

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

June 6, 2012

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 Ron Siciliano, Jack Wessler, Don Carpenter, Joseph Koczeniak, Scott Lepsky and Debbie Pennington. Mike Stehlin, Plan Examiner and John Clemmons, Law Director were also present. Motion to excuse Chad Oberson carried 6-0.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on May 2, 2012 were approved. Motion carried 6-0.

Old Business

Scott Lepsky, seconded by Debbie Pennington, made a motion to remove two cases from the table. Motion carried 6-0.

Case No. BZA-12-0012 – Gravel - 5605 Chesapeake Way :

Scott Lepsky, seconded by Debbie Pennington, made a motion to remove the case from the agenda. Motion carried 6-0.

Case No. BZA-12-0015 – Banner exceeds total allowable – 5001 Pleasant Ave.:

Matt Ostendorf is requesting a variance to hang a 20' x 50' banner across an apartment building.

STR had concerns with a couple issues in relation to the sign. How will the banner be anchored? Given the potential size of the banner and the condition of the building that burned, it must be secured in a manner that is safe. What time frame is the banner proposed? There should be a date in which it must be removed.

Property Owner's Comments

The applicant did not attend the meeting. There was no one to speak for this case.

Public Hearing

None

Board Re-Convened

There was discussion regarding the construction that is currently going on at this property.

Scott Lepsky, seconded by Debbie Pennington, made a motion to deny the variance. Motion carried 6-0.

New Business

Case No. BZA-12-0018 – Fence in side yard setback – 4504 Rita Mae Dr.:

Andrew Scheidegger is requesting a variance to place a fence in the side yard setback.

STR had no comment on this case.

Property Owner's Comments

Mr. Scheidegger spoke regarding the variance. He has recently adopted two children, and he wants them to be able to play in more of the yard. Mr. Siciliano asked for a definition of "hedge", in reference to the code section. Mr. Stehlin said they are a continuous row of uninterrupted vegetation. It is defined in the code. Rita Mae Dr. is technically his front yard, so the fence will be in the street side yard. He is allowed to have a fence 30 feet from the setback, and the house sits approximately 33 feet from the setback. He would extend about 11 feet into the setback. The existing trees will be outside of the proposed fence. Mr. Siciliano doesn't think the fence will impede the view at all, he doesn't see any problem with it.

Public Hearing

None

Board Re-Convened

Mr. Lepsky said he would ordinarily be against this case, because there is a similar fence across Morning Glory which complies with the ordinances, but since there is no opposition from the neighbors, he would be ok with it. Mr. Scheidegger said he spoke to the neighbors and no one had a problem with the fence. Mr. Koczeniak asked what kind of fence he was proposing. He would like to construct a 4 foot split rail fence. Mr. Clemmons clarified that the fence will run from the corner of the house, 14 feet out into the side yard, 11 feet into the side yard setback.

Don Carpenter, seconded by Scott Lepsky, made a motion to approve the variance to construct a split rail fence, which will extend 11 feet into the side yard setback. Motion carried 6-0.

Case No. BZA-12-0020– Promotional Advertising – 6390 Dixie Hwy.:

Rob Amodio, for Michael Kocheck, is requesting a variance to place flutter flags and a dancing balloon on the property.

STR had comments on this case. These devices are not permitted under the zoning code except for grand openings. There are various businesses that have been using flutter flags and have been sent notices for removal. After review of this particular case, the BZA may want to ask the Planning Commission to study flutter flags to see if an ordinance amendment is appropriate. STR feels that air dancers should be permitted only as grand opening signage.

Property Owner's Comments

Rob Amodio spoke regarding the variance. The property in question is a multi million dollar property. It is well maintained, and offers mini golf, baseball and softball batting cages and a driving range. The air dancer is 18 feet tall and is 75 feet off of the road. There are 5 flutter flags that are affixed to the chain link fence, approximately 100 feet off of the road. The property sits at a busy intersection, but with the recent construction, the traffic pattern changed. Cars don't stop or slow down in front of the business anymore, because the stop light was moved up the road. Pulling out of his property is dangerous now, and customers are not even sure they are open. Receipts are down over 50% compared to last year at this time and this advertising may keep them afloat. There was discussion regarding the traffic flow. Mr. Amodio said they lost the turn lane into their business. Even if it is a temporary change, it could be a year before it is restored, and they could be out of business by then. Mr. Clemmons indicated that the state was specifically asked not to allow the construction impact this business or the Walgreens across the street. The change in the traffic pattern has been very damaging to the business.

