**Board of Adjustments and Appeals** Tuesday, February 21, 2023 @ 6:00 p.m.

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 BOARD OF ADJUSTMENTS AND APPEALS TUESDAY, FEBRUARY 21, 2023 @ 6:00 P.M. CITY COMMISSION CHAMBERS 1507 BAY PALM BOULEVARD, INDIAN ROCKS BEACH, FLORIDA 33785

- 1. CALL TO ORDER.
- 2. ROLL CALL.
- 3. APPROVAL OF MINUTES: January 17, 2023
- 4. BOA CASE NO. 2023-02 608 GULF BOULEVARD

Owner/Applicant: Westside Investments LLC

Agent/Representative: Classic Florida Dream Homes, LLC

Subject Location: 608 Gulf Boulevard

Legal Description: Lot 16, Block 1, Haven Beach, as recorded in Plat Book 5, Page 27,

of the Public Records of Pinellas County, Florida.

Parcel #: Parcel #12-30-14-37764-001-0160

Variance Request: Variance request from Sec. 110-344 (4), of the Code of Ordinance to

allow for a pool to encroach 5 feet into the 10-foot rear yard setback.

### 5. OTHER BUSINESS.

### A. CITY COMMISSION ACTION:

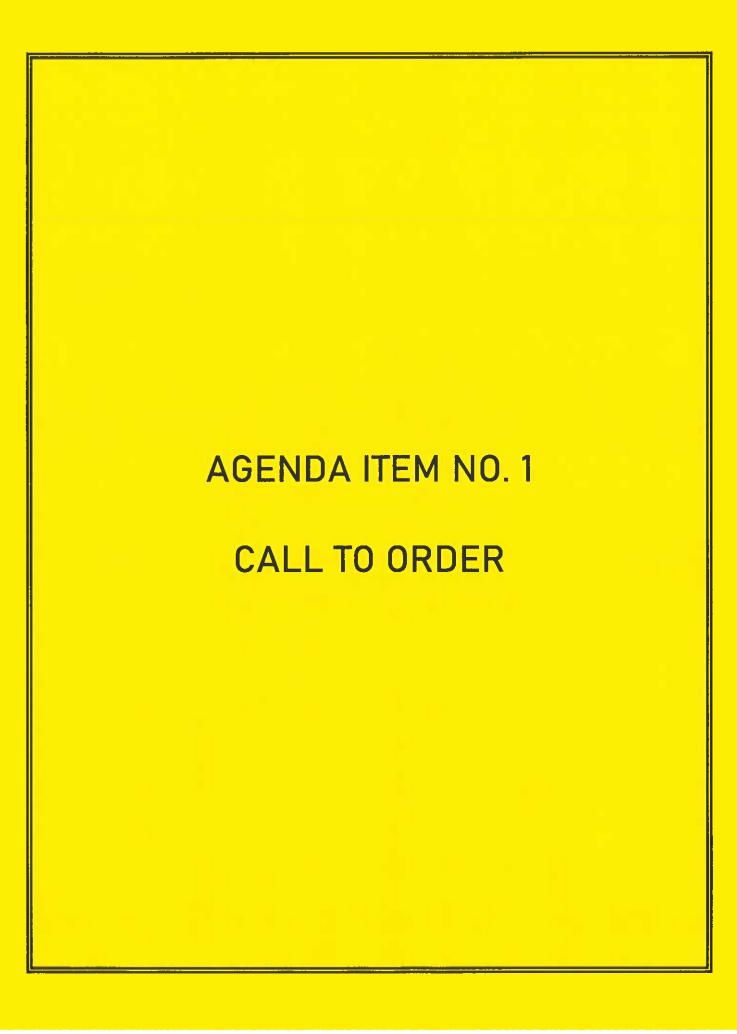
1. BOA CASE NO. 2023-01 — 2504 GULF BOULEVARD. APPROVED BY CITY COMMISSION.

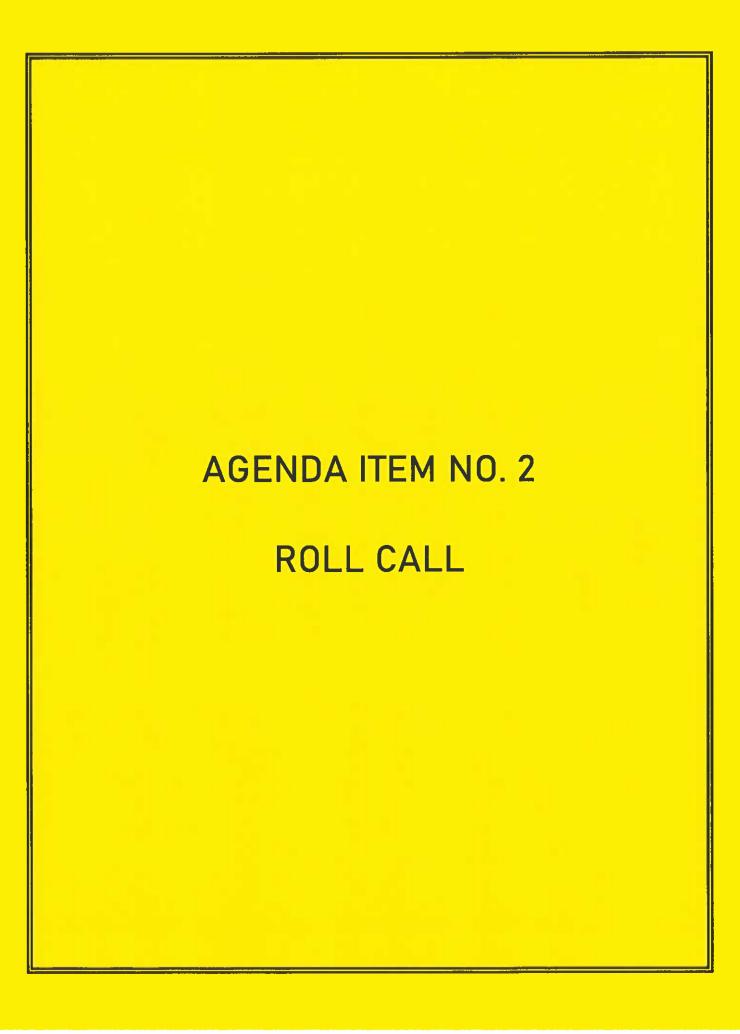
### ADJOURNMENT.

