

Clearwater, Florida, May 2, 2014

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: John Doran, Chairman; Alan C. Bomstein, Vice-Chairman; Joe C. Burdette; Ray Hoeneisen; Gregory Pierce; Stephen G. Watts; and Deborah White.

Also present: John F. Cueva, Planning Department Zoning Manager; Jason C. Ester, Senior Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Arlene L. Smitke, Board Reporter, Deputy Clerk. Minutes by Laura M. Todd and Helen Groves.

CALL TO ORDER

Chairman Doran called the meeting to order at 9:02 A.M., and announced that Item No. 6 would be moved to the end of the agenda, and no objections were noted.

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:

1 APPLICATION OF JAMES ZOFFINGER FOR A VARIANCE (BA-1-5-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of James Zoffinger for a variance to allow an existing 160-square-foot shed to remain at its current location having a six-foot rear setback where a ten-foot rear setback is required, re property located at 8448 78th Terrace North, Largo (BA-1-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that one letter in favor of the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to approving this request with conditions, as the applicant did not place the subject shed at its current location, and the shed was existing when the home was purchased. Approval of the request would not appear to pose an

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adverse impact to adjacent properties in the area. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. In the event the existing shed is destroyed beyond 50 percent of its market value, any new or replacement shed shall meet the required setbacks.

James Zoffinger, Largo, appeared and being duly sworn, indicated that he is seeking the aforesaid variance.

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

Responding to query by Mr. Burdette, Mr. Zoffinger indicated that he understands and agrees with the conditions set forth in the recommendation.

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.

2 APPLICATION OF EDUARDO ARRIOLA FOR A VARIANCE (BA-6-5-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Eduardo Arriola for a variance to allow an open porch having a 15-foot front setback from the property line adjacent to 40th Street where a 20-foot front setback is required, re property located at 3999 42nd Avenue North, St. Petersburg (BA-6-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of the request with conditions, as the open

porch was constructed in line with the residence, which was constructed in 1973 having a 15-foot setback from 40th Street North, and, as such, no adverse impact will occur to adjacent properties. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The open porch shall have a 15-foot setback from the property line along 40th Street North.

Eduardo Arriola, St. Petersburg, appeared and being duly sworn, 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. Watts, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

3 APPLICATION OF LYNNE CYBULSKI FOR A VARIANCE (BA-7-5-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Lynne Cybulski for a variance to allow an eight-foot-high wall having a 15-foot setback from the property line adjacent to Indian Rocks Road, where a 20-foot front setback is required, re property located at 101 Gulf View Drive, Largo (BA-7-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval as the site abuts Indian Rocks Road to the east and, as such, is subjected to noise

associated with vehicles using the road on a daily basis. As the proposed wall will be set back 15 feet, no apparent adverse affects will occur as a result of an approval. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The wall shall be eight feet high and set back 15 feet from the property line along Indian Rocks Road.

Lynne Cybulski, Largo, appeared and being duly sworn, indicated that she is seeking the aforesaid variance.

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

Mr. Burdette 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 KEITH CALLAHAN FOR A VARIANCE (BA-8-5-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Keith Callahan for a variance to allow a carport to have a front setback of 23 feet and a side setback of seven feet, where a front setback of 25 feet and a side setback of 7.5 feet are required, re property located at 3780 52nd Avenue North, St. Petersburg (BA-8-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of the request due to its minimal encroachment and impact to the neighboring properties. The subject site is located in an area where varying

setbacks are prevalent and, as such, would not appear to be inconsistent with the community. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The front setback shall be 23 feet and the side setback shall be seven feet.

Keith Callahan, St. Petersburg, appeared and being duly sworn, 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. Watts, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

5 APPLICATION OF ERIC LYNCH THROUGH KATHRYN LYNCH,
REPRESENTATIVE, FOR A VARIANCE (BA-10-5-14) – GRANTED AS PER STAFF
RECOMMENDATION

Public hearing was held on the application of Eric Lynch through Kathryn Lynch for a variance to allow an existing carport having a 12-foot front setback and a three-foot-eight-inch fence to remain having a zero-foot front setback where 25-foot front setbacks are required, re property located at 5500 37th Street North, St. Petersburg (BA-10-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request as the applicant acquired the subject property with both the carport and fence existing at their current locations. The location of the

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carport and fence do not pose an adverse affect on adjacent properties based on the lot's configuration and relationship to 37th Street North. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The carport shall have a 12-foot front setback.
3. The fence shall not exceed three-foot-eight-inches in height and may maintain its zero-foot setback, subject to sight distance criteria as reviewed by the Development Review Services Division.

