

THE CITY OF WINTER GARDEN

PLANNING & ZONING BOARD AGENDA

CITY COMMISSION CHAMBERS/ 251 W. PLANT ST.

REGULAR MEETING

October 1, 2007

6:30 P.M.

1. Call to Order
2. Roll Call and Determination of Quorum
3. Approval of minutes from the September 10, 2007 meeting - Attachment 1

Variances & Special Exception Permits (all Public Hearings)

4. 1075 Chase Drive Setback Variance – Attachment 2
5. 1409 Fullers Cross Road Setback Variance – Attachment 3

Annexations, Rezoning & Comp Plan Amendments (all Public Hearings)

6. 510 Winter Garden – Vineland Road – Attachment 4

Any and all objections will be heard at this time and if no valid objections are presented to the contrary consideration will be given for granting this request. You are advised that if a person decides to appeal any decision made with respect to any matter considered at such hearing, then they will need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based.

stated that she lives in the lowest lot of the subdivision and has drainage problems because of the underline water problem.

James Balderrama stated that included in the agenda package is a letter from Rob Ballentine stating that the Homeowners Association does not have any issues with the setback variance. Mrs. Cantrell Stated that she is a member of the Homeowners Association and the HOA board voted two in favor, and two against it, but she added that the ARB (Architectural Review Board) approved it, just because it was a pretty house.

City Manager Bollhoefer asked Mrs. Cantrell if the ARB approved the request and the HOA denied it. She responded that only the ARB approved it.

City Attorney Langley asked Mrs. Cantrell if there was an appeal in regards to the HOA decision, since it was a split vote. Mrs. Cantrell responded affirmatively, and added that Mr. Ballentine (Director of the ARB) was in a rush and regretted his decision of approval.

In response to Tina Aldrich's question, Planner Byers stated that there is 6 foot drainage and utility easement on both sides of the lot which will drain into the storm water structure. He added that the drainage plan and finish floor elevation will be reviewed by the Building Department. Mr. Byers also stated that the proposed home is 20 feet off the east side of the property line, and explained that because of the shape of the lot, the variance is needed only on the north eastern portion of the lot, but there is plenty of room on the north western portion of the lot.

Further discussion took place among the Board Members, City Attorney Langley, City Manager Bollhoefer, Assistant City Manager Robertson, and Mr. Spitulski, in regards to the subject request and the possible drainage problems.

Steve Blankenship, 1116 Brick Road, Winter Garden, applicant for the subject request, approached the Board, and in response to Tina Aldrich's question stated that the proposed house is one story with a bonus room above the garage. He stated that 75% of the drainage will go to the front of the property, and added that because of the shape of the lot there will be 13 feet from the property line to the north eastern corner of the home and 30 feet from the property line to the north western corner of the home. Mr. Blankenship stated that the house located on lot 47 is only 16 feet from the rear property line.

City Manager Bollhoefer stated that perhaps the back area of the proposed home could be gathered to implement a system that would drain all the roof water to the front of the house, in that case the extra roof area will not make a difference since all the water will be going to the front of the lot, and not to the rear of the home.

Mr. Blankenship stated that the proposed home is in compliance with the impervious surface area requirements.

Rifaat Zakhary, 1070 Chase Drive, Winter Garden, approached the Board and spoke in opposition to the subject request stating that he considered buying the subject property, but couldn't find a house plan that would fit on the property. He added that everybody in their community had to obey the rules. Mac McKinney asked Mr. Zakhary if he had drainage problems on Chase Drive, Mr. Zakhary responded negatively. Mr. McKinney asked Mr. Zakhary if he believed the proposed home will create a drainage problem on Chase Drive, Mr. Zakhary responded negatively.

James Balderrama asked Mrs. Cantrell if the average size of the proposed home was in harmony with the rest of the existing homes in the subdivision. Mrs. Cantrell responded that it might be, and added that she spoke with John Crook (adjacent property owner to the west of the subject lot) who stated concerns about the drainage problems in his property.

Mac McKinney asked Mrs. Cantrell if she has approached the City in regards to the drainage problems in the community. She responded negatively.

Motion by Jerry Carris to table the item until the next Planning and Zoning Board meeting, and get a report from one of the City Engineers in regards to the drainage issues on property located at 1075 Chase Drive. City Attorney Langley asked City Manager Bollhoefer if he was in agreement with having one of the City Engineers perform a drainage analysis in regards to the subject property. Mr. Bollhoefer responded affirmatively. **Seconded by James Balderrama, the motion carried unanimously 5-0.**

In addition, Staff took a closer look at the specific drainage concerns for this lot as directed from the Board and found no

unique or adverse conditions that may preclude this home from being built in the manner proposed by the property owner.

The City Code states that, “A variance may be granted from land development regulations by the planning and zoning board if the planning and zoning board concludes that literal enforcement of the provisions of land development regulations would result in either practical difficulties (for setback and parking provisions) or unnecessary hardships (for all other land development regulations) for the property at issue.” The code also lists the following criteria that have to be addressed before a variance can be approved Underlined are Staff’s comments concerning this particular petition.

