



Board of Adjustments Regular Meeting Minutes

December 13, 2022 at 5:00 p.m.

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

Present

Present In-Person: Jason Johnson, Charles Steinberg, Robert Trompke, Michael Clary, Cathy Williams, Tom Sims, and Ann Higbie. Also Present: City Attorney J. Giffin Chumley. Staff: Assistant Director of Planning & Transportation Allison McGillis, Senior Planner/Zoning Official John Harbilas, Planning Technician Aaron Hull, and Recording Secretary Mary Bush.

(1) Call to Order

Chairman Jason Johnson called the meeting to order at 5:01 p.m.

(2) Consent Agenda

Approval of Minutes:

Motion made by Cathy Williams, seconded by Ann Higbie to approve the November 15, 2022 meeting minutes.

Motion carried unanimously with a 6-0 vote. (Jason Johnson abstained from voting as he was not present for the November 15, 2022 meeting.)

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

The Board heard public comment from the following resident:

Forest Michael of 358 W. Comstock, Winter Park, FL 32789 addressed the Board. Mr. Michael spoke on flooding issues in his neighborhood. He felt that the cause of the flooding relates to the rezoning and approved variances that have occurred in the area.

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

(4) Public Hearings

- BOA-2022-0022: Request of Daniel Bellows for variance approval from Section 58-66(f)(5), Section 58-71(h)(2) and Section 58-71(i)(2)d. to allow a front setback of 25-feet in lieu of the required front setback of 35-feet, a detached garage rear setback of 5-feet in lieu of the required rear setback of 10-feet, and a street-side setback of 15-feet in lieu of the required street-side setback of 25-feet in conjunction with the proposed single-story home located at 421 W. Lyman Avenue, zoned R-1A.

Mr. Harbilas provided the Board a brief summary of the request. He presented to the Board an area map and aerial view of the property. He noted that while the applicant's property is currently vacant, two homes exist to the west of the property and the rest of the block is mostly vacant. He also noted that staff received two letters in opposition of the request from the property owners to the north and east of the property. He added that all of the remaining property owners to the west and south of the property had provided letters in support of the request. Mr. Harbilas then presented the proposed elevations and site plans for the request and went on to review the variance approval criteria as it related to the request. He expressed that the applicant's property is one of three properties in the area that are zoned R-1A and the remaining are zoned R-2 or commercial. He then spoke on the front and street side setbacks noting that the average front setback for the area is calculated at 35 feet. He explained that the front setback average is being skewed by two homes to the west of the property that have 44 foot front setbacks while the remaining homes in the area have 20 to 22 foot front setbacks. Mr. Harbilas pointed out that the applicant's property abuts commercial property. He then

went on to explain that although the City's land development code allows for a reduced rear setback of the 10 foot requirement for residential properties that abut commercial properties, the code does not include detached structures in that allowance. Therefore, the applicant was requesting a rear setback of 5-feet in lieu of the required 10 foot rear setback for their proposed detached garage that would be located in the rear of the property. Mr. Harbilas added that there is a 14 foot City owned alleyway that separates the applicant's property from the commercial property it abuts. He then expressed that the requested variance for the street side setback was based simply on desire by the applicant, as the setback was due to the property being significantly larger than the other three properties surrounding the intersection of W. Lyman Avenue and S. Virginia Avenue. Mr. Harbilas indicated that except for the street side setback variance, staff did not believe that granting the request would confer any special privilege to any other lands, structures or buildings in the same zoning district.

Staff recommendation was for approval of the front and rear setbacks and denial for the street side setback.

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

- whether or not the objection letter from the neighbor to the east of the applicant's property included disapproval of all of the variances requested by the applicant,
- clarification on exactly which neighbors provided letters of support and which provided letters of denial for the request,
- if the City's updated zoning code regarding front setback requirements that will go into effect on January 1, 2023 would be relevant to the applicant's request,
- what the required setback would be under the updated zoning code,
- how long the current owners of the property have owned it,
- and if the current set back requirements were the same at the time the current owners purchased the property.

The applicant, Dan Bellows addressed the Board. Mr. Bellows expressed that the proposed home is intended to be a one story home set up for his wife's elderly father. He then spoke on zoning changes that have occurred for certain surrounding properties since he purchased his property and special conditions that that he feels exist for his property. He went on to briefly discuss the letters that were received in support and opposition of his request, his proposed hardship, and his perceived part in eliminating previous illegal activity in the area with his developments. He emphasized that he just wanted to have the same setbacks allowed for the property directly across from his on S. Virginia Avenue.

