

Clearwater, Florida, April 2, 2015

The Board of Adjustment 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: Stephen G. Watts, Chairman; Ray Hoeneisen, Vice-Chairman; Alan C. Bomstein; Joe C. Burdette; John Doran; Deborah G. White; and Michael C. Foley (alternate).

Not present: Gregory Pierce.

Also Present: Chelsea Hardy, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; Glenn Bailey, Planning Department Zoning Manager; other interested individuals; and Laura M. Todd and Christopher Bartlett, Board Reporters.

CALL TO ORDER

Chairman Watts 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. All persons planning to give testimony were duly sworn by the Deputy Clerk.

1 APPLICATION OF HEATH AND CHRISTINA NAYLOR FOR A VARIANCE (BA-5-4-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Heath and Christina Naylor for a variance to allow a pool with a setback of eight feet where a 15-foot setback from a public right-of-way is required, re property located at 594 Bay Street, Ozona (BA-5-4-15).

Mr. Bailey indicated that a petition with seven signatures in support of 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. The property is an angled lot with unequal side dimensions along a cul-de-

sac. The public right-of-way to the rear (Marie Street) from which the reduced setback is being requested is unimproved. The request will not adversely impact the property owner to the rear due to the intervening unimproved public right-of-way, vegetation buffers, and the six-foot fence along the rear property line of the subject property. Approval of this 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/spa shall maintain an eight-foot setback from the public right-of-way (Marie Street).

Responding to the Chairman's call for the applicants, Heath and Christina Naylor, Palm Harbor, appeared and indicated they are seeking the aforesaid variance.

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

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

Upon call for the vote, the motion carried unanimously.

2 APPLICATION OF GARY AND TARA SLOWIK THROUGH JEAN FLUET, REPRESENTATIVE, FOR A VARIANCE (BA-7-4-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Gary and Tara Slowik through Jean Fluet for a variance to allow a setback reduction for a pool having a 13-foot setback and a raised spa having a 12.5-foot setback where a 15-foot setback from a public right-of-way is required, re property located at 579 Bay Street, Ozona (BA-7-4-15).

Mr. Bailey 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. The property is an angled lot with unequal side dimensions along a cul-de-sac. The request will not adversely impact the property owner to the rear due to the intervening public right-of-way. Approval of this 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 and spa shall maintain 13-foot and 12.5-foot setbacks, respectively, from the public right-of-way (Lemon Street).
3. The pool and spa shall not encroach into the adjacent drainage easement.

Jean Fluet, New Port Richey, indicated that he represents the applicants and is their building contractor.

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

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

Upon call for the vote, the motion carried unanimously.

3 APPLICATION OF SHAWN T. YEBBA FOR A VARIANCE (BA-6-4-15) –
CONTINUED AS PER APPLICANT'S REQUEST

Mr. Bailey referred to the application of Shawn T. Yebba for a variance to allow a 21-foot by 41-foot storage building accessory to an existing pet cemetery on a lot having zero feet of frontage on a public right-of-way where 80 feet of frontage is required, re property located at 17103 U.S. Highway 19 North, Clearwater (BA-6-4-15),

and related that the applicant is amending his request and has requested a continuance to next month.

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

Mr. Doran moved, seconded by Ms. White, that the item be continued to the next meeting per the applicant's request.

Upon call for the vote, the motion carried unanimously.

4 APPLICATION OF OLYMPUS REAL ESTATE INVESTMENT TRUST, INC. THROUGH ZORKA SCHULEVA, REPRESENTATIVE, FOR A VARIANCE (BA-2-4-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Olympus Real Estate Investment Trust, Inc. through Zorka Schuleva for a variance to allow a single family home to be built on a 50-foot-wide lot having a 10-foot front setback from the property line along 50th Avenue North where a 60-foot-wide lot and a 20-foot setback are required, re property located on the northeast corner of 50th Avenue North and North Ridge Street, St. Petersburg (BA-2-4-15).

