

**Board of Zoning Adjustment**  
**Staff Report**  
 July 22, 2019



<b>Case No:</b>	19VARIANCE1048
<b>Project Name:</b>	Longest Avenue Variance
<b>Location:</b>	2204 Longest Avenue
<b>Owner:</b>	Philip Rohrer
<b>Applicant:</b>	Josh Myers – Myers & Co. L.A.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8 – Brandon Coan
<b>Case Manager:</b>	Zach Schwager, Planner I

**REQUEST**

• **Variations**

1. from Land Development Code section 5.1.10.F to allow a structure to encroach into the required side yard setback.
2. from Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot.

Location	Requirement	Request	Variance
<b>Side Yard</b>	3.48 ft.	0.4 ft.	3.08 ft.
<b>Private Yard Area</b>	1,045 sq. ft.	608 ft.	437 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R-5B and is in the Traditional Neighborhood form district. It is located in the Cherokee Triangle neighborhood and preservation district and contains a 2 ½ story single-family residence. The applicant has constructed a new attached deck on the rear of the house. This deck encroaches into the required side yard setback and will reduce the private yard area to be less than 20% of the total area of the lot.

The subject property is 34.8 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore 3.48 feet.

Historic Landmarks and Preservation Commission staff approved the addition on condition under case number 19COA1094 on April 19, 2019. See attachment #5. Planning & Design Staff does not have any recommended conditions.

**STAFF FINDING**

Staff finds that the requested variations are adequately justified and meet the standards of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for

granting variances established in the Land Development Code from sections 5.1.10.F and 5.4.1.D.3 to allow a structure to encroach into the required side yard setback and to reduce the private yard area to be less than 20% of the total area of the lot.

### **INTERESTED PARTY COMMENTS**

No interested party comments were received.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F (1)**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the structure will need to be constructed to comply with all building codes, including fire codes.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the addition will have to come into compliance with the conditions of approval of the approved Certificate of Appropriateness.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the deck is setback the same distance as the existing house.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the deck is setback the same distance as the existing house.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the subject property is similar in size and shape compared to the surrounding properties.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to block or remove an existing window on the rear of the structure.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has applied for the variance after the construction of the deck.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.3 (2)**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the structure will need to be constructed to comply with all building codes, including fire codes.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the addition will have to come into compliance with the conditions of approval of the approved Certificate of Appropriateness.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the addition will be constructed to comply with building codes.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the majority of the required private yard area will still be intact.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the subject property is similar in size and shape compared to the surrounding properties.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because most of the private yard area will be intact.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has applied for the variance after the construction of the deck.

