



Planning & Zoning Board Regular Meeting Minutes

December 3, 2024 at 6:00 PM

City Hall Commission Chambers
401 S. Park Avenue

Present

David Bornstein, Jim Fitch, Warren Lindsey, Michael Spencer, Jason Johnson, Bill Segal

Absent

Alex Stringfellow

Staff Present

Director of Planning and Zoning Allison McGillis, Planning Consultant Jeff Briggs, Planner II Nicholas Lewis, Planner I Corinna Lundgren, Administrative Coordinator Mary Bush

1. Call to Order

Chairman Bornstein called the meeting to order at 6:00 p.m.

2. Public Comments (for items not on the agenda): Three minutes allowed for each speaker

The Board heard public comment from the following resident:

Bob Barnett of Austin's Coffee at 929 Fairbanks Avenue, Winter Park, FL 32789 addressed the Board and asked if the city had plans to relocate the small businesses at and around the Austin's Coffee location and when the results of the city's due diligence survey would be published.

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

3. Consent Agenda

- a. Approve the minutes of October 1, 2024.

Motion made by Warren Lindsey, seconded by Jim Fitch, to approve the October 1, 2024 meeting minutes.

The motion carried unanimously by a 6-0 vote. (Alex Stringfellow was absent from the meeting.)

4. Public Hearings (Public participation and comment on these matters must be in person.)

- a. SPR #24-14. Request of Mark Nasrallah for approval to construct a new, two-story, 4,334 square-foot home located at 1400 Elizabeth Drive on Lake Osceola, zoned R-1AAA. **THIS ITEM HAS BEEN CONTINUED TO THE JANUARY 7TH, 2025 REGULAR HEARING.**

Mr. Lewis announced that the item had been continued to the January 7, 2025 regular meeting.

- b. SPR #24-02. Request of Z Properties for approval to demolish the existing, two-story, 858 square-foot accessory structure and replace it with a new, single-story, 1,494 square-foot accessory structure located at 1602 Summerland Avenue on Lake Maitland, zoned R-1AAA.

Mr. Lewis provided a summary of the item. He noted that in February of this year a request for the principal structure had been approved by the Board. He then noted that staff had received three neighbor letters in favor of the current request for the accessory structure and none in opposition. He indicated that floor area ratio and the impervious lot coverage for the request had been increased by the applicant but was still well below the code requirements. He also indicated that the applicant was seeking a 10-foot front setback for the proposed accessory structure in lieu of the existing structure's 4.5-foot front setback. Mr. Lewis explained that the justification provided for the request was that the required 20-foot setback would necessitate the removal of an existing oak tree and the applicant's remaining buildable area had been greatly diminished by a recently recorded easement across the property for city water and wastewater facilities. He then noted that there were no windows being proposed along the neighbor's lot line, no trees would be removed, the stormwater requirement was being met by multiple swales on the property, and no views from the lake and the neighbors would be infringed upon.

Staff recommendation was for approval.

A brief discussion ensued regarding the history behind the recently recorded easement across the property, and how the lift station in the easement is and will be accessed by the city.

The applicant, Zane Williams of 1333 Alberta Drive, Winter Park, FL 32789 addressed the Board. Mr. Williams noted that the mother of the homeowners would be moving into the property and the existing two-story structure is not accommodating to the mother's needs.

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

Motion made by Jim Fitch, seconded by Michael Spencer, for approval to demolish the existing, two-story, 858 square-foot accessory structure and replace it with a new, single-story, 1,494 square-foot accessory structure located at 1602 Summerland Avenue on Lake Maitland, zoned R-1AAA.

The motion carried by a 6-0 vote. (Alex Stringfellow was absent from the meeting.)

- c. SPR #24-12. Request of Stuart and Christina Kirscht for approval to rebuild a new two-story single-family home in the location of the existing lakefront structure at 999 Genius Drive, on Lake Mizell, zoned R-1AAA.

Mr. Briggs provided a summary of the item. He noted that there were three individual detached single-family homes on the property. He explained that one of the three homes is located on the edge of Lake Maitland and had flooding issues in 2022 during Hurricane Ian. He added that the homeowners were considering the options of restoring or rebuilding the home due to the flooding. He noted that to rebuild the home would require variances from the code for the lakefront and side setbacks. He explained that the applicant wanted to tear down the existing home and build another matching two story home that would be slightly smaller in square footage within the same footprint of the existing home but moved further away from the adjacent neighboring property. Mr. Briggs indicated that no trees would be removed and the views from the lake and neighbors would not be infringed upon. He also noted that staff had spoken with the adjacent neighbor to the property and from that discussion certain conditions of approval were created to resolve concerns of the neighbor.

