

Board of Adjustment and Appeals  
Pinellas County  
November 30, 2022 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

Cliff Gephart, Chairman  
Joe Burdette, Vice-Chairman  
Jose Bello  
Alan C. Bomstein  
Vincent Cocks  
John Doran  
Pamela Kern, alternate member

Not Present

Deborah J. White

Others Present

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

**CALL TO ORDER**

Chairman Gephart called the meeting to order at 9:00 AM and provided an overview of the hearing process.

**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-22-19

APPLICATION OF CAPON CORP. THROUGH ROBERT PERGOLIZZI AND MATT SYLVERAIN, REPRESENTATIVES, FOR A VARIANCE

A public hearing was held on the application of Capon Corp. through Robert Pergolizzi and Matt Sylverain for a variance to allow a reduction of the minimum number of required parking spaces to 1 stall per dwelling unit where the Land Development Code (LDC) requires 1.5 spaces per unit for multi-family dwellings, for the property located at 1800 South Pinellas Avenue in unincorporated Tarpon Springs. One letter in opposition 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 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 LDC. The subject property is a proposed affordable housing development with an amenity area and associated parking. The proposed development area is approximately 3.37 acres of upland acres tied with a significant presence of wetlands located on the west side of South Pinellas Avenue north of Klosterman Road in unincorporated Pinellas County. The subject property is zoned Residential Planned Development (RPD) and Preservation/Conservation (PC) due to a presence of wetlands. The future land use designation of the subject property is Residential Low Medium (RLM) and Preservation (P) for the wetland portion.

The affordable housing development relates to an existing development agreement that allows up to 125 multi-family units where the applicant has proposed 96 units. The Pinellas County LDC requires 1.5 parking spaces per dwelling unit for multi-family development. Therefore, the proposed 96 multi-family units would require 144 parking spaces. Given the size of the existing wetlands coupled with the proposed development it would require a considerable buffer in observance of the wetlands. This would limit the applicant's area of development.

In addition to the specifications of the existing development agreement, the proposed concept plan depicts a PSTA bus stop immediately along the property frontage on South Pinellas Avenue with associated sidewalk to further reduce auto dependency of the tenants. Additionally, the applicant intends to seek flexibility from the required parking quantity through an administrative process during site plan review. Due to the parcel being

within a one-quarter mile of the Pinellas Trail, the applicant has indicated a participation in the Bicycle Facility Improvement Program by providing an on-site bicycle repair station to reduce the number of required motor vehicle parking. Pinellas County encourages affordable housing development that supports transportation choices other than privately owned vehicles. Additionally, it is a defining criteria for the determination of preferred locations for affordable housing development. Approval should be subject to the following conditions:

1. A technical memorandum and justification supporting the Institute of Transportation Engineers (ITE) parking demand shall be supplied upon site plan review.
2. In consideration of the development agreement all binding development obligations must be executed.
3. Full site plan review.
4. The applicant shall obtain all required permits and pay all applicable fees.

Robert Pergolizzi, Clearwater, appeared and indicated that the applicant is requesting to develop 96 dwelling units, which is fewer than the development agreement allows; that parking constraints exist due to wetlands; and that based on relevant studies, affordable housing developments require .99 space per unit parking, totaling 95 parking spaces for the 96 units, whereas the applicant is proposing 96 parking spaces.

Responding to queries by the members, Mr. Pergolizzi related that the development would be rental units; and that 100% of the units would qualify for affordable housing; whereupon, Mr. Bomstein expressed a concern relating to parking limitations for median and higher income level tenants who may own more than one car, noting lack of offsite parking.

Angelo Cappelli, St. Petersburg, appeared and related that he is one of the project developers; that construction of affordable housing requires substantial grant monies; that the Department of Housing and Urban Development (HUD) loan parameters typically require a certain number of units be allocated to households with incomes of 50% of the Area Median Income (AMI); that in order for the economic parameters to work, a mix of 50%, 80%, and 120% AMI units would be available, depending on construction costs; and that developments of this stature ultimately require one parking space, which would be noted in the tenant's lease.

Discussion ensued, and Mr. Bomstein continued to express his concern with the lack of parking spaces available, and several members concurred and inquired whether it would be possible to utilize the upland areas of the property for additional parking.

Matt Sylverain, Clearwater, appeared and responded to queries by the members, indicating that the wetlands have grown and shifted since 2013, creating many challenges with trying to expand parking onto the isolated and non-contiguous openings on the parcel; that building a road to connect those open areas would significantly impact the wetlands; and that the surrounding golf course and private property limits the options to access those open areas for additional parking; whereupon, discussion ensued.

Upon the Chairman's call for opponents, the following individuals expressed their concerns:

Doreen E. Saccardo, Palm Harbor  
Donald Kane, Tarpons Springs

In rebuttal, Mr. Pergolizzi reviewed the ITE generated daily trips numbers, noting that the applicant would be willing to reduce the number of dwelling units to 80, which would increase parking to 1.2 spaces per unit.

Chairman Gephart closed the public hearing. Following discussion, Mr. Bomstein made a motion that, in accordance with some findings of fact outlined in the staff report, the application be approved for 80 units, which would provide a parking ratio of approximately 1.2 cars per unit. He further indicated that the development agreement obligations must be executed; that full site plan review should be completed; and that the parking variance justification is based on the project qualifying as affordable housing category as defined by Pinellas County. The motion was seconded by Mr. Doran and carried unanimously.

