

Clearwater, Florida, May 3, 2018

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: Vince Cocks, Chairman; John Doran, Vice-Chairman; Alan C. Bomstein; Michael Foley; Cliff Gephart; Joe C. Burdette; and Deborah J. White.

Also Present: Glenn Bailey, Zoning Manager; Brendan Mackesey, Assistant County Attorney; Todd F. Myers, Project Coordinator, Development Review Services; other interested individuals; Lynn Abbott, Board Reporter, Deputy Clerk; and Teresa Adkins, Board Reporter. Minutes by Teresa Adkins and Arlene Smitke.

### CALL TO ORDER

Chairman Cocks 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 HARRY DOMINICK VENEZIA, JR. FOR A VARIANCE (BA-04-05-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Harry Dominick Venezia, Jr. for a variance to allow for the construction of a pool screen enclosure to replace an enclosure damaged by Hurricane Irma with a 4.7-foot side setback on the west side where 6 feet is required and a 2.3-foot side setback on the east side where 6 feet is required, re property located at 14020 Egret Lane in Feather Sound (BA-04-05-18). The Clerk has received three letters in support of the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The subject property is an irregular pie-shaped lot and the proposed reconstruction of the pool cage will be in the same location as the one destroyed by Hurricane Irma; therefore, no additional impacts to surrounding properties are anticipated. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The pool cage shall not encroach into any easements.

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

Later in the meeting, Harry Venezia, Jr., Clearwater, appeared and indicated that he is the applicant and lives on the subject property; whereupon, responding to query by Mr. Foley, he agreed to the comply with the proposed conditions.

No one appeared in response to the Chairman's call for objectors to the application; whereupon, Mr. Foley moved, seconded by Mr. Gephart, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF KATHLEEN MANGOLD THROUGH MATT ANDERSON, REPRESENTATIVE, FOR VARIANCES (BA-05-05-18) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Kathleen Mangold through Matt Anderson for variances to allow for the construction of a single-family residence on a parcel that is 62.5 feet wide and 7,375 square feet in area, where a minimum of 75 feet of width and 7,500 square feet is required, and having a front setback of 15 feet from the east front property line where 25 feet is required, re a double frontage parcel located at 501 Maryland Avenue in Crystal Beach (BA-05-05-18). 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. There are many similarly sized properties in the area containing structures with reduced setbacks. Many of them are original lots of record that are 50 feet wide and 5,900 square feet in size. Had it been an original platted lot of record, no variance would be required. Approval should be subject to the following conditions:

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

2. All other required setbacks shall be met.

Matt Anderson, Crystal Beach, appeared and indicated that he represents the applicant, who was unaware of the setbacks when purchasing the property.

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

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

#3 APPLICATION OF TIMOTHY AND MARGARET A. DRONCHEFF FOR A VARIANCE (BA-03-05-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Timothy and Margaret Droncheff for a variance to allow an after-the-fact conversion of a carport into a screened patio to remain with a 3.5-foot side setback from the east property line where 7.5 feet is required, re property located at 417 Tampa Road in Palm Harbor (BA-03-05-18). One letter of no objection 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 carport that was converted into a screen room was part of the original construction of the house built in 1958. The conversion of the space did not cause any additional setback encroachment from what has been in place since the house was built. Approval should be subject to the following condition:

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

Timothy Droncheff, Palm Harbor, appeared and indicated that he is the applicant and concurs with the proposed condition.

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

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

#4 APPLICATION OF TOMCAT VIDEO PRODUCTIONS, INC. THROUGH THOMAS A. FORREST, REPRESENTATIVE, FOR A VARIANCE (BA-01-05-18) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Tomcat Video Productions, Inc. through Thomas A. Forrest for a variance to allow for the construction of a new single-family home with the following reduced setbacks, re property located at 1051 East Lake Drive in East Lake Tarpon (BA-01-05-18):

- 1) Front setback reduction from 50 feet to 25 feet;
- 2) Side setback reduction from 25 feet to 6 feet on both sides; and
- 3) Rear setback reduction from 25 feet to 10 feet

The Clerk received two letters in opposition to the application prior to the meeting.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. Per section 138-211 of the Land Development Code, the subject property is a parcel containing substandard dimensions for the Agricultural Estate Residential (A-E) zoning district and has been a parcel of record since January 30, 1990. The large setback requirements of the A-E district leave no room for a house to be developed outside of the required setbacks. Importantly, due to the location of the subject property in East Lake Tarpon and considering the surrounding zoning designations, a rezoning to a district with smaller setbacks is not feasible. The property directly to the south is a maintenance area for a golf course, and there is ample separation from the house on the north; therefore, there will be minimal impacts to adjacent properties. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. A minimum of 40 percent of the parcel must remain permeable open space.

