

**TUESDAY,
FEBRUARY 8, 2022**

**REGULAR
CITY COMMISSION MEETING**

@ 5:00 PM



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785

www.indian-rocks-beach.com

Administrative
727/595-2517
727/596-4759 (Fax)

Library
727/596-1822

Public Services
727/595-6889
727/593-5137 (Fax)

AGENDA
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING
TUESDAY, FEBRUARY 8, 2022 @ 5:00 P.M.
CITY COMMISSION CHAMBERS
1507 BAY PALM BOULEVARD
INDIAN ROCKS BEACH, FLORIDA 33785

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

1. PRESENTATIONS.

- A. **REPORT OF Pinellas County Sheriff's Office.**
- B. **REPORT OF Pinellas Suncoast Fire & Rescue District.**

2. PUBLIC COMMENTS. [3-minute time limit per speaker.]

(Any member of the audience may come forward, give their name and address, and state any comment or concern that they may have concerning any matter over which the City Commission has control, EXCLUDING AGENDA ITEMS. All statements made to the City Commission shall be made to the City Commission as a whole, not directed to any individual City Commission Member, and no personal, impertinent, or slanderous remarks shall be permitted. No speaker shall be interrupted, and no debate shall take place between the speaker and the City Commission.)

3. REPORTS OF:

- A. **City Attorney.**
- B. **City Manager.**
 - (1) **December 2021 Year-to-Date Financial Results.**
- C. **City Commission.**
[3-minute time limit per City Commission Member.]

4. ADDITIONS/DELETIONS.

5. CONSENT AGENDA:

- A. APPROVAL OF** the December 14, 2021 Regular City Commission Meeting Minutes.
- B. APPROVAL OF** the January 11, 2022 Regular City Commission Meeting Minutes.
- C. RESOLUTION NO. 2022-01**, A Resolution of the City Commission of the City of Indian Rocks Beach, Florida, announcing the results of the March 15, 2022 Municipal General Election providing for the re-election of Mayor-Commissioner Joanne "Cookie" Moston Kennedy, election of Commissioner Jude Bond, and re-election of Joseph D. McCall, each to be seated for two year terms, and providing for an effective date for the commencement of their respective elected terms.
- D. RENEWING** an agreement with Trask Daigneault LLP, for city attorney services, for an additional three years and increases in the monthly retainer, hourly services outside of the retainer, and paralegal services.

6. PUBLIC HEARINGS:

- A. BOA CASE NO. 2022-01 — 1701 GULF BOULEVARD**
Considering a variance request from Section 110-241, of the Code of Ordinances, to allow for three (3) 15 foot diameter cantilever umbrellas and three (3) 12 inch by 12 inch permanent in-ground concrete umbrella bases in the front yard setback, for the property located at 1701 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Indian Beach Re-Revised, Block 65, Lots 3 and 4. Parcel #: 01-30-14-42030-065-0030.
- B. BOA CASE NO. 2022-02 — 436-20TH AVENUE**
Considering a variance request from Section 110-131(1)(f)(2)(ii) of the Code of Ordinances to encroach 3 feet into the required 10-foot rear yard setback, resulting in a total rear yard setback of 7 feet, to allow for a 7-foot by 15-foot addition to the existing kitchen, for the property located at 436-20th Avenue, Indian Rocks Beach, Florida, and legally described as that portion of Lot 2, Eighteenth Addition to Re-Revised Map of Indian Beach.
- C. BOA CASE NO. 2022-05 — 799 EAST GULF BOULEVARD**
Considering a Variance request from Section 110-344(3)(f)(3)(i) of the Code of Ordinances to encroach 2 feet into the south 7-foot 6-inch side yard setback and 5 feet into the north 7-foot 6-inch side yard setback, resulting in a south side yard setback of 5 feet 6 inches and a north side yard setback of 2 feet 6 inches, to allow for the installation of a swimming pool, for the property located at 799 East Gulf Boulevard, Indian Rocks Beach, Florida, and legal described as a portion of Lot 25, La Hacienda Replat, according to the plat thereof recorded in Plat Book 39, Pages 1 and 2, Public Records of

Pinellas County, Florida, formerly La Hacienda Subdivision recorded in Plat Book 36, Pages 73 and 74.

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

APPEALS: Any person who decides to appeal any decision made, with respect to any matter considered at such hearing, will need a record of the proceedings and, for such purposes, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, per s. 286.0105, F.S. Verbatim transcripts are not furnished by the City of Indian Rocks Beach, and should one be desired, arrangements should be made in advance by the interested party (i.e., Court Reporter).

In accordance with the Americans with Disability Act and s. 286.26, F.S., any person with a disability requiring reasonable accommodation to participate in this meeting should contact the City Clerk's Office with your request, telephone 727/595-2517 doreilly@irbcity.com, no later than FIVE (5) days before the proceeding for assistance.

POSTED: February 4, 2022

NEXT REGULAR CITY COMMISSION MEETING
Tuesday, March 8, 2022 @ 7:00 P.M.

INVESTITURE CEREMONY
TUESDAY, MARCH 29, 2022 @ 6:00 P.M.

AGENDA ITEM NO. 1A

**REPORT OF
Pinellas County Sheriff's Office**



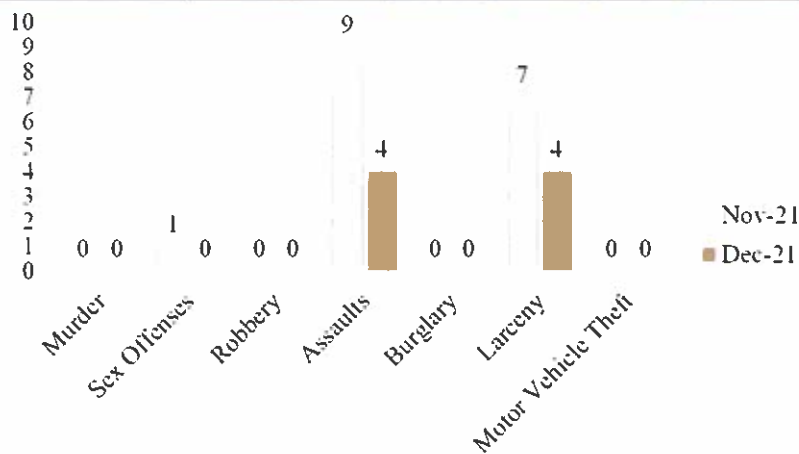
STRATEGIC PLANNING DIVISION

INDIAN ROCKS BEACH ANALYSIS

Select UCR Property & Person Crimes

December 2021

Select UCR Property & Person Crimes	November 2021	December 2021	December 2020 YTD	December 2021 YTD
Murder	0	0	0	0
Sex Offenses	1	0	3	3
Robbery	0	0	2	0
Assaults	9	4	7	46
Burglary	0	0	6	8
Larceny	7	4	69	48
Motor Vehicle Theft	0	0	1	5
GRAND TOTAL	17	8	88	110



*Due to changes in UCR reporting taking effect January 1, 2021, there may be an increase in the categories listed

Arrests

December 2021

There were a total of 20 people arrested in the City of Indian Rocks Beach during the month of December resulting in the following charges:

ARREST TYPE & DESCRIPTION	TOTAL
City Ordinance	1
City Ordinance Violation	1
County Ordinance	1
County Ordinance Violation	1
Felony	2
Resist LEO With Violence	1
Violation Of Probation/Community Control-Adult	1
Misdemeanor	11
Battery-Domestic Related	1
Disorderly Intoxication	2
Petit Theft-Shoplifting	1
Possession Of Controlled Substance	2
Resist/Obstruct LEO Without Violence	2
Trespass After Warning	1
Violation Of Domestic Pretrial Release	1
Violation Of Injunction Protect Domestic	1
Traffic Misdemeanor	9
Driver's License Suspended/Revoked	2
Driving Under The Influence	7
Grand Total	24

*Information provided reflects the number of arrests (persons arrested) as well as the total charges associated with those arrests.

Deputy Activity

There were a total of *1,004* events in the City of Indian Rocks Beach during the month of December resulting in *1,285* units responding.

The table below reflects the top twenty-five events to include both self-initiated and dispatched calls in the City of Indian Rocks Beach for the month of December. *CAD data is filtered by problem type.

December 2021

DEPUTY ACTIVITY	TOTAL
Traffic Stop	306
Directed Patrol	222
House Check	85
Vehicle Abandoned/Illegally Parked	40
Assist Citizen	37
Traffic Violation	30
Ordinance Violation	28
Suspicious Vehicle	26
Community Contact	19
Suspicious Person	18
Building Check Business	15
Noise	14
Contact	13
Transport Prisoner	12
Supplement	10
Trespass	10
Lost/Found/Abandoned Property	8
Vandalism-Not In Progress	8
Domestic-In Progress	7
Civil Matter	7
DUI	7
Warrant Service/Attempt	7
Assist Other Agency	5
Alarm	5
Disorderly Conduct	5

Crash & Citation Analysis

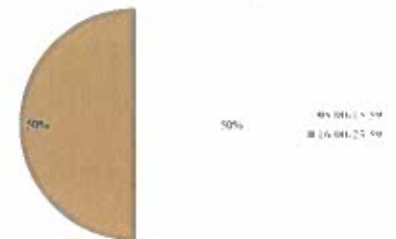
There were 2 crashes in the City of Indian Rocks Beach during December 2021. *Crash data is filtered by disposition type and may include "accident and hit and run" problem types.

CRASH LOCATION	TOTAL
213 Gulf Blvd	2

Crashes by Day of the Week



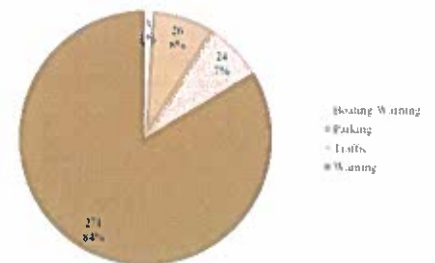
Crashes by Time of Day



There were a total of 324 citations and warnings issued in the City of Indian Rocks Beach during December 2021.

TOP 10 TRAFFIC CITATION LOCATIONS	TOTAL
5th Ave & Gulf Blvd	3
80 Gulf Blvd	3
6th Ave & Gulf Blvd	3
5th Ave & 2nd St	2
Gulf Blvd & 24th Ave	2
Gulf Blvd & 4th Ave	1
501 Gulf Blvd	1
Gulf Blvd & 8th Ave	1
1519 Gulf Blvd	1
Gulf Blvd & 28th Ave	1

Citations and Warnings





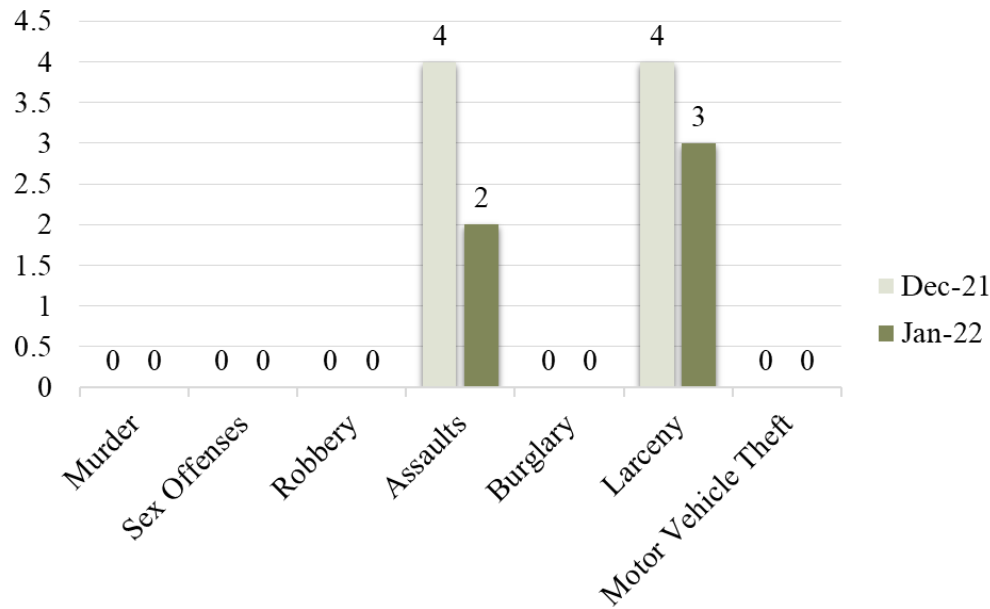
STRATEGIC PLANNING DIVISION

INDIAN ROCKS BEACH ANALYSIS

Select UCR Property & Person Crimes

January 2022

Select UCR Property & Person Crimes	December 2021	January 2022	January 2021 YTD	January 2022 YTD
Murder	0	0	0	0
Sex Offenses	0	0	1	0
Robbery	0	0	0	0
Assaults	4	2	1	2
Burglary	0	0	1	0
Larceny	4	3	3	3
Motor Vehicle Theft	0	0	1	0
GRAND TOTAL	8	5	7	5



Arrests

January 2022

There were a total of **15** people arrested in the City of Indian Rocks Beach during the month of January resulting in the following charges:

ARREST TYPE & DESCRIPTION	TOTAL
Felony	1
Possession Of Controlled Substance	1
Misdemeanor	10
Battery-Domestic Related	2
Disorderly Conduct/Breach Peace	1
Disorderly Intoxication	3
Misuse 911 Or E911 System	1
Possession Of Controlled Substance	1
Possession Of Drug Paraphernalia	1
Trespass After Warning	1
Warrant	1
Warrant Arrest	1
Traffic Misdemeanor	5
Driver's License Suspended/Revoked	1
Driving Under The Influence	4
Grand Total	17

*Information provided reflects the number of arrests (persons arrested) as well as the total charges associated with those arrests.

Deputy Activity

There were a total of **890** events in the City of Indian Rocks Beach during the month of January resulting in **1,222** units responding.

The table below reflects the top twenty-five events to include both self-initiated and dispatched calls in the City of Indian Rocks Beach for the month of January. *CAD data is filtered by problem type.

January 2022

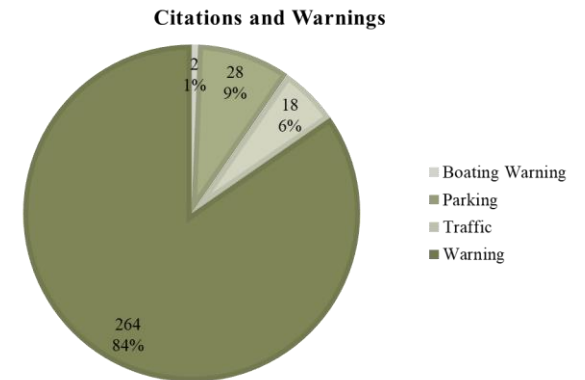
DEPUTY ACTIVITY	TOTAL
Traffic Stop	277
Directed Patrol	219
House Check	36
Vehicle Abandoned/Illegally Parked	32
Suspicious Person	30
Building Check Business	29
Ordinance Violation	26
Assist Citizen	25
Suspicious Vehicle	22
Community Contact	17
Traffic Violation	16
Noise	16
Contact	14
Trespass	13
Transport Prisoner	12
Information/Other	10
Warrant Service/Attempt	8
Lost/Found/Abandoned Property	8
Assist Other Agency	6
Disorderly Conduct	6
Assist Motorist	6
Transport Safe Harbor	6
911 Hang-up Or Open Line	5
Supplement	4
DUI	4

Crash & Citation Analysis

There were **NO** crashes in the City of Indian Rocks Beach during January 2022. *Crash data is filtered by disposition type and may include “accident and hit and run” problem types.

There were a total of **312** citations and warnings issued in the City of Indian Rocks Beach during January 2022.

TOP 10 TRAFFIC CITATION LOCATIONS	TOTAL
Gulf Blvd & 5th Ave	4
501 Gulf Blvd	2
Gulf Blvd & 12th Ave	1
24th Ave & Gulf Blvd	1
Gulf Blvd & 15th Ave	1
353 Gulf Blvd	1
Gulf Blvd & 10th Ave	1
401 Gulf Blvd	1
Gulf Blvd & 14th Ave	1
Gulf Blvd & 17th Ave	1



AGENDA ITEM NO. 1B

**REPORT OF
Pinellas Suncoast Fire & Rescue
District**

AGENDA ITEM NO. 2
PUBLIC COMMENTS.

AGENDA ITEM NO. 3A
REPORTS OF City Attorney

AGENDA ITEM NO. 3B
REPORTS OF City Manager

DISCUSSION MEMO

INDIAN ROCKS BEACH CITY COMMISSION

MEETING OF: February 8, 2022

AGENDA ITEM: 3B (1)

SUBMITTED AND

RECOMMENDED BY:

Dan Carpenter, Finance Director



APPROVED BY:

Brently Gregg Mims, City Manager



SUBJECT:

December 2021 Year-to-Date Financial Report

BACKGROUND:

Staff presents a quarterly discussion of year-to-date financial results to the City Commission.

ANALYSIS:

Financial reports comparing December 2021 fiscal year-to-date actual revenues and expenditures to budget are attached.

City of Indian Rocks Beach
FY 2022 BUDGET TO ACTUAL REPORT
AS OF DECEMBER 31, 2021

	<u>12/31/2021</u> <u>Period to Date</u> <u>Actual</u>	<u>FY 2022 TOTAL</u> <u>APPROVED BUDGET</u>	<u>OVER/(UNDER)</u> <u>BUDGET</u>	<u>% OF</u> <u>TOTAL FY 2022</u> <u>APPROVED BUDGET</u>
001 GENERAL FUND				
AD VALOREM TAX	\$ 2,131,300	\$ 2,551,610	\$ (420,310)	84%
FRANCHISE FEE	\$ 84,106	\$ 456,000	\$ (371,894)	18%
COMMUNICATIONS SERVICES TAX	\$ 14,459	\$ 88,000	\$ (73,541)	16%
BUSINESS REG & OCC LICENSES	\$ 33,321	\$ 38,510	\$ (5,189)	87%
PERMITS & FEES	\$ 14,026	\$ 8,800	\$ 5,226	159%
INTERGOVERNMENTAL	\$ 86,623	\$ 454,340	\$ (367,717)	19%
CHARGES FOR SERVICES	\$ 2,241	\$ 7,250	\$ (5,009)	31%
PARKING FEES	\$ 55,729	\$ 150,000	\$ (94,271)	37%
FINES AND FOREFITS	\$ 12,100	\$ 20,000	\$ (7,900)	61%
INTEREST ON INVESTMENT	\$ 27,482	\$ 25,000	\$ 2,482	110%
MISCELLANEOUS	\$ 4,783	\$ 17,500	\$ (12,717)	27%
TRANSFERS	\$ 37,215	\$ 148,860	\$ (111,645)	25%
TOTAL REVENUE	\$ 2,503,385	\$ 3,965,870	\$ (1,462,485)	63%
CITY COMMISSION	\$ 21,849	\$ 51,840	\$ (29,991)	42%
CITY MANAGER	\$ 76,134	\$ 278,610	\$ (202,476)	27%
FINANCE	\$ 83,385	\$ 370,310	\$ (286,925)	23%
CITY ATTORNEY	\$ 10,712	\$ 87,700	\$ (76,988)	12%
PLANNING	\$ 14,364	\$ 85,650	\$ (71,286)	17%
CITY CLERK	\$ 41,307	\$ 179,220	\$ (137,913)	23%
LAW ENFORCEMENT	\$ 285,402	\$ 1,135,200	\$ (849,798)	25%
BUILDING & CODE ENFORCEMENT	\$ 24,002	\$ 131,900	\$ (107,898)	18%
PUBLIC SERVICES	\$ 198,202	\$ 1,118,850	\$ (920,648)	18%
LIBRARY	\$ 22,530	\$ 113,510	\$ (90,980)	20%
RECREATION	\$ 20,524	\$ 40,200	\$ (19,676)	51%
CENTRAL SERVICES	\$ 60,780	\$ 359,250	\$ (298,470)	17%
TOTAL EXPENDITURES	\$ 859,191	\$ 3,952,240	\$ (3,093,049)	22%
101 CAPITAL PROJECTS				
IC SURTAX PENNY FOR PINELLAS	\$ 100,975	\$ 500,000	\$ (399,025)	20%
UTILITY UNDERGROUND GRANT	\$ -	\$ 1,308,170	\$ (1,308,170)	0%
GRANTS	\$ -	\$ -	\$ -	0%
TOTAL REVENUE	\$ 100,975	\$ 1,808,170	\$ (1,707,195)	6%
CONTRUCTION PROJECTS	\$ 12,901	\$ 2,628,360	\$ (2,615,459)	0%
TOTAL EXPENDITURE	\$ 12,901	\$ 2,628,360	\$ (2,615,459)	0%
402 SOLID WASTE FUND				
GRANT REVENUE	\$ -	\$ 3,000	\$ -	0%
SOLID WASTE	\$ 266,630	\$ 1,494,980	\$ (1,228,350)	18%
TOTAL REVENUE	\$ 266,630	\$ 1,497,980	\$ (1,228,350)	18%
SOLID WASTE	\$ 283,184	\$ 1,708,900	\$ (1,425,716)	17%
TOTAL EXPENDITURE	\$ 283,184	\$ 1,708,900	\$ (1,425,716)	17%

AGENDA ITEM NO. 3C
REPORTS OF City Commission

AGENDA ITEM NO. 4
ADDITIONS/DELETIONS

**AGENDA ITEM NO. 5A
CONSENT AGENDA**

**APPROVAL OF
December 14, 2021 Regular City
Commission Meeting Minutes**

**AGENDA ITEM NO.: 5A - APPROVAL OF MINUTES.
DATE OF MEETING: FEBRUARY 8, 2022 CCM**

**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 renourishment 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'DONNEL 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 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

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 crust 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

Joanne Moston Kennedy, Mayor-Commissioner

ATTEST: _____
Deanne B. O'Reilly, MMC, City Clerk

/DOR

**AGENDA ITEM NO. 5B
CONSENT AGENDA**

**APPROVAL OF
January 11, 2022 Regular City
Commission Meeting Minutes**

**AGENDA ITEM NO.: 5B - APPROVAL OF MINUTES.
DATE OF MEETING: FEBRUARY 8, 2022 CCM**

**MINUTES — JANUARY 11 12, 2022
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING**

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, JANUARY 11, 2022**, 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 (telephonically), Commissioner Edward G. Hoofnagle, Commissioner Denise Houseberg, and City Manager Brently Gregg Mims.

OTHERS PRESENT: City Attorney Randy D. Mora and City Clerk Deanne B. O'Reilly, MMC.