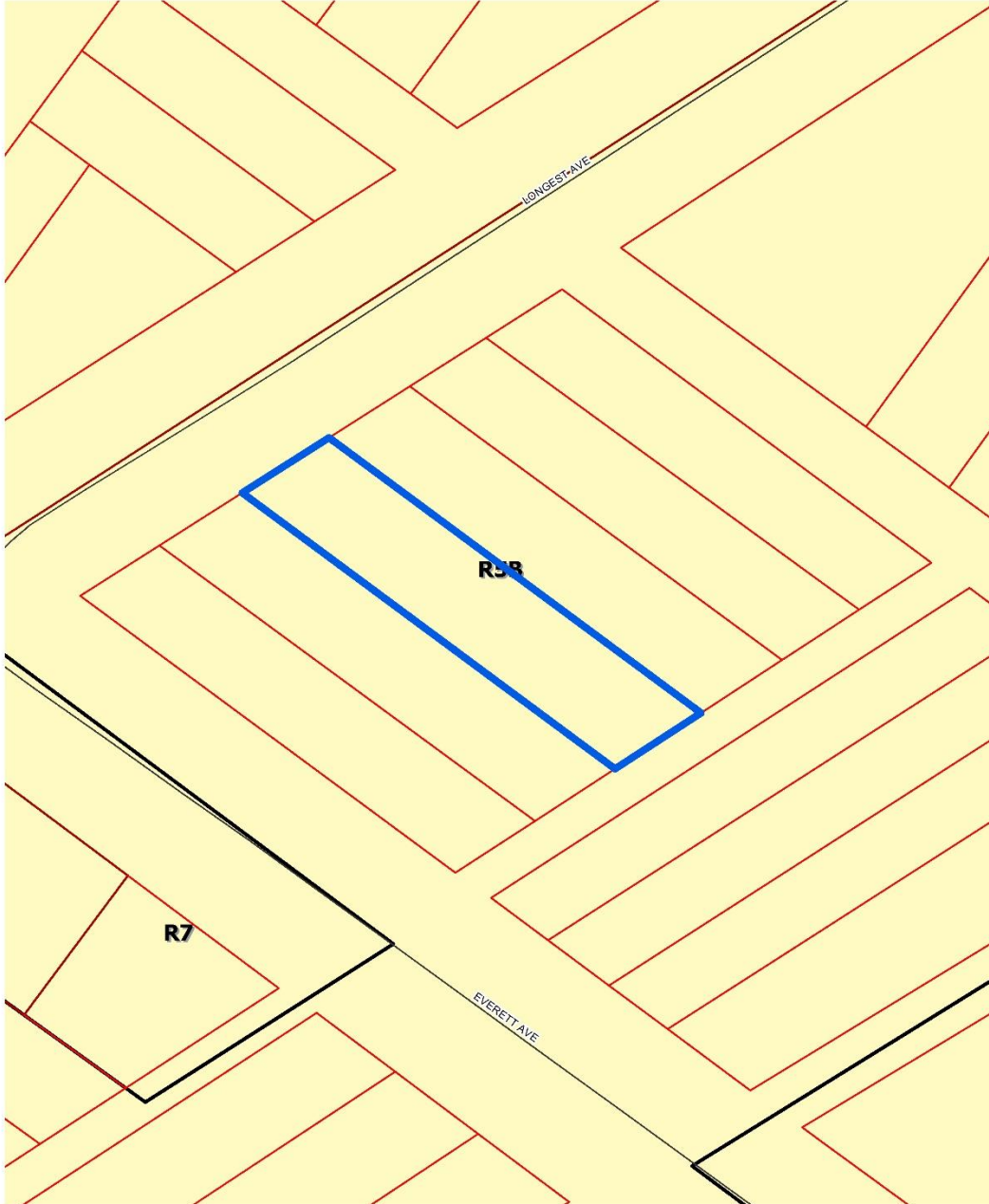
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>05/22/2019</b>	Early Notice/Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 8
<b>07/08/2019</b>	Hearing before BOZA	Notice posted on property

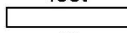
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos
5. Certificate of Appropriateness

1. Zoning Map



2204 Longest Avenue  
feet



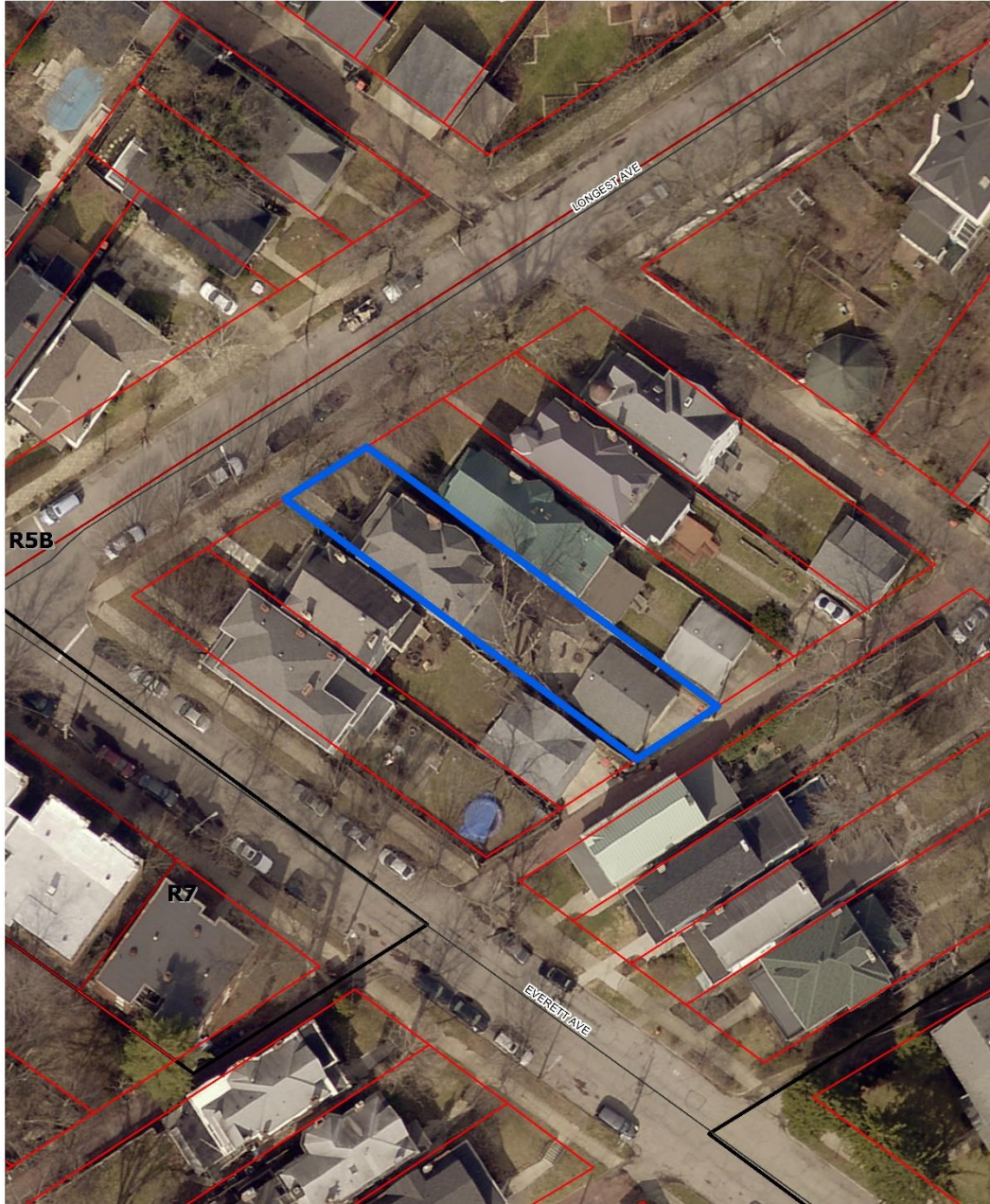
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Map Created: 7/14/2019

