

MINUTES OF THE REGULAR MEETING  
OF THE  
WORTHINGTON BOARD OF ZONING APPEALS  
JUNE 3, 2010

The regular meeting of the Worthington Board of Zoning Appeals was called to order at 7:30 P.M. with the following members present: R. Hunter, L. Reibel, R. Dorothy, C. Crane, and D. Falcoski. Also present was D. Phillips, Chief Building Inspector.

Those present recited the Pledge of Allegiance.

Mr. Falcoski asked if the minutes of the May 6, 2010 were prepared and Mr. Phillips replied they were not.

Mr. Falcoski asked those that plan to speak to fill out speaker slips and to be sworn. Mr. Phillips swore in the witnesses prepared to comment at tonight's meeting.

AGENDA ITEM B-1 – Appeal – Decision of the Building Inspector – 6603 McBurney Place (Trevor Custom Homes, LLC/Sherman) BZA 11-10.

Mr. Falcoski asked for Staff comments.

Mr. Phillips said the appeal had been withdrawn by the appellant and no further action is required.

AGENDA ITEM C-1 – Variances – Front & Side Yard Setback on Corner Lot – Wall and Roof – 1000 High Street (James J. Pardi) BZA 13-10.

Mr. Falcoski asked for staff comments.

Mr. Phillips said the property is an existing lot of record in a C-3 district with a minimum front yard setback of 50 feet along High Street and a minimum front yard setback of 33 feet 4 inches permitted for corner lots along Wilson Drive. A portion of the existing retaining wall recently collapsed and the applicant is proposing to reconstruct the entire retaining wall along the property line. Small portions of the proposed wall will be in the right of way, including a portion of the entire retaining wall footing. The requested variance is to allow the entire retaining wall to be reconstructed in the 50 foot High Street and 33 foot 4 inch Wilson Drive front yard setbacks. The applicant is also proposing to replace a canopy that recently collapsed over the main north entry of the building. The proposed canopy is approximately 12'-4" from the face of the building, which is approximately 30' from the right of way. The proposed variance is to allow the entire canopy to be constructed in the 33 foot 4 inch setback. The wall and canopy are subject to approval by the Architectural Review Board and were approved on May 13, 2010. The

Director of Public Service has authority to approve the portions of the footing and wall in the public right of way and were approved on May 20, 2010.

Mr. Phillips continued to say the wall and canopy have been a part of this property since it was built in 1960, requires replacement, and if the variances are not granted, would pose a hardship on the property owner to re-grade the parking lot and to not provide protection from the elements at the north entrance of the building. The essential character of the neighborhood should not be substantially altered. The delivery of governmental services should not be affected.

James Pardi, 1000 High Street, addressed the Board and said he had nothing further to add to staff comments.

Mr. Falcoski asked if the Board had any questions.

Mr. Hunter said this case was at Architectural Review and there were no objections.

Mr. Falcoski asked if there were any in the audience who wished to speak for or against this variance request.

Seeing no one, Ms. Crane moved:

**THAT THE REQUEST BY JAMES J. PARDI FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT AND SIDE YARD SETBACK ON A CORNER LOT TO ALLOW THE RECONSTRUCTION OF A WALL AND ROOF AT 1000 HIGH STREET, AS PER CASE NO. BZA 13-10, DRAWINGS NO. BZA 13-10 DATED APRIL 28, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

Ms. Dorothy seconded the motion. All members voted “aye” and the motion carried.

AGENDA ITEM C-2 – Variances – Front Yard Setback – Roof – 559 Colonial Avenue (Christopher J. Kramer)

Mr. Falcoski asked for staff comments.

Mr. Phillips said the property is an existing lot of record in an R-10 district with a minimum front yard setback of 30 feet plus architectural projections of not more than 30 inches. The applicant is proposing to replace the front porch with a new covered porch 25.75 feet from the right of way with a 14 inch architectural projection. The requested variance is for 4.25 feet and the 14 inch architectural projection, or 5.42 feet.

Mr. Phillips continued to say the smaller lot sizes of this neighborhood and the locations of the dwellings from the right of way limit the ability of these homes from having covered porches and entrances without a variance. The essential character of the neighborhood should not be substantially altered nor the delivery of governmental services should not be affected.

Ann Kramer, 559 Colonial Avenue, addressed the Board representing Chris Kramer.

Mr. Falcoski asked if the Board had any questions.

Mrs. Reibel asked if any of the neighbors have a larger porch. Ms. Kramer replied the neighbor to the east has a very large porch in front but no roof over it. A photograph of that porch was displayed. Mr. Hunter said there are several in the neighborhood but nothing specific he can recall.

