



MINUTES OF THE REGULAR MEETING  
BOARD OF ZONING APPEALS

January 2, 2014

**A. Call to Order – 7:30 p.m.**

1. Roll Call - the following members present: D. Falcoski, B. Seitz, 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. Oath of Office taken by Mr. Falcoski
4. Election of Officers – Mr. Seitz moved to nominate Ms. Crane for chair, Mr. Falcoski for Vice Chair, and Ms. Reibel for Secretary. The motion was seconded by Mr. Falcoski. The motion was approved.
5. Mr. Seitz moved to approve the December 5, 2013 minutes, seconded by Ms. Reibel and the minutes were approved.
6. Affirmation/swearing in of witnesses.

**B. Items of Public Hearing**

1. **Variance** – Side Yard Setback – Fence – **75 E. South St.** (Dean Landscape Construction/Ruff) **BZA 49-13**

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked for an explanation of a hold harmless agreement Mr. Phillips replied there is a water line in the right-of-way passing underneath the fence and the City is concerned if repairs are needed on this water line, the fence might become damaged. The hold harmless agreement would not require the City to repair or replace the damaged fence.

Ms. Reibel asked if the fence is only on one side of the property and Mr. Phillips replied that is correct.

Mr. Falcoski asked if the fence will be replaced with a like design and Mr. Phillips replied he did not recall.

Ms. Crane found the applicant was not present.

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. Corner lots are permitted to reduce the adjacent setback to 20 feet. Fencing is not permitted between the right-of-way and the building setback line.
2. The Hartford Street right-of-way is 66 feet.
3. The property has existing fencing along the south next to a detached garage, within the setback, and within the Hartford Street right-of-way.
4. The applicant is proposing to replace the existing fence. The requested variance is to allow the replacement of the existing fence within the side yard setback to the Hartford Street right-of-way.
5. The fence within the right-of-way will require approval from the Director of Service and Engineering who has indicated he will approve the fence if a hold harmless agreement between the owner and the City is executed. That agreement must be approved by City Council.
6. The property is subject to, and the proposed fencing has been approved by, the Architectural Review Board.

Conclusions:

1. A typical residential right-of-way is 50 feet. The additional 16 feet right-of-way for Hartford Street means this property's side yard is 8 feet smaller than typical and effectively reduces the 20 foot side yard setback to 12 feet. This mitigates 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. Falcoski moved:

**THAT THE REQUEST BY MICAH DEAN AND ANNETTE RUFF FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE ERECTION OF A FENCE AT 75 EAST SOUTH STREET, AS PER CASE NO. BZA 49-13, DRAWINGS NO. BZA 49-13 DATED NOVEMBER 18, 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 – Sign – 6665 Huntley Rd. (Plumbing Professors) BZA 50-13**

Discussion:

Mr. Phillips reviewed the staff memo.

Wilf Lockley, 6665 Huntley Road, stated that the logos are tear drop shape very close to being circles but they were counted as logos instead of bullets points. The only way to change the size and style of lettering would be to remove the sign which was designed by the corporate office in Detroit and made by a sign company in Detroit who did not make themselves aware of the local requirements. He stated he was not involved in the design or construction of the sign. Rather than take it down they are asking for a variance.

Ms. Crane asked for questions or comments from the Board.

Ms. Reibel stated she does not believe the sign needs so many sizes of type.

Ms. Crane said she has a problem when things are put up without checking on the requirements and asked if a sign permit is required prior to the sign being installed. Mr. Phillips replied they did make application this past summer and a correction letter was written, now they need the variance so the sign permit can be issued. The paperwork process was started but not before the sign was installed.

Ms. Crane asked if bullets were like circles would that be considered logos. Mr. Phillips replied he would normally not consider those logos, however, since the large tear drop is a part of a logo, and were additionally used in the other three areas, then that constitutes four logos.

Ms. Reibel said it is an attractive sign but is too busy. Ms. Crane stated it is pretty non-compliant with the several styles and does not see a hardship in this case.

Mr. Seitz agreed and stated he is not inclined to approve this because it would set a precedent. Mr. Falcoski agreed. Ms. Crane said a conversation is needed between the client and the sign company.

Mr. Lockley asked if the sign can remain until a new one is designed. Mr. Phillips replied if it takes more than two or three months, he would have to issue an order. Mr. Lockley said it may take a month and a half.

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 I-1 district where signs are permitted not more than 2 styles of lettering plus 1 logo, and shall not have more than 3 sizes of all lettering including a logo.
2. The applicant erected a sign with 3 styles of lettering and 4 logos. The requested variances for styles are for 1 additional lettering style and 3 additional logos.
3. The erected sign also has approximately 8 sizes of lettering. The requested variance is 5 additional lettering sizes.
4. Variances granted for this sign would apply only to this particular sign and for this particular tenant.

