

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

May 2, 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, Debbie Pennington, Joseph Koczeniak, Chad Oberson, Don Carpenter, Scott Lepsky and Jack Wessler. Rick Helsinger, Building Official, Tim Bachman, Development Services Director 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 April 4, 2012 were approved. Motion carried 7-0.

Old Business

None

New Business

Case No. BZA-12-0012 – Gravel - 5605 Chesapeake Way :

Alan Snell is requesting a variance to keep a section of decorative gravel in front of his shed.

STR sees no hardship in this case. If the variance is approved, they would like to see a separation between the existing driveway and the gravel.

Property Owner's Comments

Alan Snell spoke regarding the variance. He recently had a shed installed, and had the current gravel bed placed until spring. The building inspector came out to inspect the shed, and could not give a final inspection because of the gravel. In the spring, he had planned on putting in crushed limestone over the existing gravel bed. He does not plan on parking on the gravel; it is intended to be for decoration only. Mr. Siciliano asked what was there previous to the new shed. There was an old shed there with grass in front. Mr. Snell talked to the city and was told if the door to the new shed was less than 72" wide, then he did not have to pave in front of it. He had a retaining wall put in during the construction of the shed, and the gravel was placed at that time. The gravel bed is sitting on a tarp, rocks and two truckloads of sand. Mr. Koczeniak asked what STR was looking for in terms of a separation. Mr. Helsinger said they want a divider between the existing paved driveway and the gravel area, so they couldn't ever park vehicles on the gravel. The existing gate could be opened and it could be parked on. Mr. Oberson asked why he didn't put down grass, since that was the cheapest option. Grass won't grow through the tarp and rocks that have been placed and the owner is not going to park on the gravel area; he doesn't want to put grass there because he wants less grass to cut. Now that the gravel is there, it will be expensive to have it removed. There have been no water problems since the gravel has been there. It seeps through, and doesn't leave any standing water. The Building Department has not had any water complaints since the gravel has been placed. Mr. Siciliano doesn't see the hardship; he could park there at some point. Mr. Lepsky also doesn't see the hardship and agrees with what STR recommended. He doesn't want to set precedent with this case. Mr. Koczeniak thinks his yard is very nice. He talked to the family about the variance; there are health issues involved and they would like less grass to mow. The options he thought would work are a fence, a natural barrier, such as shrubs, or a 3 foot grassy

area between the drive and the gravel. Mr. Oberson feels grass is not a good option because you can drive over it.

Public Hearing

None

Board Re-Convened

Mr. Clemmons said that what the code requires is paving of a parking area. Landscaping areas with gravel are ok. If we can be sure he will not be parking on it, then he is in compliance. Mr. Siciliano asked if the homeowner would be opposed to placing a barrier in the area in question. If a barrier is created, then a variance isn't necessary.

Don Carpenter, seconded by Debbie Pennington made a motion to table the variance, to allow the homeowner to create a barrier between the driveway and the section of gravel. If this is done, a variance will not be necessary and will be removed from the table at the 6/6/12 BZA meeting. Motion carried 7-0.

Case No. BZA-12-0013 – Farmer's Market – 6200 S. Gilmore Rd.:

The Cincinnati Insurance Co. is requesting a variance to hold an outdoor farmer's market, every other Friday from June to September for their associates only.

STR had no comment.

Property Owner's Comments

Linda Polemanous spoke regarding the variance. She would like to basically renew the variance from last year. The market is part of their wellness program, to promote healthy choices and wellness. She is not aware of any complaints from last year from anyone. It will be held in the same location as it was held last year.

Public Hearing

None

Board Re-Convened

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

There was a motion to amend the variance to approve it indefinitely. Motion carried 7-0.

Case No. BZA-12-0014– Solar array above roof ridgeline – 5777 Windermere Ln.:

Hugh Thompson is requesting a variance to install a solar array above the ridge line of the roof.

STR had no comment.

Property Owner's Comments

Hugh Thompson spoke regarding the variance. He would like to install the solar array in this specific location, above the tree line, to improve the output of the array. He has figured an annual increase of 4-6%, and just in December, a 50-100% increase. The array will be used as emergency back up power. It will provide enough electricity to power a refrigerator. He provided the board a hand out to show how much estimated output he can expect from the array. Mr. Siciliano stated that if the array was installed one foot lower it would not require a variance. He also noted that this house can't be seen from the road. Mr. Koczeniak questioned the history of solar power in the City of Fairfield. There were a couple of cases in the past. Mr. Bachman said Planning Commission wanted to create an ordinance regulating solar panels in Fairfield. The reason for the rule on placing the array below the ridgeline is for cosmetic purposes. Mr. Wessler asked if any neighbors had been shown the plan for the array. The homeowner has talked to the

neighbors adjacent and across the street. One of the neighbors submitted a note to the board in favor of the variance. There was discussion on what view of the array each neighbor would have. Mr. Thompson has already had the trees topped that shade the top of the roof, and will continue to top them as needed.