Ms. Crane asked if the porch will be large enough to sit at or will it just be an entryway. Ms. Kramer replied one can place a chair on the porch but the roof is really for the protection of someone standing at the door and to prevent the stoop from having ice forming on it.

Mr. Falcoski asked if anyone in the audience would like to speak for or against this variance request.

Seeing no one, Mr. Hunter moved:

**THAT THE REQUEST BY CHRISTOPHER J. KRAMER FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ALLOW CONSTRUCTION OF A ROOF AT 559 COLONIAL AVENUE, AS PER CASE NO. BZA 14-10, DRAWINGS NO. BZA 14-10 DATED APRIL 30, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

Ms. Crane seconded the motion. All members voted “aye” and the motion carried.

AGENDA ITEM C-3 Variances – Front and Side Yard Setback – Garage Addition – 6885 Haymore Avenue West (Michael E. Jones – Jester Jones Schifer Architects/Laughman) BZA 15-10.

Mr. Falcoski asked for staff comments.

Mr. Phillips said the property is zoned R-10 with a minimum front yard setback of 30 feet and minimum side yard setback of 8 feet. The applicant is proposing to enlarge the front of the existing two car garage approximately 28 feet from the right of way at its closest point plus footing and architectural projections. The footing projection below grade appears to be approximately 6 inches and the architectural projection above grade appears

to be approximately 12 inches. The requested front yard variance is 2 feet for a portion of the enlargement plus footing and architectural projections of 6 inches and 12 inches, respectively, or approximately 3 feet. The applicant is also proposing to add an additional bay to the north of the garage 4 foot 10 inches from the north property line plus a footing and architectural projections. The projections appear to be approximately 6 inches. The requested variance is 3 feet 2 inches plus the footing and architectural projections of 6 inches, or approximately 3 feet 8 inches. There is a 10 foot construction easement along the north property line. The property to the north has a 10 foot easement, a storm sewer, and a 5 foot construction easement along its southern property line. Construction into the construction easement will require approval from City Council.

Mr. Phillips continued to say a corner of the existing dwelling was constructed at the front yard setback and enlarging the existing garage 2 feet, where a small portion of that enlargement is in the front yard setback, staff did not see as substantial. The garage addition variance request appears to be substantial but is mitigated by the 15 foot easements on the property to the north, and staff felt the essential character of the neighborhood should not be affected. The storm sewer on the property to the north can be maintained within a typical 10 foot easement. Construction easements are typically granted as temporary construction easements but staff could not determine why these construction easements were not temporary or if they had expired. Approval of this variance request is not a guarantee that City Council will grant permission to build the garage in the construction easement. The delivery of governmental services should not be affected.

Ms. Crane asked how large are the architectural projects or how large can they be and Mr. Phillips replied an architectural projection can be 30 inches into front yard setback. Ms. Crane said you cannot build a carport and call it an architectural projection and Mr. Phillips replied that is correct and the zoning code defines them as eaves, gutters, things of that nature. Ms. Crane said the wall of the garage will be two feet into the front yard setback. Mr. Phillips replied that is correct. Ms. Crane said some will extend more than that into the setback but some will be underground, no one will see it, and some will be hanging over as a design element and Mr. Phillips replied that is correct.

Ms. Reibel asked if the applicant is converting a two car garage into a three car garage. Mr. Phillips replied the applicant is adding an additional garage bay, and the existing two car garage bay is being enlarged by two feet.

Mike Jones, Jester Jones Schifer Architects, 6209 Riverside Drive, Suite 200, Dublin addressed the Board and said Ted Wilkenson, Mrs. Laughman's father will act as construction manager if the variances are approved. Mr. Jones said they have substantially reduced the side yard variance request from the last time this matter came before the Board. The garage door was reduced from nine feet to eight feet which increased the side yard space, also allows less drastic grading, and allows opportunities to ensure the grading does not affect drainage onto the adjacent property.

Mr. Jones continued to say the front elevation of the house is offset so that it does not appear to be a 30 foot addition to a 30 or 35 foot wide house and breaks up the front elevation so that as you drive along the street, you will see those various elements front, forward, and further back in relation to each other. Mr. Jones said landscaping would occur along the new north elevation with foundation plantings, like boxwood or taxus, along with the regarding, and planted with grass.

