



MINUTES OF THE REGULAR MEETING  
BOARD OF ZONING APPEALS  
VIRTUAL MEETING

December 3, 2020

**A. Call to Order – 7:00 p.m.**

1. Roll Call - the following members were present: Cynthia Crane, Chair; Brian Seitz, Secretary; Garrett Guillozet and Mikel Coulter. Also present were Lee Brown, Director of Planning & Building; and Lynda Bitar, Planning Coordinator. D.J. Falcoski – Vice-Chair, was absent.
2. Approval of Minutes of the November 5, 2020 meeting

Mr. Coulter moved to approve the minutes, and Mr. Seitz seconded the motion. Mr. Seitz, aye; Mr. Coulter, aye; Ms. Crane, aye; and Mr. Guillozet, aye. The minutes were approved.

**B. Items of Public Hearing**

1. **Variances – Front Yard Setback – Deck – 6753 Lakeside Circle W (Mark D. Spence) BZA 48-2020**

Mrs. Bitar reviewed the following from the staff memo:

**Findings of Fact & Conclusions**

**Background:**

This property is in the R-10 (Low Density Residential) Zoning District in the Potter’s Creek neighborhood. The lot is approximately .63 acres in size and is located on a curve with the front of the property being 68’ wide. The house is 49.2’ from the right-of-way at its closest point and is at an angle to the street.

A 16’ wide x 12’6” deep wood deck was constructed along the driveway over a former landscape bed that reportedly had dead trees. The drawing indicates the deck is 6” above grade.

**Worthington Codified Ordinances:**

1149.01 Yard, Area and Height for Dwellings and Accessory Structures  
The required front yard in the R-10 Zoning District is 30’.

**Request:**

The applicant is requesting to retain a deck that was constructed partially in the required front yard. It appears from the site plan and the survey that a corner of the deck would be in the setback.

**Conclusion:**

The character of the neighborhood may be altered as decks are not typically in front of houses, however, the variance is not substantial. Landscaping could help mitigate some of the impact.

**Discussion:**

Mr. Guillozet asked how the deck was secured. Mrs. Bitar said the deck appeared to be built on posts, but she was not sure how deep they were. Mrs. Crane asked if the patio were a brick or concrete patio would there be any approval needed and Mrs. Bitar said if the patio was at grade it could extend into the setback and would not need approval, but because the patio is above grade that is why the Board of Zoning Appeals has been asked to review, and that is where the objection from the neighbors' come from.

Mrs. Bitar swore in the applicant, Mr. Mark Spence, 6753 Lakeside Circle West, Worthington, Ohio. Mr. Spence said he wanted to clarify a couple things. He said when they purchased the property, there were seven dead trees in the front yard, and they were very unsightly. They cut down the dead trees and put the patio in place of the trees in the flower bed but have not been able to landscape because of the weather. He said they plan to place arborvitae on the left side facing and across the front of the patio and some ornamental grasses because the grasses are very popular in the neighborhood.

Ms. Crane asked for clarification if the photograph was current because the trees looked very much alive in the photo. Mrs. Bitar said the older photograph was taken in 2017. Mr. Spence said their real estate agent told them there is a disease that pines get so they asked a tree specialist to look at the trees and they were told the pines were too diseased to be saved and he was afraid the trees would either fall on his home or the neighbor's home. Mr. Spence said the deck is secured with 4x4 posts driven into the ground. He said the patio was at grade because the flowerbed was raised. They had to build the patio over the stumps and utility line. Mr. Guillozet asked Mr. Spence how long he has lived at the property and he responded since June (2020).

