



Board of Adjustments Minutes

August 18, 2020 at 5:00 p.m.

Virtual Meeting

Present

Robert Trompke (Chair), Michael Clary (Vice-Chair), Tom Sims Jr, Charles Steinberg, Ann Higbie and Steven Heller. Director of Building, George Wiggins and Recording Clerk, Theresa Dunkle. Absent: Aimee Hitchner

Meeting called to order

Approval of minutes

Motion made by Ann Higbie to approve the July 28, 2020 minutes. Michael Clary seconded the motion. The minutes received approval 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. No disclosures or public comments made.

New business

1. Request of Matthew & Tali Brown for variances to allow the construction of a swimming pool, deck and screen enclosure with the following variances: (1) Screen enclosure at 5' from rear lot line & 2.7' from side lot line in lieu of required setbacks of 10' and 7.5' respectively. (2) Swimming pool at 6' from rear lot line & 3.7' from side lot line in lieu of required setbacks of 10' and 7.5' respectively. (3) Deck at 2.7' from side lot line in lieu of required setback of 3.5'. (4) Impervious coverage of 60% in lieu of 50%.

Located at 1765 Hollywood Ave, Zoned: R-1A

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

This property is a narrow 50' wide lot with a two-story home occupying much of the lot and leaving very little space to provide a swimming pool. The resulting enumerated variances will allow a pool that is 21' in length and 7' in width and widening in the rear to 10' for the last 7' of length. In addition, the applicant proposes to provide a dome shaped screen enclosure along the side that is 8' in height on each end and reaches a maximum height of 10'-11". Along the rear, the enclosure is 8' in height.

With regard to the impervious coverage, because this home has a second story, the maximum allowed coverage is 50%. Apparently, the existing home, which was a one-story dwelling at one point, is already over the maximum impervious coverage by 10% and the net result of the new pool and deck increases this slightly by 19 square feet.

Three letters of non-objection were received.

Mr. Wiggins noted the applicant's plan to remove some of the driveway to bring the impervious coverage request to approximately 19 square feet over 60% of the lot.

In response to a question by Board member Michael Clary, Mr. Wiggins confirmed the proposed screen enclosure would encroach 3.7ft into the side yard setback.

The applicant Matthew Brown, who resides at 1765 Hollywood Ave, spoke, explaining the three letters of non-objection are from neighbors on each side and one is from the neighbor across the street. He proceeded to explain that before the previous owner's addition to the home, existing conditions indicated a 60 percent impervious ratio, in line with single story requirements. To maintain the existing impervious coverage with a

minimal increase, he will reduce the current parking pad and replace impervious surface with grass. Further, Mr. Matthew Brown said he reduced the desired pool size and maximum depth. He noted he did not have a 5-year daughter when he purchased the home and he would like her to be able to enjoy a backyard swimming pool.

In closed session, the Board members said they were not concerned over the slight impervious coverage increase. However, all were against approving the screen enclosure; they felt it was too close to the side lot line.

No one from the public spoke concerning this request.

Findings

The board members agreed that the hardship is the existing home, with a small rear yard. The available area for a minimally sized pool is limited.

Action

Based on these findings, Michael Clary made a motion, seconded by Tom Sims Jr to approve the requests as presented. The requests were denied by a vote of 0-6. Michael Clary made a subsequent motion, seconded by Steven Heller to approve the requests, with the exclusion of the screen enclosure. The requests for the pool & deck setback encroachments and increased impervious coverage were approved by a vote of 6-0 with the condition the screen enclosure is excluded.

2. Request of Jay Gaiser for the reinstatement of a variance to allow extending a two story addition a distance of 7.2 feet toward the rear lot line with a current side setback of 10.5 feet in lieu of the required side setbacks of 11 feet to the first floor and 16 feet to the second floor granted on 1/17/2017.

