



**City of Gulfport Florida**  
**Board of Adjustment Meeting Minutes**  
**Wednesday, October 13, 2010**

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The Regular Meeting of the Board of Adjustment was held on Wednesday, October 13, 2010, in the City Hall, City Council Chambers, located at 2401 - 53<sup>rd</sup> Street South, Gulfport, Florida.

Chairperson Epstein called the meeting to order at 6:30 p.m.

**Roll Call:**

Present were: Board Members Courtland Yarborough, Susan Helms and Alternate Board Member Stephen Rye; Vice Chairperson Michael Arendall and Chairperson Mark Epstein. Board Member Roger Turner asked to be excused.

Staff: Attorney Caitlin E. Sirico; Deputy City Clerk Ginger Stilton; Community Development Director Fred Metcalf; Principal Planner Mike Taylor and Planner Myra Schwartz.

**1. Approval of Minutes – August 11, 2010.**

Motion by Board Member Yarborough and seconded by Board Member Helms to approve the Minutes.

UNANIMOUS APPROVAL BY ACCLAMATION.

Deputy City Clerk Stilton swore in owners/applicants: Tom Stevens, Karen Burns, Bill Jansen and Wolfgang Haerle; City Staff and any and all witnesses in mass.

In accordance with Florida Statutes Section 112.3143, Board Member Courtland Yarborough disclosed a conflict of interest concerning Variance Request V10-13: Wolfgang and Cornelia Haerle (Owner/Applicants). Attached hereto; Board Member Yarborough's completed Form 8B Memorandum of Voting Conflict for County, Municipal, and other local public officers.

Chairperson Epstein explained the Hearing procedures and stated that there will still be a quorum when the Board hears Variance V10-13; Alternate Board Member Rye will be able to vote on that item, while Board Member Yarborough abstains.

**2. Variance Request:**

**V10-11: HTS Holdings, LLC (Owner/Applicants). The subject property is located at 1305 – 52<sup>nd</sup> Street S., Gulfport, FL 33707; legally described as Pasadena Heights Subdivision, Block 15, Lot 5, as recorded in Plat Book 9, Page 84, according to the Public Records of Pinellas County; Parcel # 28/31/16/67572/015/0050; To reduce the rear yard setback requirement by 5.5 feet from 25 feet to 17.5 feet for the reconstruction of an attached carport to the south side of an existing duplex residence and to reduce the front yard setback requirement by 1.5 feet from 25 feet to 23.5 feet for the reconstruction of an**

**attached carport to the north side of an existing duplex residence.**

After reading the variance request aloud, Chairperson Epstein questioned the figures used to calculate the request to reduce the rear yard setback requirement, saying they did not add up, and asked for the representative to come forward and identify himself.

Tom Stevens, 1305 52<sup>nd</sup> Street South, stated that was his mistake, he was requesting 19.5 feet not 17.5. Mr. Stevens said he and his wife bought the duplex as an investment and admitted it was in more disrepair than they realized. He explained that the carports had significant termite damage and the existing structure was torn down and removed to prevent the termites from spreading to the main structure. He explained the hardship and what he intended to do to correct the footprint to help prevent what he thought contributed to the damage of the structure. He described other improvements which he said he hoped would make the property more attractive and invite quality tenants.

Vice Chairperson Arendall asked if the laundry hook-ups and utility area would be connected to the carport.

Mr. Stevens stated they already existed and were located against a block wall, and he did not touch them when he did the demolition.

Vice Chairperson Arendall asked if it were one per rental unit. Mr. Stevens confirmed that each tenant would have their own utility hook-up, and utility storage space.

Planner Schwartz said that staff recommends the standard condition that the applicant applies for permits within a year from the request. She described the property as a legal non-conforming duplex, and that the reasonable maintenance expected would be that the carport be brought up to building standards today, if it was not met before. Planner Schwartz said to clarify the numbers; 17.5 feet included for the rear, the eaves. There are two foot eaves to the rear which will add to the setback-25 feet from the property line would take you into the carport; and the original request did not include the eaves, but they do have to take that into consideration for the rear of the property. She said they did not have to consider that for the front because there was a Code that allowed for encroachment up to four feet and the eaves do not go beyond that for the front yard.

