

BLUE ASH BOARD OF ZONING APPEALS

February 13, 2012

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ITEM 1. – Meeting Called to Order and Roll Call

Chairman Paul Collett called the regular meeting of the Board of Zoning Appeals to order at 7:03 p.m. on Monday, February 13, 2012 and requested a roll call.

MEMBERS PRESENT: Paul Collett, Jr., Julie Brook, Mark Kirby, Terry Peck and Marc Sirkin

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

ITEM 2. – Approval of Minutes

The Board waived the reading and approved the minutes of the Board of Zoning Appeals regular meeting of January 9, 2012.

ITEM 3. – New Hearings

a. 9188 Plainfield Road – Gilligan Oil Company

Appeal to allow wall signs on the front of the building that exceed the maximum allowable area.

PRESENT: Pat Gilligan, Gilligan Oil Company - Appellant

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

Pat Gilligan, President/CEO of Gilligan Oil, gave a brief background on the project, which includes demolishing the pumps, canopy and existing building and rebuilding a 4,500 sq. ft. store that would include a Dunkin Donuts, Subway, and a larger GoCo convenience store. They will eliminate the car wash. There will be a new canopy and fuel islands.

They are seeking a variance for wall signs that exceed the allowable square footage. The signs across the front of the building indicate the brands that will be at the store. The Dunkin' Donuts sign on the far left is the location of that use inside of the building. The Dunkin' cup graphic on the northeast corner of the building is for better visibility for that brand. The north facing sign and the canopy graphics also require variances. The current pole sign will be replaced with a conforming ground sign.

Mr. Gilligan concluded by stating this is a \$1.4 million dollar construction project that will increase their employee count from 8-10 to approximately 30.

There was general discussion regarding the signs in regards to gas price display, the interpretation of the "DD" graphic on the northeast corner, the standard size signs for the Dunkin' Donuts and Subway franchises and their distances from the right-of-way.

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

Board members expressed concern about signs proliferating in the front windows.

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In answer to concerns about traffic, Mr. Johnson explained that traffic problems on Hunt and Plainfield Roads cannot be notably impacted by doing anything different on this site and that closing entrances would likely make this a nonfunctional site. The driveway widths will be reduced and the northern most driveway on Plainfield Road will be right-in, right-out only. The Police Department reviewed the plans and found that this intersection is the worst in Blue Ash for accidents; however, they feel this plan will not have a negative impact on the intersection any more than it already does.

Several members said they liked the look of this development and that the signs are not out of character for the site and will not negatively impact the look of the area. They are pleased that the pole sign will be removed.

DECISION: Marc Sirkin moved, Julie Brook seconded to approve a variance to Gilligan Oil Company allowing signs larger than Blue Ash Code as submitted. A roll call vote was taken. All members present voted aye. Motion carried.

b. 10856 Reed Hartman Highway - itelligence

Appeal to allow more than one wall sign above the first floor elevation on a multi-story building and wall signs that exceed the maximum allowable area

PRESENT: Jay Smith, Duke Construction, Inc. - Appellant

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

Jay Smith, Pre-Construction Director/Project Manager for Duke Realty, said they are requesting a variance at this location on the office building only at this time, not the data center. They are expecting occupancy at this site in June 2012.

They are seeking two variances. The first part is for three signs on the building. They are planning for a vertical sign on the north elevation curtain wall and a horizontal sign over each of the entry ways to the building on the east and west elevations. The east entry is the main parking area of the development and the west entry is a patio between the main building and Reed Hartman, which is really for advertising since this is the itelligence North American headquarters. The second part is for the sign area of the vertical sign on the north elevation, which they feel is at a scale appropriate for the building. The signs on the east and west elevations are a conforming size.

Mr. Johnson explained that on any multi-story structure only one sign is permitted above the first floor elevation. Most of what the Board has seen in the past was multi-tenant buildings and he is not familiar with any single tenant, owner-occupied, multi-story building in Blue Ash so this has not come up before.

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

The Board had no additional comments or questions.

DECISION: Julie Brook moved, Terry Peck seconded to grant a variance for itelligence located at 10856 Reed Hartman Highway as submitted. A roll call vote was taken. All members present voted aye. Motion carried.

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c. 5498 Kenridge Drive – Rich Stanley

Appeal to the Residential Code of Ohio (Building Code) regarding requirements for a swimming pool enclosure

PRESENT: Rich Stanley – Appellant
John Bull, City of Blue Ash Chief Building Official

John Bull explained that the City of Blue Ash became a certified Residential Building Department in 2007 and part of that certification was to establish an Appeals Board to hear any appeals to the Residential Building Code. The City chose this Board to hear Building Code appeals.

The information provided to the Board in Adjudication Order: RBA 2012-1 is the official document that the Building Department and the Building Official has to submit to start the appeal process. What is being discussed during this appeal is the interpretation of the requirements around a swimming pool, and specifically regarding the barrier requirements.

As Building Official, Mr. Bull's interpretation of Section AG105.1 is that there should be a fence or a barrier that encloses a swimming pool to protect from potential drowning, even though it does not specifically state that a fence or wall be completely around the swimming pool. When the submittal was approved, the plan indicated there was going to be an aluminum fence 48" tall with a safety gate and that is was the approval was based upon. Mr. Stanley has since come up with another idea which he will present to the Board.

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

Rich Stanley said he built the house on 5498 Kenridge Drive at the end of Meyers Lane. They have an in-ground pool being installed in the next 30 days and, instead of installing the fence just around the pool area, they would like to install the fence on the east and west sides of the house to cut off the whole back yard. For aesthetic reasons, they would like to have the whole back yard open to the lake. Also, it is going to cost approximately \$7,000 to put a fence around the pool area and only about \$1,000 to fence on just the sides of the house. The fence would still meet the barrier requirements in regards to height, latches, etc.

There was discussion by the Board members about the barrier height and other safety issues with not having a fence immediately around the pool. Several of the Board members expressed concern that the owner was taking a risk by not wanting a fence around the pool area, even though the property was surrounded by the lake.

Peter Nord, President of Kenridge Lake Neighborhood Association, said several years ago he was appointed by the Secretary of Labor to the National Advisory Committee for Occupational Safety and Health so he said he has an understanding of safety standards beyond the normal person that comes before the Board. He felt that the standards that came with the material for this meeting were written by someone who never had a pool or children. He said the 4-foot high fence that Mr. Stanley is proposing is identical to the other fences of neighbors who have pools. He said the intent of the standard is to

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prevent a small child who is unaware of the hazard of a pool from approaching the pool and falling in. It is not designed to prevent the willful entry by some child or teenager who has the capacity to climb over the fence. This is a peninsula piece of property surrounded by over a hundred feet of lake in which there are giant snapping turtles and nasty snakes who will “bite the piss out of you”. To him, the pool surrounded by a fence will prevent a small child from falling in but will not prevent someone who wants to get in whether there is a fence there or not. He said the Kenridge Lake Neighborhood Association has no objection to what Mr. Stanley wants to do and thinks it should be approved.

Mr. Bull clarified that the Board is not granting a variance, but they are deciding whether to uphold the decision of the Building Official or allow the appeal.

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

DECISION: Julie Brook moved, Terry Peck seconded to grant the appeal of the applicant as submitted. A roll call vote was taken. Four members present voted aye and Marc Sirkin voted nay. Motion carried.

ITEM 4. – Continued Hearings

None

ITEM 5. – Old Business

a. Rules of Procedure

The Board did not have a chance to read them over yet, so will review at a later date.

ITEM 6. – New Business

In answer to a question, Mr. Johnson said there has not been any final outcome of the appeals to the Maple Dale project decisions.

ITEM 7. – Adjournment

DECISION: There being no further business, Julie Brook moved, Terry Peck seconded to adjourn the Board of Zoning Appeals. A voice vote was taken. All members present voted aye. The meeting was adjourned at 8:18 p.m.

Paul Collett, Jr., Chairman

MINUTES RECORDED BY:

Traci Smith