

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

February 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

Lynda McGuire, Secretary, called the roll of the Board of Zoning Appeals. Present members were Jack Wessler, Greg Porter, Joseph Koczeniak, Mike Stokes, Ron Siciliano and Mike Snyder. Rick Helsinger, Building Official and John Clemmons, Law Director were also present. Motion to excuse Scott Lepsky carried 6-0.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on January 7, 2015 were approved. Motion carried 6-0.

New Business

Case No. BZA-15-0001 – Metal roof on accessory building – 5628 Chesapeake Way:

The owner, Linda Bundy requested a variance for her 240 sf accessory building constructed with a metal roof.

STR had no comment on this case.

Property Owner's Comments

Linda Bundy, homeowner, spoke regarding the variance. She had an old shed in the same location for over 20 years, and replaced it with a new one with a metal roof. Because she was replacing an existing shed, she did not realize she needed a permit for a new shed. She was not aware of the recent code change not allowing metal roofs, nor was she told this information by a local shed vender. She would like to keep the metal roof as it is maintenance free. Mike Snyder asked if the structure itself was wood, and Ms. Bundy confirmed the shed is made of wood and only the roof is metal. There was a discussion of other sheds with metal roofs in Fairfield that were installed prior to the ordinance, and since the ordinance that were brought before the board. The size of the shed (12' x 20'), and size of doors (two 3-foot doors) were confirmed by Rick Helsinger. Mike Snyder noticed that 2124 Yorktown has a shed with a metal roof which is not far from this property.

Public Comment

Neighbor, Susy Greer, who lives at 5623 Chesapeake Way, stated the shed looks great. She added that Ms. Bundy's property is one of the best kept yards in the neighborhood.

Board Action

Mike Snyder, seconded by Ron Siciliano made a motion to approve the variance. Motion carried 6-0.

Case No. BZA-15-0002 – Attached garage in front yard setback – 5617 Winton Road

Bernie McGuire, homeowner, is requesting a variance to construct an attached garage which will extend into the front yard setback of the property.

STR had no comment on this case.

Property Owner's Comments

Bernie McGuire spoke regarding variance. Mr. McGuire considers Winton Road to be his front yard, not Jamestown Place. He currently has a parking pad at the same location where he is requesting to build the garage, of which 60 sf would encroach the front yard setback. Mr. Siciliano asked Rick Helsing which street is his front yard. Mr. Helsing stated the front yard was determined to be Jamestown Place based on the shortest dimension of the lot. Ron Siciliano added that the property is unique in having 30-foot setbacks on three sides. Owner said the front door actually faces Winton Road and his address is Winton Road. Mr. McGuire explained that the footers will be located just in front of the existing pad, and he will tie in the roof line of garage to match house. He will also have the same brick and siding to match house. Mike Snyder asked about the existing trees, if any would be removed. Mr. McGuire assured the Board that the two large maple trees would remain as well as a Linden tree. Rick Helsing determined that the structure only encroaches the setback at one corner.

Public Comment

None

Board Action

Ron Siciliano shared that it looked okay to him. It does not appear that it would impede anyone's view. Mike Stokes, seconded by Mike Snyder, made a motion to approve. Motion carried 6-0.

Case No. BZA-15-0003 – Outdoor seating – 7105 Dixie Hwy:

RTFD LLC is requesting a variance for outdoor seating.

STR recommended they look at the conditions that were set for Buzzard Bay's outdoor seating. Planning Commission approved the establishment unanimously.

Property Owner's Comments

Jim Sheanshang, JLS Architecture, Brett Corwin, owner of Bargo's Sports Bar, and Dave Hummel, Skyline spoke regarding the variance. The architect said there will be 40 seats in the outdoor seating area. 20 of those seats will be under cover, and the other 20 will be uncovered. He explained that there will be solid a masonry wall along the apartment side of the building and partially around the west side of the building. There is also a railing that continues from that masonry wall around the side and the front of the building. The parking lot should absorb most of the noise. Ron Siciliano needed clarification as to the configuration of the building on the lot. Mr. Sheanshang said it will run parallel with the access road behind the property. The back of the building will be about 25 feet off the access road. The site plan was reviewed and discussed to give the board members a better idea of how the building is situated on the lot. Mr. Sheanshang clarified the division of the building as to one side being Skyline and the other side would be Bargo's. Jack Wessler asked if they will be able to close off the outside seating in the winter. Owners are considering vinyl roll down panels over the windows. Greg Porter asked about egress. Architect pointed out location of the only egress which has been approved by the liquor board. Ron Siciliano turned the discussion to live entertainment. The bar owner, Brett Corwin, stated the bar has a similar layout to their location in Centerville. The only time they will have live music inside or out is during the summer months, and it is acoustic guitar music on Thursdays from 6 pm until 10 pm. There are two speakers in outside area that will have music when there is no live entertainment. Ron Siciliano commented that the bar orientation is different than Buzzard Bay, and does not think it will impact the neighbors like Buzzard Bay. Dave Hummel, owner of project and Skyline, spoke concerning the bar's clientele. Skyline Corporation has vetted the bar and they have approved Bargo's as a partner at this location. Mr. Hummel will be monitoring the crowds because Skyline does not want to have a rowdy crowd next to their family restaurant. He also pointed out that their biggest buffer is the behind them. The existing Skyline down the road towards 275 would be closed. It does not have easy access on and off of Route 4. Mr. Hummel cannot afford to do this project without a partner. Rick Helsing added that the Fairfield Police Department gave a report to Planning Commission on the bar's Springdale location, and they had no problems to report. The outdoor hours and live music hours were discussed. Mike Stokes said he would be

