

The regular meeting of the January 18, 2006 Board of Zoning Appeals meeting was called to order at 7:05 p.m. Present were Chairman Charles Cvitkovich, Genevieve Silveroli and Brian McElroy. Also present were secretary, Nicole Rosiu and Building Commissioner, Keith Foulkes. Mr. Cvitkovich asked the audience to stand for the Pledge of Allegiance.

## **Old Business**

### **Donauschwaben's Variance**

Ms. Silveroli motioned to remove Application #20056567 from the table. Seconded by Mr. McElroy. Roll call, all approved.

Joe Holzer was sworn in representing this variance. Mr. Holzer stated that the German Club sold Christmas trees for a fundraiser for children. Mr. Holzer said that he was told to fill out an application and bring \$150 to the Building Department to get a permit. Mr. Holzer said he did that and then got a letter in the mail for a meeting on December 21<sup>st</sup> and since he paid the money, he didn't think he needed to go to the meeting. Mr. Holzer said he got another letter in the mail for the January meeting and he called the Building Department because he thought the \$150 he paid was for a 5-year permit. Mr. Cvitkovich asked if Mr. Holzer applied for a building permit through the Building Department. Mr. Holzer said that Robert Filippi did last year, and this year the Building Department said that \$150 would cover a permit that is good for 5 years.

Mr. Foulkes said that he told Mr. Holzer that he couldn't issue a permit and he had to go for a variance. Mr. Holzer said the German Club has their own parking and it is only for a couple weeks. Mr. Cvitkovich said that a variance is usually only good for one year. Mr. Holzer asked what he has to do. Mr. Cvitkovich said to convince the board to allow the sale of Christmas trees on the property for the next 5 years. Mr. Holzer stated that he was told a permit is \$150 for 5 years and it is a fundraiser and non-profit. Mr. Cvitkovich asked who told him a permit was good for 5 years with \$150. Miss Rosiu stated that there was a miscommunication with Meena that works for the German Club. Miss Rosiu said that Meena called the Building Department in July and asked about getting a permit. Miss Rosiu stated that she told Meena the German Club would have to get a variance and that it cost \$150. Miss Rosiu said that she suggested to Meena to try for a 5-year variance, so Mr. Holzer would not have to come back to the board and pay \$150 every year.

Mr. Holzer said whatever needs to be done, he will do. Mr. Cvitkovich asked if a stop work order was issued for 2005. Mr. Foulkes said no, he told them they would need a variance every year. Mr. Cvitkovich stated that in 2004, he remembers discussing the sign. Mr. Holzer said his variance has nothing to do with the sign. Mr. Foulkes stated that to the best of his knowledge, Mr. Holzer did get a permit for the sign in 2004, but the other sign is in violation. Mr. Cvitkovich asked Mr. Holzer if he plans on selling trees next year. Mr. Holzer said he doesn't know yet. Mr. Holzer said if he could get the variance for at least the next 2 years, it would be nice.

Mr. Cvitkovich asked Mr. Foulkes if he had any comments or concerns. Mr. Foulkes said in his experience working with the German Club, they have always tried to comply with the codes. Mr. Holzer said he wants to do everything by law. Mr. Cvitkovich asked if the board limits the display of Christmas trees to November and December, if Mr. Holzer would be okay with that. Mr. Holzer said yes. Mr. Cvitkovich asked who to talk to about the sign. Mr. Holzer said to talk to Mr. Filippi when he returns from vacation. Mr. Cvitkovich asked Mr. Foulkes if the board could put a stipulation on a permanent sign. Mr. Foulkes said he didn't have a problem with that. Mr. Cvitkovich suggested the German Club apply for a permanent sign to void the temporary sign variance all the time. Mr. Holzer said that would be okay.

(Gregory Engelking walked in at 7:25 p.m.)

Ms. Silveroli moved to approve Application#20056567 with the condition that the sale of Christmas trees is limited to November and December for the next 5 years beginning in 2006 and that the German-American Cultural Center apply for a permanent sign with the Building Department. Seconded by Mr. McElroy. Roll call, all approved. Mr. Engelking abstained.

### **North Coast Community Homes**

Ms. Silveroli moved to remove Application #20056568 from the table. Seconded by Mr. McElroy. Roll call, all approved. Mr. Engelking abstained.