(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. No report.

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

Fire Chief Davidson provided a verbal report for the month of December 2021.

2. PUBLIC COMMENTS.

There were no public comments.

3A. REPORTS OF the City Attorney. No Report.

3B. REPORTS OF the City Manager.

City Manager Mims submitted a written report and asked the City Commission if they had any questions about his report.

3C. REPORTS OF the City Commission.

COMMISSIONER HOOFNAGLE:

- The Beach Art Center is actively working on the Boots & Brushes Country Gala on February 26, 2022. He stated a limited number of tickets, so he would encourage everyone to get their tickets to support the Beach Art Center. He publicly would like to thank the sponsors of the event.

MAYOR-COMMISSIONER KENNEDY:

- She stated the first Executive Committee Meeting was held, and they have changed their name from the Executive Committee to the Events Coordinating Committee. Next month, they will be discussing the February and March events.

4. ADDITIONS/DELETIONS. None.

5. CONSENT AGENDA:

- A. APPOINTING DAVE MOTT to serve on the Planning and Zoning Board as 1st Alternate Board Member, with a term expiring May 31, 2024.**
- B. APPOINTING ANGEL "MISHELLE" HARGETT to serve on the Finance and Budget Review Committee as a committee member, with a term expiring May 31, 2025.**

Mayor-Commissioner Kennedy asked Mishelle Hargett to come forward and introduce herself.

Angel "Mishelle" Hargett, 1900-1st Street, introduced herself and provided a brief background. She stated she is interested in serving on the Finance and Budget Review Committee.

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

MOTION MADE BY VICE MAYOR-COMMISSIONER McCALL, SECONDED BY COMMISSIONER HOUSEBERG, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEM NOS. 5A AND 5B, AS SUBMITTING. UNANIMOUS APPROVAL BY ACCLAMATION.

6. PUBLIC HEARINGS: None.

7. OTHER LEGISLATIVE MATTERS: None.

8. WORK SESSION ITEMS [DISCUSSION ONLY]: None.

9. OTHER BUSINESS. None.

10. ADJOURNMENT.

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER HOOFNAGLE, TO ADJOURN THE MEETING AT 7:06 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

February 8, 2022

Date Approved

Joanne Moston Kennedy, Mayor-Commissioner

ATTEST: _____
Deanne B. O'Reilly, MMC, City Clerk


/DOR


**AGENDA ITEM NO. 5C
CONSENT AGENDA**

**RESOLUTION NO. 2022-01
Election Results of the
March 15, 2022 Municipal General
Election**

**AGENDA MEMO
INDIAN ROCKS BEACH CITY COMMISSION**

MEETING OF: February 8, 2022 **AGENDA ITEM:** 5C

SUBMITTED & RECOMMENDED BY: Deanne Bulino O'Reilly, MMC, City Clerk 

APPROVED BY: Brently Greg Mims, City Manager 

SUBJECT: **RESOLUTION NO. 2022-01.** Announcing the results of the March 15, 2022 Municipal General Election providing for the re-election of Mayor-Commissioner Joanne "Cookie" Moston Kennedy, election of Commissioner Jude Bond, and re-election of Joseph D. McCall, each to be seated for two year terms, and providing for an effective date for the commencement of their respective elected terms.

STAFF RECOMMENDATION: Approve **RESOLUTION NO. 2022-01.**

BACKGROUND:

Indian Rocks Beach Resolution No. 2021-09 called for a general election on March 15, 2022, for the purpose of electing, at large, qualified candidates to fill the vacancies of the Mayor-Commissioner Seat and two Commissioner Seats for two-year terms.

Said Resolution No. 2021-09 stipulated in Section 2 that the outcome of the election for the Mayor-Commissioner Seat and the two Commissioner seats shall be determined by the candidates receiving the greatest number of votes for each seat.

At the close of the Candidate Qualifying Period at noon on December 13, 2021, one qualified elector, namely Joanne "Cookie" Moston Kennedy had qualified to appear on the March 15, 2022 ballot as Mayor-Commissioner candidate and no others.

At the close of the Candidate Qualifying Period at noon on December 13, 2021, only two qualified electors, Jude Bond and Joseph D. McCall, qualified to appear on the March 15, 2022 ballot as Commissioner candidates for the two vacancies.

Section 101.151(6), Florida Statutes declares that the names of unopposed candidates should not appear on a general election ballot. Each unopposed candidate should be deemed to have voted for himself or herself.

ANALYSIS:

The City Clerk on December 15, 2021, notified the Pinellas County Supervisor of Elections that the City of Indian Rocks Beach does not require a municipal election on March 15, 2022, since no election for the Mayor-Commissioner Seat and two Commissioner Seats is required.

Incumbent Mayor-Commissioner Joanne "Cookie" Moston Kennedy shall assume the Mayor-Commissioner Seat on March 29, 2022.

Incumbent Commissioner Joseph D. McCall shall assume a Commissioner Seat on March 29, 2022.

Commissioner-elect Jude Bond shall assume a Commissioner Seat on March 29, 2022.

MOTION:

I move to **APPROVE/DENY** Resolution No. 2022-01.

**CITY OF INDIAN ROCKS BEACH
RESOLUTION NO. 2022-01**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, ANNOUNCING THE RESULTS OF THE MARCH, 15, 2022 MUNICIPAL GENERAL ELECTION PROVIDING FOR THE RE-ELECTION OF MAYOR-COMMISSIONER JOANNE "COOKIE" MOSTON KENNEDY, ELECTION OF COMMISSIONER JUDE BOND, AND RE-ELECTION OF JOSEPH D. McCALL, EACH TO BE SEATED FOR TWO YEAR TERMS, AND PROVIDING FOR AN EFFECTIVE DATE FOR THE COMMENCEMENT OF THEIR RESPECTIVE ELECTED TERMS.

WHEREAS, Indian Rocks Beach Resolution No. 2021-09 called for a general election on March 15, 2022, for the purpose of electing, at large, qualified candidates to fill the vacancies of the Mayor-Commissioner Seat and two Commissioner Seats for two-year terms; and

WHEREAS, said Resolution No. 2021-09 stipulated in Section 2 that the outcome of the election for the Mayor-Commissioner Seat and the two Commissioner seats shall be determined by the candidates receiving the greatest number of votes for each seat; and

WHEREAS, at the close of the Candidate Qualifying Period at noon on December 13, 2021, one qualified elector, namely Joanne "Cookie" Moston Kennedy had qualified to appear on the March 15, 2022 ballot as Mayor-Commissioner candidate and no others; and

WHEREAS, at the close of the Candidate Qualifying Period at noon on December 13, 2021, only two qualified electors, Jude Bond and Joseph D. McCall, qualified to appear on the March 15, 2022 ballot as Commissioner candidates for the two vacancies; and

WHEREAS, F.S. 101.151(6) declares that the names of unopposed candidates should not appear on a general election ballot. Each unopposed candidate should be deemed to have voted for himself or herself.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA THAT:

Section 1. The City Clerk on December 15, 2021, notified the Pinellas County Supervisor of Elections that the City of Indian Rocks Beach does not require a municipal election on March 15, 2022, since no election for the Mayor-Commissioner Seat and two Commissioner Seats is required.

Section 2. Incumbent Mayor-Commissioner Joanne "Cookie" Moston Kennedy shall assume the Mayor-Commissioner Seat on March 29, 2022.

Section 2. Incumbent Commissioner Joseph D. McCall shall assume a Commissioner Seat on March 29, 2022.

Section 3. Commissioner-elect Jude Bond shall assume a Commissioner Seat on March 29, 2022.

PASSED AND ADOPTED this 8th day of February 2022, by the City Commission of the City of Indian Rocks Beach, Florida.

Joanna Moston Kennedy, Mayor/Commissioner

ATTEST: _____
Deanne B. O'Reilly, MMC, City Clerk
/dor

**AGENDA ITEM NO. 5D
CONSENT AGENDA**

RENEWING an agreement with Trask Daigneault LLP, for city attorney services, for an additional three years and increases in the monthly retainer, hourly services outside of the retainer, and paralegal services.

INDIAN ROCKS BEACH CITY COMMISSION AGENDA MEMORANDUM

MEETING OF: February 8, 2022 AGENDA ITEM: 5D

SUBMITTED &

RECOMMENDED BY:

Brently Gregg Mims, City Manager



SUBJECT:

**RENEWING THE CITY ATTORNEY'S AGREEMENT
WITH TRASK & DAIGNEAULT FOR AN
ADDITIONAL THREE YEARS.**

BACKGROUND:

On July 8, 2014, the Indian Rocks Beach City Commission appointed Trask & Daigneault, LLP and entered into an Agreement for Professional Services with Trask & Daigneault, LLP, which Agreement was amended in June of 2017. The current agreement expires on July 8, 2022.

ANALYSIS:

Highlights of the Agreement for Legal Services is as follows:

Presently, in the fifth year of the contract term, the City is paying \$50,400 (\$4,200/month) for legal services. The proposed monthly fee for the new contract term is a three-year contract term with a stabilized annual retainer of \$57,000 (\$4,750/month).

The monthly retainer fee includes the following: the general work of the City Attorney shall include all duties of the City Attorney including, but not limited to attending meetings of the City Commission, Planning and Zoning Board, Board of Adjustments and Appeals, handling all City Commission and staff, conducting legal research, preparing opinions, reviewing and drafting ordinances, resolutions and contracts, preparing development agreements, and processing administrative fine or lien settlement requests.

Hourly Services Outside of Retainer ~~\$170.00~~ \$200.00 per hour
Litigation (defined as the representation of the City or City employee or boards in any mediation, arbitration, administrative, civil, criminal, judicial, or quasi-judicial proceedings, excluding quasi-judicial proceedings conducted by the City Commission). Litigation services include any pre-suit mediation or arbitration and time expended to avoid litigation, real estate services, bond

and bank loan opinions, and special projects or ordinances. A special project or ordinance is a complex and complicated matter requiring extensive time, involvement, research, preparation, and review by Firm. Special projects or ordinances must be approved by the City Commission or the City Manager.

Paralegal Services of 85.00 per hour remains the same it has been for every year of the Firm's service to the City.

MOTION:

I move to **APPROVE/DENY** authorizing the Mayor-Commissioner and City Manager to enter into an Agreement for Professional Services with Trask & Daigneault, LLP, with said Agreement expiring May 1, 2025, and the City agrees that Randy D. Mora, Esquire, an attorney and employee of Trask & Daigneault, LLP, shall primarily perform the services of the City Attorney for the City of Indian Rocks Beach.

**AGREEMENT BETWEEN THE CITY OF INDIAN ROCKS BEACH AND
TRASK DAIGNEAULT LLP, FOR CITY ATTORNEY SERVICES**

THIS AGREEMENT is entered into this _____ day of _____, 2022, between the City of Indian Rocks Beach (“CITY”) and Trask Daigneault, LLP, (“FIRM”). In consideration of the mutual promises and covenants set forth in this agreement, the parties agree as follows:

1. The CITY retains FIRM to perform all the services of the CITY Attorney as set forth in CITY’S Charter and Code of Ordinances and in this Agreement. The CITY agrees that RANDY MORA, ESQ., an attorney and partner of the FIRM, shall primarily perform the services of the CITY Attorney.

2. FIRM shall be paid an established retainer for each year of this Agreement. For each year of the **three (3) year contract term**, FIRM shall be paid an annual retainer of **\$57,000 (\$4,750/month)**. Retainer payments shall be payable in twelve (12) equal monthly installments, to perform the general work of the CITY Attorney. Except as provided in the next paragraph, the general work of the CITY Attorney shall include all duties of the CITY Attorney including, but not limited to: attending meetings of the City Commission, Planning and Zoning Board, Board of Adjustments and Appeals; handling all inquiries from the City Commission and City Manager; conducting legal research; preparing opinions; and reviewing and drafting ordinances, resolutions, and contracts. It is the intent of this agreement that all services performed by FIRM for the CITY as the CITY Attorney shall be compensated by the retainer except for those services set forth in paragraph 3 of this agreement.

3. Matters billable separately and not included within retainer.
 - a. For the following services, which are separate and distinct from the services performed under the retainer, the FIRM shall be paid **\$200/hr** for attorney work outside the retainer. This rate shall increase by five dollars for each subsequent year of this Agreement. The paralegal rate for all five years of this Agreement shall remain static at **\$85/hr**.
 - i. Litigation services. Litigation services is defined as the representation of the CITY or CITY employees or boards in any code enforcement, mediation, arbitration, administrative, civil, criminal, judicial or quasi-judicial proceeding (excluding regular quasi-judicial proceedings conducted by the Board of Commissioners, as contemplated above). Litigation services include any pre-suit mediation or arbitration and time expended in an effort to avoid litigation.

 - ii. Real estate services.

 - iii. Special projects, development agreements or ordinances. A special project, development agreement or ordinance is a complex and complicated matter requiring extensive time, involvement, research, preparation and review by FIRM. Special projects or ordinances must be approved by the City Manager.

iv. Bond and bank loan opinions. Bond and bank loan opinions are not considered services to be performed under the retainer and shall be billed separately on a set fee basis based on the size of the loan or bond issuance.

v. Processing administrative fine or lien settlement requests.

4. The CITY shall pay all costs incurred or advanced by FIRM in representing the CITY pursuant to this Agreement. Such costs include, but are not limited to court filing fees, deposition charges, photocopying charges, long distance telephone charges, Federal Express charges, out-of-county travel charges, computer research fees, and other out-of-pocket costs.

5. FIRM may use the services of any attorneys and paralegals employed by Trask Daigneault, LLP, in providing legal services under this Agreement.

6. The CITY understands that there may be legal matters, including matters which would otherwise be covered under the retainer, which are beyond the expertise of FIRM or its firm and that it is in the best interest of the CITY that such matters be handled by an attorney with the appropriate expertise and qualifications. If there is any legal matter, including matters which would otherwise be included under the retainer, which FIRM believes is outside the expertise of FIRM, FIRM may refer that matter to an attorney with specialized expertise in the appropriate area of the law after consulting with the CITY, and the CITY shall be responsible for compensating such attorney for its or her fees and costs.

7. FIRM will bill the CITY on a monthly basis for all legal fees under this Agreement, and the CITY shall pay these invoices in accordance with the Prompt Payment Act.

8. This Agreement is terminable by either party without cause on ninety (90) days written notice to the other party.

9. In the event the City Commission votes to terminate FIRM'S services under this Agreement, FIRM shall be entitled to be compensated according to the terms of this Agreement for all services rendered during the ninety (90) day notice period. Thereafter, FIRM shall be compensated for any continued legal services at \$25 above the then-applicable hourly rate set forth in this contract, per hour for attorney services and for paralegal services, plus out-of-pocket costs, for any continued legal representation of CITY, including retainer services.

10. All notices and communications required under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally or by registered or certified mail to the following persons:

For the City: Brently Gregg Mims, City Manager
City of Indian Rocks Beach
1507 Bay Palm Boulevard
Indian Rocks Beach, Florida 33785

For Firm: Randy Mora, Esquire
Trask Daigneault, LLP
1001 South Fort Harrison Avenue, Suite 201
Clearwater, FL 33756

Either party may change the person or address to which notices and other communications are to be sent by giving written notice of the change in the manner specified in this paragraph.

11. The terms of this Agreement shall be effective for a period of **three (3) years from June 1, 2022**.

The parties have caused this Agreement to be executed on the date set forth in the introductory paragraph.

City of Indian Rocks Beach,
a Florida municipal corporation

ATTEST:

By: _____
Joanne "Cookie" Kennedy
Mayor -Commissioner

By: _____
Deanne B. O'Reilly, MMC
City Clerk

By: _____
Brently Gregg Mims
City Manager

Trask Daigneault, LLP
A limited liability partnership

By: _____
Randy D. Mora, Esq.

**AGENDA ITEM NO. 6A
QUASI-JUDICIAL PROCEEDING**

**BOA CASE NO. 2022-01
1701 GULF BOULEVARD**

**INDIAN ROCKS BEACH CITY COMMISSION
STAFF REPORT**

MEETING OF: February 8, 2022 **AGENDA ITEM:** 6A

SUBMITTED AND

RECOMMENDED BY: Hetty C. Harmon, AICP, Planning Consultant *HCH*

APPROVED BY: Brently Gregg Mims, City Manager *BGM*

SUBJECT — BOA CASE NO. 2022-01: A variance request from Sec. 110-241 of the Code of Ordinances to allow for three (3) 15 foot diameter cantilever umbrellas and three (3) 12 inch by 12 inch permanent in-ground concrete umbrella bases, for property the located at 1701 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Lots 3 and 4, Block 65 to Re-Revised Map of Indian Beach Subdivision, recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County. Property ID # 01-30-14-42030-065-0030.

OWNER: Guppys on the Beach, LLC
PROPERTY LOCATION: 1701 Gulf Boulevard
ZONING: Business

Direction	Existing Use	Zoning Category
North	Residential	B
East	Residential	RM-2
South	Commercial	B
West	Beach Parking	R/OS

BACKGROUND:

The applicant is requesting a variance to install three 15 foot diameter umbrellas on permanently installed bases in the front yard setback to provide shade over the outdoor seating area. Installing the umbrellas would leave an approximate 4-foot 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. *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 install the umbrellas.*
- 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, of the Code of Ordinances, staff recommends denial of the request.

BOARD OF ADJUSTMENTS AND APPEALS RECOMMENDATION: The Board of Adjustments and Appeals recommended approval to the City Commission by a vote of 5 to 0.

PUBLIC 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 January 24, 2022, pursuant to Section 2-149, of the Code of Ordinances.

CORRESPONDENCE RECEIVED: Letter of support received from Erwin and Lucy Scheuringer, 1713 Gulf Boulevard.

LEGAL NOTICE: A legal notice was published in the January 26, 2022-edition, of the St. Pete Time Section of the Tampa Bay Times, for public hearing that has been scheduled on February 8, 2022, for BOA Case No. 2022-01.

MOTION:

I move to **APPROVE/DENY BOA CASE NO. 2022-01, 1701 GULF BOULEVARD**, a variance request from Sec. 110-241 of the Code of Ordinances to allow for three (3) 15 foot diameter cantilever umbrellas and three (3) 12 inch by 12 inch permanent in-ground concrete umbrella bases, for the property located at 1701 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Lots 3 and 4, Block 65 to Re-Revised Map of Indian Beach Subdivision, recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County.

**MINUTES — JANUARY 18, 2022
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, JANUARY 18, 2022**, 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 6:02 p.m.

2. **ROLL CALL:**

PRESENT: Chair Stewart DeVore, Vice-Chair David Watt, Board Member Rick Alvarez, Board Member Michael A. Campbell, and 1st Alternate Board Member Karen O'Donnell.

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

ABSENT: Board Member Jim Labadie.

VACANT POSITION: 2nd Alternate Board Member.

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

City Attorney Mora stated that each of the cases the Board will be considering tonight are quasi-judicial proceedings not legislative. In a quasi-judicial capacity, the Board is not making the law, but rather applying the law to establish criteria and guidance in the City Code based on the competent, substantial evidence the Board receives this evening.

3. **APPROVAL OF MINUTES: NOVEMBER 16, 2021**

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY VICE CHAIR WATT, TO APPROVE THE NOVEMBER 16, 2021, MINUTES. UNANIMOUS APPROVAL BY ACCLAMATION.

4. **BOA CASE NO. 2022-01 — 1701 GULF BOULEVARD**

Owner/Applicant: Guppy's on the Beach, LLC
Eugen Fuhrman

Agent/Representative: Sofarelli Architecture

Subject Location: 1701 Gulf Boulevard, Indian Rocks Beach, Florida

Legal Description: Indian Beach Re-Revised, Block 65, Lots 3 and 4

Parcel #: 01-30-14-42030-065-0030

Variance Request: Variance request from Section 110-241, of the Code of Ordinances, to allow for cantilever umbrellas and permanent umbrella bases in the front yard setback.

[Beginning of Staff Report]

SUBJECT: BOA CASE NO. 2022-01 — A variance request from Section 110-241, of the Code of Ordinances, to allow for three (3) 15 foot diameter cantilever umbrellas and three (3) 12 inches by inches permanent umbrella bases in the front yard setback, for property located at 1701 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Lots 3 and 4, Block 65 to Re-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County. Property ID # 01-30-14-42030-065-0030.

OWNER: Guppy's on the Beach, LLC
PROPERTY LOCATION: 1701 Gulf Boulevard
ZONING: Business

Direction	Existing Use	Zoning Category
North	Commercial	B
East	Residential	RM-2
South	Commercial	B
West	Beach Parking	R/OS

BACKGROUND:

The applicant is requesting a variance to install three 15' x 15' umbrellas on permanently installed bases in the front yard setback to provide shade over the outdoor seating area. Installing the umbrellas would leave an approximate 4-foot 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. *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 install the umbrellas.*
- 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, of the Code of Ordinances, staff recommends denial of the request.

NOTICE: A 15-day notice was mailed by first class mail to the property owners within 150 feet in any direction of the subject property and posted on subject property on January 3, 2022, pursuant to Section 2-149, of the Code of Ordinances.

CORRESPONDENCE RECEIVED: Letter of support received from Erwin and Lucy Scheuringer, 1713 Gulf Boulevard.

[End of Staff Report]

City Attorney Mora read by title only Agenda Item No. 4, BOA Case No. 2022-01, 1701 Gulf Boulevard.

City Attorney Mora inquired of the members if they had any ex-parte communications with the applicant or their agent, with all members responding negatively.

City Attorney Mora inquired of the members if any of them had conducted a site visit for the limited purpose of evaluating the application, with Chair DeVore responding in the affirmative.

City Attorney Mora asked Chair DeVore to disclose the nature of his site visit.

Chair DeVore stated it was just a simple walk by to see the site visually.

City Attorney Mora inquired if Chair DeVore felt that his visit in any way impaired his ability to impartially adjudicate this matter, with Chair DeVore responding in the negative.

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

Planning Consultant Harmon stated that the applicant, Guppy's On The Beach Restaurant, is requesting a variance from Section 110-241 of the Code of Ordinances to allow for three 15-foot diameter cantilever umbrellas with permanent bases in the front yard setback. The restaurant is located at 1701 Gulf Boulevard.

Planning Consultant Harmon stated that the City Code prohibits permanent structures within the front yard setback except for fences and walls. The applicant has advised that the umbrellas would be removed from the bases and taken down nightly.

Planning Consultant Harmon provided a PowerPoint Presentation showing aerial views of the property, the three proposed umbrella base locations, the proposed umbrella design, and photographs looking east, north, and south of the current outside seating area.

