

Clearwater, Florida, November 6, 2014

The Board of Adjustment met in regular session in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida at 9:01 A.M. on this date with the following members present: John Doran, Chairman; Alan C. Bomstein, Vice-Chairman; Joe C. Burdette; Ray Hoeneisen; Gregory Pierce; Stephen G. Watts; and Michael Foley (Alternate).

Not Present: Deborah White.

Also present: 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.

#### CALL TO ORDER

Chairman Doran called the meeting to order at 9:01 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:

# 1     APPLICATION OF BA PHAM FOR A VARIANCE (BA-8-10-14) – CONTINUED TO DECEMBER 4, 2014 MEETING

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John F. Cueva, Planning Department Zoning Manager, referred to the application of Ba Pham for a variance to reduce the number of parking spaces from seven to six (BA-8-10-14), re commercial property located at 6710 46th Avenue North, St. Petersburg, and noting that staff is continuing to work with the applicant on his site plan to determine if a variance will be required, recommended that the item be continued.

No one appeared in response to the Chairman's call for persons wishing to speak in regards to the application.

Mr. Bomstein moved, seconded by Mr. Foley, that the item be continued to the December 4, 2014 meeting.

Upon call for the vote, the motion carried unanimously.

# 2 APPLICATION OF FRANCIS A. MILETTE FOR A VARIANCE (BA-1-11-14) – CONTINUED TO JANUARY 5, 2015 MEETING

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

John F. Cueva, Planning Department Zoning Manager, indicated that one letter in opposition to the application has been received and related that a variance is necessary to address an existing condition, noting that a permit was issued in error due to misinterpreted construction plans. Referring to letters included in the agenda package, Mr. Cueva related that the County Building Official recommends approval of the variance, but the City of Seminole Fire Marshal recommends denial; and that due to the differing opinions, the matter is being forwarded to the Pinellas County Construction Licensing Board (PCCLB) for a decision; whereupon, he recommended that the Board continue the matter after receiving input from any citizens wishing to speak at this time.

In response to queries by the members, Mr. Cueva referred to a photograph and clarified that the sun room has already been built; and that the whole wall of the sun room, not just the awning, is the subject of the variance; whereupon, Chairman Doran, with input by Assistant County Attorney Chelsea Hardy, advised the audience that although the item will likely be continued, any supporters or opponents of the application may speak today, as well as on the date when the item will be brought back to the Board.

Francis A. Milette, Largo, appeared and being duly sworn, indicated that he is the property owner; and that his request for the sun room was approved by the County and the Holiday Shores Mobile Home Park Board.

Discussion ensued, and responding to queries by Messrs. Watts and Pierce, Mr. Cueva related that staff's original recommendation of approval may change based on the PCCLB ruling, and Attorney Hardy provided input, noting that if the structure is found to be in violation of the state fire safety code, the applicant would be subject to citation.

In response to the Chairman's call for objectors to the application, Robert Fuller, David Crosman, and Monty Slaybaugh, Largo, appeared and being duly sworn, referred to a drawing and photograph and stated their concerns, indicating that the sun room drawings submitted for approval to the Building Department and the Mobile Home Park Board and Architecture Committee were deceptive and unreflective of the structure that was built; and that the sun room encroaches 31 inches into the ten-foot area between structures required under the fire safety standards and, therefore, it should be removed; whereupon, Mr. Watts opined that fire department officials should be involved in the permitting process to avoid having to remove a structure found in violation of a fire safety requirement after it is built.

Mr. Bomstein moved, seconded by Mr. Watts, that the item be continued pending receipt of a ruling by the Licensing Board, as recommended by staff; whereupon, responding to query by Chairman Doran, Mr. Cueva confirmed that the neighbors will be notified of the next hearing date.

Upon call for the vote, the motion carried unanimously.

