



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**June 19, 2018
5:00 p.m.**

MINUTES

PRESENT

Phil Kean (Acting Chair), Aimee Hitchner, Patrice Wenz, Zachary Seybold, Tom Sacha, Charles Steinberg and Michael Clary; Director of Building, George Wiggins and Recording Clerk, Theresa Dunkle. Absent: Robert Trompke

APPROVAL OF MINUTES

Tom Sacha made a motion, seconded by Aimee Hitchner, to approve the minutes from the May 15, 2018 meeting. The minutes were approved by a vote of 6-0, with Zachary Seybold arriving after approval of the minutes.

OPENING STATEMENT AND PUBLIC COMMENTS

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

Aimee Hitchner recused herself from agenda item 2 and provided completed Form 8B, which documents her law firm represents the applicant.

NEW BUSINESS

Although item 1 remains first in these minutes to match the posted meeting agenda, it was heard last at the meeting to allow time for the applicant's contractor to arrive.

1. Request of Leslie Petro for a variance to allow the construction of a screen room addition located 10.7 feet from the rear lot line in lieu of the required setback of 25 feet and less than 5' from an accessory building.

Located at 565 Randy Lane

Zoned R-1A

George Wiggins, Director of Building gave the following summary:

The proposed area is 285 square feet and will be partially alongside an existing detached accessory building within 5 feet, aligning with the west side wall of the home.

In order to build onto and match the existing gable roof line of the existing home and utilize the rear exit door of the home, the applicant is seeking variances to construct the screen room onto the rear of the residence, with a sufficient size to be functional.

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With regard to other places on the property to locate this structure, substantial structural changes would need to be made to the sides of the existing great room in order to accommodate a new exit door into a screen enclosure built out to the east or west side of this room. In addition, the proposed location blends better with the architecture of this great room by extending the new room to the rear.

The proposed addition is well under the allowable maximum floor area allowed and is under the allowable impervious coverage, even though approximately 100 square feet is being added.

Another unique feature to this property is that the rear lot line abuts the side yard of the adjacent lot that has a side setback of 10 feet, similar to the 10 foot rear setback requested for this addition.

The applicant Leslie Petro, projected photographs of the rear of her home for the board members to view how close the side of her neighbor's home is to her rear property line. She noted that she tried get an approval letter from that neighbor but got no response.

Scott Erickson with Superior Aluminum Installations at 3005 Forsyth Rd, Winter Park, spoke in response to Board questions, noting the proposed screen room will sit approximately 3ft away from the existing shed.

The Mr. Wiggins, shared that he met with the applicant to explore all of her options and concluded her request warrants review and consideration due to orientation of this lot backing up to an adjacent side yard of the neighboring property. Additions at other sides of the home are impeded with trees or prove awkward to build a screen room onto the sides of the rear family room. The home was built in the County which had much smaller rear setback criteria.

FINDINGS

The Board members agreed the hardship is the setback changes that occurred when the area was annexed into the City, at which time the rear setback increased from 10 feet to 25 feet. They felt this is a unique neighborhood with many other homes utilizing the previous 10 foot rear setback and this lot backs up to a side yard of the adjacent property.

ACTION

Based on these findings, Charles Steinberg made a motion, seconded by Aimee Hitchner, to approve the request. The request was approved by a vote of 4-3, with Michael Clary, Patrice Wenz and Zachary Seybold voting in opposition.

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2. Request of Gio Valiante for a variance to allow a four foot high decorative fence to remain along the front and street side yard lot lines in lieu of the maximum permitted height of 3 feet at the lot line or 3.5 feet set back with landscaping in front of the fencing.

Located at 1341 Place Picardy

Zoned R-1A

George Wiggins, Director of Building gave the following summary:

This is an after-the-fact request where the owner engaged a fence company to construct this fence and the work was done without a permit. The applicant stated the fence company was not responsive to helping the owner correct this violation. In addition, it appears that the fence on the Picardy frontage has been placed in the public right of way and will need to be moved back onto his private property. The Zoning Code allows a four foot high decorative open metal fencing in a front or street side yard if it is set back from the lot line to allow landscaping such as a hedge between the lot line and the fence. Generally, we have been requiring that these fences be set back approximately 5 feet from the lot line. Open wood or PVC picket fences are also allowed in a front or street side yard with a height limitation of 3.5 feet.

In this case, the owner has a substantial hedge in front of the fence on both street frontages. However, the fencing is 4 feet high and the fence along Picardy side is actually located 6 feet beyond the lot line, into the street right of way. The fence along the Temple side is set back approximately 2.5 feet from the sidewalk.

