



MEMORANDUM DATE: June 3, 2020

AGENDA DATE: June 10, 2020

TO: Chair and Members of the Historic Resources Preservation Board

RE: **731 North J Street**

FROM: Jordan Hodges, Senior Preservation Coordinator
Abraham Fogel, Preservation Planner
Department for Community Sustainability

TITLE: **HRPB Project Number 20-00100052:** An Appeal of the Development Review Official's decision regarding the expansion of a legal non-conforming garage apartment at **731 North J Street**, pursuant but not limited to Sections 23.2-7, 23.3-8, and Section 23.5-4 of the Land Development Regulations. The subject property is located in the Single-Family Two-Family Residential (SF-TF 14) Zoning District, retains a Future Land Use (FLU) designation of Medium Density Residential (MDR), and is a contributing resource to the Northeast Lucerne Local Historic District.

Owner:	Michael Coyle 731 North K Street LLC 317 North M Street Lake Worth Beach, FL 33460	Applicant:	Wes Blackman, AICP CWB Associates 241 Columbia Drive Lake Worth Beach, FL 33460
---------------	---	-------------------	--

PROPERTY DEVELOPMENT HISTORY

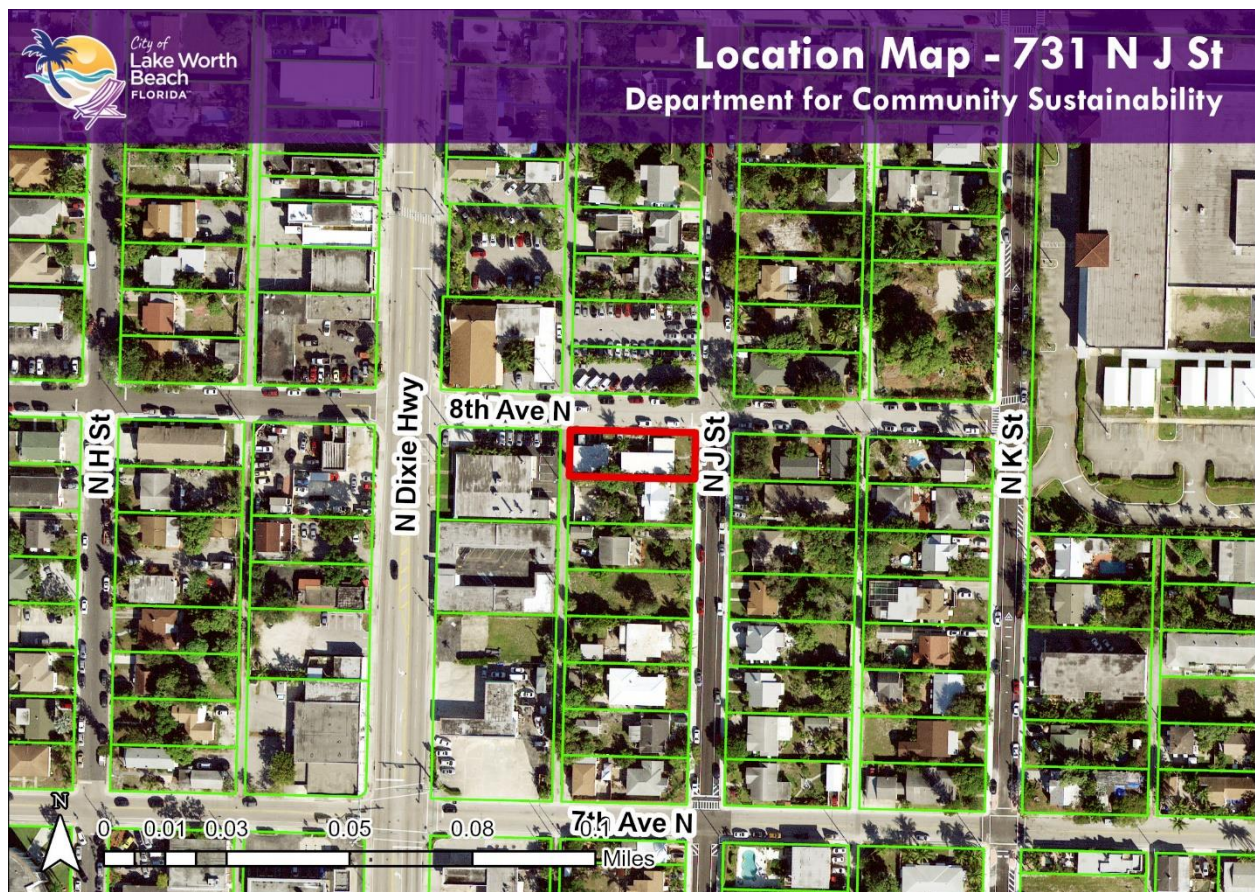
The subject property is a contributing resource to the Northeast Lucerne Local Historic District. The east building (two-family structure) was constructed c. 1953 in a Mid-Century Modern architectural style. The structure is located on the southeast corner of North J Street and 8th Avenue North. Prominent Lake Worth Beach architect Edgar Wortman designed the structure at a cost of \$11,500. The architectural drawings illustrate a single-story two-family structure of masonry construction with a smooth stucco exterior finish, and a combination shed and flat roof system with a projecting eyebrow. Character-defining features of the building include a flat slump brick on the front façade, a wood trellis beneath the shed roof, awning windows, and jalousie doors. The west building (garage apartment) was constructed c. 1955 in a Mid-Century architectural style. The structure has frontage on 8th Avenue North and an alley. Prominent Florida architect Arthur L. Weeks designed the structure at a cost of \$4,700. The architectural drawings illustrate a single-story garage apartment structure with a smooth stucco exterior finish and a flat roof with a projecting eyebrow. Character-defining features of the building include, jalousie windows and doors, and overhead flush panel garage doors. The original architectural drawings for both structures are included in this report as **Attachment B**.

PROJECT DESCRIPTION

The Applicant, Wes Blackman, on behalf of 731 North K Street, LLC is appealing a decision by the City's Development Review Official (DRO) denying the request to expand the legal non-conforming garage apartment into the existing structure's garage space.

- According to the subject property's Warranty Deed, 731 North K Street LLC purchased the property located at 731 North J Street on September 16, 2019.
- The Applicant applied for a Zoning Verification Letter (ZONL #19-01700053) on October 25, 2019. As indicated on the Zoning Confirmation Letter, the existing three (3) units are considered existing legal nonconformities and are grandfathered subject to the regulations in LDR Section 23.5-3, *Nonconformities*. The Zoning Verification Letter is included in **Attachment A**.
- On January 7, 2020, the Applicant submitted a proposal (COA#20-00100007) to expand the ± 325 square foot garage apartment into the ± 464 square feet of existing garage space. The proposed site plan is included as **Attachment D**.
- In response, a Zoning Determination by the DRO was issued on January 17, 2020, indicating the existing three (3) legal nonconforming units may not be extended to any portion of a building or structure not previously put to such use as expressly prohibited in Section 23.5-3, *Nonconformities*. The Zoning Determination Letter is included in **Attachment A**.
- On February 4, 2020, the Applicant submitted a notice of appeal to the DRO's written decision.
- On February 17, 2020, the Applicant submitted the basis of appeal, included as **Attachment A**.

Location Map



STAFF RECOMMENDATION

The DRO denied the request to expand the legal non-conforming garage apartment into the garage space. Staff recommends that the Board interpret LDR Section 23.5-3(e)(2) in manner consistent with the DRO's decision based on the zoning analysis in the following section.

ZONING ANALYSIS

The subject property is located in the Single-Family Two-Family Residential (SF-TF 14) Zoning District. The maximum density allowed under the current Land Development Regulations in the SF-TF-14 Zoning District, for a 50' x 135' parcel (6,750 sqft), is two (2) units. The existing three (3) units are considered existing legal non-conformities and are grandfathered subject to the regulations in LDR Section 23.5-3, *Nonconformities*:

(e) Nonconforming uses of building and structures. A nonconforming use of a major building or structure is an activity primarily occurring within such building or structure, but which may also include the use of surrounding premises including land or nearby minor buildings. Such activity shall have been lawfully permitted at the time of its inception. The decision of the development review officer as to whether a nonconforming use is a nonconforming use of land or a nonconforming use of a building or structure, as each is described in this section, shall be final unless reversed by the planning and zoning board or historic resources preservation board, as applicable. Such nonconforming use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 1. No existing building or structure devoted to a use not permitted by these LDRs may be extended, enlarged, reconstructed, moved, or structurally altered except as necessary to change the use of the building or structure to a use permitted by these LDRs or except to change the building or structure to a conforming building or structure.*
- 2. **No nonconforming use of a structure may be extended to any portion of a building or structure not previously put to such use prior to the adoption of the regulation giving rise to the nonconformity. Further, such use shall not be extended to occupy any land outside such building or structure.***
- 3. In the event a nonconforming use of a building or structure is discontinued for any period however brief and replaced by a permitted use, the nonconforming use shall not be resumed.*
- 4. When a nonconforming use of a structure or building ceases for six (6) consecutive months, or for eighteen (18) months during any three-year period, and is not replaced by a permitted use, the structure or building shall not thereafter be used except in conformance with the regulations of the district in which it is located. The issuance or existence of a required license, permit or other governmental authorization to conduct such nonconforming use shall not mean that the use has not ceased, but the lack of such license, permit or authority shall create a rebuttable presumption that the use has ceased. Actions or activities of the owner of a property attempting to lease or rent the property shall not be considered a use of the property in determining whether a nonconforming use of a structure or building has ceased.*
- 5. Where nonconforming use status applies to a building or structure, removal or destruction of the building or structure shall eliminate the nonconforming use, including any and all related activities on the surrounding premises including land or nearby minor buildings. Destruction for*

the purpose of this section is defined as damage to an extent of more than fifty (50) percent of the current replacement value of the building or structure, as determined by the building official.

The existing three (3) legal non-conforming units may not be extended to any portion of a building or structure not previously put to such use prior to the adoption of the regulation giving rise to the nonconformity. The proposal to expand the approximately 325 square foot garage apartment into the approximately 464 square feet of garage space is in violation of LDR Section 23.5-3(e)(2).

HISTORIC RESOURCES PRESERVATION BOARD (HRPB) AUTHORITY

Pursuant to LDR Section 23.2-17, *Appeals*:

- a) *To planning and zoning board and historic resources preservation board. An applicant may appeal a final decision of the development review official to the planning and zoning board or the historic resources preservation board, as applicable, within thirty (30) days of the official's written decision.* The appeal shall be in writing on a form provided by city staff and accompanied by the applicable fee and filed with the development review official. The appeal shall be heard at a quasi-judicial hearing and be based on the record made in the proceeding below.

As indicated LDR Section 23.2-17(a), the Historic Resources Preservation Board (HRPB) has the authority to review appeals of a final decision of the DRO.

PUBLIC COMMENT

At the time of publication of the agenda, Staff has received no public comment.

CONCLUSION

As Section 23.5-3, *Nonconformities* of the City's LDRs expressly states that "No nonconforming use of a structure may be extended to any portion of a building or structure not previously put to such use" and based on the data and analysis in this report, staff recommends that the Board interpret LDR Section 23.5-3(e)(2) in manner consistent with the DRO's decision.

POTENTIAL MOTION

I MOVE TO **APPROVE** HRPB Project Number 20-00100052: An Appeal of the Development Review Official decision, interpreting the City's Land Development Regulations to allow the expansion of the legal non-conforming garage apartment. The project will require subsequent Board review if exterior alterations are proposed.

I MOVE TO **DENY** HRPB Project Number 20-00100052: An Appeal of the Development Review Official decision, interpreting the City's Land Development Regulations to disallow expansion of the legal non-conforming garage apartment.

ATTACHMENTS

- A. Applicant Basis of Appeal
- B. Property File Documentation
- C. Property Survey
- D. COA#20-00100007 Application Plan Set
- E. Current Photos