# MINUTES

## MARION COUNTY BOARD OF ADJUSTMENT
## July 1, 2024

A public hearing of the Marion County Board of Adjustment was held on July 1, 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 2:05 pm (due to technical difficulties). Members present creating a quorum were: Members C. Cadell Hager, Ernest Hemschot, Thomas Phillips, Nathanael Ramos, Douglas Sherwood; and Alternate Jackie Alsobrook and Samuel Hunt. Staff members present were: County Attorney Dana Olesky, Growth Services Director Chuck Varadin, Deputy Director Kenneth Weyrauch, Staff Assistants IV Darlene A. Pocock and Autumn Williams, along with Zoning Technicians Jeremy Craig, Christina Franco, Rachel Kruger, Lynda Smith and Elizabeth Madeloni.

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

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

Ken 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 **240701V** – James E. and Amanda W. Perry, request a Variance in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the ESOZ front(canal) setback form 75' to 35' for a proposed SFR, in a Single-Family Dwelling (R-1) zone on Parcel Account Number 45824-000-00 addressed as 10843 SE 144th Place, Summerfield, FL 34491.

Rachel Kruger presented the case and read the report into the record and noted the original application was withdrawn and a new application was sent in along with a letter from DEP. Liz Madeloni assisted with the presentation.

There were 11 homeowners notified within 300' of the parcel, with and no letters of opposition nor support received.

Rodney Rogers, 1105 SE 3rd Avenue, Ocala, FL 34471, Engineer doing the ESOZ plan and agent for the owner, stated that looking at the survey the Ordinary High-Water Line is now in the water vs when the land was originally platted in the 1970's. The canal is now further away and wider which will stabilize and slow/stop the erosion. Mr. Rogers noted a biologist went out to the site and mentioned adding a seawall in the future to help prevent any further erosion. Mr. Rogers reiterated the location of the house to the canal was in relation to all the surrounding homes in

the area and that the house size and location meet zoning requirements. He explained the owner did their due diligence by going to DEP and that the only issue is ESOZ.

**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.

Cadell Hagar made a motion to second.

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

2.2 **240703V** – Robert P. Howes, request a Variance in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the N. side setback from 25' to 13' for an existing pergola (trellis type shade structure), in a Light Industrial (M-1) zone on Parcel Account Number 36967-002-00 addressed as 9672 SE 58th Avenue, Belleview, FL 34420.

Lynda Smith presented the case and read the report into the record stating that this request is for the existing unpermitted covered pergola.

There were 7 homeowners notified within 300' of the parcel, with and no letters of opposition nor support received.

Tim Kirby, 9672 SE 58th Avenue, Ocala, FL 34480, Owner of Flying Boat Tap Room stated this structure started off being used as temporary covered area for customers while waiting on restaurant seating. The idea then grew into this being an outside seating area for customers, which is why the roof was upgrades from the existing tarp like material. Mr. Kirby reiterated that they viewed this as a temporary hurricane proof engineered structure which is why permits weren't pulled.

**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.

Jackie Alsobrook 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 7 to 0.**

2.3 **240704V** – Bradley A. Christopher, request a Variance in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the ESOZ front (canal) setback form 75' to 45' for a proposed SFR and from 75' to 25' for a proposed pool and patio in a Single-Family Dwelling (R-1) zone on Parcel Account Number 16653-008-08 (un)addressed as 00 NE 303rd Court Road, Salt Springs, FL 32134.

Christina Franco presented the case and read the report into the record and noted the original ESOZ front setback request from 75' to 42' for proposed SFR has been updated to reflect a new minimum request from 75' to 45'. Jeremy Craig assisted with the presentation.

There were 14 homeowners notified within 300' of the parcel, with and no letters of opposition nor support received.

Applicant not present.

**PUBLIC COMMENT**:

Sherry Miller, 9800 NE 302 Terrace, Salt Springs, FL 32134, she is not in opposition of applicant request being approved but wanted to comment that she is concerned about the non-paved roads in the area.

The chair closed the public portion of the hearing.

