

Clearwater, Florida, October 5, 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; Alan C. Bomstein; Vince Cocks; John Doran; and Cliff Gephart.

Not Present: Stephen G. Watts.

Also present: Glenn Bailey, Planning Department Zoning Manager; Brendan Mackesey, Assistant County Attorney; other interested individuals; and Jenny Masinovsky, Board Reporter, Deputy Clerk.

CALL TO ORDER

Chairman Burdette called the meeting to order at 9:07 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 JAMES MARTIN THROUGH BOYLE'S ALUMINUM AND SCREENING, REPRESENTATIVE, FOR A VARIANCE (BA-03-10-17) – GRANTED WITH CONDITION

Public hearing was held on the application of James Martin through Boyle's Aluminum and Screening for a variance to reduce the side setback from 5 feet to 2.5 feet from the east side property line for the construction of a screen enclosure over an existing pool, re property located at 1339 Augusta Lane South in the unincorporated St. Petersburg area (BA-03-10-17). No correspondence relative to the application was received by the Clerk prior to the hearing.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. This request pertains to a proposal to install a pool enclosure 2.5 feet from the east side property line. None of the adjacent properties have pool enclosures and there is no evidence of similar variances being granted within the immediate area. Staff cannot support

the request, as it does not meet the criteria for granting a variance in accordance with 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.

James Martin, St. Petersburg, and Robert Evans Moriarty, Boyle's Aluminum and Screening, appeared and indicated that they are the applicant and the representative, respectively; whereupon, Mr. Martin provided background information regarding the application and noted that the neighbor who would be most affected by the variance is in support and has sent a letter indicating the same to the Board.

During discussion and responding to queries by the members, Messrs. Martin and Moriarty referred to photographs and provided clarifications regarding the proposed structure and its most appropriate location; whereupon, Chairman Burdette and Mr. Bailey indicated that the aforementioned letter has not been received by the Board or staff, and at Chairman Burdette's request, Mr. Martin presented it for the record.

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

Mr. Bomstein indicated that the County does not entitle a property owner to having a pool cage or allow pool cage encroachments on setbacks, but noted the mitigating circumstances of the case, including presence of a fence next to the cage and the affected neighbor's support; whereupon, he moved, seconded by Mr. Doran, that the variance be

granted with the condition that the applicant obtain all required permits and pay all applicable fees. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF WILLIAM L. AND SUSAN A. LINDSEY FOR A VARIANCE (BA-07-10-17) – GRANTED WITH CONDITION

Public hearing was held on the application of William L. and Susan A. Lindsey for a variance to allow an existing pool screen enclosure to remain with a 2-foot side setback from the east property line where 5 feet is required, re property located at 105 Rosewood Drive in East Lake Tarpon (BA-07-10-17). No correspondence relative to the application was received by the Clerk prior to the hearing.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The request pertains to an after-the-fact pool enclosure that was installed without permits. Staff cannot support the request, as it does not meet the criteria for granting a variance in accordance with 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.

William L. and Susan A. Lindsey, Palm Harbor, appeared and indicated that they are seeking the aforesaid variance.

Responding to query by Chairman Burdette, Mr. Bailey indicated that the pool cage was installed in 2002 without a permit; and that the applicants were cited for a Building Code violation, and Mr. Lindsey provided input, noting that setback encroachment was discovered when his immediate neighbor to the north, Michael Carver, was in the process of obtaining financing for his house.

During discussion and responding to queries by the members, Mr. Lindsey indicated that his neighbors, including Mr. Carver, do not object to the variance; whereupon, he provided five letters of no objection, copies of which have been made a part of the record.

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

Mr. Bomstein noted that while it was the applicants' responsibility to ensure that a permit for the pool cage installation was obtained, it has been in place for a long time; whereupon, he moved, seconded by Ms. White, that the variance be granted with the condition that the applicants obtain all required permits and pay all applicable fees. Upon call for the vote, the motion carried unanimously.

