

Clearwater, Florida, March 2, 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; Michael Foley (Alternate); Cliff Gephart; Stephen G. Watts; and Deborah J. White.

Not Present: Alan C. Bomstein.

Also Present: Glenn Bailey, Planning Department Zoning Manager; Chelsea D. Hardy, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; Ryan Brinson, Program Planner; other interested individuals; and Tony Fabrizio, Board Reporter, Deputy Clerk.

CALL TO ORDER

Chairman Burdette called the meeting to order at 9:01 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 ANDREAS AND MICHELE SCHROTTER FOR A VARIANCE (BA-3-3-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Andreas and Michele Schrotter for a variance to allow for the construction of a roof over an existing deck with an 8.6-foot front setback where 15 feet is required on a double-frontage lot, re property located at 780 8th Street in Palm Harbor. No correspondence 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. In 2014, the Board approved a setback variance for the construction of decks on the west and north sides of the home. The applicants now wish to construct a roof over the deck on the north side that will encroach further into the setback. Importantly, only the roof will encroach further. The deck itself will comply with the

2014 decision that permitted a setback of 10 feet. There are many covered decks in the surrounding area with various setbacks. This request should not detrimentally affect the ambiance or character of the neighborhood. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The deck may be roofed, but shall not be enclosed.

Michele Schrotter appeared and indicated that she is the applicant.

Responding to query by Mr. Watts, Mr. Bailey confirmed that the variance is only for a roof and not an enclosure.

No one appeared in response to the Chairman's call for objectors to the application; whereupon, Mr. Doran moved, seconded by Ms. White and carried unanimously, that the variance be granted as recommended by staff.

#2 APPLICATION OF DANIEL AND KATRINA KEISLING FOR A VARIANCE (BA-5-3-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Daniel and Katrina Keisling for a variance to allow for the construction of a pool with a screen enclosure on a triple-frontage lot with a front setback of 6 feet from the Sharkey Road right-of-way where 15 feet is required and a front setback of 8 feet from the Dora Drive right-of-way where 20 feet is required, re property located at 2374 Anna Avenue in the unincorporated area of Clearwater. No correspondence has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. The property is a triple-frontage lot that is subject to front setback requirements on three sides, which makes it difficult to construct a pool without encroaching into the setbacks. The request would not detrimentally impact the character of the area. A number of other setback variances along Sharkey Road have been granted in the past. Approval should be subject to the following condition:

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

Daniel Keisling appeared and indicated that he is the applicant.

No one appeared in response to the Chairman's call for objectors to the application; whereupon, Mr. Doran moved, seconded by Mr. Foley and carried unanimously, that the variance be granted as recommended by staff.

#3 APPLICATION OF T A H 2015-1 BORROWER, LLC THROUGH EDWIN MOYANO, REPRESENTATIVE, FOR A VARIANCE (BA-2-3-17) – CONTINUED TO THE APRIL 6, 2017 MEETING

Public hearing was held on the application of T A H 2015-1 Borrower through Edwin Moyano for a variance to allow an existing detached garage to remain with a 7-foot-1-inch rear setback where 10 feet is required, re property located at 5843 59th Way North in Lealman.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The detached garage has been in place since 1994 but was constructed without permits. The subject property is a substandard 5,000-square-foot lot that was platted prior to the establishment of the zoning code. The existing house is positioned in such a way that it would be difficult to move the garage to a location that meets setback requirements without moving it too close to the home. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. In the event the garage is destroyed by natural forces or otherwise removed, any replacement should meet required setbacks unless a new variance is granted by the Board.

No one appeared in response to Chairman Burdette's call for the applicant; whereupon, noting that the Clerk has received one letter in opposition to the application, he indicated that the case would be moved to the end of the agenda.

Later in the meeting, after Chairman Burdette noted the applicant's continued absence, Mr. Doran moved, seconded by Ms. White and carried unanimously, that the case be continued to the next meeting.

#4 APPLICATION OF WILDS LAND COMPANY, LLC, ATTENTION: MARK RUTENBERG, MANAGER, THROUGH JOHN LANDON, P.E. AND JOEL TEW, ESQUIRE, REPRESENTATIVES, FOR A SPECIAL EXCEPTION (BA-4-3-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Wilds Land Company, LLC through John Landon and Joel Tew for a special exception to allow for a one-year extension of a temporary use permit for a temporary sales trailer and associated parking lot, re property located at 3001 Hawks Landing Boulevard in East Lake Tarpon. No correspondence 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, provided the Board is satisfied that the "Standards" of Section 138-238, Division 7, of the Pinellas County Land Development Code are met. This would give the applicant additional time to maintain the temporary sales trailer while working with the County on the permitting of a challenging residential development site plan. The trailer has been in place for nearly two years under an approved temporary use permit, which is the maximum duration allowed without the approval of a special exception granting a maximum one-year extension. No site changes will be required as a result of this extension. The extension will expire after one year or when construction of the corresponding residential development commences, whichever occurs first.

