

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; Joe C. Burdette; and Deborah J. White.

Not Present: Cliff Gephart.

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

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.

* * * *

Deviating from the agenda, Chairman Cocks indicated that Item No. 6 would be heard at this time.

* * * *

#6 APPLICATION OF EILEEN AND PETER KRAUSER THROUGH KATHERINE E. COLE, ESQUIRE, REPRESENTATIVE, FOR A VARIANCE (BA-08-10-18) – CONTINUED TO THE NOVEMBER 1, 2018 MEETING

Mr. Bailey referred to the application of Eileen and Peter Krauser through Katherine E. Cole for a variance to allow for the construction of a 3,000-square-foot accessory storage building on a parcel where two accessory storage structures already exist, re property located at 2265 North McMullen Booth Road in unincorporated Clearwater (BA-08-10-18), and reported that the applicant wishes to request a continuance.

Ed Armstrong, Clearwater, indicated that he represents the applicant and would like to have the case continued in order to address concerns expressed by neighboring property owners.

Mr. Bomstein moved, seconded by Ms. White, that the item be continued to the November 1 meeting. Upon call for the vote, the motion carried unanimously.

Following the vote and in response to query by Chairman Cocks, Mr. Bailey indicated that because there are only five members seated today, three affirmative votes will be needed to pass an item.

#1 APPLICATION OF PATRICK M. O’HARA AND RYAN G. WEST-O’HARA FOR A VARIANCE (BA-03-10-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Patrick M. O’Hara and Ryan G. West-O’Hara for a variance to allow for the construction of a covered porch with a 9.6-foot setback from the east property line along Palmetto Drive where a 20-foot front setback is required, re the double-frontage property located at 2278 Palmetto Drive in unincorporated Clearwater (BA-03-10-18). 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 setback reduction request on the double-frontage lot. The house on the property was built in 1954. The porch addition will not project any further into the east setback than the current house. Approval should be subject to the following conditions:

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

Patrick M. O’Hara, Clearwater, appeared and indicated that he is the applicant. No one appeared in response to the Chairman’s call for objectors to the application.

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

#2 APPLICATION OF ANDRZEJ AND ANNA WIACEK THROUGH ROBERT NOON, REPRESENTATIVE, FOR A VARIANCE (BA-04-10-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Andrzej and Anna Wiacek through Robert Noon for a variance to allow a manufactured home replacement having a 15-foot front setback from the west property line along 62nd Street where a 25-foot front setback is required, re the double-frontage property located at 13634 61st Way North in unincorporated Clearwater (BA-04-10-18). 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. The subject property has a double frontage and the request is for setback relief from the “secondary” front along 62nd Street which is the rear of the subdivision. There is no access to the lot from 62nd Street. The request would meet the normal rear setback standard for an R-6 zone. Approval should be subject to the following condition:

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

Robert Noon, Winter Haven, appeared and indicated that he is the applicant.

In response to the Chairman’s call for objectors to the application, Wayne Richards, Clearwater, stated that he is neither for nor against the request, and opined that it was inappropriate for a restriction to have been placed on the property initially, and Messrs. Bailey and Bomstein provided input.

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

#3 APPLICATION OF DANIEL AND CATHERINE CONTE THROUGH MICHAEL CUTLER, REPRESENTATIVE, FOR A VARIANCE (BA-05-10-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Daniel and Catherine Conte through Michael Cutler for a variance to allow for the construction of a home addition having a 9.7-foot

front setback from the north property line fronting 82nd Avenue North where 20 feet is required re the double-frontage property located at 8165 120th Street North in the unincorporated Seminole area (BA-05-10-18). 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. The proposal is for an addition containing a handicapped accessible bedroom and bathroom. The subject property is a double-frontage lot with a 20-foot minimum setback on two sides. The proposed variance is on the “secondary” front adjacent to the 82nd Avenue North right-of-way on the north side of the property. The same request was previously approved in 2017, but has expired (BA-02-08-17). Approval should be subject to the following condition:

