February 05, 2019 9:00 a.m.
in the City Hall Commission Chamber

The Zoning Board of Adjustments and Appeals will convene for its regular meeting for the purpose of hearing and acting upon the following:

ITEM 1: Call to Order
ITEM 2: Roll Call
ITEM 3: Approval of minutes from the January meeting (pg. 1-4)
ITEM 4: City Attorney explains purpose and authority of the Board
ITEM 5: Veronica Britton requests a 10’ variance to allow a 5’ street side setback in lieu of the required 15’ minimum in order to construct a new single-family detached home located at 807 Adams Street. Owner: Veronica Britton. (VAR19-001) (pg. 5-9)
ITEM 6: Michael Kennedy requests a 2’ variance to allow an 8’ high wood privacy fence along the rear property line in lieu of the 6’ maximum height for fences within rear yards, as specified by Section 4.4.3 of the City’s Land Development Code, on property located at 926 Windsor Street. Owner: Kelley Adkins. (VAR19-002) (pg. 10-14)
ITEM 7: Unfinished Business
ITEM 8: New Business
ITEM 9: Adjournment

Anyone deciding to appeal a decision by the Board on any matter considered at this or any subsequent meeting will need a record of the proceedings, and for purposes of that appeal, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this proceeding, or those requiring language assistance (free of charge) should contact the City of Lakeland ADA Specialist, Jenny Sykes, no later than 48 hours prior to the proceeding, at (863) 834-8444, Email: Jenny.sykes@lakelandgov.net. If hearing impaired, please contact the TDD numbers: Local – (863) 834-8333 or 1-800-9558771 (TDD-Telecommunications Device for the Deaf) or the Florida Relay Service Number 1-800-955-8770 (VOICE), for assistance
The Zoning Board of Adjustments and Appeals met in Regular Session on Wednesday, January 2nd, 2019 in the City Commission Chamber at Lakeland City Hall 228 South Massachusetts Avenue.

Present were Board Members Chuck Gore (Chair), John Curls (Vice Chair), Lolita Berrien, Kristen Carlson, Eden Konishi, and Steve Martin. Also present were Ramona Sirianni, Assistant City Attorney; and staff from the Community & Economic Development Department Matthew Lyons, Principal Planner; Todd Vargo, Senior Planner; Phillip Scearce, Senior Planner; and Brandy Gillenwater, Planning Assistant. The minutes from the previous meeting were approved as submitted, and Ramona explained the purpose and authority of the Board and the necessity of providing a hardship or uniqueness for the Board to consider and/or grant a variance. Anyone planning to present testimony was sworn in and everyone gave affirmative responses.

**Item 5:**

Carol J. Lehman requests a 12’ variance to allow a front yard setback of 3’ in lieu of the required 15’ minimum for a principal structure as specified by Table 4.3-1 of the Land Development Code; relief from Table 4.3-4 of the Land Development Code which restricts accessory structures to interior side and rear yard areas and specifies a minimum setback of 3’ behind the front façade of the principal structure, in order to retain an existing accessory structure (detached carport) located in the required front yard area on property located at 607 Young Place. Owner: Carol J. Lehman (VAR18-026)

Ramona Sirianni stated the City of Lakeland has adopted a Resolution that permits others to discuss information related to requests to be heard by the Zoning Board of Adjustments and Appeals. The Board members are required to state on the record who they were contacted by and what they were contacted about prior to the hearing.

Chuck Gore stated he was contacted by City Commissioner Justin Troller on behalf of the applicant to inform him of the request.

Eden Konishi stated City Commissioner Justin Troller left a voicemail for her but she did not respond to the voicemail.

Kristen Carlson stated she was contacted by City Commissioner Justin Troller and that the call was neutral, with Mr. Troller indicating the request was being made and that the applicant was a constituent of his.

Lolita Berrien stated she was contacted by City Commissioner Justin Troller but she declined to respond to the conversation with him.

Steve Martin stated he was contacted by City Commissioner Justin Troller who was advocating on behalf of the applicant, discussing the circumstances of how the structure came to be built without proper permits or understanding of process before put in place.

