

**MINUTES — DECEMBER 12, 2021
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING**

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, DECEMBER 14, 2021**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 7:01 p.m., followed by the Pledge of Allegiance and a moment of silence.

PRESENT: Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Joe McCall, Commissioner Philip J. Hanna, Commissioner Edward G. Hoofnagle, Commissioner Denise Houseberg, and City Manager Brently Gregg Mims.

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

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

1A. REPORT OF Pinellas County Sheriff's Office.

The Pinellas County Sheriff's Office submitted a written crime analysis report for the month of November 2021.

1B. REPORT OF Pinellas Suncoast Fire & Rescue District.

Mayor-Commissioner Kennedy introduced Jeffery Davidson as the new Fire Chief for the Pinellas Suncoast Fire & Rescue District.

Fire Chief Davidson provided a brief background on himself and stated he will be entering his 34th year in fire service. He thereafter reviewed the Pinellas Suncoast Fire and Rescue District submitted written report for the month of November 2021.

Fire Chief Davidson announced that Fire Commissioner David Ardman resigned from the Fire Board on December 6, 2021, and will be moving out of Indian Rocks Beach. He stated the District is in the process of appointing a replacement until the next general election.

1C. PRESENTATION BY Women's Tea.

The Women's Tea presented checks to the following organizations: IRB Community Food Pantry, VIP Rescue, and The Kind Mouse.

2. PUBLIC COMMENTS.

Tony Tribuzio, 415 Harbor Drive South, stated he has been residing there since 1997, and he is here to complain about the vacation rental across the street at 414 Harbor Drive South. He said he went to VRBO, and it is advertised as a 5 bedroom, 6 bath, sleeps 15 people, and parks 8 vehicles in front of the house. Over the Thanksgiving Day Weekend, there was a frat-type party at that house. Beer pong started at ten in the morning, and there were 40 to 50 people at the house. People were throwing up and urinating on the front lawn. The music and noise were loud all day. At about 7:00 p.m., a party bus (school size bus) pulls up and drives the house's occupants to party down in St. Pete Beach. It was loud all night long. He called the Pinellas County Sheriff's Office once during the daytime.

Mr. Tribuzio stated this house is ruining the neighborhood, and several neighbors are selling because of this one vacation rental. He noted that this vacation rental owner has also brought the home at 427 Harbor Drive South.

Mr. Tribuzio stated the vacation rentals are taking over the neighborhood, and it is becoming undesirable to live in Indian Rocks Beach.

Mr. Tribuzio asked how this happened back in 2014 and asked if something could be done to turn this around?

Jean Scott, 420 Harbor Drive South, stated she lives right next door to 414 Harbor Drive South, and her bedroom window is right there where they party. It was a bachelor party on that weekend, and the gentleman was from Tampa. He invited all his friends over from Tampa. They were quite obnoxious and rude. She called them several times, and finally, on the third time, when they told her to "mf-----, get back into the house." She called the mayor and held the phone out on the porch, and she heard everything. She took care of it, and the city manager was called.

Ms. Scott stated since that incident, there have been two other families in there, and they have been relatively calm.

Ms. Scott stated she had the property owner's telephone number. She called him and texted him, and he said he would make sure that things calmed down.

Cecily Benga, 264 Larchwood Drive, Largo, stated she pet sits throughout the City and sometimes spends the night at her clients' homes where the dogs are barking because of the loud noise. She has seen the AIRB&Bs popping up and has witnessed the loud noises associated with some of the AIRB&Bs. She stated that it is only getting worse. They party until all hours of the morning, and she has called the sheriff's office several times on some of the house parties.

Eric Sullivan, 445 Harbor Drive South, stated short-term vacation rentals have become an issue in the City and something needs to be done.

3A. REPORTS OF THE CITY ATTORNEY:

City Attorney Mora read the draft letter going to the Legislators concerning Senate Bills 280 and 620:

“As elected officials in a Florida community, we thank you for your service to the residents of our great state and willingness to engage in an open dialogue on the policies that shape our future.

