



# City of Tarpon Springs, Florida

PLANNING AND ZONING DEPARTMENT

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**BOARD OF ADJUSTMENT ~~CORRECTED~~ AGENDA  
FEBRUARY 24, 2021 REGULAR MEETING  
CITY HALL AUDITORIUM  
324 PINE STREET  
AND VIA  
ZOOM VIDEO CONFERENCING  
7:00 P.M.**

- 1. CALL TO ORDER/ROLL CALL**
- 2. QUASI-JUDICIAL ANNOUNCEMENT AND SWEARING IN OF SPEAKERS**
- ~~**3. ORGANIZATIONAL MEETING; Election of Chair and Vice Chairperson**~~
- 4. APPLICATION # 20-162 – VARIANCE TO REDUCE THE REQUIRED SIDE YARD SETBACK AND THE REQUIRED REAR YARD SETBACK FOR AN ACCESSORY STRUCTURE**  
**LOCATION: 643 Bayshore Drive**  
Application requesting a variance to reduce the required side yard setback and the required rear yard setback for construction of a shed accessory to an existing single-family residence.
- 5. APPROVAL OF MINUTES:**
  - a. January 27, 2021 regular meeting**
- 6. STAFF COMMENTS**
- 7. BOARD COMMENTS**
- 8. ADJOURNMENT**

If a person decides to appeal any decision made by the Board of Adjustment with respect to any matter considered at this meeting or hearing, they will need a record of the proceedings and that, for such purpose, they may need 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. You are invited to attend the meeting to express your views or to present facts in regard to the case. Written comments may be addressed to the Planning & Zoning Department, P.O. Box 5004, Tarpon Springs, Florida, 34688-5004, and will become part of the records. All documents submitted with the applications are on file and available for inspection in the Planning & Zoning Department, City Hall. Further information may be obtained from the Planning & Zoning Department, (727) 942-5611 or by email to [pmcneese@ctsfl.us](mailto:pmcneese@ctsfl.us). Said hearing may be continued from time to time pending adjournment. Any person with a disability requiring reasonable accommodation in order to participate in this meeting should call (727) 942-5611 or email a written request to [pmcneese@ctsfl.us](mailto:pmcneese@ctsfl.us)

# **KNUCKLES-CUNNINGHAM #20-162**

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Board of Adjustments – February 24, 2021



# LOCATION & SURROUNDING ZONING





# REQUEST

- **#20-162 – Storage Shed Setback**

- Side Setback

- *Proposed:* 2.5 feet
- *Required:* 5 feet

- Rear Setback

- *Proposed:* 2.5 feet
- *Required:* 5 feet

- **Applicant:** Jeffrey Knuckles & Debra Cunningham

- *Construction of a new storage shed.*







**Proposed Location of New Shed**





Slope along North Property line.



# REVIEW CRITERIA – VARIANCE

- 1) The need for the requested variance arises out of the physical surroundings, shape, topographical conditions, or other physical or environmental conditions that are unique to the specific property involved, and which do not apply generally to property located in the same zoning district.
- 2) The conditions or special circumstances peculiar to the property have not been self-created or have resulted from an action by the applicant or with prior knowledge or approval of the applicant.
- 3) Literal enforcement of the requirements of the City of Tarpon Springs' Comprehensive Land Development Code would have the effect of denying the applicant or reasonable use of the property, or legally conforming buildings or other structures, and the requested variance is the minimum variance that will make possible the reasonable use of the property.
- 4) Granting the variance will not confer any special privilege that is not allowed for other lands, buildings or structures in the same zoning district; no variance will be granted that extends to the applicant a use of a property that is not commonly enjoyed by other persons in similar circumstances.
- 5) Granting the variance will not substantially diminish property values in the surrounding area, substantially interfere with, or injure the rights of others whose property would be affected by approval of the variance, alter the essential character of the neighborhood, or create a nuisance.







