



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**November 17, 2015
5:00 p.m.**

MINUTES

PRESENT

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

APPROVAL OF MINUTES

Ann Higbie made a motion, seconded by Brian Mills, to approve the minutes from the October 20, 2015 meeting. The minutes were approved by a vote of 6-0.

OPENING STATEMENT AND PUBLIC COMMENTS

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

OLD BUSINESS

1. Request of Priscilla Ann Hill for a variance to allow the construction of a carport addition to be located .6 feet from the side lot line, in lieu of the required side setback of 10 feet, and to allow the construction of an elevated deck 1.8 feet from the northwest side lot line and 4.3 feet from the east side lot line, in lieu of the required side setback of 9 feet, and allow permission to further exceed the allowable impervious coverage by 188 square feet (1.8%).

Located at 1358 Richmond Road

Zoned: R-1AA

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

The applicant is requesting a variance to allow the construction of a carport addition to be located .6 feet from the side lot line, whereas the required side setback is 10 feet and this structure will add 188 square feet of extra impervious coverage resulting in 56.3% with the maximum allowed at 50%. In addition, the request includes a request to allow the construction of an elevated deck 1.8 feet from the northwest side lot line and 4.3 feet from the east side lot line whereas the required side setback is 9 feet.

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The proposed deck is elevated to a level which is 9 feet above the existing grade and will extend around the rear and sides of an upper level existing recreation room. The first floor is an existing garage which is 16.2 feet in width. The owner feels that she needs another covered parking space, which is the reason for requesting adding a carport next to the garage. The proposed carport has dimensions of 9.3 feet in width by 20.3 feet in length, for an area of 189 square feet.

With regard to the deck, it appears that a functional deck could be achieved with larger side setbacks by reducing the amount of encroachment to only 2 feet on each side. This would increase the side setbacks to 7' on each side, whereas a 9' setback is required.

With regard to the carport, it appears that a carport structure could be built in front of the garage to allow additional covered parking area.

Under new provisions in the Florida Building Code, any overhang or roofed structure within 5 feet of a property line must have a one hour fire rating. Should any of these variances be approved then the underside of the carport and the decking within 5 feet from the property line must be protected as required by the Building Code.

Two email messages have been received from abutting residents expressing strong opposition to the variances requested.

If approved the following two items must be addressed; the existing emergency generator must meet all required clearances and the proposed construction must comply with the Florida Building Code-Residential 5th edition fire protection requirements.

Mr. Wiggins responded to Board questions regarding exceeded impervious coverage, non-conformance of the existing garage, and existing window locations.

The designer, Patrick Caiazza, stated the hardship is the pie-shaped lot and limited backyard area. The owner, Priscilla Hill said the use of the deck would be for exterior dining.

Dr. Randy Gittess, who resides at 1352 Richmond Road, spoke in opposition to the request and said the applicant is using the room labeled "recreation room" as an apartment and that a deck over the generator would funnel sound to his property.

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Mr. Bill Sullivan, who resides at 1362 Richmond Road, said he does not approve of smaller setbacks on the stair side adjoining his property.

Ms. Kathryn Campbell, who lives across the street at 1351 Richmond Road spoke generally in favor of the request and noted that Ms. Hill supported Mr. Sullivan's variance request and felt that everyone should be more respectful to each other's position on this matter and work toward a solution.

The designer suggested tabling the request, to allow time for a redesign that accommodates the neighbors' concerns.

The applicant confirmed that the recreation room is used as a guest room for her family from time to time.

FINDINGS

The Board did not see a hardship and felt too much was proposed in too small an area. The Board stated that the neighbors need to work together before reapplying for a variance and asserted that approval is not guaranteed, even with neighbor approval.

ACTION

Based on these findings, Jeff Jontz made a motion, seconded by Patrice Wenz, to approve the request. The motion failed by a vote of 0-6, and the variance was denied. In regard to the applicant's request to table, Jeff Jontz made a motion to waive the three year waiting period to reapply for this variance. This was seconded by Brian Mills and the motion was approved by a vote of 4-2, with Ann Higbie and Patrice Wenz voting in opposition. This action allows the applicant to return with a similar but modified request without having to wait three years.

NEW BUSINESS

2. Request of Ellen Reckmeyer for a variance to allow a fabric covered carport structure to remain located 14 feet from the front lot line and 7.4 feet from the side lot line in lieu of the required front setback of 30 feet and required side setback of 9 feet.