We, the City Commission of City of Indian Rocks Beach in Pinellas County, write to express our strong opposition to and concern regarding legislation that you may be called to vote on this session. Specifically, we are troubled by Senate Bills 280 and 620. These legislative proposals encumber the ability of small communities like ours to respond to their constituencies by requiring over burdensome findings for legislative enactments, while creating civil exposure to damages and fees. SB 280, for example, fundamentally alters the well-established standard of review for municipal enactments and pairs that change with a deviation from the ordinary operation of Florida law by subjecting local governments to exposure for attorneys’ fees. Similarly, with limited exceptions, SB 620 creates a cause of action against municipalities for municipal enactments that are proven to cause a 15% loss of revenue or profits, which is also paired with municipal exposure to attorneys’ fees. Inexplicably, the entitlement to attorneys’ fees for the claimant is not reciprocally extended to the municipality should it prevail in its defense. This broad entitlement will have a chilling effect on legislative bodies across the state, not just for innovative or unique enactments, but those that may practically serve the majority of residents or business owners in a community.

Legislative enactments like these place impractical and untenable restraints on the ability of local communities like ours to respond to their residents. The innovation and diversity that underpins our tourist industry, fostered by our state’s home-rule principles and civil immunities, will be eroded by a fear of exposure to liability. In Florida’s smaller communities this could mean a legislative body weighing the need for legislation against potential insolvency from a potentially unidentifiable field of litigants.

We respectfully request that you advocate and vote against these unwarranted intrusions on local governance.”

CONSENSUS OF THE CITY COMMISSION FOR STAFF TO FINALIZE AND MAIL THE LETTER TO THE APPROPRIATE COMMITTEE CHAIRS, REPRESENTATIVE DiGELIE, AND BIG-C MEMBERS.

3B. REPORTS OF THE CITY MANAGER:

City Manager Mims stated his written report is part of the agenda packet.

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY RATING SYSTEM

City Manager Mims stated the City participates in the National Flood Insurance Program (NFIP) Community Rating System (CRS). The City received a letter from Federal Emergency Management Agency (FEMA). The purpose of that letter was to provide the City with the NFIP CRS field verification findings based on the City's 5-year cycle verification.

City Manager Mims stated FEMA has determined that the City will retain its currency rating as a Class 6 in the NFIP CRS. The floodplain management activities implemented by the City qualify for a 20 percent discount on flood insurance premiums for most NFIP policies issued or renewed on or after April 1, 2022. This savings is a tangible result of the flood mitigation activities that the City implemented to protect lives and reduce property damage.

City Manager Mims stated the City has a continuing contract with CRS MAX Consultants, Inc., to assist City staff with the paperwork involved with the annual renewals and recertification documentation.

SHORT-TERM VACATION RENTALS

City Manager Mims stated during the peak of COVID, there was a slow up of conversions of single-family houses to vacation rentals. He said it is a weekly occurrence where properties are converted to vacation rentals.

City Manager Mims stated at the rate that the City is going, the majority of the properties that are on the east side of Gulf Boulevard, north of 5th Avenue, south of Belleair Beach will be vacation rentals.

City Manager Mims stated even if the Legislature overturns the Statute to allow cities to regulate short-term vacation rentals again, the existing ones can still operate as legal nonconforming uses.

City Manager Mims stated there had been problems with the vacation rental at 414 Harbor Drive South with the large amounts of trash. Pursuant to the City Code, the Public Services Director has the authority to increase the rates, which has been done. He stated that the owner had also received several Code Enforcement citations.

City Manager Mims stated the Pinellas County Sheriff's Office handles short-term vacation rentals on a case-by-case basis.

City Manager Mims stated that short-term vacation rentals are complicated, and there is no end to this. Nothing prevents someone from buying a piece of property and converting it to a short-term vacation rental.

City Manager Mims stated that all short-term vacation rentals registered with the City comply with the short-term vacation ordinance.

City Manager Mims stated the City has roughly over 200 short-term vacation rental properties and only receives complaints on the abovementioned property and a couple of other rentals.

