

Board of Adjustment

The Board of Adjustment met in regular session on **Wednesday, June 18, 2025**, at **1:30 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 1:30 p.m.

Board members present were Jennifer Clements (D2), Dr. Joanna Bass (D4), and Bill Huffman (D5-Acting Chair).

Staff members present were Greg Hughes, Assistant County Attorney; Trina Gilliam, Zoning Manager, Paul Body, Planner; Kristen Champion, Planner; and Jordan Sagosz, Operations Support Specialist.

Approval of the May 21, 2025, BOA Minutes

Motion by Dr. Joanna Bass, seconded by Jennifer Clements, to approve the BOA minutes of May 21, 2025. The motion passed unanimously.

Item H.1. Phoebe A. and David M. Slingerland request three variances of Chapter 62, Article VI, Brevard County Code, for a principal structure, pool, and covered dock in an RU-1-9 zoning classification. (25V00016) (Tax Account 2408936) (District 1)

Paul Body read the item into the record.

David Slingerland spoke to the application. He said they want to legitimize the existing structure they recently purchased. They want to put a new roof and fix leaks. We have an existing screened in porch we would like to enclose, and the setback is in question. We had to get a survey and found it didn't meet the setbacks for the canal.

Bill Huffman asked how much of the setback are you asking to be relieved of.

Mr. Slingerland said he believes the setback is required to be 20 ft. and we're currently 11 ft. with the existing structure.

Mr. Huffman said so you're about 9 ft. in. He then asked if it abuts a road.

Mr. Slingerland said no, it's on a canal.

Mr. Huffman asked if it was the same problem on the side.

Mr. Slingerland said no, the only setback issue is the existing pool and the enclosed porch.

Mr. Huffman said which is against the neighboring property.

Mr. Slingerland said it's on the canal side.

Dr. Joanna Bass said so these were existing, and things happen and change. You just want to screen in what is already there.

Mr. Slingerland said it's currently screened in, but it's leaking. We want to put a roof over it and enclose it.

Jennifer Clements asked for the applicant to explain the covered dock.

Mr. Slingerland said he thinks it's a few feet oversized. It's supposed to be 600 sq. ft. total, and I think it's 8 or 10 feet too large.

Ms. Clements asked if there are any changes that need to happen to the dock.

Mr. Slingerland said no, we just want to legitimize everything that's already in place.

Ms. Clements asked if he was planning on enclosing the screen porch to use as living space and have air conditioning

Mr. Slingerland said we're just going to enclose it, basically like a Florida room.

No public comment.

Motion to approve Item H.1. by Dr. Joanna Bass, seconded by Jennifer Clements. The motion to approve passed unanimously 3:0.

Item H.2. Nicholas and Marie DeNoia request four variances of Chapter 62, Article VI, Brevard County Code, for a principal structure and an accessory structure in an RU-1-9 zoning classification. (25V00017) (Tax Account 2953011) (District 3)

Paul Body read the item into the record.

Nicholas DeNoia spoke to the application. The house is about a half a foot closer on the west side than it should be, it's preexisting. On the east side, it's supposed to be 20 ft and it's only 18 and a half ft. We have a garden shed that was built when the house was built and it's a half a foot from one side. This came up because we wanted to add a screen porch and during the application process it came up as a deficiency. We thought we could move it, but it would have to be demolished or unassembled and it's not feasible. We fixed up the shed and we couldn't move it without disassembling it.

Mr. Huffman asked the applicant to summarize how much he is off the setbacks.

Mr. DeNoia said the accessory structure is closer by .9 ft than is allowed to the principal structure. On the east side of the principal structure, we are 1.1 ft. closer than the setback. On the garden shed, it is 4.9 ft. from the required 7.5 ft. on the north setback of the accessory structure, and 5.5 ft. within the 7.5 ft. on west setback.

Mr. Huffman asked if the applicant had spoken to his neighbors.

Mr. DeNoia said he did. There are two bordering neighbors and neither had a problem. He said they wished him luck.

No public comment.

Motion to approve Item H.2. by Jennifer Clements, seconded by Dr. Joanna Bass. The motion to approve passed unanimously 3:0.

Item H.3. Robert Lawson and Christine Ann Bew request a variance of Chapter 62, Article VI, Brevard County Code, for a dock in an RU-1-11 zoning classification. (25V00018) (Tax Account 2606612) (District 4)

Paul Body read the item into the record.

Robert Bew spoke to the application. He explained he contracted with DC Marine Construction to build a boat dock on his property. When they built the dock, they built it 1 ft. past the projection. It was supposed to be 20 ft. and they built it at 21 ft. He said the final permit is not approved so he's here asking for a variance which will allow the permit to be approved. He tried to work with DC Marine to find other options, but they refuse to accept responsibility and ceased communication with him. Now he has a boat dock he can't use. He can't even sell the property because he has an open contract with DC Marine.

