

**Board of Adjustment and Appeals
Pinellas County
August 2, 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
Vincent Cocks
John Doran
Cliff Gephart

Not Present

Alan C. Bomstein
Jose Bello, Vice-Chairman
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; whereupon, he indicated that with four members present, a three-member majority is needed to prevail in a case.

QUASI-JUDICIAL STATEMENT

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.

Case No. TY2-23-09

APPLICATION OF RAINMAKER INNOVATIONS, LLC THROUGH ROBERT LEWIS, REPRESENTATIVE, FOR A TYPE 2 USE

A public hearing was held on the above application to allow for a medical office in an E-1 zone, for the property located at 8240 118th Avenue North in unincorporated Pinellas Park. 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 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 medical office in the northern portion of an existing industrial warehouse complex that shares access, parking, and stormwater retention. The tenant space is interconnected with three existing one-story buildings with condominium-like office suites. The applicant intends to utilize the suite space as an orthopedic medical office for a solo practicing physician. The physician would conduct patient interviews and physical examinations for diagnosis. If a surgical approach is necessary, the physician would then schedule the patient for surgery at an off-site location. No exterior improvements to the building are proposed. Additionally, the uses on the other portions of the property would remain unchanged. Approval shall be subject to the following conditions:

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

Katie Cole, Clearwater, appeared and indicated that she represents the applicant. Referring to photographs and maps, she pointed out the location of the subject property and surrounding land uses and provided background information regarding the request, noting that the proposed use would have minimal traffic impacts; and that the application meets all required criteria.

Upon the Chairman's call for opponents, Mark Perhot, Largo, appeared and expressed his concerns regarding traffic.

In rebuttal, Ms. Cole related that an office is a permitted use in the E-1 zoning district; and that a Type 2 Use is only required because it is a medical office; that Dr. Lewis articulated in the application that he expects to consult with 24 patients per day, creating minimal traffic impacts; and that staff's review of traffic impact indicated the same.

Mr. Doran made a motion that the Type 2 Use be granted based on the presented evidence and as recommended in accordance with the findings of fact as outlined in the staff report, noting that all six criteria will be met. The motion was seconded by Mr. Cocks and carried unanimously.

Case No. TY2-23-10

APPLICATION OF SPRING VALLEY SCHOOL, INC. THROUGH ANNE POLLACK, REPRESENTATIVE, FOR A MODIFICATION OF A PREVIOUSLY APPROVED TYPE 2 USE

A public hearing was held on the above application for a modification of a previously approved Type 2 Use to allow a 2,948-square-foot classroom addition for a private school in an R-R zone and to increase the maximum number of students from 65 to 80, for the property located at 2109 Nebraska Avenue in Palm Harbor. 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 modification of the previous Type 2 Use approval (case # BA-13-03-04) granted by the Board in 2004 subject to the recommended conditions as the request appears to meet the criteria for granting Type 2 Uses found in Section 138-241 of the Pinellas County Land Development Code. The Spring Valley School has proposed renovations to its existing private school to remove the existing portable building and build a new 2,948 sq. ft. detached addition for a future classroom. As part of the renovations associated with the private school, Spring Valley School intends to increase the maximum number of students from 65 to 80. A Type 2 Use approval is required for a major modification to an existing private school on a residentially zoned property.

It is staff's opinion that the modification of a Type 2 Use approval with the recommended conditions will further accommodate the private school's

needs for pragmatic space and necessary improvements. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. A DRC site plan.
3. Number of students shall not exceed 80 unless authorized by the Board of Adjustment and Appeals.
4. Drop-off and pick-up of students must remain dispersed per the submitted parking waiver justification.

Anne Pollack, St. Petersburg, appeared and indicated that she represents the applicant.

No one appeared upon the Chairman's call for opponents; whereupon, Mr. Doran made a motion to approve the Type 2 Use modification as recommended in accordance with the findings of fact and evidence as outlined in the staff report, noting that all six criteria have been met. The motion was seconded by Mr. Gephart and carried unanimously.

Case No. VAR-23-11

APPLICATION OF CHERYL BOYETTE THROUGH PAUL PURCELL,
REPRESENTATIVE, FOR A VARIANCE

A public hearing was held on the above application for the following two variances for the R-3 zoned property located at 1344 Marion Drive South in unincorporated Gulfport:

1. A variance to allow for the construction of an in-ground pool having a 6-foot-3-inch side street setback from water's edge along the Dixie Lane right-of-way where 10 feet is required and a 7-foot-2-inch rear setback where 8 feet is required.
2. A variance to allow the construction of an aluminum patio cover having a 7-foot-10-inch setback from the rear property line where 10 feet is required.

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 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 a corner lot where Marion Drive is considered the legal front and Dixie Lane is a side street. The owner is proposing to construct an in-ground pool with the addition of an aluminum patio cover over an existing concrete slab. The proposed area for the in-ground pool and patio cover would be along the secondary front yard and is the only logical place for its installation.

It should be noted that the previous owner of this property received a variance (BAA-20-22) to allow the construction of an in-ground pool having a 6.6-foot side street setback from the northwest property line along the Dixie Lane right-of-way and a 7.26-foot rear setback from the northeast property line. The approval has since expired. Approval should be subject to the following conditions:

1. Applicant must obtain all required permits and pay all applicable fees.

Paul Purcell, PCS Pools, Largo, appeared and indicated that he represents the applicant.

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

Attorney McAteer suggested that, since the case involves a conditional approval, the applicant's agreement with the staff-recommended condition be put on the record; whereupon, in response to a query by Mr. Doran, the applicant's representative confirmed that he agrees to the above-referenced condition.