Member Campbell asked if the umbrellas could be temporary structures.

Planning Consultant Harmon stated that the umbrellas could be temporary if taken down nightly. To her, these umbrellas are permanent structures.

Vice-Chair Watt stated that if the umbrellas are portable and not a permanent structure, why is a variance being requested.

Planning Consultant Harmon said staff believes they are permanent structures because of the permanent bases and the size and structure of the umbrellas.

Vice-Chair Watt stated it is an interesting, peculiar situation because if the umbrellas are removed nightly, why do they need a variance?

Planning Consultant Harmon responded if the umbrellas are removed nightly, a variance would not be required.

Chair DeVore asked if the umbrellas would be inside the retaining wall.

Planning Consultant Harmon responded in the affirmative.

Planning Consultant Harmon stated staff felt that the umbrellas would be more permanent.

Vice-Chair Watt asked if a permit was applied for the removable umbrellas, which is the part that he does not understand. He asked if a permit was required for the umbrellas, and asked if the umbrellas would be removed nightly?

Planning Consultant Harmon explained the applicant came in to construct a retaining wall, and part of that permit was for the permanent umbrella bases and three cantilever umbrellas.

Scott Bebell, 1701 Gulf Boulevard, representing the applicant, Eugen Fuhrman, stated the umbrella base sits in concreted in the ground, but the actual umbrella can be removed at any given time. The umbrellas are removable and fold up. When the project was started, it was more about safety. He explained during the afternoon storms when there are wind gusts, the tables and umbrellas are picked up, sometimes causing accidents.

Mr. Bebell stated they decided to redo the existing retaining wall and beautify the restaurant more. They had their architect look into better safety outside umbrellas, and the oversized umbrellas for their outside patio area were the best for safety. It made sense for them to find a removable one because they had asked for other requests in the years past about detached awnings and the flag sails, which are all permanent structures and prohibited by the City Code.

Mr. Bebell stated the large umbrellas and permanent umbrella bases just seemed the most logical thing that was found that works in both ways. If approved, the patio would have three (3) oversized umbrellas instead of ten (10), rated 160 mph hurricanes, and removable. The umbrellas are not a permanent structure. The 12 inch by 12 inch bases are in the ground set in concrete and are permanent.

Member Campbell stated that as his colleague has suggested in one way of looking at this, the applicant does not need a variance if the umbrellas are removed nightly. If the variance is not granted, and the umbrellas are left up, then the applicant would receive a code violation.

Member Campbell asked if the applicant was planning on removing the umbrellas nightly.

Mr. Bebell responded if need be. He said they are before the Board because Guppy's has been in Indian Rocks Beach for 29 years. He stated Guppy's had been great stewards to the township, and they want to make sure that they do it right. Sneaking the umbrellas in is not really in their thought process and was not the right thing to do either.

Vice-Chair Watt stated there needs to be some clarification if the umbrellas would be permanent or removed nightly. He said leaving the umbrellas up permanently would violate the City Code.

Vice-Chair Watt asked if the umbrellas were collapsed nightly, would that still violate the City Code, or would they have to be removed completely.

Planning Consultant Harmon stated there are questions back and forth on that issue. She said the main item on this is the size of the umbrellas. She stated most umbrellas are 6-foot and can be collapsed very easily.

Member Campbell asked if the standard could go as far to east as it could go and then have them operate out from the east to the west instead of from the west to east. He asked Mr. Bebell if there was a reason why it could not be done that way?

Member Campbell stated that he is asking this because one of the Board's considerations is that if a lesser variance or alternative exists, then the Board should consider it.

Member Campbell said from a traffic safety standpoint, which has to be part of the front yard setback, those poles being 15 feet further east would seem to be a lesser problem than to the west.

Michael Bebell, Sofarelli Architecture, 6365-142nd Avenue North, stated all the newly installed plumbing and french drains would have to be removed. He further noted the retaining wall would protect patrons and servers from street traffic.

Chair DeVore asked whether the fully deployed umbrellas goes past the retaining wall.

Mr. Michael Bebell responded in the negative. He stated the umbrellas open towards the building.

Chair DeVore opened the public comment portion.

Tony Ruth, 446 Country Club Road, Belleair, stated three heavier umbrellas with concrete bases seem safer than ten smaller, lighter umbrellas. He has seen the smaller, lighter umbrellas fly when a wind gust comes by. To him, when the umbrellas are folded up, they are put away as much as any other umbrella.

Seeing/hearing no one else wishing to speak. Chair DeVore closed the public comment portion.

Member Campbell stated he wanted to make sure that he understood the Planning Consultant correctly that there was no place where the applicant could put the standards that would not be in the front yard setback.

Planning Consultant Harmon said not on their front yard. She thinks the main issue here is that staff was afraid the umbrellas would become permanent structures, the umbrellas weigh at least 100 pounds each. The City had another restaurant remove a permanent sail over their back patio.

Member Campbell stated as far as the Planning Consultant's review of the site plan, there is no place that is not in the setback where the umbrellas could go.

Planning Consultant Harmon responded that is correct.

Vice-Chair Watt asked if variances could be written conditionally, specifically if there is a variance for this type of umbrella that would be collapsed nightly and if the City has some enforcement mechanism. Because if they are left up, that is a permanent-style structure, and that is what staff is concerned about. There seems to be a fix, but how does that get into part of the variance.

City Attorney Mora restated the question: "Can the Board recommend conditions on variances?" Yes, a proportionate condition can be directly related to the variance. However, a condition cannot be made in exchange for a gift to the City.

City Attorney Mora stated variances are not for use but structures. The structure at issue here is the umbrella. From a staff interpretation and Building Code, ordinary has to do with the fact that while components of the umbrella may be removed, it is part in parcel to in-ground, cemented-in structure, whether that is a base or otherwise. It has the capacity to be a fixed structure on the property, and then that structure has parts that may be able to be disassembled, and that seems to be where a lot of this discourse has gone this evening. Because the size of that structure becomes increasingly visible, it becomes a more perceived violation that would be more apparent to others than perhaps just the in-ground base that exists.

City Attorney Mora stated Vice-Chair Watt's question is: "Can the Board make a condition that, for example, based on Vice-Chair Watt's discussion, a variance is granted since the removable parts should be removed on a nightly basis. Any removable would constitute a . . ." If that is the direction that Vice-Chair Watt is going in.

City Attorney Mora stated it is ultimately the Board's call based on the testimony presented this evening to decide.

City Attorney Mora stated he does not wish to color it or tell the Board what it was. But, thus far, it appears the testimony that the Board has heard is the applicant has said since the structures may remain overnight or in any situation and be perceived as a structure present in violation of the City Code. The applicant requested a variance to be good stewards of the City and eliminate any discussion about the umbrellas.

City Attorney Mora stated staff has recommended that the applicant seek a variance to eliminate the perception at some point in the process.

Vice-Chair Watt stated the variance request to install three 15 by 15 foot umbrellas on permanently installed bases only in the front yard setback. If the City Commission grants the variance, would this give anyone else in the future the ability to do an actual permanent structure?

City Attorney Mora stated that is correct. The variance request is for three 15 by 15 foot umbrellas, permanently installed 12 by 12 inch in-ground concrete bases. He suggested at the City Commission level, it includes the precise location of the in-ground bases.

City Attorney Mora stated because a variance was granted for the umbrellas, it does not mean the applicant can build a steel awning or expand the structure. It is specifically for the relief requested.

City Attorney Mora stated variances run with the land. If the proprietors turn over ownership, the new proprietors would have the same entitlements.

Member Campbell asked what the definition is of permanent structure.

Planning Consultant Harmon stated the definition according to the City Code for a permanent structure is anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

Mr. Scott Bebell stated that the umbrellas are costly, they are not cheap umbrellas. They thought carefully before coming to the City knowing that they are investing in something that is strong, that is durable, that will last, and can sustain 160 hurricane winds. There would be three umbrellas instead of ten umbrellas on the outside patio.

MOTION MADE BY COMMISSIONER ALVAREZ, SECONDED BY VICE-CHAIR WATT, RECOMMENDED APPROVAL TO THE CITY COMMISSION ON BOA CASE NO. 2022-01, TO ALLOW THREE (3) 15' DIAMETER CANTILEVER UMBRELLAS AND THREE (3) 12 INCH BY 12 INCH, PERMANENT IN-GROUND CONCRETE UMBRELLA BASES, FOR THE PROPERTY LOCATION AT 1701 GULF BOULEVARD, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOTS 3 AND 4, BLOCK 65 TO RE-REVISED MAP OF INDIAN BEACH SUBDIVISION RECORDED IN PLAT BOOK 5 PAGE 6 OF THE PUBLIC RECORDS OF PINELLAS COUNTY. PROPERTY ID # 01-30-14-42030-065-0030.

ROLL CALL VOTE:

AYES: CAMPBELL, O'DONNELL, WATT, ALVAREZ, DeVORE
NAYS: NONE
ABSENT NONE

MOTION TO RECOMMEND APPROVAL TO THE CITY COMMISSION CARRIED UNANIMOUSLY.

City Attorney Mora announced that BOA Case No. 2022-01 would be on the City Commission Regular Meeting Agenda on Tuesday, February 8, 2022, beginning at 5:00 p.m. He just wanted to state that for anyone present that the February 8, 2022 City Commission Regular Meeting starts at 5:00 p.m., which is earlier than usual.

- 5. BOA CASE NO. 2022-02 — 436-20TH AVENUE**
 - Owner/Applicant: John Kevin Emmons, Sr.**
 - Agent/Representative: Nuroom Corporation**
 - Subject Location: 436-20th Avenue, Indian Rocks Beach, Florida**
 - Legal Description: That portion of Lot 2, Eighteenth Addition to Re- Revised Map of Indian Beach, according to the Plat thereof, recorded in Plat Book 38, Page 12, Public Records of Pinellas County, Florida, described as follows: From the Point of Beginning at the most southerly corner of said Lot 2, run North 76°45'33" East, 75 feet along the South boundary of said Lot**



**1701 GULF BLVD
BOA CASE NO. 2022-01**



BOA CASE NO. 2022-01 Variance request from Sec. 110-241 of the Code of Ordinances, to allow for cantilever umbrellas and permanent umbrella bases in the front yard setback for property located at 1701 Gulf Blvd Indian Rocks Beach, Florida, and legally described as Lots 3 and 4, Block 65 to Re-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County.



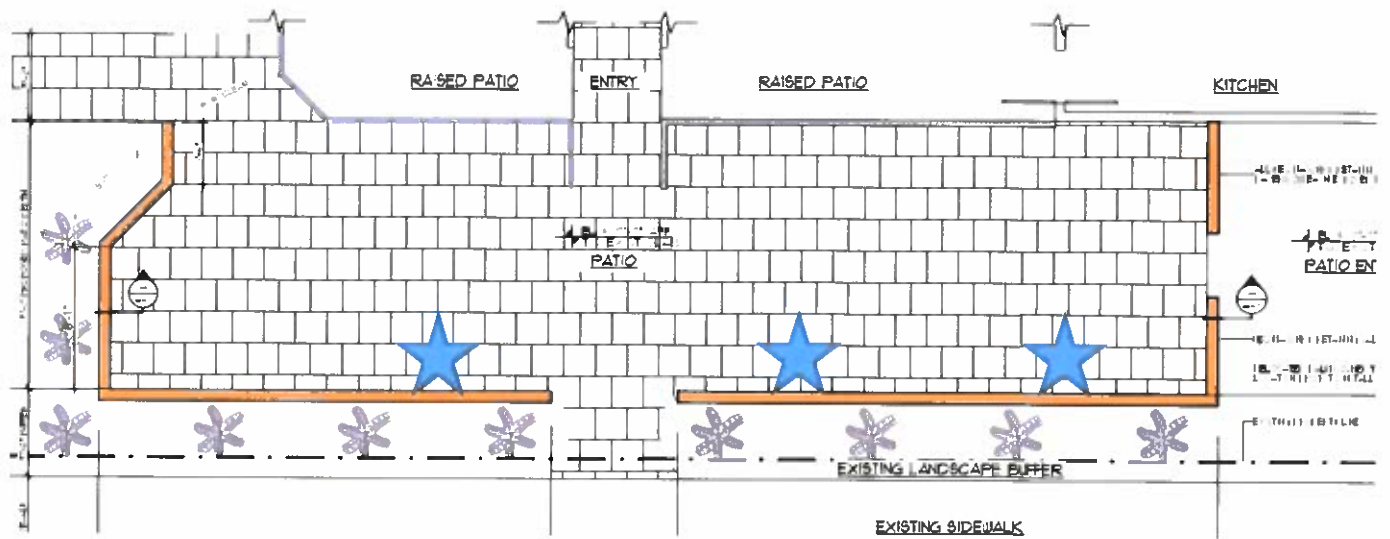
1701 Gulf Blvd



1701 Gulf Blvd



Proposed Umbrella Base Locations



Proposed Umbrella Design

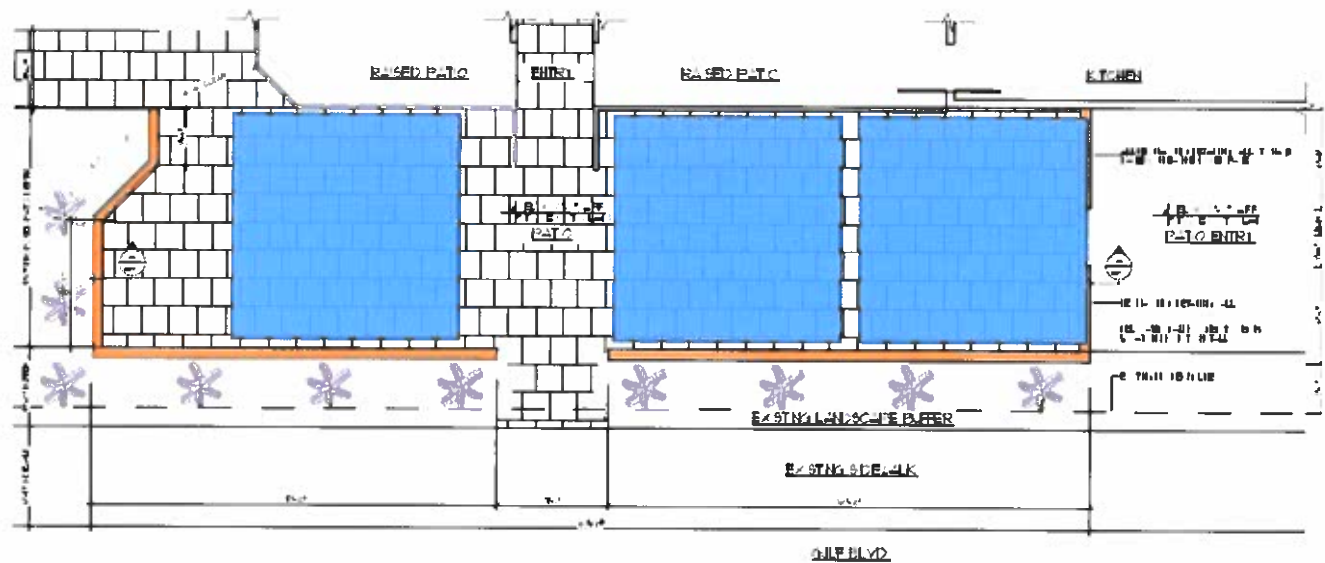


www.poggesiusa.com

11550 Interchange Circle North - Miramar, FL 33025

1.786.558.2233 1-888.POGGESI

Proposed Umbrella Locations



Looking East



Looking North



Looking South



Hetty Harmon

From: O'Reilly, Deanne <doreilly@irbcity.com>
Sent: Tuesday, January 04, 2022 3:50 PM
To: Hetty Harmon
Subject: FW: Support for Variance Request for property located at 1701 Gulf Blvd. - Lucy & Erwin Scheuringer

Deanne Bulino O'Reilly, MMC, City Clerk
City of Indian Rocks Beach
1507 Bay Palm Boulevard
Indian Rocks Beach, Florida 33785
doreilly@irbcity.com
727/595-2517

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Erwin Scheuringer <erwin.scheuringer@gmail.com>
Sent: Friday, December 31, 2021 1:36 PM
To: O'Reilly, Deanne <doreilly@irbcity.com>
Subject: Support for Variance Request for property located at 1701 Gulf Blvd. - Lucy & Erwin Scheuringer

Dear Ms. O'Reilly:

We would like to submit our SUPPORT for Variance request from Section 110-241, of the Code of Ordinances, to allow for cantilever umbrellas and permanent umbrella bases in the front yard setback of property located at 1701 Gulf Blvd. Indian Rocks Beach, FL.

Sincerely, & Happy New Year from Erwin and Lucy Scheuringer
(Owners of 1713 Gulf Blvd. IRB) - 727 804-5104



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785

www.indian-rocks-beach.com

Administrative
727/595-2517
727/596-4759 (Fax)

Library
727/596-1822

Public Services
727/595-6889
727/593-5137 (Fax)

NOTICE OF PUBLIC MEETING
THE CITY OF INDIAN ROCKS BEACH — REGULAR CITY COMMISSION MEETING
TUESDAY, FEBRUARY 8, 2022 @ 5:00 P.M.
1507 BAY PALM BOULEVARD
INDIAN ROCKS BEACH, FLORIDA 33785

The City Commission of the City of Indian Rocks Beach, Pinellas County, Florida, will hold a public hearing on **TUESDAY, FEBRUARY 8, 2022**, which meeting convenes at **5:00 p.m.**, or as soon as thereafter, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, on **BOA CASE NO. 2022-01**.

YOU ARE HEREBY NOTIFIED as a property owner of land within 150 feet of the property located at **1701 GULF BOULEVARD, INDIAN ROCKS BEACH, FLORIDA 33785**, of the following variance request:

A variance request from Section 110-241, of the Code of Ordinances, to allow for cantilever umbrellas and permanent umbrella bases in the front yard setback, for property located at 1701 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Lots 3 and 4, Block 65 to Re-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County. Property ID # 01-30-14-42030-065-0030.

FOR FURTHER INFORMATION REGARDING THIS REQUEST, PLEASE CONTACT PLANNING CONSULTANT HETTY C. HARMON AT 863/646-4771, EXT. 211 OR E-MAIL: hharmon@irbcity.com.

If you desire to either support or object to the referenced variance, you may appear at the Indian Rocks Beach City Commission Meeting on said date, or submit in writing your support or objections to Deanne B. O'Reilly, City Clerk, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, 33785, or e-mail: doreilly@irbcity.com. All correspondence must be received by the City Clerk no later than **TUESDAY, FEBRUARY 8, 2022 by 1:00 p.m.** The City will make such records available during normal business hours, Monday through Friday, 7:30 a.m. to 4:00 p.m., to any interested person at his or her request and expense.

If any person desires to appeal a decision made with respect to this request, such person will need a record of the proceedings and for such purposes, they may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based, per Section 286.0105, Florida Statutes. Verbatim transcripts are not furnished by the City of Indian Rocks Beach and should one be desired, arrangements (i.e. court reporter) should be made in advance by the interested party.

In accordance with Section 286.26, Florida Statutes, persons with a disability requiring reasonable accommodations in order to participate in this meeting should contact the City Clerk's Office with your request by telephone (727/595-2517) or email: doreilly@irbcity.com no later than seven (7) business days prior to the proceeding.

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 January 24, 2022. (Sec. 2-149 of the Code of Ordinances.)

01-30-14-42030-074-0070
BLK 74, LOT 7
INDIAN BEACH RE-REVISED

MICKIEWICZ, TERESA M
1608 1ST ST
INDIAN ROCKS BEACH FL 33785-2810

01-30-14-92750-000-0040
UNIT 4
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-38578-000-0050
UNIT 5
HIBISCUS GARDENS CONDO

GLYNN, MICHAEL J
103 18TH AVE UNIT 5
INDIAN ROCKS BEACH FL 33785-2920

01-30-14-38578-000-0060
UNIT 6
HIBISCUS GARDENS CONDO

GRANDMAS BEACH BUNGALOW LLC
1047 SUNNYDALE DR
CLEARWATER FL 33755-1438

01-30-14-38578-000-0030
UNIT 3
HIBISCUS GARDENS CONDO

HUGHES, ELEANOR J REV FAMILY TRUST
HUGHES, ELEANOR J TRE
103 18TH AVE N UNIT 3
INDIAN ROCKS BEACH FL 33785-2942

01-30-14-42030-022-0010
BEACH DR AND VAC ALLEY
18 THRU 22 AND PART VAC
BLK 22, LOTS 1 THRU 5 AND
INDIAN BEACH RE-REVISED

PINELLAS COUNTY
ATTN: REAL ESTATE DEPT
315 COURT ST
CLEARWATER FL 33756-5165

01-30-14-42030-022-0070
& LOTS 15 & 16 LESS E 10FT
LOT 8 & PT BEACH DR (VAC)
BLK 22, LOT 7 & N 1/2 OF
INDIAN BEACH RE-REVISED

SALT AIR COTTAGES & APTS
3936 W EDEN ROC CIR
TAMPA FL 33634-7420

01-30-14-42030-074-0080
BLK 74, LOT 8
INDIAN BEACH RE-REVISED

BLIESNER, DAVID M
BLIESNER, KATHLEEN K
1612 1ST ST
INDIAN ROCKS BEACH FL 33785-2810

01-30-14-92750-000-0010
UNIT 1
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-92750-000-0050

UNIT 5
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-42030-074-0020
BLK 74, LOT 2
INDIAN BEACH RE-REVISED

GUPPY'S ON THE BEACH LLC
1609 GULF BLVD
INDIAN ROCKS BEACH FL 33785-2752

01-30-14-92750-000-0030
UNIT 3
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-92750-000-0080
UNIT 8
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-38578-000-0001
LAND AROUND BLDGS)
COMMON ELEMENTS - (AKA
HIBISCUS GARDENS CONDO

HIBISCUS GARDENS CONDO ASSN
C/O THOMAS, RON
2407 BAY BLVD
INDIAN ROCKS BEACH FL 33785-3088

01-30-14-38578-000-0070
UNIT 7
HIBISCUS GARDENS CONDO

MILLER, DELANO B
POHL, MARY L
1654 COWLING AVE
LOUISVILLE KY 40205-1370

01-30-14-92750-000-0090
UNIT 9
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-38578-000-0061
UNIT 6-A
HIBISCUS GARDENS CONDO

CWILL, JANICE B
233 35TH AVE N
ST PETERSBURG FL 33704-1407

01-30-14-92750-000-0001
(COMMON ELEMENTS)
TWIN ARCH CONDO

TWIN ARCH CONDO ASSN INC
1713 GULF BLVD
INDIAN ROCKS BEACH FL 33785-2996

01-30-14-92750-000-0020

UNIT 2
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-38578-000-0040
UNIT 4
HIBISCUS GARDENS CONDO

CHORNY, RONALD R
CHORNY, PATRICIA A
103 18TH AVE APT 4
INDIAN ROCKS BEACH FL 33785-2942

01-30-14-38578-000-0020
UNIT 2
HIBISCUS GARDENS CONDO

ROGERS, WILLIAM
ROGERS, EDNA
644 CHIPPEN DR
SUN CITY FL 33373

01-30-14-42030-074-0010
IN NW COR
BLK 74, LOT 1 LESS RD R/W
INDIAN BEACH RE-REVISED

GUPPY'S ON THE BEACH LLC
1609 GULF BLVD
INDIAN ROCKS BEACH FL 33785-2752

01-30-14-92750-000-0060
UNIT 6
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-92750-000-0070
UNIT 7
TWIN ARCH CONDO

SCHEURINGER TRUST
7632 DREW OAK DR
SEMINOLE FL 33772-4930

01-30-14-38578-000-0080
UNIT 8
HIBISCUS GARDENS CONDO

HUGHES, RONALD A
HUGHES, SHARON L
6049 SUNNYCREST DR
OAK PARK CA 91377-3847

RECEIVED
City Manager's Office
NOV 22 2021
City of Indian Rocks Beach

APPLICATION FOR VARIANCE

CITY OF INDIAN ROCKS BEACH PLANNING AND ZONING DEPARTMENT

Enquiries: Tel: (727) 517-0404 Fax: (727) 596-4759
Web: <http://www.indian-rocks-beach.com/>
Address: 1507 Bay Palm Boulevard, Indian Rocks Beach, FL 33785

For Office Use Only *BPA* Application No. 2022-01 Date Received 11-22-2021

APPLICANT	AGENT/REPRESENTATIVE
Name: <input type="text" value="Eugen Fuhrman"/>	Name: <input type="text" value="Michael Bebell"/>
Address: <input type="text" value="6154 115th PL"/>	Company: <input type="text" value="Sofarelli Architecture"/>
City: <input type="text" value="seminole"/>	Address: <input type="text" value="6365 142nd AVE N"/>
Zip Code: <input type="text" value="33772"/>	City: <input type="text" value="CLEARWATER"/>
Tel: <input type="text"/>	Zip Code: <input type="text" value="33780"/>
Fax: <input type="text"/>	Tel: <input type="text"/>
Mobile: <input type="text" value="727-599-3290"/>	Fax: <input type="text"/>
Email: <input type="text" value="eefuhrmann@aol.com"/>	Mobile: <input type="text" value="727-417-9403"/>
	Email: <input type="text"/>

SITE DETAILS

Address: <input type="text" value="1701 GULF BLVD."/>	Parcel ID: <input type="text" value="01-30-14-42030-065-0030"/>
City: <input type="text" value="INDIAN ROCKS BEACH"/>	Zip Code: <input type="text" value="33785"/>
Legal Description: <input type="text"/>	
Zoning: <input type="text" value="NA"/>	Future Land Use: <input type="text" value="NA"/>
Size: <input type="text" value="NA"/>	

SITE DETAILS CONTINUED...

