

MINUTES
Board of Building & Zoning Appeals
City of Willoughby Hills, Ohio

August 12, 2014

CALL TO ORDER: 8:05 p.m.
PRESENT: Chairman Frank Cihula, Vice Chairman John Klements
Robert Bartolotta, Mark Kotoch and Ron Caporossi
Clerk, Katherine Lloyd

RESOLUTION 2014-1

A RESOLUTION COMMENDING JOAN D. MOTUZA FOR HER MANY YEARS OF DEDICATED SERVICE AS CLERK OF THE BOARD OF BUILDING AND ZONING APPEALS

MOTION: Mark Kotoch moved that the Board adopt Resolution 2014-1.
Seconded by John Klements
Roll call: Ayes unanimous.
Motion passes 5/0

Presentation of Resolution 2014-1. Joan Motuza thanked the Board.

DISPOSITION OF MINUTES OF May 13, 2014

MOTION: Mark Kotoch moved that the Board approve the minutes of May 13, 2014 as submitted.
Seconded by John Klements
Roll call: Ayes unanimous.
Motion passes 5/0

CORRESPONDENCE

Notification in News-Herald on 8/2/14 for Cases 2014-3, 2014-4 and 2014-5
Letter dated 7/9/14 from Norma O'Connors RE Case 2014-4
Email dated 8/6/14 from Anthony Camino RE Case 2014-4
Email dated 8/6/14 from Building Commissioner Wyss RE Case 2014-4
Email dated 8/6/14 from Charles Albertone RE Case 2014-5
Email dated 8/6/14 from Building Commissioner Wyss RE Case 2014-5

Case 2014-5

Willoughby Hills Building Department for Charles H. Albertone & Erica R. Albertone
2880 Fowler Drive

The Willoughby Hills Building Department, acting on behalf of Mr. Charles H. Albertone & Erica R. Albertone, P.O. Box 241458, Lyndhurst, OH 44124, owner of 2880 Fowler Dr., requests a variance to construct a new home with a 52-foot setback from the ROW of the cul-de-sac in order to be clear of the remains of the sewage treatment plant that was previously located on this property. Section 1133.04(a)(7), Schedule 1133.04(7)(a) of the Codified Ordinances requires 75 feet minimum setback from the edge of the right of way (ROW).

Notice was mailed to property owners within 500 feet of said property. Drawings were available for review in the lobby of City Hall. Legal notice was advertised in The News-Herald on 8-2-14.

PRESENT: Charles Albertone and Willoughby Hills Building Commissioner Fred Wyss
The Law Director has authorized the Building Commissioner to file the application for this appeal.

Stated reason for variance request:

While excavating the foundation for the new house, underground tanks were found that were not supposed to be there. Since the property is at the end of the cul-de-sac, the setback reduction would put the house in line with the setbacks of the other houses on Fowler Drive. It would be a better look for the street. It will also allow for a bigger back yard.

Email dated 8/6/14 to the City Building Commissioner from Charles Albertone: It authorizes the Building Commissioner, Mr. Wyss to act on his behalf for the setback variance. That procedure was approved by the Law Director.

The sewage treatment plant not being completely removed was the reason for the request. The difference between the 50-foot and 52-foot setback on the application is the overhang of the house. On the site plan, the set back is listed at 77 feet to the foundation. We use the overhang as the measuring point.

Mr. Wyss stated that facilitating the variance would allow Mr. Albertone to start the construction of his house and would allow enough room in the rear of the property for mitigation of the remaining tanks and they can be removed concurrently with the construction of the house. The new house would be hooked up to the existing tie-in for the City sewer system.

Public Portion for Case 2014-5 opened at 8:29 p.m.

Albert Pestotnik, 2856 Fowler Drive

What is the setback regulation in Willoughby Hills?

Regulation is 75 feet from the ROW. In this case, because he is on the cul-de-sac, measurement is from the cul-de-sac ROW.

Joe Ciresi, 2867 Fowler Drive

Does the applicant plan to be a resident of the community? *Yes, he does.*

Public Portion for Case 2014-5 closed at 8:34 p.m.

MOTION: Mark Kotoch moved that the Board approve Case 2014-5 and grant a variance as requested to the property located at 2880 Fowler Drive to construct a new home with a 50 foot setback from the ROW due to the remains left from the sewage treatment facility. Also, this will facilitate that the home will now be in line with the existing homes' setback.

Seconded by John Klements

Roll call: Ayes unanimous.

Motion passes 5/0

Case 2014-3

Dale M. Flanagan

36456 Chardon Road

Mr. Dale M. Flanagan, 36456 Chardon Rd., requests a variance to construct an addition to the rear of an existing legally non-conforming house having a 50-foot setback from the ROW. Section 1121.04(a) of the

Codified Ordinances prohibits adding to a nonconforming building or structure. The proposed addition would have a 4-foot side setback on the west side. Section 1133.04(a)(7) Schedule 1133.04(a)(7)(b) requires 15-foot minimum setback (each side).

Notice was mailed to property owners within 500 feet of said property. Drawings were available for review in the lobby of City Hall. Legal notice was advertised in The News-Herald on 8-2-14.

