

Clearwater, Florida, July 31, 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; Joe C. Burdette; and Pamela Kern, alternate member.

Not Present: Alan C. Bomstein, Vince Cocks, and Cliff Gephart.

Also Present: Blake Lyon, Development Review Services Director; Glenn Bailey, Planning Department Zoning Manager; Gina Berutti, Code Enforcement Operations Manager; Michael Schoderbock, Principal Planner; Chelsea Hardy, Assistant County Attorney; other interested individuals; Christopher Bartlett, Board Reporter, Deputy Clerk; and David Beeler, Board Reporter. *Minutes by Michael Schmidt, Board Reporter, Deputy Clerk.*

CALL TO ORDER

Chairman Doran called the meeting to order at 9:01 A.M. and provided an overview of the hearing process. Attorney Hardy stated that newly enacted legislation has changed certain aspects of the members' decision making process; that all approvals and denials must now be in writing and supported by findings of fact; and that staff has responded to each criterion for special exceptions and variances as part of the staff report; whereupon, she discussed when the members can simply adopt the staff recommendation and when they must provide further information.

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 MRLV, LLC THROUGH PETER CHICOURIS, REPRESENTATIVE, FOR A VARIANCE (BA-03-08-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of MRLV, LLC through Peter Chicouris for a variance to allow for the construction of a single family home on each of two adjacent 45-foot-wide platted lots of record under common ownership where a minimum width of 50 feet is required, re property located at 4040 56th Avenue North in Lealman (BA-03-08-19). 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 variances found in Section 138-231 of the Pinellas County Land Development Code. The two subject lots are platted lots of record that predate the zoning code. In addition, there are other similarly sized developed lots within the immediate vicinity, including directly to the west and south. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. All required setbacks shall be met.

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

#2 APPLICATION OF PINELLAS FLEX ACQUISITION, LLC THROUGH AUSTIN KARRICK, REPRESENTATIVE, FOR A TYPE 2 USE (BA-06-08-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Pinellas Flex Acquisition, LLC through Austin Karrick for a Type 2 Use to allow for the relocation and 3,075-square-foot expansion of a medical office in an E-2 zone, re property located at 12505 Starkey Road in unincorporated Largo (BA-06-08-19). 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 subject property is a multi-tenant building. The relocation to a different unit in the building and proposed expansion is all internal to the

building and should pose minimal overall impacts. 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.

Austin Karrick, St. Petersburg, appeared and indicated that he represents the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Burdette moved, seconded by Ms. Kern, that the Type 2 Use be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#3 APPLICATION OF BANK OF AMERICA TRE C/O CROWN PONTIAC, INC. THROUGH LORI PICKARD AND SCOTT ROBINSON, REPRESENTATIVES, FOR A VARIANCE (BA-04-08-19) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Bank of America TRE c/o Crown Pontiac, Inc. through Lori Pickard and Scott Robinson for a variance to allow a 26-foot-tall freestanding sign where 25 feet is the maximum height allowed, re property located at 5237 34th Street North in Lealman (BA-04-08-19). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The request is to allow for a sign taller than normally allowed based on the fact that the parent company does not offer a 25-foot-tall sign option. Staff cannot support the request as it does not meet the criteria for the granting of a variance found in Section 138-231 of the Pinellas County Land Development Code. In short, there are no special conditions or unnecessary hardships that warrant a taller sign than allowed by the Code.

Lori Pickard, Lutz, appeared and indicated that she represents the applicant. In response to queries by the members, she provided background information regarding the application, the rationale for a 26-foot-tall sign, and the hardship posed to the automobile dealership; whereupon, Mr. Lyon discussed landscaping provisions and other options that would allow the applicant to be Code compliant.

No one appeared in response to the Chairman's call for objectors to the application.

Mr. Burdette moved, seconded by Ms. White, that the variance be granted, relating that the application is consistent with the Comprehensive Plan; that the required landscaping creates a hardship by blocking the view of the sign; and that 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.

Upon call for the vote, the motion carried 4 to 1, with Ms. Kern casting the dissenting vote.

#4 APPLICATION OF BFJ AFFILIATED PROPERTIES OF FLORIDA, LLC D/B/A FUCCILLO NISSAN THROUGH MARK BRENCHLEY, REPRESENTATIVE, FOR VARIANCES (BA-05-08-19) – DENIED

Public hearing was held on the application of BFJ Affiliated Properties of Florida, LLC d/b/a Fuccillo Nissan through Mark Brenchley for the following variances, re property located at 15232 U.S. Highway 19 North in unincorporated Largo (BA-05-08-19):

1. A variance to allow a second freestanding sign located 240 feet from the first freestanding sign where only one freestanding sign is allowed on a property having less than 500 feet of road frontage with a minimum of 300 feet separation between signs.
2. A variance to allow a total of 201.57 square feet of wall signage on the U.S. Highway 19 frontage where 150 square feet of wall signage is the maximum allowed.

