



BOARD OF ZONING ADJUSTMENT

MINUTES  MAY 27, 2014

MEETING INFORMATION

Location

City Council Chambers

2nd Floor, City Hall

One City Commons

400 South Orange Avenue

Time

2:00 p.m.

Members Present

Griff Aiko, Vice Chairperson
[7/8]

Asima Azam [4/4]

Robert High [7/8]

Laura Hodges [7/8]

Byron Lastrapes [7/8]

Elena Pathak [7/8]

Billy Wilson [4/4]

Members Absent

Avery Donaudy, Chairperson
[6/8]

Michael Weinberg [5/8]

OPENING SESSION

- Determination of a quorum.
- Griff Aiko, Vice Chairperson, called the meeting to order at 2:02 p.m.
- Pledge of Allegiance.
- The Board ACCEPTED the Minutes of the April 22, 2014 BZA Meeting as presented.

PUBLIC COMMENT

Vice Chairperson Aiko pointed out that any member of the public could be heard on any matter before the board; if an item was listed on the consent agenda, any member of the public could ask that the item be pulled and placed on the regular agenda.

AGENDA REVIEW

Executive Secretary Cechman reviewed the items on the consent agenda.

CONSENT AGENDA

1. VAR2014-00039 400 LAKEVIEW ST.

Applicant: Daniel Delong, 68 Graham Ave., Oviedo, FL 32765

Owner: William M. Lindeman, 1355 Devon Rd., Winter Park, FL 32789

Location: 400 Lakeview St. (±4.41 acres)

District: 3

Project Planner: TeNeika Walker (407.246.4257 – teneika.walker@cityoforlando.net)

Requested variance:

- Design variance to allow a 576 sq. ft. projecting garage in the Traditional City overlay.

Recommended Action: Approval of the requested variance, subject to the conditions in the staff report:

1. Development shall be in strict conformance with all conditions and the site plans and elevations found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All applicable City, County, State or Federal permits must be obtained before commencing development.
3. Appearance Review will be required during permitting to ensure compliance with the variance conditions.

2. VAR2014-00040 1201 MUNSTER ST.

Applicant/Owner: Denise Barnard, 1201 Munster St., Orlando, FL 32803

Location: 1201 Munster St. (±0.28 acres)

District: 3

Project Planner: Michaëlle Petion (407.246.3837 – michaelle.petion@cityoforlando.net)

Requested variances:

- A. Variance to allow an accessory structure to be in front of the principal façade;
- B. Variance of 5.5 ft. to allow the accessory structure to be 24.5 ft. from the front yard setback, when it is prohibited to be in the required 30 ft. front yard setback.
- C. Variance to allow the detached accessory structure to be less than 5 ft. from the principal structure.

Recommended action: Approval of the requested variances, subject to the conditions in the staff report:

1. Development shall be in strict conformance with all conditions and the survey and site plans found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All other applicable state or federal permits must be obtained before commencing development.
3. The structure shall be maintained at a color consistent with and complimentary to the exterior walls or trim of the residence.
4. Staff encourages the use of climbing vines, such as Confederate jasmine, along the posts. The minimum size of the plants at time of installation should be 3-gallon container, trained to 30" height.

3. This item moved to Regular Agenda.**4. This item moved to Regular Agenda.****5. VAR2014-00044 1009 STETSON ST.**

Applicant/Owner: Lara Swanson, 951 Stetson St., Orlando, FL 32804

Location: 1009 Stetson St. (±0.16 acres)

District: 3

Project Planner: Michaëlle Petion (407.246.3837 – michaelle.petion@cityoforlando.net)

Requested variance:

- Variance of 2.3 ft. to allow a garage to be recessed 2.7 ft. from the principal façade, where 5 ft. is the minimum required.

Recommended action: Approval of the requested variance, subject to the conditions in the staff report:

1. Development shall be in strict conformance with all conditions and the survey and site plans found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All other applicable state or federal permits must be obtained before commencing development.

3. The garage doors may be separate doors as shown in the proposed elevation or a single door designed with clear glazing panels. Final design will be subject to appearance review at the time of permitting.
4. In addition to meeting the minimum landscape requirements for single-family residential development in City Code Section 60.223, foundation plantings shall be installed along both sides of the garage door.

