



# BOARD OF ZONING ADJUSTMENT

MINUTES  JULY 28, 2015

## 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  
[7/9]

Robert High [7/9]

Laura Hodges [7/9]

Byron Lastrapes [8/9]

Elena Pathak [8/9]

Desiree Sanchez [6/9]

Beth Tuura [4/4]

Billy Wilson [6/9]

### Members Absent

Griff Ariko, Vice Chairperson  
[6/9]

## OPENING SESSION

- Determination of a quorum.
- Avery Donaudy, Chairperson, called the meeting to order at 2:03 p.m.
- Pledge of Allegiance.
- The Board ACCEPTED the Minutes of the June 23, 2015 BZA Meeting as presented.

## PUBLIC COMMENT

Chairperson Donaudy 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. VAR2015-00061 1815 GERDA TERRACE

Applicant/Owner: James Shoenberger, 1815 Gerda Terr., Orlando, FL 32804

Location: 1815 Gerda Terr. (±0.20 acres)

District: 3

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

Requested variance:

- Variance of 7.5 ft. to allow a new detached garage with 2nd floor living space 7.5 ft. from the rear lot line, where a minimum 15 ft. rear setback is required in the R-1/T 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 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. Code requires a minimum 5 ft. separation between structures (eave to eave, wall to wall or wall to eave (most restrictive)).
4. Second floor living space shall NOT have 220V electrical service, nor shall it have an independent cooking facility/kitchen or anything that would infer it to be a 2nd dwelling unit, which is not allowed for this property.
5. The 2nd-floor windows in the south and east elevations shall be frosted, glass block, or similar translucent glass. Transparent glass is not acceptable for these locations.
6. Columnar evergreen plants suitable to narrow spaces, such as Italian cypress, clumping bamboo, or torulosa juniper, shall be planted between the proposed garage and the north and west property lines. These plants shall be at least 5 ft. in height at time of planting. Plant selection will be reviewed for appropriateness at time of permitting.
7. The west side of the driveway shall be landscaped with at least ground cover plants or dwarf shrubs which naturally reach at least 18" in height, from a point in line with the south facade of the existing house. Take precaution to not block drivers' sight lines.

## 2. VAR2015-00062 1309 BELMONT DR.

Applicant: Mark Gamble, Mark Gamble Homes & Renovations, 1401 Marion Way, Maitland, FL 32751

Owner: Julia Frances Seidl, 1309 Belmont Dr., Orlando, FL 32806

Location: 1309 Belmont Dr. (±0.21 acres)

District: 4

Project Planner: TeNeika Neasman (407.246.4257 – teneika.neasman@cityoforlando.net)

Requested variance:

- Variance of 2.5 ft to allow a 5 ft. north side yard setback for an inline addition, where a 7.5 ft. side setback is 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 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. The master suite addition shall be constructed with materials similar to that of the principal façade.
4. The north side setback shall be no less than 5 ft. from the side property line.
5. The master suite addition design shall be consistent with the architectural style of the principal structure as determined by the Appearance Review Officer in accordance with generally accepted architectural standards.
6. The front and right elevations of the addition shall be consistent with those shown in the proposal. The number of windows shall not be less than proposed. Finishes shall match those of the existing house.
7. At least one understory tree or 3 palms shall be installed between the new addition and the north property line. Evergreen large groundcovers or dwarf to medium shrubs shall be installed along the north and west elevations of the addition.

## 3. VAR2015-00064 228 ANNIE ST.

Applicant: Amy Miller, All Real Estate & Investments, 228 Annie St., Orlando, FL 32806

Owner: Delaney Park Investments LLC, 605 Florida St., Orlando, FL 32806

Location: 228 Annie 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 & panel sign in the Traditional City Overlay, where they are currently prohibited; and
- B. Variance of 4.8 sq. ft. to allow a 12.3 sq. ft. post & panel sign, where a maximum 7.5 sq. ft. sign area is allowed for the existing multi-tenant office use.

*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. Maximum sign height shall be 5 ft. above adjacent grade.
4. The base of the sign shall be landscaped, with the landscape bed extending at least 4 ft. beyond each end of the sign. The landscape bed shall include native and flowering perennial plants; annual bedding plants shall not be used, except as part of a larger landscape bed.
5. The sign shall have hanging panels, or (similar to proposal) as a sign with fixed panels, vertically stacked. The sign copy shall be designed for easy legibility, with adequate space between the sign message and the edge of the sign panel.
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. Raised letter signs are also acceptable.
7. Materials shall be durable. Painted plywood signs are not acceptable.
8. The sign shall not be internally lit. Small-scale downlighting or spotlighting, using LED lamps, is allowable.
9. The new sign must receive Historic Preservation Officer Minor Certificate of Appropriateness approval prior to permitting.

