



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING  
100 NW 1<sup>ST</sup> AVENUE, DELRAY BEACH, FLORIDA 33444  
(561) 243-7040

## HISTORIC PRESERVATION BOARD STAFF REPORT

### 53 SE 7th Avenue

| Meeting      | File No. | Application Type                                  |
|--------------|----------|---|
| July 1, 2020 | 2019-212 | Certificate of Appropriateness, Variance & Waiver |

### REQUEST

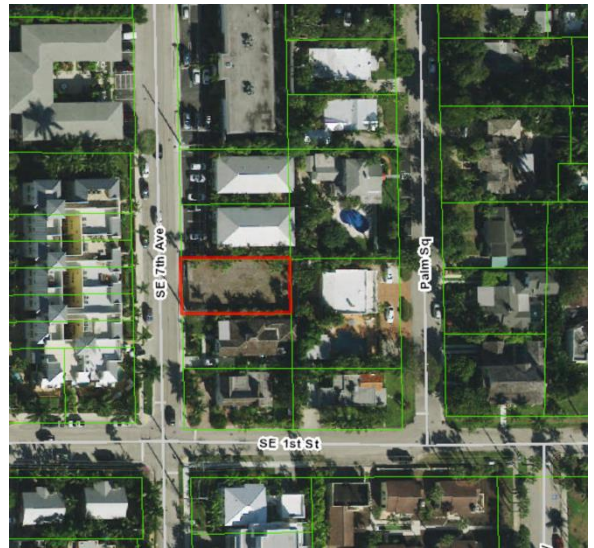
The item before the Board is in consideration of a Certificate of Appropriateness (2019-212), Variance, & Waiver requests associated with the construction of a new 2-story single-family residence on the property located at **53 SE 7th Avenue, Marina Historic District**.

### GENERAL DATA

**Agent:** Richard Jones, AIA  
**Owner:** 53 SE 7, LLC  
**Location:** 53 SE 7th Avenue  
**PCN:** 12-43-46-16-34-000-0220  
**Property Size:** 0.11 Acres  
**Zoning:** RM - Multiple-Family Residential  
**LUM:** MD (Medium Density Residential)  
**Historic District:** Marina Historic District  
**Adjacent Zoning:**

- RM - Multiple-Family Residential (North)
- RM - Multiple-Family Residential (East)
- RM - Multiple-Family Residential (South)
- RM - Multiple-Family Residential (South)

**Existing Land Use:** Vacant  
**Proposed Land Use:** Residential



### BACKGROUND INFORMATION AND PROJECT DESCRIPTION

The subject property is located on the east side of SE 7th Avenue between East Atlantic Avenue and SE 1<sup>st</sup> Street within the Locally and Nationally Designated Marina Historic District and is zoned RM (Multi-Family Residential). The subject 0.11 acre vacant lot was previously joined with the property to the south (55 SE 7<sup>th</sup> Avenue), which contains a contributing one-story historic residence that was rehabilitated in 2017. The property is subject to the provisions of the R-1-A zoning district as it will be developed as a single-family residence.

On March 16, 2011, the Historic Preservation Board Approved Certificate of Appropriateness (2011-077) request for major alterations and additions to the contributing structure located at 55 SE 7<sup>th</sup> Avenue. At the time, the property located at 53 SE 7<sup>th</sup> Avenue was part of this existing property.

The proposal included the following:

- Demolition of circa 1961 covered entry porch and screened wall, great room and two-car carport;
- Addition (one-story) of approximately 650 square feet at rear (east) of historic structure;
- Addition (one and two-story) of approximately 1,425 square feet of living space;
- Addition of a 435 square foot two-car garage;
- Addition of covered loggias consisting of 445 square feet;
- Installation of a swimming pool and spa at rear of property with "cast stone" deck;

**Project Planner:**  
**Project Planners:** Katherina Paliwoda, Planner  
[PaliwodaK@mydelraybeach.com](mailto:PaliwodaK@mydelraybeach.com)

**Review Dates:**  
 HPB: July 1, 2020

**Attachments:**  
 1. Architectural Plans  
 2. Justification Statements  
 3. Materials

- Installation of a crushed shell with stone border driveway;
- Installation of additional improvements such as landscaping, hardscaping, and fencing throughout the site.

