

**MINUTES- JULY 18, 2023
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, JULY 18, 2023, at 6:00 p.m.**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

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

2. **ROLL CALL:**

PRESENT: Chair Stewart DeVore, Vice-Chair David Watt, Member Michael A. Campbell, Member Alvarez and Alternate Member Karen O'Donnell.

OTHERS PRESENT: City Attorney Randy Mora and Planning Consultant Hetty C. Harmon.

VACANT POSITION: 2nd Alternant Board Member.

3. **APPROVAL OF MINUTES: March 21, 2023.**

Motion made by Member Alvarez, seconded by Vice-Chair Watt, to approve the March 21, 2023 Board of Adjustments and Appeals minutes as submitted.

Unanimous approval by acclamation.

Motion carried 5-0

4. **PUBLIC HEARING: Quasi-Judicial**

BOA CASE NO. 2023-04- 449 HARBOR DRIVE SOUTH

Owner/Applicant:	Brenda L. & Barry R. Lanier
Subject Location:	449 Harbor Drive South, Indian Rocks Beach Florida
Legal Description:	Lot 17 Nineteenth Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida
Parcel #:	06-30-15-42372-000-0170
Variance Request	Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 9 feet into the required 12-foot side setback, resulting in a total setback of 3 feet on the northwest side for the installation of a new boat lift.

[Beginning of staff report.]

SUBJECT:

BOA CASE NO. 2023-04- 449 HARBOR DRIVE S.

Owner Applicant:

Brenda & Barry Lanier

Subject Location:

449 Harbor Dr S. Indian Rocks beach, Florida

ZONING:

S- 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 a variance for a boat lift to encroach 9 ft into the 12 ft side yard setback for to install a boat lift. They want to remove an existing lift and install a new lift on side of dock. The abutting property to the north who is impacted by the reduced setback has no objections and signed off on the location of the new boatlift.

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 property is located in an area where the water is deep allowing the use of the existing 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 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 owner to construct the boat lift as proposed.

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 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 June 5, 2023, and July 3, 2023 due to rescheduling the June 20th meeting for no quorum. (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE: Adjacent neighbors at 447 and 457 Harbor Dr S have signed off on the setbacks.

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

MOTION:

I move to recommend to the City Commission **APPROVAL/DENIAL** of BOA CASE NO. 2023-04—449 Harbor Dr S. -Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 9 feet into the required 12 foot side setback, resulting in a total setback of 3 feet on the northwest side for the installation of a new boat lift for property located at 449 Harbor Dr S. Indian Rocks Beach, Florida, and legally described as Lot 17 Nineteenth Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida.

[End of staff report.]

City Attorney Mora read Agenda Item No. 4, BOA Case No. 2023-04 by title only.

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

City Attorney Mora asked if any member had conducted any ex-parte communications with the applicant or their agent in advance of this evening. All members responded negatively.

City Attorney Mora asked if any member had conducted any site visit for the purpose of evaluating the application before them. All members responded negatively.

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

Planning Consultant Harmon explained the variance while presenting a PowerPoint presentation.

Barry Lanier, 449 Harbor Drive S., the applicant stated, his wife has a boat, and he is bringing his fishing boat back home, he will need 2 lifts.

Member Campbell asked why the rules should not apply to this case. The applicant replied that he just wants it.

Member Watt stated the dock could be made narrower and would work without a variance. A 13-foot lift and a 12-foot dock and a 14-foot lift plus 24 feet on each side would be 63 feet. This property can comply without a variance. Planning Consultant Harmon confirmed that it would work.

Motion made by Member Watt, seconded by Member Campbell to recommend to the City Commission denial of BOA CASE NO. 2023-04 –449 Harbor Dr S -Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 9 feet into the required 12 foot side setback, resulting in a total setback of 3 feet on the northwest side for the installation of a new boat lift for property located at 449 Harbor Dr S Indian Rocks Beach, Florida, and legally described as Lot 17 Nineteenth Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida.

AYES: Watt, Campbell, DeVore, Alvarez and O'Donnell

NAYS: None

Motion carried 5-0

5. PUBLIC HEARING: Quasi-Judicial

BOA CASE NO. 2023-05- 461 HARBOR DRIVE SOUTH

Owner/Applicant: Seth & Jackie Parker
Subject Location: 461 Harbor Drive South, Indian Rocks Beach Florida
Legal Description: Lot 2 Twenty Third Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida.

