



# CITY OF DELRAY BEACH

## DEPARTMENT OF DEVELOPMENT SERVICES

100 N.W. 1<sup>ST</sup> AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7040



### CITY COMMISSION STAFF REPORT

#### 46 Marine Way

Meeting	File No.	Application Type
August 19, 2025	2024-133	Certificate of Appropriateness, Relocations, Variances, & Waivers

#### REQUEST

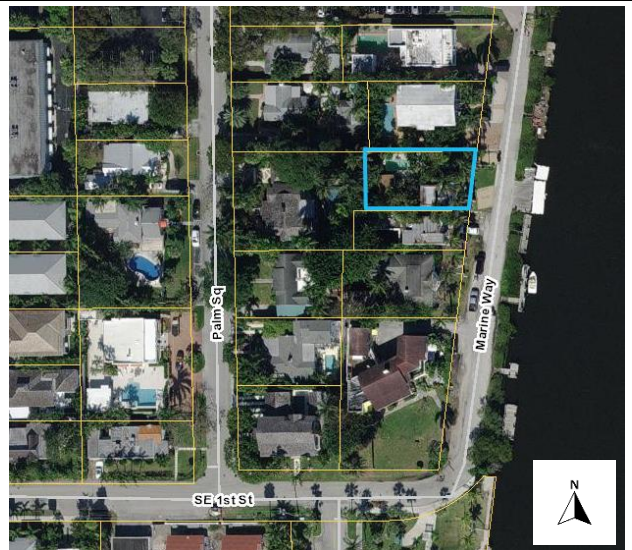
The item before the Board is consideration of a Certificate of Appropriateness, Relocation, Variances, & Waivers (2024-133) in association with the vertical relocation and alteration of the existing contributing structures (1,328 two-story main structure & 296 sq. ft. one-story guest cottage – 1,644 sq. ft. overall), and construction of additions containing 3,814 sq. ft. (5,457 sq. ft. overall building) for the property located at **46 Marine Way, Marina Historic District**.

#### GENERAL DATA

**Owner:** 46 Marine Way, LLC  
**Applicant:** Catherine Edwards  
**Location:** 46 Marine Way  
**PCN:** 12-43-46-16-34-000-0642  
**Property Size:** 0.12 Acres  
**Zoning:** Multiple Family Residential (RM)  
**FLUM:** Multiple Family Residential (RM)  
**Historic District:** Marina Historic District  
**Adjacent Zoning:**

- RM - Medium Density Residential (North)
- RM - Medium Density Residential (East)
- RM - Multiple Density Residential (South)
- RM - Multiple Density Residential (West)

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



#### BACKGROUND AND PROJECT DESCRIPTION

The subject 0.12-acre property is located on the west side of Marine Way, south of E. Atlantic Avenue and north of SE 1<sup>st</sup> Street within the Locally and Nationally Registered Marina Historic District. The property contains a two-story residential structure with a detached pool house in the rear of the property. According to the original City of Delray Beach Building Yellow Cards, both structures were built in 1926. The structures are classified as contributing to the Marina Historic District and serve as prime example of Mediterranean Revival architecture within Delray Beach. The original detailing of the structures has been preserved and, as such, they qualify for individual listing to the National Register of Historic Places.

The existing 1,328 sq. ft. two-story residence and detached, 296 sq. ft. one-story guest cottage are proposed for vertical relocation, alteration, and additions. The proposal involves the construction of new

<b>Project Planner(s):</b> Anthea Gianniotis, Director Katherina Paliwoda, Senior Historic Preservation Planner Michelle Hoyland, Principal Historic Preservation Planner	<b>Review Dates:</b> August 19, 2025	<b>Attachments:</b> <ol style="list-style-type: none"><li>1. Plans, Survey, &amp; Renderings</li><li>2. Photographs</li><li>3. Color &amp; Materials</li><li>4. Justification Statements</li></ol>
--	---	--

one and three-story additions containing 5,457 sq. ft. overall (4,922 sq. ft. under air), connecting the two existing structures with the existing guest cottage being raised to the third floor level, construction of a new swimming pool, and hardscaping. Below are the descriptions of the additional requests:

**Variances (see chart on Page 3):**

- Front (east) setback relief request;
- Side (south) setback relief request;
- Rear (rear) setback relief request; and,
- Side interior (north) setback relief request (swimming pool).

**Relocation:**

- Proposed vertical relocation of existing home; and,
- Proposed vertical relocation of existing guest cottage.

**Waivers**

- Proposed waiver relief request – Secondary and Subordinate Visual Compatibility Standard;
- Proposed waiver relief request – Building Height Plane Visual Compatibility Standard; and,
- Proposed waiver relief request – Scale of a Building Visual Compatibility Standard.

At its meeting of June 4<sup>th</sup>, 2025, the Historic Preservation Board approved a Certificate of Appropriateness, Relocations, Variances, and Waivers for the subject property, by a vote of 4 - 3.

Pursuant to LDR Section 2.5(C)(2), at its meeting of June 17, 2025, the City Commission appealed the approval of the project.

Pursuant to LDR Section 2.5(E)(2) a *de novo* review of the decision is now before the City Commission.

**REVIEW AND ANALYSIS**

Pursuant to Land Development Regulation (LDR) Section 2.4.12(A)(5), prior to approval, a finding must be made that any Certificate of Appropriateness is consistent with Historic Preservation purposes pursuant to Objective HPE 1.4 of the Historic Preservation Element of the Comprehensive Plan; the provisions of Section 4.5.1; the Delray Beach Historic Preservation Design Guidelines; and, the Secretary of the Interior's Standards for Rehabilitation.

**ZONING USE AND REVIEW**

Pursuant to LDR Section 4.4.6 – **Multiple Family Residential (RM) Development Standards**: The proposed use is single-family residential, which is a permitted use within the RM zoning district. Pursuant to LDR Section 4.4.6(F)(1), the R-1-A District regulations apply to single-family detached dwellings.

Pursuant to LDR Section 4.3.4(K) Development Standards and LDR Section 4.6.15 Swimming Pools, single-family structures within the RM zoning district, shall be developed according to the requirements set forth in the R-1-A development standards, noted in the chart below:

DEVELOPMENT STANDARDS	REQUIRED	EXISTING	PROPOSED
OPEN SPACE	25%	74%	50%
SETBACKS (MINIMUM) FRONT (EAST)	25'	17'7"	9'8" – 12'7"*
SIDE INTERIOR (SOUTH)	7'6"	2'3"	2'3"*

SIDE INTERIOR (NORTH)	7'6"	22'1"	7'6"
REAR (WEST)	10'	6'8"	8'4"*
HEIGHT	35'(MAX)	18'6"	35'
<b>SWIMMING POOL</b>			
SIDE INTERIOR (NORTH)	10'	7'2"	7'6"*

**\* Variance Requests**

**SWIMMING POOL, WHIRLPOOLS, AND SPAS**

**Pursuant to LDR Section 4.6.15(G) Swimming Pool - 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 to any property line. Swimming pools shall not extend into the front setback area noted in Section 4.3.4(K).**

The property contains an existing swimming pool on the north side of the property, which is currently non-conforming having a setback of 7 feet 2 inches, where 10 feet is required from the water's edge. The project proposes to remove the existing pool and construct a new pool that will encroach into the required 10-foot setback, proposed on the north side with a setback of 7 feet 6 inches; the pool is proposed to be situated on a raised patio deck at 9 feet NAVD (North American Vertical Datum) elevation. The setback variance request is analyzed in the Variance section of this staff report.

**Pursuant to LDR Section 4.6.9 - Off-street Parking Regulations(C)(2)(b), 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 subject property is less than 60 feet wide and does not have alley access. A two-vehicle gravel parking area exists on the east side (front) of the property, encroaching into both the front setback and the public right-of-way. The proposal constructs a two-car driveway and provides parking for two vehicles within a new garage, constructed underneath the relocated, existing, contributing residence. The proposal eliminates the existing non-conforming location of parking spaces, but the solution raises its own concerns.

**ROW DEDICATIONS**

While it is noted that no right-of-way dedications are required for this application, a capital improvement project is underway known as the Historic Marine Way Seawall, Roadway and Drainage Improvement. The project is aimed at addressing flooding issues occurring along Marine Way (see photo bottom right). The project will install a new seawall along the east side of Marine Way. The drainage system will be upgraded and routed to a new stormwater pump station with a backup emergency generator (located at SE 2<sup>nd</sup> Street and Marine Way). A new water-main and sewer system will be installed along Marine Way. Pedestrian friendly lighting, shared-use path, landscape/hardscape improvements, and wayfinding signage are included in this project.

The city has held community meetings over the last several years to gather public input on the project and the impact of flooding upon the area. The applicant has been encouraged to connect with the Public Works Department to learn more about the project and how their proposal coordinates with the same.

## **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 4.5.1E(2) – Major and Minor Development.**

The subject application is considered "Major Development" as it involves the modification of more than 25 percent of the existing contributing single-family residence within the RM zoning district.

Pursuant to LDR Section 4.5.1E(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:

- a. 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.
- b. 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.
- c. Fences and walls over four feet (4') shall not be allowed in front or side street setbacks.
- d. Non-historic and/or synthetic materials are discouraged, particularly when visible from a public right of way.
- e. 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 subject site contains an existing six feet tall fence on the north, west, and south sides of the property. The existing wood fence is proposed to remain. There is also an existing aluminum fence located with the interior and rear side of the property of the main existing structure.

Separately, the proposal includes construction of a 3' CBS planter wall around the base of the structure at the front of the property and two sets of steps are proposed on the front of the proposed front porch element. It is noted that the wall is illustrated on the elevation but not called out on the site plans; therefore, a site plan technical item has been attached to update the drawing prior to certification.

#### **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 request includes construction of a new two-car garage with a single two-car wide garage door. The garage door is proposed to be white aluminum with wood framing in a louvered Bahamian style. The garage door design appears residential in nature, but there is concern that it is not compatible with the Mediterranean architectural style. While the proposed style is designed to emulate the appearance of two separate openings, the doors should be individual openings for the vehicles to give a more appropriate residential scale and appearance. Further, while this LDR requirement indicates that garages are encouraged to be oriented so they are out-of-view from a public right-of-way, and the side loaded garage does aid in this requirement, the garage and doors will still be visible from the Marine Way right-of-way. Given the narrow width of the lot, such orientation is difficult to achieve.

