

**Board of Adjustment and Appeals  
Pinellas County  
March 1, 2023 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

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

Not Present

Cliff Gephart

Others Present

Glenn Bailey, Zoning Manager  
Maria White, Assistant County Attorney  
Anne Morris, Assistant County Attorney  
Keith Vargus, Code Enforcement Operations Manager  
Jenny Masinovsky, Board Reporter, Deputy Clerk  
Other interested individuals

**CALL TO ORDER**

Chairman Burdette called the meeting to order at 9:01 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. TY2-23-01

APPLICATION OF XLT HOLDINGS, LLC THROUGH MICHAEL LOWE,  
REPRESENTATIVE, FOR A TYPE 2 USE

A public hearing was held on the application of XLT Holdings, LLC for a Type 2 Use to allow an indoor kennel in an E-1 zone, for property located at 12481 Creekside Drive in unincorporated Largo. Two letters in opposition to the application have 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 Type 2 Uses found in Section 138-241 of the Pinellas County Land Development Code. The request is to allow for an indoor kennel within an existing building on the subject property. The building will be soundproofed, and all required setbacks will be met. Approval should be subject to the following conditions:

1. The applicant shall pay all applicable fees and obtain all required permits, including any required site plan review as part of the building permit.
2. All the specific use standards pertaining to kennels in Land Development Code Section 138-3249 shall be met.

Michael Lowe, Seminole, appeared and indicated that he is the owner of the subject property and provided information regarding the request. In response to queries by the members, he related that the facility would be a daycare and overnight kennel; that while an outdoor run area will be provided, main concentration would be on an indoor park area due to inclement weather; and that several interested individuals and entities, such as Oakhurst Animal Hospital, will be assisting with the project.

Upon the Chairman's call for opponents, the following individuals expressed their concerns regarding potential noise, smell, decrease in home values, possible water contamination, and insufficient notice of the hearing to the surrounding property owners.

John Mullins, Largo  
Mark Stanley, Largo

In rebuttal, Mr. Lowe indicated that he has some of the same concerns as the opponents, as his other business is located across the street from the subject property, noting that

he determined that a soundproof dog kennel would be a better option than leasing it to a tenant with loud operating equipment and additional traffic. He related that no odor would be present with the correct cleaning equipment; and that the design of the facility places the kennels furthest away from the neighborhood, at approximately 150 feet.

In response to queries by the members, Mr. Lowe provided information regarding soundproofing, flooring, and the type and number of individual kennels (up to 50).

Mr. Bailey related that the Code would require a 50-foot setback; that the dogs be in an enclosed soundproof structure between the hours of 10:00 PM and 7:00 AM; and that a proper system would be installed for the disposal of animal waste. Responding to the concerns by the members, he indicated that the public hearing notice was sent to neighbors within a 400-foot radius, even though the Code only requires 250 feet; and that the hearing sign is required to be posted on the actual subject property and not on the road.

Following discussion, Mr. Bomstein made a motion that the Type 2 Use be granted as recommended in accordance with the findings of fact as outlined in the staff report. The motion was seconded by Mr. Cocks and carried unanimously.

Case No. TY2-23-02

APPLICATION OF UNITY CHURCH PALM HARBOR, INC. THROUGH ROBERT EARHART, REPRESENTATIVE, FOR A TYPE 2 USE

A public hearing was held on the application of Unity Church Palm Harbor, Inc. through Robert Earhart for a Type 2 Use to allow a 3,651-square-foot meeting hall/community assembly facility (place of worship) in an R-1 zone, for the property located at 1960 Tampa 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 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. This request involves the replacement of a recently demolished single-family detached structure with a 3,651-square-foot fellowship hall in association with the Unity Church of Palm Harbor, which was approved via a special exception (Case No. BA-24-8-98) in 1998 and further modified in 2005 (Case No. BA-5-10-05). The new fellowship hall is proposed in the same location as the demolished building, which is internal to the site.

Traffic impacts are anticipated to be small, and drainage requirements will be addressed during the required permitting process. The request is also consistent with the site's Institutional land use category. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. A Development Review Committee site plan.

Robert Earhart, Palm Harbor, appeared and indicated that he is the representative.

No one appeared upon the Chairman's call for opponents; whereupon, Mr. Bomstein made a motion that the Type 2 Use be granted as recommended in accordance with the findings of fact outlined in the staff report. The motion was seconded by Mr. Doran and carried unanimously.

