

## BOARD OF ADJUSTMENT MINUTES

The Brevard County Board of Adjustment met in regular session at 1:30 p.m. on Wednesday, February 18, 2009, in Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, with Chairperson Sondra Ball presiding, to consider the following requests.

Board members present were:

- Sondra Ball, Chair, District 1
- Mary Hillberg, District 2
- Jim Rosasco, District 3
- Mike Cunningham, Alternate, District 3
- George Bovell, District 4
- Dale Young, District 5

Staff members present were:

- Rick Enos, Zoning Manager
- Christine Lepore, Asst. County Attorney
- Elena Scruggs, Land Development Specialist

There were five regular members present, and one alternate. The five regular members voted throughout the meeting.

Sondra Ball – I'll now call to order the scheduled meeting of the Board of Adjustment. Planning and Zoning, if you would please, staff, we're gonna ask that you would please describe the function and the operation of the Board of Adjustment to our applicants, and to the audience.

Rick Enos – Yes, Madam Chairman. The Board of Adjustment is a quasi-judicial body, established by the Board of County Commissioners, under Chapter 62, Article II, Division IV, of the Brevard County Code. The Board of Adjustment is empowered to hear requests for variances to the Zoning Regulations, and to the Sign Regulations, in Chapter 62, Articles VI and 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 of the public hearing at which the decision was rendered, but not thereafter, apply to a court of competent jurisdiction for appropriate relief. And, we have a total of five items on the agenda today. And, we do have two of those five that we need to request tabling for. We can do that at your convenience, Madam Chairman.

Ms. Ball - Thank you, Rick. I'll ask our Vice-Chair, Mary Hillberg, if she would please explain to our applicants, and to the audience, the definition of a hardship.

Mary Hillberg – Undue hardship: A variance may be granted when it will not be contrary to the public interest, 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 landlord "sic" cannot yield a reasonable use, 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.

Ms. Ball – Thank you, Mary. I would like to address our Board members, the applicants, and the audience, for a moment. The Chair is asking all Board members not to ask any questions while the applicant is making their presentation. Once the applicant has completed their presentation, we will then begin Board questioning, with the member who represents the applicant's district. When concluded, questioning will 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 it 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 this Board only once. At the conclusion of the public comment, the applicant will be given additional time, as well, to present their final comments. Once completed, no further comment will be heard from the applicant or the public. We will not be using a time clock for our meeting today. Instead, we're asking that each speaker 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 not wishing to verbally state their address may ask the clerk at the podium for an address card. Fill it out and give it to the clerk. Are there any questions of the Board members, concerning the Chair procedure? (no response) Seeing none, are there any questions of any of the applicants, concerning the Chair procedure? (no response) Seeing none, are there any questions from anyone in the audience, concerning the Chair procedure? (no response) Seeing none, we'll move to our first order of business, which is the approval of the minutes from our January meeting. Are there any additions or corrections to those minutes? (no response) No. May I have a motion, then, for approval of the minutes?

Mary Hillberg – Motion to approve.

Ms. Ball – Thank you, Mary. And second.

Dale Young – Second.

Ms. Ball – Second from Dale.

Ms Ball called the question, and the Board approved the minutes, as submitted. The vote was unanimous.

The agenda items were heard in the following order: 1, 3, 2, 4, 5. These minutes are in agenda order.

#### DISTRICT 1

1. **FLORIDA FREE WILL BAPTIST MISSION BOARD, INC.** – requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1573 (6) (a) to permit a variance of 3 ft. from the required 25-ft. front setback in an IN(L) zoning classification. The property is described in **Section 37, Township 20, Range 34.** (1.86 acres) Located on the southwest corner of Huntington Ave. & Travis St. (5818 Travis St., Mims)

**BOA Action: Hillberg/Bovell - TABLED to the March 18, 2009, meeting, for readvertisement. The vote was unanimous.**

Rick Enos – Staff is requesting that that item be tabled, for re-advertising, to the March 18<sup>th</sup> meeting.

Sondra Ball – All right, and do you want us to vote on that one, now?

Rick Enos – Yes, please.

Ms. Ball – O.K. Do I hear a motion that that be tabled, please?

