

October 05, 2022

City of Delray Beach  
100 NW 1st Avenue  
Delray Beach, Florida 33444

Attn.: Michelle Hoyland – Senior Historic Preservation Planner, Development Services

Re: Babiarz Residence Garage – 226 N. Swinton Ave.; Existing, Contributing Historic Residence & Proposed Garage

Mrs. Hoyland:

I hope all is well. As the Architect Of Record (& Agent) for Mr. & Mrs. Babiarz, please accept this letter and associated package to seek City approval for the complete demo of the existing historic garage structure located at 226 N. Swinton Ave., located within the Old School Square Historic Arts District. Then the building of a new replacement garage, in which we have discussed all aspects with Staff about. I am hereby respectfully submitting a “COA” and a “Variance” application associated with the Project, the “Variance” is respectfully seeking a reduction in the “Side (Interior) Yard Building Setback Line” for our proposed positioning of this new garage within the Site. We seek a modest 5.5’ reduction, from the code required 7.5’ to a proposed 2.0’. This garage will, therefore, become less “non-conforming” in that we are almost doubling the distance off of the North property line yet, positioning it in such a way to still be able to observe it from the East right-of-way or N. Swinton Ave. If set at 7.5’ off of the North property line, the new garage would not be reasonably visible from the Entry.

Pursuant to **LDR Section 2.4.7 “Procedures for Obtaining Relief from Compliance with Portions of the Land Development Regulations”**, please accept the attached fully executed application and sets of Architectural Documents, appropriate mailing envelopes, mailing lists, a 500’ radius map, \$1,500 check, etc.

We recognize that **LDR Section 4.3.4, (H), (1): Setbacks** address building setback guidelines. The “Side Yard Building Setback Line” requirement for our site is 7.5’, as we are within the OSSHAD zoning district. The rationale behind our request is that of keeping our proposed garage in as reasonable close alignment with the existing garage on that side (North) of the Site: it makes the most sense from a visibility standpoint, and flow of the Site plan’s original intent (no odd offset), allows for a vehicle to still enter it from the East, and most importantly – has been tastefully designed so that it has negligible to no negative impact on our immediate next door neighbor.

Pursuant to **LDR Section 4.5.1(E)(8) – Visual Compatibility Standards**.....Our proposed improvements blend into the broad Architectural style of “Spanish Mediterranean”, which is harmonious to that same style of the existing residence; but there are also many subtle hints of unique custom design twists that tie into the simple details of the existing structure – that are unique unto themselves. I also feel that we meet or exceed the Visual Compatibility Standards as follows:

- a. Height & Building Height Plane – the proposed improvements do NOT exceed the highest element of the existing residence; the BHP is not a factor here as the improvements are subordinate to the existing front façade
- b. Front Façade Proportion – the front façade is NOT altered in any way that affects it’s proportion
- c. Proportion of Openings (Windows & Doors) – our proportions, regarding new window/door opening sizes, are ALL very tasteful and well thought out
- d. Rhythm of Solids to Voids – our proportions of such are tasteful and well thought out
- e. Rhythm of Buildings on Streets – unaffected as our front façade is effectively unchanged
- f. Rhythm of Entrance and/or Porch Projections – our Entry is improved and very elegant and we do NOT have a front Porch
- g. Relationships of Materials, Texture & Color – our main exterior building material (siding), texture (semi smooth) and color (no change) are ALL visually compatible with the existing structure as they match all in place
- h. Roof Shapes – we have a shaped roof which matches existing conditions

- i. Walls of Continuity – our proposed “enclosure components” are visually compatible
- j. Scale of a Building – the scale of our proposed improvements are very much visually compatible
- k. Directional Expression of Front Elevation – existing and essentially unaffected so therefore not applicable
- l. Architectural Style – proposed improvements are matching in “style”, therefore compatible
- m. Additions to Individually Designated Properties and to Contributing Structures in all Historic Districts – our proposed improvements are (1) to the least public sides as possible and inconspicuous, (2) are not in front, (3) features of the existing structure are being “replicated”, (4) if ever removed, the proposed improvements do NOT negatively affect the character of the existing structure, (5) the improvements do NOT introduce a new Architectural style, and (6) the proposed improvements ARE secondary and subordinate to the main mass of the existing historic structure and do NOT overwhelm the existing historic structure in any way.

