



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

July 7, 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 June 2, 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. Variance – Front Yard Setback – Wall – 701 Farrington Dr. (Bryan Road) BZA 43-16

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. Fencing and walls are not permitted between the right-of-way line and the building setback line.
2. The applicant recently constructed an approximately 24 inch tall retaining wall along the driveway from the house to the Farrington Drive right-of-way, and 30 feet 6 inches along the right-of-way. The wall also has piers approximately 32 inches tall and project approximately 4 inches from the wall, with a cap projecting approximately 3 inches from the pier and wall. The majority of the wall appears to be in the front setback and a part is in the right-of-way. The applicant is proposing to reconstruct the wall approximately 2 feet back onto the property so that no portion of the wall will be in the right-of-way, but will remain in the front setback. The requested variance is 30 feet.
3. The property is subject to, and the wall has been approved by, the Architectural Review Board.

4. Worthington City Council must approve any portion of the wall or pier 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 retaining wall is decorative in nature, and at one time, retaining walls to accommodate changes in grade could be constructed in the front setback, but that provision was accidentally removed from the code when moved to Chapter 1180 in 2010. These factors mitigate the substantial nature of the variance request.
2. The delivery of governmental services should not be affected.

Discussion:

Ms. Crane the applicant to step forward.

Mr. Bryan Rood, 701 Farrington Drive, asked where he would be allowed to have the retaining wall, without having to tear up their landscaping and grass. Ms. Crane explained that city staff can tell him where the right-of-way is located so that he can move the retaining wall out of the right-of-way. Mr. Rood said that he is aware of the location of the right-of-way, but the column is within the right-of-way by six inches. Mr. Phillips said that the rule of thumb is that the right-of-way is generally a foot behind the sidewalk and right now the wall is six inches behind the sidewalk. Ms. Crane said that Mr. Rood needs to make sure that the wall is moved back far enough.

Mr. Coulter said that this application has been before the Architectural Review Board a couple of different times, he appreciated that changes that were made, and that they have done a nice job. He continued to say that Board had approved of the wall being within the setback area, but could not approve the wall being within the right-of-way. They did not want to set a precedent of approving things that extended into the right-of-way without proving a good cause.

Mr. Falcoski asked what would have to happen in order to move the wall back and Mr. Coulter replied they will have to excavate about a foot behind the back side of the concrete wall, but he did not think that they would have to re-pour the footing. Mr. Rood said that they will have to re-pour the footing because the footer was too short and needs to be a bit wider. He continued to say the sidewalk will also have to be replaced because of the heavy equipment that has been involved. He will be taking the whole wall down, re-pour the footing, move the irrigation, and then take up the sod in order to correct the problem.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY BRYAN ROOD FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO CONSTRUCT A WALL AT 701 FARRINGTON DRIVE, AS PER CASE NO. BZA 43-16, DRAWINGS NO. BZA 43-16 DATED JUNE 10, 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.

2. Variance – Side & Front Yard Setback – Fence & Porch Roof – 653 Oxford St.
(Nathan Lindholm) **BZA 44-16**

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 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.
2. The Oxford Street and New England Avenue West rights-of-way are 66 feet wide. The existing dwelling is approximately 11.1 feet from the Oxford Street right-of-way and approximately 1.1 feet from the New England Avenue West right-of-way.
3. The applicant is proposing to construct a 10 foot by 10 foot roof over the existing porch, approximately 11.1 feet from the Oxford Street right-of-way and approximately 2.9 feet from the New England Avenue West right-of-way. The requested variances are approximately 18.9 feet for front yard setback and approximately 17.1 feet for side yard setback.
4. A side yard setback variance was granted on June 5, 2008 to permit the now existing fence within the 20 foot side yard setback, 1.5 feet from the New England Avenue West right-of-way and 12.75 feet from the west property line.
5. The applicant is proposing to move a portion of the existing fence to the west property line, and extend the fencing to this relocated fence, 1.5 feet from the New England Avenue West right-of-way. The requested variance is 18.5 feet.

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. Additionally the rights-of-way are 16 feet wider than the 50 feet typically found in the district. The dwelling is within the front and side yard setbacks and creates a practical difficulty trying to provide a covered entrance. The porch will be open in style to encourage neighborhood interaction. These factors mitigate the substantial nature of the porch roof 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. In this particular case, the New England Avenue West right-of-way is wider than a typical residential street which mitigates 8 feet of the encroachment of the fence into the side yard setback. Additionally the fence is towards the rear of the property and is well outside the intersection sight lines.
3. The essential character of the neighborhood will be not altered since the existing fencing is merely being extended 12.75 feet.
4. The delivery of governmental services should not be affected.

Discussion:

Ms. Crane asked the applicant to come forward.

Nathan Lindholm, 653 Oxford Street, said he had nothing else to add. Ms. Crane asked exactly where he would like to extend the fence and Mr. Lindholm replied that in the photograph where the fence will be placed, and that all of the trees will be staying.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY NATHAN LINDHOLM FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE AND FRONT YARD SETBACK TO CONSTRUCT A PORCH AND ERECT A FENCE AT 653 OXFORD STREET, AS PER CASE NO. BZA 44-16, DRAWINGS NO. BZA 44-16 DATED JUNE 15, 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 Board members voted “aye” and the motion was approved.

C. Other

There was no other business to discuss.

D. Adjournment

Mr. Seitz moved to adjourn, seconded by Mr. Falcoski. The meeting adjourned at 9:22 p.m.