



**CITY OF WINTER PARK  
Board of Adjustments**

**Regular Meeting  
City Hall, Commission Chambers**

**June 20, 2017  
5:00 p.m.**

**MINUTES**

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**PRESENT**

Robert Trompke, Brian Mills, Cynthia Stollo, Phil Kean, Aimee Hitchner, Lucy Morse, Director of Building, George Wiggins and Recording Clerk, Theresa Dunkle.  
Absent: Patrice Wenz

**ELECTION OF CHAIR**

Phil Kean made a motion, seconded by Brian Mills to nominate Lucy Morse as the Board of Adjustments Chairperson. The request was approved by a vote of 6-0.

Cynthia Stollo made a motion, seconded by Brian Mills to nominate Phil Kean as the new Board of Adjustments Vice-Chairperson. The request was approved by a vote of 6-0.

**APPROVAL OF MINUTES**

Robert Trompke made a motion, seconded by Brian Mills to approve the minutes from the May 16, 2017 meeting. The minutes were approved by a vote of 3-0; only the three prior members could vote.

**OPENING STATEMENT AND PUBLIC COMMENTS**

Lucy Morse explained the rules of procedure for variance cases and opened the floor for any public comments or questions.

**NEW BUSINESS**

1. Request of Creighton Fiscina for a variance to allow the construction of a pool screen enclosure with a lot coverage of 11.25% in lieu of the maximum allowed coverage of 8%, exceeding the permitted coverage by 446 square feet.

Located at 611 Williams Drive

Zoned: R-1AA

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

The property is a corner lot with an existing swimming pool and the applicant desires to provide a screen enclosure. A typical rectangular enclosure was submitted for a permit; however, this submittal exceeded the allowable lot coverage by 5%, totaling 13%. Typically, when a proposed screen enclosure exceeds the allowable 8%, the main residence is not maxed out under our Zoning Code's allowable floor area and extra square footage not used can apply to the area of a pool screen enclosure. In this

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case, no additional floor area is available from the allowable floor area ratio for the home. When this occurs, in order to add a pool enclosure, the owner must limit the size to 8% of the lot area.

To come closer to the allowable 8% coverage, the screen enclosure company changed the enclosure design by reducing its size to the maximum extent feasible while still safely enclosing the pool. The resultant design shows that two rear corners are cut back and two side walls are moved in closer to the water's edge of the pool.

Based on the adjustments made by the screen enclosure company, it appears that the only other option to reduce the size is to design a stand-alone enclosure that is not connected to the home. This would leave a gap between the residence and the enclosure and significantly reduces the usefulness of having a pool enclosure connected to the home. In addition, although this approach might comply or nearly comply with the 8% coverage allowed, it will not appear to be any smaller from neighboring properties or from the street (Summerland Avenue).

The applicant obtained a non-objection letter from the adjacent neighbor on the west side but the adjacent home on the north side is vacant and a pending sale is taking place. The owners have moved out of state.

In response to Board questions, Mr. Wiggins confirmed the Florida Building Code does not have minimum width for decks around residential pools and that the yard is fenced. Mr Wiggins answered that the owners could meet the allowable screen enclosure size, if it was detached from the home. He responded that the owners already used the exemption for open porch areas and the floor area ratio was already maxed out; therefore, they could not borrow additional square footage from the home to count toward the pool screen area.

Creighton Fiscina, the applicant, stated he wants the enclosure to shield his children from the sun and harmful insects and confirmed the yard is already fenced. He intends to reduce his impervious coverage by removing pavers.

Scott Erickson, with Superior Aluminum, stated the screen enclosure size was reduced as much as possible from their original design. Any smaller size deck would not allow for pool cleaning maneuvering.

In response to Board questions, Creighton Fiscina stated that where possible, he will remove the pavers outside of the screen enclosure.

The Board agreed the location and shape of the existing pool make is difficult to screen; and they considered the neighbors approval. They felt separating the enclosure from the pool, thus, meeting the code, would have the same impact on the neighbors as the proposed design. One board member was not convinced of this.

**FINDINGS**

The majority of Board members found the hardship was the location of the 16 year old swimming pool which makes it difficult to propose any other screen enclosure configuration.

