

**Board of Adjustment and Appeals
Pinellas County
July 5, 2023 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

Joe Burdette, Chairman
Jose Bello, Vice-Chairman
Alan C. Bomstein
Vincent Cocks
John Doran (appeared virtually)
Cliff Gephart
Deborah J. White

Others Present

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

CALL TO ORDER

Chairman Burdette called the meeting to order at 9:00 AM and provided an overview of the hearing process. Mr. Bomstein made a motion, which was seconded by Mr. Cocks and carried unanimously, that Mr. Doran be allowed to participate virtually.

Attorney McAteer noted that the following hearings are quasi-judicial; and that only competent substantial fact-based testimony or evidence may be considered in the decisions by the Board; whereupon, he provided information regarding the types of evidence that are considered as such.

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.

Deviating from the agenda, Chairman Burdette recommended that Case No. VAR-23-16 be heard at this time.

Case No. VAR-23-16

APPLICATION OF SOLID ROCK COMMUNITY SCHOOL INC. THROUGH MATTHEW KELLY AND KATIE COLE, REPRESENTATIVES, FOR A MODIFICATION TO A CONDITION OF A PREVIOUSLY APPROVED VARIANCE

A public hearing was held on the application of Solid Rock Community School Inc. through Matthew Kelly and Katie Cole for a modification to a condition of a previously approved sign variance (Case No. VAR-22-18) for the R-A zoned property located at 2801 Keystone Road in East Lake Tarpon. Specifically, the request is to remove the condition that no electronic messaging shall be allowed. No correspondence relative to the application has been received by the Clerk.

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

Recommend Denial. The Development Review Committee (DRC) cannot support this request as it does not meet the criteria for the granting of variances found in Section 138-231 of the Pinellas County Land Development Code (LDC). The Board conditionally granted sign area and height variances for the subject property on November 2, 2022, that allow for the construction of up to a 14-foot-tall, 66-square-foot freestanding sign where a 12-foot height and 48 square feet of area are the maximum normally allowed by Code for an approved public/semipublic use (private school) in an R-A zone. What the Board approved was short of the requested 25-foot height and 148.6 square feet of sign area originally proposed by the applicant. One of the conditions of approval placed by the Board is that no electronic messaging shall be allowed. The placement of this condition originated from a dialogue between the members of the Board regarding the potential illumination impacts on nearby residential properties and further deemed the electronic messaging sign not appropriate to the area. The subject property is located along Keystone Road, a designated Scenic/Non-commercial Corridor (SNCC) as recognized by the Pinellas County Comprehensive Plan. This segment of the roadway is further subclassified as Rural/Open Space at this location. Development along these scenic corridors is strongly encouraged to be consistent with the appropriate development pattern and compatible in scale with the intent of the corridor classification.

The applicant is requesting the removal of the electronic messaging condition associated with the previously approved variance. No changes to the other conditions of approval are proposed. It should be noted that the DRC recommended denial of the original variance request, thus this was not a condition that originated from the staff recommendation, but from the Board itself.

Attorney McAteer pointed out that the application does not meet the provisions for modification or revocation of a previously granted variance under Section 138-233 of the Land Development Code, but it was allowed to be brought forth today as applied for under Table 138-231.a(h) of the Code in the interest of due process.

Matthew Kelly, Clearwater, appeared, discussed the surrounding land uses, and pointed out the location of the proposed sign, noting that it would be buffered from the nearby residential properties with trees and fencing; that two public/semi-public properties within the corridor utilize digital signs; that local residents would benefit from the critical information displayed on the sign; that prohibition of electronic messaging is unique to the approved variance as it is not found in the Code; that all other schools in Pinellas County have the right to construct a digital sign; and that the hardship is based on the visibility impacts of the powerlines, as well as the setbacks required due to a fence and a public easement.

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

Responding to queries by the members, Mr. Kelly, with input from Christopher Wicks, Global Sign and Awning, Tarpon Springs, indicated that the sign would be smaller than the previously approved sign; and that installing a sign under the powerlines would be dangerous and may present other possible complications in the future.

Discussion ensued regarding the lack of hardship, staff's recommendation for denial, potential for additional residential development in the area, and the Board's previous rationale for placing the condition on the application; whereupon, Mr. Cocks made a motion, which was seconded by Ms. White, that the modification to a condition of the previously-approved variance be denied as recommended in the staff report. Upon call for the vote, the motion carried 6 to1, with Chairman Burdette dissenting.

