



MINUTES OF THE REGULAR MEETING  
BOARD OF ZONING APPEALS

December 5, 2013

**A. Call to Order – 7:30 p.m.**

1. Roll Call - the following members present: B. Seitz, R. Hunter, L. Reibel and C. Crane. Also present was D. Phillips, Chief Building Inspector, and L. Brown, Director of Planning and Building.
2. Pledge of Allegiance
3. Mr. Hunter moved to approve the November 7, 2013 minutes, seconded by Mr. Seitz and the minutes were approved.
4. Affirmation/swearing in of witnesses.

**B. Unfinished Business**

1. **Variance** - Rear Yard Setback - Dumpster Enclosure & Fence - **48 W. New England Ave. Parking Lot** (City of Worthington) **BZA 40-13**

Mr. Hunter made a motion to remove from the table, Mr. Seitz seconded the motion and all members voted “aye” thereon.

Discussion:

Mr. Phillips reviewed the staff memo and stated since the applicant is not present, staff is willing to answer any questions the Board might have.

Ms. Crane asked if there were any questions for staff.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Findings of fact:

1. This property is the S-1 district with a rear yard setback requirement of 60 feet and a side yard requirement of 25 feet.
2. The applicant is proposing to erect an enclosure around a recycling dumpster and a fence along the north property line, both within the rear and side yard setbacks.

The requested variances are to allow the enclosure and fence within the side and rear setback.

3. The property is subject to, and the proposed enclosure and fencing have been approved by, the Architectural Review Board.

Conclusions:

1. Chapter 1180 allows for fencing along rear and side property lines in all zoning districts except S-1. The variance request is not substantial.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Ms. Reibel moved:

**THAT THE REQUEST BY THE CITY OF WORTHINGTON FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR AND SIDE YARD SETBACK TO ERECT A DUMPSTER ENCLOSURE AND FENCE AT 48 WEST NEW ENGLAND AVENUE, AS PER CASE NO. BZA 40-13, DRAWINGS NO. BZA 40-13 DATED OCTOBER 4, 2013, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

Mr. Hunter seconded the motion, Mr. Seitz abstained and all members voted “aye” thereon.

### **C. Items of Public Hearing**

1. **Variance – Front Yard Setback – Fence – 230 Colonial Ave. (Tamara Barach) BZA 44-13**

Discussion:

Mr. Phillips reviewed the staff memo.

Tamara Barach, 230 Colonial Avenue, stated they went ahead with the fence before the Boards approval due to having surgery and not being sure if she could handle the dog on a chain prior to the meeting. Mr. Phillips stated they did make application for a fence permit prior to the installation, but once was informed a variance was required they installed the fence at the risk of the Board not approving it.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Findings of fact:

1. This property is in the R-10 district where the front yard setback requirement is 30 feet. Fencing is not permitted between the right-of-way and the building setback line.

2. By definition, this property has 2 front yards, along Colonial Avenue and Hardy Way.
3. The applicant has replaced the previous fence. The requested variance is to allow fencing within the Hardy Way front yard.

Conclusions:

1. The Hardy Way front yard functions as the property's rear yard, it had been enclosed with fencing for some time, and the fencing was in need of replacement. These factors mitigate the substantial nature of the variance request.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Mr. Hunter moved:

**THAT THE REQUEST BY TAMARA BARACH FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ALLOW A FENCE TO REMAIN AT 230 COLONIAL AVENUE, AS PER CASE NO. BZA 44-13, DRAWINGS NO. BZA 44-13 DATED OCTOBER 22, 2013, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

Mr. Seitz seconded the motion and all members voted "aye" thereon.

**2. Variance – Front & Side Yard Setbacks – Ramp- 773 High St. (Richard D. Langhout/Worthington Presbyterian Church) BZA 45-13**

Discussion:

Mr. Phillips reviewed the staff memo.

Rick Wilcox, 6837 Alloway Street East, stated this part of the project was originally supposed to be completed in 2006 however they ran out of funds.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Findings of fact:

1. This property is in the S-1 district with a minimum front yard setback of 60 feet and side yard setback of 25 feet.
2. Variances were granted in February, 2004 to construct a similar ramp at approximately the same location. That ramp was not constructed.
3. The applicant is proposing to construct a new ramp and stair, approximately 25.6 feet from the Village Green Drive Northwest right-of-way, and approximately 6.4

feet from the north property line. The requested variances are 34.4 feet for front yard setback and 18.6 feet for side yard setback.

