The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, October 17, 2018, in the Commission Chambers, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Vice Chair Dale Young presiding, to consider the following requests:

Board members present were: Ronald Erickson, District 1; Robert Dale Rhodes, District 3; Dale Young, Vice-Chair, District 5.

Staff members present: Alex Esseesse, Assistant County Attorney; Paul Body, Planner I; Erin Sterk, Planning and Zoning Manager; and Hazel Hernandez, Office Assistant II.

The Vice Chair, Dale Young, called the meeting to order at 1:30 p.m.

Paul Body explained the function of the Board of Adjustment; Dale Rhodes explained the definition of a hardship, and Dale Young explained the procedures of the Board of Adjustment.

Any documents, letters, or photos submitted to the Board of Adjustment before or during the meeting is part of the public record and can be found in the original file located in the Planning and Development Department.

SEPTEMBER 26, 2018 MINUTES FOR APPROVAL
Motion by Ronald Erickson, seconded by Dale Rhodes, to approve the September 26, 2018 minutes. The motion passed unanimously.

1. 18PZ00105) DISTRICT 2 – DOUGLAS L. AND MARGARET R. KELLY requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1340(5)(B), to permit a variance to allow an accessory building to be located forward of the front building line of the principal building, in an Single-Family Residential (RU-1-11) zoning classification. The property is 0.33 acres, located on the southeast corner of North Banana River Drive and Yount Drive (1040 North Banana River Drive, Merritt Island)

Board of Adjustment Action: Rhodes/Erickson- Approved as depicted on the survey provided by the applicant. The vote was unanimous.

Douglas L. Kelly, 1040 North Banana River Drive, stated they purchased the house on the corner of Yount and North Banana River Drive in 2013. It was a small house on a large lot, and they intended on adding a garage at some point. They finally have enough funds to do that. They had their drawings put together by an architect, and those were submitted to the building department, but the zoning portion of the review gave them a deficiency due to the fact where the house was located on the property. The house faces North Banana River Drive, and that is where their driveway is. Therefore, he would assume the back of the house would be opposite of the front of the house, but when they went to their plans review staff said that would not be the case, because they did not have a 20-foot setback on the back of the house. They only had 14 or 15 feet, therefore the only place they did have a 20-foot setback was on the south side of the house which then zoning determined that the north side of the house would then have to be the front of the house which was where they were trying to put the garage. They are asking for a variance to be able to put the garage on what is the side of their house right now, because zoning staff is considering that the front of the house. Mr. Rhodes asked if the area where the pool is located is the area they wanted to place the garage, or on the other side. Mr. Kelly replied the survey very clearly shows the garage on the north side where the pavers are. (He approached the podium and pointed on the survey where the garage would be located) Mr.
Erickson asked if he had spoken to his neighbor on the side street, and asked if anyone had complained. Mr. Kelly stated the house next door recently sold for $700,000, and they bought their house for $160,000. This would be a great improvement on the property, and no one would have a problem with it. Mr. Young stated he assumes that was a walkway from the screened porch to the back of the garage with an entrance. Mr. Kelly stated that was a screened porch which had an entrance. Mr. Young asked if the garage could be entered from the back. Mr. Kelly replied yes. Mr. Young asked why it was not attached to the house. Mr. Body replied he was attaching the breezeway to the screen enclosure, so it did not meet the code of being under the attachment. Mr. Kelly stated that was a bedroom, and there was a window to the bedroom on that side of the house that they cannot cover up. Mr. Young stated that when they say an attached a simple walkway, he asked if it was attached or whether it was closed or not. Mr. Kelly stated that is where the paver area is, that was the connection between the new garage and the old house. That would be the intention. Mr. Rhodes stated the pavers would be to the screened porch which is where the issue is. Mr. Body stated looking at the definition of “attached” it states, “attached for the purpose of this regulation means the addition is integrated visually, structurally, and architecturally with the principal structure, it contains a common roof with similar design to the principal structure and permits access between the principal structure and the addition via internally or under a common root”, so a screened enclosure is not considered an accessory, it is not the principal structure, it is the reason it could not be considered attached.

No Public Comment.

