

Clearwater, Florida, September 3, 2015

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

Also present: Chelsea D. Hardy, Assistant County Attorney; Glenn Bailey, Planning Department Zoning Manager; 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 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. All persons planning to give testimony were duly sworn by the Deputy Clerk.

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Deviating from the agenda, Chairman Watts indicated that Item No. 10 would be heard at this time.

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#10 APPLICATION OF DAVID L. JACKAWAY THROUGH BRIAN O'CONNELL, REPRESENTATIVE, FOR A VARIANCE (BA-3-9-15) – WITHDRAWN

Mr. Bailey referred to the application of David L. Jackaway through Brian O'Connell for a variance to allow for the construction of a detached garage having a 15-foot setback from the property line along Florida Avenue where a 20-foot front setback is required, re property located at 1100 16th Street, Palm Harbor (BA-3-9-15), and reported that the application has been withdrawn.

# 1 APPLICATION OF KLOSTERMAN ROAD TRUST IN CARE OF LAWRENCE CROW THROUGH AHMAD KARAZOUN, REPRESENTATIVE, FOR A VARIANCE (BA-4-9-15) – WITHDRAWN

Mr. Bailey referred to the application of Klosterman Road Trust through Ahmad Karazoun for a variance to allow for the dispensing of alcoholic beverages within 200 feet of a school where 750 feet is required, re property located at 38652 U.S. Highway 19 North in the unincorporated area of Tarpon Springs (BA-4-9-15), and reported that the variance is no longer required due to changes in the County Code approved by the Board of County Commissioners on August 18; and that the application is being withdrawn by staff because the alcohol dispensing distance requirement no longer applies to colleges; whereupon, Mr. Watts related that the applicant can move forward without the approval of the Board of Adjustment.

# 2 APPLICATION OF SCHWARTZ REAL ESTATE HOLDINGS, LLC THROUGH GREG DEICHMAN, REPRESENTATIVE, FOR A VARIANCE (BA-11-9-15) – PORTION OF APPLICATION RE CHURCH WITHDRAWN; PORTION RE RESIDENTIAL ZONING DISTRICT BOUNDARY LINE GRANTED AS PER STAFF RECOMMENDATION

Mr. Bailey referred to the application of Schwartz Real Estate Holdings, LLC through Greg Deichman for a variance to allow for the dispensing of alcoholic beverages within 150 feet of a residential zoning district boundary line and within 750 feet of a church, re property located at 993 Florida Avenue, Palm Harbor (BA-11-9-15), and reported that because the distance requirement from the church no longer requires a variance, due to changes in the County Code, only the distance from the residential district boundary line is being considered.

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

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The nearby residentially-zoned land is currently being used for commercial purposes. The request will pose no detrimental impact to the use. 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 hours for alcohol service shall be as established in Chapter 6, Article II, of the Pinellas County Code, or as deemed appropriate by the Board.

In response to the Chairman's call for the applicant, Greg Deichman, Palm Harbor, and Benjamin Nichols, Dunedin, appeared. Mr. Deichman stated that he wishes to open a microbrewery at the subject location; and that while the main goal of the business is to brew and sell craft beer, there will be an onsite tasting bar for the patrons. He related that there will be no outdoor seating, amplified music, or food served; that the business will likely be open from 2:00 P.M to 1:00 A.M. six days a week; that he anticipates there will be no more than 50 people on the premises at any one time; that sufficient parking exists; and that he has a site permit.

In response to the Chairman's call for objectors to the application, Dennis Shiels, Palm Harbor, stated his concerns relating to parking and noise and responded to queries by the members. Mr. Bomstein pointed out that the members are not considering a parking variance or the site plan, only issues regarding the proximity of the business to the residential neighborhood; whereupon, he suggested that Mr. Shiels contact Code Enforcement if he continues to have problems regarding parking and noise.

Messrs. Diechman and Nichols responded to the concerns of the objector and queries by the members, relating that there are 41 parking spaces allotted for brewery patrons and employees; that the most recent use of the building was as a golf cart warehouse; and that Mr. Shiels can contact either of them regarding any problems.

Thereupon, 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 DAN R. HORNE, SR. AND SUSAN J. HORNE FOR A VARIANCE (BA-1-9-15) – GRANTED WITH ADDITIONAL CONDITION

Public hearing was held on the application of Dan R. Horne, Sr. and Susan J. Horne for a variance to allow three after-the-fact accessory structures (shed, pergola, and orchid house) to remain, all three with 1-foot side setbacks, the pergola with a 3.5-foot rear setback, and the shed with a 6-foot rear setback, where 6-foot side setbacks and 10-foot rear setbacks are required, re property located at 1659 Woodridge Drive in the unincorporated area of Clearwater (BA-1-9-15).

