

BOARD OF ZONING APPEALS

APRIL 11, 2016

The meeting was called to order at 5:30 p.m. by Chairman Craig Pickerel. Board members present were Greg Bade, John Brown, Jason Decker, Niki Decker, and Craig Pickerel (5). Also present were Karlene Henderson, Law Director, Brody Walters, Planning and Zoning Administrator, and Mark Easterling, Zoning Inspector.

Approval of Minutes

Mr. Brown moved to approve the minutes of the March 14, 2016 meeting as submitted. Mr. Bade seconded and they were unanimously approved.

APPLICATION 10-16 –Tiffany Hyland is requesting one zoning variance to permit six (6') foot fence panels in her front yard. The property is a corner lot located at 240 E. Indiana Avenue, and is zoned "R-3" Single Family Residential. The requested variance would allow the applicant to keep the five unpermitted six (6) foot fence panels in her front yard.

NOTE: *Chapter 1250.42 Fences, Walls, Structural Screens, Hedges, and Screen Plantings:*

	Max Height	
	Permitted	*Restricted
Front Yard	4'	6'
Side Yard	4'	6'
	*Requires BZA Approval	

1. The applicant is requesting permission to keep the existing unpermitted six (6) foot panel fences her front yard.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on the amount of traffic and the amount of noise generated by both cars and semi-trucks as the property does sit on a state route. The panels face the Sandusky and Indiana intersection towards Zoar Lutheran Church and would also provide additional privacy to the applicant. (Ch. 1275.02(c)(3) – B, C, D, F)

Mr. Easterling reviewed Application 10-16. Ms. Hyland was present but said she had nothing to add to Mr. Easterling's report. There were no comments from any neighbors. Mr. Brown moved to approve Application 10-16 finding b, c, d, f and g of Ch. 1275.02(c)(3) to be true. Seconded by Mr. Decker. Ayes: (5). Nays: (0).

APPLICATION 11-16 – Mark Wittich is requesting one zoning exception to permit rear yard setback relief. The property is located at 11724 Kingsgate Court, and is zoned "R-3" Single Family Residential.

The requested exception would permit the applicant to construct a residence within the required thirty-five (35) foot setback from the rear property line.

NOTE: Chapter 1230.01 Intensity and Dimensional Standards:

R-3 Zoning:

Front Yard = 35'

Rear Yard = 35'

Side Yard Min = 8'

Side Yard Total = 20'

1. The applicant is requesting a zoning exception to reduce the required rear yard setback. The exception would permit the front yard setback to be reduced to twenty (20) feet rather than the required thirty-five (35) feet.

Recommendation:

1. The Zoning Inspector recommends approval of the variance based on the fact the applicant had a massive fire forcing them to rebuild their home. The current property sits in a cul-de-sac, and the shape of the parcel does provide difficulty in design. The previous home sat approximately thirty-six feet from the rear property line, but the side and front setbacks did not meet the minimum required. The proposed layout would meet the requirements of the front and side setbacks without encroaching on the fifteen (15) foot utility easement in the rear. (Ch. 1275.02(c)(3) – A, C, D, F)

Mr. Easterling reviewed Application 11-16. Mr. Wittich was present but said he had nothing to add to Mr. Easterling's report. Richard Incledon, 11712 Kingsgate Court, was in attendance and said that he has seen the plans for the house and the house will bring a better look to the neighborhood. He requested that the Board approve the variance. No other comments were received from neighbors. Mr. Bade asked if there is a porch on the back of the home. Mr. Wittich said that there is a covered porch. Mr. Bade stated that if they took that off they would be further from the property line.

Mr. Bade moved to approve Application 11-16 as submitted. Seconded by Mr. Brown. Ayes: (5). Nays: (0).

APPLICATION 12-16 – Steve Wise is requesting three zoning variances to permit front and side setback relief. The properties are identified as parcel numbers Q61-000-901205004000, Q61-000-901205003000 (located along Water Street), and are zoned "P" Parks. The requested variances would permit the applicant to construct a structure within the required setbacks from the front and rear property lines. *Please note that the applicant has made additional requests of exceptions and variances that cannot be reviewed by the Board of Zoning Appeals.*

NOTE: Chapter 1230.01 Intensity and Dimensional Standards:

P Zoning:

Front Yard = 50'
Rear Yard = 75'
Side Yard Min = 20'
Side Yard Total = 50'

NOTE: Chapter 1230.02(h): No building, structure, fence or planting shall be permitted closer than fifteen (15) feet from a public watercourse or drainage ditch as measured from the top of the slope. A means of access shall be provided to permit the movement of maintenance equipment along an unobstructed travel way on at least one (1) side of the watercourse or drainage ditch.

1. The applicant is requesting a zoning variance to reduce the required front yard setback. The variance would permit the front yard setback to be reduced to three (3) feet, rather than the required fifty (50) feet.
2. The applicant is requesting a zoning variance to reduce the required side yard setback. The variance would permit the side yard setback to be reduced to two (2) feet, rather than the required twenty (20) feet.
3. The applicant is requesting a zoning variance to reduce the required setback distance to a public watercourse. The variance would permit the setback distance to a public watercourse to be five (5) feet rather than the required fifteen (15) feet.

