

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

December 7, 2016

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, Mike Stokes, Joseph Koczeniak, Greg Porter, 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 November 2, 2016 were approved. Motion carried 7-0.

New Business

Case No. BZA-16-0027 – 10-Foot Tall, Electric Fence – 5300 Dixie Hwy

Donald McLellan, on behalf of his client, New Group Inc, is requesting variances for a 10-foot high electric fence approximately 4-12 inches inside the perimeter of the existing chain link fence. The property is located in the C3A zoning district.

Staff Technical Review recommended stopping the fence at the front building line. They also recommended should Camping World vacate the property in the future, the fence must be removed.

Rick Helsinger gave a brief summary of the property and its location, the ordinance requirements, and the owner's request.

Property Owner's Comments

Cindy Williams, representative from the Electric Guard Dog LLC, spoke on behalf of the variance. Bob Weigand, general manager for Camping World, also spoke to the Board. Ms. Williams began by saying they feel the electric fence is allowed under the ordinance because it is used as burglar alarm system. The alarm system is just like a Brinks or ADT home protection system. If someone touches the electric fence, it sends a message to alert the authorities. If someone breaks the circuit an audible alarm goes off. It is monitored, has a keypad, and an alarm just like a burglar alarm. The electric shock is about equal to the shock of 12-volt battery. The battery is powered by a solar panel. It is pulsed electricity which will not cause burn marks or red marks. It is very safe. It is used throughout the country. This same fence has been approved in about 30 other areas in Ohio. Akron, London, Toledo were named. The fence has 20 single strands of wire, and would be surrounded by the existing non-electrified fence. The fence is freestanding. It would not affect the general public, only would affect criminals trying to commit a crime. By moving the fence back to the front building line, they would leave the front section of the parking lot unprotected. Their current security is non-affective, and this fence alarm system is proven to stop crime. The electric fence has to be taller than the existing six foot tall, 3-barbed wire fence, if it were not then the criminal could get over both the non-electrified fence and the electrified fence without setting off the alarm. The ten foot high electric fence is the standard height for this fence. Ms. Williams assured the Board that the fence would not be noticeable to drivers, and would have warning signs in English and Spanish. Robert Weigand stated there has been a minimum of eight (8) to ten (10)

break-ins in the last year resulting in a stolen RV, stolen equipment and vandalism. They were having the same problems in Omaha, and after the installation of this electric fence they have not had one break-in. Ron Siciliano and Greg Porter had questions and concerns about the alarm system. Ms. Williams explained the alarm is audible and can sound at different levels. When the alarm is triggered, the police dispatch is notified and an alert goes out to Mr. Weigand's cell phone. They can set the alarm to turn off after the alert goes out, and Mr. Weigand can always shut it off through his phone. The alarm siren will be to the front of the property, further away from the trailer park area, and should not affect the neighbors. The parking lot entrance gates are set up to break the electric circuit when opened. They can also have a Knox box next to the front entrance to the building and at the gate. The alarm for the fence will not be activated until after hours, sometime between 6 pm and 7 pm. It would not be an issue when the children get out of school. Ms. Williams stated the shock from the fence will be a "safe shock," it will not hurt them permanently, but it will be a memorable shock. The shock is not even close to that of a taser. There have been no cases of injury as the shock given is pulse energy. Ms. Williams shared a video of someone touching the fence and the reaction. Mr. Wessler did ask if they would consider not installing the electric fence in the front parking area as recommended by Staff Technical Review. Mr. Weigand said they really need that area for private label RV and trailers, but he suggested they install an electric fence at the same height as the existing fence in that front area. Electric Guard Dog LLC will remove the fence if and when Camping World vacates the premises. The fence is actually owned by Electric Guard Dog LLC; Camping World pays for the service. There was a bit more discussion about the alarm disturbing the neighbors in the area. Mr. Kathman informed the Board that most of the businesses up and down Dixie Highway have alarms that can be heard by neighboring properties. John Clemmons wanted it on the record that even though the fence is a burglar alarm, it is an electric fence which is not allowed per our ordinance, and therefore needs this variance to be installed.

Public Comment

There was no one in the audience to comment.

Board Action

Mike Snyder made a motion to approve the variances as submitted subject to the following conditions:

1. The section of the electric fence installed in the northwest corner (front of building) will match the height of the existing ornamental fence.
2. The electric fence will be removed if Camping World vacates the property.
3. A Knox switch will be installed at the gate and a keypad switch at the main door.

Scott Lepsky seconded the motion. The motion carried 7-0.

Case No. BZA-16-0028 – Accessory Structure over 500 ft and over 15 ft in height – 1882 Park

Kevin Keyes, owner is requesting variances for a 540 square foot accessory building which exceeds the allowable size by 40 square feet and the height will be 18 feet, 7 ½ inches tall which exceeds the allowable height by just less than four feet. The property is located in the A-1 zoning district.

