



Code Compliance Board Regular Meeting Minutes

May 1, 2025, at 3:00 PM

City Hall Commission Chambers
401 S. Park Avenue

Present

Wayne Johnson, Paul Mandelkern, Steve Heller, Kristen Matt

Absent:

Melissa Blaney

Doug Bond (Excused)

Carlos Diez-Arguelles (Excused)

Legal Representative for the City:

Assistant City Attorney Hillary Griffith

Staff Present

Building Official Gary Hiatt, Asst. Building Official Ashley Ong, Josh Nye, Parks Services Manager, Jorden Hinrichsensen, Parks Superintendent, Josejuan Rodriguez, Arborist, Code Compliance Division Manager Susanne Porras, Code Compliance Officer Christina Busch, Code Compliance Officer Cristopher Gomez, Board Secretary Susan Pruchnicki

1. Call to Order

The meeting was called to order at 3:05 PM.

- a. Roll Call
- b. Board President Wayne Johnson read the Statement of Purpose

2. Swearing in of Witnesses

Witnesses were sworn in by Board Secretary Susan Pruchnicki

3. Consent Agenda

- a. Approve the Regular Meeting minutes from April 3, 2025

Board Member Wayne Johnson noted that the minutes were quite extensive, approved by Assistant City Attorney Richard Geller, and that he found no changes during his review. Board Member Paul Mandelkern made a motion to approve the minutes as presented. Mr. Johnson seconded. Motion carried 4-0.

Mr. Mandelkern thanked Board Secretary Susan Pruchnicki for her preparation of the April minutes.

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

There were no public comments.

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

a. CCB#-BLDG-24-0026 1019 W. Fairbanks Ave., Winter Park, FL 32789

VIOLATION DESCRIPTION: Defacement of the property – graffiti on the exterior walls and or surfaces of the building structure facing north. Dilapidated sign covered with rust and graffiti.

CODES CITED: Chapter 22, Sections 22-176 (adopting the IPMC, 2021 edition), 22-177 (amending the IPMC); Sec. 202 Nuisance (20), and Sec. 302.9 Defacement of the City of Winter Park Property Maintenance Code as adopted and amended.

CORRECTIVE ACTION REQUIRED: Remove all graffiti from all exterior surfaces to comply with the city code. Repair or remove dilapidated sign.

Code Compliance Division Manager Susanne Porras provided an update to the Board noting that the property owner and Officer Christina Busch met and there is only one item remaining to satisfy the Notice of Violation. Officer Busch visited the property on this date and witnessed the workers proceeding with the removal of the sign. Ms. Porras suggested the case be tabled until the next meeting, and a report will be provided to the Board.

Board Member Steve Heller made a motion to table Case BLDG-24-0026. Mr. Mandelkern seconded. Motion carried 4-0.

Votes: Heller – Yes
Mandelkern – Yes
Johnson – Yes
Matt – Yes
Blaney – Absent
Bond – Absent
Diez-Arguelles - Absent

6. Other Business

a. TRP Appeal 25-0001 1251 Woodmere Dr., Winter Park, FL 32789

Superintendent Jorden Hinrichsensen from the City of Winter Park Urban Forestry introduced herself and stated she was an ISA Certified Arborist with a Tree Risk Assessment qualification. She presented the location of the Property as per Orange County records and Permit TRP-2024-0204 which is being appealed. Aerial photographs of the property were provided, displaying the tree canopy on the property.

Ms. Hinrichsen stated the Demolition Permit for the existing structure was applied for in November 2024, and that Urban Forestry approved the review for demolition in January 2025, and all trees were barricaded. She stated that Tree Removal Permit TRP-2024-0204 was applied for in November 2024 and denied in December 2024. A partial approval was issued in January 2025 when the Building Permit was applied for.

Ms. Hinrichsen displayed a drawing submitted with The Tree Removal Permit which included 10 trees for easy reference:

- A: 23" Live Oak
- B: 14" Laurel Oak
- C: 28" Laurel Oak
- D: 18" Live Oak
- E: 14" Live Oak
- F: 23" Live Oak
- G: 16" Live Oak
- H: 13" Magnolia Tree
- I: 20" Live Oak
- J: 22" Live Oak

She provided the criteria for removal of a tree as outlined in Sec. 58-285 which considers the health of the tree, topography, existing trees, the effort to place structures away from protected trees, and reasonable alternatives to removal, such as pruning.

