

**CITY OF TAMPA, FLORIDA
VARIANCE REVIEW BOARD
PUBLIC HEARING**

MEETING DATE: September 11, 2007

MEETING TIME: 6:30 PM

LOCATION: 315 East Kennedy Boulevard, 3rd Floor, City Council Chambers

Minutes

I. SILENT ROLL CALL

Members in attendance: Melanie Higgins, Antonio Amadeo, Randy O'Kelley, Steve LaLabour, and Randy Baron.

Staff in attendance: Julia Cole, Legal; John McKirchy, Legal; David Reilly, Parks; Roger Kirk, Transportation; Dave Jennings, Parks; Mary Danielewicz-Bryson, LDC; Samantha Fenger, LDC; and Eric Cotton, LDC.

II. APPROVAL OF MINUTES FOR August 14, 2007

LaLabour moved to approve the August 14, 2007 meeting minutes. Seconded by O'Kelley. Passed 5-0.

III. OLD BUSINESS: Cases Continued by the Board/Staff

A. ADMINISTRATIVE APPEALS

B. TREE & LANDSCAPE / TRANSPORTATION / SIGN VARIANCES

C. GENERAL VARIANCES

PETITION:	VRB07-84
PETITIONER:	Jeb Kirby
LOCATION:	4013 W Tacon Street
REQUEST:	To reduce a front yard setback from 25' to 20', with the allowed encroachment of the eaves and gutters.
PURPOSE:	To construct a single family residence.
NEIGHBORHOOD	Virginia Park

Julia Cole from the City of Tampa's Legal Department spoke about the variance request. The request was filed by the City of Tampa's Construction Services Center on behalf of the petitioner. Ms. Cole commented that the joint application was not an appropriate mechanism to get to the VRB. The City of Tampa's Construction Services Center has withdrawn as a co-applicant. Ms. Cole noted that the concern was more of a procedural issue and recommended moving forward with the hearing. The VRB requested the petitioner's legal representative speak to why the variance is appropriate. The petitioner's legal representative said the home was already built in accordance to approved plans which were 5' into allowed front yard setback. LaLabour commented that the site plan which was provided was nearly illegible. Dave Jennings, Parks, said it was a digitized copy of the site plan and offered to provide the original to the Land Development Code Department for file. At that time, the petitioner's legal representative provided the VRB with a larger site plan. O'Kelley asked City of Tampa staff if the petitioner was required to notice again because this was a continuance. Eric Cotton, Land Development, said one notice for the case is

sufficient. Additionally, O'Kelley noted that the staff report says carport but should say garage. Amadeo asked the petitioner for photos of the site and inquired about the setbacks of neighboring homes. . Julia Cole replied that this variance was filed in time to be considered for the 8' setback ordinance. One neighbor, who owns property to the east, had previously objected at the August VRB meeting stating that the home was improperly permitted; however, he was withdrawing his opposition and respected the VRB's decision. O'Kelley asked if the home interferes with the neighbor's ability to use his own property. The neighbor replied that he's willing to accept the project. Higgins expressed concern regarding the illegible site plan and not receiving dimensional site plans from petitioners. VRB staff commented that they will be more aware of this in the future between staff and petitioners. LaLabour moved to approve the front yard setback with the condition that the porch never be enclosed. Seconded by Amadeo. Motion passed 5-0.

IV. OLD BUSINESS: Continuances and Missed Notices

A. ADMINISTRATIVE APPEALS

B. TREE & LANDSCAPE / TRANSPORTATION / SIGN VARIANCES

PETITION:	VRB07-64
PETITIONER:	Lillian Quigley
LOCATION:	3902 E Hanlon
REQUEST:	To remove a grand tree
PURPOSE:	To construct a single family residence
NEIGHBORHOOD:	Temple Crest Civic Association

LaLabour asked the petitioner to confirm if the grand tree is diseased, hazardous or prohibiting use of the property. The petitioner confirmed that the grand tree is prohibiting use of the property. Dave Jennings, City of Tampa Parks, stated that the petitioner's hardship was compounded by the 75 feet of right-of-way taking for the 40th Street project. O'Kelley moved to approve. Seconded by Amadeo with the condition that the second grand oak tree on the property be preserved. Motion passed 4-1 with LaLabour voting nay.