#3 APPLICATION OF JOHN HODGES, TRE, FOR A VARIANCE (BA-10-10-17) – GRANTED WITH CONDITION

Public hearing was held on the application of John Hodges, Tre, for a variance to reduce the front setback from 50 feet to 20 feet, the rear setback from 25 feet to 10 feet, and the two side setbacks from 25 feet to 6 feet for the construction of additions to a single-family home, re property located at 1087 Sandra Drive in Palm Harbor (BA-10-10-17). No correspondence relative to the application was received by the Clerk prior to the hearing.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The single-family home on the subject property was constructed in 1957, prior to the establishment of the current zoning code. The A-E zoning district that has long been assigned to the property, has the largest required setbacks of any residential zoning district, 50 feet from the front property line and 25 feet from all other property lines. The existing home is nonconforming to setbacks on all sides except the rear. The applicant wishes to add living space, which means further encroachment into the required setbacks. The requested additions would,

however, meet all standards of the R-3 single family residential zoning district. It is staff's opinion that a zoning amendment is a more appropriate way to address the setback issues. Therefore, staff cannot support this request as it does not meet the criteria for granting a variance in accordance with Section 138-113 of the Pinellas County Land Development Code, specifically in regard to:

- (9) *Consideration of Rezoning.* A rezoning or, where applicable, an amendment to another future land use map category has been considered and determined not to meet the objective of the variance and would not be appropriate.

Mr. Bailey related that staff is not opposed to the request; however, it should be achieved through rezoning to the R-3 residential zone that has corresponding setback parameters, rather than through a variance, and responding to query by Chairman Burdette, indicated that the rezoning process would occur through the Board of County Commissioners (BCC) and take approximately three months.

John Hodges, Palm Harbor, appeared and provided background information regarding the application, indicating that he owns two adjacent properties located at 1087 and 1075 Sandra Drive to which he wishes to make additions without going through a rezoning process. He noted that 1075 Sandra Drive is the subject property in case BA-11-10-17 (See Public Hearing Item No. 4); whereupon, he presented a letter in support of both cases from the neighbors owning two of the five properties in the subdivision, relating that one other neighbor had no comment regarding the matter.

During discussion and responding to queries by the members, Mr. Bailey discussed the advantages and appropriateness of rezoning, noting that it is considered as part of the variance granting criteria.

In response to the Chairman's call for persons wishing to speak regarding the application, Arturo Vazquez, Palm Harbor, indicated that he resides in the adjacent subdivision, and in response to his query, Mr. Bailey confirmed that the subject property will remain a single-family residence.

Ms. White referred to the aforementioned letter from the neighbors and pointed out that they do not wish to have their properties rezoned; whereupon, responding to queries by the members, Mr. Bailey indicated that staff prefers to have all five properties rezoned

together; and that non-conformity of the setbacks would be addressed by the variance, but the property size would remain non-conforming to the A-E zoning district.

Following discussion, Mr. Bomstein moved, seconded by Ms. White, that the variance be granted with the condition that the applicant obtain all required permits and pay all applicable fees. Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF REDSTONE CAPITAL, LLC THROUGH JOHN HODGES, REPRESENTATIVE, FOR A VARIANCE (BA-11-10-17) – GRANTED WITH CONDITION

Public hearing was held on the application of Redstone Capital, LLC through John Hodges for a variance to reduce the front setback from 50 feet to 23.82 feet, the rear setback from 25 feet to 10 feet, the west side setback from 25 feet to 6 feet, and the east side setback from 25 feet to 19 feet for the construction of an attached garage/carport and an addition to a single-family home in an A-E zone, re property located at 1075 Sandra Drive in Palm Harbor (BA-11-10-17). One letter in support of the application was submitted earlier in the meeting.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The single-family home on the subject property was constructed in 1957, prior to the establishment of the current zoning code. The A-E zoning district that has long been assigned to the property has the largest required setbacks of any residential zoning district, 50 feet from the front property line and 25 feet from all other property lines. The existing home is nonconforming to setbacks on all sides except the rear. The applicant wishes to add living space and an attached garage/carport, which means additional encroachment into the required setbacks. The requested additions would, however, meet all standards of the R-3 single family residential zoning district. It is staff's opinion that a zoning amendment is a more appropriate way to address the setback issues. Therefore, staff cannot support this request as it does not meet the criteria for granting a variance in accordance with Section 138-113 of the Pinellas County Land Development Code, specifically in regard to:

- (9) *Consideration of Rezoning.* A rezoning or, where applicable, an amendment to another future land use map category has been

considered and determined not to meet the objective of the variance and would not be appropriate.

