



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

December 1, 2016

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: K. Holcombe; B. Seitz; L. Reibel; D. Falcoski; and C. Crane. Also present were D. Phillips, Chief Building Inspector; and L. Brown, Director of Planning & Building.
2. Pledge of Allegiance
3. Approval of minutes of November 3, 2016 meeting. Mr. Seitz moved to approve the minutes, seconded by Mr. Falcoski. All Board members voted “aye”.
4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing

Mr. Phillips reviewed the staff memo.

1. Variance – Side Yard Setback – Fence – 335 Loveman Ave. (Jordan Graham) BZA 49-16

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. Fencing within 10 feet of the right-of-way cannot exceed a height of 2 feet 6 inches above the street grade.
2. The applicant has erected a 5 feet 11 inch tall fence along approximately 63 feet of the Greenwich Street right of way. The requested setback variance is 20 feet.
3. Assuming the grade from Greenwich Street is relatively flat with a 6 inch curb, the fence is approximately 77 inches above the Greenwich Street grade. The requested variance is approximately 47 inches.

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, creating a practical difficulty. In this particular case, the property is much more narrow than typically found in the

district, which reduces in half the amount of rear yard that can be fenced. These factors mitigate the substantial nature of the setback variance request.

2. 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 an intersection. The fence should not impact the sight lines at the Loveman Avenue and Greenwich Street intersection since it is set back far to the south of the intersection. These factors mitigate the substantial nature of the fence height variance request.
3. The Board has typically allowed solid fences up to 4 feet in height at the right-of-way, or taller fences with a more open style. Staff prepared an alternate motion for the Board's consideration.
4. The essential character of the neighborhood should not be altered.
5. The delivery of governmental services should not be affected.

Discussion:

Mr. Seitz moved to remove the item from the table, seconded by Mr. Falcoski. All members voted "aye" and the item was removed from the table.

Jordan Graham, 335 Loveman Avenue, said he hired a contractor to install a fence and as part of the contract, the contractor was supposed to secure the necessary permits but failed to do so. He was unaware the contractor did not secure the proper permits until he received a letter from the City.

Ms. Crane said at the last meeting there was discussion about altering the fence to make the fence appear more open or making the fence shorter and asked if he considered either of those options. Mr. Graham replied he did, but the expense to alter the fence would cost just as much as the original fence installation. He is a new home owner with a newborn child, and is unable to afford such alteration. He read from the City's notes that the request for the variance was mitigated by the fact that the fence does not impair the sight lines, does not impair public safety, or the aesthetics of the neighborhood.

Mrs. Holcombe said she looked at the fence earlier in the day, and also another fence at the corner of Indianola Avenue and Loveman Avenue. She said she realizes this is a corner lot, and there is not a lot of privacy at a corner lot, but she feels the fence is too solid and has concerns about someone backing out of the driveway. She said the fence company should be held partly responsible for this matter also. Mr. Graham replied he spoke with an attorney recently, but they discovered the contractor already has several default judgements in Franklin County Municipal Court, and no viable address on record. Mrs. Holcombe asked why he chose a solid fence and Mr. Graham replied he has two dogs and a newborn and they wanted the privacy. Their home is located within a very

busy footpath near the elementary school. He said other dogs walking past could possibly nip through an open style of fence. He matched the style of the surrounding properties and if he had known about the restrictions earlier he probably would have built the fence shorter and closer inside the property. There was also a problem with a pine tree. The contractor opted to build the fence around the tree because the fence would have looked awkward otherwise.

Ms. Reibel said that she agreed with Mrs. Holcombe. Ms. Crane said her opinion has not changed and in fact she feels even stronger about the imposing look. She said the fence does alter the character of the neighborhood and looks like a compound. She does not want to set a precedent in the event someone else wanted to build a similar fence. She sympathizes with the issues Mr. Graham has had with the installation but she feels the fence is overwhelming and does not feel Mr. Graham's reasons for wanting a solid fence were warranted because the children will eventually grow up and move away, but the fence will still be there.

Ms. Crane said if the fence is moved back twenty feet the fence will then meet the code requirements and not need a variance. Mr. Seitz said he is on record for the past two meetings with a yes vote for the fence and said he will go on record for a third time with a yes vote, but since Ms. Holcombe is not in favor of the fence, the fence may not get approved until Mr. Graham comes up with a compromising solution. Mr. Graham asked the Board members if he eliminated the corner of the fence to improve the sight lines, would that be enough for the approval. Ms. Crane explained she is not qualified to redesign projects and suggested Mr. Graham to come back with something the Board can work with. Mr. Graham asked how much time he had to remedy the situation and if he could have six months to work on the problem and Mr. Brown said six months is reasonable since the holidays and winter are near.

