

**MINUTES — JUNE 16, 2020  
CITY OF INDIAN ROCKS BEACH  
BOARD OF ADJUSTMENTS AND APPEALS**

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The Regular Meeting of the Indian Rocks Beach Board of Adjustments and Appeals was held on **TUESDAY, JUNE 16, 2020**, at 7:01 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

**1. CALL TO ORDER.** Chair Alvarez called the meeting to order at 7:01 p.m.

**2. ROLL CALL:**

**PRESENT:** Chair Rick Alvarez, Vice-Chair Stewart DeVore, Board Member Jim Labadie, and David Watt.

**OTHERS PRESENT:** Planning Consultant Hetty C. Harmon, AICP, City Attorney Randy Mora, and City Clerk Deanne B. O'Reilly, MMC.

**ABSENT:** Board Member Waldemar H. Clark, Jr.

**VACANT POSITIONS:** 1<sup>st</sup> Alternate Board Member and 2<sup>nd</sup> Alternate Board Member.

*(To provide continuity for research, items are listed in agenda order although not necessarily discussed in that order.)*

**3. APPROVAL OF MINUTES: February 18, 2020**

**MOTION MADE BY VICE-CHAIR DEVORE, SECONDED BY MEMBER LABADIE, TO APPROVE THE FEBRUARY 18, 2020 BOARD OF ADJUSTMENTS AND APPEALS MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.**

**4. BOA CASE NO. 2020-04 — 124-13<sup>TH</sup> AVENUE**

**Owners/Applicants:** Patti Baker Katz

Jorge L. Blassino

**Representative:** Platinum Pools & Spas

**Subject Location:** 124-13<sup>th</sup> Avenue

**Legal Description:** Indian Beach Re-Revised 1<sup>st</sup> Addition, Block 78, Lot 11 & S ½ vac alley adj on North

**Parcel #:** 01-30-14-42048-078-0110

**Variance Request:**     **Variance request of 17.5 feet into the required 25-foot front yard setback, resulting in a total front yard setback of 7.5 feet, to allow for new pool.**

*[Beginning of Staffing Report.]*

**SUBJECT: BOA CASE NO. 2020-04.** A variance request of 17.5 feet into the required 25-foot front yard setback, resulting in a total front yard setback of 7.5 feet to allow for a new pool for property located at 124-13<sup>th</sup> Avenue.

**STAFF RECOMMENDATION:** Based on the variance review criteria of Section 2-152, staff recommends denial of the request.

Owner:	Patti Baker Katz Jorge L. Blassino
Property Location:	124-13 <sup>th</sup> Avenue
Zoning:	Single-Family Residential (S)

Direction	Existing Use	Zoning Category
North	Residential	S
East	Residential	S
South	Residential	S
West	Residential	S

## **BACKGROUND:**

Patti Katz is requesting a variance of 17.5 feet of the required 25 feet front yard setback to allow for a pool.

This house's address is off of 13<sup>th</sup> Avenue, but the house actually faces 1<sup>st</sup> Street. The required front yard setback of 25 feet is on the 13<sup>th</sup> Avenue side. They are requesting to locate the pool in the front yard setback along 13<sup>th</sup> Avenue even though it appears as the side yard of the dwelling.

## **Sec. 2-152.     Variances.**

*(a) Generally; criteria for granting variances from the terms of subpart B.*

(1) The Board of Adjustments and Appeals shall make recommendations on and the City Commission shall decide variance applications will not be contrary

to the public interest, where, owing to special conditions, a literal enforcement of the provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the Board or the City Commission shall consider each of the following.

- a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. *The existing residence was built in 2005 and was built to the current land development codes which complied with the front, side and rear yard setbacks.*
- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant has proposed a pool that would encroach into the front yard setback.*
- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district. *Granting the variance would confer special privileges to the applicant that is not allowed by the Land Development Code to other lands, structures, or buildings in the same zoning district.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The approval/denial of this variance would not deprive other owners of use and enjoyment of their properties and would not cause undue hardship on the applicant.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *Granting of this variance would allow the property to have a reduced front yard setback.*
- f. The granting of the variance will be in harmony with the general intent and purpose of subpart B, and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare. *Granting the variance will not be in harmony with general intent and purpose of subpart B.*

**PUBLIC NOTIFICATION:** A public meeting notice was mailed by first class mail to the property owners within 150 feet in any direction of the subject property and posted on the property on June 1, 2020, per Code Section 2-149.

*[End of Staffing Report.]*

City Attorney Mora read the title of Agenda Item No. 4, BOA Case No. 2020-04.

City Attorney Mora stated this is a quasi-judicial proceeding and proceeded to review the rules for quasi-judicial proceedings.

City Attorney Mora asked the Members if any of them had any ex-parte communications with the applicant, with all Members responding in the negative.

City Attorney Mora inquired of the Members if any of them had done a site visit for the limited purpose of evaluating this case, with Chair Alvarez and Member Watt responding in the affirmative.

City Attorney Mora inquired if Chair Alvarez and Member Watt felt that their visit in any way impaired their ability to impartially adjudicate this matter, with both Chair Alvarez and Member Watt responding in the negative.

