

The regular meeting of the July 20, 2005 Board of Zoning Appeals meeting was called to order at 7:30 p.m. Present were Chairman James Bolander, Larry Maser, Genevieve Silveroli, Charles Cvitkovich and Gregory Engelking. Also present were secretary Nicole Rosiu and Building Commissioner Keith Foulkes. Mr. Bolander asked to audience to stand for the Pledge of Allegiance.

Mr. Maser made a motion to approve the minutes of the June 15, 2005 meeting with one amendment. On page 2, paragraph 2, the second sentence states a 6-inch section; it should state a 6-foot section. Seconded by Ms. Silveroli. Roll call, all approved.

Storc Variance

The secretary read the public notice for Application #20055705.

Mark and Barbara Storc, 6492 Columbia Rd., were sworn in representing this variance. Mr. Storc stated that the grade is not consistent on the property, so the fence is located off the ground. Mr. Storc said that he did not want the fence put in the easement and that he wanted to put up 2 foot of lattice on top of the fence. Mr. Bolander stated that the code only allows a 6-foot fence from the ground. Mr. Storc stated that there is a swale between the properties that could be considered natural grade. Mr. Bolander asked Mr. Storc if he only wanted a higher fence up to the back edge of the house. Mr. Storc said yes. Mr. Bolander said that the pictures that the board has shows that the fence is not touching the ground. Mrs. Storc said that there is a utility truck that is parked at the Benos' house and they want the fence higher so they don't have to look at the truck. Mr. Bolander said it looks like the fence may be off the ground as high as 8 inches in some locations. Mr. Storc said it may be in some places, he tried to match it up with the height of the driveway.

Mr. Bolander asked if there was a survey done. Mr. Storc said yes. Mr. Bolander asked if the survey was done before or after the fence was put up. Mr. Storc said before. Mr. Bolander asked how far the fence is from the property line. Mr. Storc said the fence is right on the property line. Mrs. Storc said that the neighbors' fence is on their property also. Mr. Engelking asked if the fence is the dark line on the picture that was submitted to the board. Mr. Storc stated that the fence is right on the property line according to the survey. Mr. Bolander asked that if the survey is correct, then there is no question about the property line. Mrs. Storc said no. Mr. Bolander confirmed that the reason the Storcs' want a height variance is so they don't have to look at the neighbors' truck. Mr. Storc said it is a utility truck that loads and unloads all day and if the fence were only 6-foot tall, the truck would still be visible. Mr. Bolander asked if there is any other way to block the view. Mr. Storc said no, and that the Building Commissioner told him to get a variance.

Mr. Foulkes stated that Mr. Storc had a discrepancy because the height of the fence exceeds 6 feet and there is a discrepancy with the grade. Mr. Foulkes said he does not know if there is an existing swale on the property, but there is a gap. Mr. Foulkes stated that he told Mr. Storc he would have to get a variance if he wants the fence to remain as it is currently. Mr. Engelking asked Mr. Foulkes what the height of the fence is currently. Mr. Foulkes stated that the fence is relatively level and that the property slopes to the rear of the yard, and the fence is continually level to grade. Mr. Engelking asked Mr. Foulkes how big the biggest gap is from grade. Mr. Foulkes said it varies, but the maximum gap is probably 6-inches from grade.

Mr. Storc stated that the Beno's, 6460 Columbia Rd., installed a 2 to 3-foot mound along the fence to change the elevation. Mr. Engelking asked how far the mound goes. Mr. Storc stated that a rough guess is 75 feet. Mr. Bolander asked Mr. Foulkes if the Building Department would inspect the mound. Mr. Foulkes stated that he initially went out on the property on a complaint about stockpiling and changing grade. Mr. Foulkes said that he has not been out there since there was any change. Mr. Foulkes stated that the Benos' submitted drawings for a landscape mound, which the Building Department cannot issue a permit for. Mr. Storc said that the neighbor put up a fence in the front yard after his fence was put up. Mr. Bolander asked how high the lattice would be on the top of his fence. Mr. Storc said he is requesting 2 feet, but will only put it 1 foot

if the board prefers. Mr. Bolander asked Mr. Storc why he doesn't put up flower boxes with 2-foot flowers. Mr. Storc said that that is plan B.

