

Staff Report to the
Board of Zoning Adjustment
February 25, 2020

VAR2020-10000

1227 E. LIVINGSTON ST.



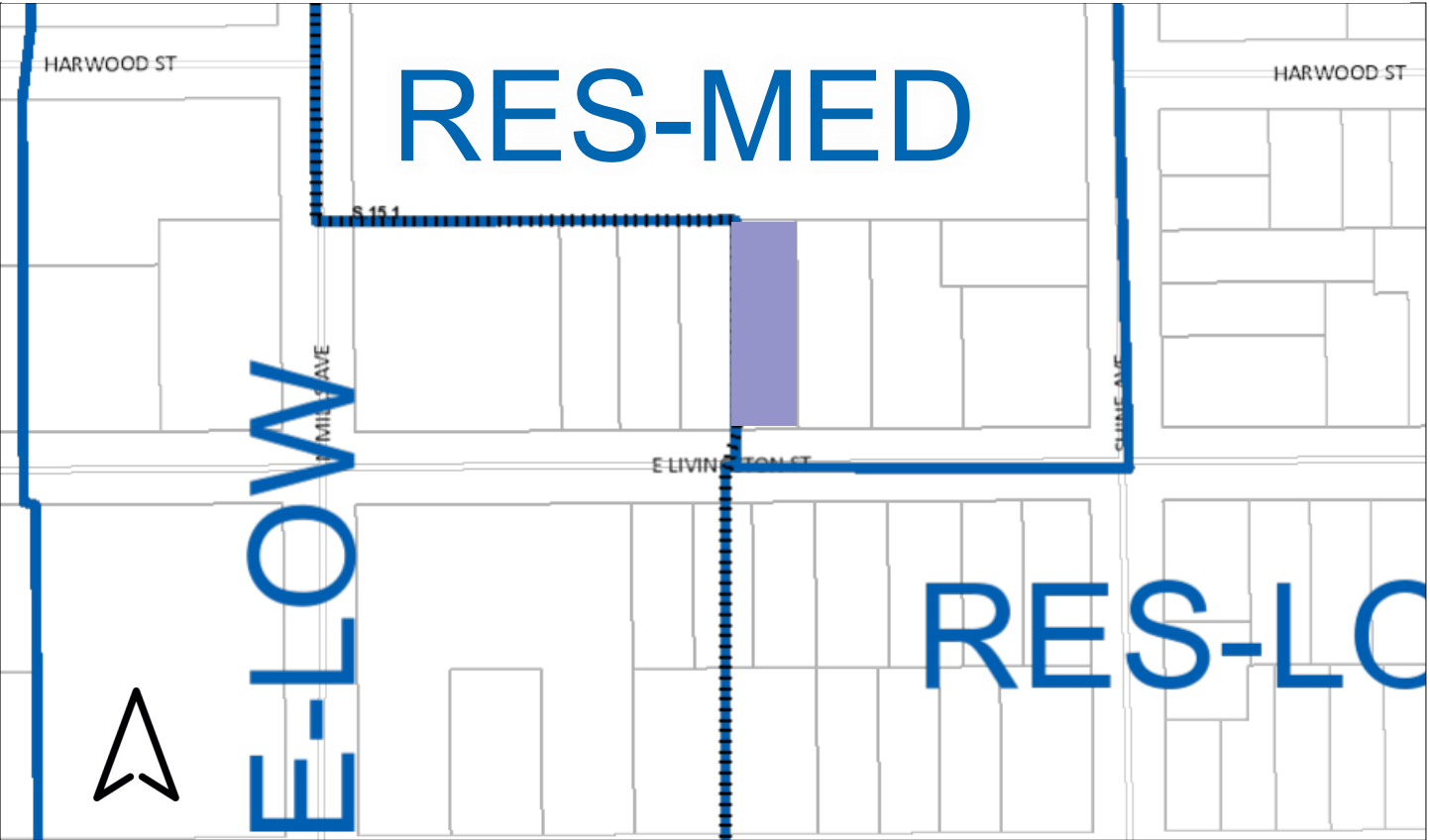
Location Map

 Subject Site

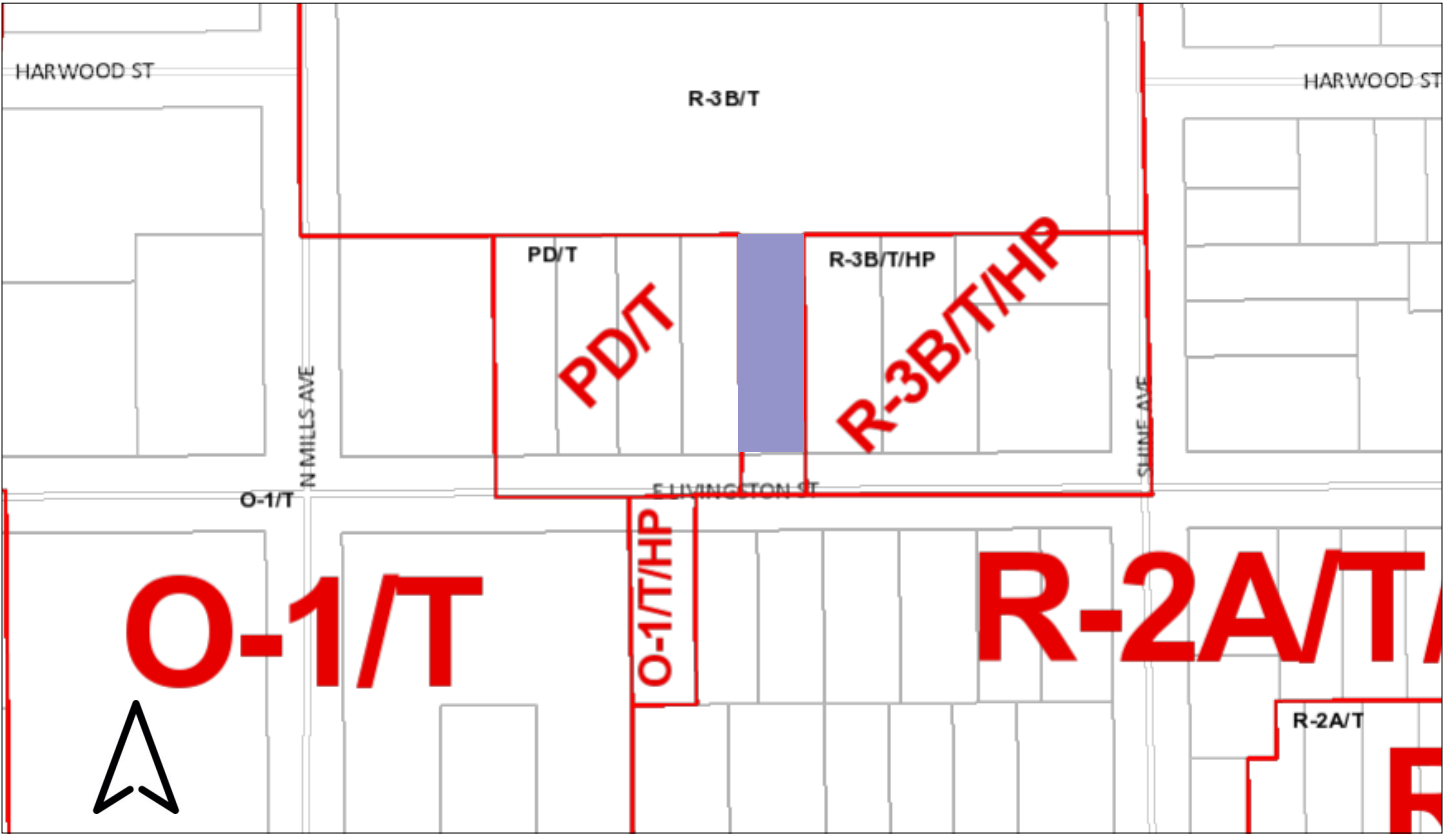
SUMMARY

Owner/Applicant Spencer Locke Michelle Locke Project Planner Katy Magruder, Planner II Updated: February 17, 2020	Property Location: 1227 E. Livingston St. (Located east of N. Mills Ave., west of Shine Ave., and north of E. Livingston St.) (0.20 acres, District 4) Applicant's Request: The subject property is developed with a single family home and accessory structure in the rear. The second story of the structure is a dwelling unit. The applicant requests to convert the ground floor of the accessory structure to a third dwelling unit. To do so, the applicant requests a variance of 1.4 ft. to the required 5 ft. side yard setback to permit the ground floor of an existing 2-story detached garage to be 3.6 ft. from the side property line.	Staff's Recommendation: Approval of the request, subject to the conditions in this report. Public Comment Courtesy notices were mailed to property owners within 300 ft. of the subject property during the week of February 10, 2020. As of the published date of this report, staff has received no comments from the public.
---	--	---

FUTURE LAND USE MAP



ZONING MAP



PROJECT ANALYSIS

Project Description

