



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

June 2, 2016

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: D. Falcoski, M. Coulter; B. Seitz; L. Reibel and C. Crane. Also present was D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Approval of minutes of May 5, 2016 meeting.

Mr. Falcoski moved to approve the minutes and Mr. Seitz seconded the motion. All Board members voted “aye”.

4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing

1. Variances – Signage – 6600 N. High St. (Fastsigns/FC Bank) BZA 22-16

Mr. Phillips reviewed the following from the staff memo:

Findings of fact:

1. This property is in the C-3 district where the following are required:
 - a. Maximum of 1 wall mounted sign per business,
 - b. Maximum freestanding sign area of 60 square feet,
 - c. Maximum total sign area of 100 square feet.
2. The applicant is proposing the following:
 - a. A 75 inch by 54 inch wall mounted sign over the main entry door, totaling 28.125 square feet and a second wall mounted sign in the form of a logo, approximately 6.7 feet by approximately 2.8 feet cast into the building, totaling approximately 18.76 square feet. The requested variance is a second wall mounted sign.
 - b. An 8 foot by 7 foot double sided freestanding sign, totaling 112 square feet. The requested variance is 52 square feet for freestanding sign area.
 - c. The total proposed sign area is approximately 158.885 square feet. The requested variance is approximately 58.885 square feet.

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

The following conclusions are presented:

1. The site is 2.85 times larger than the minimum of 20,000 square feet for the district although the same sign requirements would apply to a much smaller site. The second wall sign in the form of a logo will blend into the building façade, lessens its impact, and mitigates the substantial nature of the second wall sign variance request.
2. Sign area definition requires bases to be included if over 2 feet in height, adding an additional 42 square feet of sign area to the freestanding sign. Excluding this base, or if the sign were lowered 8 inches, the freestanding sign area would not be substantial and mitigates the substantial nature of the freestanding sign area variance request.
3. Similarly, the total sign area, when reduced by the enlarged base of the freestanding sign by 42 square feet, would not be substantial and mitigates the substantial nature of the total sign area variance request.
4. The essential character of the neighborhood should not be altered.
5. The delivery of governmental services should not be affected.

Discussion:

Ms. Crane asked if the applicant was present.

Dan Stutzman with Fastsigns, 144 West Twelfth Street, Erie, Pennsylvania, said he was comfortable with the decision made by the ARB Board. Ms. Crane asked if there will color on the wall sign and Mr. Stutzman replied the wall sign will have a stone cast concrete look.

Ms. Crane asked if there was anyone to speak either for or against this application.

Mr. Falcoski moved:

THAT THE REQUEST BY FASTSIGNS AND FC BANK FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE AT 6600 NORTH HIGH STREET, AS PER CASE NO. BZA 22-16, DRAWINGS NO. BZA 22-16 DATED MARCH 10, 2016 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. All members voted “aye” excepting Ms. Crane who voted no. The motion was approved.

**2. Variance – Side Yard Setback – Satellite Dish – 232 Pingree Dr. (Bryan Aldrich)
BZA 36-16**

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 6 feet.
2. The existing dwelling is 4.5 feet from the west property line.
3. There is an existing satellite dish in the west side yard, 1 foot from the west property line. The requested variance is 5 feet.
4. The Division of Building Regulation has no record of any previous inquiries about the satellite dish.

The following conclusions are presented:

1. Existing lots of record tend to be smaller than typical for the district. In this particular case, the property is also a corner lot, limiting options for placing accessory structures on the property and creating a practical difficulty. Although the satellite dish could be placed on the roof, it is less visible in its current location. The satellite dish in the required side yard is a substantial 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 applicant was present.

Bryan Aldrich, 232 Pingree Drive, apologized and said that he was unaware of code restrictions. He said that he tried to place the dish behind the fence in the back of the house but do to the electrical lines the dish company told him that the back yard was not an option because the electrical lines would interfere with the signal. He did not want to have to put the dish on the roof.

Mr. Seitz asked Mr. Aldrich if he had spoken with the neighbors about the dish and Mr. Aldrich said no, but the dish has been in that spot for two years and no one has complained or said anything to him about the dish. There was no dish prior before he moved in.