Laura Beno was sworn in. Mrs. Beno showed the board members pictures of the flags from the survey that shows the fence on her property. Mrs. Beno said that they put up the mound on the side of the fence because the Storcs' driveway is making a pond in between their yards and that the fence hangs over the property pins. Mrs. Beno stated that the fence does not touch the ground and she has to look at a wall now when she looks out her window. Mrs. Beno said that her fence is to grade. Mr. Storc said that the fence company put up the fence according to the property pins. Mr. Bolander asked who put the flags in. Mrs. Beno said that the surveyor put the flags all the way down the property line. Mrs. Storc said that it was a legal survey. Mr. Storc stated that before they purchased the house, there was 3 feet of the Benos' property that was taken care of by the previous owners.

John Beno was sworn in. Mr. Beno stated that with the fence how it is now, it measures 6-foot 7-inches, and Mr. Storc wants to put 2-foot of lattice on top of that. Mr. Beno said that the fence company said Mr. Storc told them to do that. Mr. Beno asked how Mr. Storc is going to take care of the fence if it is on the property line. Mr. Beno said he could show 4 places where the fence goes over the property line. Mr. Bolander asked Mr. Foulkes if there were any reports on this complaint. Mr. Foulkes said the findings are in the property folder. Mr. Bolander asked what the findings were. Mr. Foulkes stated that the Building Inspector found that the fence was installed above grade and that it was higher than 6-foot. Mrs. Beno asked if the fence complies with the drawing that was submitted for the permit. Mr. Engelking said it looks like the swale is no longer there. Mr. Beno stated that the mound on his property goes about 60 to 70-feet to the back of the property and it diverts the water.

Mr. Engelking asked Mr. Foulkes if there are any spots where the fence is 9-inches off the ground. Mr. Foulkes said that the inspector did not mention it. Mr. Storc said that there are no puddles on his property, only on the Benos' property on the other side of their mound. Mr. Bolander asked Mr. Foulkes where a fence should be placed on a person's property. Mr. Foulkes stated that a fence has to be placed wholly on the applicant's property. Mr. Cvitkovich asked if the swale is considered natural grade. Mr. Bolander said that he does not see a swale. Mrs. Beno said there was never a swale there.

Mrs. Beno asked why the fence was put up and then they applied for a variance. Mr. Storc stated that he does not like to look at his neighbors' big truck. Mr. Engelking said that vehicles have nothing to do with this. Mrs. Beno stated that Mr. Storc is a contractor and he knew the driveway was less than 1 foot from the property line. Mr. Bolander said that the board is not discussing the driveway yet. Mrs. Beno said that she still believes the fence is on her property. Mr. Beno asked what the code is for fences on property lines. Mr. Bolander stated that they can be right on the property line. Mr. Engelking asked Mr. Foulkes if the Building Department looked at the property before construction. Mr. Foulkes stated that the Building Department cannot determine property lines and that a survey should have been done after the fence was put up so the surveyor could determine whose property the fence is on. Mr. Engelking asked who would be notified where the property lines are. Mr. Foulkes said whoever paid to have the survey done. Mr. Storc said that the Benos' should pay for it since the Benos are the ones disputing it.