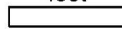


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2. Aerial Photograph



2204 Longest Avenue  
feet



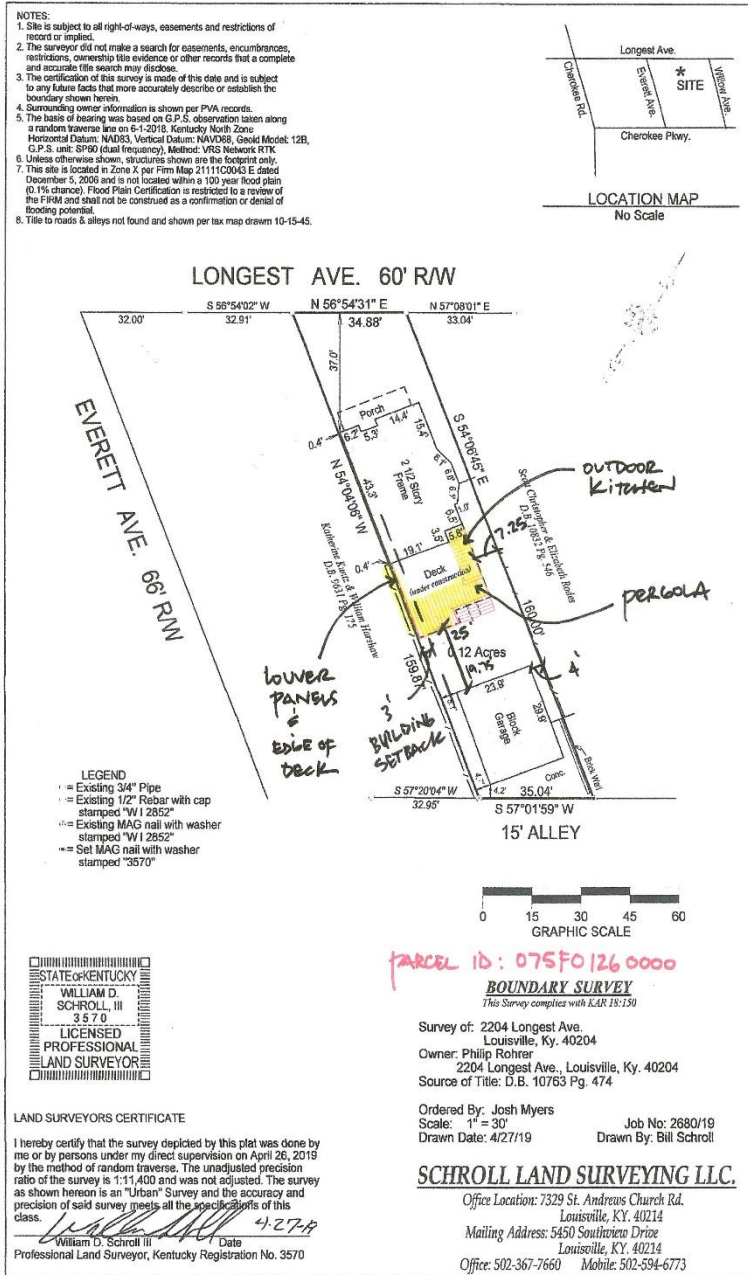
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Map Created: 7/14/2019



