

Clearwater, Florida, March 6, 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 9:02 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 Michael P. Schmidt, Board Reporter, Deputy Clerk.

CALL TO ORDER

Chairman Doran called the meeting to order at 9:02 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:

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Deviating from the agenda, Chairman Doran indicated that Items Nos. 10, 11, and 13 would be heard at this time.

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#10 APPLICATION OF STANLEY S. MALECKI FOR A VARIANCE (BA-9-3-14) – WITHDRAWN

Chairman Doran referred to the application of Stanley S. Malecki for a variance to allow a pool to have a six-foot rear setback and a pool enclosure having a three-foot rear setback where a five-foot rear setback is required, re property located at 13830 Lake Point Drive, Clearwater (BA-9-3-14), and reported that the application has been withdrawn.

#11 APPLICATION OF AMERITAS LIFE INSURANCE CORP THROUGH KEVIN MINEER, C/O GENESIS GROUP, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-10-3-14) – WITHDRAWN

Chairman Doran referred to the application of Ameritas Life Insurance Corp. through Kevin Mineer for a special exception to allow an indoor gun range, re property located at 8350 Park Boulevard North, Seminole (BA-10-3-14), and reported that the application has been withdrawn.

#13 APPLICATION OF TAMPA ROAD GAS, LLC THROUGH PETER R. PENZA, AICP, REPRESENTATIVE, FOR A VARIANCE (BA-6-3-14) – CONTINUED TO APRIL 3, 2013 MEETING

Public hearing was held on the application of Tampa Road Gas, LLC through Peter R. Pensa for a variance to allow redevelopment of the subject parcel having a lot width of 174 feet where a depth of 200 feet is required, a 10-foot front parkway buffer yard where a 30-foot parkway buffer yard is required, and a five-foot rear setback where a 25-foot rear setback is required, re property located at 32490 U.S. Highway 19, Palm Harbor (BA-6-3-14).

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 of 10-Foot Front Setback and Denial of Five-Foot Rear Setback. Staff has no objection to the conditional approval of the requested 10-foot front buffer yard as the site has been in its current paved state prior to the adoption of the CP-1 regulations. It should be noted that the setback has been varied in the past via Board of Adjustment approval.

With regard to the five-foot rear setback request, staff recommends denial as, unlike the front setback scenario, there is no basis by which staff can support the requested variance, as the request is not consistent with the following criteria of Section 138-113 for granting the variance:

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 the chapter to other similar lands, buildings, or structures in the same zoning district.
3. *Unnecessary hardship.* The literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter.

It should also be noted that a previous variance request for a five-foot rear setback was denied by the Board (Ref. BA-13-4-08). Approval is subject to the following conditions:

1. Full site plan review.
2. Front setback buffer area shall be 10 feet.

Katherine E. Cole, Esquire, appeared and being duly sworn, indicated that she represents the applicant; and requested that the case be continued for 30 days; whereupon, Mr. Cueva indicated that staff has no objection to the request.

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

Mr. Burdette moved, seconded by Ms. White, that the item be continued as requested by the applicant.

Upon call for the vote, the motion carried unanimously.

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Deviating from the agenda, Chairman Doran indicated that Agenda Item No 2 would be heard at this time; and that Agenda Item No 1 would be heard after the other cases.

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2 APPLICATION OF BARBARA HENSON THROUGH WILLIAM BUTTMI, REPRESENTATIVE, FOR A VARIANCE (BA-6-2-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Barbara Henson through William Buttmi for a variance to allow a single-family dwelling fronting on a private road where a single-family dwelling on a 90-foot-wide lot fronting on a public right-of-way is required, re property located 290 feet south of Curlew Road and 135 feet west of DeLeon Court, Palm Harbor (BA-6-2-14).

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

Recommend Conditional Approval. Staff has no objection to the approval of the request with conditions as the applicant has provided staff with an ingress/egress easement which demonstrates the applicant has legal access to the subject property. Therefore, staff recommends approval with the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. Compliance with memorandum from the Deputy Fire Marshall.
3. All setback requirements shall be met.

William Buttmi, Palm Harbor, appeared and being duly sworn, indicated that he represents the applicant.

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During discussion and in response to queries by the members, Mr. Buttmi provided background information regarding the case, and indicated that the request is to allow for the construction of a single-family dwelling on the lot; that a recorded easement exists, allows for ingress/egress to the parcel, runs along the east side of the church, and extends to Curlew Road; and that similar variances have been approved in the past.

