



Board of Adjustments Minutes

December 15, 2020 at 5:00 p.m.

Hybrid Meeting

Present

In person: Robert Trompke (Chair), Michael Clary (Vice-Chair), Aimee Hitchner, Ann Higbie, Director of Building, George Wiggins and Recording Clerk, Theresa Dunkle.

Virtual: Charles Steinberg and Steven Heller. Absent: Tom Sims Jr.

Meeting called to order

Approval of minutes

Motion made by Michael Clary to approve the November 17, 2020 minutes. Ann Higbie seconded the motion. The minutes received approval by a vote of 5-0. Charles Steinberg joined the meeting after approval of the minutes.

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 Yoganand Ganeshram with Y & G Florida Investments LLC, on behalf of Patricia Helen Barto, for a variance to allow a parking pad within the front setback, to meet the required parking, in order to enclose the existing garage into living area.

Located at 926 Fremont Ave, Zoned: R-1A

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

These types of requests come to us from time to time, usually from a homeowner wanting to increase the living area of a home economically. When building a new home our zoning code requires that two parking spaces be in place located behind the required front setback of the home. Typically, this requirement is met by simply having a two-car garage or carport, or occasionally by having two required 9' wide by 18' long surfaced parking spaces along the side or rear of the home.

The main reason to have the required parking behind the front setback is to prevent allowing several homes on one street from enclosing their garages, which results in forcing homeowners to regularly park their cars in front of the home. This then forces all visitors to park in the street and in some cases the homeowners that do not have room for two spaces in front of an enclosed garage end up parking in the street as well.

The net result then is a drastic devaluation of property values of the homes in addition to creating a challenge for public safety vehicles (police and fire) and waste haulers trying to get access for garbage and recycling pickup. Streets with several cars parked continually creates a gauntlet to drive through and adds additional safety concerns to families with small children playing in or near the street.

We typically advise the applicants that unless they can provide a safe replacement parking space or two then it will be very difficult to prove that a hardship exists.

There appears to be no justification or hardship presented that is unique to this property. Other properties nearby that were enclosed either were enclosed before annexation into the city or were done without a permit.

One emailed received from an adjacent owner objected to this request.

Mr. Wiggins noted the overhead garage door was removed and the opening was blocked in without a permit. Because the subsequent building permit application included the enclosure of the garage into living area without a nine by eighteen foot required parking space behind the front line of the home, the application was disapproved and a stop work remained in effect. Mr. Wiggins noted the proposed plans indicate a master bedroom and utility room in the garage space although there is space available for a rear addition onto the home for this purpose.

Mr. Wiggins said the pictures received with the submittal package are homes with garages enclosed without a permit or the garages were converted to living space before the area was annexed into Winter Park. In response to Board questions, Mr. Wiggins clarified that plan review denial is not entirely related to the work started without a permit but also due to work performed to enclose the garage. The contractor will need to restore the garage to its prior condition if the variance is disapproved.

Board member, Michael Clary, noted the window installed in the garage door opening is missing from the proposed building plans. In response, the applicant, Yoganand Ganeshram with Y & G Florida Investments LLC, who resides at 11014 Mobberley Circle, Orlando, replied he would update the plans to include the window. Mr. Ganeshram restated other homes in the neighbor have enclosed garages and said the driveway can accommodate two cars but he is open to widening it if necessary. Mr. Ganeshram stated his hardship is the need for more accessible bathrooms. His client would like the same right as other homes in the neighborhood. In response to a board question, Mr. Ganeshram said he was unaware the general contractor started construction without a permit.

In closed session, the board members discussed the weight they should give to approving a variance for work done without a permit. They concurred that their determination must focus on the hardship only which is the basic criteria for granting variances.

Alejandro, the project manager, referred to issued electrical and roof permits on this project. He stated the existing bathrooms are too small and there is room to park two and half cars in the driveway.

No one from the public spoke concerning this request.

Findings

The board members could not find a unique hardship. The submittal package did not illustrate what prevents the addition of a master bedroom and utility room at the rear of the home.

Action

Based on these findings, Michael Clary made a motion, seconded by Ann Higbie to approve the request. The request was denied by a vote of 0-6 with an action request to the applicant to meet with the Building Department for procedures to restore the garage to its original use.