**CITY OF TARPON SPRINGS**  
**BOARD OF ADJUSTMENTS**  
**[February 24, 2021]**

**STAFF REPORT**

**Application No. / Project Title:** #20-162 (Knuckles-Cunningham)  
**Staff:** Allie Keen, AICP  
**Applicant / Owner:** Jeffrey Knuckles and Debra Cunningham  
**Property Size:** +/- 9,612 Square Feet  
**Current Zoning:** R-100 (Single Family Residential)  
**Current Land Use:** RL (Residential Low)  
**Location / Parcel ID:** 643 Bayshore Drive / 11-27-15-87786-021-0130

**BACKGROUND SUMMARY:**

The applicant is requesting to reduce the minimum side and rear setback from 5 feet to 2.5 feet for the purpose of constructing a 200 square foot storage shed on the property.

**PRELIMINARY STAFF RECOMMENDATION:**

Standard #3, if strictly enforced, would necessitate a staff recommendation of denial, due to the fact the shed could be smaller in size to meet the required setback. However, staff is of the opinion that the requested variance is the minimum necessary to allow for a shed on a property with mature oak trees that is consistent in size with other sheds within the neighborhood and other residential districts.

Based upon this evidence, staff would recommend approval of this request.

**LAND DEVELOPMENT CODE CONSIDERATIONS:**

**District Intent:** The single-family residential districts are established to provide for detached dwellings in a variety of districts with full range of dimensional and density standards compatible with the established development of the area.

**Development Standards:** Per Section 36.01(A) of the Land Development Code, storage sheds shall not exceed 200 square feet in a residential district and shall have a minimum 5-foot setback from a side or rear lot line.

**CURRENT PROPERTY INFORMATION:**

<b>Use of Property:</b>	Single Family Residential
<b>Site Features:</b>	Single family dwelling, concrete driveway and patio, mature trees
<b>Vehicle Access:</b>	This property gains access from Bayshore Drive.



**SURROUNDING ZONING & LAND USE:**

	<b>Zoning:</b>	<b>Land Use:</b>
<b>North:</b>	R-100 (Single Family Residential)	RL (Residential Low)
<b>South:</b>	R-100 (Single Family Residential)	RL (Residential Low)
<b>East:</b>	R-100 (Single Family Residential)	RL (Residential Low)
<b>West:</b>	R-100 (Single Family Residential)	RL (Residential Low)

**PLANNING CONSIDERATIONS:**

When considering this application, the following general site conditions, planning concepts, and other facts should be noted:

1. The applicant is proposing to build a 10-foot x 20-foot (200 square feet) shed in the southwest corner of the subject property.
2. Per Section 36.01(A) of the Land Development Code, storage sheds are required to have a minimum 5-foot side and rear yard setback. The proposed shed will only have a side and rear setback of 2.5 feet. The applicant has indicated that the reduced setback is due to a mature oak tree in this location. According to the applicant, the shed is unable to be located elsewhere in the back yard due to an existing concrete patio directly behind the home, mature trees, and the topography along the north side of the home.
3. Section 36.01(A) of the Land Development Code limits the size of a storage shed within a residential district to 200 square feet. The proposed shed will meet that size limitation.
4. The minimum lot size in the R-100 zoning district is 10,000 square feet, per Section 25.02(D)(2) of the Land Development Code. The subject property is approximately 9,612 square feet in size; therefore, the property is considered to be legally nonconforming in terms of lot size.

**REVIEW STANDARDS / PROVISIONAL FINDINGS OF FACT:**

Section 215.02(B) of the Land Development Code provides that the Board of Adjustment shall grant no variance unless certain standards are met and proven by competent substantial evidence. These standards, along with planning staff’s provisional findings of fact are provided below:

1. **The need for the requested variance arises out of the physical surroundings, shape, topographical conditions, or other physical or environmental conditions that are unique to the specific property involved, and which do not apply generally to property located in the same zoning district.**
  - a. **Preservation of a Protected Tree(s) or Native Tree(s), but not an invasive tree(s), as defined in Sections 133, Tree Protection and Preservation, and 134, Landscaping and Screening, of the LDC, may be considered as a relevant environmental condition under this subsection.**
  - b. **Location of the property in the Historic District within the City may also be considered as a unique physical condition. However, any variance applied for within the Historic District shall be found to be compatible with the character of the properties within that District before any variance may be granted.**

