



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
MAY 27, 2014**

The hearing was called to order at 7:30 P.M. by Chairman Jones

PRESENT: Board Members Matthew Jones, Robert Swisher, Bryan Baesel, Jeff Neverman, Scott Fatzinger

ALSO PRESENT: Assistant Law Director Sean Kelleher and Nicolette Sackman Clerk of Commissions

SELECTED CORRESPONDENCE

Docket 2014-10:

5/19/14 email received from Mrs. Robert Meredith, 4476 Bailus Rd. in favor of the request

5/27/14 email received from Assistant Planning Director William Krause re: setbacks

Docket 2014-11:

5/27/14 email received from Joseph & Judith Gross, 1405 Kingsway noise concerns

DOCKETS

Docket 2014-10

Applicant: Trust Properties L.L.C.

Premises: 30111 Center Ridge Road, PP#217-22-011

Requesting a building permit to install a single family dwelling at variance with 1211.18 which states the depth of the front yard of a corner lot shall be not less than the required setback from the front line as provided in Section 1211.09...The width of a side yard on the side street or second street shall be not less than the width required for the front yard setback in any residential district as provided in section 1211.09. Requesting to install this dwelling 15' off the second street which by code should match the front yard setback of 50', *a variance of 35' for the side yard setback on the second street of this corner lot.*

Mr. Boukzam, sworn in by Mr. Kelleher, explained he purchased the lot about four years ago with the thought of developing the property with multi-family homes but since that time has decided that a single family dwelling is the best option for the parcel. He plans to demolish the existing home that is vacant and in poor condition and will construct a new home that is approximately 100' off Center Ridge and is requesting a 35' side yard setback from the second street which is Balias Road. He explained the lot is a corner lot but is a narrow non-conforming lot of record. Current code requires a house on a corner lot to have a 50' setback from both streets. If he were to construct the home according to the code there would be a 10' setback from the adjacent neighbor and a 50' setback from the Bailus Road which would leave 8' for the construction of a house. He expressed an 8' wide house is not practical. The existing house is

setback very close to Center Ridge and Bailus and what he proposes would have larger setbacks than the existing house. He reviewed the factors for granting a variance and expressed that without a variance the lot is not buildable and for any building to be constructed on the lot a variance would be necessary as the width of the lot creates a practical difficulty resulting in only an 8' wide house. He noted government services would not be impacted and the proposed home would only improve the neighborhood. The existing home is a historical house and he did meet with the Historical Society to see if there was any way to salvage the existing house, which is beyond salvaging. Even to construct a new home or an addition to the existing house would require a variance as it is located in the setbacks. He noted the variance is substantial but due to the narrowness of the lot a variance is necessary to build any house or addition. The sidewalk and street are very close to the existing house and Mr. Boukzam felt placing the new proposed house further back on the lot was a better option. The driveway would have access from Balius Road but the house would maintain the Center Ridge address as it would face Center Ridge. Mr. Boukzam explained he spoke to surrounding neighbors who were all in favor of the request other than the adjacent property owner to the west on Center Ridge. He reviewed renderings of the proposed house, an aerial photo of the existing conditions, and reviewed surrounding setbacks of other structures in the neighborhood.

Members discussed the proposal noting the property is zoned multi-family which Mr. Boukzam noted is not large enough to develop as a multi-family project. They discussed that without a variance the lot would not be usable due to the narrow width and required setbacks for corner lots. The existing house which is in a non-conforming location can be repaired but the construction of the new house would be an improvement to the neighborhood. The lot is an existing lot of record and therefor considered a buildable lot and without a variance it would not be usable; there is a practical difficulty and the lot is unique.

Ms. Kathleen Heck, 30105-B Center Ridge Road, sworn in by Mr. Kelleher, explained she has met with Mr. Boukzam to review the proposal and supports the variance request as it would be an improvement. Questions she had were not related to the Boards jurisdiction such as timeframe for completion of construction and if the road will be widened in the future. Chairman Jones directed her to the proper city departments for those questions but believed there are timeframes in place for permits. Ms. Heck commented that the existing house is awful and welcomed the construction of a new house.

Mr. William Rolf, 30131 Center Ridge, sworn in by Mr. Kelleher, explained he is the adjacent neighbor to the west and does not support a new house being so close to his property. He commented that if the lot were 100' wide it would require 15' setbacks and he did not have an issue with 30' but 10' from his yard he objected to. He read the setbacks listed in 1211.09 for a lot that is 100' wide. He stated the code requires a corner lot to have a 50' setback and this lot is a corner lot so the code should be followed and the 50' setback should not be encroached upon. He read the appeal factors listed in 1233.04 and expressed the intent of the code is not being followed by granting a variance. He noted the variance requested is substantial and the proposed house will be built so it is not line with the other houses on Center Ridge as it will have a larger setback than 50' from Center Ridge. This new house would be adjacent to his historical garage and he did not support the request. Mr. Neverman and Chairman Jones explained that this lot is not 100' wide and there is a section of code that allows for lots of insufficient width to have a 10' side yard setback and the 10' setback is per code and does not require a variance. It was noted

that they cannot make this lot unbuildable by denying a variance as this is a legal non-conforming lot of insufficient width and if it were an interior lot the applicant could construct his proposal without any variances. They expressed that they cannot deny someone the use of the lot as it is an existing lot of record. Mr. Rolf suggested that the existing house be repaired and maintained.