Conclusions:

1. The intent of the styles and sizes limitations is to prevent difficult to read signs that are distracting to motorists. This particular sign could be altered to comply and still communicate the same information. The granting of these variances would not be in keeping with the spirit and intent of the zoning requirements.
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 PLUMBING PROFESSORS AND BUSINESS CONCOURSE LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE TO ALLOW A SIGN TO REMAIN AT 6665 HUNTLEY ROAD, AS PER CASE NO. BZA 50-13, DRAWINGS NO. BZA 50-13 DATED NOVEMBER 18, 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 “no” thereon. Ms. Crane stated the sign needs to be redesigned.

Mr. Lockley asked if it was okay for the sign to remain for a month until a new one is designed and constructed. Mr. Phillips replied it has been an illegally erected sign since last summer and if a month or two is needed to get it into compliance that is fine.

**3. Variance – Side Yard Setback – Porch – 5566 Milton Ave. (Lisa DuVernay)**  
**BZA 1-14**

Discussion:

Mr. Phillips reviewed the staff memo.

Lisa DuVernay 505 Lambourne Avenue, stated once they reviewed the approved plans they decided the space was not going to be useful.

Ms. Crane asked for questions or comments from the Board.

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

Findings of fact:

1. This property is an existing lot of record in an R-10 district with a minimum front yard setback of 30 feet. Corner lots are permitted to reduce the adjacent setback to 20 feet.
2. The applicant was approved to construct a 6 foot deep covered porch in the 20 foot side yard setback in May of this past year.
3. The applicant is proposing to enlarge this 6 foot deep covered porch by extending it an additional 7.8 feet by 14.62 feet to the north and west, approximately 6 feet from the Milton Avenue right-of-way. The requested variance is to add approximately 114 square feet of additional covered porch in the 20 foot side yard.

Conclusion:

1. Smaller existing lots of record, such as this one, face a challenge attempting to comply with setback requirements. Corner lots are further challenged by the additional side yard requirement. Covered porches allow for outdoor living space and foster a sense of community. A larger porch will allow more comfortable seating and circulation to encourage neighborhood interaction. These factors mitigate the substantial nature of the variance request.
2. The delivery of governmental services should not be affected.

Mr. Seitz moved:

**THAT THE REQUEST BY LISA DUVERNAY FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A COVERED PORCH AT 5566 MILTON AVENUE, AS PER CASE NO. BZA 1-14, DRAWINGS NO. BZA 1-14 DATED DECEMBER 5, 2013, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

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

**4. Variance – Accessory Structure Area – Attached Garage – 305 E. North St. (Nth Degree/Roberts) BZA 2-14**

Discussion:

Mr. Phillips reviewed the staff memo.

Neal Hauschild, 1379 East Johnstown Road in Gahanna, stated the reason for the oversized garage is to allow mobility access. The home is going to have an elevator to all levels so anticipation of getting wheel chair access around all of the vehicles in the garage required additional depth in the garage.

Ms. Crane asked for questions or comments from the Board.

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

Jacinda Shipman, 295 East North Street, said her only concern is not the depth of the garage, but the drainage from the lot spilling on her lot. She has already spoke to the City Engineer and stated she had pictures to show the problem. Ms. Crane replied those are not relevant to what is being discussed tonight, which is the square footage of the garage.

Ms. Crane asked when does the City get involved with drainage issues and Mr. Phillips replied that in 1994 an ordinance was passed and the applicant stated to him a new drainage plan will be developed for approval to prevent the water from passing onto to her property. It would be submitted to City Engineer Bill Watterson, but it has nothing to do with the accessory structure area hearing tonight.

Findings of fact:

1. This property is in the R-10 district where total accessory structure area is limited to 850 square feet.
2. The applicant is proposing the construction of a new dwelling with a 958 square foot attached garage. The requested variance is 108 square feet.

Conclusions:

1. The intent of the limit is to prevent overly large accessory structures from overshadowing principal structures. In this particular case, the proposed garage is deeper than a typical garage and interior walls could be moved to reduce the area to 850 square feet without affecting the exterior size of the garage. This further mitigates what is not a substantial 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. Falcoski moved:

**THAT THE REQUEST BY NTH DEGREE AND WILLIAM AND MARGARET ROBERTS FOR A VARIANCE FROM CODE REQUIREMENTS FOR ACCESSORY STRUCTURE AREA TO ALLOW THE CONSTRUCTION OF A GARAGE AT 305 EAST NORTH STREET, AS PER CASE NO. BZA 2-14, DRAWINGS NO. BZA 2-14 DATED DECEMBER 6, 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. By-law update**

Mr. Brown said the recent review of the 1969 by-laws for the Board of Zoning Appeals is completed, explained changes that had been made, and distributed copies to the Board members to review and approve at a future meeting.

Mr. Falcoski moved to adjourn, seconded by Ms. Reibel and the meeting adjourned at 8:10 PM.