



**Variance Review Board**  
**City Council Chambers**

City Hall  
315 E. Kennedy Blvd., Third Floor  
Tampa, Florida 33602

*ANY PERSON WHO DECIDES TO APPEAL ANY DECISION OF THE VARIANCE REVIEW BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, MAY NEED TO HIRE A COURT REPORTER 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.*

*IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND SECTION 286.26, FLORIDA STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE CITY CLERK'S OFFICE AT LEAST FORTY-EIGHT (48) HOURS PRIOR TO THE DATE OF THE MEETING.*

*IF YOU DECIDE TO APPEAL A DECISION OF THE VARIANCE REVIEW BOARD, YOU WILL NEED TO APPLY TO THE CITY OF TAMPA CITY CLERK'S OFFICE NO LATER THAN SEVEN BUSINESS DAY'S AFTER THE ORAL DECISION IS MADE. YOU WILL NEED TO OBTAIN A COMPLETE COPY OF THE RECORD FOR YOUR APPEAL.*

**MINUTES**

(As of April 13th, 2010)

**MEETING DATE: April 13, 2010**

**MEETING TIME: 6:30 PM**

- I. **ROLL CALL: Gennero Dinola, Sue Lyons, Randy Baron, Antonio Amadeo, Randy O'Kelly, Nick Bradford, Lucinda Utter.**
- II. **Antonio Amadeo, Chair Person, introduced the Board Members and Ernie Mueller, Senior Assistant City Attorney, Eric Cotton, Zoning Coordinator, Mary Danielewicz-Bryson, Land Development Coordination; Joel Sousa, Land Development Coordination, Thomas Stinson, Transportation. He went over the rules and appeal procedures.**
- II. **Approval of minutes for the March 9, 2010 is to be held over to next meeting. There was no objection to doing so.**

**Mr. Bradford stated that he needed to recuse himself from VRB10-25. Ernie Mueller asked that he fill out form.**

**Mr. Ernie Muller went over exparte communication. Mr. Antonio Amadeo stated that e-mails were received from staff and they were distributed to the board.**

**Ernie swore every one in.**

**III. OLD BUSINESS: Cases Continued/ Mis-Notice**

PETITION: VRB10-23  
APPLICANT: Kendel & Josephine Smith

AGENT: Jeremy Brongo  
LOCATION: 7609 S Fitzgerald Street  
REQUEST: Reduce rear yard from 20' to 13'  
PURPOSE: To construct a porch addition  
NEIGHBORHOOD: Port Tampa City  
*Petition was moved to the April 13, 2010 hearing date due to a mis-notice.*

Joel Sousa introduced the case, showed an aerial and pictures. And stated there was no objection from internal agencies.

Jeremy Brongo, superintendent for Ashton Homes, built lanai, and an inspector stated solid roof is not allowed. Site plan was stamped and approved. The week of closing received objection from the City of Tampa. They stated they made mistake and that there was a hold on the house. He stated that he had already charged the owner \$10,000. Had to tear the roof off to close and get a final CO. He has stamped bldg and site plans with the city approval and showed the plans with the city approval.

Antonio asked if there were questions by board members.

Sue Lyons asked to see the picture he showed of the structure and asked about screen room next door. Jeremy stated that that setback is ok because of screen roof.

Nick Bradford asked to see the approved plans.

Randy Barron made motion to receive and file the plans that were shown. Nick Bradford looked through the plans.

Gennero Dinola asked if there were others built. Jeremy stated that there was one and it has been built on a larger lot.

Randy Barron asked if the petitioner would accept the condition that the room not be enclosed or conditioned space.

Sue Lyon asked if it's flat roof or pitched roof. It was pitched.

Nick Bradford asked to keep sheets 1 and 2A of the approved architectural plans. Nick was interested if dimensions were shown. They were.

Antonio asked if there was anyone from public seeing none he closed the public hearing.

Randy O'Kelly stated that he is inclined to support petition, the petitioner did what was required and Nick Bradford agreed it was an error in permitting process. Non-compliance is clearly shown in the proposed plan.

Motion to Approve was made By Gennero Dinola, as the hardship criterion was met when they relied on the permit approval.

Motion was seconded Randy Barron.

Antonio Amadeo stated that they should know the code, but did due diligence roof over would not be intrusive.

All in favor: Gennero Dinola, Sue Lyon, Randy Barron, Antonio Amadeo, Randy O'Kelly, Nick Bradford, Lucinda Utter

Opposed: NONE

Motion Carried

Condition: the structure is not to be enclosed.

