

BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, April 21, 2021, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Chairman Dale Rhodes presiding, to consider the requests below:

Board members present were: Dale Rhodes, Chair, District 3; Jack Higgins, Vice Chair, District 1; George Bovell, District 4; and Bill Huffman, District 5.

Staff members present were: Robin Rogers, Assistant County Attorney; Jeffrey Ball, Zoning Manager; Paul Body, Planner II; and Michelle Adams, Administrative Secretary.

The Chairman, Dale Rhodes, called the meeting to order at 1:30 p.m.

Approval of March 24, 2021, Minutes

Motion by Jack Higgins, seconded by George Bovell to approve the March 24, 2021, minutes. The vote was unanimous.

Paul Body explained the function of the Board of Adjustment; Jack Higgins explained the definition of a hardship; and Dale Rhodes explained the procedures of the Board of Adjustment.

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

1. (21PZ00013) Thomas and Patricia Ann Smyth (Davin T. Erickson)

Request variances from Chapter 62, Article VI, Brevard County Code, 1) Section 62-2118(d)(5) to permit a variance of 125 square feet over the 600 square foot maximum permitted for the deck and roof area for a covered boat dock, 2) 62-2118(d)(5) to permit a variance of 119 square feet over the 500 square foot maximum permitted for a roof over a dock, in an RU-1-11(Single Family Residential) zoning classification, on 0.48 acres, located on the west side of Anchor Lane, 500 feet southeast of Compass Drive. (6150 Anchor Lane, Rockledge) (Tax Account 2600142) (District 4)

Thomas Smyth, 6150 Anchor Lane, Rockledge.

Davin T. Erickson, 1240 St. George Road, Merritt Island. He said they built a dock over the deck; on the drawings submitted, they didn't allocate for the overhang, which pushed them over the limit. He said the drawings depicted their size, but the overhang pushed it a little bigger; they needed to shed the water off of the dock side. He said they're asking to allow the square footage.

George Bovell said his question was if the hardship they had was based on something he did. He asked Davin T. Erickson if he realized before construction that he would exceed the square footage.

Davin T. Erickson said no, the dock had been there a long time; they have a covered boat lift. He said the allocated square footage on there with the permit was off and they weren't allowed to get any area for coverage. He said with the new one, he didn't know the two combined would get over 600.

George Bovell said the existing dock and cover, before building the second piece, is okay. He said the drawings submitted didn't have an overhang, it's squared off with the dock. He said he is wondering how as a construction expert, he could look at the plans, decide to need an overhang, and not know that beforehand. He said he needs to be convinced that he didn't see that ahead of time.

Davin T. Erickson said all docks have overhangs of a minimum of 12 to 16 inches. He said when submitting the drawings, his engineering plans depicted where the poles are and where they're set,

bumped out the overhang. He said typically when they design, they're going off of the pole set with an overhang; the way the existing dock was, in order to build the roof with the overhang, they didn't have the room to get in there and set the poles with the existing structure already in place.

George Bovell said the total square footage wasn't an issue because they're adding one to the other. He said as it appears on the drawing, he doesn't see that it's disrupting anything; he just wanted to make sure they didn't draw it and then decide they needed it bigger.

Davin T. Erickson said he doesn't do that, has been building and has been a contractor in Brevard County for a long time and follows the law closely.

Dale Rhodes said he heard him say when he submitted the plans, the poles were in a different location in the plans then where they ended up being.

Davin T. Erickson said yes, the footprint from the surveyor wasn't accurate. He said when they were able to get the poles in, it was off; he tried squeezing it in; he built it to those dimensions and then didn't allocate for the overhang.

Dale Rhodes asked if he would have known at that point, what he was about to add would be over.

Davin T. Erickson said he didn't think so. He said their dimensions on the original survey don't depict what the new as built survey showed.

Dale Rhodes asked if the poles were out further than what was intended on the original plan.

Davin T. Erickson said the outside ones no, the inside ones yes, because he couldn't get into the structure with the barge.

Dale Rhodes said that made the structure he built larger.

Davin T. Erickson said no, he kept it at the same square footage.

Dale Rhodes said, then you added the overhang, he asked if it was on the original plans submitted.