Ms. Crane asked if the Board could ask for landscape screening for the dish such as they do for air conditioning units and Mr. Phillips replied yes, typically the screening would need to be as high as the air conditioning unit but in this particular case, the bushes would have to be fairly tall to screen the satellite dish and far enough away as to not interfere with the dish.

Mr. Coulter asked what the distance was between the satellite dish and the window well and Mr. Aldrich replied the dish is approximately six to eight feet away from the window well. Mr. Coulter said if the area is only six feet then putting a bush within that area may prevent someone trying to escape the window well area. Ms. Crane suggested putting the bush on the other side. Mr. Falcoski asked if a bush could be added and Mr. Aldrich replied it would not be a problem.

Ms. Crane asked if there was anyone to speak either for or against this application.

Mr. Falcoski moved:

THAT THE REQUEST BY BRYAN ALDRICH FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW AN EXISTING SATELLITE DISH TO REMAIN AT 232 PINGREE DRIVE, AS PER CASE NO. BZA 36-16, DRAWINGS NO. BZA 36-16 DATED APRIL 12, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING WITH THE AMENDMENT THAT A SECOND BUSH OF SIMILAR SIZE AND SPECIES BE PLANTED NEAR THE TWO BUSHES THAT ARE ALREADY THERE TO THE WEST OF THE RAILING AND EGRESS.

Mr. Coulter seconded the motion. All members voted “aye” and the motion was approved.

3. Variances – Side & Rear Yard Setbacks – Addition – 226 Pinney Dr. (Michael Ciotola) BZA 37-16

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 6 feet and the minimum rear yard requirement is 30 feet.
2. The existing dwelling was granted a rear yard setback variance on March 6, 2003.
3. The applicant is proposing to construct another addition, 5.1 feet from the west property line and from 26 feet to 28 feet from the north property line. The requested variances are 0.9 feet for side yard setback and from 4 feet to 2 feet for rear yard setback.

The following conclusions are presented:

1. Existing lots of record tend to be smaller than those typically found in the district. In this particular case, the existing dwelling is within the 6 foot west side yard and the addition will not encroach any further into the side yard. Similarly, the existing dwelling encroaches into the rear yard and the addition will square off the rear of the property. Both of these situations create a practical difficulty. In either case, 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:

Ms. Crane asked if the applicant was present.

Michael Ciotola, 226 Pinney Drive, said he had nothing to add.

Ms. Crane asked if there was anyone to speak either for or against this application.

Mr. Seitz moved:

THAT THE REQUEST BY MICHAEL CIOTOLA FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE AND REAR SETBACK TO ALLOW THE CONSTRUCTION OF AN ADDITION AT 226 PINNEY DRIVE, AS PER CASE NO. BZA 37-16, DRAWINGS NO. BZA 37-16 DATED MAY 2, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Ms. Reibel seconded the motion. All members voted “aye” and the motion was approved.

4. Variance – Front Yard Setback – New Porch Roof – 87 Sharon Springs Dr. (Creative Earthscapes/Horch) BZA 38-16

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 required front yard is 30 feet.
2. The applicant is proposing to replace the existing front porch with a 5 foot by 5 foot porch roof 22 feet from the Sharon Springs Drive right-of-way. The requested variance is 8 feet.

The following conclusions are presented:

1. This neighborhood was developed with a 25 foot front setback and when annexed into Worthington, the more restrictive 30 foot front setback applies. This creates

a practical difficulty trying to provide a covered entrance into a dwelling. In this particular case, the roof over the stoop is open and not a significant addition to the existing dwelling. 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 applicant was present.

Kelly Morris, representing Creative Earthscapes and her client Greg Horch, 376 Morrison Road, Suite F, Columbus, said her client would like to have a more formal entrance similar to the neighbors. This porch will have a permanent roof over it.

Ms. Crane asked if there was anyone to speak either for or against this application.

Mr. Seitz moved:

THAT THE REQUEST BY CREATIVE EARTHSCAPES AND GREG HORCH FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ALLOW THE CONSTRUCTION OF A PORCH AT 87 SHARON SPRINGS DRIVE, AS PER CASE NO. BZA 38-16, DRAWINGS NO. BZA 38-16 DATED MAY 5, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Coulter seconded the motion. All members voted “aye” and the motion was approved.