John Hodges, Palm Harbor, appeared and indicated that he is seeking the aforesaid variance.

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

Mr. Bomstein moved, seconded by Mr. Cocks, that the variance be granted with the condition that the applicant obtain all required permits and pay all applicable fees. Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF CHARLES A. AND TERRIE L. DIXON THROUGH BOYLE'S ALUMINUM AND SCREENING, REPRESENTATIVE, FOR A VARIANCE (BA-04-10-17) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Charles A. and Terrie L. Dixon through Boyle's Aluminum and Screening for a variance to reduce the front setback from 25 feet to 5 feet from the south property line fronting Lorraine Street for the construction of a carport to a single-family home, re property located at 90 Lorraine Street in Crystal Beach (BA-04-10-17). Previously approved variance (BA-01-02-13) has expired. No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. On February 7, 2013 the Board conditionally approved a similar request to place a carport within the front setback on the subject property. The carport was never constructed and that approval has since expired. At the time, staff recommended denial based on the lack of a demonstrated hardship and the fact that there were no other such front setback encroachments anywhere along Lorraine Street. Those issues still remain; therefore, staff cannot support this request as it does not meet the criteria for granting a variance in accordance with 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 notwithstanding a prior conditional approval of the request by the Board and a subsequent approval of a very similar request, staff recommends denial based on the aforementioned rationale, which remains relevant.

Charles A. Dixon, Crystal Beach, provided background information regarding the application, relating that he made a presentation to the Board in 2013 in connection with the original application that showed other neighbors having similar carport encroachments; whereupon, Mr. Bailey noted that Mr. Dixon is referring to other areas of Crystal Beach, as there are no similar encroachments on Lorraine Street.

Robert Evans Moriarty, Boyle's Aluminum and Screening, pointed out that the proposed carport would be situated 25 feet from the road and five feet from the utility easement; and that it would be open on three sides and not obstruct view.

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

Noting the many code exceptions with regard to Crystal Beach, Mr. Bomstein indicated that he voted to approve the original application; whereupon, he moved, seconded by Ms. White, that the variance be granted upon the conditions that the applicant obtain all required permits and pay all applicable fees; and that the carport will not be enclosed. Upon call for the vote, the motion carried unanimously.

#6 APPLICATION OF JHONNY HERRERA THROUGH JACQUELINE HERRERA, REPRESENTATIVE, FOR A VARIANCE (BA-14-10-17) – DENIED

Public hearing was held on the application of Jhonny Herrera through Jacqeline Herrera for a variance to allow for an 8-foot tall decorative fence to remain with a 3.1-foot setback from the Drew Street right-of-way and a 2.0-foot setback from the Maywood Avenue right-of-way, where 6 feet is the maximum height allowed within the 20-foot required setbacks, re property located at 124 Maplewood Avenue and the adjacent vacant parcel to the west in the unincorporated Clearwater area (BA-14-10-17). One letter in support of the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The request pertains to an after-the-fact 8-foot tall fence that was installed without permits. Staff cannot support the request, as it does not meet the criteria for granting a variance in accordance with 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.

Jacqueline and Jhonny Herrera, Clearwater, appeared and indicated that they are seeking the aforesaid variance; whereupon, Ms. Herrera provided background information regarding the application, noting that the family's security and noise concerns have been

addressed by the fence; and that subsequent to its construction she received a letter regarding the permit requirement.

During discussion and responding to queries by the members, Ms. Herrera referred to various maps and photographs and provided information regarding the fence and its location relative to nearby streets and surrounding neighbors, indicating that the eight-foot fence encloses the property on three sides; and that she was not aware of a permit requirement.

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

In response to the Chairman's call for supporters of the application, Steve Cymbala, Clearwater, indicated that he lives adjacent to the subject property; and that he is supportive of the fence because it is attractive and serves well to alleviate noise from Drew Street.

During discussion, Mr. Bomstein voiced concern with regard to setting a precedent for allowing eight-foot-high fences and noted that cutting a vinyl fence is possible; whereupon, responding to queries by Messrs. Doran and Gephart, Mr. Bailey indicated that the current fence would have been allowed if it was installed within the required setbacks and confirmed that in the alternative, it could remain at its current location if it was two feet shorter.

