

BOARD OF ZONING APPEALS MEETING
NOVEMBER 20, 2018
7:00 P.M.

I CALL MEETING TO ORDER

Meeting called to order by Mr. Ramirez

II ROLL CALL

Members Present: Joe Ramirez, Dave Nienaber, Jeffrey Anderson, Robert Weidlich, Carolyn Ghantous, Gregory Johnson, Carmen Daniels

Staff Present: Randy Campion

III PLEDGE OF ALLEGIANCE

Chairman's Statement

Ladies and Gentlemen, this is a Public Hearing, and all testimony given in cases pending before this Board is to be made a part of the public record. All testimony and discussion relative to said variance is recorded, and it is from this recording that our Minutes are taken.

Citizens testifying before this Board are directed to sign in on the clipboard in the rear of the room, take their place at the podium, state their name and addresses and the facts as they are pertinent to the subject before this Board.

As this is a Public Hearing, being sworn in prior to giving testimony is required by law.

At this time, please stand up, raise your right hand and repeat after me:

President Ramirez: If you think you may want to testify make sure that you have signed in at the back. Okay. Raise your right hand and repeat after me:

I (state your name)
Do solemnly swear
To tell the truth, the whole truth
And nothing but the truth,
So help me God.

Please be seated.

Please be advised that anyone who was not standing and sworn in cannot testify unless they request the Chair to be sworn in as they come up to the podium.

President Ramirez: I believe that everybody in attendance has been sworn in. At this time please mute or turn off your cell phones, including members of the board.

IV MINUTES OF THE REGULAR MEETING OF OCTOBER 16, 2018

President Ramirez: At this time the chair will accept the nominations to approve the meeting minutes of the October 16, 2018 Board of Zoning Appeals meeting.

Mr. Nienaber: I move to approve the meeting minutes.

Mr. Anderson: Second.

President Ramirez: It has been moved and seconded. By voice vote all in favor say Aye, Opposed, Abstain? 7-0.

(Minutes were adopted with a voice vote of 7 to 0.)

V CORRESPONDENCE

President Ramirez: We actually do have correspondence which is a little bit unusual. This first one is from Will, I'm sorry Walt and Karen Hucke. These came in by email I believe stating we may not be able to attend tonight's meeting, which I see that they are here. We received a post card in the mail about the property at 548 Cloverdale Avenue, requesting a privacy fence to be put up along the front of the house and along the side that runs along Dimmick Avenue. We would like the request to be denied. Having a privacy fence run along the length of the property will be unattractive and we feel it would be a detriment to our property values. We have lived on the property for 40+ years and feel that that would not be a good fit for that property or the neighborhood property. Signed Walt and Karen Hucke. Secondly, a request from Larissa Howell. Stating, I am a Springdale resident opposed to the zoning appeal of 548 Cloverdale Ave for a privacy fence, especially if it goes outside their property lines. I am opposed, first of all because it is at a school bus drop off area. But I am also opposed to the appearance of that type of structure on that drive which I do daily, as well. She's at 665 Hillgrove Ct., 45246. I do not have the address of the Huckes on here. Finally, we have one from Casey Hucke. Dear Board of Zoning Appeals, I do not want the property of 548 Cloverdale Ave Zoning to pass. I would hate to see a walled-up property in our neighborhood. Our community is an open landscape. With them wanting a large privacy fence it would take away that sense of openness and community. My final decision is no on the privacy fence and the fact that it is going outside of the city property limits. Thank you, resident of Springdale Casey Hucke @ 584 Cloverdale Ave. That concludes the correspondence.

VI REPORTS

A. Report on Council

President Ramirez: Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. City Council met on November 7th. We were having a public hearing on the proposed new subdivision at West Kemper and Rose Lane and the first two ordinances that we discussed were with regard to that. We had Ordinance No. 46-2018 and that was amending the Zoning Code and the Zoning Map to provide for the rezoning of 13.31 acres at the corner of West Kemper and Rose Lane. That was passed with a 7-0 vote. The next ordinance was Ordinance No. 47-2018 and that was approving the preliminary development plan of the 13.31 acres for the Springrose Subdivision and that passed with a 7-0 vote. The last ordinance that we discussed was not about the subdivision. This one was Ordinance No. 52-2018 providing for the issuance of not to exceed 1.320-Million-dollar real estate acquisition bond anticipation notes 2018 renewal by the City. This is the renewal of bonds used to buy the property where the Sheraton Hotel was located and also to cover the expenses of demolishing the building and preparing the site to be development ready. That item also passed with a 7-0 vote. Mr. Anderson, do you have anything to add?

Mr. Anderson: No, the only thing that I would add is for the Springrose Subdivision the rezoning. There was again, a good attendance by residents that voiced a lot of concerns that were addressed by the developer. I just wanted to make sure that folks here knew that there was a lot of discussion and you can always read that in the minutes that are published for the Council. But, they were the same kind of things

that you would have heard at the Planning committee meeting. Concerns about traffic, construction noise, animals and property values. I think those were all addressed in a vary, in the spirit of cooperation and with understanding from both sides. So, it was good to see the developer there and give all of the information that they did.

Mrs. Ghantous: That was well put. Thank you.

President Ramirez: Thank you for that report.