The 0.20-acre subject property is developed with a 1,074 sq. ft. single family home constructed in 1947. There is an existing two-story detached garage with a second dwelling unit on the second floor in the rear yard. The structure is 1,456 sq. ft. and the existing second dwelling is 588 sq. ft. The applicant requests to convert the ground floor of that structure to a third dwelling unit. The existing accessory structure is not compliant with the side setback requirement.

The applicant requests a variance of 1.4 ft. to the required 5 ft. side yard setback to permit the ground floor of an existing 2-story detached garage to be 3.6 ft. from the side property line.

The property is zoned Medium Intensity Residential Development in the Traditional City Overlay District (R-3B/T), and is designated as Residential Medium Intensity (RES-MED) on the City's Future Land Use map. Table 1 depicts surrounding Future Land Use and zoning designations.

Table 1 - Project Context			
	<i>Future Land Use</i>	<i>Zoning</i>	<i>Adjacent Use</i>
North	Residential Medium Intensity (RES-MED)	Medium Intensity Residential Development in the Traditional City Overlay District (R-3B/T)	YMCA of Downtown Orlando
East	Residential Medium Intensity (RES-MED)	Medium Intensity Residential Development in the Traditional City and Colonialtown South Historic Preservation Overlay District (R-3B/T/HP)	Single Family Residential
South	Residential Low Intensity (RES-LOW)	One to Two Family Residential in the Traditional City and Colonialtown South Historic Preservation Overlay District (R-2A/T/HP)	Single Family Home
West	Office Low Intensity (OFFICE-LOW)	Planned Development in the Traditional City Overlay District (PD/T)	Two Family Residential

Previous Actions:

1913: Property platted as part of the J E Groves Subdivision.

1947: Existing single family home and detached garage with second floor dwelling unit constructed on the property.

2019: Current owner acquired the subject property.

Intent of District

R-3B and R-3C Medium Intensity Development Districts. The R-3B and R-3C districts are intended to provide for flexibility in building and site design in locations where residential development or redevelopment is desired at a medium intensity.

The t Overlay District is intended to establish urban design standards to perpetuate the positive design elements and the residential and commercial development patterns found within the Traditional City. The traditional City shall be defined by recognizable geographic boundaries of subdivisions platted prior to World War II in which there is a concentration of the positive design elements as defined in Urban Design Goal 1.

Conformance with the LDC:

The subject site is a conforming lot, measuring 50 ft. wide by 171 ft. deep. Behind the single family home is a 1,456 sq. ft., two-story detached garage. The second story is finished with a 588 sq. ft. dwelling unit. The accessory structure does not meet the required 5 ft. side setback, set forth in Sec. 58.901. There is no permit on file for the construction of the rear unit, but Orange County Property Appraiser identifies that the structure was constructed in 1947. Because of the proposed change of use of the ground floor of the accessory structure from garage to living unit, the variance regarding the side setback is required.

Chapter 58, Part 3H regulates small multi-family developments, called multiplexes.

