

BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, October 21, 2020, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Chairman Dale Rhodes presiding, to consider the requests below:

Board members present were: Dale Rhodes, Chairman, District 3; Jack Higgins, Vice Chair, District 1; Michael Hartman, District 2, and Dale Young, District 5

Staff members present were: Alex Esseesse, Assistant County Attorney; Jeffrey Ball, Zoning Manager; Paul Body, Planner II; Michelle Adams, Administrative Secretary.

The Chairman, Dale Rhodes, called the meeting to order at 1:30 p.m.

Paul Body explained the function of the Board of Adjustment; Jack Higgins explained the definition of a hardship; and Dale Rhodes explained the procedures of the Board of Adjustment.

Approval of September 16, 2020, Minutes

Motion by Jack Higgins, seconded by Michael Hartman to approve the September 16, 2020, minutes. The motion passed unanimously.

All applicants and speakers were sworn in by the Chairman prior to providing testimony.

1. (20PZ00081) Leann I. Schneider (Sean Trollan)

Requests a variance from Chapter 62, Article VI, Brevard County Code, Section 62-1340(5)(a), to permit a variance of 6 feet from the required 20-foot front setback required for a principal structure in an RU-1-11 (Single Family Residential) zoning classification, on .19 acres, located on the north side of South Waterway Drive approximately .95 miles east southeast of the intersection of Shearwater Parkway and Highway A1A. (452 South Water Way Drive, Satellite Beach) (Tax Account 2602609360) (District 4)

Sean Trollan, 452 South Water Way Drive, Satellite Beach. Sean Trollan said he is requesting a 6-foot variance from the 20-foot setback in front of the house. He said the hardship is, on the survey in the northwest corner, the lot is sheared off. He said it was done before they moved in at the plotting of the lot lines. He explained that the existing shape of the garage is not square, the rafters run in a diamond shape, not as seen on the survey. He said it sits 25 feet back and is requesting 6 feet of variance. He said the garage is too small for any car, not even their Audi TT 05'.

Dale Rhodes asked if it was a single car garage. Sean Trollan answered yes. Dale Rhodes asked when the home was built. Sean Trollan answered, 1961. Dale Rhodes said, he knows what garage he has and asked if he was wanting to add an addition to it. Sean Trollan said yes. Dale Rhodes asked if he was going toward the road. Sean Trollan answered yes. Dale Rhodes said he is not seeing the addition. Jack Higgins showed him on the survey where the addition was and said he's making it longer. Sean Trollan said it would be where the crosshatch is. Dale Rhodes said he's got it.

Michael Hartman asked Paul Body if the setback from the road is because there is a right of way for a potential widening of the road. Paul Body replied that the survey shows it has a 50-foot right of way, generally the width of asphalt is 12 feet for each lane, 24 feet. Michael Hartman asked if there was another 13 feet there. Paul Body said yes, another 12 or 13 feet at the right of way. Michael Hartman said, its 27 feet off the asphalt. Paul Body said he had 25 feet to his property line; another 12 feet would be 37 feet. Michael Hartman said, with the 14 feet and 12 feet for the right of way, it would be 26 feet if the new garage was there. Paul Body said, to the edge of the asphalt, would be around that.

No Public Comment

Dale Rhodes asked Michael Hartman if the new garage would be 14 feet from the asphalt. Michael Hartman said, no, 14 feet from the property line and about 26 feet from the asphalt.

Motion by Jack Higgins, seconded by Michael Hartman to approve the variance as depicted on the survey submitted by the applicant. The motion passed unanimously.

