



Board of Adjustments Minutes

October 15, 2019 at 5:00 p.m.

City Hall | Commission Chambers
401 S. Park Ave. | Winter Park, Florida

Present

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

Meeting called to order

Approval of minutes

Motion made by Tom Sacha to approve the September 17, 2019 minutes. Michael Clary seconded the motion. The minutes were approved by a vote of 6-0.

Opening statement and public comments

Patrice Wenz explained the rules of procedure for variance cases and opened the floor for any disclosures, public comments or questions. No disclosures or public comments were made.

Old business

1. Request of Derek & Jennifer Hovey for variances to allow the construction of a one story detached garage with a side setback of 5 feet, in lieu of the required setback of 20 feet, a rear setback of 5 feet, in lieu of the required setback of 10 feet, and to allow a 1% increase in impervious coverage by 82 square feet, which is over the allowable amount of 4,120 square feet by 684 square feet.

Located at 1673 Mayfield Ave, Zoned: R-1A

George Wiggins Director of Building, gave the following summary:

At the April, 2019 Board meeting after much discussion with the applicants regarding other options to locate a new garage on their property, the Board approved a motion to waive the three year waiting period and allowed them to return to this Board with an alternate location. The minutes of that meeting were provided for the Board's review.

The applicants are returning with a revised request that places the new garage at a 5 foot street side setback; whereas, the last request was at 2 feet from the Phelps Avenue lot line.

Two placement options are proposed by the applicants with the same side and rear setbacks as stipulated above:

1. Locating a 12 foot wide by 24 foot long garage parallel to the Phelps Avenue lot line.
2. Locating a 12 foot wide by 24 foot long garage at an angle with the closest corner 5 feet from the Phelps Avenue lot line in order to provide a larger buffer to a protected shade tree in the right of way.

At the April 16, 2019 meeting, discussion of various options were considered, including an option by Phil Kean that would place the garage attached to the east side of the home and leave a five foot setback from the Phelps lot line with a 12 foot wide garage.

The applicant makes reference in an addendum page titled “Additional Solutions” under “Additional Notes” that there are four nearby homes that may encroach into the street side setback on a corner lot. The situation with those four homes is addressed below:

The new homes at 1900 Sunset Drive and 1411 Magnolia Avenue meet the required street side setbacks due to the fact that those lots (65’ in width or less), have a smaller 15’ street side setback, plus have an additional allowance to encroach 5’ into the setback with an open porch, leaving a setback of 10’ to the lot line.

The home at 1701 Walnut was a much older one story home where a second floor was added at a conforming setback in 2006. The home was built prior to 1990 as evidenced by our permit system showing in that year a permit was obtained for a residential addition to the pre-existing home. It was likely originally built in the 1950’s or 1960’s. We do have a survey from the 2006 addition showing one corner of the garage 9.4’ from the Phelps lot line and approximately 30’ feet from the street.

The home at 1690 Walnut Avenue was built in 1953 according to the Orange County Property Appraiser and aerials views of the home show the same footprint of the home back to the oldest aerials in 2001. Our permit record shows that a residential alteration took place in 1996 and an addition in 1997, but no record of a new home in 1997.

An additional review of the proposed location of the garage next to an oak, in the street right of way, was performed by Josh Nye in Urban Forestry. Mr. Nye concluded that the new building could be as close as 7.5 feet to the oak tree and that “damage to the tree may be reduced by bridging the footers and using a pea gravel base under the section of the structure that comes closest to the tree.” His complete report dated 9/23/2019 is included for the Board’s review.

Letters signed by eleven neighboring property owners expressing approval of the variance for the garage addition have been provided by the applicants.

Mr. Wiggins noted some unique features of the lot. Phelps Park is across the street and the applicant’s property has a larger right of way than normal. He stated that since their last request the applicants have removed some existing pool decking to reduce their impervious coverage, making the addition less than 1 percent over the allowable impervious area. The floor area ratio is well under the allowable area. With the Arborist’s new report, the structure can be five feet from the property line with the correct footing design.