Multiplex standards of this Part are intended to conserve the general character of established neighborhoods which have developed as a mixture of single family dwelling units, duplexes, and small apartment buildings of 3 to 8 dwelling units. New development shall maintain the prevailing bulk, height, and general design of the surrounding structures and buildings. This type has the appearance of a medium-sized single family home or multiple small-scale structures and is ap-

PROJECT ANALYSIS

appropriately scaled to fit within primarily single-family neighborhoods or into medium-density neighborhoods. This type enables appropriately-scaled, well-designed higher densities and is important for providing a broad choice of housing types and promoting infill development.

Analysis

The applicant desires to add a dwelling unit to an existing structure requiring a side setback variance. Once the third unit is developed on the site, the property will be considered a multi-family development. Small multi-family developments are referred to as multiplex developments in the Land Development Code and defined in the previous section.

Sec. 58.562. goes on to dictate the development standards and building site standards for multiplexes including:

- A. Minimum Lot Size Standards. The lot conforms to the R-3B/T standards.
- B. Maximum Residential Density. At the maximum density of 21 units per acre, the 0.20 acre property is permitted to have up to 4 dwelling units.
- C. Unit size. The majority of units on the single development site will be 750 square feet or less.
- D. Building Setbacks. Defaults to zoning district. See Table 2.
- E. Minimum Building Separation. 10 feet.
- F. Frontage Requirements. The front door of the unit facing the primary street frontage faces the street. The rear units face the front of the lot, meeting the frontage requirements.
- G. Vehicular Use Area. The buildings are separated by approximately 40 ft. and therefore there is plenty of room between the two structures to provide a small pull-in parking lot.
- H. Pedestrian Access. A pedestrian path from the public sidewalk to the primary pedestrian entrance is required for the unit(s) facing the primary street frontage.
- I. Building Height. The height will not change from the existing two-stories, meeting the maximum three-story permitted height.
- J. Single-Family Home or Duplex Preservation. Typically, a master plan application is required in order to add dwelling units and preserve a single-family home or a duplex. Because this variance requires a public hearing the requirement for a master plan will be waived and the final site plan is reviewed as part of this variance analysis.
- K. Driveways. Driveways must meet the following minimum requirements:
 1. The maximum width is 24 feet at the property line.
 2. Up to four units served: The minimum width is 14 feet at the property line, narrowing to 12 feet at a point 15 feet from the property line.

The existing curbcut meets the 24 ft. maximum, but the existing driveway is 10.1 ft. wide adjacent to the existing single family home. This is approximately 2 ft. narrower than the required width, but is supported by the Transportation Official. Sec 58.562 grants the Transportation Official this permission.

The subject of the variance is for the existing side setback. See Table 2.

The owner may be required to improve the parking area to provide the required number of parking spaces for each unit. This number will be determined at the permitting stage depending on the floor plan of the space. Parking for multi-family developments are dictated by the definitions in Chapter 66 and the corresponding parking table in Chapter 61.

Table 2—Setbacks (R-3B/T)	
	Side (West)
Required	5 ft.
Existing/ Proposed	3.6 ft.

- a. *Efficiency Apartment:* A dwelling unit up to 500 square feet in size that consists of one habitable room together with cooking and sanitary facilities.
- b. *Studio Apartment:* A dwelling unit up to 750 square feet in size that consists of one habitable room together with cooking and sanitary facilities, and may also include a partial separation for a sleeping area.
- c. *One bedroom:* A dwelling unit of any size that includes cooking and sanitary facilities, and includes not more than one room that meets the definition of a bedroom as set forth in Section 381.0065, Florida Statutes. This also includes a dwelling unit more than 750 square feet in size that consists of one habitable room together with cooking and sanitary facilities.
- d. *Two or more bedrooms:* A dwelling unit that does not meet one of the definitions above.

Planning staff supports this variance request because the applicant meets the 6 standards for approval of a variance and the structure is already existing and the footprint of the existing structure is not proposed to change.

