

MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

June 6, 2013

A. Call to Order – 7:30 p.m.

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

B. Items of Public Hearing

1. Extension of Construction Completion Period – Alterations – 126 W. Dublin-Granville Rd. (Scott Volzer) BZA 20-13

Discussion:

Mr. Phillips reviewed the staff memo.

Scott Volzer, 126 West Dublin-Granville Road, stated he is currently working on the fence and hopes to start the front porch in the spring of 2014.

Mr. Falcoski asked if the extension would be one year from the date the permit expired and Mr. Phillips said it would be one year from today.

Mr. Sauer said the work being done on the house is a tremendous contribution to the community.

Ms. Reibel stated that Mr. Volzer had consulted with her on a legal matter concerning the roof and said she would abstain from voting.

Findings of fact:

1. Building Permit 19479 was issued on June 16, 2011 to alter the existing shed, repair or replace the existing windows of the dwelling, construct a rear open porch, alter a detached garage, and construct a pergola between the garage and the house. The last plan approval was issued on September 14, 2011, which excepted enclosing the front porch and any electrical work. The permit expired on December 16, 2012.
2. The last record of an inspection was of the framing conducted by the Building Inspector on September 13, 2011.

3. The Division of Building Regulation has no record of inquiries about the construction activity at this property, although there have been inquiries about the fence currently under construction.

Conclusion:

1. The majority of the work is completed and the front porch enclosure has not started.
2. Granting the maximum extension period of 1 year appears appropriate

Mr. Falcoski moved:

THAT THE REQUEST BY SCOTT VOLZER FOR AN EXTENSION OF THE CONSTRUCTION COMPLETION PERIOD FOR ONE YEAR TO COMPLETE THE WORK AUTHORIZED BY PERMIT 19479 BY JUNE 6, 2014 AT 126 WEST DUBLIN-GRANVILLE ROAD, AS PER CASE NO. BZA 20-13, DRAWINGS NO. BZA 20-13 DATED APRIL 22, 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, Ms. Reibel abstained and all members voted “aye” thereon.

2. **Variance** - Side Yard Setback – **Fence** - 158 W. New England Ave. (**Kirsten Chan**) BZA 21-13

Discussion:

Mr. Phillips reviewed the staff memo.

Kirsten Chan, 158 West New England Avenue, said she would like to amend her request since she spoke with her neighbor, Marty Lopeman, who would like it to be a three foot high fence with two inch spacing picket instead of a four foot high fence shadow box style.

Jim Sauer recommended that whatever the picket board width is, the spacing be the same. Ms. Chan stated her pickets are four inches wide and feels that is too large of a spacing, however is willing to space pickets every 3 inches.

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

Martha Lopeman, 652 Sinsbury Drive, stated she is very happy with what the applicant is doing.

Ms. Crane asked if there were any questions or motions from the board.

Mr. Seitz asked if the drawings the Board have must be changed since the request has changed. Mr. Phillips replied the minutes will reflect the change.

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.
2. The applicant is proposing the construction of a 3 foot tall picket fence with 3 inch openings following the landscape bed from the driveway to the north property line, and then along the north property line. The proposed fence line along the East Sinsbury Drive right of way is undulating with a portion proposed as close as approximately 5 feet to the right of way. The requested variance is for up to approximately 15 feet for side yard setback.

Conclusion:

1. Corner lots are challenged by an additional side yard requirement. In this particular case, the proposed fence is 3 feet tall, is setback from the right of way at least 5 feet, is an open style picket, and is proposed north of the dwelling to mitigate the substantial nature of the variance request.
2. The delivery of governmental services should not be affected.

Mr. Falcoski moved:

THAT THE REQUEST BY KIRSTEN CHAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE ERECTION OF A FENCE AT 158 WEST NEW ENGLAND AVENUE, AS PER CASE NO. BZA 21-13, DRAWINGS NO. BZA 21-13 DATED MAY 3, 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.

