

## BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, July 19, 2023, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Dale Rhodes presiding, to consider the requests below:

Board members present were: Sonya Mallard (D1); Dale Rhodes, Chair (D3); Bill Huffman, Vice Chair (D5); and Joanna Bass (D4 Alt.).

Staff members present were: Jeffrey Ball, Planning & Zoning Manager; Becky Behl-Hill, Assistant County Attorney; Paul Body, Planner III; and Jennifer Jones, Special Projects Coordinator.

Chair Dale Rhodes called the meeting to order at 1:30 p.m.

Paul Body explained the function of the Board of Adjustment; Bill Huffman explained the definition of an undue hardship; and Dale Rhodes explained the procedures of the Board of Adjustment. All speakers were sworn in at the beginning of each item.

### **Approval of June 21, 2023, Minutes**

Motion by Bill Huffman, seconded by Sonya Mallard, to approve the June 21, 2023, minutes. The motion passed unanimously.

### **Robert A. Kline**

Variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1334(4), to permit a variance of 5 ft. from the 150-ft. required lot width in an AU(L) (Agricultural Residential, Low Intensity) zoning classification; 2.) Section 62-1334(4), to permit a variance of 1.5 acres from the required 2.5-acre minimum lot size in AU(L). The property is currently zoned GU (General Use). The property is 1 acre, located on the north side of Oneida St., approx. 960 ft. from Dakota Ave. (3600 Oneida St., Cocoa) (District 1)

Robert Kline, 3600 Oneida St., Cocoa, stated his daughter started horseback therapy six years ago, which has helped with her strength, confidence, and ability. He said they recently had the opportunity to adopt the horse she has been riding, so preparations were made to bring the horse to the property. He said when he moved to Canaveral Groves there were a lot of horses in the area, and he assumed horses were allowed because everyone had them, but he found out that he was not zoned to have a horse, but in order to change the zoning classification, two variances are required for lot width and lot size. He noted the property is next to a ditch right-of-way, so there is an additional 60 – 70 feet between the neighbors to the east, and as to the size of the lot, there are several lots in the neighborhood that are currently zoned agricultural that are approximately one acre.

Sonya Mallard asked if the variance would inhibit the neighbors. Mr. Kline replied no, it would be entirely on his lot. He stated he understands there will be different setbacks, but he will be able to comply with barn setbacks.

Bill Huffman asked if Mr. Kline intends to do any tree removal on the property. Mr. Kline replied no, other than a couple of trees that might need to be cleared for the fence to be on the property line.

Mr. Huffman stated there is a property in the back that looks like it has a barn, and asked if there are animals on that property. Mr. Kline replied no, the barn and sheds are used for auto repair.

Dale Rhodes asked if Mr. Kline has talked to his neighbors about having a horse on the property. Mr. Kline replied he has not talked to all of them, but he talked to the adjacent neighbors, and they are in support.

Mr. Rhodes asked staff, if the variances are approved and the next step is to change the zoning, will there be an issue with the setbacks of the current buildings on the property. Paul Body replied no, the existing buildings meet setbacks with the current and proposed zoning classifications.

No public comment.

Motion by Sonya Mallard, seconded by Joanna Bass, to approve the variance as depicted on the survey provided by the applicant.

Dale Rhodes read aloud the six criteria for a hardship and explained the justifications for approving the variance.

Dale Rhodes called for a vote on the motion as stated, and it passed unanimously.

### **Price Family Revocable Living Trust**

A variance of Chapter 62, Article VI, Brevard County Code, Section 62-1336(5)(b), to permit a variance of 9.4 ft. from the required 15-ft. side setback for an accessory structure in an RR-1 (Rural Residential) zoning classification. The property is 0.85 acres, located on the east side of Michigan St., approx. 575 ft. north of Chicago Ave. (2811 Michigan St., Melbourne) (Tax Account 2801939) (District 5)

Richard Price, 2811 Michigan St., Melbourne, stated he recently pulled a permit to build a carport to house his RV, but found out it encroaches into the side setback by 15 feet. He said he didn't realize a carport was considered a permanent structure.

Bill Huffman stated he visited the property and the homes in the area are very well kept with a lot of mature trees, and he does not see any detriment to the neighborhood. He asked if Mr. Price has talked to his neighbors about the carport. Mr. Price replied yes, and they are supportive.

Dale Rhodes asked if the carport is already built. Mr. Price replied no, the permit is on hold for the variance. Mr. Rhodes asked if the concrete pad is in place. Mr. Price replied yes, it has been there since the house was built.

Mr. Rhodes asked staff if the concrete pad is in the setback. Paul Body replied flat work doesn't require setbacks until a structure is built.

No public comment.

Motion by Bill Huffman, seconded by Sonya Mallard, to approve the variance as depicted on the survey provided by the applicant.

Joanna Bass asked if there are other neighbors in the area that have a carport. Mr. Rhodes replied a nearby property has a variance for setbacks. Mr. Huffman noted other properties have structures next to homes, and this carport would not be out of character.

Dale Rhodes read aloud the six criteria for a hardship and explained the justifications for approving the variance.

Dale Rhodes called for a vote on the motion as stated, and it passed unanimously.

