

original use was probably for seasonal rental. The applicant proposes to build a second story on top of two of the units to merge two buildings together and have a connection and to build a two story roof patio on each of the sites closest to the ocean side. The addition will dramatically change the appearance of the property. The applicant proposes to eventually develop the other units in the future. Several phone calls objecting to the approval of the variance were received by staff from neighbors. Staff does not support the variance as it does not meet the criteria for approval and there are no special conditions. Staff does not object to a second story addition onto the existing one story buildings but does object to the construction of the roof patio that would be built out towards the ocean. Granting the variance will confer special privileges and would allow a patio and porch on two different sites. There would be a substantial change in the height and footprint that represents two story structures. If granted the additional square footage, the applicant can one day enclose the roof patio and change the square footage on the building. Granting the variance will not be in harmony with the neighborhood.

Mr. Pollack asked for more information about the objections received.

Mr. Berg stated that the objections came about because of the previous owner and their lack of attention to the building.

Mr. Cope entered the file into the record and noted that the public notice stated that the applicant is seeking a variance on the second story addition 5 feet off the property line which is incorrect. The variance is for the second story addition directly above the original footprint of the original building which is a concept that has been supported by the Board in the past. There was a misconception because the proposed porch and balcony addition extended into the side yard setback. However, the packet entered into the record shows the additions no longer in the side yard setback. The applicant is requesting to build straight up on the side yard setback of two units 10 feet off the property line.

Mr. Kilik asked if the applicant is asking for a variance other than what is on the application.

Mr. Cope stated that he has made a modification to the original application.

Ms. Pyburn advised that a modification can be considered if the request is less restrictive than what was on the original application.

Mr. Cope stated that the modification is less restrictive. The applicant would not like to extend to another meeting because the same design would be re-submitted. He noted that the building has not been maintained and that the applicant would like to make the property respectable and make the neighbors happy.

Mr. Kilik stated that there seems to be a preexisting violation of the zoning.

Mr. Cope stated that there is a preexisting condition that has not been created by the applicant. The house is 10 feet off the north and south setback when today's standard is 15 feet. The applicant would like to build straight up on the original footprint of the structure.

Ms. Phyburn asked if the application suggested that the applicant is requesting a 5 foot setback. However, a 10 foot setback is being needed.

Mr. Cope advised that the applicant is requesting a 10 foot setback which is a 5 foot reduction in the 15 foot requirement. He spoke of removing the appendage to the north of the property but keeping the addition to the south. There is a 12 foot high concrete block wall that separates the property from the single family house to the south.

Dr. Paul Keller asked if there is a new property owner. He wanted to know why the project is not shown from the west where it is an eyesore. Instead it is shown from the ocean side. There have been several undesirable tenants as the property was used as short term rentals. He then asked if the first floor will be renovated and if the property will not be used for rentals or if they will be for sale.

At this time, Mr. Bill Herrmann was sworn in.

Mr. Herrmann stated the property is not used for its best purpose and needs to be redeveloped. He stated that the property owner should have done his due diligence prior to purchasing the property. The owner had the opportunity to consider redeveloping the property in a conforming manner. He feels that the rights of others will be taken away if the request is approved. The request should be denied and the property developed in compliance with the zoning standards.

Mr. Cope advised that Mr. Patrick Lynch is a new owner. Mr. Lynch tried to work with each tenant. The demographic of the tenants is questionable and undesirable. Each unit will be renovated. A variance for height for the two easternmost units is what is needed.

Mr. Kilik asked that the item be tabled until staff has had an opportunity to review the revised application.

Mr. Cope stated that he prefers that the Board make a decision.

Ms. Miller stated that if the matter is thought of as a grandfathered situation, the setback would be as it is currently. There is no change to the setback if it was grandfathered in. The applicant is making an attempt to conform and feels that Mr. Berg would possibly be in support of the variance if he had the opportunity to review the plans.

Mr. Kilik stated that he agrees with Ms. Miller. However, he feels that Mr. Berg should have the opportunity to review the plans.

All Board members agreed that they prefer to hear an opinion from Staff.

Mr. Starin made a motion to continue the discussion until the next scheduled meeting on Thursday, December 22, 2011, at 5:30 p.m. The motion was seconded by Mr. Pollack and passed 4-1 with Ms. Miller dissenting.

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 6:16 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 December 8, 2011, 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.