

## BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, March 16, 2016, in the Commission Chambers, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Chair James Rosasco presiding, to consider the following requests:

Board members present were:

- Britta Hawkins, Vice Chair, District 1
- Wayne Snyder, Chair, District 2
- James Rosasco, District 3
- Monique Miller, District 4
- Dale Young, District 5

Staff members present were:

- Cristina Berrios, Asst. County Attorney
- Paul Body, Planner I
- Jennifer Jones, Special Projects Coordinator II

The Chair, Wayne Snyder, called the meeting to order at 1:30 p.m. The three members present voted throughout the meeting.

Wayne Snyder – I now call the scheduled meeting of the Board of Adjustment to order. Would the staff from Planning & Development Office please describe the function and operation of the Board of Adjustment to our applicants and audience.

Paul Body – Yes, Mr. Chairman. The Board of Adjustment is a quasi-judicial body established by the Board of County Commissioners under Chapter 62, Article II, Division 4, of the Brevard County Code. The Board of Adjustment is empowered to hear requests for variances to the Zoning Regulation, and the Sign Regulation, in Chapter 62, Article VI and Article IX, pursuant to Section 62-254, Brevard County Code. Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may, within 30 days after the date the order is signed, apply to a court of competent jurisdiction for appropriate relief. Mr. Chairman, you have two items on your agenda today.

Wayne Snyder – Thank you, Paul. Mr. Snyder, would you please explain to our applicants and the audience the definition of a hardship.

Britta Hawkins – Yes. An Undue Hardship. A variance may be granted when it is not contrary to the public interest, and where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term “undue hardship” has a specific legal definition in this context, and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property, under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use, and/or a reasonable return, under the existing land development regulations. The applicant must answer a variance hardship worksheet with six questions. The Board of Adjustment will discuss these questions today with each applicant who has requested a variance.

Wayne Snyder – Thank you. I would like to address our board members, the applicants, and the audience for a moment. The Board of Adjustment is a quasi-judicial board with members appointed by the Brevard County Board of Commissioners. We’ll utilize Robert’s Rules to conduct our meetings. The Chair is asking all board members not to ask questions while the applicants are making their presentation. Once the applicants have completed their presentation, we will begin board questioning with the board member who represents the applicant’s district. When concluded, questioning is open to the full board. I am asking that the Chair recognize each board member. Once all board members have completed their questioning, we will then open to the audience who may be here to speak concerning the applicant’s application. Anyone from the audience wishing to speak will be given the opportunity to address the board only once. At the conclusion of public comment, the applicant will be given additional time for rebuttal, as well as to present their final comments. Once completed, no further comment will be heard from the applicant or the public. We will not

use a timer for this meeting. Instead, we are asking each speaker to be concise in what they have to say. It is important that you stay on the subject and avoid information that is not relevant. All persons speaking must provide their name and address for the public record. Those wishing not to verbally state their address may ask the clerk at the podium for an address card. Please fill it out and return it to the clerk. Are there any questions from the board members about the Chair procedures? (no response) Are there any questions from the applicants about the Chair procedures? (no response) Are there any questions from the audience about the Chair procedures? (no response) Seeing none, before going forward, our first order of business is to approve minutes from our previous meeting on February 24, 2016. Have the board members had a chance to review the minutes? I'll entertain a motion to accept the minutes as presented.

Britta Hawkins – I so move.

James Rosasco – I second it. Mr. Chairman, on page 13, in the middle of the page, I'm quoted as saying I will take it upon myself to appoint Mr. Snyder to be our new chairman. If I said 'appoint' I misspoke and I would like that to say 'nominate'. I nominated Mr. Snyder to be our new chairman. That's the only correction I have.

Wayne Snyder called for a vote on the motion as stated, and it passed unanimously.

**1. (16PZ00005) – DOUGLAS D. AND JUDY FUNK** – (Lisa Andrews) request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1340(5)(b) to permit a variance for an accessory structure to be located forward of the front building line of the principal structure; 2.) Section 62-1340(5)(a) to permit a variance of 6 ft. from the required 20-ft. front (North) setback for a principal structure; 3.) Section 62-1340(5)(a) to permit a variance of 9 ft. from the required 20-ft. rear (south) setback for a principal structure; and 4.) Section 62-1340(5)(a) to permit a variance of 3 ft. from the required 7.5 ft. side (east) setback for a principal structure, in an RU-1-11 zoning classification, on 0.18 acre, located on the southeast corner of Old Dixie Hwy and Citrus Dr. (1865 Old Dixie Hwy, Titusville)

**BOA ACTION: Hawkins/Rosasco – DENIED Variances #1 & #2; APPROVED Variances #3 & #4 as depicted on the survey provided by the applicant. Vote was 4:1 with Young voting nay. 16PZ00005.**

Wayne Snyder swore in the applicant.

Doug Funk – My address is 6040 Mangrove St., Mims, Florida. This is my wife, Judy. The reason we're applying for the variance is we purchased this house in May of last year and it didn't have enough room for all of the stuff that the kids had. We purchased the shed and asked if we needed a permit to put the shed on the property when we bought it from the church group, and they said that they weren't required to get a permit. When the zoning people came by they said that it was too large to be put in without a permit, so we're applying for this variance not knowing the road right-of-way was.....we had to be setback 20 ft. instead of 14 ft. So, here we are trying to get a variance to leave the shed there so the kids can store their lawn equipment and stuff in there and not have it sitting out in the yard and such like that, to make it better for the neighborhood not to look as bad.

Wayne Snyder – So, when you put the building in is that when all this surfaced?

Doug Funk – Yes. We had no idea it would be a problem, and we had no idea that we didn't have a survey when we bought the place, but when we got the survey we found out that it was.....and we applied for a permit for the building, we found out it didn't have enough setback from the road right-of-way.

