



# Board of Adjustments Minutes

February 16, 2021 at 5:00 p.m.

Hybrid Meeting

## Present

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

Virtual: Charles Steinberg

## Meeting called to order

## Approval of minutes

Motion made by Michael Clary to approve the January 19, 2020 minutes. Steven Heller 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. Michael Clary disclosed that the applicant for 1219 Via Estrella contacted him. His correspondence was limited to deferring the applicant to the Building Director or Board Clerk.

No public comments made.

## New business

1. **Request of Christopher & Teresa Mairn, for a variance to allow construction of a second story addition to be located 9.6 feet from the side lot line, in lieu of the required setback of 16 feet.**

Located at 1219 Via Estrella, Zoned: R-1AA

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

The proposed second floor is proposed in order to create a new master bath and closet areas and will be located directly above an existing first floor sunroom. Although the proposed addition has a gross area of 200 square feet various parts of the home are being removed that result in a smaller net increase of area. Those items being removed include a chimney, a bay window and a rear staircase, which reduces the net area increase to 143 square feet.

A previous similar second story addition variance at 2532 Fifeshire Drive was denied by the Board on 2/20/2020 with a slightly smaller side setback of 7.9 feet and a more narrow lot where 9 feet was the required setback for the first floor and 12 feet to the second floor.

However, the Board did approve an alternate request in that case that was recommended by a Board member as follows:

Alternately, the Board of Adjustments approves a single story addition, located 7.9 feet from the east line, in lieu of the required side setback of 9 feet and without articulation. The installation of two windows in the east wall of the addition is a condition of this approval.

This approved alternate request will permit the applicant to build a one-story addition that projects into the rear yard instead of the second floor addition proposal, however the applicant has not pursued building this one story addition due to the need to preserve more open yard space for their family.

Images of this previous proposal are included.

A letter of support for this variance was provided with signatures of two residents who directly abut this property on each side and three residents directly across the street.

Mr. Wiggins noted the proposal is under the allowable floor area ratio, with porches excluded from the floor area ratio. He also stated that this requirement for much larger side setbacks was enacted in 2010.

Chris Mairn of 1219 Via Estrella stated he lives with his wife and four children at this address. He noted the following: the originally built sunroom needs a new roof, due to water intrusion. The second floor addition will maintain architectural balance. The proposed roof height on the second floor addition is lower than the main roof to minimize impact on the adjacent home. Mr. Mairn concluded stating his hardship is the size of the lot and the pool location that prohibits an addition at other locations on the property. Mr. Mairn highlighted that he met with each neighbor individually to review this request.

The Board had no questions for the applicant.

In closed session, the majority of the board had no objections noting that the nonconforming setback exists, buildable space within the allowable gross area is limited in the rear yard and that all abutting property owners approve of the request.

## Findings

The board members found the following hardships, an irregularly shaped lot, the need for repair due to water damage and a limited buildable area.

## Action

Based on these findings, Steven Heller made a motion, seconded by Tom Sims, Jr. to approve the request. The request was approved by a vote of 7-0.

- 2. Request of Leo Alvarez, for a variance to allow construction of a patio/outdoor kitchen accessory structure with low walls to be located 2.5 feet from the side lot line, in lieu of the required setback of 5 feet.**

Located at: 2961 Parkland Drive

Zoned: R-1A

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

This patio/outdoor kitchen is substantially completed. The applicant is applying for an after-the-fact variance and permit. The applicant says he was unaware of a need for a permit and unaware of the setback requirement.

While meeting with the applicant at his property we took measurements between the existing fence and the pool deck and there may be enough room to move the deck further into the property to achieve a 5-foot side setback. However, one limiting factor is the swimming pool deck, which is approximately 14 feet from the side lot line. With block work in place for a future counter and grill placement, the applicant desires to ask for this variance to prevent removal of work already started.

With regard to placing this patio area on the east side of the pool, a sloped condition exists in that location and ground area tends to have standing water during rainy periods and acts as an extended drainage storage area from the required storm water swale created during the construction of this new home within the last 2 years.

The proposed area of the new patio falls within the allowable impervious coverage for this site. The rear setback is in compliance with the Code.

Two photos that taken were included with this request.