Mr. Jones said there was an issue about appraisal value being reduced because a garage is being added and his experience with realtors and appraisers, anytime you increase square footage, the appraisal value will rise whether it is a garage, a recreation room, or kitchen addition. Mr. Jones said there are other properties in the neighborhood with three car garages and one is a four car garage, and one about three blocks away that is a three car garage.

Mr. Jones presented a tabulation of the average distances between houses and the average calculated was 31.3 feet. This application is proposing 38.2 feet. Mr. Falcoski asked whether the proposed separation is approximately seven feet greater than the average in the neighborhood and Mr. Jones replied that was correct, and that is from the new construction to the existing house to the north.

Mr. Hunter said it appears from the site plan the existing distance from the existing garage to the existing house to the north is 38.2 feet without the garage addition. Mr. Jones replied that is correct, he misstated the distance, and it really is 38.2 feet from the existing garage to the existing dwelling to the north. The proposed distance from the added garage to the existing dwelling to the north is 28.2 feet, and that includes the 10 foot addition. Mr. Falcoski asked if the addition would create a separation of approximately 3 feet less than the average for the neighborhood and Mr. Jones replied yes.

Mr. Hunter said he drove the Haymore area and found a detached garage to the rear of a house but did not find any three car garages. South of the area there are larger homes with larger garages.

Ms. Crane asked if the extension into the front yard setback is the same as previously proposed and Mr. Jones replied it is. Ms. Crane said the difference between this application and the previous application is the added bay is more narrow and Mr. Jones replied that is correct.

Mr. Falcoski asked the reason for the offset of the added garage bay was to break up the façade and Mr. Jones replied that is correct, and to provide greater depth of the existing garage that was constructed in the 1970's and was minimal for the size of the automobiles and vans that most young families have.

John Laughman, 6885 Haymore Avenue West, addressed the Board and presented photographs of other dwellings in the neighborhood. One dwelling is 415 Haymore Avenue North were a two car garage faces Haymore and another two car garage faces

Rieber. Ms. Crane asked if that is a corner lot and Mr. Laughman replied it is. Mr. Falcoski asked to identify the property on the site plan and Mr. Phillips replied it appears to be Lot 32.

Mr. Laughman displayed a photograph of 405 Olenwood Avenue. Mr. Falcoski asked how far away is Olenwood and Mr. Laughman replied it is two streets away on the same side of the street. Ms. Crane asked if that is three garage bays in a row and Mr. Laughman replied it is a two car bay and a one car bay with a divider in the middle.

Mr. Hunter said with respect to Lot 32, both garages face different streets and does not give the appearance of a four car garage. Mr. Hunter said he has no trouble with the front projection into the front yard setback but is struggling with the projection into the side yard setback because it significantly reduces the open space between the houses. Mr. Laughman replied he agrees, the last proposal that was denied, and this proposal considerably reduces the projection in response to those concerns. Mr. Laughman continued to say that the neighbor to the north had asked in a letter for something smaller in size, that it was too large and too invasive. The current design took those concerns into account. Mr. Hunter said the new letter dated May 21, 2010 expresses the same concerns.

Mr. Hunter said, as a realtor, he agrees with Mr. Jones that increased square footage increases the appraisal value of a property but it is the impact on the neighborhood that concerns him. This Board and the Architectural Review Board typically does not consider values such as appraisal and cost – whether an increase or a decrease. The real concern is the garage is getting real close to the property line. The construction easements and the drainage concerns are problems.

Mr. Hunter said there is a significant fall from the garage to the property line to the north. Mr. Laughman replied the land also rises at the property line to the north to the house to the north. Mr. Hunter stated that may be true but the neighbor to the north cannot control what happens on the property to the south. Mr. Laughman replied it is fairly difficult for the water flowing to the property line to flow up the grade to affect the property to the north. Mr. Hunter said the water will flow faster with a steeper grade since the floor of the garage will be higher than the existing grade. Mr. Laughman replied that is why they will put in drainage to address the grade changes at the property line.

Ms. Dorothy asked what kind of drainage is being proposed. Mr. Jones replied the hard surfaces will be controlled via gutters and downspouts. The new driveway will slope into the existing driveway, the new roof surfaces will have gutters and downspouts tied into the underground drainage system. The grade on the outside of the garage will not be as high as the floor of the garage, and the distance away from the property line has reduced the slope of the new grade compared to the previous proposal. Mr. Jones said he understands water cannot be placed on anyone else's property and are not intending to do this.

Mr. Falcoski asked if there is a partial swale between the two properties and Mr. Jones replied that is correct but is not sure if the center of the swale is centered over the storm sewer or on the property line without having the property pins located. Mr. Jones said channeling the water away from the north property is something they will address during construction because the City will require it.

