



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

July 6, 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; and C. Crane. Also present were D. Phillips, Chief Building Inspector; and L. Brown, Director of Planning and Zoning.
2. Pledge of Allegiance
3. Approval of minutes of the June 1, 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. Temporary Use Permit – Food Truck – 885 High St. (Eat Now) BZA 07-17

Ms. Crane said the Board members received a letter from the applicant stating she would not be able to attend the meeting. The item remained tabled.

C. Items of Public Hearing - New

1. Variance – Front Yard Setback – Fence – 561 Oxford St. (Sarah Iles Johnston) BZA 17-17

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 front yard setback requirement is 30 feet. Fencing is not permitted between the right-of-way and the building setback line.
2. The Oxford Street right-of-way is 66 feet wide.
3. The applicant is proposing to replace the existing fence with a new, 4 foot tall, open style fence along the south property and across to the existing dwelling, approximately 22 feet from the Oxford Street right-of-way. The requested variance is 8 feet.

4. The property is subject to, and the fence has been approved by, the Architectural Review Board.

The following conclusions are presented:

1. The wider than typical right-of-way encroaches onto this property an additional 8 feet, creating a practical difficulty. If the right-of-way were the typical 50 feet found in the district, the proposed fence location would not require a variance. Additionally the fence will not project beyond the front of the existing dwelling. 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:

Eve Warnock, 561 Oxford Street, said the applicant is her mother-in-law. Her garden needs more sunlight and most of her yard is filled with trees so she would like to enclose a larger part of her yard with new fencing.

Ms. Crane asked if the Architectural Review Board reviewed this application and Mr. Coulter replied it did and the Board reviewed the fence and did not have any concerns.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY SARAH ILES JOHNSTON FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ERECT A FENCE AT 561 OXFORD STREET, AS PER CASE NO. BZA 17-17, DRAWINGS NO. BZA 17-17 DATED MAY 25, 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.

2. Variance – Side Yard Setback – Fence – 5971 Olentangy River Rd. (DJ Falcoski & Christine Corl) BZA 18-17

Mr. Falcoski recused himself from the dais and took a seat in the audience.

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 front yard setback requirement is 30 feet. Corner lots are permitted to reduce the adjacent setback to 20 feet. Fencing is not permitted between the right-of-way and the building setback line. Fencing within 10 feet of the right-of-way cannot exceed 2 foot 6 inches above the street grade.
2. The applicant is proposing to erect 45 feet of a 5 foot tall fence approximately 6 feet 6 from the Cambridge Court right-of-way for an approximately 20 foot portion, and approximately 11 feet from said right-of-way for an approximately 25 foot portion. The grade rises to approximately 36 inches above the street grade, making the 20 foot fence section approximately 8 feet tall relative to the street grade. The requested variances are approximately 13 feet 6 inches and approximately 9 feet for front yard setback, and approximately 5 feet 6 inches for fence height.

The following conclusions are presented:

1. The property is relatively large and the applicant only proposes to fence less than a quarter of the Cambridge Court side yard. The existing driveway prevents locating the fence out of the required side yard, creating a practical difficulty. These factors mitigate the substantial nature of the setback variance request.
2. The fencing is setback from the Cambridge Court and Olentangy River Road intersection with a traffic control device that allows visibility across the corner lot beyond the fence as you travel east along Cambridge Court. Other landscaping in the general area impact intersection sight lines more than the proposed fence. These factors mitigate the substantial nature of the fence height variance request.
3. The delivery of governmental services should not be affected.

Discussion:

Christine Corl, 5971 Olentangy River Road, said she contacted all twelve neighbors surrounding their property, and several letters of support were forwarded to the Board prior to the meeting. Out of the twelve neighbors she spoke with there was only one neighbor who objected to the proposal. She read a letter from one of her neighbors stating there had been some changes to the property in the last few years.

Ms. Corl continued to say when they moved into the property in 2004, the entire north side of their property, which is one hundred and sixty feet and faces the corner of Olentangy River Road and Cambridge Court, the lot was completely covered with trees. Several trees were cut down in the last few years, and they have spent over \$10,000 replacing trees that face the busy intersection. Their house is located across from the entrance to Antrim Park, and cars sometimes drive 70 miles per hour along Olentangy River Road. They have had one dog killed and several scares with their daughter.