No letters were received regarding this request, however, the applicant had stated that he had talked to the property owner that abuts the rear of this lot and stated that this individual has no objection to the patio. We have not heard from the resident or property owner that directly abuts this patio on the west side.

The board asked Mr. Wiggins if any elevations of the proposed structure were received that indicate the height of the fireplace. Mr. Wiggins responded that the only conceptual pictures were presented this request.

The owner, Leo Alvarez, stated he has owned the home for 11 years and has lived in the home for the last 2 years. Mr. Alvarez stated the following; he did not realize he needed a permit for the outdoor grille structure, noting it has no plumbing or electric. There are drainage issues on both sides of this home. The proposed grill counter height is 36 inches and the top of the grill will be 4.5 feet. The yard fencing will provide privacy for the neighbor. The pipe shown in the picture is for pool drainage, if needed.

In response to Robert Trompke question, Mr. Alvarez stated the structure would sit lower than the reinforcing steel bars coming up from a footing shown in the pictures. The top of the grille will sit well below the yard fence height.

Mr. Wiggins noted the applicant met with Winter Park's storm water inspector and the project will need to comply with storm water departmental requirements. In response to Tom Sims, Jr. question, the applicant responded that the home has gutters to direct rain water runoff to drainage areas on the property.

In closed session, Charles Steinberg voiced two concerns, no neighbor approval letter and possible water diversion onto the neighbor's property. Most of the board were in favor of the request with the conditions of a five feet maximum height limitation for this outdoor kitchen and approval by the city's engineering department regarding storm water drainage.

## Findings

The board members found the hardship was the slope of the lot on the east side of the pool which limits the buildable area for this patio/outdoor kitchen and placement in other areas is also limited due to needed attention to storm water drainage requirements.

## Action

Based on these findings, Ann Higbie made a motion, seconded by Aimee Hitchner to approve the request with conditions. The conditions include: Limiting the height of the fireplace to five feet from grade and meeting Winter Park's Storm Water requirements. The request with both conditions was approved by a vote of 7-0.

- 3. Request of Rene Fernandez, on behalf of Oxana Daniels for a variance to allow re-construction of a detached storage shed to living space with an addition that includes a bathroom, located 11 feet from the rear lot line, in lieu of permitted rear setback of 25 feet.**

Located at: 2028 Summerfield Rd

Zoned: R-1A

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

An existing storage building has an area of 234 square feet according to the dimensions shown on the site plan. However, the applicants indicate that the area is 192 square feet. Any new storage building over 320 square feet or habitable detached accessory building is required to be located at the same setbacks as the main residence. In this case, the rear setback should be 25 feet as an accessory dwelling use building.

The plans provided with this application show a new building with dimensions of 33' by 14'3" resulting in an area of 470 square feet. In addition, the proposed plans depict a new building with a hip shaped roof on both ends; however, the small existing building has two gable ends.

In addition, the plans provided show a full bathroom and an enclosed closet even though the spaces are labeled as storage and utility areas. With this arrangement, we conclude that this is for accessory living quarters. In addition, as seen in a photo provided, a window type A/C unit is in place on the existing storage building.

Based on the site plan provided, it appears that the existing storage building could be expanded inward toward the rear of the home by 19 feet to accomplish having the same size proposed building with a lesser variance request. This would leave a distance of 6 feet between the home and an expanded storage building.

No letters were received regarding this request.

Mr. Wiggins noted the floor area ratio is in compliance.

Robert Trompke asked if the existing shed is structurally sound for living purposes and questioned the finished floor elevation. Mr. Wiggins confirmed a Florida certified design professional would need to certify the existing structure meets the Florida Building Code requirements. The finished floor elevation requires review.

Daniel Jorge spoke virtually. He noted the owner hired him to do the project. He said the sink and closet are existing but the bath is not. He was unsure if hurricane clips are in place. Mr. Jorge assumes the sewer line is in place because there is a clean out between the home and shed. Mr. Wiggins responded the shed permit did not include plumbing.

In response to Tom Sims question regarding the hardship, Mr., Jorge stated the owner would like to follow the existing roofline of the shed. He thinks the current owner has owned the property for a little over one year.

In closed session, the Board members expressed opposition to the request due to lack of substantiation of criteria relating to hardship. They noted what appears to have been unauthorized alterations to the shed.

