

BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, October 19, 2022, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Chair Bill Huffman presiding, to consider the requests below:

Board members present were: Jack Higgins, Vice Chair, (D1); Kevin McCann, (D2); Dale Rhodes (D3); Bill Huffman, Chair, (D5); and Dave Neuman (Alt. D5). The District 5 alternate was not eligible to vote on any items.

Staff members present were: Becky Behl-Hill, Assistant County Attorney; Jeffrey Ball, Planning & Zoning Manager; Paul Body, Planner III; and Jennifer Jones, Special Projects Coordinator.

Bill Huffman called the meeting to order at 1:30 p.m.

Paul Body explained the function of the Board of Adjustment; George Bovell explained the definition of a hardship; and Bill Huffman explained the procedures of the Board of Adjustment. All speakers were sworn in at the beginning of each item.

Approval of September 21, 2022, Minutes

Motion by Jack Higgins, seconded by Kevin McCann, to approve the September 21, 2022, minutes. The motion passed unanimously.

Robert J. Woodhouse

Variations from Chapter 62, Article VI, Brevard County Code, Section 62-1334(4), to permit a variance of 1.51 acres from the required minimum 2.5-acre lot size in an AU (Agricultural Residential) zoning classification, currently zoned GU (General Use). The property is 1 acre, located on the south side of Detroit St., approx. 323 ft. west of Hartville Ave. (3735 Detroit St., Cocoa) (22V00006) (Tax Account 2441057) (District 1)

Robert Woodhouse, 3735 Detroit Street, Cocoa, stated he would like to build an accessory building to accommodate equipment, but when he applied for the permit he was told the lot will not accommodate the building he ordered. He pointed out that most of the lots in the area have the same size accessory buildings, or larger, than the one he has purchased.

Jack Higgins asked if Mr. Woodhouse plans to use the building for commercial purposes, and stated the equipment he plans to store appears to be commercial in nature. Mr. Woodhouse replied the equipment is not for commercial use. He explained he has a tree farm in South Carolina and he brings equipment back and forth to have it maintained in Florida because it is where he spends most of his time.

Dale Rhodes asked Mr. Higgins if he observed other properties in the area. Mr. Higgins replied it is a mixture throughout the community, but it does coincide with others in the vicinity.

Mr. Rhodes asked staff if the applicant is seeking to rezone the property to AU (Agricultural Residential). Paul Body replied yes, because AU would allow an accessory structure of any size, as long as it meets the setbacks. Mr. Rhodes asked if he could not build a building with the approval of the variance, he would just be able to move forward on the change of zoning. Mr. Body replied the size of the building he wants could not be built with the current GU (General Use) zoning classification.

Mr. Higgins asked the size of the proposed accessory building. Mr. Woodhouse replied it is 30 feet by 50 feet.

Mr. Rhodes asked if the purpose of the building is to store equipment. Mr. Woodhouse replied yes. Mr. Rhodes asked if Mr. Woodhouse has spoken to his neighbors about his request. Mr. Woodhouse replied yes, and they do not have a problem with the proposed building size.

No public comment.

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

Mr. Rhodes stated he has concerns about allowing a building of that size on a 1-acre parcel when it should be a 2.5-acre parcel. He said there is a reason 2.5 acres is required for AU zoning, because it allows for large accessory buildings.

Mr. McCann stated the zoning map of the immediate area shows more than 40 agriculturally-zoned properties, the majority of which are the same size as the subject property. He said he thinks it is consistent with the area and with the potential zoning change.

Bill Huffman read aloud the six criteria for a hardship and explained the justifications for denying the variance.

Mr. Huffman called for a vote on the motion as stated and it passed 3:1, with Dale Rhodes voting nay.

Rod E. Brown

A variance of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 2100.5(1)(b), to permit a variance of 32 sq. ft. over the total floor area of the principal structure (1,568 sq. ft.) allowed for all detached structures; 2.) Section 62-2100.5(1)(d), to permit a variance of 984 sq. ft. over the 616 sq. ft. (50% of living area of principal structure) allowed for an accessory structure, in an RU-1-11 (Single-Family Residential) zoning classification. The property is 0.34 acres, located on the north side of Grove Park Lane, approx. 125 ft. west of N. Tropical Trail. (520 Grove Park Lane, Merritt Island) (22V00032) (Tax Account 2420924) (District 2)

Rod Brown, 520 Grove Park Lane, Merritt Island, stated he would like to build a garage for cars and lawn equipment to protect them from the weather. He said because of the size of his house, he is limited on the size of garage.

