

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
BOARD OF ZONING APPEALS/PLANNING COMMISSION
HELD AT THE AMBERLEY VILLAGE MUNICIPAL BUILDING
MONDAY, FEBRUARY 1, 2016

Chairperson Richard Bardach called to order a regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission held at the Amberley Village Municipal Building on Monday, February 1, 2016 at 7:00 P.M.

Roll was called: PRESENT: Richard Bardach, Chairperson
 Rick Lauer
 Susan Rissover
 Scott Wolf

 ALSO PRESENT: Kevin Frank, Esq., Solicitor
 Wes Brown, Zoning & Project Administrator
 Nicole Browder, Clerk

Mr. Bardach welcomed everyone to the meeting and led them through the pledge of allegiance.

Mr. Bardach asked if there were any additions or corrections to the minutes of the January 4, 2016 meeting minutes. There being none, Mr. Wolf moved to approve the minutes, seconded by Ms. Rissover and the motion carried unanimously.

Case 1095

Ms. Rissover informed the Board that she was recusing herself from the application for the variance request from Denise Wagner and Mr. Pfliegl.

Mr. Bardach explained to the applicant that with the recusal of one board member and another board seat vacant, the applicant has the option to defer deliberations on the application until the fourth member of the board's seat has been filled so there are four members reviewing the application. The applicant chose to proceed with the review and requested that the board clearly state its reasoning should it deny the application.

Mr. Bardach introduced the case to the board. Resident Denise Wagner of 3050 Galbraith Road and property owner of the empty lot at the intersection of Galbraith Road and Springvalley Drive (parcel 526-0120-0269-00, 3340 Galbraith Road/8200 Springvalley Drive) is requesting a variance to code section 154.28 to allow for a 58' encroachment into the required front yard on the Springvalley frontage as it pertains to the proposed lot sale and construction of a home.

Mr. Brown provided the staff report. He stated the property has two front yards under Village Code Section 154.28 and requires a minimum of 50 feet for the front yard depth from the right of way line for both Galbraith and Springvalley Drive.

Mr. Brown stated the property is for sale and Thomas Pfliegl has proposed to purchase the Galbraith and Springvalley lot and build a south facing ranch style house. Mr. Pfliegl stated in his letter moving the eastern end of the residence is restricted due to the topography of the eastern property line making storm water drainage more difficult and the neighbor's trees will reduce access to the sun light. Therefore, Mr. Pfliegl believes a variance is needed to allow the house to be located closer to the west property line.

Mr. Brown commented that the staff reviewed and researched other areas in the Village to see if there were houses with similar setbacks. The research found that there are very few houses with setbacks less than 40' and the majority of those had topography issues preventing the house from meeting code. The houses without topography issues were built prior to the existing Village code requirements.

Mr. Brown stated that the Springvalley setback for this property would be the average of the minimum 50' (in Residence A) and approximately 130' of the house to the north. The average is approximately 90' from the right of way for Springvalley Drive.

Mr. Brown also commented that if the house to the north was not built in the past year that the application would be proceeding with a 50 foot setback requirement and a variance for 18 feet.

Mr. Bardach invited the applicant to approach the Board.

Mr. Pfleigel informed the Board that the house plans have been determined base on solar design which has organized the home orientation on the property so the façade is situated to receive the rays of the sun and allow the main rooms sun exposure. He explained the size of the rooms, the flooring material and length of the home have been designed based upon the solar concept.

Mr. Pfleigel also explained the water on the property has to be directed away from the home with a swale which is another reason the home is situated to the west. He noted the home lengths in the area are similar and stated he felt the proposed length would fit well on the property.

Mr. Bardach asked if the Board had any questions for the applicant.

Mr. Lauer commented on the property measurements and stated that if the code were enforced as written the lot would have a total buildable area of only 50-55 feet which would require any proposed house to be turned to the east or west. He also confirmed with the applicant the placement of the swale on the property for water management. Mr. Lauer asked if the power poles shown will be a part of the plan and the applicant expressed that it is being explored and to see if the poles could be moved.

Mr. Bardach invited residents in the audience to speak.

Charles Arkin, resident of 3360 East Galbraith Road, commented that his home is directly east of the proposed construction. He stated he did not feel the solar installation was relevant to the building code and the variance request was significant. He expressed that he was opposed to the idea and that it would negatively impact the aesthetics of the neighborhood.

