

The regular meeting of the May 17, 2006 Board of Zoning Appeals meeting was called to order at 7:04 p.m. Present were Chairman Charles Cvitkovich, Genevieve Silveroli, Gregory Engelking, Larry Maser and Brian McElroy. Also present were Secretary Nicole Rosiu and Building Inspector Larry Ellis. Mr. Cvitkovich asked the audience to stand for the Pledge of Allegiance.

Mr. Engelking moved to approve the minutes of the October 19, 2006 Board of Zoning Appeals meeting. Seconded by Mr. Maser. Roll call, all approved. Mr. McElroy abstained.

Mr. Maser moved to approve the minutes of the November 21, 2006 Board of Zoning Appeals meeting. Seconded by Ms. Silveroli. Roll call, all approved. Mr. McElroy abstained.

Mr. Engelking moved to approve the minutes of the January 18, 2006 Board of Zoning Appeals meeting. Seconded by Ms. Silveroli. Mr. Maser abstained.

Mr. McElroy moved to approve the minutes of the March 15, 2006 Board of Zoning Appeals meeting. Seconded by Mr. Cvitkovich. Roll call, all approved. Mr. Maser and Ms. Silveroli abstained.

Mr. Maser moved to approve the minutes of the April 19, 2006 Board of Zoning Appeals meeting. Mr. Cvitkovich stated that the first paragraph of the Conte Variance, the sentence that says, "Mr. Conte stated that he was told 15 feet to the mean," should end with "elevation." Mr. Maser moved to approve the minutes as amended. Seconded by Mr. McElroy. Roll call, all approved. Ms. Silveroli and Mr. Engelking abstained.

Old Business

Kurtz Bros., Inc. Conditional Use and Sign

Mr. Maser moved to remove Kurtz Bros., Inc. from the table. Seconded by Mr. Engelking. Roll call, all approved.

Miss Rosiu read a letter submitted to the Board of Zoning Appeals to withdraw their applications. Mr. Cvitkovich read a letter written by Mr. Ellis to Kurtz Bros., Inc. notifying them to cease and desist.

Conte Variance

Mr. Maser moved to remove the Conte Variance from the table. Seconded by Ms. Silveroli. Roll call, all approved.

Mr. Cvitkovich asked Mr. Conte if he had any additional information for the board. Mr. Conte said the Building Department contacted legal, but they have not heard anything back. Mr. Conte stated that he is just trying to improve his property and the surrounding properties. Mr. Conte asked if he could withdraw his application and try building an 875 square foot through the Building Dept. Mr. Cvitkovich said that is an option. Mr. Conte stated that he would like to withdraw his application.

New Business

Oakwood Estates Temporary Signs

The secretary read the public notice for Application #20060534.

Mr. Cvitkovich read a letter from Oakwood Estates requesting the board to table the hearing until June. Mr. Maser asked how long the signs have been up. Mr. Ellis stated that the issue with the signs is the placement, that they are possibly in the right of way. Mr. Cvitkovich asked Mr. Ellis if the Building

Department currently has an issue with the signs. Mr. Ellis said yes. Mr. Cvitkovich said one parcel can only have one sign. Mr. Cvitkovich asked Mr. Ellis if the board tables the application, would the Building Department have them remove the signs until the board acts on the application. Mr. Ellis said yes. Mr. Cvitkovich said to be fair, he suggested tabling the application and having the signs removed until the board acts on it.

Mr. Maser moved to table Application #20060534 until June 21, 2006. Seconded by Mr. McElroy. Roll call, all approved.

Gnew Driveway Variance

The secretary read the public notice for Application #20060486.

James Gnew was sworn in. Mr. Gnew said that he purchased property on Sprague Road and his garage is about 650 feet from the street. Mr. Gnew stated that all his surrounding neighbors have gravel drives. Mr. Cvitkovich asked if the driveway was indicated when the plans were submitted to the Building Department. Mr. Gnew said yes, there is an existing driveway there. Mr. Cvitkovich asked Mr. Gnew if he priced a paved driveway. Mr. Gnew said yes, it would be about \$30,000.00. Mr. Cvitkovich asked what the square footage of Mr. Gnew's house would be. Mr. Gnew said about 2700 square feet. Mr. Cvitkovich asked if any part of the driveway is paved. Mr. Gnew stated that the apron is tarred.

Matt Haney, 27408 Sprague Rd., was sworn in. Mr. Haney stated that when the County paved Sprague Rd., they poured aprons at each driveway that go about 10'-15' back. Mr. Cvitkovich asked Mr. Haney how long he has lived in his home. Mr. Haney said since 1994. Mr. Cvitkovich asked if Mr. Gnew's driveway has been there all along. Mr. Haney stated that the driveway was already there before Mr. Gnew bought the property. Mr. Cvitkovich asked how long the driveway has been there. Mr. Haney said probably 4 or 5 years. Mr. Cvitkovich asked Mr. Gnew when he purchased the property. Mr. Gnew said 2004. Mr. McElroy asked how large the property is. Mr. Gnew said 4 acres.

Mr. Engelking asked if there is a home on the Lucas property. Mr. Gnew said yes. Mr. Engelking asked if there is a pool in Lucas's back yard. Mr. Gnew said no, just grass and trees. Mr. Engelking stated that gravel in the summertime is a dust hazard. Mr. Gnew said that he hasn't had a problem with the dust. Mr. Engelking said eventually it would be a problem. Mr. Maser stated that the driveway could be asphalt, it would be half the cost of concrete. Mr. Gnew said that he really doesn't have the money to do either. Ms. Silveroli asked if Mr. Lucas' driveway is paved. Mr. Haney said no, everybody's driveway is gravel.