Mr. Falcoski asked if water stands in the area during heavy rains especially during the recent rains and the plan does not appear to require an increased slope to the existing grade. Mr. Jones replied that is correct.

Mr. Falcoski asked if anyone in the audience would like to speak for or against this variance request.

Robert Wead, 6895 Haymore Avenue addressed the Board and said he lives right next door and does not feel comfortable complaining about neighbors adding onto their homes but in this case it would severely affect his property value, artistically as you look at the house, and could possibly affect his foundation. Mr. Falcoski asked if his house is directly to the north and Mr. Wead replied that is correct. Mr. Falcoski asked if his concern is the addition will affect the foundation of his house and Mr. Wead replied possibly.

Mr. Wead said his lot is pie-shaped and depending on where you measure the lot, it is wider in the rear and narrower in the front, and the addition is more invasive towards the front where the garage is to be built. Mr. Wead has no objection to the addition to the front of the existing garage.

Mr. Wead said it is destroying some green space which makes the area very attractive. The area to the west, the Haymore Fields, created more green space and increased wildlife by allowing grass to grow, more flowers – and to take this out of the front does not seem to work with what is happening in the back.

Mr. Falcoski asked how much green space is being taken away by the addition of the garage - how much of the original garage being added to. Someone in the audience inaudibly replied. Mr. Falcoski asked what is the length of the garage. Someone in the audience inaudibly replied. Mr. Falcoski said 180 square feet of green space will be reduced.

Mr. Wead said there will also be an addition to the driveway, which is a length of 20 feet, and the garage is 23 feet, which further reduces green space, and it will be nine feet towards his house. It creates 43 feet of a wall or a terrace to work with the grade. Mr. Falcoski asked if he meant a retaining wall and Mr. Wead repeated a retaining wall or mulch or sod, and will cause a runoff and the swale to collect water.

Mr. Falcoski asked how long had he lived there and Mr. Wead replied 23 years. Mr. Falcoski asked if he has seen a lot of standing water in that area and Mr. Wead replied none to really speak of but they have not faced these kind of dimensions before. Mr.

Falcoski asked if his concern is the garage, retaining wall, and parking area will cause flooding and Mr. Wead replied yes, there could be standing water.

Mr. Wead showed photographs of the two properties and said the driveway will be 3 feet from the property line.

Mr. Falcoski said he is aware of property values and Mr. Wead has been there for a long time and asked him to explain how this addition will bring his property value down. Mr. Wead said the invasiveness of the garage would be unattractive with the loss of green space. One lives there because there are fields in the back and green areas and by taking away the green areas from the front subtracts from the value because houses sell on appearances as well as what is inside the house.

Mr. Falcoski said 63% of the existing homes in the neighborhood have less distance between the houses than is what is being proposed. If it was the other way around, he would be more concerned about the distance between the proposed garage and the house to the north. He personally does not see a reduction of property value due to the proximity of the garage. Mr. Wead asked if he could see how his house would become less attractive to prospective buyers.

Mr. Hunter asked if his is the pie-shaped lot. Mr. Wead replied that is correct. Mr. Hunter said this is a very attractive feature, along with a beautiful back yard, and that is not impacted by this variance. He said he is still struggling with the garage because it would be the only three car garage in the circle area or; 30, 40 or 50 homes plus others in a larger area.

Mr. Hunter knows the pressure to have a three car garage today. He did not see anyone struggle with the two foot front projection of the existing two car garage. In this particular case, both driveways slope to the street, the side yard slope towards the street and a swale well drains away from the two houses and he does not agree this will impact the property to the north. Mr. Wead said there is 15 feet of yard that can drain that water. Mr. Hunter said the roof will drain into the curb and gutter and the roof will drain to the street. The driveway will be a forward draining area as well. Mr. Wead asked how does terracing it not allow it to drain to the north. Mr. Hunter said the terrace is to a flat wall and the drive slope will be towards the street and not to the north.

Mr. Falcoski said this Board is considering a variance to the zoning code and there has been a lot of discussion about the fear of water runoff causing damage. He said the City will not approve something that is not in compliance with the building code. Mr. Hunter said that is correct and as Mr. Jones stated they are not permitted to drain the property onto the adjacent property. Mr. Phillips said that is not correct. The building code requires the grade slope a minimum of six inches in 10 feet away from a foundation to avoid damage. There steps that can be taken at the property line, like a swale, that will direct that water in a different direction so it does not cross the property line. But the building code itself does not prohibit water from crossing a property line. Mr. Hunter said that slope is part of the building code and Mr. Phillips said that is correct, and that swale



can take the water towards the east or the west, and would be something that is addressed at plan review.

