

**Board of Adjustment and Appeals
Pinellas County
March 31, 2021 Meeting Minutes**

The Board of Adjustment and Appeals met in regular session at 9:00 AM on this date in the Magnolia Room at the Pinellas County Extension Office, 12520 Ulmerton Road, Largo, Florida.

Present

Alan C. Bomstein, Chairman
Cliff Gephart, Vice-Chairman
Jose Bello
Joe Burdette
John Doran
Deborah J. White
Pamela Kern, Alternate Member

Not Present

Vincent Cocks

Others Present

Glenn Bailey, Zoning Manager
Chelsea Hardy, Assistant County Attorney
Blake Lyon, Director of Building and Development Review Services
David Sadowsky, Senior Assistant County Attorney
Michael Schoderbock, Principal Planner
Christopher Young, Program Planner
Teresa Ribble, Board Reporter, Deputy Clerk
Other interested individuals

CALL TO ORDER

Chairman Bomstein called the meeting to order at 9:00 AM 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 hearings were held on the following applications. All persons planning to give testimony were duly sworn by a Deputy Clerk.

Case No. VAR-21-08

APPLICATION OF GEORGE K. BALCOMBE THROUGH RICHARD MURPHY,
REPRESENTATIVE, FOR A VARIANCE

Public hearing was held on the application of George K. Balcombe through Richard Murphy for a variance to allow for the construction of a home addition having between a 2.15- and 5-foot side setback from the southeast property line where 7.5 feet is required in an RPD zone, regarding property located at 2802 Woodhall Terrace in East Lake Tarpon. One letter in support of the application has been received by the Clerk.

Mr. Bailey related that the case was continued from the March 3 meeting to allow the applicant to obtain a letter of no objection from the next-door neighbor and provide other information; whereupon, he presented the following staff recommendation:

Recommend Denial. Staff cannot support this request as it does not meet the criteria for the granting of a variance found in Section 138-231 of the Pinellas County Land Development Code. There are no special conditions or unnecessary hardships, the request is not the minimum variance necessary, and it is inconsistent with the Land Development Code and the Comprehensive Plan.

There is ample space at the rear of the house where a home addition could be built within the required setbacks without the need for a variance. The proposed addition would be as close as 2.15 feet from the side property line, which may impede or hinder access to the rear of the home in the event of an emergency. It would also be an outlier, as the other nearby homes appear to meet required setbacks.

George Balcombe, Palm Harbor, appeared and indicated that he is the applicant. He related that, as requested, he obtained the letter of support and has submitted a drawing depicting the proposed addition no less than 42 inches from the property line.

No one appeared in response to the Chairman's call for opponents or proponents, and Mr. Bailey confirmed that no opponents appeared at the March 3 meeting.

Chairman Bomstein expressed concern regarding the proximity of the addition to the property line, particularly because 42 inches is less than half of the required setback.

Mr. Doran moved, seconded by Mr. Gephart, that the variance be granted based upon testimony and information presented today and at the March 3 meeting and the findings

of fact in support of the application, particularly the odd-shaped lot; and that approval is subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Setbacks must be no less than 42 inches and 5 feet, as indicated.

Upon call for the vote, the motion carried 6 to 1, with Chairman Bomstein dissenting.

Case No. VAR-21-09

APPLICATION OF CHARLES F. WALKER, THROUGH TODD PRESSMAN,
REPRESENTATIVE, FOR A VARIANCE

Public hearing was held on the application of Charles F. Walker through Todd Pressman for a variance to allow for the construction of a new single-family home having a 15-foot front setback where 20 feet are required in an R-3 zoning district, regarding the property located at 302 Driftwood Drive in Palm Harbor. Two letters in support of the application have been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff cannot support this request as it does not meet the criteria for the granting of a variance found in Section 138-231 of the Pinellas County Land Development Code. There are no special conditions or unnecessary hardships, the request is not the minimum variance necessary and is inconsistent with the Land Development Code and the Comprehensive Plan.

The subject property is a conforming R-3 zoned lot and there is ample room to build a new house within the required setbacks. The concept plan shows that there is space available to move the proposed pool to the west, which would in turn allow the home to be placed further to the west outside of the front setback. A primary reason the required front setback is 20 feet is to allow for the parking of vehicles in driveways without them encroaching into the adjacent road right-of-way. While the Board previously approved two front setback variances for side-loaded garages on the houses directly south, these were approved under the previous Code. Additionally, the side-loaded garages allowed for vehicles to park in the driveway without right-of-way encroachment.

Mr. Bailey related that there is currently a home on the subject property; that the applicant plans to have it demolished; that there is ample room to construct the new home without the requested variance; and that the variances approved for this neighborhood were made before the latest revisions to the Land Development Code.

