

MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

June 7, 2012

A. Call to Order – 7:30 p.m.

1. Roll Call - the following members present: B. Seitz, L. Reibel, R. Hunter, D. Falcoski and C. Crane. Also present was D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Motion by Mr. Hunter and seconded Mr. Falcoski to approve May 3, 2012 minutes and all members voted “aye” thereon.
4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing

1. Variance – Side Yard Setback on Corner Lot – Fence – 655 Hartford St. (Dan and Sarah Mullen) BZA 12-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Dan, 655 Hartford Street, stated he did not believe the variance would be that great since there is existing vegetation along the boundary line and the fence would blend in with it. Also, the fence is for safety simply because it is a corner lot and they have a small child and pets to contain.

Ms. Crane asked for questions from the Board.

Mr. Hunter stated that the Architectural Review Board approved this fence because it is a decorative open style fence and New England is a very busy road.

Mr. Seitz asked if the fence would be painted and Mr. Mullen replied no, so that it will match the existing fence.

Ms. Crane asked if there was anyone in the audience who would like to speak for or against this proposal.

Jim Smith, 49 East New England Avenue stated he lives across the street and has no issues with the addition of the fence.

Findings of fact:

1. This property is an existing lot of record in an AR-4.5 district with a front yard setback of 30 feet. Corner lots are permitted to reduce this setback to 20 feet for the adjacent street and fences are limited to a maximum of 2 feet 6 inches above the street grade within 10 feet of the right of way. A front yard setback variance to erect the 3 foot tall fence along the west property line to the south property line was granted in 2004.
2. The applicant is proposing the continuation of the existing fence along the south property line to the existing driveway, and along the driveway from the south property line to the existing garage. The requested variances are 20 feet for front yard setback and approximately 12 inches for maximum fence height within 10 feet of the right of way.
3. The width of the East New England Avenue right of way is 66 feet and the width of the road is 22 feet.
4. The property is subject to, and the fence has been approved by, the Architectural Review Board.

Conclusions:

1. The New England Avenue right of way is 16 feet wider than a typical residential right of way, which mitigates 8 feet of the 20 foot front yard setback and the 10 foot setback for intersection sight distance requirements. The fence will be an open style picket, will be set back from the intersection, and the existing dwelling provides more of a sight impact than the proposed fence. The fence should not cause intersection sight distance issues for south bound traffic on Hartford St. nor for east bound traffic on E. New England Ave. 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.

Mr. Hunter moved:

THAT THE REQUEST BY DAN AND SARAH MULLEN FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK AND MAXIMUM FENCE HEIGHT ON A CORNER LOT TO ALLOW THE ERECTION OF A FENCE AT 655 HARTFORD STREET, AS PER CASE NO. BZA 12-12, DRAWINGS NO. BZA 12-12 DATED APRIL 18, 2012, 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 and all members voted "aye" thereon.

2. Variance – Side Yard Setback – Dormer – 102 E. Riverglen Dr. (Colleen Cook) BZA 13-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Eric Johnson, 912 Hartford Street, represented the applicant and stated he feels the variance is not substantial because it is not going to extend beyond the existing roof line.

Ms. Crane asked for questions from the Board.

Mr. Hunter asked if the existing home was in compliance the dormer addition would not require a variance and Mr. Phillips replied that is correct.

Ms. Crane asked if there was anyone in the audience who would like to speak for or against this proposal.

Findings of fact:

1. This property is an existing lot of record in an R-10 district with a side yard setback of 6 feet and the sum of the two side yards must total at least 12 feet.
2. The existing house is 4.5 feet from the west property line and 3.5 feet from the east property line.
3. The applicant is proposing a dormer addition on the second floor of the existing house, a portion of which is proposed within the 6 foot west setback. The requested variance is 1.5 feet.

Conclusions:

1. The lot is narrow and the foot print of the house is not changing. 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.

Ms. Reibel moved:

THAT THE REQUEST BY COLLEEN COOK FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A DORMER AT 102 EAST RIVERGLEN DRIVE, AS PER CASE NO. BZA 13-12, DRAWINGS NO. BZA 13-12 DATED MAY 4, 2012, 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 and all members voted “aye” thereon.

3. Variance – Signage – 679-B High St. (Michael Celentano) BZA 14-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Alison Celetano, 679-B High Street, stated that the signs are on the parking lot side of the building and the signs are colorful because they are advertising for an art studio.

Ms. Crane asked if the variance is for the number of signs or just the style of the signs. Mr. Phillips stated it is just being reviewed for the number of styles and colors only. The additional wall sign variance was granted in 2007.

Ms. Crane asked for questions from the Board.

Ms. Crane asked if there was anyone in the audience who would like to speak for or against this proposal.

