



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**July 21, 2015
5:00 p.m.**

MINUTES

PRESENT

Chair John Simpson, Vice Chair Jeff Jontz, Patrice Wenz, Robert Trompke, Brian Mills, Alternate Laura Turner, and Director of Building, George Wiggins and Recording Clerk Theresa Dunkle. Absent: Ann Higbie and Cynthia Strollo,

APPROVAL OF MINUTES

Jeff Jontz made a motion, seconded by Patrice Wenz, to approve the minutes from the June 16, 2015 meeting, with a minor wording change to Mr. William Ockenden's Action Summary. The minutes were approved as amended by a vote of 6-0.

OPENING STATEMENT AND PUBLIC COMMENTS

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

Jeff Jontz disclosed that he met Stephen Stutzer "quite by accident" at a Panera Bread Restaurant. Mr. Stutzer is a neighbor of Alexander and Kristin Rey, who are submitting new business request number three in this meeting. Mr. Jontz said he suggested Mr. Stutzer talk with the applicants and neighbors about his concerns and act accordingly.

OLD BUSINESS

1. Request of Arthur and Kathryn Boule, tabled last month, for a variance to allow the construction of a 6 foot high wood fence to be located 10 feet from the Burning Tree Lane side lot line, in lieu of the maximum permitted height of 5 feet.

Located at 1200 Golfside Drive

Zoned R-1A

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

Last month the applicants requested a variance to allow the construction of a 6 foot high wood fence to be located 10 feet from the Burning Tree Lane side lot line; whereas the maximum permitted height is 5 feet.

The property is a corner lot, which has a curved street side yard along Burning Tree Lane, with a front on Golfside Drive. In order to allow a 6 foot high fence the Zoning Code requires that the fence be set-in the same distance as a street side setback for a home, which is 20 feet. Because the applicants are planning to

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construct a pool in the rear yard, they desire to have the typical 6 foot privacy fence, although a 5 foot fence can be constructed at this location with a 10 foot street side setback.

The applicant had provided a survey/site plan showing a generalized location of the fence at the 10 foot setback which is not accurate. Therefore, I drew on the plan the two locations of the fence. The red line is the approximate location of the fence with a 10 foot setback and the purple line is the location of the fence with a 20 foot setback. The black line was drawn by the applicant and does not accurately show the location of a fence with a 10 foot setback.

The applicants submitted a photo of the proposed wood fencing, which is more attractive than the typical wood panel fencing material sold at the nearest home improvement store.

At the prior hearing, we had not received any letters regarding this request, although notices were sent to surrounding property owners and the property was posted with the required notice.

Since the last hearing, the applicants submitted a new packet, showing exact information on the proposed swimming pool and its orientation in relation to where a new fence will be constructed.

The enclosed 11 inch by 17 inch plan of the pool indicates that if the fence is set back 20 feet from the Burning Tree Lane lot line in order to allow the 6' height, then the fence will be at the southwest corner of the water's edge of the pool. This would require that the pool be shifted to the northeast or reduced in size to accommodate having a 6 foot high fence at the required 20 foot setback. Another option, if the Board is inclined to grant a variance, is to place the fence midway between the 10' requested setback and the required 20' setback. This will result in cutting back a portion of the pool deck at the southwest corner.

The applicants have submitted 16 letters from nearby neighbors supporting the variance request.

Mr. Wiggins answered questions from the board, responding that his suggestion to set the fence back 15ft, instead of the requested 10ft, was not discussed with the applicant. Regarding visual impairment, Mr. Wiggins stated he personally conducted a field visit and determined the 25ft setback distance from the curb would not create a visual impairment for traffic.

Mrs. Boule spoke regarding their odd lot shape, which made it difficult to design a usable back yard. In addition, she felt the proposed fence would be less of an obstruction than the current foliage, resulting in an improved condition.

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Board members questioned the applicants regarding alternative fence placement, and the pool size.

Both neighbors Karen Goldstein, of 1253 Burning Tree Lane and Rich Zoebelin, who lives adjacent the Boule's, agreed the proposed fence would not create a visual impairment for traffic. Mr. Zoebelin also noted a higher fence enhanced pool safety.

FINDINGS

The majority of board members expressed they would support the 10 foot setback proposed by the applicant, due to the shape of the lot, limited area to build a swimming pool and support from many nearby residents.

ACTION

Based on the findings, Jeff Jontz made a motion, seconded by Robert Trompke to approve the variance request. The motion passed 4-2 and the request was approved, with Jeff Jontz and Patrice Wenz voting in the negative.

