

**Board of Adjustment and Appeals
Pinellas County
February 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
Deborah J. White, Vice-Chairman
Alan C. Bomstein
Joe Burdette
Vincent Cocks
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 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-23-27

APPLICATION OF JOSEPH EASLEY AND LUCY EASLEY FOR A VARIANCE

A public hearing was held on the above application for a variance to allow for the construction of a screen room with a composite roof having a 3-foot setback from the rear property line where ten feet is required for the property located at 1963 Trailside Drive in Palm Harbor. The Clerk has received no correspondence relative 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. The subject property is tied to an existing 25-unit single-family attached master-planned development known as North Point of Palm Harbor. The townhome unit is positioned at the end of the cul-de-sac of the existing subdivision with no immediate neighbors to the west and south. The applicant is proposing to construct a screen room with composite roof over an existing patio closer to the southern property line than what is normally allowed. Due to the property being on a cul-de-sac, there is a significant curvature in the profile along the front of the lot causing the building to be setback further than other buildings in the subdivision. The proposed area for the screen room is the only logical place for its installation to comply with the site conditions of the existing development master plan. No other setback reductions are being requested by the applicant. Additionally, the request does not conflict with the existing development master plan. 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, Lucy Easley, Palm Harbor appeared.

No one appeared upon the Chairman's call for opponents; whereupon, Mr. Bomstein 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. VAR-23-28

APPLICATION OF DOLPHIN REAL ESTATE HOLDINGS, LLC., THROUGH SEAN CASHEN, GULF COAST CONSULTING, INC., FOR A VARIANCE

A public hearing was held on the above application for a variance to allow for the proposed onsite building to occupy 23.4 percent of the primary roadway frontage along U.S. Highway 19 where the Pinellas County Land Development Code District Design Criteria requires 40 percent in a CP zone, for the property located at 35952 U.S. Highway 19 North in Palm Harbor. No correspondence relative to 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. The District Design Criteria requires that at least 40 percent of the primary frontage be occupied by a building (i.e., A wider building relative to the roadway). The intent of the District Design Criteria is to apply additional requirements pertaining to building form, building orientation, pedestrian access, and overall circulation so that sites can develop/redevelop in a manner that strengthens their intended character.

The subject site is currently developed with a car wash that occupies a sizeable portion of the lot, approximately 220.6 feet of the frontage along U.S. Highway 19. The future tenant would like to construct a small drive-thru coffee shop along the remaining undeveloped frontage of the site. The proposed development area would occupy approximately 109.4 feet of the remaining roadway frontage that is not associated with the existing car wash. The proposed building width for this drive-thru coffee shop along the U.S. Highway 19 road frontage is 25.1 feet. The building frontage percentage is 23.4 percent, which is less than 40 percent and therefore requires a variance. It is staff's opinion that the requested variance will allow for a more cohesive development form for a drive-thru establishment and enhance vehicular circulation. Approval should be subject to the following conditions:

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

Upon the Chairman's call for the applicant, Sean Cashen, Clearwater, indicated that the applicant agrees with staff's recommendation and conditions and offered to answer any questions.

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

Responding to a query by Mr. Bomstein, Mr. Schoderbock related that a modification has been made to the Land Development Code so that requests related to auto-oriented uses can be reviewed administratively; and that the drive-thru coffee shop would have been considered an auto-oriented use if parking for inside service was not present.

Case No. VAR-23-29

APPLICATION OF EDUARDO MARTINEZ AND CAROL MARTINEZ FOR A VARIANCE

A public hearing was held on the above application for a variance to allow for the construction of a 1,628 square-foot detached accessory dwelling unit where 750 square feet is the maximum permitted for the property located at 9225 95th Street North in unincorporated Seminole. Two letters in support of the application have been received by the Clerk.

Mr. Schoderbock 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 of variances found in Section 138-231 of the Pinellas County Land Development Code. 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 Land Development Code.

The subject site is approximately 1.42 acres and is currently undeveloped. In 2022, the applicant submitted applications for administrative waivers and site plan review for a 2-lot detached single-family subdivision, but the

process stalled, and the site plan eventually expired. The applicant has proposed a new plan for the site with one only lot that includes the construction of a new single-family residence and a new 1,628 square-foot detached accessory dwelling unit.