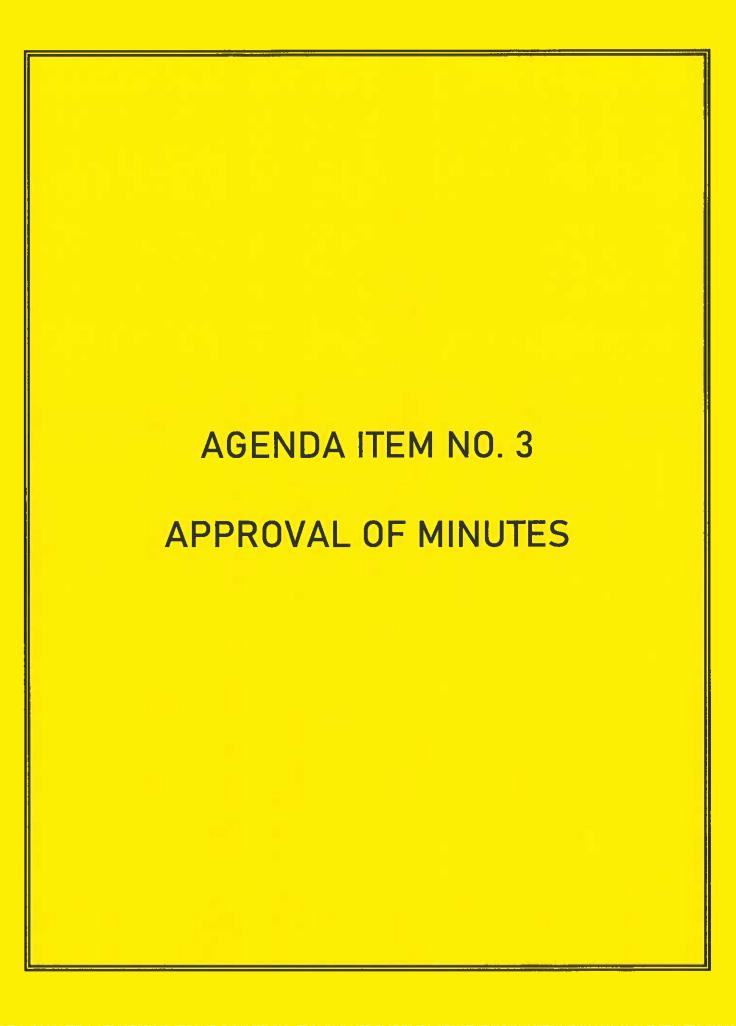
**APPEAL:** If a person decides to appeal any decision made with respect to any matter discussed at such meeting or hearing, will need a record of the proceedings and for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, per 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 in order to participate in this meeting should contact the City Clerk's office with your request telephone 727/595-2517 or doreilly@irbcity.com no later than seven (7) business days prior to the proceeding for assistance.

POSTED: February 17, 2023







### MINUTES — JANUARY 17, 2023 CITY OF INDIAN ROCKS BEACH BOARD OF ADJUSTMENTS AND APPEALS

The Regular Meeting of the Indian Rocks Beach Board of Adjustments and Appeals was held on **TUESDAY**, **JANUARY 17**, **2023**, at 6:00 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

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

### 2. ROLL CALL:

**PRESENT:** Chair Stewart DeVore, Vice-Chair David Watt, Board Member Rick Alvarez, Board Member Michael A. Campbell, Board Member Jim Labadie, and 1<sup>st</sup> Alternate Board Member Karen O'Donnell.

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

VACANT POSITION: 2<sup>nd</sup> Alternate Board Member.

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

3. APPROVAL OF MINUTES: October 18, 2022

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO APPROVE THE OCTOBER 18, 2022 BOARD OF ADJUSTMENTS AND APPEALS MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.

4. BOA CASE NO. 2023-01 — 2504 GULF BOULEVARD

Owner/Applicant: Dolphin Reef Condominiums

Agent/Representative: Bear Design, LLC

Subject Location: 2504 Gulf Boulevard

Legal Description: Dolphin Reef, A Condominium Association, as

recorded in Plat Book 50, Pages 74-80, of the Public

**Records of Pinellas County Florida** 

Parcel #: 01-30-14-21814-000-0001

Variance Request: Variance request from Sec. 110-314 of the Code of

Ordinance to allow for an additional accessory structure with a building height of 9-feet 7½ inches exceeding the height requirements by 1-foot 7½

inches.