Staff recommendation was for approval with the following conditions:

- That no above ground accessory structures, such as generators, fuel tanks, or AC compressors shall be located within a 6-foot side setback and that any gas line or switch gear must be located at least 5-feet from the side property line;
- That no storm water drainage from this structure will flow onto the adjacent property; and
- That the property owner shall enter into a development agreement with the City to memorialize that this approval is based solely on replacement of an existing non-conforming structure, and such approval is based upon providing a specific remedy for the flooding experienced from a hurricane event, and that the replacement structure is slightly smaller in terms of square footage and footprint and provides an increase in the side setbacks to the adjacent neighbor. Additionally, the replacement structure generally conforms to the same architectural styling of the existing structure, and any approval shall not be

precedent setting in any manner for the current or future property owners to allow any future replacement structure, or additions to the structure unless done so in compliance with the zoning code regulations.

Discussion ensued regarding where the property's stormwater would flow, the city departments that would need to provide approval for the project, clarification of the adjacent neighbor's consent to the request based on the conditions of approval, what the applicant could do with the home if the request was denied, and how much smaller the rebuild would be compared to the existing home.

The applicant, Zane Williams of 1333 Alberta Drive, Winter Park, FL 32789 addressed the Board. Mr. Williams noted that most of the Board members had individually walked the property and that he was available for any questions.

The Board inquired as to whether new pilings of a different composition would be used for the deck going into the lake.

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

The Board shared their thoughts on the request and expressed favor for it.

Motion made by Jason Johnson, seconded by Bill Segal, for approval to rebuild a new, two-story, single-family home in the location of the existing structure at 999 Genius Drive, on Lake Mizell, zoned R-1AAA, subject to the following conditions:

- **That no above ground accessory structures, such as generators, fuel tanks, or AC compressors shall be located within a 6-foot side setback and that any gas line or switch gear must be located at least 5-feet from the side property line;**
- **That no storm water drainage from this structure will flow onto the adjacent property; and**
- **That the property owner shall enter into a development agreement with the City to memorialize that this approval is based solely on replacement of an existing non-conforming structure, and such approval is based upon providing a specific remedy for the flooding experienced from a hurricane event, and that the replacement structure is slightly smaller in terms of square footage and footprint and provides an increase in the side setbacks to the adjacent neighbor. Additionally, the replacement structure generally conforms to the same architectural styling of the existing structure, and any approval shall not be precedent setting in any manner for the current or future property owners to allow any future replacement structure, or**

additions to the structure unless done so in compliance with the zoning code regulations.

The motion carried by a 6-0 vote. (Alex Stringfellow was absent from the meeting.)

- d. APP #1-24. Request of the Windereedle Law Firm on behalf of Jonathan Cole for: An Appeal pursuant to City Code Section 58-94 (b) of the determination that the landscaping currently in place is in violation of a condition of approval for the redevelopment of the property granted by the Planning and Zoning Board on May 4, 2021 on Lake Virginia, zoned R-1AAA.

Mr. Briggs provided a summary of the item. He gave a brief background of the request and noted that the lakefront review for the applicant's new home had been approved by the Planning & Zoning Board on May 4, 2021. He indicated that at the 2021 meeting there had been significant discussion with regard to the Board's purview of trying to maintain the traditional views of the lake and not have them unduly impaired. He explained that two of the neighbors on the east side of the applicant's property felt that the new home would unduly impair their views of the lake. In order to remedy some of the neighbor concerns about their views, the Board utilized their authority to grant a variance to move the home six feet closer to the street and imposed other conditions of approval related to lake front landscaping not exceeding six feet in height. Since that meeting it was determined by staff that landscaping at the property had been planted in excess of six feet and therefore was in violation of the condition of approval. He noted that the property owner did not agree with the determination and thus had applied for the appeal. Mr. Briggs briefly explained the process of the appeal noting that the applicant could also further appeal to the City Commission. He then reviewed and discussed photos and the view radius of the property as well as the Board's motion that was made at the May 2021 hearing. A brief discussion ensued regarding why a hearing on the initial request was tabled by the Board prior to the May 2021 hearing. Mr. Briggs then played for the Board an audio clip of the May 4, 2021 Planning & Zoning Board's meeting discussion to assist them in understanding and confirming the intent of the conditions of approval that were granted for the original request. City Attorney Langley requested that staff inform the Board of what was placed in the staff report about the applicant's attorney and what that attorney had stated on the record regarding accepting the condition that was offered as heard on the audio clip. A brief discussion ensued. The Board also inquired about whether public comments were made at the initial hearing, clarification of the specific violations regarding the landscaping, whether the applicant's original house was one foot lower than the neighbor's house in 2021, clarification on what was referenced in the original Board motion, and which property a black fence was located on.

