

BOARD OF ZONING APPEALS
Meeting Minutes
Thursday, October 28, 2010

Call to Order

Those members present: Todd Hollenbaugh, Gary Meyer, George Prentice, John Barnhart, and Prue Dana.

Those members excused: None.

Staff members present: Kathryn Dale, Lynn Taylor, and Stephen McHugh.

Staff members excused: Rob Jacques.

Executive Session

Ms. Dana made motion to approve the agenda with the deletion of the Executive Session. Mr. Barnhart seconded the motion. The motion passed 5-0-0.

Adjudication Hearing*

BZA-10-2010 5990 Contreras Road, Variance to Sections 1141.01(a)(1), 1149.04(a)(3), 1149.04(b)(3), to allow for a lot split with an existing accessory structure/no principal structure; and allowing existing parking and driveway not meeting setback requirements, Peter & Connie McCarthy, Owners/Applicants Tabled from August 18, 2010

Mr. Hollenbaugh announced that this case had been withdrawn by the Applicant; therefore, BZA-10-2010 needed to be removed from the table.

Mr. Barnhart made motion to remove from the table BZA-10-2010. Mr. Meyer seconded the motion. All were in favor.

Mr. Barnhart made motion to withdraw case # BZA-10-2010 per the Applicant's request. Mr. Meyer seconded the motion. All were in favor.

BZA-12-2010 5990 Contreras Road, Variance to Sections 1141.03(e)(2), 1149.04(a)(3), & 1149.04(b)(3) increase front yard setback and maintain existing concrete driveway/parking area, Peter & Connie McCarthy, Applicants 1

Mr. Barnhart made motion to adjourn to BZA-12-2010. Mr. Meyer seconded the motion. All were in favor.

Ms. Dale provided a review. Ms. Dale noted that the Applicant filed a new BZA application and a new building permit application and withdraw BZA-10-2010.

Ms. Dale stated that in order to issue a building permit a lot split needed to be in place; staff could not release a building permit until the split was complete; the Applicants can't split the lot until variances are approved. Ms. Dale explained that the primary reason for locating the proposed new house 40 feet from the front property line was due to a drainage swale along Contreras and the topography. Ms. Dale noted that the owners have six months to start construction or request an extension.

Ms. Connie McCarthy, was sworn in by the BZA Chair. Ms. McCarthy provided a PowerPoint presentation. Ms. McCarthy stated that they wanted to build a nice house that was in keeping with the neighborhood. Ms. McCarthy provided aerial photographs of the property showing a shared driveway which would mean no additional concrete. Ms. McCarthy discussed the drainage issue/swale in the front yard and provided a photograph. The grading showed a 3' drop from the sidewalk. Ms. McCarthy stated they didn't want to disturb that. Ms. McCarthy showed the site plan with the new structure and outlined the setbacks, driveway, etc. Ms. McCarthy noted that a drive could be put in AND would meet all the city standards if needed in the future.

Ms. Dana made motion to reconvene to regular meeting. Mr. Barnhart seconded the motion. All were in favor.

Mr. Hollenbaugh stated this case was pretty straightforward; the existing house was almost exact to the same setback request. Mr. Meyer inquired why there was a maximum setback in the zoning code. Ms. Dale stated it was for the intent, in keeping the character the same. Mr. Hollenbaugh inquired if there were any Persons of Standing. There were none.

The BZA reviewed the Decision Standards. Regarding the requested variances, the BZA made the following Findings of Fact: 1.) The property in question will yield a reasonable return and can be used beneficially without the variance because the property can be used as a single-family and it is the owner's choice to maintain the existing driveway and position the proposed new structure further from the street; however, according to the Appellants testimony the practical difficulty is to not disturb an existing drainage system that could affect surrounding properties. 2.) The request is not substantial as it relates to the other underlying zoning requirements. 3.) The essential character of the neighborhood would not be substantially altered by the variance and the adjoining properties would not suffer a substantial detriment as a result of the variance because the proposed lot split would be equivalent in size as surrounding lots and the parent parcel will remain unchanged, furthermore, a proposed single family structure is permissible in the zoning district. 4.) There were no comments received from the various City Departments indicating there would be a detrimental effect on government services. 5.) The owner was aware of the zoning restrictions because the application for a lot split and building permit were applied for. 6.) The property owner's predicament cannot feasibly be obviated through some method other than a variance. 7.) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance because they are the minimum variances necessary.

After considering and weighing these facts and circumstances, the Board found that practical difficulty was shown sufficient to warrant granting the variance to Sections 1141.03(e)(2), 1149.04(a)(3), & 1149.04(b)(3) to allow an increase front yard setback and maintain existing concrete driveway/parking area and voted 5-0-0 to **APPROVE** the application with the following conditions:

1.) That, the appropriate ingress/egress easement for the shared driveway is recorded with the Butler County Recorder's Office with the lot split plat.

- 2.) That, the variances granted only apply to the existing driveway and parking areas and not to any subsequent driveway construction.
- 3.) That, all variances herein are particular to existing pavement and do not apply to any subsequent enlargement or alteration of said pavement.

Ms. Dana appreciated the keeping of the deep lot in fitting with the neighborhood.

Prue Dana moved to approve BZA-12-2010, 5990 Contreras Road, Variance to Sections 1141.03(e)(2), 1149.04(a)(3), & 1149.04(b)(3) increase front yard setback and maintain existing concrete driveway/parking area, Peter & Connie McCarthy, Applicants . Gary Meyer seconded. The motion passed with the following roll call:

AYE: Prue Dana, John Barnhart, George Prentice, Gary Meyer, Todd Hollenbaugh (5)

NAY: None (0)

ABS: None (0)

Approval of Minutes of the August 18, 2010 Regular Meeting

Mr. McHugh noted one correction to the August 18, 2010 minutes regarding BZA-10-2010.

Ms. Dana made motion to approve the minutes of August 18, 2010 as corrected. Mr. Barnhart seconded the motion. All were in favor.

Old Business

Ms. Dale referred to an administrative variance that was approved by staff for 325 Cobblestone Court. The minor variance was BZA-ADM-01-2010, a two-foot rear yard setback for a screened-in porch. Ms. Dale referred to Section 1129.04(d)(1) of the Planning and Zoning Code which states that up to 5% of the required rear or side yard may be granted a Minor Variance administratively provided certain criteria are met. Ms. Dale noted that staff mailed out adjacent property owner notifications and received no responses. Ms. Dale noted that this was the first time since working in Oxford that staff received an administrative BZA case.

New Business

Ms. Dale noted that BZA would have one case to hear for November.

Ms. Dale asked that BZA members notify staff as soon as they are aware that they cannot attend a meeting.

Adjournment

Mr. Barnhart made motion to adjourn the meeting. Mr. Meyer seconded the motion. All were in favor. The meeting was adjourned at 8:10 p.m.