We feel the intent of the code, in all matters, will not be compromised in any fashion whatsoever!

In conclusion, if granted, the “Variance” would in no way “be contrary to the public interest and where owing to the conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship”. Furthermore, we feel “that the reasons set forth in the “Variance” petition justify the granting of the “Variance”, and feel that the “Variance” is the minimum “Variance” that will make possible the reasonable use of the land, building, or structure” and finally “that the granting of the “Variance” will be in (complete) harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare”.

Please do not hesitate to call should you require anything else. I look forward to the support, the approval process and the Historic Preservation Board hearing in the very near future.

Sincerely:

Roger Cope  
Principal  
RWC/jad

Cc John & Cathy Babiarz, Owners  
Gary Miller, GLM General Construction & Remodeling

August 08, 2022

City of Delray Beach  
100 NW 1st Avenue  
Delray Beach, Florida 33444

Attn.: Michelle Hoyland – Senior Historic Preservation Planner, Planning & Zoning

Re: Letter of Justification

Project: Babiarz Residence (Garage) @ 226 N. Swinton Ave., – OSSHAD (Old School Square Historic Arts District)

Mrs. Hoyland:

I hope all is well.

As the Architect-Of-Record for the above referenced Project, please accept this letter of justification associated with the COA processing of our Project.

I am focusing, primarily, on LDR Section 4.5.1(7) Visual Compatibility Standards & the Secretary of the Interiors Standards for Rehabilitation.

#### **JUSTIFICATION**

##### **“Pursuant to LDR Section 4.5.1(7)(a) – Height”**

*Response: We are only proposing to demo the existing, unusable, single car, non-compliant (it violates the North Side, Interior and Rear Yard Building Setbacks) and replace it with a viable, ~~compliant~~, 2-car Garage – ever so slightly taller than the existing. Therefore, we are compatible, and more importantly,* *CEG* *was-* *compliant.*

##### **“Pursuant to LDR Section 4.5.1(7)(b) – Front Façade Proportion”**

*Response: We are essentially flipping the auto entry from the East to the West facades, but, by making the “Front” (East) façade pedestrian friendly (not auto friendly) – we have attempted to shape its proportion much as the existing. Therefore, we are compatible.*

##### **“Pursuant to LDR Section 4.5.1(7)(c) – Proportion of Openings (Windows & Doors)”**

*Response: We are proposing minimal window and door openings (for security), much like the existing which only had a lone window on each of its North and South sides. Therefore, we are compatible.*

##### **“Pursuant to LDR Section 4.5.1(7)(d) – Rhythm of Solids to Voids”**

*Response: I contend our rhythm of solids to voids, for the proposed Garage are tasteful. Therefore, we are compatible.*

##### **“Pursuant to LDR Section 4.5.1 (7)(e) – Rhythm of Building on Streets”**

*Response: Our proposed improvements are consistent with other adjacent structures, and so we do NOT disrupt the rhythm of anything on this parcel, block, street or district. Therefore, we are compatible.*

##### **“Pursuant to LDR Section 4.5.1(7)(f) – Rhythm of Entrance and/or Porch Projection(s)”**

*Response: We are proposing a tastefully designed, proportionally integrated new Front Entry as well as a new open-air outdoor space preceding the Entry experience. Therefore, we are compatible.*

**“Pursuant to LDR Section 4.5.1(7)(g) – Relationship of Materials, Texture & Color”**

*Response: All completely harmonious with existing conditions. Therefore, we are compatible.*

**“Pursuant to LDR Section 4.5.1(7)(h) – Roof Shapes”**

*Response: Our existing structure has gabled sloped roof shapes. Our proposed rear (subordinate) improvements incorporate hipped sloped roof shapes. Therefore, we are NOT mimicking but are compatible.*

**“Pursuant to LDR Section 4.5.1(7)(i) – Walls of Continuity”**

*Response: We are proposing nothing to change this visual compatibility, therefore it is not applicable.*