Options for Board:

- a. Approve the variance request along the Temple Drive side and require the applicant to either remove the fence in the right of way along Place Picardy or obtain a Right of Way Utilization Permit from the Public Works Department to leave the fence within the right of way.
- b. Deny the variance request and require compliance with new fencing requirements (3.5' maximum height) behind the hedge along the Temple Drive side and behind the lot line on Place Picardy side.

A letter expressing no objection of this variance request was submitted and signed by the owners of five nearby properties.

The applicant did not appear at the meeting and had contacted staff and communicated that he would be out of town. No request to table the matter was made and no representative of the applicant was present, therefore, the Board proceeded with hearing this request.

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The Board asked Mr. Wiggins what could be done to prohibit this fence contractor from installing fences without a permit. Mr. Wiggins stated the fence contractor could be brought before the Code Compliance Board; however, the owner would be cited as well and can be subject to fines until the matter is brought into compliance.

FINDINGS

The Board felt a copy of the sales contract would be helpful. The majority of members could not find a hardship or basis to approve a fence installed without a permit in the public street right Of way and in violation of the provisions of the Zoning Code.

ACTION

Based on the findings, Patrice Wenz made a motion, seconded by Michael Clary, to approve the request as posted. The request was denied by a vote of 4-2. Tom Sacha and Charles Steinberg voted in opposition. Aimee Hitchner recused herself on this request as stated previously.

3. Request of Brannon and Jennifer Lenox for a variance to allow the construction of a swimming pool while maintaining a nonconforming impervious coverage of 71% in lieu of the maximum permitted coverage of 50%.

Located at 1486 Alabama Drive

Zoned R-1AA

George Wiggins, Director of Building gave the following summary:

In a previous variance request on this same property a variance was granted on January 18 of this year 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. In order to allow the additional enclosed area the owner had purchased 2,100 square feet of land from the owner at the rear of the home which allowed additional floor area on this home.

The applicant is the same owner, and is now requesting permission to continue to exceed the maximum allowed impervious coverage of 50% with the construction of a swimming pool with no surrounding deck area by removing a comparable area of pavers at the rear of the home. The pool and spa will only have an 8 inch beam around the perimeter and be surrounded with grass.

The pool will have an area of 280 square feet and the applicant proposes to remove 350 square of pavers at the rear of the property. No other deck or walkway to the pool is planned. A slightly elevated wood deck allowing drainage between the deck

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boards would not be considered an impervious surface; this may be a viable way to provide a walkway to or around part of the pool.

We have received no letters concerning this request.

Jennifer Lenox, the homeowner and applicant, stated she has received verbal approval from her neighbors. She noted the impervious requirements were not in place when her home was built in the 1980's. In response to Board questions, Ms. Lenox said the pool was not included in her prior request because she was unaware a variance would be required. She believed the purchase of the additional land, which enlarged her lot size and increased the impervious area, would offset the pool's impervious area. When questioned about water accumulating at this end of the street and running into the lake, Ms. Lenox said that water pooling is not a problem at her location on this property but only in the street.

Tom Hoffman, the contractor with Lazy Dais Pools and Spa spoke, noted that the applicant is willing to remove additional pavers, if required for variance approval. In response to Board questions, Mr. Hoffman said wood decking as suggested by a Board member is not proposed at this time but might be an option since it can allow drainage to flow through it.

In response to a Board questions, Mr. Wiggins confirmed the Board code make storm water retention a condition of the approval.

FINDINGS

The Board members agreed the hardship is the existing conditions; the impervious requirements were not in place when the home was built. They agreed that the applicant's willingness to remove pavers to reduce the impervious coverage beyond the pool's square footage, and recognize their openness to creating additional on-site storm water retention areas as an improvement to the existing conditions.

ACTION

Based on the findings, Michael Clary made a motion, seconded by Zachary Seybold, to approve the request. The request was approved by a vote of 7-0 with the stipulation that rear yard pavers be removed as stipulated and additional storm water retention will be provided on this property.

4. Dr. Luis Cruz for variances to allow the construction of a new home with existing nonconforming setbacks of 18 feet from the McKean Circle lot line and 21 feet from the rear lot line in lieu of the required setbacks of 20 feet and 25 feet respectively after demolition of more than 50% of the existing home.

Located at 721 Palmer Avenue

Zoned R-1AA

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George Wiggins, Director of Building gave the following summary:

After obtaining a demolition permit for the home on this property the applicant proceeded with demolition of the home but left a nonconforming three car garage which encroaches the rear and street side setbacks. Demolition of more than 50% of the value of a building requires that the remainder of the building be brought up to the current Zoning Code standards including meeting the required setbacks.

The owner authorized an architect to design a home complying with the Zoning Code criteria and another home design home utilizing the existing garage, which encroaches into the setbacks as stated above.

