

Clearwater, Florida, April 6, 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; Deborah J. White, Vice-Chairman; Vince Cocks; John Doran; Alan C. Bomstein; Cliff Gephart; and Stephen G. Watts.

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 9:00 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 ARHC ALTSPFL01, LLC, C/O ALTUS GROUP US, INC., THROUGH E. D. ARMSTRONG, HILL WARD HENDERSON, AND/OR CYNTHIA H. TARAPANI, FLORIDA DESIGN CONSULTANTS, INC., REPRESENTATIVES, FOR A MODIFICATION TO AN EXISTING SPECIAL EXCEPTION (BA-04-04-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of ARHC ALTSPFL01, LLC c/o Altus Group US, Inc. through E. D. Armstrong and/or Cynthia H. Tarapani for a modification to an existing special exception for an assisted living facility to increase the total number of beds allowed from 99 to 130 without a physical expansion of the existing building, re property located at 1755 East Lake Road 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 it meets the “Standards” of Section 138-238, Division 7 of the Pinellas County Land Development

Code. The additional 31 beds would be housed entirely within the existing building with no exterior site changes. Adequate parking exists, and traffic impacts would be minimal. Approval should be subject to the following condition:

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

Ed Armstrong, Esquire, appeared and indicated that he represents the applicant.

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

#2 APPLICATION OF JAMES BRIDGEFORTH THROUGH CHRIS OLSON, REPRESENTATIVE, FOR A VARIANCE (BA-02-04-17) – DENIED

Public hearing was held on the application of James Bridgeforth through Chris Olson for a variance to allow the creation of a parcel with zero frontage along a publicly accessible right-of-way where 90 feet of frontage is required, re a portion of the property located at 1564 Oakadia Lane in the unincorporated area of Clearwater. The Clerk has received a petition with 11 signatures in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. The request, if granted, would allow for the construction of a single-family home on a proposed parcel without frontage on a publicly accessible roadway. The proposed parcel split would meet minimum lot size requirements; therefore, staff has no objection to the conditional approval of the request as long as the appropriate ingress/egress access is ensured. 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.

3. All state and local platting requirements shall be met.
4. Recording of appropriate easements, inclusive of ingress-egress, utilities, etc.
5. Obtain approval form the Fire Marshal, and meet any associated conditions.

Responding to queries by the members, Mr. Bailey indicated that the request meets the standards of the Rural Residential (R-R) zoning district; that staff would not object if neighbors sought to split their lots, provided the same conditions were met; and that this would be the first such variance granted in the community.

Chris Olson, Nelson Construction and Renovations, appeared and indicated that he represents the applicant. Responding to queries by the members, he related that the applicant also owns and lives on the adjacent property to the north; that he is seeking the variance in order to build separate homes for his son and daughter; and that this proposal represents the best solution to meeting code and Fire Marshal requirements.

Responding to queries by the members, Mr. Bailey indicated that the applicant could build a second structure as an accessory dwelling unit without obtaining a variance, but it would be restricted to 50 percent of the square footage of the main home, 750 square feet; that the easement would have to be wide enough to meet Fire Marshal requirements; and that it would be a private road maintained by the owner.

Responding to the Chairman's call for objectors to the application, the following neighbors appeared and expressed their concerns:

Joe Mobley, Clearwater (speaking for himself and others)

Robert Hardy, Clearwater

Steven Zeeb, Clearwater

Mr. Mobley referred to photographs and indicated that he lives on the adjacent property to the west; and that the applicant is already digging a footer for the second house; whereupon, responding to query by Chairman Burdette, he opined that allowing owners to split their lots would hurt property values. Mr. Bailey indicated that R-R zoning allows 2.5 units per acre; and that since the applicant's property is 1.14 acres, the density is allowed.

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Mr. Zeeb discussed his concern about the impact on County and emergency services and millage rates; and, responding to queries by Mr. Watts, the history of his house and the community.

Mr. Hardy related that he has lived in the community for 58 years, and opined that splitting lots and adding homes would worsen existing stormwater drainage problems, noting that all of the homes on Oakadia Lane are on septic tanks; whereupon, Chairman Burdette related that stormwater drainage concerns are addressed during site plan review.

In rebuttal, Clay Andrew, project superintendent, indicated that the applicant has used engineers to properly develop his site plan and taken the prescribed approval steps; and that foundation work on the second house is allowed because the project is currently permitted as one house, and the structure and lot will only be split if the variance is granted.

Responding to queries by the members, Mr. Olson related that he originally sought a permit for two houses, but learned that the second house would be too large to qualify as an accessory dwelling unit, and therefore, the variance would be needed; that the applicant also wants to use the second house as lodging for business guests; and that a colonnade planned to connect the houses will not be built if the variance is granted.

