

**BOARD OF ADJUSTMENT MEETING MINUTES
THURSDAY, SEPTEMBER 18, 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 5:30 p.m. on Thursday, September 18, 2014.

1. ROLL CALL SHOWED:

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

Also Present: Janice Rustin, Assistant City Attorney
 Al Berg, Assistant Director of Community Improvement
 Steve Tobias, Building Chief Official
 Ryan Gaylord, Applicant Representative

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

Board Liaison, Yolaina Ruiz, swore in those individuals who wished to give testimony.

There were no ex parte communications by any Board member.

2. APPROVAL OF MINUTES:

Ms. Miller made a motion to approve the minutes from July 24, 2014, seconded by Mr. Park. Said motion passed unanimously.

3. PUBLIC HEARING:

PETITION NO. 1032

A. Applicant: Brian & Lisa Shinn
Premises: 4570 Live Oak Boulevard
Request: Requesting a variance to allow a side interior setback of 50 sq. ft. where the required setback is 10' to build a 15' high-screened pool enclosure. The proposed screen enclosure encroaches 3'8" into the side interior setback.

Mr. Berg stated that the applicant requested a variance to Section 4.3.4 (K) to allow a side interior setback of 6'4", where 10' is required in order to construct a new screen enclosure. The property is approximately 92' wide and 140' deep and located in an R-1-AA single-family land use district in Del Aire Country Club. The applicant proposes to build a new 15' high screened pool enclosure and wants a concrete patio extension so that they can walk around the pool. The problem is that the pool was built up to the east setback line. The proposal will allow the development of approximately 50 sq. ft. to be constructed in the side interior setback area. The required setback is 10' and the proposed screen enclosure

encroaches 3'8" into the side interior setback. The existing swimming pool was built directly on the east side interior setback of 10'.

The Land Development Regulations Section 4.3.4 (H)(4) is specific with regard to structures that are allowed in the setback. After meeting with the applicant's representative on several occasions, Coastal Screen was able to modify the proposed layout for a minimum variance request. The request will allow for walking access around the east side of the existing swimming pool. The granting of the variance would have to meet the six requirements for granting a variance, there is no special circumstances, it does not meet criteria and would not be in harmony with the surrounding area.

Mr. Kilik asked if the applicant could build the screen to the property line if it wishes to.

Mr. Berg stated that they are allowed to build to the property line however the problem is putting a footer due to the type of enclosure and would have to encroach to the property line creating a different problem but advises to refer the question to applicant representative. Staff recommends denial; the request does not have special circumstances that would meet any criteria set up on the Code to approve the variance.

Mr. Gaylord introduced himself and briefly explained that Coastal Screen and Rail is a family owned business that has been in Delray Beach since 1977. He is a general contractor and the representative assigned for the project as well as the homeowner representative. He does clarify for the record that he is not the qualifier for Coastal Screen and Rail.

Mr. Gaylord stated that the applicant purchased the house in April 2014. The applicant is requesting a minimum variance to allow a new screen enclosure due to the family history of sun exposure related disease; allergies to bees, insects and concern about their children safety, having a pool enclosure would cut down portion up to 90% of sunlight and would allow them to enjoy the pool. The challenge with this request is the location of the existing pool that was built up to the east setback line. The first option was to build the enclosure right down the edge of the pool. However, the company's engineer would not sign off on the project due to the closed proximity of the footer to the pool foundation; then a request for a variance was considered. The original request was of 5 ½ feet into the variance however once meeting with staff the recommendation was that the request could not be supported, decided to request the minimum variance of 3'8" this would allow to meet the structural requirements by the company engineers and would provide the homeowner with walking access around the pool. In addition, he stated that neighbors have no objection to the request.

Mr. Kilik asked Mr. Gaylord to clarify his comment regarding if request is denied.

Mr. Gaylord stated that based on conversation with the company's engineer in the event the request is denied, they would instead screen the cover patio that opens to the house leaving the pool exposed.

Ms. Miller asked clarification if the homeowner had any objection pursuing different options.

Mr. Gaylord stated that different options were considered. Taken in consideration liability, pool foundation and the importance for the homeowner to have walking access around the pool the homeowner chose to request the minimum variance.

Mr. Kilik stated that he also question if the homeowner would considered other options

Mr. Berg advised that the board could only consider what was on the Public Notice, which is to construct a new screen enclosure encroaching 3'8" into the side interior setback.

Ms. Miller stated that the board does their best to accommodate neighbors request however they have to constraint with what the code consist.

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 Ms. Cullinan and passed 4-0.

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 6:10 p.m.

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 September 18, 2014, which minutes were formally approved and adopted by the Board on May 7, 2015.

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.