

**MINUTES — NOVEMBER 16, 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, NOVEMBER 16, 2021**, at 6:00 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

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

2. **ROLL CALL:**

PRESENT: Vice-Chair David Watt, Board Member Rick Alvarez, Board Member Michael A. Campbell, Board Member Jim Labadie.

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

ABSENT: Chair Stewart DeVore.

VACANT POSITION: 1st Alternate Board Member and 2nd 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: OCTOBER 19, 2021**

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO APPROVE THE OCTOBER 19, 2021 MINUTES. UNANIMOUS APPROVAL BY ACCLAMATION.

4. **BOA CASE NO. 2021-14 — 339-12TH AVENUE**

Owner/Applicant:	Michael Mirmanesh Devon Elizabeth Granter
Subject Location:	339-12th Avenue, Indian Rocks Beach, Florida
Legal Description:	Indian Beach Re- Revised 2nd Addition, Block 89, Lot 7
Parcel #:	06-30-15-42066-089-0070
Variance Request:	Variance request from Section 94-86 (a)(1) of the Code of Ordinances of 2 feet 6 inches into the required 12-foot side setback, resulting in a total setback of 9 feet 6 inches on the west side, for the installation of a boat lift.

[Beginning of Staff Report]

SUBJECT — BOA CASE NO. 2021-14. Variance request from Section 94-86 (a)(1) of the Code of Ordinances of 2 feet 6 inches into the required 12-foot side setback, resulting in a total setback of 9 feet 6 inches on the west side, for the installation of a boat lift for property located at 339-12th Avenue Indian Rocks Beach, Florida, and legally described as Lot 7, Block 89, 2nd Addition to Re- Revised Map of Indian Beach recorded in Plat Book 23 Page 72 of the Public Records of Pinellas County. Property ID # 06-30-15-42066-089-0070

OWNER: Michael Mirmanesh
 PROPERTY LOCATION: 339-12th Avenue
 ZONING: Single-Family Residential

Direction	Existing Use	Zoning Category
North	Residential	S
East	Residential	S
South	Intracoastal	N/A
West	Residential	S

BACKGROUND:

The applicant is requesting to encroach 2 feet 6 inches into the 12-foot side yard setback for his boat lift. The existing dock is in the middle of the lot and the installation of a boat lift on either side of the dock would require a variance.

The owners to the east and the west have agreed to the location of the boat lift.

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 dock is located in the middle of the lot and the side setbacks would be impacted by the installation of the boat lift on either side of the dock.*
- 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 the boat lift to be constructed on an existing dock.*
- 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 boat lift.*
 - 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 injurious to the area involved or detrimental to the public welfare.*

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

NOTICE: 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 November 1, 2021 pursuant to Section 2-149 of the Code of Ordinances.

[End of Staff Report]

Assistant City Attorney Simon read by title only Agenda Item No. 4, BOA Case No. 2021-14, 339-12th 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 BOA Case No 2021-14 is a variance request from Code Section 94-86(a)(1) of the Code of Ordinances of 2 feet 6 inches into the required 12-foot side yard setback, resulting in a total setback of 9 feet 6 inches on the west side, for the installation of a boat lift located at 339-12th Avenue.

Planning Consultant Harmon made a PowerPoint Presentation showing aerial views of the property depicting the existing house with the boat lift extending off the rear of the property.

Planning Consultant Harmon stated the applicant requested to encroach 2 feet 6 inches into the 12-foot side yard setback for his boat lift. She noted the existing dock is in the middle of the lot, and installing a boat lift on either side of the dock would require a variance. The owners to the east and the west have agreed to the location of the boat lift.

Member Campbell stated is he correct in looking at the draft drawing that all this necessity and hardship and setback is all premised on this large chunk of the dock at the end staying there.

Planning Consultant Harmon responded in the affirmative and stated it is an existing dock.

Member Campbell stated there is no reason why the boat lift could not be moved to the other side, and the boat lift would fit without having to request a variance.

Planning Consultant Harmon stated that is correct. She said the applicant does not propose to install a new dock.