Mr. Bailey 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. The applicant cannot acquire additional land to meet the frontage requirements. The reduced front setback is appropriate as the subject property is a corner lot and the request is in keeping with the development pattern existing in the area. A previously existing structure on the property was very close to the property line along 50th Avenue North. Approval of this request should be subject to the following conditions:

1. Applicant shall obtain all required permits and pay the appropriate impact and/or other fees.

2. The setback from the property line along 50th Avenue North shall be ten feet.
3. All other setback requirements shall be met.

Nikolay Vlasik, St. Petersburg, 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.

5 APPLICATION OF JAMES SAULT FOR A VARIANCE (BA-3-4-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of James Sault for a variance to allow an existing addition in line with the existing house having a 3.7-foot to 5-foot side setback where a 7.5-foot side setback is required, a variance to allow an existing porch to remain with a 14.76-foot front setback where a 25-foot front setback is required, and to allow a 12-foot by 16-foot shed to remain having a 3.6-foot side setback and a 4.5-foot rear setback where 7.5-foot and 10-foot setbacks are required, respectively, re property located at 4057 43rd Avenue North, St. Petersburg (BA-3-4-15).

Mr. Bailey 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. The Board heard this case previously (BA-1-10-09) and granted conditional approval; however, the applicant never obtained the proper permits. Approval of this request should be subject to the same conditions previously granted by the Board, as follows:

1. Applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The 12-foot by 16-foot shed shall retain its 3.6-foot side and 4.5-foot rear setbacks; however, in the event the shed is destroyed beyond 50 percent of its market value, any new shed shall meet the required setbacks.
3. The front porch shall have a 14.76-foot front setback.

Responding to the Chairman's call for the applicant, James Sault, St. Petersburg, appeared and indicated he is seeking the aforesaid variance.

Responding to queries by Mr. Bomstein, Mr. Sault indicated that he owned the property in 2009 when the original variance was granted; and that he did not have a chance to move forward at that time.

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

Responding to query by Mr. Burdette, Mr. Sault confirmed his understanding of the 50 percent rule.

Upon call for the vote, the motion carried unanimously.

6 APPLICATION OF JUANA M. AYERS, TRUSTEE OF BAREFOOT TRUST, AND EVA CORINNA COLETTI (GILPEN) THROUGH RANDOLPH J. AYERS, REPRESENTATIVE, FOR A VARIANCE (BA-1-4-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Juana M. Ayers and Eva Corinna Coletti (Gilpen) through Randolph J. Ayers for a variance to allow the construction of two single family homes with one lot having 30.83 feet of road frontage and the other lot having zero feet where 80 feet of road frontage is required and a five-foot front setback from the private ingress/egress easement where a 25-foot front setback is required, re property located on the west side of 141st Street North, 390 feet south of 76th Avenue North, Seminole (BA-1-4-15).

Mr. Bailey 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. Due to the subject property's unique location at the end corner of 141st Street North, the applicant cannot acquire enough additional land to meet frontage requirements. Also, a reduced front setback is necessary in order to maintain proper distance from the wetlands and mean high water line on the west side of the property. Approval of this request should be subject to the following conditions:

1. Applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. Recording of ingress/egress easement to the subject property.
3. Front setback shall be five feet from the ingress/egress easement.
4. Any additional setbacks deemed necessary by the Development Review Services Department to ensure adequate separation from the adjacent mangroves/wetlands shall be met.
5. Prior to issuance of a building permit, the applicant is to provide zoning staff with a written statement acknowledging that emergency vehicles and/or other public service providers may be able to adequately service the subject property because of its limited access.
6. Site plan review to ensure proper drainage.

7. Any conditions submitted by the City of Seminole Fire Marshal.

Responding to the Chairman's call for the applicant, Stefan Hoppe, Seminole, appeared and indicated that he is the applicant's neighbor; and that the applicant is not present but is on his way; whereupon, Chairman Watts stated that the item would be addressed upon arrival of the applicant.

