

**Board of Adjustment and Appeals
Pinellas County
March 6, 2024 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

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

Not Present

Jose Bello, Chairman

Others Present

Michael Schoderbock, Division Manager, Zoning and Project Management
Derrill McAteer, Senior Assistant County Attorney
Keith Vargus, Code Enforcement Operations Manager
Shirley Westfall, Board Reporter, Deputy Clerk
Other interested individuals

CALL TO ORDER

Acting Chair White called the meeting to order at 9:00 AM and provided an overview of the hearing process.

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.

Thereupon, Attorney McAteer reminded the Board that a vote was taken at the conclusion of last month's BAA meeting to allow virtual attendance for today's public hearing items.

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. VAR-24-02

APPLICATION OF HILLARY SIMPSON AND MATT SIMPSON FOR A VARIANCE

A public hearing was held on the above application to allow for the construction of an approximately 315 square-foot detached pool house, having a 6-foot side setback from the western property line where 15 feet is required, for the property located at 12983 Hibiscus Avenue in unincorporated Seminole. One letter in support of the application has been received by the Clerk.

Mr. Schoderbock 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 (LDC). The subject site is a 0.97-acre lot improved with a one-story detached single-family residence and in-ground pool in unincorporated Seminole. The site shares a split-zoning designation of Residential Estate (R-E) and Single-Family Residential (R-1). The existing single-family home is sited on the R-E designated portion of the lot. The owner is proposing to construct a 315-square-foot detached pool house closer to the western property line than what is normally allowed per the R-E development parameters in Section 138-366.1 of the LDC, whereas the R-1 zoning district only requires a side yard setback of 6 feet. The detached pool house is proposed along the western portion of the side property line to avoid natural vegetation and aid in soundproofing from noise that occurs from the neighboring property to the west. The neighbor directly west of the subject property has recreational outdoor improvements (tennis court, basketball court, and other outdoor amenities) along their rear property line. Building setbacks are not required for outdoor tennis courts or other sports courts. Therefore, the proposed addition would provide a physical buffer to aid in the reduction of both impact sounds and airborne sounds.

It is staff's opinion that the proposed addition will increase privacy and noise abatement along the western property line and should not have any external impacts on the adjacent residential properties. Separately, the applicant

has provided conceptual architectural elevations of the proposed detached structure which complement the front elevation of the existing single-family home. The proposed design of the detached pool house appears to meet the intent of the residential accessory structures and uses section concerning architectural compatibility within the LDC. Approval should be subject to the following condition:

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

Hillary Simpson, Seminole, appeared and indicated that she is the applicant.

No one appeared upon the acting Chairman's call for opponents; whereupon, Mr. Bomstein made a motion, which was seconded by Mr. Doran and carried unanimously, to approve the variance as recommended in accordance with the findings of fact as outlined in the staff report.

Case No. VAR-23-22

APPLICATION OF COUTURE REVOCABLE TRUST THROUGH CRAIG TARASZKI, REPRESENTATIVE, FOR A VARIANCE

A public hearing was held on the above application for a variance to allow for the construction of a new observation pier within an easement that the applicant holds over a neighboring property owned by Ryan's Woods Townhomes Homeowners Association, Inc., in Palm Harbor. The applicant's property features a single-family home and large yard. The site property is undeveloped at the northern end and supports multi-family townhomes to the south. Twelve letters in opposition to the application have been received by the Clerk.

Referring to a PowerPoint presentation containing photographs and maps, Environmental Program Manager Julee Sims provided information regarding the location of the subject property, surrounding parcels, easements, and the proposed design of the observation pier, noting that staff has worked with the County Attorney's Office and have determined that the applicant does have sufficient upland interest in the easement. Julee Sims indicated that certain requirements for private dock construction set forth by Section 58-555(b)(2) of Water and Navigation Regulations may be waived by the County if signed statements of no objection are received from property owners encroached upon; and that a letter of no objection was not received from the northern neighbor, which has led to this request for a variance.

Julee Sims related that staff has reviewed the criteria for granting a variance and has been able to make a positive finding of fact to all, as outlined in the staff report; and that staff recommends approval of the variance; whereupon, in response to a query by Mr. Bomstein, Julee Sims noted that a boat slip would not be permitted; and that railing would prevent mooring.

Craig Taraszki, St. Petersburg, appeared and indicated that he is the attorney for the applicant. Thereupon, Stephen Couture, Palm Harbor, appeared and provided background information regarding the subject property, noting that his father purchased it in 1957; that while a fishing dock existed on the property when it was purchased, it fell into disrepair and washed away; and that County staff has determined that the proposed pier will have minimal impact on the environment and surrounding neighbors. Responding to a query by Mr. Burdette, Mr. Couture related that a piling is located within approximately 10 feet of the proposed pier.

Referring to a PowerPoint presentation containing photographs, maps, and easement documentation, Mr. Taraszki provided background information regarding the subject and surrounding properties, highlighting the recorded easement dating back to 1957, which states that a dock for small boats may be constructed on the west end of the easement. He further described and presented information regarding various easements which have been conveyed over the years, with the most recent being in 2019; whereupon, he summarized that today's request is for a variance to allow for a dock to be located 33.5 feet from the property to the north.

Thereupon, Mr. Taraszki reviewed staff's interpretation of the design criteria for private docks and discussed the property rights of the applicant to utilize their easement interest and the unique shape of the property. He indicated that the applicant and their consultant worked with County staff to ensure that the proposed location of the dock would minimize environmental impacts; that the request is consistent with the intents and limits of the Comprehensive Plan; and that the requested variance would not be injurious to the area or otherwise detrimental to public welfare.

Upon the acting Chairman's call for opponents, Lauren Rubenstein, St. Petersburg, appeared and indicated that she represents the property owners to the north, Michael and Kristi Janish. She provided information regarding several required variance conditions that she believes are not being met and expressed concern that the pier could be utilized as a community amenity for a possible future subdivision; whereupon, she responded to comments and queries by Mr. Bomstein.

In response to the acting Chairman's call for other opponents, the following individuals appeared and expressed their concerns:

Justin West, Palm Harbor
Arlene Burns, Clearwater

In rebuttal, Mr. Taraszki submitted case law showing that easement access to a waterfront extends the right to a dock for the easement holder; whereupon, he noted that he believes that no substantial competent evidence has been provided by the opponents; that the easement was established in 1957, prior to the existence of County regulations which created the setback variance requirements; and that the applicant is following the current County process by requesting a variance.

Responding to queries by the members, Mr. Taraszki referenced an aerial map outlining the parcels and waterfront and provided clarifying comments regarding the location of the applicant's property interest along the shoreline; whereupon, Mr. Taraszki and Ms. Rubenstein responded to comments and queries by the members.

Mr. Bomstein indicated that he does not see any egregious action by the applicant in this case; that the easement, which has been in place for approximately 70 years, allows for traffic, regardless; and that the current zoning was in place when the Janish's purchased their home; whereupon, he 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 Mr. Doran and carried unanimously.

MINUTES OF THE FEBRUARY 7, 2024, MEETING

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

ADJOURNMENT

The meeting was adjourned at 10:02 AM.