

# MINUTES

## **MARION COUNTY BOARD OF ADJUSTMENT April 7, 2025**

A public hearing of the Marion County Board of Adjustment was held on April 7, 2025 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 2:00 pm. Members present creating a quorum were: Chairman Donald Barber; Members Thomas Phillips, Douglas Sherwood, Nathanael Ramos; and Alternate Samuel Hunt. Staff members present were: County Attorney Dana Olesky, Growth Services Deputy Director Kenneth Weyrauch, Staff Assistant IV Kelly Hill, Senior Planner Chris Rison, GIS Technician Analyst Antony Alva, along with Zoning Technicians Clint Barkley and Jeremy Craig.

Nathanael Ramos led the Invocation, followed by the Pledge of Allegiance.

Chairman Barber announced appointment of new Alternate Board Member, Zilca Diaz, and also thanked Douglas Sherwood for his years of dedication serving Marion County on the Board of Adjustment.

Chairman Barber and Atty. Dana Olesky then explained the procedures for hearing variance requests and Atty. Olesky administered the Oath en masse.

Kenneth Weyrauch 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      **250401V** – Miguel and Barbara Perez, request a Variance, Section 2.9, of the Marion County Land Development Code, to reduce the front setback from 25' to the property line (zero) setback for an existing 30' x 35' carport, in a Single-Family Dwelling (R-1) zone, on an approximate 0.53 Acre Parcel, on Parcel Account Number 3578-016-030, Site Address 10464 SW 45<sup>th</sup> Avenue, Ocala, FL 34476

Clint Barkley presented the case and read the report into the record.

There were 23 homeowners notified within 300' of the parcel. Applicant collected 20 signed petitions in support of the variance. Five letters of opposition were received.

The applicant is requesting to have a front setback reduction from the required 25' to 0' for a 30' x 35' existing not attached carport. The carport was built without a permit, a permit was applied for in September of 2024 and rejected by zoning because it did not meet the front setback requirements. Since the carport is detached, it qualifies as an accessory structure. Accessory structures must be to the side or rear of the primary structure (house) and may not extend beyond the front of the primary structure.

## **PUBLIC COMMENT:**

Attorney David Langley spoke on behalf of the Applicant. He stated because of Mr. Perez's health issues, he built the car port to cover the entire driveway to avoid the weather elements. He stated the company that installed the carport ensured Mr. Perez no permit was needed, and therefore was unaware of the Zoning regulations as well.

The following members of the public spoke during Public Comment:

- Carmine Gianfrancesco – 8050 SW 103<sup>rd</sup> Ln, Ocala
  - Architect spoke in favor and states the structure is well built.
- Jose Cortez – 10450 SW 45<sup>th</sup> Ave, Ocala
  - Opposed
- Estefania Fleming – 10105 SW 45<sup>th</sup> Ave, Ocala
  - Opposed

The chair closed the public portion of the hearing.

Samuel Hunt made a motion to **deny** the variance as requested and moved that, having heard competent substantial evidence, the Board finds that: 1. No 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 caused the special condition or circumstance; 3. Literal enforcement of the regulations would not 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 not the minimal variance that will allow reasonable use of the property; 5. The variance is not necessary for reasonable use of the property; 6. The variance will confer a special privilege on the applicant that is denied to other properties within the same zoning and land use area; and 7. The granting of the variance will be injurious to the neighborhood or detrimental to the public welfare; And that the Board denies the variance.

Thomas Phillips made a motion to second.

### **Motion to Deny - Passed 5 to 0.**

2.2 **250402V** – JJJ & Luke Rentals LLC, request a Variance, Section 2.9, of the Marion County Land Development Code, to reduce the setback from 8' to 6.1' on the front east side, and from 8' to 3.8' on the rear east side, in a Single-Family Dwelling (R-1) zone, on an approximate 0.23 Acre Parcel, on Parcel Account Number 4530-004-004, Site Address 6962 SE 124<sup>th</sup> Street, Belleview, FL 34420

Antony Alva presented the case and read the report into the record.

There were 32 homeowners notified within 300' of the parcel, and no letters of opposition nor support received.

Sandra Licciardello, on behalf of the property owner, filed a request for a variance to allow for an east front setback reduction from 8' to 6.1' and from 8' to 3.8' for the east back side, for the

placement of a house that is currently under construction. The application states the variance is required due to a surveying error. The survey stakes on front side of the property were placed in the wrong place. When the surveyor went back to do foundation survey on the slab, he found the house was built too close on the right side. The single-family home constructed on this site has an approved permit that shows setbacks meeting the Marion County Land Development Code standards with an 8' setback of the eastside and westside of the approved site plan.

#### **PUBLIC COMMENT:**

Agent Sandra Licciardello spoke regarding the property markers being off on the east side of the property, which caused the foundation to be tilted. She stated they contacted Marion County when it was discovered on November 1<sup>st</sup>, 2024, and no work has been done since. Discussion between the board and Ms. Licciardello regarding consideration for filing a claim through Surveyor's insurance carrier, purchasing additional land on either side of the lot, and demolishing the work that has already been done and starting from scratch.

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

Douglas Sherwood 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 4 to 1 with Thomas Phillips dissenting.