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

David Allison, 319 Loveman Avenue, said he lives across the street from Mr. Graham. He and his wife just moved to the neighborhood about three years ago, and they also recently built a fence. He said he grew up in Worthington, went to Worthington High School, and is very proud to be in Worthington. He coached water polo for Worthington High School and is very active in the community. He respects what the Board members do but he feels that three or four hearings over this fence is ridiculous. He suggested possibly removing a few of the boards to open up the fence a little as a compromise but he does not want his neighbor to have to take the fence down. Ms. Reibel asked if everyone in the neighborhood had a six foot fence close to the sidewalk would that change the look of the neighborhood and Mr. Allison replied yes, possibly, but that would not make him change his mind about purchasing a home in Worthington. Ms. Crane said Mr. Graham made his own decision to table the application and come back to the hearings.

Josh Riley, 341 Loveman Avenue, said he lives next door to Mr. Graham and he is in favor of he keeping the fence as is. He said the neighborhood has a hodge-podge variety of fences, including chain link styles, and some people with glass bottles in their front yard. He has no concerns about the sight lines because the fence sits so far back. He looks at the property as a whole and the Grahams are bringing the value of the property upwards. The house used to look like it was falling apart. He was delighted to have this young couple move in next door, bring the house back up in value, and put their heart and soul into the property. Ms. Holcombe said she feels that the fence still needs to be moved back further.

Mr. Dean Hildreth, 334 Kenbrook Drive, said his property abuts the Graham's property in the back yard. He has lived in his house for twenty-five years and he knows what the property looked like before the Grahams moved in. He has no problem with the fence and is delighted the new neighbors have taken such good care of the property. He said the neighbors have motivated him to take better care of his own property.

Dustin Lancaster, 318 Kenbrook Drive, said since the Grahams have moved in the property has improved dramatically. He said he would personally rather see a nice privacy fence instead of what was there before. He wished his other neighbor would take as good of care with their lawn, and trim back the seven foot hedges which are spilling over into his yard. He does not have a problem with the Graham's fence.

Ms. Crane said she has safety concerns with the fence and what could possibly happen if a child was riding a bicycle on the sidewalk and a car backing out of the driveway may not see the child. Mr. Graham said he understood her viewpoint and asked if he cut the fence back diagonally if that would be acceptable, or would he have a better chance of approval by removing some of the planks, or lowering the fence. Ms. Crane said she could not answer the question. Mr. Seitz said the fence could be approved as it is as long as the fence is moved back closer to the house but the Board is not going to tell him what to do, and Mr. Graham needs to come up with a solution.

Mr. Brown said an example Mrs. Holcombe discussed earlier about the fence that tapered down to the setback line. The rear part of the fence remained at six feet while the front part dropped to four feet and they removed every other picket. Mr. Graham said he would take a look at the fence on the corner of Loveman Avenue and Indianola Avenue, then requested to table the application.

Mr. Seitz moved to table the item, seconded by Mr. Falcoski. Mrs. Holcombe, Mr. Seitz, Mr. Falcoski, and Ms. Reibel voted yes, and Ms. Crane voted no. The application was tabled.

C. Items of Public Hearing - New

1. Variance – Front Yard Setback – Fence – 209 E. North St. (Mary Jane Kibby) BZA 55-16

Mr. Phillips reviewed 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. Fencing is not permitted between the right-of-way line and the building setback line.
2. The East North Street right-of-way is 66 feet wide.
3. The existing dwelling is 12.63 feet from the East North Street right-of-way with a porch approximately 7 feet from said right-of-way. There is an existing, approximately 3 foot tall fence from the southwest corner of the dwelling to the south property line.
4. The applicant proposes to replace the existing fence with a new 4 foot tall, open style fence from the southwest corner of the dwelling to the south property line, 12.63 feet from the right-of-way. The requested variance is 17.37 feet.

The following conclusions are presented:

1. The property is narrow and shallow with a limited rear yard, creating a practical difficulty. In this particular case there is useable yard on the south side of the dwelling, and the proposed fence will not encroach further into the front setback than the existing dwelling, and much less than the existing porch. Additionally, the wider than normal right-of-way places an additional 8 feet of the front yard into the right-of-way. If the right of way were a typical 50 feet wide, it could reduce the requested variance to 9.37 feet. These factors mitigate the substantial nature of the variance requests.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Mary Jane Kibby, 209 East North Street, said the fence is already in place. She would like to replace the fence because of its poor condition. The new fence will go in the same location but will be four feet tall instead of a three feet.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY MARY JANE KIBBY FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ERECT A FENCE AT 209 EAST NORTH STREET, AS PER CASE NO. BZA 55-16, DRAWINGS NO. BZA 55-16 DATED OCTOBER 31, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

All Board members voted “aye” and the motion was approved.

D. Other

There was no other business to discuss.

E. Adjournment

Mr. Seitz moved to adjourn, seconded by Ms. Reibel. The meeting adjourned at 7:54 p.m.