



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, January 11, 2022 8:00 AM  
Online and In-Person Meeting**

**A G E N D A**

- I. **Meeting Call to Order**
- II. **Roll Call of BOA Members**
- III. **Minutes:** December 14, 2021
- IV. **Conflicts of Interest**
- V. **Action Items:**
  - A. Election of Chair and Vice Chair (yearly)
  - B. **TABLED:** Public Hearing: Metes and bounds parcel, 78581 US Highway 40 – Accommodation Unit Density
  - C. **TABLED:** Public Hearing: Metes and bounds parcel, 78581 US Highway 40 – Building Height
  - D. Adoption of Resolution 1, Series 2022, a Resolution Denying a Variance to Decrease the Front Yard Setback for Lot 12A, Whiting Tracts #1 (Book 114, Page 485)

**Online Meeting Log-In Instructions – See next page**

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### **Public Hearing Process**

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**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, December 14, 2021 8:00 AM**

**MINUTE**

- I. **Meeting Call to Order.** The Board of Adjustment meeting starts at 9:10 am
- I. **Roll Call of BOA Members.** Roll Call indicated present Chairman Brad Holzwarth, BOA Members Roger Kish, Dave Barker, Doug Robbins, Angela Sandstrom and George Stevens (alternate). Community Development Director James Shockey and Town Planner Hugh Bell are also present. BOA Member Jonathan Larson is not present for this meeting.
- II. **Minutes:** November 9, 2021. Commissioner Robbins makes a motion to approve the minute. Commissioner Barker seconds. The minute is approved 5, 0.
- III. **Conflicts of Interest.** No one comes forward.
- V. **Action Items:**
  - A. **Public Hearing:** Lot 12A, Whiting Tracts #1 (Book 114, Page 485) – Front Setback

Town Planner Bell begins his presentation by reading the highlights included in the Staff Report sent to the BOA Members. Planner Bell reads the three criteria that must be met in order to grant the variance. Then, Planner Bell reads the Staff Comments.

The applicant, Mr. Benjamin Kaplan, one of the owners, comes forward. Mr. Kaplan thanks the BOA for taking the time to come to a possible solution. Mr. Kaplan says that it is true that they would like to build a large garage with minimum impact. He understands that they failed to comply with one of the criteria (true hardship). In spite of that, Mr. Kaplan thinks that the work “reasonable” is open for interpretation. Then, Mr. Kaplan goes into the technical and specifics of his variance submittal. Mr. Kaplan says that he has document that he did not have in the last BOA meeting. According to Mr. Kaplan, this document supports his argument that there are unique circumstances that impose a hardship to them. Mr. Kaplan hopes this variance can be approved this time based on this new documentation.

BOA Member Kish mentions the right-of-way was one of the key components of the decision reached during the last BOA meeting. The BOA clarifies the right-of-way and the platting to the applicant.

The public comment period is open. Mr. Shawn Cullingford, from 539 Kings Crossing. Mr. states that the applicants have made good choices in the past that added value to the area. He says that there is a strip of land that is useless. He supports this variance to be granted to the Kaplans.

The BOA discusses the setbacks, property lines and some other measurements related to this variance. BOA Member Kish wants to clarify that they cannot be involved if Silverado wants to give up some land. BOA Member Kish can see how this is an unusual condition but more information is needed. There is discussion between the BOA and the Staff about the guidelines for the right-of-way. BOA Member Kish says this is a matter between property owners. The BOA discusses this issue. There is a discussion about the unused strip of land that was mentioned previously. There is mention of the building coverage.

The BOA compares what was submitted during the previous BOA meeting and this one. Then, the BOA analyzes the three criteria. The BOA discusses the first criteria.

BOA Member Barker makes a motion to deny the variance as documented by Staff. BOA Member Robbins seconds. The variance is denied 5, 0.