*Provisional Findings:* The reduced side and rear setbacks for the shed are to accommodate an existing mature oak tree on the property. Additionally, the shed is unable to be located elsewhere in the backyard due to the topography along the north side of the property and other mature trees within the back yard. Additionally, the subject property is slightly smaller than that required in the R-100 district. *Based upon evidence available when this report was drafted, staff is of the opinion that this standard has been met.*





- 2. The conditions or special circumstances peculiar to the property have not been self-created or have resulted from an action by the applicant or with prior knowledge or approval of the applicant.**

*Provisional Findings:* The special circumstances of the property have not been self-created nor resulted from any action by the applicant with prior knowledge or approval of the applicant. There are several mature trees and slight topography changes on the subject site that limit where a shed can be placed on the property. *Based upon evidence available when this report was drafted, staff is of the opinion that this standard has been met.*

- 3. Literal enforcement of the requirements of the City of Tarpon Springs' Comprehensive Land Development Code would have the effect of denying the applicant of reasonable use of the property, or legally conforming buildings or other structures, and the requested variance is the minimum variance that will make possible the reasonable use of the property.**

*Provisional Findings:* Literal enforcement of the minimum setback requirements for a shed would necessitate the applicant to reduce the overall size of the shed in order to meet the required 5 foot side and rear setbacks. *Based upon evidence available when this report was drafted, staff is of the opinion that this standard **has not** been met.*

- 4. Granting the variance will not confer any special privilege that is not allowed for other lands, buildings or structures in the same zoning district; no variance will be granted that extends to the applicant a use of property that is not commonly enjoyed by other persons in similar circumstances.**

*Provisional Findings:* Approval of this request will not confer any special uses or privileges to the applicant that are not commonly enjoyed by other property owners in this area. Storage sheds are common for residential properties and found throughout the immediate neighborhood. Further, granting of this variance would allow for a shed that meets the size limitations for a residential district. *Based upon evidence available when this report was drafted, staff is of the opinion that this standard has been met.*

- 5. Granting the variance will not substantially diminish property values in the surrounding area, substantially interfere with, or injure the rights of others whose property would be affected by approval of the variance, alter the essential character of the neighborhood, or create a nuisance.**

*Provisional Findings:* Storage sheds are common for residential properties and found throughout the immediate neighborhood. Due to mature trees on the property, it minimizes the locations where a shed could be placed, resulting in reduced side and rear setbacks. Further, the proposed shed will not exceed the maximum size for a residential district; therefore, approval of this request will not substantially diminish property values or alter the character of the neighborhood. *Based upon evidence available when this report was drafted, staff is of the opinion that this standard has been met.*

#### **PUBLIC CORRESPONDENCE:**

Notices were sent to property owners within 500 feet of the subject property; a legal notice was published in the Tampa Bay Times; and the property was posted. *Staff has not received any responses to these notices.*

#### **ATTACHMENTS:**

1. Location/Aerial Map
2. Proposed Site Plan
3. Application

# #20-162 / KNUCKLES-CUNNINGHAM





MINUTES  
BOARD OF ADJUSTMENT  
CITY OF TARPON SPRINGS, FLORIDA  
REGULAR SESSION – JANUARY 27, 2021

THE BOARD OF ADJUSTMENT OF THE CITY OF TARPON SPRINGS, FLORIDA MET IN A REGULAR SESSION IN THE CITY HALL AUDITORIUM AT 324 PINE STREET AND VIA ZOOM VIDEO CONFERENCING, ON WEDNESDAY, JANUARY 27, 2021 AT 7:00 P.M. WITH THE FOLLOWING PRESENT:

Chris Hrabovsky	Chairperson
Jacqui Turner	Vice-Chairperson
George Bouris	Member
Michael Eisner	Member
Joanne Reich	Member
Steven Davis	1 <sup>st</sup> Alternate
Joanne Simon	2 <sup>nd</sup> Alternate

ALSO PRESENT:	Patricia McNeese	Principal Planner
	Allie Keen	Senior Planner
	Erica Augello	Board Attorney
	Kimberly Yothers	Secretary to the Board

**1. CALL TO ORDER/ROLL CALL**

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Chairperson, Hrabovsky called the meeting to order at 7:00 P.M.

