

BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, May 26 21, 2021, in the Commission 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, Chair, District 3; Jack Higgins, Vice Chair, District 1; George Bovell, District 4; and Bill Huffman, District 5.

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

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

Approval of April 21, 2021, Minutes

Motion by Jack Higgins, seconded by George Bovell to approve the April 21, 2021, minutes. The vote was unanimous.

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.

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

1. (21PZ00020) Lamberly Enterprises, LLC

Requests a variance from Chapter 62, Article IX, Brevard County Code, Section 62-3316(b)(4) to permit a variance of 6 feet over the 4-foot sign height allowed in a BU-1 (General Retail Commercial) zoning classification, on 0.40 acres, located on the west side of North Courtenay Parkway, approximately 300 feet south of Pioneer Road. (2255 North Courtenay Parkway, Merritt Island) (Tax Account 2412157, 2412158 and 2412159) (District 2)

Kevin McCann, member of Lamberly Enterprises, LLC, 2255 North Courtenay Parkway. He said Lamberly Enterprises owns a small three-unit commercial office building at 2255 North Courtenay Parkway; it currently doesn't have a free-standing sign, but they would like to install one for visibility and to drive business for the businesses in the building. He said they submitted an application through Berry Signs for a permit; there were four questions about the permit, three of which they addressed satisfactorily. He said the fourth they couldn't because the application was inconsistent with the sign code. He said they're here to request a variance to the sign code, 62-3316, which provides that a sign within 25 feet of an intersection, whether that be a street or a driveway, needs to be up to four feet in height or provide a clearance of eight feet from the base of the sign to the ground. He said they are limited to where the sign can go on the property due to setbacks and signs of businesses next to them. He said the only place they can install the sign is in the median that runs adjacent to the driveway of the parking lot; that median is already set back from the roadway from government easement of almost 20 feet. He said with the additional 15 feet of setback from the front property line, there is plenty of visibility, no obstruction for people travelling Courtenay Parkway or in and out of the parking lot. He said the problem is that the median runs adjacent to some parking spots, so a sign that is up to four feet in height is blocked from one direction from all visibility. He said they are not asking for a huge sign, just something that matches the appearance of the building; they would like to be able to go above that four-foot height and ask for six additional feet for a maximum sign height of 10 feet. He said that way it will clear the top of the vehicles and can be seen from both directions on Courtenay Parkway; they designed an attractive sign that would be consistent with the neighborhood. He said there are numerous buildings on Courtenay Parkway with different sizes, shapes, and appearances of signs; the majority are not very attractive and many are probably out of

the sign code. He said they are wanting the same consideration that neighboring businesses have, to have a sign to attract business to the building. He said for these reasons, they are requesting the additional six feet of height for the sign and hoping the Board approves that variance.

Dale Rhodes said, with his representative not there, he went to look at the location. He asked if he was putting it where the curbing is currently; where the cone is sitting on the curb.

Kevin McCann said yes, the yellow curbing; he doesn't think there is a cone there.

Dale Rhodes showed him a picture of the cone.

Kevin McCann said yes, that was just to mark it, there is no cone there now.

Dale Rhodes said it was there the day he drove by. He said he wanted the Board to understand looking at the picture that it's on that particular curb and not in the grassy area.

Kevin McCann said that is correct.

Dale Rhodes said it would be in line with other signs along that corridor.

Kevin McCann said yes, absolutely.

Dale Rhodes asked how much higher than the veterinary clinic sign next door is this one going to be.

Kevin McCann replied that he won't comment about the location or height of the vet sign; it is about six feet high, they would be going four feet higher.

Dale Rhodes asked if it was the height of the title company sign next to them.

Kevin McCann said no, he thinks that sign is at least 20 feet high, they just want to go to ten feet.

Dale Rhodes said he didn't get out to measure the signs. He asked if they were going to a total height of ten feet.

Kevin McCann answered yes, they would like to.

Dale Rhodes asked if there were multiple businesses in the complex with multiple businesses on the sign.

Kevin McCann said there is a maximum of three.