B. Report on Planning Commission

President Ramirez: We had two items of old business and four items of new business. Under old business, Klusty Sign Associates, on behalf of Take 5 Oil Change at 1190 East Kemper Road. If you remember that is the place next to Mike's Car Wash. They came before us previously and it was going to be an unfavorable move for the signage that they wanted to put up. So, we asked them to come back with a toned-down plan. That was a lot of signage for that property and they did pretty much adhere to what we suggested and that was approved with a 7-0 vote. One of the major things they decided not to paint the building and that was a big plus. Item B under old business was SCP Springdale, 12110 Princeton Pike, Springdale, Final development plan, phase 1, packet 2, Buildings 2 and 3. This is the, better know as the GE golf course. We had a few discussions, one was the turn radius, we did not think was quite large enough for the trucks and these people there, again have been very accommodating and when we have asked for something or suggested, they have always come forward. Again, they did decide that they would happily add an extra five feet to that turn radius. There was some discussion about the lighting. We thought that was a little too much lighting that might affect the residents nearby. They, again, took to the suggestion and agreed to adjust their lighting as such. Also, what was not on their plan was the screening of the HVAC and again they agreed to comply with the request from our staff on that. That was approved with a 7-0 vote. Under new business we had Nelson Online, 11560 Princeton Pike, Revision of the PUD and to split the lot. After some discussion they decided that they would like to table their request. Again, they are going to come back and revisit it. It wasn't quite going the way that they thought, the way they would like the members to look at their proposal, so that was tabled and approved with a 7-0 vote. Item B was Cincinnati Commercial Contracting, 135 Northland Boulevard, Springdale, Ohio, Revised Development Plan. This is better known as Mazda, Sweeney. They were requesting some signage. Not a lot of changes and that was approved with a 7-0 vote, that was approved as submitted. Item C, Signet Services Inc., 403 East Kemper Road, Springdale, Ohio, Revision to the PUD Development Plan. Again, not much was needed on that one as well so that was approved with a 7-0 vote. Finally, T.J. Ackermann which is better known as the Springrose Subdivision West Kemper Road project, final development plan was approved as submitted and that was a 7-0 vote. Any questions on the Planning Commission?

VII OLD BUSINESS

None

VIII NEW BUSINESS

A. Brandon Digiantonio, 450 Grandin Avenue, Springdale, Ohio, has submitted an application for a Zoning Variance from section 153.252(F)(2)(a)(i) which prohibits a fence from projecting past the front building line, (Application 34315)

President Ramirez: Randy would you please give us the staff comments on this.

Mr. Campion: Before I start, of the three e-mails two of them make reference to the application, the fence not being on the property or outside of the City property limits. The application is totally on the applicant's property. It is not on any City property. I just wanted you to make a note of that. Okay. This is application to erect a fence extending into the front property lines of 450 Grandin Avenue. The subject property is zoned residential single household-high density. The applicant wishes to erect a fence as shown on the accompanying application. I don't know if you want me to read the whole fence section?

President Ramirez: No, that is not necessary.

Mr. Campion: Okay. So, there is section 153.252 that refers to fences, there is also section 153.501(C)-(E) which refers to the maintenance to an existing fence and per section 153.501(C), a legal non-conformity may be repaired, but not replaced. Consequently, the applicant is required to seek a variance to erect a new fence within the front yard.

A statement of conditions and findings listing the factors for consideration of the granting of a variance is included. Each of the factors should be considered by the board. As stated in 153.206(B)(4)(j), "No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own fact." That concludes my report.

President Ramirez: So, are we looking at two separate variances here?

Mr. Campion: This one on Grandin has an existing variance for a fence that was. It should be in your packet. I'm sorry we are looking at, but we are doing Grandin first?

President Ramirez: So, a variance of course for being in front of the house correct? And also, we don't need a variance for the new construction, they just needed a permit for that? Is that correct?

Mr. Campion: Yes. As it was submitted, if you approved the application as submitted. Now I am confused, hold on just a second. Yes, you would need a permit but you will also need a fence variance for the portion that protrudes into the front yard setback. We don't have a record of a variance ever being approved at that address but there was an existing fence. There was a split rail fence in that same location but the applicant has replaced it with a new fence.

President Ramirez: So, as I understand, once the older fence is taken down, that it requires a variance to put up a new fence?

Mr. Campion: Yes, and you are allowed to maintain something that is on the property but once he put up a new fence he would need a variance.

President Ramirez: Okay. Thank you. Would the representative for Grandin please step forward, state your name and address?

Mr. Digiantonio: Good evening, my name is Brandon Digiantonio and I am the representative from Grandin Avenue. Just to provide a little additional clarity. So, the old split rail fence that as on the site had become kind of decrepit so I pulled it

