

Clearwater, Florida, December 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; Greg Pierce; and Deborah G. White.

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

### CALL TO ORDER

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

### PUBLIC HEARING ITEMS

Due notice having been given to interested persons pursuant to Comprehensive Zoning Ordinance No. 90-1, public hearings were held on the following applications. All persons planning to give testimony were duly sworn by the Deputy Clerk.

#### # 1 APPLICATION OF JOSHUA DRAKE FOR VARIANCES (BA-6-12-15) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Joshua Drake for a variance to allow for the reconstruction and relocation of an existing roofed front porch having a 10.2-foot front setback, and a variance to allow for the construction of a room addition to an existing single-family home having a 15.3-foot front setback, where a 20-foot front setback is required, re property located at 1017 14th Street, Palm Harbor (BA-6-12-15).

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

Recommend Conditional Approval. Staff has no objection to the conditional approval of this request. The property is a double-frontage lot and the proposed setbacks for the room addition and reconstructed front porch are similar to those of the existing home and porch, which were

built in the 1950s prior to the establishment of zoning regulations. 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 front setback along 14th Street shall be 15.3 feet for the room addition and 10.2 feet for the porch.
3. All other required setbacks shall be met.

No one appeared in response to the Chairman's call for objectors to the application. Mr. Bomstein moved, seconded by Ms. White, that the variances be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

# 2 APPLICATION OF DAVID F LONGO, JR. FOR VARIANCES (BA-4-12-15) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of David F. Longo, Jr. for a variance to allow construction of a 6-foot-high privacy fence having a 12-foot front setback where a 20-foot setback is required, and a variance to allow for the construction of a pool having a 6-foot front setback and a screened enclosure having a 3-foot front setback where a 20-foot setback is required for double-frontage lots, re property located at 6349 55th Avenue North in the unincorporated area of St. Petersburg (BA-4-12-15).

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 a double-frontage lot and contains a 5-foot utility easement along the north and east property lines; consequently, the homeowner does not have an alternative location for the proposed pool and screen enclosure. The requested 12-foot setback for the 6-foot-high fence applies only to a portion of the full length of the fence due to the curvature of 55th Avenue North. 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 fence shall not exceed 6 feet in height and shall maintain a minimum 12-foot setback from the 55th Avenue North right-of-way.
3. Sight distance requirements shall be met.
4. The pool shall maintain a minimum 6-foot setback and the screen enclosure shall maintain a minimum 3-foot setback from the 63rd Way North right-of-way.

David Longo, St. Petersburg, appeared and indicated that he is seeking the aforesaid variances.

No one appeared in response to the Chairman's call for objectors to the application. Mr. Bomstein moved, seconded by Mr. Burdette, that the variances be granted as recommended by staff.

Upon call for the vote, the motion carried unanimously.

Mr. Longo requested clarification regarding the setbacks relating to the fence; whereupon, Mr. Bailey indicated that a 0-foot setback along 63rd Way North and a 12-foot setback along 55th Avenue North shall be maintained.

# 3 **APPLICATION OF ARCHDIOCESE SYRIAN ORTHODOX CHURCH ANTIOCH EASTERN US THROUGH HOUSH GHOVAEE, REPRESENTATIVE, FOR A MODIFICATION TO AN EXISTING SPECIAL EXCEPTION WITH A VARIANCE (BA-1-12-15) – GRANTED AS PER STAFF RECOMMENDATION WITH ADDITIONAL CONDITIONS**

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Public hearing was held on the application of Archdiocese Syrian Orthodox Church Antioch Eastern US through Housh Ghovae for a modification to an existing special exception with a variance to allow for the construction of a 6,700-square-foot multi-purpose building for the existing church having a 25-foot front setback where a 50-foot front setback is required, re property located at 3800 Old Keystone Road in East Lake Tarpon (BA-1-12-15).

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 requested special exception, provided the Board is satisfied the “Standards” of Section 138-238, Division 7 of the Pinellas County Land Development Code have been met. Additionally, staff has no objection to the conditional approval of the setback variance request. The property has an irregular shape, triple roadway frontage, and a wetland/natural area on the southwest portion of the property that must be avoided. 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. Appropriate site plan review.
3. The proposed multi-purpose building and additional parking shall be constructed in substantial conformance with the submitted concept plan.