Mary Hillberg – Motion to table.

Ms. Ball – All right. And is there a second?

George Bovell – Second.

Ms. Ball – Thank you, George.

Ms. Ball called the question on the motion, and the Board tabled the request to the March 18, 2009, meeting, for readvertisement. The vote was unanimous.

**2. ERWIN G. & SAWSAN KREMPEL** – request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1342 (5) (b) to permit a variance of 2 ft. from the required 5-ft. rear setback for a detached accessory building in an RU-1-7 zoning classification. The property is described in **Section 15, Township 23, Range 35.** (0.229 acre) Located on the east side of Cedar Ave., approx. 910 ft. south of Devon St. (Cedar Ave., Cocoa)

**BOA Action: Bovell/Young – APPROVED, as depicted on the survey provided by the applicant. The vote was 4:1, with Rosasco voting nay.**

Sondra Ball – All right, thank you. And would the applicant please step forward, please. Would you give us your name and address, please.

Erwin Krempel – Good afternoon, ladies and gentleman. My name is Erwin Krempel. I'm living on 6765 Cedar Avenue, Cocoa, Florida, 32927. That's Port St. John.

Ms. Ball – All right, sir. And do you swear and affirm that the evidence you'll give the Board of Adjustment is true, so you state?

Mr. Krempel – Yes, I do.

Ms. Ball – Thank you. You may proceed.

Mr. Krempel – Yeah. I'd like to build a shed in my back yard. And I apply, because my house is just getting too small, children's are growing big, and I'm running out of space, and I really do need the extra space. In that specific corner, my property is hill, down. I have only that one corner in my back yard where I really could use to build on it. I have a septic tank in the back of my house, which is close to my house, plus the drain field, and a very deep-going slope, what it's – the area, when it

rains, it's kind of a pond. So I have only that one corner I can apply for it. And I think that's all I have to say.

Ms. Ball – O.K. We do have a copy of your survey. I'm gonna ask staff, Rick, could you bring us up to date on the easement request that was – vacation that was going before the County Commission yesterday?

Rick Enos – I haven't heard the status of that; however, it's not essential that one happened before the other. They both have to happen, but there's no necessary order. So I'm presuming it happened, but I don't know for sure.

Ms. Ball – And, sir, are you aware of the meeting yesterday, and what the vote was from the County Commissioners?

Mr. Krempel – I have no idea, ma'am.

Ms. Ball – All right. Jim wants to speak up.

Jim Rosasco – Yes. I was at the Commission meeting yesterday, and it was passed. So the easement was vacated.

Ms. Ball – All right. Thank you. All right. Sir, if that concludes what you want to give to us, that falls in District I, which is my district, so I did have some questions for you. Would you help us understand, on your worksheet, on number five, the answer that you gave, it says, "The location was chosen based on minimal impact to the existing structures." What is the minimal impact?

Mr. Krempel – I spoke with my neighbors about – because my back door neighbors was concerned first, that it takes too much view from his back terrace, you know, looking into my area. And it's the lowest ground of my property. They built it up like a hill. And, as I say, it's basically the second lower part of the property, besides on the left hand, it's a very deep slope. I can't build anything in there, because all the water from the rain is collecting in that area. And I tried to work with my neighbors. It's the closest to my house. I can't do anything closer, because the septic tank. And that was how we chose - I spoke with the contractor, who basically will build that, and it was the best chosen spot of my property.

Ms. Ball – Well, I will tell you, I'll give you a compliment that you're working with a contractor, because so many times, we see people, they build these sheds, and then they come in and ask for a variance later. They didn't bother to get building permits, or proper things. So that - we commend you. That, at least...

Mr. Krempel – I appreciate it. Yeah, I work for the Law Enforcement, so I try to do everything by the book.

Ms. Ball – O.K. Thank you. O.K. One of my questions was elevations. And I was looking at your survey. Did you look into bringing that more to the west, which would move it closer to your house? What's the reason you couldn't bring it closer to the house and not even need this?

Mr. Krempele – The septic tank. It's in between on my drain field. It's 550 square feet. So I have all that flat land, I can't use it, because my drain field.

