

MINUTES OF THE REGULAR MEETING
OF THE
WORTHINGTON BOARD OF ZONING APPEALS
December 2, 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, and C. Crane. Also present was D. Phillips, Chief Building Inspector. Those present recited the Pledge of Allegiance.

Ms. Crane asked for comments, additions, changes or motions. Mr. Hunter moved to approve the minutes of the October 7, 2010 meeting. Ms. Dorothy seconded the motion, all members voted 'aye', and the minutes were approved.

Ms. Crane asked those that plan to speak 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 – Variance - Front, Side & Rear Setbacks – Gate, Porch Additions & Pergola – 132 E. Granville Rd. (Jeff Deville) BZA 32-10

Ms. Crane asked for staff comments.

Mr. Phillips said this property is in R-10 district along a regional thoroughfare with a front yard setback of 50 feet along Granville Road, a side yard setback of 8 feet, and a rear yard setback of 30 feet. The property owner is proposing three additions to the property: a 3½ to 4 foot tall gate across the existing walk to the main entry, approximately 12 feet from the Granville Road right of way. The requested variance is to allow the gate to be constructed in the front yard setback; a front porch with an elevated deck above it, approximately 5.5 feet from the east property line. The requested variance is approximately 2.5 feet; and a 9 foot by 9 foot by 8 foot tall pergola in the northeast corner of the property. The requested variance is to allow the construction of the pergola in the rear yard setback. The property is subject to and has been approved by the Architectural Review Board.

Mr. Phillips continued to say the property is a substandard sized lot, on a corner and along a regional thoroughfare subject to set back requirements substantially greater than other similar properties in Worthington. Most of the existing house is in a required yard and the property has very little rear yard. Some variances from code requirements can be expected to mitigate some of these hardships, in particular: 1) the gate is less a fence and is more of a landscaping feature and is not within 10 feet of the right of way and should not interfere with traffic visibility. Staff saw this variance request as not being substantial; 2) the front porch in this corner of the existing house would not intrude into the side yard setback anymore than the existing house and staff did not consider the request as substantial; and 3) the pergola provides screening for the house and offers

some privacy with its proximity to the north and east property lines. The small property with larger than typical setbacks does not allow a pergola to be erected on the property, and it functions more as a landscaping feature or a fence than a structure. These unusual circumstances mitigates the substantial nature of the variance request. The essential character of the neighborhood should not be substantially altered or the delivery of governmental services should not be affected.

Ms. Crane asked if there was a representative for the applicant.

Jeff Deville, 132 E. Granville Rd, Worthington, addressed the Board stating there was nothing to add to the staff comments.

Mr. Hunter stated that the Architectural Review Board had voted unanimously.

Ms. Crane asked if anyone in the audience had comments for or against this proposal.

Hearing no one, Ms. Dorothy moved:

THAT THE REQUEST BY JEFF DEVILLE FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT, SIDE, AND REAR YARD SETBACKS TO CONSTRUCT A GATE, A PORCH WITH DECK, AND A PERGOLA AT 132 EAST GRANVILLE ROAD, AS PER CASE NO. BZA 32-10, DRAWINGS NO. BZA 32-10 DATED OCTOBER 29, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Hunter seconded the motion, all members voted “aye” thereon.

AGENDA ITEM B-2 - Variance - Side & Rear Setback – Garage – 100 Howard Ave. (Bruce Biagi) BZA 33-10

Ms. Crane asked for staff comments.

Mr. Phillips said this property is an existing lot of record in an R-10 district with setback requirements of 8 feet from the side and 10 feet from rear property lines for detached accessory structures like garages, and sheds over 120 sf. The Residential Code of Ohio requires walls constructed within the three foot fire separation distance be a minimum one hour fire-resistive rated construction for exposure from both sides including the underside of projections. Openings are not permitted in the wall. There is an exception for detached tool and storage sheds. The property has an existing one-car garage approximately 2.3 feet from the east property line.

Mr. Phillips continued stating the applicant is proposing to enlarge the garage by attaching a shed to the existing structure. The proposed addition is approximately 12.1 feet by 12.1 and will be located approximately 2.3 feet from the east property line and

approximately 8.9 feet from the north property line. The requested variances are 5.7 feet for side yard setback, 1.1 feet for rear yard setback, and the fire-resistive rated construction requirement for the east wall of the addition.

Mr. Phillips continued to say the lot is narrow, which is typical for this neighborhood, and adding onto the existing garage instead of placing a detached shed on the property minimizes the impact to the yard space lost to this shed. This mitigates the substantial nature of the setback variance request. The existing garage is within the 3 foot fire separation distance, does not appear to be made of fire-resistive rated construction, and is permitted to remain as previously constructed. If the proposed shed were detached, no fire-resistive rated construction would be required. The shed is actually an addition to the existing garage and a literal interpretation of the building code requires the fire-resistive rating of the east wall of the addition. Staff saw no issue and its Chief Building Inspector offers expert testimony recommending allowing the addition to not be built of fire-resistive construction. The intent of the separation is to safeguard one property from another property when neither property owner can exhibit control over the other property. In this particular case, the fire-resistive construction would not afford much additional benefit since the existing garage is not required to comply with the current requirement. It would not endanger the safety of general public to allow the addition within the fire separation distance to be constructed of any material permitted by the building code. The essential character of the neighborhood should not be substantially altered or the delivery of governmental services should not be affected.

Ms. Crane asked for a representative for the applicant.

Mr. Biagi from 100 Howard Avenue stated he had nothing further to add to the staff comments.

Ms. Crane asked for comments from the Board.

Mr. Hunter stated he liked the idea of the exemption for the fire retardant process and the testimony made. Ms. Riebel asked if the new addition is the same size as the existing garage and Mr. Biagi replied yes.

Ms. Crane asked for questions or comments from the audience.

Hearing no one, Mr. Hunter moved:

THAT THE REQUEST BY BRUCE BIAGI FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE AND REAR YARD SETBACK, AND FIRE-RESISTIVE RATED CONSTRUCTION TO ALLOW THE CONSTRUCTION OF A GARAGE ADDITION AT 100 HOWARD AVENUE, AS PER CASE NO. BZA 33-10, DRAWINGS NO. BZA 33-10 DATED NOVEMBER 2, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND MATERIAL PRESENTED HERE.

Ms. Dorothy seconded the motion and all members voted “aye” thereon.

AGENDA ITEM B-3 Variance - Side and Rear Setback – 1159 Northland Rd. (Katherine Pindell) BZA 34-10

Ms. Crane asked for staff comments.

Mr. Phillips said this property is an existing lot of record in an R-10 district with setback requirements of five feet from the side and rear property lines for detached sheds not over 120 sf. The Residential Code of Ohio does not require detached tool and storage sheds constructed within the three foot fire separation distance be a minimum one hour fire-resistive rated construction. Projections, such as eaves, are not permitted to extend over the property line. There is an existing sanitary sewer along the south property line with a five foot easement along that south property line. A revised site plan is included with the application. The original proposal was to place the shed in the easement and the applicant has since amended the application to not encroach into the easement. The applicant is proposing to place a 10 foot by 12 foot shed within six inches of the west property line and five feet north of the south property line. The requested variance is four foot six inches for side yard setback.

Mr. Phillips continued to say this is a substandard sized corner lot, some of the existing house is in a required yard, and the property has a limited rear yard. Placing any shed on this property will reduce the amount of yard area. The applicant is attempting to maximize the yard space with its placement very close to the west property line. These circumstances mitigates the substantial nature of the variance request. The applicant is requesting to be six inches from the property line to ensure the eaves do not cross the property line, but will more likely place it approximately one foot from the west property line so she can access the west side of the shed for maintenance. The essential character of the neighborhood should not be substantially altered or the delivery of governmental services should not be affected.

Ms. Crane asked for the applicant to come forward.

Katherine Pindell, 1159 Northland Road, had nothing to add to the staff comments.

Ms. Crane asked how they are going to maintain the area with only six inches. Ms. Pindell replied they intended to use landscape material that will keep anything from growing and place gravel over top, and they will probably have to place the shed a foot out so that they can get back in there for any weeds that do grow.

