

Clearwater, Florida, January 5, 2015

The Board of Adjustment met in regular session in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida at 8:59 A.M. on this date with the following members present: Stephen G. Watts, Chairman; Ray Hoeneisen, Vice-Chairman; Alan C. Bomstein; Joe C. Burdette; John Doran; Gregory Pierce; and Deborah White.

Also present: John F. Cueva, Planning Department Zoning Manager; Chelsea 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 Watts called the meeting to order at 8:59 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 JOHN C. KUTCH, III AND SHARON I. ESCALERA THROUGH DEBORAH L. MARTOHUE, ESQUIRE, REPRESENTATIVE, FOR A VARIANCE (BA-1-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of John C. Kutch, III and Sharon I. Escalera through Deborah L. Martohue for a variance to allow a pool and deck to have a ten-foot five-inch side setback from the south property line where a 25-foot side setback is required, re property located at 449 Ranch Road, Tarpon Springs (BA-1-1-15).

Mr. Cueva 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 the request as the subject site abuts a wetland area, which will not be occupied with a residence and, as such, the normal side setback requirements are not warranted in this instance. 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 pool and deck may have a ten-foot five-inch side setback from the south property line.

Deborah L. Martohue, Tampa, appeared and being duly sworn, indicated that she represents the applicant.

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.

Upon call for the vote, the motion carried unanimously.

2 APPLICATION OF T-MOBILE SOUTH, LLC IN CARE OF LAURALEE G. WESTINE, ESQUIRE, REPRESENTATIVE, FOR A VARIANCE (BA-4-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of T-Mobile South, LLC in care of Lauralee G. Westine for a variance to allow a 19-foot reduction of the 75-foot setback from Belcher Road to 56 feet to construct a 75-foot monopine communication tower and related facility, re leased property located on 2,000 square feet on the west side of Belcher Road, lying south of Willow Tree Trail within the On Top of The World condominium complex, 2285 Americus Boulevard, Clearwater (BA-4-1-15).

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

Recommend Conditional Approval. The site was before the Board of Adjustment on March 5, 2009, for the same request and was conditionally approved. The following recommendation was presented in 2009 and is applicable for the current request as well: This request is to allow a 75-foot-high camouflaged (monopine) communication tower having a setback of 55.8 feet from the property line along Belcher Road where a 75-foot setback is required

(based on the height of the tower). As the setback is from a public right-of-way (Belcher Road), staff has no objection to the setback variance as staff cannot envision any adverse impact occurring as a result of the variance. 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 tower and compound area shall be enclosed by security fencing a minimum of six feet in height and located per the submitted site plan.
3. The tower shall not be used for the placement of advertising or signs other than warning signs or devices.
4. The tower shall be equipped with warning lights in accordance with Federal Aviation Administration (FAA) standards.
5. The tower shall be camouflaged as a monopine not to exceed 75 feet in height having a setback of 55.8 feet from the property line adjacent to Belcher Road.
6. Full site plan review is required.

Lauralee Westine, Palm Harbor, appeared and being duly sworn, indicated that she represents the applicant; that the variance was previously approved by the Board on March 5, 2009 and November 4, 2010; and that the project was put on hold while upgrades were being completed to existing telecommunications infrastructure.

During discussion and in response to comments and queries by the members, Ms. Westine provided brief background information regarding the application, relating that the applicant is requesting a variance of 19 feet to Belcher Road and has no objection to any of the staff conditions. Referring to a photograph of a monopine communication tower, Ms. Westine described the structure, stating that the FAA does not require lighting on the tower; whereupon, Mr. Cueva stated that the right-of-way is considered a zoning district and, as such, extends to the center line of the road.

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In response to the Chairman's call for objectors to the application, Dorothy Churchill, Ursel Klinke, and William E. Picciurro, appeared and being duly sworn, stated their concerns and responded to queries by the members.