Mr. Siciliano drove to the site to look at the air dancer. It did not stand out to him at all. Because of the location of the banners, and the way the property is configured, he is not worried about the banners. The golf

mountain is what he notices; it dwarves the banners and balloon. He feels a hardship exists, but wonders if these items remedy the hardship. Mr. Lepsky thinks it is timely that this comes up now, since the last meeting they discussed non-conforming signs. Planning Commission has a meeting next week, and he would like to defer the issue until then, if possible. Mr. Clemmons noted that Tim Bachman thought the flags may be ok, but the air dancer is a real concern; they are very difficult to monitor. Mr. Lepsky doesn't want to set precedence on the air dancers, and he doesn't want to see them all along areas like Route 4 or Nilles Rd. He also noted that usually no action is taken when there is a case pending. Mr. Amodio said he is willing to separate the flutter flags from the air dancers in discussions. From the enforcement point of view, Mr. Clemmons indicated that the flags are not an immediate concern, but the air dancers are a problem. Mr. Lepsky said he thought it sounded like the balloon needed to come down. Mr. Siciliano asked if the air dancer is meant to be up all the time; that was the original intent, but since they got the violation notice, it has not been up as much. If this case is tabled and is sent to the Planning Commission, the city will not take enforcement against the flags or the air dancer. Ms. Pennington sees the hardship. She suggests that they install an American flag on the highest point on the golf mountain. It would draw attention and could be seen for miles. It would have to be designed to satisfy the Building Code, per John Clemmons. Mr. Lepsky suggests they research regional airport issues regarding lighting before they do something like that. It was suggested that the proposed traffic pattern be figured out before the next meeting on this issue.

Public Hearing

None

Board Re-Convened

Scott Lepsky, seconded by Debbie Pennington, made a motion to table the variance pending recommendation from the Planning Commission. Motion carried 6-0.

Case No. BZA-12-0021 – Accessory Building in side yard setback – 691 Wyoming Ave.:

Rick Helsinger is requesting a variance to construct an accessory building 5 feet into the side yard setback.

STR had no comment.

Property Owner's Comments

Rick Helsinger spoke regarding the variance. He would like to save a large maple tree that is near the corner of the garage. The hedges will obscure most of the view of the garage along the east side of the property, and the neighbors are both in favor of the variance. Mr. Siciliano went by the house and sat and looked to see if vision would be impeded. It slopes down right there, so it looks further back off the road than it actually will be. If there is no neighbor opposition, then he would probably be in favor.

Public Hearing

None

Board Re-Convened

Mr. Lepsky sees the benefits of keeping the tree; it will actually obscure the garage even more.

Scott Lepsky, seconded by Don Carpenter, made a motion to approve the variance. Motion carried 6-0. Motion to waive the 5 day waiting period carried 6-0.

Case No. BZA-12-0022– Outdoor seating – 4737 Dixie Hwy.:

Rick Sizemore, for Cobblestone Tavern, is requesting a variance to provide outdoor seating.

The applicant called prior to the meeting, to request the variance be tabled to further discuss wheelchair access to the walkway.

Public Hearing

Freddie Simpson, representing the residents at the Holiday Drive Apartments, spoke regarding the variance. The owner of the apartment building sent a letter opposing the variance. The residents are concerned about the noise from outdoor seating. It is already noisy from beer bottles being thrown out, and they are concerned about the noise becoming a bigger issue. Mr. Siciliano clarified that the outdoor seating was proposed in the front of the building, not the back. There was a variance for the same issue that was approved for this location for outdoor seating. It was for just seating and no music. Outdoor music would have to be a separate variance request. There are restrictions that can be placed on hours of outdoor use. Mr. Wessler suggested that if noise is already a problem, they should call the police department and report them. The owner of the apartment building will be notified of the next meeting via email.

Board Re-Convened

Scott Lepsky, seconded by Debbie Pennington, made a motion to table the variance. Motion carried 6-0.

Case No. BZA-12-0023 – Accessory building over 500 sq ft. – 2584 Windage Dr.:

Bryan Dehner is requesting a variance to construct a 576 sq ft garage.

STR asked where the current shed is to be located. The shed has already been moved to the back corner of the property.

Property Owner's Comments

Mr. Dehner spoke regarding the variance. He wants to build a 24 x 24 garage to store things. His neighbor has one that size and he likes the size of it. Mr. Siciliano stated there has been a lot of discussion on this issue. A lot of the standard packages are this size. The lot is sizable and the house is positioned nicely. Mr. Carpenter thinks the request seems reasonable. Mr. Dehner plans to build the garage and install vinyl siding, shingles and gutters. He plans to re-side his house next summer and the siding on the garage will match the proposed house siding.

Public Hearing

None

Board Re-Convened

Scott Lepsky, seconded by Don Carpenter, made a motion to approve the variance with the stipulation the vinyl siding match the house. Motion carried 6-0.

Other Business

Don Carpenter, seconded by Scott Lepsky, made a motion to move the next meeting to Monday, July 2, 2012, due to Independence Day falling on the first Wednesday in July. Motion carried 6-0.

Adjournment:

Scott Lepsky, seconded by Debbie Pennington, made a motion to adjourn. Motion carried 6-0.

Ron Siciliano, Chairman

Lynda McGuire, Secretary