Kathryn Lynch, Clearwater, appeared and being duly sworn, indicated that she represents the applicant.

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

Mr. Bomstein moved, seconded by Mr. Watts, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

7 APPLICATION OF GGR HARBOR RIDGE, LLP, C/O GEORGE STAMAS, FOR A VARIANCE (BA-12-5-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of GGR Harbor Ridge, LLP, c/o George Stamas, for a variance to allow a 10-foot-high wall having a zero-foot setback where a 25-foot setback is required, re property located at the northwest corner of Alternate U.S. Highway 19 and Harbor Ridge Drive, Palm Harbor (BA-12-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that one letter in opposition to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of the requested ten-foot-high wall as the subject site will be filled to some extent, which will place the homes at a higher elevation than the adjacent subdivision to the north and west and, as such, will enable the new residents to see into the adjacent subdivision. Approval of the ten-foot-high wall will alleviate the concern and provide a buffer to the adjacent properties. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The wall shall not exceed ten feet in height measured from the natural grade of the site.
3. The ten-foot-high wall shall have a zero-foot setback.
4. The wall shall meet required sight distance criteria as reviewed by the Development Review Services Division.

George Zutes, Tarpon Springs, appeared and being duly sworn, indicated that in order to meet the Federal Emergency Management Agency (FEMA) minimum flood zone elevation, the site has to be filled; and that a wall is needed to provide privacy and noise abatement, noting that the six-foot-high privacy fence would be higher because of the fill.

Responding to the Chairman's call for objectors to the application, the following individuals appeared and being duly sworn, expressed their concerns regarding no posted notice of the meeting, increased crime in the area, traffic noise, flooding issues, the zero setback, the height of the white vinyl fence, and construction noise:

Debbie Cobb, Palm Harbor
Eric Schoul, Palm Harbor
Joann Sawyer, Palm Harbor

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In rebuttal, Mr. Zutes indicated that he has reached out to the Homeowners Association, and has attempted to reach out to the neighbors and will continue to do so; that he has no control over the crime rate; that there have been a number of homeless people living in the area; and that the townhomes will be selling in the mid-\$200,000 range.

Responding to queries by Chairman Doran and Mr. Bomstein, Mr. Cueva clarified that the distance between the sidewalk and the wall appears to be about 25 feet; whereupon, responding to queries by Mr. Watts, Mr. Zutes stated that the fence will be a first-class, maintenance-free white vinyl fence that will act as a buffer and provide privacy for the residents. Mr. Bomstein clarified that there would be a four-foot-high masonry retaining wall, with the six-foot-high fence above the wall; and that the height will vary, depending on the fill, and Mr. Zutes concurred.

During discussion and in response to queries by Mr. Pierce, Mr. Cueva clarified that the applicant is not required to put in a fence; and that if the fence were six-feet in height, he would not need to seek the variance; whereupon, Mr. Bomstein suggested that an eight-foot-high fence would be a fair compromise, noting that a ten-foot-high fence is rather ominous, and discussion ensued.

Responding to query by Chairman Doran, Mr. Zutes indicated that he sees no reason to put the wall up if it is only eight feet high, noting that it would not provide privacy for either party.

During discussion and in response to query by Mr. Bomstein, Mr. Cueva confirmed that there is 25 feet from the wall to the sidewalk; whereupon, Mr. Zutes stated that the fence would be similar to that on the neighboring property, noting there would be a landscaping hedge to cover the fence. In response to query by Chairman Doran regarding flooding, Mr. Cueva related that the issue of flooding is not before the Board, noting it would be addressed in the site plan review and must meet all Southwest Florida Water Management District requirements.

