

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
JANUARY 9, 2019

Members Present: Farrell, Wolf, Brandt, Christ, Pempus

Presence Noted: Raymond Reich, Building Commissioner
Andrew Bemer, Law Director
Christina Morris, At-Large Council Member
James Moran, City Council President

Mr. Pempus opened the January 9, 2019 Meeting of the Board of Zoning and Building Appeals at 7:00 p.m. in Council Chambers of Rocky River City Hall.

1. MAYOR PAMELA E. BOBST - Swearing in of Todd Brandt for a new term as a regular member of Board of Zoning and Building Appeals.

Mayor Bobst swore in Todd Brandt for a renewed term as a regular member of the Board of Zoning and Building Appeals. She thanked the entire Board for their willingness to serve in this capacity. This past year has been a very busy one for all of the Land Use Commissions and she appreciates this Board's good guidance, patience and professionalism as they traverse some of the more difficult issues with projects that are being proposed throughout the City. Mayor Bobst said that there were 1,726 Building Permits issued in 2019, which amounts to 25 more permits than the year before. What is really striking is the valuation that those permits represent to the community. There was a total of \$44.5 Million in added valuation in 2019 compared to \$31 Million in 2018. She thanked the Board members for all that they do to make that level of investment happen in the community.

2. KRYSTA MAURER – 3715 Spencer Rd. – PUBLIC HEARING – Variance to construct a covered patio with a 5' – 5" side yard setback vs. 8' side yard setback required (Section 1153.07(f)(1)A and Section 1153.13(c)). Ms. Krysta Maurer, Homeowner, came forward with Mr. Todd Martin, Contractor to present the variance request. Also present is the applicant's boyfriend who also resides at 3715 Spencer Rd.

Mr. Christ read the meeting notice that lists the names of the parties who received it. The parties were sworn in. Contractor Martin said that the person in his office misunderstood the information she received from the Building Department. She was under the impression that they did not need a permit for the new roof and she did not realize that they were also constructing the covered patio as part of the job. The job was stopped by the Building Department and they are here because the project needs a side yard setback variance in order to continue.

Ms. Maurer explained that she spoke with John and Cindy Ladd, 3691 Spencer Rd., who are the neighbors on the side that is most affected by the covered patio. She added that they provided a letter of support for the project, which she read aloud for the record.

Mr. Pempus said that he is sympathetic to the idea of extending the roofed structure to the line of the existing home. The applicant's boyfriend agreed with Mr. Pempus that the structure is not offensive as proposed. Mr. Christ asked if they will be providing drawings to the Building Department and Mr. Martin responded that he will provide more detailed construction drawings. Mr. Christ said that he does not have an issue because this will maintain the same roofline and will conform to the footprint of the existing house, which will make it look better.

Mr. Brandt said that there is not a lot of construction detail contained in this package and as long as proper drawings are submitted to the Building Department, he is fine with the request.

Mr. Wolf asked the contractor if he has done work in the City before and whether he pulled permits for that work. The contractor responded that their office administrator takes care of obtaining permits from all of the cities they work in.

Mr. Brandt asked if the air conditioner condenser will be staying in its present location and Ms. Maurer responded that they are not moving the condenser. Mr. Farrell also wondered about the air condition condenser and stated that he has no issue with the variance request.

Mr. Christ moved to close the public hearing. Mr. Wolf seconded.

5 Ayes – 0 Nays
Passed

Mr. Christ moved to grant a variance to Krista Maurer, 3715 Spencer Rd., to construct a covered patio with a 5' - 5" side yard setback vs. 8' side yard setback required. The applicant has indicated the practical difficulties and this Board has evaluated the presentation, the package and the discussion relative to the practical difficulties test, which the Board feels has been met. They agree that this proposal is a reasonable solution. Mr. Wolf seconded.

