

## BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, June 19, 2019, in the Atlantic Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Chairman George Bovell presiding, to consider the following requests:

Board members present were: Jack Higgins, District 1; Chelsea Partridge, Alternate, District 1; Michael Hartman, District 2; Dale Rhodes, Vice Chairman, District 3; George Bovell, Chairman, District 4; and Dale Young, District 5.

Staff members present were: Alex Esseesse, Assistant County Attorney; Paul Body, Planner II; and Jennifer Jones, Office Assistant II.

The five regular members voted throughout the meeting.

The Chairman, George Bovell, 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 George Bovell explained the procedures of the Board of Adjustment.

All speakers were sworn in by the Chairman at the beginning of each item.

### **Approval of May 15, 2019, Minutes**

Motion by Dale Rhodes, seconded by Jack Higgins, to approve the May 15, 2019, minutes. The motion passed unanimously.

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

### **(19PZ00052) Norman Gustav and Brenda Joan Ring**

Request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1336(5)(c)(2), to permit a variance of 6 feet from the required 50-foot side (west) setback for a barn and stall, in an RR-1 (Rural Residential) zoning classification. The property is 2.51 acres, located on the south side of Saturday Place, approximately 950 feet west of Friday Road. (5065 Saturday Place, Cocoa) (District 1)

Norman Ring, 5065 Saturday Place, Cocoa, stated when building his fence he was able to push the gate 8 feet to save two oak trees, but now the barn is being built and he forgot about the setbacks for the barn, so he is asking for 6 feet into the 50-foot setback.

Jack Higgins stated in looking at the area, what the applicant is requesting would not pose any problems to anyone, and he is in support of the variance.

Dale Young stated there is another building that is 26 feet off of the property line, and asked the difference between those setbacks and the setbacks for a barn.

Paul Body replied barns require larger setbacks than accessory buildings; accessory structures require 15 feet from the side and rear property lines; and barns have to be 125 feet from the front property line, and 50 feet from the side and rear property lines.

No public comment.

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

**(19PZ00058) Scott E. and Olivia R. Wondrely**

Request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2121(a), to permit a variance of 1-foot from the required 10-foot setback for a structure from a seawall, in an RU-1-11 (Single-Family Residential) zoning classification. The property is 0.18 acres, located on the north side of South Shelter Trail, approximately 95 feet east of West Port Road. (1670 South Shelter Trail, Merritt Island) (District 2)

Scott Wondrely, 1670 South Shelter Trail, Merritt Island, stated the variance request is for a pool, and his hardship is that between the excavation form and his survey he needs 10 feet from the outside of the pool bowl to the seawall; currently, he is 9.3 feet, so he is 7 inches shy. The form board surveyor gave him the okay to proceed, and the County inspector also gave him the okay to proceed. After getting those approvals he submitted his form board survey and there were no issues when he gave it to staff, so he proceeded with the pool. He said after the concrete was in place someone from Natural Resources Management called him and mentioned that he failed his form board survey. He concluded that it is a financial hardship if he doesn't get the variance, and the variance would not interfere with his neighbors.

Michael Hartman stated he lives on a canal also, and 7 inches is not going to make a difference to anybody. He said the other pools in the area are similar, and the applicant will not be impeding anyone, so he is in favor of the variance.

George Bovell stated compared to the other pools in the neighborhood he does not have a problem with the request.

No public comment.

Motion by Michael Hartman, seconded by Jack Higgins, to approve the variance as depicted on the survey provided by the applicant.

