



BOARD OF ZONING ADJUSTMENT

MINUTES



DECEMBER 16, 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

Avery Donaudy, Chairperson
[2/2]

Griff Ariko, Vice Chairperson
[1/2]

Asima Azam [2/2]

Robert High [2/2]

Laura Hodges [2/2]

Byron Lastrapes [2/2]

Elena Pathak [1/2]

Desiree Sanchez [1/2]

Billy Wilson [1/2]

Members Absent

None.

OPENING SESSION

- Determination of a quorum.
- Griff Ariko, Vice Chairperson, called the meeting to order at 2:04 p.m.
- Pledge of Allegiance.
- The Board ACCEPTED the Minutes of the November 25, 2014 BZA Meeting as presented.

PUBLIC COMMENT

Vice Chairperson Ariko 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. VAR2014-00112 CASHMAN ATTORNEY SIGN

Applicant: Patricia Cashman, 1238 E. Concord St., Orlando, FL 32803

Owner: JNF LLC, 5161 Jetsail Dr., Orlando, FL 32812

Location: 1238 E. Concord St. (±0.16 acres)

District: 4

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

Requested variances:

- A. Design variance to allow a post and panel sign in the Traditional City Overlay; and
- B. Variance of 6.5 ft. to allow the proposed sign +/- 6 ft. from the front and street side setbacks, where a minimum 12.5 ft. front and street side sign setback is required.

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. A landscape bed shall be installed around the base of the sign, to be a minimum 6 ft. in width, and extending beyond each end of the sign at least 4 ft. The landscape bed shall include native and flowering plants perennial plants. Annual bedding plants shall not be used, except as part of a landscape bed larger than the minimum dimensions specified herein.
5. The sign shall be designed as a hanging sign, but all tenant panels shall be included on a single panel, rather than individual panels.
6. The sign shall incorporate architectural details such as trims, framing, finials, caps, bases, and so forth. Sandblasted, routed, and etched signs (or other similar technique) are acceptable.
7. Materials shall be durable and should match or complement the office building. Painted plywood signs are not acceptable.
8. The sign shall not be internally lit. Cabinet signs are prohibited.

Recording Secretary Ed Petersen pointed out that staff had received one of the Public Notices back, with a small sticky note from the sender stating that they were against the variance. The neighbors were the two properties located across Shine Ave., immediately to the east of the subject property. The Board decided not to pull the item for discussion, as no one had physically appeared in opposition.

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

REGULAR AGENDA

2. VAR2014-00113 2002 ELIZABETH AVE.

Applicant/Owner: Joe Sorrentino, 2002 Elizabeth Ave., Orlando, FL 32804

Location: 2002 Elizabeth Ave. (±0.32 acres)

District: 3

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

Requested variances:

- A. Variance of 10.9 ft. to allow a residential addition to be 14.1 ft. from the rear lot line, where a minimum 25 ft. rear setback is required; and
- B. Variance of 1 ft. to allow a new bay window to extend 3 ft. into the street side setback, where a maximum 2 ft. encroachment is allowed

Recommended action: Denial of Variance A and approval of Variance B, subject to the conditions in the staff report.

Jim Burnett, Planner III, City Planning Division, introduced the case using PowerPoint. He noted staff was only supporting the second variance because the first one didn't meet all six variance standards. He also said he had received two phone calls in opposition and several e-mail letters in favor.

Board member Lastrapes asked if the carport's roofline was staying the same, and if the proposed balcony was a problem in terms of the setbacks. Mr. Burnett responded that the structure was going vertical, so the roofline would change, and that the balcony was not part of the variance. Board member High confirmed that the City was open to a 19 ft. variance as a compromise, though Mr. Burnett stated that it would be up to the Board's discretion. Executive Secretary Cechman asked Mr. Burnett about the family room, so he read from page 12 of the staff report what the applicant had listed as the intended use. Vice Chairperson Ariko asked what the two callers had been against specifically. Mr. Burnett said one was just against the project in general; a separate neighbor to the north said the variance was too large and was concerned about the driveway, but Mr. Burnett said that the driveway was not part of the variance request. Board member Sanchez asked why the City was recommending 19 ft. vs. 25 ft. Mr. Burnett noted that it came down to how much active living space was needed for a minimum possible variance. Just because there was asphalt or concrete on the property didn't mean it could be converted to living space.

