

Clearwater, Florida, July 3, 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; Chelsea Hardy, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Trudy Futch, Board Reporter, Deputy Clerk. Minutes by Helen Groves, Senior Board Reporter, Deputy Clerk.

#### CALL TO ORDER

Chairman Doran called the meeting to order at 9:01 A.M.

#### PUBLIC HEARING ITEMS

Due notice having been given to interested persons pursuant to Comprehensive Zoning Ordinance No. 90-1, public hearings were held on the following applications:

# 1     APPLICATION OF LARRY COPPLEY FOR A VARIANCE (BA-1-7-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Larry Copley for a variance to allow an existing five-foot-high chain link fence to remain having a zero-foot front setback where a 25-foot front setback is required, re property located at 1860 Georgia Avenue, Palm Harbor (BA-1-7-14).

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 appears the fence has been at its current location for many years, and it is apparent there are other fences along this road with similar fences at similar locations on a lot. As this is a chain link

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fence, staff also has no objection based on the “openness” of the fence. Approval of the request is subject to the following conditions:

1. Appropriate sight distance review and approval by Development Review Services.
2. The approval is for the existing chain link fence only; no solid fence may be placed at the current location of the fence unless it is three feet or less in height.

Larry and Norma Copley, Palm Harbor, appeared and being duly sworn, indicated that they are requesting the variance.

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.

# 2     APPLICATION OF ROSE M. CARPENTER AND MICHAEL S. JOHNSON  
THROUGH MICHAEL ROTH, REPRESENTATIVE, FOR A VARIANCE (BA-5-7-14)  
– GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Rose M. Carpenter and Michael S. Johnson through Michael Roth for a variance to allow a single family dwelling on a lot which has 66 feet of lot width where a lot width of 75 feet is required, re property located at 605 Broadus Street, Crystal Beach (BA-5-7-14).

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 the applicant cannot acquire the necessary property to meet the required 75 feet of lot width. As the site is occupied with a single family home (which did not receive Board approval), approval of the request will not pose an adverse impact to the adjacent properties in the area. Approval of the request is subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The proposed door, landing, and steps shall not be in the drainage easement associated with the lot.

Michael Roth, Palm Harbor, appeared and being duly sworn, 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.

# 3     APPLICATION OF 54<sup>TH</sup> AVENUE AH, LLC, IN CARE OF KENNETH R. BROWN,  
FOR A VARIANCE (BA-9-7-14) – GRANTED AS PER STAFF  
RECOMMENDATION

Public hearing was held on the application of 54<sup>th</sup> Avenue AH, LLC, in care of Kenneth R. Brown, for a variance to allow for the construction of a new commercial building on a lot which has 83 feet in depth where a depth of 100 feet is required and having a rear setback of five feet and a front setback of 10 feet from 54<sup>th</sup> Avenue North where 20-foot rear and 25-foot front setbacks are required, re property located at 5849 54<sup>th</sup> Avenue North, St. Petersburg (BA-9-7-14).

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John F. Cueva, Planning Department Zoning Manager, indicated that one letter in objection 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 the lot does not have the necessary depth to meet the C-2, General Retail Commercial and Limited Services, requirements, and, as such, the requested setback variances appear to be warranted to allow for the redevelopment of the site. It is important to note that even if the variances are granted, the approval shall not be misconstrued as site plan approval. Approval of the request is 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 10 feet from the property line adjacent to 54<sup>th</sup> Avenue North.
3. The rear setback shall be five feet.

Kenneth R. Brown, Bell, Florida, appeared and being duly sworn, indicated that he represents the applicant.

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

Mr. Cueva indicated that he is adding an additional condition to require a full site plan review; and in response to query by Mr. Bomstein, confirmed that his intent is to clarify the language in the Recommendation that reads "...approval shall not be misconstrued as site plan approval"; whereupon, Mr. Brown indicated that he is aware of and agrees to the added condition.

Thereupon, Mr. Bomstein moved, seconded by Ms. White, that the variance be granted as recommended by staff.

