

**MINUTES — OCTOBER 19, 2021
CITY OF INDIAN ROCKS BEACH
BOARD OF ADJUSTMENTS AND APPEALS**

The Regular Meeting of the Indian Rocks Beach Board of Adjustments and Appeals was held on **TUESDAY, OCTOBER 19, 2021**, at 6:00 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

1. **CALL TO ORDER.** Chair DeVore called the meeting to order at 6:00 p.m.

2. **ROLL CALL:**

PRESENT: Chair Stewart DeVore, Vice-Chair David Watt, Board Member Jim Labadie, and 1st Alternate Board Member Michael A. Campbell.

OTHERS PRESENT: Assistant City Attorney Jeremy Simon, Planning Consultant Hetty C. Harmon, AICP, and City Clerk Deanne B. O'Reilly, MMC.

VACANT POSITION: 2nd Alternate Board Member.

ABSENT: Board Member Waldemar H. Clark, Jr.

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

City Clerk O'Reilly advised that Board Member Clark has resigned from the Board of Adjustments and Appeals.

Chair DeVore thanked Mr. Clark for his years of service and volunteer work in the City. He was an incredible ambassador to the City of Indian Rocks Beach. Thank you, Wally Clark from the Board of Adjustments and Appeals.

Assistant City Attorney Simon stated the Board's decisions are not binding decisions, they will be recommended to the City Commission. These are quasi-judicial proceedings where the Board acts in a quasi-judicial rather than a legislative capacity. At a quasi-judicial hearing, it is not the Board's function to make law, but rather to apply law that has already been established. In a quasi-judicial hearing, the Board is required by law to make findings of fact based upon the evidence presented at the hearing and apply those findings of fact to previously established criteria contained in the Code of Ordinances in order to make a legal decision regarding the application before it. The Board may only consider evidence at this hearing that the law considers competent, substantial, and relevant to the issues. If the competent, substantial, and relevant evidence at the hearing demonstrates that the applicant has meet the criteria established in the Code of Ordinances, then the Board is required by law to find in favor of the applicant. By the same token, if the competent, substantial, and relevant evidence at the hearing demonstrates that the applicant has failed to meet the criteria established in the Code of Ordinances, then the Board is required by law to find against the applicant.

3. APPROVAL OF MINUTES: AUGUST 17, 2021

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO APPROVED THE AUGUST 17, 2021 MINUTES, AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.

4. BOA CASE NO. 2021-11 — 110-14TH AVENUE

Owner/Applicant: Robert Kirk Park III
Subject Location: 110-14th Avenue, Indian Rocks Beach, Florida
Legal Description: Indian Beach Re-Revised, Block 29, Lot 5.
Parcel #: 01-30-14-42030-029-0050
Variance Request: A variance request from Section 110-131(1)(f.)(1) of Code of Ordinances of 5.00 feet into the required 25-foot front yard setback, resulting in a total front yard setback of 20.00 feet, to allow for a expansion of the existing porch and garage on the front of the house.

[Beginning of Staff Report]

SUBJECT: BOA CASE NO. 2021-11. Variance request from Sec. 110-131(1)(f.)(1) of the Code of Ordinance of 5.00 feet into the required 25-foot front yard setback, resulting in a total front yard setback of 20.00 feet, to allow for a expansion of existing porch and garage on the front of the house for property located at 110-14th Avenue, Indian Rocks Beach, Florida, and legally described as Indian Beach Re-Revised , Block 29 , Lot 5. Parcel # 01-30-14-42030-029-0050.

OWNER: Robert Kirk Park III
PROPERTY LOCATION: 110-14th Avenue
ZONING: S — Single-Family

Direction	Existing Use	Zoning Category
North	Medium Density Residential	RM-1
East	Medium Density Residential	RM-1
South	Medium Density Residential	RM-1
West	Medium Density Residential	RM-1

BACKGROUND:

Kirk Park is planning on converting his existing duplex into a single-family residence. He is requesting to enlarge the front porch by 5 feet and enlarge the garage below the porch to be the same distance from the front property line as the porch. The existing residence was built in 1979 and Mr. Kirk has owned the building since 1997. The overall building has a front setback of 30 feet; however, the second story porch is located at 25 feet from the front property line. The existing front planter is located 20 feet from front property line. The new porch and extended garage would be located at 20 feet from the front property line.