Mr. Kelly stated the screened porch, as far as aesthetically, it is going to be on the back side of the house, and they put that there so his wife could walk from the garage to the house without getting wet. Like he said, it was a large lot, and they would like to use the rest of their lot. Mr. Rhodes asked when they build the garage if it will extend beyond their neighbor's garage area. Mr. Kelly replied his garage will be in line with their garage, and his entire front yard has pavers. Mr. Body stated it would meet the 20-foot setback. Mr. Rhodes stated he only wanted to know to make sure it was in continuity with the rest of the neighborhood. Mr. Kelly replied yes. Mr. Young asked if construction had started. Mr. Kelly replied no. Mr. Young asked if he had a builder. Mr. Kelly replied he was a quality control manager for a large construction company, so he was going to be doing a lot of the work himself, but he will probably have someone do the flat work, and he will have drawings made by a licensed architect and licensed engineer.

Motion by Dale Rhodes, seconded by Ronald Erickson, to approve the variance as depicted on the survey provided by the applicant. The motion passed unanimously.

2. (18PZ00106) DISTRICT 2 –WILLIAM M. BELL JR AND LUCILLE C. BELL LIVING TRUST requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1340(5)(a), to permit a variance of 1.2 feet from the required 10-foot rear setback for a screen porch, in an Single-Family Residential (RU-1-11) zoning classification. The property is 0.19 acres, located on the south side of Neptune Drive, 335 feet east of North Banana River Drive (1645 Neptune Drive, Merritt Island)

Board of Adjustment Action: Young/Erickson- Approved as depicted on the survey provided by the applicant. The vote was unanimous.
William Bell, 9520 Star View Lane, stated this is a request to have a screen enclosure around a patio pool put back into its original order. Last year’s hurricane came through and blew down his mother’s enclosure. He was there representing his 97 year old mother. The screen, as well as the roof over that end of the patio, was blown off by last year’s hurricane. This is a request to have the screened enclosure setback by 1.2 feet over the existing setback line. It has been there since 1979, and the line was originally missed because there was a less than ethical pool company that was putting pools in Brevard County during that time back in 1978-1979. They started a number of pools, and then they took the money and ran. An assortment of pool companies got together and finished the pools. The original company had missed the setback line. Mr. Young asked if any other accidents had occurred since this time. Mr. Bell replied no, this was the first time anything had ever happened to the screen. Mr. Young asked where the complaint had come from. Mr. Body stated there was not a complaint. This was for a new construction to replace what was damaged by the hurricane. The building permit is being held up until the variance outcome. Mr. Bell stated if the Board looked at the photograph with lines on it they would be able to see the amount of difference from the current line and the setback that is proposed. Mr. Rhodes asked if they were only repairing what was in existence. Mr. Kelly replied correct.

No Public Comment.

Mr. Kelly stated they have had no questions from any of the neighbors on the street. This was such a minor setback, in fact that pool area would look strange if they did not put it back in the existing place.

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

3. (18PZ00107) DISTRICT 3 –CARROLYN NOEL WELSTED MCDougall requests 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 limitation required for a fence within the front 20-foot setback, in an Single-Family Residential (RU-1-9) zoning classification. The property is 0.24 acres, located on the south side of Sea Dunes Drive, 300 feet west of Highway A1A (145 Sea Dunes Drive, Melbourne Beach)

Board of Adjustment Action: Rhodes/ Erickson- Approved as depicted on the survey provided by the applicant. The vote was unanimous.

Carrolyn Noel Welsted McDougall, 145 Sea Dunes Drive, stated her house was built in 1957, and that was before Code Enforcement was in effect in Brevard County. It was not conforming to the 20 feet setback required where the marker is on the survey. What she would like to do is square off the fence (inaudible) with the side of her house. It would not affect anyone's side view as far as getting in or out of their driveway on that street. She would like to have the 6-foot fence up to the house to provide privacy. She has a dog and she would like to keep it at height for her. She also has, on the east side of her property, a pump that a 6-foot fence would cover and hide. She has pictures she has not submitted, but if they look at the survey, on the east side of her property line is the pumping aerator. Mr. Young asked if the fence was 4 feet now in the front. Ms. McDougall replied no, she ripped the
fence down because she had a fence company come out. She hired them to place the fence, and when they applied for the permit they found out she was not conforming to the 20-foot setback. One side of her property is almost conforming, it is 95-foot long and the other side is 85-foot. Mr. Rhodes stated he visited the property and she had the sign posted. He also saw they were building a brand new house next to her, which probably had to do with her wanting to build a 6-foot fence. Ms. McDougall stated she had a fence there before, but not a 6-foot high one. Mr. Rhodes asked if the concrete wall behind was 6-foot high. Ms. McDougall replied yes. Mr. Rhodes stated he drove through the neighborhood and noticed there were a lot of 6-foot fences, so this was nothing that would be out of the ordinary in the neighborhood. The first thing he looked at was if it would hamper someone from going in or out of their driveway, and it would not.

