

Clearwater, Florida, January 2, 2014

The Board of Adjustment met in regular session in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida at 8:59 A.M. on this date with the following members present: John Doran, Chairman; Alan C. Bomstein, Vice-Chairman; Joe C. Burdette; Ray Hoeneisen; Gregory Pierce; Stephen G. Watts; and Deborah White.

Also present: John F. Cueva, Planning Department Zoning Manager; Jason C. Ester, Senior Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Laura M. Todd, Board Reporter, Deputy Clerk.

Chairman Doran introduced himself as the new Chairman; whereupon, he introduced the other members of the Board and staff.

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:

1 APPLICATION OF CYNTHIA MORRIS FOR A VARIANCE (BA-5-1-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Cynthia Morris for a variance to allow a 4.5-foot-high fence having a zero-foot front setback where a 20-foot front setback is required, re property located at 4551 53rd Avenue North, St. Petersburg (BA-5-1-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request, as it appears this fence has been at its current location with no apparent adverse impact to adjacent properties. Additionally, in this area there are similar instances of fences in excess of three feet in height within the front setback. Approval of the request should be subject to the following condition:

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The fence is permitted for a height of 4.5 feet having a zero-foot front setback.

Cynthia Morris, St. Petersburg, appeared and being duly sworn, indicated that she is seeking the aforesaid variance.

Responding to query by Mr. Bomstein, Mr. Myers indicated that the applicant is before the Board because of a complaint; whereupon, he stated that a 48-inch fence was permitted in the Code prior to 1993; that the fence was installed without a permit by the prior owner; and that the current Code limits the height of a fence in the front setback to 36 inches.

In response to the Chairman's call for objectors to the application, Peg Atamian, St. Petersburg, appeared and being duly sworn, indicated that her primary objection is to the vegetative growth between the chain link fence and the six-foot-high wooden fence behind her house; whereupon, in response to query by Mr. Bomstein, she related that she believes the applicant owns the property between the two fences, and discussion ensued as to ownership.

Mr. Cueva clarified that the objector's property backs up to the applicant's next door neighbor and has nothing to do with the present case; whereupon, Mr. Myers related that upon return to the property, his office will determine if the removal of the vegetative growth is enforceable, and Mr. Cueva noted that a six-foot fence is permitted in the rear setback.

Mr. Cueva suggested that as an additional condition, the 4.5-foot fence remain chain link, as other fences in the neighborhood are chain link; whereupon, Mr. Bomstein expressed concern, indicating that he does not encourage chain link fences in the county.

Mr. Bomstein moved, seconded by Mr. Watts, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

2 APPLICATION OF DUKE ENERGY OF FLORIDA, INC. THROUGH ROBERT PERGOLIZZI, AICP/PTP, GULF COAST CONSULTING, INC., REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-3-1-14) – GRANTED WITH ADDED CONDITION

Public hearing was held on the application of Duke Energy of Florida, Inc. through Robert Pergolizzi for a special exception to allow overflow parking on approximately 2.99 acres of vacant property located 515 feet north of McCormack Drive on the west side of Second Street East, Clearwater (BA-3-1-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request, provided the Board is satisfied that the “Standards” of Section 138-238, Division 7 of the Pinellas County Land Development Code have been met and subject to the following conditions:

1. Full site plan review.
2. Approval is for overflow parking only.
3. No access to 2nd Street East shall be permitted.
4. No parking shall occur on the north boundary of the Lake Chautauqua Estates Subdivision.

Mr. Cueva related that the request is for overflow parking behind the existing office building, in accordance with the submitted concept plan. In response to queries by Messrs. Burdette and Pierce, he indicated that the surface of the parking lot is shell; and that, because it is located under a power line, it cannot contain any structures.

E. D. Armstrong and Robert Pergolizzi appeared and being duly sworn, indicated that they represent the applicant, and referring to an aerial photograph and site plan, provided a brief history and overview of the property.

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Responding to queries by Mr. Burdette, Mr. Pergolizzi indicated that the Dimmitt automobile dealership is located north of the property; that Duke Energy and Heritage Insurance have an easement agreement to allow shell parking, which would provide 90 additional spaces; and that the spaces would be on the west and east sides of the existing tower, with a required 50-foot separation from the tower.

During discussion and in response to query by Mr. Bomstein, Mr. Pergolizzi related that because the area is being used for overflow parking, the shell surface was preferred because asphalt would create a more impervious surface and exacerbate drainage issues.

