



## Cover Memorandum/Staff Report

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**File #:** 20-226

**Agenda Date:** 5/19/2020

**Item #:** 7.A.

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Giannotes, Development Services Director  
**THROUGH:** George Gretsas, City Manager  
**DATE:** May 19, 2020

RESOLUTION NO. 64-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA GRANTING A WAIVER REQUEST TO LAND DEVELOPMENT REGULATIONS SECTION 4.4.13(D)(2)(a)(2) AND TABLE 4.4.13(C) WHICH REQUIRE A MINIMUM REAR SETBACK OF 10 FEET IN THE RAILROAD CORRIDOR SUB-DISTRICT OF THE CENTRAL BUSINESS DISTRICT, WHEREAS A REAR SETBACK OF FOUR FEET SEVEN INCHES IS PROPOSED FOR 290 SE 2ND AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL HEARING)

### **Recommended Action:**

Review and consider Resolution No. 64-20 to allow a rear setback of 4 feet 7 inches in the Central Business District (Railroad Corridor Sub-district) where a minimum rear setback of 10 feet is required.

### **Background:**

The subject property is zoned Central Business District (CBD) and is in the Railroad Corridor Sub-district. The 0.1145-acre parcel consists of Town of Delray Lts 15 & 16 Blk 79. An existing 2,087 square feet commercial/warehouse building was constructed in 1975.

The waiver request is from Land Development Regulations (LDR) Section 4.4.13(D)(2)(a)(2) and Table 4.4.13(C), which set forth a minimum rear setback of 10 feet. The property has an existing building with a rear setback that ranges from 5'-0" to 4'-7" inches; the property is not a perfect rectangle and is wedge-shaped, widening towards the south. The applicant is proposing to build a second story on the existing building. Constructing the second-story using the existing building's structure and location requires a waiver to the minimum rear setback requirement. (The first floor is an existing non-conformity). Granting the waiver request would allow a second-story addition of 2,087 sq.ft. to be built directly on top of the existing structure. The existing uses in the first story are an Art Studio and garage. The proposed second story addition would consist of a workout room, Jui-Jitsu area, a reception area, offices, and restroom along with the elevator.

LDR Section 4.4.13(K)(5)(a) authorizes the waiver of certain regulations and stipulates that for waivers that can only be granted by the City Commission, a formal recommendation by the Site Plan Review and Appearance Board (SPRAB) or the Historic Preservation Board (HPB), as applicable, shall be made to the commission prior to site plan consideration. On February 26, 2020, the SPRAB moved to recommend approval (4-0) to the City Commission of the waiver.

### **Waiver Analysis**

The applicant submitted a justification letter and a letter from a Structural Engineer, which are attached.

**CBD Waiver Criteria:**

Pursuant to LDR Section 4.4.13 (K)(5)(b)(2), within the CBD, the following standards shall be used by the City Commission, SPRAB, or HPB when considering waiver requests, in addition to the findings in Section 2.4.7(B)(5):

- a. The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.
- b. The waiver shall not allow the creation of significant incompatibilities with nearby buildings or use of land.
- c. The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan.
- d. The waiver shall not reduce the quality of civic open spaces provided under this code.

The proposed waiver request does not affect the pedestrian experience on a Primary Street as neither SE 2nd Avenue nor SE 3rd Street are designated as primary. In addition, sidewalks are proposed along the front of SE 3rd Street and SE 2nd Avenue. When considering incompatibilities with adjacent properties, the reduction occurs to the rear of the building, which will not affect the adjoining property which is also zoned CBD; however, the adjacent to the west is zoned Multiple Family Residential. The waiver will allow additional building mass closer to those structures. There is an existing six-foot high fence and landscaping which should help alleviate the transitions between the different uses of land. The waiver does not impact street or sidewalk connectivity or impact an adopted bicycle/pedestrian plan;. There is no impact to civic open space as the site is smaller than minimum 20,000 square feet size that has an open space requirement.

**Required Waiver Findings:**

Pursuant to LDR Section 2.4.7 (B)(5), prior to granting a waiver, the granting body shall make findings that the granting of the waiver:

- a. Shall not adversely affect the neighboring area.
- b. Shall not significantly diminish the provision of public facilities.
- c. Shall not create an unsafe situation.
- d. Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

The proposed waiver is adjacent to property zoned Multiple Family Residential (RM) and could have a visible impact to the residents located behind the structure. Granting the waiver will not affect public facilities as the size of the structure would not be significantly larger than without the waiver and no public rights-of-way are affected. The property and existing building are unique in shape. The proposed waiver is to the second floor and will have no impact on the provisions of the public facilities. In addition, an unsafe situation will not be created to pedestrians, motorist, or bicyclists.

The second floor could be accomplished if the upper story structure is built five feet from the existing interior west wall; however, the columns, foundation and beams will disrupt the existing mechanical and electrical systems. The granting of this waiver does not result in a special privilege as the Aloft Hotel received a similar waiver in that the full length of the rear setback (487 feet) which is adjacent to residential, was granted for five feet when ten feet is required.

**City Attorney Review:**

Reviewed as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

The site plan cannot be considered by the SPRAB until the waiver request is decided.