6. VAR2014-00045 POE'S WALLCOVERINGS POLE SIGN

Applicant: Grace Grant, Dynamic Aspects, 1940 Dolgner Pl., Sanford, FL 32771

Owner: L & E Property Orlando LLC, 632 Maguire Blvd., Orlando, FL 32803

Location: 632 Maguire Blvd. (±0.65 acres)

District: 4

Project Planner: Jim Burnett (407.246.3609 – james.burnett@cityoforlando.net)

Requested variance:

- Variance of 48 sq. ft. to allow a maximum sign area of 248 sq. ft. for a 2-tenant retail building, where a maximum 200 sq. ft. is allowed in the AC-3/AN zoning district.

Recommended action: Approval of the requested variance, subject to the conditions in the staff report:

1. Development shall be in strict conformance with all conditions and the site plans and elevations found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All applicable City, county, state or federal permits must be obtained before commencing development.
3. Appearance Review shall be required during permitting to ensure compliance with the elevations and graphics provided in the staff report.
4. Sign pole shall be painted to match the color of the sign cabinet frame.
5. If sign pole remains where located, asphalt in the former parking space shall be removed and a landscape island created.

7. VAR2014-00046 1 HOPKINS CIR.

Applicant/Owner: Jerry Haralson, 1 Hopkins Cir., Orlando, FL 32804

Location: 1 Hopkins Cir. (±0.22 acres)

District: 3

Project Planner: Jim Burnett (407.246.3609 – james.burnett@cityoforlando.net)

Requested variances:

- A. Variance of 15.2 ft. to allow a 2nd-story residential expansion 9.8 ft. from the rear lot line, where a minimum 25 ft. rear setback is required; and
- B. Variance to retroactively locate three (3) air conditioning compressors within the reduced rear setback.

Recommended action: Approval of the requested variances, subject to the conditions in the staff report.

1. Development shall be in strict conformance with all conditions and the survey and photographs found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All applicable City, county, state or federal permits must be obtained before commencing development.

3. Appearance Review will be required during permitting to ensure compliance with the variance conditions.
4. 2nd level above garage shall meet 15% transparency requirement (Sec. 62.600, Traditional City Overlay) as proposed on elevations. Window trim shall also match the existing house style.
5. Exterior finish of the 2nd floor additions shall be stuccoed to match the existing house treatment.

Board member High moved APPROVAL of the CONSENT AGENDA. Board member Lastrapes SECONDED the MOTION, which was VOTED upon and PASSED by unanimous voice vote.

REGULAR AGENDA

3. VAR2014-00041 509 E. CHURCH ST.

Applicant: Solange Dao, Dao Consultants, 1620 E. Marks St., Orlando, FL 32803

Owner: Robert F. Evans, Jr., PO Box 688, Orlando, FL 32802

Location: 509 E. Church St. (±0.18 acres)

District: 4

Project Planner: Michaëlle Petion (407.246.3837 – michaelle.petion@cityoforlando.net)

Requested variance:

- Variance of 2 ft. to allow 0 ft. of landscaping adjacent to a driveway and the property line, where 2 ft. is the minimum required.

Recommended action: Approval of the requested variance, subject to the conditions in the staff report.

Michaëlle Petion, Planner II, City Planning Division, provided an introduction to the case using PowerPoint. She showed photographs, aerial images, and site plans, and gave a brief history of the site. Board member Hodges asked if the concrete pad at the end of the driveway was existing. Mrs. Petion said yes, and that the applicant was planning on retaining it. Board member Lastrapes confirmed that the proposed use was a single-family residence, and mentioned a drive-through area in the back.

Solange Dao, 1110 E. Marks St., Orlando, FL 32803, spoke as the applicant in support of the request. She explained her client had objections to several staff conditions. For Condition #3, she noted a cable box was in the way of the driveway flares. For Conditions #6 & #7, she pointed out that there was only one parking space, but that there could be many residents in the house who would need more parking. The fence condition was too restrictive, especially since the expanded Lymmo route had removed the opportunity for street parking.

Executive Secretary Cechman said staff would be OK with a second parking space, but fencing or some sort of landscape barrier would need to be in place. Board member High pointed out additional paved area might be needed to allow for sufficient turnaround space. Mrs. Petion agreed, but reminded the applicant about the maximum impervious surface ratio.

Emily Ann Zimmerman, 300 E. Church St., #1207, Orlando, FL 32801, spoke as a member of the public in support of the request. She claimed it would enrich the neighborhood.

Robert Evans, 401 Richmond St., Orlando, FL 32806, spoke as the property owner in support of the request. He expressed confusion over the fencing requirement, saying he didn't think it was necessary and hoping that the Board would amend or remove that condition.

