



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

September 7, 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 and Building.
2. Pledge of Allegiance
3. Approval of minutes of the August 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. Temporary Use Permit – Food Truck – 885 High St. (Eat Now) BZA 07-17
Withdrawn by applicant

2. Variance – Side Yard Setback – Garage Replacement – 275 Loveman Ave. (Janice Wilson & Terry Agler) BZA 23-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district where detached accessory buildings larger than 120 square feet in area must be setback a minimum of 8 feet from the side property line.
2. The property had an existing detached garage that was recently demolished.
3. The applicant is proposing to construct a new 24 foot by 24 foot detached garage, 7 feet from the east property line. The requested variance is 1 foot.

The following conclusions are presented:

1. Existing lots of records tend to be smaller than those found in the district, creating practical difficulties when building detached structures and maintaining a usable rear yard. In this particular case, the lot is only 50 feet wide compared to 80 feet typically found in the district. The garage is being replaced and widened.

Shifting it to the west would make it more difficult to maneuver a vehicle into the west stall.

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

Discussion:

Janice Wilson, 275 Loveman Avenue, said she was with her husband Terry Alger. Mr. Coulter asked if the edge of the garage would be in the same position as before and Mr. Phillips replied no, the site plan shows the garage will be seven feet from the property line which is further away.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY JANICE WILSON AND TERRY AGLER FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO CONSTRUCT A GARAGE AT 275 LOVEMAN AVENUE, AS PER CASE NO. BZA 23-17, DRAWINGS NO. BZA 23-17 DATED JULY 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 members voted “aye” and the motion was approved.

C. Items of Public Hearing - New

1. Extension of Construction Completion Period – Single Family Dwelling – 410 Tucker Dr. (The Arcaro & LaRussa Co./Bakhshi) BZA 29-17

Findings of fact:

1. Building Permit 21573 was issued on January 26, 2016 to construct an approximately 19,426 square foot single family dwelling on the property. The permit expired on July 26, 2017. Plumbing Permit 8097 was issued on August 23, 2016. Mechanical Permit 2156 was issued on April 6, 2017. An Electrical Permit has not been issued.
2. The certificate of phased plan approval was last issued on October 5, 2016. Design work to be completed includes the retaining walls, the thermal envelope, the fireplaces, the swimming pool, fuel gas piping system, and the electrical system.

3. The last inspection we have on file was of the rough plumbing on March 31, 2017.
4. It would be reasonable for the Board to grant an additional year to complete construction.

The following conclusions are presented:

1. This particular dwelling is much larger and more complicated than a typical dwelling. In addition its sheer size which includes a full basement even under the attached garage, the dwelling structure uses a mixture of wood, structural steel, concrete over metal deck, and floor trusses.
2. It would not be in public interest to not allow the construction to continue.

Discussion:

Rodney Arcaro, 362 East Granville Road, said he is the builder for the Bakhshi family. He said it is in everyone's best interest to finish this project and if the Board approves the extension of time he believes construction would resume within two weeks. Ms. Crane asked when the last time any work had been done on the site and Mr. Arcaro replied this past April. Mr. Coulter asked when the house would be finished and Mr. Arcaro said if there are no more delays he anticipated the house would be completed by June 2018. Ms. Crane asked if there was anyone to speak for or against this application.

Mary Dillhoff, 430 Tucker Drive, said finishing this house is in everybody's best interest. She asked to have the applicant make sure they mow their grass and would like to have the portable toilet moved to a less conspicuous location. Ms. Crane asked if that is something the Board members can require from the applicant and Mr. Phillips replied, no, that issue is between the two property owners.

Robert Bornstein, 495 Tucker Drive, said he is new to the neighborhood and have not moved in yet, but their house is close by. He asked what assurances there are that progress will be made because he does not want to see the home in the same incomplete condition it is now in another year. Mr. Phillips said there was a house a few years ago that took three and a half years to be built. The home was smaller than this house, but the homeowner was building the house himself.

