



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

March 2, 2017

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: M. Coulter; B. Seitz; D. Falcoski; L. Reibel; 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 February 3, 2017. Mr. Coulter moved to approve the minutes, seconded by Mr. Seitz. All members voted, “aye” and the minutes were approved.
4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing – Unfinished

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

Mr. Seitz moved to remove this item from the table, seconded by Mr. Falcoski. All 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 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 14.5 feet from the back of the street curb and the City will be purchasing 4.5 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. 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.
8. 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.
9. On October 12, 2016, finding that Fence Permit 1010 was issued in error, the permit was revoked by the Building Inspector.
10. Staff from the Department of Service and Engineering located the property pins and determined the right-of-way is 14.5 feet from the back of the street curb and the gate is 34 feet from the back of the street curb, or 35 feet from the edge of pavement, or 19.5 feet from the right-of-way.
11. The applicant is proposing to allow the gate to remain, 19.5 feet from the East Wilson Bridge Road right-of-way. The requested variance is 30.5 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. With the discovery that the right-of-way is already 14.5 feet from the back of curb, and if the owner agrees to sell an additional 4.5 feet of right-of-way to the City, it appears the gate should not interfere with 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 and those structures, 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 where the proposed bike path would be located and Mr. Brown replied there was a mistake within the City's GIS system, so when they thought there was three to four feet of right-of-way they would have to purchase the additional right-of-way as part of the project for the multi-use path they will now have to work with the individual owners and purchase four and a half feet of right-of-way from that property versus what they originally thought was to be fourteen feet for a total of nineteen. There would be a six to eight foot tree lawn from the back of the curb and a ten foot wide multi-use path running along the south side of East Wilson Bridge Road. He would like the applicant to note that there would be an easement of four and a half feet for the multi-use path.

Ms. Crane asked how that affects the safety concerns that were expressed at the previous meeting and Mr. Brown replied city staff still has concerns the back end of a car could block a portion of the multi-use path, but looking at the Wilson Bridge corridor standards allowing buildings up to five feet from the right of way, the gate location is less of a concern after discovering the true location of the right-of-way. Mr. Coulter asked if city staff found the location of the gate acceptable, and Mr. Brown replied yes.

Harold Careins, 173 East Wilson Bridge Road, said he is in favor of the gate remaining in its current location. He and his wife are bike riders and welcome that future path. He said if they invite family or friends over he would leave the gate open so cars would not block the path.

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

Motion:
Mr. Seitz moved:

THAT THE REQUEST BY HAROLD CAREINS FOR A VARIANCE FROM CODE REQUIREMENTS FOR SETBACKS TO ALLOW A GATE TO REMAIN AT 19.5 FEET FROM THE EAST WILSON BRIDGE ROAD RIGHT-OF-WAY AT 173 EAST WILSON BRIDGE ROAD, AS PER CASE NO. BZA 03-17, DRAWINGS NO. BZA 03-17 DATED DECEMBER 19, 2016 AND FEBRUARY 22, 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. Temporary Use Permit – Food Truck – 926 High St. (Andrew Schmidt) BZA 04-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the C-2 district where restaurants are a permitted use. Temporary signs, including flags, are not permitted in this district.
2. A restaurant is defined as: “a place located in a permanent building wherein food and beverages are sold to the general public to be primarily consumed within the building and is the principal business of the place; this meaning excludes drugstores, confectionery stores, lunch stands and gasoline service stations.”
3. Fast food restaurants are further defined as “those establishments which dispense food from counter-type operations to be consumed on or off the premises away from the counter and are recognized as fast food operations because of high turnover of customers.”
4. A Food Truck would not be a permitted or conditional use in any zoning district within the City of Worthington.
5. Temporary Use Permits were previously granted by the Board to this vendor across the street at 923 High Street from May 6, 2014 to August 5, 2014, and from May 12, 2015 to November 10, 2015 with conditions. Staff issued a

Temporary Use Permit for August 5, 2014 and August 12, 2014 with the same conditions. A Temporary Use Permit was denied by the Board on September 4, 2014.

