



# Board of Adjustments Minutes

October 20, 2020 at 5:00 p.m.

Virtual Meeting

## Present

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

## Meeting called to order

## Approval of minutes

Motion made by Tom Sims Jr. to approve the September 15, 2020 minutes. Michael Clary seconded the motion. The minutes received approval by a vote of 7-0.

## 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 Zane Williams for Lynda & Lamont Garber for variances to allow the following: reconstruction of a boathouse with demolition exceeding over 50% value of the structure; variances include extending the boathouse approximately 36 feet into Lake Virginia, whereas the maximum permitted distance into the lake is 30 feet; allow rebuilding to an area of 812 square feet, whereas the maximum allowed area is 600 square feet; and allow constructing a new flat roof structure, whereas only a pitched roof is permitted.

Located at 394 Henkel Circle, Zoned: R-1AAA

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

Several years ago in the 1990's provisions were adopted into the Zoning Code that prohibited the construction of flat roofs for new boathouses. At that time, some boathouses had ladders built onto flat roofed boathouses with railings along the sides of the roof in order to create a roof-top activity deck. Sometimes roof top activities on the lakes resulted in noise disturbance complaints due to parties taking place on the rooftops with noise transmitting across the lake.

In recent years, many newer contemporary designed homes on lakes have resulted in lower sloped boathouse roofs in an effort to match the design of the home. At this point, an ordinance change to allow flat roofs on boathouses has not come before the Planning Board or City Commission. This is the first formal request to ask for a variance on the subject.

No letters received regarding this request.

Mr. Wiggins said and showed a revised plan, received the day of the meeting, with a 1:12 roof pitch and surrounding parapets. He noted the boathouse is going back in the same location as the existing boathouse and the side setback, of greater than ten feet, is in compliance.

The Builder, Zane Williams, owner of Z Properties at 271 N. Pennsylvania Ste 1, spoke on behalf of the owners. He noted that Winter Park Lakes Board approved the boathouse construction the week prior. Mr. Williams confirmed the new construction is going back in the same footprint. He stated the intent of the flat roof is to match the style of the home and that the owners do not intend to use the roof as occupied space.

In response to Board questions, Mr. Wiggins confirmed the proposed distance out into the lake matches the existing 36ft distance. He clarified this will not have to return to the Lakes Board for review. The Lakes board looks at environmental issues, boat traffic and shoreline vegetation. Whereas, the Board of Adjustments reviews for size and location. The Lakes Board cannot approve variances, but their input is welcome and can be helpful in considering variance requests.

In closed session, board members highlighted that the land development code does not clearly define pitch. They wrestled with at what slope a roof should be considered pitched. Robert Trompke stated he has seen Rollins college students on top of their boathouse, which has a steeper pitch than the proposed. He felt enforcement of unpermitted uses is not the function of this board.

No one from the public spoke concerning this request.

## Findings

The board members agreed with the reconstruction of the dock, using the existing dock length and size to maintain feasible boat mooring. The Board members found the hardship was the deteriorating existing boat dock that requires replacement and recognized a 1:12 roof pitch would deter rooftop occupancy.

## Action

Based on these findings, Charles Steinberg made a motion, seconded by Steven Heller to approve the request. The request passed by a vote of 7-0.

2. Request of Sheila Cichra for Tracy Stone, for variances to allow the construction of a new boathouse to extend approximately 40 feet into Lake Maitland, in lieu of the maximum permitted distance of 30 feet and allow an area of 634 square feet, in lieu of the maximum allowed area of 600 square feet.

Located at 2008 Venetian Way, Zoned: R-1AAA

George Wiggins Director of Building gave the following summary:

According to the applicant, this boathouse is replacing an existing nonconforming boathouse, which has existed for a number of years and is in need of the extra distance into the lake to allow a boat to be housed in this structure at the low water times of the year. The applicant verified the accurate depths measurement shown on the elevation plan included with this request.

This request went before the Lakes Board at their October 13 meeting and approved subject to receiving variances from this Board. Their review does not necessarily include making any recommendation on the granting of a variance. However, as an advisory board if something comes before them that may be an unusual condition affecting boat traffic or similar issues then they can require more restrictive requirements as listed below:

Sec. 58-87. - Lakefront lots, canalfront lots, streamfront lots, boathouses and docks. (5)

The requirements of this section are minimum requirements, and the planning and zoning board or the lakes and waterways board may impose more restrictive requirements and conditions on the height, bulk, location and any other aspect of the proposed development where necessary in order to accomplish the purpose and intent of this section.

No letters received regarding this request.