Davin T. Erickson said it was long ago he doesn't remember; most of his structures have overhangs.

Paul Body said they have a copy that is supposed to be included in the plans.

Dale Rhodes said the approved have it along side the dock, not extending over the dock.

Davin T. Erickson said the dock jogs in.

Dale Rhodes said, the part where he built the overhang, the roof, has it in line with the dock and he extended beyond the alignment of that dock.

Davin T. Erickson said possibly, its been so long. He said he promised it wasn't intentional.

Dale Rhodes asked how he wouldn't know if he was going beyond the dock when the plans show it to be in line with the dock. He said when they set their poles, they're at that set line of projection into the waterway from the property line. He said the roof overhangs automatically, exceeding past that line and doesn't get depicted because the surveyors can't get on that side to measure.

Devin T. Erickson said, as code defines, his structure cannot exceed 20% of the width of the canal.

Paul Body said the roof isn't supposed to exceed the 20% projection.

Devin T. Erickson said, correct and they tried to maintain that by bringing it in. He said if he has 16 feet, he will come in 15.8 to be safe; they tried to bring it in as close as they could to not exceed that. He said this roofline isn't sticking past that projection because there is an indentation on the deck that allows the rooflines to line up, that's why he didn't catch it.

Dale Rhodes said he is 125 feet over the 600 square foot allowance. He asked if he would have known he was going over.

Devin T. Erickson said he didn't catch it; when he looked at his drawings, he went to the pole set and that's where he set the poles at. He said when they built it, he thought everything was good; when the surveyor came, then the County came and measured and they were over more than they anticipated. He said they could barely fit it on the deck as it was, trying to get the poles in between the dock and seawall because of the barge. He said they need an overhang because the rain needs to come off of it; they've no coverage on their dock. He said the other main structure has no deck underneath it.

Dale Rhodes asked if the roof built without the overhang would let water off, just closer to the dock.

Devin T. Erickson said yes, it would be coming down into the structure rather than shed off.

Bill Huffman, said the as built survey depicts his roof and what looks like a boat lift that projects further into the canal. He asked if the roof overhang projects further than that.

Davin T. Erickson said no.

Paul Body said the projection of the new roof and existing dock meet the requirements. He said it's over the square footage for the roof area and total coverage of the roof and decking.

Jack Higgins said if they did except this, he would like to see the sheet corrected.

Paul Body said the survey is correct and is what they're going off of. He said they had the surveyor put the exact square footage on there so they could do the calculations. He said when he turned in his as built survey, they contacted the surveyor and said they couldn't calculate all of it because of the angles and asked him to calculate it.

Dale Rhodes asked if the square footage was calculated in the original plans.

Paul Body said yes, it was calculated right at 600 square feet without him going outside of anything.

Dale Rhodes asked Paul Body, if added to, would it be known that it's beyond 600 square feet.

Paul Body said, if they did the calculations like they do when reviewing the permits.

Davin T. Erickson said their survey wasn't good, all the dimensions were wrong; he thought they were right and they were building to what they had. He said when they got to build, everything was off; when he measured everything, it came out okay until they redid the as built survey and made them correct all their mistakes, it was too late then, it was built. He said he was trying to accommodate the overhang, did what he could to do make it right but the measurements were wrong on their end.

No Public Comment

George Bovell said this one is hard to swallow, but will give the benefit of the doubt because the dock as built doesn't exceed the 20% projection into the waterway and the total square footage, though it exceeds what's allowed, it doesn't look to affect anything. He said the issue is, they saw a plan for something that was built differently.

Dale Rhodes asked if as depicted on the survey was incorrect.

Paul Body said no, they went back to the surveyor and all the square footage there is correct; they came up with the amount needed over the 600 square feet and over the 500 square feet for the roof.

Dale Rhodes said he will review the six points for each case. He read, special conditions and circumstances exist which aren't applicable to any other land structures or buildings. He said there aren't any special circumstances here that would cause the need to ask for a variance to build. He read, the special circumstances and conditions don't result from actions from the applicant. He said they do result from actions of the applicant; they built over the size permitted. He read, that granting the variance and request won't confer on the applicant any special privileges that are denied by the provision of the chapter to other lands buildings and structures of identical zoning classification. He said if they approve the variance, it does confer special circumstances because someone else won't be allowed to build that additional square footage. He read, literal enforcement of this provision of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in an identical zoning classification or provisions of this Chapter will constitute unnecessary and undue hardships on the applicant. He said it's not depriving of anything other than an overhang; it's not restricting them or anyone else, everyone is restricted to the same square footage. He read, that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. He said in this case, that's what they're requesting.

