

MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

April 4, 2013

A. Call to Order – 7:30 p.m.

1. Roll Call - the following members present: Mr. Falcoski, Mr. Hunter and C. Crane. Also present was D. Phillips, Chief Building Inspector.
2. Pledge of Allegiance
3. Mr. Hunter moved to approve the March 7, 2013 minutes, seconded by Mr. Falcoski and the minutes were approved.
4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing

1. Variance - Side Yard Setback – Shed - 6597 Masefield St. (Ryan Hughes) BZA 07-13

Discussion:

Mr. Phillips reviewed the staff memo.

Ryan Hughes, 6597 Masefield Street, stated he chosen the location in the southwest corner of the lot because the opposite side has a sugar maple tree, a utility pole with lines over head and an existing irrigation system. Ms. Crane asked if he had previously spoken to the neighbor and he stated he had an extensive conversation with them and they had no objection at that time. Ms. Crane asked if there was any other location for the shed and Mr. Hughes replied he already had to cut down one pine tree and trimmed another for the shed's current location and would have to cut down another tree to move the shed out of the setback. He said he plans on landscaping around the shed and is willing to get the neighbors involved.

Mr. Falcoski asked Mr. Hughes if he is aware the shed sits on the sanitary sewer line and may need to be moved at some time. Mr. Hughes replied yes, he had already spoken to Mr. Phillips. Mr. Falcoski asked the applicant to address the concerns of the neighbor regarding the water, and Mr Hughes stated the shed does not have gutters so the plan is to put bushes on the side to absorb the water and is also willing to put gutter on that side and have the water runoff to the back.

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

James Robison, 6579 Masefield Street, stated he did not hear the response about gutters. Mr. Hughes replied his plan to plant bushes on the side of the shed to help with water runoff.

Findings of fact:

1. This property is an existing lot of record in an R-10 district with a minimum side yard setback of 5 feet for detached accessory structures not exceeding 120 square feet in area.
2. There is a utility easement along the south property line, approximately 2 feet in width at the southeast corner of the property and widens to approximately 11 feet at the southwest corner. In this easement is an 8 inch sanitary sewer. There is a 20 foot utility easement along the west property line but no City utilities are known to be within it.
3. The applicant constructed a 10 foot by 12 foot shed 2 feet from the south property line and 6 feet from the west property line. The requested variance is 3 feet.
4. The shed has two concrete encased posts to provide against wind uplift, a portion of the shed is within the easement to the south, and it appears to be above a portion of the existing 8 inch sanitary sewer. The applicant has been advised the shed may have to be moved from the easement, at the applicant's expense, should repair or replacement of the sewer be required.
5. The Division of Building Regulation first received an inquiry about the shed on December 11, 2012.
6. The applicant will place landscaping along the side of the shed.

Conclusion:

1. The essential character of the neighborhood should not be substantially altered.
2. The Director of Service and Engineering advises small structures such as this shed without a permanent foundation should not hinder repair or replacement operations of the 8 inch sewer. The delivery of governmental services should not otherwise be affected.

Mr. Hunter moved:

THAT THE REQUEST BY RYAN HUGHES FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW A SHED TO REMAIN AT 6597 MASEFIELD STREET, AS PER CASE NO. BZA 07-13, DRAWINGS NO. BZA 07-13 DATED FEBRUARY 8, 2013, 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 – Generator – 51 E. Riverglen Dr. (John Ellingwood) BZA 09-13

Discussion:

Mr. Phillips reviewed the staff memo.

John Ellingwood, 51 E. Riverglen Drive, stated he had nothing to add to the staffs comments. Mr. Hunter said the Board likes to have screening around mechanical units and Mr. Ellingwood said he is willing to plant more evergreen screening if needed. Mr. Hunter said generators require testing weekly which needs to be done between nine and five weekdays and Mr. Ellingwood stated he was told this is for twelve minutes weekly and is willing to comply, also has spoken to all of the neighbor and none have any objections.

Ms. Crane asked if there was anyone in the audience 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 6 feet.
2. The applicant is proposing the placement of an emergency generator within the 6 foot side yard setback. The requested variance is to place the generator entirely in the setback.
3. The applicant will test the generator between the hours of 9 am and 5 pm weekdays.

Conclusions:

1. The existing lot is only 50 feet wide with a modern dwelling and an attached 2 car garage. Except next to the screened porch and in front of the house, there are few locations for the generator without seeking a variance. The electrical service is in the northwest corner of the basement and the proposed generator location will minimize the wiring to the service. 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 JOHN ELLINGWOOD FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE PLACEMENT OF A GENERATOR 51 EAST RIVERGLEN DRIVE, AS PER CASE NO. BZA 09-13, DRAWINGS NO. BZA 09-13 DATED MARCH 6, 2013, 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.