Responding to query by Mr. Bomstein, Mr. Bailey indicated that he is unsure whether the lot was recorded prior to the A-E zoning; that a mobile home formerly on the property dated from 1969; and that the Board previously granted a variance for the adjacent property

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to the north, which is smaller; whereupon, Mr. Bomstein noted that the parcel may have originally been part of the adjacent lot.

Thomas Forrest, Tarpon Springs, appeared and indicated that he is the applicant. He provided an overview of the request, noting that the previous owner purchased it at a tax sale; that he wishes to build a two-story, 1,600-square-foot home; and that he had cleared an existing dilapidated mobile home, in addition to cars and travel trailers, from the site.

In response to the Chairman's call for persons wishing to speak in opposition to the application, the following individuals appeared, expressed their concerns, and responded to queries by the members:

Cynthia Burney, Tarpon Springs (submitted 3 new letters and a petition with 24 names)  
Lawrence Leahon, Tarpon Springs  
Dennis Schneider, Tarpon Springs  
Linda and James Parish, Tarpon Springs  
Rich Caputo, Tarpon Springs

Concerns expressed by the objectors included the following:

- Size of lot does not meet zoning requirements
- Possible future subdivision of land
- Loss of privacy
- Out of character to existing neighborhood
- Wildlife
- Lack of permitting for previous removal of trees
- No variance for construction of fencing
- Commercial sound studio activity

In rebuttal, Mr. Forrest indicated that he is sensitive to the objectors' concerns and wishes to be a good neighbor; that he constructed the fence to stop the dumping of trash on the property; and that he would comply with the proposed conditions and would not set a precedent. Responding to queries by the members, he related that there would not be a studio on the property; and that he would be living in the house six months a year.

Discussion ensued pertaining to the inappropriateness of the lot with regard to the surrounding neighborhood, the applicant's property rights and hardship, the option of

rezoning the property, and the role of the Board in addressing the issue, and Mr. Bailey and Attorney Mackesey provided input.

Mr. Bomstein moved, seconded by Ms. White, that the application be denied, and the motion failed by a vote of 3 to 4, with Chairman Cocks and Messrs. Doran, Foley, and Gephart casting the dissenting votes.

Thereupon, Mr. Gephart moved, seconded by Mr. Foley, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried 4 to 3, with Ms. White and Messrs. Bomstein and Burdette casting the dissenting votes.

#5 APPLICATION OF (PROTECTED CLASS) THROUGH JOSEPH LEHMAN, FOR VARIANCES (BA-02-05-18) – GRANTED AS PER STAFF RECOMMENDATION (STORAGE CONTAINER VARIANCE DENIED)

Public hearing was held on the application of (Protected Class) through Joseph Lehman for variances to allow the following after-the-fact structures to remain, re property located at 426 Knollwood Road in East Lake Tarpon (BA-02-05-18):

- 1) A 7.5-foot-tall decorative fence with a 0-foot setback from the south side property line, where 6 feet is the maximum height allowed within the required 25-foot side setback, and an 8-foot front setback from the east front property line, where 4 feet is the maximum height allowed within the required 50-foot front setback;
- 2) A 9-foot-tall decorative fence, 8-foot-tall decorative gate, and 10-foot-tall decorative columns with a 1.9-foot front setback from the east front property line, where 4 feet is the maximum height allowed within the required 50-foot front setback;
- 3) A 5-foot-tall concrete retaining wall with a 9-foot front setback from the east front property line, where 3 feet is the maximum height allowed within the required 50-foot front setback; and
- 4) Two accessory storage containers (320 and 160 square feet in size) where an existing detached garage and 130-square-foot shed already exist.

The Clerk has received eight letters in support of the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval of the fences, gates, columns, and retaining wall requests, and Denial of the two accessory storage containers request. Staff has no objection to the conditional approval of the fences, gates, columns, and retaining wall requests. The parcel is near the end of a cul-de-sac in an area of Pinellas County that consists of large low density residential parcels. Additionally, there is a wide Duke Energy easement on the north portion of the property that limits the developable area on the parcel. The fences and retaining wall were constructed to help with erosion on the property. The gates were constructed to deal with security and unauthorized access to the Duke Energy easement. The property owner has a recorded agreement with Duke Energy with regard to access and what activities may take place in the easement. Approval of the requests should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The decorative fence and gates along the front shall remain non-opaque.