Does applicant own any property contiguous to the subject property? Yes No

If yes, provide address and legal description:

Have previous applications been filed for this property? Yes No

If yes, describe:

Has a certificate of occupancy or completion been refused? Yes No

If yes, describe:

Does any other person have ownership or interest in the property? Yes No

If yes, is ownership or interest contingent or absolute:

Is there an existing contract for sale on the property? Yes No

If yes, list all parties on the contract:

Is contract conditional or absolute? Conditional Absolute

Are there options to purchase? Yes No

VARIANCE REQUEST

<u>Regulation</u>	<u>Required</u>	<u>Proposed</u>	<u>Total Requested</u>
Gulf-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Bay-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Alley setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>

VARIANCE REQUEST CONTINUED...

Regulation	Required	Proposed	Total Requested
Rear-no alley setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Rear-north/south street (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Street-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Side-one/both setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Minimum green space (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Habitable stories (#):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Minimum lot size (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Building height (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Off-street parking (spaces):	<input type="text"/>	<input type="text"/>	<input type="text"/>
ISR (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
FAR (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Dock length (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Dock width (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Signage (#):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Accessory structure (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Accessory structure height (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Lot size (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>

Other:

Installation of (3) Umbrellas. The umbrellas require to be attached to the ground non structurally, the umbrellas are 100% removable. During all hours of operation the umbrellas would be installed and removed after close.

What is the proposed use of the property?

na

HARDSHIP

A variance is granted on the basis of evidence being presented that justifies an undue and unnecessary hardship upon the applicant; a hardship that prevents reasonable use of the property. The following criteria, set forth in Code Section 2-152, Variances, will be used to evaluate the request for variance in order to determine if a hardship is present and if the variance will impact the overall public welfare.

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 patio is adjacent to the main pedestrian walkway, and Gulf Boulevard.

Special conditions and circumstances do not result from the actions of the applicant:

Existing conditions of the patio can not be relocated

Granting this variance will not confer on the applicant any special privilege that is denied by the chapter to other lands, structures or buildings in the same zoning district:

We are not asking for any special privilege, We are just asking for an understanding of how we intend to use portable umbrella fixtures.

The literal interpretation of the provisions of Subpart B, Code Sections 78 through 110, 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:

This is a clarification of our intended use of the removable umbrellas. Removable umbrellas are used throughout the hospitality industry.

HARDSHIP CONTINUED...

The variance granted is the minimum that will make possible the reasonable use of the land, structure or building:

allowance to use temporary shade structures.

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:

It does not impede on any Public Safety.

I (we) believe the Board of Adjustment and Appeals and the City Commission should grant this application because:

These Umbrellas will provide shade to our customers, Provide a appealing aesthetic to Gulf Blvd. and are safer than table umbrellas during wind.

CERTIFICATION

Date: 11/19/21

I hereby certify that I have read and understand the contents of this application, and that this application together with supplemental data and information, is a true representation of the facts related to the request; that this application is filed with my approval, as owner, evidenced by my signature appearing below.

It is hereby acknowledged that the filing of this application does not constitute automatic approval of the request. Further, if the request is approved, I will obtain all necessary permits and comply with all applicable orders, codes, conditions and regulations pertaining to the use of the property.

I hereby grant authorization to any city official to inspect, as reasonable times, the site of the request.

Before me this date personally appeared:

Name: MICHAEL BETSELL

Signature: *Michael Betsell*

Personally known/Form of Identification _____

Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 22 Month: NOVEMBER .20 21

Notary Public State of Florida at Large: NANCY DAWN FAIVRE / *Nancy Dawn Faivre*

Notary Public Commission Expiration: 09/08/2024

State of Florida
County: Pinellas



Nancy Dawn Faivre
Comm. # HH040300
Expires: Sept. 8, 2024
Bonded Thru Aaron Notary

APPLICATIONS FILED BY CORPORATIONS MUST BEAR THE SEAL OF THE CORPORATION OVER THE SIGNATURE OF AN OFFICER AUTHORIZED TO ACT ON BEHALF OF THE CORPORATION.

AGENT OF RECORD

Date: 11/19/21

I, Eugen Fuhrman do hereby designate and appoint Michael Bebell as my agent of record for the purposes of representing me during the Planning and Zoning Department's review process of my application. My agent of record is hereby vested with authority to make any representations, agreements or promises, which are necessary or desirable in conjunction with the review process. My agent of record is authorized to accept or reject any conditions imposed by any reviewing board or entity.

Name: Eugen Fuhrman Signature: eugen fuhrman

My agent of record may be contacted at:

Company: Sofarelli Architecture

Address: 6365 142nd AVE N

City/State: CLEARWATER Zip Code: 33760

Telephone: 727-417-9403 Fax: _____

Before me this date personally appeared:

Name: MICHAEL BEBELL

Signature: Michael Bebell

Personally known/Form of Identification _____

Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 22 Month: NOVEMBER, 2021

Notary Public State of Florida at Large: NANCY DAWN FAIVRE / Nancy Dawn Faivre

Notary Public Commission Expiration: 09/08/2024

State of Florida
County: Pinellas



Nancy Dawn Faivre
Comm. #HH01300
Expires: Sep. 8, 2024
Bonded Through Notary

**AGENDA ITEM NO. 6B
QUASI-JUDICIAL PROCEEDING**

**BOA CASE NO. 2022-02
436-20TH AVENUE**

**INDIAN ROCKS BEACH CITY COMMISSION
STAFF REPORT**

MEETING OF: February 8, 2022 **AGENDA ITEM:** 6B

SUBMITTED AND

RECOMMENDED BY: Hetty C. Harmon, AICP, Planning Consultant *HCH*

APPROVED BY: Brently Gregg Mims, City Manager 

SUBJECT — BOA CASE NO. 2022-02: Variance request from Sec. 110-131 (1)(f)(2)(ii) of the Code of Ordinances, to encroach 3 feet into the required 10-foot rear yard setback, resulting in a total rear yard setback of 7 feet, to allow for an 7-foot by 15-foot addition to the existing kitchen, for the property located at 436-20th Avenue Indian Rocks Beach, Florida, and legally described as that portion of Lot 2, Eighteenth Addition to Re-Revised Map of Indian Beach, according to the Plat thereof, recorded in Plat Book 38, Page 12, Public Records of Pinellas County, Florida, described as follows: From the point of beginning at the most southerly corner of said Lot 2, run North 76°45'33" East, 75 feet along the South boundary of said Lot 2; thence North 12°24'47" West 64.75 feet; thence North 47°11'30" West 12 feet; thence South 68°08'46" West, 71 feet; thence South 14°04'37" East, 64.05 feet to the point of beginning. Property ID # 06-30-15-42354-000-0021.

OWNER: John K. & Kimberly P. Emmons
PROPERTY LOCATION: 436-20th Avenue
ZONING: Single-Family Residential

Direction	Existing Use	Zoning Category
North	Residential	S
East	Residential	S
South	Residential	S
West	Residential	S

BACKGROUND:

The applicant is requesting a variance to build a 7-foot by 15-foot addition to the rear of the house that would encroach 3 feet into the rear yard setback. The house was built in 1956 and the owners want to expand the kitchen which is located at the rear of the house. The applicant wants to add to the existing kitchen rather relocate the kitchen to the west side of the property due to the FEMA 50% rule, which limits the amount of construction that can be added to the existing structure.

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 lot square footage is less than the surrounding lots.*
- 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 kitchen addition 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 of the Code of Ordinances, staff recommends denial of the request.

PUBLIC 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 January 24, 2022, pursuant to Section 2-149, of the Code of Ordinances.

CORRESPONDENCE RECEIVED: Letters of support received from Joseph C. Hatch, Jr., 428 20th Avenue, David Allen, 440 20th Avenue, Frank S. Pecoraro Sr. and Penny

Pecoraro, 444 20th Avenue, 2007 20th Avenue Parkway, and Anthony Elliott, 2005 20th Avenue Parkway.

BOARD OF ADJUSTMENTS AND APPEALS RECOMMENDATION: The Board of Adjustments and Appeals recommended denial to the City Commission by a vote of 3 to 2.

LEGAL NOTICE: A legal notice was published in the January 26, 2022-edition, of the St. Pete Time Section of the Tampa Bay Times, for public hearing that has been scheduled on February 8, 2022, for BOA Case No. 2022-02.

MOTION:

I move to **APPROVE/DENY BOA CASE NO. 2022-02:** Variance request from Sec. 110-131(1)(f)(2)(ii) of the Code of Ordinances, to encroach 3 feet into the required 10-foot rear yard setback, resulting in a total rear yard setback of 7 feet to allow for an 7-foot by 15-foot addition to the existing kitchen, for the property located at 436-20th Avenue Indian Rocks Beach, Florida, and legally described as that portion of Lot 2, Eighteenth Addition to Re-Revised Map of Indian Beach.

Member Campbell asked what the definition is of permanent structure.

Planning Consultant Harmon stated the definition according to the City Code for a permanent structure is anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

Mr. Scott Bebell stated that the umbrellas are costly, they are not cheap umbrellas. They thought carefully before coming to the City knowing that they are investing in something that is strong, that is durable, that will last, and can sustain 160 hurricane winds. There would be three umbrellas instead of ten umbrellas on the outside patio.

MOTION MADE BY COMMISSIONER ALVAREZ, SECONDED BY VICE-CHAIR WATT, RECOMMENDED APPROVAL TO THE CITY COMMISSION ON BOA CASE NO. 2022-01, TO ALLOW THREE (3) 15' DIAMETER CANTILEVER UMBRELLAS AND THREE (3) 12 INCH BY 12 INCH, PERMANENT IN-GROUND CONCRETE UMBRELLA BASES, FOR THE PROPERTY LOCATION AT 1701 GULF BOULEVARD, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOTS 3 AND 4, BLOCK 65 TO RE-REVISED MAP OF INDIAN BEACH SUBDIVISION RECORDED IN PLAT BOOK 5 PAGE 6 OF THE PUBLIC RECORDS OF PINELLAS COUNTY. PROPERTY ID # 01-30-14-42030-065-0030.

ROLL CALL VOTE:

AYES: CAMPBELL, O'DONNELL, WATT, ALVAREZ, DeVORE
NAYS: NONE
ABSENT NONE

MOTION TO RECOMMEND APPROVAL TO THE CITY COMMISSION CARRIED UNANIMOUSLY.

City Attorney Mora announced that BOA Case No. 2022-01 would be on the City Commission Regular Meeting Agenda on Tuesday, February 8, 2022, beginning at 5:00 p.m. He just wanted to state that for anyone present that the February 8, 2022 City Commission Regular Meeting starts at 5:00 p.m., which is earlier than usual.

- 5. BOA CASE NO. 2022-02 — 436-20TH AVENUE**
 - Owner/Applicant: John Kevin Emmons, Sr.**
 - Agent/Representative: Nuroom Corporation**
 - Subject Location: 436-20th Avenue, Indian Rocks Beach, Florida**
 - Legal Description: That portion of Lot 2, Eighteenth Addition to Re- Revised Map of Indian Beach, according to the Plat thereof, recorded in Plat Book 38, Page 12, Public Records of Pinellas County, Florida, described as follows: From the Point of Beginning at the most southerly corner of said Lot 2, run North 76°45'33" East, 75 feet along the South boundary of said Lot**

2; thence North 12°24'47" West 64.75 feet; thence North 47°11'30" West 12 feet; thence South 68°08'46" West, 71 feet; thence South 14°04'37" East, 64.0.5 feet to the Point of Beginning.

Parcel #:

06-30-15-42354-000-0021

Variance Request:

Variance request from Section 110-131 (1)(f)(2)(ii), of the Code of Ordinances, of 3 feet into the required 10-foot rear yard setback, resulting in a total rear yard setback of 7 feet, to allow for an addition.

[Beginning of Staff Report]

SUBJECT — BOA CASE NO. 2022-02: A variance request from Sec. 110-131 (1)(f)(2)(ii) of the Code of Ordinances of 3 feet into the required 10-foot rear yard setback, resulting in a total rear yard setback of 7 feet, to allow for an addition to the property located at 436-20th Avenue Indian Rocks Beach, Florida, and legally described as that portion of Lot 2, Eighteenth Addition to Re-Revised Map of Indian Beach, according to the Plat thereof, recorded in Plat Book 38, Page 12, Public Records of Pinellas County, Florida, described as follows: From the point of beginning at the most southerly corner of said Lot 2, run North 76°45'33" East, 75 feet along the South boundary of said Lot 2; thence North 12°24'47" West 64.75 feet; thence North 47°11'30" West 12 feet; thence South 68°08'46" West, 71 feet; thence South 14°04'37" East, 64.0.5 feet to the point of beginning. Property ID # 06-30-15-42354-000-0021

OWNER: John K. & Kimberly P. Emmons
PROPERTY LOCATION 436-20th Avenue
ZONING: Single Family Residential

Direction	Existing Use	Zoning Category
North	Residential	S
East	Residential	S
South	Residential	S
West	Residential	S

BACKGROUND:

The applicant is requesting a variance to build a 7-foot by 15-foot addition to the rear of the house that would encroach 3 feet into the required 10-foot rear yard setback. The house was built in 1956 and the owners want to expand the kitchen, which is located at the rear of the house.

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 lot square footage is less than the surrounding lots.*
- 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 kitchen addition 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 of the Code of Ordinances, staff recommends denial of the request.

PUBLIC 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 January 3, 2022, pursuant to Section 2-149, of the Code of Ordinances.

CORRESPONDENCE RECEIVED: Letters of support received from Joseph C. Hatch, Jr., 428 20th Avenue, David Allen, 440 20th Avenue, Frank S. Pecoraro Sr. and Penny Pecoraro, 444 20th Avenue, 2007 20th Avenue Parkway, and Anthony Elliott, 2005 20th Avenue Parkway.

[End of Staff Report]

City Attorney Mora read by title only Agenda Item No. 5, BOA Case No. 2022-02, 436-20th Avenue.

City Attorney Mora inquired of the members if they had any ex-parte communications with the applicant or their agent, with all members responding negatively.

City Attorney Mora inquired of the members if any of them had conducted a site visit for the limited purpose of evaluating the application, all members responding negatively.

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

Planning Consultant Harmon stated the subject property is located at 436-20th Avenue and is surrounded by three separate lots. The applicant would like to expand the kitchen 7 feet by 15 feet. The kitchen is located on the backside of the residence, thereby causing the addition to encroach 3 feet into the required 10-foot rear yard setback. She stated there is room on the right side to expand the residence. However, the applicant would like to expand on the existing kitchen located in the back of the home.

Planning Consultant Harmon stated the City did receive letters of support from all three abutting neighbors and other surrounding neighbors.

Planning Consultant Harmon provided a PowerPoint Presentation showing aerial views of the property, the proposed addition location, and a photograph looking north at the residence.

Planning Consultant Harmon stated staff recommended denial because there are other options on the property.

Member Campbell stated it looks like from the diagram that Lot 2 went all the way through at some point. His question is, was the house built before or after the property was subdivided than originally platted?

Planning Consultant Harmon stated she thinks that it probably had to be divided before, but she knows the house was built before 1981 before the City's Development Code, the 1950s or 1960s.

Planning Consultant Harmon stated to find out that answer, a title search would need to be done.

John Kevin Emmons, the applicant, 436-20th Avenue, stated his residence has a total of 800 square feet, and it has a tiny kitchen. He said his goal is to expand the kitchen by 7 feet and 15 feet across. When he first looked at it, he thought he was in compliance with the rear setback because of the back fence that was there when he purchased the property. He stated where the proposed construction stops is 10 feet, 4 inches to the fence.

However, after reviewing the survey, it was realized that the rear yard fence is 3 feet into his backyard neighbor's yard.

Mr. Emmons stated after a review of the survey, it looked like he needed a 3-foot variance for the rear yard and a 1-foot variance for the side yard because he has a diagonal lot in the back. He is asking for a kitchen extension and wants to build onto the current kitchen as it sits today.

Member Alvarez asked if consideration was given to what staff had talked about moving the kitchen to the western side of the property, where there is certainly ample room.

Mr. Emmons stated again it is an 800 square foot property, and there are bedrooms on that side. To him, it would seem like a complete upheaval to get a bit extra room in the kitchen to move to those bedrooms.

Member Campbell stated the line on the drawing does not represent the actual fence line and that the fence line is 3 feet into the abutting backyard property.

Mr. Emmons responded evidently, yes. He said that he did not erect the fence. The fence was there when he purchased the property.

Member Campbell asked if the fence comes from the elbow junction, as shown on the diagram. In other words, does the side fence bend at the point where the fence comes together.

Mr. Emmons stated the whole property is completely fenced.

Planning Consultant Harmon stated the fence line is not shown on the survey.

Member Campbell asked if the fence was there when he bought the house.

Mr. Emmons responded yes. He stated he had painted and put nails in the fence and got a permit to put a fence on the other side.

Member Campbell asked if his backyard neighbor filed an agreement to this?

Mr. Emmons stated he has worked with owners behind him, and they have submitted a letter of support. He said that he had received letters of support from all three abutting property owners.

Vice-Chair Watt asked what the left side yard setback is?

Planning Consultant Harmon stated 7 feet. She said all setbacks comply with the City Code except for the rear yard setback.

Planning Consultant Harmon stated staff discussed several different options with the applicant.

Rick Myrick, Nuroom Corporation, the applicant's representative, 2140 Sunnydale Boulevard, Clearwater, Florida, stated most of the property is on the right side of the house for the buildable area. However, there is the FEMA 50% Rule. *[Basic rule: If the cost of improvements or the cost to repair the damage exceeds 50 percent of the market value of the building, it must be brought up to current floodplain management standards.]* He said the cost would exceed the FEMA 50% Rule if the kitchen were moved to the other side. The logical thing to do would be to leave the bedrooms where they are and extend the kitchen in the back to create some additional dining area for the kitchen, which is the objective.

Member Campbell stated he wanted to make sure that the representations he understands are being made under oath. It is 10 feet from the proposed kitchen addition to where the fence is sitting regardless of the property line. That both Mr. Emmons and Mr. Myrick are testifying is a true fact.

Mr. Emmons and Mr. Myrick both responded in the affirmative.

Mr. Myrick stated he believes there were trees when that fence was put in, so the fence was moved back farther to clear the trees.

Mr. Emmons stated he would like a slightly larger kitchen because the current kitchen is 7 feet by 10 feet. He humbly requests the City Commission's approval.

Chair DeVore stated he appreciates his desire to expand the kitchen. He also sees there is an ability to go far into the west side of the property. He is finding it difficult to justify a variance when it can be done differently, just like the staff said earlier. He knows there was a due diligence process during the inspections. The kitchen is as is, and it is conforming as it is right now, and making it nonconforming when there is the ability, albeit more expensive, he is finding it hard to justify.

Member Campbell stated the representative's testimony was that it would be prohibited by the FEMA 50% Rule to relocate the kitchen to the west side of the property.

Chair DeVore stated it could be done in phases over time, and there are several options available to the applicant.

Member Campbell stated an element of hardship here is not typical because of the visual fence line. It is not excusing not knowing where the lot line is when a person purchases a house. The visual fence line is back there far enough that this extension would be within the 10 feet within his yard. Unless the rear neighbor could move the fence up 3 feet and reclaim that portion of the yard, but then those neighbors have made their bed at that point with the 7-foot setback, and the rear yard neighbor had no objections to the requested variance. He feels that there is more hardship here than in a typical case.