Later in the meeting, Randolph Ayers, Redington Shores, appeared and 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 Ms. White, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

7 APPLICATION OF PALM HARBOR COMMONS, LLC THROUGH CYNTHIA TARAPANI, REPRESENTATIVE, FOR TWO VARIANCES (BA-9-4-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Palm Harbor Commons, LLC through Cynthia Tarapani for two variances to allow for an existing shopping center as follows: a variance for Parcel 1 to reduce the side/south setback from 25 feet to the existing 18.88 feet; a variance for Parcel 2 to reduce the side/south setback from 25 feet to the existing 13.1 feet, re properties located at 33550, 33510, 33470, 33420 and 33300 U.S. Highway 19 North, Palm Harbor (BA-9-4-15).

Mr. Bailey 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. The subject property is part of a commercial development master plan approved and built in the late 1990s. The applicant's stated goal is to reconfigure the existing four parcels into three lots and bring them and their improvements into

conformance with the CP-1 zoning district. Part of that endeavor will require side setback variances for existing master plan-approved structures on the south side of two of the parcels. The reduced setback along Parcel 1 is adjacent to wetlands and a conservation easement which will not allow future development. The reduced setback along Parcel 2 is adjacent to a parking area. No adverse impacts are anticipated. Approval of this request should be subject to the following conditions:

1. Applicant is to obtain all required permits and pay the appropriate impact and/or other fees.
2. Parcel 1 shall have a side/south setback of 18.88 feet.
8. Parcel 2 shall have a side/south setback of 13.1 feet.

Cynthia Tarapani, New Port Richey, appeared and indicated that she represents the applicant; that the parcels abut each other as part of the Palm Harbor Commons shopping center; and that the variance recognizes the current setback of the existing buildings.

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 ALPS PROPERTY ACQUISITION & MGMT, LLC THROUGH DIANE PLUMATOS, REPRESENTATIVE, FOR A VARIANCE (BA-8-4-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Alps Property Acquisition & Mgmt, LLC through Diane Plumatos for a variance to allow a fence in excess of six feet in height (six to eight feet) with barbed wire having a zero-foot front setback where a 25-

foot front setback is required, re the vacant lot adjacent to 2895 42nd Avenue North, St. Petersburg (BA-8-4-15).

Mr. Bailey 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. In 2003, the Board granted conditional approval for a fence variance on the parcel to the east. The resulting fence, however, extended beyond the confines of that property, being also erected along the south property line of the current subject property. Approval of this request should be subject to the following conditions:

1. Applicant is to obtain all required permits and pay the appropriate impact and/or other fees.
2. The fence shall not exceed eight feet in height with barbed wire measured from the natural grade.
3. Sight distance requirements shall be met.
4. No part of the fence, including barbed wire, shall encroach over the public right-of-way.
9. Place hedge material to grow six feet high within two years in front of fence along 42nd Avenue, subject to obtaining a right-of-way utilization permit from the County Public Works Department.

Diane Plumatos, Pinellas Park, appeared and indicated that she represents the applicant.

Responding to queries by the members, Ms. Plumatos confirmed that the request is for a barbed wire fence; and stated that the property is used for manufacturing medical devices.

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.

9 APPLICATION OF VINCENT A. AND PEGGY C. HILL FOR A VARIANCE (BA-4-4-15) – DENIED

Public hearing was held on the application of Vincent A. and Peggy C. Hill for a variance to allow a 12-foot high fence having a zero-foot rear setback where a ten-foot rear setback is required, re property located at 750 La Plaza Avenue South, St. Petersburg (BA-4-4-15).

Mr. Bailey indicated that no correspondence relative to the application has been received and presented the following staff recommendation:

Recommend Denial. Staff cannot support this request as it does not meet the criteria for the granting of variances established in Section 138-113 of the Pinellas County Land Development Code, specifically with 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.
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.

