

Clearwater, Florida, February 4, 2015

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: Ray Hoeneisen, Vice-Chairman; Alan C. Bomstein; Joe C. Burdette; John Doran; Gregory Pierce; Deborah White; and Michael C. Foley (Alternate).

Not Present: Stephen G. Watts, Chairman.

Also present: Chelsea Hardy, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; John F. Cueva, Planning Department Zoning Manager; other interested individuals; and Tricia Filson, Board Reporter, Deputy Clerk. Minutes by Helen Groves.

#### CALL TO ORDER

Vice-Chairman Hoeneisen called the meeting to order at 9:04 A.M.

#### PUBLIC HEARING ITEMS

Due notice having been given to interested persons pursuant to Comprehensive Zoning Ordinance No. 90-1, public hearings were held on the following applications. All persons giving testimony were duly sworn by the Deputy Clerk

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Mr. Cueva requested that Items Nos. 7 and 10 be switched with regard to their order on the agenda, and no objections were noted.

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#### # 1 APPLICATION OF MARIA DE FELICE THROUGH ASH FARID, REPRESENTATIVE, FOR A VARIANCE (BA-1-2-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Maria De Felice through Ash Farid for a variance to allow an accessory living unit having 1,404 square feet where an 835-square-foot accessory unit is allowed, re property located at 2825 Rolling Woods Drive, Palm Harbor (BA-1-2-15).

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Mr. Cueva 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 desires to utilize an accessory existing building for the care of a disabled family member. As the residence exists on a 2.9-acre site and the use of the accessory building represents a 13-percent increase over the allowable limit for accessory living units, staff is of the opinion that the proposed variance will not adversely affect the public welfare of the community. 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 accessory living unit shall not exceed 1,404 square feet in size.
3. The primary structure shall be occupied by the owner.
4. A separate power meter shall not be permitted.
5. At which time the use of the accessory living unit is not needed for the care of the applicant's family members, the applicant shall return the size of the accessory unit to 835 square feet.

Responding to query by Mr. Bomstein, Maria De Felice, Palm Harbor, confirmed her understanding of the conditions.

No one appeared in response to the Vice-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 MICHAEL J. WALGUARNERY FOR A VARIANCE (BA-2-2-15)  
– GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Michael J. Walguarnery for a variance to allow a 2 APS (beer and wine) license within 150 feet of a residential zone, re property located at 3235 Tampa Road, Palm Harbor (BA-2-2-15).

Mr. Cueva 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 dispensing of alcoholic beverages in this case is in conjunction with a grocery store with no on-site consumption occurring. The commercial building was built having a 25-foot setback from the adjacent residential boundary line to the north, thereby causing any business dispensing alcoholic beverages to go through the Board of Adjustment process. Approval of this request does not appear to pose any adverse impact to the adjacent residential community to the north and should be subject to the following conditions:

1. The applicant shall obtain all necessary state and local permits.
2. Approval is for a 2 APS license only.

Michael Walguarnery, Palm Harbor, indicated that he is seeking the aforesaid variance.

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

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

Responding to query by Mr. Pierce, Mr. Cueva related that the shopping center has two other establishments that are licensed to dispense alcohol: a restaurant and a craft brewery.

Upon call for the vote, the motion carried unanimously.

# 3     APPLICATION OF TREVOR PECK THROUGH DON ARMSTRONG, JR.,  
REPRESENTATIVE, FOR A VARIANCE (BA-4-2-15) – GRANTED AS PER STAFF  
RECOMMENDATION

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Public hearing was held on the application of Trevor Peck through Don Armstrong, Jr. for a variance to allow a single family home to be built on a lot having 24.97 feet of frontage on a public road where 75 feet of frontage is required on Parcel “B” and a variance to allow a 750-square-foot accessory living unit on Parcel “A” where a 500-square-foot accessory living unit is allowed, re property located at 406 Hillsborough Street, Palm Harbor (BA-4-2-15).

