

BOARD OF ADJUSTMENT MINUTES
May 27, 2026 – 2:00 P.M.
Commission Chambers

PRESENT: Denise Chase, Chair
Jim Schmidt, Member
Chris Core, Member
Dan Small, Member

STAFF PRESENT: Kristin Coman, Planning Manager; Brandon Berry, Senior Planner;
Nancy Stuparich, City Attorney; Renee Rose, City Clerk

Chair Chase called the meeting to order at 2:00 P.M. She paused and honored the life of Paul Skipper.

1. Approval of the Agenda -

Motion: Member Core moved and the motion carried unanimously by a voice vote to approve the May 27, 2026 agenda as presented.

The Clerk swore in all those who would be testifying.

2. Audience Comments – No one came forward for comment.

3. Approval of Minutes – March 25, 2026 Meeting

Motion: Member Core moved, Member Small seconded, and the motion carried 4-0 to approve the March 25, 2026 meeting minutes as presented.

4. Action Items

a. Case No. 26039 - 2842 W Vina Del Mar Blvd.

Practical Difficulty Variance: Paul Huggins, Diggle Construction for Gary Patrick Olney Living Trust requests to allow existing elevated mechanical equipment to remain within the required side yard setback, where 7 feet is required and 3 feet is provided, resulting in an encroachment of approximately 4 feet (LDC Sec. 6.14 and 8.7(a)(3)). Case No. 25146 – 3212 El Centro St.

Planning Manager Kristin Coman presented the practical difficulty variance. Her presentation was made part of the meeting record. The applicant requested a practical difficulty variance to allow existing HVAC condenser to remain within the required side yard setback, where seven feet is required and approximately three feet is provided, resulting in an encroachment of approximately four feet. Ms. Coman presented the request, reviewed the applicable variance criteria under the Land Development Code, and summarized the site conditions, including that the equipment was relocated during construction after it was determined the originally designed mechanical alcove was not sufficient. She noted the revised location was installed without City review and discussed the limited feasible alternatives for relocation under the current site configuration. She said the installation was screened behind an existing fence and was not expected to affect the character of the neighborhood. She noted the staff recommended condition limiting the platform solely to the existing HVAC condenser equipment unless additional variance approval is obtained.

Board discussion included the house being currently vacant because a certificate of occupancy hasn't been issued. There was a question if the height of the fence blocks the view of the condenser. Ms. Coman said the fence partially screens the condenser but does not hide it entirely. Chair Chase noted the height is not the concern.

Paul Huggins with Diggle Construction, Clearwater, spoke on behalf of the owner. He explained the mechanical equipment was originally designed to fit within the approved alcove, but generator clearance requirements left insufficient space for the condenser unit. The applicant acknowledged the equipment was relocated into the side yard setback without seeking a variance first and stated he did not realize approval was required. In response to Board questions, Mr. Huggins explained the generator requires specific airflow clearances and could not be stacked above or placed closer to the structure without creating overheating and safety concerns. He said the homeowner's daughter has special medical needs requiring reliable backup power and air conditioning. Rooftop placement was discussed as an alternative, but the applicant noted concerns related to noise, vibration, and impacts to the neighboring property. The applicant further stated that if the variance were denied, rooftop installation would likely be the only remaining option.

Board discussion included whether the generator could be relocated further within the side yard to reduce the setback encroachment.

Sheena Cody with Diggle Construction explained the generator platform requires three feet of clearance on all sides to meet code requirements. Board members noted no neighboring property owners appeared in opposition and acknowledged testimony that the neighbor preferred the equipment remain in its current location rather than be relocated to the roof. Discussion included concerns with granting after-the-fact variances for new construction but also acknowledged the medical hardship presented and the applicant's efforts to work with the neighboring property owner.

If approved, Staff recommended the following condition: that the platform shall be used solely for the placement of the HVAC condenser and shall not be expanded or utilized for any other purpose other than the existing equipment without additional variance approval.