Recommendation:

1. The Zoning Inspector recommends denial of the variance based on purposed setbacks from the street. Due to the slope of the parcel, the proposed building would prevent access to the road for government services and equipment. (Ch. 1275.02(c)(3) – A, C, F)
2. The Zoning Inspector recommends approval of the variance. The side setbacks do not infringe on neighboring properties, nor city properties or the city right of way. The setbacks would not interfere with access to the road. (Ch. 1275.02(c)(3) – A, D, C, F)
3. The Zoning Inspector recommends denial of the variance based on purposed setbacks from watercourse. The currently purposed setback of five (5) feet not only sits on a slope but also sits in a floodplain area. A distance this close to the watercourse in an active floodplain area poses both risk and hazard for the potential development.

Mr. Easterling reviewed Application 12-16. Steve Wise, 113 Water Street, provided a history of the Boat Club. He said that they want to recreate what they had prior to January and keep it as low profile to not block the view. He said that to achieve that they want to split the building and put it on each side of Water Street. He added that one is not an accessory structure, it's the same building, and they need to keep it one story. He said that there are only three variances on the agenda but they would also like the Board to consider the three variances for the building on the south side of Water Street.

Kate MacPherson and Jaimie Deye of MacPherson Architects were present. Ms. MacPherson said that this has been a challenge because of the unique nature of the location and they have spent a lot of time going through the Code. She said that they don't want any special consideration, they are trying to follow the spirit and intent of the Code. She said they are requesting two structures on 8 parcels owned by the Boat Club. Six of the parcels are zoned P (Park) and are on the waterfront, the other two parcels are on the south side of Water Street and are zoned C1 (Neighborhood Commercial). Ms. MacPherson said they do not know the exact size of the buildings, they are trying to define the buildable area.

Mr. Pickerel asked about the other variances that Mr. Wise mentioned that are not on the agenda. Mr. Walters explained that there is a difference in opinion on the interpretation of the Code. He said that those requests were omitted because at the time the request was received they were not approvable and are not eligible to be considered now because of the public notice process. Mr. Walters stated that a request for a parking variance was also not included on the agenda because the Code gives the Board of Zoning Appeals jurisdiction to lower it by 33% and a 100% reduction was requested.

Gerald Abair, 202 E. Harrison, distributed literature to the Board. Mr. Bade said that they can't verify the information Mr. Abair distributed at this time and it should have been included with the application.

Ms. MacPherson said that there will be no more hazard or risk then what was there before regarding the slope. Mr. Wise said that the old building was in the middle of the road right of way and they are proposing to be 3' off of the road right of way which still provides access for utilities and emergency vehicles. Mr. Bade said that they are governed by the rules in the Code and once the old building was razed, the grandfathered status ceased to exist. Mr. Wise said that the lot is not even 50' wide so a 50' setback would put them in the water. Mr. Bade said that the lot is very narrow and that this is too much building for this lot. He said that defining this as a hardship would be hard for him. Mr. Wise said that they need two buildings to meet their needs and he asked how they are supposed to accommodate participation for more citizens. Mr. Bade noted that Mr. Wise said this is for the citizens but the club is private. Mr. Wise said it is private only in that it is not owned by the City. Mr. Bade said that as he read through the application it appeared they are cherry-picking parts of the Code.

There was discussion regarding the decks and where they will be. Ms. Deye said that the decks will be on the middle level. Mr. Brown asked if there will be anything in the flood plain. Ms. Deye said that only the supports and the current deck are there, but the 100 year flood plain has not been determined, the 590' is an estimate. Mr. Decker asked about switching the buildings and placing the larger building on the south side and the smaller building on the north side. Mr. Wise said that they could not build a large enough building to cover their needs and they are trying to keep the functions you would want near the river on the river side.

Ms. MacPherson acknowledged that this is a significant request for the front yard setback, but they want the building closer to the water and they don't want kids running across the multi-use path to use the facilities.

Dan Judson, owner of several properties on Front Street, said that he would rather see two smaller buildings than one larger building and have them tear out trees. He said the only risk is an ice jam and he thinks moving the setback towards the river is a great idea.

Chris Barry, 341 W. Front Street, said that he is not a member of the boat club, but he asked them to please bring a boat club back. He said that in the past he has brought in sail boaters for a regatta and the Boat Club was very accommodating. He said there is a black hole or void now. Mr. Walters noted that during the discussions regarding Riverside Park Mr. Barry was against disturbing the natural habitat along the river. Mr. Barry said that he was against through traffic and this fits in the environment. He said that we need people along the riverfront just not on motor bikes or in vehicles.

The Board designated the first variance request regarding the front yard setback as A, the second variance request regarding the side yard setback as B, and the third variance request regarding the watercourse setback as C.

Mr. Bade made a motion to deny Variance Request A. Seconded by Ms. Decker. Ayes: Bade, N. Decker, and Pickerel (3). Nays: Brown, J. Decker (2).

Mr. Brown made a motion to approve Variance Request B. Seconded by Mr. Decker. Ayes: (5). Nays: (0).

Mr. Brown made a motion to approve Variance Request C. Seconded by Mr. Decker. Ayes: Brown, J. Decker, and N. Decker (3). Nays: Bade and Pickerel (2).

There being no further business, the meeting adjourned at 7:06 p.m.

Respectfully submitted,

Mary Jo Sutton