Discussion ensued during which Mr. Bomstein related that the one of the Board's jobs is to preserve the character of a community, and Mr. Watts opined that allowing the lot to be split to have two detached houses would change the nature of that particular street.

Thereupon, Mr. Bomstein moved, seconded by Mr. Watts, that the application for a variance be denied. Upon the call for the vote, the motion carried 6 to 1, with Mr. Cocks casting the dissenting vote.

#3 APPLICATION OF LOKEY OLDSMOBILE, INC. THROUGH MARK BRENCHLEY, REPRESENTATIVE, FOR A VARIANCE (BA-01-04-17) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Lokey Oldsmobile, Inc. through Mark Branchley for a variance to allow for the construction of a 196.35-square-foot freestanding sign where a maximum of 150 square feet is permitted, re property located at 27840 U.S. Highway 19 North in the unincorporated area of Dunedin. No correspondence has been received by the Clerk.

Mr. Bailey 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.

Paul Lokey, Palm Harbor, appeared and indicated that he is the applicant and owner of the Lokey automobile dealerships; that the company will celebrate its 65th year in Clearwater on June 1; and that the variance request is for a Nissan dealership sign.

Thereupon, Mark Brenchley, Bayside Sign Company, presented diagrams and photographs and indicated that the new sign would replace one with outdated Nissan branding; that the replacement is no taller than the original and meets the code for height; and that it only exceeds the allowable square footage because its support columns are encased in body panels that are calculated as signage.

Responding to queries by the members, Mr. Bailey related that support columns do not count toward the signage calculation if they measure less than 24 inches; and Mr. Brenchley indicated that the existing sign was permitted in 2004 with support columns larger than 24 inches. Leila Kheireddine, Zoning and Permitting Supervisor, explained that the Building Code requires that support columns larger than 24 inches be structurally

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engineered for reasonable stabilization of the sign, indicating that, historically, such columns have been permitted.

Discussion ensued, and responding to query by Mr. Bomstein as to whether the new sign could be reduced in size to meet code, Mr. Lokey indicated that it is already smaller than the old one; that a Lexus dealership across the street has a bigger sign; that the next available smaller Nissan sign is significantly smaller at 20 feet tall; and that the dealership sits low on U.S. Highway 19.

Responding to queries by the members, Mr. Lokey indicated that Nissan requires use of the new design, and Mr. Brenchley related that Nissan will not allow the removal of the lower body panels around the support columns.

Responding to a concern by Mr. Doran that the applicant has not demonstrated that it meets the criteria for granting a variance, Mr. Brenchley referred to photographs and offered evidence of special conditions, no special privilege, and unnecessary hardship, citing visibility issues on U.S. 19, existing nonconforming signs in the area, and sign requirements that are being imposed on the dealerships by the automobile manufacturers. Discussion ensued, and in response to query by Ms. White, Mr. Lokey named the other signs that currently exist on his properties and provided other details about his signage.

No one appeared in response to the Chairman's call for objectors to the application, and lengthy discussion ensued. Mr. Myers provided input, indicating that Code Enforcement staff have been to the Lokey properties in the past for sign issues; that the company's substantial road frontage makes multiple signs permissible; that staff has allowed Lokey some flexibility in the size of its signs provided the cumulative square footage does not exceed what is allowed; and that a flag representing all of the Lokey brands must be removed because it exceeds the allowable square footage.

Thereupon, Mr. Watts moved, seconded by Ms. White, that the variance be granted with the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The sign copy shall not exceed 69.24 square feet, as shown in the submitted diagram.

Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF CHRISTOPHER G. AND LISA HALL FOR A VARIANCE (BA-04-02-17) – GRANTED WITH CONDITION

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Public hearing was held on the application of Christopher G. and Lisa Hall for a variance to allow for an after-the-fact 280-square-foot shed to remain having a 3-foot rear setback where 10 feet is required, re property located at 1351 Georgia Avenue in Palm Harbor. The Clerk has received one letter in support of the application.

Mr. Bailey 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.

Chris Hall, Palm Harbor, appeared and indicated that he is the applicant. He related that he and his wife purchased the property from a bank in February 2016 after she was diagnosed with cancer and they decided to downsize; that it had more than \$1 million in County fines from the previous owner; and that he tore down a dilapidated garage and replaced it with a \$6,500 shed.

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Responding to queries by the members and referring to photographs, Mr. Hall indicated that he was unaware that he needed a permit for the shed; that he has completely renovated the house and added a pool with a 40-foot by 13-foot enclosure; and that if he moves the shed forward to comply with the rear setback requirement, it will sit only five feet from the new enclosure. He related that the former garage had been in the same location since 1960, and his substantial investment in the property has improved the look of the neighborhood.

