



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**March 28, 2017
5:00 p.m.**

MINUTES

PRESENT

Chair John Simpson; Vice Chair Jeff Jontz, Ann Higbie, Robert Trompke, Lucy Morse, Director of Building, George Wiggins and Recording Clerk, Theresa Dunkle.
Absent: Brian Mills & Patrice Wenz

APPROVAL OF MINUTES

Lucy Morse made a motion, seconded by Ann Higbie, to approve the minutes from the February 21, 2017 meeting. The minutes were approved by a vote of 5-0.

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. Mr. Simpson asked the applicants if they wished to defer their case until next month, due to the absence of two board members. All applicants wanted to determine their option to table after hearing from the Board and those present wishing to speak.

OLD BUSINESS

Prior to this meeting, the request by Ann Elizabeth Christensen of 1231 Kenwood Ave, previously tabled from February 21, 2017, was moved to the April 17, 2017 meeting.

NEW BUSINESS

1. Request of Gerald Keith Osborne for variances to allow an accessory building to remain 3 feet from the rear lot line and 4.5 feet from the side lot line whereas the required rear setback is 10 feet and required side setback is 5 feet.

Located at 2443 Middleton Avenue

Zoned: R-1A

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

This is an after-the-fact request in which the owner had an accessory building constructed ("professionally built") in his back yard without a permit, and it was later reported to our Department. This applicant was notified and is now requesting variances due to encroachments into the side and rear yard required setbacks.

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The applicant tells us that the intended use is an art studio for his daughter and will not be accessory living quarters, which would require the same setbacks as the home (25' to the rear lot line and 9' to the side lot line).

Additionally, the applicant states that it was built on an existing slab. The photographs provided seems to show evidence of bricks that may have formed some type of slab for this structure along the east side of the building. If the variances are approved, then a detailed analysis and certification of sufficient foundation and wind load compliance will need to be submitted by a licensed engineer or architect. Due to extensive tree cover in aerial photos, no verification of a previous slab is detected.

With regard to floor area ratio for this property, the home, this accessory building and another shed at the northeast corner of the property result in a total gross floor area of 2,306 square feet which is a floor area ratio of only 26%. Up to 38% is permitted. If approved, then the applicant will also need to verify compliance with the maximum allowable impervious coverage of 50%.

A 5 foot wide utility easement exists across the rear of this property and the accessory building encroaches 2 feet into this easement. The applicant contacted our water and electric utilities departments and submitted to them a current survey to them for review, in which the new building is located. Both departments have commented that they have no issues with the placement of this structure due to not having utilities in this easement area.

The applicant has provided 5 letters from surrounding property owners stating that the accessory building "does not pose an issue as an eyesore or hindrance related to its proximity to the property line." However, I have advised the applicant that it would be best to have letters stating no objection to the variances, particularly those neighbors that directly abuts his property.

Mr. Wiggins responded to Board questions, clarifying the utility shed could be relocated within the required setback after receive Building Department approval. However, a shed used for living would require a 25 foot setback.

In response to a question from a Board member, the applicant and owner, Keith Osborne, noted that his posted variance notice was only taken down today to return it at this meeting as requested. He then provided eight new or expanded letters of support to the board members for their review. He stated Winter Park inspector, Tom Lilly did a courtesy field inspection of the tie-downs on the building; he stated that the 12x12 slab was existing and relocation of the slab would damage the root system in the neighbor's yard. Mr. Osborne expressed concern that relocating the shed would limit access to the back yard.

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Mr. Osborne responded to a Board questions, replying the shed was installed in December 2016. It is used by his wife and daughter for their arts and craft work. It has electric but no plumbing. The other shed on the property is used for lawn equipment.

FINDINGS

The majority of Board members weighed their approval based on the neighbor's support and agreed the hardship is the limited area available to access the back yard, difficulty of re-locating the shed closer to the pool screen enclosure, the existing camphor tree roots combined with the existence of a previous accessory structure foundation at this same location. Jeff Jontz stated the hardship is self-inflicted.

ACTION

Based on the findings, Lucy Morse made a motion, seconded by Robert Trompke, to approve the request with the understanding that this approval does not supersede the requirement for an approved building permit. The request was approved by a vote of 4-1, with Jeff Jontz voting in opposition.

2. Request of Sandi Swanson for a variance to allow the construction of a garage to be located in line with an existing nonconforming carport located 17 feet from the front lot line in lieu of the required front setback of 20 feet.

