



**TOWN OF PALM BEACH**  
Planning, Zoning & Building Department  
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**PLANNING, ZONING, & BUILDING DEPARTMENT**  
**PZ&B Staff Combination Memorandum: Architectural Commission and Town Council**

**FROM:** Wayne Bergman, MCP, LEED-AP *WB*  
Director PZ&B

**SUBJECT:** ARC-23-137 (ZON-23-104) 310 CLARKE AVE

**MEETING:** NOVEMBER 20, 2023 ARCOM  
DECEMBER 13, 2023 TC

**ARC-23-137 (ZON-23-104) 310 CLARKE AVE (COMBO).** The applicant, Mark & Patricia Davies, has filed an application requesting Architectural Commission review and approval for changes to an approved new two-story residence including changes to architectural details, hardscape/landscape, and arrangement of equipment yards, requiring variances for equipment location and screening wall heights. This is a combination project that shall be reviewed by Town Council as it pertains to zoning relief/approval.

**ZON-23-104 (ARC-23-137) 310 CLARKE AVE (COMBO)—VARIANCES.** The applicant, Mark & Patricia Davies, has filed an application requesting Town Council review and approval for seven (7) variances (1 -2) to exceed maximum equipment screening wall heights in the east and west side-yards, (3) to exceed the maximum number of equipment in the west side-yard, (4 – 5) to locate A/C equipment closer than permitted to the east and west side property lines, (6) to locate a pool heater closer to the east side property line than permitted, (7) and to forgo the requirement to enclose pool equipment in a pump house enclosure. The Architectural Commission shall perform design review of the application

**Applicant:** Mark & Patricia Davies  
**Professional:** MP Design & Architecture (Michael Perry)  
Nievera Williams Design (Mario Nievera)

**HISTORY:**

A new two-story single-family residence with site wide hardscape and landscape improvements was approved by ARCOM at the December 18, 2020 meeting, pursuant to B-079-2020. The application was reviewed and approved by Town Council for Site Plan Review for development of the nonconforming parcel at the January 13, 2023 meeting pursuant to Z-20-00305. At the ARCOM final inspection performed by staff on June 6, 2023 prior to the issuance of a Certificate of Occupancy (CO), staff discovered modifications from the ARCOM approved set of plans. In addition, it was observed that the approved equipment yards contained more equipment than permitted by code, closer to the property line than permitted by code, and not adequately screened by site walls. A Temporary CO was issued for the property with direction given to the applicant to return to ARCOM and Town Council for approval of the modifications and related variances.

**THE PROJECT:**

The applicant has submitted plans, entitled “MODIFICATIONS TO PREVIOUSLY APPROVED NEW RESIDENCE @ 310 CLARKE AVENUE” as prepared by **MP DESIGN & ARCHITECTURE**, dated October 12, 2023.

The following is the scope of work:

- Document architectural, hardscape & landscape changes.
- Variances related to mechanical equipment and screening.

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

- **VARIANCE 1: Sec. 134-1669:** A variance to exceed the maximum height for an equipment yard screening with a wall height of 7’8”, in lieu of the 7’ maximum permitted, in the West equipment yard.
- **VARIANCE 2: Sec. 134-1669:** A variance to exceed the maximum height for an equipment yard screening wall a with a height of 8’, in lieu of the 7’ maximum permitted, in the East equipment yard.
- **VARIANCE 3: Sec. 134-1728(a)(3):** A variance to permit three (3) pieces of A/C equipment in the west side-yard setback, in lieu of the maximum of two (2) pieces of equipment permitted.
- **VARIANCE 4: Sec. 134-1728(a)(1):** A variance to permit two (2) pieces of A/C equipment with a 2’-3” west side-yard setback, in lieu of the 5’ setback required.
- **VARIANCE 5: Sec. 134-1728(a)(1):** A variance to permit two (2) pieces of A/C equipment with a 2’-1” east side-yard setback, in lieu of the 5’ setback required.
- **VARIANCE 6: Sec. 134-1728(c)(2):** A variance to permit pool heater equipment with an 8’-6” east side-yard setback, in lieu of the 10’ setback required.
- **VARIANCE 7: Sec. 134-1728(c)(6):** A variance to forgo the requirement of swimming pool equipment located within a side yard setback to be enclosed in a pump house.

