

**BOARD OF ADJUSTMENTS**  
**CITY OF WINTER PARK, FLORIDA**

**Regular Meeting**

**June 17, 2014**

**Commission Chambers**

**5:00 P.M.**

**PRESENT**

Phil Kean, Chair, John Simpson, Vice Chair, Robert Trompke, Jeff Jontz, Cynthia Strollo, Ann Higbie, Patrice Shirer, and alternate member, Brian Mills . George Wiggins, Director of Building and Kimchi Tran, Recording Secretary. Brian Mills joined Board for hearing #1 old Business as Jeff Jontz recused himself due to a conflict of interest.

**ELECTION OF CHAIR**

Ann Higbie made a motion, seconded by John Simpson to elect Phil Kean as a Chair. The Board approved of the election by a vote of, 7-0.

Ann Higbie made a motion, seconded by Patrice Shirer to nominate John Simpson as a Vice Chair. The Board approved of the election by a vote of, 7-0.

**MINUTES**

John Simpson made a motion, seconded by Jeff Jontz, to approve the minutes from the May 19, 2014 meeting. The minutes were approved by a vote of, 7-0.

**OPENING STATEMENT AND PUBLIC COMMENTS**

Mr. Kean explained the rules of procedure for variance cases and opened the floor for any public comments.

**OLD BUSINESS**

1. Request of Ingaborg Ellzey for a variance to allow the construction of a pool screen enclosure with a lot coverage of 9 % (1690 sf) in lieu of the maximum allowed coverage of 8 % (1,503 sf).

Located at 1340 Grove Terrace

Zoned :1-A

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George Wiggins, Director of Building, re-stated the request and presented the following staff report:

At the May Board meeting, the applicant originally requested a pool screen enclosure lot coverage of 11.7 % (2,200 sf) whereas the maximum allowed coverage is 8 % (1,503 sf). Just prior to that meeting, the applicant reduced the request further to 10% with a proposed area of 1,880 square feet. The rationale for the request is to protect the pool from excessive litter from falling leaves and limbs that create a maintenance issue in keeping the pool clean. The pool was built in 2004, and since that time neighboring trees have grown quite large and have significantly added to debris falling into the pool.

A majority of the Board did not feel that this was sufficient hardship to necessitate granting a large coverage variance for the enclosure. Therefore, with agreement from the applicant, the Board tabled the request to allow the owner's representative and the pool screen enclosure contractor an opportunity to further reduce the size of the enclosure and come back to the Board if it could not be reduced sufficiently to prevent needing a variance.

After extensive work with the screen enclosure contractor, Dan Boody, (owner's rep) has submitted a revised enclosure plan that only requires a variance of less than 1% over the allowed maximum size. Mr. Boody explains the details of this revision within an enclosed document provided to the Board as an email message that was sent to me. In addition, revised plans are provided for the Board's review and now represents an excessive coverage of 188 square feet in lieu of nearly 400 square feet as presented last month. Originally, the proposed enclosure extended 64 feet across the rear of the property, then was shortened to 51.5 feet and now has been reduced to 50 feet.

The applicant has received two letters from abutting neighbors expressing no objection to the request, and an email message from the property owner behind this applicant agreeing to accept the enclosure while having assurances that the existing vegetative buffer between the properties is enhanced and maintained so as to provide a visual barrier.

Dan Boody, the representative of the homeowner, stated that due to the substantial tree canopy that has grown up since the pool was built putting up a screen enclosure will help minimize the need to put more chlorine and chemicals into the pool. Under rainy conditions, pool water spills out into the yard and landscaped area and further contaminates the yard with these chemicals. In addition, Mr. Boody explained that he met with the screen enclosure contractor and reduced the size to the smallest possible without interfering with electrical boxes on the rear of the home.

**FINDINGS**

The Board was split concerning the tree canopy hardship. However, they pointed out that this is just a small percentage request. They also emphasized that there is no objection from the neighbors most impacted.

**ACTION**

Based on these findings, Cynthia Strollo made a motion, second by John Simpson to approve the variance. The motion passed by a vote of 4-3, with Cynthia Strollo, Ann Higbie and Patrice Shirer voting in opposition, and the request was approved.

2. Request of Hannibal Square Community Land Trust, Inc for variances to allow the construction of a new home with a 2nd floor balcony encroaching 5 feet into the front setback, with a rear setback of 15 feet to the first floor in lieu of the required setback of 25 feet, and to allow a pergola carport located 4 feet from the rear lot line, and 3.9 feet from the home in lieu of the required setback of 5 feet.

Located at 461 S Virginia Ave.

Zoned: R-2

George Wiggins, Director of Building re-stated the request and gave the following staff report:

At last month's meeting, the Board tabled this request partially due to difficulties related to needing clarity on the exact variances being requested which were being further changed just prior to the meeting and concern about requesting variances on a vacant lot.