## Findings

The board members could not find a hardship or other criteria justifying granting a variance.

## Action

Based on these findings, Steven Heller made a motion, seconded by Tom Sims, Jr. to approve the request. The request was denied by a vote of 0-7.

### **4. Request of David Auerbach, for a variance to allow the construction of a one story detached carport with a rear setback of 3 feet, in lieu of the required setback of 10 feet.**

Located at: 731 W Canton Ave

Zoned: R-1A

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

After completing major remodeling and a new addition to the existing home with no off-street covered parking area, the applicant has decided to request a variance to allow an open carport at of this property located 3 feet from the rear lot line and 5 feet from the interior side lot line.

The proposed carport structure has dimensions of 19 feet by 17 feet or 323 square feet to accommodate one or two cars depending on the width of the vehicles. Required parking spaces have a width requirement of 9 feet and the applicant proposes to place the carport 5 feet from the home to avoid a separation distance variance of one foot. However, it might be appropriate to allow the extra foot of carport width if the Board is inclined to grant the variance. This extra foot of width (19 square feet) does not result in exceeding the allowable floor area of 2,904 square feet.

In addition, having 2 properly sized parking spaces may help prevent the congestion of having more cars parking in the street of this fairly busy street intersection, and will minimize or eliminate the need to park two cars in tandem whenever pulling into this new carport.

The proposed plan for this carport lacks much detailed however, we have received more details on the design of the carport just prior to submitting this report and provided in this document.

One letter was received regarding this request.

In response to a Board question by Mr. Steinberg, Mr. Wiggins confirmed he received a letter of approval from the property owner at the rear. Mr. Wiggins also confirmed that roof drainage is very close to the property line.

The applicant and owner, David Auerbach, stated the desire for the carport is to alleviate street parking. He noted the most impacted neighbor approves and confirmed that gutters are proposed. In response to Board questions, Mr. Auerbach confirmed that both the home addition and the curb cut for a driveway access are recent. He stated the hardship is the need for covered vehicle protection.

In closed session, Tom Sims identified the condition is self-imposed. Incorporation of the carport should have been included in the plans for the recent addition to the home. Aimee Hitchner and Robert Trompke noted a single carport is achievable without a variance.

## Findings

The board members could not find a hardship and felt the limitations were self-imposed.

## Action

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

- 5. Request of Matthew Anderson on behalf of Benjamin & Christina Lalikos, for a variance to allow the construction of a 5 feet high wall setback 5 feet from the east street-side lot line, in lieu of the minimum setback of 10 feet.**

Located at: 240 E Rockwood Way

Zoned: R-1AA

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

The applicants are preparing to build a new home on this property and have stated that the extra wide right of way (60') along Winter Park Road should be taken into consideration to allow a wall setback of only 5 feet due to this condition. An existing 4 to 5 foot high dense hedge also exists along the east side lot line next to the sidewalk acting as a visual buffer.

Our city arborist has noted that an oak tree or other trees are located in the rear of the property at or near the 5' setback from the street side lot line. If the Board is inclined to grant the request then I recommend that it be designed to jog around the tree(s) at a sufficient distance into the property with additional setback to prevent harming the health of the tree(s) as determined by our arborist prior to construction of the wall.

We received a letter with seven signatures of approval from nearby neighbors regarding this request.

Mr. Wiggins noted that if approved the oak tree requires protection due to the proposed proximity of the wall near the tree.

The owner, Benjamin Lalikos said the existing hedges would remain. Should they die, they will be replaced.

The Board discussed the hardship noting the lot is on a busy road and is a corner lot with an extra large right of way. Tom Sims commented that the neighbor is following the setback and height rules. Michael Clary pointed out that the 6 foot Quail Hollow wall across the street is located very close to property line along Winter Park Road.

Mike Lahr, the builder for 240 E Rockwood Way, said the shrubs are about 6 feet high and that he can cantilever the wall foundation if needed to protect the Oak tree.

Mr. Wiggins noted there are a number of corner lots where the board considered the large right of way as a hardship or mitigating condition. In this case, the right of way from the street is twenty feet. Approval of similar requests exist for some Aloma Avenue properties.

