

# TOWN OF MALABAR

## BOARD OF ADJUSTMENT PUBLIC HEARING

TUESDAY, SEPTEMBER 25, 2018 MEETING MINUTES  
6:00 P.M.

This meeting of the Malabar Board of Adjustment was held at Town Hall at 2725 Malabar Road.

A. **CALL TO ORDER**

B. **ROLL CALL**

David Sowards, Chair  
Donna Hanna, Vice-Chair  
Chuck Frazee  
Joanne Korn  
Jim Clevenger

Karl Bohne, Town Attorney, excused  
Denine Sherear, Board Secretary  
Debby Franklin, Recording Clerk

Chair announced that there was a quorum.

C. **CONSENT AGENDA**

1. **Approval of Minutes**

Board of Adjustment Meeting – 5/31/2016

Exhibit: Agenda Report No 1

Recommendation: Motion to Approve

MOTION: Chuck / Joanne to approve the minutes of 5/31/16 as submitted. No discussion. Chair called for the vote. VOTE: All Ayes.

D. **VARIANCE HEARING**

Chair called all those who wished to speak, offer testimony or submit evidence to stand and be sworn in. Applicant stood. Staff Debby Franklin and Denine Sherear also stood, and all were sworn by Chair Sowards.

Chair explained to Board Members that first they will hear from the applicant, then ask questions of his presentation. Board will then hear from staff. Board will then open to Public Hearing, hear from interested persons, then close Public Hearing and bring back for Board discussion. If any of Board Members have spoken to anyone or visited the site, they must first make such a disclosure before discussion begins.

2. **Applicant Requests a Variance to Malabar Land Development Code, Article III, Table 1-3.3(A) Size and Dimension Regulations, Minimum Lot Size requirement of 5-acres in Multi-Family Residential (RM-6) Zoning to build a second home on a parcel larger than one acre.**

Applicants are: Mr. & Mrs. Christian Sabatino; Location: 2995 Township Road,

Exhibit: Agenda Report No 2

Recommendation: Action

Chair read the request and called the applicant to podium to present. Christian Sabatino introduced himself, 2995 Township Road and thanked the Board for considering their request. He wants to build a small house for their special needs daughter and mother in law. He recounted his appearance at P&Z Board requesting the Board to consider new regulations to allow tiny homes but were rebuffed. Chuck asked what size home – he is thinking about 900sf. Joanne asked about access from Christian Lane. Applicant said he has access on Township Road and there is plenty of room on either side of his lot to access the rear portion. He further explained years ago he had purchased the southern parcels and needed to improve Christian Lane to build. Later the house on the northern parcel became available and he bought it and had to bring it up to current standards. He pulled permits and did everything required to become compliant. So, they moved there instead of building to the rear. This existing house is still considerably set back from the other homes on Township. He then encountered problems and had safety concerns with keeping Christian Lane and since it no longer served a necessary purpose, he closed it off for safety. If necessary, he will make Christian open again. You can pass on both sides of property now. Plans to use existing driveway. Just for consideration of the

minimum lot size. Chair asked if they had done any engineering. He has done rough planning. He will meet all setbacks and needs no other variances. You may sit.

Disclosures: Chuck looked at the property. Christian lane is closed right after you turn onto it from Township Road. Jim said applicant will access from Township and can do what he wants without using Christian Ln. Applicant explained the process he used to buy the various parcels and it was an expensive exercise. Jim asked about septic – no problem. Chuck stated if variance is granted the applicant still must comply with the building dept. Yes, and septic thorough the county. Chuck is satisfied.

The RM-6 Zoning designation was intended for high density residential development (6 residential units per acre)

Chair asked if the Board understood what was being asked. Yes, Board understood request.

Chair asked Staff for Comments: Franklin stated they met the requirement for "special conditions" due to the parcel not being 5 acres. She said 31 letters were sent out and she spoke to one neighbor who completely supported their request. The BO has no adverse comments. The Attorney suggested pursuing a change in the Code for these zoning designations since this is the third time. Staff intends to ask P&Z Board to consider additional regulations in the table to allow less dense development on smaller lots.

Chair opened Public Hearing. None. Chair closed Public Hearing.

Chair asked for disclosures. BOA Chuck said he went to the site. Joanne also disclosed.

Chair asked for a motion.

**MOTION:** Chuck / Donna to grant the variance as submitted in application to the minimum lot size requirement.

**Roll Call Vote:** Donna Hanna, Aye; Jim Clevenger, Aye; Charles Frazee, Aye; Joanne Korn, Aye; David Sowards, Aye. Variance approved 5-0.

**E. NEW BUSINESS/STAFF REPORTS/MEMBER REPORTS**

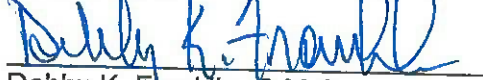
Franklin had already gone over the handouts.

**F. ADJOURNMENT**

**MOTION:** Chuck / Joanne to adjourn. Vote: All Ayes.

Meeting adjourned at 6:17 P.M.

ATTEST BY:

  
Debby K. Franklin, C.M.C.  
Town Clerk / Treasurer

BY:

  
BOA Chair David Sowards

11/8/18  
Date Approved:

**NOTICE OF RIGHT OF APPEAL  
OF BOARD OF ADJUSTMENT DECISIONS**

In accordance with the Town of Malabar Land Development Code Article XII, any person aggrieved may appeal a decision of the Board of Adjustment in Circuit Court of Brevard County. An appeal must be filed within 30 days after the filing of such decision with the Town Clerk, but not thereafter. Provisions for review of Board of Adjustment decisions must be in a manner provided by the laws of the State of Florida.

*"Person aggrieved" shall be in accordance with the Town of Malabar Land Development Code.*