Ms. Ball – Well, I guess I was confused by this survey, because there is an outline, and it says, "Approximate drain field, as noted by the client." And, yet, that doesn't really interfere with any of the area to the south of the drain field that it looks like you could have moved the building.

Mr. Krempele – No, it's everything, it's a hill. It's about a – I would say it's about a 35-degree angle, hill, down. And there is no - the only thing what we could maybe do in the future is a pool, because it's already all that land that's just like a big huge hole. And then, from that part, it starts right at my drain field. I have no access on most of my back yard. I have no access to do anything on it because of the drain field.

Ms. Ball – O.K. And you say the area to the north, which you have a nice open space there, shown on this survey, but that's not acceptable, because of drainage and flooding?

Mr. Krempele – Yeah. The one – yeah, I'm sorry, north, that's where the slope – to the southeast, that's the only little area between the drain field and my septic tank, what's basically the space where I could build something on it, without to jeopardize my drain field and the septic tank.

Ms. Ball – O.K. I did drive your area. I didn't see, of course, right in your back yard, per se, but I am aware that a number of those properties do have some very unusual elevations in their back yards. Especially, it seems that they just drop off, drastically.

Mr. Krempele – Yeah. May I say something? I was very upset at the time when we built the house. We built the house. We bought the lot 12 years ago. And the company I built with - most of my neighbors have the septic tank in the front. That building company refused to do it in the front. They say they can't do it, and they just put it in there when we were not present. So I really couldn't do anything different at the time. But they screwed up everything for doing anything in my back yard, you know. So the whole thing was very disappointing, made us 12 years ago, but I can't change anything, you know. And now I have to struggle with things. When I want to do something little, I have not the space, plus they build up the whole property. They put 43 truck loads of sand on it, build it up to a hill. I'm high as my left neighbor, but I'm kind of even with my right neighbor. My back door neighbor is high as I am, and I have that huge slope going in between my back neighbor and my property. And if you look to my back door neighbor, he has also, but he has a half acre, so he has twice as much land as I am. And on the same side where I have my slope, he has his slope coming down from the hill. So all the water is meeting in that spot.

Ms. Ball – You have a natural swale there, then, it sounds like.

Mr. Krempele – Yeah. Yeah. It was from when we bought that area, the property, and everything was wooded. That area was – one time we were out there after rain, and everything was kind of swampy. And it's still, when it rains, that area is kind of swampy.

Ms. Ball – All right, sir. Thank you. That'll conclude my questioning, and I'll open it up to anyone on the Board that has any questions. Anyone else? Dale.

Dale Young – Yeah. You're saying the septic tank is above ground. It's on a big hill, is that it?

Mr. Krempele – Well, yeah. They build it in wherever they put the 43 truck loads, the (unintelligible) and built up that hill.

Mr. Young – Yeah.

Mr. Krempele – The septic tank is in that hill into it, instead to put it in the front, in my front yard, where it would be much convenient for us. And my neighbors, they have it in front. You know, I don't know why the company couldn't do it. I think they just didn't want to do it.

Mr. Young – O.K.

Mr. Krempele – I don't know. You know, I'm not a contractor. I don't build houses, you know. But that's the reason. Yeah, it's in that hill side.

Mr. Young – O.K. That's all I had.

Ms. Ball – Jim.

Jim Rosasco – Yes. I'm still a little bit confused. When you look due east off of your screen porch, you're looking up into a hill. There's a hill there?

Mr. Krempele – Yes.

Mr. Rosasco – It's not all flat?

Mr. Krempele – My neighbor is going high as I am here.

Mr. Rosasco – No, no, I mean, do you have a hill in your back yard?

Mr. Krempele – No, my porch area is on the top of the hill.

Mr. Rosasco – Right.

Mr. Krempele – So if you look from the porch to your left, it goes down.

Mr. Rosasco – Well, I guess what I'm getting at, looking at the survey, we have an elevation at the corner of your house on the north – at the southeast corner of your house of 32 feet, point, 76. If you look to the very east, southeast corner of your property, the elevation is 32 feet, point, one. Just a little bit to the left of that is 31.5. That's not dramatic to me. So I'm trying to figure out where this hill is. You have - it looks to me, from the edge of your house, you have 33 feet, and there's only a foot change in elevation. That's – and that may be dramatic. But moving your shed two feet to be within Code doesn't look like that is very dramatic, between where it is now, and where you're proposed to do it, and what it would take to comply. Help me out there, 'cause it looks to me, looking at this survey, it doesn't look like there's any great big change in elevation between the edge of your house, and the edge of the property. It certainly drops off to the northeast.