3. Variance - Front Yard Setback, Height – Fence – 6080 Olentangy River Rd. (Michael Davis & Juliet Taylor) BZA 10-13

Discussion:

Mr. Phillips reviewed the staff memo.

Michael Davis, 6080 Olentangy River Road, stated the fence itself is six feet high and the fence is supported by tension wire between the posts, so the posts are a couple inches higher. Placing this fence within the evergreens makes it very hard to see.

Ms. Crane asked how often deer come through the property and Mr. Davis replied daily eight to twelve at a time. He said the deer are not only destructive with their foraging but also have done damage with their antlers to the greenhouse and trees.

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

Scott Whitlock, 6081 Olentangy River Road, stated he has resided there for forty one years and the previous information about the number of deer and the damage they are doing is absolutely accurate and is a relatively recent phenomenon.

Findings of fact:

1. This property is an existing lot of record in an R-10 district with a front yard setback requirement of 30 feet and a maximum fence height of 6 feet is permitted.
2. The applicant is proposing the erection of 6 foot 4 inch tall deer fencing along Olentangy River Road, approximately 10.6 feet from the right-of-way. This fencing will continue along the south property also within the front setback. The requested variances are approximately 19.4 feet for front yard setback and 4 inches for fence height.
3. The applicant is further proposing the extension of the existing 6 foot wooden fence along the north property line to approximately 10.6 feet from the right of way. The requested variance is approximately 19.4 feet for front yard setback

Conclusions:

1. Deer fencing is normally difficult to see and it being behind the existing trees make it almost impossible to see. This mitigates the substantial nature of the deer fence in the front setback. The fence height variance is not significant.
2. The extension of the wooden fence is also partially hidden by trees and mitigates 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. Falcoski moved:

THAT THE REQUEST BY MICHAEL DAVIS AND JULIET TAYLOR FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK AND FENCE HEIGHT TO ALLOW THE ERECTION OF FENCING AT 6080 OLENTANGY RIVER ROAD, AS PER CASE NO. BZA 10-13, DRAWINGS NO. BZA 10-13 DATED MARCH 8, 2013, 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 - Supporting Members, Height – Fence – 359 Pinney Dr. (Sarah Richardson)
BZA 11-13

Discussion:

Mr. Phillips reviewed the staff memo.

Sarah Richardson, 359 Pinney Drive, stated they have had ongoing disputes with their neighbor for three years, have tried to work with the City and the police, but have now decided to move and cannot sell the house with graffiti on the fence. Our goal is to provide an aesthetic looking fence.

Ms. Crane asked about the letters from the neighbors and Mr. Hunter said there appears to be four letters in support of the fence and one letter in opposition which is from the property owner with the graffiti on their fence.

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

Findings of fact:

1. This property is an existing lot of record in an R-10 district where a maximum fence height of 6 feet is permitted and the supporting members of a fence must not be visible from adjoining properties.

2. The applicant is proposing the erection of a fence along the north property line to screen the north neighbor's fence covered with graffiti. The proposed fence's supporting members would face the neighbor to the north, and be approximately 6 foot 3 inches in height in places as it follows the contour of the ground. The requested variances are for the supporting members to face the northern neighbor along the north property line, and up to a 3 inch fence height.

Conclusions:

1. In this particular case, the supporting members are hidden by the neighbor's existing fence, and constructing a compliant fence is nearly impossible with the existing fence not allowing access for construction. These factors mitigate the substantial nature of the variance request.
2. The potential 3 inch fence height variance is not substantial.
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 SARAH RICHARDSON FOR A VARIANCE FROM CODE REQUIREMENTS FOR FENCE SUPPORTING MEMBERS AND FENCE HEIGHT TO ALLOW THE ERECTION OF A FENCE AT 359 PINNEY DRIVE, AS PER CASE NO. BZA 11-13, DRAWINGS NO. BZA 11-13 DATED MARCH 8, 2013, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING AND THE FIVE LETTERS RECEIVED ARE A PART OF THE RECORD.

Mr. Falcoski seconded the motion and all members voted "aye" thereon.

5. Variance - Side Yard Setback – Deck – 59 W. New England Ave. (Adam Moore) BZA 12-13

Ms. Crane asked if the applicant was present, hearing no response, Ms. Crane suggested the case be tabled.

Mr. Hunter moved to table, seconded by Mr. Falcoski and all members voted "aye" thereon.

Mr. Hunter moved to adjourn, seconded by Mr. Falcoski, and the meeting adjourned at 8:04 P.M.