In regard to the storage containers, the subject property has other structures, including a large detached garage, which can be utilized for storage. Staff cannot support this portion of the request as it does not meet the criteria for granting a variance in accordance with 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 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.

Joseph Lehman, Tarpon Springs, appeared and indicated that he is the owner of the subject property.

No one appeared in response to the Chairman's call for objectors to the application; whereupon, Mr. Lehman referred to a survey and provided background information with regard to the request. Noting that he purchased the property in 1987, he described circumstances and events leading to the construction of the cited structures, purchase of the containers, and subsequent agreements with Duke Energy with regard to its easement on the property.

At the request of Mr. Bomstein, Mr. Bailey displayed a Google Earth map of the property, and Mr. Lehman responded to queries by the members pertaining to the easement, structures, containers, and vehicles located thereon, indicating that he does not currently live in the house; and that he intends to remove one storage container and relocate the two remaining containers within the property.

Responding to queries by Mr. Foley, Mr. Myers related that there is a current Code violation with regard to the storage containers, and Mr. Lehman stated that they are located in the Duke Energy easement; whereupon, Messrs. Myers and Bailey provided information as to what would be allowed.

Angela Lehman and Chris Goettig, Tarpon Springs, spoke in support of the request, noting that a complaint was filed by a former neighbor.

Following brief discussion, Mr. Bomstein moved, seconded by Mr. Foley and carried unanimously, that the staff recommendation be approved, granting variances for the structures and denying the storage container request; whereupon, Mr. Bailey directed the applicant to work with Code Enforcement with regard to removal of the containers.

#6 APPLICATION OF CIRCLE K STORES, INC. THROUGH LANCE OIJ AND/OR RENEE OIJ, REPRESENTATIVES, FOR A VARIANCE (BA-06-05-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Circle K Stores through Lance Oij and/or Renee Oij for a variance to allow for the following increases in allowed signage for two proposed freestanding signs in C-1 and C-2 zones, re property located at 6633 54th Avenue North in Lealman (BA-06-05-18). For each sign:

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- 1) An overall sign size of 100 square feet where 50 square feet is the maximum allowed;
- 2) A gas display area of 57 square feet where 24 square feet is the maximum allowed; and
- 3) A height of 25 feet where 20 feet is the maximum allowed.

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 proposed sign along 54th Avenue North, which is a heavily traveled arterial roadway with similarly sized signs in the area. Staff cannot support, however, the requested variance for the sign along 55th Avenue North, which is a local street that primarily supports residential uses. Approval should be subject the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Approval shall be for the proposed sign along 54th Avenue North only.

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

Lance Oij, Weeki Wachee, appeared and related that the applicant wishes to modify its request for the 55th Avenue sign to allow for an overall sign size of 50 square feet with a 25-square-foot gas display area and a height of 20 feet.

Responding to queries by the members, Mr. Bailey related that the zoning on the property is reversed, in that the portion fronting on 54th Avenue North, an arterial roadway, is C-1, while the area along 55th Avenue North, a residential street, is zoned C-2. He clarified that a maximum of 50 square feet is allowed along a C-2 residential street, and Mr. Oij related that the applicant's main objective is to obtain approval for a 100-square-foot sign along 54th Avenue.

Following discussion, Mr. Burdette moved, seconded by Mr. Foley, that the variance be granted in accordance with the staff recommendation, noting that the applicant will be required to limit the gas display area on the 55th Avenue sign to 24 square feet, as allowed by the Code. Upon call for the vote, the motion carried unanimously.

#7 APPLICATION OF TARPON SPRINGS HOSPITAL FOUNDATION, INC. THROUGH ANTHONY CONCOLINO, REPRESENTATIVE, FOR A VARIANCE (BA-07-05-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Tarpon Springs Hospital Foundation, Inc. through Anthony Concolino for a variance to replace an existing freestanding sign with a new freestanding sign with a height of 30 feet where a maximum height of 25 feet is allowed, re property located at 34106 U.S. Highway 19 North in Palm Harbor (BA-07-05-18). 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. It is staff's opinion that the applicant has demonstrated the need for additional height in order to enhance visibility of the emergency room facility. Vegetation and other roadway signage make the existing sign difficult to see from certain vantage points. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. All illegal signage (e.g. feather banners, now open 24/7 sign) shall be removed and not replaced.

