



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**November 20, 2018
5:00 p.m.**

MINUTES

PRESENT

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

APPROVAL OF MINUTES

Charles Steinberg made a motion, seconded by Patrice Wenz, to approve the minutes from the October 16, 2018 meeting. The minutes were approved 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 disclosures, public comments or questions.

NEW BUSINESS

1. Request of Christopher H & Roslyn Morrison for a variance to allow the construction of a dwelling with a second floor rear setback of 11.3 feet, in lieu of the required setback of 25 feet.

Located at 1048 N Kentucky Ave

Zoned R-2

George Wiggins, Director of Building, gave the following summary:

This variance request has evolved through a preliminary design process where staff and designer failed to catch the proposed rear second floor setback of 25 feet on the early stage design plans for this R-2 Zoned project. In addition, for single family zoned properties the Zoning Code allows a 10 rear setback to the second floor for properties abutting non-residential or multi-family zoned building projects; however, this exemption is not fully applicable in the R-2 Zoning District where this property is located.

Therefore, the applicant is making the case that this property fulfills the intent of the provision in single family zoning districts which allow a 10 foot second floor setback, because the property to the rear is a multi-family four unit apartment building.

This proposed home which could be developed as a duplex, however, is located in the R-2 Zoning District and only allows the second floor rear setback to be 10 feet when abutting a “non-residential” zoned property.

Ideally, staff would like to amend the R-1 and R-2 zoning district language to be identical in order to meet the intent of the code in both of these zoning districts. However, at this point in time the R-2 Zoning language is less restrictive than the R-1 Zoning language.

The proposed home meets all other R-2 zoning criteria including impervious and floor area limitations.

Aside from the failures to identify the second floor rear setback at an earlier point in time, this property is unique with respect to being adjacent on the rear to a multi-family apartment building, and the proposed project is a single family dwelling rather than a duplex which could be developed on this property.

Letters have been provided expressing no objection from the adjacent property owner on the east side and from the owner of the apartment building located immediately to the rear of this applicant’s property.

Mr. Morrison, the applicant, stated an apartment building, complete with a dumpster, is located behind this property. Since he will be building a single family home, instead of an allowable duplex, he feels setback requirements for single family homes abutting multi-family projects more appropriately apply.

FINDINGS

The majority of the Board agreed the property fulfills the intent of the provision in single family zoning districts which would allow the requested second floor setback, because the property to the rear is a multi-family apartment building.

ACTION

Based on these findings, Michael Clary made a motion, seconded by Charles Steinberg, to approve the request. The request was approved by a vote of 5 to 0.

2. Request of Roger & Sabrina Marks for a variance to allow the construction of a spa located 10 feet from the Whipple Avenue lot line, in lieu of the required setback of 15 feet.

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George Wiggins, Director of Building, gave the following summary:

While under construction the owners of this townhome decided to add a spa in the courtyard area which is surrounded by a 5 foot high masonry wall. However, the wall is placed at a compliant setback of 10 feet from the Whipple Avenue lot line on this corner lot, and placing the spa 4 or 5 feet behind the wall will occupy much of the space available in the courtyard.

Landscaping behind the spa will serve as an additional buffer and visual screen from the adjacent street. This provides 2.8 more feet of setback distance from the lot line to the actual proposed spa location. Therefore, this setback request is an encroachment of only 2.2 feet instead of 5 feet as published.

The exterior dimensions of the spa are 7 feet in width by 12 feet in length. However, the water's edge of the spa is proposed to be located 12 feet 10 inches from the lot line.

Two major mitigating factors with this request are that this is a narrow corner lot and directly across the street from this townhome is the Winter Park Golf Course, a non-residential property.

We received fourteen letters of non-objection for this variance request prior to the meeting.

Mr. Wiggins clarified the actual proposed setback is 12'-10" from the property line, which means the actual encroachment is only 2'-2". This is less of a request than advertised.

The applicant, Mr. Marks provided two additional letters of support. One is from Father Walsh (priest at Saint Margaret Mary Church) across the street and the other is from another townhome owner nearby.

FINDINGS

The Board concurred the hardship is the narrow corner lot facing non-residential property directly across the street.

ACTION

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

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3. Request of Green Garage European Auto Centre for a variance to allow the construction of six foot high black metal fencing located immediately adjacent to the property line along Fairbanks Avenue and Ohio Street with two entry gates in lieu of the required setback of 10 feet.

Located at 1931 W Fairbanks Ave

Zoned C-3

George Wiggins, Director of Building gave the following summary:

Due to a recent burglary at this property the existing chain link fencing was driven through and substantially damaged. Rather than replace the 6 foot high chain link fencing which is no longer permitted at this location on a commercial property, the owner requests allowing a more decorative metal fence and gates as more attractive replacement fencing.

Also, due to the limited space available on site for vehicles to park and move around on the site, the applicant requests placing the fence back at the same location along the property line. Placing the new fencing back at the required setback of 10 feet will substantially impact the use and function of this auto sale and garage repair business.

