BOARD OF ZONING ADJUSTMENT
STAFF REPORT **Date: September 8, 2014**

CASE NUMBER 5913/5828

APPLICANT NAME Tom Myers (M. Don Williams, Agent)

LOCATION 4306 The Cedars
(North side of The Cedars, 315'± West of Dilston Lane).

VARIANCE REQUEST **REAR YARD SETBACK**: Rear Yard Setback Variance to allow a proposed structure within 5' of the rear property line.

INCREASED SITE COVERAGE: Increased Site Coverage Variance to allow 37% total site coverage.

ZONING ORDINANCE REQUIREMENT

REAR YARD SETBACK: The Zoning Ordinance requires an 8' rear yard setback in an R-1, Single-Family Residential District.

INCREASED SITE COVERAGE: The Zoning Ordinance allows a maximum site coverage of 35%, in an R-1, Single-Family Residential District.

ZONING R-1, Single-Family Residential

AREA OF PROPERTY 8,400 Square Feet / 0.2± Acre

TRAFFIC ENGINEERING COMMENTS No traffic impacts anticipated by these multiple variance requests.

ENGINEERING COMMENTS: No comments.

CITY COUNCIL DISTRICT District 7

ANALYSIS The applicant is requesting Rear Yard Setback, and Increased Site Coverage Variances to allow a proposed structure within 5' of the rear property line, and 37% total site coverage in an R-1, Single-Family Residential District; the Zoning

Ordinance requires at least an 8' rear yard setback and allows a maximum site coverage of 35% in an R-1, Single-Family Residential District.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant requested a similar variance at the Board of Zoning Adjustment's May 6, 2013 meeting. The request was approved subject to the following conditions:

1) the removal of the car shed;
2) the provision of gutters and downspouts on the rear of the proposed structure; and
3) full compliance with all other municipal coded and ordinances.

The applicant obtained permits for the demolition of the car shed, and for the construction of the structure at the rear of the property. The car shed was removed from the site, but the structure was never built, causing the building permit and therefore the variance, to expire.

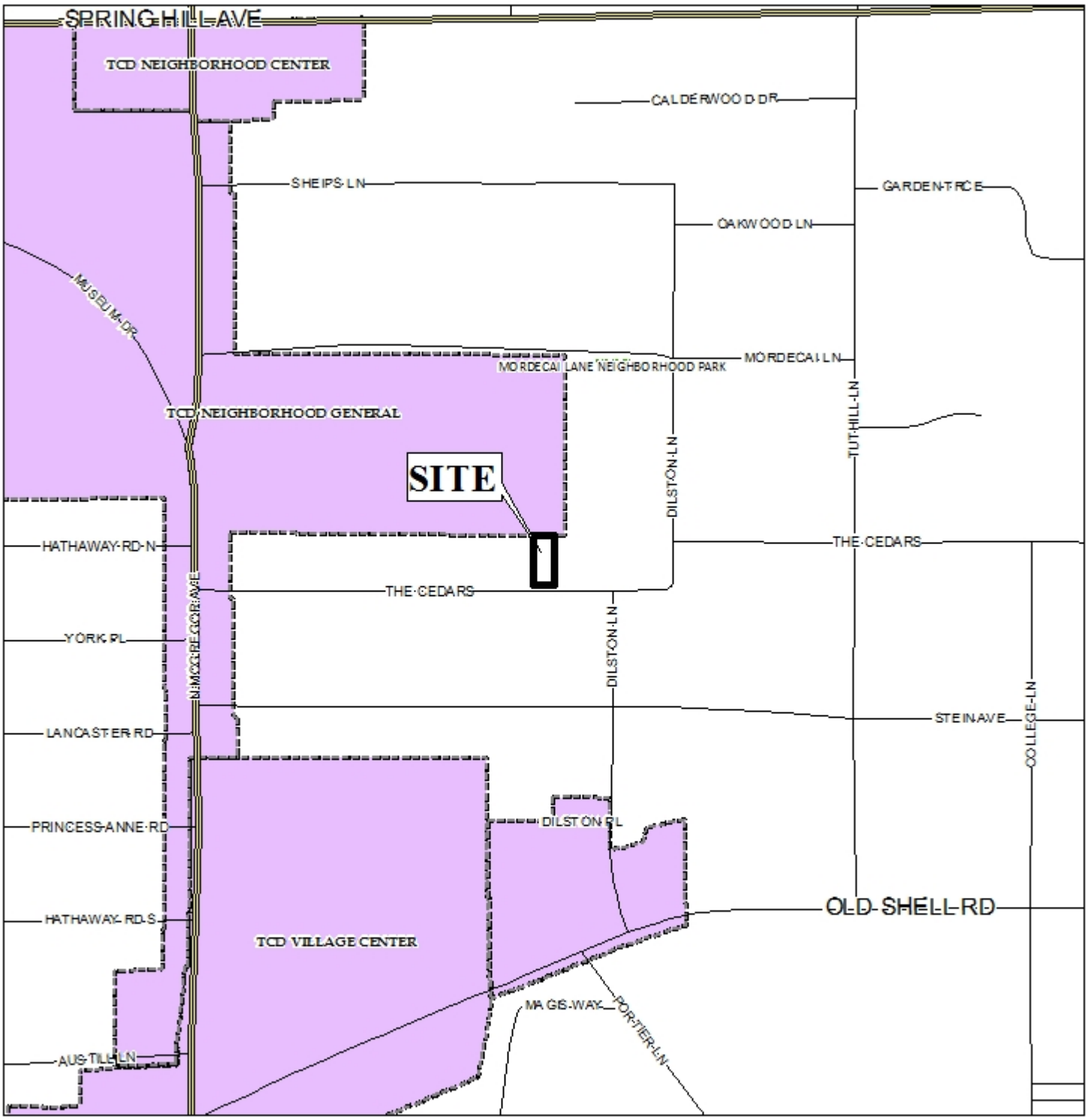
Regarding the Rear Yard Setback Variance request, the applicant states that the neighbor to the rear is the MAWSS Spring Hill reservoir. The Board has been sympathetic to 5' rear setback variance requests in older urban areas of the city, and in 1991, the Board granted such for the property located 120' West of the subject property and adjoining the reservoir site. As a similar detached structure was granted a 5' rear setback within the immediate neighborhood, and this request was previously approved, it would seem logical to grant the reduced Rear Yard Setback Variance of 5', with the condition that gutters and downspouts be provided along the rear of the structure, similar to the previous approval. It should be noted that any setback of less than 5' will require a fire-rated wall per Building Code requirements.