The applicants, Derek and Jennifer Hovey, responded to Board questions; they stated that some of the paving was grayed out on the plans to better identify the proposed garage locations. It was not meant to indicate that paving will be removed there. Mr. Hovey stated the hardship is the large twenty foot right of way in the front yard and eighteen foot right of way on the street side. Whereas, his neighbors enjoy zero to thirteen feet right of ways. Mr. Hovey confirmed the existing shed will be removed.

In response to Board questions, Ms. Jennifer Hovey stated option 1 (parallel the lot line), with the five foot street side setback, is preferred. It is still twenty-three feet from the curb. She noted that both options presented maintain the 7.5 feet setback from the tree, as required by the City’s arborist.

No one from the public wished to speak.

In closed session, the Board discussed that their main concern in the previous hearing was the proximity of the structure to the tree. Since the City’s Arborist now approves of the 7.5 feet separation distance, their hesitation for approval is reduced. They discussed if it made a difference which option is approved and determined the adherence of an approved footing design is the critical factor of concern.

Findings

The majority of the Board members felt the hardship is the large right of way next to this lot. Patrice Wenz suggested the City’s Arborist conduct a site inspection, prior to the footing pour, to ensure the foundation design provides for the protection of the tree roots.

Actions

Based on these findings, Michael Clary made a motion, seconded by Aimee Hitchner, to approve the request. The requested variance was approved by a vote of 6-0, with the condition that Winter Park's Arborist inspect and approve of the tree's root protection, prior to the pour of the foundation.

New business

1. Request of Myrna Pearce for a variance to allow partial demolition of an accessory building and addition of a bathroom with the principle structure located 3.8 feet from the rear lot line and 2.1 feet from the side lot line, in lieu of the required setbacks of 25 feet and 10 feet respectively if built under today's standards.

Located at 621 Osceola Ave, Zoned: R-1AA

George Wiggins Director of Building, gave the following summary:

The guest house in the northeast corner of this large lot is over 70 years old. The owner desires to remodel the interior and change the roof slope to match the steeper roof pitch of the main residence and the newer garage built earlier this year. In addition, a new ADA compliant bathroom addition is proposed to be added to the south side of the building with dimensions of 7 feet by 12 feet.

The proposed addition is well under the allowable maximum floor area and well under the maximum allowable impervious coverage for this lot which has an area of 20,813 square feet.

The applicant has provided letters of non-objection from the abutting property owners and from the Executive Director of the Polasek Museum.

Mr. Wiggins noted the replacement of the roof, with a steeper roof structure, triggered this request. He pointed out a ten foot minimum separation is allowable for the first and second floors where guest homes abut commercial properties. Mr. Wiggins also noted that a previous variance was approved at this address for the porte cochere.

The applicant, Myrna Pearce, said she has lived in the home, built in 1883, for thirty one years. She said the current rafters are in need of repair. She hopes to improve the aesthetics of the accessory building during the necessary roof replacement. Ms. Pearce stated the structure was in place prior to the establishment of the adjacent property lines. Ms. Pearce noted both abutting properties are in favor of her request which will not reduce the current setbacks.

Ms. Myrna Peace said the accessory building will be used by her aging relatives. They are 70 and 80 year olds who need a more accessible bathroom.

No one from the public wished to speak.

Findings

The majority of the Board members felt the hardship is the existing conditions. They felt the proposed roof replacement would complement the historic design.

Actions

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

2. Request of Winter Park Homes, on behalf of Slepikova Ekaterina, for a variances to allow partial demolition and reconstruction of a dwelling with a side setback of 4.4 feet, in lieu of the required setback of 6 feet, and construction of a porte cochere 2 feet from the east side lot line, in lieu of the required side setback of 5 feet. A building corner feature at a height of 12.5 feet is requested in lieu 11 feet.