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

*Board member High arrived at the meeting at 2:10 p.m.*

## REGULAR AGENDA

### 4. VAR2015-00060 608 E. CONCORD ST.

Applicant: Allen Arthur, 301 N. Fern Creek Ave., Orlando, FL 32803

Owner: Mark & Kelsea Graff, 1200 Oakley Seaver Dr., Ste. 203, Clermont, FL 34711

Location: 608 E. Concord St. (±0.12 acres)

District: 4

Project Planner: TeNeika Neasman (407.246.4257 – teneika.neasman@cityoforlando.net)

Requested variance:

- Variance of 10 ft. to allow a 5 ft. rear yard setback for a proposed two-story detached garage/apartment, where a 15 ft. rear setback is required.

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

TeNeika Neasman, Planner I, City Planning Division, gave an overview of the case using PowerPoint. She noted that staff was recommending approval of the request because it met all six standards. Executive Secretary Cechman asked if the lot size was

conforming, and Mrs. Neasman said it was. Board member Sanchez confirmed that the homeowner had no objections to any of the conditions of approval.

Allen Arthur, 19 Interlaken Rd., Orlando, FL 32804, spoke as the applicant in support of the request. He pointed out that the proposed accessory structure was well-separated both vertically and horizontally from the existing house. He argued that they would not be setting any new precedents with the project, and the Historic Preservation Board had even approved the request (HPB2015-00093) because it was in line with the historic character of the neighborhood. Finally, he said he had maintained a good buffer with the Concord Street Church of Christ next door.

Leslie Boyd, 531 Cathcart Ave., Orlando, FL 32803, spoke in opposition to the request. She was the neighbor directly to the south behind the proposed structure. Though she had initially supported the request when it came before the Historic Preservation Board, she was surprised at the size of the garage apartment, considering the subject property's small size. Board member Tuura asked if the proposed structure would impede her view. Ms. Boyd said yes, and that she wasn't sure a smaller structure would be an improvement.

John Purdy, 602 E. Concord St., Orlando, FL 32803, spoke in opposition to the request. He was the neighbor immediately to the west. Using PowerPoint, he made his case that the proposed structure was not in keeping with the character of the neighborhood and would be a standout eyesore structure visible from many directions. The presentation showed a massing mockup emphasizing the large size of the proposed structure. He also provided a printout from the Lake Eola Heights Historic District Facebook group page, showing a number of comments objecting to the proposal. Regarding the lot size, he said it was the minimum possible square footage that still met code, and that if this proposal was approved, the setbacks would only be 5 feet on all sides, not counting the front yard. He claimed that the owner was "asking you to ignore the code" and that the garage would literally "block out the sun" for the neighbors. Finally, he argued that there was no actual hardship in this situation and that the garage would create too much mass and density on the small lot.

Daniel Witucki, 538 N. Summerlin Ave., Orlando, FL 32803, spoke in opposition to the request. He was the neighbor to the east, on the opposite side of the church. He reiterated the concerns about density and fire safety. He pointed out that during church events, the street filled up with cars and parking was a challenge, and this proposal would worsen that problem by adding too many residents to one small lot. In addition, he felt that the request was chipping away at the neighborhood's historic character and the City's own code books.

Kevin Burleson-Webb, 611 E. Concord St., Orlando, FL 32803, spoke in opposition to the request. He was the neighbor directly across the street. He argued that if the proposal was approved, it would cause the subject site to look like a row house.

Mark Graff, 1944 Brantley Cir., Clermont, FL 34711, spoke as the owner in support of the request. He said this project was for his daughter who wanted to no longer be paying rent on an apartment and wanted to live near downtown. Regarding the comments about historic character, he reiterated that the Historic Preservation Board had recommended approval, and that there were multiple other homes with a rear setback of 5 feet for a detached structure. Using PowerPoint, he showed pictures of a number of his neighbors' homes, including those who had already spoken, pointing out that the impact to their homes was not as great as they had claimed. For Ms. Boyd, he noted a series of trees would block her view of the garage. For Mr. Purdy, he explained that the design had been made in such a way to keep the structure as far from Mr. Purdy's property as possible. As for the parking issue, he said the garage would actually alleviate the problem by having dedicated spaces for the residents' cars. Board member High stated that the height seemed to be more at issue than the 5 foot setback.

Chairperson Donaudy opened the case to Board discussion. She said that so many feet were needed to have a functional garage and driveway. Board member Pathak pointed out that the conditions on this lot were common throughout downtown, and this was nothing new. She noted the conscientious efforts the owner had made to minimize the impact on his neighbors. Board member Hodges said the layout reminded her of Baldwin Park. She also wondered if a landscape buffer would further mitigate the appearance of the structure, but other members pointed out there were already trees on the south lot line.

Board member Sanchez asked how many similar projects in the area had the same size structures. Mrs. Neasman referred to pages 6 and 7 of the staff report, showing the old Sanborn Maps that highlighted the similar projects in the neighborhood. Board member Lastrapes asked how much importance the neighborhood character had on their decision. Executive Secretary Cechman responded that it should have a bearing, but it wasn't the only thing to consider. Board member High asked what the hardship actually was here. Mr. Cechman explained that the usability of the garage (i.e., pulling in and out) was a factor.

