

Board of Adjustment

The Board of Adjustment met in regular session on **Wednesday, September 18, 2024**, 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: Stephen Holmberg (D3), Sonya Mallard (D1 -Vice Chair), Bill Huffman (D5 -Chair), and Dr. Joanna Bass (D4)

Staff members present were: Jeffrey Ball, Zoning Manager; Gregory Hughes, Assistance County Attorney; Desirée Jackson, Planner; Kristen Champion, Special Projects Coordinator.

Approval of the August 14, 2024 BOA Minutes

Motion by Sonya Mallard, seconded by Joanna Bass, to approve the BOA minutes of August 14, 2024. The motion passed unanimously.

Item H.1. Boggs Family December 17, 2019, Trust (Bill & Terri Boggs) requests variances of Chapter 62, Article VI, Brevard County Code as follows, 1.) Section 62-1340(5)(a), to permit a variance of 9.5 ft. from the required 20-ft. front setback for a structure; and 2.) Section 62-2100.5(1)(d), to permit a variance of 980 sq. ft. over the 50% (896.5 sq. ft.) of living area allotted for an accessory structure in an RU-1-11 (Single-Family Residential) zoning classification. The property is 0.52 acres, located on the east side of Riveredge Dr., approx. 1,200 ft. north of US Highway 1. (6705 Riveredge Dr. Titusville)

Jeffrey Ball read the item into the record.

Bill Boggs, the applicant, described the purpose of this request which is to build a multi-purpose addition and partial garage with a storage area and workshop. The applicant provided additional supporting documentation as they were describing the intent of their request. Mr. Boggs noted that the garage will be made up of the same material as the house. Additionally, he stated “they did a variance for the house on and from what they sit was two parcels. So, they did where the house was sitting on the one variance and they gave that for it being closer to the road for the house itself. But it did not encompass the other because that was not going to a building on it at the time.” He further explained the interior design of the existing garage and stated his future intended floor plan changes.

Sonya Mallard wished to correct there was only one neighbor to the left. The applicant confirmed that was correct and stated that there was a neighbor across the street. Ms. Mallard asked the applicant how their neighbors to the left feel about this variance request.

Mr. Boggs believes his left neighbors are fine with the variance request but stated the neighbors were in and out of town a lot this past year.

Ms. Mallard asked then “I saw from the drawing you are basically going to do a garage, a terrace room, and a workshop. Correct?” She also wanted further clarification of the architectural design of the building.

Mr. Boggs confirmed and responded “the garage itself would be enclosed but the back so many feet of it is open.

Jeffrey Ball noted that the supporting documentation the applicant had just presented to the Board was different from what their site plan had shown. Jeffrey explained “his site plan has shown that

there is a separation between his principal and his detached garage. With that being said there has to be a minimum 5' difference for that. My staff did not review that based on the plans that he just submitted. The reason why that is important is because if it is considered attached, because we do have an attachment code, then there is not the requirement for the 50%. It is variance number two. My direction for you all is to consider what Mr. Boggs has presented to you on his survey or make your recommendation on base those variances. If not, then we would have to go back and my staff would have to review what is being proposed now and get an updated survey. When you guys review variances it is based on the submitted site plan with the date." He reiterated that if Mr. Boggs decides to go to attach the structures, then he might not need variance number two, if it can be considered attached.

Bill Huffman noticed the applicant wearing a logo of a business and asked the applicant if they will be carrying their commercial business from this proposed structure. The applicant responded no.

Public Comment

Cynthia Betrovy, 6845 Riveredge Drive, wished to speak on the item. They are not in favor of this request. Ms. Betrovy noted she and her family have lived for 20 to 40 years in Riveredge and believe this would affect them. She followed up with another concern of hers which was "if we change variances this starts this whole train of people on our street wanting to get variances uh to build structures that aren't far enough from the property line." She additionally expressed concerns about the square footage of the building on the property. Ms. Betrovy said "if he's going to have that straight line Roof then my family might not be opposed to that to the setbacks from the water." She would be opposed to any multifamily uses for the proposed structure.

End Public Comment

Bill Huffman explained the basis of the Board's consideration for this application and how the Board has considered other applications in response to the public comment.

Jeffrey Ball also clarified that the accessory structure that would be allowed under the requested variances would not allow for living area within that structure.

Mr. Boggs stated he did not know the site plan did not match the site drawing.

Mr. Ball stated further "I have been enlightened that if it becomes attached then it becomes part of the principal structure, not an accessory structure. So both variances would have to be tabled and reheard based on a new plan that gets submitted."

Motion to table item H.1. to a future meeting by Sonya Mallard, seconded by Joanna Bass. The motion passed unanimously.

