

**Board of Adjustments and Appeals
Pinellas County
May 5, 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
Joe Burdette
Vincent Cocks
John Doran
Deborah J. White

Not Present

Jose Bello

Others Present

Glenn Bailey, Zoning Manager
Gina Berutti, Code Enforcement Project Coordinator
Chelsea Hardy, Assistant County Attorney
Shirley Westfall, Board Reporter
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. TY-21-03

APPLICATION OF PINELLAS COUNTY THROUGH CHAD PITTMAN AND MARK MEYERS, REPRESENTATIVES, FOR A TYPE 2 USE

Public hearing was held on the application of Pinellas County through Chad Pittman and Mark Meyers for a Type 2 Use to allow for the construction of a new fire station in an RPD zone, regarding property located at 12420 130th Avenue North in unincorporated Largo. One letter in opposition to the application has been received by the Clerk.

Mr. Bailey introduced the case and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request as it appears to meet the criteria for granting Type 2 Uses found in Section 138-241 of the Pinellas County Land Development Code. The proposed new fire station will replace an existing 40-year-old station that is located approximately a quarter mile to the northeast off 134th Avenue North. The proposed location is adjacent to the Largo Health Department and is near a signalized intersection. Traffic impacts are anticipated to be small, and drainage requirements will be addressed during site plan review.

Approval should be subject to the following conditions:

1. The applicant must obtain all required permits and pay any applicable fees.
2. Full site plan review.

Chad Pittman, Fire Chief for the City of Largo, appeared and indicated that he and Deputy Fire Chief Matt Carpenter represent the applicant; and that the proposed location would improve response time. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Burdette moved, seconded by Mr. Gephart, that the Type 2 Use be granted 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. VAR-21-14

APPLICATION OF MATTHEW R. EGAN THROUGH BOB TENNANT,
REPRESENTATIVE, FOR A VARIANCE

Mr. Bailey presented the request for a variance to allow for the construction of an in-ground pool, screen enclosure, and retaining wall having a 5-foot-3-inch rear setback from the west property line where ten feet is required in an R-3 zone and noted the unusual property features, regarding property located at 2698 Knoll Street in Palm Harbor. No correspondence relative to the application has been received by the Clerk.

No one appeared upon the Chairman's call for the applicant; whereupon, he moved the hearing to the end of the agenda to provide more time for the applicant to appear and participate.

Later in the meeting, Chairman Bomstein noted that the applicant remains absent; whereupon, Mr. Burdette moved, seconded by Ms. White, that the case be continued to the June 2, 2021 meeting. Upon call for the vote, the motion carried unanimously.

Case No. VAR-21-12

APPLICATION OF TIFFANY CHRYSAKIS FOR A VARIANCE

Public hearing was held on the application of Tiffany Chrysakis for a variance to allow for the construction of an in-ground pool having a 6-foot side street setback from the west property line where ten feet is required in an R-4 zone, regarding property located at 615 Maryland Avenue in Crystal Beach. No correspondence relative to the application has 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. In short, there are no special conditions or hardships that are not self-created, the request is not the minimum variance necessary, and it is inconsistent with the Land Development Code and the Comprehensive Plan. The submitted survey shows that there is more than 26 feet between the primary residential structure and the west property line, which should provide ample space to place a pool without having to encroach into the required 10-foot side setback.

Tiffany Chrysakis, Crystal Beach, appeared, indicated that she is the applicant, discussed the driving factors behind the request, and responded to queries by the members regarding the location and size of the proposed pool, the configuration of the property, and related matters, and Mr. Bailey provided input.

During discussion, Chairman Bomstein noted the difficulty in finding that a hardship exists since there is sufficient space for the pool construction in the applicant's preferred location without having to encroach onto the setback, and Mr. Bailey provided clarification regarding setback requirements associated with a public walkway, located adjacent to the subject property.

Upon the Chairman's call for opponents, Ed Close, Crystal Beach, appeared and stated his concerns; whereupon, Ms. Chrysakis provided clarifying comments in rebuttal.

Chairman Bomstein indicated that the pool measurements provided in a drawing from the applicant are not to scale and Ms. White stated that it is hard to make a decision without more professional information. Mr. Bailey indicated that if the request is revised to be closer to the requirements, the case may be resolved administratively and would not have to come back before the Board.

Mr. Gephart moved, seconded by Ms. White and carried unanimously, that the case be continued for 60 days. In response to query by Attorney Hardy, Chairman Bomstein clarified that the case will be continued to the July meeting of the Board.

