

Clearwater, Florida, April 7, 2016

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

Not Present: Gregory R. Pierce.

Also present: Glenn Bailey, Planning Department Zoning Manager; Brendan P. Mackesey, Assistant County Attorney; Todd F. Myers, Environmental Code Enforcement Director; other interested individuals; and Christopher Bartlett, Board Reporter, Deputy Clerk. Minutes by Laura M. Todd, Board Reporter, Deputy Clerk.

### CALL TO ORDER

Chairman Gephart 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 testifying were duly sworn by the Deputy Clerk.

#1 APPLICATION OF LIMITLESS HOME INVESTORS, LLC AND STEPHEN & FOTINI MCGINLEY THROUGH STEPHEN C. MCGINLEY, REPRESENTATIVE, FOR A VARIANCE (BA-3-2-16) – GRANTED

Public hearing was held on the application of Limitless Home Investors, LLC and Stephen & Fotini McGinley through Stephen C. McGinley for a variance to allow two after-the-fact wooden patio decks to remain along the west side of the property line, both having a 4-foot side setback where a 7.5-foot side setback is required, re property located at 1139 Spruce Street in the unincorporated area of Tarpon Springs (BA-3-2-16).

Mr. Bailey related that the case was continued from February due to an advertising error; and that the Board heard and approved a similar case next door a few months ago; whereupon, he indicated that no correspondence relative to the application has been received and presented the following staff recommendation:

Recommend Denial. Staff cannot support the 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 by the applicant.
- (2) *No special privilege.* That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter of the Code 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.

Steven C. McGinley, Seminole, appeared and indicated that he purchased the property in September 2015 and was cited in November 2015; that the patio was erected in 1998; and that the building should not be considered an exceptional structure as the neighbor to the left has a similar deck and patio structure and also due to the odd shape of the land; whereupon, referring to photographs, he described the property and the structures.

In response to queries by Messrs. Bomstein and Watts, Mr. Bailey indicated that the problem is the elevated deck; that a deck elevated 12 inches or more is considered a structure; and that if the patio decks were at grade level, they would meet the side setback; whereupon, Mr. McGinley explained that the Unit-A deck is approximately 3 feet above the ground and the Unit-B deck is close to the ground, but slightly above grade.

Thereupon, citing the Board's recent approval of a similar structure in the immediate neighborhood, Mr. Bomstein moved, seconded by Mr. Doran, that the variance be granted.

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

Upon call for the vote, the motion carried unanimously.

#2 APPLICATION OF CHRISTOPHER JAMES AND AMY J. CIANCI FOR A VARIANCE (BA-1-4-16) – GRANTED

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Public hearing was held on the application of Christopher James and Amy J. Cianci for a variance to allow for the construction of a new detached garage with a 15.4-foot front setback where a 25-foot front setback is required and a 5-foot side setback where a 7.5-foot side setback is required, re property located at 3900 53rd Avenue North in Lealman (BA-1-4-16).

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

Recommend Conditional Approval of Front Setback. Staff has no objection to the conditional approval of the proposed detached garage having a 15.4-foot front setback. The layout is in line with the existing house and would not encroach into the front setback any further than the existing home. Approval of the front setback request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The owner is responsible for final lot grading so that it does not block or divert overland drainage to the detriment of the adjacent property owners.
3. Sight distance requirements shall be met.
4. The proposed garage shall maintain at least a 15.4-foot setback from the property line adjacent to 39th Street North.
5. Remove the existing pole barn and greenhouse that are located along the west property line prior to the final inspection and permit close-out for the detached garage.

6. All other setback standards shall be met unless varied by the Board, and a minimum of 25 percent of Lot 17 shall remain permeable open space as required by the Code.

Recommend Denial of Side Setback. Staff cannot support the proposed detached garage having a 5-foot side setback 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 by the applicant.
- (2) *No special privilege.* That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter of the Code 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 indicated that staff is recommending denial of the rear setback because it is a large garage and could be made smaller, it could be moved approximately 2-1/2 feet toward the home and meet the setback, or it could be repositioned. In response to query by Mr. Bomstein, he confirmed that the garage would only impact the neighbor on the other side of the alley.

Christopher James and Amy J. Cianci, Lealman, appeared and indicated that they are seeking the aforesaid variance.

