

Clearwater, Florida, May 31, 2017

The Board of Adjustment 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; Alan C. Bomstein; Vince Cocks; John Doran; Cliff Gephart; and Stephen G. Watts.

Also Present: Glenn Bailey, Zoning Manager; Chelsea D. Hardy, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Christopher Bartlett, 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 THOMAS MERKLINGER AND SUZANN L. SMART THROUGH EVANS MORIARTEY, BOYLES ALUMINUM, REPRESENTATIVE, FOR A VARIANCE (BA-08-06-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Thomas Merklinger and Suzann L. Smart through Evans Moriarty for a variance to allow a screen pool enclosure to be built with a 14-foot front setback from the Madonna Boulevard right-of-way where 20 feet is required, re property located at 326 7th Avenue North in Tierra Verde (BA-08-06-17). One letter in 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. The subject property has double frontage and the variance request pertains to the secondary front. Madonna Boulevard has a wide-right-of-way, with approximately 25 feet of green

space between the roadway edge and the applicant's property line. The proposal should pose minimal impacts to nearby properties and the street character of the area. In addition, the adjacent property to the west received variance approval from the Board on a similar request in 2004. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. All other required setbacks shall be met.
3. The existing fence and landscaping along Madonna Boulevard shall be maintained to ensure adequate screening.

Evans Moriartey, Holiday, 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 Mr. Cocks and carried unanimously, that the variance be granted as recommended by staff.

#2 APPLICATION OF WILLIAM H. GAY FOR A VARIANCE (BA-03-06-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of William H. Gay for a variance to allow the installation of an in-ground pool with a 15-foot front setback and pool equipment with a 13-foot front setback from the 54th Avenue North right-of-way where 20 feet is required, re property located at 5401 110th Way North in the unincorporated area of Seminole (BA-03-06-17). One letter in 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. The subject property has double frontage with setback relief being sought from the secondary front. In addition, the home was constructed in the 1960s and is closer to the 54th Avenue North right-of-way than allowed by the current code. The proposed location of the pool would bring it in line with the home. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The pool shall not be caged.
3. The pool and pool equipment shall be screened by a 6-foot-high opaque fence or wall.

Kevin Plankey, Seminole, 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 variance be granted as recommended by staff.

#3 APPLICATION OF FANTASMA HOLDINGS, LLC THROUGH FORREST KATTNER, TB ROOFING AND CONSTRUCTION, REPRESENTATIVE, FOR A VARIANCE (BA-05-06-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Fantasma Holdings, LLC through Forrest Kattner for a variance to allow the construction of a single family home with 6-foot side setbacks from the east and west property lines where 7.5 feet is required, re property located on the north side of 41st Avenue North approximately 44 feet east of 29th Street North in Lealman (BA-05-06-17). 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. The subject property was platted prior to 1963 and is narrow at 42 feet wide. The requested setback relief is reasonable and appears to be consistent with certain other properties in the general area. Approval should be subject to the following conditions:

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

Forrest Kattner, Largo, 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 Mr. Doran and carried unanimously, that the variance be granted as recommended by staff.

#4 APPLICATION OF LINDA MACHOLZ FOR A VARIANCE (BA-01-06-17) – DENIED

Public hearing was held on the application of Linda Macholz for a variance to allow for the construction of a detached garage with a 5-foot rear setback where 10 feet is required, re property located at 1473 Laconia Drive West in the unincorporated area of Clearwater (BA-01-06-17). One letter in 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. The layout of the existing structures on the property and the septic system make it difficult to locate the proposed garage outside of the setbacks. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. There shall be no curb cuts or new driveway access to the proposed garage.

