RECORD OF PROCEEDINGS

Minutes of UNION TOWNSHIP BOARD OF ZONING APPEALS Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held JANUARY 5 20 006

The January 5, 2006 meeting of the Union Township Board of Zoning Appeals was called to order at 7:00 PM by Chairman Ben Joehnk with an invitation to join in the Pledge of Allegiance. Vice Chairman Mark Walker and members Carl Wright, Matthew Beamer and Thomas Hanrahan were also in attendance. Scott Burkey, Zoning Inspector, represented the department. The minutes from the December 1, 2005 hearing were unanimously approved as distributed. Ben Joehnk was selected to return as Chairman for 2006 and Matthew Beamer chosen as Vice Chairman by unanimous vote. Case #25-05-A was heard.

Mr. Burkey introduced the application in Case #25-05-A filed by Jerry Fraley for property at 4477 Aicholtz Road to allow a fence to be installed in the front yard and to increase the maximum height of an accessory structure from 14 to 20 feet. This new home construction is on a secluded lot at the end of a private drive off Aicholtz Road in a mature neighborhood adjacent to I-275. The applicant seeks to add privacy and security to his property. The applicant plans to build an accessory structure within area limits but requires an increase in height to accommodate equipment he wishes to store.

Jerry Fraley spoke on behalf of his application and was duly sworn. Mr. Fraley explained that he had spoken to his contractor and they were planning to make the accessory a little larger than planned and that the 20 foot request was plus or minus, perhaps a bit larger. Mr. Fraley stated that he wished to install a second floor for storage. His tractor has a roll bar at eight foot and for safety purposes he wishes to leave it in the upright position. Mr. Fraley expressed the desire to limit access to his property and store his belongings indoors for aesthetic and security reasons.

Board members asked if there had been a drawing of the proposed barn or fence location. Mr. Fraley verified the location of fence previously permitted as not extending in front of the house (parallel to Aicholtz Road) and where he wished to continue forming a perimeter. The Board asked for more specific height requirement. Mr. Fraley stated that he would try to hold him to 24 feet.

Mr. Hanrahan stated that the diagram submitted didn't match his observations of the property. Mr. Walker said that since no variance was being sought for location, he didn't think the accuracy of the site plan was an issue. Mr. Hanrahan asked for clarification of the time frame and Mr. Fraley replied that he hoped to have the barn completed by spring and the fence within the two year period.

Mr. Hanrahan moved that the Board approve the request for variances in Case #25-05-A, based upon the evidence, testimony and the findings of fact: to Section 712 to allow a fence to be located within the front yard, and Section 711.5 to increase the height of an accessory structure from 14 feet in height to not more than 24 feet in height in a residential zone. Mr. Wright seconded the motion.

ROLL CALL: Mr. Beamer, aye; Mr. Wright, aye; Mr. Joehnk, aye; Mr. Hanrahan, aye; Mr. Walker, aye.

With no further business before the Board, the meeting was adjourned at 7:20 PM.

Approved by :

Ben Joehnk, Chairman

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held MARCH 2 20 06

The March 2, 2006 meeting of the Union Township Board of Zoning Appeals was called to order at 7:00 PM by Chairman Ben Joehnk with an invitation to join in the Pledge of Allegiance. Members Carl Wright, Matthew Beamer and Thomas Hanrahan were in attendance. Vice Chairman Mark Walker was absent. Victoria Hensley, Assistant to the Zoning Director, represented the department. The minutes from the January 5, 2006 hearing were unanimously approved as distributed. Cases #1-06-A, #2-06-A, and #3-06-A were heard. All those giving testimony were duly sworn.

Ms. Hensley introduced Case #1-06-A filed by Mark Pence for property at 4105 Mt. Carmel-Tobasco Road and adjacent, seeking to reduce the required lot width in the R-1 District. Mr. Pence owns two adjacent lots containing one home. The lot with the home wraps behind a vacant one acre lot to the south. The zoning is R-2 on the lot with the home, but R-1 in the section behind the vacant lot. The owner wishes to reconfigure the property by transferring the R-1 land to the vacant lot with frontage, then subdividing the newly created R-1 lot into two building lots at approximately 39,300 square feet each. The problem is that the two lots would be just shy of the 100 foot lot width requirement. There is insufficient side yard setback with the existing home to take any additional frontage away. High tension wires fill a 100 foot utility easement at the rear of this property, making a panhandle configuration undesirable as it would push the rear home site too close to the towers. The application expresses consistency with the Comprehensive Land Use Plan 20/20, as it discourages conversion of residential property to commercial use.

Mark Pence spoke on behalf of his request, describing his proposal as being in line with the determined land use by establishing a residential use on this section of the mixed use road. Mr. Pence described the lots as containing a natural swale towards the rear with considerable drainage that is another reason to avoid building too far back in the lots.