[Beginning of Staff Report]

SUBJECT: BOA CASE NO. 2023-01 - 2504 Gulf BOULEVARD

Variance request from Sec. 110-314 of the Code of Ordinance to allow for an additional accessory structure with a building height of 9 feet 71/4 inches

exceeding the height requirements by 1 foot 7½ inches for property located at 2504 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County, Florida. Parcel #01-30-14-21814-000-0001

OWNER: Dolphin Reef Condominium Assn Inc.

PROPERTY LOCATION: 2504 Gulf Boulevard

ZONING: CT- Commercial Tourist

DIRECTION	EXISTING USE	ZONING CATEGORY
North	Residential	СТ
East	Residential	В
South	Residential	СТ
West	Gulf of Mexico	N/A

### **BACKGROUND:**

The applicant is requesting a variance for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the 8-foot interior wall height requirements by 1-foot 7½ inches. The Dolphin Reef Condominium is located on 1.24 acres with 40 residential units. They presently have two gazebos and a bath building. The existing structures are in need of repair/replacement and the association has proposed to replace the structures.

The smaller gazebo is located very near the property line and the applicant is proposing to move it away from the property line, enlarge the structure to match the other gazebo, and relocate to the raised deck area. During the review stage of the project, the applicant proposed to cover the new grill area adjacent to the bathhouse and agreed that the grill area roof would replace the smaller gazebo. It was determined that if the applicant wanted to add the other gazebo the association would need to apply for a variance.

### 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 site consists of 1.24 acres with 40 residential units.

- 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 gazebo 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.

**NOTICE:** A public notice was mailed by first class mail to property owners within 150 feet in any direction of the subject property and posted on subject property on December 29, 2022, (Sec. 2-149 of the Code of Ordinances.)

**CORRESPONDENCE:** Mary Kay and E. J. Foody, 2504 Gulf Boulevard, Unit #204, emailed in support of the variance.

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

[End of Staff Report]

City Attorney Mora stated the variance application before the Board is a quasi-judicial matter, and he thereafter explained the rules for quasi-judicial matters.

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

All members responded negatively except for Member Alvarez, who replied in the affirmative.

City Attorney Mora stated Member Alvarez, having responded in the affirmative. He asked Member Alvarez to explain the nature of his ex-parte communication?

Member Alvarez stated he took a site visit to look at the proposed variance request.

City Attorney Mora stated he would separately ask about site visits.

City Attorney Mora asked Member Alvarez if he had spoken with the applicant or their agent about this application.

Member Alvarez stated he spoke with the on-site manager last week, maybe Wednesday (January 11th), for about five minutes more or less. He wanted to see what they were proposing to do.

City Attorney Mora asked Member Alvarez if this interaction imped his ability to impartially adjudicate the matter presented to him.

Member Alvarez responded negatively.

City Attorney Mora stated Member Alvarez described a site visit and asked if that was on the same occasion as last week.

Member Alvarez responded that was correct.

City Attorney Mora asked what the nature of his site visit was. Did he walk the grounds? Did he look from the parking lot?

Member Alvarez stated he walked the grounds.

City Attorney Mora asked while he walked the grounds if a member or representative of the applicant escorted him.

Member Alvarez stated again only the on-site manager.

City Attorney Mora asked if this site visit in any way impaired his ability to adjudicate this matter impartially.

Member Alvarez stated none at all.

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

City Attorney Mora read BOA Case No. 2023-01, 2504 Gulf Boulevard, Dolphin Reef Condominiums, by title only.

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

Planning Consultant Harmon stated the applicant is requesting a variance from Section 110-314 of the Code of Ordinances to allow for an additional accessory structure with a building height of 9 feet 7¼ inches exceeding the height requirement by 1-foot 7¼ inches for the property located at 2504 Gulf Boulevard, Dolphin Reef Condominiums.

Planning Consultant Harmon showed a PowerPoint Presentation depicting aerial views of the subject property, site photos, a survey of the proposed outdoor area, proposed site

MINUTES: BOARD OF ADJUSTMENTS AND APPEALS TUESDAY, JANUARY 17, 2023 Page 4 of 9 plans, the proposed gazebo, and the existing raised deck. As Planning Consultant Harmon went through the PowerPoint Presentation, she explained the variance request.

Planning Consultant Harmon stated the applicant would like to remove and enlarge the existing small gazebo, add a covered outdoor kitchen/BBQ area and a bathhouse that would all meet the setbacks, and keep the gazebo by the gulf. However, the City Code does not permit three accessory structures on a multifamily structure. Therefore, staff and the applicant agreed a variance would be required to replace and enlarge the existing 8' X 8' gazebo that is in disrepair and currently encroaches into the side setback. The size of the proposed gazebo would be 10' X 10' and would exceed the height requirement by 1-foot 7½ inches. She explained that the deck is raised and the height dimension was taken from grade, not from the existing raised deck. The height is measured from the inside interior wall. Both of the rooftops of the gazebos will be level with each other.

