September 25, 2015

To: Members of the Board of Zoning Appeals

From: Don Phillips, Chief Building Inspector

Subject: Staff Comments for the Meeting of October 1, 2015

B. Items of Public Hearing

1. Variance – Signage – **6740 Huntley Rd.** (CBUS Lifting Co.) **BZA 37-15**

Findings of fact:

1. This property is in the I-1 district where allowable sign area is 1.5 sf for each 1 lineal foot of street frontage to a maximum of 100 square feet.

2. The applicant has the rear portion of the building with approximately 24 feet of frontage. The allowable sign area is approximately 36 square feet. The applicant is proposing to place a 16 foot by 16 foot sign on wall, totaling 256 square feet. The requested variance is for 220 square feet.

The following conclusions are presented:

1. The location of the business at the back of the building may warrant a larger than typical sign to be seen from Huntley Road, although a compliant sign could be placed nearer Huntley Road. To this end, the proposed sign contains graphics that may not be easily seen from Huntley Road, making it larger than it needs to be. The sign could be reduced in half with the CBUS Lifting Co. logo and perhaps the arrow, reducing the substantial nature of the variance request.

2. The delivery of governmental services should not be affected.

The following motion is appropriate:

THAT THE REQUEST BY CBUS LIFTING CO. AND CAPOCCIA-FMD LTD FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGN AREA TO ALLOW THE PLACEMENT OF A SIGN AT 6740 HUNTLEY ROAD, AS PER CASE NO. BZA 37-15, DRAWINGS NO. BZA 37-15 DATED AUGUST 31, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

2. Variance – Fence – **7046 Worthington-Galena Rd.** (Penny Roberts) **BZA 39-15**

Findings of fact:

1. This property is in the I-1 district where the minimum front yard requirement is 50 feet. Fences cannot be erected between the right-of-way line and the front yard setback.

2. The applicant has erected 65 feet of a 40" tall, post and chain fence, from the building sidewalk to the tree lawn to the west to approximately the right-of-way line. The majority of the fence is within the 50 foot front set back.

The following conclusions are presented:

1. The applicant is attempting to prevent vehicles from entering the south curb cut, travel north past the building, and then travel to the east along the north property line to reach Huntley Road. A more effective, long term means of traffic control may be adding a curb and landscaping to prevent through traffic. The requested variance is substantial.

2. Staff prepared multiple sample motions for consideration.

3. The delivery of governmental services should not be affected.

The following motion is appropriate for granting a variance as applied:
THAT THE REQUEST BY PENNY ROBERTS AND UNDER PSI PROPERTIES LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ERECT A FENCE AT 7046 WORTHINGTON-GALENA ROAD, AS PER CASE NO. BZA 39-15, DRAWINGS NO. BZA 39-15 DATED SEPTEMBER 2, 2015, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

The following motion is appropriate to grant a Temporary Use Permit:
THAT THE REQUEST BY PENNY ROBERTS AND UNDER PSI PROPERTIES LLC FOR A TEMPORARY USE PERMIT FOR 6 MONTHS TO ERECT A FENCE AT 7046 WORTHINGTON-GALENA ROAD, AS PER CASE NO. BZA 39-15, DRAWINGS NO. BZA 39-15 DATED SEPTEMBER 2, 2015, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

The following motion is recommended to grant a variance with a sunset provision:
THAT THE REQUEST BY PENNY ROBERTS AND UNDER PSI PROPERTIES LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ERECT A FENCE AT 7046 WORTHINGTON-GALENA ROAD UNTIL PERMANENT SITE IMPROVEMENTS ARE COMPLETED FOR A MAXIMUM OF 2 YEARS, AS PER CASE NO. BZA 39-15, DRAWINGS NO. BZA 39-15 DATED SEPTEMBER 2, 2015, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

3. Variance – Side Yard Setback – New Dwelling – **Vacant Lot West of 27 E. Riverglen Dr.** (Nancy Saylor) **BZA 40-15**

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. Corner lots are permitted to reduce the adjacent setback to 20 feet.

2. The applicant is proposing to construct a dwelling 10 feet from the alley right-of-way to the west. The requested variance is 10 feet.