Case No. VAR-21-10

APPLICATION OF ERNEST A. BOUDREAUX, III, FOR A VARIANCE

Public hearing was held on the application of Ernest A. Boudreaux, III, for a variance to allow for the construction of an approximately 1,438-square-foot accessory storage structure having a 3-foot side setback from the north property line where six feet is required in an RPD zone, regarding property located at 2729 Nicole Circle in Palm Harbor. One letter of concern and one letter in opposition to the application have been received by the Clerk.

Mr. Bailey introduced the case and 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. In short, 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. The hardship is self-imposed due to the large size of the proposed storage structure. There is ample space on the north side of the property where a smaller accessory storage structure could be built within the required setbacks without the need for a variance. The subject property is one of the largest lots in the subdivision with a larger building envelope than most properties in the neighborhood.

Adam Boudreaux, Palm Harbor, appeared, indicated that he is the applicant, discussed his request, and responded to queries by the members, stating that the proposed structure would include storage space, a gym, and a pool bathroom. He noted that the properties in his subdivision were built with three-foot setbacks; that a Duke Energy easement on the west side of the subject property presents a hardship; and that the structure would not violate his Homeowners Association rules; whereupon, responding to queries by Chairman Bomstein, Mr. Bailey provided information concerning the subdivision setbacks.

Upon call for opponents, Cynthia Pendley, Palm Harbor, appeared and stated her concerns, and Mr. Boudreaux provided comments in rebuttal.

During further discussion, Chairman Bomstein and other members emphasized that any hardship in terms of the proposed structure size is self-imposed, as a smaller structure can be built within setback parameters. Responding to queries by the members, Mr. Boudreaux conceded that Duke Energy's transmission lines did exist at the time he purchased the property.

Mr. Bailey referred to an image of the property and stated that the applicant's existing fence encroaches 15 feet into the County's right-of-way and should be removed; and that according to the plat, the setback has always been six feet; whereupon, Mr. Boudreaux read an email of support from the neighbor most impacted by the project.

Mr. Cocks moved, seconded by Ms. White, 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. VAR-21-11

APPLICATION OF GARY VICINUS, THROUGH ANNE POLLACK, REPRESENTATIVE, FOR A VARIANCE

Public hearing was held on the application of Gary Vicinus through Anne Pollack for a variance to allow for the addition of a 24-foot-long roof over a boat lift on the northeast side of an existing dock, along with a personal watercraft (PWC) lift on the southwest side

of the existing dock, regarding property located at 10998 Harborside Drive in unincorporated Largo. One letter of concern regarding the application has been received by the Clerk.

Mr. Bailey introduced the case, referring to the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the proposed addition of a PWC lift and a covered boat lift to the existing dock as it appears to meet the criteria for the granting of variances found in Section 138-231 of the Pinellas County Land Development Code.

The subject property has an existing 113.6-foot-long dock. The location for the proposed PWC lift is behind the existing terminal platform on the south side of the dock and the proposed boat lift with the roof is on the north side of the existing dock. The additions will be located past most of the existing vegetation, where there is sufficient depth to support their use. The proposed boat lift will have a minimum of 2.4 feet of depth, which meets the depth criteria of the Code.

Staff recommends approval subject to the following conditions:

1. The applicant must obtain all required permits, most notably a County Water and Navigation Permit, and pay any applicable fees.
2. Any conditions in any such permits must be adhered to.

Mr. Bailey introduced Environmental Program Manager Julee Sims; whereupon, she referred to a PowerPoint presentation, read the code sections related to private docks and boat lifts, and responded to queries by the members. She indicated that certain requirements for private dock construction may be waived by the County if signed statements of no objections are received from the surrounding property owners; and that the applicant could not obtain the statements which has led to this request for a variance.

Ms. Sims presented photos showing the vegetation along the shoreline and emphasized that the existing dock has been approved; and that the variance pertains to the additions only. In response to query by Chairman Bomstein, Attorney Hardy clarified that the variance criteria and procedure for hearing water and navigation type variances is the same as for other cases.

Upon the Chairman's call for the applicant, Anne Pollack, St. Petersburg, appeared, and indicated that she is the applicant's representative. She noted that due to the vegetation

and shallow waters, it would be impossible to install a boat lift at the required 45 feet; and that the proposed additions are comparable to most docks in the area.

