

Clearwater, Florida, February 1, 2017

The Board of Adjustment (BA) 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: Joe C. Burdette, Chairman; John Doran; Stephen G. Watts; Cliff Gephart; and Deborah J. White.

Not Present: Gregory R. Pierce, Vice-Chairman, and Alan C. Bomstein.

Also present: Glenn Bailey, Planning Department Zoning Manager; Chelsea D. Hardy, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Jenny Masinovsky, Board Reporter, Deputy Clerk.

### CALL TO ORDER

Chairman Burdette called the meeting to order at 9:00 A.M.

### 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 THE PINELLAS COUNTY SCHOOL BOARD THROUGH CHARLENE BEYER, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-2-2-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of the Pinellas County School Board through Charlene Beyer for a special exception to allow for overflow parking from the adjacent school to the south, re property located on the northeast corner of the intersection of 74th Street North and 40th Avenue North in Lealman (BA-2-2-17). The Clerk has received one letter in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request, provided the Board is satisfied the “Standards” of Section 138-238, Division 7 of the Pinellas County Land Development Code have been met. Approval should be subject to the following conditions:

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

Mr. Bailey noted that the main concerns communicated in the letter of objection are not related to the subject property; and that granting of the special exception will not impact the traffic in the area.

Charlene Beyer, Seminole, appeared and indicated that she is seeking the aforesaid special exception; whereupon, she provided background information regarding the application, relating that additional parking would relieve the traffic issues.

In response to queries by the members, Ms. Beyer, with input by Manda Rahgozar, Clearwater, provided details regarding the property, and Mr. Bailey indicated that matters such as the unpaved lot would be addressed during the site plan review; and that while the property, whose jurisdictional border is shared with the City of St. Petersburg, is owned by the County, the school adheres to municipal parking regulations.

Responding to the Chairman's call for persons wishing to speak regarding the application, Laura Perlman, St. Petersburg, appeared and noting that she does not object to additional parking, expressed her concerns regarding flooding, traffic, and street width. Chairman Burdette explained that the above-mentioned matters would also be addressed at the site plan review, and Ms. Rahgozar provided information regarding permits and approvals relating to the drainage system and reiterated that additional parking will not increase traffic.

Thereupon, Mr. Doran moved, seconded by Ms. White, that the special exception be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF JAMES AND JEFFERSON JOHNSON, REPRESENTATIVES,  
FOR A VARIANCE (BA-3-2-17) – GRANTED AS PER STAFF  
RECOMMENDATION

Public hearing was held on the application of James and Jefferson Johnson for a variance to allow for the construction of a covered front porch with steps having a 17-foot setback from the north property line along Georgia Avenue where 25 feet is required, re property

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located at 904 Georgia Avenue in Palm Harbor (BA-3-2-17). A memorandum signed by 18 neighbors in support of 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. The homeowner is proposing to replace an existing front deck with one that is safer and more attractive. Approval of the variance should not adversely affect adjacent and/or nearby neighbors since other properties in the area have similar setback encroachments. Approval of the request should be subject to the following condition:

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

James Johnson, Palm Harbor, appeared and indicated that he is the owner of the subject property.

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

Thereupon, Mr. Watts moved, seconded by Mr. Doran, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#3 APPLICATION OF LASPINA CLEARWATER PROPERTIES, LLC, THROUGH CHRISTOPHER P. WICKS, II, GLOBAL SIGN & AWNING, REPRESENTATIVE, FOR A VARIANCE (BA-7-12-16) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Laspina Clearwater Properties, LLC, through Christopher P. Wicks, II, for a variance to allow for the construction of a freestanding sign that is 119.37 square feet larger than the maximum 150 square feet allowed, re property located at 27867 U.S. Highway 19 North, in the unincorporated area of Clearwater (BA-7-12-16). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff cannot support the request, as it does not meet the criteria for granting a variance found in Section 138-113 of the Pinellas County Land Development Code, specifically in regard to:

- (1) *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
- (2) *No special privilege.* That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
- (3) *Unnecessary hardship.* That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

Mr. Bailey indicated that the application represents an amendment from the prior request for a structural setback variance, continued by the Board at the December meeting; whereupon, referring to a depiction of the proposed sign and responding to queries by the members, he clarified why it does not fit within the allowed parameters and indicated that the advertising of the case was changed to reflect the present request.

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

Christopher P. Wicks, II, Clearwater, appeared and indicated that he represents the applicant, and referring to photographs and illustrations, provided background information regarding the application. Responding to queries by the members, he discussed the size and purpose of the sign components, including the structure depicted in yellow, the businesses advertised on the sign cabinets, and the parameters of the nearby dealership sign; whereupon, Mr. Bailey pointed out an error on the applicant's plan with regard to the sign setback shown as three feet instead of the required ten.

In response to the Chairman's call for supporters of the application, William Griffin, Largo, appeared and indicated that the County rule counting any structure 24 inches or wider toward the size of a sign is very difficult to work with; and that the proposed sign offers appeal to the area where visibility is an issue.