In response to comments and queries by Mr. Burdette, Attorney Hardy indicated that if the setback variance were not being requested, the item would not need to come before the Board; and that health concerns regarding communication towers and electromagnetic influences are not under the purview of the Board but dictated by federal law, and discussion ensued, with Messrs. Bomstein and Cueva providing input.

Following public comment, Ms. Westine responded to the concerns of the objectors, relating that:

- The onsite generator is about as loud as a residential air conditioning unit and will be tested once a week during normal business hours.
- Wind passing around the tower will not generate noise, and the surrounding fencing will include anti-climbing devices.
- The tower will be grounded against lightning strikes and its profile will be minimized to blend with the local community.
- There is no documented decrease in property values based upon the construction of a communication tower.
- The tower is designed for co-location, as required by the Land Development Code, and a recent aeronautical evaluation has determined there is no hazard to air navigation.

Ms. Westine discussed the increasing volume of 9-1-1 calls that come from wireless phones; whereupon, she stated that the request more than meets the intent of the Code; that the item is essentially a technical variance with respect to the setback from Belcher Road; and requested that the members approve the item.

Following brief discussion, 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 ROBERT P. MURRAY FOR A VARIANCE (BA-6-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Robert P. Murray for a variance to allow a 19-foot front setback where a 25-foot front setback is required to construct a six-foot by 24-foot eight-inch porch deck, re property located at 407 Maryland Avenue, Crystal Beach (BA-6-1-15).

Mr. Cueva 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 the request as there are other homes in the area with similar setbacks as this is an older subdivision which predates the zoning code. Approval of the requested porch deck will be consistent with the type of construction which exists in the area. 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 porch deck shall have a 19-foot front setback and shall not be enclosed.

Robert P. Murray, Crystal Beach, appeared and being duly sworn, 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.

4 APPLICATION OF ANDREW AND ELIZABETH ROBLE THROUGH BRUNO GAGNON, REPRESENTATIVE, FOR A VARIANCE (BA-7-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Andrew and Elizabeth Roble through Bruno Gagnon for a variance to allow an elevated wood deck having a 12-foot setback from a seawall where a 15-foot setback from a seawall is required, re property located at 248 Philadelphia Boulevard, Palm Harbor (BA-7-1-15).

Mr. Cueva 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 the request as the proposed elevated wood deck will be cantilevered over the setback area and, as such, will be consistent with adjacent properties, which also have encroachments into the rear setback areas. 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 elevated deck shall be cantilevered and have a 12-foot rear setback, and the deck area shall not be enclosed.

Bruno Gagnon, Palm Harbor, 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. Doran, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

5 APPLICATION OF QT CONSTRUCTION, INC. IN CARE OF QUYNH TRAN, REPRESENTATIVE, FOR A VARIANCE (BA-8-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of QT Construction, Inc. in care of Quynh Tran for a variance to allow a ten-foot front setback from the property line along 51st Avenue North where a 15-foot front setback is required, re property located at 5100 37th Street North, St. Petersburg (BA-8-1-15).

Mr. Cueva 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 the request as this is a corner lot which is occupied with a residence that was built in 1949 having a ten-foot front setback where today a 15-foot front setback is required. As the proposed addition will be in line with the existing residence, staff is of the opinion that no potential adverse impact will be imposed onto adjacent properties. 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 addition shall be located ten feet from the south property line.

Quynh Tran, St. Petersburg, appeared and being duly sworn, 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.

6 APPLICATION OF MOHAMMED I. BAKER FOR A VARIANCE (BA-10-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Mohammed I. Baker for a variance to allow an accessory living unit having 1,100 square feet where a maximum of 500 square feet is allowed, re property located at 9725 131st Street North, Seminole (BA-10-1-15).

Mr. Cueva indicated that ten letters in support of and one letter in opposition to the application have been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the approval of the request as the proposed 1,100-square-foot accessory living unit appears to be an appropriate size considering the size of the residence and the size of the subject parcel, which is 1.7 acres. Based on the size of the parcel, the potential for redevelopment of the lot is four units; however, as the applicant is proposing to use a building that was used as a workshop by the previous owner, staff is of the opinion that the proposed 1,100-square-foot accessory living unit fits the character of the area and, as such, should pose no adverse impact to the adjacent property owners. 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 accessory living unit shall not exceed 1,100 square feet in size.