**“Pursuant to LDR Section 4.5.1(7)(j) – Scale of a Building”**

*Response: Both, our existing structure and proposed modifications are very much in keeping with the scale of the existing street and community. Therefore, we are compatible.*

**“Pursuant to LDR Section 4.5.1(7)(k) – Directional Expression of Front Elevation”**

*Response: We have proposed nothing to alter the existing directional expression of the front elevation. Therefore, we are compatible.*

**“Pursuant to LDR Section 4.5.1(7)(l) – Architectural Style”**

*Response: Our renovation and proposed expansion is NOT altering the existing Architectural Style. I classify our additions and modifications as being very much in harmony with this very celebrated and unique style of Architecture. Therefore, we are compatible.*

**“Pursuant to LDR Section 4.5.1(7)(m) – Additions to Individually Designated Properties & Contributing Structures in all Historic Districts”**

*Response: We are compatible because,*

- 1. Our proposed improvements are as subordinate to existing conditions and the structure as possible.*
- 2. We ARE proposing modest “improvements”, the minimum necessary to provide a comfortable and contemporary way of life for future occupants.*
- 3. We are not destroying characteristic features of the original building.*
- 4. The basic form and character of the MAIN historic structure will remain intact should our proposed improvements ever be removed.*
- 5. Our proposal does not introduce a new Architectural style nor does it mimic too closely the style of the original building. It closely resembles and compliments it.*
- 6. Our proposal is subordinate to the original building and does not overwhelm it in any way*

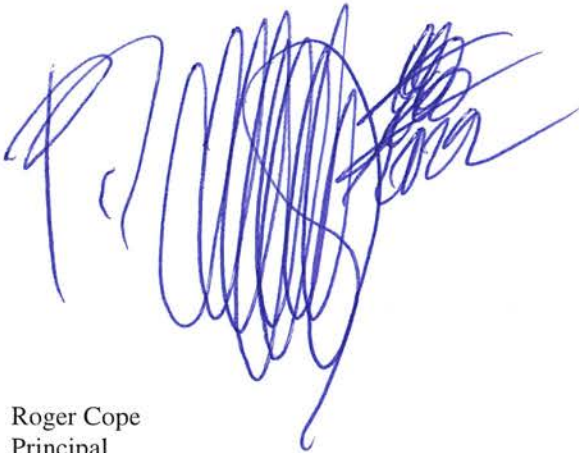
*Please see attached “Exhibit “A”, which delineates all ten (10) Secretary of The Interior Standards and how they might be applicable to our Project.*



Finally, in my humble opinion, our proposal is an excellent example of renovating and rehabilitating an existing historic structure as outlined in the Secretary of the Interiors Standards for Rehabilitation, an electronic copy of which is hereby included in our Flash drive associated with this COA application.

This concludes our justification letter. Please do not hesitate to call should you require anything further. We look forward to being scheduled before the next appropriate HPB Board hearing. Thank you in advance.

Sincerely:

A handwritten signature in blue ink, appearing to read 'Roger Cope', with a large, stylized flourish extending from the end of the name.

Roger Cope  
Principal  
RWC/jad

Cc Cathy & John Babiarz, Clients

“EXHIBIT A”

**SECRETARY OF THE INTERIOR STANDARDS: EXISTING STRUCTURES**

**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.”**

*Response: We are not changing the property at all, it shall remain a private single family residence.*

**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.”**

*Response: Although we are seeking to demo the existing subordinate Garage, we do not view this as negatively altering the character of the overall property – as we are replacing said with a new, improved, Garage of similar design which fits just as well into the overall composite mix of the site.*

**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.”**

*Response: We are not attempting to do anything conjectural.*

**Standard #4: “Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.”**

*Response: We agree, we have gone to great lengths to preserve the Main structure, the anchor of the property.*

**Standard #5: “Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize(s) a property shall be preserved.”**

*Response: We agree and are preserving such.*

**Standard #6: “Deteriorated historic features shall be repaired rather than replaced. Where the severity of the 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.”**

*Response: Not applicable.*

**Standard #7: “Chemical or physical treatments, such as sandblasting, that causes damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.”**

