

The regular meeting of the September 20, 2006 Board of Zoning Appeals meeting was called to order at 7:25 p.m. Present were Chairman Charles Cvitkovich, Brian McElroy and Larry Maser. Also present were Secretary Nicole Rosiu and Building Inspector Larry Ellis.

Mr. Cvitkovich asked to audience to stand for the Pledge of Allegiance.

Mr. Cvitkovich stated that there was not a quorum present to approve the minutes of the July 19, 2006 meeting.

New Business

Hall's Quality Meats Conditional Use

The secretary read the public notice for Application #20061122.

Gerald Hall was sworn in representing this variance. Mr. Hall stated that he has antique wagons set up in front of the meat market that he purchased. Mr. Hall said that the wagons have fruits and vegetables on them in the spring and summer and pumpkins and gourds in the fall. Mr. Hall stated that he used to line up pumpkins on the sidewalk, but they look nicer on the wagons. Mr. Hall said that the wagons are along the side of the parking lot, and the closest wagon is 30 feet from Cook Road. Mr. Cvitkovich asked Mr. Hall if he had a site plan. Mr. Hall said he did not know that a site plan was necessary, but he could draw a quick one for the board. Mr. Hall then drew up a quick site plan and submitted it to the board.

Mr. Cvitkovich asked Mr. Hall how long he intended to use the wagons for. Mr. Hall said until after Halloween. Mr. McElroy asked Mr. Hall if he had fruit out in the summer and vegetables out in the fall. Mr. Hall said in the summer he puts out sweet corn, tomatoes, peppers, cantaloupe and other fresh vegetables and in the fall he puts out Indian corn, gourds and pumpkins. Mr. Hall stated that he has no use for the wagons after Halloween. Mr. McElroy asked Mr. Hall if he would use the stands from June through October in the future. Mr. Hall said yes. Mr. McElroy asked Mr. Hall if he has always had a fruit stand. Mr. Hall said in 1983, Hall's Meats was strictly wholesale. Mr. Hall said in 1993, he added sweet corn and pumpkins along the sidewalk and put cornstalks along the building. Mr. Hall stated that the wagons have been in use for 2 years.

Mr. Cvitkovich asked Mr. Ellis if there are any issues with traffic in that area. Mr. Ellis said no. Mr. Maser said Hall's Meats has significant parking anyway. Mr. Cvitkovich asked Mr. Ellis if the Building Department has received any complaints regarding the roadside stand. Mr. Ellis said no. Mr. Cvitkovich stated that there are 12 conditions that need to be met in the Zoning Code for a conditional use. Mr. Cvitkovich said that he does not see the stand being in violation of any of the 12. Mr. McElroy agreed. Mr. Maser said he does not see a problem.

Mr. Maser moved to approve Application #20061122 for a roadside stand to be used between the beginning of July through the end of October. Seconded by Mr. McElroy. Roll call, all approved.

Adkins Variance

The secretary read the public notice for Application #20061258.

Carol Adkins was sworn in representing this variance. Ms. Adkins stated that a gentleman from Ryan Homes built her deck and said he got a permit. Ms. Adkins said she found out later that he did not get a permit. Ms. Adkins did not know she needed a permit for the pavers. Mr. Cvitkovich stated that the depth of the deck is 8-feet from the rear of the house. Mr. Cvitkovich said that Ryan Homes was originally granted a 5-foot variance and Ms. Adkins is asking for a 10-foot variance with the paver patio.

Ms. Adkins said that 6 months after moving in to her home, there were bars up and she could not use her patio door. Ms. Adkins stated that she hired the project manager from Ryan Homes to build her deck and

he did not get a permit. Ms. Adkins said that her husband is in a wheelchair and the deck seats 4 or 5 people. Mr. Cvitkovich stated that the deck was built in 2004 and then asked Ms. Adkins when she was cited. Ms. Adkins said that the first notice for the pavers was in May 2006 and another notice was sent later for the grass not being installed. Mr. Cvitkovich asked why a landscaper was involved. Ms. Adkins said because she was told she needed a permit for grass. Mr. Ellis stated that the Building Department does not require a permit for grass, that the homeowner's association may have rules about grass.

