

Clearwater, Florida, May 6, 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 at 9:00 A.M. on this date with the following members present: Stephen G. Watts, Chairman; Ray Hoeneisen, Vice-Chairman; Alan C. Bomstein; Joe C. Burdette; John Doran; Gregory Pierce; and Deborah White.

Also present: Glenn Bailey, Planning Department Zoning Manager; John F. Cueva, Planning Department Zoning Manager; Chelsea Hardy, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Jenny Masinovsky, Board Reporter, Deputy Clerk.

### CALL TO ORDER

Chairman Watts called the meeting to order at 9:00 A.M. He congratulated Mr. Cueva on his upcoming retirement and expressed appreciation for his 35 years of service with the County.

Thereupon, Mr. Cueva announced that Mr. Hoeneisen is leaving the Board and presented him with a Certificate of Appreciation from the Board of County Commissioners.

### 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 SCOTT AND SANDRA SHIELDS THROUGH TODD PRESSMAN, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-1-5-15) – DENIED WITHOUT PREJUDICE

Public hearing was held on the application of Scott and Sandra Shields through Todd Pressman for a special exception to allow overflow parking from an adjacent use, re property containing 1.08 acres located on the east side of Keene Road, 280 feet south of the intersection with Sunset Point Road, Clearwater (BA-1-5-15).

Mr. Bailey indicated that one letter in the opposition to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the proposed special exception, as the request meets the “Standards” set forth in Section 138-240 of the Land Development Code. Approval of the request should be subject to the following conditions:

1. Full site plan review.
2. A six-foot-high opaque fence along the south and east property lines.
3. Any lighting shall be directed away from the adjacent residential uses.
4. Parking shall be for “overflow” purposes only.

Todd Pressman, Palm Harbor, appeared and indicated that he represents the applicants; and that the applicant company requesting the special exception, Statistics Solution, is in a targeted industry, bringing high-paying jobs to the County. Referring to an aerial photograph, he indicated that the applicant is planning to utilize the vacant building located on the site; that although the number of existing parking spaces meets the requirement, a special exception for overflow parking is being requested to accommodate the anticipated expansion of operations; that, as indicated by staff, the criteria for a special exception, as well as requirements for setbacks and buffering, have been met; and that the request is for a quiet, professional office use that would not generate excessive traffic.

In response to the Chairman’s call for objectors to the application, Willard Bartles, Paul Brown, Anne Brown, and Gerald Bates, Clearwater, appeared, and indicating that they are residential neighbors of the subject property, pointed to the location of their houses on the map and expressed their concerns pertaining to increasing traffic, disruption to the rural residential neighborhood, decreasing property values, lighting, and other related issues.

In response to comments by the objectors, Mr. Bomstein clarified that lights of an adjacent property are required to be shaded to prevent spillage into neighboring properties; and Mr. Watts noted that an office use would be less invasive to a residential neighborhood than, for example, a store. Responding to query by Mr.

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Bomstein, Mr. Bates indicated that the bank previously occupying the building was not busy and did not create much traffic.

Lauren Matzke, City of Clearwater Planning and Development, appeared and indicated that the parcel considered for overflow parking, while located in the County, is within the City's service and planning area; and that the office building is located within the City; whereupon, responding to query by Mr. Pierce, she identified the approximate locations of the aforementioned parcels on a map, and discussion ensued.

Referring to a previously submitted letter and in response to queries by the members, Ms. Matzke indicated that that the City does not support the special exception for overflow parking because it is incompatible with the current residential land use and zoning designations of the parcel at hand, as well as surrounding properties; that the office building already has more than the required number of parking spaces; and that the request for additional parking is premature; whereupon, she pointed out that the City prefers to have a unified site plan; that approving the special exception would limit the City's ability to annex the parcel; and that in prior analogous cases, upon annexation, the City was able to change zoning and land use classifications through public hearing processes, accommodating requests for additional parking.

