

The Tuesday, July 18, 2006 meeting of the Delhi Township Board of Zoning Appeals was called to order by Chairman Joseph Scherer at 7:00 p.m. at the Administration Building with the Pledge of Allegiance to the Flag.

Members present:

Robert J. Ashe

Robert G. Hendon

Jerome H. Kearns

Joseph Scherer, Jr.

Charles Brigham III

Also present:

Thomas R. Stahlheber, Director of Development Services

David C. Lane, Law Director

Mr. Stahlheber certified that the requirements of Section 121.22 of the Ohio Revised Code and the rules adopted pursuant thereto had been completely complied with as they concerned the meeting.

The hearing in Case VA2006-6 (897 Suncreek) was convened.

Mr. Stahlheber (sworn), advised that on May 17, 2006 the Department of Development Services received an application filed by Michael Cornish for the construction of a 6' high solid fence at 897 Suncreek. He commented that the application was denied on May 19, 2006 with the applicant notified of the denial by certified mail on that same date. He noted that in the letter were stated the reasons for the denial which included: the premises known as 897 Suncreek was located in Delhi Township, Hamilton County, Ohio and in the "C" Residence district as shown on the maps of the Township Zoning Resolution; the subject property was an irregular lot having the following yard designations: front yard - east, rear yard - south, side yards - north and west; the submitted application and drawings indicated a proposed 6' high solid fence in the west side yard extending into the south rear yard; the Township Zoning Resolution prohibits fences greater than 4' in height and those less than 75% open in any yard other than a rear yard. The denial was also based on the following sections of the Township Zoning Resolution: Sections 51.1, 81, 82, 61, 62, 62.13, 171, 171.9, 191, 192, 194, 251, 281, 282 and 291. Pursuant to Article XVIII of the Zoning Resolution the applicant had the right to file an appeal of the denial within 20 days of the action with an appeal being filed in the form of an application received June 8, 2006. Pursuant to the requirements of the Ohio Revised Code the hearing was advertised in a newspaper of general circulation at least 10 days before the hearing and those parties of interest were notified by first class mail at least 10 days before the hearing.

Exhibit "A" – application

Exhibit "B" – site plan

Michael Cornish (sworn), 897 Suncreek advised of the reasons as to why he was requesting a variance including the irregular yard designations affecting his property, problems he was having with neighboring children harassing his dog which is penned in the yard behind the house and due to the fact that his adjacent neighbor could construct the same type of fence in the same location.

To Mr. Kearns' question as to what type of fence was being proposed Mr. Cornish advised a solid 6' high stockade fence.

To Mr. Scherer's question as to how long the proposed fence would be and if it would extend from the side yard into the rear yard Mr. Cornish advised it would be about 50' long. Mr. Stahlheber advised that the proposed fence would be permitted in the rear yard.

To Mr. Brigham's question as to why a 4' high solid fence would not suffice Mr. Cornish reiterated that the children living behind him poke objects through and throw objects over the existing 4' high chain link harassing his dog and that a 6' high solid fence should address both issues.

Mr. Scherer advised that reducing the height of the proposed fence to 4' would not resolve the matter completely inasmuch as fences in side yards still need to be 75% open.

To Mr. Ashe's question as to if the neighbors to the west could build the same type of fence as proposed in their rear yard adjacent to the proposed location of the proposed fence Mr. Stahlheber responded in the affirmative.

The Board noted that no one was present at the meeting expressing opposition to the variance.

Resolution 2006-7

Mr. Kearns moved and Mr. Hendon seconded to approve the requested variance in case VA2006-6. Mssrs. Kearns, Ashe, Hendon, Brigham and Scherer voted aye. Motion carried.

Finding of Fact:

1. The case number was VA2006-6.
2. The date of the action by the inspector was May 19, 2006 where a zoning certificate was denied for the construction of a 6' solid high fence for the reason that said fence would be located in a side yard.
3. The appellant's name was Michael Cornish.
4. The date the appeal was filed was June 8, 2006.
5. The address of the subject premises was 897 Suncreek.
6. The zone district of the subject premises was "C" Residence.
7. Sections of the Zoning Resolution on which the denial was based included: Sections 51.1, 81, 82, 61, 62, 62.13, 171, 171.9, 191, 192, 194, 251, 281, 282 and 291.
8. Sections of the Zoning Resolution authorizing the Board to grant or deny the appeal included: Sections 183, 184, 184.2, 184.6, 185 and 186.

9. Section cited by the appellant authorizing the Board to grant the appeal included: Section 171.9.
10. There was no opposition present at the meeting.
11. The Board finds no error on the part of the inspector.
12. The Board finds that practical difficulties exist as a result of an area zoning requirement after consideration of the following non-exclusive factors:
 - a) The property owner purchased the property with knowledge of the zoning restriction.
 - b) The property owner's predicament can not be feasibly obviated through some other method other than a variance.
 - c) The variance is not substantial.
 - d) There was an irregular shape to the lot and the lot contained other irregular features.
 - e) The essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variance.
 - f) The property in question would yield a reasonable return and there can be some beneficial use of the property without a variance.
 - g) The variance would not adversely affect the delivery of governmental services.
13. The Board finds that the spirit of the zoning requirement would be observed and substantial justice done by granting the variance.
14. The Board finds that the granting of the appeal would not be contrary to the public interest and the general welfare and adjoining landowners. Basis of finding:
 - a) The adjoining neighbor to the west could construct the same type of fence along the same property line;
 - b) There are other similar fences in the area;
 - c) The yard in which the proposed fence is to be constructed is to the rear of the residence.
15. The Board wishes to review any alterations regarding the variance.

