

HPB & BZA Setback Issues Workshop

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Background History

- **At times, the HPB has recommended certain setbacks that do not meet the requirements of the LDC for a proposed accessory structure. These recommendations are based on the historic pattern of development on the site or in the surrounding area.**
- **The BZA has on rare occasions, disagreed with the HPB, and has granted either a greater or lesser variance or denied a variance entirely.**
- **In the case of the February BZA meeting regarding 722 E Amelia St, the BZA recommended a setback of 5 feet where the HPB had previously required a setback of 10 feet for a two story accessory structure.**

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Background History

- In the recent case of 608 E Concord St the HPB recommended a rear setback of 5 feet for a two story accessory structure and the BZA concurred and granted the variance as requested. This BZA decision was appealed by a neighboring property owner and the hearing officer determined that the BZA should not have granted the variance because the criteria for hardship were not met.

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Accessory Structures

- Accessory Structures are detached buildings that contain garages and or apartments.
- Pros: adds income diversity to neighborhoods, intergenerational opportunities, rental income for homeowners, density to support infrastructure
- Cons: increased parking demands, higher density and possible massing issues

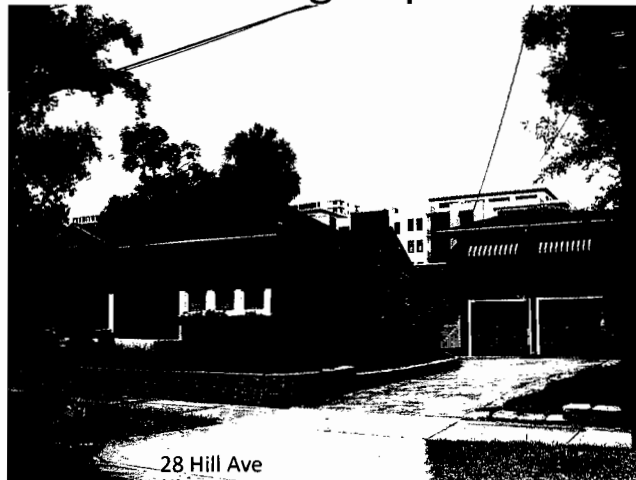
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Accessory Structures (cont.)

- A one story accessory structure is required to be setback a minimum of 5 feet from the rear property line.
- A two story accessory structure is now required to be setback a minimum of 15 feet from the rear property line.
- When the properties in the historic districts were built there was no rear yard setback defined for accessory structures.

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Example: Historic House with Historic Garage Apt



28 Hill Ave

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HPB vs. BZA Issues

- a. Dual Board decisions can result in conflicting decisions.
- b. When there is a conflicting decision, how is it resolved?
- c. Setback requests of this nature before the BZA do not meet the criteria for hardship.
- d. In HP Districts, which board is best suited to make these setback decisions?

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Statewide and National Perspective

- This issue of how variances for setbacks in historic districts is not unique to the City of Orlando.
- In a sampling of cities across Florida and the country, staff has found that many have amended their codes to allow for the HPB to grant variances on the issue of setbacks rather than the BZA.

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A sampling of cities which give HPB decision making on setbacks include:

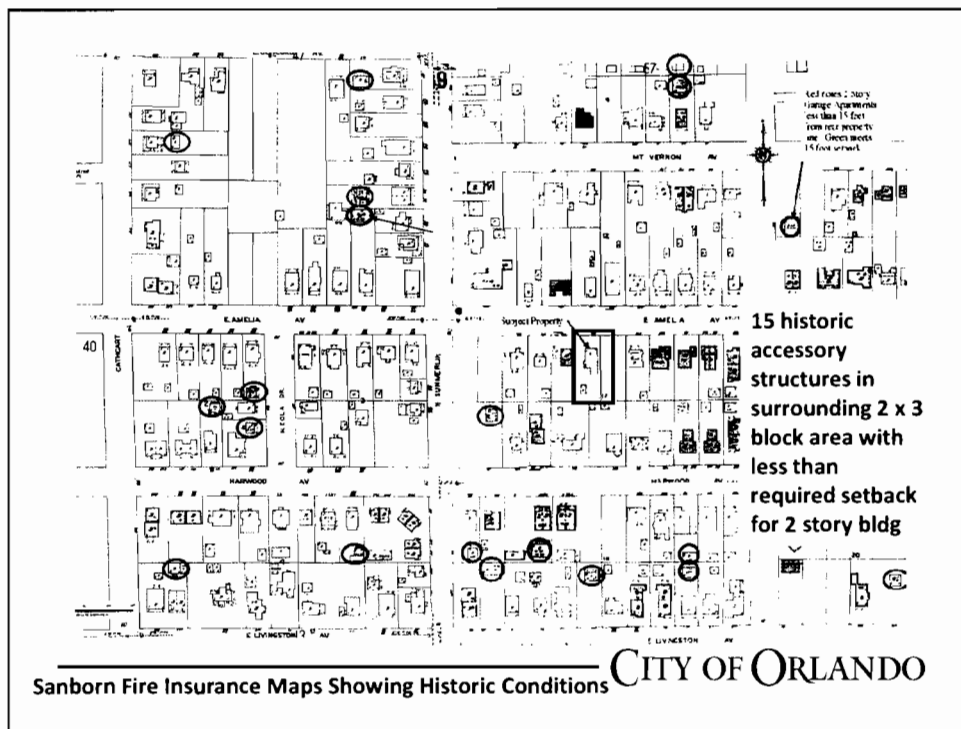
- Boynton Beach (CLG)
 - Coral Gables (CLG)
 - Fernandina Bch (CLG)
 - Fort Pierce (CLG)
 - Hollywood (CLG)
 - Miami Beach (CLG)
 - Palm Beach (CLG)
 - St Augustine (CLG)
 - Indianapolis
 - Nashville
 - Raleigh
- (CLG =Certified Local Government)

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Current HPB Review Practice

- In reviewing a request for a variance to the rear yard setback for a two story accessory structure, the HPB looks at historic materials including Sanborn Fire Insurance Maps to determine the prevailing pattern of development and character for these types of structures historically. Some areas of HP districts have patterns where there are two story acc. structures 5-10 feet from the rear; some do not.

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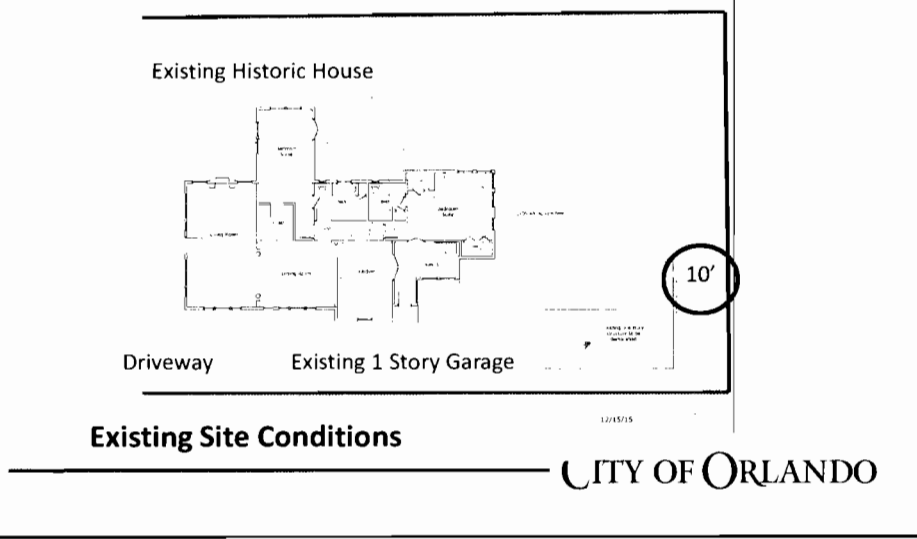


Current HPB Review Practice (cont.)

