



Board of Adjustments Minutes

June 18, 2019 at 5:00 p.m.

City Hall | Commission Chambers
401 S. Park Ave. | Winter Park, Florida

Present

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

Meeting called to order

Approval of minutes

Motion made by Tom Sacha to approve the May 21, 2019 minutes. Mike Clary seconded the motion. The minutes were approved by a vote of 5-0; Aimee Hitchner arrived directly after approval of the minutes.

Election of chair

Mike Clary made a motion to elect Patrice Wenz as the new Board of Adjustments Chair; the motion was seconded by Aimee Hitchner. The motion was approved by a vote of 6-0.

Tom Sacha made a motion to re-elect Phil Kean as the Board of Adjustments Vice-Chair; the motion was seconded by Mike Clary. The motion was approved by a vote of 6-0.

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.

New business

1. Request of Matt Langbehn in behalf of William Moss for variances to allow rebuilding an existing boathouse located .5 feet from the side lot line in lieu of the required side setback of 10 feet and to allow 672 square feet of area in lieu of the maximum allowed area of 600 square feet.

Located at 2158 Lake Drive, Zoned: R-1A

George Wiggins Director of Building, gave the following summary:

On January 8, 2019, the Lakes Board reviewed and conditionally approved this proposed boathouse subject to obtaining a letter of non-objection from the abutting property owner due to its proposed close proximity to the adjacent property. Public Works Department staff had made a recommendation of denial for this application due the size of the boathouse exceeding 600 square feet in area.

The applicant explained to us that the proposal to maintain the existing nonconforming side setback is requested due to shallow water depth and the ability to bring a boat into the lift. The marine contractor is providing water depth information to help justify the need for the smaller side setback.

A letter of non-objection has been provided by the adjacent property owner most impacted by the boathouse construction. If the Board does not grant the requested setback variance, then the owner still has the option to locate the boathouse 5 feet from the side lot line.

Mr. Wiggins noted the following for the board's information: One, he assumes the proposed location was requested to reinstall the boat dock in its existing location, which may be the deepest spot due to years of use.

Two, if the variance is not granted the applicant would need to reduce the square footage from 672 to 600 square feet; the additional square footage is needed for the 4ft extended walkway. Three, the applicant could keep the 5 foot separation to the lot line because of the adjacent property owner's letter of approval. Four, the boat house is typical at 13 feet above the ordinary high water line, which meets code criteria. Five, the adjacent boat house is approximately 15ft away.

Mr. Wiggins responded to Board questions regarding the Lakes Division staff recommendation for disapproval. This may have been due to the need for this request to receive variance approval for not meeting all Zoning Code criteria.

The applicant, Matt Langbehn with Summertime Deck and Dock, responded to Board questions. He confirmed the new boathouse design will match the existing in size and location. He volunteered to consider reducing the size. When asked how the impact of the boathouse relocation was determined to be detrimental to the natural shoreline as stated on the application, the applicant responded that cypress knees will not be disturbed if installed in the same location. When asked how the applicant determined that boat mooring was inadequate elsewhere, the applicant said it was based on his observation of the shore line and that years of use has scoured out a path to moor a boat in the current location. Mr. Langbehn also responded that the owner may be open to the side setback of five feet.

The owner, William Moss, stated the bottom of the lake is covered in vegetation that he hoped not to disturb more than necessary. He noted the dock is in disrepair and will be built back with a pitched roof and without a ladder. Mr. Moss estimated the high water line is currently at 83 feet, which is 2ft higher now than it will be in the spring. For adequate mooring conditions, he needs the additional square footage to extend farther out into the lake.

The Board discussed options. Such as; approving the proposal as presented or leaving the dock in the same location, but reducing its size. Another option discussed included leaving the walkway in the same location to protect the shoreline vegetation, but shift the boathouse 5ft from the property line.

Findings

The majority of the Board could not find a hardship. They felt the dock could be relocated to provide a 5ft setback separation, without much disruption to the vegetation. They also concluded the boathouse and dock could be reduced to the maximum square footage of 600 feet to meet the current code. Because the most affected neighbor approves of the 5 feet setback, in lieu of the 10 foot setback from the side lot line, a variance will not be required.

Actions

Based on these findings, Mike Clary made a motion, seconded by Patrice Wenz to approve the request. The requested variance was disapproved by a vote of 2-4 with Phil Kean and Tom Sacha voting in favor of the request.

2. Request of Nestor Luzardo for variances to allow the construction of a building addition with a side setback of 8.4 feet and a rear setback of 13.7 feet in lieu of the required setback of 10 feet and 25 feet respectively.

Located at 622 Blairshire Circle, Zoned: R-1A

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

In order to create a master suite on the rear of this home, the applicant is seeking permission to remove an existing porch and build back a larger addition that encroaches 11.3 feet into the rear setback while keeping the side wall nearly in line with the existing side wall of the home along the garage.

The proposed addition is under the allowable floor area and impervious coverage permitted for this property.

This property in the Brookshire Heights subdivision is similar to most of the lots in this area which have relatively short lot depths, and were developed during a time when the rear setback requirement was 10

feet. As you may be aware a major re-write of the single family zoning rules was adopted in 2010 creating the larger 25 foot rear setback requirement to the first floor and 35 feet to the second floor. Since then, there have been a few refinements of those provisions including a change three years ago to allow lots that are 110 feet deep to have a 15 foot rear setback.

