



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

February 5, 2015

A. Call to Order – 7:30 p.m.

1. Roll Call - the following members present: D. Falcoski, B. Seitz and C.Crane. Also present was D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Oath of Office taken by Ms. Crane
4. Election of Officers – Mr. Falcoski moved to nominate Ms. Crane for chair, Mr.Falcoski for Vice Chair, and Ms. Reibel for Secretary. The motion was seconded by Mr. Seitz. The motion was approved.
5. Mr. Falcoski moved to approve the December 4, 2014 minutes, seconded by Mr. Seitz. and the minutes were approved.
6. Affirmation/swearing in of witnesses.

Ms. Crane stated there are three items on the agenda tonight that will not be heard tonight. Two items under unfinished business that will remain tabled which is a variance for a rear yard setback for the Snow House at 39 & 41 W. New England Avenue and an appeal for a notice of violation and order to correct at 6568 N. High St. An item of new business for a variance for side yard setback for a garage and entrance at 138 W. Clearview Avenue has been withdrawn.

B. Items of Public Hearing

1. Variance – Side Yard Setback – Addition – **875 Oxford St.** (Shawn McAllister/Cunin) **BZA 01-15**

Discussion:

Mr. Phillips reviewed the staff memo.

Shawn McAllister, 3001 Bethel Road Suite 120, stated this is an existing one story footprint and they are adding one story above it and the existing is currently non-conforming.

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 minimum front yard requirement is 30 feet. Corner lots are permitted to reduce the adjacent side yard requirement to 20 feet.
2. Portions of the existing dwelling are within the 20 foot side yard setback, 11.90 feet from the West Clearview Avenue right-of-way.
3. The applicant is proposing to construct an approximately 860 square foot second floor addition upon the existing dwelling. A portion of the addition, 216.2 square feet, is within 11.90 feet of the West Clearview Avenue right-of-way. The requested variance is 8.10 feet.
4. The property is subject to, and the addition has been approved by, the Architectural Review Board.

Conclusions:

1. A small portion of the existing dwelling extends into the side setback and the second floor addition is mostly outside the setback. No additional horizontal encroachment into the setback is proposed. The requested variance is not significant.
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 SHAWN MCALLISTER, KENNETH & KAREN CUNIN, AND ROBERT & JEANNE ASHWORTH FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF AN ADDITION AT 875 OXFORD STREET, AS PER CASE NO. BZA 01-15, DRAWINGS NO. BZA 01-15 DATED NOVEMBER 26, 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 - Condensing Unit – 351 Highgate Ave. (David Arrese) BZA 02-15

Discussion:

Mr. Phillips reviewed the staff memo.

David Arrese, 351 Highgate Avenue, stated they moved the condenser forward because of a new patio area in the back and after talking with the neighbors.

Mr. Falcoski after if the condenser would be screened and Mr. Arrese stated his neighbor did not want it to be. Mr. Phillips stated that it is a code requirement and Mr. Arrese said he would have no problem with screening the unit.

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-16 district where the minimum side yard requirement is 10 feet.
2. The existing dwelling appears to be within the 10 foot east side yard.
3. The applicant recently replaced the condensing unit and placed it in the east side yard. The requested variance is to allow the condenser to remain wholly within the setback.
4. Staff has no records of any inquiries regarding the location of the condenser.

Conclusions:

1. The essential character of the neighborhood should not be substantially altered.
2. The delivery of governmental services should not be affected.

Mr. Falcoski moved:

THAT THE REQUEST BY DAVID ARRESE FOR A VARIANCE FROM CODE REQUIRMENTS FOR SIDE YARD SETBACK TO ALLOW A CONDENSING UNIT TO REMAIN AT 351 HIGHGATE AVENUE, AS PER CASE NO. BZA 02-15, DRAWINGS NO. BZA 02-15 DATED DECEMBER 11, 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 – Condensing Unit – 6865 Downs St. (C-Shell LLC)
BZA 03-15**

Discussion:

Mr. Phillips reviewed the staff memo.

Chet Ridenour, 398 Highgate Avenue, stated they just purchased the property and was his understanding the unit had been there for many years. He spoke to the adjoining residents which have no concerns.

Ms. Crane asked if this was a new condenser and Mr. Ridenour stated it was there when they purchased the home. Mr. Phillips said the complaint was received in April 2014 and the property has transferred twice and Mr. Ridenour is the third owner.