NEW BUSINESS

1. Request of Priscilla Ann Hill to Table her variance request until November 17, 2015 for variances to allow the construction of a carport addition to be located .9 feet from the side lot line, in lieu of the required side setback of 10 feet; and to allow the construction of an elevated deck 1.5 feet from the northwest side lot line and 4.3 feet from the east side lot line, in lieu of the required side setback of 10 feet.

Located at 1358 Richmond Road

Zoned: R-1AA

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

The applicant has provided a letter stating she will be unavailable until the November 17, 2015 hearing and has paid an additional one-hundred dollars for the request.

FINDINGS

None of the board members voiced any concerns.

ACTION

Based on the findings, Brian Mills made a motion, seconded by Robert Trompke to approve the request to table the variance request until November 17, 2015. The motion passed by a vote of 6-0 and the request was tabled.

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2. Request of Kirk and Kimberly Montgomery for a variance to allow the construction of a second floor open covered porch 5.9 feet from the side lot line, in lieu of the required second floor setback of 10 feet.

Located at 1250 Via Capri

Zoned: R-1AA

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

The applicants are requesting a variance to allow the construction of a second floor open covered porch 5.9 feet from the side lot line, whereas the required second floor setback is 10 feet.

Currently, a second floor balcony area on the front of the home has a fabric awning structure that covers much of balcony. In order to cover the entire balcony with a solid roof with tile shingles matching the home, a variance is needed to line up the south side of this roof extension with the first floor wall due to its closeness to the side lot line (5.9'). The new roof will be supported by columns placed on the balcony. This second floor balcony area will remain open and extend out 11 feet further than the existing roof line and has a width of 35 feet across the front.

With this solid roof additional area of 442 square feet, the allowable floor area is not exceeded, and there is no additional impervious area created with this addition.

The purpose of this variance request is to line up the new balcony roof with the full width of the existing home and match the architecture with a tile roofed structure.

A letter signed by the abutting property owners has been submitted acknowledging details about this variance request, the need for the variance and that it will "add value to the street and will be an improvement." Although there is no specific indication of non-objection, it is doubtful that the letter would be signed by the neighbors if they had concerns about the variance.

Mr. Wiggins answered questions from the board, clarifying that the garage area conversions are not in this variance request and the proposed covered porch will extend beyond the existing canopy.

The Designer, Dirk Arace, spoke on behalf of the homeowners. He confirmed that the home was built in 1954. Mr. Arace noted the existing awning is deteriorating and in need of replacement. The proposed balcony will provide the needed balcony protection from the rain and will also conform to the symmetry of the home.

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FINDINGS

Board members voiced concerns of possible future enclosure of this balcony area. The designer responded that his clients have no intentions to enclose the porch; and they would not be opposed to making this a condition of the variance.

ACTION

Based on the findings, Patrice Wenz made a motion to approve the variance request, with a stipulation that the 2nd floor porch must never be enclosed, seconded by Robert Trompke. The motion was approved by a vote of 6-0, and the variance was approved with the stipulation that the porch will never be enclosed.

3. Request of Alexander and Kristin Rey for a variance to allow the construction of a new home that exceeds the maximum allowable floor area by 632 square feet, a floor area ratio of 52.8% in lieu of 45%.

Located at 1636 Elizabeth's Walk

Zoned: PURD

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

The applicants are requesting a variance to allow the construction of a new home that exceeds the maximum allowable floor area by 632 square feet, a floor area ratio of 52.8% whereas the maximum allowed is 45%.

The property is the last remaining vacant lot in the Elizabeth's Walk area of Windsong Subdivision and 31 feet of the rear portion of this lot is a drainage easement that must remain vacant for drainage purposes. The applicants have granted a 6 foot wide access easement along their side lot line to allow the Windsong HOA the ability to access the drainage area at the rear of this property. Apparently, the HOA had used this vacant lot to access this drainage area until now, however, with the sale of this lot, they will be precluded from access unless they secure this access easement. This is a private matter between the owners and the HOA and is not a City storm water drainage retention facility.

The 6 foot wide easement only encroaches one foot into the required 5 foot side setback. The home designed for this lot has a side setback of 8 feet on the side where the easement is located and has a side setback of 5 feet on the other side of the lot. Therefore, apparently the granting of the 6 foot wide easement has no impact on the design of the home since it is designed with an 8 foot side setback.

