



MEETING MINUTES

Board of Zoning Appeals

Thursday, September 26, 2024

CALL TO ORDER

Mr. Nigh, Vice Chair, called the meeting to order at 6:30 p.m. in Council Chambers, 5555 Perimeter Drive. He welcomed members of the public and stated that in addition to attending the meeting, the public can access the livestream on the City's website. The City welcomes public participation including public comments on cases.

ROLL CALL

Board Members present: Joseph Nigh, Patrick Murphy, Joel Kretz, Bridget Tyznik
Garrett Anderson

Staff present: Zachary Hounshell, Anthony Severyn

ADJOURN TO EXECUTIVE SESSION

Mr. Murphy moved, Mr. Kretz seconded to adjourn into executive session for the discussion of a Personnel Matter, Consideration of Public Official Appointments.

Vote: Mr. Anderson, yes; Mr. Kretz, yes; Ms. Murphy, Ms. Tyznik, yes; Mr. Nigh, yes.

[Motion carried 5-0]

MEETING RECONVENED

The meeting was reconvened at 7:04 p.m.

ELECTION OF OFFICERS

Mr. Kretz moved, Mr. Murphy seconded the appointment of Joseph Nigh to a one-year term as Chair.

Vote: Ms. Tyznik, yes; Mr. Anderson, yes; Mr. Kretz, yes; Mr. Murphy, yes; Mr. Nigh, yes.

[Motion carried 5-0.]

Mr. Nigh moved, Mr. Murphy seconded the appointment of Joel Kretz to a one-year term as Vice Chair.

Vote: Mr. Murphy, yes; Ms. Tyznik, yes; Mr. Anderson, yes; Mr. Nigh, yes; Mr. Kretz, yes.

[Motion carried 5-0.]

APPROVAL OF MINUTES/ACCEPTANCE OF MEETING DOCUMENTS

Mr. Murphy moved, Mr. Kretz seconded acceptance of the documents into the record and approval of the 05-30-24 regular BZA meeting minutes and 08-22-24 Joint PZC-ARB-BZA meeting minutes.

Vote on the motion: Mr. Kretz, yes; Mr. Anderson, yes; Mr. Murphy, yes; Ms. Tyznik, yes; Mr. Nigh, yes.

[Motion carried 5-0.]

The Chair swore in staff and members of the public who planned to address the Board during the meeting.

CASE REVIEWS

- **Case #24-123V - 7031 Greenland Place – Sunroom, Non-Use (Area) Variance**

Request for a variance to allow a sunroom to encroach into the rear yard setback. The 0.38-acre site is zoned PUD, Planned Unit Development District, Oak Park and is located southeast of the intersection of Greenland Place and Oak Meadow Drive.

Staff Presentation

Mr. Hounshell stated that this is a non-use area variance for this property. The variance is an opportunity for property owners to ask for deviations for development standards where evidence of a practical difficulty or special conditions exists. There are several considerations per Code. The Commission considers: unique circumstances specific to the property or building, any topography that limits or impacts development, the character of the surrounding neighbourhood; and impacts on adjacent properties. If the Board approves the variance request, the applicant may seek a building permit. If the variance is denied, the applicant would need to adjust their proposal to meet the zoning requirements. The 0.38-acre site is zoned PUD: Oak Park and is located on a corner lot approximately 50 feet east of the intersection of Greenland Place and Oak Meadow Drive. The property at 7031 Greenland Place is located on Lot 5 of the Oak Park subdivision. It is one of the larger parcels in the neighborhood. The property is located in Subarea A, which is considered the Park Homes subarea. Subarea A includes all the perimeter lots of the development, which back up to separate open space reserves. The site has a unique geometry, as the property is located at the outside corner of Greenland Place. The property is the largest Park Home property in the Oak Park development due to the 64 feet of frontage on Greenland Place and location around the curve of the street. The property is 130 feet deep at the side property lines (consistent with adjacent properties) but is approximately 145 feet deep at the center of the site. The home is centrally located on the lot and has a 3-car side-loaded garage setback approximately 16 feet from the front property line. The home is as close as 31.8 feet to the rear property line but varies in its distance based on the deeper middle section of the rear yard. The property backs up to an open space reserve south of the home, which also backs up to the Glacier Ridge Metro Park. The home has a patio located 20 feet from the rear property line. The patio was built with the construction of the house. The request is for a variance to the rear yard setback for a screened patio. The Oak Park development text states that the rear yard setback shall be 25 feet for Park Homes. The existing patio is 20 feet from the rear property line, because patios are permitted to encroach 5 feet into the rear setback. However, a new sunroom would need to meet the required 25-foot setback. They have requested a variance because the proposal is to replace the patio with