This LDR Section relating to **Appurtenances**, states that **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.** The proposal involves vertical relocation of the main residence, which exists below the minimum required nine-foot finished floor elevation required by the Federal Emergency Management Agency (FEMA) and established by the Flood Insurance Rate Map and the Florida Building Code. Vertical elevation of the contributing structure is anticipated to ensure it is resiliency and longevity, given the frequency with which Marine Way has flooded. As previously noted, the city has begun a multi-million-dollar improvement project to further reduce the effects of flooding due to severe weather events, king tides, sea level rise, etc. However, it is noted that the main structure is proposed for vertical elevation to a finished floor elevation of 14 feet NAVD (five feet higher than required and four feet more than the freeboard allowance of one additional foot) to accommodate a new garage on the ground level, while the new three-story addition is proposed at nine feet finished floor elevation. The extra elevation of the historic structure to accommodate the garage underneath impacts the scale of the existing building. Consideration could be given to locating the garage underneath the new addition rather than underneath the raised existing contributing residence. Such configuration would aid in minimizing the impact of vertical relocation upon the historical integrity of the residence and would further preserve the architectural and historical character of the building, site, streetscape, and surrounding Marina Historic District. It is acknowledged that the garage would still be visible from the Marine Way and Intracoastal rights-of-way, but it would be set back further in the property, rather than situated near the front of the site. The board will need to decide if the configuration and location of the garage, style of garage door, and two-car expanse of the door meets the requirements of the LDR.

**Parking: Parking areas shall strive to contribute to the historic nature of the properties/districts in which they are located by use of creative design and landscape elements to buffer parking areas from adjacent historic structures. At a minimum, the following criteria shall be considered:**

- a. Locate parking adjacent to the building or in the rear.
- b. Screen parking that can be viewed from a public right-of-way with fencing, landscaping, or a combination of the two.
- c. Utilize existing alleys to provide vehicular access to sites.
- d. Construct new curb cuts and street side driveways only in areas where they are appropriate or existed historically.
- e. Use appropriate materials for driveways.
- f. Driveway type and design should convey the historic character of the district and the property.

The subject request includes a new two-car garage, with access from the front (east) side of the site, and visible from the adjacent Marine Way right-of-way. The parking could be accommodated further to the rear of the site, similar to other projects within the Marina Historic District. Further, the Marine Way Capital Improvement Project includes the construction of parking along the west side of the road in front of each property and such parking could serve for use by the individual property owners. In this case, the proposal is anticipated to reduce the existing parking non-conformity. Finally, the proposed paver materials are considered appropriate for the district and site.

**Pursuant to LDR Section 4.5.1(E)(4) – Alterations: in considering proposals for alterations to the exterior of historic buildings and structures and in applying development and preservation standards, the documented, original design of the building may be considered, among other factors.**

Applicable development and preservation standards have been applied during the review of the proposal while also taking into consideration the original design of the contributing structure and its location within the Locally and Nationally Designated Marina Historic District.

#### **SECRETARY OF THE INTERIORS STANDARDS**

**Pursuant to LDR Section 4.5.1(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.**

Standards 1, 2, 3, 5, 9, and 10 are applicable. The property has been utilized as a single-family residence, to which there is no change in the use proposed for the site, therefore there are no concerns with **Standard 1**. Regarding **Standard 2, 3, & 5**, the proposal involves elevating the structure five feet higher than the required nine feet finished floor elevation required by FEMA and the Florida Building Code (from the existing four feet NAVD to 14 feet NAVD once elevated) to accommodate a new garage beneath it in conjunction with a proposed front patio/porch. The proposed front patio/porch has been designed to be terraced with a 3-foot planter wall along the base. While the terracing method is a recognized approach to concealing vertical elevation of historic structures in response to flood zone mitigation, the overall increase in the structure's height by an additional three to five feet above the minimum FEMA requirement results in a greater impact upon the adjacent historic streetscape and increases the massing of the overall project. Further, the design of the project with additional front porches and terraces increases the existing front setback non-conformity (requiring a setback variance), as the raised porches and terraces are no longer ground level improvements as the existing patio is. There are also concerns with the construction of the patio/open porch forward of the front wall plane of the residence with respect to preservation of the historic façade. Consideration could have been given to locating the new garage within the proposed rear/side addition, which is situated further back on the site, rather than underneath the existing historic structure. Such configuration could reduce the impact imposed by the height on the appearance of the existing contributing/historic residence, as well as its historic facade. The board will need to make a determination if the alterations are compatible with the historic structure and the Marina Historic District and appropriate examples of craftsmanship that characterize the Mediterranean Revival style structure.

With regard to **Standards 9 and 10**, the proposal involves the vertical relocation of the accessory structure from grade to the third-floor level and shifting the structure southwest on the site. The first and second floors below will align with the accessory structure's placement. This creates concerns, as a continuous wall will be created along the expanse of the south side of the structure, requiring a waiver request for the Scale of Building visual compatibility standard along with a variance to allow a 2'3" side interior setback on the south side of the property for the entire structure (existing and proposed). The majority of the third floor will be the vertically relocated, detached accessory structure, and it will no longer function as a separate detached structure. The structure will be absorbed into the new house.

Below are site specific examples of projects and a few recommended approaches/guidance to Elevating on a New Foundation, taken directly from the Secretary of the Interior's Flood Adaption Guidelines, that remain applicable to the modified request. It is noted that the "Recommended" and "Not Recommended" approaches are designed to aid in a project's ability to comply with the Secretary of the Interior's Standards for Rehabilitation:



(a) Photo: Rubion Construction Co., LLC

[B3] This historic house has been elevated and altered to an extent that it has lost its historic character and integrity. As part of the project to elevate the house, a new story was added beneath the original one-story building. Elevating a small-scale or one-story building by an additional story is almost always not an appropriate adaption.



(b) Photo: Rubion Construction Co., LLC

## HEIGHT OF THE ELEVATION

RECOMMENDED	NOT RECOMMENDED
Identifying and retaining the historic massing, scale, size, form, and proportional relationships of the major elements of the historic building and/or the historic district.	Elevating a building without considering the impact to the massing, size, scale, form, and proportional relationships of the historic building and/or the historic district.
Designing a new foundation that preserves the historic character of the building.	Designing a new foundation that is too tall, so that its size and scale are out of proportion to the historic building and, diminishing its character.

## ASSOCIATED SITE ALTERATIONS

(SEE ALSO SITE AND LANDSCAPE ADAPTATIONS)

RECOMMENDED	NOT RECOMMENDED
Altering the landscape by adding fill or constructing raised planters to reduce the amount of new foundation that is visible.	Altering a landscape, garden, or archeological site that has historic significance in its own right or that is integral to the significance of the site in conjunction with the building.
Designing new driveways, parking areas, or patios so that they are as unobtrusive as possible and are compatible with the historic character of the property and the district.	Adding new site features in prominent locations where they negatively impact the historic character of the building site or result in the loss of historic landscape features or plant materials.
Using permeable surfaces where possible.	Adding new driveways and curb cuts to facilitate parking underneath an elevated house.

## NEW FOUNDATION

RECOMMENDED	NOT RECOMMENDED
Using creative design techniques to minimize the perception of the change in height and appearance of the foundation of the historic building where compatible.	Designing new foundation treatments that mask the change in elevation to a point that alters the historic proportions of the building and changes its historic character.
Creating an illusion of solidity in tall open foundations by installing louvers or traditional lattice between piers or posts.	
Creating an illusion of a shorter foundation in wood-clad buildings by lowering the transition point from visible foundation materials to siding or weatherboard.	

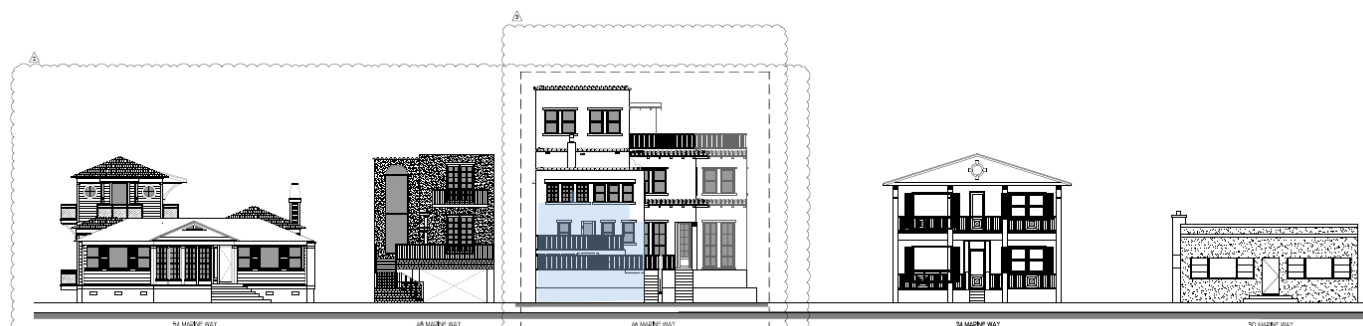
[93] This home has used elevated planting beds across the front of the house to bring the landscaping up higher and help screen the change in height. The stairs are stone, to blend in with the foundation and the planters, and a landing breaks up the long run of stairs at a point that aligns with the top of the planters. This provides a visual reference point for what was the original foundation height. The garage remains at grade level. Photo: FloodSavvy.com



There is concern with the construction of the three-story addition, as it may create a false sense of historical development (**Standard 3**), and be considered incompatible with the size, massing, and scale of the historic streetscape (**Standard 9**). Existing contributing/historic structures within the historic district are low in scale, typically one to two stories in height. Below is imagery of the existing and proposed streetscape along Marine Way. These images depict examples of how alteration of a site and structure with regards to massing and height could negatively affect visual compatibility of a historic streetscape and could have a negative effect upon the historic integrity of the property and its environment.



Existing streetscape - Marine Way



Proposed streetscape - Marine Way

There is also concern with the method of layout/configuration and the attachment of the existing structures on the site, as their proposed connections will eliminate the ability for the additions to be removed without impacting the historic integrity of the structures. Should the rear/side additions ever be removed in the future (**Standard 10**), the home would be left with a bedroom and recreational space (yoga room), as other elements, such as the kitchen, will be moved to the addition. It is difficult to envision a scenario where the garage could ever be removed as it is proposed to become the structures new ground floor and foundation. Thus, there are concerns with respect to the project's ability to comply with this Secretary of the Interior's Standard. The board will need to make a determination that the proposal can be found in compliance with these requirements.