The proposed color scheme of the historic structure was to be white siding, doors, and trim, “evening sky” front door, and brown trim and shutters. The color scheme for the new construction and improvements consisted of “timber bark” hardi plank sliding, walnut concrete roof tiles, brown fascia and trim, bronze windows, mahogany doors, aluminum brown shutters, and off-white cast stone columns.

On October 7, 2015, the Historic Preservation Board (HPB) reviewed a request for construction of a new two-story single-family residence in the Vernacular style. The home was to consist of 2,824 square feet under air, plus a 462 square foot attached garage for a total of 3,286 square feet.

Site improvements included a swimming pool (10' x 12'-8") located in front of the residence within the front yard setback, along with a 4' high stucco privacy wall, new landscaping, hardscaping, and irrigation.

Also included with the previous request were two variances to allow a reduction to the front setback for the proposed pool and residence.

The HPB had concerns with the request and continued the proposal to a future meeting date. Then, at its meeting of January 6, 2015, the Historic Preservation Board approved the Certificate of Appropriateness, Variance, and Waiver requests continued from the October 7, 2015 HPB meeting for the construction of a new two-story 3,286 sq. ft. residence and pool. The approval also included Variances and a Waiver as follows:

The two variance requests were approved at that meeting which were for the 20' front yard setback, and swimming pool located in front yard at 10' from front property line and 5' from side interior (south) property line. The new construction for the two-story single-family vernacular style residence consisting of 2,824 square feet under air, plus a 462 square foot attached garage and several covered areas measuring 3,764 total square feet. The conditions of approval are as follows:

- Variance to reduce the required front setback from 25' to 20' for the residence;
- Variance to reduce the required front setback for the pool from 25' to 10';
- Variance to reduce the required side setback for the pool from 10' to 5'; and,
- Waiver to allow the required Building Height Plane to be taken from the original property line instead of the new property line resulting from the Right-of-Way dedication.

It is noted that the project was not started and the approval expired.

The subject proposal includes the construction of a two-story, single-family Masonry Vernacular style residence with a Variance request to allow the construction of a swimming pool to encroach into the rear (east) setback from the required 10' to 5', and a Waiver request to allow for the 2<sup>nd</sup> story of the structure to encroach into the Building Height Plane. The COA is now before the board.

#### REVIEW AND ANALYSIS

**Pursuant to Land Development Regulation (LDR) Section 2.4.6(H)(5), prior to approval, a finding must be made that any Certificate of Appropriateness which is to be approved is consistent with Historic Preservation purposes pursuant to Objective A-4 of the Land Use Element of the Comprehensive Plan and specifically with provisions of Section 4.5.1, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.**

**Pursuant to Land Development Regulation (LDR) Section 2.4.5(I)(5), Architectural (appearance) elevations, the Site Plan Review and Appearance Board or the Historic Preservation Board, as appropriate, may approve subject to conditions or deny architectural elevations or plans for a change in the exterior color of a building or structure, or for any exterior feature which requires a building permit.**

## **ZONING AND USE REVIEW**

Pursuant to LDR Section 4.4.6(F)(1) – **Medium Density Residential (RM) Development Standards**: the provisions for R-1-A shall apply for the single-family detached dwellings.

Pursuant to LDR Section 4.3.4(K) - **Development Standards**: properties located within the R-1-A zoning district shall be developed according to the requirements noted in the chart below.

Provided the Variance request is approved, the proposal will be in compliance with the applicable development standards.

| <b>Development Standards</b>        | <b>Required</b> | <b>Proposed</b>                   |
|-------------------------------------|-----------------|-----------------------------------|
| Open Space (Minimum, Non-Vehicular) | 25%             | 40.9%                             |
| Setbacks (Minimum):                 |                 |                                   |
| Front (West)                        | 25'             | 21' (Variance previously granted) |
| Side Interior (North)               | 7'6"            | 7'-6"                             |
| Side Street (South)                 | 7'6"            | 7'-6"                             |
| Rear (East)                         | 10'             | 10'                               |
| Height (Maximum)                    | 35' Max.        | 25'-4 ½ "(Above BFE)              |

BFE = Base Floor Elevation

### **LDR SECTION 4.5.1**

#### **HISTORIC PRESERVATION: DESIGNATED DISTRICTS, SITES, AND BUILDINGS**

Pursuant to LDR Section 4.5.1(E), **Development Standards**, all new development or exterior improvements on individually designated historic properties and/or properties located within historic districts shall, comply with the goals, objectives, and policies of the Comprehensive Plan, the Delray Beach Historic Preservation Design Guidelines, the Secretary of the Interior's Standards for Rehabilitation, and the Development Standards of this Section

#### **Pursuant to LDR Section 4.5.1(E)(2)(c)(4) – Major Development.**

The subject application is considered "Major Development" as it involves "new construction within the RM zoning district."