In response to the Chairman's call for objectors to the application, Shiloh Delaney Schrantz, Trula Zornes, and Bill Hyatt, Dunedin, and Pastor Stan Morgan, Tampa, appeared and being duly sworn, expressed their concerns and responded to queries and comments by the members.

Mses. Schrantz and Zornes referred to an aerial photograph and pointed out the locations of their homes. Ms. Schrantz opined that that the variance would allow for encroachment onto her property; and Ms. Zornes expressed concern that allowing access on the east side of the church property could require a large clump of oak trees to be removed; whereupon, Mr. Cueva assured Ms. Schrantz that the easement will not encroach onto her property; and explained to Ms. Zornes that the legal easement only runs along the east side of the church; and that while the applicant would be required to go through a tree permit process, it would not halt construction of the proposed dwelling.

In response to queries and comments by Mr. Hyatt and Pastor Morgan, Mr. Cueva indicated that the easement was executed and recorded on September 12 and September 16, 1975, respectively; and Attorney Ester indicated that the members need to rely on the recorded easement versus the opponents' claims to the contrary; that state law provides mechanisms to access a landlocked parcel even if an easement does not exist; and that the easement can be improved to provide easier access to the property; whereupon, Chairman Doran noted that the members only have the authority to grant or deny the variance.

In response to the concerns expressed by the objectors and queries by the members, Mr. Buttmi related that he was aware of the easement when the property was purchased; that the easement was previously driven on by large trucks; and that no trees will be cut down.

Mr. Bomstein related that the easement is confirmed by a recorded document; and that similar easements are common; whereupon, he moved, seconded by Mr. Watts, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

3 APPLICATION OF JOHN GILCH, JR. FOR A VARIANCE (BA-1-3-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of John Gilch, Jr. for a variance to allow a six-foot-high fence having a zero-foot front setback from the front property line along Hillside Avenue where a three-foot-high fence having a zero-foot front setback is allowed, re property located at 6202 Hillside Avenue, Seminole (BA-1-3-14).

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 request as it is a corner lot and, as such, two front setbacks are required. However, because the address of the site is on Hillside Avenue, and not Irving Avenue where the home is actually accessed, the 20-foot setback is required. Approval of the requested six-foot-high fence as proposed will not pose an adverse impact to neighbors in the area. Approval of the request should be subject to the following conditions:

1. The six-foot-high fence shall have a zero-foot setback from the property line along Hillside Avenue.
2. The six-foot-high fence shall be kept in good condition at all times, i.e., missing fence planks shall be repaired immediately.

John Gilch, Jr., Palm Harbor, appeared and being duly sworn, indicated that he is seeking the aforesaid variance, and briefly discussed the request.

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.

In response to queries by Mr. Pierce, Mr. Cueva clarified that the requested six-foot-high fence will replace an existing three-foot-high fence.

Upon call for the vote, the motion carried unanimously.

4 APPLICATION OF LANSBROOK MASTER ASSOCIATION, INC. THROUGH DENNIS POWERS, REPRESENTATIVE, FOR A VARIANCE (BA-2-3-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Lansbrook Master Association, Inc. through Dennis Powers for a variance to allow an existing residential monument sign having 71.25 square feet of area to remain where a 24 square-foot residential monument sign is allowed, re a sign located at the northwest corner of East Lake Road and Lansbrook Parkway (BA-2-3-14).

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 approval of the request as it is apparent that the variance approved years ago for the sign which exists today is needed due to the speed of vehicles using East Lake Road at this location. Staff agrees, in this instance, that the current 71.25 square-foot monument sign is appropriate; and that 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. A dimmer switch shall be installed on the lighted monument sign in the event the newly lit sign becomes a distraction.

Dennis Powers, Tampa, appeared and being duly sworn, indicated that he represents the applicant and, in response to queries by Mr. Burdette, confirmed his understanding regarding the dimmer switch.

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.

5 APPLICATION OF MICHAEL A. BERGER, SR., RICHARD A. YANACEK, AND EYRK AND BARBARA MANKOWSKI FOR A VARIANCE (BA-3-3-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Michael A. Berger, Sr., Richard A. Yanacek, and Eryk and Barbara Mankowski for a variance to allow zero-foot rear setbacks for three townhomes having a roof over existing patios where 20-foot setbacks are required, re properties located at 1260, 1464, and 1460 Ribolla Drive, Palm Harbor, respectively (BA-3-3-14).

