



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

November 2, 2017

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: M. Coulter; B. Seitz; L. Reibel; D. Falcoski and C. Crane. Also present were D. Phillips, Chief Building Inspector, L. Brown, Director of Planning & Building, and T. Lindsey, Law Director.
2. Pledge of Allegiance
3. Approval of minutes of the October 5, 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 – Side Yard Setback – Fence – 5671 Indianola Ave. (Emma Lindholm)
BZA 36-17**

Mr. Coulter moved to remove this application from the table, seconded by Mr. Falcoski, and all board members voted “aye”.

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 Indianola Avenue right-of-way is 80 feet wide. The Park Boulevard right-of-way is 60 feet. The grade rises approximately 18 inches above the Park Boulevard street grade at the property line.
3. The applicant is proposing to erect a 5 foot tall fence along the Park Boulevard right-of-way. The requested variance are 20 feet for side yard setback and approximately 54 inches for fence height.

The following conclusions are presented:

1. The wider than typical right-of-way encroaches onto this property an additional 5 feet, compounding the practical difficulties of a narrow lot at an intersection. Additionally, Park Boulevard was constructed south of the center of the right-of-way, creating even more lawn area between the curb and the right-of-way, further mitigating the substantial side yard setback variance.
2. The Board typically seeks a 4 foot tall or open style 6 foot tall fence when encroaching into the side yard, but in this particular case, the proposed fence is at the back of the existing dwelling, and should not impact intersection sight lines compared to similar fences at other intersections in the district. This mitigates the substantial fence height variance request.
3. The essential character of the neighborhood should not be substantially altered.
4. The delivery of governmental services should not be affected.

Discussion:

Emma Lindholm, 5671 Indianola Avenue, asked how two nearby homes were able to have six foot fences. Mr. Phillips replied 319 Loveman Avenue got a variance in 1981 for a 42” fence, but he did not know when the fence was raised above 42”. He said he could open up an investigation if the Board members wanted him to pursue it. Ms. Crane said that would be appropriate. Mr. Phillips continued 322 Loveman with the six foot open style of fence with the scallops was approved in 2007.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY EMMA LINDHOLM FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK AND FENCE HEIGHT TO ERECT A FIVE FOOT FENCE AT 5671 INDIANOLA AVENUE, AS PER CASE NO. BZA 36-17, DRAWINGS NO. BZA 36-17 DATED OCTOBER 23, 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. Variance – Front Yard Setback – Pergola – 467 Poe Ave. (Von & Lisa Rouse) BZA 38-17

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.
2. The applicant is proposing to construct a 3 foot 4 inch by 14 foot pergola over the main entry, 26 feet 8 inches from the Poe Avenue right-of-way. The requested variance is 3 feet 4 inches.

The following conclusions are presented:

1. The requested 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:

Lisa Rouse, 467 Poe Avenue, said she planned to stain the pergola brown.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY VON AND LISA ROUSE FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO CONSTRUCT A PERGOLA AT 467 POE AVENUE, AS PER CASE NO. BZA 38-17, DRAWINGS NO. BZA 38-17 DATED OCTOBER 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 members voted, “aye”, and the motion was approved.

2. Variance – Side and Rear Yard Setback – Garage – 565 Hartford St. (Peter Lenz AIA/Sheldon) BZA 39-17

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 in excess of 120 square feet in area must be set a minimum of 8 feet from the side property line and 10 feet from the rear property line.
2. The applicant is proposing to construct a 22 foot by 21 foot detached garage with a 5 foot by approximately 14 foot shed, 3 feet from the north and west property lines. The requested variances are 5 feet for side yard setback and 7 feet for rear yard setback.
3. The property is subject to, and the garage and shed application has been tabled by, the Architectural Review Board pending more details.

The following conclusions are presented:

1. The existing lot is very narrow at 53.53 feet in width and 8,564.8 square feet in area, where the minimums for the district is 80 feet width and 10,400 square foot lot area, creating a practical difficulty. The property shares a driveway with the property to the north, and the house location reduces options for placing the garage on the site without taking valuable rear yard space, creating more practical difficulties.
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 if there was anyone present who wanted to speak for or against this application.