Chairman Johnson briefly inquired about the side setbacks of the corner properties at the intersection of W. Lyman Avenue and S. Virginia Avenue.

Ms. Higbie inquired about the front setback of the townhomes to the west of the applicant's property.

The Board heard public comment from the following residents in opposition of the request:

Mary Daniels, 650 W. Canton Avenue, Winter Park, FL 32789; Joseph Kovacs, 215 N. Eola Drive, Orlando, FL 32801; Linda Walker Chappell, 794 W. Comstock Avenue, Winter Park, FL 32789; LaWanda Thompson, 664 W. Lyman Avenue, Winter Park, FL 32789; Shelia Reid, 780 Carver Street, Winter Park, FL 32789; Forest Michael, 358 W. Comstock, Winter Park, FL 32789; Martha Bryant-Hall, 331 W. Lyman Avenue, Winter Park, FL 32789; Ruben Paige and Chauvet Paige, 840 Carver Street, Winter Park, FL 32789; and Maria Bryant, 450 S. Virginia Avenue, Winter Park, FL 32789.

The Board heard public comment from the following residents in favor of the request:

Jeanne Reynaud, 721 W. Comstock Avenue, Winter Park, FL 32789 and Nancy Rossman, 5192 Vardon Drive, Windermere, FL 34786.

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

The applicant, Dan Bellows addressed the Board. Mr. Bellows emphasized that he was not asking to build a larger house than what the land development code currently permits. He also noted that he believes the flooding mentioned during the public comments had to do with a valve not opening on a drain that goes to Lake Virginia, which he indicated was resolved shortly after the City figured out the issue. Mr. Bellows went on to

note that over 16 parcel owners had provided written support for the project and he felt that a hardship had been shown for all three requested setback variances.

The Board briefly shared their thoughts on the request and their reasons for their decisions on its approval or denial. The Board expressed varied opinions on whether or not special conditions and circumstances exist for all three requested setback variances. Though, the majority of the Board expressed favor for approval of the front setback variance request.

Motion made by Jason Johnson, seconded by Robert Trompke, for approval of the variance request application with a finding that the variance is justified by the criteria outlined in Section 58-92 of the code of ordinances of the City of Winter Park, that the reasons set forth in the application justify the granting of the variance, that the variance is the minimum variance that would make possible the reasonable use of the land, building or structure, and that the granting of the variance will be in harmony with the general purpose and intent of the zoning article of the land development code and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Motion denied with a 1-5 vote. (In favor: Cathy Williams. Opposed: Robert Trompke, Ann Higbie, Tom Sims, Jason Johnson, and Charles Steinberg. Abstained: Michael Clary)

Motion made by Robert Trompke, seconded by Cathy Williams, for approval of a variance from Section 58-66(f)(5) and Section 58-71(h)(2), to allow a front setback of 25-feet in lieu of the required front setback of 35-feet, and a detached garage rear setback of 5-feet in lieu of the required rear setback of 10-feet in conjunction with the proposed single-story home located at 421 W. Lyman Avenue, zoned R-1A.

Motion denied with a 2-4 vote. (In favor: Cathy Williams and Robert Trompke. Opposed: Ann Higbie, Tom Sims, Jason Johnson, and Charles Steinberg. Abstained: Michael Clary)

Motion made by Ann Higbie, seconded by Tom Sims, for approval of a variance from Section 58-66(f)(5), to allow a front setback of 28-feet in lieu of the required front setback of 35-feet in conjunction with the proposed single-story home located at 421 W. Lyman Avenue, zoned R-1A.

Motion unanimously approved with a 6-0 vote. (In favor: Cathy Williams, Robert Trompke, Ann Higbie, Tom Sims, Jason Johnson, and Charles Steinberg. Abstained: Michael Clary)

(5) Non-Action Items

No non-action items.

(6) Staff Updates

No staff updates.

(7) Board Comments

No Board comments.

(8) Upcoming Agenda Items

No discussion ensued on upcoming agenda items.

(9) Adjournment

Meeting adjourned at 6:38 p.m.

Minutes approved by the Board on January 17, 2023.

/s/ Recording Secretary Mary Bush