

CITY OF AURORA
OHIO
BOARD OF ZONING APPEALS
Meeting Minutes
March 9, 2016

The Aurora Board of Zoning Appeals met in a scheduled meeting Wednesday, March 9, 2016 in the Council Chambers at City Hall. The meeting was called to order at 6:27 p.m. by Chairman Terese Fennell.

ROLL CALL: Present: Terese Fennell, Chairman
Jeff Iammarino
Tony Gramm
Tim Novotny
Absent: Bernard McCarrell, Vice Chairman
Tom Carr, Alternate
Also Present: Meredith Davis, Asst. Director Planning, Zoning, Building Division
Dean DePiero, Law Director
Marie Lawrie, Clerk

DECLARATION OF OATH:

Mr. DePiero swore in those that planned to speak.

AMENDMENTS TO THE AGENDA:

A letter was received from Marty Gardiner of 475 Woodview Trail in favor of granting the variance request at 501 Woodview Trail. A letter was also received James Spisak of 100 Chesterton Place against granting the variance at 1061 Somerset Lane.

MOTION: To accept the documents for consideration

Mr. Iammarino moved for approval; Mr. Gramm seconded, and the motion carried, 4-0, on a roll call vote.
Yeas: Mr. Iammarino, Mr. Gramm, Mr. Novotny, Ms. Fennell
Nays: None

A letter was presented by Ms. Pannetti from the Windsor Estates Condominium Association approving the installation of a hot tub at 1061 Somerset Lane.

MOTION: To accept the document for consideration

Mr. Gramm moved for approval; Mr. Iammarino seconded, and the motion carried, 4-0, on a roll call vote.
Yeas: Mr. Gramm, Mr. Iammarino, Mr. Novotny, Ms. Fennell
Nays: None

APPROVAL OF MINUTES:

MOTION: To approve the minutes of the February 10, 2016 meeting

Mr. Novotny moved for approval; Mr. Gramm seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Novotny, Mr. Gramm, Mr. Iammarino, Ms. Fennell

Nays: None

OLD BUSINESS:

MICHAEL SUDSINA, 213 RALEIGH CT (1601001) – 8 FOOT FENCE WHERE A 4 FOOT FENCE IS PERMITTED **TABLED 02-10-2016**

Ms. Fennell updated the board members on this variance request, explaining that he will return to the Board of Zoning Appeals at a later date, if he can secure approval from his homeowner's association.

NEW BUSINESS:

PALMER WOODS LTD, 436 COCHRAN RD (1602004), LOT SPLIT RESULTING IN 113 FOOT FRONTAGE, WHERE 115 FOOT FRONTAGE IS REQUIRED

Brian Grassa of 212 Baptist Circle, Sagamore Hills, Ohio was in attendance to answer questions. He was representing the group of investors under contract to purchase this property. He was seeking a variance of approximately 2 feet as pertains to the front footage requirement of 115 feet. This lot split went before the Planning Commission on February 3, 2016. The proposed plan separates the 58 acre lot into 5 parcels ranging from 4.5 acres to 33.6 acres. Planning Commission approved this lot split contingent upon Palmer Woods Ltd securing the Board of Zoning Appeals variance for a 113 foot frontage. This land is an existing non-conforming parcel. When Mr. Palmer passed away around 1970 the property along N Bissell Road was subdivided, creating the non-conforming frontage. Ms. Fennell asked what plans the applicant had for the property if the variance was not granted. Mr. Grassa stated that if parcel #4 was divided into two parcels with a shared driveway that would exempt the owner from the 115 foot frontage code. That would take a reconfiguration to the plat and create a 1500 foot long shared driveway. Mr. Grassa would like to keep that an individual lot with one driveway. Mr. Novotny questioned and confirmed that no work has started on the project to date. Mr. Iammarino questioned the variance request in inches, to which Mr. Grassa stated that the variance approximately 14 inches.

Ms. Fennell opened the floor for public comment.

John Shartz, 210 N Bissell Rd, has lived in Aurora for 50 years. His property abuts proposed parcel #4. He stated that there are drainage issues in that area. He reported that City Council did not take anyone's advice when considering the Woodview Estates subdivision as pertains to the wetlands present in that area. He felt that too many houses were constructed in that subdivision. He was in favor of the lot split creating 5 parcels in lieu of a larger subdivision. He stated that since Mike Gervace built some new

homes on N Bissell Rd, the property values have gone up.

