

MINUTES

BREVARD BOARD OF ADJUSTMENT – SPECIAL CALLED MEETING Tuesday, January 8, 2019 – 3:00 PM – Council Chambers

The Brevard Board of Adjustment met for a special called session on Tuesday, January 8, 2019, at 3:00 PM in Council Chambers of City Hall.

Members Present: Judith A. Mathews, Chair
Tom Tartt, Vice Chair
Kevin Jones
Tad Fogel
Allen Delzell

Members Absent: Paul Welch

Staff Present: Daniel Cobb, Planning Director
Brian Gulden, Board Attorney
Janice H. Pinson, Board Clerk

Others: Mike Vandegrift, Brevard Racquet Club
Josh Vandegrift, Brevard Racquet Club
Davis Whitfield-Cargile, Attorney for Brevard Racquet Club
James and Lois Bollini, Neighbor
Douglas Campen, Attorney for James and Lois Bollini
Darren McCall, Tucker Creek Properties, LLC
Kris Chowning, Neighbor
John Galloway, Neighbor
Court Reporter, Sarah G. Pierce, Huseby (Brevard Racquet Club)

I. WELCOME – Chair J. Mathews called the meeting to order at 3:00 PM and welcomed those present.

II. INTRODUCTION OF BOARD MEMBERS - Board members, Board Attorney and Staff, introduced themselves.

III. CERTIFICATION OF QUORUM – Chair J. Mathews certified a quorum of the Board was present.

IV. APPROVAL OF AGENDA

K. Jones moved to amend the agenda to hear new business first, Tucker Creek Properties VAR-18-003 and to then hear unfinished business, Brevard Racquet Club, seconded by T. Tartt, carried unanimously.

K, Jones motion and second by T. Tartt to approve agenda as amended, carried unanimously.

V. APPROVAL OF MINUTES

A. Delzell moved, seconded by K. Jones that the December 4, 2018, meeting minutes be approved as presented. Motion carried unanimously.

VI. NEW BUSINESS –

a. Request of Tucker Creek Properties, LLC for a variance of 16' 10" from the required 25' rear setback for General Residential (GR) zoning district. The property is located on Laurel Lane within the corporate limits of the City of Brevard, further identified by PIN # 8585-48-8025-000.

B. Gulden, Board Attorney explained that the granting of the variance would require 4 out of 5 board member votes for approval.

J. Mathews explained the quasi-judicial hearing process.

The following were sworn: Darren McCall, Tucker Creek Properties, LLC, Kris Chowning, Neighbor, John Galloway, Neighbor and Daniel Cobb, Planning Director, City of Brevard.

D. Cobb, Planning Director explained that the matter was properly advertised, property posted and neighbors notified. He presented his staff report and explained that the variance is necessary to build on the site because of sewer easements and floodplain.

Darren McCall, Applicant, explained his site plan, and the time he had spent locating the house on the site and designing the house to fit the site. He stated that he was hopeful that the variance would be granted so that he will be able to build the home on the site.

D. Cobb explained the setbacks required to develop on the parcel.

John Galloway, neighbor testified that he owns the property that abuts this property to the rear and that his side yard would be affected by the variance and that he has concerns about water run off if the property is developed. He explained that he had a reasonable expectation when he purchased the property that the setback would be 25 feet.

D. Cobb showed the board Mr. Galloway's property on the GIS.

Kris Chowning, neighbor testified that he lives at 120 N. Laurel Lane and that he feels his privacy would suffer if the variance was granted because the house would border the total rear side of his property.

D. McCall testified that the elevation differences and the design of the house would not invade Mr. Chowning's privacy and that he had the house designed with no windows on that side of the house. He stated that the property could not be built on if the variance was not granted.

K. Jones asked D. Cobb if Mr. McCall was aware of the floodplain, sewer easements, and regulations when he purchased the property.

D. Cobb responded that he could not say.

The same question was asked of Mr. McCall and he responded that he was aware.

D. McCall further explained that the sewer line was installed to meet City of Brevard requirements. He stated that he was in a partnership when the two houses that abut the property were built and acquired the property through the partnership split.

The hearing was closed.

The board deliberated.

A. Delzell read the proposed motion as follows:

With regard to variance request 18-003, the application of Tucker Creek Properties, LLC, for a variance of 16'10" from the required 25' rear setback for the General Residential (GR) zoning district, as set forth in the UDO, Chapter 2.3.B, for property located on Laurel Lane within the corporate limits of the City of Brevard, I move the Board make the following findings of fact:

- a) that unnecessary hardship would result from the strict application of the regulations;
- b) the hardship results from conditions that are peculiar to the property such as location size or topography;
- c) the hardship did not result from actions taken by the applicant or the property owner;
and
- d) the requested variance is consistent with the spirit purpose and intent of the regulations such that Public Safety is secured and substantial Justice achieved.

Accordingly, I further move the board to Grant the requested variance in accordance with and only to the extent represented in the application and plans.

J. Mathews went over the findings of fact and stated that the board could place conditions on the variance if granted.

T. Tartt seconded A. Delzell's motion to grant the variance, a show of hands in favor, J. Mathews, and opposed were T. Tartt, A. Delzell, T. Fogel and K. Jones.

Motion by T. Tartt to deny VAR-18-003, seconded by T. Fogel, voting in favor, T. Fogel, A. Delzell, T. Tartt and K. Jones and opposed, J. Mathews. The variance was denied.

Chair J. Mathews called for a five minute recess.

Meeting called back to order.

b. Rules of Procedure and By-Law Review

Motion to continue by K. Jones, seconded by T. Fogel, unanimously carried.

VI. UNFISHED BUSINESS

a. Rehearing of Brevard Racquet Club request to amend Special Exception Permit #00-22 (SUP-18-004).

Court reporter transcript attached and labeled Exhibit "A".

The following exhibits are attached:

Applicant's Exhibit 9: current photo of interior of "Fit Dome"

Applicant's Exhibit 10 and 11: check in data for Brevard Health and Racquet Club

Opposition's Exhibits 1-5: (large photos of interior of "Fit Dome"

Opposition's Exhibit 6: September group fitness schedule Brevard Health and Racquet Club

Opposition's Exhibit 7: July group fitness schedule Brevard Health and Racquet Club

Opposition's Exhibit 8: CFS Report #2018-037750

Meeting continued to Special Called Meeting to be held January 22, 2019 at 10:30 AM in City Council Chambers.

VIII. REMARKS – None

IX. ADJOURN

K. Jones moved, seconded by J. Mathews, the meeting be adjourned. Motion carried. meeting adjourned at 6:48 PM.

Janice H. Pinson Board Clerk

Judith A. Mathews, Chair