Pursuant to LDR Section 4.5.1(E)(3) – **Buildings, Structures, Appurtenances and Parking**: Buildings, structures, appurtenances and parking shall only be moved, reconstructed, altered, or maintained, in accordance with this chapter, in a manner that will preserve the historical and architectural character of the building, structure, site, or district:

**Appurtenances**: Appurtenances include, but are not limited to, stone walls, fences, light fixtures, steps, paving, sidewalks, signs, and accessory structures.

**Fences and Walls**: The provisions of Section 4.6.5 shall apply, except as modified below:

- Chain-link fences are discouraged. When permitted, chain-link fences shall be clad in a green or black vinyl and only used in rear yards where they are not visible from a public right of way, even when screened by a hedge or other landscaping.
- Swimming pool fences shall be designed in a manner that integrates the layout with the lot and structures without exhibiting a utilitarian or stand-alone appearance.
- Fences and walls over four feet (4') shall not be allowed in front or side street setbacks.
- Non-historic and/or synthetic materials are discouraged, particularly when visible from a public right of way.
- Decorative landscape features, including but not limited to, arbors, pergolas, and trellises shall not exceed a height of eight feet (8') within the front or side street setbacks.

The proposal includes a 5' aluminum fence to enclose the property, which will also comply with the pool enclosure requirements. In addition, there will be a 5'tall masonry wall and aluminum gate to be placed within the front setback of the property. The proposed materials for the gates, wall, and fence can be considered appropriate for the historic district and to comply with regulating standards above.

### **Garages and Carports:**

- a. **Garages and carports are encouraged to be oriented so that they may be accessed from the side or rear and out of view from a public right of way.**
- b. **The orientation of garages and carports shall be consistent with the historic development pattern of structures of a similar architectural style within the district.**
- c. **The enclosure of carports is discouraged. When permitted, the enclosure of the carport should maintain the original details, associated with the carport, such as decorative posts, columns, roof planes, and other features.**
- d. **Garage doors shall be designed to be compatible with the architectural style of the principal structure and should include individual openings for vehicles rather than two car expanses of doors. Metal two car garage doors are discouraged; however, if options are limited and metal is proposed, the doors must include additional architectural detailing appropriate to the building.**

The subject proposal includes a two-car garage, which faces the front public right-of-way of the residence. The subject lot was originally joined with the adjacent lot to the south to which the original contributing structure built in 1939, had a 1961 carport addition that was accessed from the front of the property. Although, garages are encouraged to be oriented from the side or rear, the proposal can be found to be consistent with the historic development pattern of the site. Also, given the small size of the lot, at 50' wide, and that a rear alley does not exist, it would be difficult to accommodate a garage that is oriented to be accessed from the side or rear of the property.

The proposal includes a white, aluminum two-door garage door. Pursuant to the code requirements, the garage door should include individual openings for vehicles rather than two car expanses of doors. While the design of the garage door includes paneling and windows, it is a two-car expanse. An attached condition of approval is that the garage door design be revised to include individual door openings. Additionally, the code also states that if metal garage doors are to be used, that additional architectural detailing be included appropriate building. The proposed aluminum two-car door has transom windows and decorative paneling, and these are features that can be considered to be compliant with this code requirement.

### **Parking**

**Pursuant to LDR Section 4.6.9(C)(2)(a), Parking requirements for residential uses - Single family detached residences: Two spaces per dwelling unit. Tandem parking may be used in the Single Family (R-1) Residential Districts or Low Density Residential (RL) District. Required parking spaces shall not be located in the front setback or side street setback areas. For lots that are less than 60 feet wide and do not have alley access, one parking space may be located in either the front setback area or the side street setback area, provided that no more than 50 percent of the front and side street setback area may be improved for parking purposes.**

The proposal includes a two-car garage that is setback 21' from the front property line. This design is permitted given the previously approved variance to the front yard setback; thus, the proposal meets this requirement.

