

Clearwater, Florida, June 3, 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; Alan C. Bomstein; Joe C. Burdette; John Doran; Deborah G. White; Greg Pierce; and Michael C. Foley (alternate).

Also Present: Chelsea Hardy, Assistant County Attorney; Gordon Beardslee, Planning Department Director; Glenn Bailey, Zoning Manager, Planning Department; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Christopher Bartlett, Board Reporter, Deputy Clerk.

CALL TO ORDER

Chairman Watts called the meeting to order at 9:01 A.M.

Following the Chairman's introductory remarks, Mr. Bailey noted that Item No. 17, Case No. BA-6-10-13, had been pulled from the agenda; whereupon, Attorney Hardy explained the case was not properly advertised and will be brought back to the Board after it has been re-advertised.

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 LYNNE AND ROGER SJOBERG THROUGH LAURALEE G. WESTINE, ESQUIRE, REPRESENTATIVE, FOR A VARIANCE (BA-15-6-15) – GRANTED WITH REVISED CONDITION**

Public hearing was held on the application of Lynne and Roger Sjoberg through Lauralee G. Westine for a variance to allow a 48-inch-high fence to remain at a zero-foot setback from the property line where a 50-foot setback is required, re property located at 752 Appaloosa Road, Tarpon Springs (BA-15-6-15).

Mr. Bailey 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 conditional approval of this request. The location of the fence is consistent with many other properties along Appaloosa Road. 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. Sight distance requirements shall be met.
3. The columns and gate must be moved outside of the 20-foot easement along the front property line.

Responding to the Chairman's call for the applicant, Lauralee Westine, Palm Harbor, indicated that she represents the applicants, who have no objection to the conditions. Referring to the third condition, she requested that the phrase *unless agreed to in writing by the County* be appended to the condition.

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, with a modification to Condition No. 3 to add the phrase *unless approved by the County*.

Upon call for the vote, the motion carried unanimously.

2 APPLICATION OF DIRK AND VEENA HORNAUER FOR A VARIANCE (BA-14-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Dirk and Veena Hornauer for a variance to allow a six-foot-high wrought-iron fence with columns having a five-foot front setback where a 50-foot front setback is required, re property located at 796 Appaloosa Road, Tarpon Springs (BA-14-6-15).

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. There is an existing wire fence currently within the front setback. The location of the fence would be consistent with many other properties along Appaloosa Road. 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. Sight distance requirements shall be met.
3. Columns shall not be placed within any easement.

Noting no response to the Chairman's call for the applicant, Mr. Bomstein suggested that the case be moved to the end of the meeting, and Chairman Watts concurred.

Later in the meeting, Dirk Hornauer, Tarpon Springs, appeared and 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 Mr. Doran, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

3 APPLICATION OF LORI AND RICHARD ICE FOR A VARIANCE (BA-3-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Lori and Richard Ice for a variance to allow for the construction of a single family home on a 50-foot-wide lot

where a 75-foot-wide lot is required, re a vacant lot adjacent to 129 Pennsylvania Avenue, Crystal Beach (BA-3-6-15).

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 original plat consisted of 50-foot-wide lots, and there are many such lots containing single family homes currently existing in the surrounding area. The applicant cannot acquire additional land to meet the 75-foot width requirement. No adverse impacts are anticipated. 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. Required setbacks shall be maintained.

Responding to the Chairman's call for the applicant, Lori Ice, Palm Harbor, appeared and indicated that she plans to sell the property to a buyer who intends to build a single family home.

Upon call for objectors to the application, Peter Fritsch, Palm Harbor, appeared and stated that he owns the adjacent property to the south; that there are oak trees on the subject property that overhang his property and provide shade; and that he would not want them removed; whereupon, he inquired regarding the permitted hours of construction.

