

MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

September 5, 2013

A. Call to Order – 7:30 p.m.

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

B. Unfinished Business

1. **Variance** - Signage – **885 High St.** (Providential Properties) **BZA 26-13**

Discussion:

Mr. Phillips asked if the applicant was in the audience.

Ms. Crane stated since the applicant is not here do we have a motion to table.

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

C. Items of Public Hearing

1. **Variance** – Rear Yard Setback - Fence – **207 Loveman Ave.** (Matthew Hollowell) **BZA 33-13**

Discussion:

Mr. Phillips reviewed the staff memo.

Matthew Hollowell, 207 Loveman Avenue, stated he had nothing to add to staff comments.

Mr. Falcoski asked if the applicant put up new fencing on other areas of the property, Mr. Hollowell said yes the front, by the driveway and on the left side about six foot. He explained the post installation was started after applying for the permit then was informed there is a 30 foot setback because of the alley so he stopped work.

Mr. Seitz asked if there was a picture of the rear showing the alley, Mr. Phillips showed a picture from the side and said due the vegetation it is hard to see the alley, and the alley is almost inaccessible due the slope.

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 fencing must be set back 30 feet from the right-of-way.
2. The applicant is proposing the erection of a 4 foot tall fence along the south property line, which is also the alley right-of-way. The requested variance is 30 feet

Conclusion:

1. The alley is not actively used and there are no Worthington utilities within it. Other fences in the area have been constructed to the alley. The lot is smaller than is typical for this district and fencing to the setback line would reduce the useable rear yard by almost a third. 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 MATTHEW HALLOWELL FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ERECT A FENCE AT 207 LOVEMAN AVENUE, AS PER CASE NO. BZA 33-13, DRAWINGS NO. BZA 33-13 DATED AUGUST 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 - Addition – 784 Evening St. (Jim Saltz/Anderson) BZA 34-13

Discussion:

Jim Saltz, 2667 Charing Road, stated he had nothing to add.

Kris Anderson, 784 Evening Street, said this proposal is similar to what was approved by the Architectural Review Board but they like this change better and is going back to the Architectural Review Board next week. Mr Saltz stated the house as it sits now is in violation of the setback, and they bumped out the addition to be in line with the chimney on the south side which will give more space inside with a ceiling height of nine feet.

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 20 foot side yard setback when abutting an alley. Architectural projections such as eaves and gutters are permitted into the side yard at a rate of 2 inches per foot of side yard, or 40 inches.
2. The owners were granted a variance in 2011 to construct an addition 5.9 feet from the alley right-of-way with an approximate 12 inch eave and a 4 inch gutter. The approved variance was 14.1 feet plus the eave and gutter, or 15.4 feet.
3. The applicant is proposing changes to the addition and are seeking an additional setback variance. The proposed addition is now to be 4 feet from the alley right-of-way with an approximate 18 inch eave and a 4 inch gutter. The requested variance is 16 feet plus the eave and gutter, or 17 feet 10 inches. This variance request is an additional 1.9 feet plus an additional 6 inches of eave, or 2.4 feet.
4. The property is subject to approval by the Architectural Review Board.

Conclusion:

1. A corner lot of a 50.20 foot wide parcel creates a difficulty trying to add to an existing building. In this particular case, the Board had seen no other way to reasonably expand the existing living spaces without the variances. The additional variance request is not substantial. 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. Seitz moved:

THAT THE REQUEST BY JIM SALTZ AND HEIDI AND KRISTOPHER ANDERSON FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO CONSTRUCT AN ADDITION AT 784 EVENING STREET, AS PER CASE NO. BZA 34-13, DRAWINGS NO. BZA 34-13 DATED AUGUST 9, 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 – Rear Yard Setback & Accessory Structure Area – Garage – 616 Hartford St.
(Erik Norman) **BZA 35-13**

Discussion:

Mr. Phillips reviewed the staff memo.

Erik Norman, 616 Hartford Street, stated they would like the five foot since they are at the end of alley with not much traffic.

Mr. Seitz asked if anyone ever uses the alley. Mr. Phillips said there is one property off of New England that uses the alley to access their garage. Mr. Norman said there is another property that also access their rear driveway from the alley.

Ms. Crane stated there is no one 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. Total accessory structure area is limited to 850 square feet and detached accessory structures must be setback a minimum of 10 feet from the rear property line.
2. The applicant is proposing the demolition of an existing detached garage, the demolition of a storage shed, and construction of a detached garage with storage above, 5 feet from the rear property line. The proposed garage is 24 feet by 24 feet, and totals 1,152 square feet in area. The requested variances are 5 feet for rear yard setback and 302 square feet of additional accessory structure area.
3. The property is subject to, and the garage has been approved by, the Architectural Review Board.

Conclusions:

1. The lot is very narrow and a side-by-side 2 car garage attached to the dwelling would be difficult. Locating it to the rear as a detached garage reduces the amount of yard space. This property also has an alley to the rear, there is a detached garage currently under construction 8 feet east of the alley. These factors mitigate the substantial nature of the setback variance request.
2. The storage space above the garage is typically not considered accessory area when a garage is attached and the storage is accessed from the dwelling. 576 square feet garage is not unusual for a two car garage and is well below the maximum allowable accessory structure area. Similarly, 576 square foot detached garages with 10:12 pitched roofs and without storage above would not require an area variance. The intent of the 850 square foot limit is to prevent very large structures from overshadowing modestly sized principal buildings. In this particular case, the two dormers slightly increase the apparent size of the garage but the use of the attic as storage space does not substantially increase the apparent size of the garage. These factors mitigate the substantial nature of the area 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 ERIK AND SHERRI NORMAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK AND TOTAL ACCESSORY STRUCTURE AREA TO ALLOW THE CONSTRUCTION OF A GARAGE AT 616 HARTFORD STREET, AS PER CASE NO. BZA 35-13, DRAWINGS NO. BZA 35-13 DATED AUGUST 15, 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.

Mr. Falcoski moved to adjourn, seconded by Mr. Hunter and the meeting adjourned at 7:48 P.M.