With regard to the Increased Site Coverage Variance request to 37%, while the proposed increase may not meet the test for hardship, the increase is marginal. In this instance, the 2% increase requested calculates to 126 square feet. In the past, the Board has been sympathetic to requests for increased site coverage within the area on same-sized and larger lots, especially when the requested increase was minimal. Therefore, this request would be in keeping with similar ones granted and should be considered for approval.

RECOMMENDATION: Based on the preceding, the Side Yard Setback Variance for the proposed structure is recommended for approval, subject to the following conditions:

1) the provision of gutters and downspouts on the rear of the proposed structure; and
2) full compliance with all other municipal coded and ordinances.

LOCATOR MAP



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REQUEST Site and Rear Yard Setback Variances

N

NTS

BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING

Single-family residences are located to the west, east, and south of the site. A cemetery is located to the north of the site.

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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1	
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2	
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6	

N

NTS

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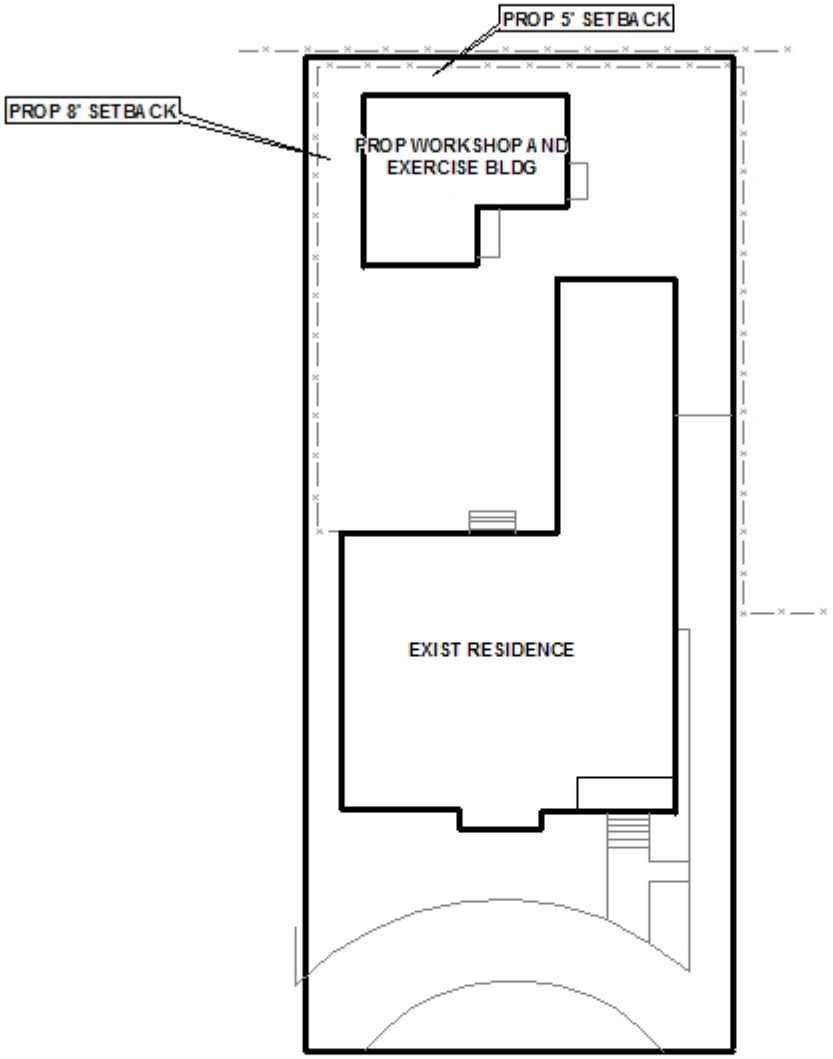
SITE PLAN



The site plan illustrates the existing improvements, proposed building, and proposed setbacks

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