Chair DeVore stated that that is a particularly large difference in lot lines. He wished that they had an actual property survey, including the fence line.

Member Campbell stated that is why he wanted to make sure that they were testifying under oath that they had plotted it out. It seems unusual to him if that is the case that is pretty persuasive to him.

Vice-Chair Watt stated it seems unimportant in a way. He does not matter. Fence, no fence. It is not the lot line. He understands how they accidentally determined it. He cannot believe that someone would give up 3 feet of the property all these years. The next owner is probably not going to once they realize that.

Vice-Chair Watt stated that setbacks are tough, and this is a sticky one. He said variances go with the property, and once the Board sets a 7-foot setback, the next person can come in and demolish that house and build that entire new house within 7 feet of that property line.

Planning Consultant Harmon stated that was incorrect. The new house would have to meet all current setback requirements.

Vice-Chair Watt stated the variance does not travel with the property.

Planning Consultant Harmon said for that purpose.

City Attorney Mora explained the variance granted travels with the property. It is not an absolute right to those dimensions at infinite lengths. For example, the applicant is seeking a variance to encroach into the 10-foot required rear yard setback by 3 feet to construct a 7-foot by 15-foot addition onto the existing kitchen. The next owner would be able to build within the same footprint but not expand further than the original variance.

Vice-Chair Watt stated the variance request reads: *"A variance request for a 3-foot into the required 10-foot rear setback, resulting in a total rear yard setback of 7 feet, to allow for an addition to the property"*. The variance request does not identify the addition.

City Attorney Mora stated he understands that, and the other part of that is based on the totality of the record evidence and everything else. That kind of precision can typically be found in the correspondence that the applicant is later issued after the City Commission public hearing.

Chair DeVore opened the public hearing.

Kirby Bowers, 2104 Bay Boulevard, spoke in support of the variance. He stated a variance is needed because if the applicant moved everything to the other side, the FEMA 50% Rule would come into play.

MOTION MADE BY VICE-MAYOR WATT, SECONDED BY COMMISSIONER CAMPBELL, TO RECOMMEND TO THE CITY COMMISSION APPROVAL OF BOA CASE NO. 2022-02. A VARIANCE REQUEST FROM SEC. 110-131 (1)(f)(2)(ii) OF THE CODE OF ORDINANCES, OF 3 FEET INTO THE REQUIRED 10-FOOT REAR YARD SETBACK, RESULTING IN A TOTAL REAR YARD SETBACK OF 7 FEET, TO ALLOW FOR A 7 FEET BY 15 FEET ADDITION TO THE EXISTING KITCHEN, FOR THE PROPERTY LOCATED AT 436-20TH AVENUE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS THAT PORTION OF LOT 2, EIGHTEENTH ADDITION TO RE-REVISED MAP OF INDIAN BEACH, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 38, PAGE 12, PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: FROM THE POINT OF BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 2, RUN NORTH 76°45'33" EAST, 75 FEET ALONG THE SOUTH BOUNDARY OF SAID LOT 2; THENCE NORTH 12°24'47" WEST 64.75 FEET; THENCE NORTH 47°11'30" WEST 12 FEET; THENCE SOUTH 68°08'46" WEST, 71 FEET; THENCE SOUTH 14°04'37" EAST, 64.0.5 FEET TO THE POINT OF BEGINNING. PARCEL #: 06-30-15-42354-000-0021.

ROLL CALL VOTE:

AYES: WATT, CAMPBELL

NAYS: ALVAREZ, O'DONNELL, DEVORE

MOTION TO APPROVE FAILED BY A VOTE OF 2 TO 3.

THE BOARD OF ADJUSTMENTS AND APPEALS RECOMMENDED DENIAL OF BOA CASE NO. 2022-02, 436-20TH AVENUE TO THE CITY COMMISSION.

City Attorney Mora announced that BOA Case No. 2022-01 would be on the City Commission Regular Meeting Agenda on Tuesday, February 8, 2022, beginning at 5:00 p.m. He just wanted to state for anyone present that the February 8, 2022, City Commission Regular Meeting starts at 5:00 p.m., which is earlier than usual.

6. BOA CASE NO. 2022-03 — 2006 BEACH TRAIL, UNIT B

Owner/Applicant: Louis J. Mendel

Agent/Representative: Modern Pools

Subject Location: 2006 Beach Trail, Unit B

Legal Description: North one-half of Lot 8, Block 11, Re- Revised Map of Indian Beach, according to the map or plat thereof as recorded in Plat Book 5, Pages 6; together with but without warranty that portion of vacated right-of-way of Beach Drive, lying West and between the westerly extension of the north line of said Lot 8 and the south line of north one half of Lot 8, of the Public Records of Pinellas County, Florida.

Parcel #: 01-30-14-42030-011-0080

Variance Request: Variance request from Section 110-344(5)(f)(4)(i) to allow a variance of 4 feet 6 inches into the 7 foot 6 inch



436 20th Avenue
BOA CASE NO. 2022-02



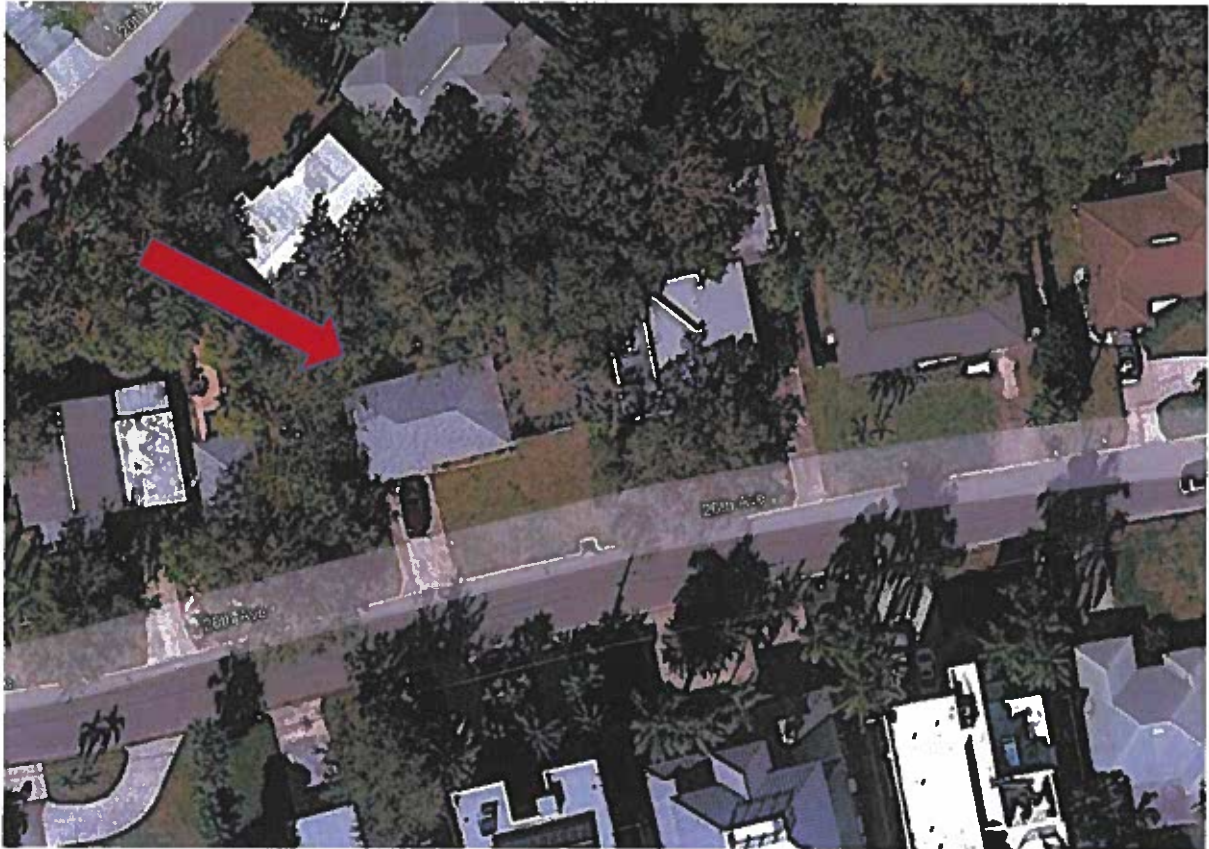
BOA CASE NO. 2022-02: Variance request from Sec. 110-131 (1)(f)(2)(ii) of the Code of Ordinances, of 3 feet into the required 10-foot rear yard setback, resulting in a total rear yard setback of 7 feet, to allow for an addition to the property located at 436 20th Avenue Indian Rocks Beach, Florida, and legally described as that portion of Lot 2, Eighteenth Addition to Re-Revised Map of Indian Beach, according to the Plat thereof, recorded in Plat Book 38, Page 12, Public Records of Pinellas County, Florida, described as follows: From the Point of Beginning at the most southerly corner of said Lot 2, run North $76^{\circ}45'33''$ East, 75 feet along the South boundary of said Lot 2; thence North $12^{\circ}24'47''$ West 64.75 feet; thence North $47^{\circ}11'30''$ West 12 feet; thence South $68^{\circ}08'46''$ West, 71 feet; thence South $14^{\circ}04'37''$ East, 64.05 feet to the Point of Beginning



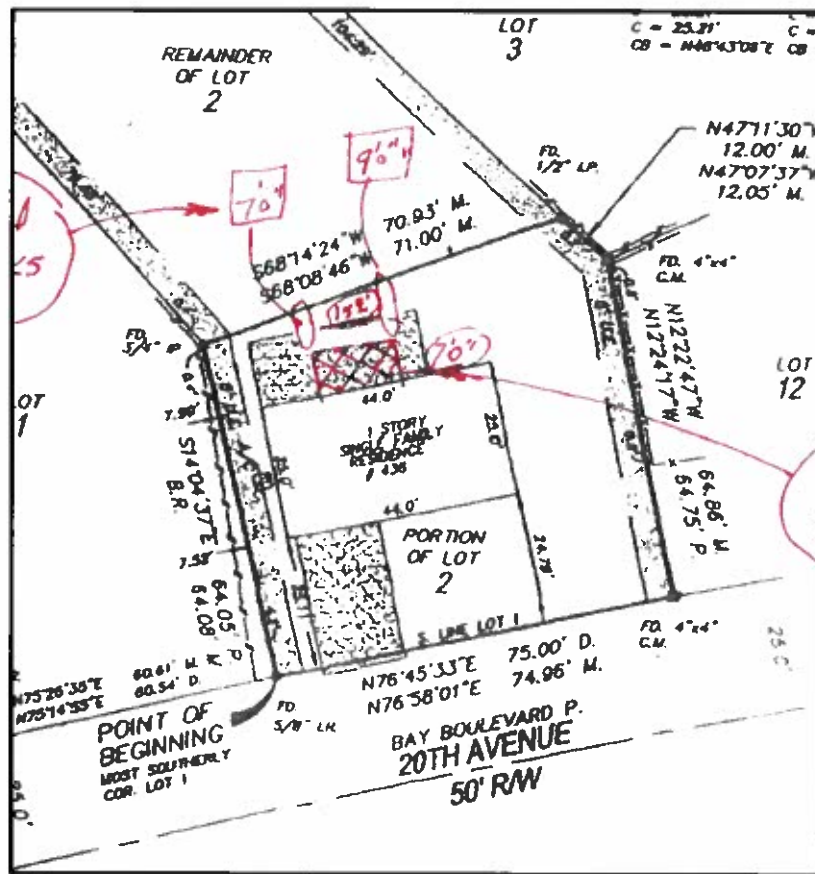
436 20th Avenue



436 20th Avenue



Proposed addition location



Looking North




Dear City of Indian Rocks Beach,

I have reviewed the property survey presented to me by Kevin Emmons. I approve the planned variance setback for property 436 20th Avenue Indian Rocks Beach FL 33785.

My Information

Anthony Elliott



Homeowner for 2005 20th Avenue Parkway Indian Rocks Beach FL 33785

From: zhanna zhannakens.com <zhanna@zhannakens.com>
Sent: Friday, January 7, 2022 4:05 PM
To: kevin.emmons@comcast.net
Subject: Contraction Approval for BOA 2022-22
Importance: High

Hello Kevin,

I hope this will work for you. If you need anything else you can give me a call 727-596-5422

To: City of Indian Rocks Beach

I, Janna Kens the owner of the property 2007 20th Ave Parkway, Indian Rocks Beach, FL 33785

Approve the contraction on the property located at 436 20th Ave. IRB, FL 33785.

Janna Kens

SKIP HATCH

Signal - 1/5/2022

APPROVAL - 5:25 PM

and approval

[Signature]

Verbal - 12/31/21

APPROVAL - 3:45 PM

428 20 to 1 R.B

Hetty Harmon

From: kevin.emmons@comcast.net
Sent: Thursday, January 06, 2022 9:28 AM
To: Hetty Harmon
Cc: lorink@irbcity.com; kevin.emmons@comcast.net
Subject: BOA CASE #2022-02 - Neighbor approval

Hetty,

Thanks for your call yesterday. Here is the neighbor approval (Mr. David Allen) to the bayside (east) of me. More to come .

Best regards,

Kevin

J. Kevin Emmons
Sales Management Executive
839 State Road
West Grove, PA 19390
c. 310.755.4659
p. 484.756.8012

kemmons@comcast.com

From: David Allen <dallen2558@aol.com>
Sent: Thursday, January 6, 2022 9:08 AM
To: Kevin.Emmons@comcast.net
Subject: BOA CASE #2022-02

I approve of the project.
David Allen
440 20th Ave
Indian Rocks Beach FL 33785



Administrative

727/595-2517

727/596-4759 (Fax)

Library

727/596-1822

Public Services

727/595-6889

727/593-5137(Fax)

NOTICE OF PUBLIC MEETING
THE CITY OF INDIAN ROCKS BEACH — REGULAR CITY COMMISSION MEETING
TUESDAY, FEBRUARY 8, 2022 @ 5:00 P.M.
1507 BAY PALM BOULEVARD
INDIAN ROCKS BEACH, FLORIDA 33785

The City Commission of the City of Indian Rocks Beach, Pinellas County, Florida, will hold a public hearing on **TUESDAY, FEBRUARY 8, 2022**, which meeting convenes at **5:00 p.m.**, or as soon as thereafter, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, on **BOA CASE NO. 2022-02**.

YOU ARE HEREBY NOTIFIED as a property owner of land within 150 feet of the property located at **436-20TH AVENUE, INDIAN ROCKS BEACH, FLORIDA 33785**, of the following variance request:

A variance request from Section 110-131 (1)(f)(2)(ii), of the Code of Ordinances, of 3 feet into the required 10-foot rear yard setback, resulting in a total rear yard setback of 7 feet, to allow for an addition to the property located at 436-20th Avenue Indian Rocks Beach, Florida, and legally described as that portion of Lot 2, Eighteenth Addition to Re-Revised Map of Indian Beach, according to the Plat thereof, recorded in Plat Book 38, Page 12, Public Records of Pinellas County, Florida, described as follows: From the Point of Beginning at the most southerly corner of said Lot 2, run North 76°45'33" East, 75 feet along the South boundary of said Lot 2; thence North 12°24'47" West 64.75 feet; thence North 47°11'30" West 12 feet; thence South 68°08'46" West, 71 feet; thence South 14°04'37" East, 64.0.5 feet to the Point of Beginning. Property ID # 06-30-15-42354-000-0021.

FOR FURTHER INFORMATION REGARDING THIS REQUEST, PLEASE CONTACT PLANNING CONSULTANT HETTY C. HARMON AT 863/646-4771, EXT. 211 OR E-MAIL: hharmon@irbcity.com.

If you desire to either support or object to the referenced variance, you may appear at the Indian Rocks Beach City Commission on said date, or submit in writing your support or objections to Deanne B. O'Reilly, City Clerk, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, 33785, or e-mail: doreilly@irbcity.com. All correspondence must be received by the City Clerk no later than **TUESDAY, FEBRUARY 8, 2022 by 1:00 p.m.** The City will make such records available during normal business hours, Monday through Friday, 7:30 a.m. to 4:00 p.m., to any interested person at his or her request and expense.

If any person desires to appeal a decision made with respect to this request, such person will need a record of the proceedings and for such purposes, they may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based, per Section 286.0105, Florida Statutes. Verbatim transcripts are not furnished by the City of Indian Rocks Beach and should one be desired, arrangements (i.e. court reporter) should be made in advance by the interested party.

In accordance with Section 286.26, Florida Statutes, persons with a disability requiring reasonable accommodations in order to participate in this meeting should contact the City Clerk's Office with your request by telephone (727/595-2517) or email: doreilly@irbcity.com no later than seven (7) business days prior to the proceeding.

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 January 24, 2022. (Sec. 2-149 of the Code of Ordinances.)

/dor

06-30-15-42354-000-0010

LOT 1
RE-REVISED 18TH ADD
INDIAN BEACH

HATCH, JOSEPH C JR
428 20TH AVE
INDIAN ROCKS BEACH FL 33785-2959

06-30-15-42138-000-0230

OF LOT 24 & RIP RTS
E 41FT OF LOT 23 & W 36FT
RE-REVISED 6TH ADD
INDIAN BEACH

STRENG, THOMAS F
STRENG, SHARON L
441 20TH AVE
INDIAN ROCKS BEACH FL 33785-2929

06-30-15-42192-000-0010

LOT 1
RE-REVISED 9TH ADD
INDIAN BEACH

FOUNDOKIS, DEMETRIA
GREENE, TRINH
2006 20TH AVENUE PKWY
INDIAN ROCKS BEACH FL 33785-2967

06-30-15-42354-000-0110

LOT 11
RE-REVISED 18TH ADD
INDIAN BEACH

PECORARO, PENNY LUE
PECORARO, FRANK SALVATORE SR
444 20TH AVE
INDIAN ROCKS BEACH FL 33785-2959

06-30-15-42156-000-0160

15 DESC BEG MOST E'LY COR
LOT 16 & THAT PART OF LOT
RE-REVISED 7TH ADD
INDIAN BEACH

SCHAUB, NIKKOLE
SCHAUB, THOMAS
86B UNION AVE
CENTER MORICHES NY 11934-3219

06-30-15-42138-000-0260

LOT 26
RE-REVISED 6TH ADD
INDIAN BEACH

COPLIN, ROBERT M REV TRUST
COPLIN, ROBERT M TRE
447 20TH AVE
INDIAN ROCKS BEACH FL 33785-2929

06-30-15-42138-000-0180

LOT 18 & RIP RTS
RE-REVISED 6TH ADD
INDIAN BEACH

LOHKAMP, NORMA L TRE
429 20TH AVE
INDIAN ROCKS BEACH FL 33785-2929

06-30-15-42138-000-0190

PART DESC BEG NE COR OF
LOTS 19 & 20 LESS THAT
RE-REVISED 6TH ADD
INDIAN BEACH

B D L S F H LLC
PO BOX 152
LARGO FL 33779-0152

06-30-15-42138-000-0210

20 DESC BEG MOST N'LY COR
LOT 21 & THAT PART OF LOT
RE-REVISED 6TH ADD
INDIAN BEACH

LOHKAMP, NORMA L TRE
429 20TH AVE
INDIAN ROCKS BEACH FL 33785-2929

06-30-15-42354-000-0030

LOT 3
RE-REVISED 18TH ADD
INDIAN BEACH

KENS, JANNA VALERIEVNA
2007 20TH AVENUE PKWY
INDIAN ROCKS BEACH FL 33785-2966

06-30-15-42138-000-0220

LOT 22 & W 10FT OF LOT 23
RE-REVISED 6TH ADD
INDIAN BEACH

GARBE, STEFAN
GARBE, SONJA
HOISDORFER LANDSTRASSE 54A
GROSSHANDORF 22927

06-30-15-42354-000-0040

LOT 4
RE-REVISED 18TH ADD
INDIAN BEACH

HORNER, BRITTANY MARGARET
2009 20TH AVENUE PKWY
INDIAN ROCKS BEACH FL 33785-2966

06-30-15-42354-000-0020

BEG MOST S'LY COR OF SD
LOT 2 LESS THAT PART DESC
RE-REVISED 18TH ADD
INDIAN BEACH

ELLIOTT, ANTHONY D
ELLIOTT, LAURA C
1933 GLASGROW AVE
CARDIFF CA 92007-1626

06-30-15-42354-000-0070

LOT 7
RE-REVISED 18TH ADD
INDIAN BEACH

REDDICK, RICKY
REDDICK, SHERI
2010 BAYVIEW PL
INDIAN ROCKS BEACH FL 33785-2940

06-30-15-42354-000-0120

LOT 12
RE-REVISED 18TH ADD
INDIAN BEACH

ALLEN, DAVID W
440 20TH AVE
INDIAN ROCKS BEACH FL 33785-2959

06-30-15-42354-000-0050

LOT 5
RE-REVISED 18TH ADD
INDIAN BEACH

TRULYBLENDEDFAM LLC
380 LAPE RD
NASSAU NY 12123-3710

06-30-15-42138-000-0250

15FT OF LOT 24
LOT 25 & RIP RTS & E'LY
RE-REVISED 6TH ADD
INDIAN BEACH

STUART, PAULA S
10387 HART BRANCH CIR
ORLANDO FL 32832-5915

RECEIVED
City Manager's Office
DEC 13 2021
City of Indian Rocks Beach

APPLICATION FOR VARIANCE

CITY OF INDIAN ROCKS BEACH PLANNING AND ZONING DEPARTMENT

Enquiries: Tel: (727) 517-0404 Fax: (727) 596-4759
Web: <http://www.indian-rocks-beach.com/>
Address: 1507 Bay Palm Boulevard, Indian Rocks Beach, FL 33785

For Office Use Only **BOA** Application No. **2022-02** Date Received **12-13-2021**

APPLICANT

Name: **JOHN KEVIN EMMONS**
Address: **436 20th AVE.**
City: **Indian Rocks Beach**
Zip Code: **33785**
Tel: **310.755.4659**
Fax:
Mobile:
Email: **Kevin.Emons@comcast.net**

AGENT/REPRESENTATIVE

Name: **Rick Myrick**
Company: **NuRoom Corporation**
Address: **2140 Sunnydale Blvd.**
City: **CLEARWATER,**
Zip Code: **33765**
Tel: **727-536-2767**
Fax: **727-489-3080**
Mobile:
Email: **Rick @ NuRoom.com**

SITE DETAILS

Address: **436 20th Ave** Parcel ID: **06-30-15-42-354-000 -004**
City: **Indian Rock Beach** Zip Code: **33785**
Legal Description:
Zoning: **Single Family (S)** Future Land Use:
Size: **75' x 66'**

SITE DETAILS CONTINUED...

