



Board of Adjustments Minutes

March 16, 2021 at 5:00 p.m.

Hybrid Meeting

Present

In person: Michael Clary (Vice-Chair), Aimee Hitchner, Tom Sims Jr., Charles Steinberg, Steven Heller; Director of Building George Wiggins and Recording Clerk Theresa Dunkle.

Virtual: Ann Higbie. Absent: Robert Trompke (Chair)

Call to Order

Michael Clary called the meeting to order.

Consent Agenda

Motion made by Tom Sims Jr. to approve the February 16, 2020 minutes. Charles Steinberg seconded the motion. The minutes received approval by a vote of 6-0.

Staff Updates

In order to be considered for re-appointment by the Mayor, current Board members who were appointed by the previous Mayor must re-apply to be considered for this Board.

Citizen Comments

Michael Clary 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.

Action Items

No action items were brought forward.

Public Hearings

1. **Request of Erin Duffy, on behalf of Jonathan Cole, for variances to allow the construction of a boathouse to extend 40 feet into Lake Virginia, in lieu of the maximum permitted distance of 30 feet, and to allow an area of 645 square feet, in lieu of the maximum allowed area of 600 square feet.**

Located at 721 Virginia Drive, Zoned: R-1A

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

The current boathouse is a deteriorating older structure that extends out into the lake approximately 48 feet with area in excess of 700 square feet. The new owner of the property intends to build a house on this vacant lot and desires to first construct a structurally safe boathouse as close to our Code requirements as possible while still having a functional boathouse with a boat lift that has sufficient depth to allow a boat to navigate into the lift location.

The proposed side setback of the boathouse is 10 feet from the east side extended lot line; however, if the adjacent property owner submits a letter of approval, the minimum side setback is 5 feet.

The boathouse builder provided information showing the water depths at various locations where the proposed lift will be located from the shallowest point and out to deeper water depths inside the boathouse. These depths intend to indicate the need to extend the boathouse out to deeper water at this shoreline location on Lake Virginia.

On March 9, 2021, the applicant received approval from the Lakes and Waterways Board satisfying their environmental review concerns, with the condition that the variances are subject to approval by the Board of Adjustments, since It is not within the scope of the Lakes Board to consider deviations from Zoning code unless there are environmental concerns impacted by a Zoning variance.

No letters were received regarding this request.

Peter Fleck, the dock contractor, Q-Ice Builders, spoke. He stated the purpose of the request is to rebuild the deteriorated boathouse. Mr. Fleck stated he needs the length extension in order to allow docking a boat. He noted that the forty-foot distance out would not extend any farther out than other nearby docks on this lake. He modified the original design as much as possible. For example, the side setback distance was increased and the overall square footage reduced. The dock is now only forty-five square feet over the allowable square footage.

In response to Board questions, Mr. Fleck stated the additional square footage and extension into the lake allow for a functional dock.

No one from the public spoke concerning this request.

In closed session, Ms. Higbie and Mr. Heller were not in favor of the additional square footage. Mr. Wiggins interjected it is typical for added extensions into the lake to require additional square footage. However, in this case, they could sacrifice some deck area or not cover the watercraft area to reduce the square footage.

Findings

The board members considered the replacement boathouse has a greater side setback and the neighbors have a similar sized dock. They stated the hardship is the shallow water conditions.

Action

Based on these findings, Charles Steinberg made a motion, seconded by Ann Higbie to approve the request. The request passed by a vote of 4-2, with Ann Higbie and Steve Heller voting in opposition.