George Bovell said he had a great presentation. He said even if the sign was little lower, it wouldn't affect much in terms of visibility; when looking at the sign it doesn't block a person's vision up and down Courtenay. He said he understands the reason for getting it that high, so that if somebody parks there, they can see what's coming in the other direction. He said if somebody pulls up to the stop sign, they can see through the sign; he has no problem with the request.

Jack Higgins said considering the oncoming traffic and the vet, it meets all the guidelines.

Bill Huffman asked Paul Body to confirm that it's a four-foot height limit and if there was a square footage limit to a sign.

Paul Body replied, yes, there is a limit of 150 square feet for each free-standing sign.

Dale Rhodes asked if this sign would be about that, needing a variance.

Paul Body said no, he shouldn't be over that; if so, it would have been included.

Bill Huffman asked, if elevating up to ten feet, are they still only using the top four feet of it; not getting additional square feet by this variance.

Kevin McCann said, the way the sign is designed, there will be four panels total, one for each business and an extra in case there is a shared space. He said the sign would be about 80 inches high and 60 inches wide.

Dale Rhodes said the purpose of the height is because cars are parking next to the sign and people coming from the south headed north would not be able to see the sign because cars would be blocking it. He said where they have to put it is right at the driveway and parking area. He said when he was there he checked, when pulling out on the road, the sign would not hamper being able to see either way. He said someone would be out past the sign when coming to the stop sign before going onto the highway. He asked Paul Body if there were any concerns from his department with the sign.

Paul Body said as long as he gets this passed, that's why he's here; he's into the intersection of the driveway.

No Public Comment

Dale Rhodes said he will review the six points. He read, do special conditions and circumstances exist which aren't applicable to any other land structures or buildings in the applicable zoning classification. He said not necessarily, any special circumstances or conditions with this property other than where he has to put the sign, there is not a grassy area, he has to put it on the edge of the parking lot. He read, the special circumstances and conditions don't result from actions from the applicant. He said he didn't create that area or design it, so it doesn't. He read, that granting the variance and request won't confer on the applicant any special privileges that are denied by the provision of the Chapter to other lands, buildings and structures of identical zoning classification. He said he doesn't know the zoning of every property there, he did see signs that are of the same height and configuration. He read, literal enforcement of the provision of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in an identical zoning classification or provisions of this Chapter will constitute unnecessary and undue hardships on the applicant. He said that is not necessarily the case, he would still be able to do business just wouldn't have the particular signage wanted. He read, that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. He said it is the minimum variance for what he is wanting to use the sign for. He read, that granting the variance will be in harmony with the general intent and purpose of this Chapter and that such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare. He said he looked at it closely and it's not going to obstruct view and will be in harmony with everything else.

Motion by George Bovell, seconded by Jack Higgins to approve the variance as depicted on the survey submitted by the applicants. The vote was unanimous.

2. (21PZ00021) Ryan R. and Peyton M. Shedrick (Campanella)

Request variances from Chapter 62, Article VI, Brevard County Code, 1) Section 62-2109(c) to permit a variance of 2.5 feet over the 3.5 feet height required for a fence in the (north) sight triangle, 2) 62-2109(c) to permit a variance of 2.5 feet over the 3.5 feet height requirement for a fence in the (south) sight triangle. 3) 62-2109(d) to permit a variance of 2 feet over the 4 feet height required for a fence on a double frontage lot in the 20-foot setback in a RU-1-7 (Single Family Residential) zoning classification, on 0.27 acres, located on the southeast corner of Pelican Drive and North Banana River Drive. (1615 Pelican Drive, Merritt Island) (Tax Account 2438258) (District 2)

Regina Campanella with Campanella Fence, Inc., 605 Albatross Street, Merritt Island. She said, they have a couple that move to Brevard County not long ago and bought a house on the corner of Pelican Drive and Banana River, Peyton and Ryan Shedrick. She said her husband, also an owner of Campanella fence, Salvatore, is present. She said they applied for three variances; their lot is extra-long, on three lots. She said one side is Banana River and Pelican; there is a tower there that has been there since they built the development, stating the name of the development. She said on the other side of their property is Merrittana Drive, the back corner of their property. She said they are looking to put up a six-foot privacy fence around the back corner.