Wayne Snyder – To my right is Ms. Hawkins and she represents your area, she's from your area, and she has the floor next and she will be asking you some questions.

Britta Hawkins – So, you're asking for basically four variances. One of them is the shed.

Doug Funk – Basically, that's what we want.

Britta Hawkins – Then the principal structure also encroaches because there were some issues.

Doug Funk – My understanding is when the house was built the person owned all that property in the area, and then they sold off portions of it, which caused it to not have the proper setbacks. That's what I was told, that's what I found out.

Britta Hawkins – You purchased the property in May of 2015, and the house was built when?

Doug Funk – I'm not sure when.

Britta Hawkins – And you purchased this as it is depicted on the survey?

Doug Funk – That's correct.

Britta Hawkins – The thing that you added was the building, the structure.

Doug Funk – Yes, the 12 x 24 shed.

Britta Hawkins – It looks like a steel building, right?

Doug Funk – Yes, it's aluminum. I've got a photograph here if you want to see it.

Britta Hawkins – That's okay. I have no further questions.

Wayne Snyder – Anyone else on the board who would like to speak?

James Rosasco – Mr. Body, the first variance requested is the fact that the structure is in front of the building line. Is that because of the fact that it's on two streets?

Paul Body – We looked at this when it came up for permitting in trying to determine which was front and which would be the side street. We determined that the front was going to be Citrus Drive because it required a 20 ft. rear setback and the house only has a 4.5 ft. setback on the side and 11.2; we figured the carport might have been added on after the house was built, but we're not sure, and also, the Property Appraiser shows an extra bedroom that was added.....I'm not sure if it was added on afterwards, but it seemed like it might have fit with having a 20 ft. setback to the rear property line, which would be the south property line if the carport wasn't there, and also if the second bedroom wasn't there it would meet the side setback. We cannot call Old Dixie Highway a front, it would have to be a side street, so the only one that we could use is Citrus Drive as the front property line.

James Rosasco – I'm confused, why could we not use Old Dixie Highway?

Paul Body – Because it needs to meet a 20 ft. rear setback and there is no way that this house ever met a 20 ft. rear setback, there's a 4 ½ ft., and it looks like there might have been a room added on to it where it met a 7 ½ setback to the east property line at one time, and the carport might have been added on after the fact, so it looked like it met the south property as the rear property line at 20 ft., so we determined that it needed a 20 ft. rear setback anyway.

James Rosasco – I'm confused in the sense that the applicant testified that when the structure was built that the owner at the time had a lot more property and he split this one off. I was also under the impression that when we determine the front of a building it's usually where the front door is and where the driveway is.

Paul Body – No, it doesn't necessarily have to be where the front door is. We look and see what may have been proposed at the time that the building was built in 1959. There was a subdivision to the east that was subdivided in 1962, but when I spoke to the gentleman who is applying for the variance he said it looked like the carport and the back room had been added on as additions.

James Rosasco – Okay, thank you. As I see it, we really have two different issues here. One is the shed and two variances associated with the shed, the north property line and being in front of the structure, those two variances. The second two variances deal with the main structure, the 4 ½ ft., the 3 ft. variance on the east property line, and the 9 ft. variance off the south property line, so I see this as two different issues, really.

Paul Body – Yes, it is two different issues. When it came up for him to apply for the variance for the accessory building to be in front of the front building line and not meet the 20 ft. setback, it was brought up that we need to clear up the other setbacks, too. The Director here always wants everything cleared up on the property at that time.

James Rosasco - I think that's great efficiency on your part to ask for all four of them at once rather than come in twice with two different applications.

Doug Funk – And we didn't know at the time until we talked to Mr. Body about this that any of this was.....this is our first setting in this kind of a situation. We had no idea what would come up.

James Rosasco – Welcome to rules and regulations. The aerial photograph that was in our package doesn't show the shed being there, so when was the shed actually installed? Just in general terms, I don't need a specific date.

Judy Funk – Probably not long.....I'm not supposed to speak, am I?

Doug Funk – You can go ahead and speak.

Judy Funk – We applied for the variance.....

Cristina Berrios – If she's going to give testimony she needs to be sworn in.

Judy Funk – I can tell him and he can tell you.

Wayne Snyder – Would you like to speak?

Judy Funk – I guess so.

Wayne Snyder swore in the applicant.

Judy Funk – We had no idea. It's like a can of worms with this thing because there was nowhere else to put the shed and we bought this house for our kids and we had no idea that the property lines were like they were because the front of the house is where the mailbox is, which is on Old Dixie. The side of the house is the side of the house, it's not really the front, but because it's a corner lot we're running into all these problems.

Wayne Snyder – What you're saying is when you bought the property you weren't aware of this particular situation?

Judy Funk – No. There have been a lot of things after we bought the house, because it was from a Fannie Mae. We bought the house for our kids to live in, even though they are supposed to pay us back, but we couldn't afford another house.

Wayne Snyder – I understand. Do I have any other board members, James are you.....?

James Rosasco – I'm not finished with my question. I asked the specific question of when the shed was installed.

Judy Funk – It must have been right after we.....hadn't been there long.

Doug Funk – Probably approximately six or seven months ago. All this time we have been trying to.....once zoning was called, zoning was called because my son-in-law had some trailers in the yard and stuff, but they were all tagged, and the zoning guy that came out said the trailers were fine, but the shed had to be dealt with, the permit for a shed had to be dealt with.

Wayne Snyder – I understand.

Judy Funk – They all had tags.

James Rosasco – Thank you. That's all I have to ask, Mr. Chairman.

Wayne Snyder – Anyone else on the board?

Dale Young – I see a sign above the door there that says, 'furniture'.

Judy Funk – It came from the church. We bought the shed from the church and they are the ones that told us we didn't need a permit, otherwise we might not have bought the shed.

Doug Funk – Yes, if we had known that we had to have a permit to start with and it wouldn't fit we wouldn't have purchased the shed.

