

**BOARD OF ADJUSTMENT MINUTES**  
**May 28, 2025 – 2:00 P.M.**  
**Commission Chambers**

**PRESENT:** Kathy Garchow, Vice Chair  
Al Causey, Member  
Chris Core, Member  
Dan Small, Member

**EXCUSED:** Denise Chase, Chair

**STAFF PRESENT:** Kristin Coman, Senior Planner; Ralf Brookes, City Attorney; Brandon Berry, Senior Planner; Ginny Keeter-Bodkin, Deputy City Clerk

Vice Chair Garchow called the meeting to order at 2:00 P.M.

**1. Approval of the Agenda -**

There were no changes to the agenda.

**There was unanimous approval of the May 28, 2025 agenda as presented by a voice vote.**

The Deputy Clerk swore in all those who would be speaking or presenting to the Board.

**2. Audience Comments – There were no comments.**

**3. Approval of Minutes – April 30, 2025 Meeting**

Vice Chair Garchow asked for a correction to the minutes for the first case to reflect that she listened to the TRC, but did not attend, and the second case had only one vote; the first motion did not carry. The Deputy Clerk will make the changes.

**Motion: Member Core moved, Member Small seconded, and the motion carried 4-0 to approve the April 30, 2025 meeting minutes as amended.**

**4. Action Items**

Ex-parte disclosures were that Members Core and Causey each visited the site.

a. Case No. 25055 – 2311 Pass-a-Grille Way

Unnecessary and Undue Hardship Variance: Jens Ove Johansen requests to construct a single-family residence with elevator shaft that will extend to 41'-2" above natural, pre-fill grade where 40'-0" is the maximum permitted height above natural, pre-fill grade (LDC Secs. 20.15 – House – Large & 20.17).

Senior Planner Brandon Berry reviewed a presentation for the variance request that included photos, a zoning map, survey, application, posted notices, variance conditions, and staff findings. The presentation is part of the meeting record. Staff found that only the elevator requires a variance; one is not necessary for the overall height of the home. The applicant graded their lot to six feet NAVD 88 to allow for adequate lot drainage relative to the new, code-compliant seawall (5.0' NAVD 88).

This is a unique circumstance and one of the first code-compliant seawalls along Pass-A-Grille Way. A recommended slope of 1-2% to provide adequate on-site drainage justifies the 6.0' NAVD 88 measurement of the lot grade relative to the 5.0' NAVD 88 seawall. The applicant is not building a taller home from grade than would be permitted if they did not grade up the lot to compensate for the seawall. The grade change causes the need for this variance.

Staff suggested that the applicant supply testimony confirming that the elevator shaft overrun is the minimum necessary to meet rooftop access requirements (and/or state the need for the floor height of the living or ground-floor level), and also if any alternate plans have been developed. No conditions for approval were identified by staff.

Mr. Berry explained, regarding a maximum height question, that the grade was not reflected on the original design plan; this would not happen again if the builder had been aware of the standards. The garage height was confirmed. One letter of opposition was included in the meeting packet.

Resident neighbor Danny Kramer testified at applicant Jens Johansen's request. He explained that the new seawall height requirement was the reason for the variance. The elevator is at absolute minimum height.

Member Causey inquired if regulations overall should be modified to avoid recurrence of this issue due to the new seawall heights. Mr. Berry indicated that staff would need to follow up with the City Commission if requested.

Applicant Jens Johansen testified that the reason for the elevator is to be compliant with elevated first floor requirements. Members asked additional questions about the elevator. The elevator will serve all the way to the roof, beyond the living areas; the applicant indicated this is to accommodate his elderly parents who live with them.

Public comment was closed, and Board deliberation took place. Member Core did not think that a variance of 14 inches was enough to deny the request. Vice Chair Garchow and Member Small expressed that accommodations could be made by the applicant to keep the height down. Approval would continue the practice of going beyond code. Member Causey opined that it could be different in each case. Mr. Berry concurred, explaining that there is no set elevation across the board, due to pre-grade fill. Vice Chair Garchow voiced concern about leaning away from the aesthetics of the historic district and city codes without a true hardship and setting a precedent. Nine-foot-high ceiling heights could correct the issue.

