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CITY CLERK

**Roger Cousins
232 SE 7th Avenue
Delray Beach, Florida 33483**

HAND DELIVERY

Development Services Department
100 NW 1st Avenue
Delray Beach, Florida 33444

June 26, 2020

**Re: REQUEST FOR APPEAL
OF THE HISTORIC PRESERVATION BOARD (HPB) DENIAL OF A CERTIFICATE OF
APPROPRIATENESS (COA 2020-098) FOR THE INSTALLATION OF A PVC FENCE ASSOCIATED WITH
THE EXISTING CONTRIBUTING SINGLE-FAMILY RESIDENCE LOCATED AT 232 SE 7TH AVENUE,
MARINA HISTORIC DISTRICT.**

To whom it may concern:

This is my formal request for an appeal of the above decision of the Historic Preservation Board. I purchased the cottage at 232 SE 7th Avenue in 2011. The cottage had been neglected for over 3 years. The house and yard were rat infested. Both the rear and front fences needed repair and painting on an on-going basis.

In 2017, the front picket fence rotted and fell down. It was beyond repair. I replaced it with a new white, PVC fence of the same style and dimension in the same location 12 feet from the right of way. With the current landscaping, the fence will soon be screened.

Then, on January 17, 2018, I renovated the home. The HPB approved a COA for elevation changes to the historic structure. The proposal included the relocation and configuration of the aluminum-framed, entry door and sidelight on the east elevation (front façade), centering the opening on a portion of the elevation. The proposal also included a new roof profile to the rear of the structure in order to accommodate a shower/bath within the master bathroom. This roof profile was partially visible from the front façade and matched the profile of the roof of the new addition on the south side of the structure. The proposed changes do not destroy historic features that characterize the structure. The improvements have been completed. Roger Cope was our architect for these major improvements.

In 2019, the unique fence in the rear of the property (9 ft. high) began to collapse due to rot and water damage. Further, the alley at the rear of the house floods on a regular basis. The photographs entered into the record do not fully indicate the type of flooding that occurs in the alley. The water runs down from Federal Highway, and there are no catch basins located in the alley for the entire block. Further, the slope directs the water directly behind the subject property.

As a result, I replaced the rotted rear fence with matte PVC panels utilizing the existing frame, tracks and structure for the fence. As part of the fence, there are two large gates on tracks that were replaced as our cars are parked inside of the fence. The existing rotted wood gates became too heavy for use to maneuver. It is the same structural design as the prior wood fence. I was unaware at the time we undertook this project of the requirement to have a COA for approval (along with the limitations on materials for fencing).

In summary, the appeal of the COA should be approved for the proposed material by the City Commission for the following reasons:

- 1. The alleyway is not a major right of way. The front of the house is on SE 7th Avenue.**
- 2. The alleyway abuts major commercial buildings just to the west.**
- 3. The site conditions make it extremely difficult to maintain a large wood fence in the rear due to the constant standing water and wet conditions. This causes wood fences to rot faster.**
- 4. The Applicant has already restored the entire property and brought the home back to life;**
- 5. The Applicant will agree to replace the picket fence in the front of the home with a wood picket fence facing the major right-of-way, SE 7th Avenue.**
- 6. The decision will not create a precedent due to the wet conditions and the unique design of the fence.**

Lastly, the Delray Beach Historic Preservation Design Guidelines note the following with respect to Fences and Walls:

“Fencing, and garden and retaining walls add distinction to individual buildings and historic districts. They serve a practical purpose of forming property line boundaries, and to distinguish lines between the yard, sidewalk and street. Whenever possible, the original walls and/or fences should be preserved.

New materials, some of them synthetic, may be approved on a case-by-case basis.”

Thank you for your consideration of this appeal.