*Response: Not applicable.*

**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.”**

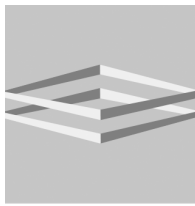
*Response: Not applicable.*

**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 it’s environment.”**

*Response: We shall create a new & differentiating exterior stucco finish that is quite unique from that used on the Main historic structure, we will be compatible in massing, size, scale, and other Architectural features.*

**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 it’s environment would be unimpaired.”**

*Response: Because we are proposing a new, detached structure, if our Garage were removed in the future it would be independent of the original historic Main structure and therefore not have any negative impact upon it.*



**DUNAY  
MISKEL  
BACKMAN** LLP

Gary Dunay  
Bonnie Miskel  
Scott Backman  
Eric Coffman

Hope Calhoun  
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Christina Bilenki  
David F. Milledge  
Jeffrey Schneider  
Kristen Weiss  
Sara Thompson

The Babiarz Residence – COA 2022-294  
226 North Swinton Avenue  
Demolition Justification Statement – Dated April 4, 2023

Cathy and John Babiarz (Applicants), through undersigned counsel, respectfully request authorization from the Historic Preservation Board to demolish a free-standing garage on their property located at 226 North Swinton Avenue (“Property”) in the Old School Square Historic District. This request is in association with their application for issuance of a Certificate of Appropriateness to make minor changes to the home on the Property and replace the garage with a new, aesthetically compatible garage. In association with this request, it is important to note the following:

- The proposed removal of the small garage represents demolition of 9.9% of the total square footage of the structures on site.
- The garage is located behind the house and is situated with existing landscaping and other features such that it is hardly visible from the street or adjoining properties.
- The garage is in an extreme state of disrepair and cannot be used by the Applicants because of the unsafe condition it is in.

Pursuant to Section 4.5.1(F)(10) of the City of Delray Beach Land Development Code, Applicants hereby submit this demolition justification statement. Each of the applicable code criteria are listed below with Applicants’ responses provided in bold, italic text.

- (a) A certified report from a registered architect or engineer which provides documentation explaining that the building is structurally unsound and is damaged beyond the ability to repair it at a reasonable cost. The report must include photographs to substantiate the damage.

***Applicant Response: See attached Certified Report from architect, Roger Cope. Photographs are included with the report.***

- (b) A certified report from an engineer, architect, general contractor, or other qualified professional which documents the projected cost of repairing the structure and returning it to a safe and habitable condition. [Amd. Ord. 55-07 1/15/08]

***Applicant Response: See attached Certified Report from architect, Roger Cope.***

- (c) An appraisal of the property in its current condition, its value as vacant land and its potential value as a preserved and restored historic property.

***Applicant Response: See attached appraisal.***

- (d) Documentation that reasonable efforts have been made to find a suitable alternate location for the structure within the City of Delray Beach which the contributing/individually designated historic structure could be safely relocated.



*Applicant Response: On April 1, 2023, Roger Cope, architect for Applicants, spoke with Winnie Edwards, at the Historic Society, and Winnie Edwards stated that she did not believe any of the garage was salvageable and did not wish to preserve any parts of the garage. Winnie Edwards advised Roger Cope that she would notify Michelle Hoyland at the City of Delray Beach of this in writing.*

- (e) Documentation that the applicant or property owner has taken such steps as it deems necessary to preserve the structure requested for demolition including consultation with community groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies, or agencies and exploration of the possibility of moving one or more structures or other features.

*Applicant Response: On April 1, 2023, Roger Cope, architect for Applicants, spoke with Winnie Edwards, at the Historic Society, and Winnie Edwards stated that she did not believe any of the garage was salvageable and did not wish to preserve any parts of the garage. Winnie Edwards advised Roger Cope that she would notify Michelle Hoyland at the City of Delray Beach of this in writing.*

Please contact the undersigned should you have any questions. Thank you in advance for your consideration of this request.

Sincerely,

A handwritten signature in blue ink that reads "Matthew H. Scott". The signature is written in a cursive, flowing style.

Matthew H. Scott, Esq.