During rebuttal and responding to queries by the members, Mr. Pressman clarified the location of the parcel using a Google map and reiterated that additional parking is requested to accommodate possible future expansion of the business; that the applicant owns the grassy area north of the tree line, which could be used to provide extra parking, but there have been no plans made yet for that area; that the office would operate primarily during regular business hours; and that the Transportation Department has not commented about the overflow parking creating unsafe conditions in the area; whereupon, he noted that the City of Clearwater has a record of approving similar requests; and that he is puzzled as to their objection.

Responding to queries by Mr. Pierce, Mr. Bailey indicated that taking into consideration the City of Clearwater's position, the application still meets the criteria for a special exception; that the applicants would go through a full site plan review which would determine the maximum number of allowed vehicles; and that Code Enforcement would monitor the use of overflow parking; whereupon, responding to query by Mr. Pierce regarding the service road maintenance, Mr. Bomstein related that it is a shared responsibility of the neighboring properties, and discussion ensued.

During discussion, Mr. Bomstein opined that he did not see a compelling need for overflow parking; that it is not compatible with the neighborhood; and that the applicants already have room for at least 20 additional parking spaces, and Mr. Burdette provided input.

Responding to queries by Messrs. Burdette and Doran, Attorney Hardy confirmed that if the application is denied without prejudice, the applicants can reapply at any time and advised that it is up to the Board to determine whether or not the application meets the criteria for a special exception.

Thereupon, Mr. Pierce moved, seconded by Mr. Bomstein, that the application be denied without prejudice.

Upon call for the vote, the motion carried unanimously.

# 2 APPLICATION OF DEIDRE JONES FOR A VARIANCE (BA-2-5-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Deidre Jones for a variance to allow for an accessory dwelling unit not to exceed 864 square feet where a maximum 500-square-foot accessory dwelling unit is permitted, re property located at 11395 Dauphin Avenue, Largo (BA-2-5-15).

Mr. Bailey indicated that 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 this request as the site is capable of allowing two single family residences (subject to Board of Adjustment approval) and also due to the fact that this appears to be a minimum variance, taking the size of the parcel into consideration (0.34 acre). As the required setbacks will be met, no adverse impact should occur to adjacent properties. Approval of the request should be subject to the following conditions:

1. The unit shall not exceed 864 square feet of living area.
2. The primary unit shall be occupied by owner.

3. No separate electric meter shall be allowed.
4. All setbacks shall be met.

Deidre Jones, Largo, appeared and indicated that she is the applicant, and in response to queries by the members, related that she wishes to remodel the existing accessory structure and bring it up to code; that it will be used for a caretaker; and that electricity and water will not be separately metered; whereupon, responding to query by Mr. Burdette, Mr. Myers indicated that no complaints have been received by Code Enforcement in regards to the structure.

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.

# 3 APPLICATION OF J & K SEAFOOD SHACK FOR A VARIANCE (BA-3-5-15) – GRANTED WITH ADDED CONDITION

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Public hearing was held on the application of J & K Seafood Shack for a variance to allow the dispensing of alcoholic beverages within 45 feet of a residential zoning district boundary line where a 150-foot distance is required, re property located at 11055 Seminole Boulevard, Seminole (BA-3-5-15).

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 approval of this request, as the dispensing of alcoholic beverages is being done in conjunction with a food preparation business. As the use does not have a restaurant license, they are not exempt from the distance requirement of 150 feet, and as such, the variance is required. It is staff's understanding that an alcoholic beverage will be dispensed while the customer is waiting for the food order to be completed. Staff recommends the following conditions:

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1. The dispensing of alcoholic beverages shall be for beer and wine only, under a 2COP License.
2. A patron may purchase an alcoholic beverage only if also purchasing food.
3. Approval shall be for this specific business only and shall not be transferred unless the subsequent owner uses the license in the exact same manner.
4. A six-foot opaque fence along the east property line shall be kept in place at all times.