John Nadjafi, 100 S. Eola Dr., Orlando, FL 32801, spoke as a member of Shutts & Bowen, the legal representative for SCO Association Inc., which owns The Sanctuary, the neighboring property to the east. He described the dispute with the subject property owner, who had installed the driveway in question without proper permits and without consulting with The Sanctuary. Mr. Nadjafi said he didn't necessarily have a problem with the requested variance, but there were issues with the survey that had been presented, and questions over who would pay for a new survey. Board member High asked why the opponent didn't get a survey on their own. Mr. Nadjafi reiterated the disputes about costs and cost-sharing. Using the overhead projector, Mr.

Nadjafi presented a photograph showing a tape measure indicating that the pavement may be on The Sanctuary's property, but only a new survey will show with certainty.

Board member Lastrapes pointed out that the applicant and owner of the subject property seemed to be willing to resolve the issues. Mr. Nadjafi indicated that deferral of the case might be best so they could have adequate time to complete the surveying. Assistant City Attorney David Bass explained that the Board preferred not to defer cases, in order to expedite the process for applicants. Executive Secretary Cechman said that, for the time being, the City was going along with the applicant's survey in order to make decisions.

Board discussion ensued. Topics included the need for additional turnaround space; the size, shape, location, and code requirements of the driveway flare; and the matter of the cable box in the way. Ms. Dao explained that the surveyor they had hired was licensed. Keith Grayson, Permitting Services, stated that matters in the right-of-way were subject to review and approval by the City Engineer. Board member Pathak asked if there was a limit to the number of parking spaces in the back. Mrs. Petion replied that staff was not limiting the number of spaces with the condition; it was mainly to address the impervious surface restrictions. Discussion then ensued on how best to word the motion, and what needed to be added for clarification.

Board member Pathak moved APPROVAL of the VARIANCE, subject to the following conditions:

1. Development shall be in strict conformance with all conditions and the survey and site plans found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All other applicable state or federal permits must be obtained before commencing development.
3. The two curb-cut flares shall be redesigned consistent with City standards, with relief subject to review by the City Engineer. The transition starts from back of sidewalk to the curb and shall be contained within the side lot lines of the subject property.
4. The use of gravel is prohibited within 15 ft. of the ROW.
5. The structure shall undergo the proper change of use permit process.
6. The use of gravel is only permitted on non-parking surfaces.
7. To prevent parking in the graveled rear yard, this area shall be fenced-off if fencing is used, or separated with a curb stop or landscaping. The fencing standards of LDC section 58.929 shall apply.
8. This variance shall be limited to a single-family use. Any future conversion to other uses shall require compliance with City driveway regulations.

Board member Lastrapes SECONDED the motion, which was VOTED upon and PASSED by unanimous voice vote.

4. VAR2014-00043 JERNIGAN AVE. FENCE

Applicant: Elield Sousa, 4731 N. Pine Hills Rd., Orlando, FL 32808

Owner: Deutsche Bank National Trust Co., c/o Udren Law Offices, 2101 W. Commercial Blvd., Ste. 500, Ft. Lauderdale, FL 33309

Location: 417-431 Jernigan Ave. (±0.36 acres)

District: 5

Project Planner: TeNeika Walker (407.246.4257 – teneika.walker@cityoforlando.net)

Requested variance:

- Variance to allow a 6 ft. tall CPTED fence and gates in the front and street side yards of an existing multi-family development, where fence height is limited to 4 ft.

Recommended action: Approval of the requested variance, subject to the conditions in the staff report.

TeNeika Walker, Planner I, City Planning Division, provided a brief introduction to the case using PowerPoint, explaining staff's conditions of approval. Executive Secretary Cechman noted that with three street frontages, people often walked across the property unhindered. Board member Lastrapes confirmed that the applicant was not proposing a gate, then noted he would prefer a see-through fence. Ms. Walker stated the proposal called for wrought iron.

Eliel Sousa, 4731 Pine Hills Rd., Orlando, FL 32808, spoke as the applicant in support of the request. He explained the purpose of the proposed fence was to provide more protection for the people living in the development. The surrounding area was known to have illegal activities, and the fence would help prevent some of these activities. As for raising the height from 4 ft. to 6 ft., he noted that a 4 ft. fence was easier to jump over in the back where the elevation was different.

Phil Cowherd, 1640 S. Pennsylvania Ave., Winter Park, FL 32789, spoke as a member of the public in opposition to the request. He stated that he built the original buildings back in 1976, and also owned several nearby properties. Based on evidence he had seen in recent cases, he said the 6 ft. height was a “mistake” – it would only be dismantled and stolen. He passed a handout to the Board members showing the property’s sales history, crimes in the area, and the need for additional crime cameras. He implored the Board members to push the City for more of these cameras, rather than installing tall fences like the proposed.