Dale Rhodes said their district representative is currently absent so he drove to the property to look around; there is a monument sign on that corner. He asked if they were wanting to replace where the chain-link fence is currently, with a six-foot privacy fence. He asked if they perceived an issue with being able to see traffic coming down the road with the fence there.

Regina Campanella replied no, because as you approach Banana River on Pelican, what's seen to the left is the tower, not the chain-link fence, even if it were ten feet high, it's wouldn't obstruct vision.

Dale Rhodes said the monument sign is probably four feet at most.

Regina Campanella said it's five feet.

Dale Rhodes said as he approached the tower, currently he could look to the left and see traffic coming; with the privacy fence put up, he would not be able to see traffic coming.

Regina Campanella said no, it doesn't affect it one bit.

Dale Rhodes said it does because he's not looking through a chain-link fence, but at a solid piece of wood.

Regina Campanella said the fence cannot be seen when approaching the stop sign, just the tower.

Dale Rhodes said he did, he starts looking before he gets to the tower; he would want to see if any cars are coming before approaching the stop sign. He said then he has to pull up beyond that to look down the highway.

Regina Campanella said the tower is on an angle, when approaching, the road can't really be seen.

Dale Rhodes said on the other end is the same question. He said coming from the right, with no monument sign, cars on Banana River could not be seen until he got right to the edge of the road. He said he drove around the area more than once, to see if he could see cars coming before he got to the edge of the road to pull out on Banana River at the other end of the property from Merrittana.

Regina Campanella said, approaching the stop sign, the chain link fence stops before the stop sign.

Dale Rhodes said if it is replaced with a privacy fence, he wouldn't be able to see traffic until he gets to the stop sign and to the crosswalk to see be able to see traffic.

Regina Campanella said, there is a sewer drain there, so the chain link jags in. She said they don't have a problem coming back a little down Banana River approaching Merrittana; they could cut in at an angle to bypass the sewer area, to allow plenty of view. She said the chain link fence is very low.

Dale Rhodes said yes, but they are going to six feet.

Paul Body said he had a couple of pictures the applicant gave that shows the height of the monument sign and chain link fence; it looks to be about a foot above the chain-link fence.

Dale Rhodes confirmed that the Board members had the pictures.

Regina Campanella said the chain link fence isn't really visible.

Dale Rhodes said the chain-link fence is about a foot above the monument sign.

Regina Campanella said when approaching the monument sign and then the stop sign, the fence isn't seen, the monument sign is; the fence does not obstruct vision at all.

Dale Rhodes said in the picture after the monument sign showing the crosswalk, the one with the car, where the fence comes out can be seen and if that's a six feet solid fence, there is no way to see traffic coming from that stop sign. He said, looking at the monument sign, one would have to pull into the crosswalk to be able to look down through there; the monument sign makes it difficult enough but with the six-foot fence there, it's impossible to see traffic coming. He said he was looking at approaching the monument sign and with the chain-link fence he could see cars coming down the road. He said once the privacy fence is there, he will not know that; then when at the stop sign, he would have to pull into the crosswalk to be able to look down to see if there are any cars coming.

Regina Campanella said she understood, however because of the way the monument sign is built, when approaching Banana River, the traffic can't be seen at all.

Dale Rhodes said he can until he gets to the monument sign; he was sitting in a vet so was very low, he could see cars coming up to the monument sign.

Regina Campanella said even if there were a four-foot solid fence there, someone still couldn't see and there are solid fences all along that road.

Dale Rhodes said, but not on that corner and that is what his concern is.

George Bovell said he made a drawing to suggest how to deal with the fence. He asked if there would be a fence along the front of the property on Pelican.

Regina Campanella said no.

George Bovell said double frontage is typical as in his neighborhood and they have three frontage roads. He said typically, a six-foot fence is allowed; he referenced his drawing and said to assume the square is the house, he showed where he suggested it cut off to give privacy all the way to the back.

Regina Campanella asked if that was the back or front of the house.