6. A Temporary Use Permit was approved at this location from April 12, 2016 to October 11, 2016, and the Board at that time permitted 2 flags. City Council has made comments to staff the flags are not appropriate.
7. The applicant is proposing operating a Food Truck on this property in the parking lot, on Tuesdays, from 3:00 PM to 8:00 PM, from March 14, 2017 through December 5, 2017, including the placement of 2 flags in the grass. It is not clear if the proposed flags will be in the right-of-way. Permission to occupy the right-of-way must be granted by the Director of Service and Engineering.
8. The Board of Zoning Appeals is authorized to grant a Temporary Use Permit for up to 6 months, from March 14 to September 12. The applicant must apply for a renewal to operate from September 19 to December 5, 2017.

The following conclusions are presented:

1. Staff was previously concerned about food, grease, trash, and general litter in the parking lot, grass areas, the public sidewalk, and the neighboring properties not being cleaned daily. Staff received no complaints about such food, grease, trash, or general litter at the previous or current locations. Previous applications included a trash container to be removed at the end of the shift.
2. A Food Truck for a special event would seem reasonable but would seem out of place in most parts of the City.
3. Temporary Use Permits are revocable.

Discussion:

Ms. Crane asked for how long the Temporary Use Permit can be approved and Mr. Phillips replied the board can only grant a Temporary Use Permit for up to six months.

Ms. Reibel asked if the flags were a zoning issue or an aesthetic concern because she did not have a problem with the flags. Mr. Phillips replied the zoning code does not allow temporary banners, flags, or anything that has movement, but the board has the authority to grant a Temporary Use Permit for up to six months. He also mentioned some of the City Council members had aesthetic concerns but were not directly relayed to him.

Ms. Crane asked if the food truck would be in the same location as it was last year and Andrew Schmidt, 2300 Brandon Road, Columbus, replied yes, the food truck will sit approximately fifty feet from the right-of-way. She asked where the flags are proposed to be and he replied the flags were in the grassy area last year but he is not sure how far back the grassy area is from the right-of-way. He also said if the board feels the flags are a nuisance he can do without them.

Mr. Schmidt stated Ace Hardware has asked him to stay longer which is why the December end date for this use. Mr. Seitz asked if he would prefer the March to September timeframe or if April to October would be better, and he replied he does not mind coming back in September for a renewal and the sooner the better.

Ms. Crane asked if there was anyone who wanted to speak for or against this proposal.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY ANDREW SCHMIDT AND CVS 3407 OH LLC FOR A TEMPORARY USE PERMIT TO ALLOW THE OPERATION OF A FOOD TRUCK ON TUESDAY EVENINGS FROM MARCH 14, 2017 TO SEPTEMBER 12, 2017, FROM 3:00 PM TO 8:00 PM, AT 926 HIGH STREET, AS PER CASE NO. BZA 04-17, DRAWINGS NO. BZA 04-17 DATED JANUARY 24, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING AND WITH THE FOLLOWING CONDITIONS:

- 1. MAINTAIN ALL REQUIRED PERMITS AND LICENSES REQUIRED BY OTHER ORDINANCES, STATUTES, AND/OR REGULATIONS.**
- 2. KEEP THE SITE, INCLUDING THE ADJACENT RIGHT OF WAY CLEAN AND SANITARY AT ALL TIMES.**
- 3. NO TEMPORARY SIGNAGE OR FLAGS PERMITTED.**
- 4. SANDWICH BOARD PERMITTED AS PRESENTED AT THE MEETING.**

Mr. Coulter seconded the motion. All board members voted “aye” and the motion was approved.

2. Variance – Side and Rear Yard Setbacks – Transformer – 2204 W. Dublin-Granville Rd. (UDF) BZA 05-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the C-4 district where the minimum side yard requirement is 15 feet and the minimum rear yard requirement is 30 feet.

2. The applicant is constructing a new convenience store spanning the corporate boundary and is proposing to place an electrical transformer with landscape screening 5.9 feet from the east property line and 20 feet from the north property line. The requested variances are 9.1 feet for side yard setback and 10 feet for rear yard setback.