AERIAL PHOTO



SITE PHOTOS



Existing principal structure (single-family home)

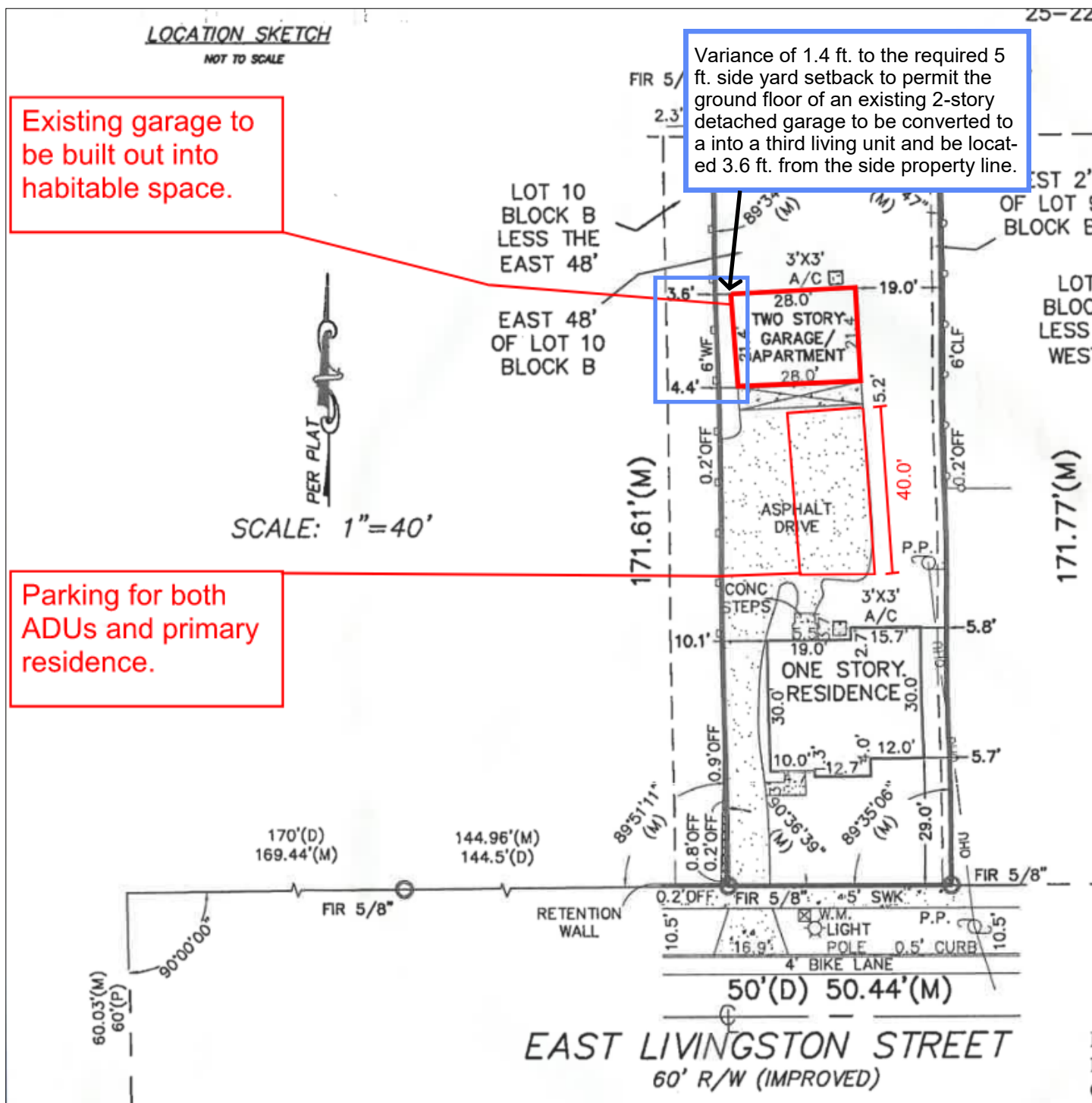


Existing ADU

Proposed ADU

Side setback is the subject of the variance request.