No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The request is to allow a second freestanding sign along the U.S. 19 corridor where only one freestanding sign is allowed for properties having less than 500 feet of frontage. The subject property in this case has 387 feet of frontage. The Code also requires 300 feet of

separation between signs for properties large enough to qualify. In this case, the proposed second sign is 240 feet from the existing sign already in place.

The request is also to allow 201.57 square feet of wall signage on the U.S. 19 frontage where 150 square feet is the maximum allowed. The three existing signs already on the building total 129.97 square feet. The applicant wishes to add a new 71.6-square-foot sign.

Staff cannot support the request as it does not meet the criteria for the granting of a variance found in Section 138-231 of the Pinellas County Land Development Code. In short, there are no special conditions or unnecessary hardships that warrant more signage than allowed by the Code.

Mark Brenchley, Clermont, appeared and indicated that he represents the applicant. He provided background information regarding the request and proposed that the following modifications be considered:

1. Withdraw variance request for a second freestanding sign.
2. Amend variance request for wall signage from 201.57 square feet to 174 square feet.

No one appeared in response to the Chairman's call for objectors to the revised application.

In response to comments and queries by the members, Mr. Brenchley provided further information regarding the request, and indicated that the dealership will suffer a hardship if limited to a 150-square-foot sign; whereupon, he discussed matters regarding reasonable business identification, highway traffic speeds, and safety concerns.

Following discussion, Ms. White moved, seconded by Ms. Kern, that the application, as originally proposed and as proposed today, be denied based on the criteria for granting variances. Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF VASSAN PROPERTIES LLC THROUGH BRIAN J. AUNGST, JR. REPRESENTATIVE, FOR THE REINSTATEMENT OF A VARIANCE AND THE REINSTATEMENT AND EXPANSION OF A TYPE 2 USE (BA-07-08-19) – GRANTED WITH REVISED CONDITIONS

Public hearing was held on the application of Vassan Properties LLC through Brian J. Aungst, Jr. for the reinstatement of a variance to allow for the dispensing of alcohol for on-premises consumption within 33 feet of a residential zoning district boundary line where 150 feet of separation is required, and the reinstatement and expansion of a Type 2 Use to allow for parking in an R-4 zone, re properties located at 7361 and 7355 46th Avenue North in Lealman (BA-07-08-19). The Clerk has received 99 emails in support of and 12 emails in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the reinstatement of the previous approvals granted by the Board in 2017 subject to the recommended conditions described below, but does not support the expansion of the parking area onto the adjacent property to the east (7355 46th Avenue North). The business at 7361 46th Avenue North has a lengthy history of repeat code enforcement violations and a demonstrated lack of urgency with corrective procedures, such as not following through with the conditions of approval granted by the Board in 2017 (leading to its expiration). The east property was not included in the 2017 case because the applicant did not own it at that time. Staff is of the opinion that the applicant should bring the business into full compliance before being allowed to expand onto the adjacent residential property.

The primary commercial structure on the west property has housed a bar for many years and was built prior to the establishment of the County's zoning regulations and parking standards. More recently, however, the applicant has added an outdoor tiki bar without permits, which is subject to current parking standards and all other applicable standards of the code. The required parking can be placed on the R-4 residentially zoned area of the property with a Type 2 Use approval. Notably, a portion of the R-4 area has already been paved and illegally used for parking and other business-related activities, all without permits or site plan approval.

Regarding the requested variance, the code requires 150 feet of separation from alcohol dispensing areas to residential zoning district boundary lines. Because of the longevity of the establishment, the portion of the bar business that is located inside the primary structure is “grandfathered” in terms of distance requirements. The added outdoor patron area, however, is not. At its closest point, the tiki bar is 33 feet from the nearest residential boundary line, which is the property the applicant owns to the east. Due to the long operating history of a bar on the property, approval of the variance with the appropriate conditions should not pose substantial new impacts to surrounding properties.

Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees within six months of the date of approval.
2. Full site plan review.
3. The Type 2 Use approval shall be for the west parcel only. No other commercial uses beyond parking shall be allowed there.
4. No outdoor amplified music.
5. Outdoor patron area hours shall be limited to between 11:00 A.M. and 11:00 P.M. Monday through Saturday.
6. Dispensing of alcohol outside the primary structure is only allowed in the tiki bar structure and is limited to the hours listed above. No additional area shall be used to dispense, serve, or otherwise provide alcohol.

In response to comments and queries by the members, Mr. Bailey and Ms. Berutti provided further information regarding the staff recommendation and discussed code enforcement violations; whereupon, Brian J. Aungst, Jr., Clearwater, appeared and indicated that he represents the applicant and provided each of the members an evidence packet, stating that the résumés of Brian Barker, PE, and Wayne Wells, AICP, are included under tab eight. At the request of Mr. Aungst, Mr. Burdette moved, seconded by Ms. White and carried unanimously, that Mr. Barker be accepted as an expert witnesses in civil engineering; and that Mr. Wells be accepted as an expert witness in planning.

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During discussion and in response to comments and queries by the members, Mr. Aungst provided extensive historical background information regarding the application, including permissible hours for outdoor amplified music, and indicated that a petition containing 206 signatures in support of the request is included as part of the evidence packet; whereupon, Messrs. Barker and Wells discussed parking requirements, landscape buffering, site plan considerations, and similar matters, and Mr. Bailey provided further information regarding compliance issues.

Upon Chairman Doran's call for proponents of the application, the following individuals appeared and stated their support:

Joseph Karan, Land O' Lakes
Lynda Stevens, Largo
Gina Bothwell, St. Petersburg
Stanley Haddad, St. Petersburg
Brenda Brooks, St. Petersburg
Bonnie Whelen, St. Petersburg
Christina Jones, Seminole
Michele Sutak, Seminole
Juan Santiago, Tampa
Adrienne Parrish, St. Petersburg

Upon Chairman Doran's call for persons in opposition to the application, the following individuals appeared and stated their concerns:

Nermina Krneta, St. Petersburg (speaking on behalf of others)
Erik Williams, St. Petersburg

In rebuttal, Mr. Aungst opined that much of the objectors' testimony is irrelevant since it is lay witness speculation; whereupon, responding to queries by the members, he provided further information regarding the request, including:

- Conditions imposed by staff and requested changes by the applicant
- Permitting challenges regarding the tiki hut
- Outdoor entertainment and amplified music
- Landscaping buffering and parking requirements

Chairman Doran clarified the request, and discussion ensued. At the recommendation of Attorney Hardy, the members reviewed each of the staff conditions.

Thereupon, Mr. Burdette moved, seconded by Ms. White, that the application be approved based on the criteria for granting variances and Type 2 Uses; and that approval should be subject to following conditions, as revised:

1. The applicant shall apply for all required permits and pay all applicable fees within six months of the date of approval.
2. Full site plan review.
3. No other commercial uses beyond parking shall be allowed in the R-4 zoned areas.
4. Outdoor amplified music shall be limited to between the hours of:
12:00 noon to 9:00 P.M. Monday through Thursday,
12:00 noon to 11:00 P.M. Friday and Saturday, and
12:00 noon to 6:00 P.M. Sunday.
5. Outdoor patron area hours shall be limited to between 11:00 A.M. and 11:00 P.M.
6. Dispensing of alcohol outside the primary structure is only allowed in the tiki bar structure and other outdoor areas as depicted on the submitted concept plan, and is limited to the hours listed above. No additional areas shall be used to dispense, serve, or otherwise provide alcohol.

Upon call for the vote, the motion unanimously.

MINUTES OF JUNE 5 AND JULY 3, 2019 MEETINGS – APPROVED

Upon motion by Mr. Burdette, seconded by Mr. Bello and carried unanimously, the minutes of the meetings held June 5 and July 3, 2019 were approved.

OTHER BUSINESS

At the request of the Chairman, Attorney Hardy discussed the function of a pre-hearing conference; whereupon, she provided information regarding an appeal that has been filed pertaining to the issuance of permits for the demolition of a structure located on the Tides Golf Club property.

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In response to comments and queries by the members, Attorney Hardy, with input by Mr. Lyon, related that the three major issues raised by the appellant are not overly complex; and that the members will hear the portion of the appeal specific to the habitat permit; whereupon, she discussed options with regard to scheduling the pre-hearing conference and offered to meet with the members on a one-on-one basis if they have questions regarding the process, and Mr. Burdette provided input.

ADJOURNMENT

The meeting was adjourned at 11:34 A.M.

Chairman