

# MINUTES

## MARION COUNTY BOARD OF ADJUSTMENT

### April 5, 2021

A public hearing of the Marion County Board of Adjustment was held on April 5, 2021 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 David Rubin, Vice Chairman Nathanael Ramos, Members: Earnest Hemschot, Douglas Sherwood, and Jack Stackman. Staff members present were: Assistant County Attorney Russell G. Ward, Deputy Director Joanna L. Coutu, Growth Services Development Review Coordinator Arthur Hall and Staff Assistant IV Darlene A. Pocock.

Chairman David Rubin, gave the Invocation followed by leading the Pledge of Allegiance.

Atty. Russel Ward then explained the procedures for hearing variance requests.

Ms. Joanna Coutu 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.

1. **210401V** – The Brian Van Voorhees and Elsa Vazquez Rev Trust, c/o Elsa n. Avalos Vazquez TR ET AL, 6221 SW 7<sup>th</sup> Avenue Road, Ocala, FL 34471, requests a reduction of the North (side) setback from 25' to 7.5' and the East (rear) setback from 25' to 0' for an existing shed, in an A-1 (General Agriculture) zoning classification on Parcel Account No. 36051-000-00.

Ms. Joanna Coutu presented the case to the board and stated that the record shows this is a 1.09 acre property located in the "Pyles" recorded subdivision. Ms. Coutu explained that the existing shed is 16' x 24' and there is an open code case (#765077 – non-permitted shed) associated with this request. Ms. Coutu stated that when the property owners recently sold off an adjoining parcel, it created a setback violation. Ms. Coutu concluded that there are 2 accessory structures on a surrounding parcel which were built in 1967 that do not meet the minimum setback of 25', but all other surrounding parcel's accessory structures meet the 25' setbacks.

Ms. Coutu confirmed that 12 property owners were notified within 300 feet, with 1 letter of support received and no letters of opposition received. The applicant was present to answer questions.

Elsa Avalos Vazquez, 6221 SE 7<sup>th</sup> Avenue Road, Ocala, FL 34471, stated that the existing home had no garage to maintain their storage needs and the existing shed was built by her husband in 2018, while she was away caring for her ill mother. Ms. Vazquez explained that the couple had owned the adjacent lot next door, so at the time, the shed had no boundary concerns of encroachment. Ms. Vazquez stated that she has been trying to bring the shed into compliance for

some time now while also struggling with several personal family medical and relationship issues. Ms. Vazquez explained that a survey was done to include a boundary adjustment/offset of 25' to protect the shed prior to the sale of the adjacent lot, but the closing was done without the boundary adjustment in place. Ms. Vazquez stated that the realtor and the title company were both highly aware that the new survey showed the 25' buffer around the shed. Ms. Vazquez also stated that she had made a good faith attempt to the new owner to correct the land situation surrounding the shed, but she did not receive any response back and is now awaiting for the final building permit to be signed off if the variance approval goes through, so she can then move ahead with the sale of this property.

#### **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.

Douglas Sherwood made a motion to approve 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 the motion to second. The applicant has met the requirements for a variance and granting the variance would not be contrary to public interest.

#### **Motion for Approval - Passed 5 to 0.**

2. **210402V** – Riley F. and Karen Carter, 23739 NE 152<sup>nd</sup> Lane Road, Salt Springs, FL 32134, requests a reduction of the ESOZ (front) setback from 75' to 45' for replacing an existing mobile home, in an R-4 (Mixed Residential) zoning classification on Parcel Account No. 10636-008-00.

Ms. Coutu presented the case to the board and stated that the record shows this .18 acre property is located in an unrecorded subdivision called Crescent Beach which was established in 1967 and this lot fronts on Lake Kerr. Ms. Coutu explained that according to the property appraiser records there has been an existing mobile home on the property since 1960. Ms. Coutu stated that the existing mobile home is approximately 700sf and the newer mobile home is approximately 1456 sf. Ms. Coutu continued that the location of the proposed replacement and size of the mobile home is consistent with the neighboring properties to the north and to the south and based on the submitted ESOZ Site Plan, the existing septic location prevents the proposed mobile home to be placed further to the back side of the property towards the roadway.



Ms. Coutu confirmed that 9 property owners were notified within 300 feet, with no letters of support nor objection received. The applicant's agent was present to answer questions.

Riley Carter, 23739 NE 152<sup>nd</sup> Lane Road, Salt Springs, FL 32134 stated that he purchased the property in February 2020 with the plan to remove the 1960's mobile home and replace with a newer more efficient home. Mr. Carter explained that between the septic, drain-field and well placements, there is no other placement than to follow the original footprint existing on the property and even a new single-wide would not meet the current setbacks. Mr. Carter continued to explain that the screened room on the existing home is about 12' - 15' closer to the water than the new home placement would be. Mr. Carter concluded that the new home will be placed with a like consistency to his neighbors' homes, with one being closer to the water than his and the other matching his.

#### **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.

Nathanael Ramos made a motion to approve 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 the motion to second. The applicant has met the requirements for a variance and granting the variance would not be contrary to public interest.

**Motion for Approval - Passed 4 to 1** with Jack Stackman dissenting.

#### **MINUTES:**

The **March 1<sup>st</sup>, 2021** Board of Adjustment Minutes were agreed for Approval upon a motion by Jack Stackman, with a second by Ernest Hemschot.


**Motion for Approval passed 5 to 0.**

**ADJOURNED:** The meeting adjourned at 2:53 PM.

A handwritten signature in black ink, appearing to read 'DR', written over a horizontal line.

David Rubin, Chairman

Attest:

A handwritten signature in blue ink, appearing to read 'Darlene A. Pocock', written over a horizontal line.

Darlene A. Pocock  
Staff Assistant IV

## VARIANCE ACTION FORM

ITEM NO: 210401V

DATE OF PUBLIC HEARING: April 5, 2021

OWNER NAME(s):

**The Brian Van Voorhees and Elsa Vazquez Rev. Trust**  
*c/o: Elsa N. Avalos Vazquez TR ET AL*  
6221 SW 7<sup>th</sup> Avenue Road  
Ocala, FL 34471

AGENT NAME(s):

N/A

**LEGAL DESCRIPTION OF PROPERTY:** Parcel Account No. **36051-000-00**, SEC 06 TWP 16 RGE 22, "Pyles", in Marion County, Florida.

**VARIANCE REQUESTED:** Requests a reduction of the side (North) setback from 25' to 7.5' and the rear (East) setback from 25' to 0' for an existing shed, in an A-1 (General Agriculture) zoning classification.

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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.   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

4-5-2021  
DATE



## VARIANCE ACTION FORM

ITEM NO: 210402V

DATE OF PUBLIC HEARING: April 5, 2021

OWNER NAME(s):

Riley F. and Karen Carter  
23739 NE 152<sup>nd</sup> Lane Road  
Salt Springs, FL 32134

AGENT NAME(s):

N/A

**LEGAL DESCRIPTION OF PROPERTY:** Parcel Account No. **10636-008-00**, SEC 11-TWP 13-RGE 25, "Crescent Beach", in Marion County, Florida.

**VARIANCE REQUESTED:** Requests a reduction of the ESOZ (front) setback from 75' to 45' for replacing an existing mobile home, in an R-4 (Mixed Use Residential) zoning classification.

\*\*\*\*\*

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- 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.

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

  
\_\_\_\_\_  
CHAIRMAN

4-5-2021  
\_\_\_\_\_  
DATE