



Board of Adjustments Minutes

February 15, 2022 at 05:00 p.m.

Hybrid Meeting
401 S. Park Avenue | In-Person and Virtual | Winter Park, Florida

Call to Order

Chairman Robert Trompke called the meeting to order at 4:59 p.m. Present In-Person: Robert Trompke, Michael Clary, Tom Sims, Ann Higbie, Charles Steinberg, Cathy Sawruk, and Jason Johnson. Also Present: City Attorney J. Giffin Chumley. Staff: Director of Planning and Transportation Bronce Stephenson, 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.

Consent Agenda

Motion made by Jason Johnson, seconded by Tom Sims to approve the January 18, 2022 meeting minutes.

Motion carried unanimously with a 7-0 vote.

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

Mr. Clary disclosed that he once worked at the firm that the applicant currently works at and he recently had a brief phone call with the applicant regarding procedures.

Staff Updates

Mr. Stephenson spoke briefly on the transition of the Board to being run under the Planning and Transportation Department and certain meeting changes that were made based off of Board requests.

Citizen Comments (for items not on Agenda)

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

Non-Action Items

No non-action items.

Action Items

No action items.

Public Hearings

- BOA-2022-0001. Request of Hernan Rivera for variance approval from Section 58-66(f)(5) to allow a 23-foot front yard setback line in lieu of the required front yard setback of 28-feet as determined by staff to construct a new single-family home at 2411 Winter Park Road, zoned R-1AA.

Mr. Lewis provided the Board a brief summary of the request. He noted that the applicant feels that a 10-foot easement located in the rear of the property creates a hardship that will require an extension of the front yard setback to offset the easement and the lack of usable land area in the rear of the property. Mr. Lewis presented the Board a location map, aerial view, survey, and site plan of the property. He noted that there have been numerous neighbor letters received in favor of the request and none received in opposition. Mr. Lewis briefly discussed the approval criteria as it related to the request noting that the applicants have the ability to construct a home that would be allowed-by-right, and are choosing not to do so, thus creating their own hardship. He also elaborated on two special privileges involving precedent that would occur if the applicant's request was granted.

Mr. Lewis explained that the applicant's plans adhere to all required setbacks and do not encroach on the easement in the rear but the applicant still wanted to seek a Board determination on the request.

Staff recommendation was for denial.

The Board briefly discussed the item and inquired about the following:

- the properties used to determine the 28-foot setback,
- the street that one of the utilized properties farthest to the north fronts,
- if any of the properties used to determine the setback has a 10-foot easement,
- having a 10-foot easement in the rear of the subject property restricting the use of the property,
- the properties used in determining the setback being the only relevant properties in determining the common restrictions,
- and the side setbacks on Winter Park Road.

The applicant, Hernan Rivera at 2411 Winter Park Road, Winter Park, FL 32789 addressed the Board. Mr. Rivera provided the Board with a brief presentation showing aerial views, site plans, and photos of the home and 10-foot easement. He presented photos of various surrounding homes and noted that there are no other easements found on the properties to the north and south of his property, which gives those property owners the ability to build up to five feet from their rear property lines. He then elaborated on his plans for the home and indicated that he has full support of his neighbors for his request.

Mr. Johnson inquired with the applicant as to what he wanted to be able to do with the property that he would not be able to do because of the setback requirement. The applicant replied that he would like to utilize as much yard as everyone else is able to.

Chairman Trompke inquired with the applicant regarding the direction the drainage easement runs. The applicant confirmed that the easement turns westward.

Mr. Johnson noted to the applicant that the City's code asks if the conditions exist throughout the zoning district for the setback requirements, not if the conditions exist on the properties that the subject property is being compared against.

The Board heard public comment from the following resident:

Fred Spencer of 2414 Winter Park Road, Winter Park, FL 32789 addressed the Board. Mr. Spencer indicated that he had previously spoken to the applicant and reviewed his plans. He expressed his support for the extra five feet of setback for the planned play area for the applicant's kids and he feels that traffic tends to slow down the closer homes are to the street.

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

The Board briefly expressed their thoughts on the request and their reasons for their decisions on its approval or denial. The Board's sentiments differed in the credence that the home could be built without the variance so the hardship is self-made and the credence that no one in the surrounding area has a similar 10-foot easement so the home is a unique circumstance justifying a hardship.

Motion made by Charles Steinberg, seconded by Michael Clary, for variance approval from Section 58-66(f)(5) to allow a 23-foot front yard setback line in lieu of the required front yard setback of 28-feet as determined by staff to construct a new single-family home at 2411 Winter Park Road, zoned R-1AA.

Motion carried with a 5-2 vote. (In Favor: Cathy Sawruk, Charles Steinberg, Tom Sims, Michael Clary, and Robert Trompke. Opposed: Jason Johnson and Ann Higbie.)

Board Comments

No Board comments.

Adjournment

Meeting adjourned at 5:47 p.m.

/s/ Mary Bush.

Approved by Board on March 15, 2022.