George Bovell said it's the back, where the fence jags in at the back of the house. He said he does not have a problem with this because when arriving at the stop sign, whatever fence is there, someone can see. He said someone would not blow through the intersection, they would stop and be able to see what's coming down in enough time to decide whether to go forward. Referencing his drawing, he said going up Banana River, the fence goes up and gets cut off square with the property with a gate; the rest would stay open to not have the issue of limited visibility looking this way.

Regina Campanella asked if that is the setback he mentioned; not to the middle of the side of the house but back considerably.

George Bovell said yes, whatever is reasonable. He said in his neighborhood and as a real estate agent, he sees a lot of neighborhoods with double frontage with a six-foot fence that cuts off at the front of the property especially with a good setback. Referencing his drawing he said it can go as far as here and cut off here and have a gate to get your privacy six-foot fence. He said he does not think the area that jags in is a problem because someone would have to stop at the stop sign anyway. He said with some adjustments, they wouldn't have a lot of problems; they would decide what distance is needed to get a setback from the stop sign where a car has to stop to see on Pelican so they can look down the road and eliminate the issues brought up.

Regina Campanella said she understands and needs assistance from Sal.

Salvatore Campanella, 605 Albatross Street, Merritt Island. He approached George Bovell to see the drawing.

George Bovell pointed to the back of the property and the front on Pelican. He said the six-foot fence can come up, stop and go in this way; they will have complete privacy here and eliminate the vision issues looking down Banana River. He said they could still have a six-foot fence but it doesn't need to go all the way up to Pelican; it can go the front of the property in line with the house, turn in and stop at the house with a gate, as seen in most neighborhoods with a double frontage.

Salvatore Campanella said on the Banana River side, he has a fence now coming from the house out to Banana River in the middle. He asked if what he was saying is to come forward from the house on the front corner where the house comes out.

George Bovell said yes, on the drawing, it shows the fence going all the way to Pelican; he suggests coming back from Pelican a bit and then turn the fence at a right angle towards the house.

Dale Rhodes said, so that there is a line of sight between the monument sign and the fence. He asked if he understood.

Salvatore Campanella said yes.

George Bovell said he is sure he sees that all the time as a fence person who deals with double frontage. He said if someone is in a subdivision that allows a fence on the front property line, they would be limited to four feet across the front and a considerable way on the side. He said they could stay with six foot, giving something reasonable, cut off toward the house at a right angle and it takes away the visibility issue that his colleague has an issue with.

Salvatore Campanella said he could still go to the same spot the chain link fence is on the corner of the house.

Dale Rhodes said he is just going up to the corner of the house and going out to the road versus going all the way to the edge of the property.

George Bovell said he has no problem with the back; it's not a heavily travelled road as a dead in.

Paul Body said, the chain link there now should be 3.5 feet high from the northwest corner of Pelican and Banana River, 30 feet down Banana River in the site triangle; the fence is too high right now.

Salvatore Campanella said he didn't put that in.

George Bovell said based on the character of the neighborhood, he is okay with a six-foot fence because there are other six-foot fences up and down the street. He said as long as these adjustments are made, they can have a six-foot fence and hope that there isn't a lot of push back from his colleagues, because he is hearing it's the visibility on those two corners.

Salvatore Campanella asked if the Merrittana corner is okay.

George Bovell said, for him it is.

Jack Higgins said he wouldn't approve the six foot as it is, where the sign is. He said most people ignore the stop bar when coming to a stop sign and go right to the crosswalk when they should have stopped at the white line in front. He said he would be worried about bicycles and joggers coming against that; they wouldn't be able to see. He said there is a lot of collisions from the side from bicycles like that; George had the right idea.

George Bovell said whether it's three feet or four feet, if he is in a Corvette and its not a chainlike fence, there are the same issues in a low vehicle. He said the only way to get over that is to be way up; even if the fence is at four feet, wherever it is cut off, there will still be the same visibility issues. He said Merrittana is a dead-end street with not a lot of traffic.

Jack Higgins said it only takes one time.

Dale Rhodes said even in his SUV, the fence would block his view, they have to consider that not everybody drives a car that is semi-truck height. He said his biggest concern is the blocking of the view on both corners; it is a potential hazard.

