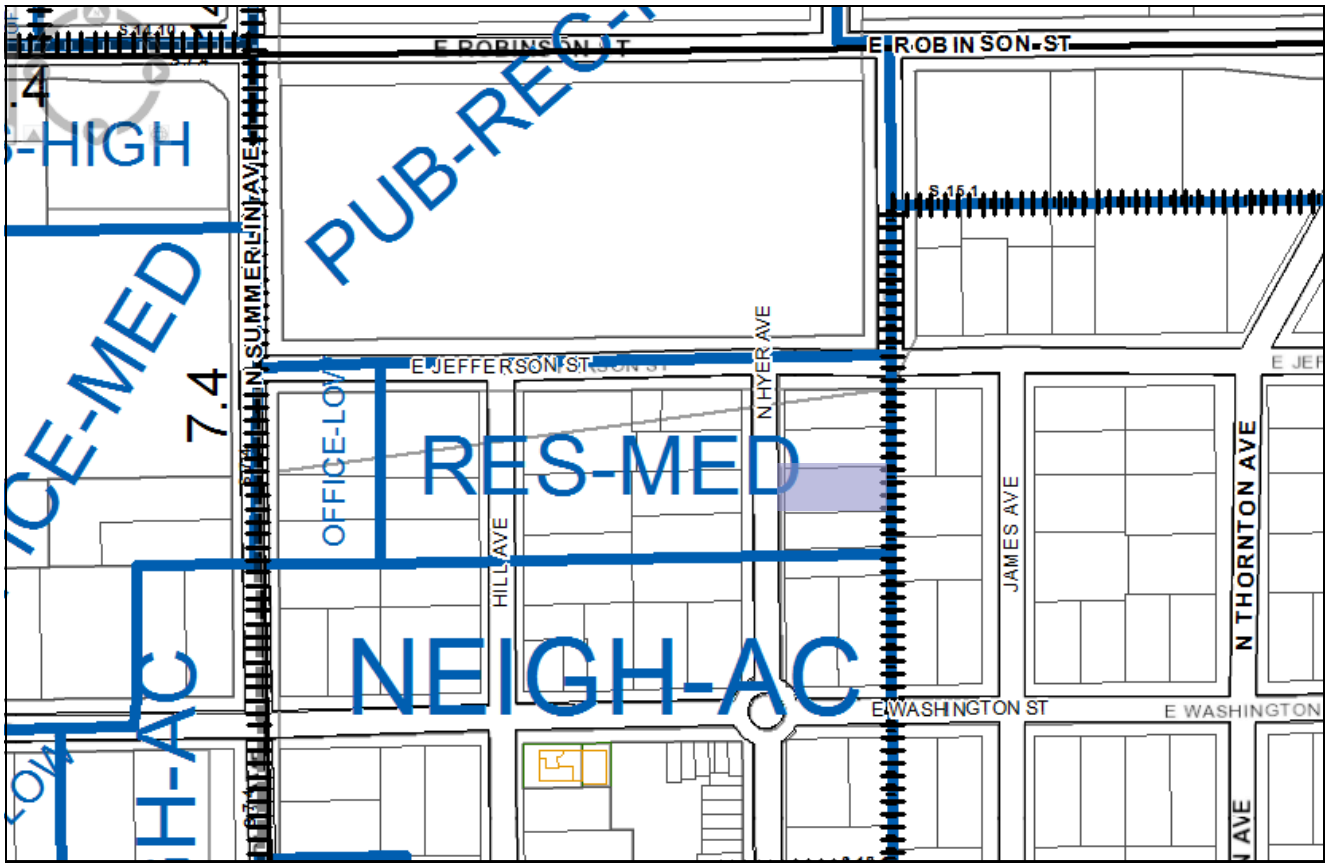
