



BOARD OF ADJUSTMENT MEETING

CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, FL 33706

**November 20, 2019
2:00 PM**

Call to Order
Pledge of Allegiance
Roll Call

1. **Changes to the Agenda** – Agenda items to be added, moved or deleted will be addressed at this time. Items added will be assigned agenda item numbers and items that are moved will retain the same item numbers. A notation will be made that those items will be taken out of order.
2. **Audience Comments** – Three minutes per person to issues not on the agenda.
3. **Approval of Minutes**
 - a. **10/30/2019**
4. **Action Items**
 - a. **VARIANCE – HOME – SIDE SETBACK**
7100 Bay St (Case No. 19047); Linda Limbevski is requesting an after-the-fact Variance to allow for the encroachment of an addition into a required side setback. The property is zoned RU-2.
5. **Adjournment – Next Meeting: 12/18/2019**

The public is cordially invited to attend.

APPEAL: Florida Statutes Chapter 286.0105 Notices of meetings and hearings must advise that a record is required to appeal. Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or

agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she 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.

AMERICANS WITH DISABILITIES ACT: Florida Statutes 286.26. Accessibility of public meetings to the physically handicapped. In accordance with the Americans with Disabilities Act and Florida Statutes, persons needing special accommodations to participate in a meeting should contact City Hall at (727) 367-2735 no later than forty-eight (48) hours prior to the meeting for assistance.

CODE OF ORDINANCES, SECTION 1-15: Award of attorney's fees and other costs. In all instances where a lawsuit is instituted or defended on behalf of the city to enforce any provision of the Code of Ordinances, to collect fees, liens, assessments or fines, or otherwise secure compliance with any provision of the Code of Ordinances, the city shall be entitled to recover all costs incurred, including reasonable attorney's fees and court costs through the trial and appellate levels. This section shall apply to all instances where the city is required to defend an appeal from any order, notice or determination by the city or its officials.

Electronic media must be submitted a minimum of 24 hours in advance to cityclerk@stpetebeach.org

All agenda material is available for review at City Hall.

BOARD OF ADJUSTMENT MEETING

MINUTES

October 30, 2019

2:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT:

Sandie Lyman, Vice Chair
Jake Holehouse, Member
Michael Bomar, Member
Paul Skipper, Chair

ABSENT: Denise Chase, Member

ALSO PRESENT:

Matthew McConnell, Esq., Dickman Law Firm
Wesley Wright, Community Development Director
Brandon Berry, Planner I
Ginny Keeter-Bodkin, Deputy City Clerk

1. Changes to the Agenda

There were no changes to the agenda.

2. Audience Comments

There were no audience comments.

3. Approval of Minutes

a. 09/25/2019

Vice Chair Lyman made a motion to approve the minutes from the September 25, 2019 meeting. The motion was seconded by Member Bomar and unanimously approved by a roll call vote.

4. Action Items

- a. **VARIANCE – FENCE – FRONT YARD:** 7998 Boca Ciega Drive (Case No. 19043); Jack and Karla Lafferty are requesting a Variance for the installation of a six-foot tall fence that exceeds the allowable four feet in height along 80th Ave. The property is zoned RU-2 Residential.

Planner I, Brandon Berry reviewed the applicant's request and staff findings.

Jack Lafferty, applicant, 7998 Boca Ciega Drive, spoke on his own behalf and explained the reasons for the request.

Finding no public comment and no opposition, Chair Skipper opened the meeting for board discussion, Q&A and called for a vote.

Member Bomar made a motion to approve the Variance for Case No. 19043. The motion was seconded by Member Holehouse and passed unanimously by a roll call vote.

5. Discussion Items

a. Proposed Amendments to Land Development Code Sec. 3.12

Community Development Director Wesley Wright explained that these amendments would keep the hardship variance but add a practical difficulty variance and give staff the ability to grant some smaller variances administratively.

Mr. Berry stated that in May the City Commission directed staff to expand the variance criteria. He reviewed the standards and conditions of each proposed category and provided examples from historic cases and asked for any questions from board members.

Mr. Wright stated that the Planning Board had also reviewed this information. It will be presented to the Commission in November and could begin as early as December if approved.

