

BOARD OF ADJUSTMENTS
CITY OF WINTER PARK, FLORIDA



Regular Meeting

August 19, 2014

Commission Chambers

5:00 P.M.

PRESENT

John Simpson, Vice Chair, Ann Higbie , Jeff Jontz, Patrice Shirer, Robert Trompke, and alternate member, Brian Mills . George Wiggins, Director of Building and Kimchi Tran, Recording Secretary. Phil Kean, Chair, and Cynthia Stollo were absent.

MINUTES

Brian Mills made a motion, seconded by Robert Trompke, to approve the minutes with amendments from the July 15, 2014 meeting. The minutes were approved by a vote of, 7-0.

OPENING STATEMENT AND PUBLIC COMMENTS

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

NEW BUSINESS

1. Request of Katherine Lebovitz for a variance to allow the construction of a 6 foot vinyl fence and gate located 5 feet from the Leith Avenue lot line in a double frontage lot front yard in lieu of the maximum permitted height of 3 feet for a solid fence or 3.5 feet for an open vinyl picket fence.

Located at 1531 Norfolk Avenue Zoned: R-1A

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

The subject property has frontage on Leith and Norfolk Avenues, with the principle front yard on Norfolk Avenue. On the Leith frontage, the adjacent dwelling on the east side has their actual front yard on Leith Avenue. Typically, on double frontage lots normal 6 foot high fencing is permitted in the yard treated as the rear area as long as the pattern is continued on

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adjacent properties. In this case there is no pattern set because the adjacent home has their front yard next to this rear yard, therefore a variance must be granted to allow opaque fencing higher than 3 feet.

The proposed fence location curves away from the adjacent property at a distance of approximately 20 feet. Perhaps a compromise would be to also place the 6 foot fencing at least 20 feet back from the Leith Avenue lot line, which still gives the applicant a generous size fenced rear yard and still respects the openness of the adjacent front yard.

The property on the west side of this lot is a corner lot which received a variance to construct a 6 foot wood fence on 12/14/2004 with a setback of 3 feet along with a landscaped hedge barrier to be placed in front of the fence. This fence was never built, however, a pool and screen enclosure was built at a permitted setback of 20 feet without the need of a variance.

Although an extensive vegetative barrier exists in the area proposed to place the new fencing, the applicant has only mentioned agreeing to keep the barrier if a limited variance is imposed, which suggests that if the Board is inclined to grant the variance and desires to ensure the barrier is maintained, then this condition will need to be imposed.

No letters have been received from the owners of adjacent properties.

Katherine Lebovitz, the applicant, stated she asked for a 6 feet fence to allow privacy on the backyard from the sun rail trains and for her small dog. She also stated that if she places the fence 20 feet back, then it will cut out half of her own back yard. She expressed a desire to keep the yard as big as possible due to the heavy vegetative.

The Board discussed various placement options with the applicant to lessen the amount of variance needed and requested more information on the locations of trees.

FINDINGS

The Board Members stated that they would like to see a survey which shows all the trees to determine if the tree location is an issue. The Board suggested the owner look at a compromise to place the fencing at least 20 feet back from the Leith Ave lot line as Mr. George Wiggins proposed and to have approval letters from the east and west side neighbors.

ACTION

Based on these findings, Patrice Shirer made a motion, second by Robert Trompke to table the request. The motion passed by a vote of 6-0 and the request was tabled.

2. Request of Martha McIntosh for variances to allow converting a carport into an exercise room (habitable space) and connecting the accessory building to the main residence with an enclosed entry area with a side setback of 5.1 feet and a rear setback of 10' in lieu of the required setbacks of 9 feet and 25 feet respectively.

Located at 2728 Eastern Parkway Zoned: R-1A

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

The existing home has a detached two car garage with an open carport located at the rear of the property, and placed at the minimum setbacks allowed at the rear and on the side, 10 feet and 5 feet respectively. The home was built within the last 5 years in 2009 and met all required setbacks. The property is for sale and the prospective purchaser would like to join the main home with the rear garage with an enclosed walk through space having an area of 108 square feet, and also enclose the open carport into an exercise room.

When rear accessory buildings are joined to the main home, they become an integral part of the principle dwelling and take on the required setbacks on the home, which in this case is 25 feet to the rear lot line and 9 feet to the side lot line.

In order to allow a rain protected entry into a detached garage at the rear of a property, the Code allows the construction of an open covered walkway up to 8 feet wide. However, in this case the connection is enclosed and is wider than 8 feet.