Motion by George Bovell, seconded by Jack Higgins to approve the variances as depicted on the survey submitted by the applicants. The vote passed 3:1 with Rhodes voting nay.

2. (21PZ00014) Margaret M. and Edward Jones (Autumn Sands)

Request variances from Chapter 62, Article VI, Brevard County Code, 1) Section 62-2118(d)(2) to permit a variance of 7.0 feet from the 7.5 foot setback permitted for a boat dock, Section 62-2118(d)(3) to permit a variance of 0.5 feet over the projection (20% of the width of the waterway) permitted for a boat dock, in a RU-1-13 (Single Family Residential) zoning classification, on 0.29 acres, located on the west side of Bay Shore Drive at the end of the cul-de-sac, approximately 461 feet north of West Point Drive. (1718 Bay Shore Drive, Cocoa Beach) (Tax Account 2519531) (District 2)

Margaret Jones, 1718 Bay Shore Drive, Cocoa Beach. She said she is the homeowner.

Autumn Sands, 7250 Glen Tree Avenue, Cocoa.

Joshua Tony, Integrity Marine Construction, 7250 Glen Tree Avenue, Cocoa. He said on the first variance for the side property line, the property line projects into the water. He said her yard faces a straight canal, not an end or corner. He said on a canal end there would be a corner lot where property lines are clear, projecting at an angle or boxing off neighbors and in those situations, there is nothing they can do with the dock. He said in this situation they pulled 8.2 foot or 8.3 foot at the seawall and started the boathouse there, not knowing that property line, a fault of his own, projected into the water catching the outside finger pier to where it's 7.5 feet for the outside finger pier. He said the neighbor on the left doesn't have a dock; the way the canal is, it's not boxing anyone off; the pilings are carrying a roof and holding a boat lift so it would be a major expense to move. He said the other variance for the projection is fixable if they needed to trim the dock. He said it's lessons he has learned; now he takes a 4 by 4 and a string line in the water, measures off of the string line and looks at the surveys good.

Dale Rhodes asked if he didn't do that in this situation.

Joshua Tony said, not on the side, the canal is a weird situation; he thought the property line projected straight into the water; he doesn't know if it's a fair representation of the property line.

Dale Rhodes asked if he checked the survey for the property lines where before construction.

Joshua Tony said he did and measured off of the original side property line with the seawall but completely missed the angle that projects out into the water.

Dale Rhodes asked if it shows that on the survey.

Joshua Tony said not on the original; it doesn't project that line out in the water. He said now he knows it never does and knows to project it himself. He said he calls Mr. Body with any questions as he knows the dos and don'ts. He said he has learned to know his exact projection on other jobs; he had another with a similar situation that he measured with a string line.

Dale Rhodes asked if they all saw the objection letter and had time to read it.

Joshua Tony said yes.

Dale Rhodes asked if he was going to be hampering any movement or safety through that waterway or anyone wanting to build to size on the opposite side of the canal.

Joshua Tony said no, it's wide and if the neighbor to the left were to build her dock 7.5 feet from the property line, the docks would still be true to the 15 feet between docks which is code. He asked if the Board had the survey showing the property line projections in the water.

Dale Rhodes said yes. He said he read the objection letter which may be inaccurate, but says that it would reduce the distance between and create a traffic issue. He asked if he was certain it wouldn't

Joshua Tony said no, he said the distance in the canal is 80 feet and 71 feet. He said this neighbor is two houses down; in the letter he refers to the setbacks and thinks it's City of Cocoa Beach. He said Cocoa Beach is 60% and 20% setbacks, Brevard County is 7.5 feet. He said her neighbor to the left has no dock, there is one across the canal. He said if the projection has to be fixed, he can trim that back; it's the side property line, the 7.5 feet.

Dale Rhodes asked which variance he is referring to.

