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HISTORIC PRESERVATION BOARD STAFF REPORT

202 N. Swinton Avenue

Meeting	File No.	Application Type
October 16, 2024	2024-192	Certificate of Appropriateness, Level 1 Site Plan Modification, Demolition, and Variance

REQUEST

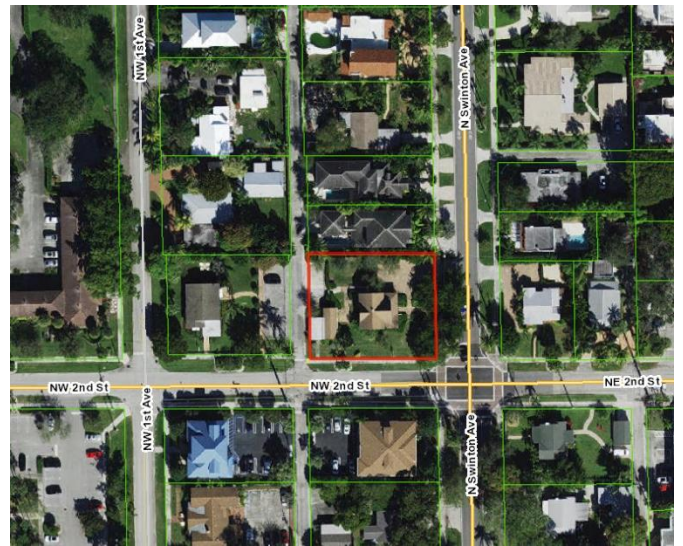
The item before the Board is consideration of a Certificate of Appropriateness, Level 1 Site Plan Modification, Demolition and Variance (2024-192) requests associated with an after-the-fact demolition of a commercial, contributing structure located at 202 N. Swinton Avenue, within the Old School Square Historic District.

GENERAL DATA

Owner: Purple Box, LLC/Ronny Kurzman
Agent: Roger Cope
Location: 202 N. Swinton Avenue
PCN: 12-43-46-17-49-058-0110
Property Size: 0.3129 Acres
Zoning: OSSHAD
FLUM: HMU (Historic Mixed Use)
Historic District: Old School Square Historic District
Adjacent Zoning:

- OSSHAD (North)
- OSSHAD (West)
- OSSHAD (South)
- OSSHAD (East)

Existing Land Use: Commercial – Office
Proposed Land Use: Commercial – Office



BACKGROUND AND PROJECT DESCRIPTION

The subject property consists of Lots 11 and 12, Block 58, Town of Delray, and is zoned Old School Square Historic Arts District (OSSHAD). The property contains two structures, a two-story, Frame-Vernacular style residence constructed in 1922, and a detached 1-story storage structure also constructed in 1922, which is located at the southwest corner of the property. Both are classified as contributing to the Locally and Nationally Listed Old School Square Historic Districts. The main structure is believed to have been originally located on the St. Paul’s Church property and was moved to the subject property in order to allow for the construction of a new parish house for the church. In its original location, the structure was likely owned by Miss Rebecca Taylor prior to 1935 (“From Sapling to Sturdy Oak”, a book from the St. Paul’s Church along with an oral history from Mr. George Long who resides in the Old School Square Historic District). A review of the 1922 and 1926 Sanborn Maps reveals evidence that the home was originally situated on the southeast end of Block 62, Town of Delray and the 1949 Sanborn Map shows the home situated in its current location. The structure originally had a

<p>Project Planner: Katherina Paliwoda, Planner, Paliwodak@mydelraybeach.com Michelle Hoyland, Principal Planner, HoylandM@mydelraybeach.com</p>	<p>Review Dates: HPB: October 16, 2024</p>	<p>Attachments:</p> <ol style="list-style-type: none"> 1. Justification Statement 2. Materials and Color Samples 3. Plans
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wrap around front porch that has been partially enclosed, along with a cross gabled roof and as a Florida Master Site File form indicates, “attenuated Tudoresque” gable details. In 1984, the structure was damaged from fire and was subsequently repaired and rehabilitated.

