



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

July 1, 2021

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: Cynthia Crane, Chair; D.J. Falcoski, Vice-Chair; Brian Seitz, Secretary; Garrett Guillozet, member; and Michael Coulter, Representative from the MPC. Also present were Lee Brown, Director of Planning & Building; and Kenneth Ganter, Planning & Building Assistant.
2. Approval of Minutes of the June 3, 2021 meeting

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

B. Items of Public Hearing

1. **Variance** – Front Yard Setback – Fence – **5880 Linworth Rd.** (Patrick H. & Kathryn M. Scales) **VAR 30-2021**

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 on the east side of Linworth Rd. The properties to the north, east and west are also single-family homes in the R-10 District; the properties to the south are single-family but in the City of Columbus. The parcel was originally developed in Perry Township and annexed to the City of Worthington in 1951. There are no curbs and gutters along Linworth Rd. but rather ditches for drainage that are protected in many stretches by guardrails.

The property in question is larger than the typical lot size seen in the R-10 district; the minimum lot size requirement is 10,400 square feet, while this property is approximately ~93,218 square feet (2.14 acres). The right-of-way is 60' in width and the property/right-of-way line is located approximately 6' to 15' from the roadway, which curves and is not centered in the right-of-way.

Worthington Codified Ordinances:

1180.02 "R" DISTRICTS.

(a) 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 except for a wall necessary to accommodate differences in grade. No fence or wall in an "R" district shall exceed a height of six feet.

Request:

The applicant is proposing to install a wood cattle style fence about 10' from the property line, which would be 20' into the 30' required front yard.

Project Details:

1. There is existing solid fence along the north property line to a point 29' from the proposed north-south fence. The solid fence is proposed to continue for 7'6" at an angle down to cattle style fencing which would extend another 21'6". Cattle fencing would be across the 169' wide property between light posts that are at both sides of the two drive entrances for this property. The fencing would also return along the south property line for about 30'.
2. The wood fence would have a wire mesh attached.

Conclusions:

Although it is not in character for fences to be across the front of the property, the location of this fence may be all right due to the placement of existing light posts; the topography of the area; the busy nature of the street; and the existence of guardrails and other split rail fences along that stretch of roadway. The delivery of government services should not be effected with placement of the fence as it would be at least 10' back from the right-of-way line.

Discussion:

Mr. Brown swore in the applicant, Mr. Patrick Scales, 5880 Linworth Rd., Worthington, Ohio. Mr. Scales clarified the additional fence portion would be four feet tall. Mrs. Crane asked if Mr. Scales was needing the fence in area for his dog and he said yes. Mr. Scales said he will be remodeling the home soon and the fence is part of the plan to clean up the property and make it look better. Mr. Guillozet asked Mr. Scales if he intended to install gates on the driveways and Mr. Scales said no.

Mr. Brown read two emails that were submitted to the Board regarding this application.

"Dear City of Worthington:

It has come to our attention there is to be a hearing on July 1, 2021 regarding Patrick H. and Kathryn M. Scales for a variance from Code reinforcements to install fencing in the front yard at 5880 Linworth Road, Worthington, Ohio.

Please be advised, by our email and digital signatures below as to the following:

I, Janet Kevan-Mathis and Shawn W. Mathis, living for twenty-one years at 5849 Linworth Road, Worthington, Ohio and being in full view and close proximity to the

aforementioned property for a variance from Code to install fencing, do hereby give our most humble opinion in the affirmative.

Mr. Scales has presented his plans to us, his neighbors, and sought his neighbors permissions, before moving forward. After reviewing said plans, being able to visually see said fencing and with some discussion to fully understand his request, we could not fathom any reason to oppose said request; therefore we ask the City of Worthington, to grant said Variance, to Patrick and Katie Scales.”