# 3 APPLICATION OF JESSICA YUEN FOR A VARIANCE (BA-5-11-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Jessica Yuen for a variance to allow a single family residence to have a 20-foot front setback where a 25-foot front setback is required, re property located on the west side of 121st Way North, 970 feet south of 74th Avenue North, Seminole (BA-5-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence relative to the application has been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of this request as it is of the opinion that the platting of the lot with 67 feet of depth presents a special condition, and that by granting this variance, no special privilege will exist, as other lots in this subdivision have been granted similar variances in the past. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The front setback shall be 20 feet from the front property line.

Jessica Yuen, Seminole, appeared and being duly sworn, indicated that she 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.

Upon call for the vote, the motion carried unanimously.

# 4 APPLICATION OF RANDY AND RITA BARRETT FOR A VARIANCE (BA-7-11-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Randy and Rita Barrett for a variance to allow two utility sheds where one shed is allowed and for one of the sheds to remain having a 5.6-foot rear setback and a 6.1-foot side setback where ten-foot rear and 7.5-foot side setbacks are required, re property located at 1796 Englewood Avenue, Tarpon Springs (BA-7-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that one letter expressing concern 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 this site is occupied with a two-unit building and, as the code states, "one utility shed per parcel," staff is of the opinion that a two-unit building should be allowed one shed per unit. With regard to the setback for the southerly shed, staff has no objection, as it appears the shed as it currently exists does not pose a

detriment to the public welfare as it has been at this location since the 1980s with no apparent adverse effects. Approval of this request should be subject to the following conditions:

1. The applicant shall obtain a permit for the southerly shed and pay the appropriate impact and/or other fees.
2. Two sheds shall be permitted for the duplex.
3. The southerly shed shall have a 5.6-foot rear setback and a 6.1-foot side setback.

Rita Barrett, Tarpon Springs, appeared and being duly sworn, indicated that she is seeking the aforesaid variance.

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

In response to query by Mr. Pierce, Ms. Barrett related that her family members are temporarily staying in the travel trailer situated in her front yard; whereupon, Environmental Code Enforcement Director Todd F. Myers confirmed that a case to address that matter is scheduled for a court hearing on November 7, 2014.

Noting that the intent appears to be to allow one shed per unit, Mr. Bomstein requested that the matter be addressed in the current code revisions; whereupon he 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 NORTHSIDE BAPTIST CHURCH, INC. THROUGH JOHN DANIELS, REPRESENTATIVE, FOR A VARIANCE (BA-8-11-14) – GRANTED PER STAFF RECOMMENDATION

Public hearing was held on the application of Northside Baptist Church, Inc. through John Daniels for a variance to allow a clubhouse in conjunction with a baseball field to be constructed having a zero-foot side setback where a 25-foot perimeter

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setback is required, re property located at 7777 62nd Avenue North, St. Petersburg (BA-8-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence has been received relative to the application, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection, due to the unique location of the ball field relative to the County-owned preservation land area. Granting of the variance will not adversely affect any resident nor adversely impact the preservation area, and as such, staff recommends approval with the following conditions:

1. Appropriate site plan review.
2. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
3. The side setback shall be zero feet, as shown on the concept plan.

John Daniels, Largo, appeared and being duly sworn, 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.

# 6 APPLICATION OF TAYLOR MORRISON OF FLORIDA THROUGH WALDROP ENGINEERING, P.A., REPRESENTATIVE, FOR A VARIANCE (BA-10-11-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Taylor Morrison of Florida through Waldrop Engineering, P.A., for a variance to allow a lot frontage reduction for Lot 5 being 50 feet, Lot 13 being 73.8 feet, Lot 16 being 73.5 feet, and with all 51 lots to be fronting on private roads where 80 feet of frontage on public roads is required for the 20-acre property located at the southwest corner of County Road 39 and Fisher Road, Palm Harbor (BA-10-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence has been received relative to the application, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of the request to allow the site to be developed with private roads and with setback variances for the three lots referenced, as the requests are minimal and will not affect any residences outside this development. Approval of this request should be subject to the following:

1. Full site plan review.
2. Private roads shall be allowed.
3. Lot 5 shall have a 50-foot road frontage.
4. Lot 13 shall have a 73.8-foot road frontage.
5. Lot 16 shall have a 73.5-foot road frontage.