Located at 1560 Glencoe Road, Zoned: R-1AA

George Wiggins Director of Building gave the following summary:

The applicant is requesting the reinstatement of a variance granted on 1/17/2017 to allow extending a two story addition a distance of 7.2 feet toward the rear lot line with a current side setback of 10.5 feet whereas the required side setbacks are 11 feet to the first floor and 16 feet to the second floor.

Since this variance was originally granted, no Zoning Code changes that would impact the reinstatement of this variance have occurred.

An excerpt of the January 17, 2017 minutes of that meeting are as follows:

Request of Jay Gaiser for a variance to allow extending a two story addition a distance of 7.2 feet toward the rear lot line with a current side setback of 10.5 feet whereas the required side setbacks are 11 feet to the first floor and 16 feet to the second floor.

Located at 1560 Glencoe Road Zoned: R-1AA

George Wiggins, Director of Building gave the following staff report:

An existing second floor master bedroom is proposed to be enlarged by adding new enclosed floor space on the second floor in line with the existing nonconforming side setback of 10.5 feet. In addition, 4.5 feet of additional open balcony is added beyond the master bedroom. This will result in squaring off the northeast corner of the home. My understanding is that the first floor area will remain open.

The home underwent major remodeling 2 years ago; however, the basic two-story structure was built many years ago under previous required setbacks, which allow the current nonconforming 10.5-foot side setback to remain.

This proposed addition does not exceed the allowable 50% impervious coverage or the allowable 33% floor area ratio for this property.

No letters concerning this request were received.

Jay Gaiser spoke and provided a letter of non-objection from adjacent neighbor, William Moore, residing at 1540 Glencoe Road; the letter was provided to the Board at the meeting. Mr. Gaiser stated he hoped for approval to extend the 2nd floor roof area, while not exceeding existing setbacks.

FINDINGS

The proposed addition complies with established setbacks for the year the home was built and is within the existing home's rectangular footprint. Most board members agreed that because the request is minor and with setbacks no less than the existing ones, compliance with new construction setbacks would create a hardship.

ACTION

Based on the findings, Lucy Morse made a motion, seconded by Jeff Jontz, to approve the request. The request was approved by a vote of 5-2, with Patrice Wenz and Ann Higbie voting in opposition.

No one from the public spoke concerning this request.

The Board felt they could render a decision without further discussion based on the information provided.

Findings

The hardships established previously were determined valid, since no major Zoning Code changes took place since the initial approval. The addition complies with setbacks in effect when the home was built and the request is minor.

Action

Based on these findings, Ann Higbie made a motion, seconded by Tom Sims Jr. to approve the reinstatement request. The requested variance reinstatement was approved by a vote of 6-0.

3. Request of Request of Majid Sarmast on behalf of Mazda Ekbatani to allow remodeling and a second story addition to an existing dwelling with the following variances:
 - 1) Increase the height of a part of the north side wall and 2' of the front wall to a height of 12' with an existing side setback ranging from 5.3' to 4.85' in lieu of the required setback of 7.5',
 - 2) Allow 10' setback to the 2nd floor in lieu of the required setback of 12.5 feet;
 - 3) Allow a rear setback of 32.3' in lieu of 35',
 - 4) Allow the nonconforming side setbacks to permit a floor area ratio of 42.6% in lieu of the maximum of 38% (based on proposed side setbacks),
 - 5) Allow the new south side wall to be constructed with an alternate articulation concept.

Located at 626 Bonita Drive, Zoned: R-1AA

George Wiggins Director of Building gave the following summary:

The applicant is proposing substantial architectural changes to the existing home in order to maximize allowable floor area and utilize the existing north-side nonconforming setback of the home.

With regard to request #1 above, the existing nonconforming, north-side wall increased in height 15' for a distance of 24' on the side of the garage and will continue along the front face of the garage at the same height. I understand that the designer may be agreeable to reduce this height to 12' the maximum height allowed for a first floor wall at the required setback.

