

Clearwater, Florida, August 3, 2016

The Board of Adjustment (BA) met in regular session in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida on this date with the following members present: Cliff Gephart, Chairman; Joe C. Burdette, Vice-Chairman; John Doran; Gregory R. Pierce; and Stephen G. Watts.

Not Present: Alan C. Bomstein and Deborah J. White.

Also present: Glenn Bailey, Planning Department Zoning Manager; Jeff Gibbud, Code Enforcement Supervisor; Chelsea Hardy, Assistant County Attorney; other interested individuals; and Jenny Masinovsky, Board Reporter, Deputy Clerk. Minutes by Helen Groves.

### CALL TO ORDER

Chairman Gephart 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. All persons planning to give testimony were duly sworn by the Deputy Clerk.

#### #1      APPLICATION OF SABER AND KLAIR MASOUD FOR VARIANCES (BA-1-8-16) – DENIED

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Public hearing was held on the application of Saber and Klair Masoud for variances to allow for the construction of a single family home with a 10-foot front setback where a 25 feet is required and for an on-site septic system on a property less than two acres in size, re property located on the east side of Lora Lane, due east of Fletch Haven Drive in East Lake Tarpon (BA-1-8-16). Eight letters in opposition to the application have been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. There is an extensive wetland area to the rear of the property which is forcing the proposed residence toward the front. The Board conditionally approved a 10-foot front setback request

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(Case No. BA-04-2-13) on the subject property in February of 2013, which has since expired. The septic tank is necessary due to the lack of a public sewer system. 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 front setback shall be 10 feet.
3. All other required setbacks shall be met.
4. Driveways shall be designed to allow the parking of a car in such a way that does not encroach into the public right-of-way.

Mr. Bailey related that the variance for the septic system is no longer necessary, as it has been approved by the Department of Health; whereupon, in response to query by Mr. Watts, Mr. Bailey confirmed that this would be the only house in the subdivision with a front setback variance.

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

Chairman Gephart stated that objectors are in the audience who wish to give testimony at this time, as they have other commitments; whereupon, Thomas M. Paul and Antonia Gary, Tarpon Springs, appeared and expressed their concerns, including:

- Every other house on the street is at the 25-foot setback, and many of the owners had to reposition their houses to conform to the conservation area.
- The variance will negatively impact the rural and agricultural feel of the area and lower the property values.
- The applicant was aware of the restrictions related to the conservation area when he purchased the property.
- Granting the setback would set a precedent in the neighborhood.
- The setback would create safety issues, as drivers would not be able to see children and pets playing.

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Chairman Gephart announced that the petitioner has arrived, and at his direction, Saber Masoud, Port Richey, appeared and indicated that he is the owner of the property; and that the variances were approved in 2013, but have since expired.

Mr. Watts reviewed the concerns of the objectors, and in response to queries by the members, Mr. Masoud indicated that he is building the house for his own use, and not to sell; that he plans to put a pool in the back if there is room; that the house will be between 3,600 and 4,000 square feet; and that he has already paid for septic and other permits.

During discussion, Mr. Burdette stated that the neighbors made some good points; and that it appears the house could be built farther back on the lot. Mr. Doran noted that the house seems to sit farther back than 15 feet from the road; and that the property has less depth than the other lots. He questioned the claim that approval of the variance would set a precedent, as each case stands on its own merits; whereupon, the members discussed the possibility of moving the drain field that is required by the state on wetlands.

Attorney Hardy stated for the record that all proponents and opponents have had an opportunity to speak; whereupon, Mr. Paul requested that he be allowed to rebut some of the evidence. Following discussion, Chairman Gephart indicated that, as the case did not follow the usual procedure due to the late appearance of the applicant, he would allow both the proponents and opponents to speak again.

Mr. Paul indicated that the size of the lots to the left is deceiving; and provided further information about the wetlands setback, and Ms. Gary concurred.

Mr. Masoud discussed the difficulties in obtaining the right-of-way and septic tank permits, and indicated that the project is finally ready for construction to begin.