Motion: Member Small moved, and Member Schmidt seconded, to approve Variance Case 26039 at 2842 W. Vina del Mar Blvd. with the condition proposed by staff. The motion carried 4-0.

- b. Case No. 26043 - 2004 & 0 [Parcel # 18-32-16-68634-009-0280] Pass-A-Grille Way
Unnecessary and Undue Hardship Variance: Jon Sipera and Kyle Bass for Charles Collom of COLLOM PROPERTIES LLC and CC BULL LLC requests an unnecessary and undue hardship variance to Land Development Code Section 20.19., which prohibits vacation of alleyways within the Pass A Grille Overlay District. If this request is approved by the Board of Adjustment it would authorize the applicant to request the vacation of the 15-foot alleyway located between Lots 28 and 29 of Block I of the Revised Map of Phillips Division of Pass-A-Grille City by the City Commission, pursuant to Section 1.03 of the City Charter.

Senior Planner Brandon Berry presented the unnecessary and undue hardship variance. His presentation was made part of the meeting record. The request is seeking an unnecessary and undue hardship variance from Land Development Code Section 20.19 to allow the vacation of a 15-foot-wide alleyway within the Pass-a-Grille Overlay District. Mr. Berry explained the Board of

Adjustment's role was limited to determining whether a hardship existed to allow the request to proceed to the City Commission, which would ultimately decide any alley vacation request. He reviewed the history and configuration of the alleyway, noting it was dedicated by plat in 1913 and that similar alleyways in the area had been vacated in past decades. Mr. Berry reviewed the eight required variance criteria and stated most criteria were met or generally met due to the unique configuration of the property, the historic nature of the alleyway, and the lack of a current City utility need for the alley. He noted that other similarly situated alleyways in the area had previously been vacated and that the applicant had not created the existing conditions. He stated the request was not viewed as an attempt to increase density or maximize financial return. He requested additional testimony regarding criteria three and seven. Regarding criteria three, Mr. Berry acknowledged the applicant may experience some limitations compared to neighboring properties with previously vacated alleyways, but he did not find the submitted narrative demonstrated an unnecessary and undue hardship because maintenance access and alleyway improvements could potentially be addressed through right-of-way use permits, maintenance agreements, or City maintenance without vacating the alleyway. Regarding criteria seven, Mr. Berry stated the request may not represent the minimum variance necessary because the identified issues could potentially be resolved through less significant alternatives that would preserve the public alleyway. He also noted the existing building setbacks are permitted under current zoning regulations and that no immediate development plans for the alleyway area had been presented. He said utility providers maintain facilities within the alleyway and would require continued access if the alleyway were vacated. He stated the applicant indicated there were no immediate plans to develop the alleyway area and that the property owners anticipated largely maintaining the area in its current condition with possible resurfacing improvements. Mr. Berry concluded by outlining the Board's available action options and requesting additional applicant testimony addressing hardship criteria three and seven.

Attorney Kyle Bass, on behalf of the owner, explained the southern property serves as the required parking area for the Red, White, and Booze restaurant and stated the site is effectively locked into that use absent major redevelopment. He argued the subject property is unique because it is the only remaining property in the area with a one-foot setback abutting an active public alleyway, noting similar alleyways in the surrounding area have previously been vacated. He referenced supporting exhibits showing prior alley vacations within Pass-a-Grille. In response to staff comments regarding hardship criteria three and seven, Mr. Bass argued that temporary right-of-way permits for routine building maintenance would create an ongoing burden, requiring repeated applications and compliance with numerous permit conditions for activities such as window cleaning, painting, scaffolding, and other maintenance work that could impact the use of the alleyway. He further stated maintenance agreements would improperly require private property owners to assume responsibility and liability for maintaining public property without ownership or control of the land. He also expressed concerns regarding reliance on future City rehabilitation of the alleyway, citing the current condition of the alleyway and uncertainty regarding future public funding or improvements. Regarding criteria seven, the applicant stated the request was limited solely to the east-west alleyway segment directly abutting the owner's properties and would not impact the surrounding north-south alleyways. He also reminded the Board the request represented only the first step in the process, noting any alley vacation would still require approval by a four-fifths vote of the City Commission.

