

BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, June 17, 2020, 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 Chair, District 1; and Dale Young, District 5.

Staff members present were: Alex Esseesse, Assistant County Attorney; Paul Body, Planner II; and 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 March 25, 2020, Minutes

Motion by Jack Higgins, seconded by Dale Young, to approve the March 25, 2020, minutes. The motion passed unanimously.

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

This item was tabled from the March 25, 2020 meeting.

1. (20PZ00016) Kevin Robert and Rachel McCarthy

Request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1339(5), to permit a variance of 8.2 feet from the required 10-foot rear setback for an accessory structure; 2.) Section 62-1339(5)(b), to permit a variance of 7.7 feet from the required 10-foot side (south) setback for an accessory structure, in an EU (Estate Use Residential) zoning classification, on 0.29 acres, located on the west side of South Courtenay Parkway, approximately 340 feet north of Bridgewater Place. (2575 South Courtenay Parkway, Merritt Island) (Tax Account 2530897) (District 2)

Craig Allen McCarthy, 361 Riverchase Drive, Orlando. Stated he was the homeowner's little brother, that this is not his normal field of law.

Craig McCarthy said that the initial complaint contains the mater that is on the agenda and also another matter regarding an awning that the homeowner had. He stated that since it's not included in the mater before the board that he presumed the board knew it had been remedied. He said the homeowner realized that it was there for his convenience and in violation. He said that leaves the accessory building that does not meet the setback requirements, that's in the back. He asks that this body consider that the accessory building does not adversely impact the community. He said, it appeared, having looked at the sight and aerial photographs on the County Property Appraiser's website, that it is accepted as normal practice in this neighborhood; to have an accessory building of this sort close to the property line. He said, in particular, the property directly to the south of the homeowner's property has a similarly situated shed. He said that its been there since 2003 which probably isn't relevant; he is proceeding as if it didn't exist and was asking for the first time if it could be put there. He said that he believes that that current placement is consistent with the tone and the meaning of administrative section 101 and thinks that it is beneficial to the homeowner and to the neighborhood. He stated that, the homeowner owns a recreational vehicle which is allowed and stored on property; if this structure, which houses extreme weather hurricane supplies, things that

people in this county don't want to be without were to be moved or in this case because of its age be demolished and recreated elsewhere on the property, that recreational vehicle would be moved to a place that it would be less obtrusive than now. He stated that this is not his area of law, that he looked at the definition of a hardship and that his presentation is that while it does violate a specific requirement, this body does have the discretion to allow it. He said it's his testimony that it's not detrimental to the community, not outside of the neighborhood norms and it helps keep his client's property from being more intrusive because he can keep his recreational vehicle further back.

Dale Rhodes stated that Mr. Hartman is the representative for District 2 and is not here today. He said that if you are in District 2 he is going to try to do it this way unless told he cannot. He said that Mr. Hartman sent in a letter, which is not typically normal. Dale Rhodes read the letter which stated that Mr. Hartman had reviewed all three of the requests in District 2, has visited the sites and is in favor of granting all of the District 2 variances and asked that the letter be passed on to the Board. Dale Rhodes said he wished to treat the letter as any other sent in. Dale Rhodes asked if the shed had been there for 17 years. Craig McCarthy said that it had been there since 2003.

Jack Higgins said that Mr. Hartman is a builder too so he has a lot of knowledge and depth in that field so he has no questions.

Dale Young said that he was looking at the aerial and it looks like the shed is pretty well screened from the neighbors. Craig McCarthy asked if he meant by screened does he mean not visible? Dale Young said that there is a lot of trees and shrubbery on that side of it. Craig McCarthy said that he has been on the property several times, finds it very unobtrusive; it is well screened by the foliage around it. Dale Young said that it has been there for 17 years. Craig McCarthy answered yes.

No Public Comment

Paul Body said he thought there was a letter in opposition. Alex Esseesse said there was a letter submitted by Ms. McGuigan. Jack Higgins asked if that was Catherine? Alex Esseesse said yes. Jack Higgins said he found it. Dale Rhodes said he did not have it. Dale Rhodes asked if it was in opposition and if Mr. McCarthy had seen it. Craig McCarthy said he had seen it. Dale Rhodes said that he did not have the letter in his packet. He asked Craig McCarthy if he had reviewed it. Craig McCarthy said he had.

Dale Rhodes said that letters used to be read into the record; a change was made to the procedure, that letters no longer have to be read into the record as long as everyone that is speaking to the Board has seen the letter and has had the opportunity to read it so they can respond to it. Alex Esseesse asked if Dale Young had a chance to read the letter. Dale Rhodes asked Dale Young to read the letter. Dale Rhodes asked if there were any comments from the board regarding the letter. (Public Comment letters can be found in file 20PZ00016 located in the Planning and Development Department.)

Jack Higgins said that it had been 17 years there and there had been no gripes previously. He said that he still is going to go the other way. Jack Higgins said he would like to make a motion, Dale Rhodes asked if there was a second. Dale Young asked if it would be for the life of the building or is it permanent? Dale Rhodes said that he assumed if the building falls down it doesn't matter. Jack Higgins said if it falls down it should end that situation; instead of rebuilding. Dale Rhodes said that it could be rebuilt right where it is; that if they were to rebuild, they would need a new permit. Alex

Esseesse said that they could put conditions on it. Dale Rhodes said that the variance is for the shed that already exists and asked if they wanted to build a new shed, would they need a new permit even if on the same place. Alex Esseesse said that if the variance was only for the life of the building, they would need to come back to get another variance. Dale Rhodes asked Dale Young if he was wanting to make an amendment. Dale Young said he would move to approve it for the life of the shed only.

Motion by Dale Young, seconded by Jack Higgins, to approve the variances as depicted on the survey provided by the applicant with the addition that it is for the life of the shed. The motion passed unanimously.