Jack Higgins asked if it was a chain-link fence with vinyl.

Dale Rhodes said no, currently it's a chain-link fence, to be replaced with vinyl.

Salvatore Campanella confirmed it was a six-foot solid vinyl with tongue and groove.

Regina Campanella said a couple issues they were concerned about were discussed when she came to apply. She said the back part of the property is very low, anybody could hike the low fence; they are a young couple just starting out and the dog can easily scale that fence to go out to the traffic on Banana River which is getting busier with the growth of the area. She said it does jag in because of the sewer that is there; it's been jagged in quite a bit but they could bring it in a little more even though it is before the stop sign now. She asked if they could do a four-foot fence going to the side of the house and then come up to six foot as they go down Banana River.

Dale Rhodes said, if they were back where the jag is, with that length, and then stopped where the edge of the house is instead of to the road, that wouldn't be a problem. He said even with that jag in there, if he looks right at the stop sign where they're going to have a six-foot fence, he won't see a thing including people on the sidewalk and traffic coming. He said he would have to pull up into the crosswalk area and if there is somebody coming, as not everybody rides their bicycle in the street, if he pulls up and they come out of nowhere, there is a problem. He said if they came back to where it jogged in and went the length of the property, knowing that takes away usable property, but stopped at the edge of the house, versus going over to the next street where it is now, he wouldn't have a problem with that because it's not going to block the view of cars or pedestrians on the sidewalk.

Regina Campanella said, coming down Merrittana approaching the stop side, they can keep the six foot and asked how far back they need to come; they wouldn't have to jag but go back at an angle.

Dale Rhodes, referencing a drawing, pointed out the jag in and said if they could stay in line with the shed, it wouldn't be an issue because he would be able to see.

Regina Campanella asked if he meant brining the whole fence in.

Dale Rhodes said yes.

Regina Campanella said no, that's really cutting off half of their property.

Dale Rhodes said if they would not have to do that for the entire length of the property, but at least long enough that he has a clear view of the road and the sidewalk.

Regina Campanella asked if it could cut in behind the shed at an angle so the view is not obstructed.

Dale Rhodes said that was doable.

Bill Huffman asked if the procedure now was to design the fence for them or do they reapply.

Paul Body said no, it's not up to them to design it, but to approve or deny what is submitted.

Bill Huffman said if there is a reapplication, he would like to see a layout with sight lines drawn.

Paul Body said he did put the distances that they are supposed to be, the sight triangle is ten feet along Pelican, 30 feet along Banana River Drive and 10 feet along Merrittana.

Dale Rhodes asked if they tabled this, would they be able to make an amendment and bring it back.

Paul Body said, the problem is, they will still be in the sight triangle unless they move it out.

George Bovell said their recommends now are within the sight triangle, for example, on Pelican, they want at least ten feet from the corner coming down Banana River, and 30 feet from Pelican down.

Paul Body said they can put a 3.5-foot fence there and step up after the thirty feet, step up to six feet.

George Bovell said, and they could do the same thing on the back side.

Regina Campanella said their only issue is back in the corner, it's a safety issue for a six-foot fence.

Jeffrey Ball said there is discussion that needs to happen for further clarification from the site plan. He suggested they table this to the next Board of Adjustment so the applicant can take their directions and come back with site plan that meets it, that can be analyzed to see if it meets what they are willing to approve. He said the problem with what is happening is that it's very arbitrary and there is not a site plan to clearly state where the six-foot fence would start and end and where the lower size fence is, making it difficult for his staff to differentiate what their direction is.

Dale Rhodes asked if they understood what was being asked and to answer with a nod.

Regina Campanella said this was expensive.

Dale Rhodes said if they table it, they just bring it back at the next meeting; but would work with the County to change their site plans to ensure the fence won't block the sight line. He said he would need to see significant change to where it is currently; he needs to be able to see where the traffic is coming and people coming down the sidewalk; currently he can't and so couldn't vote in favor.