Erik Trappman, Largo, appeared and indicated that he wishes to enhance his take-out restaurant business by accommodating customers' requests for alcohol.

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

In response to queries by Mr. Bomstein, Mr. Trappman related that there are approximately eight seats on the premises for customers waiting for their orders; that while it is not an eat-in restaurant, customers snack on appetizers there and have requested to be able to have beer while they are waiting; and that he will monitor the sale of alcohol with food only; whereupon, the members confirmed with Mr. Trappman that the requested license is for beer and wine; that consumption will take place on the premises; and that there will be no service past 9:00 P.M.

Mr. Burdette moved, seconded by Ms. White, that the variance be granted as recommended by staff, with an additional condition of no service past 9:00 P.M.

Upon call for the vote, the motion carried unanimously.

# 4 APPLICATION OF STEINKE TRUST, CAROL STEINKE, TRUSTEE, THROUGH DAVE LEVESQUE AND RHONDA LEVESQUE, REPRESENTATIVES, FOR A VARIANCE (BA-7-5-15) – GRANTED WITH REMOVED CONDITION

Public hearing was held on the application of Steinke Trust through Dave Levesque and Rhonda Levesque for a variance to allow the dispensing of alcoholic

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beverages within 150 feet of a residential district in order to change an alcohol license type from 2COP to 4COP, re property located at 9919 Seminole Boulevard, Seminole (BA-7-5-15).

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

Recommend Conditional Approval. This request is to allow the current business establishment the ability to upgrade its license from a 2COP to a 4COP license. As the site to the west of Seminole Boulevard is buffered by a 100-foot wide right-of-way and since this business has been dispensing alcoholic beverages with no apparent adverse impact to the adjacent properties, staff does not object to the new license, provided the following conditions are met:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. A six-foot-high opaque fence shall be placed around the parking lot in the rear of the property.

Dave Levesque and Rhonda Levesque, Seminole, appeared and indicated that they represent the applicant; that they operate an establishment that currently serves beer and wine; and that they wish to upgrade their alcohol license to include the serving of liquor.

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

Responding to query by Mr. Watts, Ms. Levesque indicated that they have not received any complaints; whereupon, she requested clarification of the second condition recommended by staff. During discussion and responding to queries by the members, Mr. Cueva explained that fencing is recommended to prevent patrons of the business from walking onto the adjacent residential properties; and that it relates to the southern property line and is not intended to block the view of the lake. Referring to a map and noting that the business appears to be isolated, Mr. Bomstein suggested removing the second condition, and Mr. Cueva agreed.

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Thereupon, Mr. Doran moved, seconded by Mr. Bomstein, that the variance be granted with only the first condition recommended by staff.

Upon call for the vote, the motion carried unanimously.

# 5 APPLICATION OF RACHEL COLEMAN THROUGH RODNEY L. COLLMAN, REPRESENTATIVE, FOR A VARIANCE (BA-9-5-15) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Rachel Coleman through Rodney Collman for a variance to allow a ten-foot setback from the east (rear) property line for a building addition where a 15-foot setback is required, re property located at 1255 Belcher Road, Dunedin (BA-9-5-15).

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 enclosure of the former drive-through as the proposed addition will pose no detrimental impact to the adjacent mobile home park to the east as the site has an adequate six-foot-high buffer. The existing setback for the drive-through canopy will not be decreased as proposed. Approval should be subject to the following condition:

1. Full site plan review.

Rodney Collman, Dunedin, appeared and indicated that he is representing the applicant.

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

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

Upon call for the vote, the motion carried unanimously.

# 6 APPLICATION OF JIM AND JODY KENRICK FOR A VARIANCE (BA-4-5-15) – DENIED FOR 4.5-FOOT SIDE SETBACK AND GRANTED FOR 12-FOOT FRONT SETBACK, AS PER STAFF RECOMMENDATION, WITH ADDED CONDITION

Public hearing was held on the application of Jim and Jody Kenrick for a variance to allow a 4.5-foot side setback for a detached garage where a 7.5-foot setback is required, re property located at 10500 Snug Harbor Road Northeast, St. Petersburg (BA-4-5-15).