Responding to Mr. Fritsch's concerns, Mr. Bomstein related that the applicant would have to comply with the County's tree ordinance as part of the review process before any trees could be removed; that County ordinances prohibit construction work that creates noise on Sundays; and that work on Saturdays can begin at 7:00 A.M.; whereupon, Ms. Ice stated that she would fight to keep the oak trees, as they would not hinder the building of any house; and that she would do her best to ensure minimal noise on the weekend.

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.

4 APPLICATION OF DAVID E. HEYVELD, II, THROUGH DENISE N. MURPHY, ESQUIRE, REPRESENTATIVE, FOR A VARIANCE (BA-13-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of David E. Heyveld, II, through Denise N. Murphy for a variance to allow a single family dwelling on a lot having 20 feet of frontage where 90 feet is required on a public road, re property located at 8437 130th Avenue North, Largo (BA-13-6-15).

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 enough land to meet public road frontage requirements. 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. Comply with any conditions submitted by the City of Largo Fire Marshal.

Denise N. Murphy, Safety Harbor, appeared and indicated that she represents the applicant. Referring to a survey, she reviewed the recent history of the subject property, noting that the applicant acquired the property in October 2010; that he and his family reside in the second-story dwelling above the garage; that extended family live in the main residence of the property; that splitting the parcel would retain at least 16,000 square-feet per lot, which meets the current zoning requirement for lot size; and that the only variance the applicant requires is the 20-foot frontage.

In response to the Chairman's call for objectors, Cheryl Bowman, Largo, representing her employer, Keith Bailey, appeared and stated that Mr. Bailey owns the Yankee Traveler RV Park directly behind the subject property; that the second level of the garage was originally approved for storage and not a residence; and that approving the application would set a negative precedent; whereupon, responding to query by Mr. Foley, Ms. Bowman clarified that Mr. Bailey had opposed the two-story building from the beginning; and that it has never been approved for a residence.

Chairman Watts noted that the current R-R zoning allows for residential use, and that the only issue before the Board is the variance for frontage; whereupon, Mr. Bomstein indicated that the lot size is large enough to accommodate two residences; that the lot frontage is too small to meet the zoning requirement for two lots; and that the Board would likely grant similar variances in other circumstances, which negates setting any precedent.

Responding to comments by the objector, Ms. Murphy clarified that the applicant purchased the property as is and was unaware of the violation; and that what the previous owners knew is irrelevant 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.

5 APPLICATION OF WILLIAM FORBES AND NANCY KELLER FOR VARIANCES (BA-8-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of William Forbes and Nancy Keller for variances to allow the creation of two independent lots, with Lot One having 4,891 square feet of lot area where 6,000 square feet is required, and Lots One and Two each having zero feet of frontage on a public road where 60 feet of frontage on a public road is required, re property located at 4020 69th Street North, St. Petersburg (BA-8-6-15).

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. Splitting the larger lot will eliminate the non-conforming situation of having two single family dwellings on one lot. The property is separated from the nearby public right-of-way by a small strip of land owned by a neighboring property owner; therefore, a frontage variance is needed. 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. Recording of ingress/egress easements to the subject properties.

William Forbes, St. Petersburg, appeared and 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 Mr. Foley, that the variance be granted as recommended by staff.

Responding to query by Mr. Pierce, Mr. Bailey related that the two dwellings on one property predated the current zoning regulations; and that approval of the application would eliminate the nonconforming use, and Mr. Forbes provided input.

Upon call for the vote, the motion carried unanimously.

6 APPLICATION OF DOROTHY STEPAN THROUGH GREG DEICHMAN, REPRESENTATIVE, FOR A VARIANCE (BA-9-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Dorothy Stepan through Greg Deichman for a variance to allow a screened porch having a 17-foot six-inch front

setback from the property line adjacent to Loch Road where a 25-foot front setback is required, re property located at 1441 Pheasant Creek Drive, Palm Harbor (BA-9-6-15).

Mr. Bailey 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 conditional approval of this request. Other units within the development have screened porches, including the one immediately to the east. 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 screened porch shall maintain at least a 17-foot six-inch setback from the property line adjacent to Loch Road.

