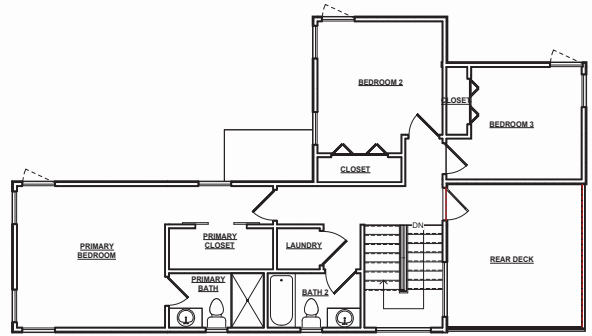
③ SECOND FLOOR ONLY PARKING PAD  
3/16" = 1'-0"



⑤ MAIN FLOOR  
3/16" = 1'-0"



④ SECOND FLOOR NO BEDROOM 3  
3/16" = 1'-0"



① SECOND FLOOR OPTION 1  
3/16" = 1'-0"

No.	Description	Date

DESIGNED BY: CHRISTOPHER J. MALONE  
DESIGNED BY: CHRIS MALONE DESIGNS  
1/17/2024, 3:08:14 PM

CONTRACTOR CONTACT:  
CHRIS MALONE  
DESIGNS LLC

OWNER CONTACT:  
DEREK BIGHAM  
NEW CONSTRUCTION

PLAN NAME  
PROJECT NUMBER: 2021-002  
PROJECT ADDRESS: 702 5TH AVE DECATUR GA 30005

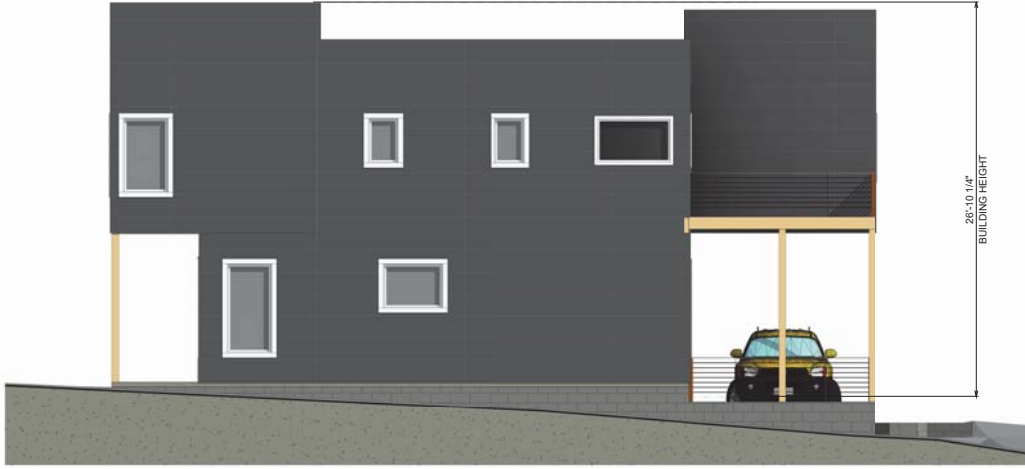
**CM**  
CHRIS MALONE  
DESIGNS

FLOOR PLANS  
**A1.1**

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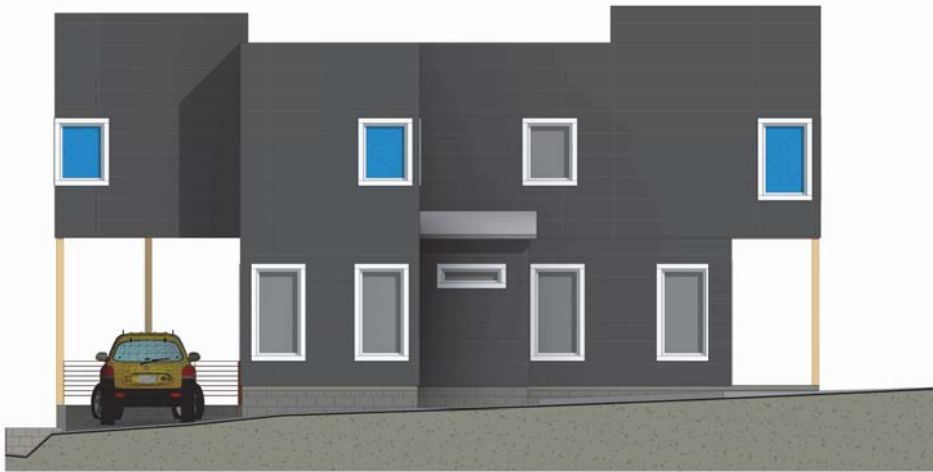




④ RIGHT ELEVATION  
1/4" = 1'-0"