down. Unfortunately, as a newlywed and a new home owner I foolishly did not properly consult with the City. I fully admit that, that fault is mine. It was a fault of ignorance, certainly not one of malice and apologize for it and we have paid the fine and filed what I believe is appropriate paperwork thanks to the diligence of the people in the Building Department. So, I particularly wanted to mention that Mr. Gordon King was very helpful across several phone calls in making sure that I had filed everything properly and giving me all of the information that I needed. The reason I am requesting this variance is because we are in a somewhat unique situation at 450 Grandin. We are right next to an easement and that easement permits the general public to go from the neighborhood back through some back lots into a local dollar store, Family Dollar and the road to UDF for a lot of neighborhood kids and stuff like that. So, unfortunately when the fence was this old split rail fence it was starting to fall apart we started to have kids walking through and really just people in general, I don't want to pick on kids, walking through. Unfortunately, they were kind of trampling the grass and leaving a lot of litter. So, we put it on our to do list to get a new fence built. We put that fence in and then we attracted the attention of the Building Department, because, again as I had previously stated, I did not appropriately file paperwork. After doing that, I submitted the paperwork that I believe you have in front of you. So, the special conditions basically amount to, the area is very well traveled and we have some grass that gets trampled and some landscaping that we put in that we are trying to get to take and its very damaging if people kind of walk through that. So, it is my hope that the committee will see that the fence is there kind of to help with the beautification of the neighborhood. It is in no way a privacy fence or an obstructive view fence. It is about four feet tall and it is a Kentucky three board if you are familiar with that style of fence. I believe it is pictured in your packet. So, I would hope that the committee would agree that the granting of the variance would not alter the essential character of the neighborhood, in fact the fence itself matches several fences along Grandin Avenue and throughout Springdale, in style. So, the spirit of the code would be followed and substantial justice would be done by granting the variance because it would permit the lot owner, my wife and I, Jillian, to protect our property from just trampling and such. So, I also attached a couple of pictures referencing CMD. There are a couple of areas in Springdale, while they are not next to easements I believe they are where public land abuts private property and similar fences have been erected. I would argue that ours is probably a bit prettier since it is a three board verses a chain link fence but that is the committee's opinion. So, it's also a point of emphasis is that the granting of the variance through the report, I am not certain if it is your committee or the Building Department, it was an email that I received that prepared me for this meeting, mentioned that it would not hinder the delivery of any kind of City services or anything like that. So, because of that it is my hope that you will see with the preponderance of the evidence, some of which generated by the Building Department so in other words you don't have to take my word for it, is there is good reason to grant this variance. If there are any questions that anyone has for me I would be happy to do my best to answer them.

President Ramirez: Thank you for those comments and we appreciate you wanting the property to look nice and presentable

Mr. Digiantonio: Thank you.

President Ramirez: At this time, you can have a seat and we are going to ask the members of the audience that would like to step forward and make a comment or is your letter going to suffice?

(Talking from the audience not on mic. not audible)

President Ramirez: Oh, okay never mind. Had the wrong property there. In that case would you please come forward again to see if members have questions for you. Mr. Johnson.

Mr. Johnson: Good evening. Thank you for coming in tonight. My question is how long have you lived there?

Mr. Digiantonio: I have lived at that residents, what, it's been about a year and a half now. I moved in last May when we got married, last March, sorry that almost got me in trouble.

Mr. Johnson: Now I don't want to get you in trouble. That's a bad question to ask. You said the fence was there when you moved in.

Mr. Digiantonio: Oh, I'm sorry, begging your pardon. It was there for five years?

(talking off mic. not audible)

President Ramirez: If you want

Mr. Digiantonio: Could she approach.

President Ramirez: Yeah, we have this in our minutes so if you would please state your name and address.

Mrs. Digiantonio: My name is Jillian Digiantonio and I reside at 450 Grandin Avenue. I am actually the owner of the house and I have lived there since June of 2014 and the fence has been there since I have lived there and before that. I believe it was put in by the original owner in the 60's.

Mr. Johnson: Okay and we don't have a record of ever granting a variance for that?

Mr. Champion: We don't have a record of a permit or a variance at that property.

Mr. Johnson: Okay. Thank you.

President Ramirez: Mr. Nienaber.

Mr. Nienaber: Thank you. Whenever we are considering these we have to allow that are there any unusual circumstances that we need to consider to have a reason behind granting a variance. From my vantage point, what you've constructed as a fence there is no different than what the City has done in a number of locations where you say, access Beacon Hills Park from three different areas. They run fences all the way out and I fully understand why you would want to do that. So, I personally am going to feel in favor of your choice but I wanted to make sure that we have a record that you do have an unusual situation there but that the same situation has been handled in such a way in other areas of the city. Thank you.

Mr. Digiantonio: Thank you.

President Ramirez: Mr. Champion.

Mr. Champion: Yeah, I probably should have read the middle part of this report but I am going to read it now. As indicated in the information supplied by the applicant a split rail fence previously existed at this location of the fence which is the subject of this application. The Building Department has no record of a variance being granted for the placement of the previous fence nor does the Building Department have any record of prior violations being issued relative to the previous fence, therefore; the previous fence has been determined to be a legal non-conforming use.

President Ramirez: So, the previous fence was legal non-conforming but now that the fence was taken down we start all over?

Mr. Champion: Correct, but you are allowed to maintain an existing fence.

President Ramirez: I road by there and you know the concern that I have is the fence sticking out in front of the house and I know you want to, I just don't it to look like we are stockading our homes. Especially in the front yard, having a fence in the front yard. I really would not like to set a precedence with having a fence protruding into the front of the yard, looks like all the way to the sidewalk.

Mrs. Digiantonio: Yes.

Mr. Digiantonio: With respect, has the precedent not already been set by the City in Mr. Nienaber's comment, and I am sorry if I am butchering your name. With all do respect it is just the visuals that I have supplied would seem to imply that. So, I just want to make sure that I am understanding your objection.

President Ramirez: I know the property that you are speaking of, the fence across the street, the chain-link fence.

Mr. Digiantonio: Yes sir.

President Ramirez: Mr. Nienaber speaks of the on in Beacon Hill and that is where I live as well. There is a chain link fence and I believe that is City property is it not Mr. Champion?

Mr. Champion: I don't know what property you are referring to.

President Ramirez: It is right along the walkway going into the Park.

Mr. Champion: Yes, those are City fences.

President Ramirez: So, there was no variance approved for those fences. Any other questions for the applicant? Mrs. Ghantous.

