

**BOARD OF ADJUSTMENT MEETING MINUTES
MONDAY, NOVEMBER 17, 2011, 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, Allen Kilik, in the First Floor Conference Room at 5:31 p.m. on Thursday, November 17, 2011.

1. ROLL CALL SHOWED:

Present: Mel Pollack
Michael Park
Allen Kilik
Harvey Starin
Isabelle Alarie

Absent: Dale Miller

Also Present: Brian Shutt, City Attorney
Al Berg, Assistant Director, Community Improvement
Gary Eliopoulos, GE Architecture
Tom LeDowny
Betty Stengel

At this time, Mr. Killik 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 Board member.

2. APPROVAL OF MINUTES:

There were no minutes to approve.

3. PUBLIC HEARING:

PETITION NO. 1005

A. Applicant: Shear Holdings
Premises: 701 N. Ocean Boulevard
Request: Requesting a front setback of 15ft where the code requires 35ft to erect a new swimming pool.

Mr. Berg advised that the applicant previously applied for and was granted a side yard setback at the last meeting. The pool and spa extend into the front yard setback as well. Consequently, another variance is needed. The applicant is proposing to erect the pool to extend into the front yard setback. The front yard setback for all structures is 35ft in this land use district. The applicant is proposing a setback of 15ft. Staff recommends approval based on the fact that the front yard setbacks are primarily established for structures. A pool and spa will be ground level and will not be obtrusive.

Mr. Pollack asked about a letter of objection.

Mr. Berg advised that the letter addresses issues discussed at the last Board meeting regarding the placement of the air conditioning unit on the north side of the property. He advised that the air conditioning has always been on the north side of the property. The neighbor objects to the deed restriction which is not a matter handled or enforced by the City.

Mr. Shutt stated that it was discussed and the air conditioning and the movement of the pedestrian access is not a matter before the Board and does not concern the placement of the pool in the setback area.

Mr. Kilik asked if a variance is needed for the 6ft wall.

Mr. Berg advised that the wall does not need a variance.

Mr. Eliopoulos explained that a portion of the building will be removed to erect a pool. He made note of the property located at 615 North Ocean Boulevard stating that the applicant is not setting a precedence because the pool is in the front. There is a 6ft wall and a pedestrian access. There is an easement agreement which gives the provision for access and has no bearing on the neighboring property's pool design. The applicant is proposing a 15ft setback which is to the rear of the spa. There is an existing privacy wall and another will be added. The pool will never be seen from the public right-of-way. Mr. Eliopoulos presented photos of the existing walls stating that aluminum decorative panels will be installed. A layout of the proposed landscaping, as well as, photos of the elevation of the property was also presented.

Mr. Starin asked if the gates are for access to the property and not for beach access.

Mr. Eliopoulos stated that the gate at the south end is the original opening for beach access for the neighbor on the west side. The applicant is proposing to erect another on the north side. There will be two gates on the property. The gate access also allows for maintenance.

Mr. Starin asked if there is a wall or landscaping that separates the 5ft walkway from the house.

Mr. Eliopoulos stated that there is no wall or landscape.

Mr. Kilik stated that the matter of the walkway is not a part of the variance.

Mr. Eliopoulos stated that the walkway and access is an agreement between the applicant and the neighbor to the west side of the property.

Ms. Betty Stengel who resides at 707 N. Ocean Boulevard stated that she objects to the variance request. She is not in objection to the pool but feels that the garbage, beach access, generator and air conditioning unit will be on the south side of her property. There will be traffic which will disrupt her privacy.

Mr. Berg stated that the newer model air conditioning units are quieter than the older models.

Ms. Stengel stated that the air conditioning units click on and off.

Mr. Eliopoulos stated that existing equipment is there and more is being depicted. He went on to note that the existing home has high roof lines consisting of roof wells. Air conditioning units are currently there. Due to maintenance, there has to be access. The wells create a water problem. Consequently,

the applicant proposes to relocate them onto the ground. The new unit is proposed to be placed at ground level as well. Everything on the side of the house is allowed by the Code including the garbage bins. The air conditioning unit has been covered with protective covering and other technology has been considered to minimize any inconvenience.

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 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 5:59 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 November 17, 2011, which minutes were formally approved and adopted by the Board on _____.

Venice Cobb, Executive Assistant/Board Liaison