Michael Halbert was sworn in representing this variance. Mr. Halbert stated that he wanted to widen the driveway at 6597 Columbia Rd., an assisted living home. Mr. Halbert said that the contractor started doing the work and the inspector stopped by and said the contractor had to stop doing the work and get a permit. Mr. Halbert said the contractor applied for the permit and was told he needed a variance. Mr. Halbert stated that there will only be a few cars going in and out at shift change. Mr. Cvitkovich verified that Mr. Halbert was asking to encroach the side lot line to the property line. Mr. Halbert said that the code says 5' from the property line and the driveway goes to the property line. Mr. Cvitkovich asked what the reason is for that. Mr. Halbert said the septic lines are on the other side of the driveway. Mr. Cvitkovich asked if the driveway is already done. Mr. Halbert said yes.

Mr. Cvitkovich confirmed that there was never a permit issued. Mr. Halbert said that the Building Department stopped by the house and told the contractor to stop work and that he needed a permit, and when the contractor went to get the permit, he was told he needed a variance. Mr. Cvitkovich asked Mr. Foulkes if he knows if the construction was done to code. Mr. Foulkes said he does not know, and that he may require a stamped letter from an engineer. Mr. Cvitkovich said that his concern is the lack of side yard, and it looks like the apron encroaches the next-door property line. Mr. Cvitkovich asked what the relationship is between Mr. Halbert and the contractor. Mr. Halbert said he just hired him. Mr. McElroy asked when the work was done. Mr. Halbert said early November.

Mr. Cvitkovich asked if the driveway is deficient, what type of recourse there would be. Mr. Halbert stated that the contractor seemed like a decent guy and that he would probably do whatever he needs to. Mr. McElroy asked if the contractor is properly registered with the Township. Miss Rosiu said yes. Mr. Cvitkovich stated that part of the drive could be on the other side of the original drive. Mr. Halbert said he doesn't know if that would be possible, he would have to do some research. Mr. Engelking asked if the septic is up-to-date. Mr. Halbert said yes. Mr. Foulkes stated that there is no current survey at the Building Department. Mr. Cvitkovich asked Mr. Halbert if he knew how the survey was done. Mr. Halbert stated that he isn't sure. Mr. Engelking asked if there were any complaints from the neighbors. Mr. McElroy stated that there was a letter from a neighbor that was submitted.

The secretary read the letter, which said:

"I contest the variance to pour a driveway closer than 5 feet from the property line for several reasons. This is a residential area and will not look like a residential home in the neighborhood because the front yard will be cement and will effect property values. I live next door to the home at 6597 Columbia Road. My address is 6525 Columbia Road. I cannot attend this hearing as I am not available that evening but I am definitely against this variance."

Mr. Engelking asked how many cars would be parked in the driveway at one time. Mr. Halbert said there would be 3 cars and 1 van minimum and about 4 or 5 cars on the weekend. Mr. Cvitkovich asked if there were any other comments or questions.

Ms. Silveroli moved to approve Application #20056568 as submitted. Seconded by Mr. Engelking. Roll call, all approved.

### **Constantine Variance**

Mr. McElroy moved to remove Application #20056569 from the table. Seconded by Ms. Silveroli. Roll call, all approved.

Mr. Cvitkovich stated that the Constantines submitted a letter to withdraw their request.

The secretary read the letter, which stated:

“In December of 2005, my husband and I applied for a variance in order to extend the driveway of our home at 27003 Glenside Lane to within 2.5 feet of the property line on the east side of our lot. This issue was discussed at a hearing in December and was tabled until January of 2006. Please consider this letter formal notification that we are withdrawing our request for this variance.”

### **New Business**

#### **Gasper Variance**

The secretary read the public notice for Application #20056606.

Rose Gasper was sworn in representing this variance. Ms. Gasper stated that she hired someone to put in an air conditioning unit and he never came back after she paid him. Mr. Gasper said she called the Building Department to find out what happened and found out that he never pulled a permit for the work. Ms. Gasper said she found out the A/C unit is not 20 feet from the lot line and it is not working. Mr. Foulkes stated that Ms. Gasper has lived through the nightmare of hiring a contractor that doesn't finish the work and gets the money upfront and never comes back. Mr. Foulkes said that the Building Department has tried to contact the contractor, but there is no listing and he is not a registered HVAC contractor with the State of Ohio. Mr. Foulkes stated that he warned Ms. Gasper that if the Building Department came out, she would be responsible for any violations. Mr. Foulkes said that he has not visited the site. Mr. Foulkes stated that there is a limited amount of run for efficiency.

