

MINUTES OF THE  
FAIRFIELD BOARD OF ZONING APPEALS

August 5, 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, Ron Siciliano, Scott Lepsky and Mike Snyder. Rick Helsinger, Building Official and John Clemmons, Law Director were also present. Motion to excuse Mike Stokes, carried 6-0.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on July 1, 2015 were approved. Motion carried 6-0.

Old Business

**Case No. BZA-14-0021 - Outdoor Entertainment - 101 Bacher Square:**

As a condition of the approval by the Board of Zoning Appeals on August 6, 2014, Jack Matalka, owner of The Thirsty Turtle (now named The Bear's Den), is required to have the previous decision reviewed for the property located at 101 Bacher Sq., lot no. 812 in the B-1 zoning district.

Staff Technical Review had no comments. The Fairfield Police Department reported there have been no incidents at this establishment.

Property Owner Comments

Jack Matalka, 101 Bacher Square, owner of the establishment now known as The Bears' Den, spoke on behalf of the existing approved variance. Mr. Matalka would like to make this variance permanent so that he does not have to keep coming back to the Board for re-approval. The entertainment outside is soft music. Mr. Matalka has not had any complaints from the neighbors, and there have been no incidents since he has owned the bar. He wants to give people a worry-free, drama-free, and ghetto-free bar. Mr. Siciliano visited the bar prior to this meeting to familiarize himself with the bar's outdoor area. He asked Mr. Matalka if the entire outdoor area is within the courtyard. Mr. Matalka explained that 99% of the entertainment is in the back courtyard area. He plans to submit a request to change the location of the existing fence in order to put a volleyball court in the grass area. Mike Snyder observed that the courtyard is main entertainment area and it is surrounded by significant buildings on two sides. He also noticed there are only commercial properties in the vicinity.

Public Comment

None.

### Board Action

Mike Snyder moved for a permanent variance with limitations already established and no requirement to return to the Board of Zoning Appeals. Scott Lepsky seconded the motion. Mr. Siciliano added that before the Board vote on this motion, he would like to clarify if there will be a need for Mr. Matalka to come to the Board for the future volleyball court. Mr. Helsinger explained that if the outdoor entertainment was approved by the Board, then the volleyball court would be a part of that approval as it is outdoor entertainment. Jack Wessler thought in prior approvals of outdoor entertainment, that if property changed hands, then outdoor variance approval would not carry over to the new owner. Mike Snyder added that his motion to permanently approve the outdoor entertainment only applies to the current owner. John Clemmons said it is questionable as to whether we can enforce that or not. When you talk about property use we are not giving a license, we are approving a zoning use. If Mr. Matalka does not object to it, then we can add it to the record. Mr. Clemmons just wanted the Board to know it is questionable as to whether or not it can be enforced.

### Property Owner Comments

The Board asked Mr. Matalka if he would agree to the stipulation that the variance approval will be allowed only if he remains the owner. If Mr. Matalka were to sell the business the new owner, then the new owner would need to apply for a variance for outdoor entertainment. Mr. Matalka agreed that the variance would only apply to the business as long as he owns it.

### Board Action

Mike Snyder's had made a motion earlier to approve a permanent variance for outdoor entertainment with limitations already established and no requirement to return to the Board of Zoning Appeals. The motion has been revised to include a stipulation that this approval is only for the current owner Mr. Matalka. Motion was seconded by Scott Lepsky. Motion carried 6-0.

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

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

Rick Helsinger asked if there was anyone present to speak on behalf of this variance. There was no answer from the public.

### Board Action

Scott Lepsky moved for this case to be removed from the table. Motion was seconded by Mike Snyder. Motion carried 6-0. Scott Lepsky stated the applicants have once again failed to appear before the Board of Zoning Appeals to present their case, and that being said, we have only the information before us to render a decision. Based on that, Mr. Lepsky moved that this case be denied. Motion seconded by Mike Snyder. Motion carried 6-0.

### New Business

### **Case No. BZA-15-0014 – Accessory Structures over 35% of rear yard – 134 Martha Ln**

Paula Jinks, the property owner is requesting a variance to extend her existing deck to connect to her new pool. This would exceed her allowable 35% square footage for accessory structures by approximately 240 square feet.

Staff Technical Review had no comments.

Property Owner Comments

Paula Jinks, 134 Martha Ln, spoke on behalf of her variance. She has an existing deck, but it does not connect to the newly installed above-ground round pool. They would like to extend their existing deck approximately ten feet to connect to the pool. It would give them easier access to the pool. Mr. Siciliano asked Rick Helsinger if the pool square footage was included in the allowable accessory structures for this yard. Mr. Helsinger confirmed that the pool and existing deck is within the 35% allowed, but deck extension would put them over the allowable 35%. Deck would not go all the way around the pool, only about half way up the sides. John Clemmons asked that Rick Helsinger explain the safety requirement for an above-ground pool. Mr. Helsinger explained that the above-ground pool requires a removable ladder or locking ladder for when it is not use it can be removed or locked. If there are steps or a deck up to the pool, it must have a self-latching and lockable gate. Mrs. Jinks is aware of the safety requirements. They have a side step on the existing deck where they will put the self-latching and lockable gate. Mr. Helsinger said it will be okay as long as they don't have open access for kids to walk up on the deck and into the pool. Mr. Helsinger added that most pools are at least 48 inches tall, and it is not required to have a fence as long as they have a removable or lockable ladder. With having the deck attached and steps up to the pool, they must have the self-latching and lockable gate. Mr. Wessler asked if they would be matching the new decking with the existing decking. Her existing composite deck is about 15 years old so they are not sure if they will be able to match the existing deck, but they will be matching the existing railing. Mike Snyder believes it will be an enhancement to the empty space between the existing deck and pool. Scott Lepsky noticed a few of houses in neighborhood that have a similar set up. Ron Siciliano noted there were no neighbors there to voice an opinion for or against this variance.

Board Action

Mike Snyder made a motion to approve the variance as submitted. Scott Lepsky seconded the motion. Motion carried 6-0.

Ron Siciliano made a motion to waive the 5-day waiting period, seconded by Mike Snyder. Motion carried 6-0.

Adjournment:

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



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Ron Siciliano, Chairman



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Maria K. Mullen, Secretary