Mr. Falcoski said drainage is a valid concern but are spending a lot of time talking about something that is addressed by a different process. He is not an appraiser but is having a hard time seeing how the adjacent property value will be reduced. A lot of houses are already closer to each other than what is being proposed. He asked if anyone has any comments. He does not think this will affect the character of the neighborhood from a closeness to the property perspective.

Mr. Wead said he needs assurance the drainage will be done correctly and any future damage there should be some liability towards the people who added on. Mr. Phillips said it is his understanding that damage caused by water coming from one property to another is a civil matter between the two property owners. Mr. Falcoski said the City will do what it can through the building codes and the approval process to prevent that from happening.

Mr. Wead said the additional garage bay is not in the character of the neighborhood because there are no other three car garages and the one at the top of the hill is a two car garage with three other bays on Rieber. And the other house is a corner lot and also facing away from the neighborhood.

Ms. Crane asked how wide would the addition be without a side yard setback variance and Mr. Jones replied the garage addition would be approximately 6 feet wide but it would not have a garage door and you would have to enter the extra bay from the existing garage.

Linda Wead, 6895 Haymore Avenue addressed the Board and said she tallied up the separations between the houses that are greater and less than 29 feet and found 23 houses over 29 feet in separation and 27 houses under 29 feet, which is not 63 percent. Mr. Falcoski replied he compared 38 homes, re-counted the number of homes and counted more than 50 and now questions his 63 percent figure.

Ms. Wead said another factor is their house is a cut-through to the parks and Mr. Hunter said there is no easement and is not an official cut-through. Ms. Reibel asked to where does the cut through lead and Ms. Wead replied to the Haymore flats and ultimately the bicycle path.

Ms. Wead said she is concerned about the many dimensions being discussed about the width of the garage - sometimes it is a 10 foot addition, sometimes 9 foot 8 inch addition, 9 foot 4 inch addition - and if approved, she would want it approved according to the plans presented. Mr. Falcoski asked if the different measurements were from the edge of the overhang, one is from the outside wall, and another was from the footing. Someone inaudible replied. Mr. Falcoski said the closest dimension is from the overhang to the property line.

Ms. Wead said she understands that garage square footage does not count in housing square footage. Mr. Hunter replied that is for Franklin County appraisal purposes only that the garage is not counted, the garage square footage is not considered living space.

Ms. Wead said the two examples cited, the one at the corner with two, two garage garages, one facing Haymore and one facing Rieber; are not jutting out from the house but are under the house or built within the box of the house. The one on Olenwood was a ranch so it was a continuation of a range, both are corner lots, and were not invasive into their neighbors.

Mr. Hunter noticed there is one house on Haymore, Lot 10, with what appears to be a detached two car garage behind it. Ms. Wead said the original garage was part of the house and they added a two car garage in the back.

Mr. Falcoski said his new tally is 46 percent of the homes are separated by more than 29 feet and is fairly close to half and thanked Ms. Wead for bringing that to his attention.

Charles Fuller, 6875 Haymore Avenue West, addressed the Board and said he is also opposed to the variance request. There are no other three car garages, the one with a four garage with a two car facing Haymore and a two car facing Rieber, was discussed, and does not really want to set a precedence with three car garages. The essential character of the neighborhood will be affected with the addition of asphalt that will be visible traveling down the Haymore hill towards Haymore West, and will look like a commercial parking lot. Nearly a third of the Laughman's front yard will be asphalt. Coming down the hill you would see the concrete wall which is now landscaped, and is not clear how close to the Wead property it will come. He feels it will increase water pressure on the adjoining property's foundation, and there have been flooding problems at the bottom of Haymore. He has lived there nearly 30 years and has moisture in the walls.

Mr. Fuller said the delivery of governmental services could be affected if the fire department needed to access the woods by driving an engine between those houses, since this is the only location he is aware of wide enough to fit a large vehicle through.

Mr. Fuller said one of the purposes of the third car garage, stated at the last meeting, is for a vehicle for their daughter. That is 10 years away. It would appear this request is a want as opposed to a true need, and their predicament can be obviated through some other method. Even if the predicament of a third vehicle does present itself in 10 years, Haymore has faced and resolved this problem for over 40 years. At one point there were over 20 teenage drivers in the neighborhood at the bottom of the hill.