2. Request of Mark Nasrallah with Nasrallah Architectural Group Inc, on behalf of Vilasa Townhomes LLC, to allow the construction of multifamily townhomes with variances to allow 10 open porches located 12 feet from the side lot line, in lieu of the required setback of 20 feet.

Located at 518, 516, 514, 512, 510, 508, 506, 504, 502, 500 W Swoope Ave, Zoned: R-3

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

For informational purposes, the following excerpt is provided which includes the minutes of the City Commission meeting that covers the approval of this project:

- Conditional Use Approval to develop 12 two-story townhouses and two three-story townhouses along with one single family house on the combined properties at 472 and 510 West Swoope and 435 and 511 West Canton Avenue, zoned R-1A and R-3.

e. Request of Windermere Winter Park Ventures LLC for: Conditional Use Approval to develop twelve two-story townhouses and two three-story townhouses along with one single-family house on the combined properties at 472 and 510 West Swoope and 435 and 511 West Canton Avenue, zoned R-1A and R-3.

Planning Manager Jeff Briggs reviewed the request for a unified development of these properties with fewer units than is allowed. He showed the current zoning and use of these and surrounding properties. He reviewed the proposed layout of buildings and drives, which allow for emergency access. Staff and P&Z recommend approval. He responded to questions regarding third-floor setbacks, impervious coverage calculations and emergency vehicle access. Mark Nasrallah, architect representing the applicant, responded to questions regarding the interior layout, parking, emergency vehicle access, and quality of materials. Motion to approve the Conditional Use request made by Commissioner Sprinkel; seconded by Commissioner Cooper. There were no public comments. Upon a roll call vote, Mayor Leary and Commissioners Seidel, Sprinkel, Cooper and Weaver voted yes. Motion carried unanimously with a 5-0 vote.

As indicated above this project of townhomes went before the City Commission in October 28, 2019 and received approval to build 14 townhomes fronting on Swoope and Canton Avenues. The ten townhomes that have an entry from Swoope Avenue have side yards of 20 feet, which function as a type of rear yard for each unit. Although each of these townhome units has a small patio, the applicant is requesting permission to encroach into the required side yard with an open covered porch.

In this multi-family project, because some of the units are three story, the Zoning Code allows a maximum floor area ratio of 110% although there is a mix of two story townhomes. With the addition of the open porches, the floor area of each one of these porches of 144 square feet can either fall under the allowed excludable area of 300 square feet found in the R-2 Zoning District criteria for duplexes. However, if interpretation of that allowance is not clearly permitted, then this added gross floor area that totals 1,440 square feet will not exceed the overall allowable gross floor area as summarized below:

(10) PROPOSED COVERED PORCHES @ 144 S.F. EACH = 1440 TOTAL S.F. NEW TOTAL FAR = 46,884 S.F. MAX. ALLOWABLE FAR = 55,070 S.F

Although this development went before the City Commission due to the project size, rather than take this request back through the entire conditional use process through the Planning & Zoning Board and City Commission, the Planning Department felt that it may be appropriate for the applicant to seek setback variances if the Board feels that criteria exists to grant variances due to the openness and small size of these porches.

We received one letter of non-objection from an adjacent property owner to the south.

Mr. Wiggins noted this request is similar to the one granted at 664 N New York in that the applicant is requesting to be heard by the Board of Adjustments, in lieu of the Planning and Zoning and City Commission. In response to an inquiry from Chairman Trompke Mr. Wiggins stated the proposed porch additions do not fall within any utility easements and typically, the side setbacks are only 7 to 7.5ft for a dwelling in this zoning district.

The applicant, Mark Nasrallah with Nasrallah Architectural Group Inc, stated covered porches would eliminate the need for any future membrane or fabric covered projections that might be set up randomly by future residents in a haphazard manner. Having permanent structured porches that match the architecture of the building will prevent the need for temporary shade structures. In response to Board questions, Mr. Nasrallah confirmed the slabs were already approved, as well as three-foot overhangs.

No one from the public spoke concerning this request.

Findings

The board members considered the City Commission's approval of the porch slab locations and felt the hardship relates to the fact that most townhomes in R-3 zoning have smaller seven-foot side setbacks and having well designed permanent porches will add value and durability for these townhomes versus an array of temporary structures.

Action

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

The meeting adjourned at 6:01 pm.

Theresa Dunkle

Theresa Dunkle, Recording Clerk

January 19, 2021

Date of Board Approval