Board member Azam moved APPROVAL of the VARIANCE, subject to the following conditions:

1. Appearance Review is required before the issuance of the building permit.
2. The fence shall be black wrought iron or aluminum pickets.
3. The fence shall be setback 5 ft. from the property line and include a pedestrian gate and sidewalk connection from the buildings to the street, on Colyer Street and Randall Street.
4. The fence shall be setback 9 ft. from the property line and shall be in-line with the buildings so no fencing will be needed between the Jernigan facades and the street, on Jernigan Avenue.
5. The fence shall be 4 ft. high in the rear yard of the property to ensure consistency with adjacent property.
6. Appearance Review Board Approval is required.
7. All necessary permits shall be acquired prior to installation of the fence.
8. The entrance gate, as per current parking code, shall be a minimum of 20 ft from the right-of-way line.

Board member High SECONDED the motion, which was VOTED upon and PASSED by unanimous voice vote.

Note: Board member High left the meeting at 3:15 p.m., soon after the vote for Item 4. He did not participate in the discussion or voting for Item 8.

8. VAR2014-00036 6441 MACKENZIE ST.

Applicant/Owner: Harry Lugo, 6441 Mackenzie St., Orlando, FL 32807

Location: 6441 Mackenzie St. (±0.18 acres)

District: 2

Project Planner: Jim Burnett (407.246.3609 – james.burnett@cityoforlando.net)

Requested variance:

- Variance of 1.7 ft. to allow an expanded driveway to be 0.3 ft. from the east side lot line, where a minimum 2 ft. setback is required.

Recommended action: Denial of the requested variance.

Jim Burnett, Planner III, City Planning Division, provided a brief introduction to the case using PowerPoint. He explained staff’s reasons for denial, primarily due to the fact that the applicant only met one of the six variance criteria. The driveway had also been installed without permits, and the owner was under Code Enforcement. Mr. Burnett noted that City code had changed in 2010 to require a 2 ft. landscape buffer between the property line and the edge of the driveway. Board member Lastrapes pointed out that if the driveway width were reduced, automobile wheels would be rolling off the side and into the grass as they went towards the gate. Vice Chairperson Ariko asked if a lesser variance had been discussed. Mr. Burnett said staff had presented the owner with options to reduce the variance or eliminate the need for one, but the owner had decided to go to the Board with his original request.

Harry Lugo, 6441 Mackenzie St., Orlando, FL 32807, spoke as the applicant in support of the request. He provided the Board members with a handout showing photographs of his and other driveways in the neighborhood. He also pointed out that his immediate neighbor to the east, Juan Tavarez at 6451 Mackenzie St., had no objection, providing an affidavit of support. Board

member Lastrapes asked if Mr. Lugo would be filling in the triangular “wedge” of grass as staff had proposed. Mr. Lugo said he would just use the grass like his neighbors.

Thomas Golay, 6471 Mackenzie St., Orlando, FL 32807, spoke as a member of the public in support of the request. As the neighbor three houses west, he had no objection. He stated Mr. Lugo had improved the property from a poor condition. In addition, he stated that vehicles had gotten bigger and more plentiful over the years, which meant the smaller driveways and garages in these older houses were less functional than originally developed. Finally, he claimed that Mr. Lugo had increased the neighborhood property values with the driveway expansion.

Board discussion ensued at length. Topics included the fact that only one of the six variance criteria were met, and the unanimous neighbor support. Board member Hodges asked if this was the owner’s primary residence. Mr. Lugo said it was, and that it would look “weird” if the driveway didn’t align with the gate. Board member Azam expressed hesitation to “reward” the owner’s lack of following procedure with a variance. Executive Secretary Cechman explained the reasoning behind requiring the landscape buffer: the City didn’t want to have long stretches of concrete on consecutive lots, which would lead to an unsightly appearance.

Board member Azam moved APPROVAL of the Variance. Board member Lastrapes SECONDED the motion, which was VOTED upon and FAILED by a 3-3 voice vote (Board members Azam, Lastrapes, and Wilson voted in support; Board members Ariko, Hodges, and Pathak opposed). Board Secretary Petersen confirmed the vote with a show of hands.

9. VAR2014-00042 COLONIAL PHOTO & HOBBY SIGN

Applicant: Kenneth Soday, Stellar Sign & Design, 331 Oleander Way, Ste. 1001, Casselberry, FL 32707

Owner: Roberta H. Rausch Revocable Trust ½ Int. / R. D. Rausch Family Trust ½ Int.,
1620 Mayflower Ct., Apt. A61, Winter Park, FL 32792

Location: 634 N. Mills Ave. (±0.94 acres)

District: 4

Project Planner: Jim Burnett (407.246.3609 – james.burnett@cityoforlando.net)

Requested variance:

- Design Variance to allow a 15 foot high pole or ground sign in the Traditional City (T) Overlay District.

