



MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, JULY 20, 2017 6:30 PM

**PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068**

A. CALL TO ORDER

PRESENT: Linder, Donovan, Darling, Armstead
ABSENT: Rettke

2. APPROVAL OF MINUTES

Minutes stand approved.

3. APPROVAL OF AGENDA

Mr. Snowden: No changes, but I wanted to let you know that I did receive a formal withdrawal application from the Rosehill Road item that was on our last meeting. Since the applicant withdrew, the board doesn't need to take any other action. The applicant didn't provide any information about why they withdrew their application.

Agenda stands approved.

4. SWEARING IN OF SPEAKERS

Speakers for the evening sworn in by ?

B. PUBLIC COMMENT

None.

C. UNFINISHED BUSINESS

D. NEW BUSINESS

1. 1835 : App. #178756, 7972 Fenway Circle, Davis - Approved Variance

Mr. Snowden:

7972 Fenway Circle - Davis Residence - Variance

Application: #178756 - Variance

Location: Property is located on the northwest corner of Harvestmoon Drive and Fenway Circle.

Existing Zoning: R-3 Single Family Residence District

Request: The applicant is requesting the Board review and approve a variance from Section 1171.06(c) of the Zoning Code.

Current Use: Single-family Dwelling

Applicant: Franklin Davis

The applicant is requesting the Board review and approve a variance from the rear fencing requirements of Section 1171.06(c) of the Zoning Code, to allow a rear fence in front of a front façade, with a setback of 25FT from a front lot line on a corner lot.

The site is an existing single family dwelling in the R-3 Single Family Residence District. All neighboring properties are single family dwellings on platted lots in the same zoning district.

Staff has reviewed the standards for granting a variance and provides following observations:

Item B - Items B of Section 1147.05 does not apply to this application, because this application for a variance concerns a fence, which is an accessory structure, not a primary use.

Item C - Staff fails to see what special circumstance apply to this lot and not to other lots in the same zoning district that would warrant a relaxation of the regulations. Given that a single family dwelling already exists, and other options for rear fencing exist, the property owner is not deprived of beneficial use of the land.

Item D - Staff agrees that the applicant would suffer some hardship by the removal of the tree, but based on aerial measurements, the tree is 35FT from the front lot line. This would mean that a 6FT rear fence, which would have to be even with the 39FT setback of home, or a 4FT fence, which could have a 30FT setback, could be constructed around the tree.

Item E - Given the current dwelling, the variance is not required for reasonable use of the property as a residential property.

Item F - Staff's view is that granting the variance would not violate this item.

Item G - Staff's position is that the Board would, in granting this variance, confer a special privilege on the property owner that is prohibited in all residential zoning districts: the right to construct a 6FT privacy fence within a front yard.

Item H - Staff's position is that the applicant's main justification and assumption about the fence regulation is caused by the non-conforming fence on the lot to the west. Variances are approved for a lot based specifically on the conditions of that lot. Prior approval by a previous Board of a variance for the lot to the west in 2006 is not justification for a variance on a neighboring lot. Staff disagrees that fences with variable setbacks are categorically unsightly, which is a condition that can occur in any zoning district when buildings have different setbacks.

Item J - Staff's position is that the variance is a matter of convenience for the applicant. Nothing would have prevented the applicant from constructing a 6FT privacy fence that complies with the regulations. The applicant could also construct a 4FT fence with a 30FT setback from the front lot line.

The Board should apply the standards for review of variances contained in Section 1147.05 of the Zoning Code and determine if the requested variance complies with those standards.

Ms. Darling: You said there was a fence already constructed on the property?

Mr. Snowden: This case was referred to me from our code compliance division. The variances required in order for me to subsequently issue a permit for the fence. The variance is not approved, I'm going to have to issue orders to remove the fence or approve a permit for Mr. Davis that would comply with the code.

Mr. Armstead: And the biggest thing is this tree?

Mr. Snowden: It's the tree and also the location of the non-conforming fence on this lot behind Mr. Davis. I would recommend at this time, since Mr. Davis is here, to let him explain how he got to this point.

Ms. Darling: Is that a corner lot as well right there?

Mr. Snowden: Both are corner lots. The lot immediately to the west of Mr. Davis had a variance approved in 2006.

Ms. Darling: So they did get approved to put their fence up like that?

Mr. Snowden: Correct.

Mr. Donovan: That's the side that's considered a front yard?