the sunroom addition. Staff has reviewed the application and determined that criteria #1, #2 and #3 in Criteria A are met. All three are required to be met for the variance to be approved. The criteria are met primarily due to the unique configuration of the lot. The existing patio dictates where the sunroom can be located. The applicant did not contribute to the current configuration of the home, as they are not the initial owner of the home. Because the lot backs up to an open space reserve, no homes or development to the rear could be impacted by this addition. Staff also has determined that four of the criteria in Criteria B are met. Two of the four are required to be met. Therefore, staff recommends approval of this variance request for a 5-foot encroachment.

Applicant Presentation

Prasad Vempati, Property Owner, 7031 Greenland Place, Dublin, stated that his intent is to replace his existing patio. He believes it would be an undue burden to remove the patio and build it somewhere else. For that reason, he is requesting a 5-foot variance.

Board Questions

Board members had no questions for staff or the applicant.

Board Discussion

Mr. Murphy stated that his views are aligned with staff's recommendations. In regard to Criteria A, it does appear that there are some special conditions, primarily the unique lot configuration. There are no rear neighbors, structures or properties that would be adversely affected by the requested construction encroachment into the setback. The key purpose of the setback is to provide an open, natural area at the rear of the property. The issue of the lot shape was not a result of the homeowner's action. It was a pre-existing circumstance of the property. Because there are no structures to the rear, no issues would be caused by granting the variance. He is supportive of granting the variance.

Mr. Kretz stated that he concurs with Mr. Patrick's comments. He believes staff explained how the request meets the criteria, and he agrees that it meets the required criteria.

Mr. Nigh expressed agreement.

Mr. Anderson and Ms. Tyznik offered no additional comments.

Public Comments

Mr. Hounshell stated that several emailed public comments in support were received and were provided in the meeting packet.

Mr. Murphy moved, Mr. Kretz seconded approval of the non-use variance to Oak Park Development Standards – Subarea A (III)(C), that the minimum rear-yard setback of all homes in Subarea A be twenty-five (25) feet to allow a sunroom to encroach 5 feet into the 25-foot setback.

Vote: Mr. Kretz, yes; Mr. Murphy, yes; Mr. Anderson, yes; Ms. Tyznik, yes; Mr. Nigh, yes.
[Motion approved 5-0.]

- **Case #24-015V - 7618 Mill Springs Drive – Pool, Non-Use (Area) Variance**

Request for a variance to allow a pool, patio, and accessory structure to encroach into the rear-yard setback. The 0.27-acre site is zoned PLR, Planned Low Density Residential District, Bishop's Crossing and is located northeast of the intersection of Mill Springs Drive and Bishop's Crossing Circle.

Staff Presentation

Mr. Hounshell stated that this 0.27-acre site is zoned PLR, Planned Low Density Residential District, Bishop's Crossing and is located northeast of the intersection of Mill Springs Drive and Bishop's Crossing Circle. The zoning for Bishop's Crossing was approved in 2000; the Final Plat for Bishop's Crossing was approved by City Council in 2004 and this property (7618 Mill Spring Drive) was developed in 2007. In May 2024, the Board of Zoning Appeals (BZA) reviewed this application to reduce the rear yard setback for a swimming pool and associated improvements. The Board found that the site did not have any special conditions that were unique when compared to the surrounding neighborhood. At the applicant's request, the application was tabled to allow the applicant the opportunity to work with Staff and determine an alternate route. Since the May BZA hearing, the applicant has updated their Variance Statement with additional supporting information for the setback request, as well as additional information on properties in the vicinity with pools. The Variance request has not been modified since the original hearing date. Since the May meeting, two of the previous Board members who participated in the previous review have been replaced with two new members.