2. (20PZ00083) Teresa D. and Kyle M. Bollig

Request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-1336(5)(b), to permit a variance of 8 feet from the required 15-foot side (east) setback for an accessory structure in a RR-1 (Rural Residential) zoning classification, on 1.17 acres, located approximately 225 feet south of Grant Road, approximately 770 feet east of North Tropical Trail. (177 Grant Road, Merritt Island) (Tax Account 2441729) (District 2)

Kyle Bollig, 177 Grant Road, Merritt Island. Dale Rhodes said they received a letter in favor and asked if he had seen it. Kyle Bollig said yes, he had gone to all three residents to get that. He said, referring to the survey, he has an existing concrete driveway and three car parking spaces and needs an additional 30 x 30 garage site on the side of it. He said they are asking for a 7-foot setback distance to the structure, instead of a minimum of 15 feet per code, being an 8-foot variance request. He said the hardship is, if the 30 x 30 garage was built to code with a 15-foot setback, it would encroach on their safe distance parking and prevent reasonable paved turnaround area to back out and exit without driving on their lawn and sprinkler system. He said the east side area is too small to accommodate the proposed garage and the exit on the east side of their RV would be encroached. He said the south side has the septic system drainage field and cannot build on; the west side is their lake view. He said the only functional location is adjoining just beyond their three-car parking area as shown in the survey. He said this garage would accommodate his antique car collection with a two-lift stall, tool shelving and workbench area.

Michael Hartman said he thought he was putting the RV in the garage. Kyle Bollig said no, the RV is on a pad in back of the building on the south side. Michael Hartman asked, what is the problem with having it 15 feet off the property line. Kyle Bollig said he has no issue with the RV parking. Michael Hartman asked if he would go between the new garage. Kyle Bollig said yes, there is 23 feet clearance from the edge of the proposed garage and his residence. Michael Hartman said, if moved over, there would be still be about 17 feet between the two, if the garage was moved 7 feet west so it was 15 feet off the property line. Kyle Bollig said it is best to look at the survey, rather than explain it. Michael Hartman asked what he does to get his RV out from the back of the house. Kyle Bollig said he pulls straight back east. Michael Hartman asked if he backs up off of his garage and down the side of the house. Kyle Bollig said yes. Michael Hartman asked what the problem would be if it is moved over out of the setback. He said he thought the problem was, backing out of the garage, and not having enough room to turn it around safely. Kyle Bollig said no, those are guest parking areas up to that end of the building in front of the existing two car garage. He said there is a three-car apron area facing east. Michael Hartman asked if that is where the garage would go. Kyle Bollig said yes, that garage is to store his antique automobile collection, not his RV. He said he is not asking anything about his RV, it is in back of the building on its own pad. Michael Hartman said he is missing how it would encroach on the safe distance for parking. He said when the RV is pulled out, it's between the

house and the proposed garage and there is enough room to go through there, even if you move the building over 7 feet. Kyle Bollig said yes, it has nothing to do with RV access egress or ingress. He said he has no issue with the RV going between the garage and the side of the house. Michael Hartman asked, what is the safety issue. Kyle Bollig said, if he builds the 30 x 30 garage with the 15-foot setback it will encroach on the three-car guest parking area. Michael Hartman asked if what he wanted was an area in front of the garage for three people to park. Kyle Bollig said exactly, there would be no place for visitors to park and safely turn around without hitting anything.

Jack Higgins said that Kyle Bollig commented on not wanting people driving on the grass, but he pulls the motorhome on the grass. Kyle Bollig said, as the owner of the property, he knows where the sprinkler heads are. Jack Higgins asked if visitors could park on the long driveway. Kyle Bollig said no, that's an easement he shares with his neighbors. Michael Hartman said they're not talking about the long easement, but once on his property, it's a fairly big driveway. Kyle Bollig said it curves around an oak tree, there is no place to park there. Michael Hartman asked if once he puts the garage in, would he have pad in front of all three bays of the garage. Kyle Bollig said it's there now. Jack Higgins said it's under the tree. Kyle Bollig said yes, existing. Jack Higgins said the picture does not depict the balance of the drive-in front of the proposed garage, but under that tree he presumes there is concrete. Kyle Bollig said in front of the proposed garage there is concrete for three cars. Jack Higgins said that the canopy was blocking the picture. Dale Rhodes showed Kyle Bollig the picture and asked if he submitted it. Kyle Bollig said yes. Dale Rhodes asked if there was concrete under the tree. Kyle Bollig said yes, that tree will most likely be removed.