Steve Chromik, 8280 Springvalley Drive, commented that he agreed with Mr. Arkin. Mr. Chromik state the variances are significant and his home is the second home due north of the proposed construction site. He noted his view from his home is a lot and the placement of the proposed home would stick further out on Springvalley.

Mr. Wolf asked Mr. Chromik if he thought the proposed construction would change the neighborhood. Mr. Chromik stated that he felt it would change the street as no other homes are orientated that way.

Kim Lenzo, 8230 Ridge Road, seller's realtor with Coldwell Banker West Shell, commented that the lot had been on the market for some time and other offers have been received from buyers requesting the house face west. She noted there is not enough room for the setbacks on the

property to build a desirable home. She stated that the seller would like to sell this lot and believes the proposed home would enhance the property for the Village.

Michael Gron, husband of Denise Wagner, commented that he has a degree in architecture and the proposed green building and passive solar strategies will be desired in the future. He stated that if the applicant is unable to get the variance it will make it difficult for anyone to live on this property. He also commented that the proposed solar design preserves trees.

Mr. Lauer asked how long the property had been on the market and the realtor stated 18 months.

Joy Nadler, 8275 Springvalley Drive, commented that the property itself has been a meadow for 58 years and is probably going to have a water issue due to a pond that was on the lot to the north years ago. She voiced her concern for sewer and water management in the area.

Mr. Lauer clarified that the Board's authority resides with zoning and whether the variance would be appropriate or not.

Ms. Wagner commented that the pond was removed and her property has dried up. Mr. Gron commented that a previous realtor was misinforming potential buyers that there was a spring under the property which is not true.

Mr. Bardach asked if any other residents wished to speak. There being none, the Board began its deliberation.

Mr. Lauer clarified that if this were not a corner lot the setback from the west would be 20 feet and Mr. Brown agreed. Mr. Lauer commented that the setbacks would be larger if it were not a corner lot. Mr. Brown stated that the 32 feet is a measurement from the right of way, not the street. After general discussion on the setback measurements, Mr. Lauer stated that he concluded the proposed home would be permitted if this were not a corner lot.

Mr. Bardach stated that the Board would next review the factors for consideration of a variance.

Mr. Lauer reviewed the factors the Board considers to determine whether a property owner seeking an area variance has encountered practical difficulties in the use of his property including, but not limited to:

- whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- whether the variance is substantial; whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- whether the variance would adversely affect the delivery of governmental services, that is water, sewer, garbage; whether the property owner purchased the property with knowledge of the zoning restriction;
- whether the property owner's predicament feasibly can be obviated through some method other than a variance; or whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Lauer summarized that this property has been on the market for 18 months and to close the sale is contingent upon orientation approval; neighbors believe aesthetically they will be negatively impacted if allowed; there is no reason to believe that it would impact services; a

home probably could be built some way if within code however it would face Springvalley and be a very narrow building pad, closer to residents to the east which would be detrimental to that resident and get into the drainage swale area; and that the approach through existing code would not allow for a passive solar house.

There was general discussion held regarding a home situated 35 feet from the right of way on Arborcrest.

Mr. Lauer commented that in his opinion the variance should be granted and he moved to approve as submitted. He stated that the objections would be made for any construction and are about green space preservation. He stated the zoning code does not require a property owner to keep it vacant for the benefit of the neighbors. He stated building a house would increase value of the surrounding properties. He noted that despite of the objections he was in favor of allowing people to make reasonable use of their property. He stated that if this were not a corner lot the proposal would be well within code.

Mr. Wolf seconded the motion to approve. He stated that he believed any new home built will make an impact to a degree, however, the proposal is not unreasonable when considering the hardship of the swale. He noted he did not see a negative monetary value of surrounding homes. He stated that a home that close to the street is different except when you get to Arborcrest.

Mr. Bardach commented that he was initially opposed to the orientation and after hearing the facts believes the proposal is reasonable. Mr. Bardach stated that the motion to approve has been moved and seconded, a voice vote was taken and the motion carried unanimously.

Municipal Representative to the Hamilton County Regional Planning Commission

The Board chose not to vote and Mr. Lauer moved to table the consideration of the ballot for representative to the Regional Planning Commission. Seconded by Mr. Wolf and the motion carried unanimously.

New Business

There being no further business the meeting was adjourned.

Nicole Browder, Clerk

Richard Bardach, Chairperson