

BLUE ASH BOARD OF ZONING APPEALS

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ITEM 1. – Meeting Called to Order and Roll Call

Chair Mark Kirby called the regular meeting of the Board of Zoning Appeals to order at 7:00 p.m. on Monday, September 8, 2014 and requested a roll call.

MEMBERS PRESENT: Mark Kirby, Tricia Downing, Joe Hoelker, Scott Miller and Terry Peck

ALSO PRESENT: Community Development Director Dan Johnson, City Solicitor Bryan Pacheco and interested citizens

ITEM 2. – Approval of Minutes

The Board waived the reading and approved the minutes of the Board of Zoning Appeals regular meeting of August 11, 2014.

Chair Kirby swore in all those in attendance wishing to testify for any of the agenda items and gave a brief overview of the Board of Zoning Appeals.

ITEM 3. – New Hearings

a. 9115 Blue Ash Road – Jaguar-Land Rover Dealership

Appeal to allow site lighting in excess of maximum allowed by Code

PRESENT: Scott Manley – Appellant

Scott Manley of LSI Industries said the initial design did not include consideration for existing light levels required by the City and was something they were not involved in. LSI is presenting the appeal on behalf of the owner. He explained that the proposed design does not allow any site lighting to extend to any of the residences across Ronald Reagan Highway. The proposed light levels are considerably lower than at a typical car dealership. There was general discussion about LED lights and visibility of the actual diode.

Chair Kirby opened the hearing for public comment. Seeing none, public comments were closed.

DECISION: Terry Peck moved, Scott Miller seconded to approve the appeal at 9115 Blue Ash Road as submitted with a condition that point source of the light be shielded from adjacent residential properties. A roll call vote was taken. All members present voted aye. Motion carried to approve.

b. 10415 Kenwood Road – Blue Ash Service Center

Appeal to allow a new wall sign on a site with an existing nonconforming sign and appeal to allow a wall sign larger than permitted

PRESENT: Teri Cantor, ABC Signs – Appellant
Rob Miller, Owner

Rob Miller said he and his father have owned this business since 1976 and now the 3rd generation is coming in. They have expanded the business to offer soft-serve ice cream and yogurt and would like to advertise it. The current pole sign was built in 1998 per City of Blue Ash Code and the bottom had to be 10-foot high at its lowest point, but it is now a non-conforming sign. There is no good location for a new conforming ground sign because the right-of-way has been widened over the years. A new ground sign would cost approximately \$20,000. The proposed new wall sign would satisfy the Code requirements for size and location; there are currently no wall signs on the buildings.

Teri Cantor of ABC Signs passed out drawings of the new wall sign that will meet the current code and gave examples of other businesses with wall signs.

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Chair Kirby opened the hearing for public comment. Seeing none, public comments were closed.

The Board discussed the visibility of the pole sign and whether the proposed wall sign was necessary.

DECISION: Joe Hoelker moved, Terry Peck seconded to grant the appeal for new wall sign at 10415 Kenwood Road as submitted. A roll call vote was taken. Two members present voted aye. Scott Miller, Mark Kirby, and Tricia Downing voted nay. Motion carried to deny.

c. 10607 Techwoods Circle – Animal Care Center

Appeal to allow fewer parking spaces than required by Code

PRESENT: Joey Pursifull – Appellant
Steve Leesman, Leesman Engineering

Steve Leesman said the Animal Care Center would like to add a 40 x 60 foot addition that will match the existing building materials. The additional space will be mostly kennels, and not additional employees, so they did not want to go overboard with parking.

Dan Johnson clarified that the owner would prefer not to add any parking space because the addition will not generate any notable additional parking demand. The City generally prefers maintenance of green space if the parking is not needed.

Joey Pursifull manages the animal care center and confirmed that the preference is not to add parking. They currently have 7-10 employees and are not planning to add employees at this time. The clients dropping off and picking up are typically not there any longer than 10 minutes. They currently have 60 kennels and have never had any problems with a lack of parking.

Chair Kirby opened the hearing for public comment. Seeing none, public comments were closed.

The Board members were in agreement not to require the additional parking.