Mohammed I. Baker, Seminole, appeared and being duly sworn, indicated that he is seeking the aforesaid variance.

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

During brief discussion, Mr. Bomstein opined that the 500-square-foot accessory limitation in the Pinellas County Code is not appropriate for the subject site;

whereupon, he moved, seconded by Mr. Doran, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

7 APPLICATION OF GGR HRS, LLP IN CARE OF GEORGE STAMAS FOR A VARIANCE (BA-12-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of GGR HRS, LLP in care of George Stamas for a variance to allow three lots zoned RM-10 to have lot sizes of 2,465, 2,610, and 2,900 square feet with front setbacks of 20 feet where 25-foot front setbacks are required and a variance to allow a nine-foot-high fence/wall having a zero-foot rear setback where a 20-foot rear setback is required, re property located at 4415 Alternate U.S. Highway 19 North, Palm Harbor (BA-12-1-15).

Mr. Cueva 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 request as the site is encumbered with two different zoning districts, Residential Planned Development (RPD) and Residential, Multiple Family (RM). The variance pertaining to lot size for the three lots falls in the RM district and, as such, will be part of the development zoned RPD-10 and, if approved, will have no impact to the other lots being proposed. With regard to the proposed nine-foot-high wall, the site will be filled, thus raising the elevation of the site. The wall will provide an adequate buffer for residents on both sides. This type of variance is similar to a request approved by the Board on a site north of this site (BA-12-5-14), which was for a ten-foot-high wall. 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. Full site plan review.

3. The wall shall be nine feet high and have zero-foot setbacks.

George C. Zutes, Tarpon Springs, 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.

In response to queries by Mr. Bomstein, Mr. Cueva indicated that the local road is private; and that the only letter received in opposition is from the local primate sanctuary; whereupon, pointing out that the variances will only affect residents on the private road, Mr. Bomstein moved, seconded by Mr. Doran, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

8 APPLICATION OF RONALD MCLAUGHLIN FOR A VARIANCE (BA-9-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Ronald McLaughlin for a variance to allow a maximum six-foot-high fence along the north, south, and east property line at a zero-foot setback where a 25-foot setback is required, re 2.3 acres located on the west side of 131st Street North, 300 feet south of 113th Avenue North, Largo (BA-9-1-15).

Mr. Cueva indicated that two letters in support of and one letter in opposition to the application have been received; whereupon, noting that staff has revised the second condition, he presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request as the site fronts 131st Street North, which is characterized by many large estate homes having entry gates along the roadway. As with many other homes in the area, the applicant desires to place a six-foot-high decorative/landscaped fence as shown on the attachment to the application, to which staff has no objection, subject to the following conditions:

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1. Approval from the Development Review Services Division ensuring adequate sight distance is provided for pedestrians who may utilize the adjacent sidewalk.
2. The type of fence erected shall be as shown on the rendering filed with the application, or similar in style and quality.

Katherine E. Cole, Clearwater, appeared and being duly sworn, indicated that she represents the applicant; whereupon, referring to a drawing, she pointed out the subject property and provided background information regarding the application.

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

Chairman Watts noted that one letter in opposition to the application has been received; whereupon, Mr. Burdette related that the correspondence addresses site plan issues, which are not under the purview of the Board, and Mr. Cueva indicated that Condition No. 1 will address those concerns.

During discussion and in response to queries by the members, Ms. Cole referred to street-level photographs and the site plan and briefly discussed matters regarding the property line and right-of-way. She related that the applicant will comply with Condition No. 2 as modified; that he understands the permit process with respect to sight visibility; and that the fence will not be a solid wall but constructed of wrought iron, similar to others in the community.

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

Upon call for the vote, the motion carried unanimously.