Joe Sorrentino, 2002 Elizabeth Ave., Orlando, FL 32804, spoke as the applicant in support of the request. He explained that his home was a gathering point for the extended family in the area, but the currently small living area was somewhat unusable. His family didn't want to move from the house, which would make the lot a tempting target for a lot split and redevelopment. He acknowledged the difficulty of building on a corner lot, but noted the support of many of his neighbors. Shrinking the proposed addition as staff recommended would reduce the potential usability of the family room. Board member High asked if the usable area could be moved to the north, but Mr. Sorrentino said that was not an option because of the driveway in that part of the lot. Executive Secretary Cechman asked for specific dimensions of the family room. Mr. Sorrentino said it would be 20 ft. x 15 ft., and that the office off to the side would be nice for his job where he had to take conference calls. Board member High suggested that the office could go on the proposed second floor, but Mr. Sorrentino said financial limitations might cause them not to build the second floor as initially proposed.

Chairperson Donaudy arrived at the meeting at 2:25 pm

Board discussion ensued. Board member Hodges claimed she had no problem with the proposed plans, despite the City's objections, especially since there was no further encroachment into the setback. Board member Lastrapes agreed, saying it wasn't a "land grab" and that the neighbors' support was key. Board member Azam stated a lesser variance as staff recommended was more appropriate; the office could go on the second floor. Board member Pathak asked about setbacks on corner lots. Executive Secretary Cechman explained that the two back yards of the neighbors faced each other, and pointed out that Elizabeth Ave. has historically been used as the front yard. Board member Hodges made some design suggestions regarding the placement of the external spiral staircase. Mr. Burnett addressed the Board with comments from Keith Grayson, Chief Zoning Plans Examiner in Permitting Services, that concerns about the staircase were unfounded because they were not affecting the variance request before the Board.

Board member Azam attempted a motion to approve a lesser variance of 6 ft. It was seconded by Chairperson Donaudy, but it failed by a 4-5 vote.

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

1. The west property line shall be landscaped with medium shrubs and large groundcovers from the sidewalk to the pool deck.
2. Two (2) understory trees or one (1) canopy tree, at least 12-ft. in height at time of installation, shall be installed between the west wall of the house and the west property line.
3. Existing driveway and apron on W. Yale St. shall be removed and the curb restored to match the remainder of the curb along W. Yale St.
4. New driveway off Elizabeth Ave. shall be extended an additional 3 ft. further back on the lot.

Board member Lastrapes SECONDED the motion, which was VOTED upon and PASSED by an 8-1 voice vote (Board member Azam opposed).

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

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. Details, construction methods, roofing, and finishes shall be consistent with those shown and compatible with the existing house.

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

Vice Chairperson Ariko left the meeting at 2:45 pm

3. VAR2014-00115 313 RICHARD PL.

Applicant: Kelly Carr, 2929 Alamo Dr., Orlando, FL 32805
 Owner: Sterling Farmer, 313 Richard Pl., Orlando, FL 32806
 Location: 313 Richard Pl. (±0.52 acres)
 District: 4

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

Requested variances:

- A. Variance of 2.7 ft. to allow an inline addition at a 4.8 ft. west side setback, where 7.5 ft. is the minimum required;
- B. Variance of 2.5 ft. to allow an inline addition at a 5 ft. east side setback, where 7.5 ft. is the minimum required;
and,
- C. Variance of 5 ft. to allow a garage to be flush with the principal façade, where a 5 ft. recess is required.

Recommended action: Denial of Variance B and approval of Variances A and C, subject to the conditions in the staff report.

Michaëlle Petion, Planner II, City Planning Division, introduced the case using PowerPoint. She explained that staff was recommending denial of Variance B because it was not the minimum possible variance. Executive Secretary Cechman confirmed with Mrs. Petion that garages needed to be a certain size in order to be usable, therefore staff was recommending approval of Variance A for the west side addition. He then mentioned that the bedrooms on the east side could be a smaller size and still be livable, which was why staff was recommending denial of Variance B. Mrs. Petion concurred that there was room to give because of the open space of the pool and patio spaces. Board member Sanchez asked for clarification on the measurements on the east side addition.

Kelly Carr, 2929 Alamo Dr., Orlando, FL 32805 spoke as the applicant in support of the request. She said she was the designer, and that she agreed with staff's recommendation to approve Variances A and C. As for Variance B, she said the scope of work was done to carefully place the addition so as not to block the lake view from the rest of the house. She also had to take into account a "no-splash" zone around the pool, which had been designed to a minimum size by pool standards. She claimed the proposed additions were not significant compared to others in the neighborhood, and that the neighborhood had shown support for the project. In addition, the homeowners had just learned of a close friend who had been in an accident; they subsequently wanted the project to be redesigned to ADA compliance. Board member High asked if the owners had started out under the assumption that they would get the variance, and then designed the project accordingly. Ms. Carr said yes, but noted that any alternative designs would have squeezed in the pool.

