



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**January 18, 2018
5:00 p.m.**

MINUTES

PRESENT

Robert Trompke, Acting Chair; Patrice Wenz, Aimee Hitchner, Michael Clary, and Tom Sacha; Director of Building, George Wiggins and Recording Clerk, Theresa Dunkle.
Absent: Lucy Morse-Chair, Phil Kean-Vice Chair & Zachary Seybold

APPROVAL OF MINUTES

Tom Sacha made a motion, seconded by Robert Trompke, to approve the minutes from the December 19, 2017 meeting with the correction that Aimee Hitchner was absent from the December meeting. The minutes were approved as noted by a vote of 5-0.

OPENING STATEMENT AND PUBLIC COMMENTS

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

The 2nd and 3rd items on the agenda were heard first because the first applicant arrived late.

NEW BUSINESS

1. Request of Christine Gervais for a variance to extend 25 feet of new wood fencing along the Loch Berry Road frontage with a setback varying from 7 to 11 feet from the lot line in lieu of the required setback of 20 feet. Existing storm damaged fencing to be replaced.

Located at 2025 Kimbrace Place

Zoned: R-1A

George Wiggins, Director of Building gave the following summary:

Along with the replacement of existing wood fencing that was partially damaged and blown down during Hurricane Irma, the applicant would like to extend the fencing further along the Loch Berry Road street frontage to a point near the front of the home.

Although some of the storm damaged fencing is within the required 20 foot street side setback, this fencing can be replaced under code provisions allowing re-building within a nonconforming setback due to damage from fire or wind storm.

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The applicant expressed that the reason for the additional fencing is to provide privacy for bedroom windows which face one of the streets on this corner lot.

The applicant has provided a petition signed by 3 surrounding property owners most visually impacted by the new fencing indicating they give permission to the applicant “to construct a fence that is six feet high to protect and give privacy to the bedroom windows, [on] the right hand side of the house and backyard.”

Patrice Wenz wondered if the City Engineer had any concerns regarding sight line issues at this intersection. Other Board members did not concur with the concern, noting the fencing is far from the corner.

The applicant, Christine Gervais, said aside from the fence extension request, she purchased the property with the 6ft high fence in the location shown. She understands the original permit was for a 5ft high fence. Ms. Gervais noted a root at the corner of the home prevents the fence from being shifted significantly back. She could make the double gate into a single gate and position it back from the corner a small distance.

The Board discussed options, such as stair stepping the fence or setting it behind the front of the home even eight inches.

FINDINGS

The Board members agreed that the hardship is an existing condition and storm damage repair, combined with an unusual lot shape. The 3 letters of non-objection help weigh in favor of approval.

ACTION

Based on the findings, Patrice Wenz made a motion, seconded by Tom Sacha, to approve the request. The request was approved by a vote of 5-0.

2. Request of Brannon and Jennifer Lenox for a variance to allow the enclosure of a second floor open roofed area located 8.6 feet from the side lot line in lieu of the required setback of 12 feet. Variance granted 10/21/2014 permitted a roof extension in this location with a condition that does not allow enclosure of this area.

Located at 1486 Alabama Drive

Zoned: R-1AA

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

Since the granting of the previous variance the property is under new ownership, and the new owner has added to the size of the property by purchasing over 2,100 square feet of land from the owner at the rear of the home. Adding this additional land allows greater gross floor area to be provided on this property and effectively removes the need to keep in place the Board's original condition added to the 10/21/2014 variance which prohibited enclosing this open roofed covered area due to insufficient allowable gross floor area.

Minutes from the 10/21/2014 Variance request:

Request of Adam Lawson for a variance to allow the construction of an open flat roof extension on the second floor of an existing residence to be located 8.7 feet from the side lot line in lieu of the required setback of 14 feet.

Located at 1486 Alabama Drive

Zoned: R-1AA

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

In order to enhance the usage of a rear second floor open deck, the applicant desires to cover the deck with an open roof structure in order to provide shade in a more permanent manner than currently provided by a pull out shade structure.

This three story home was built in the 1980's prior to placement of a two story limit which was enacted around 1990 to help prevent overly massive new homes. Even though the home has maxed out the allowable gross floor area, this proposed open covered area can be excluded to the extent of up to 300 square feet.

Letters of non-objection have been provided by the two adjacent property owners at 1500 and 1466 Alabama Drive.

Adam Lawson, the applicant stated that the temperature outside is very high during much of the year on this outside deck. Also, he does not have anything to cover the area from the rain.

FINDINGS

The Board understood this home already has a non-conforming side setback and a canvas does not provide shade similar to a solid roof. However, the Board felt that this area with a roof over it must not become an enclosed living space.