Mr. George Freesty, 30105-E Center Ridge Road, sworn in by Mr. Kelleher, expressed he lives across Bailus in the condos and felt the existing vacant home is an eyesore and a safety concern with possible vandalism or fire. He would like to see the property improved which could only help improve the property values of the neighborhood. He felt this proposal would be an overall improvement to the corner but did question how the address on Center Ridge Road would be retained when the driveway would be on Bailus. Ms. Sackman explained the address would remain the same as it is determined by the lot to width ratio of the parcel not which street the driveway is on or which street the house faces. Mr. Freesty realizes there will be the inconvenience of additional traffic and noise during the construction but the pros outweigh the cons and he supported the variance request as it would be an improvement.

After a careful review of the plans and testimony of the applicants the Board finds that:

1. The lot is a corner lot, at the intersection of Center Ridge and Bailus Road. It is currently non-conforming with small, unoccupied, home nearer to Center Ridge with a deep rear yard.
2. The lot faces Center Ridge. The Applicant proposed to tear down the existing home and build another larger home farther back on the deep lot. The home, as proposed, anticipated the need for a 35' variance on the side lot line (Bailus Road) from the normal requirement of 50'.
3. Members of the Board found that that because of the unique shape of the lot, the problem could not be reasonably solved in any other manner, and there would be no detrimental effect on the character of the neighborhood. Additionally the spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a 35' side yard setback on the second street of this corner lot for Docket 2014-10.

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger, Neverman

Nays: None, motion carried

Docket 2014-11

Applicant: Mr. and Mrs. Roger Vichill

Premises: 1375 Kingsway, PP#214-04-127

Requesting a building permit to install equipment for this pool in the side yard of the property at variance with 1211.04(g)(2)(B) which states in a One-Family District, the pool and all mechanical equipment used in conjunction therewith is located only in the rear yard and is not less than 10' from any lot line; a location variance for the pool equipment to be located in the side yard.

Mr. Vichill, sworn in by Mr. Kelleher, expressed that he is seeking approval to place his pool equipment in an alcove behind an addition to the house. Technically the proposal is considered

the side yard even though it is behind the existing addition. The area he proposes to place the unit is adjacent to the air conditioner unit and in an area that is about 9' x 11' in size. Currently he is allowed to place the unit around the corner of the alcove as that location is considered the rear of the house. He feels that the proposed location in the alcove is less visually obtrusive to his neighbor, the Gross', and would not be under a window that is at the rear of his home. He proposes to fence in the area so it will not be visible. Mr. Vichill showed photos of the house, the permitted location and the proposed location. He noted his neighbor has a large window on the side of their house so this location would be less visible than in the rear of his yard.

Mr. Fatzinger stated he visited the property and the proposed location would not be visible from the street or the front of the house and it makes sense to place it in the proposed location. Mr. Vichill noted his neighbor Mrs. Gross wrote a letter and he assured her they would maintain the nose level when using the pool late in the evening. It was questioned if the unit could be placed on the other rear corner of the house. Mr. Vichill stated that it would still be visible in that location but it could not go there due to the deck, dog run, well and location of the pool automatic cover being in the location near the alcove. Mr. Vichill explained the air conditioning unit will remain in the same location and he has received a quote to fence in the units as well as the pool.

After a careful review of the plans and testimony of the applicant the Board finds that:

1. The homeowner seeks to place pool equipment in a "notch" at the rear corner of the home that is by the code's definition considered to be part of the home's side yard. This requires a variance from the code requirement 1211.04(g)(2)(B) that states that private swimming pools shall be permitted provided that the pool and all mechanical equipment is located only in the rear yard and is not less than 10' from any lot line. The pool equipment will not be visible from the street and will be co-located with an existing air conditioning unit. The immediate (and affected neighbor) has submitted correspondence in favor of the proposed location.
2. Members of the Board found that the requested variance is not substantial and the spirit of the code would not be violated by the granting of a variance. That, the pool equipment will be screened from the side yard neighbor with landscape and will not be visible from the street as it will sit inside the building footprint of the existing house. The problem could not be solved in any other manner and there would be no detrimental effect on the character of the neighborhood.

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a location variance for the pool equipment to be located in the side yard with the condition that a 6' visual barrier for
Docket 2014-10

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger, Neverman

Nays: None, motion carried

APPROVAL OF MINUTES

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the minutes of March 25, 2014

ROLL CALL:

Yeas: Jones, Swisher, Baesel, Fatzinger, Neverman

Nays: none, motion carried

FINDINGS OF FACTS - None

MISCELLANEOUS - None

ADJOURNMENT

Chairman Jones adjourned the meeting at 8:13 P.M.

Matt Jones, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____