Dr. Bass said she saw four docks in the immediate area of comparable size, and one even looks larger. The 1 ft. over code does not impede neighbors' view or boat traffic on the waterway. You're not in harm's way of causing any problems on the water. She thinks it's a reasonable request.

Mr. Huffman asked how the 1 ft. projection happened.

Mr. Bew said he doesn't thin the contractor really looked at the survey, they had him go back to the surveyors and change it. On a call he blamed the County for not being able to add. It's the contractor's fault, he didn't do his pre-analysis.

Ms. Clements asked if the applicant has a seawall.

Mr. Bew said he built the seawall and dock. It was all on one contract. The seawall passed after some issues with it. The dock was the last issue.

Mr. Huffman asked if when the seawall was done was it 18 in. added to the existing seawall.

Mr. Bew said yes, the initial permit had 18 in., and the County said to pull it back to 12 in. and the contractor messed that up which threw everything else off.

No public comment.

Motion to approve Item H.3. by Dr. Joanna Bass, seconded by Jennifer Clements. The motion to approve passed unanimously 3:0.

Item H.4. Michael J. and Elizabeth H. Witkowski request three variances of chapter 62, Article VI, Brevard County Code, for a principal structure in a BU-1-A zoning classification. (25V00020) (Tax Account 2501703) (District 2)

Paul Body read the item into the record.

Michael Witkowski spoke to the application. He said he has an unusual property size. I'm looking for three variances. One for the north side, one for the rear, and one for the south side. We're looking at putting up a garage for our RV and storage. Because of the property lines, the setbacks are not for the full lengths. On the north side it's about a 3 ft. by 3 ft. setback because it's a triangle. On the rear

setback it's about a 5 ft. setback and on the south side it's about a 4 ft. 6 in. down to about 5 ft. from the existing building where it goes to 0. It's an odd-shaped parcel, I lose about 33 or 34 ft. off the back property line because it's a triangle.

Ms. Clements asked what the plan was for access to the garage.

Mr. Witkowski said the driveway we have now going into the back.

Ms. Clements pointed at a spot on the aerial map asking if that's where it was.

Mr. Witkowski said yes, that's right.

Ms. Clements pointed at another spot on the map and asked if that's where the structure was going. She wanted to know if it would impede on the school.

Mr. Witkowski said absolutely not. The school doesn't have any access to the property, there's a fence there.

Ms. Clements asked if there was an exit through the back of the property or plans for that.

Mr. Witkowski said no, and there's no plans for that.

Ms. Clements asked what the white structure on the parcel is on the aerial map.

Mr. Witkowski said that is actually not on my property, it was a mobile home that was removed by the school district.

Ms. Clements said the lines are just skewed on this.

Mr. Witkowski said yes. The structure we're looking at is just going to be behind the house. We're just going to add three new walls.

Ms. Clements asked if the applicant was going to use one of the walls of the home.

Mr. Witkowski responded correct.

Mr. Huffman said the lines on the Property Appraiser's maps often don't line up.

No public comment.

Motion to approve Item H.4. by Jennifer Clements, seconded by Dr. Joanna Bass. The motion to approve passed unanimously 3:0.

Item H.5. Matthew and Svetlana Nelson request a variance of Chapter 62, Article VI, Brevard County Code, for an accessory structure in an RU-1-11 zoning classification. (25V00021) (Tax Account 2431186) (District 2)

Paul Body read the item into the record.

Matt Nelson spoke to the application. He said he's here today to request a variance off the side of his property. Due to the location of the property and the setback on the side of my property it makes it unusable. I did come in the area wanting to build an RV carport. It's not a full structure. It's just a roof structure, no sidewalls. When I was looking at that property, we drove around the neighborhood and saw similar structures close to the fence line. We decided this was the right property and we came in and we were permitted to move the fence to our property line, we received that from you. Now we're requesting to install the carport just inside that fence line to allow the RV and vehicles. I reduced the carport to the proper size and he is maintaining the setbacks all around to make sure he's within code.

Ms. Clements asked if the structure was just open air.

Mr. Nelson responded yes.

Dr. Bass asked if it's within the fence line that has been approved.

Mr. Nelson said yes.

Ms. Clements asked if the structure in the picture is their RV.

Mr. Nelson said yes.

Mr. Huffman asked when they came in for the fence variance.

Mr. Nelson said two years ago. He said his neighbors approve this and he's improved the property. He's been doing a lot of work on other people's homes too.

Mr. Huffman asked how much into the setback he's encroaching.

Mr. Nelson said that's the issue it's 14 ft. and the setback is supposed to be 15 ft. It's just the way the property is.

Ms. Clements asked if he added the driveway.

Mr. Nelson asked if she was referring to the pavers and he said yes.

No public comment.

Motion to approve Item H.5. by Jennifer Clements, seconded by Dr. Joanna Bass. The motion to approve passed unanimously 3:0.

