



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS
VIRTUAL MEETING

May 7, 2020

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: Mikel Coulter; Brian Seitz, D.J. Falcoski; Leah Reibel and Cynthia Crane. Also present were Lee Brown, Director of Planning and Building; and Lynda Bitar, Development Coordinator.
2. Approval of Minutes of the March 5, 2020 meeting

Mr. Coulter moved to approve the minutes, and Mr. Seitz seconded the motion. All Board members voted, “Aye,” and the minutes were approved.
3. Affirmation/swearing in of witnesses will be before each speaker

B. Items of Public Hearing – Unfinished

Mr. Coulter moved to remove the following Agenda item from the table, and Mr. Seitz seconded the motion. All Board members voted, “Aye,” and the Agenda item was removed from the table.

1. **Extension of Construction Completion Period – Detached Garage - 100 W. South St. (Neil Toepfer) BZA 05-2020**

Mr. Brown presented BZA 05-2020 and BZA 12-2020 together and provided comments from the staff memo:

Findings of Fact & Conclusions

Background:

This property is in the R-10 (Low Density Residential) Zoning District within the Architecture Review District in Old Worthington. In March of 2018, the property owner was approved by the Architecture Review Board to demolish the existing dwelling and construct a new dwelling and garage on the property. In April 2018, the property owner was approved for a variance to construct the garage in the required side yard setback and to exceed the accessory building area limit for the District.

On June 5, 2018, the property owner applied for a permit to construct a new garage and workshop on the property. After four plan reviews, the permit had full approval. Inspections have been called over the life of the permit, but the permit has become invalid and an extension needs to be sought.

The unfinished look of the property has raised concerns by neighboring property owners and members of the community. The applicant has stated a few main reasons for the basis behind the status of the project; those reasons included health-related issues, contractor unavailability, and weather. The property owner is acting as the builder for the project as well, which has caused additional delays. The owner states the setbacks have been resolved and he is ready to move forward with work on the garage and dwelling in the upcoming summer months.

Worthington Codified Ordinances:

Section 1305.06(b) The permit authorizing the work as shown on the approved construction documents is invalid if the work is not completed, inspected, and approved within eighteen months of the issuance of the permit.

Section 1305.06(c) Before any work authorized by a permit may continue for which the permit is invalid, the owner shall make application to the Board of Zoning Appeals for an extension of time as required under Chapter [1129](#) of the Planning and Zoning Code. Failure to complete work within said eighteen-month period or additional time granted by the Board of Zoning Appeals shall constitute a violation of this code.

Request:

The applicant is requesting an extension of approximately 8 months (to the end of year 2020) to complete the construction of the garage. Staff feels this is an appropriate amount of time to finish the project, call for inspections, and close the permit.

Conclusions:

The site work has been in progress for over eighteen months. It is reasonable for the Board to consider an extension based on the issues addressed by the applicant and as this is the first extension being requested.

The exterior site work remains unfinished, which could be viewed as an eyesore for the neighborhood, particularly as it is located in historic Old Worthington. This unfinished work can affect the character of the neighborhood if not addressed.

The delivery of government services should not be affected with an extension to the project as long as all equipment and vehicles are outside of the public right-of-way.

Discussion:

Ms. Crane asked Mr. Brown how old the photographs of the construction site were taken, and he said fairly recently. Ms. Crane asked the applicant to identify himself. Mr. Neil Toepfer and his wife Karen Madden are the property owners, 100 W. South St., Worthington, Ohio. Ms. Crane asked how the progress was coming along and Mr. Toepfer said since the photographs were taken a few weeks ago, there had been a significant amount of progress on the exterior of the garage. He showed photographs of the progress that has been made. Board members had no other comments or concerns. Mrs. Bitar said she received an email a week before this meeting and she shared that email with the Board members that came from the neighbor, Mr. Fritz Graph. He said he was in support of the extension until December 31, 2020, and that he would like Mr. Toepfer to make sure he has the proper barriers in place to avoid people having an accident near the site, and to make sure he cleans up any trash in the area.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY NEIL TOEPHER FOR AN EXTENSION OF THE CONSTRUCTION COMPLETION PERIOD UNTIL DECEMBER 31, 2020 AT 100 W. SOUTH ST., AS PER CASE NO. BZA 05-2020, DRAWINGS NO. BZA 05-2020 DATED JANUARY 30TH, 2020, 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. Mrs. Bitar called the roll. All Board members voted, “Aye,” and the motion was approved.

