

A Meeting of the **Board of Adjustment** was held on **Wednesday, October 29, 2008**, beginning at **2:00 p.m.**, in the Commission Chambers at City Hall, 155 Corey Avenue, St. Pete Beach, Pinellas County, Florida. The Meeting was called to order by Chairman Paul Skipper.

Pledge of Allegiance
Roll Call

PRESENT: Chairman Paul Skipper; Steve McFarlin; Park Lampson; Richard German; Robert Urban; City Attorney Representative, Susan Churuti; Zoning Administrator Anne Marr, and Deputy City Clerk Pamala Prell.

APPROVAL OF MINUTES:

No minutes were available for approval.

SWEARING IN OF PARTICIPANTS.

Chairman Paul Skipper swore in the audience members who wished to testify at this meeting. Chairman Skipper read the rules and proceedings for the meeting.

CASE NO. 2008-0020: RICHARD AVILA AND MARY PABON, OWNER 6412 1ST PALM POINT, REQUEST A VARIANCE TO SECTION 6.15 REQUIREMENT OF A MAXIMUM 4.0' HIGH FENCE WITHIN THE WATERFRONT YARD TO PERMIT THE INCREASE OF THE FENCE HEIGHT TO 6.0'.

Zoning Administrator Anne Marr presented a power point presentation regarding this case to the Board and answered any questions. The presentation pointed out that the applicant is proposing to install a 6.0' high fence along the northeastern property line. The Land Development Code, per Section 6.15, permits the maximum height of a fence within a waterfront yard to 4.0'. The fence would have to be located 10.0' in from the rear property line to allow a 6.0' high fence. Any fencing within that 10.0' setback is permitted at 4.0' high. The applicant is requesting a variance to allow for the 6.0' fence within the required waterfront yard. A permit was issued in 1981 to install a fence of 6.0' and 4.0' in height. Letters of violation were issued in June and July 1981 to bring the fence into compliance as the fence was not installed to Code. These documents were provided in this meeting agenda packet.

Ms. Marr stated that there were two letters of objection although there are three letters in the packet one letter is regarding a case for the next door neighbor that was heard at a former meeting of the board. The applicant has a copy of the letters.

Attorney Joel D. Broida, 605 75th Avenue, St. Pete Beach explained the request on

behalf of the applicant(s).

Mr. Broida stated that Ms. Marr did a good job summarizing the case. He explained that this request is contrary to normal situations where we are asking for a variance to allow something that might not be in conformity with the ordinances. In this instance we are asking for a continuance of something that is not in conformity with the ordinance. He testified that there is an existing 6' fence that clearly is in violation of the ordinance. He stated that "historically speaking we are talking about a fence that was constructed in 1981 by the previous owners to this property". "At that time the City noted that there was a violation; a letter was written (referenced by Ms. Marr) the City advised the fence company and the owner (at that time) to correct the problem and make it conform to the ordinance and make the fence 4'; it was not done". "This property was sold to my clients in 1987 with no knowledge of any violation what so ever."

Mr. Broida further testified that they have owned the property continuously for 21 years, enjoying this fence, maintaining this fence and enjoying the private and security the fence has provided. They had no reason to believe that they were in any violation. Inadvertently, recently the City did discover this particular problem and that is why there is the request for the variance in order to bring this nonconforming use into an allowed nonconforming use; as opposed to one that has been allowed to exist for 27 years without proper approvals. He stated that he has read the criteria for the review of and approval of variances and looking at that criteria we can draw parallels as to why this property is deserving of a variance to allow the continued nonconforming use, contrary to other properties that might be asking for a 6' fence and they would not be allowed. He stated that his clients have been enjoying the use of this property with the fence for over 21 years without knowledge of any violations regarding the fence. He stated that he felt that a hardship has been created if the fence is to be removed at this time and that is the main point he wanted the Board to consider; along with the use of the property of 21 years with the enjoyment of the fence. He felt all other factors of the variance review do not apply to this case. He asked that the Board approve the variance as requested.

No one was in the audience to speak in support of this case.

