

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

**MEETING DATE:** August 3, 2023

**MEETING PLACE:** City Commission Chambers

**1. CALL TO ORDER**

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

**2. ROLL CALL**

A quorum was present.

**Members present:** Robert Cohen, Chair; Mike Miles, Vice Chair; Brenda Cullinan, 2<sup>nd</sup> Vice Chair; William Schloesser, Alek Hayes and Vlad Dumitrescu.

**Members absent:** None

**Staff Present:** Lawonda Warren, Assistant City Attorney; Amy Alvarez, Assistant Development Services Director; Anthea Gianniotis, Development Services Director and Diane Miller, Board Secretary.

**3. APPROVAL OF AGENDA**

**Motion** to approve the agenda of August 3, 2023, was made by Alek Hayes and seconded by Brenda Cullinan.

**MOTION CARRIED 6-0**

**4. MINUTES**

**Motion** to approve minutes for June 15, 2023, was made by William Schloesser and seconded by Vlad Dumitrescu.

**MOTION CARRIED 6-0**

**5. SWEARING IN OF THE PUBLIC**

Robert Cohen read the quasi-judicial rules for the City of Delray Beach and Ms. Miller swore in all who wished to give testimony.

**6. COMMENTS FROM THE PUBLIC**

**None**

**NOTE:** Comments on items that are NOT on the Agenda will be taken immediately prior to Public Hearing Items. Speakers will be limited to 3 minutes.

**7. Public Hearing Item**

**A. 202 SE 4th Avenue (2023-212):** Consideration of a variance request from Land Development Regulation (LDR) Section 4.3.4(K), Development Standard Matrix, to reduce the required rear setback from 10 feet to eight feet.

**Address:** 202 SE 4th Avenue

**PCN:** 12-43-46-16-04-095-0130

**Property Owner:** Thomas J. Burke

**Authorized Agent:** David W. Schmidt, david@simonandschmidt.com

Amy Alvarez, Asst. Development Service Director entered the file 2023-212 into the record.

**Exparte**

Alek Hayes-None

Robert Cohen-None

William Schloesser-None

Brenda Cullinan-None

Vlad Dumitrescu-None

Mike Miles-None

**Applicant Presentation**

David Schmidt, 766 SE 5th Ave, Delray Beach, FL 33483 representing the owner.

**Staff Presentation**

Amy Alvarez, Asst. Development Service Director presented the project by means of a PowerPoint presentation.

**Public Comments**

James Quillen-925 SE 2<sup>nd</sup> Avenue-He lives behind the property and has no objections to the request.

**Rebuttal/Cross**

None

**Board Comments**

Vlad Dumitrescu asked about a retaining wall that was mentioned or is it just a privacy wall? Mr. Schmidt said that yes it was only a privacy wall.

Mr. Dumitrescu also asked for clarification regarding the wall and the setbacks and landscape.

Amy Alvarez responded saying that in Delray any walls or fences that are more than a percentage need to be setback and provide a hedge. That would be reviewed at permit.

Robert Cohen added a comment that the alley shown on the site plan is running due north but according to the survey it is not.

**MOTION** to move approval of the Variance request for 202 SE 4th Avenue (2023-212) from LDR Section 4.3.4(K), to reduce the rear setback to eight feet, whereas ten feet is required, by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5). Section 2.4.7(A)(5) was made by Vlad Dumitrescu and seconded by Mike Miles.

**MOTION CARRIED 6-0**

*Pursuant to LDR Section 2.2.4(D)(8), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **approves** X the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order this 3rd day of August 2023.*

## **8. Reports and Comment**

### **A. Staff Comments**

The next meetings will be:

September 7

October 5

### **B. Attorney Comments**

The City Commission has directed staff the procedure for review of development application by City boards. This amendment to the code of ordinance will likely result in one board for reviewing an application in its entirety. Staff is currently working on a draft and anticipates bringing the ordinance to the City Commission within the next few weeks. Because of this proposed change to the LDR's we will be requesting that the Commission extending the terms of board members set to expire August 31, 2023. We are seeking a 60-day extension resulting in a new date of October 31, 2023. If your term is set to expire this year and you would not like your term extended, please let staff know. If you have no objection to the extension no action needs to be taken. Commission will consider staffs request for extension on the August 8<sup>th</sup> regular meeting.

Robert Cohen responded that he would be available only till November.

Vlad Dumitrescu responded that he would be available to an extension.

### **C. Board Comments**

Mike Miles asked about the variance and how it runs with the land and not the building. How long does the variance run with the land. Ms. Alvarez stated it would be forever.

Vlad Dumitrescu asked why the property had to dedicate the 2 feet and why they cannot be part of the easement. Ms. Alvarez said that an FPL easement is different than a right of way dedication.

Anthea Gianniotis spoke in more detail regarding easements and some new information in the Chapter 2.

Robert Cohen asked, let's say the owners run into a problem and they abandon the project, what on paper exist at that time about this variance? How can someone when a

new project starts from scratch on this same property can find out that this variance has already been granted.

Ms. Gianniotis stated that she had two thoughts regarding your questions. The first one, which is part of Chapter 2, other communities actually fire variances if you do not act on them within a few years. The City does that for waivers. The other thought, the City is in a technological catch-up. We are one of the few communities that are passing paper sets between reviews. We now have the eplan portal, which is open for all types of permits, so every permit can come through the portal.

**9. ADJOURN**

There being no further business to come before the Board, the meeting was adjourned at 6:00 PM

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 **August 3, 2023**, which were formally adopted and APPROVED by the Board on \_\_\_\_\_.

**ATTEST:**

\_\_\_\_\_  
**CHAIR**

---

**BOARD SECRETARY**

NOTE TO READER: If the Minutes you have received are not completed as indicated above, then this means that these are not the official Minutes of the Board of Adjustments. They will become official minutes only after review and approval, which may involve some amendments, additions or deletions.

DRAFT