The applicant's attorney, Trippe Cheek of Windereedle, Haines, Ward and Woodman,

P.A. at 250 N. Park Avenue, Winter Park, FL 32789 addressed the Board. Attorney Cheek noted that he felt the issue was too ambiguous for it to be a code enforcement issue, that the Board was not restricted on what they could do to address the appeal, that there was no substantial competent evidence to support the ruling for the six-foot limitation, and that traditional lake views to the extent of the Board's 2021 ruling did not exist on the property prior to the applicant's purchase of the property. He also noted that the reason for the appeal was that based on a complaint from a neighbor, city staff believed that the applicant's landscaping was inconsistent with the conditions of approval, but he and the applicant thought it was appropriate and proper and reasonable in context and not in violation of the spirit of the conditions of approval and asked the Board to find that the landscaping was not in violation of the conditions. He then reviewed the city's code regarding the Board's authority under Section 58-87 (a) with regard to lakefront lots and noted that he and the applicant did not believe the eastern neighbor's views of the lakefront were unduly impaired. He then continued discussion on the applicant's position with regard to the matter and what the Board should do to address it. He indicated that the biggest concern he and the applicant had was privacy and wanted it to be noted on the record that the applicant was entitled to have reasonable privacy protection landscaping that extends towards the lake as far as the pool deck and the applicant was not asking to go any further than that.

The applicant, Jonathan Cole of 721 Virginia Drive, Winter Park, FL 32789 addressed the Board. Mr. Cole indicated that he attempted to honor the six-foot landscaping limitation. He also expressed his concerns with privacy at his pool and felt that the views of the eastern neighbors were not impacted by the landscaping

The Board inquired about what the applicant believed they were entitled to do along the property line based on the conditions that were approved at the May 4, 2021 Planning & Zoning Board hearing. A brief discussion ensued with Attorney Cheek.

The Board heard public comment from the following residents:

In favor of the request:

Richard Lewin of 1360 Chestnut Avenue, Winter Park, FL 32789.

In opposition to the request:

Michelle Randolph of 741 Virginia Drive, Winter Park, FL 32789; John Randolph of 741 Virginia Drive, Winter Park, FL 32789.

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

Attorney Cheek addressed the Board and noted that the applicant did not get

everything that he wanted at the initial hearing in 2021 and that there had been no agreement put in place, only conditions of approval. He added that neither of these were relevant to the appeal.

A brief discussion ensued about whether the applicant's attorney at the 2021 hearing had consented to the conditions of the approval on behalf of the applicant.

City Attorney Langley explained that the Board did not have to make the determination that there was a violation of the condition, they just needed to interpret the condition that was before them that was being challenged. He further explained that the hearing was not an appeal of the condition itself, but a matter of whether staff's interpretation of the landscaping condition was or was not correct.

A brief discussion ensued regarding tabling the item for the Board to review the entire audio of the applicant's hearing item from the May 4, 2021 hearing.

The Board expressed their thoughts on the matter and overall did not feel that the matter should be tabled and felt that staff's interpretation was correct.

A brief discussion ensued regarding the Board reviewing the May 2021 hearing item audio individually, during a work session, or at a public hearing.

Motion made by Warren Lindsey, seconded by Jason Johnson, to table the item until the January 7, 2024 regular meeting.

The motion failed by a 2-4 vote. (In favor: Warren Lindsey and Jason Johnson. Opposed: Jim Fitch, Michael Spencer, David Bornstein, and Bill Segal. Alex Stringfellow was absent from the meeting.).

A brief discussion ensued regarding how a motion for the appeal would be made.

Motion made by Jason Johnson, seconded by Warren Lindsey, for denial of an Appeal pursuant to City Code Section 58-94 (b) of the determination that the landscaping currently in place is in violation of a condition of approval for the redevelopment of the property granted by the Planning and Zoning Board on May 4, 2021 on Lake Virginia, zoned R-1AAA. In addition, the Planning & Zoning Board interpreted and clarified the landscaping condition of approval at issue as follows:

- **There shall be no vegetation or landscaping planted or maintained such that it grows and is not trimmed back to no taller than six feet in height located anywhere on the property from the edge of the rear of the single-family home going down to the water's edge of Lake**

Virginia.

The motion carried unanimously by a 6-0 vote. (Alex Stringfellow was absent from the meeting.)

5. Action Items

6. Non-Action Items

7. Staff Updates

Mrs. McGillis noted that the next scheduled work session would be canceled since it falls on Christmas Eve.

8. Board Comments

A brief discussion ensued about having a work session to discuss requiring a specific landscape plan for applications, determining standards or a clarification of what is considered a reasonable clear view of a lake, and being more specific with regard to the conditions of approval for applications.

9. Upcoming Agenda Items

10. Adjournment

The meeting adjourned at 7:30 p.m.

Minutes approved by the Board on January 7, 2025.

ATTEST:

/s/ Mary Bush, Recording Secretary