

Clearwater, September, 6, 2018

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: Vince Cocks, Chairman; John Doran, Vice-Chairman; Alan C. Bomstein; Joe C. Burdette; Cliff Gephart; and Deborah J. White.

Also Present: Glenn Bailey, Zoning Manager; Chelsea Hardy, Assistant County Attorney; Blake Lyon, Development Review Services Director; other interested individuals; Teresa Adkins, Board Reporter; and Chris Bartlett, Board Reporter, Deputy Clerk.

CALL TO ORDER

Chairman Cocks called the meeting to order at 9:00 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 STEPHEN SPEER FOR A VARIANCE (BA-03-09-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Stephen Speer for a variance to allow for the expansion of a deck and screen enclosure having a 10-foot front setback from the west property line along Omaha Street where 25 feet is required, re the double-frontage property located at 1302 Sutton Place Drive in Palm Harbor (BA-03-09-18). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The subject property has double-frontage, and the request is for setback relief from the “secondary” front along Omaha Street. The request would meet the side street setback standard of the proposed Land Development Code update now going

through the public hearing process. Approval should be subject to the following condition:

1. The applicant shall obtain all required permits and pay all applicable fees.

No one appeared in response to the Chairman's call for the applicant; whereupon, he indicated that the case would be moved to the end of the agenda.

Later in the meeting, Stephen Speer, Palm Harbor, appeared and indicated that he is the applicant.

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

#2 APPLICATION OF GIRL SCOUTS OF WEST CENTRAL FLORIDA THROUGH INVISION ADVISORS, REPRESENTATIVE, FOR A SPECIAL EXCEPTION (BA-06-09-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Girl Scouts of West Central Florida through Invision Advisors for a special exception to allow for the construction of three new cabins at the Wai Lani Girl Scout Camp, re the property located at 500 Wai Lani Road in Palm Harbor (BA-06-09-18). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey 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. The Girl Scout Camp has been in operation at this property since the 1970s. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.

2. Appropriate site plan review.

Jessica Muroff, Tampa, appeared and indicated that she represents the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Mr. Bomstein indicated that he would abstain from voting on the item due to a conflict of interest, and in accordance with the provisions of the Standards of Conduct Law, he submitted a Memorandum of Voting Conflict form, which has been made a part of the record.

Mr. Burdette moved, seconded by Mr. Gephart, that the special exception be granted as recommended by staff. Upon call for the vote, the motion carried 5 to 0, with Mr. Bomstein abstaining.

#3 APPLICATION OF CRAIG H. TYLER FOR A VARIANCE (BA-07-09-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Craig H. Tyler for a variance to allow an after-the-fact pool to remain with a 14.4-foot front setback from the north property line where 25 feet is required and to allow an after-the-fact spa to remain with a 23-foot front setback from the western property line where 25 feet is required, re the triple-frontage property located at 14196 Whisperwood Drive in Feather Sound (BA-07-09-18). Previous variance (BA-05-11-95) granted for setback reduction. One letter of no objection, expressing a concern, has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the request. The pool was permitted in 1996, but wrongly constructed in the northern setback. The triple-frontage on the lot presents difficulties because the side and rear of the property both incur front setback requirements. Notably, a variance would not be required under the proposed standards of the Land Development Code update. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.

2. Any future pool deck, screen enclosure, or pool fencing shall remain out of the recorded easements on the property.

Craig Tyler, Feather Sound, appeared and indicated that he is the applicant. No one appeared in response to the Chairman's call for objectors to the application.

Responding to query by Mr. Doran, Mr. Tyler confirmed he is repairing the existing fence to meet the State law.

Mr. Bomstein moved, seconded by Ms. White, that the variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#4 APPLICATION OF YOUNG LIFE INC., C/O VERNON BRYANT, REPRESENTATIVE, FOR A SPECIAL EXCEPTION AND VARIANCE (BA-09-09-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Young Life, Inc., c/o Vernon Bryant, for a special exception and variance, as follows, re the property located at 12601 Wilcox Road (130th Avenue North) in unincorporated Largo (BA-09-09-18).

- 1) A special exception for the redevelopment of a community and training center; and
- 2) A variance to allow for an off-street parking reduction from 26 required spaces to 0 spaces.

No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval. Staff has no objection to the conditional approval of the requested special exception for a community and training center, provided the Board is satisfied that the "Standards" of Section 138-238 of the Pinellas County Land Development Code have been met. The community and training center use has been on the subject property since 2000 when the property had a commercial zoning. The property was included as part of a larger land use and zoning amendment in 2009. The use, under the R-3 zoning, is only allowed by special exception. Staff also has no objections to the conditional approval of the requested

parking variance. The property owner and Pinellas County have an official agreement for parking on two adjacent County-owned properties. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.
3. Owner to continue to maintain parking agreement with Pinellas County.

Vernon Bryant, Largo, appeared and 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 special exception and variance be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#5 APPLICATION OF IDISCOVER CHRISTIAN ACADEMY, INC., C/O JEAN CAVALIERE, REPRESENTATIVE, FOR MODIFICATION OF AN EXISTING SPECIAL EXCEPTION (BA-10-09-18) – GRANTED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of IDiscover Christian Academy, Inc., c/o Jean Cavaliere, for modification of an existing special exception for a daycare center to allow for the construction of two buildings for classroom and office use and to allow for an enrollment increase from 136 to 199 students, re the property located at 6405 46th Avenue North in Lealman (BA-10-09-18). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey 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 it meets the "Standards" of Section 138-238 of the Pinellas County Land Development Code. The subject property is the longtime location of the IDiscover Christian Academy daycare center. The applicant is proposing to add additional buildings for classroom and office space to accommodate

an increase in the number of students, up to a maximum of 199. The improvements should not pose any additional adverse impacts to infrastructure or surrounding properties. Approval should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. Appropriate site plan review.
3. Maximum student enrollment shall be 199.
4. Parking lot on north side of property is to be for staff only.

Jean and Dan Cavaliere, St. Petersburg appeared on behalf of the applicant, and responding to queries by Mr. Bomstein and Chairman Cocks, described the location of the proposed buildings and parking areas, and related that traffic has not been a problem because parents arrive at different times throughout the day.

Upon the Chairman's call for objectors to the application, Stacie Marek, St. Petersburg, appeared and stated her concerns pertaining to loss of privacy and potential liability with regard to the pond between her property and the proposed addition to the daycare center.

Responding to the concerns of the objector Ms. Cavalier indicated that the new building would be aligned with the existing buildings on the property, and no closer to the referenced pond; and that the area is secured by a 6-foot fence with a second, lower fence on the inside.

Following brief discussion regarding licensing requirements; Mr. Bomstein moved, seconded by Mr. Doran, that the special exception be granted as recommended by staff. Upon call for the vote, the motion carried unanimously.

#6 APPLICATION OF WAFFA WAHAB THROUGH HOUSH GHOVAEE, REPRESENTATIVE, FOR VARIANCES (BA-02-09-18) – CONTINUED

Public hearing was held on the application of Waffa Wahab through Housh Ghovae for variances to allow the following after-the-fact structures to remain, re property located at 2870 Phillipe Parkway in unincorporated Safety Harbor (BA-02-09-18).

September 6, 2018

- 1) A 6-foot-tall chain link fence with a 0-foot front setback from the west front property line where 3 feet is the maximum height allowed within the required 50-foot front setback; and
- 2) A 4-foot-tall chain link fence, 6-foot-tall decorative gate, and 7-foot-tall decorative columns with a 10-foot setback from the west front property line where 3 feet is the maximum height allowed within the required 50-foot front setback.

The Clerk has received one letter expressing concern with regard to the application.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. Staff cannot support the request as it does not meet the criteria for the granting of variances found in Section 138-113 of the Pinellas County Land Development Code, specifically in 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.

Housh Ghovae, Clearwater, appeared and indicated that he represents the applicant.

No one appeared in response to the Chairman's call for objectors to the application; whereupon, Mr. Ghovae referred to photographs and provided background information with regard to the request, indicating that the applicant would like the fence to remain in place for security purposes.

Following brief discussion regarding the fence and its state of disrepair, Mr. Bomstein suggested that the applicant be given more time to prepare a proposal to rectify the situation, and offered possible options; whereupon, he moved, seconded by Mr. Burdette, that the case be continued for 60 days. The motion carried by a vote of 5 to 1.