At its meeting June 1, 2011, a Class V Site Plan and Certificate of Appropriateness (2014-224) were approved by the Historic Preservation Board (HPB) for the change of use from single-family residence to professional office, and associated site improvements. Three waivers were subsequently approved by the City Commission at its meeting of June 21, 2011. The approved improvements never commenced, and the approval expired on June 1, 2013.

On October 1, 2014, the HPB approved a Certificate of Appropriateness and Class V Site plan application which duplicated the 2011 approval with waivers and included a change of use from single-family residential to Professional Office, with additional site improvements. The improvements were completed, and the residence was converted to an office, which has existed on site.

On March 1, 2023, the HPB approved a Certificate of Appropriateness for exterior modifications to existing structures, including window and door replacements/installations, roof pitch change to the detached structure in the rear, roof material change, and repainting of the structure. Specifically, the approved windows were to be clear with no tint and non-reflective, as this is a contributing structure and does not need to meet energy calculations per the Florida Building Code. A permit was submitted and during staff’s review, staff was informed that the windows were installed prior to permit issuance. Additionally, the windows installed were green, reflective windows while the certified, approved plan set indicated that all window and door glass would be clear. Since the completed project was not in compliance with the Certified Approved HPB plan, a code enforcement violation was issued for the property. The applicant submitted a COA (2024-043) request on November 30, 2023, for an after-the-fact change to the approved glass appearance to allow the green windows to remain, which was approved at the January 17, 2024, HPB meeting.

Building permits were issued for the improvements relating to the March 1, 2023 HPB approval and work began on both the main and accessory commercial structures. During construction the contractor encountered structural issues with the rear accessory office structure and subsequently removed three of four sections of supporting walls. The structure is non-conforming with respect to setbacks on the west side adjacent to the north/south alley, where a 10’ setback is required, and the building existed with a 1.8’ setback. A Stop Work Order was issued to the property owner given the scope of work exceeded the HPB approval. City Staff met with the property owner and their contractor to review the next steps in the process. Since the building is non-conforming with respect to setbacks a Variance for the reconstruction of the structure is now required as well as review of a Demolition request in association with a new COA and Site Plan Modification. The request was initially scheduled for the September 4 HPB meeting, but was removed from the agenda. The requests are now before the board for review.

REVIEW AND ANALYSIS

Pursuant to Land Development Regulation (LDR) Section 2.4.10(A)(1)(a), Level 1. Level 1 Site Plan applications include improvements or modifications to existing development that do not increase building square footage and are generally limited to landscaping, hardscaping, architectural elevations, materials, and colors.

The request is for a Level 1 Site Plan modification, COA, Demolition, and Variance. The request does not increase building square footage, rather the proposal involves reconstruction of existing building area in the same configuration as it previously existed on the detached accessory structure.

Pursuant to Land Development Regulation (LDR) Section 2.4.10(A)(3)(a), formal findings are not required for Level 1 Site Plan applications.

Pursuant to Land Development Regulation (LDR) Section 2.4.10(A)(3)(d), Architectural Elevations, including modifications to existing building facades, require an overall determination of consistency with the objectives and standards of Section 4.6.18, Architectural Elevations and Aesthetics, and any adopted architectural design guidelines and standards, as applicable.

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 AND USE REVIEW

Pursuant to LDR Section 4.4.24(F)(1) – Old School Square Historic Arts District (OSSHAD) - Development standards: The use of the property as office is a permitted Principal use within the Old School Square Historic Arts District zoning district and is not proposed to change.

LDR SECTION 4.5.1

HISTORIC PRESERVATION: DESIGNATED DISTRICTS, SITES, AND BUILDINGS

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

Pursuant to LDR Section 4.5.1(E)(2) – Minor Development.

The subject application is considered "Minor Development" as it involves "The construction, reconstruction, or alteration of less than 25 percent of the existing floor area of the building and all appurtenances."

Pursuant to LDR Section 4.5.1(E)(3)(a)(1.)(d) – 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:

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.