Judy Funk – Our son-in-law had stuff that had to go into something and we were trying to make it easier to not have it look bad.

Doug Funk – It's just a matter of painting over that sign.

Wayne Snyder – Monique, do you have anything?

Monique Miller – No.

Britta Hawkins – It's just interesting to me that the address is 1865 Old Dixie.

Judy Funk – That was interesting to me, too.

Britta Hawkins – When the house was built, at that time.....I don't know, Mr. Body, do addresses change?

Paul Body – They could be for either street. It does not say which is the front and which is the side street. They could pick the two. When we looked at this we looked to see exactly what seems to have met the 20 ft. rear, the 7 ½ sides.

Britta Hawkins – So, you went based on that, what would have met.

Paul Body – Yes, that's correct. It did have a garage that faced out on Citrus Drive, too, with the driveway heading to Citrus Drive. The way we looked at it and after speaking to the applicants about the house, it looked like the carport was an addition later on.

Britta Hawkins – Thank you.

Wayne Snyder – Any other questions from the board at this time? If you'll have a seat and then you'll have an opportunity to come back. Is there anyone else here who would like to address the board on this particular subject? Please come forward.

Linda Trawle – Linda Trawle, 2890 Citrus Drive, Titusville, Florida.

Wayne Snyder swore in the speaker.

Linda Trawle – I sent Jennifer pictures and a list of neighbors that are against this shed. It is too big for the property, it defaces our neighborhood. He has a garage to put his stuff in, he doesn't use the garage for putting a car in it, so he could put the stuff in his garage. The white vehicle did not have tags; one of the neighbors looked and they could have called Code Enforcement, but we didn't. We're hoping after looking at these pictures that shed is way out of proportion with the house, it's almost as tall as the house is. As far as neighbors, I wish I could have gotten more signatures, but I got sick over the weekend and I didn't get to go out and get more signatures, a couple were out of town. I'm representing the neighbors, we're totally against it, it really make the neighborhood look bad. It's an older neighborhood, but we're all proud and most of these neighbors are original owners and they really don't want to see that shed there. It's bad enough we have storage sheds with cars all over the driveway. I don't think the shed has been up seven months because as soon as it went up we pretty much called Code Enforcement on it, because we were concerned it was just going to sit there and we didn't want it.

Wayne Snyder – Do you have anything else you would like to address the board with?

Linda Trawle – No, we're just hoping that the signatures and how the neighbors feel will be enough to help you understand. We just don't want that there, it just doesn't fit in the neighborhood, and it's way too big for the property. I wish my grandchildren had as many toys as your kids have if they have that big of a shed.

Wayne Snyder – What you're referring to are the 11 signatures.

Linda Trawle – Right, I had another one, but then I got sick over the weekend and I couldn't get out. Most of the neighbors are elderly, so they really couldn't help me.

Wayne Snyder – And you're referring to this photograph? This is your submission now?

Linda Trawle – Yes.

Wayne Snyder – This is your opportunity to speak to the board, is there anything else?

Linda Trawle – I don't know what else to tell you except take that into consideration. We're just concerned because the backyard has got a lot of stuff, but that's their private property and we really can't do anything with that as far as Code Enforcement goes, but some of the neighbors behind are concerned about rodents because the more stuff they put out there the worse it looks. So, the shed would be a great start by not having it there. I understand they will have to move it, but they should have bought a piece of property on two acres

and they could have plopped all the sheds on it that they wanted, but for this little piece of property it is way out of line. Thank you.

Wayne Snyder – Does the board have any questions of this lady?

Britta Hawkins – No questions.

James Rosasco – I have one question, ma'am. Which.....2890, which house is yours?

Linda Trawle – Right across the street. The second house from Old Dixie.

James Rosasco – You're the furthest east house on....west house, rather.

Linda Trawle – The corner house is vacant, and then I'm right next to it.

James Rosasco – Thank you, very much.

Wayne Snyder – Okay, you can come back up.

Judy Funk – Last week my daughter was home sick with the baby and she called us extremely upset and said some of the neighbors had stopped and told her that somebody in the neighborhood had threatened to turn them in for their illegal things on their neighborhood, and they were afraid to leave their name because they thought they would get turned in.

Doug Funk – They were threatened to have zoning come out and look at their property if they didn't sign the paper. That's what our daughter was told by some of the neighbors in the neighborhood, so they signed the paper.

Judy Funk – There was a gentleman that came to the house yesterday and he lives right where the front of their house is, he is on the.....

Doug Funk – He abuts the southeast side of the house we purchased. We talked to him and he had no problem with what we are doing. The only thing is, he told us if we build anything on his property then it would be his, but we have no intentions of putting anything there.

Wayne Snyder – Does the board have any further questions of these applicants? You may be seated. Do we have a discussion?

Dale Young – The shed's size is not in question, right? It's within the Code?

Paul Body – No, the shed size has nothing to do with the variance, it's just in front of the front building line and doesn't meet the 20 ft. setback off of Citrus Drive, their property line.

Dale Young – According to what was said here, this was subdivided 53 years ago, so these additions have been put in there since and didn't seem to create any problem. That's all I had.

Wayne Snyder – Any other questions from the board? Okay, I'll entertain a motion.

Monique Miller – Could we look at them separately?

Britta Hawkins – Absolutely, those are two separate issues. Since this is my district, since it's an older home and the history that we don't know when the room and carport was added, I have no problem and would so

move to approve the 3<sup>rd</sup> and 4<sup>th</sup> variance requests, meaning Section 62-1340(5)(a), to permit a variance of 9 ft. from the required 20 ft. rear (south) setback for the principal structure, and then the 3 ft. variance from the require 7 ½ side (east) setback for the principal structure. For that I feel we should approve those because that was no doing of the new owners. As to the structure that was added, the accessory structure, I would move to deny that part. I understand because this is a lot that has two roads on it, I understand this is difficult, the layout was there from the beginning, the structure was added later and the lot is rather small, so therefore I would move to approve the setback issues with the principal structure and deny the accessory structure. If we can do that, Mr. Body.

