

MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

May 2, 2013

A. Call to Order – 7:30 p.m.

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

B. Unfinished Business

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

Discussion:

Mr. Phillips reviewed the staff memo.

Adam Moore, 59 West New England Avenue, stated he had nothing further to add to staff comments. Mr. Hunter stated there was no controversy with the Architectural Review Board.

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 front yard setback of 30 feet and a side yard setback of 8 feet. Corner lots are permitted to reduce the adjacent setback to 20 feet.
2. The Oxford Street right of way is 66 feet wide.
3. The existing dwelling is within the 20 foot side yard setback and is approximately 15 feet from the Oxford Street right of way.
4. The applicant is proposing a deck at the rear of the dwelling, approximately 15 feet from the Oxford Street right of way and 6 foot 6 inches from the east property line. The requested side yard variances are 5 feet to the west and 1 foot 6 inches to the east.

5. The property is subject to, and the deck has been approved by, the Architectural Review Board.

Conclusion:

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 properties 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. Falcoski moved:

THAT THE REQUEST BY ADAM MOORE FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A FENCE AT 59 WEST NEW ENGLAND AVENUE, AS PER CASE NO. BZA 12-13, DRAWINGS NO. BZA 12-13 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.

C. Items of Public Hearing

1. Variance - Side Yard Setback – Deck - 230 Colonial Ave. (Tamara Barach) BZA 13-13

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane stated this property has two front yards and no rear yard and Mr. Phillips replied that is correct.

Tamara Barach, 230 Colonial Avenue, had nothing to add to staff comments.

Mr. Seitz asked if the deck will not extend further than the existing garage and Ms. Barach replied that is correct.

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 8 feet, minimum front yard setback of 30 feet, and uncovered decks are permitted 15 feet from the property line.
2. The applicant is proposing the construction of an 18 foot by 20 foot deck on the north side of the existing dwelling, 5.5 feet from the east property line and 28 feet from the Hardy Way right of way. The requested variances are 2.5 feet for the side yard and 2 feet for the front yard setbacks.

Conclusion:

1. This particular property is narrow with a detached garage approximately 5.5 feet from the east property line. The proposed deck is not intended to encroach into the side yard any further than the existing garage. There is a sidewalk along the dwelling that is intended to lead to the new deck. This mitigates the side yard variance request.
2. The property is further hampered by 2 front yards, along Colonial Avenue to the south, and along Hardy Way to the north. The Hard Way front yard functions as the rear yard and if it were a rear yard, no variance would be required. The requested 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 TAMARA BARACH FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD AND FRONT YARD SETBACK TO ALLOW THE CONSTRUCTION OF A DECK AT 230 COLONIAL AVENUE, AS PER CASE NO. BZA 13-13, DRAWINGS NO. BZA 13-13 DATED MARCH 29, 2013, 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 - Side and Rear Yard Setback – New Dwelling – 141 Sharon Springs Dr. (Lisa DuVernay) BZA 14-13

Discussion:

Mr. Phillips reviewed the staff memo and stated the City received something like a petition as opposed to actual letters from sixteen individuals, signed they are aware of the project and they have no objections.

Lisa DuVernay, 141 Sharon Springs Drive, stated she and her daughter walked around the neighborhood and showed the plans and stated everyone was very positive.

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Minutes

Mr. Falcoski asked if the variance would still be required if the porch was not included. Mr. Phillips stated yes, portions of the home are already in the setback and they are making an alteration to the existing footprint by going two stories.

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 8 feet, a minimum front yard setback of 30 feet, and a minimum rear yard setback of 30 feet. Corner lots are permitted to reduce the adjacent setback to 20 feet.
2. The east lot, Parcel 100-003102, has been combined with the main Parcel, 100-003101. There is now only one parcel.
3. The applicant is proposing the demolition of the existing dwelling and the construction of a new, 2 story dwelling on the existing foundation. The proposed dwelling will vary from approximately 11.2 feet to 12 feet from the Milton Avenue right of way and vary from approximately 27 feet to 25 feet from the south property line. The requested variances are from approximately 8.2 feet to 8 feet for the side yard, and approximately 3 feet to 5 feet for rear yard setback.
4. The applicant also proposes a 6 foot deep covered porch. The porch will vary from approximately 5.2 feet to 6 feet from the Milton Avenue right of way. The requested variance is from approximately 14.8 feet to 14 feet for side yard setback.
5. Lastly the applicant is proposing to connect the new dwelling to the existing detached garage. The requested variance is for the new connector and attached garage to be entirely within the rear yard.