Mrs. Ghantous: This is really tricky for me because so many people have come before us that had, not exactly the same situation where you are beside an easement which is different. It is an unusual circumstance for your lot but I can think of a couple of folks that live on West Kemper that came years ago, four or five years ago, and they had a fence, an old fence and it was deteriorating and they were told, if you take it down you can't put it back up because of the same reasoning here. So, I know on at least two occasions since I have been on the board we have told people no under this circumstance. So, it wasn't beside an easement so I am kind of weighing that out. I'm not sure how to think about that. Anybody else, Mr. Weidlich you were here when we were doing the one on West Kemper. What do you think?

Mr. Weidlich: Well, I've got my light on here as well.

President Ramirez: Go ahead Mr. Weidlich.

Mr. Weidlich: Going by it like Mr. Ramirez, I have a problem with creating a precedent when this could lead to every resident on the street asking for a fence to come out to the sidewalk because this board, if they approve it, it would have set a precedent. We'd have all kinds of different fences, styles, shapes, some maintained, some not maintained. I think that's a large portion of why the Ordinance reads the way it does. Did you consider, maybe some vegetation like a hedge or rose bushes or something there?

Mr. Digiantonio: I will be completely honest with you, I had not. Mostly because I didn't expect the replacing of the structure to be a contentious one.

Mr. Weidlich: I understand.

Mr. Digiantonio: I must admit that that is something that I would be willing explore as well but I just want to reiterate again, I don't necessarily believe that this is setting the type of precedent that perhaps you and Mr. Ramirez are concerned about understandably so. I mean no disrespect in my disagreement. It's just that this is, as we said, a special circumstance because I am bordering an easement, I would assume that this board would, this committee would make a different sort of argument or have a very different view of someone who simply wanted to extend their fence forward and they would have every right to.

Mrs. Digiantonio: We also only have it on one side so it is not like it is blocking our whole yard in. It is just on the one side where the easement is. I have lived there for four-ish years now and I get a lot, I sit out on my porch frequently and there is a lot of people, a lot of traffic that goes through there. There are people on our street that walk through the easement to get to Family Dollar, to get to CVS and to UDF. We have kids after school. I used to find wrappers along my, along the side where the fence is, along my house, like litter. I have dogs, I don't want them to, I don't want to get all of this junk in the yard. It is a highly trafficked area for our neighborhood. You can drive by there and several times a day, especially in the afternoon we get lots of kids after school that cut through there on their way home from the elementary school and just things like that. So, it is a very highly trafficked area.

Mr. Digiantonio: If I may point something out on the photograph if it is acceptable?

President Ramirez: Sure.

Mr. Digiantonio: So, just to give an understanding, on the surface this image may just look like it's rough terrain on the grass. These planks were replaced because these original planks broke and there were just posts there for a period of weeks. You can kind of see on the grass there, there is substantial wear there from people walking through. So, please don't think I'm someone who is coming before you and making this argument because of one piece of litter or anything. It is a substantial problem especially for, like I said our trying to maintain and help preserve the community look. Thank you for the opportunity and looking at that.

President Ramirez: I think, Mr. Weidlich.

Mr. Weidlich: I just wanted to say one other thing. Just for instance. I grew up on a corner lot and we had people cutting across, even behind our house. So, my dad's answer to that was, he put a hedge up. So, it kept people from cutting through or they get tangled in the hedge. That might be an option for you to consider if you don't get approved.

Mr. Digiantonio: Okay, and we appreciate that and thank you for the alternative.

Mr. Weidlich: Thank you.

President Ramirez: Mr. Anderson.

Mr. Anderson: Thank you. I do share Mr. Nienaber's comment about this being a unique situation because of the mid-block easement. I think there is a difference in what we are talking about here with a mid-block easement as opposed to say somebody who has come before us in the past asking for a front line, a fence just all the way to the sidewalk because people are cutting their yards. I also live on a corner lot. We live in a neighborhood and people move around and I think that is a good thing. My concern with any fences that come forward especially mid-block where it sections things, I get nervous when it's because we are worried about people walking

through. There's other ways to deal with that. I do think that this is different because it is consistent with the way Springdale has dealt with mid-block easements where you put a fence all the way through to denote that this is a walkway. My question for this is, is there a sign or what kind of signage exists that would tell the public that this is an easement still and that you are not blocking that off? Is there anything, or do people just know that this is a path?

Mrs. Digiantonio: They just know it is a path. I think it is owned by the church behind but there is no signage.

President Ramirez: Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. So, you know I mentioned that we'd had a couple of earlier, kind of similar applicants with older fences replacing so and so forth but I don't recall any of them having the same amount of foot traffic. If people are walking through there to get to Family Dollar, that is way different than anything we looked at before where there was a draw, something that was drawing somebody to walk where the person put up a fence to prevent them from walking. So, that does make it different than a couple of the other ones just because they didn't have retail behind them. So, I think that's for me maybe the biggest difference.

President Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. In answer to Mrs. Ghantous, the one property that we had several, a number of years back was right there at the creek at Kemper Road where people were cutting across their yard to get to the church and like O'Reilly Auto parts and places like that. Very similar situation.

President Ramirez: How far is that current fence from the edge of the easement?

Mr. Digiantonio: I'm sorry sir I don't quite understand what you are asking.

President Ramirez: From where your fence is, where does the easement start to the right-hand side of that fence?

Mrs. Digiantonio: I mean, like maybe a foot over.

Mr. Digiantonio: Yeah, we are not on it because that would be unwise to do but it is between 8 and 12 inches to the right is where that easement starts.

President Ramirez: Secondly, Mr. Champion, is there a requirement for a setback from an easement for a fence?

Mr. Champion: No.

President Ramirez: So as far as we know he is on his own property with that fence?

Mr. Champion: Yes.

Mr. Digiantonio: Just to confirm that. The old fence posts were used as a marker. The new fence posts are inside the old ones as well so we have moved in even further.