Item H.6. Ryder James Wertin and Kelsey Lee Shepard request a variance of Chapter 62, Article VI, Brevard County Code, for an accessory structure in an SEU zoning classification. (25V00022) (Tax Account 2202762) (District 1)

Paul Body read the item into the record.

Ryder Wertin spoke to the application. He stated they were here today for a variance on a detached building on their property. He said it is intended to be used for hobbies, a home gym, things of that nature. He said he has lots of equipment and a small tractor used to maintain the property and other

properties. It would also store a trailer used to transport that equipment. He said the goal is to have inside storage and space for home recreational use. He stated it isn't encroaching on utility or drainage easements and abides by the minimum setback requirements of the county code.

Mr. Huffman said it's just oversized.

Mr. Wertin said that's correct.

Mr. Huffman said the applicant mentioned he had a trailer for the lawn equipment. He asked if it was for business use.

Mr. Wertin said no, it's exclusively for private use.

Mr. Huffman asked if he had spoken to any of the neighbors.

Mr. Wertin said yes, he has a few neighbors who live adjacent to the property that he invited over, and they walked the area where the structure would be. He said there were missed connections with other neighbors. There has been communication.

Mr. Huffman asked if there was negative communication.

Mr. Wertin said yes.

Mr. Huffman said they don't like it.

Mr. Wertin said he didn't believe so.

Mr. Huffman clarified and said have any of the neighbors had objections.

Mr. Wertin said yes, they have.

Mr. Huffman asked what the nature of their objections was.

Mr. Wertin said he thinks it's line-of-sight, visual concerns.

Ms. Clements asked the applicant when he says "line-of-sight" if he was speaking about the front of the home or the rear.

Mr. Wertin answered the sides.

Ms. Clements referred to pictures sent in by the public with a lot of things in the yard.

Mr. Huffman said we received letters for this application.

Ms. Clements asked if the plan was to put those items inside the structure.

Mr. Wertin said negative.

Ms. Clements asked what was going to be in the structure.

Mr. Wertin said a home gym, general hobby space, woodworking, tinkering, and the equipment he had mentioned and the trailer to transport the equipment.

Ms. Clements asked if the items seen in the pictures would remain outside of the structure.

Mr. Wertin said sure, and he would address those items. He said the subject property in the pictures have been cleared and the items left are ornamental.

Ms. Clements asked if the property in the pictures is the applicants property.

Mr. Wertin said correct, but not the subject property with the variance, but a different property.

Ms. Clements asked where this property is located.

Mr. Wertin said in the Port St. John area.

Ms. Clements asked why they had the pictures.

Mr. Huffman said they came in as objections.

Ms. Clements said she understood, but they're not related to the subject property.

Mr. Huffman said they're being presented as delivered.

Ms. Clements said this is a completely different property and will stay as such.

Mr. Wertin said that is correct, and that property has been cleared.

Ms. Clements asked if there was any current Code Enforcement on the subject property.

Mr. Wertin said not to his knowledge and there has not been in the past.

Mr. Huffman asked about the clearing of the other property. He said it looks like there's abandoned vehicles on the property, but they've been cleared away.

Mr. Wertin said that's correct.

Dr. Bass asked if there were two properties. She asked for an explanation because of the pictures.

Mr. Wertin said the subject property the variance is filed under is where they are wanting to put the secondary structure.

Dr. Bass asked if it was on the property behind the home.

Mr. Wertin said that is correct.

Dr. Bass said this will be an additional building. She then asked if it was one-story or two-stories.

Mr. Wertin said it's not intended to be two-stories. He said he thinks there are concerns with that as well. He said two-story buildings typically require an 18 ft. eave height. He said we would not be that

high. He continued that it would not be and was never intended to be an accessory dwelling unit. It's just a detached building, not for livable use.

Dr. Bass asked what the purpose of the building was.

Mr. Wertin stated the purpose is general hobby use, storage for the equipment to maintain the property and two other properties, and the equipment used to transport that equipment as well as a gym.

Dr. Bass asked if the building was close to the property line.

Mr. Huffman clarified that it's not, the variance request is for the size.

Ms. Clements said it's 900 sq. ft. too big for what's allotted. She then asked about the trees because she sees a lot of foliage.

Mr. Wertin explained the previous owner owned the property for a couple decades. If you go back, you can see it was clear and there are sprinklers under all these vines. Most people are aware of the invasive pepper trees. The tree line on the east side of the property is very dense and is comprised mostly of the pepper trees and vines. They have crawled up the mature trees as well. We've made an effort to cut those out so the trees can thrive. There are no plans to remove any vegetation that wouldn't need to be displaced.

Ms. Clements said nothing needs to be taken down for the accessory structure.

Mr. Wertin said there's a small tree island near it. The proposed location of the structure is mostly the invasive overgrowth.