Best regards,

Roger Cousin

JUN 26 2020

CITY CLERK



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING
100 NW 1ST AVENUE, DELRAY BEACH, FLORIDA 33444
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MHISTORIC PRESERVATION BOARD STAFF REPORT

232 SE 7th Avenue

Meeting	File No.	Application Type
June 17, 2020	2020-098	Certificate of Appropriateness

REQUEST

The item before the Board is consideration of a Certificate of Appropriateness (2020-098) request for the installation of a PVC fence associated with the existing contributing single-family residence located at **232 SE 7th Avenue, Marina Historic District**.

GENERAL DATA

Owner: Roger Cousins
Location: 232 SE 7th Avenue
PCN: 12-43-46-16-B3-000-0161
Property Size: 0.19 Acres
Zoning: R-1-AA (Single Family Residential)
Historic District: Marina Historic District
FLUM: LD (Low Density 0-5 DU/ Acre)
Adjacent Zoning:

- R-1-AA - Single-Family Residential (North)
- R-1-AA - Single-Family Residential (East)
- R-1-AA - Single-Family Residential (South)
- CBD – Central Business District (West)

Existing Land Use: Residence
Proposed Land Use: Residence



BACKGROUND & ITEM DESCRIPTION

The subject property consists of the North 40 Feet of Lot 16 and the South 20 Feet of Lot 17, Gracey-Byrd Subdivision. The zoning for the property is R-1-AA (Single Family Residential). The original, single-family residence is classified as contributing to the historic building stock of the Marina Historic District.

City Property Cards indicate that the original structure located on the property was built in 1935. The wood frame structure was originally owned by Fontaine Fox, author of the "Toonerville Trolley" cartoon strips. City records indicate that Fontaine Fox also owned and developed the lot to the south (238 SE 7th Avenue) as well as the two lots located to the north (222 & 228). The builder/developer of those properties is noted to be S.G. Owens, who developed many properties along SE 7th Avenue.

It is important to note that an additional structure within Delray Beach was associated with Fontaine Fox. That structure is located at 610 North Ocean Boulevard, is listed on the Local Register of Historic Places and is named the "Fontaine Fox House".

At its meeting of November 16, 2016, the Historic Preservation Board (HPB) approved a Certificate of Appropriateness (COA) for removal of two existing wood decks and the existing chimney and minor alternations

Project Planner:
Project Planners: Katherina Paliwoda, Planner
PaliwodaK@mydelraybeach.com

Review Dates:
 HPB: June 17, 2020

Attachments:
 1. Photos
 2. Plan

to the front elevation. The two decks were replaced by additions to provide additional interior living space. A variance was approved to reduce the side-interior setback from the required 10' to 5'2" on the south side of the property to accommodate a new addition in place of an existing deck.

Then, on January 17, 2018, the HPB approved a COA for elevation changes to the historic structure. The proposal included the relocation and configuration of the aluminum-framed, entry door and sidelite on the east elevation (front façade), centering the opening on a portion of the elevation. The proposal also included a new roof profile to the rear of the structure in order to accommodate a shower/bath within the master bathroom. This roof profile was partially visible from the front façade and matched the profile of the roof of the new addition on the south side of the structure. The proposed changes do not destroy historic features that characterize the structure. The improvements have been completed.

On September 11, 2019 the property was subject to a code enforcement violation for the installation of a fence in the rear of the property without a permit. Following the violation, the owner submitted a permit for the work, but the permit was not approved as the use of synthetic materials, such as PVC, is not permitted when visible from an adjacent right-of-way within a historic district without approval from the HPB. The owner contacted the city Historic Preservation Division and has been working with staff to process a Certification of Appropriateness request for the fence.

The subject Certificate of Appropriateness (COA) application request is for the replacement of a wood fence with an 8' PVC (vinyl) fence to the rear and sides of the property. It is noted that the existing 3' tall wood picket fence on the east side of the property was replaced with a 3' tall synthetic PVC fence, also an improvement without approval from the HPB nor the required permits. 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 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.

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)(3)(a)(1)(d) – Fences and Walls, Non-historic and/or synthetic materials are discouraged, particularly when visible from a public right-of-way.