Paul Body said, the first variance, the 7.5 feet.

Dale Rhodes said he is at 7.0 feet so he is almost to the end of that.

Paul Body said he is saying that because of the way the property line is at an angle, and he was coming off of the corner, and then perpendicular off the sea wall, that had created the problem.

Dale Rhodes asked Paul Body if he sees this being an issue with the safety of other boats going through there or people next door trying to build a dock that could end up to close.

Paul Body said if the neighbor to the east builds a dock, he'll have to come 7.5 feet off the projection of the property line and to make it meet the distance between, if he built it at an angle, it would cause a problem. He said if he built it perpendicular, it would probably have the 15 feet between them. He said if he built it at an angle it would cause a problem with someone trying to get into this dock.

Margaret Jones said that neighbor on the east, has a grandfathered concrete "inaudible", it's on the eastern end, so if she built a dock, it would be on the eastern end of her property.

Dale Rhodes said that because of where her dock is, if her neighbor wanted to build a dock where she could by code, she would have to change what she wanted because of where her dock is.

Joshua Tony said, only if she built it at a funky angle, if she built a normal dock like everybody else, it would be 15 feet between docks because it would be 7.5 at the sea wall and it's a straight canal. He said angles are done for corners.

Bill Huffman said it appeared to him that the seawall is out in the canal, not at the property line.

Paul Body said this plat includes a note that states the property lines extend out in the waterway. He said the further out the seawall is, the further the property lines extend out to it; it's a very strange plat, it doesn't have a set canal width because of that note.

Joshua Tony said that answers his projection problem; now he knows, he looks at that property line. He said every other municipality allows measure off of the current sea wall on the projection. He said her property line was two or three feet back into the yard, so he lost two feet on his projection. He said his dock wasn't overbuilt, he lost two feet from the property line.

Bill Huffman asked if he used the seawall as his property line.

Joshua Tony said yes, he measured off the sea wall as he does in Cocoa, Indian Harbor and Satellite Beaches; but in Brevard County, the property lines must be looked at. He said if two or three sea walls are built over time, that property line stays true; every time a seawall is built, it adds two feet.

Paul Body said it's a very strange plat, but does have a plat note that says the property line extends to where the waterline is; the further you build out a sea wall, the further out the property line is.

Dale Rhodes said, that is clearly noted and should have been caught.

Paul Body said if there is a new seawall, that's the new property line, where the water is because of how the plat is noted.

Bill Huffman asked if this seawall was grandfathered in at the time the property was purchased.

Joshua Tony said they installed a new seawall too.

Dale Rhodes said that is what Mr. Body is saying about the new sea wall if the notes about the plat are followed, now he is extending out further in the waterway.

Joshua Tony said, so we lose two feet.

Dale Rhodes said someone might add for feet and the next person might add two feet and two feet and before you know it they're coming together.

Paul Body said Natural Resources is supposed to regulate how many times a seawall can be put in front of a seawall and how far they can from the original seawall.

Bill Huffman asked if Natural Resources was state, municipal or county.

Paul Body replied, Natural Resources Management, Brevard County.

Bill Huffman asked if this was approved by them.

Joshua Tony said the original permit was approved.

Public Comment

Glen O'Kane, 1732 Bayshore Drive, Cocoa Beach. He said at this stage he is in opposition and asked if he could ask questions.

Dale Rhodes said he could ask questions of them.

Glen O'Kane said he came here today because he wanted to understand how such a gross error could be made; seven feet incorrect when it's supposed to be 7.5, a 93% error. He said it makes him wonder why there are permitting processes and why someone is asking for forgiveness after such a gross error is made vs. asking for permission. He said he was looking for a satisfactory explanation as to why this error occurred and he doesn't feel like he got that. He said his concern is if it confers special circumstances, he feels a precedent is being set for such a gross error; he is trying to figure

out what the hardships would be for the owner. He said he doesn't know the neighbor to the east, but heard talk of a 15-foot requirement between structures.

Paul Body said it's 7.5 feet and 7.5 feet that would add up to 15 feet.