B. Adoption of Resolution 8, Series 2021, a Resolution Denying a Variance to Decrease the Front Yard Setback for Lot 12A, Whiting Tracts #1 (Book 114, Page 485)

Planner Bell states this Resolution is affirming the decision made at the November 9<sup>th</sup>, 2021 BOA meeting.

BOA Kish makes a motion to approve the denial of the variance discussed on November 9<sup>th</sup>, 2021 as written on Resolution 8 Series 2021. BOA Member Robbins seconds. The Resolution 8 Series 2021 is approved 5, 0.

Upon a previously adopted motion, the BOA Meeting is adjourned at 9:43 am.



## MEMO

**TO** Board of Adjustment  
**FROM** Hugh Bell, Planner  
**THRU** James Shockey, Community Development Director  
**DATE** January 11, 2022  
**RE** Accommodation Unit Density Variance Request – 78581 Highway 40 – Metes and Bounds Parcel

*At the request of the applicant, this application will be tabled to the February 8, 2022 meeting.*



## MEMO

**TO** Board of Adjustment  
**FROM** Hugh Bell, Planner  
**THRU** James Shockey, Community Development Director  
**DATE** January 11, 2022  
**RE** Building Height Variance Request – 78581 Highway 40 – Metes and Bounds Parcel

*At the request of the applicant, this application will be tabled to the February 8, 2022 meeting.*

TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
RESOLUTION NO. 1  
SERIES OF 2022

A RESOLUTION DENYING A VARIANCE TO DECREASE THE FRONT YARD SETBACK FOR LOT 12A, WHITING TRACTS #1 (BOOK 114, PAGE 485),

WHEREAS, pursuant to Winter Park Town Code (the "Code") § 7-8-1, the Board of Adjustment is authorized to grant variances from the requirements of Title 7 of the Winter Park Town Code (the "Code");

WHEREAS, pursuant to the Code § 7-4B-3, there shall be a front yard setback of at least twenty-five feet (25') from any street right of way for both principal and accessory structures;

WHEREAS, on November 9, 2021, Lauren Searcy (the "Applicant"), as the owner of the real property described as Lot 12A, Whiting Tracts #1 (Book 114, Page 485) (the "Property"), filed an application for a variance to allow a new structure to encroach into the 25' front yard setback by 8'-9" (the "Application");

WHEREAS, on December 14, 2021, the Board of Adjustment held a properly-noticed public hearing on the Application; and

WHEREAS, after considering the Application and public comment, the Board of Adjustment finds and determines as provided below.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment as follows:

1. Findings. The Board of Adjustment hereby finds and determines that the Application fails to meet the following criteria set forth in § 7-8-1(B) of the Code that would justify a variance:
  - a. The applicant has not provided evidence showing the property cannot yield a reasonable return in use or service using alternate site layouts that adhere to the front yard setback requirement. The house had a single-stall garage as recently as October 2020. The applicant obtained a building permit from the Town on October 23, 2020 authorizing demolition of "...cabinets, countertops, carpets, tile, [and] bathroom fixtures." A separate building permit was obtained on October 27, 2020 authorizing "finishing [of the] garage" among other work. It was unclear to staff that the garage was to be converted to living space with that latter building permit as no elevations depicting the change were submitted. Nevertheless, that building permit was approved and the single-stall garage was converted into living space; and
  - b. The applicant has not described unusual circumstances that prevent a new garage from being located elsewhere on the lot while preserving the required setback and still minimizing the land and trees disturbed. It appears the proposed garage could fit within the confines of required setbacks by reducing the area of the proposed patio.

By doing so, even less land would be disturbed, as much of the proposed garage footprint could fit more closely to the confines of the existing driveway.

2. Decision. Based on the foregoing findings, the Board of Adjustment hereby **denies** the variance requested by the Application.

PASSED, ADOPTED, AND APPROVED this \_\_ day of January 2022.

BOARD OF ADJUSTMENT

\_\_\_\_\_  
Brad Holzwarth, Chair

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk