

BOARD OF ZONING APPEALS

MEETING MINUTES

MAY 28, 2015

AGENDA

- 1. Flint Residence – Fence Variances**
15-037V
(Disapproved 4 – 0)
6449 Martin Place
Non-Use (Area) Variance
- 2. Crane Residence – Setback Variance**
15-039V
(Approved 4 – 0)
5600 Dublin Road
Non-Use (Area) Variance

Vice Chair Brian Gunnoe called the meeting to order at 6:30 p.m. Other Board members present were Jamie Zitesman and Patrick Todoran. Rion Myers arrived late. Martha Cooper was absent. City representatives present were Steve Langworthy, Logan Stang, and Flora Rogers. Prior to the meeting Vice Mayor Richard Gerber administered the Oath Office reappointing Mr. Zitesman to the Board.

Motion and Vote

Mr. Todoran moved, Mr. Jamie Zitesman seconded, to elect Brian Gunnoe as the 2015-2016 Chair. The vote was as follows: Mr. Zitesman, yes; Mr. Gunnoe, yes; and Mr. Todoran, yes. (Approved 3 – 0)

Motion and Vote

Mr. Todoran moved, Mr. Brian Gunnoe seconded, to elect Jamie Zitesman as the 2015-2016 Vice Chair. The vote was as follows: Mr. Zitesman, yes; Mr. Gunnoe, yes; and Mr. Todoran, yes. (Approved 3 – 0)

Motion and Vote

Mr. Gunnoe moved, Mr. Zitesman seconded, to accept the documents into the record. The vote was as follows: Mr. Zitesman, yes; Mr. Todoran, yes; and Mr. Gunnoe, yes. (Approved 3 – 0)

Mr. Myers arrived at 6:34 p.m.

Motion and Vote

Mr. Zitesman moved, Mr. Myers seconded, to approve the March 25, 2015 meeting minutes. The vote was as follows Mr. Todoran, yes; Mr. Gunnoe, yes; Mr. Myers, yes; and Mr. Zitesman, yes. (Approved 4 – 0)

Administrative Business

Mr. Gunnoe swore in those who intended to address the Board in regards to the application on this Agenda.

NEW CASES:

**1. Flint Residence – Fence Variances
15-037V**

**6449 Martin Place
Non-Use (Area) Variance**

Steve Langworthy said the site is located at 6449 Martin Place on the west side of Martin Road approximately 250 feet north of Martin Road. He said this is a request for a non-use variance to construct a six-foot privacy fence along the rear and partial side of the residential property whereas four feet is permitted by Code. He said he is presenting on behalf of Tammy Noble-Flading, the case manager.

Mr. Langworthy showed an overview of the site and said there is an existing four-foot fence with the neighbor. He said the property is one acre and Code allows perimeter fencing at four-feet for properties of this size. He said the applicant is requesting a six-foot privacy fence along the west and southwest corners of the property.

Mr. Langworthy said there is a farmers easement that separates the properties and noted the location of the existing barn located on the Standley Law Office property.

Mr. Langworthy said all three of the review standards for a Non-Use Variance must be met. He said the findings are that Special Conditions, Applicant Action/Inaction, and No Substantial Adverse Effect have not been met. He said no unusual physical characteristics of the site or surrounding conditions warrants a taller fence, the applicant purchased the property after the office use was established therefore the condition that resulted was from his own actions, and the residential fence Code was adopted after much discussions and public meetings with City Council not wanting to allow fences that are too tall, unusually obstruct vision from properties and allowing this request would conflict with the intent that Council had with regulating fences in residential areas.

Mr. Langworthy said the second group of findings requires that at least two of the four review criteria be met and found that Special Privileges, Recurrent in Nature, and Other Methods Available have not been met and Delivery of Governmental Services has been met. He said a four-foot privacy fence with landscaping would buffer most of the visual impacts of the surrounding neighborhood.

Mr. Langworthy said based on the analysis the requested variance does not meet the required non-use (area) variance standards, therefore disapproval of the variance is recommended.

Mr. Gunnoe asked if anyone from the public that would like to comment on this application. [There were none.]

Gary Flint, owner of 6449 Martin Place, said the criteria to make this request is that the conditions are not in his control due to the chronic code violations, poor visual surroundings and the trespassing are conditions that he did not create. He said in 2008 when the law offices gained occupancy the landscaping screening requirements, the appearance of the fencing on both sides, were not enforced or satisfactorily resolved. He said the access drive is used by the property that is on Riverside Drive and because the driveway is steep from Riverside they use the rear access drive for convenience. He said the access drive connects to Martin Road it is a

visual invitation for people to wander around the bike path and caused uninvited guests in his back yard with dogs. He said there are three 60-70 year old large trees in the back of the property causing shade do not lend itself to screening plantings to be able to be in the rear yard which is why he chose a visual impediment like a fence. He said the request is similar to Shoppes at Muirfield adjacent to the back of the property there is a six-foot high fence that adjoins a drive that immediately abuts to residential property. He said this is not a normal residential environment where there is an open plat plan, they are very large old established homes that is in a 1960s era plat and is over an acre. He said he doesn't think the original intent is being violated with this request because of the nature of the property and the adjoining property being commercial.

