

**Board of Adjustment and Appeals
Pinellas County
August 7, 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

Jose Bello, Chairman
Alan C. Bomstein
Joe Burdette
Vincent Cocks
John Doran
Cliff Gephart
Robert Warner (alternate)

Not Present

Deborah J. White, Vice-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

Chairman Bello 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.

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-24-14

APPLICATION OF PROTECTED CLASS FOR A VARIANCE

A public hearing was held on the above application for a variance to allow for the construction of a pool screen enclosure having a 3-foot-4.5" side setback from the southern property line where five feet is required for the property located at 11160 137th Street North in unincorporated Largo. 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 property is zoned R-2 Single Family Residential. The site is improved with a single-family home and in-ground pool constructed in the early 1970s. The applicant is proposing to construct a pool screen enclosure over the existing pool decking closer to the southern property line than what is normally allowed per Section 138-3505 of the LDC. The LDC allows all screen pool enclosures a side and rear setback of five feet or the minimum rear or side setback of the zoning district, whichever is less. Due to the existing placement of the pool decking, the side setback requirement for a pool screen enclosure along the southern boundary would not be met. The pool screen enclosure would be approximately 3 feet-4 ½ inches away from the southern property line. It is anticipated that the proposed pool screen enclosure will have minimal impact on the property owner directly south of the requested encroachment. Furthermore, no other setback reductions are being requested by the applicant. A letter of support was received from the abutting southern property owner stating that they do not oppose the proposed placement of the pool screen enclosure. Separately, there are approximately ten homes along 137th Street in Hillcrest Manor – eight of them with pool screen enclosures. If the variance request is approved, the addition of a pool screen enclosure would not be out of character with the neighborhood. Approval should be subject to the following condition:

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

Upon the Chairman's call for the applicant, Jamie Daniel, Largo, appeared and provided information regarding the request.

No one appeared upon the Chairman's call for opponents; whereupon, Mr. Bomstein made a motion to approve staff's recommendation for conditional approval of the variance 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.

Case No. VAR-24-15

APPLICATION OF SUNSHINE WATER SERVICES COMPANY THROUGH BRENDA PEARCE, REPRESENTATIVE, FOR A VARIANCE

A public hearing was held on the above application for a variance to allow for the construction of a new 50-foot-tall communication tower and related support facilities having a 21-foot-9-inch setback from the eastern property line where the Land Development Code requires new towers to be set back from abutting residential property lines a distance equal to the height of the tower, for the property located at 93 Liberty Way in Palm Harbor.

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 40-foot-wide by 134-foot-deep lot fronting Liberty Way and is situated at the boundary of the Lake Tarpon Mobile Home Park. The site is zoned C-2, General Commercial and Services with a future land use map designation of Residential/Office/Retail (R/O/R). The property is a substandard lot of record as it does not meet the minimum lot width or minimum lot area of the C-2 zoning district. The site is improved with a one-story water pump building, water pump tank, and well. Historically, the site has been utilized for utility purposes since the 1980s which is a permissible use in the C-2 zoning district. The applicant proposes constructing a new 50-foot-tall utility communication tower on the southernmost portion of the subject site to upgrade their current infrastructure to allow remote water meter readings. Per the applicant, this infrastructure upgrade will allow for more precise and up-to-date water meter readings, which will give the customer an

understanding of their water usage and implement water conservation measures as needed. Notably, the proposed utility communication tower will not provide cellular service carriers or other telecommunication services to collocate on this proposed tower.

Based on the proposed land use activity, it was determined that the use of this utility communication tower falls under Section 138-3313 of the LDC which refers to communication towers and antennas outside of county rights-of-way. The LDC requires that new communication towers be set back from abutting residential property lines at a distance equal to the tower's height. The proposed location of the utility communication tower would be approximately 21'9" to the eastern boundary of the abutting mobile home property. Based on the proposed location of the 50-foot-tall utility communication tower, a variance would be required along the eastern portion of the site as it does not meet the required setback of 50 feet from the abutting residential property. The LDC allows setback restrictions to be reduced for self-collapsing tower designs, subject to variance approval. The applicant has provided documentation related to the self-collapsing design to demonstrate that a reduction in setbacks will not create a safety hazard. All other setback requirements will be met. The applicant appears to be meeting all other LDC requirements associated with communication towers. The proposed design of the communication tower appears to be a neutral color to reduce any visual obtrusiveness. Additionally, the site is enclosed with security fencing that is approximately 6' in height. Approval should be subject to the following conditions:

1. Appropriate site plan review.
2. The applicant shall obtain all required permits and pay all applicable fees.
3. All other requirements in LDC Section 138-3313 shall be met.