Mr. Seitz asked if the vinyl banner is a part of this variance request and Mr. Phillips replied it is not, the banner has been removed.

Findings of fact:

1. This property is an existing lot of record in a C-5 district where each business is permitted 1 wall mounted sign, lettering is limited to not more than 2 styles plus 1 logo, not more than 3 sizes of lettering including a logo, and not more than 4 colors including black and white. A variance was granted in 2007 for 2 wall mounted signs per business.
2. The applicant has placed signage with 4 sizes of lettering and 9 colors. The requested variances are 2 additional lettering sizes and 5 additional colors.
3. The property is subject to, and the signs have been approved by, the Architectural Review Board.

Conclusions:

1. The additional lettering sizes and color differences are relatively minor and help accentuate 'art' in 'the party studio'. The signs are relatively small, are not seen from the public way, and 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.

Mr. Seitz moved:

THAT THE REQUEST BY MICHAEL CELENTANO AND CRV-XIV WORTHINGTON LIMITED FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE TO ALLOW SIGN FACE REPLACEMENTS TO REMAIN AT 679-B HIGH STREET, AS PER CASE NO. BZA 14-12, DRAWINGS NO. BZA 14-12 DATED MAY 8, 2012, 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 and all members voted “aye” thereon.

4. Variance - Side Yard Setback – Air Conditioning Unit – 779 Oxford St. (Jeremy & Clare Brofford) BZA 15-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Clare Brofford, 779 Oxford Street, stated keeping the unit in the existing spot makes it more visible than the proposed location.

Ms. Reibel asked if the applicant has spoken to the neighbors and Ms. Brofford said she has and they are not opposed.

Ms. Crane asked if there was anyone in the audience who would like to speak for or against this proposal.

Findings of fact:

1. This property is an existing lot of record in an R-10 district with a minimum side yard setback of 8 feet and a minimum sum of the two side yards of 20 feet.
2. The property contains an existing single family dwelling, 7.2 feet from the north property line and 18.8 feet from the south property line. A variance was granted for the carport in 2011. The applicant is proposing the placement of the air conditioner condenser 2.2 feet from the north property line. The requested variance is to allow the entire condenser in the side yard.
3. The property is subject to, and the location of the condenser was approved by, the Architectural Review Board.

Conclusion:

1. In addition to the landscaping being provided to screen the condenser, there is existing landscaping to the east providing additional screening from Oxford St. and the detached garage to the north provides additional screening for the northern neighbor. 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.

Mr. Falcoski moved:

THAT THE REQUEST BY JEREMY AND CLARE BROFFORD FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE PLACEMENT OF AN AIR CONDITIONER CONDENSER AT 779 OXFORD STREET, AS PER CASE NO. BZA 15-12, DRAWINGS NO. BZA 15-12 DATED MAY 10, 2012, 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 and all members voted “aye” thereon.

5. Variance - Signage – 800 High St. (Sign Vision Co., Inc./Huntington Bank) BZA 16-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Don Castle with Sign Vision apologized for not including this in the previously approved signage request.

Ms. Crane asked if they were adding tenants on this sign and Mr. Castle replied yes.

Mr. Falcoski stated he believed this tenant sign was on the previous Huntington sign and Mr. Castle replied yes.

Ms. Crane asked if there was anyone in the audience who would like to speak for or against this proposal.

Findings of fact:

1. This property is in a C-3 district where freestanding signs cannot exceed 60 square feet in area.
2. The property has an 8 foot wide by 3 foot 9 inch tall freestanding sign totaling 60 square feet in area. The applicant is proposing adding an additional 9 inch tall panel approximately 5 inches below the main sign. The modified sign will be 8 feet wide by 4 feet 11 inches tall and totaling 78.67 square feet. The requested variance is 18.67 square feet.
3. The property is subject to, and the sign has been approved with changes to the colors and lettering styles by, the Architectural Review Board.

Conclusions:

1. The overall sign massing will not be significantly increased with the addition of the panel. Adding the tenants on the existing sign would not be in keeping with Huntington's brand. 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.

Mr. Hunter moved:

THAT THE REQUEST BY SIGN VISION COMPANY, INCORPORATED AND HUNTINGTON BANK FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE TO ALLOW THE MODIFICATION OF AN EXISTING SIGN AT 800 HIGH STREET, AS PER CASE NO. BZA 16-12, DRAWINGS NO. BZA 16-12 DATED MAY 15, 2012, 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 and all members voted "aye" thereon.

6. Variance - Front Yard Setback – Fence – 594 Hartford St. (Robert & Tera Huffman)
BZA 17-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Rob Huffman, 594 Hartford Street, stated originally there was a six foot tall Rose of Sharon with vines growing over it which was a hard wall, but it has been removed and are now proposing a decorative fence three and a half foot tall with pickets four inches apart.

