

Largo, Florida, January 6, 2021

The Board of Adjustment and Appeals (BAA) met in regular session in the Magnolia Room at the Pinellas County Extension Office in Largo, Florida on this date with the following members present: Alan C. Bomstein, Chairman; Joe C. Burdette; Vincent Cocks; Deborah J. White; and Pamela Kern, Alternate Member.

Not Present: Cliff Gephart, Vice-Chairman; Jose Bello; and John Doran.

Also Present: Glenn Bailey, Zoning Manager; Gina Berutti, Code Enforcement Manager; Chelsea Hardy, Assistant County Attorney; Blake Lyon, Director of Building and Development Review Services; other interested individuals; and Amelia Hanks, Board Reporter, Deputy Clerk.

### CALL TO ORDER

Chairman Bomstein called the meeting to order at 9:00 A.M. and provided an overview of the hearing process.

### PUBLIC HEARING ITEMS

Due notice having been given to interested persons pursuant to Comprehensive Zoning Ordinance No. 90-1, public hearing was held on the following application. All persons planning to give testimony were duly sworn by the Deputy Clerk.

#### #1 APPLICATION OF GEORGE TENHAGEN FOR A VARIANCE (VAR-21-01) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of George Tenhagen for a variance to allow for the placement of pool screen enclosure having 7-foot side street and rear setbacks from the north and east property lines where 10 feet is required for a multi-frontage lot, re property located at 10195 Imperial Point Drive East in unincorporated Largo (VAR-21-01). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request as it appears to meet the criteria for

granting variances found in Section 138-231 of the Pinellas County Land Development Code. The property has roadway frontage along three property lines and a subdivision entrance wall along the rear, which leaves the back yard relatively small as a result. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. All other setback requirements shall be met.

George Tenhagen, Largo, appeared and indicated that he is the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Burdette moved, seconded by Ms. White and carried unanimously, that the variances be granted as recommended, based upon the written findings of fact set forth in the staff report.

### ANNUAL LEGAL REVIEW

Attorney Hardy referred to a PowerPoint presentation titled *Board of Adjustment and Appeals Legal Overview* and provided a brief summary of the topics that she would be discussing.

Attorney Hardy reviewed the Sunshine Law and the Public Records Act, relating that members should not be in contact with one another regarding Board business outside of a regular meeting; that any materials received in connection with official business are considered public records; and that members should avoid using personal devices to communicate as the conversations will not be exempt from public record.

In response to queries by Mses. White and Kern, Attorney Hardy indicated that emails the members send from their personal accounts should also be sent to County staff so staff can retain them as public record; and that any correspondence received pertaining to a case can be forwarded to Attorney Hardy directly.

Attorney Hardy reviewed the authority of the Board to make decisions with regard to Variances, Type 2 Uses, and Administrative Appeals on cases within the unincorporated areas of Pinellas County.

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Attorney Hardy provided the definition of a variance, noting that it applies to a particular property and runs with the land, not the owner; and that the Board can apply certain conditions to lessen its effect. She reviewed mandatory criteria for the granting of a variance, as well as the difference between a variance and a Type 2 Use (Special Exception); whereupon, she and Chairman Bomstein gave examples of factors that qualify as special conditions or unnecessary hardship.

Responding to queries by Messrs. Kern and Burdette, Attorney Hardy related that all criteria must be met in order for a variance to be granted; and that no matter will be brought before the Board that the members do not have authority to act on, and Mr. Bailey provided input; whereupon, Attorney Hardy briefly reviewed the purpose of Administrative Appeals.

Attorney Hardy explained the difference between quasi-judicial and legislative decisions, stating that all Board of Adjustment actions are quasi-judicial, and responding to comment by Ms. Kern, clarified that any communications regarding cases held outside of the quasi-judicial hearing must be restated during the hearing for the record.

Attorney Hardy reviewed various requirements and provided examples of factors that constitute substantial competent evidence. In response to queries by Messrs. Burdette and Kern, she indicated that substantial competent evidence would not include polling of those in attendance regarding support of or opposition to the case, and Chairman Bomstein provided comment.

Attorney Hardy related that the Board members must articulate the findings of fact that led to their decision, and provided an example to use in making motions, and Mr. Burdette requested that she draft a script, leaving blank space for specific facts regarding a case.

In conclusion, Attorney Hardy provided an overview of various ethical considerations and restrictions that apply to the members. She reviewed possible violations of the ethical code, noting that members are to avoid voting conflicts, accepting gifts or honoraria, and misusing their public position to obtain special privileges. Mr. Bomstein clarified that a personal or business relationship must be relative, recent, and have the potential for gain to qualify as a voting conflict.

Responding to query by Ms. Kern, Attorney Hardy indicated that she will forward a copy of the PowerPoint presentation to the members.

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MINUTES OF THE DECEMBER 2, 2020 MEETING – APPROVED

Upon presentation by the Chairman, Mr. Burdette moved, seconded by Ms. White and carried unanimously, that the minutes of the regular meeting held December 2, 2020 be approved.

ADJOURNMENT

Upon motion by Mr. Burdette, seconded by Ms. White and carried unanimously, the meeting was adjourned at 9:52 A.M.

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Chairman