DECISION: Scott Miller moved, Tricia Downing seconded to approve the appeal for Animal Care Center located at 10607 Techwoods Circle as submitted. A roll call vote was taken. All members present voted aye. Motion carried to approve.

d. 4900 Hunt Road – Cecilia Kloecker

Appeal of a Downtown Design Review Committee Decision to approve a modification to the existing development plan for a new multi-family building on the north side of the site

PRESENT: Cecilia Kloecker – Appellant

Cecilia Kloecker introduced herself and handed out copies of her PowerPoint presentation to Board members then went through her presentation, which has been included to the minutes as an attachment. Mrs. Kloecker's presentation describes her opinion on how the revised submittal of Building 2 does not meet the Zoning Code, does not meet the intent of the Master Plan's Concept Redevelopment Plan, and negatively impacts the general welfare, health, and quality of life for the Barwyn Acres residents.

After Mrs. Kloecker's presentation, City Solicitor Bryan Pacheco advised that if Hills had any questions for the Appellant, now would be the time to ask.

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Charles Miller, attorney with Keating Muething and Klekamp law firm, said he represents Hills. Mr. Miller asked if Mrs. Kloecker if she had a background in planning and zoning, as a practicing attorney, or as an architect; she answered that she did not.

Mr. Miller asked Mrs. Kloecker if the documents at the beginning of her presentation were completed by her husband. Mrs. Kloecker confirmed. Mr. Miller asked what was done to ensure that the drawings were to scale. Mrs. Kloecker said he measured. Mr. Miller asked what the height of her home was; she did not know. Mr. Miller discussed the relevance of a revision date on one of the drawings referenced in the presentation.

Mr. Miller asked if she was contending that this building would exceed the height allowed in the D-1. She said they are contending that it affects their light, air quality, and quality of life, which the Code does not allow. She confirmed they are not contending the height.

Mr. Miller pointed out that the setback is greater than required by Code. Mrs. Kloecker said there is no way they can do a 10-foot setback because the Code requires more than a 10-foot setback because of the landscape buffer.

Mr. Miller asked Mrs. Kloecker to clarify her allegation that this is Hills' first urban development. Mrs. Kloecker said she put her "urban" in quotes and explained that Blue Ash is not Mt. Lookout or Hyde Park.

Mr. Miller asked if the person who did the sunlight study was present. Mrs. Kloecker replied she was not.

Mr. Miller asked if Mrs. Kloecker purchased her residence after the 2006 plan was prepared. Mrs. Kloecker said her residence was purchased in 2007. Mr. Miller asked if the 2006 plan was reviewed in conjunction with the property purchase. Mrs. Kloecker said she looked at the plan for the entire downtown but did not recall what the plan was called. Mr. Miller asked if she reviewed the zoning for this property prior to purchasing her home. Mrs. Kloecker said she did not.

Mr. Miller asked for clarification that her primary concerns were the issue of sunlight and privacy. Mrs. Kloecker said her primary concern is a solid, massive wall which affects her quality of life and the health of their beings. Mr. Miller asked if the person who did the sunlight study conducted a study where shade currently occurs based upon the existing landscaping. Mrs. Kloecker said the canopy was not used because they were concentrating on the winter months.

Mr. Miller asked if Mrs. Kloecker was aware that the Fire Department has not expressed any concerns. Mrs. Kloecker said she spoke with Heath Waxman and he has not seen this plan.

Mr. Miller asked if Mrs. Kloecker contends that the plan is not compliant with the allowed density of the D-1 district. Mrs. Kloecker said she did not approach density tonight other than to state that there are 274 apartments and they will not be able to rent them.

Mr. Miller thanked Mrs. Kloecker.

Chair Kirby invited Hills to present its side.

Charles Miller said this was a modification of an existing plan to allow for a multi-family development within the D-1 district. With respect to this plan, there have been no requests made for any type of variance. The plan submitted complies completely with the Code as written. Multi-family use is permitted in the D-1 Downtown District. The

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proposed building satisfies the requirements for at least 2-stories and not more than 50-feet in height. The proposed setback exceeds the minimum of 10-feet. There is a minimum density, but not a maximum, because the D-1 area is designed to encourage high-density development to have a walkable area with urban living. The Concept Plan shows a multi-story where this building is proposed. He said this plan mirrors the City's plan and will be an amenity to the area. He explained that this plan was developed by Hills after the original approval. He noted that the appeal alleges that the development does not comply with Section 1183.05, which is a Special Use provision and not applicable.