The purpose of these provisions is to prevent the type of after-the-fact request, which is the subject of this variance. The net result is having a home that currently is 59 feet in length now become 113 feet by building integral enclosed attachments to a rear garage as proposed here.

The current garage and carport together result in a structure with 880 square feet of gross area. This same type of building with a two car garage attached to a one car

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carport today would be required to be built at the same first floor side setback as the home which is 9 feet.

The applicant has submitted 6 letters of non-objection from nearby residents, however, none of these include abutting the subject property, and the signed letters do not describe the entire variance being requested. They express non-objection to only enclosing the carport without mention of the enclosed connection to the main home although the full description is on the variance notice posted.

Martha McIntosh, the applicant, stated that she is concerned about her own safety due to her job requiring her to come home late and a need exists to provide more security in the back for her grandmother.

Pedro German, the real estate agent assisting in the sale of this property, stated that the seller advertised the home and as having the ability to enclose and convert it into office space.

The Board asked questions of the applicant regarding ways to accomplish the request with little or no variance.

FINDINGS

Most Board Members expressed difficulty in finding a hardship. The Board felt that the home owner can still provide security by following the suggestion which had been proposed by Mr. Wiggins, to build a 6-7 feet high wall and fence with a roof covered open walkway instead of building a new enclosed connection to the home.

ACTION

Based on these findings, Jeff Jontz made a motion, second by Ann Higbie to approve the variance. The motion failed by a vote of 1-5, with John Simpson voting in favor, and the request was denied.

3. Request of Forrest Michael for variances to allow additions and major modification to an existing residence with the following variances: Front setback of 6' to a 12 foot high garage with a 5 foot parapet in lieu of 20 foot setback, and typical 12 foot wall height; a side/rear setback of .1 foot in lieu of 7.5 feet to first floor and 12.5 feet to second floor; overall 35 foot building height in lieu of 30 feet; 2.5 foot west side setback to chimney in lieu of 4.5 feet; west side setback of 4 feet in lieu of 12.5 feet for parapet wall; west side setback of 5' to laundry room in lieu of 7.5 feet; excessive gross floor area by 1,100 square feet; excessive impervious coverage of 500 square feet in lieu of 50% of lot area.

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Located at 358 W Comstock Ave Zoned: R-1A

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

On February 19, 2013 the Board granted the following variances to this applicant to allow the construction of the following:

- (1) an arbor structure with a 3 foot setback from the front lot line in lieu of the required setback of 15 feet;
- (2) enclosure of a porch to be 10.1 feet from the front lot line in lieu of the required setback of 19 feet (existing front wall of home);
- (3) Enclosed end wall of former porch to extend an additional 6.5 feet in height above existing wall height at the 5 foot setback in lieu of required setback of 12.5 feet;
- (4) Rain overhang extending 4 feet from new front wall within the front setback;
- (5) 5 foot high garden wall and 4 foot high retaining wall within the front setback in lieu of maximum permitted height of 3 feet.

Mr. Michael, the applicant, has submitted a new variance application with several variances on this same property. The property is located on the south dead end of a segment of Comstock Avenue extending from Virginia Avenue to the railroad, and is a small triangular lot with an area of 2,870 square feet and zoned for a single family dwelling. Many of the improvements that needed variances as listed above have been constructed.

In the application the applicant has provided a description of the needed variances by dividing the improvement into five areas (although more than 5 variances are being requested):

1. Garage (triangular shaped) located 6 to 8 feet from the front lot line, 12 foot high wall to a roof with a 5' parapet to provide roof top planters and cisterns and a 1' rear setback along the railroad.
2. Second floor bedroom located 10 to 19 feet from the front lot line with a 1' to 3' rear setback along the railroad having an overall height of 35 feet with roof top planters and cisterns.
3. Laundry room addition located 2 feet (estimated) from the rear railroad side lot line and 5 feet from the west lot line.
4. Parapet to be 5 feet high above each roof on first and second floors (described above).
5. Chimney: Although stated to be inside the existing wall at the location it protrudes above the roof, it will be closer than allowed by the code at approximately 2.5 feet from the west side lot line.

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A break down of the variances requested is as follows:

1&2: Front setback of 6' to a 12 foot high garage with a 5 foot parapet in lieu of 20 foot setback, and typical 12 foot wall height; (2 variances)

3&4: Side/rear setback of .1 foot in lieu of 7.5 feet to first floor and 12.5 feet to second floor; (2 variances)

5. Overall 35 foot building height in lieu of 30 feet;

6. 2.5 foot west side setback to chimney in lieu of 4.5 feet;

7. West side setback of 4 feet in lieu of 12.5 feet for parapet wall;

8. West side setback of 5' to laundry room in lieu of 7.5 feet;

9. Excessive gross floor area by 1,100 square feet;

10. Excessive impervious coverage of 500 square feet in lieu of 50% of lot area.

Although there exists unique limitations on this property due to its small size and triangular shape, the vast amount of variances requested appears to be excessive and require reconsideration or re-evaluation, and perhaps the applicant should consider demolition of the existing home and seek a more modest number of variances. However, having discussed this option with the applicant, he has decided to move forward with this request as submitted.