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

Recommend Conditional Approval. Staff recommends denial of the request for a 4.5-foot side setback from the north property line as there are no similar encroachments into this area on the applicants' lot or the neighboring property to the north. However, it appears that the existing single family residence has a four-foot front setback from the property line adjacent to Mortola Drive, and a reduction of three feet into this area would be consistent with other structures along this roadway to the west. Therefore, staff recommends approval of a 12-foot front setback from the property line along Mortola Drive. Approval 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 12 feet from the property line along Mortola Drive.

Jody Kenrick, St. Petersburg, appeared and indicated that she is seeking the aforesaid variance to rebuild and expand an existing garage; and that positioning the garage either toward the back or the front of the property is acceptable to her.

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

Responding to queries by Mr. Bomstein with regard to the use of the sizeable garage space which would contain a bathroom and a utility sink, Ms. Kenrick

related that the garage would house a recreational vehicle, a boat, and a collector car; that it would also be used by her father as a shop to work on the car; and that it is not intended for any commercial use. Referring to photographs of the surrounding properties, she further indicated that the garage would be compatible with the neighborhood and well-built; and that residents of the house located on the property are the applicants' tenants and are aware of the variance request.

Requesting that Code Enforcement monitor the property, Mr. Bomstein moved, seconded by Mr. Doran, that the variance to allow a 4.5-foot side setback be denied and a 12-foot front setback be approved, as recommended by staff, with the added condition that use be limited to the owners and their immediate family only, with no commercial use allowed.

Upon call for the vote, the motion carried unanimously.

# 7 APPLICATION OF AUTO MALL, LLC THROUGH SAMUEL PRICE, REPRESENTATIVE, FOR AN AMENDMENT TO A PREVIOUSLY APPROVED VARIANCE (BA-4-1-14) – GRANTED WITH AMENDED CONDITIONS (BA-8-5-15)

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Public hearing was held on the application of Auto Mall, LLC through Samuel Price for an amendment to a previously approved variance as follows: (1) to allow for the dispensing of alcoholic beverages within 100 feet of a residential zoning district where a 150-foot distance is required (existing variance, BA-4-1-14, allows 126 feet); (2) to extend the hours of operation from 3:00 P.M. to 10:00 P.M. Monday through Thursday and 12:00 P.M. to 11:00 P.M. Friday through Sunday to 11:00 A.M. to 1:00 A.M. seven days a week; and (3) to allow amplified music with the overhead doors open where no amplified music nor open overhead doors during live entertainment activities are currently allowed, re commercial property located at 625 U.S. Alternate Highway 19, Palm Harbor (BA-8-5-15).

Mr. Bailey indicated that 12 letters in support and four letters in opposition to the application have been received, and presented the following staff recommendation:

Recommendation: Conditional Approval of dispensing alcoholic beverages within 100 feet of residential zone for outdoor use and extension of hours as requested; and

Denial of amplified music with open overhead doors.

Staff has no objection to the dispensing of alcoholic beverages within 100 feet of a residential zone for patrons to consume beer in an outdoor setting, as well as an extension of the hours, as the site is separated from the nearest residential use by the 60-foot-wide Pinellas Trail. This site was approved by the Board of Adjustment in January of 2014, and as business has improved, the desire for outdoor consumption has presented itself, hence this request. With regard to the amplified music, staff is of the opinion that the specter of noise complaints will be prevalent and may pose itself as a future nuisance, and as such, recommends denial of the amplified music request.

Samuel Price, Dunedin, appeared and indicated that he represents the applicant; and responding to query by Mr. Watts, clarified that “Auto Mall, LLC” is the owner of the property in Palm Harbor where his business is located.

