



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**April 21, 2015
5:00 p.m.**

MINUTES

PRESENT

Acting Chair Jeff Jontz, Robert Trompke, Cynthia Strollo, Ann Higbie and Alternate Brian Mills. Director of Building George Wiggins and Recording Clerk Theresa Dunkle. Absent: Chair Phil Kean, Vice Chair John Simpson and Patrice Shirer

APPROVAL OF MINUTES

Ann Higbie made a motion, seconded by Robert Trompke, to approve the minutes from the March 19, 2015 meeting. The minutes were approved by a vote of 5-0.

OPENING STATEMENT AND PUBLIC COMMENTS

Mr. Jontz explained the rules of procedure for variance cases and opened the floor for any public comments or questions. Jeff Jontz asked the applicants if they wished to table or defer their case until next month, due to the absence of two board members. All applicants wished to be heard at the present meeting.

NEW BUSINESS

1. Request of Creative Deck & Dock for variances from Section 58-87 "Lakefront lots,...boathouses and docks" subsection (c) to allow the construction of a boathouse with an area of 619 square feet in lieu of the maximum permitted area of 600 square feet and extending 36 feet beyond the ordinary high water line of Lake Berry in lieu of the maximum allowed distance of 30 feet.

Located at 701 Balmoral Road Zoned R-1AAA

George Wiggins, Director of Building re-stated the request and gave the following staff report:

The applicants are requesting a variance to allow the construction of a boathouse extending 36 feet beyond the ordinary high water line of Lake Berry; whereas, the maximum allowed distance is 30 feet. The request to enlarge the boathouse was withdrawn.

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The existing boathouse is being replaced due to age, lack of functionality and only having a 7' wide boat slip. The existing boathouse extends out approximately 37', from the ordinary high water line. The additional 6' extension requested, beyond the 30' allowed, is length needed to extend the boathouse out to water depths sufficient to allow mooring the boat during the dry season of the year.

Our Lakes Board has reviewed this request at their meeting on 4/15/15 and made recommendations as delineated in an enclosed email from the Board Chair, Todd Weaver. Those recommendations are being addressed by the applicant who is reducing the proposed area of the boathouse so as to eliminate the need for that variance and has provided documentation on the water depths to show the difficulty in bringing a boat into the boathouse during the periods when shallow water is present in Lake Berry.

Additionally, an aerial photograph is provided showing that the existing dock is recessed further back than adjacent boathouses on neighboring properties.

We have received letters of non-objection from the most impacted abutting property owners, David and Michelle Nicol, who reside on the south side, where this boathouse will be built. The letter documents that they have no objections to allowing a 5 foot side setback.

Provided are copies of the Board of Adjustments minutes, survey, approval letter and final permitted plan for a boathouse at 709 Balmoral Road, where a previous variance was granted to allow a boathouse to extend 39 feet into the Lake on 2/17/09. This property is located 2 lots to the south of the subject property.

The owner, Dennis DeVona, stated the home, and structure to be replaced, was built in the 60's and has been in his wife's family for many years. Mr. DeVona said the 30' distance required by the current code will be a problem in the dry season due to the shallow water depth. He asked the board to consider that another neighbor was granted a boathouse variance for a 39' extension. Mr. DeVona would ideally like the structure to extend 39'; but will abide by his original request for a dock and boathouse extending 36' from the ordinary high water line. He showed the Board a diagram depicting the low water depths during certain times of the year.

FINDINGS

The Board reiterated that the proposed boathouse projects out no further than the existing structure and does not protrude further than adjacent structures, due to the concave location. The neighbor closest to the boathouse has no objections.

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ACTION

Based on the findings, Robert Trompke made a motion to approve the variance for the 6 foot extension, seconded by Ann Higbie. The motion passed by a vote of 5-0.

2. Request of Kathryn Mitchell for variances from Section 58-66 "R-1A & R-1AA Districts" subsection (f) to allow the construction of a master bathroom and porch addition without required articulation located 7.5 feet from the side lot line, and 21.5 feet from the rear lot line in lieu of the required setbacks of 10 feet and 25 feet respectively.

Locate at 672 Brechin Drive Zoned: R-1A

George Wiggins, Director of Building re-stated the request and gave the following staff report:

The applicant is requesting variances to allow the construction of a master bathroom and future screen porch addition without required side wall articulation and without minimum side and rear set-back distances. The proposed addition is located 7.5 feet from the side lot line, and 21.5 feet from the rear lot line; whereas, the required setbacks are 10 feet and 25 feet respectively.