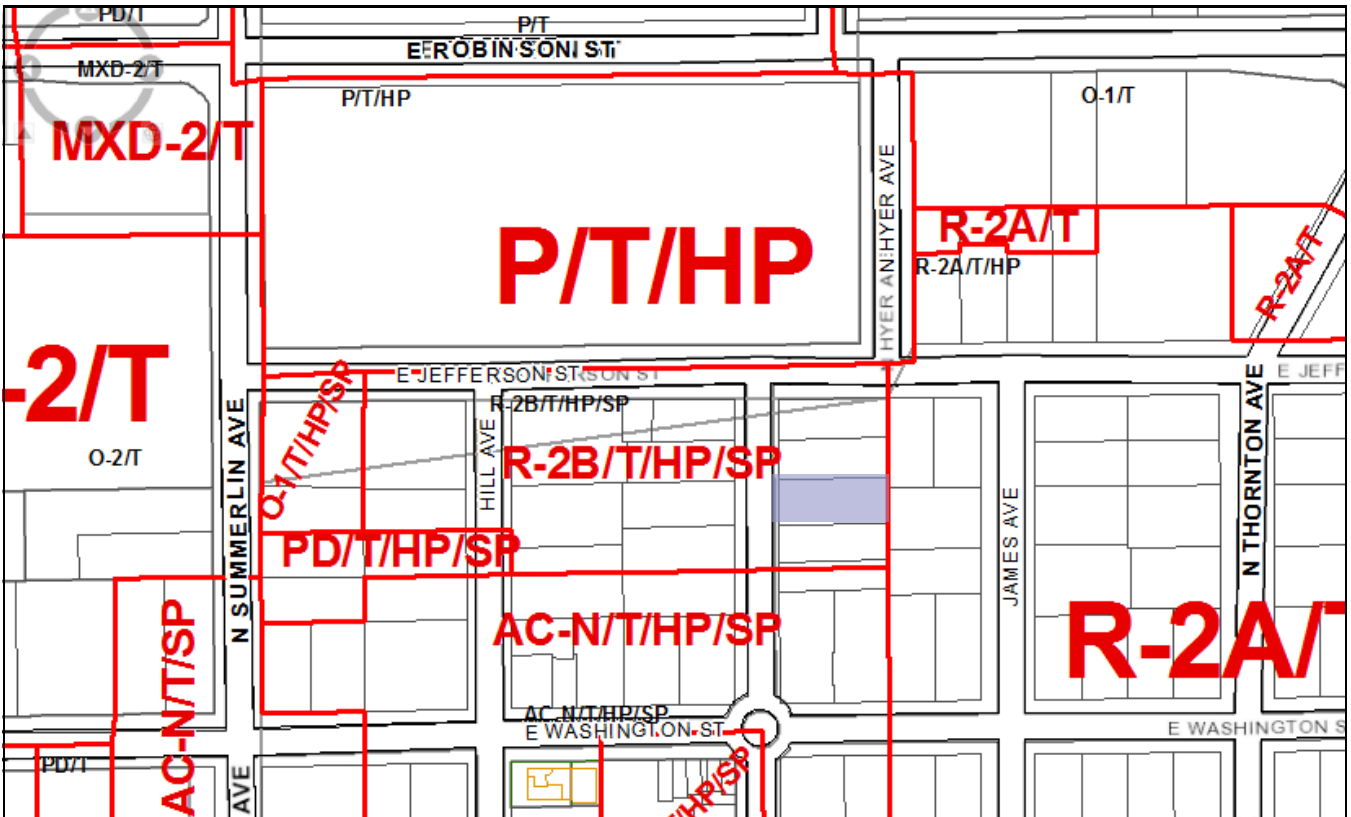


