



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**September 20, 2016
5:00 p.m.**

MINUTES

PRESENT

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

APPROVAL OF MINUTES

Ann Higbie made a motion, seconded by Robert Trompke, to approve the minutes from the August 16, 2016 meeting. The 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. Request of Prato Restaurant/Windfall Properties, LLP for a variance to allow the construction of a partially enclosed storage structure located .5 feet from the rear lot line, in lieu of the required setback of 10 feet.

Located at 124/126 N Park Ave

Zoned: C-2

George Wiggins, Director of Building gave the following staff report:

LAST MONTH:

The location for this structure is at the rear of the restaurant fronting on Center Street which a narrow public alley. This proposal includes constructing an open roof structure supported with columns, and then partially enclosing this space with 8 foot high white vinyl fencing and out swinging fence gate doors.

This area behind the restaurant is very congested and limited in space needed to provide the appropriate storage area for the intensity of activity conducted within Pratos restaurant. The restaurant is within a commercial building which also includes Kilwin's Ice Cream Shop next door.

The adjacent two story building on the north side is built too close to Center Street; however, it is grandfathered in and was originally built in 1926. The next building to the north is Talbot's, and has a setback from the alley with landscaping.

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Several of our city staff from Fire, Utilities and Building met at the site with the applicant to review whether a new structure can be built in this location which also contains electrical panel, a gas meter & related gas piping, a required rear exit way, a grease trap, miscellaneous storage area and other equipment all located in this limited space behind the building.

Revision for August Meeting:

The applicant brought back two prospective revisions which depict re-arrangement of items required in this storage area while providing necessary clearances from electrical equipment, gas piping and grease trap access in order to reduce the amount of setback variance needed. Plans 2 and 3 provide rear setbacks of 2 feet and one foot respectively.

After reviewing these revisions, if the Board agrees to grant a variance, I recommend a third option that allows a rear setback of approximately 1.5 feet. This allows ready access to the grease trap manholes, the water meter and required clearances from electrical and gas equipment, while still maintaining a minimal setback to the Center Street lot line.

Letters of approval from 6 adjacent or nearby tenants or owners were provided by the applicant at last month's meeting.

Winter Park's Building Official, George Wiggins, responded to Board questions, noting the following: existing buildings are exempt from providing new parking, the existing parking for this building at the rear area next to Center Street does not meet legal parking size requirements, and the fire department approved the proposed revised plans. None of the proposed designs change the existing means of egress from the restaurant.

In response to Board questions, the applicant, Brad Fess with NuDesign Builders, confirmed that the tenant and landlord agreed to the City's preferred design, identified as version 1, with the 18 inch rear setback. He noted the 6'x7' cooler originally proposed was downsized to 3'x3'x10'. Mr. Fess stated the linen and firewood locations are not fixed and can be moved for grease trap access.

FINDINGS

The Board determined the addition will enhance the appearance of the alley without further constricting the alley width. The hardship is the limited space available for an ample sized cooler and other needed equipment, necessary to run the restaurant business while providing access to grease traps and other electrical and gas equipment as required by construction codes.

ACTION

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Based on these findings, Jeff Jontz made a motion, seconded by Robert Trompke to approve the request with the amendment that it is for restaurant use only and version 1 (overall size 11'-10" x 29'-2") of the submitted designs which has a rear setback of 1.5 feet. The request was approved by a vote of 7-0 with the stipulated amendments.

2. Request of Thibaut Van Marke de Lummen for a variance to allow the construction of a covered screened lanai addition to be located 30 feet from a stream in lieu of the required setback of 50 feet.

Located at 1450 Bonnie Burn Circle

Zoned: R-1AA

George Wiggins, Director of Building gave the following staff report:

The following variance was granted to a previous owner of this property on 6/17/2003:

Request of William and Lori Shallcross for a variance to allow the construction of one and two story building additions to be located 42 feet from a stream and nine feet from a side lot line in lieu of the required stream front setback of fifty feet, and the required side setback of 12.5 feet to a second floor.

The Board expressed that the hardship was the shape of the lot and the location of the existing nonconforming structure.