Following lengthy discussion regarding the criteria for granting a variance, signage along U.S. Highway 19, sign art, sign clutter of the past, respect for Board of County Commissioners and the Pinellas County Land Development Code, and ways in which the sign could be modified to fit the requirements, Mr. Doran verified with Attorney Hardy that the advertising for today's hearing was appropriate with regard to the proposed sign modifications stated below; whereupon, he moved, seconded by Mr. Watts, that the variance be granted with the following conditions:

1. Applicant is to obtain all required permits and pay all applicable fees.
2. Sight distance triangles shall be met.
3. The sign size shall be limited to 60 square feet above the maximum 150 square feet allowed in a CP-1 zone.
4. There shall be two visible support poles only.
5. The yellow structure as shown in the submitted diagram shall be decreased in size to fit within the aforementioned 60 square feet.

Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF CLUSTERS AT OAKHURST PROFESSIONAL CONDO ASSOCIATION THROUGH WILLIAM H. GRIFFIN, INTERNATIONAL C & C CORPORATION, REPRESENTATIVE, FOR THREE VARIANCES (BA-1-2-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Oakhurst Professional Condo Association through William H. Griffin to allow for the construction of a freestanding sign, re property located at 9160-9190 Oakhurst Road in the unincorporated area of Seminole (BA-1-2-17), with the following variances:

1. A sign area of 150 square feet where a maximum of 50 square feet is permitted.
2. A sign height of 25 feet where a maximum of 20 feet is permitted; and

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3. A front setback of 7 feet where a minimum of 10 feet is required for freestanding signs having a sign area greater than 75 square feet.

One letter in objection 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 requested variances. The subject property is an 18-unit office condominium complex situated on four separate platted lots, three of which have access/frontage along Oakhurst Road. The requested increase in sign area, the sign height, and the encroachment into the front setback appear to be consistent with other signs across the street, and are not out of character with the area. Furthermore, the applicant is not requesting a greater sign area than what would normally be allowed if each of the lots within the complex were to have its own individual sign. The request consolidates all the potential signs into one, which reduces the potential for sign clutter along Oakhurst Road. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Sight distance triangles shall be met.
3. Only one freestanding sign shall be permitted on the overall property, which shall be located and constructed as depicted in the associated concept plan.

William H. Griffin, Largo, appeared and indicated that he represents the applicant.

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

Mr. Doran moved, seconded by Mr. Watts, that the variances be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF CARMEN R. DIMLER THROUGH JOSEPH N. PERLMAN, ESQUIRE, REPRESENTATIVE, FOR TWO VARIANCES (BA-1-12-16) – DENIED

Public hearing was held on the application of Carmen R. Dimler through Joseph N. Perlman for variances to allow a partially enclosed carport to remain 1.2 feet from the north side property line and a 131-square-foot shed to remain 1.5 feet from the rear property line and 2 feet from the north side property line where 10-foot rear and 7.5-foot side setbacks are required, re property located at 15272 Avalon Avenue in the unincorporated area of Largo (BA-1-12-16). The Clerk has received 12 letters in support of and two letters in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff recommends denial of the requests, as they do not meet the criteria for the granting of a variance established in Section 138-113 of the Pinellas County Land Development Code, specifically in regard to:

- (1) *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
- (2) *No special privilege.* That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
- (3) *Unnecessary hardship.* That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

Mr. Bailey noted that the case was continued from the December meeting, and Mr. Myers provided an update, indicating that a County Court case relating to code violations on the property was recently continued due to the applicant's motion for dismissal; whereupon, Joseph N. Perlman, Esquire, Clearwater, appeared and indicated that he represents the

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applicant, Carmen R. Dimler; and that he is requesting that the present case be continued again, pending results of the court case, and a brief discussion ensued.

Laura Aikman, Clearwater, appeared in response to the Chairman's call for objectors to the application. Referring to photographs and previously sent e-mails, copies of which have been made a part of the record, she expressed concerns regarding ongoing issues, and indicated that she plans to erect a fence. Later in the meeting, Christina Aikman, St. Petersburg, expressed her concern with regard to the lack of privacy on the subject property, owned by her mother.

During discussion and responding to queries and comments by Mr. Burdette, Mr. Myers indicated that Code Enforcement intends to pursue the matter of the applicant's setback and permit violations in any possible venue, noting that the current setback rules were applicable at the time the carport was built. Attorney Hardy provided clarifications, noting that while other code violations may remain, granting of the variances today would render the setback violations moot; whereupon, Mr. Perlman provided input regarding the basis for his dismissal motion.

Following further discussion, Mr. Doran moved, seconded by Mr. Gephart, that the variances be denied in accordance with the staff recommendation; whereupon, Attorney Hardy clarified that a continuance would not be granted. The motion carried by a vote of 4 to 1, with Mr. Watts dissenting.

#### MINUTES OF THE JANUARY 5, 2017 MEETING – APPROVED

Mr. Doran moved, seconded by Ms. White, that the minutes of the meeting of January 5, 2017, be approved. Upon call for the vote, the motion carried unanimously.

#### MISCELLANEOUS DISCUSSION

Chairman Burdette pointed out that the Board has not functioned in its full capacity this year due to some members being absent; whereupon, Mr. Bailey indicated that he will look into the matter.

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ADJOURNMENT

The meeting was adjourned at 9:52 A.M.

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Chairman