Conclusions:

1. Smaller existing lots of record, such as this one, face a challenge attempting to comply with setback requirements. Corner lots are further challenged by the additional side yard requirement. The existing dwelling is very small and does not have modern cooking and sanitation facilities. The demolition of the existing and construction of the new dwelling will create a better living environment for the occupants and yield a better financial return for the owner. The new dwelling's proposed location allows the reuse of the existing foundation. These factors mitigate the substantial nature of the new dwelling variance requests.
2. Covered porches allow for outdoor living space and foster a sense of community. A porch on just the north side of the dwelling would not easily allow neighbors to interact with the occupants. The existing foundation being reused does not allow the porch to be set back from Milton Avenue. These factors mitigate the substantial nature of the porch variance request.

3. The existing detached garage being attached creates a requirement for a variance than if left unattached even though the garage itself is not materially changing. The proposed connector variance is not substantial given the existing dwelling and garage are already in the rear yard setback. These factors mitigate the garage connector variance request.
4. The delivery of governmental services should not be affected.

Mr. Seitz moved:

THAT THE REQUEST BY LISA DUVERNAY FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE AND REAR YARD SETBACK TO ALLOW THE CONSTRUCTION OF A DWELLING AT 141 SHARON SPRINGS DRIVE, AS PER CASE NO. BZA 14-13, DRAWINGS NO. BZA 14-13 DATED APRIL 4, 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.

3. Variance - Side & Front Yard Setback – Fence – 195 E. Dublin-Granville Rd. (David & Lorraine Robinson) BZA 15-13

Discussion:

Mr. Phillips reviewed the staff memo.

Ms. Crane asked if the parking and the gravel were in the right of way. Mr. Phillips replied most if not all of it is in the right of way. She asked if it is the property owners who typically set up this type of parking and Mr. Phillips replied he did not know the history of this parking, but the Director of Service and Engineering Department would be the one granting permission for parking in the right of way. Mr. Hunter said there was discussion at the Architectural Review Board meeting about the parking area, the owners have been cooperative with the parking, and the parking precedes these owners.

Lorraine Robinson, 195 E. Dublin-Granville Road, stated it has been summed up and they are here for questions.

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 front yard setback requirement along a regional thoroughfare of 50 feet. Corner lots are permitted to reduce the adjacent setback to 33 feet 4 inches.
2. The Granville Road right of way is 60 feet and the Plymouth Street right of way is 66 feet.

3. The applicant is proposing the erection of a 4 foot tall fence along the Plymouth Street right of way to the front of the dwelling facing East Granville Road, parallel to East Granville Road, and approximately 25 feet from the right of way. The requested variances are approximately 25 feet for the East Granville Road setback and 33 feet 4 inches for the Plymouth Street setback.
4. The property is subject to, and the fence has 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 a deeper setback requirement than the normal 30 foot for front and 20 foot for side yard, and wider than normal 50 foot rights of way. Additionally, the house is mostly within these setbacks. 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 DAVID AND LORRAINE ROBINSON FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE AND FRONT YARD SETBACK TO ALLOW THE ERECTION OF A FENCE AT 195 EAST GRANVILLE ROAD, AS PER CASE NO. BZA 15-13, DRAWINGS NO. BZA 15-13 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. Falcoski seconded the motion and all members voted “aye” thereon.

4. Extension of Construction Completion Period – Alteration – 452 Colonial Ave. (David Millikin) BZA 16-13

Discussion:

Mr. Phillips reviewed the staff memo.

David Millikin, 452 Colonial Avenue, stated he had nothing to add to the staff comments.

Ms. Crane asked for the status of the debris in the rear yard, Mr. Millikin replied it is from all the interior work and it will be cleaned up in the summer.

Mr. Hunter asked is this extension appropriate. Mr. Phillips replied yes, the homeowner is doing the work himself in the evenings and weekends.