Following discussion, Mr. Watts moved, seconded by Mr. Pierce, that the application be denied. Mr. Burdette explained that his vote will be based on the testimony received today and the letters of objection from members of the community, not on what happened when the case was previously heard.

Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF DIOCESE OF ST. PETERSBURG, THROUGH FATHER PAUL KOCHU, REPRESENTATIVE, FOR A MODIFICATION OF AN EXISTING SPECIAL EXCEPTION (BA-2-8-16) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of the Diocese of St. Petersburg through Father Paul Kochu for a modification of an existing special exception for a place of worship to allow for the construction of a new 2,773-square-foot meeting facility, re property located at 2757 Alderman Road in Palm Harbor (BA-2-8-16). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request, provided the Board is satisfied that it meets the “Standards” of Section 138-238, Division 7 of the Pinellas County Land Development Code. 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. Full site plan review.

Barry Bywalec, P.E., Stantec Consulting, Palm Harbor, appeared and indicated that he is representing the applicant.

No one appeared in response to the Chairman’s call for objectors to the application; whereupon, Mr. Burdette moved, seconded by Mr. Doran and carried unanimously, that the special exception be granted as recommended by staff.

#3 APPLICATION OF PINELLAS COUNTY, ST. PETE-CLEARWATER INTERNATIONAL AIRPORT, TOM JEWSBURY, DIRECTOR, THROUGH JOHN C. LANDON, P.E., REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-5-8-16) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Pinellas County, St. Pete-Clearwater International Airport through John C. Landon for a special exception to allow the

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stockpiling of fill dirt in excess of 1,000 cubic yards, re property located at the northeast corner of the intersection of Ulmerton Road and Roosevelt Boulevard in the unincorporated area of Largo (BA-5-8-16). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request, provided the Board is satisfied that it meets the “Standards” of Section 138-238, Division 7 of the Pinellas County Land Development Code. 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. Full site plan review.
3. The Airport Engineer or Director must approve the lease tenant’s proposed stockpile request, including the proposed location.
4. Southwest Florida Water Management District permits must first be obtained and provided.
5. Floodplain impacts shall be addressed and wetland impacts must be avoided.
6. A two-year timeframe shall be applied to the stockpile without extension unless a site plan for the future use of the material has been approved.

John Landon, P.E., appeared and indicated that he represents the applicant.

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

In response to queries by Messrs. Watts and Pierce, Mr. Landon indicated that the dirt is coming from the Roosevelt Boulevard overpass that is being torn down; that half of the overpass extending to Ulmerton Road is already down; that it should be easy to push the

dirt onto the proposed site; that the timetable included in the backup information is staff's timetable, but if more time is needed, he will ask for an extension; that the dirt would be stockpiled in a mound as high as 30 feet for at least two years, or until all approvals are obtained; and that the site will ultimately be covered with 3 to 3½ feet of added fill.

Thereupon, Mr. Burdette moved, seconded by Mr. Doran and carried unanimously, that the special exception be granted as recommended by staff.

#4 APPLICATION OF MARIBETH AND MAX KENNEDY THROUGH ZACHARY PEASE, REPRESENTATIVE, FOR A VARIANCE (BA-4-8-16) – GRANTED

Public hearing was held on the application of Maribeth and Max Kennedy through Zachary Pease for a variance to allow for the construction of an 8-foot-high privacy wall with a rear setback of 4 feet, 5 inches, where 10 feet is required for a wall greater than 6 feet in height, re property located at 9849 East Gulf Street in unincorporated Seminole (BA-4-8-16). The Clerk has received two letters in opposition and two letters of no objection regarding the application.

Mr. Bailey provided background information about the case, and stated that the Board had previously approved a variance for a pool setback, but did not approve the wall because the neighbors had not expressly referred to it in their letters of no objection; that the Board anticipated that staff would approve the wall administratively based on the grade change; and that although letters of no objection to the wall have been received, staff has determined that the house behind the subject property had been elevated and has declined to do an administrative approval; whereupon, he presented the following staff recommendation:

Recommend Denial. Staff recommends denial of the proposed wall, as it does not meet the criteria for granting a variance in Section 138-113 of the Pinellas County Land Development Code, specifically in regard to:

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

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

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

Thereupon, Mr. Bomstein moved that staff's recommendation be denied and the application approved, with the condition that the applicant obtain all required permits and pay any applicable fees. Mr. Doran seconded the motion, and upon call for the vote, the motion carried unanimously.