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 side yard requirement is 8 feet.
2. The existing dwelling is approximately 7 feet from the south property line with an existing condenser located within this required yard.
3. On April 30, 2014 someone reported the condenser was in the required yard to the Division of Building Regulation.

Conclusion:

1. The essential character of the neighborhood should not be substantially altered.
2. The delivery of governmental services should not be affected.

Mr. Seitz moved:

THAT THE REQUEST BY C-SHELL LLC FOR A VARIANCE FROM CODE REQUIRMENTS FOR SIDE YARD SETBACK TO ALLOW A CONDENSING UNIT TO REMAIN AT 6865 DOWNS STREET, AS PER CASE NO. BZA 03-15, DRAWINGS NO. BZA 03-15 DATED DECEMBER 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.

4. Variance – Side Yard Setback - Condensing Unit – **178 E. New England Ave.**
(Robert Obringer) **BZA 04-15**

Discussion:

Mr. Phillips reviewed the staff memo.

Bob Obringer, 178 East New England Avenue, stated the condenser would be concealed with plantings.

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 minimum side yard requirement is 8 feet.
2. An addition to the existing dwelling is under construction.
3. The applicant is proposing to place the condenser in the east side yard, approximately 4.9 feet from the east property line. The requested variance is approximately 3.1 feet.

Conclusions:

1. The essential character of the neighborhood should not be substantially altered.
2. The delivery of governmental services should not be affected.

Mr. Falcoski moved:

THAT THE REQUEST BY ROBERT OBRINGER FOR A VARIANCE FROM CODE REQUIRMENTS FOR SIDE YARD SETBACK TO PLACE A CONDENSING UNIT AT 178 EAST NEW ENGLAND AVENUE, AS PER CASE NO. BZA 04-15, DRAWINGS NO. BZA 04-15 DATED JANUARY 5, 2015, 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 – Side Yard Setback - Condensing Units– **127 Northhigh Dr.** (Klingensmith Construction/Messenger) **BZA 05-15**

Mr. Phillips reviewed the staff memo.

Scott Klingensmith, Klingensmith Construction, stated that Mr. and Mrs. Messenger bought the property this past fall. The house sat unfinished for many years and they have started to complete the home with an addition on the east side. Due to the nature of the home, how it had been constructed previously, and with adding a garage on the east side limits their choices of where the condensers can be located.

Mr. Seitz stated it appears that the new location is actually in the rear yards of the adjacent properties and Mr. Phillips replied that is correct.

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 minimum side yard requirement is 8 feet.
2. An addition to the existing dwelling is under construction.
3. The applicant is proposing to place 2 condensers in the west setback, 3 feet 2 inches from the west property line. The requested variance is 4 feet 10 inches.

Conclusions:

1. The essential character of the neighborhood should not be substantially altered.
2. The delivery of governmental services should not be affected.

Mr. Seitz moved:

THAT THE REQUEST BY KLINGENSMITH CONSTRUCTION, AND BRUCE AND KAREN MESSENGER FOR A VARIANCE FROM CODE REQUIRMENTS FOR SIDE YARD SETBACK TO PLACE TWO CONDENSING UNITS AT 127 NORTHIGH DRIVE, AS PER CASE NO. BZA 05-15, DRAWINGS NO. BZA 05-15 DATED JANUARY 5, 2015, 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.

D. Other

Mr. Phillips stated that staff is going to initiate through the Code Change Committee a proposal to eliminate the setback requirement for building service equipment in the side yard. He cannot recall this Board ever disapproving a condenser in the side yard, nor receiving many comments from the audience.

Staff would draft a revised ordinance, present it to the Code Change Committee who then moves it onto the Municipal Planning Commission for recommendation to Council. Once Council acts, the requirement will be modified.

Mr. Phillips also stated a photograph of the Board can be taken in March if the Board chooses a new photo for the annual report.

Mr. Seitz asked if there was any further comment about the letter the Board received from the house on Colonial. Mr. Phillips replied the building inspector went out and

found it was four foot ten inches from the property line. The variance granted was for four foot six inches. The homeowner was given a copy of the letter.

Mr. Falcoski moved to adjourn, seconded by Mr. Seitz and the meeting adjourned at 8:00 PM.