2. (20PZ00028) Donald and Stephanie Oakley

Request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2100.5(1)(d), to permit a variance of 519 square feet over the 981 square feet (50% of the living area of the principal structure) allowed for an accessory structure, in an RU-1-11 (Single Family Residential) zoning classification, on 0.85 acres, located on the east side of New York Street, approximately 0.21-mile north of Milwaukee Avenue. (2325 New York Street, Melbourne) (Tax Account 2801592) (District 5)

Donald Oakley, 2325 New York Street, Melbourne. He stated that he bought a piece of property in December, .85 acres and is looking to put a building in back; it is over what is allowed for that area for .85 acres. He said that his house is 1870 square feet heated and cooled, approximately 2600 under roof. He said he would like to build a 1500 square foot building out back, a 30 x 50 building. He said he has boats, vehicles and an AT&T vehicle that needs to be stored indoors; it is too high to fit in the garage attached to the house. Mr. Oakley said that he would like to be able to store them in a building and still have room to work and move around; work on vehicles.

Dale Young said that Mr. Oakley's neighbor had a few questions. Donald Oakley said that he did get the letter; they live five houses down on the west side. He said he spoke with all direct neighbors; east and west. He said that he does not have one north of him; the neighbors behind, Wes and Hilda were fine with it, next to him Red Jones and his wife were fine with it and cross the street, Lieutenant Simpkins was not opposed. Mr. Oakley said he found out about those opposed two days ago. Dale Rhodes asked if that was John and Debra Harrison. Donald Oakley confirmed, they were five houses down on opposite side of the road. (Public comment letters can be found in file 20PZ00028 located in the Planning and Development Department.)

Dale Young said, Donald Oakley told what the purpose was and asked if it has the high peak 11-foot door, a recreational vehicle garage. Donald Oakley answered that his boat has a T-top, 11 feet 6 inches so would need a 12-foot door. He said that it would need to be as high as it needs to be to get the door that he needs. He said he is putting the door on the gable end so it doesn't need to be as high; many people like to put them on the sides needing a 12- or 14-foot side, his building will not be that tall.

Jack Higgins asked if the construction will be a metal building. Donald Oakley replied that he has not settled on a material, he was looking at metal because it is cheaper. He said he got quotes; looking at \$15,000 - \$20,000 just for the building and then would have to do concrete, which is his first choice. Dale Young asked if it would blend in, not be bright pink or orange. Donald Oakley said it would blend in, he is going to match it to the house, most being hidden on back of the property, behind the house.

Dale Young asked Mr. Oakley if he was in the Police Foundation. Donald Oakley said that is correct. Dale Young asked if most everyone out there has large barns and sheds. Donald Oakley said yes. Jack Higgins said, five houses away, when reading this I thought it was next door. He said there are other large buildings and accessory buildings; it doesn't bother him. Donald Oakley stated that he was told he could build two 981 square foot buildings but only wants one; he wants it to look nice and uniform, the way his property is. He said that he has put a bunch of money into redoing the house and getting it ready; one building looks nicer.

Jack Higgins asked Donald Oakley if he had spoken to the neighbors. Donald Oakley said he had not, was not sure if he was allowed; his wife had said not to, it could change something. He said he wanted to explain what he was doing and that it would match and was in back of the property, almost 300 feet off the road. Dale Young said it might be well to share his plans with them. Jack Higgins asked if he had spoken to the neighbor next door. Donald Oakley said that the neighbors to the south are Arthur Jones, goes by Red, he is fine with it; he has several buildings on his property. He said that the folks on the north are hidden by a tree line along the canal, they won't see most of it. He said the neighbors behind him have almost three acres, their house is over two lots so don't see the building either; they have a building between their house and his property; so, their building blocks his property.

Dale Rhodes asked Paul Body if he was correct in that he could build two 981 square foot buildings. Paul Body said he could have 50% of his living area so he could have two of them on his property that equals the total living area; each one can't be more than 50%. Dale Rhodes asked if the building would actually be less square footage than if he built the two that he would be allowed to build. Paul Body said yes.

No Public Comment

Dale Young said he is familiar with the area, there is training horse stables not too far up on Miami and huge red barns.

Motion by Dale Young, seconded by Jack Higgins, to approve the variance as depicted on the survey provided by the applicant. The motion passed unanimously.

3. (20PZ00029) Timothy and Jennifer Crane

Request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1334(5)(b), to permit an accessory structure located forward of the front building line of the principal structure, in an AU (Agricultural Residential) zoning classification, on 2.09 acres, located on the north side of Date Palm Street approximately 135 feet east of Pine Street. (4960 Date Palm Street) (Tax Account 2313938) (District 1)

Timothy Crane, 4960 Date Palm Street, Cocoa. Stated that he is looking to build an accessory building in the front of his property. He said his property is over 2 acres but it is very skinny and long; there is not enough space on the sides of the house to build a garage or the building with only 45 feet there and by the time you set back there is no space to put the building. He said, if he puts it all the way in the back behind, having a pool and playground for the kids, it would not be functional. He said they would like to park their cars and boat in there and have it attached directly to the concrete driveway. He said it would be tucked into the tree line that is already there, so it's not very visible to the road. He said he had all direct neighbors sign a letter saying that he explained what he was going

to do and they are fine with it. He said he also took pictures directly around his neighborhood of similar buildings in front of the properties and houses, a lot of the properties are big and have the garages to the sides of their houses with massive garages and they are zoned properly because their properties are square compared to his which is very skinny. He stated that they can have these giant garages which makes them very accessible to put their work vehicles in and drive in and out of every day. He said that because their buildings are very visible to the road, his being visible to the road, though not easily seen, would cause no change to the scenery around the area.

Dale Rhodes asked Timothy Crane if he got copies of the letters. Mr. Crane said no, he had just got them. Dale Rhodes asked if he got letters from all his neighbors or wrote one letter and had them sign it. Timothy Crane said he brought it over and put their name and phone numbers on it and had them sign it. Dale Rhodes asked that he read the letter. Mr. Crane read the letter as follows: Dear members of the Board, Tim has informed us that he intends to apply for a variance to build an accessory building in front of his house. He has showed us that he intends to build the structure to the left of his driveway tucked back into the existing tree canopy. We would like you to know that we do not have any problems with his plans. Dale Rhodes asked who signed it. Timothy Crane replied, his direct neighbors to the right and left of him, the neighbors straight across the street and a neighbor two doors down. He said there is no neighbor directly behind him, just woods. Dale Rhodes asked Paul Body if it was needed for the records. Paul Body replied, if it is given to us it becomes part of the records, he won't be able to give it back. Dale Rhodes said that if he wants to provide them, they can be put in the record. Timothy Crane asked if the Board wanted to see the pictures. Dale Rhodes said that anything he hands in has to stay. Timothy Crane said the pictures are of buildings that are similar to what he wants to do. Dale Rhodes said that if he wants to provide them they will take them. (Public comment letter and photos can be found in file 20PZ00029, located in the Planning and Development Department.)

Jack Higgins asked Mr. Crane what the two-car garage that was in front of the house is used for. Timothy Crane replied the one that is part of the house holds his wife's car; having three kids at the house, a couple getting into adult ages; they have bikes, its packed. He said there are two cars in there, having five drivers at the house and he has two trucks himself. He said they have a boat outside getting stained by oak leaves, he would like to put in there and park his vehicle inside too. Jack Higgins said the cluster of trees you are speaking of in the front, the north part of that will have to be cut out for the garage. Timothy Crane responded yes, he got the idea when an oak tree fell in a storm, in the middle of that clump; when cleaning it out he thought it was kind of open there, except for some palm trees. He said the oak trees wrap that whole area with ten cabbage palm trees in the middle. He said it is within 25 feet of his driveway, being the perfect spot to build a garage and attach it to the driveway where they can drive right in. He said all that would have to be removed are the ten palm trees; the oak trees would stay all around and cover the building from view. Jack Higgins asked if the pasture next door would be backed up to the garage. Timothy Crane said yes. Jack Higgins asked if it could ever be sold. Timothy Crane said no, there is a house on that property. Jack Higgins said its farther north, heading towards the woods. Timothy Crane said they have their horse stables right there. Jack Higgins said it is a pretty community, he rode around and saw everything that was pointed out. He said there are numerous stables, barns and campers and agrees with the positioning.

No Public Comment

Motion by Jack Higgins, seconded by Dale Young, to approve the variance as depicted on the survey provided by the applicant. The vote was unanimous.

4. (20PZ00030) Mallard Revocable Trust

Requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1339(5)(a), to permit a variance of 0.5 feet from the required 25-foot front setback; 2.) Section 62-1339(5)(b), to permit a variance of 0.1 feet from the required 5-foot separation distance between structures; 3.) Section 62-1339(5)(a), to permit a variance of 1.2 feet from the required 10-foot side setback; 4.) Section 62-1339(5)(b), to permit an accessory structure located forward of the front building line of the principal structure, in an EU (Estate Use Residential) zoning classification, on 0.34 acres, located on the north side of North River Oaks Drive approximately 236 feet west of North Riverside Drive. (504 North River Oaks Drive) (Tax Account 2727676) (District 5)

JC Schwarb, 504 North River Oaks Drive. He stated that he would run down a history and then present some pictures. He said that he bought this house in November of 2017, having a significant amount of maintenance that was deferred, about 40 years; they started fixing it up starting with the roof. He said they bought it after a hurricane and then got to putting up an accessory structure; they ran into another hurricane. They applied and received a permit for the accessory structure on May 10, 2019; hired Barn Kids of America to install the structure and had an architectural firm help to design it to meet the existing characteristic of the house. He said they have a modern style architecture, so wanted to make sure that it fit within the interesting architectural details. He said that Barn Kids of America began installation toward end of May and took quite a bit of time to get it constructed; around September 5, 2019 hurricane Dorian came. He said he had to let that company go and hired Hammond Construction under Jeremiah Hammond to prepare the site for the hurricane and spent a significant amount of money to secure the 8 by 8 posts that were already in the ground. He said they then received a footing and slab signoff after the hurricane on September 18, 2019. He said they hired Jerry Washington of Washington Masonry to install the concrete padded driveway on September 30, 2019 and then hired Hammond to finish the structure; during completion they noticed a lot of the 8 by 8 structures had a considerable bow to them from bottom to the top. He said in order to correct those they had to do some shimmying along the way. He said the variance that occurred was from the ground to the top, about a two percent variation or half of a foot over the 24-foot span of the post; they went 4 feet in the ground and about 20 feet at the top. He said once the structure was complete it ended up being around 18 feet below the existing height of the rest of the main house structure, that two percent deviation being what caused the difference on the side setback and then there were slight deviations in the final finishing that cause it to be in front of the frontline by .1 foot. He said they received a variance signature from their next-door neighbor, Chris Gates, who provided a note. He asked to show before and after photos to the Board. He said the first picture with the hurricane shutters is when they first bought the house before construction, most of the time the house did have shutters on it. He said that on the tax roll presented, it shows the valuation has gone up more than 2.5 times since they purchased it as well as the taxes they are paying on it. He said the tax department was on their site earlier this year to get ready to start assessing for next year, before they were done with the process, the tax folks were ready and eager to start taxing on it. (Applicant photo submissions can be found in file 20PZ00030, located in the Planning and Development Department.) He said they did receive a letter in opposition; they were in communication with most of their direct neighbors and have a good friendship with most of them. He said they have one neighbor that they have not had a good relationship with. He said she is one of the ones that presented an opposition and after talking to other neighbors their opinion was that she probably wrote both opposition pieces

based on the typos and the homeowner's association being called into question. He said that the first opposition does not have a signature so they don't think it has much bearing; the 2nd, signed by Ms. Ena Beatty does not go into details that are relevant to the variance. He said they did apply for the permit, did get signatures on the design and did get the necessary sign offs along the way. He said, as in the picture, they are not significantly above the front line as said in the opposition, they are only .1-foot, less than 1.5 inches from the front line; it is literally imperceptible from the human eye. He said they might have picked up the gate that connects the hoarder, causing the survey to show that.

Dale Rhodes stated that the first letter in opposition says, yours truly, several homeowners in River Oaks, there is no signatures or addresses. Alex Esseesse replied that it's a letter, the Board can put however much weight they want to put behind it.