The following conclusions are presented:

1. The intent of the front setback requirement is to create open streetscapes within the community. It does not appear that was intended for alleys. In this particular case, other properties to the north and south along this alley were similarly constructed within the 20 foot requirement. This dwelling should not cause intersection sight line issues. 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.

The following motion is recommended:

THAT THE REQUEST BY NANCY SAYLOR FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A DWELLING AT PARCEL IDENTIFCATION NUMBER 100-000913, AS PER CASE NO. BZA 40-15, DRAWINGS NO. BZA 40-15 DATED SEPTEMBER 4, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

4. Variance – Rear Yard Setback – Shed – **547 Greenglade Ave.** (Kent Hofacre) **BZA 41-15**

Findings of fact:

1. This property is in the R-10 district where the rear yard setback requirement is 10 feet for detached accessory structures over 120 square feet in area.

2. The applicant is proposing to construct a 10 foot by 16 foot shed 6 feet from the rear property line. The requested variance is 4 feet.

3. There are 10 foot general utility easements along the rear property lines but the city has no record of water or sewer services within those easements.

The following conclusions are presented:

1. The rear setback requirement for 120 square foot and smaller sheds is 5 feet. In this particular case, the property is against a well screened Wilson Bridge Road right-of-way and mitigates 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.

The following motion is recommended:
THAT THE REQUEST BY KENT HOFACRE FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ALLOW THE CONSTRUCTION OF A SHED AT 547 GREENGLADE AVENUE, AS PER CASE NO. BZA 41-15, DRAWINGS NO. BZA 41-15 DATED SEPTEMBER 4, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

5. Variance – Rear Yard Setback – Terrace Addition – **752 High St.** (Angela Petro/Sweet Carrot Central Ohio LLC) **BZA 42-15**

Findings of fact:

1. This property is in the C-5 district where the minimum rear yard requirement is 20 feet.

2. The applicant is proposing to construct a 15 foot deep elevated terrace along the west and south portions of the existing building. A portion of the terrace is proposed 10 feet from the east property line. The requested variance is 10 feet.

3. The property is subject to, and the terrace has been approved by, the Architectural Review Board.

4. The terrace and new stair encroaches into the Village Green to the west and will require Council approval.

The following conclusions are presented:

1. The C-5 district has no setback requirements excepting for the rear. In this particular case, the terrace's rear yard encroachment 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.

The following motion is recommended:
THAT THE REQUEST BY ANGELA PETRO AND THE CITY OF WORTHINGTON FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ALLOW THE CONSTRUCTION OF A TERRACE AT 752 HIGH STREET, AS PER CASE NO. BZA 42-15, DRAWINGS NO. BZA 42-15 DATED AUGUST 20, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

6. Variance – Side Yard Setback – Addition – **563 Meadoway Pk.** (Maple Craft LLC/West)
BZA 43-15

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, the minimum side yard requirement is 6 feet, and the minimum sum of the 2 side yards is 12 feet.

2. The applicant is proposing to demolish an existing detached garage and construct a partial 2 story addition with tandem 2 car garage, approximately 24.8 feet from the Meadoway Park right-of-way and approximately 3.9 feet from the east property line. The sum of the 2 proposed side yards total approximately 7.9 feet. The requested variances are approximately 5.2 feet for front yard setback, approximately 2.1 feet for side yard setback, and approximately 4.1 feet for the sum of the 2 side yards.

3. The 2013 Residential Code of Ohio requires exterior walls and projections within 5 feet of a lot line be made of 1 hour, fire-resistance rated construction. Granting of this variance does not grant variances from the 2013 Residential Code of Ohio.

The following conclusions are presented:

1. Narrow and irregularly shaped lots in the neighborhood make compliance with the setback requirements difficult to achieve. In this particular case, the addition could be moved to the south to avoid the front yard setback but at the expense of a smaller rear yard. Similarly, it could also be narrowed so that only a sum of side yards variance would be required but this reduces the size of the addition. A large portion of the garage will not have a second story above, reducing the visual impact from the east. Lastly, many properties along this stretch of Meadoway Park are similarly encroaching into the setbacks. These factors mitigate the substantial nature of the variances requested.