C. Items of Public Hearing - New

- 1. Extension of Construction Completion Period – House – 100 W. South St. (Neil Toepfer) BZA 12-2020**

Mr. Brown presented BZA 05-2020 and BZA 2020 together and provided comments from the staff memo:

Findings of Fact & Conclusions

Background:

This property is in the R-10 (Low Density Residential) Zoning District within the Architecture Review District in Old Worthington. In March of 2018, the property owner

was approved by the Architecture Review Board to demolish the existing dwelling and construct a new dwelling and garage on the property.

On June 5, 2018, the property owner applied for a permit to construct a new single-family dwelling on the property. After four plan reviews, the permit had full plan approval. Inspections have been called over the life of the permit but as eighteen months have passed, the permit has become invalid and an extension needs to be sought in order for site work to continue.

The unfinished look of the property has raised concerns by neighboring property owners and members of the community. The applicant has stated a few main reasons for the basis behind the status of the project; those reasons included health-related issues, contractor unavailability, and weather. The property owner is acting as the builder for the project as well, which has caused additional delays. The owner states the setbacks have been resolved and he is ready to move forward with work on the garage and dwelling in the upcoming summer months.

Worthington Codified Ordinances:

Section 1305.06(b) The permit authorizing the work as shown on the approved construction documents is invalid if the work is not completed, inspected, and approved within eighteen months of the issuance of the permit.

Section 1305.06(c) Before any work authorized by a permit may continue for which the permit is invalid, the owner shall make application to the Board of Zoning Appeals for an extension of time as required under Chapter [1129](#) of the Planning and Zoning Code. Failure to complete work within said eighteen-month period or additional time granted by the Board of Zoning Appeals shall constitute a violation of this code.

Request:

The applicant is requesting an extension of approximately 8 months (to the end of year 2020) to complete the construction of the dwelling. Staff feels this is an appropriate amount of time to finish the project, call for inspections, and close the permit.

Conclusions:

The site work has been in progress for over eighteen months. It is reasonable for the Board to consider an extension based on the issues addressed by the applicant and as this is the first extension being requested.

The exterior site work remains unfinished, which could be viewed as an eyesore for the neighborhood, particularly as it is located in historic Old Worthington. This unfinished work can affect the character of the neighborhood if not addressed.

The delivery of government services should not be affected with an extension to the project as long as all equipment and vehicles are outside of the public right-of-way.

Discussion:

Please see discussion comments above. The two applications were presented together, however there was a separate vote on each application.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY NEIL TOEPHER FOR AN EXTENSION OF THE CONSTRUCTION COMPLETION PERIOD UNTIL DECEMBER 31, 2020, AT 100 W. SOUTH ST. AS PER CASE NO. BZA 12-2020, DRAWINGS NO. BZA 12-2020 DATED APRIL 2, 2020, 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. Mrs. Bitar called the roll. All Board members voted, “Aye,” and the motion was approved.

2. Variance – Side Yard Setback – Addition – 642 Farrington Dr. (Dan Shellenbarger) BZA 10-2020

Mr. Brown reviewed the following from the staff memo:

Findings of Fact & Conclusions

Background:

This approximate 10,019 square foot wedge shaped property located in Kilbourne Village is in the R-10 (Low Density Residential) Zoning District. The existing bi-level house was built in 1964 and is approximately 1,658 sq. ft. in size.