Glen O'Kane said he looked at this lift and saw it loads from the eastern side of the dock and the boat is 20 to 23-foot-long; if the neighbor to the east builds a structure, with 15 feet between, they can't get their 23-foot boat off their lift. He said he is concerned because he has lived in that neighborhood for 20 years, has added to his house making sure to abide by setback lines and was well aware of those lines going out into the waterway. He said it's important as owners there to be aware of where their property lines are and that they extend into the waterway. He said he was hoping to hear some satisfactory reason as to why this error occurred but hasn't. He said he isn't in agreement with it.

Joshua Tony said that if it interfered with somebody, it would be the projection; the width of the dock could be trimmed. He said the side property line projection into the water at an angle would be a major fix, costing 10 to 12 thousand dollars because of the roof, pilings and boat lift.

George Bovell said he agrees with both objections.

Dale Rhodes read, special conditions and circumstances exist which aren't applicable to other land, structures or buildings in the applicable zoning classification. He said the only thing he heard that may be a special circumstance is the angle where the property lines come out, however other properties in that situation would have to deal with that kind of angle. He said a special circumstance here would depend on your point of view; if he had a regular piece of property beside this one, he may see special circumstances between the two, but there are other properties on corners with the same situation. He read, that special conditions and circumstances don't result of the actions of the applicant. He said he doesn't believe they were intentional, but their actions have created the situation. He read, the granting of the variance request won't confer on the applicant any special privileges that are denied by the provisions of the Chapter that other lands, buildings or structures in identical zoning classification.... He said this would confer special privileges because they'd be given 93% over what code allows. He read, the literal enforcement of this provision of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this Chapter and constitute unnecessary and undue hardship on the applicant. He said no, it doesn't, if built within the guidelines, they'd have been ok. He said in the provisions of undue hardship, it states they cannot take finances under consideration; even though it may cost to relocate if the variance is denied. He said he has to look at what is reasonable in regards to the request. He read, that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. He said, again that's not the case, it was built in the wrong location; built in the right location, everything would have been fine. He read, granting the variance will be in harmony with the general intent of the purpose of this Chapter and such a variance won't be injurious the area. He said they discussed that a great deal and he is very concerned, as one objector brought up., if they permit this, the property next door could be injured at some point when they get ready to build. He said they wouldn't have 15 feet because they'd be granting a 93% variance here. He said he is concerned when close to 50%, code is there for a reason, for safety, to take care of everybody. He said if they start eliminating codes by 93%, there is a significant problem.

George Bovell said the two objections are very clear to him and he agrees with them.

Joshua Tony asked if there were an appeals process.

Dale Rhodes said that he may contact Mr. Body's office or County Attorney about the process.

Motion by George Bovell, seconded by Jack Higgins to deny the variances as depicted on the survey submitted by the applicants. The vote was unanimous.

3. (21PZ00017) Stanley B. and Lourdes T. Rozzo

Request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-2118(d)(3) to permit a variance of 5.0 feet over the 8.0-foot projection (20% of the width of the waterway) permitted for a boat dock, in an RU-1-13 (Single Family Residential) zoning classification, on 0.30 acres, located on the south side of Granada Avenue. (75 Granada Avenue, Merritt Island) (Tax Account 2502025) (District 2)

Lourdes Rozzo, 75 Granada Avenue, Merritt Island.

Stanley Rozzo, 75 Granada Avenue, Merritt Island. He said he is asking for a variance to put a boat lift behind their home. He said the variance is for five feet although they aren't really using five feet, the boat lift would be 11.8 feet wide at one end and 12.1 feet wide at the other end according to the property line. He said there are some that complained about the boat lift.

Dale Rhodes asked if he saw the objections.

