



# Planning and Zoning Board Minutes

June 4, 2019 at 6:00 p.m.

City Hall, Commission Chambers  
Regular Meeting

## Call to Order:

Chairman Ross Johnston called the meeting to order at 6:00 p.m. in the Commission Chambers of City Hall. Present: Ross Johnston, Laura Turner, Owen Beitsch, Laura Walda, Christian Swann, Ray Waugh, Chuck Bell and Adam Bert. Also Present: City Attorney Dan Langley. Staff: Planning Director, Bronce Stephenson; Planning Manager, Jeff Briggs; Senior Planner, Allison McGillis and Recording Secretary, Kim Breland.

## Election of Chair and Vice Chair:

Motion made by Laura Turner, seconded by Ray Waugh, to nominate Ross Johnston as Chairman for the Planning and Zoning Board. Motion carried unanimously with a 7-0 vote.

Motion made by Ross Johnston, seconded by Laura Walda to nominate Ray Waugh as Vice Chairman for the Planning and Zoning Board. Motion carried unanimously with a 7-0 vote.

City Attorney, Dan Langley reviewed ex parte communication disclosures and board decorum.

## Approval of Minutes:

Motion made by Laura Turner, seconded by Laura Walda to approve the May 7, 2019 meeting minutes.

## Public Hearings:

**REQUEST OF JUSTIN AND LINDSAY VERMUTH FOR: APPROVAL TO CONSTRUCT A 1,424 SQUARE FOOT TWO-STORY ADDITION TO THEIR SINGLE-FAMILY HOME LOCATED AT 725 BALMORAL ROAD ON LAKE BERRY, ZONED R-1AAA. VARIANCES ARE REQUESTED FOR THE SOUTHERN SIDE SETBACKS.**

Planning Manager Jeff Briggs presented the staff report. He explained that this request is for approval to construct a 1,424 square foot second-story addition on the single-family home located at 725 Balmoral Road.

Mr. Briggs reviewed issues related to tree preservation, views of neighbors, views from the lake and stormwater retention. He stated that because the addition is for a second story, it would not affect lake views of adjacent neighbors or tree preservation. Mr. Briggs added that the request is presented with two small variances, as the second story encroaches 1 in and 3 inches respectively on different sides of the southern second-story setback. The variance is requested to keep the second-story in line with the existing wall on the first floor.

Mr. Briggs summarized by stating the application meets the lakefront criteria.

## **STAFF RECOMMENDATION WAS FOR APPROVAL.**

Mr. Briggs answered questions from the board regarding comments from neighbors.

Applicant Justin Vermuth, 725 Balmoral Road, Winter Park, FL offered to answer questions from the Board. The Board had no questions for the Applicant.

No one from the public wished to speak. The public hearing was closed.

The Board reviewed the request and agreed with Staff recommendations.

**Motion made by Adam Bert, seconded by Ray Waugh, for approval to construct a 1,424 square foot two-story addition to their single-family home located at 725 Balmoral Road on Lake Berry, zoned R-1AAA.**

The motion was approved unanimously 7-0.

**REQUEST OF Z PROPERTIES FOR: APPROVAL TO CONSTRUCT A NEW 4,245 SQUARE FOOT SINGLE-FAMILY HOME LOCATED AT 1204 NORTH PARK AVENUE ON LAKE MAITLAND, ZONED R-1AAA.**

**Board member Laura Walda recused herself from this item.**

The following board members had exparte communications and/or made site visits regarding this item: Christian Swann, Ross Johnston, Adam Bert and Chuck Bell.

Planning Manager Jeff Briggs presented the Staff report and power point presentation stating that the lakefront review was for a new 4,245 square foot one-story single-family home located at 1204 North Park Avenue in Twelve Oaks. He discussed the purpose when such requests include construction being compatible with the natural grade of the property, storm water runoff, tree preservation and that views of water from adjoining properties to make sure they are not unduly impaired. Mr. Briggs stated that there were no issues with the first three items but impact upon lake views was the main topic for discussion.

In terms of impact upon lake views, as a guideline for lakefront setbacks, the code states that the lakefront setback shall be the average established by the adjacent lakefront properties within 200 feet of the subject property, or a setback of 50 feet, whichever is greater. This application is a unique case, because there are no homes to the north of the property that front onto this same shoreline of Lake Maitland to use in the average setbacks. To the south, there is also a unique circumstance because the adjacent property at 1202 North Park Avenue has a nonconforming accessory structure building that sits approximately 12 feet from the lake. Per the applicable code section, the lakefront setback calculation is to include "accessory buildings". The other property, further to the south, at 1194 North Park Avenue is setback approximately 86 feet from the lake. Thus the average lakefront setback is approximately 49 feet which is less than the minimum required 50-foot setback.