Trent Stephenson, Riverview, appeared and being duly sworn, 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.

Responding to query by Mr. Bomstein, Mr. Stephenson acknowledged that he is aware of all the conditions and specific setback requirements.

Upon call for the vote, the motion carried unanimously.

# 7 APPLICATION OF JOSEPH MAIORINO THROUGH PATRICK MCALPIN, REPRESENTATIVE, FOR A VARIANCE (BA-11-11-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Joseph Maiorino through Patrick McAlpin for a variance to allow an enclosed screen room with windows to have an 11-foot front setback from the property line along Wynford Drive, where a 25-foot front setback is required, re property located at 2699 Meagan Court, Palm Harbor (BA-11-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence has been received relative to the application, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of this request with conditions as this is a corner lot, which is required to have two 25-foot front setbacks, thereby reducing the buildable area of the eastern side of the lot. A similar request was approved by the Board in this area in 1999 (BA-5-6-99). 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 enclosed screen room shall have an 11-foot setback from the east property line.

Joseph Maiorino, Palm Harbor, and Patrick McAlpin, New Port Richey, appeared and being duly sworn, indicated that they are the applicant and applicant's representative, respectively.

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.

# 8 APPLICATION OF JOHN KRIEGSMANN THROUGH TRI-COUNTY ALUMINUM SPECIALTIES, REPRESENTATIVE, FOR A VARIANCE (BA-12-11-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of John Kriegsmann through Tri-County Aluminum Specialties for a variance to allow a carport having a ten-foot front setback and a zero-foot side setback where 20-foot front and six-foot side setbacks are required, re property located at 712 George Street South, Tarpon Springs (BA-12-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence has been received relative to the application, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of this request as this lot lies at the southern terminus of George Street, and as such, no vehicular traffic will be affected by the placement of the carport having a zero-foot side setback. Many of the homes in this area have varying setbacks and to approve this variance would not be an uncommon event. Approval of the request should be subject to the following conditions:

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

2. The carport shall have a ten-foot front setback.
3. The carport shall have a zero-foot side setback.

James O’Keefe, Hudson, appeared and being duly sworn, 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.

# 9 APPLICATION OF 34th STREET, LLC, THROUGH TERRENCE DOWNS, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-13-11-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of 34th Street, LLC through Terrence Downs for a special exception to allow for the expansion of a go-kart track, re property located at 4680 34th Street North, St. Petersburg (BA-13-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence has been received relative to the application, 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 that the “Standards” of Section 138-238, Division 7 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. Approval shall be as shown on the submitted concept plan.

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

Terrence Downs, St. Petersburg, appeared and being duly sworn, indicated that he represents the applicant; and responding to queries by Messrs. Burdette and Pierce, related that the intent of the application is to improve and expand the property using only the existing structures, and no variances are expected; whereupon, responding to query by Mr. Burdette, Environmental Code Enforcement Director Todd F. Myers related that there have not been any noise complaints received in regards to the go-kart track.

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.

#10 APPLICATION OF E & A ACQUISITION LIMITED PARTNERSHIP THROUGH ROBERT WICKNER, REPRESENTATIVE, TO AMEND PREVIOUSLY ESTABLISHED CONDITIONS (BA-9-11-14) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of E & A Acquisition Limited Partnership to amend previously established conditions to extend the hours of operation of the Pint and Brew Craft Beer Tap Room from 11:00 p.m. to 1:00 a.m. and to allow live entertainment, re property located at 3251 Tampa Road, Palm Harbor (BA-9-11-14).