#5      APPLICATION OF FIRST BAPTIST CHURCH OF CLEARWATER IN CARE OF  
HOWARD PARKER THROUGH BRIAN J. AUNGST, REPRESENTATIVE, FOR A  
MODIFICATION OF AN EXISTING SPECIAL EXCEPTION (BA-3-8-16) –  
GRANTED WITH ADDED CONDITION

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Public hearing was held on the application of First Baptist Church of Clearwater, in care of Howard Parker through Brian J. Aungst for a modification of an existing special exception for a place of worship in an RPD-5 zone to allow for the construction of a new 37,121-square-foot church building and related parking, re property located at 1190 East Lake Road South in East Lake Tarpon (BA-3-8-16). The Clerk has received one letter in opposition to the application and one letter stating concerns.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request provided the Board is satisfied that it meets the "Standards" of Section 138-238, Division 7 of the Pinellas County Land Development Code. 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. Full site plan review, including consolidation of all previous site plans.
3. There shall be no additional access drives from East Lake Road.
4. Silver Eagle Drive access drives shall be improved, including the installation of a 5-foot wide sidewalk across the entire frontage of the right-of-way.
5. Scenic/Non-Commercial corridor landscaping requirements must be met.

Brian Aungst, Clearwater, appeared and indicated that he represents the applicant. He stated that the application is for an extension of an existing special exception that has been actively used on the site since 1981; that the site has been continuously zoned institutional and used as a church during that time period; and that no variances are being requested, as the applicant meets Code in terms of setbacks, density, height, and parking. He described the surrounding area, noting the development that has occurred; whereupon, he submitted into evidence an application packet, which has been filed and made a part of the record, and referred to the packet throughout the hearing.

In response to query by Mr. Burdette, Attorney Hardy related that the request is to modify the special exception to add a 37,000-plus-square-foot building; and that anytime a special exception is expanded or modified, the applicant must come back before the Board of Adjustment.

Mr. Aungst indicated that the relevant question for the Board is whether the application complies with Section 138-238, Division 7 of the Land Development Code; whereupon, he addressed the seven criteria.

In response to queries by Chairman Gephart and Mr. Watts, Mr. Aungst indicated that the existing building is 10,000 to 11,000 square feet, and will remain; and that the new building will be on the same site as the existing building, which is located in the opposite direction from the residential neighborhood to the north.

In response to queries by Mr. Pierce regarding ingress and egress, Mr. Aungst, with input by engineer Brian Barker, indicated that the main ingress/egress is currently existing on East Lake Road and will remain, which is one of staffs' conditions for approval; and that a crosswalk along Silver Eagle Drive and a sidewalk along East Lake Road will be



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added; whereupon, he provided information about how the neighborhood currently uses Silver Eagle Drive. Mr. Barker indicated that a traffic light is not indicated, nor does he see a need for a yellow flashing pedestrian light. He stated that, in his professional opinion, the project meets or exceeds all the special exception criteria in Section 138-238 of the Land Development Code; that an institutional church use is consistent with and supports a residential use; and that from an engineering perspective, there is no legal basis to deny the application.

In response to queries by the members, Mr. Aungst:

- Displayed renderings of the proposed project, which will include a large auditorium that will serve as a staging area for any emergency events that might occur in the neighborhood.
- Discussed the strong relationship and partnership between the church and East Lake High School.
- Stated that a special exception was granted in 2004 for pre-school and daycare, but the uses have been terminated and are not expected to resume; whereupon, he discussed the expected Sunday school and nursery and Wednesday night services.