Does applicant own any property contiguous to the subject property? Yes No

If yes, provide address and legal description:

Have previous applications been filed for this property? Yes No

If yes, describe:

Has a certificate of occupancy or completion been refused? Yes No

If yes, describe:

Does any other person have ownership or interest in the property? Yes No

If yes, is ownership or interest contingent or absolute:

Is there an existing contract for sale on the property? Yes No

If yes, list all parties on the contract:

Is contract conditional or absolute? Conditional Absolute

Are there options to purchase? Yes No

VARIANCE REQUEST

Regulation

Required

Proposed

Total Requested

Gulf-front setback (feet):

Bay-front setback (feet):

Alley setback (feet):

VARIANCE REQUEST CONTINUED...

<u>Regulation</u>	<u>Required</u>	<u>Proposed</u>	<u>Total Requested</u>
✓ Rear-no alley setback (feet):	10 ft.	7 ft.	3 ft. (36")
Rear-north/south street (feet):			
Street-front setback (feet):			
Side-one/both setback (feet):			
Minimum green space (%):			
Habitable stories (#):			
Minimum lot size (sq. ft.):			
Building height (feet):			
Off-street parking (spaces):			
ISR (%):			
FAR (%):			
Dock length (feet):			
Dock width (feet):			
Signage (#):			
Accessory structure (sq. ft.):			
Accessory structure height (feet):			
Lot size (sq. ft.):			

Other:

What is the proposed use of the property?

Kitchen Extension 7' x 15.4' ONLY

HARDSHIP

A variance is granted on the basis of evidence being presented that justifies an undue and unnecessary hardship upon the applicant; a hardship that prevents reasonable use of the property. The following criteria, set forth in Code Section 2-152, Variances, will be used to evaluate the request for variance in order to determine if a hardship is present and if the variance will impact the overall public welfare.

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:

IRREGULAR SHAPE LOT (DISG. 1)
Potential side yard set back
Existing kitchen is ORIGINAL & CAN NOT BE MOVED

Special conditions and circumstances do not result from the actions of the applicant:

FEMA 50/50 - restricting RENOVATION budget.

Granting this variance will not confer on the applicant any special privilege that is denied by the chapter to other lands, structures or buildings in the same zoning district:

The literal interpretation of the provisions of Subpart B, Code Sections 78 through 110, 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:

HARDSHIP CONTINUED...

The variance granted is the minimum that will make possible the reasonable use of the land, structure or building:

- 3ft on LEFT side - VARIANCE NEEDED
- 1ft on Right side VARIANCE NEEDED

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:

[Empty box for justification]

I (we) believe the Board of Adjustment and Appeals and the City Commission should grant this application because:

- Small Kitchen exists - kitchen extension only.
- Driveway Bank yard - Irregular shaped (PAID NOT NEEDED)
- Financial restriction of FEMA 50/50
- Expect to own long term. (5+ year ownership)

CERTIFICATION

Date: 12/13/2021

I hereby certify that I have read and understand the contents of this application, and that this application together with supplemental data and information, is a true representation of the facts related to the request; that this application is filed with my approval, as owner, evidenced by my signature appearing below.

It is hereby acknowledged that the filing of this application does not constitute automatic approval of the request. Further, if the request is approved, I will obtain all necessary permits and comply with all applicable orders, codes, conditions and regulations pertaining to the use of the property.

I hereby grant authorization to any city official to inspect, as reasonable times, the site of the request.

Before me this date personally appeared:

Name: JOHN KEVIN EMMONS

Signature: [Handwritten Signature]

Personally known/Form of Identification PL

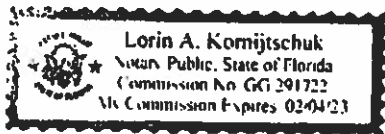
Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 13 Month: December 20 21

Notary Public State of Florida at Large: Lorin A. Kornijtschuk

Notary Public Commission Expiration: 2/4/2023

State of Florida
County: Pinellas



APPLICATIONS FILED BY CORPORATIONS MUST BEAR THE SEAL OF THE CORPORATION OVER THE SIGNATURE OF AN OFFICER AUTHORIZED TO ACT ON BEHALF OF THE CORPORATION.

AGENT OF RECORD

Date: December 13, 2021

I, John Kevin Emmons do hereby designate and appoint

Rick Myrick as my agent of record for the purposes of representing me during the Planning and Zoning Department's review process of my application. My agent of record is hereby vested with authority to make any representations, agreements or promises, which are necessary or desirable in conjunction with the review process. My agent of record is authorized to accept or reject any conditions imposed by any reviewing board or entity.

Name: Rick Myrick Signature: [Handwritten Signature]

My agent of record may be contacted at:

Company: NUROOM Corporation

Address: 2140 Sunnydale Boulevard

City/State: Clearwater Zip Code: 33765

Telephone: (727) 536-2767 Fax: (727) 489-3080

Before me this date personally appeared:

Name: Rick Myrick

Signature: [Handwritten Signature]

Personally known/Form of Identification

Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

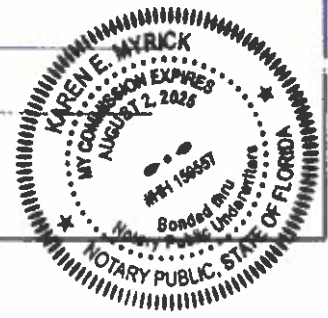
Sworn to and subscribed before me this: Day: 13th Month: December, 20 21

Notary Public State of Florida at Large: Karen E. Myrick

Notary Public Commission Expiration: 8/2/25

State of Florida

County: Pinellas



25.0'

C-1


REMAINDER OF LOT 2

LOT 3

R = 545.00' R = 750.95'
 L = 25.37' L = 31.84'
 C = 25.37' C = 31.84'
 CB = N48°32'07"E CB = N44°04'00"E

1" = 30'

PER PLAT



Scale 1" = 30'

Proposed Setbacks

7'0"

9'6"

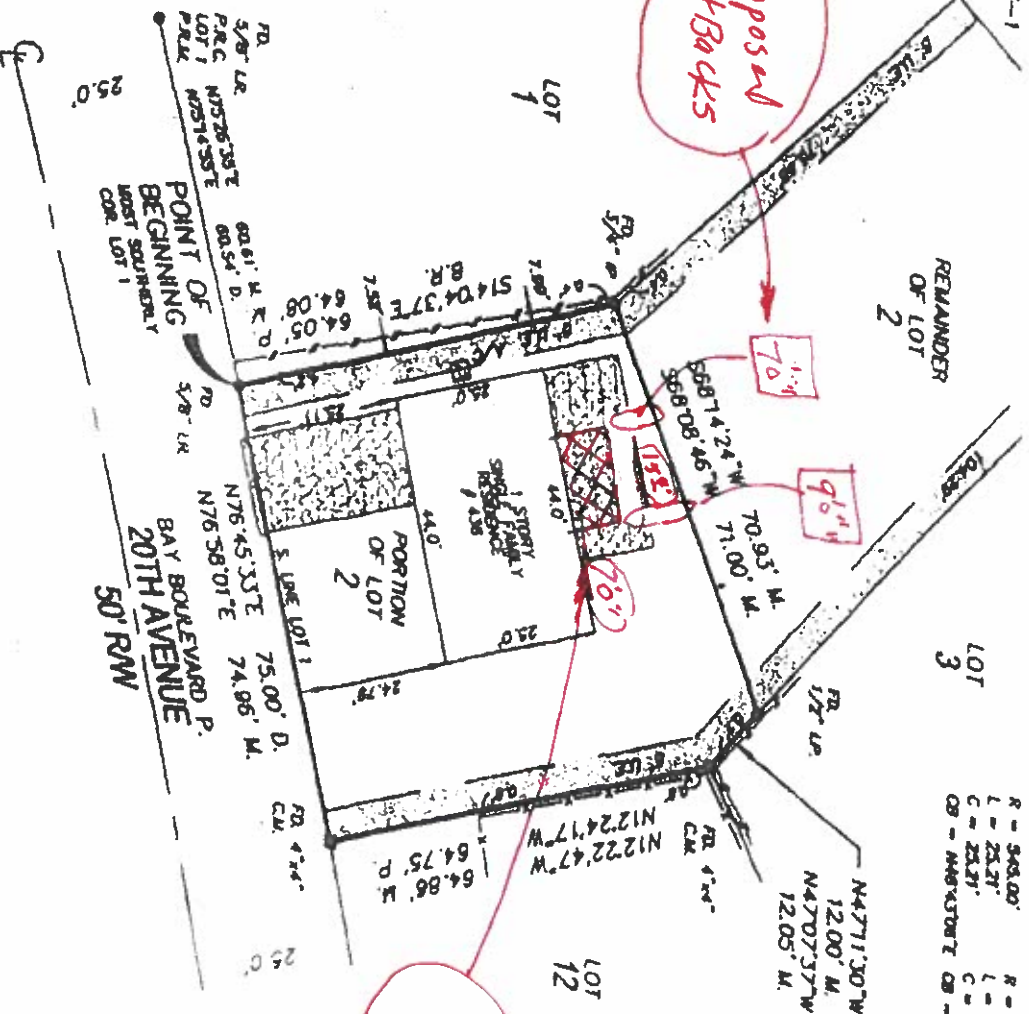
7'0"

Proposed Kitchen Extension

7'0" x 15'4"

* KAVIN & KIM EMMONS
 436 - 20th Ave
 Indian Rocks Beach
 33108

Carolee R.
 Loretta R. Poore, also
 as co-owners of Florida, Inc.,
 of Florida, Inc.,
 Comprehensive Land Title
 Insurance Company,
 Sheriff Landmark Services,
 Inc., its successors,
 and/or assigns.
 Property Address:
 412 20th Avenue
 Indian Rocks Beach,
 Florida 33785
 Survey Number:
 0-125748



POINT OF
 BEGINNING
 MOST SOUTHERLY
 CORN LOT 1

BAY BOULEVARD P.
 20TH AVENUE
 50' RW

LEGEND

ON GRADE CONCRETE	RI	PAVED	WOOD DECK
ASPH/CONC	AR	CONCRETE	CONCRETE WALL TYP.
GRAVEL	GA	ASPH/FLYASH	GRASS
PAVED DRIVEWAY	PD	GRAVEL DRIVEWAY	CONCRETE WALK
ASPH DRIVEWAY	AD	ASPH DRIVEWAY	CONCRETE WALK
PAVED DRIVEWAY	PD	ASPH DRIVEWAY	CONCRETE WALK
GRAVEL DRIVEWAY	GD	GRAVEL DRIVEWAY	CONCRETE WALK
PAVED DRIVEWAY	PD	GRAVEL DRIVEWAY	CONCRETE WALK
GRAVEL DRIVEWAY	GD	GRAVEL DRIVEWAY	CONCRETE WALK

Legal Description

That portion of Lot 2, BAYVIEW ADDITION TO BE-REVISED MAP OF MIDWAY
 BEACH, according to the Plat thereof recorded in Plat Book 38, Page 12,
 Public Records of Pinellas County, Florida, described as follows: From the
 Point of Beginning of the aforesaid plat, proceed South 89° 45' 35" East, 75 feet along the South boundary of said Lot 2, run North
 17° 24' 17" West 84.75 feet thence North 47° 11' 30" West 12 feet thence South
 69° 08' 46" West 71 feet thence South 14° 04' 37" East 64.05 feet to the Point
 of Beginning.

Commencement Number: 125717 Parcel: 0714
 Survey: G FLRLK Date: 8/2/2003 Flood Zone: AE
 Plat Book: 2/19/2003 Compense: 2/11/2003

That portion of Lot 1, BAYVIEW ADDITION TO BE-REVISED MAP OF MIDWAY
 BEACH, according to the Plat thereof recorded in Plat Book 38, Page 12,
 Public Records of Pinellas County, Florida, described as follows: From the
 Point of Beginning of the aforesaid plat, proceed South 89° 45' 35" East, 75 feet along the South boundary of said Lot 2, run North
 17° 24' 17" West 84.75 feet thence North 47° 11' 30" West 12 feet thence South
 69° 08' 46" West 71 feet thence South 14° 04' 37" East 64.05 feet to the Point
 of Beginning.

That portion of Lot 2, BAYVIEW ADDITION TO BE-REVISED MAP OF MIDWAY
 BEACH, according to the Plat thereof recorded in Plat Book 38, Page 12,
 Public Records of Pinellas County, Florida, described as follows: From the
 Point of Beginning of the aforesaid plat, proceed South 89° 45' 35" East, 75 feet along the South boundary of said Lot 2, run North
 17° 24' 17" West 84.75 feet thence North 47° 11' 30" West 12 feet thence South
 69° 08' 46" West 71 feet thence South 14° 04' 37" East 64.05 feet to the Point
 of Beginning.

**AGENDA ITEM NO. 6C
QUASI-JUDICIAL PROCEEDING**

**BOA CASE NO. 2022-05
799 EAST GULF BOULEVARD**

**INDIAN ROCKS BEACH CITY COMMISSION
STAFF REPORT**

MEETING OF: February **AGENDA ITEM:** 6C

SUBMITTED AND

RECOMMENDED BY: Hetty C. Harmon, AICP, Planning Consultant *HC*

APPROVED BY: Brently Gregg Mims, City Manager *BGM*

SUBJECT — BOA CASE NO. 2022-05: Variance requests from Section 110-344(3)(f)(3)(i) of the Code of Ordinances, to encroach 2 feet into the south 7-foot 6-inch side yard setback and 5 feet in to the north 7-foot 6-inch side yard setback, resulting in a south side yard setback of 5 feet 6 inches and a north side yard setback of 2 feet 6 inches to allow for the installation of a swimming pool, for property located at 799 East Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as a portion of Lot 2), La Hacienda Replat, according to the plat thereof recorded in Plat Book 39, Pages 1 and 2, Public Records of Pinellas County, Florida, formerly La Hacienda Subdivision, recorded in Plat Book 36, Pages 73 and 74, being more particularly described as follows: Commencing at the Southwesterly corner of Lot 25, said point being the point of beginning, thence along a curve (the Westerly property line of Lot 25) concave to the West, having a radius of 6841.44', a central angle of 0°16'22", and a chord of 32.57' bearing N. 11°30'51" W.; thence N. 78°00'09" E., a distance of 110.79' to the Easterly property line of Lot 25 said point being a point of curvature of a non-tangent curve, concave to the West, having a radius of 6951.44' a central angle of 0°16'03", and a chord of 32.47' bearing N. 9°41'13" W; thence Southerly along said curve, a distance of 32.47'; thence S. 77°56'17" W., a distance of 109.76' to the point of beginning. Parcel #12-30-14-47412-000-0251.

OWNER: Rory Burton
PROPERTY LOCATION: 799 East Gulf Boulevard
ZONING: RM-2 — Medium Density Residential

Direction	Existing Use	Zoning Category
North	Residential	RM-2
East	Intracoastal	N/A
South	Residential	RM-2
West	Residential	RM-2

BACKGROUND:

The applicant is requesting variances for the front north and south side setbacks for the installation of a swimming pool. They are requesting the pool encroach 2 feet into the south 7-foot 6-inch side yard setback and 5 feet into the north 7-foot 6-inch side 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. *The duplex was built in 2005 and the lot was illegally subdivided in 2005 causing the lots to be non-conforming limiting the width of the lot.*
- 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 pool 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 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 of the Code of Ordinances, staff recommends denial of the request.

BOARD OF ADJUSTMENTS AND APPEALS: The Board of Adjustments and Appeals recommended denial to the City Commission by a vote of 5 to 0.

PUBLIC 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 January 24, 2022, pursuant to Section 2-149, of the Code of Ordinances.

CORRESPONDENCE RECEIVED: No correspondence was received.

LEGAL NOTICE: A legal notice was published in the January 26, 2022-edition, of the St. Pete Time Section of the Tampa Bay Times, for public hearing that has been scheduled on February 8, 2022, for BOA Case No. 2022-05.

MOTION:

I move to **APPROVE/DENY BOA CASE 2022-05:** Variance requests from Section 110-344(3)(f)(3)(i) of the Code of Ordinances, to encroach 2 feet into the south 7-foot 6-inch side yard setback and 5 feet into the north 7-foot 6-inch side yard setback, resulting in a south side yard setback of 5 feet 6 inches and a north side yard setback of 2 feet 6 inches, to allow for the installation of a swimming pool, for property located at 799 East Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as a portion of Lot 25, La Hacienda Replat, according to the plat thereof recorded in Plat Book 39, Pages 1 and 2, Public Records of Pinellas County, Florida, formerly La Hacienda Subdivision recorded in Plat Book 36, Pages 73 and 74, being more particularly described as follows: Commencing at the Southwesterly corner of Lot 25, said point being the point of beginning, thence along a curve (the Westerly property line of Lot 25) concave to the West, having a radius of 6841.44', a central angle of 0°16'22", and a chord of 32.57' bearing N. 11°30'51" W.; thence N. 78°00'09" E., a distance of 110.79' to the Easterly property line of Lot 25 said point being a point of curvature of a non-tangent curve, concave to the West, having a radius of 6951.44' a central angle of 0°16'03", and a chord of 32.47' bearing N. 9°41'13" W; thence Southerly along said curve, a distance of 32.47'; thence S. 77°56'17" W., a distance of 109.76' to the point of beginning. Parcel #12-30-14-47412-000-0251.

side yard setback resulting in a total side yard setback of 3.0 feet to allow for the installation of a swimming pool.

7. BOA CASE NO. 2022-04 — 210-21ST AVENUE

Owner/Applicant: Three Sisters Development Co LLC
Agent/Representative: Modern Pools
Subject Location: 210-21st Avenue
Legal Description: Indian Beach Re-Revised 13th Addition, Lot 25
Parcel #: 06-30-15-42264-000-0250
Variance Request: Variance requests from Sections 110-344(2)(f)(1) and 110-344(2)(f)(3), of the Code of Ordinances, to allow a variance of 2 feet 6 inches into the 25-foot front yard setback, resulting in a total front yard setback of 22.5 feet, and 2 feet 6 inches into the 7-foot 6 inch side yard setback, resulting in a total side yard setback of 5 feet, to allow for the installation of a swimming pool.

8. BOA CASE NO. 2022-05 — 799 EAST GULF BOULEVARD

Owner/Applicant: Rory Burton
Agent/Representative: Wess Ripley
Subject Location: 799 East Gulf Boulevard
Legal Description: A portion of Lot 25, La Hacienda Replat, according to the plat thereof recorded in Plat Book 39, Pages 1 and 2, Public Records of Pinellas County, Florida, formerly La Hacienda Subdivision recorded in Plat Book 36, Pages 73 and 74, being more particularly described as follows: Commencing at the Southwesterly corner of Lot 25, said point being the point of beginning, thence along a curve (the Westerly property line of Lot 25) concave to the West, having a radius of 6841.44', a central angle of 0°16'22", and a chord of 32.57' bearing N 11°30'51" W; thence N. 78°00'09" E, a distance of 110.79' to the Easterly property line of Lot 25 said point being a point of curvature of a non-tangent curve, concave to the West, having a radius of 6951.44' a central angle of 0°16'03", and a chord of 32.47' bearing N 9°41'13" W; thence Southerly along said curve, a distance of 32.47'; thence S 77°56'17" W, a distance of 109.76' to the point of beginning.
Parcel #: 12-30-14-47412-000-0251
Variance Request: Variance request from Section 110-344(3)(f)(3)(I), of the Code of Ordinances, to allow a variance of 2 feet into the south 7-foot 6-inch side yard setback and 5 feet into the north 7-foot, 6-inch side yard setback,

resulting in a north side yard setback of 2 feet 6 inches and a south side yard setback of 5 feet 6 inches, to allow for the installation of a swimming pool.

SUBJECT — BOA CASE NO. 2022-05: A variance request from Section 110-344(3)(f)(3)(i) to allow a variance of 2 feet into the south 7-foot 6-inch side yard setback and 5 feet in to the north 7-foot 6-inch side yard setback resulting in a north side yard setback of 2 feet 6 inches and a south side yard setback of 5 feet 6 inches to allow for the installation of a swimming pool, for property located at 799 East Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as a portion of Lot 25, La Hacienda Replat, according to the plat thereof recorded in Plat Book 39, Pages 1 and 2, Public Records of Pinellas County, Florida, formerly La Hacienda Subdivision recorded in Plat Book 36, Pages 73 and 74.

OWNER: Rory Burton
PROPERTY LOCATION: 799 E Gulf Boulevard
ZONING: RM-2- Medium Density Residential

Direction	Existing Use	Zoning Category
North	Residential	RM-2
East	Intracoastal	N/A
South	Residential	RM-2
West	Residential	RM-2

BACKGROUND:

The applicant is requesting a variance for the north and south side setbacks for the installation of a swimming pool. They are requesting the pool encroach 2 feet into the south 7 foot 6 inch side yard setback and 5 feet into the north 7 foot 6 inch side 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. *The duplex was built in 2005 and the lot was illegally subdivided in 2005 causing the lots to be non-*

- conforming limiting the width of the lot.*
- 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 pool 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 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 of the Code of Ordinances, staff recommends denial of the request.

PUBLIC 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 January 3, 2022, pursuant to Section 2-149, of the Code of Ordinances.

CORRESPONDENCE RECEIVED: No correspondence was received.

[End of Staff Report]

City Attorney Mora read by title only Agenda Item No. 8, BOA Case No. 2022-05, 799 East Gulf Boulevard.

City Attorney Mora stated that no one was present beyond staff for the record.

City Attorney Mora inquired of the members if they had any ex-parte communications with the applicant or their agent, with all members responding negatively.

City Attorney Mora inquired of the members if any of them had conducted a site visit for the limited purpose of evaluating the application, all members responding negatively.

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

Planning Consultant Harmon stated the applicant is requesting a variance of 2 feet into the south 7-foot 6-inch side yard setback and 5 feet into the north 7-foot 6-inch side yard setback for installing a swimming pool. The property is located at 799 East Gulf Boulevard, and it is a duplex.

Planning Consultant Harmon provided a PowerPoint Presentation showing aerial views of the property, a survey of the property, proposed drawings of the swimming pool.

Planning Consultant Harmon stated this property had been split illegally into two lots. She said there is a letter on record written by the Planning and Zoning Director in 2004 or 2005 that states that if the owners file a wall agreement, they would be penalized for it.

Planning Consultant Harmon stated staff had recommended denial of this variance request.

Vice-Chair Watt clarified that the variance is to encroach 2 feet into the required 7-foot, 6-inch north side yard setback and 5 feet into the required 7-foot, 6-inch south side yard setback and that no rear variance is needed.

