

Clearwater, Florida, December 1, 2016

The Board of Adjustment (BA) 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: Cliff Gephart, Chairman; Joe C. Burdette, Vice-Chairman; Alan C. Bomstein; John Doran; Gregory R. Pierce; Stephen G. Watts; and Deborah J. White.

Also present: Glenn Bailey, Planning Department Zoning Manager; David S. Sadowsky, Senior Assistant County Attorney; Chelsea D. Hardy, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Michael P. Schmidt, Board Reporter, Deputy Clerk.

CALL TO ORDER

Chairman Gephart called the meeting to order at 9:00 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 TREVOR PECK THROUGH DON ARMSTRONG, JR. FOR TWO VARIANCES (BA-2-12-16) – WITHDRAWN

The application of Trevor Peck through Don Armstrong, Jr. for a variance to allow construction on a lot having 24.97 feet of public road frontage where 75 feet is required and a variance to allow an existing structure to remain with a 0-foot side setback where 7.5 feet is required, re property located at 406 Hillsborough Street in Palm Harbor (BA-2-12-16) has been withdrawn.

#2 APPLICATION OF BIG FIG ENTERPRISES, LLC, THROUGH MARK BELFIGLIO, REPRESENTATIVE, FOR A VARIANCE (BA-5-12-16) – WITHDRAWN

The application of Big Fig Enterprises, LLC, through Mark Belfiglio for a variance to allow a 6-foot-high chain-link fence with barbed wire to remain with a 0-foot front setback where 25 feet is required, re property located at 709 Smith Street in the unincorporated area of Clearwater (BA-5-12-16) has been withdrawn.

#3 APPLICATION OF GAYLE LILJA FOR A VARIANCE (BA-3-12-16) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Gayle Lilja for a variance to allow for the construction of a screened lanai with a 2-foot rear setback where 10 feet is required, re property located at 3436 Hillmoor Drive in East Lake Tarpon (BA-3-12-16). The Clerk has received three letters of no objection, one letter in support of, and one letter in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The proposal is similar to past approvals in the surrounding area and will not be out of character with the neighborhood. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The proposed structure shall maintain at least a 15-foot separation from the nearby pond.

Gayle Lilja, Palm Harbor, appeared and indicated that she is seeking the aforesaid variance.

No one appeared in response to the Chairman’s call for objectors to the application; whereupon, Mr. Bomstein moved, seconded by Mr. Doran and carried unanimously, that the variance be granted as recommended by staff.

#4 APPLICATION OF ADA WRENN THROUGH JEFF FORBES, WEST COAST AWNINGS, REPRESENTATIVE, FOR A VARIANCE (BA-6-12-16) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Ada Wrenn through Jeff Forbes for a variance to allow for the construction of a patio awning with a 17-foot rear setback where 25 feet is required, re property located at 2002 Australia Way, Unit 2, in the unincorporated area of Clearwater (BA-6-12-16). The Clerk has received one letter in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The proposed awning is for a ground floor corner unit. The building is angled in such a way that its corner is closest to the south property line. There are other units within the building that have similar awnings, but because they are not corner units and are therefore further from the property line, variances were not necessary. Additionally, existing vegetation provides a visual buffer from the single family dwellings to the south. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The proposed awning shall not be screened or enclosed.

Ada Wrenn, Clearwater, appeared and indicated that she is seeking the aforesaid variance.

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

During discussion and in response to queries by Mr. Bomstein, Mr. Bailey related that similar awnings are attached to the applicant's building, but a variance is required due to the location of her unit and the angle of condominiums at *On Top of the World*.

Thereupon, Mr. Bomstein moved, seconded by Mr. Doran and carried unanimously, that the variance be granted as recommended by staff.

#5 APPLICATION OF ALEX DEEB AND NANCY BOYCE FOR TWO VARIANCES (BA-4-12-16) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Alex Deeb and Nancy Boyce for variances to allow an existing 10-foot-high chain-link fence associated with a tennis court to remain with a 4.9-foot side setback where 25 feet is required and to allow a second shed where only one shed is permitted accessory to a residence, re property located at 333 Old East Lake Road in East Lake Tarpon (BA-4-12-16). The Clerk has received two letters of no objection to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. Approval of the variances should not adversely affect the adjacent and/or nearby properties since the location of the tennis court fence and sheds are on the north side of the property near a heavily wooded wetland area. Additionally, the removal of mature oak trees would be necessary if the tennis court were relocated elsewhere on site. The combined size of the sheds is less than 100 square feet. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The location of the tennis court and 10-foot-high chain-link fence shall be consistent with the submitted survey, unless made conforming to code.
3. All associated lighting of the tennis court shall be directed/shielded away from nearby homes.

