

RESOLUTION NO. 89-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.3.4(H)(4)(d) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW THE SECOND AND THIRD FLOOR BALCONIES TO EXTEND FOUR FEET TWO INCHES INTO THE FRONT SETBACK FOR THE PROPERTY LOCATED AT 1221 LAING STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received an application for a waiver to the Land Development Regulations (2021-145) associated with the property located at 1221 Laing Street (the “Property”), as more particularly described in Exhibit “A”, from Max and Rebecca Weinberg (“Applicant/Property Owner”), seeking to allow the second and third floor balconies of the Property to extend four feet two inches into the front setback; and

WHEREAS, the Property is located in the R-1-AAA zoning district; and

WHEREAS, the applicant is proposing to elevate an existing two-story structure and construct a new ground floor; and

WHEREAS, when the structure is elevated, the second story balcony will become a third story balcony; and

WHEREAS, the current second story balcony is an existing non-conformity extending four feet two inches into the front setback and when elevated, will create a new non-conformity with the same extension of four feet two inches into the setback; and

WHEREAS, the applicant also seeks to add a second story balcony that mirrors the third story balcony; and

WHEREAS, Section 4.3.4(H)(4)(d) of the City of Delray Beach Land Development Regulations (“LDR”) sets forth limitations on how far a structure may extend into the setback and limits overhang to three feet, and

WHEREAS, the applicant proposes a waiver to LDR Section 4.3.4(H)(4)(d) to allow second and third floor balconies that extend four feet two inches into the setback as depicted in Exhibit “B”; and

WHEREAS, LDR Section 2.4.7(B)(5) requires the approving body to make a finding the granting of a waiver:

(a) Shall not adversely affect the neighboring area;

(b) Shall not significantly diminish the provision of public facilities;

(c) Shall not create an unsafe situation; and,

(d) Does not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstance on other property for another applicant or owner; and

WHEREAS, the requested waiver of relief from LDR Section 4.3.4(H)(4)(d), was presented to the City Commission at a quasi-judicial hearing on June 1, 2021; and

WHEREAS, the City Commission considered the waiver request to LDR Section 4.3.4(H)(4)(d) and has considered the respective findings as set forth in the Land development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings that the requested waiver (1) does not adversely affect the neighboring area, (2) does not significantly diminish the provision of public facilities, (3) does not create an unsafe situation, and (4) does not result in the grant of a special privilege in that the same waivers would be granted under a similar circumstance on other property for another applicant or owner.

Section 3. The City Commission approves the waiver request to LDR Section 4.3.4(H)(4)(d), to allow the second and third floor balconies for the property located at 1221 Laing Street to extend four feet two inches into the setback, as more particularly described in Exhibit "B".

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Gary P. Eliopoulos of GE Architecture Inc., 1045 East Atlantic Avenue, Suite 303, Delray Beach, FL 33483.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2021.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

Exhibit "A"

All of a parcel of land lying in Delray Beach, Palm Beach County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the West feet of the Fractional East Half (E1/2) of Section 16, Township 46, South Range 43 East, on File in Plat Book 1, Page 25, Public Records of Palm Beach County, Florida; thence run East along the South line of Said Lot 4, also being the original North line of Laing Street a distance of 250.0 feet; thence run North, parallel with the West Line of said Lot 4, a distance of 10.0 feet to the Point of Beginning; thence continue North along the previous course, a distance of 109.2 feet, more or less, to a point; thence run East parallel with the North line of said Lot 4, a distance of 50.0 feet to a point; thence run South parallel with the said West line of Lot 4, a distance of 109.2 feet more or less to a point in a line 10.0 feet North of and parallel with the said South line of Lot 4, thence run West parallel with the said South line of Lot 4, a distance of 50.0 feet to the Point of Beginning.

Said Lot 4 is also shown on AMENDED PLAT NO. 3, of BEACH LOTS 4, 5 and 6, part of the East half of Section 16, Township 46 South, Range 43 East, Delray Beach, Florida, as recorded in Plat Book 7, page 53, of the Public Records of Palm Beach County, Florida.