

**BOARD OF ADJUSTMENTS**  
**CITY OF WINTER PARK, FLORIDA**

**Regular Meeting**

**May 28, 2013**

**Commission Chambers**

**5:00 P.M.**

**PRESENT**

Lucy Morse, Chair, John Simpson, Robert Trompke, Patrice Shirer (new alternate member), Phil Kean, 2<sup>nd</sup> Chair, Ann Higbie and Jeff Jontz. George Wiggins, Director of Building and Carla Bahlmann, Recording Secretary. Bruce Becker was absent.

**MINUTES**

John Simpson made a motion, seconded by Ann Higbie, to approve the minutes from the April 16, 2013 meeting. The minutes were approved 7-0.

**OLD BUSINESS**

1. Request of Fred Curley for a variance to allow the construction of a duplex dwelling with a floor area ratio of 48.7% in lieu of the maximum permitted 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

Applicant provided a letter requesting the variance request be tabled until the June 18, 2013 meeting, due to being out of town.

Based on the request, Patrice Shirer made motion, seconded by Ann Higbie to table the variance hearing for 910 Mead Ave. The motion was approved 7-0, and the request was tabled until the next meeting.

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### **NEW BUSINESS**

1. Request of Ronald Tegeler for a variance to allow the re-construction of a boathouse to extend 40 feet into Lake Berry in lieu of the maximum distance of 30 feet from the ordinary high water elevation of 70.0'.

Located at 1751 Lake Berry Dr. Zoned: PURD

George Wiggins, Director of Building, stated the applicant is requesting a variance to allow the re-construction of a boathouse to extend 40 feet into Lake Berry in lieu of the maximum distance of 30 feet from the ordinary high water elevation of 70.0'. Mr. Wiggins stated that the applicant had indicated that more than 50% of the boat slip area is dry. Tim Eagan Lakes Division Manager, was consulted and stated by e-mail he had no objection to this variance because of the location and shoreline with the configuration of the proposed boat house and dock.

Jeff Jontz asked what the normal water level of the lake is now, and is it at or near the normal level at time of application. Patrice Shirer expressed a concern that if the water level could come up from rain then the variance may not be needed. It was also asked if any letters of opposition or approval were provided. None were provided for this meeting. Ann Higbie asked if the deck area needed to be out at the end of the dock area, also at 40 feet.

Ron Tegeler, applicant, stated he originally applied through the Lakes Advisory Board and that the water mark has been consistent at its current level for several years. Ann Higbie again expressed concern as to why it is

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necessary for the sun deck to be out at the end of the dock. Mr. Tegeler explained that if the sun deck was moved back it would obstruct the view of those using the deck as well as making it difficult for a boat to pick up and drop off passengers.

Patrice Shirer stated she was not sure she was convinced of a hardship and also expressed concern of the sun deck being out at the 40 foot level. Mr. Tegeler stated the consistent low water level is the hardship, and that if the boat slip were moved back to the 30 foot mark, 5 feet of the boat slip would be on dry ground.

A lengthy discussion with regards to the location of the sun deck ensued with several suggestions of ways to create a less imposing area at the 40 foot mark.

### **Findings:**

The board stated with some reservations concerning the sundeck that the water level does create a hardship. However it was stated by Jeff Jontz that a low water level hardship could set a precedence going forward for lakefront property owners and he asked that the board members take this in to consideration.

### **Action:**

Based on the findings Ann Higbie made a motion, seconded by Jeff Jontz to amend the decision separating the boat slip from the sun deck before approval. The amendment did not pass. John Simpson made a motion, seconded by Robert Trompke, to approve the variance as presented. The request was approved 4 to 3 with Patrice Shirer, Ann Higbie and Jeff Jontz voting in opposition.

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2. Request of Lawrence Smith for a variance to allow the construction of a swimming pool and deck located 5 feet and 2.5 feet from the rear lot line in lieu of the required setbacks of 10 feet and 5 feet respectively.

Located at 1531 Grove Terrace

Zoned: R-1A

George Wiggins, Director of Building, stated the applicant is requesting a variance to allow the construction of a swimming pool and deck located 5 feet and 2.5 feet from the rear lot line in lieu of the required setbacks of 10 feet and 5 feet respectively. Mr. Wiggins stated that the three abutting properties have provided letters of non-objection. Mr. Wiggins also stated the lot is unusual in shape and size.