Mr. Krempel – Yes.

Mr. Rosasco – But we're talking about here at the southeast end of the property, where it's basically, less than a foot, and change, in elevation over 30 feet. So I don't think – I must confess, I didn't walk your back yard, but I'm just looking at the survey, and knowing elevations, and what they mean.

Mr. Krempel – If you are on my porch, and you look southeast, southeast of on my porch is the septic tank. It's about five or six feet off my house, going to the east. The septic tank is about, I think, eight by four, or eight by five foot. And then...

Mr. Rosasco – Located as shown on the survey?

Mr. Krempel – Yes.

Mr. Rosasco – Is that the correct location?

Mr. Krempel – Yes. I made him correct the location, because the first – yeah, that's supposed to be on the survey, the exact location. Now, that corner of the southeast, it's right after the septic tank. But, if I want to build the size of my shed, I have to get permission for the variance, because it would be too small, the building. Now, the location southeast is pretty even with the neighbor back yard. And then it starts that little slope going already to my fencing. It's about a foot. But what they did, the slope, it's not – it's going like in a, I would say, 35-to 45-degree angle. So my fencing is already lower as my house level. And the further – as further you go north, my property is getting lower, the slope has a stronger angle going down. If I am on my back porch, I have about four to five feet, and then my back yard just goes hill down.

Mr. Rosasco – O.K. I think I understand what you're saying. But it...

Mr. Krempel – And when you have my whole front of my porch, it's everything drain field. And what I know that the drain pipes, they are only like a half foot, or even less on the ground. So I can't build anything on these pipes. It will crush my drain field pipes.

Mr. Rosasco – Well, I appreciate what you're saying, and kept things – it would appear to me that you have a ravine in the back of your yard, around the back of your yard. And it would also appear to me that maybe the change in elevation of the soil is much steeper closer to the ravine than away from the ravine. And for you to be in compliance, all you do is move your shed two feet closer to your house, which, according to this survey, doesn't impact the drain field, doesn't impact the septic tank. And it would seem to be less of a change in gradient, if you were to comply. So I'm sorry, I just don't understand it. I'll pass on the questioning.

Ms. Ball – All right. Dale, were you wanting...

Mr. Young – This is what I was asking, if this is an aerobic type drain field, septic tank, where it is built with a large mound in your back yard?

Mr. Krempel – Can you repeat the question? I'm not so sure if I understand what you mean.

Mr. Young – I guess not. I guess it isn't. O.K.

Ms. Ball – All right, anyone else, questions? (no response) All right. Seeing none, sir, if you would stand aside, and let me ask the audience. Is there anyone in the audience who would like to speak in favor of the applicant's application? (no response) Seeing none, anyone in the audience who would like to speak in opposition to this application? (no response) Seeing none, we'll give you the last comment. You want to summarize, give any last comment you want to give us, before we have discussion and vote?

Mr. Krempe – No. I think I said everything, and I hope you agree, and give me the permission. That's all I have to say. I appreciate your time, and I'll wait for your decision.

Ms. Ball – All right. Thank you, sir. All right, we're closing any discussion from the applicant and the audience. Sir, you may have a seat, if you'd like. And the Chair will accept a nomination - not a nomination, excuse me - the Chair will accept a motion from the floor. George.

George Bovell – I vote to accept, to grant the variance, as depicted on the survey.

Ms. Ball – All right. Thank you. Is there a second?

Mr. Young – I'll second.

Ms. Ball – All right, Dale seconds. O.K. We're open for discussion. Any discussion or comment from anyone else on the Board, before we take a vote? Mary.

Mary Hillberg – Are there any letters from neighbors?

Ms. Ball – No. We do not have any letters in the file.

Ms. Hillberg – That's all.

Ms. Ball – All right, thank you. O.K. I'll call the vote.