Case No. VAR-23-15

APPLICATION OF CHARLES AND SUSAN BARNETT FOR A VARIANCE

A public hearing was held on the application of Charles and Susan Barnett for a variance to allow for the reconstruction of a pool enclosure having a 2.6-foot rear setback where 5

feet is required, for the property located at 4787 Lakeshore Loop in East Lake Tarpon. Three letters in support of the application have 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 home, pool, and screen enclosure were originally built by a previous property owner in 1989; however, the permit for the screen enclosure was never finalized and it was improperly placed within the minimum required setback. Recently, the original screen enclosure was destroyed in a storm and the applicants wish to replace it in the same location. Therefore, no new impacts are anticipated. In addition, there is a lake and natural area behind the home, so no rear neighbors are impacted. Approval should be subject to the following condition:

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

Charles and Susan Barnett, Oldsmar, appeared and indicated that they are the applicants.

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

Mr. Bomstein noted that there is no opposition to the application, no impact to the neighbors, and the pool enclosure was pre-existing; therefore, he moved to approve the variance as recommended in accordance with the findings of fact set forth in the staff report. The motion was seconded by Mr. Bello and carried unanimously.

Case No. TY2-23-03

APPLICATION OF ALYCIA FOLEY FOR A TYPE 2 USE

A public hearing was held on the application of Alycia Foley for a Type 2 Use to allow a daycare in an R-R zone, for the property located at 9110 102nd Avenue in unincorporated Seminole. 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. 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 the existing daycare that has been in place since the early 1980s to expand. The proposal appears to have adequate parking and onsite circulation, and traffic problems are not anticipated. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. A Development Review Committee site plan.

Alycia Foley, Largo, appeared and indicated that she is the applicant.

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. Cocks and carried unanimously.

Case No. TY2-22-12

APPLICATION OF RIDGEMOOR MASTER ASSN INC. THROUGH ALAN RUIZ, REPRESENTATIVE, FOR A TYPE 2 USE

A public hearing was held on the application of Ridgemoor Master Assn Inc. through Alan Ruiz for a Type 2 Use to allow the construction of a 150-foot-tall monopole communication tower and related support facilities, for the RPD-W zoned property located on the west side of Ridgemoor Drive approximately 300 feet north of Ridgemoor Boulevard in East Lake Tarpon. Three letters in support of the application have been received by the Clerk.

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

Recommend Conditional Approval: The Development Review Committee 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 (LDC). Per the County's LDC, a 150-foot telecommunications tower requires a Type 2 Use approval from the BAA due to its height. The Ridgemoor Master Association is the applicant for the case and the intent is to address a need for better cellular reception in the area. The applicant received approval from the Board of County Commissioners for a Future Land Use Map amendment to change a 0.116-acre portion of the parent Ridgemoor tract from Recreation/Open Space (R/OS) to Transportation/Utility (T/U), as the R/OS category does not allow commercial towers. The boundaries of the

amendment area included the tower, tower enclosure, and utility access easement. The overall parcel is developed for recreational uses, including tennis courts, a basketball court, playground equipment, and associated parking. The existing basketball court, tennis court, and parking lot will remain and continue as usual operations. The tower compound is 1,600 square feet and is proposed to be sited on the southwest side of the parent parcel. Additionally, towers are required to be set back from any nearby residential properties at a distance equal to the height of the tower. That requirement is met in this case. Approval should be subject to the following conditions:

1. The applicant shall pay all applicable fees and obtain all required permits, including any required site plan review as part of the building permit.

Mary Solik, Orlando, appeared and indicated that she represents Vertex Development LLC; that this is a neighborhood-initiated project to provide much-needed cellular service; and that a letter of support has been received from the Ridgemoor Community Association; whereupon, responding to queries by Ms. White, she related that the conservation tract provides natural screening and buffering from the residential community; and that the closest structure is 241 feet away.

No one appeared upon the Chairman's call for opponents; 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 Ms. White and carried unanimously.

Case No. NCU-23-01

APPLICATION OF EMBASSY MOBILE PARK INC. THROUGH RYAN MANASSE, REPRESENTATIVE, FOR A NON-CONFORMING USE MODIFICATION

A public hearing was held on the application of Embassy Mobile Park Inc. through Ryan Manasse for a Non-Conforming Use Modification to permit 25 additional travel trailer/RV sites in a Residential Mobile/Manufactured Home (RMH) zone, for the property located at 16416 US Highway 19 North in unincorporated Largo. 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. During the May 31, 2023 BAA public hearing, the Board continued this case to the July 5, 2023 public hearing at

the applicant's request. No changes to the request have occurred since that time.

