

BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, January 19, 2022, 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, Chairman, District 3; Jack Higgins, Vice Chairman, District 1; Kevin McCann, District 2; George Bovell, District 4; and Bill Huffman, District 5.

Staff members present were: Sarah Beazley, Assistant County Attorney; Heather Balsler, Assistant County Attorney; Jeffrey Ball, Planning & Zoning Manager; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

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

Chair and Vice Chair Nominations

Motion by George Bovell, seconded by Jack Higgins, to nominate Bill Huffman as Chair. The vote was unanimous.

Motion by George Bovell to nominate Kevin McCann as Vice Chair. Motion failed for lack of second.

Motion by Jack Higgins, seconded by Kevin McCann, to nominate Jack Higgins as Vice Chair. The vote passed unanimously.

George Ritchie explained the function of the Board of Adjustment; Jack Higgins explained the definition of a hardship; and Bill Huffman explained the procedures of the Board of Adjustment.

All speakers were sworn in by the Chairman at the beginning of each item.

Approval of December 15, 2021, Minutes

Motion by George Bovell, seconded by Jack Higgins, to approve the December 15, 2021, minutes. The motion passed unanimously.

(21PZ00079) Carol A. Hall Life Estate (Thomas Yardley)

A variance of Chapter 62, Article VI, Brevard County Code, as follows: 1) Section 62-1401(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 62-1401(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure; 3) Section 62-1401(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure; 4) Section 62-1401(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure; 5) 62-2100.5(1)(d) to permit a variance of 492 square feet over the 600 square feet allowed for an accessory structure; 6) 62-2100.5(1)(d) to permit a variance of 13 square feet over the 600 square feet allowed for an accessory structure; 7) 62-2100.5(1)(b) to permit a variance of 1,498 square feet over the total floor area of the principle structure allowed for all detached structures, in an RRMH-1 (Rural Residential Mobile Home) zoning classification, on 1.94 acres, located on the north side of Brockett Rd., approx. 1,706 feet west of Hammock Rd. (2810 Brockett Rd., Mims) (Tax Account 2110383) (District 1)

Thomas Yardley, 1970 Michigan Ave., Cocoa, representing the applicant, stated Ms. Hall moved to Mims in 1990 with her husband, and over the years, Mr. Hall applied for permits to place a mobile home pad, a pump house and a garage on their property. The mobile home they bought was only insurable for 30 years, and now Ms. Hall cannot renew her insurance because the mobile home is too

old to insure. In 2017 Hurricane Irma destroyed her roof, but the accessory structures were not damaged. She can't get the money to rebuild her house, so she's been living in the house with no roof. There is a FEMA program that allows people in her situation who have a mobile home that's been partially destroyed to get a new mobile home. He said Ms. Hall was approved in 2019 to receive a new mobile home, and that's when she found out that the structures her husband had built are now out of code, and she was told by the County that she has to demolish them. He explained that because of the distance of the sheds from the house, she doesn't qualify for the funding, which is a clear hardship for approving the variances to keep them.

Jack Higgins asked staff if permits were pulled for everything for the accessory structures.

Jeffrey Ball replied permit records only go back 10 years, but aerial photos show that the structures existed over 10 years ago.

Mr. Higgins stated the property is well taken care of, it sits far off of the road, and he doesn't see a problem approving the variances.

No public comment.

Motion by Jack Higgins, seconded by George Bovell, to approve the variances as depicted on the survey provided by the applicant. The motion passed unanimously.

(21PZ00087) Lance C. Boncek

A variance from Chapter 62, Article VI, Brevard County Code, Section 62-1334(4) to permit a variance of 1.42 acres from the required 2.5-acre minimum lot size in the AU(L) (Agricultural Residential) zoning classification, currently in a GU (General Use) zoning classification. The property is 1.08 acres, located on the south side of Angelica Street approximately 700 feet east of Alan Shepard Avenue (3375 Angelica Street, Cocoa) (Tax Account 2403955) (District 1)

Lance Boncek, 3375 Angelica St., Cocoa, stated he is requesting the variance to be able to place a steel garage on his property. The property doesn't meet the lot size required for the current zoning, so if the variance is approved, he will be seeking a zoning change next month.