Located at 940 Moss Lane

Zoned: R-1AA

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

The applicant is requesting a variance to allow a fabric covered carport structure to remain located 14 feet from the front lot line and 7.4 feet from the side lot line whereas the required front setback is 30 feet and required side setback is 9 feet.

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This is an after-the-fact request that came about as a result of a complaint to our department. Apparently, the carport was erected several months ago by a company that typically installs these types of structures, and they did not request or pull a permit. I have contacted the company that installed this structure, The Awning Factory, and their representative is at this meeting.

The applicant states that she cannot get her car into the existing undersized garage, needs protection for her vehicle and that it helps to prevent the accumulation of into the garage, which leaves a very slippery surface condition on the driveway.

In looking at the layout of the home on this lot, without rebuilding the existing garage there does not appear to be any other location to build a covered parking structure, however, this does result in a substantial encroachment into the front setback. I suggested that the applicant meet with the awning company and consider scaling back the size of the structure to create less encroachment into the front setback. I also stated that the company that installed this is also responsible for seeking a remedy since they installed this without a permit.

We have received 7 letters of non-objection from abutting or nearby residents.

Carolyn Crichton, Esq., attorney of Ellen Reckmeyer, stated the hardship is the lack of maneuvering space within the single car garage and the slippery driveway surface.

Neighbor, Louis Van Breeman spoke in favor of the carport, stating the canopy provides protection from Oak tree debris.

Awning factory representative, Avi Roitman stated Ms. Reckmeyer's sales contract specified "no permitting". The applicant was not charged a permit or engineering fees and often applicants pull their own permits.

Jennifer Anderson spoke in favor of the awning. She knows the applicant's parents and feels they need the protection the canopy offers.

Mr. Wiggins suggested opening the existing garage's side walls, as an option to afford more room to get in and out of the vehicle. Mr. Wiggins confirmed that if a permit had been requested, then this would likely not be before the Board because of the severe encroachment into the front setback.

FINDINGS

Board members voiced the maneuvering space of the existing one car garage is typical for the majority of single car garages throughout the city. They did not see a hardship without viable alternatives and felt requested encroachment is too great.

ACTION

Based on the findings, Patrice Wenz made a motion seconded by Jeff Jontz to approve the request. The motion failed by a vote of 0-6, and the variance was denied.

3. Request of Benjamin McCoy for a variance to allow the enclosure of an existing carport and the removal of a required parking space for the dwelling.

Located at 1830 Bryan Avenue

Zoned: R-1A

George Wiggins, Director of Building, stated that the applicant has provided an email dated November 16, 2015 requesting that this request be tabled "to next month" due to medical reasons.

FINDINGS

None of the board members voiced any concerns.

ACTION

Based on the applicant's email request, Laura Turner made a motion, seconded by Brian Mills to approve the request to table the variance request until December 15, 2015. The motion passed by a vote of 6-0 and the request was tabled.

4. Request of Paul and Paula Loftus for variances to allow the construction of a combined garage and pool cabana with a rear setback of 10' in lieu of the required rear setback of 25 feet with a total area of 1,262 square feet in lieu of the maximum permitted area of 1,100 square feet.

Located at 847 Golfview Terrace

Zoned: R-1AA

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

The applicants are requesting variances to allow the construction of a combined garage and pool cabana with a rear setback of 10 feet whereas the required rear setback is 25 feet and having a total area of 1,262 square feet whereas the maximum allowed area is 1,100 square feet.

The applicants are demolishing the existing home which is located at the extreme rear of the property. This home included additions which had been granted a

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setback variance back in 1987 to allow a 4.3 foot rear setback to a kitchen addition/expansion onto the home which was already at a setback of 9.3 feet.

The new home, and combined garage/cabana will meet the allowed floor area and impervious area, however, instead of building a separate detached garage and cabana, the applicants would like to construct these two building elements together and avoid the required 5 foot separation requirement between accessory buildings. Combining the two structures results in having to meet the current 25 foot rear setback requirement and maximum allowed area for a detached garage of 600 square feet and 500 square feet for a cabana. The applicant has added an additional 162 square feet of porch area onto the cabana resulting in exceeding the allowed maximum area for a cabana.