Greg Deichman, Palm Harbor, appeared and indicated that he represents the applicant.

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

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

Upon call for the vote, the motion carried unanimously.

7 APPLICATION OF FITZGERALD MOTORS, INC. THROUGH RICHARD J. MARCEL, THE SUSTAINABILITY GROUP, REPRESENTATIVE, FOR A VARIANCE (BA-7-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Fitzgerald Motors, Inc. through Richard J. Marcel for a variance to allow an existing storage trailer to remain having a 1.52-foot rear setback where a 25-foot rear setback is required, re property located at 27365 U.S. Highway 19 North, Clearwater (BA-7-6-15).

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 storage trailer has remained in place for many years with no issues, and there are no other areas on site where it can be placed outside of the setbacks. Approval of this request should be subject to the following conditions:

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

Eric Coffey, Fitzgerald Motors, Largo, and Richard Marcel, The Sustainability Group, New Port Richey, appeared and indicated that they represent the applicant.

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

Mr. Bomstein noted the unsightly condition of the subject trailer, and Mr. Pierce concurred; whereupon, responding to query by the members, Mr. Coffey related that the trailer is anchored; that it is raised off the ground by blocks which also level the structure; that it is used for storage; and that it has been in its location for decades.

In response to query by Ms. White, Mr. Bailey related that a site plan for a separate project had identified the requirement for a variance in regards to the storage trailer.

Responding to query by Mr. Burdette, Mr. Coffey noted that the trailer is completely out of the public view.

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

Upon call for the vote, the motion carried unanimously.

8 APPLICATION OF LINDSAY P. AND SUSAN S. BALL THROUGH PEGGY BALL, REPRESENTATIVE, FOR A VARIANCE (BA-1-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Lindsay P. and Susan S. Ball through Peggy Ball for a variance to allow the following setbacks: Lot 1 – Front setbacks of 19.87 feet (from Mayo Street) and 14.81 feet (from Pennsylvania Avenue); Lot 2 – Front setback of 22.61 feet, side setback of 6.40 feet, and rear setback of 0.69 feet; and Lot 4 – Side setback of 5.63 feet, where 25-foot and 15-foot front setbacks, 7.5-foot side setbacks, and ten-foot rear setbacks are required, re property located on the southwest and northeast corners of South Mayo Street and Pennsylvania Avenue, Crystal Beach (BA-1-6-15).

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

Recommend Approval. Staff has no objection to the conditional approval of this request. The applicants are seeking to restore the lot lines of their property similar to those of the original plat and in keeping with the development pattern of the surrounding area. The lot realignment will change three lots into four, which will create various setback encroachments. Notably, realignment will reduce a non-conforming situation where two of the three lots contain multiple residential structures. Post realignment, only one lot will have multiple structures. No adverse impacts are anticipated.

Lindsay Ball, Crystal Beach, appeared and indicated that he wishes to divide the property for estate planning purposes; that the proposed lot lines are entirely within the current property boundaries and would maintain the historic character of the property; and that he would suffer hardship if he were forced to maintain the property as one lot.

Responding to queries by the members, Mr. Ball and his daughter, Peggy Ball, Tallahassee, indicated that three of the proposed four lots would have one house

each; and that one lot would contain two houses, as the second house does not have separate access to a main road.

Mr. Ball stated that the original plat plan included two lots; and that the County combined them around 1989; whereupon, in response to query by Mr. Burdette, Mr. Bailey related that the original lot lines would go through two of the existing structures; and that the proposal varies slightly from the original plat.

In response to the Chairman's call for objectors to the application, the following citizens appeared, pointed out the location of their properties on the map, and expressed their concerns:

Linda Henry, Crystal Beach
Barbara McNeill, Crystal Beach
Diane Fecteau, Crystal Beach
Barbara Witlin, Crystal Beach
Steven Soso, Crystal Beach
Greg Knight, Crystal Beach

In response to comments by the objectors, Mr. Burdette stated that 80 percent of Crystal Beach does not conform to the current setbacks in Pinellas County; that forcing Crystal Beach to conform would be difficult and jeopardize neighbors on both sides; and that the Board cannot make decisions based on a property owner's view; whereupon, Attorney Hardy related that there is no vested right or interest in property values or views absent any restrictive covenants or easements entered into by property owners and their neighbors, and discussion ensued.