FUTURE LAND USE



ZONING MAP



PROJECT ANALYSIS

Project Description

The subject property consists of a rectangular-shaped lot with a single-family residence in the Thornton Park neighborhood. The property is zoned R-2B/T/HP/SP and is designated as Residential Medium on the City's Future Land Use Map. Adjacent uses consist of single-family residences.

The site currently consists of two two-story structures; a \pm 2,800 sq. ft. principal structure and a \pm 1,400 sq. ft. garage apartment. The applicant proposes to connect the two structures via an enclosed hallway thereby resulting in the structures becoming one. The applicant is requesting a variance to allow the connecting of an accessory structure and principal structure without the maintenance of the yard requirements of the principal building.

Background:

1911: Property platted as part of the Edgewater Terrace Subdivision
 Dec. 2005: The HPB denied a request to demolish the previous residence. (HPB2005-00365)
 Dec. 2006: Property acquired by current owner
 Mar. 2007: The HPB denied a request to construct a single family home and garage apartment and the applicant subsequently appealed. (HPB2006-00305)
 July 2007: Quasi-Judicial appeal recommended order issued (QJ2007-003)
 Aug. 2007: City Council voted to uphold the recommendation of the hearing officer.
 Sept. 2007: The BZA recommended approval of a variance to allow the accessory structure at a rear yard setback of 5.25 ft where 15 ft. is the minimum required.
 Oct. 2010: Structures constructed on site.

Intent of District

The R-2B district is intended "conserve the general character of established neighborhoods which have developed over time as a mixture of single family homes, duplexes, small apartment buildings." The property is located in the Traditional City (T) overlay, which denotes those areas generally platted or developed prior to World War II. The property is also located within the Lake Law-sona Historic District (HP overlay), which was established as a historic district in 1994. The East Washington Street Special Plan (SP) overlay, is intended to achieve the three main design objectives; supplement the standards set forth in the Activity Center Concept to allow neighborhood-serving commercial activities in a defined area; provide for appropriate land uses adjacent to Howard Middle School; and provide for adequate transitions and screening between commercial, office and residential uses in the area.

Analysis

An accessory structure in excess of 12 ft. in height requires a 15 ft. setback from the rear property line. Table 1: LDC Setback Requirements lists the code required setbacks for the onsite structures. The subject property received a variance in 2007, allowing the garage apartment a rear yard setback of \pm 5 ft. The principal structure was proposed at a setback of 46 ft. from the rear yard. The applicant has since constructed both structures on site and is requesting to attach the structures via an enclosed hallway. The connection is located on the second floor and is approximately 48 sq. ft. (8 ft. long by 6 ft. wide).

Section 58.901 states the following in regards to separation and attachment requirements between principal and accessory structures:

