

Board of Zoning Appeals Meeting
July 19, 2007
ZA-05-07

Members/Attendance: X Hank Grover
 X Jim Burgham
 X Al Franceschelli
 N/A Jim Pluchinsky
 N/A Maria Rutana
 N/A Bill Custer

Also in attendance: X Bob Monus, Zoning Inspector
 X Michele Richards, Recording Secretary

Hank Grover called the meeting to order at 7:00 p.m.

1st Order of Business:

Hank Grover stated that the first order of business is to approve the minutes from the meeting held on May 24, 2007. Grover stated that the Board will postpone the approval of the meeting minutes due to the fact there were no members present at that meeting that are present at tonight's meeting other than him.

2nd Order of Business:

Case #ZA-05-07 – A request by Mary Ann Kanters-Cook to obtain relief from fence setback from the front property line for property located at 8111 Via Bellagio, known as parcel number 35-060-0-018.00-0, lot 80. Parcel is located in Poland Township, Poland, Ohio in a (R-1) Residential R-1 district.

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description

Grover asked Bob Monus to explain the current zoning regulations in regard to tonight's case. Monus stated that the current regulations state that the maximum fence height up to the building setback is six feet eight inches (6'8"). Anything beyond the building setback cannot exceed a height of three feet (3') and must be fifteen feet (15') outside the right of way. This case is unique because it is a corner lot which means it has two front yards and two side yards. Anything in front of the building setback is considered the front yard which would require the three feet (3') fence height.

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Grover stated it is his understanding that the appellant would be permitted to put a six foot (6') fence only to a projection of the side of their house to their rear property line. Monus concurred. Grover stated from that point they would be permitted to put a three foot (3') fence within fifteen feet (15') of the property line which is a little behind the sidewalk. Grover stated that the appellant is asking to extend the six foot (6') fence where the three foot (3') fence would be and would like to extend it to a point where it would be in line with the side of the other corner house.

Mary Ann Kanters-Cook
8111 Via Bellagio

Kanters-Cook stated the lot is unique because the existing house was there and then she purchased the corner lot and combined the lots to one lot. She stated that ending the six foot (6') fence and adding the three foot (3') fence would not improve the property nor would it provide the privacy she is looking for.

Jim Burgham asked if the lot is all one lot. Kanters-Cook stated it is one lot with one tax identification number. Burgham asked if it was originally two lots and then combined into one lot. Kanters-Cook stated yes.

Hank Grover asked if anyone would like to speak in favor of the request.

Carol Koutsourais
8110 Via Bellagio

Koutsourais stated she does not have a problem and is in favor of the request.

Mary Ann Kanters-Cook stated that she has spoken to other neighbors that do not have a problem with the request. Some of the other neighbors were unable to come to the meeting.

Grover asked Kanters-Cook if there are deed restrictions as to what type of fence she can put up. Kanters-Cook stated she is putting a six foot (6') vinyl fence that is already approved for the neighborhood.

Hank Grover asked if anyone would like to speak against the request.

Joe Colletti
4009 Via Cassia

Colletti stated that the deed restrictions state you are not permitted to install a fence higher than five feet (5') unless you have a swimming pool. Colletti stated he would like to know who has jurisdiction.

Grover replied that the board has jurisdiction to grant variances on zoning resolutions. As far as zoning goes, a six foot eight inch (6'8") fence can be put up anywhere in the township. Plat and

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deed restrictions are a legal matter and that is something that the Board cannot consider. What the Board will consider is the distance farther out that the appellant can bring her fence from the projected line that zoning allows.

Colletti asked if the appellant's appeal states anything in regard to the height of the fence. Burgham stated that the appeal is to allow the six foot (6') height extension.

Monus stated that the deed restrictions can exceed zoning but cannot exceed what zoning allows; they must fall within the guidelines.

Colletti asked if the Board is aware that combining of the two lots may be appealed by the development board. Grover stated that it is one lot, as far as the Board is concerned. That is a legal matter and not a consideration of the Board. Monus stated that the combining of the two lots has been approved by the Mahoning County Planning Commission and is identified as one lot.

Frank Sedall
4005 Via Cassia

Sedall stated that the deed restrictions state that you have to be at least twenty feet (20') away from the property line. Sedall referred to the property map. Sedall stated he does not feel it will look attractive if the fence ends fifty feet (50') from the property line. Sedall stated he would like the fence to be twenty feet (20') from the property line. Sedall stated he is opposed to the fence ending fifty feet (50') from the property line. Sedall asked if the appellant is allowed to put a side fence that runs along Via Bellagio. Monus stated she would be allowed and it would have to be fifteen feet (15') off the property line with a three foot (3') fence height. Kanters-Cook stated no decision has been made to add the three foot (3') fence along the side.

Monica Bokesch
4007 Via Cassia

Bokesch stated that she objects to the six foot (6') fence extension because it will block her view of the other houses.

Kanters-Cook stated that Bokesch has landscaping in excess of six feet (6') and her fence will still be smaller than the landscaping in her view point. Kanters-Cook stated that she has plans to landscape the empty lot to coincide with her current lot. Kanters-Cook reiterated that at this point no decision has been made to put the three foot (3') fence along side of Via Bellagio. Burgham stated that Kanters-Cook is permitted to put up that fence without a variance.

Sedall asked if the Board approves the variance is there language that can be added that the fence has to run fifteen feet (15') or twenty feet (20') from the property line. Grover explained that the Board can ask the appellant to amend the request or the Board can approve the variance with stipulations.

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Kanters-Cook stated that what she is requesting is because of what is in the neighborhood and what the zoning is. She stated she is willing to put up the higher fence on the corner if it will work for her neighbor. Grover reiterated that she is willing to extend the fence within the fifteen feet (15') as requested by Frank Sedall. She stated she has landscaping plans that will provide natural privacy along the side of Via Bellagio.

Burgham stated his concern is there is very little fencing of that type in the neighborhood, other than for swimming pools. He is concerned that it will be like a wall and you will not be able to see out of Via Cassia.

The Board had further discussion and then made the following motion:

Motion

Al Franceschelli made a motion in Case ZA-05-07 to deny the request for the variance. Jim Burgham seconded the motion.

Voting:

Yes Jim Burgham
Yes Al Franceschelli
Yes Hank Grover

Motion carried.

Meeting adjourned at 8:15 p.m.

Submitted by:
Michele Richards/Recording Secretary

cc: Trustees (3)
Board of Zoning Appeals (6)
Zoning Commission (5)
J. Scharville (1)
J. Granitto (1)
File (1)