Paul Body said they have three different variances, two are to the sight triangle and one is for six foot along Merrittana and the front setback. He said he doesn't see how they would have them adjust it and still not meet the codes, the reason they are here now. He asked, if they adjust it just 20 feet, will they still be 20 feet at 3.5 feet high, will they be into the sight triangle. He said right now it is written up as into the sight triangle with six feet high, 2.5 feet over the requirement.

Dale Rhodes asked if the sight triangle was 30 feet from the corner.

Paul Body said yes, 30 feet down from the northwest corner, down Banana River drive and going up from Merrittana, 30 feet.

Dale Rhodes asked if the entire length of that fence was in the sight triangle.

Paul Body said no, its 30 feet, approximately to the front of the house.

Dale Rhodes said they also need to come 30 feet off Merrittana.

Paul Body said correct.

Regina Campanella said Merrittana is a small dead-end road.

Dale Rhodes said there are people that live on the road that have to drive up and be able to see and pull out on the road safely without harm to anybody else.

Paul Body said right now we have it advertised as this so if they put it on hold until they come back, and they're still in that sight triangle...

Dale Rhodes said they would still have the same situation.

George Bovell said this could be easily solved if they fix the front sight triangle and the back.

Regina Campanella said they don't have a problem with the front sight triangle, it's the back corner on Merrittana.

George Bovell said, he doesn't hear objection to six foot on the back corner; it's from Merrittana going north 30 feet and coming in 10 feet, and bringing it back down to Merrittana, that is the sight triangle there. He said then when stopping at the corner of their fence, he could look at a reasonable angle to see traffic and people on the sidewalk without having to inch up; that would fix it. He said before going home, they should talk with Mr. Body and let him explain what the sight triangle means and mark the locations on their drawing, where their fence may have to go in at an angle and come back down.

Dale Rhodes said there are other six-foot fences there whether they're permitted or not, but they are not on a corner.

Regina Campanella said some of them are, just not permitted.

Dale Rhodes said, not the ones he looked at. He said he can't do anything with that; he doesn't have a problem if it's not blocking a view. He said his problem is, blocking the view and because of that he can't support this.

Regina Campanella said she wanted to thank them, as a small business this is the first variance they have ever applied for and it has been a real learning experience.

George Bovell said it's a good they will not have to pay again, just rework it and solve the two angles.

Dale Rhodes asked, if they table this, and they go back and rework this till they are out of the sight triangle, do they not have to reapply or just come back with the changes.

Paul Body said it's advertised right now, they could deny one and two and approve three; they would still have to be out of the sight triangle. He said they could move it around so that it is out of the sight triangle whenever they come in for their building permit.

Dale Rhodes said they could deny one and two and approve three and get there.

Paul Body said yes, they just have to be out of the sight triangle and bring it back 30 feet, it could be 3.5 feet high. He said they could bring the six feet high toward the house and be out of the sight triangle on Merrittana and still meet six feet running all the way down to the 10 feet along Merrittana.

Regina Campanella asked if they would just bring a new survey in because they already applied.

Dale Rhodes said, a new site plan.

Paul Body said they would just have to revise their site plan for their building permit.

Dale Rhodes said to the Board, he is good with that if they are.

Salvatore Campanella asked what the setback was off the road on Merrittana.

Paul Body said, there is no setback, it's up to the property line; it's 30 feet down the property line along Banana River Drive.

Regina Campanella said they will have to do some math.

George Bovell said to check in with Mr. Body and get some quick understanding before leaving here.

Dale Rhodes said, don't go home, draw this and then come back; let them help you do this.

No Public Comment

Regina Campanella said thank you, it's been a learning experience for them.