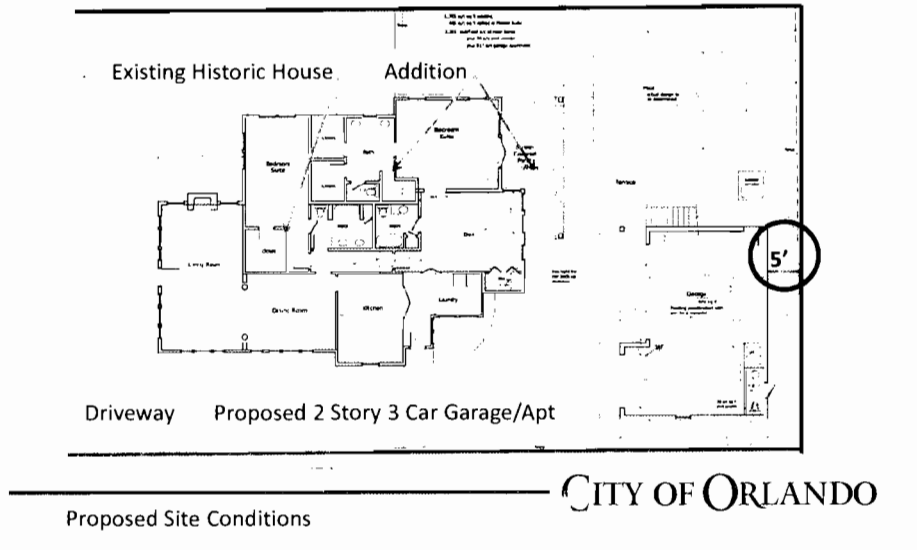
- The HPB also looks at the existing site and the location of historic structures on said site; in the case of 722 E Amelia St, there exists a one story accessory structure located at 10 from the rear property line which is proposed to be replaced. The HPB concluded that any replacement structure should be located with the same rear setback to continue the existing historic pattern.

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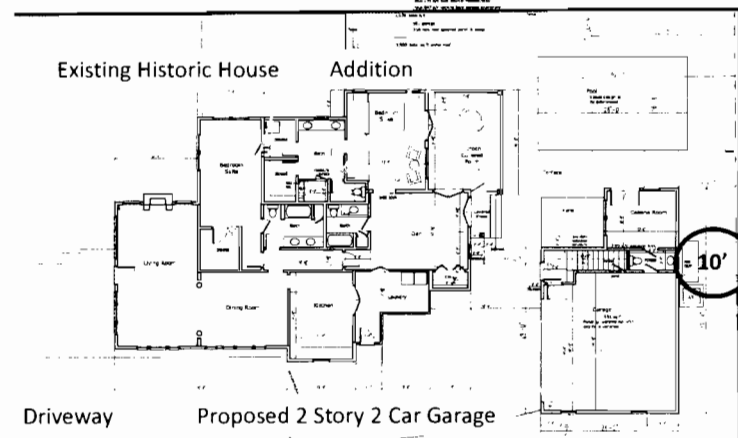
Case Study: 722 E Amelia Site Plan



Initial Proposal to HPB



Proposal as Revised by HPB and Submitted to BZA



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Current HPB Review Practice (cont.)

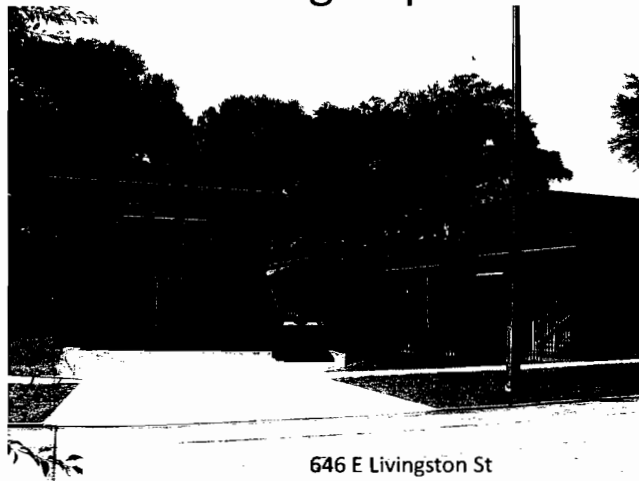
- The neighboring property to the rear of 722 E Amelia St at 719 Harwood St received a similar variance in 2010. The HPB then required that the new setback of the proposed 2 story accessory structure match the existing one story structure proposed to be replaced. The BZA concurred and granted a setback of 10 feet.