2.3 **250403V** – K. Hovnanian at Aspire at Glen Aire, LLC, request a Variance, Section 2.9, of the Marion County Land Development Code, to reduce the front setback from 25' to 20' for construction of single-family homes, in a Single-Family Dwelling (R-1) zone, on an approximate 8.95 Acre Tract Development, on Parcel Account Numbers 8002-0074-05, 8002-0074-06, 8002-0074-07, 8002-0074-08, 8002-0074-09, 8002-0074-10, 8002-0074-11, 8002-0074-12, 8002-0074-13, 8002-0074-14, 8002-0074-15, 8002-0075-01, 8002-0075-02, 8002-0075-03, 8002-0079-02, 8002-0079-03, 8002-0081-10, 8002-0081-11, 8002-0081-12, 8002-0081-13, 8002-0081-14, 8002-0081-15, 8002-0081-16, 8002-0081-17, 8002-0082-01, 8002-0082-02, 8002-0082-03, 8002-0082-15, 8002-0083-01, 8002-0083-02, 8002-0083-03, 8002-0083-04, 8002-0083-05, 8002-0083-06, 8002-0083-07, 8002-0083-08, 8002-0083-09, 8002-0083-10, 8002-0083-11, 8002-0083-21, 8002-0084-02, 8002-0084-03, 8002-0084-04, 8002-0084-05, 8002-0084-06, 8002-0084-07, 8002-0084-08, Site Addresses 3705, 3687, 3669, 3651, 3633, 3617, 3599, 3587, 3561, and 3543 SW 153<sup>rd</sup> Place Road, and 3475, 3449, 3423, 3485, 3471 SW 155<sup>th</sup> Place Road, and 15356, 15388, 15406, 15430, 15452, 15472, 15490, 15510, and 15540 SW 34<sup>th</sup> Terrace, and 15359 SW 35<sup>th</sup> Terrace, Ocala, FL 34473, and No Addresses Assigned.

Chris Rison presented the case and read the report into the record.

There were 66 homeowners notified within 300' of the parcel, and no letters of opposition or support received.

The subject parcels (47) are between 0.17 and 0.25 acres, are located within Unit Two of the Marion Oaks DRI, having been purchased collectively by *Aspire at Glen Aire LLC*. The Marion Oaks Subdivision was established in 1972-1973 with a total of 12 different Units. A Bulk Variance was done on this project in 1984 to modify setbacks for approx. 694 lots, with the total amount of lots within this subdivision being 2,700. They are seeking to do a similar bulk change related to that project. LDC Section 4.2.9.E provides the determined setbacks to be a minimum 25' front and rear, and minimum 8' sides setback. However, LDC Section 4.2.9.E also has a provision that states "For new residential subdivision development where central water and central sewer services are utilized", front and rear setbacks may be modified to twenty-feet (20'). Marion County adjusted its development regulations, to reduce the front setback when new subdivisions are built, created, platted and recorded under current rules. This does not apply to older subdivisions which were already of record, such as this plat which was created in 1973. It is not completely clear within the Marion County codes, and staff will work to rectify that.

#### **PUBLIC COMMENT:**

Attorney Chadwick Crews spoke on behalf of the Applicant, K. Hovanian, who acquired these lots in late 2024. He requests clarification regarding the 1984 Variance and if it relates to these lots. Chairman Barber would like clearer understanding as well. If it does not apply, they would also like to include a reduction in the rear setback, which would have to go through another application process. He stated these lots were platted in 1973 but have been sitting there undeveloped. K. Hovanian acquired them with new development plans, water and sewer were in. Their interpretation is that while this is not a "New Residential Subdivision", it is a "New Residential Subdivision Development". They feel they meet the qualification for the reduced setback of 20' because they are developing land that has never been developed. They feel there is no special privilege being granted to them as there is no real definition of "New" v. "Old" subdivision in the code. Mr. Crews provided approved plans for their development for the board members to review.

Dana Olesky stated that while the attorney representing K. Hovanian has indicated that he is not asking for an interpretation, they are asking The Board to make a determination on this being a "New Residential Development", which is not what we are here for today. Chairman Barber reiterated all we are here for is to speak on the variance and whether or not it would be granted to allow permits. Mr. Barber clarified he was interested in seeing the documents related to 1984 bulk variance only to see evidence of their intention and whether or not they could have perceived from their end with moving forward that they would not be in violation, and it wasn't to review the legitimacy of how we interpret the code under "New or Old Development".

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

Donald Barber 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.

Douglas Sherwood made a motion to second.

**Motion to Approve** - Passed 4 to 1 with Thomas Phillips dissenting.

**OTHER BUSINESS:**

Next BOA hearing scheduled for May 5th, 2025.

**MINUTES:**

The **February 3, 2025** Board of Adjustment Minutes were not moved for Approval. Chairman Donald Barber requested a revision to the minutes, stating conversation that took place between board members and county attorney, Dana Olesky, should have been noted under Other Business. Will present the updated minutes for Chairman's signature at the next BOA meeting scheduled for 5/5/2025.

ADJOURNED: The meeting adjourned at 3:56 PM.

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Donald M. Barber, Chairman

Attest:

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Kelly A. Hill, Staff Assistant IV