

# MINUTES

## MARION COUNTY BOARD OF ADJUSTMENT

May 6, 2024

A public hearing of the Marion County Board of Adjustment was held on May 6, 2024 at 2:00 pm in the Marion County Growth Services Training Room, 2710 E. Silver Springs Boulevard, Ocala, Florida.

The meeting was called to order at 2:10 pm (due to technical difficulties). Members present creating a quorum were: Chairman Donald Barber; Members C. Cadell Hager, Ernest Hemschot, Thomas Phillips, Nathanael Ramos, Douglas Sherwood; and Alternate Jackie Alsobrook. Samuel Hunt attended as an Observer. Staff members present were: Assistant County Attorney Valdoston Shealey, Growth Services Deputy Director Kenneth Weyrauch, Staff Assistant IV Darlene A. Pockock, along with Planner II Kathleen Brugnoli, Zoning Technicians Jeremy Craig and Elizabeth Madeloni.

Thomas Phillips gave the Invocation, followed by Cadell Hager leading the Pledge of Allegiance.

Chairman Barber and Atty. Val Shealey explained the procedures for hearing variance requests and Atty. Shealey administered the Oath en masse.

Kathleen Brugnoli proceeded by reading the provided Affidavit of Publication and the Proof of Required Mailing and Posting of Notice, and advised that the meeting was properly noticed.

- 2.1 **240501V** – Jason and Rebecca Clark, request a Variance in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the ESOZ front setback from 75' to 35' for a proposed pool and pool deck (38x30' area) in a Single-Family Dwelling (R-1) zone on Parcel Account Number 4825-014-000 addressed as 10695 SE Sunset Harbor Road, Summerfield, FL 34491.

Jeremy Craig presented the case and read the report into the record and noted that the original ESOZ front setback request from 75' to 35' has been updated to reflect a new minimum request from 75' to 62.50'. A corrected survey was given to staff and board members for review.

There were 10 homeowners notified within 300' of the parcel, with and no letters of opposition nor support received.

Edward Abshier, 5614 SE 111<sup>th</sup> Street, Belleview, FL 34420, Engineer doing the ESOZ plan and agent for the owner, stated that the original site plan used the wrong elevation reading. Mr. Abshier explained that he has a letter from the DEP with the elevation correction and the newly submitted site plan shows the reduced and updated setback. Mr. Abshier reiterated that the adjacent parcel's home is closer to the water than the pool and deck of this project and will not inhibit the neighbors sight line.

**PUBLIC COMMENT:**

There was no one in the audience to speak for, or against, the request and the chair closed the public portion of the hearing.

Cadell Hagar made a motion to **approve** the variance as requested and moved that, having heard competent substantial evidence, the Board finds that: 1. A special condition or circumstance exists on the property that does not exist on other properties within the same zoning and land use area; 2. The applicant did not cause the special condition or circumstance; 3. Literal enforcement of the regulations would create unnecessary and undue hardship and deprive the applicant of rights commonly enjoyed by other properties within the same zoning and land use area; 4. The variance is the minimal variance that will allow reasonable use of the property; 5. The variance will not confer any special privilege on the applicant that is denied to other properties within the same zoning and land use area; and 6. The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare; And that the Board grant the variance.

Ernest Hemschot made a motion to second.

**Motion to Approve - Passed 6 to 1** with Thomas Phillips dissenting.

- 2.2 **240502V** – Jerry L and Darlene M. Morgan, request a Variance in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the front setback from 25’ to 20’ for an existing 6’x45’ covered walkway (pan-roof), in a One- and Two-Family Dwelling (R-2) zone on Parcel Account Number 35322-010-01, addressed as 10350 SW 92<sup>nd</sup> Court, Ocala, FL 34481.

Zoning Tech Rachel Kruger was introduced and assisted Liz Madeloni, who, presented the case and read the report into the record.

There were 20 homeowners notified within 300’ of the parcel, with and no letters of opposition nor support received.

Mark Tucker with White Aluminum & Windows, 2101 US Highway 441, Leesburg, FL 34748, agent for the owner, stated he agreed with the staff report and presentation. Mr. Tucker explained that the final inspection was missed, the permit expired and was resubmitted when it was brought to their attention. Mr. Tucker stated that the owner was not in the state during that time due to Covid being in full-swing and was unaware that it was not completed.

**PUBLIC COMMENT:**

There was no one in the audience to speak for, or against, the request and the chair closed the public portion of the hearing.

Ernest Hemschot made a motion to **approve** the variance as requested and moved that, having heard competent substantial evidence, the Board finds that: 1. A special condition or circumstance exists on the property that does not exist on other properties within the same zoning and land use area; 2. The applicant did not cause the special condition or circumstance; 3. Literal enforcement of the regulations would create unnecessary and undue hardship and deprive the applicant of rights commonly enjoyed by other properties within the same zoning and land use area; 4. The

variance is the minimal variance that will allow reasonable use of the property; 5. The variance will not confer any special privilege on the applicant that is denied to other properties within the same zoning and land use area; and 6. The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare; And that the Board grant the variance.

Nathanael Ramos made a motion to second.

**Motion to Approve - Passed 7 to 0**

**OTHER BUSINESS:**

There are no June BOA cases. Next BOA hearing scheduled for July 1, 2024.

**MINUTES:**

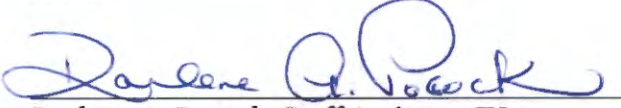
The **April 1, 2024** Board of Adjustment Minutes were moved for Approval upon a motion by Douglas Sherwood with a second by Ernest Hemschot.