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 the request as there is a 50-foot-wide "open area" owned by the Villas of San Marino Homeowners Association, which serves as a buffer from the recreational ball fields to the west of the site. The area to be covered with a solid roof is currently a screened patio and, provided the area is not enclosed with solid walls or climate controlled, staff does not anticipate any adverse impacts. 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 patio area shall not be enclosed with side or rear walls nor shall it become climate controlled.

Richard A. Yanacek, 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.

Mr. Pierce inquired as to how many townhome cases are expected to come before the Board and why those cases are not being presented as one agenda item. Mr. Cueva responded that he is only aware of one more case that is being presented, the next case on the agenda; and that some residents may wish to present their own case.

Upon call for the vote, the motion carried unanimously.

6 APPLICATION OF PATRICK REED LIVING TRUST FOR A VARIANCE (BA-5-3-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of the Patrick Reed Living Trust for a variance to allow a roof over an existing patio having a zero-foot rear setback where a 20-foot rear setback is required, re property located at 1384 Ribolla Drive, Palm Harbor (BA-5-3-14).

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 the request as there is a 50-foot-wide "open area" owned by the Villas of San Marino Homeowners Association, which serves as a buffer from the recreational ball fields to the west of the site. The area to be covered with a solid roof is currently a screened patio and, provided the area is not enclosed with solid walls or climate controlled, staff does not anticipate any adverse impacts. 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 patio area shall not be enclosed with side or rear walls nor shall it become climate controlled.

Patrick Reed, 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. Watts moved, seconded by Mr. Hoeneisen, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

7 APPLICATION OF ADELE GRECO REVOCABLE TRUST THROUGH ROBERT PERGOLIZZI, AICP/PTP, GULF COAST CONSULTING, INC., REPRESENTATIVE, FOR A VARIANCE (BA-4-3-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of the Adele Greco Revocable Trust through Robert Pergolizzi for a variance to allow for the development of seven single-family lots which will be fronting on a private road where 70 feet of frontage on a public road is required and a variance to allow a six-foot-high wrought iron fence to have a zero-foot front setback from the property line along Ridge Road where a three-foot-high fence having a zero-foot front setback is allowed, re property located on the west side of Ridge Road, 55 feet north of Kaymak Lane, Seminole (BA-4-3-14).

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 the requested seven-lot subdivision provided the road servicing the development is constructed to Pinellas County road standards. With regard to the six-foot-high fence adjacent to Ridge Road, staff has

no objection provided an entry gate is not installed. Approval of the request is subject to the following conditions:

1. Full site plan review.
2. A six-foot-high wrought iron fence shall be allowed along Ridge Road; however, no entry gate shall be allowed accessing onto Ridge Road.

Robert Pergolizzi, Clearwater, appeared and being duly sworn, indicated that he represents the applicant and Gulfwind Homes, the prospective purchaser.

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

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

Upon call for the vote, the motion carried unanimously.

8 APPLICATION OF MATTHEW B. MCCABE FOR A VARIANCE (BA-7-3-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Matthew B. McCabe for a variance to allow a 16-foot by 21-foot storage shed to have a four-foot front setback from the property line along Oakhurst Road where a 20-foot front setback is required, re property located at 13721 89th Avenue North, Seminole (BA-7-3-14).

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 approval of the request with conditions as the site is a corner lot which also happens to be on the curvature of Oakhurst Road. As the actual distance between the proposed shed location and the edge of pavement to Oakhurst Road is 39 feet, staff is of the opinion that the

requested four-foot front setback will not pose an adverse impact to adjacent residential properties. Approval of the request should be subject to the following conditions:

1. The shed shall not exceed 16 feet by 21 feet (336 square feet) in size.
2. The setback from the Oakhurst Road property line shall be four feet.
3. The existing shed shall be removed prior to the completion of the new shed.

Matthew B. McCabe, Seminole, 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. Burdette moved, seconded by Ms. White, that the variance be granted as recommended by staff.

In response to queries by Mr. Bomstein, Mr. McCabe related that the shed will only be used for storage.

Upon call for the vote, the motion carried unanimously.

9 APPLICATION OF ERIC BRAUN THROUGH LEE CURTIS, REPRESENTATIVE, FOR A VARIANCE (BA-8-3-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Eric Braun through Lee Curtis for a variance to allow a covered porch having a seven-foot side setback and a variance to allow a 300 square-foot storage shed to have a five-foot rear setback where a 7.5-foot side setback and 10-foot rear setback are required, respectively, re property located at 604 Mayo Street, Crystal Beach (BA-8-3-14).