Member Core questioned Mr. Bass regarding the claimed hardship associated with obtaining temporary right-of-way permits for routine maintenance activities along the alleyway side of the

building. Discussion highlighted that construction and maintenance work had already occurred in the area without vacating the alleyway and members expressed difficulty finding that the request met the required hardship standard. Mr. Bass responded that repeated permitting requirements would create ongoing scheduling, administrative, and operational burdens for the property owners. Discussion also addressed traffic circulation and maneuverability within the alley system, with concerns raised regarding the impact a vacation could have on access through the surrounding north-south alleyways. Mr. Bass stated deliveries would continue from the north-south alleyway and confirmed no future development was planned for the vacated area beyond resurfacing and aesthetic improvements while maintaining the area's general appearance as an alleyway. Discussion noted prior alley vacations in the area and consistency with similarly situated properties related to one of the variance criteria did not establish a hardship. Mr. Bass clarified the request was intended to address equal treatment with similarly situated properties and not solely establish hardship on that basis. Additional discussion confirmed rear access to the affected properties would remain available from the existing north-south alleyway.

Ex-parte disclosures:

Member Small drove by for a site visit and received emails.

Chair Chase received emails.

Member Core discussed the case with the Chair of the Historic Preservation Board.

Member discussion included questions regarding how vacating the alleyway could affect vehicle access and maneuverability for nearby properties, including residents using the alley system for driveway access. Mr. Berry acknowledged the vacation could make turning movements more difficult in certain locations, particularly in light of pending code amendments encouraging alley access for future development but stated staff did not find the request would substantially diminish surrounding property values under the applicable hardship criteria. He noted broader public interest concerns related to traffic circulation and alley access would ultimately be considered by the City Commission if the request moved forward. Questions were raised about Mr. Bass' claims regarding maintenance hardships and permit requirements. Mr. Berry clarified that the right-of-way utilization permit process for routine maintenance activities is generally a simple one-page authorization and noted that building renovations had previously been permitted through standard permitting processes. He said more substantial permits referenced in the staff report related to larger construction activities rather than routine window cleaning or minor maintenance work. He also said informal maintenance agreements for minor upkeep activities could potentially be explored, though no specific agreement had been developed for this property.

Public comment:

Marilyn Rimar, 20th Ave, spoke in opposition of vacating the alleyway. Nearby residents use the alleyway to access parking at the rear of their properties.

Chair Chase reiterated that the Board's role is to determine whether the applicant demonstrated the required hardship criteria and not whether the alleyway should be vacated. There was consensus the Board did not find the hardship had been sufficiently demonstrated, particularly regarding the applicant's concerns about maintenance permits. Complying with standard City permitting processes did not constitute an unnecessary and undue hardship and staff's testimony that alternative permitting or maintenance agreements could address those concerns.

Motion: Chair Chase moved and Member Core seconded to deny Variance Case No. 26043 at 2004 Pass-A-Grille Way finding applicant has not supported criteria 3 and 7 necessary to demonstrate unnecessary and undue hardship, particularly not seeing the hardship for being able to maintain the building is justified. The motion carried 4-0.

Ms. Coman announced the next Board of Adjustment meeting would be held on Monday, June 29, and noted a new board member from District 3 would be joining following the swearing-in process. She also reminded Board members to forward any emails received directly regarding applications so they could be included in the official record. She stated the tentative June agenda currently includes three applications, consisting of two practical difficulty variances and one hardship variance, subject to change.

5. Adjournment - The next meeting is scheduled for June 29, 2026.

Chair Chase adjourned the meeting at 2:59 PM.

These minutes were approved at the June 29, 2026 Board of Adjustment meeting.