Thereupon, Mr. Doran moved, seconded by Mr. Gephart, that the variance be denied. Upon call for the vote, the motion carried 6 to 1, with Ms. White casting the dissenting vote.

#7 APPLICATION OF PINELLAS BOARD OF PUBLIC INSTRUCTION THROUGH MANDA RAHGOZAR, REPRESENTATIVE, FOR A VARIANCE (BA-13-10-17) – GRANTED AS PER STAFF RECOMENDATION

Public hearing was held on the application of Pinellas Board of Public Instruction through Manda Rahgozar for a variance to reduce the front setback for a new public school building from 50 feet to 25 feet from the north property line fronting 70th Avenue North, for the multi-frontage Pinellas Park Middle School campus, re property located at 6940 70th Avenue North in the unincorporated Pinellas Park area (BA-13-10-17). 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. The proposal is to construct a new public school administration/media building as part of a redevelopment of the overall school site. The property has road frontage on all four sides with 50-foot minimum setbacks. The proposed 25-foot setback is similar to other existing buildings on the site. 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. Appropriate site plan review.

Manda Rahgozar, Clearwater, appeared and indicated that she represents the applicant; whereupon, she provided information regarding permits and approvals relating to the building addition and remodeling and remarked on the benefit of having a renovated and expanded school campus for the public.

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

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

#8 APPLICATION OF PINELLAS COUNTY THROUGH ANDREW PUPKE, REPRESENTATIVE, FOR A VARIANCE (BA-12-10-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Pinellas County through Andrew Pupke for a variance to allow for the construction of an 8-foot-high fence along the west and south property lines where a maximum of 6 feet in height is normally allowed, re County-owned property located at 29582 U.S. Highway 19 North in the unincorporated Dunedin area (BA-12-10-17). 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. The purpose of the 8-foot-high fence is to provide screening/buffering for the surrounding residential properties to the uses occurring and planned to occur on the County-owned subject property, including periodic HEC3 (Household Electronics and Chemical Collection Center) collection events. Approval should be subject to the following condition:

1. The applicant shall obtain all required permits.

Mr. Bailey related that in addition to HEC3 collections, the subject property would be used for a driving school; and that the fence would serve as an effective barrier from the surrounding residential properties.

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

Pinellas County Real Estate Management Director Andrew Pupke appeared and provided background information regarding the application, and responding to queries by the members, indicated that a vinyl fence is proposed, and Mr. Bailey discussed the existing conditions of the property in terms of fencing.

In response to the Chairman's call for persons wishing to speak regarding the application, Janice Boorse, Clearwater, indicated that she represents Doral Village, which is a 55 and over retirement community; and that due to close proximity of the homes to the subject property, an 8-foot vinyl fence would not be a sufficient sound barrier. Referring to the Board of County Commissioners (BCC) meeting from February 23, 2016, she indicated that residents had asked for an 8- to 10-foot-high concrete fence; whereupon, Mr. Bailey clarified that during the aforementioned BCC hearing to rezone the subject property, staff was directed to meet with the residents to discuss the buffering.

Francis McGrath, Dunedin, indicated that he lives just west of the subject property on Ranchette Lane, and responding to his and Chairman Burdette's queries, Mr. Pupke described the proposed fence and provided information pertaining to discussions that staff had with the surrounding residents. He explained that the Ranchette Lane residents were given an option for a chain-link fence pursuant to their interest in keeping the Australian Pines, which would have to be removed to construct a vinyl fence; that since most of the residents were unable to attend the community meeting, staff welcomes their input today; and that the possibility of landscaping along the future fence on the side of

the property located next to the mobile home park was discussed with its residents; whereupon, Mr. McGrath indicated that Ranchette Lane residents would prefer to have a vinyl fence rather than chain link in light of the high property values.

During discussion and in response to queries by the members, Mr. Bailey confirmed that the Board is being asked to approve only the height and not the type of the fence, and referring to an aerial photograph, showed the Australian Pines, noting that most of them are located outside of the County property, and Mr. Pupke provided details with regard to the schedule for the Household Electronics and Chemical Collection Center and the driving school.