3. Variance - Rear Yard Setback – Trellis – 439 Granville Sq. (Highlands Co./Sproul) BZA 22-13

Discussion:

Mr. Phillips reviewed the staff memo.

Joe Patacca, 3739 Olentangy Boulevard and The Highlands Company, said the owner lost a big tree in the rear and is why they are proposing this trellis for shade. He stated the lot is very wide and shallow and is reason they are into the thirty foot rear setback. Ms. Crane asked if the canvas has to be removed in the winter and Mr. Patacca replied it can be removed or folded back.

Ms. Reibel asked since this is such a large trellis will there be any plantings or a patio underneath. Mr. Patacca replied there is a water feature approximately twenty five feet long present and this trellis will help shade it and keep algae from building up as the tree did.

Mr. Sauer said he visited this property today and the surrounding homes are far away from this property with enough vegetation that the trellis does not impose itself on the neighbors and seems to be a reasonable request.

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 rear yard setback of 30 feet.
2. The applicant is proposing the construction of a trellis at the rear of the property. The covered portion of the trellis is 15 feet 1 inch from the rear property. The requested variance is 14 feet 11 inches for rear yard setback.

Conclusions:

1. The trellis is open along all sides, is 8 feet tall, and is not similar to traditional additions encroaching into the rear setback. The pie shape lot forces the existing dwelling further into the rear yard than a typical rectangular lot. These factors mitigate the substantial nature of the variance request.
2. The delivery of governmental services should not be affected.

Ms. Reibel moved:

THAT THE REQUEST BY TIM JONES AND MARGARET SPROLL FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ALLOW THE CONSTRUCTION OF A TRELIS AT 439 GRANVILLE SQUARE, AS PER CASE NO. BZA 22-13, DRAWINGS NO. BZA 22-13 DATED MAY 8, 2013, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Falcowski seconded the motion and all members voted “aye” thereon.

4. Variance - Side Yard Setback – Addition – 546 Colonial Ave. (Heather & Jared Schultheis) BZA 23-13

Discussion:

Mr. Phillips reviewed the staff memo.

Jared Schultheis, 546 Colonial Avenue, said they are asking for this variance because their family is growing, they are a third generation of Worthington and would like to stay in the neighborhood. He stated they looked at other options of putting the addition on the west side but there were too many structural issues that would cause significant financial implications. The existing home is 2 foot from the property line and with the home being set at a slight angle the addition will be 1 foot from the property line.

Ms. Crane asked how close the other additions on neighboring properties are to their neighbors. Mr. Phillips replied he could not determine the distances, there were no record of building permits or variances for those properties, and they may have predated the 1971 adoption of the current zoning code.

Mr. Schultheis said they will be 11 and half feet from their neighbor's home since her home is also set further to the east.

Ms. Crane stated the Board has some correspondence from the neighbor to the east with some objections regarding the height and proximity. Mr. Schultheis stated the neighbor to the east did not mention any objection when he spoke with her.

Mr. Falcoski asked the applicant if the proposed addition will encroach any further than the existing home. Mr. Schultheis replied since the home is at an angle and when the addition projects out 8 feet, it will then be 1 foot from the property line. Mr. Falcoski said the neighbors concern is that she will lose sunlight from the second story addition and Mr. Schultheis replied the neighbor already has a cherry tree right against that lot line which provides a lot of shade for her yard.

Mr. Falcoski asked if it has already been determined that the windows on the east elevation would be eliminated and Mr. Phillips replied the existing window on the garage would be considered an existing condition, but the new window on the second floor for the soaking tub would not be permitted under the building code.

Mr. Falcoski asked about the eaves and Mr. Phillips replied no eave can be within 2 feet of the property line, so the proposed 8 inch eave on the east side would have to be eliminated and the eave on the other side could remain.

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

Mr. Sauer stated he has difficulty supporting this since the existing condition is 2 feet from the property line and the proposed would put it at 1 foot from the property line. If the neighbor were to erect a fence on the property line you would not be able to get to your backyard and feels it encroaches too much on the neighbor. Mr. Schultheis replied there is currently a fence there and he already has no access to his backyard from the side.