Mr. Bailey indicated that four letters in support of 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 applicant obtains authorization from the appropriate utility/agency regarding the location of the structures within the 10-foot easement at the rear of the property. The pergola and orchid house are both less than 100 square feet and the shed is well shielded from the adjacent property by existing vegetation. 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. Written authorization from the appropriate utility/agency to locate the shed and pergola within the 10-foot recorded easement along the rear property line. If authorization is not granted, these structures must be moved outside of the easement.
3. In the event any of the accessory structures are destroyed beyond 50 percent of their respective market values, any new structure shall meet the required setbacks.

In response to the Chairman's call for the applicant, Dan R. Horne, Sr., Clearwater, appeared and related that he has been working for the past 12 years to create a natural habitat in his backyard; that he wishes to keep the shed, pergola, and orchid house in their present locations; that he was not aware of the need for a building permit; and that the application is the result of a running feud he is having with a neighbor; whereupon, he related that he has letters of support from other neighbors; and that Duke Energy has stated that it has no objections to the shed encroaching four feet into the utility easement, and discussion ensued.

In response to queries by Messrs. Bomstein and Pierce, Mr. Myers reported that the case is before the members following a complaint regarding the structure being within the setbacks; whereupon, Mr. Bailey related that even though County Code allows for a 10-foot by 10-foot utility shed within the setback, similarly-sized pergolas and orchid houses are not addressed in the Code and technically require variances.

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In response to the Chairman's call for objectors to the application, Timothy Smith and John Weiss, Clearwater, appeared and expressed their concerns regarding oversized buildings in proximity to the lot line, drainage and runoff issues, and the setting of a precedent. Responding to the concerns of the objectors, Mr. Horne stated that even though the runoff issues are strictly due to the slope of his property, he is willing to install a rain gutter on the east end of the utility shed; whereupon, he reiterated that Duke Energy has given him permission to remain within the utility easement.

In response to queries by the members, Mr. Horne indicated that he has reviewed and will abide by the conditions of staff; that his backyard is now neat and uncluttered; and that he was unaware of the concerns of Mr. Weiss; whereupon, following discussion, Mr. Bomstein recommended that a fourth condition be added as follows:

4. The Engineering Department will review and address any runoff from the subject property onto the neighbors' properties.

Mr. Bomstein moved, seconded by Ms. White, that the variance be granted with the additional condition.

Upon call for the vote, the motion carried unanimously.

# 4 APPLICATION OF JOSEPH AND LORI DICARLO THROUGH MARK TENNEY, REPRESENTATIVE, FOR A VARIANCE (BA-2-9-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Joseph and Lori DiCarlo through Mark Tenney for a variance to allow for the construction of a new single-family home with a 7.5-foot setback from the property line adjacent to Moss Rose Avenue where a 25-foot setback from a public right-of-way is required, re property located approximately 180 feet east of the intersection of Chateau Court and Summerfield Cove, Palm Harbor (BA-2-9-15).

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

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The subject property is an irregularly shaped lot that has a second frontage on an unimproved public right-of-way. The requested 7.5-foot setback is from the property line adjacent to Moss Rose Avenue, which will likely never be constructed. The request is consistent with other developed single-family R-4 (one, two, and three family residential) zoned lots in the area and does not appear to 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 the appropriate impact and/or other fees.
2. The new home shall maintain at least a 7.5-foot setback from the property line along unimproved Moss Rose Avenue. All other required setbacks shall be maintained.

Mark Tenney and Joseph and Lori DiCarlo, Palm Harbor, appeared and indicated that they are seeking the aforesaid variance.

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

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

Upon call for the vote, the motion carried unanimously.

# 5 APPLICATION OF JAMES R. AND L. DARLENE DIXON MIKES FOR A VARIANCE (BA-5-9-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of James R. and L. Darlene Dixon Mikes for a variance to allow a pool with a 6-foot setback from the center of the seawall to the pool water line, where a 15-foot setback is required, re property located at 1515 Seagull Drive in the unincorporated area of Gulfport (BA-5-9-15).

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

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The submitted engineer's report indicates that the proposed pool will not adversely affect the functioning or integrity of the nearby seawall or its deadmen. Also, no adverse impact to adjacent properties should occur based on the proposed location. It should be noted that the Board approved a similar setback request for the proposed pool in 2008; however, construction never commenced and the variance expired. 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 shall maintain at least a 6-foot setback from the seawall as shown on the plan submitted with the application.

James and Darlene Mikes, St. Petersburg, appeared and indicated that they are seeking the aforesaid variance.

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

Mr. Bomstein remarked that the members typically do not get overly concerned regarding the proximity of a seawall with respect to setbacks or variances; 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.

# 6 APPLICATION OF J. T. S. COASTAL LIVING, LLC THROUGH GEORGE LAI, REPRESENTATIVE, FOR A VARIANCE (BA-9-9-15) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of J. T. S. Coastal Living, LLC through George Lai for a variance to allow for the construction of a single-family home having an 11.5-foot setback from the property line adjacent to Georgia Avenue where a 25-foot front setback is required, re property located at 8 Georgia Avenue, Palm Harbor (BA-9-9-15).

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

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The subject property is a 59-foot-wide lot with 128 feet of frontage along the Georgia Avenue public right-of-way, which is partially unimproved as it approaches Sutherland Bayou to the east. The requested 11.5-foot setback is from the property line adjacent to the unimproved portion of Georgia Avenue that will likely never be constructed. The request is consistent with other single-family R-4 lots in the area and does not appear to 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 the appropriate impact and/or other fees.
2. The new home shall maintain at least an 11.5-foot setback from the property line along unimproved Georgia Avenue. All other required setbacks shall be maintained.

Thomas Mayhew, Clearwater, appeared and indicated that he is seeking the aforesaid variance.

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

Mr. Bomstein stated that the letter in opposition does not cite specific concerns; that the lot width is beyond the control of the applicant; and that the section of Georgia Avenue abutting the subject property will never be improved; 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 ST. RAPHAEL ST. NICHOLAS ST. IRENE HELLENIC ORTHODOX CHURCH THROUGH ANTHONIE DAMIANAKIS, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-10-9-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of St. Raphael St. Nicholas St. Irene Hellenic Orthodox Church through Anthonie Damianakis for a modification to an existing special exception to allow for the expansion of a church from 4,851 square feet to 5,690 square feet, re property located at 8 Georgia Avenue, Palm Harbor (BA-10-9-15).

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

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

1. Full site plan review.

Anthone Damianakis, Clearwater, appeared and indicated that he represents the applicant. Responding to queries by the members, he provided historical background information regarding the property, relating that the church has been operating at the site since 2002; that it is being rebuilt following a fire in 2014; and that the additional 800 square feet will allow for easier roof reconstruction and an aesthetically pleasing building; whereupon, Mr. Damianakis confirmed that the footprint of the church will not increase, and Mr. Bailey related that the submitted site plan indicates sufficient parking.

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.

# 8 APPLICATION OF ROBERT CARLTON WARD, TRUSTEE, LAND TRUST NO. 518 KENTUCKY AVENUE, FOR A VARIANCE (BA-7-9-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Robert Carlton Ward, Trustee, Land Trust No. 518 Kentucky Avenue, for a variance to allow for the construction of a single-family home on a 5,900 square-foot, 50-foot-wide lot where 7,500 square feet and a width of 75 feet are required, re property located at 518 Kentucky Avenue, Crystal Beach (BA-7-9-15).

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

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The original platted subdivision covering the area consisted of 50-foot by 118-foot lots. Several 50-foot-wide, 5,900 square-foot lots within the vicinity are currently developed with single-family homes. No adverse impacts to the neighborhood are anticipated. The west 25 feet of the previous 75-foot-wide lot with which the subject property was a part has been sold to the adjacent property owner to the east, thereby making that property conforming to the current width standards of the R-4 district. 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. All required setbacks shall be maintained.

Carlton Ward appeared and stated that he is representing himself as Trustee of the Trust; and that most lots in the Crystal Beach community are 50 feet wide.

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.

# 9 APPLICATION OF PHILLIP KASSIS THROUGH JOE NGUYEN, REPRESENTATIVE, FOR A VARIANCE (BA-8-9-15) – GRANTED WITH ADDITIONAL CONDITION

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Public hearing was held on the application of Phillip Kassis through Joe Nguyen for a variance to allow for the construction of two single-family homes, one on each lot, with 6-foot setbacks on each side where 7.5-foot side setbacks are required, re properties located at 3640 and 3656 54th Avenue North, Lealman (BA-8-9-15).

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

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The two lots are similar in size to the surrounding properties and the requested setback is in keeping with existing development 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 new homes shall maintain at least a 6-foot setback from all side property lines. All other required setbacks shall be met.

