

**BOARD OF ADJUSTMENT MEETING MINUTES  
THURSDAY, JULY 24, 5:30 P.M.  
CITY COMMISSION CHAMBERS**

A regular meeting of the City of Delray Beach Board of Adjustment was called to order by Chairperson, Allen Kilik, in the First Floor Conference Room at 5:50 p.m. on Thursday, July 24, 2014.

**1. ROLL CALL SHOWED:**

Present: Allen Kilik                      Absent: Mel Pollack  
          Michael Park  
          Dale Miller  
          Harvey Starin  
          Brenda Cullinan

Also Present: Janice Rustin, Assistant City Attorney  
               Al Berg, Assistant Director of Community Improvement  
               Thomas Carney, Agent  
               Ken Kaltman  
               Jan Hansen  
               Francisco Perez-Azua  
               Chuck Wonder  
               Maria Beckett  
               Ken Thornsby  
               Brandi Hughley  
               Walter Reynolds  
               Lucie Carney  
               Eric & Ronnie Rosa  
               JoAnn Peart  
               Neil O'Donnell

At this time, Mr. Kilik reviewed the quasi-judicial rules.

**2. APPROVAL OF MINUTES:**

Ms. Miller made a motion to approve the minutes from June 26, 2014, seconded by Ms. Cullinan. Said motion passed unanimously.

**3. PUBLIC HEARING:**

PETITION NO. 1029

A. Applicant: Rita Dew-Owner  
Premises: 1227 Laing Street  
Request: Requesting a variance to reduce the required setback from 35' to 23' feet to allow a new 2-story front porch addition to encroach 8'4" into the front setback.

Mr. Berg stated that the applicant requested a variance to Section 4.3.4 (K) to build a

new two story porch in the front that will extend an additional 8.33' into the front yard setback at ground level, and 7.33' at the second story level. The proposal will allow a development of 376 sq. ft. to be constructed in the setback area. The required setback is 35' and the existing house encroaches 3 ½' into that, which is not at issue in this request. The Land Development Regulations Section 4.3.4 (H)(4) is specific with regard to structures that are allowed in the setback. Over the years, staff has adopted a policy that minor encroachments, such as second floor balconies, bay window, and stairs are similar to the roof overhangs. We have allowed a 3' encroachment for these types of structures and there have been applications before the board for these items. This request is a considerable deviation from those as it is much larger than 3' and adds considerable floor area to the home. It would have added much more space than the examples shown for the surrounding area, which have not been researched by staff.

The applicant presented pictures of similar homes in the area that have front balconies to support their request; however the 24' foot setback of the property is a considerable deviation from the 75' feet requirement, the addition will add 24 feet wide and 4 inches on the first floor and 24 feet wide and 7.4 inches on the second floor. Staff considers the request substantial and therefore request denial.

Ms. Miller asked what the measurement of the other balconies is.

Mr. Berg stated is about five feet.

Mr. Carney made a presentation and passed around photos of the property for the Board members to review. He stated that due to the characteristic and uniqueness of Laing Street. The houses were built in the 1930's, some of the properties setbacks are near the street. These houses are integrated with each other, therefore it is important that they are compatible and the new rules cannot be imposed to this type of neighborhood because they were designed differently.

Ms. Miller asked if the City recommended approving 5 feet instead of 8 feet, why the applicant would not accept the recommendation.

Mr. Kaltman stated that 5 feet is not big enough to have some rocking chairs and table to enjoy the front porch.

Mr. Park asked if there are any other homes on Laing Street with the same setback as the applicant.

Mr. Kaltman stated that there are seven (7) to eight (8) homes with similar styles.

At this time, Mr. Kilik asked the public if they wish to speak.

Ms. Peart stated that this home is a Historic house has a special situation and in a unique neighborhood and urges the board to grant the variances.

Mr. Wonder stated that the applicant have done a magnificent job renovating the property and urges the board to grant the variances.

Mr. Reynolds stated that this street is unique and beautiful; his home has a balcony that is 13' feet by 8' feet. He does not wish to see mega homes being built that blocks the ocean view from the street, he feels that the applicant's request will enhance the property and will add value to the neighborhood and urges the board to grant the variances.

At this time, Board members discussed the findings.

Ms. Miller moved to approve the request for the variance based upon positive findings pursuant to Section 4.3.4 (K) in the Land Development Regulations for the City of Delray Beach. The motion was seconded by Mr. Park and passed 5-0.

PETITION NO. 1030

B. Applicant: Maria Beckett  
Premises: 1025 Vista Del Mar Drive North  
Request: Requesting a variance to allow a rear yard setback of 5' and a side yard setback of 5' where 10' feet are required to construct a new pool.