Michael Hartman asked if the tree was going to come down. Kyle Bollig said most likely. Michael Hartman said that he is going to have concrete pad there for parking even if moved over seven feet, he does not see what the full issue is. Kyle Bollig said the garage pad would impede easy access into and parking if it encroaches on the existing three car parking spot. He said, if moved eight more feet onto that area, there is no room for guest parking. Michael Hartman said, next to the garage there could be concrete if the tree comes down, it would just be right where your cars are that you would have one open space, then after that people can park. Kyle Bollig answered, he does not understand what he is seeing or not seeing. Michael Hartman, said that if the garage is moved 8 feet west, someone would not park at the first door because there would be two cars in front of the garage, but people could safely park at the next two doors in front of the garage and right next to the garage because the tree is going to be gone, so you could have a concrete pad all the way up to the probable 10 foot set back on the north side.

Dale Rhodes asked if they could park behind each other even if someone had to move their car. Kyle Bollig said it's not safe. Dale Rhodes asked why it wasn't safe. Kyle Bollig said there would be too many cars in close proximity. Jack Higgins showed Kyle Bollig pictures and asked if he had them. Kyle Bollig said he did provide them but does not have his own copy. The Board gave him a copy. Michael Hartman said that between the garage and the property line on the north side of the garage, there is 25 feet; the parking pad could have two cars parked next to the garage. Kyle Bollig said he plans to have a garden there. He said the tree is blocking existing parking that he has now. Michael Hartman said that he said he had plans of taking out the tree as part of putting in the garage. Kyle Bollig said he does not have any plans of putting parking.... Michael Hartman said he might not have plans to but he could if they didn't grant this variance; there is a way to have parking without the variance being granted. Kyle Bollig said there is but not their wish. He said it's not aesthetically

pleasing to have parking on the side of the existing garage. He said they want a garage built where they are asking so that three guests' cars could easily get in and exit without requesting that someone move their car while they are entertaining. He said they're having a garden on that side of the garage, there is no future for parking there; it could be done but they are requesting the Board honor their wishes. Michael Hartman asked if the whole property was theirs including the lake. Kyle Bollig said yes.

Public Comment

Diana Schommer, 1180 North Montego Bay Drive, Merritt Island. She said they own a building, a duplex, that borders this property. She said they are not directly beside; she would like to know where this is, she can't picture it. Jeffrey Ball brought a map to her. She pointed to her building. She said she wanted to understand what Michael Hartman was saying about which way it could move. Dale Rhodes said it would go back toward the driveway 7 feet. Jeffrey Ball showed her on the map where the proposed building would be and what the code required. Diana Schommer said it would not affect her, she would feel differently if she owned the building behind it. Michael Hartman asked if she knew who lived north of her, was that Kincaid or Habersetzer. She said she does not know their name, it's a building they own and rent, that whole street is duplexes; there may be two owners. Dale Rhodes asked if she was in favor or opposition. Diana Schommer said it would not affect them much, its fine.

Kyle Bollig said it's has been quite an experience as his first time. He apologized for any misunderstandings. Michael Hartman said on one hand there are three neighbors who have adjoining properties that are in favor of it. He said at the same time, if the variance wasn't granted, he thinks there is an alternative. He said he could still build the garage and have the parking on the north side. He said looking at the aerial, there is a lot of room around the lake for a garden.

Dale Rhodes said that they have a tight description of what they are permitted to do; as Mr. Higgins read, undo hardship means you do not have reasonable use of the property without the variance. He said he does not see that in this case; the garage could be moved out of the encroachment area without representing a problem. He said it may be an inconvenience to have someone move a car; he has to have people move cars in his driveway, that's the nature of it. He said he does not think it's a reason for a variance, it's a convenience. He said there is property available for a garden without putting it next to the garage allowing room for parking by the garage. He said it does not meet criteria they are allowed to approve, so will be voting against approving the variance.