Jack Higgins stated the survey doesn't show the existing sheds.

Mr. Boncek stated there are two other small storage sheds, and the new garage will be in the southeast corner. He said he plans to remove the two smaller sheds and just have one garage.

George Bovell stated he is in support of the request.

No public comment.

Motion by Jack Higgins, second by George Bovell, to approve the variance as depicted on the survey provided by the applicant.

The Chair read aloud the six criteria for a hardship and explained the justifications for approving the variance.

Bill Huffman called for a vote on the motion as stated and it passed unanimously.

(21PZ00088) Jeannette L. Knight

Variances from Chapter 62, Article VI, Brevard County Code, as follows: 1) Section 62-1341(5)(a), to permit a variance of 13 ft. from the required 20-ft. rear setback for a principal structure; 2) Section 62-1341(5)(a), to permit a variance of 2.1 ft. from the required 7.5-ft. side setback for a principal structure, in a RU-1-9 (Single-Family Residential) zoning classification. The property is 0.17 acres, located on the south side of Needle Boulevard, approximately 453 feet east of Fourth Place (315 Needle Boulevard, Merritt Island) (Tax Account 241913) (District 2)

Jeannette Knight, 315 Needle Blvd., Merritt Island, stated she had a house fire in October and she is seeking the variance to be able to rebuild on the same pad and footprint.

Kevin McCann stated Ms. Knight just wants to put a house where a house previously existed, and he supports the variance.

No public comment.

Motion by Kevin McCann, seconded by Dale Rhodes, to approve the variance as depicted on the survey provided by the applicant.

The Chair read aloud the six criteria for a hardship and the justifications for approving the variance.

Bill Huffman called for a vote on the motion as stated and it passed unanimously.

(21PZ00093) Kenneth Kurt & Tina C. Krokenberger

A variance from Chapter 62, Article VI, Brevard County Code, Section 62-1339(5)(b) to permit a variance of 5.6 ft. from the required 10-ft. side (north) setback for an accessory structure, in an EU-2 (Estate Use Residential) zoning classification. The property is 0.46 acres, located on the northeast corner of the cul-de-sac of Brahman Avenue, approximately 738 feet north of Tuckaway Drive (3401 Brahman Avenue, Rockledge) (Tax Account 2522033) (District 2)

Jeffrey Ball explained that the item needs to be tabled to allow for re-advertisement. The current request is incorrectly stated on the application as being an accessory structure. The actual variance should be for fence height.

Tina Krokenberger, 3401 Brahman Ave., Rockledge, stated two years ago she submitted a permit for a retaining wall along the north side of her property because there is a drainage ditch and the house dropped 7 feet on the side. She said what they are asking for is a railing on a deck that they built on the side of the house, and the main reason they put the retaining wall and deck on the side of the house was to support the foundation because they purchased the house after inspections. She said after they purchased the house they pulled up carpet and found a 1-inch gap along the entire foundation on the north side of the home. The retaining structure that the original owner put in was not sufficient and was never permitted. She said they came up with a plan with a structural engineer to put in the retaining wall, and it was all permitted properly with the County. She stated they tied the house rebar into the deck and put a four-inch deck on top of the retaining wall. She said they brought in over 20 truck loads of dirt to fill in the side yard. She said they would like to put a railing on the deck, and that is why they applied for the variance, but today she has been told the variance request wasn't written properly by staff.

Jeffrey Ball explained the variance request on the application is for a setback for a deck, but it actually needs to be for retaining wall/fence height, so the incorrect variance was advertised.

Dale Rhodes asked if there is more than one variance request. George Ritchie replied no.

Jack Higgins asked staff if Ms. Krokenberger could agree to shorten the fence.

Mr. Ritchie replied the wall and fence height is a combined effect that is over the six-foot maximum, and it is on a side street, against another roadway. He said the issue is if it is a four-foot height limitation or a six-foot height limitation, and what is the additional height she is requesting above either of those two limits.

Mr. Ball stated staff will pull the building permit to make sure it meets code, and will work with Ms. Krokenberger on her new variance request.