Located at 2600 Western Parkway

Zoned: R-1AA

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

The property is a corner lot zoned R-1AA in an area that was annexed into the city approximately 15 years ago, and many homes in the area have nonconforming setbacks under Winter Park's Zoning Code. In addition, Janice Avenue is a dead end street which terminates one lot south of the applicant's property. This only leaves one other lot to compare with when trying to determine a front setback requirement for this request.

This home currently has two carports and the applicant desires to convert one of the carports into an enclosed two car garage in the same general location as the existing carport that is directly connected to the home and, then, relocate the covered entry of the home adjacent to and on the east side of the new garage. The other carport is located in the Zoning Code front yard at the front lot line on Janice Avenue and will remain.

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The new garage will comply with the required street side setback along Janice Avenue and will be only 3 feet closer to the street than the carport of the adjacent home on the south side.

The proposed dimensions of the garage are 20' by 20' and will add a net area of 400 square feet to the home, which has an existing area of 2,175 square feet. The resultant gross floor area is well under the allowable gross floor area 3,272. In addition, the allowable impervious coverage of 5,166 square feet is not exceeded with this addition.

With this proposed addition, no protected trees will be disturbed or removed.

The applicant has provided 5 letters of non-objection from property owners directly across the street, adjacent or near the subject property.

Mr. Wiggins responded to Board questions, clarifying the existing carport will remain but could not be enclosed in the future because it is a non-conforming structure. He confirmed the property was annexed into the City of Winter Park with this nonconforming structure.

The applicant and owner, Sandi Swanson, stated she has lived at this address for twenty years. She said there is no other place to position the garage due to the corner lot setbacks, and her architect has positioned this to most appropriately blend with the existing home. An enclosed garage is desired to store her vehicles.

The Board discussed a possible compromise, asking if the nonconforming carport could be removed if the proposed enclosed garage is approved. One of their primary concerns was an approval letter was not received from neighbor on the south side of this lot. Mr. Wiggins stated that typically improvements on a home in one location on a lot have not required removal of a nonconforming structure at another location on the same property.

FINDINGS

Board members felt that the applicant needed more time to get adjacent neighbor approvals and prepare for alternatives. In addition, having more Board members may weigh in the applicant's favor.

ACTION

Based on these findings, Ann Higbie made a motion, seconded by Lucy Morse, to table the request for up to three months in order to give the applicant time to come back with more support and options. The request to table was approved by a vote of 5-0

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3. Request of Minh Tri Nguyen for variances to allow the construction of a screen enclosure for an existing swimming pool to be located 5 feet from the rear lot line and 5 feet from the side lot line in lieu of the required setbacks of 7.5 feet and 10 feet respectively.

Located at 2915 Summerfield Road

Zoned: R-1A

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

The existing pool deck and the proposed screen enclosure encroach 2 feet into a utility easement. However, confirmation was received from both electric and water utilities departments that no utilities are located or plan to be located within this easement, and they have no objection to the encroachment by this pool enclosure.

Currently, a 7.5 foot rear setback can be permitted to a pool enclosure, subject to limiting the height of the rear screen wall to 7.5 feet. From that point the enclosure may proceed in a dome shape or at an angle higher until reaching the home or a maximum height. This enclosure is proposed to proceed upward until reaching a height of 11.5 feet (approximately 10 feet in from the rear wall) and then flatten out until reaching the rear roof line of the home. The enclosed plans have been prepared to meet these criteria.

With regard to the side yard encroachment, I understand from the applicant that the water's edge of the pool on the west side is 10 feet from the side lot line and there is deck is shown at a setback of 5'. It appears that this 5 foot wide deck area creates an opportunity to set this west side screen wall further away from the side lot line than 5 feet. Therefore, I recommend that if the Board is considering granting these setback variances that perhaps the side setback request can be increase by one or two feet to reduce the impact on the adjacent neighbor.

The applicant brought three approval letters from surrounding property owners to the Board at the meeting.

The applicant Minh Tri Nguyen stated he would like to maintain his existing pool deck and include an adequate sized deck area around the pool for greater safety which is part of the reason for the requested setback variances.

FINDINGS

The Board felt the request was minimal and the hardship is the existing location of the pool and deck. The variance approval will allow the narrow deck around the pool to remain.

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ACTION

Based on the findings, Robert Trompke made a motion, seconded by Ann Higbie, to approve the request. The request was approved by a vote of 5-0.

The meeting was adjourned at 6:08 pm.

Theresa Dunkle
Recording Clerk