Mr. Arthur re-addressed the Board briefly by stating that a building permit for a detached garage had been applied for (BLD2005-02969), but due to the economic downturn, the project was never completed. He also noted that the massing renderings provided by Mr. Purdy did not accurately represent the windows and doors that would break up the appearance of the structure. Mr. Witucki vocalized that all the other lots indicated by the homeowner were deeper than the subject property,

and that the second stories were set back 15 feet using a “stepped” effect. Board discussion then resumed to build consensus to make a motion.

**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 rear yard setback shall not be less than 5 ft. from the property line.
4. Conditions of HPB2015-00093 shall be met.
5. 2nd-story windows on the rear/south-facing apartment façade shall be clerestory or frosted glass.
6. Rear yard impervious coverage for accessory structures shall not exceed 35%.
7. Overall site impervious coverage shall not exceed 60%.
8. The two-story garage/apartment shall be constructed with similar materials and as proposed in this variance submission.
9. Need to show the building separation between the garage and home is greater than 5' currently the eaves and /or stairway will prevent this from being met, a second variance may be necessary Gutters and rainfall shall be directed away from side property lines.

**Board member Wilson SECONDED the MOTION, which was VOTED upon and PASSED by a 6-2 voice vote (Board members Tuura and Hodges opposed).**

**5. VAR2015-00065 1515 N. FOREST AVE.**

Applicant/Owner: Joy Cox, 1515 N. Forest Ave., Orlando, FL 32803

Location: 1515 N. Forest Ave. (±0.18 acres)

District: 4

Project Planner: TeNeika Neasman (407.246.4257 – teneika.neasman@cityoforlando.net)

Requested variances:

- A. Variance of 5 ft. to allow a 15 ft. street side setback for a carport addition, where a 20 ft. side setback is required;
- B. Variance of 3 ft. to allow a 22 ft. rear yard setback for a carport addition, where a 25 ft. rear setback is required; and
- C. Variance of 12 ft. to allow a 30 ft. wide driveway for a carport addition, where 18 ft. is the maximum driveway width allowed for a single family residence.

*Recommended action: Denial of the requested variances.*

TeNeika Neasman, Planner I, City Planning Division, gave an overview of the case using PowerPoint. She explained why staff was recommending denial of the variances, and provided two alternative proposals for the Board’s consideration.

Matthew Brown, 225 E. Robinson St., Orlando, FL 32801, spoke on behalf of the owner in support of the request. He explained that staff’s two alternative proposals were not practical for various reasons, relating to cost and usability. The garage currently on the site was too narrow and was being used as storage. The homeowner parked her 1972 Camaro there, and her pickup truck could not fit inside the garage. He emphasized that the issue was really the setbacks, not the number of carports. The road had been widened in the 1960s, resulting in a smaller lot (special circumstances). He provided a printout of photos of the area, showing the eclectic nature of houses there. Finally, he pointed out that this was an accident-prone intersection: the owner’s car had been hit while parked on the street, and her house had been run into as well.

Board member High asked if the owner’s request was the only workable solution on the site. Could they work with the City on any of the alternatives, or think of something else to meet halfway? He suggested an awning, or a split driveway. Mr. Brown said that neither option would meet code; they would not be fully usable by his client. Regarding the photos in the handout, Executive Secretary Cechman said that some of those sites could be legal non-conforming, but some of the alterations were likely illegally

done. Even so, none had four-car garages. Mr. Brown noted that there were a great variety of styles in the neighborhood, and that City code did not prohibit four cars.

Board discussion ensued at length. Board member High suggested that the owner work further with City staff to reach a compromise solution, otherwise he was likely to recommend denial. Homeowner Joy Cox spoke briefly to address some of the concerns, noting that once she got one of her vehicles in, she could not get out of the vehicle because the garage was too small. She explained that she was not interested in opening a "used car lot" and reemphasized the dangers of on-street parking. Finally, she stated that the City's alternative suggestions would be cost-prohibitive. Some of the Board members suggested an off-site storage facility for one of the vehicles in question, which Mrs. Cox had not considered before. Board discussion concluded that insufficient information was available to make a proper decision, and that deferral was likely the best option to allow the homeowner additional time to work with staff to find alternatives.

Board member Pathak moved DEFERRAL of the VARIANCES for one month. Board member Wilson SECONDED the MOTION, which was VOTED upon and PASSED by 5-3 voice vote (Board members Lastrapes, Sanchez, and Tuura opposed).

## OTHER BUSINESS

- Board Secretary Ed Petersen reminded the Board that elections of officers would be taking place at the end of the August 2015 meeting. Chairperson Donaudy said she would be absent from the meeting, but that she would be willing to continue her position as chair if the Board so chose.

## ADJOURNMENT

Chairperson Donaudy adjourned the meeting at 4:11 p.m.

## STAFF PRESENT

Mark Cechman, City Planning  
Karl Wielecki, City Planning  
TeNeika Neasman, City Planning  
Jim Burnett, City Planning

Keith Grayson, Permitting Services  
John Groenendaal, Permitting Services  
Alison Brackins, City Attorney's Office  
David Bass, City Attorney's Office



Mark Cechman, AICP, Executive Secretary



Ed Petersen, BZA Recording Secretary