



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

May 1, 2014

A. Call to Order – 7:30 p.m.

1. Roll Call - the following members present: D. Falcoski, B. Seitz, R. Hunter, L. Reibel and C. Crane. Also present was D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Mr. Hunter moved to approve the March 6, 2014 minutes, seconded by Mr. Falcoski, and the minutes were approved.
4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing

1. Variance – Front Yard Setback – Porch – 6606 Evening St. (Lindsay-Wright Co./Mathews) BZA 07-14

Discussion:

Mr. Phillips reviewed the staff memo.

Mysa Mathews, 6606 Evening Street stated all the neighbors have spoken very highly of the work that was done.

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

Findings of fact:

1. This property is an existing lot of record in the R-10 district where the minimum front yard requirement is 30 feet.
2. The applicant is proposing to enlarge the front porch to accommodate a wheelchair ramp approximately 27 feet 9 inches from the Evening Street right of way. The requested variance is 2 feet 3 inches.
3. The Division of Building Regulation has no record of any inquiries regarding the recent construction of the porch.

Conclusions:

1. 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.

Mr. Seitz moved:

THAT THE REQUEST BY DAVID LINDSAY AND AL MATHEWS FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO CONSTRUCT A PORCH AT 6606 EVENING STREET, AS PER CASE NO. BZA 07-14, DRAWINGS NO. BZA 07-14 DATED MARCH 19, 2014, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

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

2. Variance – Side Yard Setback – Generator – 6721 Markwood St. (Safeway Electric Co./Mercier) BZA 08-14

Discussion:

Mr. Phillips reviewed the staff memo.

Murry Mercier, 6721 Markwood Street, stated he spoke with the neighbor that is closest and he had no objection to the generator.

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

Findings of fact:

1. This property is an existing lot of record in the R-10 district where the minimum side yard requirement is 8 feet and the minimum sum of the 2 side yards is 20 feet.
2. The existing dwelling is 10 feet from the south property line.
3. The applicant is proposing the placement of an emergency generator in the side yard, approximately 6 feet from the property line. The requested variance is to allow the generator entirely within the setback.
4. There is an existing air conditioner condensing unit in the same side yard near where the generator is proposed. No record of a variance for this condenser was found. The requested variance is to allow the condenser to remain in the side yard setback.

Conclusions:

1. The topography in the rear of the property may present some practicable difficulties.
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 SAFEWAY ELECTRIC CO., INC. AND MURRY MERCIER FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE PLACEMENT OF A GENERATOR, AND A CONDENSER TO REMAIN AT 6721 MARKWOOD STREET, AS PER CASE NO. BZA 08-14, DRAWINGS NO. BZA 08-14 DATED APRIL 2, 2014, 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.

**3. Variance – Side Yard Setback – Addition – 224 Tucker Dr. (Amy & Glen Sullivan)
BZA 09-14**

Discussion:

Mr. Phillips reviewed the staff memo.

Jeremy Little, Jonathan Barnes Architecture & Design, stated he is not aware of any neighbor concerns.

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

William Loadman, 208 Tucker Drive, stated he lives to the east of this property and has discussed the addition with the owners and he has no objections as long as it is constructed as planned.

Findings of fact:

1. This property is an existing lot of record in the R-16 district where the minimum side yard requirement is 10 feet.
2. The applicant is proposing to construct an addition where an approximately 35 square feet corner of the addition will be within the side yard setback, approximately 4 feet from the east property line. The requested variance is 6 feet.

Conclusions:

1. 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.

Mr. Seitz moved:

THAT THE REQUEST BY AMY AND GLEN SULLIVAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF AN ADDITION 224 TUCKER DRIVE, AS PER CASE NO. BZA 09-14, DRAWINGS NO. BZA 09-14 DATED APRIL 4, 2014, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

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

4. Temporary Use Permit – Food Truck – 923 High St. (Schmidt’s/Sprint Lube) BZA 10-14

Discussion:

Mr. Phillips reviewed the staff memo.

Andy Schmidt, 240 Kossuth Street, stated they were the first to have a temporary use permit in Upper Arlington, and been at the corner of Lane Avenue and Northwest Boulevard since last June with no complaints. Ms. Crane asked how many days they operate there and Mr. Schmidt replied they started as one day a week, but recently changed to five days a week. Ms. Crane asked what type of property is the vehicle parked on and Mr. Schmidt replied a gas station, there is only one truck and it travels to different cities on different days. For example in Clintonville on Thursday evenings. Ms. Crane asked where in Clintonville and Mr. Schmidt replied in front of Crimson Cup coffee shop.

Mr. Hunter stated he has a difficulty not with the food truck, but the location and its hours of operation because of the limited parking and the traffic at those hours. Mr. Falcoski asked how this location was chosen and Mr. Schmidt replied because it is similar to Upper Arlington’s busy area.

Ms. Reibel stated she believes this is a great idea and location, it could help Sprint Lube and the hours of operation are good. Ms. Reibel believes food trucks should be encouraged to give people options other than pizza.

CJ Swan, 923 High Street, said if it is a problem with the positioning of the truck, there are several other options such as two locations on High Street, north and south side or around the corner on North St.

