

BOARD OF ADJUSTMENTS
CITY OF WINTER PARK, FLORIDA

Regular Meeting

September 16, 2014

Commission Chambers

5:00 P.M.

PRESENT

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

MINUTES

Patrice Shirer made a motion, seconded by Jeff Jontz, to approve the minutes from the August 19, 2014 meeting. The minutes were approved by a vote of, 5-0.

OPENING STATEMENT AND PUBLIC COMMENTS

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

OLD BUSINESS

1. Request of Katherine Lebovitz for a variance to allow the construction of a 6 foot vinyl fence and gate to be located 7.5 to 12 feet from the Leith Avenue lot line on a lot fronting on two streets whereas the maximum permitted height is 3 feet within the front setback area.

Located at 1531 Norfolk Avenue Zoned: R-1A

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

After meeting the applicant at the property and viewing the extensive vegetative barrier and location of trees, understanding that this is a double frontage lot and viewing how the abutting property owner to the east is very well buffered by vegetation, the applicant's amended request is a logical solution which will have no negative impacts. In addition, the property owner on the west side has a large storage building with one corner approximately as close to the sidewalk as the proposed location of the fence where it will intersect the west lot line.

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The applicant plans to thin out the dense vegetative barrier over time, however, it appears that this could take a very long time and will leave a buffer consisting of podocarpus hedge plantings along the street frontage.

Another unique factor is that this property has an unusual configuration on the Leith Avenue side where the lot line takes a sudden 90 degree turn to the east, then returns to Leith Avenue leaving a 20 to 25' dense vegetative barrier between the proposed fence location and the property on the east side.

Although, the applicant did meet with the long time property owner on the east side, at this time no formal letter of non-objection has been received. The applicant did receive an email from the neighbor expressing willingness to come to the meeting to support the variance.

Katherine Lebovitz, the applicant, stated that she responded to her neighbor's request to revise the plan and showed the fence along the property line instead of the curved location away from the lot line. She expressed a desire to have privacy for her property as much as possible by utilizing this revised plan.

FINDINGS

The Board Members understood the concern of Ms. Lebovitz's neighbor. The Board suggested the applicant reduce the height to a 4 foot vinyl fence and square it off on her property line along the east side, clean out the heavy vegetation and have the fence around it.

ACTION

Based on these findings, Patrice Shirer made a motion, seconded by Jeff Jontz to approve the request with modification to a height of 4 feet. The motion passed by a vote of 5-0 and the request was approved.

2. Request of Forest 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; **1 foot east 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 **1,000 square feet**; excessive impervious coverage of **400 square feet** in lieu of 50% of lot area.

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Located at 358 W Comstock Ave

Zoned: R-1A

Forest Michael, the applicant, stated he would like to table this request until next month.

ACTION

Jeff Jontz made a motion, seconded by Robert Trompke to table the variance request. The motion passed by a vote of 5-0, and the request was tabled.

NEW BUSINESS

1. Request of American Pools and Spas for variances from Section 58-71 "General provisions for residential zoning districts" subsection (j)(3) to allow a newly constructed pool screen enclosure to remain with a side setback of 6.5 feet in lieu of the required setback of 9 feet to one story portion and 13 feet to two story portion and to exceed the allowable 8% pool screen coverage by 23 square feet.

Located at 1922 Arbor Park Drive.

Zoned: R-1A

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

During the construction of a major building addition onto the residence on this property, American Pools obtained a permit and updated the pre-existing swimming pool with aesthetic improvements and added a waterfall feature. A permit request came in for an enclosure over the swimming pool in a manner that fits in with the additions onto the home. The permit request was not approved because of the encroachment into the side yard area by the enclosure. The previous pool deck was in compliance at a side setback of 6 feet because no enclosure had existing over the previous pool on this property.

Final inspections were conducted on the home addition which was a separate permit from the pool and screen enclosure permit. It is the pool contractor and screen enclosure contractor's responsibility to obtain inspection approvals for permits in their areas. American Pools and Spas and Sirbess Construction applied for this pool screen enclosure permit on 5/19/14 and the plans were disapproved. An application for a variance then came in on 8/20/14. The application only provided an older survey of the property that did not show the recent addition onto the home. I visited the property, met with the owner and noticed that the screen enclosure was already built.

The enclosure is a semi-domed shape from the side view which begins at a height of 10 feet at the front and rises to a height of 15 feet at the rear of the enclosure and then returns back to the home. Structures over 12 feet in height must meet the two story setback which for this home and lot size is 13 feet.

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I understand from the pool company representative that several attempts were made to contact and meet with neighbors, however, they were not successful in receiving any letters regarding this request.

Ben Evans, the applicant, stated that he did not know the permit for the screen enclosure was not approved until the screen enclosure was already installed. At that time he did not know about the height restriction and that there was going to be a problem with a 6 ft side setback.

The owner, Mona Bullard, stated that she was not aware that there was no permit for this screen enclosure. However, she talked with her neighbors and they actually were happy with the construction of the house because the previous house was neglected from the previous owner. She stated that there is no complaint from anyone.

The Board Members understood that the applicant built a screen enclosure and had no idea what were the requirements for the height and for the setback.

FINDINGS

The Board expressed difficulty in finding a hardship on the screen enclosure for this after- the-fact variance request.

However, most Board Members understood that this is a unique property size and suggested the applicant scale back the screen enclosure to minimize the number of variances needed.

Building Official, George Wiggins, recommended the Board allow the applicant to amend the request by angling the screen enclosure back so it does not exceed the height. The screen enclosure will then be much closer to the allowed height at the 6' setback and will be angled back when it is over 10 ft in height.