Jim Obert, Hills VP of Planning & Zoning, addressed the date of the plans and said the base plans were revised February 16, 2014 to add the newly proposed Building B. He also said he has met with the Fire Department on two occasions, specifically with Chief Brown, Assistant Chief Theders, and the Fire Prevention Officer. They even came to visit the site with him approximately six weeks prior to this meeting and found no problems with the site plan. Mr. Obert gave a presentation, which was a response to Mrs. Kloecker's appeal and it is included in the minutes as an attachment.

Chair Kirby offered Mrs. Kloecker the opportunity to cross-examine Mr. Obert. There was further discussion about the date on the current drawings. Mr. Obert explained that when he joined Hills in February 2014, there was no plan for the revised Building B at that time. Mrs. Kloecker asked if Heath Waxman from the Fire Department reviewed the plans. Mr. Obert answered yes and that he had visited the site.

Michael Copfer of Hills Communities further clarified the plan dates. He reiterated that the plan is not in violation of the Zoning Code. The neighbors have put the Zoning Code itself on trial because they do not like it. Mr. Copfer said they inherited the Code when they purchased the property and have put together a plan that meets the Zoning Code, which was approved by DDRC.

Mr. Copfer said the apartment market continues to be strong and even their Palmera development, which was completed approximately 1½ years ago, is still on a waiting list. Hills has long term investments in Blue Ash with other properties they own and they continue to have confidence in this plan. Hills' corporate office is across the street and they would not do anything that they feel would negatively impact the value of that.

Mr. Copfer argued that Mrs. Kloecker's shade studies of Plan 1 are irrelevant. Hills put a lot of effort into redesigning the building to have a high degree of architectural interest on the east elevation, which was what the DDRC asked them to do, while also meeting the Code.

Mrs. Kloecker asked Mr. Copfer about the density at Palmera. Mr. Copfer answered that he did not know.

Chair Kirby opened the hearing for public comment.

Bob Frooman of 9461 Wynnecrest owns four homes within the area of the Hills Development. He asked if this was final plan or if there will there be more. He feels like the residents of Wynnecrest, Doughman, and Ridgecrest are negatively impacted by this development and have been treated like second class citizens of Blue Ash because they have not been given anything that amounts to a real hearing. All they have been hearing are the technicalities and he asked the Board to think about the reasonableness and emotional aspects of the residents who cannot compete with a big developer.

Jean Staubach of 9495 Wynnecrest said they understand that the owners have rights, but they met with Hills a few times to discuss their concerns of the solid wall and came up with compromised plan that would provide more light and air. That plan was approved by City Council and the residents did not appeal that because they felt that was an

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excellent compromise. The process was not easy, but they got through it. Hills revised the plan again that now brings back a tall solid wall. They changed the character of the building and the basic tenets of the compromise, which was very disappointing. She is asking for the appeal to be granted and for Hills to go back to the compromised plan that everyone felt good about.

Chair Kirby offered Mrs. Kloecker and Hills an opportunity for closing comments.

Mrs. Kloecker had none.

Mr. Miller said Blue Ash should be proud of this development since it fulfills the plan that began back in 1982. It is being done without a single variance and will exceed setback requirements. There has been no evidence submitted of noncompliance.

Chair Kirby closed the public hearing.

Joe Hoelker asked to see Plan 4 and asked about the north end of the proposed building. Mr. Johnson compared the differences between Plan 3 and Plan 4.

In answer to a question by Tricia Downing about what brought about the proposed change, Mr. Obert said the original plan did not take into consideration redevelopment of the three-unit retail structure. With the upturn in the economy and the renters-by-choice market increasing, Hills decided to take the opportunity get the best value for the real estate.

DECISION: Terry Peck moved, Tricia Downing seconded to deny the appeal as submitted by Cecilia Kloecker of 9485 Wynnecrest Drive, Blue Ash, Ohio 45242. A roll call vote was taken. Three members present voted aye. Scott Miller and Joe Hoelker voted nay. Motion carried to deny.

ITEM 4. – Continued Hearings

None

ITEM 5. – Old Business

None

ITEM 6. – New Business

None

ITEM 7. – Adjournment

DECISION: There being no further business Scott Miller moved, Joe Hoelker seconded to adjourn the Board of Zoning Appeals. A voice vote was taken. All members present voted aye. The meeting was adjourned at 9:30 p.m.

Mark Kirby, Chair

MINUTES RECORDED BY:

Traci Smith