

**MINUTES**  
**CITY OF INDIAN ROCKS BEACH**  
**CITY COMMISSION MEETING**  
**TUESDAY, MARCH 12, 2024- 6:00 PM**  
**1507 BAY PALM BOULEVARD INDIAN ROCKS BEACH, FL 33785**

Mayor-Commissioner Kennedy called the meeting to order at 6:00 p.m., followed by the Pledge of Allegiance and a moment of silence.

**MEMBERS PRESENT:** Mayor-Commissioner Joanne Kennedy, Vice-Mayor Commissioner Jude Bond, Commissioner Denise Houseberg, Commissioner Janet Wilson, and Commissioner John Bigelow.

**OTHERS PRESENT:** City Attorney Randy Mora, Finance Director Dan Carpenter, Planning and Zoning Consultant Hetty Harmon, City Clerk Lorin Kornijtschuk, Public Works Director Dean Scharmen, and Public Works Administrative Assistant Colleen Olson.

For continuity, items are listed in agenda order, although not necessarily discussed in that order.

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

A PCSO representative reviewed the monthly report.

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

Pinellas Suncoast Fire & Rescue District Fire Chief Jeffrey Davidson reviewed the fire district's monthly report.

**1 C. PRESENTATION IRB Beach Community Food Pantry.**

Presented by Robert Thacker.

**2. PUBLIC COMMENTS.**

Mark Lusnia, 208 12<sup>th</sup> Avenue, stated he has a potential parking problem. People are parking on both sides of the street. He requested no parking signs on that side of the street.

Michael Campbell, 80 Gulf Boulevard, stated there are no EV charging stations, and would like to know why the three stations that the city did have were removed without consulting the public or Commission. He requested the Commission to send out a request for proposals from private companies to reinstall the charging stations.

Suzanne Gibson, 1206 Bay Shore Boulevard stated she is concerned with parking on both sides of the streets. When vehicles are parked on both sides it makes it impossible to move around and for emergency vehicles to get by, especially near the boat ramp. We should work on addressing the resident parking issues.

John Pfanstiehl, 448 Harbor Drive South, stated the Vacation Bill has passed. We need the Governor to Veto Senate Bill 280.

Beth McMullen, 481 Harbor Drive South, asked what happened to the two solar trash receptacle compactors that were given to the City by PSTA back in 2013. She stated that on April 1 the majority of Indian Rocks Beach waterways and the surrounding area will be in the seasonal

Florida Wildlife Commission Manatee Zone which slows the minimum wake restrictions. The restrictions are in place until October 31. This is in place to protect our manatees.

Diane Daniels, 309 10<sup>th</sup> Avenue, stated it is the 50<sup>th</sup> Anniversary of the Friends of the Library and they have a historical display. She stated on her walk to the meeting, she saw plastic bags in recycling containers. This is not allowed and wishes there were a way to message that better. Vacation Donations had a Food Drive on February 24 and will have another on March 30. She requested the city to look into a Community Refrigerator.

Mayor-Commissioner Kennedy closed the Public Comment.

### **3 A. REPORT OF the City Attorney.**

City Attorney Mora stated the Legislative Session has closed and Senate Bill 280 regarding short-term rentals has passed. House Bill 267 and Senate Bill 684 on residential building permits did pass and changes the timelines on permit approvals.

City Attorney Mora stated that some exceptions have been made to a statute adopted last year requiring the city to adopt business impact statements when adopting a new ordinance and there are a series of changes to what is going to be required in the City comprehensive plans.

City Attorney Mora stated a new preemption passed preventing local governments from regulating the location of electronic vehicle charging stations and a preemption was passed that would make it easier to demolish or remove unsafe or non-conforming structures. This issue was to address unsafe structures being preserved on the grounds that they were historical structures.

### **3 B. REPORT OF the City Manager.**

Public Works Director, Dean Scharmen, introduced Public Work Administrative Assistant Colleen Olson, who has worked for the city for 4 years. He stated she is a key component to the success of the Public Works Department.

### **3 C. REPORT OF the City Commission.**

**Commissioner Wilson** stated it has been a wonderful last few weeks here in Indian Rocks Beach with all the events. It is amazing how a small town can have so many exciting things going on.

**Commissioner Houseberg** stated she also has enjoyed all the events. She stated that staff continues to work on the new City Website.

**Commissioner Bigelow** stated that Spring Break is here, and you will need to get your alternate routes in order.

**Mayor-Commissioner Kennedy** stated all the events were great. She stated this is her last meeting as Mayor, she started in 1994 as a Planning and Zoning Board Member and then was on the Finance Board.