In response to a query by Chairman Bomstein, Ms. Sims confirmed that the only reason the case is before the Board is because one neighbor to the south would not sign off on the request. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Doran moved, seconded by Mr. Gephart, that the variance be granted based on the presented evidence and testimony and 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. VAR-21-13

APPLICATION OF ITAJARA CR LLC THROUGH TROY HUGHES, REPRESENTATIVE,
FOR A VARIANCE

Public hearing was held on the application of Itajara CR LLC through Troy Hughes for a water and navigation variance request to Section 58-555(b)(1) to allow for the construction of a 5-foot dock addition for a total length of 45 feet, and to include a boat lift, where a maximum of 40 feet is allowed, regarding property located at 418 Buttonwood Lane in unincorporated Largo. No correspondence relative to the application has been received by the Clerk.

Mr. Bailey introduced the case, referring to the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request as it appears to meet the criteria for granting variances found in Section 138-231 of the Pinellas County Land Development Code. The proposed boat dock does not create a navigational issue and is consistent with the length of other boat docks in the immediate and general area.

Staff recommends approval subject to the following conditions:

1. Applicant must obtain all required permits, most notably a County Water and Navigation Permit, and pay all applicable fees.
2. Any conditions in any such permits must be adhered to.

Referring to a PowerPoint presentation, Ms. Sims provided information regarding the application, indicating that the request for five additional feet to the current 40-foot dock

was based on safety concerns; and that the requested length is in line with other docks in the area. She noted that a boat lift extending beyond 40 feet was previously constructed in an unauthorized location and would need to be removed if the variance is denied; and that the contractor has been cited. In response to a query by Chairman Bomstein, she confirmed that the reason the case is before the Board is that a neighbor would not support the request.

John Duggan, Williston, and Troy Hughes, Tarpon Springs, appeared and indicated that they are the applicant and representative, respectively. Mr. Hughes related that seven different renderings of the proposed addition were presented to the two potentially impacted neighbors, with one neighbor approving three of the renderings, including the one being proposed today, and another neighbor rejecting the proposals on the basis of view obstruction; whereupon, he indicated that the additional dock length would allow for safer boarding and loading of the boat, and Mr. Duggan provided input.

No one appeared upon the Chairman's call for opponents.

Mr. Gephart moved, seconded by Ms. White and carried unanimously, that the variance be granted as recommended in accordance with the findings of fact as outlined in the staff report.

Case No. VAR-21-15

APPLICATION OF JAMES DONOVAN THROUGH KATIE COLE, REPRESENTATIVE,
FOR A VARIANCE

Public hearing was held on the application of James Donovan through Katie Cole for variances to allow for the construction of a private residential dock extending a total length of 50.5 feet from the seawall where only 42.7 feet is allowed, and to allow for construction of a private residential boat lift with a 4.7-foot setback from the south property line, where 28.4 feet is required, regarding property located at 106 Harbor Drive in unincorporated Palm Harbor. One letter in support and one letter in opposition to the application have been received by the Clerk.

Recommend Conditional Approval of the residential private dock and denial of the boat lift. The subject property is a waterfront lot with an existing single-family home and a waterfront width of 85.4 feet. An existing dock and boat lift were constructed in 2001.

The existing dock and boat lift are 50.5 feet long, which requires signatures of no objection from both the north and south neighbors per County Code Section 58-555(b)(1); these signatures were obtained. However, the front

of the existing dock includes an unauthorized 8' by 14' lower landing, which was installed by the previous owner around 2005.

The existing dock and boat lift are outside of the center one-third of the property (or less than 28.4 feet from the south property line), which requires a signature of no objection from the south neighbor per County Code Section 58-555(b)(2); this signature was obtained.

Staff has no objection to the approval of the proposed residential private dock as it appears to meet the criteria in Section 138-231 of the Pinellas County Land Development Code. Additionally, the dock is in the same location as the existing dock with essentially the same dimensions.

However, staff objects to the proposed installation of the boat lift as it does not appear to meet the same variance criteria. In short, there are no special conditions or unnecessary hardships justifying the boat lift. The boat lift can be placed on the north side of the dock without the north neighbor's signature of no objection (or a variance to this signature requirement). Additionally, placing the boat lift on the north side of the dock presents minimum impacts to seagrass.

Significantly, no variance for the dock would be required if the applicant obtained signatures of no objection from the north and south neighbors per County Code Section 58-555(b)(1). However, the applicant failed to obtain these signatures. It follows that the variance sought for the dock is technically a waiver from the requirement to obtain both neighbors' signatures.