**Christian and Kristen Bear (Peter Kaiser)**

A variance of Chapter 62, Article VI, Brevard County Code, Section 62-2118(d)(3), to permit a variance of 2.2 ft. over the maximum 20-ft. projection (20% the width of the waterway) permitted for boat dock, in a PUD (Planned Unit Development) zoning classification. The property is 0.40 acres, located on the northwest corner of Hawksbill Island Dr., and Tortoise Dr. (688 Hawksbill Island Dr., Satellite Beach) (Tax Account 2609157) (District 4)

Christian Bear, 688 Hawksbill Island Dr., Satellite Beach, stated he purchased the home two years ago with an existing dock that was falling into the water and it needed to be replaced. He said he hired a contractor to re-build the entire dock, so it was flipped and moved. He said there was an issue with coquina rock when it was being built which resulted in pushing one corner of the dock to be over the 20-foot projection in one small section. He noted the waterway is well beyond 100 feet wide, and the immediate neighbor is in support, and the dock will not impede any boat traffic.

Bill Huffman asked the name of the contractor. Mr. Bear replied it is Shoreline Marine Contractors.

Mr. Huffman stated if there was a drawing for the permit and then the contractor moved it. Mr. Bear replied the permit had the dock at 20 feet, but when the survey came back, the corner was beyond 20 feet. He added, it is difficult, when building in water, to be precise, and it is often 1 or 2 feet off in some areas.

Dale Rhodes asked, where the small section protrudes, is the piling directly below, or does that section extend beyond the piling. Mr. Bear replied no, that is the corner, so the piling is right at the corner.

Mr. Rhodes asked if he is able to pass under the bridge. Mr. Bear replied yes, but only small boats can pass under. Mr. Rhodes asked if there is a lot of boat traffic going through the bridge. Mr. Bear replied there is minimum traffic passing under the bridge.

Mr. Rhodes asked what is in the waterway across from the subject property. Mr. Bear replied the property owners had a new dock built, and what is shown on the aerial map is the water barrier that was put in place during construction. He added that his lot is on a corner, so to the left there are no neighbors, but it is protected mangroves, and the mangroves extend farther out than the dock, so no boats can travel in that area at all.

No public comment.

Motion by Joanna Bass, seconded by Bill Huffman, to approve the variance as depicted on the survey provided by the applicant.

Dale Rhodes read aloud the six criteria for a hardship and explained the justifications for approving the variance.

Dale Rhodes called for a vote on the motion as stated, and it passed unanimously.

**Vivian Wasef (Kim Rezanka)**

A variance of Chapter 62, Article VI, Brevard County Code, Section 62-1406(6)(a), to permit a variance of 0.82-acre from the required 5-acre minimum parcel size in an RVP (Recreational Vehicle

Park) zoning classification, currently zoned TR-3 (Mobile Home Park). The property is 4.18 acres, located on the east side of Imperial St., approx. 227 ft. south of Fortenberry Rd. (250 Imperial St., Merritt Island) (23V00016) (Tax Account 2426831) (District 2)

Kim Rezanka, Lacy Lyons Rezanka Law Firm, stated because there is no representation on the board from District 2, her clients would like to table the request to the next meeting.

Motion by Bill Huffman, seconded by Sonya Mallard, to table the variance to the August 16, 2023. The motion passed unanimously.

**Frontier Osceola, LLC** (Angela Kopnicky)

Variances of Chapter 62, Article IX, Brevard County Code, as follows: 1.) Section 62-3316(c)(2), to permit a variance of 22 sq. ft. over the 20 sq. ft. permitted for a wall sign (Unit 109, 11,913 sq. ft.); 2.) Section 62-3316(c)(2), to permit a variance of 110.19 sq. ft. over the 209 sq. ft. permitted for total sign surface sq. ft. for a structure (entire 1.55 acres), in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification. The property is 11,913 sq. ft. = Variance No. 1; and 1.55 acres = Variance No. 2, located on the northeast corner of S.R. 520 and N. Sykes Creek Pkwy. (800 E. Merritt Island Cswy., Merritt Island) (23V00018) (Tax Account 2427799) (District 2)

Angela Kopnicky, 1680 Promenade Circle, Port Orange, Florida, stated The Vitamin Shoppe, located at 800 E. Merritt Island Causeway, had a re-brand in August 2022 and before they re-branded they had a total of 8.25 square footage of sign, but when they applied for the new permit, they were only allowed 20 feet, so they were only able to get the sign be 18.2 feet. The letters are only 6 inches tall and can barely be seen from the road, so they would like to go from 18.2 square feet to 42 square feet.

Joanna Bass asked if the variance is to increase the size of the sign. Ms. Kopnicky replied yes, the wall sign on the side of the building. Ms. Bass asked the sizes of other signs in the area. Ms. Kopnicky replied the whole plaza is over the square footage allowed for the signage.

Bill Huffman asked if the size of the lettering is being reduced. Ms. Kopnicky replied yes.

Dale Rhodes asked if the second variance is for the monument sign. Paul Body replied no, both variances are for the wall sign. The building is 209 feet long, so they are allowed 20 square feet even if they are over, so they want to get it to 42 square feet. The square footage for all the signs in total is 319.19 square feet, and they are only allowed 209 for the total square footage. He said the second variance is for the entire building.

No public comment.

Motion by Bill Huffman, seconded by Sonya Mallard, to approve the variance as depicted on the survey provided by the applicant.

Mr. Huffman noted the new sign is smaller than the previous sign, and it's not often the board has requests to reduce sizes.

Dale Rhodes read aloud the six criteria for a hardship and explained the justifications for approving the variance.

Dale Rhodes called for a vote on the motion as stated, and it passed unanimously.

Upon consensus, the meeting adjourned at 2:31 p.m.