

**BLUE ASH BOARD OF ZONING APPEALS**

**AUGUST 13, 2007**

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**ITEM 1. – MEETING CALLED TO ORDER**

Chairman Paul Collett called the regular meeting of the Board of Zoning Appeals to order at 7:00 p.m. on Monday, August 13, 2007.

MEMBERS PRESENT: Paul Collett, Jr., Tom Adamec, John Berry, Julie Brook and Marc Sirkin

ALSO PRESENT: Assistant Community Development Director Dan Johnson, Administrative Clerk Traci Smith and interested citizens

**ITEM 2. – APPROVAL OF MINUTES**

The Board waived the reading of the minutes of July 9, 2007.

DECISION: John Berry moved, Tom Adamec seconded the motion to approve the regular meeting minutes of July 9, 2007. A voice vote was taken. All members present voted aye. Motion carried.

**ITEM 3. – 11415 Grooms Road – Robert J. Sambrookes (Complete Mechanical Services)**

Appeal to allow a ground sign larger than permitted and with a face that is not rectangular in an M-4 district

PRESENT: Thomas Blaha, Complete Mechanical Services

Chairman Collett swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Thomas Blaha, the business partner of Robert Sambrookes, explained their location has an odd frontage on Grooms Road with a narrow entrance that opens up further away from the road. A marketing company was hired to design a sign for them as they did not have a sign and have been conducting business in that location since 2005. The sign that was designed for them is not rectangular and therefore requires a variance. Mr. Blaha also mentioned they had more room to go vertical instead of horizontal.

Dan Johnson explained how the calculations for the size of the sign were determined based upon the frontage of the lot.

There was general discussion among the Board members with regards to height, location, and size of the proposed sign. The Board generally agreed that this is a valid request considering the odd shape of the lot, that the style of the sign is appropriate for the type of business, and that the size and location proposed is consistent with other signs on the street.

As there were no further questions Chairman Collett closed the public hearing portion of the meeting.

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DECISION: John Berry moved, Julie Brook seconded to approve the variance for a sign larger than permitted and with a face that is not rectangular in the M-4 district located at 11415 Grooms Road for Complete Mechanical Services with the sign being no larger in area than 42-square feet based on testimony offered and drawings submitted per the powers of the Board with further review and conditions of City Staff. A roll call vote was taken. All members present voted aye. Motion carried.

**ITEM 4. – 5200 Donjoy Drive – Susan May (Architects Plus)**

Appeal to allow a new single-family residence on a lot that is less than the minimum required width in an R-2 district

PRESENT: Susan May – Architects Plus, Appellant

Chairman Collett swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Susan May said that the lot on Donjoy Drive is 81-feet wide and that the minimum requirement in an R-2 district is 90-feet wide. All setback requirements for the proposed house are in compliance with Code.

Robert Benbow spoke on behalf of his mother-in-law who owns the property and explained they would like to demo the existing home and build a new home on this lot.

John Berry asked if there were going to be any trees removed from the property. Susan May said there are two trees in the front that will stay and that there was one pine that has already been taken down, but they are hoping to keep as many trees as they can to minimize re-grading. They also intend to plant more vegetation along the driveway.

Mr. Berry asked where the elevation of the first floor of the house would be relative to the garage floor. Ms. May said the garage would be about 6-inches to 1-foot lower to create a mostly level building area. Mr. Berry asked about the existing grade, which falls off dramatically, and if there were any concerns which might negatively impact drainage for existing neighbors. Dan Johnson said with any new home construction, a survey is required and a site plan that has all the details on drainage which will be reviewed by the City Engineer. According to Code, no retention is required unless the property is commercial and over an acre.

Marc Sirkin asked if the four car garage would be used for any commercial purposes. Mr. Benbow ensured that it would only be for his own personal use.

Rosemary Collins of 5150 Donjoy Drive is a neighbor to the west and has concerns about the 4-car garage and feels that this size garage does not fit into the neighborhood esthetically. She asked what the restrictions were for 4-car garages. Tom Adamec explained that a 4-car garage is permitted. Mrs. Collins asked about what kind of windows would be in the garage. Susan May said they were hoping to put in rolling doors (overhead) on both sides to provide ventilation. The Board members discussed that rolling doors on both sides of the garage were not very neighbor friendly. They said that regular windows would be a better fit and that ventilation should be addressed another way.

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Mikio Nishizu of 5150 Donjoy Drive asked if there had been an engineering study done to be sure that a 4-car garage and the elevation going down so steeply is not going to negatively affect the neighbors in terms of water drainage. Susan May said a geotechnical engineer will do three borings in the rear yard and will work with the structural engineer to ensure foundations and modular retaining walls are sound. Mr. Nishizu asked for a guarantee should something happen that the neighbors would not incur any costs. Paul Collett said the Building Department would have to sign off on the plans and not permit something that was speculative. He said there are no 100% guarantees that any of our homes will withstand the forces of nature. If the Code is met, the expectations of the Building Department are satisfied, and the setbacks are adhered to, then the concern here is to make this construction as pleasing to the neighborhood as possible. Mr. Collett added that roll-up doors on both sides of the garage might pose noise problems for the neighbors.

Marc Sirkin asked if the Board's decision was limited to the size of the lot. Dan Johnson said the Board has authority to address whatever it feels is logically related to the variance request. Tom Adamec said the lot width relative to the size of the house may impact the location of the garage.

Kerrie Hollihan lives at 5075 Muirwoods Court, which is to the rear of this property. Ms. Hollihan said she has been a Blue Ash resident for 16 years and is concerned about changes in neighborhood character. She said she has a very big concern about how the proposed 4-car garage is going to impact the character of that neighborhood. She asked what the market value of the home would be and was advised by the Chairman that this is not information she would be entitled to through this Board. She asked about the type of construction and the modular retaining wall. Susan May advised that the home would be brick. The retaining wall is a rough cut 8x16 inch natural block that looks like stone and would meet the height limitations of the Code. She ask how many bedrooms were in the house. Ms. Hollihan said she has a huge objection to there being a set of doors on the garage facing the Collins property as she will be viewing that from her kitchen window. Mr. Benbow said he debated on putting garage doors, but would actually save money by using fairly new windows from the existing house in the new house and agreed to put in windows instead. Ms. Hollihan said she does not know anyone that has a 4-car garage in the area and feels it would have a negative impact on Mr. Benbow's next door neighbor. She also commented that an evergreen screen in the rear would be appreciated for their view during the winter months. Mr. Benbow said they would keep as many trees as possible.

Julie Brook asked how many cars Mr. Benbow has and was advised that he has five. Ms. Brook pointed out that by having a bigger garage most of these vehicles would be under cover instead of sitting out on the driveway, which would be more pleasing to the neighborhood. Mr. Nishizu asked about putting the garage in front and not in the back. Ms. Brook said being tucked in the back makes the front of everyone's property look nicer.

Marc Sirkin advised the Board that he has known Mrs. Hollihan for several years and considers himself friends with her. Chairman Collett advised that he should abstain from voting only if he feels that he cannot make an unbiased decision.

Paul Collett thanked everyone for their comments. Mr. Collett noted that the applicant agreed to eliminate the garage doors on the back of the garage and to preserve trees or install additional buffer. He said the Board does not have the authority to limit the size of his garage beyond what the Code permits. For an infill house, he thinks the elevation and size of the house itself is appealing and he does not feel it is upsetting to the balance of what is currently in the neighborhood. He said he is glad it is not a 2-story house

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going right to the lot lines. Change is happening and as long as the developers are building within Code and are looking for a variance on the minimum lot width, we have the tendency to review for what we would like to see and, in this case, the applicant has been fairly agreeable to make changes being requested by the Board.

As there were no further questions Chairman Collett closed the public hearing portion of the meeting.

Mark Sirkin likes the look of the new home from the front, but did not realize until the meeting what view the neighbors would have with the size of the 4-car garage as it would triple the size of the current home.

Tom Adamec felt that if the garage was architecturally consistent with the rest of the house on all three sides, except where the doors are, then the variance should be granted. He said the house could be that big too, it doesn't necessarily have to be the garage. He would like it to be a requirement should the variance be granted that it be architecturally consistent with windows and landscaping. Julie Brook agreed.

John Berry commended the homeowner for getting professional assistance from an architect to design a single-family home which he felt was very sympathetic and esthetically pleasing to the neighborhood, at least on the front elevation. He feels the owner and design team should be strongly encouraged to be sympathetic to the neighbors by softening the rear elevation with landscaping or by making it architecturally consistent. Mr. Berry said that, as an architect, there are a lot of ways to create ventilation without adding additional garage doors and would be sympathetic to the neighbors on this point.

Marc Sirkin said he feels if the garage would be turned another way, it would affect the neighbors on a much smaller scale. John Berry pointed out that doing so would cause a complete redesign of the interior of the house. Paul Collett said we are not here to design the house. The Board has had the opportunity to express opinions on what the new structure should look like and that is really the extent of their authority.

Dan Johnson commented that, in terms of making the motion, there have been many suggestions during the discussion regarding materials and trees which should remain. Those items that are not part of the Code should be included in the motion if the Board wants them to be required in the permit.

Chairman Collett advised those in attendance that any decision made by the Board could be appealed to City Council.

**DECISION:** Julie Brook moved, Tom Adamec seconded to approve the variance for the property at 5200 Donjoy Drive at the site of the existing lot that is 81-feet be permitted to reconstruct the home on the condition that the architect and owner must brick the wall to match the grade on the west and rear elevations and that the architectural design of the garage be consistent with rest of the house with regards to windows, that no roll-up garage doors are permitted on the west elevation, that it is neighbor-friendly, with landscaping to be taken into consideration for the courtesy of the neighbors on all three sides and that the trees and plantings be consistent with an older neighborhood, replacing trees that had to be taken down and that the esthetics are consistent with the beautiful frontage that it currently has. A roll call vote was taken. Four members present voted aye and one member present voted nay. Motion carried.

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**ITEM 5. – 4236 Fox Hollow Drive – Beverly Schwartz**

Appeal of Zoning Administrator's Order to obtain a fence permit and to correct the installation of a privacy fence that is already installed with the unfinished side facing the neighbor's property in an R-2 district

PRESENT: Kenneth E. Peller – Attorney at Law, Appellant

Chairman Collett swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Ken Peller is an attorney representing Bev Schwartz who owns the property at 4236 Fox Hollow Drive. Mr. Peller said the property directly to her east is the reason the privacy fence was installed as there were troubles with the teenage boy at the residence. Ms. Schwartz contracted Mills Fence Co. to install the fence. Mills Fence Co. told Mrs. Schwartz that, without being able to go on the neighbor's property, they would have to put the unfinished side towards the neighbors. Mr. Peller said the fence was installed in 2005 and his client is questioning the timeliness of the objection to the fence. He feels the neighbor's are only complaining because the police had been called on their son. He said that two years have gone by since anyone said anything. Julie Brook added that if no permit was taken, the City would not know of the fence. John Berry was curious as to where the complaint originated and does not feel just because the fence has been up since 2005 that it should stay up. Dan Johnson advised the complaint was brought to his attention from our Code Enforcement Officer. Dan Johnson added that if something is done without a permit, there is no time limit for enforcement.

Julie Brook asked why his client did not obtain a permit for building the fence. Mr. Peller said his client was not aware that she needed one. John Berry said it is common knowledge in any jurisdiction that you need a permit for install a fence. Even if the property owner did not know, the professionals do know.

Marc Sirkin feels a professional company would also know how to erect the fence with putting the attractive side toward the neighbor, plus the fence does not look like it was completed to trim off the posts. John Berry agreed that it might not be the normal way of installing the fence, but it could be done with a different way of fastening, etc. Paul Collett said that possibly this matter should be pursued with Mills Fence to rectify the situation.

As there were no further questions Chairman Collett closed the public hearing portion of the meeting.

DECISION: Marc Sirkin moved, Tom Adamec seconded to uphold Zoning Administrator's decision to enforce correction on the design and installation and obtain a permit on the property of Beverly Schwartz at 4236 Fox Hollow Drive in reference to the fence between her property and neighbor to the east. A roll call vote was taken. All members present voted aye. Motion carried.

**ITEM 6. – MISCELLANEOUS BUSINESS**

Dan Johnson mentioned that he spoke to our attorney again in regards to viewing properties in advance of the hearing and confirmed that when it is not viewable from the public right-of-way, it is the City's position to advise not to go on the property. It is incumbent on the applicant to provide enough information that is should not be necessary.

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Dan Johnson mentioned the driveway on Brasher that John Berry brought up at last meeting and said that he has a list of driveway violations that he has added this property to and is going to address all of these at the same time.

Tom Adamec asked about PODS and Dan Johnson advised there is a 21-day limit on this type of storage unit.

**ITEM 7. – ADJOURNMENT**

DECISION: There being no further business, John Berry moved, Marc Sirkin seconded to adjourn the meeting. A voice vote was taken. All members present voted aye. The meeting was adjourned at 8:33 p.m.

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Paul Collett, Chairman

MINUTES RECORDED BY:

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Traci Smith, Administrative Clerk