Secretary to the Board Yothers called the roll.

**2. QUASI-JUDICIAL ANNOUNCEMENT AND SWEARING OF SPEAKERS**

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Mrs. Augello read the Quasi-Judicial Announcement, swore in all who wished to testify and asked the Board if there was any ex parte communication, there was none.

**3. ORGANIZATIONAL MEETING; ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON (TAKEN AFTER LAST APPLICATION)**

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Mrs. Augello announced that she would run the election section of the meeting.

NOMINATION: Mr. Hrabovsky  
SECOND: Ms. Reich

To Nominate Ms. Turner as Chairperson

NOMINATION: Ms. Turner  
SECOND: Mr. Eisner

To Nominate Mr. Hrabovsky as Chairperson.

Upon a Viva Voce Vote, Mr. Hrabovsky was voted 4-1 as Chairperson.

Continued

**ORGANIZATIONAL MEETING: ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON  
(TAKEN AFTER LAST APPLICATION) (CONTINUED)**

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**a. VICE-CHAIRPERSON**

NOMINATION: Mr. Hrabovsky

SECOND: Mr. Eisner

To Nominate Ms. Turner as Vice-Chairperson

NOMINATION: Ms. Turner

Upon a Viva Voce Vote, Ms. Turner was voted 5-0 as Chairperson.

**4. APPLICATION # 20-144 – VARIANCE TO REDUCE THE REQUIRED SIDE YARD  
SETBACKS**

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**Location: 20 Read Street**

Application requesting a variance to reduce the required side yard setbacks to allow for an addition and a carport on a multi-family property.

Staff:

Mrs. Keen gave background information, explained the Findings of Fact listed below and noted that Staff recommended approval as all of criteria have been met.

Findings of Fact:

1. Location of the property in the Historic District was considered as a unique physical condition. However, any variance applied for within the Historic District shall be found to be compatible with the character of the properties within that District before any variance was granted. The proposed addition and carport have been determined by the Historic Preservation Board to be compatible with the character of the Historic District and the contributing structure located on the subject property, therefor the Certificate of Approval was issued.
2. The subject property was located within the Historic District and contained a contributing structure as identified by the Florida Master Site File. In many cases, meeting modern day setbacks for a historic property was challenging. The Historic Preservation Board reviewed and determined the proposed addition and carport were in character with the Historic District and did not take away from the contributing structure on the property.

(Continued)



**APPLICATION # 20-144 – VARIANCE TO REDUCE THE REQUIRED SIDE YARD SETBACKS  
(CONTINUED)**

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3. Literal enforcement of the minimum setback standards likely prevented the applicant from building the addition or necessitate a re-design, due to the 20-foot minimum side setback requirement and would not allow for a two-car carport attached to the existing garage. However, being that this property was historic, it was important that the existing massing and scale of structures remain consistent. Additions to contributing structures were generally required to be located behind the historic façade in order to be hidden or less subordinate to the original structures. The proposed addition matched the width of the home, was located in the rear of the structure, and was not be able to be seen from the street, therefore complying with the historic guidelines. The carport brought the setback of the garage closer to the street and more consistent with that of the single-family residence. The carport also matched the existing width of the garage. Further, the carport was proposed to remain open, which reduced the interference with the character and feel of the property.
4. Granting of the variance allowed for an addition to the backside of the existing single-family residence and a carport attached to the existing garage. Although this property had 3 dwelling units, from Read Street it appeared to be that of a single-family home. The proposed side setbacks were consistent with those of other single-family structures found in the neighborhood. Therefore, granting of the variance did not confer any special uses or privileges to the applicant that were not commonly enjoyed by the other property owners in this area.
5. The proposed addition was not be visible from Read Street and was consistent with the current side setback of the home. The proposed carport was also consistent with the current side setback of the garage and the front setback was more consistent with that of the principal building. Further, the proposed side setbacks were consistent with those found throughout the immediate neighborhood; therefore, approval of this request did not adversely impact surrounding properties.

