

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

May 6, 2015

Scott Lepsky 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 Wesseler, Greg Porter, Joseph Koczeniak, Mike Stokes, Scott Lepsky and Mike Snyder. Rick Helsinger, Building Official and John Clemmons, Law Director were also present. Motion to excuse Ron Siciliano carried 6-0.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on April 2, 2015 were approved. Motion carried 6-0.

Old Business

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.

Scott Lepsky, seconded by Jack Wesseler, made a motion to remove this case off the table. Motion carried 6-0.

STR had no comment on this case.

Property Owner's Comments

Lauren Keith, 5592 Kingsbury Rd., spoke regarding the variance. Ms. Keith asked the Board if they had received her husband's letter and pictures. Scott Lepsky stated they all had received a copy. Ms. Keith gave the Board a revised plan of her front yard fence which was significantly less fencing than originally proposed. Ms. Keith's compromise was to remove all fencing except two 8-ft panels, a decorative gate and two 8-panels set at a 90-degree angle. Ms. Keith has a home garden design business since 1998, and uses her home garden as an example of her work to perspective clients. Pictures were provided by Mr. Keith of their existing backyard garden to show what Ms. Keith can accomplish. Mr. Lepsky verified with Rick Helsinger that the two panels set at the 90-degree angle are actually allowed without a variance. The 16 ft. of linear fencing would be allowed if it is 20 feet off the right-of-way, as Rick explained per FCO 1180.04 (b)(3). The right-of-way along Kingsbury is about 20 feet from the edge of street, which is unusually wide compared to other R-1 zoning districts. To be in compliance, Ms. Keith could either do have the corner demarcations or the 16 feet of linear fence 20 feet from the right-of-way. Neither of these options will work for Ms. Keith's garden concept. There was much discussion among the Board about whether this was a hardship. Mr. Koczeniak stated he had read all of the positive letters regarding Ms. Keith's existing garden and wonders why she needs the fence if the property is already getting high praise for its appearance. Ms. Keith explained that she is a small business and relies on word of mouth and her home garden to obtain clients. She uses her home to show potential clients an example of her work. She believes that front yard gardens are a trend and it shows in the marketing you see on television and magazines. She wants to be cutting edge to attract new clients. Board still did not see this as a hardship to her business, and also felt that it would increase traffic on their street. Mike Snyder expressed that the neighborhood has unique homes and that the Keith's home is not out of character for the neighborhood. He takes into consideration the individual property. Ms. Keith

brought the discussion back to fact that she is now only asking for the two 8-ft panels in the front yard setback, as the other two panels are set at a 90-degree angle which is allowed. Her feelings are that hardships are subjective to each person. This may not seem to be a hardship to the Board, but it is a personal hardship to her. She has put a lot of hard work into her property, and this would complete her vision. She stated that there is more speeding cars down their street than traffic slowing because of what is in her yard.

Public Comment

Brian Davis, 5873 Windermere Lane, walks with his family and passes the Keiths' property. He likes the fence and the curb appeal of their home. Curb appeal is important to the neighborhood as it increases the value of not only the Keiths' property but the neighbors' properties. Mr. Davis stated the home is beautiful and contemporary to what is attractive to young families. He feels that Fairfield needs to be competitive with West Chester and Mason in attracting younger families to our city. He has seen other front yard fence in Fairfield just in a 20 minute drive around some of the neighborhoods. He suggested that the front yard fencing ordinance should be revisited to accommodate new trends in society. Jack Wessler recommended to Mr. Davis to attend a Planning Commission meeting to request changes to the ordinance.

Rick Helsinger wanted to read into the record that we received an e-mail this afternoon from Teresa Durbin expressing approval of fence variance.

Pam Thompson, 4 Marcel Court since 1995, has always found the Keiths' home to be attractive. She often walks by their property and sees it as a country cottage. The Rolling Hills subdivision is made up of very unique homes, not cookie cutter homes. It makes Rolling Hills an exceptional neighborhood. Lauren Keith's fence adds to the uniqueness. She hopes the Board will see that. From talking to other neighbors, Ms. Thompson states there are more neighbors for the fence than opposed to it. She also sent an e-mail in favor of the variance because she did not know she would be at the meeting.

Jim Simcoe, 5432 Sir Lancelot Lane for 36 years, walks by their home every day. He believes there is no traffic issue as Ms. Keith's business is on a small scale. The easements (corrected to right-of-ways) in Rolling Hills are unusually wide which make the fence well off the street. The Keiths took an ordinary house and made it beautiful and it has raised the quality of the home. It is the best kept house on the street. There are other fences in the neighborhood that are tacky. Lauren Keith's fence is a nice fence. He questioned if the law actually states that it must be a hardship to request a variance. He thinks they should consider if it improves the quality of the neighborhood and value it adds to the property. Mr. Simcoe requested that the Board to take into consideration Lauren Keith's willingness to make a compromise from her original requested fence plan.

