



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

February 2, 2017

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: M. Coulter; B. Seitz; 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 the January 5, 2017. Mr. Seitz moved to approve the minutes, seconded by Mr. Falcoski. All members voted, “aye” and the minutes were approved.
4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing – Unfinished

1. Variance – Rear Yard Setback – **6008 Weatherburn Pl.** (Structure Contracting/Lisa Abrams & Jan Neiger) **BZA 02-17**

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

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the R-10 district where the minimum rear yard requirement is 30 feet.
2. The existing dwelling is 33 feet to 35 feet from the east property line. A variance was granted in 1991 to construct a deck in the rear of the property.
3. The applicant proposes to replace a portion of the existing deck and construct a 14 foot by 16 foot single story 4 season room addition 19 feet from the east property line. The requested variance is 11 feet.

The following conclusions are presented:

1. The property is in a cul-de-sac with an unusual lot shape and the dwelling already near the 30 foot rear setback, creating practical difficulties. The proposed single story addition is not very large. The addition of landscaping along the east property line should address neighbor concerns expressed at the January 5 hearing. 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:

Brian O'Neil, 4073 Wilbur Avenue, Grove City, said he was representing his clients and explained there were neighbors at the previous meeting that he did not have a chance to speak with prior to that meeting, where they expressed some concerns. Since the last meeting he has spoken with the neighbors and showed them exactly what is being proposed. He said the neighbors are now on board with the project, and were pleased with the proposed landscaping plan. He said six arborvitae will be planted as a buffer between the yards.

Mr. Falcoski asked if city staff received any comments from the neighbors and Mr. Coulter replied the neighbors were concerned at the last meeting with sight lines, wanted additional screening, and now that issue has been resolved.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY STRUCTURE CONTRACTING, LISA ABRAMS, AND JAN NEIGER FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO CONSTRUCT A FOUR SEASON ROOM AT 6008 WEATHERBURN PLACE, AS PER CASE NO. BZA 02-17, DRAWINGS NO. BZA 02-17 DATED DECEMBER 9, 2016 AND JANUARY 20, 2017 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

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

C. Items of Public Hearing - New

1. Variance – Front Yard Setback – Driveway Gate – 173 E. Wilson Bridge Rd. (Harold Careins) BZA 03-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the R-10 district along a regional thoroughfare where the minimum front yard requirement is 50 feet.
2. The 2005 Worthington Comprehensive Plan depicts the Worthington Thoroughfare Plan for the entire City and identifies Wilson Bridge Road as a regional thoroughfare, requiring larger setbacks related to the classification of the street. Larger setbacks are needed for future improvements, such as right-of-way widening, sidewalks, storm water improvements, streets, paths, and utilities.
3. The property is within the 2011 Wilson Bridge Corridor Study which recommends office development on the south side of East Wilson Bridge Road.
4. The 2015 Wilson Bridge Corridor Enhancement Plan recommends streetscape improvements throughout the corridor in addition to a new multi-use path on the south side of East Wilson Bridge Road. The existing right-of-way is approximately 3 feet from the back of the street curb and the City will be purchasing 15 feet of additional right-of-way to allow for the construction this path. This area will also include street trees, streetlights and other enhancements. This proposed path will connect High Street to the Community Center and onto the Northeast Gateway, the project name to realign the Wilson Bridge Road, Worthington-Galena road, and Huntley Road intersection.
5. The 2016 Wilson Bridge Corridor Zoning created categories for the corridor, recommending WBC-2, Professional Office, for this portion of East Wilson Bridge Road for commercial office development on this site.
6. Staff had many discussions with the property owner about the future of the corridor including written correspondence that the property is recommended for commercial development.
7. The East Wilson Bridge Road right-of-way is approximately 64 feet wide at this property.
8. Fence Permit 1010 was issued on July 13, 2016 based upon a 14.5 foot long gate 35 feet from the East Wilson Bridge Road right-of way.

9. On October 11, 2016, a final inspection was conducted of the gate and at that time the gate did not appear to be 35 feet from the right-of-way. While gathering the variance application form for the applicant, it was discovered by the Building Inspector that Wilson Bridge Road is a regional thoroughfare. A sketch of the site was prepared for the applicant to indicate the future right-of-way to be purchased, the approximate location of the gate as constructed, the 30 foot front yard setback for R-10 districts, the 35 foot proposed gate location, and the 50 foot front setback for the regional thoroughfare.
10. On October 12, 2016, finding that Fence Permit 1010 was issued in error, the permit was revoked by the Building Inspector.
11. The applicant is proposing to allow the gate to remain, approximately 27 feet from the East Wilson Bridge Road right-of-way. The requested variance is approximately 23 feet.