Staff understands that the adjacent homeowners at 1202 North Park Avenue do not agree that their accessory structure should be included in the average. They also feel that this new home, as proposed which is approximately 17 feet closer to the lake than their swimming pool, and 40 feet closer to the lake than their main residence does not comply in that "views of water from adjoining properties will be unduly impaired".

Staff indicated that generally the precedent has been that property owners are allowed to build if they conform to the average lakefront setback but everything between the average lakefront setback and the minimum 50 foot setback is up to the discretion of the P&Z Board. However, the Zoning Code does say that the P&Z Board "may impose more restrictive requirements as necessary to accomplish the objectives" of the lakefront reviews.

The discussed that while the P&Z Board is to mitigate that "views of water from adjoining properties will not be unduly impaired" is that it only applies to buildings and does not apply to landscaping. So an owner can plant trees, hedges and bamboo and completely screen off a neighbor's view of the lake. They can plant the landscaping all the way down to the lake's edge. Thus staff indicated that they plan to propose conditions to limit such landscaping in order to maintain lake views for the neighbors.

Staff presented three options for P&Z action. One was to table for more information. One was to deny the request and impose a lakefront setback that would not impair lake views in their opinion.

The other was the staff recommendation **STAFF RECOMMENDATION WAS FOR APPROVAL subject to three conditions:**

1. **The planting of a dense landscape screen of magnolia trees and/or bamboo along the southern setback area of the lot ending at the 50 foot lakefront setback in order for the view of the building to be screened by landscaping.**
2. **That there be no landscape plantings above the three feet in height planting in the southern portion of the property from the 50 foot setback down to the lake's edge, and**
3. **That the Building Dept. approve a construction management plan.**

The applicants, Zane Williams, Z Properties, 1160 Mayfield Avenue, Winter Park, FL, and Alan Cohen, Owner, 1204 North Park Avenue addressed the Board. They explained the design concept and the rationale for a one-story house versus two-stories and why that resulted in a setback closer to the lake.

The Board heard public comment from Rebecca Wilson, Lowndes Drosdick, Doster, Kantor & Reed, 215 N. Eola Drive, Orlando, FL and Susan Curry, 1218 North Park Avenue, Winter Park. Ms. Wilson outlined and showed graphics on how this structure was damaging her client's lake views. She indicated that the accessory building should not be used in the lakefront average per code text. She discussed the previous home approval (not built) on this property and the lakefront setback much further than what is proposed. She stated that her client's could live with the lakefront setback previously approved by P&Z but not as close as was presented.

No one else from the public wished to speak. The public hearing was closed.

The Board members discussed the code text and the city attorney clarified the city's views on code direction. The Board also discussed the setback of the previous home plans presented and approved, the staff conditions, rules for landscaping, the impact on views of these neighbors and the options for actions.

**Motion made by Laura Turner, seconded by Christian Swann for approval to construct a new 1,424 square foot single-family home located at 1204 North Park Avenue on Lake Maitland, zoned R-1AAA with the following conditions proposed by staff:**

1. **The planning of a dense landscape screen using vegetation, such as, but not limited to, Magnolia trees and/or bamboo along the southern setback area of the lot ending at the 50 foot lakefront setback in order for the view of the building to be screened by landscaping.**
2. **That there be no landscape plantings above the three feet in height planting in the southern portion of the property from the 50 foot setback down to the lake's edge, and**
3. **That the Building Dept. approve a construction management plan.**

**The motion was approved unanimously 7-0.**

**REQUEST OF IRA KITOGRAD FOR: APPROVAL OF THE FINAL BUILDING ELEVATIONS AND LANDSCAPE PLAN FOR THE PROPOSED LIVE/WORK PROJECT A 2600 TEMPLE DRIVE, ZONED OFFICE (O-2).**

Planning Manager Jeff Briggs presented the staff report. He reminded the Board that in January of 2019, the Board approved a condition use request for a new live/work project at 2600 Temple Drive with the condition that the request come back to P&Z with a specific landscape plane, detailed elevations of the building including articulation and the addition of a sidewalk to the site plan along the front of the building connecting to Temple Drive.

Mr. Briggs presented additional plans from the Applicant showing various views of the refined elevations with significant articulation and architectural detail, landscaping and the addition of the sidewalk connection to Temple Drive.

Mr. Briggs summarized by stating that the Applicant has sufficiently conformed to the requests made by the Board for additional design enhancement and landscaping as well as the addition of the sidewalk with the connection to Temple Drive.

STAFF RECOMMENDATION IS FOR APPROVAL with conditions:

1. Since the units are going to be fee simple, and will require replatting of the parcel, there shall be a requirement to keep and maintain the vinyl fence and bamboo screening to the adjacent residential properties.

Applicant Ira Kitograd, 731 Pansy, Winter Park, FL, answered questions from the Board regarding landscaping, lot orientation, buffer wall for neighbors, waste receptacle location, fire sprinklers and sidewalk connection to Temple Drive.