Mr. Cvitkovich stated that homeowner's association requires an application for decks and patios. Ms. Adkins said that she submitted her application to the homeowner's association and they took 6-months to send an approval back to her and by that time, the deck was already done. Mr. Cvitkovich said that Ms. Adkins is requesting a variance for 8-feet on the deck and 10-feet 9-inches on the patio. Mr. Cvitkovich stated that the board deals with hardships and a want is not a hardship. Mr. Cvitkovich asked Ms. Adkins to explain her hardship to the board. Ms. Adkins said that her husband is on disability and the flat deck out back allows him to go outside. Mr. Cvitkovich confirmed that Ms. Adkins' hardship is to have use of the rear entrance for her husband, having a straight-out surface without steps. Ms. Adkins said yes, that her husband has had several strokes and injured his arms and legs. Ms. Adkins said that is why she purchased a one-story ranch.

Mr. Cvitkovich said that the original variance for Ryan Homes was for an extra 5-feet. Mr. Cvitkovich asked Ms. Adkins if she would have a problem cutting the deck and patio back any. Ms. Adkins said that if she has to cut it back any, she might as well tear it down. Mr. Cvitkovich asked if the deck is 80 square feet. Mr. McElroy said approximately, but the corners of deck are cut back some. Ms. Adkins said that the deck is 22-feet from the property line. Mr. Cvitkovich explained that the issue is the setback line, not the property line. Mr. Cvitkovich asked Ms. Adkins if there would be a problem making the patio smaller. Ms. Adkins said it would be easy just to lift some pavers. Mr. Ellis stated that taking out 2 rows and the round pavers around the edge, would make the patio go up to the end of the steps on the deck.

Mr. Cvitkovich asked Ms. Adkins if her hardship for making the deck smaller is that the deck would not be useable. Ms. Adkins said yes, and if she took it down, her husband would not be able to go out the back door. Mr. McElroy said that he visited the home and met Mr. Adkins. Mr. McElroy asked if Ms. Adkins considered building a handicap ramp. Mr. McElroy said that he believes the Building Department might not be able to do anything about that because the ADA has their own rules for them.

Mr. Maser moved to approve Application #20061258 giving an 8-foot encroachment all the way across, including the pavers. Seconded by Mr. McElroy. Roll call, all approved.

Galway Residential, Ltd. Temporary Signs

The secretary read the public notice for Application #20061343.

Matt Palumbo was sworn in representing this variance. Mr. Palumbo said that he is applying for 2 signs. Mr. Palumbo said that he needs longer than 30 days for both signs. Mr. Palumbo stated that the Building Department issued a permit for one sign at the Schady Road entrance of Galway Bay, but he would like another sign at the Jennings Road entrance. Mr. Palumbo said the sign at the Schady Road entrance will be located right behind the permanent sign and the sign at the Jennings Road entrance will be located across from the permanent sign.

Mr. Cvitkovich asked what the signs will be made of. Mr. Palumbo said 4'x 4' posts and probably a PVC stand, with a ½" thick vinyl sign, compacted in soil. Mr. Cvitkovich said that Section 320.06 of the Zoning Code states that a temporary sign can only be 6-feet high from the grade. Mr. Cvitkovich said that Mr. Palumbo is asking for a variance to have temporary signs up longer than 30 days. Mr. Cvitkovich stated that Mr. Palumbo also needs to apply for the height and area of the signs.

