

MINUTES OF THE REGULAR MEETING  
BOARD OF ZONING APPEALS

September 6, 2012

**A. Call to Order – 7:30 p.m.**

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

**B. Items of Public Hearing**

**1. Variance – Accessory Structure Area - Garage – 6577 Plesenton Dr. S. (Greg Ness) BZA 32-12**

Discussion:

Mr. Phillips reviewed the staff memo and stated the house has been demolished.

Ms. Crane asked the applicant to address the Board.

Greg Ness, 6686 Schreiner Street, had nothing further to add to staff comments.

Mr. Falcoski asked why an attached garage is considered an accessory structure and Mr. Phillips replied it is so defined in the zoning code.

Ms. Crane asked how deep is the garage and Mr. Ness replied the additional 91 square feet is located to the rear so they can have shelves and still walk around the vehicles, but also located on the side to give a work area. The area will also be used for a future ramp to allow an accessible entrance.

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 an R-16 district where total accessory structure area cannot exceed 850 square feet.
- 2 The applicant is proposing the demolition of the existing dwelling and the construction of

a new dwelling. The new dwelling includes a 25 foot by 38 foot, 3½ inch attached garage, approximately 941 square feet in area. The requested variance is for approximately 91 square feet

Conclusions:

1. The lots in this area are much larger than the minimum requirements for the district although the maximum accessory structure area is absolute regardless of the size of the lot. In this particular case, the lot is nearly 2 acres in size and 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 GREGORY AND SARALEE NESS FOR A VARIANCE FROM CODE REQUIREMENTS FOR ACCESSORY STRUCTURE AREA TO ALLOW THE CONSTRUCTION OF A GARAGE AT 6577 PLEASANTON DRIVE SOUTH, AS PER CASE NO. BZA 32-12, DRAWINGS NO. BZA 32-12 DATED AUGUST 8, 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.

**2. Variance – Accessory Structure Area - Garage – 25 Fox Ln. (Sean Kocheran/Hamilton) BZA 33-12**

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Dennis Hamilton, 25 Fox Lane, stated they currently have a two car garage and looking to have an additional one car garage since they have two teenage daughters driving.

Mr. Falcoski asked if the proposed garage was called a pool house would it still be considered an accessory use and Mr. Phillips replied it would not and it would not require a variance.

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 an R-10 district where total accessory structure area cannot exceed 850 square feet.

2. The existing dwelling contains an attached garage approximately 674 square feet in area.
3. The applicant is proposing the construction of a 14 foot by 23 foot detached garage, 322 square feet in area. This garage will also contain 2 covered patios, one 11 feet by 17 feet 10 inches, and the second 11 feet by 11 feet, totaling 317 square feet in area. The proposed accessory structure area is 639 square feet, and the total accessory structure area is proposed to be 1,313 square feet. The requested variance is 463 square feet.

Conclusions:

1. The lots in this area are typically larger than the minimum requirements for the district although the maximum accessory structure area is absolute regardless of the size of the lot. In this particular case, the lot is over twice the minimum size. The additional structure is well outside the setbacks, and there is screening around most of the property with the Olentangy River to the west. The patios would not be considered accessory structure areas if the garage were attached to the dwelling. 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 SEAN KOCHERAN AND MELISSA HAMILTON FOR A VARIANCE FROM CODE REQUIREMENTS FOR ACCESSORY STRUCTURE AREA TO ALLOW THE CONSTRUCTION OF A GARAGE AT 25 FOX LANE, AS PER CASE NO. BZA 33-12, DRAWINGS NO. BZA 33-12 DATED AUGUST 8, 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. Ms. Reibel, Mr. Seitz, and Mr. Falcoski voted yes and Ms. Crane voted no. The motion passed.

**3. Variance** – Building Height and Number of Stories – House Addition; Rear and Side Yard Setback – Hot Tub and Structure – **511 Oxford Ct.** (Maria Anderson/Preyer) **BZA 34-12**

Discussion:

Mr. Phillips reviewed the staff memo. Mr. Falcoski asked if a building permit has been issued and Mr. Phillips replied for a foundation only. The deck and third story have not been approved.

Ms. Crane asked the applicant to address the Board.

Bill Bush, 511 Oxford Court, stated they currently have a two bedroom home and are moving in three children and his mother and they need to increase their living space.

Ms. Crane asked what does the Billbao have to do with this variance and Mr. Bush replied the living area takes up most of the backyard and this is a way to get outdoor area in the back of the home.

Cheryl Preyer, 511 Oxford Court, stated this area is meant to be a sanctuary for the two of them since the amount of people living in the home is going to triple.

Shane Chandler, 175 South Third Street, stated the deck variance is required because of the tree and the existing manhole.

