

**Board of Adjustment and Appeals
Pinellas County
July 6, 2022 Meeting Minutes**

The Board of Adjustment and Appeals (BAA) met in regular session at 9:00 AM on this date in the County Commission Assembly Room at the Pinellas County Courthouse, 315 Court Street, Clearwater, Florida.

Present

Cliff Gephart, Chairman
Joe Burdette, Vice-Chairman
Jose Bello
Alan C. Bomstein
Vincent Cocks
Deborah J. White

Not Present

John Doran

Others Present

Glenn Bailey, Zoning Manager
Anne Morris, Assistant County Attorney
Keith Vargus, Code Enforcement Operations Manager
Shirley Westfall, Board Reporter, Deputy Clerk
Other interested individuals

CALL TO ORDER

Chairman Gephart 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. TY2-22-07

APPLICATION OF F M M W, LLC THROUGH SEAN SEIFRIED, REPRESENTATIVE,
FOR A TYPE 2 USE

A public hearing was held on the application of F M M W, LLC through Sean Seifried for a Type 2 Use to allow for a music recording studio in an E-1 zone, for the property located at 3000 44th Avenue North in Lealman. No correspondence relative to the application has been received by the Clerk.

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

Recommend Conditional Approval. The Development Review Committee 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 request is to allow for a music recording studio in a portion of the northwest building on the subject property. The uses on the other portions of the property would remain unchanged. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.

Sean Seifried and Jim Gilmour, St. Petersburg, appeared and indicated that they are the representative and the applicant, respectively.

No one appeared upon the Chairman's call for opponents or proponents; whereupon, Mr. Bomstein made a motion that the Type 2 Use be granted as recommended, based upon the written findings of fact set forth in the staff report. The motion was seconded by Ms. White and carried unanimously.

Case No. TY2-22-08

APPLICATION OF 4360 28TH ST N JOES CREEK LLC THROUGH MARK BENTLEY
AND RYAN MANASSE, REPRESENTATIVES, FOR A TYPE 2 USE

A public hearing was held on the application of 4360 28th St N Joes Creek LLC through Ryan Manasse for a Type 2 Use to allow an 8,500 square foot indoor/outdoor kennel in an E-1 zone, for the property located at 4360 28th Street North in Lealman. No correspondence relative to the application has been received by the Clerk.

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

Recommend Conditional Approval. The Development Review Committee 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 request is to allow for indoor kennel space within the southern portion of the existing building on the subject property with outdoor yards in adjacent areas to the south and west. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.
3. All of the specific use standards pertaining to kennels in Land Development Code Section 138-3249 shall be met.

Ryan Manasse, Tampa, and Taylor Wallace, St. Petersburg, appeared virtually and indicated that they are the representative and the applicant, respectively.

No one appeared upon the Chairman's call for opponents or proponents; whereupon, Mr. Bomstein made a motion that the Type 2 Use be granted as recommended in accordance with the findings of fact as outlined in the staff report. The motion was seconded by Mr. Bello and carried unanimously.

Case No. TY2-22-09

APPLICATION OF A & C INVESTMENTS LLC THROUGH SHAWN HANSON, REPRESENTATIVE, FOR A TYPE 2 USE

A public hearing was held on the application of A & C Investments LLC through Shawn Hanson for a Type 2 Use to allow overflow surface parking as the primary use in a C-1 zone, for the property located at the northeast corner of South Pinellas Avenue (Alternate Highway US-19) and Vermont Avenue in unincorporated Tarpon Springs. No correspondence relative to the application has been received by the Clerk.

Mr. Bailey introduced the case, referencing 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 request is to allow for a parking lot as a primary use on a C-1

zoned property, which requires Type 2 Use approval. The chiropractic practice to the south wishes to use the subject property for overflow parking. The two properties are separated by an unimproved public right-of-way, but they are directly connected by a sidewalk along South Pinellas Avenue. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Full site plan review. Any connection to Alternate US-19 will require review and approval by the Florida Department of Transportation (FDOT). The full site plan may deviate from the concept plan as required by FDOT and site plan review.

Shawn Hanson, Tarpon Spring, appeared and responded to a query by Mr. Bomstein. No one appeared in response to the Chairman's call for opponents.

Mr. Bomstein made a motion that the Type 2 Use be granted as recommended in accordance with the findings of fact as outlined in the staff report. The motion was seconded by Mr. Bello and carried unanimously.