Mr. Cvitkovich asked if there are trees between Mr. Leanza's house and Mr. Gnew's house. Mr. Gnew said yes, there are several trees between the homes. Mr. Haney stated that Mr. Leanza's house is at least 150 feet away from Mr. Gnew's house. Mr. Cvitkovich stated that the drawing is deceptive and that the driveway is actually about 1,000 feet long. Mr. Conte stated that he has a background in the building trades and that limestone could eliminate the dust concern. Mr. Haney said that the driveway was there several years before Mr. Gnew bought the property and all the neighbors have gravel driveways.

Ms. Silveroli moved to approve Application #20060486 as submitted. Seconded by Mr. Maser. Roll call, all approved.

Zbin Variance

The secretary read the public notice for Application #20060530.

Ken Zbin was sworn in. Mr. Zbin stated that he would like to extend his deck 3 feet than what is allowed. Mr. Zbin stated that he was included in a variance that was submitted by Ryan Homes and that variance

expired in January and he did not know that. Mr. Cvitkovich asked Mr. Zbin the actual size of the deck. Mr. Zbin said 18' x 13' plus 2' for the steps. Mr. Cvitkovich said that the application states the deck would go back about 7'8". Mr. Zbin said the deck with the steps would only total 5'. Mr. Engelking asked if there is any reason the steps are angled off the deck. Mr. Zbin said he has a dog with bad hips and it would be easier to have the steps close to the door. Mr. Engelking asked why they have to go at an angle and not just straight down. Mr. Zbin said it is just the design. Ms. Silveroli asked if Mr. Zbin's house was in the original variance request. Mr. Zbin said yes, but he didn't know that it expired.

Mr. Engelking moved to approve Application #20060530. Seconded by Mr. Maser. Roll call, all approved.

Floor Discussion

Mr. Conte asked if the Building Department's attorney comes back and says he can build an 875 square foot detached garage, would he have to come back and apply for another variance if he wanted the extra 5 square feet. Mr. Cvitkovich said yes.

Todd Weber, 27032 Pondside Point Dr., was sworn in. Mr. Weber clarified that Kurtz Bros. withdrew their application and will no longer be heard by the board. Mr. Cvitkovich said that is correct. Mr. Weber asked who has the authority over the "Stop Work" requests. Mr. Cvitkovich said the Zoning Department. Mr. Weber asked if the residents' questions and concerns would go to the Building Department. Mr. Cvitkovich said yes. Mr. Weber asked if Kurtz Bros. would be able to get any type of temporary permit to keep operating. Mr. Ellis said no. Mr. Weber asked if the only way to get their concerns heard is to come to the meeting after Kurtz Bros. re-applies. Mr. Cvitkovich said just like any other zoning violation, the complaints need to be submitted in writing to the Building Department and they will act on those.

A resident was sworn in. The resident asked why they are still operating with all of the violations they have been given. The resident asked what the next step is for the residents. Mr. Cvitkovich said the board can only act on what is brought in front of them. Mr. Weber asked if anything that is discussed now would have any influence. Ms. Silveroli said no, there is nothing for the board to hear. Mr. Cvitkovich said that if Kurtz Bros. does re-apply, the board will act on whatever they apply for and anybody who would be affected, can bring up points of discussion.

Mr. Weber asked if cease and desist means Kurtz Bros.' operations are to stop. Mr. Cvitkovich said that is a question for the Building Department. Mr. Ellis stated that Kurtz Bros. is issued a stop work order everyday and everyday is a separate violation and is punishable by up to \$500.00 per day per violation according to the Ohio Revised Code. Mr. Engelking stated that the next step is to take Kurtz Bros. to court. Miss Rosiu said that the Building Department has to go through a process of sending out letters before taking the case to court. Mr. Cvitkovich stated that the Building Department unfortunately has to go through the legal process.

Mr. McElroy said that Kurtz Bros. could possibly by-pass the zoning and go straight to court to get a temporary restraining order to continue operations. Mr. Weber said he was under the impression that the Township has to provide something to the homeowners regarding any legal action. Mr. Cvitkovich said that the Cuyahoga County Prosecutor's Office is the Township's legal representation. A resident asked how many days Kurtz Bros. has been in violation. Mr. Ellis said they have only been served one notice and they will continue every day, and every day is a separate violation. A resident asked who would be served if Kurtz Bros. tried to go around the Township. The resident stated that if the Prosecutor's office were served, the Township and the residents would not be informed. Mr. Engelking said that the Township would be notified and the Building Department can notify the residents if they are provided

with phone numbers. Mrs. Soukup asked if the fine for non-compliance of the stop work order grows greater each day or is it just \$500.00 a day regardless of the number of violations. Miss Rosiu stated that the penalty is \$500.00 per day, per violation and Kurtz Bros. is currently being sited for 5 or 6 separate violations.

Mr. Cvitkovich said that Kurtz Bros. could go for a rezoning or try to get approval through the court. Mr. Weber said that the residents should be informed of that. Mr. Weber asked if the Building Department would inform the residents if Kurtz Bros. goes to court so that the residents can get involved. Mr. Cvitkovich said yes.

Mrs. Soukup said that the fines they would have to pay are nothing to them because they are selling major amounts of landscape materials to districts and contractors. Mr. Soukup asked if there is anything more the residents could do at this point. Mr. Ellis stated that he can only enforce the code. Mr. Cvitkovich asked if the Township Code or the Ohio Revised Code determines the fines. Mr. Ellis said the Ohio Revised Code.

Mr. Maser moved to adjourn at 8:11 p.m. Seconded by Ms. Silveroli. Roll call, all approved.

Respectfully submitted,

Nicole L. Rosiu, secretary

Charles Cvitkovich, Chairman

Date