Mr. Hanrahan asked Mr. Pence to clarify his plan to consolidate the "L" section. Mr. Pence informed the Board that his original plan to split the new lot in half lengthwise was modified earlier in the day by the Clermont County Planning staff, because of the dept/width ratio. was too great. The lots could be no more than 480 feet deep (5 times the width) under county regulations, leaving a bar-shaped section about 30 feet deep at the rear of the lots still attached to the parent parcel to the north. A rough sketch plan was submitted to the Board for their information. Ms. Hensley asked for confirmation that the remainder at the rear would lie within the utility easement and Mr. Pence confirmed that it did and would be unbuildable in any case. He stated that for all intents and purposes, it would appear no different to the observer. Mr. Pence may seek a variance from the county to get a cleaner result.

With no further testimony, Mr. Beamer stated that because the request involved a minimal reduction in the lot width and its consistency with the land use plan, he had no problems with the request. Mr. Hanrahan agreed that this land use makes sense. Mr. Hanrahan moved that the Board approve the request for variance in Case #1-06-A based on the evidence, testimony and findings of fact: to Section 602 to reduce the minimum lot width R-1 District from 100 feet to no less than 96 feet to accommodate the creation of two separate lots of record in the R-1 District per the submitted site plan. Mr. Wright seconded the motion.

ROLL CALL: Mr. Hanrahan, aye; Mr .Wright, aye; Mr. Beamer, aye; Mr. Joehnk, aye.

Ms. Hensley reviewed the application in Case #2-06-A, filed by Fischer Management, Inc. for a vacant R-1 parcel in the Polo Fields Subdivision, adjacent to I-275. The application seeks variances to allow a highway sign for a subdivision that spans over 650 acres and is nearing its completion after more than fifteen years of construction. A detail of the types of signage and advertising permitted under the zoning resolution and in

active use by the applicant was given. The Zoning resolution has strict limits on the size and number of signs and has resisted their use on highway frontage in residential districts. The code also requires collocation of advertising by all builders on the one sign it generally permits at the entrance to a subdivision under construction.

Debbie Slabach, of Fischer Homes, spoke on behalf of the request. Ms. Slabach stated that they had hoped this sign would help the remaining lots to sell a little faster to end the construction mess for the residents. While the sign is temporary in nature, Ms. Slabach described it as sturdy and large enough for motorists to read.

Mr. Beamer asked what time frame they had in mind. Ms. Slabach stated this location would be the last phase Fischer Homes would be building and it would remain until that area was about built out, approximately 2-3 years. Mr. Joehnk asked if Fischer was the only builder active in the Polo Fields. Ms. Slabach replied that Zaring Homes was building in a different area and Fischer was the only builder in the immediate area of the sign. Mr. Joehnk asked if they would be sharing the sign. Ms. Slabach stated that they had not been asked, but if it were a recommendation of the Board they would consider sharing the costs and the sign. Ms. Hensley asked if Kerr Homes was also still building in the Polo Fields and Ms. Slabach confirmed that they had a few lots also in a different section. Mr. Beamer asked and received confirmation that the sign would not be lighted.

Matt Barkimer, 4811 Salty Lane, Cincinnati, Ohio, asked for the location of the sign and stated he had no objection if it were temporary and had no lighting.

In discussion of the Board, Mr. Hanrahan stated he saw no need for the sign. He saw no evidence of hardship and believed that identification of the area was not an issue at this late point in the development. Mr. Hanrahan further stated that there were billboards in the Milford River's Edge area that could be pursued to advertise. Mr. Beamer expressed concern that if one builder were permitted additional signage, wondering where the proliferation of would signs stop for every other builder. He pointed to the weekend subdivision regulations that allow directional signage that can't be missed.

Mr. Hanrahan moved that the Board deny the request for variance in Case #2-06-A based on the evidence, testimony and findings of fact that there hasn't been any real hardship identified. Mr. Beamer seconded the motion.

ROLL CALL: Mr. Hanrahan, aye; Mr. Beamer, aye; Mr. Wright, aye; Mr. Joehnk, aye.

In Case #3-06-A, Ms. Hensley described the application filed by Gary & Barbara Zorb for their property at 5165 Beechwood Road. The applicant wishes to split the 7.05 acre lot into three separate lots of record all meeting the ER requirements. In review of the preliminary documents prepared by the county planning office, the very large accessory building to the southwest of the lot came to staff's attention. While no reference could be found in the zoning records, the applicant brought in a copy claiming to show an agricultural exemption from the county building inspector. The Auditor's database shows it as a 2,240 square foot outbuilding constructed in 1996. A zoning permit was obtained in 2001 to build a detached garage near the house, but no reference to this building was made at that time. The Zoning Inspector visited the property and observed unlicensed vehicles and heavy construction equipment. Enforcement action was deferred pending this hearing. The applicant had hopes of selling to someone wishing to develop several contiguous parcels, but that project fell through. From a zoning standpoint, this situation poses a real dilemma. The proposed split meets all dimensional requirements in the ER District. The applicant does not wish to demolish the structure. However, the Township has vigorously defended the prohibition against accessory buildings on vacant land in the past. The Township could extract no guarantee that a home would ever be built to accompany the large accessory structure or any lawful agricultural use be

instituted. If this structure is permitted to remain in use other than agricultural, it should have a paved drive like any other. While the code is silent about the maximum size of accessory structures in the ER District, any approvals should include dimensional details to avoid any confusion in future.

