

**BOARD OF ADJUSTMENT MEETING MINUTES
THURSDAY, SEPTEMBER 20, 5:30 P.M.
FIRST FLOOR CONFERENCE ROOM**

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 5:32 p.m. on Thursday, September 20, 2012.

1. ROLL CALL SHOWED:

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

Also Present: Janice Rustin, Assistant City Attorney
 Al Berg, Assistant Director, Community Improvement
 Steve Tobias, Building Official
 Ted Bessette, Architect

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

2. APPROVAL OF MINUTES:

Ms. Miller made a motion to approve the minutes from August 23, 2012, seconded by Mr. Starin. Said motion passed unanimously.

3. PUBLIC HEARING:

Board Liaison, Venice Cobb, swore in those individuals who wished to give testimony.

There were no ex parte communications reported by any Board member.

PETITION NO. 1017

A. Applicant: William and Linda Roof
 Premises: 965 Bolender Drive
 Request: Requesting approval for a rear yard setback of 6.8 feet where the code requires 25 feet to allow an existing chickee hut to remain as constructed.

Mr. Berg stated that the applicant is appealing Section 4.3.4(K) to allow a rear yard setback of 6'8" where a 25' setback is required for a chickee hut. All buildings are required to comply with 25' rear setbacks except for special setbacks allowed for pools and deck. The Florida Building Code recognizes these types of structures and has granted the Indian tribes permission to erect them without permits. However, the Code does not grant permission to waive zoning requirements and this is where the problems occur. Builders of these structures may say that a permit is not needed and the owners may not be aware of the zoning requirements. Consequently, the structures are often built without any City review and almost always in the setback. The structure is 18'x19'. Staff would be more inclined to support a more modest

proposal with less impact on light, open space and aesthetics. Rainwater containment on the property is also a concern. Staff does not recommend approval of the variance.

Mr. Bessette explained that the lot was modified after the house was built by a prior owner which is the cause for the shape of the lot and the reason for the variance. The chickee hut was constructed by a Seminole Indian installation company and they are common in the neighborhood. The lots in the area have the same front side configuration.

At this time, members of the public stated their disapproval of the variance.

Mr. Starin asked if someone could construct an awning type roof over a boatlift to protect their boat.

Mr. Berg stated that this may not be possible because it is over the waterway.

Ms. Miller confirmed that the structure was constructed by a company that employs Seminole Indians. She decided to abstain from voting due to a conflict of interest as her husband is the real estate officer for the Seminole Tribe.

Mr. Park stated that he lives in the neighborhood and advised that chickee huts are not uncommon. He feels that a situation was created by a prior owner and this owner should not be liable. The change in the shape of the lot caused the applicant to believe that the side setback is really the rear setback. Mr. Park sees no reason not to approve the variance.

At this time, Ms. Rustin read the criteria that have to be met in order for the variance to be approved.

A motion was not made because a majority of the criteria were not favorable.

Mr. Bessette asked if he could propose to move the posts back two feet.

Mr. Kilik asked him to see staff regarding a revised application and asked if he wanted to withdraw the application.

Mr. Bessette stated that he would like to withdraw his application and submit a new one.

Mr. Park made a motion to allow the applicant to withdraw his application on his request. The motion was seconded by Mr. Starin and passed 5-0.

4. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A. Board Members

None

B. City Attorney

None

There being no further business, Chairperson, Mr. Kilik, declared the meeting adjourned at 6:27 p.m.

Venice Cobb, 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 August 23, 2012, which minutes were formally approved and adopted by the Board on _____.

Venice Cobb, 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.