

MINUTES OF THE  
FAIRFIELD BOARD OF ZONING APPEALS

August 1, 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, Chad Oberson, Scott Lepsky and Debbie Pennington. Mike Stehlin, Plans Examiner 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 July 2, 2012 were approved. Motion carried 7-0.

Old Business

Scott Lepsky, seconded by Debbie Pennington, made a motion to remove the case from the table. Motion carried 7-0.

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

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

STR comments were as follows: The architectural plans illustrate the addition of brick to form the walls for the outdoor area. The new brick should match the existing brick in color. If this is not possible, black aluminum fencing similar to other outdoor seating applications could be approved.

Property Owner's Comments

Rick Sizemore spoke regarding the variance. He had a variance approved last year for the same thing, but didn't finish the project in the 6 months that was required. There is more space this time; 2 patios instead of just one. Mr. Koczeniak is concerned about space for foot traffic of other patrons of the complex. There is also concern about wheelchair access. There is enough space for wheelchair access per the submitted drawings. There is no type of entertainment planned for the patio. There was discussion on access to the patio. The fire department will require access from the patio outside. The intent is to enter and exit the patio from the inside of the building. Ms. Pennington asked what type of materials they were using on the patio. They will use 4' black fencing and brick accent on the bottom half. The brick will be about as high as table height.

Public Hearing

Luann Thorne, for TB Properties spoke regarding the variance. The landlord approved the variance and is in favor of approval from the board.

Mr. Koczeniak discussed the last meeting when the neighbor spoke about his concerns. They are addressing the noise issues starting with eliminating parking in the back. He is also willing to have his case tabled again to work out issues with the neighbors.

Bill Deninger, landlord for the Holiday Dr. apartments, spoke regarding the variance. He owns the 4 unit apartments behind Cobblestone. It is noisy; the beer bottles being thrown out and fights behind the bar have

been a problem. Those issues are being addressed. The back door is shut now, and is for emergency use only. The bottles are no longer thrown out late. He has tenants that get up early for work, and they have threatened to leave. There was discussion about the proposed location of the patio and outdoor seating. The patio is in the front of the building. The complaints about noise occurred in the back of the building. He would like to see some restrictions on hours of operation on the patio.

Mr. Oberson noted that this is a big building. The issues are definitely in the back. The front is all retail, and open to Route 4. The outdoor seating shouldn't be a problem. Mr. Lepsky asked if Mr. Sizemore were willing to restrict the hours of operation on the patio. He would like to see them try out the outdoor seating for a year and have them come back to the board to have the hours reviewed. Mr. Sizemore said he needs the patio to be open the entire time the business is open. People are going to be outside regardless of whether the patio is open or not. He mentioned a 6 month review as a requirement. Mr. Oberson stated that the patio is a big investment; it should be a permanent variance. Mr. Lepsky clarified that the hours may need to be reviewed after 6 months.

#### Board Re-Convended

Scott Lepsky, seconded by Debbie Pennington, made a motion to approve the variance with the following conditions: No outdoor music on the patio or piped out from inside the building to the patio, the brick must match the existing, with black aluminum fencing where it is shown on the submitted plan and tenant must continue to work with the neighbors to address parking and noise issues to the rear of the building. A one year review at the 9/13 Board of Zoning Appeals meeting is required to discuss patio hours. Motion carried 7-0.

#### New Business

##### Case No. BZA-12-0029 – Outdoor seating – 690 A Nilles Rd.:

Kevin Ketring, for Hot Head Burrito, is requesting a variance to provide outdoor seating.

STR recommended an outdoor trash receptacle be available.

#### Property Owner's Comments

Kevin and Zach Ketring spoke regarding the variance. There are currently two tables in front of the business. The customers asked for it, and are using it now. Mr. Siciliano noted that the hardware store sets things out all the time. Mr. Wesseler asked if the tables were for carry out or if they would be serving people out there. It is for carry out only. Mr. Koczeniak asked if there was enough space to walk down the sidewalk. There is plenty of room for foot traffic.

#### Public Hearing

None

#### Board Re-Convended

Scott Lepsky, seconded by Jack Wesseler, made a motion to approve the variance with the condition that an outdoor trash receptacle is made available. Motion carried 7-0.