(a) *Granting the variance will not cause or allow interference with the reasonable enjoyment of adjacent or nearby property owners or negatively impact the standard of living of the citizens of the city;*

The request is for an 11 foot rear yard setback variance to build a single family home. Given the irregular rear lot line, the applicant requires this encroachment into the rear setback near the eastern portion of the lot. The home will be located approximately 19’ from the eastern property line and will meet all other required setbacks. The proposed home should not negatively affect any adjacent homeowner.

(b) *The variance will allow a reasonable use of the property, which use is not out of character with other properties in the same zoning category;*

The proposed home is in character with the neighborhood and the zoning category. Homes of this size and design have been built in this and other residential neighborhoods.

(c) *In the context presented, strict compliance with the land development regulation will not further any legitimate city objective or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under this criteria if the variance were denied;*

Strict compliance with the land development regulations will not further any legitimate City objective.

(d) *The granting of the variance is consistent with the city's comprehensive plan; and*

The variance is consistent with the provisions of the City's Comprehensive Plan relating to single-family neighborhood character.

(e) The variance requested is the minimum variance that will make reasonable use of the land, building, or structure or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under these criteria if the variance were denied.

This variance is a minimal request. Granting this variance will make reasonable use of the land and may enhance the value of the property.

Staff

Recommendation:

Staff recommends approval of the requested 11 foot rear yard setback variance to allow construction of a single family home.

Next Step: If P & Z Board approves, submit for the appropriate building permits.

1075 Chase Drive



the south side of his property, and they did not object to his request. He added that he would like to request an additional foot on the south side.

Bob Buchanan asked if the proposed home will be built directly besides the existing home located on the lot on the north side. Mr. Larkin responded that the proposed home will be located forward of (to the west) of the existing home on the lot to the north.

Chairman Bedsole asked the applicant if he knew how much usable land was on his lot. Mr. Larkin responded negatively, and stated that that information will be identified in the survey.

Mac McKinney asked the applicant if he was willing to for go the variance petition for the north side of the property, in lieu of an additional foot on the south side, changing the request from a 4' side yard set back variance to a 5' side yard setback variance. Mr. Lakin responded affirmatively.

There was some discussion among the Board Members, City Planner Cechman and City Manager Bollhoefer concerning the request for the additional foot for the variance on the south side of the property, and it was decided that the request was not unreasonable.

Mrs. Godin, 1417 Fullers Cross Road, Winter Garden, approached the Board and stated that they just purchased the lot to the north of the subject property and explained that they are planning on expanding the existing home to the 10 foot set back, and if the petition for the variance to the north is granted the two homes will be too close.

Motion by Tina Aldrich to approve a 5 foot side yard setback Variance to the south of the subject property. Seconded by Mac McKinney, the motion carried 5-1; Colin Sharman opposed.

The City Code states that, "A variance may be granted from land development regulations by the planning and zoning board if the planning and zoning board concludes that literal enforcement of the provisions of land development regulations would result in either practical difficulties (for setback and parking provisions) or unnecessary hardships (for all other land development regulations) for the property at issue." The code also lists the following criteria

that have to be addressed before a variance can be approved
Underlined are Staff's comments concerning this particular petition.

(a) Granting the variance will not cause or allow interference with the reasonable enjoyment of adjacent or nearby property owners or negatively impact the standard of living of the citizens of the city;

The property is located on the west side of Fullers Cross Road, and is bounded to the west by Lake Apopka. The property to the south is vacant, so there are no present property owners that may be negatively impacted by the variance request. The character of the neighborhood is that the houses are placed at varying locations on the lots, and the irregular placement of the homes should both keep the variance request from negatively affecting the neighborhood, and should keep the smaller setback from being evident from the street.

(b) The variance will allow a reasonable use of the property, which use is not out of character with other properties in the same zoning category;

Although these properties are very deep, the usable land is limited because of the conservation and wetlands requirements along Lake Apopka. The variance will allow for a reasonable use of the property, while the single-family use is not out of character with other properties in the R-1 zoning category.

(c) In the context presented, strict compliance with the land development regulation will not further any legitimate city objective or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under this criteria if the variance were denied;

Strict compliance with the zoning regulations will not further any legitimate City objective.

(d) The granting of the variance is consistent with the city's comprehensive plan; and

The variance is consistent with the provisions of the City's Comprehensive Plan relating to single-family neighborhood character.

(e) The variance requested is the minimum variance that will make reasonable use of the land, building, or structure or the

benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under these criteria if the variance were denied.

The variance requested is reasonable considering the proposed setbacks should not significantly impact the adjacent property owners to the south.

**Staff
Recommendation:**

Staff recommends approval of the 5 foot side yard setback variance to construct a single-family home.

Next Step: If P& Z Board approves, submit for appropriate building permits.

1409 Fullers Cross Road



510 Winter Garden – Vineland Road