The applicant is proposing an extensive renovation and expansion of the existing dwelling. The applicant will be expanding their master suite over the existing garage while also constructing a new 365 sq. ft. family room addition to the rear of the home off the main level. The addition would be 6.6-feet to 8-feet from the side property line; the varying dimensions are due to the wedged shape of the property. Only a small portion of the proposed family room addition will encroach into the side yard setback for approximately 2-3-feet.

Worthington Codified Ordinances:

Section 1149.01 states any dwelling or structure accessory to a dwelling must be at least 8-feet from the side yard property line for a sum of side yards of 20-feet.

Request:

The applicant is requesting to construct an addition to the rear of the dwelling that will encroach in the required side yard. A variance of 1.4-feet is required.

Conclusions:

The property is unique in the fact that it is a wedge-shaped lot that narrows towards the rear of the lot making the rear family room addition difficult. The family room addition will follow the existing building line along northeastern side of the house. There is also a slight elevation change with the subject property sitting a few feet lower than the neighbor's property to the northeast. Typically, any addition to an existing bi-level home is difficult because of the multiple floor levels. In this particular case, available rear yard space for building footprint is less than typical lots. These factors can mitigate the nature of this variance request.

The essential character of the neighborhood should not be substantially altered as many properties in the vicinity have rear additions that are hardly visible from the street. The side yard setbacks are very similar to what is proposed throughout this area.

The delivery of government services shall not be affected.

Discussion:

Ms. Crane asked if the applicant had any additional comments, and Mr. Shellenbarger said his back yard was ugly. Board members did not have any comments or concerns. Ms. Crane asked if there was anyone else that had comments or questions, but there were no other comments.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY DAN SHELLNBARGER FOR A VARIANCE FROM CODE REQUIREMENTS TO ALLOW FOR AN ADDITION TO BE CONSTRUCTED IN THE REQUIRED SIDE YARD AT 642 FARRINGTON DR., AS PER CASE NO. BZA 10-2020, DRAWINGS NO. BZA 10-2020 DATED MARCH 31ST, 2020, 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. Mrs. Bitar called the roll. All Board members voted, “Aye,” and the motion was approved.

3. **Variance – Side Yard Setback – Canopy – 849 Oxford St. (Justin Del Col Shearer Landscaping/McGarry) BZA 11-2020**

Mr. Brown reviewed the following from the staff memo:

Findings of Fact & Conclusions

Background:

This property is in the R-10 (Low Density Residential) Zoning District and within the Architectural Review District. This Colonial Revival style house was originally built in 1938 and went through an addition and renovation project from 2011 – 2013 that considerably modified the look of the house and property. At that time a patio was proposed and installed on the south side of the property at the rear of the house.

In 2019 the owner gained approval from the Architectural Review Board to resurface and extend the patio and add a 14’ x 14’ canopy structure above a portion of the patio for shade. The canopy would be matte black mounted on Western Red Cedar beams with LED string lights around the edge of the canopy. The canopy is proposed 4’3” from the south property line. A 4’ wide section of plant material along the south property line would remain.

The two closest neighbors approve of the structure per the documents included with the application.

Worthington Codified Ordinances:

Section 1149.08(b) of the Worthington Codified Ordinances requires accessory buildings exceeding 120 square feet be located at least 8’ from side lot lines.

Request:

The canopy structure would encroach into the required south side yard. A variance of 3’9” is required.

Conclusions:

The essential character of the neighborhood should not be substantially altered, and adjoining properties would not suffer a substantial detriment as a result of the variance. A canopy structure is not a typical accessory structure because it does not have walls. Also, the structure would be partially obscured by the front of the house and landscaping.

The delivery of government services shall not be affected.

Discussion:

Mr. Brown said he had received two emails from the neighbors who were not against the proposed project. Board members had no comments or concerns. Ms. Crane asked if Ms. Bitar had received any more comments and she replied no.