Michael Hartman said he does not see where this meets the definition for a requirement for a variance. Jack Higgins said he agrees, it does not meet the definition for hardship. He said he would like to see it relocated a little different to be approved that way, which he can do.

Motion by Michael Hartman, seconded by Dale Young to approve the variance as depicted on the survey submitted by the applicants. The motion failed, thereby denying the variance. The vote was 1:3 with Jack Higgins, Dale Rhodes and Michael Hartman voting Nay.

3. (20PZ00085) Brooke A. Zimmerman

Requests variances from Chapter 62, Article VI, Brevard County Code as follows: 1) Section 62-1334(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure; 2) Section 62-1334(5)(c)(2) to permit a variance of 32 feet from

the required 50 foot side setback for a pole barn in an AU (Agricultural Residential) zoning classification, on (2.0 acres), located on the north side of Calamondin Avenue, approximately 765 feet west of Pine Street (5100 Calamondin Avenue, Cocoa) (Tax Account 2403519) (District 1)

Christine Zimmerman, 603 Lake Orienta Drive, Altamonte Springs. She said her daughter got called out on assignment for work and she is here to represent her. She said Brooke Zimmerman is requesting a hardship variance for a structure to be located forward of the front building line of the principal structure. She said she has two acres; her house is on one and the other is empty. She said she did not know she needed a permit, the contractor said don't worry about it. She said it would be impossible to put it in her back yard, there is like 10 feet; the other acre is completely empty so the structure was built there. She said the back end of where the structure is now, is completely flooded; it would not be possible to move it back with the pond there. She said she recently bought this house; the pole barn was already there and was told that the pole barn would need to be granted a variance.

Jack Higgins said he took pictures that he passed to the Board. Dale Rhoads said he would show them to Christine Zimmerman. Jack Higgins said they were under the impression this was proposed not completed; this structure has already been installed. Christine Zimmerman said yes it was. Jack Higgins said unfortunately its right at the gate to the right side; could have been pushed back a little bit. He said judging from the neighborhood it doesn't pose a problem right now, but as things develop over the years, it would set a precedence to every place around and its right at the gate. Dale Rhodes asked if they got a permit to build this. Christine Zimmerman said no, the general contractor they hired said that since its agricultural, it did not need to be permitted and he said that they had others in the neighborhood that are the exact same thing, and could go around and see other carports. Dale Rhodes said it's not a carport. Jack Higgins said he did drive around and did not see any. Dale Rhodes asked if they got a permit to build this. Christine Zimmerman said no, the contractor said they did not need one; she is a young first-time homebuyer and did not know that. Dale Rhodes said she had two situations, you are 32 feet closer and 1,755 square feet larger than supposed to be.

Paul Body said the first variance is for an existing pole shed used for horse stables, been there for over ten years. The other is proposed, they have applied for a building permit now, it hasn't been issued though. Michael Hartman said, so the picture of that building there is not this building. The survey shows proposed building, so it has been built. Jack Higgins said, its already there. Dale Rhodes asked if the problem was, that its 1,755 feet bigger than its supposed to be. Paul Body answered no, in the AU zoning you can have an accessory structure as big as you like; there is no size limit but there are setbacks. He said an accessory structure has to be set back behind the front building line of the principal house; it has to be 15 feet off the side and rear property line. The first variance is for being in front of the principal house, the second variance is for an existing pole barn/stable. Dale Rhodes confirmed, the 32 feet is for an existing building and the other is because its in front of the existing house.

