

MINUTES OF THE HISTORIC PRESERVATION BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE: April 3, 2013

LOCATION: CITY COMMISSION CHAMBERS

MEMBERS PRESENT: Annie Adkins Roof, Anna Maria Aponte, Annette Smith, Samuel Spear, Ronald Brito

MEMBERS ABSENT: Iris McDonald, Reginald Cox

STAFF PRESENT: Amy Alvarez, Terrill Pyburn (Asst. City Attorney), Diane Miller

I. **CALL TO ORDER:**

The meeting was called to order by the Chair, Ms. Roof at 6:05 p.m.

II. **ROLL CALL:**

Upon roll call it was determined that a quorum was present.

III **APPROVAL OF AGENDA:**

Motion made by Mr. Samuel Spear, seconded by Ms. Annette Smith. Said motion passed with a 5-0 vote.

Chair Ms. Roof read the Quasi-Judicial Rules for the City of Delray Beach and Ms. Miller swore in all who wished to give testimony on any agenda item.

IV. **ACTION ITEMS:**

A. Certificate of Appropriateness and Variance Request (2013-114)
1029 Nassau Street, Nassau Park Historic District
Authorized Agent: Steve Seibert
Applicant: James and Janie Douglas

Consideration of additions and alterations to a contributing structure; Variance request to reduce the rear (north) setback from 10' to 4.2'.

Exparte Communication

Ronald Brito did a drive by.
Samuel Spear did a drive by.

Ms. Alvarez entered project files No. 2013-114 into the record.

The item before the Board is the consideration of a Certificate of Appropriateness (COA) and Variance request associated with alterations and additions to the contributing structure located at **1029 Nassau Street, Nassau Park Historic District**, pursuant to LDR Section 2.4.6(H).

The subject property measures approximately 5,584 square feet and consists of Lot 1, Wheatley's Subdivision, within the Nassau Park Historic District. The property, which is zoned R-1-A (Single-Family Residential), is located on the northwest corner of Nassau Street and Gleason Street. The existing, circa 1941 single family residence is classified as contributing to the historic district.

There is no other previous COA on record for the property except for a recent color change which we administratively approved.

The COA and variance request are now before the Board for consideration. The subject request is to add on to the existing historic structure by providing additional living space along the north side of the dwelling. The existing, flat roof garage/storage area, which is not original to the structure, will be demolished and a two-story addition will be constructed in its place. The existing wall plane sits approximately 15.8' from the east property line; this setback will be maintained with the new addition. However, the addition, which will have a larger footprint by approximately 247 square feet, will decrease the rear yard setback from 9.9' to 4.2'. The stucco exterior of the historic structure will be maintained on the lower story; stucco simulated siding is proposed for the upper story. The hip roof style of the original structure will be included in the new addition, as well. The windows, however, will provide additional differentiation by utilizing a varying light pattern. The original structure contains 6/6 sash windows, while the addition will consist of 6/1 and 2/1 windows.

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. With these findings we have found that everything is appropriate and compatible.

There is one item that we are requesting; the existing conditions provide parking for one vehicle in the concrete driveway which measures 15.8'. This measurement will be maintained with the proposed improvements. However, it is recommended that the driveway, which measures 12.6' wide, be widened by 4.9' to accommodate an additional vehicle on site. The recommended measurement of 4.9' will result in the maintenance of a 5' landscape buffer adjacent to the north property line. As an alternative, the property owner could opt to provide a concrete or paver ribbon drive adjacent to the existing driveway, so as to avoid additional hardscape. These suggestions have been added as a condition of approval

DSMG (Design Services Management Group) met on March 28, 2013 and it was determined that a five foot (5') sidewalk easement would need to be provided along Gleason Street. This requirement, along with a request for deferred installation, has been added as a condition of approval.