Brief discussion followed the presentation.

5. Adjournment – Next Meeting 11/20/2019

There being no further business before the board, the meeting was adjourned at 2:58 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Paul Skipper, Chair

Minutes approved on: _____



**DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING & ZONING
STAFF FINDINGS REPORT
TO THE
BOARD OF ADJUSTMENT**

VARIANCE CASE NO. 19047 – Linda Limbevski

MEETING DATE: November 20, 2019

PREPARED BY: Brandon Berry, Planner I; Planning & Zoning

REQUEST	After-the-fact variance to allow for the encroachment of an addition into a required side setback (LDC Sec. 9.7(a)(3)).
SUBJECT PROPERTY	7100 Bay St.; BAYSIDE 2ND ADD TO ST PETE BEACH BLK B, LOT 6 & LOT 7 LESS W'LY 20 FT; Parcel ID #36-31-15-05112-002-0060.
ACERAGE	0.24 acres (10,454 sq. ft).
LAND USE	RU-2 Residential District on the Zoning Map; RU on the Future Land Use Map
FLOOD ZONE	AE-11
SURROUNDING AREA	North – Single-family homes South - Cul-de-sac and single-family homes East – Bay St. and single-family homes West – Single-family home

BACKGROUND

The property contains a single-family residence originally constructed in 1951. In 2017, the applicant applied to elevate the home to make it FEMA-compliant and construct additions to the elevated home. A tie-in survey provided to the Community Development Department in October 2019 revealed that the home was built closer to the side property line than Land Development Code regulations permit, commencing this variance request. The applicant is requesting an after-the-fact variance for a primary structure that encroaches into the required side yard.

ANALYSIS

The applicant is requesting to allow for an addition to encroach into a required side setback (Land Development Code Sec. 9.7(a)(3)). When plans were submitted to the Community Development Department in 2017, the proposed building was shown as set back approximately 12' at its closest point from the side property line. In the RU-2 district the side setback is 10% of the lot width, which is taken

by averaging the front and rear property lines for odd-shaped lots. This property has a front property line with arc of 154.3', and a rear property line of 51', which averages to 102.65', requiring a side setback of 10.27'. The tie-in survey revealed that the lintels were installed at 8.43' from the side setback in the property's northwest corner, requiring a variance of 1.84'. As the home slopes away from the side setback leading toward the front of the lot, only a small portion at the rear of the structure requires a side setback variance – approximately three-quarters of the western side of the home meets the required setback for the district. The portion of the home that encroaches into the side setback is proposed to be used as a patio at the ground floor and a deck on the living story.

Land Development Code Section 3.12, Variances: The appropriate board of authority may authorize variances to the land development regulations if the applicant is able to demonstrate the following conditions:

- (a) The existence of conditions and circumstances that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same district which have complied with these regulations without hardship; that the strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building; and the peculiar conditions and circumstances are not the result of the actions of the applicant;**

The lot is irregular, possessing a front property line that is approximately three times wider than its rear property line. This creates an inverted-wedge shape for the lot, where the amount of buildable space at the front of the lot is substantially larger than in the rear. Lots located along bends exist elsewhere in the neighborhood, but the condition is rare and the conditions on this lot are starker than for other similar lots in the district. The strict application of the land development regulations would deprive the applicant reasonable use of their land, and the peculiar conditions and circumstances of this request are not the result of the applicant.

- (b) Neither a nonconforming use of neighboring lands, structures or buildings, legal or illegal, in the same district, nor a permitted use in adjacent districts shall be considered as grounds for issuance of a variance;**

None are being considered.

- (c) The proposed variance will not have the effect of changing any district boundary on the zoning map, nor constitute the granting of a nonconforming use. Under no circumstances shall a variance permit an increase in development density or permit a use not specifically permitted in the district;**

The variance will not change any district boundary on the zoning map, grant a nonconforming use, increase development density or permit a use not specifically permitted in the district.