## **V. NEW BUSINESS**

### **A. TREE & LANDSCAPE / TRANSPORTATION / SIGN VARIANCES**

PETITION:	VRB10-25
APPLICANT:	Gordon & Julie Simpson
AGENT:	Stephen Michelini
LOCATION:	2804 Baypointe Cir.
REQUEST:	To reduce the front yard setback 35' to 25', to reduce the south side yard setback 6' to 0', to reduce the NE side yard setback; 5' to 0', increase the height of a SFR from 40' to 43', and to decrease the wetland setback from 30' to 6'.
PURPOSE:	To construct a single family residence with pool
NEIGHBORHOOD:	Ballast Point Homeowners Assn.

Joel Sousa handed out updated site plans and instructed board to disregard what they previously were given, and introduced case and showed the aerial photo and pictures. He stated that there is a long set of comments from Mary Danielewicz-Bryson and she has met with petitioner and the objection has been worked out.

Antonio Amadeo asked if Nick Bradford needed to leave while the next case was heard.

Nick Bradford asked if he could sit in.

Ernie Mueller stated he could stay but could not participate.

Steve Michelini went over site plan and then the individual variances that are being requested. He stated that the lot is irregular, a very narrow neck on the entry way where the drive is going. The 35' setback line is an arch set by the PD Plan. On the south east there is a drainage easement and south west there is a pond and a sidewalk. EPC has requested that development be at the 15' line and Mary Danielewicz-Bryson asked that the 15' minimum be met. The adjacent property owner is also at a zero setback line for a portion of their lot. He stated that the site is in a flood zone and a velocity zone. The height is needed to catch

the ridge line of the roof. Has a letter from the Baypoint Subdivision in support and he read that letter.

Randy O'Kelly moved to receive and file the letter with no objection.

Steve Michelini went over the site plan and showed photographs. He stated that it met the intent of the code.

Antonio Amadeo asked if there were any questions of the Board.

Gennero Dinola asked how the building height is justified for the variance.

Steve Michelini referred to breakout dimensions on the sheet provided.

Gennero Dinola mentioned the 10' ceilings and stated if ceilings are at 9' they do not need a height variance.

Steve Michelini stated in velocity zone need 10', as the regulations are different than normal flood zone regulations and that there are new hurricane standards and that the other structures were built before then. Steve Michelini introduced architect, Rich Hampton.

Rick Hampton stated that he doesn't know what codes were applied.

Gennero Dinola asked if they were based upon current code.

Rick Hampton stated that in a velocity zone everything raised up from the bottom of structural elements is at flood plane. Trusses are not 16' but are up at 2' to accommodate wind loads. As you start to total those things up you raise the height of building. He stated that the V-zone is weird thing. All walls are blow out walls.

Gennero Dinola asked why it was not at 9' to bottom of structure. Steve Michelini stated that there is a 10' minimum elevation. Also have to accommodate flow of water the panels have to break free. Gennero Dinola stated that he can't approve height without seeing hardship for height variance.

Randy Baron asked about the dimension of 10' of floor. Steve stated that those are plate levels. Steve stated that 43' is the best estimate of height.

Antonio Amadeo asked if it does not take into account sub floor ductwork asked is this the same proportion for all other homes. Asked about 10' from grade and 10' on 2<sup>nd</sup> and 3<sup>rd</sup> floor why it is not proportioned to meet code. He asked is it ascetic? Could it be lower? Rick Hampton stated that he had to guess how thick truss would need to be for the loads for the generator on roof. He stated he did an estimate for the Steele beams and concrete.

Sue Lyons had a question with respect to the wetland setback. The wetland setback shows on regional plan that there was a footprint for a single family residence. Steve stated that those designs were schematic. He stated that Mary Danielewicz-Bryson asked for the calculations and she checked them and was

satisfied with what was submitted. Sue Lyons also asked about house next door. Steve stated that it varies that the lot line is irregular and showed it on the overall plan showed the common property line and stated they were set in the PD.

Randy O'Kelly stated that he did not go through full construction drawings. It seems you pushed the massing of this house and created the 0' setback. Steve Michelini stated that Mr. Hampton worked on many different site plans and the floor plans. He stated that they were dealing with irregular shape and wetland setback. It is not out of scale with other homes that exist.

Antonio Amadeo asked if there was anyone in the public that wanted to address the board.

Tammy Weber and Barry Weber came up to the podium. They own the house to the north. They sent an e-mail. They are in opposition. They stated that all were able to build and that they had to lower roof line down. They met every single code the city asked them to. She stated that their pool is under their house has a problem with the proposed variance. She does not want 10' variance. According to their attorney, they are opening themselves up to what the owner wants to do. They had their home surveyed and built in the footprint. Barry Weber stated he was concerned with 10' variance. Gennero Dinola asked when their house was built. The Weber's stated that it was built in November. Their house is not higher than 40'.