The Code requirement for wall articulation on an existing home undergoing expansion requires articulation when the new addition exceeds 12 feet and when the existing side wall is up to 48 feet long. In this case, the existing side wall is slightly over 49 feet and the proposed addition is 12.7 feet. Therefore, the home and addition are very close to the allowable limits for articulation. This appears to be good case to allow this addition without articulation because adding the 2 feet by 6 foot length of an inset articulation will have a major impact on the design of the addition.

The existing nonconforming side setback of 7.5 feet can be expanded at this same setback as proposed with a letter from the adjacent property owner. However, the adjacent property is a vacant home and the applicant has not been able to contact the owner. Therefore, a variance is needed to allow the side setback at 7.5 feet.

Regarding the rear setback encroachment, the depth of this lot is only 114 feet. Limiting the additions to 9 feet, to meet the 25 foot rear setback, will result in nearly unusable space with regard to function. Most of the homes in this area, including this home, were built in the 1960's when the rear setback was only 10 feet.

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The proposed additions do not exceed the allowable floor area or impervious coverage for this property.

We have received 3 letters from nearby neighbors regarding this request, expressing no objections.

Kathryn Mitchell, applicant, stated that the proposed addition is for a master bathroom that includes some accessible maneuvering within the space. She feels maneuverability would be difficult to achieve with a smaller addition. Ms. Mitchell has spoken with one adjacent neighbor who has no objection to the proposed design. The other adjacent lot has been vacant for years and the owner could not be reached. Ms. Mitchell stated that the neighbor, who will view the side wall without articulation, has no objections to the design.

FINDINGS

Due to the following; no neighbor dissent, side neighbor approval at the non-articulated side, and the shallow lot hardship, a majority of the board members in attendance, voiced no opposition to the proposed request.

ACTION

Based on the findings, Jeff Jontz made a motion, seconded by Robert Trompke to approve the variance. The motion passed 4-1.

OTHER BUSINESS

1. Revisiting and Endorsing Shallow Lot Ordinance to the City Commission.

George Wiggins, Director of Building re-stated the request and gave the following staff report:

As many of you may recall, last year as a result of a variance requested at a shallow depth lot at 461 S. Virginia, an ordinance was prepared to deal with special rear setbacks allowed for lots that are unusually shallow in depth along with other needed clarifications or changes in our residential zoning code standards that have come to light over the last couple of years. This Board endorsed those changes. Then, the Ordinance went to the Planning and Zoning Board who unanimously recommended approval of the Ordinance to the City Commission. The Ordinance then was heard at the end of an agenda of a Commission meeting in which a very controversial Comprehensive Plan change was withdrawn due to a large amount of public concern over density. When the Commission got to this Ordinance, there was confusion over what these changes did and perhaps a false perception that these setback changes created more

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density on a residential lot. Obviously, this is not the case because the floor area ratio and impervious coverage control, the density on each residential property and these standards do not change.

In any case, the Ordinance was tabled by the Commission, but has never been requested to come back. Therefore, after consulting with other staff, I feel the provisions are badly needed and ask that this Board re-endorse this Ordinance and seek approval from the City Commission to re-visit passing these changes.

Included in this packet is a copy of the Ordinance which not only deals with shallow lots but streamlines the permitting process in Section 1 by eliminating an unnecessary deed restriction requirement, clarifies language regarding articulation features in Section 3, corrects an impervious coverage percentage error in Section 4, and clarifies and adds an additional design option for front facing garages.

Jeff Jontz asked if any changes were made to the proposed ordinance received in their packages. Cynthia Strollo stated she saved a copy of the ordinance previously approved by the Board Of Adjustment and compared it with the one in this package, and she confirmed there are no changes.

FINDINGS

The Board recognized the challenge of building a home, or an addition to a home, on shallow lots at a rear setback of 25 feet. Adoption of the proposed ordinance may alleviate the numerous homes on shallow lots from having to go before the Board of Adjustments.

ACTION

Therefore, Cynthia Strollo made a motion, seconded by Ann Higbie, to approve resubmitting the ordinance to the City Commission and recommending approval. The motion was approved 5-0.

The meeting was adjourned at 6:00 pm

Theresa Dunkle
Recording Clerk