Mr. Johansen was recalled and testified that he began the project two years ago.

Applicant representative Danny Kramer stated that if the board asks today for a two-inch adjustment, then that would need to carry forward to all other future cases to be equitable.

**Motion: Member Small moved, Member Causey seconded, and the motion carried 4-0 to deny the variance for Case No. 25055.**

- b. Case No. 25052 – 100 Pass-a-Grille Way  
Unnecessary and Undue Hardship Variances: Brian J. Aungst, Jr. and Clay Gilman of Macfarlane, Ferguson & McMullen, P.A. for BARRACKS BY THE SEA, LLC

requests a two-part unnecessary and undue hardship variance associated with a courtyard apartment redevelopment of the property.

Mr. Berry presented the case for this variance in which the applicant seeks to redevelop the existing one-story, 500 square foot floor area units contained in three of the four buildings on property with the following - 1) A ground floor of 500 square foot floor area, with 450 developed square feet between walls, to be used for parking for Units 1 & 2 at the southwest corner of the property, and to be used as screened porches for Units 3 through 6 at the eastern side of the property; 2) A reconstructed first-floor living area of 500 square foot floor area, containing 418 square feet of developed square footage between walls; 3) A newly-constructed second-floor living area of 500 square foot floor area, containing 422 square feet of developed square footage between walls.

His presentation included photos, a zoning map, survey, application, request detail (required, existing, and proposed footage), posted notices, variance conditions, and staff findings, and is part of the meeting record. The footprint of the buildings remains basically the same – the floor area would increase. The Technical Review Committee discussed this request on May 7, 2025 and the comments shared were primarily zoning related as to scope, requests for floor plans, design modification potential, and the consideration of relocation of one or more of the damaged dwellings to replace the damaged Pass-A-Grille shuffleboard court clubhouse. The Historic Preservation Board reviewed the project on May 1<sup>st</sup> where concerns were expressed on the compatibility of the structures within the Overlay District. Four letters in support and five in opposition were received.

Staff accepted the applicant's justification for the setback encroachments, except for the southern porch request; those requests generally preserve or decrease the encroachments of the existing building. Staff also found adequate applicant justification for exclusion of the ground-floor parking, storage and porch areas of the structures, along with an additional 22 square feet for powder room requirements, from the calculation of developed square footage. The addition of a powder room at the ground floor is necessary to meet current Fair Housing Act requirements.

The structure's living level is required to be elevated one story and prohibiting the applicant from using this space to meet other code requirements, such as parking, could pose hardship to the applicant and prevent redevelopment of the property. Staff found no justified hardship of the land. The property could be redeveloped with a larger duplex use without complying with the floor area limitations posed to the current eight-unit project, or subdivided and support multiple single-family developments that require only compliance with the zoning code.

Staff sought additional applicant testimony pertaining to the hardship or the structure or building. The applicant's justification for excluding the area beneath the Design Flood Elevation is justified by the additional developed square footage at the ground level, not an additional living level, except as justified for the powder room and necessary stairs and landing. Staff also sought applicant justification for the southern porch encroachment, which appears could be accommodated by slightly relocating the structure, possibly with minimal impact to the pool area.

Staff suggested testimony to support whether the building could be relocated further interior to the lot to allow for the porch to meet the required setback, even at the expense of a smaller pool or less decking area around the pool. Staff also suggested testimony to justify the additional living square footage of 223 square feet inclusive of the stairs in a two-living level development, or 343 square feet if the development remains one living level, is necessary to allow for reasonable minimum use

of the structure when reconstructed, or how the standard presents a specific hardship of the land when there are other options available for use of the property in addition to reconstruction of the existing dwelling units.

