



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

December 3, 2015

A. Call to Order – 7:30 p.m.

1. Roll Call - the following members were present: D. Falcoski, B. Seitz, L. Reibel, R. Hunter and C. Crane. Also present were L. Brown, Director of Planning & Building and D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Affirmation/swearing in of witnesses.
4. Mr. Falcoski moved to approve the November 5, 2015 minutes, seconded by Mr. Seitz. The minutes were approved.

B. Items of Public Hearing - Unfinished

Mr. Phillips reviewed the following from the staff memo:

1. Variance – Rear Yard Setback – Enclose Porch – **552 Evening St.** (Kristin & Alec Carpenter) **BZA 48-15**

Findings of fact:

1. This property is in the R-10 district where the minimum rear yard requirement is 30 feet.
2. The existing dwelling is within the 30 foot rear yard setback.
3. The applicant is proposing to enclose an existing covered porch. The requested variance is to allow this alteration entirely within the setback.
4. The property is subject to, and the alteration has been approved by, the Architectural Review Board.

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.

Discussion:

Alec Carpenter, 552 Evening Street, had nothing to add to the staff comments.

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

Mr. Seitz moved:

THAT THE REQUEST BY KRISTIN AND ALEC CARPENTER FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ALLOW THE ENCLOSING OF A PORCH AT 552 EVENING STREET, AS PER CASE NO. BZA 48-15, DRAWINGS NO. BZA 48-15 DATED OCTOBER 14, 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. The motion was approved.

C. Items of Public Hearing – New

1. Variance – Side Yard Setback – Garage – 5594 Emerson Ave. (Andrew Ross) BZA 52-15

Mr. Phillips reviewed the following from the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district where detached accessory buildings are required to be setback 8 feet from the side property line and 10 feet from the rear property line.
2. The applicant is proposing the demolition of an existing garage and construction of a 24 foot by 20 foot detached garage 3.5 feet from the south and east property lines. The requested variances are 4.5 feet for side yard setback and 6.5 feet for rear yard setback.
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.

Conclusions:

1. This lot is smaller than typically found in the R-10 district, is narrow, and does not easily allow for a 2 car detached garage without sacrificing the already small rear yard. The alley to the east separates this property from commercial properties to the east. These factors mitigate the substantial nature of the variance request.

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

Discussion:

Andrew Ross, 5594 Emerson Avenue, had nothing to add to the staff comments.

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

Mr. Hunter moved:

THAT THE REQUEST BY ANDREW ROSS FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE AND REAR SETBACK TO ALLOW THE CONSTRUCTION OF A DETACHED GARAGE AT 5594 EMERSON AVENUE, AS PER CASE NO. BZA 52-15, DRAWINGS NO. BZA 52-15 DATED NOVEMBER 4, 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. The motion was approved.

2. Variance - Side Yard Setback – Addition – 606 Morning St. (Sean Kocheran/Ryan-Hart) BZA 53-15

Mr. Phillips reviewed the following from the staff memo:

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.
2. The property has an existing detached garage, approximately 5 feet 6 inches from the south property line.
3. The applicant is proposing to attach the garage to the existing dwelling with a breezeway, and construct additional living space to the rear of the garage. The garage addition is proposed to be approximately 5 feet 6 inches from the south property line. The requested variance is approximately 2 feet 6 inches.
4. The property is subject to, and the additions have been approved by, the Architectural Review Board.

Conclusions:

1. The existing garage location influences the location of the addition. The lot is smaller than typically found in the R-10 district and moving the addition into the rear yard sacrifices the already small rear yard. 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:

Ms. Crane asked if the size of the accessory structure is not an issue and Mr. Phillips replied that is correct since the addition is going to be attached it becomes living area and the existing garage is going to stay the same.

Sean Kocheran, 351 West South Street, stated there is currently a structure behind the garage that is being removed and rebuilt.

Ms. Crane asked if there were questions for the applicant.

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

Ms. Reibel moved:

THAT THE REQUEST BY SEAN KOCKERAN AND TUESDAY RYAN-HART FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF AN ADDITION AT 606 MORNING STREET, AS PER CASE NO. BZA 53-15, DRAWINGS NO. BZA 53-15 DATED NOVEMBER 4, 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. The motion was approved.