On the third property to the west the following variance was granted on 9/17/2013:

Request of Michael Samuel for a variance to allow the construction of garage with attached summer kitchen with a stream front setback of 42.5 feet in lieu of the required setback of 50 feet.

Located at 1420 Bonnie Burn Circle

Zoned: R-1AA

The Board felt that there was minimum impact and the meandering course of the stream across the back caused the hardship by severely limiting the ability to construct this modest sized one car garage.

The adjacent home to the west has a portion of the home located approximately 31 feet from the stream, and the homes at 1430 and 1410 also have portions of those homes projecting to approximately 35 feet from the stream based on aerial views from the Orange County Property Appraiser site. These homes were built before the 50 foot stream front setback was enacted.

The new proposed screened lanai has an area of 520 square feet and extends out from the existing home 10 feet on the east side and 19.25 feet on the west side resulting in setbacks of 30 feet.

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The lot area is approximately one half an acre at 22,598 square feet, and the allowed floor area ratio and maximum impervious coverage is not exceeded with the proposed addition.

No letters have been received regarding this request.

Jeff Jontz disclosed that he now recalls receiving a call from Ted Edwards who lives across the stream from this property in regard to this request.

In response to a Board question, Mr. Wiggins stated that the F.A.R. (floor area ratio) would be exceeded if the porch is enclosed.

The applicant, Thibaut Van Marke de Lummen spoke identifying the parts of the current home that is already within the fifty foot setback and that the abutting body of water is not navigable. He stated that this open roofed addition would provide usable outdoor living space which is not currently available.

In response to Board questions, Mr. de Lummen said he does not have any letters from neighbors; however, he has received positive verbal response from them.

The Board noted the following; the current porch is only 6-8ft wide, the grade to the creek is severe, the creek is more of wetland, several other structures exist in the setback and no neighbors object.

FINDINGS

The hardship is the lot shape, the right-of-way, and the steep slope to the creek, all of which reduce the available location for a moderately sized open porch addition.

ACTION

Based on the findings, Cynthia Stollo made a motion, seconded by Jeff Jontz to approve the request with the amendment that except for screening, it shall remain unenclosed space. The request was approved by a vote of 5-2 with the stipulated amendment. Ann Higbie and Patrice Wenz voted in opposition.

3. Request of Rob Keeler for a variance to allow the construction of a swimming pool located 7.5 feet from the side lot line in lieu of the required setback of 10 feet.

Located at 2345 Chantilly Avenue

Zoned: R-1A

George Wiggins, Director of Building gave the following staff report:

August Meeting:

The applicant is requesting a variance to allow the construction of a swimming pool to be located 7.5 feet from the side lot line whereas the required setback is 10 feet.

A new home is under construction on this corner property, and the builder desires to place a small pool on the south side of the home in a space with very limited area. The proposed pool with a 7.5 foot side setback would be permitted to have 2.5 feet of deck leaving a permitted deck setback of 5 feet.

The dimensions of the pool are 12 feet in width by 22 feet in length plus a minimal deck totaling 409 square feet of impervious area. This results in an allowable impervious coverage of 3,643 square feet, whereas up to 4,465 square feet is permitted.

The applicant has provided prospective pool layouts and examples. One of the photos provided shows minimal decking around the pool along with large separated pavers in filled with grass. The other example is a long rectangular pool with waterfall features and decking on three sides only.

The survey provided for the new home under construction does not show the typical surveyor title block and is printed in black, making it difficult to read. I have asked for a typical sealed survey with the surveyor's title block and date.

We have received three letters of non-objection from nearby property owners and one letter from the abutting property owners expressing opposition to this request.

Revision for September Meeting:

The applicant has submitted a revised site plan showing proposed dimensions of the pool as 18.8 feet by 9.6 feet with a side setback of 7.6 feet. This is approximately 84 square feet smaller than the original proposal. No exact decking is shown on this plan, however, the deck has a required side setback of 5 feet.

The adjacent neighbors were contacted by the applicant, and he expressed that they are okay with the plan, however, I have not heard from them.