Motion:

Mr. Falcoski moved:

THAT THE REQUEST BY PETER LENZ AND IAN AND SALLY SHELDON FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE AND REAR SETBACK TO CONSTRUCT A DETACHED GARAGE AND SHED AT 565 HARTFORD STREET, AS PER CASE NO. BZA 39-17, DRAWINGS NO. BZA 39-17 DATED OCTOBER 4, 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. Extension of Construction Completion Time – Remodel – 23 E. Southington Ave. (Tim Cavener) BZA 40-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. Permit 22021 was issued on January 19, 2016, to make alterations to the plumbing and electrical systems at 23 East Southington Avenue. Rough electrical and framing inspections were conducted and approved on January 21, 2016, and a rough plumbing inspection was conducted and approved on January 22, 2016. The work has not been completed, inspected and approved, and the Permit expired on July 19, 2017.
2. The applicant is requesting a year to complete the work.
3. Staff has no record of any inquiries regarding the status of the work.

The following conclusions are presented:

1. The applicant has told the Building Inspector he has hired an architect to prepare drawings for additional work and is the main reason for the delay in completing work before the expiration of the permit. The work is all interior and generally not visible from adjoining properties. It would be reasonable to grant a 1 year extension so the work can resume in the near future.

Discussion:

Raeann Cavener, 23 East Southington Avenue, said they had some other things to take care of first, but she felt a year would be sufficient time to finish the project.

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

Motion:

Mr. Coulter moved:

THAT THE REQUEST BY TIM CAVENER FOR A YEAR OF ADDITIONAL TIME TO COMPLETE ALTERATIONS AT 23 EAST SOUTHINGTON AVENUE, AS PER CASE NO. BZA 40-17, DRAWINGS NO. BZA 40-17 DATED OCTOBER 4, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Ms. Reibel seconded the motion. All members voted, “aye”, and the motion was approved.

**4. Variance – Side Setback – Porch – 175 Loveman Ave. (Maple Craft LLC/Guldager)
BZA 41-17**

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 side yard setback of 35 feet.
2. The applicant is proposing to construct a new front porch with a pergola. A portion of the pergola will encroach 5 feet into the side setback. The requested variance is 5 feet.

The following conclusions are presented:

1. The subdivision was platted with 35 foot front setbacks and when a portion of Kenbrook Drive was vacated, the resultant side yard for this property retained the platted 35 foot setback, creating a practical difficulty. In this particular case, only a portion of the pergola encroaches and if the typical 8 foot setback were required, a variance would not be required. The requested 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:

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

Motion:

Mr. Falcoski moved:

THAT THE REQUEST BY MAPLE CRAFT LLC AND PETER AND PERRI JOY GULDAGER FOR A VARIANCE FROM CODE REQUIREMENTS SIDE YARD SETBACK TO CONSTRUCT A PERGOLA AT 175 LOVEMAN AVENUE, AS PER CASE NO. BZA 41-17, DRAWINGS NO. BZA 41-17 DATED OCTOBER 5, 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.

5. Variance – Signage – Mural – 627 High St. (Old Worthington Partnership) BZA 42-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the C-5 district where each sign is permitted 4 colors including black and white.
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.
3. The applicant is proposing to paint a mural on the south elevation of the building, which is a sign by definition. The requested variance is to allow more than 4 colors.
4. The property is subject to, and the mural has been denied by, the Architectural Review Board.

The following conclusions are presented:

1. The sign is not advertising a good or service, which mitigates the substantial nature of the variance request.
2. The delivery of governmental services should not be affected.

Discussion:

Mr. Brown said the applicant filed an appeal on Monday it has been forwarded to City Council to be on their Agenda for the November 6, 2017 meeting.

Mr. Lindsey said the Board is to determine if a variance shall be approved for the number of colors. The Board should have no concern for the content of the mural itself and should not be the basis of whether they approve or disapprove the variance. If the Board approved the variance tonight, the applicant would not have to go to Franklin County Court of Common Pleas for an Appeal of that decision. The granting to allow the colors would not allow the mural to proceed until the Architectural Review Board gives their approval after receiving the decision from City Council. The mural is considered to be a sign per Worthington's Code and signs are addressed in the Design Guidelines. The Board of Zoning Appeals is only charged with the approval or denial of the number of colors.

Annina Parini, 210 Sinsbury Drive North, said she is Executive Director of the Old Worthington Partnership, said she received a lot of positive support from local constituents, and from people who attended the last Architectural Review Board meeting.

The mural would be done by a professional artist who does work all over the world, has been on HGTV, currently lives in the Worthington Hills area, and teaches at Colonial Hills elementary school.

Ms. Crane asked how long the plan had been in process and Ms. Parini replied 18 months. She said the owner of the former Worthington Hardware store gave them permission to paint a mural on their back wall over a year ago, and then they searched for months to find a local artist from the Worthington area. The owner of the hardware store said there might be some possible changes to the back area of their store and decided the back wall should not be painted. She then spoke with La Chatelaine and they were very enthusiastic about the idea of having their wall painted. She said this has been a very long process, they have been very transparent on social media, and had a booth at the past arts festival with a mini mural to draw some interest. She was disappointed with the latest hiccup of needing further approval but said she understood this had to be done in the right way. She said she is looking forward to this being the first mural in downtown Worthington. The project is fully funded by the Old Worthington Partnership's agreement with the Arts Festival.