Ms. Hinrichsen stated partial approval issued included the two Laurel Oaks (approved based on condition) and the Magnolia tree. When Building Permit BLDR-2025-0185 was applied for, the Tree Removal Permit was updated with the additional approval to remove the 22" Live Oak tree due to the placement of a detached garage.

Ms. Hinrichsen stated that the 16" and 20" Live Oak trees ("G" and "I" on the displayed drawing) are located where the proposed swimming pool is to be built. She stated that the pool permit has not been applied for, however, it is unlikely the removal of these trees would be approved.

The City Arborist approved the build as submitted in April 2025. Urban Forestry is waiting for the Stormwater review, which may affect their review, stating that the current draft does not affect the existing trees.

Ms. Hinrichsen displayed an updated list, noting that trees "B", "C", "H", and "J" were approved for removal. Trees "A" and "F" are proposed to be preserved. Trees "E", "D", "G" and "I" are requested to be removed by the builder. She then displayed photos from the City Arborist showing Live Oak trees "D", "E", "G", and "I", all clustered in one corner of the property. Trees "D", "E", and "G" are noted as having codominant stems, and Tree I has a high aspect ratio of some limbs, but these are not an issue for the trees. They are young trees and grow more vertically than horizontally. The trees have been "lion's tailed", meaning the interior branches and foliage have been removed, leaving most foliage at the ends of each limb. This is an improper pruning technique and is discouraged. Despite this, the trees have average vigor and foliage, which are indicators of good health.

Ms. Hinrichsen stated these trees do not meet the criteria for removal according to the City of Winter Park Tree Preservation and Protection Ordinance, and Urban Forestry recommends upholding the denial of removing the trees.

Steve Heller stated that he drove by the property. He noticed one tree barricaded at the front of the property and asked if it was in the city right-of-way. Ms. Hinrichsen stated no, it is just outside. Mr. Heller then asked about the three trees in that back corner of the lot. Ms. Hinrichsen stated there are five trees there. Mr. Heller asked if any trees had been removed that should not have been. Ms. Hinrichsen responded that she could not confirm that because she has not been to the site recently. Mr. Heller noted that these trees appeared to be on the setback of the property where nothing can be built and was confused about the request to remove them. Ms. Hinrichsen responded that the question should be asked of the Appellants.

Mr. Mandelkern asked for clarification that there are four trees that the owner wishes to remove but the city has not approved. Ms. Hinrichsen stated yes, trees "E", "D", "G", and "I".

Mr. Johnson asked if the house had been demolished yet. Ms. Hinrichsen responded yes. Mr. Johnson asked if Ms. Hinrichsen visited the property before the demolition. She responded that the City Arborist went out first, and she went out for a secondary assessment for the tree removal permit. Mr. Johnson asked if the trees were causing any problems with the previous home. Ms. Hinrichsen said no, the trees at issue were located far enough away from the original home. The one closest to the previous home was the one approved for removal for the garage construction.

Mr. Johnson asked what the difference was between the trees that were approved for removal and the others not approved for removal. Ms. Hinrichsen stated the first issue was the reassessment, and the first three trees approved for removal were not in good health, weren't thriving, being shaded out or overly mature. The fourth tree removal was approved as it was where the approved, permitted detached garage was to be constructed. Ms. Hinrichsen stated, and Mr. Heller concurred that if the garage was flipped to the other side of the property more trees would have to be removed.

Stephen Hooley of 1247 Aquia Loop, Kissimmee, FL 34747 identified himself as the property owner of 1251 E. Woodmere Dr., Winter Park, FL 32789. He stated that he and his wife are looking forward to moving to Winter Park because the city is beautiful, and there are processes like this hearing that make sure it stays beautiful.