Paul Body – So, you're denying Number 1 and Number 2, and approving 3 and 4.

Wayne Snyder – So, the motion is to approve Number 1 and Number 2, but deny.....

Paul Body – No, that's wrong. It's to deny 1 and 2, and approve 3 and 4.

Britta Hawkins – Numbers 3 and 4 are with the principal structure as it is depicted on our survey, because that is of no wrongdoing of the applicant. As to the metal structure, I would deny Numbers 1 and 2.

Wayne Snyder – Do I have a second?

James Rosasco – I'll second the motion.

Wayne Snyder – Any further discussion?

Dale Young – The house itself certainly met code in 1959, it wasn't subdivided until three years later in 53 years.

Britta Hawkins – That part I moved to approve.

Dale Young – Number 2 would come into it there as well, on the setback.

Paul Body – No, Number 2 is for the accessory building not meeting a 20 ft. front setback requirement.

Dale Young – We don't know what is front. I'm old fashioned, I think the front door is the front of the house.

Paul Body – No, the front property line is off of Citrus Drive.

Dale Young – I understand, and that's where the problem comes in with his side and front it. So, no, I couldn't support it.

Paul Body – Even if we called Old Dixie Highway the front it would still need to meet a 20 ft. setback off of Citrus Drive for the accessory structure.

Dale Young – I guess for the additions, but it met code when it was built.

Paul Body – But we're talking about the accessory structure, not the principal house.

Dale Young – So, under this motion you're going to have remove the accessory structures, tear off the carport and additions in the back?

Britta Hawkins – No, only remove the accessory structure that was added, that was put on the land recently, only that. The other things are attached to the principal structure and I would so move to approve those.

Dale Young – Let me see what the dimensions are. Okay.

Wayne Snyder – Have you got it, Mr. Young?

Paul Body – I think what the confusion is, is that Number 2 says that it is for a principal structure and it should be for an accessory structure.

Dale Young – What's the setback if it's not the front of the house?

Paul Body – It would still need to meet 20 ft., it's a side street setback.

Dale Young – If we didn't have this, excuse the expression, funky front and side, if that was the side it would be 7 ft.?

Paul Body – No, it still needs to meet 20 ft. off of Citrus Drive if that was a side street setback. If we called Old Dixie.....because it's a corner lot and one of those is going to be called a side street and one of them is going to be called the front, but both of them are going to require 20 ft. to any structures.

Dale Young – Okay.

Wayne Snyder called for a vote on the motion as stated, and it passed 4:1 with Dale Young voting nay.

Cristina Berrios – Mr. Chairman, to clarify, the motion was to approve 3 and 4, and to deny 1 and 2.

Wayne Snyder – Correct.

Cristina Berrios – So, that means that the shed needs to be removed because it's no longer in.....the setback won't be changed for it.

Wayne Snyder – I understand, yes. Do you understand, sir?

Doug Funk – I understand. How much time do we have to move the shed?

Paul Body – I'm not sure, you'll need to contact Code Enforcement about that.

Cristina Berrios – You should contact the Code Enforcement officer that you spoke with about that.

**2. (16PZ00010) – JOHN A. (SR.) AND DEBRA BAKER** – request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1334(5)(b) to permit a variance of 7 ft. from the required 15-ft. side (north) setback for an accessory structure, in an AU zoning classification, on 3.75 acres, located on the east side of Folsom Rd., approx. 490 ft. south of Glenn Rd. (3007 Folsom Rd., Mims)

**BOA ACTION: Hawkins/Miller – APPROVED as depicted on the survey provided by the applicant. Vote was unanimous. 16PZ00010.**

Wayne Snyder swore in the applicant.

John Baker – John Baker, 3007 Folsom Road, Mims, Florida. I guess I violated Code, I had a building on the property when I bought it. The building was built in 1953 and I wasn't aware that you couldn't do something to something that was already there, the structure was there, it was like an old garage, and I enclosed it and that's why I'm here for a variance. Naturally, it's close to a property line, but it was built in 1953.

Wayne Snyder – Do you have anything to add at this time, sir?

John Baker – Sir, I really wouldn't know what to add other than just say it is there, it was done, I've had an architect and engineer sign off on it, and I have applied for a permit. The building is structurally sound, it's a nice building. We use it as a game room. I think the person that came out called it a family room, but it's fixed up pretty nice.

Wayne Snyder – You said you have applied for a permit?

John Baker – I have.

Wayne Snyder – This is Ms. Hawkins' district and she has the floor first.

Britta Hawkins – There was a structure there? Was it just a roof or pole barn kind of thing?

John Baker – Kind of. It had a tool room in it and the sides were open, I just closed it up.

Britta Hawkins – So, there was a roof?

John Baker – Yes, there was a roof?

Britta Hawkins – There was a wall?

John Baker – No, it was like a garage, it's quite tall, you could drive up underneath it, it did have a tool room in it, but it was open.

Britta Hawkins – A tool room.

John Baker – I closed it up.

Britta Hawkins – But, existing was concrete? The roof?

John Baker – The roof is metal.

Britta Hawkins – The roof is metal?

John Baker – Yes, ma'am.

Britta Hawkins – Concrete floor?

John Baker – Yes.

Britta Hawkins – And you enclosed it?

John Baker – I enclosed it. It has a block enclosure.

Britta Hawkins – Was there a different enclosure before? Did you take down wood and put the block up?

John Baker – No, it was open.

Britta Hawkins – It was all open?

John Baker – Yes.

Britta Hawkins – Okay.

John Baker – It did have block pillars, that's what it was sitting on.

Britta Hawkins – Okay. When did you enclose it?