Site Data			
Zoning District	R-B Low Density Res.	Future Land Use	SINGLE-FAMILY
Site Equipment Screening Wall Height	Permitted: 7’ Proposed West: 7’-8” Proposed East: 8’ <i>2 Variances Requested</i>	Pool Equipment	Heater Setback Req.: 10’ Heater Setback Prop.: 8’-6” <i>1 Variance Requested</i> Required Equip. Pumphouse: Not Provided <i>1 Variance Requested</i>

<b>A/C Equipment Setbacks</b>	Required Setback: 5' Proposed West: (2) @ 2'-3" Proposed East: (2) @ 2'-1" <i>2 Variances Requested</i>	<b>Number of Pieces of A/C Equipment in Setback</b>	Permitted: 2 Pieces Proposed: 3 Pieces (West) <i>1 Variance Requested</i>
<b>Surrounding Properties / Zoning</b>			
<b>North</b>	315 Clarke Ave   Residence Under Construction / R-B Zoning		
<b>South</b>	345 Seaspray Ave & 343 Seaspray Ave   Residences / R-B Zoning		
<b>East</b>	300 Clarke Ave   Residence / R-B Zoning		
<b>West</b>	322 Clarke Ave   Residence / R-B Zoning		

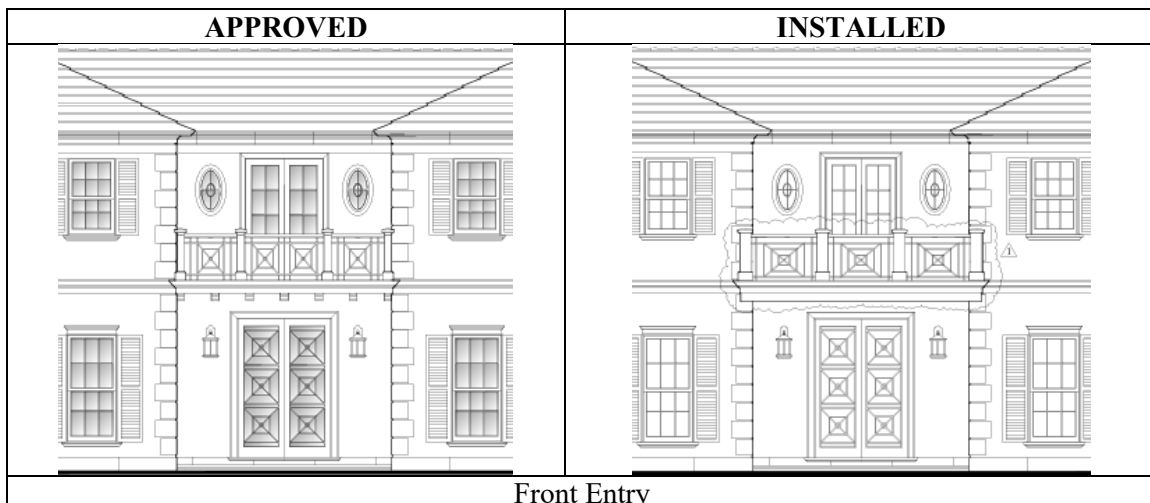
### **STAFF ANALYSIS**

This application is presented to the Commission to consider whether all criteria in [Sec. 18-205](#) have been met. A review of the project indicates that the application, as proposed, is inconsistent with the above-mentioned sections of the Town zoning code.

The project is before the commission for review of architectural, hardscape, and landscape changes that occurred to the property subsequent to review and approval by ARCOM and Town Council in 2020.