President Ramirez: Okay. Thank you. Mr. Anderson.

Mr. Anderson: Thank you. Just to be clear. If the variance was not granted they would have to pull the fence back all the way to the house line or how far back would we be talking about doing that?

Mr. Champion: To the front of the house.

Mr. Anderson: Will you go back to the previous picture.

Mr. Campion: Yeah.

President Ramirez: I kind of like the idea Mr. Weidlich, with the hedging so that we can accomplish two things, not need a variance and at the same time protect our property. If it is not approved that might be something that you might entertain. Mr. Nienaber.

Mr. Nienaber: Thank you. I'd like a clarification from the City about the hedging topic because when I came and asked about running a hedge between my neighbor's yard and mine out to the sidewalk they said that hedges were the equivalent of a fence. So, do we have a reading on that.

Mr. Campion: Well I can read you section 153.252, it says, fences walls and hedges are permitted in residential zoned district, subject to the following conditions. Then under location it says no fence or wall other than retaining wall shall project past the front line of any principally permitted or conditional structure. It does not mention hedges.

Mr. Anderson: If I may, the hedges are actually addressed in section 2 of that same zoning code section and it says hedges shall be permitted in the required front yard if they are three feet in height or less. The difference there is that they are allowed but it is height restriction and it is just further down in the section.

President Ramirez: Have you had any issues with, and I know that you have a lot of foot traffic, with people still bothering your fence, climbing your fence, still throwing garbage over the fence?

Mr. Digiantonio: Not since it has been installed. Once the fence was put into place I started noticing that, thanks to the wind is suppose, the garbage started to collect against the fence line where, I maintain my lawn regularly where it is actually easier to pick up. It is kind of nice because since it is in that public area it is not blowing across and into our yard it is just kind of collecting and then weekly or bi-weekly, if it has been a lot of rain, I will go out there and clean everything up and mow.

President Ramirez: I don't see any lights at this time. Are there any other questions for the applicant? If not would somebody like to present a motion? Mr. Anderson.

Mr. Anderson: Thank you. I would like to make a motion to approve application 34315 for 450 Grandin Avenue, granting a variance for section 153.252(F)(2)(a)(1) permitting a fence to extend into the front yard within the current property lines.

Mr. Weidlich: I'll second.

President Ramirez: It has been moved and seconded. Secretary will you please poll the members.

(Secretary polled the members and the motion was approved with a vote of 4 to 3, with Mr. Ramirez, Mr. Weidlich and Mrs. Ghantous voting against the motion.)

President Ramirez: I believe it takes five votes for an affirmative? Mr. Campion?

Mr. Campion: I don't know.

Mr. Weidlich: Isn't it just a majority?

President Ramirez: We are not normally that close on the vote.

Mr. Campion: I think it is just a majority.

President Ramirez: Just a majority. With a 4 to 3 vote your variance has been approved.

Mr. Digiantonio: Thank you and I really do appreciate the fact that some of the committee members were different and had different opinions but were still willing to give me a fair shake. So, I appreciate it and hopefully we can maintain the property so that the only time you pass it you will think about how nice it looks.

President Ramirez: Thank you for coming in.

Mr. Campion: If you could come into our office we will give you a permit and a variance.

Mr. Digiantonio: Yes sir. Thank you very much.

B. Zachery Fowler, 548 Cloverdale Avenue, Springdale, Ohio, has submitted an application for a variance from section 153.252(F)(2)(a)(i) which prohibits a fence from projecting past the front building line and section 153.252(F)(2)(a)(iii) which prohibits fencing in the setback for the building from the side street line. (Application 34364)

President Ramirez: Mr. Campion, the property at 548 Cloverdale Avenue.

Mr. Campion: Request to construct a six-foot-high fence in the front yard of the residents at 548 Cloverdale. The subject property is zoned residential single household low-density. The applicant wishes to construct a fence as shown on the plan accompanying the application. The front setback in the residential high-density district is 35' per the table of 252-2. Section 153.252(F)(2)(a)(i) states the following: No fence or wall other than a retaining wall shall project past the front line of any principal permitted or conditionally permitted structure. This applies to the Cloverdale side of the property. Section 153.252(F)(2)(a)(iii) states the following: Fences on corner lots shall not be located in the required setback from the side street line. This applies to the Greenlawn side of the property. Variance 12-1999 included in the BZA packet was previously granted to allow a 24 foot of fence to be erected in the front setback. The current application is to enclose the side and rear yard of the property as shown. The applicant requests a variance to allow the fence to be located approximately 12 feet from the front right of way line along the Greenlawn side. This required setback is 35 feet. Should the board wish to grant this variance, the variance should indicate this replaces the variance of 12-1999. A statement of conditions and findings lists the factors for consideration of the granting of a variance is included. Each of these factors should be considered by the board as stated in 153.206(B)(4)(j), no single factor listed may control and not all factors may be applicable in each case. Each case shall be determined on its own facts. Gregg H. Taylor, Building Official.

President Ramirez: Thank you. At this time would the applicant please come forward? Please state your name and address.

Mr. Fowler: My name is Zachary Fowler, 548 Cloverdale Avenue. We essentially want to build a fence continuing along the existing towards the back and then our detached garage, pretty much meeting in the corner. So just coming over from the garage. So, if you have the picture across the front of the house there is already a white fence and it goes toward the back but then it stops. So, we just want to continue it. Essentially what it is picturing there. So that is what we were looking for. We have a new dog that we are trying to keep contained from running into the street. So, he's part Husky and part Golden Retriever so he is going to be pretty big so we wanted a fence that would be able to keep him from jumping. He is only 4 ½ months now

and he is already jumping pretty high. So, we don't think the current fence would be able to be tall enough so we wanted a taller one. Then, hopefully in the future a yard for kids to play in as well.