#7 APPLICATION OF DONALD LUCARELLI THROUGH DAVID PARSONS, REPRESENTATIVE, FOR A VARIANCE (BA-08-09-18) – DENIED

Public hearing was held on the application of Donald Lucarelli through David Parsons for a variance to allow an after-the-fact 240-square-foot shed to remain with a 0-foot side setback from the east property line where 7.5 feet is required, re the single-family home property located at 2121 20th Avenue Southwest in Largo (BA-08-09-18). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. This request pertains to an after-the-fact 240-square-foot shed with a 0-foot side setback. The subject property was split from the property to the east, which put the shed next to the new lot line. Staff cannot support this request as it does not meet Section 138-1281(i) of the Pinellas County Land Development Code: *All such sheds shall be designed in a manner so that water runoff from the roof of the structure is not directed onto neighboring properties* and the criteria for granting a variance in accordance with Section 138-113 of the Pinellas County Land Development Code, specifically in 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.

Donald Lucarelli, Largo, and David Parsons, Largo, appeared and indicated that they are the applicant and representative, respectively. Referring to photographs, Mr. Parsons described the shed and provided an overview of the request, including background information regarding subdivision of the property.

Discussion ensued, and Mr. Bailey confirmed his recommendation for denial, stating that the shed is out of compliance due to the combining and subsequent separation of pre-existing platted subdivision lots. Mr. Bomstein stated that the hardship is self-imposed, and suggested that the applicant extend the existing concrete slab and move the shed to bring it into compliance; whereupon, Mr. Parsons indicated that it will need to be demolished.

Mr. Bomstein moved, seconded by Mr. Doran, that the variance be denied. Upon call for the vote, the motion carried unanimously.

#8 APPLICATION OF STEPHEN F. SCOFIELD FOR A VARIANCE (BA-10-07-18) – GRANTED WITH CONDITIONS

Public hearing was held on the application of Steven F. Scofield for a variance to allow for the construction of a covered carport having a 6-foot front setback from the east property line along 60th Street North where a 25-foot front setback is required, re the double-frontage property located at 6011 136th Terrace North in unincorporated Largo (BA-10-07-18). No correspondence relative to the application has been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. On July 5, 2018 the Board continued this case in order to provide the applicant with an opportunity to revise the request in a way that could be supported. The applicant had originally asked for a 3-foot front setback from the 60th Street North right-of-way, and this revised request has changed that to 6 feet. While better than the original proposal, staff still cannot support this request as it does not meet the criteria for the

granting of a variance found in Section 138-113 of the Pinellas County Land Development Code, specifically in 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.

Stephen F. Scofield, Clearwater, appeared and indicated he is the applicant; whereupon, he referred to photographs of his property and the surrounding homes, and responded to queries by the members. Noting that the property is a double-frontage lot, Mr. Bailey indicated that a 10-foot setback would be allowed under the proposed Land Development Code revision.

No one appeared to speak in objection to the application.

Following discussion, Mr. Bomstein moved, seconded by Mr. Doran and carried unanimously, that the application be approved subject to the following conditions: (1) The applicant shall obtain all required permits and pay all applicable fees, and (2) the carport shall be no closer than 9 feet from the east property line.

Later in the meeting, Mr. Lyon indicated that Code Enforcement violations have been issued for the surrounding properties referenced by Mr. Scofield.

#9 APPLICATION OF SHANE AND AMANDA LEMMON FOR A VARIANCE (BA-05-09-18) – GRANTED WITH REVISED FRONT SETBACK

Public hearing was held on the application of Shane and Amanda Lemmon for a variance to allow the construction of a single-family home having a 10-foot front setback from the western property line where 20 feet is required and a 6.7-foot rear setback from the eastern property line where 15 feet is required, re the vacant property located at 182 East Canal Drive in Palm Harbor (BA-05-09-18). One letter in opposition to the application was received by the Clerk prior to the meeting.

Mr. Bailey presented the following staff recommendation:

Recommend Denial. The subject property is a conforming lot that meets all dimensional standards of the R-3 zoning district. New construction should be able to be designed in such a way that meets those standards. Therefore, staff cannot support the request as it does not meet the criteria for the granting of a variance found in Section 138-113 of the Pinellas County Land Development Code, specifically in 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.

Shane and Amanda Lemmon, Clearwater, provided an overview of the request, presented photographs and referenced cases of approved variances in proximity to their lot, and submitted a petition with 14 signatures in support of the request.

Discussion ensued, and Mr. and Mrs. Lemmon responded to queries by the members. Mr. Bomstein noted that the applicants plan to construct a home on a vacant lot, and it should be designed to meet code requirements, and Mr. Doran stated that the Board does not compare variances, as each case is based on different facts and circumstances.