City Manager Mims stated his Code Enforcement Officers do not have the authority to cite someone for being drunk, urinating in the yard, and so forth. The only way they can be arrested or cited is for a deputy to see them in the act.

Mayor-Commissioner Kennedy asked if the \$500 is the max for Code Enforcement fines.

City Attorney Mora stated the \$500 is the max on repeat violations. Fines are capped in Chapter 162, F.S., Code Enforcement Fine. He thereafter explained the process for challenged code enforcement fines and court proceedings.

Jean Scott, 420 Harbor Drive South, stated 414 Harbor Drive South is a vacation rental, a commercial business. She asked if sprinklers were required. It is a two-story house with 6 bedrooms and 5 bathrooms.

City Manager Mims stated that would be a question for the Pinellas Suncoast Fire and Rescue District.

City Manager Mims congratulated Mayor-Commissioner Kennedy, Commissioner McCall, and Commissioner-elect Bond on being unopposed for the March 15, 2022 IRB Election.

3C. REPORTS OF THE CITY COMMISSION:

COMMISSIONER HOOFNAGLE:

- He thanked the City staff for the holiday tree lighting, the holiday street parade, the holiday boat parade, and the other civic activities that keep everyone in a small town despite the challenges that the City is facing with the short-term rentals.
- He recommended that the City post the vacancy of the Pinellas Suncoast Fire & Rescue District Fire Commissioner opening on the City's website.
- He stated as the nature of the City changes and the City becomes more commercial in former residential areas, there is probably going to be a necessity for the City to envision a large law enforcement response budget with an additional staff allocation so that the City can meet those demands in a timely fashion and still address the other law and order issues that come up.
- He heard the Welcome to Indian Rocks Beach magnet, done by Commissioner Houseberg for vacation rentals, are being taken home by the renters because they liked them so much. They were being stolen like a momentum, which is a shame because it had valuable information. So, perhaps the City could create a more bland one-page brochure for the Pinellas County Sheriff's Office to give out instead of the magnet. However, in general, people are good, but the one percent will cause problems for the City.
- He congratulated Commissioner-elect Bond.

COMMISSIONER McCALL:

- He stated the IRB Homeowners' Association is having their Annual Toy Drive hosted by Kathy Mack, Century 21 Beggins. He stated instead of annual party, they will be having drop off points at Century 21, City Hall, the Beach Art Center, Cookie Cutter, and at the various local restaurant for the bikes, helmets, and toys because of COVID. He stated Kathy Mack of Century 21 Beggins has started to collect bicycles, helmets, and toys. The bicycles, helmets, and toys will be distributed to Shepherd's Village and RCS Grace House, and the toys will go to Miracle on the Bay, which houses disabled children and families. The extra bikes and toys will go to local military families through the VA or the American Legion.

COMMISSIONER HANNA:

- He congratulated Commissioner-elect Bond, Mayor-Commissioner Kennedy, Commissioner McCall for running unopposed in the March 2022 IRB Election.
- He expressed his appreciation to Commissioner Hoofnagle for serving on the City Commission.
- He stated the holiday events were great.

COMMISSIONER HOUSEBERG:

- She wished everyone a wonderful holiday.

MAYOR-COMMISSIONER KENNEDY:

- City Attorney Mora stated the Mayor asked him if there is any pending legislation concerning short-term rentals. He stated there is one bill, HB6033, proposed by Representative Grieco. HB6033 repeals all the provisions preempting regulation of vacation rentals to the State. This does both have a companion bill and it has been referred to four separate committees, and has not been heard by any committees. It is unlikely that this bill will gain any traction during this Legislative Session.
- City Attorney Mora stated SB512, proposed by Senator Burgess, is another short-term rental bill. SB512 would require advertising platforms to collect and remit taxes for certain transactions; revises the regulated activities of public lodging establishments and public food service establishments preempted to the state to include licensing; expanding the authority of local laws, ordinances, or regulations to include requiring vacation rentals to register with local vacation rental registration programs; authorizing local governments to adopt vacation rental registration programs and impose fines for failure to register; requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements and attest to certain information, etc. It has not moved through committees at all.
- City Attorney Mora stated there are a few higher priorities this Legislative Session concerning vaccination requirements and responses to the pandemic. The short-term rental issue continues to be one of a political moment, but not the one at the moment.
- She thanked City staff for all the great events and getting through COVID this year.
- She congratulated Commissioner-elect Bond, who will be sworn in as a city commissioner in March.