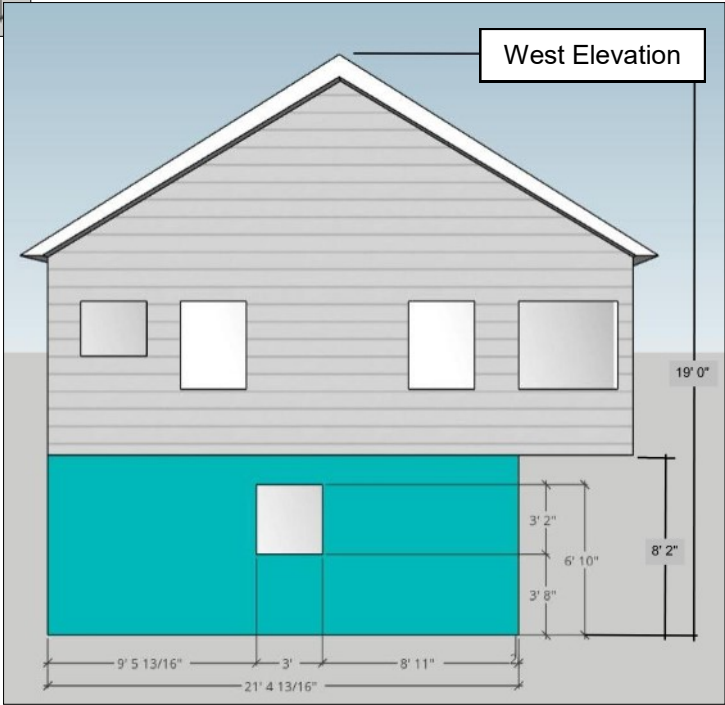
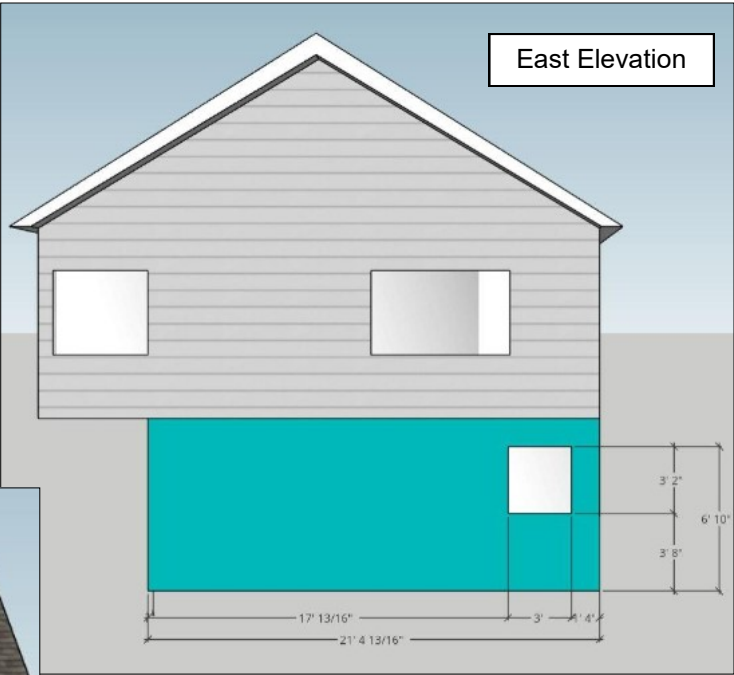
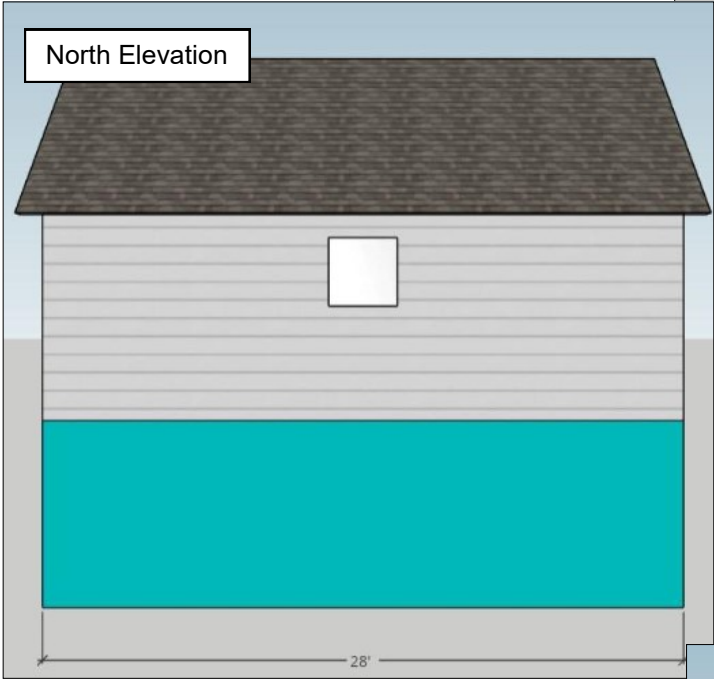
SURVEY/SITE PLAN



