

The regular meeting of the October 19, 2005 Board of Zoning Appeals meeting was called to order at 7:30 p.m. Present were Chairman Charles Cvitkovich, Genevieve Silveroli, Gregory Engelking and Larry Maser. Also present were Building Commissioner Keith Foulkes and secretary Nicole Rosiu. Chairman Cvitkovich asked the audience to stand for the Pledge of Allegiance.

Old Business

Pride One

Mr. Maser moved to take Application #20056183 off the table. Seconded by Ms. Silveroli. Roll call, all approved.

David Conwill was present representing this variance. Mr. Conwill stated that he submitted a revised letter with different variances that he discussed with Mr. Foulkes. Mr. Cvitkovich said that the letter references a four (4)-part variance request. Mr. Conwill stated that he met with the Fire Department and discussed possibly eliminating a variance by making two of the buildings, one big building. Mr. Conwill said that the Fire Chief is more comfortable with how the plans are now, with the two separate buildings. Mr. Foulkes stated that Mr. Conwill has been very cooperative with the Trustees and Zoning Commission. Mr. Foulkes said that this issue only came up with the Cuyahoga County Planning Commission's review. Mr. Foulkes also stated that another thing that has not been mentioned yet is the pavement extension to the West for emergency turn-around.

Mr. Conwill stated that he will put the pavement extension on and that there is no variance required for that. Mr. Conwill said that there are 3 ½ parking spaces available per unit. Mr. Foulkes said that when the plans came to the Building Department the first time, they did comply, then the plans changed when they added more single units. Mr. Cvitkovich asked if the plans reflected having 156 enclosed parking spaces. Mr. Conwill said yes. Mr. Cvitkovich asked if roughly half the units have 2-car garages. Mr. Conwill said a little more than half. Mr. Cvitkovich confirmed that the Fire Department doesn't want the buildings in the middle to be built together, they prefer them separate as long as the fire rating is increased on those walls. Mr. Conwill said yes.

Mr. Cvitkovich asked if there would be a sliding glass door for the patios. Mr. Conwill said yes. Ms. Silveroli asked what size the patios would be. Mr. Conwill said 8' x 10'. Mr. Cvitkovich asked if there is a difference in grade from slab to door. Mr. Conwill stated that it is pretty even, there may be a 1" difference, but it is built to ADA. Mr. Cvitkovich asked if there would be an issue removing the patios that encroach the setback and replacing them with grass. Mr. Conwill said that the patios allow for chairs, grills, etc. Mr. Engelking asked if the patios would be enclosed with privacy fences. Mr. Conwill said no. Mr. Cvitkovich asked if there would be any privacy fences anywhere. Mr. Conwill said no, they are apartments, they don't have amenities, just like other apartment renters.

Mr. Cvitkovich asked if these types of apartments have been constructed anywhere else. Mr. Conwill said they have built them in Akron, Elyria, Finley and Medina. Mr. Engelking wanted to clarify that Pride One would not be providing privacy fences for the patios. Mr. Conwill said not at this time. Ms. Silveroli asked there were deed restrictions on the apartments in the other communities. Mr. Conwill said no. Ms. Silveroli asked how far the patios encroach. Mr. Cvitkovich said some of the units are right on the setback. Mr. Cvitkovich stated that if 1 or 2 units are taken out in the center, the outer units could be moved in. Mr. Conwill stated that it wouldn't work. Mr. Conwill said he would have to put a curve in Riverstone if the units are shifted and that he gave special consideration to the people that live in front of the property.

Mr. Cvitkovich asked where the property line is for Cinnamon Woods. Mr. Conwill said he guesses 30'-45' away. Mr. Cvitkovich asked if Mr. Conwill would maintain a buffer on his property. Mr. Conwill

stated that at the Northwest building line, there is a ravine and I-480 ramp, the nearest building is probably 100' away. At the West property line is North Ridgeville, the zoning of that property is B-3 and can have a wide variety of uses. Cinnamon Woods on the East has basically the same product, with patios on the rear. Mr. Cvitkovich asked Mr. Foulkes if he had any comments. Mr. Foulkes stated that Mr. Conwill has been pro-active to meet the Township's needs. Mr. Foulkes said that there was a miscommunication with the demolition of the building on the property, and Mr. Conwill got it taken care of right away. Mr. Foulkes said he has no other issues than what has already been addressed. Mr. Cvitkovich asked if Pride One is paying to put sidewalks in front of the 3 existing houses on Cook Rd. Mr. Conwill said that it still needs to be worked out with Mr. Klaiber. Mr. Cvitkovich asked if the homeowners are going to incur any costs. Mr. Conwill stated that there is a mandatory tap-in to the sewers by the EPA, and water tie-in, but the homeowners will not be paying for that.