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

Katie E. Cole, Esquire, Hill Ward Henderson, appeared and indicated that she represents the applicant, and introduced Nancy Boyce, owner of the property.

In response to queries by Mr. Bomstein, Ms. Cole related that the neighboring property owners have provided a letter stating that they have no objection to the fence.

Thereupon, Mr. Bomstein moved, seconded by Mr. Doran and carried unanimously, that the variances be granted as recommended by staff.

#6 APPLICATION OF LAURENS K., MARIANNE E., AND JOSEPH W. BRADLEY THROUGH JAMES M. VERNON, ESQUIRE, REPRESENTATIVE, FOR SIX VARIANCES (BA-8-12-16) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Laurens K., Marianne E., and Joseph W. Bradley through James M. Vernon to allow for the construction of a single-family subdivision, re properties located at 1580 Hermosa Drive and 869 Manning Road in Palm Harbor (BA-8-12-16), with the following variances:

1. Private road access from all proposed lots to a public right-of-way.
2. Primary front setbacks of 20 feet on all proposed lots where 25 feet is required.
3. Secondary (non-addressed) front setbacks of 10 feet on all proposed double and triple frontage lots where 25 feet is required.
4. Side setbacks of 7.5 feet on all proposed lots where 8 feet is required.
5. Road frontage reductions along the proposed private road of up to 62.5 percent for interior corner lots or lots on a curve, for a minimum road frontage of 30 feet.
6. A 6-foot-high wall or fence with a 0-foot front setback on the proposed lots at the entry of the development where 25 feet is required.

No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The applicant is offering to dedicate to the County a portion of the subject property along both Hermosa Drive and Manning Road for right-of-way purposes. The dedication is the basis for many of the requested variances, which are internal to the proposed development with the exception of the setback relief request regarding multiple frontage lots that back up to either Hermosa Drive or Manning Road. The requested 10-foot setbacks in these instances would meet standard rear setback requirements. It is important to note, however, that the requested variances may cumulatively increase the overall impervious surface area of the subdivision, which in turn can increase potential stormwater volumes that must be accommodated by an appropriate stormwater treatment system. The approval of these variances shall in no way provide a basis for the diminishment of the County's stormwater management requirements. The ultimate configuration of the proposed subdivision and its number of units are subject to change based on the site plan review process. Approval of the request should be subject to the following conditions:

1. The project developer shall obtain all required permits and pay all applicable fees.
2. Full site plan review.
3. The offered right-of-way dedications shall occur within two years of the granting of the request.

Laurens K. Bradley, Clearwater, appeared and indicated that he is seeking the aforesaid variance; whereupon, he provided background information regarding the application.

In response to queries by Mr. Bomstein, Mr. Bailey discussed internal and external variances associated with the proposed development, and reported that the County Commission recently approved a zoning change for the property from Agricultural Estate Residential to Single Family Residential.

James M. Vernon, Esquire, Clearwater, appeared and indicated that he represents the applicant; that his company is the contract purchaser for the property; and that he is the lawyer, engineer, and developer for the project; whereupon, he provided background information pertaining to the application.

In response to the Chairman's call for objectors to the application, Patricia Hughes, Doug Jones, and Anthony Jeffs, Palm Harbor, appeared, expressed their concerns regarding housing density, community uniformity, increased traffic, roadway maintenance, flooding and drainage, retention ponds, and site plan review notice, and responded to comments and queries by the members; whereupon, Messrs. Bailey, Bomstein, and Burdette addressed concerns brought forward by the objectors.

Following public comment, Mr. Vernon indicated that the real issue relates to Pinellas County wanting the right-of-way and creating a hardship for the applicant, and Messrs. Burdette and Bailey clarified that even though a future dedication might be useful for the County, it is not a requirement; whereupon, Mr. Vernon responded to the concerns of the objectors and provided information regarding flooding and drainage, indicating that while he will comply with all site plan requirements, the plan as shown is merely conceptual.

Thereupon, Mr. Bomstein moved, seconded by Mr. Watts and carried unanimously, that the variances be granted as recommended by staff.