With regard to request #2, the applicant proposes to demolish the existing nonconforming side wall and move it in to a setback of 8' for the first floor and utilize a 10' second floor setback for the proposed addition instead of 12.5' as required.

With regard to request #3, the proposed second floor addition will also encroach into the rear setback by 2.7'.

With regard to request #4, in order to overcome a limited floor area ratio of 38% based on the nonconforming existing north side wall and new second floor side wall at a setback of 10', these setbacks must be nonconforming setbacks must be approved to allow a floor area ratio increase to 42.6%.

Item #5 may not need a variance if the Board does not object to the staff determination that the alternate articulation concept proposed is acceptable. Under the Zoning Code, a side wall can be constructed without normal projection or inset articulations if 25% of the wall consists of glazing. In this case, the south side wall has glazing in excess of 25% of the wall area, AND, in addition has a 16' long projecting bay window. This side wall articulation proposal is a hybrid concept utilizing the both wall glazing along with a projecting articulation element.

We received five letters expressing non-objection to this request from nearby and abutting property owners surrounding this property.

In response to a Board question, Mr. Wiggins said he almost deemed this to have exceeded the 50% destruction threshold. They are proposing to add over 1,200 square feet to the 2nd floor but much of the existing home is remaining.

The applicant, Majid Sarmast, who is the designer representing the home owner who resides at 626 Bonita Drive, spoke. He said the family greatly needs more space to live and function. He intends to keep the existing 7.5ft setback on the first floor and he is only asking for a second floor master bedroom encroachment.

Mr. Sarmast responded to Robert Trompke's question, stating the grade change is existing. In response to Mr. Sim's request to state a hardship, Mr. Sarmast stated there are 4 people and a nanny trying to live within a limited amount of space. The current home only has 2 bedrooms and minimal closet space.

Board member Michael Clary commented that the entry looks higher than 12 feet and commented on the complexity of the requests, noted each request should to be considered individually. The Board debated over the hardship, with Tom Sims Jr. considering the odd shaped lot and the existing home standards built compliance at the time of construction to be a hardship.

Findings

The board found the multiple number of requests excessive and daunting. They asked the applicant to remove the pool from the presentation because it is not in the request and to reduce the number of requests for a greater chance of approval. The applicant was amicable to tabling the request.

Action

Based on these findings, Tom Sims Jr. made a motion, seconded by Michael Clary to approve the requests as presented. The requests were denied by a vote of 0-6. Michael Clary made a subsequent motion, seconded by Ann Higbie to table the requests for up to ninety days. The request to table the variance for up to 90 days was approved by a vote of 6-0.

4. WITHDRAWN: Request of Darryl Hill on behalf of Cameron & Elaine Weber for a variance to allow the construction of an 8' high wall along the north side lot line located 5' from the street side lot line and allow extending a 7' high wall across the front (east side) of the lot for 15' in lieu of the maximum permitted height of 3' and required street side setback of 20'.

Located at 117 Genius Drive, Zoned: R-1AAA

George Wiggins Director of Building noted this case was withdrawn prior to the meeting on August 17, 2020.

5. Request of FG Schaub Custom Homes on behalf of Coledev Construction & Development, LLC for variances to allow the construction of homes on 4 platted lots with lot widths less than 65' to exceed the allowable building coverage of 40% by 300 square feet.

Located at 694 / 664 N New York Ave, Zoned: R-3

George Wiggins Director of Building gave the following summary:

At the January 27, 2020 meeting of the City Commission a ten-lot subdivision was approved that allowed small lots ranging in size from 60 to 65 feet in width with areas from 6,000 to 6,750 square feet on property that is zoned R-3, a multifamily zoning district. Previously on this site the City approved a conditional use permit for a multi-family townhouse project with 3-story buildings consisting of 16 dwelling units. With the more recent subdivision approval the lots allowed for the construction of single family homes with slightly reduced side setbacks and allowed the same floor area ratio as the previously approved townhome project, which is 75%. The previous developer of this site sold the property to Schaub Homes who is the applicant here and he will be the builder of 10 homes on these lots.