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

Reminding the Board of neighbors’ concerns expressed at the previous hearing of the case on January 2, 2014, Mr. Bomstein inquired if any complaints have been received since; whereupon, Mr. Myers indicated that there have been no complaints, and Mr. Price noted that the bar has become a meeting place for the neighbors.

Responding to queries by the members regarding the current request to allow amplified music, Mr. Price related that his patrons have expressed a desire to play music on the premises; that without amplification the music cannot be heard; and that while there is outside seating available, music would be played strictly inside. Discussion ensued regarding the overhead doors, with Mr. Price pointing out that closing the doors would create an inconvenience for the patrons; and that there is a significant distance between the bar and the neighboring properties.

In response to queries by Mr. Pierce, Mr. Price explained that the facility consists of a brewery and a tasting room; and that for the ease of discussion, he had been referring to the “tasting room” as the “bar”; whereupon, Mr. Pierce expressed concern with regard to amplified music, especially when played with the doors open.

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Following discussion about the noise ordinance requirements, with input provided by Mr. Myers, Mr. Price conveyed to the Board his intention of fully complying with the ordinance and abating the noise if it were to become an issue, and discussion continued.

Mr. Burdette moved, seconded by Ms. White, that the variance be granted exclusively to Mr. Price, with additional conditions that amplified music be allowed until 11:00 P.M., with open doors, for a trial period of six months.

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

# 8 APPLICATION OF REBECCA SUE BIGARI FOR A SPECIAL EXCEPTION (BA-5-5-15) – GRANTED WITH ADDED CONDITION

Public hearing was held on the application of Rebecca Sue Bigari for a special exception to allow an existing single family dwelling to be used as a place of worship, re property located at 2319 Nursery Road, Clearwater (BA-5-5-15).

Mr. Bailey indicated that seven letters and a petition with 26 signatures 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 the request provided the Board is satisfied that the “Standards” of Section 138-238 of the Land Development Code have been met and subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. Appropriate site plan review shall be required.

Rebecca Sue Bigari, Clearwater, appeared and indicated that she belongs to a non-profit organization, “Divine Bliss International”; whereupon, she handed out leaflets and provided background information regarding the application.

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Responding to queries by the members, Ms. Bigari referred to photographs and described the property, indicating that her goal is to have a place for making a positive impact on people; that while it is not a church, it is recognized by the Internal Revenue Service as a tax-exempt educational organization; that the number of visitors is limited to the amount of available parking; and that a backyard fire that took place was not a ritual, and there will be no other fires without a proper permit, and discussion ensued.

Responding to queries by Messrs. Bomstein and Pierce regarding the application being considered under a special exception for houses of worship, Mr. Bailey indicated that the special exception category would include this organization, and Ms. Bigari related that the application was filed to ensure compliance with the County rules; whereupon, Yogesh Arora, Clearwater, appeared and indicated that he has been a member of Divine Bliss International for 25 years; and that one of the reasons for requesting the special exception is the ability to put up a sign with the organization's name to help visitors find it.

In response to the call for other supporters of the application, Poonam Uppal, Clearwater, appeared and indicated that she is the Guru for the organization and was called to America to help its people; and that the members of Divine Bliss International want to do everything by the law and do not intend to disrupt anyone.

In response to the Chairman's call for objectors to the application, Lauren Matzke, City of Clearwater, and Barbara Birenbaum and Chris Lisek, Clearwater, appeared, stated their concerns, and responded to queries and comments by the members.

Ms. Matzke indicated that the property is located in the City of Clearwater's service and planning area; that there is a recorded agreement in place to annex the property to the City in exchange for sewer service; and that because granting of the special exception would create a non-conforming use by the City Code once the property is annexed, the City recommends denying the request. Responding to queries by the members, Ms. Matzke clarified that the property is currently connected to the City's sewer service; and that while annexation has not been feasible, the agreement, being tied to the land, can be enforced in the future.