- (d) The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the variance, the appropriate board of authority may prescribe any conditions and safeguards it deems necessary or desirable as a condition of approval of the variance application;**

The variance will be in harmony with the general purpose and intent of the land development regulations. While construction errors in-and-of-themselves are not grounds for a variance, this lot is essentially a convex cul-de-sac lot for the purposes of this variance request. Owing to the unique characteristics of lots of this shape, the city's regulations base setbacks in cul-de-sac lots on minimum lot widths. Had this lot been facing along the turning circle of a cul-de-sac, the side setback would be based on the district minimum lot width, which would have allowed for the applicant to construct their home at 6' from the side property line. While structures located on bends present challenges that those facing along the curve of a cul-de-sac do not, such as possibly interfering with visibility, the front of the proposed home exceeds the district minimum setback—only the rear side encroaches. Staff find that the request is in line with the intent of the code regulations.

- (e) The appropriate board of authority finds as a reasonable conclusion that hardship would unnecessarily result from a literal enforcement of the provisions of the land development regulations as set forth in the application, and the variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building.**

Staff find that the variance request is minimal, comprising only a portion of the western side setback, and adherence to the land development regulations would cause hardship to the applicant due to the unique conditions of the lot.

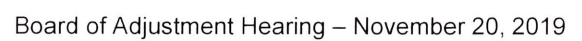
Any variance granted hereunder shall expire one (1) year from the date of the development order providing for such variance, unless a building permit for the construction authorized by such variance is obtained within such time and said building permit has not expired prior to the completion of construction in accordance therewith.

SUMMARY:

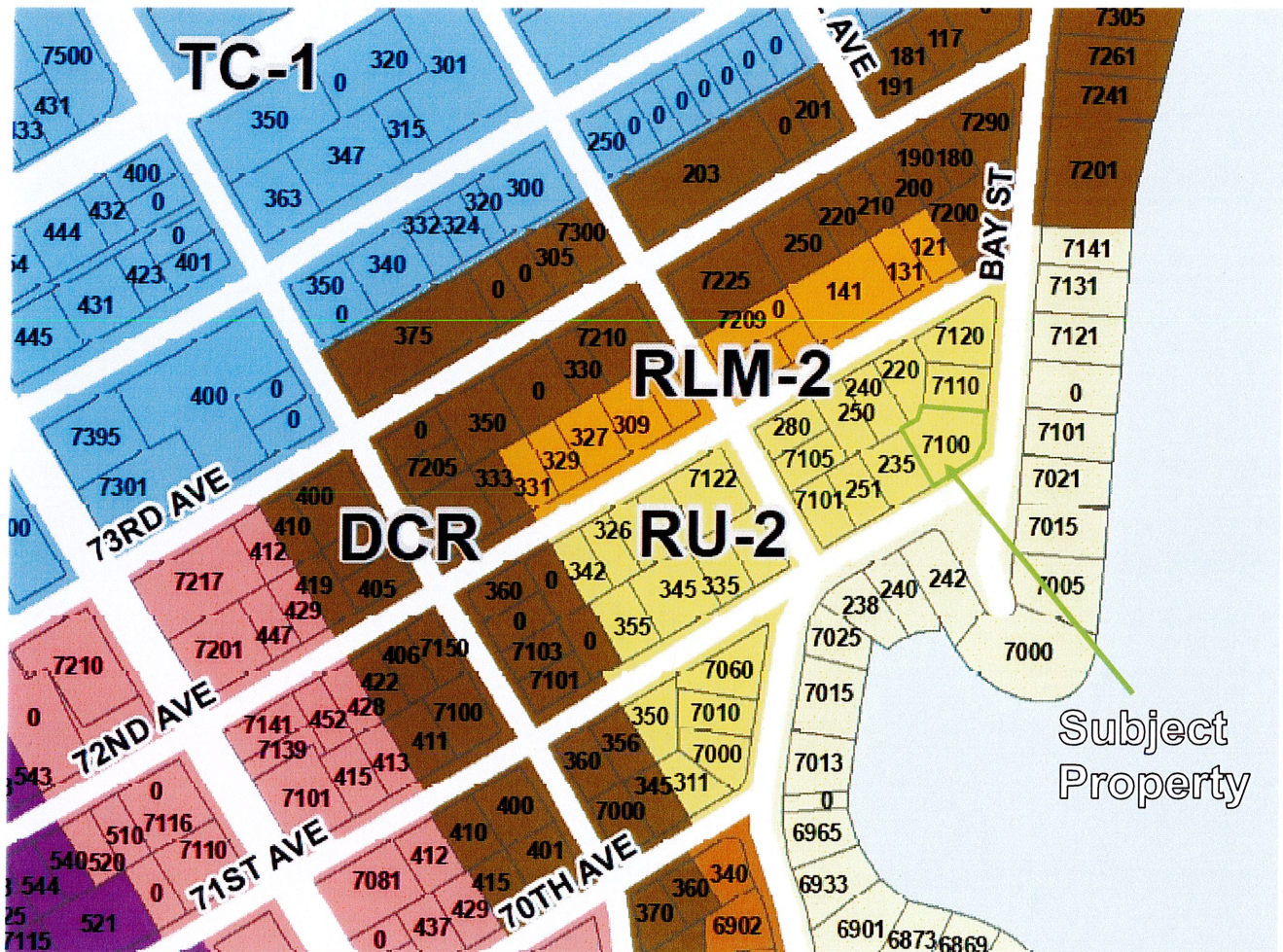
Staff find that the variance is in harmony with the land development regulations. While construction errors do not constitute grounds for a variance, the request is reasonable given conditions of the land. The proposal is minimal, allows for reasonable use of a uniquely-shaped lot, and will not pose any issues with visibility at the front of the property.