No one from the public wished to speak. The public hearing was closed.

The Board agreed with Staff recommendations and that the applicant had provided the actions requested previously by P&Z.

**Motion made by Ray Waugh, seconded by Adam Bert for approval of the final building elevations and landscape plan for the proposed live/work project at 2600 Temple Drive, zoned Office (O-2) with the condition recommended by staff.**

**Motion carried unanimously with a 7-0 vote.**

**REQUEST OF VILLA TUSCANY HOLDINGS LLC FOR: SUBDIVISION APPROVAL TO DIVIDE THE PROPERTY AT 1298 HOWELL BRANCH ROAD ON LAKE TEMPLE, ZONED R-3, INTO FOUR LAKEFRONT LOTS, TO BE DEVELOPED AS SINGLE-FAMILY LOTS.**

**Board member, Chuck Bell, recused himself from this item.**

Mr. Briggs explained that one year ago, in June 2018, Villa Tuscanly Holdings LLC (property owner) received subdivision approval from the City Commission to divide the property located at 1298 Howell Branch Road into four lots, each to be developed with single-family homes. However, now the property owner desires to change the layout of the four lots and since the layout is significantly different, a subsequent approval is necessary. The zoning of this property is R-3.

This was the location of several Conditional Use requests for a memory care facility (Villa Tuscanly), which were not approved by the City Commission. As a result, the property owner decided to subdivide the property for future single-family home development. Mr. Briggs explained that all the lots meet the sizes required and no variances are requested. The proposed lot dimensions are as follows:

Lot #1 - 20,037 square feet (0.46 acre) and 264 feet of lot width;

Lot #2 - 12,632 square feet (0.29 acre) and 70 feet of lot width;

Lot #3 - 13,068 square feet (0.30 acre) and 80.8 feet of lot width;

Lot #4 - 59,241 square feet (1.36 acre) and 341.6 feet of lot width.

The applicant has provided conceptual site plan layouts of new homes to indicate that the buildable areas are sufficient for single-family homes. However, the specific plans, layout, elevations, etc. will not be developed until the lots are sold to builders. It is important to point out that while these lots are zoned R-3, the applicant is in agreement to comply with the normal single-family zoning development standards with respect to setbacks, floor area ratio, building articulation, etc.

In terms of traffic impact the traffic generation/car trips per day for these homes will be approximately 38 daily trips. This is less than the 80 daily trips anticipated for the previously proposed memory care facility. All traffic is to enter and exit on Howell Branch Road via the signalized intersection at Temple Trail and Howell Branch Road, onto the roadway with 30,600 cars a day. The traffic signal upgrades will be done at the applicant's expense.

Mr. Briggs assured the audience that since all of these lots are lakefront lots on Lake Temple, which per Section 58-87 of the Zoning Code, requires that all new homes and major construction be reviewed and approved by the Planning and Zoning Board at a public hearing following notice.

**STAFF RECOMMENDATION WAS FOR APPROVAL of the Subdivision request to divide the property at 1298 Howell Branch Road into four lakefront lots, as presented subject to the following conditions to be approved in form and content on the formal plat by the City Attorney:**

1. That approval require implementation via a formal plat approved by the City to establish the common driveway access rights, to dedicate the access rights to the City other than that provided for by the common driveway and that it provide for a Homeowners Association in order to provide for the continual maintenance of the common driveway and sanitary sewer lift station.
2. That the plat set forth the commitments to develop each lot in conformance with the single family zoning development standards.
3. That the plat dedicates to the City, the easements requested by Public Works.
4. That the plat provides an easement area for a future privacy wall or landscape buffer area along the Howell Branch Road frontage.
5. That the traffic signals upgrades necessary for the traffic light at Temple Trail and Howell Branch Road be at the development's expense.
6. That new potable water and fire flow infrastructure be constructed including fire hydrant(s) as needed within 300 feet travel distance to all sides of all three homes which must be completed at the development's expense prior to the issuance of the building permit for the construction of the first new home.

The applicant offered to answer questions from the Board and there were none.

Nancy Freeman, 1055 Tuscany Place and Barry Render, 2630 Via Tuscany, spoke and reminded the Board that they have followed this property since all the previous memory care applications and now the subdivision requests. They wanted to confirm that the actual house plans and tree removals would be reviewed by P&Z, with notice to the neighbors, prior to any clearing or construction. Planning staff assured them, that was the case.

The Board members agreed that this four lot subdivision had been approved previously in a slightly different fashion. The conditions of approval still remain in effect and the safeguards for the neighbors are still in effect.

**Motion made by Laura Walda, seconded by Ray Waugh for subdivision approval to divide the property at 1298 Howell Branch Road on Lake Temple, zoned R-3, into four lakefront lots, to be developed as single-family lots, subject to the conditions recommended by staff.**

**The motion was approved unanimously 7-0.**

Respectfully,

Kim Breland, Recording Secretary