

Board of Adjustment

The Board of Adjustment met in regular session on **Wednesday, August 20, 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 1:36 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; and Jordan Sagosz, Operations Support Specialist.

Approval of the July 16, 2025, BOA Minutes

Motion by Dr. Joanna Bass, seconded by Jennifer Clements, to approve the BOA minutes of July 16, 2025. The motion passed unanimously.

Item H.1. 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) TABLED FROM THE 6-18-2025 BOA MEETING

Paul Body read the item into the record.

Kenny Hernandez spoke to the application. He stated the issue at the last meeting was he didn't have approval from his HOA. He said he was able to get the approval and letters of support from his neighbors. He said he understood that the corner towards the cul-de-sac was the biggest concern. He said the original plan was to go 28 ft. from the house to the rear of the yard. He said he wanted to request cutting the enclosure from 28 ft. deep to 21 ft. along the house. He then said he would close it horizontally so it would give sufficient space. He would be requesting a variance of 7 ft. give or take an inch or two. He hopes this would be satisfactory.

Paul Body stated we didn't have anything that shows Mr. Hernandez has redone this on the survey and we would have to readvertise it for being differently than what is has been advertised. He would have to come back, and have it redrawn on the survey by his surveyor and show those distances so it could be advertised.

Dr. Joanna Bass clarified she didn't ask for the drawing to be changed; she wanted to see letters of approval from the HOA and neighbors. She said she visited the property and the way it was depicted; it does not impede any traffic on the cul-de-sac. She said she didn't have an issue with the variance being requested. She asked if this was the way he wanted to present it to the board, with the letters he provided.

Mr. Hernandez said yes.

Dr. Bass said you have now provided us with the HOA approval and letters of support from the neighbors. Both said they do not have a problem with your plan that was presented to us in the packet.

Public Comment

Warren McKesson said he is a neighbor to Kenny Hernandez. He said he is a HOA board member and was at the meeting where the item was discussed. He said the HOA didn't have a problem with what Mr. Hernandez was asking and had the support from his neighbors.

End 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. Luz Nelly Nogueroles requests a variance of Chapter 62, Article VI, Brevard County Code, for the lot width in an AU zoning classification. (25V00024) (Tax Account 2509830) (District 2)

Paul Body read the item into the record.

Luz Nelly Nogueroles spoke to the application. She said she wanted to divide the five-acre lot into two pieces. She explained that she went before the Board of County Commissioners to have one acre rezoned. In the meeting, she was told to get a BDP. She agreed to it but then realized her flag lot could no longer be called a flag lot because there was not a house attached to the lot. She said she was told she'd have to get a variance for it. She said they did not have any intention of building anything else on the lot and that's why she agreed to it. There's already a single-family residence on the lot and that was the piece that was rezoned.

Jennifer Clements asked what the reason was for the separate parcels.

Ms. Nogueroles explained they wanted to do agricultural on the four-acre lot and have it separate from the residence. She said that meeting took place in May.

Bill Huffman clarified that was a Board of County Commissioners meeting.

Mr. Body said that's correct.

Ms. Clements asked if there was intention of building anything else.

Ms. Nogueroles said, no, nothing at all. She said they just want to do agricultural. She said they've fixed it up, get animals on the land. They've fixed the stable and the barn that are already on the property.

Dr. Bass said it's clear this is property enhancement.

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. Star Rush LLC (Angela Kopnicky) requests a variance of Chapter 62, Article IX, Brevard County Code, for a wall sign in a PUD zoning classification. (25V00029) (Tax Account 3018275) (District 4)

Paul Body read the item into the record.

Angela Kopnicky spoke to the application. She said she's here to represent Whole Foods that is going in off Viera Blvd. Whole Foods is seeking an increase of their sign size from 216 sq. ft. to 536 sq. ft. They feel if this is granted, it would enhance lighting on the properties, which would ensure customer safety and it would allow more visibility from Viera Blvd, since they sit back from Viera Blvd.

Dr. Bass asked if the Whole Foods was going in at the crossings at Viera.

Ms. Kopnicky said yes ma'am.

Dr. Bass said it's bound on the west by I-95 and the east by Murrell Rd. just to get a sense of where we are in this shopping complex. The intersecting road is Star Rush Dr. which runs through the center and around this on all four corners are businesses.

Ms. Kopnicky responded yes, ma'am.

Dr. Bass stated the developer is SJC Ventures, they are the retail developer of this property of which you are renting/leasing the space to build your building. She asked if the request was for a building sign or a monument sign.