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 original building was built as a duplex and each unit has a small 5 foot deep porch. Since the applicant is proposing to convert to a single-family, he would like a more usable porch.*
- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
- 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 not confer special privileges to the applicant, it would allow for reasonable use of the dwelling for a single family residence.*
- 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 of this variance request would not deprive other owners of use and enjoyment of their properties.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to convert to a single-family dwelling and construct a usable porch as desired.*
- 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 be in harmony with the general intent and purpose of subpart B.*

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

NOTICE: A 15-day notice was mailed by first class mail to the property owners within 150 feet in any direction of the subject property and posted on subject property on October 4, 2021 pursuant to Sec. 2-149 of the Code of Ordinances.

[End of Staff Report]

City Clerk O'Reilly read by title only Agenda Item No. 4, BOA Case No. 2021-11, 110-14th Avenue.

Assistant City Attorney Simon inquired of the members if they had any ex-parte communications with the applicant, with all members responding in the negative.

Assistant City Attorney Simon inquired of the members if any of them had done a site visit for the limited purpose of evaluating this case, with all members responding in the negative.

Assistant City Attorney Simon duly swore in all persons planning to give testimony during the quasi-judicial proceeding.

Planning Consultant Harmon stated the applicant is requesting a variance from Section 110-131(1)(f.)(1) of the Code of Ordinances of 5 feet into the required 25-foot front yard setback, resulting in a total front yard setback of 20 feet, to allow for an expansion of the existing porch and garage on the front of the house, for the property located at 110-14th Avenue.

Planning Consultant Harmon presented a PowerPoint Presentation showing aerial views of the property, a survey, a photo of the front of the duplex, proposed addition drawings, and proposed elevation drawing,

Planning Consultant Harmon stated the applicant bought the property in 1997, and at that time, it was a triplex. He converted the triplex into a duplex renting out the top two units and using the bottom unit as a storage area.

Planning Consultant Harmon stated since he has reached retirement age, he would like to convert the duplex into a single-family home for him and his wife.

Planning Consultant Harmon stated with the conversion of the duplex to a single-family residence, the two balconies would be combined. The applicant would like to extend the width of the balcony from 5 feet to 10 feet to accommodate a small dining table and grill. The applicant would remove the firewall between the two units, and the bottom floor of the duplex would also be extended by 5 feet into the front setback to match the upstairs addition.

Planning Consultant Harmon stated no final plans had been designed yet. He wanted to go through the variance process first.

Planning Consultant Harmon stated staff recommended approval.

Planning Consultant Harmon stated no correspondence either supporting or objecting to the variance has been received.

Member Campbell stated if the balcony were extended and the bottom floor was not, would it still affect the setback, with Planning Consultant Harmon responding in the affirmative.

Member Campbell asked if a car could park in the garage right now?

Planning Consultant Harmon stated yes, there is plenty of room to park cars underneath the building and in front of the house.

Planning Consultant Harmon stated the applicant must have two parking spaces for a single-family residence according to the Code of Ordinances.

Robert Kirk Park, III, 12935 Tar Flower Drive, Tampa, Florida, the applicant and property owner. He stated he and his wife plan on moving to Indian Rocks Beach next year and said he is present to answer any questions that the Board may have.

Mr. Parks stated he is looking to sufficiently beautify the property, remove the mohawk firewall, and put up a metal roof. The existing balcony is tiny and only allows for a chair. He was hoping that the Board would consider his request to extend the full width of the balcony out to 10 feet to have a small dining table and some additional furniture for eating and entertaining.

Member Campbell stated it is a great improvement. But his question is would it be the same improvement if his application were just for the balcony. In other words, if the applicant was not extending the bottom floor area out 10 feet into the setback and just extended the balconies out to the size he wanted, does that give the applicant most of what he wants.

Mr. Parks stated the balcony would be covered, so the roofline would not necessarily change whether he extended the garage underneath the balcony out.

Member Campbell stated, but the view down the street does. In other words, the uniformity of the setback, in his opinion, is more at the street level.

Member Campbell stated one of the criteria for granting a variance is that it is the least disruptive of the current ordinance that will serve the applicant's purposes.

Member Campbell asked if the extension to the balcony served the applicant's purpose. The Board has heard everything about the balcony and nothing about the garage expansion.

Member Campbell asked if it was purely to get an aesthetic view across the front.

Mr. Park responded yes, for an aesthetic view and for functionality in the garage to park his cars in the garage and have a larger storage area.

Planning Consultant Harmon stated the applicant would have to support the balcony from the ground floor.