Keith Kohler 2809 Baypoint Circle spoke about the stair case issue of lot - not to be seen from the street. All houses zero lot line on one side. Height of the street pitches down and a 3' height variance he has no objection to. He stated that his house looks over the water. He stated that with respect to green space, the pond on south provides plenty of green space. Spoke in support, that the structure is in scale with other house and stated that no one in association has spoke against.

Gennero Dinola asked when his house was built and Keith responded in 2002. The house is at least 40' about as tall other houses in neighborhood.

Antonio Amadeo stated that Keith Kohler was well versed with footprint asked to see it and asked him to point to 35' line. Keith Kohler stated two components stair and parking structure encroach in the 35' line.

Antonio Amadeo gave Steve Michelini three (3) minutes to rebut. What he put on the site plan and what he is what is asking for cannot change after the variance is granted. Steve went over what is being approved. The site is site plan controlled and they respectfully request height variance. He stated that the design scheme is pushing this building up. They need height for velocity zone and wind loads. Not adversely affecting property owner adjacent. Consistent with what is in subdivision.

Randy Barron – asked for dimensions on the front setback. Need dimension if this is site plan controlled.

Antonio Amadeo read a letter from Sally Flynn, ballast point homeowners. They object to wetland setback.

Antonio closed public hearing. There was no objection the hearing being closed.

Gennero Dinola stated he understand the need for the setback variance request and is not sold on height could not support height.

Antonio Amadeo agreed did not see evidence on variance for height. Other issue has to treat everyone fairly and stated he needs all dimensions on the site plan. They do go by dimensions on the site plan and for this board member I need to have it on the plan.

Randy Barron stated that there is a lack of hardship on height. Also needs to have all elements to setback dimensioned on the site plan. Cannot support this site plan cannot support 43'.

Antonio stated that he supports a continuance. Gennero Dinola stated that the overhangs are set and stairs are set.

Randy Barron stated that the board should make separate motions. Move to deny height from 40' to 43' no competent substantial evidence.

Motion was seconded by Randy O'Kelly.

All in favor – motion carries 6-0 with Bradford recused.

Randy Barron moved to approve based on foot print, to reduce the front yard from 35' to 25', south from 6' to 0', North side from 5' to 0'. Reduce the wetland setback from 30' to 15'. The variance was approved due to an irregular shaped lot.

The motion was seconded by Gennero Dinola.

All in favor of the motion with the specific that the variance is tied to the site plan presented at hearing tonight.

Sue Lyons stated that she cannot support a 3 story structure. Gennero Dinola went over the height of the garage with Sue Lyons.

Antonio Amadeo and Sue Lyons opposed approving the setback variances.

The motion passed 4-2.

Condition: Setbacks tied to site plan approved.

PETITION:	VRB10-26
APPLICANT:	Martin Zeisman
AGENT:	Brian Herbert
LOCATION:	2718 N 40 <sup>th</sup> Street
REQUEST:	To increase allowable wall sign square footage from 150' to 600'.
PURPOSE:	To keep existing un-permitted wall signs
NEIGHBORHOOD:	East Tampa Business & Civic Assn.

***Petition was moved to the May 11, 2010 hearing date due to a mis-notice***

PETITION: VRB10-27  
APPLICANT: Michael Kass  
AGENT: Stephen Michelini  
LOCATION: 1505 N Florida Ave.  
REQUEST: To reduce the front yard setback from 8' to 1'.  
PURPOSE: To remodel an existing sign & add an electronic message board.  
NEIGHBORHOOD: Tampa Heights Civic Assn.

Joel introduced the case to the board – no department objections. Showed an aerial photo and showed pictures of the existing sign. He showed how close the sign was to the right of way.

Steve Michelini provided a survey of the property. The sign has been there since

Ernie Mueller stated that the variance for electronic message board and will make the sign a legal nonconforming sign. In order to add it must be legal conforming. To make this a legal sign the applicant must ask for variance for setback.

Steve Michelini stated there is no way to relocate the sign to meet code. This property was developed in accordance with the code at the time. With the current changes you are only allowed to repair the sign. Over 90% of all signs are nonconforming. Current code is very restrictive. He stated they will lose parking spots to accommodate sign. Code not intended to place hardship on owners.

Gennero Dinola asked to see the existing sign. He asked if sign is coming down.

Steve stated that you need to put a pedestal frame on the bottom. Dinola doesn't see this as an insert into existing sign. There was discussion about where the insert will be.