In response to query by Mr. Burdette, Mr. Beardslee stated that the community is working with the County on an overlay for Crystal Beach; that the Board of County Commissioners could adopt the overlay for inclusion in their Comprehensive Plan; that the policies in the overlay have not yet been finalized; and that adopted policies could influence decisions on infrastructure improvements but would not filter down to the land development regulation level at this time.

Responding to concerns of the objectors, Mr. Ball stated that he has not heard of maintenance problems in regards to his property; that he has no plans for new construction on any of the lots; that the existing masonry structures enhance the historic area of the community; and that the structures provide affordable housing to single

people living on their own. He indicated that changing the lot lines would have no effect on any of the adjacent properties, and Mr. Bomstein concurred.

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

In response to queries by Mr. Burdette regarding sale of the property as a whole, Messrs. Bailey and Bomstein related that the setbacks along the perimeter would remain; and that only the invisible lines within the property are changing.

Upon call for the vote, the motion carried unanimously.

9 APPLICATION OF NATHAN A. DIX FOR A VARIANCE (BA-4-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Nathan A. Dix for a variance to allow a pool and screen enclosure with a reduced setback of 11 feet where 25 feet is required from a public right-of-way, re property located at 2974 Pine Forest Drive, Palm Harbor (BA-4-6-15).

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 to the west on the opposite side of Bentley Drive contains a multi-vehicle carport and uncovered surface parking directly across from the proposed pool area. No adverse impacts are anticipated. 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/screen enclosure shall maintain an 11-foot setback from the public right-of-way (Bentley Drive) and shall not encroach upon any easements.

Nathan A. Dix, Palm Harbor, appeared and 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 Mr. Doran, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

#10 APPLICATION OF STANLEY AND SHERYL WOJCIECHOWSKI FOR A VARIANCE (BA-10-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Stanley and Sheryl Wojciechowski for a variance to allow a pool enclosure having a front setback of nine feet from a private road and a 3.5-foot side setback where a 35-foot front setback from the edge of a private road and a five-foot side setback are required, re property located at 5020 Myrtle Lane North, Seminole (BA-10-6-15).

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 pool enclosure will cover an existing pool and is similar to those on adjacent properties to the north and south. The subject home predates the private road to the west. Approval of this request should be subject to the following condition:

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

Stanley and Sheryl Wojceichowski, St. Petersburg, appeared and indicated that 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. Foley, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

#11 APPLICATION OF MILOS AND ZORAN PUNIC THROUGH DRAGICA SRECKOV, REPRESENTATIVE, FOR A VARIANCE (BA-17-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Milos and Zoran Punic through Dragica Sreckov for a variance to allow an after-the-fact shed to remain having five-foot side and rear setbacks where 7.5-foot side and 10-foot rear setbacks are required, re property located at 6351 30th Street North, St. Petersburg (BA-17-6-15).

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 size of the shed is barely over 100 square feet, and it is located outside of the three-foot utility easement along the rear property line. 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 shed shall retain its five-foot setbacks to the side and rear property lines; however, in the event the shed is destroyed beyond 50 percent of its market value, any new shed shall meet the required setbacks.

Dragica Sreckov, St. Petersburg, appeared and indicated that she represents the applicants.

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.

#12 APPLICATION OF KEITH M. HURLEY FOR TWO VARIANCES (BA-5-6-15) –
SIDE SETBACK VARIANCE GRANTED; VARIANCE FOR SECOND SHED NOT
REQUIRED

Public hearing was held on the application of Keith M. Hurley for a variance to allow two sheds where one shed is allowed and a variance to allow a side setback of zero to two feet where a six-foot side setback is required for an existing accessory structure located at 5232 53rd Street North, St. Petersburg (BA-5-6-15).

