

Staff recommends approval as the request will comply more with the setback requirements than before and will be an immense improvement to the neighborhood.

Mr. Kilik asked if the nonconformity is being increased.

Mr. Berg stated that the nonconformity is being decreased.

Mr. Cope stated that he has made every attempt to abide by the 15 foot side yard setback. The porches and balconies are within the setback requirement. The applicant only requests to build straight up on the original structure. The nonconforming aspect of the north unit has been decreased by the removal of an appendage. The appendage to the south will be maintained as there will be a 15 foot wall to block any view. There will be some elevations including roof elements and chimneys. The chimney will not be active.

Mr. Zucker stated that the granting of the variance will have a direct negative impact on his family. His ocean view will be blocked by building up. Going up one story on a nonconforming use worsens the situation.

Mr. Herrmann asked for the final elevation of the property.

Mr. Cope stated that the distance is measured from the finished grade outside of the unit to the mean average of the sloped roof. The Code allows a structure to be as high as 35 feet. The subject property is at 30 feet.

Mr. Herrmann asked if the applicant could demolish the properties and rebuild with a 5 foot reduction and an additional 5 foot in height and be fully conforming needing no variance.

Mr. Berg stated that Mr. Herrmann is correct.

Mr. Herrmann stated that a compromise would be to build a small mansion that is conforming. He feels that a variance should only be given for the two easternmost units. If the concept is continued, all the units will be two stories high which is inappropriate and would have an adverse impact on the neighborhood.

Mr. Kilik advised that the applicant would have to obtain permission to make all of the units two stories.

Mr. Berg advised that the application concerns only the elements presented by the applicant. An additional variance would be needed to make additional units two stories.

Mr. Herrmann asked if granting this variance would make it easier for the applicant to get another variance in the future.

Mr. Shutt advised that decisions are made based upon what is presented to the Board members.

Mr. Herrmann asked that the chimneys being prohibited from being active be a condition of approval. He stated that smoke would get into other units if they become active.

Mr. Kilik stated that the applicant noted that the chimneys will not be active.

Mr. Cope stated that the chimneys are not in the variance request nor will they be active. The concept is to only bring the two story addition to the two easternmost units. The applicant will not be back for the same request.

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. The motion was seconded by Mr. Starin 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 December 22, 2011, which minutes were formally approved and adopted by the Board on _____.

Venice Cobb, Executive Assistant/Board Liaison