Anthony Hahn, 399 Highgate Avenue, said he lives behind the back yard of the Bakhshi family. He wanted to echo Mrs. Dillhoff's comments and realizes there is not much the Board can do. He is aware there are liens on the house and was concerned if contractors would still be working on the house with unpaid liens.

Cheryl Evans, 360 Tucker Drive, said she is concerned about safety and felt the property is hazardous now and if work does not begin soon, something should be done to secure the house. She would like the six foot weeds to be removed because that is all she sees

when she pulls out of her driveway. Mr. Phillips said the City's Service and Engineer department pursues all noxious weed and tall grass complaints and he advised Ms. Evans to call their office.

Rodney Arcaro said he agrees with all of the comments that were made and said he stipulated in order to begin building that the silt fence and erosion control should be addressed first. He is waiting for a few things to be resolved and then he can move forward. He had no problem moving the portable toilet.

Motion:

Mr. Coulter moved:

THAT THE REQUEST BY THE ARCARO AND LARUSSA COMPANY, AND AARON AND SUSAN BAKHSI FOR AN EXTENSION OF THE CONSTRUCTION COMPLETION PERIOD FOR ONE YEAR TO CONSTRUCT A DWELLING AT 410 TUCKER DRIVE, AS PER CASE NO. BZA 29-17, DRAWINGS NO. BZA 29-17 DATED JULY 17, 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.

2. Variance – Accessory Building Area & Side Yard Setback – Garage & Window Wells 595 Fox Ln. (Robert & Deborah Tucker) BZA 30-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district where total accessory structure area is limited to 850 square feet, and the minimum side yard requirement is 6 feet.
2. The applicant is proposing to construct a new dwelling with a 24 foot by 38 foot attached garage. The proposed garage is 912 square feet. The requested variance is 62 square feet.
3. The applicant is also proposing the dwelling be constructed 6.39 feet from the north property line with 3, 5 foot 4 inch by approximately 4 foot 9 inch window wells along the north side of the dwelling, approximately 1.64 feet from the north property line. The requested variance is approximately 4.36 feet.

The following conclusions are presented:

1. The requested additional accessory building area is not significant.
2. Existing lots of record create practical difficulties when attempting to construct dwellings. In this particular case, the lot is only 68.83 feet wide whereas 80 feet is typical for the district. If the lot were the minimum width, no variance would be required. The requested side yard variance is 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:

Robert Tucker, 595 Fox Lane, said he spoke with the neighbors next door about the window wells and they do not have any problems or concerns.

Mr. Coulter asked if the window wells were for egress and Mr. Tucker replied, potentially.

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

Motion:

Mr. Falcoski moved:

THAT THE REQUEST BY ROBERT AND DEBORAH TUCKER FOR A VARIANCE FROM CODE REQUIREMENTS FOR ACCESSORY BUILDING AREA AND SIDE YARD SETBACK TO CONSTRUCT A DWELLING 595 FOX LANE, AS PER CASE NO. BZA 30-17, DRAWINGS NO. BZA 30-17 DATED JULY 28, 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 members voted “aye” and the motion was approved.

3. Variance – Signage – 2285 W. Dublin-Granville Rd. (Borgata Pizza Cafe) BZA 24-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the C-2 district where internal signs are not permitted to be illuminated.

2. The applicant placed 2 illuminated internal signs in the window of the restaurant. The requested variance is to allow 2 illuminated internal signs in Suites 113 and 114.

The following conclusions are presented:

1. The tenant space has an illuminated wall mounted sign above its entrance to identify the restaurant. No practical difficulty was obvious to staff.
2. The delivery of governmental services should not be affected.

Discussion:

Ed Bisconti, 2128 Teardrop Avenue, Columbus, said if you look at his space as you are driving down State Route 161, it is unique because of the way it sets back, and the restaurant's sign is also smaller than other signs in the strip center. When he originally submitted his materials for a sign permit, the sign was supposed to have thirty inch letters but the sign was denied because it had to be scaled to the white space. The sign's letters had to be twenty-four inches or less, but the sign is difficult to read from the road. He said if you head east you do not even see the restaurant until you have already driven past, and if you head west, you do not see the restaurant until you are right up in front of it. He wanted the illuminated sign to attract some attention to the building since his restaurant is the only business in that section of the strip center right now. He said all the other signs are bigger and have thirty inch letters and believes that people are having a hard time trying to find his restaurant. He said his sign is tasteful and displays the name only. He said he does not have a problem removing the electronic open sign but he feels that people are having a difficult time trying to find his restaurant.