Respectfully yours,
Janet Kevan-Mathis
Shawn W. Mathis

This is Andy and Jennifer Suttner residing at 5900 Linworth Road, Worthington. I have reviewed the application for a variance and as a neighbor do not feel that it is befitting if the community or the area or Worthington to build privacy fencing in the front yard. A few items as follows are our reasons for the opinion:

- I cannot think of another property in the area that has privacy fencing in the front yard. It seems very cold and as an entry point to the city of Worthington not a very warming or neighborly way to welcome people to our community.
- The fence itself does not appear to solve the issue of the dog wandering. Having no gates or barriers in the driveways (2 of them) to keep the dog in the front yard would be a poor solution. The dog will continue to wander as it pleases.
- The homeowner has other viable options of an invisible fence or a quite large already fenced back yard area to let the dog roam and remain on property.

Thank you,

Andy Suttner

Mrs. Crane asked if there were any additional speakers.

Mr. Brown swore in Dr. Norman Gerhart, 5892 Linworth Rd., Worthington, Ohio. Dr. Gerhart said he is a seventy-four-year-old widower living with Parkinson’s Disease. He said there is a continuous wire mesh fence between his property and 1105 Beechview Drive, so the statement in Mr. Scales materials stating their dog is using his property to visit the other dogs is not correct, however there is a gate between the Scales property and 1105 Beechview Drive. He said he did not know why the Scales do not use the gate, possibly the gate does not work, or maybe they forgot about the gate, or maybe they do not like to use the gate. Dr. Gerhart said when someone chooses to move to any urban area, they enter into a social contract with those around them. The contract consists of rules,

laws, and generally acceptable behavior to protect each other, and to respect each other's properties. He felt the Scales were not living up to that contract with all Worthington residents. Dr. Gerhart said the Scales said in their materials that they do not always have control of their dog and adding 30 additional feet would not stop the dog from wandering. A wandering dog is not the end of the world. Dr. Gerhart said in one interaction with the scales dog, the dog took an aggressive stance and was snarling at him. He said he felt he needed to be on guard while he was on his own property and the Parkinson's Disease limits the speed of his movements, so he always carries a defensive tool when he is outside so he can protect himself if something occurs. What about the three- and four-year-old children that live in the next house to the north. Will they be able to protect themselves. If something happens to those children there will be many apologies and regrets. The proposed fence will not fix the problem unless it includes gates to restrict the wandering and potentially dangerous dog. The gates should only be opened for controlled passage with a normally closed state, and automatically managed so the gates cannot be left open.

Mr. Brown swore in Ms. Joan Bossenbrook, 5895 Linworth Rd., Worthington, Ohio. Ms. Bossenbrook said she lives directly across the street from Dr. Gerhart. She said she is also concerned about the need for a gate and Dr. Gerhart's safety. She said when she says hi to him, sometimes his arms flail and that is because of his Parkinson's Disease. She is concerned about how the dog would react to Dr. Gerhart. He has no control over his movement. Ms. Bossenbrook said she has had her own bad experience with a dog who was leashed and still came after her while she was walking. She said she is also concerned about the safety of the small children that live nearby.

Mr. Brown, swore in Mr. Byron Bossenbrook, 5895 Linworth Rd., Worthington, Ohio. He said the whole reason for the fence is to contain the dog. There is already a solution of using the fenced in area of the back yard or add an electric fence which is much less expensive. The proposed fence will not cure the problem.

