

BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, July 17, 2019, in the Commission 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: George Bovell, Chairman, District 4; Dale Rhodes, Vice Chairman, District 3; and Jack Higgins, District 1.

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

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 June 19, 2019, Minutes

Motion by Dale Rhodes, seconded by Jack Higgins, to approve the June 19, 2019, minutes. The motion passed unanimously.

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

(19PZ00071) Karen L. Ralston, Trustee

A variance request of Chapter 62, Article VI, Brevard County Code, Section 62-2118(d)(3) to permit a variance of 3 ft. over the 16-foot maximum projection into the waterway for a boat dock, in an RU-1-13 (Single-Family Residential) zoning classification, on 0.33 acres, located at the west end of Arrowhead Lane, approx. 0.53 mile west of Nikomas Way. (432 Arrowhead Lane, Melbourne Beach) (District 3)

Micah Lloyd, 1110 Riverside Drive, Titusville, stated he owns the dock company that constructed the dock on the subject property, and when they applied for a building permit there was a notation made that they measure from the property line and not the seawall; his dock foreman did not get that note, and by the time the dock was built three days later, he sent a surveyor out and the dock was built from the seawall and not from the property line. He said the boat house was constructed to an 8-foot 6-inch interior, so they started the pilings from the seawall, and inside-to-inside is 8.6 feet. He said he told his client they would have to lose the walkway along the side of the side of the boathouse, in order to fix the mistake, but they preferred ask for a variance instead. He stated the request is for the minimum to make the dock conforming; staff has researched the width of the canal and it's oversized in that area, so it will not encroach on anyone's rights.

Dale Rhodes stated the canal is approximately 80 feet wide, and there is another dock on the other side, so there is still 40 feet between his client's boat dock and the neighbor's. He said he doesn't see any issues.

George Bovell stated the presentation is straight forward and he does not have any issues.

No public comment.

Motion by Dale Rhodes, seconded by Jack Higgins, to approve the variance as depicted on the survey provided by the applicant. The vote passed unanimously.

(19PZ00073) John L. Jackson, Trustee (Bruce Moia)

A variance request of Chapter 62, Article IX, Brevard County Code, as follows: 1.) Section 62-3316(b)(5), to permit a variance of 115 feet over the 20-foot maximum height limit for a freestanding sign (high-rise sign); 2.) Section 62-3316(b)(2), to permit a variance of 513.6 square feet over the 150 square-foot maximum allowable sign surface for a freestanding sign (high-rise sign); 3.) Section 62-3316(b)(2), to permit a variance of 501.49 square feet over the 300 square-foot maximum freestanding aggregate sign surface (high-rise sign and street signs); 4.) Section 62-3316(a), to permit a variance of 814.03 square feet over the 930.42 square feet total signage allowed for all signs; 5.) Section 62-3316(f)(2), to permit a variance of 14 square feet over the 4 square-foot maximum allowable sign surface area for each ingress and egress directional sign; 6.) Section 62-3316(f)(3), to permit a variance of 3 feet over the 4-foot height limit for ingress and egress signs as measured from the top of the sign to the grade of the road nearest the base of the sign, for directional signs; 7.) Section 62-3316(c)(2), to permit a variance of 107.04 square feet over the 158.25 square-foot size limit for a wall sign on the south size of the Love's building; 8.) Section 62-3316(c)(2), to permit a variance of 44.14 square feet over the 90.5 square-foot size limit for a wall sign on the east side of the Speedco buildings. Requested variances are in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on 16.4 acres, located on the north side of State Road 46, approximately 0.2 mile west of the I-95 and State Road 46 interchange. (No assigned address. In the Mims area.) (District 1)

Rick Sheffield, Vice President of Real Estate and Development for Love's Travel Stops, and he will be representing the owner and Love's.

Dale Rhodes asked staff if the board is required to approve all of the requested variances. Mr. Body replied the board can approve each one on its own. Mr. Bovell stated he would like to hear the reason why the standard sign area and height will not work on the site.

Mr. Sheffield displayed a PowerPoint presentation to the board (the presentation can be found in file 19PZ00073, located in the Planning and Development Department). He stated within the confines of the Love's Travel Center there will be an Arby's Restaurant, a convenience store, a Speedco oil, tire and minor mechanical repair shop, as well as fueling for all vehicle types. He said if the property were split up there could be six or seven different configuration of signs everywhere, but theirs in compact and all in one, with several different businesses. He noted the Brevard County Code doesn't really address multiple businesses very well, for their particular situation. He mentioned they are planning to signalize the connection point at the T intersection entryway, as well as putting a right-hand deceleration lane to turn into the facility, and a left turn lane to turn into the facility, and a right-hand acceleration lane coming out of it. He said there will be extensive road work to ensure good traffic flow, part of which goes back to the directional signs, because drivers need to be able to read them, so from a safety standpoint it's very important. He noted they will time the signals with the other nearby signals. He said the variance request that is probably the largest is the height and square footage of the high-rise sign. He stated the height variance is based on the obstacles to get over so that people can see the sign; the proposed sign is 1,200 square feet and that is because there will be so many businesses on the site, plus the fuel prices; the proposed sign is 135 feet and 663 square feet, and it will be on T-bar which allows the height to shrink. He said when they identify a site for a