**(19PZ00059) Kurt D. Panouses, Trustee (Christopher Burton)**

Requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2123(b), to permit a variance of 10 ft. from the required 20-ft. setback for a swimming pool on a major natural water body, in an RU-1-13 (Single-Family Residential) zoning classification. The property is 0.38 acres, located on the west end of Nikomas Way, approx. 0.60 mile west of Mohican Way. (471 Nikomas Way, Melbourne Beach) (District 3)

Jason Lee, Burton Homes, 815 Orient Avenue, Altamonte Springs, Florida, stated the variance is for an additional 10 feet for a pool. He explained the lot was platted prior to 1972 and due to the complex nature of the lot being located at the end of a cul de sac, there is an easement encroachment in the front and a shallow lot line to the northwest, and fitting the house on the lot has proven to be difficult, in addition to the setbacks from a major waterway. He stated there is very little room for a pool, short of reducing the square footage of the home quite substantially. He noted based on the current land values of the property, it also presents a financial hardship in that aspect. Granting the variance would not allow them to gain any additional lot coverage or impervious coverage, so they are

proposing to keep everything else within the guidelines. The adjacent properties about a canal on either side, and canal front lots have lesser setbacks.

George Bovell stated to build on the lot, they would have to build a house that's consistent with the value of the community and land value. He said there are a lot of hurdles they will have to deal with, but on the surface of the request he doesn't see any issues.

Dale Rhodes acknowledged the easement on the front of the property, and asked what the front setbacks are. Paul Body replied the front setback is 20 feet, and the side setback is 7.5 feet, and 5 feet for a pool, and the pool cannot be in any easements. He said because it is a double frontage lot on the river, there is a 20-foot setback from the river.

Mr. Rhodes asked if the pool deck comes within 5 feet of the seawall. Mr. Lee responded yes, they are building an elevated pool deck, so it's not a solid surface pool deck. He said it is being built like that to account for water retention, which was suggested by Natural Resources, and he agrees.

Mr. Body stated the setback for the pool is 10 feet from the seawall; decks are not considered to be structures that need to meet setbacks from the seawall. He stated pool screen enclosures are allowed to be 5 feet from a seawall.

Mr. Rhodes asked if the property owner could ask for variance for a screen enclosure in the future. Mr. Body replied yes.

Mr. Lee stated he has spoken with both of the neighbors and neither of them have objections. He said the owners have agreed not to place a screen enclosure over the pool because they do not want to encroach on either of the neighbors' view; they want to keep it as low-key as possible.

Mr. Rhodes stated he did the measurements on the other pools on the street, and from what he can see, the applicant's pool would be the only one encroaching into the setback. Mr. Lee stated that is correct. Mr. Rhodes stated he has concerns with the pool deck being so close to the seawall.

Mr. Lee stated they spoke with Natural Resources and Mr. Body, and they are maintaining all the retention on the property. He stated they did not have to speak to St. Johns River Water Management District because the deck is elevated, they aren't encroaching on the lot coverage or impervious area, and all of the retention will remain on the lot in a retention pond on the property.

Mr. Rhodes stated he still has some concerns with being that close with the deck. Mr. Lee stated the property owner recently had the seawall repaired and replaced, so there is an additional 20 inches based on the new seawall location.

Chris Burton, 500 North Riverside Drive, Indialantic, asked Mr. Rhodes if his concern was with the deck itself. Mr. Rhodes stated his biggest concern is coming within 5 feet of the seawall, which is the deck. Mr. Burton stated there is no ability for the pool to have a screen enclosure placed on an elevated deck. Mr. Rhodes said he understands the issue and design of the lot, but the issue he has is coming so close to the waterway.

Mr. Body stated if the lot was on a canal, they would not need a variance. They are before the board today because the lot is on a double frontage lot on the river. If the lot was on the canal they could be within 10 feet and have a screen enclosure with a 5-foot setback.

Mr. Rhodes stated Mr. Body's explanation helps.

Mr. Hartman stated based on the site plan, it looks like the builder put a lot of thought into the design, and he likes that they have planned to retain the water on the site, so the runoff from the deck will be directed to the retention pond instead of the river.

Mr. Rhodes stated the new information he has received dissuades much of his concerns. He said he just wanted to make sure there is no additional issue for the river that someone will have to deal with later.

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

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