③ REAR ELEVATION  
1/4" = 1'-0"



② LEFT ELEVATION  
1/4" = 1'-0"



① FRONT ELEVATION  
1/4" = 1'-0"

No.	Description	Date

RELEASED FOR CONSTRUCTION

DRAWN BY: CHRISTOPHER J. MALONE  
DESIGNED BY: CHRIS MALONE DESIGNS

1/17/2024, 3:08:27 PM

CONTRACTOR CONTACT:  
CHRIS MALONE  
DESIGNS LLC

OWNER CONTACT:  
DEREK BIGHAM  
NEW CONSTRUCTION

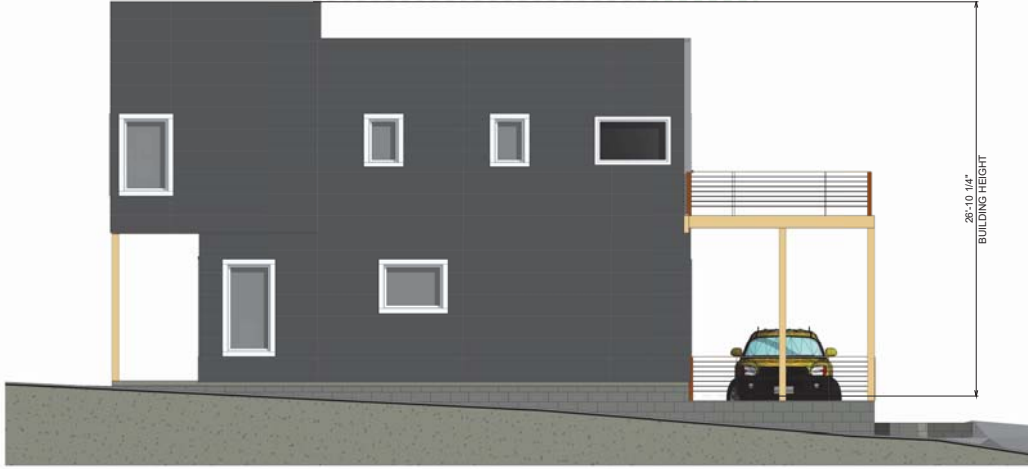
PLAN NAME  
PROJECT NUMBER: 2021-002  
PROJECT ADDRESS:  
102 5TH AVE DECATUR  
GA 30030

**CMD**  
CHRIS MALONE  
DESIGNS

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ELEVATIONS -  
W/ 3RD  
BEDROOM  
P1

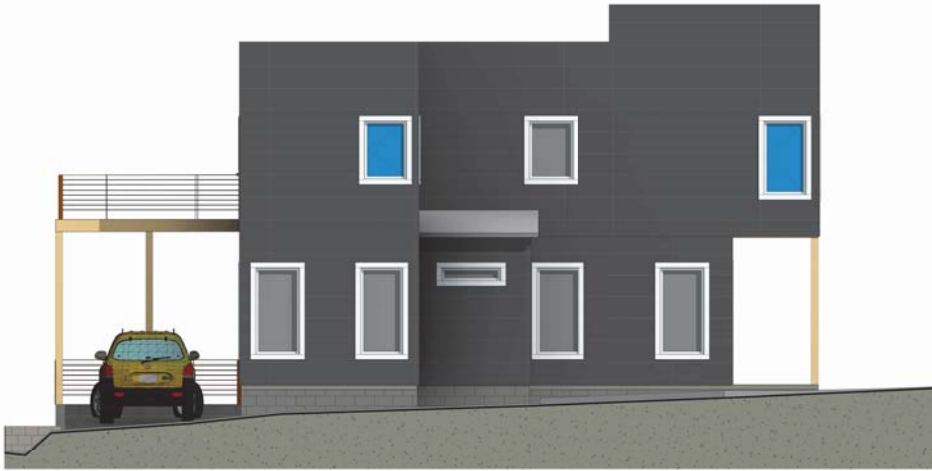
© COPYRIGHT - 2017



② RIGHT ELEVATION  
1/4" = 1'-0"



③ REAR ELEVATION  
1/4" = 1'-0"



④ LEFT ELEVATION  
1/4" = 1'-0"



① FRONT ELEVATION  
1/4" = 1'-0"