Mr. Seitz asked Mr. Spence why they chose to build the patio on the side of the house instead of the back of the house and Mr. Spence replied that they recently moved here from New Jersey, and they were delighted to see a vibrant neighborhood with children playing and neighbors interacting, and they wanted to be a part of that, but also wanted some privacy so that is why they were going to landscape around the patio. If they built the patio in the back by the railroad tracks, they would be isolating themselves from the lifestyle they just came from. Mr. Guillozet asked Mr. Spence if any of his neighbors had similar structures in their front yards and Mr. Spence said there were some patios in the front attached to entryways. Mr. Coulter said a patio attached to an entryway was different than what was going on here. He said he understood where and why the patio was located there,

but this type of structure is something you would normally see in a back yard. Mr. Coulter also reiterated what Mrs. Bitar said earlier, and that was if the patio had been on the ground, whether using pavers, wood or concrete flat onto the ground, then it would have been okay to extend into the setback. This structure sort of stands out and is not typical for the neighborhood, but landscaping should mitigate some of the issues. Mr. Seitz said he agreed with Mr. Coulter's comments, verbatim. Mr. Spence said there was not a Homeowner's Association which dictates what could be done with the property. He said since they could not remove the stumps that is why they chose that location. The structure is nine inches above grade, and building permits were not required unless the structure was sixteen inches above grade, and the structure is well below that. Mr. Coulter said if he wanted to keep the structure, he would have to cut back the structure (cut off the corner) to get the structure out of the setback. Mrs. Bitar said a Certificate of Compliance would still be needed from the Building Department. Mrs. Bitar said letters were submitted to both the Board members and the applicant, and there were callers waiting to speak. Mr. Spence said he had no problem cutting off the corner, and that would not adversely affect his landscape plan.

After a brief pause, Ms. Crane asked to proceed with the callers who wished to speak, but the callers chose not to speak.

**Motion:**

Mr. Seitz moved:

**THAT THE REQUEST BY MARK D. SPENCE FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO RETAIN A DECK AT 6753 LAKESIDE CIRCLE WEST, AS PER CASE NO. BZA 48-2020, DRAWINGS NO. BZA 48-2020 DATED OCTOBER 16, 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. Mr. Brown called the roll. Mr. Guillozet, nay; Mr. Coulter, nay; Mr. Seitz, nay and Ms. Crane, nay. The motion was denied.

**2. Variances – Setback from Alley - Fence – 5701 Foster Ave. (Sasha Hardin) BZA 49-2020**

Mr. Brown reviewed the following from the staff memo:

**Findings of Fact & Conclusions**

**Background:**

This 8,276 square foot property is an existing lot of record in the R-10 (Low Density Residential) Zoning District in the Colonial Hills neighborhood. The property abuts an alleyway that runs parallel to Foster Ave. The 16' wide alleyway provides access to a home on Lake Ridge Rd. and provides access to three houses on Foster Ave and one house on Loveman Ave. The property owner has an existing driveway on Foster Ave. that runs

along the northern side of the house to an existing carport. There is also an existing shed and 2-car garage and that has access to the alleyway at the rear of the property. City staff was unable to find a permit or variance for the location of the existing shed and 2-car garage. The existing shed and garage should have been located 30-feet from the alleyway to be in compliance with City requirements.

The neighboring property owners have fences along the northern and southern portion of the site. The applicant would like to install a new vinyl white fence 6-feet in height to enclose the entire rear yard. It appears the new fence will be offset from the northern and southern property line and will be approximately 10-feet off the alleyway. Clarification is needed on how the space between the neighboring fences will be maintained.

**Worthington Codified Ordinances:**

Section 1149.01 states any dwelling or structure accessory to a dwelling must be at least 30 feet from the public right-of-way.

Section 1180.02(a) states “In any ‘R’ District, 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 white vinyl fence within the required setback from an alleyway. A variance of 20-feet is required.

**Conclusions:**

Although the fence is located in the setback from a public right-of-way, the alleyway is only used by five properties. The fence should not impact the existing residents who use this alleyway as access. These factors can mitigate the substantial nature of this variance request.

The fence is offset from the alleyway, whereas neighboring fences are right on the alleyway which helps lessens the overall impact.

The essential character of the neighborhood should not be substantially altered as other neighboring properties also have similar fences that abut the public right-of-way along this 16’ wide alleyway.

The delivery of governmental services should not be impacted as a result of the request.

**Discussion:**

Mr. Brown swore in the applicant, Mrs. Sasha Hardin, 5701 Foster Ave., Worthington, Ohio, said they plan to keep a gap open for the lawnmower to go through and they would be maintaining the space. Mr. Seitz asked why they were keeping the fence that was already provided and Mrs. Hardin explained that fence has wooden slats, and they have a very mischievous dog that can escape between the slats. Ms. Crane asked if there were any emails for outside calls and Mr. Brown said no.