**Pursuant to LDR Section 4.5.1I(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 4.5.1I(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 4.5.1I(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 **Height**, although the proposal meets the 35 feet maximum height requirement for the zoning district, there is concern that the three-story addition is not visually compatible with the Marine Way historic streetscape. While it is anticipated that some of the third story will not be visible from the adjacent right-of-way (when viewed from the front of the property) it will be visible from the adjacent properties to the south, west, and north and from a distance further away in the historic district. Having particular impact on the adjacent historic property to the south, as the addition is proposed to be 42 feet tall measured from grade to top of roof of the third floor (the proposed 35 feet maximum overall height is measured from finished floor elevation, and such is permitted by the LDRs within FEMA flood zones). Existing historic/contributing residential structures within the Marina Historic District are one or two-stories. The proposal also does not meet the LDR requirements for Building Height Plane (BHP), with a large portion of the new addition proposed within the “no build zone” (a waiver to this standard has been requested and is analyzed further in this report).

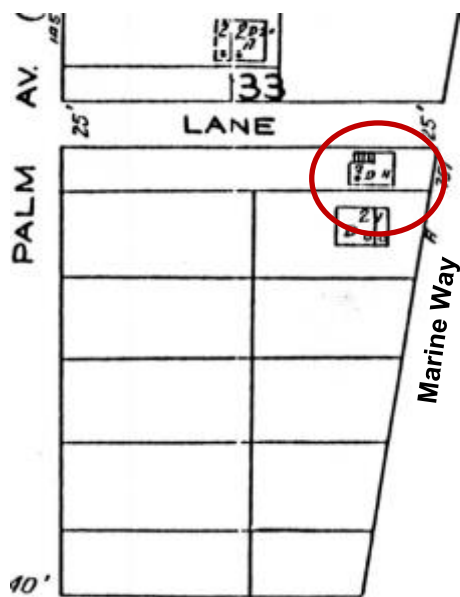
There is concern with the proposed **Proportion of Openings (Windows and Doors)**, in that the rhythm and placement of the windows on the existing structure may no longer reflect the window pattern of the historic structure. Also, the placement of windows/doors that correlate to the use and floor levels within the building creates an array of window placements on some of the building elevations. There are concerns that the proposed window sizes could create a conflict with the transition of the original structure to the new addition, but their placement does aid in providing distinction between floors. For example, the original sliding glass doors on the rear/west side of the guest cottage are being retained at the 3<sup>rd</sup> floor level and appear out of place at that plane. The existing awning style window on the same elevation is also proposed to be retained, where it would be standard practice to replace it with a single-hung window. Consideration could be given to modifying the sliding glass door opening to accommodate a balcony or to incorporate the use of standard windows that are in line with the design of other proposed windows. All of the windows on the existing residence are to be replaced with impact resistant, clear, no low-e, non-reflective, no tint glass; with nearly all of the existing openings remaining in their original location. On the south elevation, a square window is to be replaced with a single hung window.

A patio/porch is proposed, designed to be multi-level/terraced, including two sets of steps, with varying heights ranging from three feet at the planter wall, then six feet six inches, and finishing at 12.16 feet. The proposed method for disguising the elevated structure could be seen as relatively compatible with the historic district’s development pattern and architecture as it relates to the **Rhythm of Solids to Voids** as well as the **Directional Expression of the Front Elevation**. However, its overall height, a result of the proposed garage situated beneath the historic/contributing structure, impacts the project’s ability to be truly cohesive with the existing architecture and historic streetscape. As previously stated, the overall size of the front porch element could be reduced, if the structure was not proposed for elevation beyond the 9 feet FEMA and Florida Building Code finished floor elevation requirements. A

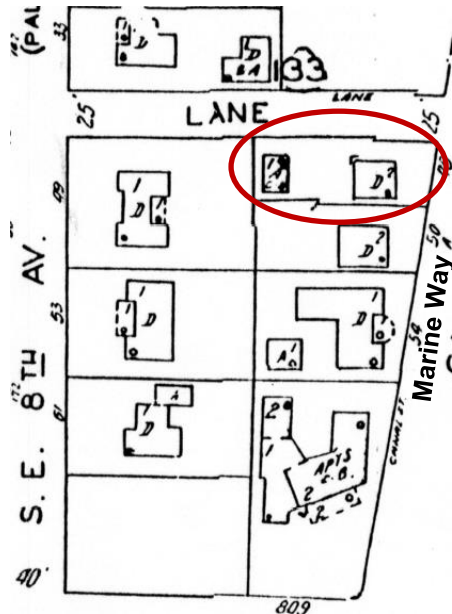
variance is being requested for the front setback by a little over two feet to allow the patio/porch element to encroach into an already non-conforming front setback.

With regard to **Relationship of Materials, Texture, and Color**, there are no concerns with the proposal for this standard, as all materials proposed are authentic and compatible with the architecture.

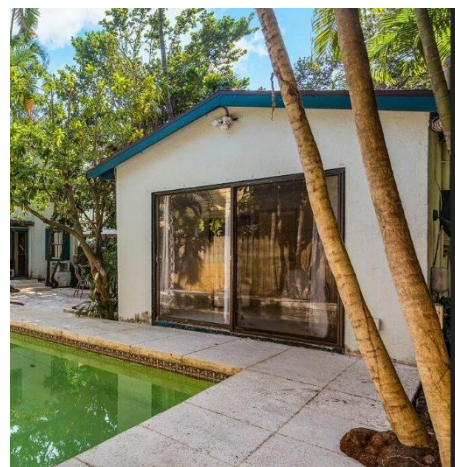
There has been speculation that the structures were moved to the subject site and placed in their current configuration with the front facades facing north or the former “Lovers Lane” right-of-way in the early 1900’s (see below Sanborn Maps and photo exhibit of the accessory structure). A site inspection did reveal that the north elevation, facing the side interior lot line, possesses more character and architectural detailing. Yet, the **Directional Expression of the Front Elevation** visual compatibility standard is applicable to the east façade (facing Marine Way) of the primary residence, since the structure has historically existed in its siting for nearly 100 years.



1926 Sanborn Map



1949 Sanborn Map



Detached Accessory Structure  
former garage facing  
former Lovers Lane

Concerns remain relating to the **Rhythm of Entrance and/or Porch Projections** and **Directional Expression Of The Front Elevation**, specifically in that the original structure and its placement within the design would no longer be recognizable as it is absorbed within the larger massing of the additions. The images below illustrate the existing structure outlined in red (photo on right) in relation to the larger proposed rear/side, garage, and porch additions:



Regarding **Architectural Style**, the proposal will maintain the existing ornamental elements including the clay roof scuppers, bell tower, barrel tile parapet detailing, & chimney, and the proposed detailing and materials are compatible with the Mediterranean Revival architectural style. There is concern, however, with some of the proposed windows and doors due to their larger scale compared to the existing windows and other historic structures within the district. The **Delray Beach Historic Preservation Design**

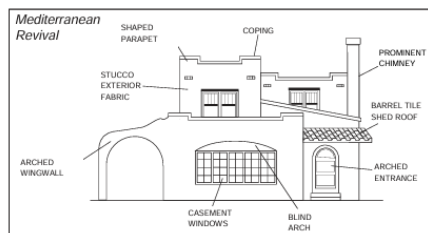
**Guidelines** outline the general characteristics of the Mediterranean Revival style including overall height as one and two-and-one-half story structures and the juxtaposition of one and two stories. The proposal does provide for a juxtaposition between the second and third story, but incorporation of a third story is not typical of the style and challenges the historic integrity of the existing structure.

Regarding the **Roof**, roof overhangs are proposed on the addition that are slightly larger than the existing overhangs. This detail can be considered appropriate for the addition, as it is a modern interpretation of the Mediterranean Revival style and serves to create a minor distinction between the existing residence and the addition. The board will need to make a determination that the proposal is compliant with the **Architectural Style** visual compatibility standard, particularly as it relates to the incorporation of a three-story proposal.

Regarding the **Additions** visual compatibility standard, there is concern with the overall proposal in relation to the existing historic structure and surrounding historic structures within the Marina Historic District. While the proposed addition is appropriate behind the historic structure, it is substantially larger than the historic structure, affecting visual compatibility relating to additions being “as inconspicuous as possible”. Additionally, the addition proposes to continue the nonconforming setback along the side property lines, rather than set in to meet current setback requirements, a technique that helps demarcate the original building from the modern addition and minimizes impacts on the historic structure on the adjacent property.

There is also overall concern with the proposed project’s impact on the contributing status of the structure. Historic resource surveys are conducted every five to ten years by a consultant to identify potential new contributors or inappropriate alterations that may have occurred within historic districts. Hence, the importance of the application of the LDRs, Secretary of the Interior’s Standards for Rehabilitation, and the Delray Beach Historic Preservation Design Guidelines to ensure the structure wouldn’t be removed from contributing status. Removing the structure would create a pocket in the district, weakening the district’s overall standing. While the structure must be vertically elevated not only to meet FEMA/Florida Building Code requirements, but for the preservation of the structure, efforts

#### Mediterranean Revival/Spanish Eclectic (1920–1940)



The Mediterranean Revival style was not limited to Florida, but finds examples across the country, notably in California, Arizona and Texas. Contemporary architectural historians have differed in their choice of names for this Florida phenomenon, but all agree that Florida's Mediterranean Revival demonstrates an eclecticism that capitalizes on a number of design traditions.

In an article entitled “The New Mediterranean Architecture of Florida” by Mattack Price, published in the June 1925 edition of *House Beautiful*, the author describes the style that became the pre-eminent choice for buildings in Florida during the Land Boom of the 1920s. He begins by describing the Spanish-derivative forms in California, specifically refers to Mission Revival, and then continues to Arizona and Texas to describe Pueblo designs.



Mediterranean Revival commercial building

Virginia and Lee McAlester in their book, *A Field Guide to American Architecture*, begin their explanation with a section entitled “Eclectic Houses 1880–1940.” They then

name variants of what has been generically called Mediterranean Revival. They include the following styles: Italian Renaissance, Mission, Spanish Eclectic, Monterey, and Pueblo Revival.

Professor David Gebhard, in his article for the *Journal of the Society of Architectural Historians* entitled “The Spanish Colonial Revival in Southern California,” provides a simpler explanation. He states that in the broader application, the style is best called Spanish Colonial Revival. He then notes that the Spanish Colonial Revival had two distinctive variations, first the Mission Revival and then later the Mediterranean Revival.



Mediterranean Revival residence

In South Florida, historians are comfortable with the stylistic identity of Mediterranean Revival as a commingling of inspiration from the countries that border the Mediterranean Sea, including Spain, Italy and the Northern coast of Africa, with its rich Moorish heritage.