Responding to queries by Messrs. Watts, Burdette, and Hoeneisen, Mr. Cueva indicated that the applicant is required by Code to place landscaping on the right-of-way along the wall; and that because the road is a minor arterial road, the wall would have to be set back two feet and the hedge would be placed in front of it. He indicated that the reason the advertisement specifies a zero setback is because the department is required to advertise the worst case scenario, noting that the Board can increase the

setback; that staff has no objection to adding the landscaping as an additional condition; and that no landscaping is required on the street next to the other subdivision; whereupon, Mr. Burdette suggested the hedge should be on the property owner's side, Mr. Zutes stated that it would be difficult to maintain the hedge if it was facing private property, and Mr. Watts noted that there does not appear to be any way to landscape the homeowners' side of the fence.

Mr. Bomstein moved, seconded by Mr. Hoeneisen, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried 6 to 1, with Mr. Pierce dissenting.

8 APPLICATION OF CABOT II - FL4W01, LLC, C/O CABOT PROPERTIES, INC. THROUGH LOU ANN HORTON, REPRESENTATIVE, FOR A VARIANCE (BA-14-5-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Cabot II - FL4W01, LLC, through Lou Ann Horton for a variance to allow a six-foot-high opaque fence having a zero-foot front setback where a 25-foot front setback is required, re property located at 5300 Ulmerton Road, Clearwater (BA-14-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of the request as it is an industrially zoned lot and the need for the opaque fence having a zero-foot setback is for County security purposes. The fence will need to be placed in keeping with sight distance criteria, so the exact location as it pertains to the shared driveway shall be determined by the Building and Development Review Division prior to installation. Approval of the request should be subject to the following conditions:

1. Sight distance review shall be obtained by the Building and Development Division prior to installation of the fence.

2. Once the fence location has been determined relative to the driveway, a zero-foot setback shall be allowed on the remaining sections of the fence.

Lou Ann Horton, Clearwater, appeared and being duly sworn, indicated that she represents the applicant.

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

Mr. Bomstein moved, seconded by Mr. Watts, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

9 APPLICATION OF MICHAEL BARTOLETTI FOR A VARIANCE (BA-9-5-14) – GRANTED

Public hearing was held on the application of Michael Bartoletti for a variance to allow a 6.75-foot side setback for a room addition where a ten-foot side setback is required, re property located at 2219 Tampa Road, Palm Harbor (BA-9-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Denial. Staff cannot support this request as it does not meet the criteria established in Section 138-113, specifically with 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 requested will not confer on the applicant any special

privilege that is denied by the chapter to other similar lands, building, 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.

Michael Bartoletti, Palm Harbor, appeared and being duly sworn, indicated that he is requesting the variance in order to add an addition to his house; that he has a letter of no objection from the only neighbor who would be affected; and that approval of the application would not detract from the integrity of Pinellas County or Palm Harbor.

In response to queries by the members, Mr. Bartoletti indicated that he has no children at this time; and referring to photographs, indicated that the addition is already in progress, as he did not know a permit was required; that the street that he lives on is not actually a neighborhood; that the original house was built in 1985; and that a large deck would have to be demolished and some trees removed for the addition to be constructed at the back of the house; whereupon, Andrea Jump, Palm Harbor, appeared and being duly sworn, indicated that she has been assisting with the construction and provided reasons for selecting the location of the addition, stating that it provided the only easy access to the plumbing and electrical systems.

Mr. Bomstein expressed concern that the applicant did not get a permit before beginning construction, and indicated that approval of the application would set a precedent and similar requests would follow; whereupon, Attorney Ester advised that while it would be setting a precedent, it would not be a legal precedent; and confirmed that each case must be considered in its own right.

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

Thereupon, Mr. Burdette moved, seconded by Mr. Pierce, that the application be granted with certain conditions, including that the applicant get all appropriate permits and pay all outstanding fines.

Upon call for the vote, the motion carried 5 to 2, with Messrs. Bomstein and Watts dissenting.