Stanley Rozzo said he did. He said they're the last house on the end of the canal and have an extensive sea wall there; the circular part of the sea wall is also their sea wall, where people put their boats in. He said from the edge of the waterway, there is 57.7 feet to the edge of their dock and the complaints were that their dock would prevent others from putting boats in the water and that's not true. He said the question is whether someone could get a boat in, motorized or not. He said size is relative because anything larger than a 22-foot boat wouldn't make it under the bridge and a 24- or 26-foot boat would fit in the circular part before turning the other way. He said if his neighbor opposite him put in a boat lift, there would be plenty of room for a boat to pass between the docks. He said once he learned of the complaints, because the drawing wasn't made public, they took the drawing to each of the 93 homes in his community. He said most people were okay with that; a few weren't. He said Mr. Hall, who wrote a letter before seeing the drawing, to everyone telling them they wouldn't be able to put their boats in, was the biggest cause of that scenario and why Mr. Block, Rainwater and Griffel wrote their concerns, indicating their fear that they're going to block use of the community boat ramp. He said Mr. Hall, Rainwater and Block wouldn't talk to him or see the drawing. He said he wondered how they could decide that this will block them from using the ramp without seeing the drawing. He said Mr. Griffel, who is several doors down was interested and he walked them to his home to show them where it would go and that it wouldn't block them. He said they were good with that and would retract their statement, but as of today it was still listed.

Jeffrey Ball said, when an application is made by either the applicant or owner, it's public record; if someone wanted to see an application or documentation, they just need to contact the office.

Dale Rhodes said he had made a statement in his response, that allowing him this width, would increase the distance between him and the neighbor. He asked if that's because it's a dock, not a lift.

Stanley Rozzo said yes.

Paul Body said, in the code regarding projection it says, no covered boat dock pier together with the water craft being moored at the structure shall project into a manmade waterway more than 20% of the width of the waterway or 30 feet, whichever is less including pilings. He said it does include watercraft moored there.

Dale Rhodes said, it wouldn't create extra space because he would be going beyond what he was allowed to put anyway.

Paul Body said, if he built a boat dock right at the eight feet off of the projection permitted and then parked his boat against it, he would have a potential code problem if somebody complained.

Dale Rhodes said, it doesn't create extra space because he wouldn't be allowed to put his boat there anyway as it would be too wide. He asked if he had the boat before or after moving to this residence.

Stanley Rozzo said he bought the boat after.

Dale Rhodes asked if he was aware of the limitations at that point.

Stanley Rozzo said as far as parking the boat next to the dock, he wasn't. He learned that when looking to put the lift in. He said there are four other homes with lifts in there and part of the reason why he bought this home is he assumed he would be able to put a lift in. He said those four other lifts are each opposite of another homeowner that has a lift. He said they haven't created any problem and has taken his boat through with no problem as has everyone else who has used this boat ramp.

Dale Rhodes said there were three other variances approved but doesn't know the distances.

Paul Body said one was approved at 3.3 feet over the 8.0 feet, one at 3.0 feet and one at 2.0 feet.

Dale Rhodes said, nowhere near what they're trying to do with this one, that's important. He said what happens is they give somebody a variance for 3.0 feet, then the next wants 4.0 feet, the next wants 5.0. and the next wants 6.0; it continues to grow until they have a significant problem. He said they all want to use the people who got a variance as justification for theirs.

Stanley Rozzo said he didn't ask for a 5.0 variance. He said on one end it's 11.8 feet wide which would end up being a 3.8-foot variance. He said Paul had explained the reason it went to 5.0 feet is because the other end of the dock is 12.1 feet because of the property line. He said they wrote the variance for 5.0 feet but they're going to use 4.1 and the other side is 3.8 feet.

Dale Rhodes said they're not talking about 2.0 feet, 3.0 feet and that's what he was explaining, now he is at 4.1 and the next guy wants 5 feet then 6 feet. He said though it may not be 5.0 feet, going to 4.1, it says 5.0 feet is because the figures that Mr. Body used is what was needed. He said they were at a 63% deviation from what code allows, which is a concern.

Bill Huffman said he made a comment that other boat owners could back their boat in, spread that base and go down the canal.

Stanley Rozzo said, yes, easily.

Bill Huffman asked if the maintenance of the turning base was taken care of by the HOA.

Stanley Rozzo said no.

Bill Huffman asked who owned the canal.

Paul Body said the plat states streets and canals are public use; Brevard County would maintain it.

Bill Huffman asked if they know of a maintenance program there.

Paul Body said he wouldn't know.

Bill Huffman said he would think that the silt on the edge would detract from trying to turn.

Paul Body said, with sea walls going down both of them, much silt might not go into the canal.

Stanley Rozzo said the Murphy's boat lift is currently 11.3 foot, a seven-inch difference.