Planning Consultant Harmon stated that single-family structures could have one accessory use. There may not be more than two accessory structures on-site for a total of 120 square feet for duplex and multifamily structures.

Member Campbell asked if the applicant is only allowed two outbuildings, no matter how big they are.

Planning Consultant Harmon responded that is how the City Code is written.

1st Member O'Donnell stated the applicant wants to connect the kitchen to the existing bathhouse structure and asked whether the gazebo would be connected to that kitchen in any way because it is supposed to have a roof over it.

Planning Consultant Harmon responded that the gazebo would be separate. The roof would go over the bathhouse and the grill area.

Chair DeVore confirmed that the gazebo would be strictly used for seating only.

Vice Chair Watt clarified that the variance request is for the third structure (gazebo), and it exceeds the height requirement by 1-foot 7½ inches, and nothing else matters — the kitchen, the bathhouse, etc.

Vice Chair Watt clarified that the new structure would meet all setbacks other than the height requirement.

Steven D. Lange, 526-15th Avenue NE, St. Petersburg, Architect, Realtor, Forensic Architect, and Architect of Record, and works with David Gingerich of Bear Design, LLC, and is here today with Peter Osborne, President of the Dolphin Reef Condominium Association. The Association is seeking a variance for an accessory structure, which requires an increase in the height of 1-foot 7½ inches. The 1-foot 7½ inches is the height of the deck, which is three steps, putting the gazebo on top of that, which is where the extra height comes from. There is supposed to have 8 feet from the walking surface to the underside of the beam. There is an additional 1-foot 7½ inches, and that is where that bump comes from, that extra height coming from grade up to the top of the deck. The top

of Gazebos #1 and #2 will be approximately 12.4 feet, what it is currently. The current roof pitches will be matched, and both gazebos will be 10' X 10'. Gazebo #2 that is being replaced is presently 8' X 8' and will be increased to 10' X 10' to match the other one so they look alike.

Mr. Lange stated this project has been under design, bidding, and Pinellas County Plan Review over the last year. The plans have been reviewed once, and they have responded to the plan review comments and expect review approval any day to pull the building permit. Gazebo #2 was removed from their drawings to proceed with the permitting process and seek this variance request. The Association seeks approval for the following reasons:

- As per the application, the first site plan exhibit shows three existing roofed structures: The Association is requesting three proposed roofed structures on the second site plan exhibit. In other words, three existing roofs for three proposed roofs.
- 2. The existing restroom building roof will be extended to allow for a covered food prep area with counters, etc. This structure is wholly within all setbacks.
- Gazebo #1 is out by the land-to-land seawall and is not directly part of the variance request.
- 4. Gazebo #2 is the object of this variance request. Currently, there is situated on the site a degraded gazebo next to the outdoor grills, which the applicant proposes to remove and slightly relocate/rebuild with the new Gazebo #2 to the west, placed on the 1-foot 7¼ high deck. The residents on and across Gulf Boulevard to the east cannot see Gazebo #2 due to the Dolphin Reef building blocking their view. Pedestrians, vehicles, and residents on and across Gulf Boulevard to the east cannot see Gazebo #2 due to the Dolphin Reef building blocking their view. An onsite thicket of trees and shrubs and a six-foot high fence separates the single-family residents to the south face away from Dolphin Reef. Beach-goers to the west primarily look at the beach and water; thus not really interested in looking at Dolphin Reef. No one will see Gazebo #2 except the residents of Dolphin Reef Condominiums.
- 5. As the Board can see in the pictures and drawings attached to the application and the staff report, Gazebo #2 is 10' X 10' and is see-through with 6' X 6' supporting PT posts, which support a narrow silver-colored metal roof. The proposed Gazebos #1 and #2 are the same overall heights as the existing gazebo at the land-to-land seawall.
- 6. If the Board reviews the Indian Rocks Beach Zoning Code, under Definitions, the definition of an "accessory structure" is provided along with the definition of a "structure." By definition Dolphin Reef currently has at least eight existing, or more legal structures on site. There are two gazebos, one restroom building, one seawall, one pool, one spa, one ground-mounted pool utility equipment, one pool sign, etc. He stated he is not trying to disparage the zoning ordinance, but he thinks there is a conflict within the City's definitions of a structure.
- 7. To propose a hypothetical, if this site were broken down into its previous six lots, at two accessory structures each, technically, 12 accessory structures could have been built.

MINUTES: BOARD OF ADJUSTMENTS AND APPEALS TUESDAY, JANUARY 17, 2023 Page 6 of 9

- 8. In their review with the Planning Consultant, they have attempted to cooperate in all ways to make the design and hence the drawings, as compliant as possible, with this one variance request held in balance.
- 9. Dolphin Reef has 40 condominium units. Between family and friends, the number of people exceeds 80 to 100 individuals, approximately, and all are desirous of a favorable outcome to the variance request.

Member Campbell stated he did not hear the hardship of this variance. He noted a hardship is the Board's gold standard for granting a variance.

Mr. Lange stated the hardship is that Dolphin Reef currently has three accessory structures.

Member Campbell stated Dolphin Reef is currently not in compliance with the City Code, and they want to stay out of compliance.

