

**Board of Adjustment and Appeals  
Pinellas County  
May 1, 2024 Meeting Minutes**

The Board of Adjustment and Appeals (BAA) met in regular session at 9:01 AM on this date in the County Commission Assembly Room at the Pinellas County Courthouse, 315 Court Street, Clearwater, Florida.

**Present**

Jose Bello, Chairman  
Deborah J. White, Vice-Chairman  
Alan C. Bomstein  
Joe Burdette  
Vincent Cocks  
Robert Warner (alternate)

**Not Present**

John Doran  
Cliff Gephart

**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**

Chairman Bello called the meeting to order and provided an overview of the hearing process; whereupon, Mr. Bomstein indicated that, with six members present, a four-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. VAR-24-04

### **APPLICATION OF JEFFREY RUSH AND SHELLEY RUSH FOR A VARIANCE**

A public hearing was held on the above application for a variance to allow for the construction of a 1,373 square-foot detached garage with a 737 square-foot accessory dwelling unit having a 9-foot 8 1/2-inch side street setback from the eastern property line along the 18th Street right-of-way where 15 feet is required in an R-R zone, for the property located at 1737 Pennsylvania Avenue in Palm Harbor. The Clerk has received 13 letters in support and one letter in opposition to the application.

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 property is a corner lot where Pennsylvania Avenue is considered the primary front and 18th Street is a side street. The owner is proposing to construct a 1,373 square-foot detached garage with a 737 square-foot accessory dwelling unit closer to the eastern property line along 18th Street than what is normally allowed per Section 138-367.1 of the LDC. The proposed location along the eastern portion of the property is to avoid existing mature vegetation in the rear (north), which further limits the construction of any addition towards the rear of the site. As a result, it would be difficult to place the proposed structure that meets the required setbacks. 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 structure appears to meet the intent of the residential accessory structures and uses section concerning architectural compatibility with the primary structure as required within the LDC. Approval should be subject to the following condition:

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

Jeffrey and Shelley Rush, Palm Harbor, appeared and responded to queries by the members.

Thereupon, Mr. Burdette made a motion, which was seconded by Ms. White 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. APL-24-01

APPLICATION OF SANELA CIRKIC AND JASMIN CIRKIC FOR AN APPEAL

A public hearing was held on the above application to appeal the Development Review Committee's (DRC) denial of a request for an Administrative Adjustment (AAD-23-08) to allow 24 racing pigeons as non-traditional pets for the R-3 zoned property located at 11518 66th Avenue in unincorporated Seminole. The Clerk has received two letters in support and one letter in opposition to the application.

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

Recommend Denial. Pursuant to Section 138-66(c)(2), Section 138-81(e), and Table 138-77 of the Pinellas County Land Development Code (LDC), the BAA has the authority to review appeals from DRC decisions. Staff recommends that the Board deny the appeal in this case, finding that the DRC has correctly determined that 24 racing pigeons are not considered non-traditional pets.

The subject property, located at 11518 66th Avenue, is zoned R-3 (Single-Family Residential), developed with a single-family home, and is part of an established residential neighborhood. Per Pinellas County LDC Section 138-3352 Non-Traditional Pets: *(a) Purpose. There may be some situations where an individual desires to keep or possess an animal species that is not otherwise addressed by this Code. There should be an opportunity to pursue special approval to keep such animals (e.g., pot-bellied pig, pygmy goat, or marmoset) where appropriate, safe, and adequate site conditions exist.* Non-traditional pets are animals that don't fall under the normal category of a traditional pet and are an animal species that is not otherwise addressed by the County Code. If approved, a person may have a non-traditional pet that is assigned to a specific individual and to an exact parcel of land for habitation and where appropriate, safe, and adequate site conditions exist.

In October 2023, the applicant received code enforcement violations for erecting a large bird coop housing pigeons without proper approvals. Additionally, the coop was constructed without receiving building permits and was located on the property in violation of the R-3 setbacks. In December 2023, the applicant applied for an Administrative Adjustment (Case AAD-23-08) for the keeping of non-traditional pets (24 racing pigeons) and to move the coop out of the setbacks. The application was heard by the DRC on February 12, 2024. The DRC requested additional information from the applicant and the case was continued to the next meeting. At the March 11, 2024, DRC meeting, the applicant supplied letters of support from two adjacent neighbors to the east and west. Additionally, staff received a letter of opposition from the adjacent neighbor to the south. Per the Code, administrative adjustment applications heard by DRC are noticed to adjacent property owners.

At the March 11, 2024, DRC meeting, based on the information provided and the testimony heard, the DRC could not determine if the pigeons are being kept as pets or for commercial purposes, being bred and sold including whether there would be an increase in the number of birds, above 24, following the breeding season, or being used for commercial racing use. Additionally, the DRC could not determine why the need for a high number of birds (e.g., 24 pigeons) as non-traditional pets. The DRC determined that the keeping of 24 racing pigeons on this property is incompatible with the character of the neighborhood, which consists of low-density single-family residential development, and voted to deny the application.

Thereupon, Sanela Cirkic, Seminole, appeared.

Responding to comments and queries by Mr. Bomstein, Building and Development Review Services Director Kevin McAndrew, with input from Attorney McAteer, reviewed the DRC's rationale for denying the request. Mr. Bomstein indicated that the information provided by the applicant clearly indicates that pigeon racing is their hobby; and that pigeon racing is a well-known hobby and is not illegal; whereupon, Mr. Schoderbock responded to queries by the members and related that the applicant would need an Administrative Adjustment to be allowed to pursue their hobby in a residential area.

In response to queries by the members, Ms. Cirkic related that this has been her husband's hobby for almost 40 years; that the pigeons and coop were not an issue while living in St. Petersburg; that the pigeons are bred and sent to races in other states where they are auctioned post-race; that she is not involved in the auction process; and that the

pigeons do not have the ability to fly or walk around the backyard, eliminating the concern for diseases.

Mr. Vargus provided background information regarding a neighbor's complaint and the two Code violations issued to the applicant; whereupon, Ms. Cirkic responded to further queries by the members.

Mr. Bomstein related that he visited the site out of curiosity to determine if a nuisance existed; that the backyard was fenced; and that from the street, he could not see the coop or hear anything; whereupon, discussion ensued regarding permitting requirements, the number of pigeons on the property, the potential for pigeons to carry diseases, and other topics.

In response to comments and queries by the members, Attorney McAteer provided clarifying information regarding the appeal and potential next steps for the applicant.

No one appeared upon call for opponents.

Mr. Bomstein indicated that he does not perceive this to be a harmful situation or a noise concern; that pigeon racing is a legitimate hobby; and that other municipalities within the county do not seem to have an issue with homing pigeons. Thereupon, he made a motion to overturn the DRC's decision.

Responding to a query by Mr. Burdette, Mr. McAndrew confirmed that a veterinarian did not consult the DRC regarding potential diseases carried by pigeons; whereupon, Mr. Burdette seconded the motion. Upon call for the vote, the motion carried unanimously.

A brief discussion ensued regarding permitting requirements for the coop.

## **MINUTES OF THE APRIL 3, 2024 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 9:43 AM.