Motion:

Mr. Coulter moved:

THAT THE REQUEST BY JUSTIN DEL COL SHEARER LANDSCAPING ON BEHALF OF BRIAN P. MCGARRY FOR A VARIANCE FROM CODE REQUIREMENTS TO ALLOW FOR A CANOPY TO BE INSTALLED IN THE REQUIRED SIDE YARD AT 849 OXFORD ST., AS PER CASE NO. BZA 11-2020, DRAWINGS NO. BZA 11-2020 DATED APRIL 8, 2020, 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. Mrs. Bitar called the roll. All Board members voted, “Aye,” and the motion was approved.

- 4. **Variance** – Setback from Alley – Fence – **171 Franklin Ave.** (Mikele Mahaffey-OHL)
BZA 13-2020

Mr. Brown reviewed the following from the staff memo:

Findings of Fact & Conclusions

Background:

The property is in the R-10 (Low Density Residential) zoning district on the southside of Franklin Ave., which was platted in 1896 as part of the Griswold’s East Side Addition. The property abuts an unimproved alley at the rear of the property which runs parallel to Franklin Ave. and E. Granville Rd. (SR-161) between Morning St. and Pingree Dr.

The applicant is proposing to install a 6-foot high privacy fence around the entire property. The sketch provided by the fence contractor shows the fence following the property lines, however the site plan that was submitted by the applicant shows the fence to be located off the western property line. Staff contacted the applicant for clarification on where the fence will be located since the materials provided seem to be conflicting. The applicant originally stated that they would like the fence to be 18-inches off the western property line. The remainder of the fence would follow the property lines. On April 23, 2020, the applicant amended their application to have the fence 3-feet off the western property line. This will alleviate any concerns over the property owner’s ability to maintain the area between their proposed fence and the existing 4-foot fence on the neighboring property to the west.

The applicant is requesting to fence in the entire lot with a 6-foot fence for privacy. The applicant has also stated that they have two large dogs and is one of the main reasons for needing a 6-foot fence around their property.

Worthington Codified Ordinances:

Section 1180.02(a) states that no fence or wall shall be erected in the area between the right-of-way line and the building setback line.

Request:

The applicant is requesting to install a fence along the rear yard property line which abuts an unimproved alley right-of-way. A variance of 30 feet is needed.

Conclusion:

The alley behind the property is unimproved and runs between Morning St. and Pingree Dr. There is existing vegetation and trees on the site.

The applicant provided a list of surrounding properties on Franklin Ave., Pingree Dr. and E. Granville Rd. (SR-161) that have either a 4-foot or 6-foot fence that abut the unimproved alleyway, however we could only find approval or a permit for only four of the nine addresses provided by the applicant.

The immediate neighbor to the west has an existing fence that is approximately 4-feet in height that extends all the way to the unimproved alleyway. No approval or permit was found for this fence either.

The essential character of the neighborhood should not be substantially altered. There are several properties in the immediate vicinity that have 4-foot to 6-foot tall fences in their rear yards. The unimproved alleyway is not accessed by the general public and would not be visible from Franklin Ave. that the fence encroaches into the front setback.

The amended application alleviates any concern that City staff had related to maintenance in the area between the two fences. We originally felt that it would create a dead space between the properties that would be difficult to maintain. The 3-foot setback is consistent with the Board's previous recommendations for setbacks being a minimum of 3-feet from property lines for maintenance.

The delivery of governmental services should not be affected.