President Ramirez: Now, members from the audience? No, you are okay? Okay. You would like to present? Please come forward.

Mr. Hucke: I'm Walt Hucke, I live at 11677 Greenlawn Avenue, almost caddie corner from this. I have no problem with a chain link fence, split rail fence with the wire on it. I don't want to look at a billboard every time I go out on my front porch. The location of this house is unique in that the road does go up and around behind his property line. There is no stop sign there it is just curve in the road that changes the name of the road and I understand a desire to have some privacy. You mentioned hedges, I live on the corner lot diagonal from him and it takes a few years but hedges give me all the privacy that I need. For me to have to look at, what I consider a bill board every time that I go out so that his dog doesn't jump over it makes no sense. The Ordinances are in place to keep the aesthetics of the neighborhood as they need to be. It's open. It is nice to be able to not see these types of things. My neighbor directly connected to me had to put up a wall of a fence, a bill board type privacy to keep his Pit Bull and Rottweiler in. I looked at the safety of the neighborhood of dogs that are known to become vicious at any time and I really bit my tongue hard. He is in the process of moving and the house is for sale. I'd love to see that monstrosity come down. But, I do believe that we need to protect the aesthetics of the neighborhood and I don't mind him putting up a fence that you can see through to keep the dog in the yard. I understand what he is up against but there is precedent why the Ordinances are there and that is to keep the neighborhood as it has always been as much as possible. Thank you.

President Ramirez: Any members, questions for Mr. Hucke before we move back to the applicant? None, thank you. Thank you for coming in. Sir will you please come back to the podium. Now members, questions for the applicant. Mr. Anderson.

Mr. Anderson: Thank you. So, just a couple of questions. First thanks for coming in. I know going second and then hearing all of the questions it can be nerve wracking especially when you have three residents or four residents sending in concerns. I have a couple of questions to the notes that came in. I know the administration mentioned that the fence was not extending into City property. I am wondering if the residents might have been confused with setback verses City property. This does extend into the setback by a fair margin. So, I drove that section, that curve and I was wondering, I'm concerned about visibility and the setback, especially if you take your existing small fence and put a six-foot privacy fence where it is wooded. We had come across a similar situation a few months ago on Cameron I think it was and, in that case, we had them actually pull back the fence a fair distance out of concern for safety of that travel. There are no sidewalks in this area so people walk on that easement. So, there is some concern there. I guess I am wondering if you could speak to, you have an existing variance. Is there a reason that you can't work within that existing variance even if it is raising the fence with a different material? The current variance that I see here does not specify height of fence, it just specifies the location. So, maybe the question is more for the City. The variance changes that they are simply extending out further? If they wanted to they could put up a privacy fence now is that right?

Mr. Champion: Well, the zoning code allows you to put a six-foot privacy fence as long as you don't protrude past the front of the house and you don't go into the front yard setback. So, what has been proposed is into the front yard setback. What could be done without a variance would be a six-foot privacy fence that stayed out of the front yard setback. So, if you came along the front of the house up to where you see the dotted line that we had drawn there and then you went to the back of the property

and met the fence that you had, your fence would be 20-feet less but that wouldn't require a variance. Do you understand that?

Mr. Fowler: I mean, can I go up there and

Mr. Champion: So, this, I don't know if I can see it but this dotted line right here is the setback so if your fence went from this point to this point to that point it wouldn't require a variance.

Mr. Anderson: And in that case the site lines as you go around the corner wouldn't be the same issue. No that does not address some of the concerns that were raised about the type of material but you already have that variance that lets you do that. My concern about setback is also aligned to the precedent. Same concerns that we were talking about before.

Mr. Fowler: The current fence is here and it is also continues back. There is already a fence here. (talking off mic. not audible) To go up here and across.

President Ramirez: With that fence that you have now is only about a three-foot fence correct?

Mr. Fowler: Correct, yeah.

President Ramirez: So, would you replace that fence?

Mr. Fowler: What's that?

President Ramirez: Would you replace that with the six-foot fence?

Mr. Fowler: Yes.

Mr. Champion: The variance says that there's for 24 feet of fencing so that is probably what they had put up.

Mr. Anderson: But that is not the height, right? So, the variance specifies the length of fencing that he is permitted and that was already granted in 1999 that says he is allowed to draw his existing fence. So, that amount of fencing is already approved. We are not talking about that today unless we replace that with a new variance right? That could address these other concerns?

Mr. Champion: If you replace this fence with a new fence, and it is in the setback you need a new variance.

Mr. Anderson: So, would you consider moving the fence back so that it does not encroach on the setback so that you can still have the fenced yard without having that need for the variance?

Mr. Fowler: Yeah, I mean we would consider it. It would create a lot less room for him to run around in and the kids in the future to run but yeah, we would consider it.

Mr. Anderson: So, if they stayed within the setback line we are not, they would just be withdrawing the application? Is that what we are saying?

Mr. Champion: You can do two things. They can withdraw the application and come and apply for a permit for a fence that is not in the setback or they could ask for the board to vote on it and or they could withdraw it. Withdraw or ask for a vote.

Mr. Anderson: If they withdrew or we declined it they could still build the fence they are asking for as long as it stayed within the setback?

Mr. Champion: That is correct.

President Ramirez: So, do they have a variance on the side yard on Greenlawn that is 12 feet right now and the required setback is 35 feet they have a variance for that correct?