Public Hearing

Jean Cottrill, 5802 Windermere Ln. spoke regarding the variance. She is concerned about the panels and whether or not she will be able to see them from her house. She thinks they are more suited to rural areas, and will lower the value of her home. There was discussion between her and Mr. Thompson regarding the view of the array from various areas around the property. The large tree in the front yard will hide the view of the array from her home. As a realtor, Ms. Pennington doesn't feel that the array would impact the sale of a home, but she personally has had problems selling homes that have them. There was discussion regarding the appearance of the panels. Most of the arrays have a tinted glass look to them.

Board Re-Convened

Jack Wessler, seconded by Don Carpenter made a motion to approve the variance on the condition that the panels are maintained to the manufacturer's specifications for the life of the panels. Motion carried 4-3, Debbie Pennington, Chad Oberson and Scott Lepsy dissenting.

Case No. BZA-12-0015 – Banner exceeds total allowable – 5001 Pleasant Ave.:

Matt Ostendorf is requesting a variance to hang a 20' x 50' banner across an apartment building.

STR sees no hardship in this case. Mr. Bachman said he talked to the applicant, and discussed his concerns on where the banner would be hung, anchoring, the wind load and how the banner would look. It is his impression that the banner will be similar to the banners down at the Banks in Cincinnati.

There was discussion on the progress of the construction for the apartment complex.

Property Owner's Comments

The owner or a representative did not attend the meeting.

Public Hearing

None

Board Re-Convened

Chad Oberson, seconded by Scott Lepsy, made a motion to table the variance. Motion carried 7-0.

Case No. BZA-12-0016 – Asphalt grinding for parking area – 3240 Production Dr.:

Robert Henderson is requesting a variance to use asphalt grinding, rolled and graded, for the parking lot.

STR sees no hardship. If the board is in favor of the variance, STR would like for the owner to work with the Development Services Department and submit an approved site plan, showing grinding placement and make up and recommends the lot be monitored for one year.

Property Owner's Comments

Robert Henderson spoke regarding the variance. When the previous tenant was there, the trucks were dumping debris on the lot. It is much better kept now than before. They got rid of the dirt and with the rolled asphalt; it's almost as hard as regular pavement. There is no dust and the water drains well. It is also more cost effective than paving. The testing can be done on the material if necessary. The previous tenant was also driving and parking dump trucks on the site, while the current tenant wants to park trucks and tractor trailers. Mr. Siciliano asked if the previous tenant had any zoning issues. They were not issued any citations while they were there. Mr. Bachman discussed the easement along the south end of the property. There was debris deposited all along it and it was hard for the Wastewater Division to access the manhole. The Utilities

director visited the site, and it was taken care of. Mr. Wessler asked where the asphalt they were using was coming from. They are purchasing from the tenant across the street. There was discussion as to the compaction of the material and how the board would know the make up of it. Mr. Helsinger suggested compaction and drainage be shown on the site plan that STR wanted. Mr. Bachman said the base of the asphalt also makes a difference. It should be done in 3 to 4" lifts. The largest issue is the chemical binding. If there's not enough, then it's no different than gravel. It will be dusty. If there is enough binding, then it can be successful. It can be tested to get the chemical make up. STR also wanted to see a defined curb cut out of concrete along the south end of the property, where the gravel is to be placed. Ms. Pennington asked about the piles of asphalt placed along the property. The owner had started laying the grindings, but was stopped by the city. There was discussion regarding the T-Mobile easement from a past variance. A representative from 3D Ferguson noted they already have a gravel lot; they don't want dust either because they would have to wash their trucks more often. They will not be parking trailers along the easement. From what she understands, the more you drive on the grindings, the harder it becomes. Mr. Oberson feels that gravel coming into the road is a big issue and would like to see pavement along the grassy area. The owner does not plan to have any kind of curb cut along the gravel area. They will not be entering or exiting the lot from the gravel area. There was discussion regarding some kind of barricade, grass or trees along the gravel lot to prevent vehicles from driving up over the rolled curb. Mr. Bachman noted the easement area will need to remain unblocked to allow servicing. Due to the nature of the business, Mr. Oberson is ok with the gravel, and believes asphalt grinding is suitable. Mr. Clemmons informed the board that the owner's current location received a variance for gravel, and it didn't work. It was dragged out in the street and the lot is filled with potholes. The board was assured it was as good as pavement and it was not.

Public Hearing

None

Board Re-Convended

Scott Lepsky, seconded by Jack Wessler, made a motion to approve the variance with the following conditions:

- Drawings need to be submitted to the Development Services Department showing the design, placement, and make up of the gravel.
- The area where the gravel is to be placed either needs concrete curb cuts or a natural barrier preventing vehicles from driving over the rolled curb.
- Variance is for 1 year and will be evaluated at that time.

Motion carried 7-0.