#### General Characteristics:

- Plan shape: asymmetrical or U-shaped to create a courtyard
- Building material: generally masonry
- Exterior surface treatment: stucco (smooth or textured)
- Roof type: combination: gable; hipped; shed; pyramidal
- Height: one to two-and-one-half stories
- Window type: casement
- Other:
  - Broad areas of uninterrupted surfaces with ornament concentrated around windows and doorways
  - Cast stone or concrete ornament concentrated around windows and doors
  - Covered open areas created by arcades and loggias
  - Porte cochères attached on the side of the residence
  - Juxtaposition of one and two stories
  - Wrought iron decorative ornament employed as grilles
  - Use of towers, especially at corners
  - Barrel tile roof coverings

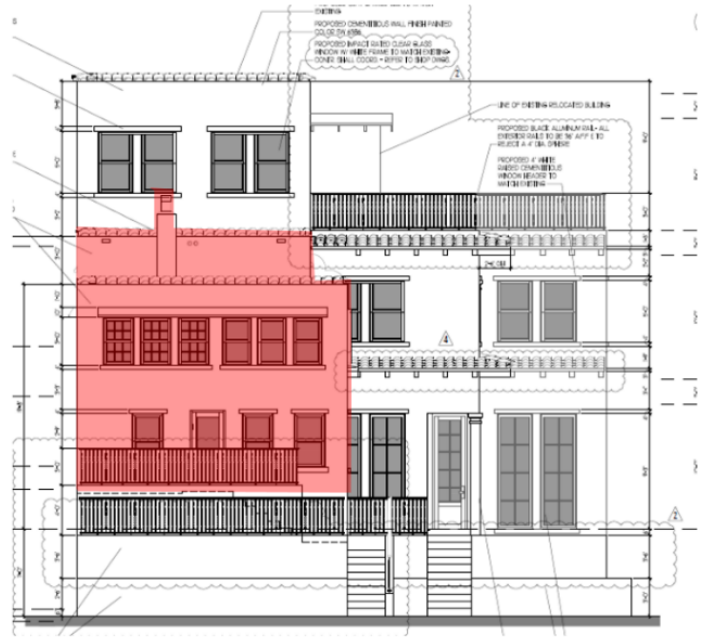
should be made to keep the structures as close to their original position and prominence as possible and to reduce the amount of “new” added to accommodate the shift.



The following guidelines are still applicable with the proposed revision. According to the **Secretary of the Interior’s Standards and Guidelines for Rehabilitation** (pg. 110):

ENTRANCES AND PORCHES	
RECOMMENDED	NOT RECOMMENDED
<i>Identifying, retaining, and preserving</i> entrances and porches and their functional and decorative features that are important in defining the overall historic character of the building. The materials themselves (including masonry, wood, and metal) are significant, as are their features, such as doors, transoms, pilasters, columns, balustrades, stairs, roofs, and projecting canopies.	Removing or substantially changing entrances and porches which are important in defining the overall historic character of the building so that, as a result, the character is diminished.
	Cutting new entrances on a primary façade.
	Altering utilitarian or service entrances so they compete visually with the historic primary entrance; increasing their size so that they appear significantly more important; or adding decorative details that cannot be documented to the building or are incompatible with the building’s historic character.
Retaining a historic entrance or porch even though it will no longer be used because of a change in the building’s function.	Removing a historic entrance or porch that will no longer be required for the building’s new use.

With the overall size and massing of the addition, it is difficult to discern where the original structure is located within the overall building design. It is encompassed by the proposed additions. This also raises concerns that neither structure can be reverted to its original appearance by removing the additions in the future because of the methods of expansion and connection. While this may seem unlikely, other historic structures have had approved additions reconsidered over time and removed. For example, the Sewall Biggs house on Vista Del Mar.



Pursuant to the **Secretary of the Interior's Standards and Guidelines for Rehabilitation** (pg.156 & 158):

### NEW EXTERIOR ADDITIONS TO HISTORIC BUILDINGS AND RELATED NEW CONSTRUCTION

RECOMMENDED	NOT RECOMMENDED
<b>New Additions</b>	
Placing functions and services required for a new use (including elevators and stairways) in secondary or non-character-defining interior spaces of the historic building rather than constructing a new addition.	Expanding the size of the historic building by constructing a new addition when requirements for the new use could be met by altering non-character-defining interior spaces.
Constructing a new addition on a secondary or non-character-defining elevation and limiting its size and scale in relationship to the historic building.	Constructing a new addition on or adjacent to a primary elevation of the building which negatively impacts the building's historic character.
Constructing a new addition that results in the least possible loss of historic materials so that character-defining features are not obscured, damaged, or destroyed.	Attaching a new addition in a manner that obscures, damages, or destroys character-defining features of the historic building.
Designing a new addition that is compatible with the historic building.	Designing a new addition that is significantly different and, thus, incompatible with the historic building.
Ensuring that the addition is subordinate and secondary to the historic building and is compatible in massing, scale, materials, relationship of solids to voids, and color.	Constructing a new addition that is as large as or larger than the historic building, which visually overwhelms it (i.e., results in the diminution or loss of its historic character).

### NEW EXTERIOR ADDITIONS TO HISTORIC BUILDINGS AND RELATED NEW CONSTRUCTION

RECOMMENDED	NOT RECOMMENDED
Ensuring that the addition is stylistically appropriate for the historic building type (e.g., whether it is residential or institutional).	
Considering the design for a new addition in terms of its relationship to the historic building as well as the historic district, neighborhood, and setting.	

Three waivers have been submitted for relief to the **Building Height Plane, Additions (Secondary and Subordinate), and Scale of Building** visual compatibility standards. They are analyzed later in the report.

#### RELOCATION ANALYSIS

Pursuant to LDR Section 4.5.1(E)(6)(b)(1), **Relocation of Contributing or Individually Designated Structures, Criteria** - when considering the relocation of a contributing structure from a historic district, or an individually designated structure from a site, the Board shall be guided by the following, as applicable:

- a. Whether the structure will be relocated within the same historic district, into a new historic district, or outside of a historic district;
- b. Whether the proposed relocation may have a detrimental effect on the structural soundness of the building or structure;
- c. Whether the proposed relocation would have a negative or positive effect on other historic sites, buildings, or structures within the originating historic district, at the new site;
- d. Whether the new surroundings of the relocated structure would be compatible with its architectural character; and,
- e. Whether the proposed relocation is the only practicable means of saving the structure from demolition.

The existing historic structure is situated along the west side of Marine Way and has a finished floor elevation of 2.5 feet to four feet NAVD, well below the required nine-foot FEMA & Florida Building Code finished floor requirements. This nine-foot requirement is the result of the recently updated FEMA Floor Insurance Rate Maps (FIRM) maps that raised the required finished floor elevation from six feet to eight feet plus the additional 12 inches above the FEMA requirement the Florida Building Code requirement adds. The existing main residential structure is proposed to be elevated to a 14-foot NAVD finished-floor elevation, five feet higher than required to accommodate a new ground-level garage. The historic accessory structure in the rear is proposed to be vertically elevated from 4.0 NAVD to 33 feet NAVD and shifted horizontally on site. There are concerns regarding the massing, character, and compatibility of the proposed addition in relation to the existing structures - particularly with the accessory structure. The proposed height and placement of the existing structure places the original structure on top of another story, effectively changing the massing and relationship to the street. This design choice could create a complete loss of historic integrity. It is noted that Marine Way experiences significant flooding and is the subject of a multi-million-dollar city improvement project to install/construct flood resilient mechanisms such as higher seawalls, flood pumps, drainage, etc.

Pursuant to LDR Section 4.5.1(E)(6)(b)(2), **Relocation of Contributing or Individually Designated Structures, Relocation Plan** - when considering the relocation of a contributing or individually designated structure, the Board shall require a Relocation Plan that includes the following:

- a. A detailed explanation of the relocation method including the type of machinery and equipment to be utilized;
- b. A demolition plan illustrating any parts of the structure to be removed or modified to facilitate the relocation;
- c. An illustration of locations where the building will be split, as applicable;
- d. The name of the Florida Licensed Building Mover who will relocate the structure(s) and the following support materials, if available:
  - i. A description of the Florida Licensed Building Mover's past experience in moving historic buildings of a similar construction technique.
  - ii. Photographs of prior relocation projects completed by the Florida Licensed Building Mover taken before and after the relocation, if applicable.

- e. **A certified engineering report which includes:**
  - i. **A relocation feasibility study with an assessment of the building's structural condition to determine any damage that might occur during the move.**
  - ii. **Details and a description of the historic structure's construction type including technique and materials and current condition of materials.**
  - iii. **Identification of any areas of concern, and how these areas will be addressed prior to the relocation.**

Modern Movers is the proposed Relocation Contractor (Mover) who is a Florida Licensed Contractor. The Mover has indicated that they have experience with relocating historic structures in Delray as well as other Florida cities. Their method of vertical relocation consists of raising structures with steel beams, unified jacking system, and cribbing to secure the structure until the new foundation is constructed. Multiple steel beams are to be placed beneath the structure, to which the structure is hydraulically loaded onto the beams, then elevated to the proposed elevation with helical pilings installed. Once pilings are in place, a new footing is poured, then the structure is lowered to allow the concrete stem wall to be constructed, then the structure is finally placed onto the new wall. In some instances, structures must be shifted horizontally within the site in order to place the new foundation and then returned to its original location. Such technique is dependent on the existing slab and footing construction method, and final placement of the existing structures. There is concern with the vertical elevation of the accessory structure from grade to 33 feet NAVD (third floor).

**The sections and screenshots below are applicable to the revised request. Pursuant to the Secretary of the Interior's Standards for Rehabilitation and Guidelines on Flood Adaptation For Rehabilitating Historic Buildings:**

#### **ELEVATE THE BUILDING ON A NEW FOUNDATION**

*"This adaptation method involves raising the height of a building by lifting the building from the existing foundation, constructing a higher foundation, and resetting the building on the new base. While this is one of the most common solutions for addressing flood risk, the historic character and appearance of the building can be considerably impacted when the change in height of the new foundation is significantly different from the original height. Elevating a building on a new foundation can greatly affect the historic character and integrity of the building, and any associated historic district, if not carefully planned and considered.*

*A smaller-scale building may be difficult to elevate more than a few feet without having an impact on its historic character. With some exceptions, elevating a small building to a height approaching a full story will not meet the Standards for Rehabilitation. The historic setting, features, spaces, and materials of a building should be preserved if they are important in conveying the historic associations, character, and significance of the property. As the height of a building increases, meeting the Standards will be more challenging because of the substantial change to the character and appearance of foundations, basements, porches or terraces, and staircase height and length, as well as other exterior features and materials. For buildings within historic districts, elevations should be coordinated to maintain the historic spatial and architectural relationships among buildings and the character of the district. Local preservation guidelines can help provide standardized design and treatment approaches for elevating buildings specific to the district. Where there is a tradition of elevating buildings, there may be more flexibility to increase the height of a foundation. In this historic context, a more significant degree of change may be acceptable while still maintaining the historic character of the property. Traditional adaptive approaches may be specific to certain regions, to building or construction types in those areas, and have common materials or design features. It is important to maintain the material and foundation treatments of the regional tradition."*

## ELEVATE THE BUILDING ON A NEW FOUNDATION

This adaptation method involves raising the height of a building by lifting the building from the existing foundation, constructing a higher foundation, and resetting the building on the new base. While this is one of the most common solutions for addressing flood risk, the historic character and appearance of the building can be considerably impacted when the change in height of the new foundation is significantly different from the original height. Elevating a building on a new foundation can greatly affect the historic character and integrity of the building, and any associated historic district, if not carefully planned and considered.