Tina Demostene, 5106 Leeward Way, Orlando, FL 32809, spoke in support of the request. She stated she was a friend of the neighborhood, and that she had been on the homeowner's board when an annexation agreement had been completed. It required all lakefront lots to maintain the R-1AA Zoning Code standards. This meant that lot splits would be avoided, but also meant that a simple rezoning was not available to the homeowners to allow the proposed additions to meet code. She reiterated that many of the neighbors supported the request.

Board discussion ensued. Board member Pathak agreed with the City's recommendation, in that the design changes recommended were easy enough to make. She also pointed out that neighbors can change; future neighbors might not like the large addition on the east side. Mrs. Petion noted that if the addition were built as proposed, it would be a 75 ft. solid wall all along the east side. Board member Lastrapes disagreed, saying that if the west side was acceptable, then the east side should also be acceptable for consistency. However, Board member High said they didn't have to give the applicant everything they wanted. Board members Azam and Hodges agreed, pointing out that they thought the east side addition would obstruct the neighbor's view of the lake.

Board member High moved DENIAL of Variance B and APPROVAL of Variances A and C, 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. Because the enlarged footprint of the building will increase stormwater runoff volume and speed, a stormwater pollution control swale shall be constructed along the lake edge, upland of the normal high water line. The swale shall be completely planted with lake edge plant species native to Central Florida. No sod will be permitted within 10 feet of the normal high water elevation (91.0').

Board member Azam SECONDED the motion, which was VOTED upon and PASSED by a 6-2 voice vote (Board members Donaudy and Lastrapes opposed).

Board member Azam left the meeting at 3:29 pm

4. VAR2014-00114 303 E. HARWOOD ST.

Applicant/Owner: Karen Consalo, 303 E. Harwood St., Orlando, FL 32801

Location: 303 E. Harwood St. (±0.14 acres)

District: 4

Project Planner: Karl Wielecki (407.246.2726 – karl.wielecki@cityoforlando.net)

Requested variance:

- Variance of +/- 23 ft. to allow a reduced rear yard setback of +/- 2 ft. for a principal structure resulting from a proposed connection between the main house and detached garage.

Recommended action: Denial of the requested variance.

Karl Wielecki, Planning Manager, City Planning Division, introduced the case using PowerPoint. He said that of the six variance standards, the applicant met only the first two. The proposed connection would cause the entire structure to be treated as a principal structure, which meant it would no longer meet the 25 ft. rear yard setback requirement. This restriction would apply even if it was an open-air connection, like a breezeway. Though the applicant did not provide an existing floor plan, Mr. Wielecki indicated the buildable area of the lot with a red box, showing the setback lines. Executive Secretary Cechman pointed out that the Floor Area Ratio of 0.5 would still have to be met, even if the new development was within the red box.

Mr. Wielecki explained that the accessory structure (formerly a garage) as presently constructed was legal non-conforming. Executive Secretary Cechman noted the proposed connection would change the setback requirements from accessory structure (15 ft.) to principal structure (25 ft.). Mr. Wielecki also passed around a map printout of the Lake Eola Heights Historic District. The map showed only one other property with a shallow rear yard setback for a principal structure connected to the accessory structure, as a result of a 1986 variance which the staff opposed. Such a connection as the one proposed was not common in the City.

Karen Consalo, 303 E. Harwood St., Orlando, FL 32801, spoke as the applicant in support of the request. She began by pointing out that she used to sit on the BZA as an Assistant City Attorney, like David Bass. He remarked that if the BZA were to recommend approval, the structures on the lot would “in essence” become conforming. Mrs. Consalo also said that building the addition off to the side of the house, within the “red box”, was not feasible because of the plumbing layout. She appreciated staff’s willingness to bring her before the BZA hearing prior to the Historic Preservation Board, because the BZA was a “threshold Board” and it wouldn’t make sense to go before HPB if she had not received a variance in the first place.

Mrs. Consalo disagreed with staff’s assertion of the unique nature of the project. Using a PowerPoint presentation, she cited a large number of what she considered similar conditions within a few blocks of her house. She then described her husband’s degenerative medical condition, which made the proposed connection a necessity. Further, she claimed that she was not seeking any special privilege, as the proposal was the “most efficient use of the land”. The accessory structure was currently an unused rental building, and because of their children, they didn’t want to rent it out to strangers any longer. She then pointed out the numerous letters of support they had received for their project.

