



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
Director PZ&B

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

MEETING: DECEMBER 15, 2023 ARCOM
JANUARY 10, 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 applicant originally presented the as-built plans to ARCOM for approval at the November 20, 2023 meeting. The application was deferred with direction to find alternatives to reduce the number of variance requests for the equipment yards.

THE PROJECT:

The applicant has submitted plans, entitled “MODIFICATIONS TO PREVIOUSLY APPROVED NEW RESIDENCE @ 310 CLARKE AVENUE” as prepared by **MP DESIGN & ARCHITECTURE**, dated December 04, 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 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' 2 Variances Requested	Pool Equipment	Heater Setback Req.: 10' Heater Setback Prop.: 8'-6" 1 Variance Requested Required Equip. Pumphouse: Not Provided 1 Variance Requested
A/C Equipment Setbacks	Required Setback: 5' Proposed West: (2) @ 2'-3" Proposed East: (2) @ 2'-1" 2 Variances Requested	Number of Pieces of A/C Equipment in Setback	Permitted: 2 Pieces Proposed: 3 Pieces (West) 1 Variance Requested
Surrounding Properties / Zoning			
North	315 Clarke Ave Residence Under Construction / R-B Zoning		
South	345 Seaspray Ave & 343 Seaspray Ave Residences / R-B Zoning		
East	300 Clarke Ave Residence / R-B Zoning		
West	322 Clarke Ave Residence / R-B Zoning		



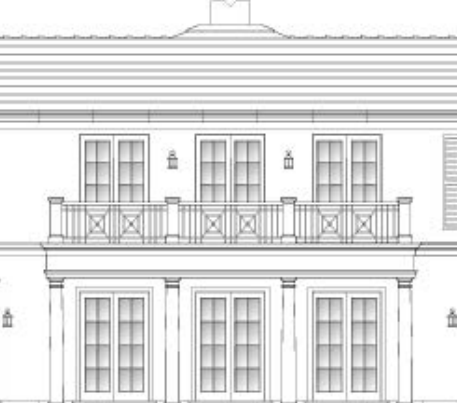

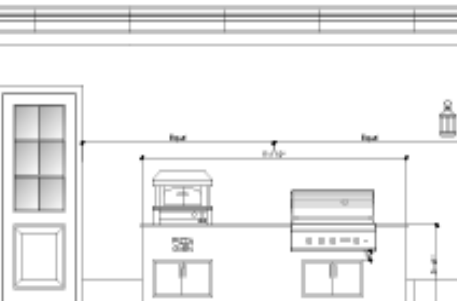

STAFF ANALYSIS

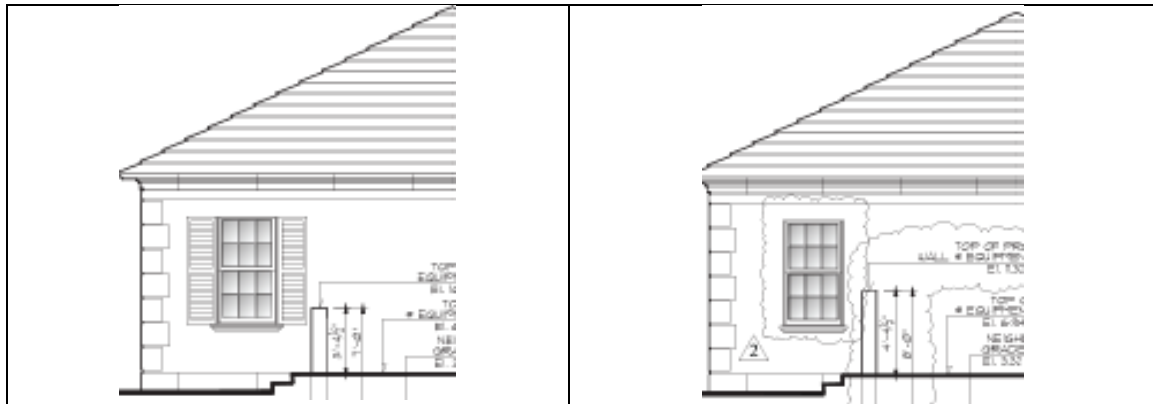
This application is presented to the Commission to consider whether all criteria in [Sec. 18-205](#) have been met. A review of the project indicates that the application, as proposed, is inconsistent with the above-mentioned sections of the Town zoning code.

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.