ACTION

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Based on these findings, Patrice Shirer made a motion, seconded by Jeff Jontz to approve the variance with the condition that the area cannot be enclosed in the future. The motion passed by a vote of 7-0, and the request was approved.

The reason for imposing the non-enclosure condition was to prevent allowing this space to exceed the floor area allowed for this home based on the area of the property.

A letter of support for the variance has been presented from the adjacent neighbor most impacted who expresses that enclosing the space will provide greater privacy due to the fact that this open area is on the second floor and overlooks that neighbor's property.

In response to a Board question, the Mr. Wiggins replied that the adjacent property recently purchased by the applicant is vacant; since this additional land eliminates the FAR request, this is primarily a side setback variance request. A letter of strong support was received from the most affected neighbor next to this unique three story home. When asked about the current construction, Mr. Wiggins confirmed there is an active building permit at this address; however, it does not involve the work requested in this variance.

The owner and applicant, Mr. Brandon Lenox, stated he purchased his lot from the owner of 1240 Harding Street, which is the property to the rear of his. Mr. Lenox noted his home is similar to others on the street, which were not designed with the kitchen as the central gathering place and with close side setbacks. Mr. Lenox replied he contacted the owner of 1240 Harding, but did not receive a reply.

Board member Patrice Wenz disclosed this was her childhood home but has not current conflict of interest. Michael Clary felt the request would not impede neighbor's views and does not change the footprint.

FINDINGS

The Board understood this home already has a non-conforming side setback. Whereas, the Board originally felt the enclosed porch must not become an enclosed living space they considered the applicant added to the size of the property with the additional land purchase to the rear, allowing a greater gross floor area.

ACTION

Based on the findings, Michael Clary made a motion, seconded by Tom Sacha, to approve the request. The request was approved by a vote of 5-0.

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3. Request of Jason & Stephanie Rottenberg for a variance to allow converting 600 square feet of a detached garage into living quarters while maintaining the existing nonconforming rear setback of 10.2 feet and side setback of 5.2 feet in lieu of the required setbacks of 25 feet and 10 feet respectively, leaving one garage bay on the west side.

Located at 1650 Oakhurst Avenue

Zoned: R-1A

George Wiggins, Director of Building gave the following summary:

The applicants are requesting a variance to allow converting 600 square feet of a detached garage into living quarters while maintaining the existing nonconforming rear setback of 10.2 feet and side setback of 5.2 feet whereas the required setbacks are 25 feet and 10 feet respectively, leaving one garage bay on the west side.

The new purchasers of this property, who are the applicants, are desiring to provide accessory living quarters for family members within an existing detached three car garage. The request includes converting 463 square feet of the 900 square foot garage into living space.

Currently, the main residence also includes an attached two car garage, and the applicants have expressed they do not need parking for five vehicles which has been the case for the previous owners.

Although there is ample space on the property to build another separate detached guest house with up to 677 square feet of gross floor area, the applicants would prefer to utilize existing enclosed building area located in the three car garage as a solution for their needs.

The existing three car garage was built before a Zoning Code change created a greater rear and side setback for detached rear garages approximately 10 years ago.

The applicants have expressed no desire to ever use this for rental living space and are willing to execute a deed restriction to ensure that this space is not ever used for rental purposes.

We received two letters of non-objection from affected neighbors.

Mr. Wiggins suggested that if the Board were to approve the request, they may wish to add the condition that no 220 amp outlet be permitted in the future. This would help ensure separate living quarters are not created. In response to Board questions, Mr. Wiggins said it was his understanding the use was for multi-generational living.

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Tom Lamar, the Architect with Lamar Design explained the Floor Area Ratio square footage on the worksheet includes the garage area. He noted the applicant could build another separate detached guest house on the property, but prefers to area in the existing detached garage. Mr. Lamar provided assures that his construction documents will include design provisions for needed code compliant separation requirements between a living area and garage space.

The applicant, Stephanie Rottenberg, stated the detached living space will be used by her elderly parents when they visit. She responded in agreement to placing a non-rentable condition on a variance approval.

FINDINGS

The Board members agreed that utilizing the existing detached 3 car garage for additional living space is preferable to building a separate detached structure. This assumes it will not be rented or converted into separate living quarters.

ACTION

Based on the findings, Patrice Wenz made a motion, seconded by Tom Sacha to approve the variance with the condition that the accessory building not be used as separate rental quarters. The motion passed by a vote of 5-0, and the request was approved.

The meeting was adjourned at 5:52 pm.

Theresa Dunkle
Recording Clerk