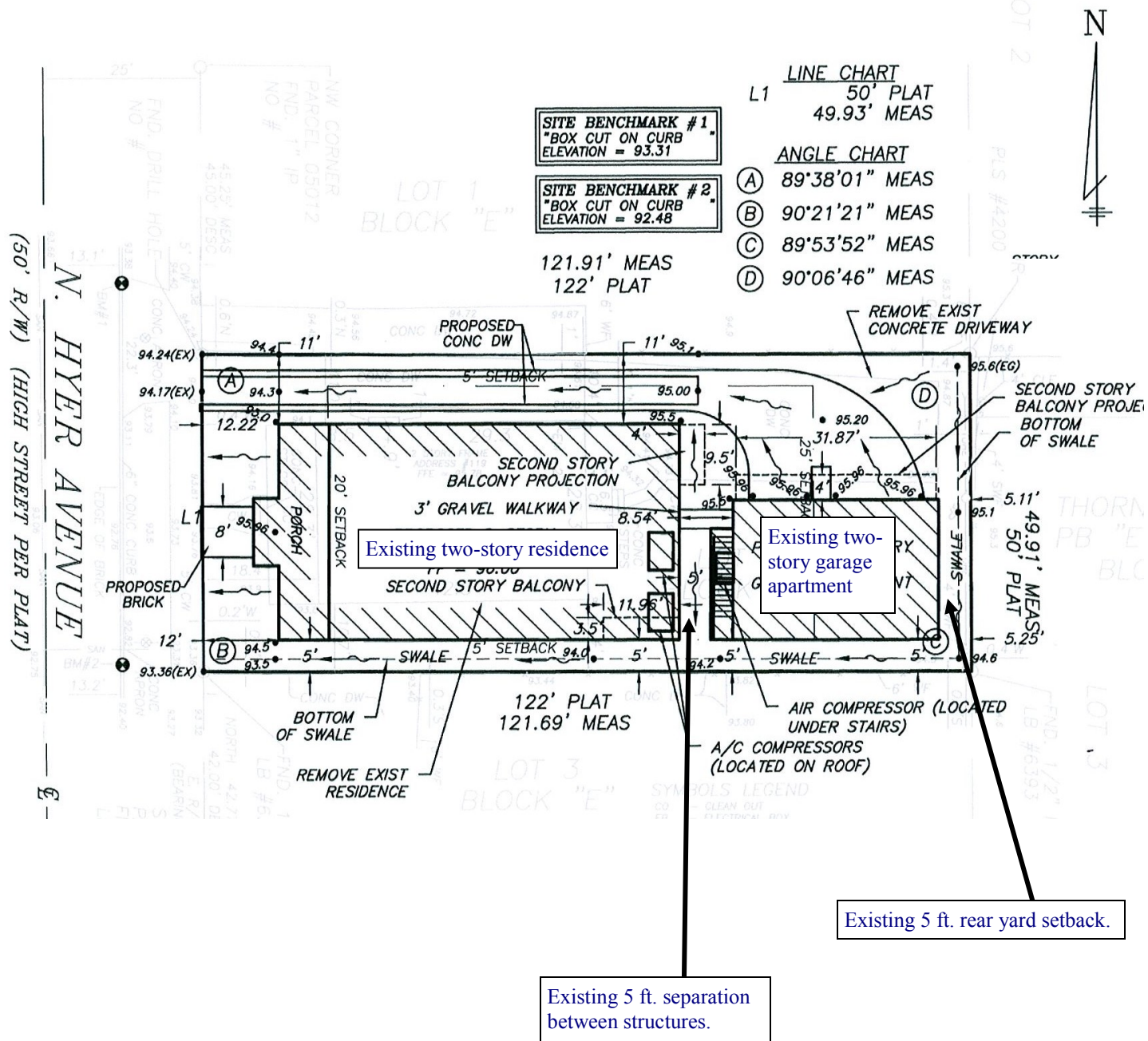
Table 1: LDC Setback Requirements		
	Principal Structure	Accessory Structure
Front– Hyer Ave.	20 ft.	N/A
Side– north & south	5 ft.	5 ft.
Rear– east	25 ft.	15 ft.

When Attached by a Breezeway. When an accessory structure is attached to a principal building by a breezeway, roofed passage or similar structure, it shall maintain the yard requirements of the principal building and comply with all other requirements of this section.

Distance Between Buildings. A detached accessory building shall be located at least five feet from any other building.