Discussion:

Mr. Brown said he and Mrs. Bitar received a few comments which would be discussed at the appropriate time. Ms. Crane said the alley way looks like lawn but asked if it was

legally a street. Mr. Brown said the area is legally Right-of-Way which is owned by the City. Ms. Crane asked how far back the fence would go and Mr. Brown explained the fence would line up with the neighbor's fence. Ms. Crane asked if the applicant was present and if she had anything to add to staff's presentation and she said no. Board members had no comments or concerns. Mrs. Bitar read the neighbor's concerns about wanting the applicants to rope off or spray paint where the fence would be located; to not allow their two large dogs to stay outside barking; the fence would need to be maintained and remove any mold annually; any dead trees in the back yard to be removed; and have the high grass removed from both sides of the house. The neighbor said she did not know exactly where the property lines were due to established gardens and trees. Mr. Brown explained the owner was going to have a boundary survey done because she could only put the fence on her own property. Ms. Crane asked if there was anyone else who wanted to speak but no one came forward.

Motion:

Mr. Falcoski moved:

THAT THE REQUEST BY MIKELE MAHAFFEY-OHL FOR A VARIANCE FROM CODE REQUIREMENTS TO ALLOW FOR A FENCE TO BE INSTALLED IN THE SETBACK AT 171 FRANKLIN AVE. AS PER CASE BZA 13-2020, DRAWINGS NO. BZA 13-2020 DATED APRIL 9, 2020, 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. Mrs. Bitar called the roll. All Board members voted, "Aye," and the motion was approved.

5. **Variations – Sign Regulations – Freestanding and Wall Signs – 6121 Huntley Rd. (Jim McFarland/ DLZ) BZA 14-2020**

Mr. Brown reviewed the following from the staff memo:

Findings of Fact & Conclusions

Background:

This property is in the I-2 (General Industrial) Zoning District and is 5.993 acres located on the west side of Huntley Road. The properties to the north and east are also zoned as I-2; to the west there are railroad tracks and I-1 zoned property; and to the south there is a car dealership in the C-4 Zoning District and another I-2 property.

DLZ has a temporary freestanding sign at the front corner of the building and there are small (12 square foot) signs on awnings above the south and west entrances to the building.

Previously there was a wall sign on the front of the building, but it was removed last year. No variance was granted to allow the two wall mounted signs on the entrance awnings, so inclusion in this request is a way to remedy that situation. Also, a new freestanding sign is being proposed that would be slightly larger than the Code allows.

Worthington Codified Ordinances:

1170.05 Commercial and Industrial District Requirements

(a) Sign area. Allowable permanent sign area for any single business shall be limited according to the widths of the building or part of the building occupied by such enterprise. For the purposes of this section, width shall be measured along the building face nearest parallel to the street line. In the case of a corner lot, either frontage may be used in determining maximum area for signage. The area of all permanent signs for any single business shall be equivalent to one and one-half square feet of sign area for each lineal foot of width of the building or part of the building, but shall not exceed a maximum area of 100 square feet per business.

(b) Wall-mounted signage. Each business shall be permitted one wall-mounted sign.

(c) Freestanding Signage. There shall be no more than one freestanding sign per parcel. No part of any freestanding sign shall exceed an above-grade height of fifteen feet. Freestanding signs shall not be larger than sixty percent (60%) of the total sign area allowed for under Section [1170.05](#)(a). Freestanding signs shall be located not closer than ten feet to a public right of way or thirty-five feet to an adjoining property line.

Request:

1. The applicant is requesting approval of a freestanding sign that is 12' tall and 2'9" wide (as measured per the Code) for sign area of 33 square feet per side or 66 square feet total. The proposed sign is curved at in the top 20" so the actual area is less. A variance of 6 square feet is requested. The sign is proposed in an existing planting bed and would be 12' from the right-of-way.
2. Two awning signs are present on the building: the south sign is 6.6 square feet in area; the west sign is 16.6 square feet in area. The Code only allows one wall sign per business so a variance for an additional wall sign is required.
3. With removal of the existing freestanding sign and retention of the awning signs, total sign area is 90.3 square feet which is less than the 100 square feet total per business allowed in the Code.

Conclusions:

The requested variances are minimal and would not change the character of the property. Total signage still is less than the maximum allowed in the Code.