A smaller-scale building may be difficult to elevate more than a few feet without having an impact on its historic character. With some exceptions, elevating a small building to a height approaching a full story will not meet the Standards for Rehabilitation.

## HEIGHT OF THE ELEVATION

### RECOMMENDED

Identifying and retaining the historic massing, scale, size, form, and proportional relationships of the major elements of the historic building and/or the historic district.

Designing a new foundation that preserves the historic character of the building.

### NOT RECOMMENDED

Elevating a building without considering the impact to the massing, size, scale, form, and proportional relationships of the historic building and/or the historic district.

Designing a new foundation that is too tall, so that its size and scale are out of proportion to the historic building and, diminishing its character.

## ASSOCIATED SITE ALTERATIONS

(SEE ALSO SITE AND LANDSCAPE ADAPTATIONS)

### RECOMMENDED

Altering the landscape by adding fill or constructing raised planters to reduce the amount of new foundation that is visible.

Designing new driveways, parking areas, or patios so that they are as unobtrusive as possible and are compatible with the historic character of the property and the district.

Using permeable surfaces where possible.

### NOT RECOMMENDED

Altering a landscape, garden, or archeological site that has historic significance in its own right or that is integral to the significance of the site in conjunction with the building.

Adding new site features in prominent locations where they negatively impact the historic character of the building site or result in the loss of historic landscape features or plant materials.

Adding new driveways and curb cuts to facilitate parking underneath an elevated house.

Not Recommended:



Recommended:



Pursuant to LDR Section 4.5.1(E)(6)(b)(3), Relocation of Contributing or Individually Designated Structures, Supplemental Documentation - The following information shall be provided with the application for a Certificate of Appropriateness for relocation of a contributing or individually designated structure prior to Board consideration:

- As built drawings of the building as it exists on its originating site before undertaking the move, particularly if the move will require substantial reconstruction, including but not limited to floor plans, elevations, and architectural details and profiles;
- Photographs of the site and the interior and exterior of the building, including but not limited to all elevations and exterior details.
- History of any code violations applied to the structure and property, along with an explanation of any pending violations or structure violations which have been issued within five (5) years of the application request.

Architectural drawings documenting the existing conditions of the structure have been provided as well as interior and exterior photographs of the structure. Additionally, staff conducted a site visit to the property and toured the interior and exteriors of both structures.

Pursuant to LDR Section 4.5.1(E)(6)(b)(4), Relocation, Relocation of Contributing or Individually Designated Structures, Concurrent New Development Review - Applications for a Certificate of Appropriateness for relocation shall be submitted concurrently with the application for a Certificate of Appropriateness for the new development on the originating site.

The subject request for relocation of the structure on site includes modifications to the existing structures.

Pursuant to LDR Section 4.5.1(E)(6)(b)(5), Relocation, Relocation of Contributing or Individually Designated Structures, Site Maintenance - If the originating site is to remain vacant and construction of the new development will not commence for more than 90 days following the relocation, the lot shall be sodded and maintained in a manner consistent with other open space in the historic district.

The proposal involves the relocation of the existing structures within the site; thus, this requirement is not applicable.

Pursuant to LDR Section 4.5.1(E)(6)(b)(6), Relocation, Relocation of Contributing or Individually Designated Structures, Successful or Unsuccessful Relocation - The relocation of a historic structure is deemed successful when either no damage occurs during or as a result of the relocation or minimal damage occurs which is not deemed to compromise the integrity (structurally and architecturally) of the structure, and when the relocation is completed in accordance with the approved Certificate of Appropriateness, including the associated Relocation Plan.

- a. If damage occurs during the relocation, then the property owner, applicant and/or Licensed Building Mover shall notify the Historic Preservation Planner and Chief Building Official within 24 hours of completion of the move to determine if the damage has compromised the integrity of the structure, thereby deeming the relocation as unsuccessful.
- b. If a relocation is not successful, then the property owner and/or applicant shall notify the Historic Preservation Planner and Chief Building Official within 24 hours of the failed relocation, or before the close of business on the next business day.
- c. Failure of any degree to successfully relocate the historic structure may result in the revocation of any site development relief (waivers, variances, internal adjustments, or other relief) associated with the relocation that has been granted by the Board or the City Commission, as required by the Planning and Zoning Director.
- d. The applicant or property owner may submit a written request for the reconsideration of any previously approved site development relief associated with the unsuccessfully relocated structure in accordance with the following:
  - i. The reconsideration request shall be submitted to the Planning and Zoning Director within five business days of notification of the unsuccessful relocation. The reconsideration will be placed on the next available agenda of the recommending or approving body as appropriate.
  - ii. Requests for reconsideration shall include a statement regarding the relocation, documentation of the relocation, an explanation of the relocation failure, and how the relocation failed to meet the Relocation Plan of the approved Certificate of Appropriateness and the corrective actions to address issues caused by failed relocation.

The Applicant must comply with this code section should there be damage that compromises the integrity of the structure, and if relocation is deemed unsuccessful.

**Pursuant to LDR Section 4.5.1(E)(6)(b)(7), Relocation, Relocation of Contributing or Individually Designated Structures, Public Notice** - All applications for a Certificate of Appropriateness for the relocation of a contributing structure or an individually designated structure shall meet the “Additional Public Notice” requirements of LDR Section 2.4.2(B)(f)(j).

A notice of the Relocation was posted on the City’s website at least ten days prior to the scheduled hearing, sent to surrounding property owners within a 500 foot radius of the subject property, and the notice was also posted at City Hall.

**Pursuant to LDR Section 4.5.1(E)(6)(d), Relocation, Supplemental Requirements**, all buildings and structures approved for relocation shall comply with the following:

1. The building to be relocated shall be secured from vandalism and potential weather damage before and after its move, in a manner as approved by the Chief Building Official.
2. All structures approved for relocation and awaiting issuance of a building permit for the new development on the originating site shall be maintained so as to remain in a condition similar to that which existed at the time of the application.
3. All structures to be relocated pursuant to this Section shall comply with the requirements of Section 7.10.11, “Moving of Building: Historic Structures”.

The Applicant shall meet all requirements of this code section.

#### **LDR Section 7.10 – Moving of Building**

The request must be compliant with the requirements of this code section including the below referenced code section relating to Surety Bond or Letter of Credit.

Pursuant to LDR Section 7.10.5, Cash deposit, bond, or insurance required.

- (A) **Cash deposit.** An application hereunder shall be accompanied by a cash deposit in the sum of \$5,000.00, as an indemnity for any damage which the City may sustain by reason of damage or injury to any highway, street, or alley, sidewalk, fire hydrant, or other property of the City, which may be caused by or be incidental to the removal of any building over, along, or across any highway, street, alley, or other rights-of-way within the City and to indemnify the City against any claims of damages to persons or private property, and to satisfy any claims by private individuals arising out of, caused by, or incidental to the moving of any building over, along, or across any street in the City.
- (B) **Bond in lieu of deposit.** Any person filing an application hereunder may, in lieu of the general cash deposit required above, file with the Building Official a bond, approved as to form by the City Manager, executed by a bonding or surety company authorized to do business in the state in the amount of \$5,000.00, conditioned upon the assurance that this subchapter and other applicable ordinances and laws will be complied with. This bond shall run to the City for the use and benefit of any person intended to be protected thereby and shall be conditioned on the payment for any damages or losses resulting from any malfeasance, misfeasance, or nonfeasance or negligence in connection with any of the activities or conditions upon which the permit applied for is granted.
- (C) **Insurance policy in lieu of deposit.** Any person filing an application hereunder may, in lieu of the general cash deposit required above, file with the Building Official a liability insurance company authorized to do business in the state, and approved as to form by the City Manager, in the same amount and providing the same protection as would be required for a bond hereunder.
- (D) **Historic structure relocation bond.** In addition to the above, an applicant requesting the relocation of a contributing structure or an individually designated structure shall provide a Surety Bond or a Letter of Credit in favor of the City of Delray Beach and in a form satisfactory to the City Attorney's Office of an amount equal to 125 percent of the "fair market value" of the property which includes the value of the land and any improvements such as the historic structure, as determined by or through an MAI (Member of the Appraisal Institute) appraisal. The appraisal must be performed no more than 60 days prior to the date of application for a relocation permit. The Surety Bond or Letter of Credit shall not be released until final inspection of the successfully completed relocation to the new foundation. Failure to successfully relocate a Historic structure may result in the forfeiture of the Surety Bond or a draw on the Letter of Credit as determined by the City Commission upon recommendation by the Historic preservation Board.

The request must comply with the requirements of this code section if approved.

#### **VARIANCE ANALYSIS**

Pursuant to LDR Section 2.4.11(A) A variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing 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.

Pursuant to LDR Section 2.1.9(E)(12)(d)(1)&(3), Board Actions. The Board hereby has the authority to take action on Variances from LDR Section 4.3.4 - Base district development standards and LDR Section 4.6 - Supplemental District Regulations associated with property, sites, and structures located within a Historic District or for Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(I), pursuant to the procedures and standards of the LDR.

Below are the Variance requests for the subject property:

LDR Section	Requirement	Existing	Variance Requests
<b><u>Variance Request 1: Front (East) Setback</u></b> <b>4.3.4(K) Structure Setback (Minimum)</b>	25'	17'7" - 20'6"	9'8" - 12'7"
<b><u>Variance Request 2: Side Interior (South) Setback</u></b> <b>4.3.4(K) Structure Setback (Minimum)</b>	7'6"	2'3" - 6'1"	2'3"
<b><u>Variance Request 3: Rear (West) Setback</u></b> <b>4.3.4(K) Structure Setback (Minimum)</b>	10'	6'8"	8'4"
<b><u>Variance Request 4: Side Interior (North) Setback</u></b> <b>4.6.15 Swimming Pool Setback</b>	10' from water's edge	7'2"	7'6"

#### **Variance Request 1**

**Pursuant to Section 4.3.4(K), Development Standards Matrix, the required front setback is 25 feet for the R-1-A zoning requirements.** The request is to reduce the minimum required front (east) setback, from 25 feet to a range of 9 feet 8 inches – 12 feet 7 inches for additions to the front of the existing contributing structure.

