

Exhibit "A"

1. Describe which special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district:

Special conditions and circumstances include that this home is one of the few homes in the Pelican Harbor PRD which is located on the Intracoastal Waterway. Due to the location of the home, the sideyard area where the bar area is proposed gets direct sun much of the day. The covered bar area would thus allow the property owners and their young children a covered shaded and safe area for the enjoyment and healthy use of the outdoor space out of the sun.

2. Describe which literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning:

The literal interpretation of Section 4.3.4 would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning. The Pelican Harbor PRD has a side interior setback of 15 feet. Pursuant to Section 4.3.4 of the Development Standards Matrix, there is not one single family zoning district in the City of Delray Beach which has a side setback requirement as large as 15 feet. As a result, most single family home owners in the City of Delray Beach have the opportunity to enjoy their properties without such a large side setback restriction. Additionally, the Board of Adjustment, while realizing that homeowners in the Pelican Harbor PRD were deprived of rights commonly enjoyed by those owners in other single-family zoning, unanimously approved a variance next door at 675 Pelican Way to eliminate the rear setback from the required 10 feet to 0 feet to allow a tiki hut.

Moreover, since the bar area is not an enclosed structure, the intent of the setback regulations to achieve a more harmonious built environment, including maintaining air circulation (there will also be fans) and encouraging consistent development patterns are actually furthered.

3. Explain how special conditions and circumstances have not resulted from actions of the applicant:

The special conditions and circumstances have not resulted from actions of the applicant. The current homeowner did not build this home. The neighborhood was built in phases. City Staff has advised that there is a CD that has over 600 pages of the plat and site plan showing that apparently some lots were changed through their site plans specifically to meet different standards. Accordingly, it appears that the current pool legally exists in the front setback with no variance. However, the property owner is proposing to remove the pool located in the front setback area and replace it with a pool meeting the current code regulations on the south side. Thus, the covered bar would be along a similar setback as the proposed new pool.

4. Explain how 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.

Granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same residential zoning. As stated above, other homes in the neighborhood have either received a similar variance or had changes approved without a variance. The unenclosed bar area will not be visible at all to either of the neighboring property owners and will be mostly screened from street view by landscaping. Moreover, as apparently some lots in the PRD were changed through the site plan specifically to meet different standards resulting in many structures located within the setback adjacent to the zero-lot line, this request is consistent with the development pattern and will not confer a special privilege onto the applicant.

In fact, structures that are not enclosed are routinely allowed in the setback, including but not limited to fences and walls, trellises and generators.

Moreover, pursuant to LDR Section, 4.3.4(5)(e), in zero lot line developments only, screened enclosures may extend into the interior side setback areas, but shall not be placed less than five feet from the property line. [Amd. Ord. 48-93 8/10/93]; [Amd. Ord. 12-91 3/13/91. Therefore, since this PRD is a zero-lot line development, this request would be permitted by right if a screen enclosure was included as it would be allowed to extend up to 5 feet into the setback. In other words, if there was a screen enclosure proposed, a variance would not even be necessary. Since the intent of the setback, to create the flow of air and not have an enclosed area is obviously still met without the screen enclosure, it would not be logical to deny the request because a screen enclosure is not proposed. The spirit and purpose of the code is actually furthered without the screen enclosure.

5. Describe how the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure:

As previously indicated, the applicant is proposing to eliminate the front pool which is located within the front setback. This outside unenclosed bar area will have a setback close to the proposed new pool, which would be allowed to be built at the 5-foot setback, making this a minimum variance. In essence, since the bar is not enclosed, it should be viewed similarly to the pool requirement which states "when located in a zero-lot line development, swimming pools at grade level may extend into the interior side setback but no closer than five feet from the property line." The unenclosed bar area would be no closer than five feet from the property line and thus meets this requirement.

6. Explain how 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 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. In fact, the granting of the variance will benefit the neighborhood and is consistent and furthers the intent of the existing regulations. Moreover, any improvement will also need to be approved by the Pelican Harbor HOA to conform with community architectural and aesthetic standards.

As other homes in the neighborhood have received a similar variance and/or some lots in Pelican Harbor were changed through the site plan specifically to meet different standards, this request is consistent with the development pattern.

This is a zero-lot line home in which this setback is directly adjacent to a neighbor's wall. Clearly, the neighbor has no access to this area and the outside bar area would not even be visible.

Additionally, the proposed Always Delray Comprehensive Plan which is in the process of being approved by the City Commission also strongly supports the granting of this variance request. In fact, Housing Goals 1,2 and 3 clearly support the granting of this variance as follows:

GOAL HOU 1 NEIGHBORHOOD CHARACTER

PROMOTE, SUPPORT, AND ENHANCE THE UNIQUE CHARACTERISTICS OF DELRAY BEACH'S NEIGHBORHOODS

GOAL HOU 2 NEIGHBORHOOD ENHANCEMENT

PRESERVE THE INTEGRITY OF EXISTING STABLE NEIGHBORHOODS, STABILIZE AND ENHANCE NEIGHBORHOODS THAT ARE IN TRANSITION, AND REVITALIZE AND REHABILITATE NEIGHBORHOODS THAT HAVE DECLINED.

GOAL HOU 3 HIGH-QUALITY HOUSING SUPPLY

PROMOTE THE SUPPLY OF HIGH-QUALITY HOUSING THAT ACCOMMODATES THE NEEDS, PREFERENCES, AND FINANCIAL RESOURCES OF EXISTING AND FUTURE RESIDENTS

The following policies and objectives from the Always Delray Housing element also support the variance:

Policy HOU 1.1.3 Foster neighborhood identity and pride by recognizing that every neighborhood has assets that identify that neighborhood and contribute to the well-being of the residents who live there. Understand what those are and look for opportunities to enhance them and leverage them for neighborhood improvement. Assets include trees, historic resources, schools, community gardens, architectural features and the residents.

Policy HOU 1.1.6 Promote good design in new housing construction and rehabilitation that highlights beauty, flexibility, and innovation, and respects existing neighborhood character.

Policy HOU 1.1.7 Foster growth without substantially and adversely impacting existing residential neighborhood character

Objective HOU 1.3 Unique Neighborhoods: Protect existing residential areas by fostering development and redevelopment that is consistent with the unique character of the neighborhood.

Thus, for all of these reasons, 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. In fact, the granting of the variance will further the intent of Always Delray.

7. Please add any other comments which may assist the Board of Adjustment in reviewing this request:

In addition to meeting the requirements above, it is also important to understand that one of the main reasons for this variance is to allow the homeowners three (3) young children, ages 3, 7, and 9, who are all blonds and fair skinned and susceptible to sun burns as well as their mother, who is a red head and also very fair and susceptible to sun burns, an opportunity to enjoy their home by having a covered area next to the pool protected from the sun. In today's world of video games and child obesity, any opportunity to allow children to have leisure activities outside should be promoted. There will be a television and a grill plus a fan to keep the air moving which will allow the family to have meals outside together.