

## BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, December 16, 2020, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Vice Chairman Jack Higgins presiding, to consider the requests below:

Board members present were: Jack Higgins, Vice Chair, District 1; Michael Hartman, District 2, and George Bovell, District 4

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

The Vice Chairman, Jack Higgins, called the meeting to order at 1:30 p.m.

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

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

### **1. This item was tabled by staff at the November 25, 2020 meeting**

**(20PZ00097) Michael H. and Fredrika Erdman** request variances from Chapter 62, Article VI, Brevard County Code as follows: 1) Section 62-2123(a) and Section 62-1337(5)(b) to permit a variance to allow a lap pool forward of the front building line of the principal structure, 2) Section 62-1337(5)(b) to permit a variance to allow an accessory structure forward of the front building line of the principal structure, 3) Section 62-1337(5)(b) to permit a variance of 14 feet from the required 15 foot side setback for an accessory structure, 4) Section 62-2128 and Section 62-1337(5)(b) to permit an accessory structure (tennis court) forward of the front building line of the principal structure, 5) Section 62-1337(5)(b) to permit a variance of 3.75 feet from the required 15 foot side setback for an accessory structure along northern property line, 6) Section 62-1337(5)(b) to permit a variance of 7.5 feet from the required 15 foot side setback for an accessory structure along southern property line, in an SEU (Suburban Estate Residential Use) zoning classification, on 1.05 acres, located on the west side of South Tropical Trail, approximately 1,542 feet north of Crispin Street (5405 South Tropical Trail, Merritt Island) (Tax Account 2520907) (District 2)

Michael H. and Fredrika Erdman, 5405 South Tropical Trail. He said he requests a variance for a lap pool adjacent to his tennis court. He said a few years ago, his left knee's meniscus tore. He said he tried rehab for a year, had a second surgery and his doctor suggested swimming. He said he started to go to Health First but they closed the pool due to COVID. He said they and their engineer determined that the only available spot was adjacent to his tennis court, which is already enclosed and has landscaping. He said when they applied for a variance they found they needed a few, including one for the tennis court which was not on County record. He said they bought the house 28 years ago with the tennis court already on it. He said they got the survey of the front of the house and was asked about the shed which has been there for 20 years. He said he was told that they needed a survey of the entire property showing the shed on the back side, which is surrounded by landscaping. He said they have had three visits from the engineer for \$5,000 and thinks they now have the correct survey. He said his original request is for a variance to put in a lap pool. He said the back side of the property doesn't allow for it as he has a drain field there for a septic tank, so the only place to put the pool that also makes aesthetic sense is adjacent to the tennis court on the front side. He said his neighbor to the north, Blaise Chaplow, provided a letter stating he is not opposed. He said he doesn't have a neighbor to the south, it is woods. He said his two driveways are a flag lot that goes west of the property, so there will not be a property owner to the south.

Michael Hartman said he has lived on Merritt Island since 1997, drives past there, and has seen the tennis court there for over 20 years. He said he is very familiar with the property and agrees that the lap pool cannot be put in back. He said he walked the property and can verify what they are saying. He said all the other items that are violating the setbacks have been there for a long time. He explained that there is a lot of individuality in the houses in South Merritt Island; some people have things farther back and others, right up against the road. He said this makes the most sense of where to put this and will be making a motion to approve it. He said he had done extensive research.

George Bovell said that reading the package, it seemed like he was asking a lot, but after opening the survey, it all made sense.

Jack Higgins said he drove by but did not go in, took pictures and agreed, nothing can be seen but the basketball backboard. He said he does not see a problem. He read the following public comment letter from Blaise Chaplow to the Planning and Development Department. "To Whom it may concern, my name is Blaise Chaplow, I reside at 5399 South Tropical Trail, Merritt Island, Florida 32952. I have owned my home for approximately 18 years. My neighbors to my south, Michael and Fredrika Erdman have informed me they want to install a lap pool adjacent to their tennis court. I am not opposed to this request. I believe it will go along with the rest of this South Merritt Island estate home and probably raise the value of all the homes in the area." He stated that the letter was notarized.

Alex Essesse recommended that the homeowner be shown the pictures to confirm it is his property.

Michael Erdman confirmed that it was. (Board member exhibits and Public Comment letter can be found in file 20PZ00097, located in the Planning Development Department.) He said his request is for the approval of the variance and approval of the other variance to clean up the issue with the two sheds and with the tennis court that has been there for 30 years.

No Public Comment.

Motion by Michael Hartman, seconded by George Bovell to approve the variances as depicted on the plot plan submitted by the applicants. The vote was unanimous.

## **2. (20PZ00100) Jason Gilstrap and Rochelle Gilman (Loseke)**

Request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-2118(d)(3) to permit a variance of 0.6 feet over the 16 foot projection (20% of the canal width) allowed for a boat lift, in an RU-1-11 (Single Family Residential) zoning classification, on 0.19 acres, located on the north side of Berkeley Street, 80 feet east of South Patrick Drive (389 Berkeley Street, Satellite Beach) (Tax Account 2608701) (District 4)

Greg Loseke, 9 Southern Trace Boulevard, Ormand Beach. He said he installed a boat lift at Berkley Street and after the installation, a survey showed it was 0.06 feet over the limit and is here for that variance.

George Bovell said what he is asking for is very minor; it's a mistake that can be easily made. He does not have a problem with approving the variance.