Natalie Dwier, 3-33rd Street South, St. Petersburg, representing the applicant and his application for a boat lift at 339-12th Avenue, stated the applicant's desire is to put a 16,000-pound boat lift on the west side of the already-in-place dock that the previous owner built. To place the boat lift on the west side of the dock requires a variance of the standard 12-foot side yard setback, 2.5 feet to 9.5 feet. The applicant's plan has full approval from his west neighbors, 337-12th Avenue, and has signed off on the submitted drawing. As of this time, Gulfside Docks is planning on installing the boat lift if approval is obtained. Of note, the boat lift would not be amendable on the east side of the dock due to the "L" shaped nature of the existing dock, which would also require a variance at an approximate 6-foot setback. In addition, the east side neighbors, 341-12th Avenue, have also signed off and have agreed that the boat lift on the west side of the dock, and therefore, would be making the parking and docking the boat more cumbersome.

Member Campbell asked if there would be any problem with the depth of the water or anything else that the applicant could rip out that platform and set it further to the west side and have a straight line of the dock on the east line side and put the boat lift there.

Ms. Dwier stated not that she is aware.

Assistant City Attorney Simon opened the public comment section. Seeing and/or hearing no one wishing to speak, the public comment section was closed.

Planning Consultant Harmon stated the applicant advised if the boat lift is installed on the other side, the boat lift would be closer to the property line.

Vice-Chair Watt stated that if the platform was removed and there was nothing but the 4-foot walkway, there would be a total of 26 feet minus the 15 feet, so only a 2-foot variance would be needed. The only way this would work without a variance is to move the entire

dock, just not the platform. He stated that the Board is not here to judge whether the applicant should move the dock necessarily.

Member Campbell stated he disagrees with that. The Board is here for that because it is an economic hardship only and merely.

MOTION MADE BY MEMBER CAMPBELL TO DENY BOA CASE NO. 2021-14, 399-12TH AVENUE, ON THE BASIS THAT THERE IS NO HARDSHIP OTHER THAN ECONOMIC HARDSHIP SHOWN. MOTION DIED DUE TO A LACK OF A SECOND.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, RECOMMENDED TO THE CITY COMMISSION APPROVAL OF BOA CASE NO. 2021-14, A VARIANCE REQUEST FROM SECTION 94-86 (A)(1) OF THE CODE OF ORDINANCES OF 2 FEET 6 INCHES INTO THE REQUIRED 12-FOOT SIDE SETBACK, RESULTING IN A TOTAL SETBACK OF 9 FEET 6 INCHES ON THE WEST SIDE, FOR THE INSTALLATION OF A BOAT LIFT, FOR THE PROPERTY LOCATED AT 339-12TH AVENUE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS INDIAN BEACH RE-REVISED 2ND ADDITION, BLOCK 89, LOT 7. PARCEL # 06-30-15-42066-089-0070.

ROLL CALL VOTE:

AYES: LABADIE, ALVAREZ, WATT

NAYS: CAMPBELL

ABSENT: DeVORE

MOTION CARRIED BY A VOTE OF 3 TO 1.

5. BOA CASE NO. 2021-15 — 445 HARBOR DRIVE SOUTH

Owner/Applicant: James Eric Sullivan, Jr.

Representative/Agent: Enterprise Marine

Subject Location: 445 Harbor Drive South

Legal Description: Indian Beach Re-Revised 19th Addition, Lot 15

Parcel #: 06-30-15-42372-000-0150

Variance Request: Variance request from Section 94-86 (a)(1) of the Code of Ordinances of 10 feet 6 inches into the required 12-foot side setback, resulting in a total setback of 1 foot 6 inches on the west side, for the installation of a new dock and new boat lift.