Ms. Kopnicky stated just the wall signs, no monument signs. We're going to be on the tenant panel.

Dr. Bass said the picture is of the building, it looks like it's going to be the building sign.

Ms. Kopnicky said yes, no monuments. It's just the building.

Dr. Bass asked if this same request has been presented to the Viera Company's plan review committee who manages the change requests for SJC Ventures.

Ms. Kopnicky said she's been in contact with many people from Brevard County, she said she didn't know at the moment. She's been in contact with George Ritchie, and they have had correspondence about asking for the variance.

Dr. Bass asked who George Ritchie is.

Ms. Kopnicky said he works for Brevard County in the permitting department.

Dr. Bass said alright. She asked if there had been discussion at all with SJC Ventures and their change management board at Viera. She said it's their property.

Ms. Kopnicky said she's speaking on behalf of Kendal Signs representing Whole Foods. She said her correspondence has been with George Ritchie and the actual sign company that hired us to come in and do the sign variance.

Dr. Bass said Viera has the approval rights on the sign especially on the building signs. She stated she's questioning how it can be approved by one half and not the other half.

Ms. Kopnický said she couldn't answer that question.

Mr. Body clarified to Dr. Bass the property is owned by Star Rush LLC. They have an Authorization to Act from the LLC.

Dr. Bass said the people that approve changes to this particular property is through the Viera Plan Review Committee. She asked if they have reviewed it.

Mr. Body said they would only review something if it was changing the amount of square footage of the property being used for commercial use. They wouldn't be reviewing the signs.

Dr. Bass said she spoke to some people at Viera and that was not the impression she got. She asked how much larger Whole Foods than the one across the boulevard, Winn-Dixie.

Ms. Kopnický said she did not have that information. She said she just had the square footage of the building frontage and the side. She didn't know what Winn-Dixie was.

Dr. Bass said the answer to question number one is the signing limitations do not accommodate the operational needs of a grocery store of this magnitude. She said she is asking by comparison to a grocery store which is in the same complex what the difference is, and you don't have the answer.

Ms. Kopnický said I don't have the answer, I live in Port Orange.

Dr. Bass said the application says the increase in signage is driven by the needs of the customer's need to easily locate the store. She stated she drove this road coming here today and was caught by the red light on the crossroad. She could easily read the paper sign hanging on the front of the building announcing Whole Foods is coming soon. That sign is smaller than the one that is going to go on the storefront which is the same size as The Home Depot which is next to it. She questions why it's going to take a sign 100% larger to see it when she can easily read a paper sign that's hung on the building.

Ms. Kopnický responded absolutely.

Dr. Bass said the answer to the next question says the variance will not only benefit Whole Foods but will contribute to a safe environment for the customer. She asked the applicant to explain how a 100% larger sign would enhance the safety of the customers.

Ms. Kopnický explained that the thinking was at night when the lights are on, if the parking lot doesn't provide great lighting, then it will help customers.

Dr. Bass said the parking lots are great. Goodwill is there, LongDoggers, Winn-Dixie, there's plenty of light there. She said she hardly thinks making the sign 100% larger is going to enhance the safety of people.

Ms. Kopnický said she understood.

Dr. Bass said if this request is granted, your sign will be over 100% larger than the existing sign of the two businesses which are part of the Whole Foods building. Not part of the business, part of the building. Jeremiah's and Hand and Stone. She said those two signs are approximately five to six feet tall. She stated she would think that it's 100% larger than the Home Depot sign by comparison next to Jeremiah's. She thinks it would be hard to find their businesses, not Whole Foods. She said that's why she asked about if the association that approves the signage for Viera had approved this or knew that your company was asking for this large of a sign.

Mr. Huffman asked if this was advertised publicly. He asked if everyone had access to the applications advertisement.

Mr. Body said yes, it has been advertised publicly.

Dr. Bass said she was just wondering if they were notified. She asked about the last question and said the response is the variance will facilitate our ability to serve the community better. A 100% larger increase in the sign is going to serve the community better. Perhaps that will overwhelm the signs around it, particularly the Jeremiah's sign.

Ms. Kopnicki said she thinks Whole Foods serves a better purpose than Jeremiah's, but she's here to represent them, not Jeremiah's. She stated her answer would be yes.

Ms. Clements said she wanted to make sure she understood. There are three different depictions of the signage. She asked if all three of the signs is what equates to the 500 sq. ft.

Ms. Kopnicki answered yes ma'am.

Ms. Clements asked if that was standard practice that they do all three of those signs on all the buildings.

Ms. Kopnicki answered yes ma'am.

Ms. Clements said they're just at a smaller scale.