The subject request is a result of work being done beyond the scope of work approved with COA 2023-038, which were approved by HPB March 1, 2023. Building permits were issued for the improvements

relating to the March 1, 2023, HPB approval and work began on both the main and accessory commercial structures. During construction the contractor encountered structural issues with the rear accessory office structure and subsequently removed three of four sections of supporting walls. The structure is non-conforming with respect to setbacks on the west side adjacent to the north/south alley, where a 10' setback is required, and the building existed with a 1.8' setback. The original design of the building has been considered with the proposal and the subject request involves reconstruction of the structure as it originally existed.

SECRETARY OF THE INTERIORS STANDARDS

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

Standard 1

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

Standard 2

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

Standard 3

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

Standard 4

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

Standard 5

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

Standard 6

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

Standard 7

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

Standard 8

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

Standard 9

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

Standard 10

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

At the March 1st, 2023, HPB meeting, COA 2023-038 was approved for exterior modifications to the existing structures on the subject property, including window and door replacements/installations, roof pitch change to the detached structure in the rear, roof material change, siding repair and replacement, and repainting of the structure. A permit was submitted and approved for the modifications and work began on both the main and accessory commercial structures. During construction the contractor encountered structural issues with the rear accessory office structure and subsequently removed three of four sections of supporting walls. A Stop Work Order was issued by city staff since work had occurred that was beyond the approved scope of work.

Regarding standard 1, the proposal does not involve any modifications to the existing use. Standards 2, 5 and 6 are applicable due to the demolition of defining features of the accessory structure and exterior alterations. The current proposal is to utilize the same materials and colors as previously approved, with a series of new alterations as follows:

Accessory Structure:

1. South Elevation: Elimination of the approved transom window above the entry door and elimination of the fixed window.
2. East Elevation: Installation of a single-entry door where a double French door was approved and elimination of the fixed glass window.
3. West Elevation: Installation of two single hung windows where a set of double French doors were approved and elimination of the approved fixed window on the gable.

Main Structure:

1. North Elevation: Removal of the approved roof eyebrow over the side door.
2. West Elevation: Changing the rear entry door to match all other doors, which are solid pane class doors.

All approved and existing shutters are no longer requested on either structure, and the existing ramp pavers are also proposed to be replaced/repared in place. These elements can be considered appropriate and compatible for both the main and the accessory structure, while being harmonious between the two. Consideration could be given to eliminating the roof design feature above the entry door on the south elevation since the transom window is proposed to be eliminated. This is due to the fact that the “pop-up” of the roof feature no longer serves a utilitarian purpose. Also, the board should consider whether or not it is appropriate to retain the shutters along the east entry (primary façade). It

is noted that a majority of the windows on both structures did not previously have shutters, nor do the existing shutters appear operable due to their narrow width.

It is noted that at their meeting of January 17, 2024, HPB approved the use of reflective Low-e windows, and the subject request includes the use of the same type and design of windows. A setback Variance is included with the subject request, to allow reconstruction of the structure in its historic location on the property. This is further discussed in the variance analysis section. Finally, the request also involves an after-the-fact Demolition, it is important that the design of the structure and architectural elements proposed are consistent and compatible with the contributing structures, site, and historic district.

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 the proposed after-the-fact Demolition and Variance requests, the proposal also involves minor exterior alterations from the 2023 COA approval. There are no modifications to the approved **roof shape/height**, nor the approved **materials/colors** (red cedar shake roofing, white wood siding & trim, white frame aluminum windows). But the window glass will be Low-e which has a reflective green appearance (rather than clear glass) as was approved by HPB on January 1, 2024 for all windows associated with the project.

The proposal involves reconstruction of the rear portion of the accessory structure, which is associated with an after-the-fact Demolition request. There are no changes proposed to the form, proportions, shape, style, nor height of the structure. Although, the proposal does involve the following minor exterior alterations:

Accessory Structure:

4. South Elevation: Elimination of the approved transom window above the entry door and elimination of the fixed window.
5. East Elevation: Installation of a single-entry door where a double French door was approved and elimination of the fixed glass window.
6. West Elevation: Installation of two single hung windows where a set of double French doors were approved and elimination of the approved fixed window on the gable.