[Beginning of Staff Report]

SUBJECT — BOA CASE NO. 2021-15: Variance request from Section 94-86 (a)(1) of the Code of Ordinances of 10 feet 6 inches into the required 12-foot side setback, resulting in a total setback of 1-foot 6 inches on the west side, for the installation of a new dock and new boat lift for property located at 445 Harbor Drive South, Indian Rocks Beach, Florida, and legally described as Lot 15, Nineteenth Addition to Re-Revised Map of Indian Beach

recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County. Property ID # 06-30-15-42372-000-0150

OWNER: James Eric Sullivan, Jr.
PROPERTY LOCATION: 445 Harbor Drive South
ZONING: Single-Family Residential

Direction	Existing Use	Zoning Category
North	Residential	S
East	Residential	S
South	Residential	S
West	Intracoastal	N/A

BACKGROUND:

The applicant is requesting to encroach 10 feet 6 inches into the 12-foot side yard setback for his boat lift. The lot is an inverse curve lot and the property lines project into the water at an angle causing the available side setback to be reduced as the lot lines are extended into the water. The owners to the north have agreed to the location of the boat lift.

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 and, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. *The narrower width and the angled property lines are not applicable to all lots in the same zoning district.*
- 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 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 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 boat lift.*
- 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 injurious to the area involved or detrimental to the public welfare.*

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

NOTICE: 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 November 1, 2021 pursuant to Section 2-149 of the Code of Ordinances.

[End of Staff Report]

Assistant City Attorney Simon read BOA Case No. 2021-15, 445 Harbor Drive South, by title only.

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 BOA Case No. 2021-15 is for a variance request from Section 94-86(a)(1) of the Code of Ordinances of 10 feet 6 inches into the required 12-foot side setback, resulting in a total setback of 1-foot 6 inches on the west side, for the installation of a new dock and boat lift, for the property at 445 Harbor Drive South.

Planning Consultant Harmon made a PowerPoint Presentation showing aerial views of the property, and a picture of the proposed dock and boat lift.

Planning Consultant Harmon stated the applicant requested to encroach 10 feet 6 inches into the 12-foot side yard setback for his boat lift. The lot is an inverse curve lot, and the property lines project into the water at an angle, causing the available side setback to be reduced as the lot lines are extended into the water. The applicant did receive a sign-off

from his next-door neighbor at 443 Harbor Drive South. This neighbor is the one that would be impacted the most.

Assistant City Attorney Simon noted for the record that neither the applicant James Sullivan nor the applicant's representative, Joe Place of Enterprise Marine, were present.

Member Alvarez clarified that the applicant is replacing the dock.

Member Alvarez stated if the boat lift were on the other side, it would be less of a variance, and he asked if staff saw it that way.

Planning Consultant Harmon stated yes, but the applicant was adamant about keeping on that side.

Member Campbell stated property lines go out into the water and asked the city attorney if driving over those property lines out in the water is not trespassing.

Assistant City Attorney Simon responded that it is not trespassing.

Member Campbell asked if the applicant's boat comes across his neighbor's property line, the applicant is not invading into the next person's property rights going across their property extension into the water.

Assistant City Attorney Simon responded in the negative and stated based on the facts that he presented.

Assistant City Attorney Simon opened the public comments section. Seeing and hearing no one wishing to speak, the public comments section was closed.

Member Campbell stated the applicant expressed a preference for putting the dock in the middle, and it is going to be a new dock, and it could be placed in another location, so a variance is not needed for the boat lift.

Planning Consultant Harmon stated she does not see why not.

Vice-Chair Watt stated this boat lift would fit on the other side with maybe a 1-foot variance. He asked what is the City's position on having two boats side-by-side.

Planning Consultant Harmon stated the City does not have a position on that issue.

Member Labadie asked if the depth of the water on the other side of the dock is shallower.

Planning Consultant Harmon stated it does not appear so. The applicant did not bring that up.

Member Labadie asked if the water depth was why the applicant wanted it on the other side.

Planning Consultant Harmon stated she thinks it is because the other neighbor is so close maybe.

Member Campbell stated he thinks the applicant does not want his boat in front of his window, and the applicant wants it off to the side.

Member Campbell stated that since the existing dock is being removed, this amounts to an almost frivolous variance request because everything fits if the dock is relocated. There is not even the economic hardship because the existing dock is being removed. He does not feel the application meets the criteria of that there is no alternative under the current ordinance without a variance.