Board:

Ms. Turner asked why the setbacks for multi-family were so much greater than single family, within the same district.

Mrs. Keen noted that typically multifamily development had a greater impact on the surrounding area than single family, so the code required more of a buffer.

Mr. Eisner asked how the carport would be attached to the structure.

Applicant:

Mr. Larsen noted that the garage had a hip roof and that they would continue the hip for the carport.

Mr. Eisner asked if the applicant could explain how he met criterion 3., in that he was not allowed reasonable use of the property without the granting of the variance.

Mr. Larsen indicated that it was not reasonable for his property to be held to a multifamily standard as his property was not an apartment complex.

(Continued)

**APPLICATION # 20-144 – VARIANCE TO REDUCE THE REQUIRED SIDE YARD SETBACKS (CONTINUED)**

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Mr. Eisner asked Staff how they came to the conclusion that the application met criterion 3.

Mrs. Keen noted that the property was located in the Historic District and that typically, historic properties were unable to meet modern day setbacks.

Mr. Eisner asked how that played into the Board of Adjustment’s criteria.

Mrs. Augello read section 215.02 (B)(1)(b) - Location of the property in the Historic District within the City may also be considered as a unique physical condition. However, any variance applied for within the Historic District shall be found to be compatible with the character of the properties within that District before any variance may be granted.

Motion: Mr. Eisner  
Second: Ms. Turner

To approve application 20-144 as presented by Staff.

Vote on Motion: Upon roll call vote, the motion was passed, as follows.

Ms. Reich	Yes
Mr. Eisner	Yes
Mr. Bouris	Yes
Ms. Turner	Yes
Mr. Hrabovsky	Yes

**5. APPLICATION # 20-158 – VARIANCE TO INCREASE THE MAXIMUM FENCE HEIGHT.**

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**LOCATION: 1029 Rosetree Lane**

Application requesting a variance to allow an increase in the maximum height of a fence from grade.

Staff:

Mrs. Keen gave background information, explained the Findings of Fact listed below and noted that Staff recommended approval as all standards have been met.

Findings of Fact:

1. The need for the variance for an increased fence height arose from the higher elevation of the subject property and the drainage swale located along the rear property line, where the fence was located.
2. The special circumstances of the property were not self-created nor resulted from any action by the applicant. The lot was required to be elevated and swales were installed along the perimeter of the property at the time the home was constructed in order to address drainage and stormwater runoff issues on the property, which resulted in this lot sitting just under 5 feet higher than surrounding lots.

(Continued)

**APPLICATION # 20-158 – VARIANCE TO INCREASE THE MAXIMUM FENCE HEIGHT.**  
**(CONTINUED)**

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3. Due to the drainage swale along the rear property line, the height of the fence was measured from approximately 2 feet lower than the finished grade of the property, resulting in a fence height of approximately 4 feet visually from the top of the swale. The proposed additional 2 feet only increased the visual height from the subject property to 6 feet, which was consistent with other fences allowed and constructed in residential zones
4. Fences were limited to 6 feet in height for all residential districts. Due to the drop in grade along the rear property line, the taller fence provided the same level of privacy as other fences permitted in residential districts. The visual height of the fence from the subject property was approximately 6 feet and the increased height also provided additional privacy and screening for the adjacent property to the north due to the elevation of the subject property.
5. Approval of this request did not substantially diminish property values or alter the character of the neighborhood. Due to the elevation of the subject property, it created a unique situation where a taller fence provided similar screening as a permitted 6-foot fence for both the subject site and the adjacent property to the north.

**Board:**

Ms. Turner asked if there were fences on the sides of the property.

Mrs. Keen noted that she had to defer to the applicant but that the application was for the rear fence only.

**Applicant:**

Adam Velett, 1171 Avoca Drive, noted that without the 8-foot fence, there was a clear view directly from his property into the rear neighbor's home, because of the difference of elevation between the two homes.

Ms. Turner asked whether there was an issue with the fence height in the side yards.

Mr. Velett indicated that there was only an issue with the rear fence.