- 2. Request of Thomas Lamar on behalf of Kevin Rogers, for variances to allow rebuilding a carport into a garage with a side setback of 8.1 feet in lieu of the required setback of 9 feet, and to allow building a new open front porch encroaching 4 feet into the front setback.**

Located at 2019 Byron Road, Zoned: R-1A

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

The proposed project includes removing the existing carport and existing front porch in order to build back a new enclosed garage and laundry area and a new wider front porch. The front wall of the home is set back 30.8 feet from the front lot line, and the applicant proposes to add a porch, which is 7.7 feet wide. The resultant front setback will be 23.1 feet. An open porch can encroach 5 feet into the front setback. The required front setback is 30 feet although the applicant depicts the front setback as 32.5 feet. After re-measuring nearby homes it was determined the required front is 30 feet. With the permitted 5 feet of open porch, the net front encroachment is 2.1 feet.

We received four letters expressing no objection to this variance request from nearby property owners.

In response to Board questions, Mr. Wiggins noted the current front porch does not encroach into the front setback. The owner, Kevin Rogers who resides at 2019 Byron Road, also responded, stating the 7'-8" wide front porch is the minimum needed for usable functional maneuvering around a table and chairs.

The Architect, Tom Lamar with Lamar Design, stated the request is for a modest front yard encroachment.

No one from the public spoke concerning this request.

In closed session, the Board discussed how front setbacks are determined and noted there is typically not an exact number due averaging the front setback of adjacent homes. The majority felt they could be less stringent on an open porch request due to its openness.

Findings

The board members considered the encroachment is minimal, the porch is open and the neighbors approve. They found the hardship is the front yard setback is a varying distance per each individual lot, which offers them some leeway in their decision-making.

Action

Based on these findings, Steven Heller made a motion, seconded by Tom Sims Jr. to approve the request. The request was approved by a vote of 6-0.

- 3. Request of Mojgan Kianfar, on behalf of Carol Zurcher for a variance to allow the enclosure of an open porch and covered entry, located 29.5 feet from the front lot line, in lieu of the required front setback of 36 feet and required to remain open in order to encroach 5 feet into the front setback.**

Located at 1016 Anchorage Court, Zoned: R-1AA

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

In order to provide architectural changes on the front of this home and to enclose an open porch for a storage area, a variance is required because when the existing home was built, the open front porch and open entryway were permitted to utilize an additional front setback encroachment of 5 feet for these features.

The five-foot front-setback encroachment incentive, for open front porches, was adopted approximately 20 years ago along with the allowance to exclude up to 400 square feet of floor area from counting in the overall floor area ratio. In this case, the lot area is 25,586 square feet and allows 8,443 square feet of gross floor area. Therefore, adding this porch area (and enclosing a side carport) still results in a gross floor area (6,378 square feet) well below the amount permitted.

In addition to desiring architectural changes, the applicant has stated that the aging owner is concerned about security in having an open front porch, whereas this area provides a concealment spaces for potential burglars entering the property. The current owner has lived in this home for 17 years.

We received four letters of support for this variance.

Mr. Wiggins noted the front setback shown was determined when the home was constructed.

The owner, Carol Zurcher, stated the enclosure of the front porch would allow for secure storage and provide her mother a measure of comfort. Currently her mother feels the porch allows prowlers to go undetected.

Thomas A. Thomas, who resides at 1140 Keyes Avenue Winter Park, stated he assists Ms. Zurcher's mother and confirmed the enclosure is for increased security. He noted the request is minimal, is within the existing roofline, and offers an improved elevation.

The Architect, Phil Kean, with Phil Kean Design Group at 912 W Fairbanks, Winter Park, noted the irregular shape of the lot is the hardship. He stated the current porch is an eyesore and the proposed design will offer better security to the occupants.

In closed session, the board did not see the desire for improved security as a hardship. However, they considered the neighbors approvals and agreed the irregularly shaped lot positions most of the home well beyond the front yard setback.

Findings

The board members considered the neighbors approval and found the hardship is the unique shaped lot that makes the front setback on this cul-de-sac difficult to determine and compliant with the average front setback when measured at the center of the arc.