Ms. Birenbaum reminded the Board of her previously submitted letter and a petition signed by her neighbors in opposition to the application. Responding to query by Mr. Watts, she shared her concerns, including the change from a residential home to a

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house of worship; its current appearance; lack of sufficient parking; and houses in the neighborhood being listed for sale; whereupon, Mr. Bomstein indicated that her objections do not constitute a basis for denial.

Mr. Lisek expressed his concerns about a decrease in home values; potential parking issues; and commercial activities taking place in the home; whereupon, Mr. Watts clarified that there would be no change to the present zoning category; that Code Enforcement monitors issues of traffic and parking; and that in case of non-compliance, the special exception can be rescinded.

In rebuttal, Ms. Bigari and Mr. Arora indicated that information packets were inserted in the neighbors' mailboxes to familiarize them with their organization and welcome them over for tea; that the pink color of the building is the highest color of giving; and that the church across the street from the property has agreed to share parking space if needed, and discussion ensued.

During discussion and responding to queries by Mr. Watts, Mr. Myers indicated that Code Enforcement would monitor the property periodically and follow up on any complaints; whereupon, responding to queries by Mr. Doran, Mr. Bailey explained that in addition to the ability to put up a sign, a special exception would allow the organization to congregate, hold events without obtaining temporary permits, and practice uses ancillary to a place of worship, such as some of the business practices.

Following further discussion, Mr. Doran moved, seconded by Mr. Hoeneisen, that the special exception be approved with an added condition that there be no fires without a permit.

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

# 9 APPLICATION OF SHAWN T. YEBBA FOR A SPECIAL EXCEPTION AND TWO VARIANCES (BA-6-4-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Shawn T. Yebba for a special exception and a variance to allow a pet crematory in a C-2 zone within 65 feet of an abutting parcel where a 200-foot setback is required, and a variance to allow a 24-foot by 41-foot pet crematory/storage building accessory to an existing pet cemetery on a lot

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having zero-foot 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).

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 frontage portion of this request as it is apparent that the owner cannot acquire the necessary property to meet the requirement of 80 feet, as this is a landlocked parcel, which has access via an ingress/egress easement. With regard to the variance for a 65-foot setback where a 200-foot setback to abutting parcels is required, it should be noted that the abutting parcel to the east is a residentially-zoned retention pond, and the other residentially-zoned parcel is located to the southeast of the site with the closest residential building being approximately 284 feet from the proposed crematory building. Staff is of the opinion that the request meets the criteria of *minimum variance necessary* in that, due to drainage and gravesite locations, the proposed building site is the ideal location. It should be noted that this site previously had an animal crematory, which was removed by the previous owner. Additionally, as the code does not specifically address animal crematories, the 200-foot setback addressed here is actually used for human crematory siting criteria. With regard to the special exception, staff is of the opinion that the site meets the “Standards” set forth in Section 138-240 of the Land Development Code in that the request will not pose a traffic concern on minor residential streets. Approval should be subject to the following conditions:

1. Full site plan review.
2. A six-foot-high vinyl fence shall be placed along the east property line.
3. All applicable air quality requirements shall be met.

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Shawn T. Yebba, Brandon, appeared and indicated that he is the applicant; whereupon, he provided background information regarding the application.

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

Responding to queries by the members, Mr. Yebba related that although the property was originally a pet cemetery/crematory, it was sold to the adjacent Fletcher's Harley Davidson dealership, which was to maintain it; and that once the dealership went out of business, the owner could no longer maintain the cemetery and requested that the County take it on charitable basis, but no apparent interest was expressed by the County to do so. He indicated that he owns another pet cemetery and crematory; that he acquired the property from the dealership for back taxes to honor the commitment once made to pet owners' families; and that it is likely the original cemetery predated the requirement for a special exception.

Mr. Bomstein moved, seconded by Mr. Doran, that the special exception and variances be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

#10 APPLICATION OF CLARA ZAMBRANO AND MAURICIO BLUMBERG THROUGH MICHAEL JAY FABIANO, REPRESENTATIVE, FOR A VARIANCE (BA-6-5-15) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Clara Zambrano and Mauricio Blumberg through Michael Jay Fabiano for a variance to construct an eight-foot-high wall having a setback ranging from two feet to 13 feet from a public right-of-way, where a 25-foot setback is required, re property located at 2201 Tampa Road, Palm Harbor (BA-6-5-15).

