

**BOARD OF ADJUSTMENT MINUTES
THURSDAY, AUGUST 23, 2007, 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 Liaison, Venice Cobb, in the City Commission Chambers at 5:39 p.m. on Thursday, August 23, 2007.

1. ROLL CALL SHOWED:

Present:	Mel Pollack Sigurdur Hardester Harvey Starin Lisa Shaheen Clifton Miller	Absent:	None
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Also Present: Brian Shutt, Assistant City Attorney
Al Berg, Assistant Director, Community Improvement
Jason Mankoff, Esq.

At this time, Chairperson Mel Pollack reviewed the quasi-judicial rules.

2. APPROVAL OF MINUTES:

Mr. Starin moved to approve the minutes from the meeting of May 3, 2007, seconded by Mr. Hardester. Said motion passed unanimously.

Board Liaison, Venice Cobb, swore in those individuals who wished to give testimony for Petition No. 978.

There were no ex parte contacts by any Board member.

3. PUBLIC HEARING:

A.	Applicant:	Mr. Jerry Rowland	<u>PETITION No. 978</u>
	Premises:	1855 S. Ocean Blvd., Unit 2	
	Request:	Requesting approval to reduce the side setback from 15 feet to 10 feet to construct a first floor renovation and a new second floor addition to the property.	

Mr. Al Berg, Assistant Director of Community Improvement, stated that the applicant is seeking approval to reduce the side yard setback from 15 feet to 10 feet to construct a first floor renovation and a new second floor addition to the property. The property is approximately 350 feet deep, 101 feet wide and consists of 11 units. Mr. Berg noted that the property is a small one story two bedroom unit. The applicant would like to keep the existing footprint and remodel the first floor, as well as, erect a second story consisting of a bedroom, fireplace and a balcony. An outside trellis 8 feet by 15 feet will also be constructed. Mr. Berg noted that the applicant plans on eliminating the non conformity of the subject property by converting the two bedrooms where 900 square feet is required into one bedroom where 600 square feet is required. In doing so, the minimum floor area will now be met.

Mr. Berg stated that nonconforming uses are declared to be incompatible with uses allowed in the zoning district involved. A nonconforming use of structure, land, or structure and land in combination, shall not be extended or enlarged, either by erecting additional signs, adding square footage to the structure, or adding other uses of a nature which would be prohibited in the zoning district involved.

Ms. Shaheen inquired as to whether there were any other two story units in the neighborhood.

Mr. Berg stated that all units in the neighborhood are one story. He then noted that other property owners may request a variance to construct a second story if this variance is granted.

Mr. Starin inquired as to whether all units in the development have a 10 foot setback.

Mr. Berg stated that he did not obtain a survey for the other units but noted that they all should have a 10 foot setback.

Mr. Starin inquired as to the location of the proposed balcony.

Mr. Berg stated that the balcony will be on the south side which is the area the variance is being requested.

Mr. Pollack inquired as to whether Board members would be required to approve all variances if requested by neighboring property owners.

Assistant City Attorney, Brian Shutt, advised that the Board members are to consider the facts presented for this request only when making a decision. He did not want the Board members to take into consideration what could or could not happen in the future if the variance is approved when making a decision.

Mr. Starin inquired about a letter supporting the applicant's request written by Paul Dorling, Director of Planning & Zoning.

Mr. Berg stated that Mr. Dorling feels that the non conformity of the structure is not being increased because the setback will remain at 10 feet.

At this time, Board members discussed the findings as noted in Section 2.4.7(A)(3) of the Land Development Regulations.

Jason Mankoff, Esq. stated that the interior renovation to the first floor is not related to the variance. He noted that the subject property was built in 1930. Mr. Mankoff went on to say that he attended a preliminary meeting with City staff before submitting an application and was advised to proceed with the project as planned. City staff was pleased because of the elimination of the non conformity concerning the minimum square footage being that the requirement for a two bedroom is 900 square feet and currently the unit is 600 square feet. Comments from the City were received after the application was submitted to the City stating that a variance was necessary. Mr. Mankoff does not feel that a variance is needed. The applicant has support from the neighbors and the condominium association, as well as, a letter of support from Paul Dorling, the Planning & Zoning Director. Notice letters were

mailed to residents and there was no opposition against the variance. Mr. Mankoff went on to justify why the variance should be granted.

The architect, Mr. Don Boitnott, spoke of the unique qualities of the property. He does not believe that air and light is an issue being that the building is approximately 25 feet wide.

Mr. Starin inquired as to whether the existing walls will remain.

Mr. Boitnott stated that the existing walls will remain because they were masonry built.

Mr. Starin inquired about the closest adjacent building.

Mr. Berg stated that the closest adjacent building is a two story condominium structure built with a 10 setback.

Ms. Shaheen moved to approve the request for a 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, seconded by Mr. Hardester. Said motion was passed 5-0.

4. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A. Board Members

None

B. Assistant City Attorney

None.

There being no further business, Mr. Pollack, Chairperson declared the meeting adjourned at 6:24 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 August 23, 2007, 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.