**Pursuant to LDR Section 2.4.11(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.**

The request includes the construction of two and three-story additions containing 3,814 sq. ft. (5,457 sq. ft. overall), with the one-story addition proposed within the front setback and forward of the existing historic residence. The existing 1,328 sq. ft. main structure currently has a non-conforming front setback ranging from 17 feet 7 inches – 20 feet 6 inches, where 25 feet is required. The relief request increases the nonconformity to accommodate a front addition with a two-car garage with a patio/open porch area and the original house on top. It is noted that a ground level patio currently exists on the east (front) side of the historic structure, in the general location of the new patio/open porch with garage & storage area below. However, the existing patio is a ground level hardscape improvement containing paver stones and a low masonry wall surrounding the area, raising a patio to an elevated structure is not the only method for accommodating outdoor area. The excess elevation also requires access, which also encroaches into the setback. The variance to allow the addition to encroach into the front setback may not be necessary to maintain 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.**

The subject property is approximately 52 feet wide and 90 feet deep and the existing contributing residence encroaches into the front setback at 17 feet 7 inches. The proposal includes the construction of an addition containing a garage, below the existing structure with an open porch

above. As the site is smaller than the current zoning regulations anticipate, the site's existing non-conformity could be considered a special condition or circumstance. However, the proposal increases the existing setback non-conformity to allow a 9 feet 8 inches to 12 feet 7 inches front setback for the new addition. The increase in nonconformity may not be needed if the garage was not proposed in this location. It is noted that the proposal includes construction of a three-story addition to the side and rear of the property, which is the most appropriate location based upon the visual compatibility standards.

**(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.**

Literal interpretation of the code is not anticipated to alter the historic character of the historic district as sufficient land area exists to the side and rear of the contributing structure where additional building area can and is being accommodated. The issue is the amount of area the addition proposes. Preservation of the historic character of the residence also relies upon compliance with visual compatibility standards, such as not constructing additions forward of the established front wall plane of a historic building (waiver).

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

The historic structure is setback to 17 feet 7 inches from the front property line and is proposed to remain at that setback once vertically elevated. The variance request, if approved, would allow construction of an addition in front of the front wall plane of the existing contributing structure. The reasoning is to elevate an original ground-level patio, which is not the only solution to providing an outdoor terrace. The mass of the proposed design is also related to extra elevation of the historic structure and the transitions using landscape planters to try to mask what are otherwise blank walls. Such an addition could diminish the historic character of the site and Marina Historic District.

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

The property has historically been utilized for residential use and will continue as a residence. It is reasonable to expect that the structure could be enlarged to accommodate its adaptive reuse. With the proposal, a 3,814 sq. ft. three-story addition is proposed to the side and rear of the 1,328 sq. ft. main structure and encompasses the 296 sq. ft. pool house in its third story (5,457 sq. ft. proposed overall building size); thus, it is documented that sufficient area exists to accommodate enlargement and modernization of the structure. With that said, the existing structures contain a combined area of 1,643 sq. ft. and the proposal will contain 5,457 sq. ft. overall (including the garage), which results in an increase of 3,814 sq. ft. of building area (more than triple the size of the existing building area). The project is overwhelmingly comprised of new area.

With the proposal, the variance would facilitate the construction of a two-car garage and an open porch within the front setback to accommodate the garage's height. A garage could be accommodated in a different configuration, one that does not encroach into the front setback nor increase the existing setback non-conformity. The proposed elevated terrace solution is also not the only way to accommodate new open-air features. Further, the proposal may not be in compliance with the visual compatibility standard limiting additions to not be in front of the established front wall plane of a historic building.

## **Variance Request 2**

**Pursuant to Section 4.3.4(K), Development Standards Matrix, the required side interior setback is 7 feet 6 inches for the R-1-A zoning requirements.** The request is to reduce the minimum required side interior (south) setback, from 7 feet 6 inches to 2 feet 3 inches for additions, including the detached accessory structure, to an existing contributing one-story structure.

**Pursuant to LDR Section 2.4.11(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.**

The request includes the construction of two additions containing 3,814 sq. ft. (5,457 sq. ft. overall) to the rear and side of the existing 1,328 sq. ft. main structure. The existing setback for the historic structure on the side (south) of the property is 2 feet 3 inches and is an existing non-conformity. The proposed side setback would allow the new three-story addition to continue at the same wall plane on the south side of the main structure. However, setting in the addition from the position of the original structure would help demarcate the new addition from the existing historic structure – and is a common technique in preservation. There is also concern regarding the impact of the reduced setback and the close proximity to the residence on the adjacent property, which is setback approximately 6 feet 3 inches from the adjoining property line. The proposal results in a large expanse of continuous wall along the south side due to the increased building footprint and height. The new addition will tower over the neighbor's yard – a concern that goes beyond just the historic implications. Complaints of intrusion into backyard privacy by adjacent development have been raised in many neighborhoods. The board will need to determine if the variance is necessary to maintain the historic character of the property and that such would not be contrary to the public interest, safety and welfare.

- (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.**

The request is for the three-story addition to be constructed at the existing south side setback of 2 feet 3 inches, which is the current south side setback for the existing main structure. Due to the lot being 52 feet wide by 90 feet +/- deep (4,972 sq. ft. overall lot area), there could be some constraints with regard to building an addition on the site as it is less than the minimum required lot size for the zoning district (7,500 sq. ft.). Although, it is noted that the existing structure sits forward and to the south on the property allowing ample space in the rear and north side yard to accommodate an addition. Per the Secretary of the Interior's Standard for Rehabilitation, an addition to an historic structure is most appropriate when placed to the rear, and most inconspicuous side of the main structure. The request would allow the addition to be constructed at the same wall plane as existing, yet in a three-story configuration, overlooking the original building.

- (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.**

Literal interpretation of the code is not anticipated to alter the historic character of the historic district as a new addition could be constructed which meets the setback requirements. Further, constructing an addition that meets the setback requirements would create a differentiation between the original historic structure and the proposed additions (a standard typical of historic rehabilitation projects), and alleviate the proximity of the structure to the adjacent property owner on the lot to the south.

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

The historic structure is proposed to remain at its current non-conforming setbacks but will be elevated vertically on the site. The additions are proposed forward of the front wall plane of the home and to its side and rear. The variance request, if approved, would allow construction of an addition at the same wall plane as the existing historic structure along the south side of the property and for the relocation of the detached accessory structure from ground level to the third floor. It is often appropriate to offset an addition from the existing wall plane to allow for differentiation from old to new. There is concern that the side setback variance could diminish the historic character of the site in that it also facilitates an addition that is considerably larger than the existing, contributing historic residence.

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

The property has historically been utilized for residential use and is to remain a residence. It is reasonable to expect that the structure could be enlarged to accommodate modern residential use and reuse of the accessory structure. A 3,814 sq. ft. three-story addition is proposed to the side and rear of the 1,328 sq. ft. main structure, encompassing the 296 sq. ft. pool house within the new third story (5,457 sq. ft. proposed overall building size). There is clearly sufficient area exists to accommodate enlargement and modernization of the structures. With that said, the proposal will contain 5,457 sq. ft. overall (including the garage), which results in an increase of 3,814 sq. ft. of building area (more than triple the size of the existing building area). The variance would facilitate the construction of the additions with a side setback of 2 feet 3 inches on the south side of the property. The property could accommodate an addition to the structure that does not encroach into the side setback nor increase the existing setback non-conformity. The accessory structure could also remain at its current location, if the intent is to preserve the structure in its original form. Further, the proposal is not in compliance with the visual compatibility standard relating to Additions and concerns exist with respect to such.

**Variance Request 3**

**Pursuant to Section 4.3.4(K), Development Standards Matrix, the required rear setback is 10 feet for the R-1-A zoning requirements.** The request is to reduce the minimum required rear (west) setback, from 10 feet to 8 feet 4 inches for additions, including the detached accessory structure, to an existing contributing one-story structure.

**Pursuant to LDR Section 2.4.11(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.**

The request includes the construction of two additions containing 3,278 sq. ft. to the rear and side of the existing 1,643 sq. ft. main structure & cottage. The existing setback for the detached accessory structure on the rear (west) of the property is 6 feet 8 inches, less than the 10 feet required and is an existing non-conformity. The proposed rear setback of 8 feet 4 inches would allow for portions of the new three-story addition and relocated accessory structure (proposed to be elevated from the ground level to the third floor) to encroach within the required minimum setback. As this is a newly proposed setback, it does not relate to the historic context to the site, and may not be considered appropriate as it also facilitates large additions and the two-story relocation of the detached accessory structure. The board will need to determine if the variance is necessary to maintain the historic character of the property for the entirety of the project.

- (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.**

The request is for portions of the three-story addition to be constructed at a setback of 8 feet 4 inches. Due to the lot being 52 feet by 90 feet +/- (4,972 sq. ft. overall lot area), there are some constraints with regard to building an addition on the site that does not meet the minimum required lot size for the zoning district. Minimum setbacks also control massing and impacts to neighboring properties. Per the Secretary of the Interior's Standard for Rehabilitation, an addition to an historic structure is most appropriate when placed to the rear, and most inconspicuous side of the main structure, so the rear setback variance could be considered as aiding with that standard, although the overall size of the addition could be reduced and the accessory structure could be positioned at the 9 feet minimum FEMA requirement, and not encompassed by additions.

- (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.**

Literal interpretation of the code is not anticipated to alter the historic character of the historic district as a new addition could be constructed which meets the setback requirements, and the relocation of the accessory structure is not necessary to preserve the historic character of the district or site.

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

The historic structure is proposed to remain at its current non-conforming setbacks but will be elevated vertically on the site. The additions are proposed forward of the front wall plane of the home and to its side and rear. The variance request, if approved, would allow construction of portions of an addition and relocation of the detached accessory structure within the minimum rear setback. It is often appropriate to offset an addition to a historic structure from the existing wall plane to allow for differentiation from old to new. Such is proposed for the accessory structure; however, it will be relocated from the ground floor to the third floor, with the new first and second floor additions near the same footprint yet considerably larger than what exists. These new additions could have a negative impact upon the historic character of the site and Marina Historic District.