After obtaining the subdivision approval, and receiving interested buyers for some of these lots, and then preparing prospective plans, the applicant discovered that one unique restriction in the R-3 Zoning District, which is not in the typical single family zoning districts, is a limitation of a maximum building coverage of 40%. In drawing up a home plan, it was discovered that the maximum floor area ratio allowance of 75% couldn't be achieved with a 40% building coverage. Note: this is not impervious coverage; but it does consist of the footprint of the building projected at ground level. This does include both enclosed building components and an open covered component such as a porch, covered patio or covered entry.

Another nuance of the R-3 Zoning Code is that R-3 lots can be designed under the parameters of the R-2 Zoning, which allows up to 300 square feet to be excluded from the building coverage for lots that are over 65 feet wide. In the back tier of the approved 10-lot subdivision, there are five lots. Four of those lots are only 60 feet in width and do not qualify for the 300 square foot exclusion.

Excerpt from Zoning Code:

Sec. 58-68. - Medium density multiple-family residential (R-3) district.

- (a) Purpose and intent. This district provides areas within the city for medium-density residential developments. Residential development shall be limited in height and ground coverage to encourage medium-density multifamily structures, as well as duplex and single-family residences. The regulations of this district are designed to stabilize, protect and provide the essential characteristics of a suitable residential environment.
- (b) Permitted uses.
 - 1. Single-family residences per the development standards of the R-2 district or as outlined in this section.
 - 2. Duplexes per the development standards of the R-2 district or as outlined in this section.
 - 3. Multiple-family residences per the development standards of cluster housing within the R-2 district or as outlined in the section.

No letters were received regarding this request.

Mr. Wiggins noted that it was at Winter Park's Planning Department's request that this case come before the Board of Adjustments, in lieu of going back to the City Commission.

In response to Board questions, Mr. Wiggins noted this proposal is a less dense development than what the City Commission originally approved for this property. He also confirmed that the zoning has not changed and reiterated that the only lots that require this variance for an additional 300 sf of FAR are the four 60ft wide lots on the south side of this property. The two 65ft wide lots get the extra 300 square feet of FAR without needing a variance. Robert Trompke asked for the proposed home size and Mr. Wiggins responded he estimates homes of approximately 4,000 square feet.

The applicant, Fred Schaub with FG Schaub Custom Homes, who resides at 200 St. Andrews Blvd., spoke. He noted the plan shown is 4100 square feet. He stated the hardship is the FAR allowance for this site cannot be fully utilized for homes to be constructed at approved setbacks due to the limitation of building coverage. He noted the density may even be reduced further should lots end up being combined. Mr. Schaub expects the proposed homes to be in the 2.9 million dollar market range.

Adam Cole spoke for Coledev Construction & Development, LLC stated he was under the impression open porches could be exempt from FAR since they are constructing single-family residences, similar to provisions

for single family homes in R-1 and R-AA zoning areas. The desired design is unachievable with a 40% maximum FAR per lot restriction.

Mr. Wiggins noted their design would not require a variance if in a single family zoning district, which is the typical zoning classification for detached single-family residences.

In closed session, the Board pointed out that they were being charged to establish planned development criteria, which typically would go before the City Commission. The majority of board did not feel the applicants should need to go through the entire process again when the proposal was less than the request that was already approved by the Commission. They favored eliminating excessive bureaucracy of having to go back to the City Commission. Charles Steinberg was in favor of following established procedures and didn't feel this is the appropriate Board to consider this request.

Findings

The Board found this proposal to allow 300 square feet of building coverage requested will still be far below the 75% approved by the City Commission that was originally approved on this site for a townhome development. They were in favor of approving the building coverage increase for the proposed development without requiring the developer to go back through the entire process for a project that is far less in density.

