

Clearwater, Florida, April 4, 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; Jose Bello; 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 Jerry Gottlick, Board Reporter.

### CALL TO ORDER

Chairman Doran called the meeting to order at 9:01 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 NEXTURE, LLC, THROUGH WALTER PENACHIO, REPRESENTATIVE, FOR A VARIANCE (BA-01-04-19) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Nexture, LLC, through Walter Penachio for a variance to allow for the construction of a single family home on each of two adjacent 50-foot-wide platted lots of record under common ownership where 60 feet of width is required, re property located at 3455 Belcher Road in unincorporated Dunedin (BA-01-04-19). 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 as it appears to meet the criteria for granting variances found in Section 138-231 of the Pinellas County Land Development Code. The two subject lots are platted lots of record that predate the zoning code. In addition, there are other similarly-sized

developed lots within the immediate vicinity, including directly to the east across Pine Street. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. All required setbacks shall be met.

No one appeared in response to the Chairman's call for the applicant; whereupon, Chairman Doran indicated the case would be moved to the end of the agenda.

Later in the meeting, no one appeared in response to the Chairman's final call for either the applicant or for persons wishing to speak in opposition to the application.

Following discussion with input by Attorney Hardy, Mr. Cocks moved, seconded by Mr. Burdette, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF BRUCE TOY THROUGH ROBERT STAUFFER, REPRESENTATIVE, FOR A VARIANCE (BA-07-04-19) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Bruce Toy through Robert Stauffer for a variance to allow for the construction of an in-ground pool having a 14-foot front setback and a 6-foot-high PVC fence having an 11-foot front setback where 20 feet is required, re property located at 762 Jacqueline Lane in Palm Harbor (BA-07-04-19). 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 as it appears to meet the criteria for granting variances found in Section 138-231 of the Pinellas County Land Development Code. A 40-foot-wide drainage easement crosses the rear (south) of the property and tidal wetlands and mangroves are on its western side, which makes the proposed placement of the pool the only viable location. No pool cage is planned, which makes the proposed fence necessary for safety and privacy. In addition, the other two lots on the south

side of Jacqueline Lane have each received similar variances for pools. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Line-of-sight requirements shall be met.
3. No pool cage.

Rochelle Hastings, Palm Harbor, and Robert Stauffer, Oldsmar, appeared and indicated that they are the applicant and the representative, respectively. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Bomstein moved, seconded by Mr. Gephart, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#3 APPLICATION OF THOMAS A. MARCH TRUST THROUGH BRIAN J. AUNGST, JR., REPRESENTATIVE, FOR A VARIANCE (BA-05-04-19) – GRANTED WITH ADDITIONAL CONDITION

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Public hearing was held on the application of Thomas A. March Trust through Brian J. Aungst, Jr., for a variance to allow for the construction of a pool with a rear setback of 6 feet from the east property line where 8 feet is required, re property located at 10487 Monarch Drive in unincorporated Largo (BA-05-04-19). 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 as it appears to meet the criteria for granting variances found in Section 138-231 of the Pinellas County Land Development Code. The existing home is built further toward the rear of the property than many other homes in the neighborhood, which is thought to be the result of avoiding a clump of trees that previously existed in the front yard. Those trees were recently removed via permit due to poor quality. The backyard is relatively small as a result. As the subject property

has double frontage, there is no other logical location to place a pool. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The adjacent 10-foot drainage and utility easement must be vacated to the extent that the pool will not encroach into it.
3. No pool cage.

Thomas A. March, Largo, and Brian Aungst, Jr., Clearwater, appeared and indicated that they are the applicant and the representative, respectively. Mr. Aungst referred to photographs and stated that the variance request is consistent with others that have been granted in the neighborhood; that the requested setback is a reduction of two feet; and that the home could not be moved without demolishing it.

In response to the Chairman's call for objectors to the application, Richard Kistner, Largo, appeared, expressed his concerns regarding the pool being located two feet from his rear fence, and requested that the members adhere to the current code; whereupon, Mr. Bailey clarified that the pool would actually be located six feet from the property line, and Mr. Aungst described and submitted landscaping plans, relating that County staff have visited the site.

