

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

September 20, 2022

Present were Chair Frank Chase, Board Members; Norma Sutton, Stephen Withers, Roger Heinz, Gregg Anderson, Jennifer Roper, and Peter Fleck. Town Manager Robert Smith, Town Council Liaison Bill Martini, Town Planner Brad Cornelius, and Town Clerk Dorothy Burkhalter were also present.

Chair Chase called the meeting to order at 6:30pm. He then led everyone in the Pledge of Allegiance.

1. OPEN FORUM/PUBLIC COMMENTS:

There were no public speakers.

2. NEW BUSINESS:

a. MINUTES:

i. **May 17, 2022 Meeting Minutes**

Member Withers made a motion to approve the minutes. Member Heinz seconded the motion. All were in favor.

b. **General Items for Consideration:**

i. **Z22-09: 5 Pine Street - Joseph and Jill Ata - Variance to allow a new garage with a front setback of 16 feet**

Chair Chase turned the floor over to Mr. Brad Cornelius. Mr. Cornelius presented variance request Z22-09, to allow a new garage with a front setback of 16 feet instead of 25 feet that is required. He explained the current position of the garage and the new proposed side garage. Mr. Cornelius stated that 11 responses were received in support, and zero in objection. Chair Chase opened the floor for discussion. Member Withers stated he does not see a hardship with this request. He explained that if the current garage is turned to protect a tree, it makes the driveway safer as well. Mr. Joseph Ata, owner of 5 Pine Street introduced himself. He then commented that the tree is lifting the driveway pavers and by moving the driveway it will save the tree and future driveway issues. Mr. Ata explained that his driveway is used as the previous cul-de-sac has been removed. He then stated that his irrigation, front yard and driveway are constantly getting damaged by others turning around/delivery trucks. Mr. Ata stated that for the side-load garage to work, he will need an additionally five-six feet. Mr. Withers stated he agrees with moving the driveway but does not agree with adding another garage. Mr. Ata explained that when the driveway is relocated, it will be located over the drain-field, therefore the drain-field will need to be relocated. He stated this will cause the need for a side load garage. Mr. Withers stated that the relocated of the driveway and garage is "fine." He doesn't see a hardship for a new garage. Mr. Withers explained that the hardship is related to the setback of the new garage, in which a new garage is not needed to solve the tree hardship. Mrs. Ata stated that there is a turning radius needed to get the cars into the garage. She then stated that due to the nature of the project, they felt that adding a few feet for a possible golf cart would be feasible. Mr. Ata explained that his architect stated that there "will be either a barely two car garage with no variance, or a two and half care garage with the variance." He then stated he is trying to save the tree. Some discussion followed. Member Anderson questioned the square footage that is being removed and added. Mr. Ata stated that the he is under the impervious requirement. Mrs. Valerie Tucker, 4 Pine Street, introduced

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

September 20, 2022

herself. She then stated that as a neighbor, she is in favor of the request. Member Sutton questioned the health of the trees. Mrs. Ata stated that she has been advised that they are healthy trees. Member Withers made a motion to recommend denial for the variance request. Member Anderson seconded the motion. Member Fleck stated that he feels that saving of the trees is a hardship. Roll call vote was as follows: Fleck – nay, Roper – aye, Anderson – aye, Chase – aye, Heinz – nay, Withers – aye, and Sutton – nay. Motion carried 4-3. Manager Smith explained that the DRB is a recommending body. The Town Council will make the final decision at their meeting October 11, 2022 at 6:00pm.

ii. Z22-11: 606 Forest Street - Stefan and Veronika Kollros - Variance to allow an addition of more than 10% for an existing non-conforming home

Chair Chase turned the floor over to Mr. Cornelius. Mr. Cornelius introduced the variance request for 606 Forest Street. He explained that the applicant is seeking approval to build an addition to their non-conforming home that was built in 1927 with a side setback encroachment of one foot. Mr. Cornelius explained the code limits for the expansion of non-conforming structures of 10% and with the proposed 969 square feet, it would be 24.8% of the existing gross floor plan. He then stated that a total of 21 responses were received in support and zero in opposition. Member Withers stated that this request is more reasonable, one foot compared to sixteen feet for the previous request. Some discussion was made. Member Heinz made a motion to recommend approval of the variance request. Member Withers seconded the motion. All were in favor. Manager Smith explained that the DRB is a recommending body. The Town Council will make the final decision at their meeting October 11, 2022 at 6:00pm.

iii. Z22-13: 10820 Wonder Lane - Peter & Kari Fleck – Variance to allow a replacement gazebo for a property with a gross floor area more than 38% of the lot