Responding to the Chairman’s call for the applicant, Housh Ghovae appeared and indicated that he represents the applicant. In response to queries by the members, he described the existing facilities and their current uses, and stated that under the proposed plan, parking will be improved, meet code, and provide additional handicap spaces; that the new structure will be a multi-use building with interior partitions to accommodate church business; that the property is surrounded by greenery; and that parking will be contained completely on-site preventing members from parking on the right-of-way outside of the property.

Mr. Ghovae indicated that the proposed request would accommodate the existing members of the church and is not intended for expanding the congregation; that the parking spaces are meant to accommodate both the new building and the existing sanctuary; and that the church does not intend to rent the new building to outside groups.

In response to queries by Mr. Burdette, Mr. Bailey stated that multiple structures are allowed under the existing special exception; that a proposed building was previously

approved for the site but was never built; and that the previous approval has now expired; whereupon, Mr. Ghovae related that the previous approval was granted in 2000; and that the church is aware of its expiration.

Responding to queries by the members, Christopher Jallo, Palm Harbor, appeared and stated that most of the church business is conducted on Sundays and only occurs during the week in very rare circumstances; and that the church is no longer regularly active on Wednesdays as indicated on the previous application. Mr. Bailey, with input by Attorney Hardy, indicated that the concept plan was a condition of the original special exception; and that a modification must be requested when an applicant wishes to expand or change that plan.

Mr. Doran suggested that a condition to prevent the rental of the proposed building to outside parties be added to any possible terms of approval; whereupon, Mr. Ghovae indicated that the applicant would have no objection to the added condition if approved.

Mr. Jallo, representing the church, reviewed its operations and stated that the proposed modification is for the health, safety, and welfare of its members; that current parking arrangements are inadequate; and that the proposed arrangements will be more than sufficient for their needs including during peak holiday events.

Responding to query by Mr. Burdette, Mr. Bailey indicated that parking requirements are based on the auditorium size of the church at one space per 40 square feet; and that the proposal would meet this requirement.

Father John Kouki, Trinity, appeared and stated that the church's request is about its spiritual future; that it will provide a separate facility for Sunday school and other needs which are currently being conducted within the sanctuary building; and that Sunday attendance typically includes 100 of their 200 members.

Upon call for objectors to the application, the following citizens appeared and indicated that their concerns relate to excessive traffic, insufficient off-street parking, lack of buffers included in the proposal, litter on and from the property, and the excessive size of the proposed building.

John Kevin Lloyd, Tarpon Springs (submitted petition with 67 signatures in opposition to application)  
Sandra Brenner, Tarpon Springs  
Helen Dey, Tarpon Springs

Responding to queries by the members, Mr. Lloyd stated that he is a registered architect; that the proposed expansion could be accomplished without a need for a variance; that the church could demolish one of the existing buildings to create the needed space for a more appropriate plan; and that moving the proposed building back another 25 feet would be acceptable as an alternative. In response to comment by Mr. Lloyd, Mr. Bailey, with input by Messrs. Burdette and Bomstein, related that all Board and County emails are public record.

Mr. Pierce confirmed that there is ingress/egress along both Keystone Road and Old Keystone Road; and that an alternative could be to move the access to Keystone Road exclusively; whereupon, Mr. Bailey stated that access at Old Keystone Road is preferred as it would prevent traffic issues on Keystone Road.

In rebuttal, Mr. Ghovae noted that he heard three main issues: buffering, parking and traffic. He indicated that all buffering and landscaping will be addressed during the site plan review and will meet code; that all parking spaces will be on site based on the parking requirements; and that the only access will be from Old Keystone Road; whereupon, Mr. Jallo related that the ingress/egress on Keystone Road does not extend into the church parking area.

In response to queries by the members, Mr. Ghovae, with input by Mr. Jallo, stated that moving the building back another 25 feet would reduce the number of available parking spaces; that parking along Keystone Road would create traffic and safety issues; and that a condition to add additional landscaping along the north building would be acceptable.