Ms. Gasper stated that the new contractor she has said that it would be cheaper to leave the A/C unit where it is at right now and fix it, rather than moving it. Ms. Gasper said that the new contractor told her it would cost about \$2,700 to fix it where it is at and another \$1,000 to move it, and she already paid the old contractor \$3,000 to install it. Mr. Cvitkovich asked when the unit was installed. Ms. Gasper said in August 2005. Ms. Gasper stated that she was told the unit wasn't working, so the contractor put something in the ceiling, the Building Inspector came out and said it can't be there, so now she has to replace her ceiling.

Mr. Cvitkovich asked Mr. Foulkes if it is a proper unit for the house. Mr. Foulkes said that it sounds like the return air was put in the kitchen, which is in violation; it is usually put in the bathroom. Mr. Foulkes said that when Robert Hayes, Building Inspector went out on site, he found tools that were left behind by the previous contractor. Ms. Gasper stated that her neighbor's A/C unit is probably 6' from her property line, then the driveway and garage and then the house. Mr. Engelking asked Ms. Gasper if she would put greenery behind the unit if required. Ms. Gasper said yes. Mr. Cvitkovich said that there is probably 3'-4' to the property line. Mr. Foulkes stated that he tried to contact the contractor several times, but it is no easy. Mr. Foulkes said that he is not registered with the Township or the State of Ohio, so he is hard to find.

Mr. Engelking moved to approve Application #20056606 as submitted. Mr. McElroy added a stipulation that if a neighbor complains, greenery should be put up. Seconded by Ms. Silveroli. Roll call, all approved.

## **Volak Construction Variance**

The secretary read the public notice for Application #20060036.

Robert Berg was sworn in representing this variance. Mr. Berg said that on the property where the Lazer Wash is being built, there is a storage trailer, which is basically a toolbox with a top. Mr. Berg stated that where it is at right now, it is easy to get the tools in and out and it will only be there for about 60 more days. Mr. Cvitkovich said that it looks like it's about 20' off the right-of-way on Fitch. Mr. Berg said that is correct. Mr. Cvitkovich asked Mr. Foulkes what his interpretation of the definition of a building. Mr. Foulkes said that he feels a trailer is a structure being used as part of the construction. Mr. Foulkes stated that the trailer is not relatively moveable. Mr. Cvitkovich asked if wheels on the trailer would make a difference. Mr. Foulkes said if the wheels are attached to the trailer, it would not make a difference.

Mr. Berg said it's basically a dumpster with a top on it. Ms. Silveroli asked if it is just sitting on the ground. Mr. Berg said yes. Mr. Cvitkovich stated that there are now things called pods, and asked Mr. Foulkes if the Township treats pods the same way. Mr. Foulkes said pods are mostly on a driveway, but if a pod was in the front yard, the Building Department would treat it the same way. Mr. Engelking asked if someone was tearing off a roof, would they need a variance for a dumpster. Mr. Foulkes said that a dumpster contains construction debris. Mr. Berg said that his trailer does hold tools. Mr. Engelking asked how long it would be there. Mr. Berg said he plans to have it there for only about 60 more days. Mr. Engelking asked if it also has trash in it. Mr. Berg said yes.

Mr. Engelking moved to approve Application #20060036 as submitted. Seconded by Ms. Silveroli. Roll call, all approved.

### Floor Discussion

Ms. Silveroli nominated Mr. Cvitkovich for Chairperson. Seconded by Mr. McElroy. Mr. Cvitkovich accepted.

Mr. Cvitkovich nominated Ms. Silveroli for Vice Chairperson. Seconded by Mr. Engelking. Ms. Silveroli accepted.

Ms. Silveroli moved to adjourn at 8:37 p.m. Seconded by Mr. McElroy. Roll call, all approved.

Respectfully submitted,

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Nicole L. Rosiu, secretary

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Charles Cvitkovich, Chairman

Date