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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 request as it appears the shed has been at its current location for many years with no apparent adverse impact to the adjacent properties. The proposed covered porch addition will be built in line with the existing building setback of the shed having a seven-foot side setback, which is negligible in this instance. 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 shed shall remain at its current location having a five-foot rear setback and seven-foot side setback.
3. The covered porch shall have a seven-foot side setback from the south property line.

Lee Curtis, Palm Harbor, appeared and being duly sworn, indicated that he represents the applicant. In response to queries and comments by the members, Mr. Curtis related that the shed will provide for pool equipment storage and a bathroom; and confirmed his understanding that no one is permitted to live in the structure; and that he understands the conditions of staff.

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

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

Upon call for the vote, the motion carried unanimously.

#12 APPLICATION OF LIBOR BRUSTIK THROUGH DAVID A. JOHN, REPRESENTATIVE, FOR A VARIANCE (BA-11-3-14) – DENIED

Public hearing was held on the application of Libor Brustik through David A. John for a variance to allow a two-car garage having a seven-foot front setback from the Ernest Road property line where a 20-foot front setback is required, re property located at 1525 South Keene Road, Clearwater (BA-11-3-14).

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 cannot support the request as it does not meet the following criteria associated with approving the request:

1. *No special privilege.* That granting the variance requested will not confer on the applicant any special privilege that is denied by the chapter to other similar lands, buildings, or structures in the same zoning district.
2. *Unnecessary hardship.* The literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter.
3. *Minimum variance necessary.* That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

David A. John, Clearwater, appeared and being duly sworn, indicated that he represents the applicant.

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In response to queries by the members, Mr. John referred to a map and pointed out the subject property, provided letters from neighboring property owners in support of the application, and presented background information regarding the case. He related that Mr. Brustik lives on a corner lot, owns multiple cars, and wants to replace his one-car carport with a two-car garage; and that the 14 homes on Ernest Avenue, a dead-end street, all have two-car garages; whereupon, he discussed how the home is sited on the lot, indicating that the front of the home faces Keene Road; and that Ernest Road provides access to the carport, and discussion ensued.

Mr. Bomstein remarked that because the site has an unusual orientation, it would require a significant variance to support a two-car garage; and that a one-car garage would be more appropriate; whereupon, Mr. Watts related that if the applicant were allowed to construct a two-car garage, the home would better conform to the homes on Ernest Road.

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

During discussion and in response to queries by the members, Mr. Cueva discussed the recommendation for denial, and indicated that the standards for a hardship have not been met; that a precedent could be set and other citizens could begin to request setback relief; and that while staff typically supports variance requests on a corner lot, the site is not large enough to support a two-car garage.

Mr. Bomstein moved, seconded by Ms. White, that the variance be denied as recommended by staff.

Chairman Doran presented additional information pertaining to hardship standards and the ability of the applicant to construct a one-car garage, and Mr. Bomstein restated that the variance is substantial; that the lot cannot accommodate a two-car garage; and that a special privilege would be conferred, and Mr. Burdette agreed. whereupon, Mr. Hoeneisen indicated that the demographics have changed considerably since the home was built in 1957; that most newer homes have two-car garages; and that no neighbors have stated an objection to the application; and Mr. Watts related that even though the application cannot technically meet the variance requirements, many similar applications have been approved by the members, and brief discussion ensued.

Upon call for the vote, the motion to deny carried 4 to 3, with Messrs. Hoeneisen, Pierce, and Watts casting the dissenting votes.

1 APPLICATION OF GREY OAKS LAND COMPANY, LLC THROUGH WILLIAM J. KIMPTON, ESQUIRE, REPRESENTATIVE, FOR A VARIANCE (BA-5-2-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Grey Oaks Land Company, LLC through William J. Kimpton for a variance to allow a 14-lot single-family subdivision having the following setbacks: 20-foot front setback from internal private road, a 10-foot front setback from Grey Oaks Boulevard, and a 10-foot rear setback from the East Lake Road right-of-way where a 25-foot front setback is required from an internal private road, a 35-foot setback is required from edge of pavement for Grey Oaks Boulevard, and a 25-foot setback is required from the East Lake Road right-of-way, re property located at the northwest corner of East Lake Road and Grey Oaks Boulevard, Tarpon Springs (BA-5-2-14).