Dale Young said this house is shown to be 42 years old. JC Schwarb replied yes. Dale Young asked if he was not tearing it down but renovating. JC Schwarb said, yes, as can be seen in the pictures. Dale Young said, the lady who has been on the homeowner's association for 24 years should be pretty familiar with it; he noted that he asked for a matter of inches. JC Schwarb said yes. Dale Young said, 16 inches on the side, 3 inches in between, 7 inches on the front. JC Schwarb said it's not even 7 inches on the front, he didn't realize when this was designed that the front was slightly over the line so the request is for a slight deviation from the front line which is .1 foot. Dale Young said that there is an objection to the size of the house, but sees by the aerial that his house may be a little undersized compared to some of the other houses; he is trying to figure out what the objection is. JC Schwarb said that if it was not for going over the line there would never be a forum for objections to this, so it's just that they had these variations that were unaccounted for that caused them to come before this Board He said that being a member of the architectural board will have more bearing on future design and on inputs to the community rather than waiting for some variance to pop up.(Public Comment letters can be found in file 20PZ00030, located in the Planning and Development Department.)

Dale Rhodes asked Mr. Schwarb, if it was his stance that due to the poles standing there for so long through the hurricanes, that they warped and that is what created the primary issue. JC Schwarb said that is his understanding, yes; they straightened them up the best they could, they were concreted in and strapped down and once the pad was poured, the 8 by 8 poles can't be bended; they are 1400 pounds apiece. Dale Rhodes asked, if there had not been a hurricane, and they stayed straight, if he would not be here. JC Schwarb said yes.

Dale Young said he noticed one of the variances said it sits forward of the building of the house. Paul Body answered yes, it's about .1 forward of the building line of the house so it's in front of the house as measured. The code states that the accessory structures have to be behind the front building line of the house. Dale Young said the survey shows 24.7inches and he is at 24.5 so it's a 2-inch difference. Paul said .2; a lot of time stucco does that when you put the scratch coat on.

Public Comment: In Favor

Anthony Peri, 507 North River Oaks Drive, Indialantic. He stated that JC Schwab is his son-in-law and he lives across the street. He said there was opposition relative to items that were conveyed and he disagreed with a couple of them. He said he was a prior board member as Ms. Beatty was and the bylaws do not say anything about construction. He said she referenced in the opposition letter that Mr. Schwarb did not get approval, but approval wasn't needed; the bylaws were only four pages long and implements the infrastructure for the operation of the Homeowner's Association. He said she

referenced problems during the day of working over hours; causing more noise in the neighborhood. He said the workers got there at 8 or 8:30 and they left about 4 or 4:30, so there was not extraordinary noise in neighborhood. He said the garage itself blends in with the rest of the house; people going by admire the house and say how nice it looks. He said the board meetings they had were very inactive; a lot never met on an annual basis and when they did meet they did not discuss construction in the neighborhood, they talked about RVs, a boarding house and landscaping He said he is not an active board member anymore but he is still listed though he resigned 3 years ago; he wanted to talk on behalf of the applicant on a positive basis and comment as to some of the oppositions.

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

5. (20PZ00034) Wilson and Brianna Cheatham (Richard Vyce)

Request variances of Chapter 62, Article VI, Brevard County Code, as Follows: 1.) Section 62-2123(a), to permit a variance of .35 feet from the required 5-foot rear setback for a swimming pool screen enclosure; 2.) Section 62-2123(a), to permit a variance of 1.22 feet from the 5-foot south side setback required for a swimming pool screen enclosure, in a PUD (Planned Unit Development) zoning classification, on 0.22 acres, located on the east side of Arroyo Drive just south of Sallisbury Court. (6415 Arroyo Drive) (Tax Account 2628576) (District 4)

Richard Vyce, 13316 Fairway Pointe Drive, Orlando. He stated that they are looking for a variance; was asked to put in a pool deck and screen enclosure on a property, of which was submitted to the County within the guidelines. He said that during the process of the build, there was a fence on the neighbor's property that was used as a guide mark that was not on the property line, it was actually into their own property. He said they built into a 5-foot public utility and private drainage easement, which had already been vacated in this process, but they built slightly into that and are looking for a variance or he would have to take further action.

Dale Young asked if the two public easements have been vacated or a portion of them, he thought that would take care of the encroachment. Paul Body replied that all it does is vacate the easement that the structure is going to be in. He said that was a public hearing they had to go to, to have a county commission do that; they still need a variance to the structure, but they did get the easement vacated where it's going.

No Public Comment

Dale Rhodes stated that it is good that they got the utility vacated because that could be a significant problem down the road. He said that Utilities didn't have an issue with it so he would not. Dale Young said they were talking about 5 inches on the back and 15 inches on the south side and it is the swimming pool enclosure not the house, so its kind of a temporary 3-year structure anyway and with hurricane season coming up, he has no problem.

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

6. (20PZ00036) William S. and Cheri Lockwood

Request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2109(c), to permit a variance of 2 feet over the 4-foot height requirement for a fence located in the side street setback, in an EU (Estate Use Residential) zoning classification, on 0.49 acres, located on the northeast corner of North Tropical Trail and Lucas Place. (500 Lucas Place) (Tax Account 2417056) (District 2)

William Lockwood, 500 Lucas Place, Merritt Island. He stated that he is looking for a variance; has a 4-foot fence surrounding his property, its chain-link, originally built in 1976, He said it is falling apart and needs to be replaced; he would like a 6-foot vinyl privacy fence. He said he was told that the issue was with a property which is on Tropical Trail that is 8 inches short of 100 feet at the entrance, although this property is over 200 feet in several locations. He said this property goes back from their property line approximately 1,200 feet and their house was built back at about 1,100 feet from the Tropical Trail property line. He said that on Courtenay and Tropical there have been a lot of construction for new housing and traffic has greatly increased. He said people have thrown garbage and drug paraphernalia which has been reported to the Sheriff and have had a couple of things stolen out of the yard, also reported. He said his 11-year-old daughter was sitting on her swing that hangs from the tree, somebody threw a bottle that hit her in the head, so he is requesting a 6-foot fence.