**ACTION**

Based on the findings, Phil Kean made a motion, seconded by Brian Mills, to approve the request. The request was approved by a vote of 5-1 with Cynthia Strollo voting in opposition.

2. Request of Matthew Buckland for a variance to allow the construction of a swimming pool to be located 7 feet from the rear lot line in lieu of the required setback of 10 feet.

Located at 121 1860 Laurel Rd

Zoned: R-1AA

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

In the application, it is pointed out that the home was built in 2007 and that the home is positioned further back than neighboring homes. Based on the survey provided, the setback to this home is 49 feet from the street curb. Based on our records the home on the north side is 54 feet from the curb and the home on the south side is 49 feet back from the curb.

The proposed pool has dimensions of 33 feet in length by 12.5 feet in width. Under the Building Code requirement that a swimming pool structure comply with the angle of repose of the soil (1:1 ratio) to prevent undermining the foundation wall of a building, the pool could be moved closer to the home to reduce the amount of encroachment as follows:

- (1) Limit depth to 4' and pool can move 1.5 feet closer to home and would only require a variance of 1.5 feet.
- (2) Limit depth to 3' and pool can move 2.5' closer to home and would only require a variance of .5 feet.

Based on the design provided and the size of the deck, the applicant has shown that the pool and deck will not exceed the maximum impervious coverage limitation of 50% of the lot area on the Coverage/Setback Worksheet. In addition, the required side setbacks (10 feet) to the pool and deck area are compliant with the Zoning Code.

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The applicant has obtained three letters of non-objection for this requested variance from adjacent or nearby property owners. One of these directly abuts this property at the rear of this lot.

The applicant, Matthew Buckland, provided the Board an additional letter of approval from the owner of the 2 adjacent properties at 1850 Laurel and 1815 Stonehurst Rd. He noted these are the two properties are the most impacted by the request. In response to Board questions, Mr. Buckland stated the home was built in 2007 and that he purchased it in 2012.

The Board discussed the “modest” request, the unusually large front street setback and the neighbors approvals.

### **FINDINGS**

The majority of Board members agreed the request is minimal and the hardship is the unusually large front street setback which makes it difficult to put a reasonable size pool in the rear yard area.

### **ACTION**

Based on the findings, Phil Kean made a motion, seconded by Robert Trompke, to approve the request. The request was approved by a vote of 6-0.

3. Request of Brian and Sandi Kracht for a variance to allow increasing the height of an existing nonconforming garage wall by 2 feet while maintaining the existing side setback of 5.3 feet in lieu of the required setback of 10 feet.

Located at 1131 Palmer Avenue

Zoned: R-1AA

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

As part of a major renovation and 2 story addition project to the existing home, the applicants propose to increase the height of the garage and add a new roof to match the roof slope and architecture of the proposed improvements to the home.

Since the part of the garage is located within a required side setback, the structure is considered a nonconforming structure and cannot be enlarged without a variance.

Section 58-64 of the Zoning Code prohibits the enlargement of a non-conforming structure as follows:

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- (1) No nonconforming structure or portion thereof may be enlarged or altered in a way which increases its nonconformity, including enlargement of a structure or building into a required setback at any floor level (irrespective of the gross building area), but any structure or portion thereof may be altered to decrease its nonconformity.

The altered garage will have two doors which is now a requirement for new homes when a garage is located in front of the main wall of the home. This requirement is meant to help break up the mass of having just one large door. In addition, no windows are planned along the west side wall of the garage.

Alterations to the home do not exceed the allowed impervious coverage or floor area ratio.

The applicant has obtained two letters of non-objection for this requested variance from property owners at 1130 and 1145 Palmer Avenue located across the street and on the east side of the applicants' property.

Mr. Wiggins noted the application originally came in with 3 variance requests but was reduced to one. He noted a letter was received from the neighbor to the west, at 1881 Alabama Drive, opposing the variance request; and a response letter was received from the applicant clarifying that the request is only for a two foot increase to the garage wall height. It was also noted that the Floor Area Ratio is 463 square feet under the allowable square footage; the impervious coverage is well under what is allowed.

The applicants, Brian and Sandi Kracht, stated they hoped to reuse the existing home location, which is situated closer to the west property line. Mr. Kracht stated their only request is for a two foot wall height increase on the garage; and they desire to have ten foot ceiling heights.

