



**CITY OF WINTER PARK  
Board of Adjustments**

**Regular Meeting  
City Hall, Commission Chambers**

**April 16, 2019  
5:00 p.m.**

**MINUTES**

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**PRESENT**

Robert Trompke (Chair), Phil Kean (Vice Chair), Aimee Hitchner, Michael Clary, Patrice Wenz and Charles Steinberg. Director of Building, George Wiggins and Recording Clerk, Theresa Dunkle. Absent: Tom Sacha

**APPROVAL OF MINUTES**

Michael Clary made a motion, seconded by Phil Kean, to approve the minutes from the March 28, 2019 meeting. The minutes were approved by a vote of 6-0.

**OPENING STATEMENT AND PUBLIC COMMENTS**

Robert Trompke explained the rules of procedure for variance cases and opened the floor for any disclosures, public comments or questions.

**NEW BUSINESS**

1. Request of Derek & Jennifer Hovey for variances to allow the construction of a one story detached garage with a side setback of 2 feet, in lieu of the required street side setback of 20 feet, a rear setback of 5 feet, in lieu of the required setback of 10 feet, and to allow increasing the impervious coverage by 191 square feet, which is over the allowable amount of 4,120 square feet by 793 square feet.

Located at 1673 Mayfield Ave

Zoned R-1A

George Wiggins, Director of Building, gave the following summary:

The current impervious coverage is at 57% (4722 sf) and the maximum permitted under the current Zoning Code is 50%. A new garage structure with a gross area of 264 square feet is proposed.

The key issues include the following:

1. 18 feet of encroachment into the street side setback with the construction of a new garage.
2. 5 feet of encroachment into the rear setback with the construction of a new garage.

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3. Increasing the allowable impervious coverage on this property by 191 square feet.
4. Preventing the construction of a new garage from negatively impacting the continued viability of an existing oak tree located approximately 2-3 feet from the proposed garage location.

After the applicants and staff met with our Urban Forestry Manager, Dru Dennison, who had visited the site and had made an evaluation of needed protections for the existing oak tree, the following recommendations were made:

1. Place the garage 10 feet from the tree. The location of the pool precludes this option.
2. Place the garage at least 5 or 6 feet from tree and provide tree root protection by bridging over the trees root system & other protective measures, subject to final approval by Urban Forestry Manager. However, in hearing from our Forestry Manager, she advocates having a 10 foot setback from the tree along with bridging the garage footing over the tree roots. Some of that 10 feet of distance is in the public right of way and this exact distance has not been indicated by the survey. However, the distance measured from the tree the existing fence is 2 feet.

New information came in after the Board packets were distributed and did not provide us time to evaluate these options. As mentioned, I did meet with the applicants and Dru Dennison earlier this week and asked that they look at alternate locations and provide the exact location of the tree being discussed that will have an impact on the location of the garage. The tree was not located on the plans; however, it is located between the sidewalk and east side lot line at the dimension arrow that indicates there is 1.3' between the lot line and existing fence. Comments on the 3 alternate plans are as follows:

Alt 1: This plan includes removing a substantial amount of impervious pool deck in order to limit the total impervious coverage to 51%. The proposed garage location is still shown at a setback of 2 feet from the street side lot line.

Alt 2: This plan shows a reduced width of the garage by 2 feet, which results in an impervious coverage of 59%. The proposed garage location is still shown at a setback of 2 feet from the street side lot line.

Alt 3: This plan shows the proposed garage moved to a setback of 4 feet, leaves an impervious coverage of 60%, reducing the pool deck width to 7 feet from 9 feet, although this is not shown on this plan.

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Based on our understanding of the needed wall clearance from the tree, required by Urban Forestry, none of the alternate plans seem to satisfy adequate tree root protection. Therefore, copies of this information were sent to Dru Dennison, Urban Forestry Manager for comments.

Another consideration proposed with the applicants to minimize tree root damage was to construct an open carport with column pads located sufficiently away from the tree and tree roots so as to lessen the impact to the tree.

With regard to impervious coverage, the applicants have stated that they are willing to remove impervious coverage from the pool deck to compensate for the additional coverage created by a new garage. A petition signed by eight neighboring property owners, approving of a variance for the garage addition, has been provided by the applicants.

To reiterate, the three alternatives received from the owner and the updated Statement Letter from the Building Official were provided to the board members prior to the meeting, but after the initial board packages went out.

In responding to Board questions Mr. Wiggins stated the applicants did not wish to shift the garage to the south as suggested. They were concerned that reducing the clearance in front of the garage would hinder their ability to maneuver their vehicle in and out of the garage.