John Baker – It was after.....my son owned it at the time. It was a little bit after '03.

Britta Hawkins – '03?

John Baker – Yes.

Britta Hawkins – When did you become owner of the property? Did you purchase it from your son?

John Baker – Yes. I think it was '06 when I purchased it.

Britta Hawkins – Okay, I have no further questions.

James Rosasco – I have a couple of questions for Paul. This is AU, Agricultural Residential, if it was originally a pole barn would that have been a legal structure?

Paul Body – It was kind of like a pole barn, but it had one enclosed room in it. He took it and enclosed the whole area, which is an expansion of a non-conforming structure, because it didn't meet the setbacks, and that's the reason he's really here, is that he enclosed it, expanded it, and made it an expansion on a non-conforming structure into the setback.

Wayne Snyder – Any other board member have a question? Sir, you may be seated. Is there anyone in the room who would like to talk on the same subject? Since there is no one else here on the same subject, sir, you may come back. Sorry to make you walk all the way back there. Board members, does anyone else have a question further on this subject?

James Rosasco – Do you happen to know a Mr. Law?

John Baker – No, sir.

James Rosasco – We have a letter of objection from Mr. Law who says that his house is right next to the structure, and I just wondered if you knew Mr. Law.

John Baker – No.

James Rosasco – Thank you, that's all I have.

Wayne Snyder – This is the letter we have.

John Baker – Where does he live?

Wayne Snyder – He doesn't have an address on here, he has an email. Joshua and Jennifer Law.

John Baker – I've never heard that name.

Wayne Snyder – Any other further questions from the board? I'll entertain a motion to accept or deny this variance.

Britta Hawkins – Since this is my district, my motion is to approve as it is set forth in the survey that is included in this packet. Since the structure was initially there and I understand it is an extension of a non-conforming structure; however, it's been done a while back, nothing recent, and the lot size is a good sized lot, so therefore I would move to approve.

Monique Miller – I second.

Wayne Snyder – Any other discussion?

James Rosasco – I observe that the survey submitted with the applicant was dated March 23, 2002, and shows the concrete pad of the structure, so it has been there since 2002, so I would also support the motion.

Wayne Snyder called for a vote on the motion as stated, and it passed unanimously.

**3. (16PZ00012) – CANAVERAL CROSSROADS, LLC** – (Martin Flynn) – requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2109(c) to permit a variance of 4 ft. over the 4-ft. height limitation for a fence located within the front setback area, in a BU-1 zoning classification, on 5 acres, located on the north side of Marine Harbor Dr., approx. 250 ft. west of S.R. 3. (201 Ivory Coral Ln., Merritt Island)

**BOA ACTION: Rosasco/Hawkins – TABLED to the April 20, 2016, meeting. Vote was unanimous.**

Wayne Snyder swore in the applicant.

Jessica McPhillips – My name is Jessica McPhillips, my address is 1455 S. Harbor Drive, Merritt Island. I'm here to request a variance on the 4 ft. current height limit for a fence. Our piece of property is pretty unique, our boundaries are S.R. 528, Courtenay, the barge canal, and Harbor Town Marina. We're currently building a resort community, 48 townhomes, 35 condo units, and a 6-story mid-rise. We're asking to build an 8 ft. wall on the boundary that faces S.R. 528. Last year there were 29 million cars that passed our property and there's just an extreme amount of noise pollution that comes off of that road, and that is why we're requesting the variance.

Paul Body – What was your name again?

Jessica McPhillips – Jessica McPhillips.

Paul Body – Are you on the LLC, Jessica?

Jessica McPhillips – I'm not.

Paul Body – Do we have a Form A? I don't see a Form A that authorizes you to be the applicant for the LLC.

Jessica McPhillips – No.

Paul Body – We're probably going to need to do something about getting a Form A for you to be the applicant.

Jessica McPhillips – I could have them email something over.

Paul Body – I think we would probably need to table this, maybe, until we get the authorization for her to be an applicant.

Wayne Snyder – I understand. Who's Martin Flynn?

Jessica McPhillips – He is the manager of W.M. Holdings, it's the entity that's the manager of Canaveral Crossroads.

Wayne Snyder – What's the possibilities of getting Martin Flynn here?

Jessica McPhillips – It could take about 25 minutes, probably.

Wayne Snyder – I don't mean today.

Paul Body – We would need Martin Flynn since he's on the LLC, to authorize you to be an applicant with a Form A.

Wayne Snyder – Some sort of affidavit or something that you're speaking on his behalf, because the only record that we have.....

Paul Body – We have copies of the LLC and we don't have a Form A at all authorizing anybody from Canaveral Crossroads, LLC.

Wayne Snyder – I completely understand where you're coming from, you're in my district, and I pass your property every day, so I fully understand it, but we have to stick with formality here. What we're going to have to do is table this until you can get Martin Flynn here, or something confirming that you're representing Martin Flynn.

Jessica McPhillips – Okay, that's not an issue.

Wayne Snyder – Then you'll have to make arrangements.

Paul Body – Do you want to table it to next month?

Wayne Snyder – Sure, if it's convenient with the board. Mr. Body, do you need a motion on tabling this?

Paul Body – Yes.

Wayne Snyder – I'll entertain a motion to table this until our next meeting, which will be next month. I'm sorry, but we don't have your name any place.

Jessica McPhillips – I understand.

James Rosasco – I move that we table this issue until next month's meeting.

Britta Hawkins – I second it.

Wayne Snyder called for a vote on the motion as stated, and it passed unanimously.

Cristina Berrios – Just to clarify, the next meeting is April 29<sup>th</sup> and that's what the motion was directing towards, because it has to be actual date said in the motion.

Paul Body – We have the affidavits either online or you can get one at the zoning office right now.

Jessica McPhillips – I believe I have one with the Building Department.