Staff Technical Review had no comments. Rick Helsinger gave a brief summary of the property and its location, the ordinance requirements, and the owner's request.

Property Owner's Comments

Kevin Keyes, owner and occupant of the property, spoke on behalf of his variance request. He is building the structure to match the house, including matching the pitch of the roof. The accessory structure will include

a storage area that will eliminate the need for a separate structure for storage. The plans also show a bathroom which Mr. Keyes explained will tie into the existing sewer line. Mr. Helsinger added that the utility issue was discussed in staff review, and the utilities will be reviewed during the building process. Mr. Snyder said he thought it was a great design and agreed with Mr. Siciliano that it will blend in with the topography.

Public Comment

There was no one in the audience to comment.

Board Action

Mike Snyder made a motion to approve the variances as submitted. Scott Lepsky seconded the motion with the condition that the utilities are completed to code. Motion carried 7-0.

Case No. BZA-16-0029 – Parking on Crushed Gravel – 4400 Dixie Hwy

Kevin Smith, with First Highland, is requesting a variance to use crushed gravel for a trailer parking lot. The property is located in the M2 zoning district.

Rick Helsinger gave a brief summary of the property and its location, the ordinance requirements, and the owner's request. Staff Technical Review had a few comments:

1. Staff recommends replacing the existing fence and moving it at least 5 feet behind the Right of Way.
2. Staff recommends installing landscaping in front of the fence.
3. Asphalt grindings are not an acceptable material to use as a parking surface.

Property Owner's Comments

Kevin Smith, with First Highland, 4400 Dixie Hwy, spoke on behalf of the variance request. Mr. Smith said the existing lot was originally used as a die lot for GM in the 1950s up until the time they shut down operations. It has been gravel since it was originally built. It was also used for precast concrete. They have begun cleaning up the lot by clearing out the cypress trees and used crush concrete which is cleaner than crushed gravel. Mr. Smith was not aware the fence was not on their property line. They considered planting arbor vitae along the fence line. The old fence is rusty, so it will be repaired and painted, or it may be removed and replaced if necessary. Goodwill Industries would use five (5) acres of the lot for their trailer storage, and the rest of the area would be for other tenants' trailer parking. The total area is 1.2 million square feet. First Highland has owned the property since 2005. The BZA case from 2006 was for a one year lease with General Electric. GE abandoned the site. The arbor vitae could be planted inside the fence line rather than on the outside of the fence. Mr. Helsinger said the property line is approximately 30 feet from the street edge; it actual varies in places. Right now the fence is only 12 feet off the road, so the fence needs to be moved back 18 feet. Parking of the trailers would be five feet back from that point. John Clemmons told the Board that trailer parking is a different use than the original use for this area. The arbor vitae could be planted in the buffer between the street and the fence. Scott Lepsky wanted to know if they were requesting a time frame like the previous BZA case in 2006. Mr. Smith said they would like the variance indefinitely. The original non-conforming use is not grandfathered. Mike Snyder would support it based on the recommended conditions by Staff. Jack Wessler does not see the reason for a variance, and they must protect the other properties from excessive dust. We have the ordinance for that reason. Mr. Smith said the crushed concrete will support the weight of the trailers as it makes a tighter surface and is less dust. Goodwill wants to have a 5-yr lease to store their trailers. It will be nice to offer the extra parking to tenants if there is a need. It is a draw to the building by having it available to their tenants. Mr. Smith said the plan is to use both entrances, at Dixie and Symmes. Both entrances have pavement, and there is pavement to the proposed crushed cement area.

Public Comment

There was no one in the audience to comment.

Board Action

Mike Snyder mad a motion to approve the variance as submitted with the following conditions:

1. Remove old chain link and install new fence at least five (5) feet behind the City of Fairfield's Right-of-Way
2. Owner to provide landscape screening in front of the fence.
3. Trailers must be parked no closer than five (5) feet from the City's Right-of-Way.
4. The crush cement or any other product used for the parking lot must be approved by the City's staff.

The motion was seconded by Mike Stokes. The motion carried 5-2, with Jack Wessler and Scott Lepsky dissenting.

Case No. BZA-16-0030 – Oversized Directional Signs and a Full Color Variable Message Board – 4100 Port Union Rd

Chris Brown, with Fastsigns Colerain on behalf of Koch Foods, is requesting a variance for four (4) directional signs, one sign for each entrance; and each sign will be over the allowable three (3) square feet. Each sign will be 10 feet in height and approximately 4 feet in width, which is 40 square feet, 37 square feet over the allowable size. He is also requesting to use the full color display rather than the required single color display for a variable message reader board. The property located in the M2 zoning district.