Dale Rhodes said to William Lockwood that he is in District 2, which is Mr. Hartman and as he read earlier is not opposed to it. Dale Rhodes said he had not been there but Mr. Hartman had so will defer greatly to him. Dale Rhodes asked if he was on a corner lot coming out to the main road. William Lockwood said, on to Tropical Trail, yes sir. Dale Rhodes asked if the fence would obstruct the view down Tropical Trail from the stop sign. William Lockwood said no, the property across the street from Lucas Place and Tropical Trail on the southwest corner have trees almost all the way to the road and they park their cars on the sidewalk, but he would not be. Dale Rhodes asked if someone coming up Lucas Place getting to the stop sign on Tropical Trail would be able to clearly see any traffic coming? William Lockwood said, absolutely. Dale Rhodes asked if there was a driveway to the rear of his property. William Lockwood said it was toward the south side, yes sir. Dale Rhodes asked if that would hamper them from being able to see down the road at all. William Lockwood said, it hadn't for 40 plus years. Dale Rhodes said that it was a 4-foot chain link versus a 6-foot solid. William Lockwood said he does not believe it would, his driveway sits back 37 feet from the stop sign and there is 5 feet beyond, then the width of the driveway, about 20 foot, then another 5 foot where the fence would be. Dale Rhodes said his only concern would be that it does not obstruct the view of somebody being able to pull out on the highway, if it did he would not be in favor of it as he does not want to risk anyone's health and life. William Lockwood said, same here, absolutely. Dale Rhodes said he had not been there, Mr. Hartman had; if he had an objection, he would have said so.

Jack Higgins asked William Lockwood if he thought it would have a commercial look to it. William Lockwood answered that there are other houses, two houses down going north that have a 6-foot-high fence. He said the other two houses between them have chain link. Jack Higgins asked if he talked to neighbors adjacent to him. William Lockwood said yes, the owner of the Key Lodge, Mr. Steel and his wife who are in favor because it would keep their property enclosed as theirs is currently a chain link in disrepair.

Dale Young said that the survey shows the fence stopping on the north side of the driveway. William Lockwood said, that is correct; it is catawampus and he wants to move it further north at the northeast corner. Dale Young said it shows about 12 or 14 feet from the fence to the edge of the pavement

where one would pull up to see traffic. William Lockwood said yes, and another 25 to 30 feet beyond. Dale Young asked if the stop sign was on the corner of Lucas Place. William Lockwood responded yes, that it is a 4 way stop; Lucas Place goes into Lucas Street, the north and south road is Tropical Trail. Dale Young asked if the angle has it sitting in front of his fence looking up at North Tropical Trail or if it comes in at an angle to the stop sign, it doesn't go straight. William Lockwood answered no, and said neither does Lucas.

Gheri Lockwood, 500 Lucas Place, Merritt Island. She stated that she and her 2 daughters; besides the drug paraphernalia and other things that wind up in the yard, they get cat called over. She said her youngest daughter who is 11 is very innocent and friendly and she will go over to these cars when then need directions ask about their dog. She says that she cannot be left alone in the yard to enjoy it, having to spend most of her time indoors. She said when they bought the house it was in disrepair; her husband did a lot of work to the structure and she has done a lot of work to the landscape and yard; people will comment as to how nice it looks and her neighbors are paying more attention to their yards. She said that they are contributing to their area in a positive way and does not believe that the fence will look commercial or be a hinderance to anyone that is driving that way.

No Public Comment

Motion by Jack Higgins, seconded by Dale Young, to approve the variance as depicted on the survey provided by the applicant. The motion passed unanimously.

7. (20PZ00037) Dennis George, Jr. and Ariel Poley

Request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1340(5)(a), to permit a variance of 8 feet from the 20- foot front setback for a principal structure, in an RU-1-11 (Single Family Residential) zoning classification, on 0.18 acres, located on the west side of Pelican Drive across from Southeast Third Street (280 Pelican Drive) (Tax Account 2607797) (District 4)

Ariel and Dennis Poley, 280 Pelican Drive. Dennis Poley submitted photos to the Board. (Applicant submitted photos can be found in file 20PZ00037, located in the Planning and Development Department.) Ariel Poley stated that they are asking to utilize 8 feet of the 20-foot setback for an open-air shade providing structure; it will not be enclosed and they plan to attach it to their home. She said the main issue is that their property line is 30 feet from the center of the road, 18 feet from the edge of the road; roughly 18 feet of their front yard is easement, on such a small property. She said the regulation of the 20-foot setback from their property line only provides them with 4 feet of land that can be utilized to build a structure off the front of their home. She stated that their home faces east and is not provided shade from trees; the structure would provide much needed shade and conservation of electricity. She explained that they have noticed many properties in their neighborhood with similar pergola type structures in their front yards and feel they are within if not exceeding the development of their neighborhood and its beautification. She stated that they are requesting an open air outside structure in the front of their home that will provide more that 4 feet of coverage and are trying to properly permit it. She said that it is a beautifully constructed piece of architecture, people often stop to look at it; it helps to increase their property values, the curb appeal and appeal of their neighborhood. She said they are asking for the use of 8 feet of property included in the 20-foot setback; they don't plan to enclose it and want to properly attach it to their home. She said they have architectural plans provided by an engineer stating it meets or exceeds design plans and loads of the Florida Building Codes. She said once completed it will be structurally safe and meet

required hurricane ratings. She explained that it does not interfere with utilities or future widening of the street; the gas and sewer are located on the opposite side of the street with 12 feet between the water utilities and the poles on the outside of the structure.

