



**CITY OF WINTER PARK  
Board of Adjustments**

**Regular Meeting  
City Hall, Commission Chambers**

**December 15, 2015  
5:00 p.m.**

**MINUTES**

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**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. Robert Trompke arrived after approval of the minutes at 5:10 PM.  
Absent: Cynthia Strollo

**APPROVAL OF MINUTES**

Ann Higbie made a motion, seconded by Jeff Jontz, to approve the minutes from the November 17, 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.

Jeff Jontz and John Simpson disclosed they spoke with the applicant, Mr. Holland, regarding the variance request at 877 Brock St. In addition, Mr. Jontz received a call from Steven Apple who spoke in favor of the 877 Brock St application.

**OLD BUSINESS**

1. Tabled from the November 17, 2015 hearing, 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, re-stated the request and gave the following staff report:

The existing home is at the required setback for this location and has a grandfathered in one-car carport. Under the Zoning Code, two parking spaces are required behind the front setback. Since only one parking space exists behind the front setback line for this property, this one required space must remain as a viable parking option. In order to enclose the carport for additional living area, the applicant must show a hardship that requires it to be enclosed. Enclosing the carport will result in the elimination of this required parking space which is the subject of this variance request.

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Traditionally, the Board has denied all of these types of requests because it forces more parking to occur in front of the homes and out into the street, and results in the devaluation of the property due to removing the possibility of having covered parking.

Earlier this year, extensive calls and emails with this applicant were exchanged regarding his options. It was thoroughly explained that the Zoning Code does not allow the enclosure of a carport or a garage that contains a required parking space; specific provisions outlining this requirement in the Code were included. At some point the applicant started blocking up the carport and we received a complaint. Our building inspector posted a "Stop Work" order at this home, and the code violation was referred to the City's Code Compliance Office, and notice to appear before the City's Code Enforcement Board was sent to this property owner/applicant. This matter was tabled from the agenda to appear before the Code Enforcement Board to allow this applicant to come forward with a variance application before the Board of Adjustments.

Enclosed photos show that a substantial portion of the work has already been completed.

No letters were received regarding this application.

Mr. Wiggins responded to Board and answered questions regarding other possible locations for parking. Mr. Wiggins stated a 9' wide x 18' deep parking space, behind the front of the home, would need to be provided to allow the enclosure of the existing carport.

The applicant, Benjamin McCoy, presented an email dated 02/10/2015, from Winter Park's plans examiner Kristopher Stenger. The email stated two required parking spaces within the front setback are required, due to the enclosure of the carport. The applicant stated that one parking space is provided.

Responding to board questions, Mr. McCoy said the carport enclosure would provide a quiet workspace, which is necessary for medical reasons related to his disability and that an addition at another location would prove too costly.

Board members questioned the applicant and asked why the proposed parking spaces were not shown on the plan for their consideration. An addition to the rear of the home was suggested as a viable solution to providing a private workspace.

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Mr. Wiggins confirmed that Florida's Accessibility Code only addresses accessible entry into a bathroom for single family residences and does not require any other accessibility feature for a dwelling. However, more extensive accessibility requirements are required for public accommodations and multi-family housing.

Mr. Jontz stated he is not aware of a disability exemption for building without a permit.

### **FINDINGS**

The Board did not find a hardship without alternatives, stating privacy could be provided within the existing home or in the rear yard. Robert Trompke noted he will abstain from voting, due to a business relation with the applicant's designer, Lynn Engineering, and will complete the required state Form regarding the conflict of interest.

### **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. The applicant was given thirty days to return the carport to its original condition.

### **NEW BUSINESS**

1. Request of TLJ Holdings, LLC for a variance to allow the construction of a warehouse building to be located 8.5 feet from the rear lot line, in lieu of the required setback of 30 feet.

Located at 710 Harold Ave

Zoned: C-3

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

The subject property is a lot with dimensions of 50 feet by 135.5 feet (6,775 square feet) and is zoned C-3, General Commercial. In this zoning district, the required rear setback is 30 feet. In the C-1, Shopping Center commercial zoning district, the rear setback is allowed to be reduced to 5 feet when abutting another C-1 zoned property; and our C-2, Commercial District permits a rear setback of 10 feet and no required side yard setback; the zoning for the Central Business District allows building sides to abut each other. I point this out because the similarities within this block, bounded by Jackson, Fairbanks, Minnesota and Harold Avenues, have similarities to a C-1 zoned property which allow the smaller rear setback of 5 feet.

Generally, C-3 zoning properties in areas such as, Orlando Avenue, Fairbanks Avenue and the south side of Aloma Avenue, are much larger properties and have retail stores or restaurants that need the larger rear setback area for service areas. Having one small narrow commercially zoned lot backing up to other commercially

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zoned properties that already have buildings with smaller rear setbacks is unusual, except in this transitional area of the City.