Mr. Hooley complimented Ms. Hinrichsen on her presentation, then stated his intention to keep the large Live Oak on the front of the property. He also intends to keep another large Live Oak at the NW corner on the back of the property. He stated that this tree hangs over into the neighbor's property, and that discussion with them determined that they wished for the tree to remain. He referred to the trees that he wishes to remove, stating that there was at least 50 ft. of bamboo that had grown 30 ft. high, and the trees were all overhanging the prior home. The bamboo was removed, but the trees remain at a serious angle. He stated two of the trees will be hanging over the proposed home, and two are in the proposed pool deck area.

Mr. Hooley questioned if it would be a good idea to build under the hanging trees. He contacted his insurance company (Chubb) to inquire about the construction, and they agreed to bind the home for 90 days, at which time a survey would be conducted via a drone, and if trees or tree limbs overhang the house they will need to be dealt with or they could pull the wind insurance or drop the insurance altogether. The insurance company said this was a relatively new practice, and Mr. Hooley stated he has talked with others that have had to trim or remove trees to maintain insurance. Mr. Hooley added that this is something Floridians will have to deal with as the insurance companies try to protect themselves. He told the Board his main concern is building the home with the two overhanging trees, and he would prefer the tree(s) not be on the pool deck, but his bigger concern is being put in a position where he has built a home and has trouble getting it insured.

Mr. Hooley recognized that another insurance company could be contacted but stated that about five years ago there was a significant flood of his current home, and Chubb paid a significant settlement on his behalf, and that no other company will pick him up for insurance.

Mr. Hooley stated that he respected everything in Ms. Hinrichsen's presentation and that it was completely accurate, so there is no dispute, he is simply asking for relief from those trees. He also stated that he fully intends to put canopy trees on the property, albeit not as large as the existing ones, and is open to the city telling him how many are needed. He also stated that he understood the Tree Fund and is completely open to paying into the fund if that could be a solution.

Mr. Mandelkern asked Mr. Hooley if it was possible to trim the trees back to satisfy the insurance company, or if they would have to be removed. Mr. Hooley responded that he asked the insurance company if they would come out and look, and they said no that there was no house there, which is why they would provide the binder, then would come out within 90 days when the structure would be present. He stated that the issue with one of the trees is that it is only 9 ft. from where the foundation of the house will be built.

Mr. Hooley asked Ms. Hinrichsen if the bamboo was still on the property when she visited. She replied that she believed so but wasn't sure. She did state that that area was very shaded. Mr. Hooley noted that when he bought the property it was not well maintained and was overgrown. When the Bamboo was removed, they found that there was no growth on the west side of the tree, only on the right side.

Mr. Hooley stated that his contractor, Mike Lahr, who is experienced in Winter Park construction, would do the job 100% correctly. Mr. Hooley stated that Mr. Lahr placed a stake on the property to identify the northwest corner of the house, which is where the 9 ft. measurement came from. Mr. Heller confirmed that he saw the stake, and asked Mr. Hooley if the house could be moved. Mr. Heller retracted his question after determining the location of the driveway on the displayed drawing. Mr. Hooley noted that two of the existing trees would be hanging over the house, that one of them was hanging over the previous structure.

Jorden Hinrichsensen interjected, stating that insurance is becoming a conversation more and more. She stated when she attended the tree risk assessment qualifying class that the instructor said an insurance company will accept a tree risk assessment report, stating that the trees are not high-risk (she stated she would have to double-check the language). As far as pruning away from the house, she stated that it is very possible if a regiment of directional pruning is established, noting that a tree at the corner of the house could be cut less than if it were just tangent to the face of the house.

Ms. Hinrichsen stated that as to the shading of the bamboo, now that it is gone the bare side of the trees will push growth. Mr. Heller asked Ms. Hinrichsen if the trees would straighten out. She responded that they would fill out, stating that if the bend was at the base of the trunk it would be worrisome, but higher bends will grow upward with the availability of sunlight.

Mr. Johnson asked Ms. Hinrichsen how old the trees were. She responded based in the girth of the trunks, anywhere from 14 to 20 years old. Mr. Heller asked if this was young for Live Oaks. Ms. Hinrichsen responded young but established.

Mr. Johnson asked Mr. Hooley if there would be a mortgage on the house. Mr. Hooley responded no that they are selling their current home. Mr. Johnson confirmed that Mr. Hooley wanted the new home to be insured. Mr. Hooley responded yes.

