

**BOARD OF ADJUSTMENT MEETING MINUTES  
MONDAY, AUGUST 29, 2011, 5:00 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 5:00 p.m. on Monday, August 29, 2011.

**1. ROLL CALL SHOWED:**

Present: Mel Pollack  
          Michael Park  
          Allen Kilik  
          Isabelle Alarie  
          Sigurdur Hardester

Absent:     Jess Sowards

Also Present: Brian Shutt, City Attorney  
              Al Berg, Assistant Director, Community Improvement  
              Jose Aguila, Currie-Sowards-Aguila Architects  
              Todd Moran

**2. APPROVAL OF MINUTES:**

There were no minutes to approve.

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

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

There were no ex parte communications by any member.

**3. PUBLIC HEARING:**

PETITION NO. 1003

A.     Applicant:     Currie-Sowards-Aguila, for Paul & Michelle Hoffman  
       Premises:     1216 Southways Street  
       Request:     Requesting a variance to reduce the interior side setback to 9 feet where 12 feet is required, in order to construct an outside set of stairs from the ground floor to the third floor addition.

Mr. Berg advised that the applicant is appealing Section 4.3.4(K) to allow the construction of a stairway. The proposed stairs will encroach into the setback approximately 3'. The property is 90' wide and 135' deep. The applicant proposes to build a stairwell to the second and third story addition that was approved at the last meeting. The side setback for this land use is 12' but was 10' when constructed. The proposed stairway will replace the wooden stairway that was originally constructed on the house. The front setback is 50' from the street and is partially obscured from the front and the west. Staff recommends approval of the request for a variance with a condition that the applicant must complete an affidavit stating that the second and third floor will not be used as rental property.

Ms. Alarie asked if neighbors have expressed concerns.

Mr. Berg advised that a call from Mr. Todd Moran objecting to the variance was received.

Mr. Hardester asked if it is appropriate to request that landscaping to obscure the stairs be maintained.

Mr. Berg stated that it is appropriate to request that the landscape be maintained.

Mr. Aguila stated that a variance was requested to build a third floor and he is present to address the issue of the stairs. The proposed stairs will be a continuation of the stairs that travels from the ground floor to the second floor. It was removed for replacement but was originally a part of the original design in 1962. There is access via a spiral stairway inside but it would be difficult to move furniture via that stairway. The property will not be used for rental purposes. The fire department feels that a second means of egress is necessary given that the third level is being constructed out of wood.

Mr. Todd Moran stated that he is opposed to the variance and noted that there has been no stairway at the property for the eleven (11) years that he has occupied his property. The zoning regulations are in place for a reason and should be abided by.

Mr. Hardester asked Mr. Moran if he knew when the current landing was constructed.

Mr. Moran stated that the landing was there but he is unsure of the timeframe. However, there were no stairs. He went on to speak about the landscaping.

Mr. Pollack asked if the applicant would be less opposed if more landscaping was added.

Mr. Moran stated that he is unsure what could be planted to obscure the stair. He mentioned hedges that are on his property.

Mr. Berg stated that he is unsure as to when the stairway was demolished. He went on to talk about fire codes and safety and noted that it is wise to have a stairwell for another means of egress. A stairwell was there when the home was first built.

Mr. Kilik stated that the plans reflect existing stairs. However, there are no existing stairs.

Mr. Aguila stated that the stairway was built in 1962. The applicant requested that the third floor be added and it was indicated that there would be a continuation of an existing stairway from the second floor to the third floor. Therefore, the plans reflect existing stairs. He is unsure when the stairs were removed.

Mr. Kilik asked if the setback requirements were the same in 1962 as it is today.

Mr. Aguila stated that the stairway was allowed in 1962. It was not allowed in 1982 at the time of the addition of the second floor but was already there and an issue was not raised.

Mr. Kilik asked about interior access to an existing room.

Mr. Aguila stated that the stairway is the continuation of the existing spiral stairway which is 5' in width and will continue up to the third floor.

Mr. Kilik asked if access is restricted.

Mr. Aguila stated that it is not restricted. However, the fire department feels that there should be another egress because the third floor will be constructed out of wood.

Board members and staff discussed approving the variance with a condition referring to additional landscaping being planted to obscure the stairway.

Mr. Aguila advised that he would be happy to add additional landscaping that will shield the stairway from the street. However, the stairs will extend to a third level and only a maximum height will be shielded. However, the stairs will not be an eyesore.

Board members and staff felt it appropriate to stipulate that the property may not be used for rental purposes and that the landscape barrier should receive prior approval from staff.

Mr. Moran asked about the plans being changed.

Mr. Aguila stated that the plans have not changed.

Mr. Allen stated that he has no objection to the variance being approved.

Mr. Hardester stated that most of the elements favor approval.

Mr. Pollack stated that he is in favor of approval with the mentioned stipulations.

Ms. Alarie stated that the request is justifiable and is in favor of the request.

Mr. Hardester stated that the new proposal is palatable and did not object.

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 subject to the two (2) conditions noted. The motion was seconded by Mr. Park and 5-0.

#### **4. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:**

A. Board Members

None

B. City Attorney

Mr. Shutt spoke briefly about ethics and advised that all Board members are required to attend a training class.

There being no further business, Chairperson, Mr. Hardester, declared the meeting adjourned at 5:33 p.m.

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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 29, 2011, which minutes were formally approved and adopted by the Board on \_\_\_\_\_.

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Venice Cobb, Executive Assistant/Board Liaison