Mr. Cueva 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 property is zoned RM-5, which would allow four units on the site if the applicant desired to maximize his development potential; however, the desire is to utilize 24.97 feet of frontage of the lot to accommodate one additional living unit on the overall 0.89-acre lot. The subject lot (Parcel B) will contain 0.45 acre and, as such, will exceed the lot area requirement for a single family lot in the RM-5 district.

With regard to the requested 750-foot accessory living unit for Parcel A, staff has no objection, as it is anticipated that this provision of the Zoning Code will be revised to allow a minimum accessory living area of 750 square feet later this year. 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 frontage of Parcel B shall be 24.97 feet.

3. The accessory living unit on Parcel A shall not exceed 750 square feet.
4. The driveway shall meet the local Fire Administrators requirements for a driveway.

Trevor Peck, Palm Harbor, provided information about the request, and in response to queries by the members, indicated that he would be creating a flag lot on Parcel B, but has no plans to build a residence on it at this time; and that the accessory building on Parcel A will probably be demolished and replaced with a garage having an upstairs apartment with approximately the same footprint; whereupon, Mr. Cueva confirmed that the intent is to remedy an existing situation on Parcel A, as the garage exceeds 500 square feet of living area.

In response to the Vice-Chairman's call for objectors to the application, Catherine Goliash, Ocala, related that she owns the adjoining property and four other lots on the street and would like further details about plans for the property. During discussion, she indicated that she would prefer that removal of the existing cottage be made a part of the conditions and a six-foot fence be erected on the property line.

Mr. Cueva confirmed that if the Board approves the application as requested, the floor area of the apartment will need to be decreased, although the lanai will be permitted; whereupon, Mr. Peck reiterated that the apartment itself will only be 750 square feet, and confirmed that he understands the site plan calling for 860 square feet in the upper floor area will need to be corrected before the permitting process, as a 750-square-foot accessory living unit is what was advertised for the public hearing and what is before the Board for approval.

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

Upon call for the vote, the motion carried unanimously.

# 4     APPLICATION OF GULFWIND CONTRACTING, LLC, THROUGH ROBERT PERGOLIZZI, REPRESENTATIVE, FOR A VARIANCE (BA-5-2-15) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Gulfwind Contracting, LLC, through Robert Pergolizzi for a variance to allow a 27-foot front setback from the edge of pavement of a private road where a 35-foot setback is required, re property located at 9200 Ridge Road, Seminole (BA-5-2-15).

Mr. Cueva 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 35-foot front setbacks. The proposed eight-foot reduction from the edge of the private road would not appear to pose an adverse impact to this subdivision, which is under development. 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 front setback from the north property line shall be 27 feet from the edge of pavement.

Robert Pergolizzi, Clearwater, indicated that he represents the applicant.

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

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

Upon call for the vote, the motion carried unanimously.

# 5     APPLICATION OF HABITAT FOR HUMANITY OF PINELLAS COUNTY  
THROUGH RONALD SPOOR, REPRESENTATIVE, FOR A VARIANCE  
(BA-6-2-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Habitat for Humanity of Pinellas County through Ronald Spoor for a variance to allow for the development of a single family subdivision with six lots having 50 feet in lot width where 75 feet of lot width is required, re property located on the north side of 46th Avenue North, 160 feet east of 80th Street North, St. Petersburg (BA-6-2-15).

Mr. Cueva 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 property was previously approved for a ten-lot subdivision with some lots having widths of 48 feet and some lots having less than 7,500 square feet of land area. As this request is for six 50-foot-wide lots having a minimum of 7,500 square feet, the potential impact to the area is reduced and still consistent with the surrounding development patterns of the area and, as such, will not pose a detrimental impact to the community if approved. Approval of the request should be subject to the following conditions:

1. Full site plan review.
2. All lots may be 50 feet in width.
3. All lots shall have a minimum of 7,500 square feet in land area.
4. All setback requirements shall be met.

Ron Spoor, Clearwater, indicated that he represents the applicant.

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

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

Upon call for the vote, the motion carried unanimously.

Thereupon, in response to query by Mr. Cueva, Mr. Spoor confirmed that he understands that a full site plan will be required.