**Public:**

Ms. Yothers read an email attached as Exhibit "A" into the record.

Greg Decaire, 1021 Connecticut Road, indicated that he was against the application.

**Applicant:**

Mr. Velett noted that Mr. Decaire did not live at the property as it was a rental. He further noted that the current occupants had a sheet up so that they had privacy.

(Continued)



**APPLICATION # 20-158 – VARIANCE TO INCREASE THE MAXIMUM FENCE HEIGHT.**  
**(CONTINUED)**

Motion: Mr. Bouris  
Second: Ms. Turner

To approve application 20-158 as presented by Staff.

Vote on Motion: Upon roll call vote, the motion was passed, as follows.

Ms. Reich	Yes
Mr. Eisner	Yes
Mr. Bouris	Yes
Ms. Turner	Yes
Mr. Hrabovsky	Yes

**6. APPLICATION #20-161 – VARIANCE TO REDUCE THE REQUIRED SIDE YARD SETBACK**

**LOCATION: 1711 Avoca Drive**

Application requesting a variance to reduce the required side yard setback to allow to placement of a screened enclosure over an existing swimming pool.

Staff:

Mrs. Keen gave background information, explained the Findings of Fact listed below and noted that the application met all of the criteria, therefore Staff recommended approval.

Findings of Fact:

1. The need for the variance was due to the location of the pool on the property, which was originally built in 1978.
2. The special circumstances of the property were self-created nor resulted from any action by the applicant nor with prior knowledge or approval of the applicant. The pool was built in 1978 prior to the applicant obtaining ownership of the property.
3. Due to the location of the pool and the minimum separation requirements between the water's edge and a pool screen enclosure, it was not possible to meet the minimum side setback. The requested variance was the minimum necessary to construct the enclosure.
4. Approval of this request did not confer any special uses or privileges to the applicant that were not commonly enjoyed by other property owners in this area. Pool screen enclosures were abundant throughout this neighborhood and others within the City. Granting the variance will allow for reasonable use and enjoyment of the pool similar to other properties in the area.
5. The proposed pool screen enclosure surrounded an existing pool that has been on this property since 1978. There were existing trees providing some screening between the subject property and the adjacent home to the east. Additionally, several other homes located in the same neighborhood had pool screen enclosures similar to what was proposed; therefore, approval of this request would not substantially diminish property values or alter the character of the neighborhood.

(Continued)

**APPLICATION #20-161 – VARIANCE TO REDUCE THE REQUIRED SIDE YARD SETBACK (CONTINUED)**

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Motion: Mr. Eisner  
Second: Ms. Reich

To approve application 20-161 as presented by Staff.

Vote on Motion: Upon roll call vote, the motion was passed, as follows.

Ms. Reich	Yes
Mr. Eisner	Yes
Mr. Bouris	Yes
Ms. Turner	Yes
Mr. Hrabovsky	Yes

**7. APPROVAL OF MINUTES**

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December 16, 2020 regular meeting

MOTION: Mr. Bouris  
SECOND: Ms. Reich

To approve the minutes from December 16, 2020

Vote on Motion: Upon roll call vote, the motion was passed, as follows.

Ms. Reich	Yes
Mr. Eisner	Yes
Mr. Bouris	Yes
Ms. Turner	Yes
Mr. Hrabovsky	Yes

**8. STAFF COMMENTS**

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Mrs. Keen noted that the Board was provided with a 2021 City meeting schedule and that she would email them a digital copy of the schedule as well.

**9. BOARD COMMENTS**

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Mr. Hrabovsky asked what the mechanism would be to hold someone accountable for not telling the truth once they have taken an oath under the Quasi-Judicial Process.

Mrs. Augello noted that since this was not a court of law, there was no perjury punishable.

Mr. Hrabovsky asked if the person was an expert, would there be any recourse.

Mrs. Augello noted that they were on their honor and their reputation was at stake and that their untruth would be part of the record and that the record would be taken into consideration during an appeal.

**10. ADJOURNMENT**

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Mr. Hrabovsky adjourned the meeting at 8:22 p.m.

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Chris Hrabovsky, Chairman