The adjacent property owner, Bruce Rodgers of 241 E Fawsett Road spoke. He requested the board approve a wall six feet in height in the proposed location, instead of the requested five feet height. He noted the wall is needed for the pool, is on a street with heavy traffic and the hedges are 2ft thick.

In closed session, Tom Sims expressed there is no hardship. He stated a new single-family residence is proposed here and the design of the pool and pool protection are achievable within the rules. The remaining board members did see a unique situation, noting the extra-large right of way and the visual buffer that the existing hedge provides.

## Findings

The board members found the hardships are the extra-large right of way, which limits the placement of the swimming pool and subsequent fencing, the busy road and existence of a dense hedge which will shield the view of the wall. Mr. Sims expressed that sufficient hardship is not present.

## Action

Based on these findings, Steven Heller made a motion, seconded by Aimee Hitchner to approve the request with conditions. The condition stipulates maintenance of the hedge in front of the wall is required and that replanting hedge with a similar species and height, should the current hedge not survive and thrive. The request with conditions was approved by a vote of 6-1, with Tom Sims voting in opposition.

**6. Request of Kelly Carr on behalf of Justin Loughran, for a variance to allow the construction of an addition to be located 25 feet from the front lot line and 9.3 from the side lot line, in lieu of the required front setback of 30 feet and required side setback of 10 feet.**

Located at: 2244 Brookshire Ave

Zoned: R-1A

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

With this application, the applicants have stated a need for a variance related to the existing garage door which will remain unchanged by this request, however, no variance is needed under the Zoning Code. The subject of this request only relates to the new addition on the east side of the home.

The addition will be a new master bedroom, office and porch area and will result in only a minor encroachment on the east side since the required setback is 10 feet. With regard to the front encroachment, many of the homes along this street are set at 30 feet although two or three homes appear to be at 28 feet from aerial observations, however, only 11 feet of this addition will project 5 feet and 6 feet of this addition will project 3 feet into the setback.

If approved, an oak tree located on the side property line will need to be properly protected during construction of the room addition in accordance with direction from our City Arborist.

With this proposed addition of 663 square feet, the additional floor area does not result in exceeding the allowable impervious coverage or gross floor area.

Eight letters expressing no objection to this request were received.

Mr. Wiggins noted that if approved, the existing impacted trees will require protection.

Kelly Carr, the designer for the homeowners, spoke virtually. She stated she was limited in placement of the addition, due to the required maintenance of the egress windows from two of the bedrooms.

The owner, Justin Loughran, said he bought the home from his grandmother and lives there with his wife and three children. He originally wanted to build a second story addition, but came to realize the proposed location is the only location available that functions with the rooms in the existing home. He stated the existing trees would remain, with the exception of the pine tree. Mr. Loughran presented an additional approval letter from the neighbor residing at 2303 Brookshire Avenue.

In response to a Board question from Michael Clary, Mr. Wiggins confirmed the calculated front setback is the average of four lots.

In closed session, Ann Higbie agreed the location of the addition is limited, to ensure that emergency egress windows from the bedrooms remain. Steven Heller said he could relate to the owner desire for additional space, especially during this pandemic and the desire to keep children home. Aimee Hitchner noted the front setbacks is based on an average, as opposed to a set number.

## Findings

The board members found the hardship was the limited available locations for the addition to function in a useable manner with the existing home's layout on the property.

## Action

Based on these findings, Michael Clary made a motion, seconded by Tom Sims, Jr. to approve the request. The request was approved by a vote of 7-0.

**7. Request of Jennifer Sorrentino and Hannibal Square Community Land Trust for variances to convert the garage into a guesthouse with a side setback of 5 feet and a rear setback of 10 feet, in lieu of the required setbacks of 7 feet and 25 feet respectively and to allow removal of 2**



**parking spaces within existing garage leaving less than 22 feet of back up distance for access within the remaining parking area.**

Located at: 651 Israel Simpson Ct.