### **Right-of-Way Dedication and Sidewalks**

Pursuant to the Comprehensive Plan, Chapters 5 & 6 of the Land Development Regulations, a 5' right-of-way dedication and construction of a sidewalk are required along SE 7<sup>th</sup> Avenue adjacent to the property. The City Engineer has indicated that these items can be completed prior to the issuance of a building permit and is attached as a Site Plan Technical Item.

**Pursuant to LDR Section 4.5.1(E)(5) - Standards and Guidelines: a historic site, building, structure, improvement, or appurtenance within a historic district shall only be altered, restored, preserved, repaired, relocated, demolished, or otherwise changed in accordance with the Secretary of the Interior's Standards for Rehabilitation, and the Delray Beach Historic Preservation Design Guidelines, as amended from time to time.**



**Standard 1**

A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

**Standard 2**

The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

**Standard 3**

Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

**Standard 4**

Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

**Standard 5**

Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

**Standard 6**

Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

**Standard 7**

Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

**Standard 8**

Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

**Standard 9**

New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

**Standard 10**

New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Standard 1, 5, 9, & 10 are applicable. The existing site is currently a vacant lot, which allows for a new structure to be constructed on the property. The use of the property is remaining residential as it was historically used.

Regarding Standard 5, the proposed structure will be designed in a Masonry Vernacular style, which is an architectural style commonly used throughout the Marina Historic District. Although, the structure is a more modern type of vernacular, the proposed design uses materials, such as Hardie-board siding that is commonly used on additions or new construction as well as wood for other architectural details. Therefore, the materials can be considered appropriate for new construction to be compatible with the historic streetscape of the district.

With respect to Standards 9 & 10, the proposal includes a Waiver request to Building Height Plane (BHP) to allow the structure to take the BHP measurement from the original property line along the west side of the site, where a 5' right-of-way dedication is required. BHP is a Visual Compatibility Standard that determines an appropriate height for a structure, setting back the overall height of a building from the front property line. Provided the Waiver is approved, then the proposal can be considered to meet the Secretary of the Interior's Standards for Rehabilitation.

**Pursuant to LDR Section 4.5.1(E)(7) - Visual Compatibility Standards:** new construction and all improvements to both contributing and noncontributing buildings, structures and appurtenances thereto within a designated historic district or on an individually designated property shall be visually compatible. In addition to the Zoning District Regulations, the Historic Preservation Board shall apply the visual compatibility standards provided for in this Section with regard to height, width, mass, scale, façade, openings, rhythm, material, color, texture, roof shape, direction, and other criteria set forth elsewhere in Section 4.5.1. Visual compatibility for minor and major development as referenced in Section 4.5.1(E)(2) shall be determined by utilizing criteria contained in (a)-(m) below.

- a. **Height:** The height of proposed buildings or modifications shall be visually compatible in comparison or relation to the height of existing structures and buildings in a historic district for all major and minor development. For major development, visual compatibility with respect to the height of residential structures, as defined by 4.5.1(E)(2)(a), shall also be determined through application of the Building Height Plane.
- b. **Front Facade Proportion:** The front facade of each building or structure shall be visually compatible with and be in direct relationship to the width of the building and to the height of the front elevation of other existing structures and buildings within the subject historic district.
- c. **Proportion of Openings (Windows and Doors):** The openings of any building within a historic district shall be visually compatible with the openings exemplified by prevailing historic architectural styles of similar buildings within the district. The relationship of the width of windows and doors to the height of windows and doors among buildings shall be visually compatible within the subject historic district.
- d. **Rhythm of Solids to Voids:** The relationship of solids to voids of a building or structure shall be visually compatible with existing historic buildings or structures within the subject historic district for all development, with particular attention paid to the front facades.
- e. **Rhythm of Buildings on Streets:** The relationship of buildings to open space between them and adjoining buildings shall be visually compatible with the relationship between existing historic buildings or structures within the subject historic district.
- f. **Rhythm of Entrance and/or Porch Projections:** The relationship of entrances and porch projections to the sidewalks of a building shall be visually compatible with existing architectural styles of entrances and porch projections on existing historic buildings and structures within the subject historic district for all development.
- g. **Relationship of Materials, Texture, and Color:** The relationship of materials, texture, and color of the facade of a building and/or hardscaping shall be visually compatible with the predominant materials used in the historic buildings and structures within the subject historic district.
- h. **Roof Shapes:** The roof shape, including type and slope, of a building or structure shall be visually compatible with the roof shape of existing historic buildings or structures within the subject historic district. The roof shape shall be consistent with the architectural style of the building.
- i. **Walls of Continuity:** Walls, fences, evergreen landscape masses, or building facades, shall form cohesive walls of enclosure along a street to ensure visual compatibility with historic buildings or structures within the subject historic district and the structure to which it is visually related.
- j. **Scale of a Building:** The size of a building and the building mass in relation to open spaces, windows, door openings, balconies, porches, and lot size shall be visually compatible with the building size and mass of historic buildings and structures within a historic district for all development. To determine whether the scale of a building is appropriate, the following shall apply for major development only:

- a. For buildings wider than sixty percent (60%) of the lot width, a portion of the front façade must be setback a minimum of seven (7) additional feet from the front setback line:
- b. For buildings deeper than fifty percent (50%) of the lot depth, a portion of each side façade, which is greater than one story high, must be setback a minimum of five (5) additional feet from the side setback line:
- k. **Directional Expression of Front Elevation:** A building shall be visually compatible with the buildings, structures, and sites within a historic district for all development with regard to its directional character, whether vertical or horizontal.
- l. **Architectural Style:** All major and minor development shall consist of only one (1) architectural style per structure or property and not introduce elements definitive of another style.
- m. **Additions to individually designated properties and contributing structures in all historic districts:** Visual compatibility shall be accomplished as follows:
  - 1. Additions shall be located to the rear or least public side of a building and be as inconspicuous as possible.
  - 2. Additions or accessory structures shall not be located in front of the established front wall plane of a historic building.
  - 3. Characteristic features of the original building shall not be destroyed or obscured.
  - 4. Additions shall be designed and constructed so that the basic form and character of the historic building will remain intact if the addition is ever removed.
  - 5. Additions shall not introduce a new architectural style, mimic too closely the style of the existing building nor replicate the original design but shall be coherent in design with the existing building.
  - 6. Additions shall be secondary and subordinate to the main mass of the historic building and shall not overwhelm the original building.

With respect to the BHP, it is noted that there was a previous Waiver approved with the 2016 request that has since expired. The impetus behind the previous approval was that a 5' right-of-way dedication was required for SE 7<sup>th</sup> Avenue reducing the lot depth from 100' to 95'. The Waiver allowed for the BHP to be measured from the original front property line instead of the new property line. The overall effect did not push the building closer to the road, rather it allowed the structure to be designed at the original configuration of the lot. The subject request includes a Waiver to the required BHP for a similar configuration of the structure on the lot. Provided the Waiver request is approved, then the requirements relating to BHP can be met.

Regarding the Relationship of Materials, Texture, and Color states that the relationship of materials, texture, and color of the facade of a building and/or hardscaping shall be visually compatible with the predominant materials used in the historic buildings and structures within the subject historic district. The exterior finish of the residence includes a combination of Hardie-board siding on the first story and simulated stucco board & batten siding on the second story. Bronze, aluminum casement and fixed windows with dimensional muntins and white window surrounds are proposed. Historically, the predominant materials used in and on historic structures within the Marina Historic District are authentic such as wood. With new construction, typically aluminum is utilized for doors, windows and railings with wood elements being utilized for both decorative and structural elements such as siding, shutters, railings, rafter tails, corbels etc. The proposed roof is a cedar shake shingle roof. The main walls of the structure will be painted Pure White (Sherwin Williams 7005) with a white trellis and bronze railings on the 2<sup>nd</sup> floor. The use of authentic materials guarantees the longevity and authenticity of the district, ensuring there will be future resources that will contribute to the architectural and historical context of the historic district. The proposal can be considered compliant with the requirements of the Visual Compatibility Standards (provided the Waiver request is approved).

**COMPREHENSIVE PLAN** A finding of Consistency requires that the requested designation is consistent with Goals, Objectives, and Policies of the Comprehensive Plan adopted at the time of submittal. An amendment to the Comprehensive Plan (Always Delray) was adopted on February 4, 2020, but the application is subject to plan that was adopted at the time of submittal. The applicable Objectives and Policies from the plan effective at the time of submittal are provided below.