Parcel #: 06-30-15-42444-000-0020
Variance Request: Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 11 feet 3 inches into the required 12-foot side setback, resulting in a total setback of 9 inches on the northwest side for the installation of a new boat lift.

[Beginning of staff report.]

SUBJECT: BOA CASE NO. 2023-05 — 461 HARBOR DRIVE SOUTH

Owner/Applicant: Seth & Jackie Parker
Subject Location: 461 Harbor Drive S., Indian Rocks Beach Florida

ZONING: S- 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 a variance for a boat lift to encroach 11 ft 3 inches into the 12 ft side yard setback for to install a boat lift. This dock is not centered on the lot and is the same for the two lots to the north. The abutting property to the north who is impacted by the reduced setback has no objections and signed off on the location of the new boatlift.

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 property is located in an area where the water is deep allowing the use of the existing 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 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 owner to construct the boat lift as proposed.

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 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 July 3, 2023, (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE: Adjacent neighbors at 459 and 463 Harbor Dr S have signed off on the setbacks.

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

MOTION:

I move to recommend to the City Commission **APPROVAL/DENIAL** of **2023-05 –461 Harbor Dr S.** - Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 11 feet 3 inches into the required 12 foot side setback, resulting in a total setback of 9 inches on the northwest side for the installation of a new boat lift for property located at 461 Harbor Dr S. Indian Rocks Beach, Florida, and legally described as Lot 2 Twenty Third Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida.

[End of staff report.]

City Attorney Mora read Agenda Item No. 5, BOA Case No. 2023-05 by title only.

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

City Attorney Mora asked if any member had conducted any ex-parte communications with the applicant or their agent in advance of this evening. All members responded negatively.

City Attorney Mora asked if any member had conducted any site visit for the purpose of evaluating the application before them. All members responded negatively.

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

Planning Consultant Harmon explained the variance while presenting a PowerPoint presentation.

Jackie Parker, 461 Harbor Drive S., applicant stated she has the same request as the previous applicant. She purchased the house in 2019, the dock and the supports are brand new, adding a secondary boat lift would be easier than modifying the existing dock.

Member Campbell asked what was different about the property from the other properties in the area that the rules should not apply. The applicant replied there was nothing different, but they have grown to need another boat.

Member Watt stated it will fit within the lot lines by adjusting the dock as stated in the previous case.

Motion made by Member Alvarez and seconded by Member O'Donnell to recommend to the City Commission denial of BOA CASE No. 2023-05 –461 Harbor Dr S. - Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 11 feet 3 inches into the required 12 foot side setback, resulting in a total setback of 9 inches on the northwest side for the installation of a new boat lift for property located at 461 Harbor Dr S. Indian Rocks Beach, Florida, and legally described as Lot 2 Twenty Third Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida.

AYES: Watt, Campbell, DeVore, Alvarez and O'Donnell

NAYS: None

Motion carried 5-0

6. PUBLIC HEARING: Quasi-Judicial

BOA CASE NO. 2023-06 — 2209 Gulf Boulevard

Owner/Applicant:	Tanyana & Aleksandr Drigailo
Subject Location:	2209 Gulf Boulevard, Indian Rocks Beach Florida
Legal Description:	Lot3, Block 45, RE-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County, Florida.
Parcel #:	01-30-14-42030-046-0030
Variance Request:	Variance request from Sec.110-131(4)(f)(1) of the Code of Ordinances, of 15 feet into the required 25 foot front yard setback, resulting in a total setback of 10 feet and from Sec. 110-344(1) of the Code of Ordinances, for an increase of 3 ft above the required 1 foot above grade for the pool height resulting in a pool height of 4 ft above the adjacent finished grade for the installation of 2 pools/swim spas.

[Beginning of staff report.]

SUBJECT: BOA CASE NO. 2023-06-2209 GULF BOULEVARD

Owner/Applicant:	Tanyana & Aleksandr Drigailo
Subject Location:	2209 Gulf Boulevard, Indian Rocks Beach Florida

ZONING:

Direction	Existing Use	Zoning Category
North	Residential	P-1
East	Residential	RM-2
South	Vacant	P-1
West	Residential	CT

BACKGROUND:

The applicant is requesting to install two swim/spas for each side of the duplex in the front yard setback. The proposed swim/spas are reviewed as a “pool” since they are larger than the allowed 500 gallons for a spa. The swim/spas are 1200 gallons. Pools or spas are not permitted in the front yard setback.