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

The property has historically been utilized for residential use and is to remain a residence. It is reasonable to expect that the structure to be enlarged to accommodate its adaptive reuse. A 3,278 sq. ft. three-story addition is proposed to the side and rear of the 1,328 sq. ft. main structure property and encompasses the 296 sq. ft. pool house within its third story; thus, it is documented that sufficient area exists to accommodate enlargement and modernization of the structure. With that said, the existing structures contain a combined area of 1,643 sq. ft. and the proposal will contain 5,457 sq. ft. overall (including the garage), which results in an increase of 3,814 sq. ft. of building area (more than triple the size of the existing building area). The proposal could accommodate an addition to the property that does not encroach into the rear setback. The accessory structure could also remain at its current setback location, if the intent is to preserve the structure in its original form. Further, the proposal may not be in compliance with the visual compatibility standard relating to Additions and concerns exist with respect to such.

#### **Variance Request 4**

**Pursuant to Section 4.6.15(G), Yard Encroachment, Swimming pools may encroach into rear, interior, and side street setback areas, but no closer than 10 feet to any property line.** The request is to encroach within the side interior (north) setback from the required 10 feet to 7 feet 6 inches.

**Pursuant to LDR Section 2.4.11(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.**

The request is to allow a new swimming pool to be constructed with a setback of 7 feet 6 inches from the north side of the property, where 10 feet is required. A ground level swimming pool currently exists on the north side of the property with an existing non-conforming setback of 7 feet 2 inches to the north property line. The variance request will allow for the swimming pool to remain on the north side and decrease the non-conformity. However, typically swimming pools are a ground level improvement, and not anticipated to have a negative effect upon existing historic structures. This proposal proposes constructing the new swimming pool on an elevated structure at the same 9 feet finished floor elevation as the proposed rear addition. The impact of massing changes substantially from a ground-level improvement to an elevated structure. It is unclear if the existing swimming pool was an original element to the 1926 property, but the proposal does not include a ground level swimming pool as is characteristic to the subject 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.**

It could be determined that special conditions or circumstances exist given the small size of the subject property at approximately 52 feet by 90 feet.

- (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.**

Literal interpretation of the code would situate the proposed swimming pool closer to the proposed addition. The variance request to reduce the required setbacks for the swimming pool could be considered supportable given the proposed location of the new swimming pool is in the same northern location on site as the existing swimming pool. However, there is concern with the proposed swimming pool being situated on top of a new raised structure.

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

The location of the new swimming pool is situated on top of a raised deck at the same 9 feet finished floor elevation as the proposed rear addition. Typically, swimming pools are a ground level improvement rather than being placed on an elevated surface. Situating the pool closer to the property line than is permitted on an elevated structure, could have a negative effect upon the historic character of the historic site or district.

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

A swimming pool currently exists within the area where the new rear addition is proposed. Removal of the existing pool and construction of a new pool could be considered a reasonable improvement to the property that accommodates an adaptive reuse of the site.

The property owner has submitted justification statements for each of the requests (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.

<b>WAIVER ANALYSIS</b>
------------------------

**Pursuant to LDR Section 2.4.11(B) A waiver involves the granting of partial or total relief from a specific development regulation. A waiver may be granted to the procedural and substantive provisions of these regulations. A waiver may be granted only for those substantive items within these regulations for which such provision is made. A waiver to substantive provisions may be granted only by the approving body with the final authority to approve or deny the related development application.**

**Pursuant to LDR Section 2.1.9(E)(12)(i), Board Actions. The Board hereby has the authority to take action on any other regulations or requirements that specify relief is available by the body acting upon the development application.**

**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.**

**Waiver Request 1:**

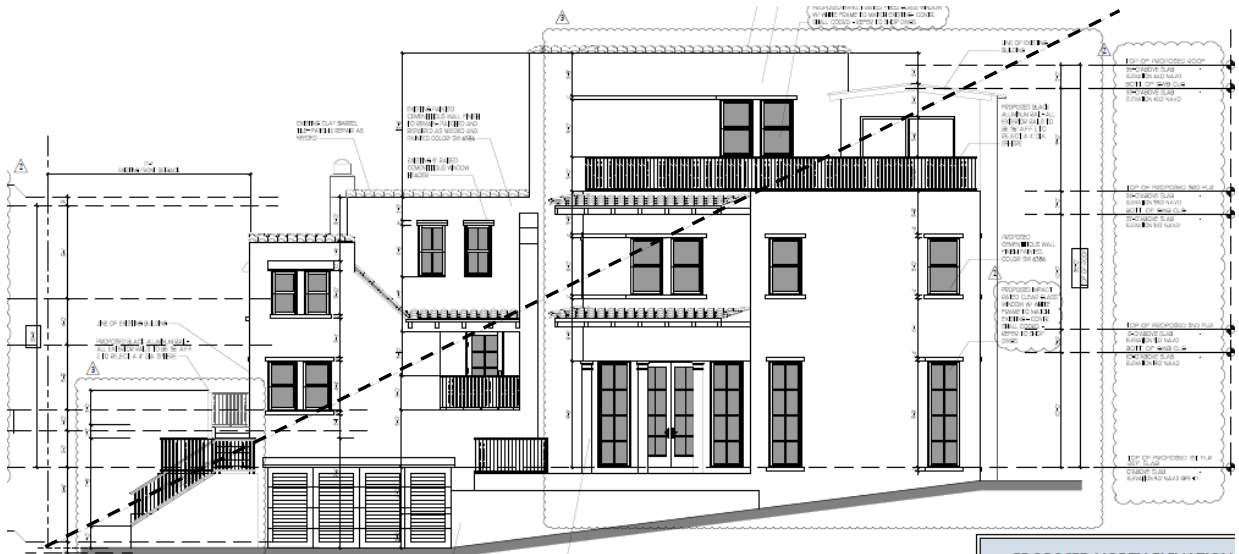
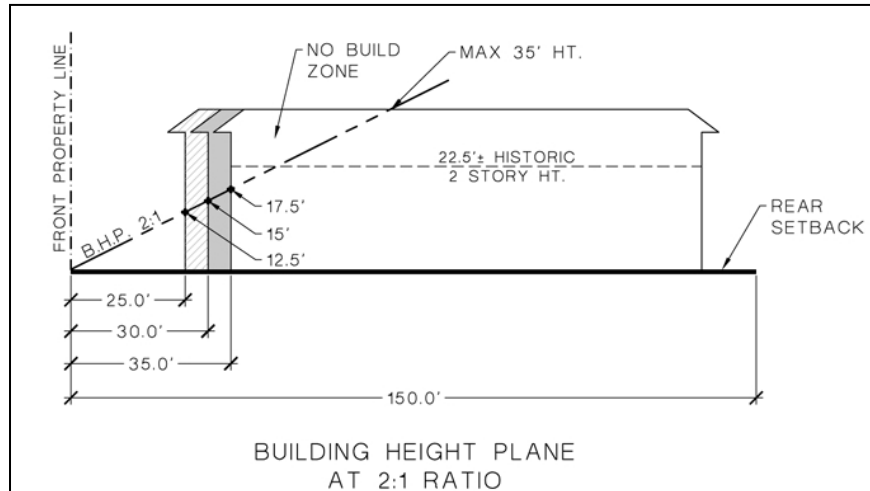
The Waiver request is to allow the addition to the front addition and existing vertically elevated structure to encroach within the required 2:1 Building Height Plane ratio.

**Pursuant to LDR Section 4.5.1(E)(7)(a) Height.**

- (a) 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 following:

1. **Building Height Plane (BHP):** The building height plane technique sets back the overall height of a building from the front property line.
  - a. The building height plane line is extended at an inclined angle from the intersection of the front yard property line and the average grade of the adjacent street along the lot frontage. The inclined angle shall be established at a two to one (2:1) ratio. See illustration below.



Pursuant to LDR Section 2.4.11(B)(5) – **Findings**: The following findings must be made prior to approval of a waiver:

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

The request would allow for the existing two-story structure, once elevated, along with the proposed three-story structure to encroach into the "No Build Zone" of the standard's requirements. There is concern that relief will cause the overall request not to be compatible with the historic streetscape as this standard is a tool to control massing and height within historic districts. It is noted however, that vertical elevation of historic structures along Marine Way is imminent given recent increases from FEMA to the minimum finished floor elevation requirements and ongoing flooding occurring in the area. The concern is to what degree the

waiver is necessary. Should the structure be elevated to a 9 feet finished floor elevation rather than a 14 feet elevation, the impact of the massing upon the area and specifically Marine Way would be reduced. Additionally, it is important to note that the entirety of the third floor of the rear addition and a small portion of the second floor of the addition also fall within the Building Height Plane (BHP) area. While some accommodation may be reasonable for raising the historic structure, extending this allowance to a three-story addition that is set back from the street should be weighed. The board will need to make a determination if the waiver adversely affects the neighboring area.

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

The proposal is required to meet the standards for drainage, which will be reviewed at the time of the building permit. It is anticipated that given the size of the additions, the proposal may utilize a drainage trenching system, which stores drainage underground. The proposal is situated along Marine Way, where a multi-million-dollar city capital improvement project is underway to make the area more flood resilient. The proposed waiver involves private residential development and there could be concerns with the site's ability to retain drainage in an underground trenching design, particularly during King tide events. The board will need to make a determination that the proposal will not diminish the provision of any public facilities.

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

The request is not anticipated to cause any unsafe situations.

**(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.**

As more development occurs within historic districts, it is imperative that the historic sites and the district streetscapes remain compatible in massing and position to maintain the historic setting of the district. The Marine Way area is within a special flood area and requires vertical elevation. Elevating the existing contributing structure will improve its resiliency to flooding and is necessary for preservation. However, the proposal involves elevating the existing structure to a finished floor elevation of 14 feet, 5 feet above the minimum requirement to accommodate a ground level garage underneath the historic residence. Thus, nearly the entire historic structure and portion of the new garage fall within the "No Build Zone" of the BHP. A lower elevation would reduce the amount of the building shifting into the No Build Zone. Also, the entirety of the third-floor rear addition and a portion of the second floor are within the "No Build Zone". It may not be possible to elevate the existing structure with a two or three-story addition and meet the minimum FEMA finished floor requirements without seeking a waiver to this visual compatibility standard. The issue remains the extent of the waiver requested, which is generated by design decisions. If the proposal incorporated a one or two-story addition in the rear of the site and also situated the historic residence at a 9 feet finished floor elevation, the impact upon the historic district and adjacent streetscape would be minimized. The board will need to determine if the waiver results in a special privilege and if the same waiver would be granted under similar circumstances on other property. It is noted that there are two other COA's in process for the two properties immediately to the south of the subject site.

**Waiver Request 2:**

**Pursuant to LDR Section 4.5.1(E)(7)(m)(6), Additions shall be secondary and subordinate to the main mass of the historic building and shall not overwhelm the original building.**

A waiver to allow for relief to the secondary and subordinate Visual Compatibility Standard for the proposed three-story addition.