Main Structure:

3. North Elevation: Removal of the approved roof eyebrow over the side door.
4. West Elevation: Changing the rear entry door to match all other doors, which are solid pane class doors.

All approved and existing shutters are no longer requested on either structure, and the existing ramp pavers are also proposed to be replaced/repared in place.

While these changes alter the previously approved **proportion of windows & doors**, they can be seen as appropriate modifications of the structure and compatible with the existing **architectural style**. The variance requested to is to allow the detached accessory structure to remain at its current positioning on the site, which maintains the existing **rhythm of buildings on streets**, as the structure is highly visible from three public rights-of-way.

ARCHITECTURAL ELEVATIONS

Pursuant to Land Development Regulation (LDR) Section 2.4.10(A)(3)(d), Findings. Architectural Elevations, including modifications to existing building facades, require an overall determination of consistency with the objectives and standards of Section 4.6.18, Architectural Elevations and Aesthetics, and any adopted architectural design guidelines and standards, as applicable.

Pursuant to LDR Section 4.6.18(A), Minimum requirements.

- (1) The requirements contained in this Section are minimum aesthetic standards for all site development, buildings, structures, or alterations except for single family development.**
- (2) It is required that all site development, structures, buildings, or alterations to same, show proper design concepts, express honest design construction, and be appropriate to surroundings.**

Pursuant to LDR Section 4.6.18(E), Criteria for board action. The following criteria shall be considered, by the Site Plan Review and Appearance Board or Historic Preservation Board, in the review of plans for building permits. If the following criteria are not met, the application shall be disapproved.

- (1) The plan or the proposed structure is in conformity with good taste, good design, and in general, contributes to the image of the City as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas, and high quality.**

- (2) The proposed structure, or project, is in its exterior design and appearance of quality such as not to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.
- (3) The proposed structure, or project, is in harmony with the proposed developments in the general area, with the Comprehensive Plan, and with the supplemental criteria which may be set forth for the Board from time to time.

There are no concerns with the proposed modifications, and such are intended to be in conformity with the site and structures as they exist. The board will need to make a determination that the proposal meets the required criteria for board action as listed above.

DEMOLITION ANALYSIS

Pursuant to LDR Section 4.5.1(F) – Demolitions: Demolition of historic or archaeological sites, or buildings, structures, improvements and appurtenances within historic districts shall be regulated by the Historic Preservation Board and shall be subject to the following requirements:

- (1) No structure within a historic district or on a historic site shall be demolished before a Certificate of Appropriateness has been issued pursuant to Section 2.4.6(H).
- (2) The application for a Certificate of Appropriateness for demolition must be accompanied by an application for a Certificate of Appropriateness for alterations to the structure or the redevelopment of the property.
- (3) Demolition shall not occur until a building permit has been issued for the alterations or redevelopment as described in the applicable Certificate of Appropriateness.
- (4) All structures approved for demolition and awaiting issuance of a building permit for the alterations or redevelopment shall be maintained so as to remain in a condition similar to that which existed at time that the Certificate of Appropriateness for demolition was approved unless the Chief Building Official determines that an unsafe building condition exists in accordance with Section 4.5.3(G).
- (5) A Certificate of Appropriateness for demolition of 25% or more of contributing or individually designated structure shall be subject to the following additional requirements:
 - a. A demolition plan shall accompany the application for a Certificate of Appropriateness for demolition. The plan shall illustrate all portions of the existing structure that will be removed or altered.
 - b. The Certificate of Appropriateness for demolition and the Certificate of Appropriateness for alternation or redevelopment shall meet the “Additional Public Notice” requirements of LDR Section 2.4.2(B)(1)(j).
- (6) The Board upon a request for demolition by a property owner, shall consider the following guidelines in evaluating applications for a Certificate of Appropriateness for demolition of designated historic sites, historic interiors, or buildings, structures, or appurtenances within designated historic districts:
 - a. Whether the structure is of such interest or quality that it would reasonably fulfill criteria for designation for listing on the national register.
 - b. Whether the structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty or economically nonviable expense.
 - c. Whether the structure is one of the last remaining examples of its kind in the designated historic district within the city.
 - d. Whether retaining the structure would promote the general and value of a particular culture and heritage.