okay for the music to be until 10 pm based on the logistics of the layout. Conflicting music between the bar and Buzzard Bay would not be an issue. Board reviewed the Buzzard Bay hour requirements that were approved at the April 2, 2014 Board of Zoning Appeals meeting, and reviewed and approved at the November 5, 2014 Board of Zoning Appeals meeting. Buzzard Bay had issues that would not apply to Bargo's, such the proximity of the apartments.

Public Comment

None

Board Action

Mike Snyder asked if they would be agreeable to the same music agreement as Buzzard Bay.

Mike Snyder, seconded by Ron Siciliano, made a motion to approve the variance with the following stipulations:

1. Live Outdoor Music is approved Monday-Wednesday 5 pm to 9 pm, Thursday 5 pm to 10 pm, Friday 5 pm to 12 am, Saturday 1 pm to 12 am and Sunday 1 pm to 9 pm. From April 1 to Memorial Day, and Labor Day to November 1, outdoor music is allowed on weekends only. The day before a holiday and the holiday will follow the Saturday-Sunday schedule. Other broadcasts/piped speaker music will be allowed all year round.
2. Any and all outdoor music/broadcasts must be kept at a reasonable volume level so as not to disturb neighbors, paying particular attention to the bass level.
3. Variance to be reviewed at the August 2016 Board of Zoning Appeals meeting.

Motion carried 6-0.

Case No. BZA-15-0004 – Fence in front yard – 5592 Kingsbury Rd.:

Lauren Keith, property owner, is requesting a variance for a fence she installed in the front yard in the R-0 zoning district.

STR had no comment on this case. We received a letter from a neighbor, Gail Suiter, 5602 Kingsbury, against the fence. Teresa Durbin, 2259 Rolling Hill Blvd, called our office in favor of the fence.

Property Owner's Comments

Lauren Keith, 5592 Kingsbury Rd., spoke regarding the variance. Ms. Keith has a home garden design business, and has been featured in Better Homes and Gardens magazine. This project with the fence is a something she does for her business. She holds events at her home, and uses her yard as an example of what she can do for her customers. A marketing company is also interested in using her home garden in their marketing. Homeowners have spent \$7000 on an irrigation system for their home. They also put an addition on the house in 2009. Ms. Keith explained that the photos taken by our inspector were taken less than 24 hours after they had installed the fence, and it is not the finished look. There is more work to be done based on pictures and a courtyard plan of how it will look upon completion. She has ordered a custom fabricated gate and she will have a stone path to complete her courtyard. She did not know about the ordinance, and believed that the fence only needed to be off the easement line after seeing the fences in Olde Winton subdivision and a few other properties. Ms. Keith says it gives the property curb appeal. She loves Fairfield, and she wants her home to look great not only for her business, but for her neighborhood. They do have an old rotting picket fence that runs between their property and Gail Suiter's property. Ms. Suiter commented about the condition of this fence in her letter. Ms. Keith stated they have freshly painted pickets in their garage to replace the damaged portions of the fence, but it is too muddy to do it now. Ms. Keith had spoken to the neighbor that initially complained about the fence. This neighbor was concerned about other fences, especially chain link being put in the front yards, and Ms. Keith concurs; she does not want those in the neighborhood either. Her fence would not enclose the front yard. Mr. Koczeniak asked Rick Helsinger to

explain the existing ordinance. Mr. Helsinger discussed the ordinance on decorative fencing and front yard setbacks. There are markings on site drawing showing where the fence is allowed as decorative fence. Her fence is about 22 feet from the house. She is within ten feet of the property line which is within the 20-foot setback. The site plan was discussed. The picture of the fence with flowers is not how it actually looks now, but those flowers will be there in the spring. Mr. Siciliano asked Rick Helsinger if the garden, the stone path and the fountain are allowed in the front yard. Rick confirmed that it is allowed. Ms. Keith spoke to her neighbor Teresa Durbin, who is a realtor and is familiar with the rules, and Ms. Durbin told her that she uses the Keiths' home as a selling point in their neighborhood. Mike Snyder commented that there is a wrought iron fence at 2160 Rolling Hills Blvd that runs almost the length of the house, and another house at 5567 Kingsbury with a six foot tall fence along a walkway. Again, Ms. Keith commented that there are other fences like this around the area so she thought her fence would be okay. She has plant sales from time to time, and this allows others to see the plants and flowers in a garden setting.

