

MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

August 2, 2012

A. Call to Order – 7:30 p.m.

1. Roll Call - the following members present: B. Seitz, L. Reibel, R. Hunter and C. Crane. Also present was D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Motion to approve July 5, 2012 minutes by Mr. Hunter, seconded Mr. Seitz. Minutes were approved.
4. Affirmation/swearing in of witnesses.

B. Unfinished Business

**1. Variance – Side Yard Setback – Air Conditioning Unit – 307 E. Granville Rd. (Robert Roehrer)
BZA 23-12**

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Bob Roehrer of 307 E. Granville Rd. stated the previous unit was in this same location.

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.
2. The property contains an existing dwelling, approximately 7 feet from the east property line.
3. The applicant recently had the air conditioner replaced and the condenser was placed within the side yard setback.
4. Staff has no record of inquiries about the location of the previous condenser.

Conclusions:

1. Relocating the condenser to the rear with the added length of refrigerant lines may impact the performance of the air conditioner. It appears the previous unit was in place at the proposed

location and the Division of Building Regulation found no record of inquiries about the condenser's location. All of 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. Sietz moved:

THAT THE REQUEST BY ROBERT ROEHRER AND GLORIA GERBER FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW AN AIR CONDITIONER CONDENSER TO REMAIN AT 307 EAST GRANVILLE ROAD, AS PER CASE NO. BZA 23-12, DRAWINGS NO. BZA 23-12 DATED JUNE 14, 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.

C. Items of Public Hearing

1. Variance – Fence – 101 Abbot Ave. (Ace Fence & Deck/Sze) BZA 24-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Rob Bruno, 4459 Carroll Southern Rd, Ace Fence & Deck, stated there is an existing neighboring fence and the homeowner would like the fence on the left to be uniform in appearance.

Mr. Seitz asked if the neighbor is okay with the fence members to face them and Mr. Bruno replied yes.

Mr. Hunter stated if you drive down the neighborhood there are many fences constructed the correct way with the structural member facing the inside.

Ms. Reibel stated concerns that if this variance was granted then everybody would want to come before the board and switch their fences, this would set precedence.

Mr. Bruno asked if the fence was constructed with the finished side out and then added boards to the interior would this be acceptable and Mr. Hunter responded yes.

Mr. Hunter stated the code is very clear that the posts and structural members must face the property of the applicant and that he cannot support the application.

Ms. Crane stated she agrees she sees no hardship to grant this variance.

Mr. Bruno asked if both sides of the fence mirrored each other would that be acceptable and Mr. Phillips said the variance would then not be required.

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

Cedric Sze, 101 Abbot Avenue, stated he is willing to construct the fence to conform to the code.

Findings of fact:

1. This property is in an R-10 district where the supporting members of fences are not to be visible from adjoining properties.
2. The applicant is proposing the erection of a 54 feet long, 4 feet tall, spaced picket fence along the along the west property line with the supporting members facing the property to the west. The requested variance is to allow the western portion of the fence with supporting members visible from the western neighbor.

Conclusions:

1. If the western neighbor had made application for this fence, no variance would be required.
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 ACE FENCE AND DECK AND CEDRIC SZE FOR A VARIANCE FROM CODE REQUIREMENTS FOR THE VISIBILITY OF FENCING SUPPORTING MEMBERS TO ALLOW THE ERECTION OF A FENCE AT 101 ABBOT AVENUE, AS PER CASE NO. BZA 24-12, DRAWINGS NO. BZA 24-12 DATED JULY 2, 2012, 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. Ms. Crane, Ms. Reibel, and Mr. Hunter voted no and Mr. Seitz votes yes. The motion failed.

**2. Variance – Side Yard Setback – Garage – 784 Evening St. (Kristopher & Heidi Anderson)
BZA 25-12**

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Heidi Anderson, 784 Evening Street, stated they are not changing the size of the previously approved garage just the location of the doors.

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 8 feet for detached accessory structures, and a front yard setback of 30 feet. The property also fronts an alley to the south and corner lots are permitted to reduce the adjacent setback to 20 feet. Legally nonconforming structures destroyed more than 50 percent of their construction costs must be reconstructed in compliance with the zoning code. Refrigeration equipment is not permitted in a required yard.
2. The existing garage was to be altered as part of an addition approved by the Architectural Review Board and the Board of Zoning Appeals. That project has not started and the existing garage was destroyed in a fire in early February, 2012.
3. The applicant is proposing to reconstruct the garage on the existing foundation and as previously approved by the Architectural Review Board. The reconstructed garage is proposed to be 6.7 feet from the north property line. The requested variance is 1.3 feet.
4. The existing dwelling is approximately 5.9 feet from the alley and the existing air conditioner condenser is within the south setback. It is anticipated this unit will need to be replaced sometime in the future. The requested variance is to allow the condenser to remain entirely within the setback.

