

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

April 2, 2014

Ron Siciliano called the Board of Zoning Appeals hearing to order at 6:00 p.m. at the Fairfield Municipal Building, 5350 Pleasant Ave.

Roll Call

Lynda McGuire, Secretary, called the roll of the Board of Zoning Appeals. Present members were Jack Wesseler, Greg Porter, Joseph Koczeniak, Mike Stokes, Ron Siciliano, Scott Lepsky and Mike Snyder. Rick Helsing, Building Official and John Clemmons, Law Director were also present.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on March 5, 2014 were approved. Motion carried 7-0.

Old Business

Case No. BZA-13-0010 – No paving to proposed barn – 3324 Port Union Rd.:

This case was issued a variance March 2013; the variance was approved with the stipulation that the case be reviewed in one year. The variance was to waive the paving requirement to a proposed pole barn.

STR had no comment on this case.

Property Owner's Comments

Mr. Snyder commented that TR Gear next door has a similar set up on their property. John Mathews spoke regarding the variance. He said he had a good base for the gravel and it is a good surface for driving and parking. He grades it and adds to the gravel periodically. Mr. Koczeniak said the original concern was that gravel would be dragged into the road and into the storm sewers.

Public Comment

None

Board Re-Convened

Mr. Helsing said the property has not received any complaints and do not have any current zoning violations. Mr. Koczeniak suggested that the variance be granted specific to this owner and business.

Joseph Koczeniak, seconded by Scott Lepsky, made a motion to approve the variance indefinitely, only for this owner, Greenbriar Landscaping. Motion carried 7-0.

Case No. BZA-13-0014 – Outdoor Dining – 22 Donald Dr.:

This case was issued a variance in March 2013; the variance was approved, one of the stipulations was that the variance be reviewed in one year.

STR had no comment on this case.

Property Owner's Comments

No representative was in attendance to speak for this case.

It was suggested to place this case at the end of the meeting, to allow time for a representative to arrive.

Board Re-Convened

No representative from Scotty's came to the meeting.

Scott Lepsky, seconded by Joseph Koczeniak, made a motion to table the variance until the May 2014 meeting. Motion carried 7-0.

Case No. BZA-13-0015 – Outdoor Dining – 6121 Dixie Hwy.:

This case was issued a variance in March 2013; the variance was approved, one of the stipulations was that the variance be reviewed in one year.

STR had no comment on this case.

Property Owner's Comments

No representative was in attendance to speak for this case.

Mr. Siciliano said he stopped by the business and talked to the owner. The business was sold to a new owner, and the new owner has no interest in outdoor dining.

Public Comment

None

Board Re-Convened

Scott Lepsky, seconded by Jack Wessler, made a motion to rescind the variance, and noted that the previous owner did not exercise the variance under his ownership. Motion carried 7-0.

New Business

Case No. BZA-14-0004 – Shed too close to property line – 5523 Dubonnet Dr.:

Ken Beaman is requesting a variance to allow construction of a shed within one foot of his property line.

STR had no comment on this case. A resident called the Building Division against the issuance of the variance.

Property Owner's Comments

Mr. Beaman spoke regarding the variance. He wanted to clarify that he did not mostly remove the shed, as the agenda states, he just removed the back half and a couple of walls. Mr. Siciliano verified that the applicant is not exceeding his rear yard accessory square footage requirement. Mr. Koczeniak commented that the shed looks very tall. Mr. Helsinger stated that the maximum height allowable is 15 feet at the midpoint of the gable. This shed complies with this requirement. Mr. Stokes said he drove by the house; there are a lot of similar sheds in that neighborhood. Many of them are larger; he has no issues with the shed, other than setting a precedent. The original shed was there when he bought the house and the new shed is built partially from the old shed, in the same location, right next to the property line. Mr. Beaman said he has a small backyard, because of the lot shape.

Public Comment

Greg Ruby, 5556 Dubonnet Dr. spoke in favor of the variance. He has no problem with the shed, as long as Mr. Beaman is taking care of his property. He can't see it from his house, he just received a letter.

Mr. Siciliano said he typically doesn't agree to these variances, but the lot design is unique, and if he is getting rid of the other shed on the property, he would be ok with it. He would like to make that requirement part of the variance. Mr. Koczeniak doesn't agree with requiring the old shed to be removed as part of this variance; it is not in violation. Mr. Wessler asked if the fence in the photo was Mr. Beaman's. The fence is his; he had the property surveyed in 2011, and the fence is inside his property line one foot. Mr. Wessler asked how he would finish the shed. It will be vinyl sided and will match his house.

Board Re-Convended

Scott Lepsy, seconded by Jack Wessler, made a motion to approve the variance with the following conditions: The old shed must be removed within 60 days of the completion of the new shed and the finish must match the house. Motion carried 6-1, Joe Koczeniak dissenting.

Mr. Helsing reminded the homeowner that he needs to talk to Mike Stehlin about getting his permit issued.

Case No. BZA-14-0005 – Metal roof on shed over 100 square feet – 940 Oberlin Dr.:

Ashley Doughman is requesting a variance to allow a metal roof on a 120 square foot shed.

STR had no comment on this case.

Property Owner's Comments

Ashley Doughman spoke regarding the variance. The shed was purchased in the summer of 2013 and replaced an older shed. She didn't know permits were required and did not know metal roofs were not allowed. It would be a financial hardship to remove the shed. Mr. Siciliano thinks metal roofs are becoming more popular, and hers is very attractive. She is planning to refinish the older, existing shed too. Mr. Helsing informed the board that the Building Department has been proactive, and have been contacting Fairfield shed companies and alerting them to the restriction on metal roofs. Mr. Wessler asked about the size of the doors on the shed. They are 6 feet wide; no paving is required. Mr. Koczeniak asked how the codes are communicated to the citizens of the City of Fairfield. The inspectors, Fairfield Flyer and city website are all avenues of communication.

Public Comment

Robert Haverlin, 1045 Doris Jane Ave. spoke in favor of the variance. He thinks the new one looks much better than the old one.

Reba Haddix, 941 Oberlin Dr. spoke in favor of the variance. She is a 26 year resident, and thinks the shed is a huge improvement.

Debbie Pearson, 928 Oberlin Dr. spoke in favor of the variance. She thinks the shed looks great and wants one for her property.

Mr. Koczeniak asked Mr. Snyder if he knew why City Council changed the ordinance regarding metal roofs. What is the objection to them? Maintenance has been a problem; the smaller metal sheds rust quickly. Mr. Lepsy said the topic originated with Chad Oberson, while on the Board of Zoning Appeals. Mr. Helsing told the board he would take their concerns about the ordinance to Tim Bachman, Director of Development Services.

Board Re-Convended

Scott Lepsky, seconded by Joseph Koczeniak, made a motion to approve the variance as submitted. Motion carried 7-0.

Case No. BZA-14-0006 – Outdoor dining/entertainment – 7121 Dixie Hwy.:

Kevin Brandt is requesting a variance for outdoor dining/entertainment at Buzzard Bay.

STR recommends the previous conditions of approval apply if approved.

Property Owner's Comments

Kevin Brandt spoke regarding the variance. He opened this business about a month ago, and will have a larger grand opening in about 3 weeks. He would like to offer outdoor dining, live and recorded music and is adding a Tiki bar to the outdoor area. That bar would add an additional 10 seats. The new restaurant is beach themed casual dining; he operated Arnie's, which was in this building in the 80's-90's, and he wants to offer Fairfield something different. The music level outside would not be offensive, and would feature harmonica, acoustic guitar and steel drum. He doesn't anticipate problems with the neighbors. Mr. Siciliano informed the board that this establishment used to be Charlie's Throttle Stop, which offered poker runs and outdoor concerts. In the previous BZA meetings relating to those cases, the audience would be filled with residents voicing their concerns. It usually took a couple visits to the Board to come to a compromise. He visited the site and it looks changed. Mr. Brandt said a few of the neighbors have already visited the new restaurant. There was discussion regarding outdoor assembly permits, the operating times of the last owner were read aloud for the record and proposed hours of outdoor service and music were discussed. Mr. Brandt indicated that the outdoor stage is being removed completely and the two lights in the parking lot have been repaired and are working. They also replaced the bulbs on the building with white bulbs. They will be repairing the ones on the back of the building. There are no plans to add any more parking lot lights.