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

#9 APPLICATION OF OSAMA EL-ALAMI FOR A VARIANCE (BA-02-10-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Osama El-Alami for a variance to allow a 6-foot-high fence with a zero-foot front setback from the southeast property line fronting Alternate U.S. Highway 19 North, where a 25-foot setback is required, re property located at 4365 Alternate U.S. Highway 19 North in Palm Harbor (BA-02-10-17). Previously approved variance (BA-07-10-05) for a 6-foot-high wall has expired. 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. The subject property fronts Alternate U.S. Highway 19 and the requested fence will provide added privacy and security. The Board granted approval of a variance allowing a 6-foot 8-inch-high wall on the property in 2005. The wall was never constructed and the variance approval expired. Believing the approval was still valid, the applicant recently constructed a decorative fence with columns along a portion of the front property line. The current request is to validate the new fence and allow for additional fencing along the southern portion of the front property line. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Sight distance requirements shall be met.

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

Osama El-Alami, Palm Harbor, appeared and indicated that he is seeking the aforementioned variance; and that he was not aware that the original variance was expired; whereupon, he referred to photographs and discussed how the sight distance requirements would be addressed.

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

#10 APPLICATION OF MARK AND DEBORAH MURPHY FOR A VARIANCE (BA-06-10-17) – GRANTED WITH ADDED CONDITIONS

Public hearing was held on the application of Mark and Deborah Murphy for a variance to reduce the front setback from 25 feet to 4 feet from the east property line fronting Banana Road (private access easement) for the expansion of an existing deck and the construction of a roof over the existing and expanded deck to a single-family home, re property located at 254 Banana Road in Ozona (BA-06-10-17). 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. The proposal is to place a roof over an existing deck that has been in place for decades and is already within the front setback. The applicants also wish to expand the deck a few feet to the south, but not closer to the front property line. The subject property is at the terminus of a private road with County-owned preservation land existing to the east (other side of the private road) and south. Approval should be subject to the following condition:

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

Mr. Bailey provided details regarding the request and indicated that staff recommends the approval also be subject to compliance with all Fish and Wildlife regulations regarding the nearby eagle's nest.

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

Mark and Deborah Murphy, Ozona, appeared and indicated that they are seeking the aforementioned variance; and that they are aware of the nest.

Mr. Bomstein moved, seconded by Ms. White, that the variance be granted with the above conditions; whereupon, Mr. Doran suggested adding a condition that the deck will not be enclosed, and no objections were noted.

Attorney Mackesey noted for the record that the United States Fish and Wildlife Service and Florida Fish and Wildlife Conservation Commission may be involved with regard to the nest, and responding to query by Mr. Murphy, Mr. Bailey indicated that applicable requirements will be addressed during the permitting process.

Upon call for the vote, the motion that the variance be granted based on the following conditions carried unanimously:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The applicant shall comply with all Fish and Wildlife regulations regarding the nearby eagle's nest.
3. The deck cannot be enclosed.

#11 APPLICATION OF CYPRESS RUN OF FLORIDA, LLC THROUGH TOM TRIPOLI AND DUANE VANETTEN, REPRESENTATIVES, FOR A VARIANCE (BA-08-10-17) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Cypress Run of Florida, LLC through Tom Tripoli and Duane VanEtten for a variance to replace two existing single-family subdivision entrance wall signs with new 62-square-foot signs where a maximum of 24 square feet is allowed, for both the east and west entrances of the Cypress Run subdivision, re property located at 2669 St. Andrews Boulevard in East Lake Tarpon

(BA-08-10-17). 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. The request is to replace the long-existing entrance wall signs at both the east and west entrances of the Cypress Run subdivision. While the requested signs are larger than the Code permits, subdivision entrance wall signs are normally allowed on both sides of an entrance. The applicants are planning only one sign at each entrance. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. No additional entrance signage shall be allowed.

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

Tom Tripoli, Palm Harbor, appeared and indicated that he represents the applicant.