Christine Zimmerman said they would be willing to knock down the pole barn, the one that's been there forever, it's of no use. Dale Rhodes said that one is not the issue; the issue is that there is a new facility built without permit that is in violation of code. He said he would consult an attorney about the contractor that thought there was no permit needed to build a building. Paul Body said if you have agricultural property and an agricultural exemption from the property appraiser, there is a procedure to have it signed off to not need a building permit but still needs to meet the zoning regulations for the

setbacks. Dale Rhodes said, either way he should have checked with the office before building, even if he didn't need a permit. Paul Body said, everybody should check with the zoning department before putting up a proposed structure. Jack Higgins asked Paul Body to confirm, if it was moved back to meet that footage, they could have come in here with the agricultural exemption. Paul Body, said it would have to be signed off and for that, there has to be agricultural use on the property, without that you would not be able to get that signed off, without having a building permit. Christine Zimmerman said she does have chickens and bunnies. Michael Hartman said, they are Agricultural Residential. Paul Body confirmed they are in the zoning Agricultural Residential. Jack Higgins said it is that way throughout the community. Dale Young asked if there was a code enforcement action. Paul Body said yes, it was for work without a building permit. He said they have applied for a building permit.

No Public Comment

Christine Zimmerman thanked staff for their assistance, particularly Kyle.

Jack Higgins asked if there was a way it could be jacked up and moved to meet the footage criteria. Michael Hartman said, back toward the pond so it was parallel with the house. Christine Zimmerman, said it's a concrete slab and doesn't know how far it needs to go back, maybe cut some of the slab off and have them pour more slab. Jack Higgins said, having driven through, it doesn't interrupt the harmony of the community. He said there was none with the building at the entrance though. Dale Rhodes asked how far she is from meeting the requirement. Michael Hartman said, probably 85 feet. Paul Body said the house is set back at 104.19 feet, the building is set at 34 feet, it would be 70 feet moved back to be behind the front building line. Christine Zimmerman said that would be in the pond. Dale Rhodes said it would be even with the house. Dale Young said this is agricultural property, it is Canaveral Groves designed for agricultural not residential. He said the idea of having accessory buildings behind the front of the house does not make good sense with the zoning; we are not looking for conformity with the neighbors, its agricultural. He said the building looks very presentable; we are trying to put an agriculture out of business and he does not agree with that. Jack Higgins responded, they are not using it as agricultural, they are using it as a garage; he agrees it is in harmony.

Michael Hartman said he wished it wasn't so close to the road, if it was another 20 or 30 feet back, he could see giving that variance, this is 70 feet forward of where it should be. He said there is plenty of land to have been put back there. He said it's built and doesn't know what it would take to move it or if it could be moved, he asked to see the picture. Dale Rhodes, said nor who would be responsible, whether it's the contractor that didn't follow code, but it's not for us to determine. He said, on one side, you didn't do this, a bad contractor or one that thought he was doing right, didn't do right. He said your family took the contractor's word and paid for the building to be there. He said in one part it's not your fault, on the other hand there is due diligence, to make sure what you are told is accurate and correct. He said he has learned that the hard way, being in real-estate it's quite common. He said he has learned that due diligence has a lot more value now than it did years ago; he understands its agricultural, but there's a reason the codes are there. He said he agrees with Mr. Hartman, if it was 50 feet further back, he might say ok, but it's sitting right in front. He said he has a problem with that even though its agricultural; other people may think they can build theirs right there, if they come before us and we say no, they will whine because yours got to. He said it's a real challenge, he knows they built this building and big concrete slab and are out that money. He said if he follows his instructions, this does not meet the requirement of a hardship as economic reasons can only be

considered in instances where the land owner cannot yield a reasonable use. He said when looking at the six criteria, he does not see anything that meets it; that does not mean he is not conflicted.