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

Recommend Conditional Approval of the side setback of
zero to two feet for the existing accessory structure and
Denial of a second shed.

Staff has no objection to the conditional approval of the side setback request for the existing accessory structure, subject to the following condition:

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

Staff recommends denial of the second shed as it does not meet the criteria for granting a variance in Section 138-113 of the Pinellas County Land Development Code:

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.

Keith Hurley, St. Petersburg, appeared and indicated that what is labeled as an existing wooden shed is actually a 24- by 12-foot pool house; that the pool house is electrified and contains a Jacuzzi, TV, carpeting, and three sliding glass doors; and that the structure was there when he bought the property in 2002; whereupon, Mr. Bomstein indicated that the pool house is an accessory building with acceptable setbacks.

Responding to queries by the members, Mr. Bailey stated that staff does not have an issue with the building if it is not a shed; that the code does not limit accessory buildings to only one structure; and that accessory buildings must be smaller than the primary structure on the property.

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

Mr. Bomstein moved, seconded by Mr. Foley, that the setback variance be granted.

Upon call for the vote, the motion carried unanimously.

#13 APPLICATION OF CAROL HEWETT FOR THREE VARIANCES (BA-6-6-15) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Carol Hewett for a variance to allow a 12-foot by 16-foot shed having a five-foot rear setback where a 10-foot rear setback is required; a variance to allow a 4.5-foot-high fence with five-foot high posts having a zero-foot front setback where a 25-foot front setback is required; and a variance to have a second shed where one shed is allowed, re property located at 258 Banana Road, Ozona (BA-6-6-15).

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

Recommend Conditional Approval of the shed rear setback and the fence front setback and Denial of the second shed request.

Staff has no objection to the conditional approval of the shed rear setback and the fence front setback requests, subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. Sight distance requirements for the fence shall be met.
3. The shed shall retain its five-foot setback from the rear property line; however, in the event the shed is destroyed beyond 50 percent of its market value, any new shed shall meet the required setbacks.
4. The fence shall not exceed 4.5 feet in height and the fence posts shall not exceed five feet in height.

Staff recommends denial of the second shed request as it does not meet the criteria for granting a variance in Section 138-113 of the Pinellas County Land Development Code:

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.

Carol Hewett, Palm Harbor, appeared and indicated that she purchased the property in 2008 which contained two existing sheds; that the larger shed did not meet setback requirements; and that the smaller shed was less than 100 square-feet. She related that she later dismantled the smaller shed and replaced it with a custom-built shed that is also under 100 square-feet; that the larger shed has electricity and is used as a workshop for her hobbies; and that she stores her lawnmower in her carport.

Ms. Hewitt displayed a site plan and various photographs of the property, and referring to her variance request for the fence, noted that it is a three-board fence with black wire attached; that she needs it for the safety of her animals; and she is not seeking to add fencing along her smallest parcel of land. In response to queries by the members, Ms. Hewett related that her property is prone to flooding; that the setbacks allow the larger shed to remain on dry ground; and that the carport is accessed from her dirt driveway.

Mr. Myers indicated that the County citations were for lack of permits for the carport and the sheds, and Ms. Hewett noted that she had not been cited for the carport; whereupon, Mr. Burdette stated that the first condition regarding all permits would now include the carport.

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Mr. Bomstein moved, seconded by Mr. Foley, that the application be approved, but withdrew the motion in order to recognize the presence of objectors to the application.

Responding to queries by the members regarding the fence setback, Ms. Hewett stated that she wanted to enclose all of her property; that permits are not needed for fencing; and that Banana Road is an unpaved private easement without sidewalks that extends across the yards of ten cottages. Noting her property's close proximity to a County-owned preserve, she related that her dog was attacked by coyotes and required surgical care; that a neighbor's cat was also attacked in broad daylight; and that the fence is protecting herself and her pets.