Staff has no objection to the conditional approval of this request as it appears to meet the criteria for granting non-conforming use modifications found in Section 138-203(e)(4) of the Pinellas County Land Development Code (LDC). The subject property is the Embassy Mobile Home Park located at 16416 US Highway 19 in unincorporated Largo, specifically the east area of the park that fronts US-19. This section of the mobile home park was originally developed in 1960s with a mixture of traditional permanent mobile home sites and travel trailer sites. The current Pinellas County LDC does not allow travel trailers or RVs in the RMH zoning district that is applied to the subject property. In 2008, the County verified that 16 travel trailer/RV sites legally existed at the time and those 16 sites were granted non-conforming status. The property owner wishes to modify the non-conforming use by increasing the number of travel trailer/RV sites by 25 for a total of 41 approved sites. All the proposed sites are located within the section of the park that currently house the 16 approved sites.

Approval of the Non-Conforming Use Modification should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The 25 additional travel trailer/RV sites must meet the dimensional requirements of Section 138-3233(c)(2) of the Pinellas County LDC.

Mr. Bailey indicated that this unique and rare application meets the required criteria for granting a Non-Conforming Use Modification; that the new development associated with the proposal will not materially change the character or quality of the neighborhood; that it will be compatible with the land use and zoning designations of the surrounding properties; that it will comply with current dimensional requirements and the level of service standards set forth in the Pinellas County Comprehensive Plan; and that a non-conforming use shall not be expanded beyond the boundaries of the parcel of land it occupied when it became non-conforming.

Ryan Manasse, Tampa, appeared virtually and reiterated that the application meets all the criteria for granting a Non-Conforming Use Modification; that in his experience, mobile home parks typically have an RV component; and that Pinellas County does allow this modification per the Code. Responding to a query by Ms. White, Mr. Manasse confirmed

that there is an existing entrance and exit to the park off US Highway 19 that can be used by RVs.

Mr. Bomstein expressed concern with adding 25 RV sites when only 16 were 'grandfathered', emphasizing that the Code does not allow travel trailers in mobile home parks; and that the intent of a non-conforming use modification should not involve a drastic change such as the proposed. In response, Mr. Bailey stated that the Code allows flexibility in terms of modifying non-conforming uses if certain criteria is met; whereupon, Attorney McAteer related that this is a very unique section in the Code; and that it does allow for expansion of an existing non-conforming use.

Mr. Bailey mentioned that the County Commission is considering potentially allowing RVs in mobile home parks, and the Chairman noted that there are no objectors. Following a brief discussion, Mr. Cocks made a motion that the Non-Conforming Use Modification 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 5 to 2, with Messrs. Bomstein and Gephart dissenting.

Case No. VAR-23-09

APPLICATION OF JEFFERY STONE, SR. FOR A VARIANCE

A public hearing was held on the application of Jeffery Stone, Sr., for a variance to allow for the after-the-fact construction of an outdoor kitchen with a yet-to-be-constructed roof having a 9.1-foot side street setback from the south property line along the Bryan Lane right-of-way where 20 feet is required in an R-A zone, for the property located at 2595 Bryan Lane in East Lake Tarpon. Two letters in support of the application have 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 subject property is 2.11 acres in size and is developed with a large single-family detached residential home, pool, and a detached garage. The natural gas lines were properly permitted by the previous property owner; however, the outdoor kitchen was not included in the scope of the work tied to the permit; therefore, setbacks to the outdoor kitchen were never addressed. Now the applicant is attempting to resolve the code-related issues on site. The applicant would like to construct a roof over the outdoor kitchen, which is included within this variance request.

The proposed setback encroachment is along the south property line, which is a side street setback along Bryan Lane. There is an existing 6-foot-tall fence along the south property line that provides screening and there are many trees within the approximately 35-foot-wide green space area between the property line and the Bryan Lane pavement. Further, the applicant is proposing to install additional landscaping to further shield the roofed outdoor kitchen from view.

Approval should be subject to the following conditions:

1. The applicant shall pay all applicable fees and obtain all required permits, including any required site plan review as part of the building permit.
2. The applicant shall maintain the existing 6-foot-tall fencing along the southern property line and install the proposed landscaping identified on the submitted concept plan.

Richard Wasilewski, Clearwater, appeared virtually, indicated that he is the engineer for the applicant, and provided information regarding the project.

Responding to queries by the members, Mr. Bailey confirmed that the previous owner initiated the project without proper permits; whereupon, Mr. Bomstein made a motion that on the basis of “practical difficulty”, the variance be granted as recommended in accordance with the findings of fact as outlined in the staff report. The motion was seconded by Mr. Cocks and carried unanimously.

MINUTES OF THE MAY 31, 2023 MEETING

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

ADJOURNMENT

The meeting was adjourned at 9:55 AM.