John Curls stated he received a voicemail from City Commissioner Justin Troller but Mr. Curls did not respond to the voicemail.
Carol Lehman, 607 Young Place, stated she wants a variance to keep the carport that has been in place at her home for five years. Ms. Lehman assumed the contractors who installed the carport obtained the necessary permits at the time of installation. According to Ms. Lehman, there are other carports on young Place with the same infraction of the setback in front yards.

In response to a question from Chuck Gore, Ms. Ruth Weaver, 3614 Imperial Lane, stated that Ms. Lehman did not receive paperwork from the contractors when the carport was installed. According to Ms. Weaver, when Ms. Lehman was cited for being in violation she obtained a permit for the carport and was then told that it had to be attached to her house. Ms. Lehman then had another contractor attach the carport to the front of her home. Matthew Lyons clarified that no permits were obtained for the carport on the subject property.

Todd Vargo stated that a complaint about the carport was received by the City from a neighboring property owner. The City cannot confirm the exact date when the carport was installed, but the evidence available suggests that it was done after 2011. The carport is a pre-fab, metal structure, measuring approximately 18 feet wide and 20 feet long with a gabled roof and metal side panels. This type of carport is commonly known as a Carolina Carport and is intended and engineered to be a freestanding structure. As installed the carport is approximately seven feet from the front facade of the house, and is approximately three feet from the front property line and right-of-way line for Young Place. Under the Land Development Code, this type of carport is considered to be an accessory structure, which is not permitted in the front yard area in residential zoning districts anywhere in the City of Lakeland. Ms. Weaver claimed that she has seen several similar carports in the surrounding neighborhood. Mr. Lyons stated the requirements regarding carports in the front yard area have been in place since at least 1993.

In response to Ramona Sirianni, Mr. Lyons stated detached carports are only permitted in side or rear yards and have specific setback requirements.

Todd Vargo stated the owner attempted to attach the structure to the home, however the installation does not meet the definition as an attached structure as stated in the Land Development Code. This work was also completed without a permit from the City.

Mr. Lyons stated most of the homes in the area have single car garages and staff did not observe any detached carports within the front yards of properties in the area. Over the last decade, the Board has considered several variance requests for carports from other property owners with similar circumstances. Each variance request was denied by the Board due to the self-imposed nature of the hardship and the precedent that it would establish. Mr. Lyons stated that it appears the carport may be able to be relocated elsewhere on the property. Ms. Weaver stated there is not enough room for the carport to be relocated into the rear yard as the vehicles would not be able to drive into the rear yard. Discussion ensued.

In response to Mr. Lyons, Ms. Weaver stated no paperwork from the company that installed the carport exists and the applicant does not recall the name of the contractor.

In response to Kristen Carlson, Ms. Sirianni stated the Board is governed by specified criteria based on competent substantial evidence and based on the testimony from the applicant and the City of Lakeland.
Ms. Weaver again stated that other homes in the area have the same structure. Ms. Carlson stated that other possible violations in the area does not give the Board to allow others to be non-compliant.

In response to Ms. Weaver, Johnnie Curls stated decisions made by the Board are not based on personal circumstances of the applicant but on a hardship associated with the land itself.

In response to Ms. Lehman, Mr. Gore stated the setback requirements are uniform within the Land Development Code. Mr. Lyons stated the right of way for Young Place includes the actual street surface for the road and land on either side reserved for utilities. The beginning of the right of way is approximately five feet further from the edge of the road surface than a typical street, but this circumstance is not unique within the City.