ACTION

Based on these findings, Jeff Jontz made a motion, second by Patrice Shirer to approve the request. The motion failed by a vote of 0-5, and the request was denied.

Mr. Jontz made a motion, seconded by Robert Trompke to allow the applicant to return with an amended application and revised plans within sixty days. The motion passed by a vote of 5-0.

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2. Request of John Scholfield for variances from Section 58-66 "R-1A & R-1AA Districts" subsection (f) to allow the construction of a two story home with a west side setback of 6 feet and an east side setback of 10.5 feet in lieu of 8 feet and to allow 46 square feet of additional floor area (FAR of 45% in lieu of 43%).

Located at 775 W. Lyman Avenue

Zoned: R-1A

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

The subject property is a nonconforming lot only 32.5 feet wide and 69 feet deep which had a dwelling on it several years back. The previous home had deteriorated to the point that its demolition was ordered by the City. The applicant is a new owner and would like to build a modest size home on this small lot but will need variances on one side and in the second floor rear setback to build a 16 foot wide by 32 foot long two story home with a gross floor area of 1,024 square feet. With the lot area at only 2,275 square feet, a second variance is needed to exceed the allowable floor area by 46 square feet. The overall height of the home is planned to be 26 feet which is less than the permitted height of 30 feet.

The applicant has placed the home at the minimum appropriate front setback based on other homes in the area, although the adjacent older home actually is built encroaching to the public right of way and is an anomaly. It is likely that this home was built before the Lyman Avenue street right of way was established.

Letters of non-objection have been received from 7 surrounding residents and home owners regarding this request.

John Skolfield, the applicant, stated that he can build the house within the required setback but it will be a much smaller by 2 feet in width, and the interior space will be 1300 sqft. His vision is a modest home for young persons or couples who want a home in Winter Park. Many young couples want the quality of life in Winter Park at a price they can afford. He said this is a traditional design, and would be a small modern home for prospective residents.

Forest Michael, a resident of Hannibal Square neighborhood, spoke in favor of the request.

FINDINGS

The Board appreciated the concept and they want to see the west side continue to provide single family residential homes; and understood this is a very non-conforming

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lot. However, the Board felt that a new construction should not depend upon a variance and that this re-development could occur without coming forward requesting variances.

ACTION

Based on these findings, Patrice Shirer made a motion, seconded by Robert Trompke to approve the variance. The motion failed by a vote of 3-2, with Phil Kean, Patrice Shirer and Robert Trompke voting in favor, and the request was denied.

3. Request of Jay Clark (The Porch Restaurant) for variances from Section 58-126 "Wall signs" subsection (b) & (c) to allow a 2 wall(s) signs to remain with a total area of 260 square feet in lieu of the maximum permitted area of 200 square feet using wall and window sign areas combined, in lieu of one permitted wall sign, and to allow one wall sign to interrupt an architectural feature.

Located at 643 Orange Avenue

Zoned: C-3

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

During the renovation of The Porch Restaurant, the applicant contracted with a sign painter to provide identification signage on the front of the building along Orange Avenue so as to readily identify this new business and to make up for not constructing a pole or ground sign on the property as allowed by the Sign Code. A ground sign with a total area of 50 square feet and a maximum height of 20 feet is permitted at this business, however, the business owner chose to only identify the restaurant with signage on the building face closest to the street.

Without a ground sign at a business, the Sign Code allows one wall sign with a size based on 45% of the sign able area location chosen on the front of the building. The sign able area is defined as "an area of the façade of a building up to the roof line which is free of windows and doors or major architectural detail." For example, looking at the front of this building, to determine the allowable size of a wall sign, you would draw a rectangle in the area immediately above the windows and doors that extends to the roof line and over to each side of the building.

This maximum sign able area available on the building front is area above the windows and doors which is the width of the building front (34.5 feet) times the height of the space above the windows and doors (5 feet): 172.5 square feet. Within this sign able area the Code allows a wall sign to cover 45% of this area which results in a total available area of **78 square feet**.

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In addition, under the Code window signage is permitted to cover 25% of window areas. The window areas including the glass doors result in an area of 90.4 square feet leaving 25% of 90.4 which is **23 square feet** of sign able window area. After totaling the allowable wall signable area and the window signable area the result is **101 square feet**.

If the variance is denied, the applicant will need to remove all signs and comply with the Code by utilizing a conforming wall sign (78 square foot wall sign and 23 square feet for window signs). Other options if the Board is inclined to grant any type of variance is to remove one of the wall signs and allow excessive wall sign area or remove both signs with an allowance for one wall sign with an area of 101 square feet.

No letters have been received regarding this request.

Jay Clark, the applicant, stated that the basic Porch sign is not too far off from what the code requires after one sign is removed. He also said that he has letters of support from business owners like the Meat House, Entwined and Floyd's Barber shop, nearby businesses. Mr. Clark discussed various options with the Board and with staff.

FINDINGS

The Board Members expressed the understanding in the need to keep the Porch sign and take away the logo "eat! drink! stay awhile" to help the restaurant for marketing concept, and suggested the applicant find a creative sign person to comply with the code so the sign will not exceed 100 square feet.

ACTION

Based on these findings, Patrice Shirer made a motion, second by Robert Trompke to approve the variance. The motion failed by a vote of 3-2, with Phil Kean, Patrice Shirer and Robert Trompke voting in favor, and the request was denied.

Ms. Shirer made a motion, seconded by Robert Trompke to allow the applicant to return with an amended application and revised plans within sixty days. The motion passed by a vote of 5-0.

Meeting was adjourned at 6:55 p.m.

Kimchi Tran
Recording Secretary