

Largo, Florida, February 3, 2021

The Board of Adjustment and Appeals (BAA) met in regular session in the Magnolia Room at the Pinellas County Extension Office in Largo, Florida on this date with the following members present: Alan C. Bomstein, Chairman; Cliff Gephart, Vice-Chairman; Jose Bello; Joe C. Burdette; Vincent Cocks; John Doran; and Deborah White.

Also Present: Glenn Bailey, Zoning Manager; Gina Berutti, Code Enforcement Manager; Chelsea Hardy, Assistant County Attorney; Michael Schoderbock, Planning Department; Christopher Young, Program Planner; Denise Whisennant, Planning Technician; other interested individuals; and Shirley Westfall, Board Reporter.

CALL TO ORDER

Chairman Bomstein 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 a Deputy Clerk.

#1 APPLICATION OF 44TH AVENUE RENTAL GROUP, LLC, THROUGH JAMIE GUZMAN, REPRESENTATIVE, FOR A TYPE 2 USE (TY2-21-01) – CONTINUED TO MARCH 3, 2021 MEETING

Public hearing was held on the application of 44th Avenue Rental Group, LLC, through Jamie Guzman for a Type 2 Use to allow a fitness center in an E-1 zone within the Lealman Community Redevelopment Area (CRA), re property located at 3312 44th Avenue North in Lealman (TY2-21-01). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval: The Board heard this same request in April of 2019, however the approval of that case (BA-03-04-19)

subsequently expired because the applicants did not follow through with the required conditions of site plan review and obtaining the applicable permits. As then, staff has no objection to the conditional approval of this 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. 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.
2. The applicant shall initiate the appropriate site plan review within six months of Type 2 Use approval.
3. The portion of the building occupied by the fitness center use may shift if it remains a similar size to what is shown on the submitted concept plan.

Christopher Hays, St. Petersburg, appeared and stated that the street address on the file is incorrect and should be 3120 44th Avenue North. He indicated that Ms. Guzman is currently quarantined and could not attend the hearing; whereupon, he requested that the application be continued. In response to query by Mr. Bomstein, he indicated that a 30-day delay would be sufficient.

Upon the Chair's call for opponents, Jeff Hargrove, St. Petersburg, appeared, stated his concerns, and responded to queries by the members.

Mr. Burdette moved, seconded by Ms. White, that the case be continued until the March 3, 2021 meeting. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF PHILIP KYEES FOR A VARIANCE (VAR-21-02) – RESIDENTIAL ADDITION APPROVED WITH CONDITIONS AND DECK DENIED

Public hearing was held on the application of Philip Kyees for a variance to allow for the construction of a residential addition with a 6.4-foot rear setback and a 23-inch-high deck with a two-foot rear setback from the north property line where ten feet is required and a 16.4-foot front setback from the south property line along Lancaster Drive where 20 feet is required in a R-3 zone, re property located at 2316 Lancaster Drive, in unincorporated Largo (VAR-21-02). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval of the residential addition and denial of the deck. Staff has no objection to the conditional approval of the proposed residential addition as it appears to meet the criteria for the granting of variances found in Section 138-231 of the Pinellas County Land Development Code, however there is objection to the proposed installation of the deck as it does not appear to meet those same variance criteria.

The subject property is a corner lot with an existing home built prior to the Zoning Code that has an unusual orientation. Typically, on corner lots the front setback is applied to the narrower frontage, which in this case is the west property line along Dorchester Road. On this subject property, however, the existing home was built facing the wider frontage to the south along Lancaster Drive. If the front setback was applied to the narrower frontage, as is the case for the adjacent lot to the east, the proposed home addition would meet required setbacks.

Regarding the deck, its proposed elevation above grade and nearness to the adjacent property to the north raises privacy concerns as it would be relatively easy to peer over a typical six-foot-tall privacy fence. While foliage could be placed between the deck and the fence, it would take time to fill in and must be maintained to remain effective. If the deck was no more than 12 inches above grade, it would not be subject to required setbacks per the Code.

Approval should be subject to the following conditions:

1. Applicant must obtain all required permits and pay all applicable fees.
2. Approval is for the residential addition only.

Joe Petrella, St. Petersburg, appeared on behalf of the applicant and provided information regarding the proposed project. No one appeared in response to the Chairman's call for opponents or proponents of the application.

Discussion ensued; whereupon, Ms. White moved, seconded by Mr. Cocks, that the variance be granted for the residential addition; and that the deck be denied without prejudice as recommended in accordance with the findings of fact as outlined in the staff report. Upon call for the vote, the motion carried unanimously.