Additionally, the right of way requirement for Nassau Street is also 60'. The existing width of Nassau Street measures 28.8'. The DSMG determined that the required width of Nassau Street could be reduced to 30', thereby requiring a .6' right of way dedication, as well as a 5' sidewalk

easement along the property adjacent to Nassau Street. The request to defer installation of the sidewalk would also be required and supported.

As previously noted, the proposed addition encroaches farther into the required rear yard setback. The existing rear (north) setback, which is legally nonconforming, is 9.9', whereas 10' are required. The proposed rear setback is 4.2'.

In consideration of the criteria above, the aforementioned variance can be supported in that the variance will assist in maintaining the historic character of the property by permitting additional expansion of the structure in an appropriate manner. Further, special conditions and circumstances exist in that the property measures just 95' deep, thereby limiting the developable space available, while still maintaining sufficient space (4.2') between the building and property line for maintenance and access purposes. Additionally, the building is setback sufficiently from Nassau Street that, if it were not in a historic district, an addition could be placed on the front of the structure. However, this is not permitted on historic structures and therefore, the lot is further limited in its buildable spaces which are towards the back of the property. The provision of the requested variance will not diminish the character of the property, rather, it will further enhance the character by permitting the appropriate development and further use of the property for the needs of the property owner.

Staff is recommending approval of the COA and the variance for **1029 Nassau Street, Nassau Park Historic District**, based upon a failure to make positive findings with respect to the Land Development Regulations, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation, subject to the following conditions:

1. That either the driveway is widened by 4.9' or that a ribbon drive is added to the north of the driveway;
2. That a 5' sidewalk easement be provided along the east side of the property, adjacent to Gleason Street;
3. That a .6' right of way dedication be provided along the south side of the property, adjacent to Nassau Street;
4. That a 5' sidewalk easement be provided along the south side of the property, adjacent to Nassau Street;
5. That sidewalk deferrals be requested and approved by the City Commission;
6. That all dedications and easements be accepted by the City Commission prior to the issuance of a Building Permit.

APPLICANTS PRESENTATION

Steve Siebert – Architect – Representing the Douglas's

Mr. Siebert agrees with the staff presentations and is here to answer any questions.

PUBLIC COMMENTS – None

BOARD COMMENTS

Ms. Aponte asked that on the site plan it looks like a wet bar in the kitchen area. Could he explain this?

Mr. Siebert said that there is a kitchen in the main house which is older and smaller and they are hoping to put in more modern equipment. The other one is just for fixing snacks or small food items.

Ms. Aponte asked about the door that was between the two (so called kitchens). Are they alright having 2 kitchens or can this be explained.

Amy Alvarez said that they are ok with the 2 kitchens, but it the board would like the door removed so that it would clearly show this was a single family home.

Ms. Aponte also asked what the setbacks for the property on the north are.

Amy Alvarez said that this property was a mixed use development.

Ms. Aponte continued to ask for setbacks on the west side, the two story building. It seems that it is very close to the property line.

Mr. Siebert commented that he did not measure or survey that property.

Dr. Bergan (sworn in for public comments) – owners of the property just north of proposed variance and is a single family home. And I am very interested in the amount of setback between property lines.

Mr. Spear asks what Dr. Bergan meant by ‘he is interested in the property’?

Dr. Bergan said that he was confused in what they are doing.

Mr. Brito clarified the setback question. Your setback will be 4.2 feet from property line to the edge of your house. This is a very narrow space from property line to house.

BOARD DISCUSSION

Mr. Brito asked what is the hardship that they would need this 4.2 foot setback.

Mr. Seibert said that there is a single car garage and they are asking for an additional 5 foot to the garage to make the living space practical. We are also taking 3 feet off the wall to create a stair case on that wall. It certainly narrows the living space.

Mr. Brito asked had they explored any other place to put this stair well.

Mr. Siebert said that they did but it showed a hardship on the living space.