If the Board is inclined to grant the request, it appears there may be an opportunity to place the new fencing behind the existing pole sign on the corner. However, the owner feels that it is not possible to position the fencing behind the sign due to constraints on the property.

Two letters of non-objection to this request have been provided from nearby businesses.

The Building Official responded to Board questions confirming the proposed fencing will be in the same location, and at the same height, as the damaged fencing. The existing fence is in a non-conforming location.

The applicant, Mr. Edward Dillard stated he would like to replace the existing fencing with a much more appealing black metal fence as shown in his variance application.

FINDINGS

The Board members agreed the hardship is maintaining and improving the appearance of the deteriorating and damaged existing condition of the chain link fencing which will be removed.

ACTION

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

4. Request of Steve Murphy (CDS Contractors) for variances to allow the construction of 2 duplex dwellings with a second floor rear setback of 19 feet in lieu of the required setback of 25 feet and to allow a street side setback on Miller Avenue that varies from 11 to 12 feet in lieu of the required setback of 14 feet.

Located at 1101, 1103, 1105 & 1107 Schultz Ave

Zoned R-2

George Wiggins, Director of Building gave the following summary:

These properties which originally had two duplex lots fronting onto Miller Avenue were officially revised through a subdivision request to allow the lots to front onto Schulz Avenue which is similar to the pattern of the townhomes across the street.

Code compliant plans for two duplexes were permitted for these properties and construction commenced until a foundation survey revealed that the work to date varies from the permitted plans with regard to street side and rear setbacks. Apparently, the surveyor, construction superintendent, contractor, owner and city inspector were not aware that the duplexes were being constructed at a location different from the approved site plan. At this point foundations, floor slabs and masonry walls were in place and the city placed a "stop work" order on the job until the setback matter is rectified or adjustments are made to make the new construction in compliance.

The contractor is preparing to demo the entire project underway unless variances can be granted to salvage the work done to date.

With respect to the Miller Avenue setback encroachment, although a 20 foot setback was designed in the permitted plans, this narrow corner lot only requires a 14 foot street side setback which means that this side wall encroaches 3 feet into the setback on the west end and 4 feet on the east end.

With respect to the rear setback, the plan was designed with a 25 foot rear setback, however, the structures being built will have setbacks of 20.5 for the duplex closest to Miller and 20.6 feet to the other duplex plus an addition encroachment of 1.5 feet for portions of the second floor on each duplex.

All other coverage requirements (floor area ratio, building coverage and impervious coverage) are compliant with the code.

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In response to a Board question, Mr. Wiggins noted that if the buildings were shifted to the south and to the east they would be in compliance.

The applicant, Mr. Steve Murphy, stated he has been building and improving the neighborhood for the past twenty years, including the development of Hannibal Square. This variance request is due to his surveyor's error.

In response to Board questions Mr. Murphy said the site wall height was brought into compliance once he was made aware of the field mistake.

Mr. Douglas Knight & Mr. Enrique Perez of 1331 Miller Ave presented the Board with 17 letters of opposition. They stated many trees were removed from the site. Mr. Perez stated construction was taking place outside of allowable construction times.

Mr. Edward Bosch of 1051 Schultz spoke in favor of the variance request stating the site is clean and construction progress should not be halted.

The applicant, Mr. Murphy, responded that the trees removed were the invasion type non-protected species and their removal was approved by the City's arborist.

After further discussion by the Board and asking questions of staff and the applicant Board members agreed that they did not want to set a precedent of using a variance to correct field errors on construction projects.

FINDINGS

The Board members pointed out the hardship is self-created. They felt the applicant's request is due to a gross construction error, and is not a minor request.

ACTION

Based on these findings, Patrice Wenz made a motion, seconded by Michael Clary, to approve the request. The request was denied by a vote of 0-6.

5. Request of John Stevens on behalf of Harriet Wolfe for a variance to allow the construction of a carport with a front setback of 25 feet in lieu of the required front setback of 31 feet.

Located at 446 Melrose Ave

Zoned R-1A

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George Wiggins, Director of Building gave the following summary:

The existing contemporary designed home was built without a covered area for vehicles. The front yard area of this home has an outdoor walled in courtyard with a seven foot masonry wall surrounding it. The front setback to this wall is 31.9 feet. The nearest adjacent homes have front setbacks of 31 feet which establish the required front setback for this home.

In order to provide a covered carport the applicant requests permission to build an open carport matching the design of the home, with enough room to act as a one car carport structure.

Due to limited gross floor area, the carport columns are placed in locations that result in only 140 square feet of new floor area. Additionally, as permitted, the overhang of the carport extends the allowable 3.5 feet into the requested revised front setback of 29.3 feet and overhangs each end of the carport to provide more covered area for a vehicle.

In order to not increase the impervious coverage the architect is proposing to cut out 6' by 6' squares out of the existing driveway to create additional pervious area on the property.