Public Comment

Leonard Leach, 5567 Kingsbury, has talked to Ms. Keith about her fence. He does like it, but saw bare wood and mold on the existing fence on the left side of the property, and is concerned the new one will not be kept up. Ms. Keith is working on replacing the bad fence, and the new fence installed is cedar.

Robert Thomas, 5636 Kingsbury, stated that the pictures presented do not do the house justice. Her house belongs in Better Homes and Gardens. He went on to say the property is stunning in the summertime when everything is in bloom. The Keiths have done more maintenance in the Rolling Hills subdivision than any other homeowner. They have a room addition and have spent a lot of time upgrading. He believes they are vested in their property and will be living there for many years. They've spent almost as much in upgrading their home as they spent on purchasing the home. He comments that the Keiths are an anchor in an aging neighborhood. Mr. Thomas fully supports the Keiths, and cannot say enough good things about them. He believes most of the neighbors love what the Keiths are doing to maintain their property.

Lois Kramer, 5690 Genevieve Place, had the privilege to attend two (2) graduation parties at the Keiths' home. It was gorgeous; it is another world in their backyard.

Joan Harlan, 5580 Kingsbury, admitted she was the neighbor that called to complain about Lauren Keith's fence. She did not call in because of how Lauren Keith's yard looks. She is concerned about the fence being in the front yard, and worried that if it was allowed that there will be others wanting to do the same. She thinks Ms. Keith's will be beautiful, but if others are also allowed to put a fence in the front yard, they will not be as nice. She refuses to be the watchdog.

Ron Siciliano asked Rick Helsinger if there were any other call-ins about the fence. Rick stated that he only had the two neighbors, the one who wrote a letter and the other neighbor had called. Ms. Suiter wrote the letter, and could not come to the meeting.

Property Owner Comments

Lauren Keith re-addressed the board. She agreed with Joan Harlan that she also does not want to see ugly fencing in front yards. Ron Siciliano asked Ms. Keith how long she has been in the landscape design, installation and maintenance business. She began her business in 1998, and is still working out of her home because she has children. Her front yard would show off her work to clients. Mr. Siciliano is concerned about setting a precedent. How do you tell the next person that they can't have a fence in the front yard, if we allow her fence? Another possible problem concerning Mr. Siciliano is the traffic with a home business. Mr. Siciliano suggested she use just two eight foot sections. Mr. Koczeniak wanted to know if she was forced to comply with the ordinance, what would be her hardship. Ms. Keith answered that it would not make sense with her courtyard concept, and she would not be able to do it at all. Her comment was, "Go big or stay home." She offered to remove the two 8-ft sections by the driveway. The board was concerned about the deterioration of the existing side fence, and the possibility of this same deterioration happening to the new fence in the front yard. Ms. Keith explained that they do have all the replacement pickets for that old fence painted and in their garage. They are waiting on the weather to improve to install them. Eventually the side

picket fence will be removed when the trees and bushes grow. Mike Stokes thinks it would be rare to have another resident with Ms. Keith's talents request a fence in the front yard. He is familiar with the property and agrees that the property is beautiful. Mr. Stokes went on to say, that it would be something that needs to be checked yearly to make sure the fence is being maintained. Mr. Koczeniak feels that there is not enough of a hardship to warrant the variance. Mr. Koczeniak commented that if Ms. Keith is a good designer, she should be able to re-design her concept to work within the ordinance. Mr. Snyder brought up the idea of removing the two sections closest to the driveway because the front would not look as closed off if those sections were removed. Ms. Keith would be happy with that plan because it would not take away too much from her concept. There was discussion about a compromise on removing part of the fence.

Board Action

Mike Snyder moved that the first 16 feet of fence from the driveway into the yard be removed, and they allow the rest of the 32 feet of fence to remain with a custom fabricated gate to be installed between the two 16 foot sections, and one additional section of 8-ft fence to corner the side of the yard between them and 5580 Kingsbury. Mike Stokes seconded the motion. Motion failed 2-3, Ron Siciliano, Jack Wesseler, and Joseph Koczeniak dissenting, Greg Porter abstained. Greg Porter made a motion to table the case until the March 2015 Board of Zoning Appeals meeting. Mr. Porter would like the opportunity to visit the property, and allow Scott Lepsky, who is absent to hear the case. Jack Wesseler seconded the motion. Motion carried 5-1, Joseph Koczeniak dissenting.