Mr. Brito also asked about the shed in the backyard. What is the building made of and Mr. Siebert said it was wood and not sure if it is on a slab. Mr. Brito is still concerned about the setback to the neighbor’s yard. Being on the second floor you can look into the neighbor’s year. Mr. Siebert said that it would not happen as there are no windows on that side of the house. He was corrected as there is a window on the second floor, but height will be below the tree line.

Dr. Bergen asked if someone could point out which of the 4 structures would be facing my property. By looking at the structures it shows the door by Gleason Street and a window on the second story addition.

Mrs. Aponte wanted to summarize what she believes is true. She feels that the design is very well done. She is concerned that we do not know what the setbacks are on the two sides. I also know that there are issues with the stairs and maybe the variance can be reviewed.

FINDINGS

Terrill Pyburn said that the board needs to make findings on the Compatibility Standards and the Variance Standards, because it appears that the variance is necessary in order for the structure to be approved.

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:

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

MOTION

Motion to approve the variance to **LDR Section 4.3.4(K)**, to reduce the rear (east) yard setback on the second story addition to 4.2', whereas 10' is required.

Motion by Mr. Spear, seconded by Ms. Smith. Said motion passed with a 3-2 vote, Dissenting Ms. Aponte and Mr. Brito.

Pursuant to LDR Section 4.5.1(E)(8), *Visual Compatibility Standards*,

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 following:

1. **Building Height Plane (BHP):** The building height plane technique sets back the overall height of a building from the front property line.

a. The building height plane line is extended at an inclined angle from the intersection of the front yard property line and the average grade of the adjacent street along the lot frontage. The inclined angle shall be established at a two to one (2:1) ratio.

b. A structure relocated to a historic district or to an individually designated historic site shall be exempt from this requirement.

2. First Floor Maximum Height: Single-story or first floor limits shall be established by:

a. Height from finished floor elevation to top of beam (tie or bond) shall not exceed fourteen feet (14').

b. Mean Roof Height shall not exceed eighteen feet (18').

c. If any portion of the building exceeds the dimensions described in a. and b. above, the building shall be considered a multi-story structure.

e. Sections a., b., and c. above may be waived by the Historic Preservation Board when appropriate, based on the architectural style of the building.

3. Upper Story Height(s): Height from finished floor elevation to finished floor elevation or top of beam (tie or bond) shall not exceed twelve feet (12').

Are the requirements for height met? **BOARD VOTED: YES**

B. Front Façade Proportion: The front façade 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.

Are the requirements for front facade proportion met? **BOARD VOTED: YES**

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.

Are the requirements for proportion of openings (windows and doors) proportion met? **BOARD VOTED: YES**

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.

Are the requirements for rhythm of solids to voids met?

BOARD VOTED: YES

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.

Are the requirements for rhythm of buildings on streets met?

BOARD VOTED: YES

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.

Are the requirements for rhythm of entrance and/or porch projections met? **BOARD VOTED: YES**

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.

Are the requirements for relationship of materials, texture, and color met?

BOARD VOTED: YES

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.

Are the requirements of roof shapes met? **BOARD VOTED: YES**

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.

Are the requirements of walls of continuity met?

BOARD VOTED: YES

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:

Are the requirements for the scale of a building met?

BOARD VOTED: YES

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.

Is the directional expression requirement for the front elevation met?

BOARD VOTED: YES

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.

Is the requirement for the architectural style met? **BOARD VOTED: YES**

MOTION

Approve the Certificate of Appropriateness (2013-114) for **1029 Nassau Street, Nassau Park Historic District**, based on positive findings with respect to the Land Development Regulations, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation subject to the following conditions #1-6 as listed.

Motion by Mr. Spear, seconded by Ms. Smith. Said motion passed with a 5-0 vote.

