



**CITY OF WINTER PARK  
Board of Adjustments**

**Regular Meeting  
City Hall, Commission Chambers**

**August 20, 2015  
5:00 p.m.**

**MINUTES**

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**PRESENT**

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

**APPROVAL OF MINUTES**

Jeff Jontz requested the action for the variance approval at 1200 Golfside Drive note that two board members voted in the negative. Laura Turner made a motion, seconded by Robert Trompke, to approve the July 21, 2015 meeting minutes as amended. The amended meeting minutes were approved by a vote of 6-0.

**OPENING STATEMENT AND PUBLIC COMMENTS**

Mr. Mills explained the rules of procedure for variance cases and Jeff Jontz opened the floor for any public comments or questions.

**NEW BUSINESS**

1. Request of Bill and Barbara McCue for variances to allow the construction of building additions to be located 20 feet from the rear lot line, in lieu of the required setback of 25 feet; and to allow the addition on the south side to be located 9.8 feet from the south side lot line, in lieu of the required side setback of 11 feet.

Located at 1901 Legion Drive

Zoned: R-1AA

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

The subject home is one story and the applicants desire to add living area to the rear of the home for a new family room and new master bedroom. Both additions line up with the current side walls of the home; however, the south side of the home has a nonconforming setback of 9.7 feet, slightly under the required side setback of 10 feet.

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This property is a through lot and backs up to another street which is Bett Mar Lane, in a similar manner as the adjacent lots to the south. Therefore, the Bett Mar frontage is considered a rear yard and requires a rear yard setback of 25 feet. The adjacent property to the south has a garage at the rear of the lot with an approximate side setback of 7 feet and rear setback of 7.5 feet, which is nonconforming. This garage was built at a time when the rear setback was allowed to be 5 feet in 2002. Since that time the rear setback for garages has been increased to 10 feet due to the size of most new garages.

The applicant describes their proposed building articulations as variances; however, the proposed design complies with the criteria in our zoning code and does not need variances for this part of their request.

The proposed additions (1,084 sq. ft.) do not exceed the allowable floor area ratio or impervious coverage for this property.

We have received three letters regarding these variance requests. Two are letters of non-objection from nearby neighbors, and one is from the adjacent neighbor on the south side, who has expressed no opinion about this request, but does express concern that a large tree on the south side of the applicants' front yard not be removed during the construction and modifications to this home.

The applicants, Bill and Barbara McCue, explained their request and responded to Board questions regarding the feasibility of reducing the courtyard width to allow increasing the side setback distance. Mr. and Mrs. McCue provided a poster of their proposed floor plan, to help visualize the difficulty of a roof offset. Mr. McCue stated that maintaining symmetry of the two additions, maintaining existing windows and matching the existing side setback, drove their proposed design.

The Board asked the applicants if the tree located on the south side of the front yard will remain; since it was mentioned in a letter received from a neighbor. The applicants stated that the referenced tree is a Japanese Elm and that it would be protected during construction. They concurred there are no plans to remove the tree.

### **FINDINGS**

The Board stated there is no change to the existing side setback and the hardship is the difficulty of tying into the existing roof line configuration of the home.

### **ACTION**

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Based on these findings, Robert Trompke made a motion, seconded by Brian Mills to approve the variances with the condition that the front tree be protected during construction. The request was approved by a vote of 6-0, with the tree protection condition.

2. Request of Ken Sheldon for variances to allow the conversion of an existing single family dwelling into a duplex dwelling with side wall setbacks of 4.4 feet on the west side and 5.4 feet on the east side, in lieu of the required setbacks of 7 feet; and to allow the provision of 2 additional required parking spaces in the front setback area, in lieu of providing spaces behind the required 25 foot front setback; and to allow dwelling unit sizes of 985 square feet and 821 square feet, in lieu of the minimum required area of 1,000 square feet.

Located at 1390 Miller Ave

Zoned: R-2

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

As a result of a permit issued for an electrical permit on this property, it was brought to Mr. Wiggins' attention by one of our inspectors that an additional electric meter was requested for a rear dwelling unit. After confirming that our utilities departments (water and electric) do not have any record of this home being converted into a duplex, a violation notice was sent by Winter Park's Code Compliance office to the owner to return the home to a single family dwelling. In addition, the new owner requested an additional second address for this property, which was initially approved and then rescinded, when discovered that this home does not qualify to be converted to a duplex.

The owner decided to apply for the necessary variances to allow this building to become a legal two family dwelling. Mr. Wiggins advised that this would be a difficult variance to achieve and that several variances are needed to allow this conversion as enumerated above. In addition to the variances requested above, under today's R-2 Zoning Code, for lots 65 feet in width or less, parking must be provided behind the front dwelling unit, which is impossible on this lot due to the location of the home.

Prior to this hearing, we received 6 letters and one phone message regarding these variance requests. One letter at 1430/32 Miller was signed by an owner occupant. One was signed by a person (James Oleary) with an address (1040 Schultz Avenue)

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that could not be found. Three were signed by renters in the City and a fourth was signed by a renter outside the City. The phone message was from the daughter in law of Mary Schultz (owner at 1409 Miller) who stated that due to health Ms. Schultz could not attend the meeting but wished to relay that she strongly opposes the variances. Another resident property owner on the street came by and also expressed strong opposition and stated he will be providing several letters of opposition prior to the meeting from other property owners/residents on the street.

The Board asked Mr. Wiggins what permits were pulled at this address. Mr. Wiggins said an electrical application was received for a second meter and a second address was given; however, the second address was rescinded after it was clear the duplex does comply with the zoning code. Mr. Wiggins said all other work was done illegally. The Board asked Mr. Wiggins if the property was listed as a single family residence up until last year. Mr. Wiggins confirmed this and explained that an email from the Orange County Property Appraiser was received clarifying that the classification was changed to a duplex this year, in error; the change was based solely on a phone call request from the realtor and the owner without any verification from the city.