Board Discussion:

Mr. Heller stated that it was speculation that Mr. Hooley's insurance company would deny coverage, that the trees were very healthy. He recognized where tree "D" could be a problem, but that once construction began if it was a problem Mr. Hooley could come back to obtain a tree removal permit for it. He stated that he did not see the other trees in question as being issues.

Ms. Matt concurred that she did not see trees "G" and "I" around the pool deck as being a problem since they would not be overhanging the house and suggested designing the pool deck around the other trees, which is not uncommon in Winter Park. The trees may add to pool cleaning costs, but also to the beauty of the backyard. She stated the only tree she saw that may be a potential problem is tree "D".

Mr. Mandelkern stated he was taking a legalistic view, as this is the first appeal from a division of the Urban Forestry Department to be handled by this Board. He referred to the City Code Sec. 58-285 (d) (2) regarding hearing appeals. It says the applicant appealing the decision has the burden to prove that the tree removal denial decision is incorrect or exceeds the authority given under the city code. He then stated that as much as the board likes to be sympathetic to the property owner and understand his issue(s), Mr. Mandelkern did not think the Board had the authority to allow the removal of trees because it puts a burden on the property owner, and like an appellate court, the Board must determine if the decision made by the Urban Forestry Department was correct or exceeded the authority under the city code. Mr. Mandelkern stated that he did not feel the applicant has met that burden, so he would vote to approve the Urban Forestry Department decisions.

Mr. Johnson stated he was looking at this too, noting payment into the Tree Fund. Mr. Johnson asked Mr. Hooley if he spoke with the architect about the trees in question. Mr. Hooley responded that no site design has been completed, but a list of all the canopy trees approved by the city has been provided. Mr. Hooley also stated that he is not opposed to putting Live Oaks back along the edges of the property and reiterated that he does not want trees 9 ft. from the house.

Mr. Johnson addressed City Attorney Hillary Griffith, asking that if the appeal is denied, there is nothing preventing Mr. Hooley from applying for a new permit. Ms. Griffith confirmed this.

Mr. Heller addressed Chief Building Official Gary Hiatt, asking if 9ft. is a reasonable distance for the tree to thrive once pouring footers begins. Mr. Hiatt deferred the question to Ms. Hinrichsen. Ms. Hinrichsen stated that remaining trees are required to be barricaded for the duration of construction. She stated that 9 ft. is closer than the city would prefer, but as mentioned before the tree is located on a corner and would be less invasive than if it had been next to a wall. Mr. Heller asked if the root structure would be fine during the construction process and not harm the tree. Ms. Hinrichsen replied that if the tree is properly protected, then yes. Mr. Heller confirmed that protecting the tree is through the barricading process. He apologized to all present for the number of questions, that this is the first Tree Appeal hearing for the Board and he was trying to understand what they can or cannot do.

Addressing Ms. Hinrichsen, Mr. Heller stated that the city would barricade the tree, and no building could occur in that area. Ms. Hinrichsen responded that the city requires the builder and demolition contractor to barricade the trees, but the city provides the specifications for them. Mr. Heller asked Ms. Hinrichsen how large the barricades were. She responded it depended on the size of the tree, in general it would be 10 ft. x 10 ft. She stated that lots in Winter Park are small, so the barricades are built to not interfere with machinery used during construction. Mr. Heller confirmed that a 10 ft x 10 ft barricade would prevent damage to the root zone.

Mr. Hooley returned to the podium, stating that he is not sure if his request to take down four trees was for all or nothing. He stated that the tree located 9 ft. from the structure would be overhanging his bedroom. He stated that the area will be a construction zone for the next 14 months, and that there is no growth on the west side of the tree. If the decision is not all or nothing, he would like consideration for the two trees closest to the house, or at least the one that is 9 ft. away.

Mr. Johnson asked Ms. Griffith her thoughts on Mr. Hooley's statement. Ms. Griffith responded that she would defer to the City, but was almost sure it could be tree specific as to the denial of the appeal. Ms. Hinrichsen confirmed that it could be a partial denial or partial approval of the appeal.