Mr. Berry reviewed seven different motion options that might be considered by the board, as part of the presentation. 1. Permit the encroachment of porches on Units 5 and 8 to 7'-4" from the front property line along Pass-A-Grille Way where 10'-0" is required (LDC Sec. 20.15. -Courtyard Apartment); 2. Permit the encroachment of a trellis to 5'-0" from the front property line along Pass-A-Grille Way where 10'-0" is required (LDC Sec. 20.15. – Courtyard Apartment); 3. Permit the encroachment of a porch on Unit 2 to 2'-5" from the secondary front property line along 1st Avenue where 5'-0" is required (LDC Sec. 20.15 -Courtyard Apartment); 4. Permit the encroachment of the redeveloped Units 1& 2 building to 5'-5" from the rear alleyway property line opposite Pass-A-Grille Way where 20'-0" is required (LDC Sec. 20.15. - Courtyard Apartment); 5. Permit the reconstructed Units 7 & 8 building stairs and decking to encroach to 8'-1" from the rear alleyway property line opposite Pass-A-Grille Way where 17'-0" is required (LDC Sec. 6.22.(b)); 6. Permit the ground floor of each unit, not to exceed 500 square feet in floor area or 450 square feet in developed area between walls, to be excluded from the calculation of developed square footage (LDC Sec.20.07.(b)); 7. Permit the living levels of each unit, not to exceed 450 square feet in floor area or 343 square feet in developed area between walls, to be excluded from the calculation of developed square footage (LDC Sec.20.07.(b)).

Attorney Brian Aungst of Court St., Clearwater explained that a new application was been submitted yesterday, and he provided an updated presentation to the Board showing less intensity than originally submitted. He explained that the property was multifamily units to begin; due to storms they must be demolished; storm damage must be repaired by redevelopment. As a multifamily development, they must comply with the Fair Housing Act and FEMA. Mr. Aungst reviewed their variance requests: 1) A variance to Code Section 2.1 to allow for exemption of unoccupiable space below DFE from FAR requirements. Existing density is allowed to be rebuilt under Code Section 20.07, but it "cannot exceed the existing developed square footage and must match the existing form and mass as defined in Section 20.22"; the current Code counts unoccupiable space under DFE, such as the proposed parking/porches, towards the FAR for the property. 2) A variance from Code Section 20.07 to allow for an additional 500sf per unit to be approved for rebuilding in order to match the style of existing units and units which neighboring properties are able to develop based on the current Code. 3) A variance to Code Section 20.15 to allow for a 5ft rear setback where 20ft is required in order to redevelop the site in conformity with the historical character of the site.

Architect Istvan Peteranecz explained the scope of their task to maintain the historic character of the courtyard apartments. He reviewed a unit layout comparison. The intensity is much less than it could be; they made efforts to keep the style compatible. Mr. Peteranecz testified that the applicant has met the criteria for the variance and meets city codes.

Mr. Aungst continued to review his presentation –

- 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 special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property
- Literal interpretation of the provisions of the Land Development Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under

the terms of the Land Development Code and results in unnecessary and undue hardship on the applicant

Coastal modern design is what has been on that property; he reviewed similar massing and scale already present in Pass-a-Grille. He reviewed the hardships that the hurricanes caused.

Ms. Coman explained that staff has not yet reviewed the newly submitted application; she asked for clarification on which porches were moved back into the required setbacks. Mr. Peteranecz reviewed all of the (now) setback requests.

Vice Chair Garchow expressed that there was positive movement on the resubmission, but more time may be needed for staff review, given that it was submitted last night.

Resident Julian Sanchez of 1<sup>st</sup> Ave. South agreed with the proposal to continue the case to another date and suggested there will be changes to the character of Pass-A-Grille and questioned the definition of hardship after a storm.

Steve Stern of 3805 Gulf Blvd. spoke in support of giving the applicant reasonable accommodations to keep the courtyard type environment vs. a high-rise, massive home.

Mr. Aungst suggested they would like to return to the TRC for another review prior to the hearing.

Vice Chair Garchow opined that mass and scale were of concern, but the need for elevation is clear; the board would welcome the applicant to provide more details regarding hardship with square footage in the living areas. Mr. Berry explained that the applicant is keeping the non-conforming density that was there. Member Causey opined that two stories would be preferable to three.

**Motion: Member Causey moved, Member Core seconded, and the motion carried 4-0 to continue Case No. 25052 to the July 30, 2025 hearing.**

Vice Chair Garchow stated that she will be out of town on July 30<sup>th</sup>.

**5. Adjournment** – The next meeting is scheduled for June 25, 2025.

**Vice Chair Garchow adjourned the meeting at 4:21 PM.**

*These minutes were approved at the June 25, 2025 Board of Adjustment meeting.*