Ms. Maria Kavaliauskas, 337 64th Avenue, St. Pete Beach, stated that she was against the request and would like the variance to be denied and the fence kept at 4.0' high like the rest of the neighborhood fences. She testified that this fence is between her and the applicant's properties.

Ms. Kavaliauskas further testified that in August of this year she and her husband submitted a request for a variance to build a 6' vinyl fence which would have been

1. The first part of the paper discusses the importance of the study of the history of the United States. It is argued that the study of the history of the United States is essential for a full understanding of the country and its people. The author points out that the history of the United States is a complex and multifaceted one, and that it is important to study it from a variety of perspectives. The author also points out that the study of the history of the United States is important for the development of a sense of national identity and pride.

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parallel to the applicant's fence divided only by a low concrete barrier in the waterfront yard. She reported that there variance request was denied by the Board in September by a unanimous vote for the reason that they did not meet the 4' height requirement in a waterfront yard and it was nonconforming. She said they have accepted the Board's decision. She said that in their waterfront area all properties

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meet the 4' fence requirement. She stated that many properties have large dogs in their fenced area and it seems to work fine for them. She asked that the Board deny the variance request for the 6' fence on the same grounds as her variance requests was denied.

Ms. Kavaliauskas further testified that in the spring of 1993 the fence was taken down including the posts. She showed the Board pictures of the property with the fence taken down. She stated that she felt it is time for the owner to comply with the Code no matter the length of time in order to improve the looks of the neighborhood.

Chairman Skipper asked Ms. Kavaliauskas if she had installed the fence for her property. She replied that she had not and was waiting for the outcome of this case before proceeding. She stated that they do not have a fence at this time.

Chairman Skipper closed the public hearing and asked the Board for their comments and/or questions.

Chairman Skipper asked if the City had any record of any permits issued regarding the fence in the 1990's. Ms. Marr stated that she would have to check the file. She stated if the repairs for the fence were minor there was no requirement for a permit. Mr. Skipper stated that the photos look like the fence was totally removed.

Mr. McFarlin asked if a variance would have been in the file if a permit was issued. Ms. Marr replied "yes".

Mr. Broida asked to speak to the Board Again. Chairman Skipper granted his request. Mr. Broida stated that he was not aware that the fence was taken down and put back up, but that he felt it was the same fence it was repaired and the posts were never removed. He stated that his client informed him that they did go to the City to inquire about a permit and were told that he did not need a permit to repair the fence unless the posts were removed. He stated this was not a new fence. He stated that his clients have inherited this situation that has existed until today.

Mr. Skipper stated that it was hard to see on the photos but it didn't appear that there were any posts.

Mr. Richard Avila, property owner and applicant, informed the board that the fence was there when he purchased the property. He advised that the fence was taken down (except for the poles) to be repainted and that according to the City that did not require a permit. He testified that the fence has been taken down when it needs repair and/or painted so that he does not have to go onto his neighbor's property. He testified that the poles have never been taken down. He also pointed out that he always contacts the City prior to doing any work on his property to see if a permit is required.

Mr. Urban inquired if a property owner came to the City to ask questions about a fence would staff check to see if there were any outstanding violations. Mr. Marr replied that if someone comes in with a repair request there would not be an investigation about violations conducted at that time.

Mr. McFarlin stated that he had empathy for the applicant but felt that the Board needs to make a decision based on the criteria for a variance. He stated that he did not see any hardship and all corner lots are designed the same in that neighborhood.

City Attorney Susan Churuti advised the Board that they must prove a hardship. That is the standard that the Board must consider in making their determination in this case.

Mr. Urban stated that what someone wants versus what they are allowed to have legally is just a convenience and they are two different issues.

Mr. German made a motion to deny the variance request as submitted. The motion was seconded by Mr. Urban and approved by a unanimous roll call vote. The variance was denied.

CASE NO. 2008-0021: JENNY O'MALLEY, OWNER 1804 PASS-A-GRILLE WAY, REQUEST A VARIANCE TO SECTION 11.7(a) (4) REQUIREMENT OF 20.0' TO PERMIT THE REDUCTION OF THE REAR YARD SETBACK TO 10.0' FOR AN ATTACHED CARPORT.