Ms. Ball called the question on the motion, and the Board approved the variance, as stated above. The vote was 4:1, with Rosasco voting nay.

Ms. Ball – Sir, you've been granted your variance, and good luck with that. All right.

Mr. Krempe – Thank you, very much.

Ms. Ball – You're welcome.

DISTRICT 2

**3. MICHAEL P. WALSH & TAMARA K. MELE** – request variances of Chapter 62, Article VI, Brevard County Code, /1/ Section 62-2118 (d) (2) to permit a variance of 7.5 ft. from the required

7.5-ft. side setback (north), as projected in a straight line into the waterway for a boat dock; and /2/ Section 62-2118 (d) (2) to permit a variance of 7.5 ft. from the required 7.5-ft. side setback (south), as projected in a straight line into the waterway for a boat dock. The property is zoned RU-1-11 and is described in **Section 24, Township 24, Range 36**. (0.21 acre) Located on the southwest corner of Artemis Blvd. and Sykes Creek Dr. (1485 Sykes Creek Dr., Merritt Island)

**BOA Action: Hillberg/Young - TABLED to the March 18, 2009, meeting. The vote was unanimous.**

Rick Enos – We have a request from Commissioner Nelson’s Office to table this item, as well. There is a possibility that we will be working on a Code amendment that may affect this item. So we’d like for that one to be tabled, as well, please.

Ms. Ball – All right, thank you. Could we have a motion to table item number three, please?

Mary Hillberg – Motion to table.

Ms. Ball – All right. Thank you, Mary. A second.

Ms. Ball – A second from Dale. The second from Dale Young was unintelligible.

Ms. Ball called the question on the motion, and the Board tabled the variance to the March 18, 2009, meeting. The vote was unanimous.

#### DISTRICT 4

4. **MGM RESORTS, LLC** – requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1512 (8) (a) to permit a variance of 25 ft. over the 35-ft. max. height threshold for a sign in a TU-2 zoning classification. The property is described in **Section 10, Township 26, Range 36**. (7.15 acres) Located on the north side of Wickham Rd., approx. 500 ft. west of I-95. (8298 N. Wickham Rd., Melbourne)

**BOA Action: Bovell/Hillberg – APPROVED, as depicted on the survey provided by the applicant. The vote was unanimous.**

Ms. Ball – All right, sir. Would the applicant please come forward?

Roger Kiser – Good afternoon.

Ms. Ball – All right. Good afternoon. Give us your name and address, please.

Mr. Kiser – My name is Roger Kiser. I live at 965 Arabella Lane, in Cocoa, 32927.

Ms. Ball – All right, Mr. Kiser, do you...

Mr. Kiser – I have a small handout. Do you mind if I approach?

Ms. Ball – O.K. If you'd wait just a moment.

Mr. Kiser – I'm sorry.

Ms. Ball – Do you swear and affirm that the evidence you'll give the Board of Adjustment is true, so you state?

Mr. Kiser – I do.

Ms. Ball – All right, thank you. You may give your handout.

Mr. Kiser – Good afternoon. My name is Roger Kiser. I'm the Director of Surveying, for Campbell Surveying and Engineering. I'm here representing MGM Resorts, the owner of the Holiday Inn at the corner of I-95 and Wickham Road. We are requesting a variance of 25 foot over the 35-foot maximum sign height for the TU-2 zoning. The reason that we are having to come here to request this variance, the TU-2 zoning allows a 60-foot sign height, with the exception of a property that is abutted to a residential area. This property abuts, on its north side, a residential property; however, the nearest residential home is about 550 feet from where we intend to place our sign. The hardships that have caused us to seek this variance are the sign is to be located along on the hotel property right along I-95, farthest south point of the parking lot that we can reach. The line of Brazilian peppers and trees that are along I-95 make it absolutely impossible for you to be able to see a sign of 35 feet in height. So there will be absolutely no visibility from I-95. There is a current sign that sits on Wickham Road, which is only 35 feet high, and has a zero visibility on I-95, also. Our client is the second owner of the property. They bought the property with the sign in place. They did not create this problem upon themselves. They had no part in the design, or the build, of the original sign for this property. If you'll note on my handout, on the coversheet, the majority of the signs in the general area, my location shows our proposed location, and the locations of the signs that I have depicted. All these signs are at, or above, 60 feet in height. And they are very similar - on the back side of my handout; I have the existing and the proposed sign. And they're exactly – they're very similar in both, style, and exactly in height, to the signs that already exist there. So we're only looking for a similar signage to what is already common in that area of the intersection. The last consideration is that we are looking at the future widening now of Wickham Road coming up very shortly, which is also going to create a – it's also going to disrupt the ingress to the hotel site on the Wickham side, which is going to reduce the access on the Wickham side of the road. And at present, and without this sign coverage, we have no visibility from the I-95 side. So, if there – I believe that's all I have. Thank you.