Upon the Chairman's call for the applicant, Brenda Pearce, Florahome, appeared, described the proposed communication tower, and indicated that the project would provide residents with more efficient water meters and billing; that leaks or excess water usage could be identified daily; that the tower would strictly be used by Sunshine Water Services, not cellular service companies; and that the pole is designed and engineered to fall upon itself if winds reach above 160 miles per hour; whereupon, she responded to queries by the members.

Upon the Chairman's call for opponents, the following individuals appeared, expressed their concerns, and responded to comments and queries by the members:

John Stone, Palm Harbor
Judy Hurst, Palm Harbor

Responding to a query by Attorney McAteer, Mr. Schoderbock indicated that this application is not a Type 2 Use because communication towers are considered Type 1 Uses, which are allowed in this zoning district; and that the proposed variance is a request to build above the maximum height allowed. Thereupon, Mr. Schoderbock responded to queries by Messrs. Bomstein and Gephart regarding the maximum allowable height and setback requirements.

In rebuttal, Adam Gall, Longwood, addressed concerns expressed by the opponents to the request; whereupon, Mr. Gall, with input from Ms. Pearce and Mr. Schoderbock, responded to comments and queries by the members regarding the location and installation of the proposed tower, leak detection, notification of the public hearing to adjacent neighbors, the location of the tower's breaking point, and other topics.

Mr. Bomstein provided brief comments, indicating that he believes that this would not have a significant impact on the neighborhood; whereupon, he made a motion to approve the variance in accordance with the findings of fact as outlined in staff's recommendation. The motion was seconded by Mr. Cocks and carried unanimously.

Case No. TY2-24-04

APPLICATION OF CHABAD OF PINELLAS COUNTY, INC. THROUGH PINCHAS ADLER AND SAM HUTKIN, REPRESENTATIVES, 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 for the addition of two 864-square-foot modular classroom buildings for a private school and daycare, an increase in the maximum number of students from 20 to 50, a modification of the parking layout, and the conversion of approximately 141.05 square feet of an awning into a security vestibule, for the R-R zoned property located at 3696 Fisher Road in Palm Harbor.

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 Type 2 Uses found in Section 138-241 of the Pinellas County Land Development Code (LDC). The subject property is owned by Chabad of Pinellas County

Inc. The site is approximately 0.87 acres and is located on the corner of County Road 39 and Fisher Road. Currently, the site is improved with a place of worship/daycare, ritual bath, playground, two storage structures, and a grass parking lot with a paved driveway. The place of worship has been in operation since the late 1990s. This site has received various Board approvals for the expansion of the existing place of worship and to accommodate a daycare facility (Case Nos. BA-1-7-99, BA-9-12-94, and BA-10-2-02). The applicant intends to add two 864-square-foot modular buildings to expand their educational programs for elementary-age children and daycare operations. In addition to the proposed expansion, the applicant is requesting a modification of the previous board approval which limited the number of students to 20 and specified that 57 parking spaces must remain as depicted on the approved concept plan associated with Case No. BA-1-7-99. A Type 2 Use approval is required for the expansion of these land use activities on a residentially zoned property. The applicant would like to increase the number of students to 50, alter the previously approved parking layout, and construct a new security vestibule for enhanced security on campus as depicted in the associated concept plan. Per the applicant, the hours of operation associated with the daycare will not change, and all other previous Board conditions will be met. Additionally, all minimum development parameters and parking requirements will be met to serve the site's intended use. Approval should be subject to the following conditions:

1. Appropriate site plan review.
2. The applicant shall obtain all required permits and pay all applicable fees.

Upon the Chairman's call for the applicant, Pinchas Adler, Palm Harbor, appeared and provided information regarding the request, indicating that the proposed modular buildings would provide additional space for the Chabad while its new location is under construction; and that proposed changes to the parking layout would make it more orderly; whereupon, he responded to queries by Mr. Bomstein regarding the additions and changes included in the Type 2 Use and the permanence of the modular buildings.

No one appeared upon the Chairman's call for opponents; whereupon, Mr. Bomstein made a motion for approval in accordance with the findings of fact as outlined in staff's recommendation. The motion was seconded by Mr. Gephart and carried unanimously.

MINUTES OF THE JULY 3, 2024 MEETING

Mr. Doran made a motion to approve the minutes. The motion was seconded by Mr. Bomstein and carried unanimously.

Deviating from the agenda and in response to a query by Mr. Doran, Attorney McAteer provided brief comments regarding a recent legal decision relating to the Tampa City Council and its ability to hold quasi-judicial hearings, relating that the decision is not binding on Pinellas County; whereupon, Attorney McAteer also noted that a panel of judges recently upheld the BAA's decision involving Vertex Development.

ADJOURNMENT

The meeting was adjourned at 9:45 AM.