Mr. Hounshell provided an overview of the property and the request. There is a sidewalk located along the south side of the property. There is an existing patio to the rear of the home. The home sits 25 feet from the front property line. In this neighborhood, the front property lines alternate between 25 and 30 feet. The setback requirement in this neighborhood is consistent at 25% of the depth of the lot. This request is for multiple accessory structures including a swimming pool, which would encroach into the rear-yard setback. The requirement is no more than 25%, which for this property would be 35 feet from the rear property line. The applicant is requesting a variance to allow a setback of 25 feet to accommodate the desired improvements. Pools are required to be limited a minimum of 10 feet from the home. Typically, that is 10 feet from a house egress (window or door). This proposal meets that requirement. Staff's analysis and recommendation remains the same as with the prior review. Staff finds that the #1 and #3 criteria in Criteria A are not met. The site is rectangular and similar in size to several other sites within the development. The depth of the lot is consistent with the properties to the north and south, and there are several rectangular lots within Bishop's Crossing. Additionally, the site has a 25-foot front building setback, which is less than the properties to the north and south. The bikepath located on the south side of the property does not impact the developable area of this site. Staff determined that three of the four criteria in Criteria B are met. Staff is not supportive of the approval of this variance, consistent with their recommendations at the previous meeting. He noted that applicants always have the opportunity to table their application at a hearing, which reserves their right to bring their request forward at a future date, providing additional information or modification to their request. At the May meeting, the applicant's request, the Board tabled this application.

Board Questions

Mr. Murphy inquired if there were any material differences between the former proposal and what is presented tonight.

Mr. Hounshell responded that the requests are the same, which is to permit a rear-yard setback of 25 feet.

Mr. Night requested confirmation that the 10-foot distance from a house egress is a required safety condition.

Mr. Hounshell responded affirmatively. It is an Ohio Building Code requirement.

Applicant Presentation

Brian Lorenz, 4111 Village Club Drive, Powell, stated that since the previous review, they have received a letter of support from a neighboring homeowner, which he has provided to staff. He asks that it be accepted and incorporated into the record. Since the May meeting, they have conducted some additional investigation of other lots within the area and that information was included in their re-submittal for this meeting. They do believe that this lot has some unique conditions. Because the home is a ranch-style, it has a larger footprint. There is also a meandering rear setback, a mature tree base in the back and a bicycle easement on the south. Their request is comprised of the minimum dimensions necessary to make the project work. They identified a couple of comparative pools within the community. However, staff has indicated that the one at 7559 Barrister Drive is compliant with Code. Staff indicates the City has no records on the other pool at 8038 Sagestone Avenue/Caraway Avenue. That lot is in Bishops Run, not Bishops Crossing. Although it's the same homeowners association (HOA), it is a different subdivision. That pool does not appear to meet the setback criterion. He referred to another variance he obtained in 2021 on Old Prose Court. The site conditions were similar, although the other lot was more regular. They obtained a 10-foot variance to the required rear-yard setback and a variance from the 10-foot building egress requirement. With this proposal, the homeowners (Conrads) have made some concessions in the pool width bringing it closer to the Code requirements.

Jim and Kendra Conrad, 7618 Mill Springs Drive, Dublin, stated that in the research they conducted, they discovered that most developments have specific rear yard setback footage, while in their neighborhood it is a percentage of the lot depth. The percentage calculation results in an excessive setback distance for their small lot. Their proposal is compliant with the 20-foot no build zone; they are requesting only 10 feet from the required rear-yard setback.