Justin Troller, City Commissioner, stated he has been working with Ms. Lehman along with City staff on the project for about eight or nine months. When the applicant found out the carport was in violation she reached out to Mr. Troller for assistance. Mr. Troller believes the applicant was taken advantage of when the carport was installed. There are no examples of any properties in the area with freestanding carports in their front yards or attached carports. The reason for the request is the carport was originally not permitted or attached to the home. Mr. Troller advised and aided the applicant in having the carport attached to home. It took Mr. Troller and the applicant months to find a structural engineer to view the property and the carport. The structure is secure without sharing a wall with the home. According to Mr. Troller, the 60-foot right of way width for Young Place creates a hardship, as the typical right-of-way width is 50 feet and it limits what a homeowner can do on their property particularly in regards to their driveways. Mr. Lyons clarified that the additional right-of-way does not impact setbacks, only where the front property/right-of-way line is in relation to the actual street surface. For a 60’ wide right-of-way, it would be an additional five feet on either side of the street, not 10 feet as claimed by Mr. Troller.

In response to Mr. Troller, Mr. Lyons stated the home, as built, is setback 30’ from the front property line and exceeds the minimum setback requirement.

Mr. Lyons stated the circumstance is not unique as it applies to other properties along both sides of Young Place. Many properties along Young Place are designed with carports or garages on the side. According to Mr. Troller, Ms. Lehman’s home was built with the driveway in front of the home as there is not enough space in the side or rear yard for multiple vehicles. The applicant should have the same right to secure and protect her vehicles as other homeowners in the area. Building a smaller carport on the front of the home, as suggested by staff, would be a financial hardship on the applicant. An old tree in the front of the home drops debris on vehicles and home and removing the tree would be an additional hardship on the homeowner.

In response to Mr. Troller, Mr. Lyons stated only adjacent neighbors are notified of requests by letter prior to the hearings.

In response to Mr. Curls, Mr. Troller stated the hardship for the applicant is that there is not enough land because of the property line for a smaller carport to cover the vehicles.

Discussion ensued.
In response to Mr. Curls, Mr. Lyons stated had the applicant applied for a permit staff would not have issued or approved the structure as it exists now. Staff did not advise the applicant or Commissioner Troller to have the carport attached.

Ms. Weaver stated the original complaint came from a contractor that was fired by the applicant not a neighbor.

Discussion ensued.

**John Curls made a motion to deny the request. Eden Konishi seconded the motion and it passed 5-0. Mr. Martin left the meeting at 9:35 and was not in attendance for this vote.**

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**Item 6:** Kendra McBee requests a 27’ variance to allow a 23’ setback from the ordinary high-water line of Lake Holloway in lieu of the required 50’ minimum specified by the Land Development Code in order to construct a retaining wall adjacent to a new athletic track along Lake Holloway on the north side of the Southeastern University campus located at 1000 Longfellow Boulevard. Owner: Southeastern University Inc. (VAR18-027)

Sam Medina, Sloan Engineering Group, 150 S. Woodlawn Avenue, Bartow, stated he obtained site plan approval in 2018 showing a segmental retaining wall adjacent to Lake Holloway to equal out grade adjacent to an athletic area. During the process to obtain a permit it was determined the lakeshore protection setback for structures would need to be met. A retaining wall similar in design to the project currently exists adjacent to Lake Bonnie.

Phillip Scearce stated the request is for a 27-foot variance to allow a sea wall on Lake Holloway which is a protected shoreline. Section 6.4.3.2 of the Land Development Code requires structures to be located 50 feet from the property line. The retaining wall is considered a structure. The plans for the sea wall have been reviewed by both the Lakes & Stormwater Division of Public Works and the Community & Economic Development department and there are no objections to the construction of the sea wall along the shoreline.

In response to Mr. Gore, Mr. Lyons stated the requirement regarding structures was introduced into the Land Development Code (LDC) in the 2000’s, the criteria for a variance is primarily environmental in nature. Since Lakes & Stormwater does not have any objections and has determined that the environmental impacts are acceptable, staff recommends approval.

In response to Mr. Gore, Mr. Scearce stated the sea wall would help preserve the shore line.