In response to the Chairman's call for citizens wishing to be heard, the following individuals appeared and being duly sworn, spoke in objection to the application, stating their concerns and responding to queries by the members:

Scott A. Arndt, Clearwater
Richard Keefer, Clearwater
Karl Reekstin, Clearwater

Mr. Bomstein clarified that the entry for the new parking area will be the existing parking lot; and that no new entrance is proposed.

Responding to query by Mr. Bomstein, Mr. Pergolizzi indicated that the parking area will consist of stabilized shell, and there are no plans to install a curb along the borders of the parking area; whereupon, at the request of Mr. Bomstein, he gave his assurance that there will be some means of stabilization to keep the shell from eroding towards the drainage ditch.

In response to query by Ms. White, Mr. Pergolizzi indicated that no trees would be removed.

In summary, Mr. Armstrong indicated that the application is for a special exception; that a special exception is a lower standard than a variance; that the applicant meets the standard; and that the applicant agrees to the conditions of approval.

Mr. Bomstein moved, seconded by Mr. Burdette, that the special exception be granted as recommended by staff with the added condition that the shell parking area be properly stabilized to prevent the shell from drifting.

Upon call for the vote, the motion carried unanimously.

Alluding to comments by the objectors, Mr. Bomstein expressed concern that the advertisement had been misleading, causing undue concern by the neighbors; whereupon, Mr. Cueva indicated that the County is required to advertise the entire parcel; that the written notice includes a telephone number for persons wishing to gain additional information; and that going forward, he will attempt to better clarify the portion of the parcel that will be affected.

3 APPLICATION OF BRYAN K. AND SUSAN McLACHLAN THROUGH STEVEN WILLIAMSON, ESQUIRE, REPRESENTATIVE, FOR A VARIANCE (BA-2-1-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Bryan K. and Susan McLachlan through Steven Williamson for a variance to allow a room addition having a 15-foot front setback where a 20-foot front setback is required, re property located at 9526 120th Street North, Seminole (BA-2-1-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request, as the proposed addition will be enclosing the existing protrusion which, in staff's opinion, will not set a precedent or pose an adverse impact to adjoining properties. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The front setback shall be 15 feet for the proposed addition.

Steven Williamson, Esquire, Clearwater, appeared and being duly sworn, indicated that he represents the applicants.

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

Mr. Bomstein moved, seconded by Mr. Watts, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

4 APPLICATION OF J P MORGAN CHASE BANK, N.A., AS SUCCESSOR TRUSTEE OF LAKE RIDGE TRUST, THROUGH KATHERINE E. COLE, ESQUIRE, REPRESENTATIVE, FOR A SPECIAL EXCEPTION AND VARIANCE (BA-1-12-13) – APPROVED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of J P Morgan Chase Bank, N.A., as Successor Trustee of Lake Ridge Trust, through Katherine E. Cole for a variance to allow a proposed excavation to be 81 feet from a right-of-way where a 150-foot setback is required and a special exception to permit excavation and re-distribution of greater than 1,000 cubic yards of fill, re property located at 3385 Old Keystone Road, Tarpon Springs (BA-1-12-13).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received; and that the case was before the Board in December and was continued with regard to the variance and special exception; whereupon, he presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request, provided the Board is satisfied that the "Standards" of Section 138-238, Division 7 of the Pinellas County Land Development Code have been met. Approval of the request shall be subject to the following condition:

1. Full site plan review.
2. The excavation may be set back 81 feet based on the site plan as submitted.

Katherine Cole, Esquire, Clearwater, appeared and being duly sworn, indicated that she represents the applicant.

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

In response to queries by Mr. Watts and Chairman Doran pertaining to the setback requirement, Mr. Cueva indicated that the 150-foot setback is required to address concerns that the soil may be unstable following excavation, causing failure of the right-of-way; that the application was continued pending site plan review; and that the review has been completed and no concerns were noted.

Mr. Burdette moved, seconded by Ms. White, that the variance and special exception be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

5 APPLICATION OF ANNA CORMAN-SMITH THROUGH HARVEY A. SMITH, REPRESENTATIVE, FOR A VARIANCE (BA-1-1-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Anna Corman-Smith through Harvey A. Smith for a variance to allow an above ground pool having a 20-foot setback from the front property line along Hollow Ridge Road where a 25-foot front setback is required, re property located at 30 Birch Lane, Palm Harbor (BA-1-1-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request, as this is a corner lot that is required to have two 25-foot front setbacks, thus reducing the area in which accessory uses, such as a pool, can be located. As the owner is not proposing a pool cage, no visual impact will occur to adjacent residential uses. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The pool shall be located 20 feet from the property line along Hollow Ridge Road.
3. No pool enclosure shall be permitted.

Harvey Smith, Palm Harbor, appeared and being duly sworn, indicated that he is seeking the aforesaid variance.