# 6     APPLICATION OF BELLEAIR CAPITAL GROUP THROUGH KATHERINE E. COLE, ESQUIRE, REPRESENTATIVE, FOR A SPECIAL EXCEPTION AND TWO VARIANCES (BA-8-2-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Belleair Capital Group through Katherine E. Cole, Esquire, for a variance to allow an assisted living facility (ALF) within 120 feet of another licensed care facility, a variance for a parking reduction, and a special exception to allow an ALF, re property located at 6951 County Road 95, Palm Harbor (BA-8-2-15).

Mr. Cueva indicated that one letter in opposition to the application has been received and presented the following staff recommendation:

Recommend Approval with Conditions. Staff has no objection to the approval of the request for the parking variance as the applicant has adequately demonstrated the lack of necessity for the Code requirement of 140 spaces, since most of the residents using this facility will not be driving, and the proposed 51 spaces would appear to be sufficient to accommodate both the staff and visitors who will frequent the site.

With regard to the spacing variance, staff has no objection, as the proposed use will provide a public benefit to the community by providing care for the elderly. Considering that the proposed use is for the elderly, the facility will reduce potential vehicle trips compared to a multi-family development, as a multi-family development would generate approximately 252 vehicle trips per day and the 110-bed assisted living facility will generate 81 vehicle



trips per day, and, as such, the impact to the surrounding traffic patterns, in staff's opinion, is a major consideration in this instance when considering the spacing variance. Approval of the request should be subject to the following conditions:

1. Full site plan review.
2. Fifty-one (51) parking spaces shall be provided.

Katherine E. Cole, Esquire, indicated that she represents the applicant. She reviewed the distance variance, indicating that the requirement is based on a state law that is specific to group homes of 14 residents or less. She indicated that the parking variance, while significant, is justified based on the property, the wetlands, and the environmental concerns.

In response to queries by Messrs. Pierce and Bomstein and referring to an aerial photograph, Ms. Cole pointed out the five-acre property and the wooded area going out to U.S. Highway 19 that belongs to the County. She indicated that there is a single family home on one portion of the property; that the request is to build a new facility; that the facility across the street has less than 30 beds; and that this would be a 110-bed facility, with a memory care unit, and would most likely be a specialty type of ALF. She indicated that a radio tower is on the larger, environmentally sensitive portion of the property; that the tower is in use currently, but will be demolished; and that there are no plans at this time to build another tower, although she and the applicant have explored other uses for the tower and considered replacing it with a tower that would meet today's technological needs.

Responding to the Vice-Chairman's call for objectors to the application, Camidad Pe, Palm Harbor, appeared and stated his concerns, indicating that he is the administrator of an ALF at 6960 County Road 95; that the proposed facility would be situated too close to the existing facility, create a superfluity of ALFs in the area, and increase traffic on the two-lane road; whereupon, in response to query by Mr. Pierce, Mr. Pe stated that he is not concerned about the competition the proposed facility would pose.

In response to queries by the members, Mr. Cueva stated that he is not concerned about the closeness of the two facilities, noting that the distance is actually further than indicated in the application, as it should be measured from home-to-home

rather than property-to-property; that competition between ALFs is not an issue; and that the community would benefit from the ALF more so than from a residential community, which is allowed; whereupon, he discussed the state statute, noting that the state has no objection to distance variations as long as the local government thinks it is appropriate.

During rebuttal and in response to queries by Vice-Chairman Hoeneisen and Mr. Bomstein, Ms. Cole indicated that she does not think there will be a traffic issue; and that the Belleair Capital Group is the developer and will probably sell the property to an experienced operator/builder.

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

Upon call for the vote, the motion carried unanimously.

#10     APPLICATION OF FRANCIS A. MILETTE FOR A VARIANCE (BA-1-11-14) –  
CONTINUED TO APRIL 2, 2015 MEETING

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Public hearing was held on the application of Francis A. Milette for a variance to allow a sun room having a three-foot side setback to the property line and an eight-foot setback between structures where a five-foot side setback to the property line and a ten-foot setback between structures is allowed, re property located at 10436 Holiday Shores Drive, Largo (BA-1-11-14).