Chad Williams, Pittsburgh, Pennsylvania, appeared on behalf of the applicant. Responding to query by Mr. Doran, he agreed to the proposed conditions; whereupon, he displayed photographs showing that all illegal signage has been removed.

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

Mr. Foley moved, seconded by Mr. Doran, that the variance be granted as recommended by staff, and upon call for the vote, the motion carried unanimously.

#8 APPLICATION OF KYLE B. AND MEAGAN A. WRIGHT THROUGH JIM PELOSI, REPRESENTATIVE, FOR A VARIANCE (BA-03-03-18) – DENIED

Public hearing was held on the application of Kyle B. and Meagan A. Wright through Jim Pelosi for a variance to allow for the construction of a new single-family home and

swimming pool with a 10-foot front setback from the north property line adjacent to 81st Avenue North where a 20-foot front setback is required, re property located at 11980 81st Avenue North in unincorporated Seminole (BA-03-03-18). 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 reduced front setback request for the construction of a new single-family home because it would be out of character and obtrusive to the neighborhood, as no other properties on the south side of 81st Avenue North have similar projections into the front setback. It would also not provide enough space for a vehicle to park in front of the structure without encroaching into the public right-of-way. With it being new construction on a lot of conforming size and dimensions with no double frontage, alternatives should exist for placing the structure without encroachment into required setbacks. Therefore, staff is of the opinion that the request does not meet the criteria for granting a variance as outlined 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 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.

Mr. Bailey related that the case was continued at the February 28 meeting to allow the applicants time to modify their plans; that staff has received no response to emails inquiring about changes to the application; that they have submitted permits that would meet the

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Code, which are currently under review; and that even though they are not in attendance, the case is officially still before the Board.

Mr. Doran moved, seconded by Mr. Bomstein, that the application be denied, and upon call for the vote, the motion carried unanimously.

## OTHER BUSINESS

### Land Development Code Update

Referring to the presentation and discussion at the April 5 meeting pertaining to the Land Development Code update and the name change from Board of Adjustment to Community Development Board, Mr. Burdette stated that the proposed name is not indicative of what the Board does; whereupon, he suggested that an alternative name could be Board of Adjustment and Appeals.

Discussion ensued, and Mr. Bomstein noted that Community Development Boards generally deal with development plans and agreements, which is not the purview of this Board; and that the name should be reflective of the Board's function of approving variances and special exceptions; whereupon, Mr. Foley suggested *Community Review Board*, and Mr. Burdette suggested *Code Adjustment Board*.

Mr. Bomstein referred to the proposed requirement that Board decisions be based on findings of fact and that a hardship must exist, and opined that it places a burden on both the members and the applicants and should be omitted, noting that the City of Tampa does not have a hardship requirement for the granting of variances. During discussion, Mr. Doran indicated that applicants do not understand the concept of hardship with regard to the land, as opposed to personal hardship, and Ms. White concurred; whereupon, Mr. Bomstein suggested reviewing the practices of other jurisdictions.

Long Range Planning Division Manager Scott Swearngen stated that he would relay the concerns of the members to his superiors; and that they would be included in the staff reports to the Local Planning Agency and Board of County Commissioners. He indicated that a change was made to the variance criteria in response to concerns expressed at the April meeting, softening the reference to *positive finding of fact*, to require that the reviewing body shall *determine that the following criteria had been satisfied*.

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Mr. Doran stressed that the proposed name change is not a trivial matter; that the name should tell the public what the board does; that the Local Planning Agency board fulfills the functions of a Community Development Board; and that the proposed change would cause confusion; whereupon, Mr. Swearngen reminded the members that the County is expanding the duties and powers of the Board of Adjustment, which was the basis for the change.

Responding to query by Mr. Bomstein, Mr. Bailey confirmed that, under the Code revisions, staff would be empowered to deal with flag lots and non-conforming lots, which are typically addressed by the Board, and also to approve variances of up to 20 percent.

#### Next Meeting

Mr. Gephart stated that he will not be attending the June meeting, and Mr. Bomstein and Ms. White related that they will also be unable to attend, and discussion ensued with regard to obtaining a quorum.

#### ADJOURNMENT

The meeting was adjourned at 10:35 A.M.

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Chairman