



**CITY OF WINTER PARK
Board of Adjustments**

**Regular Meeting
City Hall, Commission Chambers**

**March 28, 2019
5:00 p.m.**

MINUTES

PRESENT

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

APPROVAL OF MINUTES

Tom Sacha made a motion, seconded by Mike Clary, to approve the minutes from the February 27, 2019 meeting. The minutes were approved by a vote of 4-0.

OPENING STATEMENT AND PUBLIC COMMENTS

Patrice Wenz explained the rules of procedure for variance cases and opened the floor for any disclosures, public comments or questions.

Phil Kean arrived after approval of the meeting minutes and the recording was started at this time.

Tom Sacha disclosed he had conversations with the third applicant, Dr. Byrnes, regarding his request.

NEW BUSINESS

1. Request of Steven & Jacalyn Tye for a variance to allow the construction of a two story building addition with a side setback of 19.7 feet, in lieu of the required setback of 22 feet.

Located at 520 Shepherd Avenue

Zoned R-3

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

The required large 22 foot second floor setback results from having a large lot with a width dimension of 125 feet combined with the proposed gross floor area of 5,698 square feet or 30.4% floor area ratio (less than the allowed base of 33%).

The applicants desire to remove a deteriorated flat roof area above the existing garage in order to expand a second floor master bedroom and bath area by 10 feet on the south side of the home resulting in 273 square feet of additional gross floor area. On the first floor the garage will remain under its current configuration.

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With this second floor area increase above an existing garage no new impervious area is created on the property. The addition also will be added at a building height less than the rest of the home with a conforming height of approximately 26 feet from existing grade.

Letters expressing approval of the requested variance have been signed by six nearby residents on Shepherd and Phelps Avenues.

Mr. Wiggins responded to a Board questions. He clarified that the existing home complies with the setbacks established at the time the home was built. In the 1980's the second floor would have been allowed at a ten foot side setback, instead of the 22 feet second floor setback required today.

The applicant, Jacalyn Tye spoke. She stated the existing roof patio over the garage requires rebuilding due to deterioration. She explained it makes sense to enclose the roof deck at the same time of the repair. Ms. Tye stated she wanted additional square footage within her master bedroom and master bath and noted homes built in the 1980's did not include the larger sized master suites most homes have today.

The Board identified that due to this particularly wide lot this home requires a more stringent setback than adjacent homes. They discussed that a substantial second floor separation of almost twenty feet would still be provided and six letters of support were received from adjacent neighbors.

FINDINGS

The Board found the hardship is that the setbacks changed since the home was built in the early 1980's. They felt the 28 inch setback encroachment request was minimal, the applicant is working within an existing second floor level and no changes are being made to the impervious coverage for this property.

ACTION

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

2. Request of Greg Engeman & Angela Whitford-Narine for variances to allow the construction of a swimming pool enclosure located 5.5 feet from the side lot line and 6.9 feet from the rear lot line, in lieu of the required setback of 10 feet.

Located at 1664 Cypress Point Lane

Zoned R-1A

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

As the result of a newly re-constructed pool configuration in the side yard area of this property on a cul-de-sac, the applicants are seeking setback variances on the side and in the rear yard to construct a pool enclosure.

The property backs up to the Winter Pines Golf Course and is also adjacent to a storm water retention drainage canal where a rear setback encroachment of 3.1 feet was originally requested. The original height of the pool enclosure at the rear was proposed to be 8.5 feet. Under the Zoning Code, the rear wall of a pool screen enclosure may have a rear setback of 7.5 feet if the screen wall height is limited to 7.5 feet at this rear setback line. However, in this case with the property abutting the waterway and golf course the purpose of having this unique rear setback provision is less important since no residence exists on the rear of this property.

With regard to the side setback variance request the proposed encroachment varies from 3 feet at the front to 4.5 feet at the rear. The original proposed height of this side wall of the enclosure was 8.5 feet above a retaining wall. The initial submittal showed the retaining wall 2 to 3 feet in height, which would have resulted in an approximate side wall height from grade to be 10.5 to 11.5 feet. The overall height of the enclosure at the center rises to 12 feet above the deck surface.

One letter expressing approval of the requested variance has been provided from the Winter Pines Golf Club General Manager and one letter of objection was withdrawn prior to the meeting.

Mr. Wiggins noted the applicant has provided revised drawings at this meeting, as a result of the most affected neighbor's cooperation. The revised plans show the 10 foot rear setback be maintained with the exception of the encroachment at the far west side.

Mr. Wiggins responded to Board questions, noting the swimming pool replacement complied with all current codes without the need for a variance. This variance request is limited to the screen enclosure only.

The applicant, Angela Whitford-Narine confirmed the survey provided is less than 2 months old; it captures the previous and current pool deck locations. Ms. Whitford-Narine said they bought the home with a pool and screen enclosure and assumed it could be replaced. She stated the proposed screen wall heights will not be greater than 8 feet, per discussions with her neighbor.

