

MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

November 1, 2012

A. Call to Order – 7:30 p.m.

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

B. Items of Public Hearing

1. Variance – Parking Setback – 60 Old Wilson Bridge Rd. (Eleanor Popper) BZA 44-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Edwin Popper, 539 Old Farm Road, stated he had nothing further to add to staff comments.

Ms. Crane asked if the Board was reviewing this case because the parking lot is going to be in the right of way and Mr. Phillips stated the right of way is moving and this lot is already non-conforming so a variance is required for the right of way line to move.

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 a C-3 district with a building setback requirement of 50 feet along freeways and expressways, and a parking lot setback requirement of 5 feet from the right of way.
2. The State of Ohio is in the process of limited access right of way acquisition for improvements to the Interstate 270 and U.S. Route 23 interchange. Part of that acquisition includes a portion of the property at this location.

3. The proposed right of way line will reduce the setback of the existing building to 22.4 feet. The requested variance is 27.6 feet.
4. Portions of the existing parking lot are within the existing freeway right of way. The proposed right of way line will cause portions of the existing parking lot to be on the freeway right of way line. The requested variance is 5 feet.

Conclusions:

1. The intent of the setback requirements is to provide landscaping buffers and open areas between buildings and parking, and the public right of way. In this particular case, the freeway is more of a visual encumbrance upon the building and the parking lot than the same upon the freeway. The property is screened to the north by vegetation and there is a significant grade difference between this property and the freeway exit ramp. 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. Falcoski moved:

THAT THE REQUEST BY THE ELEANOR POPPER FOR A VARIANCE FROM CODE REQUIREMENTS FOR SETBACKS TO ALLOW THE TRANSFER OF PROPERTY AT 60 OLD WILSON BRIDGE ROAD, AS PER CASE NO. BZA 44-12, DRAWINGS NO. BZA 44-12 DATED OCTOBER 9, 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.

2. Extension of Construction Completion Period – Additions – 156 E. South St. (Geoff Davis) BZA 40-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Geoff Davis, 156 E. South Street, stated he wants this project done but had difficulty with contractors. He is legally allowed to continue now and he might need more than a six month extension.

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

Melissa Conrath, 148 E. South Street, stated she supports Mr. Davis wanting to complete the work and hope the Board approves the extension.

Findings of fact:

1. Building Permit 18690 was issued on July 17, 2009 to construct additions and alter the interior of the existing dwelling. The work was started on or before June 21, 2010 when a footing inspection was conducted by the Building Inspector. The last inspection, of the insulation, was conducted on August 15, 2011. The permit expired on January 17, 2012.
2. The applicant is requesting an extension of the construction completion period but made no specific request. The Chief Building Inspector advises 6 months from today should allow sufficient time to complete all the work.

Conclusion:

1. The cause of the delay were legal proceedings against the previous contractor. It is in the best interest of the owner and the City that the permit be extended to complete the work. The site is well maintained and free from unnecessary material and rubbish.

Mr. Hunter moved:

THAT THE REQUEST BY GEOFF DAVIS FOR AN EXTENSION OF CONSTRUCTION COMPLETION PERIOD OF 9 MONTHS FROM TODAY TO COMPLETE THE WORK AUTHORIZED BY BUILDING PERMIT 18690 AT 156 EAST SOUTH STREET, AS PER CASE NO. BZA 40-12, 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 – Front and Side Yard Setbacks – Additions – 59 W. New England Ave. (Adam Moore) BZA 41-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Adam Moore, 59 West New England Avenue, stated the existing footprint will not be substantially altered, there is a flat roof addition existing which will be removed and the new two story addition will use the existing foundation. The front porch will increase about twenty inches with the brick columns.

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 front yard setback of 30 feet. Corner lots are permitted to reduce the adjacent setback to 20 feet. Refrigeration equipment is not permitted in a required yard.
2. The West New England Avenue and Oxford Street right of ways are 66 feet wide.
3. The existing dwelling is within the 30 foot front setback and is approximately 20 feet from the West New England Avenue right of way, and within the 20 foot side yard setback and is approximately 15 feet from the Oxford Street right of way. There is an existing air conditioner condenser along the west side of the dwelling within the 20 foot setback.
4. The applicant is proposing a 5 foot 8 inch by approximately 14 foot front porch. This porch includes a 3 foot by approximately 7 foot roof, and 2, 2 foot by 2 foot brick piers approximately 5 feet 6 inches tall. The requested variances are to allow the entire porch roof and brick piers within the front yard setback.
5. The applicant is further proposing a 12 foot by 28 foot addition to the rear of the house, including alterations to portions of the existing dwelling within the 20 foot setback. The requested variance is 5 feet.
6. The existing condenser will one day need to be replaced and granting a variance now will not delay its replacement in the future. Staff has no record of any inquiries regarding the location of the condenser. The requested variance is to allow the condenser to remain.
7. The property is subject to, and the additions have been approved by, the Architectural Review Board.

Conclusions:

1. Smaller existing lots of record face a challenge attempting to comply with setback requirements. Corner lots are further challenged by the additional side yard requirements. In this particular case the typical challenges are compounded with wider than the normal 50 foot right of way, encroaching upon the property 8 feet more than other similar property in Worthington. The variance requests are not substantial and are further mitigated based upon these factors.
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 ADAM AND MARY MOORE FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT AND SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A FRONT PORCH AND REAR ADDITION, AND THE PLACEMENT OF AN AIR CONDITIONER CONDENSER AT 59 WEST NEW ENGLAND AVENUE, AS PER CASE NO. BZA 41-12, DRAWINGS NO. BZA 41-12 DATED OCTOBER 3, 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. Extension of Construction Completion Period – Addition & Renovation – 849 Oxford St. (Jason Miriello/McGarry) BZA 42-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Jason Miriello, 3718 Lead Road, Hilliard, stated this is a complicated custom home renovation and they have experienced many difficulties during the renovation and everything had to be fabricated since it is all custom. The siding is scheduled for next week and plan on having the exterior completed by Thanksgiving. The hopes are to have the project done by the middle of December.