Dale Rhodes said he doesn't know what that situation is, if it's before the current code. He said changes to codes happen, someone may build something and then find out it will create significant problems if everyone does it, so it changes to resolve the issue; he has to look at the current code.

Stanley Rozzo said that was one of the variances Paul had mentioned.

Dale Rhodes said they're back to the point that they're 1.0 foot over what they were asking, the next guy wants 2.0 feet over and the next wants 3.0 feet, and they will now go off of his dock.

Paul Body said there were three variances, one for 3.3, one for 3.0 and one for 2.0.

Dale Rhodes said, his is 5.0, he understands he is only going to build 4.1, but the variance is for 5.0. Dale Rhodes said others may not feel that way but the purpose of these meeting is to discuss what they're thinking and come to a reasonable conclusion.

Public Comment

Paul Coates, 180 Carrigan Boulevard, Merritt Island. He said Stan's residence and his are part of the Riverside Home Owners Association. He said Stan Rozzo is at the opposite end of their HOA, across from the boat ramp and he is about two blocks away, not on the canal. He said he is in favor and has been the President of their homeowner's association for the last eleven years and has done this willingly as he is a good mediator and has a passion and personal responsibility. He said their HOA exists to improve the property value of the people who live in the HOA. He said in the case of Stan's permit request, their HOA has no jurisdiction because it's being built in the canal which is the purview of Brevard County and after, Florida Fish and Wildlife and then the EPA. He said he knows because since becoming president, the HOA members have been living in fear that there would be an assessment to dredge the canal. He said the canal has had a serious silt problem for the last five years and they have been working with District two, going to the dredge committee meetings and

might be 18 months out from a resolution. He said though they don't have a say, Stan presented to the board, being a member of the board as well. He said some of the personal animus from others in the community is because he is the treasurer and has had to send letters to people late in payments.

Dale Rhodes said he understands but asks that he stay related to this and not others.

Paul Coates said he wanted to provide rationale as to why some might be objecting, having nothing to do with whether they can pass or not. He said there are four boatlifts in the canal, two are opposite each other, around 12 feet out. He said it's a 40-foot-wide canal, there would be 8 feet from that dock, there is 16 feet to pass between those; if someone built a similar dock within the 15 feet, there would actually be 16 feet. He said he isn't concerned, based on the position of where Stan's dock would be, that there would be any difficulty passing. He said the only asset their HOA has to offer members is their private boat ramp in the neighborhood that allows those not on the water to put their boat in the canal, as well as people with kayaks and canoes. He said the boatlift would be an asset to the HOA because it would improve Stan's property value and aesthetics as his 8.5-foot pontoon boat, legally parked in the front driveway, would be better on a boat lift dock in the back of his property. He said it is Brevard County that maintains the canal, the only time the HOA would have any say on Stan's dock is if any part was integrated with a structure on land.

Scott Mac Laughlin, 35 Granada Avenue, Merritt Island. He said he lives three doors down from Stan on the canal and is in favor. He said in the plans he saw as presented to the Board and to the County, there is more than enough room for boats to pass. He said he understands the concerns about the next guy, but they're working with Stan at this time with the amount of overage he is requesting. He said he lives in the middle of the before mentioned four boat launches; four out of five houses at the end of the canal have boat launches and boats pass up and down all the time with no problem.

Jamye Rainwater, 132 Oakledge Drive, Rockledge. She said she lived across the river but grew up in Riverside, her parents still live there; she lived across the street from him catty-corner until two years ago. She said she has more time on the canal than all; this was the last house built in the neighborhood and the last to get a dock. She said she is a boat owner as well and there is plenty of room to spin around and go. She said Stan has been ramrodding to make the canal navigable to ensure that the neighborhood could use it. She said the boats able to move back and forth are short boats; tall and big boats won't because there is a bridge there. She said because of the silt, it's kayakers and little kids that fish going through.

Bill Huffman said that Paul Body had mentioned the distance of dock and boat that was allowed to project from the sea wall.

Paul Body said the code states that no dock, covered boat dock or pier, together with the watercraft moored at the structure, shall project into a manmade waterway more than 20% of the width of the waterway or 30 feet, whichever is less, including pilings. He said the boat tied to the outside would create more of a projection problem. He said many don't realize, they have a 100-foot canal and build a dock 20 feet with an outside pier, park their boat on the outside and are creating a code problem.