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In response to query by Mr. Pierce regarding the inconsistency between the application and the plat as to the type of business that will be located on the property, Mr. Brown, with input by Mr. Cueva, clarified that the hair salon currently on the property will be razed and replaced with a veterinary hospital.

Chairman Doran noted that an objector has arrived who wishes to speak to the application; whereupon, Mr. Bomstein withdrew his motion, and Mr. Brown indicated that he would postpone his presentation until after the objector speaks and combine it with his rebuttal.

Gary Sutphin, St. Petersburg, appeared and being duly sworn, referred to a map and the survey and stated that he is concerned that granting the request would endanger children walking to and from the neighborhood schools; and referring to a letter from David Gardner, his employer, stated that Mr. Gardner is concerned that the change would block the view of his strip center located on 54<sup>th</sup> Avenue, causing economic hardship; whereupon, Mr. Bomstein pointed out that the setback request is on the east side of the property, and discussion ensued.

In response to query by Mr. Watts, Mr. Cueva related that the proposed new zoning code will encourage commercial buildings to be built closer to the rights-of-ways in order to promote mass transit; that the promotion of mass transit was not the only reason staff supports the application; and that if approval is granted, stormwater and drainage treatments would be addressed in the site plan review that would enhance the entire neighborhood. Responding to a comment by Mr. Watts that enhancement of mass transit would be at the expense of small business owners, Mr. Cueva stated that when reviewing plans with mass transit in mind, staff does not take into consideration the affect a change might have on the small business owners in the area; and that, in this particular instance, staff is of the opinion that approval of the request would not cause a visibility problem.

In his presentation and rebuttal, Mr. Brown displayed an aerial view of the property and demonstrated why he thinks that the building would not block the view of the strip center or create a safety hazard to the children in the neighborhood; and stated that the stormwater and drainage treatments will improve the entire area.

Thereupon, Mr. Bomstein renewed his motion to approve the variance as per staff recommendation, seconded by Mr. Burdette, and upon call for the vote, the motion carried 6 to 1, with Mr. Watts dissenting.

# 4     APPLICATION OF GLORIA M. HUGHES FOR A VARIANCE (BA-10-7-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Gloria M. Hughes for a variance to allow for the placement of a new mobile home on a lot having a five-foot front setback where a nine-foot front setback is required, re property located at 11012 100<sup>th</sup> Way North, Largo (BA-10-7-14).

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

Recommend Conditional Approval. Staff has no objection to the approval of the request as the mobile home park units appear to be set back five feet adjacent to this unit and 100<sup>th</sup> Way North. As this is a mobile home replacement and the new mobile home will not extend beyond the adjacent mobile home units, staff has no objection to the approval of the request 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 five feet.

Gloria M. Hughes, Largo, appeared and being duly sworn, indicated that she is requesting the variance; and that the new mobile home will align with the other mobile homes on the street.

H. Chuck Kronz, Seminole, appeared and being duly sworn, indicated that the new mobile home would restore the footprint of the original mobile home; that the back steps of the mobile home would be dangerously close to the lake; and that the mobile home park's position on the issue would essentially leave Ms. Hughes, the widow of a distinguished veteran, homeless; whereupon, in response to Mr. Burdette's query regarding the mobile home being referred to in the letter of objection as "overlength," Mr. Kronz reiterated that the new mobile home is the same length as the older one.

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

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

Upon call for the vote, the motion carried unanimously.

# 5     APPLICATION OF KENNETH AND MONICA POTTER FOR A VARIANCE  
(BA-11-7-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Kenneth and Monica Potter for a variance to allow two carports having a zero-foot setback from the 110<sup>th</sup> Terrace North property line to remain where a 25-foot setback is required, re property located at 11001 49<sup>th</sup> Street North, Clearwater (BA-11-7-14).

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 after-the-fact approval of the request as this is a tri-frontage lot requiring 25-foot setbacks. As the encroachment occurs on a minor road with minimal traffic, staff has no objection to the zero-foot setback as there is approximately 28 feet from the edge of pavement to the carports, and it is not anticipated that 110<sup>th</sup> Terrace North will be expanded. 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 carports shall maintain a zero-foot setback from the 110<sup>th</sup> Terrace North property line.
3. The carports shall not be enclosed.