Motion by Dale Rhodes, seconded by George Bovell, to table the revised variance to the February 16, 2022, meeting for re-advertisement. The motion passed unanimously.

(21PZ00094) Brad A. Lange

A variance from Chapter 62, Article VI, Brevard County Code, Section 62-1371(4)(b) to permit a variance of 25 ft. from the required 75-ft. lot width in BU-1 (General Retail Commercial) & RU-2-30 (High Density Multiple Family Residential) zoning classifications. The property is 2 acres, located on the east side of North Courtenay Parkway, approximately 1,085 feet south of Chase Hammock Road (4910, 4920, 4930 and 4940 North Courtenay Parkway, Merritt Island) (Tax Account 2318704) (District 2)

Brad Lange, 4910 N. Courtenay Pkwy., Merritt Island, stated he has 200 feet of frontage, and it has been that way since 1964. He said there is a driveway on the side of the property that goes to three separate single-family structures, and he would like to sell the BU-1 portion, which is the front three-quarters of an acre, and that's the purpose for the variance request.

Kevin McCann asked Mr. Lange if he wants to split the parcel and leave the front portion zoned commercial and the rear portion residential. Mr. Lange stated the rear is currently zoned RU-2-30.

Mr. McCann stated the driveway goes east to west on the south side of the property, and currently, people have to go over the driveway to get into the business location.

Mr. Lange stated that is correct, if he leaves that entrance open. Mr. McCann asked if he plans on reconfiguring the driveway. Mr. Lange replied yes, the new business will reconfigure it.

Dale Rhodes stated Mr. Lange is requesting 25 feet from the 75 feet; however, he could request 15 feet and have 60 feet of width instead of 50 feet.

Mr. Lange stated he would rather not do that because of the way the commercial building is situated on the property and taking more off of that side will not leave any access along the south side of the building.

Mr. Rhodes stated it is his understanding that Mr. Lange wants the 25 feet so he can split the property. Mr. Lange replied it was already split in 1964, but the records don't go back that far.

Mr. Rhodes stated 60 feet would still allow the lot to be split, giving him a variance of 15 feet instead of 25 feet. Mr. Lange stated it would be too much off of that side of the business, and he will have to leave it all one property if he doesn't have the 25 feet.

George Bovell asked staff if the board can consider 15 feet.

Jeffrey Ball stated based on calculations, the setback to the existing building and where the 50 feet is, is approximately 27 - 28 feet. The side setback for BU-1 is 10 feet and with the 60 feet, it would allow him to have sufficient width for the stem.

Public comment.

Robert Scolah, 4950 Ralphs Lane, Merritt Island, stated he lives on Ralphs Lane, which is behind the subject property. He said the only drainage behind the subject property is Ralphs Lane, and because of all of the recent development, water from the subject property drains into his garage.

George Bovell stated the board is only looking at the request for a 25-foot variance so the applicant can split the lot.

Mr. Ball explained the properties were developed prior to the County having stormwater requirements, but any redevelopment or new development would have to be brought up to code, which may or may not help with existing drainage problems.

Motion by Kevin McCann, seconded by George Bovell, to approve the variance as depicted on the survey provided by the applicant.

Dale Rhodes made an amendment to the motion that the board approve the variance as 15 feet from the required 75-foot lot width instead of 25 feet.

Jack Higgins seconded the amendment to the motion.

Mr. Bovell stated based on the applicant's comments, he agrees the variance should be approved as requested, at 25 feet from the required 75-foot lot width, and he is in support of the original motion.

Mr. McCann stated the applicant is creating a flag lot, it doesn't change anything on the main portions of the property, and at 50 feet wide it would be a wider driveway, but he doesn't think a 60-foot driveway is needed.

Bill Huffman called for a vote on the amended motion of 15 feet from the required 75-foot lot width. The motion failed 2:3, with George Bovell, Kevin McCann, and Bill Huffman voting nay.

The Chair read aloud the six criteria for a hardship and the justifications for approving the variance.

Bill Huffman called for a vote on the original motion as stated, and it passed 3:2, with Rhodes and Higgins voting nay.

Upon consensus, the meeting adjourned at 2:48 p.m.