Chair Chase introduced this item. Member Fleck recused himself from the Board and sat in the audience. Mr. Cornelius reviewed the proposed variance request to allow the replacement of an existing open gazebo with a solid roof gazebo on a property that exceeds the maximum 38% gross floor area for a property. He stated that notices were mailed out with four returned in support and one received in opposition. Member Withers questioned if a fabric cover counted as floor area coverage. Mr. Cornelius stated that the code is not specific. Member Withers stated that he does not agree with the comment that timber being exposed would have a shorter life span than covered with a roof, as he has seen structures built in water that have lasted for fifty-years. Member Anderson questioned the material of the existing slab. Mr. Cornelius stated concrete. Member Roper questioned the current floor area ratio. Mr. Cornelius stated 48.7% prior, after the replacement it would be 51.3% with the allowable of 38% by code. He also stated that the pervious/impervious would remain the same as the existing floor is concrete, and by adding a roof it would not change. Mr. Fleck stated that this is an existing structure that is showing decay and needs to be replaced. He further stated that due to having to replace it, he would like to put a roof on it to help protect the structure. Member Heinz commented that there will not be any additional run-off due to the existing concrete. Mr. Fleck agreed. He then spoke about run-off and retention. Mr. Bradley Geise of 10828 Wonder Lane, immediate neighbor, introduced himself. He then spoke on his opposition of the replacement gazebo. Mr. Fleck gave a brief rebuttal stating all prior permitting has been done and approved. Member Sutton stated that there is existing concrete which would not change or add to stormwater run-off. Member Sutton made a motion to recommend approval of the variance request. Member Heinz seconded the motion “due to concrete already being on the ground.” Roll call vote was as follows: Sutton – aye, Withers – nay, Heinz – aye, Chase – nay, Anderson – nay, Roper – nay and Fleck – abstain. Motion failed 2-4-1. Chair Chase advised the applicant that the Town Council will hear this item for a final approval/denial. This is a recommending Board.

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

September 20, 2022

iv. Z22-14 – 625 Bessie Street – Richard & Victoria Childs – Variance to allow an addition of more than 10% for an existing non-conforming home

Mr. Cornelius introduced variance request Z22-14 which is to allow an addition that exceeds 10% of the gross floor area of an existing non-conforming home. He stated that the applicant is proposing to add a 747 square foot addition to an existing non-conforming home. The addition will be 31.1% of the existing gross floor, which over the allowable 10%. Mrs. Victoria Childs, owner of 625 Bessie Street, introduced herself. She thanked the Board for their consideration. Mr. Cornelius stated that questions were received in a few responses and they were handled. He also stated that zero responses in objection were received. Some discussion was made. Member Heinz made a motion to recommend approval. Member Roper seconded the motion. Member Withers questioned if this is a one-story addition. The contractor replied yes. He then reviewed the proposed project. There being no further discussion, Chair Chase called for the vote, all were in favor. Chair Chase advised the applicant that the Town Council will hear this item for a final approval/denial. This is a recommending Board.

v. Z22-15 – 219 W 2nd Avenue – Jeffrey & Rachelle Szukalski – Variance to allow an addition of more than 10% for an existing non-conforming home

Mr. Cornelius introduced variance request Z22-15 which is to allow an addition of more than 10% for an existing non-conforming home. He explained that the home was built in 1925 and it is non-conforming due to the front setback of the porch. Chair Chase stated that this is another home that was built in 1925 prior to setbacks and codes. After brief discussion, Member Heinz made a motion to recommend approval of the variance request. Member Withers seconded the motion. All were in favor. Chair Chase advised the applicant that the Town Council will hear this item for a final approval/denial. This is a recommending Board.

Manager Smith explained that there was another item that was to be heard but was not on the agenda. That item will be heard at the October meeting. Mr. Cornelius stated a “date certain” can be used so re-notice will not be needed. Some discussion followed.

vi. Draft Ordinance – Pool setbacks for canal front lots reduction from 50 feet to 35 feet

Mr. Cornelius reviewed the proposed Ordinance for pools on canal front. He explained that the Town Council was advised that the Development Review Board was not in favor of any setback changes. Mr. Cornelius stated that the Town Council has directed staff to move forward with the Ordinance. He explained the proposed changes, setbacks, and conditions. Mr. Cornelius stated that per code, the DRB is to review and make recommendations to the Town Council regarding LDC changes. Liaison Martini questioned if continued variance request will be limited. Mr. Cornelius explained that anyone has the right to apply for a variance; they cannot be denied the right to apply. Mr. Phu Nguyen of 19 Main Street commented on the proposed changes, as he has interest in the setback on the canal. After much discussion was made, Member Withers made a motion that stated that the Development Review Board does not approve an Ordinance change. Member Roper seconded the motion. Roll call vote was as follows: Sutton – aye, Withers – aye, Heinz – nay, Chase – aye, Anderson – aye, Roper – aye, and Fleck – nay. Motion carried 5-2.

TOWN OF WINDERMERE

Development Review Board
Meeting Minutes

September 20, 2022

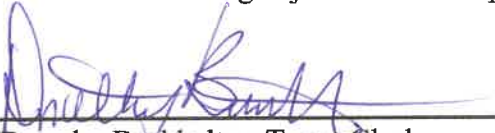
- vii. Z22-12 – 4Pine Street – Gary and Valery Tucker – Variance to reduce 50-foot pool setback


At the request of the applicant, this item has been withdrawn.

4. ADJOURN:

Member Heinz made a motion to adjourn. Member Anderson seconded the motion. All were in favor.

The meeting adjourned at 7:44pm.


Dorothy Burkhalter, Town Clerk


Frank Chase, Chair

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Fleck Peter J</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>DRB</i>
MAILING ADDRESS <i>10820 Winder Lane</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input checked="" type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Windermere</i>	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED <i>8-20-2022</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Peter Fleck, hereby disclose that on 9-20-2022, 20 :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

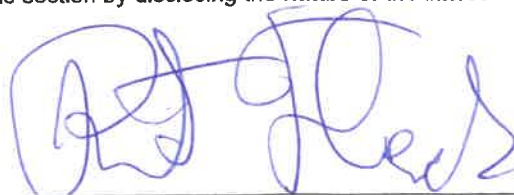
(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The Variance is For My Personal Property

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

9-20-2022

Date Filed



Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.