Ms. Clements asked what the plan for access to the accessory building is.

Mr. Wertin answered the accessory building would be on the east side of the property which aligns with the driveway which minimizes additional driveway length which would affect drainage. The access would be a natural approach to the building. He said he didn't know if it would be rock, bark, or pine needles that aligns with what's written in the documentation.

Ms. Clements said so there's no plans for a driveway or pavers.

Mr. Wertin said not a paved, asphalt or concrete. Not at this time.

Dr. Bass said the access to this building is behind your house. There are no roads behind the property.

Mr. Wertin said that's correct. There's a utility and drainage easement that runs the length of the rear property line, but no access road or right-of-way.

Dr. Bass said so you will be coming in through the front to the back.

Public Comment

Anthony Russell spoke in opposition to the application. He said he reached out to Mr. Wertin and he was not able to speak to him. He said he was concerned about the height. He stated 18 ft. is all that's necessary to achieve a 14 ft. clearance on a garage door. Anything above that raises concerns he wants to build a secondary dwelling. He said it raises concerns of diminished property value for everyone. He stated the applicant didn't answer the questions on the Variance Hardship Worksheet. He said Mr. Wertin purchased the home in March 2025 and started working on the variance request. The law says the buyer receives a copy of HOA rules when you buy, and the appearance is that he does not intend to abide by the rules he agreed to. He researched and found the applicant owns two other properties in Port St. John and Cocoa. Aerial pictures of the properties are a concern. He said on a drive by of the properties he saw about 10-12 untagged vehicles and stacks of tires and is visible from the street. The vehicles are stripped and there is overgrowth. He was told there is an odor of motor oil at the location, which brings up environmental concerns. He said their area is one of few areas that have drinkable well water and there are concerns about contamination. He said it appears the applicant is operating an industrial based business in the neighborhood involving dismantling and selling automobile parts likely violating codes and environmental concerns for hazards and waste disposal. He said there were ads on Facebook Marketplace selling parts from vehicles. He continued that it appears to be running a business that the applicant has been running for 4 years. He summarized that Mr. Wertin has not been forthcoming on his true intentions for requesting the variance. He thinks he may use it for an unlicensed business. He explained he looked for a Business Tax Receipt and didn't find one. He concluded by saying he encourages the County to look into his other properties before granting any building request.

Jon Myers spoke in opposition of the application. He stated he is the HOA president for Evergreen Community Association. He said he would just talk about the top three concerns they association had. The first is in reference to the Variance Hardship Worksheet where the applicant had put that the neighborhood has had variances granted in the past and that's false. He said no structure built has required a county variance. He stated they have a design committee where anything above 700 sq. ft. goes to them. That process was done but after concerns from the neighbors it was rescinded. Flood mitigation is our next big concern. He stated a building this large could throw off the storm drain systems in the neighborhood and exasperate flooding issues that are already happening. If the variance is granted, we would like a flood survey done. There's a lot of wildlife in the area including Gopher Tortoises, this community was built to preserve the natural landscape. He said there is also a concern for contamination to well water. He said they would like an environmental view done to make sure there's no impact to threatened species.

Mr. Huffman said the structure is not on the setback drainage easement, but there are concerns it will affect the drainage.

Mr. Myers said the concern is a large structure would reduce the ability for the ground to absorb water and cause faster runoff which could flood homes.

Mr. Huffman said so you're concerned with the impervious impact.

Mr. Myers answered yes.

Mr. Huffman said he saw the pictures and heard the mentions of Gopher Tortoises. He asked if there was evidence of Gopher Tortoises on the property.

Mr. Myers said he did not observe them, but neighbors have. He said they know of one within 300 ft. of the property.

Mr. Huffman asked if it was on the site of the proposed structure.

Mr. Myers said he hasn't observed it.

Mr. Huffman clarified that concerns with environmental are beyond the purview of the board. He said they only look at zoning regulations and won't take that into account.

Ms. Clements asked Mr. Myers to explain why the plans were approved.

Mr. Myers said when the applicant moved in the plans were sent to the HOA. The design committee then reviews the plans. He said the diagram was not to scale so it was misunderstood. They did a walkthrough of the property with Mr. Wertin and saw adjacent properties sight lines. They'll be able to see if from their pools or decks.

Ms. Clements said so it was initially approved and then rescinded.

Mr. Myers said yes, they got feedback from the community. He said there were issues that weren't identified originally.

Ms. Clements asked who approved it.

Mr. Myers said the current committee chairman, but he signed the rescind letter.

Ms. Clements said just for clarity this structure is going to be 2,600 sq. ft. which is 990 sq. ft. greater than what's allotted.

Mr. Myers said that's correct. It's almost 2,000 sq. ft. more than the HOA allows.

Dr. Bass asked what the difference between an HOA and a community association.

