

IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

**ORDER OF THE CITY COMMISSION
OF THE
CITY OF DELRAY BEACH, FLORIDA**

**Class V Site Plan, Certificate of Appropriateness, Landscape Plan, Architectural
Elevations, Setback Variance, and Landscape Variance
for 143 South Swinton Avenue**

1. The consideration of a Class V Site Plan, Certificate of Appropriateness, Landscape Plan, Architectural Elevations, Setback Variance, and Landscape Variance for property located at 143 South Swinton Avenue has come before the City Commission on March 12, 2019. The consideration of the Class V Site Plan, Certificate of Appropriateness 2018-155, Landscape Plan, Architectural Elevations, Setback Variance, and Landscape Variance was considered by the City Commission as an appeal of the Historic Preservation Board (HPB) action.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the Class V Site Plan, Certificate of Appropriateness, Landscape Plan, Architectural Elevations, Setback Variance, and Landscape Variance for property located at 143 South Swinton Avenue. All the evidence is part of the record in this case. Required findings are made in accordance with Subsection I and II.

I. COMPREHENSIVE PLAN:

a. Pursuant to the **Future Land Use Element, Objective A-1**, property shall be developed or redeveloped in a manner so that the future use and intensity is appropriate and complies in terms of soil, topographic, and other applicable physical considerations, is complimentary to adjacent land uses, and fulfills remaining land use needs.

Is Future Land Use Element, Objective A-1 met?

Yes____ No____

b. Pursuant to the **Future Land Use Element, Objective A-4**, the redevelopment of land and buildings shall provide for the preservation of historic resources. The objective shall be met through continued adherence to the City's Historic Preservation Ordinance and, where applicable, to architectural design guidelines.

Is Future Land Use Element, Objective A-4 met?

Yes _____ No _____

c. Pursuant to the **Future Land Use Element, Policy A-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".

Is Future Land Use Element, Policy A-4.1 met?

Yes _____ No _____

II. LAND DEVELOPMENT REGULATIONS:

a. Pursuant to **LDR Section 2.4.5(F)(5), Class V Site Plan Findings**, in addition to provisions of Chapter Three, the approving body must make a finding that the development of the property pursuant to the site plan will be compatible and harmonious with the adjacent and nearby properties and the City as a whole, so as not to cause substantial depreciation of property values.

Are the requirements of LDR Section 2.4.5(F)(5) met?

Yes _____ No _____

b. Pursuant to **LDR Section 2.4.6(H)(5), Procedures for Obtaining Permits and Approvals, Certificate of Appropriateness for Individually Designated Historic Structures and all Properties Located within Historic Districts, Findings**, prior to approval, a finding must be made that any Certificate of Appropriateness which is to be approved is consistent with Historic Preservation purposes pursuant to Objective A-4 of the Land Use Element of the Comprehensive Plan and specifically with provisions of Section 4.5.1, and the Secretary of the Interior's Standards for Rehabilitation.

Are the requirements of LDR Section 2.4.6(H)(5) met?

Yes _____ No _____

c. Pursuant to **LDR Section 3.1.1(A), Required Findings: Future Land Use Map**, the resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map.

Are the requirements of LDR Section 3.1.1(A) met?

Yes _____ No _____

d. Pursuant to **LDR Section 3.1.1(B), Required Findings: Concurrency**, concurrency as defined pursuant to Objective B-2 of the Future Land Use Element of the Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CI-GOP-1 of the adopted Comprehensive Plan of the City of Delray Beach.

Are the requirements of LDR Section 3.1.1(B) met?

Yes _____ No _____

e. Pursuant to **LDR Section 3.1.1(C), Required Findings: Consistency**, a finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

Are the requirements of LDR Section 3.1.1(C) met?

Yes _____ No _____

f. Pursuant to **LDR Section 3.1.1(D), Required Findings: Compliance with LDRs**, whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.

Are the requirements of LDR Section 3.1.1(D) met?

Yes _____ No _____

g. Pursuant to **LDR Section 2.4.5(H)(5), Landscape Plan Findings**: at the time of action on a landscape plan, the approving body shall make finding and an overall determination of consistency with respect to the proposed plan's relationship to

the Objectives of landscaping regulations and site and landscape design standards pursuant Section 4.6.16.

Are the requirements of LDR Section 2.4.5(H)(5) met?

Yes_____No_____

h. Pursuant to **LDR Section 2.4.5(I)(5), Architectural Elevations:** the approving body must make a finding that the architectural elevations will be consistent with the objectives and standards as contained in the architectural regulations of Section 4.6.18.

Are the requirements of LDR Section 2.4.5(I)(5) met?

Yes_____No_____

i. Pursuant to **LDR Section 2.4.7(A)(5): Variances** the approving body must make a finding that the Setback Variance is consistent with the criteria below:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance);
2. That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;
3. That the special conditions and circumstances have not resulted from actions of the applicant;
4. That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance;
5. That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,
6. That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Are the requirements of LDR Section 2.4.7(A)(5) met – Setback Variance?

Yes_____No_____

j. Pursuant to **LDR Section 2.4.7(A)(5): Variances** the approving body must make a finding that the Landscape Variance is consistent with the criteria below:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance);
2. That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;
3. That the special conditions and circumstances have not resulted from actions of the applicant;
4. That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance;
5. That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,
6. That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Are the requirements of LDR Section 2.4.7(A)(5)&(6) met – Landscape Variance?

Yes _____ No _____

3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the application for the Class V Site Plan, Certificate of Appropriateness, Landscape Plan, Architectural Elevations, Setback Variance, and Landscape Variance was submitted.

4. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts, and other competent witnesses supporting these findings.

5. Based on the entire record before it, the City Commission approves ____ denies ____ the Class V Site Plan and Certificate of Appropriateness 2018-155, with the conditions:

1. That the location of the mechanical equipment on the north side of the structure be revised to comply with the requirements of the Florida Building Code; and,
2. That if the variance is denied, the structure be reduced by 2.5' (165 square feet) along the north side of the new addition.

6. Based on the entire record before it, the City Commission approves ____ denies ____ the Landscape Plan;

7. Based on the entire record before it, the City Commission approves ____ denies ____ the Elevations;

8. Based on the entire record before it, the City Commission approves ____ denies ____ the Setback Variance; and,

9. Based on the entire record before it, the City Commission approves ____ denies ____ the Landscape Variance and hereby adopts this Order this **12th** day of March 2019, by a vote of ____ in favor and ____ opposed.

ATTEST:

Shelly Petrolia, Mayor

Katerri Johnson, City Clerk

Approved as to legal form
And sufficiency:

Lynn Gelin, City Attorney