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

**5. CONSENT AGENDA:**

- A. APPROVAL OF** the February 13, 2024, City Commission Meeting Minutes.
- B. APPROVAL OF** rescheduling June 11, 2024, Regular City Commission Meeting to June 18, 2024, at 6:00 p.m.
- C. APPROVAL OF** the process to appoint vacant Commission Seat.
- D. AUTHORIZING** the City Manager to award portions of Bid Number I.R.B.P.W.D. 2024-1 and enter into a contract with Harris-McBurney Company for the Outfalls 03 & 04 Projects in the amount of \$1,670,084.69.

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

**MOTION BY VICE-MAYOR COMMISSIONER BOND, SECONDED BY COMMISSIONER HOUSEBERG TO PULL AGENDA ITEM 5B FOR FURTHER DISCUSSION AT A LATER TIME.**

**ROLL CALL VOTE:**

**ALL AYES. MOTION CARRIED 5-0.**

Mayor-Commissioner Kennedy asked for consensus on Agenda Items 5A, 5C and 5D.

**MOTION BY COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER WILSON TO APPROVE AGENDA ITEMS 5A, 5C AND 5D.**

**ROLL CALL VOTE:**

**ALL AYES. MOTION CARRIED 5-0.**

**6. PUBLIC HEARINGS:**

- A. BOA CASE NO. 2024-01- 314 6<sup>th</sup> Avenue.**

**CONSIDERING** a variance request from Sec.110-131(1) f.2 (i) of the Code of Ordinance requesting an additional 3.34-foot incursion into the required 25 feet rear yard setback, resulting in a total setback of 21.66 feet for the enclosed stairway.

City Attorney Mora read BOA Case 2023-08- 320 12<sup>th</sup> Avenue in its entirety.

City Attorney Mora stated the variance application before the board is a quasi-judicial matter.

City Attorney Mora inquired of the members if they had any ex-parte communications with the applicant or their agent in advance tonight concerning the application before them.

Commissioner Wilson stated she met the owner, took a photo, and walked the property yesterday for about 10- 15 minutes.

City Attorney Mora asked Commissioner Wilson if she felt her visit of the property and the discussion with the property owner in anyway would impair her ability to impartially adjudicate this matter tonight. She replied in the negative.

Mayor-Commissioner Kennedy stated she looked at the property for about 10 minutes and had a conversation with the property owner.

City Attorney Mora asked Mayor - Commissioner Kennedy if she felt her visit of the property and the discussion with the property owner in anyway would impair her ability to impartially adjudicate this matter tonight. She replied in the negative.

Commissioner Bigelow stated he viewed the property from the road.

City Attorney Mora asked Commissioner Bigelow if he felt his visit of the property in any way would impair his ability to impartially adjudicate this matter tonight. He replied in the negative.

Vice-Mayor Commissioner Bond viewed the property 2 days ago for about 3 minutes from the street and did not speak with anyone.

City Attorney Mora asked Vice-Mayor Commissioner Bond if he felt his visit of the property in any way would impair his ability to impartially adjudicate this matter tonight. He replied in the negative.

Commissioner Houseberg did not speak or visit the property.

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

Planning Consultant Harmon presented BOA Case NO. 2024-01 -314 6<sup>th</sup> Avenue with a PowerPoint Presentation depicting an aerial view of the property.

**[Beginning of Staff Report]**

**SUBJECT: BOA CASE NO. 2024-01 – 314 6<sup>th</sup> Avenue**, Variance request from Sec.110-131(1) f.2 (i) of the Code of Ordinances, requesting an additional 3.34 foot incursion into the required 25 feet rear yard setback, resulting in a total setback of 21.66 feet for the enclosed stairway for property located at 314 6<sup>th</sup> Avenue, Indian Rocks Beach, Florida, and legally described as Lot 8, Tract B, Haven Beach Replat, according to the plat thereof, recorded in Plat Book 36, Page 34, of the Public Records of Pinellas County, Florida. Parcel # 12-30-14-37800-000.

**OWNER** James and Mary Savanella  
**LOCATION of PROPERTY:** 314 6<sup>th</sup> Ave  
**ZONING:** S- Single- Family Residential

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

**BACKGROUND:**

The applicant is requesting a variance from Sec.110-131(1) f.2 (i) of the Code of Ordinances of 3.34 ft into the 25 ft rear yard setback to allow for the constructed enclosure underneath the stairs in the rear yard. Section 110-245 (c) - **Structures extending over setback lines** allows open stairways to encroach into the rear yard setback not more than 10 ft, but not for enclosed stairways.

During the City’s initial review, the owner asked if they could move the stairs into the rear yard setback and they were sent a copy of Section 110-245 (c) of the Land Development Code, governing the setback requirements for open stairways. The original plans the property owner submitted for City approval showed the stairs within the building envelope, without an encroachment into the rear setback.

