

Clearwater, Florida, October 1, 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: Stephen G. Watts, Chairman; Cliff Gephart, Vice-Chairman; Alan C. Bomstein; Joe C. Burdette; John Doran; Gregory R. Pierce; and Deborah J. White.

Also present: Chelsea D. Hardy, Assistant County Attorney; Glenn Bailey, Planning Department Zoning Manager; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Michael P. Schmidt, Board Reporter, Deputy Clerk.

### CALL TO ORDER

Chairman Watts called the meeting to order at 9:00 A.M.

### PUBLIC HEARING ITEMS

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

#### #1 APPLICATION OF WILLIE TELLIS AND JOANNE TELLIS FOR A VARIANCE (BA-2-10-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Willie Tellis and Joanne Tellis for a variance to allow a 6-foot-high fence along the side property line with a 0-foot front setback where a 20-foot front setback is required, re property located at 2018 119th Street in the unincorporated area of Largo (BA-2-10-15).

Mr. Bailey 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 the request. The applicant is proposing to replace a 3-foot-high chain link fence with a 6-foot-high chain link fence in an effort to prevent people from crossing his property to access a drainage feature that connects to a County park to the west. The problem was created when the County recently put up a fence blocking access to the drainage feature from the adjacent public right-of-way. Approval of the request should be subject to the following conditions:

October 1, 2015

1. The applicant shall obtain all required permits and pay any applicable fees.
2. Sight distance requirements shall be met.

Willie and Joanne Tellis, Largo, appeared and indicated that they are seeking the aforesaid variance.

No one appeared in response to the Chairman's call for objectors to the application; whereupon, Mr. Bomstein moved, seconded by Mr. Doran, that the variance be granted as recommended by staff.

In response to comments and queries by Mr. Pierce, Mr. Bailey indicated that Pinellas County owns the neighboring property and did not apply for a variance when it erected a similar 6-foot-high fence, and Mr. Tellis provided input.

Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF HENRY A. AND CAROLE E. STAVINGA FOR A VARIANCE (BA-4-10-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Henry A. and Carole E. Stavinga for a variance to allow the construction of a screen porch with a 5-foot rear setback where a 10-foot rear setback is required, re property located at 3815 Darston Street in East Lake Tarpon (BA-4-10-15).

Mr. Bailey 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 the request. The applicant is proposing to replace the original screen porch using the same slab with one having a solid roof. The applicant has obtained written authorization from County engineering staff for a roof overhang extending 11 inches into the adjacent drainage easement, subject to variance approval from the Board. A large preservation area exists to the rear of the subject property. The Board has approved similar requests in the surrounding neighborhood. Approval of the request should be subject to the following conditions:

October 1, 2015

1. The applicant shall obtain all required permits and pay any applicable fees.
2. The rear setback shall be a minimum of five feet, allowing for a roof overhang that extends 11 inches into the adjacent drainage easement.

Henry and Carole Stavinga, Palm Harbor, appeared and indicated that they are 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. Doran, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

#3 APPLICATION OF MICHAEL AND ALLISON LAVOIE FOR A VARIANCE (BA-3-10-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Michael and Allison Lavoie for a variance to allow an after-the-fact home addition on a double frontage lot with a 14-foot front setback from 86th Avenue North (the rear of the home) where a 20-foot front setback is required, re property located at 11976 Valencia Court in the unincorporated area of Seminole (BA-3-10-15).

Mr. Bailey 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 the request. The structure is built on a double frontage lot at a distance from the rear property line that would meet normal rear setback requirements. There is a 40-foot-wide right-of-way separating the rear property line from the pavement edge of 86th Avenue North. In addition, a 6-foot-high fence and existing vegetation provide buffering from the adjacent right-of-way. Approval of the request should be subject to the following conditions:

October 1, 2015

1. The applicant shall obtain all required permits and pay any applicable fees.
2. The setback from the 86th Avenue North right-of-way shall be a minimum of 14 feet. All other required setbacks shall be met.

Eugene and Beverly Lavoie, Largo, appeared and indicated that they represent the applicants, Michael and Allison Lavoie, their son and daughter-in-law.