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

Recommend Denial. Staff recommends denial of this request as the proposed eight-foot-high wall does not meet the following criteria for granting a variance found in Section 138-113 of the Land Development Code. The existing walls in the area along Tampa Road appear to be at

a height of six feet, which appears to be appropriate for this area.

- (1) *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
- (2) *No special privilege.* That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
- (3) *Unnecessary hardship.* That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter.

Michael J. Fabiano, Palm Harbor, appeared and indicated that he represents the applicants; that they wish to amend their request from an eight-foot-high wall to a six-foot-high wall; and that he has spoken with Mr. Cueva regarding placement of the wall with respect to the line of sight.

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

Responding to queries by Mr. Burdette, Mr. Bailey indicated that he would recommend approval of the request as amended by the applicant, subject to the following conditions:

1. The wall shall not exceed six feet in height.
2. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.

3. The sight distance requirements shall be met.

Mr. Burdette moved, seconded by Ms. White, that the variance be granted with the aforementioned conditions.

Upon call for the vote, the motion carried unanimously.

CLARIFICATION OF CONDITIONS RE APPLICATION OF AEC 2159, LLC IN CARE OF KAMRAN ROUHANI FOR A SPECIAL EXCEPTION (BA-2-1-13)

Public hearing was held on the application of AEC 2159, LLC in care of Kamran Rouhani on January 3, 2013 for a special exception to allow for the expansion of an assisted living facility (ancillary building for physical therapy and doctor's offices in conjunction with the assisted living facility), re property located on the west side of McMullen Booth Road, 826 feet north of Union Street, Clearwater (BA-2-1-13); whereupon, it was approved with the following conditions:

1. Full site plan review.
2. The proposed "Therapy and Doctor's office" use shall only be used in conjunction with the assisted living facility located at 2159 McMullen Booth Road.

Referring to the preliminary site plan, Mr. Cueva pointed out the location of the ancillary building and the ingress/egress points, and reminded the Board that the previously approved special exception allowed for a detached ancillary building to be used exclusively in conjunction with the existing Assisted Living Facility (ALF); and that during the ongoing site plan review, staff has encountered some questions requiring clarification; whereupon, Pinellas County Development Review Services Director Blake Lyon inquired about the intent and use of the detached ancillary building in light of it having an appearance of a standalone use in terms of operations, size, and separate access/egress points.

Kamran and Perry Rouhani, Clearwater, appeared and indicated that they are the owners of the property; that their intent of using the detached building as the rehabilitation center for the ALF patients has not changed; and that while the facilities are separate entities having separate licenses, as required by the State, their operations are connected.

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

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At this time, 11:20 A.M., Mr. Bomstein left the meeting.

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Responding to queries and comments by Messrs. Pierce and Lyon, the applicants indicated that the facilities are required by the State to be identified by separate signs; that there would be no patients other than those from the ALF facility treated in the rehabilitation center; that the rehabilitation center needs to have adequate room for staff, patients, and various treatment services; and that the dual access points are needed to accommodate emergency service vehicles; whereupon, Mr. Burdette indicated that the applicants' explanations are acceptable; and that the dual access issue can be addressed by staff, and Mr. Lyon agreed.

Thereupon, Attorney Hardy advised that no action needs to be taken, as the matter is before the Board for clarification purposes only.

MINUTES OF APRIL 2, 2015 MEETING – APPROVED

Upon motion by Mr. Burdette, seconded by Mr. Doran and carried unanimously, the minutes of the meeting of April 2, 2015 were approved.

ADJOURNMENT

At the direction of Chairman Watts, there being no further business, the meeting was adjourned at 11:24 A.M.

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Chairman