Mr. Champion: I don't think so because this variance from 99' says to build 24 feet of fencing on the corner lot. It isn't specific where that is.

President Ramirez: Right.

Mr. Champion: But if you go from the photograph it is probably about 35 feet to the corner and then turn so I am guessing, I don't know where the 24 feet of fencing was.

President Ramirez: The back of the house, he's looking to put 20 feet from the back and again he would be required to have 35 feet, so he is 15 feet he would have to encroach that fence 15 feet closer to the house to be within the code. Is that correct?

Mr. Champion: Yes, that is correct. You have to be 35 feet back from the street.

President Ramirez: From the back lot?

Mr. Champion: Yeah.

President Ramirez: Do you understand what we are

Mr. Fowler: I do.

President Ramirez: If you wanted to do that, you are asking the setback of, looks like 20 feet and if you came in 15 feet more you would not be required to get a variance for that.

Mr. Fowler: Okay. I get all of that, I guess I would still ask for it to pass because, in my opinion, it is my opinion I guess, that would be hardly any room for a very energetic puppy or dog in the future to run around and play in.

President Ramirez: Then you realize that with three people coming before us opposing it, you know it is all about the residents here. We understand your dog and situation and you do have an unusual situation being on a corner lot, but as Mr. Hucke stated and two other residents, they have concerns with the fence as well. Mr. Weidlich.

Mr. Weidlich: Thank you. I got to say that you probably got the most unique or one of the most unique yards in Springdale. On a corner lot having three sides of your property on a street. Have you ever considered, like Mr. Hucke brought up about a wire fence or chain link or something like that? It is probably a lot less maintenance than a wood fence even.

Mr. Fowler: I have, I just did not think it would look as well as a, because it's going to be a wood fence that we paint and maintain white to match kind of the style of house that we have. So, I have thought about it I just didn't think it would look as good.

Mr. Weidlich: My opinion, I am not a fan of board fence in the side yard like you are asking for there. It's just one opinion. Thank you.

President Ramirez: Mr. Anderson.

Mr. Anderson: Thank you. Just one more question to Mr. Weidlich's point. You have a unique lot situation for fencing, could you maybe give us your feel on what makes your lot or house placement unique that would give us a reason or some standard that we could use to grant a variance? The reason that I mention it is there is corner lots all over Springdale and people come and ask for fences all the time and the reason of it is a corner lot usually is not enough, there has to be some other unique situation that would give us the ability to grant something like that. Notwithstanding concerns about aesthetics, just the way that the process is built there has to be something unique that says you should be exempt from the zoning code. So maybe in your view, what makes your corner different than other corners that every other Springdale resident that lives on a corner would have to deal with. As I mentioned before I live on corner so I get corners having different rules, but that is explicit in our zoning code. So, what makes your corner unique that we should change the rules for you?

Mr. Fowler: I am not saying that it is any different than any other corner, I just want to create a yard for my family to have and enjoy without, I guess I am not saying it is different I just wanted to create a yard for my family.

Mr. Anderson: Thanks. If there was a reason, I'm just looking to see if there is something that I am missing, I guess is why I am asking. I wanted to, I'd rather ask.

Mr. Fowler: The biggest thing was when we got this dog we wanted him to be able to just go and run and not have to be on a leash 24/7 when he was outside. So, I just wanted to create room for him to play not have the chance of running through the street and getting hit.

Mr. Anderson: Yeah. Alright. Thank you.

President Ramirez: Mr. Nienaber.

Mr. Nienaber: Thank you. Your house and that little picket fence are so cute and the idea of putting up a giant privacy fence just seems to violate everything about the little house. An Invisible Fence will not work for your dog?

Mr. Fowler: I don't know if it will work or not. I have had experiences with invisible fences and my parent's dog he just runs right through it. He doesn't care.

Mr. Nienaber: Okay. I wanted to hear whether you had considered it.

Mr. Fowler: I have and I had an experience with my dog just running straight through it like it was not even there.

Mr. Nienaber: Thank you.

President Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. Just one more question. Would you consider a wire fence instead of the board fence?

Mr. Fowler: If that would be approved we would consider it, yeah.

Mr. Weidlich: Thank you.

President Ramirez: Mrs. Daniels.

Mrs. Daniels: Thank you Chairman. I have a question for you. So, the front yard where you currently have the fence, are we saying that he would have to move that back to the setback if he wanted to complete his fence, the part that is in the front the

white picket, would he have to tear some of that down in order to meet the setback that you are saying is needed?

Mr. Champion: Right now, the variance is for 24 feet of fencing. Because it goes all the way to the street almost and then turns. I'm assuming the 24 feet was out from the house. I don't know but, if as was suggested, if the board was going to consider a chain link fence as proposed verses a wood fence it would still require a variance. Anything that is in the front yard setback would require a variance. He's allowed to leave what is there but if he changes it he would need a variance as proposed, what he is proposing he would need a variance. Does that make sense?

President Ramirez: Do you know how much footage you have of fence you have right now? With the L fence, do you know the total?

Mr. Fowler: With the current L, I had it written down. I don't know the exact.

President Ramirez: We are trying to determine if you currently have 24 feet. Most likely it's more than 24.

Mr. Fowler: I believe that it is more than 24.

Mr. Champion: I think it is more like 50 because the lot is 50 so if you look there is 50 maybe 75 feet if it turns the corner.

Mr. Fowler: I would say it's 50 coming across.

Mr. Champion: In the front?

President Ramirez: It looks like you have 24 feet down Dimmick.

Mr. Fowler: Greenlawn, yeah.