Staff Technical Review had no comments. Rick Helsinger gave a brief summary of the property and its location, the ordinance requirements, and the owner's request.

Property Owner's Comments

Chris Brown, with Fastsigns Colerain, spoke on behalf of the variance request. Mr. Brown stated allowable three square feet for a directional sign is too small for this location. The current directional signs are 4' x 4' (16 sf). The building sits down in a gully and the new directional signs are needed for visibility. They are redoing the driveways. The signs to the entrances need to be seen at least 70 yards away because the speed limit is 55 mph. The larger directional sign request is for the aesthetics of visibility. They are having a real problem with people going in the wrong entrances. Trucks have turn around issues when they enter the wrong driveway. Mr. Brown explained the look of directional signs and how it will help. The owner wants the monument sign to have the LED full color screen as two or more colors make it more visible. The sign will not show food items, only for communicating to the public in different languages, mainly for hiring purposes. Greg Kathman said Koch Foods would like to separate the truck traffic from the cars coming into their facility. Koch employs about 1000 people, and they will be increasing that amount to 1300 or more. Ron Siciliano drove right by without seeing the existing signs, so he thinks the size of the new larger signs would not be an issue. Rick Helsinger said other businesses have put in the full color displays with the hope that the ordinance changes to allow them in the future, but they all have agreed to use the monochrome in compliance with the ordinance. Mr. Brown said in his communication with Koch Foods they never spoke about using the display for graphics, just words/text. It would help if they could even use two colors. Mr. Snyder would allow the two colors and only text on the reader board. Mr. Brown said they may want to use more than one color, maybe three colors. The Board discussed the use of multiple colors. Mr. Kathman recalls Koch Foods had mentioned they were thinking of displaying flags from different countries on the message board. Mr. Lepsky stated the number of colors needs to be addressed as they cannot set a precedent. John Clemmons informed the Board that there are two different definitions for these types of signs in the code. The proposed sign is actually an "electronic message display sign" {Section 1187.02 (12)}, which is different from the "variable message reader board" {Section 1187.02 (32)}. The electronic message display sign is only permitted in a shopping center as defined in

Section 1187.02(e) with 500 feet or greater of continuous street frontage along the principal street. Both Rick Helsinger and John Clemmons spoke on the conditions for the electronic message display, which allows for multiple colors and graphics. Mr. Brown agreed that the definition for the electronic message display sign applies to the LED sign that he is proposing for his client. Mr. Brown amended his variance request the Board to allow Koch Foods to have the LED electronic message display sign rather than the original variance request for a full color display variable reader board. Mr. Siciliano explained that Koch Foods does have over 500 feet of continuous street frontage which is the same or more than many of the shopping centers. Koch Foods is a good tenant that employs many, and those many employees speak other languages and are from multiple parts of the world. Koch Foods has a need for this type of sign for their business. The variance is needed because Koch Food is not a shopping center. Mr. Wessler was concerned about other places with this type of sign, like the church on Symmes, where we have limited the use of multiple colors; will we go back and allow them to do the same thing as Koch Foods? John Clemmons said the church does not have close to the 500 foot frontage. Mr. Siciliano thinks the frontage and the various languages limit the church and others to have this same approval. Mr. Lepsky said the key differences between Koch foods and this church and other businesses is the volume of traffic coming and going from this facility, directional signs are critically important to their business. With the employment challenges for this business as mentioned by the applicant, it is important to display the message in multiple languages, and possibly the flags, which makes the color display a more appropriate use for Koch Foods than the church or some other facility. Rick Helsinger, to address Mr. Wessler's concern, disclosed that the Building and Zoning Division does receive calls regarding some of the business that have the full color displays that aren't using them appropriately, such as flashing or changes quicker than seven seconds. We get the call and we will go out to monitor the display. If a church or business that has this type of sign is not being responsible in following the code rules, then we will work to resolve it. Mr. Wessler had no other objections. Mr. Brown will work with Koch Foods to make sure they are following the rules.

Public Comment

There was no one in the audience to comment.

Board Action

Mike Snyder made a motion to approve the variances to allow the Electronic Message Display and the four (4) directional signs as presented. The motion was seconded by Scott Lepsky. The motion carried 7-0.

Additional Comments

Mr. Helsinger notified the Board that they are now responsible to perform the duties of the Board of Building Appeals as of November 30, 2016.

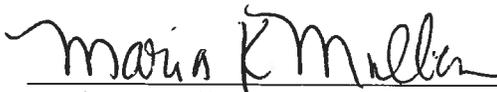
Ajournment:

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

Respectfully submitted:



Ron Siciliano, Chairman



Maria K. Mullen, Secretary