#10 APPLICATION OF JACK JOSEPH AMORUSO THROUGH DALE TUTTLE, REPRESENTATIVE, FOR A VARIANCE (BA-5-5-14) - GRANTED

Public hearing was held on the application of Jack Joseph Amoruso for a variance to allow a pool enclosure having a two-foot side setback where a five-foot side setback is required, re property located at 12173 Park Boulevard, Seminole (BA-5-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Denial. Staff recommends denial of this application as it is the opinion of staff that the need for the variance was caused by the placement of the pool without anticipating a potential need for an enclosure, and, as such, it appears to staff that the intent of Section 138-113 has not been met as it pertains to the following criteria:

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 requested will not confer on the applicant any special privilege that is denied by the chapter to other similar lands, building, 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.

Dale Tuttle, St. Petersburg, appeared and being duly sworn, indicated that he is representing the applicant. He stated that the variance is needed in order to access the pool skimmer; and in response to queries by the members, indicated that the owner purchased the property with the existing pool and decks about six months ago; that the lot is of normal size; and that there is a six-foot-high vinyl fence between his property and the neighboring house.

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

Thereupon, Mr. Bomstein moved, seconded by Mr. Watts, that the variance be approved.

Upon call for the vote, the motion carried unanimously.

#11 APPLICATION OF BOGUSLAW F. SKLADZIEN FOR A VARIANCE (BA-3-5-14) – GRANTED

Public hearing was held on the application of Boguslaw F. Skladzien for a variance to allow for the construction of a single family home having a 15-foot front setback from the property line along 138th Street North where a 25-foot front setback is required, re property located at the northwest corner of 138th Street North and 76th Terrace North, Seminole (BA-3-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Denial. Staff recommends denial of the request as it appears the subject lot is large enough to accommodate the proposed residence without requiring a variance. The intent of Section 138-113, Criteria for Granting of a Variance, has not been met as it pertains to the following criteria:

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 requested will not confer on the applicant any special privilege that is denied by the chapter to other similar lands, building, 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.

Boguslaw F. Skladzien, Belleair Beach, appeared and being duly sworn, indicated that the variance is being requested due to flooding issues; whereupon, Mr. Cueva, recognizing that Mr. Skladzien is a professional engineer and in response to his sworn testimony, changed the staff recommendation to “conditional approval.”

Thereupon, Mr. Burdette moved, seconded by Mr. Watts, that the variance be approved.

Upon call for the vote, the motion carried unanimously.

#12 APPLICATION OF ED WALTERS THROUGH JOHN BUJALSKI, REPRESENTATIVE, FOR A VARIANCE (BA-4-5-14) – DENIED

Public hearing was held on the application of Ed Walters through John Bujalski for a variance to allow a carport to have a one-foot side setback where a six-foot side setback is required, re property located at 1761 Doncaster Road, Clearwater (BA-4-5-14).

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John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Denial. Staff cannot support the requested variance as it is of the opinion the application does not meet the criteria established in Section 138-113 as follows:

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 of the applicant.
2. *No Special Privilege:* That granting the variance requested will not confer on the applicant any special privilege that is denied by the chapter to other similar lands, building, 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.

John Bujalski, Largo, appeared and being duly sworn, indicated that he is a general contractor and is representing the applicant. He stated that the lot is very narrow, and the house and the garage take up the entire front area; and that the owner needs a carport to protect his \$30,000 car and its occupants from the debris from some very large oak trees.

Mr. Walters indicated that the acorns from the oak trees are staining his cars; that the carport will be very decorative; and that he has a letter of no-objection from his adjacent neighbor. In response to queries by the members, he indicated that there is a drive through to the rear of the property; that there is an existing two-car garage; and that he moved there in 2004, and nothing has changed except his acquiring some classic vehicles that need protection. Mr. Bujalski stated that the County will not issue a permit to remove the oak trees; that the drainage is positive; and that the carport will not

adversely impact the neighbor's property. In response to query by Messrs. Bomstein and Hoeneisen, Mr. Walters reiterated that the hardship is that his vehicles are being damaged; and confirmed that it is his choice to use the existing garage to store the classic vehicles; and that he understands the rules and regulations that do not allow the carport.

Thereupon, Mr. Bomstein moved, seconded by Mr. Hoeneisen, that the application be denied as recommended by staff.