- e. **Whether there are approved plans for immediate reuse of the property if the proposed demolition is carried out, and what effect those plans will have on the historic district designation or the individual designation of the property.**
- (7) No decision of the Board shall result in undue economic hardship for the property owner. The Board shall determine the existence of such hardship in accordance with the definition of undue economic hardship found in Section 4.5.1(H).**
- (8) The Board's refusal to grant a Certificate of Appropriateness requested by a property owner for the purpose of demolition will be supported by a written statement describing the public interest that the Board seeks to preserve.**
- (9) The Board may grant a certificate of appropriateness as requested by a property owner, for demolition which may provide for a delayed effective date. The effective date of the certificate will be determined by the Board based on the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. The Board may delay the demolition of designated historic sites and contributing buildings within historic districts for up to six months while demolition of non-contributing buildings within the historic district may be delayed for up to three months.**
- (10) Request for Demolition Justification Statement: A justification statement shall accompany the application for a Certificate of Appropriateness for demolition of any contributing structure in a historic district or individually designated historic structure.**
- (11) Salvage and Recordation of Historic Structures:**
 - a. **The property owner shall contact the Delray Beach Historical Society for the purpose of salvaging and preserving specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in the restoration of the other historic properties. Confirmation of such efforts shall be provided in a written statement and submitted with the other demolition application prior to consideration by the Historic Preservation Board.**
 - b. **The Board may, with the consent of the property owner, request that the Delray Beach Historical Society, or the owner, at the owner's expense, record the architectural details for archival purposes prior to demolition.**
 - i. **The recording may include, but shall not be limited to photographs, documents and scaled architectural drawings to include elevations and floor plans.**
 - ii. **One (1) copy of the recording shall be submitted to the City's Planning and Zoning Department, and one (1) copy shall be submitted to the Delray Beach Historical Society for archiving purposes.**

The proposal includes an after-the-fact demolition coupled with a variance request to allow a portion of the historic accessory structure to be reconstructed in its original position. As previously noted, the property received an approval to modify both structures on the site. The alterations were limited to exterior architectural changes. For the detached accessory structure, there were window/door changes, replacement of siding with wood siding, and a roof pitch change. During construction, the walls of the accessory structure were removed, which was not within the HPB approved scope of work. A stop work order was issued for the rear structure only. The contractor indicated that when he began work on the accessory structure, he identified that the structural integrity of the building was compromised requiring him to remove three sections of exterior walls. The contractor retained all original material and plans to utilize material that is in good condition when the section of the building is reconstructed. Since the original HPB approval did not include a demolition request, it is now before the board for review as an after-the-fact demolition. The board will need to make a determination that the proposal is in compliance with the requirements for Demolition.

VARIANCE ANALYSIS

Pursuant to LDR Section 1.3.1(A) Within the City of Delray Beach, there exist lots, structures, uses of land and structures, and characteristics of use, which were lawful before the passage of certain code amendments but are now prohibited, further regulated, or restricted. It is the intent of this article to allow such legal nonconformities to continue until they are eliminated, provided they meet the conditions established in this article. Nonconformities shall not be enlarged, expanded, extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.

The existing historic accessory structure was situated 1.8' from the rear property line, where a 10' rear setback is required.

Pursuant to Section 4.3.4(K), Development Standards Matrix, the required rear setback within the OSSHAD District is 10'. The requested variance is to allow reconstruction of the historic accessory structure in its original configuration, with a 1.8' rear setback where 10' is required.

Pursuant to LDR Section 2.1.9(E)(12)(d)(1), Board Actions. The Board hereby has the authority to take action on the following items 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: Variances and appeals from the following: Base district development standards, Section 4.3.4, unless otherwise stated.