Ms. Crane asked if the eight foot high fence is requiring a variance and Mr. Phillips replied only because it is in the setback otherwise it does not require a variance.

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

Lisa Kreischer, 501 Oxford Court, stated she is located to the south and will have no sunshine once this is built. Ms. Kreischer stated her home is only fourteen feet from their home and the proposed deck with hot tub will only be eighteen inches from the property line, she feels it is an encroachment on her privacy as would be the third story.

Jennifer Johnson, 61 West South Street, stated she has concerns of the third story not fitting in with the ranch style homes in the neighborhood.

Ms. Crane stated this Board does not consider the particulars of the style or design of the addition, the Board's concern is if something does not meet code, then they must decided whether allowing a variance will adversely affect the neighborhood in terms of privacy and intrusion on another property. The setback is considered because there is a required buffer between properties and the hot tub does encroach and almost erases that buffer.

Mr. Seitz stated he understands the neighbors' concerns, he suggested they take another look at the design so a variance is not required and the neighbors are kept happy.

Rick Espe, 461 Oxford Court stated since this area is not in the Architectural Review District, they do rely on the restrictions of the setbacks and height requirements in the zoning code so to give privacy in the neighborhood. He is concerned if this is granted at eighteen inches from the property line then it sets a precedence and what is to keep the next person from wanting to build twelve inches from the property line.

Mr. Chandler said the manhole and tree creates a hardship by taking away the buildable area. Mr. Seitz stated the board is not to critique the design, but to pay attention to views of the clients and the neighbors. Mr. Seitz stated it may be time to reconsider the location of the magnolia tree if the hot tub is that strongly desired.

Ms. Kreischer stated she appeals to the board regarding the intrusion of privacy which is a major concern for her.

Mr. Seitz asked if they have considered the existing house to make the addition feel it is a part of the composition and Mr. Chandler replied the interior space will flow really well.

Ms. Crane stated she feels the hot tub is a major concern and an impact on the neighbors.

Mr. Chandler withdrew the variance request for the hot tub based on the view of the neighbors.

Mr. Seitz stated he believes there are solutions that can be achieved were no variance is required, he challenged the applicant to go back and study other options.

Mr. Falcoski stated the requested height is insignificant in the overall project, but encourages the architect and owners to take another look at it.

#### Findings of fact:

1. This property is an existing lot of record in an R-10 district with a maximum building height of 30 feet, a maximum of 2½ stories not including a cellar, a minimum side yard setback of 8 feet, a minimum rear yard setback of 30 feet, and a minimum rear yard setback of 15 feet for uncovered decks not more than 3 feet above the adjacent grade and with railings, screens, and other enclosures are not more than 4 feet above the floor surface.
2. The applicant is proposing an addition to the rear of the existing dwelling, outside the setbacks, that will be 30 feet 6 inches above grade, but is estimated to be approximately 30 feet when measured from the average established grade. The ground floor being more than 80% above grade and not a cellar, the 197 square foot 'Billbao' room is a third floor and requires a variance. The requested variance is for a half a story.
3. The applicant is also proposing a hot tub and deck with a 8 foot privacy fence and approximately 20 square foot changing room, 1 foot 6 inches from the south and west property lines. The requested variances are 6 feet 6 inches for side yard setback and 28 feet 6 inches for rear yard setback.

#### Conclusions:

1. If the addition had a steep sloped roof, portions of that roof would be higher than 30 feet, would be considered a half story, and would not require a variance. In this particular case, a small space is being created on the roof and by definition becomes a story. There are trees and bushes around the property which help soften the prominence of the addition relative to the existing dwelling. The requested variance is not substantial.
2. The hot tub and deck must avoid a 14 inch tree, a manhole, and a sanitary sewer in the middle of the property. As the hot tub is moved towards the property lines to avoid these obstructions and kept near the living areas instead of the sleeping areas of the additions, privacy becomes a concern and is addressed with a tall screen and a changing room.
3. The delivery of governmental services should not be affected.

Mr. Seitz moved:

**THAT THE REQUEST BY MARIA ANDERSON AND CHERYL PREYER FOR A VARIANCE FROM CODE REQUIREMENTS FOR NUMBER OF STORIES TO ALLOW THE CONSTRUCTION OF AN ADDITION, AS PER CASE NO. BZA 34-12, DRAWINGS NO. BZA 34-12 DATED AUGUST 10, 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. Ms. Crane and Mr. Falcoski voted yes, Ms. Reibel and Mr. Seitz voted no, and the motion failed.

Mr. Seitz moved to adjourn, and Mr. Falcoski seconded the motion. The meeting adjourned at 8:42 P.M.