

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

July 20, 2016

Meeting	Chairman McFarland called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m. which was held at the Tipp City Government Center, 260 S. Garber Drive, Tipp City, Ohio.
Roll Call	Roll call showed the following Board Members present: Michael McFarland, Steve Stefanidis, and Isaac Buehler. Others in attendance: City Planner/Zoning Administrator Matthew Spring and Board Secretary Dawn Gross.
Absence	Mr. McFarland moved to excuse Mr. Hartman from the meeting , seconded by Mr. Buehler and unanimously approved. Motion carried.
Citizens Signing the Registrar	Citizens attending the meeting: Ed and Mary Limbert, Logan Hicks, Rachel Swihart and Nick Stefanidis.
Board Minutes 06-15-2016	Mr. McFarland asked for discussion. There being none, Mr. McFarland moved to approve the June 15, 2016 meeting minutes as written , seconded by Mr. Buehler. Motion carried. Ayes: McFarland, Buehler, and Stefanidis. Nays: None.
Citizens Comments	There were no citizen comments.
Administration of Oath	Mrs. Gross swore in citizens and Mr. Spring.
Chairman's Introduction	Mr. McFarland explained the guidelines and procedures for the meeting and public hearings. He advised the applicant that any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the Court of Common Pleas as provided in ORC Chapters 2505 and 2506.
New Business Case No. 09-16 Steve Hicks	Case No. 09-16: Steve Hicks – 202 N. Sixth Street – Lot: Pt. OL 15 – The applicant seeks a variance of 2.5' to the maximum height of 3.5' for fences located in front yards and corner side yards within residential zoning districts noted in Code § 154.06(A)(4)(i)(vi)(B).
Fence variance	Zoning District: R-2 – Two-Family Residential Zoning District. Zoning Code Section(s): 154.06(A)(4)(i)(vi)(B)
	Mr. Spring provided the following report:

In association with the installation of fencing in the southern frontage of the lot, the applicant seeks a variance of 2.5' to the maximum height of 3.5' for fences located in front yards and corner side yards within residential zoning districts noted in Code § 154.06(A)(4)(i)(vi)(B). The applicant proposes the installation of ± 52 linear feet of 6' tall wood privacy fence within the corner side yard. The proposed fencing would project ± 8' into the front yard and/or corner side yard.

Code § 154.06(A)(4)(i)(vi)(B) states:

The following shall apply to fencing, walls, and hedges in residential zoning districts and the CD District:

B. Fences, walls, and hedges shall not exceed 42 inches (3.5') in the front yard or along any lot line that is adjacent to a street. For double frontage lots, fencing in the rear yard may exceed 42 inches if the fencing is set back a minimum of 50 feet from the right-of-way but in no case shall it exceed six feet in height.

The applicant proposes the installation of ± 52 linear feet of 6' tall wood privacy fence within the corner side yard, therefore a variance of 2.5 feet is required ($6 - 3.5 = 2.5$).

Review Criteria §154.03(K)(4)

(4) Review Criteria

Decisions on variance applications shall be based on consideration of the following criteria:

(a) Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance as further defined below.

(b) The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(i) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

(ii) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(iii) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(iv) Whether the essential character of the neighborhood would be substantially altered or whether adjoining

properties would suffer substantial detriment as a result of the variance;

(v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;

(vi) Whether special conditions or circumstances exist as a result of actions of the owner;

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

(viii) Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or

(ix) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

(c) No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Mr. Stefanidis asked if any neighbors responded. Mrs. Gross replied, no.

Mr. McFarland asked the applicant to step forward and state his name and address for the record.

Logan Hicks, 202 North Sixth Street, Tipp City, Ohio.

Mr. Logan is asking for a variance to go from a 3.5' fence to a 6' fence in his side yard. He brought some pictures to show of other properties throughout downtown that have fences and a picture of what is across the street from his home.

Mr. Stefanidis asked if he had already began work on the fence. Mr. Hicks replied, Yes, the posts only are up as of right now.

Mr. Stefanidis then asked if he had applied for a permit for the fence. Mr. Hicks replied, no, not before he had started, he was not aware that he had to, until a neighbor came out to tell him.

Mr. McFarland asked for any more questions of the applicant.

Mr. Buehler asked "What is the need for the fence?"

Mr. Hicks responded, he would like a taller fence for a more private backyard and to block the view of the trucks and trailers across the street from his home.

Mr. Buehler asked if it was just on the side.

Mr. Logan replied, it will be 8' out from the side of the house and 35' back from the front of the house.

Mr. McFarland asked if anyone wanted to speak on opposition of the variance. There was no comment.

Mr. McFarland stated there has already been a precedent set with other lots that have been granted the same variance.