In response to the Chairman's call for the applicant, Phillip Kassis, St. Petersburg, appeared and related that he wants to reduce the side setbacks on each lot from 7.5 feet to 6 feet, as the required setbacks would restrict the size of the houses he intends to build and sell; whereupon, responding to queries by Mr. Bomstein, Mr. Bailey indicated that he is unsure whether the homes beside the applicant's lots conform to the setback requirements, noting that the properties are similar.

In response to the Chairman's call for objectors to the application, Roger Delacqueseaux and Dawn Hinkle, St. Petersburg, appeared and expressed their concerns regarding local flooding, overgrown trees, property access, insufficient parking, rental properties, and ongoing harassment by developers; whereupon, responding to the concerns of the objectors, Mr. Burdette indicated that the applicant will be required to go through a site plan process and obtain all required permits; and that the site plan will take into account drainage, parking, and similar issues, and discussion ensued.

Mr. Bomstein offered the following modification to the application, proposing that the variance be revised to allow a 5-foot side setback on each lot between the two homes, thus creating a 10-foot separation; and that a 7-foot side setback be allowed on the side of each home adjacent to the neighboring properties; whereupon, Mr. Kassis confirmed that he was agreeable to the change.

Mr. Gephart indicated that he would be recusing himself from the vote due to a previous business relationship that could possibly lead to a greater benefit in the future based on the outcome of the board's decision, 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.

Thereupon, Mr. Bomstein moved, seconded by Mr. Doran, that the variance be granted with the above-stated modification. Upon call for the vote, the motion carried 6 to 0, with Mr. Gephart abstaining.

#11 APPLICATION OF SEMINOLE CHRISTIAN FELLOWSHIP, INC. THROUGH E. D. ARMSTRONG, III, ESQUIRE, AND F & L TOWERS, LLC, REPRESENTATIVES, FOR A VARIANCE (REMAND) (BA-6-10-13) – GRANTED

Public hearing was held on the application of Seminole Christian Fellowship, Inc. through E. D. Armstrong, III and F & L Towers, LLC, which originally came before the Board of Adjustment on December 5, 2013 for a special exception to allow a 150-foot-high unipole communication tower and for a variance to allow a setback of 50 feet from the north property line and 104 feet from the west property line where a 150-foot setback from the north and west property lines are required, respectively, re a church located at 10202 131st Street North, Seminole (BA-6-10-13). The Board approved the special exception and both variances, and the decision was then appealed.

On appeal, the Circuit Court upheld the validity of the special exception determination, and remanded the matter to the Board of Adjustment for further proceedings regarding the variance requests. The case is now before the Board to determine whether the variance to allow a 104-foot setback from the west property line and a 50-foot setback from the north property line for a communication tower, where a 150-foot setback from both the north and west property lines are required, is warranted under the Pinellas County Code.

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

Recommend Denial. The variance requests do not meet the setback requirement of Section 138-1347 (7) of the Pinellas County Land Development Code, which states that “All towers and supporting equipment including guys shall meet normal setback requirements except that the towers shall be set back from residential property lines a distance equal to the height of the tower.” The tower could be located on the property to meet Section 138-1347 (7) of the Pinellas County Land Development Code.

Therefore, 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 with 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 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 this chapter.

Attorney Hardy provided background information regarding the application, stating that the case originally came before the members on December 5, 2013; that the special exception for the unipole communication tower and two corresponding setback variances were approved at that time; and that the decision of the Board was appealed to the Sixth Judicial Circuit. She related that the circuit court upheld the Board's decision regarding the special exception; that it did not uphold the decision regarding the variance; and that the court cited that substantial competent evidence was not considered by the members with regard to the variance and the undue hardship criterion.

Attorney Hardy advised that the Circuit Court has the authority to determine whether due process and the essential requirements of law were followed, and whether substantial competent evidence was presented that the members relied upon in making their decision.

Thereupon, Attorney Hardy stated that the case has been remanded back to the Board to hear the variance portion of the application only; and that, in effect, the remand continued the previous hearing and therefore all previously submitted testimony remains valid, and discussion ensued wherein Attorney Hardy discussed what the term "substantial competent evidence" entails.