#### Case No. VAR-22-20

APPLICATION OF GLENCARE INC. C/O DUCHARME, MCMILLEN & ASSOC.  
THROUGH GINA PENNEY, REPRESENTATIVE, FOR A VARIANCE

A public hearing was held on the application of Glencare Inc. through Gina Penney for a variance to allow up to three freestanding signs where one freestanding sign is allowed per street frontage per parcel, and to allow up to three 12-square-foot direction signs where a maximum of four square feet per sign is allowed in a General Institutional (GI) zone, for the property located at 6000 49th Street North in Lealman. 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 variances found in Section 138-231 of the Pinellas County Land Development Code. The subject property is zoned GI and is a large hospital campus with an expansive layout with multiple medical buildings and offices along with a helicopter landing pad. In addition, there are multiple access points from the adjacent roadways, which can make finding onsite locations more difficult for patients and visitors. The proposed signs are mostly internal to the complex and should have minimal external impacts. Approval should be subject to the following conditions:

1. Applicant must obtain all required permits and pay all applicable fees.
2. Sight-visibility at all locations must be met.

Gina Penney, West Palm Beach, appeared and indicated that the signs being requested are non-illuminated, uninformed with the building, consistent with the current signage, and will help direct individuals to the correct location.

No one appeared upon the Chairman's call for opponents; whereupon, Mr. Burdette made a motion to approve the variance based on the findings of fact as outlined in the staff report. The motion was seconded by Mr. Bello and carried unanimously.

#### Case No. VAR-22-21

APPLICATION OF JAYSON AND RACHEL AUSTIN THROUGH MATHEW ALLEN, REPRESENTATIVE, FOR A VARIANCE

A public hearing was held on the application of Jayson and Rachel Austin through Mathew Allen for a variance to convert an existing 1,183 square foot accessory structure into an accessory dwelling unit where 750 square feet is the maximum permitted for the property located at 1791 Kenesaw Lane in unincorporated Clearwater. 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 (LDC). In essence, there are no special conditions or unnecessary hardships, and the request is not the minimum variance necessary that

warrants the proposed accessory dwelling unit to exceed the maximum square footage allowed by the Pinellas County LDC.

In residential districts, accessory apartments, garage apartments, and guest houses may be permitted as accessory uses to any single-family detached home in all residential districts. The separate living spaces are equipped with a kitchen, bathroom facilities, and sleeping area that can be attached or detached from the main residence. It is recognized that accessory dwelling units are commonly used to mitigate the shortage of affordable housing by providing smaller dwelling units that are ancillary to the principal residence.

The proposed 3-bedroom 1,183 square foot accessory dwelling unit exceeds the maximum size normally allowed per Code by 433 square feet, or approximately 57 percent higher. While the proposed accessory dwelling unit would occupy an existing structure, part of that structure could be left as unconditioned storage space in order to comply with Code requirements. The parameters set within the Pinellas County LDC are in place to ensure that the development of accessory dwelling units do not cause negative impacts on the character or stability of single-family neighborhoods.

Jayson Austin, Clearwater, appeared and stated that the second structure located on his recently purchased subject property was utilized as an office, which he has no need for; that he would like to convert it into an additional dwelling unit to be utilized by friends and family; and that the renovations would enhance the neighborhood.

Discussion ensued regarding the code requirements, possible alternatives, and concerns that the building is located in a flood zone; whereupon, Mathew Allen, Clearwater, appeared and stated that an elevation survey will be conducted and the slab would be elevated.

Following further discussion of pertinent matters, including a density issue related to the proposal, Mr. Doran made a motion that the variance be granted to convert the existing 1,183-square-foot structure into an accessory dwelling unit based upon the evidence presented; and that the applicant obtain all required permits and pay all applicable fees. The motion was seconded by Mr. Bello and carried unanimously.

Mr. Bomstein requested that staff review the Code as it relates to sizes for accessory buildings versus accessory dwellings, to which Mr. Bailey replied that it is currently being considered for review as part of an affordable housing initiative.

Case No. VAR-22-22

APPLICATION OF NATHAN AND CONSTANCE FIELD THROUGH AMBER LISSY,  
REPRESENTATIVE, FOR A VARIANCE

A public hearing was held on the application of Nathan and Constance Field through Amber Lissy for a variance to allow for the construction of an in-ground pool having a 6-foot rear setback from the east property line where 8 feet is required in an R-3 zone, for the property located at 2183 Citrus Hill Lane 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 granting a variance found in Section 138-231 of the Pinellas County Land Development Code. In short, there are no special conditions or unnecessary hardships that justify the proposed pool's rear setback encroachment.

Amber Lissy, Clearwater, and Constance Field, Palm Harbor, appeared and indicated that they are the representative and the applicant, respectively; whereupon, Ms. Field explained the reason behind the request and noted that there have been no adverse reactions from the neighbors.

Following discussion, and finding no hardship or special conditions to justify granting of the variance, Mr. Doran made a motion to deny the request based on the findings of fact as recommended in the staff report. The motion was seconded by Ms. Kern and carried unanimously.

**MINUTES OF THE NOVEMBER 2, 2022 MEETING**

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

**OTHER BUSINESS**

Discussion ensued relating to the selection of BAA Chair and Vice-Chair for 2023, and the appointments of other BAA members. Mr. Bailey noted that the Board of County Commissioners Chair and Vice-Chair have not been selected; whereupon, it was determined that the BAA Chair and Vice-Chair will be selected at the January meeting.

## **ADJOURNMENT**

The meeting was adjourned at 10:23 AM.