Mr. McElroy asked if the signs would be located in the common areas. Mr. Palumbo said yes. Mr. McElroy asked if the common areas are owned by Galway Residential. Mr. Palumbo said yes. Mr. McElroy asked Mr. Palumbo if Galway Bay has a sales office. Mr. Palumbo said yes, right at the Schady Road entrance. Mr. Cvitkovich asked what the reason was for the height and size of the signs. Mr. Palumbo said that the code states that signs have to be 10-feet from the right-of-way, there are mounds at the entrances of Galway Bay, so it makes for a better visual effect. Mr. Palumbo said that if there is a height issue, he could mount the sign on the fence of the permanent sign.

Mr. Cvitkovich said that the square footage is 4 times what is allowed. Mr. Palumbo said that the previous builder in Galway Bay had signs and Pulte had signs across the street at Pembroke Place that were larger and 2-sided. Mr. Cvitkovich said that in the code, the maximum area for a temporary sign is 6 square feet. Mr. McElroy asked if there are any signs now. Mr. Palumbo said yes, in front of the sales office. Mr. Cvitkovich asked Mr. Palumbo if he could make the sign smaller in height and area. Mr. Palumbo said that would be an awful small sign. Mr. Cvitkovich stated that Mr. Palumbo needs to convince the board to put up a bigger sign.

Mr. Palumbo stated that the market is very competitive and the economy is very slow right now, so he needs to advertise. Mr. Palumbo said the previous builder had a bigger sign up. Mr. Palumbo said that Pulte and Summerhill Homes had signs up, and he doesn't know if they got permits. Mr. Cvitkovich stated that the board goes by hardships, and that he has not heard one. Mr. Palumbo stated that he cannot sell homes if he cannot advertise. Mr. Palumbo said that a 6 square foot sign is small for a "grand opening" and cannot be put up longer than 30 days. Mr. Cvitkovich said that someone cannot put up a larger sign because they want it that big, a want is not a hardship. Mr. Palumbo said that if he can't advertise, he cannot sell homes. Mr. Palumbo said that is a hardship for Gross Builders. Mr. Palumbo said that he is not asking for anything more than what the previous builders had.

Mr. McElroy stated there could be an argument that the signs could be considered Business Identification Signs because there is a sales office in the development. Mr. Cvitkovich stated that Business Identification Signs are not permitted in Multi-Family Districts. Mr. Cvitkovich said that Gross Builders is asking for a temporary sign and not a Business Identification Sign. Mr. McElroy asked Mr. Palumbo how long he would like to have the signs up for. Mr. Palumbo said he would like to only have them up for 6 months, sell houses and move on, but he believes he will need them up for 2 years. Mr. Maser asked Mr. Palumbo if he is willing to trim the sign down a little to cut the square footage down. Mr. Palumbo stated that he is willing to work with the board and he can adjust the sign to be 4' x 4'.

Mr. Cvitkovich asked Mr. Palumbo how long he would like the signs up for. Mr. Palumbo said 2 years and he would ask for an extension if he wanted them up any longer. Mr. McElroy asked if there is a slow period in the year for selling homes. Mr. Palumbo said he would like the signs up all year round for 2 years if he could.

Mr. McElroy moved to approve Application #20061343 permitting one temporary sign, no more than 4 feet of the ground and no more than 16 square feet in area and 2 temporary signs, one at each entrance, to be displayed for no more than 2 years. Seconded by Mr. Maser. Roll call, Mr. McElroy and Mr. Maser-yes, Mr. Cvitkovich-no.

Pembroke Place, Ltd. Temporary Signs

The secretary read the public notice for Application #20061344.

Matt Palumbo was also representing this variance. Mr. Cvitkovich asked if there is anything different on this application than on the previous one. Mr. Palumbo said that the sign will be on the corner of Schady and Jennings Roads and he would like to suggest a V-shaped sign like Pulte had there. Mr. Palumbo said

that he could put up (2) 4' x 4' signs in a V-shape. Mr. Cvitkovich confirmed that Mr. Palumbo was asking for a 32 square foot sign. Mr. Palumbo said yes, with the 2 signs put together. Mr. Palumbo stated that he should be able to keep the signs there and re-word them because Pulte got them approved.