The delivery of government services should not be affected.

Discussion:

Ms. Crane asked the applicant if he had additional comments and he said once they can safely go on the property, they would remove the temporary sign before installing the permanent sign. Board members had no questions or concerns. There were no additional comments from the public.

Motion:

Mr. Coulter moved:

THAT THE REQUEST BY JIM MCFARLAND ON BEHALF OF DLZ FOR VARIANCES FROM CODE REQUIREMENTS FOR SIGNAGE AT 6121 HUNTLEY RD. AS PER CASE BZA 14-2020, DRAWINGS NO. BZA 14-2020 DATED APRIL 14, 2020, 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. Mrs. Bitar called the roll. All Board members voted, “Aye,” and the motion was approved.

- 6. **Variance – Front Yard Setback & Material – Fence – 6580 Huntley Rd. (SuperGames) BZA 15-2020**

Mr. Brown reviewed the following from the staff memo:

Findings of Fact & Conclusions

Background:

This 2.58-acre property is located in the I-2 (General Industrial) Zoning District on the east side of Huntley Rd. The property was formerly Tropical Nut & Fruit and is now the new home of Super Games since their relocation from Lakeview Plaza in 2019.

The applicant is requesting to install a 4-foot tall decorative wood fence on the north side and south side of the existing 36,105 sq. ft. building. There will also be a chain/cable across the access drives that will serve as a barrier to prevent vehicles from entering and existing the site for the northern and southern access points to the site. The portion of the fence that will be located south of the building will encroach into the front yard setback by approximately 20-feet and will not meet the material requirement for fences for properties located in the industrial district.

In December 2019, the Board approved a variance for oversized signage on the site.

Worthington Codified Ordinances:

Section 1149.02 states any structure must be located a minimum of forty (40-feet) from the public right-of-way.

Section 1180.04 states that in any Industrial District, no fence or wall shall be erected in the area between the street line and the building setback line. No fence or wall in an Industrial District shall exceed a height of ten feet. Fences constructed in an Industrial District shall be of chain link or masonry construction except junk storage and junk sales yards shall be fenced with a solid fence of brick construction to a height of not less than ten feet.

Request:

The applicant is requesting to encroach into the front yard setback on the southern side of the building with a 4' high decorative fence, and for the fence to be a decorative wood fence vs. chain link or masonry.

A variance of 20-feet is required and a variance for fence material.

Conclusions:

The existing parking lot on the southern side of the building already encroaches into the front yard setback, the decorative fence would be in the same location and would actual help screen the vehicles that park in the parking lot. The decorative fencing will be much more aesthetically attractive than the installation of a chain link or masonry fence in this area. A 4' high fence would still permit you to see into the site from the roadway and would not create a fortress appearance.

The applicant will need to meet the requirements discussed with the Division of Fire related to the chain/cable that is proposed to go across the access drives to the site.

The essential character of the neighborhood should not be substantially altered, as this will be an overall aesthetic improvement on the site while providing security.

The delivery of governmental services should not be affected.

Discussion:

Ms. Crane asked the applicant if he had any additional comments to staff's presentation and he said no. Board members had no questions or concerns. There were no comments from the public.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY SUPER GAMES FOR A VARIANCE FROM CODE REQUIREMENTS TO ALLOW FOR A DECORATIVE FENCE TO BE LOCATED IN THE FRONT SETBACK AT 6580 HUNTLEY ROAD., AS PER CASE NO. BZA 15-2020, DRAWINGS NO. BZA 15-2020 DATED APRIL 13, 2020, 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. Mrs. Bitar called the roll. All Board members voted, “Aye,” and the motion was approved.

D. Other

There was no other business to discuss

E. Adjournment

Mr. Seitz moved to adjourn the meeting, and Ms. Reibel seconded the motion. All Board members voted, “Aye,” and the meeting adjourned at 8:51 p.m.