Mr. Eugene Roberson Jr. stated he is the contractor hired to correct the code enforcement violation. He said it was his understanding that the violation was for the triplex conversion. He applied for a permit, requesting a second electrical meter, to begin the process of legally converting the home into a duplex. In response to a Board question, Mr. Roberson Jr. stated the hardship is that the current owner wants to utilize the structure as a duplex.

Mr. Ken Sheldon, the applicant and real estate agent, came forward at the Board's request. He stated he owned the property for one month and that it was configured as a triplex when he purchased it.

Six neighbors, Douglas Knight, Jacqueline Jackson, Enrique Perez, Steven Brown, Ron Anderau and Lance Frankham spoke in opposition to the conversion of the Single Family Residence into a duplex. Their concerns revolved around the limited parking, overcrowding, devaluation of property values and tree removal. In addition, Jacqueline Jackson provided twenty written letters of opposition to the board, from Miller Avenue residents.

Mr. Roberson Jr. rebutted that he concedes parking is a problem; however, other homes on the street have front yard parking.

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The Board asked the Building Official what the City will do if the variances are not granted. Mr. Wiggins said the home will be required to be reconverted into a single family residence.

### **FINDINGS**

The Board acknowledged the sizable opposition received from affected neighbors. The Board noted the small size of the total building and the illegal conversions, which divided it into even smaller dwellings. No finding of hardship was made by the board.

### **ACTION**

Based on these findings, Robert Trompke made a motion, seconded by Cynthia Strollo to approve the variances. The request was denied by a vote of 6-0.

3. Request of Toby and Kelly Hines for variances to allow existing side setbacks to remain at 9.95 feet (east side) and 7.6 feet (west side) in lieu of the required setbacks of 10 feet; and allow a second floor side setback of 12.9 feet, in lieu of 16 feet on the east side; and allow a first floor wall extension of 8 feet at the existing 7.6 foot setback with the demolition of more than 50% of the home

Located at 1725 Carollee Lane

Zoned: R-1A

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

In order to save the existing original elevated wood floors for this home the applicants are requesting variances to allow an extensive remodel and second floor addition that retains the existing nonconforming side setbacks and includes adding 8 feet of wall along the west side to allow a bath addition in line with the existing side wall.

The side walls are to remain at a height of less than 10.5 feet which allows the smaller side setback of 10 feet under the current code instead a side setback of 12 feet for higher side walls up to 12 feet which are common on new homes. In addition, in order to retain use of the existing foundation and masonry stem wall along the side, the request includes allowing the omission of side wall articulation.

Other architectural features are employed to offset the need for articulation such as providing an attractive stone band at grade level around the home, and providing significant offsets of the second floor area with wall offsets at that level.

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With 1,881 square feet of additional floor area, the floor area ratio and impervious coverage allowance is not exceeded.

We have received three letters of non-objection regarding these variance requests from nearby residents.

The Architect, Robert Harris, spoke for the applicants, identifying that the home was built in the 1960's with small rooms and his clients desired larger rooms and the ability to retain the existing elevated wood floors to a great extent. Reduced setbacks would allow for livable room sizes.

The Board asked the Architect if side wall articulation could be achieved by shifting the bathroom. He said it could but would not be the best design and that articulation was difficult due to the location of the existing stem wall and floor system.

Two neighbors on Carollee Lane, Mr. Geller and Mr. Goffried, urged board members to approve the request, stating the variances were minor, the addition would improve the street appearance, and that much care and thought was put into the design of the home.

The Board discussed the request; they pointed out the variances were minor and that neighbors came to speak in support of the request.

### **FINDINGS**

The Board stated the hardships are the location of existing elevated foundation wall and the narrow lot.

### **ACTION**

Based on these findings, Ann Higbie made a motion, seconded by Robert Trompke to approve the variances. The request was approved by a vote of 6-0.

4. Request of Edward Valley for a variance to allow the construction of a swimming pool and deck to be located 44.8 feet from the ordinary high water line of Lake Bell, in lieu of the required setback of 50 feet.

Located at 1027 Lake Bell Drive

Zoned: R-1A

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

In order to construct a swimming pool with dimensions of 32 feet in length and 13 feet in width behind an existing home and allow 3 feet of pool deck, the applicant

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requests a variance to encroach 5.2 feet. Although there is an area of the rear yard over 50 feet from the water line where a pool might be located, a septic tank and drain field exists in that area making it an unusable site placement.

The proposed location of the pool also is the most desirable based on the layout of the home and the existence of a patio in the proposed area.

The applicant points out that the property and shore line is in a location on the lake where there is a curved shore line which adds to the difficulty of meeting the 50 foot setback.

The proposed pool will add 962 square feet of impervious area to the property for a total impervious coverage of 4,964 square feet which is well under the allowed area of 7,264 square feet.

We have received one email letter of non-objection regarding these variance requests from an adjacent resident.

The applicant, Mr. Edward Valley, stated he has resided at the address for the past ten years. He reiterated the hardship is the curved shoreline and the septic tank location, which reduces the buildable pool area.

The Board discussed the request stating both abutting neighbors sent emails of non-objection. They agreed the septic tank location limited the buildable area.

### **FINDINGS**

The Board stated the hardship is the septic tank location causing very limited locations to place a modest size pool without encroaching into the 50 foot lakefront setback.

### **ACTION**

Based on these findings, Robert Trompke made a motion, seconded by Laura Turner to approve the variances. The request was approved by a vote of 6-0.

The meeting was adjourned at 6:40 pm

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Theresa Dunkle  
Recording Clerk