



# CITY OF DELRAY BEACH

## DEPARTMENT OF DEVELOPMENT SERVICES

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



### HISTORIC PRESERVATION BOARD STAFF REPORT

**235 N. Swinton Avenue**

**Meeting**

June 1, 2022

**File No.**

2022-164

**Application Type**

Certificate of Appropriateness & Variance

### REQUEST

The item before the Board is consideration of a Certificate of Appropriateness and Variance (2022-164) request for the installation of a swimming pool within the rear of the existing, contributing single-family residence located at **235 N. Swinton Avenue, Old School Square Historic District**.

### GENERAL DATA

**Owner:** Richard and Lori Gascoyne

**Location:** 235 N. Swinton Avenue

**PCN:** 12-43-46-16-01-066-0040

**Property Size:** 0.16 Acres

**Zoning:** OSSHAD

**Historic District:** Old School Square Historic District

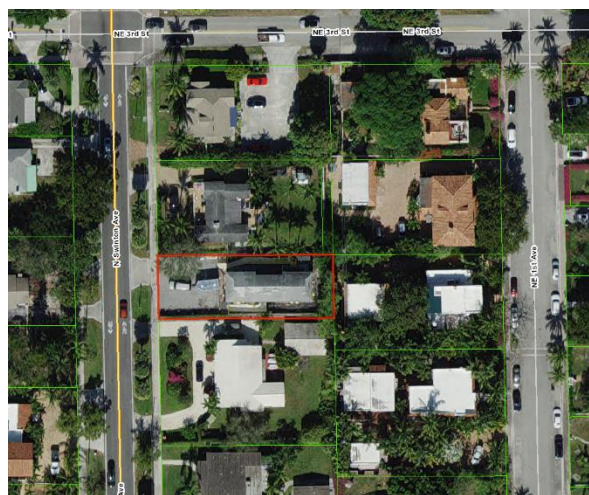
**LUM Designation:** HMU (Historic Mixed Use)

**Adjacent Zoning:**

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

**Existing Land Use:** Residential

**Proposed Land Use:** Residential



### BACKGROUND AND PROJECT DESCRIPTION

The subject property consists of all of Lot 4, Block 66 and is located within the Locally Designated Old School Square Historic District. The site contains a non-contributing, two-story single-family residence constructed in 1981.

The existing structure was originally constructed as a duplex, then later converted to a single-family residence. In 2012, it was discovered by the Palm Beach County Property Appraiser's office that the property owner had been utilizing the site for non-residential purposes by establishing a law office without site plan approval. This information was conveyed to the city, and the applicant was subsequently cited by Code Enforcement. In 2013, the applicant submitted a Class V Site Plan application, associated waivers, and an in-lieu of parking request for three spaces. The in-lieu of parking approval was granted by the City Commission at its meeting of January 7, 2014.

On October 19, 2016, the HPB approved COA, Class V Site Plan, and Landscape Plan (2013-235) for the change of use from residential to Professional Office for the subject property. Specifically, the improvements included the following:

#### Project Planner:

Michelle Hewett, Planner hewettm@mydelraybeach.com  
Katherina Paliwoda, Planner paliwodak@mydelraybeach.com

#### Review Dates:

June 1, 2022

#### Attachments:

1. Photographs
2. Justification Statement
3. Plans

- Construction of a new parking lot as existing parking was not striped and backed out onto North Swinton Avenue. The parking lot was to be reconfigured to provide four spaces, which pull in and face south. The spaces were to consist of one handicap space, and three standard spaces.
- Two lighting fixtures were to be installed at the front of the property and consist of a 10' high concrete pole with an acorn fixture.
- Landscaping improvements consisted of Palatka Holly, Live Oak, and Alexandra Palm accented by cocoplum hedge and other ground covers.
- No alterations or color changes were proposed to the existing structure.

The improvements were never completed via a building permit; thus, the approval expired. New owners purchased the property in 2019 and have returned the use to residential, converting the building to a single-family residence.

On July 21, 2021, Certificate of Appropriateness (COA) 2021-217 was administratively approved for a color change that included Benjamin Moore "Pure White" (OC-64) for Walls and Benjamin Moore "Black Ink" (2127-20) for the Trim.

The subject request is a Certificate of Appropriateness (COA) for the installation of a swimming pool to encroach 3' into the rear and both side interior setbacks of the property. The request is now before the board.

#### **REVIEW AND ANALYSIS**

Pursuant to Land Development Regulation (LDR) Section 2.4.6(H)(5), prior to approval, a finding must be made that any Certificate of Appropriateness which is to be approved is consistent with Historic Preservation purposes pursuant to Objective 1.4 of the Historic Preservation Element of the Comprehensive Plan and specifically with provisions of Section 4.5.1, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.