Joel Tew, Palm Harbor, appeared and indicated that he is the land use counsel for Mark Rutenberg, whose company is the applicant.

No one appeared in response to Chairman Burdette's call for objectors to the application; whereupon, at the Chairman's request, Mr. Tew provided additional details about why the extension is being sought.

Thereupon, Mr. Gephart moved, seconded by Mr. Doran, that the extension be approved as recommended by staff.

Discussion ensued, and in response to query by Mr. Watts, Mr. Tew indicated that the trailer is parked at the project site, but is not in use because construction has not begun; and that the request is for one year as that is the maximum allowed under County Code. Responding to query by Mr. Watts, Mr. Bailey explained that the Code requires that the trailer be removed at the commencement of construction; and that there are no conditions associated with staff's recommendation.

Upon call for the vote, the motion that the special exception be granted carried unanimously.

#5 APPLICATION OF ANNETTE GREENOE LAND TRUST THROUGH ELAINE WISE, REPRESENTATIVE, FOR A VARIANCE (BA-3-1-17) – DENIED

Public hearing was held on the application of Annette Greenoe Land Trust through Elaine Wise for a variance to allow an existing screen room to be converted into conditioned space and remain in place with a 0-foot side setback where 7 feet is required, re property located at 1861 Dolphin Boulevard South in the unincorporated area of Gulfport. Eight letters in support of the application, including three from medical providers of the applicant, were received by the Clerk.

Mr. Bailey indicated that the screen room was constructed without permits and extends to the property line; whereupon, he presented the following staff recommendation:

RECOMMEND DENIAL. Staff recommends denial of the request as it does not meet the criteria for granting a variance 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.

Jasper Scott, Clearwater, appeared and indicated that he is representing the applicant in place of Ms. Wise because she is delayed by traffic.

Referring to photographs, maps, and surveys, Mr. Jasper indicated that the applicant can no longer live in her home as it exists because she is wheelchair-bound and legally blind, and the rooms are on multiple levels; and that converting the screen room into a bedroom and bathroom is the only viable option for allowing her to return to the home.

Mr. Bailey, with input by Mr. Brinson, responded to queries by the members as follows:

- The screen room was discovered to be an illegal structure when the applicant sought a building permit for the enclosure.
- Some consideration was given to the fact the property is a corner lot, but it was determined that there are other locations where a room addition could go; and economics cannot be a basis for granting a variance.
- The property is in a flood zone, so any room addition will have to be elevated to at least match the corresponding level of the home.
- The neighbor most impacted by the proposed enclosure told staff he supports the application, but only in consideration of the applicant's hardship and would be otherwise opposed to it.
- A portion of the enclosure would extend about six inches beyond the property line.

March 2, 2017

Responding to additional queries by the members, Mr. Jasper related that the screen room is elevated enough to avert flooding; that there is a hedge between it and the adjacent property; that the room is at the same level as the kitchen, allowing the applicant to wheel between the rooms; that a handicap ramp would provide external access; and that cost is the primary obstacle to choosing another side of the home to build an addition.

At the request of Chairman Burdette, Attorney Hardy discussed whether a personal hardship can provide the basis for a variance, explaining that it cannot and that the requirements are tied to the property, not the owner.

At this time, Ms. Wise appeared and indicated that she is the daughter of the applicant; whereupon, responding to query by Chairman Burdette, she related that the screen room was in place when her mother purchased the home in 1989; and that she believes it dates to the original owner in the 1960s.

Discussion ensued wherein Mr. Bailey responded to members' queries and comments and indicated that the screen room will have to be brought into Code compliance whether the variance is approved or not, and Mr. Jasper confirmed that the proposed enclosure would include a handicapped toilet.

Mr. Watts opined that the Land Use Code allows for granting a variance in this case, citing the *Unnecessary Hardship* provision; whereupon, he moved that the variance be approved, and the motion died for lack of a second.

Thereupon, Mr. Doran moved, seconded by Ms. White, that the variance be denied. Upon call for the vote, the motion carried 4 to 2, with Chairman Burdette and Mr. Watts casting the dissenting votes.

ELECTION OF VICE-CHAIRMAN

Chairman Burdette expressed condolences on the passing of Vice-Chairman Gregory R. Pierce, noting his 17 years of service on the Board.

Thereupon, Mr. Doran moved, seconded by Mr. Foley, that Ms. White be elected Vice-Chairman for the remainder of 2017.

March 2, 2017

Responding to query to Mr. Watts, Attorney Hardy related that Mr. Pierce's replacement does not automatically assume the role of Vice-Chairman; and that the Board can choose an existing member. Upon call for the vote, the motion to elect Ms. White as Vice-Chairman for the remainder of 2017 carried unanimously.

APPROVAL OF MINUTES

Chairman Burdette indicated that the minutes of the February 1, 2017 meeting were not available.

ADJOURNMENT

The meeting was adjourned at 9:31 A.M.

Chairman