We would not have allowed this "partial demolition" if we were made aware of the owner's intent to keep the garage. The applicant would have been required to apply for and obtain approval for this variance before proceeding with demolition. A complete building demolition permit was obtained; however, the garage portion of the home was left standing. Since the garage is an eyesore, we've been trying to get the owner to remove the garage for many months without success. The owner has now finally come forward to make this variance request.

The adjacent home on the east side of this property was substantially renovated by this applicant; he is currently residing there. This residential building project lasted well over 3 years while we received complaints about the progress.

Therefore, Mr. Wiggins recommended the following, should the Board be inclined to approve this variance:

Place a condition on the approval of the variance requiring that the new home on this property be completed and receive a certificate of occupancy within one year from the date of the issuance of the building permit or the owner will be referred to the Code Compliance Board for violation of this condition and violation of Chapter 22 of the Winter Park City Code.

We have received two letters expressing opposition to this variance request.

In response to a Board questions, Mr. Wiggins stated the 20 feet street side yard setback and 25 feet rear setback was enacted in the late 1990's. This explains the current position of the garage.

The project manager, Alberto Morales stated that keeping the garage in its existing location will provide for more green area around the pool. If the garage is required to be demolished, the home will be moved forward, resulting in the potential removal of a front yard tree.

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Mr. Morales read a letter from the owner, Dr. Luis Cruz, which reiterated that a tree would be lost if the variance is not approved.

The designer, Richard Carrion spoke in favor of the request.

FINDINGS

The Board members could not find a hardship. This is new construction on an ample size, and typically shaped lot.

ACTION

Based on the findings, Patrice Wenz made a motion, seconded by Michael Clary, to approve the request. The request was denied by a vote of 7-0.

5. Request of Request of David Runnels on behalf of Angela & Julia Segarra for variances to allow the construction of accessory guest house and garage to be located 15.7 feet from the side lot and 26.4 feet from the rear lot line in lieu of the required setbacks of 19 feet and 35 feet to the second floor respectively and allow 1,433 square feet of living area in lieu of the maximum allowed: 1,000 square feet.

Located at 1548 Highland Road

Zoned R-1AA

George Wiggins, Director of Building gave the following summary:

The property owners had a previous one story guest house/dwelling removed from their property some time ago and are now requesting to build back a new two story guest house which includes a garage. The location of this new guest house is proposed to be at same location as the previous guest house.

The property is large with 22,000 square feet of area and lot dimensions of 110 feet in width by 200 feet in depth. The applicant states that they desire to place the new structure back in the same location because this is the best fit with the existing "historic" house, although the home is not listed on the City's historic registry. There appears to be more than adequate space on this large lot to fully comply with the required setbacks, and no justification is provided to permit exceeding the allowable area for the guest house.

Under our Zoning Code regulations of accessory structures, there is a limitation which requires that an accessory building be no higher than the main residence. In looking at the existing one story home it appears that the new two story guest house may exceed the height of the main residence. I am asking the applicant to provide more precise information on the heights of the existing and proposed structure.

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Since the lot has a substantial grade upward from the street, this elevation change must be taken into consideration, particularly since the guest house location in the rear of the lot at a higher grade.

We have received two letters from nearby residents expressing not objections to this request.

In response to Board questions Mr. Wiggins confirmed the two letters received are not from the most affected neighbors, residing to the north.

David Runnels, the applicant and Architect for the owners, stated the owners have lived in this home for over seventeen years. He explained they intend to use the first floor of the guest house for their parents and the 2nd floor will be used as the owner's office.

In response to Board questions, Mr. Runnels said the Segarra's existing home is approximately 2,000 square feet. In response to the maximum height concerns, the Architect feels confident he can make it work.

Mr. Wiggins clarified that the concrete pad for the previously demolished guest house was removed. He said the 1,000 square foot maximum area for guest homes is in place to eliminate oversized guest homes not in scale with the home. Mr. Wiggins clarified that the guest house would be considered one of the two allowed accessory structures on the property.

FINDINGS

The Board members noted that the proposed guest house is smaller than what they could build with an addition to the existing home. They felt requiring a covered walkway connection between the structures would comply but would result in a larger structure than proposed. Regarding the applicant's request for reduced side and rear setbacks, the Board could not find a hardship based on the size or configuration of the lot.

ACTION

Based on the findings, Patrice Wenz made a motion to approve the request with the amendment that it comply with the required setbacks. Michael Clary seconded the

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request. The setback variance request was denied by a vote of 0-7. The area increase request was approved by a vote of 7-0.

The meeting was adjourned at 6:55pm.

Theresa Dunkle
Recording Clerk