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

Recommend Conditional Approval. Staff has no objection to the modification of the hours of operation or to the allowance of live music provided the live music is acoustical only and not amplified. All other conditions

previously approved shall remain intact (see case BA-7-2-14):

1. Hours of operation shall be 3:00 p.m. to 1:00 a.m. Monday – Friday and 12 noon to 1:00 a.m. Saturday and Sunday.
2. No rear access by patrons shall be allowed (i.e. cooking, food trucks for employees of the plaza).
3. Congregating by employees outside at the rear of the building shall not be allowed.
4. Acoustical live music, non-amplified, shall be permitted inside only.
5. In the event the above conditions are not met, the Board may rescind the variance.

Robert Wickner, Palm Harbor, appeared and being duly sworn, indicated that he represents the applicant; and that having live indoor acoustical music entertainment and, more significantly, extending the hours of operation to 1:00 a.m. will bring more customers and approximately 20 percent more revenue to the business.

Responding to queries by Messrs. Bomstein and Burdette regarding noise concerns expressed in letters from the residential neighbors, Environmental Code Enforcement Director Todd F. Myers noted that there have been no complaints received for Pint and Brew; and that the complaints received in the past were related to early morning garbage collections in the plaza and deliveries to a meat market that had since closed.

In response to query by Mr. Bomstein regarding the noise concerns, Mr. Wickner related that those concerns are reflective of the past 25 years; that Pint and Brew's garbage is taken out the next day to avoid creating noise in the evenings; that deliveries for Pint and Brew occur from noon to 3:00 p.m.; and that the employees of Pint and Brew have been sensitive to the residential neighbors; whereupon, Michael A. Wolfowicz, Tampa, appeared and being duly sworn, indicated that in his daily operations of Pint and Brew, he has not been aware of any noise generated by the business; that no

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formal complaints have been received; and that customer parking is in the front of the building, away from the residential neighbors.

Upon the Chairman's call for objectors to the application, the following individuals appeared and being duly sworn, stated their concerns and responded to queries by the members pertaining to existing conditions:

Suzanne Orgera, Palm Harbor  
Vinita Owens, Palm Harbor  
Gael Manzo, Palm Harbor

Addressing queries by the members and concerns expressed by the objectors, Mr. Wickner maintained that the noises described either pertain to the past or are out of his control. He indicated that Pint and Brew has only one employee at a time, who parks in the front lot; that trash is minimal and is hand-carried to the dumpster; and that Pint and Brew serves beer and wine only. Discussion ensued, and Mr. Myers provided input; whereupon, he offered to arrange a meeting with all business owners in the plaza to remind their employees of residential neighbors' concerns.

Mr. Cueva indicated that code allows a small restaurant to stay open until 2:00 a.m. and have live entertainment, including a band and dancing; that restaurants in the plaza do not have restrictions such as those placed on Pint and Brew; and that the plaza meets parking requirements; whereupon, he reminded the members that in the event Pint and Brew generates noise complaints by violating the conditions, the Board may rescind approval of the variance.

Following further discussion, Mr. Burdette indicated that all businesses in the plaza contribute to the noise; and that Pint and Brew should be able to conduct its business and make a profit; whereupon, he moved, seconded by Mr. Watts, that conditions one and four of the previous application be modified as recommended by staff.

Following additional comments by Chairman Doran and responding to his query, Mr. Wickner indicated that the music would be located near the front door, as far as possible from the residential neighbors; that the back and front doors are not left open; and that he understands and concurs with the condition allowing indoor acoustical music.

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

#11 APPLICATION OF WILLIAM AND KATHY WALGUARNERY FOR A VARIANCE  
(BA-3-11-14) – GRANTED WITH CONDITIONS

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Public hearing was held on the application of William and Kathy Walguarnery for a variance to allow four existing accessory structures to remain having rear setbacks of zero feet, three feet, and five feet where ten-foot rear setbacks are required, and a zero-foot side setback for a boat cover where a 7.5-foot side setback is required, re property located at 3834 Pebble Court, Palm Harbor (BA-3-11-14).