PETITION:	VRB07-73
PETITIONER:	James Walker
LOCATION:	6825 N 22 nd Street
REQUEST:	To encroach within the protective radius of a grand tree, reduce landscape buffers and building setbacks.
PURPOSE:	To construct a commercial building.
NEIGHBORHOOD	Old Seminole Heights Neighborhood Association

Petitioner introduced design team and presented VRB with a large site plan. Currently, the site is vacant and has been attracting several vagrants. The petitioner promoted the development as an economic stimulus to the neighborhood. Photos of the area were shown. The petitioner provided additional documents for file. Roger Kirk, City of Tampa Transportation, recommended that the petitioner construct a 4' visibility fence (e.g., chain link or wrought iron) around the proposed tree aeration bed and add pedestrian and motorist advisory signage off 22nd and East Sligh. LaLabour questioned if the grand tree was the only advertised variance. Staff confirmed that all variances were noticed correctly. Amadeo moved to approve all requested variances with appropriate advisory signage and the transparent fence as approved by the City of Tampa Transportation Department. Seconded by LaLabour. Motion passed 5-0.

C. GENERAL VARIANCES

PETITION:	VRB07-47
PETITIONER:	Peggy and Ronald Gebler
LOCATION:	10921 North Annette Avenue
REQUEST:	To reduce the side yard setback from 3' to .5' and the building separation from 5' to .5
PURPOSE:	To keep an existing carport and privacy fence
NEIGHBORHOOD:	North Tampa Community

Petitioner provided a revised site plan and support letters. The documents were received and filed by staff. After reviewing, LaLabour asked the petitioner if gutters were planned for the roof. Petitioner responded that there are no plans to install gutters because it will be a corrugated roof. Amadeo moved to approve. Seconded by LaLabour. O'Kelley and Higgins voted nay. Continued to October 9th, 2007 due to motion failing to receive four affirmative votes.

PETITION:	VRB07-70
PETITIONER:	Robert M Stoler
LOCATION:	563 Madeira Avenue
REQUEST:	To increase the side yard setback from 7' to 5.9', and front yard setback from 25' to 19', with the allowed encroachments of the eaves and gutters.
PURPOSE:	To construct a garage addition
NEIGHBORHOOD:	Davis Island Civic Association

O'Kelley and LaLabour asked the petitioner if any other options besides seeking a variance have been considered because a variance would not be necessary if the front yard setback was 18'. Additionally, the petitioner would avoid the City of Tampa Transportation Department's objectives. LaLabour moved to deny. Seconded by O'Kelley. Motion carried 5-0. The variance was denied.

V. NEW BUSINESS

A. ADMINISTRATIVE APPEALS

B. TREE & LANDSCAPE / TRANSPORTATION / SIGN VARIANCES

PETITION:	VRB07-86
PETITIONER:	Andy Alvarez
AGENT:	Stephen Michelini
LOCATION:	2202 West Kennedy Boulevard
REQUEST:	Reduce the required parking from 42 spaces to 21 spaces and to reduce the greenspace required for the vehicle use area
PURPOSE:	Convert retail center to a restaurant
NEIGHBORHOOD:	Courier City/Oscawana

Staff presented the VRB with revised site plans for review. Staff filed revised plans. The petitioner's representative presented photos. The petitioner's representative proposed a Florida style grill restaurant with 80 seats in the Kennedy Overlay District. The petitioner's representative requested a reduction of parking spots from 42 to 21. Roger, City of Tampa Transportation Department, had four objections: 1) proposed parking lot entrance parking should maintain 10' - requesting 10' setback on all commercial parking prohibits the use on public roadways (i.e.

Westland); 2) historically diagonal parking has not been feasible; 3) currently there is no delineated parking on site; 4) the petitioner should be required to provide adequate parking and turn in an application for a commercial alleyway.

A representative from the Courier City homeowners' association spoke and objected to the parking waiver. He said the homeowners' association met and voted no parking is desired in neighborhood. They support the City of Tampa Transportation Department's comments. Currently, emergency vehicles are unable to travel down Westland when cars are parked on both sides.

A neighbor who owns two properties, one of which is adjoining to 2202 West Kennedy Boulevard, objected to the variance because there would not be enough parking for visitors and staff. He said that the parking reduction would impact his tenants and asked if the petitioner's representative could explore other options of use for the property (e.g., law office or boutique).

Diane Simon who lives across the street to the east and leases office space objected to the variance because she had already experienced parking issues in the area.