All persons planning to give testimony during the quasi-judicial proceeding were duly sworn in by the City Attorney.

Planning Consultant Harmon introduced BOA Case No. 2020-04. She stated the applicants are requesting a variance of 17.5 feet into the required 25.0 feet front yard setback, resulting in a total front yard setback of 7.5 feet, to allow for a new pool for property located at 124-13<sup>th</sup> Avenue, Indian Rocks Beach, Florida, and legally described as Indian Beach Re-Revised 1st Addition, Block 78, Lot 11 & S ½ vac alley adj on North.

Planning Consultant Harmon stated the house's address is off of 13<sup>th</sup> Avenue, but the house faces 1<sup>st</sup> Street. The required front yard setback of 25 feet is on the 13<sup>th</sup> Avenue side. They are requesting to locate the pool in the front yard setback along 13<sup>th</sup> Avenue, even though it appears as the side yard of the house.

Planning Consultant Harmon presented a PowerPoint Presentation showing an aerial view of the property, a survey, a drawing of the proposed construction,

a photo of 1st Street looking north and east, and a photo of 13th Avenue looking east.

Planning Consultant Harmon stated staff recommends denial based on the variance review criteria of Section 2-152.

Vice-Chair DeVore asked if a 4-foot fence is adequate enough for safety for children who are biking or walking in the neighborhood.

Planning Consultant Harmon stated the required fencing for a pool is 46 or 48 inches for a pool.

**David Greiner, Platinum Pools & Spas, 104 Seacrest Drive, Largo, Florida, applicants' pool contractor,** stated once a safety fence is installed, a latch would be attached to the door and would be raised to 54 inches where it needs to be per the City Code.

Mr. Greiner explained the variance request and stated there was no other place to put the pool except for that area.

**Patti Katz, 124-13<sup>th</sup> Avenue, the applicant,** stated the front of the house is physically on 1<sup>st</sup> Street, and there is a property at 2215-1<sup>st</sup> Street where their fence and pool are actually in front of their house, and the physical front of their house is exactly like hers.

City Attorney Mora stated the Board is only considering her property and application tonight. There is no precedent.

**Phil Wrobel, 112-13<sup>th</sup> Avenue,** spoke in support of the variance and stated they are good neighbors, who have taken excellent care of their property. Mr. Wrobel talked about the history of the construction of the house and the lack of communication between the owner, who lived in Kentucky, and the builder. He further stated there are other residences with pools in their front yard with 6-foot fences.

**Chris Turpin, 107-14<sup>th</sup> Avenue,** stated she did not want a 6-foot fence around the pool. She asked questions about where the front setback and property line starts and asked what are setbacks and right-of-ways for.

Planning Consultant Harmon provided answers to Ms. Turpin's questions.

Ms. Turpin stated the applicants take outstanding care of their residence. She is not opposed but had curiosity questions for the future of Indian Rocks Beach.

Member Labadie asked about the telephone pole on the corner of the property.

Mr. Greiner stated the utility pole had been removed, and the power lines have been buried and rerouted to the side of the residence.

Mr. Greiner stated there would be no exterior lighting other than the existing exterior lighting.

Mr. Greiner stated the interior pool lights would be facing toward the house, so at the same time, they would not shine out toward the street to where it would cause a driver to be blinded by the light. The lights are at a low dim to where they only shine inside the pool.

***MOTION MADE BY VICE-CHAIR DEVORE, SECONDED BY MEMBER WATT, TO RECOMMEND TO THE CITY COMMISSION DENIAL BOA CASE NO. 2020-04, A VARIANCE REQUEST OF 17.5 FEET INTO THE REQUIRED 25.0 FOOT FRONT YARD SETBACK, RESULTING IN A TOTAL FRONT YARD SETBACK OF 7.5 FEET, TO ALLOW FOR NEW POOL, FOR THE PROPERTY LOCATED AT 124-13<sup>th</sup> AVENUE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS INDIAN BEACH RE-REVISED 1ST ADDITION, BLOCK 78, LOT 11 & S ½ VAC ALLEY ADJ ON NORTH. PARCEL NO. 01-30-14-42048-078-0110.***

Vice-Chair DeVore stated the applicants did not show any hardship as required by the Code of Ordinances.

***ROLL CALL VOTE:***

***AYES: WATT, DEVORE, ALVAREZ***

***NAYS: LABADIE***

***ABSENT: CLARK***

***MOTION TO DENY WAS APPROVED BY A VOTE OF 3 TO 1.***

Planning Consultant Harmon stated this BOA Case is scheduled for the July 14, 2020 City Commission Agenda, for consideration.

**5. OTHER BUSINESS.**

City Clerk O'Reilly stated there will be no Board of Adjustments and Appeals Meeting in July 2020.

**6. ADJOURNMENT.**

***MOTION MADE BY MEMBER LABADIE, SECONDED BY MEMBER WATT, TO  
ADJOURN THE MEETING AT 7:25 P.M. UNANIMOUS APPROVAL.***

August 25, 2020  
Date Approved

/DOR