Zoned: R-2

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

This property is part of a development known as Canton Park, which has special zoning standards as shown below:

Winter Park Zoning Code Section 58-71(gg)**Canton Park site development standards. The property described as and known as Canton Park Subdivision shall have the following development standards for lots in the R-2 and R-1A zoning district:**

*Front setback to main dwelling: 23 feet.*

*Porch setback: 15 feet from front lot line.*

*Side setbacks: Eight feet on one side and 12 feet on opposite side.*

*Rear setback: 25 feet to main dwelling. Lots less than 90 feet deep may utilize a rear setback of ten feet.*

*Garages in rear: Ten feet to rear lot line and five feet to side lot line.*

*Chimneys and bay windows may encroach two feet into the setback.*

*Side setback to a porte cochere is two feet.*

*Rear screened porches may be connected to the garage.*

*Air-conditioning compressors shall observe a five-foot side setback.*

*Other zoning provisions shall apply where applicable or not covered under this subsection.*

These homes were developed by the Hannibal Square Community Land Trust approximately 15 years ago with these unique setback restrictions due to the relatively small size of the lots (50' by 110') and with distinctive cottage style architecture designs. Six of these properties have garages at the rear of the lot and are accessed through a drive through porte-cochere located 2 feet from the side lot line.

The applicant requests permission to convert the garage into to accessory living quarters. Although the applicant states that the current garage is not used to park vehicles, formally converting that space into addition habitable area requires after the fact variances for the change of use of the building.

The applicant obtained a permit and erected a six-foot PVC fence across the driveway to the rear and has placed the entry gate to the rear of the property on the adjacent city owned storm water retention site in order to allow access to the rear yard of this home. The fencing placed on city is proposed to be removed by the applicant with the gate placed within the applicant's property to allow continued access to the rear parking area.

We received four letters from nearby residents expressing non-objection to this request.

Jennifer Sorrentino, the daughter of the owner, stated her mom moved into the home in 2019 and the garage is not in use. Ms. Sorrentino stated the garage building would best serve as accessible living space for her mom. In response to Board member Tom Sims, Ms. Sorrentino said there are no steps into the garage.

Mr. Wiggins confirmed the garage floor might need to be elevated. He noted some historic homes allow the rental of garage conversions, however in this case no rental of this space is permitted.

In closed session, Charles Steinberg stated his approval for providing accessible accommodations so an elderly parent can remain in the home. The Board was in favor of the request if only the family uses the accessory building. They agreed with prohibiting renting and ensuring the accessory building does not have a separate electric meter from the main house.

## Findings

The board members found unique conditions exist relating to the need for accessible living provisions without losing available parking area on the site and without expanding further into existing side or rear setbacks.

### Action

Based on these findings, Steven Heller made a motion, seconded by Tom Sims, Jr. to approve the request with a condition. The condition stipulates the guesthouse be for use only by a family member. Renting the space is not permissible, either now or in the future. The request with conditions was approved by a vote of 7-0.

- 8. Request of Jose Campuzano, on behalf of Patricia Neidlinger, for a variance to allow construction of a room addition to be located 20.75 feet from the rear lot line, in lieu of the required setback of 25 feet.**

Located at: 683 Dunblane Drive

Zoned: R-1A

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

This room addition is for a master bedroom and walk in closet area that has a total gross area of 220 square feet and will be extended along the south side wall of the home. The existing sidewall slightly encroaches the required 10-foot side setback by .5 feet and can be allowed with a letter of approval from the adjacent property owner for a distance of up to 24 (although this addition is only 12 feet). In addition, typically articulation would need to be provided since the new sidewall length will be over 36 feet; however, the Code allows wall length extensions on existing homes to be 12 feet without articulation.

With this proposed addition the impervious coverage and floor area ratio is not exceeded for this property, which allows a 60% coverage for this one story home and a floor area ratio of 38% (3,537 square feet). The existing home area has a gross area of 2,139 square feet. It will be 2,359 square feet with the new addition.

No letters were received regarding this request.

The owner, Patricia Neidlinger, spoke virtually. She stated her 1960's home requires an addition to accommodate her stepmother. She stated her hardship is the need for an accessible bathroom.

In closed session, the Board noted this is a modest addition for a good purpose and also lines up with the existing home side wall. They considered that no letters of opposition were received.

### Findings

The board members found the hardship was the large front setback limiting the area available of buildable space for this one story home.

### Action

Based on these findings, Tom Sims, Jr. made a motion, seconded by Michael Clary to approve the request. The request was approved by a vote of 7-0.

The meeting adjourned at 7:45 pm.

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Theresa Dunkle, Recording Clerk

March 16, 2021  
Date of Board Approval