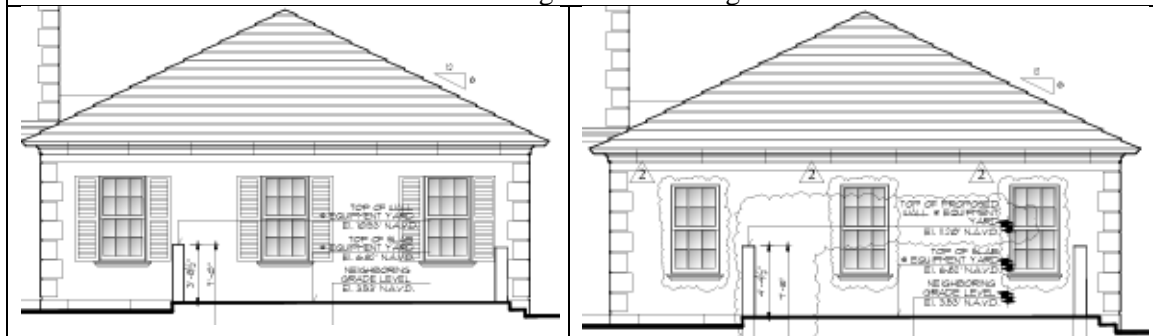
Architectural changes to the structure are relatively minor and include changes in railing design at front and rear balconies, change in loggia columns, elimination of shutters on the east and west elevations at the garage/kitchen wing, and slight modification to the outdoor kitchen area including addition 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.

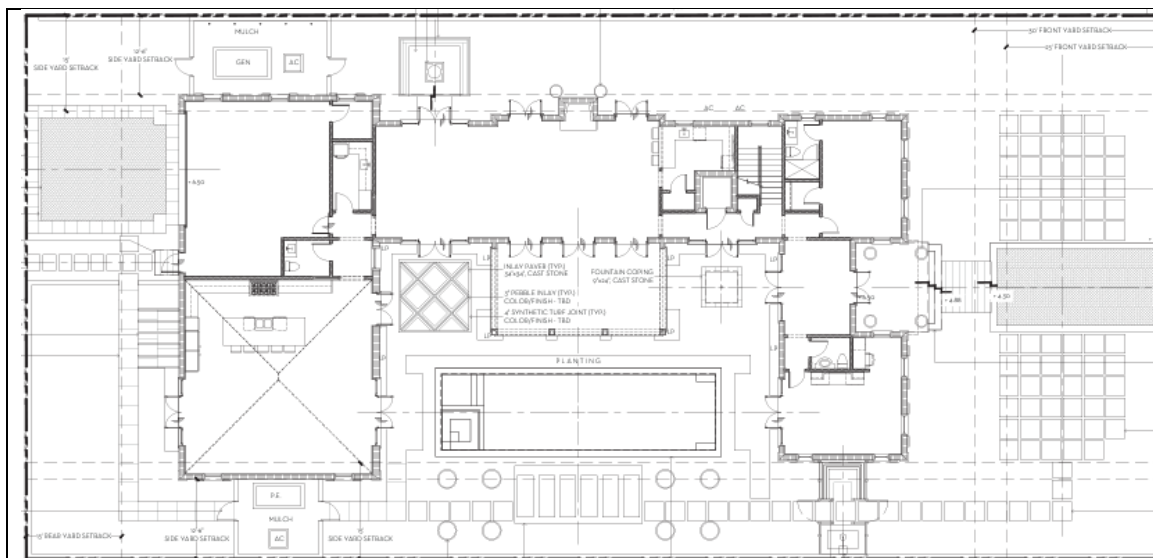
APPROVED	INSTALLED
	
Front Entry	
	
Rear Loggia	
	
Outdoor Kitchen	



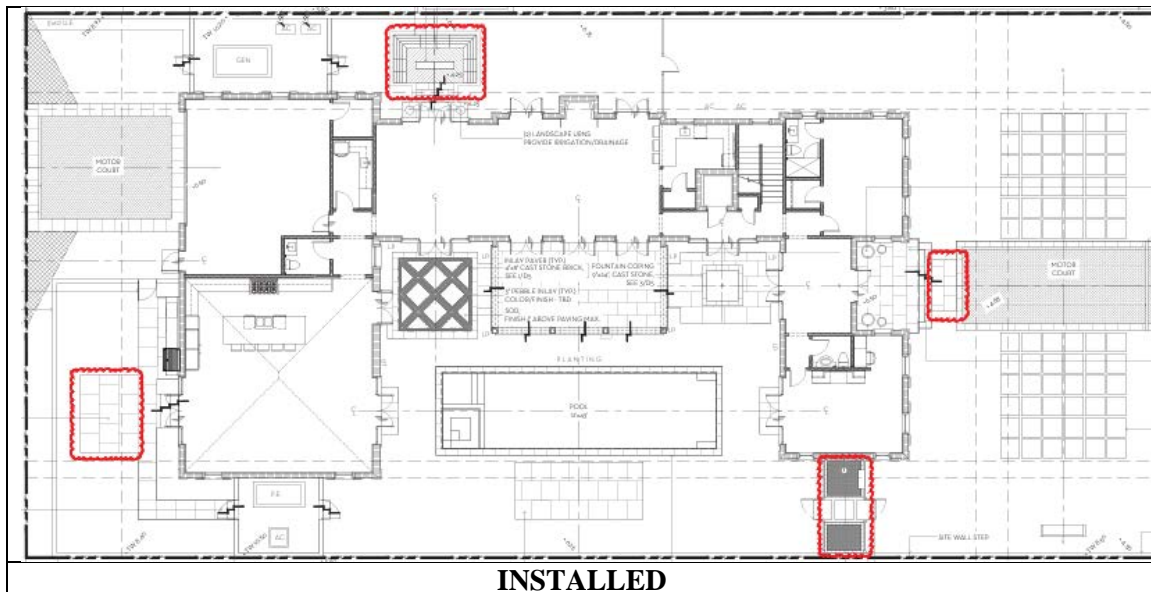
East Garage/Kitchen Wing



West Garage/Kitchen Wing



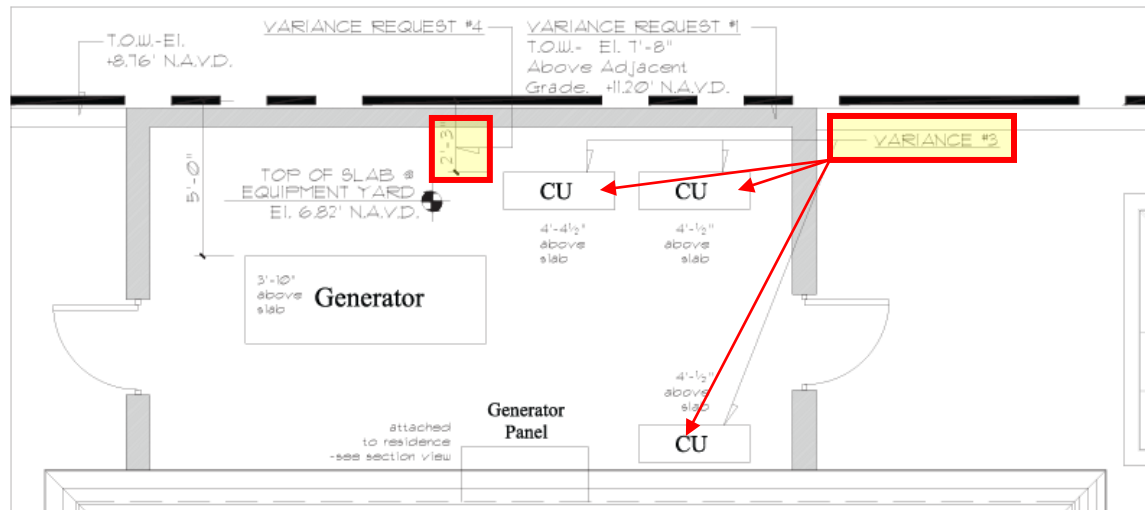
APPROVED



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 the fact that 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 the 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.