Case No. BZA-12-0017 – Paving in front yard over 35% - 6063 Morningside Dr.:

Aaron Blake is requesting a variance to pave over 35% of his front yard.

Public Works had comments regarding this issue. There were some pieces of sidewalk poured recently with no permit or inspection. These pieces are now being driven on, and are required to be a specific thickness. Typically a 26 foot curb is what Public Works approves for residential homes. The owner is proposing a 40 foot curb cut.

Property Owner's Comments

Aaron Blake spoke regarding the variance. The pavement he has now is not wide enough to allow the trailer to pull out in both directions, depending on if there are cars parked on the street or not. He is willing to re-pour the sidewalk that did not have a permit when he paves the new area, if necessary. Mr. Clemmons noted that the board can't approve anything in the right of way; the only area the board is approving the 56 square feet behind the sidewalk into the yard.

Public Hearing

None

Board Re-Convened

Mr. Siciliano asked if the additional 4 feet would really help that much. The owner feels that anything would help. Mr. Lepsky clarified that the 35% paving requirement is only for the front yard and paving on the side and behind the house is not counted. Mr. Helsinger reminded the homeowner that the trailer has to be parked on a completely paved surface. Mr. Blake questioned the reason for the 26 foot curb cut. It is mostly for conformity of the residences. Mr. Helsinger said Public Works would need to approve the curb cut portion; the board is only approving the 56 square feet behind the sidewalk in the yard. It was decided not to table the permit to see if Public Works would approve a larger curb cut. Mr. Siciliano doesn't see the hardship, but the small portion he wants to pave won't make much of an impact, but it will keep him from driving in the grass in that area and there are no neighbors there to speak against the case.

Chad Oberson, seconded by Don Carpenter, made a motion to approve the additional paving. Motion carried 7-0.

Elections

Elections were held. Lynda McGuire was elected secretary, motion carried 7-0. Ron Siciliano was elected Chairman, motion carried 6-0, Mr. Siciliano abstaining. Chad Oberson was elected Vice Chairman, motion carried 6-0, Mr. Oberson abstaining.

Other Business

Tim Bachman spoke regarding downtown signage. Ms. Pennington talked to City Council about the issues the board had with signage. The Hot Head Burrito sign is up, and though it is a smaller sign than what they had originally requested, it is working how they wanted it to. Design Review and Planning Commission discussed consistency with downtown signage. They understood that the Hot Head sign would create a new type of sign, but saw it as a solution for the future in this strip center. Tim met with the owner after the sign was denied at the BZA meeting, and they went over every option available. A reverse gable was discussed, like the one at UDF, but the owner of the building did not want to pay for that. A sign by the window would not have been seen if a large vehicle parked in front of it. A banner, like the green one next to theirs, would not have met the building code on height. A ground sign was discussed, but Hot Head would have had to pay for the entire sign, because the other tenant in the building was not interested in paying. Cars parking adjacent to the ground sign would have also blocked the sign. They chose the sign they put up because it did not need BZA approval, and it "pops" on the building. There was discussion at previous meetings for Council to form a sign committee, and it was determined that Planning Commission could be used in that role. Planning Commission looked at several staff issues when the ordinance was changed, two being LED signs and Digital gas panels. Temporary signs were also changed, and are now a nightmare to manage with the change. With a public forum, people think it's too restrictive and ask for lots of changes. Debbie Pennington talked to Jeff Holtegel, Adam Jones and Tim Abbott, and they felt the current ordinance was doing its job, and nothing new was needed at this time.

Jeff Hotege spoke on the issue. He has been on Planning Commission for 15 years off and on, and is on his 9th year of Council. He is a businessman, and likes a more liberal sign code. Fairfield is a business friendly city; large or small, the city will work with them. Jungle Jim is here because we work with him and he brings a lot of people to the city. Mr. Clemmons feels that if the sign code is reviewed, only people directly affected speak on it. It presents an unbalanced view to Council. Businesses will adjust to what is allowed. Mr. Wesseler appreciates the employees for looking out for the city's welfare. There was discussion regarding the recently installed Hot Head Burrito sign. Mr. Oberson was upset because the board was not presented with the option they ended up installing. Mr. Siciliano thinks it looks ok now; his biggest issue was consistency, and Mr. Bachman agrees. Mr. Koczeniak was opposed to the sign. That strip center is unsightly, and there is no consistency with signage. There is a hodgepodge of signage across the city, and he is concerned about it. Mr. Bachman informed the board that Design Review was created in the 90's to look at consistency only in the D-1 zone, not in the entire city, and the downtown has come a long way since the committee was created. There has to be a balance between being business friendly and resident friendly. You

have to be careful about bringing in business at any cost. For example, tax incentives are given to businesses, but certain times they do not allow them, such as for warehouses; they have to be the best type of business for everyone.

Adjournment:

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

Ron Siciliano, Chairman

Lynda McGuire, Secretary