5. Variances – Side & Rear Yard Setbacks – Shed – 220 E. Stafford Ave. (Stuart Schwotzer) BZA 39-16

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 not greater than 120 square feet in area must be no closer than 5 feet from the side and rear property line.
2. The applicant is proposing to replace a 10 foot by 6 foot shed with a 10 foot by 8 foot shed, 1 foot from the west and north property lines. The requested variances are 4 feet for side and rear yard setbacks.

The following conclusions are presented:

1. Existing lots of record tend to be smaller than those typically found in the district. In this particular case, the existing dwelling encroaching within the rear yard, limiting its size and use, including the placement of sheds, and creating a practical difficulty. Although these factors can mitigate the substantial nature of the variance request, staff is concerned about long term maintenance of the shed.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected since Worthington has no utilities within the easement. Other public utilities, like American Electric Power, may need to move the shed to make repairs to electrical lines, which may damage or destroy the shed. Typically the easement language precludes liability upon the utility if the shed is damaged when placed within the easement.

Discussion:

Ms. Crane asked if the applicant was present and said she is concerned the shed is so close to the property lines. Usually the minimum setback would be at least two feet, which would bring the shed out another foot away from the property line.

Stuart Schwotzer, 220 East Stafford Avenue, said that he did not have a problem moving the shed another two feet. Mr. Seitz asked if the shed was sitting on a concrete slab and Mr. Schwotzer said yes. He said that his shed is eight by ten feet and will have to ask the manufacturer of the shed company to find out what the shed should sit on.

Ms. Crane asked what she was looking at in the photograph and Mr. Schwotzer replied it is a picture of the old shed. She asked what the building behind his old shed is and Mr. Schwotzer replied it is his neighbor's shed. Mr. Phillips said that the neighbor received a two foot rear and one foot side yard setback variance for their shed in 2006.

Ms. Crane asked if there was anyone to speak either for or against this application.

Ms. Reibel moved:

THAT THE REQUEST BY STUART SCHWOTZER FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE AND REAR SETBACK TO PLACE A SHED AT 220 EAST STAFFORD AVENUE, AS PER CASE NO. BZA 39-16, DRAWINGS NO. BZA 39-16 DATED MAY 6, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING WITH THE CONDITION THAT THE SHED BE AT LEAST TWO FEET FROM THE WEST AND NORTH PROPERTY LINES.

Mr. Seitz seconded the motion. All members voted "aye" and the motion was approved.

6. Variance – Front Yard Setback – Porch & Fence – 73 Orchard Dr. (G. Erik Stump/Brown & Haydel) BZA 40-16

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 front and rear yard requirement is 30 feet. Corner lots are permitted to reduce the adjacent yard to 20 feet. Fencing is not permitted between the right-of-way line and the building setback line. Fencing and landscaping within 10 feet of the right-of-way cannot exceed a height of 2 feet 6 inches above the street grade.
2. The Orchard Drive right-of-way is 50 feet, and the Hartford Street right-of-way is 66 feet. There is a 16 foot unimproved alley to the south. The existing dwelling is 24 feet 7 inches from the Orchard Drive right-of-way and 6 feet 7 inches from the Hartford Street right-of-way. A front yard setback variance was granted on July 7, 2011 for a 8 foot by 6 foot covered porch.
3. The applicant is proposing a 12 foot by 8 foot porch, 16 feet 7 inches from the Orchard Drive right-of-way. The requested variance is 13 feet 5 inches.
4. The applicant is also proposing a 30 inch tall, open style picket fence along the Orchard Drive right-of-way to the Hartford Street right-of-way, 5 feet 5 inches into the Hartford Street right-of-way, continuing south within the Hartford Street right-of-way to a point just north of the existing detached garage and approximately 25.9 feet from the alley right-of-way, and continuing to the east to connect to the existing detached garage. The requested variances is to allow the fencing within the 30 foot front and 20 foot side yards, and approximately 4.1 feet for rear yard setback.
5. Assuming a 6 inch curb and a relatively flat yard, the maximum fence height of 2 feet 6 inches at street grade is approximately 2 feet above the ground. The requested variance for fence height is 6 inches.
6. Worthington City Council must approve any portion of the fence in the right-of-way. Any Board of Zoning Appeals approval does not grant any City Council approval.