Chairperson Arendall said the variance request, sub-part one: is to reduce the rear yard setback by 7.5 feet to account for the eaves. Planner Schwartz said yes, and it is 17.5 that he needed.

Chairperson Epstein opened the Public Hearing. Neither hearing nor seeing anyone from the public who wished to be acknowledged Chairperson Epstein closed the Public Hearing.

Vice Chairperson Arendall said he believed the configuration of the lot causes a hardship that makes it difficult to comply with the Code, and would be in favor of granting the variance.

Motion by Vice Chairperson Arendall and seconded by Board Member Yarborough to approve Variance V10-11 as presented with the modification to reduce the rear yard setback requirement by 7.5 feet, with the condition that the applicant applies for permits within one year of the Variance approval.

## ROLL CALL:

VICE CHAIRPERSON ARENDALL	YES
BOARD MEMBER HELMS	YES
BOARD MEMBER YARBOROUGH	YES
CHAIRPERSON EPSTEIN	YES

MOTION CARRIED.

**3. Variance Request:**

**V10-12: Karen Burns (Owner/Applicants). The subject property is located at 1102 – 64<sup>th</sup> Street S., Gulfport, FL 33707; legally described as Pasadena Estates Subdivision, Section F, Block 8, Lot 7, as recorded in Plat Book 8, Page 41, according to the Public Records of Pinellas County; Parcel # 29/31/16/67140/081/0070; To reduce the rear yard setback requirement by 10 feet from 15 feet to 5 feet for the construction of a detached accessory carport to an existing single-family residence and to allow an existing 6-foot high privacy fence in the front yard.**

Chairperson Epstein read the variance request, and asked for any representatives to come forward and identify themselves.

Karen Burns, 1102 – 64<sup>th</sup> Street South, described her reasons for researching various carports in the Bay Area, and said she was inspired by some pergolas which she saw at the University of South Florida (USF) used over seating areas, which appeared to provide enough shade. Ms. Burns said she liked the design over the usual aluminum or tent construction to solve the shade problem. Ms. Burns directed the Board to the computer generated pergola designs included in the packet. Ms. Burns said because of the strange size and orientation of her property what she thought was the side of the property was actually considered the front and was part of the reason for the request.

Planner Schwartz explained the variance request, and stated that staff chose to add the fence request; the applicant was granted a permit in 1998 and at that time fences did not go for zoning approval. The Code is written that they still must get a variance for the legal corner as the front as opposed to the “use front”, and that is why this was before the Board.

Board Member Rye asked if there was paving involved and if the lot coverage was within the limits. Planner Schwartz stated it was not going to change and to her knowledge, she (*Ms. Burns*) was going to keep the pebble surface. Planner Schwartz added that for residential property, two parking spaces are required and while the configuration was changing, the owner will maintain the required parking spaces.

Chairperson Epstein opened the Public Hearing. Neither hearing nor seeing anyone from the public who wished to be acknowledged regarding the Variance Chairperson Epstein closed the Public Hearing.

Chairperson Epstein complimented the applicant for her ingenious idea of a carport, and saw it as an excellent use of the property while maintaining an open view.

Board Member Rye said it was a pergola never the less, and an acceptable use.

Vice Chairperson Arendall said that the lot configuration would be trouble for the owner should she not be able to get a variance.

Originally the motion was made by Board Member Rye to approve Variance V10-12 with the stipulation that the applicant apply for permits within one year, and was seconded by Vice Chairperson Arendall.

Deputy Clerk in discussion with Attorney Sirico agreed that the Alternate Board Member should not have made the motion nor has a vote on this item since there was a quorum.

Motion by Board Member Helms, and seconded by Vice Chairperson Arendall to approve Variance V10-12 with the stipulation that the applicant apply for permits within one year.

ROLL CALL:

VICE CHAIRPERSON ARENDALL	YES
BOARD MEMBER HELMS	YES
BOARD MEMBER YARBOROUGH	YES
CHAIRPERSON EPSTEIN	YES

MOTION CARRIED.