Vice-Mayor Watt stated his comment would be similar to Member Campbell's comment. He said some things are just nice to have and things that are a tight squeeze and a couple of feet are needed, which is not one of them.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO RECOMMEND DENIAL TO THE CITY COMMISSION ON BOA CASE NO. 2021-15, A VARIANCE REQUEST FROM SECTION 94-86 (A)(1) OF THE CODE OF ORDINANCES OF 10 FEET 6 INCHES INTO THE REQUIRED 12-FOOT SIDE SETBACK, RESULTING IN A TOTAL SETBACK OF 1 FOOT 6 INCHES ON THE WEST SIDE, FOR THE INSTALLATION OF A NEW DOCK AND BOAT LIFT FOR THE PROPERTY LOCATED AT 445 HARBOR DRIVE SOUTH, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS INDIAN BEACH RE-REVISED 19TH ADDITION, LOT 15. PARCEL #: 06-30-15-42372-000-0150.

ROLL CALL VOTE:

AYES: CAMPBELL, LABADIE, ALVAREZ, WATT

NAYS: NONE

ABSENT: DeVORE

MOTION TO DENY CARRIES UNANIMOUSLY.

Member Alvarez stated by the applicant not being present to address the Boards concerns and questions, the Board based their decision on what was presented to them by staff.

Vice-Mayor Watt asked if Planning Consultant Harmon was looking for the Board's reasons for denial to pass onto the City Commission, with Planning Consultant Harmon responding in the affirmative.

Vice-Mayor Watt stated there was no hardship with this application.

The rest of the Board agreed with Vice-Mayor Watt's comment that no hardship was found.

6. **BOA CASE NO. 2021-16 — 530 HARBOR DRIVE NORTH**
Owner/Applicant: Jason Medley
Representative/Agent: A-NIKS Outdoor Comfort
Subject Location: 530 Harbor Drive North
Legal Description: Browns Addition to Re-Rev Map of Indian Beach, Lot 14
Parcel #: 06-30-15-12402-000-0140
Variance Request: Variance request from Section 110-131 (1)(f)(2)(i) of the Code of Ordinances, of 12 feet 8 inches into the required 25-foot rear yard setback, resulting in a total rear yard setback of 12 feet 2 inches, to allow for an aluminum awning.

[Beginning of Staff Report]

SUBJECT — BOA CASE NO. 2021-16: Variance request from Section 110-131 (1)(f)(2)(i) of the Code of Ordinances of 12 feet 8 inches into the required 25-foot rear yard setback, resulting in a total rear yard setback of 12 feet 2 inches, to allow for an aluminum awning for property located at 530 Harbor Drive North, Indian Rocks Beach, Florida, and legally described as Lot 14, Browns Addition to Re-Revised Map of Indian Beach Subdivision recorded in Plat Book 58 Page 80 of the Public Records of Pinellas County. Property ID # 06-30-15-12402-000-0140

OWNER: Jason Medley, Jeff Troxel, Marck De Lautour
PROPERTY LOCATION: 530 Harbor Drive North
ZONING: Single-Family Residential

Direction	Existing Use	Zoning Category
North	Residential	S
East	Intracoastal	N/A
South	Residential	S
West	Residential	S

BACKGROUND:

The applicant is requesting a variance to build a 217 square foot awning in the rear yard setback. The property was built in 1968 and has a rear yard setback of 25 feet. The proposed awning is proposed to project 12 feet 8 inches into the rear yard setback, leaving a rear setback of 12 feet 2 inches.

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 the 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: 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 November 1, 2021 pursuant to Section 2-149 of the Code of Ordinances.

[End of Staff Report]

Assistant City Attorney Simon read BOA Case No. 2021-16, 530 Harbor Drive North, by title only.

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 BOA Case No. 2021-06 is a variance request from Section 110-131(1)(f)(2)(i) of the Code of Ordinances of 12 feet 8 inches into the required 25-foot rear yard setback, resulting in a total rear yard setback of 12 feet 2 inches, to allow for an aluminum awning, for the property located at 520 Harbor Drive North.

Planning Consultant Harmon made a PowerPoint Present showing aerial views of the property, a survey, pictures looking south and north from where the awning would be located.

