



City of Powell, Ohio
Board of Zoning Appeals
Ryan Temby, Chairman
Robert Hiles Shaun Simpson Dan Wiencek

**MEETING MINUTES
MAY 23, 2016**

A meeting of the Board of Zoning Appeals was called to order by Chairman Ryan Temby on Monday, May 23, 2016 at 7:00 p.m. Members present included Robert Hiles and Dan Wiencek. Shaun Simpson was absent. Also present were David Betz, Director of Development; John Moorehead, Assistant Engineer, Leilani Napier, Planning & Zoning Clerk; and interested parties.

APPROVAL OF MINUTES

MOTION: Robert Hiles moved to adopt the minutes from April 25, 2016. Dan Wiencek seconded the motion. By unanimous consent the minutes were approved.

APPLICATION FOR VARIANCE

Applicant: Carol Stillman
Location: 233 E. Olentangy Street
Zoning: (R) Residential District
Request: Approval of a variance to the required rear yard setback, from 80 feet to 30 feet, to accommodate the construction of a single-family home.

Chairman Temby advised the audience they were still sworn in if they attended the April 25th BZA meeting and were sworn in then. Chairman Temby swore in all others who would be speaking. Meeting procedures were reviewed; anyone wishing to speak will stand at the podium and speak into the microphone, the microphone will not be removed from the mic stand on the podium, Staff will review the Staff Report first, the applicant will speak second, statements from other interested parties would be taken, rebuttal will be allowed from the applicant if necessary and then the Board will render its decision.

Mr. Betz reviewed the Staff Report (Exhibit 1).

The applicant has revised the request. The applicant is no longer requesting a side yard setback. The side yard will stay at 25 feet. The request is only to reduce the rear yard setback from 80 feet to 30 feet. No other variance is being asked for, including driveway slope. The applicant is able to achieve driveway slope of 8%, which is allowed under Code.

The applicant has submitted additional information for the Board's consideration. The applicant will go through a presentation which will show 3 different options of rear yard setbacks. The applicant is asking for a 30 foot reduction. The reason is due to the substantial practical difficulty to build a house on this site because of the terrain, the number of trees to be removed and the Riparian setback. The Riparian setback is a new item. The Ohio Environmental Protection Agency has standards for setbacks to Riparian areas such as the stream on this property. The stream is a tributary to the Olentangy River. The presentation will show home placement and the effects each setback has on the location of the home to each adjoining neighbor, the number of trees which would have to be removed at each location and will explain the effects of the home placement and the amount of cut and fill required for both the home and driveway. There are more trees preserved and less slope disturbance with the home placed at the 30 foot rear yard setback rather than at 80 feet or 50 feet. This request is a classic example of a property having a practical difficulty in building and trying to preserve the natural terrain and trees (i.e. – building it correctly) rather than strictly by the setback requirements.

John Moorehead, Assistant Engineer, from the City's Engineering Department is present and has reviewed the proposal in regards to driveway slope, terrain and best engineering practices. Staff

checked with the Liberty Township Fire Department and up to a 10% driveway slope is allowable, however the applicant isn't asking for 10%.

Staff reviewed this request from a substantial practical difficulty on developing the property for a house which is allowed on the property. Staff finds the best location to place the house is on the highest point of the property with a longer driveway, creating an 8% or less slope. Staff recommends approval of the variance application as Staff finds there is substantial practical difficulty for building a home on the property in a manner consistent with proper engineering and building procedures, and preserving the natural features existing on the property.

John Moorehead, Assistant City Engineer, said this proposal is supported by Staff in part because of a hardship for the constructability of a home. Ms. Stillman has worked with the Engineer's office on the construction of the bridge. The steepness of the terrain, the wooded nature of the lot, the proximity to the creek all weighed into the City's decision to allow placing the bridge where it was placed. The Engineering office supports this request for 4 reasons:

1. The Riparian Corridor – a critical zone around a waterway, critical to habitat and to the safety of any structure adjacent to the waterway. The Ohio EPA has a dictated setback distance for any stream which flows to the upper Olentangy watershed. In this case, there is an 80 foot setback from the top bank of Bartholomew Run.
2. Management of surface drainage – the steep terrain lends itself to erosion if improperly controlled. If you concentrate the run-off, direct the run-off towards steep slopes, there may be excessive erosion on the property. The requested setback helps minimize this.
3. Earthwork and grading – achieving the 8% slope may require substantial amount of cut to the top of the slope depending on where the building is placed. The 30 foot rear yard setback does allow for the minimal amount of grading.
4. Driveway safety and maintenance – the driveway on this property is nearly 200 feet long. Minimizing the slope as much as possible is best on this driveway.