Messrs. Meyers and Brinson provided input, indicating that the new owners have indeed cleaned up what was once an eyesore; and that the violation was discovered when a building inspector visited the property to inspect the pool.

No one appeared in response to the Chairman's call for objectors to the application, and discussed ensued, with the members expressing general agreement that the overall improvements to the property supersede any negatives resulting from the violation.

Thereupon, Mr. Watts moved, seconded by Mr. Bomstein, that the variance be granted with the following condition:

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

Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF DAVID TOMASINO FOR A VARIANCE (BA-01-03-17) – DENIED WITHOUT PREJUDICE

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Public hearing was held on the application of David Tomasino for a variance to allow a 10-foot-high retaining wall with fence to remain with 0-foot side and rear setbacks where 6-foot side and 10-foot rear setbacks are required, re property located at 1630 Illinois Road in the unincorporated area of Clearwater. The Clerk has received one letter in support of the application.

Mr. Bailey 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.

David Tomasino, Clearwater, appeared and indicated that he is the applicant.

No one responded to the Chairman's call for objectors to the application; whereupon, Mr. Tomasino discussed his application, relating that he coordinated with his neighbor to install the two-level retaining wall and fence; and that the neighbor later became upset and filed a complaint.

Responding to queries by the members, Mr. Tomasino related that:

- His property slopes downward sharply from west to east, and the elevation disparity would put his home interior, pool, and Jacuzzi in plain view of neighbors if he is not allowed an elevated privacy fence.
- He is not asking for special privilege; only the ability to use his pool and Jacuzzi with privacy.
- An engineer drew up the plans for the portion of the retaining wall that is new.
- The Code Enforcement officer who responded to the complaint advised that a permit would be needed for the fill dirt, but he did not say anything about a permit being required for the wall.

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Mr. Brinson showed photographs of the fence from the perspective of neighboring properties, and Mr. Bailey related that it is important for retaining walls to be permitted to assure proper drainage, confirming that Mr. Tomasino's was not.

Dayne Morris, Engineering Specialist, Development Review Services, referred to a photograph and discussed the walkthrough that staff did to approve the fill request and the cubic yards of fill he recommended, relating that there may have been some miscommunication about how much dirt would be allowed and the permitting requirements for the wall.

Mr. Myers provided input, relating that the complaint was received last August; that staff conducted an inspection in September and issued a warning about the placement of the fill dirt and other problems; and that when staff returned in November, the unpermitted wall was being built and another warning was issued.

Discussion ensued, and the members expressed general agreement that the violations are too severe to allow for a variance; whereupon, Mr. Bomstein moved, seconded by Mr. Doran and carried unanimously, that the request be denied without prejudice.

Following the vote, Chairman Burdette advised Mr. Tomasino that he can return to the Board with a proposed solution without having to wait the usual six months, noting that a wall and fence as high as 10 feet will probably not be approved.

#6 APPLICATION OF T A H 2015-1 BORROWER, LLC THROUGH EDWIN MOYANO, REPRESENTATIVE, FOR A VARIANCE (BA-02-03-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of T A H 2015-1 Borrower, LLC 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 58th Way North in Lealman. The Clerk has received a letter of no objection from the City of Pinellas Park and one letter in opposition to the application.

Mr. Bailey indicated that the Board continued the case in March because the applicant failed to appear; whereupon, he 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.

Edwin Moyano, Seffner, appeared and indicated that he is representing the applicant.

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

Responding to query by Mr. Gephart, Mr. Moyano indicated that he did not appear when the case was first scheduled because he had a scheduling conflict; and that with his absence, he did his client a disservice.

Thereupon, Mr. Bomstein seconded Mr. Doran's motion that the variance be approved as recommended by staff, and upon call for the vote, it carried unanimously.

#### MINUTES OF THE FEBRUARY 1 AND MARCH 2, 2017 MEETINGS – APPROVED

Mr. Bomstein moved, seconded by Mr. Doran, that the minutes of the meetings of February 1 and March 2, 2017 be approved. Upon call for the vote, the motion carried unanimously.

#### INTRODUCTION OF MR. COCKS

Chairman Burdette noted that he had neglected to introduce new Board member Vince Cocks at the beginning of the meeting and did so at this time; whereupon, responding to query by Mr.

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Gephart, Mr. Cocks related that he is the Operations Manager for Care Ride LLC, which transports citizens who cannot drive or take the bus.

ADJOURNMENT

Upon motion by Mr. Bomstein, seconded by Mr. Watts and carried unanimously, the meeting was adjourned at 10:27 A.M.

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Chairman