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Ken Potter, St. Petersburg, appeared and being duly sworn, indicated that he is requesting the variance.

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.

# 6     APPLICATION OF ABILITIES INC. FL THROUGH JACK BONCZYK, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-12-7-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Abilities Inc. FL through Jack Bonczyk for a special exception to allow a private school in an R-3 zone, re property located at 2735 Whitney Road, Clearwater (BA-12-7-14).

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 provided the Board is satisfied that the "Standards" of Section 138-240 have been met and subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. Full site plan approval.

Jack and Christine Bonczyk, Largo, appeared and being duly sworn, indicated that they are requesting the special exception.

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



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In response to query by Mr. Burdette, Mr. Cueva indicated that the “Standards” of Section 138-240 are in relation to the traffic impact. Responding to queries by the members, Mr. Bonczyk related that the plan is to reconstruct the inside of the building and beautify the exterior; and that Abilities, Inc. will occupy the building until 30 days after the closing.

Thereupon, Mr. Bomstein moved, seconded by Ms. White, that the special exception be approved as recommended by staff.

Mr. Pierce commented that the Worksheet and Recommendation usually contain more information when a school comes before the Board, and in response to queries by the members, Mr. Bonczyk related that the age of the students will be from six weeks to five years; that it will be a child care center, but also accredited as an early childhood center; that there will be approximately 270 children; and that the hours of operation will be from 6:00 A.M. until 6:00 P.M.; whereupon, Mr. Cueva indicated that these issues and traffic patterns will be addressed during the site plan review, noting that the school will have a parking easement with Duke Energy.

Upon call for the vote, the motion carried unanimously.

# 7     APPLICATION OF HAAS SEDK XDII, LLC IN CARE OF AND THROUGH TODD PRESSMAN, REPRESENTATIVE, FOR A VARIANCE (BA-13-7-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Haas Sedk XDII, LLC in care of and through Todd Pressman for a variance to allow for the replacement of a static billboard with a digital billboard within 442 feet of another billboard where a 500-foot separation between billboards is required on a lot having 102 feet of width where a lot width of 150 feet is required, re property located at the northeast corner of U.S. Highway 19 and Haas Avenue, Clearwater (BA-13-7-14).

John F. Cueva, Planning Department Zoning Manager, indicated that a letter of objection has been received from the City of Clearwater, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of the request as this is a matter of replacing an existing billboard with a digital billboard that happens to be within 442 feet of another billboard on the opposite side of U.S. Highway 19. To allow the billboard to be upgraded will not be a detriment to the public. With regard to the lot width deficiency, the applicant cannot acquire the additional property necessary to meet the 150-foot width requirement of the CP-2 zoning regulations. It should be noted that the County Code requires the removal of existing billboards in exchange for the allowance of digital billboards. In this instance, the Code would require an elimination of ten static billboard faces and eight billboard structures elsewhere in the County. Approval of the request is subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The current billboard may be replaced with a digital billboard within 442 feet of another billboard.

Todd Pressman, Palm Harbor, appeared and being duly sworn, indicated that Clear Channel Communications is requesting the variance, and representatives of the company are present to answer any questions.

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

In response to query by the members, Mr. Pressman indicated that this is an existing billboard that will be upgraded to a digital billboard; that the location, size, and height will remain the same; and that for each digital billboard, four signs elsewhere in the County must be taken down, which will result in the removal of eight signs.

Thereupon, Mr. Bomstein moved that the application be approved as recommended by staff.

Responding to queries by Mr. Pierce, Mr. Cueva indicated that the space requirement between signs is 500 feet for both static and digital billboards; and that because of the trade off, staff would be pleased if the granting of this request should result in similar requests, noting that certain illumination requirements come into play.

Thereupon, Ms. White seconded Mr. Bomstein's motion for approval.

Upon call for the vote, the motion carried unanimously.