#3 APPLICATION OF SARAH ALLEN KHOSHNOOD, THROUGH JAMES O'KEEFE, REPRESENTATIVE, FOR A VARIANCE (VAR-21-03) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Sarah Allen Khoshnood through James O'Keefe for a variance to allow for conversion of a portion of a carport to a garage with a 17.5-foot front setback where 20 feet is required and a zero-foot side setback where six feet is required in an R-3 zone, re property located at 712 George Street South in Palm Harbor (VAR-21-03). The existing carport reduced setbacks were approved by the Board in 2014 (BA-12-11-14). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff cannot support this request as it does not meet the criteria for the granting of a variance found in Section 138-231 of the Pinellas County Land Development Code. In short, there are no special conditions or unnecessary hardships, the request is not the minimum variance necessary, and it is inconsistent with the Land Development Code and the Comprehensive Plan. A primary reason the required front setback for garages is 20 feet is to allow for the parking of vehicles in the driveway

without them encroaching into the adjacent road right-of-way. While the Board previously approved the open-air carport having a zero-foot side setback, an enclosed garage has a very different look and feel, which can be obtrusive to the neighboring property.

Sarah Allen Khoshnood and James O’Keefe, both from Tarpon Springs, appeared in response to the Chairman’s call for the applicant. No one appeared in response to the Chairman’s call for opponents or proponents of the application.

Ms. Khoshnood provided information regarding the proposed construction of the garage, indicating that the material to be used will be from the same manufacturer as the carport; that three letters of correspondence have been submitted from neighbors, including the adjacent neighbor, with no objections; and that with a vehicle parked in the driveway, there would be an additional eight feet behind the vehicle so as to not obstruct traffic in any manner; whereupon, Mr. O’Keefe and she responded to queries by the members.

Mr. Doran moved, seconded by Ms. White, that the variance be granted based upon the evidence presented today and the findings of fact that the approved front setback would not be intrusive, as it matches the existing house on the property.

Approval should be subject to the following conditions:

1. Applicant must obtain all required permits and pay all applicable fees.
2. Applicant must maintain gutters to prevent run-off on the neighboring property.

Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF KEVIN E. GOOD FOR A VARIANCE (VAR-21-04) – DENIED

Public hearing was held on the application of Kevin E. Good for a variance to allow for the construction of a garage addition with a 16.8-foot front setback from the west property line along 124th Way where 20 feet is required in an R-2 zone, re property located at 8853 124th Way in unincorporated Seminole (VAR-21-04). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff cannot support this request as it does not meet the criteria for the granting of a variance found in Section 138-231 of the Pinellas County Land Development Code. In short, there are no special conditions or unnecessary hardships, the request is not the minimum variance necessary, and it is inconsistent with the Land Development Code and the Comprehensive Plan. The garage could be extended up to 6 feet 10 inches and still be compliant with required setbacks. A primary reason the required front setback is 20 feet is to allow for the parking of vehicles in driveways without them encroaching into the public right-of-way. The proposed garage extension would also be an outlier, as the other nearby homes appear to meet required front setbacks.

Kevin Good, Seminole, appeared and provided background information regarding the request. He responded to queries by the members, noting that he would like to enlarge the garage to fit an additional vehicle and storage cabinets.

No one appeared in response to the Chairman's call for proponents or opponents of the application.

Mr. Cocks moved, seconded by Ms. White, that the variance be denied as recommended based upon the written findings of fact set forth in the staff report. Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF JACOB JANSEN FOR A VARIANCE (VAR-21-05) – DENIED

Public hearing was held on the application of Jacob Jansen for a variance to allow for the placement of a dumpster having a one-foot front setback from the west property line where 25 feet is required and a one-foot side setback from the north property line where 15 feet is required in an R-E zone, re property located at 9675 94th Street North in unincorporated Seminole (VAR-21-05). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff cannot support this request as it does not meet the criteria for the granting of a variance found in Section 138-231 of the Pinellas County Land Development Code. In short, there are no special conditions or unnecessary hardships, the request is not the minimum variance necessary, and it is inconsistent with the Land Development Code and the Comprehensive Plan. There are other areas on the property where the dumpster could be placed outside of the required setbacks, and the dumpster could be placed on rollers. There are other ways to conduct waste management that are less obtrusive and that do not require a dumpster.

Jacob Jansen, Seminole, appeared and indicated that he is the applicant. He related that the private road located between the subject and surrounding properties is an easement; that he believes that his property extends to the center of the private road; and that ownership of the easement is unknown. He noted that he is no longer requesting a variance for a 15-foot side setback; whereupon, he provided information on the use of the property and responded to queries by the members, and Attorney Hardy provided input.

Upon the Chair's call for persons wishing to speak regarding the application, the following individuals appeared and stated their concerns:

Lisa Misiewicz, Seminole
Paul Misiewicz, Seminole

In rebuttal, Mr. Jansen stated that he would ensure that the dumpster remains closed to mitigate the odor and responded to queries by Chairman Bomstein, and discussion ensued.

Mr. Cocks moved, seconded by Ms. White, that the variance be denied based upon the testimony presented today and the written findings of fact set forth in the staff report. Upon call for the vote, the motion carried unanimously.

MINUTES OF THE JANUARY 6, 2021 MEETING — APPROVED

Upon presentation by Chairman Bomstein, Mr. Doran moved, seconded by Mr. Cocks and carried unanimously, that the minutes of the January 6, 2021 meeting be approved.

February 3, 2021

ADJOURNMENT

The meeting was adjourned at 10:08 A.M.

Chairman