



City of Dublin
Land Use and Long
Range Planning
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BOARD OF ZONING APPEALS

MEETING MINUTES

APRIL 25, 2013

AGENDA

NEW CASE:

1. Mitchell Residence – Fence Variance 13-028V

178 Longview Drive Non-Use (Area) Variance

Chair Brett Page called the meeting to order at 6:27 p.m. Other Board members present were James Zitesman, Patrick Todoran, Brian Gunnoe, and Rion Myers. City representatives present were Council member Cathy Boring, Tammy Noble-Flading, Gary Gunderman, Jordan Fromm, Marie Downie, and Flora Rogers.

Council member Cathy Boring administered Oaths of Office to reappointed member, Patrick Todoran and newly appointed member, Albert Orion Myers III.

Mr. Page congratulated Mr. Todoran and Mr. Myers for their appointments to the Board.

Mr. Page requested nominations for the 2013 – 2014 Chair and Vice Chair of the Board of Zoning Appeals.

Motion and Vote

Patrick Todoran moved, and Brian Gunnoe seconded, to elect Brett Page as the 2013 – 2014 Chair of the Board of Zoning Appeals. The vote was as follows: Mr. Myers, yes; Mr. Zitesman, yes; Mr. Page, yes; Mr. Gunnoe, yes; and Mr. Todoran, yes. (Approved 5 – 0.)

Motion and Vote

Jamie Zitesman moved, and Patrick Todoran seconded, to elect Brian Gunnoe as the 2013 – 2014 Vice Chair of the Board of Zoning Appeals. The vote was as follows: Mr. Page, yes; Mr. Zitesman, yes; Mr. Myers, yes; Mr. Gunnoe, yes; and Mr. Todoran, yes. (Approved 5 – 0.)

Mr. Page congratulated Vice Chair Gunnoe. He said as Chair, he was looking forward to the Board members working together for another productive year.

Motion and Vote

Brett Page moved, and Patrick Todoran seconded, to accept the documents into the record. The vote was as follows: Mr. Zitesman, yes; Mr. Gunnoe, yes; Mr. Myers, yes; Mr. Todoran, yes; and Mr. Page, yes. (Approved 5 – 0.)

Mr. Page confirmed that there were no amendments or corrections to the March 21, 2013 meeting minutes, and requested a motion.

Motion and Vote

James Zitesman moved, and Patrick Todoran seconded, to approve the March 21, 2013 meeting minutes as presented. The vote was as follows: Mr. Myers, yes; Mr. Gunnoe, yes; Mr. Page, yes; Mr. Todoran, yes; and Mr. Zitesman, yes. (Approved 5 – 0.)

Administrative Business & Communications

Tammy Noble-Flading introduced planning assistants, Jordan Fromm and Marie Downie, graduate students at The Ohio State University. She explained that as planning assistants, they help to prepare background information for applications, compile planning analysis for proposed applications, and conducted presentations to various boards and commissions. She asked the Board to welcome Marie and Jordan.

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Brett Page swore in anyone intending to address the Board regarding this case including the applicant, Deborah Mitchell, (178 Longview Drive, Dublin, Ohio) and her representative, Todd Schmidt, Renovation Unlimited, (1933 Hertford Pike, Grove City, Ohio), and City representatives. He introduced the application, and said that this application will require three motions.

Tammy Noble-Flading presented this variance application associated with a proposed residential fence. She said the site, zoned R-2, Limited Suburban Residential District, is located on the north side of Longview Drive, just east of Monsarrat Drive. She said that the surrounding residential sites are also zoned R-2. She said that the site has frontage on Longview Drive, and the house is centrally located to the lot. Ms. Noble-Flading said that there is mature vegetation existing in the front portion of the property and a large tree on the west side of the property.

Ms. Noble-Flading said that the three variances to the Zoning Code are being requested. She stated the first variance is to allow a fence to be constructed beyond the buildable area. She said that the applicant is proposing the fence to be constructed on the property line, which exceeds both the side yard and rear yard requirements. She explained that the if the variance were approve, it would grant the applicant a variance for 20 feet of relief from the minimum side yard requirement and 35 feet of relief for the rear yard requirement.

Ms. Noble-Flading said the second variance is to allow the fence to exceed the maximum height permitted for a residential fence. She said the applicant is proposing a fence that will be six feet in height, whereas the maximum height permitted by Code is four feet.

Ms. Noble-Flading explained that the third variance is to allow a solid fence whereas the Code requires residential fences to be "open" which is defined as less than 50 percent opacity. She said that the fence that the applicant is proposing has some visibility, but it was mostly solid.

Ms. Noble-Flading described the proposal in a presentation which included pictures of the existing site.

Ms. Noble-Flading reviewed the required non-use (area) standards under Zoning Code Section 153.080(B)(2) that were not met for each of the three requested variances. She said Planning recommends disapproval of all three variances.