Joan Kish was sworn in. Ms. Kish stated that the neighbors next to her have a 6-foot fence with a gap and that she doesn't see a problem with it. Sally Mian was sworn in. Ms. Mian asked if the survey was done before or after the fence was put up. Mrs. Storc said the survey was done first. Ms. Mian stated that the bottom line is that the fence is too high. Mr. Cvitkovich stated that one of the pins could have been off and that's the picture that was taken. Mr. Bolander stated that the issue is the height of the fence, not encroachment. Mike Behory was sworn in. Mr. Behory said that he lives four houses away and that it looks like an 8-foot fence from his kitchen window. Carol Konczol was sworn in. Ms. Konczol said that she agrees and that there was never a problem until this wall was put up. Ms. Konczol stated that the Beno's

have to look at the Storc's vehicles, including a boat and a half torn down barn. Mr. Cvitkovich stated that he is concerned about the maintenance. Mr. Bolander asked where there would be 2-foot of lattice. Mr. Storc stated that the lattice won't go the whole length of the fence, only where the utility vehicle is. Mr. Maser suggested going with the flower boxes instead of the lattice.

Mr. Engelking moved to approve Application #20055705, Section 1, to have the fence remain off of the natural grade. Seconded by Mr. Cvitkovich. Roll call, all approved.

Mr. Engelking moved to approve Application #20055705, Section 2, to have 2-foot of lattice on top of the 6-foot fence. Seconded by Mr. Maser. Roll call, all disapproved.

Mr. Maser asked Mr. Storc if the driveway was widened after purchasing the house. Mr. Storc said yes, but toward his property. Mr. Beno said that the driveway is not 5 feet from the property line and that it causes flooding on his property. Mr. Storc stated that all the properties in that area flood and it is not because of his driveway. Mr. Engelking said that the driveway is 20 inches from the house. Mr. Cvitkovich asked Mr. Foulkes what the required width of a driveway is. Mr. Foulkes said 8-foot minimum. Mr. Bolander stated that Mr. Storc has a 9-foot driveway. Mr. Storc asked what would be gained by altering his driveway. Mr. Engelking said that is what the board is trying to determine. Mr. Cvitkovich asked Mr. Storc how wide the driveway needed to be to fit the boats through the gate. Mr. Storc said the boats barely fit through. Mr. Cvitkovich stated that the driveway cannot be moved to be 5 feet from the property line and maintain the 8-foot minimum requirement no matter what.

Mrs. Beno suggested that if the driveway remains less than a foot from the property line, that Mr. Storc put drain tile in. Mr. Engelking asked where the drain tile should run. Mrs. Beno said that Mr. Storc could take out the wood chips along the side of the drive and run drain tile there and all the way to the rear property line. Joan Kish was sworn in. Ms. Kish said that there is always water in their yards from the golf course, so 2 feet shouldn't make a difference. Mr. Engelking said that he doesn't want the water to move from one property to another. Mr. Storc stated that he does not have a water problem and that the problem is on the other side of the Benos' mound. Mrs. Storc also said that the water is not from her driveway, that they are existing puddles.

Mr. Engelking moved to approve Application #20055705 Section 3, having a driveway closer than 5 feet to the property line. Seconded by Mr. Maser. Roll call, all approved.

Pascuzzi Variance

The secretary read the public notice for Application #20055720.

Kristina Pascuzzi and Timothy Frangella were sworn in representing this variance. Mr. Bolander asked if both Mr. Frangella and Ms. Pascuzzi were the owners of the home. Mr. Frangella said yes. Mr. Bolander confirmed that they missed the blanket variance that Ryan Homes prepared. Mr. Frangella said yes. Mr. Cvitkovich asked if it was verified that the deck would not encroach the drainage easement. Mr. Bolander said they could go a total of 6.5 feet back.

Mr. Bolander moved to approve Application #20055720. Seconded by Ms. Silveroli. Roll call, all approved.

Bischof Variance

The secretary read the public notice for Application #20055729.