Mr. Doran made a motion that the two variances be granted as recommended in accordance with the findings of fact and evidence as outlined in the staff report. He related that the special conditions pertain to the property's corner lot location and a small backyard; and that the unnecessary hardship pertains to the aforementioned size and location and the fact that two public rights-of-way are located on the subject property, making it impossible to meet required setbacks. The motion was seconded by Mr. Cocks and carried unanimously.

Case No. VAR-23-17

APPLICATION OF ROBERT MURRAY FOR A VARIANCE

A public hearing was held on the above application for a variance to allow for the construction of a detached carport having a 10-foot front setback where 20 feet is required in an R-3 zone, for the property located at 5566 104th Way North 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 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 (LDC). In short, there are no special conditions or unnecessary hardships, the request is not the minimum variance necessary, and it is inconsistent with the LDC. The applicant is proposing to install a detached carport over a portion of the existing driveway that would be as close as 10 feet from the front property line along the 104th Way North right-of-way. The carport would be used to accommodate a 21-foot Class B, Van Chassis RV. The proposed carport could be viewed as obtrusive and would be an outlier, as there appears to be no other similar front setback encroachments on other properties fronting 104th Way North. While the placement of the home does not allow enough room to access the rear of the property for parking the van, there are other available options such as an offsite RV storage facility.

Robert Murray, Seminole, appeared and, referring to photographs, provided information on the request, noting that he is surprised to learn of the denial recommendation, as his discussion with the Development Review Committee focused on the carport design; that the structure would be installed professionally, meeting code requirements; and that he hopes that his veteran status would be considered. He noted the challenges of parking the RV in the back or side yard and the exorbitant cost for off-site storage and emphasized that his driveway is substantially longer than any other on his block; that he lives on a dead-end street where the carport would be out of sight; and that none of his neighbors object to his request; whereupon, he responded to queries by the members.

Following discussion regarding the substantial difference between the required vs. requested front setback length, no neighbors appearing herein to support the request, erecting a structure inconsistent with the neighborhood, not meeting variance criteria, and related matters, Mr. Cocks made a motion to deny the request as recommended based on the findings of fact as outlined in the staff report. The motion was seconded by Mr. Doran and carried unanimously.

Case No. VAR-23-18

APPLICATION OF EAST LAKE R2G OWNER LLC C/O RPT REALTY LP, THROUGH MARK BRENCHLEY, REPRESENTATIVE, FOR A VARIANCE.

A public hearing was held on the above application for a variance to allow a total of 252.59 square feet of wall signage where 150 square feet of wall signage is the maximum

allowed, for the property located at 3400 East Lake Road in Palm Harbor. 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 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. In short, there are no special conditions or unnecessary hardships, and the request is not the minimum code deviation necessary to make possible the reasonable use of the land, building, or structure. The subject property is located at the northeast corner of East Lake Road and Tampa Road in the Boot Ranch/East Lake Woodlands area of Palm Harbor. It contains a shopping plaza that includes a Walmart Neighborhood Market. Records indicate that the plaza was built in the early 1980s. The Walmart located in its current space around 2015. The request is to allow a total of 252.59 square feet of wall signage for the Walmart store. This amounts to approximately 168 percent of the 150 maximum square feet normally allowed. The requested square footage is a combination of four separate signs, with the largest of those (Walmart + logo + Palm Harbor Market) being just under the normal 150 square-foot maximum. The three other wall signs are Pharmacy, Pickup, and Wine & Spirits. There is currently 126.12 square feet of existing wall signage.

Staff is of the opinion that the subject property is a well-known supermarket location where additional identification signage is not warranted. The applicant describes the need for additional signage based on obstructed views from the roadways due to existing vegetation and outparcel buildings. With such obstacles in the path of visibility, the benefits of larger wall signage are questionable. There are also two existing freestanding signs in front of the building that serve business identification purposes, one along Tampa Road and one along East Lake Road. It should also be noted that the property's C-2 zoning district has the largest sign size allowance within the Code when located along arterial roadways.

Mark Brenchley, Clermont, appeared and indicated that Walmart is enhancing and upgrading its older stores in central Florida; that in Pinellas County, big-box stores are at a disadvantage, as the ordinance only allows a 150 square-foot sign no matter how large the building is; and that this particular Walmart has three separate products and services available, including wine and liquor, pharmacy, and market, indicating that if this was a retail strip center, 300 square feet of signage would be allowed.

Mr. Brenchley suggested that alternatives should be considered based on setbacks, noting that other Florida jurisdictions allow an increase in sign size based on the setback from the road, allowing for better visibility to tourists. He related that the subject property has three road frontages; and that the staff report makes no mention of the request to transfer signage rights from one facade to another.

Mr. Bailey indicated that Woodlands Drive is a private road and would not be considered public frontage; that 150 square feet is allowed on each front; and that it is up to the Board to approve the request to transfer the square footage, reiterating that staff does not support the request.

Responding to a query by Mr. Doran, Mr. Bailey related that a major overhaul of the Code was completed in 2018; that very small changes addressed signage; and that no direction has been received from the Board of County Commissioners to do so.

Following discussion, Mr. Cocks made a motion to deny the request as recommended based on the findings of fact as outlined in the staff report. The motion was seconded by Mr. Doran and carried unanimously.

OTHER BUSINESS

Discussion ensued regarding the possibility of changing the online attendance and participation policy. Chairman Burdette requested that Attorney McAteer look into it and provide information at the next meeting.

Mr. Bailey related that the BAA and the Local Planning Agency meetings will now be televised, noting that new technology has made it affordable to do so.

Chairman Burdette informed the members that a new Board alternate member has been appointed.

MINUTES OF THE JULY 5, 2023 MEETING

Mr. Doran made a motion, which was seconded by Mr. Cocks and carried unanimously, that the minutes be approved.

ADJOURNMENT

The meeting was adjourned at 9:57 AM.