Mr. Anderson stated that the applicant mentions that because their home is a ranch home, the building footprint is larger. What is the ratio of ranch homes to multi-story homes in the development?

Mr. Conrad responded that there are three ranch homes in their entire HOA community.

Mr. Kretz inquired if there are any specific differences in the re-submitted application from the one reviewed at the May Board meeting. It is his understanding from the packet materials that there were no changes.

Mr. Conrad responded that the original application was modified before the May meeting. From the May meeting to this meeting, there are no differences.

Mr. Nigh inquired if the original application requested a variance of 13 feet, and the modified application reviewed at the May meeting requested 10.5 feet.

Mr. Lorenz responded that is correct. He noted that there are 104 homes in this subdivision.

Board Questions

Mr. Nigh inquired if 3 of the total homes in this subdivision being ranch homes would qualify the lot as a unique property in the subdivision.

Mr. Hounshell responded that the special conditions criterion could apply either to the property or the structure. Staff did not believe the ranch home was a special condition that warranted a variance to the rear setback. Although there are very few ranch homes in the subdivision, the build out on the lot is similar to many of the other 2-story homes. Staff did not view that as a special site condition.

Mr. Kretz stated that agrees with the City's review in regard to Criteria A - #2. On criterion #3, he could rationalize the criterion being met, due to the thick tree line between the house and the property to the rear. Additionally, there is a sidewalk between. He agrees that two of the criteria in Criteria B are met. He is undecided on Criteria A - #1 – Special Conditions. Per the May meeting discussion, the City did not acknowledge that a special condition exists with this request, although staff acknowledged that it is unique to the subdivision. Mr. Nigh had commented that the definition of special is unique. The discussion was contradicting. He noted that he remains indecisive on criterion #1.

Mr. Nigh stated that in regard to Criteria A - #1, he does not believe the request meets the Special Condition criterion. The criterion requires that this property be unique or special. The lots in this development all look the same to him. In his experience on the Board, for a lot to meet the criterion of being unique, the lot must be different than all the other lots. This lot is the same as all the others.

Mr. Kretz inquired if the issue is that he does not believe there is something unique causing the need for a variance. A majority of the houses in the area are not ranches.

Mr. Nigh stated that per his reading, it states that "a special condition or circumstance exists which is peculiar to the land or structure, and which is not applicable to other lands or structures in the same zoning district." If there are three ranch homes, then the same condition is applicable to others. The Board is to abide by the literal enforcement.

Mr. Anderson stated that he is having the most difficulty with Criteria A - #1, as well. He does not know if he would define special conditions and circumstances as unique, but as a distinguishing condition or circumstance. The only condition that could sway him would be the ranch home. He has read the previous meeting's discussion, and he also is having difficulty with that criterion.

Mr. Nigh stated that he does not know why being a ranch warrants a variance. Having a blue door while others do not is not qualification for a variance. The uniqueness must require the variance.

Mr. Hounshell noted that the applicant has provided the Board with a public comment, which can be read it into the record, if desired.

Mr. Nigh noted that staff can do so after the Board's discussion.

Mr. Murphy stated that he agrees with fellow Board members' comments. There might be a unique aspect to the ranch home, but there needs to be a closer nexus between that and the practical difficulties of installing the pool and the other structure on the property. He is not clear on what the connection would be between the ranch style home and the addition of the improvements on the property.

Public Comment

Mr. Hounshell read the following comment into the record.

Jessica Hector, 7626 Mill Spring Drive, Dublin:

"This is in reference to the request for a pool from my neighbors, the Conrads. I want to share my approval and support as their next-door neighbor. I have no concerns about this and welcome the improvements to the neighborhood. Jim and Kendra are wonderful homeowners and neighbors. Their yard and property are always in perfect condition, and I would expect the same, once they add their pool. Thank you for your time and consideration. Please feel free to contact me with any questions regarding this letter of support."

Mr. Nigh inquired if the applicant wished the Board to proceed with a vote. If denied, there is a year waiting period before re-submittal with different information can occur. The applicant could also request that the application be tabled.