Referring to photographs, Ms. Cianci related that the request for the detached garage as proposed would fit within the current standards of the neighborhood; that it would add value to the home and to the neighborhood and improve the surrounding conditions; and that the sidewalk would be upgraded, which would correct a safety hazard and increase

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access to the alley; whereupon, she indicated that the garage would be constructed of high-quality steel rated to withstand winds of 150 miles per hour; that the building would sit inside the current fence line; and that access to the alley and sight lines would not change with the new structure.

Responding to queries by Mr. Watts, Ms. Cianci related that the photograph she displayed is a depiction of the original garage, which has since been demolished. Mr. James discussed flooding and dumping issues caused by his neighbors and non-permitted structures, whereupon, Messrs. Bomstein and Burdette indicated that such issues are not relevant to the application.

In response to queries by Ms. White and Chairman Gephart, Mr. James clarified that the new garage would be larger, but within the footprint of the original garage; and that the garage will be closer to the fence; whereupon, Mr. Bomstein expressed concern that the new garage would only have a 5-foot setback from the alley.

During discussion and in response to queries by Mr. Bomstein, Mr. James related that he produces “infomercials” and occasionally uses collectible cars during filming, which he will be storing in the garage; whereupon, he explained that the garage could not be attached to the house because of the need to access the air conditioning unit and electrical meter located behind the house; and that two 12-foot by 10-foot doors will provide access to the garage.

Alluding to comments by Mr. James, Mr. Bailey stated that no recent variance requests have been received from homeowners on the block; whereupon, in response to query by Mr. Bomstein, he clarified that a detached building cannot be larger than a house, and discussion ensued.

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

Opining that a couple of feet would not make much difference in the neighborhood relative to the alley, Mr. Bomstein moved, seconded by Mr. Watts and carried unanimously, that the variance be granted.

#3 APPLICATION OF JAY AND NACIMA AUSTIN FOR A VARIANCE (BA-4-1-16) – GRANTED AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Jay and Nacima Austin for a variance to allow for an existing tiki-hut to remain with a 7-foot front setback where a 20-foot front setback is required for a double frontage lot, re property located at 8856 124th Way in the unincorporated area of Seminole (BA-4-1-16).

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 tiki-hut would meet the typical side setback requirement of 7 feet in an R-2 zone, but because the property has frontage on two streets, the setback in question is considered a front setback even though it is to the side of the house. The applicants have erected a 6-foot-high opaque fence along the property line that mostly shields the structure from view. They have also placed vegetation between the fence and the structure that provides additional visual buffering. Moving the structure to meet the required 20-foot setback would block light from a bedroom window and require the removal of an awning currently attached to the house. Approval of the front setback request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. The setback from the south property line (along 88th Avenue) shall be 7 feet.
3. A minimum 25 percent of the property shall remain permeable open space as required by code.
4. The applicant shall maintain a 6-foot-high opaque fence along the south property line.
5. The applicant shall permanently install and maintain vegetation between the tiki-hut and the fence to provide additional visual buffering.

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Jay and Nacima Austin, Seminole, appeared and indicated that they are seeking the aforesaid variance.

Mr. Bailey related that the case was heard a couple of months ago and was continued; that the tiki-hut does not meet the side setback requirement of 7 feet because the property has a double frontage lot; that the applicants have erected a 6-foot opaque fence with vegetation that has effectively screened the structure from the street; and that moving the tiki-hut would be difficult and require the removal of an awning, which would block a window from receiving light; whereupon, he stated that staff is recommending approval of the variance.

In response to query by Mr. Bomstein, Mr. Bailey related that staff recommended denial at the last meeting, but he has since visited the site and taken pictures of the structure; and that if it were not a double-frontage lot, the tiki-hut would meet the side setback requirement.

During discussion and in response to query by Mr. Watts, Ms. Austin stated that she agrees with the conditions of the request; whereupon, in response to her query, Mr. Bailey clarified that the Code requires a minimum of 25 percent of the property remain permeable.

In response to query by Chairman Gephart, Mr. Austin related that he was not aware a permit was required, as the tiki-hut was not enclosed or on the property line.

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

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

MINUTES OF FEBRUARY 4, 2016 MEETING – APPROVED

Upon motion by Mr. Bomstein, seconded by Mr. Doran and carried unanimously, the minutes of the meeting of February 4, 2016 were approved.

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ADJOURNMENT

At the direction of Chairman Gephart, there being no further business, the meeting was adjourned at 9:33 A.M.

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Chairman