Mr. Hunter asked if one year is enough time and Mr. Millikin replied he believes it is because they are very close to meeting the criteria for final inspections. Mr. Phillips stated the Board only has authority to grant a maximum one year extension maximum, but the applicant can return to the Board for additional time.

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

Findings of fact:

1. Building Permit 19332 was issued on February 14, 2011 to alter the interior of the dwelling and construct an exterior deck. The permit expired on August 14, 2012.
2. The last record of an inspection was a final inspection of the deck by the Building Inspector on June 25, 2012.
3. The Division of Building Regulation has no record of inquiries about the construction activity at this property.

Conclusions:

1. The majority of the work is interior and granting the maximum extension period of 1 year appears appropriate.

Ms. Reibel moved:

THAT THE REQUEST BY DAVID MILLIKIN FOR AN EXTENSION OF THE CONSTRUCTION COMPLETION PERIOD FOR ONE YEAR TO COMPLETE THE WORK AUTHORIZED BY PERMIT 19332 BY MAY 2, 2014 AT 452 COLONIAL AVENUE, AS PER CASE NO. BZA 16-13, DRAWINGS NO. BZA 16-13 DATED APRIL 5, 2013, 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 - Side Yard Setback – Air Conditioning Unit – 470 Riley Ave. (Christopher Jackman) BZA 17-13

Discussion:

Mr. Phillips reviewed the staff memo.

Christopher Jackman, 470 Riley Avenue, stated he had nothing further to add.

Ms. Crane asked if the unit is going to be on the east side will it be by the neighbor’s garage or living space. Mr. Jackman replied their living space, but stated the neighbors unit is also on that side and will be surrounded by bushes.

Ms. Reibel asked if the neighbors are aware of the relocation and Mr. Jackman replied yes.

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 8 feet and the sum of the 2 side yards must be a minimum of 20 feet.
2. The existing dwelling is 9.7 feet from the west property line and 10.9 feet from the east property line. With the west side yard taken as the entire 9.7 feet, a minimum of 10.3 of side yard to the east is required.
3. The applicant is proposing to move the existing air conditioner condenser from the rear to the east side yard, 7 feet 4 inches from the east property line. The requested variance is 3.0 feet.

Conclusion:

1. 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. Seitz moved:

THAT THE REQUEST BY CHRISTOPHER JACKMAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE PLACEMENT OF AN AIR CONDITIONER CONDENSER AT 470 RILEY AVENUE, AS PER CASE NO. BZA 17-13, DRAWINGS NO. BZA 17-13 DATED APRIL 5, 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.

6. Extension Construction Completion Period – Alteration – 467 Poe Ave. (Von & Lisa Rouse) BZA 18-13

Discussion:

Mr. Phillips reviewed the staff memo.

Lisa Rouse, 467 Poe Avenue, stated everything was summed up but will answer questions.

Mr. Hunter asked if one year was enough time and Ms. Rouse replied yes, cabinet installation started today.

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

Findings of fact:

1. Building Permit 19652 was issued on October 19, 2011 to alter the interior of the dwelling. The permit expired on April 19, 2013.
2. The last record of an inspection was for framing and insulation in the basement by the Building Inspector on April 18, 2013.
3. The Division of Building Regulation has no record of inquiries about the construction activity at this property.

Conclusion:

1. The work is interior and granting the maximum extension period of 1 year appears appropriate.

Mr. Hunter moved:

THAT THE REQUEST BY VON AND LISA ROUSE FOR AN EXTENSION OF THE CONSTRUCTION COMPLETION PERIOD FOR ONE YEAR TO COMPLETE THE WORK AUTHORIZED BY PERMIT 19652 BY MAY 2, 2014 AT 467 POE AVENUE, AS PER CASE NO. BZA 18-13, DRAWINGS NO. BZA 18-13 DATED APRIL 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.

7. Variance - Side Yard Setback – Lighting Fixtures and Drive Aisles – 6500 Northland Rd. (Larry Rancour/Wilson Hill Elementary) BZA 19-13

Ms. Crane asked if the applicant has requested this be tabled and Mr. Phillips replied that is correct.

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

Mr. Falcoski moved to adjourn, seconded by Mr. Seitz , and the meeting adjourned at 8:02 P.M.