Chair DeVore confirmed with the applicant that he plans to put overhead garage doors in.

Assistant City Attorney Simon noted for the record that there was no public present for public comments.

Vice-Chair Watt stated setbacks are a touchy issue and think that they are important for different reasons. He would say in this case, looking at the line diagram showing the existing properties on either side, the statement could be made that the residence fits

relatively uniformly with his neighbor's homes versus in many areas that would not be the case.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY VICE-CHAIR WATT, TO RECOMMEND TO THE CITY COMMISSION APPROVAL OF BOA CASE NO. 2021-11, A VARIANCE REQUEST FROM SEC. 110-131(1)(F.)(1) OF THE CODE OF ORDINANCE OF 5.00 FEET INTO THE REQUIRED 25-FOOT FRONT YARD SETBACK, RESULTING IN A TOTAL FRONT YARD SETBACK OF 20.00 FEET, TO ALLOW FOR A EXPANSION OF EXISTING PORCH AND GARAGE ON THE FRONT OF THE HOUSE FOR PROPERTY LOCATED AT 110-14TH AVENUE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS INDIAN BEACH RE-REVISED, BLOCK 29, LOT 5. PARCEL # 01-30-14-42030-029-0050.

ROLL CALL:

AYES: CAMPBELL, LABADIE, ALVAREZ, WATT, DEVORE

NAYS: NONE

MOTION CARRIED UNANIMOUSLY.

5. BOA CASE NO. 2021-12 — 381 LA HACIENDA DRIVE

Owner/Applicant: Chris & Lydia Tremble

Subject Location: 381 La Hacienda Drive, Indian Rocks Beach, Florida

Legal Description: La Hacienda 1st Addition, Lot 56 and part of Water Lot C in front.

Parcel #: 07-30-15-47394-000-0560.

Variance Request: A variance request from Section 110-131(1)(f.)(2) of the Code of Ordinances of 13.00 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 12.00 feet, to allow for a covered porch on the rear of the house.

[Beginning of Staff Report]

SUBJECT: BOA CASE NO. 2021-12. Variance request from Sec. 110-131(1)(f.)(2) of the Code of Ordinance of 13.00 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 12.00 feet, to allow for a covered porch on the rear of the house for property located at 381 La Hacienda Drive, Indian Rocks Beach, Florida, and legally described as La Hacienda 1st Addition, Lot 56 and part of Water Lot "C: in front. Parcel # 07-30-15-47394-000-0560.

OWNER: Chris & Lydia Tremble
PROPERTY LOCATION: 381 La Hacienda Drive
ZONING: S — Single-Family

DIRECTION	EXISTING USE	ZONING CATEGORY
North	Residential	S
East	Intracoastal	N/A
South	Residential	S

BACKGROUND:

Chris and Lydia Tremble are requesting to install a covered porch on the rear of their house. The existing residence was built in 1968 and has a rear yard setback of 25 feet. The required rear yard setback in the single-family residential zoning district is 25 feet on waterfront lots. The house presently has 263 square foot covered porch. The proposed additional covered porch would be extend into the rear yard setback for 13 feet leaving a 12-foot rear yard setback.

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. *There are no special conditions or circumstances peculiar to their land.*
- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
- 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.*
- 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 of this variance request would not deprive other owners of use and enjoyment of their properties.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to construct the covered porch as desired.*
- 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 the general intent and purpose of subpart B.*

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

NOTICE: A 15-day notice was mailed by first class mail to the property owners within 150 feet in any direction of the subject property and posted on subject property on October 4, 2021 pursuant to Sec. 2-149 of the Code of Ordinances.

[End of Staff Report.]

Assistant City Attorney Simon read by title only Agenda Item No. 5, BOA Case No. 2021-12, 381 La Hacienda Drive.

Assistant City Attorney Simon inquired of the members if they had any ex-parte communications with the applicant, with all members responding in the negative.

Assistant City Attorney Simon inquired of the members if any of them had done a site visit for the limited purpose of evaluating this case, with all members responding in the negative.

Assistant City Attorney Simon duly swore in all persons planning to give testimony during the quasi-judicial proceeding.

Planning Consultant Harmon stated the applicants are requesting a variance from Section 110-131(1)(f).(2) of the Code of Ordinances of 13.00 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 12.00 feet, to install a covered porch on the rear of the house for outdoor eating and entertainment.