Mr. John Bill, who resides at 1881 Alabama Drive, stated his home is the adjacent property to the west. Mr. Bill noted his insurance company remedied a sink hole under his home with added concrete grout pumped underground to stabilize the soil in 2013. Recently, he consulted with a Geotechnical Engineer, Mr. Warren Deatruck, P.E., who confirmed the adjacent addition is within the cone of influence for a soil disturbance on his property.

Mr. Warren Deatruck, P.E., with Deatruck Engineering Associates, spoke regarding technical aspects of soil bearing and the impact of sinkhole voids under homes in our area, and how the soil loads propagate settlement. He suggested Brian and Sandi Kracht hire a Geotechnical Engineer so that both properties are protected from any new soil subsidence.

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The applicants, Brian and Sandi Kracht, responded that most of the major construction is on the east side and that the additions within the setbacks have designed loads less than are normal to most homes in this area.

In response to Board questions, the architect for the home, Jon Clark, 120 E Pine St. Lakeland, noted the soil bearing pressure will be tested prior to construction. Mr. Warren Deatrick said the near surface soil is very loose in some locations. Mr. Wiggins emphasized that this is a zoning variance matter, and that the structural and soil bearing matter is a separate issue that must be addressed by the owners and contractor.

The Board discussed the variance and felt that is a minimal request. One Board member felt they could not support, due to the neighbor's opposition.

### **FINDINGS**

The majority of Board members agreed the hardship is that the existing home is positioned closer to the west side of the property and the request is minimal.

### **ACTION**

Based on the findings, Cynthia Strollo made a motion, seconded by Robert Trompke, to approve the request. The request was approved by a vote of 5-1 with Robert Trompke voting in opposition.

4. Request of Winter Park National Bank for a variance to allow an existing ground sign to remain while adding two wall signs with a resulting total sign area of 64 square feet on the east side of the building in lieu of the maximum allowable sign area of 36 square feet.

Located at 201 North New York Avenue

Zoned: O-1

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

The sign code limits the area of a sign in all office zoning districts to a total of 36 square feet for all signs including ground signs and wall signs. This is very limiting for a large office building with many tenants. There may be some changes in the future to adjust this sign area allowance for large office buildings or office buildings on roadways such as Lee Road or Aloma Avenue, but there's no immediate plan to change the size allowance.

The subject property includes a three story 30,000 square foot office building and is located on a street which has a mix of office, commercial, residential, public quasi-public and parks and recreation zoning districts within 6 blocks along New York

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Avenue. One of the maps within the Board packet indicates the various zoning types by the letters: O – Office, R- Residential, C-Commercial, PQP – Public Quasi-Public and PR – Parks & Recreation. The property outlined in red is the location of this applicant's bank and other tenants.

On the map it was shown that there are 4 properties with a commercial designation, and in those locations the sign code allows a double sided ground sign up to 36 square feet on each side plus the allowance to have wall signs that can cover up to 30% of the signable of a chosen wall space on the building. Between Canton Avenue and Lyman Avenue there are 3 properties with the office zoning designation with maximum limitation of 36 square feet for all signs including a ground sign.

The representative for Winter Park Bank, David with SDJ, LLC, said it would be equitable to allow the same signage area as what was there previously and what is granted to other the nearby banks.

City of Winter Park Planning Manager, Jeff Briggs, confirmed that the owner changed the zoning classification at the City's request, and thereby, unknowingly altered the sign code area allowances when compared with other commercially zoned properties on New York Avenue. Therefore, this should be taken into consideration to be fair to the applicants.

Nathan Headrick, a tenant on the 2<sup>nd</sup> and 3<sup>rd</sup> floor of 201 North New York Ave, stated they are responsible for creating 60 local jobs and he supports the request.

The Board discussed considering approval based on limiting the signage area to the existing area 10 years ago or 64 square feet, which is area requested for this request.

### **FINDINGS**

The majority of Board members agreed the hardship is the zoning change which reduced the allowable and existing signage area, making it more restrictive than signage allowances for nearby commercial properties on New York Avenue of similar use.

### **ACTION**

Based on the findings, Phil Kean made a motion, seconded by Robert Trompke, to approve the request. The request was approved by a vote of 6-0.

The meeting was adjourned at 6:48 pm.

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Theresa Dunkle  
Recording Clerk