This situation was created when these abutting properties were developed in unincorporated Orange County before annexation into Winter Park and the smaller rear setbacks were allowed in the range of 5 to 10 feet. You can see from the aerial map provided by the applicant that there are several surrounding buildings that do not have rear setbacks of 30 feet.

The proposed use of the building as a warehouse requires minimal parking at a ratio of one space for each 1,000 square feet of gross building area; and 3 spaces are planned to be provided for 3,200 square feet of building area. All other city code criteria, such as storm water retention and landscaping, will be required to be met if this variance is granted. The applicant has proceeded with addressing these areas.

One letter has been received expressing support for this request from the abutting property owner to the rear of this property, at 711 Jackson Street.

Mr. Wiggins responded to Board questions; regarding the annexation of properties in this area, and much of this block is within Winter Park's jurisdiction, with the exception of a few parcels in unincorporated Orange County south of this subject property.

Mr. Wiggins stated the purpose of the 30' setback is to serve as a buffer to rear properties and that we have received a letter of support from the abutting rear owner. The proposed side setbacks already comply. In response to Board questioning, Mr. Wiggins reiterated that C3 zoning is for general commercial use, such as restaurants, retail and auto repair.

Jack Reynolds, the applicant's engineer with TLJ Holdings, confirmed they are converting from waste water access from a septic tank system to City sewer as an improvement for this property and new building. He stated there is no activity in the rear of the proposed building, therefore the smaller rear setback will function well for this site.

Toren Veigle, applicant, and with TLJ Holdings, stated that they are following the setback pattern of adjacent buildings in the area and feel this lesser rear setback will fit in better for this location among other commercial and warehouse type buildings.

### **FINDINGS**

The majority of Board members felt there was no practical reason for a thirty foot rear setback at this location due to other similar buildings nearby, and the building will be an upgrade to the appearance of the area. In addition, the most impacted rear property owner approves of the request. Mr. Jontz voiced concern about the possibility of changing the character of the area.

**ACTION**

Based on the findings, Patrice Wenz made a motion, seconded by Laura Turner, to approve the request. The request was approved by a vote of 6-1, with Jeff Jontz voting in opposition.

2. Request of David and Susan Holland for a variance to allow raising the height of the existing subdivision wall from 4 feet to 6 feet, or allow the construction of a 6 foot high opaque privacy fence.

Located at 877 Brock Street

Zoned: R-1AA

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

The subject property is in an area of the city known as the Park Grove Subdivision, which has the original 4 foot high subdivision wall located across the north boundary of this lot along Dixie Parkway. The property has a front door to the home on Brock Street and is considered a double frontage lot under the Zoning Code, along with four other properties on this street.

Although the Dixie Parkway side of the lot functions like a rear yard, none of the other properties have altered the four foot subdivision wall on the north side. Ideally, if all five property owners were in agreement, then they could collectively increase the height of the wall to six feet which establishes the legal pathway to allow the six foot wall without having to request a variance. The Code allows "the administrative official" to make the determination that these through lots have a "prevailing yard pattern" of rear lot lines on Dixie Parkway, but that action should be taken in unison rather than individually so as not to create varying heights of this distinctive subdivision wall on different properties.

In this case, the applicants are acting alone in wanting to increase the wall height; therefore, I have directed them to the Board to determine whether a variance is possible. At one point in the past, the adjacent property owner on the west side had requested a variance to increase the wall height to 6 feet, but the Board denied that request.

As an alternate, if the wall height is not approved, the applicants seek permission to construct a 6 foot opaque privacy fence at some distance behind or adjacent to the wall.

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We received a petition expressing support signed by 18 property owners in the area and two additional support letters were received today.

The Board asked Mr. Wiggins, why a variance is required, given the City Commission controls subdivision wall heights. Mr. Wiggins responded that the subdivision wall is on private property and that the subject property has a front on both sides of this lot, which is defined as a "through lot" under the Zoning Code with a frontage on two streets.

The applicant, David Holland, presented a power point slide show; documenting various neighboring walls and fencing. He noted the proposed 6' high wall would provide added security and pool protection. Neighbors have opted to install fences behind the wall, which deteriorate and are not as aesthetically pleasing.

The Board asked if the side chain link fencing is being replaced. The applicant responded that the variance request is for the one rear wall only and confirmed that the 2 foot height extension will be painted on both sides, match the existing construction in materials and design, and the top cap will be removed and replaced at the six foot height.

The Board felt the City should encourage adjacent neighbors to raise their walls in unison and may want to consider a blanket approval, however, at this time only this property has come forward with this request. Other nearby property owners could collectively make this request in the future if they are interested.

### **FINDINGS**

The Board stated the request was minimal and has strong support from the neighbors, and the aesthetics of the existing wall will be maintained with the additional height.

### **ACTION**

Based on these findings, Ann Higbie made a motion to approve the request with the stipulation that the wall shall match existing construction. The motion was seconded by Brian Mills and the request was approved by a vote of 7-0

The meeting was adjourned at 6:27 pm

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Theresa Dunkle  
Recording Clerk