Recently, there have been strangers walking through their yard. She said she is just trying to obscure the view of her home from all of the vehicular and pedestrian traffic and make their yard safer for their young daughter. They want to construct a fence on one quarter of their north property line. There will be two small sections of fencing which will be woven around the existing trees, therefore not creating a visual obstruction. They are proposing the minimal amount of this shield from the highway to keep their family safe. She understands there is a nonadjacent neighbor who has raised some concerns about the fence, but he would have to stand in the middle of the road to see it. Her property is not adjacent to the neighbor who is objecting to the fence.

Ms. Crane asked if her driveway entrance is from Olentangy River Road and she replied yes and she wants to put the fence between her driveway and Cambridge Court.

Mr. Coulter asked how far the fence would be away from the curb and Mr. Phillips replied possibly another ten feet behind the curb.

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

Gordon Reis, 824 Cambridge Court, said the setback is six feet six inches from the street. Mr. Phillips said the fence is proposed six feet six inches from the from the right-of-way, not the street.

Mr. Reis said they have a homeowners association on their street, and he was surprised that only two of the six people that live on his street were notified in writing. He said a blue sign was put in the yard on Olentangy River Road but not on Cambridge Court. He is aware that Ms. Corl has spoken with some of the neighbors on his street but he believes two of the neighbors are currently on vacation. He felt the homeowners association should come forward and present their own recommendation.

Mr. Reis continued to say because of the change in the elevation in the area, the fence will appear to be eight feet tall. He said his neighbors take great pride in their street and have spent a lot of money to beautify their street. He said, with the approval of the City, they took down 450 feet of trees and replaced them with a variety of Spruce and Hemlock. They spent \$35,000 to \$40,000.00 to beautify their street. He said the Falcoski family does not have sidewalks on their property. And they only exist on their street, and he sees very little traffic except for parents pushing baby buggies.

Mr. Reis continued to say when he moved into the neighborhood, he was told who he had to hire for lawn mowing, landscaping, et cetera, and people take great pride in their lawns. There are no fences allowed on their street. He felt this request was unusual and inappropriate for the area. He showed photographs where they planted they planted the 56 trees on Cambridge Court, and said although the Falcoskis did not financially contribute to the beautification project and they wanted to be good neighbors.

Mr. Reis continued and asked why the Falcoskis were not putting the fence on the other side of the driveway and connect to the already existing fence and not require a variance. If the Board approves a fence, he hopes they would approve something more appropriate. Mr. Phillips said even if the fence were moved to the south, it would still require a front yard setback variance to connect to the existing fence.

Mr. Reis continued to say he had safety concerns about the intersection of Olentangy River Road and Cambridge Court and feared the fence might be problematic for people and hinder their view while trying to enter the intersection from Cambridge Court. He said he felt the fence is not consistent with the neighborhood, is not necessary, and concerned it will affect his property's value.

Jared McAlister, 254 Kenbrook Drive, said he is a corner lot owner himself and is the father of a young child. He said he did not think the alternative suggestion Mr. Reis made about putting the fence on the other side of the driveway would work because that may present other issues. The trees that were planted will eventually get very large and will cover up the fence and years down the road you will not be able to see the house.

Mr. Coulter asked if Ms. Corl would be willing to reduce the fence height to four feet and she replied yes. Ms. Crane said she would feel more comfortable approving the fence if it were the same height as the other fence on the property which would still provide adequate screening. Ms. Corl agreed, and said the fence will not inhibit the sight lines while pulling out into the Olentangy River Road intersection. Mr. Coulter suggested the fence be no closer than ten feet from the right-of-way line. Mr. Reis suggested cutting down the vegetation on the corner because people cannot see around it.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY DONALD JOHN FALCOSKI AND THE CHRISTINA L. CORL QUALIFIED PERSONAL RESIDENCE TRUST FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ERECT A FENCE AT 5971 OLENTANGY RIVER ROAD, AS PER CASE NO. BZA 18-17, DRAWINGS NO. BZA 18-17 DATED JUNE 2, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING AND THAT THE FENCE WILL BE NO TALLER THAN FOUR FEET HIGH AND MUST BE AT LEAST TEN FEET FROM THE RIGHT-OF-WAY.