Ms. Crane asked who advised him the letters were too big and Mr. Bisconti replied Lynda Bitar from City staff. She asked if Ms. Bitar's response was due to an Architectural Review Board decision and Mr. Coulter replied there was a signage program that was approved for the center. Mr. Phillips said the center signage program was approved and as long as Borgata's sign met the signage for the center staff could approve it. Anything bigger would have had to go back to the Architectural Review Board for approval. Mr. Bisconti said he did not have time to go back to the Architectural Review Board because he had to open the restaurant; he was eight months behind schedule. Mr. Phillips said Mr. Bisconti has the option to go back to the Architectural Review Board if he would like a bigger sign. Mr. Bisconti said he did not have an additional six thousand dollars for a new sign.

Mr. Coulter said he drove past the center last week looking for the restaurant and noticed the open sign but he felt the tree may be more of a hindrance in a few years and Mr. Bisconti agreed.

Mr. Seitz asked if there was a pylon sign for the center and Mr. Bisconti replied no.

Ms. Crane believed all of the tenants in the shopping center would want an illuminated sign if one person gets to have it.

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

Motion:

Mr. Coulter moved:

THAT THE REQUEST BY BORGATA PIZZA CAFE AND LINWORTH PLAZA LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE TO ALLOW 2 ILLUMINATED WINDOW SIGNS AT 2285 WEST DUBLIN-GRANVILLE ROAD, SUITES 113 AND 114, AS PER CASE NO. BZA 31-17, DRAWINGS NO. BZA 31-17 DATED AUGUST 7, 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 members voted “nay” and the motion was denied.

4. Variance – Rear Yard Setback – Fence – 6500 Meadowbrook Cir. (Christopher Wald) BZA 32-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the R-10 district with a required rear yard of 30 feet. Fencing is not permitted between the right-of-way line and building line.
2. The Linworth Road right-of-way is 80 feet wide. There appears to be an existing split rail fence within the Linworth road right-of-way.
3. The Board of Zoning Appeals does not have the authority to allow fencing within the right-of-way.
4. The applicant is proposing to remove the existing split rail fence and erect a fence in the rear of the property, along the Linworth Road right-of-way. The requested variance is 30 feet.

The following conclusions are presented:

1. This property fronts 2 rights-of-way, creating a practical difficulty when attempting to fence the rear yard. In this particular case, the wider Linworth Road right-of-way than the 50 feet found in this district and encroaches an additional 15 feet onto this property. There is some existing screening of the existing fence and the applicant is proposing additional landscaping along the new fence. 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:

Christopher Wald, 6500 Meadowbrook Circle, said he just moved into the neighborhood and loves Worthington and hopes he never has to move again. He said the fence is in bad shape and does not have any functionality and needs to be replaced so his family can utilize the back yard and keep their puppy safe. He said he plans to landscape the area and add trees so there would not be any tunnel effect.

Mr. Coulter said adding trees will soften the effect of the six foot privacy fence. Mr. Wald said if the height of the fence was a problem for the board he could lower the fence height.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY CHRISTOPHER WALD FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ERECT A FENCE AT 6500 MEADOWBROOK CIRCLE, AS PER CASE NO. BZA 32-17, DRAWINGS NO. BZA 32-17 DATED JULY 6, 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.

5. Variance – Side Yard Setback – Elevator Addition – 809 Robbins Way (Joyce & William Roberts) BZA 33-17

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. On March 2, 2017, the Board of Zoning Appeals granted a side yard setback variance to construct a 6 foot 7 inch by approximately 10 foot 5 inch 2 story elevator structure approximately 3 feet 8 inches from the east property line.