Mr. Wiggins also confirmed that he spoke with the Forestry manager the day of the meeting and Ms. Dennison has determined that the tree is in good health. She indicated that the 10 foot clearance around the tree is crucial to its survival. If approved, the City recommends stipulations that include; the relocation of the fence, removal of the storage building and Urban Forestry's over riding right of disapproval.

Board member Phil Kean presented a fourth option for consideration. He quickly sketched an alternate garage location, attached along the street side of the primary home. This option would provide plenty of distance to the tree and offers the greatest side setback of 62 inches.

The applicant, Derek Hovey spoke. He stated his hardship is the need for security of his family's belongings. Mr. Hovey said he is open to complying with the following; reducing the impervious coverage by removing existing pool decking, replanting a tree if it dies and constructing the footings using pea gravel and bridged footings. He stated other homes in the City have been built within a tree's ten foot radius and gave examples.

Mrs. Jennifer Hovey felt the existing oversized pool limits the available area for a garage. Mr. Hovey noted a home three blocks north has the same condition and two other trees were removed by the City because they were determined to be damaged. He stated he has received a complaint from a neighbor because he had no garage.

Patrice Wenz expressed favor of the fourth option proposed by Mr. Kean because the proposed front location is not next to the tree. She noted the garage size shown will not

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accommodate the desired SUV. The applicant responded stating that the desired garage size is 26 feet x12 feet and acknowledged there were discrepancies in the various plans regarding the size.

Michael Clary felt the garage could be positioned closer to the pool. The applicant felt the position as shown is needed for a clear turning radius.

Mr. Wiggins responded to Board questions regarding the nearby home with the same set back distances as the proposed. In addition, he stated that the referenced garage has existed since the 1950's. He stated there are other homes within the City with bridged footings to accommodate tree roots of nearby trees and most are not as close as this proposed request.

Scot Warner of 1700 Spruce Ave spoke in opposition. The visual impact would be unwelcome and if approved, he desired an acceptable form of screening. He would be in favor of the 4<sup>th</sup> option, offered by Phil Kean.

### **FINDINGS**

The Board concluded the size of the proposed garage is not functional. They noted that although N. Phelps Ave is an extra wide road, they could not find a hardship when other options are available that would spare the large oak tree from injury. All were in favor of the applicants coming back with an alternate location.

### **ACTION**

Based on these findings, Patrice Wenz made a motion, seconded by Michael Clary to approve the request. The request was denied by a vote of 0-6. Michael Clary made a subsequent motion, seconded by Patrice Wenz, to waive the minimum three year waiting period prior to reapplying for a similar variance; the second motion was approved by a vote of 6-0.

2. Request of Andy & Stacy Newman for a variance to allow enclosing 156 square feet of an open front porch encroaching 7 feet into the required front setback.

Located at 1675 Hibiscus Ave

Zoned R-1A

George Wiggins, Director of Building, gave the following summary:

The established front setback for this home is 50 feet based on the location of abutting properties on the street. An open front porch is permitted to project up to 5 feet into the front setback. This code allowance was established to create an incentive to design a new home with an open front porch and to allow existing homes to add an open front porch without the need for a variance.

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This one story home was built in 1965 and has a large open front porch with an area of 343 square feet. In order to create an enclosed entry foyer for the home, the applicants are seeking a variance to permit part of the front porch to be enclosed. However, enclosure of part or all of an open porch which is encroaching into the front setback is not permitted.

The existing front door of the home opens directly into the living room, and the designer has prepared a plan to open up the living room into part of the area currently occupied by the large front porch while still leaving much of the open porch.

With this new living area addition, this one story home will remain well under the allowable floor area ratio at 2,858 square feet whereas the maximum allowed area is 4,372 square feet. The existing impervious coverage on this property is also well under the allowable area and is not impacted by this room enclosure within the existing roof line.

The applicants have provided five letters of non-objection from neighboring property owners.

Prior to the meeting, one letter was received from the owner explaining their absence and one letter in support of the variance request was received from a neighbor.

The Board felt they could render a ruling based on the submittal information alone unless the architect representing the applicant's desired to speak on this request.

The Architect, Tom Lamar, elected not to speak since the board voiced no questions or concerns.

### **FINDINGS**

The Board found the hardship is the large front yard setback. They considered the multiple letters of support received for the enclosure of part of an existing large front porch, not extending beyond the existing footprint.

### **ACTION**

Based on these findings, Patrice Wenz made a motion, seconded by Michael Clary to approve the request. The request was approved by a vote of 6-0

The meeting was adjourned at 6:10 pm.

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Theresa Dunkle, Recording Clerk