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.

6 APPLICATION OF AUTO MALL, LLC THROUGH SAMUEL T. PRICE, REPRESENTATIVE, FOR A VARIANCE (BA-4-1-14) – GRANTED WITH AMENDED CONDITIONS

Public hearing was held on the application of Auto Mall, LLC through Samuel T. Price for a variance to allow for dispensing alcoholic beverages within 150 feet of a residential zoning district (126 feet) for the commercial property located at 625 B, Alternate U.S. Highway 19 North, Palm Harbor (BA-4-1-14).

John F. Cueva, Planning Department Zoning Manager, indicated that two emails and one letter in opposition to the application have been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request, as there is adequate buffering from the adjacent residential area by the Pinellas Trail. Additionally, as there will be no live entertainment, staff is of the opinion that no adverse impact

will occur to the residential area to the west. Approval of the request should be subject to the following conditions:

1. Approval is for a brewery and tasting room only for the product produced on site, and for other craft beers. (A “bar” is not permitted.)
2. No live entertainment shall be allowed.
3. Hours of operation should be 3:00 P.M. to 10:00 P.M., Monday through Friday, and Noon to 10:00 P.M., Saturday and Sunday.

Samuel T. Price, Dunedin, appeared and being duly sworn, indicated that he represents the applicant; and that he agrees with the conditions of approval; whereupon, he stated that the applicant would like to be allowed to have live music for special events. Chairman Doran, with input by Mr. Cueva, indicated that the condition states no live entertainment permitted; and that the applicant would need to apply to the board each time it wishes to temporarily amend the condition; and Attorney Ester concurred, noting that the County only allows special occasion permits for use of right-of-ways.

In response to query by Mr. Bomstein, Mr. Price related that he is currently involved in home brewing and has been brewing since the 1990’s; that he has incorporated as a business with the state; and that he has co-brewed at several other locations in the area.

During discussion and in response to queries by the members, Mr. Price pointed out the location of the brewery and parking area on a site plan, and indicated that no food would be served in the facility, but a food truck could be located outside; that the entrance is in the rear of the shopping center; that there would be no outdoor seating; that tours of the brewery would be conducted; that there would be a tasting bar and sale of the product; and that brewing would take place during business hours.

Mr. Cueva clarified that the variance is for dispensing of alcohol, which is what the County is regulating, not the manufacturing of beer.

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Mr. Price requested that the hours for the tasting room be increased to 11:00 P.M. on Friday and Saturday, and reiterated his request to provide live music; whereupon, Messrs. Bomstein and Pierce related that no amplified music or disc jockeys would be allowed; and that live acoustical music would be permitted.

In response to the Chairman's call for citizens wishing to be heard, the following individuals appeared and being duly sworn, spoke in objection to the application, stating their concerns and responding to queries by the members:

Staci Deaton, Palm Harbor
Laura Muller, Palm Harbor

Jeffrey Domb, Oldsmar, appeared and being duly sworn, indicated that the tasting room is 177 square feet; that the U-shaped bar would accommodate 10 to 12 barstools; and that, overall, the area is 1,500 square feet.

During continued discussion and in response to queries by the members, Mr. Price stated that the garage doors would not be open during live music events, but requested that they be allowed to be open during hours of operation for ventilation, as the brewing process generates heat. He indicated that the brewing process is not very noisy; and that deliveries would take place Monday through Friday, 9:00 A.M. to 5:00 P.M.

Responding to query by Mr. Bomstein, Mr. Cueva stated that the closest point to the residential area is 126 feet; that if it were 150 feet, the applicant would not be before the Board; and that the measurement is from the applicant's storefront, since it is a multi-tenant building; whereupon, Mr. Bomstein noted that the separation is 24 feet short of the required distance.

Mr. Pierce indicated that he would not vote in the affirmative for the variance; whereupon, Mr. Bomstein related that there is a craft brewery near his residence; that the neighbors were initially concerned about noise and odor but there has not been a problem; and that craft breweries do not attract a loud bar crowd.

In response to queries by Chairman Doran, Mr. Cueva suggested changing the condition No. 2 to read "no amplified entertainment shall be allowed," and to specify that the overhead doors shall not be opened during live entertainment activity.

Mr. Watts moved, seconded by Mr. Bomstein, that the variance be granted as recommended by staff, with the added provision that the hours of operation be extended to 11:00 P.M. on Friday and Saturday.

Upon call for the vote, the motion carried 6 to 1, with Mr. Pierce dissenting.