Mr. Palumbo asked if Pulte got permits for their signs. Miss Rosiu said yes, she believes Pulte got them approved on their development plan. Mr. Palumbo said that if Pulte got them approved on the development plan, Gross Builders should get them also. Mr. Cvitkovich asked Mr. Palumbo what he is asking for now. Mr. Palumbo said he would like some type of sign approved in case he goes to the Zoning Commission for change in development plan and they say no.

Mr. Cvitkovich said a permit for 30 days would mean the sign would have to come down about the third week in October. Mr. Cvitkovich stated that if the board does not act now, there is potential that there may be a period where the signs have to be taken down. Mr. Cvitkovich asked Mr. Palumbo how long of an extension he would like for the Pembroke Place signs. Mr. Palumbo said two years. Mr. Cvitkovich stated that he thinks the signs being 4' x 4' are still too big. Mr. McElroy said that he is comfortable with a 4' x 4' sign and if the Zoning Commission okays the bigger signs, the Board of Appeals' decision becomes mute. Mr. Cvitkovich said he has not heard a hardship for having a sign over 6 square feet.

Mr. McElroy asked if Schady Rd. is the only entrance for Pembroke Place. Mr. Palumbo said yes, at this time. Mr. Palumbo said there will be a second entrance off of Jennings Rd., but that is in Phase 4. James Roseman was sworn in. Mr. Roseman asked if the Zoning Commission could decide if the signs were included on the original development plan. Mr. Cvitkovich said yes.

Mr. Maser moved to approve Application #20061344 permitting one temporary sign, no more than 4 feet of the ground and no more than 16 square feet in area and 2 temporary signs, one at the Schady Rd. entrance and one at the Schady Rd. and Jennings Rd. intersection, to be displayed for no more than 2 years. Seconded by Mr. Maser. Roll call, Mr. McElroy and Mr. Maser-yes, Mr. Cvitkovich-no.

Iancu Variance

The secretary read the public notice for Application #20061324.

Rodica and Iosif Iancu were sworn in representing this variance. Mr. Iancu said that they are requesting a variance for a heat pump, not an air conditioning unit. Mr. Iancu stated that the current heat pump does not work and the new one will be 3' x 3'. Mr. Iancu said that his hardship is that he would like to put an addition on his house and the heat pump would be in the way of his plans to improve his home. Mr. Iancu stated that he purchased the home in August. Mr. Iancu said that the house was vacant for 3 years and he has really cleaned up and added grass and is still making improvements. Mr. Cvitkovich confirmed that the heat pump is a replacement. Mr. Iancu said yes, the current one is old and does not work. Mr. Cvitkovich asked where the current unit is located. Mr. Iancu said on the corner of the back of the house.

Mrs. Iancu stated that the code requires 20-feet from the property line and that is because they were noisy back then and now they are very quiet. Mrs. Iancu said that she got approval from her neighbors to put the unit on the side of the house. Mr. Iancu said that he measured where the unit would be from the property line and he measured 12'. Mr. Cvitkovich asked what the difference in noise is between an air conditioning unit and a heat pump. Mr. Ellis said they are about the same. Mr. McElroy asked what a heat pump is. Mr. Ellis said it is like a furnace, but it is outside. Mr. Cvitkovich stated that the units are quieter than in the past and the heat pump will be a considerable distance from the property line. Mr. McElroy agreed.

Mr. Maser moved to approve Application #20061324 amending the application to have an 8-foot variance. Seconded by Mr. McElroy. Roll call, all approved.

Theriot Fence Variance

The secretary read the public notice for Application #20061323.

Liz Theriot was sworn in representing this variance. Ms. Theriot stated that she would like to have a 4-foot fence around her pool instead of a 5-foot fence. Ms. Theriot said there are woods behind her house and a 5-foot fence would obstruct her view of the deer and rabbits that come out of the woods. Ms. Theriot submitted letters from her neighbors and a map of her property to the board. Ms. Theriot also submitted North Ridgeville's and North Olmsted's ordinances on fences and they both have a 4-foot ordinance.