Mr. Burdette moved, seconded by Ms. White, that the variance be granted with the following additional condition:

4. Install landscaping that is in substantial conformance with the submitted landscape plan.

Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF PINELLAS COUNTY – POLICE ATHLETIC LEAGUE FACILITY THROUGH HOUSH GHOVAEE, REPRESENTATIVE, FOR MODIFICATION OF A TYPE 2 USE (BA-02-04-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Pinellas County – Police Athletic League Facility through Housh Ghovae for modification of a previously-approved Type 2 Use

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(Special Exception) (BA-7-5-10) to allow for the expansion of a recreational facility in an E-1 zone by adding two modular buildings, re property located at 3755 46th Avenue North in Lealman (BA-02-04-19). 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 as it appears to meet the criteria for granting Type 2 Uses found in Section 138-241 of the Pinellas County Land Development Code. The subject property is County-owned and leased by the Police Athletic League as a recreation facility. The addition of the two modular buildings, to be used for after-school programs, should pose minimal overall impacts. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.

Housh Ghovae, 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 Mr. Cocks, that the modification be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF 44TH AVENUE RENTAL GROUP, LLC, THROUGH LUCY ZIEGLER, REPRESENTATIVE, FOR A TYPE 2 USE (BA-03-04-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of 44th Avenue Rental Group, LLC, through Lucy Ziegler for a request to allow a fitness center as a Type 2 Use in an E-1 zone within the Lealman CRA, re property located at 3312 44th Avenue North in Lealman (BA-03-04-19). 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 as it appears to meet the criteria for granting Type 2 Uses found in Section 138-241 of the Pinellas County Land Development Code. The updated Land Development Code that went into effect January 1, 2019 allows fitness centers in the E-1 zoning district within the Lealman CRA as a Type 2 Use found in Section 138-241 of the Pinellas County Land Development Code. This is an after-the-fact request for a fitness center that occupies a portion of the existing building on the subject property. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees within six months of the date of Type 2 Use approval.
2. Appropriate site plan review.
3. Approval is limited to the portion of the building identified on the submitted concept plan for fitness center use.

Christopher Hays and Tami Perkins, St. Petersburg, appeared and indicated that they represent the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Responding to query by Mr. Bomstein, Mr. Bailey explained that the building is shared with another business; that multi-use was not permitted under the old code; and that the applicants filed an appeal prior to the revised code going into effect in January; whereupon, Mr. Bomstein moved, seconded by Ms. White, that the Type 2 Use be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#6 APPLICATION OF 4360 28TH ST. N, LLC, THROUGH BRIAN HARTLEY, REPRESENTATIVE, FOR A TYPE 2 USE AND A VARIANCE (BA-04-04-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of 4360 28th St. N, LLC, through Brian Hartley for a request to allow an indoor commercial recreation facility as a Type 2 Use in an E-1 zone within the Lealman CRA and a variance to reduce required parking from 69 to 58

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spaces, re property located at 4300 28th Street North in Lealman (BA-04-04-19). 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 as it appears to meet the criteria for granting Type 2 Uses and variances found in Sections 138-241 and 138-231 of the Pinellas County Land Development Code, respectively. The updated Land Development Code that went into effect January 1, 2019 allows commercial recreation uses in the E-1 zoning district within the Lealman CRA as a Type 2 Use. This is an after-the-fact request for a cheerleading instructional facility that occupies a portion of the existing building on the subject property.