Mr. Lorenz responded that the homeowners are agreeable to the Board proceeding with a vote. For the record, the HOA has provided a letter of approval for their request, which was provided for the Board's May review.

Mr. Nigh responded that it was provided in tonight's meeting materials, as well.

Mr. Murphy moved, Mr. Kretz seconded approval of the non-use (area) variance to the Bishop's Crossing Development Text, Yards and Setback Requirements to allow a pool, patio, fence and accessory structure to encroach approximately 10 feet into the rear yard setback.

Vote: Mr. Anderson, no; Mr. Murphy, no; Ms. Tyznik, no; Mr. Kretz, no; Mr. Nigh, no.
[Motion failed 0-5.]

DISCUSSION ITEM

• Staff Reports

Mr. Hounshell shared an overview of the Development Review Process and potential steps to make the process more transparent and predictable. The Board discussed the clarity of Staff Reports, including analysis and Staff recommendations, and the order of case presentations. Board members indicated the following:

- Members expressed general satisfaction with the current Staff Reports, noting that the staff analysis of cases is helpful.
- Members indicated a desire for additional background information on similar variance cases reviewed in previous years, as precedence factors into current Board decisions. The intent of having a Code is to ensure uniformity across the board for all projects. A suggestion was made that as part of their application process, applicants be asked if they are aware of other properties with similar conditions that have received variances. Mr. Hounshell indicated that as staff's vetting process, case precedents are covered with the applicants.
- A suggestion was made that a database be compiled of precedent cases that is searchable. Mr. Hounshell indicated that he has been working on an internal database for this purpose. Currently, the database extends back to 2013, and the goal is to include earlier years, as well. Members expressed a preference for de-prioritizing including more years of data over activation of the existing database. Mr. Hounshell stated that he is working with the City

GIS team on how to update the database properly and how to make it user-friendly. However, staff will always extend efforts to share relevant precedent cases.

- Members expressed a desire to have a more thorough explanation of the reason(s) staff believe criteria are met or not met. More elaboration would be helpful.
- Mr. Severyn clarified that BZA members serve in a quasi-judicial role. It is the applicant's burden to present the evidence with staff's assistance. It is the applicant's burden to meet that requirement, not the Board's.
- Members expressed a preference that applicants have a cut-off date for provision of documents and not be permitted to introduce new material at a meeting. Mr. Hounshell responded that is the expectation. Therefore, if new material is introduced, the Board has the authority to refuse acceptance of the material.
- Mr. Severyn noted that the Board also has the authority to table a case themselves to allow time to collect additional information based on what has been brought before them, to help provide understanding of its scope, purpose and nature.
- The Members expressed a strong preference to hear the organized Staff Presentation first, and the Applicant Presentation second, as those often are less organized. The quasi-judicial nature is important. The current formal, metered hearing is preferable to have an organized case, which potentially could be appealed.
- Members expressed a desire to hear public comments earlier with a case, preferably after Staff's Presentation, before the Applicant Presentation and Board deliberation.

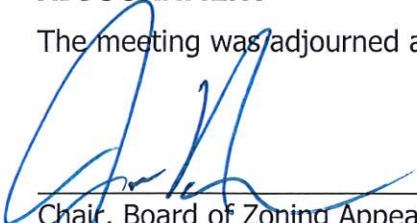
COMMUNICATIONS

Board members were reminded of the following:

- The joint Council-PZC-ARB-BZA training is scheduled for Wednesday, October 16, 6-8:00 p.m. in Council Chambers.
- Members must complete their required online training on Fraud Reporting by August 28, 2024. The training can be accessed via the City's Cornerstone platform; contact staff if assistance is needed.
- The next regular BZA meeting is scheduled for 6:30 p.m., Thursday, October 24, 2024.

ADJOURNMENT

The meeting was adjourned at 8:15 p.m.



Chair, Board of Zoning Appeals



Assistant Clerk of Council