Mr. McElroy asked if the fence is going to be vinyl. Ms. Theriot said yes, but not a privacy fence. Mr. Cvitkovich asked if there would be a gate. Ms. Theriot said yes, a self-closing, locking gate. Mr. Cvitkovich asked Mr. Ellis if the swimming pool meets all of the County and State requirements. Mr. Ellis said that he never knew that swimming pools were monitored by the County or State. Mr. McElroy asked Ms. Theriot if she researched any other cities. Ms. Theriot said Berea, but their requirement is 4-feet. Mr. Cvitkovich said that his concern is safety.

Mr. Cvitkovich stated that the board's decision is based on hardship and a want is not a hardship. Ms. Theriot said that she enjoys her land and likes to watch the deer and rabbits. Mr. Cvitkovich asked Ms. Theriot if she thinks that is a fair trade for safety. Ms. Theriot said that she asked her son if he could climb a 5-foot fence and he said he could climb a 6-foot fence just as well as a 4 or 5-foot fence. Mr. Cvitkovich said that is not a hardship. Mr. Cvitkovich asked Ms. Theriot if there is any other fence around her property. Ms. Theriot said no. Mr. Maser asked Ms. Theriot if she has an in-ground or above-ground pool. Ms. Theriot said she has an in-ground pool. Mr. McElroy asked if the pool is already installed. Ms. Theriot said yes. Mr. Cvitkovich asked when the pool was installed. Ms. Theriot said it was completed on July 2. Mr. Cvitkovich asked Ms. Theriot if she got a permit for it. Ms. Theriot said yes.

Mr. Cvitkovich asked Ms. Theriot if she stated the height of the fence on her permit application. Mr. Ellis said that when Mr. Foulkes does a plan review, he stipulates a 5-foot fence is required. Mr. Ellis stated that Ms. Theriot has a raised deck in her rear yard, so that she can see the deer and rabbits. Ms. Theriot said that sitting on the deck is not at the right angle to see the animals. Mr. Cvitkovich asked Mr. Ellis if a chain link fence is okay to put around a pool. Mr. Ellis said yes. Ms. Theriot said that chain link fences rust over the years and a vinyl fence requires no maintenance. Mr. Cvitkovich asked Mr. Ellis if there are sprayed on, vinyl coated fences. Mr. Ellis said yes. Ms. Theriot stated that she does not like the look of chain link fences.

Mr. Cvitkovich stated that he does not think there is a difference with seeing things over a 4-foot fence as opposed to a 5-foot fence. Ms. Theriot said that she is 5'3" tall and a 5-foot fence would be at eye-level for her, but she could see over a 4-foot fence. Mr. Cvitkovich said that there is a type of fence that is 5-foot tall that can be seen through. Mr. Cvitkovich asked Ms. Theriot if she had any other issues for a hardship. Ms. Theriot said that a vinyl fence makes the property nice and increases the property value. Mr. Cvitkovich stated that the permit that was issued said a 5-foot fence would be installed. Ms. Theriot said that the contractor pulled the permit for the fence and she did not know the codes.

Mr. Cvitkovich said that the board needs to hear a stronger hardship other than a want. Ms. Theriot stated that a vinyl fence is less obstructive and a 5-foot fence is more expensive. Janet Theriot was sworn in. Ms. J. Theriot stated that she has no objection to the 4-foot fence. Ms. J. Theriot said that a chain link fence would be easier to climb.

Mr. McElroy moved to approve Application #20061323. Seconded by Mr. Maser. Roll call, all disapproved.

Floor Discussion

Mr. Maser moved to adjourn at 9:44 p.m. Seconded by Mr. McElroy. Roll call, all approved.

Respectfully submitted,

Nicole L. Rosiu, Secretary

Charles Cvitkovich, Chairman Date