Mr. Cueva indicated that one letter in opposition to the application has been received; and related that a permit was issued in error due to the County misinterpreting construction plans; whereupon, he presented the following staff recommendation:

Recommend Approval. This request is based on an error during the permitting process. At that time, the construction plans were misread and the permit was issued through no fault of the owner. Based on the Building Director's comment in a memorandum included in the agenda package, staff is of the opinion the variance may be approved having a three-foot side setback to the property line and eight feet between structures.

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At the request of Mr. Cueva, Larry Goldman, Pinellas County Building Official, indicated that he and the area Fire Marshal had a difference of opinion regarding fire separation requirements; that on the recommendation of the County Attorney, he took the case before the Board of Appeals; and that the ruling of the Appeal Board was in favor of himself, as the Building Official, and the County; whereupon, Mr. Burdette expressed concern with the ruling, and discussion ensued.

Francis A. Milette, Largo, indicated that he is the property owner; and that he had intended to follow all requirements concerning the sunroom. Discussion ensued regarding who would be financially liable for the public hearings; whereupon, Mr. Cueva indicated that the County has waived the fee.

In response to the Vice-Chairman's call for objectors to the application, the following individuals appeared, stated their concerns, and answered queries by the members:

Patricia Knight, Largo  
Monty Slaybaugh, Largo  
Robert Fuller, Largo

Ms. Knight provided background information regarding the case and expressed concerns regarding the circumstances of the appeal; whereupon, she requested that the west wall be moved back onto the property belonging to Mr. Milette and under his original carport roof in order to protect the integrity of the ten-foot fire zone. Mr. Slaybaugh played a portion of a recording of the appeal and provided a copy of the permit for the sunroom, pointing out the verbiage "under existing roof"; whereupon, Ms. Knight stated that Fire Marshal Michael Rodey has indicated that the Fire Marshals intend to elevate the case to the State Fire Board.

During discussion, Chelsea Hardy, Assistant County Attorney, advised that the Pinellas County Construction Licensing Board (PCCLB) only ruled on the fire separation issue; and that the Board has full authority to grant or deny the variance based on the criteria in the Code. Mr. Burdette expressed unease that the fire separation distance would be breached, stressing that it is a safety issue; and Mr. Bomstein expressed concern that the Board would be setting a precedent that would have an adverse affect on fire zone protection area requirements. Mr. Cueva indicated that Ms. Knight was offered a letter holding her harmless in her setback requirement should she ever wish to replace her mobile home; whereupon, Ms. Knight related that she had been

informed by the Fire Marshal that even if the County granted her a variance, she would not be in compliance with the Florida Statutes or the Florida Fire Statute.

In response to Mr. Pierce's concern about the Board's liability in the event of a fire, Attorney Hardy indicated that the PPCLB had ruled that the fire separation requirement was not an issue and not valid. During discussion, Scott Walker, Florida Aluminum Construction, the contractor of record, provided input about the sun room; and in response to queries by the members, Mr. Milette indicated that the roof is aluminum and has been in place approximately ten years; and that the mobile home park had approved the request.

During discussion regarding whether to continue the case until the State Fire Board has ruled, Mr. Cueva agreed that the neighbors would be notified in advance each month the item is continued; whereupon, Mr. Doran moved, seconded by Mr. Burdette, that the item be continued to the April meeting.

Upon call for the vote, the motion carried by a vote of 6 to 1, with Mr. Foley casting the dissenting vote.

# 8      APPLICATION OF SANDRA MORELLI THROUGH JAYSON BRANDGARD, REPRESENTATIVE, FOR A VARIANCE (BA-7-2-15) – GRANTED WITH CONDITION

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Public hearing was held on the application of Sandra Morelli through Jayson Brandgard for a variance to allow a 140-square-foot utility shed and canopy to remain having a two-foot rear setback and a 1.6-foot side setback where ten-foot rear and 7.5-foot side setbacks are required, re property located at 1964 Oak Street, Clearwater (BA-7-2-15).

