



Development Services Department

BOARD ACTION REPORT – APPEALABLE ITEM

Project Name: 242 SE 7th Avenue
Project Location: 242 SE 7th Avenue
Request: Certificate of Appropriateness (COA) and Variance
Board: Historic Preservation Board
Meeting Date: March 6, 2019

Board Action:

Approved the Certificate of Appropriateness and Variance requests to allow a pergola structure within the 10' (Side Interior) setback. on the property located at 242 SE 7th Avenue, Marina Historic District, on a 4 to 2 vote (Tracy Caruso absent).

Project Description:

The property is located within the R-1-AA (Single Family Residential) zoning district and within the Locally and Nationally Designated Marina Historic District. The 0.15-acre lot measures 52' wide and 138' deep and contains an existing single-family residence. The vernacular style structure was built in 1970 and is classified as noncontributing to the Marina Historic District. The historic resource survey completed in 2008 noted the structure could be considered a contributing structure if the period of significance were to be extended in the future.

The subject request is a Certificate of Appropriateness (COA) and Variance to allow construction of a 9'5" wide and 16' deep pergola on the north side of the property to encroach 7'8" into the required 10' side interior setback, providing for a 2'4" setback for the proposed pergola. The requests are now before the Board for consideration.

Staff supported the Certificate of Appropriateness and Variance requests.

Board Comments:

A board member started discussion about the existing shed that is located at the rear of the property, which was not part of the project proposal. The shed was on the property before the current property owners bought the property. The raised concern was about shed's setbacks. Since the shed was not part of the application proposal, and it is already existing structure, no research was done on shed's original permitting. Board Chair and the City Attorney deterred a Board member from further discussion about the item that is not a part of the project proposal.

Public Comments:

No members of the public spoke for or against the project.

Associated Actions: All required actions were taken.

Next Action: HPB action is final.

HISTORIC PRESERVATION BOARD

CITY OF DELRAY BEACH

STAFF REPORT

MEETING DATE: March 6, 2019

ITEM: 242 SE 7th Avenue, Marina Historic District – Certificate of Appropriateness (2019-124) and Variance (2019-097) to allow a pergola structure within the 10' (Side Interior) setback.

RECOMMENDATION: Approve Certificate of Appropriateness and Variance.

GENERAL DATA:

Owner/Applicant..... Dolphin Cottage LLC -
Daniel and Anita Dietrich.

Location:..... West side of SE 7th Avenue,
Between SE 2nd St & SE 3rd Street

Property Size:..... 0.15 Acres

Historic District: Marina Historic District

Zoning:..... R-1-AA (Single-Family Residential)

Adjacent Zoning:.....
North: R-1-AA (Single-Family Residential)
East: R-1-AA (Single-Family Residential)
South: R-1-AA (Single-Family Residential)
West: CBD (Central Business District)

Existing Future Land
Use Designation:..... LD (Low Density Residential)

Water Service:..... Public water service is provided
on site.

Sewer Service:..... Public sewer service is provided
on site.



ITEM BEFORE THE BOARD

The item before the Board is consideration of Certificate of Appropriateness (2019-124) and Variance (2019-097) to allow a pergola structure within the 10' side interior setback for the property located at **242 SE 7th Avenue, Marina Historic District**, pursuant to Land Development Regulations (LDR) Sections 2.4.6(H) and 2.4.7(A)

BACKGROUND & PROJECT DESCRIPTION

The property is located within the R-1-AA (Single Family Residential) zoning district and within the Locally and Nationally Designated Marina Historic District. The 0.15-acre lot measures 52' wide and 138' deep and contains an existing single-family residence. The vernacular style structure was built in 1970 and is classified as noncontributing to the Marina Historic District. The historic resource survey completed in 2008 noted the structure could be considered a contributing structure if the period of significance were to be extended in the future.

The subject request is a Certificate of Appropriateness (COA) and Variance to allow construction of a 9'5" wide and 16' deep pergola on the north side of the property to encroach 7'8" into the required 10' side interior setback, providing for a 2'4" setback for the proposed pergola. The requests are now before the Board for consideration.

ANALYSIS OF PROPOSAL

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 A-4 of the Land Use 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.

ZONING AND USE REVIEW

Pursuant to LDR Section 4.3.4(K), Development Standards, properties located within the R-1-AA (Single-Family Residential) zoning district shall be developed according to the requirements noted in the chart below. As illustrated, the proposal is in compliance with the applicable requirements; therefore, positive findings are made.

Development Standards	Required/Permitted	Proposed - Pergola
Setbacks (Minimum): Front (East)	30'	44'-7"
Side Interior (South)	10'	No Change
Side Interior (North)	10'	2' 4" (Variance requested)
Rear (West)	10'	79' 6"
Height	35' max	9'4" (not to exceed height of existing structure)

Pursuant to LDR Section 4.4.3(H)(1), Special Regulations for Single Family Residential (R-1) District: the height of accessory structures shall not exceed the height of the associated principal structure. Screen enclosures without a solid roof are excluded from this limit.

The proposed pergola has a height of 9'4" which does not exceed the height of the principal residential structure; therefore this requirement has been met.

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)(c)(4) - Minor Development.

The subject application is considered "Minor Development" as it involves "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)(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 existing residential structure, and its remaining original form, has been considered with respect to the proposed pergola. The pergola is proposed to be setback from the façade of the residential structure in order to not detract from the original design of the building.

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.