**John Curls made a motion to approve the staff recommendation. Eden Konishi seconded the motion and it passed 5-0. Mr. Martin left the meeting at 9:35 and was not in attendance for this vote.**

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**Adjourned**

The meeting was adjourned at 9:53 a.m.
# Variance Application

## General Information:

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## Request:

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<td>Current Zoning:</td>
<td>RA-4 Single Family</td>
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<td>Context:</td>
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<td>Lot Dimensions:</td>
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### Explanation of Request:
Street side set back variance

### Justification:
The applicant is combining two non-conforming lots into one lot. However, the new lot will be non-conforming as to the lot width. However, the new lot abuts Adams Street to the south, which is a paper street, meaning that it is unimproved right-of-way owned by the City and will likely never be improved. Since the Adams Street will never be utilized as a road, the applicant is asking for a reduction in the street side setback.
RE: Variance Request - Project No. VAR19-001

Dear Property Owner:

This notice is to advise you that Veronica Britton requests a 10' variance to allow a 5' street side setback in lieu of the required 15’ minimum in order to construct a new single-family detached home on property located at 807 Adams Street. The subject property is legally described as:

COX & PATTERSON RR ADD PB 3 PG 39 LOT 26 PART DES AS BEG SE COR RUN N 43 FT W 19 FT N 13 FT W 31 FT TO W-LINE LOT S 56 FT TO SW COR E 50 FT TO POB & S 47 FT OF LOT 27 (A COMPLETE LEGAL DESCRIPTION IS AVAILABLE IN THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT.)

The public hearing to consider this request will be held before the Lakeland Zoning Board of Adjustments and Appeals at 9:00 a.m. on 2/5/2019 in the City Commission Room, City Hall, 228 S. Massachusetts Avenue.

As an owner of property located in proximity to the subject property, as indicated on the attached map, you will be given an opportunity to express your opinion at the public hearing. You may also submit your views to the Community & Economic Development Department by including your name, address, and the project number via email to planning@lakelandgov.net, prior to the meeting date.

Anyone deciding to appeal a decision by the Board on any matter considered at this or any subsequent meeting will need a record of the proceedings, and for purposes of that appeal, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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THIS IS A COURTESY LETTER NOT REQUIRED BY LAW
**Community and Economic Development**

**Staff Recommendation for ZBAA**

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<td>VERONICA BRITTON</td>
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<td>VERONICA BRITTON</td>
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**1.0 Background**

The subject property, located at the northwest corner of Adams Street and N. Lincoln Avenue, previously consisted of two legal, non-conforming lots that were subdivided from lots originally platted in 1913. In January of 2019, the applicant received approval to combine the two lots into a single lot, forming the subject property. The applicant was allowed to combine the two smaller lots as it substantially reduced the degree of nonconformity. The front portion of the subject property is 43' wide x 69' deep and the rear portion is 56’ wide x 31’ deep, with the resulting lot having a total area of 4,703 sq. ft. A single-family dwelling unit on the western half of the property was recently demolished and the property is currently vacant pending approval of the variance.

**2.0 Discussion**

The purpose of this request is to obtain variance relief to allow a 5' street side-yard setback in lieu of the required 15’ minimum for the purposes of constructing a new single-family detached house. The subject property is zoned RA-4 and located within the Urban Neighborhood (UNH) context sub-district. In the UNH context, the Land Development Code specifies a minimum front and street side setback of 15 feet for principal structures on corner lots. The proposed home meets the front setback requirement along N. Lincoln Ave. However, along W. Adams Street, the proposed single-family dwelling unit will encroach 10’ into the street side setback.

The portion of W. Adams Street abutting the subject property consists of a 40’ wide strip of unimproved right-of-way that extends from N. Lincoln Avenue west for a distance of 250’. The right-of-way essentially functions as an unpaved, single-car driveway for three lots located to the west of the subject property and will likely never be improved as it terminates approximately 150’ east of Kathleen Road. As such, this segment of the road functions more like an alley or a private driveway, as it is unimproved and does not allow for two-way vehicle operations or through traffic. As such, staff does not see any issues with granting a setback variance for the proposed single-family home on the subject property to be located closer to W. Adams Street.

