

Clearwater, Florida, July 3, 2019

The Board of Adjustment and Appeals (BAA) met in regular session in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida on this date with the following members present: John Doran, Chairman; Deborah J. White, Vice-Chairman; Jose Bello; Alan C. Bomstein; Joe C. Burdette; and Vince Cocks.

Also Present: Glenn Bailey, Planning Department Zoning Manager; Gina Berutti, Code Enforcement Operations Manager; Michael Schoderbock, Principal Planner; Chelsea Hardy, Assistant County Attorney; other interested individuals; Chris Bartlett, Board Reporter, Deputy Clerk; and David Beeler, Board Reporter.

CALL TO ORDER

Chairman Doran called the meeting to order at 9:00 A.M. and provided an overview of the hearing process.

PUBLIC HEARING ITEMS

Due notice having been given to interested persons pursuant to Comprehensive Zoning Ordinance No. 90-1, public hearings were held on the following applications. All persons planning to give testimony were duly sworn by the Deputy Clerk.

- #1 APPLICATION OF ST. RAPHAEL, ST. NICHOLAS & ST. IRENE HELLENIC ORTHODOX CHURCH THROUGH ERINE KOULIANOS AND AMIE REYNOLDS, REPRESENTATIVES, FOR MODIFICATION OF A TYPE 2 USE (BA-01-07-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of St. Raphael, St. Nicholas & St. Irene Hellenic Orthodox Church through Erine Koulianos and Amie Reynolds for a modification to a previously approved Type 2 Use (Special Exception) to allow for the expansion of a church in an R-R zone, re property located at 1010 Riviere Road in Palm Harbor (BA-01-07-19). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request as it appears to meet the criteria for granting Type 2 Uses found in Section 138-241 of the Pinellas County Land Development

Code. The request involves the expansion of the parking area and the location of the dumpster enclosure that is associated with the adjacent church. No change is proposed for the church building. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.
3. Conditions of approval associated with past cases shall remain in effect.

Amie Reynolds, St. Petersburg, appeared and indicated that she represents the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Bomstein moved, seconded by Mr. Cocks, that the modification to the previously approved Type 2 Use be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF JOEY K'S, LLC AND LISA BABIONE FOR A VARIANCE (BA-02-07-19) – GRANTED WITH REVISED CONDITIONS

Public hearing was held on the application of Joey K's, LLC and Lisa Babione for a variance to allow for the dispensing and consumption of alcohol in a C-1 zone as an accessory use to retail sales immediately adjacent to a residential district boundary line where 150 feet is required, re property located at 530 Alternate U.S. Highway 19 in Palm Harbor (BA-02-07-19). The Clerk has received three letters in objection to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request as it appears to meet the criteria for granting variances found in Section 138-231 of the Pinellas County Land Development Code. Current uses on the subject property are retail sales and a small restaurant. The applicants wish to add beer and wine sales to their offerings. Restaurants are typically exempt from alcohol separation requirements, but more than 50 percent of total sales must be food-related. That threshold is not reached in this case. Approval should be subject to the following conditions:

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1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.
3. There shall be at least 20 feet of separation between alcohol serving areas and the east property line.
4. No music or alcohol sales after 9:00 P.M.
5. All amplification equipment must face the direction of Alternate US-19.

Kym Eggers and Lisa Babione, Palm Harbor, appeared, indicated that they are the applicants, and explained that they intend to sell beer and wine to complement the retail shops, restaurant, and live music on the property.

In response to the Chairman's call for objectors to the application, Mark Mackenzie and Holly Bird, Palm Harbor, appeared and expressed concerns related to the frequency and intensity of amplified music played at the subject property, marketability of homes in the surrounding area, and the possibility of alcohol sales exacerbating the issues.

In rebuttal, Ms. Eggers related that music is currently played only on Sundays; whereupon, discussion ensued regarding the property's current and future hours of operation, number of customers, and the applicants' attempts to remedy the opponents' concerns. Mr. Bailey provided input regarding code requirements, and Ms. Eggers indicated that she would be amenable to a condition of non-amplified music.

