



Board of Adjustments Regular Meeting Minutes

June 21, 2022 at 5:00 p.m.

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

Present

Present In-Person: Robert Trompke, Michael Clary, Cathy Sawruk, Jason Johnson, and Charles Steinberg. Absent: Tom Sims and Ann Higbie. Also Present: City Attorney J. Giffin Chumley. Staff: Director of Planning and Transportation Jeff Briggs, Planner I Nicholas Lewis, Planning Technician Aaron Hull, Building and Permitting Director Gary Hiatt, Building and Permitting Manager Renata Minoga, and Recording Secretary Mary Bush.

(1) Call to Order

Chairman Robert Trompke called the meeting to order at 5:00 p.m.

(2) Consent Agenda

Election of Chairman and Vice-Chairman:

Motion made by Charles Steinberg to nominate Jason Johnson as Chairman of the Board. Mr. Johnson accepted the nomination.

All in favor, the motion carried unanimously 5-0. (Tom Sims and Ann Higbie were not present for the meeting.)

Motion made by Jason Johnson to nominate Charles Steinberg as Vice-Chairman of the Board. Mr. Steinberg accepted the nomination.

By a roll call vote, the motion carried unanimously 5-0. (Tom Sims and Ann Higbie were not present for the meeting.)

Approval of Minutes:

Motion made by Michael Clary, seconded by Charles Steinberg to approve the May 17, 2022 meeting minutes.

Motion carried unanimously with a 5-0 vote. (Tom Sims and Ann Higbie were not present for the meeting.)

(3) Staff Updates

Mr. Briggs provided and reviewed with the Board a City Commission handout on Board meeting requirements. He informed the Board that the City Commission has allowed live streaming of the Board meetings for the public to view and comment during the meetings. The online viewers will only be able to comment on certain non-quasi-judicial agenda items and must register to speak on those items. Mr. Briggs also advised the Board that they are allowed to participate virtually for the Board meetings up to three times per year as long as there is a quorum physically present for the meeting.

Mr. Briggs then briefly discussed the changes that were made once the Board of Adjustment was placed under the Planning Department and asked the Board if they had any desire for any new changes. Mr. Trompke recommended that the Chairman's opening statement be more instructional for the citizens letting them know how many votes they would need for approval and what their options and rights are. Chairman Johnson expressed that he appreciated the additional staff input and the comments related to the each of the four variance approval criteria and was in favor of keeping it as status quo. He added that as a quasi-judicial Board, they are not bound by staff recommendations but they have been helpful in assessing the variance requests.

Mr. Lewis then reminded the Board about the City's Board Appreciation Night scheduled for June 23, 2022.

(4) Public Comments (for items not on Agenda)

No one from the public wished to speak. The public hearing was closed.

(5) Non-Action Items

No non-action items.

(6) Action Items

No action items.

(7) Public Hearings

- BOA-2022-0007. Request of Green Apple Architecture for variance approval from Section 58-71 subsection (j)(1) to allow a rear swimming pool setback of 5-feet in lieu of the required rear setback of 10-feet located behind the home at 1913 Sycamore Drive, zoned R-1A.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map, aerial view, and proposed site plan of the property. He noted that three neighbor letters were received and all were in favor of the project. He went on to explain that the applicant had originally received a preliminary front setback requirement of 25 feet from City staff prior to the applicant purchasing the property, so the applicant believed that they had more than enough room to adhere to the 10 foot rear setback requirement. Upon further inspection during the permitting process, it was determined that the actual front setback average is 31.5 feet leaving no adequate room on the rear of the property for a swimming pool of the applicant's design. He reviewed with the Board the survey of the property and the preliminary setback sheet that had been provided to the applicant. He explained that the rationale behind staff's preliminary setback determination was that the adjacent property's carport was roughly at a 25 foot setback, so the applicant would be able to have the same setback of 25 feet.

Mr. Lewis then reviewed the variance approval criteria as it related to the request, noting that the lot is shallow at only 100-feet and the adjacent houses were constructed quite far back. He also noted that the applicant purchased the property after being provided an improper setback of 25-feet by staff and subsequently designed the home around that setback assuming that there was adequate room for a swimming pool. He advised the Board that staff has taken steps to ensure the issue does not happen again including, requiring front setback averages to be verified by a licensed surveyor, no longer providing front setback calculations by staff, and looking at equitable alternatives to the current front setback determination standards.

Staff recommendation was for approval.

The Board inquired about the following:

- if the house is new construction,
- if the City would grant a five foot setback to any other neighboring property,
- clarification on the special conditions and circumstances,
- if the permit for the pool was part of the initial permitted plan,
- if there had been any discussion by the City regarding having fixed front setbacks,
- and if any other owners on Sycamore Drive have pools that back up to the rear property line of the project.

The applicant's representative, John Drake of 174 W. Comstock, Winter Park, FL 32789 addressed the Board. Mr. Drake provided brief background on the project, noting that the original design plan for the structure included a 25 foot front setback and a 25 foot area in the rear for the pool. Once it went for permitting the current 31.5 foot setback was required, which does not allow for the design of the pool.