Randy Barron asked if there was anything wrong with this sign. Steve the columns are rusted – new columns and insert the new sign. Steve stated that the parking lot layout is the hardship. Hardship – Steve cannot place it anywhere on the site without losing parking spaces or affecting drive aisles. Steve showed parking and drive aisles. Randy Barron stated that he needs to see parking spaces and drive aisles. Randy Barron stated that there is no hardship and that he would continue the case to draw the parking and drive aisles on a site plan to present to the board.

Nick Bradford – problem sign code makes sign useless. It is not useless. It can be seen from road. Rust and corrosion but sign code allows repair.

Steve asked for a continuance

Antonio asked if there was anyone here to speak on the variance. There was no one. Gennero Dinola stated there is an intent to remove sign and rebuild within 1' of property line and stated there was confusion as to how it was presented.

Steve Michelini stated that he may need two (2) months to re-notice.

Randy Barron made a motion to continue the variance to June 8, 2010.

The motion was seconded by Gennero Dinola

All in favor

Motion Carried 6-0 no one opposed.

## **B. GENERAL VARIANCES**

PETITION:	VRB10-28
APPLICANT:	Nicole Anne DeBartolo
AGENT:	Sol Fleischman, Jr.
LOCATION:	5138/40 W Longfellow Ave.
REQUEST:	Increase perimeter fence height from 3' to 8'.
PURPOSE:	To construct a perimeter fence with entry gates.
NEIGHBORHOOD:	Sunset Park Area

Joel Sousa presented the case previous case approved from 6' to 11'. Owner has purchased adjacent lot variance for new lot. He showed pictures of the house and the lot.

Sol Fleischman addressed the board showed the existing wall and house. Wants to extend wall and maintain same architecturally. They are only requesting an 8' height. He showed a site plan and floor plan. The new owner is Nicole, who will reside at the home. There is significant truck traffic. The petitioner has received death threats. They are concerned about security.

Joel showed more photos.

Nick Bradford asked do you have documents that demonstrate there is a threat. Jack Forester, homeowner, met the family for testified that there were threats. He is the husband, and the father, and is in fear of abduction. He is trying to limit these fears. He stated that he is here as a homeowner not in capacity from sheriffs office.

Sol Fleishman stated that there will be extensive landscaping that will be placed in front and behind wall.

Antonio Amadeo asked that when fence height continues that it doesn't go up and down that the 6' is on different elevations that affect the fence.

Sol Fleischman explained that t they average the height.

Antonio Amadeo asked what is happening on the adjacent lot.

Sol Fleishman stated that it will be children's play yard and a drive. No major construction for that area. Antonio Amadeo asked about the height of house – flood elevation. Sol Fleishman stated that there is a one foot difference in

elevation and stated that the adjacent lot does not have fill. Gate 8' and then piers at fence at a height 4'8" to 4' 10" happens to be 6' 4" where there is no fill.

Randy Barron asked about the variance in 2005. Joel Sousa stated that it is 6' on side and front. Code on side yard only allows 3' solid or 4' open within the 25' front setback. The 11' was tied to the gates. It was larger than the current request.

Gennero Dinola asked if the piers are what were permitted based upon the variance. Nick Bradford stated that he had a concern with 6' and opaque wall, that he would feel more comfortable if it was open fencing. Can understand safety issue but idea of solid wall has a visual problem with that. Would like open fence.

Sol Fleischman stated that there is only about 27' of wall plus piers. Most of wall is only inches above code.

Nick if hardship is safety what is hardship for safety on open. Sol stated that there is also the continuity of architecture and would prevent looking in on lot.

Antonio Amedo asked if there was any one in the public to speak, and there were some people that came in and were not sworn in.

Ernie Mueller swore in additional people.

Stephen Diaco, 5134 Longfellow, got up to speak and stated that he was also representing his father at 4132 Longfellow – no problem regarding the variance with street side of property. However on the adjacent property on the south west in opposition unless wrought iron because of the view of sunsets.

Plans show existing 4' alum fence.

Sol Fleischman showed copies of the site plans that show the existing 4' alum fence. He showed the part of the plans that did not change. Not part of variance continues until connects with pier.

Concerned with 5136 Longfellow – existing fence to remain

Susan Johnson Veles spoke representing Dr. Osman Latiff and his wife. At 5136 showed pictures – Dr. Latiff opposed to opaque wall only had what was in application. Did not know about the extortion, etc.

Nick asked about safety and asked if there was crime on street. Osman Latiff – no crime.

Ms. Veles stated that there are three (3) families with kids under 5. This is longest finger in Sunset Park. No traffic on street.

