



Board of Adjustments Minutes

January 19, 2021 at 5:00 p.m.

Hybrid Meeting

Present

In person: Robert Trompke (Chair), Michael Clary (Vice-Chair), Aimee Hitchner, Ann Higbie, Tom Sims Jr., Director of Building, George Wiggins and Recording Clerk, Theresa Dunkle.

Virtual: Charles Steinberg and Steven Heller.

Meeting called to order

Approval of minutes

Motion made by Michael Clary to approve the December 15, 2020 minutes. Ann Higbie seconded the motion. The minutes received approval by a vote of 7-0.

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. No disclosures or public comments made.

New business

1. Request of Matthew Monroe with Envision Custom Homes Inc., on behalf of Joshua Gottschall, for the following variances. One, construction of a detached pool cabana with a roof height of 19 feet at the highest point and a sidewall height of 12 feet, in lieu of the maximum allowed heights of 18 feet and 11 feet respectively. Two, to allow the existing nonconforming two-story side setbacks of 10 feet, in lieu of the required side setbacks of 14 feet to the 1st floor and 19 feet to the 2nd floor, in order to permit the overall area of the cabana at 433 square feet.

Located at 441 Genius Drive, Zoned: PURD

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

This lot backs up to a preserve area and is zoned PURD (Planned Unit Residential Development) and is located in a planned development, built under Windsong Development rules. Designers have three choices available: comply with Windsong rules exclusively; comply with the R-1A residential zoning rules exclusively or exclude the front and rear porches square footage from the floor area ratio. In 2003 when the home was built up to 900 square feet could be excluded from the floor area ratio (FAR) for a rear porch. Nine years ago, the rear porch (FAR) exclusion was reduced to 500 square feet. The Windsong rules allow both first and second floors to be built at a ten-foot side setback.

With the addition of a new swimming pool, the applicant is seeking setback and height variances in order to construct a pool cabana in line with the architecture of the existing home. Although the maximum area of a cabana allow 500 square feet and the open area is permitted to be excluded from the allowable gross area of the home by up to 500 square feet, in this case the home area has already reached the maximum gross area permitted. In addition, under the current code only up 500 square feet of rear open or screened porch or open cabana area may be excluded. The existing rear porch has an area of 322 square feet, which only leaves an additional area of 118 square feet for the proposed partially open cabana. When the home was originally built in 2003, a total area of 900 square feet was permitted to be excluded from the gross floor area for rear porches, cabanas and similar structures.

In order to consider allowing the additional floor area for a cabana with open and enclosed space of 433 square feet, an after the fact setback variance for the main residence must be granted, due to having 10

foot side setbacks on the main residence. Under the current code, the side setbacks are greater (14' to first floor and 19 feet to the second floor based on the lot width) in order to permit this new area.

Included in this variance request is the permission to a higher overall roof height to 19 feet and a higher side wall height to 12 feet although most of the cabana is open. Under today's code the proposed side setback of 10 feet is permitted for a side wall which is 11 feet or less in height measured from existing grade to the top of the roof sheathing. This side setback encroachment issue and the excessive roof height of 19 feet could be cured by reducing the overall cabana height. This may be an area that the applicant may be willing to modify.

The location of this proposed cabana is on a lot that backs up to the Windsong Preserve, which is a natural area not ever likely to be developed. In other areas of the City where a dwelling or accessory structures back up to non-residential properties, the rear setbacks are reduced to 10 feet for one or two story structures.

In summary, the variances requested relate to the cabana's building height, and the ability to recognize pre-existing non-conforming side setbacks on a home built at a time when a much larger area (900 square feet) could be excluded from the gross area of a home.

No letters received regarding this request.

The request is for 256 square feet over the maximum floor area ratio. The open pergola area on the cabana does not count towards the floor area ratio.

In response to Board questions, Mr. Wiggins could not recall other variances approved for properties abutting this specific wildlife preserve. However, other properties within the City have received variances for rear setback when abutting a preserve or other non-residential properties.

The Architect, Joe Knous stated the graphic presented is representative of the conceptual phase of the design. The plans are the accurate submittal. The reason for the request is due to a swimming pool installation error. The pool was shifted a foot to the rear and side in error but complies with the required setbacks. Mr. Knous was able to reduce the width of the cabana to maintain the 10-foot side setback. However, he could not modify the existing cabana length because the roof is an integral part of the pool's rainfall system. Mr. Knous noted the cabana height did not come into question under the original permit review. Mr. Knous stated the neighbor to the south has a garage positioned closer to the preserve than this request.

Mr. & Mrs. Gottschall hoped the board will consider this unique predicament related to the pool shell location that is already in place.

In closed session, Mr. Clary and Mr. Steinberg stated they would consider approval with a modification to reduce the height of the cabana. The majority of the board members were in favor of the request as presented, considering the fact that the Windsong rules permit second floors at a ten-foot setback.

No one from the public spoke concerning this request.

Findings

The Board considered the fact that the lot backs up to the Windsong Preserve where future development is highly unlikely and felt the requested height increase is of minimal impact. The majority of the board members agreed the hardship is that other areas of the City allow a ten-foot rear setback, where a dwelling or accessory structures backs up to non-residential property.

Action

Based on these findings, Ann Higbie made a motion, seconded by Tom Sims Jr. to approve the request. The request passed by a vote of 5-2 with Mr. Steinberg and Mr. Clary voting in opposition.

The meeting adjourned at 5:45 pm.

Theresa Dunkle

Theresa Dunkle, Recording Clerk

February 16, 2021

Date of Board Approval