The hearing in Case VA2006-7 (1107 Devils Backbone) was convened.

Mr. Stahlheber (sworn), advised that on June 14, 2006 the Department of Development Services received an application filed by Peter Hamilton for the construction of a detached private garage at 1107 Devils Backbone. He commented that the application was denied on June 16, 2006 with the applicant notified of the denial by certified mail on that same date. He noted that in the letter were stated the reasons for the denial which included: the premises known as 1107 Devils Backbone was located in Delhi Township, Hamilton County, Ohio and in the "A2" Residence District as shown on the maps of the Township Zoning Resolution; the subject property was an irregularly shaped lot; the submitted application and drawings indicated a proposed 1½ story 1,920 sq. ft. detached private garage in the north front yard of the subject property; the Zoning Resolution prohibits accessory structures, including detached private garages, containing more than 1,032 sq. ft. and from being located in any yard other than a rear yard. The denial was also based on the following sections of the Zoning Resolution: Sections 51.1, 69, 70, 61, 62, 62.13, 62.14, 62.14-2, 171, 171.7, 191, 192, 194, 251, 281, 282 and 291. Pursuant to Article XVIII of the Zoning Resolution the applicant had the right to file an appeal of the

denial within 20 days of the action with an appeal being filed in the form of an application received June 23, 2006. Pursuant to the requirements of the Ohio Revised Code the hearing was advertised in a newspaper of general circulation at least 10 days before the hearing and those parties of interest were notified by first class mail at least 10 days before the hearing.

Exhibit "A" – application

Exhibit "B" – site plan

Exhibit "C" – elevation drawings

Exhibit "D" – floor plans

Exhibit "E" – photographs of the rear yard

Exhibit "F" – photographs of the existing garage

Peter Hamilton (sworn), 1107 Devils Backbone advised that he was requesting a variance so to construct a detached garage in his front yard inasmuch as the topography of the rear yard effectively prohibits construction within it, a detached garage already exists in the front yard and that the garage would not be visible from neighbor properties nor Devils Backbone due to extensive, mature vegetation creating an effective screen.

Mr. Scherer advised that the location of the proposed garage was indeed adequately screened by way of existing, mature vegetation.

Mr. Scherer advised that while the square footage of the proposed garage would exceed the 1,032 square foot limitation that the footprint of the garage would not. He commented that the intent of the square footage limitation was to control the footprint of such buildings.

The Board noted that no one was present at the meeting expressing opposition to the variance.

Resolution 2006-8

Mr. Ashe moved and Mr. Kearns seconded to approve the requested variance in case VA2006-7. Msrs. Brigham, Hendon, Ashe, Kearns and Scherer voted aye. Motion carried.

Finding of Fact:

1. The case number was VA2006-7.
2. The date of the action by the inspector was June 16, 2006 where a zoning certificate was denied for the construction of a detached private garage for the reason that said garage would exceed 1,032 sq. ft. and be situated in the front yard.
3. The appellant's name was Peter Hamilton.
4. The date the appeal was filed was June 23, 2006.
5. The address of the subject premises was 1107 Devils Backbone.
6. The zone district of the subject premises was "A2" Residence.

7. Sections of the Zoning Resolution on which the denial was based included: Sections 51.1, 69, 70, 61, 62, 62.13, 62.14, 62.14-2, 171, 171.7, 191, 192, 194, 251, 281, 282 and 291.
8. Sections of the Zoning Resolution authorizing the Board to grant or deny the appeal included: Sections 183, 184, 184.2, 184.6, 185 and 186.
9. There were no sections of the Zoning Resolution cited by the appellant as authorizing the Board to grant the appeal.
10. There was no opposition present at the meeting.
11. The Board finds no error on the part of the inspector.
12. The Board finds that practical difficulties exist as a result of an area zoning requirement after consideration of the following non-exclusive factors:
 - a) The property owner purchased the property with knowledge of the zoning restriction;
 - b) The property owner's predicament feasibly can not be obviated through some other method other than a variance;
 - c) The variance is not substantial;
 - d) The subject property is irregularly shaped and has unique topographic features;
 - e) The essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variance;
 - f) The property in question would yield a reasonable return and there could be some beneficial use of the property without the variance; and,
 - g) The variance would not adversely affect the delivery of governmental services.
13. The Board finds that the spirit and intent of the zoning requirement would be observed and substantial justice done by granting the variance.
14. The Board finds that granting of the variance would not be contrary to the public interest, the general welfare and adjoining landowners. Basis of finding:
 - a) The subject property is an acreage lot;
 - b) Adequate screening between the proposed structure and neighboring properties exists;
 - c) There was no objection from neighbors;
 - d) The topography in the rear yard makes it difficult to build within it;
 - e) The footprint of the proposed garage did not exceed the 1,032 square foot limitation.
15. The Board wishes to review any alterations regarding the variance.

Old Business:

- Mr. Stahlheber advised that the minutes from the Boards' May and June 2006 meetings were still being edited.

New Business:

- Mr. Stahlheber advised of one case pending.
- The Board set September 5, 2006 as a tentative date for their next meeting.
- The Board received the Department Monthly Reports for April and May 2006.

There being no further business on motion of Mr. Ashe and seconded by Mr. Hendon the meeting was adjourned at 7:30 pm. Messrs. Ashe, Hendon, Scherer, Kearns and Brigham voted aye.

Board of Zoning Appeals:

Thomas R. Stahlheber, Secretary