Located at 617 Depugh Street, Zoned: R-1A

George Wiggins Director of Building, gave the following summary:

The existing home is proposed to be removed except for the west side wall located at a nonconforming setback. The required 6 foot side setback is allowed on this 60 foot wide lot due to the fact that the required parking is provided along the side and rear. In addition, leaving the existing wall at 4.4 feet allows a 12 foot wide porte cochere/carport structure.

This proposed reconstructed one story home does not exceed the maximum allowed floor area or impervious coverage.

No letters of non-objection were received.

Mr. Wiggins noted the front elevation shows a parapet at a height of twelve feet, to match the other side of the home; whereas, eleven feet is the maximum height.

In response to Board questions, Mr. Wiggins responded that other homes in this area may have five foot side setbacks, similar to the four foot side setback on this lot.

Robert Hancock with Winter Park Homes, who resides at 648 Depugh Street, noted the Land Development Code allows for six foot side back on some narrow lots. He hopes to keep the majority of the structure and maintain the existing setback which allows more room on the other side of the lot for a porte cochere. The addition is shown as hatched on the plan.

In response to a Board question regarding existing fencing, Mr. Hancock said the existing chain link fencing will be removed. In addition, Mr. Hancock explained how the proposed porte cochere structure will fit better on this narrow lot at 2 foot side setback.

No one from the public wished to speak.

Findings

The Board noted the hardship is the existing condition. The single story addition is minimal compared to the allowable FAR and the setback request is minimal including having an open porte cochere/carport structure.

Actions

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

3. Request of Robert & Kathleen Walker for variances to allow re-building an existing boathouse with a total area of 438 square feet, a south side setback of 4.7 feet and north side setback of .1 feet and height of 13 feet in lieu of the maximum allowed area of 400 square feet, required side setback of 10 feet and maximum height of 10 feet above the ordinary high water line of Lake Maitland.

Located at 1293 Alabama Drive, Zoned: PR

George Wiggins Director of Building, gave the following summary:

This boathouse on the Osceola/Maitland canal is located next to Rollins Crew Team boathouse and is deteriorated to the point of requiring replacement. Several privately owned boathouse lots are located along the north side of the canal next to this boathouse with owners not directly abutting these lots. This owner actually lives outside the City, however, at one time lived nearby in the abutting subdivision.

Part of this variance request is to allow "squaring off" the corner of the existing screen room which encroaches into the setback and further exceeds the allowable area by 38 square feet.

The parameters for structures on these boathouse lot were put in place in the early 1980's with the understanding that some of these canal front boathouses would be considered nonconforming. Here is an excerpt on use of these lots:

(f)Boathouse lots on canals. The boathouse lots which exist along the canals interconnecting the lakes within the city were platted and accepted by the city under the premise that these lots would serve as lake access for the residents of that subdivision. As such, the purpose and intention of these boathouse

lots is to serve as accessory lots to the main residential properties within that subdivision. In accordance with the policies contained within the comprehensive plan, the following regulations shall apply:

1)The buildability and use of all canal boathouse lots, which are determined to be accessory lots, shall be restricted to the owners of real property within the subdivision in which these accessory boathouse lots were platted

(2)Canal boathouse lots which are held January 1, 1981, by property owners residing outside of the subdivision for which they are platted shall be nonconforming boathouse lots which may still be used for constructing a boathouse and for lake access. However, any canal boathouse lots owned by real property owners on January 1, 1981, in the subdivision for which they were platted, shall only be buildable and used to serve the lake access needs of residents of that subdivision.

This applicant appeared before the Lakes and Waterways Board on August 13, 2019 and received approval of this proposed boathouse subject to standard environmental protections such as turbidity barriers and maintaining existing shoreline vegetation.

Review of the impact to an existing tree between the screen room and the canal was conducted by our City Arborist. It was determined the tree is a camphor and is not a protected species.

The applicant has provided letters of non-objection from the abutting boathouse property owner on the canal and from Rollins College, which owns the property on the north and east side of this boathouse lot.