Planning Consultant Harmon presented a PowerPoint Presenting depicting aerial views of the property, a survey, the proposed porch addition drawing, a picture of the covered porch area, pictures of the back of the property looking south, looking west, and looking north, and a picture of the house from 2019 without any improvements. The applicants have added a pool area where the old deck was.

Planning Consultant Harmon stated staff recommends denial because the property is located on the waterfront, and it does not meet the City Code or the variance criteria.

Planning Consultant Harmon stated the City did not receive any correspondence supporting or objecting to the variance request.

Member Campbell stated he is new on the Board, so he does not have a real feel for what happens with decks. Did the removed deck intrude into the setback, or has it only become an intrusion when it has a roof.

Planning Consultant Harmon stated in that area, property owners can install 4-foot fences and waterfalls in that area, but built-in kitchens, bars, or items like that are prohibited on the waterfront.

Member Campbell clarified that a variance would be needed if a roof were put on the removed deck.

Member Alvarez stated the porch footprint is 24 feet by 14 feet.

Planning Consultant Harmon stated the porch footprint is 24 feet by 13 feet to the support pillars.

Member Watt confirmed the rear yard setback requirement is 25 feet, so there is no room for improvement to the rear yard unless the applicants are granted a variance.

Chair DeVore asked if the applicants could put posts in and create a removable sun cover but still offer that shade.

Planning Consultant Harmon stated the support posts would not be within the setbacks.

Chris Tremble, 381 La Hacienda Drive, the applicant, stated he has actually opened up the back of his residence by putting in sliding glass doors that open to a porch that is an extension of his living area. His house faces the southeast, and for that reason, he would like to put a covered pavilion to block the sun so that he and his wife can comfortably utilize this part of their yard as a cooking and seating area. He stated the covered porch would not obstruct any of his neighbor's waterview. He said his house is closer to the waterway, and his neighbors on both sides are set back further from the waterway.

Mr. Tremble stated when he bought the property, it was abandoned and run down. He has put a lot of money and work into the property to make a lovely home.

Elias Leousis, 378 La Hacienda Drive, spoke in support of the variance request. He stated on La Hacienda Drive, a lot of the houses are non-conforming by virtue of the fact the cove was added after the houses were built. A lot of these houses, including his, sit in the setback. He is all for people fixing their homes, especially on his street, because it helps everyone and the City. It beautifies the neighborhood.

Member Campbell stated it is sort of the carry over theme that he saw last month wherein a lot of ways the Board is trying to put a square peg in a round hole just like the applicant said. Yet, it cannot be the only criterion that makes the house prettier and more valuable. Not getting that is not a hardship.

Member Campbell stated he is troubled. He, too, like everybody in Indian Rocks Beach, would love the house to be upgraded and spiffy. He does not think variance by variance is the way to accomplish that, specifically because the City Attorney tells the Board that they cannot look at what it has done before deciding what to do now. So, it is a conundrum, but he is confident that prettier by itself and cannot beat the legal requirements for a variance.

MOTION MADE BY MEMBER LABADIE, SECONDED BY MEMBER ALVAREZ, TO RECOMMEND DENIAL TO THE CITY COMMISSION, ON BOA CASE NO. 2021-12, A VARIANCE REQUEST FROM SECTION 110-131(1)(f.)(2) OF THE CODE OF ORDINANCES OF 13.00 FEET INTO THE REQUIRED 25-FOOT REAR YARD SETBACK, RESULTING IN A TOTAL REAR YARD SETBACK OF 12.00 FEET, TO ALLOW FOR A COVERED PORCH ON THE REAR OF THE HOUSE, FOR THE

PROPERTY LOCATED AT 381 LA HACIENDA, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LA HACIENDA 1ST ADDITION, LOT 56 AND PART OF WATER LOT C IN FRONT.

Member Labadie stated that when variances are granted to extend into the rear setbacks for porch coverings, it sets a precedent for the rest of the town. The Board fights with this all the time, and it is not something new. He would prefer personally to see it stay the way it is.

ROLL CALL VOTE:

AYES: CAMPBELL, WATT, DEVORE, ALVAREZ, LABADIE

NAY: NONE

MOTION TO *DENY* UNANIMOUSLY APPROVED.

6. OTHER BUSINESS.

Planning Consultant Harmon stated there will be a Board of Adjustments and Appeals Meeting on November 16, 2021, at 6:00 p.m.

7. ADJOURNMENT.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO ADJOURN THE MEETING AT 6:31 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

November 16, 2021

Date Approved

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