

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

November 4, 2015

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

Maria Mullen, Secretary, called the roll of the Board of Zoning Appeals. Present members were Jack Wessler, Greg Porter, Joseph Koczeniak, Mike Stokes, Ron Siciliano, Scott Lepsky and Mike Snyder. 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 October 7, 2015 were approved. Motion carried 7-0.

New Business

Case No. BZA-15-0020 – Metal Carport - 2281 Shenandoah Drive

Katherine Griffin, property owner, is requesting a variance to keep the metal carport installed on the side of her house.

Staff Technical Review had no comments.

Board member, Greg Porter recused himself from this case.

Property Owner Comments

Katherine Griffin, 2281 Shenandoah Drive, spoke on behalf of her variance request. Mrs. Griffin and her husband purchased the carport from a local business, Ohio Outdoor Structures. Their salesman, Randy, told them on three separate occasions they did not need a permit for the carport since it did not have sides. He did not tell them the metal carports are not allowed in Fairfield. After the carport was installed, a zoning inspector informed the Griffins that it had to be removed as the metal carports are not allowed in Fairfield. Mrs. Griffin said they wanted to comply and started with contacting Ohio Outdoor Structures and the manufacturer, All Steel Carports. Both companies refused to remove the carport without charging the Griffins to take it down. If one of the companies did dismantle the carport for them, they informed the Griffins they would just leave the disassembled carport on their property. The Griffins have tried selling it on Craigslist, but the four potential buyers found that the carport did not meet their needs. The carport was not a standard size, smaller than most. Mr. Griffin paid extra to have the higher gauge steel and the color to match the house. Randy, the salesman, told Mrs. Griffin after the fact, they should file for a variance. Mrs. Griffin told Randy that is not how it is done, you get permission first. Ron Siciliano asked how the carport was installed. Mrs. Griffin stated it was bolted into the cement pad in eight spots and it is made of 12-gauge steel. Rick Helsinger told the Board these carports

don't normally meet the code to withstand 90 mph winds. The Building Division requires engineered drawing for metal structures to show proof wind resistance. The company that sells this product should be able to provide the Griffins with documentation; otherwise they will have to hire an engineer to provide the documentation for approval. Ron Siciliano asked Mr. Helsinger if the City had advised the particular seller not to sell the metal carports. Mr. Helsinger also stated the Building and Zoning Division have notified the dealers doing business in the City of the law more than once. They will be notifying these businesses again. Mr. Clemmons requested the Griffin's documentation/letters. Mrs. Griffin said they paid \$6000 to have the pavement installed, and cannot afford to move the carport to the back of the house as suggested by Mr. Siciliano. They financed the carport and are making payments. Mr. Griffin needs the carport to cover his boat because he cannot use a weather cover for the boat. He is disabled and is unable to tie down the boat cover. Mrs. Griffin said the company is still selling the carports. The company, after speaking to Mrs. Griffin, still has an extremely large carport out on their lot for sale. Mr. Griffin said Ohio Outdoor Structures lied to them.

Public Comment

None.

Board Action

Scott Lepsky would agree to allow this particular metal carport because of the four favorable letters from neighbors, the inability to tie the boat cover down, and the carport matches the house. He also would like an engineer to provide documentation the carport meets code requirements. Mike Snyder noticed this metal carport does not detract from the house; it blends in rather than standing out. There was discussion about the Griffins filing a lawsuit or filing a complaint with a government agency. John Clemmons read the contract between the Griffins and All Steel Carports which states All Steel Carports is not responsible for permits. Rick Helsinger reiterated that a representative of the Building and Zoning Division had delivered a copy of the City's ordinance regarding accessory structures, not a letter, and spoke to the owner of Ohio Outdoor Structures.

Joseph Koczeniak made a motion to approve the variance as submitted subject to the Griffins providing engineered drawings of the carport structure that meet the building code requirements. The engineered drawing must be submitted to the Building and Zoning Division within 90 days of today, October 7, 2015 (February 5, 2016). Should the Griffins fail to provide the required engineered drawings in the 90-day time frame, they will be required to remove the metal carport. The motion was seconded by Mike Snyder. Motion failed 3-3, Ron Siciliano, Greg Stokes, and Jack Wessler dissenting.

Ron Siciliano, who initially dissented, made a new motion to approve with the same conditions as before stated by Mr. Koczeniak. Mr. Siciliano based his decision on the fact the dealer was notified not to sell these metal carports, the support of the neighbors, it is invisible to some of the neighbors, Mr. Griffin's disability, and they have tried to sell the structure to alleviate the problem. The motion was seconded by Scott Lepsky, who noted the Griffin's carport is not as wide as the standard carport structures. Motion carried 4-2, with Greg Stokes and Jack Wessler dissenting.