Ms. Crane said she is having a problem with 6 inches. Ms. Pindell asked how much space is necessary. Ms. Crane said she does not believe the Board has ever approved anything less than two feet. Mr. Hunter asked for a photo of the back corner of the property. Ms. Crane said she does not feel there is a hardship to set this precedent and this is what you get with a corner lot. Mr. Hunter said he knows they have approved two feet in the past,

but none less than. Ms. Pindell asked if the board would split the difference at 18 inches. Mr. Hunter said he believes the fence is easy enough to reach over for weeds if necessary. Ms. Crane stated she did not see the hardship for granting such a substantial variance, but would agree to two feet. Ms. Pindell said she would like to have the shed no more than 18 inches, so not to appear to be floating up to the house.

Rick Pindell, 1159 Northland Road, stated he would be building this shed. Said he could get around the shed at 18 inches and maintain everything. Mr. Hunter said the Board's decisions live beyond the ownership of your property and that of your neighbors.

Ms. Crane said she could request whatever distance she wanted the Board to vote on, or she could ask for it to be tabled. Ms. Pindell said she is now asking for 18 inches to be granted.

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

Hearing no one, Mr. Hunter moved:

THAT THE REQUEST BY KATHERINE PINDELL FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A SHED AT 1159 NORTHLAND ROAD, AS PER CASE NO. BZA 34-10, DRAWINGS NO. BZA 34-10 DATED NOVEMBER 4, 2010, BE APPROVED AND AMENDED TO ALLOW 18 INCHES ON THE WESTSIDE AND BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Ms. Riebel seconded the motion. Ms. Crane asked for a roll call and Mr. Hunter, Ms. Reibel, and Ms. Dorothy voted 'yes' and Ms. Crane voted 'no'. The motion passed.

AGENDA ITEM B4 - Variance for Signage – 95 E. Wilson Bridge Rd. (Call Insurance Agency Inc.) BZA 35-10

Ms. Crane asked for staff comments.

Mr. Phillips said this property is 1.64 acres in a C-3 district which permits a single free standing sign. The applicant is proposing a second, free standing sign on the property. The requested variance is for one additional free standing sign.

Mr. Phillips continued to say the owner is a governmental agency and does not want to confuse the public by sharing its sign with a commercial tenant. C-3 properties two acres and larger are permitted two free standing signs and this property almost qualifies for the second sign. These factors mitigate the substantial nature of the variance request. The exact sign to be placed on the property has not been determined. The essential character

of the neighborhood should not be substantially altered or the delivery of governmental services should not be affected.

Ms. Crane asked for someone to speak for this property.

Kevin Tyler, Call Insurance, 95 East Wilson Bridge Road, said he had nothing to add, but would answer questions.

Ms. Dorothy asked if there was any design information at all. Mr. Tyler said there are proposing a low profile sign, consistent with the Mt.Carmel sign at 81 East Wilson Bridge Road. The purpose is to let the Sharon Township sign take the center stage and this sign would be set back a little further, separating the two entities.

Ms. Dorothy asked if they approved this without specific dimensions, is he limited to the size. Mr. Phillips said yes, the staff would interpret that the current zoning code requirements would apply to that second sign, so he would be limited to whatever the zoning code allows for the second sign. Mr. Phillips said there is a formula you apply by using the tenant frontage and this gives the maximum allowable sign size. Ms. Crane said this would apply to both this sign and Sharon Township sign.

Mr. Hunter said there are other properties that have the same issue, but this is a unique situation because of the governmental entity, and there is plenty of precedent for this.

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

Hearing no one, Mr. Hunter moved:

THAT THE REQUEST BY CALL INSURANCE AGENCY FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE TO ALLOW A SIGN AT 95 EAST WILSON BRIDGE ROAD, AS PER CASE NO. BZA 35-10, DRAWINGS NO. BZA 35-10 DATED NOVEMBER 5, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND MATERIAL PRESENTED AT THE MEETING.

Ms. Riebel seconded the motion and all members voted “aye” thereon.

There being no further business, Mr. Hunter moved for adjournment with Ms. Dorothy seconding the motion

The meeting adjourned at 8:19 P.M.