



**CITY OF WINTER PARK  
Board of Adjustments**

**Regular Meeting  
City Hall, Commission Chambers**

**April 17, 2017  
5:00 p.m.**

**MINUTES**

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**PRESENT**

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

**APPROVAL OF MINUTES**

Lucy Morse made a motion, seconded by Patrice Wenz, to approve the minutes from the March 28, 2017 meeting. The minutes were approved by a vote of 6-0. Robert Trompke arrived directly after approval of the minutes.

**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**

Prior to this meeting, on April 14, 2017, the request by Ann Elizabeth Christensen of 1231 Kenwood Ave, tabled from February 21, 2017, was permanently withdrawn by the applicant.

1. 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 with information from last month's meeting:

This request was tabled at last month and has returned with additional information. 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.

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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.

The new garage will comply with the required street side setback along Janice Avenue and will be located no closer to the street than the existing carport, which is approximately 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.

At the March Board meeting, the applicant provided 5 letters of non-objection from property owners directly across the street, adjacent or near the subject property. Since that time, the applicant has obtained a letter from the abutting neighbor on the south side who expressed no objection to the proposed plan to build the garage.

With regard to the existing nonconforming open carport on the Janice Road side of the lot, the applicant states that they use this carport daily to protect one of their vehicles, and that building the new garage will allow them to park their other vehicles inside. Janice Road is a dead end street that terminates just 55 feet beyond the applicant's property.

Mr. Wiggins responded to Board questions, stating the applicant tabled the request due to two board members being out; she also wanted more time to get written support from the property owner on the south side of her lot which she has now received.

The applicant and owner, Sandi Swanson, responded to a Board questions, replying that she needed an enclosed garage and the existing carport because she has three vehicles and a motorcycle.

### **FINDINGS**

The Board members considered the neighbor's letters of support and the minimal setback request. The majority agreed the hardship is the corner lot setbacks make it difficult to locate an enclosed garage anywhere else on the lot.

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### **ACTION**

Based on the findings, Lucy Morse made a motion, seconded by Ann Higbie, to approve the request. The request was approved by a vote of 5-2, with Patrice Wenz and Jeff Jontz voting in opposition.

### **NEW BUSINESS**

1. Request of Nicole Carolan, on behalf of David Benouaich, for a variance to allow the construction of a 7 foot high fence in the side and rear yard areas in lieu of the maximum permitted height of 6 feet.

Located at 160 Trismen Terrace

Zoned: R-1AA

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

This property has significant topographic grade changes in the rear yard from the north side lot line down to the south side lot line. The applicant is planning to construct a swimming pool in this area and would like to improve privacy for both his family and his neighbors. The home on the north side sits further up in elevation with an outdoor porch located at a much higher grade than this applicant's back yard; and in a similar manner the neighbor to the south has a home that sits lower in elevation. The additional one foot of fence height will help to accomplish his goal of more privacy for each abutting neighbor as well as the applicant.

Across the rear of the property, when the new fence turns the corner from the north side lot line, the fence is proposed to continue at a level height while the grade elevation drops down. Typically, with these sloping grade conditions, our fence height requirements allow us to permit a fence to remain level at the top until the grade drops to a height of 8 feet. Then, at this 8 foot fence height, the fence must be stepped down to the approved height. If the variance is granted for the one extra foot of height, the fence will step down to a height of 7 feet instead of the normal allowable height of 6 feet.

At the southeast corner of the property, the fence will then turn the corner and precede generally level along the south lot line at a 7 foot height until reaching the rear wall of the home. (See green highlighted line on the plan.) At this point the fence will drop to the normal permitted height of 6 feet.

Based on a survey grades are shown on this property and including some grades partly on the adjacent properties. This allows calculation of total grade elevation drop from the north side to the south side across the rear of the lot at points 1 thru 4 shown on the most recent survey included in the Board's packet. The drop in elevation is as

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follows: Across the lot at point 1: 5.3' – Across the lot at point 2: 7.5' – Across the lot at point 3: 6.8' – Across the lot at point 4: 7.2'

Based on these numbers, the average grade drop at the rear of the applicant's property is 6.7 feet. In addition, grades of the adjacent lot on the north side of the existing wall continue to climb higher by another 10 to 12 inches. Therefore, a seven foot high fence along this applicant's north side lot line will only be seen as a six foot high fence on the inside of that neighbor's existing 4' masonry wall and will appear as even less in height from the neighbor's patio deck located approximately 15 feet away and further upland from the wall.