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

Michael Cutler, 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. Doran, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF VINCENT SAMMARCO THROUGH KATRINA GREINER, REPRESENTATIVE, FOR A VARIANCE (BA-06-10-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Vincent Sammarco through Katrina Greiner for a variance to allow the construction of a pool with a 10-foot front setback from the north property line along Faulds Road where 20 feet is required and a 6-foot side setback along the west property line where 7 feet is required, re the double-frontage property located at 1560 Bel Keene Drive in unincorporated Clearwater (BA-06-10-18). 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. The subject property has double frontage and setback relief is being sought from the “secondary” front along Faulds Road. The requested 10-foot setback from the Faulds Road right-of-way would meet the side street setback criterion of the pending update to the Pinellas County Land Development Code. The 1-foot encroachment into the required 7-foot side setback is minimal and necessary due to Building Code requirements that mandate the pool be a certain distance from the home. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The pool shall not be caged.

David Greiner, Largo, indicated that he represents the applicant and updated the members on the dimensions of the pool, and in response his queries, Mr. Bailey explained how he should obtain the necessary zoning clearance prior to installation of the pool fencing. No one appeared in response to the Chairman's call for objectors to the application.

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

#5 APPLICATION OF WOLF REVOCABLE TRUST, C/O JOSEPH AND INGEBORG WOLF, TRUSTEES, THROUGH JERRY CHOUINARD AND/OR MICHAEL LYNCH, REPRESENTATIVES, FOR A VARIANCE (BA-07-10-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Wolf Revocable Trust, c/o Joseph and Ingeborg Wolf, trustees, through Jerry Chouinard and/or Michael Lynch for a variance to allow for the construction of a single family residence on a parcel that is 6,400 square feet in size, where a minimum of 7,500 square feet is required, re property located on the west side of West Bay Street approximately 132 feet north of the intersection of 98th Avenue North in unincorporated Seminole (BA-07-10-18). 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. The subject property contains two 40-foot by 80-foot original lots of record from the Alston Heights No. 2 subdivision established in 1953. The property in its current form meets the width and depth dimensions required by the R-2 zoning district, but not the overall lot size requirement. There are other similarly sized properties in the immediate vicinity with site built homes; therefore, development of the subject property as proposed will not be out of character with the surrounding neighborhood. Importantly, there is no other adjacent land available for purchase that would make the subject property conforming as to lot size. Approval should be subject to the following conditions:

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

Michael Lynch, Indian Shores, appeared and indicated that he is representing the applicant. No one appeared in response to the Chairman's call for objectors to the application.

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

#7 APPLICATION OF H2004, INC. THROUGH JOHN HODGES, REPRESENTATIVE, FOR A VARIANCE (BA-10-10-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of H2004, Inc. through John Hodges for a variance to allow for the construction of a single family residence with the following reduced setbacks for the A-E zoned property located at 1075 Sandra Drive in Palm Harbor (BA-10-10-18). Modification of previously approved variance BA-11-10-17. No correspondence relative to the application has been received by the Clerk.

- 1) Reduced front setback from 50 feet to 20 feet (previous approval allowed 23.82 feet).
- 2) Reduced side setbacks from 25 feet to 6 feet (previous approval allowed 6 feet on the west side and 19 feet on the east side).
- 3) Rear setback to remain at 25 feet (previous approval allowed 10 feet).

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The Board approved a somewhat similar request on the subject property in 2017 that involved the renovation/expansion of the existing home. Plans associated with that approval became impractical from a building code perspective; therefore, the applicant has decided to construct an all new home instead. The updated setback requests are similar to those that exist on the surrounding properties; therefore, the proposal would not be obtrusive to the neighborhood. While rezoning the property to a district with smaller setback requirements would ultimately solve the issue, the applicant and nearby property owners in the same situation have no interest in doing so. Because of the previous Board approval and the non-obtrusiveness of the request, staff supports the current proposal, subject to the following condition:

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

Krista Hodges, Palm Harbor, appeared and indicated she is representing her father, the applicant. No one appeared in response to the Chairman's call for objectors to the application.