The Board heard public comment from the following citizen:

Sallie Spivey of 2964 Northwood Blvd., Winter Park, FL 32789 addressed the Board. Ms. Spivey asked for clarification on any construction being completed for the home and its intended size.

No one else from the public wished to speak. The public hearing was closed.

The Board briefly shared their thoughts on the request and were overall in favor of it. Chairman Johnson expressed for the record that due to the shallow nature of the lot and the owner receiving and relying on incorrect information from the City when deciding to buy the lot, a special circumstance that bodes well in favor of approval of the variance existed. He added that literally interpreting the municipal code would deprive the owner of being able to have a swimming pool. He also noted that the applicant was asking for a minimal ten foot wide pool and the actions of the applicant were not the cause of the hardship, receiving wrong information from the City was the cause. Chairman Johnson also expressed for the record that by virtue of considering the incorrect information from the City, granting the variance would not confer any special privilege on any other neighboring lands, structures, or buildings in the same zoning district. He added that the Board would not want this considered by any other member of the community as grounds for getting a five foot setback from the City.

Motion made by Michael Clary, seconded by Robert Trompke, for variance approval from Section 58-71 subsection (j)(1) to allow a rear swimming pool setback of 5-feet in lieu of the required rear setback of 10-feet located behind the home at 1913 Sycamore Drive, zoned R-1A.

Motion approved with a 5-0 vote. (Tom Sims and Ann Higbie were not present for the meeting.)

- BOA-2022-0008. Request of Kelly and Bruce Brandes for variance approval from Section 58-71 subsection (h)(2) to allow a street-side setback of 14-feet in lieu of the required street-side setback of 20-feet in conjunction with their proposed 220 square-foot addition to the existing home located at 1254 Via Estrella, zoned R-1AA.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map and proposed site plan of the property. He noted that several neighbor letters were received in approval of the request and none were received in opposition. He presented a survey of the property and expressed that a five foot indent for articulation purposes currently exists on the northeastern corner of the property and the applicants want to expand it by an additional six feet for living space and the actual construction of the wall. Mr. Lewis briefly discussed other options available to the applicants for the addition and the pros and cons to each. He noted that one of the applicants is now working from home and an elderly parent will be living with them in the addition due to an unexpected need for in home direct care. He then discussed the proposed elevations and reviewed the variance approval criteria as it related to the request. Mr. Lewis noted that because the property is a corner lot with deeper than normal rights-of-way (ROW) on both Via Estrella and Temple Drive and the unforeseen circumstances necessitating the home office and extra living space, staff believed that granting the variance would not confer any special privilege on any other neighboring lands, structures or buildings in the zoning district.

Staff recommendation was for approval.

The Board inquired about and briefly discussed why building a second story on the garage would not have solved the problem. Chairman Johnson disclosed that he had met the applicants while on the street walking their respective dogs, but did not have any conversations with them about the application.

The applicants, Kelly and Bruce Brandes at 1254 Via Estrella, Winter Park, FL 32789 addressed the Board. Mr. Brandes gave a brief background of the request and an explanation for the necessity of the addition. Mrs. Brandes provided further details on the accommodations that would need to be made for their elderly parent.

Chairman Johnson inquired with the applicants as to whether or not they planned to keep the Podocarpus that was planted along Via Estrella and Temple Drive. The applicants responded that they would be keeping the Podocarpus.

The Board heard public comment from the following citizens:

Mark Nichols of 1205 Whitesell Drive, Winter Park, FL 32789 addressed the Board. Mr. Nichols spoke in favor of the request and noted that he briefly met and spoke with the applicants while walking his dog and understands the reason why the applicants would want the reduced setback for the addition.

William Rogers Turner, Jr. of 1214 Via Estrella, Winter Park, FL 32789 addressed the Board. Mr. Turner spoke in favor of the request and noted that he met the applicants while they were building the house and has spoken to them about the application. He expressed that he felt the request would be great for the neighborhood and that most of the neighbors were in favor of it.

No one else from the public wished to speak. The public hearing was closed.

The Board briefly expressed their thoughts on the request. Several Board members felt that a hardship existed based on the ROW and deep setbacks.

Motion made by Michael Clary, seconded by Robert Trompke, for variance approval from Section 58-71 subsection (h)(2) to allow a street-side setback of 14-feet in lieu of the required street-side setback of 20-feet in conjunction with their proposed 220 square-foot addition to the existing home located at 1254 Via Estrella, zoned R-1AA.

Motion approved with a 5-0 vote. (Tom Sims and Ann Higbie were not present for the meeting.)

(8) Board Comments

No Board Comments.

(9) Upcoming Agenda Items

No discussion ensued on upcoming agenda items.

(10) Adjournment

Meeting adjourned at 5:53 p.m.

Minutes approved by the Board on 07/19/2022.

/s/ Recording Secretary Mary Bush