Douglas Sherwood made a motion to **approve** the variance as to ESOZ front (canal) setback from 75' to 45' for a proposed SFR only and deny the request for proposed pool and patio setbacks from 75' to 25' 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 the ESOZ front (canal) setback from 75' to 45' (applicant updated request to the lesser setback) for a proposed SFR ONLY - Passed 6 to 1** with Thomas Phillips dissenting.
**Denied request for proposed pool & patio from 75' to 25'.**

**OTHER BUSINESS:**

3.1 Nominations for Vice Chairman

C. Cadell Hagar

**APPROVED: 7 to 0**

3.2 EAR (Evaluation and Appraisal Report) in regards to QR code and website.

Presented by Ken Weyrauch.

Next BOA hearing scheduled for August 5, 2024.

**MINUTES**:

The **May 6, 2024** Board of Adjustment Minutes were moved for Approval upon a motion by Cadell Hager with a second by Ernest Hemschot.

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

**ADJOURNED:** The meeting adjourned at 3:35 PM.

Donald M. Barber, Chairman

Attest:

awilliams

Autumn Williams, Staff Assistant IV

# VARIANCE ACTION FORM

**ITEM NO: 240701V** **DATE OF PUBLIC HEARING: JULY 1, 2024**

**OWNER NAME(s):**

**James E. and Amanda W. Perry**
13311 SE 102nd Court
Belleview, FL 34420

**AGENT NAME(s):**

**Rodney K. Rogers**
*c/o: Rogers Engineering, LLC*
1105 SE 3rd Avenue
Ocala, FL 34471

**LEGAL DESCRIPTION OF PROPERTY**: Parcel Account No. **45824-000-00**, *SEC 14 TWP 17 RGE 23, "Lake Weir Canals"* in Marion County, Florida.

**VARIANCE REQUESTED**: Request to reduce the ESOZ front (canal) setback from 75' to 35' for a proposed Single-Family Residence (SFR), in a Single-Family Dwelling (R-1) zoning classification addressed as 10843 SE 144th Place, 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. ✓ **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. _____

Dadell Rogers
CHAIRMAN

07-01-2024
DATE

2407's BOA

# VARIANCE ACTION FORM

**ITEM NO: 240503V** **DATE OF PUBLIC HEARING: JULY 1, 2024**

**OWNER NAME(s):**

**Robert Paul Howes**
*c/o: Flying Boat Tap Room, LLC*
PO Box 1359
Belleview, FL 34421

**AGENT NAME(s):**

**William Bow**
9672 SE 58th Avenue
Belleview, FL 34420

**LEGAL DESCRIPTION OF PROPERTY**: Parcel Account No. **36967-002-00**, *SEC 24 TWP 16 RGE 22, in* Marion County, Florida.

**VARIANCE REQUESTED**: Request to reduce the North side setback from 25' to 13' for an existing pergola (trellis type shade structure), in a Light Industrial (M-1) zoning classification addressed as 9672 SE 58th Avenue, Belleview, FL 34420.

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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.

Mr. Jackie and EH ✓

2. _____ **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. _____

_____

Dadell Howser
CHAIRMAN

07-01-2024
DATE

2407's BOA

# VARIANCE ACTION FORM

**ITEM NO: 240704V** **DATE OF PUBLIC HEARING: JULY 1, 2024**

**OWNER NAME(s):** **Bradley A. Christopher**
c/o: American Lux Homes
1125 Air Park Road
Green Cove Springs, FL 32043

**AGENT NAME(s):** **N/A**

**LEGAL DESCRIPTION OF PROPERTY**: Parcel Account No. 1**6653-008-08**, *SEC 12 TWP 14 RGE 26, "Lake George Manor"* in Marion County, Florida.

**VARIANCE REQUESTED**: Request to reduce the ESOZ front (canal) setback from 75' to 45' for a proposed Single-Family Residence (SFR) ~~and from 75' to 25' for a proposed pool & patio~~, in a Single-Family Dwelling (R-1) zoning classification (un)addressed as NE 303rd Court Road, Salt Springs, FL 32134.

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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. DS NR ✓ **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 For 45' only, the 25' is Denied

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.** _____

Sedell Hagen 07-01-2024
CHAIRMAN DATE