



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

May 7, 2015

A. Call to Order – 7:30 p.m.

1. Roll Call - the following members present: R. Hunter, L. Reibel, D. Falcoski, B. Seitz and C. Crane. Also present was D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Affirmation/swearing in of witnesses.
4. Mr. Hunter moved to approve the April 2, 2015 minutes, seconded by Mr. Seitz. The minutes were approved.

B. Unfinished Business

1. Variance – Dimensional Requirements – Semipublic Use – 6238 Linworth Rd.
(Linworth Baptist Church) **BZA 10-15**

Mr. Falcoski moved to remove the item from the table, seconded by Mr. Hunter. The item was removed from the table.

Mr. Phillips reviewed the staff memo.

Findings of fact:

1. This property is in the R-10 district where the following requirements would apply for a semipublic use:
 - a. Minimum lot width of 200 feet
 - b. Minimum lot area of 2 acres
 - c. Parking must be setback a minimum of 50 feet from the Linworth Road right-of-way.
2. The applicant is proposing to use the existing buildings for a semipublic use and construct a parking lot to supplement parking for the semipublic use to the south. The following are requested:
 - a. Actual lot width of 192 feet be allowed, a variance of 8 feet
 - b. Actual lot area of 1.176 acres, a variance of 0.824 acres
 - c. Parking within 10 feet of the right-of-way, a variance of 40 feet.

3. The semipublic use in the R-10 district has been granted a Conditional Use Permit by the Municipal Planning Commission with changes to the proposed landscaping plan.

Conclusions:

1. The lot width variance request is not substantial.
2. This property, along with the lots to the south and east, will be used as one site. The applicant had originally proposed rezoning of the property to be combined with the property to the south. The current zoning allows oversight by the Municipal Planning Commission via a Conditional Use Permit. These factors mitigate the substantial nature of the lot area variance request.
3. The proposed parking will be elevated from Linworth Road and heavily screened. This mitigates the substantial nature of the front yard setback variance request.
4. The essential character of the neighborhood should not be substantially altered when compared to the existing semipublic use to the south.
5. The delivery of governmental services should not be affected.

Discussion:

Amy Kuhn, 145 East Rich Street, with Plank Law Firm representing the Church stated the use is to expand the parking and use the existing home for activities, offices and storage. The lot would primarily be used on Sundays and there are no plans for lighting the lot. The ten foot setback is mitigated because the closest house across the street is ninety two feet away from the proposed parking, there will be four foot high Junipers screening on the west, north and south sides with two and a half inch caliper trees around the property and there has been no opposition from the neighborhood

Mr. Hunter said there were lengthy conversations with the Municipal Planning Commission which, after reducing the number of entrances to the lot to only one and changes to the vegetation, was a unanimous vote. Any future changes would be done through a conditional use permit.

Mr. Seitz asked about the final landscape plan since the drawings submitted is different than the drawing presented. Ms. Kuhn replied there were some trees that were not viable and the plan as presented, and the landscaping plan submitted, is the final plan the applicant is proceeding with. There will be three trees along Linworth Road but the primary screening will be the Junipers.

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

Motion:

Mr. Hunter moved:

THAT THE REQUEST BY LINWORTH BAPTIST CHURCH AND KEITH AND TERESA FULLER FOR A VARIANCE FROM DIMENSIONAL REQUIREMENTS FOR A SEMIPUBLIC USE AND CONSTRUCT A PARKING LOT 6238 LINWORTH ROAD, AS PER CASE NO. BZA 10-15, DRAWINGS NO. BZA 10-15 DATED MARCH 6, 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.

**2. Variance – Front Yard Setback – Porch – 571 Evening St. (Adam & Gary Moore)
BZA 11-15**

Ms. Crane asked for a motion to remove from being tabled. Mr. Hunter moved to remove the item from the table, seconded by Mr. Seitz. The item was removed from the table.

Mr. Phillips reviewed the staff memo.