The following conclusions are presented:

1. The property is on a corner with additional setback requirements not typically required on other properties in the district. The dwelling is within the front setback and creates a practical difficulty trying to provide a covered entrance. The property had received a variance in the past for a smaller front porch. These factors mitigate the substantial nature of the porch variance request.

2. Fencing is typically not permitted in the front yard and corner lots have a practical difficulty with additional setback requirements limiting the amount of rear yard that could be fenced. An alley creates further difficulties by creating 3 sides of fencing restrictions. In this particular case, the Hartford Street right-of-way is much wider than a typical residential street which may mitigate the encroachment of the fence into at least a portion the front yard setback, perhaps the 6 foot 7 inches between the dwelling and the Hartford Street right-of-way to the north elevation of the dwelling. The fencing within the 30 foot Orchard Drive portion of the property is substantial. The fencing within the rear setback is not substantial given the alley is unimproved.
3. The purpose of preserving intersection sight lines is to allow vehicle drivers to see vehicles, pedestrians, bicyclists, and other users of roads and sidewalks well before reaching a intersection. The proposed fence will impact the sight lines at the intersection for westbound traffic on Orchard Drive, and greatly impact northbound traffic on Hartford Street. The zoning code recognizes these hazards and prohibits fencing exceeding 2 foot 6 inches above the road surface when located within 10 feet of the right of way. In this particular case, the fencing only exceeds the maximum height above the roadway by approximately 6 inches and the open style of the fence does not make the fence height variance request substantial.
4. The essential character of the neighborhood will be altered since fencing is rarely approved in the front yard.
5. The delivery of governmental services should not be affected.

Discussion:

Ms. Reibel stated for the record she lives on the other side of Orchard Drive and wanted to know if she needed to recuse herself from the vote. Mr. Phillips replied no, as long as you do not own the property for this application. Ms. Reibel said she does not own this property.

Ms. Reibel said she has not seen this type of application before and wanted to know if this type of variance has been granted in the past. Mr. Phillips replied yes, under certain circumstances, such as along Dublin-Granville Road for a split rail fence, and also for a chain link fence in the Colonial Hills area. Mr. Coulter explained that the Architectural Review Board has approved thirty inch high fences.

Ms. Crane asked if the applicant was present.

Trevor Brown, 73 Orchard Drive, said that the fence was there when he purchased the home. He did not know when the fence was installed. The neighboring fence does not go all the way to the street. Ms. Crane why he wants the fence across the front yard and Mr. Brown replied to create some continuity with the fence in the back, to contain dogs and children in the yard, and for aesthetics and character. They believe the fence is visually appealing.

Mr. Seitz asked he knew that he would have to appear before City Council when he applied and Mr. Brown replied no. Mr. Phillips stated if the fence was moved back from the right-of-way then Mr. Brown would not have to appear before City Council. Mr. Brown said that he is willing to lower the fence by six inches.

Ms. Reibel said that she did not think that there were any other fences like this in the neighborhood. Ms. Crane said that as far as aesthetics, the Board and City staff like to see the streetscape open instead of having the properties chopped up. Mr. Brown said that he is respectful of that but there are plenty of neighboring properties that use hedge lines to break up the property.

Ms. Reibel if he had a chance to speak with any of the neighbors and Mr. Brown replied no.

Mr. Seitz said that he does not have an issue with the fence on the Hartford Street side, nor does he have a problem with the fence on the Orchard Drive side because he believes this property can support this style of fence. He said that the Board approved the removal of a chain link fence and the addition of a fence across the yard in the Indianola Avenue area, but he is only one vote on the Board. Ms. Reibel asked if the property Mr. Seitz was talking about was a corner lot and Mr. Seitz replied yes. Mr. Coulter said that he agreed with Mr. Seitz because of the reasons he stated. If you take a look at the homes from the 1940's and the 1950's in other cities that is not uncommon.