Case No. BZA-15-0021 – Fence in Setback - 3206 Production Drive

Joseph Kulifay, representative for the owner, Production Investment Holdings, LLC, is requesting a variance request to allow him to construct six foot tall fence with three strands of barbed wire in the front yard setback.

Staff Technical Review discussed the need for Wastewater access to a manhole on the property. It was determined that it is not an issue. Public Works will contact Mr. Kulifay and work out any issues if necessary. There are four recommendations by the Development Services Department:

1. The proposed fence should be located 5' behind the street right-of-way line. The Zoning Code requires the parking facility to be setback a minimum of 5' from the street right of way line.
2. The area between the fence and back edge of rolled curb should be planted with grass.
3. The concrete blocks should be removed and stored elsewhere on site in an organized manner. Broken/damaged wheel stops should be removed.
4. All weeds on-site should be removed.

Rick Helsinger met with Mr. Kulifay on site and gave him a copy of these four conditions. Mr. Kulifay was agreeable to the conditions.

Property Owner Comments

Jay Bennett, attorney representing owner, Production Investment Holdings, LLC, spoke on behalf of this variance request. Mr. Bennett stated this property is located in an industrial zone. The property has been abandoned for four years. Mr. Kulifay and his company own an excavation business, and recently purchased this property. They have been in business for 25 years, and they are putting this property to good use. The owner needs to protect the property from theft and vandalism. The property across the street from this property has a similar fence in the front yard setback. Mr. Bennett mentioned this variance covers an anomaly in the code. This is in the M-2 zone. Regulations for an industrial zone are covered in Section 1173.07, and Mr. Bennett states they are here tonight on 1180.03 and 1180.04. They are listed as exceptions to the M-2 regulations, thereby applying the fencing regulations, they respectfully requested that the variance from 1180.04 (b)(1) be granted. The concrete left on the property was from the previous owner and will be removed. The owner would prefer to use stones or gravel for a zero landscape. The grass would require high maintenance and the trucks tend to park up on it, leaving ruts. Rick Helsinger said the fence needs to be 23 feet away from the street. There needs to be a buffer to keep the gravel off the road. Mr. Kulifay explained that it was just a suggestion, and he was okay with having the grass between the street and the fence. There was discussion about options other than using grass. Mr. Helsinger suggested they defer to the Development Services Department to work with Mr. Kulifay on the grass issue. Mr. Wessler wanted to know if there were any pavement problems. Rick Helsinger assured there were no pavement issues. He added that the barbed wire can be point out when the fence is five feet off the property line, and tilted in when is on the property line. Mr. Kulifay agreed.

Public Comments

None.

Board Action

Mike Snyder moved to approve the variance with the four conditions recommended by the Development Services Department. Those conditions are:

1. The proposed fence should be located 5' behind the street right-of-way line. The Zoning Code requires the parking facility to be setback a minimum of 5' from the street right of way line.
2. The area between the fence and back edge of rolled curb should be planted with grass.
3. The concrete blocks should be removed and stored elsewhere on site in an organized manner. Broken/damaged wheel stops should be removed.
4. All weeds on-site should be removed.

The motion was seconded by Greg Porter. Motion carried 7-0. Ron Siciliano made a motion to waive the 5-day waiting period, seconded by Scott Lepsky. Motion carried 7-0.

Case No. BZA-15-0022 – Multiple Variances for Accessory Structure – 4685 Anthony Wayne Ave

Billy Bruns, pastor for Fairfield Wesleyan Church, is requesting to build 1200 square foot accessory structure with a metal roof and metal siding, and placed three feet from the side yard property line.

Staff Technical Review had no comments.