Member Campbell clarified that there is no setback from the Intracoastal Waterway.

Planning Consultant Harmon stated that is correct. There is no issue with the pool being closer than 12 feet from the seawall if the engineer states the seawall can support the pool.

Member Campbell stated if the pool were twisted and turning about, no variance would be required.

City Attorney Mora stated, for the record, there is no one present on behalf of the application, and under the City Code, there is nothing that allows the Board to construe any negative conclusions by the absence. The Board proceeds simply on the application material as testimony.

Chair DeVore opened the public comment session. Seeing or hearing no one wishing to speak, the public comment session was closed.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY VICE-CHAIR WATT, TO RECOMMEND TO THE CITY COMMISSION DENIAL OF BOA CASE 2022-05: A VARIANCE REQUEST FROM SECTION 110-344(3)(f)(3)(i) TO ALLOW A VARIANCE OF 2 FEET INTO THE SOUTH 7-FOOT 6-INCH SIDE YARD SETBACK AND 5 FEET IN TO THE NORTH 7-FOOT 6-INCH SIDE YARD SETBACK, RESULTING IN A SOUTH SIDE YARD SETBACK OF 5 FEET 6 INCHES AND A NORTH SIDE YARD SETBACK OF 2 FEET 6 INCHES TO ALLOW FOR THE INSTALLATION OF A SWIMMING POOL, FOR PROPERTY LOCATED AT 799 EAST GULF BOULEVARD, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS A PORTION OF LOT 25, LA HACIENDA REPLAT, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 39, PAGES 1 AND 2, PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA, FORMERLY LA HACIENDA SUBDIVISION RECORDED IN PLAT BOOK 36, PAGES 73 AND 74,



**799 E. Gulf Blvd.
BOA CASE NO. 2022-05**



BOA CASE 2022-05: Variance request from Section 110-344(3)(f)(3)(i) to allow a variance of 2 feet into the south 7 foot 6 inch side yard setback and 5 feet in to the north 7 foot 6 inch side yard setback resulting in a north side yard setback of 2 feet 6 inches and a south side yard setback of 5 feet 6 inches to allow for the installation of a swimming pool for property located at 799 E. Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as a portion of Lot Twenty-Five (25), LA HACIENDA REPLAT, according to the plat thereof recorded in Plat Book 39, Pages 1 and 2, Public Records of Pinellas County, Florida, formerly LA HACIENDA SUBDIVISION recorded in Plat Book 36, Pages 73 and 74, being more particularly described as follows:

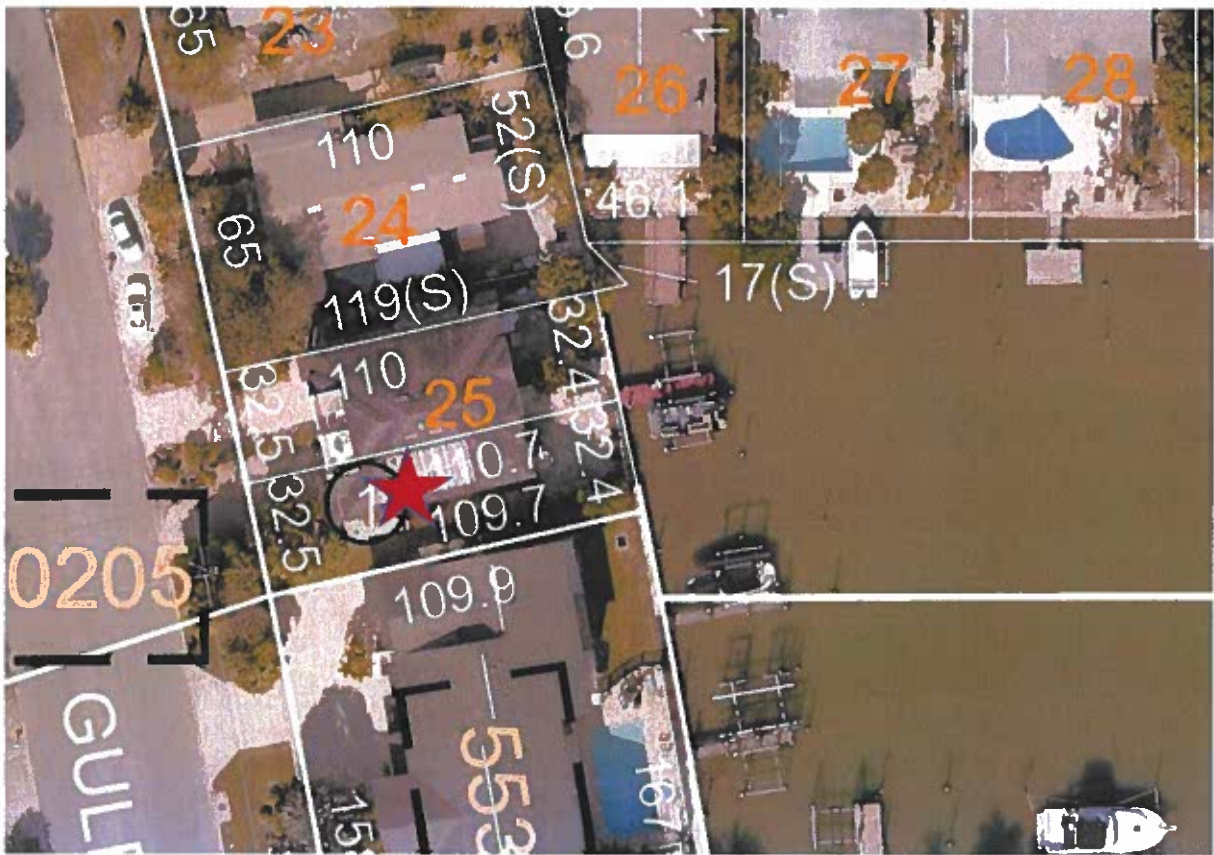
Commencing at the Southwesterly corner of Lot 25, said point being the point of beginning, thence along a curve (the Westerly property line of Lot 25) concave to the West, having a radius of 6841.44', a central angle of $0^{\circ}16'22''$, and a chord of 32.57' bearing N. $11^{\circ}30'51''$ W.; thence N. $78^{\circ}00'09''$ E., a distance of 110.79' to the Easterly property line of Lot 25 said point being a point of curvature of a non-tangent curve, concave to the West, having a radius of 6951.44' a central angle of $0^{\circ}16'03''$, and a chord of 32.47' bearing N. $9^{\circ}41'13''$ W; thence Southerly along said curve, a distance of 32.47'; thence S. $77^{\circ}56'17''$ W., a distance of 109.76' to the point of beginning.



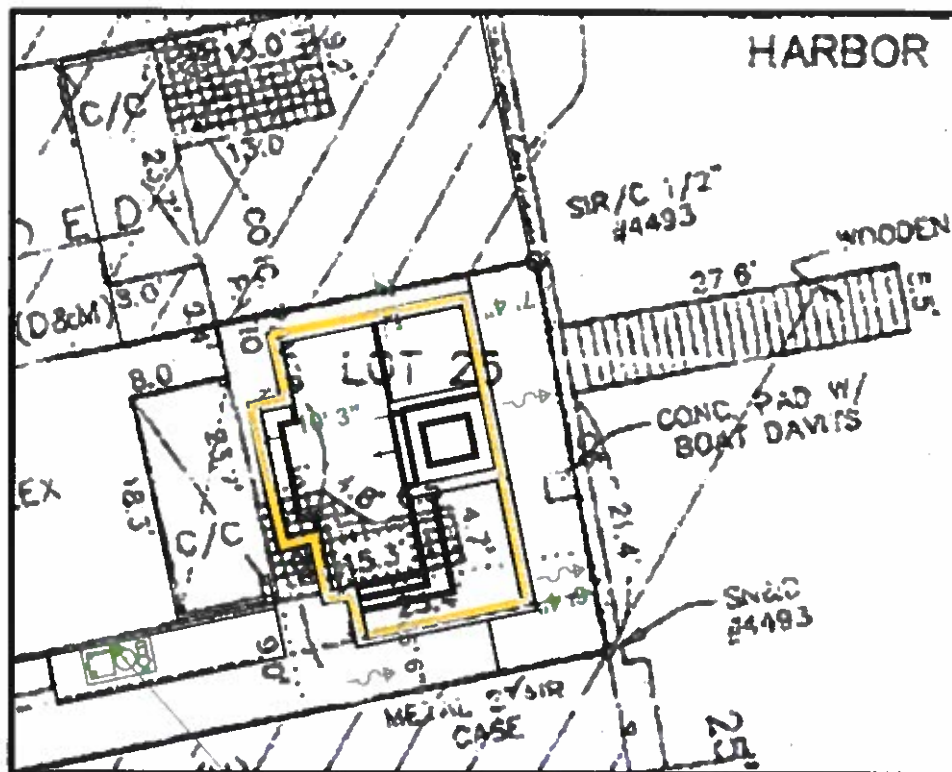
799 E. Gulf Blvd



799 E. Gulf Blvd



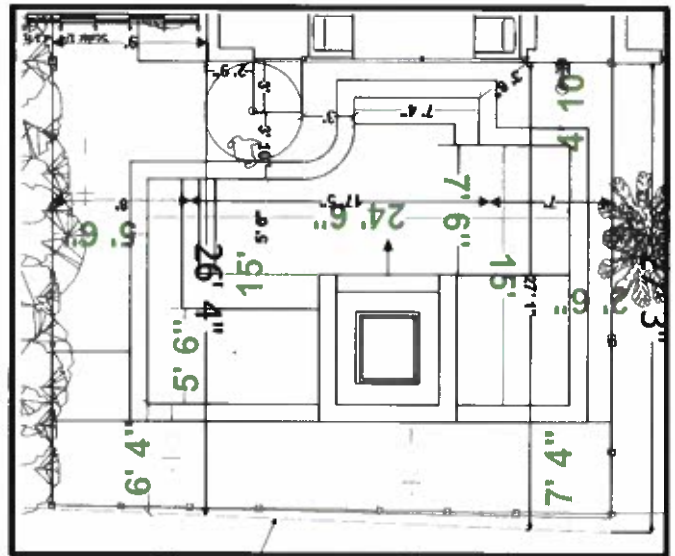
799 E. Gulf Blvd



799 E. Gulf Blvd

5'6" setback

2'6" setback



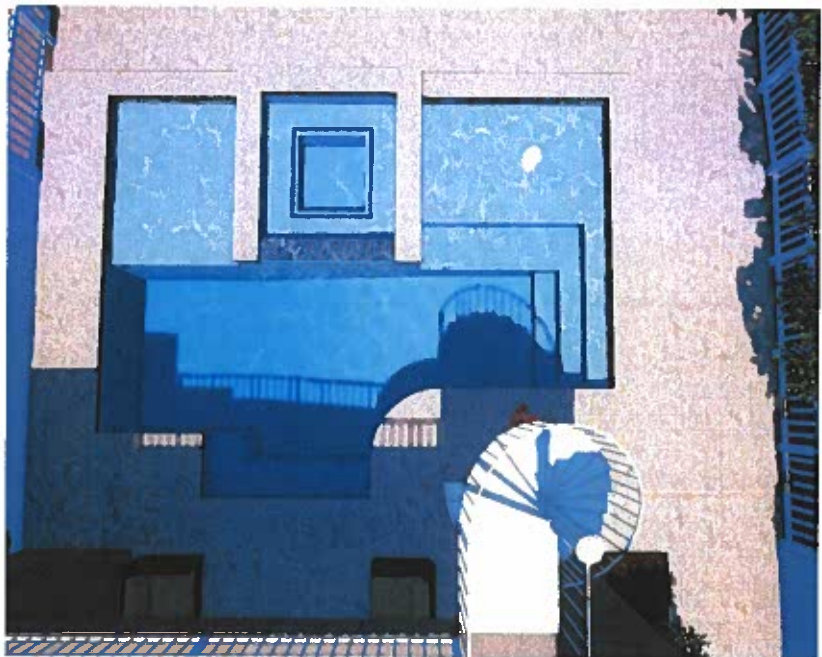
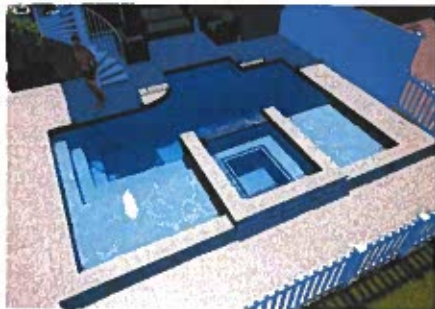
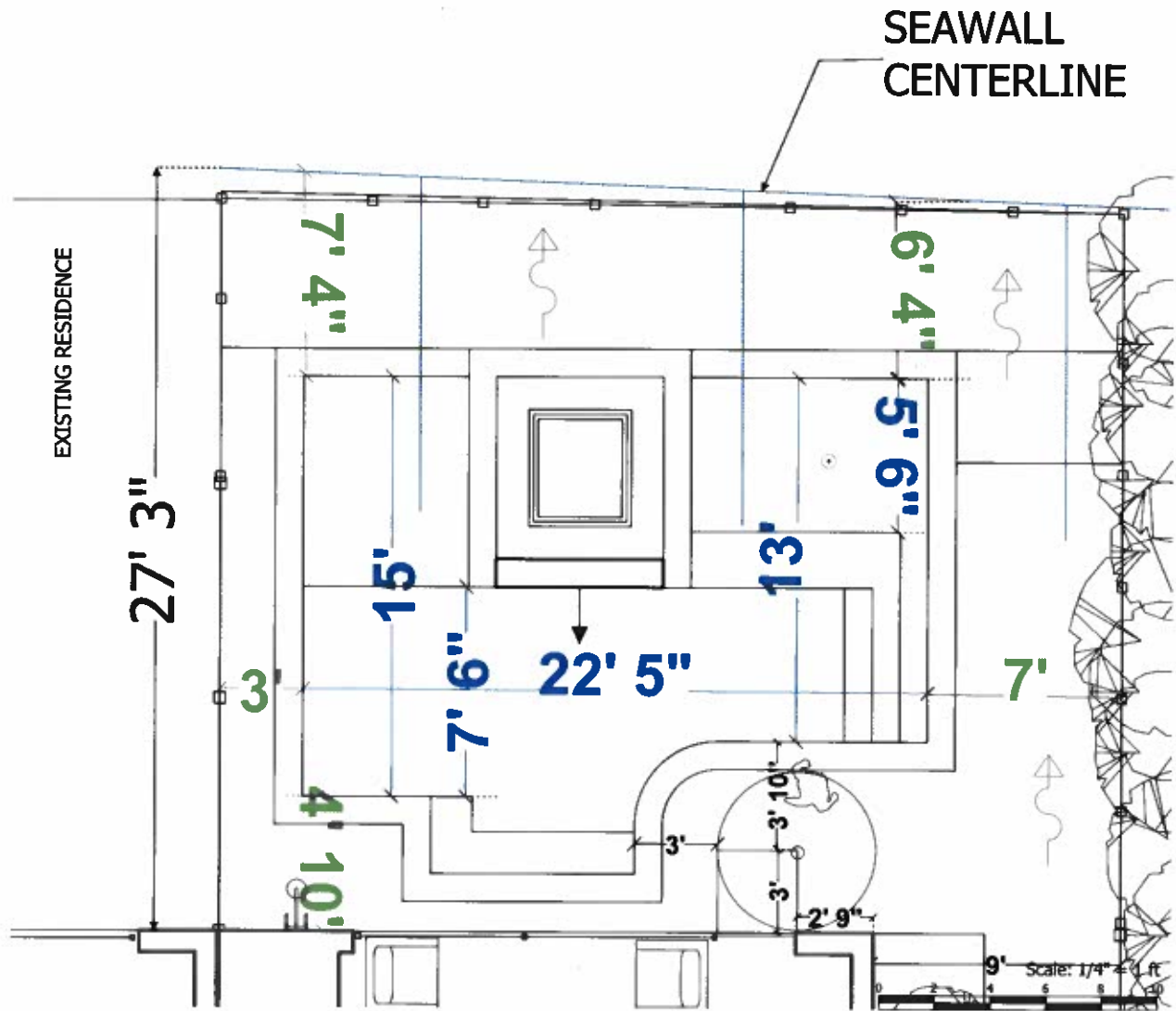
799 E. Gulf Blvd



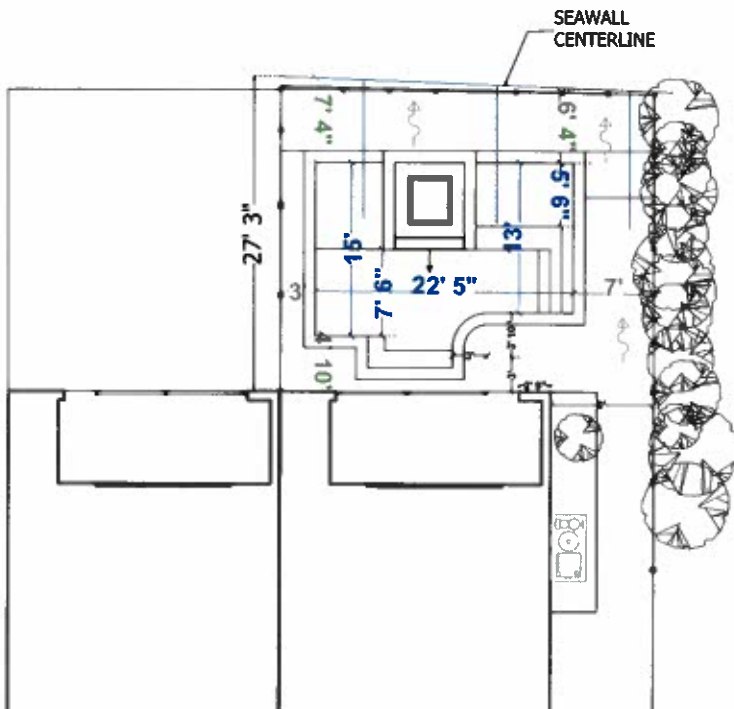
**THE APPLICANT
SUBMITTED THE
FOLLOWING
PLAN REVISION TO THE
CITY ON
FEBRUARY 2, 2022**

SUNSHelf POOL & SPA PLAN -
799 E GULF BLVD
INDIAN ROCKS BEACH, FL

REVISION 2-2-22



This design is the intellectual property of Hive Outdoor Living LLC. Anyone who replicates this design will be subject to legal action.



Pool Shape: <u>linear</u>	Square Footage: <u>239</u>
Size: <u>14</u> x <u>18</u>	Depths: <u>3</u> x <u>5</u> x
Est. Total Gallons: <u>5500</u>	Perimeter: <u>619'</u>
1. 25 Yr Transferable Shell Warranty <u>yes</u>	Access ft. <u>7.5</u>
2. Interior Finish: <u>fib</u>	Color: <u>tbl</u>
3. Tile: <u>tbl</u>	
4. Filter Type: <u>cartridge</u>	Sq. Ft.: <u>150</u>
5. Pump Type: <u>v.s</u>	2nd Pump: <u>no</u>
6. Sanitizer: <u>ic-40</u>	7. Skimmer Qty: <u>1</u>
8. Main Drain: <u>channel</u>	Color: <u>white</u>
9. Return Qty: <u>3</u>	10. Pool Specialty Jets: <u>no</u>
11. Water Fall: <u>no</u>	Type: <u>no</u>
12. Sheer Descent: <u>no</u>	13. Deck Jet: <u>no</u>
14. Laminar: <u>no</u>	15. Bubbler: <u>1 led</u>
16. Pool Light Qty: <u>1</u>	17. Remote LT. Switch: <u>no</u>
18. Swimout: <u>yes</u>	19. GFI Outlet (if required): <u>yes</u>
20. Sunbed: <u>yes</u>	21. Umbrella Holder: <u>yes</u>
22. Auto Fill: <u>yes</u>	23. Child Safety Fence: <u>by hive</u>
24. Brush & Adj. Pole: <u>yes</u>	25. Start up & Test Strips: <u>yes</u>
26. Auto Cleaner: <u>no</u>	27. Leaf Net: <u>yes</u>
28. In Floor Cleaning: <u>no</u>	29. Spa Light: <u>yes</u>
30. Spa: <u>6x6.5</u>	Height: <u>6" above pool</u>
31. Therapy Jet Qty: <u>4</u>	32. Waterway Jets: <u>no</u>
33. Automation: <u>easytouch 4</u>	I-Link: <u>no</u>
# of Actuators: <u>3</u>	34. Air Blower: <u>yes</u>
35. Heater: <u>no</u>	Type: <u>no</u>
36. Heat Pump: <u>aquacal 1135</u>	37. Solar Panels: <u>no</u>
38. Raised Beam: <u>no</u>	Height: <u>no</u>
39. Deck Type: <u>by terra nova</u>	Color: <u>n/a</u>
Pattern: <u>n/a</u>	40. Raised Deck: <u>n/a</u>
Height: <u>n/a</u>	41. Retop: <u>n/a</u>
42. Coping: <u>install by hive</u>	Color: <u>material by terra nova</u>
43. Treads: <u>no</u>	Risers: <u>no</u>
44. Deck Drainage: <u>by terra nova</u>	Color: <u>n/a</u>
45. Deck Removal: <u>no</u>	46. Turf: <u>no</u>
47. Screen: <u>no</u>	Height: <u>no</u>
Roof: <u>no</u>	Color: <u>no</u>
48. ODK Length: <u>no</u>	49. Cabinet Material: <u>no</u>
50. Materials: <u>no</u>	
51. Appliances: <u>no</u>	
52. Fire Pit: <u>no</u>	Material: <u>no</u>
53. Fire Bowls: <u>no</u>	Type: <u>no</u>
54. Landscape Lighting: <u>no</u>	Quantity: <u>no</u>
55. Pool Toys: <u>no</u>	56. Ledge Lounger: <u>no</u>
57. Sprinkler Magician: <u>no</u>	Fertilizer: <u>no</u>



311 S. Willow Ave.
Tampa, FL. 33606
813-579-2444
www.hiveoutdoor.com
Lic: CPC1456419
Scale: 1/8"

Customer Info

Name: <u>Rory Burton</u>	by Hive	by customer	Name
Address: <u>799 East Oak Blvd</u>	Landscaping	<input checked="" type="checkbox"/>	
City: <u>Indian Rocks</u> State: <u>FL</u> Zip: <u>33785</u>	Fencing	<input checked="" type="checkbox"/>	
Mobile: _____ Job Number: _____	Sprinkler	<input checked="" type="checkbox"/>	
Drawn by: <u>Ben Kiefer</u>	Gas	<input checked="" type="checkbox"/>	I have reviewed and I give my approval to proceed with the construction of this project.
Date: <u>9/13/2021</u>	Pool	<input checked="" type="checkbox"/>	
	Child Safety	<input checked="" type="checkbox"/>	
			Customer
			Date