Michael Hartman asked Jack Higgins if he remembered the building that was three lots to the east, right against the road. Jack Higgins said he could not see it for the trees. Michael Hartman said we have a building three lots to the east that is closer to the road than this building. Dale Rhodes asked Alex Esseesse if they could approve one variance and not the other. Alex Esseesse said yes. Dale Rhodes said we could approve the first one because the building exists, and whatever she decides to do with it is immaterial. Michael Hartman said no, that the first variance is for the new building, the second variance is for the old pole barn. Dale Rhodes said correct, we could approve the 32 feet from the 50-foot setback for the old building, she could tear it down or leave it as its been legitimized. He said, then if we desired, reject the first variance. Jack Higgins asked if they should suggest coming back a different time and let the neighbors...Michael Hartman said he wished he knew what the building was three lots to the east as it looks to be 30 feet off the road. Dale Rhodes said it looks like a residence. Michael Hartman asked Jack Higgins if he saw that it looked like a pole barn there. Jack Higgins said no. Dale Rhodes asked if staff knew that property. Paul Body said no. Jack Higgins said he only saw houses. Jeffrey Ball said he is not sure, but it looks like a barn from the aerial. He said that does not mean that it meets the zoning code for the district; it could have been unpermitted as well. Dale Rhodes said it could have been built forever ago and other than that one structure, doesn't see anything else. Michael Hartman said he does not either.

Dale Young asked if they had determined that a permit was necessary. Paul Body said yes, a permit was necessary. He said they don't have an agricultural exemption to let the building be agricultural. Dale Young asked if we had established that there is no existing exemption. Paul Body said no, even with an agricultural exemption, they would still need to meet the zoning setback codes. Dale Young asked if there was another place it could be built behind the house. Dale Rhodes said they would just come back parallel to the house. Dale Young asked if they could tell if it was a buildable site. Michael Hartman said the survey doesn't show any impediments. Dale Young said, remember we are talking about Canaveral Groves. Dale Rhodes said there is already a barn back there. Dale Young asked the Board members if it could be done. Jack Higgins said it looks like it could come straight toward the pole barn. Dale Young asked if they knew if it was a buildable site by looking at the survey. Jack Higgins said no. Dale Young said, neither does he; it would be a hardship. Dale Rhodes said he did not have that information in front of him. Dale Young said they are making the decision as if they did have it. Dale Rhodes said no, they are deciding as to whether this should be in the position that it's in. He said that this building was done without a permit, in the wrong place and does not meet the criteria with the information he has, to give approval for it. He said if the area behind it is wet, if they had brought that information...Christine Zimmerman said she has pictures of it flooded. Dale Rhodes said that pictures will not do any good, and asked if it was in wetlands that can't be built on or another reason it cannot be built further back. He said if he does not have that information in front of him, he cannot make that justification.

Jeffrey Ball said he is the Planning and Zoning Manger. He said that staff does not have the information to make that determination as to whether the structure can be moved or not; nor does this Board have the authority to do that. He said it's up to the applicant to do their due diligence to hire someone if they do not have the expertise. Dale Rhodes said thank you, that puts it best.

Alex Esseesse said if they have a motion now and a second, they can take a vote then offer another motion to focus on just one request.

Motion by Jack Higgins, seconded by Dale Young to approve the variance as depicted on the survey submitted by the applicant. The motion failed, thereby denying the variance. The vote was 1:3 with Jack Higgins, Dale Rhodes and Michael Hartman voting Nay.

Motion by Jack Higgins to approve the 2nd variance request, seconded by Michael Hartman to approve as depicted on the survey submitted by the applicant. The motion passed unanimously.

4. (20PZ00086) John C. and Ann Armstrong (Keegan Greene)

Request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-1334(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure in an AU (Agricultural Residential) zoning classification, on (9.89 acres), located on east side of Hammock Road at the east end of Brockett Road (3205 Hammock Road, Mims) (Tax Account 2102867) (District 1)

Keegan Greene, 1415 Maytown Road, Oakhill. He said they have an accessory structure that needs to be located in the front of the house, according to the zoning setback, they are restricted by wetlands behind the building with a 50-foot buffer suggested by St. Johns Water Management. He said they are looking to reduce the front yard setback. Jack Higgins said he did drive up to the point where the building is going. He said there are wetlands back there; it's the northeasterly portion of the house, where the garage would be. He said it's a long distance into there and in harmony with the neighborhood. Dale Young asked if it was a mobile home. Keegan Greene said it was a two-story log cabin. Dale Rhodes said cool.