Michael Bischof was sworn in representing this variance. Mr. Bischof stated that he would like to build a 2-tear deck with an open-air trellis over his hot tub. Mr. Bischof said that he did not indicate the back door on his plans, but the door is to the far left of the composite deck. Mr. Bolander asked if the deck would go beyond the site lines. Mr. Bischof said no. Mr. Maser stated that the deck is proposed at 35 ½ feet and the house is 35 ½ feet across. Mr. Bischof said that is correct, he wants to go all the way across the rear of the

house. Mr. Engelking asked if his house backs up to Sharp Rd. Mr. Bischof said yes. Mr. Bolander asked if there is a mound behind his house. Mr. Bischof said yes. Mr. Bolander asked why he wanted to have the deck so deep. Mr. Bischof stated that he wants to have an area outside to put his hot tub and he may put in a fire pit. Mr. Bischof said that he has a tall table and tall chairs that will be out there. Mr. Bischof said that he wants to put it closer to the house but the air conditioner is in the way.

Mr. Bolander asked how high the deck is off the ground. Mr. Bischof said about 30-inches of the ground. Mr. Bolander said that he does not see a hardship, that it sounds more like a desire. Mr. Bischof said yes, it is a convenience. Mr. Foulkes stated that on the application it says he wants to build a deck, not a patio. Mr. Cvitkovich asked if the size of the deck is encroaching the setback. Mr. Foulkes said yes, but the patio structure also would encroach and Mr. Bischof needs to amend his application to state that the patio structure would also encroach. Mr. Foulkes said that Mr. Bischof is allowed a 10-foot deck or patio and the deck is going back 14-feet and the patio is going 18-feet. Mr. Engelking stated that the board may only allow 14-feet all the way across. Mr. Bischof said that with the air conditioning unit, it would only 6-feet on one side and 2-feet on the other side to walk around the hot tub.

Mr. Cvitkovich stated that if Mr. Bischof built the allowable 10-foot by 35 ½ foot deck, with no patio, it would be the same square footage as what he is proposing. Mr. Bischof said that the water from the hot tub would ruin the deck. Mr. Cvitkovich said it would do the same thing as the rain. Mr. Bischof said that he could make the concrete pad smaller but where the air conditioner is, he would only have a 3-foot section to walk. Mr. Bolander asked if he would be willing to move the air conditioner. Mr. Bischof said that it would probably be \$300.00 to move it. Mr. Maser said that this would be a very big deck. Mr. Bischof stated that his last deck was 1,000 square feet. Mr. Bolander asked if Mr. Bischof would be willing to do anything else. Mr. Bischof stated that he can't see doing any less. Mr. Engelking asked what the size of the entire deck is. Mr. Cvitkovich stated that Mr. Bischof is asking for 8-feet and that is sizeable.

Mr. Cvitkovich asked Mr. Bischof if there will be stairs on the deck. Mr. Bischof said that he could change the landscaping and remove the stairs. Mr. Bischof stated that nothing would change if he went into the setback because the builder put the house there. Mr. Bolander said that it is not the Township's fault. Ms. Silveroli stated that the board is constrained by their reasons. Mr. Engelking said that if he was driving down Sharp Rd., the deck would look bigger than the house. Mr. Bischof asked the board if he should take 2-feet off the concrete and make it a 16' by 10' pad. Mr. Engelking said that neighbors call and complain often about big decks. Mr. Bischof said that he designed the deck so the neighbors could not see the hot tub. Mr. Bolander said that the neighbors would be able to see the deck. Mr. Engelking said that they don't want anyone complaining about the deck. Mr. Cvitkovich said he thinks the deck is too big.

Mr. Maser moved to approve Application #20055729 as amended with a 14'x 35 ½' deck and patio. Seconded by Mr. Engelking. Roll call, all disapproved. Mr. Cvitkovich moved to amend the motion to encroach only 2-feet as opposed to 4-feet. Seconded by Mr. Engelking. Roll call, all approved.

Floor discussion

Mr. Bolander moved to adjourn. Seconded by Ms. Silveroli. Roll call, all approved.

Respectfully submitted,

Nicole L. Rosiu, secretary

James Bolander, Chairman

Date