4. Variance Request:

**V10-13: Wolfgang and Cornelia Haerle (Owner/Applicants). The subject property is located at 2803 Kipp's Colony Drive S., Gulfport, FL 33707; legally described as Kipp's Colony Estates at Pasadena Yacht and Country Club Lots 46 and 46 A, as recorded in Plat Book 8, Page 41, according to the Public Records of Pinellas County; Parcel # 32/31/16/46871/000/0460; To reduce the left side distance from an adjacent property by 1.3 feet from 28.3 feet to 27 feet for the construction of a boat lift onto an existing nonconforming dock and to increase the distance from the mean high water line (seawall) of an existing nonconforming dock by 2.5 feet from 42.5 feet to 45 feet.**

Chairperson Epstein said that with regard to the third item, it was his understanding that Board Member Yarborough has asked to abstain, and stated that they still had a quorum and would need a majority vote of the quorum in order for the variance to pass; should there be a tie vote then nothing passes and the item would have to be heard at the next meeting in order to produce a clear majority vote. Chairperson Epstein explained to the applicant that he had the option to go ahead with the variance or wait until the next Hearing. The applicant chose to move forward with the variance request.

Chairperson Epstein read the variance request, and asked any representatives to come forward.

Representative Bill Jansen, owner of Docks Inc. 12350 South Belcher Road, Largo, made a correction to the second part of the request saying that it was not built six years ago and the dock is 45 feet as it is now. Mr. Jansen said the only thing they were asking for is a variance of 1.3

feet to the outer center 1/3 for the proposed boat lift.

Chairperson Epstein asked if they were doing this to bring it into conformance.

Vice Chairperson Arendall said he believed that on page three there was an explanation, in the second paragraph of the memorandum.

Mr. Jansen stated that the Variance they were asking for was granted in 2004 from a permit on the original dock variance of the 45 feet in length they just spoke of was granted. The boat lift was granted, but they did not install it because the owner had not chosen a boat and the variance expired after one year, so they were here to start over and ask for the same variance they previously requested six years ago. Mr. Jansen said they had submitted their proposal to neighbors in the area, the Architectural Review Board of the Association and there have been no objections.

In response to a question regarding the neighbor's approval, Board Member Rye was directed to the related material in the packet.

Board Member Helms asked for clarification regarding the change to what exists; was the lift to be extended by 1.3 feet.

Mr. Jansen said it would be 1.3 feet wider.

Board Member Helms asked if he meant the arms that lift the boat.

Mr. Jansen explained that the lift was like a trailer that goes up and down and the one that exists is too restrictive, and said that when it is too tight and the boat is moving it would be dangerous. He said with the Board's approval, the existing one would be pulled out and replaced with a wider bottom lift and it would be closer to shore.

Board Member Helms pointing to the map, asked if one of the consents they received was from the property owner on the left (*if looking from the water*), because her concern was that the view might be obstructed. Mr. Jansen said that there were no objections from that property owner and they had notarized statements from them.

Owner Wolfgang Haerle said the reason they had the approvals on two different papers was that some people do not live here year-round and had to be contacted out of state.

Deputy Clerk Stilton asked Planner Schwartz to please clarify the parcel numbers, Plat Book, and Page numbers of the properties of Variance Requests V10-12 (*which they just heard*) and V10-13; noting the information provided, and indicated in the Staff report lists both properties of Variance Requests V10-12 and V10-13 as recorded in Plat Book 8, on Page 41.

Planner Schwartz said it was correct, for both requests.

Planner Schwartz provided a brief summary of the previous request in 2004 which Mr. Jansen had mentioned and how it related to tonight's variance request.

Chairperson Epstein opened the Public Hearing. Neither hearing nor seeing anyone from the public who wished to be acknowledged regarding the Variance Chairperson Epstein closed the Public Hearing.

Vice Chairperson Arendall stated he had no objection to the recognition of the longer dock or the proposal to build the boat lift, his only concern was that since it had been previously considered and approved by the Board, he did not know if he could find that this applicant did not do something to cause this variance request to come forward. He said they obviously had an opportunity to build the boat lift previously, and as a Board are required to find that the conditions peculiar to the property are not the result of the actions of the petitioner. Vice Chairperson Arendall said he was not sure he could not get that far with regard to this request.