Mr. Bomstein moved that the sale of beer and wine be approved with an additional provision that there be no amplified music on site. Attorney Hardy reminded the members that conditions must be directly related to the variance request, and discussion ensued regarding ways in which the decibel level of the music could be reduced, including the use of non-amplified instruments, acoustical treatments, and changing the direction of the stage; whereupon, Mr. Bomstein withdrew his motion.

Following further discussion, Mr. Bomstein moved, seconded by Mr. Cocks, that the variance be granted with the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.

2. Appropriate site plan review.
3. There shall be at least 20 feet of separation between alcohol serving areas and the east property line.
4. No amplified music.
5. Live music must face west toward Alternate US-19.
6. No live music on weekdays, no live music after 6:00 P.M. on Saturdays, and no live music after 4:00 P.M. on Sundays.
7. No alcohol sales after 9:00 P.M.

Upon call for the vote, the motion carried unanimously.

#3 APPLICATION OF NORTHSIDE BAPTIST CHURCH, INC. THROUGH DON JAMES, REPRESENTATIVE, FOR MODIFICATION OF A TYPE 2 USE (BA-03-07-19) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Northside Baptist Church through Don James for modification of a Type 2 Use (Special Exception) to allow a 1,762-square-foot classroom addition to an existing private school in an R-A zone, re property located at 7777 62nd Avenue North in Lealman (BA-03-07-19). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request as it appears to meet the criteria for granting Type 2 Uses found in Section 138-231 of the Pinellas County Land Development Code. The request is for a classroom addition to an existing private school. The proposed location of the addition is already under roof, it just needs to be enclosed to allow its intended use. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.

2. Appropriate site plan review.
3. Conditions associated with past approvals shall remain in effect.

Ron Peters, St. Petersburg, and Dean Banks, Tampa, appeared and indicated that they represent the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Bomstein moved, seconded by Ms. White, that the modification be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF POPE SHENOUDA III, LLC THROUGH ADEL YOUSSEF, REPRESENTATIVE, FOR A VARIANCE (BA-04-07-19) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Pope Shenouda III, LLC through Adel Youssef for a variance to allow for a 0-foot rear setback from the west property line where 15 feet is required for a commercial dumpster and dumpster enclosure, re property located at 32920 U.S. Highway 19 North in Palm Harbor (BA-04-07-19). One email expressing opposition has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request as it appears to meet the criteria for granting variances found in Section 138-231 of the Pinellas County Land Development Code. The subject property is significantly encumbered by a wide power line easement that bisects it from northwest to southeast. The easement resulted in an unusual site development layout and limits potential locations for the dumpster. The adjacent property to the north, which is also impacted by the easement, was granted a similar variance in 2015. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.

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Mr. Bailey related that the dumpster has been in its current location for a number of years; that it came to the County's attention as a result of another violation on the site; and that it backs up to a six-foot fence. Responding to query by Chairman Doran, he confirmed that an enclosure is included in the request.

Adel Youssef, Palm Harbor, indicated that he represents the applicant, and that, given the customer traffic in the area, the dumpster's current location is the safest place available on the property.

In response to the Chairman's call for opponents, Craig Taraszki, St. Petersburg, appeared and indicated that he represents the Green Valley Estates Villas Homeowners' Association, from which sixteen residents had submitted letters objecting to the proposed variance. Mr. Taraszki stated that the applicant's hardship with regard to the dumpster's location was self-created, because the building was constructed after the power line easement was put in place; and that the property owner chose to maximize parking instead of providing a safe location for the dumpster. He expressed concerns related to the smell of the dumpster, noise of the garbage trucks, buffering, setback distances, as well as the potential efficacy of different types and sizes of dumpster enclosures.