Mr. Falcoski asked if Mr. Fuller would prefer a car parked in the driveway or a car parked in this garage. Mr. Fuller replied he is opposed to the third garage, the additional asphalt, and it will look bad. The corner from Haymore North to West already has additional asphalt where cars can be parked. Also the additional 180 square feet of asphalt being added is running counter to Worthington's program of prairie grasses. The organization Friends of the Lower Olentangy Watershed has been opposed to additional

asphalt due to pollution concerns coming from the asphalt as opposed to having the water flow over grassy fields. Something like 19 times the pollution comes off the asphalt flow than from a grassy field flow and it increased the amount of runoff getting to the river and disturbing its wildlife. Mr. Falcoski asked if he would rather see the car parked outside and Mr. Fuller said that would be fine, and would not oppose the 2 foot addition of the existing garage, but to add the third car garage and the asphalt he is opposed to. Mr. Falcoski said the 180 square foot of added asphalt appears to be a 25 percent increase in asphalt surface area than what currently exists.

Mr. Falcoski asked Mr. & Ms. Wead if they would rather see the cars parked outside and said their answer was yes. Mr. Wead said something inaudible and Mr. Falcoski said Mr. Wead would rather see the car parked in the driveway than see the garage built.

Ted Wilkinson, 426 Meditation Lane, addressed the Board, and said he would oversee the project if the variances are approved. The opposition was asked if they would like to see cars parked in the street or driveway and he said the Laughman's would not want to see cars parked in the driveway. They want their cars, toys, and bicycles inside the garage and is the purpose of the addition.

Mr. Wilkinson said the water issue really bothers him. There will be 180 square feet of land area where the garage will be and 180 square feet of asphalt from the surface water flowing into the swale. That water that will hit that roof will not be going onto the ground nor into the swale, but into the underground draining system. Similarly, the water that hits the asphalt will go to the street and be carried away by the existing storm drain. It is obvious you are reducing the water hitting the ground that potentially can go to the swale or over to the Wead's house. He said it is ludicrous to say this addition could possibly affect the foundation of their house in any way, shape, or form since it is so far away. If anything will affect the foundation it would be the failure of the large sanitary sewer.

Mr. Wilkinson said he knows about change, people resist change, he has developed property in the past. He thinks this is a change issue, an issue about aesthetics. It is not about property rights, what the city staff believes is the appropriate action to take. In the staff memo, staff rightly says it is appropriate and meets code. He cannot believe that one home owner, who has solicited help from other home owners, can control the rights of one person's property. This project is not being built on that neighbor's property, it is being built on their own property. They are asking for a variance in the setback and the new side yard will be nearly equal to half of the homes in the neighborhood. He thinks the issue is purely aesthetics, they do not want change, it has always looked that way, it is a fear of the unknown. He truly thinks once it is there, it is no different than a six foot fence to the property line, the green space goes away, and he is sure no variance is required for that.

Ms. Crane said the proposal does not meet code and that is the reason why this application is before this Board. Mr. Wilkinson said he did not mean it met code, only that city staff recommended approval these plans, they did not see anything wrong with the construction, did not see any detriment to the community.

Ms. Reibel asked if that is correct and Mr. Phillips replied that is not correct, staff did not make any recommendation, staff presented the facts to the Board and the Board decides what is appropriate. Someone made an inaudible statement and Mr. Phillips replied the motion was recommended. Mr. Hunter said the motions are typically stated in the affirmative or positive and the staff memo states the delivery of governmental services should not be affected and has heard nothing that challenges that position.

Mr. Laughman read the second conclusion of the staff memo as the garage addition variance request appears to be substantial but is mitigated by the 15 foot easement on the property to the north and staff felt the essential character of the neighborhood should not be affected. Mr. Phillips stated that is not a recommendation. Mr. Hunter stated that is staff opinion and the Board is not required to follow that one way or another.

Ms. Reibel said the purpose of these meetings is for an interested neighbor to comment and we should not be criticizing the neighbors. Mr. Wilkinson said he is not criticizing the neighbors and he said they have the right to comment, but he is not hearing much in favor of the request and the applicant have not had much of a chance to speak. Ms. Reibel said he had come in late and they did have a chance to speak. Mr. Wilkinson said they spoke, but there were no question about if they want their car on the driveway or in a garage. Mr. Falcoski said the reason he did not ask that question it was obvious to him this is the reason for the variance request and they do not want their car outside.