Todd Pressman, St. Petersburg, appeared and indicated that he represents the applicant. Referring to a PowerPoint presentation, a copy of which has been made a part of the record, he provided information regarding previously approved setback variances in the neighborhood and the rationale for the current variance request. He suggested that a hardship and a special condition have been placed on the subject property due to a previously approved setback variance on an adjacent property; and that this request is considerably less than other setback variances which have been approved for the neighborhood.

Following comments and discussion by the members, Mr. Bailey noted that the survey drawing submitted by the applicant shows the pool at approximately 15 feet from the seawall; that a pool may be constructed as close as 8 feet to a seawall without a variance; that the construction of the new home could be shifted back by 7 feet without diminishing its size; and that setbacks previously approved were for existing homes.

In response to the Chairman's call for persons wishing to speak regarding the application, Charles Walker and Angela Clark, Palm Harbor, appeared.

Mr. Pressman stated that the previous variances approved by the Board are on lots of similar size and configuration to the subject property; whereupon, Ms. Kern stated that each case that comes before the Board is reviewed individually and is not to be compared with other cases.

In response to comments by Mr. Walker and queries by Chairman Bomstein and Mr. Bello, Mr. Bailey related that the request meets no criteria regarding granting variances.

Ms. White moved, seconded by Mr. Doran, that the variance be denied as recommended in accordance with the findings of fact as outlined in the staff report. Upon call for the vote, the motion carried unanimously.

Case No. APL-21-01

APPLICATION OF TODD PRESSMAN FOR AN APPEAL OF A STAFF CODE INTERPRETATION THAT A FRONT YARD IN-GROUND POOL ASSOCIATED WITH A POOL BUSINESS CONSTITUTES A SIGN

Public hearing was held on the application of Todd Pressman for an appeal of a staff code interpretation that a front yard in-ground pool associated with a pool business constitutes a sign.

Mr. Bailey presented the following staff recommendation:

Recommend Denial of the Appeal. Staff recommends that the Board deny the appeal, finding that Pinellas County staff has correctly interpreted that a front yard in-ground pool display associated with a pool business constitutes a sign per Section 138-3751 of the Pinellas Land Development Code, which defines a sign as *any device, placard, fixture, or structure that uses any color, form, graphic, illumination, architectural style or design or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.*

A pool is considered by the Code to be a structure, and its placement within the front yard of a property with clear public visibility would attract attention and identify the type of work performed by the business. A demonstration pool could instead be installed in the side or rear yards of a property outside of public view. Such placement would not constitute a sign due to its lack of public visibility, but it could still be useful as a demonstration model to clients and customers that are already on the premises.

Mr. Lyon provided background information regarding the request and noted that the applicant's original request specified a potential property for a pool business; that staff felt there were setback concerns at the property; and that upon an interpretation of the Code, staff determined that the pool would constitute signage.

Mr. Lyon responded to comments and queries by the members; whereupon, Attorney Hardy clarified that the Board is being asked to decide as to whether they agree with staff and recommended that the members focus on the definition of a sign and the facts surrounding the particular interpretation.

Upon the Chairman's call for the appellant, Todd Pressman, St. Petersburg, appeared, and introduced Daniel Miller, Fort Myers, as the applicant of the original variance request. He referred to a PowerPoint presentation, a copy of which has been made a part of the

record, which displayed an example of an inground pool located at the front of a pool business owned by Mr. Miller and indicated that it was a fair representation of the type of pool proposed for the site.

Responding to a query by Mr. Gephart, Mr. Lyon related that the landscaping around the proposed pool in the example was not a part of the applicant's original request; that interpretations regarding signage are site-specific; that variances and conditions can be considered when there is a particular property to review; and that this method would not require a broad categorization for all of the signage code for Pinellas County.

In response to a query by Chairman Bomstein, Attorney Hardy, with input by Attorney Sadowsky, recommended that any motion made include language specific to signage regarding an in-ground pool associated with a pool company; that future determinations may be reviewed on a case-by-case basis; and that a comprehensive code interpretation is not warranted at this time; whereupon, discussion ensued.

Mr. Gephart moved, seconded by Mr. Bello, to grant the appeal, holding that an in-ground pool with no associated above-ground structures and located in the front yard of a pool business, does not constitute a sign. Following discussion and clarification by Attorney Hardy, and upon call for the vote, the motion carried 4 to 3, with Chairman Bomstein, Mr. Doran, and Ms. White dissenting.

MINUTES FROM THE MARCH 3, 2021 MEETING

Upon presentation by the Chairman, Mr. Doran moved, seconded by Ms. White and carried unanimously, that the minutes of the regular meeting held March 3, 2021, be approved.

ADJOURNMENT

The meeting was adjourned at 10:36 AM.