



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**March 15, 2016
5:00 p.m.**

MINUTES

PRESENT

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

APPROVAL OF MINUTES

Ann Higbie made a motion, seconded by Jeff Jontz, to approve the minutes from the February 16 meeting, with a clarification that Cynthia Stollo and Patrice Wenz were the two board members who voted in opposition of new business item 2 at 906 Railroad Ave. The amended minutes were approved by a vote of 7-0.

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. Tabled from February 16, 2016; Request of Tom Acomb, for Railroad Studios LLC, for a variance to allow the construction remodeling of a former warehouse space into a mix of office and warehouse with the provision of 10 parking spaces, in lieu of 27 required parking spaces, or allow the provision of leased parking over 300 feet from the subject property to count toward required parking.

Located at 906 Railroad Avenue

Zoned: I-1

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

First, as a review of the February 15, 2016 hearing; under the Zoning Code, the parking criteria for an office type use is one space for each 250 square feet of gross building area and one space for each 1,000 square feet of gross building area for warehouse type uses. The applicant has expressed that their operation has unique characteristics that reduce the parking demand for this business.

Board of Adjustments Minutes

March 15, 2016

Page 2

Based on the uses outlined in the applicant's plans and after discussion of the occupancy of the various areas with the applicant, the required parking for the planned use of this facility is 27 spaces.

The applicant has provided an extensive description of the planned use of this space and states that "on a normal work day, we typically have (3) to (5) employees working in the office space."

If the Board accepts this description of occupancy by the applicant and allows the 10 parking spaces to serve as the only required parking for the remodeled facility, then, I recommend that a condition be placed on the variance as follows:

The applicant must execute a legal agreement recorded in Orange County Property records and on file with the certificate of occupancy of this project stating that the parking variance granted by the Board applies to this current occupant, Acomb and Ostendorf & Associates, Railroad Studios, LLC and upon termination or vacation of this property by this occupant, this parking variance shall expire and no longer be in effect.

We have received a letter from the abutting business owner expressing no objection to this variance request.

Second, and new to this March 15, 2016 meeting; the applicant revised the floor plan to show a reduced calculated occupant load for the building and requested consideration to acquire leased parking to minimize the amount of parking variance needed, which will accommodate extra visitors that will come to this office from time to time.

The revised plan to remove work stations appears to satisfy some of the concerns expressed concerning the proposed occupancy uses of the building; however, the gross areas of the planned space has not changed.

A draft parking lease has been prepared and is included in Board packages. After review, a response was provided to the applicant with the following comments:

1. Verification would be required that the leased 17 spaces are excess parking for the CORE business. For example, size of bldg., type of business and remaining spaces available for that business.
2. The lease needs to be executed for a minimum 5 year term or with the understanding that if leased parking is cancelled, then the Certificate of Occupancy for your building remodeled is revoked (or business operation area reduced to a size supported by the remaining parking).

Board of Adjustments Minutes

March 15, 2016

Page 3

3. The Board may not automatically approve the stringent use conditions, shown in red type in the lease. If this is a concern, an addition could be added to the variance, requesting that the offsite parking include limited hours of available use. (See "Use of Premises" conditions on Page 2 of Lease).

Partial responses to these items were received. One, the applicant will research the required parking for the building associated with the leased parking spaces. Two, the applicant will submit a letter stating they will maintain the lease. Three, the Board can exercise some discretion as to whether these limitations on the use of the leased parking can be approved as part of this variance. If not, then the parking lease option is off the table, and they need the full variance for the deficit parking.

In summary, potential Board options are:

1. Grant full requested variance for relief from providing the required 17 parking spaces, recognizing that the amended building plan and explanation of this unique use qualifies for this parking space variance.
2. Grant a parking variance by recognizing the remote 17 parking spaces and lease is sufficient, including the allowance to provide these parking spaces in excess of 300 feet from the subject property.
3. Grant a parking variance conditioned upon further refinements in the lease; for example: availability of parking more days of the week or longer daily hours.
4. Deny the variance as requested.

The Board questioned Mr. Wiggins about the specifics of the additional parking. Mr. Wiggins stated that the applicant's business license can be suspended if the terms of the variance approval are not upheld. This is the mechanism to ensure that the leased parking continues as long as this business operates at this property.

The applicant, Tom Acomb, stated he continues to explore alternate commuting methods for his off-site employees. In addition to the leased parking agreement already in hand, he has met with Rethink for dedicated commuter space.

The Board discussed creating a stronger parking lease agreement. They felt the revised floor plan better reflected the applicant's stated occupant load.

FINDINGS

The majority of Board members agreed the hardship is the unique business model. The off-site parking lease agreement, in addition to the possibility of tandem parking, should

Board of Adjustments Minutes

March 15, 2016

Page 4

accommodate occasional team meetings and prevent having overflow parking on the street.