Mr. Lange responded no. He stated when they first entered into discussions, they agreed that anything that was removed would be built back in the same place, same width, height, length, and material. They are replacing the gazebo next to the grills because of the degradation through the harsh environment. It is 8' X 8', and it would be enlarged to 10' X 10'.

Member Campbell asked if the gazebo could be repaired without a variance.

Mr. Lange responded in the negative. He stated not where it sits because it is within the setback and not repairable.

Member Campbell again asked what the hardship was.

Mr. Lange stated the hardship is that the gazebo currently sits in the side setback and is in disrepair, and they are retrying to relocate it to restore it to City Code compliance. He stated Dolphin Reef had three accessory roofed structures before, so they are asking again for them today.

Member Campbell stated the Board is also supposed to consider that it cannot give more of a variance than is necessary. So, he is curious about the applicant's considerations in not expanding the roof of the bathhouse for a further shaded area under that roof.

Mr. Lange stated it was not designed that way.

Vice Chair Watt stated the proposed plan is to have one bathhouse and two 10' by 10' gazebos that meet City Code, except for one that will exceed the height requirement by 1 foot 7¼ inches. He stated that what is currently there does not meet City Code because there are three accessory structures, and one gazebo is within the side setback. He clarified that legally, they could keep repairing it when something is out of compliance.

Planning Consultant Harmon stated that is correct, but the gazebo is in such disrepair that it cannot be repaired anymore.

MINUTES: BOARD OF ADJUSTMENTS AND APPEALS TUESDAY, JANUARY 17, 2023 Page 7 of 9

Planning Consultant Harmon stated that staff recommended approval because of the number of units and the property size (number of lots). It was not proportionately represented in the City Code.

Member Campbell asked if there is any discussion to modify Sec. 110-314 of the Code of Ordinances to address large parcels of land.

CONSENSUS OF THE BOARD TO FORWARD TO THE CITY COMMISSION FOR THE PLANNING AND ZONING BOARD TO REVIEW SEC. 110-314, OF THE CODE OF ORDINANCES, RESIDENTIAL PREMISES. "IN ALL ZONES FOR SINGLE-FAMILY STRUCTURES, THE MAXIMUM SIZE FOR AN ACCESSORY STRUCTURE SHALL NOT EXCEED 120 SQUARE FEET IN FLOOR AREA AND EIGHT FEET IN INTERIOR WALL HEIGHT, EXCLUDING ROOF. FOR DUPLEX AND MULTIFAMILY STRUCTURES, THERE MAY NOT BE MORE THAN TWO ACCESSORY STRUCTURES OF A MAXIMUM OF SIXTY SQUARE FEET IN FLOOR AREA AND EIGHT FEET IN INTERIOR WALL HEIGHT EXCLUDING ROOF, OR ONE ACCESSORY STRUCTURE OF A MAXIMUM 120 SQUARE FEET IN FLOOR AREA AND EIGHT FEET IN INTERIOR WALL HEIGHT EXCLUDING ROOF. (1)ROOF REGULATIONS: ON ANY ACCESSORY STRUCTURE (STORAGE OR UTILITY) THE MAXIMUM ROOF PITCH FOR ANY STYLE ROOF (GABLE, HIP OR FLAT-PITCHED ROOF, ETC.) SHALL BE NO GREATER THAN 4/12 PITCH AND ROOF OVERHANG SHALL NOT EXCEED 12 INCHES" TO DETERMINE IF THIS SECTION SHOULD BE MODIFIED FOR LARGE PARCELS OF LAND.

There was no public comment on this BOA Case.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO RECOMMEND TO THE CITY COMMISSION APPROVAL/DENIAL OF BOA CASE NO 2023-01 – 2504 GULF BOULEVARD, A VARIANCE REQUEST FROM SEC. 110-314, OF THE CODE OF ORDINANCE, TO ALLOW FOR AN ADDITIONAL ACCESSORY STRUCTURE WITH A BUILDING HEIGHT OF 9 FEET 7-1/4 INCHES EXCEEDING THE HEIGHT REQUIREMENTS BY 1 FOOT 7-1/4 INCHES FOR PROPERTY LOCATED AT 2504 GULF BOULEVARD, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS DOLPHIN REEF, A CONDOMINIUM ASSOCIATION, AS RECORDED IN PLAT BOOK 50, PAGES 74-80, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

ROLL CALL VOTE:

AYES: ALVAREZ, CAMPBELL, LABADIE, WATT, DEVORE

NAYS: NONE

THE MOTION TO RECOMMEND APPROVAL TO THE CITY COMMISSION CARRIED UNANIMOUSLY.

City Attorney Mora stated, for the record, pursuant to Sec.13.3(d) of the City Charter, "The approval of any amendment to the comprehensive plan or code of ordinances, variance, special exception, planned unit development (PUD), development agreement, development site plan or conditional use permit authorizing or approving any increase in development

density or intensity, maximum building height, or floor area ratio shall require a favorable vote of four (4) or more members of the city commission to be approved."

### 5. OTHER BUSINESS.

- A. CITY COMMISSION ACTION:
  - 1. BOA CASE NO. 2022-13 525- 20<sup>th</sup> Avenue. APPROVED BY CITY COMMISSION.

City Clerk O'Reilly stated there will be Board of Adjustments and Appeals Meeting on February 21, 2023.