Gary Zorb spoke on behalf of his application, explaining that he purchased the property many years ago, intending to build his retirement home on the site. It is his wish now to build two houses. The vehicles and equipment were being kept for friends and for future projects. Mr. Beamer asked if the property was being farmed, and Mr. Zorb replied it was not any more. Mr. Beamer asked what the current use was. Mr. Zorb replied that it was being used for storage of lumber and materials that had been purchased for the construction of his home. Mr. Zorb stated that the property had been in bad condition when he purchased it and he had spent a considerable sum in hauling out dumped items and dilapidated structures.

Mr. Hanrahan stated that he sees no problem requiring a variance. He stated that the applicant was asking the Board to grant a variance so that he can maintain the pole barn and divide the property. Mr. Hanrahan felt that there was no hardship in this case, as Mr. Zorb could remove the structure and accomplish the split, while it is a very big problem for the Township to allow it to remain on a vacant lot. He understood that the applicant may not want to remove the structure, but that was his decision. Mr. Beamer agreed that it would be a problem to allow it to remain.

Mr. Wright moved that the Board deny the request for variances in Case #3-06-A, based in the evidence, testimony and the findings of fact. Mr. Beamer seconded the motion and made an amendment to the case number, which was accepted by Mr. Wright as shown herein.

ROLL CALL: Mr. Wright, aye; Mr. Beamer, aye; Mr. Hanrahan, aye; Mr. Joehnk, aye.

With no further business to come before the Board, the meeting was adjourned at 7:30 PM, by unanimous vote.

Approved by:

Ben Joehnk, Chairman

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held APRIL 6, 20 06

The April 6, 2006 meeting of the Union Township Board of Zoning Appeals was called to order at 7:00 PM by Chairman Ben Joehnk with an invitation to join in the Pledge of Allegiance. Vice Chairman Mark Walker and members Carl Wright, Matthew Beamer and Thomas Hanrahan were in attendance. Scott Burkey, Zoning Inspector, represented the department. The minutes from the March 2, 2006 hearing were unanimously approved as distributed. Case #4-06-A was heard. All those giving testimony were duly sworn.

Mr. Burkey introduced the application in Case #4-06-A, filed by Thomas Gohs for his property at 608 Brandy Way. The applicant has made additions to his home in the past on the west side of the structure behind the side entry garage and wishes to expand the family room on the east side. The applicant states he cannot build to the rear because the fireplace and chimney are located on that wall and building into the front yard would disrupt the streetscape. The size of the addition was determined by the desire to repeat the existing wood beam ceiling treatment in the family room into the addition.

Thomas Gohs spoke on behalf of his application. He stated that his was one of the smaller homes on the street and he has remodeled and made addition in the past. Mr. Gohs stated that there will still be roughly 28.7 feet between the structures if his addition is approved. Mr. Gohs speculated on the unlikely nature of an addition to the neighbor's house because of that floor plan. He offered comment on new subdivisions being built with smaller setbacks and other properties in his neighborhood. Mr. Gohs stated that he would never do anything to the detriment of his subdivision. Mr. Gohs stated that one miniature crab tree will be removed and the other trees are basically on his land and overhang the neighbor's.

Mr. Beamer asked for confirmation that there was no alternative location. Mr. Gohs confirmed there was not because of the fireplace. Mr. Beamer asked if a smaller addition might be considered. Mr. Gohs summed it up that to add anything less than the existing dimension would fail to serve the purpose.

Jim Suhre, 600 Brandy Way, Cincinnati, Ohio, lives two doors down and commented on the excellent job Mr. Gohs did of matching the existing structure with the previous addition and his superior care of his property. Mr. Suhre felt that the addition would add to the value of the home. John Lynch, 609 Brandy Way, Cincinnati, Ohio, lives across the street from the subject property, characterized Mr. Gohs as an excellent neighbor and voiced support for the project.

Michael Kennedy, 612 Brandy Way, Cincinnati, Ohio, spoke as the adjacent homeowner who would be impacted by the project. He and his wife were opposed to the project as they felt it would come too close. Having recently purchased, they liked the open feeling between the homes and feel that this project will crowd them and may be a problem in future marketing of the property.

In discussion of the Board, Mr. Beamer stated that he felt the requested setback was simply too close. Mr. Walker, while he expressed concern for the applicant, he believes that the neighbors have a reasonable expectation and that the percentage of variance requested is too great. Mr. Joehnk agreed.

Mr. Beamer moved that in Case #4-06-A the Board denies the request for variance based on the evidence, testimony and the findings of fact. Mr. Hanrahan seconded the motion.

ROLL CALL: Mr. Beamer, aye; Mr. Wright, aye; Mr. Joehnk, aye; Mr. Hanrahan, aye; Mr. Walker, aye.

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held ~~APRIL~~ 6 20 06

With no other cases before the Board, Mr. Beamer expressed congratulations to Doug Walker as the new Township Administrator and moved for adjournment. That action was promptly seconded and unanimously approved by the Board at approximately 7:16 PM.

Approved by:

Ben Joehnk, Chairman