

Clearwater, Florida, August 1, 2018

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: Vince Cocks, Chairman; John Doran, Vice-Chairman; Alan C. Bomstein; Joe C. Burdette; Cliff Gephart; Deborah J. White; and Michael Foley, Alternate.

Also Present: Glenn Bailey, Zoning Manager; Chelsea Hardy, Assistant County Attorney; Blake Lyon, Development Review Services Director; other interested individuals; Lynn Abbott, Board Reporter, Deputy Clerk; and Teresa Adkins, Board Reporter.

CALL TO ORDER

Chairman Cocks 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 ROGER L. AND JENNIFER L. WELCH THROUGH JOEY SCHULTZ, SCHULTZ BUILDERS AND POOLS, INC., REPRESENTATIVE, FOR A VARIANCE (BA-01-08-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Roger L. and Jennifer L. Welch through Joey Schultz for a variance to allow for the construction of an in-ground pool and screen enclosure with a 6-foot setback from the east property line adjacent to 51st Street North where a 20-foot setback is required, re triple-frontage property located at 5100 42nd Place North in unincorporated St. Petersburg (BA-01-08-18). 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 proposed pool and screen enclosure would not encroach further into the setback than does the existing home, which predates the zoning code. In 2004, the Board approved a

variance that allowed the construction of the second floor of the home within five feet of 51st Street North. In addition, there is an overhead power line on the west side of the property that necessitates the pool being placed toward the property's east side. Approval should be subject to the following condition:

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

Jennifer and Roger Welch, St. Petersburg, and Joey Schultz, Palmetto, appeared and indicated that they are the applicants and representative, respectively. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Bomstein moved, seconded by Mr. Doran, that the variance be granted as recommended by staff, noting for the record that while there was no hardship, there was also no harm done. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF DENNIS PATRIZZI AND GENE ANDERSON FOR A VARIANCE (BA-02-08-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Dennis Patrizzi and Gene Anderson for a variance to allow for the construction of a single-family residence on each of two adjoining 6,961-square-foot lots under common ownership, each having a width of 56.6 feet and 56.6 feet of frontage along a public right-of-way, where 7,500 square feet, a width of 75 feet, and 75 feet of public right-of-way frontage is required, re properties located approximately 130 feet south of the intersection of Poinsettia Avenue and Plaza Drive in unincorporated Tarpon Springs (BA-02-08-18). 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 two subject lots are larger and wider than the original platted lots of record, which were recorded prior to the establishment of the zoning code. In addition, there are other developed lots of similar size in the general area. Approval should be subject to the following condition:

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

Gene Anderson, Tarpon Springs, appeared and indicated that he is the applicant. No one appeared in response to the Chairman's call for objectors to the application.

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.

Responding to query by Mr. Bomstein, Attorney Hardy related that the existence of a hardship would be a matter to be decided by the Board.

#3 APPLICATION OF H. S. L. D., LLC THROUGH NICHOLAS TENNEY, REPRESENTATIVE, FOR A VARIANCE (BA-05-08-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application H. S. L. D., LLC through Nicholas Tenney for a variance to allow for the construction of a single-family home with a 19-foot front setback from the north property line where a 25-foot front setback is required, re a double-frontage lot located at 792 Natalie Lane in Palm Harbor (BA-05-08-18). 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. There is a large drainage easement at the rear of the property that requires construction to be more toward the front. The proposed encroachment into the setback will be mostly limited to the porch area of the future home. Approval should be subject to the following condition:

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

Nick Tenney, Palm Harbor, appeared and indicated that he represents the applicant. No one appeared in response to the Chairman's call for objectors to the application.

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.

#4 APPLICATION OF HLMP HOLDINGS, LLC C/O PETE WINTER, REPRESENTATIVE, FOR VARIANCES (BA-07-08-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of HLMP Holdings, LLC through Pete Winter for the following variances for two contiguous parcels, re properties located at 12790 and 12782 95th Street North in unincorporated Largo (BA-07-08-18). No correspondence relative to the application has been received by the Clerk.

- 1) A variance to allow a single-family subdivision with up to eight lots fronting a private road where frontage along publicly-accessible right-of-way is required.
- 2) A variance to allow proposed lot 7 to have a width of 50 feet at the 20-foot front setback line where 60 feet is required.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The proposed variances to road frontage and the width of lot 7 are all internal to the project and should not adversely impact neighboring properties. 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.