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Sampling of HPB/BZA approvals over the last few years

- 314 E Amelia 5 ft
 - 515 N Highland 5 ft
 - 719 Harwood 10 ft
 - 614 E Livingston 5 ft
 - 714 E Amelia 5 ft
 - 1404 E Washington St 7 ft
 - 508 E Livingston 5 ft
 - 722 E Amelia HPB 10 ft, BZA up to 5 ft
-
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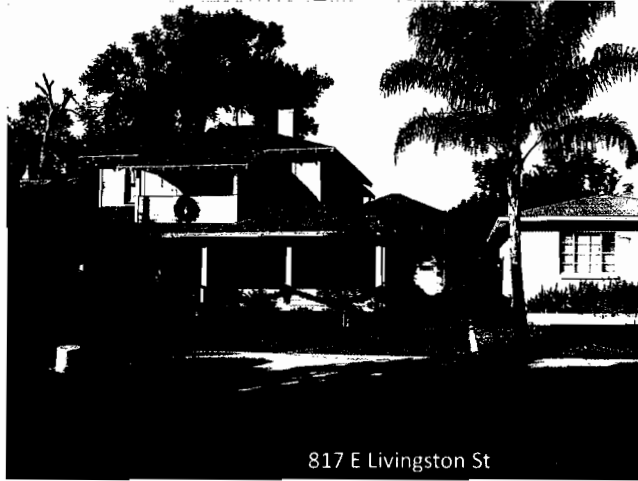
Example: Historic House with new Garage Apt



646 E Livingston St

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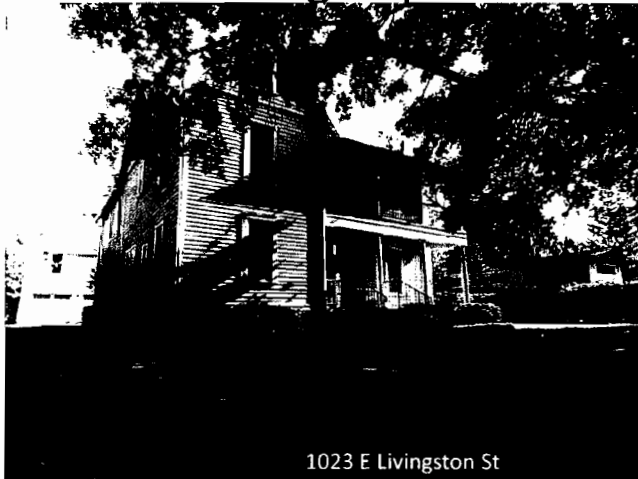
Example: Historic House with new
Garage Apt



817 E Livingston St

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Example: Historic House with new
Garage Apt



1023 E Livingston St

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What are Possible Solutions?

- In light of the issues described, staff has developed several options which would address the issue of conflict between the boards on setback variances and would also address the standard of review for these variances.

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Option 1

- HPB alone decides on all appropriate setbacks for a main structure including front yard, side yard, rear yard and for rear and side yard setbacks for accessory structures.
- The HPB is the most uniquely qualified board to make these setback decisions because of their knowledge of the particular areas of the historic districts and have the tools and understanding to evaluate the historic patterns of development.

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Option 1 (cont.)

- Given existing language in the LDC, would not require a new standard of review:

"Rhythm of Solids and Voids: New structures shall be designed and positioned on their lots in such a way so that they reflect the regular pattern of structures and open space along the block face."

- However, a code amendment will be needed to allow HPB to determine appropriate setbacks.

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Option 1 (cont.)

- In consideration of any alternative setback within a HP overlay, it is suggested that the Board be required to maintain 10 feet minimum distance between any structures on adjacent properties.

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Option 2

- HPB alone to decide on appropriate rear yard setbacks for detached accessory structures only. (Problem: may still have the dual board conflict with other setbacks.)
- Will require same standards for review as in Option 1.

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Option 3

- A. Allow 5 foot rear yard setback for two story structures in all HP overlay districts. (Problem: may not be consistent with the historic pattern of development); or
- B. Allow 5 foot rear yard setback for two story structures across the city. (Problem: may be undesirable in many neighborhoods outside the historic core)

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Staff Recommendations

Staff recommends that the City Council move forward with amending the LDC to be consistent with option 1.

Staff also recommends that the City Council approve the HPB minutes for 722 E Amelia requiring the proposed accessory structure to have a setback of 10 feet.

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