Action

Based on these findings, Tom Sims Jr. made a motion, seconded by Aimee Hitchner to approve the request. The request approved by a vote of 6-0

4. **Request of E2 Homes LLC, on behalf of Kristine Dionne, for a variance to allow converting an existing detached 2-car garage into a guesthouse with a rear setback of 13 feet, and a side setback of 10.5 feet, in lieu of the required setbacks of 25 feet and 11 feet respectively.**

Located at 1246 Alabama Drive, Zoned: R-1AA

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

In order to provide accessory living quarters for her aging parents, the owner wishes to utilize ground floor space in the existing rear yard garage for this purpose, instead of moving her parents to an assisted living facility.

The request includes remodeling the garage area into two small bedrooms, a bathroom, closet and a multi-purpose living room/eating area.

With the loss of the enclosed parking spaces, the remaining rear yard parking area is sufficient to provide the required parking space for the home, along with the existence of a porte-cochere on the side of the home and a long paved driveway on the side of the home behind the front setback of the home.

If granted, the owner will be required to execute a "Guest House Use Restriction Declaration" which ensures that this remodeled living space will not be rented out at any time in the future. This document will be recorded with the Orange County Clerk property records permanently as a condition of obtaining a remodeling permit, if this variance is granted.

We received four letters of support from nearby property owners.

Mr. Wiggins noted the map included in the Board package should have identified the two properties directly behind 1246 Alabama as being in support of the request, along with the neighbors on each side. This documents that all surrounding side and rear neighbors approve. He also clarified the side setback is in compliance, based on a six inch construction tolerance. Therefore, the only request is for the rear setback encroachment. Mr. Wiggins noted that a similar request at 651 Israel Simpson Court received Board approval in February, 2021.

Mr. Wiggins stated the porte-cochere on this property received a previous variance approval, which triggered a code change based on the case as an architectural feature that can allow a smaller side setback. He also noted that guest homes are allowed up to 1,000 square foot, with a recorded use restriction that does not permit renting out the guest facility.

James Johnston with Shutts & Bowen LLP at 300 S Orange Ave, Suite 1600 Orlando, noted that the pandemic raises concerns of lock-downs at independent living facilities. Mr. Johnson shared pictures identifying ample parking between the two structures.

Michael Dionne, the owner at 1246 Alabama Drive spoke, noting he and his wife need a place for their parents as an alternative to assisted living. He noted the neighbors approve of the request and he will record the required use restriction declaration.

No one from the public spoke concerning this request.

In closed session, the Board members noted they approved a similar request recently, based on the need to care for aging parents, thus setting a precedent for variance approval based multigenerational cohabitation. They agreed similar restrictions would need to apply; such as, the accessory structure is for family use only, no renting and no separate electric meter from the main house.

Findings

The board members found unique conditions exist relating to the need for accessible living provisions without losing available parking area on the site and without expanding further into existing side or rear setbacks.

Action

Based on these findings, Charles Steinberg made a motion, seconded by Aimee Hitchner to approve the request with a condition. The condition stipulates the guesthouse be for use only by a family member. Renting the space is not permissible, either now or in the future. The request with conditions passed by a vote of 6-0.

Item five heard prior to the first case on the agenda.

5. Request of Thomas Ladyman, on behalf of Idelisa Torres, for a variance to allow an existing screen enclosure to remain, located 9.1 feet from the rear lot line, in lieu of the required rear setback of 10 feet.

Located at 1737 Magnolia Ave, Zoned: R-1A

George Wiggins, Director of Building, stated that prior to the meeting we received a request from the applicant's attorney, Mr. Ladyman, to table the request for 1737 Magnolia Ave. In turn, the attorney representing the opposing neighbor, Mr. Brandon DeGel, agreed to the revised meeting date of April 20, 2021.

Action

Tom Sims Jr. made a motion, seconded by Steven Heller, to table the request for one month. The request was approved by a vote of 6-0.

The meeting adjourned at 6:10 pm.

Theresa Dunkle

Theresa Dunkle, Recording Clerk

April 20, 2021

Date of Board Approval