Responding to queries by Mr. Bomstein, Mr. Jallo, with input by Mr. Ghovae, noted that the proposed building was designed with interior partitions to allow room configurations that meet the various needs of the church such as board meetings, bible study, and Sunday school; that the building plans do not include a basketball court, kitchen, or production stage; and that the church does not plan to rent the building for use by outside parties.

Mr. Jallo stated that the existing residence on the property was the home of the priest who has recently moved to a larger home offsite to accommodate his family; and that the church is currently renting the residence to help raise funds for the project; whereupon, Attorney Hardy, with input by Mr. Bailey, noted that the single family home existed before the special exception for the church was granted; that the special exception included no requirements to demolish or change the use of the residence; that a

residential use is permitted in an A-E zoning district without special exception; and that the home is separate from this application, and discussion ensued.

Mr. Bomstein, with input by Mr. Bailey, stated that the variance would not significantly impact the neighborhood; that moving the building back or reducing the size of the building would make little difference; and that the parking spaces meet the requirements for the church based on the size of its sanctuary. Chairman Watts indicated that the proposed plan will solve most of the parking, litter, and safety issues.

Mr. Pierce moved, seconded by Mr. Gephart, that the modification and variance be granted as recommended by staff with the addition of the following conditions:

4. Additional landscaping along Old Keystone Road.
5. Multi-purpose facility cannot be rented for non-member functions.

Following discussion, and upon call for the vote, the motion carried unanimously.

# 4 APPLICATION OF MICHELLE D. AND THOMAS W. LEWIS FOR A VARIANCE (BA-2-12-15) – DENIED

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Public hearing was held on the application of Michelle D. and Thomas W. Lewis for a variance to allow an approximately-8-foot-high existing vinyl privacy fence with 0-foot side and rear setbacks to remain, where a 6-foot side setback and a 10-foot rear setback are required, re property located at 6821 Circle Creek Drive in the unincorporated area of Pinellas Park (BA-2-12-15).

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

Recommend Conditional Approval of the 8-foot high fence along the east property line, and Denial of the 8-foot high fence along the north and west property lines. Staff has no objection to the conditional approval of the 8-foot-high fence along the east property line due to privacy issues involving a raised deck on the adjacent property that allows easy visibility over a standard 6-foot high fence. 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 fence shall not exceed 8 feet in height

Staff recommends denial of the 8-foot high fence along the north and west property lines. At those locations, it does 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 from the application.
2. No special privilege. That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
3. Unnecessary hardship. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

Thomas William Michael, Pinellas Park, appeared as the applicant and indicated that there is a grade level difference of about 25 degrees at the end of the property; that a pool was installed on the property subsequent to the submitted survey; and that the slope of the grade allows neighbors to view the pool over the fence.

In response to queries by the members, Mr. Myers stated that the adjacent neighbor to the east filed a complaint after the fence was constructed. Mr. Michael stated that the neighbor to the west approves of the 8-foot-high fence; that other neighbors across the outfall canal can see over the fence into his yard; and that he has planted trees and other landscaping to try and block the view from outside of the property at considerable expense. He related that the trees do not fully block the outside view as they must be pruned and maintained to avoid any nesting wildlife.

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Following discussion, Chairman Watts called for any objectors to the application. Robert Patton, Pinellas Park, indicated that he is the neighbor to the east; that the Homeowners Association (HOA) does not allow a fence higher than 6 feet; that the planted trees are mostly bamboo and create enough privacy even without a fence; and that he has a deck and tiki hut on his property that preexist the fence by several years.

Responding to queries by the members, Mr. Myers related that Mr. Patton has received warning notices from the County regarding his property; and that it is up to him to complete an application for a variance to dispel those warnings. Attorney Hardy stated that HOA rules are a private matter between the HOA and the property owner; and that the Board should only consider County codes and requirements.

Referring to photographs, Mr. Patton related that the fence is built on top of a wooden retention wall made from railroad ties; that the 2-foot section added to the original 6-foot fence is separating and leaning which is causing safety issues; and that the applicant has room on his property to build a privacy fence that is not in the setback area. Mr. Bailey concurred and stated that a fence in compliance with the required setbacks could be above 6 feet high and as high as the height of the existing building.