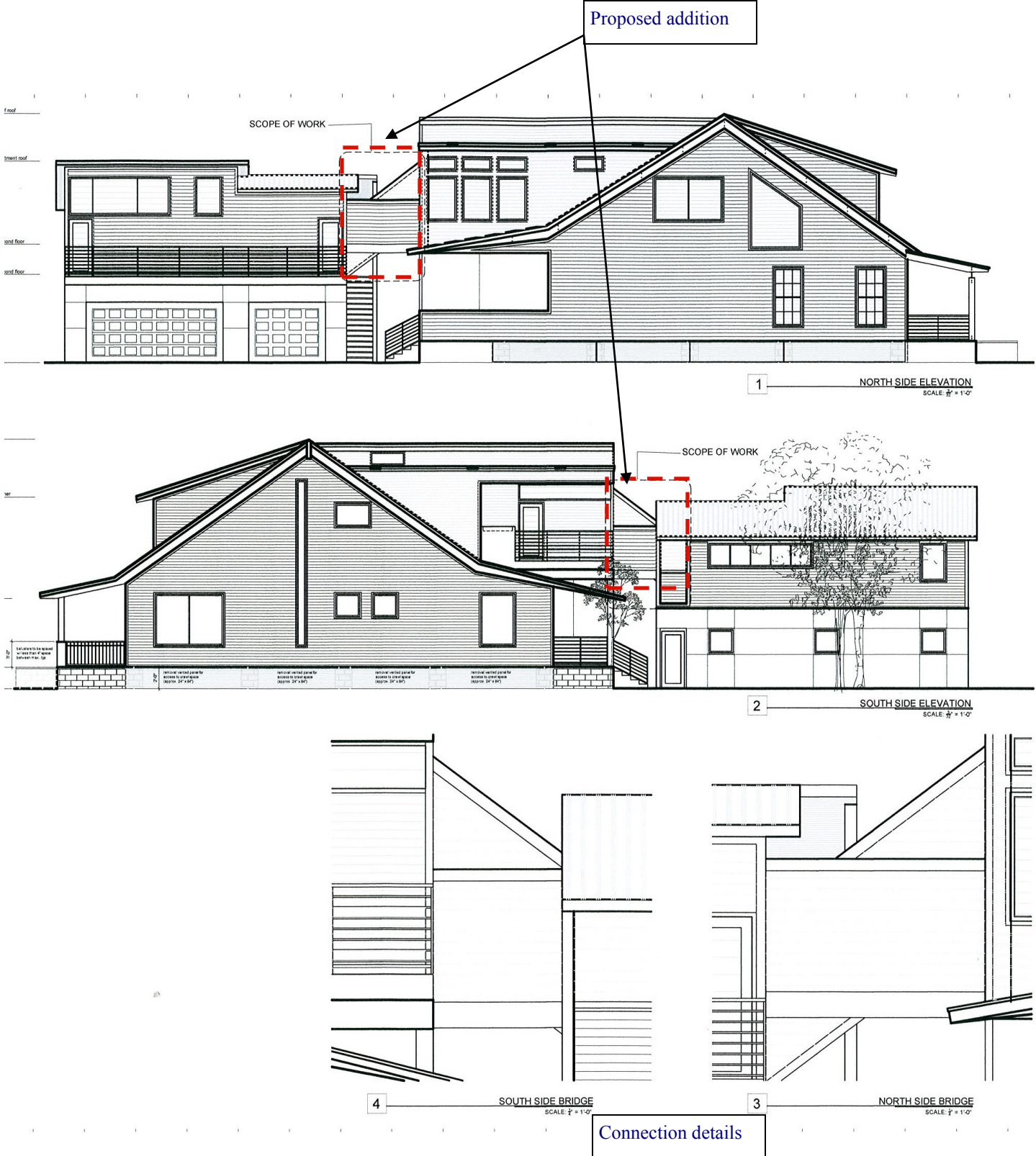
The LDC has been consistent with this requirement throughout its revisions dating back to 1959. Staff recommends denial of this variance due to the lack of a special circumstance. The two structures should not be connected without adherence to the rear setback requirement of a principal structure.

SURVEY



[illegible]

ELEVATIONS



SITE PHOTOS

Subject property from
Hyer Ave.



Elevation of garage apartment



Rear elevation of
principal structure.



5 ft. rear yard setback of garage apartment.



Distance between two
structures.

FINDINGS AND RECOMMENDATIONS

Rear Setback Variance

Variance to allow the connecting of an accessory structure and principal structure without the maintenance of the yard requirements of the principal building. (Section 58.901)

Staff recommends denial of the requested variance, based on the finding that the variance fails to meet all six (6) standards for approval. Should the Board determine that the requested variance or a lesser variance is supportable, said variance shall be subject to the following conditions:

1. Development shall be in strict conformance with all conditions and the survey and site plans found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All other applicable state or federal permits must be obtained before commencing development.
3. Connection shall be limited to 48 sq. ft.

Note to Applicant: The proposed variance only addresses the Land Development Code standards expressly represented in this staff report and any relief to such standards as approved. The relief granted through the variance(s) is restricted to the subject property as noted in the staff report and is not transferable to other parcels of land.