# 8     APPLICATION OF ROBERT AND GEORGETTE INSALACO THROUGH BARRY P. ULLMANN, INC., REPRESENTATIVE, FOR A VARIANCE (BA-2-7-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Robert and Georgette Insalaco for a variance to allow for the subdivision of the property into five lots, four of which will have access by a private road (ingress/egress easement) where 60 feet of frontage on a public road is required for each lot, re approximately 0.92 acre on the west side of Hamlin Boulevard, 62 feet, more or less, north of 118<sup>th</sup> Avenue North (street address: 11590 Hamlin Boulevard, Largo) (BA-2-7-14).

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 the lot has limited frontage on Hamlin Boulevard that prevents the applicant from attaining the number of residential units allowed by the Land Use Plan (five units per acre). The site received approval from the Board of Adjustment in 2005 (Case No. BA-11-8-05) for the same request; however, that approval expired. Approval of the request is subject to the following conditions:

1. Full site plan review.
2. All setback requirements shall be met.

3. An access roadway to accommodate fire department apparatus shall be required to be 20-foot wide, have a 13' - 6" vertical clearance, and a 60-foot turnaround and road composition and shall support fire apparatus up to 80,000 pounds.
4. A fire hydrant shall be required to be installed at the northeast corner of the access roadway.

Robert Insalaco, Largo, appeared and being duly sworn, presented an updated letter of no objection from the Fire Marshal from Pinellas Suncoast Fire and Rescue; whereupon, Mr. Cueva indicated that the stipulations in the letter would become part of the staff recommendation. Referring to a drawing, Mr. Insalaco indicated that when he purchased the property in 2005, it was zoned multi-family; that he had the zoning changed to R-3; and that the Board of Adjustment approved a plan for up to five homes. Mr. Cueva provided information about the changes in zoning, noting that the project proposed today is identical to the project the Board approved in 2005, which Mr. Insalaco did not build.

In response to the Chairman's call for objectors to the application, the following persons appeared and being duly sworn, expressed their concerns:

Stephen Detert, Largo  
Tom Wood, Largo

Referring to a photograph and the drawing referenced by Mr. Insalaco, Mr. Detert stated that the drawing shows a vacant lot, although his house was built on the lot three years ago; and that he owns the land to the side of the lot. He said that his concerns include lowering the value of his property, the height of the buildings, the maintenance of the retention pond shown behind his house, the swale shown in the drawing, and the height of the fence.

Mr. Wood echoed the concerns of Mr. Detert and further stated that to divide the property into five lots would be excessive, noting that his other concerns include the amount of traffic the project would generate and drainage issues.

In response to query by the members, Mr. Bomstein indicated that the Board can put conditions on any variance they approve, including the height of the

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houses; and discussion ensued regarding the drainage and whether the number and size of the lots would affect the property values in the area.

In rebuttal, Mr. Insalaco indicated that the trend in Pinellas County is for houses to have smaller footprints; that the extra traffic generated by the project will be limited to the private road; that he is not certain whether the houses will be one or two stories; and that the drainage will be addressed in the site plan review.

Chairman Doran closed the public hearing, and in response to query by Mr. Burdette, Mr. Cueva indicated that the land use requirements would allow up to five units; and that the problem is that the property is not wide enough to accommodate the width needed for the five units; whereupon, Mr. Bomstein moved that the staff recommendation be approved.

Chairman Doran noted that another person is present who wishes to speak to the application; whereupon, Stan Detert, Largo, appeared and being duly sworn, indicated that he originally owned six acres, most of which he gave to his son who has built a home there. He stated that the area has historically consisted of large homes; that if the land is subdivided into five lots, the traffic on the private road will increase unacceptably; and that five structures on the property would be too many.

In response to query by the Chairman, Mr. Insalaco indicated that he would not rebut the testimony.

Thereupon, Mr. Bomstein renewed his motion, seconded by Ms. White, that the variance be approved as recommended by staff.

Upon call for the vote, the motion carried unanimously.

# 9     APPLICATION OF DR. JAMES AFSHAR THROUGH SHERRY AFSHAR, SUE GIMENO, AND JEFF WILLEY, REPRESENTATIVES, FOR A VARIANCE (BA-6-7-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Dr. James Afshar through Sherry Afshar, Sue Gimeno, and Jeff Willey for a variance to allow for two accessory structures where one accessory structure is allowed and also to allow the accumulation of square footage of said structures to be larger in area than the primary structure, re property located at 3632 Old Keystone Road, Tarpon Springs (BA-6-7-14).