Pete Winter, Largo, appeared and indicated that he is the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Bomstein moved, seconded by Mr. Doran, that the variance be granted as recommended by staff, noting that while there was no hardship, there was no adverse impact. Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF J & J WHEEL REPAIR, LLC, C/O JAMES AND TINA QUICK, REPRESENTATIVES, FOR A VARIANCE (BA-08-06-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of J & J Wheel Repair, LLC, c/o James and Tina Quick, for a variance to allow the construction of a room addition and a pool screen enclosure with a 15-foot front setback from the northern property line where 20 feet is required and placement of a 282-square-foot shed with a 5-foot side setback from the south and east property lines where a 6-foot side setback is required, re double-frontage property located at 1211 Wood Avenue in unincorporated Clearwater (BA-08-06-18). One letter of opposition was received in connection with the June 7 hearing.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The Board continued the case in June when the request at the time was to allow two sheds to remain near the north property line fronting Clark Street. The applicant has since changed the request with the intent to remove one shed and move the other shed to the southeast corner of the property, where he is now asking for one foot of setback relief from the south and east property lines. The applicant is also now proposing a room addition and screen enclosure on the north side of the home that would encroach five feet within the front setback along Clark Street. The updated request appears much less obtrusive to the neighborhood. Approval should be subject to the following condition:

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

James Quick, Clearwater, stated that he has revised his application to include a room addition and pool screen enclosure, allowing him to move the sheds; and that the shed to remain will require a 1-foot variance.

Responding to query by Mr. Bomstein, Mr. Bailey related that staff had recommended denial of the previous request.

Upon the Chairman's call for objectors to the application, Jill Norden, Clearwater, appeared and stated her concerns pertaining to the size of the shed.

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

#6 APPLICATION OF JAMES DOUGLAS FRESH, CEO, ST. MARK VILLAGE, THROUGH KEVIN J. BESSOLO, BESSOLO DESIGN GROUP, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-03-08-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of James Douglas Fresh through Kevin J. Bessolo for a special exception to allow overflow parking from an adjacent use, re property located at 2550 Highlands Boulevard in Palm Harbor (BA-03-08-18). The Clerk has received two letters in opposition to the application and one email expressing concerns.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request, provided that the Board is satisfied that the ‘standards’ of Section 138-238 of the Pinellas County Land Development Code have been met. The Board approved the same request in May 2017, which has since expired. 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. Any associated lighting shall be directed/shielded away from nearby residential properties.
4. Appropriate buffering shall be installed along the east property line.
5. Ingress/egress shall be only from the south, as depicted on the concept plan.

Kevin Bessolo, St. Petersburg, and Karen Goldsmith, Winter Park, appeared in response to the Chairman’s call for the applicant. Mr. Bessolo related that he received site plan

approval last week, and responding to query by Mr. Bomstein, confirmed that the lot will only be accessible from the St. Mark Village property, in accordance with the conditions.

Upon the Chairman's call for objectors to the application, Robert Durso and Bonnie Whitehurst, Palm Harbor, appeared and stated their concerns pertaining to drainage, lot use, access from Highlands Boulevard, and lack of buffering.

Responding to concerns of the objectors, Mr. Bessolo related that the buffering meets County Code, using landscaping and a 2-foot to 3-foot screen wall; whereupon, Ms. Goldsmith stated that lot use on the weekends is not associated with St. Mark Village staff; and that the area currently contains grass and a retention pond. Referring to the site plan, she explained how access will be provided.

Mr. Bomstein moved, seconded by Mr. Foley, that the special exception be granted in accordance with the staff recommendation. Upon call for the vote, the motion carried unanimously.

#7 APPLICATION OF JOSEPH OTTO SORRENTINO AND DEBORAH MARIE DOWD FOR A VARIANCE (BA-04-08-18) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Joseph Otto Sorrentino and Deborah Marie Dowd for a variance to allow an after-the-fact 7-foot-tall fence to remain along the south and north property lines where a maximum of 6 feet in height is allowed, re property located at 2080 Forest Drive in unincorporated Clearwater (BA-04-08-18). The Clerk has received one letter and a petition with 14 signatures in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff cannot support the request as we are of the opinion that it does not meet the criteria for the granting of variances referenced 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.

August 1, 2018

2. *No special privilege.* That granting the variance requested 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.

Joseph Sorrentino, Clearwater, related that the request for a 7-foot-tall fence was an error on his part; that a County inspector told him a permit was not required for a 6-foot-tall fence; and that he had contracted with a local vendor to construct the fence. Referring to photographs and a drawing, he provided background information pertaining to his purchase of the property and subsequent events, indicating that he received a violation following an anonymous complaint; that he measured the fence and determined it is approximately 75 inches from grade; and that he is requesting a 3-inch variance, not an additional foot.

In response to the Chairman's call for citizens wishing to be heard, Denise Tracy and Mary Shoeman, Clearwater, expressed the following concerns:

- Fence height does not meet Deed Restriction
- Fence height does not meet County Code
- Visually obstructive
- Concern for airflow to the lake

Responding to queries by the members, Mr. Sorrentino certified that his fence does not exceed 6 feet 3 inches, and related that it is custom built and slightly elevated from the ground.