Paul Body – But that's not for this application, that would be for a building permit.

Jessica McPhillips – Thank you.

**4. (16PZ00013) – PRECISION POWDER COATING, INC.** – (John Crumpler) – requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1543(5)(c) to permit a variance of 44 ft. from the required 100-ft. rear (north) setback in an IU zoning classification, on 1.12 acres, located on the north side of Dow Rd., approx. 0.20 mile west of North Dr. (3990 Dow Rd., Melbourne)

**BOA ACTION: Young/Miller – APPROVED as depicted on the survey provided by the applicant, and limited to a storage shed only. Vote was unanimous. 16PZ00013.**

Wayne Snyder swore in the applicants.

Jeff Crumpler – Jeff Crumpler, 3990 Dow Road, Melbourne, Florida.

John Crumpler – John Crumpler, 3946 Lakeside Lane, Palm Bay.

Jeff Crumpler – We're here today to apply for a variance to put up a storage shed of sorts, a 30' x 40' shed on the back part of our property. Where our hardship lies is we have a septic drainfield that's on our property from our west side neighbor, and we can't build on that property. Also, with the fact that we're backed up to an Airstream park, which is residential, it makes our setback 100 ft. instead of the normal 25 ft., going from residential to commercial. With having that setback there and with having the hardship of having somebody else's septic on our property we literally have 6 ft. of buildable property on property that we have less than 20% of it being used for building, and we have 6 ft. of buildable property on the rest of our property because of that. All I'm looking for is.....what we'd like to put up is just a storage shed, it's not going to be used for any kind of work or anything like that, it's literally for storage of some vehicles that we have and stuff like that to get it out of the elements. It's a carport of sorts with sides, it's a metal building, we're not even planning on putting in a floor, just gravel rock. It's just storage for stuff to get it out of our way so we can operate in our normal building.

Wayne Snyder – But it is a structure?

Jeff Crumpler – It's a structure.

John Crumpler – We're just asking to change that setback to 56 ft. instead of 11 ft., we're not even going to go back to the 25 ft., which we should be for IU, because some years ago they approved the trailer park, the change from IU to put in the trailers, they made it residential when everything else around there is IU, but they got this trailer park stuck in between.

Jeff Crumpler - There are several building that are up against the trailer park as of right now, Fed Ex has one, and there's several buildings down Dow Road that are pressed up against there, and we're looking to still be 56 ft. from there. We have a retention pond and oak trees, and from the property you can't even see the Airstream park from where we're intending on putting it. Once again, it's a building that's used for storage, it's not going to have noise. In all actuality, if there was a complaint from the Airstream park it would lessen it because it will be more of a buffer. Theoretically, it should be 25 ft., and we're still going to be 50 ft. away, but we can't go to the full 100 ft. because of the hardship that we have of having somebody else's septic on our property, so we can't build directly behind our building because the septic is there?

John Crumpler – That is a septic easement that goes all the way across our property for 100 ft. all the way across the property.

Dale Young – I'm confused by this septic easement, why does it go across? Who is using it, the neighbors?

Jeff Crumpler – Yes, it's the neighbors' septic on our property. The original owner.....it was supposed to be rectified before we closed on the building and it wasn't, but we had to move in, so we're caught between a rock and a hard place, and they promised to make it right, but it never got right, and here we are. It's land that we can't do anything with because they're on our property, and now they've individualized each of the units and made them into individual condos, it's not one whole unit anymore. So, trying to get cooperation from the neighbors to do something has been difficult.

Dale Young – So, this entire middle section is part of that easement?

Jeff Crumpler – Yes.

John Crumpler – It was designed by Dr. Dow, where Dow Road is from, and he was putting another unit like he has at the end of the street that's a 'c' shape and he's going to put the septic in the center.

Jeff Crumpler – And then he sold the property, and that's where we are.

Dale Young – But you say there's a line of oak trees lined up back there.

Jeff Crumpler – I have a picture if you'd like to see it, sir.

Cristina Berrios – I'd like to remind the applicant that anything he hands to the board must stay with us.

Jeff Crumpler – Okay. Those are just two of the shots of where the building will essentially be, you won't even be able to see the Airstream park from where the proposed spot would be, and that's where the topper is right now.

John Crumpler – Here's another aerial picture.

Dale Young – We've got that one.

James Rosasco – I have a couple of questions, Mr. Chairman. In full disclosure, the applicant has done a lot of powder coating on my airboat, I have no financial interest, but he has done an awful lot of powder coating on my airboat. I see that there's no problem with the fact.....I assume the trailer park would have gotten notice?

Paul Body – Yes, everybody within 200 ft. of this property received a notice. Also, they have to post the sign and it gets a public advertisement.

James Rosasco – So, as the applicant testified, he has a very small plot here that he can fit this building in. The fact that there's not going to be any manufacturing or anything of that nature, and the fact that it's still 56 ft. away from the oak trees provides a visual and a sound barrier between the trailer park and the applicant. I see no reason not to approve this one. Thank you.

Britta Hawkins – I have no questions.

Wayne Snyder – Please take a seat. Is there anyone else here who would like to comment on this particular application? Please come forward.

Wayne Snyder swore in the speaker.

Frank Carson – My name is Frank Carson, I am a resident at Land Yacht Harbor, which is the address of 201 S. John Rodes Boulevard. My main address is 43 Alfa Lane, Melbourne, 32924. When we got the notice it didn't mention an auxiliary building that was just for storage. The powder coating place.....let me go back to where we are. This park was built in 1975, 41 years ago. Most of the places that are around there now were not there. The Precision Powder Coating, under the Code, I'm sure they have an exhaust system and everything else. Us being where we are, every trailer there has an outside air conditioner, and those will draw in any smell that we have. Building a separate building that close to us, we really don't know that this is going to be used strictly for storage. I mean, none of us, myself, yourself, involved can say that. We have people in the park who have a problem breathing, they have a problem with noise, the noise goes on all hours of the night. With that separate building they would be taking stuff in and out of that building; therefore, I am requesting an area the project to be denied. The park, again, has 304 spaces, some of which are occupied 12 months a year. I can understand their need, but I cannot understand that it has to be in the back, closer to us. That's taking away almost half of the area that is by law required.