Mr. Cueva indicated that no correspondence relative to the application has been received and presented the following staff recommendation:

Recommend Denial. Staff recommends denial based on the fact that the request does not meet the criteria for granting a variance found 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 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 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.
- (5) *Purpose and intent compliance.* That the grant of the variance will be in harmony with the general intent, purpose, and spirit of this Code.

Sandy Morelli and Jayson Brandgard, Clearwater, appeared, and Ms. Morelli stated that the shed was built approximately ten years ago, before she inherited the property; that she recently rented the house to Mr. Brandgard; that Mr. Brandgard put a new roof on the shed and added an awning; that the adjacent neighbor that would be affected by the shed has a shed that encroaches onto her property; and that all of the neighbors support letting the shed remain.

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

During discussion and in response to queries by the members, Mr. Myers indicated that the case came to the attention of staff through an anonymous complaint; and Mr. Cueva confirmed that there are many sheds in the neighborhood with similar problems.

Thereupon, Mr. Pierce moved, seconded by Mr. Foley, that the variance be granted. Following discussion and upon recommendation by Mr. Cueva, Mr. Pierce

agreed to amend his motion to require proper permitting of the existing structure and the roof.

Upon call for the vote, the motion carried unanimously.

# 9     APPLICATION OF MARLENE CROWLEY THROUGH THOMAS F. COX, ESQUIRE, REPRESENTATIVE, FOR A VARIANCE (BA-3-2-15) – GRANTED

Public hearing was held on the application of Marlene Crowley through Thomas F. Cox, Esquire, for a variance to allow an existing laundry room having a nine-foot, four-inch rear setback and two eight-foot-high walls having a five-foot setback where ten-foot rear and seven-foot side setbacks are required, re property located at 197 2nd Street West, Tierra Verde (BA-3-2-15).

Mr. Cueva indicated that no correspondence relative to the application has been received and presented the following staff recommendation:

Recommend Denial. Staff recommends denial based on the fact that the request does not meet the criteria for granting a variance found 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 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 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.

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Thomas Cox, Esquire, St. Petersburg, indicated that he represents the applicant, who is unable to attend today's hearing, and referenced correspondence and documents provided by the owner. Noting that the property has been vacant for almost four years, Mr. Cox related the circumstances which forced the property into foreclosure in 2005, and stated that his firm has been negotiating with the lender to mitigate the loss; and that the lender has agreed to take back the property and a deed in lieu of foreclosure. He stated that the banker has established the existence of an open permit; and that before the arrangement with the lender can be consummated, the aforementioned variance is needed. He indicated that the Tierra Verde Homeowners Association and the neighbors have no objections to the request; and that the condition poses an unnecessary hardship under the unusual circumstances that exist; whereupon, he requested that the Board approve the requested variances.

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

Responding to query by Vice-Chairman Hoeneisen and citing the letters of no objection from the Homeowners Association and the adjacent property owners, Mr. Cueva indicated that he would not object if the Board approves the request.

Thereupon, Mr. Bomstein moved, seconded by Mr. Doran, that the variance be granted.

Upon call for the vote, the motion carried unanimously.

# 7 APPLICATION OF TURTLE BEACH LAND COMPANY, LLC, THROUGH WILLIAM J. KIMPTON, ESQUIRE, AND ANDREW IRICK, II, REPRESENTATIVES, FOR A VARIANCE (BA-9-2-15) – DENIED

Public hearing was held on the application of Turtle Beach Land Company, LLC, through William J. Kimpton, Esquire, and Andrew Irick, II for a variance to allow a six-foot decorative wall and columns having a zero-foot front setback on 19 lots fronting a public road where a 25-foot front setback is required for a fence which exceeds 36 inches in height, re property located along the east and west side of Seaview Drive and also at the southwest corner of Florida Boulevard and Seaview Drive, Crystal Beach (BA-9-2-15).