**Motion:**

Mr. Guillozet moved:

**THAT THE REQUEST BY SASHA HARDIN FOR A VARIANCE FROM CODE REQUIREMENTS TO ALLOW FOR A FENCE TO BE LOCATED IN THE REQUIRED SETBACK FROM AN ALLEYWAY AT 5701 FOSTER AVE., AS PER CASE NO. BZA 49-2020, DRAWINGS NO. BZA 49-2020 DATED OCTOBER 20, 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. Mr. Brown called the roll. Mr. Seitz, aye; Mr. Coulter, aye; Mr. Guillozet, aye; and Ms. Crane, aye. The motion was approved.

**3. Variance – Extension of Construction Completion Period - Additions – 44 W. Granville Rd. (Jim Ash) BZA 51-2020**

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 within the Architecture Review District in Old Worthington. In April and May of 2019, the Architectural Review Board and the Board of Zoning Appeals approved additions to the existing home that were to be completed in two phases. BZA approved the applicants request to encroach into the rear yard and front yard setbacks.

Exterior finishes are completed at this time, it is only the interior work that needs to be completed.

**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.

Section 1129.05(b)(6) The Board may authorize, for good cause shown, extension of the time period provided for the completion of structures in the Building Code. However, the

Board may not authorize the extension of the period for greater than a one-year extension of time subject to one-year renewals such conditions as well safeguard the public health, safety, convenience and general welfare.

**Request:**

The applicant is requesting an extension of 1-year to complete the interior work. Staff feels this is an appropriate amount of time to finish the project, call for inspections, and close the permit.

**Conclusions:**

The construction 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 is finished, which alleviates any concern of this being viewed as an eyesore for the neighborhood, particularly as it is in Old Worthington on a main roadway. The unfinished work should not affect the character of the neighborhood.

The original permit was issued on July 2, 2019, however in March of 2020 the world was hit with a worldwide pandemic that shut down the region for several months. This slowed down the applicant's ability to finish the outstanding items in the allotted timeframe. The applicant has stated that they are holding off on the interior due to concern for his family's health.

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:**

Mr. Brown swore in the applicant, Mr. Jim Ash, 44 W. Granville Rd., Worthington, Ohio. Ms. Crane asked what work still needed to be completed and Mr. Ash responded a final electrical and initial plumbing. He said they were beginning to do that work and then things went to pot with the pandemic. The shower still needs to be inspected before finalizing the plumbing and then they need to install tile. Mr. Seitz and Mr. Coulter commented on the fact that the exterior of the home looked great and that it looks like it has always been there. Ms. Crane asked if there was anyone waiting to speak, and Mr. Brown said no.

**Motion:**

Mr. Seitz moved:

**THAT THE REQUEST BY JIM ASH FOR AN EXTENSION OF THE CONSTRUCTION COMPLETION PERIOD UNTIL DECEMBER 3, 2021 AT 44 W. GRANVILLE RD., AS PER CASE NO. BZA 51-2020, DRAWINGS NO. BZA 51-2020 DATED NOVEMBER 5, 2020 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

Mr. Guillozet seconded the motion. Mr. Brown called the roll. Mr. Coulter, aye; Mr. Guillozet, aye; Mr. Seitz, aye; and Ms. Crane, aye. The motion was approved.

4. **Variance** – Front Yard Setback – New House – **285 McCoy Ave.** (Ezra Wallake, R4R General Contracting) **BZA 52-2020**

Mr. Brown reviewed the following from the staff memo:

**Findings of Fact & Conclusions**

**Background:**

This property is in the R-10 (Low Density Residence) Zoning District. The surrounding properties are also single-family homes in the R-10 District. The lot is 90-feet in width and 163-feet in length for a total of 14,670 square feet in the Morris Addition. The lot is heavily wooded with a prominent slope south towards Rush Creek.

The applicant is proposing to construct a new single-family dwelling. The proposed attached garage and retaining wall will be located in the front yard setback.