E. J. Nemet, 830 S Sussex Ct, has lived in Aurora for 10 years. He was relieved that only five houses/driveways are planned. He was in favor of the variance. He had a few questions to ask, including whether the driveway for proposed lot #4 could change into a street at a later time after the variance is granted. Ms. Fennell stated that any change to the current plan would require the applicant to return with a new variance request. Mr. Nemet also inquired whether there is an opportunity for wetland mitigation with this property. Law Director DePiero stated the City has very stringent regulations as pertains to storm water, wetlands, and riparian management.

Doug Coffoe, 690 S Sussex Ct, President of the Woodview Estates homeowners association was in favor of the variance. The Association feels the proposed lot split is the best case scenario as pertains to their interests. He asked for verification that Sherwood Road and S Sussex Ct would not be connected. Ms. Davis verified that on the proposed plan that connection would not happen. Any changes to the proposed plan would have to start over completely as a new proposal. He also asked for conformation that any future plans for houses would be submitted by individual property owners. Ms. Davis confirmed that to be true. He also asked if the three proposed parcel that are accessed by S Sussex Ct would be part of the Woodview Estates subdivision and therefore subject to the bylaws of the homeowners association. Mr. DePiero stated that it might be up to the homeowners association to vote on such an adoption. He offered to discuss the matter with Mr. Coffoe at a later time.

Gary Gardiner, 8880 Topaz Terrace, Streetsboro Ohio was in attendance. He stated that he was one of the investors with the group. He stated that the parcels of the proposed lot split would not be subject to the declaration of covenant and restrictions for Woodview Estates according to the title report. At this point, the land is not part of that subdivision.

Chuck Vella, 196 Forestview Place had questions. His property abuts proposed lot #4. He has lived there for 18 years. He was in favor of the 5 lot split verses 55 lots. He questioned whether the area on the plan with red dots was wetlands. Mr. Grassa confirmed that was true. He questioned the course of the driveway on proposed lot #4 as pertains to the wetland on that stretch. Mr. Grassa explained that the houses and driveways depicted on the plan were possible locations within the buildable areas of the proposed lots. The exact placement would be determined by the future land owners. The purpose of the houses and driveways shown on the plan is an attempt to show that the parcels are, in fact, buildable parcels. Ms. Fennell reminded the audience that the driveway is not what was being considered in the variance request.

Michael McFadden, 200 Woodhaven Court attended the meeting. He and his wife have lived in Aurora for over a year. The property north of their lot is heavily wooded. That was part of the reason they bought their home. The trees and vegetation provide relief for the drainage issues. He was not in favor of the trees being removed for a driveway. It was stated that a driveway per code cannot be closer than 3 feet to the property line. Ms. Fennell stated the variance does not include the placement of the driveway. The

variance request is asking for permission to make proposed lot #4 one buildable lot. When the future property owner is ready to build on the lot, they will be subject to all current codes pertaining to placement of the house and driveway. Mr. McFadden asked what studies had been done on this proposal regarding drainage issues. Ms. Fennell stated that would have been addressed at the Planning Commission stage of the project.

Ms. Davis confirmed that Planning Commission has approved the lot split contingent on the variance approval for the 113 foot frontage. No wetland setbacks or variances have been granted.

Catherine Laubscher, 619 Sherwood Drive spoke at the meeting. She and her husband has lived in Aurora for 50 years. She knew Mr. Palmer and he loved his woods. When Woodview Estates was built, she saw a difference in the flooding of her property. She reported that Mr. Palmer's daughter came to her and stated that she had entered into an agreement with a tree consortium which prevented the property from being developed for 15 years. Ms. Fennell stated that if such an agreement were in place, it should have been found as a deed restriction during the title search for the parcel.

Mr. Grassa readdressed the comments. He stated the current plan to have the least amount of impact on a beautiful piece of property. A developer could comfortably erect 39 houses on this same parcel. He stated that they have been open with the public. He represents a group of gentleman who want to create some nice lots. He asked that they approve the variance for just 14 inches.

Ms. Fennell closed public comment. The Board referred to the checklist. Mr. lammarino did not feel the variance was substantial. He further stated that the variance would not adversely impact the aesthetics of the neighborhood. Mr. Gramm agreed and stated that property values were likely to be positively affected. Mr. Novotny agreed. Ms. Fennell stated that she felt splitting proposed lot #4 into 2 lots with a shared driveway would not fit the character of the neighborhood. She further stated that she did not feel 14 inches was substantial given the overall acreage of the proposed lots. Mr. lammarino agreed.

MOTION: To grant the variance as requested

Mr. Gramm moved for approval; Mr. Novotny seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Gramm, Mr. Novotny, Mr. lammarino, Ms. Fennell

Nays: None

SEAN DEVINS, 501 WOODVIEW TR (1602005) – LOCKING LID HOT TUB WITHOUT AN ENCLOSING FENCE

Sean Devins, homeowner was in attendance to answer questions. He was seeking approval to erect his hot tub on his deck without an enclosing fence. The opening of the deck is 9 feet across and it would be difficult to construct a gate of that size. The hot tub will be placed at the furthest point on the deck with a solid railing around it. It will be sunken into the deck and well screened from view. He has 3 children of his own and addressed the safety issue by stating that the hot tub lid is secured with 4 separate key

locks. Two letters of support were received from neighbors, as well as an approval letter from the homeowners association. There was no present to make public comments on this variance request.

The Board addressed the checklist. Ms. Fennell stated that she prefers the locking lid over a fence for safety. For this reason, she did not feel the variance was substantial. Mr. Iammarino requested that the resolution be amended to include wording making the locking lid required with the variance. Mr. Gramm and Mr. Novotny agreed.

Mr. Devin requested that the code requiring an enclosed fence around a hot tub be reviewed and changed due to the recommendation by multiple agencies stating the locking lid is the preferred method of preventing accidental drowning. Ms. Davis stated that to be a good suggestion and assured the applicant that the City is working toward that currently.

MOTION: To grant the variance with the condition that a proper locking device is installed

Mr. Iammarino moved for approval; Ms. Fennell seconded, and the motion carried, 4-0, on a roll call vote.
Yeas: Mr. Iammarino, Ms. Fennell, Mr. Gramm, Mr. Novotny
Nays: None

CARL PANNETTI, 1061 SOMERSET LN (1602008) - HOT TUB ADJACENT TO THE RESIDENCE

Sandy Pannetti, homeowner was present to discuss the variance request. She stated that she and her husband have just recently purchased this residence. Mr. Pannetti has had several surgical procedures and is in need of the hot tub for medical reasons. The property consists of a freestanding condo with common ground at the rear of the house. They did inquire with the homeowners association before purchasing the condo to be sure a hot tub would be permitted. The hot tub will be placed on a concrete pad under the rear deck. Ms. Pannetti stated that the development has no small children and their condo backs up to woods. A letter from neighbor Laura Pavlick was received in favor of the variance. A letter from James Spisak was received against granting the variance for safety reasons. Ms. Pannetti provided a letter from the Windsor Estates approving the project. There was no one present to comment on the variance request.

The Board addressed the checklist. Ms. Fennell stated that in general a 15 foot variance would be considered substantial, but given that they have no other personal space of their own, she did not consider this request to be substantial. Mr. Iammarino and Mr. Gramm concurred.

MOTION: To grant the variance as requested

Mr. Gramm moved for approval; Mr. Novotny seconded, and the motion carried, 4-0, on a roll call vote.
Yeas: Mr. Gramm, Mr. Novotny, Mr. Iammarino, Ms. Fennell
Nays: None

CARL PANNETTI, 1061 SOMERSET LN (1602008) – LOCKING LID HOT TUB WITHOUT AN ENCLOSING FENCE

Sandy Pannetti, homeowner continued to discuss the hot tub. She currently owns this hot tub and will have it moved to 1061 Somerset Ln. It has a locking lid. She stated that the lid is quite heavy and is constructed with a metal bar on one side and 2 locks on the opposite side. She cannot easily lift it herself.

The Board addressed the checklist. Ms. Fennell restated her opinion that a locking lid is preferable to an enclosing fence for safety reasons. Mr. Iammarino and Mr. Gramm concurred. Mr. Novotny agreed with Ms. Fennell, further stating he also feels the locking lid is safer. The Board agreed to add the locking lid verbiage to the resolution.

MOTION: To grant the variance with the condition that a proper locking device is installed

Mr. Iammarino moved for approval; Mr. Novotny seconded, and the motion carried, 4-0, on a roll call vote.
Yeas: Mr. Iammarino, Mr. Novotny, Mr. Gramm, Ms. Fennell
Nays: None

