

Clearwater, Florida, January 3, 2019

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

Also Present: Michael Schoderbock, Principal Planner; Gina Berutti, Code Enforcement Operations Manager; Chelsea Hardy, Assistant County Attorney; other interested individuals; and Michael Schmidt, Board Reporter, Deputy Clerk. Minutes by Jerry Gottlick.

CALL TO ORDER

Chairman Doran called the meeting to order at 8:59 A.M. and provided an overview of the hearing process.

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 BRIAN C. CAREY FOR A VARIANCE (BA-02-01-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Brian C. Carey for a variance to allow for the construction of a single family residence on a parcel of land containing 1.37 acres of buildable area where a minimum of 2.0 acres is required and a variance to allow for access from a private road, re property located at 2316 Kent Place in unincorporated Largo (BA-02-01-19). No correspondence relative to the application has been received by the Clerk.

Mr. Schoderbock presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The 1.37 acres of buildable area represents the upland portion of the subject property. When also considering the portion covered with water, the parcel reaches 2 acres in size. In addition, there is no practical way to provide direct public road access. Kent Place is a well-

established private road that provides adequate access to multiple properties in the area. Approval should be subject to the following conditions:

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

Responding to query by Mr. Bomstein, Mr. Schoderbock noted that County ordinance and code do not include submerged land when calculating buildable land size or density and that the parcel contains only 1.37 acres of dry land.

Todd Pressman, Palm Harbor, appeared and indicated that he represents the applicant. Referring to a PowerPoint presentation, he reviewed the criteria for granting a variance, noting that the lake that is present on the property qualifies as a peculiar item or circumstance; that approval of the variance would not confer a special privilege; that two lot-size variances have previously been granted in the area; and that he is not aware of any objection regarding use of Kent Place, which is a private road.

Upon the Chairman's call for objectors to the application, Brian Aungst, Jr., Clearwater, appeared and indicated that he represents Larry and Judy Saglio, who live next to the property. Referring to photographs, he pointed out that no hardship exists that was not known when the property was purchased; that the proposed home does not conform to the neighborhood's character of large lots in a rural setting; and that the site plans have not been submitted to the homeowners association for approval; whereupon, discussion ensued regarding ingress and egress.

Surrounding property owners Sue Elsey, Mark Oberlander, and Devendra Amin, Clearwater, expressed concerns regarding retaining the neighborhood's rural character with open green space. Roberta Hosken, Clearwater, indicated that she represents the homeowners association and noted that while the lot complies with the minimum size required under the deed restrictions, the principal concern of association members is whether the proposed home would be in harmony with the neighborhood.

In rebuttal, Mr. Pressman related that revised design plans make use only of Kent Place as an access road; that the plans will be submitted to the homeowners association for approval; and that there are circumstances that are particular to the property that were not created by his clients; whereupon, Tulio Zuloaga, Clearwater, indicated he is the designer of the proposed home, and responded to queries by the members.

Discussion ensued, and responding to the concerns of the objectors, Mr. Bomstein explained that the issues of the type of home to be built and permission to use a private driveway are not within the purview of the Board and should be addressed by the homeowners association. In response to query by Mr. Burdette, Mr. Bomstein affirmed that the Board cannot tell the Careys what type of house to build since the code allows for a three-story home; whereupon, Mr. Burdette called for a continuance to allow time for the applicant to resolve issues with the homeowners association.

During continued discussion and responding to queries by Chairman Doran and Mr. Bomstein, Mr. Schoderbock noted that if the body of water behind the proposed home was instead an easement on dry land, it would count towards the property size; and that the proposed structure meets all County code requirements; whereupon, Chairman Doran reiterated that the only issue before the Board is whether to grant a variance to build a house on a property that is not two acres in size, as required by code, when the submerged land is excluded.

Mr. Bomstein stated that he did not agree that a continuance would be productive and indicated that an undue hardship exists for the owners; whereupon, he moved, seconded by Ms. White, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF HABITAT FOR HUMANITY OF PINELLAS COUNTY THROUGH KEN RUSH, REPRESENTATIVE, FOR A VARIANCE (BA-03-01-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Habitat for Humanity of Pinellas County through Ken Rush for a variance to allow for the construction of single family homes on six contiguous 50-foot-wide lots where a 60-foot width is required, re properties located at 13247, 13271, 13295, 13303, 13317, and 13365 Oak Street in unincorporated Largo (BA-03-01-19). No correspondence relative to the application has been received by the Clerk.

Mr. Schoderbock presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The six lots in question are platted lots of record that predate the zoning code. While they are under one ownership now, they will be separately owned once developed and sold by Habitat for Humanity. There are other similarly sized lots in the area; therefore,

developing the lots as proposed will not be out of character with the neighborhood. Approval should be subject to the following conditions:

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

Gaby Camacho, Clearwater, appeared and indicated that she represents the applicant. Referencing an aerial photograph, she pointed out similar homes in the area built by Habitat for Humanity, noting that the proposal is in character with the neighborhood.