2. The delivery of governmental services should not be affected.

The following motion is recommended:
THAT THE REQUEST BY KRISTINA HOOVER AND WILLIAM WEST FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT AND SIDE YARD SETBACKS TO ALLOW THE CONSTRUCTION OF AN ADDITION AT 563 MEADOWAY PARK, AS PER CASE NO. BZA 43-15, DRAWINGS NO. BZA 43-15 DATED SEPTEMBER 9, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

7. Variance – Side Yard Setback – Garage – **690 Evening St.** (Timothy Shaw) **BZA 44-15**

Findings of fact:

1. This property is in the R-10 district where the minimum side yard requirement is 8 feet for detached accessory structures. Total accessory structure area is limited to 850 square feet.

2. The applicant is proposing to construct a 28 feet by 28 feet, 2 story detached garage, 3 feet from the south property line. The second story contains 16 feet by 26 feet 8 inches of storage space. Total proposed accessory structure area is 1,210.7 square feet. The requested variances are 5 feet for side yard setback and 360.7 square feet of accessory structure area.

3. The 2013 Residential Code of Ohio requires exterior walls and projections within 5 feet of a lot line be made of 1 hour, fire-resistance rated construction. Granting of this variance does not grant variances from the 2013 Residential Code of Ohio.

4. The garage is subject to, and has been approved by, the Architectural Review Board.

The following conclusions are presented:

1. The garage replaces one that was previously on the property and allows some of the existing foundation to be reused for the new garage. The previous garage was similarly close to the property line and the detached garage to the south also is close to the property line. This mitigates the substantial nature of the side yard setback variance request.

2. The intent of the accessory structure area limit is to prevent imposing accessory structures overshadowing the main dwelling. In this particular case, the pitched roof allows for usable space for storage. Whether or not it is used for storage would not change the outward appearance of the structure. If the garage were attached to the dwelling, the storage space would not be counted as accessory structure area. These factors mitigate the substantial nature of the variance request.

3. The essential character of the neighborhood should not be substantially altered.

4. The delivery of governmental services should not be affected.

The following motion is appropriate:

THAT THE REQUEST BY TIMOTHY SHAW FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK AND ACCESSORY STRUCTURE AREA TO ALLOW THE CONSTRUCTION OF A GARAGE AT 690 EVENING STREET, AS PER CASE NO. BZA 44-15, DRAWINGS NO. BZA 44-15 DATED SEPTEMBER 10, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Reference

Portions of Section 1129.05

(b) Exceptions. In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

(5) Temporary use permits. A temporary use permit may be granted where the temporary use of a structure or premises in any district where such temporary use shall be for a period of more than ninety days is proposed for a purpose or use that does not conform to the regulations prescribed elsewhere in this Zoning Ordinance for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A temporary use permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a six-month period, subject to a six months' renewal and such conditions as will safeguard the public health, safety, convenience and general welfare.

(c) Area Variances. The Board shall have the power to hear and decide appeals and authorize variances from the provisions or requirements of this Zoning Ordinance. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objective of this Zoning Ordinance. The Board may grant a variance in the application of the provisions of the Zoning Ordinance when it is determined that practical difficulty exists based on the following factors:

(1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(2) Whether the variance is substantial;

(3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

(4) Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage);

(5) Whether the property owner purchased the property with knowledge of the zoning restriction;

(6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and,

(7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

(g) Variances to the Building Code. The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of the Building Code, Chapter 1305 of the Codified Ordinances for one, two and three family dwellings as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objective of the Building Code. The Board may grant a variance in the application of the provisions of the Building Code for one, two and three family dwellings after hearing expert independent testimony on the application only if all of the following findings are made:

(1) There are unique circumstances or conditions present by which strict conformity to the provisions of the Building Code would create significant hardship for the property owner or contractor performing services for the property owner;

(2) The unique circumstances or conditions were not created by the property owner or contractor performing services for the property owner; and,

(3) The variance, if authorized, shall not, in any way endanger the health, safety or welfare of the building occupants or the general public. Such determination shall be based on independent expert testimony.