Mr. Myers said he didn't know exactly but their community association has dues to be paid and covenants they follow.

Dr. Bass referenced the signed petition brought and asked how many homes were in the association.

Mr. Myers said 44 homes.

Dr. Bass said 24 members have signed the petition.

Mr. Huffman asked if it was 24 addresses or 24 people.

Mr. Myers said he wasn't sure. He looked at the petition and said it looked like some were at the same address. He said it looks about 20 total.

Dr. Bass said you mentioned Gopher Tortoises.

Mr. Myers said yes, there's a burrow about 200 ft. down the main road. We just want to make sure there's no impact on their feeding areas or transit routes.

Dr. Bass said the water may be affected. The drinking water and drainage.

Mr. Myers said he wasn't an engineer so he couldn't speak to that.

Raymond and Sharon Crigger spoke in opposition to the application. Ray said they were the immediate neighbor to the east. He said he would like to read a letter from his neighbor, Bill Tootill, who is in Canada right now. The letter stated that he felt the structure was unacceptable for a residential neighborhood as it's a commercial type building. The structure is almost the size of his house and a structure that is 600 sq. ft. would be more than adequate for hobbies or storage. The structure would destroy the natural character of the neighborhood. He is opposed to the construction of this structure.

Raymond Crigger said he wasn't aware of this proposed structure until he saw the signs in his yard. He stated they went to speak to the applicant and the applicant was not straightforward with the purpose of the structure. He was concerned with the applicant's dishonesty. He was also concerned the applicant is taking down trees and it will take a long time for trees to grow back to hide the structure. He also referred to the Variance Hardship Worksheet and said the applicant says there are no special conditions. The building is three times the size of what is allowed in our HOA. He also said the structure is supposed to have similar construction materials as the home, but the applicant has no intention of doing that. The approval of the variance would give the applicant more rights than are enjoyed by other properties. He said he doesn't want the structure 15 ft. from his property line where he can see it from his pool and backyard. He spoke about the wildlife they have in the neighborhood. They've seen different kinds of wild animals, and the neighbor has seen gopher tortoises. He said the variance is ridiculous.

Sharon Crigger stated they moved to Evergreen 25 years ago. She said they moved there to live in a natural, quiet neighborhood. It's an environmentally sensitive community on well water and septic. The HOA limits accessory buildings to 700 sq. ft. and the 2,650 sq. ft. structure isn't suitable for the neighborhood. The height hasn't been disclosed and the metal building is completely out of character. The applicant intends to cut down shrubbery. She also said she asked the applicant how long he plans to live in the home, and he said 6 years. It will cause interference with and damage to the natural landscape. The applicant's neighbors have already been disturbed by sounds of grinding metal and have made comments on a salvage business. She ended by saying they are against this proposed structure likely being used for an auto salvage business.

Silvia Balsam spoke in opposition to the application. She stated she has lived in the Evergreen community for 34 years. She spoke to the residents who have lived in that area the longest and no one has ever requested a variance. This variance could set a precedent for people to ask for one without approval from the HOA. She is concerned that the property will start to look like the applicant's property in Port St. John. She also spoke about the Gopher Tortoise and said he wanders around different properties. She said the structure will ruin her backyard view and the applicant already has a shed put there by the previous owner. She said the community was founded in the early 1970s by three environmentalists. In the HOA manual they intended for the neighborhood to be designed in harmony with nature.

Tim Manteufel spoke in opposition to the application. He stated he is a homeowner and full-time resident of the Evergreen subdivision. He said the zoning regulations of this neighborhood are designed to preserve the residential character and aesthetic harmony of the neighborhood. He read from the code, Article IV, Section 113-225 (1)(b) which says which says no accessory structure shall be used for living quarters, home occupation, or professional use. The codes also say that the accessory structure must be subordinate in size scale to the primary structure. The structure is comparable in size to a small commercial warehouse and its industrial design is atypical of an accessory structure and raises concerns about its intended purposes. He said that he is affected by flooding and with the proposed structure and percolated soil the water will all end up in his backyard. There is concern the applicant will run an auto scrapyard out of the structure. His main concern is the flooding because it ends up in his backyard. He said the flooding currently comes up to his house and he has spent numerous hours pumping water from his backyard to other sections of the yard.

Ms. Clements asked how far he was from the subject property.

Mr. Manteufel said he's about a city block away. He ended by saying the applicant was given a set of rules and giving him a variance would be a special privilege.