Ms. Kopnicki said if we could reduce the size, I guess we could do that as well, but they wanted to go for that.

Ms. Clements said she's sure it's because of the north facing traffic from 95. She asked if there was anything in between this entire complex, there's no sublets.

Ms. Kopnicki said not that she's aware of.

Ms. Clements asked if the square footage included any of the freestanding signs and are there any variance requests on those.

Ms. Kopnicki said no, ma'am.

Ms. Clements asked if all three of the lights were lit.

Ms. Kopnicki said yes.

Mr. Huffman asked if the increase was for the sum of the signs or an increase for each sign.

Mr. Body stated it's for the sum of the square footage of all the signs. He said they're permitted 216.83 sq. ft. and they're asking for an extra 536.

Mr. Huffman asked which way do the signs face.

Ms. Kopnicky said there are three on the north and one on the west side of the building.

Mr. Huffman said the west side faces 95, that's where you're trying to pick up some visibility there. The other two face Viera Blvd.

Ms. Kopnicky answered yes.

Mr. Huffman asked if there were any businesses between Whole Foods and Viera Blvd.

Ms. Kopnicky said there's a Miller's Ale House.

Mr. Huffman said so you are set back behind.

Ms. Kopnicky said yes, we're set back.

Dr. Bass said there is one building and that is the Miller's Ale House which is on the corner of Viera Blvd. And Star Rush Dr. and it's a smaller building. The rest of it along Viera is parking.

No public comment.

Dr. Bass said is contrary to the public interest.

Mr. Huffman said he tends not to object to this.

Ms. Clements said she feels like there's a compromise. Maybe if they were to come back with a different request, she'd be open to it.

Motion to deny Item H.3. by Dr. Joanna Bass, seconded by Jennifer Clements. The motion to deny passed 2:1.

Item H.4. Jason and Leah Reilly request a variance of Chapter 62, Article VI, Brevard County Code, for a shed in an RU-2-10 zoning classification. (25V00034) (Tax Account 2735992) (District 5)

Paul Body read the item into the record.

Mr. Huffman said he drove by the property. He saw that there was a vacated easement.

Leah Reilly stated there is an easement between her property and the neighbor's property because of a drainpipe that goes from the street to the retention pond in the back. The easement was approved on May 20th. There was no record of exactly where the cement pipe was. The county came through and showed the pipe was more on the neighbor's property. She stated when they bought the property, there was an old shed that had black mold in it. They removed the shed and put in a new

one. It went through several rounds of inspection and that's when the discrepancy was discovered. There's one corner that has a discrepancy of inches that was a mistake by surveyors. It's on a concrete slab and it would be difficult to remove it.

Mr. Huffman asked the applicant how much over are you.

Ms. Reilly answered it wasn't clear to her where the issue is. She said she believes the easement gave about 11 inches in one area. She had the surveyor come back out to make sure the building was in the correct position.

Mr. Huffman said the corner of the building.

Ms. Reilly said yes.

Mr. Body clarified that the Board vacated 2.5 ft. to go just around the outside of the shed. It came up because when the Staff Comments were done with the vacate. He said the variance for the north 7.5 ft. side setback would need to be applied for and approved to comply with zoning requirements.

Mr. Huffman asked we're talking about a discrepancy I can measure with me hand.

Mr. Body said it's 2.5 ft. from looking at the survey.

Mr. Huffman asked if there was enough room to maintain the drainage and how big it was.

Ms. Reilly said she was not sure of the diameter. But when they went through every section to figure out exactly where it was.

Mr. Huffman asked if the pipe was visible from the neighbor's property. He asked if it was the size of his head or as wide as his shoulders.

Ms. Reilly said she could see it and it's maybe about 12-18 inches. She said you could see it close to the top when the water comes out.

Mr. Huffman said if it's small pipe and not very deep it's not hard to access it even if your shed is a little closer to it. He then asked if she had spoken to any neighbors and had anything in writing.

Ms. Reilly said the HOA sent in approval with the easement package and her neighbor signed a document with the easement package as well.

No public comment.

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

Item H.5. Brian J. Lewis and Christa Obermayer-Lewis request a variance of Chapter 62, Article VI, Brevard County Code, for an accessory structure in an AU zoning classification. (25V00035) (Tax Account 2314111) (District 1)

Paul Body read the item into the record.

Brian J. Lewis spoke to the application. He stated he was requesting a variance because there was a carport put there. We bought the property in February of 2023 and the carport was already there. It came up because we were doing renovations on the house, and everything went through but there's a problem with the carport.