ELEVATIONS



ELEVATIONS



FINDINGS

Requested Variance

The applicant requests a variance of 1.4 ft. to the required 5 ft. side yard setback to permit the ground floor of an existing 2-story detached garage to be 3.6 ft. from the side property line.

Staff Recommendation: Approval of the requested variance, based on the finding that the variances meets the six (6) standards for approval of a variance, 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) As provided by subsection 166.033(5), Florida Statutes, issuance of a development permit by a municipality 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 municipality 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. In accordance with subsection 166.033(5), Florida Statutes, it is hereby made a condition of this permit that all other applicable state or federal permits be obtained before commencement of the development.
- 4) The owner is subject to impact fees for one multi-family unit.
- 5) Appearance review to occur at the permitting stage.
- 6) All additions/new construction must be use similar or complimentary materials, design, and details as to those already used in the 2-story garage.
- 7) All other regulations of the R-3B/T zoning district not addressed in this staff report are applicable.

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.

STANDARDS FOR VARIANCE APPROVAL

Variance of 1.4 ft. to the required 5 ft. side yard setback to permit the ground floor of an existing 2-story detached garage to be converted to a into a third living unit and be located 3.6 ft. from the side property line.

Special Conditions and Circumstances

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.

Meets Standard

Yes ☒

No ☐

The home and existing accessory structure were built in 1947. The lot is conforming but the setback is an existing nonconformity.

Not Self-Created

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.

Meets Standard

Yes ☒

No ☐

The current owner of the property did not built the accessory structure in its existing location.

No Special Privilege Conferred

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.

Meets Standard

Yes ☒

No ☐

Approval of the variance would not be viewed as conferring a special privilege, based on the special conditions and circumstances of the property.

Deprivation of Rights

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.

Meets Standard

Yes ☒

No ☐

Denial of the variance would deprive the owner/applicant of rights enjoyed by others in a similar circumstance.

Minimum Possible Variance

The Zoning Variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

Meets Standard

Yes ☒

No ☐

The variance requested is the minimum possible variance to convert the existing structure without requiring it to be demolished and rebuilt.

Purpose and Intent

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.

Meets Standard

Yes ☒

No ☐

Approval of this variance would not be detrimental to the public welfare.

RESPONSES TO VARIANCE QUESTIONS

Special Conditions and/or Circumstances:

The existing improvements of 1227 E Livingston Street include a 1053 sqft single family home and a detached two-car garage with a 588 sqft ADU on the second level above. A 40 ft wide asphalt parking area separates the two structures, which is connected to the public street via asphalt driveway. The proposed development includes the buildout of the existing garage into an additional ADU of roughly 530 sqft.

The existing two-story garage structure sits 3.6' from the sideyard property line, which is 1.4' less than the required 5' setback. The garage was constructed in 1947, which was before the 5' sideyard setback requirement was enacted.

The Special Condition arises because, while the existing structure does not conform to setback requirements, the buildout of the existing garage into an ADU will not alter the location, size, or dimensions of the structure, and will utilize the existing structure to its fullest extent while making no additional improvements to the site.