Following further discussion with input by Mr. Bailey, Mr. Bomstein moved, seconded by Mr. Gephart and carried unanimously, that the application be approved subject to the following conditions: (1) The applicant shall obtain all required permits and pay all applicable fees, (2) the front setback shall be 16 feet, instead of the requested 10 feet, and (3) the rear setback shall be 6.7 feet, as requested.

#10 APPLICATION OF JACK KOURY AND/OR ROBERTA GRANDSHAW FOR VARIANCES (BA-04-09-18) – SINGLE-FAMILY HOME REQUEST GRANTED AND RETAINING WALLS DENIED AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Jack Koury and/or Roberta Grandshaw for variances to allow for the construction of the following structures, re the property located at 7900 Bayshore Drive in unincorporated Seminole (BA-04-09-18).

- 1) A single-family home having a 10-foot front setback from the south property line along the Park Boulevard right-of-way where 20 feet is required,
- 2) A retaining wall up to 6 feet high having a 0-foot front setback from the south property line along the Park Boulevard right-of-way where 20 feet is required, and
- 3) A retaining wall up to 6.4 feet high having a 0-foot setback along the north property line where 10 feet is required.

Three letters in opposition to the application have been received by the Clerk.

Mr. Bailey presented the following staff recommendation:

Recommend Conditional Approval of the single-family home request and Denial of the retaining wall requests. Staff has no objection to the conditional approval of the single-family home setback request. The subject property is oddly shaped and has right-of-way frontage on both the north and south sides. The requested 10-foot setback from the Park

Boulevard right-of-way would meet normal rear setback requirements as well as the side street setback requirements that are proposed in the Land Development Code update package currently undergoing review by the Board of County Commissioners. Approval of the request should be subject to the following conditions:

1. The applicant shall obtain all required permits and pay all applicable fees.
2. All other setback requirements shall be met.

In regard to the retaining wall requests, the subject property is located in Zone AE 11 per the FIRM maps released by the Federal Emergency Management Agency (FEMA) which will require the lowest floor elevation to be built at 12 feet (above sea level). This will require significant fill to be brought onto the site. The fill and the height of the wall and driveway at a 0-foot setback would be highly intrusive to the adjacent property owners. The wall presents a visibility obstruction, will require construction and maintenance immediately adjacent to the property line, and there is potential for drainage issues affecting adjacent properties due to its construction. There are other options in lieu of the retaining walls, such as a stilt-built home with stairs and an elevator or relocation of the driveway and redesign/reorientation of the house on the property. For those reasons, staff cannot support the proposed retaining wall requests, as they do not meet the criteria for granting a variance in accordance with Section 138-113 of the Pinellas County Land Development Code, specifically in 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.
4. *Minimum variance necessary.* That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Jack Koury, Seminole, and Doug Yates, Tampa, appeared and indicated that they are the applicant and representative, respectively. Referring to the site plan, Mr. Yates clarified the purpose of the proposed elevations, and indicated that the requested retaining wall is to support a ramped drive to provide Mr. Koury direct access to the house due to mobility limitations.

Responding to queries by the members, Mr. Yates described the surrounding area, the need for the elevated drive, and the challenge of the wetlands proximity; and indicated that the proposed home would be more attractive than the stilt house suggested by staff.

Upon the Chairman's call for objectors to the application, Mike Smith, Rian Dude, and Martha Waldrop, Seminole, appeared, stated their concerns, and responded to queries by the members, noting that the placement of the driveway and the retaining wall would be a visual intrusion and could disrupt storm water drainage patterns.

Discussion ensued, and responding to query by Mr. Gephart, Mr. Yates indicated that the garage could not be relocated due to slope requirements, and doing so would interfere with the proposed location of the pool; whereupon, Mr. Doran noted that the property is vacant, and there are design alternatives, as suggested by staff, and Mr. Parson reiterated that the proposed home would be more in keeping with the character of the neighborhood.

Mr. Doran moved, seconded by Mr. Bomstein, that the single-family home variance be granted with conditions; and that the retaining wall request be denied per staff's recommendation. Upon call for the vote, the motion carried unanimously.

MINUTES OF THE AUGUST 1, 2018 MEETING – APPROVED

Mr. Bomstein moved, seconded by Mr. Gephart, that the minutes of the August 1, 2018 meeting be approved. Upon call for the vote, the motion carried unanimously.

September 6, 2018

OTHER BUSINESS

Mr. Lyon introduced Gina Berutti as the new Code Enforcement Operations Manager, and related that she will be attending future Board meetings to respond to queries by the members.

ADJOURNMENT

The meeting was adjourned at 10:25 A.M.

Chairman