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 2.4.11(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.
Should the structure be required to meet the minimum 10' rear setback, the structure would be reduced in size by 8.2', essentially eliminating nearly half of west portion of the structure. Reconstruction would allow for the historic structure to remain in its original position. The variance is not anticipated to be contrary to the public interest, safety, nor welfare. Additionally, it is noted that the structure will not encroach into the required sight visibility triangles for NW 2nd Street and the north/south alley; therefore, not impeding vehicular visibility at this minor intersection.
- 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.

As this request is the result of an after-the-fact demolition, that was the result of structural instability of the existing building, special circumstances exist. Should the contractor and owner have reached out to city staff prior to removal of the three wall sections, a request for demolition would still have been the process to move forward. The contractor and property owner propose reconstruction of the existing structure in its original placement and form while also utilizing surviving building materials where feasible.

- 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.**

The request is to match the current configuration of the accessory structure on the site, making it consistent with the 2023 HPB approval. Should the variance not be approved, then the structure would need to be redesigned to decrease its size or the entire structure would need to shift east on the site, requiring submittal and review of a COA for Relocation. These two options could affect the historic layout and integrity of the accessory structure on the site.

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

The request is not anticipated to diminish the historic character of the site nor the Old School Square Historic District, as the proposal is to retain existing setbacks of the accessory structure. The site is also highly visible from three public rights-of-way, requiring the accessory structure to comply with the current setback regulations could have an effect on the streetscape within this area of the Old School Square Historic District and have an effect upon the size and design of the structure.

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

The request is to allow the accessory structure to be reconstructed in its original location. Should the variance not be approved, then the structure would need to either be redesigned or a COA application would need to be submitted to shift the building 8.2' to the east. The variance would allow the continued adaptive reuse of the structure for office use.

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 development proposal is for an after-the-fact Demolition and Variance request for the reconstruction of a partially demolished historic accessory structure. With respect to the adjacent land uses, the property is in an area surrounded by a mix of uses including residential and commercial. The board will need to make a determination that the proposal is consistent with the requirements of the Comprehensive Plan, and the provisions of LDR Section 4.5.1 relating to historic sites and districts as

well as the “Delray Beach Historic Preservation Design Guidelines” and the Secretary of the Interior’s Guidelines for Rehabilitation.

SITE PLAN TECHNICAL ITEM(S)

1. Update the window and door schedule to reflect the new rear door on the main structure;
2. Update label for the existing (east) elevation on the rear structure to say final revisions entry;
3. Update the label for the proposed entry (east) elevation on the rear structure to say certified entry.
4. An updated survey will need to be submitted that provides the setback dimension for the accessory structure from the rear/west setback.

ALTERNATIVE ACTIONS

- A. Move to continue with direction.
- B. Approve Certificate of Appropriateness, Level 1 Site Plan Modification, Demolition, and Variance (2024-192), for the property located at **202 N. Swinton Avenue, Old School Square 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, Level 1 Site Plan Modification, Demolition, and Variance (2024-192), for the property located at **202 N. Swinton Avenue, Old School Square 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:
- D. Deny Certificate of Appropriateness, Level 1 Site Plan Modification, Demolition and Variance (2024-192), for the property located at **202 N. Swinton Avenue, Old School Square 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 are not applicable to this request	<input checked="" type="checkbox"/> Public Notice was mailed to property owners within a 500’ radius on 10/4/24, 10 days prior to the meeting. <input checked="" type="checkbox"/> Public Notice was posted at the property on 10/9/2024 at least 7 calendar days prior to the meeting <input checked="" type="checkbox"/> Public Notice was posted to the City’s website on 10/4/2024 10 calendar days prior to the meeting <input checked="" type="checkbox"/> Public Notice was posted in the main lobby at City Hall on 10/4/2024, 10 calendar days prior to the meeting. <input checked="" type="checkbox"/> Agenda was posted on 10/9/24, 5 working days prior to meeting.
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