

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

October 2, 2013

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. Rick Helsinger, 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 September 4, 2013 were approved. Motion carried 7-0.

Old Business

Case No. BZA-12-0030 – Review of gravel parking lot variance – 6631 Stockton Rd.:

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

Rick Helsinger said he talked to the applicant, Mr. Dooley, and was told they were not storing recreational vehicles or boats on the property as they requested on the original variance. The applicant wants to terminate the variance. Mr. Helsinger informed him that the board would terminate the variance and he would need to re-apply to the Board of Zoning Appeals in the future if he planned to use store RVs and/or boats on the property.

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

New Business

Case No. BZA-13-0039 – Privacy fence with posts and supporting rails on outside – 447 Magie Ave.:

Mike Mitchell is requesting a variance to keep his recently installed privacy fence with the posts and rails on the outside of the fence.

STR recommended that the fence be corrected; it was installed prior to the issuance of a permit.

Property Owner's Comment

Mike Mitchell spoke regarding the variance. There is an existing fence that was installed before he bought the house that was installed backwards; he installed his to match the existing. The next door neighbor won't let him in their yard to fix the fence. He did not have the property surveyed, but he thought the location was correct, because he installed the fence inside the existing chain link fence. Mr. Oberson said the solution was to put panels on both sides of the fence; there is no reason to remove the posts. It seems to be the best option at this point. Mr. Siciliano asked if he could encroach on the neighbor's property if the city required him to fix the fence. Mr. Clemmons said that he technically could not. Mr. Lepsky said another option would be to install slats in between the posts; it wouldn't cost any more money and he could install it on his property. The neighbor has their property up for sale, and someone suggested he contact the realtor that has listed the property next door and see if they can be a mediator between the parties regarding the fence.

Public Hearing

There was no comment from the audience.

There was discussion about the existing fence, and clarification that only the new fence would have to be corrected, not the existing fence.

Mr. Koczeniak said he looked at the fence, and since the old fence was installed wrong and he is having problems with the neighbor, an exception to the rule was acceptable to him.

Board Re-Convened

Joseph Koczeniak, seconded by Jack Wessler, made a motion to approve the variance, with the condition that if the new next door neighbor wants the fence corrected, the applicant will have to correct it. Motion failed 3-4, Chad Oberson, Scott Lepsky, Debbie Pennington and Ron Siciliano dissenting.

Ron Siciliano, seconded by Scott Lepsky, made a motion to deny the variance. Motion carried 4-3, Jack Wessler, Joseph Koczeniak and Don Carpenter dissenting.

Rick Helsinger said the applicant had 60 days to install the fence correctly.

Case No. BZA-13-0040 – Accessory building less than 6 feet away from property line – 871 Walter Ave.:

Jeanne George is requesting a variance to allow an accessory building less than six feet from the property line.

STR had no comment on this case.

Property Owner's Comments

Jeanne George spoke regarding the variance. She has lived in the house since she was a kid. They removed a couple of the fence panels and constructed the shed in their place. They also paved an area next to the garage for their RV, so they wouldn't have to park it in the driveway. They did not know a permit or zoning certificate was required for the shed, because it was smaller than 150 sq ft. There was discussion on the easement that is shown on the site plan. Mr. Helsinger is not sure what Duke's stance is on the issue of sheds in this type of easement. Mr. Siciliano said he is ok with where the shed is located. Mr. Lepsky said he would like to see a letter from the neighbor next door, supporting the variance. Mr. Siciliano stated that neighbor could have come and opposed the shed tonight if they wanted.

Public Hearing

There was no comment from the audience.

Board Re-Convened

Mr. Oberson said he was ok with the shed; it is a good quality shed. Mr. Koczeniak asked what the applicants would have received if they would've gotten their permit before construction. They would have gotten instruction on placement from the Building Division. Mr. George stated that an inspector came out to the property when he first started building it, and told him to just continue with construction.

Jack Wessler, seconded by Ron Siciliano, made a motion to approve the variance. Motion carried 6-1, Joseph Koczeniak dissenting.

Other Business

Debbie Pennington asked John Clemmons if there was an update on the previous BZA case regarding the multiple dogs. Mr. Clemmons indicated that there was a case filed with the civil rights commission, and the

commission felt that they did not have jurisdiction. The civil rights commission does not have jurisdiction over ADA; the dogs are not certified service animals. They were given November 4, 2013 as the date of compliance, but he doesn't expect compliance.

Adjournment:

Motion to adjourn carried 7-0.

Ron Siciliano, Chairman

Lynda McGuire, Secretary