new project, the first thing they do is figure out what they need for signage. In order to do that they put up either a blimp or a crane at various heights and then drive the highway to determine whether or not there will be visibility; and the bottom of the signage is where you want visibility. He said they used the U.S. Sign Council code as a base and made sure they stayed under that while looking for readability and safety; as a general rule, they like to have three-tenths of a mile from where the off ramp starts in order to give trucks time to change lanes if they need to. He said based on the speed someone is traveling, the readability changes. The Sign Council has various calculations based on speed, distance, and height; if someone is traveling at 70 miles per hour, the sign needs to be at a particular height. He said they consolidated the best they could in order to ask for the least amount of area as possible and still make the sign work. He said for the subject property a blimp was placed at 100 feet and then moved it to several different locations on the property and determined the best location is to the north, as close to the interstate as possible. He stated the proposed sign will be above the tops of the trees by about 10 feet to take into account the future growth of the trees. He stated the request is consistent with other development along the interstate; the current sign regulations do not consider multiple businesses in a single development, and each one of the businesses need a unique identity. He noted there are no available billboards to help supplement what they would like to do from a signage standpoint. With proper signage, the subject property is perfect for the project and the services it will provide. He stated the hardship on the property is the trees and the height of them; if they went by the Code, the sign would not be visible at all. He stated the granting of the variance will not be detrimental to the adjacent properties, and he sees it as being positive for the area.

George Bovell stated he visited the property and the applicant has answered a question he had regarding determining the height of the sign. He noted the trees are very close to the highway, but the way the sign will be positioned, he doesn't see a problem approving the variance.

Jack Higgins stated he knows the signs play a big role in if someone exits the highway, and he doesn't see that the signage would be harmful to anyone in the area.

Dale Rhodes asked if one of the variances to square footage is for the sign that is 135 feet tall, and the other is for the sign that will be in front of the station. Mr. Sheffield replied yes, and there is also a request for total area square footage.

No public comment.

Mr. Sheffield stated having the proper signage to direct traffic into the location and create a situation that's safe is very important to what they do.

Motion by Jack Higgins, seconded by Dale Rhodes to approve the variance as depicted on the plans provided by the applicant, with the condition that Variance request Number 1 not have antennas placed on the sign. The vote was unanimous.

(19PZ00074) Ryan T. and Lindsey Nicole Travis (Crystal Travis)

A variance request of Chapter 62, Article VI, Brevard County Code, Section 62-1334(5)(a), to permit a variance of 11 feet from the required 20-foot minimum rear setback for a principal structure, in an AU (Agricultural Residential) zoning classification, on 2.50 acres, located on the west side of Fleming Grant Road, approx. 320 feet west of Mockingbird Lane. (9590 Tortoise Lane, Micco) (District 3)

Crystal Travis, 9590 Tortoise Lane, stated she is representing her son, Ryan Travis, and what they want to do is add a lanai to the home. She explained that the owners who originally built the house built it right on the setback line; they are on the river, so there is an additional 80 feet between the property line and the river, so they would like to enjoy the river frontage.

The board members all stated they do not have any questions for Ms. Travis.

No public comment.

Ms. Travis expressed appreciation to the board for its consideration.

Motion by Dale Rhodes, seconded by Jack Higgins, to approve the variance as depicted on the survey provided by the applicant. The vote passed unanimously.

(19PZ00076) Titus M. and Emily E. Green

A variance request of Chapter 62, Article VI, Brevard County Code, Section 62-1339(5)(a), to permit a variance of 15 feet from the required 25-foot side street setback for a principal structure in an EU (Estate Use Residential) zoning classification, on 0.37 acres, located on the north side of Park Ave., approx. 0.17 mile west of N. Tropical Trail. (650 Park Ave., Merritt Island) (District 2)

Emily Green, 3382 Tipperary Drive, Merritt Island, displayed a PowerPoint presentation to the board (the presentation can be found in file 19PZ00076, located in the Planning and Development Department). She stated she and her husband bought the subject property in March, but before doing that, they contacted the listing agent to find out the setbacks, and was told the building setback requirements from Park Avenue was 25 feet from the front property line, 20 feet from the rear, and 10 feet on each side; and the front of the property could either be the Park Avenue side, or the river side. She said they assumed the listing agent was correct about the setbacks, but she also called the Planning and Development Department, who gave her the same setback information. She said they then began the process of selling their home and designing their new home on Park Avenue. The architect asked them to confirm the setbacks again, and that the frontage could be the river, and that the side setbacks were 10 feet; otherwise, they would have to build a narrow house, which they did not want to do. She called Planning and Development again, and the same setbacks were given to her, so they continued with the process of selling their home and moving into a rental. She said they were almost finished with the design process in June when their engineer told them he thought the lot would be considered a key lot, and explained the setbacks they had been given were incorrect, and that they would actually have a requirement of a 25-foot setback from the right-of-way instead of the 10-foot setback from the key lot side. She called Planning and Development again and was told that the engineer was correct about the 25-foot setback from the right-of-way. She stated she went to the Planning and Development Department where it was explained to her that she would need to request a variance. She said they probably would not have purchased the lot if they had known the actual setbacks because of its narrowness. She referred to a letter submitted by their engineer, Clayton Bennett (the letter can be found in file 19PZ00076, located in the Planning and Development Department). She noted that a variance was granted on a property two lots to the south of her lot.

Dale Rhodes read into the record letters in support of the requested variance. (The letters can be found in file 19PZ00076, located in the Planning and Development Department.)

George Bovell stated Ms. Green's presentation was very good and he does not have any questions.

Jack Higgins and Mr. Rhodes both stated they also do not have any questions for Ms. Green.

Public comment

Kevin McCann, 137 South Courtenay Parkway, Merritt Island, stated he is in support of the requested variance. He said it's clear from Ms. Green's presentation that they have the facts on their side, as well as research.

Richard O'Hearn, 635 Park Avenue stated he submitted a letter in support of the variance request.

Ms. Green expressed appreciation to the board for its consideration.

Motion by Jack Higgins, seconded by Dale Rhodes, to approve the variance as depicted on the engineering plans submitted by the applicant. The vote was unanimous.

Upon consensus, the meeting adjourned at 2:43 p.m.