V. DISCUSSION & ACTION ITEMS

A.Ordinance 09-13: Forward a recommendation to the Planning and Zoning Board for a privately initiated amendment to LDR Sections 4.4.24(B), 4.4.24(C), and 4.4.24(F) to include Lots 16-18, Less 75 Feet thereof, Block 69 with those properties zoned OSSHAD (Old School Square Historic District) and to which the "Permitted Uses" of 4.4.13(B), "Accessory Uses" of 4.4.13(C), and "Development Standards" 4.3.4(J)(4) of the CBD (Central Business District) zoning district are allowed excluding exceptions to height provided in LDR Section 4.3.4(J)(4).

The intent of the subject LDR amendment is to apply the development standards and uses (excluding conditional uses) of the CBD to the property located at 36 SE 1st Avenue. The property is located on the west side of SE 1st Avenue, approximately seventy-five feet (75') north of SE 1st Street, and is vacant. A circa 1938 frame vernacular structure was relocated from the subject property to 186 NW 5th Avenue in 2011, where it was individually designated and listed on the Local Register of Historic Places as "The Harvel House" in the West Settlers Historic District. Prior to its relocation, the structure was classified as contributing within the Old School Square Historic District.

There are other lots in the immediate vicinity located within the OSSHAD zoning district that may be developed in accordance with the permitted uses and development standards of the CBD. Those lots are located immediately to the north and across the east/west alley from the subject property and include a surface parking lot, the City parking garage, and a recently constructed mixed-use building (Royal Atlantica). Those three lots were included in one text amendment adopted on January 4, 2000 (Ordinance 47-99) which provided for the expansion of the CBD overlay district (uses and development standards), for the primary purpose of constructing the Block 69 parking garage.

In 2007, privately-initiated LDR Amendment (Ordinance 31-07) was submitted which was identical to this current request. The ordinance was reviewed by the HPB (September 5, 2007), Community Redevelopment Agency (September 6, 2007), and Planning and Zoning Board (September 17, 2007) and was unanimously recommended for denial by all three Boards. The ordinance was placed on hold by the property owner while a Class V Site Plan Application and COA were reviewed by the HPB for a replacement project involving new Class A offices. The HPB also reviewed four variances and three waiver requests associated with the Class V Site Plan and COA, all of which were denied.

Subsequently, the property owner moved forward with an appeal of the denial which was approved by the City Commission at its August 19, 2008 meeting. As a result, the LDR amendment described in Ordinance 31-07 (and now in Ordinance 09-13) was withdrawn. The approved plans for the Class A office space received extensions of approval twice and remains valid until August 19, 2014 along with the variance that was approved. It has yet to be certified, the plans are ready to be certified, they are in my office and it has been requested that they be put on hold. So now we have the same LDR amendment that was not approved in 2007 that we have reviewed accordingly.

We have done a comparison for CBD vs OSSHAD and we have outlined them in the staff report. The applicant noted that they would like to build a mixed use office building. We do have an approved plan for office use and it could be built.

The Community Redevelopment Agency (CRA) considered the subject LDR Amendments at its meeting of March 28, 2013 meeting. A recommendation was not made; the request was tabled. They will see this again when it comes back before them following the Planning and Zoning Board Meeting, on April 15th.

STAFF RECOMMENDATION

Recommend denial to the City Commission of the amendment to Land Development Regulation Section 4.4.24(B)(12), 4.4.24(C), and 4.4.24(F)(1)(a), Ordinance 09-13, allowing the permitted uses and development standards excluding the exceptions to additional height in the CBD for Lots 16 thru 18, Less the South 75', Block 69 by adopting the findings of fact and law contained in the staff report, and finding that the text amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in LDR Section 2.4.5(M).

APPLICANT PRESENTATION

Michael Weiner – Attorney. Introduced the owners of the property, Mr. Steve Michael and Mr. Andrew Greenbaum and asked them to speak.

Mr. Steve Michael – resident of Delray Beach for about 13 years and have a financial service company about 2 blocks from this property and we are forced to move because a redevelopment of this property. We have about 6,500 sq.ft and 25 people working in the office and we really want to stay in Delray as I live in East Delray. We are looking at this as a building we could house our business and expand.