The applicable Standards are noted below:

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 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 pergola will provide a covered area on the subject property on the north elevation of the existing single-family home. The white, aluminum-framed pergola structure is differentiated from the single-family home yet is compatible with the massing, size scale, and architectural features of the vernacular style structure. The pergola will be attached to the residential structure in a manner that if removed in the future will not compromise the integrity of the building.

The proposal meets the applicable standards noted above and their intent as the proposed changes ensure an appropriate exterior alteration of the property and single-family structure, protecting the integrity of the single-family structure and its environment by allowing the modernization of the exterior living spaces with durable materials.

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(E)(2) shall be determined by utilizing criteria contained in (a)-(m). Visual compatibility for all development on individually designated properties outside the district shall be determined by comparison to other structures within the site.

Applicable Visual Compatibility Standards

- (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(E)(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.
- (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.

The proposed exterior alterations to the existing, single-family structure are appropriate and compatible with the Marina Historic District. The height of the new pergola (9' 4") does not exceed the highest element of the existing residence. The proposed pergola is compatible with the existing proportion of the front façade. The white aluminum frame of the pergola is a durable material that is compatible with the Vernacular style of the single-family structure. The proposal meets the intent of the review criteria above; thus, positive findings are made with respect to the sections indicated above.

VARIANCE ANALYSIS

Pursuant to LDR Section 4.3.4(K), required side setbacks within the R-1-AA District are 10'.

The subject variance request is to allow construction of a 9'5" wide and 16' deep pergola on the north side of the property to encroach 7'8" into the required 10' side interior setback, providing for a 2'4" setback for the proposed pergola.

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.

Section 2.4.7(A)(6), Variances: Alternative Findings of the Historic Preservation Board: *The Board may be guided by the following to make findings as an alternative to the criteria listed in Section 2.4.7(A)(5):*

- 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.*
- 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.

- 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.***
- d) That the variance requested will not significantly diminish the historic character of a historic site or of a historic district.***
- e) That the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site.***

Based upon the subject variance request, the Alternative Findings of the Historic Preservation Board (LDR Section 2.4.7(A)(6)) are most appropriate for consideration of the subject variance request.

The property owner has submitted the following justification statement (attached).

"We are requesting this variance to install a metal pergola, constructed by Syzgy Global, Inc., on the exterior of our home in the Marina Historic District, a historically small-scale neighborhood with a variety of architectural styles. Our lot and other like it on the west side of 7th Avenue are distinctly narrow and long, and the homes are smaller than in many other residential areas. Additionally, 3-story condominiums directly west of the house, across the alley and adjacent to the back yard restrict privacy at this property.

The literal interpretation of the regulation regarding property setbacks of 7.5 feet on the sides of this 50 ft. Wide lot with 1400 square foot home would restrict the construction of a reasonably sized, useful, hurricane proof, covered outdoor area over an existing wood deck that would be otherwise possible to build in residential areas where wider lots are common.

The special conditions, including a small home with limited dining/living space, narrow lot, existing wood patio, and lack of privacy due to the 3-story condominiums adjacent to the back yard are not the result of any actions of the present owner.

The granting of the variance will not confer on the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning regulations.

The reasons set forth in the variance petition justify the granting of a variance in order to construct an outdoor covered area, which has been designed to be effective as a usable space for dining and sitting outdoors, while requiring the minimum variance possible.

The granting of the variance will be in harmony with the general purpose and intent of existing regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare."

The variance is to allow construction of a 9'5" wide and 16' deep pergola on the north side of the property to encroach 7'8" into the required 10' side interior setback, providing for a 2'4" setback for the proposed pergola. A deck exists in this location and the pergola will provide for covering for this area.

Special conditions and circumstances exist due to the small size of the 50' wide property as well as the historic setting of the site within the Marina Historic District. Further, granting of this Variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. It is noted that there are other similarly sited pergolas, which exist within the district. Granting of the variance allows for adaptive reuse of the structure and site; will be in harmony with the general purpose and intent of existing regulations; will not be injurious to the neighborhood, nor

otherwise detrimental to the public welfare. Consequently, a positive finding with respect to LDR Section 2.4.7(A)(5), Variance Findings is made.

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.

ALTERNATIVE ACTIONS

- A. Continue with the following direction
- B. Approve the Certificate of Appropriateness (2019-124) and Variance request (2019-097) to allow construction of a 9'5" wide and 16' deep pergola on the north side of the property to encroach 7'8" into the required 10' side interior setback, providing for a 2'4" setback for the proposed pergola for the property located at **242 SE 7TH Avenue, Marina Historic District** by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Sections 2.4.6(H) and 2.4.7(A)(6).
- C. Deny the Certificate of Appropriateness (2019-124) and Variance request (2019-097) for the property located at **242 SE 7TH Avenue, Marina Historic District** by finding that the request and approval thereof is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in LDR Sections 2.4.6(H) and 2.4.7(A)(6).

RECOMMENDATIONS

Approve the Certificate of Appropriateness (2019-124) and Variance (2019-097) requests to allow construction of a 9'5" wide and 16' deep pergola on the north side of the property to encroach 7'8" into the required 10' side interior setback, providing for a 2'4" setback for the proposed pergola, based upon positive findings with respect to LDR Sections 2.4.6(H) and 2.4.7(A)(6).

Attachments:

- Applicant Justification Statement
- Site plan, elevations and survey
- Applicant graphics of proposed pergola

Report Prepared by: Michelle Hoyland, Principal Planner