Dennis Poley stated they were first time home owners and are learning a lot in this process. He said he started remodeling the house which was a dump; they put in impact windows, new stucco, the works. He said they then started beautifying the front yard, sides and the back. He said he is in the construction business and heard from one contractor that a permit was needed for a pergola and from another contractor that it was not. He said he asked a building inspector if he needed a permit and was told if it's attached to the house it becomes part of the dwelling requiring a permit, if it has a roof, it becomes a dwelling requiring a permit; if it's not attached its considered lawn décor. He said he did not know he had to call Planning and Zoning; they had already built the structure, so someone called Code Enforcement. He said he spoke to Steve Novak who told him to contact Planning and Development about a permit; they were denied a permit and had to go through the variance. He said they have learned to check with Planning and Development before doing anything. He said he got a petition but had to stop going door to door because of Covid-19; he has an additional 20 signatures and a letter from a neighbor that could not make it today. (Public comment letters can be found in file 20PZ00037, located in the Planning and Development Department.) He said they purchased for the neighborhood not for the house, paying top dollar. He said, that's why they built the pergola out front, they like congregating with their neighbors. He said, it also provides a lot of shade in the front. He said their living room and kitchen are very small, 900 square foot is the original plan and most of that is bedrooms; adding on livable space in the front enhances the property and their quality of living in the home; he believes it adds a lot of value to the house and the surrounding homes.

Dale Young asked Dennis Poley if he did all the work himself. Dennis Poley said yes. Dale Young said it looks good; put a lot of money into it. He asked if the top is open with no roof on it. Dennis Poley said no.

Public Comment: In Favor

Brian Seacrest, 113 Southeast 2nd Street, Satellite Beach. Dale Rhodes asked if he worked for Maronda. Brian Seacrest said he did, he builds houses for them. He stated that is why he and Dennis are such good friends, they have a lot in common. He said he met them 5 years ago, renting a home in the neighborhood; people don't move in because the houses are amazing, the houses were built in the 50s and 60s, it's the old base housing. He said they had the goal of owning in that neighborhood, because it's a tight nit neighborhood; not just neighbors but consider themselves family; that's why they all live there. He said he bought a home there a few years ago and made several improvements; we like seeing those improvements, it's curb appeal, it's attractive, there are a lot of neighbors that don't take care of their places. He said when Dennis transformed this house from what it was to what it is now, its amazing what he has done; being a builder himself, he knows the pergola is likely to outlive the house. He said that Dennis does not do anything half way, probably more than he needs to. He said he is in favor of it, really enjoys it and hopes they are ok with him having it.

Public Comment: In Favor

Wayne Grimes, 102 Eden Avenue, Satellite Beach. He stated that most people have covered key points, a few really hit the nail on the head. He said he is a 50-year resident of Brevard County, recently his family bought a condo in Satellite Beach for family from up north to visit about 18 months

ago. He said when he stays there he takes walks and bike rides in the neighborhood and can attest that this community, built in the 50s and 60s of 1200 square foot houses, have additions and extensions. He said he and his wife met the Poleys 18 months ago, stopping to look at the pergola, and have watched them improve their home; they like taking the neighborhood walk and seeing people sitting outside. He said it's a very well-constructed product that blends into the neighborhood and improves the value. He explained that as of March 13th, he closed on the property on Eden Avenue and the Poleys are one of the reasons he purchased a home in that neighborhood; because of what they bring to the community.

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

8. (20PZ00039) Carl Harry, Jr. and Maria T. Harris (John Campbell)

Request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1340(5)(b), to permit a variance of 2.5 feet from the 7.5-foot side (east) setback for an accessory structure; 2.) Section 62-1340(5)(b), to permit a variance of 1 foot from the 5-foot separation distance required between structures, in an RU-1-11 (Single Family Residential) zoning classification, on 0.19 acres, located on the north side of Tiki Drive, approximately 75 feet west of Koloa Drive (230 Tiki Drive) (Tax Account 2419595) (District 2)

John Campbell, stated that he is a licensed land surveyor, representing the applicant. He had a handout for the Board. (Applicant submissions including public comment letters, photo, survey and shed plans, can be found in file 20PZ00039, located in the Planning and Development Department.) He said that this is the Catalina Isle Estates where this Board has reviewed several variances. He said it deals with a shed; his client was not one of the first that got involved with the code enforcement issues but has a shed not meeting the proper setbacks. He stated that the neighbors on the side of Mr. Harris have waived any objection to the variance. He explained that the homes in Catalina Estates were built in the 1960s, the majority have single car garages because they are all canal lots and most have swimming pools in their back yards. He said that after living in their homes for 15 or 20 years they have too much stuff, that has to go into a shed. He said his client wants to remove the old shed that is in violation of the setback requirements and put in a new shed. He said that the generic shop drawings show the basic construction of the shed; the client orders the shed size. He said he tried to get the shed in place with the picture with the doorway, the exterior garage door exits out of the garage. He said they had to get a shed that would fit to allow access to the shed and move it away from that door. He said they had to get the modular size of that shed which is 8 by 12, 96 square feet. He stated that two variances were needed; a variance of 2.5 feet on the adjacent property line in order to put the shed in, there is a 5-foot easement that runs along that same line; they are not requesting a variance to vacate that easement. He said the other variance needed requires that the shed be no closer than 5 feet to the principle structure; to get everything to fit in the area, a variance of one foot is needed. He said he requests a variance of 2.5 feet from the 7.5-foot requirement of 5 feet, and a variance to put the shed no more than 4 feet from the primary structure. He said that in Catalina Estates, there was an individual that filed 45 notices of enforcement for sheds that were put in without permits. He stated that the shed on Mr. Harris' property had been there for 10 or 12 years, he has a swimming pool in the backyard, the house occupies most of the rest of the yard and there is no other place to put the shed. He said he thinks it's appropriate, the picture shows the front of the house has a vinyl fence that hides the shed and behind the shed is another vinyl fence that keeps the view from being disturbed from the canal side. He said it's a pretty home, older with a

single car garage. He said many in the area have sheds; 96 square feet is under the requirement for a permit; only needing a variance from this Board, to place it. He explained that the survey he prepared shows the shed in red and detail showing what is being asked. He explained that the shed can't be put in the front, the west side of the house or the back yard; this is the only place the shed will fit, it is a structurally designed building, meets the minimum hurricane requirements, can sit on wood or concrete, understanding that Mr. Harris will put it on concrete. He reiterated that the shed is framed, looks nice and is professionally built; it is consistent as seen on the aerial, as sheds on every lot in the subdivision. He explained that a car and stuff cannot fit in a single car garage, a shed is needed. He said the shed will be primarily used for lawn and pool equipment; the back door allowing access from the garage to the shed. He said he asks the Board for the variances that are reasonable and consistent with the neighborhood, the Board having granted variances on several cases in Catalina Estates.