Vincent Hill, St. Petersburg, presented photographs and described the view from his home before and after construction began on a 30-foot-high condominium adjacent to his property and indicated that aesthetics, privacy, and safety were considerations in making this request.

Responding to queries by the members, Mr. Hill explained that he did not feel a greenery alternative would be a satisfactory solution; that the house is the only one in the area having condominiums on two sides; and that there is an existing six-foot-high fence on the property.

Discussion ensued wherein Mr. Bomstein stated that trees or tall shrubs could afford the applicants some privacy; that a 12-foot-high fence would be precedent setting; that fences of that height are not allowed even in a commercial zoning district; and that a view is not guaranteed under the law; whereupon, responding to query by Chairman Watts, he indicated that the loss of privacy does not constitute a hardship, noting that the zoning on the adjacent property was existing when the applicants purchased their home.

In response to the Chairman's call for objectors, Shawn Damkoehler, Gulfport, indicated that he is the managing member of CCI Property Development, which owns the adjacent property; that the Company opposes the requested variance; that a short length of 12-foot-high fence would be inconsistent with the existing six-foot-high fence along the perimeter of the property and could be dangerous; that plans are to plant two 12-foot-high trees; and that he is willing to talk with Mr. Hill about other options to protect his privacy.

In rebuttal, Mr. Hill reiterated his concerns regarding privacy, noting that the project in question is a multi-unit condominium; whereupon, he noted that he had

plans for a fence that would withstand winds of 130 miles per hour; and that the fence would be a benefit to residents on both sides.

Discussion continued, and Mr. Bailey noted that multi-family buildings alongside single family homes are common in residential zoning districts; whereupon, noting that he appreciates Mr. Hill's dilemma, Mr. Doran referred to the criteria for granting a variance and indicated that they had not been met, and Mr. Foley concurred.

Thereupon, Mr. Foley moved, seconded by Mr. Bomstein, that the variance be denied as recommended by staff.

Upon call for the vote, the motion carried unanimously.

#10 APPLICATION OF FRANCIS A. MILETTE FOR A VARIANCE (BA-1-11-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Francis A. Milette for a variance to allow a sunroom having a three-foot side setback to the property line and an eight-foot setback between structures where five-foot and ten-foot setbacks, respectively, are allowed in the Holiday Shores Mobile Home Park, re property located at 10436 Holiday Shores Drive, Largo (BA-1-11-14).

Mr. Bailey indicated that no correspondence relative to the application has been received and presented the following staff recommendation:

Recommend Approval. This request is based on an error during the permitting process where the construction plans were misread and the permit was issued through no fault of the owner. Based on the Building Director's comment, staff is of the opinion the variance may be approved having a three-foot side setback to the property line and an eight-foot setback between structures.

Mr. Bailey indicated that John Cueva, Planning Department Zoning Manager, would present additional information.

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Mr. Cueva reviewed the error made by the zoning technician and indicated that the structure has already been constructed; whereupon he stated that this would not be a precedent-setting case as he is recommending approval of the variance because of the unique circumstances caused by staff error.

Glenn Wardell, Assistant Building Official, Pinellas County Building Department, reported that the Pinellas County Construction Licensing Board (PCCLB) ruled that the structure is governed by the Florida Building Code and not the Federal Mobile Home Code, and discussion ensued pertaining to the different codes and what is allowed by each and what constitutes a “mobile” home.

Responding to queries by the members, Attorney Hardy indicated that any related appeal would be for the interpretation of the code; that there is no deadline for filing the appeal; and that to her knowledge an appeal has not been filed.

During discussion, David Sadowsky, Senior Assistant County Attorney, advised that the PCCLB decision has been made; that the decision has not been appealed; that the Board does not have authority to revisit the issue; and that the Board should decide under the Pinellas County Code whether the variance should be granted.