AJ Charette objects to the parking waiver.

The petitioner's representative offered to meet with the Courier City homeowners association to modify plan and requested continuance

The petitioner's representative requested a continuance.

Amadeo moved to continue the case to November 13th, 2007 as requested by the petitioner's representative. Seconded by LaLabour. Motion carried 5-0.

Staff noted that if the site plan is revised, then notice has to be made again.

C. GENERAL VARIANCES

PETITION:	VRB07-77
PETITIONER:	Scott and Shin-Yi Henderson
LOCATION:	6805 South Court Drive
REQUEST:	To reduce the rear yard setback from 20' to 10', with the allowed encroachment of the eaves and gutters
PURPOSE:	To construct a residential addition
NEIGHBORHOOD:	Interbay

The petitioner presented photos. O'Kelley requested a photo of the tree that is causing setback; however the petitioner did not have one. LaLabour confirmed with the petitioner that the proposed structure would be built on the existing concrete slab. LaLabour moved to approve. Seconded by Baron. Motion carried 5-0.

PETITION:	VRB07-78
PETITIONER:	Stephen Michelini
LOCATION:	2404-2438 West Prospect Road
REQUEST:	To increase the height of a fence from 6' to 14'
PURPOSE:	To buffer the residential uses from the LeRoy Selmon Expressway and CSX Railroad tracks
NEIGHBORHOOD:	None

LaLabour asked staff a procedural question regarding whether there was a sign placed on each of the seventeen properties which are included in the variance request. Staff confirmed that four signs were posted because the City of Tampa provides the signs for free to the petitioners and it cost \$7 per sign. LaLabour asked John McKirchy, the City of Tampa's Legal Department, if each property needed to have its own sign and legal confirmed that it did not. The petitioners' representative noted that five signs were posted. The petitioners' representative presented photos of homeless camps near the properties. The petitioners' representative cited the Hillsborough County City County Planning Commission's land use policy D-3.2 regarding noise abatement which mitigates for new development. The petitioners' representative read an absentee property owner's support letter for file. The petitioners' representative said that the residents intend to pay for fencing themselves rather than putting the burden on government agencies. Amadeo asked what type of fence the community is considering. The petitioners' representative replied that the community would have to meet jointly with fence companies to decide. Amadeo asked if there are any transportation regulations. The petitioners' representative said that there aren't any transportation issues because there aren't any abutting uses. O'Kelley asked if the community had considered approaching the Crosstown Expressway Authority regarding the abatement law. The petitioners' representative replied that the community already has. O'Kelley asked if any formal action has been taken on behalf of the neighborhood association. The petitioners' representative said that the residents will speak to that. Baron asked if noise is the hardship. The petitioners' representative replied that noise, visual impact, and security were the community's concerns. Baron followed up by stating that noise abatement is a technical issue. The petitioners' representative commented that a sound study has not been completed. The petitioners' representative provided photos for file.

David Mechanic presented three letters of opposition which were received and filed by staff. The letters included concerns such as the proposed fence was too large, preconditional value of granting such a variance, no enhanced security because it will not be an enclosed fence, all owners except one purchased homes after the expressway was built. Hillsborough County property appraiser's records were presented which staff received and filed. Seven of the seventeen lots do not face or abut the railroad tracks or the expressway.

Randy Coen objected and said that the fence would not achieve the goals of the Florida Department of Transportation.

Brett Greene, of 2438 W. Prospect Rd., supported the proposed fence due to noise, security and property value

Blair Mendez, of 2436 W. Prospect Rd., supported the proposed fence due to noise.

Jeff Rosenbecker supported the proposed fence because he said it would enhance the neighborhood.

2430 W. Prospect Rd., neighborhood board supported the proposed fence due to safety and noise. She said the neighborhood board has not had a formal vote on the proposed fence.

LaLabour asked staff regarding fence permits. Staff confirmed code requirements.

LaLabour stated that he would not support a 14' foot fence anywhere in the City of Tampa. The City of Tampa police want to be able to see and climb over fences quickly. Baron added that there was a lack of expert testimony provided. Additionally, the VRB clarified that the Seminole Heights wall was erected because traffic was 10' away from historic bungalows.

The petitioners' representative moved for continuance on November 13th, 2007. David Mechanic requested a later date.