Discussion ensued between the board and staff on the percentage of deviation from code for the second variance request.

Bill Huffman stated it appears the applicant is asking for a 150% deviation from what is allowed by code.

Jeffrey Ball stated that is correct, and noted the request is for a property that is zoned single-family residential, and there is a cap for accessory structures of 50% of the living area or 600 square feet, whichever is greater. Based on the living area of his home, the applicant is only allowed to have 658 square feet.

Mr. McCann asked Mr. Brown what kind of structure he wants to build. Mr. Brown replied it is a single-story steel building, 40 feet by 40 feet. Mr. McCann asked how many garage bays the building

will have. Mr. Brown replied two bays. Mr. McCann asked if there will be a driveway leading to the building. Mr. Brown replied yes, it will be alongside the house. Mr. McCann asked if he plans on doing any mechanical work in the garage for revenue. Mr. Brown replied no. Mr. McCann stated the structure is drawn on the survey, and it states 40 feet by 40 feet and it is not depicted on the survey as being accurate in size. Mr. Brown stated he did not draw it to scale because staff just wanted to know where it would be located on the property. Mr. McCann asked if Mr. Brown plans on adhering to the required setbacks. Mr. Brown replied yes.

Jack Higgins asked if he works on boats. Mr. Brown replied yes, his personal boat.

Dale Rhodes noted that in the application Mr. Brown stated he could build two buildings versus one building, and asked if most of the building is going to be for storage, why would he not build a garage as one building, and another building for storage, if he could have two buildings without a variance.

Mr. Brown stated it didn't make any sense to him that he could build as many as would fit on his property as long as they are 10 feet apart, and he would rather just build one building.

Mr. Ball pointed out that code allows up to two buildings at 658 square feet each.

Mr. Rhodes stated if he built two buildings he could get 1,300 square feet and not need a variance. Mr. Brown replied he would rather have one building.

Mr. Rhodes asked the height of the proposed building. Mr. Brown replied 14 feet. Mr. Rhodes asked if he read the opposition letter. Mr. Brown replied yes, and stated the neighbor told him he didn't have a problem with the building, but now that the house is for sale, he is opposed.

Mr. Higgins asked if Mr. Brown talked to any of the neighbors about what you want to build. Mr. Brown replied yes, and none of them cared.

No public comment.

Mr. Brown stated he would like to be able to have a garage to store cars and lawn equipment. He noted he also has to have his plumbing replaced, and the garage would give him space to put things from his house while it is being fixed.

Motion by Kevin McCann, seconded by Bill Huffman, to approve the variances as depicted on the survey provided by the applicant.

Mr. Rhodes stated a 100% deviation from code is an extreme amount of deviation. Plus, the proposed garage will be significantly larger than the house, which would not be in conformity with the property. He said for those reasons, he is not in favor of the motion to approve.

Mr. McCann stated he visited the property yesterday and it is suggested and part of the survey that the location would be along the property line of the adjacent property owners who submitted a letter of objection. Their property would back up to the side property line of the subject property; looking from anywhere in the back, they would be looking at the property line and the 1,600 square-foot proposed building would be right in their view. He stated the code would allow for two buildings and

the way the code is written would substantially alleviate the issues that the neighbors have, where the entire 1,600 square feet is along their property line.

Mr. Higgins stated he agrees with Mr. Rhodes.

Mr. Huffman stated the applicant stated he could build two but prefers one, but that is not the minimum. He said he agrees with the letter of opposition.

Bill Huffman read aloud the six criteria for a hardship and explained the justifications for approving the variances.

Mr. Huffman called for a vote on the motion as stated and it failed unanimously; therefore, the variances are denied.

Upon consensus, the meeting adjourned at 2:19 p.m.