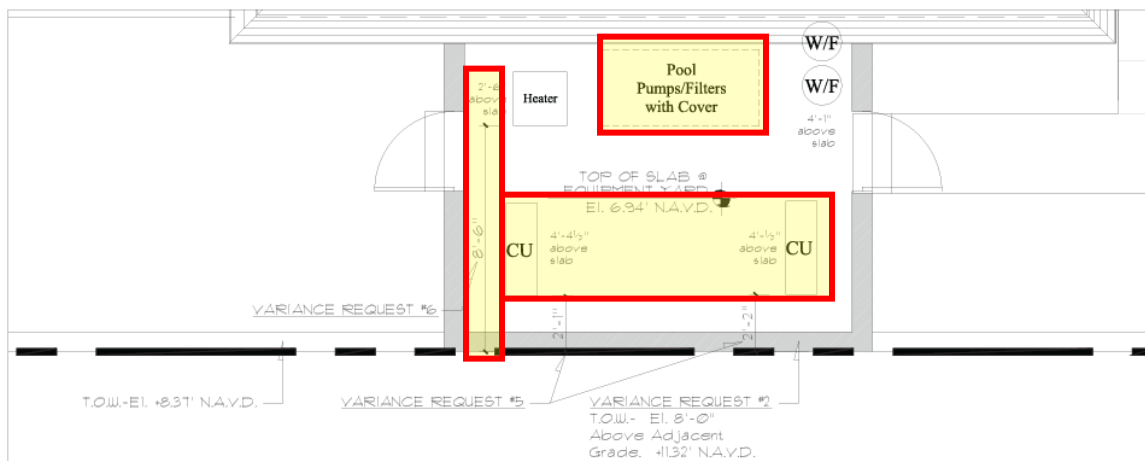
The violations related to this application were listed previously and are depicted graphically below:



Western Equipment Yard Plan Diagram

Scale 3/4" = 1'-0"

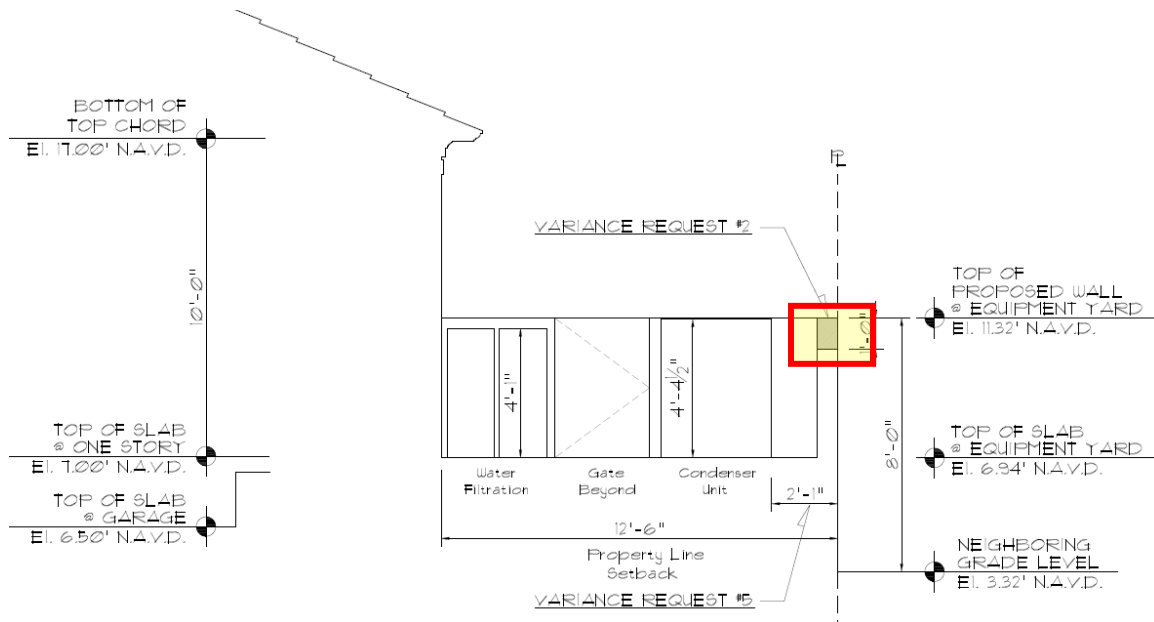
Variances for A/C equipment closer than 5' to property line, and 3 pieces of A/C equipment in setback.