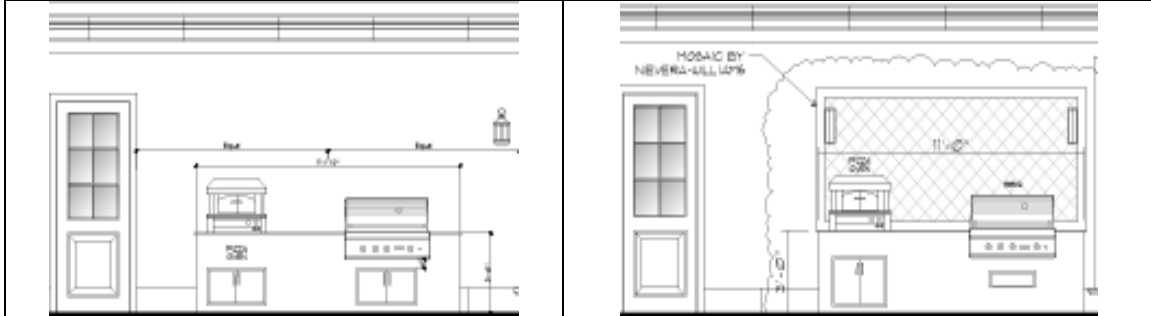
Architectural changes to the structure are relatively minor and include changes in railing design at front and rear balconies, change in loggia columns, elimination of shutters on the east and west elevations at the garage/kitchen wing, a and slight modification to the outdoor kitchen area including addition of an installed tile mosaic on the south façade. Changes of this level can often be reviewed and approved at the staff level with consent of the Chairman, however, due to the other outstanding issues requiring variances, the entirety of the application was required to return to the commission, rather than bifurcating approvals.

Changes to landscape and hardscape include modification to the walkway leading to front entry, modifications to the sunken sitting area in the west yard, addition of a cast stone terrace at outdoor kitchen area, addition of outdoor shower, and reduction of hardscape in the courtyard pool area; along with related landscape modifications.