The variances being requested are as follows:

1. 5 foot encroachment into the required front setback of 20 feet for the second floor covered open porch. The required front setback is determined to be 20 feet. The front house wall will be located at a front setback of 21 feet.
2. Rear setback of 15 feet whereas the required setback is 25 feet.
3. Parking pergola located at 4 feet from rear lot line whereas the required setback is 5 feet.
4. Parking pergola located 3.9 feet from home in lieu of required 5 feet of separation to an accessory structure.

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The front second floor porch encroachment is requested to allow the proposed architectural style of the building (Colonial) to be continued from the first floor porch. Without this encroachment allowance, the second floor columns will need to be removed, and the second floor roof over the porch will need to be scaled back to a normal roof overhang. However, the balcony floor could still be built without columns.

The rear setback encroachment is requested due to the difficulty of designing a modest size home on this small shallow lot that has a depth dimension of 84 feet. The total area of the lot is 5,250 square feet which allow a home with a maximum gross area of 2,688 square feet. The home is proposed to have an area of 2,252 square feet and without an enclosed garage.

At one time the rear setback for single family zoned properties was only 10 feet throughout the City prior to 1990. Special 10 foot rear yard setbacks were adopted into the code several years ago for shallow lots on Douglas Avenue between Denning and Hannibal Square West. This lot and the adjacent lot on Virginia Avenue are both very shallow in depth, and the home next door has a smaller rear setback of between 10 and 15 feet similar to what is being requested here. A new ordinance has been written to address properties with shallow lot depths to eliminate the need for rear yard variances, such as in this case and has been included in the Board's packet of information for this meeting.

Another issue that arises on these smaller lots is where to provide parking space. The Land Trust is attempting to create an attractive pergola parking structure to contain two off street parking spaces at the rear of the home to be accessed from Comstock Avenue. However, some minor encroachment variances are needed to allow this to be built.

The proposed home meets the maximum allowed floor area (43%) and impervious coverage (50%) for this property.

Nigel P. Lashley, the architect for the applicant, stated that the house meets all the other setback requirements and coverage limitations, and all possible revisions were made from the original plan to minimize the variances requested.

John Skolfield, a property owner from across the street, spoke to the Board and stated that due to the shallowness of the lot he supports this request.

Denise Weathers, executive director of Hannibal Square Community Land Trust, stated that the Affordable Housing guide lines are met and she has a family who has some physical needs that are also being addressed with this design.

### **FINDINGS**

The Board Members expressed that they felt the architecture style for the community is pleasing, and the hardship is clear due to the shallow depth of this corner lot. All of these factors together relate to a need for some variance relief on this small property.

### **ACTION**

Based on these findings, Patrice Shirer made a motion, seconded by John Simpson to approve the variance. The motion passed by vote of 7-0, and the request was approved.

### **NEW BUSINESS**

1. Request of Fred Curley to extend a variance granted June 18, 2013 to allow the construction of a duplex dwelling with a floor area ratio of 48.7% whereas the maximum permitted FAR of 45% and to allow a second floor side setback of 7 feet on the west side of the property whereas the required setback is 10 feet.

Located at 910 Mead Ave

Zoned: R-2

George Wiggins, Director of Building re-stated the request and gave the following staff report:

The applicant is requesting an extension to a variance granted June 18, 2013 to allow the construction of a duplex dwelling with a floor area ratio of 48.7% whereas the maximum permitted FAR is 45% and to allow a second floor side setback of 7 feet on the west side of the property whereas the required setback is 10 feet. No changes have occurred which impact this property or the zoning requirements related to this project since the Board granted this variance last year.

Variances granted by the Board must be started and underway within one year from the date approved. The applicant states that financial difficulties have caused a delay in this project and he requests that the Board grant a one year extension.

A copy of the plans for this request were included for the Board's review.

### **FINDINGS**

The Board understood the request and did not need to hear from the applicant.

### **ACTION**

Based on these findings, Jeff Jontz made a motion and second by, Patrice Shirer to approve the request. The motion passed by a vote of 7-0 and the request was approved to extend the variance for one year.

### **OTHER BUSINESS**

Conceptual ordinance allowing smaller rear setbacks for single family zoned lots with shallow lot depths.

After a brief presentation by Mr. Wiggins showing the Board various locations around the City that have smaller than normal lot depths. Robert Trompke made a motion, seconded by Ann Higbie, to approve the conceptual ordinance allowing smaller rear setbacks and relief on front setbacks for single family zoned lots with shallow lot depths. The motion to approve the conceptual ordinance passed by a vote of, 7-0. The Board understands that the ordinance must go to the Planning and Zoning Board, and then to the City Commission.

Meeting was adjourned at 6:28 p.m.







**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Jeffry R. Jontz, hereby disclose that on May 19, 20 14:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, Stuart Buchanan;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

A lawyer at my law firm, Stuart Buchanan, was retained to represent Ms. Elzey in a matter before the Winter Park Board of Adjustment. I recuse myself from consideration in the matter.

Date Filed

5/20/14

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