**3. Variance – Side Yard Setback – Garage – 5595 Greenwich St. (Mike Blanchard)
BZA 54-15**

Mr. Phillips reviewed the following from the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district with a minimum side yard requirement of 6 feet.
2. The property has an existing carport and storage building attached to the existing garage, 5.7 feet from the south property line.

3. The applicant is proposing to remove the carport and add onto the existing garage in the same location as the carport, 5.7 feet from the south property line. The requested variance is 0.3 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.

Discussion:

Ms. Crane asked if this structure was already non-conforming and Mr. Phillips replied that is correct.

Mike Blanchard, 5807 Dover Court, stated the footprint will not change, just making it compliant and enclosed.

Ms. Reibel stated she knows Mr. Blanchard since he serves on the Riverlea Council. She serves as the Village solicitor for Riverlea but this relationship will not influence her vote in any way.

Mr. Seitz said he read the existing carport was not permitted and asked if this would make it compliant. Mr. Phillips replied once it is tore down and rebuilt it will be compliant.

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

Mr. Falcoski moved:

THAT THE REQUEST BY MIKE BLANCHARD FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A GARAGE ADDITION AT 5595 GREENWICH STREET, AS PER CASE NO. BZA 54-15, DRAWINGS NO. BZA 54-15 DATED NOVEMBER 6, 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. The motion was approved.

4. Variance – Front Yard Setback – Front Porch – 96 W. North St. (James Ross/Kington) BZA 55-15

Mr. Phillips reviewed the following from the staff memo:

Findings of fact:

1. This property is in the R-10 district where the minimum front yard requirement is 30 feet.
2. The applicant is proposing to construct an 8 foot by 6 foot covered entry porch over an existing stoop, approximately 29 feet 6 inches from the West North Street right-of-way. The requested variance is 6 inches.
3. The property is subject to, and the porch addition has been approved by, the Architectural Review Board.

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.

Discussion:

Ms. Crane asked for questions for staff.

Ms. Crane asked for the applicant to come forward and no one was present.

Mr. Falcoski moved:

THAT THE REQUEST BY JAMES ROSS AND BOB AND CINDY KINGTON FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ALLOW THE CONSTRUCTION OF A PORCH AT 96 WEST NORTH STREET, AS PER CASE NO. BZA 55-15, DRAWINGS NO. BZA 55-15 DATED NOVEMBER 6, 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. The motion was approved.

5. Variance – Signage – 660 High St., Suite 201 (Nicole Covington) BZA 56-15

Mr. Phillips reviewed the following from the staff memo:

Findings of fact:

1. This property is in the C-5 district where each business is permitted 1.5 square feet of signage for each lineal foot of frontage along the street.
2. Tenant Nicole Covington, agent for Farmers Insurance, is on the second floor at the back of the building. Having no frontage along a street, the tenant is not permitted signage excepting a professional nameplate not exceeding 2 square feet in area.
3. The applicant is proposing to erect a 135 inch by 21.5 inch wall mounted sign, and a 23 inch by 6 inch, two sided, projecting sign. The total requested sign area is 22.07 square feet. The requested variance is 22.07 square feet.
4. The property is subject to approval by the Architectural Review Board and will be heard at next week's meeting.

Conclusions:

1. Businesses without street frontage are not permitted signage and can create a practical difficulty placing a sign large enough to be found by motorists looking for the business. 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.

Discussion:

Nicole Covington, 660 High Street, Suite 201, stated the landlord supports the variance.

Ms. Crane asked if there is a front entrance and Ms. Covington replied yes.

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

Michael Glass, 660 High Street, stated they are using the same sign company as Jet's Pizza.

Ms. Reibel moved:

THAT THE REQUEST BY SEAN AND KELLY ALTO FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACKS TO ALLOW THE ERECTION OF A FENCE AT 142 EAST SOUTH STREET, AS PER CASE NO. BZA 49-15, DRAWINGS NO. BZA 49-15 DATED OCTOBER 13, 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. Mr. Hunter, aye; Ms. Reibel, aye; Mr. Falcoski, aye; Mr. Seitz, no; and Ms. Crane, aye. The motion was approved.

6. Variance – Rear Yard Setback – Shed – 140 W. New England Ave. (Sherri & Stephan Cooke) BZA 57-15

Mr. Phillips distributed a revised site plan and an email communication that was received by staff to each Board member.