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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 Conditional Approval. Staff has no objection to the approval of this after-the-fact request as the site is zoned A-E, Agricultural Estate Residential, which allows for the keeping of livestock, which the applicant has. As the home was built circa 1963 when zoning laws were nonexistent, there were various accessory buildings on the site that may have exceeded the size of the home. With that being said, the current property owner removed the older barn and replaced it with a new and larger barn to accommodate the livestock that exist on site. It is apparent in this area of the county where many properties have large acreage and the ability to maintain livestock that more than one accessory structure is warranted, as in this instance, and, as such, staff has no objection to the additional accessory building or for the square footage of the accessory structure to exceed that of the home built in 1963, subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The structures shown on the recent survey dated May 21, 2014, shall remain on the property as shown.

In response to query by Mr. Pierce as to how the case came before the Board, Mr. Cueva indicated that the adjacent property owner, who has similar issues, filed a complaint.

Scott Richards, Tampa, appeared and being duly sworn, indicated that he is representing Dr. Afshar and his daughter Sherry. In response to queries by the members, he described the new barn and the breezeway the daughter added. Mr. Cueva related that a permit was issued; that when the County went out to re-inspect, a neighbor complained about the size of the structure; and that the Building Inspector subsequently discovered that the breezeway had been added, which made the barn larger than the square footage allowed. Mr. Richards stated that it was an oversight, as the daughter

thought the breezeway was permitted; and that she would like to rectify the matter, noting that the applicant plans to add a two-car garage, which would enlarge the footprint of the house and make the point moot.

Thereupon, following further discussion, Mr. Bomstein moved, seconded by Ms. White, that the variance be approved.

Upon call for the vote, the motion carried unanimously.

#10 APPLICATION OF ANDREAS AND MICHELE SCHROTTER FOR A VARIANCE (BA-7-7-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Andreas and Michele Schrotter for a variance to allow for 10-foot and 20-foot front setbacks on the north and west side of the property, respectively, where 15-foot and 25-foot setbacks are required for a deck, re property located at 780 8<sup>th</sup> Street, Palm Harbor (BA-7-7-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence in relation 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 this is a corner lot, which limits the ability to add an open deck to the house. Approval of the request will not pose an adverse impact to the adjacent property as there is a 32-foot distance from the edge of pavement to the edge of the property line, and, as such, adequate open area will be retained. Approval of the request is subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The setbacks shall be 10 feet from the north property line and 20 feet from the west property line for an open deck.
3. The deck shall not be enclosed.

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Michelle Schrotter, Palm Harbor, appeared and being duly sworn, indicated that she is the applicant.

No one appeared in response to the Chairman's call for persons wishing to be heard.

Thereupon, Ms. White moved, seconded by Mr. Watts, that the application be approved as recommended by staff.

Upon call for the vote, the motion carried unanimously.

#11    APPLICATION OF JAMES Y. AND LINDA LEFTWICH FOR VARIANCES (BA-8-7-14) – FENCE - APPROVED; ACCESSORY LIVING UNIT - DENIED

Public hearing was held on the application of James Y. and Linda Leftwich for a variance to allow an accessory living unit to have 1,900 square feet of living area where 500 square feet of living area is allowed and a variance to allow for a six-foot-high fence having a zero-foot front setback from Bryan Lane and along the north property line, re property located at 2595 Bryan Lane, Tarpon Springs (BA-8-7-14).

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

Recommend Approval of Fence and Denial of Accessory Living Unit. Staff has no objection to the six-foot-high fence along Bryan Lane, as there are walls and fences along Bryan Lane that are six feet or higher. In this instance, the fence will be behind a six-foot-high vegetative hedge that exists and, as such, will not pose an adverse impact to adjacent properties. For safety purposes, the applicant shall be required to have the six-foot-high fence reviewed to ensure an adequate sight triangle is met.