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3. Site Plan



4. Site Photos



Front of the subject property.





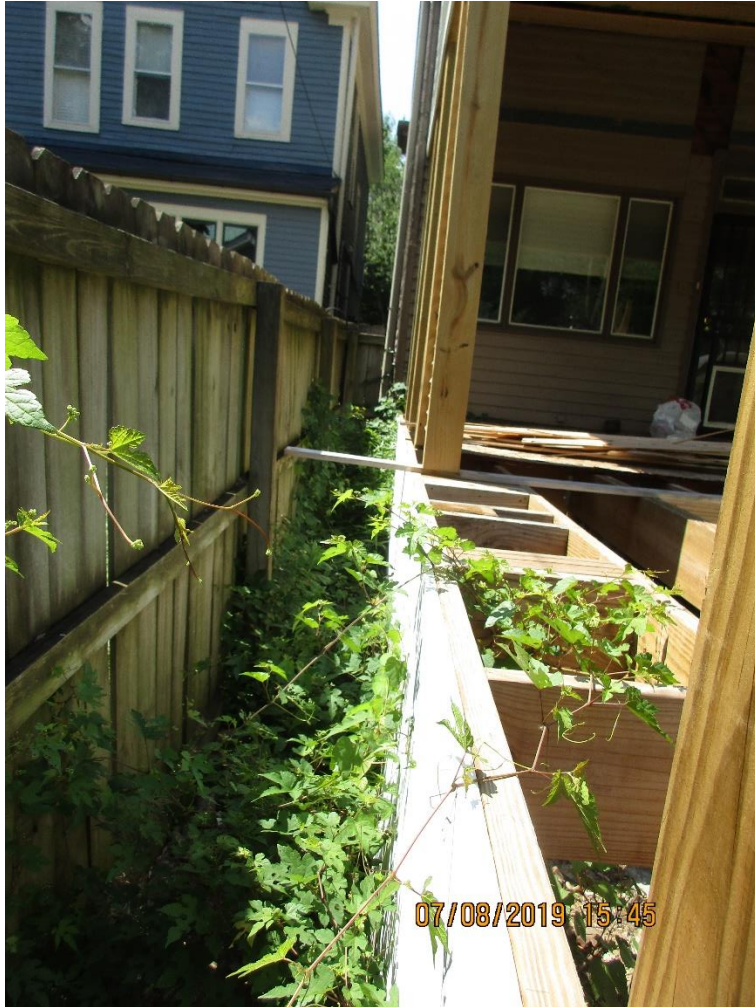
Property to the right.



Properties to the left.



Properties across Longest Avenue.



Side yard setback.



Private yard area.

5. Certificate of Appropriateness



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Historic Landmarks and Preservation Districts  
Commission

Certificate of Appropriateness

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To: Josh Myers  
Thru: Cynthia Elmore, Historic Preservation Officer  
From: Anthony Schneider, Historic Preservation Specialist  
Date: April 18, 2019

*ASD*

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Case No: 19COA1094  
Classification: Staff Review

**GENERAL INFORMATION**

**Property Address:** 2204 Longest Avenue

**Applicant:** Josh Myers  
Myers & Company  
4050 Westport Road, Ste. 208  
502-424-9638  
[josh@myersandcompantla.com](mailto:josh@myersandcompantla.com)

**Owner:** Philip Rohrer  
2204 Longest Avenue  
Louisville, KY 40204

**Estimated Project Cost:** \$20,000.00

**Description of proposed exterior alteration:**

The applicant is seeking approval to reconstruct an existing deck. The new deck structure will be approximately the same size with new, louvered side walls and a decorative stone feature where an outdoor grill will be installed. Additionally, the deck will be partially covered by a new pergola structure. The deck will be constructed of timber and stone.