The proposal includes replacement of the existing 8' tall board-on-board wood fence with an 8' tall white synthetic PVC fence surrounding the property on the north, east, and west sides of the property. This fence is visible from the adjacent north/south alley right-of-way, but not the adjacent SE 7th Avenue right-of-way.

Also, it is noted that the existing 3' tall wood picket fence in the front of the property (east side) adjacent to SE 7th Avenue was replaced with a 3' tall synthetic PVC picket fence. This improvement was not approved by the HPB, nor was it included in a permit approval.

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 Delray Beach Historic Preservation Design Guidelines note the following with respect to Fences and Walls:

“Fencing, and garden and retaining walls add distinction to individual buildings and historic districts. They serve a practical purpose of forming property line boundaries, and to distinguish lines between the yard, sidewalk and street. Whenever possible, the original walls and/or fences should be preserved.

New materials, some of them synthetic, may be approved on a case-by-case basis.”

The proposal is for the installation of a synthetic PVC fence on the rear of the property adjacent to the improved north/south alleyway. The synthetic PVC fence was already installed without approval. Additionally, a 3' tall synthetic PVC fence was installed in the front of the property adjacent to SE 7th Avenue, replacing the existing wood picket fence. This improvement was also completed without approval. Pursuant to the 2017 COA approval, the existing wood fencing was to remain.

With regard to the Relationship of Materials, Texture, and Color: Synthetic PVC fencing, is not an authentic material for use within a historic district when visible from a right-of-way. Wood, brick, stone, or metal are examples of fencing material that is appropriate for use within a historic district. The Historic Preservation Board has approved the use of synthetic fence materials for other properties when the fence is not visible from an adjacent right-of-way and the fence is obscured between properties. The synthetic fencing is visible from both the adjacent SE 7th Avenue and the improved north/south alleyway.

The applicant has stated that the purpose of using PVC instead of replacing the original wood fence with like materials is due to the constant flooding of the alley behind the property that results in the decay of the wooden materials.

COMPREHENSIVE PLAN

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 through the following policies:

Future Land Use Objective A-1 Property shall be developed or redeveloped, in a manner so that the future use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.

The development proposal involves the replacement of a fence surrounding the existing contributing structure. There are no concerns with respect to soil or topographic conditions; however, there is concern that this proposed request represents a physical improvement that is not consistent with the historic district as the synthetic fence is visible from adjacent rights-of-way.. With respect to the adjacent land uses, the property is within the Marina Historic District, is surrounded by residential uses on the north, east, and south sides and commercial uses on the west side of the property across the north/south alleyway. There are no concerns with respect to land uses as the existing residential use is to remain.

Future Land Use 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”.

The proposal involves the replacement of wood fencing with synthetic PVC fencing that will be visible from adjacent rights-of-way; thus, the proposal is in conflict with LDR Section 4.5.1(E)(3)(a)(1.)(d), which discourages the use of synthetic fence materials when visible from an adjacent right-of-way. There is concern that the

request may not be consistent with the requirements of the Comprehensive Plan, the provisions of LDR Section 4.5.1 relating to historic sites and districts as well as the "Delray Beach Historic Preservation Design Guidelines". The board can approve the use of synthetic fence materials, where appropriate, and find that the request is consistent with the provisions of the code.

ALTERNATIVE ACTIONS

- A. Move to continue with direction
- B. Approve Certificate of Appropriateness (2020-098), for the property located at **232 SE 7th Avenue, Marina 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 (2020-098), for the property located at **232 SE 7th Avenue, Marina 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 (2020-098), for the property located at **232 SE 7th Avenue, Marina 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

☒ Courtesy Notices were provided to the following, at least 5 working days prior to the meeting:

Marina Historic District Homeowners Association

☒ Public Notices are not required for this request.

☒ Agenda was posted on (6/9/20), 5 working days prior to meeting.



6/26/20.