Mr. Foulkes stated that the Planning Commission wants walk-able areas. Mr. Foulkes said they don't know whether the residents will pay or the builder. Mr. Conwill stated that Pride One will be providing a walk along the front on Cook Rd., it is not required and they cannot force the homeowners to pay. Mr. Engelking asked if Summerset Drive was going to be changed to something else. Mr. Conwill said yes, it will be Midnight Drive now. Mr. Cvitkovich asked if the fire rating is going to be increased. Mr. Conwill said yes.

Mr. Engelking moved to approve Application #20056183 with the improvement suggestions, which include: 1) The main walls and end walls of some buildings to be closer than what is allowed by Olmsted Township Zoning Resolution. 2) The end walls to end walls of some buildings to be closer than what is allowed by Olmsted Township Zoning Resolution. 3) Some units to have only one enclosed parking space as opposed to two, which is required by Olmsted Township Zoning Resolution. 4) Patios to encroach the building setback lines on the East and West sides of the property lines. Seconded by Mr. Maser. Roll call, all approved.

New Business

Toth Variance

Marshall Toth was sworn in. Mr. Toth stated that he would like to construct an accessory structure with an overhang to store things. Mr. Toth said that he has a 2-car attached garage where everything is stored now and he cannot pull 2 cars in there. Would like to store trailer and ATV in accessory building and eventually put a driveway to it and turn it into a garage. Mr. Toth said that when he built his fence he put a large gate in the fence for future plans. Mr. Engelking asked what kind of trailer Mr. Toth has. Mr. Toth said it's just an 8'x 10' trailer used to pull the ATV. Mr. Cvitkovich asked what kind of length is needed on the garage for the trailer. Mr. Toth said he could build a 10'x 12' building for the trailer, but he has intentions of putting cars in there in the future.

Mr. Foulkes said the plans show the building being 5' from the fence in the rear and asked if it will also be 5' on the other side. Mr. Toth said yes. Mr. Foulkes stated that Mr. Toth is actually building a detached garage. Mr. Toth said with a garage, there has to be a driveway and right now he does not have the money for the driveway. Mr. Foulkes said that the interpretation of a garage is something used to store cars. Mr. Toth said he has no intention of putting vehicles in there yet. Mr. Engelking asked when Mr. Toth plans on paving. Mr. Toth said within the next 5 years. Mr. Maser suggested approving the application as a garage and making a stipulation that the driveway has to be in within 5 years. Mr. Toth asked what separates a garage from an accessory building. Mr. Engelking said a garage has licensed vehicles, trailers, ATVs and an accessory building would have grass cutters and lawn tools.

Mr. Toth stated that his parents live on Fitch and have a poll barn, where Mr. Toth keeps his pool equipment, lawn mower, snow blower, ATV and trailer. Mr. Cvitkovich said that there is a reason for the size limit and a garage is bigger, but needs a driveway. Mr. Toth stated that his neighbors have a 20' x 30' garage, a 24' pool and volleyball net. Mr. Toth said that if in comparison to his 20' x 20' request, it is deceiving, because he is on a corner lot. Mr. Engelking suggested tabling the request, so Mr. Toth could talk to his wife and with Mr. Foulkes. Mr. Maser again suggested making it a garage and putting a driveway in 4-5 years. Mr. Toth asked if 10 years is excessive to put in a driveway. Mr. Engelking said yes. Mr. Toth asked if he could negotiate with 8 years. Mr. Foulkes stated that if the board extends the duration of time, and Mr. Toth decides to sell the house, then the variance falls short. Mr. Toth said he is not leaving.

Ron McKee was sworn in. Mr. McKee said that he heard Mr. Toth didn't need a variance for a detached garage. Mr. Cvitkovich said right. Mr. Toth stated that he changed the application that instead of requesting a variance for an over-sized accessory building, he is now asking for a garage with a driveway to be poured at a later time. Mr. Cvitkovich asked Mr. Foulkes if he had any problem with the driveway being on Greenbriar. Mr. Foulkes said as long as the curb cuts aren't too close. Mr. Cvitkovich asked if there are any fire hydrants, sewers or utility poles close to that area. Mr. Toth said that the sewer is not close and the neighbors' driveway is about 40' away.

Ms. Silveroli moved to approve Application #20056243 as amended, to construct a garage and pour a driveway within 5 years. Seconded by Mr. Engelking. Roll call, all approved.