Chairman Watts confirmed that the Fire Marshal is not in attendance, and in response to his concerns, Mr. Cueva and Attorney Sadowsky related that the Fire Marshal was not noticed about the hearing today, and there is no legal requirement to do so. Discussion ensued about the weight the Board should put on safety concerns raised by a fire department; whereupon, Mr. Bomstein indicated that he is hesitant to approve a variance that the Fire Marshal advises does not meet the Code.

Thereupon, Attorney Hardy provided clarification and summarized the issue, stating that three different Codes are in play: the Florida Administrative Code, the Florida Building Code, and the Pinellas County Code; that when the case initially came before the Board, the Board halted the public hearing and granted a continuance due to a letter received from the Fire Marshal citing safety issues; that the case was appealed to the PCCLB, which held that the Florida Administrative Code cited by the Fire Marshal only applied to the mobile home and not to the sunroom addition; and that the County’s Building officials then decided that the addition did not violate the Pinellas County Code; whereupon, she advised that the only issue before the Board today is whether the variance request is warranted based on the criteria.

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In response to queries by the members, Mr. Wardell confirmed that the project has been permitted; that the sunroom has been built; and that the sunroom was site-built and not factory-built, noting that if it were factory-built it would have to meet the fire setbacks.

During discussion regarding the hardship suffered by the applicant, Mr. Cueva confirmed that had the Permitting Department staff not made an error, the recommendation would have been to tear down the sunroom; whereupon, Mr. Bomstein offered an alternative solution where the County could remove the hardship from the applicant by paying the cost of removal.

Responding to the Chairman's call for the applicant, Francis Milette, Largo, appeared and indicated that he is asking for the aforesaid variance; and that he followed all the rules and acquired the permits.

Responding to the Chairman's call for objectors to the application, Patricia Knight, Largo, appeared and indicated that her property is adjacent to Mr. Milette's; and that the mobile home park does not currently have lot lines, and the area between homes is common ground; whereupon, in response to query by Mr. Bomstein, Mr. Wardell stated that there are lot lines based on Geographic Information System maps from the Property Appraiser's office.

Ms. Knight presented a photograph of the two properties, and the members discussed the distance between structures, the overhang of the sunroom, and the air conditioning unit belonging to Ms. Knight; whereupon, she indicated that the "under the same roof" terminology was used in the work request and the building permit; and that three of five homeowners adjacent to the property have provided letters asking for a denial.

Robert Fuller, Largo, appeared and asked that the Board respect the National Fire Protection Association's research regarding the 10-foot rule.

Tom Speranza, Largo, stated that existing rules should be followed, and that approving the request would set a precedent.

In response to the Chairman's request for people wishing to speak in support of the application, Karen Rose, Largo, indicated that approval would not set a precedent, as it was a County error.

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In response to query by Mr. Bomstein, Mr. Cueva confirmed that a three-foot encroachment into a setback is allowed if it is not a structure that reaches the ground.

In response to queries by the members, Mr. Milette stated that without the three-foot encroachment the room would be too narrow; that he uses the air-conditioned sunroom extensively; that the slab, car port extension, and roof were built in 2004; and that the sunroom was built up from the existing slab; whereupon, Mr. Hoeneisen suggested that loss of the use of the sunroom would constitute a hardship to Mr. Milette.

Thereupon, Mr. Foley moved, seconded by Mr. Hoeneisen, that the variance be granted as recommended by staff, and discussion ensued.

Upon call for the vote, the motion carried 5 – 2 with Mr. Bomstein and Mr. Burdette dissenting.

MINUTES OF JANUARY 5, 2015; FEBRUARY 4, 2015; AND MARCH 5, 2015 MEETINGS
– APPROVED

Upon motion by Mr. Bomstein, seconded by Mr. Doran and carried unanimously, the minutes of the meetings of January 5, 2015; February 4, 2015; and March 5, 2015 were approved.

ADJOURNMENT

At the direction of Chairman Watts, there being no further business, the meeting was adjourned at 10:23 A.M.

Chairman