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

Recommend Denial. Staff recommends denial based on the fact that the request does not meet the criteria for granting of variance found in Section 138-113, as follows:

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.

Denise N. Murphy, Safety Harbor, appeared and being duly sworn, indicated that she represents the applicants. Referring to a survey, photographs, and responding to queries by the members, Ms. Murphy indicated that the four existing

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accessory structures are decades old, well built, and maintained; that they house equipment for work and leisure needed for the applicants and their family; that County code allowed having four structures at the time they were erected; that the applicants were not aware of permit requirements but had received approval of the homeowners association; and that there have not been any complaints about the structures.

Discussion ensued, and Environmental Code Enforcement Director Todd F. Myers clarified that a neighbor filed a complaint, which is currently under investigation, citing business activity and storage of fuel and equipment, such as tractors, a street sweeper, and idling diesel trucks on the applicant's property; that such uses are not permitted in a residential zone; and that while visiting the site, Code Enforcement officials noted the accessory structures and their noncompliance with setback requirements, triggering the current application.

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

Responding to Chairman Doran's query as to meeting the criteria for granting of a variance, Ms. Murphy related that the significance of the structures, which are pre-engineered and anchored into the concrete, along with their location on a considerably downward slope, would make their removal financially burdensome for the applicants. Discussion ensued, wherein Mr. Watts indicated that the inadequate amount of leveled land and difficulty of removing the structures could be considered as hardship, and Mr. Bomstein, with input from Chairman Doran and Mr. Cueva, disagreed, stating that building into the concrete does not absolve the responsibility to follow the County code; that the applicants are in violation by having unpermitted structures with incorrect setbacks and running a business out of a home, causing complaints; and that, per the definition of hardship, the applicants would not be deprived of the same rights afforded to others in that zone by not having four accessory structures, since other properties are allowed one.

Mr. Bomstein moved, seconded by Mr. Hoeneisen, that the four structures be allowed to remain, subject to their being brought in line with setback requirements and obtaining all required permits.

Upon call for the vote, the motion carried unanimously.

#12 APPLICATION OF BRIAN CRANE FOR A VARIANCE (BA-4-11-14) – GRANTED WITH CONDITIONS

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Public hearing was held on the application of Brian Crane for a variance to allow two carports having three-foot side setbacks and three-foot rear setbacks where 7.5-foot side setbacks and ten-foot rear setbacks are required, re property located at 3930 58th Avenue North, St. Petersburg (BA-4-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence has been received relative to the application, and presented the following staff recommendation:

Recommend Denial. Staff recommends denial based on the fact that the request does not meet the criteria for granting of variance found in Section 138-113, as follows:

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.

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

Brian Crane, St. Petersburg, appeared and being duly sworn, referred to photographs and described the property and surrounding area. In response to queries by

the members, he indicated that his vehicles have deteriorated from being kept outside, as there is no garage; that the location proposed for the carports is the only suitable location due to the shape of the lot, trees, and safety concerns; that his neighbors approve of the addition; and that the carports will have a roof and sides extending downward by approximately three feet, but will not be completely enclosed.

Mr. Watts moved, seconded by Mr. Foley, that the variance be granted with the conditions that all required permits will be obtained; and that the carports will have three-foot side and rear setbacks and will not be enclosed.

Upon call for the vote, the motion carried unanimously.

#13 APPLICATION OF MARK WHITTLE THROUGH DONALD HATCH, REPRESENTATIVE, FOR A VARIANCE (BA-6-11-14) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Mark Whittle for a variance to allow a second story room addition having a 2.85-foot side setback where a 7.5-foot side setback is required, re property located at 606 Maryland Avenue, Crystal Beach (BA-6-11-14).