The proposed garage will be 5-feet 4-inches from the public right-of-way. The existing public right-of-way extends approximately 8-feet south of the edge of pavement for McCoy Ave. The placement of the garage and retaining wall will be approximately 13-feet 4-inches from the edge of the pavement.

The applicant will be regrading and adding fill to the site to help with the placement of the garage and house. This regrading and fill will permit the house to be constructed on the site with a walkout lower level and address any drainage issues on the site.

The applicant is requesting this location due to the sloping grade and vegetation in the rear yard and states the reduced setback is necessary to have level ground for the garage to be built.

**Property History:**

The original house was constructed in 1962 and was located 30-feet from the public right-of-way. There was an existing carport that was located in the front setback at the edge of the public right-of-way. The Board approved the reconstruction of the original carport in 2004 that was located at the edge of the public right-of-way. The existing house was demolished in 2015 and a new home started construction in late 2015, however in early 2016 the foundation walls collapsed when the contractor was backfilling dirt against the foundation. Throughout 2016 the foundation for the house sat until it was ultimately demolished.

The Board reviewed and tabled a similar variance request in August 2020 for a variance for the placement of a garage, retaining walls and screening wall around the front portion of the property that would be 5-feet 6-inches from the public right-of-way. City staff and the Board had a comfort level with the placement of the garage and the need for a retaining wall, however the primary concern at the August meeting related to the screening wall.

The Board tabled the request to give the applicant time to address the large screening wall. The property has since sold to a new property owner.

**Worthington Codified Ordinances:**

Section 1149.01 requires all dwellings and structures accessory to the dwelling be at least 30 feet from the right-of-way line in the R-10 District.

Section 1180.02(a) states “In any ‘R’ District, 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 the structure and retaining wall to be 5-feet 4-inches from the existing public right-of-way. A variance of 24-feet 8-inches is required.

**Conclusions:**

The main portion of the proposed new home will be located approximately 36-feet back outside the public right-of-way. The proposed garage and retaining wall will be located entirely in the front setback. The main portion of the home will be at a similar setback as the previous structure and the surrounding homes along McCoy, however the garage and retaining wall will encroach into the front setback. The retaining wall will be approximately 3-feet 9-inches in height; however, it will appear to be approximately 6-inches above grade from the street level. The roof of the garage that encroaches into the front setback and is a hip and valley roof type with the garage height being approximately 5-feet above the street grade on the western side sloping east to 8-feet. The use of a hip roof helps slope back the height of the building back away from the street. This helps with the overall appearance of a structure looming close to the roadway.

Staff is supportive of the request for the placement of the garage and retaining wall to encroach in the front setback. Detailed elevations were submitted with the application; these elevations help give you a better idea of the existing and proposed grade on the site and the overall impact on the site.

On August 1, 2019, the Board approved a variance at the neighboring property at 283 McCoy Ave. for the construction of a new home with a garage that would be located at 19’feet 6” from the public right-of-way. The main portion of the home was located outside of the front 30-foot setback.

The essential character of the neighborhood should not be substantially altered. The previous home was located at the same setback; however, the previous carport encroached into the setback and was located on the western portion of the site buried into the hillside whereas this proposal has the garage on the eastern portion of the site. The proposed garage and retaining wall should not alter the character of the neighborhood.

The previous carport was at the edge of the public right-of-way; however, it did have existing vegetation that helped buffer/screen the carport and was buried into the hillside.



Any fill and grading on the site should be done in a manner to not negatively impact the neighboring properties. All measures should be taken to control sediment and erosion control on the site throughout construction.

Protecting the steep slope, wooded area, and the integrity of Rush Run to the south of the lot is extremely important.

The delivery of government services should not be affected.

**Discussion:**

Mr. Seitz asked if they built the exact house that was approved would they need to come back and Mr. Brown said no, the Bob Webb home was approved was approved in August of 2019. He said that approval was for 19 feet from the public right-of-way and the portion of that house that encroached was just the garage.