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

Noting that the property is a double frontage lot and the backyard is adjacent to a street, 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 JOHN F. AND ANNE-MARIE O'RYAN FOR A VARIANCE (BA-5-10-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of John F. and Anne-Marie O'Ryan for a variance to allow an after-the-fact structure (pergola) to remain with a 4.9-foot side setback where a 7-foot side setback is required, re property located at 949 Spanish Oaks Boulevard, Palm Harbor (BA-5-10-15).

Mr. Bailey 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 the request. The pergola has existed at its present location for many years and is well-shielded from the adjacent property by existing vegetation and a 6-foot-high fence. Approval of the request should be subject to the following conditions:

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

2. The pergola shall maintain a minimum 4.9-foot setback from the side property line.
3. In the event the pergola is destroyed beyond 50 percent of its market value, any replacement shall meet the required setbacks.

John O’Ryan, Palm Harbor, appeared and 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. Doran, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF JOANNE MYERS FOR A VARIANCE (BA-6-10-15) – GRANTED WITH CONDITIONS

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Public hearing was held on the application of Joanne Myers for a variance to allow the expansion of an existing single-family home having a 4-foot side setback where an 8-foot setback is required, re property located at 1828 Nebraska Avenue, Palm Harbor (BA-6-10-15).

Mr. Bailey indicated that nine letters in support of the application have been received, and presented the following staff recommendation:

Recommend Denial. Staff cannot support the request as it does not meet the criteria for the granting of variances established in Section 138-113 of the Pinellas County Land Development Code, 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 request will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
- (3) *Unnecessary hardship.* That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.
- (4) *Minimum variance necessary.* That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

In response to the Chairman's call for the applicant, Joanne Myers, Palm Harbor, appeared. Ms. Myers related that she wants to enlarge the bathroom and one bedroom of her home in order to care for her mother who is confined to a wheelchair following a stroke; that she wants to install an exterior door on the bathroom in anticipation of building a ramp; that she has hired a contractor to determine the best way to adapt her home; and that she has nine letters in support from her neighbors and a letter of recommendation from the neighboring assisted living facility.

During discussion and in response to comments and queries by the members, Ms. Myers indicated that the current floor plan creates an unnecessary hardship since it does not allow adequate space for her mother to enter the home or maneuver in her wheelchair; and that the proposed addition will add about seven feet to her home; whereupon, responding to Mr. Bomstein's assertion that granting the variance will set precedent, Ms. Myers referred to several photographs of nearby properties that appear to have similar variances, and discussion ensued.

In response to queries by Mr. Doran, Ms. Myers discussed the proposed location of the room addition. She related that the contractor has determined that placing it on the side of the home is the most practical option; and that it will provide enough room for her mother to more easily navigate the bathroom and bedroom; whereupon, discussion ensued regarding the prospect of granting a 6-foot setback rather than a 4-foot setback.

October 1, 2015

In response to further comments and queries by the members, Ms. Myers restated the need for an exterior bathroom door and ramp, and discussed storage space requirements for a medical bed and related medical equipment; whereupon, she related that even though she searched for about eight months, she was unable to find a suitable home that did not require similar modifications, and discussion ensued.

Mr. Pierce related that because the laundry and storage area appear to provide ample space for the rooms to be configured within the home's current footprint, he cannot support any variance; whereupon, Mr. Doran moved, seconded by Mr. Burdette, that a 6-foot side setback variance be granted.

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

Following the vote, Mr. Bailey related that approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay any applicable fees.
2. The setback shall be six feet from the side property line.

#### MINUTES OF SEPTEMBER 3, 2015 MEETING – APPROVED

Upon motion by Mr. Doran, seconded by Mr. Bomstein and carried unanimously, the minutes of the meeting of September 3, 2015 were approved.

#### MISCELLANEOUS DISCUSSION

Mr. Burdette discussed instances where county residents have submitted applications to allow after-the-fact structures, relating that oftentimes the work is completed by contractors who report to homeowners that no variance is needed; whereupon, he recommended that future applications contain the names of the parties who performed the work; and that those names be provided to the Pinellas County Construction Licensing Board, and Chairman Watts and Messrs. Pierce and Bomstein agreed.

October 1, 2015

During discussion, Attorney Hardy advised that because the Board of Adjustment does not deal with unlicensed contracting or similar issues, it would be best if the issue is handled at the staff level, and brief discussion ensued.

ADJOURNMENT

At the direction of Chairman Watts, there being no further business, the meeting was adjourned at 9:29 A.M.

  
Chairman