### 6. ADJOURNMENT.

MOTION MADE BY MEMBER ALVAREZ, SECONDED BY COMMISSIONER LABADIE, TO ADJOURN THE MEETING AT 6:28 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

February 21, 2023	
Date Approved	Stewart DeVore, Chair
/DOR	

AGENDA ITEM NO. 4

BOA CASE NO. 2023-02 608 Gulf Boulevard Westside Investments LLC

### BOARD OF ADJUSTMENTS AND APPEALS AGENDA MEMORANDUM

MEETING OF:

Board of Adjustment:

February 21, 2023

AGENDA ITEM: 4

City Commission

March 28, 2023

ORIGINATED BY:

Hetty C. Harmon, AICP, City Planner

**AUTHORIZED BY:** 

Brently Gregg Mims, City Manager 5/1/1/

BOA CASE NO. 2023-02 -608 Gulf Blvd

Variance request from Sec. 110-344 (4), of the Code of Ordinance, to allow for a pool to encroach 5 feet in the 10 feet rear yard setback for property located at 608 Gulf Blvd, Indian Rocks Beach, Florida, and legally described as Lot 16, Block 1, Haven Beach, as recorded in Plat Book 5, Page

27, of the Public Records of Pinellas County, Florida.

Parcel #12-30-14-37764-001-0160

**OWNER** 

WESTSIDE INVESTMENTS LLC

LOCATION of PROPERTY:

608 Gulf Blvd

ZONING:

CT- Commercial Tourist

Direction	Existing Use	Zoning Category
North	Residential	CT
East	Residential	RM-2
South	Residential	CT
West	Gulf of Mexico	N/A

#### BACKGROUND:

The applicant is requesting a variance for pool to be encroach 5 ft into the 10 ft rear yard setback for single family residence.

#### 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 and circumstances 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.

b. The special conditions and circumstances do not result from the actions of the applicant.

The applicant did not create any special conditions or circumstances.

c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district.

Granting the variance would confer special privileges to the applicant.

d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant.

The approval of this variance request would not deprive other owners of use and enjoyment of their properties.

e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building; and

This is the minimum variance to allow the owner to construct the 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.

**NOTICE:** A public notice was mailed by first class mail to property owners within 150 feet in any direction of the subject property and posted on subject property on February 6, 2023, (Sec. 2-149 of the Code of Ordinances.)

**CORRESPONDENCE**: There was no correspondence.

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

### MOTION:

I move to recommend to the City Commission APPROVAL/DENIAL of BOA CASE NO. 2023-02 Variance request from Sec. 110-344 (4), of the Code of Ordinance, to allow for a pool to encroach 5 feet in the 10 feet rear yard setback for property located at 608 Gulf Blvd, Indian Rocks Beach, Florida, and legally described as Lot 16, Block 1, Haven Beach, as recorded in Plat Book 5, Page 27, of the Public Records of Pinellas County, Florida.

## 608 GULF BLVD BOA CASE NO. 2023-02



### BOA CASE NO. 2023-02 -608 Gulf Blvd

Variance request from Sec. 110-344 (4), of the Code of Ordinance, to allow for a pool to encroach 5 feet in the 10 feet rear yard setback for property located at 608 Gulf Blvd, Indian Rocks Beach, Florida, and legally described as Lot 16, Block 1, Haven Beach, as recorded in Plat Book 5, Page 27, of the Public Records of Pinellas County, Florida.

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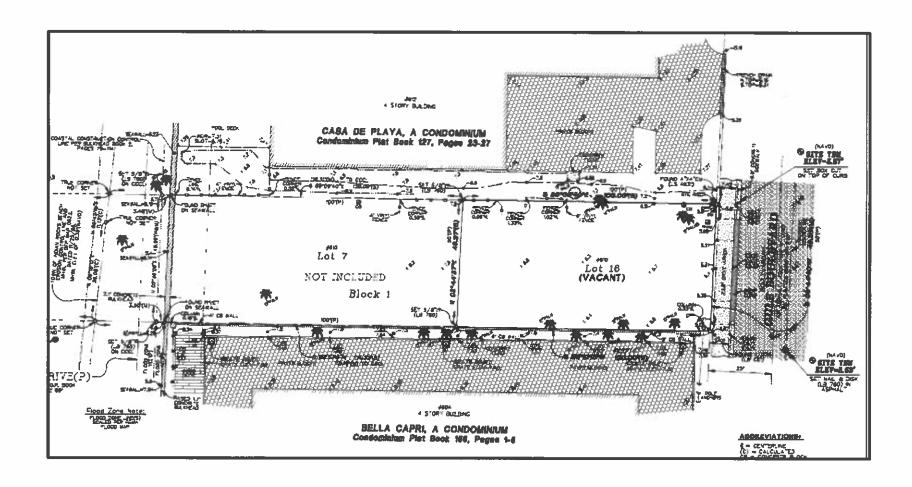
## 608 Gulf Blvd