**FINAL BOUNDARY
THE SOUTH 1/2 OF LOT 25
LA HACIENDA
PINELLAS COUNTY, FLORIDA.**

DESCRIPTION:

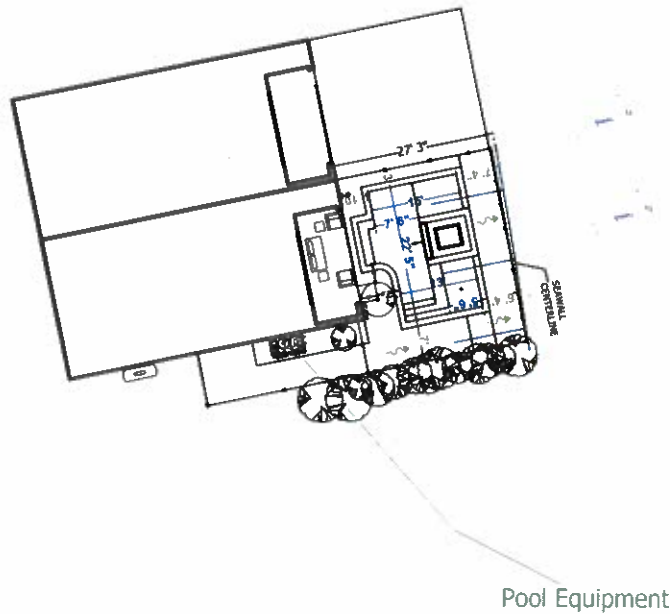
A PORTION OF LOT TWENTY-FIVE(25), LA HACIENDA REPLAT, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 39, PAGES 1 AND 2, PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA, FORMERLY LA HACIENDA SUBDIVISION RECORDED IN PLAT BOOK 36, PAGES 73 AND 74, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 25, SAID POINT BEING THE POINT OF BEGINNING, THENCE ALONG A CURVE(THE WESTERLY PROPERTY LINE OF LOT 25) CONCAVE TO THE WEST, HAVING A RADIUS OF 6841.44', A CENTRAL ANGLE OF 0°16'22", AND A CHORD OF 32.57' BEARING N 11°30'51" W; THENCE N 78°00'00" E, A DISTANCE OF 110.79' TO THE EASTERLY PROPERTY LINE OF LOT 25 SAID POINT BEING A POINT OF CURVATURE OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 6951.44' A CENTRAL ANGLE OF 0°16'03", AND A CHORD OF 32.47' BEARING N 9°41'13" W; THENCE SOUTHERLY ALONG SAID CURVE, A DISTANCE OF 32.47'; THENCE S 77°56'17" W, A DISTANCE OF 109.76' TO THE POINT OF BEGINNING; SAID DESCRIBED TRACT CONTAINING 0.1 ACRES, MORE OR LESS

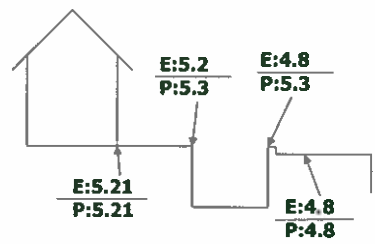
**EASEMENT NOTES:
* = 5' DRAINAGE ESM'T**

**Hive Outdoor Living
Robert Foster
311 S. Willow Ave.
Tampa, FL. 33606**

**813-579-2444
www.hiveoutdoor.com
Lic: CPC1456419**



42' ASPHALT DRIVEWAY (100' R.A.P.)
COUNTY ROAD 208(P)
East (use in area)
100' R.A.P.



CURVE TABLE					
CURVE	R	ARC	DELTA	CH	CHB
C4	6841.44	32.57	0°16'22"	32.57	N11°30'51"W
C5	6951.44	32.47	0°16'07"	32.47	N09°41'13"W

1/3/22

RE: 799 E. Gulf Blvd variance for pool

To Whom it may Concern:

I am ~~opposed~~ to this variance request. I have spoken to several residents in the affected party radius and we all agree that a pool at a short term vacation residence would create a noise concern that would be an acute and chronic problem. This house has a history already of being a host for STVR.

This property is already a non conforming property and I don't want this concern to be compounded

Karl Balducci



owner 805 E. Gulf Blvd

February 8, 2022

Andrew M. Quinn
801 East Gulf Blvd
Indian Rocks Beach, FL 33785

Reference: BOA Case No. 2022-05

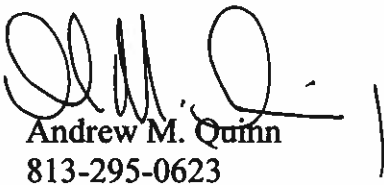
To: City Commission of the City of Indian Rocks Beach, Pinellas County, Florida

Sirs:

The undersigned is the property owner immediately adjacent to the property seeking a variance as outlined in referenced case. As such, I am not opposed to the variance, as requested. It is my understanding that, if the variance is approved, a somewhat larger pool can be built on the property than if the variance is declined. My lack of opposition to the variance in no way reflects my position regarding the actual building of a pool on Referenced property.

Please contact me should you have any questions or concerns.

Sincerely,


Andrew M. Quinn
813-295-0623



Administrative

727/595-2517

727/596-4759 (Fax)

Library

727/596-1822

Public Services

727/595-6889

727/593-5137 (Fax)

**NOTICE OF PUBLIC MEETING
THE CITY OF INDIAN ROCKS BEACH — REGULAR CITY COMMISSION MEETING**

TUESDAY, FEBRUARY 8, 2022 @ 5:00 P.M.

1507 BAY PALM BOULEVARD, INDIAN ROCKS BEACH, FLORIDA 33785

The City Commission of the City of Indian Rocks Beach, Pinellas County, Florida, will hold a public hearing on **TUESDAY, FEBRUARY 8, 2022**, which meeting convenes at **5:00 p.m.**, or as soon as thereafter, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, on **BOA CASE NO. 2022-05**.

YOU ARE HEREBY NOTIFIED as a property owner of land within 150 feet of the property located at **799 EAST GULF BOULEVARD, INDIAN ROCKS BEACH, FLORIDA 33785**, of the following variance request:

A variance request from Section 110-344(3)(f)(3)(i), of the Code of Ordinances, to allow a variance of 2 feet into the south 7-foot 6 inch side yard setback and 5 feet in to the north 7-foot side yard setback, resulting in a north side yard setback of 2 feet 6 inches and a south side yard setback of 5 feet 6 inches, to allow for the installation of a swimming pool for property located at 799 East Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as a portion of Lot 25, La Hacienda Replat, according to the plat thereof recorded in Plat Book 39, Pages 1 and 2, Public Records of Pinellas County, Florida, formerly La Hacienda Subdivision recorded in Plat Book 36, Pages 73 and 74, being more particularly described as follows: Commencing at the Southwesterly corner of Lot 25, said point being the point of beginning, thence along a curve (the Westerly property line of Lot 25) concave to the West, having a radius of 6841.44', a central angle of 0°16'22", and a chord of 32.57' bearing N. 11°30'51" W.; thence N. 78°00'09" E., a distance of 110.79' to the Easterly property line of Lot 25 said point being a point of curvature of a non-tangent curve, concave to the West, having a radius of 6951.44' a central angle of 0°16'03", and a chord of 32.47' bearing N. 9°41'13" W; thence Southerly along said curve, a distance of 32.47'; thence S. 77°56'17" W., a distance of 109.76' to the point of beginning. Parcel #12-30-14-47412-000-025.

FOR FURTHER INFORMATION REGARDING THIS REQUEST, PLEASE CONTACT PLANNING CONSULTANT HETTY C. HARMON AT 863/646-4771, EXT. 211 OR E-MAIL: hharmon@ircity.com

If you desire to either support or object to the referenced variance, you may appear at the Indian Rocks Beach City Commission Meeting on said date, or submit in writing your support or objections to Deanne B. O'Reilly, City Clerk, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, 33785, or e-mail: doreilly@ircity.com. All correspondence must be received by the City Clerk no later than **TUESDAY, FEBRUARY 8, 2022 by 1:00 p.m.** The City will make such records available during normal business hours, Monday through Friday, 7:30 a.m. to 4:00 p.m., to any interested person at his or her request and expense.

If any person desires to appeal a decision made with respect to this request, such person will need a record of the proceedings and for such purposes, they may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based, per Section 286.0105, Florida Statutes. Verbatim transcripts are not furnished by the City of Indian Rocks Beach and should one be desired, arrangements (i.e. court reporter) should be made in advance by the interested party.

In accordance with Section 286.26, Florida Statutes, persons with a disability requiring reasonable accommodations in order to participate in this meeting should contact the City Clerk's Office with your request by telephone (727/595-2517) or email: doreilly@ircity.com no later than seven (7) business days prior to the proceeding.

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 January 24, 2022. (Sec. 2-149 of the Code of Ordinances.)

/dor

12-30-14-55321-000-0001
COMMON ELEMENTS
CONDO
MARINERS COVE LANDING

MARINERS COVE LANDING CONDO ASSN INC
2949 WEST BAY DR
BELLEAIR BLUFFS FL 33770-2621

12-30-14-47412-000-0260
IN FRONT
RTS AND PT OF WATER LOT B
LOT 26 LESS E 10FT AND RIP
LA HACIENDA REPLAT

CAROTENUTO, FRANK
CAROTENUTO, LOUISE
307 LA HACIENDA DR
INDIAN ROCKS BEACH FL 33785-3716

12-30-14-02394-000-0890
LOT 89
BAHIA VISTA SUB

EAVES, ORVAL DENNIE
EAVES, DEBRA M
728 E GULF BLVD
INDIAN ROCKS BEACH FL 33785-3708

12-30-14-20205-000-0050
UNIT 5
CYPRESS COVE I CONDO

SHANNON, DENISE ANN REV LIV TRUST
SHANNON, DENISE A TRE
6646 SWEETBRIAR LN
LAKELAND FL 33813-3553

12-30-14-47412-000-0250
25 TH CUR LT RAD 6841.44FT
FROM SW'LY COR OF SD LOT
PART OF LOT 25 DESC AS
LA HACIENDA REPLAT

QUINN, ANDREW MICHAEL JR TRE
QUINN, ANDREW MICHAEL JR REVOCABLE TRUST
801 E GULF BLVD
INDIAN ROCKS BEACH FL 33785-3739

12-30-14-20205-000-0030
UNIT 3
CYPRESS COVE I CONDO

SCHULTZ, SANDRA J
LIPINSKI, DEBRA L
800 E GULF BLVD UNIT 3
INDIAN ROCKS BEACH FL 33785-3743

12-30-14-20205-000-0020
UNIT 2
CYPRESS COVE I CONDO

KYKER, RICHARD E
KYKER, JOYCE K
201 S HOBBS RD
KNOXVILLE TN 37934-1015

12-30-14-55321-000-0050
USE OF BOAT SLIP 5
UNIT 5 TOGETHER WITH THE
CONDO
MARINERS COVE LANDING

DOMBROWSKI, TRUDY
729 E GULF BLVD UNIT 5
INDIAN ROCKS BEACH FL 33785-3738

12-30-14-02394-000-0050
LOT 5
BAHIA VISTA SUB

HUNTER, NICHOLAS A
HUNTER, MELANIE
2285 POINTE PL
CINCINNATI OH 45244-2999

12-30-14-47412-000-0420
WATER LOT B LESS DEEDS
LA HACIENDA REPLAT

PINELLAS COUNTY
ATTN: ENVIRONMENTAL MGMT
315 COURT ST
CLEARWATER FL 33756-5165

12-30-14-20205-000-0040
UNIT 4
CYPRESS COVE I CONDO

ROGERS, JOHN E
800 E GULF BLVD APT 4
INDIAN ROCKS BEACH FL 33785-3743

12-30-14-47412-000-0240
S'LY OF LOT 24 TO A PNT TH
OF WATER LOT B IN FRONT &
LOT 24 AND RIP RTS AND PT
LA HACIENDA REPLAT

BALDUCCI, KARL R
805 E GULF BLVD
INDIAN ROCKS BEACH FL 33785-3762

12-30-14-55321-000-0040
MARINERS COVE LANDING
USE OF BOAT SLIP 4
UNIT 4 TOGETHER WITH THE
CONDO

BASTAN, JAMES
BASTAN, BONNIE
296 WYCKOFF RD
EATONTOWN NJ 07724-1410

12-30-14-55321-000-0010
UNIT 1
CONDO
MARINERS COVE LANDING

EICHER, SHARMAN L LIVING TRUST
EICHER, SHARMAN L TRE
9200 98TH AVE
SEMINOLE FL 33777-1724

12-30-14-02394-000-0900
LOT 90
BAHIA VISTA SUB

HUGHES, MICHAEL D
HUGHES, CAROL L
316 27TH ST S
BRIGANTINE NJ 08203-1812

12-30-14-55321-000-0060
UNIT 6
CONDO
MARINERS COVE LANDING

NAZAROV, OLEG
NAZAROVA, ELENA
706 AV VICTORIA
WESTMOUNT QC H3Y 2S1

12-30-14-20205-000-0001
LAND AROUND BLDGS)
COMMON ELEMENTS - (AKA
CYPRESS COVE I CONDO

CYPRESS COVE 1 CONDO ASSN
812 E GULF BLVD
INDIAN ROCKS BEACH FL 33785-3714

12-30-14-47412-000-0230
LOT 23
LA HACIENDA REPLAT

COFFEE, CHAD
STULL-COFFEE, SHELLEY

2315 TABLE ROCK CT
ARLINGTON TX 76006-2783

12-30-14-55321-000-0030
USE OF BOAT SLIP 3
UNIT 3 TOGETHER WITH THE
CONDO
MARINERS COVE LANDING

KOEHNE, CLARENCE
KOEHNE, CHANDA
729 E GULF BLVD UNIT C
INDIAN ROCKS BEACH FL 33785-3747

12-30-14-47412-000-0270
WATER LOT B IN FRONT
FT OF LOT 26 AND PART OF
W 55FT OF LOT 27 AND E 10
LA HACIENDA REPLAT

JOHNSON, DAVID
JOHNSON, SUSAN
1340 STRAWBERRY LN
LEXINGTON KY 40502-2742

12-30-14-20205-000-0010
UNIT 1
CYPRESS COVE I CONDO

KIMMEY, ALAINA
800 E GULF BLVD APT 1
INDIAN ROCKS BEACH FL 33785-3743

12-30-14-55321-000-0020
USE OF BOAT SLIP 2
UNIT 2 TOGETHER WITH THE
CONDO
MARINERS COVE LANDING

WESSELS, WILLIAM H & VIRGINIA M REV LIVING TRUST
WESSELS, WILLIAM H TRE
811 N US ROUTE 15
DILLSBURG PA 17019-1618

12-30-14-47412-000-0280
WATER LOT B ON S
FT OF LOT 27 AND PART OF
W 55 FT OF LOT 28 AND E 10
LA HACIENDA REPLAT

ZACK, ANDREW E
114 DOUGLAS ST
HOMOSASSA FL 34446-3805

APPLICATION FOR VARIANCE

CITY OF INDIAN ROCKS BEACH PLANNING AND ZONING DEPARTMENT

Enquiries: Tel: (727) 517-0404 Fax: (727) 596-4759

Web: <http://www.indian-rocks-beach.com/>

Address: 1507 Bay Palm Boulevard, Indian Rocks Beach, FL 33785

For Office Use Only

Application No.

Date Received

APPLICANT

Name:

Address:

City:

Zip Code:

Tel:

Fax:

Mobile:

Email:

AGENT/REPRESENTATIVE

Name:

Company:

Address:

City:

Zip Code:

Tel:

Fax:

Mobile:

Email:

SITE DETAILS

Address: Parcel ID:

City: Zip Code:

Legal Description:

Zoning: Future Land Use:

Size:

SITE DETAILS CONTINUED...

Does applicant own any property contiguous to the subject property? Yes No

If yes, provide address and legal description:

Have previous applications been filed for this property? Yes No

If yes, describe:

Has a certificate of occupancy or completion been refused? Yes No

If yes, describe:

Does any other person have ownership or interest in the property? Yes No

If yes, is ownership or interest contingent or absolute:

Is there an existing contract for sale on the property? Yes No

If yes, list all parties on the contract:

Is contract conditional or absolute? Conditional Absolute

Are there options to purchase? Yes No

VARIANCE REQUEST

<u>Regulation</u>	<u>Required</u>	<u>Proposed</u>	<u>Total Requested</u>
Gulf-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Bay-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Alley setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>

VARIANCE REQUEST CONTINUED...

<u>Regulation</u>	<u>Required</u>	<u>Proposed</u>	<u>Total Requested</u>
Rear-no alley setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Rear-north/south street (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Street-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Side-one/both setback (feet):	7' min/15' comb	2.5' min/8' comb	2.5' min/8' comb
Minimum green space (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Habitable stories (#):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Minimum lot size (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Building height (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Off-street parking (spaces):	<input type="text"/>	<input type="text"/>	<input type="text"/>
ISR (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
FAR (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Dock length (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Dock width (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Signage (#):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Accessory structure (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Accessory structure height (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Lot size (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>

Other:

What is the proposed use of the property?

Residential home.

HARDSHIP

A variance is granted on the basis of evidence being presented that justifies an undue and unnecessary hardship upon the applicant; a hardship that prevents reasonable use of the property. The following criteria, set forth in Code Section 2-152, Variances, will be used to evaluate the request for variance in order to determine if a hardship is present and if the variance will impact the overall public welfare.

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 developer, who subdivided the lot, built the 2-unit town home with a shared party wall. This created a non-conforming lot situation which the current owner was not aware of. Current owner intends to build a pool in the backyard, but the current lot side setbacks significantly restrict the space available for the proposed pool when it was originally planned to extend much closer to the shared party wall line as allowed per Declaration of Covenants Article VI - Use Restrictions, Sec. 14 Swimming Pools: states that "It shall not be required that the Pool meet the setback requirement from the common Lot Line. In the event the Owner intending to install a pool seeks a variance the other Owner shall not object to such variance but shall consent in writing to such variance."

Special conditions and circumstances do not result from the actions of the applicant:

Due to the limited width of the lot shared with the adjacent property on a shared party wall, the homeowner does not have full proper use of the property. Without a variance to extend closer to both side property lines creates an undue hardship is created in not having the width required to build a pool.

Granting this variance will not confer on the applicant any special privilege that is denied by the chapter to other lands, structures or buildings in the same zoning district:

The literal interpretation of the provisions of Subpart B, Code Sections 78 through 110, 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:

HARDSHIP CONTINUED...

The variance granted is the minimum that will make possible the reasonable use of the land, structure or building:

The requested variance is to build the pool 2.5ft from the water's edge to the shared party wall(north property line) and 5.5ft from the water's edge to the south side property line. Engineering has already approved the distance and location from the seawall as designed.

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 of this variance will not be injurious to the area involved or be otherwise detrimental to the public welfare.

I (we) believe the Board of Adjustment and Appeals and the City Commission should grant this application because:

The restrictive nature of the setbacks in conjunction with the shared party wall severely limit the usable lot width, and thus the available depth and size of the pool, so as to make the construction of a pool impractical and would place undue hardship upon the applicant.

AGENT OF RECORD

Date: 12-13-21

I, Rory Burton do hereby designate and appoint

Wess Ripley as my agent of record for the purposes of representing me during the Planning and Zoning Department's review process of my application. My agent of record is hereby vested with authority to make any representations, agreements or promises, which are necessary or desirable in conjunction with the review process. My agent of record is authorized to accept or reject any conditions imposed by any reviewing board or entity.

Name: Rory Burton Signature: [Handwritten Signature]

My agent of record may be contacted at:

Company: _____

Address: _____

City/State: _____ Zip Code: _____

Telephone: _____ Fax: _____

Before me this date personally appeared:

Name: Rory J Burton

Signature: [Handwritten Signature]

Personally known/Form of Identification Drivers License

Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

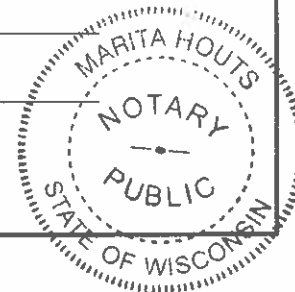
Sworn to and subscribed before me this: Day: 13 Month: December, 2021

Notary Public State of ~~Florida~~ Wisconsin at Large: [Handwritten Signature]

Notary Public Commission Expiration: 2/17/24

~~State of Florida~~ state of Wisconsin

County: ~~Pinellas~~
Winnebago



CERTIFICATION

Date: 12-13-21

I hereby certify that I have read and understand the contents of this application, and that this application together with supplemental data and information, is a true representation of the facts related to the request; that this application is filed with my approval, as owner, evidenced by my signature appearing below.

It is hereby acknowledged that the filing of this application does not constitute automatic approval of the request. Further, if the request is approved, I will obtain all necessary permits and comply with all applicable orders, codes, conditions and regulations pertaining to the use of the property.

I hereby grant authorization to any city official to inspect, as reasonable times, the site of the request.

Before me this date personally appeared:

Name: Rory Burton

Signature: [Handwritten Signature]

Personally known/Form of Identification Drivers License

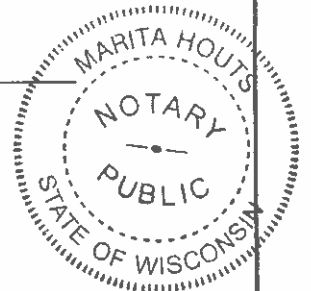
Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 13 Month: December, 20 21

Notary Public State of ~~Florida~~ Wisconsin at Large: [Handwritten Signature]

Notary Public Commission Expiration: 2/17/24

State of ~~Florida~~ Wisconsin
County: ~~Pinellas~~ Winnebago



APPLICATIONS FILED BY CORPORATIONS MUST BEAR THE SEAL OF THE CORPORATION OVER THE SIGNATURE OF AN OFFICER AUTHORIZED TO ACT ON BEHALF OF THE CORPORATION.

AGENDA ITEM NO. 7

OTHER LEGISLATIVE MATTERS:

NONE

AGENDA ITEM NO. 8

WORK SESSION ITEMS: NONE

AGENDA ITEM NO. 9

OTHER BUSINESS

AGENDA ITEM NO. 10
ADJOURNMENT.