

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

**MEETING DATE:** October 7, 2021

**MEETING PLACE:** City Commission Chambers

**1. CALL**

The meeting was called to order by Garland Williams (Chairman) at 5:09 p.m.

**2. ROLL**

A quorum was present.

**Members present:** Garland Williams, Robert Cohen, Alek Hayes and Vlad Dumitrescu.

**Member absent:** Alexander Candia.

**Staff present:** Scott Pape, Principal Planner, and Diane Miller, Board Secretary.

**3. ELECTION OF OFFICERS**

William Bennett announced that the next item on the agenda will be Election of Officers and he spoke about the process of electing officers.

**Motion** made by Robert Cohen and seconded by Alek Hayes to nominated Garland Williams as Chairman.

**MOTION CARRIED 4-0 – Garland Williams was selected as Chairman.**

**Motion** made by Garland Williams and seconded by Vlad Dumitrescu to nominate Robert Cohen as Vice Chairman.

**MOTION CARRIED 4-0 – Robert Cohen was selected as Vice Chairman.**

**Motion** made by Robert Cohen and seconded by Garland Williams to nominate Vlad Dumitrescu as 2<sup>nd</sup> Vice Chairman.

**MOTION CARRIED 4-0 – Vlad Dumitrescu was selected as 2<sup>nd</sup> Vice Chairman.**

**4. APPROVAL OF AGENDA**

Mr. Bennett said that we have a quorum problem as one of the board members will need to step down on Item 7.A. An alternate is expected to arrive, so we are reversing 7A with 7B.

**Motion** to approve the Agenda of October 7, 2021, but amend 7A and 7B to switch position to give the alternate more time to arrive to the meeting made by Robert Cohen and seconded by Vlad Dumitrescu.

**MOTION CARRIED 4-0**

#### **4. MINUTES**

None

#### **5. SWEARING IN OF THE PUBLIC**

Garland Williams, Chairman, 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. QUASI-JUDICIAL ITEMS** (was Item 7B)

**A. File Number (2021-159)** 626 SE 4th Avenue. Consideration of variance requests from Land Development Regulation (LDR) Section 4.3.4 (K) to reduce the rear setback from 10 feet to 5 feet and reduce the side interior setback from 7.5 feet to 5.8 feet to allow a tiki hut to encroach within the rear and side interior setback.

Address: 626 SE 4th Avenue

PCN: 12-43-46-21-01-007-0070

Agent: Thomas F. Carney, Jr, C/O Carney Stanton P.L.; [tfc@carneystanton.com](mailto:tfc@carneystanton.com)

Planner: Rachel Falcone, [FalconeR@mydelraybeach.com](mailto:FalconeR@mydelraybeach.com)

Scott Pape, Principal Planner entered the file into the record 2021-159.

#### **Exparte**

Alek Hayes-Drive By

Robert Cohen-No

Vlad Dumitrescu-No

Garland Williams-No

#### **Applicant Presentation**

Tom Carney – Carney Stanton – Representing the applicant.

Leonard Surles – 626 SE 4<sup>th</sup> Avenue.

#### **Staff Presentation**

Scott Pape, Principal Planner presented the project through a PowerPoint presentation.

#### **Public Comments**

Michael Muha-622 SE 4<sup>th</sup> Avenue-Concerns about tiki hut, i.e., noise, litter, drinking. The hut can be move easily.

James Quilian-925 SE 2<sup>nd</sup> Avenue-Concerned about the setbacks.

Isabel Muha-622 SE 4<sup>th</sup> Avenue-What are the true violation.

Elka Jenson-Received pictures of the property.

Alex Sharrel-626 SE 4<sup>th</sup> Avenue-Concerns about privacy. Looking into windows. Took his cats.

### **Cross Examination/Rebuttal**

Tom Carney-Agree that this hut is in the setback but sometimes there are special circumstances to look at.

### **Board Comments**

Robert Cohen asked staff to verify that a permit is required but there is no permit fee and this would be a building permit. Mr. Pape confirmed that was correct. Mr. Cohen also asked if the hut was anchored to the ground and was there electricity. The owner confirmed there were anchors and electricity, but the electricity was turned off due to violations.

Alek Hayes asked if the permit process for the Seminole Tribe could be explained. Mr. Pape said that they do not have to apply and do not have to pay a fee but do have to comply with all setback requirements.

Vlad Dumitrescu asked Mr. Pape if there were any exceptions regarding building and he said they had to comply with the setbacks.

William Bennett, Assistant City Attorney, read the six findings. and the Board of Adjustments **denied** all six findings for 626 SE 4<sup>th</sup> Avenue File No. 2021-159.

**MOTION** for denial of the variance requests (2021-159-VAR-BOA) from LDR Section 4.3.4 (K) to reduce the rear setback from 10 feet to establish a 5 foot rear setback and the side interior setback from 7.5 feet to 5.8 feet for the Tiki Hut located at 626 SE 4th Avenue, by finding that the request is inconsistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5) was made by Robert Cohen and seconded by Alek Hayes.

### **MOTION DENIED 4-0**

*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\_\_\_\_\_ denies\_x\_ the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order this 7<sup>th</sup> day of October 2021.*

Mr. Bennett asked if the alternates for the Board of Adjustments were present, and they are not present. Because we do not have a quorum, we cannot do a motion to postpone. Board took a recess.

Board resumed the meeting and Mr. Bennett said that the alternates are not present and one of the board members here tonight will have a conflict with this item. With this we lose quorum and we cannot proceed with the meeting. We are going to amend the agenda to remove the 1225 Vista Del Mar N., and they will work with the City to have it re-noticed for the next Board of Adjustment meeting.

**B. File No. 2021-242**-(was Item 7A) 1225 Vista Del Mar N: Variance request to allow the pool to encroach in the front setback.

Address: 1225 Vista Del Mar N PCN: 12-43-46-25-000-0061

Applicant/Agent: Gary P. Eliopoulos; [Gary@eliarch.com](mailto:Gary@eliarch.com)

Planner: Jennifer Buce; [buce@mydelraybeach.com](mailto:buce@mydelraybeach.com)

**MOTION** to amend the agenda for October 7, 2021, to delete the item for 1225 Vista Del Mar N (2021-242) made by Robert Cohen and seconded by Alek Hayes.

**MOTION CARRIED 4-0**

## **8. REPORTS AND COMMENTS**

- A. Staff Comments – Welcome to our new board member Alek Hayes.
- B. Attorney Comments – None
- C. Board Comments – None

## **9. ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 6:30pm.

The information provided herein is the Minutes of the meeting of said Board of Adjustment (BOA) on **October 7, 2021**, which Minutes were formally **APPROVED** and adopted by the Board on **March 10, 2022**.

ATTEST:



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CHAIR



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BOARD SECRETARY

NOTE TO READER: If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes for the BOA. They will become official Minutes only after review and approval, which may involve some amendments, additions, or deletions.