Ms. Crane asked if staff agreed with the assessment of the drainage issue that the water would be funneled to the sewers. Mr. Phillips replied yes, there are additional things one could do on the site such as a French drain or place a perforated pipe near the swale at the property line so surface water can be picked up by a conductor to either the street or tie it into a storm sewer. Even if there is a little bit of water flowing towards the property line it can be captured in many different ways. Ms. Crane said this project could cause drainage problems but it does not necessarily have to if built properly and Mr. Phillips replied that is correct.

Mr. Wead said that no solicitation was made of any neighbors and if he wanted to could have found quite a few neighbors.

Mr. Fuller said he does not think he fears change and he has a fair idea of what the project will look like. He was not solicited by Mr. Wead, but he spoke to other neighbors who are in opposition but chose not to appear tonight. He also advised it is not the neighbors who has held up this project but the Board who disapproved the proposal last month, not the neighbors.

Ms. Crane said she appreciates the greatly reduced size of the project where it will encroach a couple of feet into the setback rather than several feet. She does not have a problem with three car garages, also thinks they are not a necessity, but does not think this property has the room for this project. She has a small property and thinks there are some things she would like to build on it but does not have the room for it and knew that when she bought the property. She is struggling with this project but appreciates the reduction in size. An enclosed garage may not be the place for the car for three or four years.

Ms. Dorothy asked the Laughman's to summarize the hardship requiring this variance request. Mr. Laughman replied it is for additional storage space and at some point they will have a car they would like to park in the garage. The storage problem with two young children is significant and this is the best way to solve the problem. There are other options that could be sought without a variance but do not consider them as attractive as the proposed project to both themselves and the neighbors.

Mr. Jones said the opportunity to place a detached garage or add depth to the existing garage does not exist due to the configuration of the lot and the relatively shallow depth of the lot compared to the lots on other side of Haymore. These lots are probably 50 percent deeper, as evidenced by the detached two car garage placed to the rear of the house on Haymore North, Lot 10, with a driveway running past the existing garage. This opportunity does not exist with this lot, due to its depth and the existing construction on the site, and would suggest that is the hardship for this property.

Ms. Crane said she is having trouble seeing any hardship when one wants a three car garage. She could see the hardship if there was not a one car or even a two car garage. Even though many new houses in upscale neighborhoods are being built with three car garages, two car garages are still the standard and you are not going to suffer any economic hardship by just having a two car garage. She understands this is a small two car garage and want to expand its depth or its width for storage because there is a problem with a storage shed idea, but does not see wanting a three car garage creating a hardship.

Tricia Laughman, 6885 Haymore Avenue West, addressed the Board and said anyone who wants to extend their property or put on an addition for any reason – to create more living space, to accommodate a larger family – people do additions to their home all the time. She is choosing an addition of the garage to accommodate storage and a third car in the future and this seems like a good time to do it. She has two young children now and the garage is packed and have not purchased things because she does not have the space and do not want to store things in the rear yard. This may not be a hardship to somebody but is like adding an addition to increase the room you have to use.

Ms. Crane said you cannot do that without limits, for instance, you could not build a five story addition in Worthington. Ms. Laughman said that is true but the property had an addition added on her home before she purchased it. Ms. Crane said there are things you can do to your home without Board approval if it meets the setback requirements and

meets the building codes, and this does not meet those requirements so you need special permission. She said you do have the right to do certain things to your property but do not have the right to do anything to your property. Ms. Laughman replied that is correct and is why she is here seeking that special permission. Ms. Crane said this is why hardship, among other things, are considered by the Board and if you did not have a place for one car, maybe two, she could consider that as limiting the gain you may expect from the property, which is one of the things considered by the Board, but three cars, she is not convinced meets that standard.

Tom Zack, 794 Evening Street, addressed the Board and asked what will happen to the tree in the tree lawn. Someone inaudible responded.

Mr. Falcoski asked if anyone else would like to speak for or against the variance request.

Hearing none, Mr. Hunter moved:

**THAT THE REQUEST BY MICHAEL E. JONES AND JOHN E. LAUGHMAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT AND SIDE YARD SETBACKS TO ALLOW GARAGE ADDITIONS AT 6885 HAYMORE AVENUE WEST, AS PER CASE NO. BZA 15-10, DRAWINGS NO. BZA 15-10 DATED MAY 7, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND MATERIAL PRESENTED AT THE MEETING.**

Ms. Dorothy seconded the motion. Ms. Reibel and Ms. Crane voted 'no'; Ms. Dorothy, Mr. Hunter and Mr. Falcoski voted 'yes' and the motion carried.