Findings of fact:

1. This property is a nonconforming lot in the R-10 district with a front yard requirement of 30 feet and the sum of the two side yards is required to be a minimum of 20 feet.
2. The existing dwelling is approximately 28 feet from the Evening Street right-of-way, 9 feet 6 inches from the south property line, and approximately 8 feet 6 inches from the north property. The sum of the two existing side yards is approximately 18 feet.
3. The applicant is proposing the construction of a second floor addition atop of the existing dwelling. A portion of this addition is within the 30 foot front yard setback, and within the 20 foot side yard setback. The requested variances are 2 feet for the front yard and 2 feet for the side yard.
4. The property is subject to approval by the Architectural Review Board.

Conclusions:

1. Existing lots of records must be 50 feet wide to qualify for the reduced side yard setback requirement. Regardless, the requested variances are not substantial.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Adam Moore, 59 West New England Avenue, said they have redesigned the project a couple of times to heed the recommendations of the Architectural Review Board, the Board of Zoning Appeal, and the neighbors. The footprint is going to stay the same.

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

Jo Rodgers, 575 Evening Street, stated she is in full support of this design.

Motion:

Ms. Reibel moved:

THAT THE REQUEST BY ADAM AND GARY MOORE FOR A VARIANCE FROM CODE REQUIRMENTS FOR FRONT AND SIDE YARD SETBACK TO ALLOW CONSTRUCTION OF AN ADDITION AT 571 EVENING STREET, AS PER CASE NO. BZA 11-15, DRAWINGS NO. BZA 11-15 DATED APRIL 30, 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.

3. Temporary Use Permit – Food Truck – 923 High St. (Schmidt’s/Sprint Lube) BZA 14-15

Mr. Seitz moved to remove the item from the table, seconded by Ms. Reibel. The item was removed from the table.

Mr. Phillips reviewed the staff memo.

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. A Temporary Use Permit was previously granted by the Board from May 6, 2014 to August 5, 2014, with conditions. Staff issued a Temporary Use Permit for August 5, 2014 and August 12, 2014 with the same conditions. A second Temporary Use Permit was denied by the Board on September 4, 2014.
6. The applicant is proposing operating a Food Truck on this property next to the existing building, on Tuesdays, from 3:00 PM to 8:00 PM.
7. No specific duration for this request was found. The Board of Zoning Appeals is authorized to grant a Temporary Use Permit for up to 6 months.

Conclusions:

1. Previous staff discussions with property owner CJ Swan indicated a maximum of 5 vehicles are expected at any one time.
2. Staff was previously 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 were also a concern if the number of vehicles exceeded 5 while Sprint Lube was in operation. Staff received no reports of northbound High Street traffic being blocked nor onsite parking, stacking, or maneuvering issues.
3. Staff was previously 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. Staff received no complaints about such food, grease, trash, or general litter. The previous application included a trash container to be removed at the end of the shift.
4. A Food Truck for a special event would seem reasonable but would seem out of place in most parts of the City.
5. Temporary Use Permits are revocable.
6. Staff met internally on April 24, 2014 to discuss policy options in allowing Food Trucks. Meetings with the Old Worthington Business Association have been ongoing. On March 24, 2015 staff met with the Old Worthington Business Association and the Central Ohio Food Truck Association to discuss potential options. A formal policy may be another year away. The subject has been a low priority for staff with the Temporary Use Process appearing to meet the City's current needs and no demand from others wanting to set up Food Truck operations within the City excepting special events.

Discussion:

CJ Swan, 923 North High Street stated they took into consideration comments from the City and residents and are unaware of any unresolved issues other than does the City allow food trucks and what type of regulations does the City need.

Andy Schmidt, 240 East Kossuth Street, advised he is ready to serve the Worthington community again.

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

Bill Brown, 60 West North Street, asked if this temporary use permit is granted could this open the door to future rezoning of this location. Mr. Hunter replied no, but at any time an application can be made to rezone and the decision would have nothing to do with a food truck ever being at the location.

Jo Rodgers, 575 Evening Street, stated she and her neighbors fully support the food truck at this location.

Mr. Seitz asked for updates from the April meeting and Mr. Phillips replied there is nothing ready to go to Council, there were just questions like where they would be allowed, how many, and for how long. Mr. Falcoski stated the Old Worthington Partnership held a meeting with the Central Ohio Food Truck Association and circulated a survey to gauge community interest.

Mr. Hunter stated he is not opposed to food trucks just at this location.