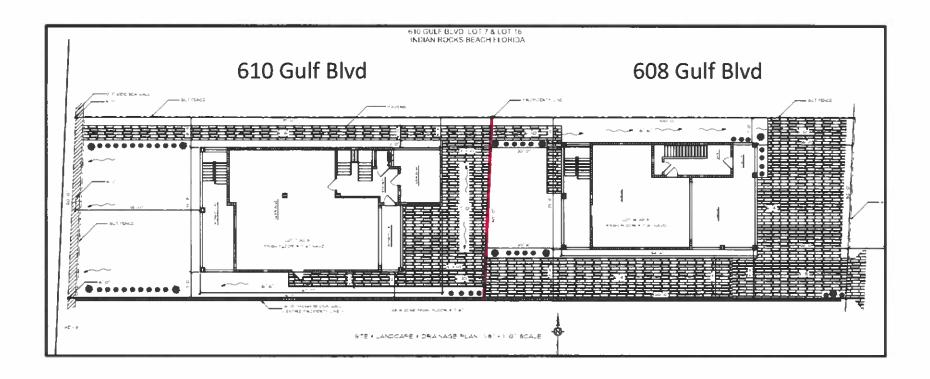
## 608 Gulf Blvd



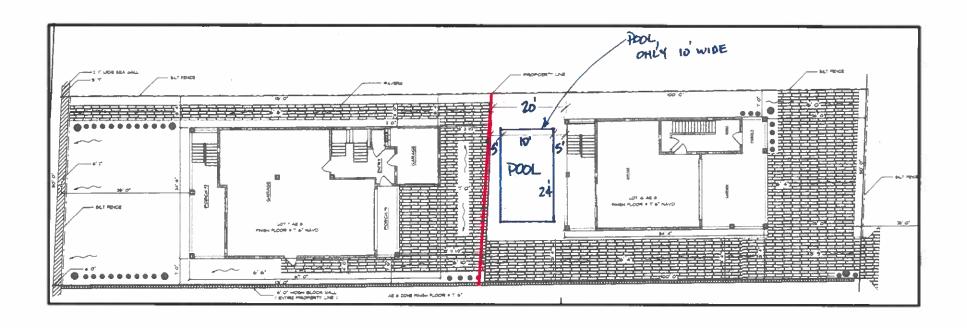
### Survey



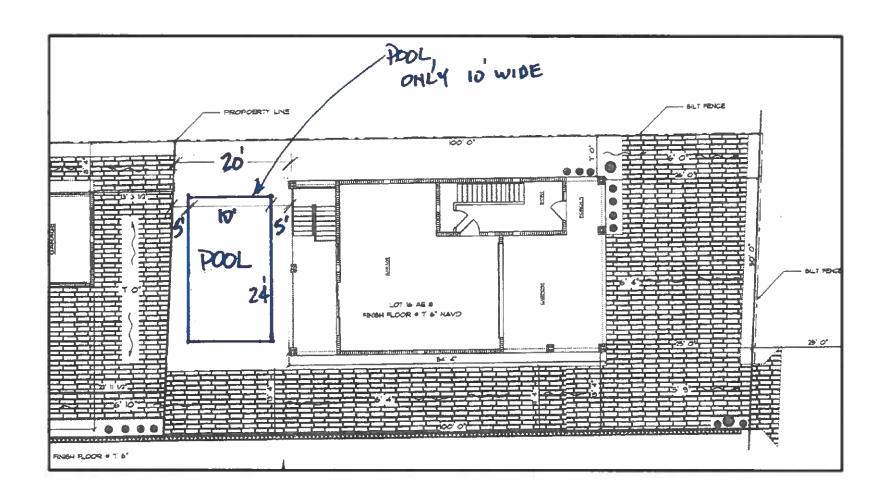
### Site Plan



## **Proposed Pool Plan**



## Proposed Pool Plan



### **Site Photos**



### **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 1/17/2023

APPLICAN		1	PRESENTATIVE
Name:	WESTSIDE HUESTHENDS	Name:	THOURS SHITH
Address:	19915 GULF BLUD #101	Company:	CLASSIC FLORIDG DAGA
City:	THOIGH SHOPES	Address:	424 HARBOR DR H.
Zip Code:	33785	City:	THOUGH ROCKS BEATH
Tel:	(812) 455 - 2448	Zip Code:	33785
Fax:	N/A	Tel:	(352) AZA-09Z4
Mobile:	& SAME	Fax:	H/#
Email:	DOHNIEGONTERMANCE	Mobile:	4 SAMB
	GRAPL.COM	Email:	TShith CFUH COUTLOUR

Address:	608 GUF BLVD	Parcel ID:	12-30-14-3774-00
City:	INDIAN POCKS BOH	Zip Code:	33185
Legal	LOT 16, BUX 1, HAVEH	BEACH, RECURD	ED IN PLAT BOOKS
Description:	PACE 27, DUBLIC RECO		

SITE DETAILS CONTINUED					
Does applicant own any property cor	Does applicant own any property contiguous to the subject property?				
and land described					
Have previous applications been filed	for this property?	Yes	<b>⊠</b> No		
If yes, describe:					
Has a certificate of occupancy or com	Has a certificate of occupancy or completion been refused?				
If yes, describe:					
Does any other person have ownersh	nip or interest in the property?	Yes	<b>⊠</b> No		
If yes, is ownership or interest contigent or absolute:					
Is there an existing contract for sale	Is there an existing contract for sale on the property?				
If yes, list all parties on the contract:					
Is contract conditional or absolute?		Conditional [	Absolute		
Are there options to purchase?	Are there options to purchase? ☐ Yes				
VARIANCE REQUEST		1	[otal		
Regulation	Required Propo	_	uested		
Gulf-front setback (feet):					
Bay-front setback (feet):	Bay-front setback (feet):				
Alley setback (feet):					

Regulation	Required	Proposed	<u>Total</u> <u>Requested</u>
Rear-no alley setback (feet):	10'	5	8
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:			

#### 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:

This Variance Request relates to a joint ownership parcel with the adjoining property. The ownership for this parcel and adjoining parcel are the same. This minor setback adjustment request is beneficial for both properties, and does not in any way conflict with any other property.