Ms. Ball – All right, sir. Thank you. This falls in District IV, and that's George Bovell. So we'll begin with George.

George Bovell – Yes, I must disclose that, today, I went out to the site, and I met Mr. Patel, who is the general manager, just so that he can take me outside and show me where the exact spot where the sign is supposed to be. And standing out there, really the biggest concern here is the impact of the sign to the residential community on the north, northeast side. I can tell you that from standing behind the hotel, there is absolutely no visibility, if you were to stand in that subdivision, from the subdivision to the sign. The sign would have very little impact on that subdivision. I also noted that from where I stood, you can see all these other signs that are there, that are promoting other businesses that are done in the section. And I believe that the Holiday Inn, without this particular

sign, it would be at a disadvantage. So I have no further questions, and just understand what they are trying to do.

Ms. Ball – All right. Thank you, George. Anyone else with questions? Dale.

Dale Young – Yeah. I just – you mentioned the I-95 widening here, that it's going to...

Mr. Kiser – The Wickham Road widening.

Mr. Young – O.K. How is it going to restrict your ingress here? What are they doing?

Mr. Kiser – The last set of plans, I knew of, for the Wickham Road widening were going to be on the south side. And what – so that means the west bound traffic on the – will not have an ingress, direct into the hotel site. I mean, they obviously could go far around. And, of course, with just the standard construction equipment, all that standing there, and the small sign that's in place, it's definitely gonna impact the - both the coverage of the sign, and the ingress into the hotel.

Mr. Young – But you're only saying during construction.

Mr. Kiser – Yes, during construction.

Mr. Young – You will have an entrance, once it's done.

Mr. Kiser – Yes, of course. Of course. Oh, yeah. No, they're not gonna - I'm sure they're not gonna block us off.

Mr. Young – All right. That's all.

Ms. Ball – All right. Anyone else? (no response) You had mentioned the pepper trees, and I can't believe that's a genuine hardship, in that you never know when the State of Florida decides to do an eradication of pepper trees, and all that would go away, for visibility. I do believe that you don't really impact, when you look at the survey, and where you wanted to place the signage, and its relationship to that subdivision. And you don't even have houses even abutting your property. You've got a lake in between there. And I was down at the property, also, and I can't see that it would impact the property. And if I'm understanding correctly, Rick, in this zoning, if it weren't for this subdivision in the back, he could have this signage, without a problem?

Rick Enos – Yes, that's correct, or any residential subdivision. The Code says that with TU-2 zoning, as long as you're not abutting residential, you could have a 60-foot sign, but since you are abutting residential it's limited to 35 feet.

Ms. Ball – Let me ask you, where in elevation will this 60-foot sign come in relationship to that overpass area on 95? Do you have the elevation of what the height is on the roadway there at 95, at it's highest point?

Mr. Kiser – No, ma'am. No, ma'am, I'm afraid I don't know what the actual - on the overpass is. Of course, the – once on the overpass, the traffic is too late to get off on one of the exits. So the

purpose of the 65-foot sign is actually visibility, before you actually reach the exit point. If you are actually on top of the overpass and looking down at the sign, it's actually too late to be of any...

Ms. Ball – So you're projecting that northbound traffic is going to see this sign, prior to their exit?

Mr. Kiser – Right. If you – on my sheet, you see the Sonny's, the Bob Evans, and the Cracker Barrel sign, and where they are in relationship. They're all 60-foot high signs, or right at it. And you can see those as you approach, especially the Cracker Barrel and the Burger King, which are on our side of Wickham, as you approach the thing. So that's the same thing that we're counting on for the Holiday Inn sign.