5 Ayes – 0 Nays
GRANTED

2. BRIAN PRETO – 19160 Inglewood Ave. – PUBLIC HEARING – Variance to construct a board-on-board fence in the corner side setback vs. Only ornamental fences shall be permitted within the corner side yard (Section 1153.15(j)(4)); a Variance to construct a 5' fence in the corner side setback vs. maximum height of 42" permitted for fences in the corner side yard (Section 1153.15(j)(4)); and a Variance to construct a fence 3' from the corner side property line vs. 5' setback required (Section 1153.15(j)(4)). Mr. Brian Preto, property owner came forward to present the variance requests. Also present are Mr. and Mrs. John and Sue Sullivan, 19140 Inglewood Ave., which is two houses away from the applicant's property.

Mr. Christ read the meeting notice that lists the names of the parties who received it. The parties were sworn in. Mr. Preto began by explaining that the fence was on the property when he purchased the home in late November, but he has since removed it because it was in very bad condition, as shown in the pictures in the packets. He removed a tree that would have been in the way of the fence line if he is allowed to extend it to the front wall of the house. He would like to increase the amount of usable back yard space from 1,400 sq. ft. to approximately 2100 sq. ft. He also thinks it will look better to have the fence extend to the front wall rather than stop it at the back wall of the house. He said that the fence on the property directly to the north of his has a fence that goes all of the way to the front wall of their house and the setback is very similar to the fence he is proposing. He wants to make the property more attractive for himself and future owners by capturing the extra yard space. Mr. Preto explained that he understands why the Codes are in place with regard to the traffic, but this proposal will not interfere with sight lines because the fence will be 42' from the corner and there is a 12' wide tree lawn along the property on Wooster Rd. He does not think the fence will obstruct the view of anyone turning left or right from Inglewood Ave. onto Wooster Rd.

Mr. Pempus said that this Board is usually concerned with sight lines and Mr. Preto responded that he feels that 42' is an adequate distance for the edge of the fence to be from the Inglewood Ave. corner. He feels that the property would be visually more appealing with the fence extending to the front wall of the house. Mr. Pempus said that this Board would not like for the entire community to fence themselves in, and they are always concerned about precedent.

Mr. Sullivan said that he does not have any objection to anything that the applicant is asking for and he is not sure why different zoning laws exist in the first place. He appreciates the improvements the applicant is making in the property. He is concerned about the sight lines because he uses the access to Wooster Rd. many times each day. It is a very difficult intersection to maneuver because traffic moves so quickly through there and there are a number of different businesses on the other side of Wooster Rd. where traffic is coming out of the cut-in at the curb. There is also a parking lot for businesses on the west side of Wooster Rd. which complicates the traffic flow. In his view, with a fence that is higher than the existing fence, extending to the front wall of the house, it will force people to creep up past the stop sign on Inglewood Ave. at Wooster Rd. He is concerned about the safety issue that will be caused by the reduction in sight lines. Mr. Wolf pointed out that the proposal is for the 5' high fence to run along the same line as the original fence, so there would not be a reduction in setback along Wooster Rd. However, it is being proposed to continue that same line all the way to the front wall of the house. Mr. Sullivan said he is not sure if the fence that is being proposed is more opaque than the fence that was previously there and he questions whether there is a greater likelihood that this fence would block the view for motorists. Mrs. Sullivan agreed with her husband and said that the safety issue and whether the view of the driver will be impaired is her concern. She added that she very much likes that the house will be aesthetically improved overall.

Mr. Wolf asked Mr. Preto if he considered installing an ornamental fence. Mr. Preto said that an ornamental fence is more cost prohibitive and he likes the look of a wood fence, which will be similar to his neighbor to the north.

Discussion was had relating to the type of fence that is being proposed. The applicant said it will be similar to the fence that was previously there, which he described as a board-on-board style fence. The Building Department and some of the Board members questioned the fact that what was there was actually a true board-on-board style because it appears to have been two picket fences installed next to each other or somehow connected. Mr. Farrell said he agrees with the neighbors regarding the sight line concern at this busy intersection. There is also the situation where motorists are coming off of the street opposite Inglewood on Wooster Rd., which adds to the congestion there. It would be very hard for him to agree to these variances, for the safety reason, but also because the City has established that we prefer a more open fence or ornamental style on corner lots. He asked the applicant if he will be living in this home and the applicant responded that he will not be living there and he will be reselling it. Mr. Farrell said that the fact that he will be reselling the house reinforces that something that complies with Code and that looks good should be installed there.

