

# MINUTES

## **MARION COUNTY BOARD OF ADJUSTMENT December 4, 2023**

A public hearing of the Marion County Board of Adjustment was held on December 4, 2023 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 2:01 pm. Members present creating a quorum were: C. Cadell Hager, Ernest Hemschot (2:06 pm arrival), Douglas Sherwood, Jack Stackman and Alternates Donald Barber and Thomas Phillips. Staff members present were: Chief Assistant County Attorney Dana Olesky, Growth Services Director Chuck Varadin, Staff Assistant IV Darlene A. Pocock, along with Planner II Kathleen Brugnoli and Zoning Technicians Clint Barkley, Jeremy Craig, Cindy Gaughf and Elizabeth Madeloni. Senior Planner Xinyi Chen and Planner I Marcus Lloyd were present to observe.

Atty. Dana Olesky requested that nominations be taken for a Chairman Pro Tem, as both the BOA Chairman and Vice Chairman were absent. A motion for approval passed 5 to 0 for nominee C. Cadell Hager to act as Chairman Pro Tem during this December 4, 2023 meeting.

Douglas Sherwood gave the Invocation, followed by Cadell Hager leading the Pledge of Allegiance.

Mr. Hager and Atty. Dana Olesky explained the procedures for hearing variance requests and Atty. Olesky 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     **231101V** – Thomas Coburn, requests a **Variance** in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the south side setback from 25' to 13' for an existing detached garage, in a General Agriculture (A-1) zone on Parcel Account Number 44683-005-24 addressed as 15920 SE 27<sup>th</sup> Avenue, Summerfield, FL 34491. (*Continued from 11-06-23 BOA*)

Clint Barkley presented the case and read the report into the record. Jeremy Craig assisted with the presentation.

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

Thomas Coburn, 15920 SE 27<sup>th</sup> Avenue, Summerfield, FL 34491, Owner, stated that he built the garage approximately 6 to 7 years ago when he had just started his business and wanted to keep his employees busy, but never pulled a permit. The garage has no electric or water. Mr. Coburn did acknowledge that he doesn't want to move the building, but will comply if he has to.

**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.

Donald Barber made a motion to **deny** the variance as requested and moved that, having heard competent substantial evidence, the Board finds that: The applicant caused the special condition or circumstance on the property *by not obtaining a permit for the detached garage*; The requested variance is not the minimal variance that will allow reasonable use of the property; The requested variance is not necessary for reasonable use of the property; And that the Board deny the variance.

Jack Stackman made a motion to second the denial.

**Motion to Deny - Passed 5 - 1** with Thomas Phillips dissenting.

- 2.2     **231102V** – Mary Jane Siep and Kimberly A. Rooney, request a **Variance** in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the SW rear setback from 25’ to 17’ for a proposed 15’x31’ Elite (aluminum-panel roof) screen room (for therapeutic hot tub placement), in a Single-Family Dwelling (R-1) zone on Parcel Account Number 8010-0952-06 addressed as 13100 SW 73<sup>rd</sup> Avenue Road, Ocala, FL 34473. (*Continued from 11-06-23 BOA*)

Cindy Gaughf refreshed the board of last month’s preceding by presenting the case again and reading the report into the record. Ms. Gaughf recapped that the board previously suggested that alternate positioning should be sought for the proposed project.

23 owners were notified within 300’ of the parcel with 1 letter of opposition and 1 letter of support received.

Ashley Spell with Sauer and Sons Construction, Inc., 3892 NE 40<sup>th</sup> Place, Unit 1, Ocala, FL 34479, Agent for the owners, gave an on-screen presentation and confirmed that the therapeutic hot tub is 7’x7’ and is needed for water exercise and therapy for one of the homeowner’s medical condition. Ms. Spell stated that the 7’x7’ therapeutic spa will need a clearance of 15’ away from the building, will include an exercise system area with weights, a bench and cables and will include extra room so she can receive the assistance needed. Also, the homeowner currently has to be taken to Orlando, FL 3 to 4 times a week for treatment and this home therapy will help ease the burden and discomfort.

Ms. Spell continued that the homeowners and the contractor had tried several different site plans to achieve the best placement of the screen room, the required therapeutic equipment, meet building code requirements, electrical, doorway and window issues, as well as, ingress and egress issues to the home and to also consider vehicle accessibility to the rear yard. Ms. Spell stated that the site plan still would not meet the setback if moved as alternately proposed.

**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.

Donald Barber made a motion to **deny** the variance as requested and moved that, having heard competent substantial evidence, the Board finds that 4 of the 7 requirements specifically have not been met: 1. No special condition or circumstance exist 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 on the property *by not reducing the size of the project*; 4. The requested variance is not the minimal variance that will allow reasonable use of the property; 5. The requested variance is not necessary for reasonable use of the property; And that the Board deny the variance.

Thomas Phillips made a motion to second the denial.

**Motion to Deny - Passed 5 - 1** with Cadell Hager dissenting.

- 2.3     **231201V** – Robert R. and Kelli R. Bryant, 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 26’ for a proposed 12’x26’ in-ground pool with a 23’x33’ concrete deck and a screened cage, in a Residential Mixed Use (R-4) zone on Parcel Account Number 47772-000-01 addressed as 10980 SE Timucuan Road, Summerfield, FL 34491.