Action

Based on these findings, Steven Heller made a motion, seconded by Ann Higbie to approve the request. The requested variance was approved by a vote of **5-1**, with Charles Steinberg voting in opposition.

6. Request of John Stevens in behalf of Lori Naylor for variances to allow the construction of a one story addition to be located 10.7 feet from the rear lot line in lieu of the required setback of 25', 19.3' from the street side lot line on Mayfield Avenue in lieu of the required setback of 20' and an after-the-fact north side setback of 5' in lieu of 14' to allow 224 square feet of additional floor area.

Located at 1218 Alabama Dr, Zoned: R-1AA

George Wiggins Director of Building gave the following summary:

The one story addition includes adding additional 12' of length to the existing garage in order to allow increased living area within the home. Although the Zoning Code allows a 20' setback from the street side lot line to the garage and the request is to extend it to 19.3', the side wall of the garage is nonconforming under the current code and requires a 25' rear setback due to the fact that the home fronts on Alabama Drive.

The proposed addition does not exceed the allowable impervious coverage and will require approval of the required variances to reach the maximum allowable floor area ratio of 43%.

Two transmittal messages were received concerning this request: One from the abutting property owner on the northeast side expressing opposition and one from the property owner across the street expressing no objection.

In response to Board questions, Mr. Wiggins confirmed the applicant is pushing the garage outward towards the street for a first floor bed and bathroom. Mr. Wiggins asked the board to consider in their decision that the applicant has provided proof of a disability.

The applicant, John Stevens of 640 Langholm Drive noted the home is 99 years old and was remodeled in the 1980's and early 1990's. He also identified Mr. Naylor's service disability requires him to have a ground floor bedroom and the most logical place is the existing garage area. Mr. Stevens stated the hardship is the corner lot and a non-conforming existing home.

Mrs. Naylor stated they are only renovating the 1980's portion of the home to provide a first floor sleeping area. She and her husband intend to make this their forever home. In response to Mr. Steinberg's question,

Mrs. Naylor stated they purchased the home with the intent to modify it to suit their needs. She confirmed they purchased the home in June of 2020, years after her husband's disability was established in 2018.

The adjacent neighbor, Diane Levine, who resides at 821 Mayfield Ave, spoke in opposition of the request. She stated that if the addition is approved her westerly dining view will be blocked with a new wall near their common property line. Ms. Levine stated she is aware they have an optional design which would not block her street view.

In closed session, the Board stated, "you cannot buy into a hardship." They said the home was purchased with the knowledge that it did not meet their needs. The Board considered that the most affected neighbor was in strong disagreement with the request and other options are available to comply with the applicant's accessibility needs.

Findings

The board considered the applicants were aware that the home that did not meet their needs for a ground floor Master Bedroom prior to the purchase of the home. The Board took seriously the adjacent neighbors objection to the request and agreed the applicants created a self-imposed hardship, noting the applicants recently purchased the home. They determined other design options are available that would accommodate this applicant's disability and not infringe on the neighbor's view of the front yard area.

Action

Based on these findings, Tom Sims Jr. made a motion, seconded by Ann Higbie to approve the request. The requested variance was **denied** by a vote of **0-6**.

7. Request of Scott Richardson for a variance to allow enlarging a garage under construction to an area of 660 square feet with a 5' setback to west lot line in lieu of the required setback of 10'.

Located at 1161 Valencia Ave, Zoned: R-1A

George Wiggins Director of Building gave the following summary:

The home on this property was designed with a garage with three vehicle bays in the northwest corner of the lot. At some point during construction, the builder and designer discovered that there was insufficient back up or turn around room for vehicles to pull in and out of the garages. The solution was to reduce the size of the garage and move the garage to a 5-foot setback on the west side, which is allowed for garages with a maximum area of 600 square feet. A subsequent plan was prepared with a small third bay that could be used for bicycles or a golf cart; it was approved and built at the site with an area of 599 square feet.