The engineering drawing showing the 80 foot setback has the finish grade of the house at 897.70 to achieve an 8% driveway slope. The top of the knoll is approximately at 901.0. There is between 2-1/2 and 3 feet of cut across the upper area to achieve the 8% driveway slope. Keeping the 80 foot setback causes the grading which surrounds the house pad to encroach into the Riparian setback a slight amount and there would be a greater amount of tree loss. The 80 foot setback grading would place the house almost at the top of the roughly 63% slope. With this, water would have to be directed from the south side of the property which wants to drain around the house. At least on one side of the house there will be a small swale section discharging down the slope. For surface water management reasons, the Engineering Department wouldn't want to see this. The driveway would collect run-off. The applicant would have to find a way to manage the surface water as it travels down the driveway.

The 30 foot setback allows the house to be located at the high point of the property. This allows everything to be well away from the Riparian setback and the slope around the house will be at 4% or 5%, leading away from the house out to surrounding areas. The drainage pattern on the site is maintained. The wooded land has a chance to diffuse water out and lessen erosion. Placing the house at the highest point on the site gives the driveway a 7.1% slope. The Engineering Department strongly supports the 30 foot setback from a constructability standpoint.

Mr. Betz said the Riparian setback does allow for crossings of streams in a manner which is consistent with FEMA flood hazard regulations. The bridge was installed higher than the flood elevation.

Mr. Wiencek asked why the grading to the north of the house is needed. Mr. Moorehead said Code requires a 5% slope for 10 feet outside of the house to achieve positive drainage from the foundation. The drawing shows the limits of grading or clearing needed for access around the house for construction vehicles and digging the foundation. There may not be a direct grading impact to these areas. With an 80 foot setback, on the north side, you would have to cut down a portion of the slope in order to get the positive fall to the north. Mr. Wiencek asked if Mr. Moorehead really feels site access is really driving the width. Mr. Wiencek said he isn't sure grading needs to happen north of the garage if no building is going to happen there. Mr. Betz said a sidewalk will go from the garage to the front door. There will be a need for some level area. Mr. Wiencek asked Ms. Stillman if the drawings have the house in the proper location. Ms. Stillman said yes.

Carol Stillman, 54 Traditions Way, said her presentation summarizes responses to comments made at