Clint Barkley presented the case and read the report into the record. Jeremy Craig also assisted with the presentation.

10 homeowners were notified within 300’ of the parcel with 4 letters of support received and no letters of opposition received.

John Halligan with Perfect Pools, 5708 Marion County Road, Lady Lake, FL 32159, Agent for the owners, stated that this parcel has an odd shaped lot, there is an ESOZ plan in place for storm-water and impervious surface, and the existing well and septic prohibits alternate placement of the 12’x26’ pool.

**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.

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.

Jack Stackman made a motion to second.

**Motion to Approve - Passed 5 - 1** with Thomas Phillips dissenting.

- 2.4 **231202V** – Taylor C. McGinnis, requests a **Variance** in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the side setback from 25’ to 14’ for an existing 40’x60’ detached garage, in a General Agriculture (A-1) zone on Parcel Account Number 44683-006-25 addressed as 2651 SE 156<sup>th</sup> Place Road, Summerfield, FL 34491.

Liz Madeloni presented the case and read the report into the record.

9 homeowners were notified within 300’ of the parcel and 5 letters of support were received and there were no letters of opposition.

Taylor McGinnis, 2651 SE 156<sup>th</sup> Place Road, Summerfield, FL 34491, stated that he had owned both properties when he built the barn and believed he was AG Exempt. He stated that the barn is used for a tractor, and he was planning to raise a couple cows when he had fenced off the property, and when he went to pull a permit for a generator, he was notified that the barn did not meet the setbacks. Mr. McGinnis tried to purchase an 11’x50’ portion of the adjacent property he had previously split and sold, but the new owner’s bank would not allow an adjustment to the current mortgage.

**PUBLIC COMMENT:**

Andrew Danford, 2563 SE 156<sup>th</sup> Place Road, Summerfield, FL 34491, is 2 houses over from the McGinnis family and states he is in support of the structure, as it looks good and matches the home and the surrounding area.

There were no others 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 with the

Condition & Safeguard that “*Should the structure be removed for any reason, any replacement structure must meet the then required setbacks or a variance must be requested*”.

Ernest Hemschot made the motion to second.

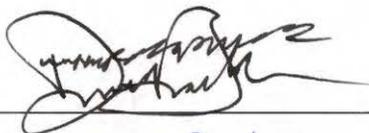
**Motion to Approve - Passed 6 - 0.**

**MINUTES:**

The **November 6, 2023** Board of Adjustment Minutes were moved for Approval upon a motion by Donald Barber, with a second by Ernest Hemschot.

**Motion for Approval - Passed 6 to 0.**

**ADJOURNED:** The meeting adjourned at 4:02 PM.

  
\_\_\_\_\_  
Donald M. Barber Chairman

Attest:

  
\_\_\_\_\_  
Darlene A. Pocock, Staff Assistant IV

**VARIANCE ACTION FORM**

ITEM NO: 231201V

DATE OF PUBLIC HEARING: December 4, 2023

OWNER NAME(s):

**Robert R. and Kelli R. Bryant**  
10980 SE Timucuan Road  
Summerfield, FL 34491

AGENT NAME(s):

**Jack Halligan**  
*c/o: Perfect Pools*  
5708 Marion County Road  
Lady Lake, FL 32159

**LEGAL DESCRIPTION OF PROPERTY:** Parcel Account No. **47772-000-01**, SEC 23 TWP 17 RGE 23, in Marion County, Florida.

**VARIANCE REQUESTED:** Request to reduce the ESOZ front setback from 75' to 26' for a proposed 12'x26' in-ground pool with a 23'x23' concrete deck and a screened cage, in a Residential Mixed Use (R-4) zoning classification addressed as 10980 SE Timucuan Road, Summerfield, FL 34491.

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**FINDINGS OF BOARD OF ADJUSTMENT**

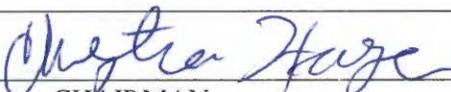
1. **Written Petition.** A written petition for a Variance has been submitted demonstrating that:
  - A. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings with the same zoning 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, is 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 or 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.

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

12-04-2023  
DATE

**VARIANCE ACTION FORM**

ITEM NO: 231202V

DATE OF PUBLIC HEARING: December 4, 2023

OWNER NAME(s):

**Taylor C. McGinnis**  
2651 SE 156<sup>th</sup> Place Road  
Summerfield, FL 34491

AGENT NAME(s):

**Tim McGinnis**  
2876 SE 163<sup>rd</sup> Street Road  
Summerfield, FL 34491

**LEGAL DESCRIPTION OF PROPERTY:** Parcel Account No. **44683-006-25**, SEC 22 TWP 17 RGE 22, "Virmillion Estates" in Marion County, Florida.

**VARIANCE REQUESTED:** Request to reduce the side setback from 25' to 14' for an existing 40'x60' detached garage, in a General Agriculture (A-1) zoning classification addressed as 2651 SE 156<sup>th</sup> Place Road, Summerfield, FL 34491.

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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.

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. X **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

12-04-2023  
DATE