##### Case No. BZA-12-0030 – Gravel Parking – 6631 Stockton Rd.:

Richard Dooley is requesting a variance to offer boat and RV parking on a gravel lot.

STR comments were as follows: If the Board requires paving, storm water detention is necessary. If the Board waives the pavement, thought should be given to requiring a paved driveway to Stockton and possibly paved aisle ways to cut down on dust and debris being brought out to Stockton Road.

### Property Owner's Comments

Richard Dooley spoke regarding the variance. This site was a construction company for 30 years. It was gravel at that time; they stored construction items there. It is a 3 acre lot; 2 ½ acres of which is gravel. It has been cleaned up, and they would like to offer private boat, car hauler, and RV storage. There will not be an increase in traffic and no signage will be installed. They will be making improvements to the fence and plan to convert the house back to residential and rent it out. Mr. Wesseler asked if there were current issues with standing water on the property. There are no problems with flooding or water issues. Mr. Siciliano questioned whether or not they were in violation when the construction company was there. Mr. Clemmons said they don't make contractor yards pave; they are zoned industrial. Mr. Dooley told the board they plan to have approximately 60 boats or RVs on the property. There are currently grassy areas, but they will be gone and it will be all gravel. There is a gate at the entrance to the property, and gravel all the way out to the street. Mr. Oberson said he thinks the gravel will be pulled out into the street. He thinks the owners need time to see if the business takes off before a final variance is given.

### Public Hearing

Nancy Lisik and Carol Gibson, owners of 6671 Stockton Rd., spoke regarding the variance. The existing fence is broken down, and there is debris all over the property. She has no problem, but getting out onto Seward Rd. could be a problem. Security is an issue; the house has been broken into. They may want to look into getting cameras for the property.

Patty Coyle, owner of the corner house, spoke regarding the variance. She has no problem with what they want to do with the site, but the site looks bad. A fence is a good idea. She wouldn't store her items there now.

Mr. Siciliano said he thought it needed cleaned up. Security could be an issue, but the variance is just for gravel parking. Mr. Dooley said a security fence is proposed. They wanted to make sure the variance was approved before they spent the money to fence the property. They are also considering adding security cameras. Mr. Wesseler asked if they would pave the entranceway to keep gravel out of the road. The grass on the left side will stay; the rest of the lot will be gravel. The trees in the back of the property will remain for privacy. From the rear of the house all the way to the back property line will be used for parking. The owner is willing to pave from the gate to Stockton Rd.

### Board Re-Convened

Chad Oberson, seconded by Scott Lepsky, made a motion to approve the variance with the following conditions: The owner must pave from the entrance gate to Stockton Rd., the current fence must be replaced with a new one and the variance will be reviewed at the 8/13 Board of Zoning Appeals meeting. Motion carried 7-0.

### **Case No. BZA-12-0031 – Shed closer than 6 feet to property line – 1009 Wesleyan Dr.:**

Tony & Cheryl Hughes are requesting a variance to allow a shed that was built nearer than 6 feet to the property line to remain.

STR had no comment.

There were phone calls and letters from various neighbors submitted regarding the variance.

### Property Owner's Comments

Cheryl and Tony Hughes spoke regarding the variance. The shed has been up for a year and 4 months. They called and were told no permit was required. They have issues with their next door neighbor, and this variance stemmed them putting up a privacy fence. It will cost them \$250 to move the shed. She showed the board a list of signatures from neighbors in support of the variance. Mr. Siciliano asked how property owners are supposed to know about permits and when they are required. The zoning certificates for sheds have been a requirement for over five years. There was discussion regarding the new fence the neighbors installed and the issues both families have with each other. Mr. Siciliano feels that lack of knowledge is no excuse for not

following the ordinances. The Hughes' said they replaced a shed that was closer to the property line than this one and was damaged from a storm.

Public Hearing

None

Board Re-Convended

Scott Lepsky, seconded by Debbie Pennington, made a motion to approve the variance. Motion carried 7-0.

**Case No. BZA-12-0032 - Reduce number of parking spaces required – 435 Patterson Dr.:**

Travis Munn, for Hurley & Stewart LLC, is requesting a variance to reduce the required amount of parking spaces from 37 to 30 for a proposed Dollar General.

STR recommended that the applicant obtain an arrangement with the neighboring church for additional parking.