Mr. Phillips reviewed the following from the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district. Sheds not exceeding 120 square feet in area must be setback a minimum of 5 feet from the side and rear property lines.
2. The applicant placed a metal shed on the property, very near the north property line, without approvals. The Architectural Review Board did not approve the material of the shed.
3. The applicant is proposing the construction of a 15 foot 8 inch wide by 4 foot 8 inch deep wooden shed along the existing fence, 3.5 feet from the north property line. The requested variance is 1.5 feet.
4. The shed is subject to approval by the Architectural Review Board which is scheduled next week.

Conclusions:

1. Corner lots are encumbered with additional setback requirements which can limit the size and use of rear yards when trying to place even modest sheds on the property. In this particular case, the existing fence is 3 feet 6 inches from the property line and placing it next to fence minimizes the impact to the usable rear yard. 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:

Ms. Crane asked if there were any questions for staff.

Ms. Reibel asked if there was an issue with the material of the shed and Mr. Phillips replied the Architectural Review Board had a problem with the metal shed being placed on the property line, which will be removed once this shed is approved.

Ms. Crane asked if the placement of this shed would be the same and Mr. Phillips replied no, the proposed shed will be on the other side of the existing fence.

Mr. Seitz asked if changes are made at the Architectural Review Board will the applicant have to come back before the Board of Zoning Appeals, and Mr. Phillips replied only if the shed is bigger and not smaller.

Mr. Seitz stated the new shed is proposed closer to the house than the existing shed and Mr. Phillips replied that is correct.

Sherri Cooke, 140 West New England Avenue, stated they were originally approved to have a shed on the side of the house. Due to remodeling they had to move it, but when they went before the Architectural Review Board they did not like the materials. Now they propose this location for convenience. It will not extend past the northern neighbors house, which has no windows on the side, and there is a screen of trees between the properties. Since this is a corner lot, they have a playground set, and a playhouse for their kids, this is actually the best place for the shed.

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

Dwight Barkhurst, 664 Evening Street, stated the two windows in their family room and a three season room face the Cooke's rear yard. He showed a picture taken from his deck which depicts the Cooke's fence and shows that if the shed is put against the fence it will really stand out since vegetation is limited. He included a picture of their garage door which is sixteen feet long to help the Board visualize how large a fifteen foot shed would be. He then showed a site plan he had drawn showing how close the proposed shed would be to his home.

Mr. Barkhurst stated they are opposed to this variance, they would like the shed to be placed away from the fence for safety reasons, like a fire and maintenance of the shed. He believes the closer the shed is to his property the more his property will be devalued.

Ms. Crane asked what he expects to see when he is out on his deck and Mr. Barkhurst replied not a shed. Mr. Hunter said this variance is only for one and a half feet, so if they were to move it and it did not require a variance Mr. Barkhurst would still see the shed from your yard.

Ms. Crane asked if all of the accessory structures are within the eight hundred fifty allowable square feet and Mr. Phillips replied yes.

Ms. Crane asked if this structure have to comply with the building codes for fire separation and Mr. Phillips replied, no, since it is less than two hundred square feet in size.

Mr. Seitz asked if they would be willing to do a one hour fire rated wall on the back wall if approved, and Ms. Cooke replied yes.

Ms. Reibel asked what would be the hardship if the variance was not granted and Ms. Cooke stated it would be weird to have a foot and a half between the shed and the existing fence and they would like it next to the fence. Ms. Crane asked how they propose to do shed maintenance and Ms. Cooke stated they could always empty the shed and move it away from the fence for maintenance.

Mr. Hunter moved:

THAT THE REQUEST BY SHERRI AND STEPHAN COOKE FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A SHED AT 140 WEST NEW ENGLAND AVENUE, AS PER CASE NO. BZA 57-15, DRAWINGS NO. BZA 57-15 DATED NOVEMBER 9, 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. The motion was approved.

D. Other

Mr. Hunter told the Board that he is retiring from City service including ARB, MPC and BZA after next week’s meeting.

Mr. Brown reminded the Board that as of January 1, 2016 all emails will be sent to their City email address.

E. Adjournment

Mr. Hunter moved to adjourn the meeting at 8:32 p.m. and Mr. Falcoski seconded the motion. All Board members voted, “Aye” and the meeting was adjourned.