No Public Comment.

Mr. Young stated it appeared to him that she was going to run the 6-foot fence across the existing driveway on the other side. Ms. McDougall replied no, not across it; the 6-foot would go up across to where the aerator pump is and then the driveway would be clear. On the west side of the house is where it starts the 6-foot and runs along the linear of the property to the west. The neighbor to the west of her is under construction and their driveway is on the west side of his house.

Motion by Dale Rhodes, seconded by Ronald Erickson, to approve the variance as depicted on the survey provided by the applicant. The motion passed unanimously.

4. (18PZ00108) DISTRICT 2 –MARIE ZAMBUTO, TRUSTEE requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1340(5)(b), to permit a variance of 6 feet from the east 7.5-foot side setback required for an accessory building; 2.) Section 62-1340(5)(b), to permit a variance of 5 feet from the 5-foot separation distance required for an accessory building in an Single-Family Residential (RU-1-13) zoning classification. The property is 0.45 acres, located on the south side of West Point Drive, 500 feet west of Bay Shore Drive (34 West Point Drive, Cocoa Beach)

Board of Adjustment Action: Rhodes/Erickson- Approved as depicted on the survey provided by the applicant. The vote was unanimous.

Marie Zambuto, 34 West Point Drive, stated she received a Code Enforcement complaint for her shed that has been in place a lot longer than she has owned it. It dated back, according to Google Earth, around the 2000 timeframe. The visuals published on the web show it was 2007. She was there to legitimimize an existing shed within the setback it was today, and the person who submitted the complaint is not a person within 200 feet of the setback, it is someone who used to live in the neighborhood for a short period of time while she tore down her house at the end of Bay Shore Drive, which was about .39 miles from her home. She did not know the purpose or reason. She bought the property on June 11th 2010, and the shed existed. It has been there approximately 20 years, and she had letters from everyone in support of the variance. When she purchased the house it was an (inaudible) shed, and had been there long before she owned the property. Her husband and she purchased the property, but he passed away. She then put the home in a trust. She had a 10-foot
gate on the other side of her house that allows egress in and out of her property. The shed is completely fenced on all three sides, and has been there for many years. She was requesting the variance because it would be an extreme hardship to move it and put in somewhere else on the lot. She has everything from pools, to setbacks for the river, gas, well, and etc. She could not physically move it without an extreme expense. Mr. Young asked if there was a fence near the nearest neighbor. Ms. Zambuto replied yes. She noticed one missing piece of fence that went from the southeast corner of her property (inaudible) over to the existing fence, so it was literally surrounded. Someone would have to look really hard to see the shed. She had a letter from the person that used to be in the homeowners association. The person that moved in did not know her, and she had also complained on 3-4 sheds as well as other issues around the neighborhood. Mr. Young asked if Jim Roberts was the neighbor to east. Ms. Zambuto replied yes.

Public Comment:

Barbara Tulskie, 3 West Point Drive, stated she was in support of the variance. She lives across the street. She said she’s relatively new to the neighborhood, about 4 years, and there was also a complaint on her shed, but she had all the permits, per code, when they installed her shed. She did not even know Marie had a shed, because it was well hidden behind the fence.

Stacy Hancock, 2 West Point Drive, stated she lives across the street from Marie, and she has lived there since 2007. The shed was there before she even bought her house. No one would even know it was there because of the fence, so it is well tucked in. She is not sure why that woman has complained about everyone. She has complained about 12 people around the neighborhood.

(Letter submitted prior to meeting read into the record and placed in file)

Motion by Dale Rhodes, seconded by Ronald Erickson, to approve the variance as depicted on the survey provided by the applicant. The motion passed unanimously.

5. (18PZ00109) DISTRICT 1 –KEITH D. WARD requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2123(a), to permit a variance to allow a swimming pool and pool screen enclosure to be located forward of the front principal building; 2.) Section 62-1331(5)(a), to permit a variance of 0.4 feet from the 20-foot rear setback for a principal building, in an General Use (GU) zoning classification. The property is 1.01 acres, located 500 feet west of Knoxville Avenue, north side of Blair Street (3226 Blair Street, Cocoa)

Board of Adjustment Action: Erickson/ Rhodes- Approved as depicted on the survey provided by the applicant. The vote was unanimous.