- She stated that Michael Connor nominated by President Biden was confirmed by Congress as the Assistant Secretary of the Army for Civil Works, who oversees the U.S. Army Corps of Engineers. She stated Congressman Crist is in the process of scheduling a meeting with Mr. Connor to discuss beach renouishment and the issue that the City is having as far as the easement.

[City Manager Mims left the meeting.]

4. **ADDITIONS/DELETIONS.** None.

5. **CONSENT AGENDA:**

- A. **APPROVAL OF the November 9, 2021 Regular City Commission Meeting Minutes.**
- B. **APPOINTING MYRA WARMAN to serve on the Planning and Zoning Board as a regular board member for a two-year term, expiring May 31, 2023.**
- C. **AUTHORIZING the City Manager to enter into a lease agreement with the West Pinellas Little League, for the municipal-owned property known as the Joseph Campalong Baseball Field.**
- D. **APPOINTING BOARD OF ADJUSTMENTS AND APPEALS 1ST ALTERNATE BOARD MEMBER MICHAEL AUSTIN CAMPBELL as a regular board member to fill the unexpired term of Waldemar H. Clark, Jr., expiring June 20, 2023.**
- E. **APPOINTING KAREN O'DONNELL to serve on the Board of Adjustments and Appeals as 1st Alternate Board Member for a three-year term, expiring June 30, 2024.**
- F. **CONFIRMING ACTION taken during the December 2, 2021 Special City Commission Meeting.**
- G. **APPROVAL OF the December 2, 2021 Special City Commission Meeting Minutes.**

City Attorney Mora read the Consent Agenda, consisting of Agenda Item Nos. 5A through 5G, by title only.

MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER HANNA, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEM NOS. 5A THROUGH 5G, AS SUBMITTED. UNANIMOUS APPROVAL ACCLAMATION.

6A. **BOA CASE NO. 2021-14 — 339-12TH AVENUE**

Considering 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.

[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.*

PUBLIC NOTICE: A public 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 29, 2021, pursuant to Section 2-149 of the Code of Ordinances.

CORRESPONDENCE RECEIVED: No correspondence was received.

LEGAL ADVERTISEMENT: A legal notice was published in the December 1, 2021-edition, of the St. Pete Time Section of the Tampa Bay Times, for public hearing that has been scheduled on December 14, 2021, for BOA Case No. 2021-14.

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

BOARD OF ADJUSTMENTS AND APPEALS RECOMMENDATION: The Board recommended approval to the City Commission by a vote of 3 to 1.

[End of Staff Report]

City Attorney Mora read BOA Case No. 2021-14 by title only.

City Attorney Mora read the procedures for a quasi-judicial proceeding.
City Attorney Mora inquired of the City Commission if they had any ex-parte communications with the applicant, with all members responding in the negative.

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

The City Attorney 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 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 to install a boat lift on his property, 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 stated there is an existing dock that is in the middle of the lot, and installing a boat lift on either side dock would require a variance. The owners to the east and the west have agreed to the location of the proposed boat lift.

Planning Consultant Harmon stated staff and the Board of Adjustments and Appeals recommended approval of this BOA Variance Case.

Natalie Dwier, 3-33rd Street South, St. Petersburg, representing the applicant and his application for the variance 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. 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.

Mayor-Commissioner Kennedy opened the public hearing. Seeing/hearing no one wishing to speak, the public hearing was closed.

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED VICE MAYOR-COMMISSIONER MCCALL, TO APPROVE 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: HANNA, HOOFNAGLE, McCALL, HOUSEBERG, KENNEDY
NAYS: NONE

MOTION CARRIED UNANIMOUSLY.