Ms. Crane asked what happens after people go up to the truck and buy their sandwich, is there a place for them to sit and eat. Ms. Swan replied no, it is not encouraging someone to

stay and sit down, it is a drive in, pick it up and take it home. When she visited the site in Upper Arlington people would sit in their cars, eat, and drive off.

Ron Overstreet, 6851 Highland Place, operates the Dairy Queen right across from Sprint Lube which his mother has owned since 1983. He is in favor of Schmidt's coming to Worthington and welcomes new businesses however not directly across from the Dairy Queen. They both offer take-out food only, having no drive-through or dine in seating, and just as Subway has submitted their opposition, Dairy Queen is also opposed to the location.

Ms. Crane asked if he was interested in seeking another location and having this tabled and Mr. Schmidt replied he would like the Board to consider the Sprint Lube location since the next meeting is not until June 5, 2014.

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

Mr. Falcoski asked if this is denied tonight is it the end of the case and Mr. Phillips replied if denied tonight, Mr. Schmidt can come back on June 5 with another application.

Ms. Crane asked if a time limit is being put on this application and Mr. Seitz replied he believed the staff recommendation was for three months.

Mr. Seitz stated there is a discrepancy with the hours of operation from the application to the conversation with the property owner. Ms. Crane stated the hours can be put in the motion and Mr. Phillips advised the motion that staff drafted has from 3 PM to 8 PM, but the Board can change the motion to any hours it pleases. Ms. Reibel stated 3 PM to 9 PM gives them some flexibility. Mr. Falcoski asked how long does it take to setup and tear down and Mr. Schmidt replied they arrive about a half hour early and it takes about a half hour to tear down.

Findings of fact:

1. This property is in the C-4 district where restaurants are a permitted use. Temporary signs, including menu boards, are not permitted in this district.
2. A restaurant is defined as: "a place located in a permanent building wherein food and beverages are sold to the general public to be primarily consumed within the building and is the principal business of the place; this meaning excludes drugstores, confectionery stores, lunch stands and gasoline service stations."
3. Fast food restaurants are further defined as "those establishments which dispense food from counter-type operations to be consumed on or off the premises away from the counter and are recognized as fast food operations because of high turnover of customers."
4. A Food Truck would not be a permitted or conditional use in any zoning district within the City of Worthington.

5. The applicant is proposing operating a Food Truck on this property, along the High Street right of way in the southeast corner of the property, on Tuesdays, with a menu board and trash container to be removed at the end of the shift.
6. The applicant may seek to expand the operation to 3 days a week in the future. Expansion of the operation would require an amendment to any Temporary Use Permit.
7. The applicant's proposed hours of operations are from 4:00 PM to 9:00 PM.
8. No specific duration for this request was found.
9. Subway has submitted a statement opposing this application.

Conclusions:

1. Staff discussions with property owner CJ Swan yielded the following information:
 - a. Only interested in 1 day a week.
 - b. Only interested from 3:00 PM to 8:00 PM.
 - c. A maximum of 5 vehicles are expected at any one time.
 - d. The existing Sprint Lube truck will be moved to allow the Food Truck to be positioned.
2. Staff is concerned with northbound traffic attempting to turn into the property especially during peak traffic periods of 4 PM to 6 PM. Onsite parking, stacking, and maneuvering are a concern if the number of vehicles exceeds 5 while Sprint Lube is in operation.
3. Staff is concerned about food, grease, trash, and general litter in the parking lot, grass areas, the public sidewalk, and the neighboring properties not being cleaned daily.
4. A Food Truck for a special event would seem reasonable but would seem out of place in most parts of the City.
5. If the Board grants a Temporary Use Permit it would seem reasonable to limit this approval to 3 months as a test of the concept. Temporary Use Permits are revocable.

Ms. Reibel moved:

THAT THE REQUEST BY ANDY SCHMIDT, CJ SWAN, AND WSL LLC FOR A TEMPORARY USE PERMIT TO ALLOW THE OPERATION OF A FOOD TRUCK ON TUESDAY EVENINGS FROM MAY 6, 2014 TO AUGUST 5, 2014, FROM 4:00 PM TO 9:00 PM, AT 923 HIGH STREET, AS PER CASE NO. BZA 10-14, DRAWINGS NO. BZA 10-14 DATED APRIL 4, 2014, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING AND WITH THE FOLLOWING CONDITIONS:

1. **MAINTAIN ALL REQUIRED PERMITS AND LICENSES REQUIRED BY OTHER ORDINANCES, STATUTES, AND/OR REGULATIONS.**
2. **KEEP THE SITE, INCLUDING THE ADJACENT RIGHT OF WAY CLEAN AND SANITARY AT ALL TIMES.**
3. **NO TEMPORARY SIGNAGE PERMITTED.**

Mr. Seitz seconded the motion. Mr. Falcoski, Mr. Seitz, and Ms. Reibel voted yes, Ms. Crane and Mr. Hunter voted no, and the motion was approved.

Mr. Hunter moved to adjourn, seconded by Mr. Seitz and the meeting adjourned at 8:04 PM.