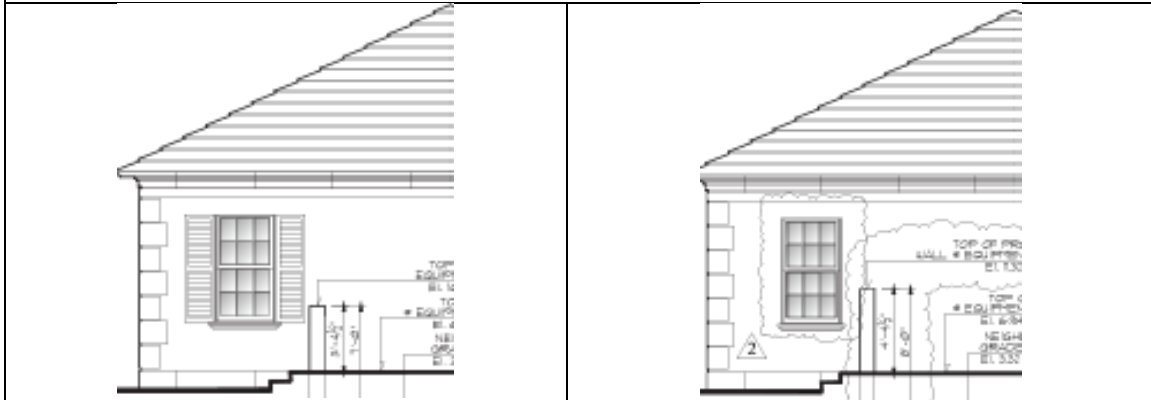




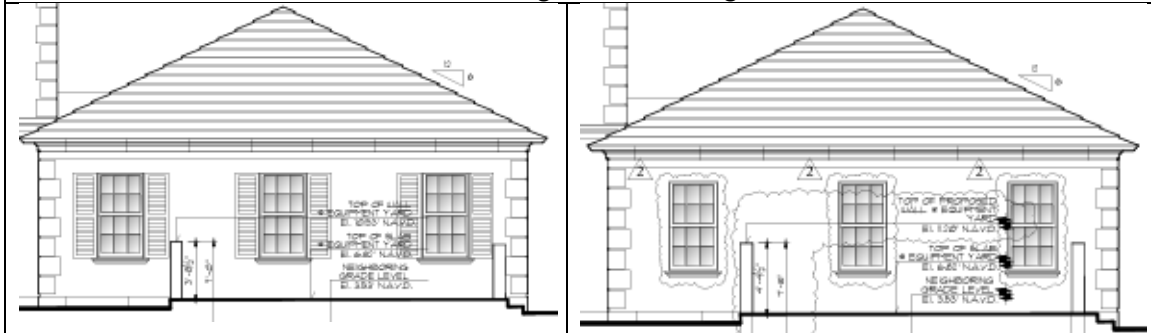
Rear Loggia



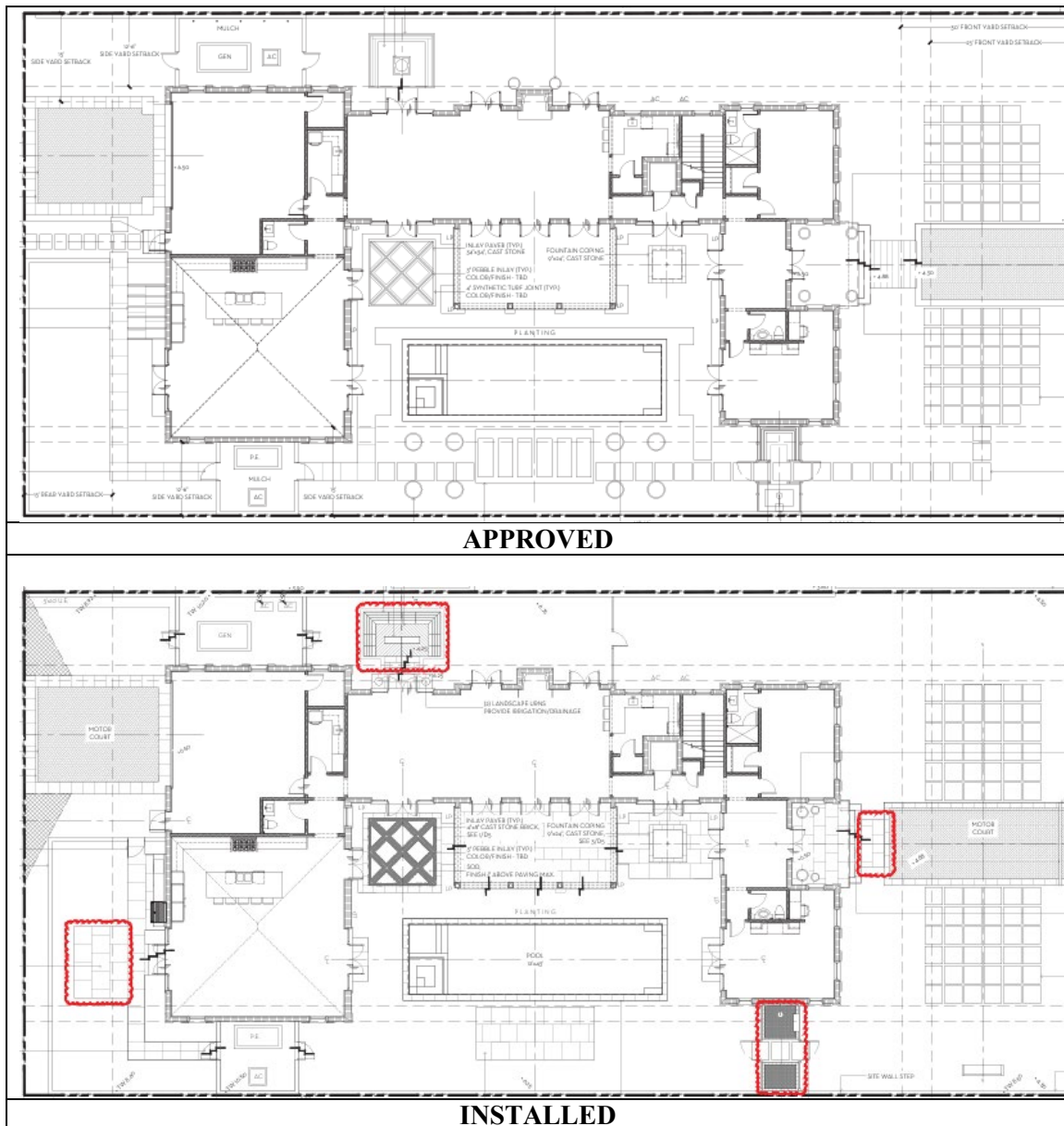
Outdoor Kitchen



East Garage/Kitchen Wing



West Garage/Kitchen Wing

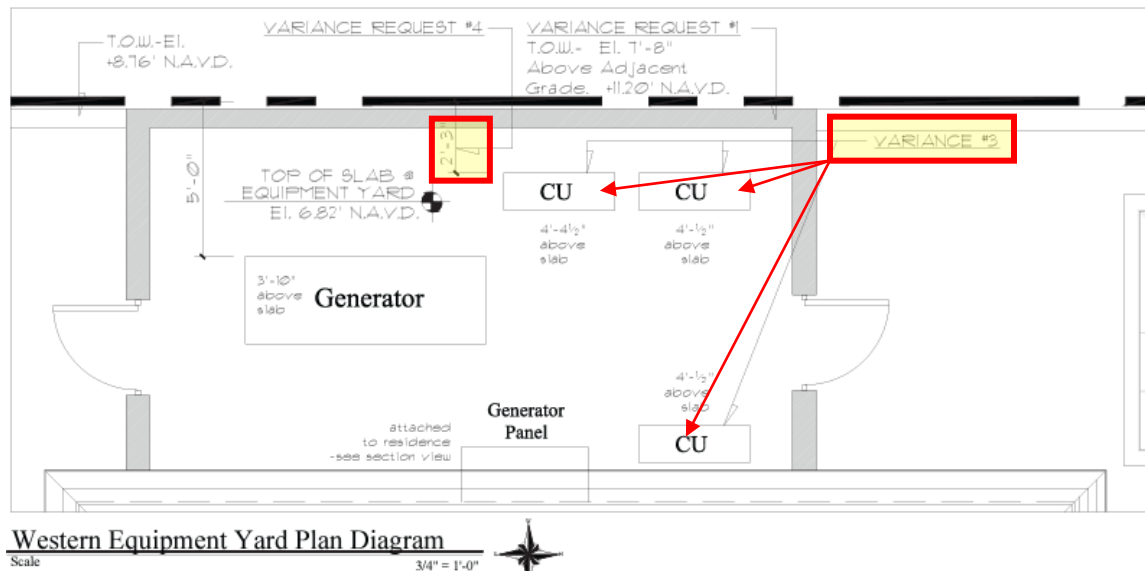


The crux of this application is related to the modifications of the equipment yards. An issue that staff often comes across is that equipment yards are presented and designed as being zoning compliant—likely due to actual specifications for the sizes and amounts of the equipment have yet to be resourced at the design development stage. This “perfect” design to match zoning code regulations often does not come to fruition in the field. Equipment yard screening wall heights are often designed and shown not to exceed maximum wall heights permitted and are also shown to fully screen equipment. The exact amount of equipment permitted in a side or rear yard is the exact same number of equipment proposed. This idealized design is rendered as zoning compliant, but inspection in the field after construction is contrary. The problem is that these equipment yards are