Mark Consalo, 303 E. Harwood St., Orlando, FL 32801, spoke as the husband of the applicant in support of the request. He gave more details on his foot condition, noting that he would be in a wheelchair within the next year because of it. At present, all the bedrooms and bathrooms were upstairs in the house, which would be very difficult to reach as his condition worsened. He hoped to use the new room as a recovery room and include a bathroom in the addition. He said the family wanted to stay in the house and not move to a different location, and noted they were unsuccessful in trying to sell the house. Board member Sanchez asked why he couldn’t build elsewhere on the property. Mrs. Consalo stated that she wanted ground floor access all the way through the house, and therefore stairs would not be an issue for her husband. Executive Secretary Cechman asked what the intended use of the proposed enclosure would be, because the plans read “TV/Den”. Mrs. Consalo said the architect had placed that label there, but that wasn’t the only possibility they were considering. They had thought about using it as an office, with a shower included. She then walked through how they planned on getting around in the new areas of the house after construction would be completed.

Prior to Board discussion, Chairperson Donaudy expressed sympathy to the Consalos for the medical situation, and that the Board would consider the zoning matters carefully. Board member Pathak said she disagreed with the Citywide 25 ft. setback requirement, especially in historic and other unique districts like this. She said she didn’t have a problem with the proposed

connection. Board member Lastrapes noted that this was a hard case; however, while his “human side” wanted to recommend approval, the code was such that he couldn’t go along with the request. Assistant City Attorney Bass reminded the Board that personal issues were not normally considered as part of the review—the only things to be considered were “peculiar to the land, structure, or buildings”. He further stated that staff acknowledged the first two variance criteria had been met—none of the hardships were self-created—and focused on the other four criteria in the analysis. Board member Pathak stated she would rather see the history of the area preserved instead of demolition of the current accessory structure.

Executive Secretary Cechman explained that accessory structures were allowed smaller setbacks because there was typically less intense activity taking place in them. However, with the proposed connection, the activity from the principal structure would filter into the accessory structure. He said the City wanted to avoid people “gaming the system” by building the house, then the accessory structure, and then later combining the two with a variance, making one large house as they had wanted to build in the first place. Finally, he noted that the current layout of the buildings had been enjoyed by various owners for about 90 years, and thus staff couldn’t agree with the applicant’s argument.

Board discussion ensued. Some comments were made about the design of possible alternative additions, but were discarded as not feasible. Board member High wondered if the proposed connection would “significantly...mess up” the neighborhood, visually or otherwise. Board member Sanchez expressed concern about “opening the floodgates” for similar variances, and asked if the City did indeed have a pattern of approval for such connections, as Mrs. Consalo had claimed. Mr. Wielecki pointed out that many of the cases she cited were for detached garages or other accessory structures, lacking the connection in question. He also read into the record a statement from Richard Forbes, Historic Preservation Officer. It said there was no historical precedent for the type of connection the applicant was requesting. The variance case from 1986 that was indicated earlier was approved prior to the existence of the Historic District designation. Executive Secretary Cechman pointed out that in Historic Districts, you could find “eclectic” development because some of it happened before the City had codes in place. Mr. Wielecki then stated that many of the cases before the BZA are new detached garages in Historic Districts that follow the historic pattern of development, which sometimes could have between zero and two feet from the rear lot line. Assistant City Attorney David Bass cautioned that Historic Preservation issues were not part of this Board’s purview and generally should not be considered.

Board member Sanchez agreed with the applicant’s assertion that the proposal was the most feasible use, but that the six variance standards had to be considered. Chairperson Donaudy asked if the Board would like to go over the standards again, but many Board members said no. Board member High attempted a motion to deny the variance. It was seconded by Board member Lastrapes, but it failed by a 2-5 vote.

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

1. Development shall be in strict conformance with all conditions, the surveys, and the 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 other applicable state or federal permits must be obtained before commencing development.
3. Connection shall be limited to 214.2 sq. ft. or 17 ft. x 12.6 ft.

Board member Pathak SECONDED the motion, which was VOTED upon and PASSED by a 5-2 voice vote (Board members High and Lastrapes opposed).

OTHER BUSINESS

- No items.

ADJOURNMENT

Chairperson Donaudy adjourned the meeting at 4:26 p.m.

STAFF PRESENT

Mark Cechman, City Planning
Karl Wielecki, City Planning
Paul Lewis, City Planning
TeNeika Neasman, City Planning
Jim Burnett, City Planning
Michaëlle Petion, City Planning
Richard Forbes, City Planning



Mark Cechman, AICP, Executive Secretary

Holly Stenger, City Planning
Ken Pelham, City Planning
Doug Metzger, City Planning
Olivia Boykin, Permitting Services
Keith Grayson, Permitting Services
John Groenendaal, Permitting Services
David Bass, City Attorney's Office



Ed Petersen, BZA Recording Secretary