3. The current proposal is an approximately 6 foot 5¼ inch by approximately 11 foot 6½ inch 2 story elevator, approximately 3 feet 9 ¾ inches from the east property line. The requested variance is approximately 4 feet 2¼ inches.
4. 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 continues to be relatively small and the encroachment into the side yard is slightly less although the mass of the addition is slightly larger. This variance request is 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:

Ed Feher, 4041 North High Street, Columbus, said he was representing Joyce and William Roberts.

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

Motion:

Mr. Falcoski:

THAT THE REQUEST BY JOYCE AND WILLIAM ROBERTS FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO CONSTRUCT AN ADDITION AT 809 ROBBINS WAY, AS PER CASE NO. BZA 33-17, DRAWINGS NO. BZA 33-17 DATED AUGUST 11, 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 memo. All members voted “aye” and the motion was approved.

6. Variance – Signage – 6384 Proprietors Rd. (New Avenue Architects & Engineers/Ohio Beer Co.) BZA 34-17

Mr. Falcoski stated he will abstain from all discussion on this item since he has a financial interest in New Avenue Architects and Engineers.

Findings of fact:

1. This property is in the I-1 district where each business is permitted 1 wall mounted sign and a single professional nameplate not exceeding 2 square feet. Temporary signs are not permitted.

2. A sign is any device, structure, material or combination of these intended to advertise or draw attention to such items as business names, organization names, real estate, buildings or structures, products, services or entertainment. Temporary signs are further defined as a sign associated with a temporary activity, not permanently attached to a building or permanently embedded on a site. Temporary signs shall be prohibited except with issuance of a Temporary Use Permit as per Section 1129.05(b)(5) or as provided for in Section 1170.05(f), C-5 Central Commercial Zoning District Exceptions.
3. The applicant has placed the following signs on the property:
 - a. 2, approximately 2 foot by 2 foot signs on 2 entry doors,
 - b. A 7 foot diameter sign on the north elevation, on an adjacent wall and to the right of the main entrance,
 - c. A temporary sign in the yard.
4. The applicant is proposing a 2 foot 2 inch by 16 foot 8¼ inch sign on the west elevation and above the main entry door. This would bring the total number of wall-mounted signs to 4.
5. The requested variance is a second, wall-mounted sign for this tenant. It appears the signs on the doors will be removed and replaced with an internal sign visible through the new entry doors when improvements are completed.

The following conclusions are presented:

1. If the purpose of the circular sign is to attract attention to this property when on Proprietors Road, it is not visible traveling north on Proprietors Road, and the main sign over the door will be easier to see and read heading south on this road. Staff did not find a practical difficulty addressed by the second, wall mounted sign.
2. The 2 additional signs on the doors exceed the professional nameplate size and must be removed. The temporary sign must also be removed.
3. The delivery of governmental services should not be affected.

Discussion:

Adam Brandkamp, 6384 Proprietors Road said the business is a beer distributorship, they sell beer to restaurants, bars, stores and a small percentage of keg sales to walk-in customers, which is limited by the State of Ohio. He said the signs in the beginning were magnetic signs they put up but they plan to take down all of the temporary signage. The wall mural and the sign presented at the meeting is what they would like to keep. He said

they are trying to fix up the façade of the building to make the building more attractive for customers.

Mr. Coulter said he liked the wall mural but he should have gotten the approval before putting the mural up. He asked if he planned to come back for approval of directional signage and if the signs would be illuminated. Mr. Brandkamp replied no to both questions. He said he planned to install some gooseneck lighting, but there are no plans for evening operations.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY NEW AVENUE ARCHITECTS AND ENGINEERS, OHIO BEER COMPANY, AND MORRISCO PROPERTIES LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE TO PLACE A SECOND WALL MOUNTED SIGN AT 6384 PROPRIETORS ROAD, AS PER CASE NO. BZA 34-17, DRAWINGS NO. BZA 34-17 DATED AUGUST 11, 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. Mr. Falcoski abstained, the remaining members voted “aye”, and the motion was approved.

D. Other

There was no other business.

E. Adjournment

Mr. Seitz moved to adjourn the meeting, seconded by Mr. Falcoski. All members voted “aye” and the meeting adjourned at 8:15 p.m.