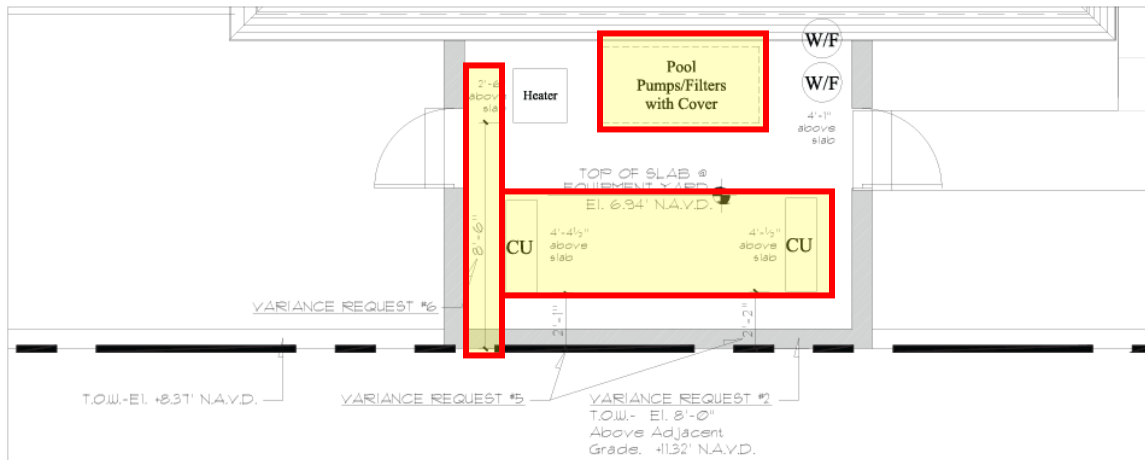
designed and presented to the commission prior to electrical and mechanical experts being involved in development of the plans.

What is commonly seen in the field is that the equipment selected is bigger/taller than anticipated (unable to be screened adequately by site walls, due to FEMA requirements or not) OR screening walls to completely screen the equipment exceed max wall heights permitted, leading to an inevitable variance. The number of pieces of equipment can also exceed what was presented. This equipment is then installed in locations where equipment was previously anticipated (in side or rear yards), however, it becomes a zoning violation. Staff is actively working on proposed zoning code language which will hopefully reduce the number of variances being sought by proposing some practical changes which continue to allow equipment and equipment yards in the side and rear yard setback but mitigate for unforeseen changes, including making equipment setback standards uniform.

The violations related to this application were listed previously and are depicted graphically below:



*Variances for A/C equipment closer than 5' to property line, and 3 pieces of A/C equipment in setback.*