Following discussion, Deborah Schnitzler, Pinellas Park, indicated that she is the HOA president; that a request from the applicant to alter the fence was never received by the HOA; and that she encourages the County to deny the variance.

Responding to comments by the objectors, Mr. Michael indicated that the railroad tie is part of work done to slow the erosion of the yard into the drainage ditch; that the fence was constructed with hurricane clips and 4x4 pressure-treated posts anchored in concrete; and that the fence only appears to be listing where a portion of the fence was moved two feet to accommodate a neighbor's concern. Responding to query by Chairman Watts, he related that despite spending thousands of dollars planting bamboo trees and other plants, sightlines still remain into his property, and discussion ensued.

In response to query by Mr. Bomstein, Mr. Bailey stated that staff's recommendation to approve the fence on the east side was influenced by the existing deck violation of the neighbor; and that if the deck was not there, staff would recommend a full denial of the application.

Following discussion, Ms. White moved, seconded by Mr. Pierce, that the variance be denied.

Upon call for the vote, the motion carried unanimously.

# 5 APPLICATION OF GMLV, LLC FOR A VARIANCE (BA-5-12-15) – GRANTED WITH CONDITION

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Public hearing was held on the application of GMLV, LLC for a variance to allow two after-the-fact wooden patio decks to remain along the east side property line having 4-foot side setbacks where a 7.5-foot side setback is required, re property located at 1131 Spruce Street in the unincorporated area of Tarpon Springs (BA-5-12-15).

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

Recommend Denial. Staff does not support this request as it does 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 from the application.
2. No special privilege. That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
3. Unnecessary hardship. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

Gregory Lesniewski, Palm Harbor, appeared and, referring to photographs, indicated that he is a member of GMLV LLC; that the property was purchased in December 2012; and that the deck was built in the 1980's and is identical to decks on similar properties in the area. Mr. Myers related that a complaint concerning the deck was received through the SeeClickFix smartphone app which sends complaints, pictures, and Global Positioning System (GPS) locations to the County.

In response to queries by the members, Mr. Bailey stated that a deck higher than 12 inches must meet setback requirements. Mr. Bomstein, with input by Mr. Burdette, noted that requiring any change to the existing deck would not accomplish any overall good; and that anonymous complaints could come from someone out of the area; whereupon, he moved, seconded by Mr. Gephart, that the variance be granted.

No one appeared in response to the Chairman's call for objectors to the application. Mr. Myers indicated that the fence sections attached to the deck railing remain an issue as they exceed the 6-foot-high limit in a setback area. Responding to query by Mr. Pierce, Attorney Hardy advised that the fence issue can be considered today as it is part of the after-the-fact deck issue which was properly advertised, and Mr. Myers concurred.

Mr. Bomstein amended his motion and moved, seconded by Mr. Gephart, that the variance be granted with the condition that the height of any fencing shall not exceed the height of the existing deck rail.

Upon call for the vote, the motion carried unanimously.

# 6 APPLICATION OF DONNA POWELL PARKER FOR A VARIANCE (BA-3-12-15) – DENIED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Donna Powell Parker for a variance to allow for the construction of a single-family home with an 11-foot front setback, where a 20-foot front setback is required, re property located at 8591 Forsyth Drive North in the unincorporated area of Seminole (BA-3-12-15).

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

Recommend Denial. By a unanimous decision, the Board denied a substantially similar request regarding the same property during their

April 3, 2014 public hearing. That request was for a 10-foot setback while the current request is for 11 feet. The Board cited multiple concerns with the first request, those including 1) the proposed house being built at an angle where the front of the house would not face Forsyth Drive following the curvature of the road, which is different than other homes in the neighborhood; 2) the size and orientation of the proposed home may block the view of the curve in the road causing a safety issue; and 3) that a reasonable house could be built on the property the way the lot is currently configured. The present application adequately addresses the safety issue but it does not address the other concerns. Therefore, staff cannot support the request. The Board's previous determination that the earlier substantially similar request did not meet the criteria for the granting of variances established in Section 138-113 of the Pinellas County Land Development Code should also apply with the present case, 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 from the application.
2. No special privilege. That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.
3. Unnecessary hardship. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

Mr. Bailey related that the applicant has provided evidence that the size and orientation of the proposed home would not block views of the curve in the road and would not cause safety issues; that the applicant here today is the same as in the 2014 request; and that the house previously on the property has burned down and the property remains vacant at this time.