Wayne Snyder – Mr. Young, this is your territory, do you have any comments?

Dale Young – No, no comment.

Wayne Snyder – Any questions?

Monique Miller – I just want to clarify, you said that you currently have a concern about the noise that's going on at the business as it is today?

Frank Carson – Yes.

Monique Miller – And your concern is that a shed will increase that?

Frank Carson – Yes.

Monique Miller – Okay, thank you.

Frank Carson – The usage of that building, if they're using it for storage of vehicles or anything else, they're going to be moving things in and out of that building, and this is a residential park.

Monique Miller – I understand, thank you.

Wayne Snyder – Any other board member have a question? Anything else that you need to add, sir?

Frank Carson – I want you to understand that with the powder coating, powder coating to my understanding is sprayed on then immediately put into a drying area to heat it to make it adhere to the object that is being worked on. It has to be vented out. Venting it out, our air conditioners will be ruined, and the smell will go through these residential trailers.

Wayne Snyder – Do you have any other concern?

James Rosasco – Just to make sure we understand, we are not here to discuss the fact that the powder coating is a manufacturing process in the main structure.

Frank Carson – I understand that.

James Rosasco – The fact that it may or may not give off fumes isn't really part of this discussion.

Frank Carson – Understood.

James Rosasco – The other thing I might add, I want to ask Paul, this particular structure is being sold to us as storage, if they were to do manufacturing of some sort would they not have to get a use permit for that?

Paul Body – Yes, they would probably have to go through the site planning process and state exactly what it's being used for so that Building, Fire, and everybody else would know exactly what type of system it's being used for.

James Rosasco – So, other than the fact that your observation, which I'm not arguing with, that they would be moving vehicles in and out of that storage area, it would, in fact, have to be a storage area and not a manufacturing or any other use.

Frank Carson – Correct, but all I'm saying is that this property is being used for more than 8, 10, 12 hours, they run well into the wee hours of the morning.

James Rosasco – I'm not arguing with that at all. I understand that completely.

Frank Carson – And moving a building half the distance, almost half the distance, of their variance, when these are moved out there goes the silence.

James Rosasco – Thank you, I have no other questions.

Wayne Snyder – Any other board member have a question? Sir, do you have anything else you want to tell us?

Frank Carson – No, I do not.

Wayne Snyder – Is there anyone else here? Ma'am you may come forward, please.

Wayne Snyder swore in the speaker.

Elizabeth Diaz – My name is Elizabeth Diaz, and I live at 200 Sigma Lane. I wasn't aware that there was a building to be added, either. In the past, dealing with Jack, I have had words with him as far as his late hours, so the shed could be used late at night, because last year when I went to him and said he have people living here, behind there, and they couldn't sleep, he's got an 8'x9' fan built into the building that pushes out some kind of dirt, maybe it's an exhaust, I have no idea, but I did go to him – and he's talking about cooperation from his neighbors, but he couldn't cooperate with us, which stands to believe if there's going to be a shed put they're going to be using it because they drive semis in there.

Wayne Snyder – Excuse me, ma'am, let me clarify something. You're using the word 'him', are you .....

Elizabeth Diaz – I'm sorry, Jack.

Wayne Snyder – Are you referring to one of these gentleman?

Elizabeth Diaz – Jack, this gentleman here. We've been there since the '70's, and when he bought the property he must have known what he was buying, he saw all the people living there, and I'm sure he could have bought a bigger lot, or he could move if it's not big enough. To take 305 people, which is what lives there, 304, and jeopardize our sleep, it's not fair. You knew what you were buying when you bought the lot.

Wayne Snyder – Ma'am, please understand, these gentleman are here to face this board asking for a variance on footage and property. We don't have any jurisdiction over what he's doing in the building. You can proceed further to that if you want, but we can't help you on that subject. We're here to make a decision with reference to the footage that he's making a request by way of a variance.

Elizabeth Diaz – I understand that. What I'm saying is, if he puts another building behind the building he has there now, he's going over into our area and there will be more noise closer to us.

Wayne Snyder – I don't understand what you mean, he's going into your area.

Elizabeth Diaz – You said there's a 100-ft. variance, setback, I'm sorry, on the property, and he's going to go over that. Therefore, his building is going to come closer to our buildings.

Wayne Snyder – But he's not going on your property.

Elizabeth Diaz – No, he's not, but what I'm saying is when he bought his property he should have known there was a 100 ft. variance [sic].

Wayne Snyder – You understand why he's there, he's asking for an exception to that variance [sic].

Elizabeth Diaz – And I understand that also, but all I'm saying is, he was speaking of cooperation from neighbors, we are his neighbor, and he has not given us any cooperation in the past. I personally have talked to him.

Wayne Snyder – Is there anyone on the board who would like to address this lady on this subject? Do you have anything further to add, ma'am?

Elizabeth Diaz – I really don't know what else to add other than the building should not be built if there's a 100 ft. between where he's supposed to stopped and he's not, and he's going to put a building on there, it's just going to make it worse for us, the noise and the breathing, I guess. There's going to be more dirt. That's about all I can say.

Wayne Snyder – Thank you, you may be seated. Is there anyone else here who would like to speak on this subject?

Wayne Snyder swore in the applicant.

John Guy – My name is John Guy, 318 Sigma Lane. What I am looking at is that they are wanting to move the variance in by 56 ft., is that correct?

Wayne Snyder – He's asking for a variance, he's asking for that.

John Guy – In the years past, this law was passed, is that correct? For 100 ft. for residential?