Not Self-Created:

The Special Condition is not self-created because the existing two-story garage was constructed in 1947, before the current setback requirements were enacted and before the current owner had ownership of the property.

Minimum Possible Variance:

This variance is the minimum possible variance because the structure already exists. The only alternative to this variance would be to relocate the existing structure, which is not feasible.

No Special Privilege Conferred:

Approval of this variance request would not confer to the applicant any special privilege that would normally be denied to other lands, buildings, or structures in the same zoning district. The zoning district of the property in question is characterized by older and historic single family residences, built between 1900 and the present. Situations similar to that of the property in question likely exist for many other properties in the zoning district, therefore these other properties have the potential to have approved the same or similar variances.

RESPONSES TO VARIANCE QUESTIONS

Denial of this variance would deprive the applicant of rights commonly enjoyed by other property owners in similar situations. While the two-story garage structure has a less than 5' setback from the sideyard property line, the structure is fully located on the property in question and is separated from the adjacent property by a fence. The 1.4' undersize of setback depth would be an unjust reason for preventing the applicant from utilizing the existing improvement according to the request. As such, the buildout of the garage will have no negative affect on the adjacent property or the property in question in reference to the setback depth.

Purpose and Intent:

The property of 1227 E Livingston St is located in the Groves J E Subdivision in the Colonialtown area. This subdivision is a residential area that consists predominantly of single family homes, many of which have detached ADUs. The area is characterized by scattered local business, including restaurants and professional offices offering legal, accounting, and healthcare services. The area also is home to many small multifamily improvements, ranging from duplexes to eight-plexes and greater. As the area's population continues to grow and draw in families and professionals, property values and market rents are increasing, creating upward pressure on affordable housing.

The proposed development of 1227 E Livingston St includes the buildout of the existing two-car garage into an additional ADU of roughly 530 sqft. This development would provide affordable housing targeted towards the educated professional looking for a small, studio style apartment within close proximity to downtown offices. Encouraging professionals to bring their valuable skills to the City of Orlando is in line with the City's Growth Management Plan. Also in line with the City's GMP, the proposed development would have a minimal impact on the architectural heritage of the property's structures, which were both built in 1947.

The development is well suited to the property in question because the structure and parking area for the new ADU already exists, therefore there will be minimal negative environmental, traffic, and neighborhood impact. Additionally, 1227 E Livingston St is currently situated immediately between a single family residence to the East, professional offices to the West, and the Downtown YMCA to the North, ensuring the proposed development will have an overall positive impact on the surrounding residential neighborhood by serving as a buffer between the residential and commercial properties in the neighborhood.

RESPONSES TO VARIANCE QUESTIONS

I have no reason to believe at this time that any other fee simple property owner with a similar grandfathered structure could not or should not obtain an approval for a variance of either plan submitted by me for the January BZA.

This assumes a reasonable number of occupants and parking. To wit, I have no objection to opening street parking in front of the subject property. There's currently parking on the opposite side and plenty for 1-3 additional cars regularly based on observation. Many houses on the block will never have an ADU as a practical matter.

The purpose is consistent with responsible development, housing needs and low cost access to nearby services such as bus, grocery, post office.

This is not to encourage RVs, boat parking or other otherwise regulated parking on the street.

CONTACT INFORMATION

Land Development

For questions regarding Land Development review, please contact Katy Magruder at 407.246.3355 or Kathleen.magruder@orlando.gov.

Urban Design

For questions regarding Urban Design plan review, please contact Terrence Miller, at 407.246.3292 or terrence.miller@orlando.gov.

Engineering/Zoning

For questions regarding Concurrency Management contact John Groenendaal at 407.246.3234 or john.groenendaal@orlando.gov. To obtain plan review status, schedule/cancel an inspection and obtain inspection results, please call PROMPT, our Interactive Response System at 407.246.4444.

REVIEW/APPROVAL PROCESS—NEXT STEPS

1. BZA minutes scheduled for review and approval by City Council.
2. Plat (if required)
3. Building permits.