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

Recommend Conditional Approval. Staff has no objections to the approval of the request with conditions as the site is part of a larger master plan which designated many acres for preservation and is located to the south and west of the subject property. With that area being set aside for preservation, the site was allocated 20 units which could be either multi-family or single family. The site also had previous site plan approval for 20 duplex units; however, that site plan has expired and the applicant now desires to develop the site with 14 single-family units having setback reductions from 25 feet from edge of right-of-ways to 10 feet. It has been determined that the requested 20-foot front setback is not needed as the proposed right-of-way will be a private road and the 35-foot required setback is being met. The requested setback, as proposed, will not pose an adverse impact to adjacent properties as adequate buffer areas remain to meet the intent of the RPD setback requirements. Approval of the request should be subject to the following conditions:

1. Full site plan review.
2. The setbacks from East Lake Road shall be 10 feet.
3. The setback from the property line along Grey Oaks Boulevard shall be 10 feet as shown on the concept plan.
4. The proposed homes shall be designed to be “zero energy” construction as described in the basis for variances narrative in the application.

William J. Kimpton, Esquire, appeared and being duly sworn, indicated that he represents the applicant.

Mr. Kimpton referred to an aerial photograph, pointed out the subject property, and provided background information regarding the application. He indicated that per the previously approved site plan, the applicant could build 20 duplex units on the parcel, but believes that building 14 single-family homes, including a “zero energy” component, would be more compatible with the neighboring subdivision. Mr. Kimpton indicated that while meeting with residents of the adjacent subdivision, they expressed concerns regarding the project exacerbating drainage problems within their community; whereupon, he related that drainage issues would be addressed during the site plan process; and that a 24-inch stormwater pipe traversing the property may be contributing to the drainage issues.

Thereupon, Mr. Kimpton discussed the benefits associated with the applicant constructing a development of 14 upscale single-family homes versus a value product of 20 duplex units, including topics related to parking, traffic, impervious surfaces, and floor area ratios; and related that even though the homebuilder, Marc Rutenberg, could build closer to the nearby wetlands, he would rather obtain the requested setback variances.

Mr. Bomstein commented that a two-story home versus a one-story home would have a smaller footprint; and in response to his queries, Mr. Kimpton indicated that the applicant would likely build a one-story structure with a large roof to capture more sunshine for solar power; whereupon, Mr. Cueva related that the Pinellas County Code does not provide special consideration with regard to zero energy homes.

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Nathan Peters, Esquire, appeared and being duly sworn, indicated that he represents the Grey Oaks Homeowners Association (HOA), and discussed its main objections to the variance. Mr. Peters indicated that by granting the variance and allowing the parcel to be developed, it would create a detriment to the public welfare, create unnecessary hardships, and cause a material adverse impact to the members of the HOA; whereupon, he discussed the following nine criteria for granting a variance contained in Section 138-113 of the Pinellas County Code:

1. Special conditions.
2. No special privilege.
3. Unnecessary hardship.
4. Minimum variance necessary.
5. Purpose and intent compliance.
6. Detriment to public welfare.
7. Increasing floor area, lot coverage restrictions.
8. May not constitute amendment.
9. Consideration of rezoning.

Mr. Peters asserted that the developer has not addressed any of the nine criteria in the submitted application; that because the Pinellas County Code does not yet provide special consideration with regard to zero energy homes, that is not a factor to be considered with regard to the variance; that the applicant created his own hardship when purchasing the parcel in 2012 since he was fully aware of the development restrictions and other issues regarding the property; that he could easily modify the development plans to conform to Land Development Code setback standards; and that a “reduction in density” is not one of the nine criteria to be considered when granting a variance.

During discussion and in response to queries by the members, Mr. Peters related that while he is unsure if the HOA is in favor of 20 duplex units versus 14 single-family homes, it is opposed to the entire setback request. Mr. Peters indicated that while he understands that the site plan will address issues regarding drainage, and realizes that the members do not act upon engineering issues, the issue of impervious surfaces, floor area ratios, stormwater runoff, and drainage issues are of great concern to the HOA; whereupon, he presented additional concerns relating to the project, including impacts to traffic, parking, and the natural environment, and related that the neighboring subdivision contains 86 single-family homes; and requested that the application be denied.