Dale Rhodes asked if he is removing a shed that is currently there. John Campbell said yes. Dale Rhodes asked if it was going back in the same position. John Campbell answered no, that other shed was right up against the principle building, zero feet away.

No Public Comment

John Campbell said he is the 2nd oldest surveyor in Brevard County, he hopes that Bill Powell stays alive or he will be the oldest surveyor and has done over 46000 surveys in 46 years. He said that these are nice people who want what everyone else wants.

Dale Young asked John Campbell about the attached agreement that the pumphouse would be reduced in height, under the 4 feet. John Campbell said the pumphouse sits in a hole, the finish for the house comes down, the patio comes down, the pool drops almost down to where the seawall is at. He said the pool house sits in that area and it's probably zero feet in reference to the finish for the home. Dale Young said ok.

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

9. (20PZ00047) Rose and Daniel Edde

Request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2109(e), to permit a variance of 2 feet over 4-foot height limitation for a fence within the side street setback in an SR (Suburban Residential) zoning classification, on 0.53 acres, located on the Southwest corner of Peacock Drive and Eagle Nest Court. (3638 Eagle Nest Court, West Melbourne) (Tax Account 2802814) (District 5)

Rose Edde, 3638 Eagle Nest Court, West Melbourne, FL. She stated that she is seeking a variance for a 6-foot vinyl or iron slate fence. She said the opposition from the county is that it's obstructing the neighbor's view; she had video and photos but did not know how to submit them, but it does not obstruct his view. She said they bought the house when it was all trees, had the house built and that was not obstructing his view. She said there is a lamplight right on his property that obstructs his view. She said they request for the fence property line of either 25 feet to their house or to the property line. She said they are also putting bushes along the fence to hide it per HOA guidelines. She stated that the HOA approved it but the County did not; that is why they are here.

Dale Young said he is looking at the aerial and her neighbors seem to sit way back in the cul-de-sac, on the left. Rose Edde said no it's the one behind them not to the left. Dale Young said, so its no problem for them. Rose Edde said, not at all, it's the lamplight that would be a problem, and they are able to go forward and move on and our property line would be before the lamp light, so should be a non-issue. Dale Young said ok. Dale Rhodes asked if somebody coming out of the driveway on either side of the property or at that corner, has an obstructed view anyway down the street. Rose Edde answered absolutely not, she had video to show on her phone if needed. Dale Rhodes asked if somebody coming out of the cul-de-sac, getting to the 4 way and looking to the left where the fence is put, is going to have an obstructed view down the fence line. Rose Edde said, absolutely not.

No Public Comment

Paul Body said there had been a couple of opposition letters. Dale Rhodes said he had not received any. Paul Body said there was also one from last Wednesday and asked Rose Edde if she had received them. Rose Edde said yes, it's the neighbors behind us, dated two days apart. Paul Body said, one is from Raymond K Myers. Rose Edde said the other is from his partner, they live in the same house. Dale Rhodes asked to see them. Alex Esseesse said if nobody else has seen them, pass them down the line. Dale Rhodes asked Rose Edde if she had seen both letters. She said, yes. Dale Rhodes asked if they were approved by the HOA? Rose Edde said, absolutely. She said she has the letter of approval by the HOA, submitted with her application along with her letter (Public comment letters can be found in file 20PZ00047, located in the Planning and Development Department.)

Motion by Jack Higgins, seconded by Dale Young, to approve the variance as depicted on the survey provided by the applicant. The motion passed unanimously.

10. (20PZ00050) Stephanie Knight

Requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1331(4), to permit a variance of 155 feet from the 300-foot minimum lot width requirement; 2.) Section 62-1331(4), to permit a variance of 3.94 acres from the 5.0-acre minimum lot size requirement, in a GU (General Use) zoning classification, on 1.06 acres, located on the south side of Golden Shores Boulevard. .297 miles west of US Highway 1. (3995 Golden Shores Boulevard.) (Tax Account 2001361 and 2001373) (District 1)

Stephanie Knight, 3995 Golden Shores Boulevard. She stated that she purchased this property in October 2019, for her and her two boys to build a home on; submitted the application for a building permit which was approved. She said they cleared the lot and started building; about half way through, she got a call from the Building Department informing her that a mistake was made; the zoning on the property was looked over. She said that the lady said it was her fault and apologized and told her she would have to get a variance for the building. Stephanie Knight said they agreed to let them continue the inspections and to continue building, but would have to go for the variance; she immediately filled out and turned in the paperwork. She said they are now down to the final inspection, and needs a variance on the property to get her final inspection.

Dale Rhodes asked if this is to legitimize the lot size. Paul Body said yes, the GU zoning requires 5 acres and 300 feet. Jack Higgins said, it is a wooded lot, he drove by it; it is wooded and has a big clump on trees in front. He said it would not hurt anything in that neighborhood and looks good set back in there. He noted that it looked finished, looked like the plumber was there. Stephanie Knight

said that the final inspection is hopefully any day now. Dale Young said he sees other lots laid out with the same dimensions in the area and asked if this General Use is waiting on a zoning. Paul Body answered that the General Use in this area doesn't meet the size requirement, a lot of these properties have been subdivided. Jack Higgins said with Flag Lots and such. Paul Body continued saying inaudible...future land use with residential one on it which is a 1-acre requirement for density size; most of the properties that haven't been developed are ones that need to either get rezoned or have a variance to their size too. Dale Young asked Stephanie Knight if hers was a single lot. Stephanie Knight said yes. Paul Body said they combined two lots together to get the acre requirement. Dale Rhodes said they are front and back. Dale Young said, it can't be divided that way. Stephanie Knight said it will never be divided, her house is right in the center of the two lots. Dale Young said he sees that. Dale Rhodes said you preceded building the house with the understanding that you could build it and later they came back and said oops. Stephanie Knight said yes.