Responding to the Chairman's call for objectors, Dan A. Baird, and Richard Bennett, Palm Harbor, appeared and expressed their concerns pertaining to the proximity of the fence to the narrow roadway, permitting, tree removal, and other issues.

In response to queries by the members, Mr. Bailey related that residential properties do not typically require a site plan review; that site distance requirements apply to any fence or hedge larger than three feet high in the front setback; that a fire review is mainly for easements and is not required for a fence; and that Ms. Hewett's fence is higher than three feet and requires a variance.

In rebuttal, Ms. Hewett stated that the large shed was electrified when she bought the property from an electrician; that her fence is about a foot back from her property line; and that garbage trucks do not have problems using the road. She noted that emergency vehicles can use the road, but there is not adequate space for parking alongside it; that narrow roads are common in Ozona; and that she had removed a dead oak tree from her property.

Mr. Burdette stated that he has no issue with the fence. Mr. Pierce disagreed, and discussion ensued wherein Mr. Bailey related that proposed updates to the County Code include a recommendation to increase the allowable fence height in front setbacks.

Thereupon, Mr. Bomstein moved, seconded by Ms. White, that the item be approved, including all variances, with conditions as recommended by staff.

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

#14 APPLICATION OF NEW TOWNE PROPERTIES, THROUGH JOHN DANIELS, REPRESENTATIVE, FOR A VARIANCE (BA-12-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of New Towne Properties through John Daniels for a variance to allow carports having a ten-foot setback from the edge of a lake where a 25-foot setback from the edge of a lake is required, re property located at 9845 Seminole Boulevard, Seminole (BA-12-6-15).

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. According to information supplied by the applicant, the area proposed for the carports is not within a wetland and therefore not within the Preservation Future Land Use Map category. 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. Appropriate site plan review, including environmental and storm water.
3. The carports shall maintain at least a ten-foot setback from the edge of the water.

Mr. Bailey noted that the applicant was cited on May 29, 2015 regarding environmental and storm water conditions in the area where the carport is proposed to be built; that the applicant must complete a full site plan review to satisfy those conditions; and that approval of the variance would not guarantee the carport will be built as proposed.

John Daniels, Largo, appeared and indicated that he represents the applicant, which purchased the property in January; that a permit was obtained and weeds and Brazilian Peppers removed from the lakeshore and swale areas; and that plans are to construct a carport on the cleared land.

In response to query by Chairman Watts, Mr. Bailey stated that the high water mark is determined by scientists who conduct a survey; whereupon, Mr. Daniels noted that the water's edge is well defined; that an inverted parking lot for the carport would allow water to drain into a new pond; and that an eight- or nine-inch-deep swale would collect the water that the carport would offset.

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

Mr. Burdette moved, seconded by Mr. Doran, that the variance be granted as recommended by staff, clarifying that the applicant must comply with all requirements noted in the citation dated May 29, 2015.

Upon call for the vote, the motion carried unanimously.

#15 APPLICATION OF JOSEPH L. ROSSI AND STEPHANIE T. WEST FOR A VARIANCE (BA-11-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Joseph L. Rossi and Stephanie T. West for a variance to allow a pool having a two-foot setback from the property line along 8th Street and an eight-foot front setback from the property line along Florida Avenue where a 25-foot front setback is required, re property located at 1052 8th Street, Palm Harbor (BA-11-6-15).

Mr. Bailey indicated that one letter in favor 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. There previously was a pool in the same general area of the property that was removed by the past owner. There are no adverse impacts anticipated to neighboring properties as

they are separated by public right-of-way. The fence adjacent to 8th Street, however, is within the public right-of-way and should be moved to the property line, and a two-foot setback to the west property line along 8th Street should be maintained for the pool, to allow room for the fence adjustment.