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Yancey Abuton, Holiday, appeared and being duly sworn, indicated that he represents the HOA in his capacity as a licensed professional engineer. He provided historical background information regarding the parcel, indicating that although a 20-unit subdivision had been approved by the County in 2007, and ultimately received approval by the Southwest Florida Water Management District (SWFWMD), the project did not materialize as the technical solution to resolve the drainage issues was too expensive; whereupon, Messrs. Bomstein and Burdette related that engineering issues are not under the purview of the Board of Adjustment.

Mr. Abuton displayed documents, photographs, and a map, and discussed recent rainfall events, floodplain impacts, drainage issues, ingress and egress concerns, and similar topics. Responding to queries and comments by Mr. Burdette, Mr. Abuton acknowledged that while an engineering solution could alleviate the drainage problem, it would be expensive; whereupon, Mr. Abuton played a short video showing the aftermath of a 12-inch rain storm, presented information with respect to the 100- and 500-year floodplain, and provided additional information with respect to reduced project setbacks.

Continuing with the presentation, Mr. Abuton displayed mathematical calculations regarding additional runoff if the application is approved and, following discussion, Chairman Doran, with input by Messrs. Burdette and Bomstein, indicated that the hearing is not a debate forum; that engineering issues are not under the purview of the Board; and that the application will go through several levels of review, including the Board of Adjustment, Engineering Department, Southwest Florida Water Management District, and the Department of Environmental Protection; whereupon, Mr. Peters presented letters of objection from eight residents of the Grey Oaks Homeowners Association, which have been filed and made a part of the record.

In response to the Chairman's call for objectors to the application, Arthur Pollard, Port Richey, appeared and being duly sworn, expressed his concerns and responded to queries and comments by the members; whereupon, he discussed his main objections regarding the application, noting that the applicant has provided little evidence to support the variance; that the plans do not really provide for a green solution; and that a special privilege will be conferred to the developer with regard to the setbacks.

In rebuttal, Mr. Kimpton restated the benefits of a community comprised of 14 upscale single-family homes versus one comprised of 20 duplex units, and discussed topics relating to more green space and less density. Mr. Kimpton related that the applicant is not seeking a special privilege; that he is seeking the minimum setbacks needed to make the project work; and that he will comply with state law; whereupon, he

indicated that the applicant has yet to determine the floor area; and reiterated that a clogged 24-inch stormwater pipe is likely causing the drainage issues.

John Landon, Spring Engineering, Palm Harbor, appeared and being duly sworn, indicated that he represents the developer in his capacity as an engineer. During discussion and in response to queries by the members, Mr. Landon provided further information regarding the project, and related that a similar request was submitted to and approved by Pinellas County and SWFWMD in 2007, but because the project was never built, it is currently being resubmitted to both entities; whereupon, he discussed issues pertaining to the stormwater pipe, drainage rights, local roadways, and maintenance responsibilities; and related that state law dictates that the developer will not be permitted to increase peak discharge on the parcel regardless of what is constructed.

In response to queries by Chairman Doran, Mr. Kimpton clarified that the variance request needs to be approved prior to the application being submitted to SWFWMD; and Mr. Cueva defined the term “setback,” relating that it is the distance the proposed structure is required to be from the property line and would include a structure such as a pool cage.

Following public comment and in response to queries by Chairman Doran, Mr. Cueva presented the following reasons staff is recommending approval of the application, indicating that:

- The site is somewhat unique in that it is accessed via a private road. There would be little impact to those purchasing homes in the community with regard to setbacks. There would be no impact to those in the neighboring subdivision due to separation distance and vegetation.
- Although not required, a subdivision wall will likely be built and buffer the homes from East Lake Road.
- Although not a Code consideration, there would be a reduction in density and a corresponding reduction in traffic with the 14-lot subdivision.

Following brief discussion and upon call for the vote, Mr. Burdette moved, seconded by Mr. Watts, that the variance be granted as recommended by staff.

March 6, 2014

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

MINUTES OF JANUARY 2 AND FEBRUARY 6, 2014 MEETINGS – APPROVED

Upon motion by Mr. Bomstein, seconded by Mr. Watts and carried, the minutes of the meetings of June 2 and February 6, 2014 were approved.

MISCELLANEOUS DISCUSSION

Mr. Cueva reported that Albert Navaroli, Planning Department, had retired the previous week, and introduced Site Plan Manager Blake Lyon as his replacement.

ADJOURNMENT

At the direction of Chairman Doran, there being no further business, the meeting was adjourned at 10:57 A.M.

Chairman