Upon the Chairman's call for the applicant, James and Linda Macholz, Clearwater, appeared. Responding to queries by the members, Mr. Macholz referred to maps and photographs, pointed out the locations of the proposed garage and the septic system, and stated that the structure will have a garage door. He indicated that sufficient space for a backhoe to access the yard is needed in order to service the septic system, which is close to 20 years old; that if the proposed structure is moved to accommodate the required 10-foot setback, there would only be a 4- to 5-foot wide path which is too small for a backhoe; and that access from the other side of the home is also 4 to 5 feet wide.

Mr. Bomstein indicated that allowing the variance for a 5-foot setback is a significant encroachment upon the adjacent property; and that he is seeking an alternative to allow the applicant to complete the garage without diminishing the neighbor's rights.

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

Responding to queries by the members, Mr. Bailey related that the applicant has reduced the proposed variance from what was originally requested; and that the 6-foot setback on the north side is acceptable.

In response to queries by the members, Mr. Macholz indicated that the intent is to use the structure for storage; and that large 40-foot tall trees line the property and hinder a backhoe from accessing the yard; whereupon, Mr. Bomstein noted that the dimension of the structure is arbitrary; and that it can be reconfigured for storage space and a patio without the need for a variance.

Mr. Bomstein moved, seconded by Mr. Watts and carried unanimously, that the variance be denied.

#5 APPLICATION OF CBS OPERATIONS, INC. THROUGH CHRIS GIEBNER, REPRESENTATIVE, FOR A SPECIAL EXCEPTION AND A VARIANCE (BA-10-06-17) – GRANTED WITH AMENDED CONDITIONS

Public hearing was held on the application of CBS Operations, Inc. through Chris Giebner for a special exception to allow for recreational uses in an M-1 zone and a variance to allow the dispensing of alcohol for on-premises consumption within 85 feet of a residential zoning district where 150 feet of separation is required, re property located at 380 105th Terrace Northeast in the unincorporated area of St. Petersburg (BA-10-06-17). Five letters in opposition 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 requested special exception, provided the Board is satisfied the "Standards" of Section 138-238, Division 7 of the Pinellas County Land Development Code have been met. Additionally, staff has no objection to the conditional approval of the variance request, as the entrance to the portion of the building proposed for the dispensing of alcohol is on the side opposite to, and greater than 150 feet away from, the residential zone boundary. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Full site plan review.
3. The proposed facilities shall be constructed in substantial conformance with the submitted concept plan.
4. Pedestrian sidewalks shall be required along all public roadway frontages.
5. There shall be no outdoor recreational activities before 7:00 A.M. or after 10:00 P.M.
6. Hours for the dispensing of alcohol shall be limited to between 5:30 P.M. and 12:00 A.M. Monday through Friday, 11:00 A.M. and 12:00 A.M. Saturday, and 11:00 A.M. and 11:00 P.M. Sunday.
7. Outdoor lighting shall be shielded and directed away from nearby residential uses.
8. Any loud speakers or other amplified sounds shall be directed away from nearby residential uses.

Upon the Chairman's call for the applicant, Chris Giebner, St. Petersburg, appeared and provided information regarding the business operations of Tampa Bay Club Sport. He noted that under the proposal, the company would move its corporate headquarters to the site, occupying about 7,000 square feet of space; that new athletic and recreational facilities would be built and would include small multipurpose fields and sand volleyball courts; and that the facilities would service the company's local clients for corporate team building events and youth and adult sport leagues.

Mr. Giebner indicated that the entrance to the building proposed for alcohol sales is on the east side of the property and is 155 feet from the residential zone; whereupon, referring to photographs and aerial maps, he pointed out the surrounding properties and the proposed site layout, and Mr. Bailey provided input.

Responding to queries by the members, Mr. Giebner indicated that the fields and volleyball courts would be located on the north and central south area of the property; that the recreational facilities would be 220 feet away from any residential structure; and that it has

become difficult to rent similar facilities in the county, which has led the company to propose building its own facilities.

In response to queries by Mr. Bomstein, Mr. Giebner noted that the corporate team-building events typically involve competitions between 30 to 40 employees during the daytime; that a client could use the building for meetings or ceremonies, but no alcohol will be served during the day; and that there are a total of 33 parking spaces, which meets code requirements.