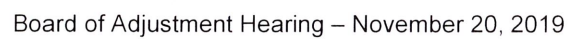
RECOMMENDATION:

Staff recommend approval.

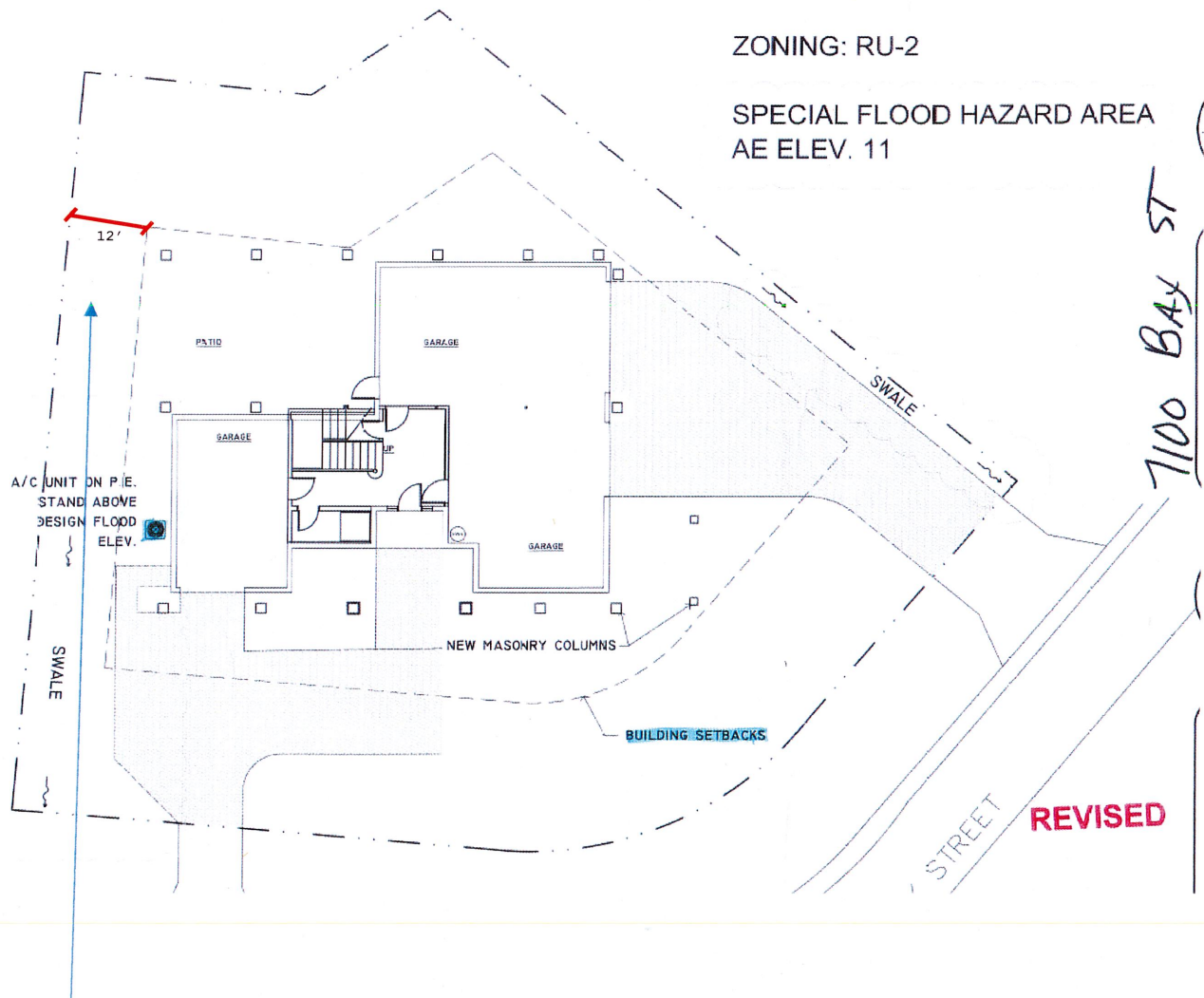


ZONING MAP

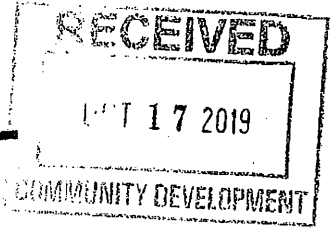




2017 SITE PLAN



2017 plans, showing an approximate 12' side setback to the closest point of the building.



VARIANCE APPLICATION

Case Number: 19047

PROPERTY FOR PROPOSED VARIANCE

Legal Description: Lot 647 less the Westerly 20' of 7, Block B, Second Bayside Addition

Parcel ID: 36-31-15-05112-002-0060

Address: 7100 Bay Street St. Pete Beach, FL 33706

Current Zoning: _____ FLUM Designation: _____ Lot Area: _____

APPLICANT/AGENT:

Name: _____

Address: _____

City: _____ State: _____

Zip: _____ Phone: _____

Email: _____

PROPERTY OWNER:

Name: Linda Limberski

Address: 8931 Blind Pass Road #120

City: St. Pete Beach State: FL

Zip: 33706 Phone: 201-306-0553

Email: Linda.Limberski1@aim.com

DETAILS OF THE REQUEST: Cite code sections for which variance is requested: (Add additional sheets if necessary)

LDC Section 9.7 Side yard

Additional Documents:

Check here if document is attached	Required Document
	Recent Survey of the property illustrating all boundaries, easements, and physical improvements.
	Site Plan drawn to scale showing proposed deviations of the code.

In order for an application for a variance to be approved or approved with conditions, the Board of Adjustment must make a positive finding with regard to each of the provisions below, which are also located in Division 3 of the Land Development Code. The applicant has the burden of proof demonstrating that the application for the variance complies with each of the requirements. Please explain in detail how your case meets these requirements (attach additional sheets if necessary):

1. Conditions and circumstances exist that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same zoning district which have complied with these regulations without hardship.

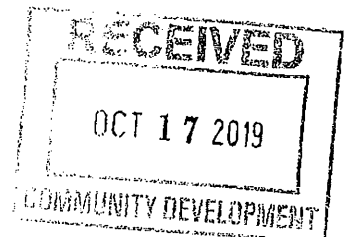
odd shaped lot

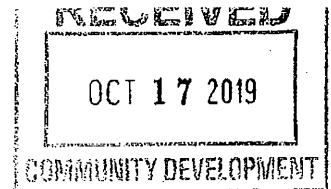
2. The strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building.

In order to build a regular structure on an odd shaped lot, we would need this variance

3. The peculiar conditions and circumstances are not the result of the actions of the applicant.

No fault of the applicant.