Chairperson Epstein asked if Vice Chairperson Arendall was not sure of what action he would propose.

Vice Chairperson Arendall responded that he would approve the variance with respect for the length of the dock, but would deny it with respect to the boat lift, on the basis that it had previously been approved and expired on its own terms.

Chairperson Epstein stated they could approve it again tonight, bringing it into conformance.

Vice Chairperson Arendall explained his position was that they had to make sure the facts and circumstances are not of the applicants doing, and he believed that the prior variance that was allowed to expire was the applicant's doing.

Chairperson Epstein said he understood what he was saying in as much as it does not change from the original application, and he did not see how that happened; it was just continued, and he would not have a problem approving it.

In agreement with Chairperson Epstein, Board Member Helms said she did not see that failing to build it when it was permitted created the situation. Arguably the entire situation was created by the property owner, and she understood that the length of the dock was unknowingly because they thought they had prior approval, but she said it should not preclude them from coming back and asking again, and assuming the risk it may be denied. She stated she was not sure that was the intent or action the applicant contemplates.

Vice Chairperson Arendall said that is part of the reason the Code is designed to prevent. Board Member Helms asked by coming back over and over again?

Vice Chairperson Arendall said either that or creating the very problem and which you then seek a variance for, adding in his view the applicant did play a part in creating the necessity for this variance.

In response, Board Member Helms asked by buying a larger boat? Vice Chairperson Arendall reiterated his position and asked to split up the variance into two parts.

In response to a question by the Chairperson, Attorney Sirico said if they want to split the variance they just need to make a motion; and if there is no second, the motion fails.

Motion by Vice Chairperson Arendall to approve Variance Request V10-13, sub-section two; increasing the distance from the mean high water line (seawall) of an existing nonconforming dock from 42.5 feet to 45 feet, with the condition that the applicant applies for permits within one year.

Board Member Helms interjected and said she was concerned about their ability to do that, was it only their City Code that they were addressing and not the Pinellas County Water and Navigation Authority requirements as to the length of docks.

Chairperson Epstein clarified that they were concerned with the Gulfport ruling, which they were granted one year, so it would not affect any other agency.

Board Member Helms stated she would second the motion to approve sub-section two.

ROLL CALL:

VICE CHAIRPERSON ARENDALL	YES
BOARD MEMBER HELMS	YES
BOARD MEMBER RYE	YES
CHAIRPERSON EPSTEIN	YES

MOTION CARRIED. Board Member Yarborough abstained.

Chairperson Epstein said that he did not believe the applicant created the hardship; and noted it was previously approved.

Vice Chairperson Arendall stated that again he had no problem with the proposal other than it was previously approved and allowed to expire, so he would adopt his prior argument on that.

Motion by Board Member Helms and seconded by Board Member Rye to approve sub-section one of Variance Request V10-13 with the requirement that they obtain permits within one year and complete this or it expires.

ROLL CALL:

VICE CHAIRPERSON ARENDALL	NO
BOARD MEMBER HELMS	YES
BOARD MEMBER RYE	YES
CHAIRPERSON EPSTEIN	YES

MOTION CARRIED. Board Member Yarborough abstained.

**5. Any other business.** None.

**6. Adjournment.**


Vice Chairperson Arendall moved to adjourn.

UNANIMOUS APPROVAL BY ACCLAMATION.

Date Approved: 11-10-2010



Ginger Stilton, CMC  
Deputy City Clerk

  
Mark Epstein, Chairperson

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Carroll Tarborough Courtland Otis</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE _____
MAILING ADDRESS <i>1810 52nd St Apt 6</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY      COUNTY <i>Gulfport Fl 33707      Pinellas</i>	NAME OF POLITICAL SUBDIVISION: <i>Gulfport Board of Adjustments</i>
DATE ON WHICH VOTE OCCURRED <i>13 Oct 16</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Courtland Yarbrough, hereby disclose that on 13 Oct, 20 10:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, Marineri Cove Marina;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Oct 13, 2010  
Date Filed

Courtland Yarbrough  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.