Ms. Clements asked if they were looking to do anything different with the structure or if they're just looking to legitimize the carport.

Mr. Lewis said yes, we bought it that way and he'd like it to stay there.

Ms. Clements asked if it was in good condition or if it was dilapidated.

Mr. Lewis said no, we have a beautiful home, we had no idea this was done incorrectly.

Ms. Clements asked how they figure out the carport was done incorrectly.

Mr. Lewis said they were adding into the house and the construction guys said we needed a variance, or it needed to be taken down. He said they came down and filled out the paperwork and put on there that almost everyone where they have a carport in the front. It's already existing, we just want to leave it there.

Mr. Huffman asked if the applicant said the carport was there when they bought the property.

Mr. Lewis 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.

Item H.6. William S. Simmons requests a variance of Chapter 62, Article VI, Brevard County Code, for a dock in an RU-1-9 zoning classification. (25V00036) (Tax Account 2408868) (District 1)

Paul Body read the item into the record.

William Simmons and Jaileen Hernandez spoke to the application. He stated he had the dock built and the Brevard County inspector came out and said everything looked good. A week went by, and they put the roof on. The dock builder then told him that the County is saying it's not right. He said he had a friend look at his survey and said the dock was over 16 ft and that's why he needs a variance.

Dr. Bass stated your property is at the terminal point of the waterway and there's no house on the right or the left. You are not blocking anybody's dock by your five inches. Your five inches is not going to impact any other person on this waterway.

Mr. Body clarified that variance is for 0.5 ft.

Mr. Huffman asked if when they come out and do the inspections if there is a box they sign.

Mr. Body said they look at the structure and make sure it's built per the plans. Every single dock must have an as-built survey. The problem with this one was the dock was measured off the seawall in the as-built survey. The seawall is at an angle compared to the property line.

Mr. Huffman said we run into this all the time.

No public comment.

Motion to approve Item H.6. by Jennifer Clements, seconded by Dr. Joanna Bass. The motion to approve passed unanimously.

Item H.7. Daniel Owen Mitchell (Melissa Newman) requests two variances of Chapter 62, Article VI, Brevard County Code, for an accessory structure in an RU-1-9 zoning classification. (25V00037) (Tax Account 2727811) (District 5)

Paul Body read the item into the record.

Daniel Mitchell spoke to the application. He stated he's requesting two variances today to put a utility shed on his property. He said the way the property is laid out creates a limited yard space. The shed would be used for storage of lawn equipment, bikes, and tools. He stated he has spoken to his neighbors and ensured they're satisfied with his plans.

Mr. Huffman said he drove by the property, and he can see from the survey it's back in the corner. He asked the applicant if he has spoken to the neighbors and received letters of support.

Mr. Mitchell said he spoke to the neighbors but did not get written support.

Mr. Huffman asked how much of a variance he was seeking.

Mr. Body said he's looking for a 3 ft. setback. It's a 4.5 ft. variance on each side.

Mr. Huffman asked if there was a fence around the corner and how tall the fence was.

Mr. Mitchell said there's a fence on all sides, and the shed is a little bit taller than the fence. He said maybe 2 ft.

Mr. Huffman said they'll see mostly the roofline.

Mr. Mitchell said correct.

No public comment.

Motion to approve Item H.7. by Jennifer Clements, seconded by Dr. Joanna Bass. The motion to approve passed unanimously.

Item H.8. Langford Harrison and Jessica France Covington request a variance of Chapter 62, Article VI, Brevard County Code, for an accessory structure in an RU-1-11 zoning classification. (25V00038) (Tax Account 2608866) (District 4)

Paul Body read the item into the record.

Langford Covington spoke to the application. He stated the house was built in 1963 and it's very far back towards the rear property line. He stated they would like to put a roof structure within 5 ft. of the back of the home to give a little bit of relief from the sun. It's not going to be impeding and side or rear setbacks, it's just to build it within 5 ft. of the existing home. He said they'd be going over previous impervious structure so there will be no issues as far as increasing impervious area to the property.

Dr. Bass stated she went to the property and walked around. The design does not extend past the existing patio area, and it will be set on the existing patio. There will be no land infringement to the adjoining neighbors. She said the roof will not impede neighbors' views of the waterway or impede boat traffic. She asked if the proposed structure being called a pergola in the staff comments will have any affect on the Board approving this item.

Greg Hughes said no.

No public comment.

Motion to approve Item H.8. by Dr. Joanna Bass, seconded by Jennifer Clements. The motion to approve passed unanimously.

The meeting was adjourned at 3:00 p.m.