Conclusions:

1. The lot is very narrow and moving the garage to the south will incur additional foundation expense and reduce the length of the driveway that could affect parking. The variance request is not substantial.
2. A substandard sized lot along an alley is subject to set back requirements greater than other properties in Worthington. In the particular case, the existing house is in south setback, has limited room on either side for the placement of the condensing unit, the side yard faces the alley and noise from the equipment would not transmit to adjacent residences, unlike other properties not on a corner. Placing it to the rear of the home may not be practical and may decrease the efficiency of the condenser with longer refrigeration lines. The Division of Building Regulation

found no record of inquiries about the condenser's location. These factors mitigate the substantial nature of that variance request

3. The essential character of the neighborhood should not be substantially altered.
4. The delivery of governmental services should not be affected.

Ms. Reibel moved:

THAT THE REQUEST BY KRISTOPHER AND HEIDI ANDERSON FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE RECONSTRUCTION OF A DETACHED GARAGE AND THE PLACEMENT OF AN AIR CONDITONING CONDENSER AT 784 EVENING STREET, AS PER CASE NO. BZA 25-12, DRAWINGS NO. BZA 25-12 DATED JULY 3, 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.

3. Variance – Side Yard Setback – Air Conditioning Unit – 253 Weydon Rd. (Colin & Anne Edwards) BZA 26-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Colin Edwards, 253 Weydon Road, stated the new unit is an improvement to the existing with much less noise.

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 sum of the two side yards must be a minimum of 20 feet. Refrigeration equipment is not permitted in a required yard.
2. The existing dwelling is approximately 11.8 feet from the west property line.
3. The applicant is proposing the replacement of existing condenser in the side yard setback. The requested variance is to allow the condenser in the side yard.

Conclusions:

1. Relocating the condenser to the rear with the added length of refrigerant lines may impact the performance of the air conditioner. The Division of Building Regulation found no record of

inquiries about the condenser's location. All of 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 COLIN AND ANNE EDWARDS FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE REPLACEMENT OF AN AIR CONDITIONING CONDENSER AT 253 WEYDON ROAD, AS PER CASE NO. BZA 26-12, DRAWINGS NO. BZA 26-12 DATED JULY 5, 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.

4. Variance - Side Yard Setback – Air Conditioning Unit – 6869 Bowerman St. W. (James Knight) BZA 27-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

James and Kathleen Knight, 6869 Bowerman Street West, stated currently the unit is in the rear but they want to extend the deck in the rear. They have spoken with the neighbor who has no issues with the unit being placed in the side yard.

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 sum of the two side yards must be a minimum of 20 feet. Refrigeration equipment is not permitted in a required yard.
2. The existing dwelling is approximately 8.9 feet from the north property line.
3. The applicant is proposing the replacement of the existing condenser and installing a new condenser in the side yard setback. The requested variance is to allow the condensers in the side yard.

Conclusion:

1. Relocating the condenser to the rear with the added length of refrigerant lines may impact the performance of the air conditioner. This factor mitigates 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 JAMES R. KNIGHT FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE REPLACEMENT AND ADDITION OF AN AIR CONDITIONING CONDENSER AT 6869 BOWERMAN STREET WEST, AS PER CASE NO. BZA 27-12, DRAWINGS NO. BZA 27-12 DATED JULY 5, 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 – Directional Signage – **300 W. Dublin-Granville Rd.** (Worthington Schools/TWHS) **BZA 28-12**

Mr. Hunter moved to table, seconded by Mr. Seitz, and the item was tabled.

6. Variance - Side and Rear Yard Setback – Generator; Signage – **5601 N. High St.** (Natalie’s Coal Fired Pizza/Joel Mazza) **BZA 29-12**

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked what is the limit of tenants on a directory sign and Mr. Phillips replied there is a limit of three, however this board granted a variance of four tenants for this sign.

Mr. Hunter stated that on the building mounted signs Architectural Review Board approved the lower line of copy be the same size.

Ms. Crane asked the applicant to address the Board.

Charlie Jackson, 5601 North High Street, stated the changeable signs would have three panels, one with the date, one with the time and one with the upcoming event information.

Mr. Seitz asked where the sign would be located and Mr. Hunter stated when looking at the building it would be on the left side. Mr. Phillips stated the Board previously granted a variance to allow two wall mounted signs.