Travis Johnson spoke in opposition to the application. He said he is directly behind the subject property. He said he tried to speak to the applicant but didn't. He said right now from his pool you can just see wooded area and there's a privacy fence. The applicants have already begun clearing the area where the building will be. He said where the proposed structure will go, they will see from their pool deck. He said trees that are planted to get the privacy back will take a long time to cover the structure. He spoke about flooding issues in the easement. He also referred to the Variance Hardship Worksheet. He said when the applicant purchased the property in March he should have known about the sizing requirements of buildings. He stated the applicant created the special condition. He also said they spoke with the listing agent, and he was provided the document. He had a petition for the variance and said the variance with decrease property value and deviates from the neighborhood's aesthetic standards. He also said there have been no applications for variances and all buildings in the neighborhood do not come close to what the applicant is proposing. He spoke about when hurricanes come through, they lose power and he's concerned about FPLs access to the power lines to restore power if this building is there. He said it would impede FPLs ability to get to the power line and force them to use other's properties instead.

Dr. Bass asked if the power lines were above or below ground.

Mr. Johnson said they are above ground.

Valerie Lechu spoke in favor of the application. She said she wanted to speak because it feels like a personal attack and there's a lot of conjecture about the applicants. She said the applicant is her nephew, so she's known him his entire life. She said that many of the people speaking said they came away with a bad feeling. She said she has seen him speak professionally and has never heard him say a bad word about anyone and the applicants are respectful people. She said it's unfortunate the HOA president approved the structure and after the applicants went through the proper steps and neighbors said they didn't like it the president flip-flopped. She went on Property Appraiser and saw a quarter of the homes in the Evergreen community have a standalone building that size or even bigger. She said she didn't know if they had received variances or received forgiveness instead of permission. She mentioned someone said there have never been any variances but someone else

said there has been. She said her nephew has tried to follow proper procedure and it's landed him in a bad place. She said change is difficult and people were used the previous owner living there. She said they cleared out things that anyone would clear out in their own home. She said they're not trying to pull anything over anyone's eyes, they are straightforward people.

Meg Wertin spoke in favor of the application. She said Ryder is her son and she will speak to his character and hobbies. She said he's into woodworking and cars. She said he is intelligent and articulate. She said both applicants travel a lot for work so that's why they haven't been able to address everyone's concerns. She said she doesn't know if they'll be here for six years or longer, they purchased the property because it is their dream home. She said the applicants have gone through the proper steps after getting approval from the HOA and she thinks that now the neighbors are nervous. She said there's many accessory buildings in the neighborhood. She also saw volleyball courts or renters which are issues according to the covenants. She said the large properties require a lot of maintenance and eventually some older residents will move out. She ended by saying she thinks there's a lot of information given that isn't factual about their plans.

Ms. Clements asked for clarity on the HOA approval. She said it was originally approved for a greater than 700 sq. ft. structure. The full 2,600 sq. ft. structure was approved by the HOA.

Ms. Wertin said she believes that is correct and he proceeded with the next steps based on the approval he received in writing.

Jon Myers came up to address the approval. He said the original design schematic was submitted as a 40 by 60 but it was scaled down so when the design committee looked at it, they didn't understand how it would sit on the property. It was only about 60% of what the actual design would look like.

Ms. Clements said the person that would have approved that was aware that 700 sq. ft. was the maximum.

Mr. Myers said yes, it's in the covenant.

Ms. Clements asked if anyone had a copy of the document they signed where it would say 700 sq. ft. was the maximum.

Mr. Myers said the real estate agent would have that.

Mr. Huffman clarified that she was asking for the meeting of the HOA where the proposed structure was approved.

Mr. Myers said it was all by text.

Ms. Clements said so the approval of the 2,600 sq. ft. initially was via text.

Mr. Myers confirmed.

Mr. Huffman asked if it specifically said 2,600 sq. ft.

Mr. Myers said he thinks it said estimated and it had a couple conditions, no commercial use, maintain foliage.

End Public Comment

Paul Body said he'd like to address the board before the applicants come back up. He stated that when the staff comments were turned on May 19th, it was stated there were no code enforcement action pending with Brevard County Planning and Development. Since then, it has come up that yesterday on June 17th there is a code enforcement on the property now for unlicensed industrial business operating from a residential zoned property. This was turned in yesterday, it has not been investigated yet.

Mr. Huffman asked if the complaint elaborated on what they thought was the industrial.

Mr. Body said no, there's some pictures of the different stuff on the property. Case number is 25CE-00951. He said it appears the pictures are from the Port St. John property.

Mr. Huffman said that was going to be my next question.

Kristen Champion said from what she could see this was brand new and hasn't been investigated by the code enforcement officer. She said she opened initial pictures, and it appears to be for the Port St. John property. It would need further determination.

Mr. Wertin said he wanted to speak to the timeline regarding approvals of the variance application. He said the initial structure proposal dates back to end of April. They had written approval from the President of the HOA and the design committee review chair within the HOA. The written approval was via email, not text. He said there was further correspondence that was handled via text and the core of that was related to an additional visit following the approval to see if it would be viewable from the road, which it wouldn't be. The applicants were asked to submit in writing that they would plant vegetation or shrubbery to help occlude the line-of-sight concerns and they'd be good to go.