Motion:

Mr. Falcoski moved:

THAT THE REQUEST BY CJ SWAN AND WSL LLC FOR A TEMPORARY USE PERMIT TO ALLOW THE OPERATION OF A FOOD TRUCK ON TUESDAY EVENINGS FROM MAY 12, 2015 TO NOVEMBER 10, 2015, FROM 3:00 PM TO 8:00 PM, AT 923 HIGH STREET, AS PER CASE NO. BZA 14-15, DRAWINGS NO. BZA 14-15 DATED MARCH 5, 2015, 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. Hunter voted no and all others voted yes. The motion was approved.

C. Items of Public Hearing

1. Variance – Rear Yard Setback – Addition – 6571 Hawthorn St. (Jeanne M. Cabral, Architect/Wertz) BZA 17-15

Mr. Phillips reviewed the staff memo.

Findings of fact:

1. This property is in the R-10 district where the minimum rear yard requirement is 30 feet.
2. The applicant is proposing to construct an 18 foot 5 inch by 18 foot 9 inch covered porch addition, approximately 18 feet 2 inches from the west property line. The requested variance is 11 feet 10 inches.

Conclusions:

1. The existing dwelling already encroaches into the rear yard setback by approximately 4 feet. This is a larger than typical lot for the R-10 district with ample space around the existing dwelling even with the encroachment. If the lot were not on a corner lot, and the dwelling sited to the north, it would not encroach into what would then be the side yard setback, and not require a variance. 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.

Discussion:

Jeanne Cabral, 2939 Bexley Park Road, stated there is a lot of room on the north side of the property, but is not the right area to put on an addition. The addition does not impact the neighbor, nor site lines, and will only be one story.

Mr. Hunter stated the hardship is the corner lot

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

Rick Wertz, 6571 Hawthorne Street, said it will add value to the property and neighborhood.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY JEANNE CABRAL AND RICK AND LISA WERTZ FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ALLOW THE CONSTRUCTION OF AN ADDITION AT 6571 HAWTHORNE STREET, AS PER CASE NO. BZA 17-15, DRAWINGS NO. BZA 17-15 DATED APRIL 9, 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.

2. Variance – Side Yard Setback – Fence – 346 Colonial Ave. (Rick Harvey) BZA 18-15

Mr. Phillips reviewed the staff memo.

Findings of fact:

1. This property is an existing lot of record 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 applicant is proposing to replace two sections of split rail fencing with a similar, 54 inch tall wooden fencing. One section of fencing is proposed 3 feet from the Greenwich Street right-of-way, a requested variance of 17 feet. The second section of fencing is proposed 6 feet from the Greenwich Street right-of-way, a requested variance of 14 feet.

Conclusions:

1. Corner lots are challenged by additional setback requirements. The fencing is a substantial distance from the Colonial Avenue and Greenwich Avenue intersection and should not cause intersection sight distance issues.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Rick Harvey, 346 Colonial Avenue, stated he is just replacing an existing fence with a similar style fence.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY RICK HARVEY FOR A VARIANCE FROM CODE REQUIREMENTS SIDE YARD SETBACK TO ERECT FENCING AT 346 COLONIAL AVENUE, AS PER CASE NO. BZA 18-15, DRAWINGS NO. BZA 18-15 DATED APRIL 10, 2015, 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 and all members voted “aye” thereon.

3. Variance - Front Yard Setback & Parking – 6600 N. High St. (Carney Ranker Architects/FC Bank) BZA 19-15

Mr. Phillips reviewed the staff memo.

Findings of fact:

1. This property is in the C-3 district with a front yard requirement of 100 feet for buildings along High Street north of Worthington-Galena Road. The required parking is 1 space for each 250 gross square feet of building area. Parking access drive minimum interval is 300 feet.
2. The applicant is proposing the demolition of three existing buildings, redeveloping the site, and constructing a building with parking.
3. The proposed building is 2 story with a basement, 110 feet 6 inches by 58 feet 2 inches, with either a flat or pitched roof, estimated to be approximately 18,687 square feet in gross floor area. The building is proposed 70 feet from the North High Street right-of-way. The requested variance is 30 feet.
4. The required parking is 75 spaces and are proposing 56 spaces. The requested variance is 19 spaces.
5. The property currently has 3 access drives and the new parking will have 2 access drives, 150 feet from each other. The requested variance is 150 feet.
6. The property is subject to approval by the Architectural Review Board.
7. The drive through teller requires a Conditional Use Permit from the Municipal Planning Commission.