Ms. Crane asked Mr. Scales what his reasoning was for not having a gate. Mr. Scales said his dog is not a vicious animal and the dog may have only two or four more years of life. He said he is more concerned about the look of the property and the long term of the property and his dog knows not to go passed the brick light columns. Ms. Crane said she was hearing conflicting statements from Mr. Scales, that his dog knows where it is allowed to go yet, the dog wanders to the neighbor's property. She said she has seen fences in the front yards in Columbus neighborhoods, but not in Worthington. Mrs. Crane said there are other ways to solve the problem such as using an electric fence. She said if you are the pet owner, control of the pet is your responsibility. Mr. Scales said if the only way he could have the fence was installing gates, then he would need to talk with his wife and see if she was okay with the additional expense. He said there could also be traffic concerns if he has to install a gate because even though the speed limit on Linworth Road is 35 m.p.h. people drive much faster than they are supposed to.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY PATRICK H. AND KATHRYN M. SCALES FOR A VARIANCE FROM CODE REQUIREMENTS TO ALLOW FOR INSTALLATION OF A 4' FENCE AND TWO AUTOMATIC GATES IN THE REQUIRED FRONT YARD AT 5880 LINWORTH RD., AS PER CASE NO. VAR 30-2021, DRAWINGS NO. VAR 30-2021 DATED MAY 14, 2021, 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. Falcoski, aye; Mr. Guillozet, aye; Mr. Coulter, aye; Mr. Seitz, aye; and Mrs. Crane, aye. The motion was approved.

2. **Variance** – Front Yard Setback – Wheelchair Ramp – **385 Franklin Ct.** (Creative Independent Living Solutions/Leppert) **VAR 31-2021**

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 in Worthington Park. The surrounding properties are all located in the R-10 District. The house is located approximately 36-feet from the Franklin Ct. public right-of-way. The applicant would like to install a wheelchair ramp to the front of the house that would encroach into the front yard setback.

Worthington Codified Ordinances:

Section 1149.01 states the required front yard is 30-feet.

Request:

The applicant is seeking approval to construct a ramp and landing that would be constructed 6-feet into the required front yard setback along Franklin Ct. A variance of 6-feet is requested, where 30-feet is required.

Project Details:

1. Proposed wheelchair ramp is 3-feet by 14-feet with a 4-feet by 4-feet landing before heading up another 3-feet by 4-feet ramp to the 4-feet by 5-feet landing.
2. Pressure treated lumber will be used for the ramp and handrails.
3. Located 24-feet from the front property line.

Conclusions:

The existing public right-of-way is approximately 12-feet from the property line; therefore, the ramp will be located approximately 36-feet from the edge of pavement.

The essential character of the neighborhood might be altered; however, a wheelchair ramp is needed for the homeowner to have safe access to their home.

- As Worthington’s population ages, the need to permit flexibility to our residents to stay in their home will be greater.
- Aging in place allows our residents to remain living in the community with some level of independence, rather than residential care or moving outside of Worthington to another community that can accommodate their needs.

The surrounding homes appear to be constructed at a front yard setback of 30-feet to 36-feet.

Adjoining properties should not suffer a substantial detriment as a result of the variance; however, it does alter the character.

The delivery of government services should not be affected by the installation of the deck in the front setback.

Discussion:

Mr. Brown swore in the applicant, Mr. Thomas Stratford, P.O. Box 699, Hebron, Ohio. The applicant’s comments could not be heard. Board members did not have any questions or concerns. Mrs. Crane asked if there were any emails or calls regarding this application and Mr. Ganter said no.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY CREATIVE INDEPENDENT LIVING SOLUTIONS ON BEHALF OF JANE LEPPERT FOR A VARIANCE FROM CODE REQUIREMENTS TO ALLOW FOR THE INSTALLATION OF A WHEELCHAIR RAMP AT 385 FRANKLIN CT., AS PER CASE NO. VAR 31-2021, DRAWINGS NO. VAR 31-2021 DATED, JUNE 11, 2021, 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. Mr. Brown called the roll. Mr. Coulter, aye; Mr. Guillozet, aye; Mr. Falcoski, aye; Mr. Seitz, aye; and Mrs. Crane, aye. The motion was approved.

C. Other

There was no other business to discuss. Mr. Brown reminded the Board members there would not be a meeting in August.

D. Adjournment

Mr. Guillozet moved to adjourn the meeting and Mr. Falcoski seconded the motion. All Board members voted, “Aye,” and the meeting adjourned at 7:56 p.m.