Ms. Clements asked if that was with the walkthrough.

Mr. Wertin said that was in the wake of the property walk down, but after approval of the 26 by 40 sq. ft. structure.

Kelsey Shepard started by saying they are two young professionals who have very mandating jobs. We moved into the property in March but not fully moved in because they had to redo the roof and other issues that needed to be addresses. She said they also own two other properties in Port St. John that they are currently renovating and moving out of so they're between the two. She also mentioned they both travel internationally and domestically for their jobs. She said the neighbor that reached out via phone they were able to address and do a walk through with them. She said other neighbors who knocked on their door they were not home and there isn't a way to tell who came to knock on their door. It was never their intention to disregard and those who reached out via phone they were able to address. She said they just want to live a beautiful life and do the hobbies they want to do. She believes the accusations made against them are false in many ways, she's not sure where they came from. They moved forward with this in a way that's professional and appropriate. They followed the rules and received written approval from the HOA to move forward with that size building. She said that people commented about noise. They are doing yard work; they have vines everywhere and when they use a weed whacker against the vines it makes an awful noise.

Mr. Wertin said he would try to address each of the residents' concerns. He said he shares the leakage concern and knows that the association relies on well water, and he would be the last person to willingly and knowingly put something on top of the soil that would seep into our own drinking water, let alone the neighbors. He said a lot of what's pictured on the non-subject property are ornamental in nature and don't have the capacity to house chemicals that would be of concern. He suspects the gas smells that were witnessed while trespassing on both properties come from the mower shed which has gas and oil to maintain the mowing of that lot. He said the last week of March some trees were trimmed on a neighboring property and those were thrown over our side of the fence with no regard to anything we have going on. He also said there is no business and never has been a business. It's not industrial in nature, it's purely from a hobbyist perspective. He said they spoke about the 700 sq. ft. restriction with the HOA president. He said they're new members to the community and the board members who approved it would have been privy to the CCRs and covenants restricting building size.

Ms. Clements asked if he was aware of the 700 sq. ft. restriction.

Mr. Wertin answered they had a copy of the addendums and a draft copy of the bylaws which were met and tabled and ultimately not incorporated into the very dated CCRs and declarations for the community. He said they did get an old one that they weren't sure if it was accurate because it was written in the late 1970s, and they were forwarded a draft of the bylaw additions through their realtor. They were sent the full CCR documents recently after asking where the 700 sq. ft. limit was written. Those documents were forwarded by the same board members who originally approved the structure size of 2,640 sq. ft. He said they were fully aware of the requirements when they approved the structure. He addressed the drainage concerns and said he believes all the 44 homes have some sort of asphalt or concrete driveway. He said the building does not encroach on the drainage easement. He said in regard to the building blocking the absorption of rainwater, installation of a swimming pool, a driveway extension, or screened enclosure would do the same thing.

Mr. Wertin continued to say the scale drawing that was mentioned. The rear of the property is 150 ft. wide. In the original building proposal, he provided dimensions of the building. He said the CAD software he used to scale the property against the survey provided during the closing of the house was used to make sure the 40 by 60 building was to scale even if the dimensions weren't present. He said he has worked on the Space Coast for years and is familiar with the wildlife. He sees Gopher Tortoises at work frequently but has never seen them on his property and is familiar with their nests. He also said it was mentioned the building is far too large. Mr. Wertin said this is subjective. He's not sure what he does for hobbies, but he feels he has proposed what would be sufficient for themselves.

Mr. Wertin said there was a comment about not maintaining the natural landscape. He isn't sure how they would maintain the natural landscape before provisions for the structure have commenced. The vegetation was invasive and destructive to the mature trees they want to keep. He feels they have been forthcoming and approached the process responsibly. When he was asked if they could do a walkthrough to better understand the proposal he accepted and walked the property and neighborhood. Everything they have conveyed is absolute, it's what they are in pursuit of. He said he knows there's been friction in the past for buildings larger than what was approved going up. He said that's not something they would want to be associated with. He said he didn't understand the argument for removing invasive species of vegetation when neighbors cleared their properties. He read on the CCRs that the height isn't to exceed 20 ft. He doesn't plan for this to be an accessory dwelling of any kind.

Mr. Wertin addressed the grinding of metal, he said he wasn't sure what they're referring to. There is a tool they use to cut through thick vine, and it sounds like a circular saw. He said the property needs immediate improvements. He mentioned the roof that they had to replace and the vegetation surrounding the principal structure was not maintained over the last 20 years with the previous owner. He said a big draw to this property was the forest nature and they would not want to make changes that would create detriment to the general aesthetic. He said they heard from people who had been there for a couple years, 3 or 4 years, or 3 decades and they said Evergreen used to be exclusive and beautiful. They've been there 3 months, so he doesn't know why they're carrying the liability tied to what is used to be. He said there was also mention of a shed he already had on his property, it holds the hurricane shutters for the property and it's rotting into the ground. The building tied to this variance would be far beyond that.

