

City of Orlando Quasi-Judicial Hearing

Case No. QJ2016-002 (VAR2015-00135)

06.21.2016

Re: Response to Recommended Order

Please accept this letter as my formal objection to Hearing Officer's Recommended Order to reject my Variance requests. I would request that City Council approve the Variance Requests as directed by City Staff and Approved by the Board of Zoning Adjustment for the following reasons:

1. The City Staff identified numerous times in their testimony that their job when it comes to subjective decisions and variance requests is to take all factors into consideration and determine if the request is Reasonable given the circumstances. Upon careful consideration and with full understanding that an adjacent neighbor opposed the design, the City Staff believed the proposed design was in fact Reasonable and should be approved. The City Staff recognized that I made numerous design revisions in attempt to accommodate the Petitioner's concerns. They also recognized that I did not construct the original building and that I have the legal right to increase the size of the building to meet my future family's needs. They understand I was doing the best I could to create a design that both worked for my family and was respectful of my neighbors as well. In addition, the City Staff recognized that having a total building height of approximately 17' for the small portion of building that encroached was significantly better than a design solution with a wall 30' tall (maximum allowed per the zoning code). The City Staff took all of this into consideration and recommended approval.
2. The City Staff, after discovery of the existing flood zone, re-affirmed its support for the variance requests. This means that even if this information were presented to BZA they would have understood it was evaluated by staff, deemed to be required and necessary.
3. I disagree with the Hearing Officer's assessment that I created the hardship. The existing residence was constructed by someone else at a time when required setbacks were different than they are today. In addition, because the property has pre-existing non-conforming side setbacks, it triggers a reduction in the maximum Floor Area Ratio and Impervious Surface Ratios that I needed to take into consideration with my design. It was not possible for me to expand the building to meet my families' needs in a single story residence. I had to create a second story and in doing so, I need to take into consideration structural stability, wall alignment and waterproofing of the residence. When one takes all of these factors into consideration, the design solution I am proposing is not only Reasonable but in fact a very strong one. I also disagree that my failure to know about the existing non-conformance should trigger a rejection of my variance requests. The variance requests are very minor and will take a house in disrepair with a tarp on the roof and convert it into a beautiful residence for a family. The City has a

variance process and a review process to make decisions for circumstances just like this. Throughout this entire process I have heard and read how my families proposed house negatively impacts the Petitioner's quality of life. What consideration is being given to my family? We are wanting to join the community and be a great neighbor to all. Instead, I am forced to fight and defend myself against false accusations from the Petitioner who accused me in writing of purchasing the home exclusively to flip the deal for profit. At what point does reason come into effect in this process?

4. Regarding Deprivation of Rights, I find it inconceivable that I need to prove that a rejection of these minor variance requests is a Deprivation of my Rights. It absolutely is a deprivation of my rights and I would argue that if the Petitioner, the Hearing Officer, or anyone from the City or City Council were in my shoes they would feel similar. I've done everything I can to be a good neighbor and to come up with a design solution that is sensitive to all. I have letters of support from nearly 10 neighbors who have viewed the proposed design and understand the variances I am requesting. The Petitioner does not have a single letter of support from anyone on the street.
5. The Hearing Officer identifies in his Recommended Order that the Burden of Proof falls upon the Petitioner. I would argue that no proof to reject my variance requests was provided in the hearing by the Petitioner's team. I would like to request the City Council to ask Mark Cechman and Alison Brackins three questions:

Do you agree with the Recommended Order?

Do you believe the Petitioner fulfilled his obligation regarding burden of proof?

Do you believe the Petitioner cited any Zoning Code or Legal Case Law in the hearing or written documents prior to the hearing (with the exception to the flood zone issue which I agree they are correct that I would need to elevate my Level 1 finish floor) to demonstrate they fulfilled the necessary Burden of Proof to reject the variance requests?

If Mr. Cechman and Ms. Brackins answer "No" to the 3 questions as stated above, I would strongly request City Council come to the Reasonable conclusion that the variances requested and approved by BZA are in fact reasonable, appropriate and should in fact be approved.

Thanks very much for your time and consideration of this important issue.

Brian Ray (Owner – 724 Lake Davis Drive)

FYI – Unfortunately I will not be able to attend the City Council Hearing. I am in Denver on business and will not return until after the conclusion of the Hearing. I can be available to join the meeting via phone if that is allowed and possible.