If the garage and cabana are separated by five feet, although there would be no rear setback encroachment, the allowed area for the cabana would be exceeded by 162 square feet. Typically, pool cabanas already have a partially or totally open roof covered area. In this case, the entire allowed 500 square feet of the cabana is enclosed with an open porch added. This combined garage/cabana is also under the permitted height of 18 feet.

At this point, we have not received any letters regarding this variance request.

The Architect, Thomas Lamar spoke on behalf of the applicant. He stated one building will look better than two structures. The 162 square feet overage is for the open porch to soften the elevation.

The applicant, Paul Loftus, stated that the hardship is the fifty foot front yard setback and since Golfview Terrace is curved, the front setback is seventy feet at one side.

FINDINGS

The Board discussed the acceptance of a single building, if the square footage is within the total allowable area of 1,100 square feet. Some saw no hardship, due to new construction, stating there are plenty of irregularly shaped lots.

ACTION

Based on the findings, Jeff Jontz made a motion to approve with the condition that the garage/cabana building be limited to the allowable 1,100 square feet; this was seconded by Brian Mills. The motion failed by a vote of 3-3, with Laura, Patrice and Ann voting in opposition. Patrice Wenz made a motion to approve the variance request as presented; this was seconded by Laura Turner. The motion failed by a vote of 0-6.

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5. Request of Selven Pursooramen for variances to allow the re-construction of a dwelling after demolition of more than 50% of the structure and retaining the following non-conforming setbacks: 12.2 feet front setback in lieu of 25 feet, and 8.8 feet south side setback in lieu of 13 feet.

Located at 2550 Temple 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 re-construction of a dwelling after demolition of more than 50% of the structure and retaining the following non-conforming setbacks: 12.2 feet front setback in lieu of 25 feet, and 8.8 feet south side setback in lieu of 13 feet.

The original home on this property was built in unincorporated Orange County prior to annexation 15+ years ago and has an unusually shallow front setback. A variance may have been granted or the road right of way may have been widened to the current 70 foot width causing this front setback condition. The front setback to the sidewalk is approximately 25 feet which a fairly normal front setback in a new subdivision.

When a nonconforming home undergoes demolition to the extent of removal of over 50%, then any zoning nonconformities on the property must be corrected unless a variance is granted.

The builder for the owner did obtain a permit to build the addition onto the home in conformance with the current code and is not performing any demolition on the main home unless a variance is granted. However, I always recommend that no work take place when a variance is requested that may be needed to complete the full scope of work proposed. A letter is enclosed from the builder (John Keeler) addressing this concern.

If the variance granted the side walls of the home will be raised by two feet and a new roof will be constructed along with gutting and remodeling of the interior.

None of the proposed improvements to this home exceed the allowable impervious coverage or maximum allowed floor area.

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At this point in time we have not received any letter regarding this variance request.

Mr. Wiggins answered questions from the board, clarifying the new design will eliminate the gable end.

Rob Keeler, of JBB Holdings, LLC, spoke on behalf of the applicant. He noted that, with the exception of the approved rear addition, the footprint of the existing building does not change.

The rear neighbor, Ernest Block, spoke in opposition to the recent new addition. However, the Board noted that the addition conforms to all zoning and building codes and is unrelated to this variance request which is for relief from the front yard and south side yard setback requirements.

FINDINGS

Board members noted that the footprint is existing and that the request is primarily related to new roof trusses. The new hip trusses on the front of the home, in lieu of a gable end wall will lower the roof line resulting in less mass from the street view of the home.

ACTION

Based on the findings, Ann Higbie made a motion, seconded by Patrice Wenz to approve the request. The request was approved 6-0.

APPROVAL OF AMENDED MINUTES OF MEETING HELD ON APRIL 21, 2015

Mr. Wiggins pointed out that we recently discovered that an item discussed in the April 21, 2015 meeting was not recorded in those meeting minutes. After review by the Board, Jeff Jontz made a motion, seconded by Brian Mills, to approve the amended minutes from the April 21, 2015 meeting, to include the recommendation to the City Commission to adopt the "The Permit Streamlining and Short Line Ordinance". Since April, a small provision, which limits garage door heights for street facing garages, was added to the proposed Ordinance. The amended minutes were approved by a vote of 6-0.

The meeting was adjourned at 7:11 pm

Theresa Dunkle
Recording Clerk