Two letters of non-objection have been provided from abutting property owners and a third abutting owner has come in and reviewed the plan. The abutting property on the north side is unoccupied and is also for sale. The owner of that property could not be reached by the applicant.

Mr. Wiggins reiterated the neighbor on lot 2 will not visually see a fence higher than six feet and also stated that the neighbor on lot 4 stopped into the building department and said he did not want to see the white vinyl fencing along his portion of the fencing. This section will be reduced to the allowable 6 foot height.

In response to Board questions, Mr. Wiggins confirmed that approval of the request is not contingent on a pool being installed; however, a pool is proposed to be constructed according to the applicant.

Nicole Carolan, an attorney and applicant for the owner, provided each board member a packet with additional information and photos. She noted the Building Official has the right to grant a height waiver of up to 8 feet for sloping lots. However, the starting fence height is limited to 6 feet and the applicants seek this variance to allow the fence to start at 7 feet along the north side lot line. Ms. Carolan stated that the proposed fencing would be an upgrade in quality, compared to the existing fence and confirmed the owner is under contract to build a pool.

In response to Board questions, Ms. Carolan stated she did not receive an objection from the adjacent homeowner with a pool. Regarding the neighbor on lot 2, who was concerned with the material, Ms. Carolan said the PVC would match the neighbor's PVC fence in his rear yard.

Richard Palmano stated he represents the owner of the adjacent vacant property; the owner opposes the variance, because of a potential concern that it will obstruct the view of the lake. Mr. Palmano requested the variance be tabled until the home is sold, and the new owners would have a chance to review the request.

**FINDINGS**

The majority of Board members agreed the drastic slope of the lot is the hardship, making it difficult to provide privacy for the proposed swimming pool without a fence over 6 feet.

**ACTION**

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

2. Request of Art Miller for a variance to allow a 2 foot high trellis on top of a 6 foot fence across part of the rear lot line in lieu of the maximum permitted height of 6 feet.

Located at 929 Camellia Avenue

Zoned: R-1A

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

The applicant states that in order to limit his dogs' ability to leap over a 6 foot high rear yard fence, he placed a 2 foot wide lattice on top of the existing fence. He states that he was unaware that the lattice addition would violate the City's fence height limit. Initially, a complaint was received about adding to the fence height. However, after discussing this further with the neighbor, the objection of the lattice extension was rescinded.

A six foot wide utility easement exists across the rear of this property with 3 feet on the applicant's side and 3 feet on the rear neighbor's property. Overhead electric utility lines are located in that easement. The subject fence and lattice extension is constructed at the edge of this 6 foot wide easement, and the neighbor directly to the rear also has a 6 foot high wood fence at the edge of the 6 foot easement. The applicant has stated that this has created a 6 foot wide alley between the properties where animals such as raccoons and possums sometimes travel creating an attraction for his Cur hunting dogs. Therefore, the lattice extension was not needed along the fencing along the side of his property.

Photos from both sides of the fence where the lattice was added on were included for your review to Board members. The lattice extends across approximately 75 feet of the rear fencing in an area where the dogs have access.

Letters of non-objection are provided from all three abutting neighbors that can readily see some or all of the lattice fence extension.

Mr. Wiggins responded to Board questions, clarifying the increased height was only requested at the rear dog run area and not entire across the rear yard distance.

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The applicant, Art Miller, said he has resided at this address for twenty-one years. He thought lattice was allowable when he installed it some time ago. It was installed to prevent his dogs from jumping over the rear fence to investigate wildlife in the easement alley behind his home. Mr. Miller stated that the neighbor who complained does not have lattice on that side and does not now object to the lattice addition.

The Board discussed the code consistency regarding latticework and considered the affected neighbor's approval.

**FINDINGS**

The majority of Board members agreed the hardship is the six foot wide rear alley creates an attractive home for wildlife, which could entice the applicant's hunting dogs to jump a six foot high fence. In addition, they felt the land development ordinance regarding lattice extensions is subjectively written.

**ACTION**

Based on the findings, Robert Trompke made a motion, seconded by Ann Higbie, to approve the request with the understanding that approval is only for the existing lattice. The request was approved by a vote of 6-1, with Jeff Jontz voting in opposition.

The meeting was adjourned at 6:19 pm.

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Theresa Dunkle  
Recording Clerk