Likewise, no variance for the boat lift would be required if the applicant obtained signature of no objection from the south neighbor per County Code Section 58-555(b)(2). However, the applicant failed to obtain this signature. It follows that the variance sought for the boat lift is technically a waiver from the requirement to obtain the south neighbor's signature.

Staff recommends approval of the dock subject to the following conditions:

1. Applicant must obtain all required permits, most notably a County Water and Navigation Permit, and pay all applicable fees.
2. Any conditions in any such permits must be adhered to.

Staff recommends denial of the boat lift.

Referring to a PowerPoint presentation, Ms. Sims provided background information regarding the subject property dock and boat lift and reviewed the applicant's proposal to essentially reconstruct the existing dock and change the PWC lift to a boat lift while moving it slightly waterward. She discussed the basis for the above-referenced staff recommendation due to the lack of the required signature of no objection from the south-side neighbor, noting that staff recommends relocating the boat lift to the north side of the dock based on adequate water depth and minimal impacts on the area seagrass, as observed through a survey conducted by the County in December 2020.

Responding to queries by Chairman Bomstein and Mr. Burdette, Ms. Sims confirmed that the applicant would prefer that the boat lift remain on the south side; and that no signatures from the neighbors were obtained for either of the variance requests.

Upon call for the applicant, Katie Cole, Hill Ward Henderson, referred to a PowerPoint presentation, provided details regarding the application, and indicated that the Code allows a property owner to rebuild what was previously permitted. She presented a slide comparing the current permitted dock and the PWC lift, noting that due to extended property lines, the only change would be moving the boat lift seaward by about six feet, increasing the water depth by approximately six inches for navigational benefits.

Ms. Cole introduced Terri Skapik, Woods Consulting, and requested that the Board qualify her as an expert with regard to seagrass, navigation, dock construction, and permitting, and Chairman Bomstein concurred; whereupon, Ms. Skapik referred to photographs of seagrass and a survey conducted by Woods Consulting in August of 2020, indicating that seagrass surveys should be conducted between June and September, as recommended by federal agencies; that the Woods Consulting survey showed robust grass beds on the north side, which would be negatively impacted if the boat lift was to be relocated; that every inch of water depth counts for boat lift utilization; and that the docks in the area are not encroaching on any navigational channels.

Ms. Cole emphasized that moving the boat lift six feet waterward would not change the associated setbacks, and responding to queries by the members, Ms. Skapik, with input by Ms. Cole, confirmed that the proposed boat lift is a foot narrower than the existing lift; that there is greater water depth on the south side of the dock; and that relocating the boat lift to the north side would negatively impact the seagrass.

Upon call for opponents, Mr. Brian Myrback, Palm Harbor, appeared, stated his concerns, and responded to queries by the members.

Attorney Hardy reminded the Board of case hearing procedures; whereupon, Chairman Bomstein asked if staff had any comments regarding recent testimony. Assistant County

Attorney Brendan Mackesey indicated that staff has no objection to the boat lift remaining in its current location, as long as it is reconstructed in the same footprint; that seagrass impact is not the determining factor in the staff's recommendation; that staff objects to moving the boat lift further waterward because the south-side neighbor, Mr. Myrback, would not provide a signature of no objection; and that the applicant provided no evidence of special conditions present on the land warranting approval of the request.

In rebuttal, Ms. Cole stated that the Board must weigh competent substantial evidence in deciding whether the staff's interpretation of the Code would pose hardship on the applicant; and that the special conditions to the land include water depth and seagrass, noting that the Board has recently approved water and navigation variances based on the significance of water depth.

After extensive discussion, Mr. Doran moved that both the residential private dock and the boat lift as proposed by the applicant be conditionally approved based upon the presented evidence and testimony, noting special conditions exist regarding water depth and the impacts to seagrass, and applying the same conditions to the boat lift as set forth by staff for the residential private dock. The motion was seconded by Mr. Cocks, and upon call for the vote, it was carried unanimously.

MINUTES OF THE MARCH 31, 2021 MEETING

Mr. Burdette moved, seconded by Ms. White and carried unanimously, that the minutes of the March 31, 2021 meeting be approved.

OTHER BUSINESS

Ms. Hardy updated the Board on separate and pending litigation involving Canine Estates and Oasis Acres, and discussion ensued, with input by Director of Building and Development Review Services Blake Lyon.

Thereupon, Attorney Hardy informed the Board of her resignation from the County Attorney's Office, and Chairman Bomstein presented her with a certificate of appreciation for her service.

ADJOURNMENT

The meeting was adjourned at 11:17 AM.