

**BOARD OF ADJUSTMENT MEETING MINUTES
THURSDAY, FEBRUARY 4, 2010, 5:30 P.M.
CITY COMMISSION CHAMBERS**

A regular meeting of the City of Delray Beach Board of Adjustment was called to order by Board member, Mr. Jess Sowards, in the City Commission Chambers at 5:42 p.m. on Thursday, February 4, 2010.

1. ROLL CALL SHOWED:

Present:	Bryce Newell	Absent:	Sigurdur Hardester
	Jess Sowards		Dale Miller
	Clifton Miller		
	Mel Pollack		

Also Present: Brian Shutt, City Attorney
Al Berg, Assistant Director, Community Improvement

2. APPROVAL OF MINUTES:

Mr. Pollack made a motion to approve the minutes of January 7, 2010, seconded by Mr. Miller. Said motion passed unanimously.

3. PUBLIC HEARING:

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

Board Liaison, Venice Cobb, swore in those individuals who wished to give testimony for Petition No. 989.

There were no ex parte communications by any Board member.

A. Applicant: Coral Trace Homeowners Association PETITION NO. 989
Premises: 190 Coral Trace Boulevard
Request: Requesting to reduce the front yard setback from 25' to 8' to allow a 10' x 12' shed to be located on common property next to the water tank.

Mr. Al Berg, Assistant Director of Community Improvement, advised that the applicant is appealing Section 4.3.4(K) of the Land Development Regulations to allow a front yard setback of 8' where 25' is required in order to erect a 12'x10' shed. Mr. Berg noted that the City's water tank is located on the southern portion of the plat. The homes in the subdivision are located north and south of the proposed location. The closest home to the proposed shed will be approximately 150' feet across the parking lot on the north and approximately 180' across the tennis court and lake on the south. The shed will be located on the east side of the tract of land next to the clubhouse parking lot under the banyan tree. It is surrounded by the clubhouse, pool, lake, parking lot, and to the east, the City's water tower. One letter of objection was received which raised concerns about the plat, the zoning matrix, and the effect that granting the variance will have. Staff has spoken with the objecting party and explained the relevance of the matrix.

Staff recommends approval of the variance subject to the installation of a fence around the shed. Staff does not recommend landscaping. The variance of the shed will not affect any of the surrounding property owners because this is a common area.

Mr. Karl Chakford, Coral Trace HOA President, stated that the front door of the clubhouse faces the City's water tower. He mentioned that his plan was to paint the shed the same color as the clubhouse. Mr. Chakford advised that he is willing to do what it takes to make the shed look attractive. There is no other free space with the exception of the back area of the clubhouse which is the driveway entrance and pool area. The location under the banyan tree is the most feasible. There is already a pad in the location which the shed would be constructed on. Due to maintenance requirements, the shed is needed for storage.

Mr. Miller moved to approve the request for the variance based upon positive findings pursuant to Sections 2.4.7. (a)(5)(A-F) in the Land Development Regulations for the City of Delray Beach. The motion was seconded by Mr. Pollack and passed 4-0.

B. Applicant: D&N Realty Holdings, LLC for Walgreens PETITION NO. 991
Premises: 10 South Congress Avenue
Request: Requesting to reduce the landscape buffer to 2.8' from 10' to allow the continued use of parking and driveway circulation.

Mr. Berg stated that D&N Holdings, LLC, for Walgreens at 10 South Congress Avenue, is appealing Section 4.3.4(H)(6)(b)(3) to allow reduction of the special landscape area. The applicant is requesting approval for 2.8' where 10' are required. The right of way was miscalculated under the previous conditions and was thought to have the required 10' but the actual road right of way was 2.8'. It was mistakenly identified as having met the 10' requirement. The applicant is required to seek a variance to correct the discrepancy. Staff recommends approval of the variance request as it would not be appropriate to penalize an applicant for an omission. The applicant operates a well landscaped site and has corrected past landscape concerns of the City in the past. The minor landscape setback is not significant when considering the overall site and the maintenance of existing landscaping.

Mr. Sowards disclosed that his firm worked as the planners on the initial project.

Mr. Sowards noted that there was no miscalculation on the City's behalf when the original site plan was approved in 1998. However, the Florida Department of Transportation took an additional 10'.

Mr. Berg stated that the calculations should have been based on the existing right of way at the time. The Code was met then but is nonconforming due to the road widening of Atlantic Avenue for a southern turn lane.

Mr. Pollack moved to approve the request for the variance based upon positive findings pursuant to Sections 2.4.7. (a)(5)(A-F) in the Land Development Regulations for the City of Delray Beach. The motion was seconded by Mr. Miller and passed 4-0.

4. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A. Board Members

None

B. City Attorney

None

There being no further business, Mr. Sowards, declared the meeting adjourned at 6:02 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 of February 4, 2010, 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.