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

11. (20PZ00054) Jeffrey J. and Leslie Boucher (Susan J Hall)

Request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1340(5)(b), to permit a variance of 8 feet from the required 20-foot rear setback for an accessory structure on a double frontage lot on a major water body, 2.) Section 62-2123(b), to permit a variance of 4 feet from the required 20-foot rear setback for a swimming pool (spa) on a double frontage lot on a major water body, 3.) Section 62-2109(d), to permit a variance of 3.5 feet over the 4 foot height requirement for a fence in the 20 foot rear setback on a double frontage lot on a major water body, 4.) 62-2109(a), to permit a variance of 1.5 feet over the maximum 6 feet allowed for a fence height in a RU-1-13 (Single Family Residential) zoning classification, on .25 acres, located on the east side of Dragon Point Drive, 1,005 feet south of South Tropical Trail. (11610 Dragon Point Drive) (Tax Account 2712567) (District 4)

Dale Rhodes asked Paul Body if there were two different fence heights. Paul Body said they are on a double frontage lot, they have 20 feet off of the river where they can't be over 4 feet high, the code says on a single-family zoning you cannot be over 6-foot-high, so they are looking for 2 different variances on 2 different sections of the fence code.

Susan Hall, Landscape Architect, 4425 Crooked Mile Road, Merritt Island. She stated that she brought handouts for the board, letters from adjacent neighbors and photographs of the current conditions. (Applicant submissions can be found in file 20PZ00054, located in the Planning and Development Department.) Dale Rhodes asked for time to look over the handouts and asked if the letters were in favor. Susan Hall said in favor, yes. Dale Rhodes asked if that's the proposed retaining wall. Susan Hall said that the fence would be a railing on top of the wall, it's a railing because the wall is 4 feet, and the code requires a railing on anything 30 inches. She stated that she is representing Jeff and Leslie Boucher as their licensed Landscape Architect for their recently remodeled home on Dragon Point Drive. She said her firm Susan Hall Landscape Architects has been practicing in Brevard County for 23 years from their Merritt Island location. She stated that the majority of the homes on Dragon Point Drive need variances to be in compliance with the modern-day codes for Brevard County; they want to be in full compliance with the codes. She said the home was built in 1973, needing a variance to be built at that time because of the double frontage setbacks, on the west side, the Indian River and the east side, the Banana River. She said that as constructed, the

backyard stormwater drains directly into the Banana River. She said, in photo #3 you can see what we are dealing with; the proposed plan would provide new swales at the base of the slope, would like to make them bio swales, so that the nutrient load and sediment into the river would be greatly reduced and adding plant materials in the bio swales will give added filtration. She said they are requesting the following variances; to construct a pervious wood deck, according to Natural Resources Management because of the construction methods used, laying them more separated and parallel to the back of the home. She explained that the 20-foot setback is measured from the main high-water line, the property line is 10 feet further out into the river; they are dealing with foreshortened back yard. She said that only about 14.5% of that deck area falls in the setback; 85% of it is behind the setback line. She said, secondly, they are requesting to construct a decorative retaining wall, a photo of the proposed wall is on the 2nd sheet. She said his wall, the exposed face as seen if on the river, is 48 inches high; in some areas because the swale slopes down to meet the wall instead of down toward the river, the wall increases to 4 foot 6 inches and in some cases 5 feet high. She said because the wall is over 30 inches high, it's required to have a railing; she is recommending a horizontal cable railing that has minimal visual impact from the river and the house. She said they would like to construct an 8 by 8-foot structural concrete slab that will be recessed 18 inches below the level of the deck for a portable spa to be placed; the concrete is needed as a portable spa filled would be very heavy. She said, outside of the backdoor, they have 10 or 11 feet that is level, then it heads steeply downhill; there is a native specimen Gumbo limbo tree that sets 5 feet from the rear foundation of the house, several photos of it are on the 1st page of the handout. She said they want to preserve and protect the tree and having worked with trees for 40 years, can tell that Gumbo limbo trees tolerate no fill over their roots; Oaks may take 2 or 3 inches but with any fill, Gumbo limbo trees will go into decline. She explained that to work around this Gumbo and preserve its critical root zone, they propose constructing a deck for usable space in that area; this is an environmentally sound decision, protecting the value of the property and the tree. She thanked the Bouchers for taking care of the property and for following the right procedures for these variances.

Dale Rhodes asked if the fence height being requested is the cable fence on top of the wall. Susan Hall replied, correct. Dale Rhodes asked, you are not erecting a 7-foot-tall wood fence, you are erecting a retaining wall and then putting posts up with a cable through it, and you have to measure from the ground before the retaining wall. Susan Hall answered, right, the wall would normally be 48 inches high, the exposed face, but its measured from the main high-water level, so it reads taller than it is, its 48 inches but in some areas where the swale comes down to the wall, it's 4.5 and 5 feet. Dale Rhodes asked if they talked to Environmental, St. Johns, or do they still have that to go. Susan Hall said that they are not required to in this case because they are staying out of the 10-foot Natural Resources Management setback; we have met their requirements and did meet with them before going into this process. Dale Rhodes asked if it was going to be more environmentally sound compared to the way it is now. Susan Hall said yes. Dale Rhodes said, looking at the pictures pretty much everything gets washed down into the river. Susan Hall said, it is, the house was built in 1973, and if nothing has ever been done with this back yard, that has been the condition for 47 years. Dale Rhodes said that its amazing that the house is not in the river. Susan Hall said that the reason that Dragon Point is that it's all rock underneath those houses. Dale Rhodes said that whenever he sees one on the river, he is concerned, as anyone is who is conscious of what has been done to our rivers over the years; it sounded to him that what is being done is an improvement not a detriment.

Jack Higgins asked if the posts would be part of the decorative block, going to mount to the decorative block. Susan Hall said yes. Jack Higgins asked how stable it was. Susan said they core

drill down and epoxy it. Jack Higgins said he understands that; asked if the wall stable if someone falls against it. Susan Hall said, yes, we have done that in commercial situations as well. Dale Rhodes asked if there was a risk of toppling over if someone leans on that cable. Susan Hall said no, it is the same rail as in the balcony rail photo.

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

Upon consensus, the meeting adjourned at **3:40** p.m.