Rob Keeler, the applicant, General Contractor, and partner with the owner, stated the pool size was reduced to accommodate the wishes of neighbors James and Mary Ciaravino, who reside at 2341 Chantilly and who previously voiced opposition to the pool's location. He also noted that the spill-over pool design will eliminate the paver requirement around the pool.

In response to Board questions, Mr. Keeler said he did not obtain a revised letter from Mr. and Mrs. Ciaravino, but noted the new pool location will not be as close to their bedroom. Mr. Keeler stated the hardship was the corner lot, creating essentially two front setbacks.

FINDINGS

The Board discussed the corner lot condition and revised pool location, but did not find a hardship, noting this is new construction which did not have the constraints of an existing structure. The design and location for a pool should have been considered prior to building a new home.

ACTION

Based on these findings, Patrice Wenz made a motion, seconded by Ann Higbie, to approve the request. The request was denied by a vote of 3-4, with John Simpson, Jeff Jontz and Robert Trompke voting in favor of the request.

NEW BUSINESS

1. Request of Bradley Grosberg and Phil Kean for variances to allow the construction of a new one story building located 12.2 feet from the front lot line (Fairbanks Avenue), 5.4 feet from the Denning Drive lot line and 23.1 feet from the rear lot line in lieu of the required setbacks of 20 feet, 10 feet and 30 feet respectively.

Located at 906 W. Fairbanks Avenue

Zoned: C-3

George Wiggins, Director of Building gave the following staff report:

The applicants are proposing to replace a small existing nonconforming commercial building at the corner of Fairbanks and Denning in order to construct a more appropriately designed building to blend in with the adjacent remodeled and new buildings which are all part of the same business operation. The new building will have 1,123 square feet of area, whereas the existing building has an area of 841 square feet.

The new building will line up at the front with the adjacent building to the west and will more closely match the architecture of that building will have the same front setback of 12.2 feet. The street side setback on Denning will be slightly larger at 5.4 feet and the rear setback will be significantly larger (23.1 feet) plus a 14 foot wide alley exists at the rear of the property.

The purpose of the 30 foot rear setback for commercial buildings is to provide adequate buffer, particularly when backing up to residentially zoned properties. However, in this case the permanent alley combined with the proposed 23.1 foot setback results in a net effective rear setback of over 37 feet.

In order to provide the required parking on this site, the applicant has provided four parking spaces across the rear of the building which includes one accessible parking space. The new spaces meet the minimum size criteria required by the zoning code. The new arrangement of parking on this site is much easier to

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access than the current layout which only includes 2 or possibly 3 parallel spaces along the side of the building.

No trees are impacted with this site redevelopment, and landscaping must be provided in accordance with the City Landscape Code which will further enhance the appearance of this corner property.

Mr. Wiggins responded to Board questions, noting the new building could be designed to abut the existing adjacent building, or a condition could be placed this variance request to prohibit parking in the space proposed between the buildings. Regarding long term plans to widen Fairbanks Avenue, Mr. Wiggins stated the width is planned for the north side of Fairbanks. Mr. Wiggins confirmed that the reduced setback would match the City's vision to provide an urban look along Fairbanks Ave.

The applicant, Phil Kean, with Phil Kean's Designs, explained that separating the building's will provide an outdoor green space and will not be used for parking. For a pleasing design he feels the front should match the setbacks of the rest of the street which is part of this request. Mr. Kean also explained why re-use of the existing building is impractical due to the floor elevation not matching the adjacent building, and not fitting in architecturally.

FINDINGS

The Board found the hardship to be the large front setback not matching the existing adjacent building to the west, the existence of a small nonconforming setback on the Denning Drive side, and the existence of a fourteen (14) foot wide alley at the rear of the property creating a sizable buffer similar to the required rear setback.

ACTION

Based on the findings, Patrice Wenz made a motion with an amendment as a condition of approval that the space between buildings not be used for parking. The motion was seconded by Brian Mills. The request was approved by a vote of 7-0.

The meeting was adjourned at 6:27 pm.

Theresa Dunkle
Recording Clerk