Mr. Cueva indicated that seven letters and a petition with 369 signatures have been received in opposition to the application and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of the request as the proposed decorative wall will be consistent with the 24 other lots which extend beyond the public road portion of the applicant's ownership and, as such, will be consistent with the total development plan. The type of construction planned will feature a wrought iron fence on top of a solid masonry wall being three feet in height. As there will be a condition pertaining to sight distance, staff is of the opinion the proposed fence location will not pose a detrimental impact to the surrounding community. Approval of the request should be subject to the following condition:

- ▶ Approval by Development Review Services to ensure adequate sight distance is provided.

William Kimpton, Esquire, Dunedin, provided historical information regarding the circumstances that resulted in what was once a timeshare project to be converted to a condominium development, and indicated that the request is an attempt to make the property one harmonious project. He related that the wall is allowed and being built within Code, and that the request is to put decorative fencing on top of the walls, columns, and gates.

Andrew Irick, II, Turtle Beach Land Company, referred to a photograph he described as showing the length of the proposed variance and discussed actions being taken to alleviate the concerns of the neighbors; whereupon, in response to comments by Mr. Burdette, he clarified that the three-foot fence is allowed by Code, but the three-foot metal work being added to the top of the wall is not allowed and would require a variance, as would the columns. He related that the architectural theme will enhance the value of the homes in the area, and he has offered to work with the two other communities along the public road should they desire to use the same theme. In response to queries by Mr. Bomstein, Mr. Irick discussed why he prefers to continue the fence on the curved portion of Seaview Drive, stating that there are 13 feet between the edge of the pavement and the right of way; and that he plans to work with County staff to alleviate



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any safety concerns and any concerns relating to sufficient stacking space for cars waiting for the gate to open.

In response to the Vice-Chairman's call for objectors, Brian Battaglia, Esquire, St. Petersburg, submitted a report, certified copies of the relevant ordinances, and other documents related to the application, and related that he is representing Audrey Jefferis, a homeowner in Crystal Beach. Mr. Battaglia questioned Mr. Irick regarding the deed and certain easements; whereupon, Mr. Bomstein pointed out that any circumstantial problems relative to the development, the process, setbacks and easements are not relevant to the hearing.

Mr. Battaglia called Russell Ottenberg, Planning Incorporated, Tampa, to speak as an expert witness on behalf of his client. Noting that he is a court-qualified land use planner, Mr. Ottenberg referred to his report and stated that the application is incomplete pursuant to the requirements listed in the application; that the applicant has failed to address the County's criteria for the granting of a variance; and that the variance request is without merit given the character of the Crystal Beach community.

At the request of Mr. Battaglia, Ms. Jefferis, his client, described the character of Crystal Beach, indicating that it is a unique and very special community, and approval of the request would change its nature. Referring to the minutes of a Board of County Commissioners meeting in 2013 regarding another case in Crystal Beach, she related that the minutes reflected Commissioner Susan Latvala saying "the application shows a blatant disregard for the history, tradition, and legal intent of this special community," and stated that this case shows a similar disregard.

Mr. Battaglia requested that he be allowed to reserve a few minutes of his time for closing arguments after the citizens have spoken; whereupon, the following individuals expressed their concerns with regard to the proposal, including the wall blocking views and preventing use of the lake, endangering the turtles and other wildlife in the area, destroying the natural habitat of local wildlife, creating an artificial barrier along the coastlines and the lake, fencing a public lake and/or public lands, setting a precedent detrimental to the community, the lack of stacking space for cars, the vagueness of the request, and the safety of bicyclists, pedestrians, children, pets, and native wildlife.