Ms. Ball – Rick - back with staff. What do we have for restrictions on the face of this signage? Is this what they're proposing here, is approximately a nine by 15, is that the max on signage for that zoning classification? Where does that fit in?

Mr. Enos – I'm not too familiar with those regulations. I think it's around 200 or 300 square feet. This is a 155-square-foot sign. So I think the size of it's gonna be okay. It's the height that's the issue.

Ms. Ball – All right. Thank you.

Mr. Kiser – Oh, I'm sorry. This – and of course, we want - if approves this variance, we still, of course, have to get the building permit, and all that. And that'll all have to be approved through that process.

Ms. Ball – O.K. Jim.

Jim Rosasco – I have a quick question. The variance we're granting, is that specific to this location on the survey? And are we – I noticed the plot plan shows – it looks like they carved out the existing Wickham Road sign location. So is there – are we – does that come into play that they already have the sign on this particular piece of property, and now we're giving a variance so they get to have two signs? I'm not sure where we're going with this.

Mr. Enos – No. Yeah. You're not giving a variance for a second sign. The – although the application, itself, the legal description, or the advertising did not specify the location, you certainly can, in your motion, if you chose to.

Ms. Ball – And that would be as depicted on the survey, then, Rick?

Mr. Enos – Yes.

Ms. Ball – All right. Thank you.

Mr. Rosasco – And the other point I might make is that I'm really not particularly excited about signs. But I see your point, 'cause when I came off of 95, heading north, I couldn't see anything about the hotel. As soon as you get up to the intersection, you can see the marquee, and the marquee's on the top of the building is higher than 65 feet, it looks like. So you got plenty of signage once you're there, but I guess what the point you're trying to make is, you want a commitment before you get to the

intersection, so you see it. So I understand completely your marketing, and the location. But I would suggest we do put it at that location so we know we have less of an impact to the neighbors to the north. Thank you.

Ms. Ball – All right.

Mr. Kiser – And we have no objection to that. That is exactly where we intend to build it.

Ms. Ball – All right. Thank you, so much. O.K. If there's no other questioning from the Board, I'm gonna ask if you would step aside. Let's see, is there anyone in the audience who would like to speak on behalf of the applicant? (no response) Seeing none, is there anyone in the audience that would like to speak in opposition of this application? (no response) Seeing none, Roger, we'll give you the last comment, if you have one.

Mr. Kiser – No. Thank you for your consideration and time.

Ms. Ball – All right. Thank you. All right. Discussion is closed for the applicant and audience. We'll accept a motion from the Board. George.

Mr. Bovell – Yes. I propose we approve a variance, as depicted on the survey.

Ms. Ball – All right. Thank you. Is there a second?

Mary Hillberg – Second.

Ms. Ball – All right, Mary will second. Any discussion? (no response) Seeing none, I'll call the vote.

Ms. Ball called the question on the motion, and the Board approved the variance, as stated above. The vote was unanimous.

Ms. Ball – Sir, looks like a unanimous vote, and good luck.

Mr. Kiser – Appreciate it.

Ms. Ball – You're welcome.

**5. FREDERIC NEITZKE** – requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2123 (a) to permit a variance of 1 ft. from the required 5-ft. rear setback for a swimming pool screen enclosure. The property is zoned PUD and is described in **Section 14, Township 26, Range 36**. (0.32 acre) Located on the west side of Baytree Dr., approx. 90 ft. south of Old Tramway Dr. (610 Baytree Dr., Melbourne)

**BOA Action: Bovell/Hillberg – APPROVED, as depicted on the survey provided by the applicant. The vote was unanimous.**

Sondra Ball – All right, sir, if you would give us your name and address, please.

Frederick Neitzke – Yes, I'm Frederick Neitzke. I live at 610 Baytree Drive, in Melbourne.

Ms. Ball – All right. And, Mr. Neitzke, do you swear and affirm that the evidence you'll give the Board of Adjustment is true, so you state?

Mr. Neitzke – I do.