Antonio Amadeo asked if they were objecting to the fence being opaque or the height.

Dr. Latiff stated both.

Marlin Anderson stated that she is the president of Sunset Homeowner Association and opposes variance. She showed the 11' gate. There are a lot of wealthy people in Sunset Park. They are walling off 80% of cul-de-sac. She doesn't see

hardship. Sunset Park has the lowest crime rate in Tampa. Do not want cul-de-sac walled off.

Antonio asked about their e-mail and if everything from the e-mail was covered. Yes.

Gennero Dinola asked if Ms. Anderson would you feel different if it was not opaque. -

Anderson – yes.

Gennero Dinola stated that it was previously approved. She stated that if it was open it would help.

Kerry Vermale, Vice President of Sunset Park stated that the variance request that was approved on wall, was inappropriate as well.

Gennero Dinola stated gates are approved. Kerry Vermale stated that it is out of character for the neighborhood. People who move to Sunset Park like that open feeling.

Bradford – can you confirm what neighborhood crime is like. Kerry Vermale stated that she has lived there for 12 years and there has been no crime experienced by her. Sometimes bikes are stolen. The variance needs to be considerate with neighbors.

Stiles Wilson stated that the Houghey's 2005 variance is now lost. The petitioner now acquired lot. The neighborhood does not like to look at walls. Code is there for reason.

Osmond Otiff stated that he answered a question for the board and would now like to speak. He stated that he feels that they don't have to have a wall. Owner is going to have armed guards in an accessory structure. This house has multiple variances and they keep pushing the limits. It is out of proportion with the neighborhood. He showed pictures of other finger properties on Dundee and San Jose. He stated that this house gets variances over and over again.

Sol – addressed graphic. Wall must be 15' back based on right of way. The petitioner will provide landscaping to enhance the street. He stated that it is all about the view. The neighbors used the lot and do not want to have their view blocked.

Antonio Amadeo read an e-mail from Anne Johnson dated April 13, 2010. She stated that she is opposed to proposal, urging the board to deny the variance, because it's out of proportion.

Barron stated that there is an existing 4' fencing. With what is on side what about security, around the corner it is only 4' fence. He stated that they have a large hole, and asked if it is opaque because they do not want lookers. Is this a design consideration due to the mass of the home?

Sol Fleishman stated it based on scale – needs wall like this to be appropriate.

Antonio Amadeo closed public hearing there was no objection to do so.

Randy O'Kelly – was in favor – it did not interfere with light and air. Now it does.

Nick Bradford stated that the issue of security is tied to occupants not the lot. He could be more receptive to open fence.

Gennero Dinola stated that the fence massing is in proportion to house. If it was open, if house built there instead the view would be obstructed. He stated that he would like to have applicant redesign.

Antonio Amadeo stated that he is an architect and stated that he agrees with proportions. He stated that it does not fall in scale of neighborhood. Other neighbors opposed. Its more obtrusive hardship not met.

Randy Barron stated that another design would be more appropriate for the neighborhood and he offered a continuance.

Sol Fleishman stated that his client is willing to not have opaque gates but open gates.

Randy Barron stated that we will need to see.

Gennero Dinola asked about continuance.

Antonio Amadeo stated to consider continuance to explore open gates.

Sol Fleishman stated they would consider opens gates but not concession to wall.

Ernie Mueller stated that to clarify for the record, the original petition everything opaque – amended to walls and open gates.

Antonio Amadeo asked Ernie Mueller – if we reopen the public hearing do the rules that each person speak for three (3) minutes one time still apply.

Antonio Amadeo also stated that the applicant is asking us to rule on what was presented with open gates.

Randy Barron stated that he was unwilling to re-open for continuance. He would like to move forward with the board discussion.

Ernie Mueller stated that they could move forward on changed application.

Nick Bradford stated that it comes down to the hardship of security and they have not proved that it is tied to the lot. None of testimony of residents living there in the neighborhood shows that there is a hardship.

Rand O'Kelly moved to deny stating that the hardship was not met per number three (3) that the health safety welfare of others is not being affected and it is not in harmony with the comprehensive plan.

Randy Barron seconded the motion and added that it was not unique and singular that there was no hardship shown. He went over all hardships.

Motion was approved with all in favor – None opposed to denial.

**VI. BOARD ORGANIZATIONAL MATTERS**

Supplement No.71, to Chapter 27, to be distributed to the Board members.

Joel stated that he left supplement number 71 back at the office and will mail it to the board.

He stated that May has eleven (11) cases.

Antonio thanked the neighborhood and thanked staff for their hard work and dedication.  
He closed the meeting at 9:40 p.m.