9 APPLICATION OF PAUL C. KEMPTER THROUGH BEEJAL P. THAKORE, ESQUIRE, DAVIS BASTA LAW FIRM, P.A., REPRESENTATIVE, FOR A VARIANCE (BA-11-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Paul C. Kempter through Beejal P. Thakore for a variance to allow a height variance of 120 feet for the structure

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located on the property where 45 feet in height is allowed and a zero-foot rear setback variance where a 15-foot rear setback is required, re property located at 146 Lake Shore Drive, Palm Harbor (BA-11-1-15).

Mr. Cueva indicated that one letter and a petition with 42 signatures in support of the application have been received; whereupon, noting that staff has added a fourth condition, he presented the following staff recommendation:

Recommend Conditional Approval. The request is being made as a result of a complaint pertaining to a radio station allegedly operating from a residence. The applicant/owner, Paul C. Kempter, purchased the subject property, located in an R-3 single family zoning district, in 1993. An R-3 single family zoning district has a height limitation of 45 feet and prohibits the operation of a remote radio station. See Pinellas County Code Sections 138-240(5) and 522.

At the time of purchase, the subject site contained a 100-foot antenna constructed by his predecessor in 1978 without the required governmental approvals of height and rear setback variances and a building permit. The applicant, who has an amateur radio license, has traditionally utilized the antenna for amateur radio operation but obtained an additional license in July 2014 to operate a Low Power FM station at the subject site.

The applicant recently made alterations to the antenna by constructing a 20-foot addition to a height of 120 feet without obtaining the required height and rear setback variances or building permit. After the addition, the County received the subject complaint. The applicant is requesting a 120-foot height variance for the antenna and a rear setback variance to permit guy wires to anchor the antenna.

Section 125.561(1), Florida Statutes provides that:

No county shall enact or enforce any ordinance or regulation which fails to conform to the limited

preemption entitled “Amateur Radio Preemption, 101 FCC 2d 952 (1985) as issued by the Federal Communications Commission.” Any ordinance or regulation adopted by a county with respect to amateur radio antennas shall conform to the above-cited preemption which states that local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimum practicable regulation to accomplish the local authority’s legitimate purpose.

Therefore, the County must “reasonably accommodate” amateur radio operations and utilize the minimum practical regulations to accomplish the interests of the County. However, reasonable accommodation is case specific, balancing of the characteristics of the site, the public interest as expressed in the zoning regulations, and the amateur communication objectives. *Zubarau v. City of Palmdale*, 192 Cal. App. 4th 289, 304 (Cal. 2nd DCA 2011).

Staff has investigated the claim and determined that the site is not being used as a remote radio station which is prohibited in the R-3 zoning district. Based on his application, the applicant is utilizing the antenna for an amateur radio operation and a Low Power FM radio station. The applicant has submitted an affidavit stating that the primary purpose of the Low Power FM station is as a non-commercial, educational FM broadcast station for educational and community benefit.

Furthermore, the Low Power FM station license for the operation is in the name of a non-profit, 501(c)(3) corporation of which the applicant is the president. The supporting documentation was not provided to the Board due to the volume of technical information. This type of operation assists the public as emergency events may occur

in the immediate area of the antenna. The applicant receives no compensation for the service as it is a volunteer or hobby-like endeavor.

The subject site is located in a low area at six feet above sea level. There are two rises in elevation, one to the south at Alderman Road and U.S. Highway 19 and the second to the northwest in the Tarpon Springs area. County staff has concluded that the recent construction of the additional 20 feet to the antenna enables the applicant to counter these geographical impediments and to broadcast to a greater distance and number of citizens than was previously achieved with the 100-foot-high antenna.

Amateur radio and Low Power FM radio station operations have been recognized by all levels of government as serving a public and community benefit. The increased broadcast transmission area, therefore, would also benefit the public in the event of an emergency.

County staff also finds that the requested antenna height and zero-foot rear setback variances would not be a detriment to the surrounding neighbors. The subject site is on a cul-de-sac in the back of the community on Lake Tarpon, and the applicant owns an adjacent lot. The zero-foot rear setback variance needed for guy wires for the antenna is located on the portion of the subject site adjacent to Lake Tarpon and away from other residential parcels.

The antenna has an insignificant visual impact since the first 80 feet of the antenna is covered or blocked by trees. The applicant's predecessor erected the 100-foot amateur radio antenna without first obtaining the requisite height and rear setback variances and building permit. The current owner/applicant is trying to correct the action of the previous owner by obtaining the requisite variances and building permit.

County staff has visited the site and believes that the application for the variances meets the County Code criteria but does have a concern in relation to the direction of a possible collapse of the 120-foot antenna. Specifically, staff needs to be assured via a letter from a structural engineer that the antenna will not collapse in a direction that may adversely impact adjacent property owners. Absent such a letter, staff cannot support the requested 120-foot antenna. Therefore, if the letter is provided, staff recommends approval of the height and zero-foot rear setback variances, subject to the following conditions:

1. The applicant shall obtain all required permits and pay the appropriate impact and/or other fees.
2. The antenna shall not exceed 120 feet in height.
3. A letter from a certified structural engineer which states the design of the tower directs the collapse of the antenna away from and does not impact homes adjacent to the subject site.
4. Operation of the amateur radio and Low Power FM station is limited to residents of the subject property, volunteers, and officers/directors of the non-profit corporation that has the Low Power FM station license. There shall be no paid employees.

Beejal P. Thakore, Palm Harbor, appeared and being duly sworn, indicated that she represents the applicant and provided background information regarding the application, relating that the applicant primarily uses the antenna for amateur radio and Low Power FM operations.

In response to queries by the members, Ms. Thakore related that the request seeks to remedy the issue of the previous owner never being granted a variance for the original 100-foot antenna; that the applicant has added 20 feet to the structure; and that the trees surrounding the subject property provide a visual buffer for the first 80 feet of tower height; whereupon, she indicated that Mr. Kempter has the overwhelming support of his neighbors regarding the structure and the operation of an amateur radio and

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Low Power FM station, and Mr. Myers related that Code Enforcement is involved in the matter due to a citizen complaint.

In response to queries by the members, Ms. Thakore related that local governments are required to reasonably accommodate amateur radio stations, which are afforded local, state, and federal protections, and Attorney Hardy provided input; whereupon, Paul C. Kempter, Palm Harbor, appeared and being duly sworn, indicated that he is seeking the aforesaid variance; and that the antenna height was increased by 20 feet to mitigate for local topography and boost reception, and lengthy discussion ensued.

Mr. Kempter indicated that he runs a community radio station; that the station operates under a Low Power FM license; that no advertising is permitted and operations are restricted to educational and non-commercial programming; that the broadcast signal reaches approximately 3.5 miles depending upon daily atmospheric conditions; that managing the station, which operates 24 hours a day, is his avocation; and that he is agreeable to the fourth condition as proposed by staff; whereupon, Mr. Cueva briefly discussed similar antennas throughout the county.

In response to the Chairman's call for objectors to the application, Steven Murray, Palm Harbor, appeared and being duly sworn, presented the following concerns:

- Antenna is much taller than the surrounding trees and has a significant visual impact.
- No requirement exists for the reasonable accommodation of an FM broadcast tower.
- Application for HAM radio operator license was filed following citizen complaint.
- As an FM broadcast station, it was never intended to be used for amateur radio.
- Considerably more than 20 feet were added to the original broadcast tower.

During discussion and in response to queries by the members, Mr. Myers related that although he cannot confirm the original height of the tower, it presently stands at 120 feet tall; whereupon, Mr. Murray discussed the proximity of his home to the structure, the view from his backyard, and the public hearing notification process, and related that prior to the increase in height, he was not aware the antenna existed.

In response to the Chairman's call for supporters of the application, Gennaro Kingston, Glenn Crossland, Timothy Smith, and Karl Reinhardt, Palm Harbor, and Clayton Parrott, Largo, appeared and being duly sworn, expressed their support for the request.

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In response to queries by the members, Mr. Kingston stated that he was aware of the tower prior to the additional height; that he does not know if it ever operated as a HAM radio station; and that the station plays a variety of music; whereupon, Mr. Clayton related that he works for Pinellas County Emergency Management; that antenna height is important with regard to amateur radio frequencies; and that a 120-foot tower versus a 100-foot tower makes a big difference when communicating during a local emergency situation.

During discussion and in response to queries by the members, Mr. Clayton stated that because amateur radio operators police themselves, the Federal Communications Commission basically leaves them alone; that he had been unaware of the tower until contacted by staff for his technical expertise; and that the prior owner could have installed the antenna solely for television reception; whereupon, he discussed the various distances an amateur radio station and a Low Power FM station could transmit with respect to factors such as weather conditions, local foliage, and antenna height.

Following public comment, Ms. Thakore responded to the concerns of the objector and queries by the members, and indicated that views are not a protected legal right; that the applicant has applied for and met all criteria for obtaining an amateur radio license and a Low Power FM license; that the tower has always been above the tree tops and viewable from the lake; and that it is designed for co-location; whereupon, she presented further information regarding Florida Statutes and County Code.

During discussion, Mr. Bomstein stated that the primary objection relates to views; and that Ms. Thakore has correctly pointed out that views are not a protected legal right; and Mr. Burdette related that because the local community appears to support the request, he has no objection to the application; whereupon, Mr. Doran discussed the importance of being able to communicate information to the public during an emergency, and indicated that because all levels of government have determined the need for reasonable accommodations, he supports the application.

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

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

#10 APPLICATION OF TEAM SAVAGE, INC. THROUGH COMMERCIAL SITE SOLUTIONS, INC. IN CARE OF SCOTT K. STANNARD, P.E., REPRESENTATIVE, FOR A VARIANCE (BA-5-1-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Team Savage, Inc. through Commercial Site Solutions, Inc. in care of Scott K. Stannard for a variance to allow a Floor Area Ratio (FAR) of 21.7 percent in lieu of an FAR of 20 percent, as required per the Land Development Code, to allow for the expansion of the retail use and improve parking and a variance to allow for a dumpster to be located six feet from the property line adjacent to a residential zone, where a 20-foot setback is required, re property located at 29703 U.S. Highway 19 North, Clearwater (BA-5-1-15).

Mr. Cueva 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 recommended increase in FAR as the applicant has been modifying the site by adding a drainage retention facility and by rezoning a mobile home lot to CP-1 to address the FAR requirements. It should be noted that the increase is minimal and if the mobile home had not been removed, the site would have exceeded the allowable FAR; however, the slight increase will only occur on the main parcel. Approval of the request should be subject to the following conditions:

1. Full site plan review.
2. Floor Area Ratio shall not exceed 21.7 percent.

Larry Bean, New Port Richey, 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.

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In response to queries by Mr. Bomstein, Mr. Bean briefly discussed the request, stating that the business sells small watercraft and similar vehicles; whereupon, Mr. Burdette moved, seconded by Ms. White, that the variance be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

#11 APPLICATION OF GREEN ENERGY FOR NORTH AMERICA, LLC THROUGH MARK WATERBURY, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-3-1-15) – GRANTED WITH ADDITIONAL CONDITION

Public hearing was held on the application of Green Energy for North America, LLC through Mark Waterbury for a special exception to allow the property to be developed as an affordable housing development for 207 units, re 18.43 acres located at the northwest corner of Trotter Road and 134th Avenue North, Largo (BA-3-1-15).

Mr. Cueva indicated that two letters in opposition to the application have been received, and presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request provided the Board is satisfied that the “Standards” of Section 138-238, Division 7, of the Pinellas County Land Development Code have been met and subject to the following conditions:

1. Full site plan review.
2. A 50-percent density bonus is granted to allow for 207 units.

Mark Waterbury, St. Petersburg, appeared and being duly sworn, indicated that he represents the applicant.