Mr. Wiggins noted a new single family residence is to be constructed on this lot. In response to Board questions, Mr. Wiggins confirmed the proposed boathouse would be the same size as the existing boathouse, and the side setbacks, height and roof pitch are in compliance. Mr. Wiggins referenced Winter Park Land Development Code Section 58-87(a) which defines the purpose and intent of the Lakes Board. Primarily, the Lakes board focuses on environmental and waterway navigational issues.

The applicant, Sheila Cichra, with Streamline Permitting at 2154 Oak Beach Blvd. Sebring, FL, the design is only 32 square feet over the allowable 600 square feet. In addition, the size is reduced by 60 square feet from the original boathouse.

No one from the public spoke concerning this request.

In closed session, the Board felt they could render a decision without further discussion based on the information provided.

## Findings

The board members agreed the hardship is that additional dock length is required for feasible boat mooring, due to the low water levels at this area.

## Action

Based on these findings, Tom Sims Jr. made a motion, seconded by Ann Higbie to approve the request. The request passed by a vote of 7-0.

3. Request of Roger Neves on behalf of Amy & Stephen Abernethy, for a variance to allow the construction of a pool deck 7.75 feet above existing grade, whereas the maximum allowed height is 3 feet from the average existing grade elevation.

Located at 405 Virginia Dr, Zoned: R-1AAA

George Wiggins Director of Building gave the following summary:

For lakefront properties, the City has established a maximum lakefront terrace wall or pool deck height permitted in order to soften the impact of having high exposed wall surfaces as viewed from the lakes. To meet this criteria most designers must either drop the pool deck below the finished floor elevation of the home or provide terraced walls closer to the lake in order to rise to or near the floor elevation of the home.

The applicant cites the adjacent lakefront home as an example of exceeding the 3-foot deck height since it rises up approximately 4.5 feet above the grade and this pool was built in 2006. At that point in time, the City had not codified the 3 foot maximum deck height rule. Several modifications were made to the lakefront and canalfront regulations in the Zoning Code over the last 10 years addressing waterfront structures, including fences, gazebos, walkways down to docks, and boathouses, along with identification by name of waterbodies which require Planning and Zoning Board review prior to construction of a home or major addition.

In this request, the applicant has conferred with our Planning staff extensively in trying to create a solution without further modifications. With over 7 feet of elevation drop along the side of the home, a design that sufficiently minimizes the deck height from the existing grade is difficult; thus, the designer is utilizing the option to apply for a variance. There is no recommendation for approval from our planning department, due to the inconsistency with these Zoning Code criteria.

The applicant has the challenge of proving their case in a manner that conclusively shows that building a lower elevation swimming pool and deck is not possible.

We received four letters of non-objection. One was from the adjacent lakefront property owner.

Mr. Wiggins explained the 3ft maximum pool height above grade was adopted approximately 8 years ago. He identified this property is at the dead end of Laurel Road and that an adjacent easement provides a continuous right of way to the lake.

In response to Board questions, Mr. Wiggins confirmed the top of the pool deck would be 4 inches below the main homes' finished floor elevation. He also noted the sewer line easement across the back of the property constrains the available pool locations. Pictures submitted as part of the application established many homes along the lake have elevated pools above grade. The pool of the adjacent home is approximately 4.5 feet above grade.

Jessica Napolitano, with Phil Kean Designs on 912 W Fairbanks Ave, spoke on behalf of the owners. She illustrated the proposed 3.5ft and 5ft high low walls in front of the pool will soften the height of the pool wall. She noted they are adding fill so the pool wall will be 5.75 feet above finished grade, to reduce the 7.75 height from existing grade. Ms. Napolitano said the owners did not want to navigate steps to get down to a lower pool level.

In closed session, the board noted that if accepted, the height of this pool deck would be approximately 2ft higher than the adjacent neighbors' pool deck. They acknowledged the neighbors approve and that the easement across the back of the property is a limitation for the pool location. However, most stressed the home is new construction and new construction parameters are not a hardship. Most were in favor of allowing the applicant to return with a lesser variance request.

Jessica Napolitano confirmed she is open to discussing changes, despite having already lowered the finished floor height of the home. She is also open to continue working with the planning department to come up with a plan they can approve without a variance.

## Findings

The majority of Board members could not find a hardship because the project includes the construction of a new single-family residence. They felt adjusting the dwelling design may accommodate a compliant swimming pool. However, they are open to looking at an alternate design with a lesser pool height request.

## Action

Based on these findings, Tom Sims Jr. made a motion, seconded by Steven Heller, to approve the request. The request was denied by a vote of 4-3, with Aimee Hitchner, Michael Clary, Ann Higbie and Charles Steinberg voting in opposition. Michael Clary made a subsequent motion to table the request for 90 days to allow the applicant time to return with a revised design. Charles Steinberg seconded the motion. The motion to table the request passed by a vote of 7-0.