During the Pinellas County Building department review process, the property owner submitted revised plans showing the stairs encroaching into the rear yard setback. Pinellas County, in its capacity as the City’s building department, reviewed and approved the revised plans including the rear yard incursion of the enclosed stairwell. The City was not independently aware of this revision. The property owner constructed the building in conformity with the plans approved by the County, including the stairway’s rear yard encroachment. After completing construction of the foundation and first floor of the structure, including the enclosed stairwell, the property owner submitted a tie-in survey to the Pinellas County Building department as part of the ordinary construction review process. A separate official within the County reviewed the tie-in survey and forwarded the plans to the City with specific attention to the stairs’ encroachment. Given that the residential structure was well under construction and the stairs were enclosed underneath as an integral part of the structure, pursuant to reviewed and approved plans, the City’s planning official approved the tie-in survey.

The property owner now seeks this variance to resolve the disparity between the City’s code and the approved construction.

**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 that are 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; and

*This is the minimum variance to allow the stairs in the rear yard.*

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.*

**NOTICE:** A public notice was mailed by first class mail to property owners within 150 feet in any direction of the subject property and posted on subject property on February 5, 2024 (Sec. 2-149 of the Code of Ordinances.)

**CORRESPONDENCE:** Four Letters of Objection were received.

**MOTION:** I move to recommend that the City Commission **APPROVE/DENY BOA CASE NO. 2024-01 – 314 6<sup>th</sup> Avenue's** Variance request from Sec.110-131(1) f.2(i) of the Code of Ordinances, granting a variance of 3.34 feet into the required 25 feet rear yard setback, resulting in a total setback of 21.66 feet for the enclosed stairway in the rear of the property located at 314 6<sup>th</sup> Avenue, Indian Rocks Beach, Florida, and legally described as Lot 8, Tract B, Haven Beach Replat, according to the plat thereof, recorded in Plat Book 36, Page 34, of the Public Records of Pinellas County, Florida

**[End of Staff Report]**

Commissioner Houseberg asked if the applicants were advised that they needed to create an open stairway. Planning and Zoning Consultant replied in the affirmative.

Commissioner Wilson asked if we grant this what process changes have been made to ensure that we have another situation like this. Hetty Harmon, Planning and Zoning Consultant replied we have a good process with the county but 2 to 3 years ago it was a high-volume time and they had new hires.

Commissioner Houseberg asked if the Board of Adjustments approved this.

Hetty Harmon, Planning and Zoning Consultant replied in the affirmative, and stated it was a 3 to 2 vote.

Mayor-Commissioner Kennedy asked what the issue was with the 2 no votes.

Hetty Harmon, Planning and Zoning Consultant replied that the County should have told the city.

Mayor-Commissioner Kennedy asked if there will be a rail around the stairs.  
Hetty Harmon, Planning and Zoning Consultant replied in the affirmative.

Applicant Mary Savanella, 314 6<sup>th</sup> Avenue stated her husband and her own the property and it is their retirement home.

Applicant James Savanella, 314 6<sup>th</sup> Avenue stated they have owned the property since 2008 and would like to retire in Indian Rocks Beach. He stated they did nothing to hurt their neighbors. He stated does believe they have done everything legally. It had been approved and inspected by the County.

Commissioner Houseberg asked if the was going to be a short-term rental.  
The applicants replied in the negative.  
City Attorney Mora stated that this is not a part of this case.

Vice-Mayor Commissioner Bond asked the applicant if they were aware of the potential pitfalls of the stairs in the back and what made you switch it to the side.

The Applicant replied It gains more room for the pool and deck.

Scott Moore with Mueller Remodeling Inc. 11090 66<sup>th</sup> Terrace N. Seminole, the applicant's contractor, stated they made the change to obtain more room for the deck area around the pool. The County approved the change and since then have had multiple inspections that have passed.

Vice-Mayor Commissioner Bond stated that the real hardship is having to dismantle once you have been told you could by the county.

Mayor-Commissioner Kennedy opened the public hearing.

Teresa Pruchniewska, 316 6<sup>th</sup> Avenue, stated, the contractor should have known the setbacks., She stated that if the homeowners wanted a bigger home, they should have bought a bigger lot. The county should not have done what they did.

Mayor-Commissioner Kennedy closed the public hearing.

**MOTION WAS MADE BY COMMISSIONER HOUSEBERG TO APPROVE THE VARIANCE.  
MOTION WAS SECONDED BY JOHN BIGELOW.**

**Roll Call Vote:**

**AYES: Wilson Houseberg, Bond, Houseberg, Kennedy**

**NAYS: Bigelow**

**4 to 1 vote**

7. **OTHER LEGISLATIVE MATTERS.** None.
8. **WORK SESSION ITEMS.** None.
9. **OTHER BUSINESS.** None.
10. **ADJOURNMENT.** None

**Motion was made by Commissioner Houseberg and seconded by Commissioner Wilson to adjourn at 7:42 p.m. Unanimous approval by acclamation.**

April 9, 2024

**Date Approved**