In rebuttal, Mr. Youssef explained that the applicant originally requested a 2.93-foot setback, but staff recommended that it be 0 feet in order to allow the garbage trucks enough room to access the dumpster; and that the applicant plans on replacing a tree if it must be removed during the enclosure process.

In response to queries by the members, Mr. Schoderbock provided additional information related to the number of parking places on the site, the positioning of the power line easement, and the route used by the garbage trucks to access the dumpster.

Mr. Bomstein moved, seconded by Ms. White, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF THE NATIONAL CENTER FOR LIFE AND LIBERTY THROUGH JONATHAN BAILIE, REPRESENTATIVE, FOR A TYPE 2 USE (BA-03-04-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of the National Center for Life and Liberty through Jonathan Bailie for a Type 2 Use (Special Exception) to allow for a non-profit

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organization (community service) in an R-3 zone, re property located at 11803 104th Street in unincorporated Seminole (BA-05-07-19). One letter in support of and one letter in opposition to the application have been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request as it appears to meet the criteria for granting Type 2 Uses found in Section 138-241 of the Pinellas County Land Development Code. The request is to allow a community center that is open to the public and to provide office space for a non-profit organization. The uses would utilize the existing building and parking area. No new construction is proposed. The site was formerly the location of the Orange Lake Civic Center, which was a private sports club. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.

David Gibbs, Largo, appeared and indicated that he represents the applicant. He provided background information regarding the property and its prior uses, as well as a summary of the applicant's plans to use the property as a community center and as office space for non-profit organizations. Responding to queries by Mr. Cocks, Mr. Gibbs indicated that the canal running through the property is in good condition, thanks in part to a pump station that was provided by the County.

Responding to the Chairman's call for public comment, Matthew Brousel, Largo, appeared and asked if the applicant plans to hold community events on the property; whereupon, Mr. Gibbs explained that the building is only for non-profit organizations; and that the applicant has largely stopped any public solicitation.

In response to query by the Chairman, Mr. Bailey confirmed that, with the proposed special exception, the property can continue to operate in the manner described by Mr. Gibbs; whereupon, Mr. Burdette moved, seconded by Ms. White, that the Type 2 Use be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

APPROVAL OF MINUTES – NONE

The Chairman indicated that no minutes were available to review.

OTHER BUSINESS

Attorney Hardy provided an overview the administrative appeals process as it relates to issuance of a development permit. She discussed the timeframe that is available for an aggrieved party to file an appeal, as well as the information that must be included on the application. In response to queries by the members, she explained that pre-hearing conferences are carried out at the discretion of the Board; that the hearings are quasi-judicial proceedings; that the burden of proof is on the applicant; and that she will continue to provide counsel to the Board during the hearings; whereupon, she offered to meet with the members on a one-on-one basis if they have questions regarding the process.

Attorney Hardy related that an appeal has been filed with respect to the issuance of permits for the demolition of a structure located on the Tides Golf Club property; that the appeal will likely appear on the Board's September 5 agenda; and that it will be the first appeal to come before the Board. She related that the members will need to decide whether to hold a pre-hearing conference; and that it could be part of a regular meeting or held separately; whereupon, Chairman Doran indicated that a decision could be made at the July 31 meeting. During discussion, Attorney Hardy related that, at the discretion of the Chairman, the Board can choose to limit testimony deemed irrelevant or unnecessary to the decision-making process; and that an appeal specific to the demolition permit would be heard by the Pinellas County Construction Licensing Board.

Attorney Hardy indicated that Case No. BA-01-06-19 related to Canine Estates will likely be appealed to the Circuit Court; and that she would be defending the actions of the Board, with no involvement by the members. Responding to queries by Mr. Burdette, she related that the Court would review the record to determine whether the elements of law have been met and due process upheld; and that based upon the findings, it could remand the case back to the Board of Adjustment and Appeals, at which time the applicant could choose to proceed or to withdraw the application.



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ADJOURNMENT

The meeting was adjourned at 10:17 A.M.

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Chairman