6B. BOA CASE NO. 2021-15 — 445 HARBOR DRIVE SOUTH
Considering 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 new 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

[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.*

PUBLIC NOTICE: A public 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 29, 2021, pursuant to Section 2-149 of the Code of Ordinances.

CORRESPONDENCE RECEIVED: No correspondence was received.

LEGAL ADVERTISEMENT: A legal notice was published in the December 1, 2021-edition, of the St. Pete Time Section of the Tampa Bay Times, for public hearing that has been scheduled on December 14, 2021, for BOA Case No. 2021-15.

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

BOARD OF ADJUSTMENTS AND APPEALS RECOMMENDATION: The Board of Adjustments and Appeals recommended denial to the City Commission by a vote of 4 to 0.

[End of Staff Report]

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

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

The City Attorney 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 would like to replace the existing dock and extend it to make it a longer dock and keep the boat lift on the same side. The applicant did receive a sign-off from his next-door neighbor at 443 Harbor Drive South, which is the neighbor that would be impacted the most.

Planning Consultant Harmon stated staff recommended approval because of the lot's unique shape, and the Board of Adjustments and Appeals recommended denial.

The applicant, James Eric Sullivan, Jr., 445 Harbor Drive South, stated he purchased this property as his home in 2016. Since then, he has remodeled both the interior and exterior to modernize the home. He noted the original dock extended out to 35 feet. When Hurricane Irma's storm surge came up, it lifted the dock boards and dropped them back down, making the dock unsafe. He has removed all the unsafe boards from the dock, as shown in the aerial photos making the dock 10 to 12 feet.

Mr. Sullivan stated he had received approval from both of his neighbors, and both are tired from seeing the eyesore of the existing dock. They understand that because the pie-shaped lot pinched in that corner. If he were to move the dock, it does then limit two things: (1) the boat would be on a lift, and (2) if the dock were to be moved to the other side, it takes it out of alignment with the backyard, the walkway, the backdoor, and how the house was originally designed and where the dock is located.

Mr. Sullivan stated the other piece to that is not necessarily the desire to have a second boat that stays, but if he does move the dock over, he would be making it narrow to

accommodate more space. But if the dock was moved to the other side, it renders the other side useless because of his neighbor to the east's piling.

Mayor-Commissioner Kennedy opened the public hearing. Seeing/hearing no one wishing to speak, the public hearing was closed.

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED BY VICE MAYOR-COMMISSIONER MCCALL, TO APPROVE 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 NEW 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: HANNA, HOOFNAGLE, McCALL, HOUSEBERG, KENNEDY

NAYS: NONE

MOTION CARRIED UNANIMOUSLY.

6C. BOA CASE NO. 2021-16 — 530 HARBOR DRIVE NORTH

Considering 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 530 Harbor Drive North, Indian Rocks Beach, Florida, and legally described as Browns Addition to Re-Rev Map of Indian Beach, Lot 14. Parcel #: 06-30-15-12402-000-0140

[Beginning of Staff Report]

SUBJECT: 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

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 217square 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 12feet 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.

PUBLIC NOTICE: A public 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 29, 2021, pursuant to Section 2-149 of the Code of Ordinances.

CORRESPONDENCE RECEIVED: No correspondence was received.

LEGAL ADVERTISEMENT: A legal notice was published in the December 1, 2021-edition, of the St. Pete Time Section of the Tampa Bay Times, for public hearing that has been scheduled on December 14, 2021, for BOA Case No. 2021-16.

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

BOARD OF ADJUSTMENTS AND APPEALS RECOMMENDATION: The Board of Adjustments and Appeals recommended denial to the City Commission by a vote of 3 to 1.

[End of Staff Report]

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

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

The City Attorney 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 a 6-foot 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 is requesting to build a 217 square foot awning that would encroach into the rear yard setback. 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 the applicant is proposing to install an awning to provide shade in the backyard and to accommodate a table and chairs.

Planning Consultant Harmon stated staff did recommend denial because the City Code does not permit structures in the rear yard setback. She stated the Board of Adjustments and Appeals also recommended denial.

City Attorney Mora noted, for the record, that the applicant nor his representative were present.