Conclusions:

1. Recent developments have pushed buildings out towards the street to encourage parking to the rear, which accentuates the architecture of a building and its site without the detraction of vehicle parking. This concept will likely be pursued when the United Methodist Children's Home site across High Street eventually develops in the next few years. As a nod towards buildings in front and parking in the rear, this building is proposed 30 feet closer to the right-of-way than currently permitted. These factors mitigate the substantial nature of the setback variance request.
2. The majority of the building is intended as the corporate headquarters of a bank but a portion will house a banking branch. Parking demands for branches are less than a typical office use, and the drive through teller area reduces some of the site available to parking. Parking within the 50 foot front yard is not permitted, and the desire to not have parking in front of the building, further reduces the amount of land available for parking. These factors mitigate the substantial nature of the parking variance request.

3. The 3 access drives are being reduced to 2 and because of the drive through teller, the site functions better with a mostly ingress access drive on the south of the property and an egress only access drive on the north side of the property.
4. The essential character of the neighborhood should not be substantially altered.
4. The delivery of governmental services should not be affected.

Discussion:

Jennifer Carney, 5980 Wilcox Place Suite J, stated they were originally seeking a fifty foot setback, but now only thirty feet due to staff comments, the Architectural Review Board feedback, the City Municipal Building has a one hundred foot setback, and the Fire station has a fifty foot setback. The reduced parking variance is being requested since a sidewalk will be provided from this property to the Municipal Building parking lot for overflow parking during the day.

Ms. Carney also said there is one more variance that staff did not mention, the code requires three hundred feet between access drives. Currently there are three access drives and we are proposing two access drives one at each end of the property, and the lot frontage is two hundred and twenty five feet. Mr. Phillips stated the requested variance would be for one hundred and fifty feet.

Mr. Hunter replied the matter was tabled at the Architectural Review Board and the Municipal Planning Commission regarding the building elements but the general site layout should be approved.

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

Motion:

Mr. Hunter moved:

THAT THE REQUEST BY CARNEY RANKER ARCHITECTS, FC BANK, AND 6600 NORTH HIGH ST LLC FOR A VARIANCE FROM CODE REQUIRMENTS FOR FRONT YARD SETBACK, PARKING AND DRIVE ACCESS INTERVALS TO ALLOW CONSTRUCTION OF A BUILDING AND PARKING LOT AT 6600 NORTH HIGH STREET NORTH, AS PER CASE NO. BZA 19-15, DRAWINGS NO. BZA 19-15 DATED APRIL 10, 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.

**4. Variance – Side Yard Setback – Fence – 334 Loveman Ave. (Jeremy Mumpower)
BZA 20-15**

Mr. Phillips reviewed the staff memo.

Findings of fact:

1. This property is an existing lot of record 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 applicant is proposing to erect a 4.5 feet tall fence along the Greenwich Street right-of-way from the north property line to the existing dwelling, 3.6 feet from the Greenwich Street right-of-way. The requested variance is 16.4 feet.

Conclusions:

1. Corner lots are challenged by additional setback requirements. The fencing is a substantial distance from the Loveman Avenue and Greenwich Avenue intersection and should not cause intersection sight distance issues.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected

Discussion:

Mr. Seitz asked if wire fencing is a part of this variance and Mr. Phillips replied a fence variance covers the height, openness, and location of the fence, not the style of the fence.

Jeremy Mumpower, 334 Loveman Avenue, said the wire will help with their children and a future small dog.

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

Motion:

Ms. Reibel moved:

THAT THE REQUEST BY JEREMY MUMPOWER FOR A VARIANCE FROM CODE REQUIRMENTS FOR SIDE YARD SETBACK TO ALLOW THE ERECTION OF A FENCE AT 334 LOVEMAN AVENUE, AS PER CASE NO. BZA 20-15, DRAWINGS NO. BZA 20-15 DATED APRIL 14, 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.

Mr. Seitz moved to adjourn, seconded by Ms. Reibel and the meeting adjourned at 8:33 PM.