The next step in this variance request is City Council consideration of the Board of Zoning Adjustment's recommended action (provided it is not appealed) at an upcoming City Council meeting. Possible City Council approval of this variance request does not constitute final approval to carry out the development proposed in this application. The applicant shall comply with all other applicable requirements of the Land Development Code, including any additional review requirements, and shall receive all necessary permits before initiating development. Please contact the Permitting Services Division of the City of Orlando to inquire about your next steps toward receiving a building permit.

Issuance of this variance does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

AERIAL



STANDARDS FOR VARIANCE APPROVAL	VARIANCE TO ALLOW THE CONNECTING OF AN ACCESSORY STRUCTURE AND PRINCIPAL STRUCTURE WITHOUT THE MAINTENANCE OF THE YARD REQUIREMENTS OF THE PRINCIPAL BUILDING.
<p><i>Special Conditions and Circumstances</i></p> <p>Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed Zoning Variance.</p>	<p><i>Meets Standard</i> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>No special circumstances exists relating to the land or structures necessitating the connection of the two structures.</p>
<p><i>Not Self-Created</i></p> <p>The special conditions and circumstances do not result from actions of the applicant. A self-created hardship shall not justify a Zoning Variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.</p>	<p><i>Meets Standard</i> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>No special circumstance exists and the need for a variance is self-created.</p>
<p><i>No Special Privilege Conferred</i></p> <p>Approval of the Zoning Variance requested shall not confer on the applicant any special privilege that is denied by this Chapter to other lands, buildings, or structures in the same zoning district.</p>	<p><i>Meets Standard</i> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Approval of this variance would confer a special privilege to the applicant. The accessory structure has already received a variance for its existing location. Approval of the variance would create one large mass on the site with a 5ft rear setback.</p>
<p><i>Deprivation of Rights</i></p> <p>Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition shall not constitute grounds for approval of any variance. Purchase of property with intent to develop in violation of the restrictions of this Chapter shall also not constitute grounds for approval.</p>	<p><i>Meets Standard</i> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Literal interpretation of the LDC would not deprive the applicant of rights commonly enjoyed on other properties. The code has prohibited the connecting of principal and accessory structure without adherence to principal structure rear setbacks since 1959.</p>
<p><i>Minimum Possible Variance</i></p> <p>The Zoning Variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.</p>	<p><i>Meets Standard</i> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>The requested variance is not the minimum variance possible for reasonable use of the land. The site in its current state, with the 2007 variance approval, is reasonable use of the land.</p>
<p><i>Purpose and Intent</i></p> <p>Approval of the Zoning Variance will be in harmony with the purpose and intent of this Chapter and such Zoning Variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.</p>	<p><i>Meets Standard</i> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Approval of the variance would not be in harmony with the code or the historic district.</p>

APPLICANT RESPONSES

Tomas Dordevic
119 N. Hyer Ave.
Orlando, FL 32801
(617) 821-2491
tomas@dordevic.com

June 16, 2014

Dear Orlando Board of Zoning Adjustment

The following submittal package contains a proposal for the residence located at 119 N. Hyer Avenue in Thornton Park, the Lake Lawsonia Historic District. The property is zoned R-2B/T/HP/SP although there are a number of properties on the street that have a mixed-use zoning. Currently there are 2 structures on the property, a 3 bedroom, 2 1/2 bathroom main house and a 750SF detached guest house over a 3 car garage that we currently use as a home theater and music room. My wife and I designed and built the house in 2010 and have been living there ever since. Five years into our marriage, our family has now grown to five, with 3 children and a fourth on the way in our not so distant future. Our parents are also reaching an age and a level of health where this year will require our assistance and space with us. We are in a position where our main house is no longer large enough for our family. Although we have been looking for a new, larger house and have had ours on the market previously, our appraisal value has been far less than our cost to construct it. The fact of the matter is that we really don't want to move. We enjoy our neighborhood and our neighbors and have really begun to make a great living here. Recently, my wife and I were exploring options and thought if we were able to add 2 or 3 more bedrooms to main house, we would no longer need to move. If we could attach the theater/music room to the main house via the second floor hallway, we would be able to convert that space into 2 more bedrooms and a playroom and our issues would be solved.

The historic fabric that we live in is very architecturally diverse with dwellings of all shapes, sizes and setbacks. I would argue that it would be near impossible to analyze the district and conclude a consistent set of standards that apply to every residence. This is the reason we love the neighborhood and chose to build our home here.

The following pages show the proposal we are kindly seeking your approval on. There is currently a 5' rear yard setback that we received a variance for approximately 6 years ago and the dimension between the 2 structures is also 5'. What we are asking for is to simply extend the second floor hallway of the main house into the adjacent structure - essentially an enclosed elevated breezeway. The home is below Max height limits and the proposal would not affect ISR or FAR nor would it have any impact on the neighbors since it is only visible from our driveway in the back and not at all visible from the street or from the rear. The connector not block any vistas or daylight to any of the surrounding yards or houses. It also does not affect the Accessory Structure Maximum Floor Area since we are not adding to the existing building. Precedent for this type of breezeway connection exists throughout the neighborhood. Some examples include ground level open breezeways as well as enclosed conditioned connectors between primary structures and accessory dwellings.

APPLICANT RESPONSES (CONT.)

Upon our initial meeting with the zoning official, Mark Cechman, and the HPB official, Richard Forbes, we were quickly informed that a recommendation of 'denial' will be forwarded to the board for reasons that this would result in an influx of over-building in our neighborhood, enabling developers and contractors to build massive structures. Mr. Cechman's concern was that the result of our proposal would be one single structure which would require a 25' rear yard setback. While I understand the setback code regarding a single structure, we're not seeking relief of a setback. The structures exist, and we're proposing an extension of an interior hallway to allow passage from our primary structure to our accessory structure. It is also my belief that a connector bridge does not unify two buildings into a single structure.



The image above is of two clearly separate and distinct buildings connected by an elevated, enclosed bridge. Even though the materiality, proportion, scale and design are almost identical, construction of the bridge maintains two very independent buildings.



This example shows a very large connector spanning between two buildings but even at the scale of a small residence, the result remains two separate structures. Our proposal differs greatly from the one above since it's approximately 1/3 the size and is not visible from the street.

APPLICANT RESPONSES (CONT.)

I think anyone can agree that in order for two separate buildings to be transformed into a single structure, they would need to share either the same roof, the same foundation or both. Breezeways were developed to shelter a pedestrian passage between two structures - never do they result in unifying two structures into one, solely.

I kindly and sincerely request that the board look at my proposal and our situation from my perspective and understand that what we are asking for does not violate any laws. I would argue that no one in Thornton Park takes more pride in their neighborhood and in their home than we do. We love it here and we enjoy living here. As an architect and contractor, we spared no expense in building the home of our dreams in the place we want to stay. Look down the streets and down our street and you'll find dilapidated bungalows whose owners wouldn't care if they caved in and whose only credit to being 'historic' is that they were built 90 years ago but constructed with such economy that they were never intended to last. Neighbors and visitors to Thornton Park enjoy our home and appreciate what we've built. I ask that the Board please give us the same consideration.

With all due respect to Mr. Cechman and the staff for all of the work they do and the countless proposals they are asked to consider, in no way are we constructing a single structure and in no way are we over-building. The concern voiced is that this will set a precedent granting approval for other developers and builders to build massive structures. If Max Height requirement, ISR and FAR rules are followed, than how can the area be over-built? Regarding establishing a precedent, I would hope - and believe that the BZA and HPB would hope - that our home sets a precedent for other builders, developers and owners in the area to take pride in what they design, construct and maintain.

Thank you sincerely for taking the time to evaluate and consider our proposal.

Warmest Regards,



Tomas Dordevic, AIA, LEED