Mr. Bailey provided information regarding permitted uses in an M-1 zone, and noted that parks, tennis and basketball courts, and jogging trails are all examples listed in the code; that staff considered the proposed use to be at a higher level; and that the Board could decide the proposed use meets code without the need for a special exception, and discussion ensued.

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

Laura Gomez, St. Petersburg
Ian Elston, St. Petersburg

Upon Chairman Burdette's call for objectors to the application, the following citizens appeared and stated their concerns:

Matt Brooks, Seminole
Donald O. Steele, St. Petersburg
John Lutz, St. Petersburg
George Lamont, St. Petersburg
Ken Moody, St. Petersburg

During citizen comments and in response to queries by the members, Attorney Hardy summarized Code Sections 138-115 and 138-242 for the members, and stated that Section 138-115 is not applicable in this situation, Section 138-1332(c)(1) allows the dispensing of alcohol for on-premises consumption in an M-1 zone, and Section 138-242 allows for recreational areas in any zone.

In response to queries by the members, Mr. Giebner indicated that the building to the north and the parking lot west of the property are both owned by CBS Operations; that the intent is to only sell beer and wine; that alcohol sales are concessionary to the recreation; and that

it would be acceptable to halt alcohol sales at 11:00 P.M. instead of at 12:00 A.M. as originally proposed.

Mr. Giebner related that the courts and fields will reduce the total amount of impervious ground on the property by nearly 4,500 square feet, which would help alleviate flooding on Oak Street; that there are no plans to use amplified sounds outdoors on a regular basis; and that viewing stands or bleachers are not used, as spectators utilize their own folding chairs, when needed. He noted that outdoor competitions would typically have less than 30 people watching and participating; and that there are no plans for daytime sales of alcohol during the week.

Mr. Bailey stated that the size of the proposed soccer fields will be smaller than a standard tennis court; and in response to query by Mr. Gephart, related that if the proposal did not include alcohol sales, it would still require a special exception.

Following discussion, Mr. Bomstein moved, seconded by Mr. Watts, that the special exception and variance be granted as recommended by staff with the following amendments:

- a. Alcohol sales shall be limited to beer and wine only.
- b. Alcohol sales shall cease at 11:00 P.M.
- c. Loudspeakers and viewing stands shall not be permitted.

Upon call for the vote, the motion carried unanimously.

#6 APPLICATION OF ARCHDIOCESE SYRIAN ORTHODOX CHURCH ANTIOCH EASTERN US, C/O SIMONE JALLO THROUGH HOUSH GHOVAEE, NORTHSIDE ENGINEERING, REPRESENTATIVE, FOR A SPECIAL EXCEPTION AND VARIANCE (BA-06-06-17) – GRANTED WITH AMENDED CONDITIONS

Public hearing was held on the application of Archdiocese Syrian Orthodox Church Antioch Eastern US through Housh Ghovae pertaining to a previously approved application that has expired regarding a modification to an existing special exception, with a variance to allow for the construction of a 6,700-square-foot multipurpose building for the existing church having a 25-foot front setback from the north property line along Old

Keystone Road where 50 feet is required, re property located at 3800 Old Keystone Road in East Lake Tarpon (BA-06-06-17). Five letters and a petition with 84 signatures in opposition were received by the Clerk.