No Public Comment.

Motion by George Bovell, seconded by Michael Hartman to approve the variance as depicted on the survey provided by the applicants. The vote was unanimous.

**3. This item has been tabled by staff to the January 20, 2021 meeting**

**(20PZ00103) Michael and Brandi Noyes** request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-2100.5(1)(d) to permit a variance of 504.5 square feet over the 736.5 square feet (50% of the living area of the principal structure) allowed for an accessory structure, in an RU-1-7 (Single Family Residential) zoning classification, on .48 acres, located on the southwest corner of Friendly Street and Oakwood Avenue (5605 Friendly Street, Cocoa) (Tax Account 2304910) (District 1)

Motion by Michael Hartman, seconded by George Bovell to table to the January 20, 2020, Board of Adjustment meeting. The vote was unanimous.

**4. (20PZ00104) Anthony Peri**

Requests variances from Chapter 62, Article VI, Brevard County Code as follows: 1) Section 62-1339(5)(b) to permit a variance of 15 feet from the required 25 foot side street setback for an accessory structure, 2) Section 62-1339(5)(b) to permit a variance of 5 feet from the required 5 foot separation distance between structures, in an EU-2 (Estate Use Residential) zoning classification, on .28 acres, located on the southwest corner of the intersection of North Riverside Drive and Sand Pine Road (301 Sand Pine Road, Indialantic) (Tax Account 2716445) (District 5)

Anthony Peri, 301 Sand Pine Road, Indialantic. He said he would like to build a garage on the southeast part of his property. He said he cannot use his garage; he has a side drive but not enough property on the east side of his house and can't pull into his garage. He said he would like to put up a fence on the east side but found out from the survey that the new fence would take up a third of his one car driveway. He said he can't use his garage and would like to build a garage he can drive into.

Michael Hartman said the variances are not redlined on the survey, he sees where the garage is going to go. He asked what the 2<sup>nd</sup> variance was.

Paul Body said, the 2<sup>nd</sup> variance is to the 5-foot separation distance required between the accessory and primary structure.

George Bovell said it's not going to be connected.

Michael Hartman said he can understand, it looks like it would be tough to pull into the garage; especially with the pool pumps right there. He said he would have a hard time using the garage too and the location makes more sense.

George Bovell said, looking at the overhead, many other properties are tight in relation to the boundary and setback from the main road. He said if they approve this variance he does not see it significantly effecting the nature of the neighborhood and supports the variance.

Anthony Peri said if he is able to build it, he would make it look like it was built in 1972. He said he takes a lot of pride in his work and property; it would look like it was always there.

No Public Comment.

Motion by Michael Hartman, seconded by George Bovell to approve the variances as depicted on the survey submitted by the applicant. The vote was unanimous.

**5. This item has been tabled to the January 20, 2021 meeting per applicant request.**

**(20PZ00105) Danuel R. and Judith G Hoskins (Kirschenbaum)** request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-1336(4) to permit a variance of 0.17 acres from the one-acre minimum lot size required, in an RR-1 (Rural Residential) zoning classification, on 0.83 acres, located on the north side of Dairy Road, 372 feet west of North Carpenter Road (No assigned address, Titusville) (Tax Account 2107122) (District 1)

Motion by George Bovell, seconded by Michael Hartman to table to the January 20, 2020, Board of Adjustment meeting. The vote was unanimous.

**6. (20PZ00106) Srinivas and Kamala Bukkapatnam**

Request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-2109(c) to permit a variance of 2 feet over the 4-foot height limitation for a fence located within the front setback, in an SEU (Suburban Estate Residential Use) zoning classification, on 1.21 acres, located on the west side of South Tropical Trail, approximately 3,490 feet south of Tequesta Harbor Drive (6689 South Tropical Trail, Merritt Island) (Tax Account 2605845) (District 2)

Kamala Bukkapatnam, 6689 South Tropical Trail, Merritt Island. She said they have lived there for 20 years, having had issues for 3 or 4 years in their circular driveway. She said people drive thru it in the middle of the night, close to the master bedroom that is at the front. She said people fire BB guns in the air and throw trash; they lose sleep and are concerned about their safety at night. She said they would like to put in a 6-foot fence with gates that swing in as to not impede traffic; it would be open metal. She said they have a 4-foot wall now, that is not working as a deterrent. She said they have fruit trees and parents who are 90 and 96 and would like a fence to give them security and safety.

Michael Hartman said he drove to the property, probably have been driving past it for two decades. He said there has only been one variance for a 6-foot fence, but there are other 6-foot fences; it's not out of character for the neighborhood. He said it is hard to turn around down; he went past their house and the only way he could turn around was to pull into someone's driveway. He said he understands what is happening on their property. He said it will fit in with the neighborhood; there are a lot of walls, some have fences, others are open fences.

Jack Higgins said he drove down there too and took pictures of neighbors to the south and north. He said its well under what many are; there are 5- and 6-foot fences, some with trees behind them, others just stone. He said her neighbor to the north at 6689 Tropical Trail is a perfect example of why it would blend in. (Board member exhibits can be found in file 20PZ00106, located in the Planning Development Department.) He said what they currently have looks closer to 3.5 feet. He asked if they were going to put a picket on top.

Kamala Bukkapatnam said yes.

George Bovell said he is familiar with the area and will support it.

No Public Comment.

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

Upon consensus, the meeting adjourned at 2:02 p.m.