**Pursuant to the Historic Preservation Element, Objective 1.4, the redevelopment of land and buildings shall provide for the preservation of historic resources. The objective shall be met through continued adherence to the City's Historic Preservation Ordinance and, where applicable, to architectural design guidelines through the following policies:**

**Future Land Use Policy 1.4.1 Prior to approval or recommending approval of any land use or development application for property located within a historic district or designated as a historic site, the Historic Preservation Board must make a finding that the requested action is consistent with the provisions of Section 4.5.1 of the Land Development Regulations relating to historic sites and districts and the "Delray Beach Design Guidelines".**

With respect to the adjacent land uses, the property is in an area surrounded by single-family and multi-family residential uses. The proposal can be found to be consistent with the requirements of the Comprehensive Plan and provided the conditions of approval are addressed, the request will be considered to be consistent with the provisions of LDR Section 4.5.1 relating to historic sites and districts as well as the "Delray Beach Historic Preservation Design Guidelines".

### **VARIANCE ANALYSIS**

The applicant has requested a setback variance, which is summarized below:

**Pursuant to Section 4.6.15(G)(1), Swimming Pool, Whirlpools, & Spas: Yard Encroachment, swimming pools, the tops of which are no higher than grade level, may extend into the rear, interior or street side setback areas but no closer than ten feet (10') to any property line. Swimming pools shall not extend into the front setback area.**

A variance has been submitted to reduce the swimming pool setback from the required 10' to 5' the rear (east) side of the property.

It is noted that there were previous Variance approvals pertaining to the encroachment of a swimming pool for the subject property. Approval of COA 2011-077, to which the subject property was joined to adjacent lot 55 SE 7<sup>th</sup> Avenue at the time, allowed for a swimming pool to encroach into the rear (east) of the property from the required 10' to 5'. However, this approval is not applicable to the subject property as the site configuration was different at the time as the lot was a 100' x 100' lot with the address of 55 SE 7<sup>th</sup> Avenue.

In 2016, the HPB approved Variances with COA 2015-239 as follows:

- Variance to reduce the required front setback from 25' to 20' for the residence;
- Variance to reduce the required front setback for the pool from 25' to 10';
- Variance to reduce the required side setback for the pool from 10' to 5'; and,

The variance to reduce the required front setback for the structure runs with the land; hence, the design of the proposed structure at a reduced front setback. Also, the variance to reduce the required side setback for the pool also runs with the land and the proposal includes a reduced setback for the pool in the rear of the lot. The variance to reduce the front setback does run with the land; however, the proposal does not include a pool in the front yard, instead a pool is proposed in the rear of the property. The subject Variance request is to allow the required 10' setback in the rear yard to be reduced to 5 for the proposed pool.

**Pursuant to LDR Section 2.2.6(D), the Historic Preservation Board (HPB) shall act on all variance requests within an historic district, or on a historic site, which otherwise would be acted upon by the Board of Adjustment.**

**Pursuant to LDR Section 2.4.7(A)(6) - Alternative Findings of the Historic Preservation Board: The Board may be guided by the following to make findings as an alternative to the variance standard criteria:**

**(a) That a variance is necessary to maintain the historic character of property and demonstrating that the granting of the variance would not be contrary to the public interest, safety, or welfare.**



#### Staff Analysis

The variance request is necessary to maintain the historic character of the property and will not be contrary to the public interest, safety, or welfare. The pool is a ground level improvement, which will preserve the historic character of the property.

**(b) That special conditions and circumstances exist, because of the historic setting, location, nature, or character of the land, structure, appurtenance, sign, or building involved, which are not applicable to other lands, structures, appurtenances, signs, or buildings in the same zoning district, which have not been designated as historic sites or a historic district nor listed on the Local Register of Historic Places.**

#### Staff Analysis

The size of the lot at 50' wide x 95' deep (following the required 5' of right-of-way dedication) presents, special conditions and circumstances that may not be applicable to other historic lands or structures. Allowing the 5' variance within the rear setback allows for a traditional placement of the pool on the property.

**(c) That literal interpretation of the provisions of existing ordinances would alter the historic character of the historic district, or historic site to such an extent that it would not be feasible to preserve the historic character of the historic district or historic site.**

#### Staff Analysis

The variance to reduce the pool setback is supportable given the ground level nature of the improvement.

