



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
SEPTEMBER 30, 2014**

The hearing was called to order at 7:32 P.M. by Chairman Jones

PRESENT: Board Members Matthew Jones, Robert Swisher, Jeff Neverman, Scott Fatzinger
ABSENT: Bryan Baesel
ALSO PRESENT: Assistant Law Director Sean Kelleher and Clerk of Commissions Nicolette Sackman

SELECTED CORRESPONDENCE - None

DOCKETS

Docket 2014-18

Applicant: Buckingham Homes

Premises: 1758 Bur Oak, PP# 211-05-010

Requesting to install a single family home 14' 9" off of the side property at variance with 1211.09 which states minimum side yard dimensions in one family residential districts is 15', a 3" setback variance.

Mr. Steve Schill, sworn in by Mr. Kelleher, stated the builder is seeking a 3" variance. He explained the contractor measured and staked the property correctly but when the concrete foundation was installed it was placed unknowingly 3" into the side yard. The error was discovered when the title work and survey was completed. Mr. Schill noted the adjacent neighbor's house is setback 30' off the property line so the two dwellings will comply with code relative to setback between dwellings.

Discussion ensued if there was any overhang on this side of the house, which Mr. Schill advised there was not and the entire structure is 3" into the side yard setback. Members felt the variance request was small and were in favor of the request.

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

1. The matter was tabled from the 8/26/14 BZA Meeting and the applicant, Buckingham Homes, requested to install a single family home 14' 9" from the side property line and thus requested a 3" setback variance;
2. The measurement is from the foundation to the side yard line and the home has no "overhang;"
3. The neighboring home on the affected side is 30' from the shared side yard line;
4. The requested variance is not substantial;

5. The adjoining property would not suffer a substantial detriment;
6. There would be no detrimental effect on the character of the neighborhood;
7. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve a 3” side yard setback variance for Docket 2014-18.

ROLL CALL:

Yeas: Jones, Swisher, Fatzinger, Neverman

Nays: None, motion carried

Docket 2014-19

Applicant: Scott Healy

Premises: 1960 Marshfield Blvd., PP#211-08-021

Requesting to install a utility building 3’ from the side property line, at variance with 1211.04 (k) which states a utility building shall be permitted in a rear yard provided that the maximum building size on lots 60,000 to 80,000 sq. ft. shall be 300 sq. ft. in area with a minimum side and rear setback of 15’; a side yard setback variance of 12’.

Mr. Healy, sworn in by Mr. Kelleher, explained his yard is a unique shape due to the large pond and wooded area in the back yard. There is an existing old shed that is falling apart that he would like to replace with a new shed. The existing shed is approximately 3”-4” off the property line and he proposed to place the new shed 3” off the property line but in a new location, which is between a tree and the existing swing set. If he were to place the shed 15’ off the side property line it would place the shed in the middle of the yard due to the shape of the pond which jets into his rear yard. The proposed location would not block his view or his neighbor’s view of the pond. He did speak to his neighbor and advised that his neighbor did not have any objections to the proposed location since it would not be on the property line or block his view.

Discussion ensued that the size of the shed will be 12’ x 18’ which is permitted by code. It was questioned if the old shed would be removed and if the applicant would be opposed to a condition of approval that is it removed. Mr. Healy had no problem with such a condition and advised that the contractor that is going to install the new shed will be demolishing the old shed at the same time. It was questioned why the new shed was not going in the same location as the old shed and Mr. Healy explained the old shed is constructed on stilts due to the grade of the lot, which slopes down into the pond and it is not the best location due to the grade of the property in that location. He proposes to place the new shed between a tree and swing set. It was discussed if the applicant was opposed to a condition requiring the shed to be in the location shown on the drawing so that it is not moved in a location closer to the house that would block the view. Mr. Healy had no problems with such a condition.

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

1. The Applicant, Scott Healy, sought to install a utility building 3’ from his property line. The granting of this variance required a 12’ variance;
2. There is a wooded area separating the proposed utility building location from the neighboring home and because of the location of applicant’s pond, the lot has unique characteristics;
3. With conditions imposed by the Board that the existing utility building be removed

within 30 days after the construction of the new utility building and that the new utility building be placed in the location shown on the drawings submitted to the Board;

4. The adjoining property would not suffer a substantial detriment;
5. There would be no detrimental effect on the character of the neighborhood;
6. 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 12' side yard setback variance for Docket 2014-19 with the condition that the existing shed be removed 30 days after the new shed is constructed and a condition that the new shed be placed in the location as shown on the drawing submitted to the board.

ROLL CALL:

Yeas: Jones, Swisher, Fatzinger, Neverman

Nays: None, motion carried

Docket 2014-20

Applicant: Geoffrey Rapp

Premises: 31571 Schwartz Rd., PP#216-01-004

Requesting to install a 5' high aluminum fence 5' from the right-of-way at variance with 1211.04(b)(3) which states on a corner lot, no fence, wall, or hedge shall be located within 25' from the planned right-of-way line; a 20' setback variance.

Mr. Rapp, sworn in by Mr. Kelleher, explained he wished to relocate his existing rear yard fence so that it is 5' from the sidewalk in a portion of the rear yard. He would like to move one leg of the fence so it is on the opposite side of the landscape mound to ease in maintenance of the lawn in that area. This will made his rear yard more usable and the existing fence was installed per code so that it is 25' off the planned right-of-way. The fences is an aluminum wrought iron style fence 5' in height. Mr. Rapp reviewed the proposed location of the fence and where it will turn into the yard and connect with the back of the house.

Discussion ensued regarding the ability to maintain the yard and more usable space in the rear yard with the relocation of the fence. Mr. Swisher was concerned with safety with a fence of this style being 5' off the sidewalk as the applicant's dogs would be closer to the sidewalk with an open style fence. It was discussed that as proposed the fence would not pose a safety issue with visibility for motorists as this is not a board on board fence and due to the layout on the lot. It was suggested that a condition of approval be that the variance is for this style fence and opacity. Mr. Rapp had no objections to the suggested conditions.

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

1. The Applicant, Geoffrey Rapp requested to install a 5' high aluminum fence (similar in style to an already existing fence) 5' from the right of way which requires a 20' setback variance;
2. With conditions imposed by the Board that the opacity of the fence be no more than 20% and that it be of a similar style as the existing fence, and that the fence be placed in the location shown on the drawings submitted to the Board;
3. The adjoining properties would not suffer a substantial detriment;
4. There would be no detrimental effect on the character of the neighborhood;
5. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve a 20' setback variance for an aluminum ornamental fence limited to 5' in height with the location to be as shown on the drawings submitted to the board, with 20% maximum opacity so not to limit visibility.

ROLL CALL:

Yeas: Jones, Fatzinger, Neverman

Nays: Swisher, motion carried

APPROVAL OF MINUTES – None – minutes and finding were not acted on and will be acted on at the next public hearing.

FINDINGS OF FACTS - None

MISCELLANEOUS - None

ADJOURNMENT

Chairman Jones adjourned the meeting at 7:58 P.M.

Matt Jones, Chairman

Nicolette Sackman, MMC

Nicolette Sackman, Clerk of Commissions

Approved: October 28, 2014