PRESENT: Dale Flanagan

Stated reason for variance request:

The applicant is 'landlocked' by a road along the north side and a ravine on the east side. The only place I can add onto the home is to the west. A 14x22 patio room on the west side behind the garage is proposed.

Memo dated 7/23/14 from BZA Chairman regarding the issue of the setback was in packet. Because of the deep gully that runs diagonally through the property, the existing house is set at about 45 degrees to the street. The rear of the home is actually within the front setback.

In 1969 the front setback from state and federal highways was only 50 feet. The front of the home appears to meet that. Adoption of Ordinance 1965-18 on October 12, 1967 changed the front setback to 75 feet. The house is legally nonconforming. The Code prohibits making a legally nonconforming structure larger.

The request before the BZA is two-fold: allow the home to be larger and the sideline requirement. The surveyor's stake was not found at the top of the bank during site inspections done by Board members.

Appellant was advised of need to have it surveyed, set the true stakes and set a line to calculate from. He will postpone review until next BZA meeting on September 9, 2014 during which time he will have the property surveyed.

Public Portion for Case 2014-3 opened at 8:46 p.m.

No Public Input

Public Portion for Case 2014-3 closed at 8:46 p.m.

MOTION: Mark Kotoch moved that the Board postpone Case 2014-3 for 36456 Chardon Road at the appellant's request until the September 9, 2014 meeting of the BZA.

Seconded by John Klements

Roll call: Ayes unanimous.

Motion passes 5/0

The case has been postponed until September 9, 2014. This is the only notice that the public will receive.

Case 2014-4

Lindy D. Ritchie

29205 White Road

Mr. Anthony J. Nero, 6338 Gates Mills Blvd., Gates Mills, agent for Lindy D. Ritchie, owner, 4198 Stonehaven Rd., South Euclid requests a variance to construct a new 2-car attached garage at 29205 White Rd. with no less than a 16-foot, 6-inch side setback to Lynn Dr. The existing 1-car attached garage and carport will be demolished. Section 1133.04(a)(5) of the Codified Ordinances requires a side setback of 25 feet from the edge of the right of way (ROW) of the side street on corner lots.

Notice was mailed to property owners within 500 feet of said property. Drawings were available for review in the lobby of City Hall. Legal notice was advertised in The News-Herald on 8-2-14.

PRESENT: Anthony J. Nero and Lisa Nero

Stated reason for variance request:

Mr. Nero bought the house with his stepmother. At that time it had a lean-to and 1-car garage which is very small and an existing attached building. They would like to put a 2-car attached garage in that space in the front of the house with enough room for a side door. Everyone in the neighborhood has a 2-car garage. The request is for 10 feet off the existing part of the home plus room for an overhang.

There are two sets of plans: one based on 8 feet and the other based on 10 feet. The most recent print from the architect is marked 'Revised 7/8/14'. The appeal was written based on the original application. The amended plans were not received until after the appeal was written.

Setbacks are based on the ROW, not the pavement edge. Survey drawing shows that the edge of the existing house is now 50 feet from the centerline of Lynn Dr. which would be 25 feet from the ROW. That would meet the Code without a garage there. The lean-to/carport was built with brick and footers. The applicant would not exceed that 'pad'. He wants to encroach 10 feet into the 25 feet leaving 15-foot sideline to the ROW. The applicant is asking for a 15-foot sideline instead of a 25-foot sideline. Measurement would be based off the existing structure of the main house. Pictures of house and garage show that the garage has a small setback from the house. No front setback would be involved. On the original plan, 16 feet 6 inches had been pencil corrected to 15 feet. Applicant amended his request from 16 feet 6 inches to a 15-foot variance for the side setback.

Public Portion for Case 2014-4 opened at 9:08 p.m.

Two letters were read aloud to the Board.

Letter dated 7/6/14 from Norma O'Connors, 29889 Lynn Dr. RE: 2014-04

I would prefer not to have a garage in the back of your house.

Email dated 8/6/14 from Anthony Camino, 29722 Lynn Dr. RE: 2014-4

After viewing the plans, I encourage the committee to grant the variance.

No other Public Input

Public Portion for Case 2014-4 closed at 9:10 p.m.

MOTION: Mark Kotoch moved that the Board approve Case 2014-4 as requested and grant a variance for the property located at 29205 White Rd. for a side setback of 15 feet to the ROW of Lynn Dr. due to the fact the home used to have a carport in the same location.
Seconded by Robert Bartolotta
Roll call: Ayes unanimous.
Motion passes 5/0

The decision of the BZA is good for one year. Applicant was directed to file for an architectural approval with the Building Commissioner.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

CHAIRMAN'S COMMENTS

None

MOTION: Mark Kotoch moved to adjourn; seconded by Ron Caporossi.
Voice vote: Ayes unanimous.
Motion passes 5/0.

Meeting adjourned at 9:19 p.m.

Note that it is the policy of the Board to make site visits to guide them in making their decisions.

Note that BZA meetings are recorded and recordings are considered a public record.

All decisions of the Board of Building and Zoning Appeals are final within the City of Willoughby Hills. Any interested party may appeal the Board's decision to the Court of Common Pleas of Lake County, as provided for by Ohio Law.


Clerk


Chairman

Date Approved: 9-9-2014