#13 APPLICATION OF CHRISTOS AND DISIREE KYRIAZIS FOR A VARIANCE (BA-2-5-14) – DENIED; EIGHT-FOOT SETBACK FROM THE REAR PROPERTY LINE AND THREE-FOOT SETBACK FROM THE SIDE PROPERTY LINE APPROVED

Public hearing was held on the application of Christos and Desiree Kyriazis for a variance to allow an existing 200-square-foot utility shed to remain having a four-foot rear setback and a three-foot side setback where 10-foot rear and 7-foot side setbacks are required, re property located at 9756 Commodore Drive, Seminole (BA-2-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that one letter in favor of and one letter in opposition to the application have been received, and presented the following staff recommendation:

Recommend Denial. Staff recommends denial of this request as it is of the opinion that the application does not meet the intent of Section 138-113, Criteria for Granting of a Variance, as it pertains to the following criteria:

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 requested will not confer on the applicant any special privilege that is denied by the chapter to other similar lands, building, 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. Kyriazis indicated that he is a first-time homebuyer with a new family and was unfamiliar with the process; that he built the structure so his daughter would have a place to play; and that he went about it in the wrong way and is trying to correct the situation. During discussion, Mr. Kyriazis confirmed that the building is not a shed, but an open pavilion with a bar and a television; that the building has electricity, but no plumbing; that it is less than 2,000 square feet and more likely 200 feet; that the entire floor area has pavers; and that the friends who built the pavilion could possibly move it.

In response to query by the members, Mr. Cueva indicated that the building is too close to the adjoining property line and the site does not have adequate runoff retention; and Mr. Myers indicated that he received a complaint about two years ago, inspected the property, and issued warning notices; that the owner has cleared up some of the issues, including vacating the easement; and that the variance is the next step in the process to correct the problem. Mr. Kyriazis stated that the height of the pavilion is approximately seven feet measured from the edge of the roof; and that the area is fenced.

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

Mr. Bomstein moved, seconded by Mr. Burdette, that the original request be denied; and that a variance for an eight-foot setback from the rear property line and a three-foot setback from the side lot line be approved.

Upon call for the vote, the motion carried unanimously.

6 APPLICATION OF BETHANY TEMPLE CHURCH OF GOD TARPON SPRINGS INC., THROUGH LAURALEE G. WESTINE, ESQUIRE, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-11-5-14) – APPROVED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Bethany Temple Church of God Tarpon Springs, Inc. through Lauralee G. Westine for a special exception to allow a 150-foot-high telecommunication monopole, re property located at 2549 Keystone Road, Tarpon Springs (BA-11-5-14).

John F. Cueva, Planning Department Zoning Manager, indicated that two letters in opposition to the application have been received, and presented the following staff recommendation:

Recommend Approval with Conditions. Staff has no objection to the approval with conditions of this request provided the Board is satisfied the “Standards” of Section 138-238, Division 7, of the Pinellas County Land Development Code have been met and subject to the following conditions:

1. Appropriate site plan review.
2. The tower shall not exceed 150 feet in height.
3. The tower shall not have exterior antennae.
4. The tower shall be set back 150 feet from any adjacent residential property.

Lauralee Westine, Palm Harbor, appeared and being duly sworn, indicated that Kevin and Brett Barile, Florida Tower Partners, and Matthew Helm, Verizon, are present and having been sworn, will answer any questions the members may have. She indicated that a community meeting was held on October 24, 2013, and only two people attended, noting that there was a request to move the tower back further than originally proposed, which has been done. She described the structure as a flagpole without a flag, and indicated that it will be gray; that all cables and antennas will be located inside the pole; that Verizon will be the tenant, but others will be added as is allowed by the Pinellas County Code; that the request meets all setbacks, and there are no requests for waivers or variances; that the closest towers to the proposed site are almost two miles

away, and the coverage in the area is inadequate; that the proposal has received a Federal Aviation Administration (FAA) determination of no hazard to air navigation; that except for the north side, which has dense vegetation, her client is proposing to landscape the base of the compound, which the County does not require and the Church is not requesting; that there will be a chain link fence; and that the President of the Council of North County Neighborhoods was notified of the project and asked to respond should there be any concerns, and no response was received.