Ms. Noble-Flading said that Planning had discussed with the adjacent property owners, including the owner to the west, who is supportive of the request.

Mr. Page confirmed that the Board members had no questions or comments. He invited public comments. [There were none.]

Deborah Mitchell, (178 Longview Drive, Dublin, Ohio) distributed photographs that were included with her application for the variances. She said that concurred with what Council member Boring mentioned that quality is important to the City of Dublin. She said that all residents of Dublin want two things; property values to remain consistent and a great quality of life. She said that was why she purchased a home in Dublin. She said that while we all have the same goals, Dublin is not monolithic. She said Dublin is not the same everywhere, and in fact, it is made of a set of neighborhoods that vary in terms of age, design, and property values. Ms. Mitchell said newer developments have been designed to be beautiful high-end homes with a great emphasis on openness and not having fencing along property lines. She stated that this may not be an applicable standard for all neighborhoods within the City of Dublin.

Ms. Mitchell said in the neighborhood where she bought her house is a 1950s development, that typically contain ranch style homes that are situated on half-acre lots. She said that the homes have been sold mainly in the lower \$200,000s and up to \$300,000. She said it was a fabulous neighborhood that was older but with some modern updates. Ms. Mitchell said as part of that, we need to acknowledge the nature of the neighborhood. She said she had renovated her home and more than doubled her financial investment in the property because she believed so much in the neighborhood.

Ms. Mitchell said there are many existing fences in her small neighborhood and they are all typically located along the perimeter of the properties. She said many of them are chain link fences. She said that a chain link fence has many functional benefits but aesthetically is not attractive or in keeping with the quality associated with the City of Dublin. She said she currently has fences on two sides of her property and she would like to replace those chain link fences with a beautiful custom wood fence. She said this would maximize the value of her investment and in fact, raise the value of the entire neighborhood.

Ms. Mitchell said that as mentioned by Ms. Noble-Flading, many of her neighbors are supportive of this proposal.

Ms. Mitchell said that she felt if she had to build her fence under the current zoning code, it would destroy or greatly diminish the value of her investment because it would dissect the rear of her property.

James Zitesman asked what other options had Ms. Mitchell considered for creating some privacy other than a fence.

Ms. Mitchell said if she cannot replace the chain link fence, she could try to obscure it. She said it was difficult financially to plant enough landscaping to obscure the chain link fence. Ms. Mitchell said that on the east side of her property, she had investigated a natural or organic kind of barrier but the issue is the deer population and their tendency to destroy plant life. She did not want to harm any wildlife or pets and would never use pesticides or other kinds of chemical on organic materials. Ms. Mitchell said that all she was left with is a fence.

Patrick Todoran asked why she wanted a six-foot tall fence rather than a four-foot fence.

Ms. Mitchell said the six-foot high fence is proposed in an attempt to discourage the deer from jumping into her yard.

Mr. Zitesman asked if the proposed fence had opacity of less than 50 percent.

Ms. Mitchell said the proposed fence is more than 50 percent opaque.

Mr. Zitesman said that he understood Ms. Mitchell's rationale, but from the Board's perspective, their responsibility is to uphold the standards and codes of Dublin. He asked how this request is different from other property owners in the City of Dublin.

Ms. Mitchell said that she thought it was important to base each request based on the individual situation. She said in her case, she had a variety of fences including different colors of chain link fences. She said on Grandview, Longview, and Marion Streets, many people have completely fenced in yards. She said she thought her situation was unique.

Brett Page said that when he visited the site and reviewed the photographs provided by the applicant, he noticed the property to the north appears that the fence meets the requirements of the Zoning Code. Mr. Page asked if the applicant had talked with that neighbor about that fence and the relationship to the chain link fence.

Ms. Mitchell said it was her understanding that the fenced area was for a garden. She said that the current owner is selling the house and spoke to the new buyers who said they would be much in favor of her proposed fence and were willing to sign a notarized statement to that effect.

Mr. Page said he was also saying that there is an example of a fence that looked nice and met the standards of the Zoning Code.

Ms. Mitchell asked if he thought the fence was more appealing because it was more open, in terms of opacity, and met the height requirement.

Mr. Page said that he was not basing his opinion on stylistic issues but more importantly, how fences could meet the Code and still be as aesthetically appealing.

Mr. Zitesman said that he also noted that all the properties to the east were open which is what the Code is trying to achieve. He stated that if the Board were to approve the variance request, it would effectively eliminate that open view.

Ms. Mitchell said that every home on Marion Street contains fencing along the perimeter of their properties. She said that given so much of her yard was already fenced off, she would like to continue the fence along all sides of her property to improve the appearance of the yard.

Brian Gunnoe asked if an existing chain link fence can be replaced with a zero setback, as long as its fence height and material type are in compliance.

Ms. Noble-Flading said that yes with either similar or greater quality materials.

Mr. Gunnoe asked why the proposed fence was being considered as a solid fence.