Property Owner's Comments

Travis Munn spoke regarding the variance. This is a small lot, and they are building the smallest store available. There is additional liability on them if they use the church parking lot, and they do not want to pursue that option. Mr. Wessler asked how many spaces were normal for the business. 30 is Dollar General's number, per market research. Mr. Stehlin stated the formula is the same for most commercial businesses. Mr. Carpenter asked about handicapped parking spaces. There are two required per code. There will be approximately 3 employees per shift.

Public Hearing

None

Board Re-Convended

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

**Case No. BZA-12-0033 – Posts and supporting rails on outside of fence – 834 Hicks Blvd.:**

David Anglin is requesting a variance to allow a privacy fence with the posts and supporting rails on the outside of the fence to remain on the property.

STR had no comment.

Property Owner's Comments

David Anglin spoke regarding the variance. He has been a resident for 33 years. The fence was a decorative addition to the shed. He showed the board photographs of the fence and shed. He has a letter from a Sibcy Cline Realtor supporting the variance. He has had nothing but positive comments about the fence; people even want to take pictures of it. A permit was issued for the fence. Mr. Stehlin agreed that a permit was issued; the owner was told the good side of the fence would need to face outward. The approved drawings are stamped as such. Mr. Siciliano feels that the fence is small enough to just install another good side toward the neighbor. This would do away with the need for a variance. There was discussion regarding the chain link fence and if there was room to double face the privacy fence, and it was determined it was possible. The work was done by the owner; a contractor was not involved.

Public Hearing

Raymond Short, who lives across the street, spoke regarding the variance. He has lived there for 40 years, and he thinks Mr. Anglin is a great neighbor.

### Board Re-Convended

Chad Oberson, seconded by Scott Lepsky, made a motion to deny the variance. Motion carried 6-1, Debbie Pennington dissenting.

### Case No. BZA-12-0034 – Accessory Building over 500 sq ft – 1839 Gloucester Dr.:

Melvin Noes is requesting a variance to build a 700 sq ft detached garage.

STR had no comment.

### Property Owner's Comments

Melvin Noes spoke regarding the variance. He has collector cars and motorcycles. He has already sold 3 of his collection. He needs to keep them covered and it is expensive to store them. The two trees at the end of the driveway would stay; the garage would go in between them.

### Public Hearing

The Jones', from 1819 Gloucester Dr. spoke regarding the variance. They are concerned about the noise that the garage may bring, and wonder what is going to be going on inside. The area is park like now, and they are concerned the garage may lower property values.

Mr. Tischler, of 1809 Gloucester Dr. spoke regarding the variance. He bought his home because of the back yard. He opposes anything that will take away from the landscape of the area. He is afraid if they allow this, what will be next? He doesn't like the 500 sq ft structures, but understands that's what zoning allows. Traffic flow and noise may also be an issue.

Mr. Clemmons discussed deed restrictions. There are none to anyone's knowledge, but because there are not detached garages currently in the neighborhood, he may want to check and find out. Mr. Kozceniak questioned the materials being used for the proposed garage. It will match the house; the shingles and the siding. It will blend in with the existing home.

Mr. Noes stated the garage will mainly be for storage. He is not running a business from it and will not be out in it late night. No changes to the environment are proposed and he will be landscaping around it. He is willing to compromise on the size and the location of the garage; he would be willing to go down to 600 sq ft. Plan B would be to store his cars off site, sell them or drop the size to 500 sq ft. Mrs. Noes spoke regarding the variance. He won't be working after hours in the garage. They spoke to the neighbors and they did not show concern about the garage. Mr. Oberson doesn't think it would fit in the neighborhood. Mr. Lepsky suggested he research the deed restrictions. If there is, he will not be able to build any size detached garage. Mr. Wessler doesn't see a hardship. Mr. Koczeniak stated they can build a 500 sq ft garage with no variance, so they may want to talk to the neighbors and compromise on the garage.

### Board Re-Convended

Chad Oberson, seconded by Scott Lepsky, made a motion to table the variance until the September 2012 Board of Zoning Appeals meeting. Motion carried 7-0.

### Adjournment:

Debbie Pennington, seconded by Don Carpenter, made a motion to adjourn. Motion carried 7-0.

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Ron Siciliano, Chairman

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Lynda McGuire, Secretary