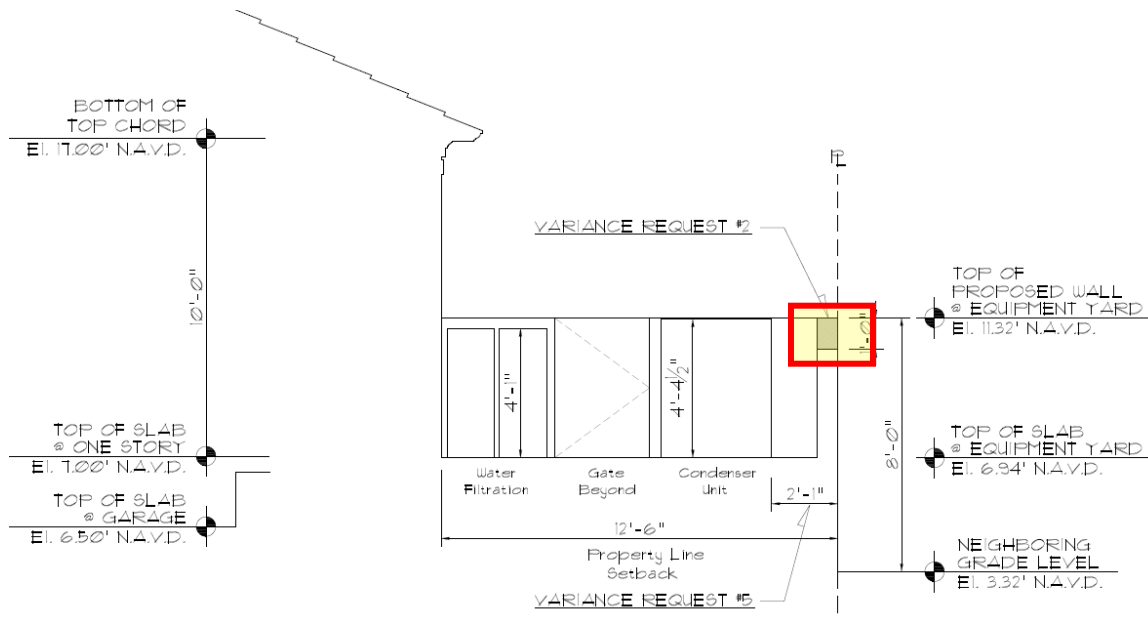
Eastern Equipment Yard Plan Diagram

Scale

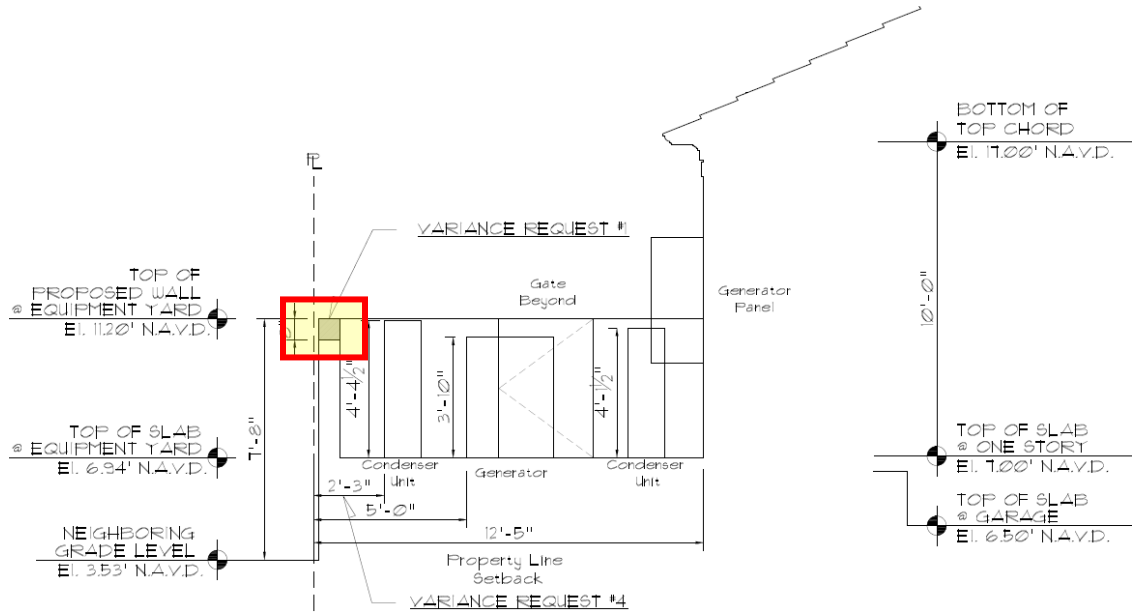
3/4" = 1'-0"



Variance for pool heater less than 10' to property line. Variance for A/C equipment less than 5' to property line. Variance for pool pumps/filters unhoused.



Variance for equipment wall to exceed max. 7' height above lowest grade.



Variance for equipment wall to exceed max. 7' height above lowest grade.

### CONCLUSION:

This application is presented to the Commission to consider whether all of the criteria in Sec. 18-205 have been met. Approval of the subject project will require two (2) separate motions to be made by the Architectural Review Commission:

- (1) that the overall design of the project is in accordance with the criteria provided below, subject to any imposed conditions, and
- (2) that the implementation of the proposed variances will or will not cause negative architectural impact to the subject property.

Approval of the project will require one motion to be made by the Town Council:

- (1) that the variances **shall or shall not** be granted that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met.

WRB:JGM:BMF