Donna Powell Parker, St. Petersburg, appeared and indicated that she is a State-certified residential real estate appraiser and has appraised property in Pinellas County for 45 years; that she plans on living in the proposed home; and that she has made a second request for the variance because she was unprepared for the unexpected allegations brought forth at the previous hearing.

Ms. Parker reviewed the history of the previous request, provided an aerial photograph of the property, and summarized a report from Gulf Coast Consulting Inc., included in her application package, noting that the proposed home will not create sight distance concerns or visual obstructions. Responding to queries by the members, she stated that there is an 18-foot right-of-way from the curb; whereupon, Mr. Bailey noted that the right-of-way was part of the plans when the subdivision was built in the 1950s or 1960s; and that the setback is 20 feet from the property line and not the road edge.

Mr. Burdette stated that he is familiar with Gulf Coast Consulting; that he accepts Mr. Pergolizzi's report stating that there are no safety issues regarding the proposed sightlines; and that his only concerns remain the size and placement of the custom home.

Ms. Parker stated that the proposed home design is being built in several neighborhoods and is not a custom home; that the home could fit on the lot without a variance; and that the variance would allow placement of the home for the highest and best use of the property; whereupon, she provided a report of new homes being built in Seminole and compared lot sizes and living areas to her proposed home.

Responding to query by Mr. Burdette, Ms. Parker indicated that some of her neighbors support her request for the variance; and that indigenous landscaping will address some concerns of the objectors; whereupon, she submitted the signed statements of the supporters. In response to queries by the members, Mr. Bailey related that the issue is the allowed use, and not the best use, of the property; and that all three criteria under Section 138-113 must be addressed.

Upon the Chairman's call for objectors to the application, the following individuals appeared and stated their concerns, indicating that the proposed house is too large for the lot and will disrupt the harmony of the neighborhood; that visibility along the curved street will be impaired; that the applicant plans to remove a large 100-year-old tree from the property; and that the proposed placement of the house will create safety issues.

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James Raymer, Seminole (submitted petition with 23 signatures in opposition to application)  
Christina Mancini, Seminole  
Anthony DiPadova, Seminole

In rebuttal, Ms. Parker stated that her home would total 2,800 square feet; that there are 2,800- to 3,200-square-foot homes nearby; that the neighborhood is not limited to only 1,200-square-foot homes; and that a large home often increases the value of the surrounding smaller homes.

Responding to queries by the members, she indicated that while she could situate the proposed home on the lot without a variance, it would eliminate the possibility of a functioning back yard; that not having a back yard for pets, children, or a future swimming pool is a hardship due to the unique shape of the lot; and that she has presented data that represents the land-to-building ratio is conservative when compared to other homes in the area.

Mr. Bomstein stated that the pie-shaped lot does not constitute a hardship; that the applicant has demonstrated how the proposed home could fit on the lot without a variance; and that the lot is fully buildable. Messrs. Burdette and Gephart concurred; whereupon, Mr. Gephart stated that the applicant was fully aware of the issues when the lot was purchased.

Chairman Watts indicated that the large setback does constitute a challenge; and that there could be reason for the County to consider vacating all or a portion of it.

Mr. Bomstein moved, seconded by Mr. Burdette, that the variance be denied as recommended by staff.

Upon call for the vote, the motion carried 6 – 1 with Chairman Watts dissenting.

#### OTHER BUSINESS

Chairman Watts indicated that the Board must elect a new Chairman and Vice-Chairman for 2016. He related that in past years, these positions were filled by the appointees of the Board of County Commission's Chairman and Vice-Chairman.

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Mr. Bomstein moved, seconded by Mr. Doran, that Mr. Gephart be named Chairman for 2016; and that Mr. Burdette be named Vice-Chairman.

Upon call for the vote, the motion carried unanimously.

ADJOURNMENT

At the direction of Chairman Watts, there being no further business, the meeting was adjourned at 11:52 A.M.

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Chairman