Mr. Zitesman asked when he purchased the house.

Mr. Flint said in December of 2008.

Mr. Zitesman asked what the hours are of the Law Offices in which the activities are affecting his property.

Mr. Flint said the law offices does not bother him. He said there is a vehicle that has been parked since September of 2014 that is currently registered but he believes it is parked illegally in front of the barn and the Code requires that a vehicle be parked on a hard surface and that is not a hard surface with grass growing underneath the vehicle. He said the lighting in that area and he believes it does not comply with non-directional lighting that is required by Code.

Mr. Zitesman said there is a good distance from the parking lot to the residence.

Mr. Flint said the lights shine directly into the bedroom window when the leaves fall.

Mr. Zitesman asked if he has talked to the neighboring law office about the issues or concerns.

Mr. Flint indicated he has not and said that one of the people that has been trespassing on that road he had filed charges with the Dublin City Police and because he does not own the property the law office had to support the initiative and they refused. He said he does not feel that they have been helpful in resolving the issues.

Mr. Gunnoe asked if there were any additional questions.

Mr. Myers asked if the barn was on the property owned by the law office.

Mr. Flint said it is their property.

Mr. Todoran asked what the purpose is in having a six-foot fence compared to a four-foot fence.

Mr. Flint said the reason is for the vehicle traffic.

Mr. Zitesman said the difference of two-feet would not make a difference on lights.

Mr. Flint agreed it would be insignificant. He said there is a residence that is along Riverside Drive and they use the private lane to access their property off Martin Road. He said they are driving trucks and SUV's with headlights at six feet and that is why he is requesting a six-foot fence. He said the property owner is a motorcycle enthusiast and he has experienced several motor cross events on the vacant lot and has notified the police because of the noise level. He said there is a lot of things that goes on in the rear because it is an unattended vacant property. He said during the day the law office is innocuous to anything that he can see and their parking lot is removed from his property. He said there was another compliance issue with the barn roof maintenance.

Mr. Zitesman said the issues are related to situations not on his property.

Mr. Flint said the visual impacts to his property and understands there are limits.

Mr. Myers asked if he had contacted an arborists or landscaping company give recommendations of vegetation that would work in the shaded situations.

Mr. Flint said that he had spoken to three nurseries and a landscape company and indicated that he has the best plantings from an evergreen stand point in the locations.

Mr. Myers suggested arborvitae might be an option to gain some screening.

Mr. Flint indicated he had used arborvitae on a previous property.

Mr. Gunnoe asked if there were additional questions.

Mr. Langworthy said that he had distributed a letter from Mr. Joseph and Diane Cartolano.

Mr. Langworthy said that the planning department does offer a service to meet on site to advice on plants that would work in different circumstances.

Mr. Flint said there was a verbal conversation and there were no better recommendations than that of those he had already attempted.

Mr. Gunnoe asked if there was anyone who would like to speak to this application. [There were none.]

Mr. Flint said in response to the letter from the Cartolano's, he said there are chronic violations on the property of the author of the letter. He said there are three trailers parked on the site, one boat and two utility trailers. He said there is a utility trailer parked in the back yard in the grass. He said the trees that were removed were evasive honey suckle trees that were dead and on Ohio evasive tree list that are being removed on all public property. He said at extensive expense to hire someone to pull them out. He said in lieu of that he has planted along the south property verbatim domatium which is a deciduous shrub that goes to five to six feet that will eliminate some of visual issues along the back of the property. He said part of his request to extend the fence 60 feet along the west to block the view of the chronic problem of the junk piled in that corner.

Mr. Langworthy said that there is a copy of the response letter from Code Enforcement.

Mr. Flint said the last nuisance is the dog that the neighbors have acquired in the last year, but felt the shrubs may help with the situation.

Mr. Zitesman said they have to base their decision on the review criteria that have not been met.

Mr. Gunnoe said he is interested in the special circumstances in the law office and commercial uses that are next to residential lots.

Mr. Langworthy said usually there is perimeter landscaping or parking area landscaping requirements and he would have to check the plans, but when they review this application they found that the law firm was in compliance and noted that the law office has not been in operation very long and that there might be additional time required for growth that is likely to occur. He said they felt the buffer would be adequate along with the consideration of the distance from the property line.