Mr. Wiggins noted there was a correction to the agenda. The correct zoning for this lot is Parks and Recreation (PR). Mr. Wiggins noted that the maximum allowable square footage for a boat house on the canal is four hundred square feet, which is greater than the square footage of the existing boathouse.

In response to Board questions, Mr. Wiggins responded that he is not aware of any plumbing or 220 outlets within the boathouse, either existing or proposed. However, an electrical connection is needed for the lift.

Ron Scarpa with Barefoot Brothers Constructions on 3201 Corrine Drive Ste 213, Orlando, spoke on behalf of the applicant. He stated the applicant did not list the 38 square feet area increase on his application, questioned earlier by the board, because Mr. Scarpa was under the impression the maximum allowable area was 600 square feet, instead of the allowable 400 square feet.

Mr. Scarpa said the proposed boat house will go in the existing location, with the exception that one corner is 'squared off'. At one time, the Old Alabama Hotel used the structure for their boats. The existing boathouse has a flat roof; whereas, the new structure will have a pitched roof to accommodate a boat lift. At a maximum, the boat house can accommodate a 19 foot long ski boat.

No one from the public wished to speak.

The Board had no questions for Mr. Scarpa and felt they could render a decision without further discussion. One member did not see a hardship but was in favor of the improvement.

Findings

The majority of the Board felt the hardship was the existing lot size limits the available area for a useable boathouse and the gravely deteriorated condition of the existing boathouse warrants approval.

Actions

Based on these findings, Michael Clary made a motion, seconded by Tom Sacha to approve the request as presented. The requested variance was approved by a vote of 6-0.

4. Request of Mehrdad Moradi for a variance to allow the construction of an accessory building with living quarters with a side setback of 6 feet in lieu of the required setback of 12 feet.

Located at 699 Osceola Avenue, Zoned: R-1AAA

George Wiggins Director of Building, gave the following summary:

The owner of this property wishes to have additional living quarters in front of the main residence. This can be permitted up to the front setback line but only if this structure meets the same side setback as required for the home. The required side setback is calculated based on the lot width and having used a base floor area ratio for this property.

The allowable base floor area ratio for lots over 13,600 square feet in area is 33% of the lot area. The lot area is 39,030 which results in an allowable gross floor area of 12,880 square feet. With the addition of this accessory building (654 sf) and gross area of the home will be 6,772 square feet, results in a floor area ratio of only 17.4%, well under the 33% allowed.

At or below the base floor area, the required side setback to the first floor of a home is 25% of the lot width split evenly for each side of the home (or accessory building). Therefore, the required side setback is $12.5\% \times 95$ feet (lot width) = 11.8 rounded up to next whole number: 12 feet.

Therefore the proposed accessory living quarters falls well under the allowable floor area and additionally, is under the allowable 19,515 square feet of impervious coverage at 13,260 square feet.

The size of this building is relatively small in scale with an overall height 13.7 feet and a side wall height of 9 feet whereas most new residences have a side wall of 12 feet.

One letter of objection was received from the adjacent property owner.

Mr. Wiggins noted guest homes are permitted up to 1,000 square feet within the setbacks for the main home. The proposed 654 square foot guest house is well under this allowable area by 346 square feet. The location requested will allow for access into the existing garage.

In response to Board questions, Mr. Wiggins responded that the existing side setback of 8.1 foot for the primary structure, was in compliance when it was built.

One Board member noted it appears the required pool fencing is on the City's property.

The Architect, Steve Feller of 126 Park Ave. South, Winter Park, distributed photographs of the entire site for the Board's reference. He identified that a museum sits one property away on the left and the City owns the property to the right side, making this an atypical site. Mr. Feller stressed the guest house would not infringe on the adjacent residential lot due to the high CMU wall, separating the lots. Mr. Feller noted the proposed scale of the guest house is proportional to this historically significant home, which was designed by a notable Architect.