Lawrence Smith, applicant stated that due to his wife's medical disability, the back yard has become inaccessible because of her limited mobility. However Mr. Smith stated it is the irregular shape of the lot that causes the hardship in being able to meet setback requirements. Mr. Smith stated the plans were specifically designed to not impose any more than necessary to the surrounding properties.

Mrs. Grace Perkins, a neighbor at 1565 Grove Terrace spoke in favor and support of the variance request.

**Findings:**

The board stated the unusual shape of the lot, is a hardship, with regard to the rear setback.

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### **Action:**

Based on these findings Patrice Shirer made a motion, seconded by Phil Kean to approve the variance. The request was approved 7-0.

3. Request of Norman Nesmith for variances to allow the construction of a building addition with the following variances:

Two story addition on the south side of the existing home with an 8.2 foot side setback in lieu of 10 foot and front setbacks of 25 feet to the first floor and 30 feet to the 2<sup>nd</sup> floor.

Located at 720 N. Pennsylvania Ave.

Zoned: R-2

George Wiggins, Director of Building, prefaced the presentation of this variance, stating that this request came before the board in the August and September meetings of 2012. Mr. Wiggins stated that in the August meeting of 2012, there were several variances requested for a duplex structure at this location. At that time the board passed a motion allowing the applicant to waive the three year waiting period. The applicant came back in September with revised plans, at which time the board granted a variance for the duplex but not for the building setbacks or parking space variances. Mr. Wiggins asked that the board determine if the September meeting fulfilled the variance requests at that time and if the applicant now falls under the three year waiting period.

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**Findings:**

It was the opinion of the members of the board that the variance hearing in September of 2012 was a final decision and any other requests would require the three year waiting period. Patrice Shirer requested a clarification of the three year rule. Mr. Wiggins stated that originally once a variance was denied it was a permanent decision, but because situations with properties and owners change over the years, it was determined that there would be a rule put in place with regard to variance applications to allow an applicant to return after 3 years.

**Action:**

Based on these findings Jeff Jontz made a motion, seconded by Ann Higbie to adhere to the three year ruling and not hear the case. The motion was passed 6-0. Patrice Shirer abstained.

4. Request of Michael Wenrich for a variance to allow the construction of a swimming pool screen enclosure with an area of 1,674 square feet (13.8% of lot area) in lieu of the maximum allowed area of 968 square feet (8% of lot area).

Located at 481 Shepherd Ave

Zone: R-1A

George Wiggins, Director of Building, stated the applicant is requesting a variance to allow the construction of a swimming pool screen enclosure with an area of 1,674 square feet (13.8% of lot area) in lieu of the maximum allowed area of 968 square feet (8% of lot area).

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Mr. Wiggins stated that the applicant is requesting a screen enclosure with an additional 593 square feet over the amount allowed by the code. Due to the size of the house they are able to use an additional 106 square feet toward the screen enclosure, however this still leaves them with a 4.9% overage. Mr. Wiggins was asked if this is an impervious issue and he stated it is a bulk and mass issue.

Michael Wenrich, representative, stated the pool area is sized for family use, and that the pool and decking meet all setback requirements. Patrice Shirer asked what would be considered the hardship for this variance. Mr. Wenrich stated the hardship is that the pool and decking meet all setback requirements but are not able to screen the pool area.

**Findings:**

Lucy Morse stated if the hot tub area were reconfigured it could be closer to meeting code requirements. It was suggested by Ms. Morse that the current proposal may not be approved. Ann Higbie stated it is new construction and there would be no reason to consider it as proposed.

**Action:**

Based on the discussion by the board Jeff Jontz made a motion, seconded by Robert Trompke to table this request. The applicant was given up to three months to reconfigure their plans and re-present their variance. The motion was passed 7-0.

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**Other Business**

Election of the Chairs; Ann Higbie made a motion, seconded by Jeff Jontz that Lucy Morse be re-elected as the Chairperson. The motion was passed 6-0. Robert Trompke made a motion, seconded by Ann Higbie that Phil Kean be re-elected as 2<sup>nd</sup> Chair.

George Wiggins, Director of Building, presented an amended accessory structure ordinance to include statues, for the board members to review and critique. The members requested they take the ordinance and bring back suggestions at the June 18, 2013 meeting.

*Carla Bahlmann*

**Carla Bahlmann**  
**Recording Secretary**