ACTION

Based on the findings, Jeff Jontz made a motion to approve the request with three conditions; this variance is limited to this particular applicant, their specified use of the space, and the provision of 17 off-site parking spaces within 1,000 feet of this property. The motion was seconded by Ann Higbie. The request was approved by a vote of 6 to 1, with Cynthia Strollo voting in opposition. Robert Trompke made an amendment to allow the offsite parking to be replaced with any site with an overload of parking spaces and within a similar distance from the subject office building. The amendment was approved by a vote of 5 to 2, with Cynthia Strollo and John Simpson voting in opposition.

NEW BUSINESS

1. Request of Mark Kaiser to allow re-instatement of an expired variance granted on May 15, 2012 described as follows: request to allow variances to permit the construction of a carport addition to be located 39 feet from the street & 8.7 feet from the side lot line in lieu of the required front setback of 43 feet established by adjacent residences and required side setback of 9 feet.

Located at 2720 Wright Avenue

Zoned: R-1A

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

Since the original variance was granted there have been no changes in our zoning code that will further impact this request. Generally, the Board has granted these types of requests with a stipulation that there will be no more extensions; however, the Board need not place that condition since granting the re-instatement will allow the applicant one year from this meeting to exercise this variance request.

We have received one letter of non-objection regarding this request from the adjacent property owner.

Mr. Wiggins responded to Board questions and confirmed that the Floor Area Ratio and Impervious Coverage are within allowances. The four foot variance request would still provide a front setback of thirty-nine feet from the street.

The applicant, Mark Kaiser stated the carport addition will allow him to convert his garage into master bedroom. He noted there are a number of other carports on his street.

FINDINGS

The majority of the Board members felt the request was minimal and the hardship is the small size of the older home.

ACTION

Based on the findings, Robert Trompke made a motion, seconded by Cynthia Strollo, to approve the re-instatement of the variance. The request was approved by a vote of 5 to 2, with Jeff Jontz and Patrice Wenz voting in the negative.

2. Request of David Lamm for a variance to allow the construction of a swimming pool to be located 10.7 feet from the Glencoe Avenue lot line, whereas the required setback is 20 feet, and requests permission to allow a 6 foot high wall whereas the permitted height is 5 feet at this 10 foot setback location.

Located at 210 Hampden Place

Zoned: R-1AA

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

This corner lot property is being re-developed with a new home and swimming pool and the owner has designed a pool directly adjacent to a permitted wall at 10 feet from the street side lot line; however, the water's edge of the pool is required to meet the street side setback of 20 feet, even though the pool deck can be built directly abutting the wall.

The lot has significant slope upward from the front to the rear rising 14 feet along the street side on Glencoe Avenue. Currently a significant vegetative barrier exists along that street side yard area, and at some point a retaining wall will be required to deal with this significant sloping condition. If the vegetative barrier does not survive or must be replaced, then this will result in more visibility into the pool and deck area from the street. Therefore, an additional one foot of height above natural grade is requested for a masonry wall along Glencoe.

Although we normally discourage variance applications for re-developing properties, in this case the unusual topographic conditions do seem to create a hardship on the applicant's ability to obtain privacy along the Glencoe Avenue side with or without a pool. Proceeding south on Glencoe, the surface of the street will rise 6 feet and more above the existing grades on the property where the new pool, deck and home will be built. Much if not all of the wall will be at or below the adjacent street level.

Board of Adjustments Minutes

March 15, 2016

Page 6

I understand that the applicant has spoken to two neighbors who expressed no objection regarding this request, and those letters will be forthcoming.

Mr. Wiggins responded to Board questions, stating the size of the proposed home is 5,200 square feet, with the garage.

The Architect for Mr. Lamm, Michael Wenrich, stated this is not a case of too much home on a lot. He stated the home design is focused on an attractive streetscape. He agreed another design could conform to existing regulations but it would entail relocating the pool, resulting in a much less pleasing streetscape. He also pointed out that locating the pool with the greater setback would result in placing the garage in the front portion, which is a much less attractive design for neighbors.

Neighbor, Rita Miller, at 1470 Glencoe stated she is only opposed to the wall.

FINDINGS

Some board members felt the hardship was the property typography. Other board members were hesitant to approve any variance related to new construction.

ACTION

Based on the findings, Patrice Wenz made a motion, seconded by Cynthia Stollo, to approve the request. The request was denied by a vote of 3 to 4, with Jeff Jontz, Partrice Wenz, Ann Higbie and Brian Mills voting in the negative.

3. Request of Rubi Akooka, for variances to allow the re-construction and addition to a balcony/lanai located 21 feet from the rear lot line in lieu of the required setback of 25 feet and to allow the re-built lanai to exceed the permitted gross floor area by an additional area of 374 square feet.