Mr. Stefanidis **moves to grant a variance of 2.5' to the maximum height of 3.5' for fences located in front yards and corner side yards within residential zoning districts noted in Code §154.06 (A)(4)(i)(vi)(B) for the single-family residential home located at 202 N. Sixth Street** seconded by Mr. Buehler. **Motion carried.** Ayes: Stefanidis, Buehler, and McFarland. Nays: None.

**Case No.10-16
Ed Limbert –
711 Sycamore
Court
Variance request
rear yard
setback**

Case No. 10-16: Ed Limbert – 711 Sycamore Court – Lot: IL 2233 – The applicant seeks a variance of 11.5' to Code Table 154.04-7 to the minimum rear yard setback of 35' for the single-family home located at 711 Sycamore Court.

Zoning District: R-1C – Urban Residential Zoning District
Zoning Code Section(s): Table 154.04-7

Mr. Spring provided the following report:

In conjunction with the proposed construction of a ± 12' x 14' 3" covered patio addition, the applicant requests a variance of 11.5' to Code Table 154.04-7 to the minimum rear yard setback of 35' for the single-family home located at 711 Sycamore Court.

Variance 1

Code Table 154.04-7 indicates that a 35' minimum rear yard setback is required within the R-1C – Urban Residential Zoning District. The proposed covered patio addition will be 23.5' from the rear property line, therefore a variance of 11.5' is required (35 – 23.5 = 11.5).

Review Criteria §154.03(K)(4)

(4) Review Criteria

Decisions on variance applications shall be based on consideration of the following criteria:

- (a)** Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance as further defined below.

(b) The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(i) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

(ii) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(iii) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(iv) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

(v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;

(vi) Whether special conditions or circumstances exist as a result of actions of the owner;

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

(viii) Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or

(ix) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

(c) No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Additional Notes

- There is a 5' utility easement along the side and rear property lines. The proposed covered patio addition would not encroach into this easement.

Mr. Stefanidis asked if any neighbors responded. Mrs. Gross replied, no.

Mr. McFarland asked the applicant to step forward and state his name and address for the record.

Ed Limbert; 711 Sycamore Court, Tipp City, Ohio.

Mr. Limbert is requesting an 11.5' foot setback for an enclosed patio. At this time the patio is 12' x 26' and they intend to enclose 12' x 14' of it. They would like to put a screened in porch back there to be able to enjoy the outside. They also intend to include landscaping for shielding.

Mr. Stefanidis asked, "What kind of roof are you going to put on this?"

Mr. Limbert replied, It will be a dimensional shingle with a gable with a 6 12 pitch and it will tie into the existing slope of the rear.

Mr. Stefanidis asked if he will be putting electric in as well.

Mr. Limbert indicated he would and he will go through Miami County to obtain the appropriate permits.

Mr. Stefanidis asked if the slab was footed to be able to accept the roof he is proposing.

Mr. Limbert responded, he is going to put piers on both corners. He will have it drawn up and approved by Miami County.

Mr. Buehler asked if the backyard was fenced in.

Mr. Limbert replied, it is, but it is not his fence, it belongs to his two neighbors.

Mr. Buehler for the height of the fence and if it will block the view of their covered porch.

Mr. Limbert said, it is a 6' fence and it will block the view. He also indicated that they have a tree that will block a lot and they plan to put shrubbery along the back line as well. Mostly for privacy for themselves.

Mr. Buehler asked if there was a particular hardship this screened in porch with be satisfying.

Mr. Limbert said his main reason for the project is his wife, she enjoys sitting out in the back yard to read, and the heat and sun make it uncomfortable.

Mr. Buehler asked if the Board had set a precedent in this area before.

Mr. Spring stated, the Board has granted several rear yard variances for various other patio enclosures or room additions.

Mr. McFarland asked for further questions of the applicant. There were none.

Mr. McFarland asked for opposition. There was none.

Mr. McFarland then asked for Board Member discussion.

The Board discussed briefly amongst themselves.

Mr. McFarland **moved to grant a variance of 11.5' to Code Table 154.04-7 to the minimum rear yard setback of 35' for the single-family home located at 711 Sycamore Court** seconded by Mr. Stefanidis. **Motion carried.** Ayes: McFarland, Stefanidis, and Buehler. Nays: None

Old Business

There was none.

Miscellaneous

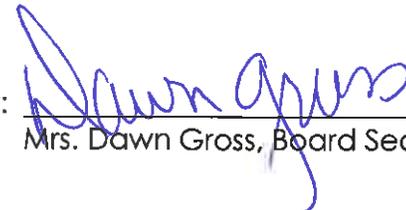
There was none.

Adjournment

There being no further business, Mr. McFarland **moved to adjourn the meeting**, seconded by Mr. Buehler and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 7:49 p.m.



Michael McFarland, Board Chairman

Attest: 

Mrs. Dawn Gross, Board Secretary