With regard to the 1,900 square-foot accessory living unit, staff cannot support this size unit, as it will be similar in size to the regular living unit. However, staff would not object to a 1,000-square-foot accessory living unit based on



the two acre size of the parcel, subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. No southerly access to Bryan Lane for the accessory unit shall be permitted.
3. The maximum living area of the accessory living unit shall not exceed 1,000 square feet.
4. The primary dwelling shall be owner occupied.
5. All setbacks and lot coverage provisions shall be met.
6. No separate metered utility connection for the accessory dwelling unit shall be permitted.

James Y. Leftwich appeared and being duly sworn, displayed photographs and discussed his request, stating that he would not be interested in a variance for a 1,000-square-foot accessory living unit, as it would not serve his purposes. He related that his daughter and her family live with him and have for some time; that he is anticipating having to provide living quarters for his wife's parents; and that adding an addition to the garage would be the best solution to his space problems.

In response to queries by the members, Mr. Leftwich indicated that there is no intention to renovate the garage into living quarters; that the area is unusual; that the present driveway will be used; that it is a two-acre site; that the existing house is just under 4,000 square feet; that it is a three-story building; and that he does not wish to add on to his house, as an old oak tree would have to be removed. Mr. Cueva confirmed that staff would be comfortable with a variance for 1,000 square feet, as the proposed new code would allow a 750-square-foot variance; whereupon, Mr. Bomstein suggested that the size of the lot be taken into consideration as the Code is revised, and discussion ensued regarding the conditions staff would require for a 750-square-foot variance.

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In response to the Chairman's call for persons wishing to speak, Kim Sobecki, Tarpon Springs, appeared and stated that all the neighbors except two have written to the Board opposing the request; that the neighbors object to adding multi-family residences in a neighborhood zoned for agriculture; that the accessory living unit would only aggravate the existing drainage problems; that the original garage has already been converted into a mother-in-law apartment, and that approval of the request would affect the property values in the neighborhood.

In rebuttal, Mr. Leftwich indicated that the accessory living unit would fit into the neighborhood and would barely be visible due to two rows of Leyland cypress trees.

Chairman Doran confirmed with the members that they are aware of the letters of objection; and in response to query by Ms. White, Mr. Cueva, with input by Mr. Leftwich, indicated that the earlier conversion of the garage seems to have been permitted, noting that this was originally a stilt house and part of the downstairs was enclosed.

Thereupon, Mr. Watts moved, seconded by Mr. Burdette, that the staff recommendation be approved; and following discussion, Chairman Doran clarified that the motion is to deny the accessory living unit and to approve the fence.

Upon call for the vote, the motion carried unanimously.

#12 APPLICATION OF DARRYL DOYLE FOR A VARIANCE (BA-4-7-14) –  
APPROVED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Darryl Doyle to allow an existing pool to remain having two five-foot front setbacks where two 25-foot front setbacks are required, re property located at 8061 50<sup>th</sup> Avenue North, St. Petersburg (BA-4-7-14)

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 this is a corner lot which requires two 25-foot front setbacks, which, in this case, restricts the use of the site for a pool. As the site is enclosed with a six-foot-high fence, it is apparent the pool cannot be seen from adjacent properties, and, as such, staff has no objection provided the following conditions are met:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The pool shall not be enclosed with a pool enclosure.

Darryl Doyle, St. Petersburg, appeared and being duly sworn, pointed out that many of his neighbors are here in support of the request; and in response to queries by Mr. Burdette, stated that the above-ground pool was built around 2000.

Thereupon, Mr. Burdette moved, seconded by Ms. White, that the variance be granted as recommended by staff.

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

Upon call for the vote, the motion carried unanimously.

#13 APPLICATION OF JEFF KIRBY FOR A VARIANCE (BA-3-7-14) – APPROVED WITH CONDITION

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Public hearing was held on the application of Jeff Kirby for a variance to allow an existing pergola having a five-foot side setback to remain where a 7.5-foot side setback is required, re property located at 10 Cherrywood Court, Palm Harbor (BA-3-7-14).