Zoning Administrator Anne Marr presented a power point presentation regarding this case to the board and answered any questions. The presentation pointed out that the property currently has an existing single family residence. The property fronts Pass-a-Grille Way and the rear abuts an alley. The applicant is proposing to construct an attached carport to the rear of the single family residence. The district regulations require a 20.0' rear yard setback and the applicant is requesting a

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variance to reduce the required setback to 10.0'.

Ms. Marr pointed out that there were no letters, emails or phone calls objecting or supporting this case.

Jenny O'Malley, applicant and owner, explained that the carport is being requested because they have no garage. It will be used as a cover for their vehicles to get in and out of the rain. She advised that most of the properties along the alley have a 5' setback and they are only seeking 10'.

Mr. McFarlin stated that there was no place in the front of the property for a carport.

Chairman Skipper stated that he felt the impact to the neighbors would be minimal.

There was a general discussion regarding the definition of a carport and also it being enclosed in the future.

Ms. Marr stated that would not be an issue because the structure is already there. She stated there is not much difference in a garage and a carport because they are both covered structure. She informed the Board that they could make a condition when granting the variance that the carport never be enclosed because it could be enclosed at a later date. She stated that just enclosing it would not increase the foot print so there would be no issue about the enclosure.

Mr. Lampson stated that he did not see a problem with a carport or a garage in this case because there is a tree line so it would not affect the neighborhood.

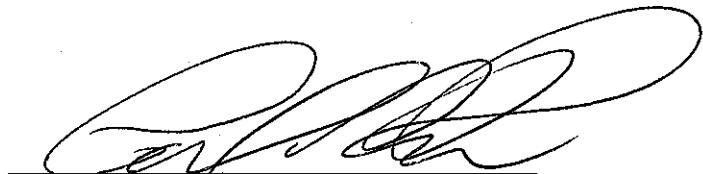
Chairman Skipper agreed that the impact either way was very low.

Mr. German made a motion to approve the variance as requested. The motion was seconded by Mr. McFarlin and approved by a unanimous roll vote.

Being no further business, the meeting was adjourned at 2:23 p.m.

Attest:


Pamala Prell, Deputy City Clerk


CHAIRMAN

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present. The author then proceeds to discuss the various factors that have shaped the development of the United States, including the role of the government, the influence of the economy, and the impact of the culture.

The second part of the paper is a detailed analysis of the political system of the United States. It examines the structure of the government, the role of the different branches, and the process of decision-making. The author also discusses the various political parties and the role of the media in the political process.

The third part of the paper discusses the economic system of the United States. It examines the role of the government in the economy, the influence of the market, and the impact of the various economic factors. The author also discusses the various economic policies and the role of the different economic sectors.

The fourth part of the paper discusses the cultural system of the United States. It examines the role of the government in the culture, the influence of the media, and the impact of the various cultural factors. The author also discusses the various cultural policies and the role of the different cultural sectors.

The fifth part of the paper discusses the social system of the United States. It examines the role of the government in the social system, the influence of the various social factors, and the impact of the different social policies. The author also discusses the various social issues and the role of the different social groups.

The sixth part of the paper discusses the environmental system of the United States. It examines the role of the government in the environment, the influence of the various environmental factors, and the impact of the different environmental policies. The author also discusses the various environmental issues and the role of the different environmental groups.

The seventh part of the paper discusses the international system of the United States. It examines the role of the government in the international system, the influence of the various international factors, and the impact of the different international policies. The author also discusses the various international issues and the role of the different international groups.

The eighth part of the paper discusses the future of the United States. It examines the various challenges that the United States faces and the different ways in which these challenges can be addressed. The author also discusses the various opportunities that the United States has and the different ways in which these opportunities can be seized.

In conclusion, the author argues that the study of the history of the United States is essential for a full understanding of the present. It is also argued that a knowledge of the past is essential for a full understanding of the future. The author concludes by stating that the study of the history of the United States is a task that must be undertaken by all who are concerned with the future of the United States.