



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**March 21, 2018
5:00 p.m.**

MINUTES

Meeting scheduled for March 20, 2018 was re-scheduled to March 21, 2018 due to storm delay & lack of quorum

PRESENT

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

APPROVAL OF MINUTES

Tom Sacha made a motion, seconded by Phil Kean, to approve the minutes from the February 20, 2018 meeting. The minutes were approved by a vote of 4-0.

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.

Phil Kean disclosed that he conducted business with Coledev Properties (item 3 on the agenda), but without compensation. The Board did not feel this was a conflict since there was no financial gain took place.

NEW BUSINESS

1. Request of Roger & Sabrina Marks for a variance request at 645 N. Park Avenue was withdrawn by the applicants on March 2, 2018, prior to the meeting.
2. Request of Bonnie Biagioli for a variance to allow a fence with a height up to 6'-5" fence to remain within the street side yard setback along Janice Avenue, in lieu of providing the required 20 foot setback.

Located at 2601 Western Parkway

Zoned R-1AA

George Wiggins, Director of Building gave the following summary:

Recently, the applicants had a swimming pool constructed in the rear yard. The permit was issued for the pool based upon having an existing 4 foot high chain link

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provide the required barrier to meet the building code fencing protection requirement.

This new fence was built without a permit and the fence contractor applied for the permit on February 1, 2018. The permit was placed on hold and not approved due to its location within the street side setback.

As an option to resolve this, the applicant can move the fence back ten feet from the lot line and reduce the fence height to 5 feet. This will not require a variance.

Other options still requiring a variance include:

1. Reduce the fence height at the existing location to a lower height, however, 4 feet is the minimum height required for a pool barrier.
2. Move the existing fence further into the property and reduce the height to 5 feet.
3. Move the existing fence into the property to distances of 5, 10 or 15 feet with a fence height of 6 feet.
4. Move the existing fence into the property at a location that wraps around the tree while maintaining security from entering the pool area.

Five nearby residents have expressed in writing that the fence does not obstruct visibility at this location and that they do not object to the fence location. Due to fence being located 83 feet from the nearest intersection, our City staff concurs that the fence location does not obstruct traffic visibility at the intersection of Janice Avenue and Western Way.

One email was received from a resident at 2601 Western Parkway. He felt a lower fence height and hedge should suffice and he does not want approval of this case to set a precedence.

Mr. Wiggins responded to Board questions regarding the adjacent neighbor's six foot high fence, placed in same location as this fence. Mr. Wiggins stated the neighboring property was annexed into the city. He also confirmed the fence was installed by a fence contractor.

Ms. Bonnie Biagioli, the applicant and homeowner, stated the fence was installed without a permit due to miscommunication between herself and the fence contractor. They thought the fence was included in the pool permit, similar to Orange County permitting procedures.

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In response to Board questions, Ms. Biagioli said she did use a licensed fence contractor who installed the fence in January. Ideally, she hopes to keep the fence as-is for the greatest use of her rear yard for her two dogs and for the greatest privacy. However, she responded that she is open to lowering the fence height if required.

During the closed session, Board members discussed the fact the lot slopes upward and that lowering the fence to the required height would not be in line with the existing neighboring fence. Mr. Wiggins offered an alternative that the height could be lowered to 5ft in the same location as a compromise.

FINDINGS

The Board members agreed that the hardship is the long property, with extended corner lot side setbacks. The majority of the board felt that a uniform height with the neighbor is the most appealing option and felt this could be achieved by removing the top 1-2 rails.

ACTION

Based on the findings, Patrice Wenz made a motion, seconded by Tom Sacha, to approve the request that the 6ft high fence remain in the same location, with the stipulation that the top board(s) be removed to provide a level height, aligned with the top of the adjacent 6ft high neighboring fence. The request, with the stipulation, was approved by a vote of 4-0

3. Request of Request of Coledev Properties, LLC, for variances to allow a 4 foot high solid PVC fence, and a 4 foot high open metal fence, to remain within the front setback of 25 feet for the solid fence, and a setback of 5 feet for the four foot high metal fence.

Located at 790 & 796 W. Swoope Avenue

Zoned R-3

George Wiggins, Director of Building gave the following summary:

These fences are located on an R-3 (Multi-family) zoned site in which four separate two story dwellings have been built in lieu of duplexes or multifamily units. A separate builder constructed the dwellings while the developer, Coledev Properties, LLC, handled the site development portion of the project.

Prior to obtaining a fence permit, PVC and metal fencing was constructed on this site at heights and setbacks in violation of our fence regulations. Along the east side

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property line a four foot high PVC fence has been constructed where the height limit is 3 feet. Across the front a four foot high metal fence has been constructed without meeting the required 5 foot setback with landscaping in front of the fence.

The Village Park apartments are immediately adjacent to this property on the west side and single family dwellings are located on the east side of this property. As part of the approval by Planning and Zoning Commission and City Commission, the Village Park apartments were permitted to construct four foot high metal fencing closer to the sidewalk along Swoope Avenue due to having a smaller building setback for this apartment project.

On this site the intent is to have a scale more closely aligned with single family dwellings which transition to those on the east side of this property. Therefore, having taller and closer fencing to the street fails to provide a transition to the adjacent dwellings.

The entire site was cleared of all structures prior to starting construction creating a vacant property in which all of our development codes have been met except for our fence regulations.

There appears to be little opportunity to show a hardship to vary from our fencing regulations except financial hardship incurred if the fences are required to be moved due to proceeding with constructing the fences before obtaining the required permit.

At this point, we have not received any letters regarding this request.

In response to a Board question regarding the City's position on this variance request, Mr. Wiggins stated he is charged with enforcing the adopted land development codes. He noted that work completed without a permit is troublesome to the Building and Permitting Department. It is frustrating when such a delayed response is received once the applicant is made aware of the violation.

The applicant, Adam Cole stated reducing the height of the installed fencing to 3 feet would not be in-line with the adjacent property's fence height. He stated that if the four foot section is lowered, brush would be visible to the newly constructed single family residential homes. Mr. Cole stated the slow response the Building Department notification of the violation was due to miscommunication between himself and the builder. In response to Board questions, Mr. Cole stated the adjacent link fencing is not on his property; he does not know if it will stay.

FINDINGS

The Board members agreed that this request would most likely have been approved if submitted to the Board, prior to its installation. The four foot high solid pvc fence is more visually pleasing than the existing chain link fencing on the adjacent property. The three foot high residential fencing, in the location shown, is also more visually pleasing when aligned with the commercial three foot high fencing. The Board stressed approval will not supersede the need for approved building permits and any work forward should not be constructed without a permit.

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 4-0.

The meeting was adjourned at 5:50 pm.

Theresa Dunkle
Recording Clerk