In response to comments and queries by Mr. Bomstein, Mr. Waterbury provided historical background information regarding the property and discussed future plans for the site. He related that the subject property was operated as a landfill for many years; that his firm is presently evaluating the site for potential environmental issues; and that even though the Florida Department of Environmental Protection (FDEP) will likely be involved due to the results of preliminary water tests, his firm is ready to move

forward with regard to developing the property; whereupon, Messrs. Cueva and Myers indicated that Pinellas County will conduct its own inspection, and discussed minor Code violations; and Mr. Bomstein indicated that while he has concerns regarding suitability of the site for development, given its history, he will rely on the good judgment of FDEP and Environmental Management; and noted that all the risk is on the developer.

During discussion and in response to queries by Mr. Pierce, Mr. Cueva stated that the case is before the members so they can hear the request for a 50-percent affordable housing density bonus. Mr. Waterbury presented background information regarding his request, discussed potential federal funding, and indicated that the project, as proposed, will be comprised of 100-percent affordable housing rental units; whereupon, Mr. Burdette recommended that a third condition be added as follows:

3. All applicable state permits shall be obtained.

In response to the Chairman's call for objectors to the application, the following individuals appeared and, being duly sworn, presented their concerns:

Marva Perry, Largo
Irene Ratner, Largo
Garry A. Huck, Largo
Susan Salerno, Largo
M.C. Garrett, Largo
Debbie Johnson, Largo, Pinellas County Housing Authority
Rick Cavalieri, Tampa, Northstar Development

Concerns expressed by the citizens included:

- Excessive density will arise due to concentration of affordable housing in one area.
- No need exists for two affordable housing developments located side-by-side.
- Needs for road development and school construction have not been explored.
- Increased traffic, noise, crime, and congestion; reduced property values.
- Intense shaking during remediation could break utility lines.
- Insufficient public notice sent to local residents.
- Land is unstable and cannot support housing.
- Contamination of the aquifer.

In response to queries by the members, Ms. Perry referred to a map and pointed out the neighboring affordable housing community of Rainbow Village, and

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related that several hundred residents live on the 32-acre property, which is managed by the Pinellas County Housing Authority; whereupon, Mr. Cueva clarified that the subject property is already zoned to allow for the construction of housing; and that the members are only voting on a request to allow a 50-percent affordable housing density bonus, and Mr. Burdette briefly discussed various aspects of building on a landfill.

During lengthy discussion and in response to comments and queries by the members, Ms. Johnson reported that the Housing Authority does not support the application of Green Energy for North America, LLC; and with input by Mr. Cavaliere, indicated that the Housing Authority has concerns regarding additional density, pedestrian access, and increased traffic, and discussed its own expansion plans for the Rainbow Village property.

Following public comment, Mr. Waterbury responded to the concerns of the objectors and queries by the members, and opined that even though the Housing Authority has plans to increase density and build a new community on its property, it does not want a neighboring project to benefit from similar expansion. He stated that the Housing Authority has a conflict of interest because it will also be applying for federal funding; whereupon, he discussed economic considerations.

In response to queries by the members, Mr. Waterbury related that after project construction is complete, his firm will continue to own the property along with other private investors; and that an experienced affordable housing property manager will oversee the complex; whereupon, he briefly discussed the importance of good property maintenance and appropriate tenant selection, and related that the new development will be aesthetically pleasing and will include a senior housing component, and discussion ensued.

Referring to comments by the objectors, Mr. Bomstein agreed that the property is an eyesore and an environmental concern, and opined that it should be improved; whereupon, he expressed concerns regarding the property being developed at an increased density versus remaining in its present state, and Mr. Burdette provided input.

Mr. Doran pointed out that the only issue before the members relates to the 50-percent density bonus, and discussed issues relating to incentivizing affordable housing; whereupon, he related that the applicant's plan is likely the best prospect for getting the property cleaned up, and Ms. White agreed.