Mitchell Variance

The secretary read the public notice for Application #20056309

Keith Mitchell was sworn in. Mr. Mitchell stated that he wanted to build a swimming pool in his backyard and the Homeowners Association has already approved it. Mr. Cvitkovich said that it looks like more than just a swimming pool. Mr. Engelking said it looks like he wants to add a patio. Mr. Mitchell stated that the patio had already been approved. Mr. Cvitkovich asked what the size of the patio is. Mr. Foulkes said the patio is 608 square feet, and there is a conflict in the drawing on the size. Mr. Mitchell said that they got rid of the slide and made some other changes to the pool. Mr. Cvitkovich asked what the total square footage of the patio and water are. Mr. Foulkes said that he did not figure that out with the new drawing.

Mr. Cvitkovich asked what the reason is for the large patio and pool. Mr. Mitchell stated that it's for the kids, the enjoyment and because he wants it. Mr. Cvitkovich asked why it has to be that big though. Mr. Mitchell said that with the size of his house, if he built something little, it would look ridiculous. Mr. Cvitkovich said that Mr. Mitchell could have bought a bigger lot. Mr. Mitchell said that he did not know the restrictions, otherwise he wouldn't have bought the house. Cindi Mitchell was sworn in. Mrs. Mitchell stated that there are no neighbors behind them and that they are landscaping contractors and want an extraordinary yard. Mr. Cvitkovich stated that there would be an issue with clients coming to the house, it would be considered a home occupation. Mrs. Mitchell said that the business is not being run out of there, they would just show what it looks like.

Mr. Engelking stated that they need a hardship. Mr. Cvitkovich said that it sounds like a want and not a need. Mrs. Mitchell asked what size would be appropriate. Mr. Cvitkovich asked Mr. Foulkes if the Mitchell's are at the limit. Mr. Foulkes said yes, and that they want to landscape the entire area. Mr. Foulkes also noted that the grade has not been approved and that they are relying on the builder to call for an inspection. Mr. Mitchell stated that water run-off is not an issue to him. Mrs. Mitchell said that they started the project in June or July and were told they needed a variance in September.

Mr. Cvitkovich stated that it appears the house, itself, exceeds the coverage allowed. Mr. Mitchell said that his hardship is that he wouldn't have put in all the money that he did if he knew he couldn't put in what he wanted. Mr. Cvitkovich said that size is an issue. Mr. Mitchell asked what a hardship is for size. Mrs. Mitchell said she doesn't want the pool to look un-proportionate to the house. Mr. Cvitkovich said that a want is not a hardship. Mrs. Mitchell stated that they have a lot of get-togethers. Mr. Cvitkovich stated that that is not a hardship, it is a want. Mr. Cvitkovich said that the lot would have to be double the size for what they want to do. Mrs. Mitchell said that they have 2 french doors on the back and don't want to walk onto grass. Mr. Cvitkovich stated that the zoning is set for a reason and it is up to the Mitchell's to prove a hardship. Ms. Silveroli stated that what they want to do is restricted by the zoning code and the board is trying to work with their concerns.

Mr. Mitchell said if he sold his house right now, he would not get what he wants for it. Mrs. Mitchell asked how she could sell her house after telling the buyer that they can't have anything in the backyard. Mr. Cvitkovich said that that person could apply for a variance. Mr. Mitchell stated that they liked the community and didn't think this would be an issue. Mr. Engelking stated that initially the stipulations were for green space, and this landscaping will leave your green space at practically nothing. Mrs. Mitchell said that the Homeowner's Association is not maintaining private property, the Mitchell's are taking care of it. Mr. Cvitkovich stated that it doesn't apply to the variance and it's not helping their situation.

Mr. Mitchell said that the board is telling him he can't do anything with his back yard. Mr. Engelking stated that they are not the only ones with this problem. Mr. Engelking said that what the Mitchell's are proposing is beautiful, but a hardship is going to be hard or impossible to prove. Mrs. Mitchell said that when they move out, they are going to owe the new owner's an explanation why they can't have a fence. Mr. Cvitkovich stated that the fence is not an issue. Mrs. Mitchell said that with the size of their house, having a small patio would not be a good selling point. Mrs. Mitchell stated that the buyer has to be told they can't build anything. Mr. Mitchell said that a hardship is that he has spent a lot of money and that he can't get out of if he doesn't build this.

Mr. Cvitkovich stated that the proposal has 1,056 square foot coverage, they are allowed 743 square feet. Mr. Mitchell said that when he called the Building Department and asked, the only thing he was told was that it had to be 10 feet off the property line and nothing else. Ms. Silveroli suggested tabling the variance. Mrs. Mitchell said to go ahead and table it.

Mr. Maser moved to table Application #20056309. Seconded by Mr. Engelking. Roll call, all approved.

Floor Discussion

Mr. Maser moved to adjourn at 10:26 p.m. Seconded by Ms. Silveroli. Roll call, all approved.

Respectfully submitted,

Nicole L. Rosiu, Secretary

Charles Cvitkovich, Chairman

Date