Mr. Snowden: Both are considered a front. These fence regulations were slightly different in 2006, but not significantly. It was approved.

Ms. Darling: Is the fence already constructed?

Mr. Franklin Davis: 7972 Fenway Circle, Reynoldsburg, Ohio. The fence is already constructed. That was an oversight.

Ms. Darling: How long has your fence been up so far?

Mr. Franklin Davis: About a month.

Ms. Darling: What did you have the fence up for?

Mr. Franklin Davis: I have little ones and a dog and I want them to be able to run around in the back yard without necessarily having Dad with them all the time.

Mr. Donovan: What does the tree have to do with the fence?

Mr. Franklin Davis: The tree is very close to that corner of the house where I would have to build a conforming fence from. If the tree is not directly in the fence line then the tree would be within a couple of feet of the fence.

Ms. Darling: Are you directly up against your neighbor's fence?

Mr. Franklin Davis: Correct. What I did, I extended their fence line and I came straight down to the line of the back corner of my house and then I just went about 10 feet and connected to the back corner of my house.

Mr. Donovan: So the fence in the back, going from your back yard, is that your neighbor's fence or is that your fence?

Mr. Franklin Davis: Correct. The picture up there is the existing fence. The neighbors on both sides of me were already fenced and so what I simply did was came down about 60 or 70 feet on that line right there, stopped at the back corner of the house and went about 10 feet in and connected as opposed to coming straight down from the back corner.

Pastor Linder: Can your fence be painted to match?

Mr. Franklin Davis: Indeed, it can be painted to match. I would just ask to allow me to go through the winter just so that the wood would have a chance to warp and weather naturally and then paint in spring. That is my plan.

Pastor Linder: I have a question for staff. When you reviewed what happened when the other property owner got their variance, would you say that almost everything you described in this property is very similar in terms of what they kind of made allowances for?

Mr. Snowden: Yes, it's everything except for two things. One is the history of the time was, you apply for a variance, ok, here's your variance. Secondly, the structure itself had a variance because that is a single story home. Because those lots are set up for typically two story homes, in order to fit everything in on a one story a lot of times they are asking for set back variances.

Pastor Linder: What's the history with special privilege? Do you find that comes up in a way that does create issues for the city or has that been kind of something that just doesn't often appear?

Mr. Snowden: Ultimately it's the boards decision, it's not my decision. I think that this board and boards that I have worked with have taken a much more nuanced approach to variances than some of the history that I can see. I'm not saying that to be negative about people that may still be around, I'm just saying that based on my experience. At the time some of that was done 2006 we did have a planner on staff, but when you go back into the 80' and 90's their was a building official that had some experience but nobody that was a professional land use type of person, so the conditions within the city were different. The answer to your

question is, they granted variance for this person to the west of Mr. Davis. Mr. Davis just assumed that the fence regulations would allow him to do that, not necessarily with any nefarious intent, but essentially that was in 2006. So, here we are 11 years later dealing with something generated by that. It's not specifically Mr. Davis' fault, it's just he made that assumption on that.

Pastor Linder: Do we have any flexibility in limiting the variance to this property owner and not beyond?

Mr. Snowden: When you approve a variance, the variance stays with the property. If we approve this for Mr. Davis and 25 years down the road he sells to a Mr. Smith, Mr. Smith will still have the variance.

Ms. Darling: Is there anything harmful having this fence up the way it is?

Mr. Snowden: No.

Ms. Darling: Addressing Mr. Davis, can I see the letter signed by the other homeowners?

Pastor Linder: Addressing Mr. Davis, when you approached your contractor and said I'm in a situation now because I didn't have the permit for the fence. What was there reaction? Did they have any history doing this in the city?

Mr. Franklin Davis: No they did not. I didn't realize that they needed to be specifically licensed for the City of Reynoldsburg. I had gotten approval from my homeowners association. I thought that I had done everything that I needed to do and didn't think anything else of it.

Mr. Snowden: Just for clarification, we don't license contractors in Reynoldsburg, we register them.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Richard Donovan, Vice Chairman
SECONDER:	D'Juan Armstead, Board Member
AYES:	Linder, Donovan, Darling, Armstead
ABSENT:	Rettke

E. OTHER BUSINESS

F. ADJOURNMENT

Mr. Donovan adjourned the meeting at 6:57 pm.

Chairman



Planning and Zoning Administrator