In addition, the current six-foot-high fence is too high for a fence within the front setback, and there is no evidence that a variance was ever granted. Unless the applicant requests and is granted a variance by the Board, this fence should not be higher than three feet and must not encroach into the adjacent 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 shall maintain at least a two-foot setback from the west property line (8th Street right-of-way) and an eight-foot setback from the north property line (Florida Avenue right-of-way).
3. The fence along 8th Street shall be removed from the public right-of-way and cannot be higher than three feet within the front setback unless varied by the Board.
4. Sight distance requirements shall be met.

Joseph L. Rossi and Stephanie T. West, Palm Harbor, appeared and indicated that they are seeking the aforesaid variance.

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

Responding to queries by the members, Ms. West indicated that the fence existed many years before they purchased the property nine months ago; that trees would hinder moving the fence back; and that they wish to keep the fence where it currently

exists; whereupon, Mr. Bailey noted that a fence cannot be in the public right-of-way; that there is no known permit for the existing fence; and that the applicant has not asked for a height variance to allow a six-foot-high fence where a three-foot-high fence is required.

In response to queries by the members, Mr. Myers related that in 1993, the County no longer required permits related to fencing; that the fence in question was built at that time; that a permit was issued for the fence but the installer did not install it as indicated by the survey and paperwork presented at the time; and that because the fence was installed improperly, it now needs to be corrected. Discussion ensued wherein Mr. Bailey related that he had advised the applicants to add the fence height to the variance request, and Mr. Burdette indicated that the Board could not grant a height variance at this time, as it has not been properly advertised.

Responding to queries by the applicants, Messrs. Myers and Bailey related that removal of the existing fence does not require a permit; that a tree removal permit must be obtained from Development Review Services; and that a variance request must be filed for the proposed six-foot fence.

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.

#16 APPLICATION OF PINELLAS COUNTY REAL ESTATE MANAGEMENT THROUGH PALM HARBOR COMMUNITY SERVICES AGENCY, INC., REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-16-6-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Pinellas County Real Estate Management through Palm Harbor Community Services Agency, Inc. for a special exception to allow a current vacant lot to be used for recreational uses, re property located on the east side of 1550 16th Street, Palm Harbor (BA-16-6-15).

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 provided the Board is satisfied the “Standards” of Section 138-238 of the Pinellas County 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. Full site plan review shall be required, including completion of any sidewalk within the public right-of-way of Pennsylvania Avenue.
3. No lighting shall be permitted.
4. All parking and access to the area shall be through the existing access points and parking areas. No parking shall be allowed within the adjacent rights-of-way.
5. Buffers of 50 feet and 120 feet shall be maintained on the east and south property lines, respectively.
6. The project shall be built in accordance with the submitted concept plan.

Erica Lynford, Palm Harbor Parks and Recreation Department, appeared and indicated that she represents the applicants; that the site is undeveloped and contains only a quarter-mile nature walk around the property; that they would like to clear the interior part of the lot for day use, maintaining the required buffer; and that the lot is fenced and locked at night, but there is evidence of crime and vagrants using the property. Responding to query from Mr. Pierce, she indicated that the space would be used for flag football, lacrosse, and other green space uses.

Responding to the Chairman’s call for objectors, Pam DeDea, Palm Harbor, appeared and noted that her concern is the lack of parking to accommodate the

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proposed activities. In response to query by Mr. Pierce, she related that there are no signs on the road to prohibit parking; and that many people park on the sidewalk, which blocks the traffic on the street.

In rebuttal, Ms. Lynford related that there are agreements with the adjacent YMCA and the high school across the street to use their lots for events; that there will be no public entry to the property from Pennsylvania Avenue, forcing those who park there to walk around the property for access; and that all parking requirements will be met.

Following discussion, 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.

OTHER BUSINESS

Responding to queries by the members pertaining to the resignation of Ray Hoeneisen from the Board, Attorney Hardy stated that a quorum is five voting members; and that the Board of County Commissioners will determine any changes to the Board's membership.

ADJOURNMENT

At the direction of Chairman Watts, there being no further business, the meeting was adjourned at 11:10 A.M.

Chairman