Ms. Reibel said she is sympathetic to someone with a growing family and wanting to expand and beautify their property, but she agrees with Mr. Sauer that it is not okay for someone's living room to be looking out on a giant blank wall when it could be built on the other side even though greater expense. Mr. Schultheis replied economically it is not possible for him and if they are not able to add on to this home they will have to look to live elsewhere.

Mr. Falcoski said the difference between 2 foot and 1 foot might as well be 4 inches and 2 inches, but a lot of his decision is based on what the neighbor is saying and their concern for potential resale of their property. He suggested the applicant speak with the neighbor and consider coming back before the Board.

Mr. Seitz said he does not believe they are getting enough bang for their buck and believes they are starting to sacrifice interior space to get this approved, eliminating windows is not a good solution and said he is not going to have an easy time supporting this.

Ms. Crane said she appreciates the letter from the neighbor but it does not affect the decision tonight, whatever happens whether you stay in the house, you sell in 5 years, or your neighbor leaves, this addition is going out last both of you. The other additions in the area no matter how close they are to the property lines did not come before the Board, but 1 foot or 2 feet is too close to property line for her and she cannot support this.

Mr. Seitz asked if the applicant were to reduce the width by 2 feet would this be before the Board. Mr. Phillips replied the width would have to be reduced more than 2 feet and it would have to be outside the 6 foot side yard setback. The garage would have to be altered which is already in the setback, so it would likely be in front of the Board.

Mr. Seitz asked if it were reduced by 3 foot then the addition could have windows. Mr. Phillips replied if the wall is outside the 3 foot fire separation distance then openings are not prohibited by the building code.

Mr. Falcoski asked if the garage stays exactly as it is and the addition were built stepped back 3 feet would a variance be required. Mr. Phillips replied anything within the 6 foot setback that is being altered as existing would need a variance.

Ms. Crane said the Board cannot get into redesigning the addition, it can vote on this proposal, the applicant can request to table, or withdraw this application.

Mr. Schultheis requested his application be tabled.

Findings of fact:

1. This property is an existing lot of record in an R-10 district with a minimum side yard setback requirement of 6 feet.
2. The existing attached garage is 2 feet from the east property line.
3. The applicant is proposing the construction of a 2 story, approximately 750 square foot addition, a portion of which will be within the 6 foot side yard and within 1 foot of the east property line. The requested variance is 5 feet of side yard setback.
4. The Residential Code of Ohio requires walls within the 5 foot fire separate distance from the property line be of 1 hour, fire-resistance rated construction, including the underside of projections such as eaves.
5. The Residential Code of Ohio does not permit projections within 2 feet of the property line.

6. The Residential Code of Ohio does not permit openings for windows and vents within 3 feet of the property line.
7. The granting of zoning code variances does not grant variances from requirements of the residential building code.

Conclusions:

1. Smaller existing lots of record face a challenge attempting to comply with setback requirements. In this particular case, the existing dwelling was not originally sited centered on the lot but square to the Colonial Avenue right of way. This creates difficulties attempting to add onto the dwelling to the east without impacting the neighbor to the east.
2. The building code restrictions are intended to protect adjacent properties from each other during a fire event. The eaves will not be permitted within 2 foot of the east property line. Openings, including windows, will not be permitted within 3 feet and prohibits the corner tub window of the right side elevation. These restrictions will leave a large, 2 story wall without ornamentation of windows and eaves, within 1 foot of the property line.
3. There appears to be more room on the lot on the west side to build an addition, or to shift the addition to the west and out of the side yard setback. The addition would not then be faced with building code issues and not present as much of an imposing structure upon the neighbor to the east.
4. Governmental services affected could be the Division of Fire.

Ms. Reibel moved to table, Mr.Seitz seconded the motion and all members voted “aye” thereon.