Case No. VAR-22-12

APPLICATION OF HAKIM TWO FAMILY LTD THROUGH RYAN CLARK, REPRESENTATIVE, FOR A VARIANCE

A public hearing was held on the application of Hakim Two Family Ltd through Ryan Clark for a variance to allow multi-family residential units to be located along the ground floor facades of buildings fronting US Highway 19 North where the Pinellas County Land Development Code does not allow units to be located along the ground floor facades of any building fronting an arterial or collector street in a commercial zoning district, for the property located at the intersection of US Highway 19 North and Bee Pond Road in Palm Harbor. 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 variances found in Section 138-231 of the Pinellas County Land Development Code. The Specific Use Standards within Section 138-3215(c)(2) prohibit residential units within a commercial zoning district along the ground floor facades of any building fronting an arterial or collector

street. The reason for this is to promote mixed uses at appropriate locations. The subject property contains multiple parcels that have limited/broken-up frontages with limited direct connections to US Highway 19, which makes including non-residential uses on the ground floor of the development difficult to achieve and market as leasable space due to limited accessibility along the commercial corridor. The subject property's northern parcel is separated from the southern parcels by a 90-foot-wide unimproved County right-of-way (Bee Pond Road), which contains two large sanitary sewer mains and cannot be vacated. In addition, there is a 1.7-acre 'outparcel' under different ownership that bisects the frontage of the subject property's southern parcels. A commercial use with a direct connection to US Highway 19 is currently proposed at this location. Approval should be subject to the following conditions:

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

Joel Tew, Palm Harbor, appeared and indicated that he represents the applicant; that the existing land use and zoning allows for apartments; and that the only decision to be made is whether the first floor should be commercial or residential. He noted that the parcel has limited access to US Highway 19; that it is surrounded by multifamily residential; and that the existence of substantial unused retail in the immediate community warrants residential use on the first floor.

Upon the Chairman's call for opponents, the following individuals appeared and expressed their concerns:

Keith MacMenomy, Tampa
Tony Ringelspaugh, Palm Harbor
William Jensen, Palm Harbor

In rebuttal, Mr. Tew indicated that the request is not for rezoning, and that the only issue before the Board is to determine if the first floor of the project should be commercial or residential. He related that the developer is a luxury builder; and that the project would increase the property value of the surrounding area. In response to a query by Mr. Bomstein, he affirmed that the developer would meet all buffer area requirements.

Board members conveyed to the opponents that this is not a rezoning board meeting and that the property owner has a constitutional right to utilize and build on the property; and that the only decision being sought today is to be released from the requirement of

commercial use on the ground floor. Mr. Bailey related that 270 residential units are allowed with or without mixed use, and informed that notifications of this hearing were sent to surrounding parcels within a 250 feet radius.

Mr. Bomstein made a motion that the variance be granted as recommended in accordance with the findings of fact as outlined in the staff report. The motion was seconded by Ms. White and carried unanimously.

Case No. VAR-22-07

APPLICATION OF THEODORE AND ELIZABETH MEMMOLI FOR A VARIANCE

A public hearing was held on the application of Theodore and Elizabeth Memmoli for the following variances regarding a pool screen enclosure and a garage extension in an R-4 zoned, for the property located at 207 Gulf Drive in Crystal Beach:

1. A variance to allow for the construction of a pool screen enclosure having a 7-foot side street setback from the north property line, where 10 feet is required.
2. A variance to allow for the construction of a garage extension having a 5-foot rear setback from the east property line where 10 feet is required.

One letter in support of 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 the proposed pool screen enclosure and garage extension, 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 is a corner lot with 3 frontages, developed with a single-family home. The proposed area for the pool screen enclosure is adjacent to an unimproved alley which is screened by existing vegetation. The proposed garage extension is located along the east side of the property along its only non-frontage side. There is an existing opaque fence along at least a portion of this area. It is staff's opinion that the screen enclosure would not be obtrusive as it would be adjacent to an alley and that the garage extension is reasonable as the property's three-frontages

involve increased minimum setback requirements that are not applied on most properties. Approval should be subject to the following condition:

1. The applicant shall obtain all required permits and pay all applicable fees.

Theodore Memmoli, Crystal Beach, appeared and responded to queries by the members.

Upon the Chairman's call for opponents, Attorney Morris related that two letters in opposition to the application were received by the Planning Department, and have been added to the meeting packet.

Following discussion, Mr. Bomstein made a motion, seconded by Mr. Cocks 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-22-09

APPLICATION OF SCOTT A. AND SHERRIELYNN BEBELL FOR A VARIANCE

A public hearing was held on the application of Scott and Sherrielynn Bebell for a variance to allow for the construction of an inground pool and pool cage having a 5-foot setback from the rear property line along the 86th Avenue North right-of-way where 20 feet is required in an R-3 zone, for the property located at 13449 Periwinkle Avenue in unincorporated Seminole. One petition with four signatures in support of the application has been received by the Clerk.

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

Recommend Conditional Approval of the Pool and Denial of the Screen Enclosure. Staff has no objection to the conditional approval of the proposed in-ground pool as it appears to meet the criteria for the granting of variances found in Section 138-231 of the Pinellas County Land Development Code, however there is objection to the proposed installation of the pool screen enclosure as it does not appear to meet those same variance criteria.