Robert Thomas, 5636 Kingsbury Road, spoke at the last hearing. He states the law is based on reason, and if you look at it, it is an exception to rule. The property value is number one in an aging neighborhood. The neighborhood's homes are at a tipping point with some in disrepair. He agrees with Jim Simcoe. The fence fits the aesthetic of the Keiths' house, but not necessary a fit for everyone's house. Lauren Keith's business is by appointment. He states there is zero traffic issue.

Jim Hanigan, 5631 Kingsbury Road, commented that the property value of his has gone down from five years ago per Fifth Third Bank. Rolling Hills has changed due to aging property. The Keiths have increased the value of their property, and if all homeowners in their neighborhood would do even half of what the Keiths have done it would increase the value of all their homes. His wife has told him to work on their house to look more like the Keiths. The Keiths have really raised the bar.

Gail Suiter, 5602 Kingsbury Road for 41 years, and her home is located to the right of the Keith's property. Ms. Suiter listed the many garden clubs and garden associations in which she is or has either been a member or president. She currently is the president of Federated Garden Club of Cincinnati and Vicinity. She feels with her years of involvement in these clubs and associations put her in tune with gardens and fences. She

respectfully disagrees with Mr. Snyder that the Keith's property is in character with the other properties of Rolling Hills. Ms. Suiter explained there is an open and welcome feel to it and this fence is pretty blatant, right across there, in your face. She does not think the fence adds anything to the character of the neighborhood. As a business, she should be held to a higher standard than the common citizen. Ms. Suiter feels Ms. Keith should focus on nature and not on hardscapes, which Ms. Keith has been able to do in her backyard garden. Ms. Suiter is concerned that other neighbors will want a front yard fence. She also has guests to her home that dislike the fence and have asked her if she knows what is going on with the fence.

Property Owner Comments

Lauren Keith re-addressed the Board. She again stated that her request is only for 16 feet of a white picket fence. The fence is decorative, not a chain link fence or too close to the road in front yard. While the Board members appreciated her compromise, they again questioned why she needed the variance, and to consider following the code on decorative fencing. Ms. Keith explained that she could not move the fencing any closer to the house because it would cut off the walkway to the front door. Greg Porter feels obligated to enforce the code, and still does not see the hardship. Ms. Keith's answer was that it is her home, her property, and it is her hardship. Jack Wesseler asked Ms. Keith if she would make more of a compromise with her new plan, and remove the 8-ft section of fence nearest the driveway. Ms. Keith said she would be willing to remove the panel. Ms. Keith amended her request to one (1) 8 ft. long fence panel and a gate in the front yard setback along with the allowed two (2) 8 ft. long fence sections set at a 90-degree angle.

Board Action

Jack Wesseler had made a motion earlier in the discussion to reject the initial proposed fence plan. Mr. Clemmons asked him to withdraw his motion, as he only needed to make a motion for Ms. Keith's amended request. Jack Wesseler withdrew his motion for a new motion to approve the revised proposal to one (1) 8 ft. long fence panel and a gate in the front yard setback along with the allowed two (2) 8 ft. long fence sections set at a 90-degree angle. Ms. Keith would remove the three (3) 8 ft. long fence panels starting from the driveway over into the front yard. Mike Stokes seconded the motion. Motion passed 5-0 with Greg Porter abstaining. Rick Helsing reminded Ms. Keith that she needed to get a permit for the fence.

Case No. BZA-15-0005 - Gravel for parking lot - 9461 LeSaint Dr

The applicant, Thomas Devitt on behalf of Omni Industrial Prop, Inc. withdrew his request for a variance for the gravel parking lot.

Motion made by Mike Snyder to remove this case from the table, seconded by Scott Lepsky. Motion carried 6-0.

At the request of the applicant, Scott Lepsky moved that Case No. BZA-15-0005 be removed from the agenda, seconded by Mike Snyder. Motion carried 6-0.

Case No. BZA-15-0007 – Accessory building over 500 sf – 5856 Crestview Ave

The owner, Greg Curson, wants to build and attach a 475 sf lean-to/carport to the existing 576 sf pole barn. He would also like to use metal siding, and not put in a driveway to the accessory building.

STR (Staff Technical Review) recommended a driveway to the accessory structure.

