

LETTER OF INTENT

ARC-24-0134 and ZON-24-0076 is a request for construction of an addition containing 335 square feet on the penthouse level at 369 S. Lake Drive, PH-A. The required plans and zoning history are submitted with this Application.

Sections 134-201, 134-226, 134-227 and 134-326. Applicant is requesting special exception with site plan approval and variances to allow a 335 square foot addition to the penthouse unit of an existing six-story building in the R-D(2) zoning district. The following variances are requested:

1. Section 134-226 and 134-227. Special exception and site plan approval to permit addition of 58 square foot addition to the existing sixth floor.
2. Section 134-1060(8)d. Variance for building height of 57'6" in lieu of 35' maximum permitted. Please note that the 57'6" height is currently existing.
3. Section 134.1060(8)d. Variance to allow the addition to the existing sixth floor in lieu of the three-story maximum currently permitted.
4. Section 134.1060(7)d. Variance to permit the small 335 sq. ft. addition on the sixth floor with a front (west) yard setback of 24'10" in lieu of the required 57'5" minimum required.

The special exception should be granted because this is a permitted special exception use and it has been approved in multiple similar situations previously.

The site plan should be approved because the requested small addition will have no negative impact on neighbors and the Town. The sixth floor is existing, and the primary bedroom addition is very small in scope. The addition will not be visible to any neighbors.

The hardship that runs with the property is that the condominium building is already non-conforming and was built pursuant to a different code. The requested relief is technical only because of the existing non-conformity and is de minimis based upon the very small scope of the proposed renovation. Any change to this penthouse would require a variance.

Granting of the variance will not be contrary to the public's interest because no negative impact to the neighbors will result. This is primarily a cosmetic restoration, and the variance is technical and is de minimis and will not be seen by neighbors.

Criteria for Site Plan Review

1. A multi-family dwelling is a permitted use under the Town of Palm Beach Zoning Code.
2. The proposed small addition is so designed, located and proposed to be operated so that the public's health, safety, welfare and morals will be protected.
3. The proposed small addition will not cause injury to the values of the other properties in the neighborhood as the adjacent penthouse has the same awning as the one proposed.
4. The proposed small addition will be compatible with the intended purpose of the district in which it is to be located as there are covered terraces in the building and neighborhood.
5. The proposed small addition will comply with Schedule of District Regulations for the R-D(2) Zoning District.
6. The proposed small addition will comply with all elements of the comprehensive plan.
7. The proposed small addition will not result in substantial economic, noise, glare or other impact or odor impacts on adjoining properties, and other properties in the district; inasmuch as, the same type of use have existed for many years and it is compatible with adjoining and nearby properties.
8. Adequate ingress and egress to the property and loading are provided.
9. Hunter Trust LLC is the fee simple owner and in control of the subject property.
10. The Applicant intends to continue with the current intended use of the property – a multi-family residence located in the R-D(2) Zoning District.
11. Ingress and Egress to the subject property will be via S. Lake Drive.
12. See attached elevation plan for proposed construction of the small addition and the awning.

Criteria for Special Exceptions

1. The use is a permitted special exception use as set forth in article VI of this chapter. The six-story building is a grandfathered use allowed under a previous zoning code and approval. The laundry room addition does not change the use.
2. The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected. The proposed small addition will not adversely impact the public or neighborhood but alternatively will provide enhancement to the applicant's unit.
3. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located. The proposed small addition will have no negative impact on the value of other properties in the neighborhood and should increase the neighboring property values.

4. The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located. The proposed small addition will be compatible with the neighborhood as this area is high density residential district and there are other condominium units that have awnings in this building and others.
5. The use will comply with yard, other open space, and any special requirements set out in Article VI for the particular use involved. Except as stated in this Application, the small addition will comply with all other yard, other open space and any special requirements set forth in Article VI of the Zoning Code.
6. The use will comply with all elements of the comprehensive plan. The proposed small addition will comply with the comprehensive plan, if applicable.
7. The use will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district. The proposed small addition will not result in substantial economic, noise, glare, or odor impacts on the adjoining properties and properties in the district, as the small addition is proposed on the penthouse of an existing multi-family building.
8. The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations. The proposed small addition will not place a greater burden on police or fire protection services.

Criteria for Authorizing a Variance (Applicable to all variance requests)

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

The hardship and special conditions applicable to this property are that the building was constructed pursuant to a different code that permitted six stories and the 57'6" existing height.

The requested addition is de minimis in scope and is located on the existing sixth floor and will not be seen or noticed by anyone. A very similar improvement and others and accompanying variances were approved by Town Council in 2018 and 2022 for two sixth floor penthouses at 425 Worth Ave.

2. Indicate how the special conditions and circumstances do not result from the actions of the Applicant.

The special conditions existed upon construction of the building and were not created by the Applicant.

3. Demonstrate that the granting of the variance will not confer on the Applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

No special privileges will be conferred on the Applicant if the variances are granted because this same relief was granted to the neighbors in 2018 and 2022 and the building height is not being increased.

4. Demonstrate how literal interpretation of this ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the Applicant.

Literal interpretation of the ordinances would deprive Applicant of the right to make these small cosmetic tweaks to her residence previously approved for her neighbors.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The requested relief is the minimum necessary for the requested use as the requested addition is very small (only 58 square feet).

6. For granting of a variance to sections 134-387, or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings must be demonstrated pertaining to the nonconforming use for which the variance is requested:

- a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
- b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 - i. Be granted only for the continuation of the same hotel or residential use; and,
 - ii. Require the Applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

N/A

7. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of these variances are in harmony with the intent and purpose of the Zoning Code because the requested very small improvements are consistent with the existing building as previously approved for the neighbor's same small renovation.

These criteria apply to all of the requested variances.