Mr. Johnson and Mr. Heller asked if a proposed motion was provided. Officer Porras responded no.

Mr. Mandelkern made a motion:

I move that the decision made by the Urban Forestry Division be approved by this Board.

Mr. Heller seconded. The motion failed, 2-2.

Votes: Heller – Yes
Mandelkern – Yes
Johnson – No
Matt – No
Blaney – Absent
Bond – Absent
Diez-Arguelles - Absent

Ms. Matt made a motion:

I move to appeal the decision for tree "D" but uphold the denial of trees "E", "G", and "I".

Mr. Johnson seconded. Motion failed 2-2.

Votes: Heller – No
Mandelkern – No
Johnson – Yes
Matt – Yes
Blaney – Absent
Bond – Absent
Diez-Arguelles - Absent

Mr. Mandelkern asked the Board members if favor of removing tree "D" what specifically is incorrect or exceeds the authority of the Urban Forestry Division. He stated the way the code was written the Board does not have the authority to be lenient, that the are considering an appeal of a decision made by a city division, and the board must uphold that decision or reject it. If the decision is rejected, then the Board must make a finding that it was incorrect or exceeds the authority given under the city code.

Mr. Johnson stated his understanding of *de Novo* review, meaning the board doesn't have to defer to the prior decision, that the Board is deciding as new based upon the criteria for removal. Mr. Mandelkern disagreed with Mr. Johnson, that the hearing was an appeal, not a *de Novo* review. Mr. Johnson pointed out to Mr. Mandelkern that the hearing notice stated this. Ms. Griffith pointed out to the Board that the Appellant can appeal the decision made by the Code Compliance Board to the Circuit Court within 30 days of the final order.

Mr. Mandelkern confirmed with Ms. Griffith that the role of the Code Compliance Board was to be an Appellate Board; she responded yes. Mr. Mandelkern asked if they had the authority to review the Urban Forestry decision or override their judgment. Ms. Griffith concurred that Mr. Mandelkern was correct, stating that the applicant appealing the decision had the burden to prove that the tree removal denial decision or specific conditions placed on the tree removal is incorrect or exceeds the authority given under the city code. She also stated that the Board's decision must be supported by competent, substantial evidence.

Mr. Heller stated that the Board are not experts on trees, that falls to the city arborists. Mr. Mandelkern stated that the Board is not the final decision maker, that the property owner can go to the City Commission, noting that he is not familiar with their standards. Ms. Griffith stated the way the code is written an appeal of the Board's decision must be made to the Circuit Court, not the City Commission. Mr. Heller stated that the City Commission may have been the next step when there was a Tree Board, because the Tree Board had less authority than the Code Board. Officer Porras stated that the appeal process was changed in January and currently goes to the Circuit Court.

Ms. Hinrichsen offered the Board a reminder that in their consideration for criteria for removal, the city comes from the lens of trying to stanch the removal of trees that don't need to be removed, but one very notable thing about this site is the amount of trees

on it. Urban Forestry could benefit from having one tree removed, and having a larger tree planted on the site.

Ms. Matt inquired about the original hearing, whether all alternatives were presented, i.e. planting more trees once construction was done or donating to the city Tree Fund. Josh Nye, Parks Services Manager, and former Superintendent of Urban Forestry and Arborist identified himself and responded to Ms. Matt's question. He stated mitigation is not an alternative to removal. These specifically refer to actions that can be taken to avoid removal. Ms. Hinrichsen added that any protected tree that is removed is required to have a replacement tree planted, or a payment made into the city's Tree Fund. It is not an alternative; it is a condition of removal.

Ms. Matt asked if the hardship created by tree removal was on behalf of the property owner or for the environment. Josh Nye stated that hardship applies to the property owner, i.e. reasonable accommodation, reducing a building footprint or the number of units that can be built on a lot is not considered a hardship. It uses the words *severe impact* in the code, but he wouldn't say this case raised to that level.

Regarding the wording Mr. Mandelkern brought up that Urban Forestry exceeded their authority, Mr. Nye stated that it is tricky because the code is black and white, but there are gray areas. We may understand why someone wants to remove a tree, but the code doesn't allow it. The Urban Forestry Division is charged with protecting trees; that is what the appeal process is for.