Ms. White moved, seconded by Mr. Doran, that the application be approved with Mr. Burdette's condition that all applicable state permits be obtained.

Upon call for the vote, the motion carried unanimously.

#12 APPLICATION OF JEFFERSON BANK OF FLORIDA IN CARE OF TODD PRESSMAN, REPRESENTATIVE, FOR A VARIANCE (BA-2-1-15) – GRANTED

Public hearing was held on the application of Jefferson Bank of Florida in care of Todd Pressman for a variance to modify a previous condition prohibiting a message board for the existing identification sign, re the bank located at 35320 U.S. Highway 19 North, Palm Harbor (BA-2-1-15).

Mr. Cueva indicated that one letter in support of the application has been received, and presented the following staff recommendation:

Recommend Denial. The site was before the Board in 2013 (BA-1-6-13) to approve an identification sign for a bank. The Board approved the variance with a condition that the sign not have a message board as part of the signage. The applicant now desires to have the condition removed. Staff does not agree with the request as the adjacent bank to the north, which also has a sign, does not have a message board associated with it. To approve the request would not be consistent with the criteria for granting a 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 request will not confer on the applicant any special privilege that is denied by the chapter to other similar lands, buildings, or structures in the same zoning district.

3. *Unnecessary hardship.* The literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter.

Mr. Bomstein indicated that he would not participate in any discussion on this case due to a conflict of interest in that he is a shareholder of the bank, and in accordance with the provisions of the Standards of Conduct Law, submitted a Memorandum of Voting Conflict, which has been filed and made a part of the record.

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

Todd Pressman, Palm Harbor, appeared and being duly sworn, indicated that he represents the applicant, and referring to aerial and street-level photographs, pointed out the location of the subject parcel and provided a brief overview of the request. He stated that the members had formerly approved a variance allowing for the expansion of an existing freestanding sign at the bank property, but with the condition that no reader board be permitted; and that today's request seeks to allow a reader board.

In response to queries by the members, Mr. Pressman stated that the sign is 130 square feet in size; that no additional square footage or change in sign dimensions will be required for a reader board; that the Upper Tampa Bay Chamber of Commerce has written a letter in support of the request; and that he does not agree with a staff report comment that the request would grant a special privilege; whereupon, Mr. Cueva provided background information regarding the parcel and discussed the staff recommendation for denial, relating that because the members had previously indicated that increasing the sign dimensions from 90 to 130 square feet was a generous variance and no reader board was to be included, his office sees no basis to provide additional consideration regarding the matter, and discussion ensued.

Robert McGivney, Chairman and Chief Executive Officer, Jefferson Bank of Florida, Palm Harbor, appeared and being duly sworn, indicated that he is seeking the aforesaid variance, and presented further information regarding the request; whereupon, lengthy discussion ensued regarding conforming and non-conforming signs, electronic message boards versus reader boards, dimensions of the sign, previous direction by the Board, and similar topics.

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In response to queries by Mr. Burdette, Mr. McGivney related that the reader board would contain information regarding the bank or charitable causes; and Mr. Hoeneisen commented that a community bank supporting community activities is a worthwhile objective, and Ms. White agreed; whereupon, Mr. Doran discussed the reasons local sign codes were enacted. He indicated that businesses should conduct signage negotiations when a property is purchased and expressed his dismay that those businesses expect the county to sort out their problems, and brief discussion ensued regarding other signs in the immediate area and the overall value of reader boards.

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

Upon call for the vote, the motion carried 6 to 0, with Mr. Bomstein abstaining.

MINUTES OF SEPTEMBER 4 AND NOVEMBER 6, 2014 MEETINGS – APPROVED

Upon motion by Mr. Bomstein, seconded by Mr. Doran and carried unanimously, the minutes of the meetings of September 4 and November 6, 2014 were approved.

ADJOURNMENT

At the direction of Chairman Watts, there being no further business, the meeting was adjourned at 11:50 A.M.

Chairman