Amadeo motioned to continue the variance to December 11th, 2007. Seconded by Baron. Motion failed 2-3 with Higgins, O'Kelley and Labour voting nay.

LaLabour moved to deny. Seconded by O'Kelley. Motion carried 3-2 with Amadeo and Baron voting nay.

PETITION:	VRB07-79
PETITIONER:	Virginia Bentley
LOCATION:	8403 North Dexter Avenue
REQUEST:	To reduce the side yard setback from 3' to 0.5', with the allowed encroachment of the eaves and gutters
PURPOSE:	To keep an existing addition and to grandfather in the existing setback on the accessory structure
NEIGHBORHOOD:	Lowry Park Central

This case was missed notice and will be scheduled for the October 9, 2007 public hearing.

PETITION:	VRB07-80
PETITIONER:	Kathy Kruczak and John Smith
LOCATION:	2803 West Averill Avenue
REQUEST:	To reduce the front yard setback from 25' to 17', with the allowed encroachment of the eaves and gutters
PURPOSE:	To construct a front porch
NEIGHBORHOOD:	Ballast Point

Petitioner provided a copy of the 2006 City of Tampa ordinance that would have allowed an 8' setback and her builder's timeline for development. Staff received and filed.

Adam Levy, petitioner's neighbor provided letter of objection for file. Mr. Levy said the plans for the new porch obstruct his view of Bayshore. He also stated that the street is in transition. LaLabour commented that checking ordinances online is good; however, there's a disclaimer regarding revisions, therefore a call to the LDC is always appropriate. Amadeo moved to deny. Seconded by LaLabour. Motion carried 5-0. The variance was denied.

PETITION:	VRB07-81
PETITIONER:	Todd Scime
LOCATION:	5713 Bayshore Boulevard
REQUEST:	To increase the height of a structure from 35' to 39'
PURPOSE:	To keep an existing single family residence
NEIGHBORHOOD:	Ballast Point

This case was missed notice and will be scheduled for the October 9, 2007 public hearing.

PETITION:	VRB07-82
PETITIONER:	Scime for Permits
LOCATION:	5707 Bayshore Boulevard
REQUEST:	To increase the height of a structure from 35' to 39'
PURPOSE:	To keep an existing single family residence
NEIGHBORHOOD:	Ballast Point

This case was missed notice and will be scheduled for the October 9, 2007 public hearing.

PETITION:	VRB07-83
PETITIONER:	Pedro and Maria Vargas-Prada
LOCATION:	544 West Davis Boulevard
REQUEST:	To reduce the front yard setback from 25' to 10', with the allowed encroachment of the eaves and gutters
PURPOSE:	To rebuild and enlarge an existing carport
NEIGHBORHOOD:	Davis Islands

Amadeo disclosed that he lives at 543 West Davis Blvd. and that he spoke with the petitioner and the City of Tampa's Legal Department prior to the VRB meeting. The City of Tampa's Legal Department advised Amadeo that he can participate in the hearing. The petitioner provided photos and a support letter from 546 West Davis Blvd. Currently, the petitioner's carport does not meet regulations. LaLabour moved to approve. Seconded by Amadeo. Motion carried 5-0.

PETITION:	VRB07-85
PETITIONER:	Braglin Builders
LOCATION:	3102 West Van Buren Drive
REQUEST:	To reduce the front yard setback from 25' to 7', with the allowed encroachment of the eaves and gutters
PURPOSE:	To construct a residential addition and to remodel the property
NEIGHBORHOOD:	Interbay

The petitioner made a correction for the file that he is asking for a front yard setback of 14' to 7', not 25' to 7'. The petitioner expressed that his hardship is two trees encroaching into the backyard and a septic tank that needs to be removed. LaLabour moved to approve. Seconded by Baron. Motion carried 5-0.

PETITION:	VRB07-87
PETITIONER:	Gabriel and Alphonsine Gonzales-Portillo
LOCATION:	4933 West Melrose Avenue North
REQUEST:	To reduce the rear yard setback from 20' to 7', with the allowed encroachment of the eaves and gutters
PURPOSE:	To construct a new single family home
NEIGHBORHOOD:	Stoney Point

The petitioner's legal representative spoke. The petitioner's legal representative provided signature support sheet for review and file. A neighbor of the petitioner provided a statement of support. Amadeo moved to approve. Seconded by LaLabour. Motion carried 5-0.

Meeting adjourned 10:43 pm