Seven letters of non-objection to this request have been provided from nearby neighbors.

The applicants were not attend the meeting and no representatives were present to speak on this request. However, the Board felt that enough information has been provided by the application to proceed with hearing this request.

FINDINGS

The Board members felt the hardship is the narrow corner lot. They noted the request is minor with no negative impact. Replacing the solid wall with an open air carport addition is an improvement.

ACTION

Based on these findings, Michael Clary made a motion, seconded by Patrice Wenz to approve the request. The request was approved by a vote of 6-0.

6. Request of Giavonni Fernandez for variances to allow re-construction of a home within the side setbacks at 7.5 feet to the 1st and 2nd floors in lieu of the required setbacks of 18 feet and 25 feet respectively.

Located at 181 Virginia Drive

Zoned R-1AAA

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George Wiggins, Director of Building, stated he received an email from the Architect prior to the meeting asking to table the request until the December 18, 2018 Board of Adjustments hearing because the homeowner's could not be present at this meeting.

ACTION

Michael Clary made a motion, seconded by Charles Steinberg to approve the request. The request to table until the December 18, 2018 Board of Adjustments hearing was approved by a vote of 6-0.

7. Request of Sal & Jodi Nunziata for variances to allow re-construction of a home within the side setbacks at 11.7 feet to the 1st and 13.5 feet to the 2nd floor in lieu of the required setbacks of 17 feet and 24 feet respectively.

Located at 2351 Forrest Rd

Zoned R-1AAA

George Wiggins, Director of Building gave the following summary:

Based on a previous variance granted in 2013 to this same applicant, the required side setbacks were based on an average lot width of 128 feet which results in setbacks of 16 feet and 22 feet for the first and second floors. See below.

Casey Nelson, Architect
2351 Forrest Rd.
Winter Park, FL 32789

Request of Casey Nelson for variances from Section 58-65 "R-1AA & R-1A districts" Paragraph (f) to allow the construction of a two story building addition to be located 9.3 and 9.8 ft. from the north side lot line in lieu of required first floor setback of 16 feet, and second floor setback of 22 feet.

The request was APPROVED by the Board of Adjustments on April 16, 2013.

Located at 2351 Forrest Rd.

Zoned: R-1AAA

The variance granted in 2013 allowed a two story addition for additional first floor garage space and living area on the second floor.

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This new variances requested includes a second floor master suite and expands the first floor area with the addition of an open covered porch similar to an existing porch on the front.

Although the property is large, most of the new area is limited to the footprint of the existing home.

Two letters of non-objection have been provided from the adjacent neighbors on each side of the applicants' home.

The applicant, Sal Nunziata, presented five additional letters of support and stated the home was originally built in the 1950's on this odd shaped lot with side wall much closer to the side lot lines than currently permitted under the revised Zoning Code criteria in recent years.

The Architect, Tom Lamar, stated the location of the proposed addition will balance the home on this unique lakefront site.

FINDINGS

The Board members agreed the hardship is the irregular lot shape. They noted the seven letters of support and considered the most affected neighbor is favor of this minor request.

ACTION

Based on these findings, Michael Clary made a motion, seconded by Charles Steinberg, to approve the request. The request was approved by a vote of 6-0.

8. Request of Greg Kurowski (HR Unlimited Builders) for a variance to allow the construction of a roof trellis located 7.5 feet from the side lot line in lieu of the required setback of 12.5 feet

Located at 1903 N. Park Ave

Zoned R-1A

George Wiggins, Director of Building gave the following summary:

The proposed second floor trellis structure is proposed to be located along the west side of this new contemporary designed home under construction for a distance of 65.5 feet. Five supporting columns placed 4.5 feet out from the second floor wall to support the trellis, with the framing members extending another 1.5 feet.

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The applicant states that this trellis is needed for shading and to provide a path for a roof gutter to drain the second floor roof while allowing a clear unobstructed path along this second floor deck. However, the balcony decks on the front and rear of the home do not have a trellis planned in those areas to assist with drainage or shading. In addition, shading can be provided with awnings that can project out up to 3.5 feet over windows or through partially translucent window treatments on the west side.

No letters have been provided regarding this request.

The applicant, Mr. Gregor Kurowski, with HR Unlimited Builders, stated the most affected neighbor lives in Germany so he was unable to get a letter of support from them. Mr. Kurowski responded he was open to accepting a condition that the trellis never be covered.

When questioned about the lengthy construction time, the applicant responded that this was his first time building a home.

FINDINGS

The Board members felt the hardship is the narrow corner lot. They noted the request is minimal considering a 3.5 covered overhang would be permissible without a variance.

ACTION

Based on these findings, Zachary Seybold, made a motion, seconded by Michael Clary, to approve the request with the condition it can never be enclosed or covered with any type of roof material or covering. The request, as amended, was approved by a vote of 6-0.

The meeting was adjourned at 6:30 pm.

Theresa Dunkle
Recording Clerk