Keith Ward, 3226 Blair Street, stated he purchased the 1-plus acre in June, and the house is set back with dimensions of the property of 105 feet wide, and almost 280 feet deep. The house was built very far back on the property. The most recent survey shows 19.6 feet behind the house to the property line. Behind the house would be the conventional place to put the pool, but because of the setback requirements it is not possible. The house is also 17 feet from the west side, so there was no room
there. The east side of the house was the septic system with two tanks. The house is approximately 200 feet from the road, and about half of that is wooded (inaudible) pine. The house is not visible from the road. It has a curbed driveway through the woods. He looked at the options for the pool, and came up with a design that integrates the pool with the house. It would be located on the side of the house, but it has to be because of the septic system. The screened enclosure would be tied in with an existing porch. The only neighbors that would have visibility to the pool are on the west side, and they have no objections. On the east side, he has never seen anyone on that property. The people across would not be able to see the pool. In that neighborhood it is common to have pools. Mr. Young asked if they ran on well out there. Mr. Ward replied no, there is sea water. Mr. Rhodes asked Mr. Body if the 0.4 setback was legitimizing the structure that existed presently. Mr. Body replied it appeared that there was a survey done before this that showed it, and then the planner that took this thought he could go ahead and legitimize the rear setback for the 0.4 feet that had been existing for years, so that portion of the fee was waived because it was only to legitimize it.

No Public Comment.

Motion by Ronald Erickson, seconded by Dale Rhodes, to approve the variance as depicted on the survey provided by the applicant. The motion passed unanimously.

6. (18PZ00111) DISTRICT 2 –MERRITT PRECISION TECHNOLOGIES, INC. (John Campbell) requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2100.5(1)(j), to permit a variance of 11 feet from the 15 feet separation distance required for an accessory building in an Planned Industrial Park (PIP) zoning classification. The property is 10.00 acres, located on the north west corner of North Courtenay Parkway and Duval Street (No assigned address)

Board of Adjustment Action: Rhodes/ Erickson- Approved as depicted on the survey provided by the applicant. The vote was unanimous.

Douglas Keehn, stated the business address is 3425 North Courtenay Parkway, and the business was Merritt Precision Technologies. He stated he is requesting a variance to place a steel building on the outside of an existing building where he runs his business. His business is not changing in any regard, but this last summer and over the last 15 years they have machined very large parts of all different sizes for various industries. There is a lot of detail work that happens after the fact, and they would bring everything inside of the building, but during the day when they work on the parts a lot, those parts would be moved outside. During May, June, and July, just about every day they are inundated with a thunderstorm that comes in fast, and they are taking all the labor and moving parts around into the building to avoid the thunderstorms. They put these up primarily because they needed a big umbrella on the slab. They would like the building to be centered on the existing slab, which is 40 feet. The 15-foot setback causes a lot of problems. The most important part is that it creates 15 feet on the thick concrete slab that gives him 15 feet of not usable space. The rest of the industrial part is asphalt. The other thing is that he brings in are large trucks into two big bay doors, and he is trying to center this building in-between the bay doors. As you go away from the building it creates a little bit of a hardship for a truck to get around the corner. Thirdly, for the last 15 years he has built 3 (inaudible) buildings that are 10 by 20, and this building will give him the opportunity to get rid of 2 of them, which he pays rent for. They are ugly, so in a way he is cleaning up the neighborhood. The
iconics buildings are nice in the standpoint that when you seal them they are watertight, but they are on about a 4 ½ inch raised platform, they are extremely hard to move, they are not versatile, they are ugly and look very industrial. Basically, he would like to get rid of them. That was all he is requesting, he is continuing his business. He is not changing the dynamic of his business in anyway, just trying to improve it, and change the condition for his employees.

Mr. Young asked why he would not attach it to the existing building. Mr. Keehn replied the slab is an 8 inch thick slab with 4 by 4 foot huge concrete footings for the building to be extended with enclosing all that area. That is what he would like to do ultimately someday. He was working on that, but it would be a $100,000 addition. Mr. Rhodes asked Mr. Body if this presents a safety hazard. Mr. Body replied not from a zoning aspect. He is sure it would have to go through site planning and Fire will look at it at that time. Mr. Erickson asked if it would have walls. Mr. Keehn replied it has walls.

No Public Comment.

Mr. Keehn stated he has neighbors on the other side of the wetland, and he talked to the president of the homeowner’s association, and he had no problem with the request.

Motion by Dale Rhodes, seconded by Ronald Erickson, to approve the variance as depicted on the survey provided by the applicant. The motion passed unanimously.

Meeting Adjourned at 2:24 p.m.