7 APPLICATION OF DOUG AND KRISTY WILLIAMS FOR A VARIANCE (BA-6-1-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Doug and Kristy Williams for a variance to allow a garage having a 12-foot front setback from the front property line along 119th Avenue, and a variance to allow for a screened lanai to have a 10-foot front setback from the front property line along 104th Lane North, re property located at 10444 119th Avenue, Largo (BA-6-1-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request, as it is apparent upon staff visitation to the area that the proposed encroachments are consistent with development patterns existing in the area. As this is a corner lot, the requested variances are reasonable. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The driveway on 104th Lane North shall be removed.
3. The garage shall have a 12-foot front setback from the property line along 119th Avenue North.

4. The screened lanai shall have a 10-foot front setback from the property line along 104th Lane North.

Kristy Williams, Largo, appeared and being duly sworn, indicated that she is seeking the aforesaid variance.

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.

8 APPLICATION OF TRYGVE AND ANNETTE JOHNSON FOR A VARIANCE (BA-2-11-13) – GRANTED WITH CONDITION

Public hearing was held on the application of Trygve and Annette Johnson for a variance to allow six-foot-high columns and a gate with a four-foot-high fence having a zero-foot front setback where a 20-foot front setback is required, re property located at 10135 118th Avenue North, Largo (BA-2-11-13).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Denial of the zero foot setback and approval of a 15-foot setback. Staff cannot support a zero-foot setback, as to do so would restrict access to a pump station access easement.

Trygve and Annette Johnson, Largo, appeared and being duly sworn, displayed a site survey and photographs and provided background information regarding their request, noting that they have owned and resided on the property for 35 years, during which time they have experienced problems with trespassers; that they recently acquired property containing a turnaround area; and that they wish to install a four-foot fence with columns for privacy purposes; whereupon, noting the location of a 15-foot

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utility easement, she submitted letters from Pinellas County Department of Environment and Infrastructure and the City of Seminole Fire Rescue Department stating that they had no objection to the request, subject to installation of a “Knox Box” to allow access to the property.

Responding to query by Mr. Bomstein, Ms. Johnson stated that she and her husband are the only property owners located on the cul-de-sac; that a neighbor who owns rental properties on either side of the cul-de-sac has expressed concerns regarding its possible closure; and that she made arrangements with garbage truck drivers to back down the street after experiencing property damage as a result of their using the turnaround.

Brian Battaglia, Esquire, St. Petersburg, appeared and being duly sworn, indicated that he represents the objector, Lisa McCormick; and that he wished to question the applicants; whereupon, Attorney Ester clarified that the proceeding was quasi-judicial; and that Attorney Battaglia would be allowed to question the applicants.

Responding to questions by Attorney Battaglia, the applicants indicated that they would like to install a fence, gate, and entry columns for privacy and security; that existing columns are temporary and were installed prior to obtaining a variance; that they have filed a police report concerning trespassers but did not submit a copy to the Board of Adjustment; and that gate access codes would be provided to the fire department and County Utilities but not to members of the public or visitors. Attorney Battaglia submitted a copy of an email from Ms. Johnson to his client, and at his request, Ms. Johnson read the message into the record.

Responding to further query by Attorney Battaglia, the applicants indicated that they have lived on the property since 1948; that during that time period, people have utilized the cul-de-sac to traverse the roadway and turn around; and that they now own the property.

During discussion and in response to queries by the members, Attorney Battaglia provided aerial photographs, gave a brief overview of the area in question, and pointed out in the photographs where his client’s property is located. Mr. Watts stated that the use of the cul-de-sac property has nothing to do with the variance, which relates only to the height of the proposed fence; whereupon, Attorney Battaglia indicated that granting of the variance would create significant risks by creating a dead-end street with

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nowhere to turn around; and that the applicants have not met their burden to show they are entitled to a variance.

Lisa McCormick, Largo, appeared and being duly sworn, responded to queries from Attorney Battaglia, indicating that she owns the properties located at 10136 and 10137 118th Avenue North, which are located on either side of the cul-de-sac; that she objects to the application because people would be cut-off from the turnaround and for safety reasons; that garbage trucks have to back down the road; and that she has witnessed people running over her lawn, breaking sprinkler heads, and hitting mailboxes; whereupon, she stated that the applicants recommended that homeowners on the street change their garbage collectors; that after the applicants purchased the cul-de-sac, it took away a 15-foot by 15-foot corner of her property; that her property to the south was owned by her parents from 1982 until she acquired it in 1989; and that she has observed people utilizing the roadway and cul-de-sac to turn around during that period of time.

Mr. Pierce noted that Ms. McCormick did not wish to have people turn around on her property, but she has no problem with them turning around on the Johnsons' property; and she indicated that the applicants own two empty lots, property for their home, and the cul-de-sac; and that there is no room to turn around on her property.