Wayne Snyder – There was a setback law, yes, that's correct.

John Guy – Now, he's wanting this law to be changed, is that correct?

Wayne Snyder – No, he doesn't want the law changed, he's asking for a variance. Do you understand what that means?

John Guy – Yes, sir. In other words, I don't understand all of a sudden these people wanting to do this when all these years we've been there all these years, too. What we're trying to do is just to be able to look at the situation, understand it, and we're not trying to say we're wrong or we're right, what we're trying to say is that we would like for this not to be changed at this particular time until we have more time to study it.

Wayne Snyder – You have that option, sir.

John Guy – I thank you for taking the time to listen to me.

Wayne Snyder – Anybody on the board have a question for this gentleman?

John Guy – May I add one thing? I am the President of the Board over there.

Wayne Snyder – Where all the units that are in question are? Okay. So, basically, you're representing the homeowners association?

John Guy – The whole park.

Wayne Snyder – I understand that, sir. Any other questions?

John Guy – No, I would just like to say that the people that spoke here today are from the park. We have shown this to a lot of the people that live over there and they're not for it, they are totally against it and they asked us to come and speak to you. We're not here to upset no one, we're here just for you if you would hear us and understand our situation. So, I'm not trying to be ugly, I'm not trying to be mean, or anything else. We're just here to try to help our park, and I certainly do appreciate you listening to me and all the rest of them. Thank you, sir.

Wayne Snyder – Thank you, sir, you may be seated. Gentlemen, you can come back up, please. Do you have any additional comments based on what you just heard?

Jeff Crumpler – I want to reiterate this is for storage, strictly storage of personal and some business related stuff, but it's storage; it's not going to be going in and out all hours of the night, we don't work all hours of the night, our hours are 6:30 a.m. to 4:30 p.m. There have been occasions when I've had to work late, but with that being said, all hours of the night, 8:00 at night is not really relevant, I just wanted to clarify that. We have an issue in the fact that we have all this land that we can't do anything with, so all I'm asking for is just for the variance to just put this storage shed so that we have a place to store stuff to get it out of the elements so it doesn't rot away on us. It would probably be a week or two weeks before we even go inside the shed sometimes. It's not something that's going to be used on a daily basis, it's just storage, that's it.

John Crumpler – The other thing is, our hours are, like he said, and also, we don't work on weekends, never have, never work on Saturdays, never work on Sundays, and we don't have a night shift. A couple of times we have worked late, but not on any kind of a regular basis. As far as tractor trailers, we don't have tractor trailers. The building next to us....there was a plumbing supply company in there and they had truckloads of pipe coming in there during the day, but we don't have tractor trailers, we have box trucks coming in and stuff like that, but that's all. The other thing is, as far as driving a car back to the shed, if there's 300 trailers over there, they've got 300 cars coming in around their houses, right on them, every day, and they're not parking them out on the street to stay away from their trailers so they don't have to hear the cars. We've got 30 ft. tall oak trees between them and our property, and a retention pond.

Wayne Snyder – Is there anything else you'd like to add?

Jeff Crumpler – Just keep in mind that we do have a hardship to where we do have all this land that we really can't do anything with, and the shed is just strictly for storage, that's all.

John Crumpler – IU is normally 50% coverage of building, is what you can have. We've got 15%, and with the variances that's on there now that the land yachts are there, which that property used to be zoned IU before it became a trailer park and the trailer park had to know when it got built that it was going to be surrounded by IU property.

Wayne Snyder – Does the board have any other questions?

Dale Young – You said your hours are 6:30 a.m. to 4:30 p.m.?

Jeff Crumpler – Monday through Friday.

Dale Young – I noticed this is a 14 ft. eaves height on the building, but you aren't parking any semi-trailers in it?

Jeff Crumpler – No. It's a 30' x 40', but there's no semi that's going to be able to fit into it.

Dale Young – I think that's all I have.

Wayne Snyder – Dale, this is your area if you would like to propose a motion here.

Dale Young – I move for approval of the application for use of the building for storage, strictly storage, and confined to working hours, as depicted on the application.

Wayne Snyder – Do I have a second?

Monique Miller – I second.

Wayne Snyder – Any other discussion?

Britta Hawkins – We cannot limit the working hours, we're just for the variance. We approve the variance as depicted on the survey, as they want to build it.

Dale Young – Storage only, during working hours.

Britta Hawkins – We can't do that; that's outside of our powers. We're here for the variance for the size of where they want to put it.

Cristina Berrios – There is no ability for this board to put any kind of restrictions like that on the use. That would be in our Code already, there are already hours that they should be using their property, and anyone who has complaints about that can certainly call Code Enforcement to see if they are actually following the working hours, but in terms of this board, all you have is the ability to grant the setbacks or not.

Dale Young – My motion would be amended as storage use only, as depicted.

Monique Miller – I second.

Wayne Snyder – Any discussion?

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James Rosasco – Yes, I would observe that the aerial photograph that was given to us in our package from Planning and Zoning shows a building to the east that looks like it may be only 20 ft. off the back property line.

Britta Hawkins – Yes, it's well within the 100 ft.

James Rosasco – I also pulled up on the map that to the very east of that building there are two other buildings that go within 20 ft. of the rear property line, so I don't think this is a unique situation, so I certainly support the applicant.

Wayne Snyder called for a vote on the motion as stated, and it passed unanimously.

Upon consensus, the meeting was adjourned at 2:59 p.m.

## Deborah Thomas

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**From:** Jones, Jennifer <jennifer.jones@brevardcounty.us>  
**Sent:** Friday, March 18, 2016 2:56 PM  
**To:** Ashley Folsom; Deborah Thomas; Donna Scott; Tammy Rowe  
**Subject:** 03-16-16 BOA Minutes  
**Attachments:** Board of Adjustment Minutes 2016 03 March.pdf

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