Property Owner's Comments

Greg Curson, the owner of 5856 Crestview spoke regarding the variance. He has lived there one and a half years. He has four acres of land split between two lots and his house sits on both lots. The original owners of the property should have combined the lots before the house was built. Because of the size of the lots, Mr. Curson feels it should be zoned A-1 which would allow the barn to be over 500 square feet and allow the metal siding. Crestview is different from any other street in Fairfield. His house sits back further off the street than any other house on the street. More than half of the properties have accessory structures/barns that are over 500 square feet. In a drive down his street, Mr. Curson found ten properties with large accessory buildings and nine of those had metal siding. Just across the street from him that is a 1600 square foot, two-story accessory building. Mr. Curson made the point at the last meeting that he could build a couple 500 square foot structures, but he wanted to have only one structure, not multiple which makes his over 500 square feet. The horse barn is original with an existing slab where part of the barn was torn down years ago. Rick Helsinger explained that accessory structures have to be at least six feet apart. Mr. Curson said it made more sense for it to be one structure rather than two structures six feet apart. Mr. Curson is not going to push that he has a hardship because his argument is that the structure fits the area, others on the street have similar structures, and it is very hard to see the building. Scott Lepsky explained that even though his neighbors' may have oversized structures and/or have metal siding does not necessarily mean those owners received the approval of the Board of Zoning Appeals. Mr. Curson spoke to Mike Stehlin about combining the lots, but Mr. Stehlin told him that combining the lots is not enough to rezone the property from R-0 to A-1. Scott Lepsky added that re-zoning would not be a decision for the Board of Zoning Appeals. Mr. Koczeniak reminded us that at the last meeting they discussed the metal siding would be painted to match the house, and the size of the structure because of the property location was not an issue, and the only real issue was the driveway. There is still an existing driveway that needs to be paved. Mr. Curson explained it was more important to pave the main driveway to the house garage where he parks his cars that he drives every day. The barn will be used to tinker with his classic cars. Once the classic cars are in the barn, they will not move for a long time, until car show season. Mr. Lepsky reminded the Board that Staff Technical Review recommended a driveway to the barn. Rick Helsinger stated the driveway must be paved per ordinance. Gravel is not permitted without a variance.

Public Comment

None.

Property Owner's Comments

Mr. Curson asked if anyone opposed at last meeting. Mr. Snyder remembers a neighbor living behind his property had an issue with seeing the structure. Mr. Curson said they were also concerned with loud noises which would not be happening. He said was all opinion. Scott Lepsky was okay with the building but he is still concerned with the driveway. His concern is if they allow him to not have a driveway, others will want the same. Mr. Curson's plan was for a simple lean-to with six foot opening. The existing barn accommodates the classic cars and the lean-to is for storage. Mr. Helsinger explained the existing barn is grandfathered, and the cars are already stored there without a driveway. Greg Porter commented that it is like farmland and the structure cannot be seen behind the house. John Clemmons advised the Board that this is not really a variance; it is an amendment to an existing non-conforming use. The existing barn is considered a non-conforming use. Mr. Curson amended the proposed addition to the barn will now be closed in on all sides with a six foot door on the back side of the new addition, and therefore would not require a variance for the driveway. This only requires an amendment of an existing non-conforming use, as stated by John Clemmons.

Board Action

Motion was made by Joseph Koczeniak to amend the existing non-conforming use to allow an additional structure to be attached to the existing pole barn with a door no wider than six feet with the condition that the metal siding on the existing barn be repaired and painted to match the new metal siding of the addition, and it will not require a driveway. Scott Lepsky stated he normally does not like to approve outbuildings of this size, but as the Board discussed the combination of these lots, the location, it makes sense. It is much more reasonable to expand on this building rather than having multiple 500 sf buildings, and for that reason Mr. Lepsky is supporting this addition. Mike Snyder seconded the motion. Motion was carried 4-2, Mike Stokes and Jack Wessler dissenting.

Scott Lepsky made a motion to waive the 5-day waiting period, seconded by Joseph Koczeniak. Motion carried 6-0.

New Business

Case No. BZA-15-0008 – Accessory Building over 500 sf – 4519 McCormick Ln

John Russo, the property owner, is requesting for a variance to build a 1200 sf detached garage, which is 700 sf over the maximum size allowed.

Staff Technical Review had no comment on this case.