Sue Conlon, Crystal Beach  
Jeff Glass, Crystal Beach  
Edward C. LaBrecque, Crystal Beach

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Angel Casteleiro, Crystal Beach  
William Gibson, Crystal Beach  
Joe Sentowski, Crystal Beach  
Dave Kesler, Crystal Beach  
Barbara Whitland, Crystal Beach  
Carmen Stallman, Crystal Beach  
Steven Soso, Crystal Beach  
Ed Close, Crystal Beach  
Brad Tierno, Crystal Beach  
June Barwick, Crystal Beach  
Dennis Fredrickson, Crystal Beach  
Dianna Lacey, Crystal Beach  
Marilyn Flinner, Crystal Beach  
Donald Lacy, Crystal Beach

Responding to query by Mr. Burdette, Director of Development Review Services Blake Lyon indicated that his department has been working with consulting biologists on a jurisdictional determination around the lake to establish where the wetlands are in relation to setting a conservation easement, noting that the conservation easement, which has not yet been determined, would require an environmental habitat permit to be pursued before any development could occur.

Mr. Battaglia stated that a variance is not permissible unless the applicant meets the criteria set by the Board of County Commissioners; that the applicant did not meet the criteria required; and that should the Board approve the variance, it would be shifting that burden to the community; whereupon, he advised that there appears to be one or perhaps two parts of the properties not in the confines of the deed.

In rebuttal and in response to queries by the members, Mr. Irick indicated that the existing public right-of-way would remain; that everything County staff has required or requested has been submitted; that the total project has 62 lots, but the variance would apply only to the 19 lots that front on the public road, and the 43 lots in the back would not have the garden walls; that the lot sizes vary, but are generally less than a quarter acre; and that the developer requested the fence because he wished to create something that the community would like. Mr. Kimpton stated that the request is reasonable, as it is only for a decorative top to a wall that is allowed by law; and displayed a photograph of the road and pointed out that the lake cannot be seen now due to the vegetation. He related that one lot may have accidentally been exempted from the variance request; whereupon, Mr. Cueva indicated that a separate property owner cannot receive a variance at this hearing due to the way the request was advertised.

During deliberation, Mr. Bomstein related that usually when the Board approves a variance for a decorative top on a wall, it is in neighborhoods where privacy is an issue, and in this instance the lots are very small, and he finds it hard to justify estate-type fencing; that he agrees that it does not fit in the context of the neighborhood; that part of the job of the Board is to maintain the harmony of the community and respond to the needs of the neighbors in the community; and that given the setting and the character of the neighborhood, he does not see a compelling reason to approve the application.

Thereupon, Mr. Bomstein moved, seconded by Ms. White, that the variance be denied, and discussion ensued.

Upon call for the vote, the motion carried unanimously.

#11    APPLICATION OF ANNETTE AND TRYGVE JOHNSON FOR MODIFICATION OF  
A PREVIOUSLY APPROVED VARIANCE (BA-2-11-13) – GRANTED AS PER  
STAFF RECOMMENDATION

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Public hearing was held on the request of Annette and Trygve Johnson for modification of a variance granted on January 2, 2014 allowing six-foot high columns and a gate with a four-foot-high fence having a zero-foot front setback where a 20-foot setback is required, re property located at 10135 118th Avenue North, Largo (BA-2-11-13).

Mr. Cueva provided a review of the request, stated that the adjacent property owner is in agreement, and recommended approval subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. Column “C” shall be removed.

Brian Battaglia, Esquire, St. Petersburg, with input by Trygve Johnson, Largo, indicated that he represents the applicant; and that the applicant and the neighbors have agreed to move the fence back 16 feet to give access to the public turnaround so as to alleviate problems the neighbor is having with people turning around on her property.

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Mr. Battaglia reviewed the request, and indicated that the modification is consistent with Exhibit B in the agreement; and that the agreement would be recorded and would run with the owner and the Johnsons' covenant, and discussion ensued.

No one appeared in opposition to the request.

Thereupon, Ms. White moved, seconded by Mr. Foley, that the variance be modified as requested.

Upon call for the vote, the motion carried unanimously.

#### MINUTES OF DECEMBER 4, 2014 MEETING – APPROVED

Upon motion by Mr. Bomstein, seconded by Mr. Foley and carried unanimously, the minutes of the meeting of December 4, 2014 were approved.

#### ADJOURNMENT

At the direction of Vice-Chairman Hoeneisen, there being no further business, the meeting was adjourned at 12:26 P.M.

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Vice-Chairman