



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 3229, **Version:** 1

Subject:

Waiver of Section 62-102(c), Re: Unpaved Road Agreements to Allow Access Via Paper Right-of-Way to Burkholm Road (District 1)
Applicants: David & Krystal Harris

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

The applicants are seeking the Board's approval of a waiver to Section 62-102(c) to allow them to construct a house on their property (Tax ID 2002139) without: (1) constructing an unpaved road within county right-of-way; (2) providing for the maintenance of said roadway; and (3) agreeing to a proportion share assessment for the paving of the roadway.

Summary Explanation and Background:

Section 62-102 stipulates that no building permit for a single-family dwelling will be issued by the County unless the property abuts a public maintained road dedicated and accepted for maintenance by the County. Section 62-102(c), Unpaved road agreements, provides that the Board and a property owner whose property abuts a right-of-way (ROW) which is not maintained by the County may enter into an agreement to construct a home that is subject to: (1) the applicant constructing an unpaved road within county right-of-way; (2) providing for the maintenance of said roadway; and (3) agreeing to a proportion share assessment for the paving of the roadway (see Staff Report). The applicant is requesting that the Board allow them to construct a single-family home with the access via an unpaved and unmaintained right-of-way without entering into the required agreement for unpaved roadway construction, maintenance, and paving.

The subject lot has been verified as a non-conforming lot of record consisting of a 2.68-acre flag lot recorded in 1970. The property is approximately 647 feet north of Burkholm Road which is a county-maintained right-of-way, and approximately 130 feet southeast of Wellington Lane, also a county-maintained right-of-way. In 2020, the applicant requested a waiver to build a driveway across the unmaintained right-of-way connecting to Wellington Lane. At that time the lot was not established as a non-conforming lot of record, and staff could not approve a building permit to construct a home. The application fees for the waiver were refunded while the applicants sought verification for a non-conforming lot.

Subsequently, verification of a non-conforming lot of record was provided. The applicants have submitted a waiver seeking access through the unmaintained right-of-way from Burkholm Road. They state that access

from Burkholm Road will be the easiest, most direct route to their property. They note that the property to the south of their lot has used the same unmaintained right-of-way as their access for 30 years. Furthermore, this will prevent them from impacting wetlands in order to gain access through Wellington Lane.

Pursuant to Section 62-102(d), staff has not confirmed that strict compliance with Sec. 62-102(c) causes undue hardship and serves the public interest. Staff request the Board evaluate the conditions required for the waiver to determine undue hardship and the public interest for final approval or disapproval of the application. Board approval of this project does not relieve the developer from obtaining all other necessary jurisdictional permits.

Reference: 21WV00014

Contact: Amanda Elmore, Assistant Director, Ext. 58996