Ms. Noble-Flading explained that by definition, anything that has opacity greater than 50 percent is a solid fence. She said if this fence has the opacity of approximately 90 percent and therefore is considered a solid fence.

Ms. Mitchell said that she really valued openness and community. She said she had met with her existing neighbors and they are supportive of the proposal. She thought the proposal would benefit everyone.

Todd Schmidt, Renovation Unlimited, said that a permit is not required to repair chain link fences so they could be repaired the existing fences indefinitely with no approvals required by the City. He said that he had also consulted with Ms. Mitchell regarding a landscape barrier in her back yard. He said the problem

with the landscaping was that it did not keep her two dogs in the yard and keep the deer population from destroying the vegetated material. He said if the fence was located where the Code requires, it would look out of place in comparison with the other properties. He said the proposed six-foot high fence would provide screening and be compatible with the modifications to the interior of the house.

Mr. Zitesman said that everyone in his neighborhood used invisible fencing to contain dogs in their neighborhood and that seemed like an effective barrier for pets.

Mr. Schmidt said the invisible fencing would not keep the deer out of a yard.

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Mr. Gunnoe asked how the applicant would move forward for a code modification.

Ms. Noble-Flading said that code modification can be directed by City Council. If Council determines that it is appropriate. She stated that the fence code is purposely restrictive and permits fences in limited areas that allow privacy yet continue to maintain open view sheds along the perimeter of the property. She stated that her hesitation with seeking Council's advice on a code modification is that, in the past, code modifications have only been proposed when they are specific to certain issues such as maintenance or repair.

Rion Myers asked if the setback requirements in Code Section 153.08 were specifically for fences.

Ms. Noble-Flading stated yes.

Mr. Page asked if the Board members had further questions.

Mr. Myers asked if they could construct a fence with 20 feet on one side, and zero on the other, in order to meet the side yard setback.

Ms. Noble-Flading said the minimum side yard requirement is 8 feet with a combined total side yard requirement of 20 feet. She concluded that a zero side yard requirement would still require a variance.

Mr. Gunnoe asked if the applicant should table the request and make modifications based on the Board's discussion.

Ms. Noble-Flading said that Planning would be willing to work with the applicant to modify the proposal however most of the discussion by the Board was based on the side yard setback. She stated that the most problematic part of this request was the rear yard setback which according to the comments by the Board, there was little support for this variance.

Mr. Gunnoe said from his view, this was a larger issue that should be addressed by Council

Mr. Zitesman said from his perspective, City Council has adopted the Code which includes regulations regarding the construction of fences. He said if they want to have consistency throughout the City, then his thought is that they need to apply the Code equally to all properties.

Mr. Page said that he agreed with Mr. Zitesman's comments

Ms. Mitchell said that she would like a ruling so that she could go to City Council. She said respectfully, if the City of Columbus applied a broad brush to every neighborhood, there would be no German Village or Victorian Village. She said that she believed that they could go for greater value and quality of life in Dublin while acknowledging older neighborhoods with different characteristics. She said she appreciated the input from each of the Board members and that the proposal would be in character with the existing area.

Mr. Page asked if there were other comments from the Board. [There were none.]

Mr. Page clarified that a 'Yes' vote on any of the following three motions was for approval of the variance, and a 'No' was for disapproval.

Motion #1 and Vote – Side and Rear Yard Setbacks

Brett Page moved, seconded by Patrick Todoran, to approve a variance from Section 153.080(B)(2) to allow a fence to be located within the required side and rear yard setbacks, finding that the variance request meets all of the required non-use (area) variance standards.

The vote was as follows: Mr. Gunnoe, no; Mr. Zitesman, no; Mr. Myers, no; Mr. Todoran, no; and Mr. Page, no. (Disapproved 0 – 5.)

Motion #2 and Vote – Fence Height

Brett Page moved, seconded by James Zitesman, to approve a variance from 153.080(B)(2) to allow a fence to exceed the maximum height permitted by two-feet, finding that the variance request meets all of the required non-use (area) variance standards.

The vote was as follows: Mr. Myers, no; Mr. Todoran, no; Mr. Gunnoe, no; Mr. Zitesman, no; and Mr. Page, no. (Disapproved 0 – 5.)

Motion #3 and Vote – Solid Fence

Brett Page moved, seconded by Rion Myers, to approve a variance from 153.080(B)(2) to permit a solid fence within the required setbacks and not enclosing a deck or patio finding that the variance request meets all of the required non-use (area) variance standards.

The vote was as follows: Mr. Zitesman, no; Mr. Gunnoe, no; Mr. Todoran, no; Mr. Myers, no; and Mr. Page, no. (Disapproved 0 – 5.)

Mr. Page thanked Ms. Mitchell.

Mr. Page announced that the next Board meeting was scheduled Thursday, May 23rd. He adjourned the meeting at 7:42 p.m.

As approved on May 23, 2013 by the Board of Zoning Appeals.



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