

BOARD OF ADJUSTMENTS
CITY OF WINTER PARK, FLORIDA

Regular Meeting

April 16, 2013

Commission Chambers

5:00 P.M.

PRESENT

Ann Higbie, Acting Chair, John Simpson, Robert Trompke, Cynthia Strollo and Jeff Jontz. George Wiggins, Director of Building and Carla Bahlmann, Recording Secretary. Phil Kean and Lucy Morse were absent.

MINUTES

John Simpson made a motion, seconded by Robert Trompke, to approve the minutes from the February 19, 2013 meeting. The minutes were approved 5-0.

NEW BUSINESS

1. Request of Wendy Brandon for a variance to allow a sculpture accessory structure (with approximate dimensions of 7.1 feet high by 3 to 4 feet in varying widths) to remain in a front yard setback area located 8.2 feet from the front lot line in lieu of the required setback of 25 feet.

Located at 318 Vitoria Ave.

Zoned: R-1AA

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George Wiggins, Director of Building, stated the applicant is requesting a variance to allow a sculpture accessory structure to remain in a front yard setback area located 8.2 feet from the front lot line whereas the required setback is 25 feet. A permit was not obtained at the time the structure was installed which would have brought forth the setback issue, and would have required the applicant to apply for this variance prior to installation of the sculpture.

Jeff Jontz asked if the code included sculptures and expressed concerns of how the structure was installed. Mr. Jontz inquired with staff if the applicant had permitted the sculpture and what requirements would need to be met? Mr. Wiggins stated we would either inspect the foundation or get a report from a structural engineer, verifying adequacy of the foundation to support this structure.

Wendy Brandon, applicant, stated that after reading the code for permitting accessory structures, she did not think it included sculptures as there is nothing specifically covering this type of structure. She, therefore proceeded with having the sculpture artwork installed.

Jerry Graham, the sculptor, spoke on behalf of the applicant and stated that the engineering and installation far exceeded the engineering loads, and the structure was safely secured.

Steve Markulin, property owner of 784 Maryland Ave. expressed opposition to the sculpture stating he did not feel there was any hardship being shown. He also expressed concern about the size of the structure and its proximity to the sidewalk.

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Wendy Brandon provided letters of support and brought neighbors in favor of allowing the sculpture. Two art students from Rollins College spoke in support of the variance request.

Findings:

The Board stated that the code was not definitive, in stating sculptures were an accessory structure and therefore felt they understood the lack of clarity on needing a permit. They recognized the location of the structure is sufficiently back to not be a safety hazard.

Action:

Based on these findings Jeff Jontz made a motion, seconded by John Simpson to approve the request with the condition that structural and engineering certification is provided with the permit for this structure. The request was approved 5-0.

2. Request of Fred Curley for a variance to allow the construction of a duplex dwelling with an FAR of 45% and to allow a second floor side setback of 7 feet in lieu of the required setback of 10 feet.

Located at 910 Mead Ave.

Zoned R-2

Mark Nasrallah, representative for the applicant requested tabling this request. Jeff Jontz made a motion, seconded by Cynthia Strollo to table this variance request. The motion was approved by a vote of 5-0 and the request was tabled until the next meeting.

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3. Request of Michael Reed for a variance to allow the addition of 22 seats to a restaurant by providing 6 leased night time parking spaces in lieu of providing 7 full time parking spaces.

Located at 761 Orange Ave.

Zoned C-3

George Wiggins, Director of Building, stated the applicant is requesting parking space variances to allow the addition of 22 seats to an existing restaurant by providing 6 leased night time parking spaces instead of providing 7 full time parking spaces on the property of the restaurant.

The Winter Park Fish Company restaurant moved into a former retail building at 761 Orange Avenue approximately four years ago and has a small parking lot of 10 or 11 parking spaces depending on whether a space next the Orange Avenue entrance is useable as a legal parking space. The City issued business license for the restaurant authorizes 41 seats and plans for this restaurant were approved on that basis.

The current request is to allow a total of 63 indoor and outdoor seats which requires providing 7 new onsite parking spaces. The applicant has obtained an agreement in writing from the adjacent property owner to utilize 6 parking spaces from 5:30 to 10PM, Monday thru Friday and any time on weekends. If these 6 parking spaces are recognized as counting toward the restaurant's required parking, then the total seating number can legally expand from 41 to 59 seats after paying the required additional sewer and water impact fees and meeting all Building Code criteria for the proposed building expansion.

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George Volchelbacher, chef and representative for the restaurant stated that they have a lease with the insurance company next door to use their parking in the evening after the business is closed. He stated that wait times would not be as long and the restaurant would be able to serve more people if more parking were allowed which would also allow them to provide more seating in the restaurant.

Gary Reed, one of the owners of the restaurant, stated that business is doing well but they are turning away customers because they are not allowed to have more seating, even though additional parking is available at night and on weekends. In addition, it was pointed out that there are many on street parking spaces available in this area that are not fully utilized.

Findings:

The board stated that due to the unusual lay out of the parking lot, the nearby street parking and the restaurant being able to make arrangements with the neighboring business for parking, and then some additional seating can be allowed based on the new parking spaces.

Action:

Based on these findings Jeff Jontz made a motion seconded by John Simpson to approve the variance with the condition that the restaurant provide a 5 year lease for 6 parking spaces from the tenant and owner of the neighboring business for nights and weekends. Cynthia Strollo expressed concern about granting the parking variance because the restaurant was aware of the parking situation when the property was purchased. The request was approved by a vote of 4-1, with Ms. Strollo voting in opposition.

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4. Request of Casey Nelson for variances to allow the construction of a two story building addition to be located 9.3 feet from the side lot line in lieu of the required second floor setback of 22 feet.

Located at 2351 Forrest Rd

Zoned R-1AAA

George Wiggins, Director of Building, stated the applicant is requesting variances to allow the construction of a two story building addition to be located 9.3 and 9.8 feet from the side lot line whereas the required first floor setback is 16 feet and the required second floor setback is 22 feet. The lot is wide at the front and narrows toward the lake with an average lot width within the buildable area of 125 feet, resulting in these large required side setbacks. The requested side setbacks are at the closest point of the side walls which increase away from the side lot line on each floor.

The property is located on Lake Sue and includes a severe grade elevation drop from the road to the lake of over 25 feet. The owner desires to add living area and a new garage to augment the existing two car garage without impacting the lakefront setback for the neighboring property.

The area of the property is 28,350 square feet which allows a maximum gross floor area of 9,355 square feet. The proposed additions result in a gross floor area of 6,617 square feet, with 2,192 square feet of new floor area. All other zoning parameters are met with the proposed addition including impervious coverage, minimum front yard landscape area and maximum building height.

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Casey Nelson, architect and representative for the homeowner, explained that the grade of this lakefront property makes it difficult to adhere to required setback restrictions. He also explained that the design was to make the house look seamless and not look like an addition was done. Landscape on the property also aids in the addition's aesthetics.

Anthony Nunziata, the homeowner stated that any concerns about drainage or run off with the neighbor's property would be mitigated through the engineering design to prevent run off on to the adjacent property. There were 4 letters from neighbors supporting the addition.

Findings:

The board stated that the extreme grade of the property creates a unique hardship related to allow the proposed building additions to the existing home.

Action:

Based on these findings John Simpson made a motion seconded by Jeff Jontz, to approve the variance. The request was approved 5-0.

Carla Bahlmann

**Carla Bahlmann
Recording Secretary**