Special	conditions and	circumstances	do not result f	rom the actions	s of the applica	ant:

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:

This variance does not in any way confer a special privilege to this applicant. It simply is a reduction of one setback for a very modest pool, yet allowing better ingress/egress for the second adjoining home as well.

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 request does not render undue hardship upon any other applicant. A same minor setback adjustment between 2 common ownership properties would be the same.

### HARDSHIP CONTINUED...

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

Yes, this is the minimum needed for a modest pool for the front rental structure, and provides for a reasonable use of the owners other adjoining property for ingress & egress.

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:

This variance will not at all be injurious to any other adjoining properties or detrimental in any way to the public welfare. The setback adjustment is <u>BETWEEN</u> the 2 residential buildings owned by the same applicant.

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

This variance does not in any way affect any adjoining property, simply a minor movement of the rear lot line from one of the applicant's properties for the pool, which in turn helps the second property for ingress & egress.

AGENT OF RECORD
Date:
I, Donald C Gouternan do hereby designate and appoint
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: Homits Smith Signature: 1 Signature:
My agent of record may be contacted at:
Company: CLASSIC FLORIDA DREAM HOMES, UC
Address: 424 HARBOR WR H.
City/State: 140144 PUCKS BEACH & Zip Code: 33785
Telephone: (352) 424-0424 Fax: H/A
Before me this date personally appeared:
Name: Itomas Smith
Name: 140m/KS Smith Signature: 1 Smith
Personally known/Form of Identification & When Live
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: Month: January 20 33
Notary Public State of Florida at Large:
Notary Public Commission Expiration: July 14 do 74  State of Florida County: Pinellas  Scott Suprenant State of Florida Comm# HH011800 Expires 7/14/20.4

### **CERTIFICATION**

Date: JAHVARY 17, 2023

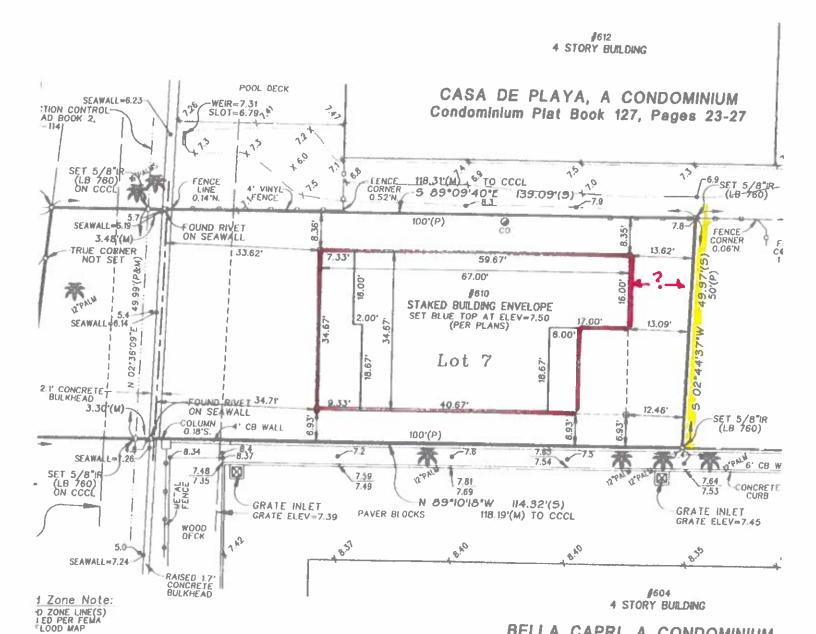
I hereby certify that I have read and understand the contents of this application, and that this application together with supplemental data and information, is a true representation of the facts related to the request; that this application is filed with my approval, as owner, evidenced by my signature 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: Donald C Governan Jr
Signature: Olec 4th
Personally known/Form of Identification & Diver Lience
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: 1 Month: Journy .20 23
Notary Public State of Florida at Large:
Notary Public Commission Expiration: July 14, 2004
State of Florida County: Pinellas  Scott Suprenant Notary Public State of Florida Commit HH011800 Expres 7/14/2024

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.



Condominium Plat Book 156, Pages 1-.

, was prepared without the benefit of a title search and is subject to all rights-of-way, and other matters of record.

valid without the signature and the original raised seal of a Florida Licensed nd Mapper.

, is made for the exclusive use of the current owners of the property and also purchase, mortgage or guarantee the title thereto within one (1) year from shown hereon.

NDLA AND ASSOCIATES. Land Surveyors and Mappers

4015 82nd Avenue North Pinellas Park, Florida 33781 Telephone (727) 576-7546 Faccimila (727) 577 0032

**BOUNDARY SURVEY WITH** TREES AND ELEVATIONS

BELLA CAPRI, A CONDOMINIUM