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

#12 APPLICATION OF TROPICAL POWERSPORTS PLAZA, LLC THROUGH MICHELE R. STANLEY, REPRESENTATIVE, FOR TWO VARIANCES (BA-09-10-17) – GRANTED WITH REVISED CONDITIONS

Public hearing was held on the application of Tropical Powersports Plaza, LLC through Michele R. Stanley for a variance to allow the dispensing of alcohol for on-premises consumption within 105 feet of a residential zoning district boundary line where 150 feet of separation is required, and a variance to reduce the front setback from 25 feet to 24 feet from the east property line fronting Seminole Boulevard for the construction of an exterior staircase to a commercial business, re property located at 11600 Seminole Boulevard in the unincorporated Seminole area (BA-09-10-17). 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 requests. The proposal is to add an on-premises alcohol dispensing use (bar) to the second floor of the building and to construct an exterior staircase that will encroach 1 foot into the front setback. A variance is required for a reduction in distance between the proposed bar and the nearby residential properties to the west. The bar is planned in a location on the east end of the subject property and is separated from the residential uses by a 75-foot-wide portion of the existing commercial building that will act as a buffer. Due to the location of the proposed use and configuration of the overall property, approval of the variance with appropriate conditions should not pose adverse impacts to surrounding properties, nor should the 1-foot setback encroachment for the staircase. 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. There shall be no outdoor amplified music.
4. Hours of operation shall be limited to between 11:00 A.M. and 11:00 P.M., 7 days per week.

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

Michele Stanley, Largo, appeared and indicated that she represents the applicant.

During discussion and responding to queries by the members, Ms. Stanley related that the applicant company owns the plaza where she is a prospective owner of the alcohol and tea bar business; that she would like for the bar to stay open past 11:00 P.M., preferably until 2:00 A.M., and to have music there until 11:00 P.M.; that she also owns a business on the lower level of the building; and that the teas intended to be served at the bar aid in recovery from addictions to certain medicines.

Responding to queries by Chairman Burdette, Mr. Bailey indicated that in general, bars located in the appropriate zoning districts and away from residential areas are open until 3:00 A.M., and Ms. Stanley confirmed that she is fully aware of the sound ordinance allowing music until 11:00 P.M., noting that sound would be contained within concrete walls.

Following discussion and clarifications provided by staff to address the members' concerns related to the proximity of the proposed bar with music to the residential area, Mr. Bomstein moved, seconded by Mr. Doran, that the variance be granted with the following modifications to staff-recommended Conditions Nos. 3 and 4:

3. There shall be no amplified music after 11:00 P.M.
4. Hours of operation shall be limited to between 11:00 A.M. and 1:00 A.M.

Upon call for the vote, the motion carried unanimously.

#13 APPLICATION OF P K J COMPANY THROUGH SCOTT NAPPIER, REPRESENTATIVE, FOR A VARIANCE (BA-05-10-17) – CONTINUED TO THE DECEMBER MEETING

Public hearing was held on the application of P K J Company through Scott Nappier for a variance for a front setback reduction from 25 feet to zero feet from the east property line fronting Spring Street and a side setback reduction from 10 feet to zero feet from the north property line for placement of a dumpster and dumpster enclosure serving in a mobile home park, re property located at 15004 113th Avenue North in the unincorporated Seminole area (BA-05-10-17). Two letters of concern and one letter in objection to the application 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 request. The proposal is to establish an approved location for a dumpster and dumpster enclosure on the property following a code violation complaint that led to the removal of the previous dumpster. The property consists of a mobile home park built in the 1950s, prior to the establishment of the land development code. The layout of the mobile home park limits the available locations for a dumpster. The

requested location is where the previous dumpster used to sit, and appears to be the most logical location available given the overall site constraints.

Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The dumpster must be screened from view by a 6-foot-high solid fence or wall (enclosure).
3. Sight distance requirements must be met.

Mr. Bailey noted that subsequent to removal of the dumpster, a complaint was received with regard to garbage pile-up that has been occurring in its place.

Scott Nappier, Largo, appeared and indicated that he has been the manager of the mobile home park since September 1 and is an abutting property owner; whereupon, he introduced Karen Kanyuck, Indian Shores, as one of the principal owners of P K J Company.

Responding to queries by Mr. Bomstein, Ms. Kanyuck provided background information regarding the application, indicating that the dumpster has been in the mobile home park since 1950; that its latest location, where it was abutting Mr. Nappier's house, had not been problematic during the few years it was there; and that its removal following a complaint has created a hardship for the company, because collection of garbage and recyclable materials now involves six weekly pickups from another location; whereupon, she showed the proposed dumpster location on a map, noting that options for placing it somewhere other than its last location are limited. Mr. Bailey pointed out that the dumpster enclosure should be four sided and include a gate, and Ms. Kanyuck indicated that leaving one side open may be more convenient for the residents.

Mr. Nappier noted that the review meeting regarding alternative dumpster locations was cancelled due to Hurricane Irma. He referred to a map showing the latest location relative to his house, and responding to query by Mr. Gephart, indicated that there are better alternatives; whereupon, Chairman Burdette requested that Mr. Nappier discuss those during rebuttal.

October 5, 2017

In response to the Chairman's call for objectors to the application, the following individuals appeared and expressed their concerns that placing the dumpster at its previous location would compromise safety and access, noting that the road is narrow and in poor condition; that the previous dumpster site was not well maintained; and that other options should be considered:

Todd Skeirik, Largo

Robert Makowski, Largo

Curtis L. Brownhill, Largo

Doug McArthur, Largo

In response to Chairman's call for rebuttal, Mr. Bailey and Ms. Kanyuck indicated that it appears that the role of Mr. Nappier as the applicant's representative may have changed; whereupon, Mr. Nappier noted that he wishes to facilitate a solution that would accommodate all involved, and Assistant County Attorney Hardy clarified for the Board that Mr. Nappier is no longer the applicant's representative.

In rebuttal and in response to queries by the members, Ms. Kanyuck indicated that she does not favor an alternative solution where she would be dependent on other people; that while she is not opposed to meeting with the residents to discuss other options, she believes that the proposed location is best under the circumstances; whereupon, Mr. Bomstein indicated that he intends to make a motion that the case be continued, and responding to his query, Mr. Bailey indicated that a 60-day continuance is needed for notification purposes.

Noting that the applicant believes the proposed location to be the best, Mr. Gephart moved that the variance be granted; however, the motion died for lack of a second.

Thereupon, Mr. Bomstein moved that the case be continued for 60 days, recommending that an attempt be made to reach an amicable solution with the neighbors during that time. Following discussion and clarifications provided by Messrs. Bailey and Doran and Attorney Mackesey, Mr. Doran seconded the motion, and upon call for the vote, it carried unanimously.

#14 APPLICATION OF VASSAN PROPERTIES, LLC THROUGH BRIAN AUNGST, JR., REPRESENTATIVE, FOR A VARIANCE AND A SPECIAL EXCEPTION (BA-05-09-17) – GRANTED WITH REVISED CONDITIONS

Public hearing was held on the application of Vassan Properties, LLC through Brian Aungst, Jr. for 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 a special exception to allow for overflow parking, re property located at 7361 46th Avenue North in Lealman (BA-05-09-17). 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 special exception request, provided the Board is satisfied that it meets the “standards” of Section 138-238, Division 7, of the Pinellas County Land Development Code. The main structure on the subject property that has housed a bar for many years 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 and another outdoor patron area that are subject to current parking standards. Those required parking spaces must be provided on the C-2, commercially-zoned portion of the subject property. If granted, the special exception would allow for overflow (non-required) parking in the area of the property that is zoned R-4 residential.

Staff also has no objection to the conditional approval of the variance request. 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 to residential properties for the dispensing of alcohol. The recently added outdoor patron areas, however, are not. A variance is required for their continued use as areas that allow alcohol. Due to the history of the overall property, approval of the variance with appropriate conditions should not pose substantial new impacts to surrounding properties.

Approval of the special exception and variance requests 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. Parking in the R-4 portion of the subject property shall be for overflow parking only, and no other commercial uses shall be allowed there.
4. There shall be no outdoor amplified music.
5. Hours of operation for the outdoor patron areas shall be limited to between 11:00 A.M. and 11:00 P.M., 7 days per week.

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

Brian Aungst, Jr., Clearwater, appeared and indicated that he represents the applicant; whereupon, he requested that the Board consider modifying Conditions Nos. 4 and 5 recommended by staff to allow outdoor amplified music until 11:00 P.M. and extend the hours of operation to 1:00 A.M. on Friday and Saturday, noting for the record that the bar has been continuously operating since 1958 and is an asset to the community, which is demonstrated by the absence of objectors to the application.

Following discussion, Mr. Bomstein moved, seconded by Mr. Doran, that the variance and the special exception be granted with the aforesaid modifications of conditions requested by the applicant, and upon call for the vote, the motion carried unanimously.

#15 APPLICATION OF NURUL AND IFFAT ALAM THROUGH JOE MCKINNON, REPRESENTATIVE, FOR TWO VARIANCES (BA-06-09-17) – DENIED

Public hearing was held on the application of Nurul and Iffat Alam through Joe McKinnon for a variance to place a 1,000-gallon above-ground propane tank within 10 feet of the west property line along 37th Street North where 25 feet is required, and a variance to relocate a dumpster/dumpster enclosure to within 10 feet of the north property line where 20 feet is required, re property located at 3695 54th Avenue North in Lealman (BA-06-09-17). Two letters in objection to the application 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 request. The subject property is a double-frontage lot and the reduced setback for the propane tank is proposed for the “secondary” front. Setback relief for the tank is needed due to state separation requirements between propane tanks and buildings. The proposed reduced setback for the dumpster will not adversely affect the properties to the north due to the buffering effect of a large pond. In 1979, the Board approved a variance for a 0- to 15-foot setback from the north property line for the main structure. 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 propane tank and dumpster shall not encroach into any easements.
- 4. The propane tank and dumpster shall be appropriately shielded from view from nearby roadways.

Mr. Bailey reminded the members that the case was continued from the September 7 Board meeting due to non-attendance by the applicants or the representative.

* * * *

Mr. Bomstein left the meeting at 10:41 A.M.

* * * *

Samantha Choron and Steven Loso, Ferrellgas, Pinellas Park, appeared and indicated that they represent the applicants; that they were hired to install the propane tank; and that following a review of other locations by the County and the State, the requested location was found to be the only suitable place for the tank; whereupon, responding to queries by Mr. Gephart regarding their failure to appear at the last hearing, Ms. Choron explained that the applicant is ill and bedridden, and the applicant’s representative, an Operations Manager at Ferrellgas, was unavailable due to Hurricane Irma preparations.

October 5, 2017

In response to queries by Ms. White, Ms. Choron indicated that propane gas would be sold to the applicant for resale to the public; and that the applicant's employees would be trained to fill their customers' cylinders.

In response to the Chairman's call for objectors to the application, the following individuals appeared, responded to comments by the members, and expressed their concerns relating to safety with regard to placing the gas tank in close proximity to a park, its maintenance considering the applicant's history of poor dumpster site maintenance, ecology, lack of benefit to the community, and encroachments on an objector's property:

Charlotte Quandt, Lealman

Dee Graham, Lealman (showed photographs)

During discussion, Chairman Burdette suggested that Ms. Graham discuss the dumpster maintenance issues with Development Review Services Director Blake Lyon. Mr. Bailey clarified that dumpster relocation is the subject of a variance being considered by the Board today; and that the proposal is to move it closer to Ms. Graham's property, while the tank would be installed on the dumpster's current site.

In rebuttal, Ms. Choron related that she cannot attest to the owner's prior history discussed by the objectors, but reassured the Board that safety and equipment maintenance is a priority at Ferrellgas, and responding to queries by Mr. Gephart, indicated that the applicant's daughter manages the store's operations; whereupon, Mr. Gephart remarked that the applicants' representation is limited in that only questions regarding the propane tank installation can be answered.

Mr. Bailey discussed the history of variances with regard to the subject property; whereupon, responding to queries by the members, Ms. Choron and Mr. Loso provided information regarding the proposed tank, its location, enclosure, and gas dispensing. Ms. Choron reiterated that all options were explored with the County in attempt to find an alternative location, and Ms. White opined that the proposed tank location is a major problem.

During discussion, Mr. Gephart expressed his disappointment due to the inability of the representatives to address the objectors' concerns pertaining to the nature of the applicants' business, and their history and relationship with the community. Mr. Doran opined that a commercial property owner is not entitled to a 1,000-gallon propane tank,

October 5, 2017

and Chairman Burdette indicated that many of the expressed concerns are Code Enforcement issues and are not within the purview of the Board.

Thereupon, Mr. Doran moved, seconded by Ms. White, that the application be denied, and upon call for the vote, the motion carried unanimously.

MINUTES OF THE SEPTEMBER 7, 2017 MEETING – APPROVED

Mr. Doran moved, seconded by Ms. White, that the minutes of the meeting of September 7, 2017, be approved. Upon call for the vote, the motion carried unanimously.

ADJOURNMENT

The meeting was adjourned at 10:58 A.M.

Chairman