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E. D. Armstrong, III, Esquire, Hill Ward Henderson, Clearwater, appeared and indicated that he represents the applicant, and provided background information regarding the case. He related that an appellate tribunal remanded the variance portion of the application back to the Board in order for the members to hear testimony regarding one of the nine variance criterion listed in Section 138-113 (3) of the Pinellas County Land Development Code specifically relating to unnecessary hardship; and that expert testimony will be provided today that will show that the applicant complies with each of the nine criteria, even though that is not the legal burden; whereupon, he discussed federal and state laws regarding communication towers and local laws addressing aesthetic concerns.

In response to queries by Mr. Burdette, Attorney Armstrong indicated that as the staff report addresses three criteria inconsistent with the remand, he considers it essential to present all his evidence because there is a strong likelihood the case will be appealed again.

Stacy Frank, F & L Towers, Tampa, testifying as an expert witness for the applicant, displayed a map showing the location of five *sister* towers utilized by AT&T to serve its customers in the area, noting that the existing towers have reached capacity and no longer provide reliable service to the customer base in the area, and discussed the importance of maintaining dependable cellular communications during an emergency; whereupon, she displayed a photograph of an existing unipole tower, relating that all antennas are located internal to the structure; and that plans are to erect a white pole to better blend into the skyline.

During discussion and in response to queries by the members, Ms. Frank indicated that locating towers in close proximity to one another defeats the purpose; and that the proposed tower is located in the center of the existing network and several evacuation routes serving the area.

Seth Schmid, P.E., Kimley-Horn & Associates, Sarasota, testifying as an expert witness for the applicant, presented information regarding the strength of the unipole and related that due to code changes over the past 20 years, criteria has become more stringent regarding the design of communication towers. During discussion and in response to queries by the members, Mr. Schmid related that in the event of a failure, the pole would likely bend over on itself and either hang connected or break off and fall to the ground, and Ms. Frank provided input.

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Cynthia Tarapani, Florida Design Consultants, New Port Richey, testifying as an expert witness for the applicant, related that the variance request presented today is identical to the one submitted in 2013; that the applicant complies with each of the nine criteria, even though that is not the legal burden and, referring to aerial photographs and the site plan, pointed out the proposed location of the tower and presented information regarding proximate infrastructure and vegetation; whereupon, she stated that the intent of the County Code is to minimize visual impact, and provided six photo simulations of the tower placed at various locations on the property.

During discussion and in response to queries by the members, Ms. Tarapani related that even though the entire tower cannot be hidden no matter where it is sited, the structure is slender and unobtrusive, being only five feet in diameter at its widest point. She discussed placement of the tower with and without the variance, indicating that if the variance is not approved and the tower is required to be placed in the center of the property, the church will be unable to construct an anticipated gymnasium to serve the local community, thus not being able to use the property to its highest and best use.

Thereupon, Ms. Tarapani presented information regarding the nine criteria for granting a variance and stated that, in her professional opinion, the criteria have been met in this case.

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

Robert Chapman, Esquire, Sivyver Barlow and Watson, Tampa  
Mary Lou Galea, Seminole  
Cindy Parker, Seminole  
Alexandra Parker, Seminole

In rebuttal, Mr. Armstrong related that substantial competent evidence has been presented on which the members can base their decision; and that all nine criteria have been met with regard to approving the variance.

During deliberation, Mr. Bomstein related that all of the criteria have been addressed; that the applicant has gone out of its way to minimize the visual impact with a unipole tower; and that he does not see a compelling reason not to place the tower where the applicant has requested; whereupon, he indicated that although all the conditions of hardship may not have been met, a sufficient number have been suitably addressed and considered by the members.

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Attorney Hardy read the definition of “variance” for the record: “A modification of some particular requirement of this chapter which may be granted by the Board of Adjustment in order to alleviate some unique and unnecessary hardship which may result from the literal enforcement of the provisions of this chapter with respect to the parcel involved,” and advised that all of the criteria needs to be met.

In response to comments and queries by Mr. Burdette, Mr. Bailey related that today’s testimony does not change his recommendation that the application should be denied; pointing out that the tower could be placed on the property without a variance, and the standard staff recommendation in such circumstances is to deny, and Attorney Hardy provided input.

Mr. Bomstein opined that, based on the evidence presented and the criteria for variances in the County Code, the conditions have been met; and that the community would be well served if the variance is allowed; whereupon, he moved, seconded by Mr. Pierce, that the variance be granted.

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

MINUTES OF AUGUST 5, 2015 MEETING – APPROVED

Upon motion by Mr. Doran, seconded by Ms. White and carried unanimously, the minutes of the meeting of August 5, 2015 were approved.

ADJOURNMENT

At the direction of Chairman Watts, there being no further business, the meeting was adjourned at 11:16 A.M.

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Chairman