In response to Ms. Westine's request to discuss concerns raised at the neighborhood meeting, Kevin Barile, an independent contractor working for Florida Tower Partners, confirmed that the area is considered "dead," as the adjacent towers do not provide sufficient coverage; and stated that his review found no commercial or industrial parcels within the search area that meet the requirements for the tower; whereupon, in response to query by Mr. Watts, Mr. Barile indicated that the tower will withstand winds up to 150 miles per hour.

Ms. Westine stated that in response to a question that arose at the meeting about why the project could not be co-located on the existing power lines, she had contacted Progress Energy Vice President Alan Backler, and he had confirmed that an area is not available that would meet the height requirements, nor does the power company own the property underneath the power lines.

In response to queries by Mr. Burdette, Attorney Ester advised that the location of the pole cannot be denied based on health concerns; and Ms. Westine indicated that the issue of property values is not addressed in the Pinellas County Code.

In response to the Chairman's call for citizens wishing to be heard, the following individuals appeared and being duly sworn, expressed their concerns:

Julie Washburn, Tarpon Springs (presented petition with 30 names)
Chris Hrabovsky, Tarpon Springs
Marc Washburn, Tarpon Springs
Danielle Damalos, Tarpon Springs

Concerns and comments expressed by the citizens included:

- Adequate notice was not provided to the residents.
- Tower would be an intrusion into the residential area.
- A precedent will be set.

- Property values would be diminished.
- Tower would present a health hazard.
- Area already has good cell phone coverage.
- Technology offers options that will impact the neighborhood less than a 150-foot pole. Rather than consider a better option as a cost of doing business, company is using the excuse that another option would be more complicated.
- Tower would present danger to seaplanes.
- Notice was not received in time to allow residents time to build a solid case, and key information was not provided.
- FAA was misled in permitting. Opponents have contacted agency, and is awaiting response.
- Locate tower in Pasco County, where it is needed.

Mr. Cueva read into the record correspondence that has been received in objection to the tower, which has been filed and made a part of the record.

In rebuttal and in response to queries by the members, Ms. Westine indicated that:

- The area would remain wooded, and no trees would be removed.
- A light on the tower would be more distractive to the neighborhood, and permission would have to be received from the FAA.
- Reports done in 2007, 2008, and 2009 conclude that a tower would not degrade the property value (copies of the reports have been filed and made a part of the record).
- Tower type has changed since the reports were done, but the changes are beneficial to neighborhoods.
- The FAA has approved a tower up to 199 feet, and the proposal is for a 150-foot tower.
- Some of the photographs are of poor quality, but simulations were submitted in response to a request by Mr. Cueva.
- The pole and compound area will stay exactly the same when other providers are added.

The Chairman closed the public hearing and in response to his request, Mr. Cueva explained the notice process, indicating that the notice was sent out 15 days

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before the hearing; that 33 notices were mailed; and that the minimum distance from the area that notices must be sent is 200 feet; whereupon, Mr. Bomstein suggested that the minimum required distance should be expanded, as 200 feet does not reach all the people in an area that could be impacted. Referring to comments by the opponents, he indicated that a property owner is required to come back before the Board if he desires an accessory use; that this is Church owned-property, and towers are allowed in residential zoning districts subject to approval by the Board; and that the Code allows towers in any district subject to height and space limitations. During discussion, Mr. Doran related that even though the Church is tax exempt, the tower would not only be subject to income tax, it would be subject to County property taxes.

Mr. Bomstein related that he understands the concerns of the neighbors as he has a tower about 250 feet from his house, but that the reality is that the tower will rapidly become “invisible” to the neighborhood; whereupon, he moved, seconded by Mr. Hoeneisen, that the application be approved.

Mr. Cueva indicated that he would like to add a final condition that would require the owner to provide the landscaping as shown in the concept plan and as described by Ms. Westine, and the motioner and seconder concurred; whereupon, the Chairman read the five conditions into the record.

Thereupon, upon call for the vote, the motion carried unanimously.

MINUTES OF APRIL 3, 2014 MEETING – APPROVED

Upon motion by Mr. Bomstein, seconded by Mr. Watts and carried, the minutes of the meeting of April 3, 2014 were approved.

ADJOURNMENT

At the direction of Chairman Doran, there being no further business, the meeting was adjourned at 11:09 A.M.

Chairman