5. Variance - Rear Yard Setback – Deck – 2021 Samada Ave. (Deck Builders Unlimited/Gloecker) BZA 24-13

Discussion:

Mr. Phillips reviewed the staff memo.

George Gloecker, 2021 Samada Avenue, said the deck was there when they bought the home in 1986, it had a hot tub which they are removing and requires some alterations to the deck so they are removing a portion that is in the easement. Since they live on a pie shaped lot the neighbors on the sides cannot see them on the deck and have submitted documentation to their agreement.

Mr. Sauer said having been in the area it is pretty secluded and believes it would not affect anyone.

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

Findings of fact:

1. This property is in an R-10 district with a minimum rear yard setback requirement of 30 feet. Uncovered deck not more than 3 feet above grade and with railing not more than 4 feet above the deck is permitted within 15 feet of the rear property line.
2. The applicant is proposing to reconstruct a portion of an existing deck. The corner of the existing deck is 5 feet from the south property line. The proposed deck will be 10 feet from the property line. The requested variance is 5 feet.

Conclusions:

1. The proposed alteration will reduce the existing nonconformity. Pie shaped lots have shallower than typical rear yards. These factors mitigate what otherwise is not a substantial 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 GEORGE AND JULIA GLOECKER FOR VARIANCE FROM CODE REQUIREMENTS TO RECONSTRUCT A DECK AT 2021 SAMADA AVENUE, AS PER CASE NO. BZA 24-13, DRAWINGS NO. BZA 24-13 DATED MAY 10, 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.

6. Temporary Use Permit - Construction Sign – 5750 N. High St. (Corna Kokosing Construction Co./St. Michael Catholic Church) BZA 25-13

Discussion:

Mr. Phillips reviewed the staff memo.

Jim Valentas, Corna Kokosing Constructon, said the project was outlined well, it helps screen the construction that is going on and it helps with the fundraising efforts with a picture of the finished project.

Mr. Sauer asked how far back will the sign be from the road and Mr. Valentas replied it will hang on the fence, the fence is sixty feet long and the sign will be fifty feet long facing High St.

Ms. Crane asked if there is any requirement that a construction site be screened and Mr. Phillips replied there is no City ordinance that requires a job site be protected, the fence is for safety of the contractor doing the work.

Mr. Sauer asked what color the sign will be and Mr. Valentas replied a white background with green lettering and showed a picture of the sign depicting it being 6 foot by 24 foot.

Ms. Crane asked which size are they reviewing and Mr. Valentas replied 6 feet by 24 feet.

Mr. Sauer asked is this the same sign that will be placed by the entrance and Mr. Valentas replied the entrance sign was to say Family, Faith and Future, but the Church said they only want the 6 foot by 24 foot sign on the west side and nothing on the north side.

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 S-1 district. Temporary signs are not permitted, excepting a single, 32 square foot construction sign for a period not to exceed 1 year.
2. An addition to the existing building is currently under construction.
3. The applicant is proposing placing a temporary sign on the construction site fencing. The sign is proposed to be 6 feet tall by 24 feet wide on the west face of the fence. The area of proposed construction sign is 144 square feet.

Conclusion:

1. The sign will screen some of the construction activity and cover a portion of the fencing.
2. The addition project fundraising goals had originally delayed construction the last couple of years and the proposed sign may help future fundraising efforts.
3. The sign area may seem excessive but the majority of the sign area is decorative or otherwise not advertising a good or service.
4. The granting of a 6 month temporary use permit seems appropriate.

Mr. Seitz moved:

THAT THE REQUEST BY BISHOP EDWARD J. HERMANN FOR A TEMPORARY USE FOR TEMPORARY SIGNAGE AT 5750 NORTH HIGH STREET, AS PER CASE NO. BZA 25-13, DRAWINGS NO. BZA 25-13 DATED MAY 13, 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 – Signage – 885 High St. (Providential Properties) BZA 26-13

Discussion:

Mr. Phillips stated there was no one representing this case present. Ms. Crane said they will move this to the last case and move on to item 8.