Sec. 2-152. - Variances.

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

(1) The board of adjustments and appeals shall make recommendations on and the city commission shall decide variance applications will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the board or the city commission shall consider each of the following.

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

Pinellas County required access to the property from the alley and not from Gulf Blvd.

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 owner to install the swim/spas.

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 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 July 3, 2023, (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE: (3) letters of objection received.

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

MOTION:

I move to recommend to the City Commission **APPROVAL/DENIAL** of BOA CASE NO. 2023-06 –2209 Gulf Blvd Variance request from Sec.110-131(4)(f)(1) of the Code of Ordinances, of 15 feet into the required 25 foot front yard setback, resulting in a total setback of 10 feet and from Sec.110-344(1) of the Code of Ordinances, for an increase of 3 ft above the required 1 foot above grade for the pool height resulting in a pool height of 4 ft above the adjacent finished grade for the installation of 2 pools/ swim spas for property located at 2209 Gulf Blvd Indian Rocks Beach, Florida, and legally described as Lot 3, Block 45, RE-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County, Florida.

[End of staff report.]

City Attorney Mora read Agenda Item No. 6, BOA Case No. 2023-06 by title only.

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

City Attorney Mora asked if any member had conducted any ex-parte communications with the applicant or their agent in advance of this evening. All members responded negatively.

City Attorney Mora asked if any member had conducted any site visit for the purpose of evaluating the application before them. Member Alvarez responded affirmatively. Members Watt, Campbell, DeVore, and O'Donnell to the negative.

City Attorney asked Member Alvarez when he visited the property. Member Alvarez replied

Monday, July 17, 2023, just walked by and could see it plainly from the street. City Attorney asked Member Alvarez if he had entered the property or had a conversation with the property owner. Member Alvarez responded negatively.

City Attorney asked Member Alvarez if his site visit would impair his ability to partially adjudicate this matter. Member Alvarez responded negatively.

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

Planning Consultant Harmon explained the variance while presenting a PowerPoint presentation.

Member Alvarez asked, when the building plans were submitted for approval, the applicant knew at that time they would not receive a Gulf Boulevard cut out for ingress and egress from the County. Planning Consultant Harmon responded affirmatively.

Member Watt asked what would normally be allowed to fall in the 25-foot standard set back. Planning Consultant replied parking.

Member Watt stated this case is encroaching a full 15 feet into the 25 feet.

Member Watt, stated the property was bought with the intention of coming in off the alley.

Member Watt stated, this is a variance not just for 15 feet encroachment but also a variance to install a swim feature in the front.

Planning Consultant Harmon stated that no permanent structures could be installed in the front yard. The proposed swim/spas are reviewed as a "pool" since they are larger than the allowed 500 gallons for a spa. The swim/spas are 1200 gallons. Pools or spas are not permitted in the front yard setback.

Val Stelmach, Polo Builders, speaking on behalf of the homeowners stated the homeowner's incurred hardship with having to put the driveways in the back. The original design was to have spas on the roof, but the owners have retired parents, and 4 small children. The spa is a temporary structure, there is no foundation so it can be removed.

Member DeVore stated the plans were approved with the pool on the roof.

Val Stelmach, Polo Builders presented a photo/diagram showing where the spas would be located and all the landscaping that would be done.

Motion made by Member Campbell and seconded by Member O'Donnell to recommend to the City Commission denial of BOA CASE NO. 2023-06 –2209 Gulf Blvd Variance request from Sec.110-131(4)(f)(1) of the Code of Ordinances, of 15 feet into the required 25 foot front yard setback, resulting in a total setback of 10 feet and from Sec.110-344(1) of the Code of Ordinances, for an increase of 3 ft above the required 1 foot above grade for the pool height resulting in a pool height of 4 ft above the adjacent finished grade for the

installation of 2 pools/ swim spas for property located at 2209 Gulf Blvd Indian Rocks Beach, Florida, and legally described as Lot 3, Block 45, RE-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County, Florida.

AYES: Watt, Campbell, DeVore, Alvarez and O'Donnell

NAYS: None

Motion carried 5-0

7. OTHER BUSINESS. None.

August 15, 2023, BOA meeting.

8. ADJOURNMENT.

Motion made by Member Alvarez, seconded by Vice-Chair Watt, to adjourn the meeting at 6:40 p.m. Unanimous approval by acclamation.

Motion carried 5-0

/lak