Planning Consultant Harmon stated the applicant requested a 217 square foot in the rear yard setback to build an awning. The house was built in 1968 and has a rear yard setback of 25 feet. The proposed awning to project 12 feet 8 inches into the rear yard setback, leaving a rear setback of 12 feet 2 inches.

Planning Consultant Harmon stated staff did recommend denial because the City Code does not permit structures in the rear yard setback.

Member Alvarez stated he did not see an "artist rendition" of the proposed awning in the packet. He asked if the awning would be open on both ends, so it is just the awning with two post anchors on the waterside.

Planning Consultant Harmon responded in the affirmative.

Jason Medley, 530 Harbor Drive North, the applicant, submitted a proposal of the awning from A-NIKS, showing a drawing of the proposed awning. He stated there is no pitch to the roof, and there are two posts.

Member Campbell stated what the rules are for awnings, and if this is a retractable awning would it be subject to the setback or not?

Planning Consultant Harmon stated retractable awnings do not require variances because they are not permanent structures.

Mr. Medley stated they had remodeled the home. However, they realized that there were zero places to hide from the sun in the backyard in doing so. There is no covered space. The area that the planning consultant proposed does have some steps there, so that would not work. They would like to have a seating area where they can have dinner outside or sit outside. There is not enough space where the pool starts and the back of the house.

Mr. Medley stated the proposed roof is a flat roof with two posts and would not have a pitch. They want to be respectful of everyone from a view perspective.

Mr. Medley stated they looked at alternatives that could be taken down at night, like giant umbrellas, but that would block his neighbors' views. His goal is to have a space to sit outside in the summertime to enjoy their home.

Mr. Medley stated they had gutted the house down to the studs. It is a brand-new home. They are just trying to find a place outside where they can sit outside and not get scorched up in the summertime.

Member Alvarez asked if Mr. Medley considered a retractable awning.

Mr. Medley stated that the company they are using, A-NIKS, handles all different shade systems. He does not know if the retractable awning would extend far enough to cover the table, so that was the challenge they were looking at from that perspective. Would it be adequately engineered to extend out far enough to cover a table?

Mr. Medley stated he realizes the issue has the two pillars in the ground, making it a permanent structure. Still, with the awning, at least from a visual perspective, it would be bulkier and less appealing.

Member Alvarez stated retractable awnings are limited to 6 or 8-foot at the most. He said the applicant needs a total of 12 feet to have a table and chairs to meet his requirements.

Vice-Chair Watt stated it appears, by the drawing, the front edge of the awning would be 12 feet back from the seawall. He asked what the height of the roofline was?

Mr. Medley stated the height of the roofline is approximately 10 feet because it comes off of where the first and second stories meet.

Member Campbell asked if the house is within the rear setback already? And if so, how close to the setback is the edge of the house?

Planning Consultant Harmon stated the house is 26 feet from the seawall and 25 feet is the required rear yard setback.

Member Alvarez confirmed that the awning would be above the first-floor windows and just right below the stucco band.

Member Alvarez asked if that is a solid wall looking southward.

Mr. Medley stated that it is a 6-foot PVC vinyl fence.

Member Labadie asked whose fence is it.

Mr. Medley stated he was not sure. It has been there since they have purchased the property.

Member Alvarez stated it is a shadow box, and it cannot be seen through as the City Code provides for.

Member Labadie stated the applicant wants to extend the awning out 16 feet.

Mr. Medley explained the posts would be out by the hot tub.

Member Labadie stated his concern is obstructing the view of his neighbors on both sides. He said if the awning is projected out far enough, the neighbors cannot see to the north. He asked if his neighbors had signed off on and approved his project.

Mr. Medley stated he was not aware that his neighbors had to sign off on his project. He said he would be more than happy to try and do that.

Mr. Medley stated to the south of his property that the neighbor does not have a pool and that one single flat roofline would obstruct her view. He said when that neighbor looks north, there is already a fence blocking her view.