Ms. Crane asked if the fence is only by the driveway. Mr. Huffman said it will be eighteen inches from the driveway and will attached to the fence in the back.

Ms. Crane asked if there was anyone in the audience who would like to speak for or against this proposal.

Mr. Falcoski asked if the variance is for the fence only and not the stone wall and Mr. Phillips replied that is correct.

Findings of fact:

1. This property is an existing lot of record in an R-10 district with a front yard setback of 30 feet. Fences and walls are not permitted within the front yard setback.

2. The width of the Hartford Street right of way is 66 feet and the width of the pavement is 22 feet.
3. The applicant is proposing the erection of a 3 foot 6 inch tall, open style fence along the north side of the driveway to approximately 26 feet from right of way. The requested variance is approximately 4 feet.
4. The applicant is also proposing a 24 inch wide and 18 to 24 inch tall loose laid stone wall from the north property line to the south driveway, a portion of which is in the front yard setback. Loose laid stone walls, typically less than 24 inches in height, have been considered landscaping and not a structure as defined by the zoning code. If the wall was higher than 24 inches, it would be considered a fence, and if mortar were used to bind the stones together, it would be considered a structure.
5. The property is subject to, and the fence has been approved to not extend farther than the house to the south by, the Architectural Review Board.

Conclusions:

1. The Hartford St. right of way is 16 feet wider than a typical residential right of way and the fence may not require a variance if being proposed elsewhere in the city. 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.

Mr. Hunter moved:

THAT THE REQUEST BY ROBERT AND TERA HUFFMAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ALLOW THE ERECTION OF A FENCE AT 594 HARTFORD STREET, AS PER CASE NO. BZA 17-12, DRAWINGS NO. BZA 17-12 DATED MAY 10, 2012, 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 and all members voted “aye” thereon.

7. Variance - Parking – 6121 Olentangy River Rd. (Phillip Markwood Architects, Inc./Congregation Beth Tikvah) BZA 18-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

John Stefano, for Beth Tikvah at 6121 Olentangy River Road, had no further comments.

Ms. Crane asked if the expansion was going to reduce the parking already there. Mr. Stefano said the expansion will be in the existing courtyard and will not affect the existing parking area.

Mr. Falcoski asked for an explanation as to the parking arrangements made for the two times a year when there would be more people. Mr. Stefano said in the past they have parked in the neighborhood or with permission in driveways and now have started a shuttle program that runs from the Church of Nazarene about a mile and a half down the road.

Ms. Crane asked if there was anyone in the audience who would like to speak for or against this proposal.

Scott Whitlock, 6081 Olentangy River Road, said he has lived there for forty years and is in favor of this variance and appreciates the communication with the neighbors.

Kimberly Nixon-Bell, 6077 Olentangy River Road, stated the Congregation has worked very hard to take care of the neighborhoods concerns with the parking during high holy holidays and supports this variance.

Findings of fact:

1. This property is in an R-10 district and the required parking is based upon the use of the property. A semi-public use is currently approved under a Conditional Use Permit and 1 parking space for each 4 seats in the main auditorium is the parking requirement. The existing parking lot has 97 spaces.
2. A parking variance based upon 515 seats requiring 128 parking spaces was approved in 1989 based on a parking lot with 102 spaces.
3. The applicant is proposing a 3605 square foot addition which effectively relocates the 280 seats of main auditorium to an outdoor court yard. A portion of the new wall of the auditorium is moveable and is intended to allow its temporary expansion to 805 seats for 2 peak attendance days. The required parking for those 2 days is 201 parking spaces. Taking into account the 26 parking space variance from 1989, the requested variance is 78 parking spaces.
4. The addition of parking lot area on the site is not desired by the property owner or the adjacent neighbors.

Conclusions:

1. The moveable wall is the reason a variance is required, similar to the 1989 variance where classroom walls are moveable to increase seating in the main auditorium. The additional parking is required for only 2 days a year, and the owner has made arrangements for those 2 days to alleviate the need for the additional parking. 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.

Mr. Falcoski moved:

THAT THE REQUEST BY PHILLIP MARKWOOD ARCHITECTS, INCORPORATED AND CONGREGATION BETH TIKVAH FOR A VARIANCE FROM CODE REQUIREMENTS FOR PARKING TO ALLOW THE CONSTRUCTION OF AN ADDITION AT 6121 OLENTANGY RIVER ROAD, AS PER CASE NO. BZA 18-12, DRAWINGS NO. BZA 18-12 DATED MAY 22, 2012, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Hunter seconded the motion and all members voted “aye” thereon.

Mr. Hunter moved and Mr. Falcoski seconded to adjourn. The meeting adjourned at 8:09 P.M.