4. The property is subject to, and the ramp and stairs were approved by, the Architectural Review Board.

Conclusion:

1. The property is nearly 2 acres in size with a large building on the fully developed site. The driveway on the north is owned by the City of Worthington but gives the appearance to be part of this site. The ramp and stair are very small in comparison to the existing building. These factors further mitigate what are not substantial variance requests.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Mr. Seitz moved:

**THAT THE REQUEST BY RICHARD LANGHOUT AND WORTHINGTON PRESBYTERIAN CHURCH FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT AND SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A RAMP AND STAIR AT 773 HIGH STREET, AS PER CASE NO. BZA 45-13, DRAWINGS NO. BZA 45-13 DATED OCTOBER 23, 2013, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

Ms. Reibel seconded the motion and all members voted “aye” thereon.

**3. Variance – Side Yard Setback – Fence – 850 Middlebury Dr. N. (Chad Hoff) BZA 46-13**

Ms. Crane stated this has been withdrawn by the applicant.

**4. Variance – Front Yard Setback – Fence – 101 Colburn Ct. (Wayne White) BZA 47-13**

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane stated this is similar to previous cases having two frontages and Mr. Phillips replied that is correct.

Wayne White, 101 Colburn Court, stated he placed the fence to keep people from immediately coming into the yard and the fencing will not be visible from the road once landscaping is complete.

Mr. Hunter stated this looks more decorative than anything. Ms. Crane stated she prefers to base her decision on the uniqueness of the property rather than the decorative nature of the fence.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Findings of fact:

1. This property is in the R-10 district where the front yard setback requirement is 30 feet. Fencing is not permitted between the right-of-way and the building setback line.
2. A small portion of the property fronts the Worthington-Galena Road right-of-way.
3. The applicant erected 2, 11 foot sections of split rail fencing 11 feet from the Worthington-Galena Road right-of-way. The requested variance is 19 feet.

Conclusions:

1. The property is unusually configured with a 45.09 foot section of a rear property line meeting the front yard definition. Split rail fencing, especially small sections like those used at this property, perform more of a landscaping function. The factors mitigate the substantial nature of the variance request.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Mr. Hunter moved:

**THAT THE REQUEST BY WAYNE WHITE FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ALLOW A FENCE TO REMAIN AT 101 COLBURN COURT, AS PER CASE NO. BZA 47-13, DRAWINGS NO. BZA 47-13 DATED NOVEMBER 7, 2013, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

Mr. Seitz seconded the motion and all members voted “aye” thereon.

**5. Variance – Rear Yard Setback – Addition – 141 New England Ave. (Arch City Design Co./Myers) BZA 48-13**

Discussion:

Mr. Phillips reviewed the staff memo and stated an email was received from an abutting property owner and has been provided to the Board.

Ms. Crane asked if there were any questions for staff. Mr. Hunter stated for the record that the email also addresses issues that are between the two property owners and City has no involvement.

Eric Maxwell of Arch City Design stated there is a cut out area at the corner to the home that they are looking to infill to improve the kitchen.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Findings of fact:

1. This property is in the R-10 district where the rear yard setback requirement is 30 feet.
2. A variance was granted in February, 1995 to construct an addition.
3. The applicant is proposing an addition and alteration to a portion of the existing building, 25 feet  $\frac{3}{4}$  inches from the rear property line. The requested variance is 4 feet  $11\frac{1}{4}$  inches.

Conclusions:

1. Approximately half of the addition and alteration is not within the rear yard setback, and in-fills a portion of the much larger dwelling. The requested variance is not substantial.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Ms. Reibel moved:

**THAT THE REQUEST BY ARCH CITY DESIGN COMPANY AND JEFFREY MYERS FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO CONSTRUCT AN ADDITION AT 141 NEW ENGLAND AVENUE, AS PER CASE NO. BZA 48-13, DRAWINGS NO. BZA 48-13 DATED NOVEMBER 7, 2013, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

Mr. Seitz seconded the motion and all members voted “aye” thereon.

## **D. Other**

### **1. 2014 Meeting Times**

Mr. Brown stated he had sent an email asking for feedback from the Board about possibly changing the meeting times in 2014 from 7:30pm to 7:00pm. Ms. Crane asked what prompted this change and Mr. Brown replied some Boards are not getting finished until 11 or 11:30 PM. The decision has been made not change the time for Council in 2014.

Mr. Hunter stated since Council is not changing their time, he believes it is not a good idea for this Board to change, but it has not been discussed with the Architectural Review

Board or Municipal Planning Commission yet. Mr. Seitz suggested to follow Councils lead and stay at 7:30 PM so the meetings will be consistent. Mr. Phillips said his notes indicate it will remain 7:30 PM and will be so published in the Columbus Dispatch.

## **2. By-law update**

Mr. Brown stated Staff is working with the Director of Law Pam Fox on updates to the by-laws for the Board that are from 1969. These need to be updated, refreshed, maybe adopted each year and passed out to the Boards. In January the original from 1969 and the proposed changes would be passed out for review.

Mr. Seitz moved to adjourn, seconded by Mr. Hunter and the meeting adjourned at 7:59 PM.