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 Denial. Staff cannot support the requested after-the-fact variance as the requested variance does not meet the following criteria for granting a variance found in Section 138-113:

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, buildings, or structures in the same zoning district.
3. *Unnecessary hardship.* The literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter.

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

Jeff Kirby, Palm Harbor, appeared and being duly sworn, indicated that he is the applicant; and that he built the pergola in January without a permit. In response to comments by Mr. Bomstein that the pergola resembles and could easily be changed into a carport for a water vehicle, which is not the purpose of a pergola, Mr. Kirby described the structure as a tall pergola trellis and not a garage, and confirmed that it will be a temporary facility for a sport aircraft; that there is no driveway to the pergola and the aircraft has to be wheeled back and forth; and that he has no intention of enclosing the structure, which would require a permit. He related that the County refused to allow him to cut down some of the many trees on his property; and that the purpose of the pergola is to protect the very expensive aircraft from falling branches.

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In response to queries by Messrs. Bomstein, Burdette, and Pierce, Mr. Cueva, with input by Mr. Myers, related that the case came before the Board as a referral from the Building Department; that a gazebo is built away from a structure but a pergola could be attached; and that attaching the pergola to the house would not change staff's recommendation for denial. In response to comments by Chairman Doran and the members, Mr. Kirby clarified that the pergola would be a permanent structure and that he meant that he would only temporarily store the aircraft in the pergola; that other than a corner cul de sac area, there is no other place on his property to store it; and that had he complied with the 7.5-foot setback, the aircraft would not have fit in the resulting structure.

Noting that one of the neighbors had written a letter in support of the application and confirming with Mr. Kirby that he had testified that the neighbor on the other side has no objection, Mr. Bomstein moved, seconded by Mr. Watts, that the existing pergola be approved with the proviso that if changes of any sort are made, it will need to come back to the Board for approval.

Upon call for the vote, the motion carried unanimously.

Thereupon, in response to query by Mr. Cueva, Mr. Bomstein stated that his motion included the condition that the applicant shall obtain all permits and pay any fees required.

#14 FOR CLARIFICATION AND DISCUSSION ONLY – APPLICATION OF SCHIEFER ENTERPRISES, INC APPROVED AT JUNE MEETING (BA-20-6-14)

John F. Cueva, Planning Department Zoning Manager, referenced Case BA-20-6-14, a request to convert an existing building on Park Boulevard to a 100-seat restaurant that was approved by the Board at its June meeting, and stated that the applicant would like to discuss and possibly refine or adjust the conditions the Board added regarding the fence.

Pointing out that he is not opposed to building the fence the Board required as a condition to approving the restaurant, Randall Markes, St. Petersburg, related that the area in which the Board directed that the fence be built contains light poles, trees, and other obstructions; and that after talking with the neighbors who were at the meeting, he is requesting permission to remove the existing fence and replace it with

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a six- or eight-foot vinyl one; whereupon, referring to a map, he pointed out where, separately and in addition, he is requesting that he be allowed to end the fence.

Mr. Burdette, with input by Mr. Cueva, stated that the Board cannot make any changes to the conditions today and can only decide whether they would allow the case to be brought back for a public hearing, at which time it would have to be re-advertised. Discussion ensued as to the reason for and the intention of the Board's ruling at the June meeting; whereupon, Mr. Markes clarified that he is only asking to move the fence away from the edge of the parking lot so the lighting and trees can stay where they are; and to replace the existing fence with a vinyl one.

Following discussion, Mr. Burdette indicated that he would be agreeable to today's request for replacing the existing fence and taking it all the way to the west as clarified during the discussion, but a public hearing would be required before any more substantial changes could be made; and no objections were noted.

#### DRESS CODE MODERATED DURING THE MONTHS OF AUGUST AND SEPTEMBER – JACKETS NOT REQUIRED FOR STAFF OR MEMBERS

#### MINUTES OF JUNE 5, 2014 MEETING – APPROVED

Upon motion by Mr. Burdette, seconded by Ms. White and carried, the minutes of the meeting of June 5, 2014 were approved.

#### ADJOURNMENT

At the direction of Chairman Doran, there being no further business, the meeting was adjourned at 10:29 P.M.

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Chairman