Mr. Gunnoe said all three review criteria have to met and with the special conditions being questionable he still would struggle with the other two criteria and there are a lot of fence cases in Dublin but not for six-foot fences. He said there are other options still with landscaping and buffering that can be done.

Mr. Myers agreed and said there are options available that remedy the situation and a six-foot fence would not be effective in alleviating the issues and the other issues that a fence will not remedy.

Motion and Vote

Mr. Zitesman made the motion, seconded by Mr. Todoran, to disapprove this variance from Section 153.080(A) to permit a six-foot privacy fence for a variance of two feet because it does not meet the review criteria of Section 153.231. The vote was as follows: Mr. Myers, yes; Mr. Gunnoe, yes; Mr. Todoran, yes; and Mr. Zitesman, yes. (Disapproved 4 – 0)

2. Crane Residence – Setback Variance 15-039V

5600 Dublin Road Non-Use (Area) Variance

Logan Stang said the property is located on the east side of Dublin Road, adjacent to the Scioto River, directly north of the Stechsulte Residence that was approved by the Board in March 2015. He said the property is at the intersection of Dublin Road and Hertford Lane and is zoned R-1, Restricted Suburban Residential. He said in terms of history for the site, a variance was approved for this property by the Board in 2011 to allow a structure to exceed the maximum allowed height.

Mr. Stang said the proposal is for an approximately 2,900-square-foot addition and enclosed walkway located to the rear of the main structure. He said in the R-1 zoning district, the rear yard setback is determined as 20% of the lot depth with a maximum setback of 50 feet. He said in this instance, the 50 feet would apply. He said the owner is proposing to locate the addition

8 feet off of the rear property line, meaning the structure would encroach 42 feet into the rear yard setback.

Mr. Stang said the addition is for an indoor basketball facility that is 58 feet wide by 50 feet, 10 inches deep and due to site conditions the addition will connect to the home on the basement level, also connecting to the existing concrete patio that surrounds the pool.

Mr. Stang said the site has a number of unique features that were taken into consideration during the review process with a stream that cuts through the middle portion of this site resulting in a significant grade change of roughly 30 feet from the base of the home to the stream below. He said the grade change results in a loss of about one-third of the buildable area of the site forcing the owner to build on the northern portion of the stream or the southern portion. He said the second unique feature is that the City of Columbus owns the portion of the land between the property and the Scioto River, which varies in width from 180 to 200 feet creating a large buffer between the property and the river. He said there are a number of mature and existing vegetation to the north and east that limit on the already decreased buildable area. He said the design of the site and the separation of the river by the City existed prior to the applicants' ownership of the land, meaning that they did not cause any of these conditions.

Mr. Stang said based on the review criteria all must be met for a variance request finding that Special Conditions, Applicant Action/Inaction, and No Substantial Adverse Effect have been met.

Mr. Stang said at least two of the secondary criteria must be met, which in the case of this application three of them are met. The reason the special privileges criteria is not met is due to the fact that, regardless of unique site conditions, the owner has already sufficient areas dedicated to accessory buildings or structures such as the pool and patio area. The other three criteria that are met include not being recurrent in nature, not impede on any delivery of governmental services, and no viable alternative other method available for this addition because most of the area to the north of the site is filled with some of the accessory structures and is impracticable to build on the southern portion of the site across the stream with limited access to the main structure. He said based on the review criteria listed Planning recommends approval of this variance request to permit an addition to encroach 42 feet into the rear yard setback.

Mr. Gunnoe asked if there were any questions of staff. [There were none.]

Mr. Gunnoe asked if there were anyone from the public or the applicant have any questions or comments. [There were none.]

Mr. Zitesman said this is a unique site without many options with the existing trees or any other properties being impacted by the proposal.

Mr. Myers said given the terrain it is not easy to build in this environment and from the plans it will be special for the uniqueness of the property.

Mr. Zitesman said the other consideration is the amount of space taken by the City of Columbus is unique to this property.

Motion and Vote

Mr. Gunnoe made the motion, seconded by Mr. Zitesman, to approve this variance from Section 153.020(C)(4) and 153.074(B)(6) to permit an enclosed addition to extend 42 feet into the rear yard setback because it meets the review criteria of Section 153.231. The vote was as follows: Mr. Todoran, yes; Mr. Myers, yes; Mr. Zitesman, yes; and Mr. Gunnoe, yes. (Approved 4 – 0)

Mr. Gunnoe said the next meeting is scheduled for June 25, 2015, and adjourned the meeting at 7:13 p.m.

As approved by the Board of Zoning Appeals on June 25, 2015.