**3.0 Recommendation**

The requested relief is reasonable and proportional to the degree of hardship resulting from the nonconforming lot geometry. Approval will allow for productive use of a nonconforming lot in a neighborhood that has long suffered from disinvestment. The hardship is not the result of any action taken by the applicant and would not grant a special privilege to the owner. Staff, therefore, recommends that the request receive consideration for approval.
**General Information:**

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**Request:**

| Application Type: | VARIANCE |
| Current |
| Zoning: | RA-3 Single-Family |
| Lot Dimensions: | 70x144.73 |
| Context: | Urban Neighborhood UNH |
| Square Footage: | 1586 |
| Present Use: | residential |
| Explanation of Request: | Rear yard slopes existing 2 neighbors have existing 8’ h fences |
| Justification: | The applicant’s particular hardship is related to the subject property’s rear yard being at a lower in grade than the adjacent W. Edgewater Drive. |
RE: Variance Request - Project No. VAR19-002

Dear Property Owner:

This notice is to advise you that Michael Kennedy requests a 2’ variance to allow an 8’ high vinyl privacy fence along the rear property line in lieu of the 6’ maximum height for fences within rear yards, as specified by Section 4.4.3 of the City’s Land Development Code, on property located at 926 Windsor Street. The subject property is legally described as:

TWIN GARDENS PB 26 PG 47 W 70 FT OF E 310 FT OF BLK 3 LESS N 7.50 FOR ROAD R/W (A COMPLETE LEGAL DESCRIPTION IS AVAILABLE IN THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT.)

The public hearing to consider this request will be held before the Lakeland Zoning Board of Adjustments and Appeals at 9:00 a.m. on 2/5/2019 in the City Commission Room, City Hall, 228 S. Massachusetts Avenue.

As an owner of property located in proximity to the subject property, as indicated on the attached map, you will be given an opportunity to express your opinion at the public hearing. You may also submit your views to the Community & Economic Development Department by including your name, address, and the project number via email to planning@lakelandgov.net, prior to the meeting date.

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**Community & Economic Development**

**Staff Recommendation for ZBAA**

**ZBAA Hearing:** February 5, 2019  
**Reviewer:** Phillip Scearce

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<td>Michael Kennedy</td>
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**Request:**

Request for a 2’ variance to allow an 8’ high PVC privacy fence along the rear property line in lieu of the 6’ maximum height for fences within rear yards, as specified by Section 4.4.3 of the City’s Land Development Code, on property located at 926 Windsor Street.

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**1.0 Background**

Located at 926 Windsor Street, the subject property consists of a platted lot of record in the Twin Gardens subdivision. The lot, which is approximately 70’ wide x 142.5’ deep and 9,975 square feet in area, contains an existing one-story single-family detached home originally built in 1968.

**2.0 Discussion**

The purpose of this request is to obtain variance relief which will allow for an 8’ high PVC privacy fence along the rear property line. The particular hardship suffered by the applicant is related to the W. Edgewood Drive Extension which was completed in 2012 and runs east – west, behind the rear of the property, from S. Florida Avenue to Harden Boulevard. Prior to 2012, the applicant’s property backed up to vacant, undeveloped land that was previously mined for phosphate and under the ownership of the Drummond Company. As constructed, the surface of the roadway sits approximately three feet above the finished grade of the backyard of homes located along Windsor Street.

Due to this grade differential, properties along the south side of Windsor Street uniformly suffer from a reduction in privacy due to the unimpeded views that motorists traveling along W. Edgewood Drive have into their backyards. The additional height provided by an eight-foot high fence will offset the loss of privacy resulting from the elevation of the roadway. If approved, the variance will only apply to fencing located along the rear lot line (southern property boundary). The fencing located along the side property lines will step down in compliance with the six-foot height requirement.

**3.0 Recommendation**

The particular hardship suffered is not the result of any action taken by the applicant. Staff confirmed that six-foot fence will not provide an adequate degree of privacy for a significant grade differential between W. Edgewood Drive and the rear yard area. The requested relief is reasonable and proportionate to the degree of hardship suffered by the applicant. Provided there are no substantive objections from adjoining property owners, staff recommends that the variance be considered for approval.