Discussion ensued, and Mr. Bailey confirmed his recommendation for denial, stating that the fence is out of compliance; that it is not flush with the ground; and that there is no evidence of loss of grade. Mr. Gephart indicated that purchasers rely on contractors to meet requirements, and Mr. Bomstein opined that the error was not egregious or intended by the applicant; and that the community's objection is based on aesthetics, not the additional height.

Mr. Bomstein moved, seconded by Mr. Doran, that the Board approve the variance with the following conditions:

1. The applicant shall obtain all required permits and pay the applicable fees.
2. Seventy-five inch maximum height for the existing fence location only.

The members clarified the motion, and Chairman Cocks reminded the applicant that he will still need to address the issue with the Homeowners Association. Upon call for the vote, the motion carried unanimously.

#8 APPLICATION OF SUNCOAST PRIMATE SANCTUARY FOUNDATION, INC. THROUGH JOHN C. LANDON, LMA INC., REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-06-08-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Suncoast Primate Sanctuary Foundation, Inc. through John C. Landon for a special exception to allow for the construction of a 150-foot-tall camouflaged communications monopole tower and associated supporting equipment, re property located at 4612 Alternate U.S. Highway 19 in Palm Harbor (BA-06-08-18). One letter in opposition 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 provided the Board is satisfied that the standards of Section 138-238 of the Pinellas County Land Development Code have been met. 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.

Mary Solik, Orlando, and Alan Ruiz, Tampa, appeared on behalf of the applicant. Ms. Solik provided an overview of the request, indicating that a 75-foot tower is permitted; that an additional 20 feet is allowed, subject to certain Federal Aviation Administration requirements; and that the full height will require a special exception. She noted that the tower will replace a nearby County-owned tower that is being decommissioned; and that

August 1, 2018

T-Mobile and Verizon have indicated interest in relocating their equipment to the proposed three-carrier pole.

Responding to query by Mr. Bomstein, Mr. Ruiz related that T-Mobile and Sprint may be merging, leaving three cell phone companies in the market, eliminating the need to build for more; and that the tower will have structural capacity to add smaller wireless internet service companies or emergency communications antennae.

In response to queries by Mr. Burdette and Mr. Gephart, Ms. Solik stated that the tower meets all setbacks and Code requirements.

No one appeared in objection to the application.

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

LAND DEVELOPMENT CODE UPDATE

In response to query by Mr. Bomstein, Mr. Bailey related that the Land Development Code changes will be presented to the Local Planning Agency (LPA) next week; whereupon, Mr. Lyon confirmed that the LPA will be reviewing the final draft of the Code, noting that he could not speak as to the inclusion of language addressing the Board of Adjustment's concerns.

Responding to query by Mr. Bomstein as to the determination of hardship, Attorney Hardy indicated that her position is to provide background on the law regarding a variance and its criteria; and that it is the Board's responsibility to weigh the information, determine whether the criteria have been met, and decide the outcome. She clarified that the Board must abide by specific criteria, as outlined in the Land Development Code, each and every time it makes a decision, including special conditions that cause undue hardship; and that there is no leeway or discretion to disregard the criteria that has been put in place; whereupon, she noted that staff is attempting to build flexibility into the Code.

The members discussed criteria used in other jurisdictions, findings of *no adverse impact* and *practical difficulties*, and other considerations. Mr. Burdette opined that the criteria should be a policy decision for the County Commissioners, and Mr. Bomstein concurred, noting that they can determine how strict or lenient the Code should be; whereupon, Attorney Hardy noted that Codes

August 1, 2018

pertaining to quasi-judicial proceedings must contain specific criteria that are uniformly applied or they could be challenged as unconstitutional.

Mr. Lyon related that one of the goals of the Code update is to provide for administrative adjustments, allowing staff flexibility to address practical difficulties through modification of the standard requirements rather than the variance process; and that the Board will hear only the most egregious cases and appeals of decisions by lower bodies, and discussion ensued.

Mr. Bomstein related the a memorandum signed by the members will be forwarded to each of them for use in addressing the Board's concerns regarding the language in the new Land Development Code with their appointing Commissioners if they so decide; and that a copy will be forwarded to members of the LPA.

Responding to queries by Mr. Bomstein, Mr. Bailey related that the LPA meeting is a public forum and the members can consider the Board of Adjustment's concerns, and Attorney Hardy indicated that the LPA recommends approval or denial and can make other recommendations to the Board of County Commissioners.

MINUTES OF THE JULY 5, 2018 MEETING – APPROVED

Mr. Doran moved, seconded by Mr. Foley, that the minutes of the July 5, 2018 meeting be approved. Upon call for the vote, the motion carried unanimously.

ADJOURNMENT

The meeting was adjourned at 10:38 A.M.

Chairman