The new home and garage do not exceed the allowable gross floor area or impervious coverage as planned and under construction. The home and garage under construction are under the allowable coverage by over 350 square feet.

Three transmittal messages were received concerning this request: The property owners at the southwest corner of this property changed their previous approval to in opposition. The property owners at the northwest corner and southwest corners of the subject property expressed opposition from the start.

Mr. Richardson, the homeowner, stated his hardship is the unique lot shape with 6 sides. He said that if 2 cars are parked in the driveway, access for deliveries will be blocked. He stressed the 3-car garage is a priority because his family has 3 active drivers and he expects his family will visit often and sometimes stay overnight. Out of concern for his neighbors, he does not want to park multitude of vehicles on the street. Mr. Richardson said at some point during construction the garage was reduced from a 3-car garage to a 2-car garage after it was discovered there was no room for maneuvering in and out.

Tania Torruella, who resides at 1171 Valencia Ave, stated her home is directly to the right of the property. She stated truckloads of fill were brought in which has caused severe drainage problems on her lot to the point where water is standing at her patio doors. She said the City said retaining walls are required to stop the

runoff. She is open to favoring the variance if her drainage problem is addressed, cars will not be parked on the street and landscaping is needed to provide privacy. In response, Mr. Richardson said he is agreeable to installing a retaining wall.

Randall Slocum and Andrea Bravo also spoke in opposition, stating the home is poorly designed, is for this lot and invades neighbor's privacy.

Debbie Tassell spoke in support of the proposal.

In rebuttal to the neighbors' concerns, Scott Richardson said he is using a well known landscaping firm to ensure privacy. He also intends to contain the drainage from his lot.

In closed session, the Board said the City should follow up on the drainage issues regardless of the outcome of this request, this topic is not a topic under consideration here.

Findings

The Board noted this request is apparently a result of miscommunication between the owner and his designer, and no clear hardship has been shown to exist.

Action

Based on these findings, Tom Sims Jr. made a motion, seconded by Ann Higbie to approve the request. The requested variance was denied by a vote of 0-6.

8. Request of Sheila Cichra on behalf of Zonvos Holdings LLC for a variance to allow the construction of a new boathouse to extend approximately 42 feet into Lake Virginia in lieu of the maximum permitted distance of 30 feet. In addition, to allow an area of 650 square feet, in lieu of the maximum allowed area of 600 square feet.

Located at 1119 Preserve Point Dr., Zoned: PURD

George Wiggins Director of Building gave the following summary:

Mr. Tim Egan, the City's Environmental Resource Manager, transmitted a message that this new boathouse construction came before the Lakes and Waterways Board on August 11, 2020 and was approved subject to the Board of Adjustments decision on granting the requested variances. This procedure is followed in each case where an applicant requesting a boathouse or dock variance from the Zoning Code limitations on these types of structures.

Typically, in cases where a boathouse extends further into a lake than permitted and exceeds the maximum permitted area, the applicant will produce documentation to verify the unusual shallow water depth at the location being proposed to build the boathouse. In addition, when it is necessary to extend further out into a lake, typical an additional area limitation variance is needed due to having to extend the walkway from the shore to the boathouse.

No letters have been received regarding this variance request.

In response to a Board question, Mr. Wiggins stated the increased square footage was the result of the longer walkway.

The applicant, Sheila Cichra spoke, noting that the dock extension is required to avoid and protect numerous cypress knees along this shoreline.

No one from the public spoke concerning this request.

The Board felt they could render a decision without further discussion based on the information provided.

Findings

The Board found the hardship is the shallow water depth at the location being proposed to build the boathouse. The additional area is required to extend the walkway from the shore to the boathouse.

Action

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

The meeting adjourned at 8:00 pm.

Theresa Dunkle, Recording Clerk