It was explained to Ms. Keith that she would have to attend the next Board of Zoning meeting on March 4, at 6:00 pm. A letter will be sent to Ms. Keith to remind her of the meeting. Ms. Keith addressed the Board again about the pictures she provided showing fences that appear to be in the front yards. She asked if they also got variances for their fences. John Clemmons answered her about the pictures of Olde Winton. Mr. Clemmons explained it is a Planned Unit Development, and the whole concept of that was debated long and hard. Their lots are very small, and it is a retro look that was specifically approved for that subdivision only. Some people like it, some don't. He went on to say that is not an example of people putting up fences because they wanted to put up a fence. Ms. Keith showed pictures of other properties. Mr. Clemmons told her that he cannot tell from her pictures where the properties are located, but a lot of corner lots have fences running down one of the side streets, which is their side yard or rear yard. It may look like a fence in the front yard but it is actually a rear yard fence. Ms. Keith had a picture of another house, and John Clemmons recognized it as Tom Burer's house on Winton Road. Burer's house is one of the oldest homes in the City, and the fence was probably up prior to the zoning ordinance. There is another fence on a corner property of Rolling Hills Boulevard and Bibury, where it may pre-date the ordinance. Some homes in Rolling Hills were built in the 1950s which would be prior to the ordinances. Mr. Clemmons is not sure if that particular house falls into that category, but by and large if a fence is built in the front yard, we do enforce it.

Further business discussed by the Board

Rick Helsing mentioned that the Board may not be aware that Peggy Flaig is retiring this month and Lynda McGuire has been promoted to take that secretarial position. Lynda will no longer be the secretary to the Board of Zoning Appeals, but secretary to the Planning Commission. In March, we will have a new secretary, Maria Mullen, who works in the Building Department. Ron Siciliano asked if they have elections next month or if it is April. Mr. Helsing said once they get everyone in place that Jack Wesseler applied for another term and those interviews aren't until March 7. They will wait until council can approve the applications in April, so we are not looking at March, but at least April before we do elections.

Ron Siciliano mentioned that in the past there were issues with the square footage of sheds, and that Rick Helsing had addressed that issue with the businesses in Fairfield that sell sheds. Ron asked Rick if we can do the same with the shed roof issues. Mr. Helsing stated that we have contacted all the shed companies in Fairfield, and sent letters regarding the changes in the ordinance about metal sheds and metal roofs. Mr. Helsing is not sure how Ms. Bundy's shed got by as she stated she purchased it from a Fairfield business. Most of the places are telling customers that those types of sheds are not allowed in Fairfield. Mr. Koczeniak wanted to know if we can enforce a rule that businesses that do construction work in Fairfield either have to get the permit for the customer or that the business must give the customer something in writing that they

have to get a permit. Mr. Koczeniak feels there seems to be a lot of homeowners saying that they did not know they needed a permit. Rick Helsing reminded the Board that for a long time sheds 150 square feet or less did not require a permit. We do try to inform the public through the newsletters that go out quarterly when an ordinance changes. The new ordinance now says that any new shed business that wants to open a location in Fairfield needs to go in front of the Planning Commission. Those new businesses will be informed of the ordinance at that time. John Clemmons stated that we have a code which describes the amount of work that you can do without permits are very limited, if the work is \$300 or less. If a contractor actually does the work without the permit they can be prosecuted. We do prosecute when we can catch them. We do prosecute people that do work without permits, so we already have that available to us. Mr. Clemmons further explained that the sheds are not contraband in the sense that you can make them illegal because they have metal roofs. If they want to sell it and the homeowner takes it and puts it in their yard, it is pretty hard to prosecute the seller. Mr. Koczeniak asked if we could require a vender to provide a written notice to the purchaser informing them that a permit is required. Mr. Clemmons said we could require that, but you could never prosecute that case. The vender could say they told the buyer, but the buyer didn't care and they were going to put up the shed anyway. We would have a hard time policing it. We already have a hard of time catching the people that are working without permits. Greg Porter weighed in that it is not so much as prosecuting them, as the problem that we are just rubber stamping and approving these illegal sheds. Mr. Porter asks why do we have a law of no metal roofs on the books, either take it off the books or eventually we are going to have to say no. If we do say no, and we require disclosure, at least it gives the buyer some recourse against the business. One of those things is going to happen eventually because if not, there is really no point of having it in the code.

Adjournment:

Jack Wessler, seconded by Mike Snyder, made a motion to adjourn. Motion carried 6-0.



Ron Siciliano, Chairman



Maria K. Mullen, Secretary