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September 17, 2020

Ms. Anthea Gianniotis
Director, Development Services
City of Delray Beach
100 NW 1st Ave.
Delray Beach, FL 33444

Re: Variance Justification Statement, 220 S. Ocean Blvd.

Dear Ms. Gianniotis:

Please accept this letter as the variance justification statement for the property located at 220 S. Ocean Blvd., Delray Beach, Florida (the "Property"). We are submitting this along with the universal application form, the variance justification document, and the fee of \$1,500.00 as a formal request for a variance of the setback requirements found in Sections 4.3.4(K) and 4.6.15(G), City of Delray Beach Land Development Regulations (the "LDRs"). We are submitting this request on behalf of Peter Morse and Gina Morse, the owners of the Property (individually and collectively referred to as the "Owner").

The Owner wishes to place a swimming pool in the front yard of the property. Section 4.3.4(K) of the LDR's establishes the front setback for this Property at twenty-five (25) feet. Section 4.6.15(G) of the LDR's contains the yard encroachment requirements for swimming pools, which include the requirement in Section 4.6.15(G)(1) that swimming pools not extend into the front setback area noted in Section 4.3.4(K).

The variance is justified by a hardship specific to the Property and the Owner. Specifically, the location of the existing house necessitates placement of the pool in the proposed location. Placement inside the other setbacks would not be possible. In addition, the Owner is undergoing medical treatment for maladies for which regular swimming would be a great therapeutic benefit. This is detailed in the enclosed note from the Owner's doctor.

Below is a discussion demonstrating that the application meets each of the findings listed in LDR Section 2.4.7(A)(5).

- I. 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 land is unique due to its positioning on Ocean Boulevard. Across from the public beach, there is no individual property owner to the east. The use of S. Ocean Blvd and the public space involved with the beach create significant traffic and noise generation, so the house was built, approximately 26 years ago towards the western portion of the lot. Occasional outdoor space such as a pool is an appropriate use of this area, as can be seen from the other properties who have placed pools in front of the main structure along S. Ocean Blvd. This is a situation not generally applicable to properties not located along such a street. The positioning of the existing structure prevents the placement of the pool in the area that would be considered the rear for setback purposes. This too is unique to this Property. Accordingly, special conditions and circumstances exist which are peculiar to the land, structure, or building involves and which are not generally applicable to other lands, structures, or buildings subject to the same zoning.

- II. Literal interpretation of the regulations would deprive Owner of rights commonly enjoyed by other properties subject to the same zoning.

A swimming pool is an accessory use normally associated with a residence. In Medium Density Residential, as well as all other residential zoning districts, it is normal for a single-family home to contain a swimming pool as an amenity. Literal interpretation of the regulations would deprive owner of the right to a swimming pool, a right commonly enjoyed by other properties subject to the same zoning.

- III. The special conditions and circumstances have not resulted from actions of Owner.

Owner is not responsible for special conditions and circumstances that require placement of the pool in a location that would require a variance. Owner did not place the house in the current location. Owner obtained the lot in its current condition, which does not contain any other location for a swimming pool. Accordingly, the special conditions and circumstances that justify the variance are not due to actions of Owner.

- IV. That granting the variance will not confer onto Owner 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.

Grant of the variance will not confer a special privilege. Owner will merely have the right to build a pool, which is a right that others often have without need for a variance. Given the quality of the neighborhoods in this area and the overwhelming number of private pools which are accessory to a residence, this would not be a special privilege. This type of variance, as well as other types of locational variances are ordinarily granted to pools in zoning districts of this type.

- V. The reasons set forth in this petition justify granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

As described above, the variance is justified by the special conditions and circumstances not caused by Owner, the need for a variance to allow Owner rights commonly enjoyed by others in the same zoning district, and the lack of any special privilege to be conferred by the variance.

In addition, the variance is the minimum variance that would make possible reasonable use of the land for a home with a swimming pool. The pool is 32 feet by 17 feet, which is a pool of common size for a house of this type. It allows for the therapeutic exercise to be conducted within it.

- VI. Granting 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.

As mentioned above, it is common for a residence in medium density residential zoning to contain a pool. The general purpose and intent of existing regulations is to allow pools in the most common areas where a pool would be located. In most houses, this is not the front yard of a property. However, due to this Property's location on S. Ocean Boulevard, placement in the front yard was necessitated. Given that the residential use basically ends with the eastern boundary of this home and that the uses further to the east are the busy S. Ocean Blvd., the public walkway, and the beach, the use of a private pool in this area remains in harmony with the general purpose and intent of the existing regulations.

It will not be injurious to the neighborhood or otherwise detrimental to the public welfare to allow a newly constructed swimming pool that meets all guidelines in terms of aesthetics and safety. It will add to the character of the neighborhood, not injure it. It should be noted that neighbors to both the north and south have pools in the front yard setbacks. Such pools have been in existence for a period of time and have not been detrimental to the neighborhood.

Thus, we respectfully request that a positive finding be made with respect to LDR Section 2.4.7(A)(5) based upon the justifications set forth herein, and that this variance be approved.

If I can provide any additional information, please contact my office.

Very truly yours,

SACHS SAX CAPLAN

/s/ Michael S. Weiner

Michael S. Weiner