Mr. Bailey provided background information and indicated that the initial period granted of one year to commence construction has expired; that the applicant did not request an extension in a timely manner; and that the new request includes a modification to the proposed parking area in order to better accommodate the wetlands on the southwest corner of the property. He stated that all of the previous conditions for approval are included; and that additional conditions have been added regarding pedestrian facilities and removing the existing access to Keystone Road; whereupon, he presented the following staff recommendation:

Recommend Conditional Approval. This is a rehearing of the same request the Board approved on December 3, 2015 (Case No. BA-1-12-15). Staff has no objection to the conditional approval of the requested special exception, provided the Board is satisfied the “Standards” of Section 138-238, Division 7 of the Pinellas County Land Development Code have been met. Additionally, staff has no objection to the conditional approval of the setback variance request, as the subject property has an irregular shape, triple roadway frontage, and a wetland/natural area on the southwest portion of the property that must be avoided. 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. The proposed multipurpose building and additional parking shall be constructed in substantial conformance with the submitted concept plan.
4. Additional landscaping along Old Keystone Road shall be required.
5. The multipurpose facility shall not be rented for non-member functions.
6. The existing access connection to Keystone Road shall be removed as it serves no purpose based on the submitted concept plan.
7. Pedestrian facilities shall be installed on both public road frontages.

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In response to the Chairman's call for the applicant, Housh Ghovae, Clearwater, appeared and related that the original project design was based on old information concerning the wetland; that the applicant hired an environmentalist to work with the Southwest Florida Water Management District to establish the current borders of the wetland; and that the original plans for parking conflict with the wetland's new borders. He noted that the parking lot reconfiguration is the only change made from the original plans; and that an attempt has been made to formally reach out to the neighborhood association.

Responding to queries by the members, Mr. Ghovae indicated that all parking would be contained on site with no need to continue parking cars directly on Old Keystone Road; that a free-standing dumpster has now been contained with a 6-foot-high fence; and that the hours for the multipurpose building would correlate with the use of the church. He related that the building would be used as a Parish Hall; that the existing aluminum structures on the property would be removed; and that the plan calls for 106 parking spaces where only 93 are required; whereupon, Mr. Bailey stated that the wetland is the basis for the hardship, and Principal Planner Ryan Brinson provided input.

Upon Chairman Burdette's call for opponents of the application, the following individuals appeared and stated their concerns, noting that exiting traffic from the church often travels down Old Keystone Road and away from Keystone Road; that notifications for the hearing failed to reach every area resident; that the area has major drainage issues; and that the building is excessively large.

John and Jessica Holly, Tarpon Springs
Jeff Willey, Tarpon Springs
Daniel Stefanelli, Tarpon Springs
Sue Gimeno, Tarpon Springs

Responding to Mr. Willey's concerns, Mr. Bailey stated that when the property has two accesses, the code requires that access be only on the lesser road; whereupon, Development Review Services Director Blake Lyon concurred and indicated that the Board could add a condition to restrict the access to Old Keystone Road, noting that it could be a challenge to enforce compliance.

In rebuttal, Mr. Ghovae indicated that the proposed building's floor area ratio (FAR) is 0.10, and much smaller than the 0.25 FAR allowed; that the access on Old Keystone Road is existing and is used by the church for its patrons; that use of the building will not increase the number of people on the property, and it would not be leased out to third parties; and

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that a tentative floor plan includes space for a kitchen, banquet room, office, storage, and other uses.

Mr. Bomstein referred to the concerns regarding high levels of traffic exiting down Old Keystone Road, and asked whether the applicant might consider restricting the exit to only right turns towards Keystone Road, and Mr. Ghovae indicated agreement to the restriction.

Responding to queries by the members, Fadi Malki, Plan Harbor, stated that the church has 50 to 200 parishioners on Sundays; that the building would be used for Sunday School, Bible Studies, and church events; and that the site plan and architectural renderings have been forwarded to the neighborhood association for feedback, and discussion ensued.

Mr. Watts moved that the special exception and variance be granted as recommended by staff. Mr. Bomstein requested that an additional condition be included to deny left turns when exiting onto Old Keystone Road, and Mr. Watts concurred; whereupon, Mr. Bomstein seconded the motion.

Upon call for the vote, the motion carried 6 to 1, with Ms. White casting the dissenting vote.

ADJOURNMENT

The meeting was adjourned at 11:00 A.M.

Chairman