Located at 961 Bonita Drive

Zoned: R-1A

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

The applicant's contractor proceeded with construction without a permit and this activity was brought to our attention by a neighbor. After issuing a "Stop Work" order, the applicant discovered that a variance is required to perform the proposed work.

The property is a large lot with an area of 27,132 square feet on Bonita Drive and extends over to Elizabeth Drive, a 33 foot wide narrow unpaved road that allows rear

Board of Adjustments Minutes

March 15, 2016

Page 7

access to this home from Palmer Avenue. The existing home and guest house on the property have a gross area of 10,453 square feet which exceeds today's allowable floor area by approximately 1,499 square feet.

The home was built in 1989 and was likely permitted just before the City began implementing a floor area ratio limitation in single family zoned areas. The large overage of floor area is partially due to the fact that the home was built at smaller side setbacks than required today. If the home was built with larger side setbacks which is a code permitted option today, then this home would exceed the allowable floor area by 143 square feet. Without the guest house (1,005 square feet) and with the larger setbacks, the home would meet the allowable gross floor area and no additional FAR variance would be needed, and the only variance would be for the 4 feet of rear setback encroachment. However, these structures do exist and must be considered in evaluating this variance request.

Regardless, of the size of the existing home, much of the work on the lanai area is well in toward the interior pool area of the home except for an expansion toward the rear lot line for an outside kitchen/grill area plus an expand cantilevered overhang deck area.

The proposed addition does not expand impervious area on this property.

We have received 5 letters from surrounding neighbors expressing no objection to this request.

Jason Pliske, the Architect, stated the existing home exceeds the FAR and setbacks and that he was not aware that construction was underway without a permit.

The applicant, Rubi Akooka responded to Board questions, stating he did not know the name of the contractor working on his home, due to involvement in other family matters. He conveyed that most of the construction was necessary repair work and that the addition is minimal.

Bob Gardner, who lives at 1014 Temple Grove, behind the applicant's home, stated that he called in the complaint because construction dust was not being controlled. He noted that construction resumed again, two days after his complaint. Mr. Gardner objected to the variance request.

FINDINGS

The Board felt the applicant did not establish a hardship, particularly since he removed his structural balcony/lanai and proceeded to build it back without a permit.

Board of Adjustments Minutes

March 15, 2016

Page 8

ACTION

Based on the findings, Cynthia Strollo made a motion, seconded by Jeff Jontz, to approve the request. The request was denied by a vote of 0 to 7. A second motion was made by Brian Mills and seconded by Robert Trompke to approve the request to rebuild the area demolished without a permit, to match previous conditions. The second request was denied by a vote of 2-5, with Jeff Jontz, Ann Higbie, Patrice Wenz, Robert Trompke and Cynthia Strollo voting in the negative.

4. Request of Matthew Clemmer for variances to allow the construction of an addition to be located 10.5 feet from the street side lot line; whereas, the required setback is 15 feet, and to allow a floor area ratio of 40.2%; whereas, the maximum allowed is 38%; and allow the FAR to be exceeded by 144 square feet.

Located at 1441 Mizell Avenue

Zoned: R-1A

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

This property is a corner lot and the applicants are proposing to add a one story addition between the existing home and the garage which includes a new kitchen, master bedroom and mud room. The existing home (originally built in 1940) has a nonconforming side setback of 5.1 feet and a nonconforming street side setback of 12.5 feet.

The addition encroaches into the street side setback by 4.5 feet and exceeds the allowable floor area by 144 square feet. On the interior side lot line, the applicant has placed the addition so that it meets the current required 7.5 foot setback on the west side lot line and this accomplishes the required articulation on that same side. However, in meeting that requirement the proposed addition encroaches 4.5 feet on the street side lot line.

The proposed addition falls within the allowable impervious coverage (50%) for this property.

We have received 4 letters from surrounding neighbors expressing no objection to this request.

Mr. Wiggins confirmed to the Board that the air conditioning equipment could be placed in an alternate location compliant with the code.

Board of Adjustments Minutes

March 15, 2016

Page 9

The applicant, Matthew Clemmer, stated his hardship is the 50ft wide narrow, corner lot and the difficulty of trying to add a modest addition to a non-conforming home.

Neighbor, James Cook of 1444 Grove Terrace, said he welcomes the addition and supports the request.

FINDINGS

The Board members agreed the hardship is the small, narrow corner lot.

ACTION

Based on the findings, Patrice Wenz made a motion, seconded by John Simpson, to approve the request. The request was approved by a vote of 7 to 0.

The meeting was adjourned at 6:54 pm

Theresa Dunkle
Recording Clerk