

Thomas R. Speno

May 10, 2022

Attn: Board of Adjustment
The City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, FL 33444

RE: Justification letter for the property with the postal address of 227 Palm Trail, Delray Beach, Florida 33483 (the “**Property**”) requesting a five (5) foot reduction to the front setback allowing Thomas and Laura Speno (the “**Applicant**”) to build their proposed new residence.

Request

The Applicant is the owner of the Property located in an R-1-AA zoning district. Under Section 4.3.4 (K) of the Land Development Regulations of the City of Delray Beach (“**LDR**”), the required front setback is thirty (30) feet. As part of the development of Applicant’s new residence, the City of Delray Beach is requesting a five (5) foot dedication of land (the “**Dedication**”). The Dedication has a materially adverse effect on the construction of the Applicant’s proposed new residence. The Applicant is requesting the City of Delray Beach grant a variance for the Property to reduce the setback from thirty (30) feet to twenty-five (25) feet. The variance request would enable the Applicant to build their proposed new residence on the Property in a manner that was planned and desired before the Dedication.

Findings

Pursuant to Section 2.4.7 (5) of the LDR, the following findings must be made to approve a variance:

- (a) **That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship not constitute a basis for granting of a variance):**

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The Applicant is requesting a reduction of the front setback by five (5) feet due to the Dedication. Other properties within the same zoning classification do not have to dedicate land to the City of Delray Beach for the expansion of a roadway. The Dedication has resulted in a materially adverse effect on the depth of the lot and buildability of the lot.

(b) That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning:

The application of the R-1-AA setbacks to the Property would be inequitable because the City of Delray Beach is requiring a five (5) foot dedication, which materially affects the buildability of the lot. By taking five feet, the Property could not be developed as proposed by the Applicant, which would ultimately deprive the Applicant of rights other landowners enjoy.

(c) That special conditions and circumstances have not resulted from actions of the applicant:

The City of Delray Beach is requiring the Dedication, not the Applicant. Without the Dedication, the Applicant would not be requesting a five (5) foot variance. Thus the circumstances of the Dedication were not a result of the actions by the Applicant. The Applicant did not decide to expand the roadway, nor deed land to the city.

(d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance:

Other properties under the same zoning classification do not have the same challenges as the Property and are not subject to a dedication requirement. No special privilege would be conferred on the Applicant; rather the variance would place the Applicant in the same position before the Dedication. Note that it appears the City of Delray Beach has granted the same type of variance to applicants in the same situation. Currently the Applicant, as a result of the Dedication, is being held to a standard that is more adverse to the buildability of the lot than other homeowners within the same zoning classification.

(e) That the reasons set forth in the variance petition justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure:

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The five (5) foot variance places the Applicant on equal footing as other homeowners in the R-1-AA zoning classification. The five (5) foot variance is the minimum footing for the Applicant to construct their proposed new residence on the Property. Currently, the Applicant is being held to a standard that is more adverse to the buildability of the lot than what was intended by the LDR.

(f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare:

The five (5) foot variance would have no effect on the harmony in the surrounding neighborhood. The variance would go virtually unnoticed to individuals in the neighborhood. Realizing that the Dedication has had an adverse effect on property owners, the City of Delray Beach has granted the same variance to other property owners in the neighborhood.

We respectfully request the variance in order to build the residence on the Property.