Most of the homes in the Brookshire Heights area have 30 foot or greater front setbacks, whereas other new subdivisions are permitted to have a 25 foot front setback. Over time the result of this slightly larger front setback plus the smaller former 10 foot rear setback has produced a pattern of homes set back further on these lots than homes in other single family zoned properties throughout the city.

In addition, the ongoing trend to tear down older homes and redevelop at the maximum allowed floor area ratio is producing all two story homes in order to meet the 25' first floor and 35' second floor rear setback.

From time to time, I hear from residents and designers who desire to find one story homes due to aging population, particularly long time Winter Park residents who wish to move from a much larger home to a downsized one story home allowing one floor level for accessibility reasons. In addition the one story home is often preferred for couples or small families just entering the home sales market.

In summary, perhaps a greater incentive should be considered that gives a better option for more one story re-builds instead of having setbacks that seem to only work financially to build two story homes in these redeveloping neighborhoods.

I realize this is a point that should be made to the Planning and Zoning Board, however, this Board may want to express thoughts on this after seeing a number of rear setback variance requests over the last few years.

The applicant, Nestor Luzardo, provided two letters of approval from the most affected adjacent neighbors at 626 Blairshire and 683 Greene Drive.

The Board had no questions for the applicant.

Findings

The Board felt the information provided for their preview, coupled with the letters of approval from the affected neighbors, supported the hardship listed on the application which relates to the short lot depth and location of the home on the lot. The applicant is providing a rear setback of 13.7 feet for a minimal master bedroom suite, which is greater than the previous ten foot setback that was formerly in place for this neighborhood, prior to the more current code changes.

Actions

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

3. Request of Luz Marina Munoz for a variance to allow the demolition of over 50% of the existing dwelling and build a new pitched roof structure over the existing side walls at the existing side setbacks which vary from 5.6 feet to 8.1 feet on the west side and 4.5 feet to 6.6 feet on the east side in lieu of the required side setbacks of 7.5 feet.

Located at 1572 Sunset Drive, Zoned: R-1A

George Wiggins Director of Building, gave the following summary:

Currently, a one story home with a flat roof and parapet exists on this property. The new owner wishes to remodel the interior of the home, change the architectural appearance by converting the roof to a hip shaped roof, add a front entry feature and covered porch at the rear of the home. The proposed new porch will be built within the allowed side setbacks.

Due to the amount of demolition work taking place on the home (over 50%), the remodeling cannot take place unless a variance is obtained to allow the existing non-conforming side setbacks to remain.

This property has an unusual configuration with a front on Sunset Drive and a rear driveway access on Chestnut Avenue with a 25 feet of lot frontage on that street.

The proposed remodeling and porch addition to this home will be within the allowable floor area ratio and impervious coverage for this property.

We have received signed notices of approval of this variance from 13 nearby property owners and one tenant at 1440 Chestnut Avenue. The adjacent property owner on the east side has submitted a letter in opposition to this variance.

Mr. Wiggins noted currently the flat roof does not have an overhang. The new roof will have a sixteen inch overhang projecting further into the existing side setback which is a concern to the affected neighbor.

The applicant, Luz Marina Munoz stated her hardship is the deteriorating roof. She feels the proposed pitched roof will enhance the appearance of the home and is open to installing gutters to ensure rain runoff does not affect the neighbor's property.

Monarcha Marcey the home designer with Keessee Associates replied to Board questions stating the hardship is need to replace the roof with a pitched roof which will allow for HVAC ducts and roof insulation. This would ensure a more energy efficient home.

Mr. Wiggins explained the 50% rule, stating the home must meet current setbacks when 50 percent of the value of the home is demolished and is deemed by our Code to have exceeded this threshold if the home is being gutted and the roof is being removed. He then concurred with the observation that a roof over the existing roof structure would not trigger the 50 percent demolition rule.

Monarcha Marcey asked that the laundry room and master bath addition be considered for a partial variance approval instead of the entire request being denied. She also noted that the survey indicates the correct side setback of 4'-6". Ms. Marcey stressed the design is not obtrusive, not a two story and will offer affordable housing, needed in Winter Park.

Adjacent neighbors, Scott Baker and Bridgid Kirkpatrick reviewed their objection letter with the Board. Mr. Baker reiterated there is too much massing next to his home, the mechanical system can be designed within a flat roof and that case law requires substantial evidence to prove a hardship. Bridgid Kirkpatrick illustrated how the minimal distance between their two properties would be further reduced. Mr. Baker said the plan he was originally shown had a flat roof, which explains their initial correspondence.

Joe Penland of 1500 Chestnut Ave spoke in favor of the proposal, stating the current structure is in disrepair. Whereas, Cheryl Jorjordia spoke in opposition, stating the buyer was aware of the conditions.

In closed session, the Board appeared split on the issues. Some of the Board could not find a hardship because the applicant just purchased the property and should have been aware of the Code limitations. Other members felt the hardship is meeting today's energy codes and suggested a compromise of a gable end. One board member stated homes being renovated beyond 50 percent should meet today's codes.

Findings

A motion to defer was suggested to allow the neighbors' time to discuss their concerns and work out an acceptable compromise.

Actions

Based on these findings, Tom Sacha made a motion, seconded by Michael Clary, to approve the motion to table the request. The request to table, for up to 90 days, was approved by a vote of 5-1. Aimee Hitchner voted in opposition.

The meeting was adjourned at 6:41 pm.

Theresa Dunkle, Recording Clerk