Recommended action: Denial of the requested variance.

Jim Burnett, Planner III, City Planning Division, provided an introduction to the case using PowerPoint. He also showed on the overhead projector some revised drawings submitted by the applicant after the staff report had already been issued. Despite the revisions, staff was still recommending denial because the request did not meet the minimum percentage of criteria for the design variance. Board member Pathak asked if the project would involve taking down the white banner or marquee sign. Mr. Burnett said no.

Michael Rausch, 634 N. Mills Ave., Orlando, FL 32803, spoke as the owner’s trustee in support of the request. He explained that a staff recommendation of approval would require a maximum 12 ft. high monument sign that might block the view of cars and trucks pulling out of the parking lot. Board member Pathak asked how long Colonial Photo & Hobby had been in business. Mr. Rausch answered 60 years, with 40 years at the current location. He noted that there was a City requirement for an 8 ft. clearance line from the bottom of any proposed sign, in order to allow sufficient sight visibility.

Executive Secretary Cechman asked about the previously existing trailer sign in the same location. Mr. Rausch said it had been removed years before, but that it had been located further back in the parking lot. He also clarified what was meant by “static digital image” – the image would be digital, but it would remain static and not having flashing or rotating graphics. Mr. Cechman confirmed with Mr. Rausch that the variance was only for the sign height, and had no bearing on the static digital image.

Board discussion ensued. Topics included asking staff to clarify the different proposals (whether 12 ft., 15 ft., or 17 ft. would be appropriate); discussion of the conditions of approval if the variance was approved; driver distraction from a static digital sign;

and keeping the older, more historic signs already in place. The Board noted a building consensus to approve the variance, but decided that Condition #6 should be removed, as the approved sign would not be a monument sign.

Board member Azam moved APPROVAL of the Variance, subject to the following conditions:

1. Development shall be in strict conformance with all conditions and the site plans and elevations found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All applicable City, county, state or federal permits must be obtained before commencing development.
3. Appearance Review shall be required during permitting to ensure compliance with the elevations and graphics provided in the staff report.
4. At all project entrances, clear sight distances for drivers and pedestrians shall not be blocked by signs, buildings, building columns, landscaping, or other visual impediments. No structure, fence, wall, or other visual impediment shall obstruct vision between 3 feet and 8 feet in height above street level. The street corner/driveway visibility area shall be shown and noted on construction plans and any future site plan submittals. The applicant shall design the site plan as necessary to comply with the Florida Greenbook guidelines for sight distance at intersections.
5. The sign shall be designed as a pole sign, rather than as a monument sign. A single column or pole is preferred, not to exceed 18 inches in width. If two (2) posts are used, the width of each in any direction shall not exceed 12 inches. The total height of the sign shall not exceed 15 feet.
6. ~~If the sign is approved as a monument sign, the colors of the sign structure shall match either the principal building facade or trim. Black may be used if the sign is approved as a pole sign, in keeping with the style and detailing of the projecting wall sign.~~
7. The space between the upper portions of the sign ("Colonial Photo & Hobby") and the lower portion (the photo of the month panel), shall be minimal (12" or less). The lower panel shall be trimmed and detailed to match the styling of the upper portion (Art Moderne style). Such details may include the painted stripes, red neon, and rounded edges.
8. At least two (2) pedestrian-oriented hanging signs shall be located under the canopy/marquee, perpendicular to the adjacent street, to aid pedestrian and vehicular identification of the store. Signs shall not pose a height clearance issue when walking underneath them.

Board member Wilson SECONDED the motion, which was VOTED upon and PASSED by unanimous voice vote.

OTHER BUSINESS

- None.

ADJOURNMENT

Vice Chairperson Ariko adjourned the meeting at 4:16 p.m.

STAFF PRESENT

Mark Cechman, City Planning
Karl Wielecki, City Planning
Michaëlle Petion, City Planning
Jim Burnett, City Planning
TeNeika Walker, City Planning
Ken Pelham, City Planning

Paul Lewis, City Planning
Keith Grayson, Permitting Services
Kim Fischer, Permitting Services
Audra Nordaby, Orlando Police Department
Ana Cruz, City Commissioner's Office
David Bass, City Attorney's Office



Mark Cechman, AICP, Executive Secretary



Ed Petersen, BZA Recording Secretary