Ms. Reibel said that she is more concerned with the Hartford Street side of the fence, and a letter from a neighbor was submitted that the Board needs to take a look at. When you drive up from the Colonial Hills area, there is visual continuity where there are no fences going up the hill towards the historic district. Mr. Seitz said that the letter is from the neighbor to the south of this property. The neighbor's concern is that she parks in the garage across from the abandoned alley.

Mr. Brown asked about the porch and Mr. Seitz said that he did not have any concerns about the porch.

Ms. Crane asked if there was anyone to speak either for or against this application.

Mr. Seitz moved:

THAT THE REQUEST BY G. ERIK STUMP, TREVOR BROWN, AND ELIZABETH HAYDEL FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO CONSTRUCT A PORCH AND ERECT A FENCE AT 73 ORCHARD DRIVE, AS PER CASE NO. BZA 40-16, DRAWINGS NO. BZA 40-16 DATED MAY 6, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING WITH THE EXCEPTION OF THE FENCE BEING TWENTY-FOUR INCHES ABOVE GRADE IN BOTH THE FRONT AND SIDE YARD

Mr. Falcoski seconded the motion. Mr. Phillips called the roll and Ms. Crane and Ms. Reibel voted no, Mr. Coulter, Mr. Seitz, and Mr. Falcoski voted yes. The motion was approved.

7. Variance – Front Yard Setback – Patio with Fence – **5596 N. High St.** (David A. Creighton/Over the Counter) **BZA 41-16**

Mr. Phillips reviewed the following from the staff memo:

Findings of fact:

1. This property is in the C-2 district where the minimum front yard requirement is 50 feet. Fencing is not permitted between the right-of-way line and the building setback line.
2. The existing sidewalk in front of the existing building appears to be 51 feet from the North High Street right-of-way.
3. The applicant is proposing to erect a 3 foot 4 inch tall, open style fence around a proposed patio. The fencing will project 14 feet 7 inches from the existing sidewalk building towards North High Street, or approximately 36 feet 5 inches from the right-of-way. The requested variance is approximately 13 feet 7 inches.
4. The patio and fencing is subject to, and have been approved by, the Architectural Review Board with other site modifications.
5. The building and patio egress system and the accessible parking of the site must comply with the 2011 Ohio Building Code. Any variances from the Ohio Building Code must be granted by the Ohio Board of Building Appeals and cannot be granted by this Board.

The following conclusions are presented:

1. Eating and drinking establishments are seeing an increased demand for outdoor seating. This particular site is constrained and creates a practical difficulty trying to provide that outdoor seating. The intent of fencing not being in the front setback is to create visually open avenues. In this particular case, parking in the front setback already takes away from this ideal goal. The fencing is not very tall and is an open style. All of 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 applicant was present and what type of restaurant this would be.

David Creighton, 3860 North High Street, Columbus replied it will be a modern diner and alcohol will be served. Mr. Seitz asked if the parking lot will be restriped and Mr. Creighton replied yes. The current striping is irregular, but there still should be a total of ninety parking spaces.

Ms. Crane asked if there was anyone to speak for or against this application.

Joe Kohler, 7072 Lansdowne Street, said that he is a parishioner at St. Michael Church, and he sent an email to Board and asked if the members had a chance to read it. He reiterated that Mr. Creighton said that this will be a neighborhood restaurant, and there will be no bands with loud music. He welcomes Mr. Creighton and his new restaurant and reminds him that the convent is two hundred and fifty feet away from this new business and to keep the noise level low. The church is two hundred and ninety five feet away. He just wants to make sure the noise level is kept low.

Mr. Falcoski moved:

THAT THE REQUEST BY DAVID A. CREIGHTON AND THE ROBERT AND NELLIE NICKLAUS TRUST FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ERECT A FENCE AT 5596 NORTH HIGH STREET, AS PER CASE NO. BZA 41-16, DRAWINGS NO. BZA 41-16 DATED MAY 6, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Coulter seconded the motion. All members voted “aye” and the motion was approved.

8. Variance – Sign – 137 E. Granville Rd. (DaNite Sign Company/Sharon Memorial Hall) **BZA 42-16** **withdrawn by applicant**

C. Other

There was no other business to discuss.

D. Adjournment

Mr. Seitz moved to adjourn, seconded by Ms. Reibel. The meeting adjourned at 8:06 pm.