(someone talking off mic. not audible)

Mr. Fowler: It's right there on the corner.

President Ramirez: It is about 75 feet total right now. Any other questions for the applicant? Any comments?

Mr. Fowler: I guess the only thing that I wanted to reiterate is, I understand that chain might be better than wood because you can actually see through it, I just don't think it looks as good of a fence.

President Ramirez: I understand to as the residents have stated that is a lot of fence and to look across the street which is now a lot of green lawn and trees, you have a nice yard, now looking at a fence as they stated a bill board, is certainly going to change the view for your neighbors.

Mr. Fowler: Yeah. If we, I have a question I guess. If we kept it the wood because it is only going to be about the height of me right now, if we shortened it, would that make it any different? So, instead of six feet, five.

President Ramirez: So, five feet? Those panels are normally six feet height but, I think you can get them.

Mr. Fowler: I know that there were some when we were checking out all of the different materials.

President Ramirez: Mr. Anderson.

Mr. Anderson: Thank you. Just to respond to that. I appreciate the willingness to come up with ideas. My concern with the visibility, aesthetics aside is five feet verses six if you are sitting in a car does not make any difference and if there is kids walking on the street line it wouldn't make any difference. So, my concern is both aesthetics just to be descending I prefer the slotted wood, you know the Kentucky three board type stuff is more appealing to me, not that it has to be a beauty contest, I am not a fan of chain link in any situation except for industrial uses. But five verses six doesn't change my view of it in terms of the set back. I also wanted to make a comment on the current variance. The 24, the way the variance is written I believe it is talking about the 24 feet of side lot encroachment into the easement which matches what we see in the map. So, it says that you can have 24 feet linier feet that is passed the easement that is required and I think that is what the variance is talking about. That would remain right? The fact that we vote one way or the other he retains his current variance unless we replace it?

Mr. Campion: That is correct. If you are going to allow it as proposed, you would need a new variance and we would just eliminate the one from 99 and create a totally new one.

Mr. Fowler: I might just add that you said you drove it and I have been looking at this almost every single day since I have thought of it going out on the street and trying to look at the how, but I feel like since it sits so far down from our backside of the property that it doesn't create a very large are where you can't see. I just feel like it is far enough down, there is still a lot of room to be able to see around the corner. I guess, because I have been looking at it, it is hard to tell when there is nothing there at all where exactly. But I have put stick trying to imagine and come to that corner and walking around that corner to see how far around.

Mr. Anderson: I drive that street all the time to get to the rec center. I have been watching and I agree, I think it is questionable and that is why I was asking questions about what you thought about what made it unique because when we wrote the zoning codes we tried to take into account these types of situations. So, that's why I was asking for that.

President Ramirez: Anyone else? If not would somebody like to move with a motion? Mr. Anderson.

Mr. Anderson: I would like to make a motion to approve application 34364, for 548 Cloverdale Avenue, requesting a variance to section 153.252(F)(2)(a)(1) and (F)(2)(a)(3) for fencing extending past the front line and into the setback for side line.

Mr. Nienaber: Pardon me Mr. Anderson but I think we also need to stipulate the type of fence and that it revokes the previous variance of 12-1999.

Mr. Anderson: I will amend my motion to add that this variance if passed would replace the existing variance of 12-1999 for the same address. That would be the end of my motion. I don't believe that there is a request in the application currently as stated that speaks to materials.

President Ramirez: We still need a second.

Mrs. Daniels: Second.

President Ramirez: Thank you. Secretary please poll the members.

(Secretary polled the members and the variance was denied with a vote of 0-7)

President Ramirez: So, this does not mean that you can't put a fence up. You can stay within the setback area and still put a fence up and if you are within your setback you can still put that six foot fence up if you wanted to.

Mr. Fowler: Okay, so, if we went back to the setback and just continued back and over to the garage, I don't have to get a variance for that?

President Ramirez: As long as you meet the setback. Staff will help you with that.

Mr. Fowler: Thank you, I appreciate it.

President Ramirez: Thank you for coming in.

IX DISCUSSION

President Ramirez: I think one thing to bring up is that we have moved away from sheds and are on fences now so, I appreciate every one staying consistent with our fence approval or non-approval. So, we need to do that otherwise we don't have a code. I don't know if anybody has an opinion on that. We are not going to change our code our self but it is how we enforce it or give a variance with. It is just important. Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. The one thing that I would add to that is I think people have come in here several times for the sheds and fences and feel like that if they get declined and that means now forever. I would encourage people to talk to their City Council person about it. Zoning codes change over time. Things like the number of accessory structures or accommodations for corner lots for fences, those things can be changed and they can be changed again and again depending on what the needs of the community are so new people are moving into the community and they have different views for what looks good, chain verses wood verses corner lots being fenced. We can change those things. This board doesn't change those things, so, when we say not, we try to apply it consistently based precedent and what is unique about properties but if there is something that we want to do if the community, you can do that and come out of here and talk to those people and say what do we do to change the zoning code and that can be adjusted. We can deal with that so I don't think we have said that before so I just wanted to put that out there.

President Ramirez: I appreciate that. You know we are your neighbors as well and I appreciate other neighbors coming forward and giving their opinion as well because that is important. In the end we work for the residents. To appreciate you folks coming out tonight.

X ADJOURNMENT

President Ramirez: Finally, move for an adjournment.

Mr. Anderson: Second.

President Ramirez: All in favor by Aye

(All members voted Aye 7-0 to adjourn.)

President Ramirez: We are so adjourned.

Respectfully submitted,

_____, 2018

Chairman, Joseph Ramirez

_____, 2018

Secretary, Carmen Daniels