John F. Cueva, Planning Department Zoning Manager, indicated that no correspondence has been received relative to the application, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of this request as the residence, which was constructed before the adoption of the zoning code, has a special condition which is unique to homes in the Crystal Beach area in that many homes were built within current setback requirements, thus making any new construction placed on existing structures problematic, as in this case. Approval of this request will not confer upon the applicant any special privilege that other homes in the area currently do not realize, some by receiving variances. Therefore, staff recommends approval of the request with the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The side setback shall be 2.85 feet from the west property line.

Mark Whittle, Crystal Beach, and Donald Hatch, Palm Harbor, appeared and being duly sworn, indicated that they are the applicant and the applicant's representative, respectively.

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

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

Upon call for the vote, the motion carried unanimously.

#14 APPLICATION OF WENDY AKERS FOR A VARIANCE (BA-2-11-14) – GRANTED WITH CONDITIONS

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Public hearing was held on the application of Wendy Akers for a variance to allow an after-the-fact addition to a grandfathered mobile home to remain having an eight-foot front setback where a 20-foot front setback is required, re property located at 1858 Lillian Avenue, Tarpon Springs (BA-2-11-14).

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

Recommend Denial. Staff recommends denial based on the fact that the request does not meet the criteria for granting of variance found in Section 138-113:

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.

In response to query by Chairman Doran, Kathy Guzman, Tarpon Springs, appeared and being duly sworn, indicated that she is assisting the applicant in the presentation of her case, and referring to photographs, related that the applicant's entire house, consisting of a mobile home and a structurally connected two-room addition, was built in 1954 and grandfathered into the current zoning code; and that the wall being repaired due to termites is an existing wall and not an addition; whereupon, presenting a petition in support of the application signed by 12 neighbors, along with a document from the County dated April 25, 2013, she indicated that the County had already allowed the existing setback to remain.

Messrs. Cueva and Burdette examined the document and, noting that the intent is not clear and it may have confused the applicant, interpreted it as stating that the mobile home and two-room addition built in 1954 qualify as a non-conforming use and can remain at the current location; however, any additions would require a permit.

Thereupon, Wendy Akers, Tarpon Springs, appeared and being duly sworn, indicated that the two-room addition was built prior to current zoning requirements; and that she considered the repairs done to the house to be permitted; whereupon, Mr. Cueva clarified that no permits for repairs have been obtained; and that the current variance request is based on a building violation complaint.

No one appeared in objection to the application.

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During discussion and referring to a letter from an objector, Mr. Foley asked for clarification regarding pouring of a slab for an addition, and Ms. Guzman indicated that the letter refers to a patio slab in the rear of the property, which the applicant someday plans to have screened in; whereupon, Mr. Hoeneisen recommended approving the repair of the existing structure, indicating that the patio slab is a separate issue.

Chelsea Hardy, Assistant County Attorney, provided input, noting that if the building and addition qualify as a valid nonconforming use, their repair would not require approval of the Board, although any addition, such as the slab, must be code compliant.

Mr. Burdette moved that the application be approved, allowing the house to remain at its existing setback.

Discussion ensued, and responding to query by Mr. Pierce, Mr. Cueva related that the application would not have been brought before the Board had it been known that the two-room addition existed since 1954 and was not constructed by the applicant. Ms. Hardy reiterated that no permission is required for repairing the existing structure; whereupon, Mr. Burdette opted to proceed with his motion out of caution.

Providing clarification for the applicant, Chairman Doran related that the motion refers to the front setback, at which the house may remain, and no permits or any future actions by the applicant are presently being approved.

Mr. Foley seconded, and upon call for the vote, the motion carried unanimously.

MINUTES OF OCTOBER 2, 2014 MEETING – APPROVED

Upon motion by Mr. Burdette, seconded by Mr. Foley and carried unanimously, the minutes of the meeting of October 2, 2014 were approved.

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ADJOURNMENT

At the direction of Chairman Doran, there being no further business, the meeting was adjourned at 11:07 A.M.

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Chairman