Mr. Coulter seconded the motion. All members, excluding Mr. Falcoski, voted "aye" and the motion was approved.

Mr. Falcoski returned to his place at the dais.

3. Extension of Construction Completion Period – Addition/Alteration – 254 Kenbrook Dr. (Jared McAlister) BZA 19-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. Building Permit 21529 was issued on November 25, 2015 to construct an addition and alteration to the existing dwelling. The permit expired on May 25, 2017. The work is not completed.
2. The applicant is requesting an extension of construction completion period to complete the work, projected to be December 31, 2017.
3. Staff has no record of any inquiries on the status of construction on the property.

The following conclusion is presented:

1. It is reasonable for the Board to consider extending the completion period for a longer period of time to allow ample time for the owner to self-perform the work given that there has not been any concern expressed to staff about the status of the construction.

Discussion:

Jared McAlister, said he is self-performing the work including electrical, mechanical and plumbing. He said the project is taking a little longer than he would like, but he does not have the means to hire a contractor to help him get the job done sooner.

Ms. Crane asked what still needed to be done and Mr. McAlister replied he still needs to get permits and have the inspector do rough inspections for everything. He said he is also a business owner in Worthington, so finding time to finish his project has been difficult.

Mr. Seitz asked if a sixth month extension would be enough time and Mr. McAlister replied yes.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY JARED MCALISTER FOR AN EXTENSION OF CONSTRUCTION COMPLETION PERIOD UNTIL DECEMBER 31, 2017 TO ALLOW THE CONSTRUCTION AUTHORIZED BY BUILDING PERMIT 21529 TO CONTINUE AT 254 KENBROOK DRIVE TO CONTINUE, AS PER CASE NO. BZA 19-17, DRAWINGS NO. BZA 19-17 DATED JUNE 7, 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 and all members voted “aye.” The motion was approved.

**4. Variance – Side Yard Setback – Addition – 398 Loveman Ave. (Chris & Susan Hinz)
BZA 20-17**

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 front yard setback requirement is 30 feet. Corner lots are permitted to reduce the adjacent setback to 20 feet. This particular property has a platted front yard setback requirement of 35 feet along the Loveman Avenue right-of-way.
2. The Andover Street right-of-way is 80 feet wide.
3. The applicant is proposing to demolish an existing garage and breezeway and construct an 18 foot by 15 foot single story, and 25 foot by 26 foot 10 inch two story addition. Approximately half of the additions are within the 20 foot side yard setback, a portion of which is proposed to be 3 feet 11 inches from the Andover Street right-of-way. The requested variance is 16 feet 1 inch.

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 lot is very narrow, and the exceptionally large 80 foot Andover Street right-of-way encroaches 15 feet further onto this property than the typical 50 feet right-of-way for this district, further compounding the practical difficulty. 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:

Mr. Chris Hinz, 398 Loveman Avenue, said he purchased the home three years ago. The garage is very small and only fits one car so they would like to build a two-car garage to get their cars off the street. He said their family is growing so they would also like to add an addition onto their home, making the kitchen larger and adding a bedroom.

Motion:

Mr. Falcoski moved:

THAT THE REQUEST BY CHRIS AND SUSAN HINZ FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO CONSTRUCT AN ADDITION AT 398 LOVEMAN AVENUE, AS PER CASE NO. BZA 20-17, DRAWINGS NO. BZA 20-17 DATED JUNE 8, 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 members voted “aye” and the motion was approved.

D. Other

There was a brief discussion about the food truck from the previous meeting which was tabled, and the next steps that should be taken in order to move forward.

E. Adjournment

Ms. Reibel moved to adjourn the meeting at 8:17 p.m., seconded by Mr. Seitz. All members voted “aye” and the meeting was adjourned.