The most affected neighbor, Mark Stewart of 1672 Cypress Point, spoke. He stated he originally wrote a letter of opposition but is now in approval of the revised design. He appreciates the applicant's willingness to fill in certain discussed areas with shrubbery. Mr. Stewart said he wanted to work with the Engeman's to provide some level of outdoor safety for his neighbors from stray golf balls.

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The Board stressed how impressed they were with the applicants and their neighbor's cooperation. They weren't sure the screen enclosure would provide adequate protection from hard driven golf balls. However, because of the strong example of compromise, they felt positive about the revised request.

FINDINGS

The Board found the hardship is that the new screen enclosure setbacks prohibit the existing swimming pool screen enclosure replacement. The lot backs up to a golf course and the replacement of the enclosure may provide some protection for the applicant's family from stray golf balls.

ACTION

Based on these findings, Phil Kean made a motion, seconded by Tom Sacha to approve the request. The request was approved by a vote of 5-0, with an amendment stating that the approval includes the condition that the 10 foot rear setback be maintained, with the exception of the encroachment at the far west side and the wall height not exceeding 8ft.

NEW BUSINESS

3. Request of Dr. Drew Byrnes for a variance to allow the construction of a ground sign with an area of 80 square feet, in lieu of the maximum allowed area of 50 sq. feet.

Located at 1566 W. Fairbanks Avenue

Zoned C-3

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

The purpose of our sign code regulations with regard to Fairbanks Avenue is to provide modest sizes for new signs erected on this important commercial corridor as one the main entrances into Winter Park. Having been annexed into the City over 15 years ago has resulted in allowing some signs larger than 50 square feet in area under a grandfathering rule. One of those signs is the nearby sign Four Rivers Barbecue which maintained the previous pole sign and replaced the faces of the sign. That sign exceeds 80 square feet in area.

In addition, on May 15, 2018, a variance was granted to Lombardi Seafood for a new sign when a hurricane blew down a much larger 165 square foot billboard size sign that they had been using as their ground sign for their business. In its place the

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Board granted a variance for a sign with 80 square feet of area with a height of 16 feet and 8 feet of clearance under the sign.

The proposed new sign for this applicant will be located one foot from the sidewalk at the east end of the property away from the corner street Jackson Avenue so as to allow traffic visibility. The applicant has suggested that he is offering to place a smaller wall sign on the Jackson frontage to compensate for extra ground sign area on Fairbanks. The reduced wall sign area amounts to 40 square feet.

In addition, clearance from overhead power and cable lines will need to be addressed prior to actual construction of the sign as well as permissible depth of a footing for this sign since underground lines are now placed along this side of Fairbanks Avenue. However, all of the overhead lines will be removed within one year when the undergrounding project is complete.

Five letters of non-objection have been provided from other property owners or businesses regarding this request.

Michael Clary expressed that he did not feel the proposed message board was necessary for a dental office advertising. The applicant Dr. Drew Byrnes responded that the message board will be used for public service by including positive statements related to his profession and may post notifications of local events.

The Board members discussed the message board; most felt this business' signage requirements should be no different than the nearby restaurant signs.

FINDINGS

The Board found the hardship is providing equal visibility among adjacent businesses. The request was in line with variances granted for Lombardi's Seafood and the grandfathered sign at nearby Four Rivers restaurant.

ACTION

Based on these findings, Charles Steinberg made a motion, seconded by Tom Sacha to approve the request. The request was approved by a vote of 4-1, with Mike Clary voting in opposition.

NEW BUSINESS

4. Request of Ryan & Julie Burrow for a variance to allow the construction of a one story cabana addition with a side setback of 18.7 feet, in lieu of the required setback of 26 feet, or to allow a 17 foot side wall height, in lieu of the maximum allowed height of 12 feet.

Located at 289 Trismen Terrace

Zoned R-1AAA

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

As part of a cabana building addition on the rear of the existing home, the applicant is seeking a variance due to the sloping topography of the lot toward the rear lakefront similar to many properties along Lake Osceola in this vicinity.

This large cabana addition extends nearly 30 feet along the east side of the home at a proposed side setback much larger than the existing side wall at only 10'. Today's newer side setbacks are dictated by lot width which causes new additions to adhere to these larger setbacks. The total area of the cabana addition is 600 square feet.

Although the taller wall height is 17 feet, the Zoning Code allows the designer to calculate an average side wall height due to sloping conditions. When considering the existing wall along the side, the wall height will average close to approximately 15.5 feet at the proposed setback of 18.7 feet. As a point of reference the required side setback for a lot 100 feet in width to the second floor at the base FAR of 33% is 18 feet.

One email correspondence has been received from the adjacent impacted property owner who at first objected, but has now spoke with neighbors and contractor and has withdrawn his objection.

The Board felt they could render a ruling based on the submittal information alone unless the applicants desire to speak on this request.

The applicants elected not to speak since the board voiced no questions or concerns.

FINDINGS

The Board found the hardship is that the setbacks changed since the home was built and the changing elevation of the property.

ACTION

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

The meeting was adjourned at 6:00 pm.

Theresa Dunkle, Recording Clerk