

**MINUTES
BOARD OF ADJUSTMENT
CITY OF DELRAY BEACH**

MEETING DATE: May 1, 2025

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

The meeting was called to order by Richard Kasser, Chair, at 5:01p.m.

2. ROLL CALL

A quorum was present.

Members Present: Richard Kasser, John DeLacio, Jesse Schloesser, Mark Ronald, Michelle Wilson

Members Absent: Tiana Morales, Brenda Cullinan

Staff Present: Kelly Brandon, Assistant City Attorney; Madison Brown, Development Permit Manager, Jennifer Buce, Senior Planner and Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Motion to approve the amended agenda of May 1, 2025, made by Jesse Schloesser and seconded by John DeLacio.

Motion Carried 5-0

4. MINUTES

None

5. SWEARING IN OF THE PUBLIC

6. COMMENTS FROM THE PUBLIC

None

7. PUBLIC HEARING ITEMS

A. 612 SE 3rd Avenue (2025-070-VAR-BOA): Consideration of a variance request from Land Development Regulation (LDR) Section 4.6.15(G)(1)(a), Swimming Pool, Whirlpools, and Spas: Yard Encroachment, to reduce the rear setback to eight feet, whereas a minimum of 10 feet is required, associated with the construction of a new swimming pool

Address: 612 SE 3rd Avenue

PCN: 12-43-46-21-01-007-0240

Applicant/ Owner: Garrett Bender
Agent: Michael Weiner, mweiner@ssclawfirm.com
Planner: Jennifer Buce, buce@mydelraybeach.com

Jennifer Buce, Planner, entered file number 2025-070 into the record.

Ex parte Communication

John DeLacio emailed questions to city staff
Mark Ronald emailed questions to city staff
Richard Kasser drove by the property

Applicant Presentation

Chuck Halberg, Stuart & Shelby Home Builders
Corey O'Gorman, Place Planning
Michael Weiner, Saks, Saks & Caplan

Staff Presentation

Jennifer Buce, Planner; buce@mydelraybeach.com

Public Comments

George Long, resident of the city, drove by the property and is in support of approving the variance.

Rebuttal/Cross Examination

Mr. Weiner clarified he understood the comprehensive plan was initiated in 2020, his point was the lot was used as a single-family home for over 100 years. He added that the city should not be able to take 2' of property for free.

Ms. Brandon clarified to the board that the Right of Way is not being heard today, they are only deciding on the variance.

Staff Comments

Ms. Buce commented asking the board to look at the 6 findings, this is a new construction project, and we're talking about the pool at 12'x24' and a 10'x30' pool is larger.

Board Comments

Mr. Ronald asked for clarification that since 2020 the increased right of way has been in place, this is correct. He doesn't believe this project constitutes a hardship as it was started in 2023.

Mr. DeLacio stated the questions he asked staff via email.

Ms. Buce added that a pool permit is separate from a building permit though you may see pools drawn in a site plan for reference on a building permit.

Mr. DeLacio asked if there was an initial submittal of the building permit that showed the pool at a smaller size. Additionally, can an applicant seek a rear setback variance during the

building construction permit process even though the property feature necessitating the variance itself is not expressly authorized by the building construction permit.

Ms. Buce answered there was not a pool on the site plan and yes.

Mr. Halberg explained Mr. Bender bought the lot, looked at the LDR's, to their team's knowledge they don't reference a 2' right of way, it comes up in engineers' comments. Original permit was submitted with a 12'x30' pool, after having checked into it they realized they would need to apply for the variance.

The Board discussed residential rear setbacks in R1A Zoning and the permit process that requires the 2' dedication.

Mr. Kasser asked if the pool will be screened by a solid wall, will there be landscaping on the interior of the wall, will that come above the wall, and will there be any access to the alleyway.

Mr. Weiner and Mr. Halberg answered yes, there will be a 6' wall and landscaping.

Eventually the landscaping will surpass the wall; there will be no access to the alley.

Mr. Kasser & Mr. DeLacio asked for confirmation that no other variances or relief was needed for the construction of the house, there was none needed.

Mr. Weiner requested to postpone the hearing until all board members could be present.

Ms. Brandon recommends not allowing the decision to postpone the hearing, the board is full and able to decide currently. If the motion is postponed the presentations need to be made at the next meeting to all the board members.

MOTION to continue until the next meeting made by Jesse Schlosser, there was no second.

Motion does not pass

MOTION to deny the Variance request for 612 SE 3rd Avenue (2025-070 VAR-BOA) from LDR Section 4.6.15(G)(1) to reduce the rear setback to eight feet, whereas a minimum of 10 feet is required, associated with the construction of a new swimming pool, by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f), made by Mark Ronald and seconded by John DeLacio.

Motion Carried 5-0

Pursuant to LDR Section 2.4.11(A) Relief, Variances, all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment DENIED X the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order on this 1st day of May 2025.

8. REPORTS AND COMMENT

A. City Staff- Ms. Brown commented there is an updated copy of the meeting agenda on the dais, and Brittany will be replacing Diane as the Board Secretary. June 5th, 2025 is the next meeting.

B. Board Attorney- None

C. Board Members

Mr. DeLacio asked if there will be a staff report on variances and waivers.

Ms. Brown said it is currently in the works and will be ready for presentation soon.

Mr. Ronald asked for clarification from the City Commission on the views of the alleyways and that such information may be helpful to the Board of Adjustment.

Ms. Brandon suggested a memo be sent to the commission who would instruct staff.

9. ADJOURN

There being no further business to come before the Board, the meeting was adjourned at 6:24pm.

The undersigned is the Secretary of the Board of Adjustments, and the information provided herein is the Minutes of the meeting of said body for May 1, 2025, which were formally adopted and APPROVED by the Board on July 17, 2025.

ATTEST:

CHAIR

Binnay Wenz
BOARD SECRETARY

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