In residential districts, accessory apartments, garage apartments, and guest houses may be permitted as accessory uses to any single-family detached home. 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 small dwelling units that are ancillary to the principal residence. The proposed 1-bedroom, 1,628 square-foot accessory dwelling unit exceeds the maximum size normally allowed per Code by 878 square feet, or approximately 115 percent higher. The parameters set within the Pinellas County Land Development Code are in place to ensure that the development of accessory dwelling units is incidental to a primary residence.

Upon the Chairman's call for the applicant, Eduardo Martinez, Largo, appeared and introduced his wife, Carol, and his daughter and son-in-law, Katrina and Alex Bowman. He related that he purchased the 1.42-acre parcel to accommodate two homes so that he and his wife could assist with the care of grandchildren, and, in turn, the Bowmans could be of assistance to them as they become elderly.

Mr. Martinez indicated that the large lot can easily accommodate two homes, but the issue appears to be that the parcel was previously split. He related that he and his wife were not aware that the split could prevent the construction of two homes on the parcel; and that at the recommendation of staff, he looked into platting a two-lot subdivision, which would be extremely expensive. Mrs. Martinez related that the cost to plat and prepare the parcel prior to construction would be approximately \$250,000; and that it was estimated that permitting would take another 14 months; whereupon, Mr. Martinez related that this process has been ongoing for nearly three years.

Mr. Martinez related that the subject property is on a dead-end street; that there would be no increase in traffic; that two letters of support have been received by the neighbors; that the natural and rural character of the neighborhood would remain; and that nearby properties have had similar circumstances and were allowed a variance. He noted that the County recently inquired if he and his wife would donate five feet of the northern section of the subject property in order to upgrade a substandard road.

Responding to queries by the members, Mr. Schoderbock, with input from Attorney McAteer, provided background information pertaining to the Florida Statute regarding dividing a parcel; whereupon, discussion ensued regarding accessory dwellings, kitchens, square footage, and other topics.

Mr. Bomstein made a motion to approve the variance, finding that hardship was created by a pre-existing condition when the subject property was divided. The motion was seconded by Mr. Gephart and carried unanimously.

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, with a 33.5-foot setback where 50 feet is required, within an easement that the applicant holds over a neighboring property owned by Ryan's Woods Townhomes Homeowners Association, Inc., Palm Harbor. (No physical address, Parcel ID 02-28-15-77661-000-0001-0). One letter in opposition to the application has been received by the Clerk.

Senior Assistant County Attorney Brendan Mackesey appeared and indicated that counsel for an objecting neighbor has requested that the matter be continued due to a personal emergency.

The applicant's representative, Craig Taraszki, St. Petersburg, appeared and indicated that the applicant is ready to proceed; that the applicant has waited a considerable amount of time for the hearing to occur and was required to travel in order to attend; and that he believes that the objector does not have a technical or legal argument against the application.

At the request of Attorney McAteer, the objecting neighbor, Kristine Janish, Palm Harbor, appeared, indicated that her legal counsel is having emergency surgery, and requested a continuance so that her counsel could be present for the hearing.

Mr. Bomstein related that the BAA has previously extended the courtesy of a continuance due to unforeseen circumstances; whereupon, discussion ensued wherein Mr. Burdette indicated that virtual appearances at meetings were discontinued by the Board; and that an exception could be made in this case. Attorney McAteer noted that if the Board was to allow virtual appearance for this case, then all cases scheduled for that day should have the same option.

Mr. Doran made a motion that Case No. VAR-23-22 be continued to the next BAA meeting to be held on March 6, 2024, date certain; and that virtual appearance be permitted based on travel availability. The motion was seconded by Mr. Cocks and carried unanimously.

MINUTES OF THE DECEMBER 1, 2023, AND JANUARY 6, 2024, MEETINGS

Mr. Cocks made a motion, which was seconded by Ms. White and carried unanimously, that the December 1, 2023, and January 6, 2024, minutes be approved.

ADJOURNMENT

The meeting was adjourned at 9:36 AM.