**Town of Melbourne Beach**

**MINUTES**

**BOARD OF ADJUSTMENT MEETING**

**THURSDAY JANUARY 21, 2021 @ 6:30pm**

**COMMUNITY CENTER – 509 OCEAN AVENUE**

**Board Members:**

Chairman Robert Schaefer

Member Xochitl Ross

Member Charles Cain

Member Pete Peterson

Member James D. Simmons

**Staff Members:**

Town Manager Elizabeth Mascaro

Town Clerk Jennifer Torres

Town Attorney Clifford Repperger

Town Planner Corey O’Gorman

Notice: Commission discussion and possible action may occur during any Commissioner Meeting. The following sections of the Agenda are always subject to such discussion and possible action without further motion by the Commission: Changes to the Agenda, Public Hearings, Old Business, and New Business.

The public is advised that members of the Town Commission may be in attendance and participate in proceedings of the board. Attorney General Opinions (AGO) AGO 91-95, AGO 98-14, AGO 2000-68.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, THE TOWN HEREBY ADVISES THE PUBLIC THAT: In order to appeal any decision made at this meeting, you will need a verbatim transcript of the proceedings. It will be your responsibility to ensure such a record is made. Such person must provide a method for recording the proceedings verbatim as the Town does not do so.

In accordance with the Americans with Disability Act and Section 286.26, Florida Statutes, persons needing special accommodations for this meeting shall, at least 5 days prior to the meeting, contact the Office of the Town Clerk at (321) 724-5860 or Florida Relay System at 711.

1. **CALL TO ORDER**

Chairman Schaefer called the meeting to order at 6:30 p.m.

The Chairman welcomed two new members to the Board of Adjustment; James D. Simmons and Peter Peterson.

Some discussion ensued as to whether the new members needed to be sworn in. It was clarified by both the Chairman and – after some research - the Town Attorney - that this was not a requirement.

1. **ROLL CALL**

Town Clerk Torres conducted the roll call:

Board Members Present Board Members Absent

Chairman Robert Schaefer Member Xochitl Ross

Member Charles Cain

Member Pete Peterson

Member James D. Simmons

Staff Members Present

Town Manager Elizabeth Mascaro

Town Clerk Jennifer Torres

Staff Present:

Town Manager Elizabeth Mascaro

Town Clerk Jennifer Torres

Town Attorney Clifford Repperger

Town Planner Corey O’Gorman

1. **APPROVAL OF MINUTES -** July 18, 2020

**Member Cain moved to approve the Draft Minutes from the July 18, 2020 Board of Adjustment Meeting; Member Simmons seconded; Motion carried 4-0.**

1. **PUBLIC HEARINGS**
2. Variance Application 2021-02-V, 308 Oak Street

Applicant Wyatt Hoover was present. Chairman Schaefer advised him of his preference to push the hearing on this application to next month because in his opinion he felt Mr. Hoover may not need a variance.

Mr. Hoover said he didn’t really want to push the hearing forward and went on to say that after purchasing the property in 2001, he found the existing garage was 8-feet from the lot line, which meant it was grossly encroaching on the lot line. He felt he could rebuild it within the existing footprint, but his intent was to bring it as close to compliance as possible. He added that his family is growing and he needs to accommodate a larger garage door.

Chairman Schaefer noted that the measurement of a regular garage door is 16-feet.

Mr. Hoover said if they don’t approve these changes he will most likely rebuild the garage in the exact same format.

Town Planner O’Gorman said it has to be constructed in accordance with current code. Town Attorney Repperger concurred. Some discussion ensued related to accessory structures.

Town Attorney Repperger said if the garage is demolished by more than 50-percent it can’t be rebuilt and emphasized that the applicant is trying to reduce the existing non-conformity.

Mr. Hoover said the issue is that if he pushes the front of the garage back it will be 20-feet back, which will add 20-more feet of concrete driveway.

Chairman Schaefer said the major thing is that the garage door should be two-feet smaller.

Chairman Schaefer told Mr. Hoover he should go back to the architect and see what he says – adding that he may end up not needing a variance at all – but if he does – it can be scheduled for next month.

Mr. Hoover questioned whether the board would accept a larger door.

Member Cain advised him that he can proceed with the hearing and the board may say yes – or no. Or in the alternative, Mr. Hoover could go back and discuss it with his architect.

Town Attorney Repperger asked the board to allow the applicant to make a presentation to explain his proposed plans.

Member Cain asked if Mr. Hoover could get better scans and a survey.

Chairman Schaefer noted that if they don’t have anything in the packet that says the measurements are correct and true, they can’t go forward.

Member Peterson said, in his opinion, the fact they are not signed is not good.

Mr. Hoover asked if the packets must be reprinted or if he could update them by hand.

Member Simmons told Mr. Hoover that his architect could pencil in the numbers and added that nothing on the current sheets attests to the measurements.

Chairman Schaefer told Mr. Hoover that once his architect looks at it and shows him what he can do, that may be the end of it.

The Chairman added that for a variance to be approved, the request has to be the minimum variance for what you want to do. He also felt that Mr. Hoover just stating he has a larger vehicle that needs more space isn’t enough documentation of necessity.

Chairman Schaefer wanted to clarify that despite the current discussion, he was not indicating in any way to Mr. Hoover that the board will go against him in their decision.

Town Attorney Repperger clarified that the board’s issue was that it needed better confidence of where the setback line is – so Mr. Hoover could get a boundary survey and overlay the plans on the survey to make sure the setback line is clear. In addition, he confirmed the other issue is the size of the structure, so Mr. Hoover should come in with a more complete justification for why he is asking for a bigger-than-standard size garage.

Chairman Schaefer added that the plans also need to be certified because nothing on them now indicates they are correct.

Member Cain suggested that Mr. Hoover look at the application and try to work with the architect first because when he appears before the board he risks the application not being approved.

Addressing Mr. Hoover, Chairman Schaefer asked if he was amenable to readdressing his application at the February 18, 2021 Board of Adjustment meeting. Mr. Hoover agreed.

Member Peterson reminded Mr. Hoover the survey has to be signed and sealed.

**Chairman Schaefer moved that the application for variance at 308 Oak Street be held over to the BOA meeting on February 18, 2021; Member Cain seconded; Motion carried 4-0.**

1. **NEW BUSINESS**
2. Approval of 2021 Meeting Schedule

**Member Cain moved to approve the 2021 Meeting Schedule; Member Simmons seconded; Motion carried 4-0.**

1. **ADJOURNMENT**

**Member Simmons moved to adjourn the meeting; Member Cain seconded; Motion carried 4-0.**

Meeting adjourned 7:09 p.m.

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Robert Schaefer, Chairman Jennifer Torres, Town Clerk