Mr. Johnson found and read the wording about the *de Novo*, quasi-judicial hearing. Ms. Griffith stated it was to consider what had been presented today by the appellant and the city.

Mr. Hooley returned to the podium, stating that he wished to be clear that he did not believe anyone overstepped their authority, that Urban Forestry is doing what is asked of them by the city. He is asking for reconsideration based on the information he provided.

Mr. Heller stated that the Board is dealing with abstracts. They don't know if Mr. Hooley's insurance company will deny coverage, or if Mr. Lahr will be able to build the house without impacting on the trees in question. He stated that with so many unknowns, he was falling back on the idea to just wait, noting that Mr. Hooley could always apply for another permit to have the tree closest to the structure removed if it becomes a problem. He stated at that point there would be more actual evidence.

Mr. Johnson asked Mr. Hooley if he saw any detriment to starting the construction process as Mr. Heller suggested and then reapplying for a permit. Mr. Johnson felt this was reasonable.

Mr. Heller asked the city if the process would provide approval quickly if the application was made, if they do find out that it would be impacted by the construction or the insurance company. Ms. Hinrichsen responded that Urban Forestry would review again as new information was provided, that this is done with city-owned trees.

Ms. Griffith asked if it would be better to table the case versus denying the appeal. Mr. Heller stated that it was doubtful any new information would be available in one month, and that it would have to be tabled for quite a while. Ms. Griffith stated she would defer to the city.

Ms. Hinrichsen stated that a tree removal permit is open for one year after issuance. During that interim, especially during a build, the city will consider and reconsider a tree if its condition changes.

Mr. Johnson asked Mr. Hooley how far along the project was. Mr. Hooley responded that the plans were just approved by the city last week and site preparations have begun with stakes being placed, loam being brought in, and treatment of the undersoil. He added that there is an approved building permit, that everything has been signed off. Mr. Johnson asked how long construction is expected to take. Mr. Hooley responded that according to his wife by Christmas, but according to the builder in June 2026. Ms. Hinrichsen added that she should have noted a tree removal permit that is associated with a build permit is generally extended until the end of the build to perform final inspection.

Ms. Griffith stated that discussing this with the city staff, they suggest that this be tabled for a few months to have further conversations with the Appellant. Mr. Heller recognized that the build would progress, and they should know by then if it is a problem. Mr. Griffith agreed, stating at that time they could come back to the city if there is a problem. Mr. Heller and Ms. Matt stated there is also the question about insurance, but no one will know that outcome until the build is complete.

Josh Nye returned to the podium, stating the city has been listening and talking, recognizing that discussion has come to somewhat of an impasse, or possibly leading to denial. In making a good faith effort with the resident and giving the Board the chance to still have the appeal on the table for later if it needs to be considered. He stated the resident contact information and can reach out any time during the construction and request an inspection as needed. If determined to be necessary the city can change the decision on any tree. He stated that this may be the better solution at this time than the alternative.

Mr. Johnson moved to table the current case. The city and the homeowner will communicate, and if the city needs to put the case back on the agenda they will provide proper notice to the homeowner.

Mr. Heller seconded. Motion passed 4-0.

Votes: Heller – Yes

Mandelkern – Yes

Johnson – Yes

Matt – Yes

Blaney – Absent

Bond – Absent

Diez-Arguelles - Absent

Mr. Hooley thanked the Board for their time. In turn, Mr. Johnson thanked Mr. Hooley for maintaining communication with the city during the process.

7. Non-Action Items

None

8. Staff Updates

There were no staff updates.

9. City Attorney Reports

There was no City Attorney Report

10. Board Comments:

Mr. Johnson recognized Ms. Matt and thanked her for joining the Board.

11. Upcoming Agenda Items

Officer Porras stated there are currently two cases for next month. The Board Orientation is scheduled immediately after that meeting, so she is trying to keep the June meeting light.

12. Adjournment

Mr. Heller made a motion to adjourn. Ms. Matt seconded. Motion passed 4-0.

ATTEST:

Amended and Approved by the board on June 5, 2025

Susan Pruchnicki

/s/ Susan Pruchnicki, Board Secretary