Michael Hartman asked if there was a reason why he did not put the building closer to the house. Keegan Green said there is a two-car garage on that end of the existing house. Michael Hartman said he sees it, where it says concrete drive and sees where the wetlands are delineated. Dale Rhodes said he does not need setbacks. Keegan Greene said no, its the plane of the house, at a skewed angle. He said, with the house not parallel to the road, they were too close to the road. Michael Hartman asked if it was all wetlands to the east of the proposed building. Keegan Greene said yes, there is a fence line on the survey. Michael Hartman said he sees the L3 and L2. Keegan Greene said that's where the wetlands start, all the hashed area. Michael Hartman asked if it could not be moved a couple feet over so it would not be in front. Keegan Green said they are roughly 45 feet in front of the house and have to maintain a 50-foot setback from the wetlands; it is 61.7 feet from the wetlands, they could move 11.7 feet. Michael Hartman said if they move that far over it looks like they are parallel with the house. Keegan Greene said they are showing 276 to the front corner and if they move 11 feet...Michael Hartman said 319, right, it would have to go 43 feet, which won't be 50 feet from the wetlands. Keegan Greene said the objective was to have the building in the same plane with the house. Dale Rhodes said the house being at an angle is what creates the issue. Michael Hartman said he could not move it the 43 feet to the east and still be 50 feet from the wetlands, it would only be 19 feet from the wetlands. Dale Rhodes said he is surrounded by flood planes and wetlands. Michael Hartman said most of the rest of the site is AE, this is about the only place for this building.

John Armstrong, 3205 Hammock Road, Mims. He and his wife own the property, they are both retired teachers and have worked their whole lives to get this rural property. He said he did not anticipate

needing an outbuilding when he set the house back this far from the road. He said he has mowers, chainsaws, equipment and his truck that will not fit into his 2-car garage on the house. He said the only way to put it on another part of the property is to put in a road from another part of the property in an inconvenient location. He said he would like to keep things natural, does not want to maintain another driveway, have it near the screened in pool area or behind the house blocking the marsh view. He said this is in the best place to store his equipment, boat and truck, using the existing driveway. He said when he placed the house and applied for the permit, he didn't look at it in relationship to the road, but rather to the angle of the house. He said Keegan noticed that the way the road angles brings it closer to the house. He said when he bought the property, Hammock Road wandered onto his property and in order to get a building permit he had to give land to the County, so they didn't have to remove the road.

Dale Rhodes said their criteria for approval includes six items. He said, unlike in other cases, they have brought them where the wetlands were, allowing them to potentially give adjustments. Dale Rhodes, asked, are there special circumstances that exist that are not applicable to other lands, the answer is yes. He asked, are there special conditions and circumstances that do not result from the applicant, the answer is yes. He asked, in granting this variance, are we giving any special privileges, no. He said, the enforcement of this chapter would deprive the applicant of rights commonly enjoyed by other property owners. For example, somebody else could build a barn behind their house, you can't because of the wetlands, so it would deprive you of something someone else would commonly enjoy. He said, the variance granted is the minimum variance that is reasonable, for the structure in this case its about the only place it could go. He said the granting of this variance is in harmony with the general intent, that is correct. He said he wanted to make that public knowledge, the situation we just had is a different. He said its reasonable to request this variance and to approve it. Michael Hartman said he concurs with all those comments.

Motion by Jack Higgins, seconded by Michael Hartman to approve the variance as depicted on the survey submitted by the applicant. The motion passed unanimously.