Mayor-Commissioner Kennedy opened the public hearing. Seeing/hearing no one wishing to speak, the public hearing was closed.

Commissioner Hanna stated he does not see a hardship. One of the comments from the Board of Adjustments and Appeals Meeting was that the applicant could put in a motorized awning, and the applicant's comment was that it only came in 6 and 8-foot lengths. He stated he has a 17-foot motorized awning at his house, which has a box on it, and when the wind reaches 35 mph, it automatically rotates back it.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY VICE MAYOR-COMMISSIONER McCALL, TO DENY 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 2INCHES, TO ALLOW FOR AN ALUMINUM AWNING, FOR THE PROPERTY LOCATED AT 530 HARBOR DRIVE NORTH, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS BROWNS ADDITION TO RE-REV MAP OF INDIAN BEACH, LOT 14. PARCEL #: 06-30-15-12402-000-0140

ROLL CALL VOTE:

AYES: HOOFNAGLE, HOUSBERG, McCALL, HANNA, KENNEDY

NAYS: NONE

MOTION TO APPROVE CARRIED UNANIMOUSLY. THE RELIEF REQUESTED IS DENIED.

6D. ORDINANCE NO. 2016-06 — PUBLIC HEARING/SECOND AND FINAL HEARING. An ordinance of the City of Indian Rocks Beach, Florida, providing for amendments to the Code of Ordinances by amending Chapter 110, Zoning; Article I - In General, Section 110-344 "Swimming pools and spas"; by increasing the maximum length of permissible waterfall features in swimming pools and spas; providing for repeal of ordinances or parts of ordinances in conflict herewith to the extent of such conflict; providing for severability; and providing for an effective date.

[Beginning of staff report.]

BACKGROUND:

During the November 12, 2019 and September 14, 2021 City of Indian Rocks Beach City Commission Meetings, the City Commission approved variances to extend the allowable length of waterfalls. The City Code, Land Development Code, allows for up to 6 feet in length and the variances granted were for 12 feet. As a result, the Board of Adjustments and Appeals recommended that the City Commission consider a City Code, Land Development Code, amendment to allow the allowable length of waterfalls to 12 feet in length.

The City Commission by consensus authorized staff to forward a City Code, Land Development Code amendment to the Local Planning Agency to change the 6-foot allocation to 12 feet. The Local Planning Agency should consider the proposed amendment and make the appropriate recommendation to the City of Indian Rocks Beach City Commission.

On October 21, 2021, the Local Planning Agency discussed changing the 6-foot allocation for the waterfall to 12 feet. The Local Planning Agency recommended that if the waterfall was increased to 12 feet it could be located on the house side of the property not along the side yard or rear yard property line. A 6-foot waterfall would still be allowed to be located on any side of the pool.

On November 9, 2021, the City Commission discussed proposed revisions to the ordinance and the City Commission voted to increase the maximum length of permissible waterfall features from 6 feet to 12 feet and waterfall features may not be constructed along the seawall or the rear property line.

[End of Staff Review.]

City Attorney Mora read Ordinance No. 2021-06 by title only, for second and final reading.

City Attorney Mora stated on first reading there was some feedback from the City Commission to alter the ordinance. The ordinance has been altered for second and final reading. The crux of the concern was that waterfall features not be allowed along the rear yard property line where the property is located on the Gulf of Mexico or the Intracoastal Waterways to prevent any kind of shielding, fencing, or some other artificial visual obstruction in the form of the waterfall.

City Attorney Mora stated the language now reads: *Section 110-344, Swimming pools and spas, (7), Spas, jacuzzis, and hot tubs. Spas, as defined in Section 14-421, shall be permitted in accordance with the following standards: (f.) The provision of this subsection (7) shall only apply to decorative waterfalls where they are constructed as part of or integrated into a spa or swimming pool, provided the length or diameter of the improvement does not exceed ~~six~~ twelve feet. When located on a waterfront lot, lot abutting the Intracoastal Waterway, or lot abutting the Gulf of Mexico, the waterfall feature may not be constructed along the seawall or rear property line, and no variance shall be issued for a waterfall feature in this location.*

Mayor-Commissioner Kennedy opened the public hearing. Hearing/seeing no one wishing to speak, the public hearing was closed.

MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER HOUSEBERG, TO APPROVE ORDINANCE NO. 2021-06 , ON SECOND AND FINAL READING, PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES BY AMENDING CHAPTER 110, ZONING; ARTICLE I - IN GENERAL, SECTION 110-344 “SWIMMING POOLS AND SPAS”; BY INCREASING THE MAXIMUM LENGTH OF PERMISSIBLE WATERFALL FEATURES IN SWIMMING POOLS AND SPAS.

Commissioner Hoofnagle stated, for the record, that this just amends the length. The height for waterfalls is still 4 feet.

ROLL CALL VOTE:

AYES: HANNA, McCALL, HOUSEBERG, HOOFNAGLE, KENNEDY

NAYS: NONE

MOTION CARRIED UNANIMOUSLY.

6E. ORDINANCE NO. 2021-07 — PUBLIC HEARING/SECOND AND FINAL READING. An ordinance by the City Commission of the City of Indian Rocks Beach, Florida, amending Chapter 90 of the Code of Ordinances to provide criteria for accessory structures in flood hazard areas; to not permit installation of manufactured homes and recreational vehicles in flood hazard areas and align with regulatory directives; providing for applicability, codification, and severability; and providing for an effective date.

[Beginning of Staff Review]

BACKGROUND:

The Federal Emergency Management Agency (FEMA) established August 24, 2021 as the effective date for the revised Flood Insurance Study for Pinellas County and incorporated areas and flood insurance rate maps. FEMA requires adoption of floodplain management regulations meet certain NFIP requirements.

The City was required to revise sections of the ordinance that pertained to manufactured homes and accessory structures.

The City staff worked with FDEM to update the FEMA requirements in the ordinance and general cleanup of the ordinance.

The following are the areas that were modified:

- Reference to Manufactured Homes was removed except stating they are not allowed. Manufactured Buildings are allowed if they are built offsite and installed on a foundation that meets building regulations.
- Added definition and requirements of “*accessory structure*”. Rebecca Quin, FDEM is inquiring from FEMA if vents are required since the accessory structures are not allowed to be greater than 120 square feet.
- Redefined “*market values*”. Definition is from Pinellas County Flood Manager.
- Removed reference to development in watercourses/floodways.

On November 9, 2021, the City Commission approved Ordinance No. 2021-07, on first reading, unanimously.

[End of Staff Report]

City Attorney Mora read Ordinance No. 2021-07 by title only on second and final reading.

Planning Consultant stated she had heard back from FEMA as to whether or not vents are required in accessory structures, and the answer is yes.

Mayor-Commissioner Kennedy opened the public hearing. Seeing/hearing no one wishing to speak, the public hearing was closed.

MOTION MADE BY VICE MAYOR-COMMISSIONER McCALL, SECONDED BY COMMISSIONER HANNA, TO APPROVE ORDINANCE NO. 2021-07, ON SECOND AND FINAL READING, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES TO PROVIDE CRITERIA FOR ACCESSORY STRUCTURES IN FLOOD HAZARD AREAS; TO NOT PERMIT INSTALLATION OF MANUFACTURED HOMES AND RECREATIONAL VEHICLES IN FLOOD HAZARD AREAS AND ALIGN WITH REGULATORY DIRECTIVES.

ROLL CALL VOTE:

AYES: HOOFNAGLE, HOUSEBERG, HANNA, McCALL, KENNEDY

NAYS: NONE

MOTION CARRIED UNANIMOUSLY.

7. **OTHER LEGISLATIVE MATTERS:** None
8. **WORK SESSION ITEMS [DISCUSSION ONLY]:** None
9. **OTHER BUSINESS.** None.
10. **ADJOURNMENT.**

MOTION MADE BY VICE MAYOR-COMMISSIONER McCALL, SECONDED BY COMMISSIONER HANNA, TO ADJOURN THE MEETING AT 8:35 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

February 8, 2022

Date Approved

/DOR