4. The proposed variance will not have the effect of changing any district boundary on the zoning map.

It will not

5. The variance shall not permit a non-conforming use or permit a use not specifically permitted in the zoning district.

It will not

6. The variance shall not increase density or intensity over that which is permitted in the Comprehensive Plan.

It will not

7. The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

It will not

8. The variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building.

Yes it is the minimum.

Linda Lemke 10/17/19

Signature of Applicant

Date

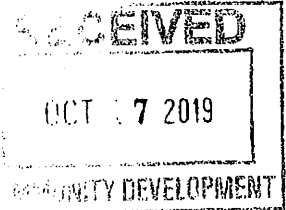
Signature of Authorized Agent

Date

For office use only:

Hearing Date: _____ Fees: _____

Board Action: ☐ Approved as requested ☐ Approved with conditions ☐ Denied ☐ Continued



VARIANCE APPLICATION

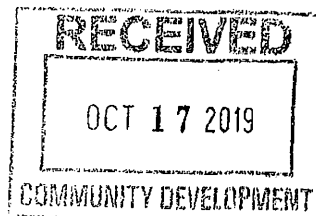
Applicants must acknowledge understanding of the following. Initial each of the statements below. If you do not understand any of these, staff will explain them to you.

- LL I understand that the City will not accept or process an incomplete application.
- LL I understand that a non-conforming use or structure in a particular zoning district does not, in any way, provide justification for the granting of a variance. Furthermore, the existence of a permitted use or structure in adjacent districts does not constitute grounds for a variance.
- LL On all variances, a majority vote is required. Action on this application by the BOA/City Commission may be continued to a later meeting.
- LL I understand that if a variance is approved by the BOA/City Commission, the applicant is required to obtain the appropriate building permits within 1 year from the date of the decision. If no permit is obtained within 1 year, the approval from the Board/City Commission becomes voided.
- LL I understand that if any application filed under the provisions of this Code is denied, no subsequent application seeking substantially the same or similar approval shall be filed within six months of the final decision on the original application.
- LL I understand that any person aggrieved by the final decision has the right to file a petition in the Pinellas County Circuit Court within 30 calendar days after the decision. Permits for construction may be granted prior to the expiration of this 30-day period, but an appeal will be grounds for revocation of the permit.
- LL I understand that I, as the applicant, or my authorized representative must be present at all scheduled public meetings on the application.

After acknowledgement of these conditions, complete the application form on the following pages.

Linda Limborski
Signature of Applicant

10/17/19
Date



PUBLIC HEARING SIGN POSTING AFFIDAVIT

Applicant, Linda Limberski, agrees to post the sign(s) in a conspicuous place, at the principal access to the property, in full view of the public, and not more than five (5) feet from the nearest street right of way or easement a minimum of seven (7) days in advance of the Public Hearing and remain in place until the requested action has been heard and decided. Multiple sign postings shall not be more than three hundred (300) feet apart. If the subject parcel(s) abut more than one (1) street, notices shall be posted along each street. When the subject parcel(s) does not front a public road, the sign shall be posted at the point on a public road by which the property is, or can be, reached.

The sign shall be maintained in good readable condition by the applicant. If the said sign is destroyed, lost, or becomes unreadable, the applicant or applicant's representative shall obtain a replacement sign. Any sign posted in accordance with these requirements shall be removed from the property and disposed of by the applicant or applicant's agent not later than 24 hours following the final decision.

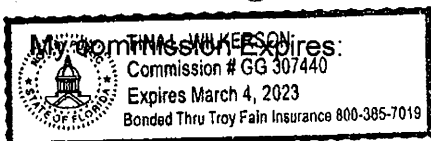
Applicant/Agent (must fill out agent authorization form):

Name(print): Linda Limberski
Address: 8931 Blind Pass Road #120 St. Pete Beach, FL 33770

Signature Linda Limberski Date 10/17/19

STATE OF FLORIDA)
) SS:
PINELLAS COUNTY)

The foregoing instrument was acknowledged before me this 17 day of OCT, 2019 by:
Linda Limberski who appeared before me, and is personally known to me, or has produced
FLDL# 759-0 as identification, and did take an oath.



NOTARY:

Print Name: TINA L Wilkerson Notary

Public, State of Florida Tina L Wilkerson

(Notarial Seal)