Bill Huffman asked if it was a 100-foot canal.

Paul Body said it's a 40-foot canal he is on, he can only go out 8.0 feet, 20% off of his property line.

Bill Huffman said, the pontoon boat he mentioned across the canal, can't be docked against their dock anyway.

Paul Body said, it shouldn't be projecting more than 8.0 feet off of the property line.

George Bovell said until the neighbors came up to speak on his behalf, he was undecided; he got a clearer picture of what was going on after their testimony.

Dale Rhodes read, special conditions or circumstances exist which aren't applicable to other land, structures, buildings or zoning classifications. He said there are no special circumstances in this situation; he is simply asking to go beyond what the code requires. He read, special conditions or circumstances don't result from the actions of the applicant. He said there is nothing they've done to bring about the request, didn't build the dock and come later. He read, the granting of the variance request won't confer on the applicant any special privileges denied by the provision of this Chapter to other lands, buildings or structures in the identical zoning classification. He said it does in that this is what the code allows, however on three instances they've gone beyond that, so it's a matter of point of view as to if it confers special circumstances. He said where it would, is that they're allowing further than anyone has. He read, the literal enforcement of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this Chapter and will constitute unnecessary and undue hardship on the applicant. He said it doesn't deprive them of any use, just deprives them of what they're wanting to do; but not of using their boat or the canal, they would just have to load it every time unless they could figure out how to get it closer to the property line. He read, that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. He said they're asking for the minimum needed for their use. He read, that the granting of the variance will be in harmony with the general intent and purposes of this Chapter and that such a variance won't be injurious to the area involved or otherwise detrimental to public welfare. He said he does have questions about that, as already discussed; it could be detrimental down the road. He said he has concerns with the loading off the ramp; the gentleman from the HOA said it wouldn't be a problem, as did another, and he will defer to them because they live there. He said the variance is there for a reason; his biggest concern is that when over 50%, they're putting themselves in a situation of potential trouble down the road. He said he won't be in favor of this but wanted everyone to understand the reason. He said when they look at percentages over what code allows, above 50% asks for the consideration of the reason these codes are there. He said it's not to deprive them of use of the waterway, it's for everybody's benefit; if this is approved, they're risking future, because it's 63%.

George Bovell said, advice for people who come there, if they build and come after the fact, they'll have a tougher time getting a variance approved. He said he appreciated they came and dealt with the consequences.

Motion by George Bovell, seconded by Bill Huffman to approve the variance as depicted on the survey submitted by the applicants. The vote passed 3:1 with Rhodes voting nay.

4. Withdrawn by applicant, letter received April 5, 2021

(21PZ00019) GD Development LLC requests a variance from Chapter 62, Article VI, Brevard County Code, Section 62-1340(5)(a) to permit a variance of 5.0 ft. from the 20.0 ft. rear setback required for a principal structure, in an RU-1-11 (Single Family Residential) zoning classification, on 0.19 acres,

located on the east side of South Tropical Trail, 65 feet north of Cone Road (580 South Tropical Trail, Merritt Island) (Tax Account 2427293)

Dale Rhodes said they had a case where they approved a variance for a shed right against the property line, giving them a 100% variance. He said they need to be careful with those, when someone builds it and then comes in, that's a problem. He said they need to look carefully at anything taking more than a certain percentage and ask if it's something they really need or is it a want.

Paul Body said he is referring to the one in Barefoot Bay, not the existing one that the lady bought.

Dale Rhodes said it was the one in his district but he couldn't make the motion because he is Chair.

George Bovell said that made sense because Barefoot Bay agreed with it; he tends to defer to the people who live in that subdivision because they have to live with it, whether it's 100% or not.

Dale Rhodes said everyone has a right to their opinion, they should just be careful when they allow somebody to build something before permit that is 100% wrong and then they put their signature on it, then someone else will want to do the same thing and wonder why they say no.

George Bovell said going to the 100% in that case made sense because it didn't affect any safety issue whatsoever and Barefoot Bay agreed with it.

Upon consensus, the meeting adjourned at 3:00 p.m.