Mr. Barker described planned landscaping and buffering, and indicated that it will meet all requirements in the Land Development Code; whereupon, Howard Parker, Executive Pastor and Administrator, Calvary Baptist Church, Palm Harbor, discussed traffic in the area and related that the church hires law enforcement to control traffic for special events and Sunday services. He indicated that there is a right-turn-only sign on East Lake Road and no median cut, so there is no way to enter the facility from the left coming from the south. In response to queries by Mr. Aungst, he related that there will no longer be space to hold large outdoor events, which will eliminate much of the noise; and observed that 1,200 families in the East Lake area are members of the church, a significant number of whom live in the immediate vicinity, and there would be no need for expansion without the surrounding residents.

In response to the Chairman's call for those wishing to speak in favor of the application, the following individuals appeared and related how the church gives to the community:

Donald Mullins, Tarpon Springs  
Danny Bennett, Palm Harbor  
Carrie Davis, Tarpon Springs  
Joseph Oliveri, Palm Harbor

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Mr. Oliveri indicated that he is the architect for the project; and that the facility will accommodate a growing congregation and will meet all development requirements.

In response to the Chairman's call for those wishing to speak in opposition to the application, the following individuals appeared and expressed their concerns:

Stevyn Muller, President, Charolais Place Homeowners Association, Tarpon Springs

Marc Altman, Tarpon Springs

Eugene Cunningham, Tarpon Springs

Jim Schneider, Tarpon Springs

Greg Nelsen, Tarpon Springs

Concerns expressed by the objectors included:

- Lack of communication with the community.
- Safety relating to traffic congestion; traffic flow; access.
- Safety relating to the Fred Marquis Pinellas County Trail.
- Barrier between the church and the residential community.
- Parking.
- Noise.
- Lighting.
- Stormwater, watershed, and drainage issues.

Mr. Mueller stated that the homeowners do not want to stop the development, but requested that the item be continued to allow for further study of the project.

In rebuttal, Mr. Aungst, with input by Mr. Parker, indicated that:

- The church and East Lake High School do not have functions at the same time, so there will be no co-mingling of traffic.
- Silver Eagle Drive access will be improved, with a 5-foot lighted sidewalk across the entire frontage of the right-of-way to improve the traffic situation.
- The project will meet and exceed all parking requirements.
- The project will not include any amplified exterior speakers.
- The only exterior lighting will be what is required by Code for the parking lots.
- The project will comply with Scenic/Non-Commercial Corridor landscaping and buffering requirements.
- The County will not authorize another entry/exit across the Pinellas Trail.
- There will be no full-time school or daycare as a result of the project.

In response to query by Mr. Pierce, Mr. Aungst referred to the site plan and an aerial photograph, and pointed out the location of the existing and proposed buildings and the

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associated parking, and stated that the existing building will remain for the foreseeable future. In response to query by Mr. Burdette, he confirmed that the Code would allow a residential development on the property, which would create more traffic than the proposed project.

In response to query by Mr. Watts, Mr. Parker indicated that fundraising dictated the timeframe of the project and contributed to the lack of communication with the neighbors, as the funds were raised much more quickly than anticipated; whereupon, Mr. Aungst indicated that he will provide the objectors with his card and email address and will be glad to work with them and answer any questions that arise.

Following Mr. Burdette's summation of the project, Mr. Watts moved that the application be approved. Mr. Doran cited the additional condition that there would be no full-time school or daycare resulting from the project; whereupon, he seconded the motion.

Upon call for the vote, the motion carried unanimously.

#### MINUTES OF JUNE 1, 2016 MEETING – APPROVED

Upon motion by Mr. Burdette, seconded by Mr. Watts and carried unanimously, the minutes of the meeting of June 1, 2016 were approved.

#### SEPTEMBER MEETING CANCELLED; CASE NO. BA-7-7-16 CONTINUED

Mr. Bailey indicated that the only case scheduled in September is the YMCA sign case, which had been continued for 60 days; and that the YMCA would be agreeable to postponing the hearing until October. Acting upon the advice of Attorney Hardy and following discussion, Mr. Burdette moved, seconded by Mr. Doran and carried unanimously, that the September meeting be cancelled and Case No. BA-7-7-16 be continued to the October meeting.

#### ADJOURNMENT

At the direction of Chairman Gephart, there being no further business, the meeting was adjourned at 10:22 A.M.

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Chairman