8. Variance – Front Yard Setback – Porch – 45 W. Stafford Ave. (Ross Builders/Jha) BZA 27-13

Mr. Phillips reviewed the staff memo.

Discussion

Mr. Sauer asked if the new porch is no closer than the existing porch and Mr. Phillips replied that is correct. Ms. Crane stated it is going to be wider.

Rakesh Jha, 45 West Stafford Avenue, said they are excited about this project and took this opportunity to make the home more aesthetically pleasing.

Ms. Reibel asked if they have spoken to their neighbors and Mr. Jha replied the neighbors to the west are also excited and other neighbors are supportive.

Ms. Crane said the Board looks favorable on these porches that help to bring the neighbors together.

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 a R-10 district with a minimum front yard setback requirement of 30 feet. The Stafford street right of way is 66 feet.
2. The applicant is proposing altering the existing porch into a 9 foot to 13 feet 8 inch deep by 36 feet wide wraparound porch along the front of the dwelling, 15 feet from the West Stafford Avenue right of way. The requested variance is 15 feet.
3. The property is subject to, and the porch has been approved by, the Architectural Review Board.

Conclusion:

1. This existing porch is only meant to protect people from the elements while at the door. The new porch is intended to provide similar protection, allow outdoor living, and encourage neighbor interaction by being open. Additionally because the right of way is 66 feet instead of the typical 50 feet that is 8 feet of extra yard that they have that helps 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 JAMES ROSS, RAKESH JHA, AND SHOMA JHA FOR A VARIANCE FROM CODE REQUIREMENTS TO CONSTRUCT A PORCH AT 45 WEST STAFFORD AVENUE, AS PER CASE NO. BZA 27-13, DRAWINGS NO. BZA 27-13 DATED MAY 14, 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.

9. Variance – Signage - 5633 N. High St. (DaNite Sign Co./Key Bank) BZA 28-13

Mr. Phillips reviewed the staff memo.

Discussion

Robert Schorr, 3818 Kinsey Drive, said he had nothing further to add except the sign has been reduced and they have removed the red LED lighting.

Ms. Crane asked if there were any questions from the 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 a C-3 district where each business is permitted 1 wall mounted sign. Directional signs dimensions cannot exceed 24 inches in width.
2. Variances were previously granted for a second wall mounted sign above the ATM, and a third wall mounted sign on the north elevation of the canopy. The non-illuminated canopy sign approved was 2 foot tall by 4 feet 4 inches wide, or 8.7 square feet.
3. The applicant is proposing to enlarge and illuminate the main building mounted signs. The east sign will be 1 foot 8¼ inch tall by 11 foot 1 inch wide, or 18.7 square feet. No variances are required for this sign. The north, canopy mounted sign was also to be 1 foot 8¼ inches tall by 11 feet 1 inch wide, but the Architectural Review Board required at least a 20% reduction in size of this sign, or a maximum area of 14.9 square feet, as part of its approval. The requested variance is to illuminate and increase the size of the canopy mounted sign.
4. The applicant further proposes the erection of 2 directional signs, 2 feet 2½ inches wide by 1 foot 2½ inches tall, 3 feet off the ground. The requested variance is for 2½ inches of directional sign width.

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

Conclusion:

1. The proposed building mounted signage is not substantially different than previously approved and the requested variance for illumination and enlargement of the canopy sign is not significant.
2. The directional sign width 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. Seitz moved:

THAT THE REQUEST BY SOCIETY BANK NA FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE AT 5633 NORTH HIGH STREET, AS PER CASE NO. BZA 28-13, DRAWINGS NO. BZA 28-13 DATED MAY 14, 2013, 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.

Ms. Crane stated the applicant for **885 High Street** case **BZA 26-13** does not appear to be here and asked for a motion to table.

Ms. Reibel moved to table item and Mr. Seitz seconded the motion and all members voted “aye” thereon.

Mr. Falcoski moved to adjourn, seconded by Mr. Seitz , and the meeting adjourned at 8:44 P.M.