The following conclusions are presented:

1. The zoning zone has no exception for building service equipment, like transformers, within setbacks in non-residential districts. With the proposed screening including a fence on the property to the east, the small size of the structure relative to the main building and gas pump canopy, and building service equipment allowed in the required yards of residential properties, the requested variances are not substantial.
2. 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 about the request for change of the landscape screening and David Watkins, 411 East Town Street, Columbus, Ohio, replied he would need to make a telephone call to discuss the matter with another attorney. Mr. Coulter said he did not have a problem with the proposed landscaping. Ms. Crane stated she would like to see the landscaping issue reconciled with the neighbors.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY UNITED DAIRY FARMERS FOR A VARIANCE FROM CODE REQUIREMENTS FOR SETBACKS TO ALLOW THE PLACEMENT OF AN ELECTRICAL TRANSFORMER AT 2182 W. DUBLIN-GRANVILLE ROAD, AS PER CASE NO. BZA 05-17, DRAWINGS NO. BZA 05-17 DATED FEBRUARY 3, 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.

3. Variance – Side Yard Setback – Addition – 809 Robbins Way (Joyce & William Roberts) BZA 06-17

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 side yard requirement is 8 feet.
2. The applicant is proposing to add a 2 story elevator on the east side of the existing dwelling. The foundation of the proposed addition is approximately 6 feet 7 inches by approximately 10 feet 5 inches and approximately 3 feet 8 inches from the east property line. The exterior walls of the elevator shaft are proposed to 5 feet 10 ¼ inches by 8 foot 11 ¾ inches, and are proposed to be 4 feet 5 ¾ inches from the east property line. The requested variance is 1 foot 5 inches.
3. The 2013 Residential Code of Ohio requires walls within 5 feet of the property line be constructed of 1 hour, fire-resistant-rated construction. The granting of any zoning code variance does not grant variances from building code requirements.

The following conclusions are presented:

1. The addition is relatively small in comparison to the existing dwelling and the dwellings within the neighborhood. This mitigates the substantial nature of the setback variance request.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.
4. The elevator could be placed in the rear yard with entry from the same dining room without requiring a variance.

Discussion:

Edward Fehér, 4041 North High Street, Columbus, said he was representing his clients because they were unable to attend the meeting this evening. His clients contacted their Home Owners Association and the Association did not have a problem with the placement of the elevator.

Ms. Crane asked about the city staff comment regarding placement of the elevator in the rear yard with entry from the same dining room and if that option was considered. Mr. Fehér replied, no, because the house has three levels and they want to have access to all three floors including the basement. Ms. Crane asked if fire protective materials are

necessary since the elevator will be so close to the property line and Mr. Phillips replied only the outside wall.

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

Motion:

Ms. Reibel moved:

THAT THE REQUEST BY JOYCE AND WILLIAM ROBERTS FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF AN ADDITION AT 809 ROBBINS WAY, AS PER CASE NO. BZA 06-17, DRAWINGS NO. BZA 06-17 DATED FEBRUARY 3, 2017 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.

4. Variance – Side Yard Setback – Fence – 820 Morning St. (Mahlon & Cindy Nowland) BZA 08-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district with a platted front yard setback of 30 feet on both the Morning Street and Franklin Avenue rights-of-way.
2. The applicant is proposing to erect a 4 foot tall metal fence 20 feet from the Franklin Avenue right-of-way. The requested variance is 10 feet.
3. The property is subject to, and the fence has been approved by, the Architectural Review Board.

The following conclusions are presented:

1. Platted building lines, or setbacks, are typically less than what are currently required by the zoning code and the more restrictive is usually applied. In this particular case, both the front yard setbacks of 30 feet exceeds the 20 feet permitted for the adjacent side yard for corner lots. The requested variance is not substantial. If it were not for the platted 30 foot front setback on the Franklin Avenue side of the property, no variance would be required.

2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Cindy Nowland, 820 Morning Street, had nothing to add. Ms. Crane said the proposed fence was attractive.

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

Motion:

Mr. Falcoski moved:

THAT THE REQUEST BY MAHLON & CINDY NOWLAND FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ERECT A FENCE AT 820 MORNING STREET, AS PER CASE NO. BZA 08-17, DRAWINGS NO. BZA 08-17 DATED FEBRUARY 13, 2017 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Seitz 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. Falcoski moved to adjourn the meeting, seconded by Mr. Seitz. The meeting adjourned at 7:50 p.m.