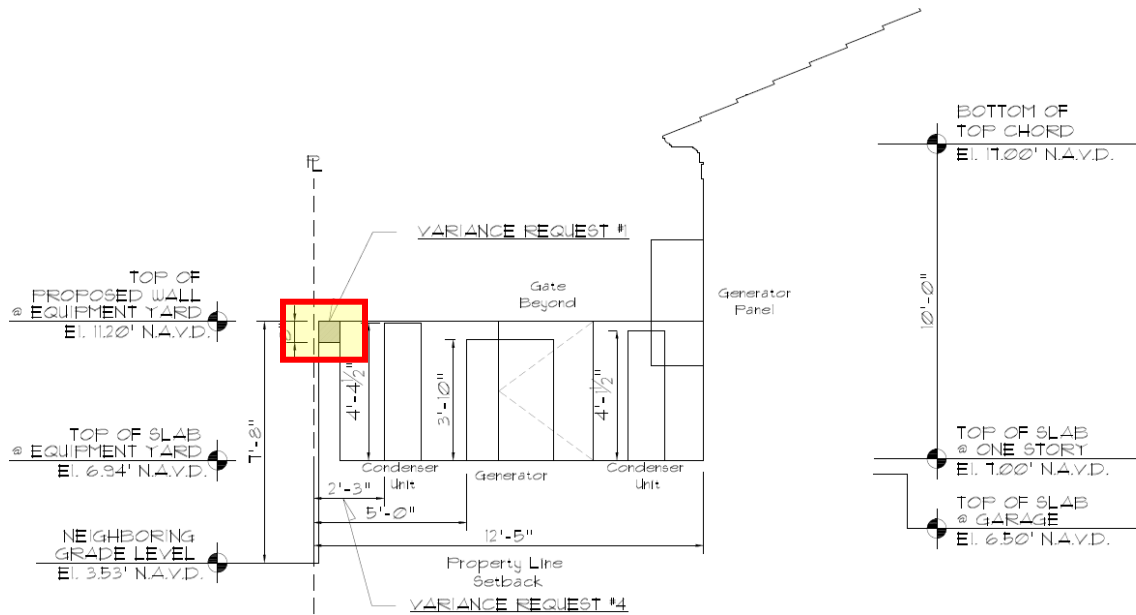
Eastern Equipment Yard Plan Diagram

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 unhooused.



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



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

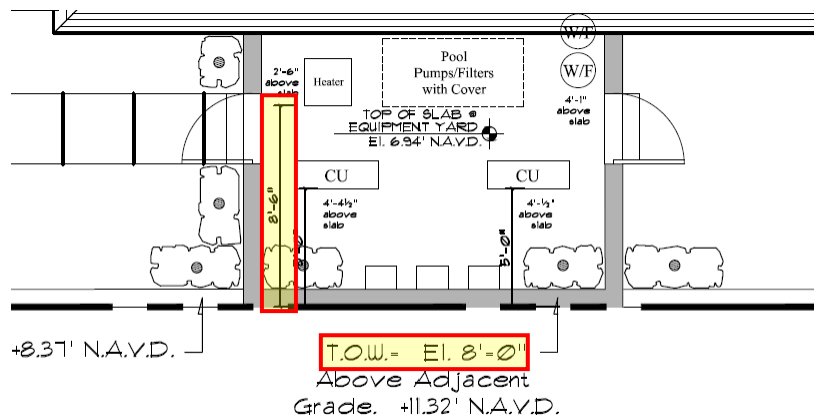
At the November 20, 2023 ARCOM meeting, the commission had concerns with the arrangement of the equipment yards and the number of variances required, that perhaps the most de minimis solution had not been presented yet. The applicant has resubmitted plans showing two options.

OPTION 1:

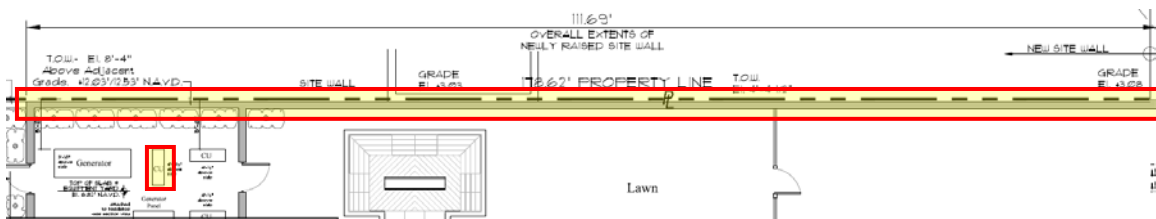
Option 1 eliminates the need for three variances previously requested (#4, #5, & #7) and will require four variances.

Option 1 includes rotating the two pieces of A/C equipment in the east side yard to provide the minimum 5' setback required (*eliminating variance number 5*). The pool equipment in the east side yard is now covered as required by code (*eliminating variance number 7*). The pool heater is proposed to remain as previously presented with an 8.5' side yard setback in lieu of the 10' required, *variance number 6*). The previously presented 8' high equipment yard screening wall is also proposed to remain in lieu of the 7' max height permitted, which will require a variance (*variance 2*). New hedge material is proposed in and around the east side yard to aid in screening the equipment area.