The following conclusions are presented:

1. The future for the Wilson Bridge corridor including the purchase of future right-of-way along the south side of East Wilson Bridge Road for a future multi-purpose path is forthcoming but no timeframe is foreseeable at the moment. In preparing for this future, ordinances were adopted by City Council and eventually rezoning will occur as redevelopment begins, perhaps decades in the future. In the meantime, current requirements are being enforced. It was unfortunate the gate did not appear to be installed per the approved plan otherwise the approval error may not have been caught. Regardless if the gate is moved 2 feet to get it out of the 30 foot front yard for the R-10 district, 7 feet to comply with the previously approved plan, or 23 feet to comply with the regional thoroughfare requirements, it appears the gate should be moved due to these long term development plans.
2. The lots are large with many dwellings on the south side, and office buildings on the north side, set back from the right-of-way. Since the gate is relatively small in relation to the lot, 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 gate is located in the area of where the improvements are going to be and Mr. Brown replied the gate is currently located twenty-seven feet from the curb, but the actual city right-of-way is three to four feet from the back of the curb. He said the city applied for a grant which they did not receive this year, otherwise they were going to begin a right-of-way purchase within fifteen feet of the south side of East Wilson Bridge Road. He said city staff had additional concerns because if the fifteen-foot right-of-way

purchase moves forward, the multi-use path would be within twelve feet of Mr. Careins gate. If someone needed to pull into the driveway, whether waiting for the gate to open or to be buzzed in, the car would be blocking the multi-use path. He continued to say the city was turned down for the grant this year, but may take a year or two to get the funding as development progresses along the south side of East Wilson Bridge Road. He said the fence is supposed to be fifty feet from the right-of-way but was proposed at thirty-five feet, which would cause the back end of the car to block the multi-use path.

Ms. Crane said it sounded like some errors were made and asked if the city issued a permit in error and if the applicant put the gate at the wrong place. Mr. Phillips replied there were two errors, the fence was approved at thirty-five feet in error, but then was not installed at thirty-five feet per the approved plan. He said the gate was installed at approximately twenty-seven feet and in order to avoid coming to the Board for a variance, the fence should have been installed at fifty feet. The applicant is requesting to keep the gate as constructed.

Harold Careins, 173 East Wilson Bridge Road, said when he submitted his permit, he measured the distance from the curb. He said when he called for an inspection of the holes for the fence posts, there was not an issue at that time, and the inspector signed the inspection card. He said if he knew there was a problem with the location of the holes he would have moved them. He did not feel there would be a problem blocking the multi-use path because the gate is automated. The gate would only block the path a minimum amount of time, just long enough to get the car through the gate. He continued to say he has security cameras installed and they have had several strange cars pulling into their driveway so they wanted to eliminate the strange traffic coming onto their property.

Ms. Crane said she was pleased to say the city staff rarely makes errors, but she wanted to clarify the gate does not meet the code, and not even by what was mistakenly approved. Mr. Phillips said the equitable estoppel concept where the owner of the property went forward thinking he had the permission to do something, but then made his own mistake. He continued to say this is a tough decision for the Board, since it can either ask the gate to be moved, or can allow the gate to remain where it is if a variance is granted.

Mr. Seitz asked if the inspector should have measured the distance of the holes from the right-of-way and Mr. Phillips replied no, the inspector's duty was to make sure the holes were deep enough below the frost heave line. The owner has the duty to install the holes in the correct location.

Mr. Coulter said he understands there were mistakes made by both parties, but if the variance is approved, then a precedent could be set. He is concerned about the future development of the multi-use path, and other people wanting a similar variance. Mr. Brown replied when the city moves forward to purchasing the rights-of-way, they do not want to pay for additional things that are in the way that would need to be moved, such as this gate.

Ms. Crane said she would like to see some firm measurements as to what they are talking about.

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

Mr. Seitz asked who would be responsible for taking the measurements and Mr. Brown said the department would take care of getting a third party to measure the property.

D. Other

Mr. Brown reminded the Board members the Community Relations Commission is giving a presentation for Board and Commission members at the McConnell Arts Center on February 15, 2017, beginning at 6:15 p.m. Board members were encouraged to contact Lori Trego to sign up for the event.

E. Adjournment

Mr. Seitz moved to adjourn the meeting, seconded by Mr. Coulter. The meeting adjourned at 7:39 p.m.