4. Request of Julie & Thomas Eastwood for variances to allow the reconstruction of a swimming pool, deck and cabana 10 to 19 feet from a stream and to allow new construction of a cabana 19 feet from the stream, in lieu of required setbacks of 25 feet from the canal bulkhead to the pool deck and 50 feet to the cabana. In addition, the request includes rebuilding the existing pool and deck and adding a new cabana 5 feet above existing grade, in lieu of the maximum height of 2 feet above grade and include a 42-inch high guard around the pool deck in lieu of the maximum fence height of 3 feet above the existing grade.

Located at 1631 Barcelona Way, Zoned: R-1AA

George Wiggins Director of Building gave the following summary:

This request is due to the need to replace a nonconforming swimming pool with structural cracks and involves replacing other related features around the pool such as the retaining wall and the addition of a cabana along with the pool replacement. When the existing pool and walls were built, the stream front setback would likely would have been only 10 feet, which was formerly, treated as a rear yard setback.

One of the main purposes of the larger 25 and 50-foot setbacks along a canal or stream is to allow significant room for storm water to be retained onsite prior to flowing into the water body. If these variances are granted and the pool is rebuilt our Public Works Department will review the plans and take this opportunity to require additional storm water retention to minimize runoff into the stream.

The proposed cabana and pool do not exceed the allowable floor area or impervious coverage for this property.

Two emails received expressing approval of these variance requests.

The applicant, Thomas Eastwood of 1631 Barcelona Way spoke. He said he purchased the home a few years ago, only to find the pool structurally damaged beyond repair. He wants hopes to rebuild what was already there.

Brett Holland with Holland Equatics spoke. He confirmed the structural damage requires a complete rebuild and the new pool will match the location and height of the existing pool. Mr. Holland stated the cabana will be no further out than the home.

In closed session, the Board felt they could render a decision without further discussion based on the information provided.

## Findings

The Board found the hardship is that this is an existing swimming pool with structural deficiencies requires complete replacement of the pool. It is reasonable to allow a repair/replacement in the same existing location.

## Action

Based on these findings, Steven Heller made a motion, seconded by Michael Clary to approve the request. The requested variance passed by a vote of 7-0.

5. Request of Daniel Bellows on behalf of Michael & Diane Maher for a variance to allow the construction of an elevator shaft rooftop structure at 57.2' from grade, in lieu of the approved rooftop structure height of 52 feet from grade.

Located at 338 W. Morse Blvd, Zoned: C-2

George Wiggins Director of Building gave the following summary:

This former office zoned property was rezoned to C-2, General Commercial, which is a downtown commercial designation that allows residential dwellings on this building site in order to permit a three story two family dwelling. At the time of the zoning change and conditional use approval, the applicant obtained permission from the City Commission to allow a height of 52 feet above grade for the elevator shaft. This would have allowed a typical hydraulic elevator that runs very inefficiently through use of a piston. While preparing detailed construction plans, the applicant discovered that a more efficient and environmentally friendly "traction" elevator would enhance this project considerably. However, this type of elevator requires a hoist way over 5 feet higher than the hydraulic elevator. Architecturally, the placement on this elevator on the building is located so that it not seen from the street.

This proposed three-story building is uniquely located next to a taller four-story building, (the Douglas Grand) which is over 60 feet in height and will surround two sides of this new three-story building. In addition, the Douglas Grand is a mixed use building which also has a taller architectural feature on the corner with a height of 79'. Directly across the street are the Park West Condominiums, which are approximately 55' in height.

All other zoning parameters for this building are met including setbacks, floor area, parking, storm water retention, open space and landscaping.

No letters received regarding this request.

Mr. Bellows, with Sydgan Corporation at P.O. Box 350 Winter Park FL, noted zoning C-3 allows three story buildings and the City Commission already approved the 52 foot height. He noted this building is much lower than the adjacent Douglas Grand Building, in the same zoning district. Mr. Bellow also pointed out the adjacent Douglas Grand garage is 60 feet in height. Mr. Bellows stated the rooftop elevator shaft requires a height of 57'-2". Therefore, the variance request is for an additional 5'-2" of height for the rooftop structure to accommodate a traction elevator. He stressed the additional height requested is only for the rooftop structure centered in the middle of the building.

In closed session, the Board felt they could render a decision without further discussion based on the information provided.

### **Findings**

The Board found the hardship to be that the proposed traction elevator specifications do not fit within the maximum height requirements approved by the City Commission and the height adjustment requested for the rooftop structure is minimal.

### **Action**

Based on these findings, Tom Sims, Jr. made a motion, seconded by Aimee Hitchner to approve the request. The requested variance passed by a vote of 7-0.

The meeting adjourned at 6:54 pm.

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Theresa Dunkle, Recording Clerk