Mr. Wertin said there were mentions of the proposed structure's height and how it had never been discussed. They have never said it's going to be taller than 20 ft. He said there seems to be projects in the neighborhood that have taken place without HOA approval. They have communicated their intents clearly and there's no malicious intent behind this. He addressed the FPL access concerns. He said it aligns with the driveway side of the house. He said FPL would have had to drive over a septic drain field on their property, so he doesn't believe they've used their property to access the lines.

Ms. Clements asked if there was any compromise to the 2,600 sq. ft.

Mr. Wertin did not say no, but he feels a 40% reduction would be quite the compromise.

Ms. Clements asked if the variance was approved and the HOA did not approve it, would they need the approval from the HOA.

Mr. Body said that would be a civil issue.

Mr. Huffman asked the applicant to elaborate again on what the building would be used for.

Mr. Wertin said it would be a general hobbyist space which could include woodworking, a couple vehicles, a home gym, and space to store equipment to maintain the properties they own as well as the equipment used to transport the equipment used to maintain the properties.

Mr. Huffman said someone mentioned a 14 ft. garage door.

Mr. Wertin said he thinks what was mentioned was that 18 ft. would be required to have a 14 ft. garage door to store an RV or camper. He said it depends on the composition of the building. He said they'd be looking at 14 ft. height which would accommodate a 10 ft. garage door.

Mr. Huffman said there was talk of industrial vehicle disassembly, some evidence of commercial sales. He said the applicant calls it a hobby, but the photos could tend to indicate commercial venture.

Mr. Wertin responded he wasn't sure where the commercial or industrial classification comes. He said if he purchased cabinets, he would sell the ones he doesn't need.

Mr. Huffman said so it's not your intention to bring in vehicles and disassemble them for parts.

Mr. Wertin said absolutely not. He also said the photos of the other property is not what he'd want the subject property to look like.

Dr. Bass said the reason for denial is because it is contrary to the legally state filed homeowner's association, it is an oversized building compared to others in the HOA, and the concern for water drainage by many residents here.

Mr. Huffman stated there is enough negative community interest in this and it's not compatible with the rest of the neighborhood.

Motion to deny Item H.6. by Dr. Joanna Bass, seconded by Jennifer Clements. The motion to deny passed unanimously 3:0.

Item H.7. Kenny and Evelyn Hernandez request three variances of Chapter 62, Article VI, Brevard County Code, for a pool screen enclosure, a pool, and an accessory structure in an RU-1-13 zoning classification. (25V00019) (Tax Account 3016857) (District 4)

Paul Body read the item into the record.

Kenny Hernandez spoke to the application. It is in reference to a pool project they have on their house. His house is a corner property on a cul-de-sac. He said he purchased the home last year and they're planning to make this their retirement home. He said they have tried to be transparent with their neighbors. He said he has a commitment to Martin Pool and purchased a pergola from Paradise Grills, but it can't be delivered until the variance is approved. He doesn't want to be an eyesore; he wants to be an asset to the committee. He wants to be happy with it as well as his neighbors.

Dr. Bass said she visited the property. She asked if the pool screen enclosure was on the cul-de-sac side or the back side.

Mr. Hernandez said he believes it's on the backside.

Dr. Bass asked if he had approval from the St. Andrews HOA to build that close to the neighbor.

Mr. Hernandez said he didn't. He said he had letters of support.

Dr. Bass said how many are there and did they actually say that it would be that close to the property line.

Ms. Champion stated we did not have anything submitted for this application.

Dr. Bass said you have requested a 52% deviation to build a pool 14 ft. from the property line. She asked again if he had a letter from the HOA that agreed to this.

Mr. Hernandez said he did not.

Dr. Bass asked if he asked Martin Pool why they can't design within the property. They're asking you to make a code change. She said you're asking for a complete elimination of the separation between accessory buildings. She said this is not in compliance with Brevard County fire code. She asked if he asked why his contractors are not designing within fire codes.

Mr. Hernandez asked about changing his design.

Dr. Bass said he should ask and check with the fire department.

Mr. Hernandez said he would talk to his contractors.

Mr. Huffman asked about tabling the application.

Ms. Champion said if he's looking to change the request completely it would need to be readvertised. She said the reason for the setback request is because it's a corner lot.

Dr. Bass said he needed approval from the HOA.

Mr. Huffman asked how much time he would need.

Mr. Hernandez said he would start working immediately.

Gregory Hughes said if he came back in 60 days and ended up needing 90, we would have to readvertise.

No public comment.

Motion to table Item H.7. to the 8/20/2025 Board of Adjustment meeting by Dr. Joanna Bass, seconded by Jennifer Clements. The motion to table passed unanimously 3:0.

The meeting was adjourned at 4:15 p.m.