**(d) That the variance requested will not significantly diminish the historic character of a historic site or of a historic district.**

#### Staff Analysis

The variance to reduce the rear yard setback from the required is not anticipated to diminish the historic character of a historic site nor the district as it is a rear yard improvement.

**(e) That the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site.**

#### Staff Analysis

The requested variance allows for the construction of a new pool permitting the modernization of the residential site, which is an appropriate adaptive reuse of the historic property. The variance will facilitate a sufficient size pool without harming the nature of the property or historic streetscape.

**The property owner has submitted justification statements for the variance request (attached).**

Note: As required by the LDRs, a notice regarding the subject variance request was sent to those property owners located within a 500' radius of the subject property.

### **WAIVER ANALYSIS**

**Pursuant to LDR Section 4.5.1(E) – Development Standards. Relief from Subsections (1) through (9) may be granted by seeking a waiver approvable by the Historic Preservation Board, unless otherwise stated.**

**Pursuant to LDR Section 4.5.1.(E)(8)(b), *Front elevation*. Up to 25 percent of the front elevation(s) can extend above the Building Height Plane (BHP) to a maximum height of 35 feet, provided 25 percent or more of the front elevation(s) remains one story as defined by LDR Section 4.5.1(E)(7)(a)(2). The total width of extension shall not exceed 18 feet along the front elevation(s). See illustration below.**

The subject request is a waiver to permit the front elevation to extend above the Building Height Plane per the Building Height Plane Incentive, to be taken from the pre-dedicated property line.

**Pursuant to LDR Section 2.4.7(B)(5) – Findings: The following findings must be made prior to approval of a waiver:**

**(a) Shall not adversely affect the neighboring area:**

The Building Height Plane and Building Height Plane Incentive are taken from the original property line prior to the required 5' right-of-way dedication along SE 7<sup>th</sup> Avenue. Should the measurement be taken from the new front property line this would result in additional portions of the building being outside of the permitted Building Height Plane areas. These visual compatibility standards were created to control massing of additions and new construction within historic districts **"in order to ensure compatibility in comparison or relation to the height of existing structures and buildings"**. **"The Building Height Plane technique sets back the overall height of a building from the front property line"**. The proposal involves the construction of a new two-story residence on a small 50' wide x 95' deep (after r-o-w dedication). The proposed structure will be adjacent to a single-story residence on the south, a two-story multi-family structure on the north (outside of the district), and a three-story multi-family townhouse project to the west (outside of the district). The proposed structure will be taller than the structures to the north and south but will be shorter than the structure to the west.

**(b) Shall not significantly diminish the provision of public facilities;**

The request is for a private residence and is not anticipated to significantly diminish the provision of public facilities.

**(c) Shall not create an unsafe situation; and,**

The site is subject to a 5' right-of-way dedication along SE 7<sup>th</sup> Avenue which lessens the depth of the property to 95'. Granting relief of BHP would allow for the property to be utilized as it exists

**(d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.**

While there are extenuating circumstances, which exist that affect the subject property, specifically the small size of the lot and the required right-of-way dedication along SE 7<sup>th</sup> Avenue, other properties have been developed with similar circumstances and did not require a Waiver to the Building Height Plane requirements.

**The property owner has submitted justification statements for the waiver request (attached).**

**OPTIONAL BOARD MOTIONS FOR ACTION ITEMS**

A. Move to continue with direction

B. Approve Certificate of Appropriateness (2019-212), Variance, and Waiver requests for the property located at **53 SE 7th Avenue, Marina Historic District** by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.

C. Approve Certificate of Appropriateness (2019-212), Variance, and Waiver requests for the property located at **53 SE 7th Avenue, Marina Historic District** by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations subject to the following conditions:

1. That the garage door design be revised to include individual door openings.

**Site Plan Technical Items:**

1. That 5' of right-of-way be dedicated along SE 7<sup>th</sup> Avenue; and,
2. That a sidewalk be constructed adjacent to the property.

D. Deny Certificate of Appropriateness (2019-212), Variance, and Waiver requests for the property located at **53 SE 7th Avenue, Marina Historic District**, by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.

**PUBLIC AND COURTESY NOTICES**

X Courtesy Notices were provided to the following, at least 5 working days prior to the meeting:

Marina Historic District Homeowners Association

X Public notice mailers were sent to all properties within a 500' radius of the subject property on (6/19/20)

X Agenda was posted on (6/24/20), 5 working days prior to meeting.