Pursuant to LDR Section 2.4.11(B)(5) – **Findings**: The following findings must be made prior to approval of a waiver:

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

The submitted waiver request is due to the construction of a three-story addition to the rear of an existing two-story structure, which does not meet the Visual Compatibility Standard as it relates to the requirement that “Additions be secondary and subordinate to the main mass of the historic building and shall not overwhelm the original building.” With recent development pressures in Delray Beach, many property owners want to expand their homes to allow for “modernization” such as bigger kitchens, closets, bathrooms, etc. Such alterations and additions are common but depend upon the configuration of the site and proposed design. Per the Secretary of the Interior’s Standards and Guidelines for Rehabilitation it is not recommended to ***construct a new addition that is as large or larger than the historic building, which visually overwhelms it (i.e., results in the diminution or loss of its historic character)***. In a historic district, an appropriate addition should not overwhelm a one-story and especially a two-story structure. Also, over the years there have been large additions and new construction to some properties within several of Delray’s historic districts, including the Marina Historic District, many of which have occurred on Marine Way, that have negatively impacted the historic integrity of the area. This type of construction was the impetus behind removal of most of the 300 block from the historic district with the 2008 Historic Resource Survey. The redevelopment of several properties within that block pushed the limits on massing and scale. Recently, there have been applicants that have based their cases for large additions or arguments for relief to code requirements relating to massing, upon the fact that the board has approved large additions and new construction on neighboring properties. It is noted that each request is considered by the board on a case-by-case basis. The Visual Compatibility Standards are specific in that they contain massing controls and require compatibility with “historic structures” within the district; thus, if the existing development pattern is a low scale (one or two-story structures) then that is what is appropriate for modifications to historic buildings and structures.

It is also important to note that if all the additions were to be removed in the future, it could have a negative effect on the historic integrity of the existing structures.

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

The proposal is required to meet the standards for drainage, which will be reviewed at the time of the building permit. It is anticipated that the proposal may utilize a drainage trenching system, which stores drainage underground. The proposed waiver involves private residential development and there could be concerns with the site’s ability to retain drainage in an underground trenching design, particularly during King tide events. The board will need to determine the proposal will not diminish the provision of any public facilities.

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

The request is not anticipated to create an unsafe situation.

**(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.**

As more development occurs within historic districts, it is imperative that the historic sites and the district streetscapes remain compatible in massing and configuration to maintain the

historic setting of the district. The Marine Way area is known for flooding during storms and King tide events; thus, vertical elevation of the existing contributing structure will improve its resiliency to flooding. Elevating to 9 feet finished floor elevation is required by FEMA and the Florida Building Code. However, the proposal elevates the existing structure to a finished floor elevation of 14 feet, 5 feet above the minimum requirement to accommodate a ground level garage underneath the historic residence.

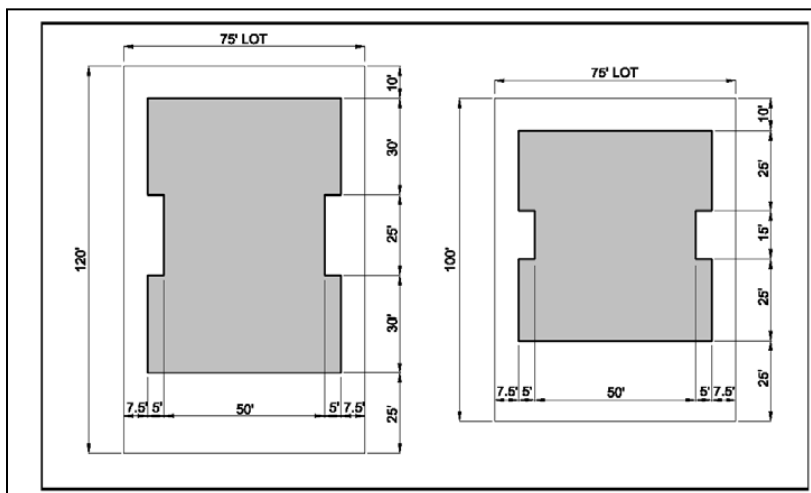
While three-story structures do exist within the historic district, they are limited to newer built structures. The subject property is smaller than the minimum requirements for a lot in the R-1-A zoning district, so minor constraints on the square footage that can be built on the property exist. However, it is noted that the proposal is for a 3,814 sq. ft. addition to the front and rear of the 1,328 sq. ft. historic structure and 296 sq. ft. pool house. The proposal will result in a building containing 5,457 sq. ft. on the 4,972 sq. ft. lot. Smaller, non-conforming lots are common within historic districts, such was the development pattern at the time of historical development. Therefore, it is possible to construct an addition that can be considered more secondary and subordinate to the main structure. The board will need to determine if the waiver results in a special privilege and if the same waiver would be granted under similar circumstances on other property. It is noted that there are two other COA's in process for the two properties immediately to the south of the subject site.

### **Waiver Request 3:**

The Waiver request is to allow the additions and relocated accessory structure to be one consistent setback along the south side interior.

### **Pursuant to LDR Section 4.5.1(E)(7)(j)(2) Scale of Building.**

2. For buildings deeper than 50 percent of the lot depth, a portion of each side façade, which is greater than one story high, must be setback a minimum of five additional feet from the side setback line:
  - a. To calculate how much of the building depth must comply with this provision, multiply the lot depth by 50 percent and subtract the required minimum front and rear setbacks (example: 120' lot depth x 50% = 60' - 25' front yard setback - 10' rear setback = 25').
  - b. Any part or parts of the side façades may be used to meet this requirement.
  - c. See illustration below:



- d. If the entire building is set back an additional five feet from the side, no offsets are required on that side.

**Pursuant to LDR Section 2.4.11(B)(5) – Findings:** The following findings must be made prior to approval of a waiver:

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

The request includes the relocation of the existing accessory structure to the third floor and is to be situated 2 feet 3 inches from the south side interior property line, and additions below would match the same setback. The intent of the section is to provide massing controls through additional setbacks and articulation on the sides of buildings. There is concern that the requested relief results in a design that could both overwhelm the historic residence and have an impact upon adjacent properties, specifically the residence to the south, which is situated 6 feet 3 inches from its north property line. This waiver is for the second floor, as the third floor is proposed to meet the requirement. The board will need to make a determination that the waiver shall not adversely affect the neighboring area.

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

The proposal is required to meet the standards for drainage, which will be reviewed at the time of the building permit. It is anticipated that the proposal may utilize a drainage trenching system, which stores drainage underground. The proposal is situated along Marine Way, where a multi-million-dollar city capital improvement project is underway to make the area more flood resilient. The proposed waiver involves private residential development and there could be concerns with the site's ability to retain drainage in an underground trenching design, particularly during King tide events. The board will need to make a determination that the proposal will not diminish the provision of any public facilities.

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

The request is not anticipated to cause any unsafe situations.

**(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.**

As more development occurs within historic districts, it is imperative that the historic sites and the district streetscapes remain compatible in massing and configuration to maintain the historic setting of the district. The Marine Way area is known for flooding during storms and King tide events; thus, vertical elevation of the existing contributing structure will improve its resiliency to flooding. Additions are regulated by the implementation of the visual compatibility standards, as it is integral to provide massing controls to aid in the impact modifications may have on the historic integrity of structures within historic districts. Additional setbacks to the proposed additions would soften the appearance and impact on the adjacent structures & streetscape, while also maintaining the visual relationship between buildings and the open space between them. The board will need to determine if the waiver results in a special privilege and if the same waiver would be granted under similar circumstances on other property. It is noted that there are two other COA's in process for the two properties immediately to the south of the subject site.

The property owner has submitted justification statements for each of the requests (attached).

<b>SITE PLAN TECHNICAL ITEMS</b>
----------------------------------

1. That the mover documentation be updated to reflect the accessory structure; and
2. That at the time of submittal of a building permit, the request must comply with LDR 4.5.1(E)(6) and LDR Section 7.10 – Moving of a Building, including but not limited to the requirements for a Historic Structure Relocation Bond.

3. That the site plan be updated to illustrate the proposed planter wall.

### COMPREHENSIVE PLAN

Pursuant to the Historic Preservation Element (HPE), Objective 1.4, Historic Preservation Planning: Implement appropriate and compatible design and planning strategies for historic sites and properties within historic districts.

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:

#### HPE Policy 1.4.1

Continue to require that the Historic Preservation Board make findings that any land use or development application for a historic structure, site or within a historic district, is consistent with the provisions of the Secretary of the Interior's Standards for Rehabilitation, the Land Development Regulations, and Delray Beach Historic Preservation Design Guidelines.

The board will need to make a determination that the request can be found to be consistent with the provisions of LDR Section 4.5.1 relating to historic sites and districts as well as the Secretary of the Interior's Standards and the Delray Beach Historic Preservation Design Guidelines.

### ALTERNATIVE ACTIONS

- A. Move to continue with direction.
- B. Approve Certificate of Appropriateness, Relocations, Variances, and Waivers (2024-133), for **46 Marine Way, 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, Relocations, Variances, and Waivers (2024-133), for **46 Marine Way, 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:
- D. Deny Certificate of Appropriateness, Relocations, Variances, and Waivers (2024-133), for **46 Marine Way, 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

<input checked="" type="checkbox"/> Courtesy Notices were provided to the following, at least 5 working days prior to the meeting:  Marina Historic District Homeowners Association	<input checked="" type="checkbox"/> Public Notice was mailed to property owners within a 500' radius on 8/8/25, at least 10 days prior to the meeting. <input checked="" type="checkbox"/> Public Notice was posted at the property on 8/12/25, 7 calendar days prior to the meeting. <input checked="" type="checkbox"/> Public Notice was posted in the main lobby at City Hall on 8/8/25, at least 10 working days prior to the meeting. <input checked="" type="checkbox"/> Public Notice was posted to the City's website on 8/8/25, at least 10 calendar days prior to the meeting. <input checked="" type="checkbox"/> Agenda was posted on 8/12/25, 5 working days prior to meeting.
---	--

TAC Timeline Table			
Review No.	Submittal Date	TAC Comments Transmitted	Board Meeting Date
1	04/16/2024	05/08/2024	N/A
2	09/23/2024	10/15/2024	N/A
3	12/04/2024 and 01/16/2025	01/30/2025	N/A
4	02/10/2025 and 02/19/2025	Determined Board Ready 02/19/2025	HPB – 03/05/2025 (Board continued item with direction)
5	04/16/2025	Determined Board Ready 05/06/2025	HPB Scheduled – 06/04/2025
6	04/16/2025	Determined Board Ready 05/06/2025	City Commission Scheduled – 08/19/2025