Dale Rhodes said their job is not to make it difficult, but to be concerned about the safety and welfare of the public. He said if they can make things work, they certainly want to. Dale Rhodes said he will review the six points. He read, do special conditions and circumstances exist which aren't applicable to any other land structures or buildings in the applicable zoning classification. He said in this particular case there are special circumstances, with corners on both sides of the property and that is what they are discussing and trying to give them what they want but making sure safety is an issue. He read, the special circumstances and conditions don't result from actions from the applicant. He said the property doesn't result from anything they have done, but if they had put up the fence, they would be creating the issue. He read, that granting the variance and request won't confer on the applicant any special privileges that are denied by the provision of the Chapter to other lands buildings and structures of identical zoning classification. He said if they approved all three, it would be giving special privileges that other people in the same area are not legally permitted to have. He read, literal enforcement of this provision of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in an identical zoning classification or provisions of this Chapter and will constitute unnecessary and undue hardships on the applicant. He said, they would still be able to use their property, just won't have as much of a fence as they want, he doesn't think they are depriving them of any rights. He read, that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. He said they discussed all of that, with adjustments it will work, then it would be minimum; as is, it exceeded what would be

required to have the use of the property. He read, that granting the variance will be in harmony with the general intent and purpose of this Chapter and that such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare. He said, as they are approving it, it will not be detrimental to public welfare but approving as requested would be.

Motion by George Bovell, seconded by Jack Higgins to deny numbers 1 and 2, and approve number 3 as depicted on the survey submitted by the applicants. The vote was unanimous.

3. (21PZ00022) Hardiman Family Revocable Trust

Requests variances from Chapter 62, Article VI, Brevard County Code, 1) Section 62-1341(5)(a), to permit a variance of 15.1 feet from the required 20 foot front setback for an accessory structure, 2) Section 62-1341(5)(b) to permit a variance of 6.6 feet from the required 7.5 foot (north) side setback for an accessory structure, 3) 62-1341(5)(b), to permit a variance of 5.0 feet from the required 5.0 foot structure spacing in an RU-1-9 (Single Family Residential) zoning classification, on 0.21 acres, located on the east side of Coquina Ridge Drive, approximately 0.54 miles north of the intersection of US Highway 1 and Post Road. (4465 Coquina Ridge Drive, Melbourne) (Tax Account 2611566) (District 4)

Charles Hardiman, 4465 Coquina Ridge Drive, Melbourne. He said thank you for their consideration; he submitted requests for three variances. He said they are trying to take an 891 square foot home, built in 1949 and turn it into a place he and his wife could live in. He said they are not building a mansion but are downsizing and do not want more than two bedrooms but need to have storage for woodshop stuff, his wife's furniture making and seasonal decorations. He said there is no other place on the property they can do that given the constraints; they'd like a second floor on the garage and to connect it with a walkway on the second floor. He said that's the five-foot variance between the two buildings; they're physically connected now, but doesn't think it qualifies because it's not enclosed. He said the other, the garage, is one foot and one inch off of the property line on one side and the setback from the road. He said he has tried to build consensus in the neighborhood, talked to many neighbors and showed them the plans and elevations. He said everyone seemed happy and it fits the area which has morphed in the last couple of years; they have been there for 2.5 years and love it. He said they just need the second floor and want the kids downstairs so the old folks can go to bed.

Dale Rhodes said they received two letters in support of the project and asked if he had seen them.

Charles Hardiman said yes and had talked to the neighbors. He said that was the neighbors to the north and south; Dan and Ginger Stephens are on the side where they are only a foot off.

Dale Rhodes said he needed to make sure he and the Board members had seen them.

George Bovell asked if he was putting a second story on the garage as well.

Charles Hardiman said, on the garage, home, and a walkway.

George Bovell said the garage and home have been in that configuration forever and he is not changing any of the exterior footprint, only going up.

Charles Hardiman said, correct.

George Bovell said he doesn't need a variance for anything other than the dimensions of the garage and its proximity to the boundary.

Charles Hardiman said, all from the existing home.

George Bovell said that can't change unless it is ripped down; he is in full support of what is there.

Dale Rhodes asked approved, could he add the second story without dealing with the setbacks.

Paul Body said, yes, that's the reason he needs to do that now, it's non-conforming to the setbacks; it was built in 1949 before zoning was established. He said he is trying to expand it to go up to the second floor; the way it's designed, it's not meeting the code for attachment to become part of the principle structure. He said it would have to have a common roof and it just has a balcony that is attaching it, so that is why it's considered an accessory structure right now.

No Public Comment

Charles Hardiman said he appreciated their consideration and had lived in Orange County for decades where this kind of dialogue does not happen, they ought to be happy with this.