Case No. VAR-23-01

#### APPLICATION OF RANDALL KOFFLIN FOR A VARIANCE

A public hearing was held on the application of Randall Kofflin for a variance to convert an existing 888-square-foot single-family residence into an accessory dwelling unit where 750-square-foot is the maximum permitted for the property located at 14990 113th Avenue in unincorporated Largo. 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 applicant is proposing to construct a new larger primary single-family home to the rear (south) of the existing smaller home. Once the new construction is complete, the existing home would become the accessory dwelling unit (ADU). The existing home was built in 1938 and is 138 square feet over the maximum size normally allowed for an ADU. No changes are proposed to the existing home, which is situated relatively close to the front property line. Approval of this request would allow the existing historic home to be left fully intact. Approval should be subject to the following condition:

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

Randall Kofflin, Largo, appeared virtually and indicated that he is the applicant.

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

Case No. VAR-23-02

APPLICATION OF WAL-MART STORES EAST LP THROUGH MARK BRENCHLEY, REPRESENTATIVE, FOR A VARIANCE

A public hearing was held on the application of Wal-Mart Stores East LP through Mark Brenchley for a variance to allow a total of 343.31 square feet of wall signage on the Alderman Road frontage where 150 square feet of wall signage is the maximum allowed, for the property located at 35404 US Highway 19 North in Palm Harbor. 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 Denial: Staff 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 northwest corner of US-19 and Alderman Road in Palm Harbor. It contains a Wal-Mart store that was constructed in 1990. The request is to allow for a total of 343.31 square feet of wall signage on the Alderman Road frontage. This amounts to approximately 229 percent more signage than the 150 maximum square feet normally allowed. The requested square footage is a combination of four separate signs, with the largest of those (Wal-Mart + logo) alone being just under 200 square feet in size.

It should be noted that the Board denied a wall sign variance request on the subject property in 2010 (Case No. BA-4-1-10) that proposed 223.89 square feet of signage. In that case, the Board found that the additional signage was not needed and concurred with staff's determination that Wal-Mart is well known in this location and that additional identification signage is not warranted. Nothing has changed since that time to justify the need for the

current request. As it is a corner lot, up to 150 square feet of wall signage is allowed by Code for both the Alderman Road frontage and the US-19 frontage. In addition, freestanding signage is allowed along each frontage as well. It should also be noted that the property's CP zoning district has the largest sign size allowance within the Code.

Referring to Section 138-3750(i) of the Pinellas County Land Development Code, Mark Brenchley, Clermont, stated that the size of the sign should be established in relation to the scale of the lot and building on which it is placed; and that the limitation of a 150 square foot sign for such a massive building is not reasonable and discriminates against a single big box user, noting that if it were subdivided into multiple storefronts, a 710-square-foot sign would be allowed. In addition, he stated that Wal-Mart is the nation's largest retailer and is enhancing all its stores in Central Florida with updated branding and colors.

Mr. Brenchley inquired whether, if the Board denies the request, it would consider allowing the applicant to combine the 150 square-foot-sign allowed on US 19 and the 150 square-foot-sign allowed on Alderman Road, for a total of one 300-square-foot sign.

No one appeared in response to the Chairman's call for proponents or opponents of the application.

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

## **MINUTES OF THE FEBRUARY 1, 2023 MEETING**

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

## **MISCELLANEOUS DISCUSSION**

### Meeting participation over Zoom virtual meeting platform

In response to Chairman Burdette proposing to discontinue public virtual meeting participation, Attorney White indicated that while there are considerations to continue allowing it, there is no County policy requiring its boards to do so; whereupon, the members and Attorneys White and Morris discussed relevant practices of other boards, an option of allowing virtual participation for members only, various venues for participating, effectiveness of appearing in person, and other topics.

Attorney Morris noted that the County is required to accommodate requests for virtual participation, on a case by case basis, when that is the only option based on a medical condition, and discussion continued, with no action taken regarding the proposal.

#### Applicant case presentation

Attorneys White and Morris noted the members' practice of moving directly to action on the hearings with no opposition present and encouraged them to let applicants present their cases regardless of opposition, in order to have a complete record in a case of an appeal.

Chairman Burdette and Mr. Bomstein related that the practice stems from an efficient process followed over many years and is applicable to cases in which absence of any contention or a potential for an appeal is evident. Following further discussion, Chairman Burdette indicated that it is the consensus of the Board to continue the practice.

#### Other matters

The members and Mr. Bailey discussed the current public hearing notice requirements and related matters.

Attorney Morris indicated that this is her last meeting, as she has accepted a position outside of the County.

### **ADJOURNMENT**

The meeting was adjourned at 10:20 AM.