Mr. Brown swore in the applicant, Mr. Ezra Wallake, 285 McCoy Ave., Worthington, Ohio. Mr. Wallake said they were excited about moving to the neighborhood. He said the rear of the lot is heavily wooded and they lose eighteen feet from McCoy Avenue to the rear of their property so it would be very challenging to build the house without the variance because of the slope and the amount of fill that would be required, and the engineering and the foundation work would price them out. Mr. Wallake said this property has changed hands four or five times since 2015, since the initial foundation collapse. This is a very challenging lot to build on and his foundation costs are already two or three times what a normal foundation should cost. Ms. Crane asked if there were any calls or emails regarding this application and Mr. Brown said no.

**Motion:**

Mr. Guillozet moved:

**THAT THE REQUEST BY R4R GENERAL CONTRACTING ON BEHALF OF EZRA WALLAKE FOR A VARIANCE FROM CODE REQUIREMENTS TO ALLOW FOR A NEW SINGLE FAMILY DWELLING AND RETAINING WALL TO BE LOCATED IN THE FRONT YARD SETBACK AT 285 McCOY AVE. AS PER CASE BZA 52-2020, DRAWINGS NO. BZA 52-2020 DATED NOVEMBER 6, 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. Mr. Brown called the roll. Mr. Coulter, aye; Mr. Seitz, aye; Mr. Guillozet, aye; and Ms. Crane, aye. The motion was approved.

5. **Variance** – Screening Requirements – Parking & Bus Loop – **2341 Snouffer Rd.** (Schorr Architects/Perry/Phoenix Middle School) **BZA 54-2020**

Mrs. Bitar reviewed the following from the staff memo:

## **Findings of Fact & Conclusions**

### **Background:**

This property is in the S-1 (Special) Zoning District and is the site of Perry/Phoenix Middle School.

The school is currently undergoing renovations to construct an addition to the existing building. Additional parking is proposed on the east side of the property and screening would be required to shield the adjacent residential properties. Due to the existing fencing and vegetation in that location, the applicant feels additional screening would be redundant and would make maintenance difficult.

The existing access drive is the closest pavement to the east property line being an average of 22' away. The new parking would be west of that 23' wide drive aisle. Originally a solid wall was proposed to screen the area.

### **Worthington Codified Ordinances:**

Section 1149.03(a) states: Off-street parking spaces and access drives for non-residential uses must be at least 25 feet from the any residential district.

Section 1149.03(b) states: Off-street parking areas for more than five vehicles shall be effectively screened on each side which adjoins or faces premises situated in any residential district or institutional premises, by a masonry wall or solid fence. Such wall or fence shall not be less than four feet or more than six feet in height and shall be maintained in good condition without any advertising thereon. The space between such wall or fence and the lot line of the adjoining premises in any residential district shall be at least ten feet wide and landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition. In lieu of such wall or fence, a strip of land not less than ten feet in width and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than four feet in height, may be substituted.

### **Request:**

The applicant is requesting a variance to allow the existing fencing and landscaping substitute for the screening requirements in the Code.

### **Conclusions:**

The existing mix of landscaping and fencing along the east side should meet the spirit and intent of the Code.

The character of the neighborhood should not be harmed.

### **Discussion:**

Mrs. Bitar swore in the applicant, Mr. Paul Miller, 6080 Linworth Rd., Worthington, Ohio, who said he was representing Schorr Architects. Board members did not have any questions or concerns. Ms. Crane asked if there were any emails or caller wishing to speak and Mrs. Bitar said no.

**Motion:**

Mr. Guillozet moved:

**THAT THE REQUEST BY SCHORR ARCHITECTS ON BEHALF OF PERRY/PHOENIX MIDDLE SCHOOL FOR A VARIANCE FROM CODE REQUIREMENTS TO PERMIT EXISTING LANDSCAPING AND FENCING TO SUFFICE AS THE SCREENING FOR NEW PARKING AT 2341 SNOUFFER RD., AS PER CASE NO. BZA 54-2020, DRAWINGS NO. BZA 54-2020 DATED NOVEMBER 6, 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. Mr. Brown called the roll. Mr. Coulter, aye; Mr. Seitz, aye; Mr. Guillozet, aye; and Ms. Crane, aye. The motion was approved.

**C. Other**

There was no other business to discuss.

**D. Adjournment**

Mr. Seitz moved to adjourn the meeting and Mr. Guillozet seconded the motion. All Board members voted, "Aye," and the meeting adjourned at 8:16 p.m.