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

Kay Keller, 670 Morning Street, urged the Board to table this item because she felt City Council had some very strict guidelines.

Cal Taylor, formerly at 701 Morning Street, said zoning went into effect in Worthington in 1971 and the sign ordinance was in its infancy at the time. He said the concern at that time were the billboards going up all around Columbus, and Worthington prohibited billboards. When he needed to put up a sign on Huntley Road his sign had more than four colors because shades of black are colors. Dr. Taylor was of the opinion a sign is something that is removable. He felt more questions needed to be answered such as was this envisioned. Was this incorporated with changes within the zoning code. How many colors. He feels this could be a slippery slope. Dr. Taylor did not feel the Farmer's Market needed any more advertising because it is known throughout Ohio and draws people from many areas.

Raeann Cavener, 23 East Southington Avenue, said she has lived in Worthington most of her life and she also had a nearby business for 20 years. She agreed about the slippery slope, but also felt the mural reflected the fun side of Worthington.

Ms. Crane asked for clarification and asked if the Board was only to consider the number of colors and Mr. Phillips replied yes. Mr. Lindsey said the challenge of content had to do with the First Amendment of the Constitution of the United States of America. The Board could not approve or deny a message based upon the content. He said he wanted to clarify the City Council meeting would be for the appeal issue only, not a meeting in which City Council would establish any standards for future review of murals. That

process could possibly take up to three to five months. Council will need to decide what the factors are such as locations, length of time, size, and sanctions as to color. What are the other reasonable time, place and manner restrictions to be put on murals in the future. He said the applicant has asked for an up or down decision and he felt that was a reasonable request.

Dave Nordstrom, 210 Hardy Way, a Board member of the Ole Worthington Partnership, said City staff gave the guidance to the Old Worthington Partnership that this issue would be treated as a sign, and they proceeded along those guidelines. He said the City's ordinance does not really address a mural. No one would want a mural with just four colors, a mural is a painting with more than four colors in it. He recommended not tabling this item, and put the project in the hands of City Council and let them approve or disapprove. He said the decision of the Architectural Review Board for this mural was three for and three against, and another mural was denied five votes against and one vote for, denying both murals. He felt there were some good questions that were raised that staff will need to deal with in order to change the ordinances and he felt murals should be addressed separately, not just as a sign, and that will take some time to do. He urged the Board to approve the variance and forward the matter to City Council.

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY OLD WORTHINGTON PARTNERSHIP AND SGS GENERAL INC FOR A VARIANCE FROM CODE REQUIREMENTS FOR THE NUMBER OF SIGN COLORS TO ALLOW A MURAL AT 627 HIGH STREET, AS PER CASE NO. BZA 42-17, DRAWINGS NO. BZA 42-17 DATED OCTOBER 5, 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. Ms. Reibel, Mr. Falcoski, Mr. Coulter, and Mr. Seitz voted yes, Ms. Crane voted no, and the motion was approved.

6. Variance – Front Setback – Porch & Addition – 232 E. Granville Rd. (Scott Thompson) BZA 44-17

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district along a regional thoroughfare with a minimum front yard requirement of 50 feet.

2. The existing single story dwelling is 40.1 feet from the East Granville Road right-of-way.
3. The applicant is proposing to add a 12 foot by 5 foot covered porch on the front of the dwelling, 35.1 feet from the right-of-way. The requested variance is 14.9 feet.
4. The applicant is also proposing a second story addition atop of the dwelling, 40.1 feet from the right-of-way. The requested variance is 9.9 feet.
5. The property is subject to, and the porch and addition has been tabled by, the Architectural Review Board pending additional architectural details.

The following conclusions are presented:

1. It is common for existing lots of record to contain dwellings within setbacks, creating practical difficulties when trying to construct even minor additions. In this particular case, if the property was subject to the typical 30 foot front setback, no variances would be required. 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:

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

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY SCOTT THOMPSON FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO CONSTRUCTION OF A PORCH AND AND ADDITION AT 232 EAST GRANVILLE ROAD, AS PER CASE NO. BZA 44-17, DRAWINGS NO. BZA 44-17 DATED OCTOBER 9, 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.

Mr. Seitz moved to adjourn the meeting, seconded by Mr. Falcoski. All members voted “aye” and the meeting adjourned at 8:28 p.m.