



STAFF REPORT

BOARD OF ZONING APPEALS

Village Green Municipal Building, Council Chambers
47 Hall Street
Monday, May 23, 2016
7:00 P.M.

STAFF REPORT UPDATE FOR MAY 23, 2016 MEETING

The applicant has submitted additional information for the Board's consideration. This PowerPoint will be presented at the meeting. She has now amended the application to the following:

- To reduce the rear yard setback from 80 feet to 30 feet.
- No other variance will be required.

The submittal shows three different rear yard setbacks and home placement and the effects it has on the location of the home to each adjoining home, the number of trees required for removal at each location, and tries to explain the effects of the home placement and the amount of cut and fill required for both the home and driveway. In effect, there are more trees preserved and less slope disturbance with the home placed at 30 feet rear yard rather than at 80, or 50 feet.

This is a classic example of a property having a practical difficulty in building it preserving the natural terrain and trees (i.e. – building it correctly) rather than strictly by the setback requirements.

The Engineering Department has reviewed the proposal and finds that there are serious repercussions with cut and fill if the house is to placed at the required setback, and also recommends approval of the proposed reduced setback.

Staff recommends approval of the Variance application as we find that 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 that are existing on the property.

APPLICATION FOR VARIANCE

Applicant: Carol Stillman
Location: 233 E. Olentangy Street
Zoning: (R) Residential District
Request: Approval of a Variance to the required side yard setback, from 25 feet to 20 feet, and to the required rear yard setback, from 80 feet to 30 feet, to accommodate the construction of a single-family home.

The applicant has taken a very environmentally sensitive treatment for the ability to build a single family home on the property so far. She has provided the proper data, site planning and bridge design that was approved by Staff as part of her Floodplain Development Permit. So far, the applicant has shown positive efforts toward coming up with a plan and doing a lot of the work by hand by herself, family, friends, and a competent contractor, to minimize the physical impact of developing this property for her single family home. This Variance application has been submitted to further those goals.

The property is located just east and north of Bartholomew Run subdivision having access off of East Olentangy Street east of Bartholomew Boulevard. The access drive location and bridge location

were specifically located for the bridge location to happen at the best location for the stream and slope of the driveway. As shown on the submitted site plan, the topography and wooded nature of this site makes it difficult to achieve a driveway slope of 8% or less. The applicant argues that the required setbacks in the R, Residence District for which this property is zoned, does not allow the placement of the house on the flattest portion of the property and at a location where meeting the driveway slope requirement could cause greater damage to the hillside than that which is proposed. Staff agrees with the applicant.

Variance applications to the Board of Zoning Appeals are taken so that when there is a hardship or other practical difficulty that a property owner has to develop their property as allowed by the underlying zoning, the applicant can seek relief to those requirements where the best interests of the City and the adjoining residents are not adversely impacted. Please refer to Sections 1127.05 through 1127.13 for the process and requirements for consideration of variance applications. When considering a Variance application, the Board of Zoning Appeals shall consider the following when taking action:

1127.06 APPLICATION AND STANDARDS FOR VARIANCES.

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property;

Certainly, there can be beneficial use of the property without the approval of the proposed variances. However, by approving the variances, the development of the property in the manner for which it is zoned can be completed in a more sustainable and environmentally sensitive manner.

- (2) Whether the variance is substantial;

The variance that is requested is not substantial. The requested setbacks provide for the same setbacks as required with the subdivision located on both sides.

- (3) Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance;

The character of the neighborhood is a single family neighborhood bordering on a farm lot that has approval for single-family homes. The proposal here will allow for a single family home. There should be no adverse impacts to any of the neighbors due to this variance approval.

- (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

The applicant has reviewed the bridge project that was permitted with all governmental agencies prior to its approval. The setback variance requested will allow a home to be constructed in a manner that is more environmentally sustainable, and should not adversely affect provision of governmental services to anyone.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

The property owner did purchase the property knowing the zoning restrictions, however she also knew that a Variance to the requirements are possible under the guidance of these provisions.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and

There are other methods and design locations where the driveway can be located, however those locations either create a higher driveway slope needing a variance or much greater tree removal, grading, and land disturbance to construct the home and driveway. Therefore, the applicant's intent with this variance is to overcome this practical difficulty with a unique placement of the home.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

There are several provisions within our zoning code that call for best practices in environmental stewardship to be followed. This applicant has shown her willingness to greatly go beyond those requirements. The granting of this variance application provides substantial justice to the owner to build a home at a location which better protects her land with no detriment to the neighborhood.

In overcoming the practical difficulties of meeting driveway slope requirements along with good environmental stewardship, the applicant should be commended for her proposal and Staff does recommend approval as we believe that all of the above requirements are met with this application.