ELEVATIONS -  
DECK ONLY

P2



CHRIS MALONE  
DESIGNS

PLAN NAME  
PROJECT NUMBER: 2021-002  
PROJECT ADDRESS:  
102 5TH AVE DECATUR  
GA 30030

OWNER CONTACT:  
DEREK BIGHAM  
NEW CONSTRUCTION

CONTRACTOR CONTACT:  
CHRIS MALONE  
DESIGNS LLC

DRAWN BY: CHRISTOPHER J. MALONE  
DESIGNED BY: CHRIS MALONE DESIGNS  
1/17/2024, 3:08:40 PM

No.	Description	Date

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AREA SCHEDULE F.A.R				
NAME	AREA	Site Area	F.A.R	Above/Below Grade
<b>HEATED TOTAL</b>				
MAIN FLOOR	581 SF	1899 SF	32%	ABOVE GRADE
SECOND FLOOR	870 SF	1899 SF	46%	
	1451 SF		80%	

No.	Description	Date

RELEASED FOR CONSTRUCTION

DRAWN BY: CHRISTOPHER J. MALONE  
DESIGNED BY: CHRIS MALONE DESIGNS  
1/17/2024, 3:08:54 PM

CONTRACTOR CONTACT:  
CHRIS MALONE  
DESIGNS LLC

OWNER CONTACT:  
DEREK BIGHAM  
NEW CONSTRUCTION

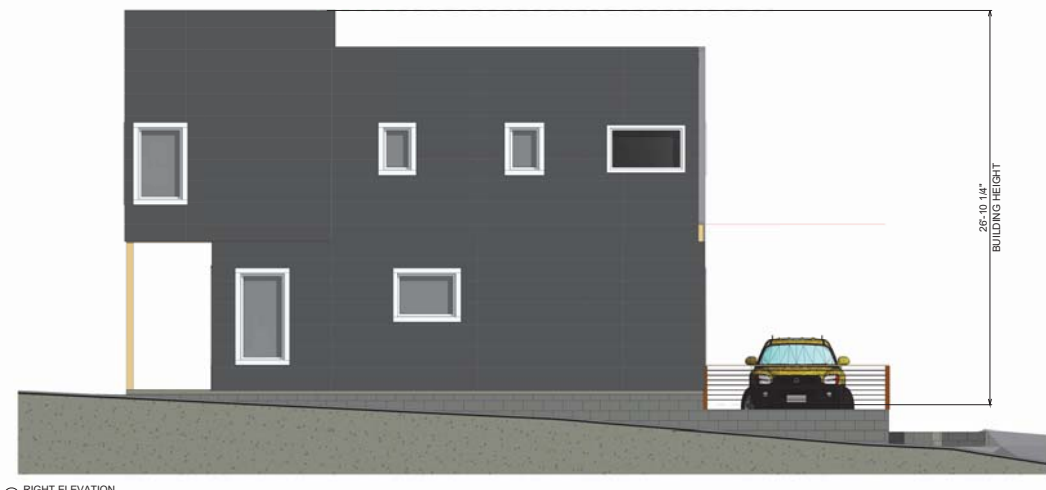
PLAN NAME  
PROJECT NUMBER: 2021-002  
PROJECT ADDRESS:  
102 5TH AVE DECATUR  
GA 30030

**CMD**  
CHRIS MALONE  
DESIGNS

ELEVATIONS -  
OPEN  
CARPORT  
**P3**

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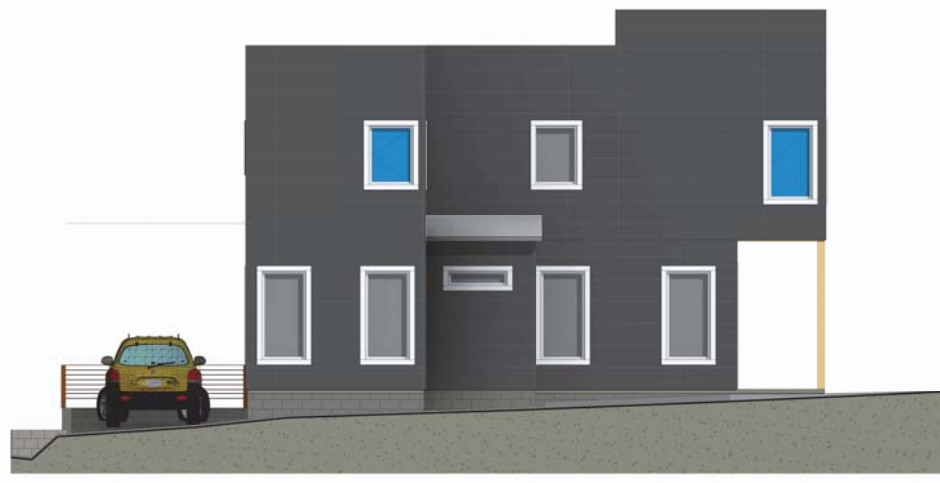
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④ RIGHT ELEVATION  
1/4" = 1'-0"



③ REAR ELEVATION  
1/4" = 1'-0"



② LEFT ELEVATION  
1/4" = 1'-0"



① FRONT ELEVATION  
1/4" = 1'-0"