Dale Rhodes reviewed the six points. He read, do special conditions and circumstances exist which aren't applicable to any other land structures or buildings in the applicable zoning classification. He said the special circumstances and conditions are that it's been there since 1949. He read, the special circumstances and conditions don't result from actions from the applicant. He said they don't, he didn't build or design this and short of tearing everything down on the property, this is his only remedy. He read, that granting the variance and request won't confer on the applicant any special privileges that are denied by the provision of the Chapter to other lands buildings and structures of identical zoning classification. He said they have approved many properties that were built long ago and have had to adjust because of that, they aren't conferring any special privileges. He read, literal enforcement of this provision of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in an identical zoning classification or provisions of this Chapter and will constitute unnecessary and undue hardships on the applicant. He said, it would because he would have to tear down his entire living quarters. He read, that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. He said that is correct. He read, that granting the variance will be in harmony with the general intent and purpose of this Chapter and that such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare. He said since it's been there since 1949 he doesn't see how it could harm anybody.

Motion by George Bovell, seconded by Bill Huffman to approve the variances as depicted on the survey submitted by the applicants. The vote was unanimous.

4. (21PZ00023) Cypress Trust Company

Requests a variance from Chapter 62, Article VI, Brevard County Code, Section 62-1542(5)(b), to permit a variance of 6.0 feet from the required 50.0-foot (north) side setback in a PIP (Planned Industrial Park) zoning classification, on 1.20 acres, located on the east side of North Wickham Road, approximately 0.67 miles north of the intersection of Pineda Causeway and North Wickham Road. (6115 North Wickham Road, Melbourne) (Tax Account 2618593) (District 4)

Erin Trauger, P.O. Box 360253, Melbourne. She said she is a civil engineer on the project and is here to request the variance as stated; she has been involved in the site plan application, it's existing, formerly Petty's on North Wickham. She said it has been converted to the Cypress Trust Bank and they were interested in adding a drive through lane with a pop out drop-down drawer, adjacent to the building, with an island and ATM outside of the island. She said the situation they face that is unique to this property is a great oak tree, which the owner has been adamant about preserving. She said she met with the contractor to discuss ways to accommodate and hopefully preserve the tree, which dictated the width of the island around the tree. She said the drive isle and tree preservation island plan came together but put their ATM right at the edge of that island which is within the 50-foot setback and also higher than 18 inches, so considered a structure that needed to meet the 50-foot setback. She said the variance request is to allow construction of the ATM.

George Bovell said he used to shop at Petty's and it's in his neighborhood; it's a complex issue to turn what used to be a meat market into a bank. He said the site was not designed that way so the provisions have to be added and was surprised that was the only thing they needed. He said everything was exactly as she explained in the package. He said they wouldn't be hurting anything by getting this variance granted; it would make the trust business moving forward more manageable and functional, so he supports it.

No Public Comment

Erin Trauger said she appreciated the opportunity and the Board of Adjustment does a great job addressing these types of development situations.

Dale Rhodes read, do special conditions and circumstances exist which aren't applicable to any other land structures or buildings in the applicable zoning classification. He said the only special circumstance is this big oak tree that she is trying to keep and that is extremely commendable. He read, the special circumstances and conditions don't result from actions from the applicant. He said, she didn't grow the tree. He read, that granting the variance and request won't confer on the applicant any special privileges that are denied by the provision of the Chapter to other lands buildings and structures of identical zoning classification. He said they may be approving something that wouldn't be approved for somebody else, but it goes back to the tree. He read, literal enforcement of this provision of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in an identical zoning classification or provisions of this Chapter and will constitute unnecessary and undue hardship on the applicant. He said, whether they approved it or not would not deprive them of rights that would be conferred on anybody else, but the special circumstances are what they are dealing with He read, that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. He said that is true. He read, that granting the variance will be in harmony with the general intent and purpose of this Chapter and that such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare. He said it would not be.

Motion by George Bovell, seconded by Jack Higgins to approve the variance as depicted on the survey submitted by the applicant. The vote was unanimous.

Upon consensus, the meeting adjourned at 2:44 p.m.