Responding to queries by Mr. Watts, Ms. McCormick indicated that she has owned one property since 1989 and the other since 2005; that she was never given assurance by anyone that the cul-de-sac would always be accessible; and that she was not aware that a road could be sold to a private party.

In response to query by Mr. Watts as to jurisdiction to determine whether there is an easement on the property, Attorney Ester indicated that it would be a matter for a civil suit; that it is not an issue for the Board to decide; and that the Board is here to decide on the variance only.

John Landon, P.E., Landon, Moree & Associates, Inc., Palm Harbor, appeared and being duly sworn, referred to his letter of objection dated November 6, 2013, a copy of which has been filed and made a part of the record. Displaying a 1962 aerial photograph, he noted the existence of the cul-de-sac and 22 houses on the road, indicating that all the existing houses were there with the exception of the applicants'. Acknowledging that the applicants have agreed to grant access to the fire department and

select delivery vehicles, he expressed concern regarding use by the general public; whereupon, he opined that the public has prescriptive rights to the cul-de-sac.

Attorney Ester indicated that the Board of Adjustment is the wrong venue for a prescriptive rights case; that there are private roads all over the County; and that it is common for the County to vacate roadways. In response to query by Mr. Burdette, Attorney Battaglia stated that he was not questioning the applicants' ownership of the cul-de-sac, although he has not seen evidence of the deed; whereupon, he discussed prescriptive rights, the doctrine of prescriptive easements, and the ability of the Board to grant a variance that would prohibit the public from using the road.

Attorney Ester clarified that the action being taken today is to extend the height of the fence from three feet to four feet; that the applicant currently has the right to construct a three-foot fence with a gate; that the only authority the Board can grant today is to extend it to four feet; that the Board has no ability to make any determination for prescriptive easements; and that, in the absence of a judgment granting a prescriptive easement, the Board cannot take that into consideration.

Mr. Battaglia referred to a discussion he had with the County's Engineering Department regarding road maintenance and expressed concern regarding the ability of the Board, as an agency of the County, to take action which will close off an area utilized by the public to turn around.

Responding to queries by Chairman Doran, Mr. Cueva clarified that if the applicants wanted a 21-foot setback or a three-foot fence height, they would not need a variance. Chairman Doran noted that staff had recommended denying a zero-foot setback, but recommended approval of a 15-foot setback; whereupon, Mr. Cueva withdrew his recommendation for denial based on the letters of no objection received from the County and fire department, noting that access to the property would be provided via a "Knox Box." He noted that 118th Street is a 50-foot-wide public right-of-way; and that there is adequate room to make a three-point turnaround.

In summary, Attorney Battaglia indicated the burden for a variance has not been satisfied by the applicants; and that, based on their own testimony, a prescriptive easement exists. He argued that the Board needs to consider not only the interest of his client and the adverse impact it will have on her property, but the inability of the public to turn around and the fact that the cul-de-sac has been utilized for over 20 years. He stated that while the applicants may have acquired a deed to the property, it does not give them

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the right to inhibit or impair the ability of the public to traverse the ground by putting up a fence; and in response to query by Mr. Bomstein, acknowledged that he has not seen a recorded public easement of the right-of-way; whereupon, Mr. Pierce confirmed that the road has a dead-end sign, and queried the basis of the argument.

In response to the Chairman's call for citizens wishing to be heard, the following individuals appeared and being duly sworn, spoke in objection to the application and stated their concerns.

Doreen Ligon, Largo
John Rudnick, Largo

In response to queries by Mr. Pierce, Ms. Ligon confirmed that access to the fire hydrants would not be an issue, as none are located in the area behind the proposed fence.

In rebuttal and in response to queries by the members, the applicants related that the County does not, and will not, maintain the cul-de-sac, so they will continue to do so; and that they are requesting a four-foot-high fence because a three-foot one would be too easy to jump over and a six-foot one would be too obtrusive; whereupon, upon being reminded by Mr. Bomstein that they are under oath, Ms. Johnson testified that that they do have a recorded deed proving ownership of the cul-de-sac.

Discussion ensued and in response to queries by the members, Mr. Cueva clarified that in light of the additional information provided today, he is recommending that the application be approved, with no added conditions.

Mr. Bomstein moved, seconded by Ms. White, that the variance be granted as recommended by staff, with the condition that a Knox Box be provided for access by the fire department and the Department of Environment and Infrastructure.

Upon call for the vote, the motion carried unanimously.

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ADJOURNMENT

At the direction of Chairman Doran, there being no further business, the meeting was adjourned at 10:59 A.M.

Chairman