Seeking variances in the following areas seem to be more appropriate and relate to the unusual small size and configuration of the lot: Front and side/rear setback variances; some overage on the allowable gross floor area and impervious coverage perhaps in the range of 500 square feet or less in floor area and impervious coverage. Having the location of the property abutting the railroad is an appropriate hardship criteria that should lend itself toward setback variances along this lot line.

We have received one letter of non-objection for this request.

Forest Michael, the applicant, stated the home was built in 1940 and that this is a high crime area. Also, the home is in an area with commercial near his house. He stated that the down stairs bedroom needs to be located upstairs to avoid the noise from the 80 feet wide railroad and the radiation from the city power pole. As many houses in the neighborhood, a need exists to have a garage and laundry room.

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Due to the tiered floor plan, the 2nd bedroom ceiling height needs to be improved to 14ft.

The applicant summarized his hardship as relating to the triangular shape of the lot, existence of the adjacent railroad, location of power pole and overhead lines making it difficult to improve this property.

John Skolfield, the adjacent property owner and the owner of Skolfield Homes LLC, stated the home is on a difficult lot and the quality of the proposed improvements will increase the value of the home. He, therefore, spoke in favor of the request.

Dan Bellows, the owner of Sydgan Corporation, stated that the unit is in an R-1A zoning area, and there are a requirements from the city which state what can be built if anyone is trying to remodel. Due to the fact that the conditions cited as a hardship, such as lot shape, railroad, power lines where all existing at the time the applicant purchased the property, Mr. Bellows expressed his opposition to the request.

FINDINGS

The Board expressed difficulty in finding a hardship on the 2nd bedroom ceiling height (14ft), the increase in floor area to 70% floor area ratio and other extensive variances.

However, most Board Members understood that this is a unique property size, and location in trying to develop this as a useable lot. They suggested the applicant re-visit and scale back the proposed improvements to minimize the number of variances needed.

ACTION

Based on these findings, Robert Trompke made a motion, second by Patrice Shirer to table the request. The motion passed by a vote of 6-0, and the request was tabled.

4. Request of Robert Randell for a variance to allow converting a garage attic into second floor habitable living area located 10 feet from the rear lot line in lieu of the required 35 foot second floor setback.

Located at 491 Sylvan Drive Zoned: R-1AA

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

The home and detached garage were built on this property in 2001 under previous zoning code provisions that allowed this tall one storage garage to be constructed 10 from the rear lot line. At the time there was no exact height limitation on a detached accessory building such as this one, and this garage was built with a height of 24 feet and a steep pitched gable roof. At a later date, a maximum allowable height limit of 18 feet was established for detached accessory buildings including garages. The attic in this garage is only accessible by a pull down stairs and contains two dormers facing the north side of the garage. In addition, a window is located within each gable end of the garage which gives the appearance of being a two story structure.

The applicant desires to add new conditioned floor space on this property without making further exterior enlargement of the current home, except for a walkway from the main floor of the home over to the second floor of this garage building.

If the Board is inclined to grant a variance to allow this new conditioned floor area, then perhaps it may be appropriate to place a condition or deed restriction which prevents adding any other additional conditioned floor space to this home.

We have received four letters of non-objection for this request from surrounding property owners.

Robert Randell, the applicant, stated he has lived there for 13 years and needs a bonus room as his life situation has changed.

Barry Wigington, the neighbor to the rear of this property, stated the window on the west side of the garage needs to be enclosed permanently for privacy on his property.

The Board discussed clarification on how this area will be connected to the home, removing the second floor window on the rear and the benefit of limiting this new habitable space to an existing building on the property without further adding an addition onto the main residence.

FINDINGS

Although Board Members expressed difficulty in finding a hardship, they understood that using this existing space under the sloping roof minimizes the negative impact of construction constructing another exterior addition onto the main residence.

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ACTION

Based on this finding, Jeff Jontz made a motion, second by Robert Trompke to approve the variance. The motion passed by a vote of 5-1, with Patrice Shirer voting in opposition, and the request was approved.

Meeting was adjourned at 6:38p.m.