With regard to the excessive floor area and the discrepancy between the original private covenant and restrictions adopted for Windsong Subdivision, less restrictive covenants do not take precedence over more restrictive city zoning

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code requirements. I can assume that the subdivision covenants and restrictions were prepared prior to the final plat and subdivision approval of the subdivision by the City and prior to the final establishment of zoning restrictions to be implemented for development of homes in this subdivision. It is not uncommon to have more restrictive zoning provisions than the development restrictions established by a subdivision's covenants.

Although there is a letter of endorsement from the Windsong Homeowners Association for this variance, at this point in time we have not received any letters of non-objections from other property owners.

Randall Sloccum, Architect, spoke for the Windsong Subdivision Homeowner's Association Board and the applicant; he voiced his support of the proposed FAR increase.

The applicant, Alex Rey stated the increased FAR is needed to achieve privacy from a required emergency easement on his property. Upon Board questioning, the applicant noted the easement purchase proposal was presented to him after his lot purchase.

The designer, Dirk, with Arace Designs, stressed that an aesthetically pleasing 2-story elevation with privacy on the rear and side would not be possible without the increased square footage. He also noted that some lots in the subdivision allow 55 percent floor area ratio.

FINDINGS

A board member stated they were not convinced the easement was required for emergency service and felt it most likely would serve as a convenience for lawn mower access. A majority of the board members did not see any hardship unique to this property. Mr. Wiggins clarified that the allowable FAR is based on the lot and is not uniform for all of the lots in the subdivision because of the range of lot sizes.

ACTION

Based on the findings, Patrice Wenz made a motion to approve the variance request, seconded by Robert Trompke. The motion failed by a vote of 6-0, and the variance was denied.

4. Request of Jan and Anke Brinkman for a variance to allow the construction of a swimming pool and deck to be located 38.8 feet from the ordinary high water line of Lake Sylvan in lieu of the required setback of 50 feet.

Located at 1551 Harris Circle

Zoned: R-1A

On July 13, 2015, prior to the hearing, the applicants withdrew their application. No further action is required.

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5. Request of Wes Featherston for a variance to allow the construction of an enclosed elevator addition encroaching 6.1 feet into the required 30 foot rear setback; and a front entry addition, resulting in a floor area ratio of 46.9%, in lieu of the maximum permitted floor area ratio of 45%.

Located at 440 W. Morse Blvd

Zoned: O-1

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

The applicant is requesting a variance to allow the construction of an enclosed elevator addition encroaching 6.1 feet into the required 30 foot rear setback; and a front entry addition, resulting in a floor area ratio of 46.9%, whereas the maximum allowed permitted floor area ratio is 45%.

The subject property has a two story office building which will be undergoing extensive renovation and architectural changes to update the building. The building was constructed in 1983 when second floor vertical accessibility was not required by the accessibility code due to the size of the building. With the extensive renovations of this building, the current Florida Accessibility Code provisions require vertical access to the second floor for persons with disabilities. To achieve this compliance with the least structural impact, the applicant is proposing to add an elevator to the exterior on rear side the building. Placement at this location results in encroaching into the required 30 foot rear setback which will leave a setback of 23.9 feet.

In addition to the elevator addition, a two story high entry feature is being added as an architectural enhancement. Due to the fact that this element has open area that is two stories high, its ground floor area counts twice when calculating the floor area ratio. Therefore, the total area exceeding the floor area ratio is 207 square feet.

The applicant will be meeting all other requirements relating to parking and storm water retention, and will be upgrading the landscaping.

This property backs up to a non-residential property which is a church and the adjacent property to the west is the Depugh Nursing Home and on the east side is another professional office building.

Two letters of non-objection from abutting property owners came in and were circulated to the Board.

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The applicant and Architect, Wes Featherston, spoke as the owner's representative. He stated the reason for the hardship is the rear setback limit that prohibits the elevator addition to the rear of the building without encroaching into the minimum setback.

The Architect stated the hardship is the need to configure an elevator within the existing rear setback and add an architecturally appealing entry on the front.

Jane Hames President and Director of Gardens of DePugh Nursing Home at 550 W. Morse Blvd. spoke on behalf of the property that will face the proposed elevator. She expressed strong support for the much needed restoration of the existing building.

FINDINGS

A board member voiced agreement with the hardship related to providing vertical accessibility to the second floor and reiterated that the front entry area feature will only result in a very small floor area variance.

ACTION

Based on the findings, Robert Trompke made a motion to approve the variance request, seconded by Patrice Wenz. The motion passed by a vote was 6-0, and the variance was approved.

The meeting was adjourned at 6:30 pm

Theresa Dunkle
Recording Clerk