The applicant is also requesting a parking variance for 11 spaces, reducing the number of required spaces for all uses on the subject property from 69 to 58. The cheerleading facility primarily operates during the late afternoon, evenings, and on weekends, which are not peak times for the other tenants in the building. Also, the subject property fronts 28th Street North, which is a PSTA bus route with a designated bus stop in front of the building. This provides an alternative means of transportation for employees and customers to arrive at the property. Additionally, the applicant is willing to provide other parking mitigation strategies, including bicycle racks and designated carpool parking spaces. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees within six months of the date of Type 2 Use approval.
2. Appropriate site plan review.
3. The applicant shall apply parking mitigation strategies, including bicycle racks and designated carpool spaces.
4. Approval is limited to the portion of the building identified on the submitted concept plan for the commercial recreation use.

Brian Hartley and Stephanie Jo Diaz, St. Petersburg, appeared and indicated that they represent the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Responding to query by Mr. Bomstein, Mr. Bailey explained that the variance might apply to a future business on the site if the use was deemed similar to commercial recreation; otherwise, the new business owner would need to reapply.

Mr. Bomstein moved, seconded by Mr. Gephart, that the Type 2 Use and variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#7 APPLICATION OF TBR PROPERTY GROUP, LLC, THROUGH STEPHEN R. GERLACH, REPRESENTATIVE, FOR A TYPE 2 USE AND A VARIANCE (BA-06-04-19) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of TBR Property Group, LLC, through Stephen R. Gerlach for a request to allow an indoor commercial recreation facility as a Type 2 Use in an E-1 zone within the Lealman CRA and a variance for the facility to exceed the maximum 20,000 square feet allowed by 1,000 square feet, re property located at 4386 34th Street North in Lealman (BA-06-04-19). 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 as it appears to meet the criteria for granting Type 2 Uses and variances found in Sections 138-241 and 138-231 of the Pinellas County Land Development Code, respectively. The updated Land Development Code that went into effect January 1, 2019 allows commercial recreation uses with a maximum of 20,000 square feet in the E-1 zoning district within the Lealman CRA as a Type 2 Use.

This is an after-the-fact request for a gymnastics facility that occupies a portion of a 117,000 square-foot building that was constructed in 1957, prior to the establishment of the zoning code. Since its inception, it appears that the building has contained a mixture of employment (industrial) and commercial uses. In 1995, the County issued a nonconforming use

verification that identified certain portions of the building as appropriate for retail commercial uses based on historic use patterns. The gymnastics facility occupies 21,000 square feet of the building that is restricted to employment uses and 7,000 square feet that allows commercial uses. Therefore, a Type 2 Use approval is required for that portion of the gymnastics facility within the employment-restricted portion of the building. Had the gymnastics use been located entirely within the commercial portions of the building, it would be considered nonconforming and allowed to continue under the 1995 nonconforming use verification. Also, because the portion of the gymnastics facility within the employment area of the building exceeds 20,000 square feet, a variance is required to allow it to continue with its current dimensions, which are based on pre-existing bays, or partitions, of the building. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees within six months of the date of Type 2 Use approval.
2. Appropriate site plan review.
3. All parking requirements shall be met.
4. Approval is limited to the portion of the building identified on the submitted concept plan for the commercial recreation use.

Stephen Gerlach, Redington Beach, and Shelli Tatro, St. Petersburg, appeared and indicated that they represent the applicant. No one appeared in response to the Chairman's call for objectors to the application.

In response to queries by the members, Mr. Bailey presented information regarding the two zoning categories the building contains, commercial and manufacturing; whereupon, with input by Mr. Gerlach, he discussed matters relating to grandfathering, nonconforming uses, title concerns, square footage, and code enforcement.

Mr. Bomstein moved, seconded by Mr. Cocks, that the Type 2 Use and variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

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MINUTES OF THE FEBRUARY 7, 2019 MEETING – APPROVED

Mr. Bomstein moved, seconded by Ms. White, that the minutes of the February 7, 2019 meeting be approved. Upon call for the vote, the motion carried unanimously.

OTHER BUSINESS

Upon invitation of the Chairman, Mr. Bello introduced himself and provided biographical information.

Several members noted that there will not be a meeting in May; and that the next meeting is in June, and brief discussion ensued.

ADJOURNMENT

The meeting was adjourned at 9:35 A.M.

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Chairman