

Clearwater, Florida, February 7, 2019

The Board of Adjustment and Appeals (BAA) 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; Deborah J. White, Vice-Chairman; Alan C. Bomstein; Joe C. Burdette; Vince Cocks; and Cliff Gephart.

Also Present: Glenn Bailey, Planning Department Zoning Manager; Gina Berutti, Code Enforcement Operations Manager; Michael Schoderbock, Principal Planner; Chelsea Hardy, Assistant County Attorney; other interested individuals; and Lynn Abbott, Board Reporter, Deputy Clerk.

CALL TO ORDER

Chairman Doran called the meeting to order at 9:00 A.M. and provided an overview of the hearing process.

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 NELSON J. AND/OR JO ANN N. SIMMONS THROUGH JIM SIMMONS, REPRESENTATIVE, FOR A MODIFICATION OF A VERIFIED NONCONFORMING USE (NCU #201) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Nelson J. and/or Jo Ann N. Simmons through Jim Simmons for a modification of a verified nonconforming use (NCU #199) to allow the placement of a storage container and a dumpster, re property located at 2283 and 2291 Evans Road in unincorporated Dunedin (NCU #201). One letter stating concerns regarding 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 to modify a verified nonconforming use. The property consists of two parcels and has had various storage structures and trailers on the site over the years and would like to add a permanent storage container as part of the warehouse use. Additionally, the dumpster on the

property was not identified in the original nonconforming use verification application and is being included as part of the request. Its location reflects the historical location of dumpsters on the property. Approval of the modification should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The storage container is to meet all required setbacks.
3. All original conditions from the established NCU #199 shall remain in effect.

Responding to query by Mr. Burdette, Mr. Bailey related that there is no process in place to allow for the termination of a nonconforming use.

Jim Simmons, Clearwater, appeared and indicated that he represents the applicant. Chairman Doran related that neighboring residents have submitted a letter; and that he will ask questions on their behalf; whereupon, in response to those concerns, Mr. Simmons stated that the permanent storage container will house the equipment for his lawn care business; that the existing storage containers have been painted to match the workshop on the property; and that he does not intend to expand the business or increase the number of existing trailers on the east side of the property.

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

Mr. Bomstein moved, seconded by Mr. Cocks, that the modification of the nonconforming use be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF ALBERT D. WISEMAN THROUGH BRIAN J. AUNGST, JR., REPRESENTATIVE, FOR A VARIANCE (BA-02-02-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Albert D. Wiseman through Brian J. Aungst, Jr., for a variance to allow 17,560 square feet of accessory storage structures on a parcel where the proposed primary residential use is 3,033 square feet (BA-02-02-19). 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. The three accessory storage structures were approved by the Board via separate cases, BA-14-5-96, BA-13-3-97, and BA-2-10-00. The parcel was part of a much larger 20-acre property at the time of those approvals, but has since been subdivided into three separate parcels. The owner plans to convert a 3,000-square-foot portion of one of the accessory storage structures into his primary residence, in effect reducing the accessory storage square footage on the parcel. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The accessory storage structures are to be used for personal use only; no commercial activity shall take place on the property.
3. Appropriate platting process is required.

Brain J. Aungst, Clearwater, appeared and indicated that he represents the applicant.

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 MB BUILDS, LLC THROUGH MATT FOSTER, REPRESENTATIVE, FOR A VARIANCE (BA-06-01-19) – DENIED

Public hearing was held on the application of MB Builds, LLC through Matt Foster for a variance to allow for the construction of an in-ground pool with a 5-foot setback from a seawall on the west property line where 8 feet is required, re property located at 1431 Sea Gull Drive South in unincorporated South Pasadena (BA-06-01-19). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff cannot support the request as it does not meet the criteria for the granting of a variance found 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 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.

No one appeared in response to the Chairman's call for the applicant; whereupon, Mr. Bailey noted that the home is currently being marketed without a pool.

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

Mr. Cocks moved, seconded by Mr. Bomstein, that the variance be denied. Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF HLSS II OZONA, LLC THROUGH REED HAYDON, REPRESENTATIVE, FOR VARIANCES (BA-01-02-19) – WITHDRAWN

Chairman Doran referred to the application of HLSS II Ozona, LLC through Reed Haydon for variances to allow a 5-foot setback from the northeast property line where 10 feet is required and to allow a 10-percent Floor Area Ratio (FAR) increase from 0.60 to 0.66 and from 0.05 to 0.055, re property located at 265 U.S. Alternate 19 South in Ozona (BA-01-02-19), and related that the application has been withdrawn by the applicant.

DISCUSSION ITEM

#5 BOARD PROCEDURE FOR HEARING APPEALS AND ADDRESSING NONCOMPLIANCE WITH APPROVAL CONDITIONS

Attorney Hardy discussed the new appeals process and the Board's role to hear appeals pertaining to staff-level and Development Review Committee decisions; whereupon, responding to comments and queries by the members, she provided further information

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regarding the appeals process and the ability to manage the length of testimony during meetings.

Mr. Bailey related that Development Review Services Director Blake Lyon requested direction on how the Board would like the department to address issues regarding those applicants who do not comply with conditions of approval.

Following discussion, the members determined that the current code enforcement process regarding failure to comply should be followed; whereupon, Mr. Bailey noted that copies of the Land Development Code have been provided to the members; and that the electronic version is currently accessible on the Planning Department website.

OTHER BUSINESS

Mr. Bailey announced that there are no cases scheduled for next month's meeting; whereupon, Mr. Burdette reported that there will be no March meeting of the Board of Adjustment and Appeals.

MINUTES OF THE JANUARY 3, 2019 MEETING – APPROVED

Mr. Burdette moved, seconded by Mr. Gephart, that the minutes of the January 3, 2019 meeting be approved. Upon call for the vote, the motion carried unanimously.

Following the vote, Mr. Cocks noted that page 7 of the meeting minutes should reflect that he visited the site, not Mr. Bomstein, and no objections were noted.

ADJOURNMENT

The meeting was adjourned at 9:22 A.M.

Chairman