Member Campbell said from the City's criteria what is the least variance that would accomplish the applicant's need. His question is whether the applicant has considered building out 5 feet with a solid roof and then having an 8-foot retractable awning at the edge of that. Then the solid roof would only encroach into the rear setback by 1 or 2 feet, and the retractable awning would not need a variance.

Mr. Medley stated he does not know from an engineering perspective if that is feasible to put the awning in. He does not know if a retractable awning can be mounted to the flat roof.

Member Campbell asked the applicant if he had investigated this with anybody?

Mr. Medley responded no. He has never seen anything done like that.

Member Campbell stated that a 16-foot awning with two poles unattached to anything is not all that usual either.

Mr. Medley stated the awning would be attached to the home. It is hurricane-rated.

Vice-Chair Watt asked what the difference between this awning and a freestanding pergola is?

Planning Consultant Harmon responded with basically nothing.

Vice-Chair Watt stated he wanted to make sure because this awning is attached to the house. Structures within the 25-foot rear yard setback are a very sensitive subject.

Vice-Chair Watt clarified that the City Code prohibits anything within the 25-foot required rear yard setback of a vertical structure above 4 feet.

Vice-Chair Watt stated the abutting white vinyl fence does not meet City Code.

Assistant City Attorney Simon opened the public comment session. Seeing and/or hearing no one wishing to speak, the public hearing was closed.

Planning Consultant Harmon stated, for the record, that she had asked the people who submitted the application to talk to the neighbors numerous times.

Member Alvarez stated there was a discussion about being mindful of the neighbors. The Board did not have letters from the neighbors whether or not they approved or objected to the variance for consideration. He asked if the applicant had another option other than denial and then go to the City Commission, or can the applicant withdraw the application, talk to the neighbors and come back to the Board for a vote.

Assistant City Attorney Simon stated the applicant could withdraw his application and submit a new application with the letters from his neighbors. Still, then he would be starting the application process all over again.

Assistant City Attorney Simon stated the Board could table it and bring it back for another hearing at another date and time.

Member Campbell stated there is nothing that would stop him from submitting the letters to the City Commission.

The Board discussed whether the applicant withdrew his application, or the Board table, or vote on the variance.

Vice-Chair Watt asked would the applicant like to withdraw his application or continue with the process.

Vice-Chair Watt advised the applicant that the Board is only an advisory board to the City Commission and makes the final decision.

Mr. Medley stated he would like to proceed with the process.

MOTION MADE BY MEMBER CAMPBELL, SECONDED BY MEMBER LABADIE, TO RECOMMEND DENIAL TO THE CITY COMMISSION ON BOA CASE NO. 2021-16, A VARIANCE REQUEST FROM SECTION 110-131 (1)(f)(2)(i) OF THE CODE OF ORDINANCES OF 12 FEET 8 INCHES INTO THE REQUIRED 25-FOOT REAR YARD SETBACK, RESULTING IN A TOTAL REAR YARD SETBACK OF 12 FEET 2 INCHES, TO ALLOW FOR AN ALUMINUM AWNING FOR PROPERTY LOCATED AT 530 HARBOR DRIVE NORTH, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOT 14, BROWNS ADDITION TO RE-REVISED MAP OF INDIAN BEACH SUBDIVISION RECORDED IN PLAT BOOK 58 PAGE 80 OF THE PUBLIC RECORDS OF PINELLAS COUNTY. PROPERTY ID # 06-30-15-12402-000-0140

ROLL CALL VOTE:

AYES: LABADIE, CAMPBELL, WATT

NAYS: ALVAREZ

ABSENT DeVORE

MOTION TO *DENY* CARRIED BY A VOTE OF 3 TO 1.

7. OTHER BUSINESS.

City Clerk O'Reilly announced that there will be no December meeting.

Member Campbell stated there was a dock water depth affidavit included with one of the dock variance and stated it was incredibly helpful. He asked if that was required as part of the variance application.

Planning Consultant Harmon stated that is an application that goes to Pinellas County.

8. ADJOURNMENT.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER CAMPBELL, TO ADJOURN THE MEETING AT 6:49 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

January 18, 2022

Date Approved

/dor