Public Comment

None

Board Re-Convended

Mr. Porter asked about the outdoor patio design, and asked if there was access in and out of the fenced patio area at will. The design satisfies the liquor board requirements. He is worried about people congregating in that area outside of the patio area. Mr. Brandt said his place is more of a beach bar/restaurant than a night club. He doesn't think it will be a problem. Mr. Brandt also indicated that the whole parking lot will now be utilized. There was discussion regarding the noise level outside for surrounding neighbors. Mr. Brandt has installed signs on the property reminding people to respect the neighbors. He understands, though, the problems the previous owner had with noise, because a few of the old customers visited on motorcycles. They were very loud. Music level was discussed. The speakers are going to be pointed out towards the patio, but their building will block any noise that would be heard by the condos behind them. He plans on having music outside from April-October.

There was discussion back and forth regarding the hours, days and times of outdoor live music, piped music and broadcast games and service hours. Mr. Stokes asked how many times the board could have the applicant come back and review the case; the board could let him open at the times he wants, then bring him back and see what kind of changes need to be made at that time. Mr. Helsinger said that the problem in the past with music has been the "feel" of the bass line and the "clammer" of people outside once it gets quiet. There was discussion about the lighting between the building and the condos. Mr. Lepsky said it should be well lit and maintained behind the building, and someone should walk the property on a regular basis to make sure there are no issues. The fencing between the building and the condos also needs attention. Mr. Clemmons said he believes that it belongs to this property and not the condos. The condo was built before the restaurant, and a

buffer would have been required when they built the restaurant. It would have been put up by the restaurant property owner.

Scott Lepsky, seconded by Joseph Koczeniak, made a motion to approve the variance with the following conditions:

1. Live Outdoor Music is approved Monday-Thursday 5 pm to 9 pm, Friday 5 pm to 12 am, Saturday 1 pm to 12 am and Sunday 1 pm to 9 pm. From April 1 to Memorial Day, and Labor Day to November 1, outdoor music is allowed on weekends only. The day before a holiday and the holiday will follow the Saturday-Sunday schedule. Other broadcasts/piped speaker music will be allowed all year round.
2. Outdoor Service is approved Sunday-Thursday until 11 pm and Friday and Saturday until 1 am.
3. Applicant must keep rear of building well lit and maintained.
4. Property Owner must repair fence between the condo and the restaurant.
5. Any and all outdoor music/broadcasts must be kept at a reasonable volume level so as not to disturb neighbors, paying particular attention to the bass level.
6. Variance will be heard for review at the November 5, 2014 Board of Zoning Appeals meeting.

Motion carried 7-0.

Other Business

Mr. Koczeniak wanted to discuss the outdoor seating issue. It seems to be a more popular option lately. He is ok with the stand alone structures requesting outdoor seating, but when a business in a strip mall wants to do it, he has a problem. He doesn't like the businesses blocking walkways. He thinks they need to be more careful, and possibly look to City Council for advice. Mr. Siciliano said the fire department and liquor board sets their standards, and he isn't so concerned about them. He said he looks at them on a case by case basis. Mr. Koczeniak thinks consistency is the key.

Elections were held. Ron Siciliano was elected Chairman, Scott Lepsky was elected Vice Chairman and Lynda McGuire was elected Secretary. Motions carried 7-0.

Adjournment:

Scott Lepsky, seconded by Jack Wessler, made a motion to adjourn. Motion carried 7-0.

Ron Siciliano, Chairman

Lynda McGuire, Secretary