Mr. Berg stated that the applicant requested a variance to Section 4.3.4 (K) to build a new pool on the north side of the house, which will extend into the side and rear yard setbacks that are established for all structures. As noted on the survey, there is an easement at the rear of the property where the applicant proposes to build the pool on. All of the utility companies have been contacted and have signed statements that they have no issue with the applicant's proposal. AT&T responded that they would require a 4" PVC conduit be placed in the easement for future use. The spa will encroach 5' into the 10' side yard setback. The pool will encroach 5' into the rear yard setback. All structures will be at ground level except the water feature for which the applicant did not provide an elevation. A minimum of 5' is required around the perimeter for drainage. Therefore, no paving is allowed in this area. This will be a modification to the site plan.

Mr. Berg stated staff recommends approval of the request for variance. The structures that encroach are all below ground level except for the raised spa and will not be seen. Staff does not encourage encroachments, but under these circumstances, the structures, as noted, will be at ground level. The pool will have to meet the National Electric Code for overhead clearances.

Ms. Beckett stated she has contacted her neighbors, which they have no objection to her request.

Ms. Cullinan moved to approve the request for the variance based upon positive findings pursuant to Section 4.3.4 (K) in the Land Development Regulations for the City of Delray Beach. The motion was seconded by Mr. Park and passed 5-0.

PETITION NO.1031

- C. Applicant: MJH BC, LLC  
Premises: 528 N.W. 1<sup>st</sup> Avenue  
Request: Requesting a variance to allow a side interior setback of 7'6", where 10' is required to construct a new, detached 2-car garage.

Mr. Berg stated that the applicant requested a variance to Section 4.3.4 (K) to allow a side interior setback of 7'6", where 10' is required, in order to construct a new, detached 2-car garage. The applicant proposes to build a new, two story single-family house, not requiring any variance relief, and a detached 2-car garage. The proposal will allow a development of 51.36 sq. ft. to be constructed in the side setback area. The required setback is 10' and the proposed garage encroaches 2'4" into the side interior setback.

The Land Development Regulation Section 4.3.4 (H)(4) is specific with regard to structures that are allowed in the setback. Being that this is new construction; the proposed structure can be shifted toward that driveway 2'4" with approximately 4'5" of green space located between the garage and the driveway, the utilization of this space will alleviate the need for a request for variance. The granting of the variance will not be in harmony with the surrounding area.

Mr. Berg read into the record an email received from Peter Allen whose property is located at 528 NW 1<sup>st</sup> Avenue, he is opposed to the variance as it will make a negative appearance on the property and urges the Board to deny the variance.

Mr. Starin asked where the front of the property is located.

Mr. Berg stated that the house would be located in the rear and the garage would face the front of the street on 1<sup>st</sup> Avenue.

Mr. Perez stated that this lot is a 50' foot lot making it unique and different; he felt that building a house with a two-car garage would not be in harmony with the neighborhood making the main factor to build a detached garage making it more appealing and in harmony with the surrounding area.

Mr. Starin asked if there is a standard minimum radius to drive into the location that will make it difficult or impossible to turn and park cars in there.

Mr. Perez stated that the standard radius is about 16' feet however they only have about 6' feet making it a challenge but is less than a challenge by having just 2' feet. He feels that is doable and the design is better and makes the home more attractive.

Mr. Starin asked if there is a front setback.

Mr. Perez stated that there is a 24' feet requirement.

Ms. Miller asked what was the objection to the City of Delray Beach suggestion to shift the 2'4" towards the driveway.

Mr. Perez stated that he was unaware of the proposal. However, he is asking for the variances to have the turning radius.

Mr. Kilik stated he does not understand why there is a request for a variance, he felt that he could have the same turning radius, the same space to turn a vehicle around and just move the garage 2' feet leaving the driveway the same.

Mr. Perez stated that moving the garage there is not enough space to maneuver a vehicle to turn making it more difficult.

Mr. Kilik stated that it would look better having the same line of the house and the side of the house would look even better.

Mr. Park asked if the issue is with the driveway or the building.

Mr. Berg stated that the issue is that they would not have enough turning radius for a vehicle

Ms. Miller moved to deny the request for the variance based upon positive findings pursuant to Section 4.3.4 (K) in the Land Development Regulations for the City of Delray Beach. The motion was seconded by Mr. Park and passed 5-0.

#### **4. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:**

- A. Board Members
- B. City Attorney

There being no further business, Chairperson, Mr. Kilik, declared the meeting adjourned at 7:30 p.m.

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Yolaina Ruiz, Executive Assistant/Board Liaison

The undersigned is the Secretary of the Board of Adjustment of Delray Beach and the information provided herein is the minutes of the meeting of said Board on July 24, 2014, which minutes were formally approved and adopted by the Board on \_\_\_\_\_, 2014.

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Yolaina Ruiz, Executive Assistant/Board Liaison

NOTE TO READER: If the minutes you have received are not completed as indicated above, this means they are not the official minutes of the Board of Adjustment. They will become official minutes only after review and approval, which may involve some amendments, additions or deletions.