In the west side yard, two pieces of A/C equipment are shifted to meet the 5' setback required (*eliminating variance 4*). Three pieces of A/C equipment are still proposed within the 12.5' setback, where a maximum of 2 pieces are permitted (*variance number 3*). Option 1 also proposes to further raise and expand the equipment screening wall from previously proposed, now at 8'4" in lieu of the 7'8" previously proposed and 7' maximum permitted (*variance 1*), along a majority of the west site wall. Hedge material is also proposed in and around the equipment yard for screening.



Option 1: Proposed configuration and variances in east side-yard.



Option 2: Proposed configuration and variances in west side-yard.

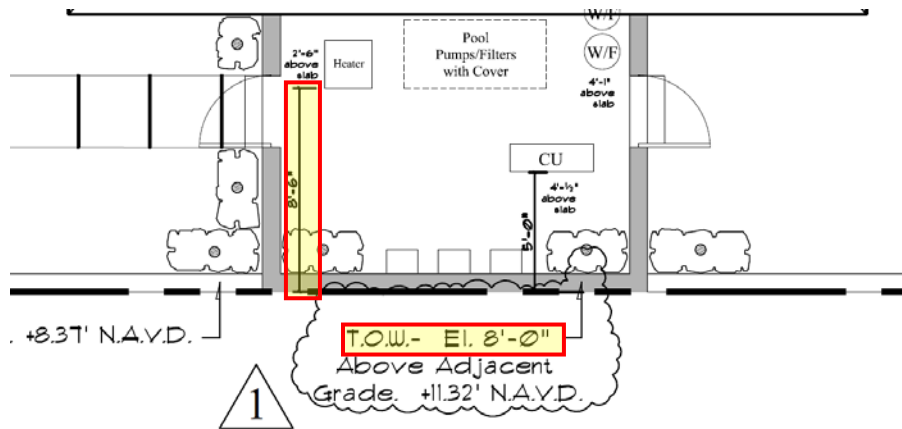
OPTION 2:

Option 2 eliminates the need for four variances previously requested (#3, #4, #5, & #7) and will require three variances.

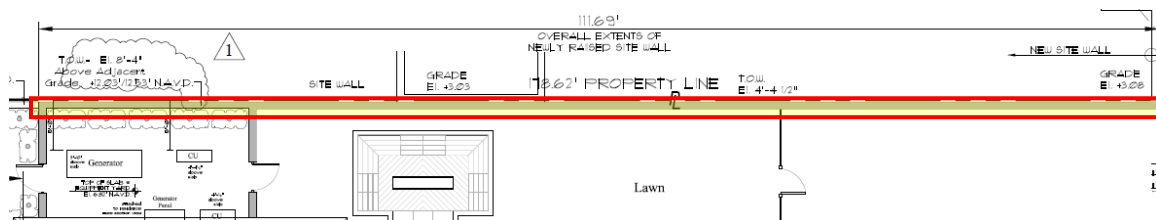
Option 2 includes rotating one piece of A/C equipment in the east equipment yard to meet the minimum 5' setback required, and removing one piece of A/C equipment completely and relocating at the garage in the rear yard area (*eliminating variance number 5*). The pool equipment in the east side yard is now covered as required by code (*eliminating variance number 7*). The pool heater is

proposed to remain as previously presented with an 8.5' side yard setback in lieu of the 10' required, variance number 6). The previously presented 8' high equipment yard screening wall is also proposed to remain in lieu of the 7' max height permitted, which will require a variance (variance 2). New hedge material is proposed in and around the east side yard to aid in screening the equipment area.

In the west equipment yard, one piece of A/C equipment in the east equipment yard to meet the minimum 5' setback required (*eliminating variance number 4*), and removing one piece of A/C equipment completely and relocating at the garage in the rear yard area (*eliminating variance number 3*). Option 1 also proposes to further raise and expand the equipment screening wall from previously proposed, now at 8'4" in lieu of the 7'8" previously proposed and 7' maximum permitted (variance 1), along a majority of the west site wall. Hedge material is also proposed in and around the equipment yard for screening.



Option 2: Proposed configuration and variances in east side-yard.



Option 2: Proposed Configuration and variances in west side-yard.

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