VILLAS OF BERTRAM, ROUTE 306 & TREAT RD (1602007) – FENCE CONSTRUCTED WITHIN THE 75 FOOT DEVELOPMENT BOUNDARY SETBACK

Mark Katcher, Land Development Manager for Ryan Homes was in attendance to represent the developer, Rob Benjamin and to discuss the variance request. They were seeking a variance to allow a contiguous fence to be constructed along the exclusive use line of each of 17 condos along the N Aurora Road and Treat Rd border of the subdivision. From the street, the fence will be higher than the road and the current silk fence with landscaping scattered along it. The reason for the fence is the safety of the condo owner's families as well as vehicles traveling on the roads. The speed limit of N Aurora Road is 50 mph. He stated the fence height variance request was due to the possibility of children's toys traveling over it into high speed traffic. Mr. Novotny inquired about the contiguous fence and the vegetation planned for the project. Mr. Katcher repeated that the fence will be contiguous with no spaces and that the developer had received comments from the City Arborist on bushes and trees to be planted in the mulched beds next to the fence. Mr. Katcher further spoke to Mr. Novotny's question to say that the fence will be visible from the road, but will not impede your vision due to the hill that exists in that location already. The fence will sit on top of the hill. The exclusive use line is the end of the area considered to be condo owner's yards. Mr. Katcher explained that this variance would prevent 17 future variance requests and 17 different fence types. Ms. Fennell opened the floor for public comment.

Rick Areddy, 776 N Chillicothe Rd was present to comment on the variance. He questioned the building material for the fence and who would own and maintain it. Mr. Katcher stated the material will be white vinyl and be owned and maintained by The Villas of Bertram homeowner's association. Mr. Areddy further questioned whether condo owners would be permitted to hang things on the fence. Mr. Katcher answered that the

fence will be HOA property and there should not be anything hanging from it. Mr. Areddy was in favor of one continuous material/fence. Mr. Novotny confirmed with the applicant that the fence would be owned and maintained by the HOA.

There were no further comments from the public. Ms. Fennell closed public comment and the Board discussed the checklist. Ms. Fennell stated that the variances are not substantial due to safety concerns. She feels the fence is necessary due to the high amount of traffic traveling at a high rate of speed. Mr. Gramm felt that landscaping would be beneficial to the aesthetics of the fence. Mr. lammarino felt the character of the neighborhood would be improved verses having 17 different fence types in that area. Mr. Novotny concurred with all these comments.

MOTION: To grant the variance to allow a fence 38 feet from the residence conservation boundary

Mr. Gramm moved for approval; Mr. lammarino seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Gramm, Mr. lammarino, Mr. Novotny, Ms. Fennell

Nays: None

MOTION: To grant the variance to allow a 6 foot solid fence in a side and front yard abutting a public right of way

Mr. lammarino moved for approval; Mr. Gramm seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. lammarino, Mr. Gramm, Mr. Novotny, Ms. Fennell

Nays: None

NEIL SMITH, 100 YORKSHIRE DR (1602009) – LOCKING LID HOT TUB WITHOUT AN ENCLOSING FENC, ADJACENT TO THE RESIDENCE

Mike Bulone, of Bulone Brothers Landscaping was in attendance to address the variance request. He stated that there was no homeowners association formed to date to seek an approval from. He described the concrete pad next to the deck where the hot tub was planned. The landscape plan calls for considerable screening of the hot tub by plantings. To erect the hot tub anywhere else would put it out in the open. The proposed location is a secluded location. There was no one present to make public comment about this variance.

The Board discussed the checklist. Ms. Fennell again stated her preference for the locking lid over the enclosing fence. Mr. Gramm felt that there was no other place to locate the hot tub. Mr. lammarino asked clarification on why variances are needed for hot tubs. Ms. Davis explained again the way the code reads as pertains to hot tubs falling under the category of a pool. She informed the Board that changes to that code are coming. Ms. Fennell did not feel it was a substantial variance request to erect the hot tub adjacent to the residence as opposed to placing it in the middle of the yard. The other Board members agreed.

MOTION: To grant the variance to allow a hot tub to be erected without an enclosing fence, with the condition that a proper locking device is installed

Mr. Gramm moved for approval; Mr. Iammarino seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Gramm, Mr. Iammarino, Mr. Novotny, Ms. Fennell

Nays: None

MOTION: To grant the variance to allow a hot tub to be erected adjacent to the residence

Mr. Iammarino moved for approval; Mr. Gramm seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Iammarino, Mr. Gramm, Mr. Novotny, Ms. Fennell

Nays: None

MISCELLANEOUS:

None

ADJOURNMENT:

MOTION: To adjourn the meeting

Mr. Iammarino moved to adjourn at 7:37p.m. Mr. Gramm seconded, and the motion carried on a unanimous voice vote.

Terese Fennell - Chairman

Marie Lawrie - Clerk