

**BOARD OF ADJUSTMENT MEETING MINUTES
THURSDAY, MARCH 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 Chairperson, Mr. Sigurdur Hardester, in the City Commission Chambers at 5:37 p.m. on Thursday, March 4, 2010.

1. ROLL CALL SHOWED:

Present:	Bryce Newell	Absent:	None
	Jess Sowards		
	Mel Pollack		
	Sigurdur Hardester		
	Dale Miller		

Also Present: Terrill Barton, Assistant City Attorney
Al Berg, Assistant Director, Community Improvement
Tom Sliney
Roger Cope
Michael Weiner

2. APPROVAL OF MINUTES:

Mr. Pollack made a motion to approve the minutes of February 4, 2010, seconded by Mr. Newell. Said motion passed unanimously.

3. PUBLIC HEARING:

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

Board Liaison, Venice Cobb, swore in those individuals who wished to give testimony for Petitions No. 992 and No. 993.

There were no ex parte communications by any Board member.

A.	Applicant:	Jordan and Benita Goldstein	<u>PETITION NO. 992</u>
	Premises:	301-303 NE 7 th Avenue	
	Request:	Requesting a variance to allow a driveway width of 38 ft where a maximum width of 24 ft is allowed.	

Mr. Al Berg, Assistant Director of Community Improvement, advised that the applicant is appealing Section 4.6.9(D)(3)(b) and Section 6.1.4(c)(3)(b) of the Land Development Regulations to allow a driveway width greater than 24' and to allow installation of a driveway within 25' of an intersection. The property is on the corner of NE 7th Avenue and NE 3rd Street in an RM Land Use District. Currently, there is room for three small cars. The purpose of the rule is to ensure the safety of vehicles backing into the travel way. Mr. Berg suggested that an additional 4 feet be allowed instead of the 14 feet requested. He advised that many of the surrounding properties have three full spaces. Some may have already added spaces as most of the frontage have been paved but none of the examples are cornered properties.

Mr. Tom Sliney stated that the property consists of three units. There is only enough room to park 2.5 cars on the property. However, the owners need spaces to park four cars. He stated that no one has objected to the variance and the grating of such will not impact the neighborhood. Allowing the variance would beautify the area with a new concrete addition. Mr. Sliney added that there is an alleyway in the rear so there is no other location on the property where this could be done. Therefore, the only option is on N.E. 7th Avenue.

Mr. Roger Cope advised that he has been retained to represent the property immediately across from the subject property. He wanted it noted that he will try to compliment the width of the driveway as approved by the Board.

Mr. Hardester asked if any objection was received.

Mr. Berg stated that no objection was received.

Mr. Pollack asked how the matter should be addressed being that the applicant is willing to compromise regarding receiving the recommended 4 feet versus the 14 feet that was originally requested.

Assistant City Attorney, Terrill Pyburn, stated that the Board can make a decision based on the facts presented being that the applicant is amenable to accepting less than the amount originally requested.

Mr. Sliney stated that they would appreciate a variance for 10 feet if staff feels that 14 feet is too excessive.

Ms. Miller stated that it is difficult to determine the distance from one end to the existing pavement.

Mr. Berg stated that the distance is approximately 9 feet.

Ms. Miller suggested ending the new pavement at a certain point noted if the variance is approved.

Mr. Cope stated that the distance is approximately 12 feet.

Mr. Pollack asked for the City's perspective.

Mr. Berg stated that a variance of 4 feet is recommended.

Mr. Sowards stated that he understands the need for three legitimate parking spaces. However, it is important to maintain a 25 foot distance from the intersection. He suggested offering three parking spaces at 9 feet each. He then noted that there is an opportunity for tandem parking as well creating a fourth parking space by extending the grassy area to the east.

Ms. Pyburn suggested that the variance be subject to approval by the Chief Building Official if tandem parking is agreed upon.

Mr. Berg stated that creating a tandem space would not require a variance because it would not violate any distance requirements.

Mr. Sliney asked about the requirements needed to create a tandem space.

Ms. Barton stated that a building permit would be required. She then noted that there is a 5 foot setback that needs to be adhered to.

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. Additionally, the applicant has been granted approval to add a tandem parking space. The motion was seconded by Mr. Newell and passed 5-0.

B. Applicant: Sandra & James Hoesley PETITION NO. 993
Premises: 1109 Beach Drive
Request: Requesting a variance to the Beach Overlay District regulations which limits coverage to 35%.

Mr. Berg stated that the applicant is appealing Section 4.5.13(A), North Beach Overlay District of the Land Development Regulations of the City of Delray Beach. The regulation requires 35% limitation on lot coverage. The house is over by 4%, which is approximately the area of the covered patio, rear and entry porches. The Beach Overlay District requires that the building footprint be measured by calculating all area under the roof. Because the porch and patio are roofed, they are counted. However, the floor area ratio, in the Land Development Regulations, is defined as the gross horizontal area of all floors as measured from the exterior walls excluding patios, covered porches, and exterior balconies. Based on these factors, staff recommends approval of the request.

Mr. Michael Weiner stated some of the porches will extend beyond the floor to area ratio coverage because of the enactment of the North Beach Overlay District. According to the new regulations, the applicant is at 39% coverage instead of the 35% that is allowed. Mr. Weiner showed homes with similar porches that extend beyond the coverage limit of 35%. The current homes were built prior to the new regulation; however, Mr. Weiner feels that the applicant should be exempt given the circumstances. The applicant is increasing the compatibility with the neighborhood and the variance should be approved.

Mr. Cope stated the applicant is design sensitive and the concept has been to keep the project modest and sensitively scaled.

Ms. 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 unanimously.

4. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A. Board Members

None

B. City Attorney

None

There being no further business, Mr. Hardester, declared the meeting adjourned at 6:40 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 March 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.