AGENDA ITEM C-4 – Variance – Side Yard Setback – Arbor – 794 Evening Street (Tom Zack) BZA 16-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said this property is in an R-10 district with a minimum side yard setback of eight feet and maximum fence height of six feet. The applicant is proposing to replace an existing fence and to erect a seven foot tall arbor entirely in the side yard. The requested variance is to allow the entire arbor be placed in the side yard. The arbor is subject to approval by the Architectural Review Board.

Mr. Phillips continued to say the arbor could be interpreted as fence needing a variance from height requirements. Either as a structure in the setback or a fence in excess of seven feet, staff did not see the requested variance as substantial. The essential character of the neighborhood should not be substantially altered nor the delivery of governmental services be affected.

Ms. Crane asked if the arbor has been before the Architectural Review Board and Mr. Phillips replied it has but it has not been approved. Ms. Crane said if the Board approves a seven foot tall arbor and it is considered a fence, is not a seven foot tall fence being approved. Mr. Phillips replied this application was interpreted as a seven foot tall structure in the side yard setback as opposed to a fence. If the Board interprets this arbor to be a fence since it is part of a fence, then just the arbor portion of the fence would receive the height variance, and not the entire fence. This came before the Board as a separate structure and not a fence. Ms. Crane said it looks like a gate and Mr. Phillips replied it does, and sometimes people build arbors without a fence and the applicant is seeking a setback variance to build this structure in the side yard. Ms. Crane asked if the Board approves it, it is not a fence and Mr. Phillips replied that is correct. Mr. Falcoski asked if the arbor structure alone is what this Board is deciding upon and Mr. Phillips replied that is correct.

Tom Zack said he would place a gate in the arbor. There is an existing chain link fence that he thinks is out of character for the neighborhood and wants to change it to wood. With no privacy between that part of the yard and the school across the street, the arbor and some plantings would break up the view.

Mr. Falcoski asked if the presented photograph is the style of the arbor being considered and Mr. Zack replied yes, with a gate in the middle. Mr. Falcoski asked if this arbor will replace a fence and Mr. Zack replied yes. Mr. Falcoski asked if he will then build a fence and Mr. Zack replied the neighbor to the south has a white picket fence and his new fence would be similar to that existing fence. Mr. Falcoski asked if the fence will return to another fence and Mr. Zack replied yes.

Mr. Zack presented a photograph of another arbor with a gate, with a flat top, and said he has not decided on an arch or flat top yet. Mr. Hunter said this Board is only approving the height and the arbor must be approved by Architectural Review Board.

Ms. Crane said they are not really approving an arbor, but approving a structure entirely in the setback and Mr. Phillips replied that is correct. Ms. Crane asked if the arbor was later removed by the next owner, would a shed be permitted at that location and Mr. Hunter replied no, the Board is approving this structure as an arbor as presented at this meeting. If it was torn down, it would have to be replaced exactly as presented tonight.

Mr. Zack said he is not allowed to build a fence real tall and there is an existing fence and he wants to replace the existing fence with wood. It would be nice to walk out to the street through the arbor and is the reason for the gate. The arbor will give a little privacy from the street.

Mr. Falcoski asked what other types of structures could be placed there – a wishing well, a fountain, a statute – all three of those would require variance and Mr. Phillips replied that is correct if placed in the setback.

Ms. Reibel asked if the arbor will be in the same location as the existing fence and Mr. Falcoski replied yes. Ms. Reibel said she has seen arbors in her neighborhood. Mr. Phillips said what makes this application confusing is it functions as a fence and it usually is associated with a fence so it could be interpreted as a fence, and is why staff pointed out in the conclusions if it were a fence, it still required a variance from height requirements. It was not interpreted in this way and is in keeping with how Mr. Zack made the application. Either way, it requires approval by this Board. Mr. Falcoski asked if this were not permanent and not anchored into the ground, would a variance be required and Mr. Phillips replied no, it would not be a structure as defined in the zoning code.

Mr. Falcoski asked if anyone in the audience would like to speak for or against this variance request.

Seeing no one, Ms. Crane moved:

**THAT THE REQUEST BY TOM ZACK FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK FOR CONSTRUCTION OF AN ARBOR AT 794 EVENING STREET, AS PER CASE NO. BZA 16-10, DRAWINGS NO. BZA 16-10 DATED MAY 11, 2010, 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 carried.

Mr. Hunter moved that the meeting be adjourned, which was seconded by Ms. Crane. The meeting adjourned at 8:50 P.M.