The subject property is a middle lot parcel, developed with a single-family home, within an established neighborhood with a small backyard, which backs up to 86th Avenue North. The proposed area for the pool is in the backyard and is the only logical place for its installation. The fence along the property lines adjacent to the pool will serve as an effective screen for

the pool itself, but not for the pool screen enclosure, which would be considerably higher. It is staff's opinion that the screen enclosure would be obtrusive, as it would be close to 86th Avenue North right-of-way and out of place along a street where no other such intrusions exist along the corridor. Requests for pool variances within the rear setbacks typically do not include companion pool screen enclosures for this reason. Approval should be subject to the following conditions:

1. Applicant must obtain all required permits and pay all applicable fees.
2. Approval is for the in-ground pool installation only. No pool screen enclosure is permitted.

Sherrielynn Bebell, Seminole, appeared and provided information on the project. Responding to queries by the members, she indicated that there are pool and pool cages located throughout the neighborhood.

Following discussion, Mr. Bomstein made a motion to approve the variance for the pool and deny the request for the screen enclosure as recommended in accordance with the findings of fact as outlined in the staff report. The motion was seconded by Ms. White and carried unanimously.

Case No. VAR-22-08

APPLICATION OF PATRICK WINKELMAN FOR A VARIANCE

A public hearing was held on the application of Patrick Winkelman for a variance to allow for the construction of an attached garage having a 10-foot front setback from the Hattie Street right-of-way where 20 feet is required and a 4-foot side setback from the north property where 6 feet is required, for the R-4 zoned property located at 375 Hattie Street in Ozona. Four letters in support of the application have been received by the Clerk.

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

Recommend Denial. The Development Review Committee 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. The house has an existing garage on the south side under the upper story living space. A primary reason for the 20-foot required front setback in single family residential areas is to allow for

the parking of vehicles in driveways without them encroaching into the public right-of-way and over the sidewalk. The proposed garage extension would also be an outlier as the other homes along Hattie Street appear to meet required front setbacks.

Patrick Winkelman, Palm Harbor, appeared and expressed his desire to construct an additional two-car garage for his collectable cars; whereupon, he responded to queries by the members regarding easements, setbacks, possible alternatives, and the lack of special conditions or unnecessary hardships.

No one appeared in response to the Chairman's call for opponents to the application.

Attorney Moore related that a hardship needs to be identified; whereupon, Mr. Bello made a motion that the variance be denied as recommended in the staff report. Following discussion, the motion was seconded by Mr. Bomstein and carried unanimously.

Case No. VAR-22-10

APPLICATION OF DANIEL D. AND SONDR A K. SHEEHAN FOR A VARIANCE

A public hearing was held on the application of Daniel and Sondra Sheehan for a variance to allow for the construction of a screened patio having a 6.5-foot side street setback from the south property line along the Pennsylvania Avenue right-of-way where 10 feet is required in an R-3 zone, for the property located at 1402 14th Street in Palm Harbor. Two letters in support of the application has been received by the Clerk.

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

Recommend Denial. The Development Committee 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. The primary reason for the 10-foot required (double-frontage) side street setback for structures is to maintain the character of the single-family residential area, and to preserve the "curb appeal" and aesthetics of the residential corridor. The proposed screened-in patio extension would be considered obtrusive, as the other homes along Pennsylvania Avenue appear to meet all required front and side street setbacks. In addition, there appears to be ample space for a screened patio to the rear of the home on the subject property.

Sondra Sheehan, Palm Harbor, appeared and provided information on the project; whereupon, she responded to queries by the members regarding setbacks, possible alternatives, and the current fence location. During discussion, she maintained that replacing the deteriorating overhang and gazebo with a screened patio would make the parcel more visually appealing.

No one appeared in response to the Chairman's call for opponents.

Attorney Moore related that a hardship needs to be identified; whereupon, Mr. Bomstein made a motion to approve the construction of the enclosed screened patio with a 9-foot minimum setback from the south property line given the nature of the lot, current fencing, and the side setback, noting a de minimis variance, which he finds acceptable under the 'do no harm' clause. The motion was seconded by Mr. Bello and carried unanimously.

MINUTES OF THE JUNE 1, 2022 MEETING

Mr. Burdette made a motion that the minutes of June 1 be approved, which was seconded by Ms. White and carried unanimously.

OTHER BUSINESS

Attorney Morris introduced Assistant County Attorney Maria White, and indicated she will be attending Board meetings in her temporary absence.

Mr. Bailey introduced and welcomed new Principal Planner Molly Cord, and expressed his appreciation to Principal Planner Ryan Brinson for his continued support.

ADJOURNMENT

The meeting was adjourned at 10:23 AM.