**Motion for Approval - Passed 7 to 0.**

**ADJOURNED:** The meeting adjourned at 2:47 PM.

  
~~Donald M. Barber~~, Chairman *Pro Tem*

Attest:

  
Darlene A. Pocock, Staff Assistant IV

**VARIANCE ACTION FORM**

ITEM NO: 240501V

DATE OF PUBLIC HEARING: MAY 6, 2024

OWNER NAME(s):

**Jason and Rebecca Clark**  
10695 SE Sunset Harbor Road  
Summerfield, FL 34491

AGENT NAME(s):

**Edward Abshier** c/o: *Abshier Engineering, Inc.*  
PO Box 2770  
Bellevue, FL 34421

**LEGAL DESCRIPTION OF PROPERTY:** Parcel Account No. **4825-014-000**, SEC 26 TWP 17 RGE 23, "Sunset Acres" in Marion County, Florida.

**VARIANCE REQUESTED:** Request to reduce the ESOZ front setback from 75' to <sup>\*62.5'</sup>~~35'~~ for a proposed pool and pool deck (38'x30' area), in a Single-Family Dwelling (R-1) zoning classification addressed as 10695 SE Sunset Harbor Road, Summerfield, FL34491.

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**FINDINGS OF BOARD OF ADJUSTMENT**

1. **Written Petition.** A written petition for a Variance has been submitted demonstrating that:
  - A. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings with the same zoning classification and land use area.
  - B. The special conditions and circumstances do not result from the actions of the applicant.
  - C. Literal interpretation of the provisions of applicable regulations would deprive the applicant of rights commonly enjoyed by other properties with the same zoning classification and land use area under the terms of said regulations and would work unnecessary and undue hardship of the applicant.
  - D. The Variance, if granted, in the minimum Variance that will allow the reasonable use of the land, building or structure.
  - E. Granting the Variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings of structures in the same zoning classification and land use area.
  - F. The granting of the Variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

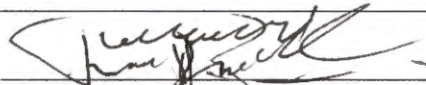
2. X **GRANTED:** Based on the Board of Adjustment's finding that the requirements of Paragraph 1 above have been demonstrated by the applicant for Variance. 6-1

3. \_\_\_\_\_ **DENIED:** Based on the Board of Adjustment's finding that the requirements of Paragraph 1 above have not been demonstrated by the applicant for Variance.

4. \_\_\_\_\_ **CONDITIONS & SAFEGUARDS:**

A. Should the structure be removed for any reason, any replacement structure must meet the then required setbacks or a variance must be requested. \_\_\_\_\_

B. \_\_\_\_\_

  
\_\_\_\_\_  
CHAIRMAN

05-06-2024  
DATE

**VARIANCE ACTION FORM**

ITEM NO: 240502V

DATE OF PUBLIC HEARING: MAY 6, 2024

OWNER NAME(s): **Jerry L. and Darlene M. Morgan**  
10350 SW 92<sup>nd</sup> Court  
Ocala, FL 34481

AGENT NAME(s): **Mark Tucker c/o: White Aluminum & Windows**  
2101 US Highway 441  
Leesburg, FL 34748

**LEGAL DESCRIPTION OF PROPERTY:** Parcel Account No. **35322-010-01**, SEC 26 TWP 16 RGE 20, "Pine Run Estates II" in Marion County, Florida.

**VARIANCE REQUESTED:** Request to reduce the front setback from 25' to 20' for an existing 6'x45' covered walkway (pan-roof), in a One- and Two-Family Dwelling (R-2) zoning classification addressed as 10350 SW 92<sup>nd</sup> Court, Ocala, FL34481.

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**FINDINGS OF BOARD OF ADJUSTMENT**

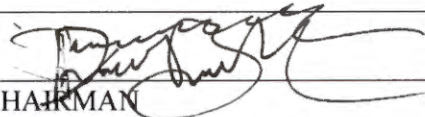
1. **Written Petition.** A written petition for a Variance has been submitted demonstrating that:
  - A. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings with the same zoning classification and land use area.
  - B. The special conditions and circumstances do not result from the actions of the applicant.
  - C. Literal interpretation of the provisions of applicable regulations would deprive the applicant of rights commonly enjoyed by other properties with the same zoning classification and land use area under the terms of said regulations and would work unnecessary and undue hardship of the applicant.
  - D. The Variance, if granted, in the minimum Variance that will allow the reasonable use of the land, building or structure.
  - E. Granting the Variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings of structures in the same zoning classification and land use area.
  - F. The granting of the Variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

2. X **GRANTED:** Based on the Board of Adjustment's finding that the requirements of Paragraph 1 above have been demonstrated by the applicant for Variance. 7-0

3. \_\_\_\_\_ **DENIED:** Based on the Board of Adjustment's finding that the requirements of Paragraph 1 above have not been demonstrated by the applicant for Variance.

4. \_\_\_\_\_ **CONDITIONS & SAFEGUARDS:**  
A. Should the structure be removed for any reason, any replacement structure must meet the then required setbacks or a variance must be requested. \_\_\_\_\_

B. \_\_\_\_\_  
\_\_\_\_\_

  
CHAIRMAN

05-06-2024  
DATE