Property Owner's Comments

Stefanie Hurst, spoke on behalf of the owner John Russo and also lives at the home. Ms. Hurst said there should be no problem with the setback issue since there would be no building on the property next to them. Ms. Hurst explained her hardship as the property has no basement or a garage, and they have three children with no storage space. She is also a consultant that works from home and she is required to keep her files. Ms. Hurst stated that they have zero storage space, and this garage will give them storage space and extra living space. Rick Helsinger informed the Board that the Public Works Department will not be extending the street along the side of this property, and they were okay with the garage in this setback. Jack Wessler does not have a problem with the accessory structure location in the setback, but he does have a problem with the size of the structure. Ms. Hurst said they will be using the garage for Mr. Russo's large work vehicle, for her SUV, and for storage of personal belongings and sports equipment. Rick Helsinger explained the breezeway shown on the plans does not make the structure part of the house. Mr. Clemmons added that the structure needs to be an integral part of the house to be over 500 square feet, but not if it is intended to be an accessory structure. A breezeway would not be enough to make it an integral part of the house. It would need to have the same roof line. Mr. Helsinger said they could do an addition to make it part of the house but it still might need a variance for the setback. After looking at a picture of the proposed structure, Ms. Hurst explained the siding would be a composite material. Mr. Lepsky asked if she would be willing to compromise on the size of the structure. They did submit an alternative plan for a 35 foot by 25 foot (875 sf) accessory structure. The height of the structure will be the standard and under the 15 feet height limit. The owners invested in this property when they gutted most of the house. Mr. Wessler wondered if they could do a more acceptable size like 600 square feet. Ms. Hurst said it would not be enough space for their large vehicles and storage. They do not have a garage or a basement.

Public Comment

None.

Property Owner's Comments

Mr. Snyder wanted to know if they considered adding the structure as an addition. Ms. Hurst said it would cost \$40,000 to \$50,000 which they feel is too much of an investment in that neighborhood. Their proposed accessory structure would not be heated and about \$20,000 less than adding an addition to house. It also would not over value the house. The accessory structure would match the house even though the siding would be made of the composite siding. She understands that the 1200 square foot garage is way over the limit, and they would be willing to build the 875 square foot alternative proposed garage. She asked that the 875 square foot garage be considered for the variance.

Board Action

Joe Koczeniak made a motion to allow the 875 square foot accessory building. Greg Porter seconded the motion. Motion failed 3-3, with Jack Wessler, Scott Lepsky, and Mike Stokes dissenting. Scott Lepsky made a motion to table the case until the next Board of Zoning Appeals meeting on June 3, 2015. Mike Snyder seconded the motion. Motion carried 6-0.

Property Owner's Comments

Ms. Hurst asked for some advice for the next meeting. The Board advised her to re-evaluate their need for an 875 square foot accessory structure. The Board explained that they are willing to approve an accessory structure over 500 sf, but within reason. They are more likely to approve something in the 600 sf range, but cannot guarantee that it will be approved if Mr. Russo changes his variance request to an accessory structure in that square footage zone.

Case No. BZA-15-0009 – Variable Message Board – 975 Symmes Road

Timothy Hoskins, Triangle Signs, on behalf of the owner, is requesting for a variance to install a variable message board on their property with 144-foot frontage on Symmes Road.

STR had no comments on this case.

Property Owner's Comments

Pat Reist of Triangle Signs spoke on behalf of his company and the business owner. The current sign is a manual reader where someone has to physically change the letters out on the sign. The business owners would like to upgrade to a monochrome red digital reader, with text and graphic to run their specials on the sign. The sign can be programmed and runs static text or image, and non-flashing. Ordinance states there must be 200 feet of lot frontage on the principle street to have a variable message board sign. Mr. Reist stated the building is on a corner so it has two lot frontages. Mike Stokes asked Rick Helsinger if we would be here discussing this issue if we considered the McGreevy side of the lot as the front of the lot. Rick Helsinger said the McGreevy side of the lot is 177 ft. We cannot combine the frontage on both sides of the lot; it is one or the other. Mr. Helsinger explained that the frontage on Symmes is 144 ft and is considered the front of this lot. Mr. Clemmons added that code defines that the frontage on the principle street, which would be Symmes. Scott Lepsky said the proposed sign is about 17 square feet larger than the existing sign. Mr. Reist explained the sign is actually not much bigger but the depth is wider. The sign is a new logo for the Domino's chain stores, and is more up with the times. The messages on the new sign will be much easier to change than the old sign, and it can be dimmed or shut off during certain hours.

Public Comment

Eleanor McCollum, 968 Symmes Road, agreed that it would be nice if the sign could be dimmed. Ms. McCollum, who has lived there for 90 years, came to the meeting because she was misinformed that the variance was about the property on the other corner of Symmes and McGreevy. Since she thought it was for a billboard on the other property, she really had nothing to say about the Domino's sign.

Property Owner's Comments

Mr. Reist reiterated that the sign is a monochromatic red message reader board. It will be subject to the ordinance requirements. The sign has an auto dimmer where the sign lighting will be brighter during the day and dimmer during the night.

Further business discussed by the Board

Mike Snyder moved to approve the sign as submitted with the condition the business owner must be responsive to neighbors if they have issues with the brightness of the reader sign. The business owner must also adhere to the guidelines stated in FCO 1187.02 (32) for variable message reader boards. Motion was seconded by Mike Stokes. Motion carried 6-0.

Adjournment:

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



Scott Lepsky, Vice-Chairman



Maria K. Mullen, Secretary