Ms. Ball – Thank you. You may proceed.

Mr. Neitzke – I'm here because the wind blew my existing screening down around my pool. I'm trying to put it back exactly where it was.

Ms. Ball – All right, sir. And anything else you want to add to that?

Mr. Neitzke – I'm asking for a one-foot variance, because the prior pool – prior screening – was a couple of inches too far into the five-foot setback.

Ms. Ball – All right. O.K. If that concludes, we'll begin with George. It falls in District IV.

George Bovell – Again, I went over, there and I met Mr. Neitzke, and he showed me the area. Yes, part of the screen enclosure is still up, and part of it has been blown down. And if he intends to put it up in the exact location, personally, I have no problem with it.

Ms. Ball – All right, anyone else on the Board? (no response) No. We have no one left in the audience, since you're the last applicant. So I'm not gonna go through those items. My only observation, too, is that you have a lake behind you that there seems to be – that there would be no impact to a neighbor, and behind.

Mr. Neitzke – My neighbors would like to see it back up.

Ms. Ball – I'll bet. O.K. All right, sir, if that concludes your testimony, and that of questioning from our Board, we'll close that. If you want to have a seat. The Chair will accept a motion for item number five.

Mr. Bovell – Motion to approve, as depicted in survey.

Ms. Ball – All right. Thank you, George. And a second, please.

Mary Hillberg – Second.

Ms. Ball – And Mary seconds. Any discussion? (no response) Seeing none, we'll call for the vote.

Ms. Ball called the question on the motion, and the Board approved the variance, as stated above. The vote was unanimous.

Ms. Ball – Sir, you've been given your variance. And, thank you. I think that concludes our agenda.

Mr. Neitzke – One comment.

Ms. Ball – Yes, sir.

Mr. Neitzke – I just wanted to say that it would be, I think, worth considering having some sort of administrative procedure for things of this nature. It certainly took a lot of your time, and some of mine. And I believe you do have administrative procedures in place, but for some reason, they don't cover the screen enclosure.

Ms. Ball – All right. Rick, would you like to address that just a bit? We've just submitted a recommendation to our County Board.

Rick Enos – Yes, that's correct. And the Board has accepted – well, let me put it this way - the Board has directed staff to proceed with an ordinance. That ordinance has not found it's way back to the Commission yet; however, that is in process.

Ms. Ball – O.K. We did see that there were some problems on swimming pool enclosures, sir, and were very concerned. A lot of times staff can give a waiver on that, and we felt that that needed to be worked on.

Mr. Neitzke – I appreciate your time. Thank you.

Ms. Ball – All right. Thank you, sir. O.K. We'll consider this meeting adjourned, unless staff has something. Dale.

Dale Young – Well, I was intrigued by what Rick said about a code change in the dock situation, that you're working on some change.

Mr. Enos – We are, at the request of the District II Commission Office. We're working on a proposal for them. At this point, it's gonna be like more of a report, suggesting to them that if the Board would like to consider a code amendment. It would allow – well, our idea is that it would allow adjacent property owners to, by agreement, reduce the setback to the side lot line, extended, for a dock, because in these - especially at the very ends of the canal, you got – you, oftentimes, on the corner lots have very limited frontage, 25 feet, 15 feet of frontage. And there's enough room, but the corner lots, kind of get left out, and you end up with lots of variance requests for that. So under this proposal, if adjacent property owners agreed, they could come to the staff and ask for administrative waivers to reduce that setback down to zero, essentially. And then adjacent property owners could share docks, you know, single dock with - abut on both sides of it, or something to that effect. So don't know where that's gonna go yet, you know, 'cause we're still in the very earliest stages of that. But that is something we're considering.

Ms. Ball – Mary.

Mary Hillberg – Rick, and if they don't agree, then it would come as a variance here. Is that the idea?

Mr. Enos – Well, that's the way the proposal is now. You know, who knows what's gonna end up coming out of that. But the way I foresee it, if there was no agreement, then staff wouldn't have any authority, and it would continue to be a variance.

Ms. Hillberg – Thank you.

Ms. Ball – All right, anyone else? Questions for staff, comment? (no response)

The meeting was adjourned at 2:19 p.m.