Mr. Feller stating placing the guest home in the rear would obstruct views of the lake and available building areas are limited by an Oak tree. Shifting the structure to the front right side would limit views to the adjacent City lot with its natural landscaping.

In response to Board questions, Mr. Feller stated the owners purchased the home a few months ago. He confirmed the structure could be shifted to provide an eight foot side separation distance but he hoped to minimize the dead space between the guest house and CMU wall, while maximizing the garage entry area.

The adjacent neighbor to the west, Darlene Beneke of 675 Osceola Ave, spoke in opposition to the request. She stated she has resided in her home for seventeen years and regularly plays tennis on the court adjacent the proposed guest home. Her children also utilize the court to play basketball. Ms. Beneke stated her concern that stray balls from her yard may break their guest home window. She also stressed concern that use of the court may result in noise complaints which would mean less enjoyment for her.

The applicant, Raana Ghandpour stated building to the rear would reduce their views from the home to the lake. Ms. Ghandpour said she spoke with the opposing neighbor, Darlene Beneke, who cited a decreased property value as her concern. Ms. Ghandpour said the use of the guest home is for her aging in-laws. The primary home only has one master bedroom on the first floor.

The Board discussed tabling the case to provide the applicant time to consider relocating the guest home to the front right side. Most felt they could entertain the possibility of a variance on that side of the lot.

The applicant elected to table the request when asked.

Findings

The Board agreed locating the guest home on the right side of the property in the front is a viable option. Therefore, they could not find a hardship for the guest home in the location shown.

Actions

Based on these findings, Tom Sacha made a motion, seconded by Charles Steinberg to table the request for up to ninety days. The request to table was approved by a vote of 6-0.

5. Request of Richard Stubbs for a variance to allow the construction of a swimming pool, deck and 4 foot high fencing encroaching 11 feet into the front yard setback or as an alternative encroaching 5 feet into the side yard setback with pool deck located 2 feet from the side lot line for both options in lieu of the required side setbacks of 5 feet to the deck and 10 feet to the pool. Fencing in front yards is limited to 3 feet in height.

Located at 2661 Via Tuscany, Zoned: R-1AA

George Wiggins Director of Building, gave the following summary:

The applicant has advised us that they are not interested in the alternate variance option that does not encroach into the front setback but only into the required side yard. That alternate was offered by staff due to the likely difficulty of obtaining a 10 or 11 foot encroachment into the front setback for a new home.

The applicant is the architect for the owner and has been authorized to make this request in behalf of the owner.

Questions are raised on how the Building Code pool barrier requirement will be met in the front yard setback area.

A new home is under construction on this property and is at the final framing inspection stage.

The adjacent property owner at 1160 Howell Branch Road has submitted a letter expressing no objections to either one of the two prospective variance options as advertised.

Mr. Wiggins summarized this is for three requests. One, pool setback. Two, deck setback. Three, Fence height. Low level decking and the patio are acceptable in the front setback without a variance. In response to Board questions, Mr. Wiggins said the applicant did not want to entertain the side yard option; however, the side yard option was advertised in the public notices.

Richard Stubbs, with Richard Stubbs Construction at 218 Wilshire Blvd. Casselberry FL, stated the hardship is uniqueness of this three sided lot with large setbacks and a septic system with its' associated drain field. He confirmed the owner did not want the Board to entertain the side location option. It was during construction of the home that the owner felt the pool was too small as designed.

No one from the public wished to speak and the applicant elected not to speak.

In closed session some of the board members noted they did not see the hardship because this is new construction. When asked, the owner's representative Mr. Stubbs, responded he would like to table the request to determine if the owner wants to present the side yard option to the Board.

Findings

The Board was split on finding a hardship. They were in acceptance of tabling the request for ninety days.

Actions

Based on these findings, Tom Sacha made a motion, seconded by Michael Clary to table the request for up to ninety days. The request to table was approved by a vote of 6-0.

The meeting was adjourned at 7:00 pm.

Theresa Dunkle, Recording Clerk