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-2 district with setback requirements of 30 feet for rear yard and 20 feet for side yard. Signage is limited to 2 lettering styles plus 1 logo, no more than 3 sizes are permitted including a logo, and changeable copy is not permitted.
2. A setback variance had been granted for the fence between the alley and the rear yard setback.
3. The owner is proposing the placement of an approximately 4 foot by 6 foot emergency generator along the north side of the existing building. The design of the generator has not been completed and the exact location is not known at this time. A portion of the generator may be in the rear yard setback but within the existing fenced yard, and outside the side yard setback. The requested variance is for the entire generator within the rear yard setback but within the fenced yard.
4. The existing freestanding sign has 2 styles plus a logo and 3 sizes including the logo.
5. The applicant is proposing 2 sign panels on the free standing sign, each a style and size. It is reasonable to assume the center panel will eventually have a panel for the basement tenant space currently vacant, and that future tenant may also want an additional style and size. The total proposed number of styles is 5 plus a logo, a requested variance of 3 styles. The total number of proposed sizes is 6 including the logo, a requested variance of 3 sizes.
6. The applicant further proposes a wall mounted sign with three panels that can be changed to advertise upcoming events and musical performances.
7. The property is subject to approval by the Architectural Review Board. That Board approved the generator conditioned upon a fence completely surrounding the unit and testing to be conducted between 9 am and 5 pm, Monday through Friday. They approved the signage on the freestanding sign. They also approved only 2 panels of changeable copy, on the condition there be no gaps between panels to allow light through and there shall be no logo on the changeable panels.

Conclusions:

1. This property is very small with little options to place a generator towards the rear without a variance. The requested variance is not substantial.
2. Businesses typically have their own lettering styles and logos as part of their brand and image. When a multi-tenant building has a joint identification sign, it is difficult to comply

with the style and size limitation of the zoning code. In this particular case, because there is not a large number of colors along with the styles and sizes, these factors mitigate the substantial nature of the variance request.

3. Without temporary signs to advertise upcoming events and musical performances, a changeable copy variance seems an appropriate way to allow this advertisement.
4. The essential character of the neighborhood should not be substantially altered.
5. The delivery of governmental services should not be affected.

Ms. Reibel moved:

THAT THE REQUEST BY NATALIE’S COAL FIRED PIZZA AND KELMA LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ALLOW THE PLACEMENT OF AN EMERGENCY GENERATOR AND SIGNAGE AT 5601 NORTH HIGH STREET, AS PER CASE NO. BZA 29-12, DRAWINGS NO. BZA 29-12 DATED JULY 6, 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.

7. Variance – Side Yard Setback – Air Conditioning Unit and Wing Wall – 362 E. Granville Rd. (Rodney Arcaro) BZA 30-12

This item was withdrawn by the applicant.

8. Variance - Side and Rear Yard Setback – Air Conditioning Unit and Generator – 132 E. Granville Rd. (Jeff DeVille) BZA 31-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Jeff DeVille, 132 East Granville Road, stated he had no further comments.

Ms. Crane stated there is no one in the audience to speak for or against this proposal.

Findings of fact:

1. This property is in an existing lot of record in an R-10 district along a regional thoroughfare with a front yard setback of 50 feet along Granville Road, a side yard setback of 33 feet 4 inches along Morning Street, a rear yard setback of 30 feet, and a side yard setback of 8 feet.
2. The property contains an existing dwelling mostly within the setbacks.

3. The applicant is proposing the placement of an emergency generator in the rear and the Morning Street side yard setbacks, and the replacement of existing condensers in the Morning Street side yard. The requested variances are to allow this equipment entirely within the rear and side yard setbacks.
4. Staff has no record of inquiries about the location of the existing condensers.
5. The property is subject to, and the equipment with screening has been approved by, the Architectural Review Board.

Conclusions:

1. This is a substandard sized lot, on a corner and along a regional thoroughfare subject to set back requirements substantially greater than other similar properties in Worthington. Most of the existing house is in a required yard and the property has very little rear yard. Variances from code requirements can be expected to mitigate some of these hardships. These factors and the placement of the generator in a step back of the dwelling help mitigate the substantial nature of that variance request.
2. Similarly, the condensers noise should not adversely affect adjoining properties since they abut a public right of way instead of another dwelling. Relocating the condensers with the added length of refrigerant lines may impact the performance of the air conditioners. The Division of Building Regulation found no record of inquiries about the condenser's location. All of these factors mitigate the substantial nature of the variance request.
3. The essential character of the neighborhood should not be substantially altered.
4. The delivery of governmental services should not be affected.

Mr. Seitz moved:

THAT THE REQUEST BY JEFF DEVILLE FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR AND SIDE YARD SETBACK TO ALLOW THE PLACEMENT OF AN EMERGENCY GENERATOR AND THE REPLACEMENT OF TWO AIR CONDITIONER CONDENSERS AT 132 EAST GRANVILLE ROAD, AS PER CASE NO. BZA 31-12, DRAWINGS NO. BZA 31-12 DATED JULY 16, 2012, 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 and all members voted "aye" thereon.

Mr. Hunter moved and Mr. Seitz seconded to adjourn. The meeting adjourned at 8:25 P.M.