Mr. Weiner started explaining that Ms. Alvarez and he had worked a lot together on different historic structure and where we have to go between ourselves and staff. We talk about 4.5.1(A) and what you're doing is looking for is *Identification, Preservation, Protection* with the uses of the structure. What is before us is the changing of the LDR, the changing of 4.4.24, a very complex code. We are zoned one way and a very different overlay in another.

Mr. Weiner did a powerpoint presentation and a history.

He continued to say that if we are to protect our historic structures, we must allow the downtown master plan in fact to be done and completed, we must allow development. We must protect our historic assets, and that is why we make these findings.

PUBLIC COMMENTS – None

BOARD DISCUSSION

Ms. Aponte stated first that this is a very complex case and what we need to look at is what is our goal. I think what was done with the over lay with the garage and getting it in there is totally out of place. I would definitely not go for expanding that CBD. My recommendation is for staff to look at the OSSHAD regulations and maybe revise.

Mr. Spear asked Ms. Alvarez what is her main concern for recommendation of turn it down...is it the height?

Ms. Alvarez said that yes it is the height and setbacks.

Mr. Spear said that he understands, but he sees this as more commercial property and Amy did say that there is a commercial plan. Mr. Spear commented that would be great, but if there is a plan, what was approved.

Mr. Weiner said speaking for no one else, but he thinks it is about 5,000 sq. ft., and parking is on the first floor.

Mr. Spear expressed that it is nice to have the quaint house in downtown Delray Beach and hopefully the ones selected will be built.

Mr. Weiner said that his client has two properties, one that is already 48ft., and we are trying to have some kind of consistently.

Mr. Weiner pulled up the powerpoint again to show the lots and the ally way and explain where the ally way could go. Also, Ms. Alvarez addressed some questions from the board and used the powerpoint presentation to point out the information.

Ms. Smith is looking to get all the information organized and seems there is a lot of confusion here between the different disciplines and that needs to come together a little bit more and step back until we hear from what Planning and Zoning has to say.

Mr. Spear asked that we are talking about the difference between 3 stories and 4 stories and I am coming to the same conclusion as the board; I would like to see an actual plan before I vote.

Ms. Alvarez said that you cannot make an action on a rezoning based on a plan. A plan stands by itself, a rezoning you have to look at whether it appropriate and has its own findings.

Terrill Pyburn (Asst. City Attorney) said that a gamble you will have one for OSSHAD and an approved plan that that isn't even being built. Even if you look at it, it may not affect the underlining zoning, so are you ok with the changing of the CBD or not.

Mr. Weiner said that it seems that the south side of town is so economically disadvantaged which is not the same opportunity as the north side of town which has always been off.

Mr. Brito asked if the overlay was going to be the whole block or just the 2 blocks we are talking about. Ms. Alvarez said that this is for one property. Mr. Brito said that it doesn't matter what we are talking about you are looking out at a 4 story parking garage.

Mr. Spear asks if the overlay is approved, could the plan come back to us. Ms. Alvarez said yes and you would have more flexibility with OSSHAD now.

MOTION

Mr. Spear made a motion to continue Agenda Item #V.A, Ordinance 09-13, Amendment to LDR Sections 4.4.24(B)(12), 4.4.24(F)(1)(1a) to the April 17, 2013 meeting.

Motion by Mr. Spear, seconded by Ms. Aponte. Said motion passed with a 5-0 vote.

VI. **REPORTS AND COMMENTS**

Public Comments – None

Board Members Comments – None

Staff Comments – None

VII. **ADJOURN**

The meeting was adjourned at 7:55pm

The undersigned is the Secretary of the Historic Preservation Board and the information provided herein is the Minutes of the meeting of said body for **April 3, 2013** which were formally adopted and approved by the Board on **June 19, 2013**.

Diane Miller

Diane Miller, Executive Assistant

If the Minutes that you have received are not completed as indicated above, then this means that these are not the official Minutes. They will become so after review and approval, which may involve some changes.