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

#### **ZONING AND USE REVIEW**

Pursuant to LDR Section 4.6.15(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).

A swimming pool is proposed in the rear (east) of the property, within the required 10' rear setback and both side interior setbacks. As the request does not comply with the requirements of this code section, a variance to allow the pool to encroach into the rear and side setbacks is proposed and is analyzed within the Variance Analysis section of this report.

#### **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 modification of less than 25 percent of the existing non-contributing single-family residence and appurtenances.

**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 for the installation of a swimming pool to the rear of the existing contributing single-family residence. The structure has been considered with respect to improvements.

**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 property has an existing 8' black wood fence along the sides (north and south) and rear (east) of the proposed swimming pool. The wall and fence will assist in the enclosure of the swimming pool.

**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.

The proposal involves construction of a new swimming pool to the rear of the property, which is not expected to have an adverse effect, with respect to the Secretary of the Interior's Standards, upon the historic district nor the subject property.

## **VISUAL COMPATIBILITY STANDARDS**

Pursuant to LDR Section 4.5.1(E)(7) – **Visual Compatibility Standards**: new construction and all improvements to both contributing and noncontributing buildings, structures, and appurtenances thereto within a designated historic district or on an individually designated property shall be visually compatible. In addition to the Zoning District Regulations, the Historic

Preservation Board shall apply the visual compatibility standards provided for in this Section with regard to height, width, mass, scale, façade, openings, rhythm, material, color, texture, roof shape, direction, and other criteria set forth elsewhere in Section 4.5.1. Visual compatibility for minor and major development as referenced in Section 4.5.1(2) shall be determined by utilizing criteria contained in (a)-(m) below.

- a. **Height:** The height of proposed buildings or modifications shall be visually compatible in comparison or relation to the height of existing structures and buildings in a historic district for all major and minor development. For major development, visual compatibility with respect to the height of residential structures, as defined by 4.5.1(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.

The proposal involves construction of a new swimming pool to the rear of the property, which is not expected to have an adverse effect, with respect to Visual Compatibility Standards, upon the historic district nor the subject property.

#### **VARIANCE**

The applicant has requested a variance to the setback requirements, which are summarized below:

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

Two variances have been requested as follows:

- 1. A variance to reduce the required pool setback from 10' to 3' on the interior (south and north) sides of the property; and,
- 2. A variance to reduce the required pool setback from 10' to 3' on the rear (east) of the property.

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

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

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

Staff Analysis

The variance requests are not anticipated to be contrary to the public interest, safety, or welfare. The pool is a ground level improvement, which is not anticipated to affect the historic character of the property.

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

Staff Analysis

Due to the existing structure's historic setting on the site, the rear of the property contains a smaller area of open space. Although there is a larger open space within the front of the residence, the request seeks to propose the swimming pool in a traditional location within the rear of the site. Due to the limited space in the rear, the requested relief would allow the swimming pool to be installed in a more private area of the site.

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

Staff Analysis

Literal interpretation of the code could alter the historic character of the site to an extent that it would not be feasible to preserve the historic character of the site and district. The variance request to reduce the required setbacks for the swimming pool is supportable given that the location is proposed in the rear of the site and the ground level nature of the improvement.

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

Staff Analysis

The requested variances are not anticipated to significantly diminish the historic character of the historic site nor the historic district. The placement of the swimming pool is proposed to the rear of the property. However, as there is very little room to the rear of the site, the requested relief will allow the applicants to keep the request in rear, where pools are traditionally located for residences. The construction of a pool is a ground level improvement that is not anticipated to have a negative effect upon the historic character of the site nor district.

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

Staff Analysis

The requested variance will facilitate the construction of a new swimming pool on the property, allowing for the modernization of the site. This can be seen as an appropriate adaptive reuse of the historic property.

**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.

### 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:

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

The development proposal involves the construction of a swimming pool to the rear of the single-family residence. There are no concerns with respect to soil, topographic or other physical considerations. With respect to the adjacent land uses, the property is in an area surrounded by residential, retail, and office uses. The proposal can be found to be 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".

### ALTERNATIVE ACTIONS

- A. Move to continue with direction.
- B. Approve Certificate of Appropriateness and Variance (2022-164), for the property located at **235 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 and Variance (2022-164), for the property located at **235 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 conditions:
- D. Deny Certificate of Appropriateness and Variance (2022-164), for the property located at **235 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**

☒ Courtesy Notices are not applicable to this request:

- ☒ Public notice mailers were sent to all properties within a 500' radius of the subject property on (5/19/20)
- ☒ Agenda was posted on 5/25/22, 5 working days prior to meeting.