5. (20PZ00087) Rusty D. and Sherri L. Backer

Request variances from Chapter 62, Article VI, Brevard County Code as follows: 1) Section 62-1340(5)(b) to permit a variance of 1 foot from the required 7.5 foot rear setback for an accessory structure, 2) Section 62-2121(a) to permit a variance of 5 feet from the required 10 foot setback for a structure from a sea wall, in a RU-1-11(Single Family Residential) zoning classification, on .29 acres, located on the southeast side of West Scots Avenue, 220 feet east of Jason Street (1285 West Scots Avenue, Merritt Island) (Tax Account 2431347) (District 2)

Rusty Backer, 1285 West Scots Avenue, Merritt Island. He said about a year and a half ago, his father died and he inherited two of the antique cars; he was able to leave them on his property at the time. He said his wife was selling their property so he had to bring them down. He said 1.5 years ago he tried to build a garage into the 10-foot egress area; he talked to the County often and could not come to an agreement. He said they went back to the drawing board and came back with a new plan for the garage which takes him into the 7.5-foot and 10-foot setbacks, giving him the square footage, he needs to house the three cars that he has. They are a big car family, that is why he is asking for the variance today to build the garage.

Michael Hartman asked if it was 6.5 feet from the rear setback. Rusty Backer said yes, 1 foot from the 7.5 and 5 feet from the 10. Michael Hartman asked if it was possible to take off the 1 foot from the back, though he would still have to have the second variance and would be the same to the back of the seawall. He said he lived in Diana Shores and saw a lot of these pie shaped lots and its hard to put anything on them. Rusty Backer said, unfortunately it's a very weird shaped lot; they moved it around on the property to figure out what he could do and have the square footage that he needed. He said one of the cars is 22 feet long; and is why they needed the extra foot. Michael Hartman asked if the people who wrote the letter in support are they the ones next to the garage. Rusty Backer said yes, the ones to the north have no problem with it and the ones to the southwest are in favor too.

Dale Rhodes asked if he had seen the letters. Rusty Backer said he had read the three letters. Dale Rhodes asked him to take the letters and confirm that he had seen them. Rusty Backer said yes. Dale Rhodes asked if he tried to put it on the other side by the pool area. Rusty Backer said yes, it wouldn't have driving access. Dale Rhodes said this is about the only place to put this structure on the property. Rusty Backer said that is all he could come up with. Dale Rhodes said Mr. Backer worked hard to get it to work within code. Rusty Backer said yes. Dale Rhodes asked if the location was for his convenience. Rusty Backer said when he brought the cars down, he was unable to get insurance for them so can't tag them until he gets the antiques in an enclosed facility. Dale Rhodes asked if he checked with storing them off site. Rusty Backer said he could try to find another facility, but then they are not with them to enjoy and he would not have time to work on them. Michael Hartman asked if he had two other buildings there that will be torn down. Rusty Backer said yes, two portable sheds will go away and the garage will go in that place. Dales Rhodes asked Michael Hartman if those sheds were in the same location. Michael Hartman said that the second one is and the first is partially in it. He said they are closer to the property line; he is taking 413 square feet and replacing it with 972 square feet. Dale Rhodes asked if properties near him have structures this close to the sea wall. Rusty Backer said yes. Dale Rhodes said, so we would not be a special privilege that we are granting you. Rusty Backer said no.

Rusty Backer thanked Paul Body for his assistance. Paul Body said Rusty did go to Public Works to try to get a portion of the 10-foot ingress/egress easement vacated, to be able to move it a little forward to meet the 7.5 feet; they would not let up on vacating any of it. He said they round up to the foot, he could have gotten an administrative waiver to the rear setback, but would still need a variance to the seawall and it would be cheaper to get two variances. Dale Rhodes said he made efforts to try to do it another way. Paul Body said he had talked to him many times. Dale Young said that he was sitting on the back of the retention area and asked if it was a V-trench. Rusty Backer said yes, it runs the length. Dale Young asked if it bothers the retention area. Rusty Backer said no, its to capture the water from running directly into the other retention pond, more of a filter system; the middle of the property is where the water settles. He said that retention was put in once the seawall went in last year; it was a code put in when he put his seawall in.

Motion by Michael Hartman, seconded by Jack Higgins to approve the variances as depicted on the survey submitted by the applicant. The motion passed unanimously.

Upon consensus, the meeting adjourned at 3:03 p.m.