

**Board of Adjustment and Appeals
Pinellas County
August 31, 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
John Doran (appeared virtually)

Not Present

Deborah J. White

Others Present

Glenn Bailey, Zoning Manager
Brendan Mackesey, Senior 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. At the recommendation of Attorney Mackesey, Mr. Bomstein made a motion, which was seconded by Mr. Burdette and carried unanimously, that Mr. Doran be allowed to appear virtually and participate in voting.

PUBLIC HEARING ITEMS

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

Case No. VAR-22-14

APPLICATION OF BRIEN AND PAIGE BOURBEAU FOR A VARIANCE

A public hearing was held on the application of Brien and Paige Bourbeau for a variance to allow for the construction of an in-ground pool having a 3-foot setback from the water's edge to the rear property line where 20 feet is required from the adjacent New York Avenue right-of-way, for the property located at 749 Prior Place in Palm Harbor. Four letters in support of the application have been received by the Clerk.

Mr. Bailey introduced the case, indicating that it was continued from the August 3, 2022 BAA meeting to allow time to further address questions involving the stormwater utility easement adjacent to the proposed in-ground pool. The following recommendation was provided by staff:

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 variances found in Section 138-231 of the Pinellas County Land Development Code. The subject property is a double frontage lot on both Prior Place (front) and New York Avenue (rear). The owner is proposing to construct an in-ground pool closer to the north property line along New York Avenue than normally allowed per Section 138-3505 of the Code. Due to the placement of the home, the subject property has a relatively small backyard. Importantly, however, there is an existing 3-foot-wide stormwater easement along the north property line accommodating a 36-inch pipe that must be avoided. For this reason, staff cannot fully support the requested 3-foot setback to the pool's water's edge (which is how the Code determines pool setbacks) because this would place part of the pool wall structure within the easement. Staff is supportive, however, of a 5-foot rear setback for any permanent structures, which would still provide setback relief while maintaining more separation from the easement. Per the applicant, no pool enclosure is proposed. Approval should be subject to the following conditions:

1. The pool's water's edge shall maintain a minimum 5-foot setback from the north property line in adherence to the existing stormwater infrastructure along New York Avenue. This setback is to mitigate any negative impacts to the stormwater infrastructure and further provide easement access for maintenance/repair purposes.

2. The applicant shall obtain all required permits and pay all applicable fees.
3. All other setback requirements shall be met.
4. No pool enclosure is allowed.
5. The pool pump equipment shall be located interior on the lot.
6. A fence must be installed to screen the pool as required in Section R4101.17 Residential Swimming Barrier Requirement of the Florida Building Code.

Brien Bourbeau, Palm Harbor, appeared and indicated that he is requesting a 3-foot setback; and that he has a previous letter from County staff indicating approval.

At the request of Mr. Bomstein, Public Works Transportation Division Manager Brent Hall appeared and related that a permit would not be issued for the 3-foot setback as that would locate the pool within the easement; that normal rear setbacks are ten feet and staff negotiated five feet; that future maintenance/repair to the stormwater infrastructure could be detrimental; and that hardship does not exist as this request is not a standard pool.

Mr. Bourbeau requested clarification as documents vary stating 5-foot from the water's edge and 5-foot from the permanent structure. Following discussion, Mr. Bello made a motion that the variance be conditionally approved as per the staff recommendation in accordance with the findings of fact as outlined in the staff report. The motion was seconded by Mr. Bomstein and carried unanimously.

COUNTY ATTORNEY UPDATE

Attorney Mackesey related that a May 2021 BAA decision approving an extended dock and relocation of a boatlift for a resident in unincorporated Largo has been overturned by the Circuit Court based on the grounds of no undue hardship or substantial, competent evidence; and that the deadline to file an appeal against the Court's ruling is tomorrow.

Following discussion, Mr. Bomstein made a motion that the Board take no action relevant to filing an appeal in the case. The motion was seconded by Mr. Bello and carried unanimously. At the request of Mr. Burdette, Attorney Mackesey related that staff will report back to the Board with any updates and recommended that informational meetings be held prior to future dock hearings.

ADJOURNMENT

The meeting was adjourned at 9:31 AM.

Immediately following the meeting, Mr. Bailey informed the members that Tammy Swinton has retired after 35 years of service, and introduced her replacement, Karen McLaughlin.