Mr. Brandt commended the applicant for wanting to make improvements to the property and asked if the Police Department has reviewed this fence. Building Commissioner Reich responded that the police will look at the application. Mr. Brandt said that if it is not in violation of the sight line diagram in the Code, then this location would work for him. He understands the fact that the applicant wants to capture more of his yard and enclose it. He thinks that the 5' board-on-board is an approved type of fence for rear and side yards but the City prefers to shift to ornamental style when a fence moves into the front yard. He said that he is not necessarily troubled by the board-on-board style fence, but he is more inclined to approve a 4' board-on-board fence in this location, as long as the police do not have an issue with sight lines. He is not comfortable with the height of 5' against Wooster Rd. Mr. Preto replied that he is willing to construct a 4' tall board-on-board fence and he is planning to plant something in front of the fence in order to soften the appearance.

Mr. Wolf said that there was a wood fence proposed at Lake Rd. and Wagar Rd. and the board didn't favor that fence type. There was also a gentleman who tried to fence his front yard further south on Wooster Rd. to establish a garden in the front yard. He appreciates that this is a corner lot and there is an existing condition that is much different than those other examples. He does not think that board-on-board fences in the front yard is the vision the community has for the streetscape. Fences can be articulated and landscaped on the street side of them but then someone has to maintain the landscaped area. He is struggling with this request as he tries to understand what the community was thinking when they crafted these ordinances. Mr. Christ said that they have looked at fence along other well-traveled roads in the City, such as Hilliard Blvd. and Wagar Rd. The way the Ordinance reads is important to him, in that it allows an open fence which is set back from the sidewalk. They have at times allowed the fence to creep closer to the sidewalk but still remain an ornamental fence. He said that the fence that was already there looks like someone had a picket fence that may have been close to meeting the code with openness

until they added the second half. He is not on board with this being anything other than an open fence, particularly as it comes closer to the front and to the corner. There is the sight-line safety issue because not everybody comes to a full stop at a stop sign. He pointed out that the photo of the fence that was removed shows that the height was 48" at the post, but the pickets themselves are shorter by at least 4 inches, if not more, so he thinks the previous fence was very close to meeting the 42" maximum height. He is not in favor of a board-on-board style fence at 5' tall and he is not even sure he would approve a 4' tall fence. He asked the applicant if he knows where the property line is and the applicant responded that he does know because there is a survey stake on the back side of the garage. He paid to have the mortgage survey done, as well. Mr. Christ said that the property line is typically 1' off of the sidewalk and when taking that information into account, this request for a 3' setback from the property line may not be where the previous fence was actually located.

Discussion was had and the applicant was informed that if he would like to construct a 5' tall board-on-board fence along Wooster Rd., he must meet the 15' building line setback that is labeled on the City's setback map. It was explained that consideration has been given to fences to allow them to be located in this required corner side setback with only a 5' setback as long as they meet the height and openness (ornamental) requirements as outlined in the Code. Mr. Farrell said he cannot understand why the applicant is not installing a Code compliant fence, especially since he is not going to live there. The details of a fence that is Code compliant is in this location were again explained to the applicant.

The applicant said he would like to withdraw his application. He said that it would be cost prohibitive for him to comply with the Code because he is investing a lot of money to fix up the property. He was hoping to make the property more usable by installing the 5' wood fence in the location he proposed along Wooster Rd. The applicant was instructed to call the Building Department to clarify any questions he may still have.

3. ELECTION OF OFFICERS. Mr. Christ moved to elect Eric Pempus as Chairman, Patrick Farrell as Vice Chairman and himself as Secretary of the Board of Zoning and Building Appeals for the year 2020. Mr. Brandt seconded.

5 Ayes – 0 Nays
Passed

The meeting adjourned at 8:05 p.m.

Eric Pempus, Chairman

Patrick Farrell, Vice Chairman

Date: _____