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

#8 APPLICATION OF MICHAEL R. AND RATSAMOE ST. JOHN FOR A VARIANCE (BA-01-10-18) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Michael R. and Ratsamoe St. John for a variance to allow an after-the-fact composite awning to remain with a 1.9-foot side setback from the west property line where 7.5-feet is required, re property located at 2696 Macklin Court in Palm Harbor (BA-01-10-18).

The Clerk has received three letters in favor of and one letter in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The after-the-fact structure is located within two feet of the neighboring property to the west, which is a significant encroachment into the side setback. In addition there are potential alternatives available, such as a retractable awning. Therefore, staff cannot support this 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.

Michael St. John and David Baier, Palm Harbor, appeared and indicated that they are the applicant and neighboring property owner, respectively.

During discussion and in response to comments and queries by the members, Mr. St. John related that he has had an awning in the same location for 20 years; that he recently replaced it with a bigger awning for improved insulation and cooling effects; that he had not realized that a permit was required; and that the newer awning reduces his electric bill by half.

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

In response to further queries by the members, Mr. Bailey referred to a map and pointed out the subject parcel and adjacent properties. Following brief discussion, Mr. Bomstein expressed concern regarding the setting of precedent and similar issues if the application is approved; whereupon, Mr. Bailey offered the following conditions for consideration:

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

2. Awning area cannot be enclosed.
3. Awning cannot be replaced.
4. Drainage off awning is to be directed away from the neighboring property.

Mr. Doran moved, seconded by Mr. Burdette, that the variance be granted with the four conditions as proposed by Mr. Bailey. Upon call for the vote, the motion carried unanimously.

#9 APPLICATION OF ETHAN BOSTON FOR A VARIANCE (BA-02-10-18) – GRANTED WITH CONDITION

Public hearing was held on the application of Ethan Boston for a variance to allow an after-the-fact 9.6-foot-high fence to remain adjacent to the 5-foot-high subdivision wall along the east property line fronting Belcher Road, where 6 feet is the maximum height allowed, re property located at 1338 Moss Drive in the unincorporated Dunedin area (BA-02-10-18). One letter in favor of the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The request pertains to an after-the-fact fence that is 9.6 feet in height located along the east property line (rear yard) fronting Belcher Road. The 5-foot-high subdivision wall was constructed in the late 1970s when Belcher Road had fewer travel lanes. The Board approved a request for an 8-foot-high fence in March 2018 for a property in the same subdivision (BA-01-03-18). Staff could support the request if the maximum height was 8 feet, which is reasonable for security and sound dampening purposes along the busy roadway.

Staff cannot support the 9-foot-tall fence 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 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.
4. *Minimum Variance Necessary.* That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Ethan Boston, Palm Harbor, appeared and indicated that he is the applicant; whereupon, he introduced his wife, Denise, and Homeowners Association Vice President Erica Jeke, and provided background information regarding the request, including similar fences within one mile of his property and the slope of the local topography. No one appeared in response to the Chairman's call for objectors to the application.

In response to comments and queries by the members, Mrs. Boston discussed an upsetting incident that prompted her to increase the height of the wall by attaching a fence to it; whereupon, Ms. Jeke presented information regarding the construction of the original wall, the height of the current fence, and an engineering letter provided by a lone neighbor who opposes anyone in the community attaching a fence to the wall.

Following lengthy discussion with input by Attorney Hardy and Mr. Bomstein, Mr. Burdette moved, seconded by Mr. Doran, that the variance be granted subject to the following condition:

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

Upon call for the vote, the motion carried 4 to 1, with Mr. Bomstein casting the dissenting vote.

Thereupon, discussion took place regarding a continued case and the anticipated passage and effective date of the revised Pinellas County Code.

October 4, 2018

MINUTES OF THE SEPTEMBER 6, 2018 MEETING – APPROVED

Mr. Doran moved, seconded by Mr. Bomstein, that the minutes of the September 6, 2018 meeting be approved. Upon call for the vote, the motion carried unanimously.

ADJOURNMENT

The meeting was adjourned at 9:50 A.M.

Chairman