#7 APPLICATION OF CARMEN R. DIMLER THROUGH JOSEPH N. PERLMAN, ESQUIRE, REPRESENTATIVE, FOR TWO VARIANCES (BA-1-12-16) – CONTINUED FOR 60 DAYS

Public hearing was held on the application of Carmen R. Dimler through Joseph N. Perlman for variances to allow a partially enclosed carport to remain 1.2 feet from the north side property line and a 131 square-foot shed to remain 1.5 feet from the rear property line and 2 feet from the north side property line where 10-foot rear and 7.5-foot side setbacks are required, re property located at 15272 Avalon Avenue in the unincorporated area of Clearwater (BA-1-12-16). The Clerk has received one letter of objection, ten letters in support of, and one letter in opposition to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff recommends denial of the requests, as they do not meet the criteria for the granting of variances established in Section 138-113 of the Pinellas County Land Development Code, specifically in 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.

Joseph N. Perlman, Esquire, Clearwater, appeared and indicated that he represents the applicant, Carmen R. Dimler. In response to queries by the members, Mr. Perlman provided historical background information regarding the application, relating that the house was moved onto the property in 1982; that the lot lines had been set prior to that time; that Ms. Dimler bought the home in 1985; and that Code Enforcement is involved

due to a complaint from a neighbor. He stated that Ms. Dimler has agreed to relocate the shed; that the carport is used to house stray cats; that he has letters of support regarding the carport; and that he has been unable to locate an ordinance from the 1982 time frame with regard to the setbacks; whereupon, he asserted that the carport is grandfathered as a result of it being there prior to Ms. Dimler buying the property, and discussion ensued.

In response to queries by the members, Ms. Dimler presented information relating to her state registered shelter, and confirmed that she has never received a complaint regarding the cats; whereupon, brief discussion ensued regarding whether the carport had ever been permitted.

In response to the Chairman's call for objectors to the application, Laura Aikman and Robert Aikman, Clearwater, appeared, expressed their concerns regarding the roofline of the neighboring carport, flooding on their property, and unsterilized cats being attracted to the area, and responded to comments and queries by the members.

Following public comment, Mr. Perlman related that the house was sited on the parcel prior to being purchased by the applicant; that replacement of the carport lattice work did not change the property line; and that the overhang has been cut back in response to a request from Code Enforcement; whereupon, he indicated that the applicant has an upcoming hearing regarding an ordinance violation; and that while she is in no financial position to make major changes to her home, she is agreeable to guttering the roof.

Mr. Burdette suggested that prior to the members rendering a decision, the case be heard in County Court with regard to the side setback violation, and Mr. Myers and Attorneys Hardy and Sadowsky provided input; whereupon, following lengthy discussion, Mr. Pierce moved, seconded by Mr. Burdette and carried unanimously, that the case be continued for 60 days.

#8 APPLICATION OF LASPINA CLEARWATER PROPERTIES, LLC, THROUGH CHRISTOPHER P. WICKS, II, GLOBAL SIGN & AWNING, REPRESENTATIVE, FOR A VARIANCE (BA-7-12-16) – CONTINUED FOR 60 DAYS

Public hearing was held on the application of Laspina Clearwater Properties, LLC, through Christopher P. Wicks, II, for a variance to allow for the construction of an accent structure to a sign having a 19-foot front setback where 50 feet is required, re property located at 27867 U.S. Highway 19 North, in the unincorporated area of Clearwater (BA-7-12-16). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff recommends denial of the request. The request does not meet the criteria for the granting of variances established in Section 138-113 of the Pinellas County Land Development Code, specifically in 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.

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

Christopher P. Wicks, II, Clearwater, appeared and indicated that he represents the applicant, and referring to photographs and illustrations, provided detailed background information regarding the application. In response to comments and queries by the members, Mr. Wicks presented information regarding how the sign cabinets would be attached to the support poles and the purpose of the corresponding architectural element, and lengthy discussion ensued regarding monument signs, architectural elements, pole supports, visual clutter, square footage, setback requirements, and sign configurations.

Following further discussion, Mr. Wicks indicated that he would return with an amended application to be heard at a future meeting; whereupon, Mr. Bomstein moved, seconded by Mr. Doran and carried unanimously, that the case be continued for 60 days.

December 1, 2016

MINUTES OF OCTOBER 6, 2016 MEETING – APPROVED

Upon motion by Mr. Bomstein, seconded by Ms. White and carried unanimously, the minutes of the meeting of October 6, 2016, were approved.

OTHER BUSINESS

Mr. Bomstein indicated that the Board must elect a new Chairman and Vice-Chairman for 2017. He related that in past years, these positions were filled by the appointees of the Board of County Commissioners Chairman and Vice-Chairman.

Mr. Bomstein moved, seconded by Mr. Doran and carried unanimously, that Mr. Burdette be named Chairman for 2017; and that Mr. Pierce be named Vice-Chairman.

ADJOURNMENT

The meeting was adjourned at 10:21 A.M.

Chairman