**Communications with Applicant, Completion of Application**

The application was received on March 29, 2019 and was considered complete and requiring staff review on April 8, 2019. Staff discussed the design with the applicant and that the design may require variances from the Land Development Code via the Board of Zoning Adjustment.

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## FINDINGS

### Guidelines

The following design review guidelines, approved for the Cherokee Triangle Preservation District, are applicable to the proposed exterior alterations: **Addition**. The report of the Commission Staff's findings of fact and conclusions with respect to these guidelines is attached to this report.

The following additional findings are incorporated in this report:

### Site Context/ Background

The R-5B zoned property within a Traditional Neighborhood Form District is located mid-block between Everett Avenue and Willow Avenue on the southeast side of the street. The structure is a 2 ½ story frame Victorian built in the Queen Anne style with eclectic architectural details in the front dormer, siding, and architectural form. This home is surrounded by other frame Victorian homes of a similar size, scale, and massing.

Previous COA's on this site include the construction of a garage under case number **A-82-23-C** and a change in roofing material under **A-87-55-C**.

### Conclusions

The project generally meets the Cherokee Triangle design guidelines for **Addition**. While the proposed pergola and the added louvered walls create a larger massing on the rear of the structure, the alterations to the existing deck will not have an adverse effect on the character of the district. The existing deck size is not being altered as part of this request; however, it is being reconstructed with all new materials thus the need for a COA. Additionally, the proposal includes a stone portion to be added—within the existing footprint—that will house an outdoor grill and counters for a more usable outdoor space. The pergola, as proposed, will not exceed the first floor in height and will allow for adequate light and visual trespass as to not obscure the structure.

### DECISION

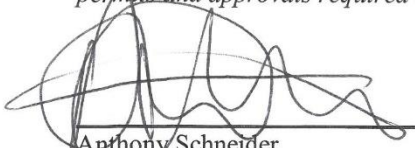
On the basis of the information furnished by the applicant, the application for a Certificate of Appropriateness is **approved with the following conditions**:

1. **The applicant shall obtain any necessary building permits.**
2. **Applicant shall repair or replace any damaged concrete elements with historic concrete mix.**
3. **All new wood shall be painted or opaque stained within a period of 9 months.**
4. **New pergola shall not exceed the height of the first floor of the main structure.**
5. **Applicant shall obtain all other Planning & Design approvals prior to construction.**
6. **If the design changes, the applicant shall contact staff for review and approval.**

*The foregoing information is hereby incorporated in the Certificate of Appropriateness as approved and is binding upon the applicant, his successors, heirs or assigns. This*

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*Certificate does not relieve the applicant of responsibility for obtaining the necessary permits and approvals required by other governing agencies or authorities.*



Anthony Schneider  
Historic Preservation Specialist

4/19/19  
Date

**Attached Documents / Information**  
1. Staff Guideline Checklist

**ADDITION**  
**Design Guideline Checklist**

- + Meets Guidelines
- Does Not Meet Guidelines
- +/- Meets Guidelines with Conditions as Noted
- NA Not Applicable
- NSI Not Sufficient Information

	Guideline	Finding	Comment
A1	Ensure that the design of any new addition is in proportion with the size and scale of the historic building and district.	+	The proposed addition is a rear deck addition and will not increase in footprint from the current design. The only change will be the addition of louvered panels on the sides and a pergola roof.
A2	Design any addition so that it is subordinate to the original building. Generally, additions should not exceed half of the original building's total floor area or building footprint.	NA	
A3	Generally, additions should be attached to secondary elevations and should be set back from the front façade, so as not to damage or obscure character-defining features.	+	
A4	Use materials that are the same as or subordinate to the primary material of the original building. Wood is subordinate to brick, and brick and stucco are subordinate to stone.	+	
A5	Respect original roof forms when designing an addition. Additions should complement existing forms, not overwhelm them.	NA	
A6	Do not undertake any full-floor additions in residential preservation districts (adding an additional full floor on top of a building).	NA	
A7	Generally, the original orientation of a building should not be altered when constructing a new addition. An addition should not turn a secondary façade into primary façade.	NA	

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