Item H.2. Danny Redman & Esther Clayton-Redman request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2109(c), to permit a variance of 2 ft. over the 4-ft. maximum wall height permitted in the front 20-ft. setback in an RU-1-13 (Single-Family Residential) zoning classification. The property is 0.98 acres, located on the east side of US Hwy 1, 425 ft. south of Portofino Ln. (6245 US Hwy 1, Melbourne)

Jeffrey Ball read the item into the record.

John Campbell, on behalf of the applicant, presented supporting documentation and described the purpose of this request which is to replace a concrete block wall on the east side of US 1. The wall was damaged by an intoxicated driver. Dr. Redman wishes to build a six foot high wall to meet the 25 ft. setback from the property line. Mr. Campbell went into further detail describing the designs on the survey. Mr. Campbell further stated that the homeowners on either side of Dr. Redman waived any objections. Dr. Redman is concerned about his children playing in the yard of his home and being ran into along with some other things. Mr. Campbell said the hardship really is the fact that building the wall next to this other accessory building would put the wall right on top of the house. The request is to rebuild the wall in its present location and the only difference is it will be two feet higher than the wall that was there in the past. Mr. Campbell went on to say, "it looks okay to me if it was put there and it is compatible with the other buildings in the area". He feels there are minimal safety issues and dispels concerns by saying "if you have some concern about the wall being a blind with the cars coming down, you can also see the one photograph where the wall is six foot high and you can it is all open and you see there is plenty of sight distance to be looked at."

Bill Huffman asked about the material make up of the proposed wall. Mr. Campbell stated, "I am sure it will be masonry".

No public comment.

Motion to approve item H.2. as depicted on the survey dated 1/12/2024 by Joanna Bass, seconded by Sonya Mallard. The motion passed unanimously.

Item H.3. Randolph & Jileen Torres request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1334(5)(b), to permit a variance of 6 ft. from the 15-ft. required side (west) for an accessory structure in an AU (Agricultural Residential) zoning classification. The property is 4.29 acres, located on the north side of Pennsylvania Ave., approx. 1,520 ft. west of Dixie Way. (3420 Pennsylvania Ave., Mims)

Jeffrey Ball read the item into the record.

Randolph Torres, the applicant, described the purpose of this request. He said "so what happened was when we had the well dug we found out that it was loaded with salt. So the only way around that was an RO system. We paid a lot of money to put that in and then we found out it needs to be covered. The well meets the setback for the 12 ft. So we put the building following what we read on the website is 10 ft. Then we found out it has to be 15 ft instead of 10 ft so requested a variance for that so we can carry on with the house built." Mr. Torres presented additional supporting documentation.

Sonya Mallard wished to confirm the reason of the request to which Mr. Torres responded in kind. Ms. Mallard wanted to further confirm that this request will not be impinging on the neighbors.

Mr. Torres said no.

Stephen Holmberg asked, "are you going to use the same structure and just fortify it a little better or are you going to tear it down and leaving it like that?"

Mr. Torres stated they will be leaving it like that, and the roof will still be open.

Bill Huffman then asked, "we are legitimizing the existing structure that is there?"

Mr. Torres stated yes.

No public comment.

Motion to approve item H.3. as depicted on the survey dated 5/13/2024 by Sonya Mallard, seconded by Stephen Holmberg. The motion passed unanimously.

Item H.4. Jamie Gill requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2100.5(1)(d), to permit a variance of 402.5 sq. ft. over the maximum (1,097.5 SF) permitted for a detached accessory structure in a GU (General Use) zoning classification. The property is 1.01 acres, located on the northwest corner of Alan Shepard Ave. and Tarragon St. (4000 Alan Shepard Ave., Cocoa)

Jeffrey Ball read the item into the record.

Jamie Gill, the applicant, described the purpose of this request. Mr. Gill said, "I am limited to half the square footage of my home which just under 2200 square feet. So half of that is what I am allowed to build the separate shop." He stated his hardship is that he and his family are running out of room. He intends to build a general use shop that needs to be 30 by 50, which he states is 400 square feet over the allowed use.

Sonya Mallard asked if there was a neighbor to the left.

Mr. Gill responded saying they only have a neighbor behind them.

Ms. Mallard then asked where exactly the proposed structure will be put.

Mr. Gill said, "it is towards the back of my property near where their driveway is but it is still off of my easement and we also have the wood line that cuts our property." He further clarified that it will be 27 ft. off his easement.

Bill Huffman wished to confirm the workshop will not be a commercial venture. He also asked Mr. Gill if he had any communications with the neighbor.

Mr. Gill noted it will not be a commercial venture. He stated he communicated briefly with the neighbor, and they did not seem to care.

No public comment.

Motion to approved item H.4. as depicted on the survey dated 7/29/2024 by Sonya Mallard, seconded by Stephen Holmberg. The motion passed unanimously.

The meeting was called to adjourn at 2:26 pm.