In response to the Chairman's call for objectors to the application, Marie Mitchell, Largo, appeared and related that Duke Energy had approached her requesting to install a power pole on her land, and inquired whether the matter is related to today's hearing; whereupon, Director of Development Review Services Blake Lyon provided input, and Mr. Burdette indicated that this issue is not within the Board's purview and should be addressed directly with the utility company.

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

#3 APPLICATION OF PETER J. AND GINA L. GIARGENTE THROUGH JAMES W. BRYDON, REPRESENTATIVE, FOR A VARIANCE (BA-05-01-19) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Peter J. and Gina L. Giargente through James W. Brydon for a variance to allow for the construction of an enclosed porch with a 1.6-foot front setback where 20 feet is required, re property located at 1022 Brookwood Court South in unincorporated South Pasadena (BA-05-01-19). No correspondence relative to the application has been received by the Clerk.

Mr. Schoderbock presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The home was built in 1952 within a subdivision platted prior to the establishment of the zoning code. Defining features of the subdivision are small lot sizes and angular placement of the homes that

often substantially encroach into the front setback. The enclosed porch the applicant is proposing is a replacement that would not encroach further into the setback than the existing structure. In addition, there is a wide right-of-way with approximately 20 feet of green space between the edge of Brookwood Court and the front property line. Approval should be subject to the following condition:

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

James Brydon, South Pasadena, appeared and indicated that he represents the applicants. No one appeared in response to the Chairman's call for objectors to the application.

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

#4 APPLICATION OF MARITZA CORREA SANTANA AND DEBORAH JENKINS FOR A VARIANCE (BA-01-01-19) – GRANTED WITH CONDITIONS

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Public hearing was held on the application of Maritza Correa Santana and Deborah Jenkins for a variance to allow for the construction of a detached carport with a 3-foot side setback from both the east and west side property lines where 6 feet is required, re property located at 787 La Plaza Avenue South in unincorporated South Pasadena (BA-01-01-19). The Clerk has received one letter containing signatures from seven neighbors in support of the variance.

Mr. Schoderbock presented the following staff recommendation:

Recommend Denial. Staff cannot support the request as it does not meet the criteria for the granting of a variance found in Section 138-113 of the Pinellas County Land Development Code, specifically in regard to:

1. *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.

2. *No special privilege.* That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
3. *Unnecessary hardship.* That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

Deborah Jenkins and Maritza Correa Santana, St. Petersburg, appeared and indicated that they are the applicants. Referring to an aerial map, Ms. Jenkins related that the location of the proposed carport is at the end of a long driveway that is enclosed by a privacy fence; and that it is needed to better protect jet skis that are currently covered by a tarp. In response to queries by the members, she explained that although the survey shows the presence of a garage, it had been converted to a pool house before they purchased the property, and the structure is unsuitable for storage. Mr. Schoderbock confirmed that it had previously been a garage, and responding to query by Mr. Cocks, pointed out another inaccuracy on the survey, relating that what appears as a vacated alley is actually a yard; and that the land has been divided between the applicants' property and a neighbor's.

Mr. Bomstein stated that a hardship exists due to the unusually shaped lot; that the 20-foot drive is fenced on both sides, which would protect the proposed carport from public view; and that the neighbors have expressed no objection; whereupon, he moved, seconded by Ms. White, that the variance be granted with the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. A minimum of 25 percent permeable open space must be maintained on the property.

Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF MB BUILDS, LLC THROUGH MATT FOSTER, REPRESENTATIVE, FOR A VARIANCE (BA-06-01-19) – CONTINUED

Public hearing was held on the application of MB Builds, LLC through Matt Foster for a variance to allow for the construction of an in-ground pool with a 5-foot setback from a seawall on the west property line where 8 feet is required, re property located at 1431 Sea Gull Drive South in unincorporated South Pasadena (BA-06-01-19). No correspondence relative to the application has been received by the Clerk.

Mr. Schoderbock presented the following staff recommendation:

Recommend Denial. Staff cannot support the request as it does not meet the criteria for the granting of a variance found in Section 138-113 of the Pinellas County Land Development Code, specifically in regard to:

1. *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
2. *No special privilege.* That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
3. *Unnecessary hardship.* That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

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

Mr. Bomstein related that he had visited the property; and that the Board has on numerous occasions granted relief from seawall setbacks for pools, because the rear yard setback concept is negated in the presence of open water; whereupon, Mr. Cocks pointed out that the home is vacant and for sale; and that construction of the pool would be one of many renovations on the property.

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Following input by Mr. Schoderbock, Mr. Bomstein moved, seconded by Mr. Burdette, that the case be continued until the February meeting. Upon call for the vote, the motion carried 4 to 1, with Mr. Cocks dissenting.

MINUTES OF THE DECEMBER 6, 2018 MEETING – APPROVED

Mr. Burdette moved, seconded by Mr. Cocks, that the minutes of the December 6, 2018 meeting be approved. Upon call for the vote, the motion carried unanimously.

ADJOURNMENT

The meeting was adjourned at 10:23 A.M.

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Chairman