the April 25th meeting and updates the information. It wasn't mentioned as part of the variance but she is requesting a gravel driveway. There was a concern among the neighbors, who don't necessarily live adjacent to her property but live in the surrounding areas, about setting precedence for future developments. Looking at the zoning map of the area, the precedent has already been established. The majority of Powell is already planned residential and not residential, such as her property. Her property was a part of Powell proper, historically. A lot of the area was brought into Powell by annexing. When her property was annexed in 1988, her property was annexed in as planned residential. If building occurs on planned residential property, the setbacks are smaller. There are a lot of options for what can be built on property zoned residential. Regardless of where her house is located, there are far worse things which could be built on her property. The single-family home option is the best option in regards to impact on the surrounding neighborhood. Concerns were also expressed about home values being affected by her request and building her home. Ms. Stillman said she called the Auditor's office and asked for specific information on how her surrounding neighbors' property values would be affected. The person she spoke to in the Auditor's office assured her there would be absolutely no impact at all in regards to where her house is located, as long as her house is no different than the overall character of the surrounding neighborhood. Her property is surrounded by planned residential so the character of the neighborhood is not going to be different from what she is proposing. Ms. Stillman said she also talked to a realtor who has been working in central Ohio for over 20 years. She ran her scenario by the realtor and ask what the impact would be on home values. The realtor said what they see impact the value of a home is the overall value of the neighborhood. If a house sells for a certain amount of money, the sale price will affect the value of a home. Optimizing what is best for the overall neighborhood is what is best for each individual house. Ms. Stillman said the radius of her driveway is specified by Powell Code. Some of the options she had previously looked at, like curving back and forth to maximize distance without having to move the house back further, are no longer options. There were discussions on why a City might approve a variance. Ms. Stillman said to the best of her knowledge, there was never any purposeful zoning done of her property to say the property should be residential versus planned residential. The zoning is a default the property came with. The guidelines for a variance do apply to her property. She is applying for a variance due to practical hardship. Practical hardship has nothing to do with her finances and she would appreciate it if her finances weren't discussed. Ms. Stillman said she is trying to stay out of the Riparian buffer setback. The terrain, minimizing erosion and tree clearing are all reasons she is requesting the setback. Mature trees is something everyone seems to feel fondly about. Everyone appreciates mature trees and to the extent possible, she would like to minimize cutting down mature trees. Ms. Stillman said she tried to map out where the trees are and the different sizes of the trees. There are a lot of trees in the front of her lot, in the area which starts sloping down towards the stream. There are approximately 35 trees in the area adjacent where the front of her house would be if she were not to have a variance approved. She would have to cut those trees down. There are a lot of nice trees there and it would hurt the grading and promote erosion. There are wild cherry and maple trees. Some of these trees are very close to her neighbors' houses and she would think they would appreciate the presence of those trees. It is in the best interest of the community to minimize the amount of trees cut down. Ms. Stillman said her presentation shows where her house would sit in proximity to her neighbors' houses for each of the 3 setbacks; no variance, 50 foot and 30 foot. Some houses are impacted more than others. The variance actually evens the distance out more. A previous owner had a house plan sketched out and their plan dramatically affected the flood plain and would cause 14" of flood plain rise. They applied for a conditional approval from FEMA. Their plan showed a house right on the edge of the Riparian region which required tons of tree removal, tons of flood plain fill and tons of impact to the flood plain. The plan included a theater building which sat at the 50 foot offset line because it wasn't subject to the 80 foot offset line. The idea that nothing will be in view of their homes if this variance isn't approved is overly optimistic. You never know what will happen on vacant property. Mr. Wiencek asked which house, house 2, 3, 4 or 5, in Ms. Stillman's presentation will be impacted the most if the variance is approved. Mr. Betz said houses 2 and 3 in the presentation. Ms. Stillman said her house would be moving closer to houses 2 and 3 and both of these houses have very big back yards. There are a large number of trees in between. Mr. Wiencek asked if houses 2 and 3 would be the only houses Ms. Stillman's house would move closer to. Ms. Stillman said yes, houses 2 and 3 are the only houses her house would move closer to. Ms. Stillman said the allowable distance between houses, side by side, can be 16 to 20 feet in this neighborhood, depending on whether the houses are garage to garage or non-garage side to non-garage side. In the back, the houses are supposed to be 60 feet apart but some of the houses aren't 30 feet off the property line. She doesn't know if those houses obtained variances or how this happened. There seems to be a precedent already set for making a variation to what the setbacks should be. None of the houses have a border around them more than 65 feet. Every single house adjacent to hers already has a house within 65 feet. The 30 foot setback minimizes

the overall environmental impact, doesn't impact the overall neighborhood character and more equally distributes the proximity to the surrounding homes.

Chairman Temby asked if the application shows a request for a gravel driveway. Ms. Stillman said she did not have the request for a gravel driveway in her request as it was submitted. She asked if she needed to amend her request. Chairman Temby asked Mr. Betz to check and see if it is necessary to ask for a gravel driveway. Mr. Betz said homes with gravel driveways must provide dust control on an as needed basis and pavement is required immediately off of the road so gravel doesn't spread out onto the road. Mr. Moorehead said Mr. Betz is correct. The area right off of Route 750, the approach apron, would need to be paved with asphalt within the right-of-way, which represents the first 20 to 25 feet of the driveway. The Delaware County Engineers office does have a specification for a gravel drive for residential use; Powell doesn't. Chairman Temby said the request is strictly for the rear yard setback reduction to 30 feet and nothing else. Mr. Betz said in his opinion, in Powell's district, it is a residential driveway and dust control will need to be provided on an as needed basis.

Chairman Temby opened this item to public comment.

Jon Sudler, 87 Glenlivet Place, said he is house #3 on Ms. Stillman's presentation. His main concern is he gets a lot of water on the back of his lot. Anytime there is a heavy rain they slush around in the water. He is concerned a 30 foot setback will cause even more water to build up on his lot and cause ponding, ruining his yard. The issue needs to be addressed. Mr. Sudler questioned whether Ms. Stillman has an unnecessary hardship. He said he doesn't understand why the house has to face to the east. Why can't the house face to the north? If the house is spun around, would a 50 or 80 foot setback be enough. This is Ms. Stillman's preferred method of construction not necessarily an unnecessary hardship. Mr. Hiles asked what the fall is with the existing elevation. Mr. Moorehead said the exiting slope is about 6% from the high point to the rear lot. The water does flow this way. If there is a drainage concern, the City Engineering Department would gladly look at the area. In the proposed site plan, we would seek to direct drainage away from any drainage concern areas. Mr. Hiles asked if the 5.8% slope is from the finished elevation of 900. Mr. Moorehead said this is to illustrate the existing grades around the house pad location. The other drawing shows a 12 – 10% existing grade. The drawings are showing the grades themselves become steeper as it moves north. Mr. Wiencek said when a larger development is approved, the development is not allowed to increase the amount of water flow onto the adjacent properties. Restrictions are typically put in so the amount at any given time is slowed down. How is this dealt with when reviewing an individual property? Mr. Betz said the City would review a grading plan when the house comes in for construction. There would be a way to direct drainage away from problem areas or adjacent properties. The lot is wooded enough that the water coming off should dissipate fine. The applicant's engineer who designs the house would work through these types of issues. Mr. Wiencek asked if the City will deal with any potential for overflow onto neighboring properties through the normal approval process. Mr. Betz said yes. Mr. Moorehead said correct, every residential lot has a grading plan component which indicates where drainage is being directed. The Engineering Department does review these plans, which would be prepared by the applicant's engineer. Mr. Sudler said at the 30 foot setback there is a group of very large, mature trees. These trees will absorb a lot of water. If these trees are cut down and the corner of the house is put here, he will definitely have a lot of water run onto his property. There seems to be a lot of area at the 50 foot setback where a house could be put and not disturb the 30 foot point. He thinks there are other options available or a compromise which can be found.

Dean Appleman, 90 Glenlivet Place, said he is house #2 on Ms. Stillman's presentation. He is concerned that this request is for such a huge variance; a 50 foot variance. Historically, has the Board granted variances this large? Chairman Temby said yes. Mr. Appleman asked if it is common to grant such a large variance. Chairman Temby said it happens as required. Mr. Appleman said granting this large variance is contrary to public interest, to have someone in his back yard. Chairman Temby asked Mr. Appleman if he realized, in his particular instance, this request benefits him. Mr. Appleman said 85 feet. This is a 50 foot difference. Why can't Ms. Stillman move the garage to the other side of the house like it was suggested at the last meeting? Does Ms. Stillman have a house plan?

Rod Flannery, 52 Bartholomew Blvd., said he wasn't sworn in last time. He didn't receive notification of the last hearing. Chairman Temby swore Mr. Flannery in. Mr. Flannery asked if the request was for one house or is it for two. Chairman Temby said at the current time the Board is addressing a variance request reduction; 80 feet to 30 feet. Mr. Flannery asked if there is a possibility of a second house being built on the property. Chairman Temby said at this moment the Board is only considering a request for

a setback reduction from 80 feet to 30 feet. Future plans and predictions aren't a part of this request. Mr. Flannery said he has an issue, for his neighbors, with the enjoyable use for their own property. When he bought his house he knew how close his neighbors would be. When the 2 houses to the north of him, at 28 and 40 Bartholomew Blvd. bought their houses, there was open field in the back. When the applicant bought her property, she knew there were constraints to the property. Everyone keeps talking about the existing bridge. The bridge didn't exist until a few months ago. The bridge could have been re-directed. Just by looking at the site plan, he can tell the house can be shifted around or re-oriented so the back of the house faces south and the front faces north, bring the garage around to the left side of the house and there would still be the necessary run and grading. Everything could be accomplished which is required as the property currently exists, without a variance. As long as only one house would be built on this property, it would be pretty easy to re-position the house. His other concern is, if a second house is built, another variance would be requested, which would move the setback on the south closer to properties. As a neighbor who does have site view of the property he thinks it is unfair to the existing property owners to suddenly have a house which is closer than what the current residential rating allows for. Mr. Flannery said he also has concerns about the runoff of water. There is already a wet corner with the existing grading. He said he also has concerns with a gravel driveway. It is going to be hard to make sure the water runoff is controlled if they are going to use the driveway as a means of directing water when the driveway is gravel. It will be real difficult with gravel. He has had a gravel driveway and he knows how they wash. Gravel driveways can be a challenge over time with runoff, especially with the runoff they get into Bartholomew Run. There are going to be challenges with erosion unless retaining walls are a part of the site plan. Reducing the current 80 foot setback to 30 feet will impact the enjoyable use of his neighbors' property. This isn't fair to them. One of the families has lived in their home for over 20 years. Regardless of what the previous owner of this property was dreaming up, his neighbors' enjoyable use of their property is at stake.

Lee Ann Conti, 94 Glenlivet Place, said her property line is not along Ms. Stillman's property line. They are within site view. She is concerned about the water issue also. They get a lot of water in their back yard along the fence. The Applemans do too. The trees have provided a natural buffer for both sight and sound to Powell Road. There has been a noticeable difference in the noise level already with the trees already cut down. She is all for cutting down the least amount of trees as possible.

Mr. Wiencek asked if there is still a rule which says an equivalent amount of tree inches has to be planted for every tree 6" or greater which is removed. Mr. Betz said this is true and Ms. Stillman has been working on a plan for replanting trees. Mr. Wiencek advised the residents present the City does require that for every tree 6" or greater in diameter taken down, the same inch diameter has to be replanted elsewhere. There is ample opportunity to replace trees. Mr. Betz said this would not cover dead ash trees which were removed.

Mr. Flannery returned to the podium and asked if there are good records of the trees which have already been removed from the site. Mr. Betz said there are some records. There are still a lot of stumps to count. The majority of the trees which were taken out were dead ash trees. Ms. Stillman will have records.

Nicolette Hyland, 40 Bartholomew Blvd., said she has pictures of the trees before Ms. Stillman started cutting down trees. The pictures show the trees have green leaves. Most of the trees cut down appear to be in the 80 to 50 foot setback area. Now Ms. Stillman will need to cut down all of the trees from this point to the 30 foot point. Mrs. Hyland said she was under the impression Ms. Stillman needed to submit landscaping and house plans before cutting down trees. Mrs. Hyland said she has concerns about the water. Her house is #4 on Ms. Stillman's presentation. She is concerned of even more water running onto her property since Ms. Stillman's house will be higher up than theirs. They currently get a little pond and there is no house. There is a steady stream which develops in between her property and her neighbor's. Mrs. Hyland asked if the Engineering Department will come out and check things while the house is being built or does the Engineering Department just go off of what is already on file. Mr. Moorehead said they do both. They will review the file which is submitted to ensure proper drainage and once construction is under way they will go and check the survey of the grading during construction to make sure it matches what was submitted for the file. Mrs. Hyland asked how long ago the files were submitted. Mr. Moorehead asked if Mrs. Hyland was discussing the subject property. Mrs. Hyland said in general. Are the files 30 years old or are they current? Over time natural erosion occurs. Mr. Moorehead said for properties within the Bartholomew sub-division the City has lot files for individual lots and for the sub-division showing drainage patterns. Without checking, he doesn't know what exactly the City has on file but the policy now is to review both the sub-division plan, the lot plan itself

and then require surveys of the constructed situation of the lot and sub-division plan. Mrs. Hyland asked if this happens before building starts. Mr. Moorehead said after the building is constructed. Mrs. Hyland said potentially, runoff could become a problem after the house is built. Problems could be foreseen if checked ahead of time. Mr. Moorehead said the City checks after the building is constructed to see if a situation occurs. The final inspection occurs when sod is down and the home has been finished. The City checks to see if everything matches the City's files. Mrs. Hyland said if Ms. Stillman is so concerned about limiting the amount of trees which are cut down, why were so many trees cut down in areas to the north and not in the area Ms. Stillman wants to build her house. In regards to the process for an application and the standards for variances, Mrs. Hyland said she read in order to be considered for a variance, there are certain things Ms. Stillman needed to submit, including the proposed use of all parts of the lots and structures including access ways, walks, off street parking, loading spaces and landscaping; not to mention the actual building. Mrs. Hyland said she doesn't know if all of these things have been submitted. Mr. Hiles said the items aren't submitted to the Board. Items are submitted when a person applies for an application for the variance. Mrs. Hyland asked if that isn't what we are doing right now. Mr. Hiles said an applicant answers certain questions when an application is filled out. Mrs. Hyland asked if Ms. Stillman has provided everything she was supposed to. Chairman Temby asked Mr. Betz if Ms. Stillman's application has met all of the requirements. Mrs. Hyland said if Ms. Stillman hasn't provided everything, why are we even here. Mr. Wiencek asked if he was standing on Ms. Stillman's property looking at the back yards, is Mrs. Hyland's property the second one on the left? Mrs. Hyland said yes. Mrs. Hyland said the rules also mention whether the variance is substantial or not. She feels going from 80 feet to 30 feet is substantial. It is a 60% decrease. Setbacks are in place so neighbors don't build on top of each other. Over 50% is substantial. Mrs. Hyland said anything over 25% is substantial. Ms. Stillman's presentation showed she spoke with an appraiser. They recently had their house re-appraised and we specifically asked whether our property value would be affected by Ms. Stillman's house and they were told it would decrease their property value. Ms. Stillman's presentation shows that the person she spoke to was from Michigan so there may be differences in opinions. The applications and standards rules mentions knowledge of the zoning restrictions. Ms. Stillman did have knowledge of the restrictions prior to buying the property. Ms. Stillman went around to all of the people's houses and we all warned her of the problems previous owners ran into. She probably was able to pay a reduced price for the property because of the problems. Ms. Stillman knew of the problems going into buying this land. Now Ms. Stillman is trying to build on the highest portion of the property. There are other areas where she could build and not ask for reduced setbacks.

Chairman Temby asked Mr. Betz if he was satisfied all appropriate information was provided. Mr. Betz said yes. The only item not submitted is the landscaping plan. At this point in time, if the Board would like to see a landscaping plan we can have it submitted.

Mrs. Hyland asked if the 30 foot setback is approved, can Ms. Stillman's patio, deck or a swing set encroach even closer to their property. Mr. Betz said there are other requirements for accessory uses. A shed or recreational structure can be within the rear or side yard setback. According to Code, recreational structures can be up to 5 feet from the property line. Chairman Temby said Ms. Stillman could put up a shed within 5 feet of the property line regardless of whether the setback variance is approved or not. Mr. Betz said exactly. Planned residence districts usually have sub-division regulations within it which are deed restrictions which need to be followed. This property has none to follow.

Monica Reineki, 28 Bartholomew Blvd., said the last time the City actually looked at the grade of this property and Bartholomew Run was probably in the past. Everyone knows of the erosion process which has occurred over time; a huge amount of erosion which has taken place. She asked why this can't be looked at and the problem assessed prior to the home being constructed so they don't have to deal with flooded basements. There is a river between the Hyland's home and her home when there is a hard rain. The water takes all of their mulch out and moves the mulch down to the road. Mrs. Reineki said they wade through the water behind her home. If Ms. Stillman's house is built and they have to go to the City and complain about the problems after the fact, the problems will already occur. Why can't the problems be assessed and averted now? The City should take the time, heed the tax payers concerns, go out now and see what actually happens on this property during a rain, prior to allowing a higher grade to go in. Mr. Moorehead said the City does this. Mrs. Reineki said she has never seen the City out at her home during a heavy rain. Mr. Moorehead asked Mrs. Reineki if she lived immediately adjacent to Bartholomew Run. Mrs. Reineki said yes. Mr. Moorehead said he personally stood atop the culvert last summer during the heaviest rain fall to see what Bartholomew Run was doing. At the time he wasn't aware there was a drainage issue between the lots. He asked the home owners to file a request, either via the City's website or with a phone call to the City's Public

Service or Engineering Department. The City does provide a service to look at these types of issues. Once the City is made aware and has knowledge of the situation, they can look at applications as they are submitted and determine whether the proposal would have a negative impact.

Mr. Flannery returned to the podium and said based on this application, we are only considering a single-family house, the variance is needed based on the orientation of the house. If the house is orientated differently, a variance would be a moot point. Why is a variance being considered when this is site preference or position preference rather than the necessity of the property itself?

Mr. Sudler returned to the podium to say he doesn't think the applicant has met the criteria of the application. A crude drawing of a box has been provided. No dimensions have been provided. How many square feet is the house going to be? If a 30 foot setback is approved, Ms. Stillman could build an 8,000 square foot house. We don't know enough details to make a decision. When you buy 2 acres for \$70,000 and don't know why the property is so cheap, you should question why it is so cheap.

Mrs. Reineki returned to the podium to ask how Ms. Stillman's request can meet the required criteria as Mr. Betz said when an actual house plan wasn't provided. There is no substantial evidence of what is going to happen on the property. A house plan is a big priority in order to determine a variance.

Mr. Appleman returned to the podium to ask if the 30 foot variance just included the main house. Can Ms. Stillman build a deck and the deck be closer to the property line? Chairman Temby said a deck can be built within 5 feet of the property line whether a variance is approved or not. Mr. Appleman said there are a lot of residents who came who will be adversely affected by this request. He also has a water problem.

Todd Faris, Faris Planning and Design, said he was present on behalf of Carol Stillman. He is a land planner and a landscape architect. He has walked Ms. Stillman's property several times. Everyone keeps mentioning water and drainage issues. These issues are there whether Ms. Stillman builds a house or not. When the sub-division was built, the detention requirements weren't the same as they are today. Detention requirements today say drainage can't be any worse when Ms. Stillman is done building her house. The house is a very small footprint. He would anticipate roof drains which will take water forward. The variance is for a 30 foot setback. The closer the house gets to the hillside, the hillside has the ability to fail. Once the hillside fails, the house fails and the creek fails. Big walls such as the wall at Route 315 need to be put in when you increase big slopes or remove vegetation. Google Earth let him go back to 1998 on this property. The trees on the hillside are consistent. They have been there and doing their job. Nature has a great way of doing what it is supposed to do. The area Ms. Stillman did clear was primarily ash trees. The house is positioned facing Olentangy Street. The garage was purposely placed on the northeast corner of the house to keep the garage as far away from the neighbors as possible. The front door will face Olentangy Street. It makes sense to build the house on the highest point of the site. The further the house is moved down, the more grading will be needed. The variance is being requested because of Bartholomew Run and trying to keep the house as far away as possible. Houses #2, #3, #4 and #5 on Ms. Stillman's presentation, in particular house #2, #3 and #4, won't be directly looking at Ms. Stillman's house. The houses look to the east or west. House #5 is the most impacted. Ms. Stillman's request shows house #5 being the least impacted if approved. Ms. Stillman is asking to have an equivalent setback, not less, as her neighbors. All other houses built around Ms. Stillman's property have smaller setbacks.

Mr. Wiencek asked Mr. Faris if there are any negative effects of re-orienting Ms. Stillman's house to face another direction. Mr. Faris said if Ms. Stillman turned her house to face east the garage will be closer to the neighbors and she will have a longer run on the driveway, which would help the driveway grade. The issue isn't how the house is rotated. The issue is how close the house gets to the edge. Rotating the house doesn't move the house any further from the slope.

Ms. Stillman said she has replanted 115 trees and they don't count towards the number of trees she needs to replace. She planted these trees because she likes trees. A tree, which was stolen from her property, was one of the larger, nicer trees. If everyone is interested in maintaining trees, let's try and make sure no other trees are removed from her property.

Mr. Hiles said there has been a lot of talk about not having a house plan. He asked Ms. Stillman where she was on having a house plan. Ms. Stillman said she has had an architect work on a house plan. She is having a hard time finalizing the plans or a grading plan without knowing where a house can be

placed. The house plan is as far along as possible without knowing the exact location of the house. The footprint is as good as we can get at this point. Powell has a minimum house requirement of 1,500 square feet. Her house footprint isn't as small as you can get but it is pretty close. A smaller house would impact surrounding home's values. The neighbors won't get much better in terms of their view or tree removal. She has put a lot of thought into the house and very purposefully selected the house plan she did to maximize the south-facing roof for solar, to minimize the overall footprint and to maximize the value of the home and keep everything good for the character of the neighborhood.

Mr. Wiencek asked if decks fall under auxiliary structures. Mr. Betz said a deck is an accessory structure. Mr. Wiencek asked Ms. Stillman if she was willing to have the same restrictions which apply to Bartholomew Run applied to her property. Ms. Stillman said she is not familiar with what those restrictions would be. There are a lot of structures already very close to her property. Mrs. Reineki said Bartholomew Run doesn't allow sheds. Mr. Wiencek asked Mr. Betz what the City Ordinance is for play structures. Mr. Betz said recreational structures are allowed within 5 feet of the property line. Mr. Wiencek asked if the Ordinance would apply to Ms. Stillman's property. Mr. Betz said yes. Ms. Stillman asked if the recreational structures within 5 feet of her property are going to be removed. Mr. Wiencek asked what rule would apply to decks. Mr. Betz said if the deck is attached to the house the main setback for the main structure prevails. If the deck is not attached, it is an accessory structure and the setback is less. If it is a patio, there is no setback requirement for a patio, unless the patio is a recreational structure. Mr. Wiencek asked if Bartholomew Run's restrictions are more restrictive than the City's, other than not allowing sheds. Mr. Betz said he believes decks can go in the rear yard a little bit but he can't remember. Chairman Temby asked Mr. Wiencek if he was aware Ms. Stillman's property isn't in Bartholomew Run. Mr. Wiencek said he was. Ms. Stillman said unless she gets all of the benefits of full re-zoning, to have all of Bartholomew Run's property benefits, she would prefer to not do away with any of her abilities to have sheds.

Mr. Hiles said there has been a question about another house being built on the property. He asked Mr. Betz if there is the potential for another house to be built if this variance is approved. Mr. Betz said there would have to be a lot split, a common access driveway approved and a re-zoning depending on that type of proposal. There would be a totally new and different review process necessary. Ms. Stillman said if she isn't allowed to have sheds, she would like to be fully re-zoned so she can have a second house.

Mr. Betz advised the Board that since there are only three (3) Board members present, all three (3) must cast a positive vote for the request to be approved.

Mr. Wiencek asked if the Board is allowed to add conditions to the approval. Mr. Betz said yes, the Board can approve the request with conditions and safe guards as the Board feels are necessary to promote the public health, safety and welfare; based on the request the applicant has applied for.

MOTION: The Board of Zoning Appeals agrees there is substantial, practical difficulty in building a home on the property in a manner consistent with proper engineering and building procedures while also preserving the natural features of the property; therefore Board Member Dan Wiencek moved to approve the Application for Variance for the property located at 233 E. Olentangy Street as represented by Carol Stillman, to allow the required rear yard setback to be changed from 80 feet to 30 feet, to accommodate the construction of a single-family home, subject to the following conditions:

1. That the applicant shall work with City Staff to maximize the impact or buffering of the replacement trees and landscaping to benefit the adjacent neighbors; and
2. That any auxiliary or accessory structures shall not be located any closer than ten (10) feet off the property line.

Chairman Temby seconded the motion.

VOTE: Y 3 N 0

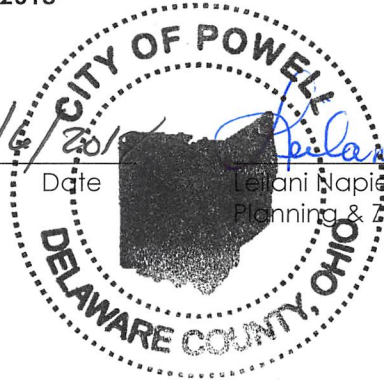
ADJOURNMENT

MOTION: Chairman Temby moved to adjourn the meeting at 8:38 p.m. By unanimous consent of the Board members the meeting was adjourned.

DATE MINUTES APPROVED: June 14, 2018


Ryan Temby
Chairman

14/6/2018
Date




Terani Napier
Planning & Zoning Clerk

6/14/18
Date