Mr. Falcoski asked if anyone was living in the home and Mr. Miriello replied no.

Mr. Hunter asked for an explanation of the recommendation of thirty days and Mr. Phillips replied it would extend the Building Permit until December 20, 2012 and then they would have to come back to the Board prior to December 20 to give a progress update, and show the exterior is complete. Then they could finish the interior and maybe at that time the Board might grant six months for completion. Mr. Phillips stated there have been weeks even months with no activity on the job and the City has received many complaints for the lack for progress. Staff is recommending this project be monitored to make sure the project moves forward.

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

Alli McGarry, 849 Oxford Street, stated they are committed to get this project done since they have a lot of money and time invested in the property.

Findings of fact:

1. Building Permit 19438 was issued on May 20, 2011 to construct additions and alter the interior of the existing dwelling. The work was started on or before October 21, 2011 when a footing inspection was conducted by the Chief Building Inspector. The last inspection, of a portion of the framing, was conducted on October 22, 2012 by the Building Inspector. The electrical construction documents have not been approved. The building permit will expire on November 20, 2012.
2. The Division of Building Regulation, the Department of Engineering, and the Department of Administration including the City Manager's office have been contacted by neighbors numerous times since October, 2011 about various issues including the lack of construction activity for long periods of time.
3. The applicant is requesting an extension of the construction completion period until February 15, 2013. The Chief Building Inspector advises this Board to grant 30 days additional time to complete the exterior work and have the applicant report back to the Board to consider additional time for the interior work.

Conclusions:

1. No cause for delay of the project has been given and due to community concerns, the project should be monitored to ensure timely completion.

Mr. Falcoski moved:

THAT THE REQUEST BY JASON MIRIELLO, BRIAN MCGARRY, AND ALLISON GENTILE FOR AN EXTENSION OF CONSTRUCTION COMPLETION PERIOD OF 30 DAYS FROM NOVEMBER 20, 2012 TO COMPLETE THE EXTERIOR WORK AUTHORIZED BY BUILDING PERMIT 19438 AT 849 OXFORD STREET, AS PER CASE NO. BZA 42-12, 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 - Temporary Office Trailer – 5750 N. High St. (Corna Kokosing/St. Michael Church) BZA 43-12

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked the applicant to address the Board.

Reverend Anthony Donovo, 5750 North High Street, stated they have raised a substantial amount in pledges, so they are about half way there.

Ms. Crane asked if they have thought about renting out one of the nearby office buildings and Sheri Rogers, 624 Collingwood, Whitehall, stated they have a lot of interaction with the students and would not want them to have to cross a street. Many parishioners are elderly and unable to use stairs.

Mr. Falcoski asked how long the trailer has been there and Ms. Rogers replied it will be two years in February. The offices had to move out prior to renovations for the sisters and that project took longer and costs more money than anticipated. Ms. Roger said they have over a million dollars in pledges and almost a half a million dollars collected so far.

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 S-1 district and office trailers are subject to Architectural Review and setback requirements. The Worthington Design Guidelines typically does not support office trailers. A Temporary Use Permit is valid for 6 months and can be renewed 1 time for an additional 6 months.
2. The applicant applied for and was granted a Temporary Use Permit for an office trailer on February 3, 2011 to begin when the Certificate of Occupancy for the trailer was issued. That certificate was issued on March 24, 2011. The trailer houses the parish office on a temporary basis until an addition to the existing building is constructed.
3. The applicant applied for a variance with a sunset provision on September 9, 2011. It was approved on October 6, 2011 and will expire on January 1, 2013.
4. The applicant is now proposing a variance from code requirements to allow the existing trailer to remain through June 30, 2014.

Conclusions:

1. The original plan of the owner was the addition to be under construction when the Temporary Use Permit extension was applied for. The addition was to be completed and ready for occupancy of the parish office when that permit expired. Due to slower than expect fundraising, construction has been delayed. Recent leadership changes within the parish had further slowed the fundraising efforts. The new timeframe assumes construction will begin in the spring of 2013 with occupancy spring 2014.
2. Staff has no record of inquiries since the trailer became operational in 2011. It is well screened from the neighbors to the north and cannot be seen from Selby Boulevard. It is set back and partially screened from portions of North High Street. Placing a sunset provision on the variance will allow the temporary office to remain until the addition is completed.
3. The essential character of the neighborhood should not be substantially altered.

4. The delivery of governmental services should not be affected.

Mr. Hunter moved:

THAT THE REQUEST BY CORNA KOKOSING CONSTRUCTION CO. AND ST. MICHAEL CHURCH FOR A VARIANCE FROM CODE REQUIREMENTS FOR A TEMPORARY OFFICE TRAILER TO REMAIN AT 5750 NORTH HIGH STREET UNTIL JUNE 30, 2014, AS PER CASE NO. BZA 43-12, DRAWINGS NO. BZA 43-12 DATED OCTOBER 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.

Mr. Hunter moved to adjourn, and Mr. Falcoski seconded the motion. The meeting adjourned at 8:14 P.M.