Property Owner Comments

Pastor Billy Bruns, Donna Brooks and Andy Brooks, Trustees, spoke on behalf of the variances. Donna Brooks stated they will be removing a small A-frame shed that is falling down. They need the 30-ft by 40-ft accessory building for storage. The plan is to align the proposed storage building with the existing shelter. The new structure would be approximately three feet from the property line. This will allow for future electric to both structures. They would like a metal roof because it is guaranteed for 75 years. The parcel is approximately 2.5 – 3 acres. The church has spoken to the neighbor next to the church about purchasing the back part of his lot. He is agreeable to sell, but he is dealing with health issues at this time. If they purchased this property, the proposed storage building would not be in the 6-foot setback from the side property line. The oversized door will face the shelter. They also have the option of having framework for future garage door if necessary. The color has not been chosen, but they would choose a natural color like beige that blends with the church. The walls of the structure are 14 feet tall and with the height of the roof it will put the total height over the allowable 15 feet. The Board discussed all the variance issues to build this structure, including the location. Ron Siciliano did not have a problem with the size, but the placement would be an issue unless they could purchase part of the neighbor's lot. Also, the door over 6-feet in width must face the shelter or it would need a driveway to it. The proposed future garage door would need a driveway or they would have to come back for a variance. The metal siding was also discussed. Mr. Brooks suggested they could wrap the building with vinyl, or possible something else. The contractor gave them other options other than metal. Some of the Board members felt with their large lot, the size and height would not be an issue. If the church can purchase part of the neighbor's property at 4665 Anthony Wayne, then the accessory structure will not be closer than 6 feet to the property line. Jack

Wessler determined the accessory structure would be 24 feet in height. Mr. Bruns said the existing shelter is 15 feet in height.

Public Comments

None.

Board Action

Ron Siciliano suggested they take each variance and vote on each one separately. The submitted variance issues were broken down into six separate variances. All six of the following motions were made by Ron Siciliano:

1. The variance to allow for a 1200 square foot accessory building was approved. Motion seconded by Scott Lepsky. Motion carried 6-1, with Mike Stokes dissenting.
2. The variance to allow a garage door over six feet in width without the required driveway was approved with the stipulation that the garage door faces the existing picnic shelter. Should there be another garage door over six feet in width added in the future, it must have a driveway, or the owner must apply for another variance. Motion seconded by Mike Snyder. Motion carried 6-1, with Mike Stokes dissenting.
3. The variance to allow the accessory building to be over 15 feet in height was approved with the stipulation that the peak of the building must not be over 24 feet in height. Motion seconded by Joe Koczeniak. Motion carried 5-2, with Scott Lepsky and Mike Stokes dissenting.
4. The variance to allow the accessory building to be three feet from the property line was approved providing the church purchase a portion of the lot located at 4665 Anthony Wayne Ave. If the church is unable to purchase this property, then the proposed accessory building must be placed no closer than six feet to the existing property line. Motion seconded by Scott Lepsky. Motion carried 6-1 with Mike Stokes dissenting.
5. The variance to allow the use of metal siding was tabled until the applicant is able to review the different sidings available with the manufacturer. If applicant chooses to use a siding material that is allowable under zoning code 1143.06 (a), he does not have to return to the Board for approval. Should the applicant decide to use any amount of metal siding, he will need to return to the next Board of Zoning Appeals meeting on December 2, 2015. Motion seconded by Jack Wessler. Motion carried 7-0.
6. The variance to allow the use of a metal roof on the proposed accessory building was approved. Motion seconded by Mike Stokes. Motion carried 4-3 with Jack Wessler, Greg Porter, and Scott Lepsky dissenting.

Case No. BZA-15-0023 – Fence in Front Yard Setback – 6201 River Road

Robert Hutzel, property owner is requesting variance to allow him to construct a Kentucky 4-board fence and a 5-wire (non-barbed) farm fence in the front yard setback.

Staff Technical Review noted the existing fence posts appear to be in the right-of-way. If approved, the fence must be placed outside the right-of-way, approximately 21-22 feet from the street.

Owner Comments

Robert Hutzel, property owner spoke on behalf of his variance request. He removed the old fence from the property. The second 2-acre lot never had a fence. He has six acres of land. Mr. Hutzel owns four horses; and would like to utilize this area of the property as a pasture for his horses. It would also provide security from trespassers. He does not board horses for others. Mr. Hutzel described the fence for along the side yard as a high tensile fence, and the fence along front of the property as a 4-board wood fence. Mr. Helsing asked if the fence posts on the 4-board would be on the outside or inside of the fence, because it appears they could go either way. Mr. Hutzel explained he would like to put the posts to the outside because the horses might push against fence. The 4-board fence is 54 inches in height, and there will be a 14-foot gate. The wire fence along the south side of the property will not be electric. Mike Snyder added the fence at Marsh Lake is the same 4-board fence as Mr. Hutzel is proposing.

Public Comments

None.

Board Action

Scott Lepsky made a motion to approve the variance with the Staff Technical Review recommendation that the front fence must be 22 feet from the street. Motion was seconded by Jack Wessler. Motion carried 7-0.

Adjournment

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



Ron Siciliano, Chairman



Maria K. Mullen, Secretary